



## BRECKENRIDGE TOWN COUNCIL REGULAR MEETING

Tuesday, October 08, 2013; 7:30 PM

Town Hall Auditorium

<b>I</b>	<b>CALL TO ORDER, ROLL CALL</b>	
<b>II</b>	<b>APPROVAL OF MINUTES - SEPTEMBER 24, 2013</b>	<b>3</b>
<b>III</b>	<b>APPROVAL OF AGENDA</b>	
<b>IV</b>	<b>COMMUNICATIONS TO COUNCIL</b>	
	A. CITIZEN'S COMMENT - (NON-AGENDA ITEMS ONLY: 3-MINUTE LIMIT PLEASE)	
	B. RED, WHITE AND BLUE FIRE DISTRICT UPDATE	<b>7</b>
	C. REUSABLE BAG DAY PROCLAMATION	<b>9</b>
<b>V</b>	<b>CONTINUED BUSINESS</b>	
	A. SECOND READING OF COUNCIL BILLS, SERIES 2013 - PUBLIC HEARINGS	
	1. COUNCIL BILL NO. 39, SERIES 2013 - AN ORDINANCE AMENDING THE BRECKENRIDGE TOWN CODE CONCERNING THE IMPLEMENTATION OF "AMENDMENT 64" TO THE COLORADO CONSTITUTION	<b>11</b>
	2. COUNCIL BILL NO. 40, SERIES 2013 - AN ORDINANCE REPEALING AND READOPTING WITH CHANGES CHAPTER OF TITLE 9 OF THE BRECKENRIDGE TOWN CODE CONCERNING THE RESIDENTIAL GROWING OF MARIJUANA	<b>29</b>
<b>VI</b>	<b>NEW BUSINESS</b>	
	A. FIRST READING OF COUNCIL BILLS, SERIES 2013	
	B. RESOLUTIONS, SERIES 2013	
	1. A RESOLUTION APPROVING THE TOWN OF BRECKENRIDGE "DISPOSABLE BAG PUBLIC OUTREACH PLAN	<b>39</b>
	C. OTHER	
<b>VII</b>	<b>PLANNING MATTERS</b>	
	A. PLANNING COMMISSION DECISIONS	<b>45</b>
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<b>VIII</b>	<b>REPORT OF TOWN MANAGER AND STAFF</b>	
<b>IX</b>	<b>REPORT OF MAYOR AND COUNCILMEMBERS</b>	
	A. CAST/MMC (MAYOR WARNER)	
	B. BRECKENRIDGE OPEN SPACE ADVISORY COMMITTEE (MR. BREWER)	
	C. BRC (MR. BURKE)	
	D. MARKETING COMMITTEE (MS. WOLFE)	
	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)	

\*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.

**X OTHER MATTERS**

**XI SCHEDULED MEETINGS**

**52**

**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.

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**CALL TO ORDER, ROLL CALL**

Mayor Warner called the meeting of September 10, 2013 to order at 7:30 pm. The following members answered roll call: Mr. Brewer, Ms. McAtamney, Mr. Dudick, Mr. Burke, Ms. Wolfe and Mayor Warner. Mr. Gallagher was absent.

**APPROVAL OF MINUTES - SEPTEMBER 10, 2013**

With no changes or corrections to the meeting minutes of September 10, 2013, Mayor Warner declared they would stand approved as submitted.

**APPROVAL OF AGENDA**

Mr. Gagen stated there was one change to the agenda, which was to add an executive session under Other Matters. Mr. Gagen further stated he handed out modified versions of Council Bill No. 40 and the memo to the Resolution Making a Supplemental Appropriation to the 2013 Town Budget.

**COMMUNICATIONS TO COUNCIL**

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

Mr. Shervin Rashidi, President of the Merchant Association of Main Street Station, stated he wanted to discuss ideas of connectivity to the Mall at Main Street Station, specifically from the Riverwalk area. Mr. Rashidi stated the Mall is going into foreclosure and he wants to see a better plan moving forward. Mr. Rashidi further stated the crosswalk at Main Street is dangerous. Mr. Gagen stated there was a preliminary design for an underpass in that area, and Council has indicated there's a need to work cooperatively with South Side Alliance. Mr. Gagen further stated there is no permanent easement from the Riverwalk to the South Side. Mayor Warner then stated a vital south end is critical and Council agreed to take up the topic at the October retreat as an opportunity to explore a public/private partnership with new management at the Mall.

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

- B. Breckenridge Ski Resort Update

Ms. Pat Campbell stated the summer season ended Oktoberfest weekend. Ms. Campbell gave an update to the Peak 6 project which included construction work, a new trail map with a public naming contest, and the plan for a marketing update for the lodging community. Ms. Campbell further stated Vail Resorts went to the UK as a strategic market, Breckenridge Ski Resort is working with Town Staff on the upcoming Weather Summit, the Dew Tour will be an Olympic Qualifier and the Zip Line will be operational in the winter. Mayor Warner thanked Ms. Campbell for allowing Summit Huts to use the helicopter and noted that Wake Up Breckenridge will be November 7.

**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  
Mayor Warner read the title into the minutes. Mr. Berry stated there were no changes to this ordinance from the first reading. Mayor Warner opened the public hearing. There

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were no comments and the public hearing was closed.

Ms. McAtamney 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. Burke seconded the motion.

The motion passed 6 – 0. Mr. Gallagher was 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

Mayor Warner read the title into the minutes. Mr. Berry stated there are no changes to this Ordinance 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. 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. Ms. Wolfe seconded the motion.

The motion passed 6 – 0. Mr. Gallagher was absent.

**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

Mayor Warner read the title into the minutes. Mr. Berry stated he handed out a revised form of this Ordinance from the Work Session. Mr. Berry further stated this Ordinance amends the Town's Smoking Ordinance to address Marijuana and to more closely mirror state laws for Marijuana consumption. Mr. Berry stated that the revised ord takes out item 4 per the Work Session discussion.

Ms. McAtamney moved to approve COUNCIL BILL NO. 39, SERIES 2013 - AN ORDINANCE AMENDING THE BRECKENRIDGE TOWN CODE CONCERNING THE IMPLEMENTATION OF "AMENDMENT 64" TO THE COLORADO CONSTITUTION. Mr. Burke seconded the motion.

The motion passed 6 – 0. Mr. Gallagher was absent.

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  
Mayor Warner read the title into the minutes. Mr. Berry stated this Ordinance amends the medical marijuana Residential Growing Ordinance to cover all residential growing of marijuana in the Town of Breckenridge.

Ms. McAtamney moved to Approve 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. Mr. Brewer seconded the motion.

The motion passed 6 – 0. Mr. Gallagher was absent.

B. Resolutions, Series 2013

1. A RESOLUTION MAKING A SUPPLEMENTAL APPROPRIATION TO THE 2013

**TOWN BUDGET**

Mayor Warner read the title into the minutes. Mr. Gagen stated a modified memo to accompany the resolution was handed out at the meeting. Mr. Gagen further stated this annual resolution accounts for mid-year budget changes and takes into consideration all appropriations to date.

Ms. McAtamney moved to approve A RESOLUTION MAKING A SUPPLEMENTAL APPROPRIATION TO THE 2013 TOWN BUDGET. Mr. Dudick seconded the motion. The motion passed 6 – 0. Mr. Gallagher was absent.

2. **A RESOLUTION IN SUPPORT OF BALLOT QUESTIONS 1A AND 2B APPEARING ON THE NOVEMBER 2013 BALLOT**

Mayor Warner read the title into the minutes. Ms. Best explained that a local organization requested the Town pass this Resolution in support of Ballot Questions 1A and 1B.

Mr. Brewer moved to approve A RESOLUTION IN SUPPORT OF BALLOT QUESTIONS 1A AND 2B APPEARING ON THE NOVEMBER 2013 BALLOT. Mr. Burke seconded the motion.

The motion passed 6 – 0. Mr. Gallagher was absent.

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 the Planning Commission discussed a classification of permits issue and stated the group is looking forward to joint meeting in November. Mr. Dudick then asked for clarification of building height standards, and requested a primer from staff on this issue.

**REPORT OF TOWN MANAGER AND STAFF**

Mr. Tim Gagen stated he distributed the CIP to Council to be discussed at the Budget Retreat and noted there is a heavy load of projects scheduled for 2014.

**REPORT OF MAYOR AND COUNCILMEMBERS**

A. **Cast/MMC (Mayor Warner)**

Mayor Warner stated there was no meeting. Mayor Warner further stated he met with third graders from Upper Blue Elementary and the Boy Scouts to speak about local government.

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

Mr. Brewer stated the last meeting was productive: the beaver in Cucumber Gulch is doing a lot of work; work is starting on channel restoration and forest health in Cucumber Gulch; work is continuing on the Barney Flow trail; and art installations are taking place in the backcountry as a joint project with Arts District.

C. **BRC (Mr. Burke)**

Mr. Burke stated the next meeting is Thursday, September 26.

D. **Marketing Committee (Ms. Wolfe)**

Ms. Wolfe stated there would be an October 1st meeting, and the committee is also

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requesting funds for in-market presence in the UK to match Vail Resorts in that market.

- E. Summit Combined Housing Authority (Mr. Dudick)  
Mr. Dudick stated there was no report.
- F. Breckenridge Heritage Alliance (Mr. Dudick)  
Mr. Dudick stated there was no report.
- G. Water Task Force (Mr. Gallagher)  
Mr. Gallagher was not present for a report. Mayor Warner stated Mr. Dudick is going to the State Legislature to learn about Forest Service water rights and the ski areas.
- H. Landfill Task Force (Ms. Wolfe)  
Ms. Wolfe stated there was no meeting.
- I. Public Art Commission (Mr. Gallagher)  
Mr. Gallagher was not present for a report. Mr. Gagen stated he attended the Breckenridge Cultural Coalition meeting and the Coalition would like to look at an Arts and Culture festival to possibly coincide with the opening of the Arts District and Riverwalk Center next summer.

**OTHER MATTERS**

Mr. Dudick stated the Recreation Center sprinklers were on last week during the rains and there are no trash cans on the bike path or trails for depositing dog waste.

Mr. Brewer stated he wished to acknowledge the flood disaster in Colorado and wants to create an outreach program for this kind of disaster in a more formal process. Chief Haynes and Ms. Dykstra-Dilallo clarified there is a statewide database for disaster relief.

Mayor Warner stated a woman approached him about a non-profit to benefit the children of people killed in avalanches. Council agreed the scope of this fund was too narrow and Mayor Warner stated he would provide that feedback.

**SCHEDULED MEETINGS**

**EXECUTIVE SESSION**

**ADJOURNMENT**

With no further business to discuss, the meeting adjourned at 9:31pm. Submitted by Helen Cospolich, Municipal Services Manager.

ATTEST:

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John Warner, Mayor



# RED, WHITE & BLUE

FIRE PROTECTION DISTRICT

COURAGE, COMMITMENT, CARING

## MEMORANDUM FOR:

Date: 09/3/2013

To: Peter Grosshuesch

From: Deputy Chief Nelson

RE: 2014 Mitigation Options

We will start this presentation with the annual review (report card) of the mitigation efforts for 2013 compared to the past years including a review of educational programs.

As we reach the end of the mitigation season for 2013 a few subdivisions remain that have had little to no mitigation efforts. These areas are on the east side of the Town and include the Weisshorn Subdivision, Yingling & Mickles Subdivision, Gold Flake Subdivision, Sunbeam Estates, Breckenridge South Subdivision, and Southside Estates. These areas are good candidates for focus areas for education and mitigation inspections for 2014.

The Town should be in a position of obtaining a Firewise designation once these areas are mitigated. This designation requires that the Town and Fire District continue to work together to promote defensible space and wildfire education on a voluntary basis. No matter what program is administered in the Town, there is always more that can be done; we must work to implement a plan that can provide adequate protection from a wildfire.

We believe there are three options to consider going forward. These are to continue to pursue the Firewise designation for the Town, institute a mandatory defensible space program, or continue with the programs that are in place today. The Fire District strongly believes that education over enforcement will achieve and maintain a better multi-hazard aware community.

Utilizing the Firewise program, we are able to achieve mitigation through education and community awareness. This program can continue to improve with the use of incentive programs or slash events that could be tied in with Town Clean-up Day. Such community events can foster the beginnings of building a Fire Adaptive Community. Under this model, the community embraces Firewise, Ready, Set, Go, and Community Wildfire Protection Plans while developing partnerships between local governments, businesses, and citizens. This type of program builds an educated community that has known resources they can reach to for assistance.

The mandatory mitigation program addresses the enforcement issues with Firewise. It creates the enforcement arm to ensure that every lot meets a minimum mitigation level. While this type of program would ensure that every lot meets a minimum for mitigation, it fails to instill the educational components of wildfire planning, prevention, and preparedness. A mandatory program would also become extremely staff intensive; currently the Fire District is not be able to support such a program with our current staffing and budget constraints.

The mandatory approach shifts the focus of wildfire awareness from education to meeting the minimum requirements of code or law. Studies conducted by the National Fire Protection Association have found that communities that utilize mandatory mitigation requirements are far less prepared for a wildfire event than those that support a Fire Adaptive Communities program. A mandatory mitigation approach could also prevent the Town of Breckenridge from achieving a Firewise designation. This is because we are moving away from an educational based program components that Firewise is built upon.

If we remain status quo, the community will have access to educational programs like Ready, Set, Go and the Firewise mitigation program. While the community is supportive of the current program, it is slow to obtain results. It requires that the citizens reach out to the Town and Fire District for assistance in creating defensible space. This program can improve and become more effective by rolling it into the Firewise community designation program.

The Fire District strongly recommends this program because it not only provides a nationally recognized program to base mitigation off of, but also begins to build upon community partnerships to support mitigation. Through the use of educational components, community focus groups/partnerships, and a mitigation program that is supported by insurance companies, the Town of Breckenridge can continue to be a leader in the wildfire mitigation and education arena in the State of Colorado.



**MEMORANDUM**

**TO:** Town Council

**FROM:** Mark Truckey, Assistant Director of Community Development

**SUBJECT:** Reusable Bag Day Proclamation

**DATE:** October 1, 2013 for October 8 Council Meeting

The Disposable Bag Fee goes into place on October 15. By October 15, reusable Breckenridge Bags will also be available to guests at major lodging companies and for sale at select retail stores. In conjunction with this, attached is a Mayoral Proclamation declaring October 15 as “Reusable Bag Day” in the Town of Breckenridge, encouraging residents and guests to use reusable bags.



**REUSABLE BAG DAY PROCLAMATION**

October 15, 2013

**WHEREAS**, the Town of Breckenridge is concerned about the long-term sustainability of our community and desires to take steps to lessen the Town's impacts on our environment; and

**WHEREAS**, in 2011, after an extensive public involvement process, the Town Council adopted the SustainableBreck Plan as a guide to attaining a more sustainable community; and

**WHEREAS**, the SustainableBreck Plan identifies a number of sustainability initiatives that the Town should undertake, including finding ways to reduce the use of disposable bags in the community; and

**WHEREAS**, it is estimated that three million disposable bags are handed out by retail and grocery stores in Breckenridge on an annual basis and that some 2 billion disposable bags are used annually in the state of Colorado; and

**WHEREAS**, the Breckenridge Town Council recently passed legislation that requires a fee to be charged for most plastic and paper disposable bags given out at local retail stores and grocers as a means of dissuading the use of disposable bags; and

**WHEREAS**, the Town of Breckenridge is actively marketing efforts for residents and guests to use reusable bags when shopping; and

**WHEREAS**, a reusable "Breckenridge Bag" has been designed and is now available in select retail stores and at the front desks of major lodging companies in Town; and

**WHEREAS**, the new disposable bag fee will take effect on October 15, 2013; and

**WHEREAS**, the Town of Breckenridge encourages all residents and visitors to use reusable bags for shopping on October 15 and thereafter in an effort to do our small part to **change the world, one bag at a time**.

**NOW, THEREFORE, BE IT RESOLVED THAT**, I, Mayor John Warner do hereby proclaim October 15, 2013 as "Reusable Bag Day" in Breckenridge, Colorado, and call upon all residents and visitors of Breckenridge to join me in supporting the aims and goals of this effort.

Adopted this 8th day of October, 2013.

\_\_\_\_\_/s/\_\_\_\_\_  
Mayor John Warner

Attest:

\_\_\_\_\_/s/\_\_\_\_\_  
Town Clerk

**MEMO**

TO: Town Council

FROM: Town Attorney

RE: Council Bill No. 39 (Amendment 64 Omnibus Ordinance)

DATE: October 2, 2013 (for October 8<sup>th</sup> meeting)

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The second reading of the “Amendment 64 Omnibus Ordinance” is scheduled for your meeting on October 8<sup>th</sup>. You will recall that this ordinance makes numerous amendments to the Town Code related to the implementation of Amendment 64.

At Council’s direction, after the worksession on September 24<sup>th</sup> I amended the definition of “openly and publicly” to take out the reference to “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.” That deletion is carried forward into the ordinance that is included with this memo.

There are no substantive changes proposed to ordinance from first reading.

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

1 **FOR WORKSESSION/SECOND READING – OCT. 8**

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

4  
5 COUNCIL BILL NO. 39

6  
7 Series 2013

8  
9 AN ORDINANCE AMENDING THE BRECKENRIDGE TOWN CODE CONCERNING THE  
10 IMPLEMENTATION OF “AMENDMENT 64” TO THE COLORADO CONSTITUTION

11  
12 BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BRECKENRIDGE,  
13 COLORADO:

14  
15 Section 1. Section 5-9-1(A) of the Breckenridge Town Code is amended to read as  
16 follows:

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

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

33  
34 Section 2. Section 5-9-2 of the Breckenridge Town Code is amended by the addition of  
35 the following definition:

OMNIBUS AMENDMENT 64 REGULATION ORDINANCE

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

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

5 ENVIRONMENTAL TOBACCO SMOKE: The complex mixture formed from the  
6 escaping smoke of a burning tobacco or  
7 marijuana, and smoke exhaled by the smoker.

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

9 SMOKING: The burning of a lighted cigarette, cigar, pipe,  
10 or any other matter or substance that contains  
11 tobacco or marijuana.

12 Section 5. The introductory portion of Section 5-9-3(A) of the Breckenridge Town Code  
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 shall  
15 not be permitted and no person shall smoke in any indoor area, including, but not  
limited to:

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

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

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

25 5-9-4: EXCEPTIONS TO SMOKING RESTRICTIONS: Except as otherwise  
26 expressly provided in this Code, this Chapter shall not apply to:

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

1 follows:

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

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

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

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

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

15 Section 12. Section 6-3H-1<sup>1</sup> of the Breckenridge Town Code is repealed.

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

18 6-3H-6: POSSESSION OF DRUG PARAPHERNALIA:

19  
20 A. This Section does not apply to the possession, use, display, purchase, transport,  
21 sale or manufacture of marijuana accessories as defined in Section 16(2)(g) of  
22 Article XVIII of the Colorado Constitution by a person age twenty-one years or  
23 older.

24  
25 B. As used in this Section, unless the context otherwise requires:

26  
27 1. "Drug paraphernalia" means all equipment, products, and materials of any kind  
28 which are used, intended for use, or designed for use in planting, propagating,  
29 cultivating, growing, harvesting, manufacturing, compounding, converting,  
30 producing, processing, preparing, testing, analyzing, packaging, repackaging,  
31 storing, containing, concealing, injecting, ingesting, inhaling, or otherwise  
32 introducing into the human body a controlled substance in violation of the laws of  
33 the state of Colorado. "Drug paraphernalia" includes, but is not limited to:  
34

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

- 1 a. Testing equipment used, intended for use, or designed for use in identifying or  
2 in analyzing the strength, effectiveness, or purity of controlled substances under  
3 circumstances in violation of the laws of the state of Colorado;
- 4
- 5 b. Scales and balances used, intended for use, or designed for use in weighing or  
6 measuring controlled substances;
- 7
- 8 c. Separation gins and sifters used, intended for use, or designed for use in  
9 removing twigs and seeds from or in otherwise cleaning or refining marijuana;
- 10
- 11 d. Blenders, bowls, containers, spoons, and mixing devices used, intended for use,  
12 or designed for use in compounding controlled substances;
- 13
- 14 e. Capsules, balloons, envelopes, and other containers used, intended for use, or  
15 designed for use in packaging small quantities of controlled substances;
- 16
- 17 f. Containers and other objects used, intended for use, or designed for use in  
18 storing or concealing controlled substances; or
- 19
- 20 g. Objects used, intended for use, or designed for use in ingesting, inhaling, or  
21 otherwise introducing marijuana, cocaine, hashish, or hashish oil into the human  
22 body, such as:  
23
  - 24 (1) Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without  
25 screens, permanent screens, hashish heads, or punctured metal bowls;
  - 26
  - 27 (2) Water pipes;
  - 28
  - 29 (3) Carburetion tubes and devices;
  - 30
  - 31 (4) Smoking and carburetion masks;
  - 32
  - 33 (5) Roach clips, meaning objects used to hold burning material, such as a  
34 marijuana cigarette that has become too small or too short to be held in the hand;
  - 35
  - 36 (6) Miniature cocaine spoons and cocaine vials;
  - 37
  - 38 (7) Chamber pipes;
  - 39
  - 40 (8) Carburetor pipes;
  - 41

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

10  
11 C. In determining whether an object is drug paraphernalia, a court, in its  
12 discretion, may consider, in addition to all other relevant factors, the following:

- 13
- 14 1. Statements by an owner or by anyone in control of the object concerning its  
15 use;
- 16
- 17 2. The proximity of the object to controlled substances;
- 18
- 19 3. The existence of any residue of controlled substances on the object;
- 20
- 21 4. Direct or circumstantial evidence of the knowledge of an owner, or of anyone  
22 in control of the object, or evidence that such person reasonably should know, that  
23 it will be delivered to persons who he knows or reasonably should know, could  
24 use the object to facilitate a violation of Subsection E of this Section;
- 25
- 26 5. Instructions, oral or written, provided with the object concerning its use;
- 27
- 28 6. Descriptive materials accompanying the object which explain or depict its use;
- 29
- 30 7. National or local advertising concerning its use;
- 31
- 32 8. The manner in which the object is displayed for sale;
- 33
- 34 9. Whether the owner, or anyone in control of the object, is a supplier of like or  
35 related items to the community for legal purposes, such as an authorized  
36 distributor or dealer of tobacco products;
- 37
- 38 10. The existence and scope of legal uses for the object in the community; and
- 39
- 40 11. Expert testimony concerning its use.
- 41



1 D. In the event a case brought pursuant to this Section is tried before a jury, the  
2 court shall hold an evidentiary hearing on issues raised pursuant to Subsection B  
3 of this Section. Such hearing shall be conducted in camera.  
4

5 E. A person commits possession of drug paraphernalia if he possesses drug  
6 paraphernalia and knows or reasonably should know that the drug paraphernalia  
7 could be used under circumstances in violation of the laws of the Town or the  
8 state of Colorado.  
9

10 F. Any person convicted of having violated Subsection E of this Section shall be  
11 punished by a fine of not more than one hundred dollars (\$100.00).  
12

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

15 CHAPTER 3

16 GENERAL OFFENSES

17 ARTICLE I: OFFENSES CONCERNING MARIJUANA

18 SECTION:  
19

- 20  
21  
22  
23 6-3I-1: Definitions  
24 6-3I-2: Unlawful Possession or Open and Public ~~Display~~, Consumption, Or Use of  
25 Marijuana By An Underage Person  
26 6-3I-3: Unlawful Possession of Marijuana  
27 6-3I-4: Open and Public ~~Display~~, Consumption, or Use of Marijuana  
28 6-3I-5: Unlawful Transfer of Marijuana to Underage Person  
29 6-3I-6: Unlawful Transfer of Marijuana to Person Twenty-One Years of Age or  
30 Older  
31 6-3I-7: Open Containers of Marijuana Prohibited  
32 6-3I-8: Unlawful Acts in Marijuana Consumption Establishment; Public  
33 Nuisance  
34 6-3I-9: Defendant to be Issued Summons and Must Promise to Appear in Court;  
35 When; Penalty Assessment Notice  
36 6-3I-10: Immunity For Persons Who Suffer or Report An Emergency Drug Overdose  
37 Event  
38 6-3I-11: Evidence at Trial  
39 6-3I-12: Constitutional Provisions  
40

41 6-3I-1: Definitions: As used in this Article the following words have the following meanings:

OMNIBUS AMENDMENT 64 REGULATION ORDINANCE

BUSINESS:	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.
EMERGENCY DRUG OVERDOSE:	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.
FIRST OFFENSE:	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.
MARIJUANA:	Includes all parts of the plant <i>Cannabis sativa</i> 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.
MARIJUANA CONCENTRATE:	Hashish, tetrahydrocannabinols or any alkaloid, salt, derivative, preparation, compound or mixture, whether natural or synthesized, or tetrahydrocannabinols.
MARIJUANA CONSUMPTION ESTABLISHMENT:	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

OMNIBUS AMENDMENT 64 REGULATION ORDINANCE

	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.
MOTOR VEHICLE:	Has the meaning provided in the Town’s Traffic Code adopted in Chapter 1 of Title 7 of this Code.
OPENLY AND PUBLICLY:	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) 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.
OPEN MARIJUANA CONTAINER:	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.
OUTDOOR AREA:	Any area or place outside of a building or other structure.
OWNER:	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

OMNIBUS AMENDMENT 64 REGULATION ORDINANCE

	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.
SECOND OFFENSE:	Means an offense after the person is subject to a first offense.
SUBSEQUENT OFFENSE:	Means an offense after the person is subject to a third offense.
THIRD OFFENSE:	Means an offense after the person is subject to a second offense.

1  
2 6-3I-2: UNLAWFUL POSSESSION OR OPEN AND PUBLIC CONSUMPTION OR USE OF  
3 MARIJUANA BY AN UNDERAGE PERSON:  
4

5 A. Except as described in Section C of this Section and in Section 6-3I-10, it is unlawful for any  
6 person under twenty-one years of age to possess or openly and publicly consume or use  
7 marijuana or marijuana concentrate. Any person convicted of having violated this Section A  
8 shall be punished by a fine as follows:  
9

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

10  
11 B. Pursuant to Rule 210(b)(5) of the Colorado Municipal Court Rules of Procedure the  
12 Municipal Judge shall specify by suitable schedules the amount of the fines to be imposed for a  
13 First Offense or a Second Offense violation of Section A of this Section.  
14

15 C. The possession, consumption, or use of marijuana by any person under twenty-one years of  
16 age shall not constitute a violation of Section A of this Section if such possession, use, or  
17 consumption is lawful under Article 43.3 of Title 12, C.R.S.  
18

19 D. Prima facie evidence of a violation of Section A of this Section shall consist of:  
20

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

4  
5 (2) evidence that the defendant was under twenty-one years of age and manifested any of the  
6 characteristics commonly associated with marijuana intoxication or impairment while present  
7 anywhere within the Town.

8  
9 E. The procedure described in Section 6-3I-9 shall apply to persons charged with a violation of  
10 Section A of this Section.

11  
12 **6-3I-3: UNLAWFUL POSSESSION OF MARIJUANA:**

13  
14 A. Except as described in Section 6-3I-10, it is unlawful for any person twenty-one years of age  
15 or older to possess more than one ounce but no more than two ounces of marijuana. Any person  
16 convicted of having violated this Section A shall be punished by a fine as follows:  
17

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

18  
19 B. Pursuant to Rule 210(b)(5) of the Colorado Municipal Court Rules of Procedure the  
20 Municipal Judge shall specify by suitable schedules the amount of the fines to be imposed for a  
21 First Offense or a Second Offense violation of Section A of this Section.

22  
23 C. Except as described in Section 6-3I-10, it is unlawful for any person twenty-one years of age  
24 or older to possess more than two ounces of marijuana but no more than twelve ounces of  
25 marijuana, or not more than three ounces of marijuana concentrate. Any person convicted of  
26 having violated this Section C shall be punished as provided in Section 1-4-1 of this Code.

27  
28 D. The procedure described in Section 6-3I-9 shall apply to persons charged with a violation of  
29 either Section A or Section C of this Section.

30  
31 **6-3I-4: OPEN AND PUBLIC CONSUMPTION OR USE OF MARIJUANA:**

32  
33 A. Except as described in Section 6-3I-10, it is unlawful for any person twenty-one years of age  
34 or older to openly and publicly consume, or use marijuana or marijuana concentrate. Any person  
35 convicted of having violated this Section A shall be punished by a fine as follows:  
36

Offense No.	Fine Amount
-------------	-------------

First Offense	\$100 or less
Second Offense	\$250 or less
Third Offense	\$500

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 for a  
4 First Offense or a Second Offense violation of Section A of this Section.

5  
6 C. Any person convicted of having committed a fourth violation Section A of this Section, or any  
7 violation of Section A of this Section subsequent to a fourth violation, shall punished, at a  
8 minimum, by a fine of not less than one thousand dollars (\$1,000.00) or, at a maximum, by a fine  
9 of not more than two thousand dollars (\$2,000.00) and by fifteen days in the county jail.

10  
11 D. The procedure described in Section 6-3I-9 shall apply to persons charged with a violation of  
12 Section A of this Section; provided, however, the procedure described in Section 6-3I-9 shall not  
13 apply to a person charged with a fourth violation of Section A of this Section, or any violation of  
14 Section A of this Section subsequent to a fourth violation.

15  
16 6-3I-5: UNLAWFUL TRANSFER OF MARIJUANA TO UNDERAGE PERSON:

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

20  
21 6-3I-6: UNLAWFUL TRANSFER OF MARIJUANA TO PERSON TWENTY-ONE YEARS  
22 OF AGE OR OLDER:

23  
24 A. It is unlawful for any person who is twenty-one years of ago or older to transfer more than  
25 one ounce but no more than two ounces of marijuana to any person who is twenty-one years of  
26 age or older for no consideration. Any person convicted of having violated this Section A shall  
27 be punished by a fine as follows:

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

28  
29  
30 B. Pursuant to Rule 210(b)(5) of the Colorado Municipal Court Rules of Procedure the  
31 Municipal Judge shall specify by suitable schedules the amount of the fines to be imposed for a  
32 First Offense or a Second Offense violation of Section A of this Section.

33  
34 C. It is unlawful for any person who is twenty-one years of ago or older to transfer more than

1 two ounces but no more than twelve ounces of marijuana to any person who is twenty-one years  
2 of age or older for no consideration. Any person convicted of having violated this Section B  
3 shall be punished as provided in Section 1-4-1 of this Code.

4  
5 D. The procedure described in Section 6-3I-9 shall apply to persons charged with a violation of  
6 Section A of this Section, but not to a persons charged with a violation of Section C of this  
7 Section.

8  
9 6-3I-7: OPEN CONTAINERS OF MARIJUANA PROHIBITED:

10  
11 A. It is unlawful for any person to possess any marijuana in any open marijuana container, or to  
12 consume marijuana, in the interior of a motor vehicle while the motor vehicle is either parked on  
13 a public street, right of way or alley within the Town, or is being operated on a public street,  
14 right of way or alley within the Town. A person convicted of having violated Section A of this  
15 Section shall be punished by a fine as follows:

16

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

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

21  
22 C. Any peace officer is authorized to seize any marijuana or open marijuana container that is  
23 used in the commission of a violation of Section A of this Section. If no summons or notice is  
24 issued for a violation of Section A, and if the circumstances reasonably permit, the peace officer  
25 may require the person who has committed a violation of Section A to abandon the marijuana to  
26 the officer for destruction.

27  
28 D. The procedure described in Section 6-3I-9 shall apply to persons charged with a violation of  
29 Section A of this Section.

30  
31 6-3I-8: UNLAWFUL ACTS IN A MARIJUANA CONSUMPTION ESTABLISHMENT;  
32 DECLARED PUBLIC NUISANCE:

33  
34 A. It is unlawful for any person to burn, smoke, inhale the vapors of, or otherwise consume  
35 marijuana in any form within a marijuana consumption establishment. Any person convicted of  
36 having violated this Section A shall be punished, at a minimum, by a fine of not less than one

1 hundred dollars (\$100.00) or, at a maximum, by a fine of not more than one hundred dollars  
2 (\$100.00) and by fifteen (15) days in the county jail.

3  
4 B. It is unlawful to own or operate a marijuana consumption business within the Town. Any  
5 person convicted of having violated this Section B shall be punished as provided in Section 1-4-1  
6 of this Code. Each day during any portion of which a violation of this Section B occurs shall be a  
7 separate offense, and shall be punished accordingly.

8  
9 C. Any marijuana consumption business that operates within the Town is a nuisance, and is  
10 subject to abatement as provided in Title 5, Chapter 1 of this Code.

11  
12 6-3I-9: DEFENDANT TO BE ISSUED SUMMONS AND MUST PROMISE TO APPEAR IN  
13 COURT; WHEN; PENALTY ASSESSMENT NOTICE:

14  
15 A. Whenever a person is arrested or detained for a violation of any Section of this Article to  
16 which this Section applies, the arresting or detaining officer shall prepare a written notice or  
17 summons for such person to appear in court. The written notice or summons shall contain the  
18 name and address of such arrested or detained person, the date, time, and place where such  
19 person shall appear, and a place for the signature of such person indicating the person's written  
20 promise to appear on the date and at the time and place indicated on the notice or summons. One  
21 copy of said notice or summons shall be given to the person arrested or detained, one copy shall  
22 be sent to the Municipal Court, and such other copies as may be required by the law enforcement  
23 agency employing the arresting or detaining officer shall be sent to the places designated by such  
24 law enforcement agency. The date specified in the notice or summons to appear shall be at least  
25 seven days after such arrest or detention unless the person arrested or detained demands an  
26 earlier hearing. The place specified in the notice or summons to appear shall be the Municipal  
27 Court. The arrested or detained person, in order to secure release from arrest or detention, shall  
28 promise in writing to appear in the Municipal Court by signing the notice or summons prepared  
29 by the arresting or detaining officer. Any person who does not honor such written promise to  
30 appear commits a misdemeanor municipal offense, and upon conviction shall be punished as  
31 provided in Section 1-4-1 of this Code.

32  
33 B. At the time that any person is arrested for the commission of a violation of Section 6-3I-3  
34 (Unlawful Possession of Marijuana), Section 6-3I-4 (Open and Public Consumption or Use of  
35 Marijuana), (6-3I-6 (Unlawful Transfer of Marijuana to Person Twenty-One Years of Age or  
36 Older), or Section 6-3I-7 (Open Containers of Marijuana Prohibited) the arresting officer may  
37 offer to give a penalty assessment notice to the defendant. Such penalty assessment notice shall  
38 contain all the information required of a summons under the Colorado Municipal Court Rules of  
39 Procedure. The fine or penalty specified by the Municipal Judge in the schedules adopted  
40 pursuant to Rule 210(b)(5) of the Colorado Municipal Court Rules of Procedure for the violation  
41 charged and the surcharge thereon may be paid at the office of the Clerk of the Municipal Court,



1 either in person or by postmarking such payment within twenty days from the date the penalty  
2 assessment notice is served upon the defendant. A defendant who does not furnish satisfactory  
3 evidence of identity or who the officer has reasonable and probable grounds to believe will  
4 disregard the summons portion of such notice may be issued a penalty assessment notice only if  
5 the defendant consents to be taken by the officer to the nearest mailbox and to mail the amount  
6 of the fine or penalty and surcharge thereon to the department. Acceptance of a penalty  
7 assessment notice and payment of the prescribed fine or penalty and any applicable surcharge  
8 thereon to the Clerk of the Municipal Court shall be deemed a complete satisfaction for the  
9 violation, and the defendant shall be given a receipt which so states when such fine or penalty  
10 and surcharge thereon is paid in currency or other form of legal tender. Checks tendered by the  
11 defendant to and accepted by the Clerk of the Municipal Court and on which payment is received  
12 by the Clerk of the Municipal Court shall be deemed sufficient receipt.  
13

14 C. The penalty assessment shall not apply when it appears that the offense is a fourth or any  
15 subsequent alleged violation of any of the Sections described in Section A of this Section.  
16

17 D. In no case may an officer issue a penalty assessment notice for a violation of any offense  
18 described in Section B of this Section to a minor under the age of eighteen years. All charges  
19 against minors shall be processed in accordance with Section A of this Section.  
20

21 E. If the defendant refuses to accept service of the penalty assessment notice when such notice is  
22 tendered, the peace officer shall proceed in accordance with Section A of this Section.  
23

24 F. Should the defendant accept service of the penalty assessment notice but fail to post the  
25 prescribed penalty and surcharge thereon within twenty days thereafter, the notice shall be  
26 construed to be a summons and complaint, and the case shall thereafter be heard in the Municipal  
27 Court. The maximum penalty that may be imposed shall not exceed the penalty set forth in the  
28 applicable penalty assessment notice and any applicable surcharge.  
29

30 6-3I-10: IMMUNITY FOR PERSONS WHO SUFFER OR REPORT AN EMERGENCY  
31 DRUG OVERDOSE EVENT:  
32

33 A. A person shall be immune from prosecution for an offense described in Section C of this  
34 Section if:  
35

36 (1) The person reports in good faith an emergency drug overdose event to a law enforcement  
37 officer, to the 911 system, or to a medical provider;  
38

39 (2) The person remains at the scene of the event until a law enforcement officer or an emergency  
40 medical responder arrives, or the person remains at the facilities of the medical provider until a  
41 law enforcement officer arrives;

1  
2 (3) The person identifies himself or herself to, and cooperates with, the law enforcement officer,  
3 emergency medical responder, or medical provider; and  
4

5 (4) The offense arises from the same course of events from which the emergency drug overdose  
6 event arose.  
7

8 B. The immunity described in Section A of this Section also extends to the person who suffered  
9 the emergency drug overdose event if all of the conditions of Section A are satisfied.  
10

11 C. The immunity described in Section A of this Section shall apply to any offense described in  
12 this Article.  
13

14 D. Nothing in this Section shall be interpreted to prohibit the prosecution of a person for an  
15 offense other than an offense listed in Section C of this Section or to limit the ability of the Town  
16 Attorney, municipal prosecutor, or a law enforcement officer to obtain or use evidence obtained  
17 from a report, recording, or any other statement provided pursuant to Section A of this Section to  
18 investigate and prosecute an offense other than an offense listed in Section C of this Section.  
19

20 6-3I-11: EVIDENCE AT TRIAL: If determined by the Municipal Judge to be relevant to the  
21 charge brought against the defendant, during any trial for a violation of any Section of this  
22 Article:  
23

24 A. Any container with labeling indicating the contents of the container is admissible into  
25 evidence, and the information contained on any label on the container is admissible into evidence  
26 and is not hearsay. The Municipal Judge may consider the information upon the label in  
27 determining whether the contents of the container were composed in whole or in part of  
28 marijuana or marijuana concentrate.  
29

30 B. The qualitative result of a drug test or tests performed by or on behalf of a law enforcement  
31 agency with relevant jurisdiction shall be admissible at the trial of any person charged with a  
32 violation of this Section upon a showing that the device or devices used to conduct such test or  
33 tests have been approved as accurate in detecting drugs by the executive director of the Colorado  
34 Department of Public Health and Environment.  
35

36 C. The Municipal Court shall take judicial notice of methods of testing a person's blood or urine  
37 for the presence of marijuana and of the design and operation of devices certified by the  
38 Colorado Department of Public Health and Environment for testing a person's blood or urine for  
39 the presence of marijuana. This Section does not prevent the necessity of establishing during a  
40 trial that the testing devices were working properly and that such testing devices were properly

1 operated. Nothing in this Section precludes a defendant from offering evidence concerning the  
2 accuracy of testing devices.

3  
4 6-3I-12: CONSTITUTIONAL PROVISIONS: The provisions of this Article do not apply to: (i)  
5 a person twenty-one years of age or older acting in conformance with Section 16 of Article  
6 XVIII of the state constitution; and (ii) a person acting in conformance with Section 14 of Article  
7 XVIII of the state constitution.

8  
9 Section 15. Except as specifically amended hereby, the Breckenridge Town Code, and  
10 the various secondary Codes adopted by reference therein, shall continue in full force and effect.

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

15 Section 17. The Town Council hereby finds, determines and declares that it has the  
16 power to adopt this ordinance pursuant to: (i) Section 16 of Article XVIII of the Colorado  
17 Constitution; (ii) Section 31-15-103, C.R.S. (concerning municipal police powers); (iii) Section  
18 31-15-401, C.R.S.(concerning municipal police powers); (iv) the authority granted to home rule  
19 municipalities by Article XX of the Colorado Constitution; and (v) the powers contained in the  
20 Breckenridge Town Charter.

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

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  
27 Town.

28  
29 TOWN OF BRECKENRIDGE, a Colorado  
30 municipal corporation

31  
32  
33  
34 By \_\_\_\_\_  
35 John G. Warner, Mayor  
36  
37

OMNIBUS AMENDMENT 64 REGULATION ORDINANCE

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ATTEST:

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

900-174\Omnibus Amendment 64 Regulation Ordinance \_8 (10-02-13)(Second Reading)

OMNIBUS AMENDMENT 64 REGULATION ORDINANCE

**MEMO**

TO: Town Council  
FROM: Town Attorney  
RE: Council Bill No. 40 (Residential Marijuana Ordinance)  
DATE: October 1, 2013 (for October 8<sup>th</sup> meeting)

---

The second reading of the ordinance revising the Town's rules for the growing of marijuana in a residential setting is scheduled for your meeting on October 8<sup>th</sup>. There are no changes proposed to ordinance from first reading.

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

1                    *FOR WORKSESSION/FIRST READING – OCT. 8*

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

4  
5                    COUNCIL BILL NO. 40

6  
7                    Series 2013

8  
9                    AN ORDINANCE REPEALING AND READOPTING WITH CHANGES CHAPTER 13 OF  
10                    TITLE 9 OF THE BRECKENRIDGE TOWN CODE CONCERNING THE RESIDENTIAL  
11                    GROWING OF MARIJUANA

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

15  
16                    Section 1. Chapter 13 of Title 9 of the Breckenridge Town Code is repealed and readopted  
17                    with changes so as to read in its entirety as follows:

18  
19                    CHAPTER 13

20  
21                    RESIDENTIAL GROWING OF MARIJUANA

22  
23                    SECTION:

- 24  
25                    9-13-1: SHORT TITLE  
26                    9-13-2: FINDINGS  
27                    9-13-3: PURPOSE  
28                    9-13-4: AUTHORITY  
29                    9-13-5: DEFINITIONS  
30                    9-13-6: REGULATIONS FOR THE GROWING OF MARIJUANA IN A  
31                    RESIDENTIAL STRUCTURE  
32                    9-13-7: INSPECTION; INSPECTION WARRANT  
33                    9-13-8: APPLICABILITY OF NUISANCE ORDINANCE  
34                    9-13-9: CONDITION PRECEDENT TO CHALLENGE

35  
36                    9-13-1: SHORT TITLE: This Chapter is to be known and may be cited as the “2013 Town Of  
37                    Breckenridge Residential Marijuana Ordinance.”

38  
39                    9-13-2: FINDINGS: The Town Council adopts this Chapter based upon the following findings  
40                    of fact:

- 41  
42                    A.            On November 7, 2000 the voters of the State of Colorado approved Amendment 20.  
43                    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 Section 14 of Article XVIII of the Colorado  
5 Constitution.

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

10 C. On November 6, 2012 the voters of the State of Colorado approved Amendment 64.  
11 Amendment 64 added Section 16 of Article XVIII to the Colorado Constitution.

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

19 E. The growing or processing of marijuana plants in a residential setting can affect the  
20 health, safety, and welfare of both the occupants of the residential structure within  
21 which the marijuana is grown, and persons occupying nearby structures.

22 F. The Town’s experience is that the unregulated residential growing or processing of  
23 marijuana results in a significant number of instances of non-compliance with the  
24 Town’s building and other technical codes. In addition to other potentially serious  
25 problems, non-compliance with the Town’s building and other technical codes has  
26 the potential to result in a fire emanating from the residential structure within which  
27 the marijuana is grown or processed. Such a fire would affect the health, safety,  
28 and welfare of both the occupants of the residential structure within which the  
29 marijuana is grown or processed, and persons occupying nearby structures.

30 G. Nothing in Section 14 or Section 16 of Article XVIII of the Colorado Constitution,  
31 or any other applicable law, immunizes persons who grow or process marijuana in  
32 a residential setting from local regulation.

33 H. The Town is a home rule municipal corporation organized and existing under its  
34 Charter and Article XX, Section 6 of the Colorado Constitution. As such, the Town  
35 possesses all powers granted to home rule municipalities by Colorado law.

36 I. This Chapter is necessary and proper to provide for the safety, preserve the health,  
37 promote the prosperity, and improve the order, comfort, and convenience of the

RESIDENTIAL MARIJUANA ORDINANCE

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

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

7  
8 9-13-4: AUTHORITY: The Town Council finds, determines, and declares that it has the power to  
9 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. The Local Government Land Use Control Enabling Act, Article 20 of Title 29,  
14 C.R.S.;
- 15 D. Part 3 of Article 23 of Title 31, C.R.S. (concerning municipal zoning powers);
- 16 E. Section 31-15-103, C.R.S. (concerning municipal police powers);
- 17 F. Section 31-15-401, C.R.S. (concerning municipal police powers, including, but not  
18 limited to, the power to declare what is a nuisance and to abate the same);
- 19 G. The authority granted to home rule municipalities by Article XX, Section 6 of the  
20 Colorado Constitution; and
- 21 H. The powers contained in the Breckenridge Town Charter.

22 9-13-5: DEFINITIONS:

- 23  
24 A. The definitions contained in Sections 14 and 16 of Article XVIII of the Colorado  
25 Constitution are incorporated into this Chapter by reference.
- 26 B. As used in this Chapter the following words have the following meanings, unless  
27 the context clearly requires otherwise:

ENCLOSED AND LOCKED SPACE: Means the area within the residential structure where marijuana is cultivated pursuant to 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.

RESIDENTIAL MARIJUANA ORDINANCE



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 the Police Chief's designee.
PUBLICLY:	Means that the area within the residential structure where the residential marijuana is grown is open to general access without restriction.
RESIDENTIAL STRUCTURE:	Means a structure devoted to a residential use.
RESIDENTIAL USE:	Has the meaning provided in Section 9-1-5 of this Code.
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 MARIJUANA IN A RESIDENTIAL  
3 STRUCTURE: Marijuana plants shall not be possessed, grown, processed, or transported in or  
4 around any residential structure within the Town except in compliance with the following  
5 regulations. It is unlawful and a misdemeanor offense for a person to violate any provision of this  
6 Section. In accordance with Section 1-4-1(B) of this Code, a person shall be guilty of a separate  
7 offense for each and every day during any portion of which any violation of the requirements of  
8 this section is committed, continued, or permitted by such person.  
9

- 1 A. The possession, growing, and transportation of marijuana plants within a  
2 residential structure shall be done in full compliance with all applicable provisions  
3 of Section 14 and Section 16 of Article XVIII of the Colorado Constitution.
- 4 B. Marijuana may be possessed, grown, or processed within a residential structure  
5 only by a person twenty-one years of age or older.
- 6 C. One person twenty-one years of age or older may not possess, grow, process, or  
7 transport more than six marijuana plants within a residential structure at any one  
8 time. Not more than three of the plants may be mature flowering plants.
- 9 D. The owner of the marijuana plants described in Section C may lawfully possess the  
10 marijuana produced by the six marijuana plants described in Section C on the  
11 premises where the plants were grown.
- 12 E. None of the marijuana plants or the marijuana described in Section C or D may be  
13 sold or offered for sale.
- 14 F. Marijuana may not be grown openly or publicly, or in any area that is located  
15 outside of the exterior walls of a residential structure.
- 16 G. If a person under twenty-one years of age lives at the residential structure, the  
17 cultivation area for the marijuana plants must be enclosed and locked.
- 18 H. If no person under twenty-one years of age lives at the residential structure, the  
19 external locks of the residential structure constitute an enclosed and locked space  
20 but if a person under twenty-one years of age enters the residential structure, the  
21 person must ensure that access to the marijuana cultivation site is reasonably  
22 restricted for the duration of that person's presence in the residential structure.
- 23 I. The possession, growing, processing, or transportation of marijuana plants shall be  
24 limited to the following areas within a residential structure:
- 25 1. Within a detached single-family residential unit, marijuana may be grown,  
26 cultivated, or processed only within a defined and contiguous 150 square  
27 foot area;
- 28 2. Within any residential structure other than a detached single-family  
29 residential unit, marijuana may be grown, cultivated, or processed only  
30 within a defined and contiguous 100 square feet area;
- 31 3. Marijuana shall not be possessed, grown, processed, or transported within  
32 the common area of any real property that is devoted to a residential use;  
33 and

RESIDENTIAL MARIJUANA ORDINANCE



1 without either the permission of the landowner or occupant, or without an  
2 inspection warrant issued pursuant to this section.

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

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

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

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

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

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

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

37  
38 9-13-9: CONDITION PRECEDENT TO CHALLENGE: It is a condition precedent to any legal  
39 challenge to any portion of this chapter, or the application of any portion of this chapter to any

RESIDENTIAL MARIJUANA ORDINANCE

1 specific property, that the person initiating such challenge shall have first given the Town written  
2 notice of intent to bring such challenge not less than ninety days before filing any legal proceeding.  
3 Such notice shall be sent to the Town Council of the Town of Breckenridge by certified mail,  
4 return receipt requested, at P.O. Box 168, Breckenridge, Colorado 80424, and shall set forth: (i)  
5 the name and address of the claimant and the claimant's attorney, if any; and (ii) a concise  
6 statement of the factual and legal basis for the claimant's challenge to the this chapter, or the  
7 application of this chapter to the claimant's property. To the extent that the provisions of this  
8 section conflict with the notification requirements of section 24-10-109, C.R.S., or any other  
9 applicable law, the provisions of such statute or other applicable law shall control.

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

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

22  
23 Section 4. This ordinance shall be published and become effective as provided by Section  
24 5.9 of the Breckenridge Town Charter.

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

30  
31 TOWN OF BRECKENRIDGE, a Colorado  
32 municipal corporation

33  
34  
35  
36 By \_\_\_\_\_  
37 John G. Warner, Mayor

38  
39 ATTEST:

40  
41  
42  
43 \_\_\_\_\_  
44 Helen Cospolich,  
45 Town Clerk

RESIDENTIAL MARIJUANA ORDINANCE

1  
2  
3

900-174\Residential Marijuana Ordinance\_2 (10-01-13)(Second Reading)

RESIDENTIAL MARIJUANA ORDINANCE

**MEMO**

TO: Town Council

FROM: Town Attorney

RE: Resolution Approving “Disposable Bag Outreach Plan”

DATE: October 1, 2013 (for October 8<sup>th</sup> meeting)

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The Town’s Disposable Bag Fee Ordinance was adopted by the Council on April 9, 2013. The ordinance provides that it is to become effective date on October 1, 2013:

provided, however, that the Disposable Bag Public Outreach Plan has been approved by the Town Council and implemented not later than October 1, 2013. If the Disposable Bag Public Outreach Plan has not been approved and implemented prior to October 1, 2013, then the collection of the Disposable Bag Fee and required store signage provisions of this ordinance shall not take effect until the Town Manager certifies that (the) Disposable Bag Public Outreach Plan has been approved and implemented by the Town.

Although the Town Council reviewed a proposed Disposable Bag Public Outreach Plan at its retreat on May 17, 2013, it appears that the Council never formally approved the Plan. In addition, the Plan has not yet been fully implemented. As a result, the disposable bag fee and required store signage provisions of the Disposable Bag Fee Ordinance did not go into effect on October 1<sup>st</sup>.

Enclosed is the proposed final form of the Disposable Bag Public Outreach Plan, together with a proposed resolution approving the Plan. If the resolution is adopted, the Town Manager will take the required action to certify the effective date of the disposable bag fee and required store signage provisions of the Disposable Bag Fee Ordinance to be October 15, 2013.

I look forward to discussing this matter with you on Tuesday.





1  
2 WHEREAS, the Town Council finds and determines that the document entitled  
3 “Reducing Disposable Bags – Town of Breckenridge Disposable Bag Public Outreach Plan  
4 October 2013” (Exhibit “A” to this resolution) should be approved by the Town Council and  
5 implemented by the Town.  
6

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

10 Section 1. The document entitled “Reducing Disposable Bags – Town of Breckenridge  
11 Disposable Bag Public Outreach Plan October 2013” (Exhibit “A” to this resolution) is  
12 approved.  
13

14 Section 2. The Town Manager is directed, and all other appropriate officers and  
15 employees of the Town are authorized, to forthwith take such action as may be required to fully  
16 implement the approved Disposable Bag Public Outreach Plan.  
17

18 Section 3. The date of the implementation of the approved Disposable Bag Public  
19 Outreach Plan required by Section 5 of Ordinance No. 6, Series 2013 is the date of the adoption  
20 of this resolution.  
21

22 Section 4. The Town Manager may, by appropriate certification, establish the effective  
23 date for the Town’s collection of the Disposable Bag Fee and the required store signage  
24 provisions of Ordinance No. 6, Series 2013.  
25

26 Section 5. All action previously taken by the officers and employees of the Town with  
27 respect to the approved Disposable Bag Public Outreach Plan is ratified, confirmed, and  
28 approved.  
29

30 Section 6. This resolution is effective upon adoption.  
31

32 RESOLUTION APPROVED AND ADOPTED this 8<sup>th</sup> day of October 2013.  
33

34 TOWN OF BRECKENRIDGE  
35

36  
37  
38 By \_\_\_\_\_  
39 John G. Warner, Mayor  
40  
41



# REDUCING DISPOSABLE BAGS

## TOWN OF BRECKENRIDGE DISPOSABLE BAG PUBLIC OUTREACH PLAN October 2013

Situation Analysis: After 3+ years of researching, evaluating and discussing ways to reduce single-use bags, the Breckenridge Town Council passed the Disposable Bag Fee Ordinance on April 9, 2013, with implementation on October 1. To facilitate the success of this bag fee to locals and visitors alike (and to further the goals of the SustainableBreck Action Plan), the Council directed staff to put into action a Public Outreach/Communications Plan. One of the elements is the creation and distribution of an inaugural, signature ‘Breck Bag’. Another element is educating the locals and business owners of the bag fee, and the third aspect is educating our guests – before and during their visit.

### Desired Outcomes/Goals

- REDUCE disposable bags in our community
- Provide consistent messaging and information on why this is being implemented
- Provide training on how it will work

### Target Audiences

- Guests
- Residents – Full and Part-time
- Lodging/Property management company owners, managers & employees
- Retail business owners, managers & employees
- Restaurant owners, managers & employees
- Service businesses (incl. Welcome Center) owners, managers & employees
- Breckenridge schools
- Media

### Objectives/Strategies (All dates are in 2013)

- By July, design the iconic ‘Breck Bag’
- By mid-Oct., distribute ‘Breck Bag’
- By mid-Oct., develop a Tool Kit for businesses in collaboration with Breckenridge Resort Chamber
- By Oct., develop Marketing Plan (print, video, radio, social media, public relations, etc.)
- By early Sept., develop Training Plan
- On Oct. 15 – implementation of the Breckenridge Bag Fee

### Key Messages

- ❖ Breck Bag:
  - Breckenridge Branding: two main panels – ‘community’ logo (one developed for USAPCC Breck Stages), strong visual representation of Breck community; two side panels – call to action, why are we doing this (see Public Outreach below), SustainableBreck logo & web address, GoBreck.com logo/web address (NOTE: this has been requested by various members of the business community as the desired ‘call to action’ website for tourism).

- ❖ Public Outreach: *consistent with “Breck Bag” message*
  - Changing the World, One Bag at a Time / Choose to Reuse

#### Key Tactics

- video featurette (2 mins.) and ad (:30) – *produced by Town of Breckenridge, Breckenridge Resort Chamber & SCTV-10* – to be used on TV-8, TV-10, VisitorChannel, YouTube, at the Town’s Welcome Center; on various websites (Town of Breckenridge, Breckenridge Resort Chamber, High Country Conservation Center); provided to Lodging/Property Management Companies for their websites, and email confirmations
- print advertising
- radio advertising
- ‘Breck Bag Monster mascot’ for various presentations & events
- ‘Breck Bag’ giveaways & promotions
- Presentations to various groups (GM Roundtable, Breckenridge Resort Chamber Annual meeting, Restaurant Association, Lodging Association, etc.)
- Info table at various events (Green Team’s Bike Valet at Town Party)
- PR pitches by Town of Breckenridge and Breckenridge Resort Chamber on Sustainable efforts
- Info/ad in the InRoom Directories
- Consistent messaging and appropriate signage provided with lodging front desks, concierges, and on shuttles
- Consistent messaging and signage for all Retail stores
- Messaging on Restaurant menus and in Breckenridge Dining Guide
- Mayor Proclamation of Oct. 15, 2013 as “Breckenridge Bag Free Day”

**MEMORANDUM**

**To:** Town Council

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

**Date:** October 2, 2013

**Re:** Planning Commission Decisions of the October 1, 2013, Meeting.

---

***DECISIONS FROM THE PLANNING COMMISSION AGENDA OF October 1, 2013:***

**CLASS C APPLICATIONS:**

- 1) Smoldt Residence (MGT) PC#2013083, 4 Barney Ford  
Construct a new, single family residence with 5 bedrooms, 4.5 bathrooms, 4,190 sq. ft. of density and 4,809 sq. ft. of mass for a F.A.R. of 1:9.11. Approved.
- 2) Leidal Residence (SG) PC#2013086, 63 Buffalo Terrace  
Construct a new, single family residence with 4 bedrooms, 4.5 bathrooms, 4,312 sq. ft. of density and 5,118 sq. ft. of mass for a F.A.R. of 1:5.16. Approved.

**CLASS B APPLICATIONS:**

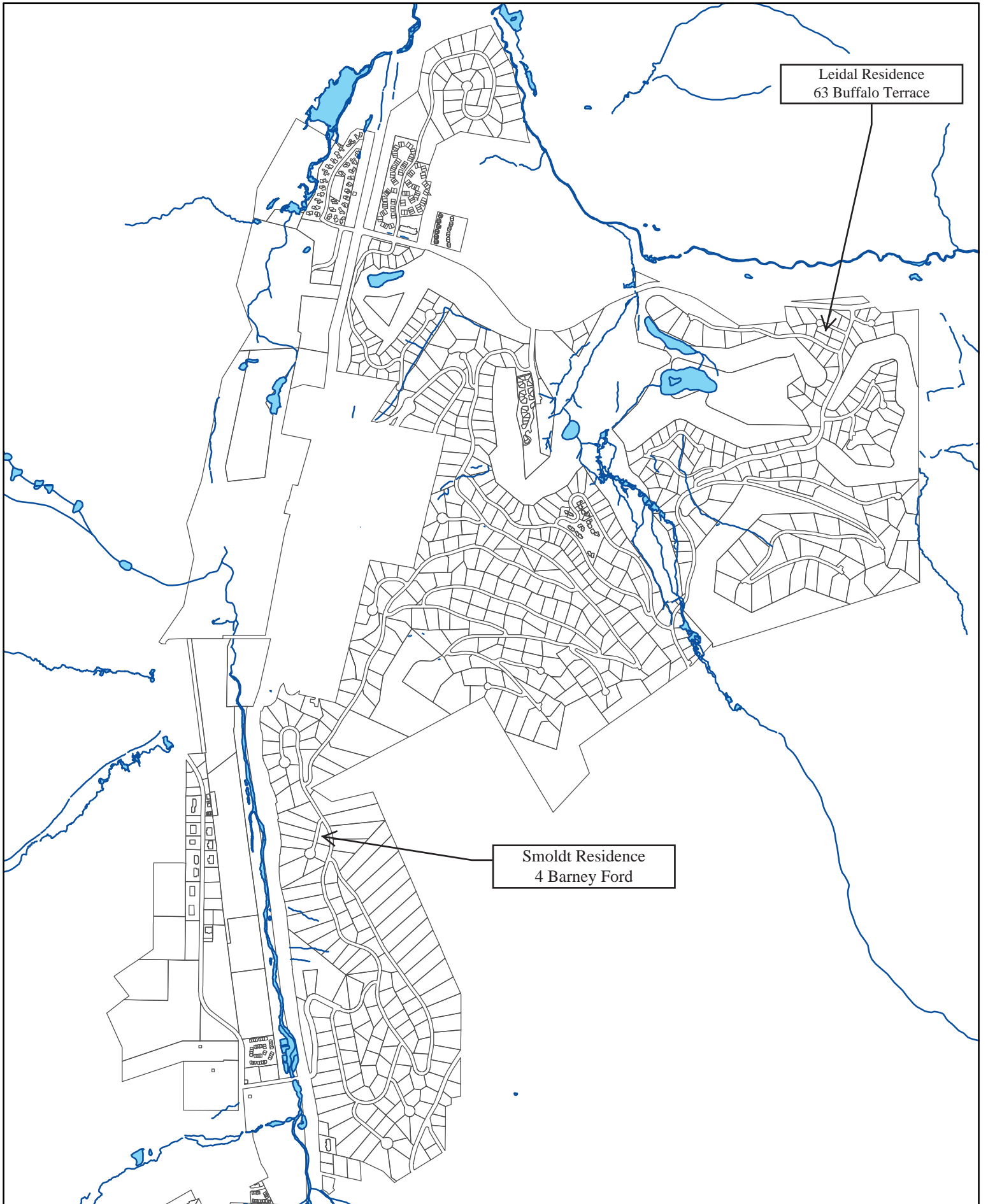
- 1) Lot 7, Abbett Addition / Brown Hotel Resubdivision (MM/JP) PC#2013078, 208 North Ridge Street  
Subdivide Lot 7, Abbett Addition into two lots. An easement for access from French Street and for four parking spaces adjacent to Lot 7 (for the Historic Brown Hotel) will also be created by the plat. Approved.

**CLASS A APPLICATIONS:**

None.

**TOWN PROJECT HEARINGS:**

None.



Leidal Residence  
63 Buffalo Terrace

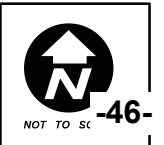
Smoldt Residence  
4 Barney Ford

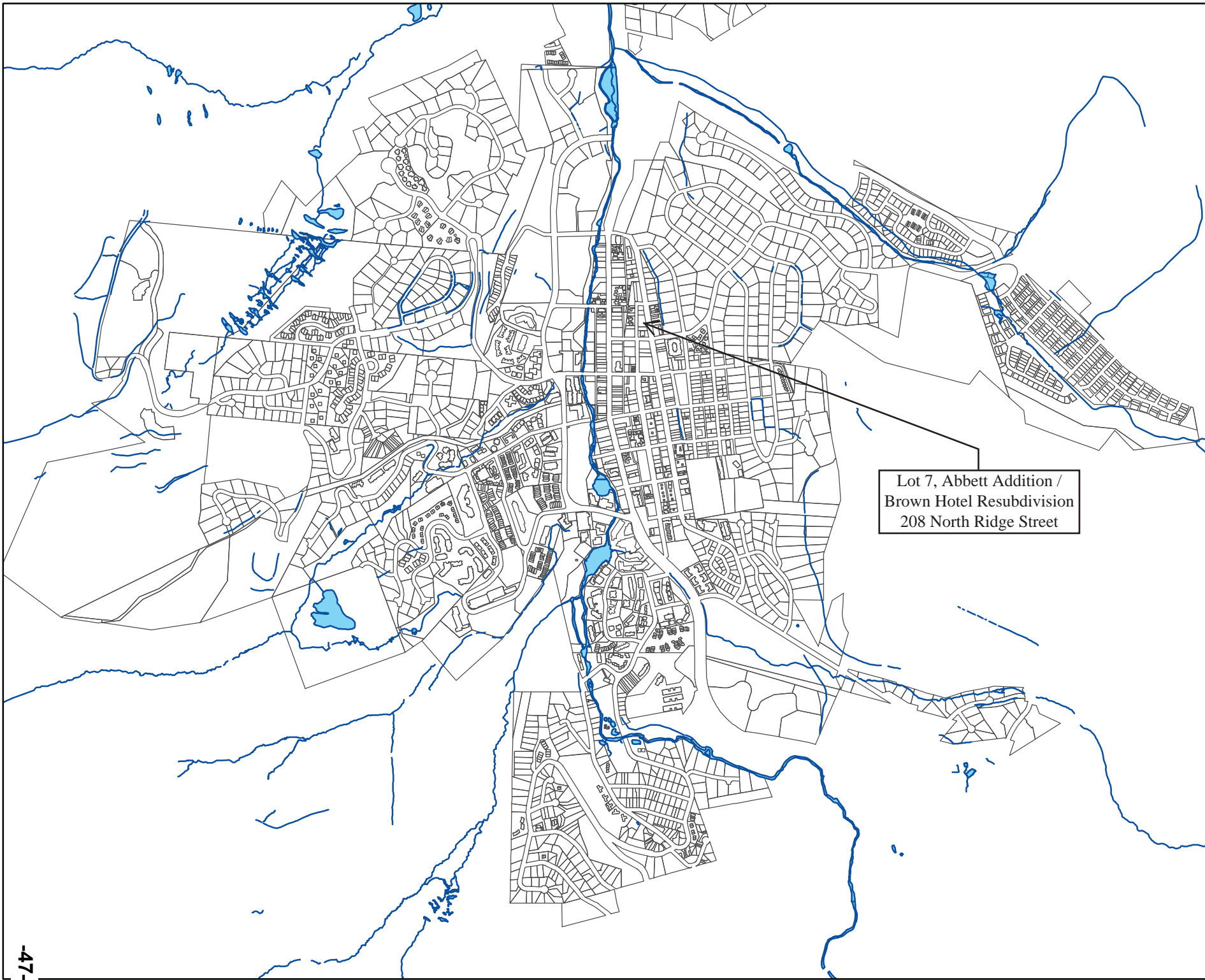


**Breckenridge North**

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*





*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                            Eric Mamula  
Trip Butler                    Dave Pringle  
Jennifer McAtamney, Town Council Liaison  
Gretchen Dudney and Dan Schroder were absent

### APPROVAL OF AGENDA

Ms. Puester noted an addition under Other Matters: Energy Policy Clarification  
With one change, the October 1, 2013 Planning Commission meeting agenda was approved unanimously (5-0).

### APPROVAL OF MINUTES

With no changes, the September 17, 2013, Planning Commission Minutes were approved as presented.

### CONSENT CALENDAR:

1. Smoldt Residence (MGT) PC#2013083, 4 Barney Ford
2. Leidal Residence (SG) PC#2013086, 63 Buffalo Terrace

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

### TOWN COUNCIL REPORT:

Ms. McAtamney:

Big meeting last week, passed all of the ordinances including subdivisions, but really big topic was the omnibus ordinance (marijuana). It was taking the smoking ordinance and applying it to marijuana, we did decide that people could smoke on private property. We all realized that we are at a different point in time than we've been before and voters approved marijuana use like alcohol use. Also addressed ordinance around growing marijuana residentially. Passed resolution in support of 1-A and 2-B. Resolution on the appropriation of funds for F lot, Harris and Arts. Worked on better loan terms with Corum on housing projects which will come before you soon. We received an update from Vail which was going over master plan and what buildings where in Breckenridge. Vail representative said that it is not unusual to have a sprung structure in the ski industry. It was supposed to just be for one season but with the downturn, these sprung structures have had to stay throughout the industry. I recommend that the Commission listen to tape of this discussion. Vail reported that still have 30 units to sell at One Ski Hill Place. Another topic was a great presentation from kids and adults who are users of the Skate Park who'd like to see the Town demolish current park and build a new park for \$600,000. The current skate park was built in 1999; it has issues yet it is heavily used. They showed a great presentation and showed that Leadville is putting in a park for \$1 million. Art Fair Presentation that has data and they contend that every time we have an art fair it takes away sales from the local businesses. Equity argument that the art fairs come and set up for a short time, like food carts and need to discuss these fairs happening on private property versus public property. Please check out the Heritage Alliance Park, looks great, it is almost completed and it is down by the Engine. The Town Council will be discussing the Wakefield project in November. (Mr. Pringle: Will there be GOCO funds for Skate Park?) There will be an opportunity to put in request for funds for this, we are doing this for the Rugby field. The citizens said that they would be supportive of doing other fundraising to show their support for this project.

### COMINED HEARINGS:

1. Lot 7, Abbett Addition / Brown Hotel Resubdivision (MM/JP) PC#2013078, 208 North Ridge Street



Ms. Puester presented on behalf of Mr. Mosher. Per an approved Development Agreement (dated April 19, 2013), the applicant is proposing to subdivide Lot 7, Abbett Addition into two lots. An easement for access from French Street and for four parking spaces adjacent to Lot 7 (for the historic Brown Hotel) will also be created by this plat.

This review is to create a plat that identifies the proposed lots and easements. There is an Access Easement on Lot 7A benefiting Lot 7B and Lot 6 and an Easement for parking benefiting Lot 6. Access to these properties is now solely off French Street. Per the Development Agreement, due to community benefits such as restoration of the historic Brown Hotel, the future subdivision of the lot was allowed without meeting minimum lot size requirements and without an open space dedication.

This resubdivision of Lot 7 follows the direction from the Development Agreement and site plan. The application has been advertised as a combined hearing. Staff had no concerns with this application, and welcomed any Commissioner comments or questions. Staff recommended approval of Lot 7, Abbett Addition Resubdivision, PC#2013078, with the presented Findings and Conditions.

*Commissioner Questions / Comments:*

Mr. Pringle: Because we are creating two below standard sized lots, is this clear enough for future applicant to understand how much density is available on this lot? (Ms. Puester: Can talk to Town Attorney to make sure that was covered in Agreement.) Not sure if this is enough to show a future applicant what the density should be. It seems loosely written in the agreement and doesn't give specific direction. Do we know what the development plan is going to be that can clarify density? (Mr. Grosshuesch: We don't assign densities to subdivision; it's not part of the process. We understand what your concerns are, we will look into it. Mosh is the project planner and obviously he is not here, he may have the answer off hand. However, they have to meet a lot of the standards of the historic district regardless. But that is not a part of the subdivision review.)

Mr. Mamula: We reference a development plan in the agreement but the plans can change with subsequent owners. It is subject to UPA.

Mr. Lamb opened the hearing to public comment. There was no public comment and the hearing was closed.

*Commissioner Questions / Comments (Continued):*

Mr. Mamula: I agree, I'm fine with it.

Ms. Christopher: I'm fine with it.

Mr. Butler: I'm fine with it.

Mr. Pringle: I'm curious about the language regarding density for development, but I'm fine with it.

Mr. Lamb: I'm fine too.

Mr. Mamula made a motion to approve the Lot 7, Abbett Addition / Brown Hotel Resubdivision, PC#2013078, 208 North Ridge Street, with the presented findings and conditions. Ms. Christopher seconded, and the motion was carried unanimously (5-0).

**OTHER MATTERS:**

Ms. Puester presented. Recently an applicant questioned the energy policy 33R with regard to heated driveways. An application came in for a heated parking pad; however, the driveway would be heated by means of a solar thermal system with direct connection to the pad and no boiler. Wanted to see how the Commission would weigh in on the direct on site renewable system feeding directly into the heating-no net energy consumption. The policy as written allows for the planning commission to give positive points under subsection D other design features which conserve energy. Those positive points could be used to offset

negative points for heated area. An alternative option would be to under subsection F on heated spaces which mentions zero points for well designed plans which take advantage of southern exposure or specific site features. If the Commission is open to consideration for direction exchanges handled onsite, the approach would matter when looking at larger applications. For example if you had a large heated area which received the max -3 points, the offset in the policy is a max of +2. The application would still be -1 under policy 33R.

Looking for direction from the Planning Commission.

*Commissioner Questions / Comments:*

Mr. Lamb: If it is an energy conservation issue and doesn't use any energy that I don't think it is a problem.

Mr. Mamula: How does it work on dark, cloudy days? (Mr. Grosshuesch: The system surprised the Keystone Science School which has a similar system that was surprised that it didn't take much sun to keep it heating, only need 34 degrees. Need to talk about the policy need direction from the planning commission, we could make an argument that if they aren't tap the grid, does it meet the goals.)

Mr. Pringle: What about snow storage if the system goes down or doesn't have enough sun power for a few days? (Ms. Puester: We could continue to look at all the code policies and make sure applications could otherwise meet them, one being snow storage on site; the 25% is still required.)

Mr. Mamula: Where the panels are located are important. Do they need to be on a pole? I am fine with the concept but I don't want it to become like the roadway signs that have solar on top. I want to know how the execution goes. (Ms. Puester: Applications would have to meet Policy 5A which contains the regulations for solar installations)

Mr. Pringle: I would like to direct people to solar garden. I'm concerned that the people will need to do something with the snow on days that can't heat. (Ms. Puester: This is solar thermal not solar electric which is not in the garden. We can make sure that the 25% snow storage is required.) It wouldn't be in lieu of snow storage? Because I'm concerned that people will use this as an excuse to get away with not having the snow storage. It's different if they have a heated drive with a boiler, more reliable.

Mr. Lamb: I thought we heard from Ms. Puester that they would be required to have the 25% snow storage. (Ms. Puester: I understand what you are saying. You are right that in other applications that have heated driveway, they get negative points and they don't have to meet the 25%; that being said, this would have a direct tie in. The sun is there, with a solar thermal system or a boiler system, either could break down at any time.)

Mr. Pringle: My guess is that if the boiler went down you would have that fixed immediately, this may not be the case with the solar. Could be down for a few days until it get sunny. We have to be careful when we get into a system that is not as predictably reliable not having the snow storage.

Mr. Lamb: If is going to a zero balance and meets other applicable policies with the town code.

Mr. Pringle: I'm fine with zeroing out for energy, but need to meet other policies. (Ms. Puester: We would review other policies for compliance. Solar policy design under 5A to review how the panels appear and they would go under any other applicable policies like driveway requirements and snow storage.)

Mr. Lamb: One thing to keep in mind that driveway snow storage is 25% is not that much, around 40 sq ft. per parking space. (Ms. Puester: Clarification needed for future applications, if there is a larger area similar application and it meets 5R, would be looking at zero points or a negative point and a positive point? This does make a difference moving forward.)

Mr. Mamula: I like the ability to give negative points. A large project could still come out with negative points. Also needs to be reviewed under Policy 5- the look of the solar must be acceptable. I

- like the opportunity to look at big projects.
- Mr. Lamb: There is a difference between a small single spot and a large driveway.
- Mr. Mamula: Our code is based on positives and negatives, like to keep it that way.
- Ms. Christopher: I would rather go with points rather than 0.
- Mr. Pringle: I'm fine with that. I would like to talk about the array in large parking lots versus single spots. The code may need to be written differently to look at this from those different perspectives. When we get in trouble is when we have a one size fits all.
- Mr. Lamb: I think that the Commissioners agree and support with a negative/positive point situation.
- Ms. Puester: Thank you. Also, next meeting is the chair, vice chair election so think about that. Also, Planning Commission retreat date Friday, October 25 is the majority, 9:00am – 1:00pm.
- Mr. Lamb: It will work for me.
- Mr. Pringle: I will try to make it work, but don't reschedule the meeting for me.
- Ms. Puester: Large portion of that day would be condo hotels in town and tour them. The reason for that date is the joint Town Council / Planning Commission meeting on November 12 and we have the meeting prior to that to discuss the top three.
- Mr. Pringle: Do we have any planning seats up?
- Ms. Puester: No, not until next year.
- Mr. Mamula: Suggest going by my building to see the airlock on the retreat.
- Mr. Pringle: Cementitious fabric has been in place for a few years now. Can we go look at those and see how it is weathering? (Ms. Puester: Should be able to fit that in.)

**ADJOURNMENT:**

The meeting was adjourned at 7:43 pm.

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Jim Lamb, Vice 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.*

### 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; Cuppa Joe	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

Thursday, November 7, 2013	Wake Up Breckenridge
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

### DECEMBER 2013

Saturday, December 7, 2013	Lighting of Breckenridge
Tuesday, December 10, 2013; 3:00/7:30 pm	First Meeting of the Month
Friday, December 13, 2013; 8:00-9:00 am; TBD	Coffee Talk
<b>CANCELLED</b>	Second Meeting of the Month

### OTHER MEETINGS

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