



BRECKENRIDGE TOWN COUNCIL REGULAR MEETING

Tuesday, January 28, 2014; 7:30 PM

Town Hall Auditorium

I	CALL TO ORDER, ROLL CALL	
II	APPROVAL OF MINUTES - JANUARY 14, 2014	3
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	B. BRECKENRIDGE OPEN SPACE ADVISORY COMMITTEE (MR. BREWER)	
	C. GOBRECK (MS. WOLFE)	
	D. SUMMIT COMBINED HOUSING AUTHORITY (MR. DUDICK)	
	E. BRECKENRIDGE HERITAGE ALLIANCE (MR. DUDICK)	

*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.

- F. WATER TASK FORCE (MR. GALLAGHER)
- G. LANDFILL TASK FORCE (MS. WOLFE)
- H. PUBLIC ART COMMISSION (MR. GALLAGHER)
- I. CHILDCARE ADVISORY COMMITTEE (MS. MCATAMNEY)
- J. CULTURAL ARTS ADVISORY COMMITTEE (MS. WOLFE AND MR. GALLAGHER)

X OTHER MATTERS

XI SCHEDULED MEETINGS

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XII ADJOURNMENT

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CALL TO ORDER, ROLL CALL

Mayor Warner called the meeting of January 14, 2014 to order at 7:36 pm. The following members answered roll call: Mr. Gallagher, Mr. Brewer, Ms. McAtamney, Mr. Burke, Ms. Wolfe, Mr. Dudick and Mayor Warner.

APPROVAL OF MINUTES - DECEMBER 10, 2013

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

APPROVAL OF AGENDA

Mr. Gagen stated there were no changes to the agenda.

COMMUNICATIONS TO COUNCIL

- A. Citizen's Comment - (Non-Agenda Items ONLY: 3-minute limit please)
Mayor Warner opened Citizen's Comment. There were no comments and Citizen's Comment was closed.
- B. Breckenridge Ski Resort Update
Ms. Pat Campbell, COO of Breckenridge Ski Resort, was not present for the scheduled update.
- C. GoBreck Update
Mr. John McMahon stated he is no longer with the BRC as Director and recruitment is starting for his replacement. Mr. McMahon further stated the new articles of incorporation were adopted, and after the new Board is established, they will be assigning roles and responsibilities. Mr. McMahon stated Ullr Fest adjustments this year included Breck's Got Talent as a new event. Also, he stated the Snow Sculpting Championships begin this week. Mr. McMahon stated GoBreck received an award for the "I Love Breckenridge" marketing campaign, social media presence is strong, occupancy reports are up, and he is excited about the collaborative effort with Robb Woulfe, the new Arts CEO.

CONTINUED BUSINESS

- A. Second Reading of Council Bills, Series 2014 - Public Hearings - NONE

NEW BUSINESS

- A. First Reading of Council Bills, Series 2014
 - 1. COUNCIL BILL NO. 1, SERIES 2014 - AN ORDINANCE MAKING MISCELLANEOUS AMENDMENTS TO TITLE 9 OF THE BRECKENRIDGE TOWN CODE
Mayor Warner read the title into the minutes. Mr. Berry stated the Town Code needs to be updated by ordinance and these are minor amendments. Mr. Berry further stated there is a correction that needs to be made to the title of the ordinance to eliminate the reference to Title 9.
Ms. McAtamney moved to approve COUNCIL BILL NO. 1, SERIES 2014 - AN ORDINANCE MAKING MISCELLANEOUS AMENDMENTS TO TITLE 9 OF THE BRECKENRIDGE TOWN CODE. Mr. Dudick seconded the motion.
The motion passed 7 - 0.
 - 2. COUNCIL BILL NO. 2, SERIES 2014 - AN ORDINANCE APPROVING A LEASE WITH THE BOARD OF COUNTY COMMISSIONERS OF SUMMIT COUNTY,

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COLORADO (Recycling Center)

Mayor Warner read the title into the minutes. Mr. Berry stated this matter has been worked on at the staff level, and a lease longer than one year must be approved by Council.

Ms. McAtamney moved to approve COUNCIL BILL NO. 2, SERIES 2014 - AN ORDINANCE APPROVING A LEASE WITH THE BOARD OF COUNTY COMMISSIONERS OF SUMMIT COUNTY, COLORADO (Recycling Center).

Mr. Dudick seconded the motion.

The motion passed 7 - 0.

B. Resolutions, Series 2014

1. RESOLUTION NO. 1, SERIES 2014 - A RESOLUTION CREATING A TEMPORARY ADVISORY COMMITTEE KNOWN AS THE "TOWN OF BRECKENRIDGE CULTURAL ARTS ADVISORY COMMITTEE"

Mayor Warner read the title into the minutes. Mr. Holman stated this resolution creates a temporary Cultural Arts Advisory Committee that will serve in an advisory capacity during the transition to a non-profit. Mr. Holman further stated there will be no terms on this committee because it is temporary.

Mr. Brewer moved to approve RESOLUTION NO. 1, SERIES 2014 - A RESOLUTION CREATING A TEMPORARY ADVISORY COMMITTEE KNOWN AS THE "TOWN OF BRECKENRIDGE CULTURAL ARTS ADVISORY COMMITTEE". Mr. Gallagher seconded the motion.

The motion passed 7 - 0.

2. RESOLUTION NO. 2, SERIES 2014 - A RESOLUTION SUPPORTING THE TOWN OF BRECKENRIDGE'S GRANT APPLICATION TO THE EL POMAR FOUNDATION (103 South Harris)

Mayor Warner read the title into the minutes. Mr. Berry stated the El Pomar Foundation requires formal approval of this grant application by resolution.

Mr. Dudick moved to approve RESOLUTION NO. 2, SERIES 2014 - A RESOLUTION SUPPORTING THE TOWN OF BRECKENRIDGE'S GRANT APPLICATION TO THE EL POMAR FOUNDATION (103 South Harris). Ms. McAtamney seconded the motion.

The motion passed 7 - 0.

C. Other

1. Childcare Advisory Group Appointments

Mayor Warner stated Council will choose 6 people for the committee. Mr. Dudick asked why Council is limiting the number of members at this time. Ms. Wolfe stated a larger committee could work well for smaller group work. Mr. Burke stated he hopes we don't micromanage the childcare centers, yet he supports the points made for a larger group. Mr. Brewer stated he supports this candidate pool. Ms. McAtamney stated the application process happened during the busiest time of the year, and a smaller group is potentially more engaged. Mayor Warner stated we recruit for committees in this way, but a good point has been made about what number Council desires. Mr. Dudick stated the Council agreed to 10, but limited to 6 members at this time to grow the committee in the future. Mr. Gallagher stated he prefers a smaller group and to let the group grow as necessary. Mayor Warner stated Council will pick 6 candidates and let it grow.

Council moved to appoint the following members:

Mike Connelly

Lucinda Burns

Greta Shackelford

These members were approved with a unanimous vote.

Council moved to appoint the following members:

Carla Williams
Laurie Blackwell

These members were approved with a 5 for, 1 against vote. Mr. Burke voted against.

Council moved to appoint the following members:

Elisabeth Lawrence

This member was approved with a unanimous vote.

Mayor Warner then appointed Ms. McAtamney to the committee as the Council representative.

2. GoBreck Board Member Appointments

Mayor Warner stated the Council agreed not to seek additional candidates for the board.

Mr. Dudick moved to approve Dick Sosville, Bruce Horii and Dick Carleton as members of the GoBreck Board. Ms. Wolfe seconded the motion. Council voted and the motion passed 7-0.

Mayor Warner then appointed Ms. Wolfe to the committee as the Council representative.

Mr. Rob Neyland, who is also a member of the new board, thanked Council for its support and thanked Mark Burke for his years of service as part of the previous board.

PLANNING MATTERS

A. Planning Commission Decisions

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

B. Planning Commission Report (Ms. McAtamney)

Ms. McAtamney stated there was no report.

REPORT OF TOWN MANAGER AND STAFF

Mr. Gagen stated there is one item in the Mayor and Managers Report related to conducting a mail ballot election that highlights the difficulties in the new rules. He further stated several communities are thinking about switching back to polling place elections, and the Council will have a chance to discuss it at the next meeting.

Mr. Gagen also stated we are starting to shift Arts and Culture under the new CEO, and getting the community used to working with him instead of coming before Council. Mr. Gallagher asked about the staging of the Riverwalk Center, and getting Mr. Woulfe involved in those decisions.

REPORT OF MAYOR AND COUNCILMEMBERS

A. Cast/MMC (Mayor Warner)

Mayor Warner stated Council already received his report.

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

Mr. Brewer stated there was no report.

C. GoBreck (Mr. Burke)

Mr. Burke stated there was no report. He then stated he wanted to understand the barricade requirement for the Mardi Gras parade, considering it was such a short parade. Ms. Wolfe

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asked about alternatives to that requirement. Chief Haynes stated it is something she has pushed for to keep people safe, but she is not opposed to a SEPA discussion about alternatives. Chief Haynes further stated she has seen parts of the Mardi Gras parade that were a safety concern.

D. Marketing Committee (Ms. Wolfe)

Ms. Wolfe stated the committee will be dissolved.

E. Summit Combined Housing Authority (Mr. Dudick)

Mr. Dudick stated there was no update.

F. Breckenridge Heritage Alliance (Mr. Dudick)

Mr. Dudick stated he had no report.

G. Water Task Force (Mr. Gallagher)

Mr. Gallagher stated Council saw the technical memo and until they see the complete water study report, they cannot make comments on it. He further stated that if the Council is comfortable with the Sanitation District seeing the report before Council discusses it, they can move in that direction, and the Council generally agreed.

H. Landfill Task Force (Ms. Wolfe)

Ms. Wolfe stated there was no update.

I. Public Art Commission (Mr. Gallagher)

Mr. Gallagher stated there are four public art priorities for 2014, including the round-a-bout sculpture for which four finalists that will present designs for public input. At that point, the Commission will summarize and make a recommendation to Council.

OTHER MATTERS

Mr. Brewer asked the Mayor for permission to attend the Colorado Bike Summit in Denver in early February. He stated the event is a bike advocacy convention including legislation and classes. Mayor Warner agreed Mr. Brewer should attend.

Ms. McAtamney stated Denver City Council endorsed a resolution to allow marijuana stores to use banks. She further stated she believes it's a significant issue, and Council agreed to watch how Denver handles the situation. Mr. Gagen stated he will get a copy of Denver's resolution for the next meeting.

Mr. Dudick stated there was some confusion in an email chain regarding Golf Course use for non-profits, but it had been resolved by Mr. Holman.

SCHEDULED MEETINGS

ADJOURNMENT

With no further business to discuss, the meeting adjourned at 9:07pm. Submitted by Helen Cospolich, Municipal Services Manager.

ATTEST:

John Warner, Mayor

MEMO

TO: Town Council

FROM: Town Attorney

RE: Council Bill No. 1 (Miscellaneous Town Code Amendments Ordinance)

DATE: January 21, 2014 (for January 28th meeting)

The second reading of the ordinance making miscellaneous amendments to the Town Code is scheduled for your meeting on January 28th. There are no changes proposed to ordinance from first reading.

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

1 ***FOR WORKSESSION/SECOND READING – JAN. 28***

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

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

7
8 COUNCIL BILL NO. 1

9
10 Series 2014

11
12 AN ORDINANCE MAKING MISCELLANEOUS AMENDMENTS TO THE
13 BRECKENRIDGE TOWN CODE

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

17
18 Section 1. Section 4-13-7(C) of the Breckenridge Town Code is amended to read as
19 follows:

20
21 C. A permit issued pursuant to this chapter eliminates the need for a ~~class C or~~
22 ~~class D~~ development permit to authorize the special event. However, an applicant
23 may still be required to obtain a development permit depending on the size and
24 scale of any temporary structures proposed to be used in connection with the
25 special event. The need for a development permit will be determined by the
26 events manager once the application has been received and reviewed.

27
28 Section 2. Section 4-13-11(E) of the Breckenridge Town Code is amended to read as
29 follows:

30
31 E. A permit issued under this chapter shall be treated as a special event permit
32 within the meaning of section 9-1-19-44A, Policy 44 (Absolute), “Radio
33 Broadcasts”, of the development code. No class D **minor** development permit
34 shall be required to authorize any radio broadcast conducted as a special event.

35
36 Section 3. Section 5-8-11(J) of the Breckenridge Town Code is amended to read as
37 follows:

38
39 J. Sound emitted from a live, remote radio broadcast, when authorized by a class
40 D **minor** development permit issued pursuant to title 9, chapter 1 of this code

41
MISCELLANEOUS TOWN CODE AMENDMENTS ORDINANCE

1 properties and the community as a whole.

2
3 Like traditional zoning, however, the code does set minimum standards that must be met
4 before a development permit is granted.

5
6 The development code is the core of a three (3) document system used by the town to
7 review projects and analyze growth. The first document in the series, the comprehensive
8 plan, guides growth in a general way. The second, the land use guidance system,
9 establishes forty two (42) districts within the community and sets out general parameters
10 for land uses, desired architectural character, and other town needs.

11
12 The third “document”, the development code, consists of a set of town policies covering a
13 range of subjects, from air and water quality to the restoration of historic artifacts to the
14 much debated issue of employee housing. The policies are divided into two (2) types -
15 “absolute policies” (of major importance) and “relative policies” (of lesser importance) -
16 and the development code analyzes projects according to how well they meet the criteria
17 set forth in both. A project must be approved by the town when it implements or has no
18 effect on all of the absolute policies and when it receives a positive score (0 or above) in
19 the point analysis for the relative policies. The point analysis (from -2 to +2) is the
20 quantitative backbone of the development code system. In addition, a multiplier of 1 to 5
21 is associated with each relative policy, depending on its importance to the town.

22
23 In processing development proposals, Breckenridge separates land use actions into ~~four~~
24 **(4) five (5)** categories: class D **minor** includes minor projects like sign permits; **class D**
25 **major includes** and limited ~~some remodeling~~ **single family and duplex structures**;
26 class C items are more substantial projects such as ~~single family houses~~ **complex single**
27 **family and duplex structures**; class B refers to some major projects; and class A refers
28 to ~~the~~ most major projects, which may range from small commercial structures in the
29 historic district to a four hundred (400) room hotel and convention center near the
30 mountain.

31
32 Section 8. The definition of “Addition” in Section 9-1-5 of the Breckenridge Town Code
33 is amended to read as follows:

34
35 ADDITION: An extension or increase in floor area, building height, density, or mass height of a
36 building or structure.

37 Section 9. The definition of “appeal” in Section 9-1-5 of the Breckenridge Town Code is
38 amended to read as follows:

APPEAL: A request by an applicant or citizen that the

MISCELLANEOUS TOWN CODE AMENDMENTS ORDINANCE

town planning commission overturn a decision of the director of community development concerning a class D major or class D minor application.

1
2 Section 10. The definition of “Class D - Major” development in Section 9-1-5 of the
3 Breckenridge Town Code is amended to read as follows:
4

CLASS D - MAJOR:

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

1. Warrants the assessment of any negative points based upon the director's preliminary assessment at the time the application is initially filed; or
2. Is located on a lot, tract, or parcel without a platted building or disturbance envelope outside of the conservation district as defined in section 9-1-19-4A of this chapter (mass).

A class D - major permit application that meets the conditions described in subsection A1 or A2 of this definition, shall be reclassified as a class C development permit application.

5
6 Section 11. Item U under the definition of “Class D - Minor” development is Section 9-1-
7 5 of the Breckenridge Town Code is amended to read as follows:
8

9 U. Any other development described as a class D minor development in any town
10 ordinance.
11

12 Section 12. The definition of “Class D - Minor” development in Section 9-1-5 of the
13 Breckenridge Town Code is amended by the addition of a new item BB, which shall read as
14 follows:
15

16 BB. Radio broadcast.

17 Section 13. The definition of “Density” in Section 9-1-5 of the Breckenridge Town Code

MISCELLANEOUS TOWN CODE AMENDMENTS ORDINANCE

1 is amended to read as follows:

2

DENSITY:

The intensity of nonresidential uses is expressed by the ratio of ~~gross~~ floor area of the improvements to the size of the subject property. The intensity of residential uses is expressed by the gross ~~square footage of~~ dwelling area to the size of the subject property. Mixed uses are considered nonresidential uses for the purpose of intensity. All measurements are in square feet.

3

4 Section 14. Section 9-1-7(D)(1) of the Breckenridge Town Code is amended to read as
5 follows:

6

7 1. Notice shall not be required prior to the review of any class C ~~or~~ class D
8 **major, or class D minor** application, nor for a preliminary hearing for a class B
9 application outside of the historic district.

10

11 Section 15. Section 9-1-10(B) of the Breckenridge Town Code is amended to read as
12 follows:

13

14 B. Modifications To Existing Development Permits: At any time after issuance of
15 a development permit, but before the development permit is abandoned or a
16 certificate of occupancy is issued for the project, the applicant may submit
17 modifications to the development permit. Such modifications shall be acted upon
18 after filing a modification application, utilizing either the class C ~~or~~ class D
19 **major, or class D minor** permit process as determined by the director.

20

21 Section 16. The second unnumbered paragraph of Section 9-1-17-3 of the Breckenridge
22 Town Code is amended to read as follows:

23

24 A point analysis shall be conducted for all policies relevant to an application, and
25 shall be completed prior to the final hearing on the application. However, a point
26 analysis is not required for a class D **major or a class D minor** development
27 permit application.

28

29 Section 17. Section 9-1-17-8 of the Breckenridge Town Code is amended to read as
30 follows:

31

32 9-1-17-8: DURATION OF DEVELOPMENT PERMIT;

33

1 A. Except as expressly provided in section 9-1-19-39A of this chapter with
2 respect to a development permit which approves a master plan, development
3 permits issued pursuant to this chapter are valid only for the following time
4 periods:
5

<u>Class Of Development Permit</u>	<u>Duration Of Permit</u>
A	3 years
B	3 years
C	18 months
<u>D Major</u>	<u>18 months</u>
<u>D Minor</u>	6 months

6
7 The term of a class A, B or C development permit shall commence on the date of
8 approval of the development permit by the town council. The term of a class D
9 **major or class D minor** development permit shall commence on the date of the
10 issuance of such permit by the director.
11

12 B. For those development permits for which vested property rights are created
13 pursuant to section 9-1-17-11 of this chapter, the duration of the development
14 permit and the duration of the vested property rights are the same. The extension
15 of the vested property rights for a project also operates to extend the duration of
16 the development permit for so long as such vested property rights continue to
17 exist as provided in this section.
18

19 Section 18. Section 9-1-17-11(D) of the Breckenridge Town Code is amended to read as
20 follows:
21

22 D. Duration Of Vested Right: Subject to the provisions of subsection F of this
23 section, and section 9-1-19-39A of this chapter, all vested rights with respect to
24 any class A or B development permit shall terminate and expire at the end of three
25 (3) years from the date of the approval by the town council of such development
26 permit, and all vested rights with respect to a class C **or class D major**
27 development permit shall expire eighteen (18) months from the date of the
28 approval by the town council **or director** of such permit, unless substantial
29 construction pursuant to such permit has been completed. **All vested rights with**

1 respect to a class D minor development permit shall expire six (6) months
2 from the date of the issuance of the permit.

3
4 Section 19. Section 9-1-17-11(I) of the Breckenridge Town Code is amended to read as
5 follows:

6
7 I. Extension Of Vested Property Rights: An approved development permit **for a**
8 **class A, B, and C development,** and the vested property rights for such project,
9 may be extended by the planning commission. **An approved development**
10 **permit for a class D major or a class D minor development, and the vested**
11 **property rights for such project, may be extended by the director.** An
12 application for an extension shall be made in writing to the director and shall
13 include such submittal information as the director may require. Such application
14 must be received at least thirty (30) days **but no earlier than four (4) months**
15 **prior to the expiration of the development permit and the associated vested**
16 **property rights.** An application for an extension which is received within the
17 specified time period shall extend the development permit and the **associated**
18 **vested property rights for such project** until such application is finally determined,
19 and an application for extension shall be considered even though, at the time of
20 such consideration, the development permit would have otherwise expired.
21 Failure to submit a written request for extension within the specified time period
22 shall cause the development permit and the vested property rights for such project
23 to expire at the end of the time period provided in subsection D of this section. An
24 extension application shall be classified and processed one classification lower
25 than the classification of the development permit which gave rise to the vested
26 property rights for the project. No extension of a vested property right may be
27 approved unless the approved project complies with all town land use laws in
28 effect at the time of the extension request. **When considering a request to**
29 **extend a development permit and the associated vested property rights, the**
30 **planning commission and/or director shall consider all relevant**
31 **circumstances, including, but not limited to, the size and phasing of the**
32 **development, economic cycles, and market conditions.** The planning
33 commission may approve the requested extension, deny the requested extension,
34 or approve the requested extension with conditions. If an extension is granted, the
35 planning commission shall fix the period of extension which may be up to and
36 including a period of three (3) years **from the date of the expiration of the**
37 **original development permit and the associated vested property rights. There**
38 **is never an entitlement to an extension of an approved development permit**
39 **and the associated vested property rights; the decision to grant or deny a**
40 **requested extension lies in the sound discretion of the planning commission if**
41 **the extension is for a class A, B, or C development permit, or the director if**
42 **the extension is for a class D major or a class D minor development permit.**

MISCELLANEOUS TOWN CODE AMENDMENTS ORDINANCE

1
2 Section 20. Section 9-1-18-3 of the Breckenridge Town Code is amended to read as
3 follows:
4

5 9-1-18-3: CLASS C DEVELOPMENT PERMIT PROCESS:
6

7 A. Preapplication Conference: A preapplication conference with a member of the
8 community development staff shall be held prior to the submittal of an
9 application.
10

11 B. Application Requirements: The applicant shall file an application, a short
12 description of the proposal and three (3) copies of any maps, drawings or
13 materials needed to adequately describe the proposal. All drawings and maps shall
14 be to scale. The application shall be accompanied by a fee in the amount required
15 by chapter 10 of this title. The director may require the following materials to be
16 submitted as a part of a complete application:
17

- 18 1. Site plan;
- 19 2. Landscaping and defensible space plan;
- 20 3. All elevations of the proposed building or modification;
- 21 **4. Floor plans;**
- 22 ~~45.~~ Preliminary drainage and utility plans; ~~and~~
- 23 ~~56.~~ A sample paint chip of each color to be used, keyed to the proposed location
24 of the color on the building as shown on the elevation drawing; **and**
- 25 **7. Electronic copy of plans.**
26

27 C. Procedure: Once the application and accompanying material have been
28 submitted, the director shall within five (5) days determine if the public interest
29 would better be served by requiring conformance with the class B development
30 process rather than class C. If the director determines that the application should
31 be processed as a class B, the applicant shall then meet the requirements of the
32 class B process. If not, the director shall process the application as follows:
33

- 34 1. Within ~~fourteen (14) days~~ **twenty two (22) days** of receipt of the complete
35 submittal, the director shall review the proposal and grant or deny it as he deems
36 appropriate, with or without conditions.
- 37 2. The director shall forward his decision to the planning commission at their next
38 regularly scheduled meeting. At that meeting the planning commission may, by
39 an affirmative vote of the members present, call up any decision of the director
40 for their own review. In lieu of calling up a director's decision the planning
41 commission may, with the consent of the applicant, modify or eliminate any
42 condition of approval imposed on the application by the director or add any
43 condition of approval.

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1 3. The director shall then forward the decision to the town council at their next
2 regularly scheduled meeting. At that meeting, the town council may, by an
3 affirmative vote of the members present, call up any decision for their own
4 review. In lieu of calling up a planning commission decision the council may,
5 with the consent of the applicant, modify or eliminate any condition of approval
6 imposed on the application by the planning commission or add any condition of
7 approval.

8
9 a. If called up, the town council shall review the application at their next regularly
10 scheduled meeting. The town council after review may grant or deny the
11 application as they deem appropriate, with or without conditions.

12 b. If the decision forwarded to the town council is not called up or modified, it
13 shall stand as presented.

14
15 4. Once the decision has been finalized, the director shall transmit the final
16 decision to the applicant; and, if the application is approved, shall issue a
17 development permit, with or without conditions.

18
19 Section 21. Section 9-1-18-4 of the Breckenridge Town Code is amended to read as
20 follows:

21
22 9-1-18-4: CLASS D MINOR DEVELOPMENT PERMIT PROCESS:

23
24 ~~A. Preapplication Conference: A preapplication conference with a member of the~~
25 ~~community development staff shall be held prior to the submittal of an~~
26 ~~application.~~

27
28 AB. Application Requirements: The applicant shall file an application, a fee in the
29 amount required by chapter 10 of this title, a short description of the proposal, any
30 materials needed to adequately describe the proposal, including, but not limited
31 to, material samples, paint chip samples for each color proposed, with location
32 keyed to an elevation drawing, three (3) copies of any maps, drawings, or floor
33 plans, or elevations deemed necessary by staff.

34
35 BC. Procedure:

36
37 1. Once a completed application and all accompanying material have been
38 submitted, the director shall review the proposal and within seven (7) days
39 approve it with or without conditions, or deny it. In addition, the director shall
40 have the right within ~~the same seven (7)~~ five (5) days after the application is
41 filed to reclassify any class D minor application as either a class D major or a
42 class C and process it accordingly.

MISCELLANEOUS TOWN CODE AMENDMENTS ORDINANCE

- 1 2. The director shall then indicate the decision on the application and return it to
2 the applicant.
3 3. All decisions shall be forwarded to the planning commission for its information
4 only.
5 4. If the applicant agrees with the decision of the director, he shall so indicate by
6 signing the appropriate signature block on the application form; and if the
7 decision was for approval, the application form shall become the development
8 permit, and the applicant may proceed with his project after obtaining any other
9 necessary permits.

10
11 **CD**. Appeal:

- 12
13 1. A decision of the director concerning a class D **minor** application may be
14 appealed by the applicant to the planning commission within five (5) days after
15 the director has rendered his decision by filing written notice with the department
16 of community development. If no appeal is filed within the five (5) day period,
17 the decision of the director shall be final.
18 2. If an appeal is filed, the application shall automatically become a class C
19 development permit application and shall be reviewed by the planning
20 commission and town council under the provisions of section 9-1-18-3 of this
21 chapter.
22 3. Appeals shall be in writing on forms provided by the town. In addition, the
23 applicant shall be responsible for paying any additional fees required for the
24 review of a class C item, over and above those fees already paid for review of a
25 class D **minor** application.

26
27 E. Application To Chalet House Permits: The provisions of this section shall not
28 apply to the processing of applications to operate a chalet house. Such
29 applications shall be processed in accordance with the provisions of section 9-1-
30 19-40A, "Policy 40 (Absolute) Chalet Houses", of this chapter.

31
32 Section 22. The Breckenridge Town Code is amended by the addition of a new Section 9-
33 1-18-4-1, to be entitled "Class D Major Development Permit Process", which shall read as
34 follows:

35
36 **9-1-18-4-1: CLASS D MAJOR DEVELOPMENT PERMIT PROCESS:**

37
38 **A. Preapplication Conference: A preapplication conference with a member**
39 **of the community development staff shall be held prior to the submittal of an**
40 **application.**

1 **B. Application Requirements: The applicant shall file an application, a short**
2 **description of the proposal and three (3) copies of any maps, drawings or**
3 **materials needed to adequately describe the proposal. All drawings and maps**
4 **shall be to scale. The application shall be accompanied by a fee in the amount**
5 **required by chapter 10 of this title. The director may require the following**
6 **materials to be submitted as a part of a complete application:**
7

8 **1. Site plan;**

9 **2. Landscaping and defensible space plan;**

10 **3. All elevations of the proposed building or modification;**

11 **4. Floor plans;**

12 **45. Preliminary drainage and utility plans; and**

13 **56. A sample paint chip of each color to be used, keyed to the proposed**
14 **location of the color on the building as shown on the elevation drawing;; and**

15 **7. Electronic copy of plans.**
16

17 **C. Procedure: Once the application and accompanying material have been**
18 **submitted, the director shall within five (5) days determine if the public**
19 **interest would better be served by requiring conformance with the class D**
20 **minor or the class C development process rather than class D major. If the**
21 **director determines that the application should be processed as either a class**
22 **D minor or a class C, the applicant shall then meet the requirements of the**
23 **applicable development permit process. If not, the director shall process the**
24 **application as follows:**
25

26 **1. Within twenty two (22) days of receipt of the complete submittal, the**
27 **director shall review the proposal and grant or deny it as he deems**
28 **appropriate, with or without conditions.**
29

30 **2. All decisions shall be forwarded to the planning commission for its**
31 **information only.**
32

33 **3. Once the decision has been finalized, the director shall transmit the final**
34 **decision to the applicant; and, if the application is approved, shall issue a**
35 **development permit, with or without conditions.**
36

37 **D. Appeal:**
38

39 **1. A decision of the director concerning a class D major application may be**
40 **appealed by the applicant to the planning commission within five (5) days**
41 **after the director has rendered his decision by filing written notice with the**

1 department of community development. If no appeal is filed within the five
2 (5) day period, the decision of the director shall be final.

3
4 2. Appeals shall be in writing on forms provided by the town. In addition, the
5 applicant shall be responsible for paying any additional fees required for the
6 review of a class C item, over and above those fees already paid for review of
7 a class D major application.

8
9 3. If an appeal is filed, the application shall automatically become a class C
10 development permit application and shall be reviewed by the planning
11 commission and town council under the provisions of section 9-1-18-3 of this
12 chapter.

13
14 Section 23. The introductory paragraph of Subsection (E)(2) of Section 9-1-19-5A of the
15 Breckenridge Town Code is amended to read as follows:

16
17 (2) Class C ~~Minor~~-Development Permit: Within the conservation district, no solar
18 device shall be installed on a structure or site without first obtaining a class C
19 ~~minor~~ development permit. The application must include photographic and/or
20 three-dimensional visual aspects from public streets and alleys within a one block
21 radius or four hundred feet (400') (whichever is greater) of the building or site.
22 Solar devices are encouraged to be installed on a nonhistoric building or building
23 addition and integrated into the building design. To ensure that the character of
24 the conservation district and its historic structures and sites are protected, an
25 application for a development permit to install a solar device within the
26 conservation district will be reviewed under the following requirements:

27
28 Section 24. Subsection (E)(3)(a) of Section 9-1-19-5A of the Breckenridge Town Code is
29 amended to read as follows:

30
31 a. No solar device shall be installed on a structure or site without first obtaining a
32 class D minor development permit. The director shall have the authority to
33 reclassify an application as a class c ~~minor~~ application, and to require review by
34 the planning commission, if he feels the purpose of this code would be best served
35 by the reclassification. Reclassification shall be done pursuant to the definition of
36 "classification" in section 9-1-5 of this chapter.

37
38 Section 25. Subsections (A)(4) and (A)(5) of Sections 9-1-19-24R of the Breckenridge
39 Town Code is amended to read as follows:

40
41 (4) Restrictive Covenants: The owner of an employee housing unit which is
42 restricted by a restrictive covenant as described in subsection A(2)f of this section

MISCELLANEOUS TOWN CODE AMENDMENTS ORDINANCE

1 shall have the right to obtain the release of the restrictive covenant by substituting
2 for the restricted unit another unit or property located in the town or an
3 unincorporated area of the Upper Blue River Basin which satisfies the definition
4 of “employee housing” set forth in section 9-1-5 of this chapter. Such right of
5 substitution shall be subject to the town's approval of such substitute unit or
6 property as being of comparable size and condition using the class D **minor**
7 development permit process. No such substitution shall be permitted unless the
8 substitute unit or property shall be subjected to a restrictive covenant as required
9 by subsection A(2)f of this section.

10
11 (5) Summer Seasonal Housing: Between May 1 and September 30 of any year, an
12 employee housing unit may be lawfully occupied for a period not to exceed
13 twelve (12) consecutive weeks by any person participating in or employed by the
14 summer programs sponsored by a nonprofit organization or the town. Such
15 occupancy shall be authorized by a class D **minor** development permit.

16
17 Section 26. Section 9-1-19-24R(B) of the Breckenridge Town Code is amended to read
18 as follows:
19

20
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36

3 x (0/+2) B. Community Needs: Developments which address specific needs of the
community which ~~are~~ **have been** identified in the yearly goals and
objectives reports **within the three year period preceding the date of the**
application are encouraged. Positive points shall be awarded under this
subsection only for development activities which occur on the applicant’s
property.

20
21 Section 27. The last unnumbered paragraph of Section 9-1-19-36A of the Breckenridge
22 Town Code is amended to read as follows:
23

24 The director of the department of community development shall not collect an
25 application fee in connection with a class D **minor** development permit
26 application to construct a seasonal noncommercial greenhouse which is submitted
27 by the owner of a single-family residential structure.
28

29 Section 28. Item H of Section 9-1-19-38.5A of the Breckenridge Town Code is amended
30 to read as follows:
31

32 H. Renewal Of Permit: The renewal of a development permit to operate a home
33 childcare business shall be processed as a class D **minor** development permit
34 application. Notwithstanding any fee schedule adopted pursuant to section 9-10-4
35 of this title, there shall be no fee for the renewal of a home childcare business
36 development permit. The criteria for the renewal of a development permit for the

MISCELLANEOUS TOWN CODE AMENDMENTS ORDINANCE

1 operation of a home childcare business center shall be the same as for the issuance
2 of a new development permit to operate a home childcare business; provided,
3 however, that an applicant for renewal of an existing development permit to
4 operate a home childcare business shall not be required to demonstrate
5 compatibility of the home childcare business with adjacent properties and land
6 uses.

7
8 Section 29. Subsection (L)(2) of Section 9-1-19-39A of the Breckenridge Town Code is
9 amended to read as follows:

10
11 (2) A minor master plan amendment is an amendment made to a master plan for
12 the purpose of correcting an error, updating a master plan to reflect as built
13 conditions, or making other changes to the master plan which do not involve the
14 reallocation of density, a change in or addition to approved uses, a change in an
15 approved phasing sequence, or circulation. A major master plan amendment is
16 any master plan amendment which is not a minor master plan amendment. Master
17 plan amendments shall be classified as provided in the definitions of “class A
18 development” and “class C ~~minor development~~” in section 9-1-5 of this chapter,
19 and processed accordingly.

20
21 Section 30. The first sentence of Section 9-1-19-40A of the Breckenridge Town Code is
22 amended to read as follows:

23
24 A chalet house may be operated within the town only when authorized by a class
25 D minor development permit. The following provisions, and not the provisions of
26 section 9-1-18-4 of this chapter, shall govern the issuance of such permit.

27
28 Section 31. Section 9-1-19-43A of the Breckenridge Town Code is amended to read as
29 follows:

30
31 9-1-19-43A: POLICY 43 (ABSOLUTE) PUBLIC ART:

32
33 An application for a class C or class D minor development permit for the
34 placement of public art shall be reviewed only for site function suitability, and not
35 for content of the public art or aesthetics. The public art commission shall not
36 review such applications unless specifically requested to do so by the planning
37 commission.

38
39 Section 32. Section 9-1-19-44A of the Breckenridge Town Code is amended to read as
40 follows:

41
42 9-1-19-44A: POLICY 44 (ABSOLUTE) RADIO BROADCASTS:

MISCELLANEOUS TOWN CODE AMENDMENTS ORDINANCE

1
2 A class D development permit shall be obtained to authorize a radio broadcast.
3 Such application may be combined with a class D minor development permit
4 application for a banner and/or a class D minor development permit application
5 for a temporary structure. An application for a development permit to authorize a
6 radio broadcast shall be subject to the following:
7

8 A. No permit shall be issued for a location within the town's conservation district.
9 Exception: A radio broadcast may be held within the conservation district in
10 connection with a special event held pursuant to a special event permit issued by
11 the town.
12

13 B. The radio broadcast must be conducted on private property. A radio broadcast
14 may be conducted on commonly owned property if written permission for the
15 broadcast may be obtained from the owner's association or similar group
16 responsible for the management of the commonly owned property. Exception: A
17 radio broadcast may be held on public property in connection with a special event
18 held pursuant to a special event permit issued by the town.
19

20 C. One class D minor development permit may authorize more than one radio
21 broadcast, if all of the radio broadcasts will occur on the same property of the
22 applicant. No such permit shall be valid for more than six (6) months from the
23 date of issuance.
24

25 D. No permit shall be required if a radio broadcast is conducted entirely within
26 the interior walls of a building or structure. The holding of such a radio broadcast
27 shall be subject, however, to all applicable town ordinances, including, but not
28 limited to, the noise limits set forth in title 5, chapter 8 of this code.
29

30 E. Nothing in this policy shall be interpreted or construed as preventing the valid
31 exercise of the right of free speech protected by the first amendment to the United
32 States constitution or the Colorado constitution.
33

34 Section 33. The first sentence of Section 9-1-19-45A of the Breckenridge Town Code is
35 amended to read as follows:
36

37 A class D minor development permit may be issued to authorize a special
38 commercial event.
39

40 Section 34. Section 9-1-19-45A(F) of the Breckenridge Town Code is amended to read as
41 follows:
42

1 F. One class D minor development permit may authorize more than one special
2 commercial event, if all of the special commercial events will occur on the same
3 property. No such permit shall be valid for more than six (6) months from the date
4 of issuance.

5
6 Section 35. The introductory clause of Section 9-1-19-48A of the Breckenridge Town
7 Code is amended to read as follows:

8
9 A class D minor development permit may be issued to authorize a landowner to
10 voluntarily create defensible space around his or her building or structure, or on
11 the landowner's parcel of land, in accordance with the following requirements:

12
13 Section 36. Section 9-7-6 of the Breckenridge Town Code is amended to read as
14 follows:

15
16 9-7-6: EXEMPTIONS:

17
18 The following outdoor displays of merchandise shall be exempt from the
19 provisions of this chapter:

20
21 A. Dining: Outdoor dining (when in compliance with the town's development
22 code).

23
24 B. Vendor Carts: Vendor carts, when in compliance with section 9-1-19-49A,
25 “Policy 49 (Absolute) Vendor Carts”, of this title.

26
27 C. Bicycles: The outdoor display of bicycles offered for sale or rental, subject to
28 the following conditions:

29
30 1. The person desiring to display bicycles outdoors shall obtain a class D minor
31 development permit prior to any such display. The application for such permit
32 shall include a site plan indicating where bicycles are to be displayed and where
33 existing, approved and/or required landscaping is located or is to be located. If the
34 applicant for the permit is not the owner of the property on which the bicycles are
35 to be displayed, the written consent of the property owner to the proposed
36 application shall be submitted concurrently with the application.

37
38 2. The outdoor display of bicycles shall be confined to the private property of the
39 business which is offering the bicycles for sale or rental.

40
41 3. No bicycle shall be hung from or on any exterior portion of a building or
42 structure; provided, that bicycles may be so hung for storage purposes only if the

MISCELLANEOUS TOWN CODE AMENDMENTS ORDINANCE

1 applicant lacks sufficient space to otherwise store the bicycles and then only if the
2 planning commission makes the following findings and incorporates such
3 findings into the development permit as conditions:
4

5 a. The hanging of bicycles will be for storage purposes only and will not be used
6 as signage or as an attention getting device.

7 b. The hanging of bicycles will not destroy any historic structure or significantly
8 alter the historic character of a structure.

9 c. The hanging of bicycles will not hide a historic structure or significantly alter
10 the historic character of a structure.

11 d. No rack for the hanging of bicycles will be mounted on a facade of a building
12 which faces a street (not including an alley).

13 e. Bicycles will be hung so as not to constitute a safety hazard for pedestrians.

14 f. The bicycles to be hung will be screened in a manner appropriate for the
15 location.
16

17 4. No required vehicle parking space may be utilized for the display or storage of
18 any bicycle.
19

20 5. No bicycle shall be displayed in a manner which may result in damage to any
21 tree, shrub, grass or other landscaping. The person displaying the bicycles shall
22 repair or replace any tree, shrub, grass or other landscaping which is damaged as a
23 result of the outdoor display of bicycles on such property.
24

25 6. No bicycle may be stored or displayed in such a manner as will block any
26 means of pedestrian ingress or egress to or from any building or structure.

27 7. As used in this subsection C, the phrase "display of bicycles" includes the
28 outdoor storage and/or display of any bicycle or motorized bicycle which is
29 offered for sale or rental.
30

31 D. Residential Garage Sales: Residential garage sales not held more frequently
32 than three (3) days in any one calendar quarter at the same residence. No permit
33 shall be required.

34 E. Seasonal Plants: Nonartificial seasonal plants, including Christmas trees, may
35 be displayed and sold outdoors on a temporary basis. A class D minor
36 development permit shall be required.
37

38 F. Special Events: Special events, subject to the following limitations:
39

40 1. The event includes twenty (20) or more individual merchants, each holding a
41 state sales tax license.

42 2. The event is no longer in duration than three (3) consecutive days.

MISCELLANEOUS TOWN CODE AMENDMENTS ORDINANCE

1 3. The event is conducted on a single premises not currently licensed under the
2 provisions of title 4, chapter 1 of this code.

3 4. A class D minor development permit is issued which adequately addresses
4 parking, transportation and waste disposal.

5 5. A special events license is issued for the event pursuant to section 4-2-11 of
6 this code.

7
8 G. Newspaper Racks: Newspaper racks.

9
10 H. Transient Dealers' Merchandise: Merchandise displayed by transient dealers,
11 when in compliance with title 4, chapter 2 of this code.

12
13 I. Summer Sales Days: Outdoor displays of merchandise conducted on Summer
14 Sales Days as established by the town manager. In setting Summer Sales Days,
15 the town manager shall consult with representatives of the business community to
16 determine appropriate dates. At least thirty (30) days before setting Summer Sales
17 Days each year, the town manager shall advise the town council of the proposed
18 dates of such event.

19
20 J. Merchandise Of Historical Significance: Merchandise meeting the following
21 criteria may be stored out of doors:

- 22
23 1. The merchandise relates to, or is compatible with, the history of the town.
24 2. The merchandise is too large or too heavy to be easily stored inside.
25 3. The merchandise is displayed only on the property of the business offering such
26 merchandise for sale.
27 4. No more than three (3) items of merchandise per business may be displayed.
28 5. The merchant desiring to display such merchandise obtains a class D minor
29 development permit for each item.

30
31 K. Sculptures And Statues: Sculptures and statues, subject to the following
32 limitations:

- 33
34 1. The display is on private property.
35 2. The display is placed in a manner that is essentially permanent in nature.
36 3. The size and design of the displays are in general harmony with the location in
37 which they are placed.
38 4. A class D minor development permit is obtained for each item, and no more
39 than two (2) permits may be obtained per business.

40
41 L. Mannequin: A mannequin, subject to the following limitations:
42

1. The mannequin is displayed on private property. No mannequin may be displayed on publicly owned property. A mannequin may be placed on commonly owned property; however, written permission for the display of the mannequin must be obtained from the owner's association or similar group responsible for the management of such commonly owned property.
2. The mannequin must be placed on the property of the business which displays it.
3. No more than one mannequin may be displayed per business. Businesses with more than one bona fide business location may display one mannequin per business location.
4. A mannequin may include a full clothing ensemble (i.e., 1 shirt, 1 skirt, 1 pair of shoes, 1 hat, etc.).
5. A mannequin must be located so as to maintain free and unobstructed access to and from the business which displays it. A mannequin may not be placed so as to block visibility of or access to any adjacent property.
6. A mannequin must be removed if it becomes a hazard due to wind or weather conditions, or if it is in a state of disrepair.
7. No sign may be placed on or hung from a mannequin.
8. A mannequin may lawfully be displayed only when the business which displays it is open. A mannequin must be stored inside when the business which displays it is closed.

M. Single Item Of Merchandise: One item of merchandise offered for sale by a business, subject to the following limitations:

1. The merchandise is displayed on private property. No item of merchandise may be displayed on publicly owned property. An item of merchandise may be placed on commonly owned property; however, written permission for the display of the merchandise must be obtained from the owner's association or similar group responsible for the management of such commonly owned property.
2. The merchandise must be placed on the property of the business which displays it.
3. No more than one item of merchandise may be displayed per business. Businesses with more than one bona fide business location may display one item of merchandise per business location.
4. The merchandise which is displayed must be merchandise which is actually offered for sale by the business.
5. Clothing which is displayed outdoors must be placed on a mannequin in accordance with the provisions of subsection L of this section.
6. The merchandise which is displayed must be located so as to maintain free and unobstructed access to and from the business which displays it. Merchandise may not be placed so as to block visibility of or access to any adjacent property.

MISCELLANEOUS TOWN CODE AMENDMENTS ORDINANCE

- 1 7. The merchandise must be removed if it becomes a hazard due to wind or
2 weather conditions, or if it is in a state of disrepair.
3 8. No sign may be placed on or hung from the merchandise.
4 9. Merchandise may lawfully be displayed only when the business which displays
5 it is open. The merchandise must be stored inside when the business which
6 displays it is closed.
7 10. No tables, boxes or racks may be used to display the merchandise.
8 Merchandise may not be displayed on a coat hanger, or placed in, attached to or
9 hung from any tree.
10 11. Merchandise may not be placed in any required parking or loading spaces.

11
12 Section 37. Subsection 9-14-5(A)(5) of the Breckenridge Town Code is amended to read
13 as follows:

- 14
15 5. Any work that would be classified as a class C, ~~or~~ class D **major, or class D**
16 **minor** development under the town's development code; or

17
18 Section 38. Subsection 9-3-9(L)(2) of the Breckenridge Town Code is amended to read
19 as follows:

- 20
21 2. Driveways: All driveways shall be paved; provided, however, that any unpaved
22 driveway which exists at the time of the adoption of this subsection L shall be
23 paved as a condition of the issuance of a development permit for future
24 development of the subject property in accordance with the following schedule: a)
25 within the conservation district, whenever a class B minor development permit or
26 higher is issued; and b) outside the conservation district, whenever a class ~~C~~ **D**
27 major development permit or higher is issued.
28

29 Section 39. Subsection 9-10-5-1 of the Breckenridge Town Code is amended to read as
30 follows:

- 31
32 9-10-5-1: APPLICATION FEE FOR RECLASSIFIED DEVELOPMENT PERMIT: If a
33 development permit application is reclassified to a higher classification, the applicant
34 shall pay the full application fee for the class of application to which the application was
35 reclassified, less the amount of the original application fee previously paid; **provided,**
36 **however, if a Class D Major development permit application is reclassified to a**
37 **Class C application the application fee shall remain the same as for the original**
38 **Class D Major application.** If a development permit application is reclassified to a
39 lower classification, the applicant shall pay only the application fee for the class of
40 application to which the application was reclassified, and shall receive a refund equal to
41 the difference between the amount of the original application fee previously paid (if any)
42 and the fee for the reclassified application.

MISCELLANEOUS TOWN CODE AMENDMENTS ORDINANCE

1
2 Section 40. Section 11-5-6(B) of the Breckenridge Town Code is amended to read as
3 follows:
4

5 B. If located outside of a fully enclosed building, the placement of each dispenser
6 is authorized by a class D development permit. Such permit shall not be issued
7 unless all of the following conditions are met:
8

- 9 1. The size of the dispense (excluding any supporting structure) does not exceed
10 twenty inches (20”) in length by twenty inches (20”) in width.
11 2. The dispenser is both wind and water proof.
12 3. The color of the dispenser is within the range of allowed “body colors” as
13 provided in section 9-1-19-5 of this code.
14 4. The placement of the dispenser will not disturb the landscaping of the property
15 on which the dispenser is located.
16 5. No dispenser shall be placed within twenty feet (20') of any other dispenser.
17

18 Section 41. Subsection 11-6-6(C) of the Breckenridge Town Code is amended to read as
19 follows:
20

21 C. If a license agreement is requested in order to permit the erection of a fence or
22 other improvement within town real property, such license agreement shall only
23 be issued in connection with the issuance of a ~~class C development permit (for~~
24 ~~fences constructed within the historic district) or a class D minor development~~
25 ~~permit (for fences constructed outside the historic district).~~ The execution of a
26 license agreement may be a condition of approval of the required development
27 permit.
28

29 Section 42. Except as specifically amended hereby, the Breckenridge Town Code, and
30 the various secondary codes adopted by reference therein, shall continue in full force and effect.
31

32 Section 43. The Town Council finds, determines, and declares that this ordinance is
33 necessary and proper to provide for the safety, preserve the health, promote the prosperity, and
34 improve the order, comfort and convenience of the Town of Breckenridge and the inhabitants
35 thereof.
36

37 Section 44. The Town Council hereby finds, determines and declares that it has the
38 power to adopt this ordinance pursuant to: (i) the Local Government Land Use Control Enabling
39 Act, Article 20 of Title 29, C.R.S.; (ii) Part 3 of Article 23 of Title 31, C.R.S. (concerning
40 municipal zoning powers); (iii) Section 31-15-103, C.R.S. (concerning municipal police powers);
41 (iv) Section 31-15-401, C.R.S. (concerning municipal police powers); (v) the authority granted to
42 home rule municipalities by Article XX of the Colorado Constitution; and (vi) the powers

1 contained in the Breckenridge Town Charter.

2
3 Section 45. This ordinance shall be published and become effective as provided by
4 Section 5.9 of the Breckenridge Town Charter.

5
6 INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED
7 PUBLISHED IN FULL this ____ day of _____, 2014. A Public Hearing shall be held at the
8 regular meeting of the Town Council of the Town of Breckenridge, Colorado on the ____ day of
9 _____, 2014, at 7:30 P.M., or as soon thereafter as possible in the Municipal Building of the
10 Town.

11
12 TOWN OF BRECKENRIDGE, a Colorado
13 municipal corporation

14
15
16
17 By _____
18 John G. Warner, Mayor

19
20
21 ATTEST:

22
23
24
25 _____
26 Helen Cospolich
27 Town Clerk

MEMO

TO: Town Council
FROM: Town Attorney
RE: Council Bill No. 2 (Recycling Center Lease Ordinance)
DATE: January 21, 2014 (for January 28th meeting)

The second reading of the ordinance approving the long-term Lease with Summit County for the new Recycling Center property is scheduled for your meeting on January 28th. There are no changes proposed to either the ordinance or the Lease from first reading.

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

1 ***FOR WORKSESSION/SECOND READING – JAN. 28***

2
3 ***NO CHANGE TO LEASE OR ORDINANCE FROM FIRST***
4 ***READING***

5
6 COUNCIL BILL NO. 2

7
8 Series 2014

9
10 AN ORDINANCE APPROVING A LEASE WITH THE BOARD OF COUNTY
11 COMMISSIONERS OF SUMMIT COUNTY, COLORADO
12 (Recycling Center)

13
14 WHEREAS, the Town of Breckenridge owns certain real property that is suitable for use
15 by the Board of County Commissioners of Summit County, Colorado (“**County**”) as the location
16 of a new facility for the public collection of recyclable materials; and

17
18 WHEREAS, the Town is willing to lease a portion of its property to the County for such
19 use; and

20
21 WHEREAS, a proposed Lease between the Town and the County has been prepared by
22 the Town Attorney and reviewed by the Town Council; and

23
24 WHEREAS, Section 15.4 of the Breckenridge Town Charter provides:

25
26 The council may lease, for such time as council shall determine, any real or
27 personal property to or from any person, firm, corporation, public and private,
28 governmental or otherwise.

29
30 and;

31
32 WHEREAS, the term of the proposed Lease with the County exceeds one year in length;
33 and

34
35 WHEREAS, Section 1-11-4 of the Breckenridge Town Code requires that any real estate
36 lease entered into by the Town that exceeds one year in length must be approved by ordinance.

37
38 NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF
39 BRECKENRIDGE, COLORADO:

40
41 Section 1. The proposed Lease between the Town and the Board of County
42 Commissioners of Summit County, Colorado, a copy of which is marked **Exhibit “A”**, attached
43 hereto and incorporated herein by reference, is approved, and the Town Manager is authorized,
44 empowered, and directed to execute such Lease for and on behalf of the Town of Breckenridge.

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LEASE
(New Recycling Center)

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THIS LEASE (“**Lease**”) is dated _____, 2014 and is between the TOWN OF BRECKENRIDGE, a Colorado municipal corporation (“**Town**”) and the BOARD OF COUNTY COMMISSIONERS OF SUMMIT COUNTY, COLORADO (“**County**”). Town and County are sometimes collectively referred to in this Lease as the “**Parties**”, and individually as a “**Party**.”

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ARTICLE 1 – BASIC LEASE PROVISIONS

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1.1 **Leased Premises.** In consideration of County’s keeping of the promises, covenants, and conditions required of it by this Lease, Town leases to County, and County leases from Town, for the term and upon the conditions of this Lease, the real property described on the attached **Exhibit “A”** (“**Leased Premises**”).

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1.2 **Use Of Leased Premises.** As of the date of this Lease the Leased Premises consist of vacant, unimproved land. County will use the Leased Premises only to construct and operate a new facility for the public collection of recyclable and reusable materials and public education related to those uses. County will not use the Leased Premises for any other purpose without Town’s prior written consent.

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1.3 **Term.** The term of this Lease (“**Term**”) begins at 12:01 A.M., local time, on June 1, 2014 and ends, unless sooner terminated as hereafter provided, at 11:59 P.M., local time, on, May 31, 2034, and may be extended upon mutual agreement of the Parties.

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1.4 **Surrender of Leased Premises.**

(a) Upon the expiration or earlier termination of this Lease, County will surrender the Leased Premises to Town in good condition, ordinary wear and tear excepted. Not later than the last day of the Term, County will remove its personal property and fixtures (including, but not limited to, trade fixtures) from the Leased Premises. The cost of such removal will be borne by County, and County will repair all injury or damage done to the Leased Premises in connection with the installation or removal of County’s personal property and trade fixtures. All of County’s fixtures (including, but not limited to trade fixtures) that are so attached to the Leased Premises that they cannot be removed without material injury to the Leased Premises will, at Town’s option, become the property of Town upon installation and remain with the Leased Premises upon surrender.

(b) Town may retain or dispose of any personal property, fixtures (including, but not limited to, trade fixtures), alterations or improvements left remaining by County at or upon the Leased Premises following the expiration or earlier termination of this Lease, and Town is not accountable to County for any damages for the loss or destruction thereof, or for any part of the proceeds of sale, if any, realized by Town. County waives all claims against Town for any damages suffered by County resulting from Town’s retention or disposition of such personal

LEASE

1 property, fixtures (including, but not limited to, trade fixtures), alterations or improvements.
2 County will reimburse the Town for Town's costs for storing, removing and disposing of any
3 such personal property, fixtures (including trade fixtures) or alterations.

4 1.5 **Early Termination.** Notwithstanding the stated term of this Lease as provided in
5 Section 1.3, either Party may terminate this Lease, without being liable to the other Party for
6 breach of this Lease, by giving the other Party not less than one (1) year's prior written notice in
7 the manner provided in Section 13.3.

8 **ARTICLE 2 – RENT**

9 2.1 **Rent.** The Parties understand and agree that the consideration for this Lease is the
10 public benefit to the citizens of and visitors to the respective Party's jurisdiction and that there is
11 to be no monetary rent paid by the County for the lease of the Leased Premises. Notwithstanding
12 the foregoing, the County will remain obligated to pay all other amounts owing pursuant to the
13 terms of this Lease.

14 2.2 **Interest On Past Due Amounts.** County will pay interest to Town on any sum
15 due to Town under this Lease that is 30 days or more past due at the rate of 12% per annum from
16 the date due until the date such payment is fully paid.

17 **ARTICLE 3 – TOWN'S DISCLAIMERS AND EXCULPATORY PROVISIONS**

18 3.1 **"As Is" Condition of Leased Premises.** County acknowledges that it had
19 adequate and fair opportunity to inspect the Leased Premises prior to taking possession. The
20 Leased Premises are leased by Town to County, and accepted by County, in "AS IS" condition.
21 County's act of taking possession of the Leased Premises is conclusive evidence that County
22 accepted the Leased Premises in then "AS IS" condition, and that the Leased Premises were in
23 satisfactory condition at the time of commencement of County's possession.

24 3.2 **Delay In Delivery of Possession of Leased Premises.** Town is not liable to
25 County for any delay in delivery of possession of the Leased Premises.

26 3.3 **Town's Non-liability.** As a material part of the consideration to be received by
27 Town under this Lease, County assumes all risk of damage to property or injury to persons in or
28 upon the Leased Premises from any cause, other than Town's gross negligence or intentional
29 wrongful act, and County waives all claims in respect thereof against Town.

30 3.4 **Limitation of Remedies.** Town is not liable for any indirect, special, or
31 consequential damages, including, but not limited to, loss of anticipated profits, revenue or
32 savings, business interruption, or any similar claim arising from the Town's breach of this Lease,
33 even if Town has been advised of the possibility of such damages. This limitation applies
34 notwithstanding the failure of an essential purpose of any limited remedy.

1 **ARTICLE 4 – COUNTY’S AFFIRMATIVE OBLIGATIONS**

2 4.1 **County Liable For Costs to Prepare Leased Premises For Use By County.**

3 County is responsible for all work required to be done, and costs incurred in connection with, the
4 preparation of the Leased Premises for County’s use.

5 4.2 **Utilities.** County will initiate, contract for, and obtain in its name, all utility

6 services required on the Leased Premises, including, but not limited to, water, gas, electricity and
7 telephone, and County will pay all charges for such services as they become due. Town is not
8 liable for any personal injury or property damage resulting from the negligent operation or faulty
9 installation of utility services provided for use on the Leased Premises, nor is Town liable for
10 any injury or damage suffered by County as a result of the failure to make necessary repairs to
11 the utility facilities. To the extent allowed by law, the County will be liable for any injury or
12 damages to the equipment or service lines of the utility suppliers that are located on the Leased
13 Premises resulting from the negligent or deliberate acts of County, or its members, agents or
14 visitors. In particular, County will be liable for any loss or damage due to freezing, stoppage, or
15 blockage of water pipes or plumbing fixtures on the Leased Premises.

16 4.3 **Taxes.** Because both Town and Country are tax-exempt entities under Colorado

17 law, the parties anticipate that the Leased Premises will be tax-exempt throughout the Term.
18 However, if any taxes are lawfully assessed against the Leased Premises as a result of County’s
19 use of the Leased Premises County will pay such taxes before they become delinquent.

20 4.4 **Maintenance And Snow Plowing.**

21 (a) County will, at its sole expense, keep and maintain the Leased Premises in as
22 good and sanitary a condition and state of repair as existed at the commencement of the Term.

23 (b) County will, at its sole expense, provide all required maintenance and snow
24 plowing necessary for the safe and lawful operation of the New Facility.

25 4.5 **Signs.** County will not post, place, affix, erect, or display any sign within or

26 outside of the Leased Premises without Town’s prior written approval, which approval may be
27 granted, withheld, or conditionally approved in Town’s sole and absolute discretion. In
28 considering County’s request to place a sign within or outside of the Leased Premises, Town acts
29 in its capacity as landlord of the Leased Premises, and not in its governmental capacity. Town
30 may remove any sign placed within or outside of the Leased Premises in violation of the portions
31 of this subsection. In addition to obtaining Town’s discretionary permission as described above,
32 County must also obtain any required sign permit from Town acting in its governmental
33 capacity. County will maintain all signs located within or outside of the Leased Premises in
34 good, clean, and attractive condition. County will remove all signs placed by it within or outside
35 of the Leased Premises at the expiration or earlier termination of this Lease, and repair any
36 damage or injury caused thereby. If not so removed by County, the Town may remove such
37 sign(s) at County’s expense. However, the Town agrees that once it has given its discretionary
38 approval to County under this Section, such decision may not be revoked or materially changed

1 employees, or agents, or Town’s breach of this Lease. If indemnification is required under this
2 Section, County will investigate, handle, respond to, and to provide defense for and defend
3 against, any such liability, claims, or demands at its expense, and bear all other costs and
4 expenses related thereto, including court costs and attorney fees.

5 8.2 **Survival.** The obligations of this Article 8 will survive the expiration or
6 termination of this Lease.

7 **ARTICLE 9– DEFAULT**

8 9.1 **Default By County.** The occurrence of any one or more of the following events
9 will constitute a default and breach of the Lease by County:

10 (a) The vacating or abandonment of the Leased Premises by County, or the
11 permanent closure to the public of the New Facility.

12 (b) The failure by County to make any payment required to be made by it under
13 this Lease, as and when due, when such failure will continue for a period of 10 days after service
14 of written notice thereof by Town to County.

15 (c) The failure by County to observe or perform any of the other covenants,
16 conditions, or provisions of this Lease to be observed or performed by the County, or to obey
17 rules promulgated by Town, within a reasonable time not to exceed 90 days after service of
18 written notice thereof by the Town to the County. In the event of a non-monetary default that is
19 not capable of being corrected within 90 days, County will not be in default if it commences
20 correcting the default within 90 days of service of a demand for compliance notice and thereafter
21 corrects the default with due diligence.

22 9.2 **Town’s Remedies Upon Default.** If the County is in default under this Lease,
23 and does not cure the subject default in a timely manner as described in Section 9.1(c) above,
24 Town has all of the remedies provided for in such circumstances by Colorado law, including but
25 not limited to early termination of the Lease in accordance with Section 1.5.

26 9.3 **Default By Town.** Town will be in default under this Lease if Town fails to
27 comply with any of the terms, provisions, or covenants of this Lease within a reasonable time not
28 to exceed 90 days following service of written notice thereof by County. In the event of a non-
29 monetary default that is not capable of being corrected within 90 days, Town will not be default
30 if Town commences correcting the default within 90 days of receipt of notification thereof and
31 thereafter corrects the default with due diligence.

32 **County’s Remedies Upon Default.** If the Town is in default under this Lease, County has all of
33 the remedies provided for in such circumstances by Colorado law, including but not limited to
34 early termination of the Lease in accordance with Section 1.5

1 **ARTICLE 10 - NONDISTURBANCE**

2 10.1 **Quiet Enjoyment.** So long as there is no default in any of the other covenants,
3 conditions, or provisions of this Lease to be performed, observed, or kept by County, Town
4 covenants that County will peaceably and quietly hold and enjoy the Leased Premises for the
5 entire Term.

6 **ARTICLE 11 – TOWN’S RULES**

7 11.1 **Rules.** County will faithfully observe and comply with any rules and regulations
8 promulgated by Town with respect to the Leased Premises. The Town’s rules and regulations
9 must be reasonable, and may not unilaterally change or significantly alter the material terms and
10 conditions of this Lease. Subject to the terms hereof, the rules and regulations, and any
11 amendments thereto, will be binding upon the County upon delivery to County.

12 **ARTICLE 12 – HAZARDOUS MATERIALS**

13 12.1 **Hazardous Materials – Defined.** As used in this Article 13, the term
14 “**Hazardous Materials**” means any chemical, material, substance or waste:

15 (i) exposure to which is prohibited, limited, or regulated by any federal, state,
16 county, regional or local authority, or other governmental authority of any nature; or

17 (ii) that, even if not so regulated, may or could pose a hazard to the health or safety of
18 the occupants of the Leased Premises including, without limitation, any petroleum, crude oil (any
19 fraction thereof), natural gas, natural gas liquids, and those substances defined as “hazardous
20 substances”, “hazardous materials”, “hazardous wastes” or other similar designations in the
21 Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended,
22 42 U.S.C. Section 6901 et seq., the Hazardous Materials Transportation Act, 49 U.S.C. Section
23 1801 et seq., and any other governmental statutes, laws, ordinances, rules, regulations, and
24 precautions.

25 12.2 **Hazardous Materials – Prohibited.** County will fully comply with all statutes,
26 laws, ordinances, rules, regulations, and precautions now or hereafter mandated or advised by
27 any federal, state, local, or other governmental agency with respect to the use, generation,
28 storage, or disposal of Hazardous Materials. The Town understands that County intends to
29 collect, handle, store and transport household hazardous waste on, to and from the Leased
30 Premises as part of its standard recycling program and will do so in accordance with all
31 applicable regulations as described in Article 12.1 above. Subject to any applicable limitations
32 provided by law, County’s indemnification of Town pursuant to this Lease extends to all
33 liability, including all foreseeable and unforeseeable consequential damages, directly or
34 indirectly arising out of the use, generation, storage, or disposal of Hazardous Materials at the
35 Leased Premises by County, or any person claiming under County, including, without limitation,
36 the cost of any required or necessary repair, cleanup, or detoxification and the preparation of any
37 closure or other required plans, whether such action is required or necessary prior to or following

1 the termination of this Lease, to the full extent that such action is attributable, directly or
2 indirectly, to the use, generation, storage, or disposal of Hazardous Materials by County or any
3 person claiming under County; provided, however, the written consent by Town to the use,
4 generation, storage, or disposal of Hazardous Materials will excuse County from County's
5 obligation of indemnification. In the event County is in breach of the covenants herein, after
6 notice to County and the expiration of the earlier of:

- 7 (i) the cure period provided in Section 10.1(c);
- 8 (ii) the cure period permitted under applicable law, regulation, or order,

9 then Town may, in its sole discretion, declare a default under this Lease and/or cause the Leased
10 Premises to be freed from the Hazardous Material and the cost thereof will be deemed additional
11 rent hereunder and will immediately be due and payable from County. The obligations of County
12 under this Section will survive the expiration or termination of this Lease.

13 ARTICLE 13 – MISCELLANEOUS

14 13.1 **Attorneys Fees/Costs.** If any action is brought in a court of law by either party to
15 this Lease concerning the enforcement, interpretation, or construction of this Lease, the
16 prevailing party, either at trial or upon appeal, is entitled to reasonable attorney's fees, as well as
17 costs, including expert witness' fees, incurred in the prosecution or defense of such action.

18 13.2 **Governing Laws; Venue; Waiver of Jury Trial.** The laws of the State of
19 Colorado will govern the interpretation, validity, performance, and enforcement of this Lease.
20 Any litigation brought to interpret or enforce this Lease must be commenced in Summit County,
21 Colorado. **BOTH PARTIES WAIVE THE RIGHT TO A JURY TRIAL IN ACTION TO ENFORCE,
22 INTERPRET, OR CONSTRUE THIS AGREEMENT.**

23 13.3 **Notices.** All notices required or permitted under this Lease must be given by
24 registered or certified mail, return receipt requested, postage prepaid, or by hand or commercial
25 carrier delivery, or by telecopies, directed as follows:

26 If intended for Town to:

27
28 Town of Breckenridge
29 P.O. Box 168
30 150 Ski Hill Road
31 Breckenridge, Colorado 80424
32 Attn: Timothy J. Gagen, Town Manager
33 Telecopier number: (970)547-3104
34 Telephone number: (970)453-2251
35

36 with a copy in each case (that will not constitute notice) to:
37

1 Timothy H. Berry, Esq.
2 Timothy H. Berry, P.C.
3 131 West 5th Street
4 P. O. Box 2
5 Leadville, Colorado 80461
6 Telecopier number: (719)486-3039
7 Telephone number: (719)486-1889
8

9 If intended for County to:

10
11 Board of County Commissioners
12 P.O. Box 68
13 Breckenridge, Colorado 80424
14 Attn: Gary Martinez, County Manager
15 Telephone number: (970)453-3401
16 Telecopier number: (970)453-3535
17

18 with a copy in each case (which will not constitute notice) to:

19
20 Jeff Huntley, Esq.
21 Summit County Attorney
22 P.O. Box 68
23 Breckenridge, Colorado 80424
24 Telephone number: (970)453-3407
25 Telecopier number: (970)454-3535
26

27 Any notice delivered by mail in accordance with this Section will be effective on the third
28 business day after the same is deposited in any post office or postal box regularly maintained by
29 the United States postal service. Any notice delivered by telecopier in accordance with this
30 Section will be effective upon receipt if concurrently with sending by telecopier receipt is
31 confirmed orally by telephone by the sending party. Any notice delivered by hand or commercial
32 carrier will be effective upon actual receipt. Either party, by notice given as provided above, may
33 change the address to which future notices may be sent. The provisions of this Section will not
34 apply to any notice or demand that is required to be served in a particular manner by applicable
35 law; and any such notice or demand will be served as required by law notwithstanding the
36 provisions of this Section. E-mail is not a valid way to give notice under this Lease.
37

38 13.4 **“Day” Defined.** Unless otherwise indicated, the term “day” means a calendar day
39 (and not a business day).

40 13.5 **“Will” or “Will Not” Defined.** “Will” or “will not” indicates a mandatory
41 obligation to act or to refrain from acting as specifically indicated in the context of the sentence
42 in which such word is used.

1 13.6 **Complete Agreement.** It is understood and agreed that this Lease contains the
2 complete and final expression of the agreement between the parties, and there are no promises,
3 representations, or inducements except as are herein provided. All negotiations, considerations,
4 representations, and understandings between the parties related to this Lease are contained
5 herein.

6 13.7 **Amendment.** This Lease may not be modified except by a written Lease signed
7 by both the Town and County. Oral modifications of this Lease are not permitted.

8 13.8 **Captions.** The headings of the sections and paragraphs contained in this Lease are
9 for convenience only and do not define, limit, or construe the contents of the articles, sections
10 and paragraphs.

11 13.9 **Waiver.** The failure of either party to exercise any of such party's rights under
12 this Lease is not a waiver of those rights. A party waives only those rights specified in writing
13 and signed by the party waiving such rights.

14 13.10 **Severability.** If any provision of this Lease is held to be invalid, illegal, or
15 unenforceable in any respect, the validity, legality and enforceability of the remaining provisions
16 contained in this Lease and the application hereof will not in any way be affected or impaired
17 thereby.

18 13.11 **Force Majeure.** Neither party will be liable to the other for any failure, delay, or
19 interruption in the performance of any of the terms, covenants, or conditions of this Lease due to
20 causes beyond the control of that party including, without limitation, strikes, boycotts, labor
21 dispute, embargoes, shortages of materials, acts of God, acts of the public enemy, acts of
22 terrorism, acts of superior governmental authority, weather conditions, floods, riots, rebellion,
23 terrorism, sabotage or any other circumstance for which such party is not responsible or that is
24 not in its power to control.

25 13.12 **Advances By Town For County.** If County fails to do anything required to be
26 done by it under the terms of this Lease (other than a failure to make the payments to Town
27 herein required) the Town may, at its sole option, but without any obligation to do so, do or
28 perform such act or thing on behalf of County, and in doing so the Town will not be deemed to
29 be a volunteer; provided, however, that before exercising its rights under this Section Town must
30 give notice to County as provided in Section 13.3, and afford the County a reasonable amount of
31 time to do or perform the act required by County. Upon notification to County of the herein
32 authorized costs incurred by the Town, County will promptly pay to Town the full amount of
33 such costs and/or expenses, together with interest thereon at the rate of 12% per annum.

34 13.13 **Governmental Immunity.** Both the Town and the County are relying on, and do
35 not waive or intend to waive by any provision of this Lease, the monetary limitations or any
36 other rights, immunities, and protections provided by the Act, as from time to time amended, or
37 any other limitation, right, immunity or protection otherwise available to Town or the County, or
38 their respective elected officials, officers, or employees.

1 13.14 **No Adverse Construction Based On Authorship.** Each of the parties stipulate
2 and agree that it had the opportunity to participate in the drafting of this Lease. This Lease is not
3 to be construed against either party by virtue of such party having drafted this Lease.

4 13.15 **Town's Consent.** Except as otherwise expressly provided to the contrary in this
5 Lease, wherever in this Lease it is provided that some act requires the Town's prior consent, such
6 consent will not be unreasonably withheld by Town.

7 13.16 **Third Parties.** There are no third party beneficiaries of this Lease.

8 13.17 **Lease Not To Be Recorded.** This Lease **MAY NOT BE RECORDED** with the
9 Clerk and Recorder of Summit County, Colorado.

10 13.18 **Time of Essence.** Time is of the essence of this Lease.

11 13.19 **Non-Discrimination; Compliance With Applicable Laws.** County:

12 (a) will not discriminate against any employee or applicant for employment to
13 work at the Leased Premises because of race, color, creed, sex, sexual orientation, religion,
14 national origin, or disability;

15 (b) will insure that applicants who are to work at the Leased Premises are
16 employed and that employees are treated during employment without regard to their race, color,
17 creed, sex, sexual orientation, religion, national origin, or disability;

18 (c) will in all solicitations or advertisements for employees to be engaged in the
19 performance of work at the Leased Premises state that all qualified applicants will receive
20 consideration for employment without regard to race, color, creed, sex, sexual orientation,
21 religion, national original or disability; and

22 (d) will comply with all applicable federal, state, and local laws, rules and
23 regulations. Without limiting the generality of the foregoing, County will comply with the
24 applicable provisions of the Americans With Disabilities Act, 42 U.S.C. §12101, et seq. (Public
25 Law 101-336), and all applicable regulations and rules promulgated thereunder by any regulatory
26 agency. The indemnification provisions of this Lease apply to County's failure to comply with
27 all applicable laws or regulations.

28 13.20 **No Partnership.** The Town is not a partner, associate, or joint venturer of the
29 County in the conduct of County's business at the Leased Premises. County is an independent
30 contractor without the right or authority to impose tort or contractual liability upon the Town.

31 13.21 **Binding Effect.** The covenants, conditions, and obligations of this Lease extend
32 to, bind, and inure to the benefit of, not only the parties, but their respective successors and
33 permitted assigns.

34

BOARD OF COUNTY COMMISSIONERS OF
SUMMIT COUNTY, COLORADO

By:

Chair

ATTEST:

Kathleen Neel, Clerk and Recorder, and ex-officio
clerk to the Board of County Commissioners

LEASE

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LEASED PREMISES





MEMORANDUM

TO: Town Council

FROM: Glen Morgan, Chief Building Official

DATE: January 20, 2014 for meeting of January 28th, 2014

SUBJECT: Building and Electrical Code Updates and Amendments

The Building Codes currently adopted by the Town are the 2006 International Code series and the 2008 National Electric Code. The International Code series is published and updated by the International Code Council on a three-year basis. The Town Council typically adopts the updated Codes every six years. Council has the authority to amend and delete any provisions in the published codes as deemed appropriate. The 2012 series of International Codes are the most updated published codes. The Electrical Code is published by the National Fire Protection Agency and the 2014 Code is the latest published edition. The Sustainable Building Code adopted by Council in June 2008 is a locally developed code.

Staff met with Council at its April 23, 2013 work session and discussed the hot button issues related to these code changes. At that time a number of building industry representatives raised their concerns about those code changes. Council directed staff to meet with industry representatives and try to find consensus on those issues.

In conjunction with all of the County Building Departments and local Fire Districts, staff hosted three public forums dedicated to the proposed code changes. All of the forums were well attended by a diverse mix of industry representatives with in excess of 30 participants at each meeting. Consensus was achieved on all of the issues and that consensus is reflected by the successful adoption of the codes with amendments by the County, The Town of Frisco, and The Town of Silverthorne in late 2013

Staff is recommending that Council adopt the updated versions of the International Codes and Electrical Code, subject to a number of local amendments. These local amendments predominantly address the Town's unique character, climatic conditions, and the building community's feedback along with the necessary local administrative provisions. The substantive

provisions of the codes remain intact as they have been developed at a national level and reflect the latest materials and methods of construction.

The following are the more impactful changes between the 2006 and 2012 code series:

1) Sprinklers.

The 2012 International Residential Code (IRC) requires all homes to be provided with an automatic fire sprinkler system. This requirement is generally considered to be more appropriate in rural areas with volunteer fire fighters and has received significant push back from the local home building industry. Breckenridge has well-trained, well-equipped, and well-financed professional fire personnel on call 24/7. Professionally manned fire districts are able to respond quickly to all types of fire events as opposed to rural volunteer brigades that need to first stop what they are doing, report for duty at the fire station, and then respond when all of the required team has assembled.

The fire code as currently adopted requires fire sprinkler systems for all homes over 6000 sq/ft; with a provision for larger structures to be unprotected when a two- hour rated fire wall is used to separate garages from habitable spaces. The Red White and Blue Fire District have indicated they are generally supportive of fire suppression in all homes. However, they do see a number of operational and design issues with the code as written and the systems as proposed. There was significant debate on this topic. The building community would prefer that fire suppression be at the discretion of their clients. The Fire Districts would like to see all homes protected.

Proposed Amendment; A consensus was eventually achieved between the Fire Districts and the building industry. The current 6000sq/ft plus garage threshold is proposed to be reduced to a maximum 6000 sq/ft total. All homes 6000sq/ft and greater will be required to install a fire sprinkler system meeting Fire District standards. Additionally all homes greater than 4000sq/ft will be required to use 5/8th inch X (fire rated) drywall throughout. A reduction in the current threshold and the use of rated drywall is justified by the common use of lighter weight engineered framing materials, which are more susceptible to fire, and were not readily used when the 6000 plus garage threshold was set. In addition, the code has been amended to provide clarity on how additions and alterations to existing homes over or near the 6000sq/ft threshold will be addressed. Staff supports these amendments.

2) Energy Efficiency.

Exterior wall insulation.

The 2012 code, as written, requires a min R 38 roof, R20 wall cavity and 1” of foam insulation to be installed at the exterior of residential structures (under the siding). The installation of the foam at the exterior of the building is known to cause condensation in the wall and other constructability issues when used as a standalone path to increased wall insulation. Exterior foam sheathing reduces conductive heat loss through the framing materials and is a valuable tool in performance construction when it is combined with careful professional wall design.

Proposed Amendment: Due to the potential problems associated with mandating the use of exterior foam insulation, staff recommends allowing an alternative prescriptive option which permits an R23 blown or sprayed insulation system to be installed in wall cavities accompanied with a minimum R 49 roof, in lieu of the 1” of exterior foam. Energy modeling has indicated the performance of this alternative is within a few percentage points of a building with an R20 wall cavity, R 5 exterior and R38 roof.

- **Min 3.125 R (0.32U) value Fenestrations (windows doors).** As proposed the 2012 Code calls for a 0.265 R value increase for all windows and doors. This is a relatively small increase in insulation value when it is compared to walls at R 23. However, it comes with a higher price tag and a reduction in the amount of solar heat gain a window allows into a building during daylight hours.

Proposed Amendment: Due to the minimal cost to savings ratio of this change, staff recommends leaving the fenestration R value requirement of 2.86 R (.35 U) unchanged in the 2012 Code adoption.

- **Whole house ventilation systems.** The code requires that ventilation systems be installed in all new homes due to the increased air sealing requirements. The tighter structures will be mandated by the upgraded energy code. Homes will need to be provided with ventilation systems that provide outside air to the building. This ventilation can range from a simple, continually exhausting fan in an upstairs bathroom, to a whole house Heat Recovery Unit.

Proposed Amendment: Staff supports this change as it ensures a healthier indoor environment.

- **Blower door test.** Per the 2012 IRC, all homes will be required to pass a minimum air leakage standard through blower door testing. Air leakage testing will have a construction cost impact of \$150 to \$300 and a potential cost benefit to the home owner of hundreds of dollars a year when compared to a leaky house. The concern raised is what do we do when a new home fails the test at final inspection.

Proposed Amendment: Staff supports this code change however we are recommending an amendment to the code that would permit a 3rd party air sealing inspection and signoff at the time of insulation in accordance with ENERGY STAR specifications as an alternate to a blower door test at final inspection.

- 3) **Drywall in Crawlspace,** The 2012 code requires crawlspaces and unfinished basements framed with engineered joists to be protected with ½” gyp at the underside of the floor system *when that crawl space is used for storage*. The drywall is to protect fire fighters from floor system collapse in a fire event. Staff’s experience is that most crawlspaces are used for storage.

Proposed Amendment: Staff recommends re-wording the code to delete the reference to storage and requiring dry wall on the underside of crawl spaces having a height of 4 feet or greater, which are more likely to be used as storage spaces.

- 4) **Radon Mitigation.** Radon is a naturally occurring, undetectable gas given off by decaying uranium. It is the second leading cause of lung cancer, and first in non-smokers in the U.S. Breckenridge is in a 'Red Zone', which is the highest of the three zones listed by the EPA. Currently the building code does not require radon resistant construction.

Proposed Amendment: Staff recommends that standards for radon resistant construction be included in the mandatory provisions of the code, with amendments that allow for roughing in the required infrastructure rather than requiring a fully operable system up front.

- 5) **Sustainable Building Code (SBC).** The existing Sustainable Code is thought to be overly complex and a number of areas covered by this code have now been addressed in the 2012 International Energy Conservation Code. A revised and simplified Sustainable Building Code has been drafted by the County Wide Sustainable Building Advisory Group and staff is recommending its adoption along with a requirement that all larger Multi-Family occupancies meet and receive certification under LEED, Green Globes or other approved nationally recognized green building program. Commercial construction such as retail, restaurants etc are required to meet the robust requirements of the 2012 Energy Conservation Code.

Proposed Amendments: Staff is recommending that Council support the adoption of this revised simplified Sustainable Building Code. (See Chapter 46 pages 26-28 of amendments)

- 6) **Roof Assemblies,** One other item of note is the inclusion of the Fire Wise Task Force recommendation for a minimum Class A roof assembly. Class A roof assemblies are the highest fire rating available for roofing shingles. In accordance with Council's acceptance of the task force recommendations in January 2011, staff has worked with builders to use Class A roof assemblies and we have had no concerns or pushback. It is now recommended that it be included in the amendments to current code adoption.

Council Direction

- Are there questions or points of clarification on the issues outlined that staff can provide?
- Is council supportive of moving forward with a first reading of the code adoption with amendments?

1 **FOR WORKSESSION/FIRST READING – JAN. 28**

2
3 COUNCIL BILL NO. ____

4
5 Series 2014

6
7 AN ORDINANCE REPEALING AND READOPTING WITH CHANGES CHAPTER 1 OF
8 TITLE 8 OF THE BRECKENRIDGE TOWN CODE CONCERNING THE BUILDING
9 CODES OF THE TOWN OF BRECKENRIDGE; ADOPTING BY REFERENCE AND
10 AMENDING THE INTERNATIONAL BUILDING CODE, 2012 EDITION; THE
11 INTERNATIONAL RESIDENTIAL CODE, 2012 EDITION, INCLUDING APPENDIX
12 CHAPTERS F, G AND K; THE INTERNATIONAL MECHANICAL CODE, 2012 EDITION,
13 INCLUDING APPENDIX A; THE INTERNATIONAL PLUMBING CODE, 2012 EDITION
14 INCLUDING APPENDICES; THE INTERNATIONAL ENERGY CONSERVATION CODE,
15 2012 EDITION; THE NATIONAL ELECTRICAL CODE, 2014 EDITION; THE ICC
16 ELECTRICAL CODE – ADMINISTRATIVE PROVISIONS, 2006 EDITION; THE
17 INTERNATIONAL FUEL GAS CODE, 2012 EDITION, INCLUDING APPENDICES A AND
18 B; AND THE UNIFORM CODE FOR THE ABATEMENT OF DANGEROUS BUILDINGS,
19 1997 EDITION; AND PROVIDING PENALTIES FOR THE ENFORCEMENT OF SAID
20 CODES

21
22 BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BRECKENRIDGE,
23 COLORADO:

24
25 Section 1. Chapter 1 of Title 8 of the Breckenridge Town Code is repealed and readopted
26 with changes so as to read as follows:

27 CHAPTER 1

28 BUILDING CODES

29
30 SECTION:

- 31
32
33 8-1-1: TITLE
34 8-1-2: FINDINGS
35 8-1-3: STANDARD CODES ADOPTED BY REFERENCE
36 8-1-4: AMENDMENTS TO THE INTERNATIONAL BUILDING CODE
37 8-1-5: AMENDMENTS TO THE INTERNATIONAL RESIDENTIAL CODE
38 8-1-6: AMENDMENTS TO THE INTERNATIONAL MECHANICAL CODE
39 8-1-7: AMENDMENTS TO THE INTERNATIONAL PLUMBING CODE

BUILDING CODES ORDINANCE

- 1 8-1-8: AMENDMENTS TO THE INTERNATIONAL ENERGY CONSERVATION
- 2 CODE
- 3 8-1-9: AMENDMENTS TO THE NATIONAL ELECTRICAL CODE
- 4 8-1-10: AMENDMENTS TO THE ICC ELECTRICAL CODE – ADMINISTRATIVE
- 5 PROVISIONS
- 6 8-1-11: AMENDMENTS TO THE INTERNATIONAL FUEL GAS CODE
- 7 8-1-12: AMENDMENTS TO THE UNIFORM CODE FOR THE ABATEMENT OF
- 8 DANGEROUS BUILDINGS
- 9 8-1-13: REPEAL OF PREVIOUS ORDINANCES
- 10 8-1-14: ENFORCEMENT
- 11 8-1-15: PENALTIES
- 12 8-1-16: CODE COPIES
- 13 8-1-17: LIABILITY

14

15 8-1-1: TITLE:

16

17 This Chapter shall be known and may be cited as the “*TOWN OF BRECKENRIDGE BUILDING*

18 *CODES ORDINANCE.*”

19

20 8-1-2: FINDINGS:

21

22 The Town Council finds and determines as follows:

- 23
- 24 A. The Town is authorized by law to set fees for permits issued under the Town’s building
- 25 and other technical codes.
- 26 B. The Building Inspection Division of the Department of Community Development is the
- 27 primary Town department charged with the duty to process permit applications under the
- 28 Town’s building and other technical codes, but other Town departments and personnel,
- 29 such as the Engineering Department, expend time in connection with the review of such
- 30 applications. The time expended by all Town personnel in reviewing such applications
- 31 are part of the present operational cost and future expansion of the Building Inspection
- 32 Division of the Department of Community Development. Such costs are part of the
- 33 overall costs required to operate such Department.
- 34 C. On occasion the Town incurs additional out-of-pocket expenses in connection with the
- 35 review of an application for a permit under the Town’s building and other technical
- 36 codes. Such expenses may include, without limitation, fees paid by the Town to the Town
- 37 Attorney and/or fees paid by the Town to special counsel or special consultants. Such
- 38 fees are part of the overall costs required to process the permit application for which they
- 39 were incurred.

BUILDING CODES ORDINANCE

- 1 D. Pursuant to Bainbridge, Inc. v. The Board of County Commissioners of Douglas County,
 2 964 P.2d 575 (Colo. App. 1998) the application fees that may lawfully be charged by the
 3 Town for permits under the Town’s building and other technical codes may include both
 4 the direct and indirect costs of operating the Building Inspection Division of the Town’s
 5 Department of Community Development, as well as the other Town departments and
 6 personnel which assist in the review of permit applications.

- 7 E. The permit fees established in this Chapter are approximately required to offset the direct
 8 and indirect costs of operating the Building Inspection Division of the Department of
 9 Community Development and the cost to the Town of actually processing building permit
 10 applications.

- 11 F. The application fees for Building Permits and Plan Reviews established by this Chapter
 12 do not exceed the direct and indirect costs of operating the Department of Community
 13 Development and the cost to the Town of actually processing permit applications.

- 14 8-1-3: STANDARD CODES ADOPTED BY REFERENCE: The following standard codes, as
 15 hereinafter amended, are adopted by reference as part of the Town of Breckenridge Building
 16 Code:
 17
- 18 A. International Building Code, 2012 Edition, published by the International Code Council,
 19 Inc.
- 20 B. International Residential Code, 2012 Edition, including Appendix Chapters F, G and K,
 21 Published by the International Code Council, Inc.
- 22 C. International Mechanical Code, 2012 Edition, including Appendix A, published by the
 23 International Code Council, Inc.
- 24 D. International Plumbing Code, 2012 Edition, including Appendices, published by the
 25 International Code Council, Inc.
- 26 E. International Energy Conservation Code, 2012 Edition, published by the International
 27 Code Council, Inc.
- 28 F. National Electrical Code , 2014 Edition, published by the National Fire Protection
 29 Association.
- 30 G. ICC Electrical Code – Administrative Provisions, 2006 Edition, published by the
 31 International Code Council, Inc.
- 32 H. International Fuel Gas Code, 2012 Edition, including Appendices A and B, published by
 33 the International Code Council, Inc.

BUILDING CODES ORDINANCE

1 I. Uniform Code for the Abatement of Dangerous Buildings, 1997 Edition, published by the
2 International Conference of building officials.

3 8-1-4: AMENDMENTS TO THE INTERNATIONAL BUILDING CODE: The following
4 sections of the International Building Code, 2012 Edition, are amended to read as follows:
5

6 1. Section 101.1 is amended to read as follows:

7 101.1 Title. These regulations shall be known as the “THE TOWN OF
8 BRECKENRIDGE BUILDING CODES ORDINANCE” herein after referred to as
9 “this code.”

10 2. Section 101.4.3 is amended by deleting the last sentence that references the
11 International Private Sewage Disposal Code.

12 3. Section 101.4.4 is amended to read as follows:

13 101.4.4 Existing Buildings. The provisions of Chapter 34 shall apply to change of
14 occupancy, alteration or repair of existing buildings and structures.

15 4. Section 102.6 is amended by replacing the reference to the International Property
16 Maintenance Code with the Uniform Code for Abatement of Dangerous Buildings.

17 5. Section 103.2 is amended to read as follows:

18 103.2 Building official. The building official is authorized and directed to
19 enforce all of the provisions of this code; however, a guaranty that all buildings
20 and structures have been constructed in accordance with all of the provisions of
21 this code is neither intended nor implied.

22 6. Section 103.3 is amended to read as follows:

23 103.3 Deputies. In accordance with the prescribed procedures of this jurisdiction,
24 the building official shall have the authority to appoint a deputy building official,
25 the related technical officers, inspectors, plan examiners and other employees.
26 Such employees shall have powers as delegated by the building official.

27 7. Section 104.8 is amended by adding the following additional first paragraph:

28 The adoption of this code, and any previous building, construction and housing
29 standard adopted by the Town of Breckenridge, shall not be deemed to give rise to
30 a duty of care on the part of any public entity, public employee or agent, nor shall

BUILDING CODES ORDINANCE

1 this code or any previous building, construction and housing standard be deemed
2 to create any civil remedy against a public entity, public employee or agent.

3 8. Sections 105.1.1 and 105.1.2 are deleted.

4 9. Sections 105.2 (11) is amended to read as follows:

5 (11) Swings and other playground equipment.

6
7 10. Section 105.5 is amended to read as follows:

8 105.5 Expiration. Every permit issued by the building official under the provisions
9 of this code shall expire 18 months after the date of issue. Every permit issued
10 shall become invalid unless the work on the site authorized by such permit is
11 commenced within 180 days after its issuance, or if the work authorized on the site
12 by such permit is suspended or abandoned for a period 180 days after the time the
13 work is commenced. The building official is authorized to grant, in writing,
14 extensions of time, for periods of not more than 6 months. An extension shall be
15 requested in writing and shall demonstrate justifiable cause for the extension.

16 11. Section 107.1 The first paragraph, titled “General”, is amended to read as follows:

17 General. Construction documents, special inspection and structural observation
18 programs and other data shall be submitted in two sets with each application for a
19 permit. A Colorado Licensed Design Professional shall prepare the construction
20 documents. Where special conditions exist the building official is authorized to
21 require additional construction documents.

22 12. Section 107.3 is amended by adding the following paragraph:

23 The issuance or granting of a permit by the Town, based on plans and
24 specifications and other data, shall not prevent the subsequent requiring of the
25 correction of errors or omissions in said plans specifications and other data and
26 shall not be construed to be a permit for approval of any violation of any of the
27 provisions of this code or any other law of the Town.

28 13. Section 107.3.1 is amended by replacing the words “reviewed for code
29 compliance”, with “approved for issuance of building permit.”

30 14. Section 109.2 is amended to read as follows:

31 109.2 Schedule of permit fees. On buildings, structures, electrical, gas mechanical
32 and plumbing systems or alterations requiring a permit, a fee for each permit shall

BUILDING CODES ORDINANCE

1 be paid as required, in accordance with the following Town of Breckenridge
 2 Building Permit and Inspection Fee Schedule:

3 **Town of Breckenridge Building Permit and Inspection Fee Schedule**
 4

TOTAL VALUATION	FEE
\$1.00 TO \$500	\$23.50
\$501 TO \$2,000	\$23.50 for the first \$500, plus \$3.05 for each additional \$100 or fraction thereof, to and including \$2,000
\$2001 TO \$25,000	\$69.25 for the first \$2,000, plus \$14.00 for each additional \$1,000 or fraction thereof, to and including \$25,000
\$25,001 to \$50,000	\$391.25 for the first \$25,000, plus \$10.10 for each additional \$1,000 or fraction thereof, to and including \$50,000
\$50,001 to \$100,000	\$643.75 for the first \$50,000, plus \$7.00 for each additional \$1,000 or fraction thereof, to and including \$100,000
\$100,000 to \$500,000	\$993.75 for the first \$100,000, plus \$5.60 for each additional \$1,000, or fraction thereof, to and including \$500,000
\$500,001 to \$1,000,000	\$3,233.75 for the first \$500,000, plus \$4.75 for each additional \$1,000, or fraction thereof, to and including \$1,000,000
\$1,000,001 and higher	\$5,608.75 for the first \$1,000,000, plus \$3.65 for each additional \$1,000 or fraction thereof
Other Inspections and Fees:	
1. Inspection outside of normal business hours (minimum charge – two hours)	\$50.00/hour
2. Re-inspection	\$50.00/hour
3. Inspection for which no fee is specifically indicated (minimum charge – one hour)	\$50.00/hour
4. Additional plan review required by changes, additions or revisions to plans (minimum charge – one hour)	\$50.00 /hour
5. For use of outside consultants for plan checking and inspections, or both.....	Actual cost

- 1 All permits have a plan review fee of 65% in addition to the permit fee.
- 2 Hot tub permits fees are \$125.25.
- 3
- 4 Work commencing before issuance of a building permit is subject to three times
- 5 the permit fee.
- 6
- 7 Electrical Permit Fees will be based on the current State Electrical Fee Schedule
- 8 plus 15%, and an electrical plan review fee of 65% of the permit fee will be
- 9 assessed when an electrical plan review is required.
- 10
- 11 15. Section 110.3.5 is amended by deleting the Exception.
- 12 16. Section 110.3.10 is amended to read as follows:
- 13 110.3.10 Final Inspection. To be made only after the finished grading and the
- 14 building or structure is completed in accordance with the provisions on the
- 15 International Building Code, technical codes and the Town’s Development Code,
- 16 including flooring, tile, wallpaper, painting, trim, finish, and final cleaning. A
- 17 security deposit may be posted for work required by the Town’s Department of
- 18 Community Development, i.e., landscaping, exterior painting, and paving, that
- 19 cannot be completed as a result of prevailing weather conditions.
- 20 17. Section 110.7 a new subsection to read as follows:
- 21 110.7 Re-inspections. A re-inspection fee, as specified in the Town of
- 22 Breckenridge Building Permit and Inspection Fee Schedule, may be assessed for
- 23 each inspection or re-inspection when such portion of work for which inspection is
- 24 called is not complete or when corrections called for are not made. Re-inspection
- 25 fees may be assessed when the inspection records are not posted or otherwise
- 26 available on the work site, the approved plans are not readily available to the
- 27 inspector, or failing to provide access on the date for which the inspection is
- 28 requested, or for deviating from plans requiring the approval of the building
- 29 official. In instances where re-inspection fees have been assessed, no additional
- 30 inspection of the work will be performed until the re-inspection fees have been
- 31 paid.
- 32 18. Section 111 is amended by adding a new subsection to read as follows:
- 33 111.5 A Certificate of Completion shall be issued for work not directly related to
- 34 occupancy when such work complies with the provisions of this code and all other
- 35 relevant laws that are enforced by the Town.

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19. Section 111.1 is amended by adding the following sentence:

Certificates presuming to give authority to violate or cancel the provisions of this code or other Town ordinances shall not be valid.

20. Section 115 is deleted.

21. Section 202 is amended by adding the following definitions with the alphabetical order of the existing definitions:

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

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

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

- a. Has walls and doors to separate it from other habitable spaces.
- b. Meets the definition of a loft.
- c. Has a closet or similar provision for clothes storage.
- d. Has a full or partial bathroom connected to the space or room, or has a path of travel to a full or partial bathroom which does not first pass through a habitable space.

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

1
2 CERTIFIED SOLID FUEL BURNING DEVICE: A solid fuel burning device
3 that is certified by the Air Pollution Control Division of the Colorado
4 Department of Health or approved by the building official as meeting the
5 emission standards set forth ins Section IV of Regulation No. 4 of Volume I of the
6 Colorado Air Quality Control Commission (EPA Phase II or III).
7

8 NEW CONSTRUCTION: For the purpose of section 2113 new construction” is
9 construction of a residential, commercial, industrial, agricultural or accessory
10 building. This shall include any modifications, replacement or relocation of
11 existing solid fuel burning devices. However, modifications to solid fuel burning
12 devices shall not include repair, replacement or relocation of flue pipe.
13

14 SOLID FUEL BURNING DEVICE: Any fireplace, stove, firebox, or other
15 device intended and or used for the purpose of burning wood, coal, pulp, paper,
16 pellets or other non-liquid or non-gaseous fuel.
17

18 22. Section 420 is amended to add a new subsection to read as follows:

19 420.6 Sustainable Building Code. All residential (Type R) occupancies are to be
20 LEED-H, ICC-700, Green Globes or certified through an alternate third party,
21 approved by the building official.

22 23. Section 501.2 is amended by changing 4 inch to 5 inch

23 24. Section 717 is amended by adding a new subsection 717.8 to read as set forth in
24 IRC Amendment R1005.9.

25 25. Section 901.5 is amended by adding a new subsection to read as follows:

26 901.5.1 Special inspector required. All fire protection systems required by this
27 code shall be inspected and approved by a special inspector. The special inspector
28 shall be an authorized representative of the fire department or another qualified
29 individual with prior approval of the building official. Approvals of special
30 inspectors and inspections approvals and reports by special inspectors shall be in
31 accordance with Chapter 17 of this code.

32 26. Section 908.7 is amended to comply with Articled 45 of Title 38, C.R.S.

33 27. Section 1008.1.9.3, subsection 2.2, is amended to read as follows:

34 2.2 A readily visible sign is posted on the egress side on or adjacent to the door
35 stating:

BUILDING CODES ORDINANCE

1 THIS DOOR TO REMAIN UNLOCKED DURING BUSINESS HOURS.

2
3
4 The sign shall be in letters 1 inch (25 mm) high on a contrasting background;
5 and...

6
7 28. Section 1503 is amended by inserting a new subsection to read as follows:

8 1503.7 Snow-shed Barriers. Roofs shall be designed to prevent accumulations of
9 snow from shedding onto exterior balconies, decks, pedestrian and vehicular exits
10 from buildings, stairways, sidewalks, streets, alleys, areas directly above or in
11 front of gas utility or electric utility meters, or adjacent properties.

12 Exception: Roof areas with a horizontal dimension of no more than 48 inches
13 (1219mm) that will not receive snow shedding from a higher roof.

14
15 29. Section 1505.1 is amended to read as follows:

16 Section 1505.1 General. All roof coverings on new construction, additions and
17 re-roofs shall be Class A. Class A roof assemblies and roof coverings shall be
18 tested in accordance with ASTM E 108 or UL 7901. Additionally, fire-retardant
19 treated wood roof coverings shall be tested in accordance with ASTM D 2898.

20 Exception: Rolled roofing membranes, metal roofs. Skylights and sloped glazing
21 that comply with Chapter 24 or Section 2610.

22
23 30. Table 1505.1 and all footnotes to the table are deleted.

24 31. Section 1507.1 is amended by inserting a new subsection to read as follows:

25 1507.1.1 Ice dam protection. An ice dam protection underlayment that consists of
26 an approved self-adhering polymer modified bitumen sheet complying with
27 ASTM D 1970 shall be used with all roof coverings described in Sections 1507.2
28 through 1507.9. This ice dam protection underlayment shall extend up the slope
29 of the roof from the drip-edge of the roof or eave and cover the entire roof
30 decking surface. In new construction ice dam protection shall extend a minimum
31 30 inch up walls adjacent to the roof surface.

32
33 32. Section 1507.5.3 is deleted.

34 33. Section 1507.6.3 is deleted.

35 34. Section 1507.7.3 is deleted.

- 1 35. Section 1507.8.3 is deleted.
- 2 36. Section 1507.9.3 is deleted.
- 3 37. Section 1608.1 is deleted.
- 4 38. Section 1608.2 is amended to read as follows:
- 5 1608.2 Snow loads. The loads to be used in determining the design snow loads for
6 roofs shall be 90 psf for roofs located at an elevation below 10,000 feet, and 100
7 psf for roofs located at an elevation of 10,000 feet or higher. There shall be no
8 reduction in snow load for pitch or duration. Snow load for decks and exterior
9 balconies shall be as required for roofs.
- 10 39. Section 1612.3 is amended to read as follows:
- 11 1612.3 Establishment of flood hazard areas. The Town of Breckenridge flood
12 hazard areas shall be as provided in Chapter 3 of Title 10 of this Code. The
13 adopted flood hazard map and supporting data are adopted by reference and
14 declared to be part of this section.
- 15 40. Section 1703.1 is amended to read as follows:
- 16 1703.1 Approved agency. An approved agency shall provide all information as
17 necessary for the building official to determine that the agency meets the
18 applicable requirements. The fire department shall be an approved agency for
19 special inspection of fire protection systems required by this code.
- 20 41. Section 1704.2.3 is amended by adding an additional Exception to read as follows:
- 21 Exception: Special inspection by the fire department of fire protection systems.
- 22 42. Section 1704.2.4 is amended by adding an Exception to read as follows:
- 23 Exception: Special inspection by the fire department of fire protection systems.
- 24 43. Section 1705 is amended by adding a new section and subsection to read as
25 follows:
- 26 1705.18 Fire protection and suppression systems. Fire protection and suppression
27 systems shall have the design plans approved by a special inspector and the
28 systems inspected and tested by a special inspector for compliance with the
29 requirements of this code and the International Fire Code.

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1 1705.18.1 Qualifications. Special inspectors for fire protection systems shall have
2 expertise in fire-protection and be approved by the Fire Protection District.
3 Special inspectors for fire suppression systems shall be fire suppression systems
4 inspectors certified by the State of Colorado Division of Fire Safety and approved
5 by the Fire Protection District.

6 44. Section 1809.5 is amended to read as follows:

7 1809.5 Frost protection. Except where erected on solid rock or otherwise
8 protected from frost, foundation walls piers and other permanent supports of
9 buildings and structures shall extend to at least 40 inches (1016mm) below finish
10 grade or be designed and built in accordance with ASCE 32. Twenty Four (24
11 inch deep footers are permitted for decks only that do not support roofs and are
12 less than 30 inches above grade. Footings shall not bear on frozen soils. Frost
13 reports shall be required before placement of concrete from Nov. 1 through May 1,
14 or if freezing temperatures occur, prior to Nov. 1 or after May 1.

15 45. Section 2113 is amended by adding the following subsections to read as follows:

16 Section 2113.21 Limitation on the type and number of devices. Solid fuel burning
17 devices that are not certified are prohibited in new construction. The number of
18 certified solid fuel burning devices that may be installed in newly constructed
19 buildings shall be approved by the Town's Department of Community
20 Development.

21 Section 2113.22 Termination points of factory built chimneys shall not be within
22 10 inches vertically of the point of termination of any adjacent chimney or
23 appliance vent within 24 inches horizontally. No factory built chimney shall
24 terminate closer than 24 inches to combustible finish materials.

25 Factory built chimneys shall be supported at intervals not to exceed 10 feet by wall
26 straps or equivalent. Factory built chimneys shall have the outer wall of adjacent
27 chimney sections fastened together by three sheet metal screws, installed
28 approximately 120 degrees apart. Such fasteners shall be in addition to, not in lieu
29 of those requirements mandated by the manufacturers' instructions, except when
30 specifically prohibited by those instructions or the terms of their listing.

31 **Exception:** Where approved manufacturers' locking bands are used.

32 46. Section 2301.2 The first paragraph is amended to read as follows:

33 2301.2 General design requirements. The design of structural elements or systems,
34 constructed partially or wholly of wood or wood-based products shall be based on

1 one of the following methods. The use of load duration factors for snow load shall
2 not be permitted in any of these design methods.

3 47. Section 2901.1 is amended by deleting the reference to the International Private
4 Sewage Disposal Code.

5 48. Section 2902.2, Exception 2, is amended to read as follows:

6 2. Separate facilities shall not be required in structures or tenant spaces with a
7 total occupant load, including both employees and customers, of 30 or less.

8 49. Section 3109.4 is amended to read as follows:

9 Section 3109.4 Residential Swimming Pools. Residential Swimming Pools, Spas
10 and Hot Tubs intended for common use by all occupants of the building shall be
11 completely enclosed by a barrier complying with section 3109.4 through 3109.4.3.
12 Exception: A private use spa or hot tub with a safety cover complying with
13 ASTM F 1346.

14 50. Section 3309.1 is amended to read as follows:

15 Section 3309.1 Where required. All structures under construction, alteration or
16 demolition shall be provided with approved portable fire extinguishers as required
17 by the Red White and Blue fire department.

18 51. Section 3311.1 is amended to read as follows:

19 Section 3311.1 Where required. Buildings four stories or more in height shall be
20 provided with standpipes as required by the Red White and Blue Fire Department.

21 52. Section 3311 is amended by adding the following additional section:

22 Section 3311.4 Water supply. Water supply for fire protection, either temporary
23 or permanent, shall be made available as required by the Red White and Blue Fire
24 Department.

25 53. Section 3401.3 is amended to read as follows:

26 Section 3401.3 Compliance with other codes. Alterations, repairs, additions and
27 changes of occupancy to, or relocation of, existing buildings and structures shall
28 comply with the provisions for alterations, repairs, additions and changes of
29 occupancy or relocation respectively in the adopted International Fire Code,
30 International Fuel Gas Code, International Plumbing Code, International

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1 Mechanical Code, International Residential Code, the National Electrical Code and
2 the International Energy Conservation Code and NFPA 70. Where the provisions
3 of the other codes conflict with the provisions of this Chapter, the provisions of
4 this Chapter shall take precedence.

5 54. Section 3412.2 is amended to read as follows:

6 Section 3412.2 Applicability. Structures existing prior September 18, 1972 in
7 which there is work involving additions, alterations or changes of occupancy shall
8 be made to conform to the requirements of this section or the provisions of
9 Sections 3403 through 3407.

10 The provisions in Sections 3412.2.1 through 3412.2.5 shall apply to existing
11 occupancies that will continue to be, or are proposed to be, in Groups A, B, E, F,
12 M, R, S and U. These provisions shall not apply to buildings with occupancies in
13 Group H or I.

14 55. Section 3412.3.2 is amended by deleting the reference to the International Property
15 Maintenance Code.

16 56. Section 3412.4 is amended to read as follows:

17 Section 3412.4 Investigation and evaluation. For proposed work covered by this
18 section, the building owner shall cause the existing building to be investigated and
19 evaluated in accordance with the provisions of this section by a design professional
20 licensed to practice in the State of Colorado.

21 57. Section 3412.6 is amended by adding the following first paragraph.

22 3410.6 Evaluation process. The building owner shall cause the existing building to
23 be evaluated in accordance with the provisions of this section by a design
24 professional(s) licensed to practice in the State of Colorado.

25 8-1-5: AMENDMENTS TO THE INTERNATIONAL RESIDENTIAL CODE: The following
26 sections of the International Residential Code, 2012 Edition, are amended to read as follows:

27
28 1. Section R101.1 is amended by adding the name, "Town of Breckenridge."

29 2. Section R101.2 is amended by deleting Exceptions 1 and 2.

30 3. Section R102.7 is amended by deleting the reference to the Property Maintenance
31 Code.

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- 1 4. Section R103.2 is amended to read as follows:
- 2 R103.2 building official. The building official is authorized and directed to
3 enforce all of the provisions of this code; however, a guaranty that all buildings
4 and structures have been constructed in accordance with all of the provision of this
5 code is neither intended nor implied.
- 6 5. Section R103.3 is amended by deleting the words: “with the concurrence of the
7 appointing authority.”
- 8 6. Section R104.8 is amended by adding the following additional paragraph to the
9 beginning of the section:
- 10 The adoption of this code, and any previous building, construction and housing
11 standard adopted by the Town of Breckenridge, shall not be deemed to give rise to
12 a duty of care on the part of any public entity, public employee or agent, nor shall
13 this code or any previous building, construction and housing standard be deemed
14 to create any civil remedy against a public entity, public employee or agent.
- 15 7. Section R105.5 is amended to read as follows:
- 16 R105.5 Expiration. Every permit issued by the code official under the provisions
17 of this code shall expire 18 months after the date of issue. Every permit issued
18 shall become invalid unless the work on the site authorized by such permit is
19 commenced within 180 days after its issuance, or if the work authorized on the site
20 by such permit is suspended or abandoned for a period of 180 days after the time
21 the work is commenced. The code official is authorized to grant extensions of
22 time, for periods of 6 months. An extension shall be requested in writing, and the
23 request shall demonstrate justifiable cause for the extension.
- 24 8. Section R106.1 is amended to read as IBC Section 107.1 as amended.
- 25 9. Section R106.3 is amended to read as IBC Section 107.3 as amended.
- 26 10. Section R106.3.1 is amended to read as IBC Section 107.3.1 as amended.
- 27 11. Section R108.2 is amended by replacing “by the applicable government authority”
28 with ”in accordance with the Town of Breckenridge Building Permit and
29 Inspection Fee Schedule. Refer to the International Building Code Amendment
30 Section 109.2, as amended”
- 31 12. Section R108.3 Building permit valuations, is amended to read as pursuant to
32 section 109.3 International Building Code 2012.

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- 1 13. Section R108.6 is amended to read as follows:
- 2 108.6 Work commencing before permit issuance. Any person who commences
3 any work on a building, structure, electrical, gas, mechanical or plumbing system
4 before obtaining the necessary permits shall be subject to an investigation fee that
5 shall be in addition to the required permit fees. The investigation fee shall be as set
6 forth in the Town of Breckenridge Building Permit and Inspection Fee Schedule.
- 7 14. Section R109.1.6 is amended to read as follows:
- 8 Final inspection. To be made only after the finished grading and the building or
9 structure is completed in accordance with the provisions of the International
10 Residential Code and Technical Codes, the Development Code, including
11 cleaning, flooring, tile, wallpaper, paint, trim, finish, and final painting and paving.
12 A security deposit may be posted for work required by the Town’s Department of
13 Community Development, i.e., landscaping, exterior painting, paving, that cannot
14 be completed as a result of prevailing weather conditions.
- 15 15. Section R109 is amended by adding a new subsection to read as follows:
- 16 R109.5 Re-inspections. A re-inspection fee, as specified in the Town of
17 Breckenridge Building Permit and Inspection Fee Schedule, may be assessed for
18 each inspection or re-inspection when such portion of work for which inspection is
19 called is not complete or when corrections called for are not made. Re-inspection
20 fees may also be assessed when the inspection records are not posted or otherwise
21 available on the work site, the approved plans are not readily available to the
22 inspector, for failing to provide access on the date for which the inspection is
23 requested, or for deviating from plans requiring the approval of the building
24 official. In instances where re-inspection fees have been assessed, no additional
25 inspection of the work will be performed until the re-inspection fees have been
26 paid.
- 27 16. Section R110.1 is amended by deleting Exception number (2).
- 28 17. Section R110.3 is amended by adding the following paragraph:
- 29 A Certificate of Occupancy shall not be construed as an approval of a violation of
30 the provisions of this code or any other ordinance of the Town. Certificates
31 presuming to give authority to violate or cancel the provisions of this code or other
32 ordinances of the Town shall not be valid.
- 33 18. Section R110.4 is deleted.

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1 19. Section 110 is amended by adding a new subsection to read as follows:

2 R110.6 A Certificate of Completion shall be issued for work not directly related
3 to occupancy when such work complies with the provisions of this code and all
4 other relevant laws, which are enforced by the Town. A Certificate of Completion
5 shall not be construed as an approval of a violation of the provisions of this code or
6 other ordinances of the Town. Certificates presuming to give authority to violate or
7 cancel the provisions of this code or other ordinances of the Town shall not be
8 valid.

9 20. Section R113 is deleted.

10 21. Section R202 is amended by inserting the following definitions within the
11 alphabetical order of the existing definitions and by amending the definition of a
12 Town House:

13 LOFT: A room or floor in a building that is open to the room or floor directly
14 below, which may or may qualify as a mezzanine. Lofts may be either habitable
15 space or non-habitable space. A habitable loft provided with a closet or where a
16 bathroom on the same level can be directly accessed without passing through a
17 sleeping room, will be considered a sleeping room for the purposes of Sections
18 R310, R314 and R315.

19 POTENTIAL SLEEPING ROOM: A room or space within a dwelling unit having
20 a floor area of a t least 70 square feet and a ceiling height of at least 5 feet will be
21 considered a sleeping room as follows: ,

22 In a building defined as a *dwelling* or *lodging* house, any space or room having
23 two of the following factors shall be considered a sleeping room.

- 24 a. Has walls and doors to separate it from other habitable spaces
25 b. Meets the definition of a loft.
26 c. Has a closet or similar provision for clothes storage
27 d. Has a full or partial bathroom connected to the space or room, or has a path of
28 travel to a full or partial bathroom which does not first pass through a
29 habitable space.

30 Rooms or spaces determined by these criteria to be sleeping rooms, regardless of
31 any names, labels, or intended uses proposed by the building designer or owner,
32 shall have: (i) emergency escape and rescue openings pursuant to Section R310 of
33 the International Residential Code; (ii) smoke detectors pursuant to Section R314

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1 of the International Residential Code; and (iii) carbon monoxide detectors pursuant
 2 to Article 45 of Title 38, C.R.S.

3 TOWNHOUSE: A single family dwelling unit constructed in a group of two or
 4 more attached units in which each unit extends from foundation to roof and with a
 5 yard or public way on at least two sides.

6 22. Table R301.2(1) is amended to read as follows:

7 **TABLE R 301.2 (1) – CLIMATIC AND GEOGRAPHICAL DESIGN CRITERIA**

ROOF SNOW LOAD	WIND SPEED MPH ^d	SEISMIC DESIGN CAT ^f	SUBJECT TO DAMAGE FROM			WINTER DESIGN TEMP ^e	ICE BARRIER UNDERLAYMENT REQUIRED ⁱ	FLOOD HAZARDS	AIR FREEZING INDEX ^j	MEAN ANNUAL TEMP ^k
			weathering ^a	frost line depth ^b	termite ^c					
h	90	B	severe	40 inches	slight	-13°	yes	g	2500	35.4°

8
 9 For SI: 1 pound pursuant to square foot=0.0479 kN/m.0 2, 1 mile pursuant to
 10 hour=1.609km/h.

- 11 (a) Weathering may require a higher strength concrete or grade of masonry
 12 than necessary to satisfy the structural requirements of this code. The
 13 grade of masonry units shall be determined from ASTM C 34, C 55, C 62,
 14 C 73, C 90, C129, C 145, C 216 or C 652.
- 15 (b) The frost line depth may require deeper footings than indicated in Figure
 16 R403.1(1). This part of the table is filled in depending on whether there
 17 has been a history of local damage. Twenty Four (24”) inch deep footers
 18 are permitted for decks only, which do not support roofs and are less than
 19 30 inches above grade.
- 20 (c) This part of the table is filled in depending on whether there has been a
 21 history of local damage.
- 22 (d) Wind exposure category shall be determined on a site-specific basis in
 23 accordance with Section R301.2.1.4.
- 24 (e) Reflects local climates or local weather experience as determined by the
 25 building official.
- 26 (f) Seismic Design Category determined from Section R301.2.2.2.
- 27 (g) See Amendment 1612.3 IBC
- 28 (h) Snow-loads of 90 lbs. pursuant to square foot are required for construction
 29 sites below an elevation of 10,000 feet. For construction sites at an
 30 elevation of 10,000 feet or greater, the snow-load shall be one hundred
 31 pounds (100lbs.) pursuant to square foot. There shall be no reduction in
 32 snow-load for pitch or duration.
- 33 (i) In accordance with R905.1 as amended.

- 1 (j) From the 100 year (99%) value on the National Climatic Data
2 Center data table “Air Freezing Index- USA Method(Base
3 32degrees F)”
- 4 (k) From the National Climatic Data Center data table “Air
5 Freezing Index-USA Method (Base 32 degrees F)”
- 6 23. Table R301.5 is amended by deleting exterior balconies, decks and fire escapes
7 from the table, and by adding footnote (j) to read as follows:
- 8 (j) The minimum uniformly distributed live loads for exterior balconies and decks
9 shall be as required for roofs.
- 10 24. Section R302.1 is amended to read as follows:
- 11 R302.1 Exterior walls. Construction, projections, openings and penetrations of
12 exterior walls of dwellings and accessory buildings shall comply with Table
13 R302.1(1); or dwellings equipped throughout with an automatic sprinkler system
14 installed in accordance with all applicable provisions of the governing Fire
15 district’s code shall comply with table R302.1(2).
- 16 25. Table R302.1(2), Footnote a, is amended to read as follows:
- 17 a. For residential subdivisions where all dwellings are equipped throughout with an
18 automatic sprinkler system installed, permitted and inspected to show compliance
19 with all applicable requirements of the governing Fire district’s code, the fire
20 separation for nonrated exterior walls and rated projections shall be permitted to be
21 reduced to 0 feet, and unlimited unprotected openings and penetrations shall be
22 permitted, where the adjoining lot provides an open setback yard that is 6 feet or
23 more in width on the opposite side of the property line.
- 24 26. Section R302.2 Exception is amended to read as follows:
- 25 Exception: A common 2-hour fire-resistance rated wall assembly tested in
26 accordance with ASTM E119 or UL 263 is permitted for Townhouses if such walls
27 do not contain plumbing or mechanical equipment, ducts or vents in the cavity of
28 the common wall. The wall shall be rated for fire exposure from both sides and
29 shall extend to and be tight against exterior walls and the underside of the roof
30 sheathing. Electrical installations shall be installed in accordance with Chapters 34
31 through 43. Penetrations of electrical boxes shall be in accordance with Section
32 R302.4.
- 33 27. Section R313 is amended to read as follows:

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1 Section R313 Dwelling Unit Fire Sprinkler Systems and Internal Fire Protection.

2 Section R313.1 General. Structures under the scope of this code are to be
3 protected by fire sprinkler systems as designated, reviewed, installed and inspected
4 by the Red White and Blue Fire District pursuant to section R313.1.1 through
5 R313.1.2.

6 Section R313.1.1, Fire sprinkler Systems required. Structures greater than 6,000
7 square feet are to be protected by fire sprinkler systems pursuant to the Red White
8 and Blue Fire District. Square footages shall include all attached garages and any
9 detached structures within 3 feet of the residence. Square footage shall be
10 measured from exterior wall to exterior wall. Fire separations within the structure
11 shall not be utilized to reduce the measured square footages of the structure(s).

12 Section R313.1.2 Additions. Any addition which increases the total square footage
13 of the residence to greater than 6,600 square feet is to be provided with a fire
14 sprinkler system at the addition only. Where the size of the addition itself is greater
15 than 6,000 square feet, the addition as well as the existing residence shall be
16 provided with a fire sprinkler system. Where the addition increases the total square
17 footage of the residence to greater than 6,600 square feet and the alterations to the
18 existing structure results in the removal of interior wall and ceiling finishes
19 exposing the structure a fire sprinkler systems shall be retro-fitted into the existing
20 residence as well as the addition.

21 Section R313.2 Internal Fire Protection. Residences between 4,000 and 6,000
22 square feet shall be provided with 5/8 inch Type 'X' drywall throughout the
23 structure. The 5/8 inch Type 'X' drywall shall be continued behind fireplaces,
24 bathtubs, showers, tongue and groove walls, ceilings, and other similar areas.

25 28. Section R319.1 is amended to read as follows:

26 R319.1 Premises identification. Approved numbers or addresses shall be provided
27 for all new and altered buildings in such a position as to be plainly visible and
28 legible from the street or road fronting the property. Address characters shall be at
29 least five inches (127 mm) in height and shall be of a color that contrasts with the
30 background on which they are mounted.

31 29. Section R501.3, Exception 1, is amended to read as follows:

32 R501.3 Exception 1 Floor assemblies located directly over a space protected by an
33 automatic sprinkler system permitted, installed and inspected as required by the
34 Fire District having jurisdiction.

- 1 30. Section R501.3, Exception 2 is amended to read as follows:
- 2 R501.3 Exception 2. Floor assemblies located directly over a crawlspace with
3 maximum 4 foot headroom occurring anywhere within the crawlspace. The
4 headroom shall be measured from grade to the bottom of the floor joists.
- 5 31. Section R602.3 is amended by adding the following sentence:
- 6 The use of load duration factors for snow load shall be prohibited.
- 7 32. Section R802.2 is amended by adding the following sentence:
- 8 There shall be no reduction in snow load for pitch or duration.
- 9 33. Section R902.1 is amended to read as follows:
- 10 R902.1 Roof covering materials. Roofs shall be covered with materials as set forth
11 in sections R904 and R905. Class A roofing assemblies shall be installed on all
12 new buildings, additions and re-roofs. Class A roofing shall be tested in
13 accordance with UL 790 or ASTM E 108 or ASTM D 2898.
- 14 34. Section R905.1 is amended by adding a new subsection to read as follows:
- 15 R905.1.1 Ice Barrier Underlayment. An ice barrier that consists of an approved
16 self adhering modified bitumen sheet underlayment shall be used at all sloped
17 roofs. This ice and protection underlayment shall extend up the slope of the roof
18 from the drip-edge of the roof or eave and cover the entire roof deck surface. In
19 new construction ice dam protection shall extend a minimum 30 inches up walls
20 and adjacent to the roof surface.
- 21 35. Section R905.2.7.1 is deleted.
- 22 36. Section R905.4.3 is deleted.
- 23 37. Section R905.5.3 is deleted.
- 24 38. Section R905.6.3 is deleted.
- 25 39. Section R905.7.3 is deleted.
- 26 40. Section R905.8.3 is deleted.
- 27 41. Section R1004.4 is amended to read as follows:

1 R1004.4 Unvented gas log heaters. Installation of unvented gas log heaters is
2 prohibited.

3 42. Section 1004 Factory Built Fireplaces is amended by adding the following new
4 subsections to read as follows:

5 Section R1004.5 Solid fuel burning devices that are not certified are prohibited in
6 new construction. The number of certified solid fuel burning devices that may be
7 installed in newly constructed buildings shall be approved by the Town's
8 Department of Community Development.

9 Section R1004.6 CERTIFIED SOLID FUEL BURNING DEVICE is a solid fuel
10 burning device which is certified by the Air Pollution Control Division of the
11 Colorado Department of Health or approved by the building official as meeting the
12 emission standards set forth in Section IV or Regulation No. 4 of Volume I of the
13 Colorado Air Quality Control Commission (EPA Phase II or III).

14 Section R1004.7 For the purpose of this section, NEW CONSTRUCTION is
15 construction of a residential, commercial, industrial, agricultural or accessory
16 building. This shall include any modifications, replacement or relocation of
17 existing solid fuel burning devices. However, modifications to solid fuel burning
18 devices shall not include repair, replacement or relocation of flue pipe.

19 Section R1004.8 SOLID FUEL BURNING DEVICES are any fireplace, stove,
20 firebox, or other device intended and/or used for the purpose or burning wood,
21 coal, pulp, paper, pellets or other non-liquid or non-gaseous fuel.

22 43. Section R1005 is amended by adding a new subsections to read as follows:

23 R1005.8 Termination points of a factory built chimneys shall not be within 10
24 inches vertically of the point of termination of any adjacent chimney or appliance
25 vent with 24 inches horizontally. No factory built chimney shall terminate closer
26 than 24 inches to combustible finish materials.

27 R1005.9. Factory Built Class A Chimneys shall be enclosed within a continuous
28 enclosure protected on the interior (flue) side by not less than one-hour fire
29 resistive construction.

30 Exception: The portion of the chimney located in the same room as the appliance
31 and the portion of the chimney above the finished roofs are not required to be
32 enclosed. However, if they are enclosed, the interior of the shaft shall be protected
33 by one-hour fire resistive construction.

- 1 44. Table N1102.1.1 (IECC R402.1.1), Fenestration U-Factor column, is amended to
2 read 0.35 for Climate Zone 7 and 8.
- 3 45. Table N1102.1.1 (IECC R402.1.1), footnote d, is amended to read as follows:
4 Table N1102.1.1 footnote d. R-10 shall be required under the entire heated slab.
- 5 46. Table N1102.1.1 (R4202.1.1), “Insulation and Fenestration Requirements by
6 Component,” is amended by adding a footnote (j) to ‘WOOD FRAME WALL R –
7 VALUE/CLIMATE ZONE 7 and 8 to read as follows:
- 8 (j) Continuous wall insulation is not required where the wall cavity is insulated
9 with a minimum R-23 blown or sprayed insulation and the reductions in roof
10 ceiling insulation permitted by N1102.1.1 (R402.2.1) and N1102.2.2 (R402.2.20)
11 are not used.
- 12 47. N1102.2.9 is amended to read as follows:
13 N1102.2.9 Slab-on-grade floors with a floor surface less than 40 inches below
14 grade shall be insulated in accordance with Table N1102.1.1. The insulation shall
15 extend downward from the top of the slab on the outside or inside of the
16 foundation wall. Insulation located below grade shall be extended the distance
17 provided in Table N1102.2.2 by any combination of vertical insulation, insulation
18 extending under the slab or insulation extending out from the building. Insulation
19 extending away from the building shall be protected by pavement or by a
20 minimum of 10 inches of soil.
- 21 48. Section 1102.4.1.2 (R402.4.1.2) is amended to add the following Exception:
22 Exception: Homes that have been inspected by an approved third party, verifying
23 that air barriers and air sealing has been installed in accordance with sections 3 and
24 5 of ENERGY STAR Certified Homes, Version 3 (Rev.07), Thermal Enclosure
25 System Rater Checklist.
- 26 49. Section M1701 is amended to add a new subsection to read as follows:
27 M1701.3 All combustion air terminations shall be a minimum of 36 inches above
28 finished ground level.
- 29 50. Section M1804.2.1 is amended to read as follows:

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1 M1804.2.1 Through the roof. Vents passing through a roof shall extend through
2 flashing and terminate in accordance with the manufacturer's installation
3 requirements. All vents shall terminate within 5 feet of ridgeline.

4 51. Section 1804.2.6, No.4 is amended to read as follows:

5 1804.2.6, No.4. The bottom of the vent terminal shall be located at least 36 inches
6 above grade.

7 52. Section M2002.4 is amended by adding the follow sentence.

8 All boiler, furnace, mechanical and water heater rooms, are to be provided with a
9 floor drain.

10 53. Section G2407.6 is amended by adding the following sentence:

11 All exterior openings for combustion air shall terminate a minimum 36 inches
12 above finished grade.

13 54. Section G2417.4.1 is amended to read as follows:

14 G2417.4.1 (406.4.1) Test pressure. The test pressure to be used shall be not less
15 than one and one-half times the proposed maximum working pressure, but not less
16 than 30 psig (69kPa gauge), irrespective of design pressure. Where the test
17 pressure exceeds 125 psig (862kPa gauge), the test pressure shall not exceed a
18 value that produces a hoop stress in the piping greater than 50 percent of the
19 specified minimum yield strength of the pipe.

20 55. Section G2425.8 is amended by deleting item No.7.

21 56. Section G2432 is amended by adding a new subsection to read as follows:

22 G2432.4 (602.4) Gas logs. Gas logs may be installed in solid-fuel-burning
23 fireplaces provided:

24 1) The gas log is installed in accordance with the manufacturer's installation
25 instructions.

26 2) If the fireplace is equipped with a damper it shall either be removed or
27 permanently secured in an open position.

28 3) The flue passageway shall be not less than 1 square inch pursuant to 2,000 Btu/h
29 input and not more than 4 square inches pursuant to 2,000 Btu/h input.

1 4) Gas logs shall be equipped with a pilot and shall have a listed safety shutoff
2 valve.

3 5) Gas logs shall be vented with a Class A Chimney that is protected in accordance
4 with Section R1005.11 as amended.

5 6) Gas logs may be installed in factory-built fireplaces only when: (a) the fireplace
6 and gas logs are listed for use together as an individual unit; (b) the fireplace is
7 approved for use with any listed gas log; or (c) the fireplace manufacturer provides
8 prior written approval for the installation.

9 Exception: The installation of gas logs in factory built fireplace units for which
10 the manufacturer cannot be identified or located may be approved by the building
11 official in his or her discretion. Any approval shall be based at a minimum, on
12 written evidence submitted by the gas log manufacturer that the installation of their
13 product will not compromise the integrity of the existing fireplace.

14 7) Chimneys to gas log sets shall be provided with a mechanical damper
15 interlocked to the electronic ignition of the unit.

16 57. Section G2433.1 (603.1) is amended to read as follows:

17 General. Log lighters are prohibited.

18 58. Section G2445 (621) is amended to read as follows:

19 Prohibited installation. Installation of unvented room heaters is prohibited.

20 59. Section P2501.1 is amended to read as follows.

21 P2501.1 Scope. The provisions of the chapter shall establish the general
22 administrative requirements applicable to plumbing systems and inspection
23 requirements of this code. The intent of this code is to meet or exceed the
24 requirements of the State of Colorado Plumbing Code. When technical
25 requirements, specifications or standards in the Colorado Plumbing Code conflict
26 with this code, the more restrictive shall apply.

27 60. Section P2503.5.1. The first paragraph is amended to read as follows:

28 P2503.5.1 Rough Plumbing. Drain, waste, and vent systems shall be tested upon
29 completion of the rough piping installation by water or by air with no evidence of
30 leakage. Either test shall be applied to the drainage system or in sections after
31 rough piping has been installed, as follows:

- 1 61. Section P2503.7, Water-supply system testing: The portion of the sentence
2 reading “for piping systems other than plastic” shall be deleted.
- 3 62. Section P2801.5.2 is amended to read as follows:
4 P2801.5.2 Pan drains termination. The pan drain shall extend full-size and
5 terminate over a suitably located indirect waste receptor or floor drain and
6 terminate not less than 6 inches and not more than 24 inches above the adjacent
7 ground surface.
- 8 63. Section P2803.6.1 Item 5 is amended by deleting the reference allowing the
9 discharge from the relief valve to terminate to the outdoors.
- 10 64. Section P2904 is deleted.
- 11 65. Section P3103.1 is amended to read as follows:
12 P3103.1 Roof extension. All open vent pipes which extend through a roof shall be
13 terminated at least 12 inches (306mm) above the roof and shall terminate within 5
14 feet of a ridgeline, except that where a roof is to be used for any purpose other than
15 weather protection, the vent extensions shall be run at least 7 feet (2134 mm)
16 above the roof.
- 17 66. Chapters 33, 34, 35, 36, 37, 38, 39, 40, 41, 42 and 43 are deleted.
- 18 67. Add new Chapter 46 to read as follows:
- 19 CHAPTER 46
20 SUMMIT COUNTY SUSTAINABLE CODE
21 SECTION 4601
22 GENERAL
- 23 4601 Scope. All new building construction and construction adding additional
24 conditioned square footage shall be compliant with the Summit County
25 Sustainable Code and the following Summit County Sustainable Code Checklist.
- 26 4602 Summit County Sustainable Code Checklist:
27 SUMMIT SUSTAINABLE BUILDING CODE CHECKLIST/NEW SFR
28 MANDATORY REQUIREMENTS, 2012 IRC - Chapter 11 and 2012 IECC -
29 Residential Provisions

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- All projects to comply with all applicable requirements of the International Residential Code.
- Forced air-furnace system, minimum 91% AFUE.
- Radiant heating system, minimum 91% AFUE.
- High-efficacy lamps, minimum 75%.
- Energy efficient water heater.
 - Electric, minimum 0.95 energy factor
 - Gas, minimum 0.67 energy factor.
- Recycling; HC3 information to be provided at permit issuance.

Please complete the following calculations and then choose from the secondary measures for every point incurred. Your plans and inspections will be reviewed and inspected according to the above mandatory requirements and your secondary choices. LEED-H, ICC-700, Green Globes certified or alternate approved third party certified program is acceptable in place of this document.

Square footage of new conditioned (heated) space _____ ÷ 1000 sq. feet = _____

Number of outdoor fireplaces and/or fire pits _____

Hot Tub _____

Square footage of heated outdoor surfaces _____ ÷ 100 sq. feet = _____

Square footage of air conditioned space _____ ÷ 500 sq. feet = _____

Total Points Incurred *rounded to next highest whole number*

SECONDARY CHOICES

- Energy Star appliances throughout.
- Electric Vehicle Charging Pre-Wire in every new garage or carport.
- Locally purchased compost from Summit County Resource Allocation Park(SCRAP).
- Air movement at all ceilings > 15’.
- Insulated exterior wall sheathing.
- Blower door test of 3.0 ACH or less. *Air Changes pursuant to Hour @ 50 Pascals.*
- SIP panel construction at walls. *Structural Insulated Panel.*
- SIP panel construction at ceiling.
- Roof framing 60% or greater renewable or engineered lumber.
- Floor framing 80% or greater renewable or engineered lumber.
- Beams and headers 80% or greater renewable or engineered lumber.
- Energy heels at trusses, 12” or greater.

- 1 ICF foundation. *Insulated Concrete Forms.*
- 2 Insulated headers (80% minimum at R-10).
- 3 Greater than R-23 in walls.
- 4 Greater than R-49 in ceiling.
- 5 U-factor of .30 or lower on 80% of fenestrations.
- 6 Conditioned crawlspace or slab on grade.
- 7 High efficiency boiler, AFUE 95% or greater. *Annual Fuel Utilization Efficiency.*
- 8 High efficiency furnace, AFUE 95% or greater.
- 9 Boiler or furnace centrally located; no mechanical run longer than 2/3 the distance of
- 10 the greatest diagonal dimension of the home.
- 11 HRV or ERV system installed.
- 12 Side arm water heater served by boiler.
- 13 50 year roof or greater warranty.
- 14 Alternative energy sources: *1000 British Thermal Units/Kilowatt/Photovoltaic.*
- 15 Active solar space heating system 1 pt/25MBTU _____
- 16 Active solar domestic hot water system 1 pt/25MBTU _____
- 17 Ground source heating/cooling system 1 pt/25MBTU _____
- 18 Solar generated (PV) electric system 1 pt/2.5KW _____
- 19 Wind generated electric system 1 pt/2.5KW _____
- 20 Dual flush toilets, 1.28 gpf toilets, or Watersense toilets.
- 21 Motion sensors on a minimum of 80% of exterior lights.
- 22 Programmable thermostats.
- 23 No recessed lights in the exterior insulated ceilings.
- 24 OVE framing. *Optimal Value Engineering.*
- 25 Bamboo, concrete, stone or cork flooring, 1 pt/50%.
- 26 HERS rating. *Home Energy Rating.*
- 27 2 pts for performing HERS rating _____
- 28 4 pts HERS Index of 70 or less _____
- 29 8 pts HERS Index of 55 or less _____
- 30 12 pts HERS Index of 40 or less _____
- 31 Innovative Product, Design or Technology (Points awarded by building official)
- 32
- 33 _____ **Total Points Awarded for Secondary Choices**
- 34 _____ **Total Points incurred** *from other side*
- 35
- 36 _____ **Total Net Points** *must be greater than or equal to zero*
- 37

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1 68. Section AF103.5 is amended to add the following Exception:
2 Exception: The radon vent pipe is allowed to terminate within the structure as long
3 as it is sealed to withstand a minimum of 5psi of pressure.

4 69. Section AF 103.6.1 is amended to add the following Exception:
5 Exception: The radon vent pipe is allowed to terminate within the structure as long
6 as it is sealed to withstand a minimum of 5psi of pressure.

7 8-1-6: AMENDMENTS TO THE INTERNATIONAL MECHANICAL CODE: The following
8 sections of the International Mechanical Code, 2012 Edition, are amended to read as follows:
9

10 1. Section 101.1 is amended to read as follows:

11 101.1 Title. These regulations shall be known as the Mechanical Code of the
12 Town of Breckenridge, herein after referred to as “this code.”

13 2. Section 103.2 is amended to read as IBC 103.2 as amended.

14 3. Section 103.3 is amended to read as IBC 103.3 as amended.

15 4. Section 103.4 is amended to read as IBC 104.8 as amended.

16 5. Section 106.4.3 is amended to read as IBC 105.5 as amended.

17 6. Section 106.4.4 is deleted.

18 7. Section 106.5.2 is amended to read as follows:

19 106.5.2 Fee schedule. The fees for mechanical work shall be in accordance with
20 the Town of Breckenridge Building Permit and Inspection Fee Schedule pursuant
21 to IBC Section 109.2, as amended.

22 8. Section 106.5.3 is amended to read as follows:

23 106.5.3 The building official is authorized to establish a fee refund policy.

24 9. Section 106.5 is amended by adding a new subsection 106.5.4, Re-Inspections, to
25 read as IBC 109.7, as amended.

26 10. Section 108.1 is deleted.

27 11. Section 108.2 is deleted.

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- 1 12. Section 108.3 is deleted.
- 2 13. Section 108.4 is deleted.
- 3 14. Section 108.5 is deleted.
- 4 15. Section 108.6 is deleted.
- 5 16. Section 109 is deleted.
- 6 17. Section 202 is amended by adding the following definition within the alphabetical
7 order of the existing definitions:
- 8 “Certified Solid Fuel Burning Device”, “New Construction” and “Solid Fuel
9 Burning Devices” shall be defined as pursuant to IBC Amendments, Chapter 2.
- 10 18. Section 509.1 is amended to add the subsequent paragraph at the end:
- 11 All fire suppression systems required by this code shall be inspected and approved
12 by a special inspector. The special inspector shall be an authorized representative
13 of the Red White and Blue Fire Department.
- 14 19. Section 701.1 Scope is amended by adding a new sentence to read as follows:
- 15 Combustion air ducts must terminate a minimum of 36 inches above finished
16 grade.
- 17 20. Section 804.3.4, Horizontal Terminations, No.6, is amended to read as follows:
- 18 The bottom of the vent termination shall be located at least 36 inches above
19 finished grade.
- 20 21. Section 805 is amended by adding new sections 805.7 and 805.8 to read as IRC
21 Amendments R1005.8 and R1005.9, respectively.
- 22 22. Section 903.3 is amended to read as follows:
- 23 903.3 Unvented gas log heaters. Unvented gas log heaters are prohibited.
- 24 8-1-7: AMENDMENTS TO THE INTERNATIONAL PLUMBING CODE: The following
25 sections of the International Plumbing Code, 2012 Edition, are amended to read as follows:
26
- 27 1. Section 101.1 is amended to read as follows:

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- 1 101.1 Title. These regulations shall be known as the Plumbing Code of the Town
2 of Breckenridge, herein after referred to as “this code.”
- 3 2. Section 101.3 is amended to add the following:
- 4 The intent of this code is to meet or exceed the requirements of the State of
5 Colorado Plumbing Code. When technical requirements, specifications or
6 standards in the Colorado Plumbing Code conflict with this code, the more
7 restrictive shall apply.
- 8 3. Section 103.2 is amended to read as IBC Amendment 103.2.
- 9 4. Section 103.3 is amended to read as IBC Amendment 103.3.
- 10 5. Section 103.4 is amended to add a paragraph as written in IBC Amendment 104.8.
- 11 6. Section 106.5.3 is amended to read as IBC Amendment 105.5.
- 12 7. Section 106.5.4 is deleted.
- 13 8. Section 106.6.2 is amended to read as follows:
- 14 106.6.2 Fee schedule. The fees for plumbing work shall be in accordance with the
15 Town of Breckenridge Building Permit and Inspection Fee Schedule pursuant to
16 IBC Section 108.2, as amended.
- 17 9. Section 106.6.3 is amended to read as follows:
- 18 106.6.3 Fee refunds. The building official is authorized to establish a refund
19 policy.
- 20 10. Section 106.6 is amended by adding a new subsection 106.6.4 to read as IBC
21 Amendment 110.7.
- 22 11. Section 108.1 is deleted.
- 23 12. Section 108.2 is deleted.
- 24 13. Section 108.3 is deleted.
- 25 14. Section 108.4 is deleted.
- 26 15. Section 108.5 is deleted.

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- 1 16. Section 108.6 is deleted.
- 2 17. Section 109 is deleted.
- 3 18. Section 301 is amended to add a new subsection as follows:
- 4 301.8 Floor Drains. All mechanical, furnace, boiler and water heater rooms shall
5 be provided with a floor drain.
- 6 19. Section 305.4.1 is amended to read as follows:
- 7 305.4.1 Sewer depth. Building sewers shall be installed in accordance with the
8 standards and approval of the governing Sanitation District.
- 9 20. Section 312.3 is amended to delete the first sentence.
- 10 21. Section 312.5 is amended by deleting the portion of the sentence reading “for
11 piping systems other than plastic.”
- 12 22. Section 312.6 is amended to read as follows:
- 13 Section 312.6 Gravity sewer test. Testing of the building sewer shall be in
14 accordance with the standards and approval of the governing Sanitation District.
- 15 23. Section 312.7 is amended to read as follows:
- 16 312.7 Forced sewer test. Testing of the building sewer shall be in accordance with
17 the standards and approval of the governing Sanitation District.
- 18 24. Section 312.10.1 is deleted.
- 19 25. Section 402.3, Exception 2, is amended by changing the total occupant load from
20 15 to 30.
- 21 26. Section 504.6 is amended to delete reference to the outdoors in item No.5.
- 22 27. Section 504.7.2 is amended to read as follows:
- 23 504.7.2 Pan drain termination. The pan drain shall extend full-size and terminate
24 over a suitably located indirect waste receptor or floor drain and terminate not less
25 than 6 inches and not more than 24 inches above the adjacent floor surface.
- 26 28. Sections 608.17 through 608.17.8, inclusive, are deleted.

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- 1 29. Section 610.1 is amended to read as follows:
- 2 610.1 General. New or repaired potable water systems shall be purged of
3 deleterious matter and disinfected prior to utilization. The method to be followed
4 shall be that prescribed by the Town of Breckenridge Water Department.
- 5 30. Section 701.2 is amended to read as follows:
- 6 701.2 Sewer required. Every building in which plumbing fixtures are installed and
7 all premises having drainage piping shall be connected to a public sewer.
- 8 31. Section 903.1 is amended to read as IRC Amendment P3103.1
- 9 32. Section 1106.1 is amended to read as follows:
- 10 1106.1 General. The size of the vertical conductors and leaders, building storm
11 drains, building storm sewers, and any horizontal branches of such drains or
12 sewers shall be based on the 100-year hourly rainfall rate of two (2) inches
13 (50.8mm) pursuant to hour.
- 14 33. Section 1109.1 is amended to read as follows:
- 15 1109.1 Combination drains and sewers. Combination sanitary and storm drains or
16 sewers are prohibited.
- 17 8-1-8: AMENDMENTS TO THE INTERNATIONAL ENERGY CONSERVATION CODE:
18 The following sections of the International Energy Conservation Code, 2012 Edition, are
19 amended to read as follows:
20
- 21 1. Section 101.1 is amended by adding the name “Town of Breckenridge.”
- 22 2. Section 101.2 is amended by adding an additional sentence to read as follows:
- 23 For residential buildings this code is to be used in conjunction with any sustainable
24 building ordinance that may subsequently be adopted by the Town of
25 Breckenridge. Where there are conflicting requirements between the two codes, the
26 most restrictive requirement shall be met.
- 27 3. Table R402.1.1 is amended to add a footnote ‘j’ as set forth in IRC Amendment
28 N1102.1.1.
- 29 4. Table R402.1.1, footnote d, is amended to read as follows:

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1 d. R-10 shall be required under all heated slabs. R-5 slab edge insulation is
2 required for all slabs less than 40 inches below grade.

3 5. Table R402.1.3 is amended to read as set forth in IRC Amendment to Table
4 1102.1.1.

5 6. Section R402.2.9, Slab-on-grade floors, is amended to read as set forth in IRC
6 Amendment N1102.2.2.9.

7 7. Section R402.4.1.2 is amended to add the following Exception:

8 Exception: Projects that have been inspected by an approved third party verifying
9 that air barriers and air sealing has been installed in accordance with sections 3 and
10 5 of ENERGY STAR Certified Homes, Version 3 (Rev.07) Thermal Enclosure
11 System Rater Checklist.

12 8-1-9: AMENDMENTS TO THE NATIONAL ELECTRICAL CODE: There are no
13 amendments to the National Electrical Code, 2014 Edition.

14
15 8-1-10 AMENDMENTS TO THE ICC ELECTRICAL CODE – ADMINISTRATIVE
16 PROVISIONS: The following sections of the ICC Electrical Code – Administrative Provisions,
17 2006 Edition, are amended to read as follows:
18

19 1. Section 101.1 is amended to read as follows

20 101.1 Title. These regulations shall be known as the ICC Electrical Code™.
21 Administrative Provisions of Town of Breckenridge and shall be cited as such. The
22 ICC Electrical Code™ - Administrative Provisions in combination with the
23 separately adopted National Electrical Code will be referred to herein as “this
24 code.” The ICC Electrical Code™ - Administrative Provisions in combination
25 with the separately adopted National Electrical Code will be referred to throughout
26 all other building construction and housing standards adopted by the Town of
27 Breckenridge as the ICC Electrical Code.

28 2. Section 201.3 is amended to read as follows:

29 201.3 Terms defined in other codes. Where terms are not defined in this code and
30 are defined in the International Building Code, International Fire Code,
31 International Fuel Gas Code, International Mechanical Code, International
32 Plumbing Code, International Residential Code, International Energy Conservation
33 Code or NAPA 70, such terms shall have meanings ascribed to them as in those
34 codes.

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- 1 3. Section 301.2 is amended to read as IBC Amendment 103.2.
- 2 4. Section 301.3 is amended to read as IBC Amendment 103.3.
- 3 5. Section 302.9 is amended to read as IBC Amendment 104.8.
- 4 6. Section 403.2 is amended to read as IBC Amendment 105.5.
- 5 7. Section 403.3 is deleted.
- 6 8. Section 403.6 is amended to read as follows:
7 403.6 Information on the permit. The code official shall issue all permits required
8 by this code on an approved form furnished for that purpose. The permit shall
9 contain a general description of the operation or occupancy and its location and
10 any other information required by the code official.
- 11 9. Section 404.2 is amended to read as IBC Amendment 108.2.
- 12 10. Section 404.3 is amended to read as follows:
13 404.3 Work commencing before permit issuance. Any person who commences
14 any work before obtaining the necessary permits shall be subject to an
15 investigation fee established by the code official, which shall be in addition to the
16 required permit fee. The investigation fee shall be as set forth in the Town of
17 Breckenridge Building Permit and Inspection Fee Schedule.
- 18 11. Section 404 is amended by inserting two new subsections to read as follows:
19 404.6 Re-inspections. Shall read as pursuant to IBC Amendment 109.7
20 404.7 Fees. Permit and Plan review fees for electrical work shall be in accordance
21 with the Town of Breckenridge Building Permit and Inspection Fee Schedule
22 pursuant to IBC Section 109.2, as amended.
- 23 12. Section 1001 is deleted.
- 24 13. Sections 1002.1 through 1002.6, inclusive, are deleted.
- 25 14. Section 1003 is deleted.
- 26 15. Section 1004 is deleted.
- 27 16. Sections 1101 is readopted to read as IBC Section 112.

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- 1 17. Sections 1102 is deleted
- 2 18. Section 1103 is deleted
- 3 19. Section 1202 and all subsections therein are deleted.
- 4 20. Section 1203 and all subsections therein are deleted.
- 5 8-1-11: AMENDMENTS TO THE INTERNATIONAL FUEL GAS CODE: The following
6 sections of the International Fuel Gas Code, 2012 Edition, are amended to read as follows:
7
- 8 1. Section 101.1 is amended to read as follows:
- 9 101.1 Title. These regulations shall be known as the Fuel Gas Code of the Town
10 of Breckenridge, herein after referred to as “this code.”
- 11 2. Section 103.2 is amended to read as IBC Amendment 103.2.
- 12 3. Section 103.3 is amended to read as IBC Amendment 103.3.
- 13 4. Section 103.4 is amended to add a paragraph to read as IBC Amendment 104.8.
- 14 5. Section 106.5.3 is amended to read as IBC Amendment 105.5.
- 15 6. Section 106.5.4 is deleted.
- 16 7. Section 106.6.1 is deleted.
- 17 8. Section 106.6.2 is amended to read as follows:
- 18 106.6.2 . The fees for fuel gas mechanical/ plumbing work shall be in accordance
19 with the Town of Breckenridge Building Permit and Inspection Fee Schedule
20 pursuant to IBC109.2, as amended.
- 21 9. Section 106.6.3 is amended to read as follows:
- 22 106.5.3 Fee refunds. The building official is authorized to establish a refund
23 policy.
- 24 10. Section 106.6 is amended by adding a new subsection 106.6.4, Re-inspections, to
25 read as IBC Amendment 109.7.
- 26 11. Section 108.1 is deleted

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- 1 12. Section 108.2 is deleted
- 2 13. Section 108.3 is deleted
- 3 14. Section 108.4 is deleted
- 4 15. Section 108.5 is deleted
- 5 16. Section 108.6 is deleted
- 6 17. Section 109 is deleted.
- 7 18. Section 303.3 is amended to eliminate Exceptions 3 and 4.
- 8 19. Section 304.6.1 is amended to add a new subsection as follows:
- 9 304.6.1 Combustion air duct terminations. Combustion air duct terminations to the
10 exterior shall be a minimum of 36 inches above grade.
- 11 20. Section 304.6.21 is amended to add a new subsection as follows:
- 12 304.6.21 Combustion air duct terminations. Combustion air duct terminations to
13 the exterior shall be a minimum of 36 inches above grade.
- 14 21. Section 304.11, No.8, is amended to require openings at 36 inches above grade.
- 15 22. Section 406.4.1 is amended to read as IRC Amendment G2417.4.1
- 16 23. Section 501.8 is amended by deleting items 8, 9 and 10.
- 17 24. Section 503.8, No.2, and is amended to add a sentence to read as follows:
- 18 The bottom of the vent terminal and the air intake shall be located at least 36
19 inches above grade.
- 20 25. Section 503.8, No.3, is amended to add a sentence to read as follows:
- 21 The bottom of the vent terminal and the air intake shall be located at least 36
22 inches above grade.
- 23 26. Section 602.1 is amended to read as follows:

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1 602.1 General. Decorative appliances for installation in approved solid fuel-
2 burning fireplaces shall be tested in accordance with ANSI Z21.60 and shall be
3 installed in accordance with the manufacturer's installation instructions.

4 27. Section 602 is amended by adding a new subsection 602.4 to read as IRC
5 Amendment G2432.4.

6 28. Section 603.1 is amended to read as follows:

7 603.1 General. Log lighters are prohibited.

8 29. Section 618.5 is amended to add a subsection as follows:

9 Section 618.5.1 Outside air sources. Outside air shall not be obtained from an
10 exterior opening within 36 inches of finished grade.

11 30. Section 621 is amended to read as follows.

12 Unvented room heaters are prohibited.

13 31. Section 634.1 is amended to read as follows:

14 634.1 Free opening area of chimney dampers. Where an unlisted decorative
15 appliance for installation in a vented fireplace is installed, the fireplace damper
16 shall have a permanent free opening not less than 1 square inch pursuant to 2,000
17 Btu/h input and not more than 4 square inches pursuant to 2,000Btu/h input.

18 8-1-12: AMENDMENTS TO THE UNIFORM CODE FOR THE ABATEMENT OF
19 DANGEROUS BUILDINGS: The following sections of the Uniform Code For the Abatement
20 of Dangerous Buildings, 1997 Edition, are amended to read as follows:

21
22 1. Section 203 is deleted.

23 2. Section 205 is deleted.

24 3. Section 301 is amended by amending the definition of Building Code to read as
25 follows:

26 BUILDING CODE is the International Building Code or the International
27 Residential Code, whichever is applicable, published by the International Code
28 Council, Inc., as adopted by this jurisdiction.

29 4. Section 501.2 is amended to add the following sentence at the end of the

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1 section:

2 The board of appeals with the jurisdiction to hear and decide appeals
3 under this code is the board of appeals created pursuant to Chapter 3 of
4 Title 2 of the Breckenridge Town Code.

5 8-1-13: REPEAL OF PREVIOUS ORDINANCES: Existing ordinances or parts of ordinances
6 covering the same matters as embraced in this Chapter are repealed, and all ordinances
7 inconsistent with the provision of the Chapter are repealed; provided, however, that this repeal
8 shall not affect or prevent the prosecution or punishment of any person for any act done or
9 committed in violation of any ordinance repealed prior to this Chapter taking effect.

10
11 8-1-14: ENFORCEMENT: The following portions apply to the enforcement of all of the codes
12 adopted by reference in this Chapter. If there is a conflict between these provisions and any
13 enforcement provision of a code adopted by reference in the Chapter, the provisions of this
14 Section shall control. As used in this Section, the term “adopted code” means any code adopted
15 by reference in this Chapter:

16
17 A. Authority of building official: The building official is authorized and directed to enforce
18 the provisions of this code, however, a guaranty that all buildings and structures have
19 been constructed in accordance with all of the provisions of this code is neither intended
20 nor implied. The building official shall have the power to render interpretations of this
21 code and to adopt and enforce rules and regulations supplemental to this code deemed
22 necessary in order clarify the application of the provisions of this code. Such
23 interpretations, rules and regulations shall be in conformity with the intent and purpose of
24 this code.

25 B. Notice of Violation. The building official shall serve a notice of violation or order to the
26 person responsible for the erection, installation, alteration, extension, repair, removal or
27 demolition of work in violation of the portions of an adopted code, or in violation of a
28 detail statement or the approved construction documents there under, or in violation of a
29 permit or certificate issued under the provisions of any such adopted code. Such order
30 shall direct the discontinuance of the illegal action or condition and the abatement of the
31 violation. The notice or order shall be served upon the responsible person by personal
32 delivery or by mailing a copy of such notice or order by certified mail, postage prepaid,
33 return receipt requested, to the intended recipient at their address as it appears in the
34 records of the Summit County Assessor or to such other address as may be known to the
35 building official. If no address for the intended recipient appears in the records of the
36 Summit County Assessor it is known to the building official, then the notice or order
37 shall be mailed to address of the property involved in the proceedings. The failure of any
38 person to receive the notice or order shall not affect the validity of any proceedings taken
39 under this Section. Service by certified mail in the manner herein provided shall be

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1 effective upon the date of mailing. Proof of service of the notice and order shall be
2 certified to at the time of service by a written declaration under penalty of perjury
3 executed by the person effecting service, declaring the time, date and manner in which
4 service was made. The declaration, together with any receipt card returned in
5 acknowledgment of receipt by certified mail, shall be affixed to the copy of the notice
6 and order retained by the building official.

7 C. Prosecution of Violation. If the notice of violation is not complied with promptly, the
8 building official shall request the Town Attorney to institute the appropriate proceedings
9 at law or in equity to restrain, correct, or abate such violation, or require the removal or
10 termination of the unlawful occupancy of the structure in violation of an adopted code or
11 the order or direction of the building official made pursuant thereto.

12 D. Stop Work Orders. Upon notice (sometimes referred to as a “stop work order”) from the
13 building official, any work being done contrary to the provisions of an adopted code or in
14 a dangerous or unsafe manner shall immediately cease. Such notice shall be in writing
15 and shall be given to the owner of the property, or to the owner’s agent, or to the person
16 doing the work; however, if neither the property owner, the owner’s agent nor the person
17 doing the work is present at the time the building official goes to serve the notice the
18 notice may be served by posting the notice in a conspicuous place on the property for
19 which the permit was issued. The notice shall state the conditions under which work is
20 authorized to resume. Where an emergency exists, the building official shall not be
21 required to provide a written notice prior to stopping work. Any person who shall
22 continue to work in or about the structure after having been served with a stop work
23 order, except such work as that person is directed by the building official to perform to
24 remove a violation or unsafe condition, shall be liable to pay an administrative fine equal
25 to three times the normal permit fee.

26 E. Abatement of Violation. The imposition of penalties as provided in this Chapter shall not
27 preclude the Town Attorney from instituting appropriate action to prevent the unlawful
28 construction or to restrain, correct or abate a violation of an adopted code, or to prevent
29 the illegal occupancy of a building, structure, or premises, or to stop an illegal act,
30 conduct, business or utilization of the improvements constructed upon any premises.

31 F. Building Code Board of Appeals. The Board of Appeals created pursuant to Chapter 3 of
32 Title 2 of this code shall provide for the final interpretation of the provisions of the
33 adopted codes and hear appeals concerning the interpretation of the adopted codes. The
34 procedures for the holding of hearings on appeals concerning the interpretation of the
35 adopted codes shall be as provided in Chapter 3 of Title 2 of this code.

36 G. Code Provision Unaffected. The following provisions of the adopted codes are not
37 affected by this Section and shall be enforceable according to their terms as provided in

BUILDING CODES ORDINANCE

1 the adopted codes:

- 2 1. Section 108.7, including subsections 108.7.1, 108.7.2 and 108.7.3 of the
3 International Mechanical Code;
- 4 2. Section 108.7, including subsections 108.7.1, 108.7.2 and 108.7.3 of the
5 International Plumbing Code;
- 6 3. Section 1002.7 of the ICC Electrical Code – Administrative Provisions;
- 7 4. Section 108.7, including subsections 108.7.1, 108.7.2 and 108.7.3 of the
8 International Fuel Gas Code; and
- 9 5. Section 401 and Chapter 5 of the Uniform Code for the Abatement of Dangerous
10 Buildings.

11 8-1-15: PENALTIES:

- 12
- 13 A. General: It is unlawful and an infraction for any person to violate any of the provisions
14 of the Chapter, or any provision of a code adopted by reference by this Chapter. Any
15 person who violates any provision of this Chapter or any provision of a code adopted by
16 reference by this Chapter shall, upon a determination of liability, be punished as provided
17 in title 1, chapter 4 of this code. Each such person shall be liable for a separate offense for
18 each and every day during any portion of which any violation of any of the provisions of
19 this Chapter or a code adopted by reference by the chapter is committed, continued or
20 permitted by such person and such person shall be punished accordingly.
- 21 B. Injunctive Relief: In addition to other remedies available to the Town, the Town may
22 commence an action in a court of competent jurisdiction to enjoin the alleged violation of
23 any provision of this Chapter, or to authorize and compel the removal, termination or
24 abatement of such violation.
- 25 C. Additional Remedies: Any remedies provided for in this Chapter shall be cumulative and
26 not exclusive, and shall be in addition to any other remedies provided by law.

27 8-1-16: CODE COPIES: At least one copy of the codes adopted by reference in this Chapter,
28 each certified to be a true copy, has been and is now on file in the office of the Town Clerk and
29 may be inspected by any interested person between the hours of nine o'clock (9:00) A.M. and
30 five o'clock (5:00) P.M., Monday through Friday, holidays excepted.

31
32 8-1-17: LIABILITY: The adoption of this Chapter and the codes provided for herein shall not
33 create any duty to any person with regard to the enforcement or non-enforcement of this Chapter
34 or said codes. No person shall have any civil liability remedy against the Town or its officers,

BUILDING CODES ORDINANCE

1 employees or agents, for any damage arising out of or in any way connected with the adoption,
2 enforcement or non-enforcement of this Chapter of said codes. Nothing in this Chapter or in said
3 codes shall be construed to create any liability or to waive any of the immunities, limitations on
4 liability or other provisions of the Colorado Governmental Immunity Act, section 24-10-101 et
5 seq., C.R.S, as amended from time to time, or to waive any immunities or limitations on liability
6 otherwise available to the Town, or its officers, employees or agents.

7
8 Section 2. Except as specifically amended, the Breckenridge Town Code, and the various
9 secondary codes adopted by reference therein, shall continue in full force and effect.

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

14 Section 4. The Town Council finds, determines and declares that it has the power to
15 adopt this ordinance pursuant to: (i) Section 31-15-601, C.R.S.; (ii) Section 5.13 of the
16 *Breckenridge Town Charter*; and (iii) the powers granted to home rule municipalities by Article
17 XX of the Colorado Constitution.

18 Section 5. This ordinance shall be published and become effective as provided by Section
19 5.9 of the *Breckenridge Town Charter*; provided, however, that the portions of this ordinance
20 providing for the adoption of the National Electrical Code, 2014 Edition, shall not become
21 effective unless and until the National Electrical Code, 2014 Edition, has been adopted by the
22 State of Colorado. The portions of this ordinance providing for the adoption of the National
23 Electrical Code, 2014 Edition, shall become effective within the Town of Breckenridge on the
24 same date that the adoption of the National Electrical Code, 2014 Edition, by the State of
25 Colorado becomes effective. Until such time as the adoption of the National Electrical Code,
26 2014, edition becomes effective, the National Electrical Code, 2008 Edition, as adopted by
27 Ordinance No. 19, Series 2008, shall continue in full force and effect.

28 INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED
29 PUBLISHED IN FULL this ____ day of _____, 2014. A Public Hearing shall be held at the
30 regular meeting of the Town Council of the Town of Breckenridge, Colorado on the ____ day of
31 _____, 2014, at 7:30 P.M., or as soon thereafter as possible in the Municipal Building of the
32 Town.
33
34

BUILDING CODES ORDINANCE

TOWN OF BRECKENRIDGE, a Colorado
municipal corporation

By _____
John G. Warner, Mayor

ATTEST:

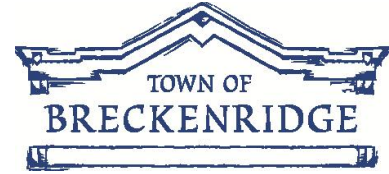
Helen Cospolich
Town Clerk

**COPIES OF THE CODES TO BE ADOPTED BY REFERENCE PURSUANT TO THIS
ORDINANCES AND AMENDMENTS ARE AVAILABLE FOR INSPECTION AT THE
OFFICE OF THE TOWN CLERK BETWEEN THE HOURS OF NINE O’CLOCK (9:00)
A.M. AND FIVE O’CLOCK (5:00) P.M., MONDAY THROUGH FRIDAY, HOLIDAYS
EXCEPTED.**

**NONE OF THE PENALTY PROVISIONS OF THE ADOPTED CODES WERE
ADOPTED BY REFERENCE IN THIS ORDINANCE.**

500-355\2012 Building Codes Ordinance_2 (01-20-14)

BUILDING CODES ORDINANCE



MEMORANDUM

To: Mayor and Town Council Members
Cc: Town Manager, Assistant Town Manager
From: Director of Communications
Date: January 22, 2014 (*for January 28th meeting*)
RE: BMAC dissolution

In August of 2010, Council passed on second reading an ordinance establishing the Breckenridge Marketing Advisory Committee (BMAC) to assist in marketing, advertising and promoting the community as a year round resort.

With the positive vote of the BRC membership to reform the structure of the BRC Board, and with the establishment of a new GoBreck Board, the Council has indicated to staff that there is no longer a need for BMAC, and have provided direction to staff to dissolve the committee.

The following is an ordinance from the Town Attorney to repeal the section in the Town Code that authorizes the creation of this permanent advisory board, and therefore will dissolve BMAC.

Thank you.

1 ***FOR WORKSESSION/FIRST READING – JAN. 28***

2
3
4 COUNCIL BILL NO. ____

5
6 Series 2014

7
8 AN ORDINANCE REPEALING CHAPTER 6 OF TITLE 2 OF THE BRECKENRIDGE
9 TOWN CODE CONCERNING THE “BRECKENRIDGE MARKETING COMMITTEE”

10
11 WHEREAS, Section 9.5 of the *Breckenridge Town Charter* authorizes the Town Council
12 to create by ordinance such boards and commissions as the Town Council shall deem to be
13 necessary; and

14
15 WHEREAS, the Town Council has previously adopted Chapter 6 of Title 2 of the
16 Breckenridge Town Code creating a permanent advisory board called the “Breckenridge
17 Marketing Committee,” commonly known and referred to as “BMAC”; and

18
19 WHEREAS, the individuals who have served on BMAC throughout the years have
20 worked diligently and conscientiously to perform those duties and responsibilities assigned to
21 BMAC in Section 2-6-5 of the Breckenridge Town Code; and

22
23 WHEREAS, BMAC is not a board required to exist by state statute or the *Breckenridge*
24 *Town Charter*; and

25
26 WHEREAS, Section 9.5 of the *Breckenridge Town Charter* authorizes the Town Council
27 to abolish any Town board or commission that is not required to exist by state statute or the
28 *Breckenridge Town Charter*; and

29
30 WHEREAS, the Town Council finds and determines that BMAC should be abolished;
31 and

32
33 WHEREAS, the Town Council wishes to express its sincere gratitude to all of the
34 individuals who have served on BMAC throughout its existence, and who have given their time
35 and effort without compensation to help shape the current and future economy of the Town of
36 Breckenridge.

37
38 NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF
39 BRECKENRIDGE, COLORADO:

40
41 Section 1. Chapter 6 of Title 2 of the Breckenridge Town Code is repealed.

42
43 Section 2. Except as specifically amended hereby, the Breckenridge Town Code, and the
44 various secondary codes adopted by reference therein, shall continue in full force and effect.

45
46 Section 3. The Town Council hereby finds, determines and declares that it has the power

1 to adopt this ordinance pursuant to the authority granted to home rule municipalities by Article
2 XX of the Colorado Constitution and the powers contained in the *Breckenridge Town Charter*.

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

6
7 INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED
8 PUBLISHED IN FULL this ____ day of _____, 2014. A Public Hearing shall be held at the
9 regular meeting of the Town Council of the Town of Breckenridge, Colorado on the ____ day of
10 _____, 2014, at 7:30 P.M., or as soon thereafter as possible in the Municipal Building of the
11 Town.

12
13 TOWN OF BRECKENRIDGE, a Colorado
14 municipal corporation

15
16
17
18 By _____
19 John G. Warner, Mayor
20

21 ATTEST:

22
23
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25 _____
26 Helen Cospolich
27 Town Clerk
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Memo



To: Breckenridge Town Council
From: Helen Cospolich, Municipal Services Manager
CC: Tim Berry, Town Attorney
Date: 1/23/2014
Subject: Mail Ballot Resolution

Regarding the Mail Ballot Resolution presented at this meeting, it has been brought to the attention of Town Staff that the current Municipal Election Code (Title 31 C.R.S) is in conflict with the Mail Ballot Election Code (Title 1, Article 7.5 C.R.S.). Legislation introduced on January 21, 2014, and titled HB 14-1164, is intended to resolve this conflict, although the timeline for the bill has yet to be determined. Despite the challenges, staff has found solutions to each of these issues raised below.

The current additional requirements of the Mail Ballot Election Code can be summarized in the following points:

1. Establishes requirement for voter service centers based on the number of registered electors in the County. *Breckenridge will only need one Voter Service Center (at Town Hall), so this is not an issue.*
2. Voter service centers must be open eight (8) days prior to the election, including the Saturday before the election. *This is possible with additional election judges.*
3. Onsite voter registration is required at Town Hall via the SCORE database system. *Staff is working with the County Clerk and Recorder to address access issues with this system.*
4. Requires one stand-alone ballot drop-off location, located separately from the voter service centers. *It would be possible to have this drop-off location at the County Building.*

While the present conflict between the codes may cause some additional work for Town Staff in a mail ballot election if it is not resolved by legislation this month, choosing this type of election may relieve some of the general confusion surrounding who receives mail ballots. As the County now conducts ONLY mail ballot elections, staff anticipates confusion among the public if a polling place election is chosen. Also, the "Permanent Mail-In Voter" designation was eliminated with the changes to the Mail Ballot Election Code in 2013, so citizens who would like to receive a ballot in the mail would need to request it prior to the election if Breckenridge conducted a polling place election. This could lead to increased time and cost for staff.

Both Silverthorne and Frisco have opted for mail ballot elections, while Dillon will continue with a polling place election in April. Staff recommends Breckenridge also conduct a mail ballot election, as it is likely HB 14-1164 will resolve the conflicts in code listed above prior to April 1st. If not, the solutions provided are sufficient to ensure the integrity of this election. Also, a mail ballot election will cause less confusion amongst voters who may now expect to receive mail ballots. Staff will be present at the meeting to answer any questions you may have.

1 A RESOLUTION

2
3 SERIES 2014

4
5 A RESOLUTION DETERMINING THAT THE APRIL 1, 2014 REGULAR TOWN
6 ELECTION SHALL BE A MAIL BALLOT ELECTION

7
8 WHEREAS, Section 1-7.5-104(1), C.R.S., and Section 1-12-10 of the Breckenridge
9 Town Code authorize the Town Council, by resolution, to determine that any municipal election
10 shall be conducted as a mail ballot election; and

11
12 WHEREAS, the Town Council determines that the regular Town election to be held on
13 Tuesday, April 1, 2014 shall be conducted as a mail ballot election.

14
15 NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF
16 BRECKENRIDGE, COLORADO, as follows:

17
18 Section 1. The regular Town election to be held on Tuesday, April 1, 2014 shall be
19 conducted as a mail ballot election.

20
21 Section 2. The mail ballot election to be held on Tuesday, April 1, 2014, shall be
22 conducted under the supervision of the Colorado Secretary of State and pursuant to the rules for
23 mail ballot elections promulgated by the Colorado Secretary of State.

24
25 Section 3. The mail ballot election to be held on Tuesday, April 1, 2014, shall be held in
26 accordance with the Colorado Municipal Election Code of 1965 and the Uniform Election Code
27 of 1992.

28
29 Section 4. This resolution shall become effective upon its adoption.

30
31 RESOLUTION APPROVED AND ADOPTED this ___ day of ___, 2014.

32
33 TOWN OF BRECKENRIDGE

34
35
36 By _____
37 John G. Warner, Mayor

38
39 ATTEST:

40
41
42 _____
43 Helen Cospolich
44 Town Clerk



MEMORANDUM

To: Mayor and Town Council Members
From: Rick Holman, Assistant Town Manager
Date: January 22, 2014 (*for January 28th meeting*)
RE: Resolution to support Federal Action for Marijuana Banking Industry

At the January 14th Town Council meeting, the Council expressed their desire to follow suit with the City and County of Denver in supporting access to financial institutions for legal marijuana businesses in the State of Colorado. On January 6, 2014 the Denver City Council passed a proclamation proclaiming this support and calling for swift federal action to provide clarity and guidance to financial institutions.

Attached is a resolution that has been prepared for the Town Council to consider. Resolutions are an appropriate tool to be used to make policy statements or support an action. Resolutions require a majority approval from the Council versus a Mayoral Proclamation which can be done by the Mayor without a vote of the Council.

This proposed resolution mirrors the proclamation passed by the Denver City Council. It calls for the federal government to issue a statement providing clarity and guidance to federally regulated financial institutions which would allow them to provide services to legal marijuana businesses in Colorado. The current “cash only” business model creates risks to public safety and makes it more difficult for the industry and municipalities to comply with ordinary tax and accounting business practices.

If Council approves this resolution, staff will circulate copies to those individuals/agencies identified in Section 3.

1 ***FOR WORKSESSION/ADOPTION– JAN. 28th***

2
3 RESOLUTION NO. ____

4
5 Series 2014

6
7 A RESOLUTION SUPPORTING FEDERAL ACTION TO PROVIDE GUIDANCE FOR
8 BANKING AND OTHER FINANCIAL INSTITUTIONS TO SERVE LEGAL MARIJUANA
9 BUSINESSES

10
11 WHEREAS, following successive constitutional amendments enacted by the voters of
12 Colorado to legalize both medical and recreational marijuana, the Town of Breckenridge has
13 been a leader in the proactive and responsible regulation of the production and sale of legal
14 marijuana; and

15
16 WHEREAS, the Town of Breckenridge is now home to new marijuana businesses that
17 have invested in business space, hired new employees, and generated thousands of dollars in new
18 revenue; and

19
20 WHEREAS, on August 29, 2013 the US Department of Justice issued what has become
21 known as the “Cole Memo” to guide federal prosecutors and enforcement officers involving the
22 contradictions for drug enforcement in those states where there is legal marijuana use; and

23
24 WHEREAS, while the “Cole Memo” provides much-needed clarity and guidance for
25 state and local governments to regulate the production, sale, and consumption of legal marijuana,
26 no comparable federal document has been issued to provide clarity or guidance for private
27 financial institutions on how they can work with these same legal marijuana businesses; and

28
29 WHEREAS, this lack of federal guidance to financial institutions has forced Colorado’s
30 legal marijuana industry to function without the ordinary banking and financial services available
31 to any other business, and has placed this rapidly growing sector on a cash-only footing; and

32
33 WHEREAS, this cash-only footing of Colorado’s legal marijuana industry makes it more
34 difficult to duly comply, not only with state and local regulations, but also with ordinary tax,
35 accounting, employment, and other business regulations; and

36
37 WHEREAS, forcing Colorado’s legal marijuana industry to operate on a cash-only
38 footing creates heightened risks of marijuana businesses and customers becoming targets of
39 crime, and of criminal elements seeking to become involved in the marijuana industry; and

40
41 WHEREAS, the Breckenridge Town Council has repeatedly expressed its concern and
42 dismay over the cash-only footing on which Colorado’s legal marijuana industry has been forced
43 to take as a consequence of federal inaction.

44
45 NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF
46 BRECKENRIDGE, COLORADO, as follows:

MEMORANDUM

To: Town Council

From: Peter Grosshuesch, Director of Community Development

Date: January 22, 2014

Re: Planning Commission Decisions of the January 21, 2014, Meeting.

DECISIONS FROM THE PLANNING COMMISSION AGENDA OF January 21, 2014:

CLASS C APPLICATIONS:

None.

CLASS B APPLICATIONS:

1) Breck Laundry Cabin Improvements (MM) PC#2013115, 105 South French Street

Remove the existing noncompliant roof and lower walls of the upper level and replace them with historically compliant designs; restore the historic logs on the lower level; install new windows and exterior materials that are historically compliant on the upper level; slightly reduce overall density; install new entry door to the east elevation lower level. Approved.

CLASS A APPLICATIONS:

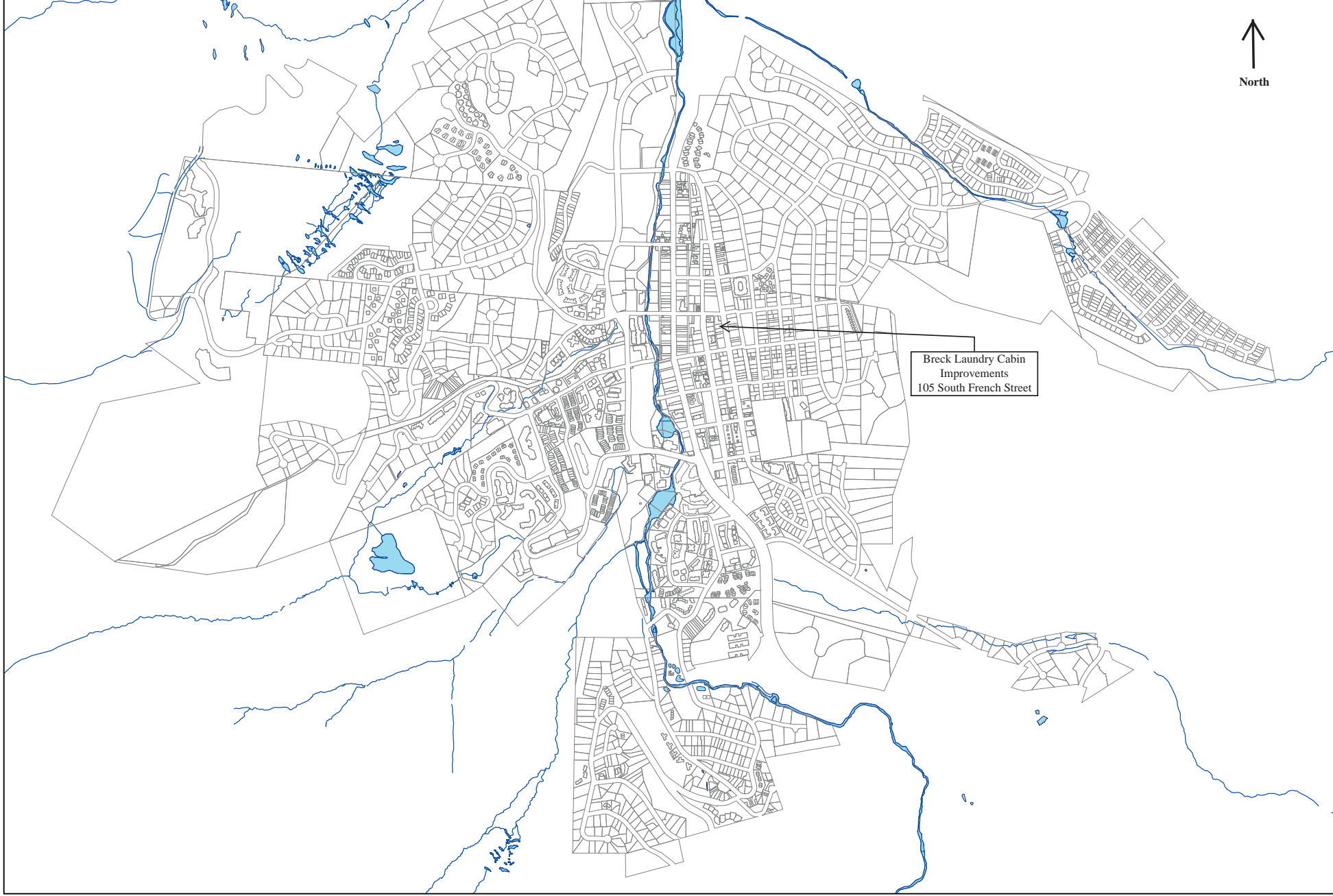
None.

TOWN PROJECT HEARINGS:

None.

OTHER:

None.



not to scale

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

Eric Mamula Trip Butler Gretchen Dudney
Dan Schroder Kate Christopher
Dave Pringle
Jim Lamb and Jennifer McAtamney, Town Council Liaison, were absent.

APPROVAL OF AGENDA

The January 21, 2014 Planning Commission meeting agenda was approved unanimously (6-0).

APPROVAL OF MINUTES

With no changes, the January 7, 2014, Planning Commission Minutes were approved as presented.

WORKSESSIONS:

1) Code Amendments: Temporary Structures

Ms. Puester presented. The existing Temporary Structures policy is rarely used in its existing form. For example the Breckenridge Ski Resort sprung structure building and Beaver Run Resort summer event tent are regularly occurring development permits for temporary structures which have been approved year after year and do not meet the policy. Staff rarely sees a temporary structure proposed which meets the current policy of only being permitted as a replacement use when a building permit is active on site hence, requiring variances and/or development agreements. Therefore, staff would like the Planning Commission to consider modifications to the policy that would address what is needed to meet common occurrences in town to avoid having to process variances and development agreements.

Commissioner Questions / Comments:

- Ms. Dudney: How would we address sprung structures and Beaver Run? (Ms. Puester: Just an example. Code allows 2 years now but the code change would allow 3 years. Beaver Run tent is not permanent but goes up each summer. With the proposed code amendment, the Planning Commission is given discretion to determine if a temporary structure is appropriate. We would not have to grant a variance, hard to meet criteria.)
- Mr. Pringle: Question about tent at La Cima. (Ms. Puester: Permitted through separate special events process.)
- Mr. Mamula: Beaver Run puts up a tent that allows them to exceed density. Concerned other businesses could tent over their deck. It seems there is some precedent being set. A variance makes this more difficult to do. Bubba Gump tried to cover their patio in winter, in essence creating more density. (Mr. Grosshuesch: To clarify, as drafted this code amendment would only allow this outside the Historic District. Our thought is let's fix this and keep them out of the Historic District. The way it's currently written, it's almost impossible to approve and difficult to meet the variance criteria with a straight face.) It would be nice to have some criteria for this new approval process. (Ms. Puester: Uses are proposed to be allowed, such as retail and commercial uses, which previously were not allowed. This is what we see in reality.)
- Mr. Butler: Questions on greenhouse? (Mr. Grosshuesch: Allows parking spaces to be used but only until busy season on July 1. You could put reasonable conditions on approval, such as we could approve for shorter time period, so we are not locked into a three year approval.)
- Mr. Jeff Zimmerman (Vail Resorts): Clarification, this is just a work session. Would like to think about the different permutations and how it might affect Vail Resorts. I'd like to talk with Ms. Puester

some on this after I've considered it some more. As a citizen, I support not allowing in Historic District.

- Mr. Pringle: How does it address 5 Hour Energy guy in plaza, throwing up a tent? (Ms. Puester: Not sure he has been authorized, unless with special event.) (Mr. Mamula: Believes he has a special event permit.) There is still a need to allow some things that a major resort needs like sprung structures or tents.
- Ms. Dudney: I'm fine with it as proposed.
- Mr. Schroder: I'm also good with it.
- Mr. Mamula: I'm ok with it. See how it works. I like that it takes it out of the Conservation District and out of the variance criteria.

The Planning Commission recommended Staff go forward to Town Council with this.

2) Code Amendments: Policy 80A Connectors

Ms. Puester presented. The Planning Commission and staff have voiced concerns with priority policy 80A regarding the existing language, "*The height of the connector should be clearly lower than that of the masses to be linked. In general, the ridge line of the connector should be at least two feet less than that of the original, principal mass.*" Two feet has been taken literally, even in the cases where the principal mass reads as two stories, resulting in tall connector elements which closely resemble the principal structure massing. As a product, we see an unnatural appearance of an overall large mass out of character with the Historic District. The modification proposed would limit connector elements to one story in height. The modification would limit the connector element to one story.

Commissioner Questions / Comments:

- Mr. Schroder: For clarification, if one story is the primary structure, then the connector still needs to be two feet lower? (Staff: Yes.) (Mr. Grosshuesch: Ridge height would be lower because connector is not as wide as the primary structure.)
- Mr. Butler: Add "the" in third bullet. (Ms. Puester: Will do, typo.)
- Mr. Mamula: The way it reads to me now, it's only for new additions to historic structures; we need to add new (module) to new module. (Mr. Mosher: Have talked to Mr. Berry in the past about that and he reads it as you are hoping it does.) (Ms. Puester: We can clarify it.)
- Mr. Pringle: With connectors it sometimes looks like a lot more going on than just connecting modules. I'm concerned because sometimes I'm confused at what is the connector. Not sure about one story in all cases; it may be too confining. It needs to clearly operate as connector. (Mr. Grosshuesch: To provide some history on the policy, when it was originally developed, we recognized that if we simply allowed projects to go to 9 UPA we would get larger structures than were historically found. The compromise was to allow modules to be created and allow connectors. Once you go to two stories with the connector it starts to read as one large module. Probably our most important issue to retain character is keeping down the mass in Historic District.)
- Ms. Christopher: Decks, etc. on the connector create confusion.
- Ms. Dudney: What is the effect on existing projects? (Ms. Puester: This would not affect existing or any projects in process. If application lies idle for six months new rules may apply.)
- Ms. Janet Sutterley, Architect: I don't think limiting to one story is the answer. It has to do with proportions. The length of the connector is a bigger concern. If it's a real short connector then just bringing down the height may not address issue. Don't have a specific answer.
- Mr. Mamula: Language says length must be half of primary structure, doesn't that address the issue? The Problem is we are getting large masses connecting buildings. Perhaps we say connector needs to be one-half story lower. Still my vote would be for one story connectors. What we shouldn't do is use two feet as the minimum, it's not enough.

- Ms. Dudney: Connectors, functionally hard to justify only a hallway in connector. May not be most efficient use of building. What about a half story difference? We may not need to have as dramatic a difference as one story. (Ms. Puester: The Code defines one story as 13 feet.) Sketch it out and decide what is the right number.
- Ms. Christopher: Historically there were not two story connectors. I feel a one story connector is appropriate. Not sure one and a half story works.
- Ms. Sutterley: Within 13 feet, could you still have a second floor if you could fit it? Planning Commission pretty much okay with that if height is kept down.
- Mr. Butler: I'm good with one story.
- Mr. Schroder: One story is fine.
- Mr. Mamula: If we go with proportionally instead of one story, we need some mathematical formula to proportion connector to the primary modules and it needs to be off of the smaller module not the larger one.

Ms. Puester indicated they would bring some options on the connector back to the Planning Commission to discuss a one story element versus something proportional with design limitations.

3) Code Amendment Worksession: Condo-Hotels

Ms. Puester presented. The condo-hotel topic has been on the Planning Commission Top Ten list for 2013 and 2014. In October 2013, the Planning Commission held a Retreat which included visiting various condo-hotels in Town. On November 12, a joint worksession was held between the Commission and Town Council where they discussed a potential code revision related to 1) existing small condo-hotel conversion of vacant spaces and 2) new small versus large condo-hotel amenity bonus and density multipliers. The purpose of this memo is to discuss policy options.

Staff would like to proceed with a policy allowing units formerly used as 24 hour check in desks and meeting facilities to be converted on a case by case basis for deed restricted units. Staff is proposing a Development Agreement because not all of these vacated spaces may make desirable deed restricted units and we would like there to be the ability to be flexible with the determination and requirements. Would the Commission support staff drafting code language taking this direction for deed restricted units? Are there specifics the Commission would like included?

In addition to allowing conversions for deed restricted housing, staff would also like to explore the concept of allowing the conversion if a portion of the revenue from the sale would result in energy audits and possible energy improvements to the existing structures. Would the Commission support staff drafting code language taking this direction for energy audits? Are there specifics the Commission would like included?

After researching existing condo-hotels and having conversations with those in the condo-hotel industry, the general consensus has been that the existing definition of condo-hotel in the Development Code is still valid. However, staff acknowledges that there are issues as demonstrated in the topic above with small condo-hotels being able to realistically function as a condo-hotel and fit the definition over the long term.

Staff would like to have the Commission input on modifying the definition of condo-hotels to be applicable to those projects with a minimum of 50 units. Staff would also like to explore requiring a covenant to be recorded against the property that if a condo-hotel is converted to a use which would require more density, (i.e. condominium without the hotel function) the property owner would be required to pay the difference of the bonus received under condo-hotel multiplier, plus any new use required square footage via transfer of development rights (TDRs). Does the Commission support modifying the condo-hotel definition to establish a minimum threshold of 50 units in order to qualify as a condo-hotel and therefore be entitled to the density bonus? Would the Commission support the covenant recordation requirement?

Staff would like to get Planning Commission direction to return to the Planning Commission at a worksession with draft revisions to the appropriate policies.

Condo hotels get density bonus compared to condos. Definition of condo hotel requires 24 hour desk, phone service, etc. On existing space conversions, we looked at Tyra at your October retreat. Spaces were not functioning anymore. What to do with existing spaces? Propose on case by case basis to allow them to be converted to deed restricted units. Propose it would be done through a development agreement. Does the Commission agree with this approach?

Commissioner Questions / Comments:

Mr. Pringle: How many existing condo-hotels could come in and request a conversion? (Ms. Puester: Maybe a dozen; not sure how many have vacant spaces.) Why can't we force people to keep the condo-hotel amenities as they were required? That's the deal we made with them. (Mr. Grosshuesch: Probably does not make sense to require 24 hour desk and phone service anymore with these smaller projects. You can't have a centralized desk when you have 13 different property management companies on a property. The state CIOWA Statute established that we cannot require units to stay under one management company.)

Ms. Christopher: I see empty space not being used, why not put it to good use?

Mr. Schroder: Town gains by having spaces used as employee housing.

Ms. Dudney: They can't be for-sale units. We need to protect the occupants from HOA assessments. They should be rentals.

Mr. Butler: I agree with a deed restriction.

Mr. Mamula: OK with deed restriction, but need rental criteria like Ms. Dudney says, and no conversion down the road for TDRs, etc. In town, on bus routes, this would be valuable employee housing; don't swap it out for something else. Needs to be rental units so that a deed restricted owner does not get stuck with an assessment.

The Planning Commission overall all agreed with a deed restriction with the exception of Mr. Pringle.

Ms. Puester: Regarding energy audits proposed to be required; does the Commission support?

Mr. Mamula: Energy audits may not result in anything. Would rather have money go to affordable housing. Homeowners may not go for energy improvements. I am very against these units being for sale. (Mr. Grosshuesch: To the extent we can get these leaky buildings fixed, it's a good thing.) (Mr. Truckey: If they perform an audit and the HOA is looking at a remodel, they can use information from audit to do some energy upgrades.)

The Planning Commission was okay with requiring energy audit.

Ms. Puester: We looked at 50 units as the cutoff, not considered a condo-hotel; lack of critical mass to make it work. Would like Planning Commission opinion on that. Also input on a proposed covenant; if a condo-hotel ever proposes converting to space that requires more density, they would have to pay for it out of TDR bank. You would also have to provide more parking per code depending on the use proposed.

Ms. Dudney: Where did 50 units come from? (Ms. Puester: Based on developed projects.)

Mr. Pringle: Breck Inn operates like a hotel and it's less than 50 units. Make sure we can force people to actually operate as hotel. I think that it was processed as a condohotel. (Ms. Puester: Not sure, under one ownership. We will look at it.)

Mr. Mamula: Don't give density for providing meeting space, because it ends up as storage. (Ms. Puester: In talking to larger condo-hotels, they say they need 24 hour desk and phone and food

service. So we think the definition is still valid. There has also been a lot of discussion regarding needing quality amenities and square footage to attract hot beds.)

The Planning Commission was okay with going this route with 50 units as cutoff. Stress amenities a little more in policy.

Mr. Pringle: How do we make them really run as a hotel?

Mr. Mamula: Smaller hotels with homeowners may decide not to rent but larger with 50 homeowners would be hard to limit to no rentals, so I like the 50 unit cutoff. (Mr. Grosshuesch: Major thrust is we don't believe smaller condo hotel properties can really operate as hotel so we don't want to give them the density bonus anymore.)

Ms. Dudney: Think that we should emphasize amenities more. (Ms. Puester: Will alter Policy 24 (a) around to do that.)

Mr. Schroder: Amenities seem to be key to this issue. Ok with the limit.

Ms. Christopher opened the worksession to public comment.

Mr. Larry Raymond, Base 9 Condos on Broken Lance Drive: We have residential space sitting empty that we would like opportunity to convert to deed restricted housing and we are willing to do an energy audit. We have an empty clubhouse that we could convert to an employee unit. Would be happy to say we would never sell it. We are a condo, not condo-hotel. Maybe consider opening this provision up for other condo projects.

Mr. Rich Smith, Base 9 Condos. Don't make it so expensive (e.g., TDR costs on top of other costs). Energy audits do work. Lots of low hanging fruit out there. Make it easy for condos to do this type of conversion (e.g., clubhouse conversion).

There was no further comment and the worksession was closed.

TOWN COUNCIL REPORT:

Ms. Puester presented in Ms. McAtamney's absence: Council award non-profit grants. The Council reviewed the miscellaneous code amendments to address new Class D major permits throughout. They reviewed a new resolution forming the Cultural Advisory Committee. Robb Wolfe is now on board. Construction updates on Breckenridge Grand Vacations Community Building and the Arts District were provided. New marijuana laws; not a lot of trouble so far regarding violations and enforcement. Finances are great for October. Council appointed three positions to the new GoBreck Board. Appointed 6 members to Childcare Advisory Board. The Council reviewed the SustainableBreck Annual Report. Mark Burke announced he is running for Council again.

COMBINED HEARINGS:

1) Breck Laundry Cabin Improvements (MM) PC#2013115, 105 South French Street

Mr. Mosher presented. This remodel and rehabilitation only affects the cabin in the rear (west end) of the property. The applicants propose to remove the existing noncompliant roof and lower walls of the upper level and replace them with historically compliant designs. The historic logs on the lower level will be restored. The upper level will receive new windows and exterior materials that are historically compliant. There is a slight reduction in overall density. The interior will have two bedrooms and three bathrooms. The existing west facing deck will remain unchanged. A new entry door will be added to the east elevation on the lower level.

Staff advertised this application as a combined Preliminary and Final hearing. Staff felt that the issues involved in the proposed project were such that no useful purpose would be served by requiring two separate

hearings. If the Planning Commission believes this application warrants further discussion, Staff asked that it be continued to a future public hearing.

Staff had no specific questions for the Commission; however, any comments or questions were welcomed.

The Planning Department recommended approval of the presented Point Analysis for the Breck Laundry Cabin Improvements, PC#2013115, 105 South French Street. Staff also recommended the Commission approve the Breck Laundry Cabin Improvements, PC#2013115, 105 South French Street, with the presented Findings and Conditions.

The project is losing 44 square feet in density with the remodel. Nonconformity is being reduced.

Commissioner Questions / Comments:

Ms. Dudney: How is fire protection provided? (Mr. Mosher: The shared driveway must be kept clear for access.)

Mr. Mamula: I like that it helps bring the site more in compliance with our Code and Historic Standards.

Ms. Christopher opened the hearing to public comment. There were no comments and the hearing was closed.

Mr. Schroder made a motion to approve the point analysis for the Breck Cabin Laundry Improvements, PC#2013115, 105 South French Street. Mr. Mamula seconded, and the motion was carried unanimously (6-0).

Mr. Schroder made a motion to approve the Breck Cabin Laundry Improvements, PC#2013115, 105 South French Street, with the presented Findings and Conditions. Mr. Mamula seconded, and the motion was carried unanimously (6-0).

OTHER MATTERS:

The Saving Places conference is coming up February 5-7.

ADJOURNMENT:

The meeting was adjourned at 9:50 p.m.

Kate Christopher, 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.

JANUARY 2014

Tuesday, January 21 – Saturday, January 25, 2013 Budweiser International Snow Sculpture Championships

Tuesday, January 28, 2014; 3:00/7:30 pm Second Meeting of the Month

FEBRUARY 2014

Tuesday, February 11, 2014; 3:00/7:30 pm First Meeting of the Month

Friday, February 14, 2014; 8:00-9:00 am; Cuppa Joe Coffee Talk

Tuesday, February 25, 2014; 3:00/7:30 pm Second Meeting of the Month

MARCH 2014

Tuesday, March 11, 2014; 3:00/7:30 pm First Meeting of the Month

Friday, March 14, 2014; 8:00-9:00 am; TBD Coffee Talk

Tuesday, March 25, 2014; 3:00/7:30 pm Second Meeting of the Month

APRIL 2014

Tuesday, April 1, 2014; 7 am- 7 pm Municipal Election Day

Tuesday, April 8, 2014; 3:00/7:30 pm First Meeting of the Month

Friday, April 18, 2014; 8:00-9:00 am; TBD Coffee Talk

Tuesday, April 22, 2014; 3:00/7:30 pm Second Meeting of the Month

OTHER MEETINGS

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

TO: Town Council
FROM: Open Space Staff
DATE: January 22, 2014 (for January 28, 2014 meeting)
SUBJECT: Memo Only: Colorado Super Chair Upgrade (U.S. Forest Service referral)

Attached, please find a referral letter from the U.S. Forest Service regarding a proposed upgrade of the Colorado Super Chair on the Breckenridge Ski Resort (BSR). The project will involve replacing the current four-person chair with a new six-person chair, with construction occurring in summer 2014.

Also, attached is a response letter for the Council's review and Mayor Warner's signature. The content of the Town's letter was largely derived from BOSAC's January 20, 2014 discussion of the proposal, which was also attended by BSR representative Jeff Zimmerman.

This topic is intended as a memo only update for Town Council. Please contact the open space staff with any questions or concerns.



File Code: 2720/1950

Date: January 8, 2014

Dear Interested Party,

The Dillon Ranger District of the White River National Forest is seeking comments as part of a scoping process in consideration of approving the project listed below. The project is proposed by Breckenridge Ski Resort for implementation during this summer construction season. This letter also serves to notify and invite public comment on the proposal as stipulated in 36 CFR 800.3 of the National Historic Preservation Act.

Purpose and Need

The purpose of the proposed project at Breckenridge is to improve the skiing experience for guests at the resort while improving the efficiencies of on-mountain infrastructure.

Proposed Action

Breckenridge proposes to replace the Colorado Superchair at the base of Peak 8 with a higher capacity chair. The proposed replacement lift would be a six-person, detachable lift with an uphill capacity of 3,600 guests per hour. The current capacity of the Colorado Superchair is 2,800 guests per hour. The proposed liftline would not change from its current alignment. Final engineering will determine the amount of trees to be cut and removed. However, since most of the liftline is in existing ski runs, only minimal tree removal is expected.

Implementation of this project is anticipated for the 2014 summer construction season.

Environmental Analysis

Based on resource information gathered to date, I believe these projects fall within a Forest Service category of actions under 36 CFR 220.6 that may be excluded from documentation in either an environmental assessment (EA) or an environmental impact statement (EIS) and that no extraordinary circumstances exist that would preclude its use. Scoping comments (Forest Service specialists and public comments) along with a complete resource analysis will determine whether this project can be categorically excluded. This proposal is consistent with category 36 CFR 220.6(e)(3): "*Approval, modification or continuation of minor special uses of National Forest System lands that require less than five contiguous acres of land.*"

How to Comment and Timeframe

This comment period coincides with public scoping and will be the only comment opportunity offered on this project (see 36 CFR 215.5 and 215.6). This comment period is intended to provide those interested in or affected by this proposal an opportunity to comment on the proposed action before the Responsible Official makes a decision.

Written, facsimile, hand-delivered, and electronic comments concerning this action will be accepted for 30 calendar days following publication of a legal notice in the *Glenwood Springs Post Independent*. The publication date in the newspaper of record is the exclusive means for



calculating the comment period for this proposal. Those wishing to comment should not rely upon dates or timeframe information provided by any other source. The regulations prohibit extending the length of the comment period.

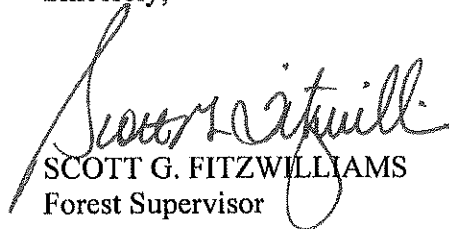
Written comments must be submitted to: Scott Fitzwilliams, Forest Supervisor, c/o Shelly Grail Braudis, US Forest Service, P O Box 620, Silverthorne, CO 80498. Hand-delivered comments may be submitted at the Dillon Ranger District between the hours of 8:30-4:00 Mon-Fri, excluding holidays. Electronic comments including attachments can be submitted to: <https://cara.ecosystem-management.org/Public/CommentInput?Project=43507>.

Persons commenting should include: 1) name, address, telephone number, organization represented, if any; 2) name of the proposal on which the comment is being submitted; and 3) specific facts and supporting reasons for me to consider. It is the responsibility of persons providing comments to submit them by the close of the comment period. Copies of the decision document will be mailed to those people who have submitted comments and to those who request a copy.

This comment period is provided to comply with a recent US District Court ruling in *Sequoia Forestkeeper v. Tidwell*, which invalidated certain sections of the agency's appeal regulations. Only individuals or organizations that submit comments during the comment period are eligible to appeal the decision for the project for which the comment is submitted. Appeal procedures and eligibility requirements are defined in 36 CFR 215.

For more information about this project, please call Shelly Grail Braudis at (970) 262-3484. Thank you for your interest in the management of your public lands. I look forward to hearing from you.

Sincerely,


SCOTT G. FITZWILLIAMS
Forest Supervisor

cc: Shelly L Grail, Jan Cutts



February 5, 2014

Scott Fitzwilliams, Forest Supervisor
c/o Shelly Grail
U.S. Forest Service
Dillon Ranger District
PO Box 620
Silverthorne, CO 80498

Dear Mr. Fitzwilliams:

Thank you for the opportunity to comment on the proposed upgrade of the Colorado Super Chair from a four-person to a six-person chairlift. We appreciate Jeff Zimmerman from the Breckenridge Ski Resort (BSR) attending the Town's BOSAC meeting on January 20, 2014 to help clarify questions raised by our open space citizen commissioners.

The following are the Town of Breckenridge comments regarding the proposed categorical exclusion decision:

Increasing the uphill capacity of the Colorado Super Chair may help reduce congestion in the Peak 8 base area- or at least within the Colorado Super Chair lift maze- but will also increase skier densities on the terrain served by the Colorado chair. Is there data that indicates that increased on-trail skier densities will not result in increased on-trail crowding or collisions? If not, are there mitigation measures that the ski area can undertake to alleviate these concerns?

Although the lift alignment is not slated to change, the BSR proposal lacks details regarding new excavation, amount of tree removal, or best management practices for stormwater management and erosion control. At the BOSAC meeting, Mr. Zimmerman stated that new lift towers would be necessary for the lift upgrade, but it was unclear whether the existing concrete footers could be reused for the new lift. Town staff has been in ongoing discussions with BSR about stormwater management and are primarily concerned with the multiple ski area inlets that lead to the 60-inch culvert and into Upper Cucumber Gulch Preserve, an Aquatic Resource of National Importance, according to the EPA.

Specifically, Ecometrics, the Town's water quality consultant for Cucumber Gulch Preserve, stated the following, "Sediment originates on the Peak 8 portion of the Breckenridge Ski Area and other developments upstream of CGP, and is carried to the site via Boreas Creek. We specifically recommended application of sediment Best

Management Practices on the ski area to decrease sediment stress to the wetland habitats in Cucumber Gulch.”

In 2011, at the behest of the Town of Breckenridge’s Engineering staff, BSR installed channel riprap and sediment traps uphill of four Boreas Creek inlets, with direct flows into Cucumber Gulch Preserve. To protect the Town and BSR’s investment in Cucumber Gulch Preserve, long-term monitoring and maintenance of these drainage structures is imperative. As part of this categorical exclusion decision, we recommend improved ski slope revegetation efforts and Best Management Practices at the Boreas Creek inlets to reduce turbidity and sediment load in Boreas Creek and other Blue River tributaries. Additional on-mountain drainage work and revegetation efforts would improve the health of Cucumber Gulch Preserve downstream.

Finally, the Town has previously requested BSR provide a base area plan for all of their seasonal activities, including the summer fun park improvements and the winter activities such as lift maze configurations, entertainment stage location, and skier circulation. Currently, a plan outlining all of these activities and their locations is lacking, which results in varying special event stage locations, disorganized tent villages, and circuitous temporary skier patterns. Given that BSR is planning and designing a new bottom terminal and maze configuration for this lift upgrade, this is an opportune time to finalize the ski area’s base area plan. We urge the USFS to request BSR create a base area plan to improve the management and location of the multiple events that occur at Peak 8, and then share that plan with the Town of Breckenridge.

Thank you for the opportunity to comment on this proposed lift upgrade. Please contact Scott Reid at 970-547-3155 or ScottR@townofbreckenridge.com with any questions or concerns regarding this letter.

Sincerely,

John Warner, Mayor