



BRECKENRIDGE TOWN COUNCIL WORK SESSION

Tuesday, April 08, 2014; 3:00 PM
Town Hall Auditorium

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

3:00-3:10pm	I	<u>PLANNING COMMISSION DECISIONS</u>	2
3:10-3:45pm	II	<u>LEGISLATIVE REVIEW*</u>	
		Open House Sign Ordinance	7
		Temporary Structures Ordinance	10
		Watering Restrictions Ordinance	15
		Tow Hearing Procedure Changes Ordinance	24
		Municipal Judge Appointment	28
3:45-4:15pm	III	<u>MANAGERS REPORT</u>	
		Public Projects Update	30
		Housing/Childcare Update	
		Committee Reports	34
4:15-4:45pm	IV	<u>PLANNING MATTERS</u>	
		Base 9 Condo Development Agreement	35
4:45-6:15pm	V	<u>OTHER</u>	
		Verizon Cell Tower Lease	37
		RETT Admin Rules	41
		BOSAC Interviews	56
		Mayor Pro Tem Appointment	
		Committee Appointments	

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

MEMORANDUM

To: Town Council

From: Peter Grosshuesch, Director of Community Development

Date: April 1, 2014

Re: Planning Commission Decisions of the March 31, 2014, Meeting.

DECISIONS FROM THE PLANNING COMMISSION AGENDA OF March 31, 2014:

CLASS C APPLICATIONS:

- 1) Cabin Coffee Change of Use (MGT) PC#2014018, 222 South Main Street
Change the use of the property/suite from general commercial (retail/office) use to a deli/coffee shop. Approved.
- 2) Tannenbaum II Exterior Remodel (MM) PC#2014014, 815 Columbine Road
An exterior remodel of the three primary facades of the existing condominium complex visible from Columbine Road. Approved.

CLASS B APPLICATIONS:

- 1) Beaver Run Building 3 West Elevator (MGT) PC#2014008, 631 Village Road
Construct a 245 sq. ft. exterior addition to create a new elevator shaft and an upper floor lobby on the west side of the Beaver Run Building #3; install an automatic door on the exterior entrance to the lobby between Building #2 and Building #3 to create an air lock of 220 sq. ft. to prevent cold air from entering the lobby. Master Plan amendment and density transfer to obtain density for the project. Approved.

CLASS A APPLICATIONS:

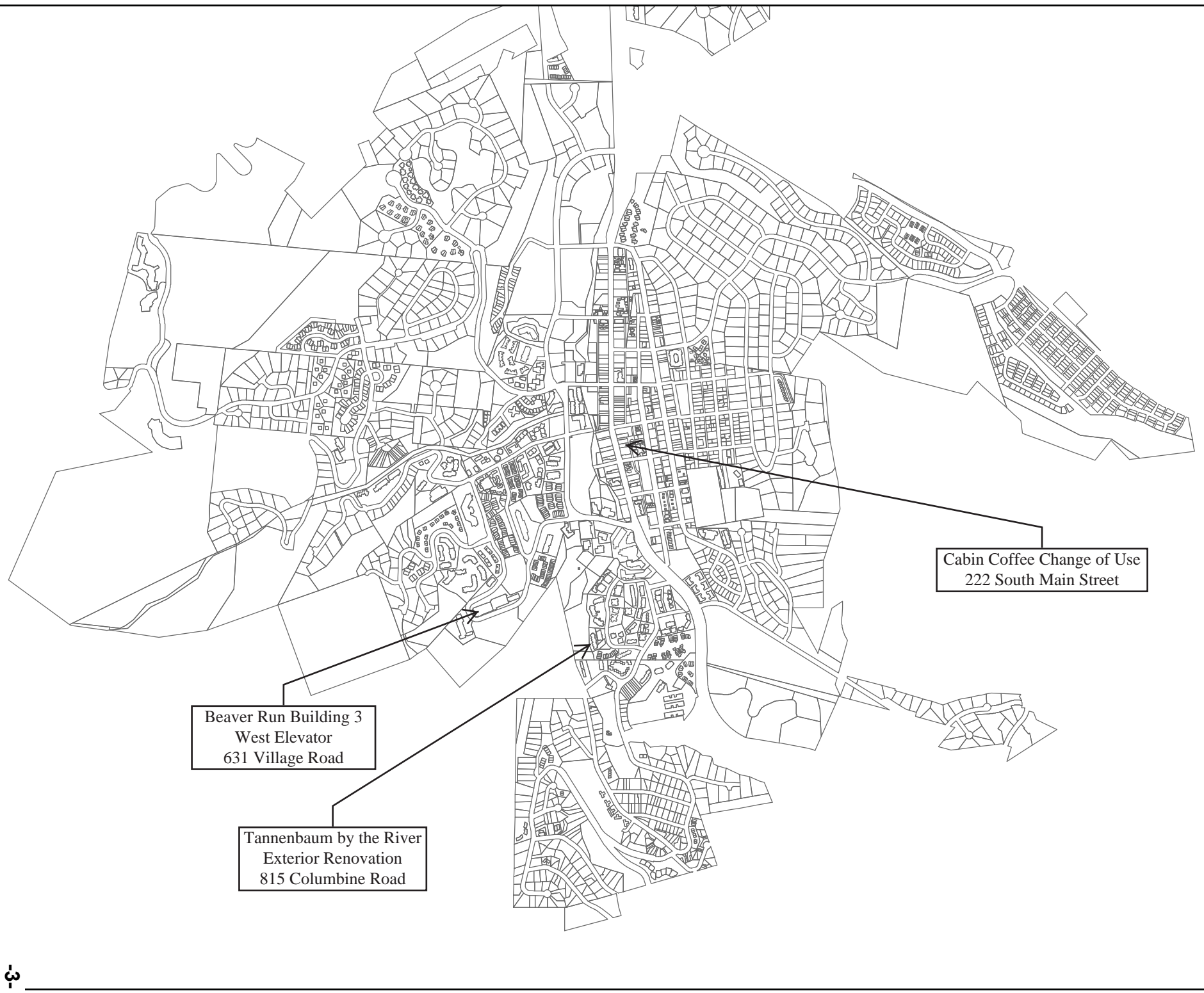
None.

TOWN PROJECT HEARINGS:

None.

OTHER:

None.



Breckenridge South

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PLANNING COMMISSION MEETING

The meeting was called to order at 7:00 pm

ROLL CALL

Eric Mamula Gretchen Dudney Dan Schroder
Kate Christopher Jim Lamb Trip Butler
Dave Pringle

There was no Town Council liaison present.

APPROVAL OF AGENDA

Ms. Puester removed the Town Council update. With no other changes, the Agenda was approved as presented.

APPROVAL OF MINUTES

With no changes, the March 18, 2014, Planning Commission Minutes were approved as presented.

CONSENT CALENDAR:

- 1) Cabin Coffee Change of Use (MGT) PC#2014018, 222 South Main Street
- 2) Tannenbaum II Exterior Renovation (MM) PC#2014017, 815 Columbine Road

Mr. Mamula: Question on the change of use, “cooking other than microwave oven”, but on the plan there is an oven? (Mr. Thompson: Read from a letter from the applicant that says no food cooking besides microwave.) Well, this may require a hood. Also, what’s the monetary difference between having regular plates vs. paper / plastic? (Mr. Thompson: About \$30,000.) We’ve seen this before where they say one thing and then in actuality they end up using real plates and glasses. It seems that this is a dodge in order to beat the water PIF and in the end still use plates and glasses. (Mr. Grosshuesch: This is part of a larger discussion in the Sustainability Group.) (Mr. Thompson: We have caught a few people, and it is painful process to go through with a business owner when they have to pay the fees for a full sit down restaurant they were trying to run as a snack bar/deli. In this case, the business owner has put it in writing that they will only serve food and drinks in disposable ware.) (Ms. Puester: This is something that we do go through with the owners of any new business thoroughly.)

Mr. Pringle and Mr. Dudney voiced that they share Mr. Mamula’s concerns.

Mr. Pringle: This is just cheating and there is a big discussion that we have should have on this point all around.

Ms. Dudney: Question about the parking ratio: 9.3.8 it isn’t online that has gone up from 3.5 to 4.5 for restaurants? (Mr. Thompson: It has gone up. No, it’s a typo. There is more than adequate parking per Code so it does not affect this application. I will correct my Staff Report.)

Mr. Schroder: No questions.

Ms. Christopher: No questions.

Mr. Butler: No questions.

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

COMBINED HEARINGS:

- 1) Beaver Run Building 3 West Elevator (MGT) PC#2014008, 631 Village Road

Mr. Thompson presented an application to add 245 sq. ft. to create a new elevator shaft and upper floor lobby on the west side of the Beaver Run Building #3. Also, install an automatic door on the exterior entrance to the lobby between Building #2 and Building #3 to create an air lock of 220 sq. ft. to prevent cold air from entering the lobby. Building #4 has ADA compliant units in the building and is connected to Building #3 with a pedestrian bridge; however there is no elevator in Building #3 at the end of the pedestrian bridge. This elevator would result in all buildings at Beaver Run Resort to be connected with pedestrian bridges and elevators. There is not enough density remaining in the approved Master Plan for this proposal. Hence, the project will require a Major Master Plan Amendment and density transfer.

Staff conducted a point analysis for this project and found it to comply with all absolute policies of the Development Code and passing the relative policies with an overall score of zero points (0). Staff suggests that three positive points (+3) be awarded under Policy 16/R (Internal Circulation) for improving the efficiency, comfort and convenience of the pedestrian circulation and creating an ADA compliant connection. The proposal warrants negative three (-3) points under Policy 9/R (Placement of Structures) for not meeting one relative setback requirement.

The Planning Department recommended approval of the Beaver Run Elevator and Air Lock Addition, and Master Plan Amendment (PC#2014008) with the presented Findings and Conditions.

Commissioner Questions / Comments:

- Mr. Schroder: Why were ADA units placed there when they weren't accessible? (Mr. Thompson: When the buildings were first built there weren't any pedestrian bridges. They figured this out when had an ADA conference at the property. The adaptability advisor lectured Beaver Run after she needed to be carried up to access her ADA unit in Building #4.)
- Mr. Pringle: Building 4 was built with pedestrian bridge but no elevator.
- Ms. Dudney: No concerns.
- Mr. Pringle: No concerns. But what was that about the mass density? (Mr. Thompson: If the new project doesn't go over 5% with an addition, then the Code says they do not receive negative points.)
- Mr. Lamb: No concerns.
- Mr. Butler: No concerns.
- Mr. Mamula: No concerns.

Mr. Kevin Schottleitner, Applicant: I have had to carry a wheel chair up the stairs and have another employee carry the person up the stairs to the pedestrian bridge. Beaver Run hosts the Wounded Warriors every year and while the veterans can go down the stairs they cannot go back up in their wheelchairs. They do front flips from their chairs into our pool.

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

Mr. Pringle made a motion to approve the point analysis for the Beaver Run Building 3 West Elevator, PC#2014008, 631 Village Road. Mr. Mamula seconded, and the motion was carried unanimously (7-0).

Mr. Pringle made a motion to approve the Beaver Run Building 3 Elevator, Airlock Addition, and Master Plan Amendment PC#2014008, 631 Village Road, with the presented Findings and Conditions. Ms. Christopher seconded, and the motion was carried unanimously (7-0).

OTHER MATTERS:

Ms. Puester: Brought up the meeting on April 15, during which some Commissioners will be absent, as this

meeting coincides with school spring break. The next meeting may not have a quorum because Mr. Mamula, Mr. Schroeder and Mr. Lamb will be absent with the chance that Ms. Dudney may be gone based on the birth of her grandchild. We will proceed as if we will have the meeting and I will let you know if it gets cancelled due to no quorum.

Also, Ms. Christopher will go to the Tuesday, April 8, Town Council Meeting in Mr. Lamb's absence.

ADJOURNMENT:

The meeting was adjourned at 7:20 pm.

Jim Lamb, Chair

MEMO

TO: Town Council

FROM: Town Attorney

RE: Council Bill No. 9 (Repealing Sunset Date in Town's Open House Sign Ordinance)

DATE: March 27, 2014 (for April 8th meeting)

The second reading of the ordinance repealing the "sunset date" in the Town's Open House Sign Ordinance is scheduled for your meeting on April 8th.

When the Town's Open House Sign Ordinance was originally adopted in 2009 the Council provided that the ordinance would "sunset" (be automatically repealed) on April 1, 2010 unless the Council affirmatively acted to extend the ordinance. In 2010 the sunset date was extended to April 1, 2011, and in 2011 the sunset date was extended to April 1, 2014. Therefore, unless some affirmative action is taken by the Council the Open House Sign Ordinance will automatically be repealed on April 1st.

Council Bill No. 9 originally provided for another three year extension of the sunset date in the Open House Sign Ordinance. However, at the time of first reading on March 25th the Council expressed satisfaction with the way the Open House Sign Ordinance has worked since it was adopted in 2009, and directed that Council Bill No. 9 be revised to repeal (instead of extend) the sunset date provision of the Open House Sign Ordinance. Council Bill No. 9 was approved on first reading with language repealing the sunset date provision of the original Open House Sign Ordinance.

If finally adopted as currently worded, Council Bill No. 9 will eliminate the sunset date provision entirely and make the Open House Sign Ordinance "permanent", although the Town Council could choose to amend or repeal the Open House Sign Ordinance any time in the future.

There are no changes proposed to Council Bill No. 9 from first reading.

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

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

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

4
5 COUNCIL BILL NO. 9

6
7 Series 2014

8
9 AN ORDINANCE AMENDING ORDINANCE NO. 9, SERIES 2009, BY REPEALING THE
10 SUNSET DATE FOR THE “TOWN OF BRECKENRIDGE OPEN HOUSE SIGN
11 ORDINANCE”

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

15
16 Section 1. Section 8 of Ordinance No. 9, Series 2009 is repealed.

17 Section 2. Except as specifically amended in Section 1 of this ordinance, Ordinance No.
18 9, Series 2009, as previously amended, shall continue in full force and effect.

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

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

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

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

TOWN OF BRECKENRIDGE, a Colorado
municipal corporation

By: _____
John G. Warner, Mayor

ATTEST:

Helen Cospolich
Town Clerk

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MEMO

TO: Town Council
FROM: Town Attorney
RE: Council Bill No. 10 (Temporary Structures Ordinance)
DATE: April 1, 2014 (for April 8th meeting)

The second reading of the ordinance amending the Development Code concerning “temporary structures” is scheduled for your meeting on April 8th. 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 – APR. 8**

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. 10

9
10 Series 2014

11
12 AN ORDINANCE AMENDING CHAPTER 1 OF TITLE 9 OF THE BRECKENRIDGE
13 TOWN CODE CONCERNING TEMPORARY STRUCTURES

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

17
18 Section 1. Item C of the definition of “Class C Development” in Section 9-1-5 of the
19 Breckenridge Town Code is amended to read as follows:

- 20
21 C. Temporary structures ~~and uses greater than three (3) days in duration~~ **to be used**
for longer than three (3) days.

22
23 Section 2. Item H of the definition of “Class D - Minor Development” in Section 9-1-5 of
24 the Breckenridge Town Code is amended to read as follows:

- 25
26 H. Temporary structures ~~or events of three (3) days or less in duration~~ **to be used for**
three (3) days or less.

27
28 Section 3. The definition of “Temporary Structure” in Section 9-1-5 of the Breckenridge
Town Code is amended to read as follows:

TEMPORARY STRUCTURE: ~~A structure other than a vendor cart, or construction trailer, intended to be utilized for a specified period of time of not less than four (4) days nor more than two (2) years that is not intended as a permanent structure, and does not provide a permanent foundation or underground utilities.~~ **A structure, other than a vendor cart, construction trailer, or seasonal noncommercial greenhouse, that is not designed as a permanent structure, but is instead designed to be utilized only for a specified and limited period of time of not more than two (2) years.**

29

1 Section 4. Policy 9-1-19-36A of the Breckenridge Town Code, entitled “Policy 36
2 (Absolute) Temporary Structures,” is amended to read as follows:

3
4 9-1-19-36A: POLICY 36 (ABSOLUTE) TEMPORARY STRUCTURES:

5
6 **A. The placement of temporary structures within the Conservation District**
7 **is prohibited, except when authorized by a special event permit issued**
8 **pursuant to Chapter 13, Title 4 of this Code.**

9 **B. The placement of temporary structures within the town outside of the**
10 **Conservation District** is strongly discouraged.

11 Temporary Structures Or Uses: Temporary structures as defined in section 9-1-5
12 of this chapter are subject to the following conditions:

13 (1) Temporary structures shall only be utilized to replace an existing structure being
14 demolished on site while a new, permanent structure on the same site is being
15 constructed.

16 (2) The temporary structure shall have no greater floor area than the structure it is
17 temporarily replacing.

18 (3) The temporary structure shall not be placed on site until a building permit has been
19 issued for the new structure, and shall be removed once a certificate of occupancy for
20 the new structure has been issued.

21 (4) The holder of the development permit for a temporary structure shall provide a
22 monetary guarantee to the town, in a form acceptable to the town attorney, ensuring
23 the complete removal of the structure, site cleanup, and site revegetation, once a
24 certificate of occupancy for the new structure has been issued. In addition, the holder
25 of the development permit shall enter into an agreement with the town authorizing the
26 town to take possession of the temporary structure and to dispose of the structure,
27 without the town being accountable for any damages for the loss or destruction of the
28 structure, if the permit holder fails to remove the structure within a reasonable period
29 of time after a certificate of occupancy for the new structure has been issued.

30 B. Other Permitted Temporary Structures: Subsection A of this section does not prohibit
31 temporary tents, air structures, or other similar temporary structures that are not
32 designed and intended for office, retail, industrial or commercial uses, and such
33 temporary structures may be approved subject to all other relevant development code
34 policies.

35 ~~C. Temporary Construction Trailers: Temporary construction trailers may be utilized for~~
36 ~~storage or office uses during the construction of a project within the town. The~~
37 ~~construction trailer’s location, size and general design shall be disclosed to the town~~
38 ~~as a component of the construction staging plan as required by section 9-1-19-29A,~~
39 ~~“Policy 29 (Absolute) Construction Activities”, of this chapter. Construction trailers~~
40 ~~shall not be placed on site prior to the issuance of a building permit and shall be~~

1 removed upon issuance of a certificate of occupancy.

2 ~~DC. Seasonal Noncommercial Greenhouses:~~ Seasonal noncommercial greenhouses **are**
3 **not temporary structures but** may be **allowed** when they meet the following criteria
4 **subject to the following conditions:**

5 (1) A seasonal noncommercial greenhouse may be erected and operated only from May 1
6 to July 1 of the same year. Not later than July 2, the seasonal noncommercial
7 greenhouse (including frame) shall be completely removed from its location;

8 (2) A seasonal noncommercial greenhouse shall not exceed five hundred (500) square
9 feet in size;

10 (3) **A seasonal noncommercial greenhouse shall be located in the rear or side yard**
11 **insofar as practical.**

12 (4) A seasonal noncommercial greenhouse shall not be placed on a permanent
13 foundation;

14 (5) A seasonal noncommercial greenhouse shall be constructed of materials which, taken
15 as a whole, give the appearance of a unified and coordinated design;

16 (6) A seasonal noncommercial greenhouse shall be maintained at all times in a neat and
17 orderly condition;

18 (7) All materials related to the operation of a seasonal noncommercial greenhouse shall
19 be stored within the greenhouse. The outdoor storage of such materials is prohibited;
20 and

21 (8) If a seasonal noncommercial greenhouse is located on land normally used for required
22 off street parking, the greenhouse shall not occupy more than two (2) parking spaces.

23
24 A seasonal noncommercial greenhouse authorized by a permit issued under this
25 policy ~~shall~~ **does** not count as density or mass.

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

31 Section 5. Policy 9-1-19-29A of the Breckenridge Town Code, entitled “Construction
32 Activities,” is amended by the addition of a new Subsection K as follows:

33
34 K. Temporary Construction Trailers: Temporary construction trailers may be utilized for
35 storage or office uses during the construction of a **permanent** project within the
36 town. The construction trailer’s location, size and general design shall be disclosed to
37 the town as a component of the construction staging plan as required by section 9-1-
38 19-29A, “Policy 29 (Absolute) Construction Activities”, of this chapter. Construction

1 trailers shall not be placed on site prior to the issuance of a building permit and shall
2 be removed upon issuance of a certificate of occupancy.

3 Section 6. Except as specifically amended hereby, the Breckenridge Town Code, and the
4 various secondary codes adopted by reference therein, shall continue in full force and effect.
5

6 Section 7. The Town Council hereby finds, determines and declares that it has the power
7 to adopt this ordinance pursuant to: (i) the Local Government Land Use Control Enabling Act,
8 Article 20 of Title 29, C.R.S.; (ii) Part 3 of Article 23 of Title 31, C.R.S. (concerning municipal
9 zoning powers); (iii) Section 31-15-103, C.R.S. (concerning municipal police powers); (iv)
10 Section 31-15-401, C.R.S.(concerning municipal police powers); (v) the authority granted to
11 home rule municipalities by Article XX of the Colorado Constitution; and (vi) the powers
12 contained in the *Breckenridge Town Charter*.
13

14 Section 8. The Town Council hereby finds, determines and declares that it has the power
15 to adopt this ordinance pursuant to the authority granted to home rule municipalities by Article
16 XX of the Colorado Constitution and the powers contained in the *Breckenridge Town Charter*.
17

18 Section 9. This ordinance shall be published and become effective as provided by Section
19 5.9 of the *Breckenridge Town Charter*.
20

21 INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED
22 PUBLISHED IN FULL this ____ day of _____, 2014. A Public Hearing shall be held at the
23 regular meeting of the Town Council of the Town of Breckenridge, Colorado on the ____ day of
24 _____, 2014, at 7:30 P.M., or as soon thereafter as possible in the Municipal Building of the
25 Town.
26

27 TOWN OF BRECKENRIDGE, a Colorado
28 municipal corporation
29

30
31
32 By _____
33 John G. Warner, Mayor
34

35 ATTEST:
36
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39

40 _____
41 Helen Cospolich
42 Town Clerk
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46



MEMORANDUM

To: Town Council
From: Peter Grosshuesch, Director of Community Development
Subject: Permanent Watering Restrictions Ordinance
Date: March 28, 2014 (for April 8 meeting)

Attached is the Ordinance for first reading that would make permanent some of the watering restrictions that have previously been put in place only in drought years.

Item History

This ordinance is one element of a four part approach previously discussed with the Town Council at their October 18 retreat last year, and then again on February 18 of this year. Additionally, the Council's Sustainability Task Force (made up of the Mayor and two other Council members) met on October 18, 2013, and then again on February 14 ultimately making these recommendations to the full Council. The emerging consensus to enhance our water conservation efforts as a community, consists of this ordinance along with three other initiatives. Those other initiatives are to: 1) review the water rate structure and potentially re-price water in such a way that further reduces excessive usage; 2) step up education efforts for the public regarding our water supply and system capacity issues, and to provide customers with their water consumption history and trends. A primary method for this education would be through expanding significantly the amount of information accompanying our water bills; 3) the Town would upgrade all of its own water conservation practices through measures such as conducting landscape irrigation system audits in our parks and on our ball fields, and by replacing our older water appliances with new state of the art fixtures that meet the new "Water Sense" standards recently issued by the EPA. Town staff is working on these other three elements of the new strategy and will be reviewing these with the Council as appropriate in the near future. The effective date of this ordinance will be June 1, 2014. Notifications will go out to every water billing account sometime around the first of May.

Pursuant to direction given at the previous worksession discussion with the Council on February 18, we have met with members of the business community for the purpose of obtaining their input on the use of water to wash outdoor surfaces such as commercial driveways, patios and decks. The feedback we got from restaurateurs was that they need to wash down their dining areas to clean pine pollen from those surfaces on a frequent basis. Other commercial property managers stated a need to wash down trash receptacle and grease receptacle storage areas from time to time.

We posted related questions on Engage Breckenridge and received twelve pages of responses and comments. The responses mostly questioned the need to use water to clean driveways. There were a number of respondents who believed it was not the government's role to regulate the use of water to clean driveways.

In recognition of these needs, the proposed ordinance would allow for the washing of outdoor areas by commercial occupants and residential driveways, so long as an adequate shut off nozzle is attached to the hose being used for those purposes.

Proposed Outdoor Watering Restrictions

Staff has drafted an ordinance for first reading (attached) that is very similar to the watering restrictions ordinance adopted during the previous drought year of 2012. The main changes from the 2012 restrictions are:

- This ordinance makes them permanent and year round (the new normal);;
- Restaurants would be able to serve water to customers without them having to first ask for it (they had to ask for it in the previous ordinance);
- Car washing rules are relaxed and would now be permitted with adequate shut off nozzles attached to hoses, and requiring buckets to be used;
- Parking areas, driveways and other hardscaped surfaces, and exterior furnishings could be washed with water using a hose with a shutoff nozzle (whereas these activities were prohibited under the previous ordinance).

The remainder of the proposed restrictions in addition to those described above include:

- Three day per week watering between the hours of 5:00 PM and 9:00 AM. Hand watering and drip irrigation systems would be exempted from the policy. Newly installed landscape areas would also be exempted for the first two years following their installation. High traffic areas, golf course, and ball fields maintained by the Summit School District and the Town would be exempt as well.
- Penalty Structure –
 - The first offense will carry a warning and will be a teaching opportunity for Town staff. We will be distributing water conservation suggestions with each of the warning tickets (e.g. irrigation system audits, interior fixture audits, etc).
 - The second offense will result in a \$250 fine
 - The third offense will result in a \$500 fine
 - The fourth and all subsequent offenses will result in a \$750 fine. Failure to pay the fines would result in a water “shut off”.

Staff will be available to answer questions at the April 8th Town Council meeting.

Attachment: Water Restriction Ordinance for first reading

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

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

5
6 COUNCIL BILL NO. ____

7
8 Series 2014

9
10 AN ORDINANCE AMENDING TITLE 12 OF THE BRECKENRIDGE TOWN CODE,
11 KNOWN AS THE “TOWN OF BRECKENRIDGE WATER ORDINANCE”, BY ADOPTING
12 PERMANENT RESTRICTIONS ON THE USE OF WATER FOR OUTDOOR WATERING
13 AND OTHER SPECIFIED USES OF WATER FROM THE TOWN’S WATER SYSTEM;
14 PROVIDING EXEMPTIONS FROM SUCH RESTRICTIONS; AND PROVIDING
15 PROCEDURES AND PENALTIES FOR THE VIOLATION OF SUCH RESTRICTIONS
16

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

19
20 Section 1. Section 12-1-14-1 of the Breckenridge Town Code is amended to read as
21 follows:

22
23 12-1-14-1: TEMPORARY RESTRICTIONS ON USE OF WATER
24 SYSTEM: ~~A.~~ At such time as the Town Council shall find and determine that a
25 shortage exists in the supply of water to the Town’s Water System, or that a
26 shortage is imminent, such as to require the implementation of **additional**
27 restrictions on the use of water from Town’s Water System, the Town Council
28 may, by resolution, declare the existence of a water shortage and implement
29 mandatory restrictions on the use of water by customers of the Town’s Water
30 System **in addition to those permanent restrictions provided for in Section**
31 **12-1-21.B.** ~~B.~~ Any **additional** restrictions on the use of water from the Town’s
32 Water System ~~which are~~ implemented by the Town Council pursuant to
33 ~~Subsection A of this Section may contain:~~ (i) ~~restrictions on outdoor watering or~~
34 ~~irrigation;~~ (ii) ~~exceptions from outdoor watering or irrigation restrictions for new~~
35 ~~lawns and landscaping, and playgrounds and athletic fields owned and operated~~
36 ~~by governmental entities;~~ (iii) ~~restrictions on the non-commercial washing of~~
37 ~~motor vehicles;~~ (iv) ~~restrictions on the serving of water by restaurants;~~ (v) a
38 ~~provision requiring the giving of a warning before a water surcharge for the~~
39 ~~violation of the restrictions is imposed;~~ (vi) a method of determining whether
40 ~~violations of the restrictions have occurred;~~ (vii) an administrative water
41 ~~surcharge, which may include graduated surcharge amounts based upon the~~
42 ~~number of violations which occur within a twelve month period, for persons~~
43 ~~determined to have violated the restrictions;~~ and (viii) such **additional** other
44 restrictions or limitations on the use of water from the Town’s Water System, or

1 procedures related to the enforcement of such restrictions, as the Town Council
2 shall determine to be necessary to adequately protect the Town's Water System
3 and the public health, safety and welfare.
4

5 Section 2. Chapter 1 of Title 12 of the Breckenridge Town Code is amended by the
6 addition of a new Section 12-1-21 to read as follows:
7

8 **12-1-21: PERMANENT RESTRICTIONS ON THE USE OF WATER**
9 **FROM THE TOWN'S WATER SYSTEM; EXEMPTIONS; PROCEDURES**
10 **AND PENALTIES:**
11

12 **A. As used in this Section the following terms have the following meanings:**
13

OUTDOOR
WATERING:

Means the watering of any plant, lawn,
garden, tree, landscaping, flower, shrub,
bush, or any other vegetation that occurs
outside of the exterior walls of any
structure.

STRUCTURE:

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

14
15 **B. It is an unlawful and an infraction for any person to use water from the**
16 **Water System for any of the following purposes:**
17

- 18 **1. To engage in outdoor watering, except when done in accordance with the**
19 **requirements of Subsections C(1) through C(6) of this Section;**
20
21 **2. To wash any motor vehicle, except when done in accordance with the**
requirements of Subsection C(7) of this Section; and
22
23 **3. To wash off or clean any parking lot, driveway, parking area, or other**
24 **exterior furnishings or paved or hardscaped surface, except when done in**
accordance with Subsection (C)(8) of this Section.

25 **C. Subsection B(1) of this Section shall not apply to the following uses of**
26 **water from the Water System:**
27

28 **1. Outdoor watering when done in accordance with the following**
29 **restrictions:**

- 30 **(a) outdoor watering is permitted only three days each calendar week**
31 **(Monday through the next Sunday) as described in Subsections**
32 **C(1)(b) and C(1)(c) of this Subsection.**

1 (b) outdoor watering on properties located east of the centerline of: (i)
2 Main Street; or (ii) Colorado Highway 9 north of Park Avenue and
3 Colorado Highway 9 south of Park Avenue, whichever is applicable,
4 may lawfully occur only on Sundays, Wednesdays, and Fridays of
5 each week.

6 (c) outdoor watering on properties located west of the centerline of: (i)
7 Main Street; or (ii) Colorado Highway 9 north of Park Avenue and
8 Colorado Highway 9 south of Park Avenue, whichever is applicable,
9 may lawfully occur only on Tuesdays, Thursdays, and Saturdays of
10 each week.

11 (d) no outdoor watering is permitted on any property within the Town on
12 Mondays of each week.

13 (e) on days when outdoor watering is permitted, it may occur only
14 between the hours of 5:00 P.M. and 9:00 A.M. of the following day.

15 2. Outdoor watering by drip irrigation, or by hand using only a watering
16 can or a hose with a shut-off nozzle.

17 3. Outdoor watering of new lawns and landscaping for the first two years
18 after installation.

19 4. Outdoor watering of public school property (including, but not limited to,
20 public school athletic fields).

21 5. Outdoor watering within the Town's public parks.

22 6. Outdoor watering at the Town's municipal golf course.

23 7. The non-commercial outdoor washing of a personal motor vehicle if the
24 vehicle is washed using only a bucket or a hose with a shut-off nozzle.

25 8. Washing off or cleaning any parking lot, driveway, parking area, or other
26 exterior furnishings or paved or hardscaped surface using a hose with a
27 shut-off nozzle.

28 D. Nothing in this Section prohibits the use of water from the Water System
29 to clean the concrete areas of street medians.

30
31 E. Any person found to have violated any provision of Subsection B of this
32 Section shall be punished as follows:

33
34 1. First violation – warning only (no fine);

- 1 **2. Second violation - \$250.00 fine;**
- 2 **3. Third violation - \$500.00 fine; and**
- 3 **4. Fourth and each subsequent violation - \$750.00 fine**
- 4 **F. Each day during any portion of which a violation of Subsection B of this**
5 **Section occurs shall be a separate violation.**
- 6
- 7 **G. Any fine imposed for a violation of Subsection B of this Section that is not**
8 **paid within 45 days of the date of imposition of the fine shall be a “water**
9 **charge” within the meaning of Section 12-1-6, and the collection**
10 **procedures of Chapter 6 of the Title, including, but not limited to, the**
11 **discontinuance of water service provision of Section 12-6-4, shall apply to**
12 **the collection of such unpaid fine.**
- 13
- 14 **H. Except as provided in Subsection H(10) with respect to a fourth or**
15 **subsequent violation, at the time a person is charged with a violation of**
16 **Subsection B of this Section the defendant shall be issued or tendered a**
17 **penalty assessment notice in accordance with the following procedures:**
- 18
- 19 **1. A penalty assessment notice shall be signed and served on or tendered to**
20 **the defendant and shall contain the information required to be contained**
21 **in a municipal summons and complaint by Rule 204 of the Colorado**
22 **Municipal Court Rules of Procedure; the amount of the prescribed fine**
23 **for the alleged violation; and the date the penalty assessment notice is**
24 **served on the defendant. The notice shall direct the defendant to appear**
25 **in the Municipal Court on a specified date, time, and place in the event**
26 **the prescribed penalty is not paid. The notice shall also contain any**
27 **additional information that is required to convert the penalty assessment**
28 **notice into a summons and complaint should the penalty not be paid**
29 **within the time allowed.**
- 30 **2. The time specified in the penalty assessment notice for an appearance if**
31 **the defendant fails to pay the penalty shall be at least thirty (30) days and**
32 **not more than ninety (90) days after the date the penalty assessment**
33 **notice is issued.**
- 34 **3. One copy of the penalty assessment notice shall be served upon the**
35 **defendant, and the remaining copy shall be filed with the Clerk of the**
36 **Municipal Court.**
- 37 **4. The fine specified in the penalty assessment notice may be paid at the**
38 **office of the Clerk of the Municipal Court in person on or before the**
39 **appearance date; or by postmarking such payment not less than ten (10)**

1 days before the appearance date.

2 5. If the defendant fails to pay the penalty on the penalty assessment notice
3 on or before the appearance date, then the defendant shall appear at the
4 Municipal Court on the date and time specified in the notice and answer
5 the complaint against him or her.

6 6. If the defendant fails to appear on the date and time specified in the
7 penalty assessment notice and answer the complaint against him or her,
8 or if the defendant appears and answers that he or she is liable for the
9 alleged violation, judgment shall be entered against the defendant.

10 7. If the defendant denies the allegations in the penalty assessment notice or
11 complaint, a final hearing shall be held before the Municipal Court.

12 8. If judgment is entered against a defendant, he or she shall be assessed the
13 fine specified in the penalty assessment notice, plus any applicable
14 surcharge, court costs, and other applicable fees.

15 9. In no event shall a bench warrant be issued for the arrest of any person
16 who fails to appear for a final hearing on an infraction charged under
17 this Subsection B of this Section. Subject to the provisions of Chapter 6 of
18 this Title, entry of judgment and assessment of the fine, costs, and
19 applicable fees as provided herein shall constitute the sole penalties for
20 failure to appear for the final hearing, or for being found liable for the
21 violation.

22 10. Penalty assessment procedures shall not apply when it appears that the
23 offense is a fourth or any subsequent alleged violation of any provision of
24 Subsection B of this Section. A person charged with a fourth or
25 subsequent violation of any provision of Subsection B of this Section shall
26 be issued a summons and complaint in accordance with the Colorado
27 Municipal Court Rules of Procedure, and shall be required to appear in
28 court to answer the charges against him or her.

29 Section 3. Chapter 1 of Title 12 of the Breckenridge Town Code is amended by the
30 addition of a new Section 12-1-22 to read as follows:

31
32 12-1-22: RESTRICTION ON THE SALE OF BULK WATER: Bulk water
33 may not be sold by the Town for the purpose of providing water to wash off
34 or clean any parking lot, driveway, parking area, or other exterior paved or
35 hardscaped surface.

36
37 Section 4. Chapter 5 of Title 12 of the Breckenridge Town Code is amended by the
38 addition of a new Section 12-5-12 as follows:

1
2 **12-5-12: SURCHARGE FOR OUT-OF-TOWN VIOLATION OF**
3 **PERMANENT RESTRICTIONS ON USE OF WATER SYSTEM:**
4

5 **A. Any out of town water user found to have violated the permanent**
6 **restrictions on the use of water from the Town's Water System described**
7 **in Section 12-1-21 shall be subject to a water surcharge of one and one-**
8 **half times the amount of the fine for such a violation as described in**
9 **Section 12-1-21. Water surcharges imposed pursuant to this Subsection A**
10 **may be collected in the manner set forth in Chapter 6 of this Title.**
11

12 **B. It shall be a term and condition of each out of town water service contract**
13 **that the water user shall comply with the permanent restrictions on the**
14 **use of water from the Town's Water System described in Section 12-1-21.**
15 **The fourth instance of noncompliance with the permanent restrictions on**
16 **the use of water from the Town's Water System described in Section 12-**
17 **1-21 shall be grounds for the discontinuance of water service.**
18

19 Section 5. Section 12-6-10(A) of the Breckenridge Town Code is amended to read as
20 follows:
21

22 **A. Except as provided in Section 12-1-21,** ~~E~~every person convicted of a
23 violation of any provision of this Title shall be punished as provided in Section
24 1-4-1 of this Code.
25

26 Section 6. Except as specifically amended hereby, the Breckenridge Town Code, and the
27 various secondary codes adopted by reference therein, shall continue in full force and effect.
28

29 Section 7. The Town Council hereby finds, determines and declares that this ordinance is
30 necessary and proper to provide for the safety, preserve the health, promote the prosperity, and
31 improve the order, comfort and convenience of the Town of Breckenridge and the inhabitants
32 thereof.
33

34 Section 8. The Town Council hereby finds, determines and declares that it has the power
35 to adopt this ordinance pursuant: (i) Section 31-35-402(1)(f), C.R.S. (concerning municipal
36 water systems); (ii) Section 31-15-103, C.R.S. (concerning municipal police powers); (iii)
37 Section 31-15-401, C.R.S.(concerning municipal police powers); (iv) the authority granted to
38 home rule municipalities by Article XX of the Colorado Constitution; and (v) the powers
39 contained in the *Breckenridge Town Charter*.
40

41 Section 9. This ordinance shall be published as provided by Section 5.9 of the
42 *Breckenridge Town Charter*, and shall become effective June 1, 2014.
43

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

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

10
11
12 By _____
13 John G. Warner, Mayor
14

15 ATTEST:

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



MEMORANDUM

To: Mayor and Town Council
From: Shannon Haynes, Chief of Police
Date: April 1, 2014
Subject: Tow Hearing Ordinance

A few times a year the Breckenridge Municipal Court and/or the Police Department receive a tow hearing request from the owner of a vehicle that has been towed by the Town. A recent review of the Tow Hearing ordinance revealed a few areas requiring minor changes in order to ensure our ability to comply with the stated rules. Below are the recommended changes:

- The tow hearing ordinance only allows the tow hearing to be conducted by a hearing officer appointed by the Town Manager. The recommended change will also allow for a hearing to be conducted by the Municipal Judge.
- The current language requires a hearing to be conducted within seventy two (72) hours of receipt of a written request. The recommended update allows for the hearing to be conducted within thirty (30) days of receipt of a written request when the owner's vehicle is not impounded at the time of the request. The current requirement for a hearing within seventy two (72) hours will remain in effect if the owner's vehicle is impounded at the time of the request. The change to thirty (30) in limited situations will allow staff additional time to schedule a hearing when there is no negative impact on the vehicle owner.
- Scheduling an in-person hearing within seventy two (72) hours is difficult. Staff recommends the ordinance be revised to specify that the hearing may be conducted by phone or other electronic means. This change provides staff additional options and ensures that the hearing will be conducted within the required timeframe.

The recommended changes will allow staff needed flexibility to ensure compliance with the tow hearing ordinance. I will be available at the Council work session on Tuesday April 8th to answer any questions.

1 **FOR WORKSESSION/FIRST READING – APRIL 8**

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

5
6 COUNCIL BILL NO. ____

7
8 Series 2014

9
10 AN ORDINANCE AMENDING SECTION 7-3-6 OF THE BRECKENRIDGE TOWN CODE
11 CONCERNING TOW HEARINGS

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

14
15 Section 1. Section 7-3-6 of the Breckenridge Town Code is amended to read as follows:

16
17 7-3-6: TOW HEARING:

- 18
19 A. The owner of any vehicle that has been towed by the Town, or the owner’s agent,
20 shall have the opportunity to request a hearing concerning the legality of the towing
21 of the vehicle. Such request shall be made in writing within ten (10) days after the
22 notice was sent by the Town pursuant to Section 42-4-1804(4), C.R.S., if the tow was
23 made pursuant to Section 7-3-2, ”Unlawful Abandonment Of Vehicle On Public
24 “Property”, or within ten (10) days of the date of the tow, if the tow was made for any
25 other reason. The tow hearing shall be conducted before a hearing officer appointed
26 by the Town Manager, or before the Municipal Judge, within seventy two (72)
27 hours (excluding Saturdays, Sundays and Town holidays) of receipt of a written
28 request for such hearing if the vehicle is still impounded when the request for the
29 hearing is made, or within thirty (30) days of receipt of a written request for
30 such hearing if the vehicle is not impounded when the request for the hearing is
31 made, unless the person requesting the hearing waives the right to a speedy hearing.
32 The sole issue before the hearing officer or Municipal Judge shall be whether there
33 was reasonable grounds cause to impound the vehicle in question. “Reasonable
34 grounds to impound” shall mean such a state of facts as would lead a person of
35 ordinary care and prudence to believe that there was a sufficient breach of municipal,
36 state or federal law to grant legal authority for the removal of the vehicle.
- 37 B. The hearing shall be conducted in an informal manner and shall not be governed by
38 technical rules of evidence. The hearing may be conducted by telephone or other
39 remote electronic means if so ordered by the hearing officer or the Municipal
40 Judge. The person requesting the hearing shall carry the burden of establishing that
41 such person has the right to possession of the vehicle. The Breckenridge Police
42 Department shall carry the burden of establishing that there was reasonable grounds
43 to impound the vehicle in question. The hearing officer or Municipal Judge shall

1 only determine that, as to the vehicle in question, either: 1) there was reasonable
2 grounds to impound the vehicle, or 2) there was not reasonable grounds to impound
3 the vehicle. The decision of the hearing officer or Municipal Judge is final.

4 C. Upon a finding of no reasonable grounds, towing and storage fees shall be paid by the
5 Town in accordance with arrangements made between the Town and the operator. If a
6 bond was posted pursuant to subsection 7-3-5B of this Chapter, said bond shall be
7 returned to the person who posted the bond. If the vehicle is impounded and the
8 owner of the vehicle or the owner's agent fails to claim the vehicle from the operator
9 within six (6) hours of a finding of no reasonable grounds to tow, excluding such days
10 when the operator is not open for business, the person who requested the hearing shall
11 assume liability for all subsequent storage charges. Unless the owner of the vehicle
12 was present at the hearing, it shall be the responsibility of the Breckenridge Police
13 Department to notify the owner in writing of a finding of no reasonable grounds to
14 tow immediately after such finding is made.

15 D. If reasonable grounds to tow are found, the owner of the vehicle may have the vehicle
16 returned to him or her upon payment of the towing fees, all unpaid parking citations
17 involving the vehicle (if any), accrued storage fees, and a reasonable administrative
18 fee assessed by the Town to offset the Town's costs incurred in processing the towed
19 vehicle.

20 E. Failure of the owner of the vehicle in question to request a hearing or attend a
21 scheduled post-seizure hearing shall be deemed a waiver of the right to such hearing.

22 Section 2. Except as specifically amended hereby, the Breckenridge Town Code, and the
23 various secondary codes adopted by reference therein, shall continue in full force and effect.
24

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

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

34 Section 5. This ordinance shall be published and become effective as provided by Section
35 5.9 of the *Breckenridge Town Charter*.
36

37 INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED
38 PUBLISHED IN FULL this ____ day of _____, 2014. A Public Hearing shall be held at the
39 regular meeting of the Town Council of the Town of Breckenridge, Colorado on the ____ day of
40 _____, 2014, at 7:30 P.M., or as soon thereafter as possible in the Municipal Building of the
41 Town.
42

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TOWN OF BRECKENRIDGE, a Colorado
municipal corporation

By _____
John G. Warner, Mayor

ATTEST:

Helen Cospolich
Town Clerk

TO: BRECKENRIDGE TOWN COUNCIL
FROM: BRIAN WALDES, FINANCIAL SERVICES MANAGER
SUBJECT: MUNICIPAL COURT JUDGE APPOINTMENT
DATE: 4-2-2014
CC: TIM GAGEN, RICK HOLMAN

Per the Breckenridge Town Charter, (Article 8, section 2,) Council is to appoint a Presiding Municipal Judge every two years. Judge Buck Allen has written a letter expressing his interest in being appointed for the next two year term. His letter of interest is attached hereto.

Judge Allen has served as the Town's Judge for the past 8 two year terms, beginning in 1998. Staff has enjoyed an excellent working relationship with Judge Allen and has absolutely no concerns regarding his potential reappointment by Council.

Staff will be happy to answer any questions Council may have at our April 8th work session.

2725 Bald Mountain Rd.
Vail, CO 81657
March 15, 2014

Mayor Warner and Members of the Breckenridge Town Council
Town of Breckenridge
150 Ski Hill Road
P.O. Box 168
Breckenridge, CO 80424

RE: Municipal Judge

Honorable Mayor Warner and Council Members:

I would like to express my strong desire to continue as Municipal Judge for the Town of Breckenridge. I thoroughly enjoy working for the town and I look forward to continuing as Judge for years to come. I appreciate the first class staff of Breckenridge and I value our working relationship.

I would be happy to answer any questions you may have. My office phone is 479-2131 and my home phone is 476-4029. Thank you for your consideration.

Yours truly,



Buck Allen

Memorandum

TO: TOWN COUNCIL
FROM: Dale Stein, Assistant Town Engineer
DATE: April 2, 2014
RE: Public Projects Update

South Main Street Improvements 2014

Bids were opened for the 2014 Main Street Improvements on March 14th and the project was awarded to Columbine Hills Concrete. Construction is scheduled to begin April 21st with intention of final completion prior to the July 4th holiday. There are no overnight lane closures anticipated on Main Street during the project, however sections of on-street parking will be closed to facilitate construction activities. Additionally, sections of sidewalk will be temporarily closed during the project to allow for concrete removal and replacement. This year's improvements will include widened sidewalks, new stone pavers, new landscaping, new irrigation, and new electrical event power on Main Street, between Park Ave and Washington Ave.

North Main Street Park

We are currently in the process of amending the design contract to include the build phase for the new park on North Main Street. It is anticipated that the project will be presented to the Planning Commission in May.

Lincoln Heated Sidewalk

Staff is currently moving forward with contract negotiations on the project which includes replacing the existing south sidewalk on Lincoln Avenue, between Main St. and Ridge St. with heated sidewalk. Construction of this sidewalk is scheduled to begin this spring. During construction it is anticipated that the eastbound lane of Lincoln will be closed from Main St. to Ridge St. to facilitate the construction activities.

Staff is also working on developing a design and cost estimate for a heated sidewalk on the south side of Washington Avenue from Main St. to the alley in an effort to coordinate this construction with work scheduled this spring and summer in Washington Avenue related to the Arts District projects.

Old Masonic Hall

The design team is diligently working on finalizing Design Development level drawings for the building and construction drawings for the utility work in Washington Avenue. The asbestos abatement in the building has been completed and selective interior demolition will begin next week.

Arts District Campus Build Out

Interior work continues in each building with HVAC installation, insulation, and drywall. Weather permitting excavation work for shallow utility installation will begin in the coming weeks. The project remains on schedule with a late August completion.

Skate park

Team Pain, the firm selected to design the new skate park has been selected to also build the new skate park. Construction drawings are currently being developed and it is expected that demolition will begin in mid to late May with construction to follow. The project is currently within budget and fund raising efforts for the shade shelter are being discussed by the citizen user group, which has pledged to raise \$12,000 for the inclusion of the shelter in the project scope.

Kingdom Park Athletic Field

The project team met with two Colorado based firms that submitted proposals for the project on Friday, April 4th to discuss their specific proposals. A selection of the firm that will design and install the artificial turf field will be made by April 11, and the project schedule will then be developed.

Gold Pan Alley

A contract was recently awarded to CMH Civil for the Gold Pan Alley improvements. Construction is scheduled to begin May 5th with an estimated completion date of June 3rd. Gold Pan Alley will be closed to through traffic for most of the project; however, access to the Sawmill Parking Lot will be maintained throughout the project. The Wellington Parking Lot will be closed for the entirety of the project. Construction will include installation of new storm sewer inlets, pipes, and manholes; as well as new concrete curb & gutter in the alley and an asphalt overlay.

Riverwalk Center Phase 1

The project is still on schedule. The last two weeks has been dedicated to the stage floor and cleaning in the ‘rafters’. The wood dried sufficiently and the new wood stage surface will be laid by 4/3. After the two events in the RWC over the next two weekends, the final steps of sanding and sealing the maple will commence with an estimated completion for the stage of end of April. A thorough ‘high up’ clean was completed March 31, and the light through the ‘clouds’ will be much improved! Shade installation is on schedule for mid April, and completion is expected by May 1. The backstage (and the upstairs office areas) will be getting new flooring under the regular budget for maintenance.



Breckenridge Grand Vacations Community Center

The rehabilitation of the building is progressing with interior work continuing these past few weeks in the building on rough electrical, rough plumbing, the underground HVAC ducts, concrete floors in the basement, installation of the fire suppression system mains, and insulation of the main attic of the library space. A recent new addition to the exterior of the building is the recreation of the historic cupola on the 1909 portion.



Placement of the cupola on the 1909 roof (replica of historic).



Installation of new underground HVAC supply lines under theater.

MEMO

TO: Mayor & Town Council
FROM: Tim Gagen, Town Manager
DATE: April 2, 2014
SUBJECT: Committee Reports for 4-8-2014 Council Packet

No committee reports were submitted at this time.

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

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

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

MEMO

TO: Breckenridge Town Council

FROM: Laurie Best-Community Development Department

RE: Base 9 Condo-Development Agreement Worksession

DATE: March 31, 2014 (for April 8th Town Council Meeting)

The Town has been approached by representatives from the Base 9 Condo Association (HOA) requesting a Development Agreement which would enable them to convert a portion of their existing common area into an employee housing unit. The proposed conversion increases the overall density because the common area, which contains a hot tub and other amenities, is not considered density. When the space is converted into a residential apartment it will be reclassified as density. The Base 9 Condo complex is already over density and the proposed change adds more density. Therefore, the HOA is requesting a Development Agreement to authorize this conversion. Before the HOA expends additional funds in final design and construction documents, they have requested a worksession to determine if there is general support from the Council.

Background:

Base 9 was constructed in 1979 and the approved plans included 22 condominium units in two buildings. The third building, designated as a general common element, contains an 800 square foot manager's unit, a 600 square foot studio apartment, and approximately 670 square feet of common area including a hot tub, changing rooms, laundry and storage. At the time of construction, the project complied with the Development Code. However, in the 1980s the code was changed in regard to density allocations, and as a result Base 9 is now considered over density by about 26.6 % (5,600 square feet over). Because the project was legal at the time of construction and became non-conforming as a result of a code change, it is considered legal non-conforming. Pursuant to the Development Code non-conforming structures may not be altered or expanded in any way that would increase the degree of non-conformance.

The HOA is proposing to move the hot tub outside, add an interior loft, and convert the common space into a 900 square foot employee housing unit (apartment). A small laundry room and some storage would remain for common use. It should be noted that with the exception of moving the hot tub outside all of the remodeling and conversion occurs within the existing building and there is no change to the building mass, footprint, shell or height. There is sufficient parking on site to accommodate an additional apartment and the relocated hot tub will comply with setback requirement. But, the conversion does increase the overall project density by about 900 square feet and the degree of non-conformance increases from 26.6% overage to 30% overage and therefore a development permit cannot be approved.

Recommendation:

Pursuant to Chapter 9 of Title 9 of the Breckenridge Town Code the Town Council has the authority to consider requests for Development Agreements where there is no other provision to allow a particular request. In this case, the HOA has offered to deed restrict the apartment in return for a Development Agreement that authorizes the additional 900 square feet of density. The request was reviewed by the Housing/Childcare Committee, and both staff and the Committee support the Development Agreement because:

- the Town typically incentivizes the development of employee housing
- the new unit will be accommodated within the existing building and the remodel complies with all other elements of the code
- the existing structure became non-conforming because of a code change and not because of any action by the owners
- the Housing Needs Assessment, which was updated in 2013, indicates a significant need for rental units
- the unit will be constructed, managed, owned, and maintained by the HOA without any cash subsidy from the Town

In order to comply with the Joint Upper Blue Master Plan and in order to reduce the impacts of new workforce units on the overall density in the Upper Blue Basin, and to insure that the new unit provides a public benefit staff also suggests the following terms and conditions for the Development Agreement:

- the density for this unit should be transferred from the Town's TDR bank at a ratio of 1 TDR for every 4 SFE's of deed restricted housing (.25 SFE to be transferred for a 900 square foot apartment)
- the HOA will obtain a Class D permit for the remodel project
- the Town will waive permit fees for the deed restricted unit
- a Deed Restriction in form acceptable to the Town will be executed to restrict the occupancy of the new apartment to the local workforce with a maximum rental rate affordable to 50% AMI household (maximum \$852 monthly for one bedroom unit)

Summary:

If the Council is amenable to the terms that are proposed for this Development Agreement, the HOA will move forward with final design and pricing for the project which will be presented to the members of the homeowners association at their next meeting. If approved by the homeowners, it is expected that a final Development Agreement will be drafted and presented to Council, and construction could occur as soon as this summer. Staff supports the proposal as presented and will be available to answer questions at your meeting.

Memorandum

TO: Town Council

FROM: Tom Daugherty, Public Works Director

DATE: 3/28/2014

RE: Verizon Lease at Recreation Center

Verizon is requesting to place a cell phone antenna at the Recreation Center. Verizon identified a need to add capacity in this area of Town to handle the peak service demands. Staff is working with Verizon on the issues with this lease and staff is asking the Council to review the business points of the lease. Verizon is discussing this project with the Community Development Department but they have not yet filed an application. Once the business deal points are agreed to by the Council, Verizon will file an application. This project will come back to the Council if Verizon files an application and completes the planning process. The Council will also see this again to approve the lease document.

The antenna will be located in a pole that will replace an existing pole that supports the protective netting in the outfield of the Kingdom Park softball field. The antennas will be hidden inside the pole so that the pole looks uniform from top to bottom. The replacement pole will be approximately 20 ft to 25 ft taller than the existing pole and continue to support the protective netting. This additional height will house two Verizon antennas and leave room for an additional antenna for future capacity. This future antenna space can be used by any wireless provider and will not be solely for Verizon's use.

A support building for the antenna is needed to house the equipment and will be placed where the existing dumpster enclosure is located. This building will be bigger than the existing dumpster enclosure but will fit in the existing site. Although staff does not believe the location of the support building will interfere with the Recreation Center in the future, this lease will cause the Town to have to relocate the building if we needed the space during the term of the lease.

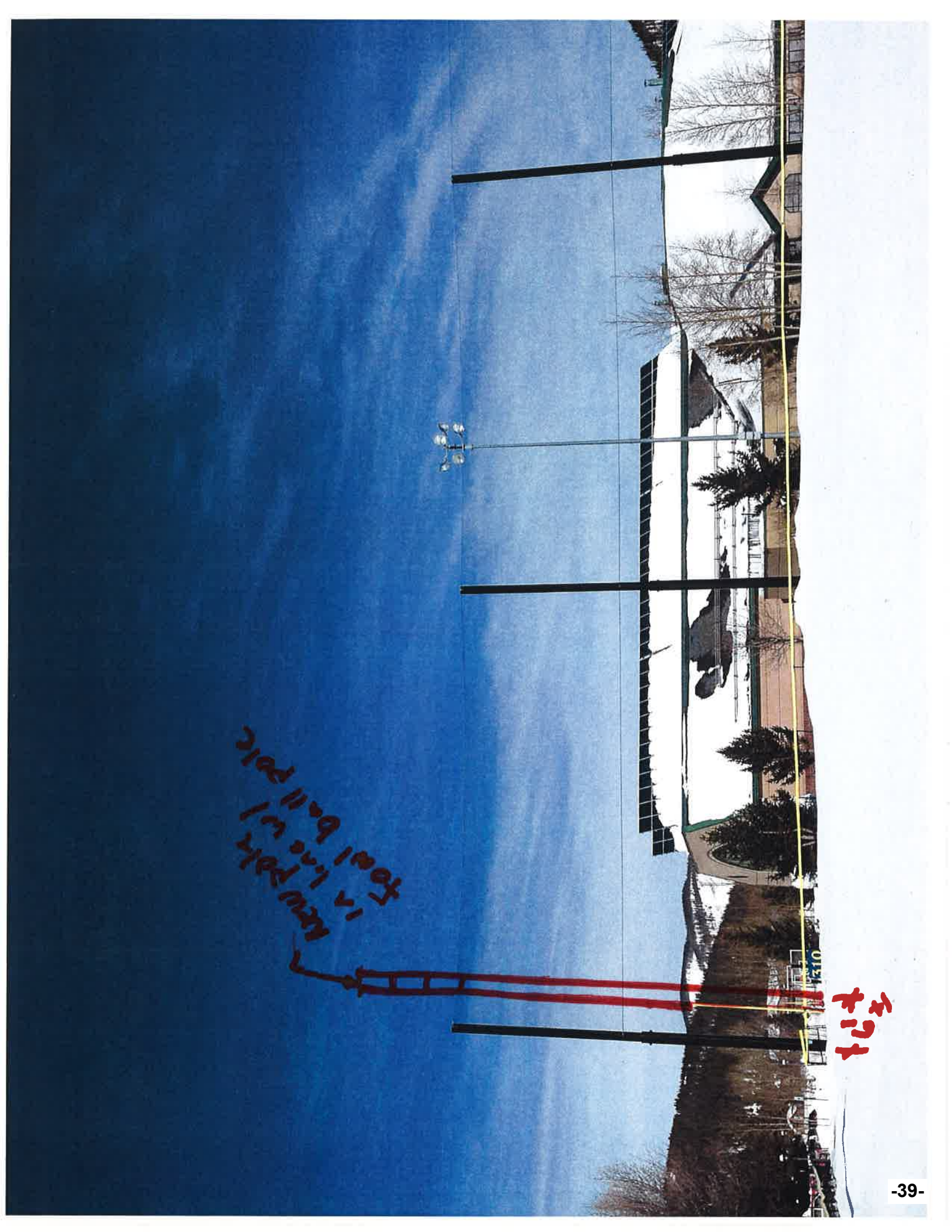
The existing dumpster enclosure for the Recreation Center is located in a very difficult spot. The garbage trucks have a difficult time removing the dumpster and the size of the dumpster is restricted by the size of the building. The small dumpster size requires the trash to be picked up on a daily basis. This lease will have Verizon incur the cost of building a new dumpster enclosure that will have capacity for a larger dumpster and better recycling staging. This will lessen the number of times the trash has to be picked up which will reduce operational costs. It will also be fully enclosed to secure the dumpsters from animals and non-Recreation Center dumping. This location will also

provide a flatter area that the garbage truck can more easily negotiate. This new dumpster building will be similar in size as the Riverwalk enclosure that we built a few years ago. The siding and façade will be changed to match the Recreation Center in appearance.

Verizon has proposed to pay a monthly rent of \$1,250. Staff contacted other municipalities and their lease rents range from \$800 per month to \$2,000 per month. The average is \$1,385 per month. The rent rate will also increase by 10% every five years. Staff will negotiate the final rent rate based on feedback from the Council.

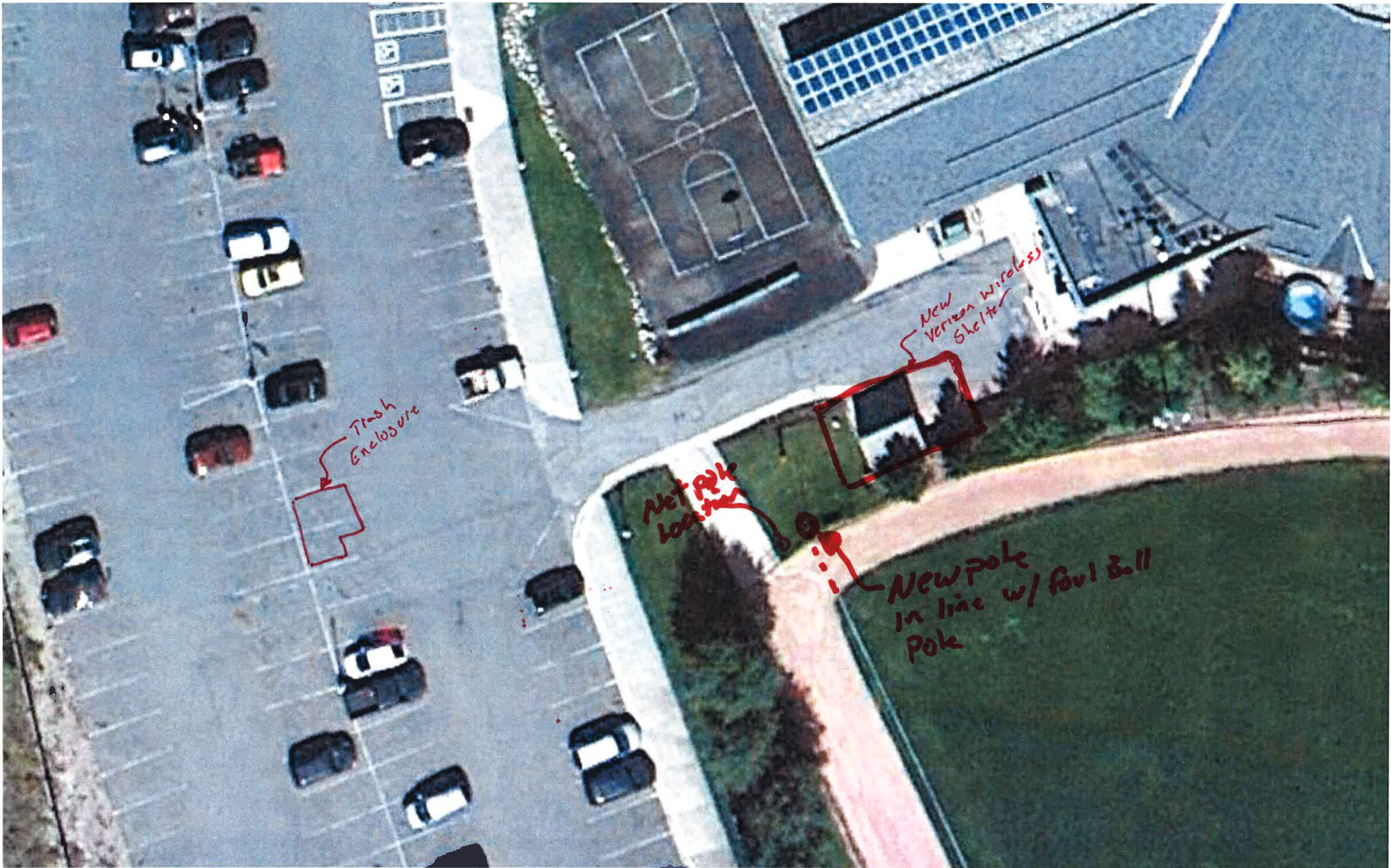
The lease term will be for 25 years with a clause that will allow the lease to be terminated after 15 years with six month notice. Most wireless companies want a long term lease due to the expense and effort involved with building an antenna.

Staff has brought this issue to the Council in a work session to determine if this lease will be acceptable before moving forward. Attached is a site plan and picture with the pole sketched on it to help you understand the proposal. Staff will be at the work session for the discussion.



New path
in line w/
foal ball pole

1310



MEMORANDUM

TO: TOWN COUNCIL
CC: TOWN MANAGER, TIM GAGEN; ASSISTANT TOWN MANAGER, RICK HOLMAN
FROM: TAX AUDITOR, LESLIE FISCHER
SUBJECT: REVISED REAL ESTATE TRANSFER TAX ADMINISTRATIVE REGULATIONS
DATE: 03/27/2014

Purpose:

The attached revised administrative regulations have been prepared for Council's review. These regulations are intended to provide guidance and clarification to staff and to the public on how the Town applies Chapter 3 of Title 3 of the Breckenridge Town Code regarding Real Estate Transfer Tax. The adoption of the regulations should allow for efficiency, consistency, and effective enforcement of the Town's Real Estate Transfer Tax Ordinance (RETT). The guidelines are also intended to prevent potential disputes related to any misinterpretations of the Code. Staff expects that the clarification and guidance provided in these regulations will facilitate an improved and more transparent process for the public. The regulations are submitted to you for your review and comment in accordance with the Town's Administrative Regulations Ordinance. It is important to note that these revisions will not garner new net tax revenues for the Town and are not intended to tax transactions that the code does not presently tax.

Proposed Modifications:

Application for Exemption After Recording of Deed – Currently a provision does not exist that allows for this. The code reads that exemption applications may only be submitted prior to recording. While it does create an administrative inconvenience in enforcement practices, it seems reasonable to allow for an administrative late filing fee instead of requiring a full payment of 1% tax on the fair market value of the property on otherwise exempt transactions. The proposed fee schedule is progressive in order to discourage repetitive violations by filers that have previously been educated on the proper procedures. Staff wishes to waive the administrative fee during an introduction period, which coincides with the amnesty period described below. During this time period, the new regulations will be introduced to the local attorneys and title companies that most often process these documents.

Sheriff and Trustee Sales – Clarification has been added as to how RETT is paid in connection to Sheriff or Trustee sale in order to be consistent with the recent code revisions regarding junior lienholders and overbid situations.

Fannie Mae and Freddie Mac - Recent Michigan case law has determined Fannie Mae & Freddie Mac to be exempt from transfer taxes due to their federal charter. While Michigan case law is not binding in the State of Colorado, Staff finds the determination in the Michigan case to be persuasive on the matter. Of course, any updates in the courts on this matter may change this determination in the future.

Amnesty – In an effort to encourage the payment of outstanding taxes, Staff wishes to allow for amnesty periods in which penalties, interest, and late filing fees will be waived. Included in the amended regulations is a period allowing for amnesty through December 31, 2014. This period coincides with the waiver of the late filing fee described above.

Maximum Fine Structure - Updates the maximum fine structure, per an update in Colorado law.

Confidentiality - Chapter 7 of Title 3 of the Breckenridge Town Code, regarding confidentiality of tax data conflicts with State Statute 39-13-103 regarding the State doc fee. The Town's treatment of confidentiality of real estate transfer taxes paid should be consistent with the State's treatment of the doc fees paid. The Colorado Open Record Act (CORA) presumes that, as a general rule, any person who may be subject to the open records law should err on the side of considering all records to be releasable. Therefore, without good cause as to why these particular tax records should be protected as confidential, the Town wishes it to be known that these records should follow the State Statute on the State doc fee.

Other Housekeeping Items – Minor technical and grammatical errors are corrected throughout the regulations.

Recommended Action:

Staff requests that Council review and provide any related comments on the attached regulations. Staff will be present during the April 8th Work Session to respond to any questions that Council may have.

1 ***DRAFT March 19, 2014 DRAFT***

2
3 THIRD AMENDED ADMINISTRATIVE RULES AND REGULATIONS CONCERNING
4 TOWN OF BRECKENRIDGE “REAL ESTATE TRANSFER TAX ORDINANCE”
5

- 6 1. **Effective Date.** These amended regulations are effective [REDACTED], 2014
7
- 8 2. **Authority.** These amended regulations are issued by the Town Manager of the
9 Town of Breckenridge pursuant to the authority granted by Section 3-3-9(A) of
10 the Breckenridge Town Code.
11
- 12 3. **Adoption Procedures.** The procedures set forth in Chapter 18 of Title 1 of the
13 Breckenridge Town Code were followed in connection with the issuance of these
14 amended regulations. Notice of the adoption of these amended regulations was
15 given in accordance with the requirements set forth in Section 1-18-3 of the
16 Breckenridge Town Code.
17
- 18 4. **Conflict With Real Estate Transfer Tax Ordinance.** These amended
19 regulations do not amend the Town’s “Real Estate Transfer Tax Ordinance”
20 (found at Chapter 3 of Title 3 of the Breckenridge Town Code). If there is an
21 irreconcilable conflict between these amended regulations and the Real Estate
22 Transfer Tax Ordinance, the ordinance will control.
23
- 24 5. **Effect of Amended Regulations.** These amended regulations amend and restate
25 in their entirety the Town’s administrative regulations under the Real Estate
26 Transfer Tax Ordinance. As such, they supersede all previous editions of the
27 Town’s administrative regulations under the Real Estate Transfer Tax Ordinance.
28
- 29 6. **What is the Breckenridge “Real Estate Transfer Tax”?**
30
31 The Town of Breckenridge “Real Estate Transfer Tax” (called the “**RETT**” in
32 these amended regulations) is a local tax on the transfer of land located within the
33 boundaries of the Town. Under the RETT Ordinance, a tax must be paid to the
34 Town each time real property is transferred, unless that particular transfer is
35 specifically exempted. The presumption is that a transfer of land is subject to the
36 tax, and the burden is on the purchaser of the land to demonstrate that the transfer
37 is not taxable because it is specifically exempt under the RETT Ordinance.
38
- 39 7. **Is the purchase or sale of a “timeshare” subject to the RETT?**
40
41 Yes. A timeshare interest is treated as real property under the RETT Ordinance.
42

1 8. **How do I find out if my property is located within the Town?**

2
3 Visit the **Summit County Assessor’s website**
4 (<http://www.co.summit.co.us/index.aspx?nid=86>)

5
6 9. **How much is the RETT?**

7
8 The RETT is equal to 1% of the “consideration” paid for the land.

9
10 *Example:* You purchase a lot in Breckenridge for \$250,000. The RETT due to
11 the Town is \$2,500 [$\$250,000 \times 1\% = \$2,500$]

12
13 10. **What does “consideration” mean?**

14
15 The term “consideration” is broadly defined in the RETT Ordinance. It is the
16 “gross consideration” paid for the land affected by the transfer, and includes
17 actual cash paid, the money equivalent of real and personal property delivered or
18 conveyed in exchange for the transfer, or contracted to be paid or delivered or
19 conveyed, in return for the transfer of ownership or interests in real property.
20 Consideration also includes the amount of any lien, mortgage, contract
21 indebtedness, or other encumbrance or debt, either given to secure the purchase
22 price, or any part thereof, or remaining on the property at the time of the transfer.
23 It is important to note that the consideration includes the transfer of the current
24 fair market value of the property.

25
26 11. **Which transfers of land are exempt under the RETT?**

27
28 The following transfers of land are exempt from the RETT. Section references in
29 the table are to the sections of the RETT Ordinance describing exempt transfers of
30 real property¹:
31

Exemption Section	Description of Exemption Transfer
A	A transfer where there is no consideration or when the actual consideration is \$500 or less. See the discussion of consideration under Question 9 of these amended regulations.

¹ See Section 3-3-6 of the Town of Breckenridge Real Estate Transfer Tax Ordinance (Section 3-3-6 of the Breckenridge Town Code).

	Note: If it is claimed that no consideration was given or received as part of a transfer of the land, the burden of proving that rests upon the purchaser. The Town presumes that land is not simply given away for no consideration, and the purchaser must overcome that presumption by demonstrating that the transfer was actually and in good faith made without payment of any consideration.
B	A transfer when a governmental entity is the purchaser.
C	A transfer made as a gift where there is no consideration other than love and affection, or a charitable donation. Note: To qualify under the “love and affection” portion of this exemption the deed must state on its face that it was given for no consideration other than “love and affection” or that it was made “as a gift.” To qualify under the “charitable donation” portion of this exemption the deed must specifically state that it was made as a charitable contribution, or the grantee of the deed by an entity qualified under Section 501(c)(3) of the Internal Revenue Code.
D	A transfer creating or terminating a joint tenancy in the land.
E	A transfer of title by reason of death made pursuant to a will or an estate proceeding, the law of intestate succession (i.e., transfer without a will), transfer pursuant to an unrevoked beneficiary’s deed, or otherwise.
F	Certain transfers made pursuant to a reorganization, merger, or consolidation of business entities, such as corporations, limited liability companies, general or limited partnerships, or other business associations.
G	A transfer made to implement an approved bankruptcy plan.
H	Certain transfers made to correct a prior recorded deed; making a minor boundary adjustment; removing clouds on title; or granting rights of way, easements, or licenses in land.
I	A quiet title decree or a court order transferring title in a condemnation proceeding.
J	A transfer between spouses or former spouses made in connection with a divorce or legal separation
K	A transfer of a cemetery lot.
L	Certain leases of land.
M	A transfer of only a mineral or royalty interest in land.

THIRD AMENDED REAL ESTATE TRANSFER TAX REGULATIONS

N	A transfer of land to secure a debt or other obligation.
O	A deed in lieu of foreclosure.
P	A sheriff's confirmation deed, a public trustee's confirmation deed, or similar transfer (but the RETT is owed if the property is conveyed to a person who submitted an "overbid" as defined by Section 38-38-100.3(17.3), C.R.S.) See the answer to Question 17(C).
Q	An executory (unperformed) contract for the sale of real property of less than 3 years under certain terms and conditions.
R	[Repealed by Ordinance No.7, Series 2014].
S	[Repealed by Ordinance No.7, Series 2014].
T	A sale or conveyance of real property for the purpose of constructing or providing low or moderately priced housing for sale or lease to persons of lower or moderate income.

Under the RETT Ordinance there are special rules and limitations that may apply to certain of the exemptions. No attempt has been made in these amended regulations to set forth in detail such special rules and limitations. If you believe your transfer is or may be exempt from the RETT, you should obtain a copy of the RETT Ordinance and review it carefully to determine whether your transfer falls into one of the exempt categories.

12. **What are examples of documents that can be used to support a claim of exemption under the RETT?**

Exemption Section	Example of Acceptable Documentation to Support Claim of Exemption
A	Credible evidence that the fair market value of the transferred property is \$500 or less, such as an appraisal, or where the Grantor and Grantee on the deed are the same person. If the deed involves a name change, the exemption application should be accompanied with Court documentation, marriage license or other legal proof of change of name.
B	Proof that the Grantee in the deed is a government agency, municipality, or political subdivision.
C	The deed must reflect that the transfer is a gift or charitable donation. For a gift, the deed must state: "For no consideration other than love and affection", "as a gift", or similar language clearly expressing a donative

	intent. For a charitable donation, the deed must specifically state that it was made as a charitable contribution and the grantee of the deed must be an entity qualified under Section 501(c)(3).
D	The names of the Grantor and Grantee listed on the deed must match exactly. Additionally, the exemption application must affirm that no additional consideration was paid in connection with the transfer, or must describe the amount of such additional consideration.
E	Death certificate, will, Personal Representative's deed, Decree of Distribution, or other formal transfer of real property made for the purpose of transferring a decedent's interest in real property to those persons entitled to take the property by law or pursuant to the decedent's will. Also, an unrevoked Beneficiary's Deed together with proof of the grantor's death as required by Colorado law. Note: This exemption does not apply to a sale of real property by a decedent's estate.
F	Proof that the percentage of ownership has not changed. Examples include: Articles of Organization, Operating Agreement, Stock certificate(s), Membership Ledger, Trust Agreement, Affidavit of Trust, or Memorandum of Trust. See the discussion under Question 25 of these amended regulations.
G	Certified copy of court documentation (bankruptcy or receivership)
H	The wording of deed should clearly describe the situation (example: Deed of Correction" or "Corrective Deed"), and a written explanation should be provided on the exemption application.
I	A certified copy of a final judgment of a court (a Quiet Title Decree, a Rule and Order or other court judgment) should accompany the exemption application.
J	A certified copy of a Separation Agreement, Decree of Legal Separation, or Decree of Dissolution of Marriage stating that the Grantor's interest in the subject property is to be transferred to the Grantee.
K	Documentation demonstrating that the land that is transferred is a cemetery lot.
L	A copy of the lease.
M	The deed must specifically described the mineral or royalty interest being transferred. Unless another

	exemption applies, this exemption does not apply if any interest in real property other than a mineral or royalty interest is conveyed.
N	A copy of the mortgage, deed of trust, or other legal documentation providing for the transfer of legal title to the real property to secure a debt or other obligation.
O	Copies of the Deed-In-Lieu of Foreclosure and Deed-In-Lieu Agreement and Estoppel Affidavit (if any).
P	Copy of sheriff's confirmation deed, public trustee's confirmation deed, or other real property conveyance representing a forced sale of property to satisfy a financial obligation, judgment, or debt of the property owner. If the grantee in the deed submitted an "overbid" as defined by Section 38-38-100.3(17.3), C.R.S., contact information for the grantee shall also be provided since the conveyance is taxable under the RETT Ordinance to the full extent of the amount paid by the person who submitted the overbid. See the answer to Question 17(C).
Q	Copy of the executory (unperformed) contract for the sale of real property. Evidence of relationship, such as 1031-reverse exchange documentation (or statement on deed).
R	[Repealed by Ordinance No.7, Series 2014].
S	[Repealed by Ordinance No.7, Series 2014].
T	Proof that the property has been approved by Town of Breckenridge Community Development Department as a qualifying deed-restricted property, and: (i) a copy of the deed, restrictive covenant or other legal restriction creating the qualifying deed restriction and (ii) if applicable, a copy of the Appreciation Limiting Deed of Trust.

13. **Are Transfers To or From Revocable Living Trust or an Irrevocable Trust Made For Estate Planning Purposes Exempt From RETT?**

The RETT does not apply to the transfer of real property to the trustee of a revocable living trust or an irrevocable trust if the trust provides for the further transfer of the real property to the beneficiaries designated in trust only upon the death of the trustor, or on a date certain after the trustor's death. The transfer of real property back to a trustor upon the revocation of a revocable living trust is also exempt from the Real Estate Transfer Tax. As used in this Rule "revocable living trust" is a trust created by a living person that can be revoked by such person at any time during his or her life.

1 14. **How do I make a claim that my transfer is exempt from the RETT?**
2

3 To make a claim that a particular transfer of land is exempt from the RETT a
4 completed **RETT Exemption Application** must be submitted to the Town’s
5 Sales Tax Auditor. The application must be accompanied by adequate proof to
6 support the claim of exemption. The Town has the right to require that additional
7 evidence to support the claim of exemption be provided if the initial submission is
8 found to be inadequate or incomplete. If the Town determines that a transfer is
9 exempt from RETT, a Certificate of Exemption will be issued and the deed will
10 be stamped to evidence that the transfer described in the deed is exempt from
11 RETT.
12

13 15. **When must I make a claim that my transfer is exempt from the RETT?**
14

15 Except as provided in the answers to Question 16 and Question 17, an application
16 for exemption must be properly submitted and approved by the Sales Tax Auditor
17 prior to the recording of the deed with the Summit County Clerk and Recorder. If
18 the Town has not approved a transfer as being exempt from RETT prior to the
19 need to record it, the RETT must be paid before the deed is recorded. However,
20 you may file an application for a refund of the RETT after the deed has been
21 recorded.
22

23 For good cause, the Town may consider an RETT exemption application that is
24 filed after the deed has been recorded. The burden is on the applicant to show
25 good cause for the late filing of the RETT exemption application.
26

27 16. **What happens if my deed would have been exempt if I had made an**
28 **exemption application before the deed was recorded, but I failed to file the**
29 **exemption application?**
30

31 A. The RETT Ordinance requires an exemption application to be filed (and
32 approved) before the deed is recorded. Occasionally, however, the Town
33 receives an exemption application after a deed has been recorded
34 demonstrating that the deed would have been exempted from the RETT
35 had the application been timely filed (that is, filed before the deed was
36 recorded). Reviewing such late-filed exemption applications takes
37 additional staff time. Instead of denying the exemption application on the
38 basis that it was not timely filed (and requiring payment of the full RETT
39 on a deed that would have been exempted from the RETT had the
40 application been timely filed), the Financial Services Manager may, upon
41 the receipt of a properly completed exemption application, grant an
42 exemption from the RETT after the deed has been recorded with the
43 Summit County Clerk and Recorder if: (i) the exemption application is

1 filed with Town not later than one (1) year after the deed was recorded;
 2 (ii) the deed would have been exempt from the RETT had the exemption
 3 application been timely filed; and (iii) the person making the late
 4 exemption request pays a late filing fee as follows:

Number of Late-Filed RETT Exemption Applications Submitted By Same Applicant, Business, or Title Company Within Consecutive Twelve Month Period*	Amount of Late Filing Fee
First	\$100.00
Second	\$200.00
Third	\$300.00
Fourth (and each subsequent)	\$600.00

5
 6 *calculated from date of filing of exemption application
 7

8 B. Between the effective date of these amended regulations and December
 9 31, 2014, the Financial Services Manager will, upon the receipt of a
 10 properly completed exemption application, grant an exemption from the
 11 RETT after the deed has been recorded with the Summit County Clerk and
 12 Recorder without requiring payment of the late filing fee if: (i) the
 13 exemption application is filed with Town not later than one (1) year after
 14 the deed was recorded; and (ii) the deed would have been exempt from the
 15 RETT had the exemption application been timely filed.

16 17. **How is RETT paid in connection with a Public Trustee’s or Sheriff’s sale**
 17 **proceeding?**
 18

19 A. Both a Public Trustee’s confirmation deed and a Sheriff’s confirmation
 20 deed are exempt from the RETT, unless the person to whom the property
 21 is conveyed submitted an “overbid” as defined by Section 38-38-
 22 100.3(17.3), C.R.S. If the person to whom the property is conveyed by a
 23 Public Trustee’s confirmation deed or a Sheriff’s confirmation deed submit
 24 an overbid the conveyance is taxable under the RETT Ordinance to the
 25 full extent of the amount paid by the person who submitted the overbid
 26 (see Subsection 17(C), below).

27 B. If a Public Trustee’s confirmation deed or a Sheriff’s confirmation deed is
 28 issued to a junior lienholder who redeems the property from sale in
 29 accordance with applicable law, no RETT is due to the Town in
 30 connection with the recording of the confirmation deed. A “junior

1 lienholder” is the holder of a bona fide lien on the property that is junior to
2 the lien that was being foreclosed.

3 C. If the grantee in a Public Trustee’s deed or Sheriff’s deed is a person who
4 submitted an “overbid” as defined in Section 38-38-100.3(17.3), C.R.S., or
5 such person’s assignee, a RETT is due to the Town based on the full
6 amount paid by the successful overbidding party. **Example:** In a Public
7 Trustee’s foreclosure, the total amount owed to the foreclosing party is
8 \$200,000 (including principal, interest, default interest, attorneys’ fees,
9 foreclosure costs, and any other amount allowed to be added to the
10 obligation by Colorado law), and the successful bidder at the Public
11 Trustee’s sale submitted an “overbid” of \$250,000 and was the successful
12 in bidder at the sale. Upon the issuance of the Public Trustee’s
13 confirmation deed the grantee named in the deed (whether the person who
14 submitted the overbid, or the person to whom the overbidder assigned the
15 certificate of purchase) must immediately pay the Town the RETT based
16 upon the full \$250,000 that was paid by the successful purchaser at the
17 time of the public trustee’s sale.

18 18. **How is the RETT calculated if either the Federal National Mortgage**
19 **Association (Fannie Mae) or the Federal Home Loan Mortgage Corporation**
20 **(Freddie Mac) is a party to the transfer?**
21

22 If either Fannie Mae or Freddie Mac is the grantee in a deed, the transfer is
23 exempt from the RETT because of the special terms and conditions of their
24 respective federal Charters. However, if either Fannie Mae or Freddie Mac is the
25 grantor in a deed, and the transfer is not otherwise exempt under Section 3-3-6 of
26 the RETT Ordinance, the grantee in the deed must pay the normal RETT to the
27 Town.
28

29 19. **How is RETT paid?**
30

31 The RETT is paid by using the RETT Verification of Gross Consideration Form
32 and submitting that form along with the tax due and the original deed to RETT
33 Processing, 150 Ski Hill Road, PO Box 1237, Breckenridge, CO 80424. You
34 should include a pre-paid, self-addressed envelope for where you would like it
35 returned. The Town will send it to the Summit County Clerk & Recorder’s office
36 if you have included a self-addressed prepaid envelope for mailing, along with a
37 check for the County’s recording fees. Please contact Summit County
38 government fees at 970-547-3475 if you have questions about the recording fees.
39

40 Please note that RETT is processed by the Finance Division between 9 A.M. and
41 10 A.M. Monday through Friday (holidays excepted). If a deed and RETT

1 payment are submitted during other hours, the deed will be available for pick up
2 from the Town Clerk’s office at 10 A.M. the next business day. If batches of 10
3 or more deeds are submitted together, they will be available for pick up two
4 business days later at 10 A.M.

5
6 20. **Who is responsible for paying the RETT?**

7
8 It is the responsibility of the purchaser to pay the RETT.

9
10 21. **Are there penalties and interest due if the RETT is not paid when due?**

11
12 Yes. A penalty equal to 10% of the RETT is due if the RETT is not paid within
13 30 days after the deed transferring the property is recorded with the Summit
14 County Clerk and Recorder. In addition, interest accrues at the rate of 1.5% per
15 month from the date the taxes becomes delinquent until the tax is fully paid.

16
17 22. **What else can happen if I don’t pay the RETT?**

18
19 Failure to pay the RETT when the tax is due is a violation of the Town Code, and
20 upon conviction a violator is subject to a possible fine of up to \$2,650.00²;
21 imprisonment in the county jail for a up to one year; or both a fine and
22 imprisonment.

23
24 In addition, the RETT Ordinance provides that the Town has a lien against the
25 property that was transferred without the tax being paid. The lien amount includes
26 the RETT, penalty, interest and collection costs. The Town’s lien is prior to any
27 other lien on the land, except the lien of general property taxes and special
28 improvement district liens. The Town’s lien can be foreclosed through the courts.
29 A valid tax lien against a parcel of land can cause the title to the land to be found
30 to be “unmarketable” until the lien is paid and released. Unmarketable title can
31 make it very difficult for the owner to sell the land.

32
33 Finally, unpaid RETT, penalty and interest is a debt owed to the Town. The
34 Town can file a civil suit to collect the debt.

35
36 23. **Does the Town ever provide a “temporary amnesty” to allow for unpaid
37 RETT to be paid without the payment of otherwise applicable penalties,
38 interest and late filing fees?**

39

² This amount is subject to an annual cost of living adjustment pursuant to Section 1-4-1 of the Breckenridge Town Code.

1 Yes. To encourage the payment of unpaid RETT, from April 23, 2014 to the
2 close of business on December 31, 2014 the Financial Services Manager will
3 accept payment of previously unpaid RETT and will waive otherwise applicable
4 penalties, interest, and late filing fees. This policy will expire at the close of
5 business on December 31, 2014 without further notice.
6

7 **24. How does the RETT apply to an exchange of land?**
8

9 Both transfers are subject to the RETT. The RETT is based on the current fair
10 market value of each of the parcels at the time of the transfer.
11

12 *Example:* You exchange your lot for a condominium. Both are located in
13 Breckenridge. The current fair market value of the lot at the time of the exchange
14 is \$250,000. The current fair market value of the condominium unit at the time of
15 the exchange is \$275,000. The RETT due to the Town for the transfer of the lot is
16 \$2,500 [$\$250,000 \times 1\% = \$2,500$]. The RETT due to the Town for the transfer of
17 the condominium is \$2,750 [$\$275,000 \times 1\% = \$2,750$].
18

19 *Note:* If two parcels of land are exchanged, the consideration for the exchange
20 can only be \$500.00 or less if the property exchanged has a current fair market
21 value of \$500.00 or less. Current fair market value will be used when the
22 consideration is in non-cash form.
23

24 **25. How does the RETT apply to land that is transferred by the owners to a new**
25 **limited liability company or corporation?**
26

27 So long as the owners of the new limited liability company or corporation own the
28 same percentage in the business entity that they owned in the land that was
29 transferred the transfer is exempt.
30

31 *Example:* Bill, Sam, and Mary each own a one-third interest in a lot in
32 Breckenridge. They decide to form a new corporation. They each convey their
33 one-third interest in the lot to the new corporation in return for one-third of the
34 issued stock in the new corporation. The transfers of the fractional interests to the
35 new corporation are each exempt from the RETT.
36

37 *Note:* If the owners of the land do not end up owning the same percentages in the
38 new corporation or limited liability company, a RETT may be due to the Town.

39 *Example:* Same facts as above, but Bill and Mary each end up owning 40% of the
40 stock in the new corporation. Sam ends up owning the remaining 20% of the
41 stock. Because the percentages of ownership in the land and the stock are
42 different, a RETT may be due to the Town on the deeds from Bill and Mary to the
43 corporation.

1
2 26. **How does the RETT apply to a transfer that changes the percentage of**
3 **ownership in the land?**
4

5 If the percentage of ownership of any of the owners has changed, the additional
6 percentage of ownership acquired, multiplied by the current total fair market
7 value of the property, is that amount on which the RETT will be calculated.
8

9 **Example:** Bill, Sam, and Mary each own a one-third interest in a lot in
10 Breckenridge. They execute a deed (or series of deeds) resulting in Bill owning
11 40% of the lot; Sam owing 30%; and Mary owning the remaining 30%. Since
12 Bill's interest in the lot increased from 33.3% to 40%, a RETT is due to the
13 Town. Assuming the fair market value of the lot at the time of the conveyance is
14 \$250,000, the RETT would be \$167.50 [40% – 33.3% = increase of 6.7%
15 ownership interest in lot. 6.7% x \$250,000 x 1% = \$167.50] No RETT is due on
16 the deeds resulting in the reduction of Sam's and Mary's ownership interest in the
17 lot.
18

19 27. **How does the RETT apply to owner “upgrades” and “enhancements”?**
20

21 RETT is due based upon the current fair market value of the unit that is traded
22 back to the timeshare company, in addition to the RETT that is due on the sale of
23 the new unit.
24

25 **Example:** Steve owns a 1-bedroom unit in Pretty Breckenridge Condominiums.
26 He likes the project, and wants to upgrade to a 2-bedroom unit. He deeds his 1-
27 bedroom unit back to the developer and, in return, the developer deeds Steve a 2-
28 bedroom unit. Both transactions are taxable under the RETT Ordinance, and the
29 tax is based on the fair market value of the two units at the time of the transfer. If
30 the fair market value of the 1-bedroom unit is \$150,000 the developer (the
31 ‘purchaser’ of the 1-bedroom unit) owes a RETT to the Town of \$1,500
32 [\$150,000 x 1% = \$1,500]. If the fair market value of the 2-bedroom unit is
33 \$300,000 at the time of the transfer, Steve (the purchaser of the 2-bedroom unit)
34 owes a RETT to the Town of \$3,000 [\$300,000 x 1% = \$3,000]
35

36 28. **Aren't real estate transfer taxes prohibited in Colorado?**
37

38 The Taxpayers Bill of Rights amendment to the Colorado Constitution (the
39 “**TABOR**” amendment) was passed in 1990. It prohibits any “new” or “increased”
40 real estate transfer tax. However, Breckenridge's RETT Ordinance was adopted in
41 1981, well before the passage of the TABOR Amendment, and the Town has not
42 adopted any “new” or “increased” real estate transfer tax after TABOR's

1 adoption. As such, enforcement of the Town’s RETT is not a violation of the
2 TABOR Amendment.

3
4 29. **Is the Amount of RETT Paid To Town “Confidential” Information?**

5
6 No. The amount of RETT paid to the Town pursuant to the RETT Ordinance will
7 be shown on the Town’s RETT stamp that is affixed to a deed. As such, the
8 amount of the RETT paid to the Town is not confidential information, and may
9 properly be disclosed to the general public or other interested parties. This policy
10 is consistent with the State of Colorado’s position on its documentary fee (See 39-
11 13-103, C.R.S.), and the fact that once recorded a deed, and the information
12 contained in the deed, is a matter of public record.

13
14 30. **Disclaimer.**

15
16 The Town’s enforcement of the RETT Ordinance always involves applying the
17 ordinance to the facts of a particular transaction. Not all possible factual scenarios
18 involving the application of the RETT Ordinance are described in these amended
19 regulations. Nothing in these amended regulations limits the Town’s authority to
20 apply the RETT Ordinance to factual situations not specifically described in these
21 amended regulations.

22
23 31. **Whom can I contact if I have any other questions concerning Town of**
24 **Breckenridge Real Estate Transfer Taxes?**

25
26 The Town of Breckenridge, Tax Auditor, 150 Ski Hill Road, PO Box 1237,
27 Breckenridge, CO 80424 970-547-3193

28
29 Dated: , 2014

30
31
32
33 _____
34 Timothy J. Gagen, Town Manager
35 Town of Breckenridge, Colorado



MEMORANDUM

TO: Town Council
FROM: Scott Reid, Open Space & Trails Planner
DATE: April 8, 2014
SUBJECT: Breckenridge Open Space Advisory Commission (BOSAC) Vacancies

Attached, please find five application letters for BOSAC positions. There are three vacancies for terms from April 2014 through March 2016.

Current terms that are up include Jeffrey Bergeron, Chris Tennal and Devon O'Neil. Jeffrey Bergeron and Chris Tennal have reapplied, and we also have received new applications from Elizabeth Miller, Blaze Panariso and Matt Powers.

Suggested interview questions will be provided in hard copy to Town Council at the work session.

To the Breckenridge Town Council,

First and foremost I would like to welcome and congratulate the newly elect council members while thanking the rest of you for your continued service.

This letter is to formally submit my name as an applicant for a seat on BOSAC.

I have enjoyed immensely serving on the Open Space Committee for the last two years. I am very proud of the work and progress which has been made. The BOSAC Board deserves some of the credit, but I would have to say most of the praise should go to staff.

During the last two decades I have found myself in countless towns and counties which are known for their open space and recreational opportunities and I can honestly say that Breckenridge and our Summit County partners have done as good or better job acquiring, preserving and managing our public lands than any place I've been.

These past two years, serving on BOSAC, have a pleasure. My wife/boss and I spearheaded (with others) the ballot initiative which created the open space fund in 1997. To see how it has progressed since then is truly amazing.

I believe I bring to BOSAC experience and a historical perspective (which comes from being old) as well as personal and professional relationships with many of the players in the political, developmental and land managing sectors. That said, if you could see your way to reappoint me to BOSAC it would be much appreciated. If you decide to go another direction BOSAC will still have my support and Council my respect.

Jeffrey Bergeron
970-485-1199

ELIZABETH W. MILLER

PO Box 2832

Breckenridge, CO 80424

(970) 333-8915 ▪ elizabeth@alwaymountaintime.com

March 21, 2014

Town of Breckenridge Open Space

PO Box 168

Breckenridge CO 80424

Dear Scott,

I am writing in regards to the open positions on the Breckenridge Open Space Advisory Commission. I am very interested in serving on the Commission. I have lived, worked, owned a home, and recreated in Breckenridge full time since 2005, and have a keen interest in our trails and open spaces. Through running and cycling, competing, and volunteering, I have been an avid user of our trail systems, and would love to give back to our outdoor community through work on the Commission. I believe that our community-minded and outdoor enthusiast population offers a unique experience that brings both tourism and families to Breckenridge year after year, and I would love to help maintain and grow that experience.

In addition to my personal love for the Breckenridge trail and open space system, I also work with many stakeholders as a Senior Account Executive at Always Mountain Time, our local radio group. I have been involved with committees such as Breck Bike Week, and helped reinstate the Breck Bike Week Poker Ride five years ago. Over the years, I have known many of the town council members personally, and believe that I have a good insight to the needs of the community, and personality for working with a variety of decision makers. I have a young son who I am excited to raise in Breckenridge and share my love of the outdoors, and I believe I would be a good addition to BOSAC.

Thank you for your time and consideration. I look forward to hearing from you!

Sincerely,

Elizabeth Miller

March 26, 2014

Scott Reid
Open Space and Trails Planner
Town of Breckenridge

Mr. Reid,

Please accept this as my letter of interest to serve on the Breckenridge Open Space Advisory Commission (BOSAC).

From a professional perspective I, until very recently, was a banker. As such I have developed a level of comfort with the financial aspect of matters that might not come naturally to others. I understand budgets and revenue generation as well as the effect that debt can have both good and bad, on a given situation. I also have experience in management which helped me learn to work as part of a team, something that would seem important to what BOSAC is trying to accomplish at any given time.

Personally, I, like most town or county residents, moved to Breckenridge for the chance to live the lifestyle that Breckenridge affords its residents. I am an avid cyclist and fly fisherman. My wife and I love to ski/snowboard, hike, walk our dogs, and recently took up snowshoeing. I also have a 4 month old daughter who I hope to one day share all of these things with. Having access to open space land and trails is paramount to these activities not only for use but for future generations. I am passionate about protecting and enhancing this valuable resource that makes Breckenridge so special.

I know there are a lot of people who call Breckenridge home that feel this same way. I happen to be in a position that affords me the time and ability to offer my assistance. Please let me know if you have any additional questions about me or when I need to come sell Town Council on why I would be a good fit.

Regards,

Blaze Panariso
719-200-9413
blaze.panariso@gmail.com

Matt Powers
P.O. Box 4034
Breckenridge, CO 80424
970-333-0670
matt@breck-realty.com

March 28, 2014

Mr. Reid, Mayor Warner and Breckenridge Town Council,

Please accept this letter as application to serve on the Breckenridge Open Space Advisory Commission.

As someone who is an avid trail and open space user, I have recently felt a strong responsibility to contribute to the maintenance and development of the outdoor space that provides so much happiness to me and my family. Additionally, I understand the importance of making sure these resources are managed properly so those that came after us are able to enjoy them as we do.

I hope that my work as a Realtor in Breckenridge since 2002 will offer necessary perspective to the business of land acquisition and other land uses. I also spent two years serving on The Wellington Neighborhood HOA Board, so am familiar with the process and the necessity of good collaboration within these organizations.

I am also aware that there is a lot I don't know about how BOSAC works but I am anxious to learn and be a part of the initiatives the BOSAC has been working on and contribute to future projects.

I look forward to meeting with you on April 8th.

Sincerely,



Matt Powers

Chris Tennial
P.O. Box 6126
Breckenridge, CO 81424
970-376-3867
cltennial@aol.com

March 16th, 2014

Mr. Reid, Mayor Warner and Breckenridge Town Council,

Please accept my application to enthusiastically serve a second term on the Breckenridge Open Space Advisory Commission.

It has been a humbling experience to realize the extent of efforts that must be put forth by our town staff and the greater community in order to keep our open space viable, functioning and pristine. The unyielding efforts required to quickly remedy and restore the recent damage within Cucumber Gulch should be an accolade to all involved. The forthcoming projects in McCain Placer, Golden Horseshoe and along the Swan River are all very exciting for the recreation and preservation opportunities, and I look forward to the positive outcomes of such far-reaching initiatives.

I feel that my insights within the local, national and international outdoor recreation industry have offered a positive and broad view addition to the Breckenridge Open Space Advisory Commission. I would very much like to continue serving as a member of the Breckenridge Open Space Advisory Commission, advocating the program goals for the preservation of the lands, and waterways, that define and enhance the unique mountain character of Breckenridge and the surrounding national forest.

I look forward to the opportunity to meet with you and our council.

Sincerely,

Chris Tennial