



**BRECKENRIDGE TOWN COUNCIL WORK SESSION**

Tuesday, August 12, 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.*

<b>3:00-3:15pm</b>	<b>I</b>	<b><u>PLANNING COMMISSION DECISIONS</u></b>	<b>2</b>
<b>3:15-4:30pm</b>	<b>II</b>	<b><u>LEGISLATIVE REVIEW*</u></b>	
		Base 9 Development Agreement	<b>8</b>
		Amendment to Liquor Fine in Lieu of Suspension Ordinance	<b>22</b>
		Date Change Ordinance for Existing Marijuana Establishment in Downtown Overlay District	<b>26</b>
		Snack Bar - Deli Ordinance	<b>29</b>
		Animal Control Ordinance	<b>35</b>
		Cap on Marijuana Establishments	<b>61</b>
		Ordinance Setting Ballot Language Concerning Marijuana Establishments in Downtown Overlay District	<b>66</b>
<b>4:30-4:45pm</b>	<b>III</b>	<b><u>MANAGERS REPORT</u></b>	
		Public Projects Update	<b>77</b>
		Housing/Childcare Update	
		Committee Reports	<b>82</b>
<b>4:45-5:00pm</b>	<b>IV</b>	<b><u>OTHER</u></b>	
		Naming Proposal for Arts District Buildings	<b>87</b>
<b>5:00-5:30pm</b>	<b>V</b>	<b><u>PLANNING MATTERS</u></b>	
		Rocky Mountain Recreation and Wilderness Preservation Act	<b>94</b>
<b>5:30pm</b>	<b>VI</b>	<b><u>JOINT MEETING WITH BACKSTAGE THEATRE BOARD OF DIRECTORS</u></b>	<b>135</b>

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:** August 6, 2014

**Re:** Planning Commission Decisions of the August 5, 2014, Meeting.

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***DECISIONS FROM THE PLANNING COMMISSION AGENDA OF August 5, 2014:***

**CLASS C APPLICATIONS:**

- 1) Three Fourteen Peerless (MGT) PC#2014057, 314 Peerless Drive  
Construct a new, single family residence with 5 bedrooms, 7 bathrooms, 5,420 sq. ft of density and 5,999 sq. ft. of mass for a F.A.R. of 1:8.04. Approved.
- 2) Bendrick Residence (MGT) PC#2014059, 19 Evans Court  
Construct a new, single family residence with 4 bedrooms, 4.5 bathrooms, 4,020 sq. ft of density and 4,800 sq. ft. of mass for a F.A.R. of 1:10.16. Approved.
- 3) Joyce Residence (MGT) PC#2014060, 37 Stillson Placer Terrace  
Construct a new, single family residence with 4 bedrooms, 5.5 bathrooms, 5,034 sq. ft of density and 5,977 sq. ft. of mass for a F.A.R. of 1:4.80. Approved.

**CLASS B APPLICATIONS:**

None.

**CLASS A APPLICATIONS:**

- 1) Sprint 2.5 Modification (MGT) PC#2014061, 611 Village Road  
Install 3 Sprint panel antennas and equipment. Approved.

**TOWN PROJECT HEARINGS:**

None.

**OTHER:**

None.

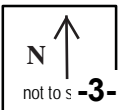


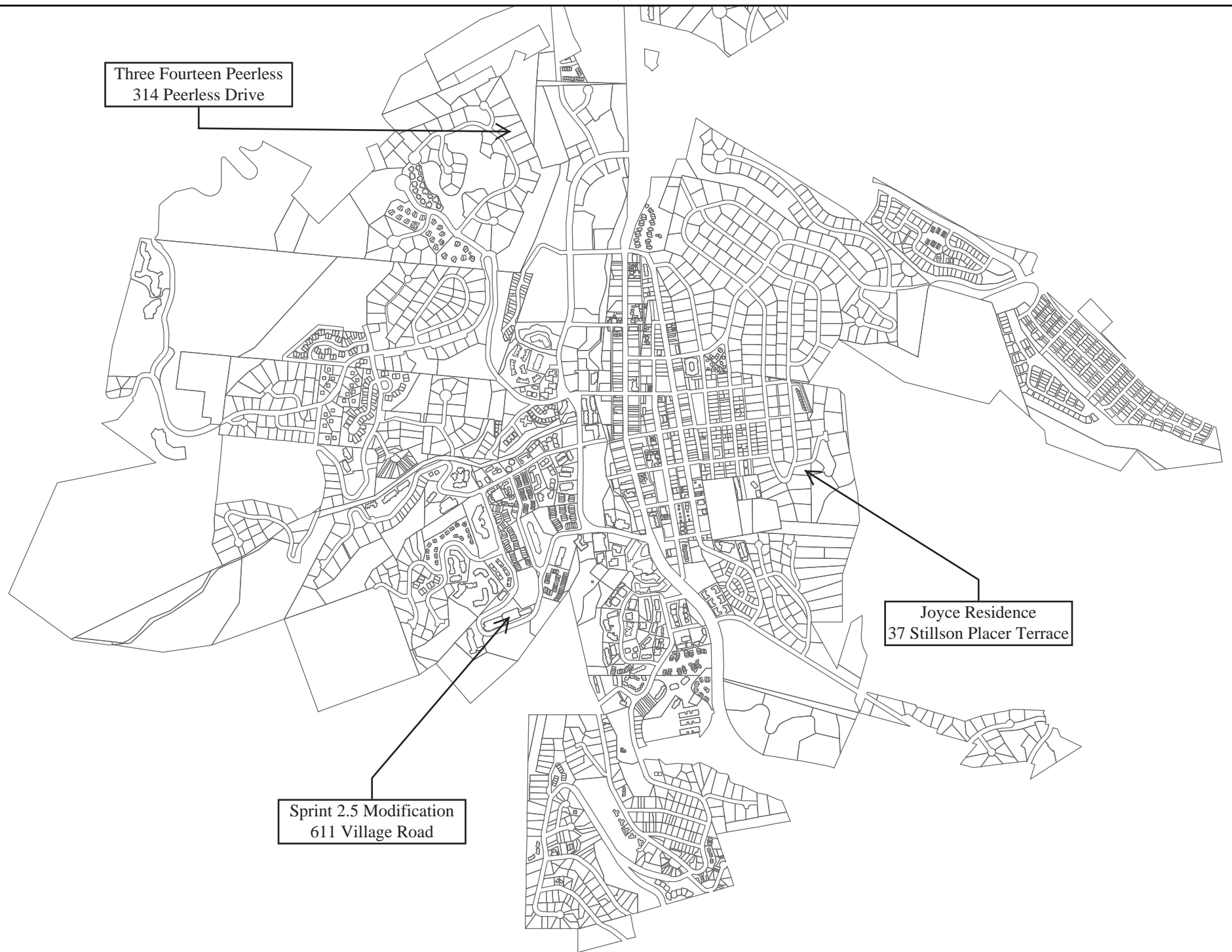
Bendrick Residence  
19 Evans Court



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

# Breckenridge North





Three Fourteen Peerless  
314 Peerless Drive

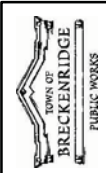
Joyce Residence  
37 Stillson Placer Terrace

Sprint 2.5 Modification  
611 Village Road



# Breckenridge South

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



## PLANNING COMMISSION MEETING

The meeting was called to order at 7:00pm

### ROLL CALL

Eric Mamula                      Kate Christopher                      Ron Schuman  
Dan Schroder                      Dave Pringle arrived at 7:19pm  
Jim Lamb, Gretchen Dudney, and Ben Brewer, Town Council liaison, were absent.

### APPROVAL OF AGENDA

Mr. Mosher announced that Mr. Brewer, Town Council Liaison, was absent, and thus there would be no Town Council Report this evening. With no other changes, the August 5, 2014, Planning Commission Agenda was approved as presented.

### APPROVAL OF MINUTES

With no changes, the July 15, 2014, Planning Commission Minutes were approved as presented.

### CONSENT CALENDAR:

- 1) Three Fourteen Peerless (MGT) PC#2014057, 314 Peerless Drive
- 2) Bendrick Residence (MGT) PC#2014059, 19 Evans Court
- 3) Joyce Residence (MGT) PC#2014060, 37 Stillson Placer Terrace

#### *Commissioner Questions / Comments:*

Mr. Schroder: Peerless house is very big. It's interesting that you can get so many positive points on landscaping.

Mr. Mamula: Landscaping mitigates the site impact that is created by the development. I would like to re-examine the HERS points, because people are getting positive points for HERS, which addresses a more global issue, but does not address the impacts on the site. (Mr. Thompson: To be fair to the applicants, when Staff identifies policies where the proposal may receive negative points, the applicant needs to be able to realistically use Policies of the Development Code make up the negative point with positive points.) I understand, but landscaping addresses site impacts and HERS does not. (Mr. Truckey: Your point is that it is not mitigating it on site?) Yes.

Mr. Peter Joyce and Mr. Jon Gunson made the following comments: If Stillson Placer hadn't been put in, then it would be an even bigger obstacle to overcome. I understand what you are saying, but I think it is going to be tough for these lots in the future to mitigate these areas because of the way the grades are. All the good easy lots have been built on; now we are down to the more difficult lots to build on. We need to have a tremendous amount of opportunities to mitigate through positive points to offset negative points incurred for long driveways, etc. that are needed to meet grade and Town road standards.

Mr. Schroder made a motion to approve the consent calendar and Mr. Schuman seconded. The motion was approved unanimously (4-0).

### WORKSESSIONS:

- 1) BOSAC Annual Report (MT)

Mr. Truckey presented the recently released State of the Open Space Report, providing information on various accomplishments of the Town's Open Space program since its inception in the late 1990's, as well as providing a summary of 2013 accomplishments.

#### *Commissioner Questions / Comments:*

- Mr. Schroder: What happened in 2005; the purple bar on page 2? (Mr. Truckey: That was the big purchase of B&B.) The signage on the Golden Horseshoe; will those signs look any different? I get confused by the USFS signs but the town signs make sense to me. (Mr. Truckey: The hope in the future is that, yes, we will be able to improve these signs. We have been working with the USFS to get the signs that do exist. It is partly a financial thing on who would pay for the updated signs.) One person commented to me that we are very bike centric on our trail system. Do you get comments that there aren't as many hiking trails? (Mr. Truckey: We do feel that we do have a lot of bike use but we are still working to accommodate all user groups. On Moonstone Trail, we have created some alternative downhill trails for bikers so that the hikers have the trail mostly to themselves.)
- Mr. Mamula: It is big deal that we have 120 or so trailheads you can access in Breckenridge without having to get into a car. You can leave your condo or hotel with your bike and just go. I think it is important to promote this.
- Mr. Schroder: This is the reason why I don't leave Breckenridge because I can access so much. (Mr. Truckey: Eventually we will have trails behind the BOEC and also along French Creek, thus allowing an option to people using the roads.)
- Mr. Pringle: I think we have to take a good look at how well the Planning Department and Commission have gotten the open space parcels through the code and this is the positive result of our work over a long time. This is something to point out. (Mr. Truckey: I agree. Numerous open space dedications through subdivisions, etc. have made important contributions to the overall open space network.) A lot of people don't like the Highlands, but it ended up that we got a lot of open space through the master plan of this development. Do we have strategic purchases out there that we would like to buy? (Mr. Truckey: Yes, we do have a prioritized confidential list of properties that we would like to acquire for open space. At the same time we are opportunistic when situations present themselves. We definitely have a plan and we've been successful in acquiring our top priorities.) Is it the goal in the town to buy every private parcel out there and turn it into public space? (Mr. Truckey: It is more about being strategic to buy smart and purchase by priority. We don't have unlimited money so we need to be judicious.)
- Mr. Mamula: The more money you spend on new property, the more you have to do maintenance on. (Mr. Truckey: You are correct. The stewardship and management is something we need to put more money towards in the future.)
- Mr. Schuman: Do any of the funds pay for employees' salaries? (Mr. Truckey: Yes, the funds pay for the trail crew and most of Mr. Kulick's and Mr. Reid's salaries.)
- Mr. Mamula: When this first started this was a huge ordeal that was very contested about raising sales tax for open space when you live in a national forest. Now the benefit is huge and people definitely support open space. It is amazing how successful this program has been. So thank you to the Town Planning Staff, and all the people before the current Staff, who helped create this program.

**TOWN COUNCIL REPORT:** None.

**COMBINED HEARINGS:**

1) Sprint 2.5 Modification (MGT) PC#2014061, 611 Village Road

Mr. Thompson presented a proposal from Sprint to modify their existing rooftop telecommunication facility. This modification will bring 4G/LTE technology to the surrounding community providing more bandwidth and faster broadband service. The modification will entail the addition of the three (3) new antennas and three (3) new Remote Radiohead Units (RRU's) – one (1) per sector along with one (1) new BBU Kit in an existing cabinet located on the rooftop. The antennas will be wall-mounted against the existing five story building and will not extend above the existing roof height. The antennas will be painted the same color as the building to effectively blend into the wall. This location has existing

telecommunication facilities on the rooftop which has been seen as an ideal location on a tall building. There is minimal visual impact of the existing facilities from Town. The Planning Department recommended the Planning Commission approve the Sprint 2.5 telecommunication modification at Beaver Run Condo Building #2 at 611 Village Road, (PC#2014061) with the presented Findings and Conditions.

**Applicant Presentation:**

Ms. Valerie Cardenas from Sprint: There are some changes on page A4. The remote radio head units boxes 2' x 2' which will be relocated up on the parapet wall and be more hidden, further back up on the roof and be less visible.

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

*Commissioner Questions / Comments:*

Mr. Pringle: We've gone to great lengths with putting antennas up on the roof so that now we are building structures to hide the antennas, which makes them bigger and more visible. I've driven through Clear Creek Canyon quite a bit lately and there are antennas there and they blend with the landscape. Maybe we shouldn't be screening antennas with new building elements.

Mr. Pringle made a motion to approve the point analysis for the Sprint 2.5 Modification, PC#2014061, 611 Village Road. Mr. Mamula seconded, and the motion was carried unanimously (5-0).

Mr. Pringle made a motion to approve the Sprint 2.5 Modification, PC#2014061, 611 Village Road, with the presented findings and conditions. Mr. Schuman seconded, and the motion was carried unanimously (5-0).

**OTHER MATTERS:**

Mr. Mosher gave updates to the Commission:

- Class D Majors that have been approved by Staff since the last report in April.
- Inquiry on upcoming absences in order to schedule the next Breckenridge Mountain Lodge hearing with a full Planning Commission.

Mr. Truckey gave updates to the Commission:

- Snack Bar-Deli Ordinance: I'm going to the Town Council with a change in the definition of snack bars and delis. The snack bars/delis, which allow exclusive use of disposable paper and plastic products, go against the Town's sustainability goals. The proposal is to not allow snack bars/delis to have liquor licenses. It won't eliminate them all together, but it will keep them more in check with our sustainability guidelines. (Mr. Mamula: The fee for water taps should be paid by the landlord and then recuperated from the tenant in the rent structure. We end up looking like the bad guy asking the small snack bars, delis, restaurants, bars to pay for the tap fees. Then this runs with the land.)
- The State APA conference is October 1 through October 3 and we highly encourage you to go. If you have questions, talk to Ms. Brewster, who will send you another e-mail.

**ADJOURNMENT:**

The meeting was adjourned at 7:52 pm.

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Kate Christopher, Vice Chair

**MEMO**

**TO: Breckenridge Town Council**

**FROM: Laurie Best-Community Development Department**

**RE: Base 9 Condo-Development Agreement Second Reading**

**AN ORDINANCE APPROVING A DEVELOPMENT AGREEMENT WITH THE BASE 9  
CONDOMINIUMS HOMEOWNERS ASSOCIATION, A COLORADO NONPROFIT  
CORPORATION**

**DATE: July 29, 2014 (for August 12, 2014 Town Council Meeting)**

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On April 8, 2014, the Town Council discussed a proposal from the Base 9 Condo Association regarding a Development Agreement that would allow the HOA to convert a portion of their common area into an employee housing unit. The Council was supportive of moving forward with the project, and the Development Agreement was passed on first reading on July 22, 2014. The only change to the Agreement since first reading is a clarification in regard to the type of covenant which will be recorded. The change which is highlighted on the attached Agreement requires that one of the apartments include an income cap in addition to the Town's standard employment requirement. This Agreement is scheduled for second reading on August 12, 2014 and staff supports the project. Some additional background and specifics of the Agreement are described below.

**Background:**

In this case a Development Agreement is required because the conversion of the common area, which is not considered density, into an employee housing unit will result in a net increase of 900 square feet of density. The existing complex is already over density by about 5,600 square feet due to code changes that occurred after Base 9 was developed in 1979. When Base 9 was constructed, the approved plans included 22 condominium units in two buildings, with a third building designated as a general common element. The general common element included an 800 square foot manager's apartment, a 600 square foot studio apartment, and approximately 670 square feet of 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. 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 hot tub area into a 900 square foot employee housing unit (apartment). The remodel will not impact the two existing apartments, and the small laundry room and storage area will also 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 requirements.

Development Agreement:

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 with the Housing/Childcare Committee, who supported the request 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
- there is sufficient parking on site to accommodate the new apartment

The Agreement as presented includes the following terms:

- the HOA agrees to deed restrict the new apartment, as well as the two original apartments, in a form acceptable to the Town-this will include income testing for the new apartment and employment restrictions for all three apartments
- the Town agrees to transfer density to the project for the new apartment (1/4 of a TDR is required to comply with the affordable housing policies of the Joint Upper Blue Master Plan)
- the Town agrees to waive the Town's fees associated with the construction of the new unit
- a Class D Development Permit will be required

Summary:

Staff recommends approval of the Agreement as presented. The applicant will be available at your meeting to answer and questions and discuss this proposal.

1 **FOR WORKSESSION/SECOND READING – AUG. 12**

2  
3 Additions To The Ordinance As Approved on First Reading Are  
4 Indicated By **Bold + Double Underline**; Deletions By ~~Strikeout~~

5  
6 COUNCIL BILL NO. 25

7  
8 Series 2014

9  
10 AN ORDINANCE APPROVING A DEVELOPMENT AGREEMENT WITH  
11 THE BASE 9 CONDOMINIUMS HOMEOWNERS ASSOCIATION, A COLORADO  
12 NONPROFIT CORPORATION

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

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

19  
20 A. The Base 9 Condominiums Homeowners Association, a Colorado nonprofit  
21 corporation (“**Association**”), is the true and lawful attorney-in-fact for all of the owners of the  
22 units in The Base 9 Condominiums, located in Breckenridge, Summit County, Colorado (the  
23 “**Base 9 Condominiums**”), with the power to manage, control, and deal with the interests of  
24 such owners in the common elements of The Base 9 Condominiums so as to permit the  
25 Association to fulfill all of its duties and obligations and to exercise all of its rights under the  
26 Declaration of Condominiums For Base 9 Condominiums (“**Declaration**”).

27  
28 B. Pursuant to Article V, Section 1(o) of the Declaration the Association has the power to  
29 enter into contracts, and the Association has obtained all approvals necessary for it to lawfully  
30 enter into this Agreement and the Association is fully authorized to enter into the proposed  
development agreement between the Town and the Association.

31  
32 C. Article V, Section 1 (a) of the Declaration grants the Association the authority on its  
33 own, and without the need for the formal approval of the owners of the units in the Base 9  
34 Condominiums, or any other person (except the Town with respect all of its required  
35 governmental approvals), to improve, repair, and replace the general common elements of the  
36 Base 9 Condominiums (“**General Common Elements**”), and to make necessary or desirable  
additions, betterments or improvements to or on the General Common Elements.

37  
38 D. The Association wants to make certain improvements to the existing General  
39 Common Elements, including converting an existing common area space into a 900 square foot  
workforce housing unit.

40  
41 E. The improvements to the General Common Elements proposed by the Association will  
increase the density of the Base 9 Condominiums.

1 F. The density of the Base 9 Condominiums currently exceeds the amount of density  
2 allowed by the Town’s “Development Code”, Chapter 1 of Title 9 of the Breckenridge Town  
3 Code (“**Development Code**”). As a result, in order for the Association’s proposed project to be  
4 approved, density must be transferred to the site.

5 G. The Town has agreed to transfer up to one fourth (1/4) of a transferable development  
6 right of Town-owned density to the Base 9 Condominiums to allow for the construction of the  
7 proposed new workforce housing unit if the Association will execute ~~a standard~~ Town-approved  
8 housing covenants~~s~~ perpetually encumbering in favor of the Town the new workforce housing  
9 unit, as well as two existing units owned by the Association, all as more described in the proposed  
10 development agreement between the Town and the Association.

11 H. In addition, the Town is willing to waive the commitments encouraged to be made in  
12 connection with an application for a development agreement in accordance with Section 9-9-4 of  
13 the Breckenridge Town Code.

14 I. Pursuant to Chapter 9 of Title 9 the Breckenridge Town Code the Town Council has  
15 the authority to enter into a development agreement.

16 J. The Association has submitted to the Town a completed application for a development  
17 agreement.

18 K. A proposed development agreement between the Town and Association has been  
19 prepared, a copy of which is marked **Exhibit “A”**, attached hereto and incorporated herein by  
20 reference (“**Development Agreement**”).

21 L. The Association has requested that the Town waive the normal application fees for the  
22 Development Agreement. The Town Council finds and determines that Section 9-10-9 of the  
23 Breckenridge Town Code can properly be applied to the Association’s application for the  
24 Development Agreement, and that the waiver of the application fee for the Development  
25 Agreement: (i) is necessary to avoid payment of an excessive or duplicative application fee, and  
26 (ii) is justified and is consistent with the intent of Chapter 10 of Title 9 of the Breckenridge  
27 Town Code.

28 M. Chapter 9 of Title 9 of the Breckenridge Town Code sets forth a procedure for the  
29 adoption and approval of a development agreement by the Town Council. All requirements of  
30 said Chapter have been met or waived in connection with the adoption of this ordinance.

31 N. The Town Council had a preliminary discussion of the Association’s application and  
32 the Development Agreement as required by Section 9-9-10(A) of the Breckenridge Town Code.

33 O. The Town Council determined that Association’s request for a development  
34 agreement need not be referred to the Breckenridge Planning Commission for its review and  
35 recommendation.

36 P. The Town Council has reviewed the Development Agreement, and finds and  
37 determines that it should be approved.

1 Q. The approval of the Development Agreement is warranted in light of all relevant  
2 circumstances.

3 Section 2. Approval of Development Agreement. The Development Agreement between  
4 the Town and The Base 9 Condominiums Homeowners Association, a Colorado nonprofit  
5 corporation (**Exhibit "A"** hereto), is approved, and the Town Manager is authorized,  
6 empowered, and directed to execute such agreement for and on behalf of the Town of  
7 Breckenridge.  
8

9 Section 3. Notice of Approval. The Development Agreement must contain a notice in the  
10 form provided in Section 9-9-13 of the Breckenridge Town Code. In addition, a notice in  
11 compliance with the requirements of Section 9-9-13 of the Breckenridge Town Code must be  
12 published by the Town Clerk one time in a newspaper of general circulation in the Town within  
13 fourteen days after the adoption of this ordinance. Such notice shall satisfy the requirement of  
14 Section 24-68-103, C.R.S.  
15

16 Section 4. Police Power Finding. The Town Council finds, determines, and declares that  
17 this ordinance is necessary and proper to provide for the safety, preserve the health, promote the  
18 prosperity, and improve the order, comfort and convenience of the Town of Breckenridge and  
19 the inhabitants thereof.  
20

21 Section 5. Authority. The Town Council finds, determines, and declares that it has the  
22 power to adopt this ordinance pursuant to the authority granted to home rule municipalities by  
23 Article XX of the Colorado Constitution and the powers contained in the Breckenridge Town  
24 Charter.  
25

26 Section 6. Effective Date. This ordinance shall be published and become effective as  
27 provided by Section 5.9 of the Breckenridge Town Charter.  
28

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

35 TOWN OF BRECKENRIDGE

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

41 ATTEST:  
42  
43  
44

45 \_\_\_\_\_  
46 Helen Cospolich, Town Clerk  
1800-447\Development Agreement Ordinance\_3 (07-25-14)(Second Reading)

1  
2 APPROVAL OF THIS DEVELOPMENT AGREEMENT CONSTITUTES A VESTED PROPERTY  
3 RIGHT PURSUANT TO ARTICLE 68 OF TITLE 24, COLORADO REVISED STATUTES, AS  
4 AMENDED  
5

6  
7 Additions To The Prior Draft Are  
8 Indicated By **Bold + Double Underline**; Deletions By ~~Strikeout~~  
9

10 **DEVELOPMENT AGREEMENT**

11  
12 This Development Agreement (“**Agreement**”) is dated \_\_\_\_\_, 2014  
13 and is between the TOWN OF BRECKENRIDGE, a Colorado municipal corporation (the  
14 “**Town**”) and THE BASE 9 CONDOMINIUMS HOMEOWNERS ASSOCIATION, a Colorado  
15 nonprofit corporation (the “**Association**”). The Town and the Association are sometimes  
16 collectively referred to in this Agreement as the “**Parties**,” and individually as a “**Party**.”

17 **Recitals**

18  
19 A. The Association is the true and lawful attorney-in-fact for all of the owners of the units  
20 in The Base 9 Condominiums, located in Breckenridge, Summit County, Colorado (the “**Base 9**  
21 **Condominiums**”), with the power to manage, control, and deal with the interests of such owners  
22 in the common elements of The Base 9 Condominiums so as to permit the Association to fulfill all  
23 of its duties and obligations and to exercise all of its rights under the Declaration of Condominiums  
24 For Base 9 Condominiums (“**Declaration**”).

25 B. Pursuant to Article V, Section 1(o) of the Declaration the Association has the power to  
26 enter into contracts, and the Association has obtained all approvals necessary for it to lawfully  
27 enter into this Agreement and the Association is fully authorized to enter into this Agreement.

28 C. Article V, Section 1 (a) of the Declaration grants the Association the authority on its  
29 own, and without the need for the formal approval of the owners of the units in the Base 9  
30 Condominiums, or any other person (except the Town with respect all of its required governmental  
31 approvals), to improve, repair, and replace the general common elements of the Base 9  
32 Condominiums (“**General Common Elements**”), and to make necessary or desirable additions,  
33 betterments or improvements to or on the General Common Elements.

34 D. The Association wants to make certain improvements to the existing General Common  
35 Elements, including converting an existing common area space into a 900 square foot workforce  
36 housing unit.

**DEVELOPMENT AGREEMENT**

1 E. The improvements to the General Common Elements proposed by the Association will  
2 increase the density of the Base 9 Condominiums.

3 F. The density of the Base 9 Condominiums currently exceeds the amount of density  
4 allowed by the Town's "Development Code", Chapter 1 of Title 9 of the Breckenridge Town Code  
5 ("**Development Code**"). As a result, in order for the Association's proposed project to be  
6 approved, density must be transferred to the site.

7 G. The Town has agreed to transfer up to one fourth (1/4) of a transferable development  
8 right of Town-owned density to the Base 9 Condominiums to allow for the construction of the  
9 proposed new workforce housing unit if the Association will execute Town-approved housing  
10 covenant(s) perpetually encumbering certain residential housing units owned by the Association,  
11 all as more fully set forth hereafter.

12 H. In addition, the Town is willing to waive the commitments encouraged to be made in  
13 connection with an application for a development agreement in accordance with Section 9-9-4 of  
14 the Breckenridge Town Code, and certain fees and charges that would normally be required to be  
15 paid to the Town, all as more fully set forth in this Agreement.

16 I. Pursuant to Chapter 9 of Title 9 the Breckenridge Town Code the Town Council has the  
17 authority to enter into a development agreement.

18 J. Chapter 1 of Title 9 of the BreckenridgeTownCode sets forth a procedure for the  
19 adoption and approval of a development agreement by the Town Council. All requirements of said  
20 Chapter have been met or waived in connection with the approval of this Agreement and the  
21 authorizing ordinance.

22 K. The Town Council has received a completed application and all required submittals for  
23 a development agreement; had a preliminary discussion of the application and this Agreement;  
24 determined that it should commence proceedings for the approval of this Agreement without  
25 referring the development agreement application to the Planning Commission; and, in accordance  
26 with the procedures set forth in Section 9-9-10(C) of the Breckenridge Town Code, has approved  
27 this Agreement by non-emergency ordinance.

## 28 Agreement

29  
30 **1. Development Permit.** The Town's Director of the Department of Community  
31 Development is hereby authorized to review and approve, subject to compliance with all other  
32 applicable development policies of the Town, a Class D development permit for the improvements  
33 to the General Common Elements of the Base 9 Condominiums as proposed by the Association  
34 and as contemplated by this Agreement ("**Development Permit**").

## DEVELOPMENT AGREEMENT

1           **2. Density.** As a required condition of the Development Permit the Town will agree to  
2 transfer to the Base 9 Condominiums a maximum of one fourth of a transferable development right  
3 to allow for the construction by the Association of the new workforce housing unit in the general  
4 Common Elements of the Base 9 Condominiums as proposed by the Association and as  
5 contemplated by this Agreement. No other use may be made of the transferred density without the  
6 prior, written permission of the Town. The transferred density will come from the Town’s existing  
7 inventory of density, and will be transferred at a ratio of one transferable development right for  
8 each four single family equivalents of deed restricted housing to be provided by the Association  
9 pursuant to this Agreement.

10           **3. Required Housing ~~Covenant~~Covenants.** In addition to other conditions of approval,  
11 the Development Permit shall require the Association to execute and deliver to the Town, in a  
12 form forms acceptable to the Town Attorney, the following restrictive covenants:

13           **A. The Town’s standard housing covenant perpetually restricting the occupancy and**  
14 **use of the new residential housing unit to be constructed by the Association pursuant to the**  
15 **Development Permit (approximately 900 square feet in size) to local workforce housing and**  
16 **containing a provision limiting the tenant’s income to a maximum of 80% AMI (area**  
17 **median income).**

18           **B. The** Town’s standard housing covenant perpetually restricting the occupancy and use of  
19 the following units at the Base 9 Condominiums owed by the Association to local workforce  
20 housing: (i) ~~the new residential housing unit to be constructed by the Association pursuant to the~~  
21 ~~Development Permit;~~ (ii) the existing “Manager’s Unit” in Building 3 (approximately 800 square  
22 feet in size); and ~~(iii)~~ the existing “Employee Unit” in Building 3 (approximately 600 square feet  
23 in size).

24           **C. The restrictive covenant required by Section A shall contain an acknowledgment**  
25 **by the Association that it has entered into the covenant voluntarily and without any threat,**  
26 **coercion, or compulsion by the Town, and a promise that the Association will not commence**  
27 **any legal or equitable action challenging the validity or enforceability of the covenant for**  
28 **any reason or under any legal theory, including, but not limited, to a claim that the**  
29 **provisions of the covenant constitute a violation of Section 38-12-301, C.R.S. (Colorado Rent**  
30 **Control Statute), or any other applicable local, state or federal statute, rule or regulation.**

31           **4. Designation of Site Specific Development Plan.** The Town acknowledges and agrees  
32 that the Development Permit will constitute a site specific development plan or, in the alternative,  
33 the Town Council, by approving this Agreement, hereby designates the Development Permit as a  
34 site specific development plan.

35           **5. Waiver of Certain Fees; Limitation.**

## DEVELOPMENT AGREEMENT

1 A. Pursuant to Section 9-10-9 of the Breckenridge Town Code, and the findings made by  
2 the Town Council in the ordinance that approved this Agreement, the Town waives:

- 3 (i) any fees that would normally be required to be paid to the Town in connection with  
4 the application for this Agreement;
- 5 (ii) any fee that would normally be required to be paid to the Town in connection with  
6 the Development Permit application; and
- 7 (iii) any fee that would normally be required to be paid to the Town in connection with  
8 the issuance of a building permit to construct the improvements to the Base 9  
9 Condominiums to be described in the Development Permit.

10 The fee waivers provided for in this Section do not apply to future development of the Base 9  
11 Condominiums not covered by the Development Permit.

12 B. The Town waives all water tap fees (called water “**Plant Investment Fees**” under the  
13 Town ordinances) for the new workforce housing unit to be constructed by the Association  
14 pursuant to the Development Permit. As required by Section 12-4-9(A) of the Breckenridge Town  
15 Code, the Town Council finds that:

- 16 (i) the Association’s development of the Base 9 Condominiums pursuant to the  
17 Development Permit will provide a substantial public benefit as described in Recitals  
18 of this Agreement, and that such public benefit justifies the waiver of the Plant  
19 Investment Fees; and
- 20 (ii) sufficient cause for the waiver of the Plant Investment Fees has been demonstrated,  
21 and the waiver of the Plant Investment Fees will be in the public interest.

22 The Association shall pay for water service delivered by the Town to the new workforce housing  
23 unit at the then-current in-Town water rates. Water use by at the new workforce housing unit is  
24 subject to all rules, regulations and ordinances pertaining to the Town's water utility system,  
25 including all future amendments.

26 **6. Application of Other Laws.** Except as provided in Section 24-68-105, C.R.S., and  
27 except as specifically provided for herein, the execution of this Agreement shall not preclude the  
28 current or future application of municipal, state or federal ordinances, laws, rules or regulations to  
29 the real property that is the subject of this Agreement (collectively, “**laws**”), including, but not  
30 limited to, building, fire, plumbing, engineering, electrical and mechanical codes, and the Town’s  
31 Development Code, Subdivision Standards, Land Use Guidelines, and other land use laws, as the  
32 same may be in effect from time to time throughout the term of this Agreement. Any development  
33 of the real property that is the subject of this Agreement shall be done in compliance with the then  
34 current laws of the Town.

## DEVELOPMENT AGREEMENT



1           **7. Continuing Authority of Town.** Nothing in this Agreement shall preclude or otherwise  
2 limit the lawful authority of the Town to adopt or amend any Town law, including, but not limited  
3 to the Town's: (i) Development Code; (ii) Master Plan; (iii) Land Use Guidelines; and (iv)  
4 Subdivision Standards.

5           **8. Benefits and Burdens Run With Land.** This Agreement shall run with the title to the  
6 real property that is the subject of this Agreement and be binding upon and inure to the benefit of  
7 the Town and the Association, their successors and assigns.

8           **9. Notice of Default.** Prior to any action against the Town for breach of this Agreement,  
9 the Association shall give the Town a sixty (60) day written notice of any claim by the Association  
10 of a breach or default by the Town, and the Town shall have the opportunity to cure such alleged  
11 default within such time period.

12           **10. Non-Liability of Town.** The Town shall not be responsible for and the Association  
13 shall have no remedy against the Town if development of the real property which is the subject of  
14 this Agreement is prevented or delayed for reasons beyond the control of the Town.

15           **11. Further Permits Required.** Actual development of the real property which is the  
16 subject of this Agreement shall require the issuance of such other and further permits and  
17 approvals by the Town as may be required from time to time by applicable Town ordinances.

18           **12. No Personal Liability.** No official or employee of the Town shall be personally  
19 responsible for any actual or alleged breach of this Agreement by the Town.

20           **13. Indemnification.** The Association agrees to indemnify and hold the Town, its officers,  
21 employees, insurers, and self-insurance pool, harmless from and against all liability, claims, and  
22 demands, on account of injury, loss, or damage, including without limitation claims arising from  
23 bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss  
24 of any kind whatsoever, which arise out of or are in any manner connected with this Agreement, if  
25 such injury, loss, or damage is caused in whole or in part by, or is claimed to be caused in whole or  
26 in part by, the negligence or intentional act or omission of the Association; any subcontractor of  
27 the Association, or any officer, employee, representative, or agent of the Association or of any  
28 subcontractor of the Association, or which arise out of any worker's compensation claim of any  
29 employee of the Association, or of any employee of any subcontractor of the Association; except  
30 to the extent such liability, claim or demand arises through the negligence or intentional act or  
31 omission of the Town, its officers, employees, or agents. The Association agrees to investigate,  
32 handle, respond to, and to provide defense for and defend against, any such liability, claims, or  
33 demands at the sole expense of the Association. The Association also agrees to bear all other costs  
34 and expenses related thereto, including court costs and attorney's fees. The Association's  
35 indemnity obligation to the Town under this Agreement includes any claim challenging the  
36 authority of the Association to enter into this Agreement. The Association's indemnity obligations

1 under this Agreement will survive the completion of the work to be done by the Development  
2 Permit or the termination of this Agreement for any reason, and will continue to be fully  
3 enforceable by the Town thereafter until such indemnity obligations are fully performed.

4 **14. Severability.** If any provision of this Agreement shall be invalid, illegal, or  
5 unenforceable, it shall not affect or impair the validity, legality, or enforceability of the remaining  
6 provisions of the Agreement.

7 **15. Vested Right.** This Agreement constitutes a vested property right pursuant to Article  
8 68 of Title 24, Colorado Revised Statutes, as amended.

9 **16. Waiver.** No waiver of any provision of this Agreement shall be deemed or constitute a  
10 waiver of any other provision, nor shall it be deemed to constitute a continuing waiver unless  
11 expressly provided for by a written amendment to this Agreement signed by both the Town and the  
12 Association; nor shall the waiver of any default under this Agreement be deemed a waiver of any  
13 subsequent default or defaults of the same type. The Town's failure to exercise any right under this  
14 Agreement shall not constitute the approval of any wrongful act by the Association, or the  
15 acceptance of any improvements.

16 **17. No Waiver of Sovereign Immunity.** Nothing contained in this Agreement shall  
17 constitute a waiver of the Town's sovereign immunity under any applicable state or federal law.

18 **18. Jurisdiction and Venue.** Personal jurisdiction and venue for any civil action  
19 commenced by either Party shall be deemed to be proper only if such action is commenced in  
20 District Court of Summit County, Colorado. The Association expressly waives its right to bring  
21 such action in or to remove such action to any other court, whether state or federal. **BOTH PARTIES**  
22 **WAIVE THEIR RIGHT TO A JURY TRIAL IN ANY ACTION TO INTERPRET OR ENFORCE THIS**  
23 **AGREEMENT.**

24 **19. Notice.** Any notice required or permitted hereunder shall be in writing and shall be  
25 sufficient if personally delivered or mailed by certified mail, return receipt requested, addressed as  
26 follows:

27  
28 If To the Town: Timothy J. Gagen, Town Manager  
29 Town of Breckenridge  
30 P.O. Box 168  
31 Breckenridge, CO 80424  
32

33  
34 With A Copy (which  
35 shall not constitute  
36 notice to the Town) to: Timothy H. Berry, Esq.

## DEVELOPMENT AGREEMENT

1 Town Attorney  
2 P.O. Box 2  
3 Leadville, CO 80461  
4

5 If To the Association:

6 President  
7 Base 9 Condominiums Homeowners Association  
8 P.O. Box [REDACTED]  
9 Breckenridge, CO 80424

10 Notices mailed in accordance with the provisions of this Section shall be deemed to have been  
11 given upon delivery. Notices personally delivered shall be deemed to have been given upon  
12 delivery. Nothing herein shall prohibit the giving of notice in the manner provided for in the  
13 Colorado Rules of Civil Procedure for service of civil process.  
14

15 **20. Entire Agreement.** This Agreement constitutes the entire agreement and  
16 understanding between the Parties relating to the subject matter of this Agreement and supersedes  
17 any prior agreement or understanding relating to such subject matter.

18 **21. Governing Law.** This Agreement shall be interpreted in accordance with the laws of  
19 the State of Colorado without regard to its conflict of laws rules that might require it to be  
20 interpreted in accordance with the laws of any state other than the State of Colorado.

21 **22. Required Notice.** Within fourteen (14) days following the final adoption of the  
22 ordinance approving this Development Agreement, the Town Clerk shall cause to be published  
23 one time in a newspaper of general circulation within the Town a notice satisfying the  
24 requirements of Section 9-9-13 of the Development Code.

25 **23. Recording.** This Agreement **SHALL BE RECORDED** in the office of the Clerk and  
26 Recorder of Summit County, Colorado.

27 **24. Costs.** The costs of publication of the Notice as described in Section 23, above, and the  
28 cost of recording this Agreement as described in Section 24, above, shall be paid by the  
29 Association.

30 **25. Effective Date.** The effective date of this Agreement shall be the date that the Town  
31 Council ordinance approving this Agreement becomes effective as provided in the Breckenridge  
32 Town Charter.

33  
34 [SIGNATURE PAGES FOLLOW]  
35

DEVELOPMENT AGREEMENT





**MEMO**

TO: Town Council

FROM: Town Attorney

RE: Council Bill No. 26 (Revised “Fine In Lieu of Suspension” Ordinance)

DATE: August 4, 2014 (for August 12<sup>th</sup> meeting)

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The second reading of the ordinance amending the Town’s “Fine In Lieu of Suspension Ordinance” to conform to the recent change in state law is scheduled for your meeting on August 12<sup>th</sup>. There are no changes proposed to ordinance from first reading.

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

1 **FOR WORKSESSION/SECOND READING – AUG. 12**

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. 26

9  
10 Series 2014

11  
12 AN ORDINANCE AMENDING SECTION 4-4-2 OF THE BRECKENRIDGE TOWN CODE  
13 CONCERNING THE PAYMENT OF A FINE IN LIEU OF THE SUSPENSION OF A  
14 LICENSE TO SELL ALCOHOLIC BEVERAGES

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

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

21  
22 4-4-2: SUSPENSION OR REVOCATION; FINE:

23  
24 A. Whenever a decision of the liquor licensing authority, suspending a license ~~or permit~~ **or permit** for  
25 ~~fourteen (14) days or less~~ becomes final, whether by failure of the licensee to appeal the  
26 decision or by exhaustion of all appeals and judicial review, the licensee may, before the  
27 operative date of the suspension, petition the liquor licensing authority for permission to  
28 pay a fine in lieu of ~~having his~~ the license or permit license ~~suspension~~ **suspension** suspended for all  
29 or part of the suspension period. Upon the receipt of the petition, the liquor licensing  
30 authority may, in its sole discretion, stay the proposed suspension and cause any  
31 investigation to be made ~~which~~ **that** it deems desirable and may, in its sole discretion,  
32 grant the petition if it is satisfied **that**:

- 33  
34 1. public welfare and morals would not be impaired by permitting the licensee to  
35 operate during the period set for suspension and that the payment of the fine will  
achieve the desired disciplinary purposes; **and**
- 36  
37 2. ~~That~~ **T**he books and records of the licensee are kept in such a manner that the loss of  
38 sales of alcoholic beverages which the licensee would have suffered had the  
39 suspension gone into effect can be determined with reasonable accuracy, ~~therefrom~~;  
**and**
- 40  
41 3. ~~That the licensee has not had his license suspended or revoked, nor had any~~  
suspension stayed by payment of a fine, during the two (2) years immediately

1 preceding the date of the motion or complaint which has resulted in a final decision to  
2 suspend the license.

- 3 B. The fine accepted shall be equivalent to twenty percent (20%) of the retail licensee's  
4 estimated gross revenues from sales of alcoholic beverages during the period of the  
5 proposed suspension; except that the fine shall be not less than two hundred dollars  
6 (\$200.00) nor more than five thousand dollars (\$5,000.00).
- 7 C. Payment of any fine pursuant to the provisions of this section shall be in the form of cash,  
8 certified check or cashier's check made payable to the town clerk and shall be deposited  
9 in the general fund of the town.
- 10 D. Upon payment of the fine pursuant to this section, the liquor licensing authority shall  
11 enter its further order permanently staying the imposition of the suspension.
- 12 E. In connection with any petition pursuant to this section, the authority of the liquor  
13 licensing authority is limited to the granting of such stays as are necessary for it to  
14 complete its investigation and make its findings and, if it makes such findings, to the  
15 granting of an order permanently staying the imposition of the entire suspension or that  
16 portion of the suspension not otherwise conditionally stayed.
- 17 F. If the liquor licensing authority does not make the findings required in subsection A of  
18 this section and does not order the suspension permanently stayed, the suspension shall  
19 go into effect on the operative date finally set by the liquor licensing authority.

20 Section 2. Except as specifically amended hereby, the BreckenridgeTownCode, and  
21 the various secondary codes adopted by reference therein, shall continue in full force and  
22 effect.

23  
24 Section 3. The Town Council hereby finds, determines and declares that this  
25 ordinance is necessary and proper to provide for the safety, preserve the health, promote the  
26 prosperity, and improve the order, comfort and convenience of the Town of Breckenridge  
27 and the inhabitants thereof.

28  
29 Section 4. The Town Council hereby finds, determines and declares that it has the  
30 power to adopt this ordinance pursuant to the provisions of Section 12-47-601(7) C.R.S., and  
31 the powers possessed by home rule municipalities in Colorado.

32  
33 Section 5. This ordinance shall be published and become effective as provided by  
34 Section 5.9 of the Breckenridge Town Charter.

35  
36 INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED  
37 PUBLISHED IN FULL this \_\_\_\_ day of \_\_\_\_\_, 2014. A Public Hearing shall be held at the  
38 regular meeting of the Town Council of the Town of Breckenridge, Colorado on the \_\_\_\_ day of  
39 \_\_\_\_\_, 2014, at 7:30 P.M., or as soon thereafter as possible in the Municipal Building of the  
40 Town.  
41



TOWN OF BRECKENRIDGE, a Colorado  
municipal corporation

By: \_\_\_\_\_  
John G. Warner, Mayor

ATTEST:

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

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## MEMORANDUM

**To:** Mayor and Town Council  
**From:** Rick Holman, Assistant Town Manager  
**Date:** August 6, 2014  
**Subject:** Second Reading of a Town Ordinance Amending the Deadline Date for the Required Closure of a License Marijuana Business in the Downtown Overlay District

---

Attached is an ordinance that would amend the Town Code concerning the deadline date for the required closure of a marijuana business located in the Town's Downtown Overlay District. The deadline date in the ordinance has been changed from September 1, 2014 to February 2, 2015. The second reading of this ordinance is scheduled for the August 12<sup>th</sup> regular Town Council meeting and there have been no changes from the first reading.

1 **FOR WORKSESSION/SECOND READING – AUG. 12**

2  
3 **NO CHANGE FROM FIRST READING**

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

7  
8 COUNCIL BILL NO. 27

9  
10 Series 2014

11  
12 AN ORDINANCE AMENDING SECTION 4-14-21 OF THE BRECKENRIDGE TOWN  
13 CODE CONCERNING THE DEADLINE FOR THE REQUIRED CLOSURE OF PREMISES  
14 LICENSED UNDER THE “TOWN OF BRECKENRIDGE 2013 MARIJUANA LICENSING  
15 ORDINANCE” THAT ARE LOCATED WITHIN THE TOWN’S DOWNTOWN  
16 OVERLAY DISTRICT

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

20  
21 Section 1. Section 4-4-21(C) of the Breckenridge Town Code is amended to read as  
22 follows:

23  
24 C. Notwithstanding subsection B of this section any licensed premises that are  
25 lawfully located within the Downtown Overlay District as of the effective date of  
26 this chapter may remain in such location until the first to occur of:

27  
28 1. the licensee loses legal right to possession of the licensed premises for any  
29 reason; or

30 2. ~~September 1, 2014~~ **February 2, 2015.**

31 Upon the first to occur of subsection C1 or C2 of this section, the licensed  
32 premises shall be permanently closed, but may be relocated to a location outside  
33 of the Downtown Overlay District in accordance with Section 4-14-19.

34  
35 Section 2. Except as specifically amended hereby, the Breckenridge Town Code, and the  
36 various secondary codes adopted by reference therein, shall continue in full force and effect.

37  
38 Section 3. The Town Council hereby finds, determines and declares that it has the power  
39 to adopt this ordinance pursuant to: (i) the Colorado Medical Marijuana Code, Article 43.3 of  
40 Title 12, C.R.S.; (ii) Section 16 of Article XVIII to the Colorado Constitution; (iii) the Colorado  
41 Retail Marijuana Code, Article 43.4 of Title 12, C.R.S.; (iv) the applicable administrative  
42 regulations; (v) The Local Government Land Use Control Enabling Act, Part 1 of Article 20 of  
Title 29, C.R.S.; (vi) Part 3 of Article 23 of Title 31, C.R.S. (concerning municipal zoning

1 powers); (vii) Section 31-15-103, C.R.S. (concerning municipal police powers); (viii) Section  
2 31-15-401, C.R.S. (concerning municipal police powers); (ix) Section 31-15-501, C.R.S.  
3 (concerning municipal authority to regulate businesses); (x) the authority granted to home rule  
4 municipalities by Article XX of the Colorado Constitution; and (xi) the powers contained in the  
5 Breckenridge Town Charter.

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

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

12 INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED  
13 PUBLISHED IN FULL this \_\_\_\_ day of \_\_\_\_\_, 2014. A Public Hearing shall be held at the  
14 regular meeting of the Town Council of the Town of Breckenridge, Colorado on the \_\_\_\_ day of  
15 \_\_\_\_\_, 2014, at 7:30 P.M., or as soon thereafter as possible in the Municipal Building of the  
16 Town.

17  
18 TOWN OF BRECKENRIDGE, a Colorado  
19 municipal corporation  
20

21  
22  
23 By: \_\_\_\_\_  
24 John G. Warner, Mayor  
25

26 ATTEST:  
27  
28  
29

30 \_\_\_\_\_  
31 Helen Cospolich  
32 Town Clerk  
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## MEMORANDUM

To: Town Council  
From: Mark Truckey, Assistant Director of Community Development  
Subject: Snack Bars and Delis  
Date: August 6, 2014 for August 12 Council Meeting

The Council's Sustainability Task Force has spent a fair amount of time discussing "snack bars/delis", a type of commercial eating establishment in Town that allows owners of these businesses to limit their up-front costs for water taps by instead using disposable plates and plastic ware in their businesses. The exclusive use of disposable products is contrary to the Town's sustainability efforts and therefore the Task Force has been seeking ways to address the issue. Below is a synopsis of the issue and actions taken to date.

### Snack Bar/Deli Definition

Section 12.4.2 of the Town Code outlines the costs associated with hooking up to the Town's water system (e.g., water taps or Plant Investment Fees (PIFs)). New "restaurants and lounges" are charged at a rate of 4.5 Single Family Equivalents (SFEs) per 1,000 square feet of building space. However, new "snack bars and delicatessens" are charged at a much-reduced rate of 0.9 SFEs per 1,000 square feet of building space. The initial reasoning behind this distinction appears to be related to water use. A full restaurant and lounge is expected to be a much heavier user of water than snack bars/delis, which are required to have all disposable products. Using the 2014 PIF rate of \$5,787/SFE, a small 1,000 square foot restaurant would need to pay a tap fee of \$26,041, while a snack bar/deli of the same size would pay \$5,208. Because of this fee disparity, start-up businesses that do not have heavy financial backing are incentivized to label themselves as a snack bar/deli. A table is attached that outlines the water tap fees paid by a number of restaurants and snack/bar delis in recent years.

While there are separate categories in the water PIF calculation table, the current Water Code does not contain specific definitions of "restaurant and lounge" or "snack bars and delicatessens". However, there is precedence in place from numerous previous applications where the distinction between the two is made based on the use of disposable plates, cups, plastic wear as opposed to use of reusable dishes, glasses, china, etc.

### Previous Efforts

When the Sustainability Task Force initially discussed this issue, the solution proposed was to eliminate or much more narrowly define snack bars and delis. This would have required most new restaurateurs to pay the higher PIF fees. Because the Task Force recognized this could be a financial detriment to some new fledgling businesses, it was proposed instead that the PIF fees could be paid out over a period of four or five years, which would have softened the impact on the businesses as opposed to paying the entire water tap fees upfront. Staff took this proposal to the Breckenridge Restaurant Association for feedback and received a fairly resounding negative response. The Restaurant Association voiced

concerns that such an approach would give new businesses a competitive advantage over existing businesses that had been required to pay full PIF fees upfront, along with some other issues.

Given this input, the Sustainability Task Force was uncomfortable with further pursuing the payment plan for PIFs. Staff was next requested to explore the potential for providing compost pickup services for local restaurants (to handle paper and compostable plastic waste) and report back to the Task Force.

### Composting

A few restaurants in Town (Hearthstone, MiCasa) have active composting programs where they collect food and paper waste and place it in separate composting totes outside their establishments. Timberline haulers pick up the compost several times a week and deliver it to the County landfill composting facility. There is a fee charged for this service. Staff initiated discussions with Timberline about starting a pilot composting program at one of the Town's dumpster buildings on the Main/Ridge St alleyway. In particular, the building on the 100 block south could potentially take compost from the Hearthstone, MiCasa, Twist, Fatty's, Moe's, and the Briar Rose. All of these restaurateurs expressed an interest in participating, with the caveat that separating out their compost would not end up costing them more money for pickup. Unfortunately, staff met an impasse with the hauler because Timberline indicated providing this additional service would require a separate truck and would be an additional cost to their operations, which they would need to charge the restaurants for.

To further complicate matters, the County has recently announced a new policy that they will no longer be accepting glass co-mingled with other recycled materials at the landfill/MRF. This is because of the contamination that occurs when glass is mixed with these other materials. Staff was interested in re-arranging Town-owned dumpster buildings so that composting totes could be accommodated, but we have now shifted our efforts to finding ways to provide separated glass totes. None of the haulers have yet committed to picking up glass. In addition, in recent discussions with the County landfill managers they indicated that they only wanted food scraps in the compost they accepted and were not interested in taking paper or compostable plastics. Because of these various complications, staff has not been actively pursuing the compost pilot but instead has been more focused on finding a way of providing separation of glass and, hopefully, pickup by the local haulers.

### Sustainability Task Force Recommendation

Given the uncertainty and likely longer time period related to establishing a successful composting program, the Sustainability Task Force decided to revisit the snack bar/deli issue. At their May 30 meeting, the Task Force discussed the following issues:

- The Community Development Department continues to receive interest in new snack bars/delis applications from would-be restaurateurs. As new snack bars/delis are opened, the waste generated continues to erode the Town's sustainability efforts.
- The Task Force was sympathetic to the financial challenges facing prospective business owners in Town. As such, they did not wish to eliminate the snack bars/delis category altogether.
- The Task Force did believe it made sense to more narrowly define snack bars/delis in order to limit their proliferation. Limiting the amount of seating in snack bars/delis was discussed, but it was recognized that this approach would create its own problems (e.g., enforcement). The Task Force ultimately recommended that the serving of liquor could be the trigger that demarks the difference between snack bars/delis and restaurants. Once liquor is served there is typically more use of water required for washing of drinking ware, more toilet flushes, etc., so it makes sense from a water PIF perspective to use this delineation.

## Proposed Code Amendment

Staff is proposing a fairly simple code amendment that we believe would address this issue. As discussed above, there is currently no code definition of snack bars and delicatessens, just precedence from how such businesses have been treated previously. An actual code amendment that includes the definition for snack bars/delicatessens and restaurant/lounges would be the cleanest way to address this issue. Therefore, we propose adding the following definitions to Section 12-1-6 of the Water Code:

**Lounge:** A business with a permanent location the main purpose of which is to sell and serve alcoholic beverages to customers pursuant to a license issued under the Colorado Liquor Code or the Colorado Beer Code

**Restaurant:** A business with a permanent location the main purpose of which is to sell and serve prepared food and meals to customers primarily using glassware, silverware, and/or plates that must be washed before they can be reused, regardless of whether it is licensed under the Colorado Liquor Code or the Colorado Beer Code.

**Snack Bar/Delicatessen:** A business with a permanent location: (i) the main purpose of which is to sell and serve prepared food and meals to customers using primarily disposable paper and plastic ware and (ii) which is not licensed under the Colorado Liquor Code or the Colorado Beer Code.

## Grandfathering

The proposed definition above would apply to new proposals for snack bars/delis in the Town. Existing snack bars/delis would be grandfathered and allowed to continue to operate as such even if they have a liquor license, based on their PIFs already being paid. However, the PIFs for new additions to existing snack bars/delis would be subject to the new definition.

## Council Direction

Council input on the following is requested:

- Is the Council supportive of the proposed definitions?
- Are there other issues or concerns that Council has regarding the issue?

Staff has attached an ordinance and code amendment that would enact the new definition, if Council is comfortable moving forward at this time. A first reading is tentatively scheduled for the Council's August 12 night meeting.

1 **FOR WORKSESSION/FIRST READING – AUG. 12**

2  
3 COUNCIL BILL NO. \_\_\_\_

4  
5 Series 2014

6  
7 AN ORDINANCE AMENDING TITLE 12 OF THE BRECKENRIDGE TOWN CODE,  
8 KNOWN AS THE “TOWN OF BRECKENRIDGE WATER ORDINANCE,” CONCERNING  
9 WATER PLANT INVESTMENT FEES DUE TO THE TOWN FOR RESTAURANTS AND  
10 SNACK BAR/ DELICATESSENS

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

14  
15 Section 1. Section 12-1-6 of the Breckenridge Town Code is amended by the addition of  
16 the following definitions:  
17

**LOUNGE:**

**A business with a permanent location the main purpose of which is to sell and serve alcoholic beverages to customers pursuant to a license issued under the Colorado Liquor Code or the Colorado Beer Code.**

**RESTAURANT:**

**A business with a permanent location the main purpose of which is to sell and serve prepared food and meals to customers primarily using glassware, silverware, and/or plates that must be washed before they can be reused, regardless of whether it is licensed under the Colorado Liquor Code or the Colorado Beer Code.**

**SNACK BAR/DELICATESSEN:**

**A business with a permanent location: (i) the main purpose of which is to sell and serve prepared food and meals to customers using primarily disposable paper and plastic ware and (ii) which is not licensed under the Colorado Liquor Code or the Colorado Beer Code.**

18 Section 2. This ordinance shall not require the payment of any additional water plant  
19 investment fees for any restaurant or snack/bar delicatessen for which plant investment fees have  
20 been paid to the Town prior to the effective date of this ordinance; provided, however, that if any  
21 such restaurant or snack bar/delicatessen is expanded, added to, modified, or reconstructed on or  
22 after the date of this ordinance, this ordinance shall apply to such restaurant or snack  
23 bar/delicatessen, and any additional water plant investment fees then due to the Town shall be



1 paid in the manner provided in Title 12 of the Breckenridge Town Code .

2  
3 Section 3. 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 4. The Town Council hereby finds, determines, and declares that this ordinance is  
7 necessary and proper to provide for the safety, preserve the health, promote the prosperity, and  
8 improve the order, comfort and convenience of the Town of Breckenridge and the inhabitants  
9 thereof.  
10

11 Section 5. The Town Council hereby finds, determines and declares that it has the power  
12 to adopt this ordinance pursuant to: (i) Section §31-35-402, C.R.S.; (ii) Article XIII of the  
13 Breckenridge Town Charter; and (iii) the powers possessed by home rule municipalities in  
14 Colorado.  
15

16 Section 6. This ordinance shall be published and become effective as provided by Section  
17 5.9 of the Breckenridge Town Charter.  
18

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

25 TOWN OF BRECKENRIDGE, a Colorado  
26 municipal corporation  
27  
28  
29

30 By: \_\_\_\_\_  
31 John G. Warner, Mayor  
32

33 ATTEST:  
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36

37 \_\_\_\_\_  
38 Helen Cospolich  
39 Town Clerk  
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<b>PIF's Collected For Snack/Deli Bars/Restaurants (new with Building Permits)</b>				
<b>Building Permit</b>	<b>Project Name/Location</b>	<b>PIF's Collected</b>	<b>PIF Category</b>	
B2002-0079	Starbucks/ 225 S. Main St.	\$ 5,176.05	Snack bar/deli	
B2002-0140	122 Main St. Mixed Use/122 S. Main St.	\$ 8,918.55	Snack bar/deli	
B2004-0097	Petal & Bean Coffee Bar/400 N. Park Ave.	\$ 424.50	Snack bar/deli	
B2004-0340	Cold Stone Creamery/505 S. Main St.	\$ 1,830.40	Snack bar/deli	
B2004-0380	La Francaise Bakery/411 S. Main St.	\$ 2,292.30	Snack bar/deli	
B2005-0102	Rocky Mtn. Fruit Shake/126 S. Main St.	\$ 930.94	Snack bar/deli	
B2005-0181	Bergenhof Coffee Shop/1627 Ski Hill Rd.	\$ 461.38	Snack bar/deli	
B2005-0317	Swiss Haven Expansion/325 S. Main St.	\$ 2,518.50	Snack bar/deli	
B2006-0013	Empire Burger/La Cima Mall	\$ 28,193.42	Restaurant	
B2006-0292	Starbucks Addition/ 225 S. Main St.	\$ 3,711.19	Snack bar/deli	
B2009-0011	Dippin Dots Ice Cream/La Cima Mall	\$ 1,269.52	Snack bar/deli	
B2009-0201	North Side Pizza/315 N. Main St.	\$ 22,606.53	Restaurant	
B2010-0161	Brooklyn's Tavern&Billiards/La Cima Mall	\$ 45,462.31	Restaurant	
B2011-0177	Palomo Bldg/105 N. Main St.	\$ 1,192.77	Snack bar/deli	
B2011-0373	The Sloppy Dog/La Cima Mall	\$ 1,667.16	Snack bar/deli	
B2012-0021	The Bond at Breck/301 N. Main St.	\$ 1,173.26	Snack bar/deli	
B2012-0033	Cherry Berry Yogurt Shop/La Cima Mall	\$ 4,836.95	Snack bar/deli	
B2012-0047	Park & Main Quality Foods/La Cima Mall	\$ 33,488.62	Restaurant	
B2012-0141	Palomo Bldg/105 N. Main St. (Pommels Frites)	\$ 5,406.47	Snack bar/deli	
B2011-0205	Gaymon House/Warming Hut/207 N. Main St.	\$ 59,706.55	Restaurant	
B2012-0295	"HERO" Bar & Restaurant/La Cima Mall	\$ 26,769.90	Restaurant	
B2012-0318	Flatbread Pizza Company/La Cima Mall	\$ 2,278.07	Snack bar/deli	



## MEMORANDUM

**To:** Mayor and Town Council  
**From:** Shannon Haynes, Chief of Police  
**Date:** July 9, 2014  
**Subject:** Animal Ordinances Changes

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In the fall of 2013 staff presented council with information on Breed Specific bans in Colorado and with the results of a request for public feedback on the topic. In the request for feedback staff asked community members to provide information on the dog related issues they felt were most impactful to our community. Information was collected in a number of different ways, including a recreation department survey sent homeowner associations, an Engage Breckenridge survey, and an article appearing in the Summit Daily News that generated additional feedback and comments.

Overwhelmingly, respondents did not feel a breed ban or restriction would improve public safety and they were not in favor of a ban or restriction on a specific breed of dog. When asked their perception of the most important dog issues, respondents listed:

- Irresponsible owners
- Dogs off leash and lack of enforcement
- Excrement

After reviewing the survey results and discussing potential options Council provided direction to staff to work on changes to the current animal ordinance and to explore possible partnerships with stakeholders. Staff has worked with Tim Berry to clean up and update our Animal Control Ordinance. As a result the attached ordinance revision, while lengthy, provides for a better flow with updated regulations consistent with current state laws and county regulations. Due to the changes in structure and realignment the ordinance provided has not been black lined. To provide Council with a clear understanding of the revisions, staff has provided a summary of the substantive changes.

### Changes to Definitions

After reviewing State and County regulations a number of definitions have been added to our ordinance. Most address changes to the previously included "Vicious Dog" regulations that have been changed to address "Dangerous and Potentially Dangerous Animals". A definition for "Habitual Offender" has also been added.

### Penalties

Current ordinance allows for the following fine schedule:

1 <sup>st</sup> Conviction:	\$ 10.00
2 <sup>nd</sup> Conviction within a 12 month period	\$ 25.00
3 <sup>rd</sup> Conviction within a 12 month period	\$ 50.00
4 <sup>th</sup> and subsequent Convictions in 12 month period	\$100.00

Staff proposes an increase in the fine structure as follows:

For all violations not involving a dangerous or potentially dangerous animal:

1 <sup>st</sup> Offense	\$ 50.00
2 <sup>nd</sup> Offense within 18 months	\$100.00
Subsequent Offense within 18 months	\$200.00

For all violations involving a potentially dangerous animal:

1 <sup>st</sup> Offense	\$150.00
2 <sup>nd</sup> Offense within 18 months	\$300.00
Subsequent Offense within 18 months	Mandatory court appearance and mandatory minimum fine of \$500.00

For all violations involving failure to control a dangerous animal:

Mandatory court appearance and a mandatory minimum fine of \$500.00

For all violations involving a charge of habitual offender

Mandatory court appearance and mandatory minimum fine of \$300.00.

#### Licensing

The current fees to license a dog are \$5 for a sterilized dog and \$10 for an unsterilized dog. Staff recommends increasing the fee to license an unsterilized dog to \$20; and to offer an option for citizens to license their dog(s) for a period of three years, instead of one. The three year fee for a sterilized dog would be \$15 and the fee for an unsterilized dog would be \$60. The extended timeframe would offer convenience for dog owners.

#### Tags and Collar Required

Currently, there is no consideration given to a dog that may not be able to wear a collar or harness. Revised language allows options for an owner when a dog is unable to wear a collar or harness because of a permanent medical condition. These options may include a tattoo for identification purposes or a microchip.

#### Control of Pet Animal (formerly Competent Control)

The competent control section of the current ordinance simply prohibits an animal owner from permitting the animal to be cared for and in the custody of a person who is not competent to restrain or control the animal. This section separately defines the responsibility of a cat owner to maintain reasonable control of his/her animal.

Staff recommends a number of additions to this section making the following actions unlawful for all pet animals:

- A pet animal becomes a hazard or causes damage to any person or property;
- A pet animal is tethered upon any public or private property without the permission of the person owning, leasing, or otherwise controlling the property in question;

- Any pet animal reaches past the perimeter of the owner’s premises with its teeth or claws causing or threatening bodily injury or property damage to another;
- A pet animal is allowed to defecate on public or private property and the owner or responsible person does not remove the waste in a timely manner;
- Any pet animal is kept or left in circumstances that constitute mistreatment, abandonment or in any circumstances requiring protective custody.

Current ordinance language requiring the direct and competent control of a pet animal by means of a leash not longer than six feet (6’) in length has been include in the revision.

### Vicious Animals

The current vicious animal definition provides for a description of what vicious behavior looks like (i.e. unprovokedly bites, snaps at, attacks). In addition, it provides for situations in which the described behavior would not be considered vicious (e.g. a person engaged in unlawful entry on the property of another).

After reviewing the county and state regulations, and based on the conversation with Council in Fall 2013, staff recommends changing the ordinance language from “Vicious Animals” to “Dangerous Animals”, provide a structure and criteria for deeming an animal dangerous, and specifically address the behavior of the animal, as well as sanctions for the owner.

The following is a synopsis of the recommended changes related to the process of deeming an animal dangerous or potentially dangerous:

- Provide that the authority to designate a pet animal or working dog as a dangerous or potentially dangerous animal lies with the Municipal Court. An action to deem an animal dangerous or potentially dangerous will be a civil proceeding heard and determined by the Municipal Court judge sitting without a jury. The burden of proof will be on the Town.
- A civil action to have an animal designated as a dangerous animal or a potentially dangerous animal shall be brought in the name of the Town by filing a complaint in the Municipal Court by the Police Chief, or the Police Chief’s authorized representative that is verified or supported by an affidavit.
- Revised language providing timelines for hearings and appearances, as well as ramifications for failing to appear or respond. Additional language noting that a judgment by the Municipal Judge may be appealed in Summit County District Court.
- In keeping with current language, the ordinance revision would include circumstances in which an animal would not be deemed dangerous or potentially dangerous. This language includes:
  - The animal attacked was trespassing upon the premises of the owner, and the attack began, although it did not necessarily end, upon such premises;
  - The animal that was attacked was biting or otherwise threatening or attacking the owner or the owner’s animal;
  - The person attacked was committing or attempting to commit a criminal offense, other than a petty offense not including third degree criminal trespass, against a person on the owner’s premises or against the premises itself, and the attack which did not cause serious bodily injury began, although did not necessarily end, upon such premises; or

- The person attacked had tormented, provoked, abused, or inflicted injury upon the animal that committed the attack.
- When an enforcement officer reasonably believes that an animal is a potentially dangerous or a dangerous animal and that the animal is not under proper control, the officer may use any available means to prevent the endangerment of any person or other animal. Such means shall include impounding the animal or the immediate destruction of the animal after making every reasonable attempt to seize and impound the animal, including solicitation of assistance from the owner if such owner is known and available. If the officer reasonably determines that the animal cannot be seized and impounded without exposing the officer or other person to danger of bodily injury or serious bodily injury, it shall be lawful for the officer to destroy the animal without notice to the owner.

Additionally, staff recommends including language to address the control of dangerous or potentially dangerous animals. Recommended language includes:

- Making it unlawful to fail to exercise proper control over a dangerous or potentially dangerous animal.
- Defining “proper control of a dangerous animal” as:
  - While on the owner’s premises, a dangerous animal shall be confined indoors or in a secure animal enclosure; and
  - While off the owner’s premises, a dangerous animal shall be under the physical control of the owner, keeper, custodian, or other responsible person, and such dangerous animal shall be muzzled.
- Defining “proper control of a potentially dangerous animal” as:
  - While on the owner’s premises, a potentially dangerous animal shall be controlled by a chain, leash, or other method of restraint suitable to prevent the animal from leaving or reaching outside the owner’s premises; and
  - While off the owner’s premises, a potentially dangerous animal shall be under the physical control of the owner or other responsible person.

To address concerns related to owner behavior, staff recommends adding a section specifically related to habitual offenders as follows:

It is unlawful for any person to become a habitual offender as defined in Section 6-2-2. Any person may be charged as a habitual offender in addition to any other charges brought pursuant to this Chapter. Upon the conviction of an owner as a habitual offender, the owner’s offending animal(s) may be ordered permanently removed from the Town, along with any other appropriate penalty imposed by the Municipal Court.

#### Disturbances

Staff recommends updating the current language related to animals making a disturbance to “Unlawful Animal Noise”, which includes a requirement and process for warning the animal owner.

### Animals Confined in Unattended Vehicles

In the summer staff regularly responds to issues related to animals left unattended in vehicles. Generally, these instances are addressed as “cruelty to animals”; however we feel it is important to specifically define the act of leaving an animal unattended in a vehicle, and provide by ordinance for the use of force by an enforcement officer to remove the animal from a vehicle in which the conditions are likely to cause suffering, disability, or death.

### Harassing, Killing or Injuring Wildlife

The current ordinance by definition would prohibit the hazing of coyotes, which is a practice recommended by Colorado Parks and Wildlife for reducing dangerous human/coyote interactions. Staff recommends a change in language that would make this practice, in a limited capacity, legal.

I will be available at the work session on Tuesday, August 12th to answer questions.

1 **FOR WORKSESSION/FIRST READING – AUG. 12**

2  
3 COUNCIL BILL NO. \_\_\_\_

4  
5 Series 2014

6  
7 AN ORDINANCE REPEALING AND READOPTING WITH CHANGES CHAPTER 2 OF  
8 TITLE 6 OF THE BRECKENRIDGE TOWN CODE , INCLUDING ARTICLES 2A, 2B, 2C,  
9 AND 2D THEREOF, CONCERNING THE LICENSING AND REGULATION OF ANIMALS

10  
11 BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BRECKENRIDGE,  
12 COLORADO:

13  
14 Section 1. Chapter 2 of Title 6 of the Breckenridge Town Code, including Articles 2A,  
15 2B, 2C, and 2D of Chapter 2, are repealed and readopted with changes to read as follows:

16 CHAPTER 2

17  
18 ANIMALS

19  
20 SECTION:

- 21
- 22 6-2-1: Intent
- 23 6-2-2: Definitions
- 24 6-2-3: Strict Liability Offenses
- 25 6-2-4: Vaccination Of Dogs and Cats Required
- 26 6-2-5: Annual Licensing Of Dog
- 27 6-2-6: Failure To Control A Pet Animal
- 28 6-2-7: Unlawful Animal Noise
- 29 6-2-8: Animals Confined In Unattended Vehicles
- 30 6-2-9: Animal Feces
- 31 6-2-10: Interference With An Owner’s Control Of A Pet Animal
- 32 6-2-11: Interference With An Enforcement Officer
- 33 6-2-12: Poisoning Of Animals
- 34 6-2-13: Designation Of Dangerous And Potentially Dangerous Animals:
- 35 6-2-14: Control Of Dangerous And Potentially Dangerous Animals
- 36 6-2-15: Dogs Prohibited At Designated Special Events
- 37 6-2-16: Harassing, Killing, Or Injuring Wildlife
- 38 6-2-17: Certain Animals Prohibited Within Town
- 39 6-2-18: Unlawful Trade In Certain Animals
- 40 6-2-19: Duty To Report Animal Bites And Injury Caused By Animals
- 41 6-2-20: Duty To Produce Biting Animal For Inspection Or Quarantine

2014 ANIMAL LICENSING AND REGULATION ORDINANCE



- 1 6-2-21: Impoundment Of Animals
- 2 6-2-22: Disposition Of Impounded Animals
- 3 6-2-23: Habitual Offender
- 4 6-2-24: Penalty Assessment Procedure Applicable; When
- 5 6-2-25: Violations; Penalties
- 6 6-2-26: Municipal Court May Order Destruction Of Animal; When
- 7 6-2-27: No Liability For Accident Or Subsequent Disease
- 8 6-2-28: No Restriction On Protective Action
- 9 6-2-29: Hot Pursuit
- 10 6-2-30: Effect Of Adoption Of Chapter On Prior Offenses

11  
 12 6-2-1: INTENT: It is the intent of this Chapter: (i) that pet animal owners be responsible for the  
 13 conduct of their pet animals; (ii) that pet animal owners exercise control with respect to their pet  
 14 animals in a manner that recognizes the rights, health, and safety of others in the Town; and (iii)  
 15 that pet animal owners be held strictly liable for the conduct of their pet animals that violates the  
 16 provisions of this Chapter, unless a specific criminal intent is required by this Chapter.

17 6-2-2: DEFINITIONS: As used in this Chapter the following terms shall have the following  
 18 meanings:

ABANDONMENT:

- A. To fail to provide any necessary care for any pet animal, whether on public or private property, for any period of twenty four (24) hours or longer; or
- B. To deposit, leave, drop off, or otherwise dispose of any pet animal on public or private property without providing necessary care.

For the purposes of this Chapter, any pet animal is presumed to be abandoned if, after the posting or personal service of written notice describing deficiencies, the deficiencies are not corrected within twenty four (24) hours of service of such notice.

ANIMAL:

Any living dumb creature.

ANIMAL SHELTER:

Any and all facilities and premises operated by Summit County, Colorado government that provide care for animals impounded pursuant to this Chapter.

ATTACK:

Aggressive behavior by an animal resulting in

	bodily injury, serious bodily injury, or death to another animal or a person.
BITE:	The piercing, laceration, or breaking of the skin by the teeth or jaws of any animal.
BODILY INJURY:	Any physical injury that results in severe bruising, a muscle tear, a skin laceration, or physical pain requiring professional medical treatment.
CAT:	Any animal of the species <i>Felis catus</i> or any hybrid thereof.
COMMUNITY SERVICE OFFICER:	Has the meaning and powers described in Section 2-1-6 of this Code.
CONTROL:	Supervision of, or influence over, any animal sufficient to prevent such animal from being in violation of any of the provisions of this Chapter.
CONVICTION:	A finding of guilt by the Municipal Court or an acknowledgement of guilt by payment of fine pursuant to a penalty assessment procedure. For the purposes of this definition, any disposition of a charge involving a deferred judgment and sentence shall be considered to be a conviction, regardless of whether the deferred judgment and sentence is successfully completed.
DANGEROUS ANIMAL:	Any animal that has inflicted bodily injury or serious bodily injury upon or has caused the death of a person or animal.
DOG:	Any animal of the family <i>Canidae</i> , regardless of sex, including, without limitation, those related to the wolf, fox, coyote, or any other domestic canid hybrid thereof.
ENFORCEMENT OFFICER:	A community service officer, police officer, or

	other peace officer authorized to enforce this Chapter.
HABITUAL OFFENDER:	An animal owner who has been convicted of violating any provision of this Chapter three times within any twenty four (24) month period.
HARBOR:	The act of providing premises on which an animal is kept or to which an animal customarily returns daily for food and care.
LEASH:	A substantial chain, rope, cord, or similar device not more than six (6) feet in length that is sufficient to hold an animal in restraint.
LIVESTOCK:	Includes horses, mules, donkeys, burros, cattle, sheep, llamas, and goats.
MISTREATMENT:	Every act or omission that causes or permits the continuation of unnecessary or unjustifiable pain or suffering to an animal.
NECESSARY CARE:	Includes, without limitation, providing food, water, protection from the weather, socialization, and removal of waste from the animal's enclosure.
NEGLECT:	Failure to provide necessary care for an animal.
OWNER:	A person as defined in Section 1-3-2 of this Code who owns, possesses, keeps, has a financial or property interest in, or who otherwise has control or custody of any animal. The term "owner" includes, but without limitation, the parent, guardian, or legal custodian of any unemancipated minor child under eighteen (18) years of age who owns, possesses, or keeps any animal.
POLICE CHIEF:	The Police Chief of the Town of Breckenridge, or his or her designee.

POLICE DEPARTMENT:	The Police Department of the Town of Breckenridge, Colorado, or any employee thereof.
POLICE OFFICER (OR PEACE OFFICER):	Has the meaning provided in Section 6-3-5 of this Code.
PERMITTED AREA OF A SPECIAL EVENT:	The geographic area within which the Town has authorized a special event to be conducted on a specified date and time as described in a special event permit issued pursuant to Title 4, Chapter 13 of this Code. The term “permitted area of a special event” applies only to those date(s) and time(s) specified in the special event permit issued by the Town.
PET ANIMAL:	Dogs, cats, rabbits, guinea pigs, hamsters, mice, ferrets, birds, fish, reptiles, amphibians, and invertebrates, or any species of wild or domestic or hybrid animal sold, transferred, or retained for the purpose of being kept as a household pet, except livestock.
PHYSICAL CONTROL:	Control of an animal:  A. By means of a tether or a leash that is attached to the animal and held by a responsible person; or, B. Confinement within a locked vehicle or locked enclosure sufficient to prevent the animal from escaping or making contact with other persons or animals.
POTENTIALLY DANGEROUS ANIMAL:	Any pet animal or working dog that when unprovoked:  A. Inflicts any laceration or bruising upon a human or another animal; B. Chases or approaches a person on any property other than the owner’s in a menacing fashion or apparent attitude of attack; C. Is a poisonous animal; or

2014 ANIMAL LICENSING AND REGULATION ORDINANCE

D. Is an animal possessing physical characteristics or demonstrated tendencies that would cause a reasonable person to conclude that the animal is likely to inflict injury or cause the death of any person or another animal.

PREMISES:

Real property owned, leased, or otherwise used by an owner. "Premises" includes any confined area or locality such as a residence, business, room, shop, building, and a motor vehicle, including the open bed of a truck, when the animal's presence is authorized by the owner of such confined area or locality.

PROTECTIVE CUSTODY:

The taking of an animal into custody by an enforcement officer to prevent the mistreatment, neglect, or abandonment of the animal; or, the lawful impoundment of an animal because of the owner's inability to care for the animal for any reason.

PROVOCATION:

Harassment, teasing, threatening, tormenting, abusing, striking at, attacking, or inflicting injury upon an animal, or its owner in the animal's presence, by either a person or another animal.

PUBLIC NUISANCE:

- A. An animal infected with rabies;
- B. A stray pet animal;
- C. Any dead animal left by the owner or keeper on a public or private property that is not removed within a twenty four (24) hour period; or
- D. The unlawful accumulation of animal feces as described in Section 6-2-9.

QUARANTINE:

The confinement of an animal for observation to detect symptoms of disease.

RESPONSIBLE PERSON:

A person eighteen (18) years of age or older who has the ability to do or perform the action

required of a responsible person under this Chapter.

SECURE ANIMAL ENCLOSURE:

A structure that:

- A. Is suitable to prevent the escape of the animal and to prevent the entry of persons, including children, and other animals;
- B. Has a top, bottom, all sides; and
- C. Is locked.

A secure animal enclosure for a dangerous animal(s) shall be posted with signs on all sides that are visible and legible to passersby, warning of the presence of a dangerous animal.

SERIOUS BODILY INJURY:

Has the meaning provided in Section 6-3-5 of this Code.

SOCIALIZATION:

Activities that enable a pet animal to develop or improve its ability to get along well with other pet animals, the owner, or other people.

SPECIAL EVENT:

An event or occurrence for which a special event permit has been issued by the Town pursuant to Title 4, Chapter 13 of this Code.

TETHER:

- A. To tie, chain, or leash any animal upon an owner's property; or
- B. To tie, chain, or leash any animal to any inanimate object when the animal is not located upon the owner's own property.

VEHICLE:

Has the meaning provided in Section 6-3-5 of this Code.

TRESPASS:

The entry of an animal upon any private property other than that of the animal's owner, or upon public property that is posted as not permitting animals, or any specific kind of animal.

WILDLIFE:

Means all wild vertebrates, including, any part, product, egg, or offspring thereof, that exist as a species in a natural wild state in their place of origin, presently or historically. The term “wildlife” does not include:

A. Any domesticated animal which may lawfully be kept in the Town pursuant to this Code;

B. Any fish;

C. Any common rodent, including, without limitation, mice, rats and squirrels; or

D. Any crow or other bird which is commonly considered to be a pest or a nuisance.

WILD BIRD:

Includes all undomesticated birds native to North America and includes, without limitation, any domestic duck or goose released by any private person or recreational authority upon any recreational area within the Town.

WORKING DOG:

A dog that is either:

A. Assisting a law enforcement officer;

B. Assisting in rescue efforts;

C. Is a recognized service dog; or

D. Is in the process of being trained for these purposes.

1 6-2-3: STRICT LIABILITY OFFENSES: Unless clearly indicated to the contrary, each offense  
2 established by this Chapter is a strict liability offense and does not require proof of specific  
3 criminal intent. Proof of performance by a person of conduct that includes a voluntary act or the  
4 omission to perform an act which the person is capable of performing is sufficient to establish a  
5 violation of any strict liability municipal offense established by this Chapter.

6 6-2-4: VACCINATION OF DOGS AND CATS REQUIRED:

2014 ANIMAL LICENSING AND REGULATION ORDINANCE

- 1 A. Each owner of a dog or cat that is harbored, kept, or maintained within the Town shall:
- 2 1. have the dog or cat inoculated against rabies by or under the supervision of a licensed
- 3 veterinarian;
- 4 2. maintain the duration of effectiveness of the vaccination; and
- 5 3. maintain proof of current rabies registration for the dog or cat.

6 The rabies vaccine must be approved by the Colorado Department of Public Health and  
 7 Environment. The rabies vaccination shall be repeated as often as is necessary to maintain the  
 8 effectiveness of the vaccination as determined by a licensed veterinarian.

9 B. A dog or cat shall be vaccinated against rabies when it reaches the age of three months, or is  
 10 licensed under this Chapter (if applicable), whichever occurs first.

11 6-2-5: ANNUAL LICENSING OF DOGS:

12 A. Each dog owned, harbored, kept, or maintained within in the Town shall be individually  
 13 licensed pursuant to this Section.

14 B. The Police Chief may issue a dog license upon the receipt of an executed application,  
 15 evidence of current rabies registration, and payment of any applicable license fee.

16 C. Each dog over the age of three months shall have a valid dog license after the dog has been  
 17 harbored, kept, or maintained within in the Town for any consecutive fourteen day period, or  
 18 immediately upon the issuance of a citation for any violation of this Chapter, whichever occurs  
 19 first.

20 D. A dog license shall be valid for one year or three years depending upon duration of the rabies  
 21 vaccination, and is to be specified at the time of the purchase of said license. An owner shall  
 22 obtain the renewal of the dog license prior to the license expiring.

23 E. A valid dog license tag shall be attached to a collar or harness and shall be worn by the dog at  
 24 all times. If a dog is unable to wear a collar or harness because of a permanent medical condition  
 25 certified by a veterinarian, the owner of the dog must have the animal tattooed for identification  
 26 purposes, or identified by implanted microchip, or in a manner approved by the Police Chief.

27 F. The fee for the issuance of a dog license shall be:

One year (unsterilized)	\$20.00
Three years (unsterilized)	\$60.00



One year (spayed/neutered)	\$5.00
Three years (spayed/neutered)	\$15.00
Lost or replacement license tag	\$5.00

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6-2-6: FAILURE TO CONTROL A PET ANIMAL: It is unlawful and considered a failure to control a pet animal, when:

A. A pet animal is not under the direct and competent control of the animal’s owner, or other competent person, by means of a leash not longer than six feet (6’) in length. Provided, however, it shall not be a violation of this section if the pet animal is either:

1. confined within a motor vehicle; or
2. upon the premises of the animal’s owner, or the animal owner’s authorized agent. and is constrained:
  - (a) within the confines of any building or improvement;
  - (b) within the confines of a fence sufficient to keep the animal on the premises;
  - (c) by voice and visual control. A person shall not be found to be in voice and visual control of an animal if such person is located within a motor vehicle or building at the time he or she is required to be in voice and visual control of the animal. Proof that an animal has impeded or interfered with the lawful movement of a person shall create a rebuttable presumption that the animal was not under the voice and visual control of the animal owner or a competent person; or
  - (d) by chain, cord, rope, cable or other similar physical device sufficient to restrain the animal within the boundaries of the premises.

- B. A pet animal becomes a hazard or causes damage to any person or property;
- C. A pet animal is tethered upon any public or private property without the permission of the person owning, leasing, or otherwise controlling the property upon which the animal is tethered;
- D. Any pet animal reaches past the perimeter of the owner’s premises with its teeth or claws causing or threatening bodily injury to another animal or a person, or property damage;
- E. A pet animal is allowed to defecate on public or private property and the owner or responsible person does not remove the animal’s waste before leaving the immediate area where the waste was deposited;

1 F. A female pet animal, during estrus, is not under physical control, confined indoors, or  
2 confined within a secure animal enclosure;

3 G. Any pet animal is kept or left in circumstances that constitute mistreatment, neglect,  
4 abandonment, or in any circumstance requiring protective custody; or

5 H. Any pet animal is otherwise determined to be a public nuisance as defined in Section 6-2-2.  
6 At the discretion of the Police Chief an allegation that a pet animal is a public nuisance may be  
7 prosecuted as provided in Chapter 1 of Title 5 of this Code.

8 6-2-7: UNLAWFUL ANIMAL NOISE:

9 A. It is unlawful for any owner to fail to prevent his or her pet animal from disturbing the peace  
10 of any other person by repeatedly or continuously barking, howling, yelping, or whining, or any  
11 other unprovoked noise, whether the animal is on or off the owner's property.

12 B. No person shall be charged with a violation of this Section unless a minimum of one (1)  
13 written warning for a separate violation has been given at least seventy two (72) hours prior to  
14 the issuance of the summon and complaint or penalty assessment notice (if applicable). An  
15 owner shall be deemed to have been issued and received a written warning as required by this  
16 subsection if the warning is personally served upon the owner, posted on the owner's premises,  
17 or placed in the U. S. Mail, postage prepaid and addressed to the owner according to the last  
18 address given by the owner to obtain a dog license, or to such other address as may be on file for  
19 the owner with any government agency.

20 6-2-8: ANIMALS CONFINED IN UNATTENDED VEHICLES:

21 A. It is unlawful for any vehicle owner, passenger, or operator to place or confine an animal or to  
22 allow the animal to be placed, confined, or to remain in an unattended vehicle without sufficient  
23 ventilation or under conditions or for such period as may reasonably be expected to endanger the  
24 health or well-being of such animal due to heat, cold, lack of water, or such other circumstances  
25 as may reasonably be expected to cause suffering, disability, or death to the animal.

26 B. Any enforcement officer who finds an animal in a vehicle in violation of this Section may  
27 enter the vehicle by using the amount of force reasonably necessary to remove the animal. The  
28 officer is authorized to impound and dispose of such animal in the manner provided for in  
29 Section 6-2-21 and Section 6-2-22.

30 6-2-9: ANIMAL FECES:

31 A. It is unlawful for any owner to permit the accumulation of animal feces on the premises on  
32 which the animal is kept such that it is detectable visually or odoriferously by a person with a  
33 normal sense of smell from any adjoining lot, parcel, or tract of land not owned by the owner of  
34 animal. .

1 B. It is unlawful for any owner to fail to confine pet animal feces, and any part thereof, within  
2 the perimeters of the premises on which the animal is kept, regardless whether such failure is the  
3 result of natural causes, such as surface water flow, or other causes.

4 C. No person shall be charged with a violation of this Section unless a minimum of two (2)  
5 written warnings for separate violations have been given at least seventy two (72) hours prior to  
6 the issuance of the summon and complaint or penalty assessment notice (if applicable). The  
7 name and address of the complainant shall appear on the written warning. An owner shall be  
8 deemed to have been issued and received a written warning as required by this subsection if the  
9 warning is personally served upon the owner, posted on the owner's premises, or placed in the  
10 U. S. Mail, postage prepaid and addressed to the owner according to the last address given by the  
11 owner to obtain a dog license, or to such other address as may be on file for the owner with any  
12 government agency.

13 D. An accumulation of animal feces as described in subsection A of this Section is declared to be  
14 a public nuisance and, at the discretion of the Police Chief, may be prosecuted as a public  
15 nuisance as provided in Chapter 1 of Title 5 of this Code.

16 6-2-10: INTERFERENCE WITH AN OWNER'S CONTROL OF A PET ANIMAL: It is  
17 unlawful for any person to perform any act that interferes with, prevents, or hinders the efforts of  
18 an owner to control the owner's pet animal.

19 6-2-11: INTERFERENCE WITH AN ENFORCEMENT OFFICER:

20 A. It is unlawful for any person to interfere with, molest, hinder, prevent, or obstruct an  
21 enforcement officer in the performance of the enforcement officer's duties under this Chapter, or  
22 other applicable law.

23 B. It is unlawful for any person to remove any animal from public custody without the consent of  
24 an enforcement officer.

25 6-2-12: POISONING OF ANIMALS: It is unlawful for any person to poison any pet animal or  
26 working dog or to distribute poison in any manner with the intent or for the purpose of poisoning  
27 any such pet animal or working dog, with the exception of bats, rats, mice, and insects.

28 6-2-13: DESIGNATION OF DANGEROUS AND POTENTIALLY DANGEROUS ANIMALS:

29 A. The Municipal Court shall have the authority to and shall designate any pet animal or working  
30 dog as a dangerous animal or a potentially dangerous animal when the preponderance of  
31 evidence is that the animal displays any of the characteristics of a dangerous animal or a  
32 potentially dangerous animal as defined and described in Section 6-2-2.

- 1 B. An action to have an animal designated as a dangerous animal or a potentially dangerous  
2 animal is a civil proceeding, and shall be heard and determined by the Municipal Judge sitting  
3 without a jury.
- 4 C. The burden of proof in an action to have an animal designated as a dangerous animal or a  
5 potentially dangerous animal shall be on the Town.
- 6 D. The procedures set forth in this Section, and not the procedures set forth in Section 1-8-10 of  
7 this Code, shall apply to any action to have an animal designated as a dangerous animal or a  
8 potentially dangerous animal.
- 9 E. A civil action to have an animal designated as a dangerous animal or a potentially dangerous  
10 animal shall be brought in the name of the Town by filing a complaint in the Municipal Court by  
11 the Police Chief, or the Police Chief's authorized representative acting pursuant to Section 1-7-2  
12 of this Code that is verified or supported by an affidavit.
- 13 F. The appearance date on the summons shall be not less than twenty (20) days from the date of  
14 service of the summons and complaint. The respondent shall file a response or answer on or  
15 before the appearance date specified in the summons. The trial shall be held within sixty (60)  
16 days of the appearance date unless the Municipal Court grants a continuance for good cause  
17 shown. No case shall be continued for more than one hundred twenty (120) days after the  
18 appearance date.
- 19 G. If the respondent fails to appear or file a response on the appearance date, and if the Town  
20 proves that proper service was made on the respondent at least twenty (20) days prior to the  
21 appearance date, the Municipal Court may grant such orders as are requested by the Town,  
22 except that, the Municipal Court shall order the enforcement by the Town be stayed for ten (10)  
23 days and that a copy of the Municipal Court's order be mailed to the respondent at the  
24 respondent's last known address.
- 25 H. The failure of respondent to appear on any date set for hearing and trial shall be grounds for  
26 entering a default and default judgment against the respondent.
- 27 I. Prior to the enforcement of any order issued under this Section resulting from the respondent's  
28 failure to appear or to file a response, and for good cause shown, the Municipal Court may set  
29 aside an entry of default and the default judgment and order entered thereon.
- 30 J. Any disobedience of or interference with an order issued by the Municipal Court pursuant to  
31 this Section may be punished as a contempt of Municipal Court, or by a fine not to exceed five  
32 hundred dollars (\$500.00). Each day's failure to comply with an injunction or order to abate shall  
33 constitute a separate act of contempt for which an additional penalty may be imposed.

1 K. To the extent necessary to facilitate just, speedy, informal, and inexpensive determinations of  
2 claims, the Municipal Court may use the Colorado Rules of Civil Procedure as a guideline for  
3 civil proceeding in Municipal Court under this Section.

4 L. The final judgment of the Municipal Court in a proceeding brought under this Section may be  
5 appealed to the Summit County District Court.

6 M. Except with respect to an animal trained for or that has engaged in animal fighting as  
7 described in Section 18-9-204, C.R.S., an animal shall not be designated as a dangerous animal  
8 or a potentially dangerous animal if the animal owner proves by a preponderance of the evidence  
9 that:

- 10 1. The animal that was attacked was trespassing upon the premises of the owner, and the  
11 attack began, although it did not necessarily end, upon such premises;
- 12 2. The animal that was attacked was biting or otherwise threatening or attacking the  
13 owner or the owner's animal;
- 14 3. The person attacked was committing or attempting to commit a criminal offense,  
15 other than a petty offense not including third degree criminal trespass as defined in  
16 Section 18-4-504, C.R.S., against a person on the owner's premises or against the  
17 premises itself, and the attack which did not cause serious bodily injury began,  
18 although did not necessarily end, upon such premises; or
- 19 4. The person attacked had tormented, provoked, abused, or inflicted injury upon the  
20 animal that committed the attack.

21 N. When an enforcement officer reasonably believes that an animal is a potentially dangerous or  
22 a dangerous animal and that the animal is not under proper control, the officer may use any  
23 available means to prevent the endangerment of any person or other animal. Such means shall  
24 include impounding the animal or the immediate destruction of the animal after making every  
25 reasonable attempt to seize and impound the animal, including solicitation of assistance from the  
26 owner if such owner is known and available. If the officer reasonably determines that the animal  
27 cannot be seized and impounded without exposing the officer or other person to danger of bodily  
28 injury or serious bodily injury, it shall be lawful for the officer to destroy the animal without  
29 notice to the owner.

30 6-2-14: CONTROL OF DANGEROUS AND POTENTIALLY DANGEROUS  
31 ANIMALS:

32 A. It is unlawful for the owner of a dangerous animal or a potentially dangerous animal to fail to  
33 exercise proper control over such animal.

34 B. As used in this Section "proper control of a dangerous animal" is:

2014 ANIMAL LICENSING AND REGULATION ORDINANCE

1 1. While on the owner’s premises, a dangerous animal shall be confined indoors or in a  
2 secure animal enclosure; and

3 2. While off the owner’s premises, a dangerous animal shall be under the physical  
4 control of the owner, keeper, custodian, or other responsible person, and such  
5 dangerous animal shall be muzzled.

6 C. As used in this Section “proper control of a potentially dangerous animal” is:

7 1. While on the owner’s premises, a potentially dangerous animal shall be controlled by  
8 a chain, leash, or other method of restraint suitable to prevent the animal from leaving  
9 or reaching outside the owner’s premises; and

10 2. While off the owner’s premises, a potentially dangerous animal shall be under the  
11 physical control of the owner or other responsible person.

12 D. This Section shall not apply to any felony offense described in Section 18-9-204.5, C.R.S.

13 6-2-15: DOGS PROHIBITED AT DESIGNATED SPECIAL EVENTS:

14 A. It is unlawful for the owner of a dog, or a person in charge or control of a dog, to permit such  
15 dog to be within the permitted area of any special event that is held within the Town if:

16 1. A written notice has been posted at or near each main entrance to the special event  
17 stating that dogs are prohibited at such event. Such notice shall be not less than eight  
18 and one-half inches (8 ½”) in width and eleven inches (11”) in height;

19 2. The dog owner or person in charge or control of the dog has received actual notice  
20 from an enforcement officer or a representative of the special event that dogs are  
21 prohibited at such event, and the dog owner or person in charge or control of the dog  
22 fails or refuses to promptly remove the dog from the permitted area of the special  
23 event; or,

24 3. Having previously removed the dog from the permitted area of the special event at the  
25 direction of an enforcement officer or representative of the special event, the dog  
26 owner or person in charge or control of the dog brings the dog back into the permitted  
27 area of the special event.

28 B. Neither physical control nor immediate control of the dog is a defense to prosecution under  
29 this Section.

30 C. This section does not apply to:

31 1. working dogs; or

1           2. dogs authorized to be in the permitted area of a special event in the special event  
2           permit issued by the Town.

3 6-2-16: HARASSING, KILLING, OR INJURING WILDLIFE:

4 A. It is unlawful for any person to willfully and unnecessarily shoot, throw objects at, capture,  
5 chase, injure or destroy any bird, animal or wildlife anywhere within the Town; provided,  
6 however, that this Section A does not prohibit the throwing of objects at coyotes for the purpose  
7 of hazing as recommended by Colorado Parks and Wildlife.

8 B. No owner shall intentionally, knowingly, recklessly, or with criminal negligence allow a dog  
9 or cat to harass wildlife, whether the wildlife is actually injured or not.

10 C. No person shall willfully destroy, rob, or injure the nest, nesting place, burrow, eggs or  
11 offspring of any wild bird or other wildlife anywhere within the town.

12 D. The provisions of this section do not apply to personnel of any police, fire, or animal control  
13 agency, the Colorado Division of Wildlife, the Colorado Department of Public Health and  
14 Environment, or other state or federal agency when such persons are acting within the scope of  
15 their official duties. The provisions of this Section shall further not apply to any person  
16 authorized by the Colorado Division of Wildlife to kill wildlife which are causing excessive  
17 damage to property.

18 E. The provisions of this Section are not intended to allow the destruction of any bird or animal  
19 protected by the laws of the state of Colorado or the United States of America.

20 6-2-17: CERTAIN ANIMALS PROHIBITED WITHIN TOWN:

21 A. It is unlawful for any person to keep, maintain, possess, or harbor any livestock or any fowl,  
22 swine, chicken, goose, duck, or turkey anywhere within the Town.

23 B. Nothing in this Section prohibits the keeping of a horse in a commercial stable when  
24 authorized by a development permit issued pursuant to Title 9, Chapter 1 of this Code, or the  
25 keeping of any other animal when authorized by any other Town ordinance or permit.

26 6-2-18: UNLAWFUL TRADE IN CERTAIN ANIMALS: It is unlawful for any person to own,  
27 keep, maintain, possess, harbor, sell or in any manner deal or traffic within the Town in any  
28 living exotic, wild, dangerous or unusual animal, whether domesticated or tamed, including,  
29 without limitation: bats of any species; felines, other than ordinary domesticated house cats;  
30 gorillas, chimpanzees, orangutans, baboons, or any other infrahuman primate; any member of the  
31 Mustelidae family, including, without limitation, fishers, ferrets, martens, minks, otters,  
32 porcupines, raccoons, skunks, weasels and wolverines; poisonous reptiles; wolves, foxes,  
33 coyotes or other species of canines other than dogs; any animal or bird that has received state or  
34 federal government designation as an endangered species; or any other terrestrial predator or

1 other animal determined to be a public nuisance pursuant to the provisions, procedures and  
2 means of abatement established by the ordinances of the Town.

3 6-2-19: DUTY TO REPORT ANIMAL BITES AND INJURY CAUSED BY ANIMALS: It is  
4 unlawful for any medical personnel who provide treatment to a person or animal for an animal  
5 bite or injury caused by a pet animal or working dog to fail to report to the Police Department  
6 any information known regarding the animal bite or injury. The report shall be made within  
7 twenty four (24) hours after such information is received, and shall include with the report the  
8 name, address, and telephone number of the person making the report. The report may be made  
9 by telephone to the front desk of the Police Department, or may be left on the Police  
10 Department's voice mail or communicated to the Police Department by other electronic means.

11 6-2-20: DUTY TO PRODUCE BITING ANIMAL FOR INSPECTION OR  
12 QUARANTINE:

13 A. Upon the request of an enforcement officer, an owner shall make available for inspection  
14 and/or quarantine any pet animal or working dog that has bitten a person or is suspected of biting  
15 a person.

16 B. If the quarantine of a pet animal is deemed necessary, the Police Chief shall determine the  
17 location and place of quarantine.

18 C. All costs of a quarantine shall be paid by the owner of the quarantined pet animal or working  
19 dog.

20 D. If the quarantine of a pet animal or working dog is deemed necessary, the disposition of the  
21 animal shall be at the discretion of the Police Chief in accordance with the requirements set forth  
22 in Section 6-2-21 of this Chapter.

23 6-2-21: IMPOUNDMENT OF ANIMALS:

24 A. An enforcement officer may impound any animal that is not under control as required by this  
25 Chapter, or when it or its owner is in violation of any of the provisions of this Chapter.

26 B. An enforcement officer may impound any dangerous animal or potentially dangerous animal  
27 that is not under proper control if the officer reasonably determines that the animal is in apparent  
28 violation of the applicable provisions of Section 6-2-14. An enforcement officer may perform  
29 such impoundment prior to notifying the owner if such owner is not immediately present to  
30 exercise proper control of such animal.

31 C. As soon as practical after the impoundment of any animal, an enforcement officer shall make  
32 a reasonable effort to notify the animal's owner in person, by telephone, by posting of a notice at  
33 the owner's residence, or by written notice mailed to the owner's last known address, if the



1 identity of the owner is known. If needed to establish the identity of the owner, information  
2 contained on any identification, rabies, or license tag found attached to the animal shall be used.

3 D. It is the obligation of the owner of any animal that has been impounded to pay all fees and  
4 charges lawfully imposed by the animal shelter in connection with the impoundment, care, and  
5 disposition of the animal. It is unlawful for the owner to fail or refuse to pay such fees and  
6 charges.

7 E. The failure or refusal to retrieve any impounded animal by the owner of said animal shall not  
8 relieve said owner of the duty to pay the impoundment fee and other charges which have been  
9 assessed.

10 6-2-22: DISPOSITION OF IMPOUNDED ANIMALS: Any animal impounded pursuant to the  
11 provisions of this Chapter shall impounded at the animal shelter, and shall become the property  
12 and responsibility of Summit County, Colorado government after the animal has been  
13 impounded for five (5) days without being claimed. After such time the animal may be humanely  
14 euthanized in accordance with the established policies and practice of the animal shelter. For  
15 purposes of this Section, a “day” means a twenty four (24) hour period beginning at time and day  
16 when the animal was taken into public custody.

17 6-2-23: HABITUAL OFFENDER: It is unlawful for any person to become a habitual offender as  
18 defined in Section 6-2-2. Any person may be charged as a habitual offender in addition to any  
19 other charges brought pursuant to this Chapter. Upon the conviction of an owner as a habitual  
20 offender, the owner’s offending animal(s) may be ordered permanently removed from the Town,  
21 along with any other appropriate penalty imposed by the Municipal Court.

22 6-2-24: PENALTY ASSESSMENT PROCEDURE APPLICABLE; WHEN:

23 A. Any infraction described in this Chapter may be written using a penalty assessment procedure  
24 if the such infraction is listed on the Municipal Judge’s list of designated violations the penalties  
25 for which may be paid at the office of the Municipal Court Clerk as described in Rule 201(b) of  
26 the Colorado Rules of Municipal Court Procedure.

27 B. The penalty assessment procedure for any infraction described in this Chapter shall be as  
28 provided in Section 1-8-12(K) of this Code.

29 C. In no case may an officer issue a penalty assessment notice for a violation of any infraction  
30 described in this Chapter to a minor under the age of eighteen (18) years. All charges against  
31 minors shall require a mandatory court appearance.

32 6-2-25: VIOLATIONS; PENALTIES:

33 A. It is an infraction for any person to violate any provision of this Chapter that not does involve  
34 a dangerous or potentially dangerous animal. Any person found to be in violation of, or against

1 whom a default judgment has been entered for any infraction described in this Chapter, shall be  
2 punished as provided in Section 1-4-1-1 of this Code.

3 B. It is unlawful and a misdemeanor offense for any person to violate any provision of this  
4 Chapter that is not classified as an infraction. Any person found to be in violation of any  
5 provision of this Chapter that is not classified as an infraction shall be punished as provided in  
6 Section C, below.

7 C. The following fines shall apply to violations of this Chapter and shall be applied either  
8 through a penalty assessment procedure, or by the Municipal Court after conviction, in which  
9 case the Municipal Court shall also assess the appropriate court costs:

10 1. For all violations not involving a dangerous or potentially dangerous animal:

First offense:	\$50.00
Second offense within 18 months:	\$100.00
Subsequent offense within 18 months:	\$200.00

11  
12 2. For all violations involving potentially dangerous animal:

First offense:	\$150.00
Second offense within 18 months:	\$300.00
Subsequent offense within 18 months:	Mandatory court appearance and mandatory minimum fine of \$500.00

13  
14 3. For all violations involving failure to control a dangerous animal:

15 Mandatory court appearance and a mandatory minimum fine of \$500.00

16 4. For all violations involving a charge of habitual offender

17 Mandatory court appearance and mandatory minimum fine of \$300.00.

18 5. For all other violations of this Chapter the violator shall be punished as provided in  
19 Section 1-4-1 of this Code.

20 6. The penalties set forth above in this Section C are minimum penalties, and a violator  
21 who commits a violation of any provision of this Chapter that is not classified as an  
22 infraction is also subject to the general fine and imprisonment provisions of Chapter 4  
23 of Title 1 of this Code.

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1 6-2-26: MUNICIPAL COURT MAY ORDER DESTRUCTION OF ANIMAL; WHEN: In  
2 addition to any penalties that are provided for in this Chapter, the Municipal Court shall have the  
3 authority, upon making a finding that the animal constitutes a real and present danger to the  
4 citizens of the Town, to order that the animal be destroyed in a humane fashion.

5 6-2-27: NO LIABILITY FOR ACCIDENT OR SUBSEQUENT DISEASE: Neither the Town,  
6 nor any its elected officials, officers, employees, agents, and persons authorized to enforce this  
7 Chapter, shall be held responsible for any accident or subsequent disease that may be suffered by  
8 a person or an animal as a result of the administration or implementation of this Chapter.

9 6-2-28: NO RESTRICTION ON PROTECTIVE ACTION: Nothing in this Chapter shall be  
10 interpreted or construed to prevent an enforcement officer from taking whatever action is  
11 reasonably necessary to protect himself, herself, or others from bodily injury or serious bodily  
12 injury caused by any animal.

13 6-2-29: HOT PURSUIT: An enforcement officer in hot pursuit of any animal in apparent  
14 violation of this Chapter may enter onto private property for the purposes of enforcing this  
15 Chapter, including, for the purpose of effecting an impoundment, removing the animal from the  
16 premises, ascertaining the identity of the animal and/or the current status or existence of a license  
17 tag, or issuing a citation. This Section, however, does not grant any enforcement officer authority  
18 to enter into any dwelling without either permission of the owner, a search warrant, or a  
19 Municipal Court order.

20 6-2-30: EFFECT OF ADOPTION OF CHAPTER ON PRIOR OFFENSES: The adoption of this  
21 Chapter shall not affect or prevent the prosecution or punishment of any person for any act done  
22 or committed in violation of any Town ordinance that was in effect prior to this Chapter taking  
23 effect.

24 Section 2. The definition of “Serious Bodily Injury” in Section 6-3-5 of the Breckenridge  
25 Town Code is amended to read as follows:

SERIOUS BODILY INJURY:

Bodily injury which, either at the time of the actual injury or at a later time, involves a substantial risk of death, a substantial risk of serious permanent disfigurement, a substantial risk of protracted loss or impairment of the function of any part or organ of the body, or breaks, fractures, or burns of the second or third degree.

26

27 Section 3. Except as specifically amended by this ordinance, the Breckenridge Town  
28 Code, and the various secondary codes adopted by reference therein, shall continue in full force  
29 and effect.





## MEMORANDUM

**To:** Mayor and Town Council  
**From:** Shannon Haynes, Chief of Police  
**Date:** August 5, 2015  
**Subject:** Limitation on Marijuana Licenses

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At Council's request staff has developed an ordinance restricting the number of marijuana licenses available from the Town of Breckenridge Local Licensing Authority.

Currently the Town has issued fourteen (14) active marijuana licenses. There are five marijuana businesses active within the town. Many of those businesses hold multiple licenses (See the attached spreadsheet). The makeup of those licenses is as follows:

- Retail Marijuana Store - 4
- Retail Marijuana Cultivation facility - 3
- Retail Marijuana Products manufacturing - 0
- Medical Marijuana Store - 3
- Medical Marijuana Cultivation facility - 3
- Medical Marijuana Products manufacturing - 1

The draft ordinance limiting marijuana licenses prohibits the issuance of any new licenses after October 1, 2014, but allows for a licensee to renew or transfer a license, as well as allowing for a change of location or modification of a licensed premise. The ordinance would not impact any license issued before October 1, 2014.

Additionally, a licensee holding a valid license would be allowed to apply for and be granted any additional type of license issued by the Town provided applicable provisions are met. For example, a licensee holding a license for a retail marijuana store could be granted a license to manufacture marijuana products thereby increasing the total number of licenses.

In Section E of the draft ordinance staff has included language prohibiting the reissuance of a license when it has been revoked, abandoned, voluntarily surrendered or not renewed. This provision could result in the elimination of all active marijuana licenses at some point in the future. Staff would like to ensure this provision accurately represents the intent of Council.

Tim Berry and I will be present at the work session on August 12<sup>th</sup> to answer questions.

Entity Name	Retail/ MMD Location	Cultivation Location	Products Manufacturing Location	Retail Store	Retail Cultivation	Medical Marijuana Center	Medical Cultivation	Med. Products Manufacturing
Organix	1795 Airport Rd # A-2	1795 Airport Rd # A-2		X	X	X	X	
Breckenridge Cannabis Club	226 S Main St # BIC4	1795 Airport Rd # A-3-A		X	X			
Soulshine Medical Consulting	1805 Airport Rd # B-2 & Back of # B-3	1805 Airport Rd # B-2 & Back of # B-3				X	X	
Breckenridge Organic Therapy	1900 Airport Rd # A-1 Bldg A			X				
Alpenglow Botanicals	1805 Airport Rd # B-1-C & B-1-B	1805 Airport Rd # B-1-C	1805 Airport Road #B2	X	X	X	X	X

Colorado License Types

1. Type 1 Medical Marijuana Center (1-300 Registered Primary Patients)
2. Type 2 Medical Marijuana Center (301-500 Registered Primary Patients)
3. Type 3 Medical Marijuana Center (501 and above Registered Primary Patients)
4. Medical Marijuana Optional Premises Cultivation
5. Medical Marijuana Infused Product Manufacturer
6. Retail Store
7. Retail Marijuana Cultivation Facility
8. Retail Marijuana Products Manufacturing Facility
9. Retail Marijuana Testing Facility \*\*

\*\*The Local Licensing Authority is not authorized to issue a local Retail Marijuana Testing Facility License. See Section 4-14-8(B)

1 **FOR WORKSESSION/FIRST READING – AUG. 12**

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 CONCERNING THE NUMBER OF LICENSES THAT MAY BE ISSUED  
11 BY THE LOCAL LICENSING AUTHORITY UNDER CHAPTER 14 OF TITLE 4 OF THE  
12 BRECKENRIDGE TOWN CODE, KNOWN AS THE “TOWN OF BRECKENRIDGE 2013  
13 MARIJUANA LICENSING ORDINANCE”

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

17  
18 Section 1. Section 4-14-20 of the Breckenridge Town Code is amended to read as  
19 follows:

20 ~~4-14-20: CONSIDERATION OF NUMBER OF EXISTING LICENSES: Before~~  
21 ~~entering a decision approving or denying an application the Local Licensing~~  
22 ~~Authority shall consider, among the other relevant factors described in the~~  
23 ~~applicable codes, the number, type, and availability of medical marijuana~~  
24 ~~businesses and retail marijuana establishments located in or near the premises for~~  
25 ~~which the application has been submitted.~~

26 **4-14-20: LIMITATION ON NUMBER OF LICENSES; EXCEPTIONS:**

27 **A. Effective October 1, 2014, the Local Licensing Authority shall not issue any new**  
28 **licenses under this Chapter, except as provided in this Section. This prohibition does**  
29 **not affect the validity of any license issued by the Local Licensing Authority prior to**  
30 **October 1, 2014, or the ability of a licensee to: (i) renew or transfer a license issued**  
31 **by the Local Licensing Authority prior to October 1, 2014; or (ii) change the**  
32 **location of, or modify any licensed premises that are the subject of a license issued**  
33 **by the Local Licensing Authority prior to October 1, 2014.**

34 **B. Notwithstanding Subsection A of this Section, the Local Licensing Authority**  
35 **shall issue a new license to a licensee: (i) upon the renewal of such license; (ii) to**  
36 **reflect a change of location or modification of the licensed premises; (iii) to replace a**  
37 **misplaced or stolen license; or (iv) for any other reason authorized by law.**

38 **C. Notwithstanding Subsection A of this Section, the Local Licensing Authority**  
39 **shall issue a new license to a transferee if a license is transferred in accordance with**  
40 **Section 4-14-19, or any other applicable law.**

1 **D. Notwithstanding Subsection A of this Section, a licensee who holds a valid license**  
2 **on October 1, 2014, or the transferee of any such license, may apply for and obtain,**  
3 **subject to compliance with the applicable provisions of this Chapter, any additional**  
4 **type of license that the Local Licensing Authority is authorized to issue under this**  
5 **Chapter.**

6 **E. Effective October 1, 2014, if a license issued by the Local Licensing Authority is:**  
7 **(i) revoked; (ii) abandoned; (iii) voluntarily surrendered; or (iv) not renewed, then**  
8 **the license shall not be reissued.**

9 Section 2. Except as specifically amended hereby, the BreckenridgeTownCode, and the  
10 various secondary codes adopted by reference therein, shall continue in full force and effect.

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

15 Section 4. The Town Council hereby finds, determines and declares that it has the power  
16 to adopt this ordinance pursuant to: (i) the Local Government Land Use Control Enabling Act,  
17 Article 20 of Title 29, C.R.S.; (ii) Part 3 of Article 23 of Title 31, C.R.S. (concerning municipal  
18 zoning powers); (iii) Section 31-15-103, C.R.S. (concerning municipal police powers); (iv)  
19 Section 31-15-401, C.R.S.(concerning municipal police powers); (v) Section 31-15-501(1),  
20 C.R.S. (concerning the regulation of businesses); (vi) the authority granted to home rule  
21 municipalities by Article XX of the Colorado Constitution; and (vii) the powers contained in the  
22 BreckenridgeTownCharter.

23 Section 5. This ordinance shall be published and become effective as provided by  
24 Section 5.9 of the BreckenridgeTownCharter.

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

30  
31 TOWN OF BRECKENRIDGE, a Colorado  
32 municipal corporation  
33

34  
35  
36 By: \_\_\_\_\_  
37 John G. Warner, Mayor  
38  
39



1 ATTEST:

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6 \_\_\_\_\_  
Helen Cospolich

7 Town Clerk

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**MEMO**

TO: Town Council

FROM: Town Attorney

RE: Ordinance Referring Question to Voters re: Marijuana in the Downtown Overlay District

DATE: August 6, 2014 (for August 12<sup>th</sup> meeting)

---

At the last worksession staff heard a majority of the Council indicate a preference to submit to the voters in November the question of whether marijuana businesses should be allowed in the Downtown Overlay District under certain restrictions.

Enclosed with this memo is such an ordinance. The ordinance amends the Town’s current Marijuana Licensing Ordinance in a number of important ways related to the location of marijuana businesses within the Downtown Overlay District, and then submits the question of the ultimate approval of the ordinance to the electors at a special Town election to be held in conjunction with the statewide general election on November 4<sup>th</sup>. The way this ordinance is drafted it does not become effective unless the voters approve the ordinance at the election.

The substantive changes to the Town’s current Marijuana Licensing Ordinance begin in Section 1 of the ordinance (on page 2). Here is a summary of the changes to the Marijuana Licensing Ordinance that would result from the ultimate approval of the ordinance by the voters:

Ordinance Section	On Page	Lines	Change To Existing Licensing Ordinance
Section 1	Page 2	7-16	Deletes finding in existing Licensing Ordinance that relates to why marijuana businesses (other than the Cannabis Club) were not originally allowed in the Downtown Overlay District. This finding is no longer needed if other marijuana businesses are to be allowed to be located in Overlay District. Note that the language highlighted in yellow is the existing language that would be deleted by the adoption of the ordinance.
Section 2	Page 2	18-29	Deletes current prohibition against a licensed premises being changed from one location in the Overlay District to another location within the District. Deletes the current prohibition against a licensed premises being moved into the Overlay District from a location outside of the District. Here too the language highlighted in yellow is the existing language that would be deleted by the

			adoption of the ordinance.
Section 3	Page 2	34-37	Deletes current prohibition against a licensed premises located within the Overlay District being enlarged.
Section 3	Page 3	6	Adds Land Use District 18 <sup>2</sup> as an area where marijuana businesses can be located. Doing this would allow for the location of marijuana businesses on Ridge Street. Without this change, marijuana businesses cannot be located on Ridge Street, even though Ridge Street is included in the Downtown Overlay District. Staff thought the Council might want to consider this proposed change to the existing Marijuana Licensing Ordinance although it has not previously been discussed.
Section 4	Page 3	8-17	Deletes current Section C (as amended by the pending ordinance No. 27/2014) requiring existing marijuana business in the Overlay District to vacate by February 2, 2015. This removes any deadline for the existing marijuana business in the Overlay District to vacate the District.
Section 4	Page 3	19	Renumbers old Section 4(D) to new Section 4(C) to reflect deletion of February 1, 2015 deadline described above. Creates a section of generalized location rules that apply across the board to all marijuana business in Town (Note: New Section (D) described below creates new set of additional rules that apply specifically to the location of marijuana businesses in the Overlay District).
Section 4	Pages 3-4	35-38 on Page 3, and 1-32 on Page 4	Adds new set of rules that apply to the location of marijuana businesses in the Overlay District. For locations in the Overlay District these rules are <i>in addition to</i> the rules in Section (C) immediately above. The intent of these rules is to limit the location of marijuana businesses in the Overlay District. Specifically, the new rules: (1) place a limit of one marijuana business in each of the blocks that abut Main Street in the Overlay District; (2) create a spacing requirement of not less than 100 feet between marijuana businesses in the Overlay District; (3) maintain the current prohibitions against marijuana businesses being located on the ground floor and the levels immediately above and below the sidewalk for a split-level building (Note: these rules now apply just to marijuana businesses located within the

			Overlay District); and (4) prohibit a marijuana business being located in any premise that was used as a residence at any time within one year prior to the marijuana license being approved.
Section 4	Page 4	33-38	Simplifies and clarifies the way the Town measures the distance between buildings under the Marijuana Licensing Ordinance.

The remainder of the ordinance calls a special Town election for November 4, 2014 to consider whether to finally approve this ordinance. The proposed/working ballot question is set forth in Section 6 of the ordinance. Sections 7-13 of the ordinance contain details related to the November election.

I have always understood that the Town Council could amend or repeal an ordinance that was referred to and subsequently approved by the voters. In my research I came across a provision in the Colorado Constitution that created some uncertainty about the issue. However, the one case interpreting the constitutional provision pretty clearly says that a governing body can properly amend or repeal an ordinance it refers to the voters. To avoid any confusion or argument over the issue, however, you will see that I have added language in both the ordinance and the ballot question clearly providing that the Council has the ability to amend or repeal the ordinance in the future.

You should note that in order for the question to be submitted to the voters on November 4<sup>th</sup>, it will be necessary for this ordinance to be finally adopted prior to September 5, 2014, which is the deadline for the Town to notify the Summit County Clerk and Recorder that the Town wants the question on the November ballot. As a result, if the Council wants to submit a question to the voters but wants amendments to the enclosed ordinance, I would recommend approving the ordinance on first reading on Tuesday and making any necessary changes to the ordinance at the time of second reading of the ordinance on August 26<sup>th</sup>.

I will be happy to discuss this ordinance with you on Tuesdays.

1                   ***FOR WORKSESSION/FIRST READING – AUG. 12***

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 ADOPTING AMENDMENTS TO CHAPTER 14 OF TITLE 4 OF THE  
11                  BRECKENRIDGE TOWN CODE , KNOWN AS THE “TOWN OF BRECKENRIDGE 2013  
12                  MARIJUANA LICENSING ORDINANCE,” CONCERNING THE LOCATION OF MEDICAL  
13                  MARIJUANA BUSINESSES AND RETAIL MARIJUANA ESTABLISHMENTS;  
14                  SUBMITTING SUCH AMENDMENTS TO THE REGISTERED ELECTORS OF THE TOWN  
15                  OF BRECKENRIDGE FOR FINAL APPROVAL OR DISAPPROVAL AT A SPECIAL  
16                  TOWN ELECTION TO BE HELD IN CONNECTION WITH THE GENERAL ELECTION  
17                  ON NOVEMBER 4, 2014; AND PROVIDING FOR THE CONDUCT OF THE ELECTION  
18

19                  WHEREAS, applicable Colorado law as described in Section 14 of this ordinance  
20                  authorizes local governments to regulate and control the location of medical marijuana  
21                  businesses and retail marijuana establishments located within the municipality; and  
22

23                  WHEREAS, the Town Council finds and determines that it is necessary and appropriate  
24                  to adopt amendments to Chapter 14 of Title 4 of the Breckenridge Town Code, known as the  
25                  “Town of Breckenridge 2013 Marijuana Licensing Ordinance”, with respect to the location of  
26                  medical marijuana businesses and retail marijuana establishments within the Town’s Downtown  
27                  Overlay District; and  
28

29                  WHEREAS, Section 31-11-111(2), C.R.S., authorizes the Town Council to refer an  
30                  adopted ordinance to the vote of the registered electors of the Town; and  
31

32                  WHEREAS, the next state general election will be held on November 4, 2014; and  
33

34                  WHEREAS, the Town Council has determined that there should be submitted to the  
35                  registered electors of the Town at a special Town election to be held on November 4, 2014 in  
36                  conjunction with the state general election, as a referred measure, the question of whether the  
37                  amendments to the Town of Breckenridge 2013 Marijuana Licensing Ordinance adopted in this  
38                  ordinance should be finally approved or disapproved by the Town’s electors; and  
39

40                  WHEREAS, Section 31-11-111(2), C.R.S., provides that the Town Council or its  
41                  designee shall fix a ballot title for the referred measure; and  
42

1 WHEREAS, the Town Council has determined that it should fix the ballot title for the  
2 referred measure.

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

6  
7 Section 1. Section 4-14-2(F) of the Breckenridge Town Code is deleted.

8 Note: The deleted Section reads as follows:

9  
10 F. The presence of medical marijuana businesses and retail marijuana  
11 establishments within the Town's Downtown Overlay District may discourage  
12 tourism, which is the economic lifeblood of the community. As such, except for  
13 the limited time period described in this Chapter, medical marijuana businesses  
14 and retail marijuana establishments should all be located outside of the  
15 Downtown Overlay District in order to protect, defend, and preserve the  
16 economic vitality of the Town.

17  
18 Section 2. Section 4-14-19(D) of the Breckenridge Town Code is deleted.

19 Note: The deleted Section reads as follows:

20  
21 D. On or after the effective date of this Chapter:

22  
23 1. The permanent location of a licensed premises shall not be changed from one  
24 location within the Downtown Overlay District to another location within the  
25 Downtown Overlay District; and

26  
27 2. The permanent location of a licensed premises shall not be changed so as to  
28 relocate the licensed premises into the Downtown Overlay District from a  
29 location outside of the Downtown Overlay District.

30  
31 Section 3. Section 4-14-9(E) of the Breckenridge Town Code is amended to read as  
32 follows:

33 E. The licensed premises may be modified in accordance with the applicable  
34 code, the applicable administrative regulations, and this Chapter; ~~provided,~~  
35 ~~however, that no licensed premises located within the Downtown Overlay District~~  
36 ~~as of the effective date of this Chapter may be modified to increase the square~~  
37 ~~footage of such licensed premises.~~

38  
39 Section 4. Section 4-14-21 of the Breckenridge Town Code is amended to read as  
40 follows:

41 4-14-21: LOCATION OF LICENSED PREMISES; CO-LOCATION:

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38

A. No medical marijuana business or retail marijuana establishment shall be located at a location that does not conform to the requirements of this Section.

B. No medical marijuana business or retail marijuana establishment shall be located within the Town except within Land Use Districts 5, 9, 11, 18<sup>2</sup>, 19, 20, or 31.

~~C. Notwithstanding Subsection B of this Section any licensed premises that are lawfully located within the Downtown Overlay District as of this effective date of this Chapter may remain in such location until the first to occur of:~~

~~1. the licensee loses legal right to possession of the licensed premises for any reason; or~~

~~2. February 2, 2015.~~

~~Upon the first to occur of item (1) or item (2) of this Subsection B, the licensed premises shall be permanently closed, but may be relocated to a location outside of the Downtown Overlay District in accordance with Section 4-14-19.~~

DC. ~~In addition to the restriction imposed by Subsection B of this Section, n~~**No** medical marijuana business or retail marijuana establishment shall be located:

1. Within five hundred feet (500') of a licensed child care facility;

2. Within five hundred feet (500') of any educational institution or school, college or university, either public or private;

3. Within five hundred feet (500') of any halfway house;

4. Adjacent to property being used for a residential use; provided, however, this restriction does not apply to an adjacent mixed use building containing both residential and commercial units; or

5. Within any building or structure that contains a residential unit;<sub>2</sub>

~~6. on the ground floor, if located within the Downtown Overlay District; or~~

~~7. on any floor immediately above and below the sidewalk fronting at street level of any split level structure within the Downtown Overlay District.~~

D. **In addition to the restrictions imposed by Subsection C of this Section, the following restrictions apply to the location of all medical marijuana businesses and retail marijuana establishments within the Downtown Overlay District:**

- 1  
2 1. Not more than one (1) medical marijuana business, one (1) retail  
3 marijuana establishment, or one (1) collocated medical marijuana  
4 business and retail marijuana establishment, may be located in the  
5 following blocks that abut Main Street:

6 North Main Street:

7  
8 100 Block (both east and west sides of Main Street)

9 200 Block (both east and west sides of Main Street)

10 300 Block (both east and west sides of Main Street)

11  
12 South Main Street:

13  
14 100 Block (both east and west sides of Main Street)

15 200 Block (both east and west sides of Main Street)

16 300 Block (both east and west sides of Main Street)

17 400 Block (both east and west sides of Main Street)

18 500 Block (both east and west sides of Main Street)

- 19  
20 2. There shall be not less than one hundred (100) feet between any  
21 medical marijuana business or retail marijuana establishment and the  
22 closest medical marijuana business or retail marijuana establishment;
- 23 3. No medical marijuana business or retail marijuana establishment shall be  
24 located on the ground floor of any building; and
- 25 4. No medical marijuana business or retail marijuana establishment shall be  
26 located on any floor immediately above and immediately below the  
27 sidewalk ~~fronting~~ located at street level of any split level  
28 ~~structure~~ building.
- 29 5. No medical marijuana business or retail marijuana establishment  
30 shall be located in any premise that was used as a residence at any  
31 time within the one (1) year period immediately preceding the  
32 approval of the license for the medical marijuana business or retail  
33 marijuana establishment.

- 34 E. The distances described in Subsections C and D of this Section shall be computed  
35 by direct, straight-line measurement from the nearest ~~property line of~~ portion of  
36 the building in which the existing land use described in Subsections ~~D1, D2, or~~  
37 ~~D3~~ C1, C2, C3, and D2, above, (whichever is applicable) is located to the  
38 nearest portion of the building for which the license is requested, ~~using a route of~~  
39 ~~direct pedestrian access.~~
- 40



- 1 F. The distance limitations established by Subsections C and D of this Section shall  
2 control over the distance limitations set forth in any applicable code or applicable  
3 administrative regulation.  
4
- 5 G. Nothing in this Chapter prevents a licensee from physically delivering medical  
6 marijuana to a homebound patient when done in compliance with the Colorado  
7 Medical Marijuana Code and the applicable administrative regulations.  
8
- 9 H. No licensed premises shall be operated as a “home occupation” as described in  
10 Section 9-1-19-38A of this Code.  
11
- 12 I. A medical marijuana business may be located at the same location as a retail  
13 marijuana establishment subject to the requirements of the applicable code and  
14 the applicable administrative regulations.  
15

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

18 Section 6. In conjunction with the state general election to be held on Tuesday,  
19 November 4, 2014 a special Town election is called and shall be held. At such election there  
20 shall be submitted to the vote of the registered electors of the Town, as a referred question under  
21 Section 31-11-111(2), C.R.S., for the electors approval or disapproval, the ballot question  
22 hereinafter set forth (“ballot question”). At the said election, the official ballot, including early  
23 ballots, shall state the substance of the ballot question to be voted upon and, as so stated, shall  
24 constitute the ballot title, designation, and submission clause, and each registered elector voting  
25 at the election shall indicate his or her choice on the ballot question submitted, which shall be in  
26 the following form:

27 QUESTION \_\_\_\_ [Number/letter to be inserted by County Clerk]  
28

29 Shall the “Town of Breckenridge 2013 Marijuana Licensing Ordinance “ be  
30 amended to further regulate the location of medical marijuana businesses and  
31 retail marijuana establishments (“licensed premises”) in the Town’s Downtown  
32 Overlay District by: (1) maintaining the current prohibition against a licensed  
33 premises located within the Downtown Overlay District being located on the  
34 ground floor of a building; (2) eliminating the requirement that the one licensed  
35 premises currently located in the Town’s Downtown Overlay District be closed or  
36 relocated to a location outside the Downtown Overlay District by February 2,  
37 2015; (3) eliminating the current prohibition against other licensed premises being  
38 located within the Downtown Overlay District; (4) eliminating the current  
39 prohibition against the location of a licensed premises being changed from one  
40 location in the Downtown Overlay District to another location in the Downtown  
41 Overlay District; (5) eliminating the current prohibition against a licensed  
42 premises being relocated into the Downtown Overlay District from a location  
43 outside the Downtown Overlay District; (6) eliminating the current prohibition

1 against a licensed premises in the Downtown Overlay District being modified to  
2 increase its square footage; (7) adding a new prohibition against more than one  
3 licensed premises being located in any portion of a platted block that abuts North  
4 Main Street or South Main Street within the Downtown Overlay District; (8)  
5 adding a new requirement that there be a minimum separation of 100 feet between  
6 licensed premises within the Downtown Overlay District; (9) adding a new  
7 prohibition against a licensed premises being located in any premise that was  
8 used as a residence at any time within the one (1) year period immediately  
9 preceding the approval of the license; (10) adding Land Use District 18<sup>2</sup> as an  
10 area of the Town where marijuana businesses may be located if they comply with  
11 other applicable licensing requirements; and shall the Town Council have full  
12 legal authority to amend or repeal such amendments to the “Town of  
13 Breckenridge 2013 Marijuana Licensing Ordinance” in the manner provided for  
14 the adoption of Town ordinances in the Breckenridge Town Charter?

15  
16 YES \_\_\_\_\_ NO \_\_\_\_\_

17  
18 Section 7. In connection with the fixing of the ballot title for the referred measure as set  
19 forth in Section 6 of this ordinance, the Town Council has considered the factors set forth in  
20 Section 31-11-111(3), C.R.S.

21 Section 8. If a majority of all the votes cast at the election shall be for the ballot question  
22 set forth in Section 6 of this ordinance, the amendments to the Town of Breckenridge 2013  
23 Marijuana Licensing Ordinance adopted by the Town Council in this ordinance shall be deemed  
24 to have been approved, ratified, and confirmed by the electors of the Town, and such  
25 amendments shall become effective upon the certification of the votes of the election. If a  
26 majority of all the votes cast at the election shall be against the ballot question, the amendments  
27 to the Town of Breckenridge 2013 Marijuana Licensing Ordinance adopted in this ordinance  
28 shall not become effective.

29 Section 9. If the amendments to the Town of Breckenridge 2013 Marijuana Licensing  
30 Ordinance adopted by the Town Council in this ordinance are approved, ratified, and confirmed  
31 by the electors of the Town, the Town Council shall have the full legal authority to amend or  
32 repeal such amendments in the manner provided for the adoption of Town ordinances in the  
33 Breckenridge Town Charter.

34 Section 10. The special Town election to be held on November 4, 2014 to consider the  
35 ballot question shall be conducted as a coordinated election with Summit County. The Summit  
36 County Clerk and Recorder shall conduct the special Town election on behalf of the Town.  
37 Pursuant to Section 1-12-6 of the Breckenridge Town Code, the election shall be conducted  
38 under the Uniform Election Code of 1992. The cost of the election with respect to the ballot  
39 question shall be paid from the general fund of the Town.

40 Section 11. The officers of the Town are authorized and directed to take all action  
41 necessary or appropriate to effectuate the provisions of this ordinance.

1           Section 12. The Town Clerk, or the coordinated election official if so provided by  
2 intergovernmental agreement, shall give or cause to be given the notice of election required by  
3 Section 1-5-205, C.R.S.

4           Section 13. The Town Clerk shall serve as the designated election official of the Town  
5 for the purposes of performing all acts required or permitted by law in connection with the  
6 election on the ballot question, and shall take such action as may be required to comply with all  
7 applicable laws pertaining to the conduct of the election.

8           Section 14. The Town Council finds, determines and declares that it has the power to  
9 adopt this ordinance pursuant to: (i) the Colorado Medical Marijuana Code, Article 43.3 of Title  
10 12, C.R.S.; (ii) Section 16 of Article XVIII to the Colorado Constitution; (iii) the Colorado Retail  
11 Marijuana Code, Article 43.4 of Title 12, C.R.S.; (iv) the applicable administrative regulations;  
12 (v) The Local Government Land Use Control Enabling Act, Part 1 of Article 20 of Title 29,  
13 C.R.S.; (vi) Part 3 of Article 23 of Title 31, C.R.S. (concerning municipal zoning powers); (vii)  
14 Section 31-15-103, C.R.S. (concerning municipal police powers); (viii) Section 31-15-401,  
15 C.R.S. (concerning municipal police powers); (ix) Section 31-15-501, C.R.S. (concerning  
16 municipal authority to regulate businesses); (x) the authority granted to home rule municipalities  
17 by Article XX of the Colorado Constitution; and (xi) the powers contained in the Breckenridge  
18 Town Charter.

19           Section 15. The Town Council further finds, determines, and declares that this ordinance  
20 is 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 16. This ordinance shall be published and shall become effective as provided by  
24 Section 5.9 of the Breckenridge Town Charter.

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

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31   TOWN OF BRECKENRIDGE, a Colorado  
32   municipal corporation  
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36   By: \_\_\_\_\_  
37   John G. Warner, Mayor  
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1 ATTEST:

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Helen Cospolich  
Town Clerk

## Memorandum

**TO:** TOWN COUNCIL  
**FROM:** Dale Stein, Assistant Town Engineer  
**DATE:** August 7, 2014  
**RE:** Public Projects Update

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### **Arts District Build Out**

The Arts District project continues to progress on schedule. This week sidewalks are being prepared and poured as interior work is also completed. Staff will be inviting Council to a private tour of the new facilities in September (date TBD), prior to the official Arts District launch that begins on September 25<sup>th</sup>.



The sidewalks in the campus are being prepared for concrete.

### **Old Masonic Hall**

The Old Masonic Hall project is underway with demolition of interior and exterior elements, and the shoring and lifting of the structure for a new foundation. A wooden wall was constructed on Main Street, covering the front of the building, for the safety of pedestrians. We are working on printing project banners and painting this wall for a more appealing frontage to the project. We also constructed a temporary sidewalk around the construction wall to facilitate better access to the adjacent businesses during project.



The building is lifted to build a new foundation.



A temporary sidewalk directs pedestrians to neighboring businesses.



The view looking under the building to Main Street.

### **Concrete Replacement**

The concrete replacements, at various locations in Town, have now been completed for the 2014 season.

### **SH 9 Median and Roundabout Improvements**

Staff recently awarded the Phase 1 infrastructure work for the State Highway 9 median and roundabout improvements to Columbine Hills Concrete. The work anticipated to be completed

in Phase 1 includes removal of the existing materials in the median and roundabout, and the installation of infrastructure in the median and roundabout such as electric, irrigation and concrete pavement. The limits of the work will be from Valley Brook Street south through the roundabout. A lane closure will be in place daily to facilitate the work.

CDOT has not yet issued the permit for the project which has delayed the start of the project. The contractor will establish a new start date once the permit from CDOT is received.

### **Skate Park**

The Team Pain crew has been pouring concrete for the new “bowls” and will begin pouring the “snake run” next week. The park is scheduled for completion in mid-October.



The crew is finishing the fresh concrete in the beginner bowl.



The advanced bowl.

### **Artificial Turf Field**

The contractor has been preparing the sub-grade for the synthetic turf installation. The recent rains have slowed the progress of the excavation and final grading. Staff will update Council on any anticipated schedule changes at the work session.

### **North Main Street Park**

There is no new information regarding the proposed park on Main Street. Staff is continuing to work to obtain bids for various component of the project to formulate a construction team.

### **Lincoln Heated Sidewalk**

Work to install the boilers and pumps for the heated sidewalk on Lincoln Avenue has been completed. The gas meter has not yet been set by XCEL Energy, but should be completed prior to the fall. The system will be ready for operation prior to the fall and winter seasons.

### **South Main Street Event Power**

With the recent Main Street project, the contractor installed electrical infrastructure for “event power” at various locations along Main Street. This “event power” system includes underground wiring and over two dozen individual receptacles installed behind the curb & gutter at intervals needed to supply events on Main Street and Blue River Plaza. This permanent system replaced the sometimes unreliable maze of temporary extensions cords running from various locations for these events. The electrical event power along Main Street, from Lincoln Ave to Adams Ave, is completed, awaiting a meter from XCEL Energy, and is scheduled to be operational for the USA Pro Cycle Challenge.

### **Breckenridge Grand Vacations Community Center**

Work continues to move forward on the rehabilitation project of the historic structure on Harris Street.

The recent rain events of the last couple of weeks have slowed the progress on exterior construction components of the project such as the site work, south parking lot paving and roofing. With the forecast showing sunny weather for the remainder of this week, the Contractor hopes to complete the placement of shingles on the roof and complete the first lift of asphalt on the south parking lot. Site work near the building and the north parking lot will commence once the south paving is completed. Both parking areas, pending good weather, are scheduled to be completed in September.

Work continues to progress well on the interior of the building with the crews working on drywall finish in the 1909 building, drywall installation in the 1921 building, wood floor refinishing in the second level of the 1909 building, IT cabling, mechanical room pump and boiler installation, masonry rehabilitation and framing of the new addition.

Event Reminder: 20 minute “Sneak Peek” tours of the building are scheduled for Sunday August 17, 2014, from 1:00 p.m. to 3:00 p.m.





Left: Sunny weather allows the contractor to begin with paving of the south parking lot. The lot has been regraded to provide proper drainage and an ADA parking spot was added near the building.



Work continues on the installation of the drywall in the 1921 main library portion of the building.

With the good weather today, work also began on the installation of the new roofing shingles on the building. The existing roof was removed earlier in the project, roof repairs made and new ice & water shield installed.

Once the new roof is installed a new “heated edge” ice melt system will be installed on the north and east elevations in an effort to minimize the ice damming that has occurred during the winters, resulting in the damage to the masonry.

**MEMO**

**TO:** Mayor & Town Council  
**FROM:** Tim Gagen, Town Manager  
**DATE:** August 7, 2014  
**SUBJECT:** Committee Reports for 8-12-2014 Council Packet

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**I-70 Coalition** **July 10, 2014** **Tim Gagen**

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*This report is included as a separate attachment.*

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**Recreation Advisory Committee** **July 17, 2014** **Mike Barney/Jenise Jensen**

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The Recreation Advisory Committee held its bimonthly meeting on July 17, 2014. Committee members include Don Danker, Judy Farrell, Marty Ferris, Toby Babich, Amy Perchick, Larry Willhite and Wolf Edberg. The following agenda items were covered:

- **Annual Report:** Jenise presented the Recreation Department annual report that was given to Council in June. This covered financials, participation, divisional highlights, feedback and NPS, marketing and GCM operations. Questions and feedback discussion is included below. The general feedback from the committee was positive and that it is remarkable how many services and programs the department provides to the community and they feel the subsidy is well warranted.
- **Feedback & Updates from Committee Members:** There were questions, discussion and concerns on the Ice Arena cost recovery rate from all members. Don stated that based upon the numbers, it appears Ice is being subsidized by \$16 per person visit. Don asked if there might be alternative energy solutions for ice to help reduce expenses. There was discussion that there is capacity during the day time. Wolfy asked if the ice rink could put on something like the STRS (which is very popular and revenue generating) at ice, for instance a snow shoe race. Committee members asked the status of the Rec Center renovation for next year. Jenise stated that Mike presented to Council the past renovation history and Council asked for updates and the renovation is currently not slated to begin until more information is presented. Don questioned if the outdoor tennis courts were covered and if there need to be an adjustment to the solar panels near the courts. Don voiced a concern that if the tennis courts were to be covered that a study should be done to ensure tennis popularity was on the rise to prevent a facility without a usage base and he would also like information on the energy costs. Don also mentioned that the committee had discussed and thought there was agreement that a wifi booster would be installed on the second floor of the Recreation Center. Don stated the signal is still too weak, it is an inconvenience to the customers and personal trainers cannot access wifi on their Ipad. Jenise stated she would relay the information to staff and follow up on this. Larry stated that he had also spoken with Mike on the tennis expansion and he mentioned that sometimes tennis staff has issues accessing wi-fi to control the tennis ball machine. Jenise will follow up with Mike on this. Marty advised that she has heard feedback that users in the women's locker room are happy that the showerhead timers were removed and she is hearing feedback in the community regarding wanting more fitness classes this summer, especially in the mornings. Don had a question regarding if the CMC recreation pass that was developed was being used and Jenise advised she would look into this.
- **Reminders:** Jenise thanked everyone for their attendance and reminded the committee members that Friday the 18th is the deadline to RSVP for the Town Committee reception next week. Marty and Wolfy have already RSVP'd; Don will see if he can attend. Also, the next meeting is the fourth Thursday in September.

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<b>Committees</b>	<b>Representative</b>	<b>Report Status</b>
CAST	Mayor Warner	Verbal Report
CDOT	Tim Gagen	No Meeting/Report
CML	Tim Gagen	No Meeting/Report
I-70 Coalition	Tim Gagen	Included
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
CMC Advisory Committee	Tim Gagen	No Meeting/Report
Recreation Advisory Committee	Mike Barney	Included

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*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.*



**MEMBERS PRESENT**

1. Stan Zemler, Town of Vail (Co-Chair)
2. Tim Mauck, Clear Creek Cty (Co-Chair)
3. Tom Breslin, Clear Creek County
4. Kevin Burns, Town of Dillon
5. Bill Efting, Town of Frisco
6. Tim Gagen, Town of Breckenridge
7. Glo Gaines, City of Central
8. Dan Gibbs, Summit County
9. Lynnette Hailey, City of Black Hawk
10. Ryan Hyland, Town of Silverthorne
11. Brendan McGuire, Vail Resorts
12. Cindy Neely, Silver Plume
13. Thad Noll, Summit County
14. Eva Wilson, Eagle County

**ASSOCIATE MEMBERS, FRIENDS & STAFF**

15. Ben Acimovic, CDOT
16. Art Ballah, CO Motor Carriers Assoc.
17. Margaret Bowes, I-70 Coalition
18. Allan Brown, Atkins
19. David Eller, CDOT
20. Randy Grauberger, Parsons Brinckerhoff
21. Miller Hudson, Colorado Maglev Group
22. Richard Mauro, DRCOG

- 1. The meeting was called to order at 1:15 p.m. by Stan Zemler**
- 2. Introductions**
- 3. Approval of 4/10/14 Meeting Summary – Approved.**
- 4. Board of Directors Report, Tim Mauck, Co-Chair**
  - The Board of Directors will discuss the 2015 Membership Dues at their August 6 meeting.
- 5. Retreat Debrief & Discussion, Stan Zemler**

All members should have received the Retreat Summary. We have received positive feedback, and new members especially found the retreat beneficial. The organization reaffirmed its commitment to the Record of Decision and the requirement that all new members must support the ROD. Action items that came out of the retreat include considering more frequent legislative briefings, increasing business engagement, creating an orientation procedure for new members, developing an organizational chart of players in transportation, and promoting the “road show” where staff or members provide I-70 briefings to various community or local government groups. The retreat summary was missing the discussion about members supporting the investigation of shorter term transit options within the corridor. This includes working with resorts to support the ski bus/van services, supporting CDOT’s Bus on Shoulder pilot program, etc.

Another action item includes the creation of an AGS Committee. Tim Mauck distributed a document that might be a starting point for this Committee. Margaret will solicit interest from membership, partners such as CDOT, and Friends of the Coalition. Non-members can participate on I-70 Coalition Committees. Tim Mauck will host a first meeting. Staffing and budget implications should be discussed at that first meeting as well as a work plan. CDOT will be invited to participate.

The Board will prioritize the Retreat action items and develop a timeline.

## **6. Review of I-70 Coalition Commitments, Tim Mauck**

The list of committees and project leadership teams that the Coalition participates in was reviewed. The list is more manageable than it was a year ago since several committees have completed their work.

Collaborative Effort – Dan Gibbs is the chair and no meetings are scheduled at this time. There have been several elections and turnover of CE members, so it was suggested that the CE should convene before too long. CDOT is not required to report back to the CE at any regular time interval, but touching base annually would be good. Dan will talk with Angie Drumm, CDOT about this.

The Division of Transit & Rail Advisory Committee- We encouraged and helped create this Division within CDOT. Stan Zemler participated in creating the job description and the hiring of the director. Most of this Committee's work does not relate to the I-70 corridor. We will retain our seat even though active participation is not anticipated at this time.

## **7. Updates on Committees/PLTs/Initiatives**

- WB Twin Tunnel – The project is progressing well. The contractor is working to get rock face blasting back on schedule. The impacts of this blasting work on local traffic are significant.
- Interconnectivity Study – The PLT has wrapped up its work.
- Traffic and Revenue Study, Ben Acimovic – CDOT will come up with a recommendation in August and that will go to the PLT at the end of August. August will be the last Level 1 meeting. The only alternative that could pay for itself of the six considered is Alternative 6- WB PPSL. The Transportation Commission and CDOT Director Don Hunt will make the final recommendation of what alternatives will move to Level 2 screening.
- Peak Period Shoulder Lane (PPSL) PLT, Brendan McGuire - The PLT has been subsumed by technical team conversations and the MOU between Clear Creek County and CDOT. Ben Acimovic explained that technical team will continue to have a large role. Construction will start this month with mostly night work. Completion is planned for fall 2015.
- Westbound Peak Period Shoulder Lane (PPSL), Ben Acimovic – CDOT is pursuing private financing, and if received then CDOT will pursue this project concurrently with the EB PPSL. They will learn Oct 1 if they get the bank loan, and if they do, a PLT will be convened and the same six step process covered for the EB project will be repeated for the WB PPSL project. WB construction wouldn't start until summer 2015. CDOT usually bonds the money for projects or gets grants such as TIGER grants, but this would be private financing. A cost estimate has been developed but not released. Toll revenues will be used to pay back the bank loan. The project will include widening from just east of the WB Twin Tunnel (but west of Central City Parkway) and through Empire. The EB PPSL will be a federal project, but WB will be under the state process. They will use same contractor for greater efficiencies.
- High Performance Transportation Enterprise (HTPE), Tim Gagen –Tolling on PPSL will fall under the HPTE, and the pending loan for WB PPSL will go through HPTE. The I-70 via duct in Denver could be a P3 project. HPTE and CDOT will go through an extensive public process for

any future P3 projects. The I-25 North and C470 projects will include tolling during peak periods, but are unlikely to be P3 projects.

#### **8. TDM Work Plan Review & Approval, Brendan McGuire**

(See Presentation) This corridor is very different than metro areas, so we have very different TDM strategies. Resorts have stepped up on parking strategies but a recent study shows that more work is needed to inform the visitor of their programs. With today's technology there are opportunities to communicate earlier with visitors. Any TDM program is lucky to get 1-3% movement.

There might be a role for the TDM Committee in looking at logical spots for intercept lots so people can park and ride. The USFS is looking at how they handle folks coming to the forests in cars and are considering how they can decrease the great number of cars dispersed throughout the forest. They would like to see more consolidated parking/transportation. Margaret will contact Carol Kruse to see how our TDM program might support and promote their efforts. The dinosaur lots demonstrate the model does work, at least on the Front Range. Limited overnight parking is a limiting factor to those wanting to carpool within the corridor.

Brendan McGuire made a motion to adopt the TDM Committees 2014-2015 work plan. Tim Gagen seconded. All were in favor.

#### **9. CSP Update, Capt. Richard Duran**

None.

#### **10. CDOT Update, David Eller, Regional Director, Region 3**

David distributed a Construction Map of upcoming CDOT projects. The climbing lanes on EB Vail Pass and EB Silverthorne to Eisenhower tunnel will be repaved. The interchange at the east end of Idaho Springs WB on-ramp will be re-done when that bridge is redone. This October there will be a five week detour for 240 Exit, Hwy 103 heading towards Mt Evans. There is an emergency project on the bike path in Glenwood Canyon.

Ramp meters will be installed at Silverthorne, Frisco, and Copper Mountain to use in winter time operations. This is viewed as a better alternative to metering up at the Eisenhower Tunnel as traction becomes an issue in the winter.

New Hires: CDOT hired a new Chief Engineer and that position will do project development. The I-70 Corridor Operations Manager position is announced and this position will oversee I-70 corridor operations and all that entails, including the heavy tow and courtesy control programs. That person will be present on the corridor on most busy weekends. An I-70 Corridor East/West Incident Commander is another new position.

#### **11. Public Comment**

Art Ballah, Colorado Motor Carriers Association: CMCA is active nationally in reducing congestion. Mr. Ballah talked about a study that shows 2013 congestion cost the trucking industry \$9.2 billion. Some portion of this cost gets passed on to the consumer. The Legislative Transportation Committee will likely carry a bill next session regarding passenger vehicle transaction. The bill will likely include a

penalty, but no points, for passenger vehicles with defective tires that cause a lane or road closure. The February 9, 2013 traffic jam near the Eisenhower Tunnel on I-70 was a turning point, and the legislature has noticed the issue. Rep. Hamner has expressed interest in getting involved.

Miller Hudson, MagLev: Mr. Miller and General Atomics will meet with Federal Rail Administration (FRA) regarding existing MagLev technology. Colorado is the only state to include AGS in its State Rail Plan, but at this time AGS doesn't qualify for FRA money because it isn't in their definition. The federal government only considers steel rail technologies for funding. There is \$20-50 million leftover in the high speed rail stimulus package, and FRA might put the money out to grants. They are coordinating this with CDOT.

The Wall Street Journal ran a story about Japan looking at floating trains. This shows movement in the technology.

## **12. New Business**

Tim Mauck is leading the effort to garner support for a transit-oriented economic study. Jefferson County, Clear Creek County, Eagle County, and the Denver Chamber of Commerce have signed on to the effort, and Tim Mauck encourages everyone's participation. He hopes to get it kicked off at the beginning of August. Tim M. would like the I-70 Coalition to consider taking this under its organization and will bring the issue up with the Board of Directors.

**Meeting adjourned at 2:50 p.m.**

# Memorandum

**To:** Town Council

**From:** Robb Woulfe, CEO, Cultural Arts

Jennifer Cram, Manager Breckenridge Arts District and Public Art Program

**Date:** 08/04/2014

**Re:** Naming of Structures in the Arts District and Signage Update

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With the recent adoption of Resolution Number 13, Series 2014, Naming of Town-Owned Properties, the Cultural Arts Division would like to review with the Council the naming of the structures/studios located in the Arts District. The names noted below are what we have been calling the structures for several years and throughout the design/construction process with the exception of the Randall Barn. We have named the historic structures after their historic use or the families and characters associated with the structures. The goal is to be able to tell the story of the rich history of these structures. A history of each of the historic structures is attached to this memo for reference.

#### Existing Structures/Studios:

- Fuqua Livery Stable – Painting, Drawing, Beading Studio with 1 studio to rent to a local/resident artist.
- Tin Shop - Guest Artist live/work studio
- Quandary Antiques Cabin – Currently the Ceramic Studio, in the future we plan to utilize this studio for Children’s workshops.

#### Rehabilitated and New Structures/Studios:

- Randall Barn – We have been calling this barn the Mikolitis Barn for lack of a better name since the property was bought from Dan Mikolitis in 2002. However, based on input from local historians, we recommend that we call this structure/studio the Randall Barn. Please see the attached history.
- Robert Whyte House – Guest Artist live/work studio
- Burro Barn – This is the historic Burro Barn that was part of the Robert Whyte homestead. It will be used for public restrooms.
- Hot Arts Studio (Hot Shop) – Metalsmithing and Glasswork as well as other mediums that use heat such as Encaustic Painting.

- Ceramic Studio – Ceramics Related Programs

Under Resolution, Number 13, Series 2014 Section 4. A. “Priority should be given to names carrying geographical, historical, or cultural significance to the area in which the property is located, or to the Town as a whole” In this regard the Fuqua Livery Stable, Tin Shop, Quandary Antiques Cabin, Robert Whyte House and Burro Barn are all very appropriate and have been accepted for a long time.

The Resolution also states under Section 4. F. “Suggestions for names of property may be solicited from organizations, residents, and individuals. Suggestions shall be prioritized based upon these guidelines and submitted to the Town Council for consideration.”

In this regard we have received information on the history of the use of the barn and about former owners John and Zetha Randall from local residents and historians Robin Theobald and Maureen Nicholls. To date this is the most relevant information that we have about the former life of this barn. We are currently working with the Summit County Clerk and Records Office to track the ownership history on the barn. We will share any relevant information with the Council during the worksession. Subsequently, the name for the barn has been endorsed by Larissa O’Neil, executive director of the Breckenridge Heritage Alliance.

The Hot Arts Studio and Ceramic Studio are new structures and thus the name of these studios is culturally significant and descriptive of the uses that will be conducted inside.

The Cultural Arts Division would like to know if the Council is comfortable with the names of the buildings in the Arts District as presented.

If the Council is comfortable, the Cultural Arts Division will return at the next regularly scheduled meeting with a resolution adopting these names. If the Council is not comfortable, then a more inclusive process can be perused for naming these buildings.

#### Arts District Signage Update:

As part of the construction process and in anticipation for the Preview of the Arts District in September we are developing a signage package. The proposed signage takes cues from the historic structures on the campus, but has a clean and timeless look while also incorporating elements from the Cultural Arts Division’s new identity (e.g., BreckCreate). We also plan to include a plaque on each structure identifying it as being a Town of Breckenridge owned building. Attached you will find concepts for the proposed signage. Subsequently, the Planning Department has reviewed and approved the proposed concepts, as time is of the essence to get the signs fabricated for the Preview.



## **History of the Breckenridge Arts District Buildings**

### **Fuqua Livery Stable**

This false-fronted livery and feed stable building was built for P.S. and Emma Bailey in 1880 for \$600.00. The building was quickly rented to liveryman J. P. Fuqua. He specialized in the care, feeding, and stabling of horses for pay. Carriages were also available for hire. The barn, which was constructed with vertical pine, board-and-batten siding, boasted a characteristic hayloft opening above the wagon and pedestrian entrances where feed and grain were stored for Fuqua's four-legged boarders.

In 1883, Emma Bailey transferred the property to William F. Forman, a feed and grain dealer. Willard Churchill and Warren G. Dyer, of the partnership of "Churchill & Dyer," acquired the livery stable from Forman, and during the 1890s, the structure was known as the "Dyer Barn." Later, William McAdoo purchased the property where he housed horses, wagons, cutters, mining tools, and other equipment. After McAdoo's death in 1921, local grocer Christ Kaiser purchased the property in a "public trust sale" on February 15, 1926. Kaiser used the barn for the same purposes. Sometime after his death in 1932, Robert A. and Lois G. Theobald acquired the former livery barn. The Town of Breckenridge purchased the property in 2002.

The rehabilitated historic Fuqua Livery Stable opened in August of 2008. The project received \$129,000 from the State Historic Fund for restoration. The rehabilitation consisted of taking the structure apart carefully in 12 pieces, pouring a new foundation with in-floor heat, erecting structural steel and then putting the structure back together within 1" of historic configuration. An innovative glass storefront system was also installed on the interior to exhibit all of the historic walls and allow for year round use.

The Fuqua Livery Stable received the prestigious Steven H. Hart Award for outstanding efforts in historic preservation in February of 2009.

### **Quandary Antiques Cabin**

This small log structure was built on land donated by Mr. and Mrs. Charles Perrin to the Breckenridge Fire Department. Consequently, the volunteer firemen built two, twin 18' x 24' log cabins on two town lots to raffle off at their August 1952 No Man's Land Celebration fundraiser. Raffle tickets were \$1.00. Dorothy Reibold of Glenwood Springs purchased the winning ticket for this cabin. Dorothy, husband Wayne, and children spent a few summers and one winter in this cabin. In later years, Luna Shumacker of Texas, used it as a rental house until her death in 1979. Jim and Maureen Nicholls purchased the cabin from her estate in 1980. In 1983, Maureen moved Quandary Antiques into the building. Its twin cabin has been demolished.

The Quandary Antiques Cabin, although not technically historic does have social significance to Breckenridge. Jim and Maureen Nicholls donated the cabin to the Breckenridge Arts District in 2007. As part of the donation Jim and Maureen requested that the structure be named the Quandary Antiques Cabin. The cabin was relocated from its original location two blocks down Ridge Street to the Arts District in 2008. The cabin has been remodeled into a small ceramic studio.

## **Robert H. Whyte House**

Stagecoach travelers to Breckenridge in the 1880s could disembark on Ridge Street, and spend a comfortable night at the Grand Central Hotel, which once occupied a portion of this property. However, in December of 1884, a fire swept through Breckenridge's business district. After a night of horror, the blaze was contained, but the hotel, along with two other commercial buildings and a tiny dwelling on this corner, had been destroyed. Robert H. Whyte, the former manager of the Grand Central Hotel, and his wife, Mary H., built this small frame house on Lot 9 as their home in 1889. After the fire, Robert Whyte operated a grocery store on Lincoln Avenue. The burro barn and outhouse, located to the rear of the dwelling, were built at the same time. The burro barn was enlarged sometime between 1890 and 1896. A false-fronted building, which was once used as a furnishings store was built along the Washington Avenue right-of-way by 1902.

After Robert and Mary Whyte's deaths, their heirs sold the property to Kate McDonald in 1904. Nels Ostrum acquired the property from McDonald in 1915. After ten years, Nels and his wife, Marquerite, sold the property to Carl Kaiser, who used it as a rental property. After Kaiser's death, his widow, Esther A. Kaiser, sold this large corner lot, with improvements, to George A. Graham in 1946. Hella and Marian Ryplewski purchased the complex from Graham in 1957. Seven months later, they sold it to Rhoda B. and Clinton Dudley. John J. and Zetha Randall acquired the property in 1960. Daniel A. Mikolitis purchased the property in 1978. The Town of Breckenridge purchased the property in 2002.

## **Randall Barn**

John J. and Zetha Randall moved to Breckenridge after World War II (~1945). They purchased the Finding Store on Main Street. They ran the Finding building as a Gambles store through the mid 60's. Although the Gambles store mostly sold hardware, you could also purchase groceries and liquor. They also purchased the Foote property on Main Street as their residence. In addition to these two properties, they also purchased the false-fronted barn built in 1902 and used it to store the antiques from the Finding Store. In addition to these properties they also purchased mining properties, some of which John did work. In the late 70's Zetha donated several of the items from the barn to the Summit Historical Society (SHS) including old hardware, 66 journals and ledgers from the Finding Hardware, a large assortment of antiques to furnish a general store in the SHS Museum in Dillon. One of the most treasured items was an Edwin Carter four ptarmigan and a chick taxidermy representing the four seasons in various plumage under a glass dome. This item stayed in Breckenridge was donated on Zetha's behalf to the Town of Breckenridge. Charles Struve was mayor at the time and it was received in December of 1979. This piece resides in the Edwin Carter Museum presently, but was in the Town Hall on a special made pedestal after the opening of the Town Hall in 1980. When Zetha passed away in September of 2002 her estate bequeathed the Summit Historical Society \$10,000 to be used on a special project of the Society's choosing.

Daniel A Mikolitis purchased the property in 1978. The Town of Breckenridge purchased the property in 2002.

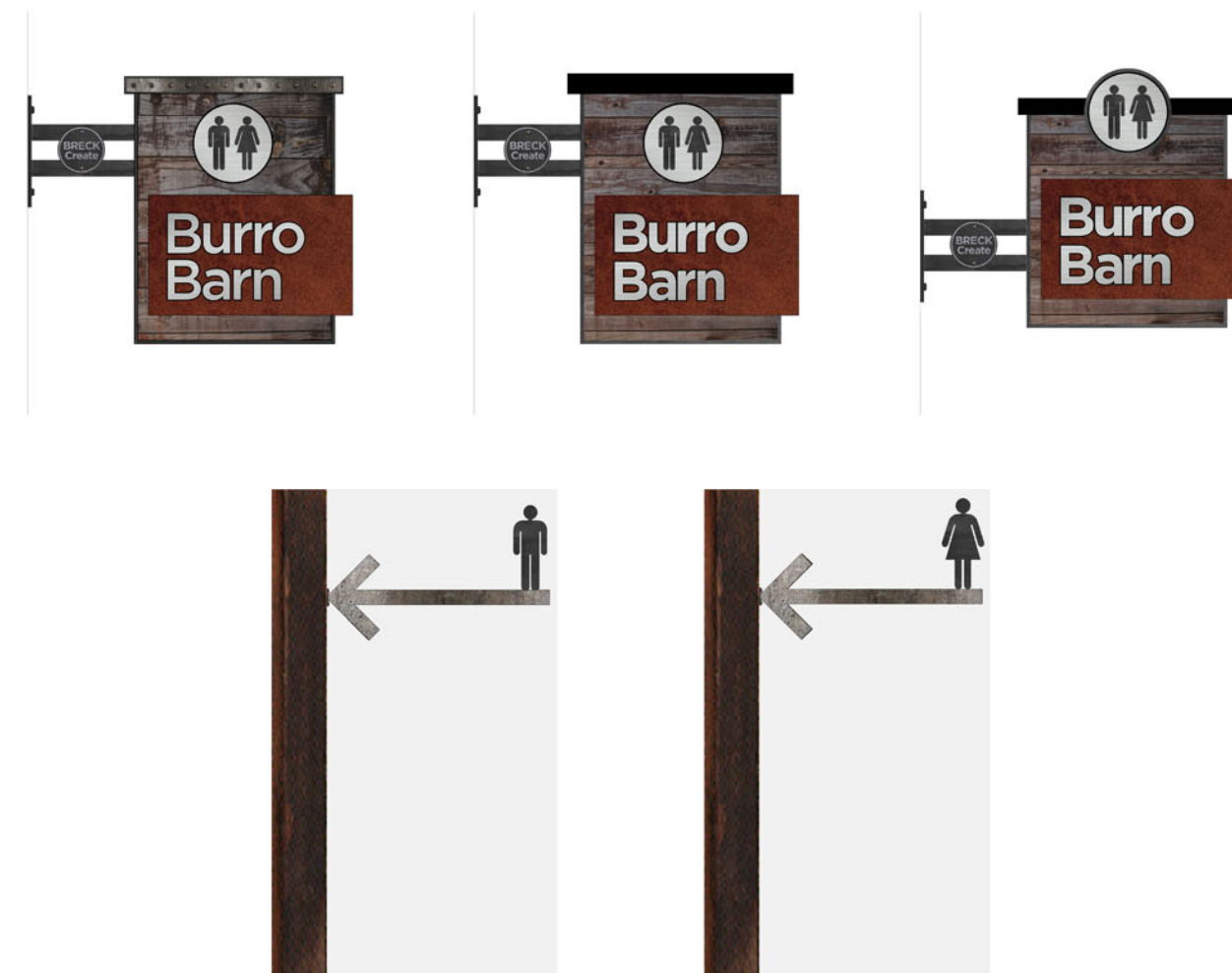
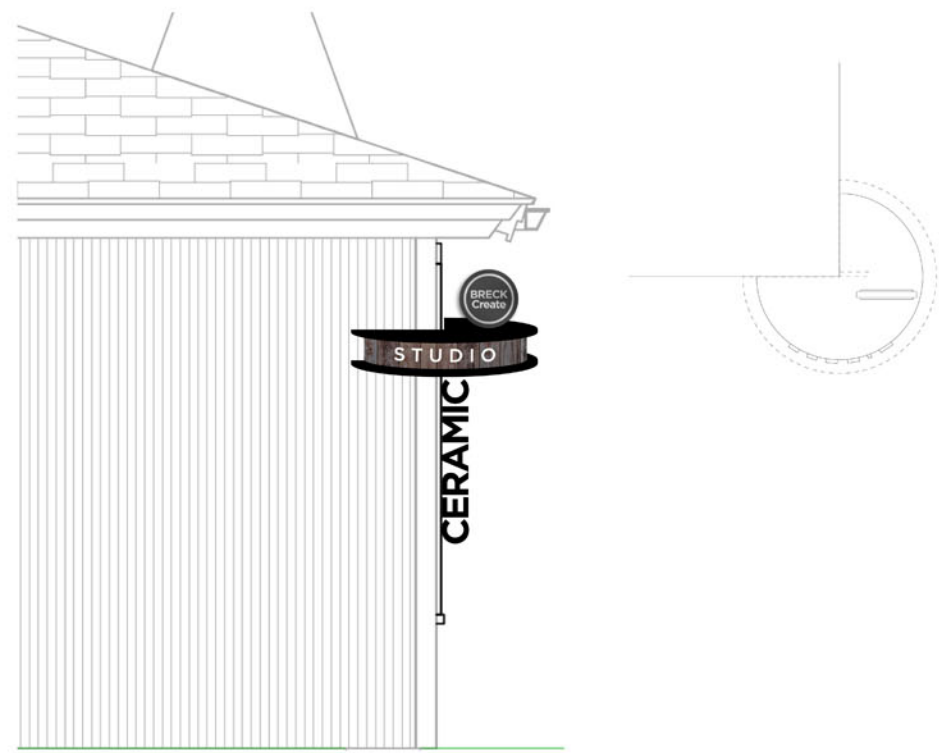


- Sign 1 • Town of Breckenridge Arts District Entry
- Sign 2 • Randall Barn - Printmaking & Textiles
- Sign 3 • Robert Whyte House - Guest Artist Studio
- Sign 4 • Hot Arts Studio
- Sign 5 • Ceramic Studio
- Sign 6 • Burro Barn

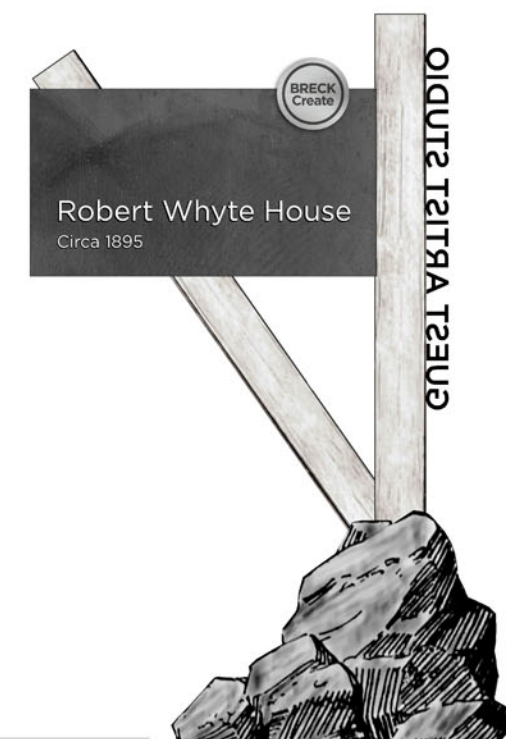
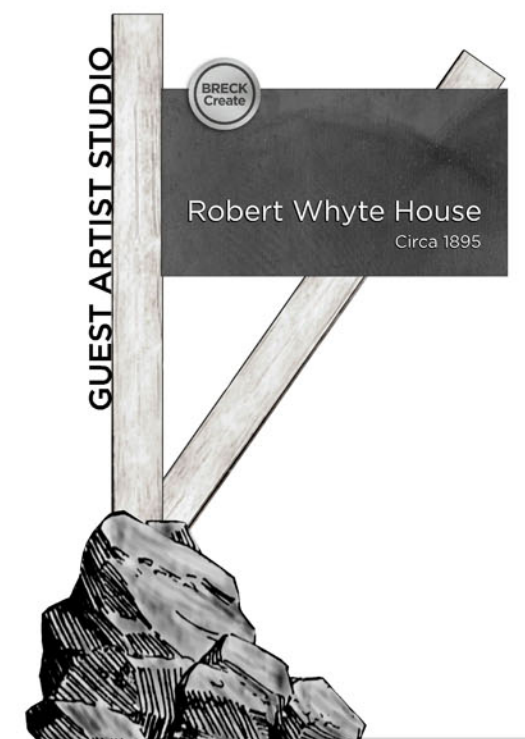
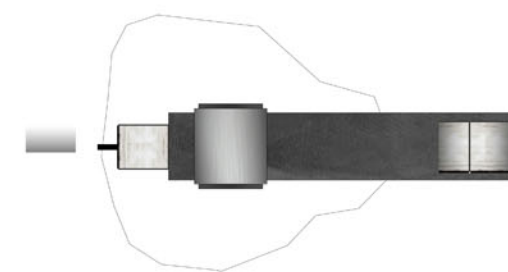


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## **MEMORANDUM**

**TO:** Town Council  
**FROM:** Mark Truckey, Assistant Director of Community Development  
Scott Reid, Open Space and Trails Planner  
**DATE:** August 5, 2014 (for August 12, 2014 meeting)  
**SUBJECT:** Rocky Mountain Recreation and Wilderness Preservation Act

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### **Summary**

Town Council previously directed staff to review with BOSAC and the Red White and Blue Fire Protection District the “Rocky Mountain Recreation and Wilderness Preservation Act” proposal advanced by both Representative Jared Polis and Senator Mark Udall. The bill would amend the 1993 Colorado Wilderness Act to designate additional wilderness and Recreational Management Areas in Summit and Eagle Counties. Staff will update Council on recent stakeholder discussions and plans to gauge Council’s level of support for the bill. Polis and Udall staffers have requested local letters of support, including from the Breckenridge Town Council.

### **Background**

Under the 1964 Wilderness Act, federally designated wilderness areas provide the highest level of federal land protection and must be established via an act of Congress. Designated wilderness areas generally restrict commercially extractive industries (i.e. logging, mining) and prohibit motorized and mechanized travel (i.e. motorized vehicles, bicycles). More recently, “Recreation Management Areas” (RMA’s) have afforded advocates with another land protection approach to support existing recreational uses excluded in wilderness (i.e. bicycles, motor vehicles) while also restricting extractive industries that could affect the primitive nature of these natural areas.

For the past decade or more, areas in Summit County and the Upper Blue Basin surrounding Breckenridge have been identified as candidates for additional wilderness area designations. These areas have been proposed by wilderness advocates because:

“...they are roadless, scenic, and provide opportunities for solitude. In addition these areas remain roadless and have experienced minimal human development and disturbances. These proposed wilderness areas also provide important habitat for wildlife such as bighorn sheep, mountain goats, songbirds, mule deer, small mammals, elk, moose, Canada lynx, white-tailed ptarmigan, and black bears. Wilderness will protect these important landscape characteristics and wildlife habitat, while preserving backcountry recreation opportunities like hiking, fishing, horseback riding, snowshoeing, climbing, skiing, camping, and hunting.”

- Rocky Mountain Recreation and Wilderness  
Preservation Act Background Information 2014

Additionally, RMA's adjacent to wilderness and consistent with the U.S. Forest Service Travel Management Plan have been proposed in an attempt to complement wilderness protection efforts while offering a broader array of management options and user access. Wilderness advocates view RMA's ("wilderness lite") as an opportunity to provide additional land protection while also promoting existing recreational access and accommodating wildfire and watershed protection efforts.

In 2012, following the presentation of several draft wilderness/RMA maps, BOSAC and Town Council directed staff to work with Conservation Colorado, the International Mountain Biking Association (IMBA), and the Summit Fat Tire Society to review and amend the proposed wilderness maps within the Upper Blue Basin to ensure that local trail access was preserved to match the White River National Forest Travel Management Plan. Also, Town Council expressed concerns regarding any potential limitation on the ability for the Town, the Red White and Blue Fire Protection District, the USFS, or any other entity to prepare for, fight or respond to wildfires within the area.

Accordingly, Conservation Colorado and staff members from Rep. Polis and Sen. Udall's offices have worked to and revise the proposed wilderness maps and language. Attached is a map of the wilderness/RMA proposal for the Upper Blue Basin. Also attached is a brief summary of the proposal.

### **BOSAC Recommendation and Input from other Entities/Jurisdictions**

At Council's direction, staff presented the current wilderness bill proposal to BOSAC at its May and June meetings. In general, BOSAC supported the current wilderness proposal. Commissioner comments focused on limitations to ski area expansion, consistency with the USFS Travel Management Plan, wildfire protection needs, and protection of access for a potential trail designation in the proposed Williams Fork Wilderness Area in the Lower Blue Basin. BOSAC agreed with the supposition that wilderness/RMA protection would support and enhance the existing recreational economy that dominates the Breckenridge area.

Sen. Udall and Rep. Polis' staff members also met with the Red White and Blue Fire Protection District (RWB) representatives. In response, the RWB Fire Chief and Board drafted a response to the wilderness proposal which acknowledges recent map changes to address fire protection concerns. The RWB letter of support is attached.

Numerous jurisdictions, including Breckenridge, Summit County, and Eagle County sent letters of support in 2010 for an earlier version of the wilderness proposal, assuming certain issues (e.g., fire prevention, watershed management) were addressed. The proposal before Council now appears to address these concerns. The Eagle County Board of Commissioners has submitted a recent letter of support for the proposal (some of the proposed wilderness areas and RMAs are located there). IMBA has also endorsed the proposal. As an indication of its support, IMBA developed a short [video](#) and [press release](#) to better explain their support of this wilderness planning effort. Representatives from Polis's office are asking for endorsement from other jurisdictions, including Breckenridge.

**Conclusion**

Representative Polis and Senator Udall are seeking local letters of support for the Rocky Mountain Recreation and Wilderness Preservation Act.

Staff requests Town Council review the attached information and answer the following questions:

1. *Does Council have any clarifying questions regarding the wilderness proposal?*
2. *Does Council want to lend its support to the wilderness proposal via a letter of support?*

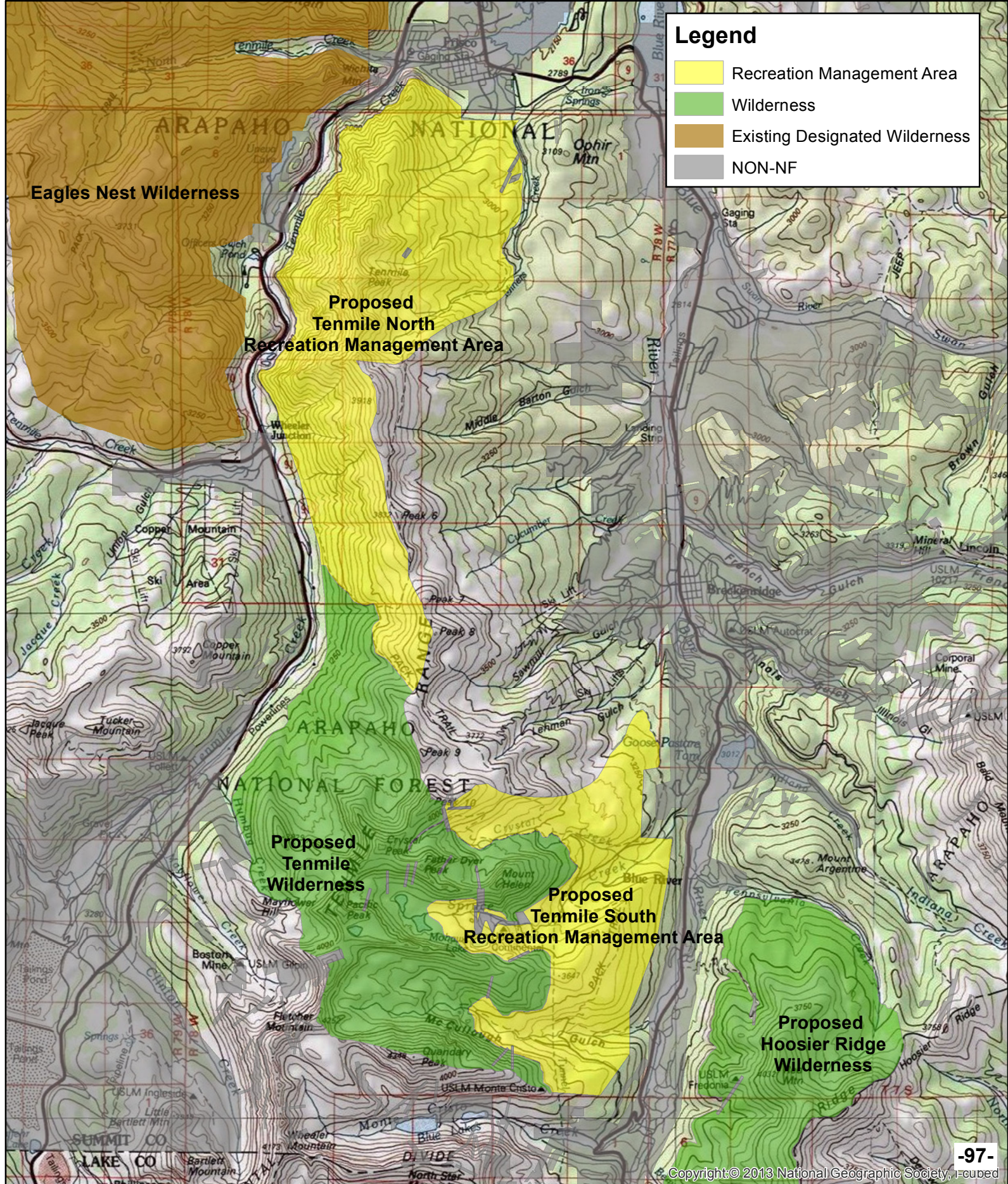


# Rocky Mountain Recreation and Wilderness Preservation Act

Tenmile Proposal  
Summit County, Colorado

June, 2014  
Scale 1:95,000

N



## **Background – Recreation Management Area**

This memo focuses on the Tenmile Recreation Management Area of the Rocky Mountain Recreation and Wilderness Act as it is closest to Breckenridge, and of the utmost concern to Red, White, and Blue Fire District.

The outdoor recreation economy is critical to the economic well-being of many Colorado communities. Each year, outdoor recreation generates \$13.2 billion in consumer spending, 125,000 jobs, and \$994 million in state and local tax revenue in Colorado. The importance of the recreation economy is particularly true in Breckenridge, where visitors around the world are drawn to your community to enjoy world-class recreation opportunities like mountain biking, hiking, fishing, horseback riding, snowshoeing, climbing, skiing, camping, and hunting.

The need to promote and enhance a thriving recreation economy motivated the inclusion of the Tenmile Recreation Management Area in the proposed Rocky Mountain Recreation and Wilderness Preservation Act. The Tenmile Recreation Management Area was built on the idea that local hotels, restaurants, outfitters, and shops will benefit if more recreation enthusiasts are drawn to your town. The Tenmile Recreation Management Area aims to provide an additional safeguard for Breckenridge businesses that depend on the visitors who want to recreate.

The key to increasing visitors to Breckenridge is to preserve and enhance access to outdoor recreation opportunities. The Tenmile Recreation Management Area has been developed to ensure that recreationalists who travel to Summit County will have an outdoor playground just minutes from the Town of Breckenridge.

The Recreation Management Area will:

- Keep legal motorized access roads open;
- Keep popular mountain bike trails open;
- Enhance access to mountain biking, hiking, fishing, horseback riding, snowshoeing, climbing, skiing, camping, and hunting opportunities;
- Allows for potential mass-transportation alternatives that may be developed in the future to address congestion along the I-70 corridor;
- Allows for pre- and post- wildfire, insect, and disease management;
- Allows for hazardous fuels reduction and watershed protection;
- Continues to allow for the public process regarding future USFS decisions; and
- Brings visitors to the area because of its recreational purposes.

Only a few aspects of the Tenmile Recreation Management Area would change current U.S. Forest Service management of the area. The Tenmile Recreation Management Area would:

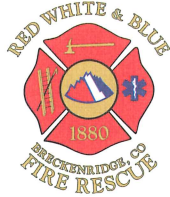
- Prohibit mining or other mineral extraction;
- Prohibit commercial timber sales (other than those conducted to address forest health concerns – see below);
- Prohibit new permanent roads (note that motorized vehicles are allowed to carry out pre- or post-fire watershed protection projects); and
- Prohibit new motorized vehicle uses.

### *Important Points about Watershed and Wildfire Management*

- The purposes section of the Tenmile Recreation Management Area highlights the importance of watershed resources. It states, “[t]he purposes of the Tenmile Recreation Management Area are to conserve, protect, and enhance for the benefit and enjoyment of present and future generations the recreational, scenic, **watershed**, habitat, and ecological resources of the area.”
- The management section states that this area shall be managed by the U.S. Forest Service pursuant to the: National Forest Management Act of 1976 (16 U.S.C. 1600 et seq.); any other applicable laws (including regulations); and limitations listed within the Tenmile Recreation Management Area section of the bill.
- While the bill does not provide for commercial timber, it still allows for activities necessary for pre- and post-wildfire work, hazardous fuels reduction, fire, insects, and diseases mitigation, and to further other provisions within this act such as transportation and water infrastructure.
- Language within the section specifically allows for additional wildfire mitigation and protection work to protect the communities, watersheds, and critical water infrastructure:
  - FIRE, INSECTS, AND DISEASES.—The Secretary may take any measure that the Secretary determines to be necessary to prevent, control, and mitigate fire, insects, and diseases and hazardous fuels, subject to such terms and conditions as the Secretary determines to be appropriate.;
  - WATER MANAGEMENT INFRASTRUCTURE.—Nothing in this section affects the construction, repair, reconstruction, replacement, operation, maintenance, or renovation of water management infrastructure existing on the date of enactment of this Act or such future infrastructure necessary for the development or exercise of water rights decreed prior to the date of enactment of this Act within the Tenmile Recreation Management Area.
- Please note that this language is flexible at this point and we would appreciate your input if you have concerns.

The Tenmile Recreation Management Area would prevent unwanted mines, commercial timber sales, or new motorized uses from damaging recreation lands, while ensuring that current access roads and mountain bike trails remain open. The bill also preserves wildfire prevention and protection activities that are essential to the Red, White, and Blue Fire District.

If you have additional questions about this legislation, please contact Congressman Polis’ staff, Nissa Erickson at (970) 409-7301 or Courtney Krause at (202) 225-5721.



**RED, WHITE & BLUE**  
**FIRE PROTECTION DISTRICT**  
**COURAGE, COMMITMENT, CARING**

August 4, 2014

SENT VIA EMAIL

Conservation Colorado  
Attn: Scott Braden  
1536 Wynkoop Street, #5C  
Denver, Colorado 80202

RE: Rocky Mountain Recreation and Wilderness Preservation Act

Dear Mr. Braden:

Thank you for allowing the Red, White and Blue Fire Protection District the opportunity to comment on the proposed legislation that Jared Polis is working on in regards to the Rocky Mountain Recreation and Wilderness Preservation Act. As you are aware, the District was concerned about the boarder distance between the proposed Ten Mile South Recreation Management Area and private property.

The changes to the map that were submitted to our agency on July 25, 2014 have acknowledged our concern. We felt it is important to have this separation in the event of an emergency to provide us a better opportunity to protect structures that are on this boarder. This separation distance is also consistent with the approximate ¼ mile that is referred to in the Community Wildfire Protection Plan.

At this time, the changes to the plan as noted above have satisfied the current concerns by the District. We thank you for working with us to address our concerns. If you have any question, please contact Deputy Chief Jay Nelson by email at [jnelson@rwbfire.org](mailto:jnelson@rwbfire.org) or by phone at (970) 453-2474. We look forward to working with you in the future.

Sincerely,

RED, WHITE & BLUE FIRE PROTECTION DISTRICT

Jim Keating  
Fire Chief

Cc: Aaron Clark, International Mountain Bicycling Association  
Nissa Erickson, Jared Polis's Office  
Scott Reid, Town of Breckenridge

# Rocky Mountain Recreation and Wilderness Preservation Act Background Information

## SEC. 1. SHORT TITLE; TABLE OF CONTENTS.

**Short Title:** Rocky Mountain Recreation and Wilderness Preservation Act

**Table of Contents:**

- Sec. 1. Short title; table of contents.
- Sec. 2. Colorado wilderness additions.
- Sec. 3. Tenmile Recreation Management Area, White River National Forest.
- Sec. 4. Porcupine Gulch Protection Area, White River National Forest.

## SEC. 2. COLORADO WILDERNESS ADDITIONS.

### *Background*

This section amends the 1993 Colorado Wilderness Act to designate additional areas in the White River National Forest in Eagle and Summit Counties. These areas have been proposed for wilderness because they are roadless, scenic, and provide opportunities for solitude. In addition these are the few areas in Eagle and Summit Counties that remain roadless and have experienced minimal human development and disturbances. These proposed wilderness areas also provide important habitat for wildlife such as bighorn sheep, mountain goats, songbirds, mule deer, small mammals, elk, moose, Canada lynx, white-tailed ptarmigan, and black bears. Wilderness will protect these important landscape characteristics and wildlife habitat, while preserving backcountry recreation opportunities like hiking, fishing, horseback riding, snowshoeing, climbing, skiing, camping, and hunting.

### *Management*

These wilderness areas will be managed in accordance with the 1993 Colorado Wilderness Act. The 1993 Colorado Wilderness Act includes language that provides for: (1) valid existing rights; (2) public filing of maps and descriptions; (3) continuance of activities outside the wilderness; (4) state fish and wildlife responsibilities; and (5) grazing. In addition to the provisions included in the 1993 Colorado Wilderness Act, this section:

- Allows the U.S. Forest Service to take any measure necessary to control fire, insects, and diseases subject to appropriate terms and conditions;
- Includes enhanced grazing language; and
- Does not affect activities occurring outside the proposed wilderness areas.

### *Wilderness Additions*

This section adds areas that are adjacent to existing wilderness areas in the White River National Forest but are not yet designated as wilderness. Specifically, this section adds:

- Ute Pass, Acorn Creek and Ptarmigan A areas to the Ptarmigan Peak Wilderness in Summit County;
- No Name area to the Holy Cross Wilderness in Eagle County; and
- Freeman Creek and Spraddle Creek areas to the Eagles Nest Wilderness in Eagle County.

This section also creates new wilderness designations in the White River National Forest. This section would create:

- Hoosier Ridge Wilderness in Summit County;
- Tenmile Wilderness in Summit County; and
- Williams Fork Wilderness in Summit County.

#### *Spraddle Creek Potential Wilderness*

In addition, this section creates a short-term potential wilderness within the Spraddle Creek area in Eagle County. The potential wilderness area allows the U.S. Forest Service or an authorized third party to complete restoration work (including motorized and mechanized transport and equipment) to repair the natural ecosystems, and to protect water quality and watershed values. Once the restoration work is complete or ten years after the date of enactment of this Act, the potential wilderness will become part of the Eagles Nest Wilderness Area.

### **SEC. 3. TENMILE RECREATION MANAGEMENT AREA, WHITE RIVER NATIONAL FOREST, COLORADO.**

#### *Background*

This section creates a new recreation management area in the White River National Forest in Summit County. The Tenmile Recreation Management Area was included in this proposal to promote and enhance the thriving recreation economy. The outdoor recreation economy is critical to the economic well-being of many Colorado communities. Each year, outdoor recreation generates \$13.2 billion in consumer spending, 125,000 jobs, and \$994 million in state and local tax revenue in Colorado. The Tenmile Recreation Management Area was built on the idea that local hotels, restaurants, outfitters, and shops will benefit if recreation opportunities are protected. The Tenmile Recreation Management Area will encourage visitors from around the world to come to the area to enjoy world-class recreation opportunities like mountain biking, hiking, fishing, horseback riding, snowshoeing, climbing, skiing, camping, and hunting.

#### *Purposes*

The purposes of the Tenmile Recreation Management Area are to conserve, protect, and enhance for the benefit and enjoyment of present and future generations the recreational, scenic, watershed, habitat, and ecological resources of the area.

#### *Management*

The Tenmile Recreation Management Area will be managed to enhance the purposes of the Tenmile Recreation Management Area (see above) and the permitted uses (see below), and in accordance with public land laws (including regulations).

#### *Permitted Uses*

- Uses to further the purposes of the Tenmile Recreation Management Area (see above);
- Mountain biking and mountain bike trails;
- Hiking, fishing, horseback riding, snowshoeing, climbing, skiing, camping, and hunting activities;

- Pre- and post- wildfire, insect, disease, and hazardous fuels management to prevent, control, and mitigate such hazards;
- Current legal motorized access roads and current legal vehicles uses; and
- Water infrastructure protection and improvement.

*Prohibited Uses*

- New roads and new motorized vehicle uses (except to carry out pre- or post-fire watershed protection projects, conduct administrative activities, respond to an emergency, or construct regional transportation projects);
- Commercial timber sales (except to sell merchantable products to carry out permitted uses); and
- Mineral extraction (subject to valid existing rights).

*Other Provisions*

- Allows for the construction of potential future mass-transportation alternatives to address congestion along the I-70 corridor;
- Protects important wildlife habitat;
- Protects municipal watersheds;
- Allows overflights by the Colorado Army National Guard;
- Does not create a protective perimeter or buffer;
- Does not alter Colorado Fish and Wildlife activities; and
- Does not alter or limit ski area or other permits.

**SEC. 4. PORCUPINE GULCH PROTECTION AREA, WHITE RIVER NATIONAL FOREST, COLORADO.**

*Background*

This section creates a new protection area in the White River National Forest in Summit County. The proposed Porcupine Gulch Protection Area must be preserved because it is roadless and provides for activities such as hiking, fishing, horseback riding, snowshoeing, climbing, skiing, camping, and hunting. The Porcupine Gulch Protection Area will protect these important landscape characteristics while providing opportunities for potential watershed management and transportation projects.

*Purposes*

The purposes of the Protection Area are to conserve, protect, and enhance for the benefit and enjoyment of present and future generations the scenic, roadless, watershed, and ecological resources of the Protection Area.

*Management*

The Porcupine Protection Area will be managed to enhance the purposes of the Porcupine Protection Area (see above) and the permitted uses (see below), and in accordance with public land laws (including regulations).

*Permitted Uses*

- Hiking, fishing, horseback riding, snowshoeing, climbing, skiing, camping, and hunting; and
- Pre- and post- wildfire, insect, disease, and hazardous fuels management to prevent, control, and mitigate such hazards.

*Prohibited Uses*

- Motorized vehicles, mechanized transport, and new or temporary roads (except to carry out pre- or post-fire watershed protection projects, conduct administrative activities, respond to an emergency, or construct regional transportation projects);
- Commercial timber sales (except to sell merchantable products to carry out permitted uses); and
- Mineral extraction (subject to valid existing rights).

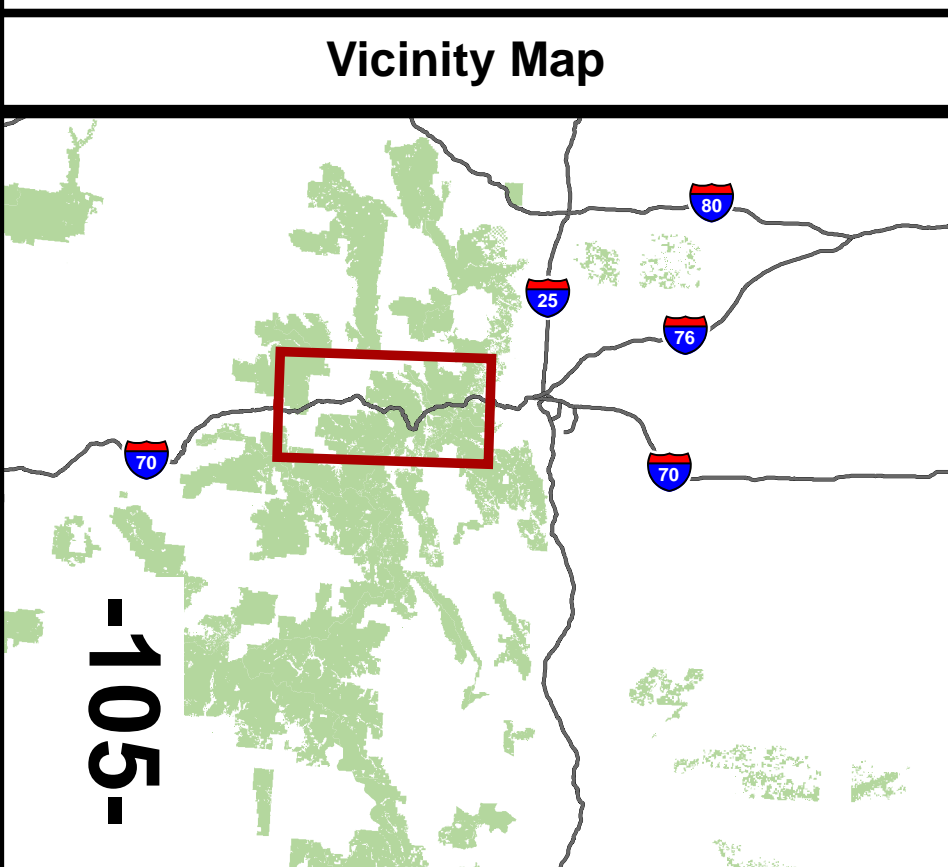
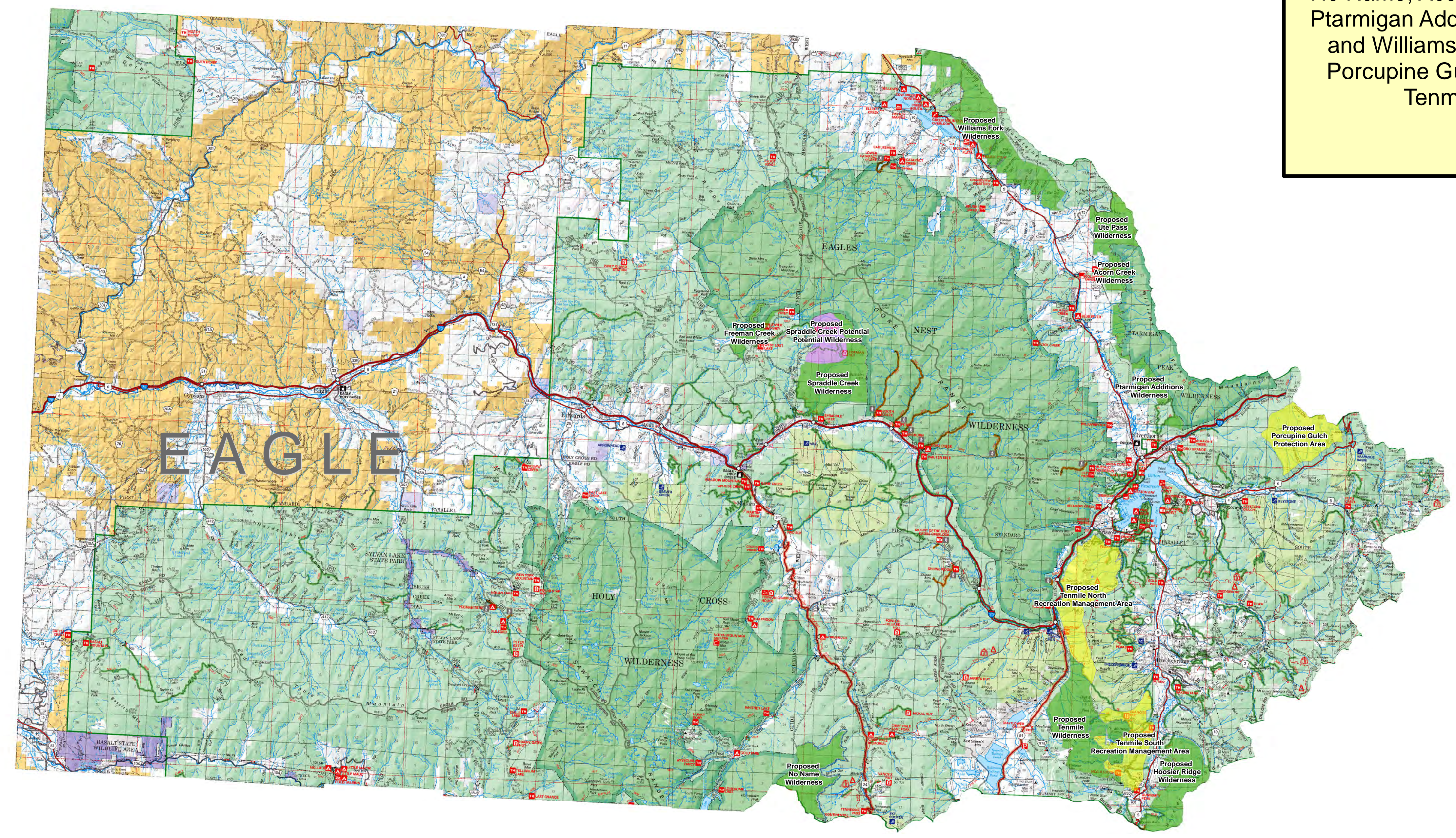
*Other Provisions*

- Allows for construction of potential future mass-transportation alternatives to address congestion along the I-70 corridor;
- Protects important wildlife habitat;
- Protects municipal watersheds;
- Allows overflights by the Colorado Army National Guard;
- Does not create a protective perimeter or buffer; and
- Does not alter Colorado Fish and Wildlife activities.



Proposed Spraddle Creek, Freeman Creek, No Name, Acorn Creek, Hoosier Ridge, Ptarmigan Additions, Tenmile, Ute Pass and Williams Fork Wilderness areas: Porcupine Gulch, Tenmile North and Tenmile South SMAs.

July, 2014

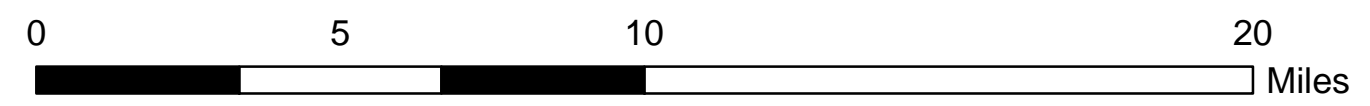


**References**

Draft map prepared by the U.S. Forest Service, Region 2, White River National Forest at the request of Congressman Polis, Colorado.  
 Proposed wilderness and special management area boundaries are general representations and do not represent legal boundary descriptions.  
 Boundary Source: Congressman Polis' staff, USFS staff.  
 Additional data sources: Forest roads and trails, Land ownership - USFS,  
 Map scale is 1:200,000 (when printed at 34"x22"). Map Coordinates in NAD83, UTM Zone 13N.

**Disclaimer**

The USDA Forest Service makes no warranty, expressed or implied regarding the data displayed on this map, and reserves the right to correct, update, modify, or replace this information without notification.





**Legend**

- Proposed Potential Wilderness
- Proposed Special Management Area
- Proposed Wilderness
- Open Winter Motorized Area
- FS Suggested Boundaries 2013
- National Forest
- Wilderness - Motorized vehicles and mechanical equipment prohibited
- Ski Area on National Forest Land
- Private or Other Land
- National Forest Boundary
- Ranger District Boundary
- Wilderness Boundary
- State Park, State Wildlife Area
- Multi-Lane Divided Highway
- Highway
- Other Paved Road
- Gravel Road, Suitable for Passenger Cars
- Dirt Road, Suitable for Passenger Cars
- Road Not Maintained for Passenger Cars
- Motorized Use Trail
- Non-Motorized Use Trail - Bike, Foot or Pack Animal
- Non-Motorized Use Trail - Foot or Pack Animal Only
- Non-Motorized Use Trail - Foot Only
- National Scenic, Recreation or Historic Trail

**Rocky Mountain Recreation and Wilderness Preservation Act**

DRAFT Legislative Map

Approximately 58,400 Proposed Acres.  
 Spraddle Creek, Freeman Creek, No Name, Acorn Creek, Hoosier Ridge, Ptarmigan Additions, Tenmile, Ute Pass and Williams Fork Wilderness areas; Porcupine Gulch, Tenmile North and Tenmile South SMAs.  
 Eagle and Summit Counties, Colorado

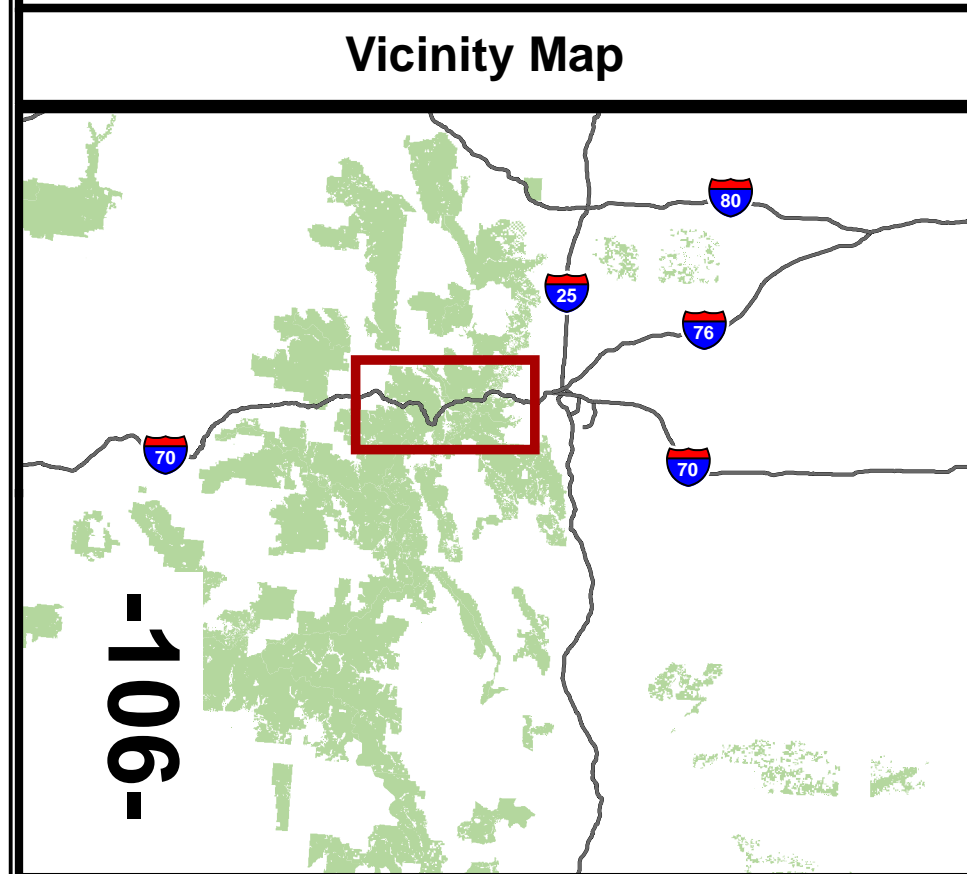
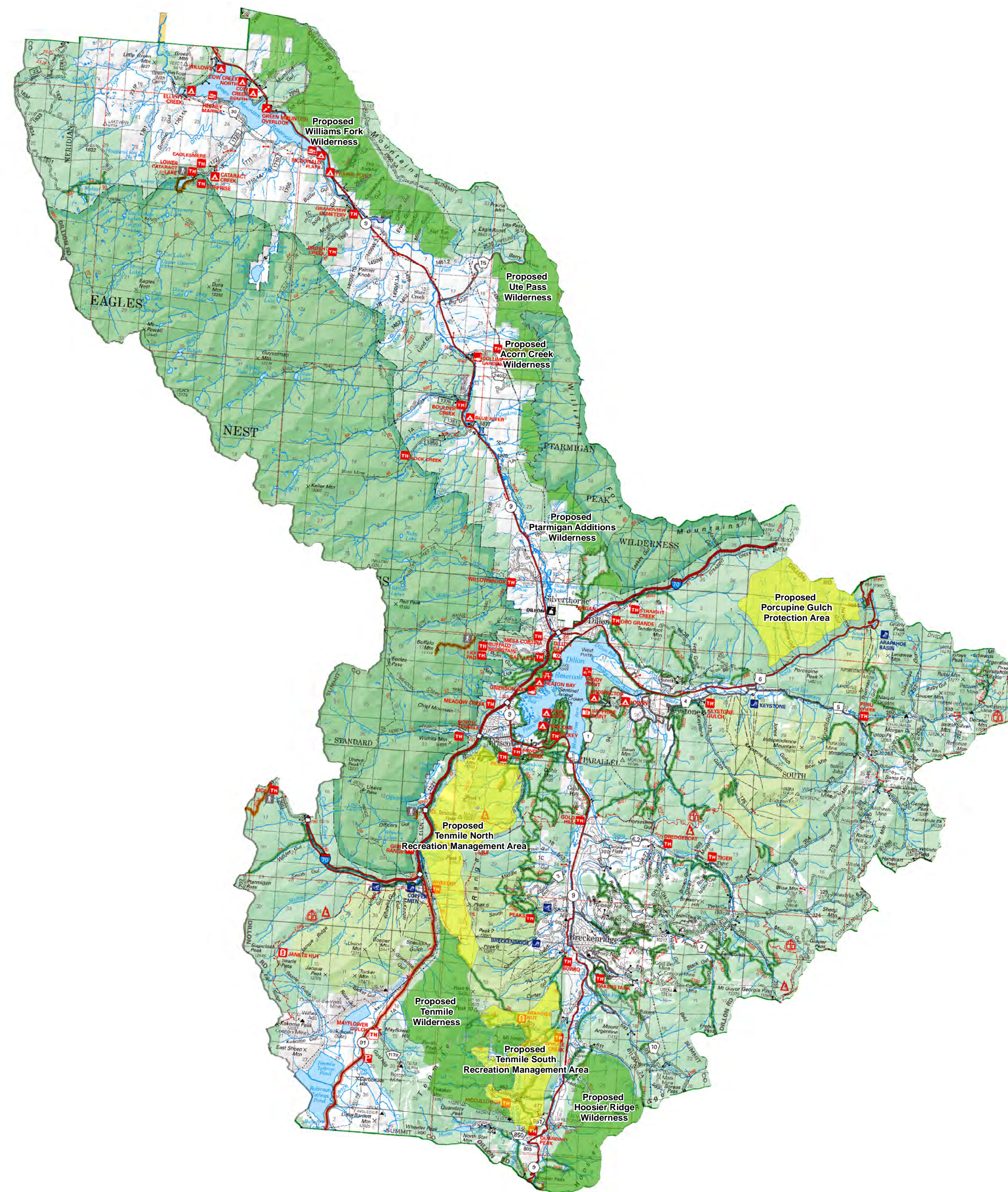
U.S. Forest Service - Rocky Mountain Region  
 White River National Forest  
 Dillon Ranger District  
 U.S. Congressional District 2, Colorado

This map generally depicts the boundaries of the proposed Spraddle Creek, Freeman Creek, No Name, Acorn Creek, Hoosier Ridge, Ptarmigan Additions, Tenmile, Ute Pass and Williams Fork Wilderness areas; Porcupine Gulch, Tenmile North and Tenmile South SMAs. Copies of this map are available for public inspection in the Office of the Regional Forester, Rocky Mountain Region, Golden, Colorado.

Proposed Acorn Creek, Hoosier Ridge, Ptarmigan Additions, Tenmile, Ute Pass and Williams Fork Wilderness areas: Porcupine Gulch, Tenmile North and Tenmile South SMAs.

July, 2014

Summit County, Colorado.

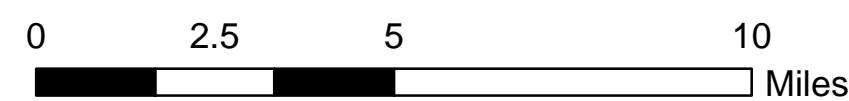


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**cent\_mtns\_PolisCD2\_COCov7 Legend**

- |   |   |
|---|---|
| Potential Wilderness  | Multi-Lane Divided Highway                          |
| Special Management Area   | Highway   |
| Wilderness  | Other Paved Road                                    |
| Open Winter Motorized Area  | Gravel Road, Suitable for Passenger Cars            |
| FS Suggested Boundaries 2013  | Dirt Road, Suitable for Passenger Cars              |
| National Forest   | Road Not Maintained for Passenger Cars              |
| Wilderness - Motorized vehicles and mechanical equipment prohibited | Motorized Use Trail                                 |
| Ski Area on National Forest Land                                    | Non-Motorized Use Trail - Bike, Foot or Pack Animal |
| Private or Other Land   | Non-Motorized Use Trail - Foot or Pack Animal Only  |
| National Forest Boundary  | Non-Motorized Use Trail - Foot Only                 |
| Ranger District Boundary  | National Scenic, Recreation or Historic Trail       |
| Wilderness Boundary   |   |
| State Park, State Wildlife Area                                     |   |

**Proposal for the Summit County portion of the Rocky Mountain Recreation and Wilderness Preservation Act**

DRAFT Legislative Map

Approximately 45,070 Proposed Acres  
 Acorn Creek, Hoosier Ridge, Ptarmigan Additions, Tenmile, Ute Pass and Williams Fork Wilderness areas; Porcupine Gulch, Tenmile North and Tenmile South SMAs.  
 Summit County, Colorado

	U.S. Forest Service - Rocky Mountain Region White River National Forest Dillon Ranger District U.S. Congressional District 2, Colorado	
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This map generally depicts the boundaries of the proposed Acorn Creek, Hoosier Ridge, Ptarmigan Additions, Tenmile, Ute Pass and Williams Fork Wilderness areas; Porcupine Gulch, Tenmile North and Tenmile South SMAs. Copies of this map are available for public inspection in the Office of the Regional Forester, Rocky Mountain Region, Golden, Colorado.

# **Rocky Mountain Recreation and Wilderness Preservation Act Significant Legislation and Map Changes – Summit County**

## **TENMILE WILDERNESS**

- Increased setback from Climax Mine
- Boundary modification for 4<sup>th</sup> of July Bowl

## **HOOSIER WILDERNESS**

- Removal of Hoosier Special Management Area
- Setback from Highway 9
- ¼ mile buffer from private land
- Boundary modifications for power lines
- Boundary modification for utility companies

## **PORCUPINE GULCH PROTECTION AREA**

- ¼ mile setback from Highway 6 for emergency management and transportation
- Removed polygons on eastern and western boundaries for CDOT and IMBA

## **TENMILE RECREATION MANAGEMENT AREA - South**

- Additional 1,000 foot setback on eastern boundary as requested by Red, White, and Blue Fire District
- Boundary modifications for utility companies and water infrastructure
- Additional 300 foot setback push the boundary off the top of Quandary Peak
- Boundary modification for 4<sup>th</sup> of July Bowl

## **TENMILE RECREATION MANAGEMENT AREA - North**

- 1,000 foot setback from town of Frisco
- Removal of Ophir Mountain Area
- Setback for Vail Resorts
- Boundary modifications for power lines

## **WILLIAMS FORK, UTE PASS, ACORN CREEK, PTARMIGAN ADDITIONS WILDERNESS**

- Minimal boundary modifications

## **REMOVAL OF AREAS**

- After the 2012 congressional district redistricting process, the Adam Mountain, Red Table, Woods Lake, West Lake Creek, Bull Gulch, Castle Peak, and Pisgah Mountain areas in Eagle County are no longer in Congressman Polis' district (CO-02). As a result they have been removed from this proposal. Congressman Polis is working with Congressman Tipton on a proposal that would include these areas.

OFFICE OF THE  
BOARD OF COMMISSIONERS  
970-328-8605  
FAX: 970-328-8629  
email: eagleadmin@eaglecounty.us  
www.eaglecounty.us



JILL H. RYAN  
SARA J. FISHER  
KATHY CHANDLER-HENRY

July 14, 2014

The Honorable Jared Polis  
501 Cannon House Office Building  
Washington, DC 20515

Dear Congressman Polis:

We are writing to express our support for the Rocky Mountain Recreation and Wilderness Preservation Act recently proposed by your office. As you are aware, Eagle County played an active role in analyzing and vetting the original wilderness expansion effort, then known as the Hidden Gems Wilderness Project, which included the Freeman Creek, Spraddle Creek and No Name wilderness additions. We believe these areas continue to qualify for wilderness protection status, and we are pleased to see that they have been included in your proposed legislation.

Wilderness lands reflect the history and heritage of Colorado's scenic high country. In Eagle County, their presence and availability is essential to local lifestyles, the quality of our environment and the strength of our tourism economy. While a balanced approach to land management that considers the needs of all user groups is necessary, we believe that expending wilderness to carefully selected land areas will provide long lasting benefits. We would note certain lower elevation lands that were included in the original Hidden Gems proposal are not currently being considered, and would offer our support in efforts to get these valuable ecosystem linkage areas designated for protection in the near future.

Many thanks to you and your staff for your continued efforts to preserve beautiful places in Colorado.

Sincerely,  
Eagle County Board of Commissioners

A handwritten signature in blue ink, appearing to read "Jill H. Ryan".

Jill H. Ryan  
Chairman

A handwritten signature in blue ink, appearing to read "Sara J. Fisher".

Sara J. Fisher  
Commissioner

A handwritten signature in blue ink, appearing to read "Kathy Chandler-Henry".

Kathy Chandler-Henry  
Commissioner

Cc: Senator Mark Udall  
Congressman Scott Tipton



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## ARAPAHOE BASIN

Arapahoe Basin Ski Area  
P.O. Box 5808  
Dillon, CO 80435-5808  
Phone: (970) 468-0718  
Fax: (970) 513-5777  
abasin@a-basin.net  
www.arapahoebasin.com

July 5, 2014  
The Honorable Jared Polis  
1433 Longworth House Office Building  
Washington, D.C. 20515

Dear Representative Polis:

I am writing a strong letter of support for the proposed "Rocky Mountain, Recreation, and Wilderness Preservation Act." A substantial effort has been put into preparing this proposal. The Act recognizes the extraordinary natural resources available to our citizens in central Colorado. As prepared, the Act will conserve, protect and enhance our beautiful landscapes for current and future generations.

I would especially like to thank you for including the Porcupine Gulch Special Management Area in the Act. This area is close to Arapahoe Basin and has very special natural values. Thank you for closely listening to feedback from stakeholders regarding this area.

Please let me know if I can provide you with any other additional information.

Sincerely,

Alan Henceroth  
Vice President / Chief Operating Officer  
Arapahoe Basin  
(970) 513-5722  
alanh@a-basin.net

July 29, 2014

The Honorable Jared Polis  
1433 Longworth House Office Building  
Washington, DC 20515

RE: Special Management Areas

Dear Representative Polis,

Our organizations work on public land issues focusing on the outdoor recreation economy. First and foremost, we want to thank you for your work on the Rocky Mountain Recreation and Wilderness Preservation Act. We know you and your staff are committed to this legislation, and many other outdoor recreation initiatives, and we applaud these efforts.

The recreation economy of the 21<sup>st</sup> century continues to grow and provide sustainable jobs in rural and urban gateway communities across the country. Our organizations, and the individuals we represent, have been working to complement the efforts of the conservation groups on public lands bills around the country. Traditional public lands bills focus on Wilderness designation, which is critical for protecting our wild lands.

However, with the expansion and diversity of the recreation economy, other protections are often just as important to the growth and success of the outdoor industry. Recreation Management Areas provide protection for key recreation assets that are often closer to gateway towns and provide convenient front country outdoor opportunities. They also provide certainty for local businesses that are confident that continued investment in these communities will be beneficial. There are currently a number of public land bills and proposals that include these types of designations, such as Mr. Bishop's public lands initiative for Eastern Utah, the Rocky Mountain Front Heritage Act and Forest Jobs and Recreation Act in Montana, the Hermosa Creek Watershed Protection Act in Colorado, and the Central Coast Heritage Protection Act California. The inclusion of the Recreation Management Areas allows us to build broad support for these bills:

- on both sides of the aisle
- with user groups of all types
- with outdoor businesses, both locally and nationally
- with gateway business such as restaurants and hotels
- and with conservation groups

Few places are more iconic and important to the outdoor industry than those in your district. Wilderness alone will not fully protect the recreation economy of central Colorado. For this reason we thank you for including the Tenmile Recreation Management Area in your bill. Ensuring the inclusion of the RMA in the introduction of the bill will help generate broad and diverse support from the mountain bike and recreation community and set a precedent that small protections and investments in the outdoor recreation economy will reap many benefits.

Most sincerely,

Jenn Dice  
People for Bikes

Aaron Clark  
International Mountain Bicycling Association

Ashley Korenblat  
Public Land Solutions

Kirk Bailey  
Outdoor Industry Association

113<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. \_\_\_\_\_

To designate certain lands in the State of Colorado as components of the National Wilderness Preservation System, to designate the Tenmile Recreation Management Area and Porcupine Gulch Protection Area, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

Mr. POLIS introduced the following bill; which was referred to the Committee  
on \_\_\_\_\_

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## A BILL

To designate certain lands in the State of Colorado as components of the National Wilderness Preservation System, to designate the Tenmile Recreation Management Area and Porcupine Gulch Protection Area, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4       (a) SHORT TITLE.—This Act may be cited as the  
5       “Rocky Mountain Recreation and Wilderness Preservation  
6       Act”.



1 (b) TABLE OF CONTENTS.—The table of contents for  
2 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Colorado wilderness additions.

Sec. 3. Tenmile Recreation Management Area, White River National Forest,  
Colorado.

Sec. 4. Porcupine Gulch Protection Area, White River National Forest, Colo-  
rado.

3 **SEC. 2. COLORADO WILDERNESS ADDITIONS.**

4 (a) DESIGNATION.—Section 2(a) of the Colorado Wil-  
5 derness Act of 1993 (Public Law 103–77; 107 Stat. 756;  
6 16 U.S.C. 1132 note) is amended—

7 (1) in paragraph (18), by striking “1993,” and  
8 inserting “1993, and certain Federal lands in the  
9 White River National Forest which comprise ap-  
10 proximately 6,349 acres, as generally depicted as  
11 ‘Proposed Ute Pass Wilderness’, ‘Proposed Acorn  
12 Creek Wilderness’, and ‘Proposed Ptarmigan Addi-  
13 tions Wilderness’ on a map entitled ‘Ptarmigan Peak  
14 Wilderness Additions Proposal’, dated July, 2014,”  
15 and

16 (2) by adding at the end the following new  
17 paragraphs:

18 “(22) HOLY CROSS WILDERNESS ADDITION.—  
19 Certain Federal lands in the White River National  
20 Forest which comprise approximately 3,942 acres, as  
21 generally depicted as ‘Proposed No Name Wilder-  
22 ness’ on a map entitled ‘Holy Cross Wilderness Ad-

1       dition Proposal’, dated July, 2014, and which are in-  
2       corporated in and shall be deemed to be a part of  
3       the Holy Cross Wilderness designated by section  
4       102(a)(5) of Public Law 96–560 (94 Stat. 3266).

5               “(23) HOOSIER RIDGE WILDERNESS.—Certain  
6       Federal lands in the White River National Forest  
7       which comprise approximately 5,172 acres, as gen-  
8       erally depicted on a map entitled ‘Hoosier Ridge  
9       Wilderness Proposal’, dated July, 2014, and which  
10      shall be known as the ‘Hoosier Ridge Wilderness’.

11              “(24) TENMILE WILDERNESS.—Certain Federal  
12      lands in the White River National Forest which  
13      comprise approximately 7,577 acres, as generally de-  
14      picted as ‘Proposed Tenmile Wilderness’ on a map  
15      entitled ‘Tenmile Proposal’, dated July, 2014, and  
16      which shall be known as the ‘Tenmile Wilderness’.

17              “(25) WILLIAMS FORK WILDERNESS.—Certain  
18      Federal lands in the White River National Forest  
19      which comprise approximately 9,338 acres, as gen-  
20      erally depicted on a map entitled ‘Proposed Williams  
21      Fork Wilderness’, dated July, 2014, and which shall  
22      be known as the ‘Williams Fork Wilderness’.

23              “(26) EAGLES NEST WILDERNESS ADDI-  
24      TIONS.—

1           “(A) DESIGNATION OF WILDERNESS.—  
2           Certain Federal lands in the White River Na-  
3           tional Forest which comprise approximately  
4           7,082 acres, as generally depicted as ‘Proposed  
5           Freeman Creek Wilderness’ and ‘Proposed  
6           Spraddle Creek Wilderness’ on a map entitled  
7           ‘Eagles Nest Wilderness Additions Proposal’,  
8           dated July, 2014, and which are incorporated  
9           in and shall be deemed to be a part of the Ea-  
10          gles Nest Wilderness designated by Public Law  
11          94–352 (90 Stat. 870).

12          “(B) POTENTIAL WILDERNESS.—

13                 “(i) DESIGNATION.—In furtherance of  
14                 the purposes of the Wilderness Act, certain  
15                 Federal lands in the White River National  
16                 Forest which comprise approximately  
17                 2,338 acres, as generally depicted as ‘Pro-  
18                 posed Spraddle Creek Potential Wilder-  
19                 ness’ on a map entitled ‘Eagles Nest Wil-  
20                 derness Additions Proposal’, dated July  
21                 2014, is designated as a potential wilder-  
22                 ness area.

23                 “(ii) MANAGEMENT.—Except as pro-  
24                 vided in clause (iii) and subject to valid ex-  
25                 isting rights, the potential wilderness area

1 designated by this subparagraph shall be  
2 managed in accordance with the Wilder-  
3 ness Act and this Act.

4 “(iii) ECOLOGICAL RESTORATION.—  
5 For purposes of ecological restoration (in-  
6 cluding any activity necessary to restore  
7 the natural ecosystems and water quality  
8 and protect watershed values in the poten-  
9 tial wilderness area designated by this sub-  
10 paragraph), the Secretary or an authorized  
11 third party may use motorized and mecha-  
12 nized transport and equipment in the po-  
13 tential wilderness area until the date on  
14 which the potential wilderness area is in-  
15 corporated into the Eagles Nest Wilder-  
16 ness.

17 “(iv) DESIGNATION AS WILDER-  
18 NESS.—The potential wilderness area des-  
19 ignated by this subparagraph shall be des-  
20 ignated as wilderness and incorporated in  
21 and deemed to be a part of the Eagles  
22 Nest Wilderness on the earlier of—

23 “(I) the date on which the Sec-  
24 retary publishes in the Federal Reg-  
25 ister notice that the ecological restora-

1                   tion activities identified in clause (iii)  
2                   have been completed by the Secretary  
3                   or an authorized third party; or

4                   “(II) the date that is 10 years  
5                   after the date of enactment of the  
6                   Rocky Mountain Recreation and Wil-  
7                   derness Preservation Act.”.

8           (b) EFFECTIVE DATE.—Any reference in the Wilder-  
9   ness Act (16 U.S.C. 1131 et seq.) to the effective date  
10 of that Act shall be considered to be a reference to the  
11 date of enactment of this Act for purposes of admin-  
12 istering the Federal lands designated as wilderness by  
13 paragraphs (18) and (22) through (26)(A) of section 2(a)  
14 of the Colorado Wilderness Act of 1993 (16 U.S.C. 1132  
15 note; Public Law 103–77), as amended or added by sub-  
16 section (a).

17           (c) FIRE, INSECTS, AND DISEASES.—As provided in  
18 section 4(d)(1) of the Wilderness Act (16 U.S.C.  
19 1133(d)(1)), in the case of the Federal lands designated  
20 as wilderness by paragraphs (18) and (22) through  
21 (26)(A) of section 2(a) of the Colorado Wilderness Act of  
22 1993 (16 U.S.C. 1132 note; Public Law 103–77), as  
23 amended or added by subsection (a), the Secretary may  
24 take any measure that the Secretary determines to be nec-  
25 essary to control fire, insects, and diseases, subject to such

1 terms and conditions as the Secretary determines to be  
2 appropriate.

3 (d) INCORPORATION OF ACQUIRED LAND AND IN-  
4 TERESTS.—Any land or interest in land that is acquired  
5 by the United States within the boundaries of the Federal  
6 lands designated as wilderness by paragraphs (18) and  
7 (22) through (26)(A) of section 2(a) of the Colorado Wil-  
8 derness Act of 1993 (16 U.S.C. 1132 note; Public Law  
9 103–77), as amended or added by subsection (a), shall—

10 (1) become part of the wilderness area of which  
11 the Federal lands are a part; and

12 (2) be managed in accordance with the applica-  
13 ble provisions of this Act and any other applicable  
14 laws.

15 (e) GRAZING.—The grazing of livestock on the Fed-  
16 eral lands designated as wilderness by paragraphs (18)  
17 and (22) through (26)(A) of section 2(a) of the Colorado  
18 Wilderness Act of 1993 (16 U.S.C. 1132 note; Public Law  
19 103–77), as amended or added by subsection (a), if estab-  
20 lished before the date of enactment of this Act, shall be  
21 permitted to continue subject to such reasonable regula-  
22 tions as are considered necessary by the Secretary, in ac-  
23 cordance with section 4(d)(4) of the Wilderness Act (16  
24 U.S.C. 1133(d)(4)).

1 (f) NO BUFFER ZONES.—Congress does not intend  
2 that the designation by this Act of Federal lands as wilder-  
3 ness in the State of Colorado creates or implies the cre-  
4 ation of protective perimeters or buffer zones around any  
5 wilderness area. The fact that nonwilderness activities or  
6 uses can be seen or heard from within a wilderness area  
7 shall not, of itself, preclude such activities or uses up to  
8 the boundary of the wilderness area.

9 **SEC. 3. TENMILE RECREATION MANAGEMENT AREA, WHITE**  
10 **RIVER NATIONAL FOREST, COLORADO.**

11 (a) DESIGNATION.—Certain Federal land in the  
12 White River National Forest in the State of Colorado  
13 which comprise approximately 11,417 acres, as generally  
14 depicted as “Proposed Tenmile Recreation Management  
15 Area” on a map entitled “Tenmile Proposal”, dated July  
16 2014, is designated the “Tenmile Recreation Management  
17 Area” (in this section referred to as the “Recreation Man-  
18 agement Area”).

19 (b) PURPOSES.—The purposes of the Recreation  
20 Management Area are to conserve, protect, and enhance  
21 for the benefit and enjoyment of present and future gen-  
22 erations the recreational, scenic, watershed, habitat, and  
23 ecological resources of the area.

24 (c) MANAGEMENT.—

1           (1) IN GENERAL.—The Secretary of Agriculture  
2 shall manage the Recreation Management Area—

3           (A) in a manner that conserves, protects,  
4 and enhances—

5           (i) the purposes of the Recreation  
6 Management Area described in subsection  
7 (b);

8           (ii) recreation opportunities, including  
9 mountain biking, hiking, fishing, horseback  
10 riding, snowshoeing, climbing, skiing,  
11 camping, and hunting; and

12          (B) in accordance with—

13           (i) the Forest and Rangeland Renew-  
14 able Resources Planning Act of 1974 (16  
15 U.S.C. 1600 et seq.);

16           (ii) any other applicable laws (includ-  
17 ing regulations); and

18           (iii) this section.

19          (2) USES.—

20           (A) IN GENERAL.—The Secretary shall  
21 only allow such uses of the Recreation Manage-  
22 ment Area that the Secretary determines would  
23 further the purposes described in subsection  
24 (b).

25          (B) VEHICLES.—



1 (i) IN GENERAL.—Except as provided  
2 in clause (iii), the use of motorized vehicles  
3 in the Recreation Management Area shall  
4 be limited to those roads, vehicle classes,  
5 and periods of use authorized for such use  
6 on the date of enactment of this Act.

7 (ii) NEW OR TEMPORARY ROADS.—  
8 Except as provided in clause (iii), no new  
9 or temporary roads shall be constructed  
10 within the Recreation Management Area.

11 (iii) EXCEPTIONS.—Nothing in clause  
12 (i) or (ii) prevents the Secretary from—

13 (I) rerouting or closing an exist-  
14 ing road or trail to protect natural re-  
15 sources from degradation, as deter-  
16 mined to be appropriate by the Sec-  
17 retary;

18 (II) authorizing the use of motor-  
19 ized vehicles for administrative pur-  
20 poses;

21 (III) constructing temporary  
22 roads or permitting the use of motor-  
23 ized vehicles to carry out pre- or post-  
24 fire watershed protection projects;

1 (IV) authorizing the use of mo-  
2 torized vehicles to carry out activities  
3 associated subsection (g), (h), or (i);  
4 and

5 (V) responding to an emergency.

6 (C) COMMERCIAL TIMBER.—

7 (i) IN GENERAL.—No projects shall be  
8 undertaken for the purpose of harvesting  
9 commercial timber within the Recreation  
10 Management Area.

11 (ii) LIMITATION.—Nothing in clause  
12 (i) prevents the Secretary from harvesting  
13 or selling merchantable products that are  
14 byproducts of activities authorized by this  
15 section.

16 (d) MAPS AND LEGAL DESCRIPTIONS.—

17 (1) FILING.—As soon as practicable after the  
18 date of enactment of this Act, the Secretary shall  
19 prepare a map and legal descriptions for the Recre-  
20 ation Management Area.

21 (2) FORCE OF LAW.—The map and legal de-  
22 scription prepared under paragraph (1) shall have  
23 the same force and effect as if included in this Act,  
24 except that the Secretary may correct typographical  
25 errors in the maps and legal descriptions.

1           (3) PUBLIC AVAILABILITY.—The map and legal  
2           description prepared under paragraph (1) shall be  
3           on file and available for public inspection in the ap-  
4           propriate office of the Secretary.

5           (e) WITHDRAWAL.—Subject to valid rights in exist-  
6           ence on the date of enactment of this Act, the Federal  
7           land within the Recreation Management Area is with-  
8           drawn from—

9           (1) all forms of entry, appropriation, and dis-  
10          posal under the public land laws;

11          (2) location, entry, and patent under the mining  
12          laws; and

13          (3) operation of the mineral leasing, mineral  
14          materials, and geothermal leasing laws.

15          (f) INCORPORATION OF ACQUIRED LAND AND INTER-  
16          ESTS.—Any land or interest in land that is acquired by  
17          the United States within the boundaries of the Recreation  
18          Management Area shall—

19          (1) become part of the Recreation Management  
20          Area; and

21          (2) be managed in accordance with the applica-  
22          ble provisions of this Act and any other applicable  
23          laws.

24          (g) FIRE, INSECTS, AND DISEASES.—The Secretary  
25          may take any measure that the Secretary determines to

1 be necessary to prevent, control, and mitigate fire, insects,  
2 and diseases, and hazardous fuels, subject to such terms  
3 and conditions as the Secretary determines to be appro-  
4 priate.

5 (h) WATER MANAGEMENT INFRASTRUCTURE.—  
6 Nothing in this section affects the construction, repair, re-  
7 construction, replacement, operation, maintenance, or ren-  
8 ovation of water management infrastructure existing on  
9 the date of enactment of this Act or such future infra-  
10 structure necessary for the development or exercise of  
11 water rights decreed prior to the date of enactment of this  
12 Act within the Tenmile Recreation Management Area.

13 (i) REGIONAL TRANSPORTATION PROJECTS.—Noth-  
14 ing in this section precludes the Secretary from author-  
15 izing, consistent with applicable laws (including regula-  
16 tions), the use or lease of Federal land within the Recre-  
17 ation Management Area for—

18 (1) regional transportation projects, including  
19 highway widening or realignment and construction  
20 of multimodal transportation systems; and

21 (2) infrastructure, activities, or safety measures  
22 associated with the implementation or utilization of  
23 those facilities.

24 (j) APPLICATION OF LAW.—Nothing in this section  
25 shall affect the designation of the Federal land within the

1 Recreation Management Area for purposes of section 303  
2 of title 49, United States Code, and section 138 of title  
3 23 United States Code.

4 (k) PERMITS.—Nothing in this section alters or lim-  
5 its—

6 (1) a permit held by a ski area or other entity;  
7 or

8 (2) the acceptance, review, or implementation of  
9 associated activities or facilities proposed or author-  
10 ized by law or permit outside of the Recreation Man-  
11 agement Area.

12 (l) WATER.—The provisions of section 3(e) of the  
13 James Peak Wilderness and Protection Area Act (Public  
14 Law 107–216; 116 Stat. 1055) shall apply to the Recre-  
15 ation Management Area established by this section.

16 (m) MILITARY ACTIVITIES.—

17 (1) COLORADO NATIONAL GUARD USE.—Noth-  
18 ing in this section shall restrict, preclude or other-  
19 wise affect the use by the Colorado Army National  
20 Guard, a reserve component of the Armed Forces, of  
21 the Recreation Management Area for aircraft train-  
22 ing, testing, evaluation, emergency response, or  
23 other related air operations—

1 (A) in the manner and degree such uses  
2 were authorized to occur on the date of the en-  
3 actment of this Act; or

4 (B) as authorized under future agreements  
5 between the Secretary and the Secretary of De-  
6 fense.

7 (2) MILITARY AIRCRAFT USE.—Nothing in this  
8 section restricts or precludes, or should cause any  
9 other Federal regulation to restrict or preclude—

10 (A) low-level overflights of military air-  
11 craft; or

12 (B) the designation, modification, or cre-  
13 ation of new units of special use airspace, or  
14 the establishment of military flight training  
15 routes.

16 (n) FISH AND WILDLIFE.—Nothing in this section  
17 affects the jurisdiction or responsibilities of the State of  
18 Colorado with respect to fish and wildlife in the State.

19 (o) NO BUFFER ZONES.—The Recreation Manage-  
20 ment Area shall not create a protective perimeter or buffer  
21 zone around the Recreation Management Area.

22 **SEC. 4. PORCUPINE GULCH PROTECTION AREA, WHITE**  
23 **RIVER NATIONAL FOREST, COLORADO.**

24 (a) DESIGNATION.—Certain Federal land located in  
25 the White River National Forest in the State of Colorado

1 which comprise approximately 5,204 acres, as generally  
2 depicted on a map entitled “Porcupine Gulch Protection  
3 Area Proposal”, dated July 2014, is designated the “Por-  
4 cupine Gulch Protection Area” (in this section referred to  
5 as the “Protection Area”).

6 (b) PURPOSES.—The purposes of the Protection Area  
7 are to conserve, protect, and enhance for the benefit and  
8 enjoyment of present and future generations the scenic,  
9 roadless, watershed, and ecological resources of the Pro-  
10 tection Area.

11 (c) MANAGEMENT.—

12 (1) IN GENERAL.—The Secretary of Agriculture  
13 shall manage the Protection Area—

14 (A) in a manner that conserves, protects,  
15 and enhances the purposes described in sub-  
16 section (b); and

17 (B) in accordance with—

18 (i) the Forest and Rangeland Renew-  
19 able Resources Planning Act of 1974 (16  
20 U.S.C. 1600 et seq.);

21 (ii) any other applicable laws (includ-  
22 ing regulations); and

23 (iii) this section.

24 (2) USES.—

1 (A) IN GENERAL.—The Secretary shall  
2 only allow such uses of the Protection Area that  
3 the Secretary determines would further the pur-  
4 poses described in subsection (b).

5 (B) MOTORIZED VEHICLES.—

6 (i) IN GENERAL.—Except as provided  
7 in clause (iii), the use of motorized vehicles  
8 and mechanized transport in the Protec-  
9 tion Area shall be prohibited.

10 (ii) NEW OR TEMPORARY ROADS.—  
11 Except as provided in clause (iii), no new  
12 or temporary roads shall be constructed  
13 within the Protection Area.

14 (iii) EXCEPTIONS.—Nothing in clause  
15 (i) or (ii) prevents the Secretary from—

16 (I) authorizing the use of motor-  
17 ized vehicles for administrative pur-  
18 poses;

19 (II) constructing temporary  
20 roads or permitting the use of motor-  
21 ized vehicles to carry out pre- or post-  
22 fire watershed protection projects;

23 (III) authorizing the use of mo-  
24 torized vehicles to carry out activities  
25 associated subsection (g) or (h); or



1 (IV) responding to an emergency.

2 (C) COMMERCIAL TIMBER.—

3 (i) IN GENERAL.—No projects shall be  
4 undertaken for the purpose of harvesting  
5 commercial timber within the Protection  
6 Area.

7 (ii) LIMITATION.—Nothing in clause  
8 (i) prevents the Secretary from harvesting  
9 or selling merchantable products that are  
10 byproducts of activities authorized by this  
11 section.

12 (d) MAP AND LEGAL DESCRIPTION.—

13 (1) FILING.—As soon as practicable after the  
14 date of enactment of this Act, the Secretary shall  
15 prepare a map and legal description for the Protec-  
16 tion Area.

17 (2) FORCE OF LAW.—The map and legal de-  
18 scription prepared under paragraph (1) shall have  
19 the same force and effect as if included in this Act,  
20 except that the Secretary may correct typographical  
21 errors in the map and legal description.

22 (3) PUBLIC AVAILABILITY.—The map and legal  
23 description prepared under paragraph (1) shall be  
24 on file and available for public inspection in the ap-  
25 propriate office of the Secretary.

1 (e) WITHDRAWAL.—Subject to valid rights in exist-  
2 ence on the date of enactment of this Act, the Federal  
3 land within the Protection Area is withdrawn from—

4 (1) all forms of entry, appropriation, and dis-  
5 posal under the public land laws;

6 (2) location, entry, and patent under the mining  
7 laws; and

8 (3) operation of the mineral leasing, mineral  
9 materials, and geothermal leasing laws.

10 (f) INCORPORATION OF ACQUIRED LAND AND INTER-  
11 ESTS.—Any land or interest in land that is acquired by  
12 the United States within the boundaries of the Protection  
13 Area shall—

14 (1) become part of the Protection Area; and

15 (2) be managed in accordance with the applica-  
16 ble provisions of this Act and any other applicable  
17 laws.

18 (g) FIRE, INSECTS, AND DISEASES.—The Secretary  
19 may take any measure that the Secretary determines to  
20 be necessary to prevent, control, and mitigate fire, insects,  
21 and diseases and hazardous fuels, subject to such terms  
22 and conditions as the Secretary determines to be appro-  
23 priate.

24 (h) REGIONAL TRANSPORTATION PROJECTS.—Noth-  
25 ing in this section precludes the Secretary from author-

1 izing, consistent with applicable laws (including regula-  
2 tions), the use or lease of Federal land within the Protec-  
3 tion Area for—

4 (1) regional transportation projects, including  
5 highway widening or realignment and construction  
6 of multimodal transportation systems; and

7 (2) infrastructure, activities, or safety measures  
8 associated with the implementation or utilization of  
9 those facilities.

10 (i) APPLICATION OF LAW.—Nothing in this section  
11 shall affect the designation of the Federal land within the  
12 Protection Area for purposes of section 303 of title 49,  
13 United States Code, and section 138 of title 23 United  
14 States Code.

15 (j) WATER.—The provisions of section 3(e) of the  
16 James Peak Wilderness and Protection Area Act (Public  
17 Law 107–216; 116 Stat. 1055) shall apply to the Protec-  
18 tion Area.

19 (k) MILITARY ACTIVITIES.—

20 (1) COLORADO ARMY NATIONAL GUARD USE.—  
21 Nothing in this section shall restrict, preclude or  
22 otherwise affect the use by the Colorado Army Na-  
23 tional Guard, a reserve component of the Armed  
24 Forces, of the Protection Area for aircraft training,

1 testing, evaluation, emergency response, or other re-  
2 lated air operations—

3 (A) in the manner and degree such uses  
4 were authorized to occur on the date of the en-  
5 actment of this Act; or

6 (B) as authorized under future agreements  
7 between the Secretary and the Secretary of De-  
8 fense.

9 (2) MILITARY AIRCRAFT USE.—Nothing in this  
10 section restricts or precludes, or should cause any  
11 other Federal regulation to restrict or preclude—

12 (A) low-level overflights of military air-  
13 craft; or

14 (B) the designation, modification, or cre-  
15 ation of new units of special use airspace, or  
16 the establishment of military flight training  
17 routes.

18 (l) FISH AND WILDLIFE.—Nothing in this section af-  
19 fects the jurisdiction or responsibilities of the State of Col-  
20 orado with respect to fish and wildlife in the State.

21 (m) NO BUFFER ZONES.—The Protection Area shall  
22 not create a protective perimeter or buffer zone around  
23 the Protection Area.



April 6, 2010

Rep. Jared Polis  
P.O. Box 1453  
Frisco, CO 80443

Hidden Gems Wilderness Campaign  
c/o Colorado Environmental Coalition  
1536 Wynkoop Street, #5C  
Denver, CO 80202

Dear Rep. Polis:

The Town of Breckenridge would like to state our endorsement of the Hidden Gems Wilderness Proposal, as portrayed on the Hidden Gems Campaign website March 17, 2010, for the Hoosier Ridge and Tenmile areas.

In our letter dated January 28, 2010, the Town of Breckenridge listed concerns that were at that time not yet resolved:

- Wilderness designation could impede our ability to fight wildfires and protect our watershed in the aftermath of wildfire. This is particularly of issue because of the potential increased susceptibility of our forests in the wake of the mountain pine beetle infestation. The Town may need the ability to take proactive fire mitigation actions (i.e. firebreaks and other fuels management prescriptions), use roads and mechanical equipment to fight a fire, and locate and construct water quality protection structures or ancillary roads within some of the areas proposed as wilderness.
- Wilderness designation affects the extent to which mountain bike trail systems can be utilized and further expanded.
- Wilderness designation would preclude the use of mechanized equipment in clearing trails of downed trees. Considering the fire danger and potential for subsequent blow-down, the Town feels that it is important that chainsaws and other mechanized equipment be allowed in order to adequately clear trails and provide for the safety of the trail users in a timely manner.

The Hidden Gems Wilderness proposal has been adjusted since that time to address many of these issues. The boundaries of the proposed wilderness now largely match that of the Wildland Urban Interface (WUI) boundaries, helping alleviate Town concerns and those of the Red, White and Blue Fire Department regarding proactive fire mitigation, fire suppression, and post-fire watershed protection efforts in the Upper Blue Basin. Further, many mountain bike trails in the Town and County trail master plans, along with those identified as important by user groups such as the Summit Fat Tire Society, have been excluded from Wilderness designation.

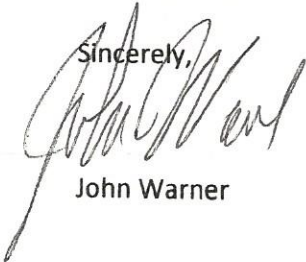
The Town still believes any final language must address the need to manage large-scale downfall through mechanical means on trails in wilderness, both for trails in existing wilderness areas and in areas recommended through the Hidden Gems proposal. Regardless of the outcome of the Hidden Gems Campaign, this is of great concern to our community as the trees infested by the mountain pine beetle eventually fall.

In our January 28<sup>th</sup> letter, we asked that the Hidden Gems proposal address those areas no longer included within proposed wilderness, as well as other areas appropriate as a non-motorized wilderness buffer in order to expand protection. Through the use of a companion designation, natural resources and trails that were taken out of the original citizen's wilderness proposal could receive a higher level of protection that they might otherwise have without a congressionally legislated designation. At the same time, wildfire and watershed protection could be provided with less restrictions than would be the case in a designated wilderness area. Both the International Mountain Biking Association and the Hidden Gems Campaign are working on companion designation maps and language for inclusion in the proposal.

The Town of Breckenridge can officially endorse the Wilderness-specific boundaries that have been arrived at, as long as the above-mentioned companion designation is also included in the final legislation submitted. Moving forward, the multi-faceted lands protection approach appears to be a solution with broad appeal, a consensus-building option that will become more critical as development and extractive industries place greater demands upon the stewards of our public lands. It is our opinion that this approach enhances and complements the sanctity of wilderness, but also addresses the lingering issues of wildfire mitigation, watershed protection and historical recreational use.

Please feel free to call Heide Andersen at 970.547.3110 if you have any questions. In the meantime, we look forward to working further with your office on the companion designation wording and mapping.

Sincerely,



John Warner

Cc: U.S. Sen. Mark Udall  
U.S. Sen. Michael Bennett  
State Sen. Dan Gibbs  
State Rep. Christine Scanlan

MEETING AGENDA  
Breckenridge Town Council and Breckenridge Backstage Theatre Board  
Tuesday August 12, 2014 5:30 pm

- Introductions
- Discussion points relative to Breckenridge Theatre renovation