



BRECKENRIDGE TOWN COUNCIL REGULAR MEETING

Tuesday, August 12, 2014; 7:30 PM

Town Hall Auditorium

I	CALL TO ORDER, ROLL CALL	
II	APPROVAL OF MINUTES - JULY 22, 2014	3
III	APPROVAL OF AGENDA	
IV	COMMUNICATIONS TO COUNCIL	
	A. CITIZEN'S COMMENT - (NON-AGENDA ITEMS ONLY: 3-MINUTE LIMIT PLEASE)	
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	C. BRECKENRIDGE SKI RESORT	
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	3. COUNCIL BILL NO. 30, Series 2014 - AN ORDINANCE CONCERNING THE NUMBER OF LICENSES THAT MAY BE ISSUED BY THE LOCAL LICENSING AUTHORITY UNDER CHAPTER 14 OF TITLE 4 OF THE BRECKENRIDGE TOWN CODE , KNOWN AS THE "TOWN OF BRECKENRIDGE 2013 MARIJUANA LICENSING ORDINANCE"	61
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*Report of the Town Manager, Report of Mayor and Council Members; Scheduled Meetings and Other Matters are topics listed on the 7:30 pm Town Council Agenda. If time permits at the afternoon work session, the Mayor and Council may discuss these items. The Town Council may make a Final Decision on any item listed on the agenda, regardless of whether it is listed as an action item.

PROVIDING FOR THE CONDUCT OF THE ELECTION

B. RESOLUTIONS, SERIES 2014

C. OTHER

VII PLANNING MATTERS

A. PLANNING COMMISSION DECISIONS

B. PLANNING COMMISSION REPORT (MR. BREWER)

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VIII REPORT OF TOWN MANAGER AND STAFF

IX REPORT OF MAYOR AND COUNCILMEMBERS

A. CAST/MMC (MAYOR WARNER)

B. BRECKENRIDGE OPEN SPACE ADVISORY COMMITTEE (MS. LAWRENCE)

C. GOBRECK (MS. WOLFE)

D. BRECKENRIDGE HERITAGE ALLIANCE (MS. GIGLIELLO)

E. WATER TASK FORCE (MR. GALLAGHER)

F. CULTURAL ARTS ADVISORY COMMITTEE (MR. GALLAGHER AND MS. WOLFE)

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X OTHER MATTERS

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XII ADJOURNMENT

*Report of the Town Manager, Report of Mayor and Council Members; Scheduled Meetings and Other Matters are topics listed on the 7:30 pm Town Council Agenda. If time permits at the afternoon work session, the Mayor and Council may discuss these items. The Town Council may make a Final Decision on any item listed on the agenda, regardless of whether it is listed as an action item.

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CALL TO ORDER, ROLL CALL

Mayor Warner called the meeting of July 8, 2014 to order at 8:04 pm. The following members answered roll call: Mr. Gallagher, Mr. Brewer, Ms. Lawrence, Mr. Burke, Ms. Wolfe, Ms. Gigliello and Mayor Warner.

APPROVAL OF MINUTES - JULY 8, 2014

With no changes or corrections to the meeting minutes of July 8, 2014, Mayor Warner declared they would stand approved as submitted.

APPROVAL OF AGENDA

Mr. Gagen stated it is the Mayor's discretion to move items on the agenda and the Mayor would like to hear Citizens Comments first, followed by Council Bill No. 27.

COMMUNICATIONS TO COUNCIL

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

Mayor Warner opened Citizen's Comment.

Ms. Sandy Greenhut, formerly of Summit County and currently representing Arts Alive in La Cima Mall, is looking for help with signage in La Cima Mall given that there are outside tables at Park and Main that make traffic to Arts Alive difficult. Council agreed to look into the issue.

Mr. Kim McGahey, resident of Breckenridge, stated he is father of two boys, a business owner, property owner, and also a realtor, and the response that he's gotten from customers of his is that allowing marijuana on Main Street is a bad idea, and it's not the image we want, and not the image the spenders want.

Mr. Carl Mueller, a professor of marketing and a second homeowner in Breckenridge, stated the problem with retail marijuana is from the demand side. He further stated a large portion of people who visit Breckenridge have small children and many come from conservative states. He stated polls aren't viable to measure how the visitors and community feel, and he recommends more study time, because the choice to put marijuana on Main Street may be highly harmful to the Breckenridge brand.

Gary Friese, owner of Breckenridge Gallery, stated he would like further research on the impact of retail marijuana to stores on Main Street. He stated he would recommend rejecting shops on Main Street with the ordinance and honor the decisions of past councils. Mr. Friese also stated, regarding Arts Fairs on Main Street, one of the remaining gallery owners has listed his property, and he would like to see an equal playing field that doesn't allow art fairs to not abide by Town Code.

Mr. Dan Corwin, a realtor in Breckenridge, stated retail marijuana is a non-issue and he doesn't believe we've lost visitors because of marijuana in Town.

Mr. Jerry Diedzick, a Breckenridge resident, stated we are all speaking anecdotedly and we have very scant scientific data about this subject.

There were no further comments and Citizen's Comment was closed.

CONTINUED BUSINESS

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- A. Second Reading of Council Bills, Series 2014 - Public Hearings
1. COUNCIL BILL NO. 24, SERIES 2014 - AN ORDINANCE REPEALING AND READOPTING WITH CHANGES CHAPTER 16 OF TITLE 1 OF THE BRECKENRIDGE TOWN CODE, KNOWN AS THE "BRECKENRIDGE TOWN CODE OF ETHICS"

Mayor Warner read the title into the minutes. Mr. Berry stated this ordinance would re-write the Town's ethic code from 1992. Mr. Berry further stated there are two changes from first reading: the first relating to rule of disqualifying conflict of interest that would make a council member leave the chambers, and the second prohibiting a council member to be on a board for at least one year after serving on Council.

Mayor Warner opened the public hearing. There were no comments and the public hearing was closed.

Mr. Brewer moved to approve COUNCIL BILL NO. 24, SERIES 2014 - AN ORDINANCE REPEALING AND READOPTING WITH CHANGES CHAPTER 16 OF TITLE 1 OF THE BRECKENRIDGE TOWN CODE, KNOWN AS THE "BRECKENRIDGE TOWN CODE OF ETHICS". Mr. Burke seconded the motion. The motion passed 7 - 0.

NEW BUSINESS

- A. First Reading of Council Bills, Series 2014
1. COUNCIL BILL NO. 25 SERIES 2014 - AN ORDINANCE APPROVING A DEVELOPMENT AGREEMENT WITH THE BASE 9 CONDOMINIUMS HOMEOWNERS ASSOCIATION, A COLORADO NONPROFIT CORPORATION
Mayor Warner read the title into the minutes. Mr. Gagen stated this agreement is to allow density and deed restricted units with a worker restriction and an income restriction. Mr. Larry Raymond, the project developer, stated he didn't understand about the income restriction and was directed by Mr. Gagen to speak with staff before the next reading for clarification.
Ms. Gigliello moved to approve COUNCIL BILL NO. 25 SERIES 2014 - AN ORDINANCE APPROVING A DEVELOPMENT AGREEMENT WITH THE BASE 9 CONDOMINIUMS HOMEOWNERS ASSOCIATION, A COLORADO NONPROFIT CORPORATION. Mr. Gallagher seconded the motion. The motion passed 7 - 0.
 2. COUNCIL BILL NO. 26, SERIES 2014 - AN ORDINANCE AMENDING SECTION 4-4-2 OF THE BRECKENRIDGE TOWN CODE CONCERNING THE PAYMENT OF A FINE IN LIEU OF THE SUSPENSION OF A LICENSE TO SELL ALCOHOLIC BEVERAGES
Mayor Warner read the title into the minutes. Mr. Berry stated this ordinance is the result of a change in state licensing authority that can be made applicable to the local licensing authority if desired. He also stated the Licensing Authority can order a suspension served if needed.

Mr. Brewer moved to approve COUNCIL BILL NO. 26, SERIES 2014 - AN ORDINANCE AMENDING SECTION 4-4-2 OF THE BRECKENRIDGE TOWN CODE CONCERNING THE PAYMENT OF A FINE IN LIEU OF THE SUSPENSION OF A LICENSE TO SELL ALCOHOLIC BEVERAGES. Ms. Lawrence seconded the motion. The motion passed 7 - 0.
 3. COUNCIL BILL NO. 27, SERIES 2014 - AN ORDINANCE AMENDING SECTION 4-

14-21 OF THE BRECKENRIDGE TOWN CODE CONCERNING THE DEADLINE FOR THE REQUIRED CLOSURE OF PREMISES LICENSED UNDER THE "TOWN OF BRECKENRIDGE 2013 MARIJUANA LICENSING ORDINANCE" THAT ARE LOCATED WITHIN THE TOWN'S DOWNTOWN OVERLAY DISTRICT

Mayor Warner read the title into the minutes. Mr. Holman stated this ordinance would amend the current ordinance to allow the Council to insert a new date for the current business on Main Street to move out of their location if needed. Mayor Warner then decided to open a public hearing for this first reading of the ordinance. Mayor Warner asked Mr. Berry how to proceed if they are waiting for data, and Mr. Berry stated they can choose to pass, defeat or continue this ordinance on first reading. Mr. Gagen stated if it is passed on first reading, they can discuss in other matters about data collection.

Mr. Brian Rogers, representing Cannibus Club, stated he'd like a deadline that is at least 90 days out in order to begin a new state application if necessary. He further stated the three people who endorsed his position during the election won, so he wants to revisit this issue. Mr. Gallagher stated the voters have spoken regarding the legalization of marijuana, but not how it was controlled by local jurisdictions. Mr. Rogers clarified that he agreed with Mr. Gallagher. Ms. Catherine Grimm, a representative of three Airport Road dispensaries, stated she supports Mr. Roger's recommendation of 90 days.

Mayor Warner closed the public comment.

Mr. Burke stated he wants to be fair to everyone, but hopes that if we go down the path of data research, maybe we need to go to the will of the voters on this issue, and if we put it on the ballot for November, he'd rather do it this year. Mr. Gallagher stated he'd prefer to move forward with rules and regulations in an ordinance form that goes to the voters, and he isn't convinced that additional research is going to change the vote at the end of the day. He further stated that if we decide to kick this down the road and study it more, a 4-3 decision Council split doesn't make him comfortable. He also stated he believes it's fair to protect the Cannibus Club until we get through that election.

Mayor Warner asked for a motion to entertain the date for the ordinance. Ms. Lawrence stated November 12th is 90 days after the second reading of the ordinance. Mr. Brewer moved to approve the ordinance to read January 1, 2015, seconded by Mr. Burke. Ms. Gigliello then stated February 2, 2015 would be 90 days after the election. Ms. Wolfe stated she would only vote yes if we agree on participating in the election. Mr. Brewer said he would agree with Ms. Wolfe about participating in the election.

Mr. Berry stated a new ordinance would set the ballot question and that would have to be done in August. Mr. Burke stated he made the assumption to put the issue to the voters when he seconded the date. Mr. Brewer amended his motion to reflect a revised date of February 2, 2015. Mr. Burke seconded the amended motion.

Mayor Warner stated he would vote no on this ordinance. Mr. Berry then clarified the date the resolution is due to tell the County we will participate in the General Election in November. Mr. Gagen stated first reading of a ballot question language would be on August 12.

Mayor Warner stated for the record that he appreciates the participation of the public and the Council. He also stated he believes sabotaging votes is not part of respectable conflict. Mr. Brewer moved to approve COUNCIL BILL NO. 27, SERIES 2014 - AN ORDINANCE AMENDING SECTION 4-14-21 OF THE BRECKENRIDGE TOWN

CODE CONCERNING THE DEADLINE FOR THE REQUIRED CLOSURE OF PREMISES LICENSED UNDER THE "TOWN OF BRECKENRIDGE 2013 MARIJUANA LICENSING ORDINANCE" THAT ARE LOCATED WITHIN THE TOWN'S DOWNTOWN OVERLAY DISTRICT . Mr. Burke seconded the motion. The motion passed 6 - 1. Mayor Warner dissented.

B. Resolutions, Series 2014

1. RESOLUTION NO. 13, SERIES 2014 - A RESOLUTION ESTABLISHING A POLICY FOR THE NAMING OF TOWN-OWNED PROPERTIES

Mayor Warner read the title into the minutes. Mr. Holman stated this is a resolution regarding the naming of town-owned properties, and the purpose of the policy is to establish a system that establishes a priority for naming properties owned by the Town of Breckenridge.

Ms. Lawrence moved to approve RESOLUTION NO. 13, SERIES 2014 - A RESOLUTION ESTABLISHING A POLICY FOR THE NAMING OF TOWN-OWNED PROPERTIES. Mr. Gallagher seconded the motion. The motion passed 7 - 0.

2. RESOLUTION NO. 14, SERIES 2014 - A RESOLUTION CONCERNING THE TOWN'S PARTICIPATION IN A CO-ORDINATED ELECTION ON NOVEMBER 4, 2014

Mayor Warner read the title into the minutes. Mr. Berry stated this resolution is necessary to allow the Town to participate in the General Coordinated Election in November. He further stated this is a generic resolution to participate, and the ballot language will be set by ordinance at another meeting.

Mr. Gallagher moved to approve RESOLUTION NO. 14, SERIES 2014 - A RESOLUTION CONCERNING THE TOWN'S PARTICIPATION IN A CO-ORDINATED ELECTION ON NOVEMBER 4, 2014. Mr. Burke seconded the motion. The motion passed 6 - 1. Mayor Warner dissented.

C. Other

PLANNING MATTERS

A. Planning Commission Decisions

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

B. Planning Commission Report (Mr. Brewer)

Mr. Brewer stated he sent his report to the Council, and he participated in two discussions: Marijuana and Condo-Hotels. Mr. Gagen stated Planning Commission is split related to this topic.

REPORT OF TOWN MANAGER AND STAFF

Mr. Gagen stated there is a Board and Commissions recognition event tomorrow night at 5:30pm.

REPORT OF MAYOR AND COUNCILMEMBERS

A. Cast/MMC (Mayor Warner)

Mayor Warner stated there was no report.

B. Breckenridge Open Space Advisory Committee (Ms. Lawrence)

Ms. Lawrence stated the season has been busy, and the Friends of Breck Trails program has been successful, with Volunteers for Outdoor Colorado bringing 150 people to work on

trails this summer. She also stated forest health projects have been delayed, and Breckenridge Ski Resort and the Forest Service are talking about the Peaks Connect Trail, which BOSAC provided comments for and generally supported. She also stated they have identified an illegal bike shuttle service operating in Breckenridge without a license agreement.

C. GoBreck (Ms. Wolfe)

Ms. Wolfe stated the board meeting is Thursday. She further stated Andru Zeiset is being transferred to Florida and is resigning the board.

D. Breckenridge Heritage Alliance (Ms. Gigliello)

Ms. Gigliello stated the BHA is looking for a trash/recycling receptacle at the Railroad Park Playground. Mr. Gagen stated staff will look into it.

Mayor Warner stated the opening of the playground was well done and everyone seemed to enjoy it. Ms. Wolfe stated the Eagle Scouts are working on additional elements to this project as well.

E. Water Task Force (Mr. Gallagher)

Mr. Gallagher stated there is a meeting on Friday to look at policy changes in respect to water rates and see how that will assist the debt service for the water plant.

F. Cultural Arts Advisory Committee (Mr. Gallagher and Ms. Wolfe)

Mr. Gallagher stated Mr. Woulfe is working on rules and regulations in respect to revised venue policies to make it clear to our users what we can offer when they use the facilities. Mr. Gallagher stated the committee is also talking about member recruitment and some areas were identified to see if individuals have interest, which he'll bring to Council later this year. He also stated the committee will do a strategic planning meeting in August, led by Deb Spiers. Mr. Gallagher clarified the CAAC is still a Town committee so the group is bringing this information to Council regarding details.

OTHER MATTERS

Ms. Gigliello stated the business services committee of GoBreck would like to know when people apply for a business license, and the committee is requesting an opt in for email on the licensing forms for new businesses. Ms. Gigliello also thanked staff for the bike racks in front of La Cima Mall. She also stated Mr. Paley, the sculptor, was interviewed on KUNC and will be here as part of the Arts District celebration in the fall.

Mr. Burke asked about setting a cap on number of marijuana establishments, and Council agreed to do that as a separate ordinance.

SCHEDULED MEETINGS

ADJOURNMENT

With no further business to discuss, the meeting adjourned at 9:36 pm. Submitted by Helen Cospolich, Municipal Services Manager.

ATTEST:

John Warner, Mayor

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)

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

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

TOWN OF BRECKENRIDGE

By: _____
Timothy J. Gagen, Town Manager

ATTEST:

Helen Cospolich
Town Clerk

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STATE OF COLORADO)
) ss.
COUNTY OF SUMMIT)

The foregoing instrument was acknowledged before me this ____ day of _____, 2014 by Timothy J. Gagen, Town Manager, and Helen Cospolich, Town Clerk, of the Town of Breckenridge, a Colorado municipal corporation.

WITNESS my hand and official seal.

My commission expires: _____.

Notary Public

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THE BASE 9 CONDOMINIUMS HOMEOWNERS
ASSOCIATION, a Colorado nonprofit corporation

By: _____
Name: _____
Title: _____

STATE OF COLORADO)
) ss.
COUNTY OF SUMMIT)

The foregoing instrument was acknowledged before me this ___ day of
_____, 2014, by _____, as
_____, of The Base 9 Condominiums Homeowners
Association, a Colorado nonprofit corporation.

WITNESS my hand and official seal.

My commission expires: _____.

Notary Public

1800-447\Development Agreement_4 (07-30-14)(Compared to First Reading)

DEVELOPMENT AGREEMENT

Page 9

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 12th meeting)

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 12th. 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 1. public welfare and morals would not be impaired by permitting the licensee to
34 operate during the period set for suspension and that the payment of the fine will
35 achieve the desired disciplinary purposes; **and**

36 2. ~~That~~ **T**he books and records of the licensee are kept in such a manner that the loss of
37 sales of alcoholic beverages which the licensee would have suffered had the
38 suspension gone into effect can be determined with reasonable accuracy, ~~therefrom~~;
39 **and**

40 3. ~~That the licensee has not had his license suspended or revoked, nor had any~~
41 ~~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 12th 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:
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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:

34
35
36
37 _____
38 Helen Cospolich
39 Town Clerk

PIF's Collected For Snack/Deli Bars/Restaurants (new with Building Permits)				
Building Permit	Project Name/Location	PIF's Collected	PIF Category	
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

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 st Conviction:	\$ 10.00
2 nd Conviction within a 12 month period	\$ 25.00
3 rd Conviction within a 12 month period	\$ 50.00
4 th 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 st Offense	\$ 50.00
2 nd Offense within 18 months	\$100.00
Subsequent Offense within 18 months	\$200.00

For all violations involving a potentially dangerous animal:

1 st Offense	\$150.00
2 nd 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:

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- 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

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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:

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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

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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

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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.

2014 ANIMAL LICENSING AND REGULATION ORDINANCE

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

5 Section 5. The Town Council finds, determines, and declares that it has the power to
6 adopt this ordinance pursuant to: (i) Section 31-15-401(1)(m), C.R.S.; (ii) the authority granted
7 to home rule municipalities by Article XX of the Colorado Constitution; and (iii) the powers
8 contained in the Breckenridge Town Charter.

9 Section 6. This ordinance shall be published and become effective as provided by Section
10 5.9 of the Breckenridge Town Charter.

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

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

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

24 ATTEST:
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28 _____
29 Helen Cospolich
30 Town Clerk
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500-352\Animal Control Ordinance_4 (08-01-14)(First Reading)

2014 ANIMAL LICENSING AND REGULATION ORDINANCE



MEMORANDUM

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

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 12th 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 12th 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 4th. 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 ² 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 4th, 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 26th.

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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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, 18², 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 (i) 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;₂

~~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 18² 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.

30
31 TOWN OF BRECKENRIDGE, a Colorado
32 municipal corporation
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36 By: _____
37 John G. Warner, Mayor
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39

1 ATTEST:

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Helen Cospolich
Town Clerk

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.

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:

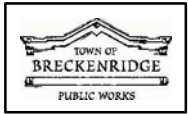
None.

OTHER:

None.

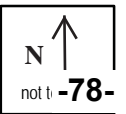


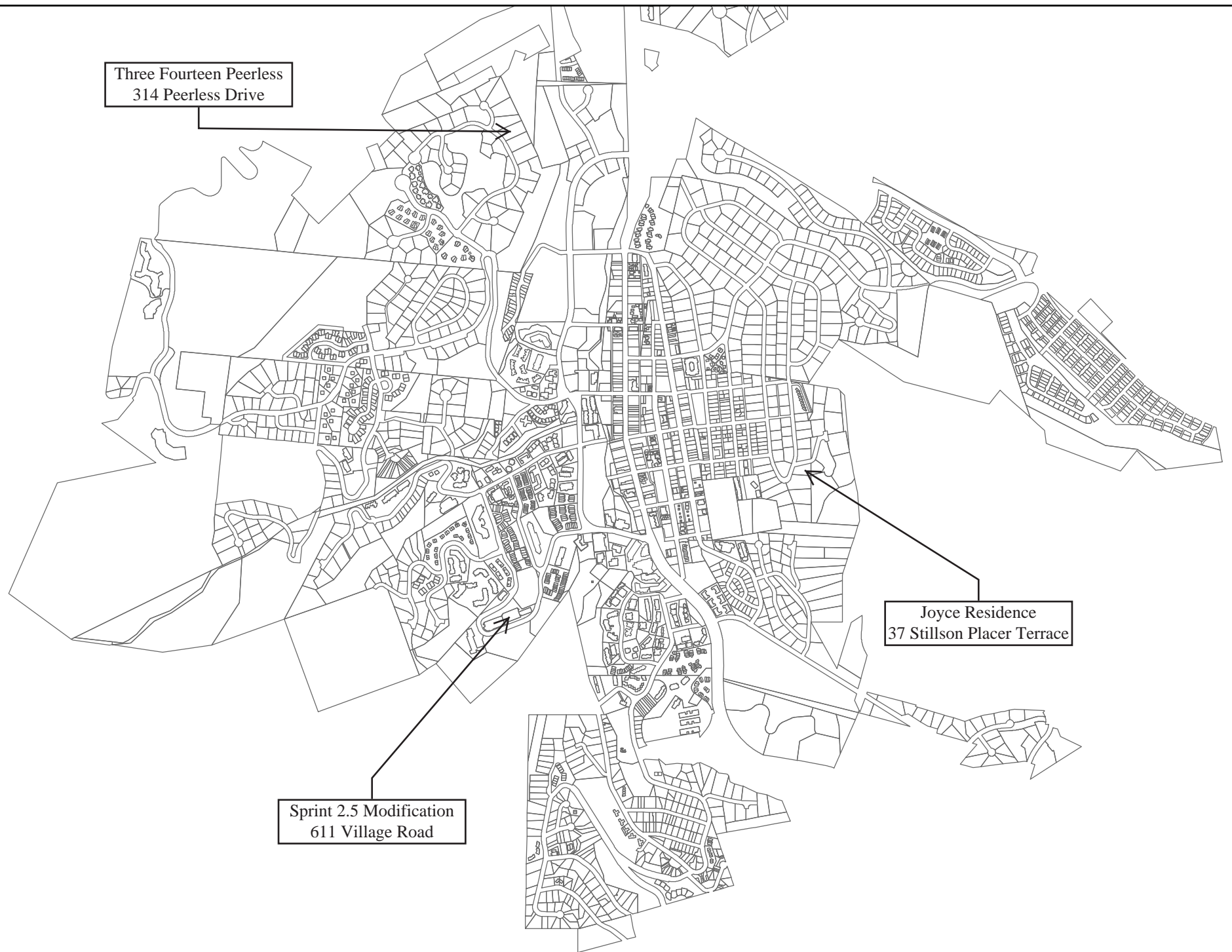
Bendrick Residence
19 Evans Court



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

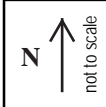




Three Fourteen Peerless
314 Peerless Drive

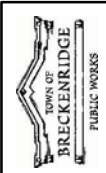
Joyce Residence
37 Stillson Placer Terrace

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.

Kate Christopher, Vice Chair

MEMORANDUM

To: Mayor and Town Council
From: Rick Holman, Assistant Town Manager
Date: August 4, 2014
Subject: Recommendation for Appointee to Cultural Arts Advisory Committee

The Cultural Arts Advisory Committee (CAAC) is recommending to the Town Council the appointment of Michael Lundin to their Advisory Committee. Committee Chair, Gary Gallagher, will make this recommendation to the Town Council during his CAAC report. The following is a brief bio on Mr. Lundin for your review:

After being part time residents since 2007 Michael Lundin and his wife Jennifer moved to Breckenridge on a full time basis in late 2011. Michael is currently a Partner with Resilience Capital Partners and serves on three corporate boards. Michael is the past President and CEO of Oglebay Norton a public minerals and logistics company, President/ Partner of Michigan Limestone and prior to that spent time in both technical and managerial roles in the electronic warfare industry with Hughes Aircraft and Magnavox. He has also previously served on several corporate and not for profit boards. Michael has an undergraduate degree from the University of Wisconsin and a MBA from Loyola Marymount.



Scheduled Meetings, Important Dates and Events

Shading indicates Council attendance – others are optional

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

AUGUST 2014

Tuesday, August 12, 2014; 3:00/7:30 pm	First Meeting of the Month
Friday, August 15, 2014; 8-9am; Park and Main	Coffee Talk
Tuesday, August 26, 2014; 3:00/7:30 pm	Second Meeting of the Month

SEPTEMBER 2014

Tuesday, September 9, 2014; 3:00/7:30 pm	First Meeting of the Month
Friday, September 19, 2014; 8-9am; TBA	Coffee Talk
Tuesday, September 23, 2014; 3:00/7:30 pm	Second Meeting of the Month

OCTOBER 2014

Tuesday, October 14, 2014; 3:00/7:30 pm	First Meeting of the Month
Friday, October 17, 2014; 8-9am; TBA	Coffee Talk
Tuesday, October 28, 2014; 8am-5pm	Fall Town Council Retreat

NOVEMBER 2014

Tuesday, November 11, 2014; 3:00/7:30 pm	First Meeting of the Month
Friday, November 14, 2014; 8-9am; TBA	Coffee Talk
Tuesday, November 25, 2014; 3:00/7:30 pm	Second Meeting of the Month

OTHER MEETINGS

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