



BRECKENRIDGE TOWN COUNCIL WORK SESSION

Tuesday, January 13, 2015; 2:15 PM

Town Hall Auditorium

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

2:15-3:00pm	I	<u>TOWN GRANT PRESENTATION (2:15 PM)</u>	
3:00-3:15pm	II	<u>PLANNING COMMISSION DECISIONS</u>	2
3:15-4:00pm	III	<u>LEGISLATIVE REVIEW*</u>	
		Updated Handicap Parking Regulations	11
		Tobacco Sales to Minors	21
		Smoking Ordinance Amendment	27
		Sales Tax Ordinance Update	35
		Creation of Breckenridge Housing Authority	40
		Density Covenant for Maggie Point	51
		Resolution to Appoint Special Counsel	58
		Resolution to Approve Open Space Acquisition - Kingfisher Claims	61
4:00-4:30pm	IV	<u>MANAGERS REPORT</u>	
		Public Projects Update	68
		Housing/Childcare Update	
		Committee Reports	69
		Financials	71
		Amendment to Bylaws of GoBreck, Inc.	82
4:30-4:45pm	V	<u>OTHER</u>	
		Administrative Regulations - Marijuana Local Licensing Hearings	84
4:45-6:00pm	VI	<u>PLANNING MATTERS</u>	
		Sandwich Board Signs	96
		State of the Open Space Report	102
6:00-7:15pm	VII	<u>EXECUTIVE SESSION</u>	

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

MEMORANDUM

To: Town Council

From: Peter Grosshuesch, Director of Community Development

Date: January 7, 2015

Re: Planning Commission Decisions of the January 6, 2015, Meeting.

DECISIONS FROM THE PLANNING COMMISSION AGENDA OF JANUARY 6, 2015:

CLASS C APPLICATIONS:

None.

CLASS B APPLICATIONS:

- 1) Re-Subdivision of Tract B-2, Peak 7 Subdivision Creating Public Open Space, PL-2014-0164, Ski Hill Road
Transfer of 8.166 acre property (Tract B-4) to the Town as public open space. Approved.

CLASS A APPLICATIONS:

None.

TOWN PROJECT HEARINGS:

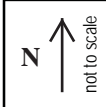
None.

OTHER:

None.

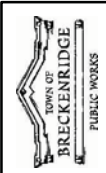
Re-Subdivision of Tract B-2,
Peak 7 Subdivision, Creating
Public Open Space
Ski Hill Road

Pinewood Village 2
837 Airport Road



Breckenridge South

Town of Breckenridge and Summit County governments
assume no responsibility for the accuracy of the data, and
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PLANNING COMMISSION MEETING

The meeting was called to order at 7:00 pm

ROLL CALL

Eric Mamula Jim Lamb Gretchen Dudney
Kate Christopher Ron Schuman Dan Schroder
Ben Brewer, Town Council Liaison
Dave Pringle was absent.

APPROVAL OF AGENDA

With no changes, the January 6, 2015, Planning Commission Agenda was approved as presented.

APPROVAL OF MINUTES

With no changes, the December 2, 2014, Planning Commission Minutes were approved as presented.

WORKSESSIONS:

1) Planning Commission Top Ten List (JP)

Ms. Puester presented. Each year the Planning Department creates a list of the Top Ten most important policy issues and code amendments for staff to focus on in the upcoming year. Following are the accomplished items from the past Top Ten list within the last year.

- Planning Classification Class A-D modifications- COMPLETED; Adopted January 28
- Condo Hotels Update- COMPLETED; Adopted October 14
- Historic Connector Elements- COMPLETED; Adopted March 25
- Temporary Structures- COMPLETED; Adopted April 8
- Other-Local Landmarking Status of Red, White and Blue Fire Museum; Valley Brook Cemetery; Iowa Hill Site; Old Masonic Hall; Breckenridge Grand Vacations Community Center; Milne House; and Eberlein House

The following items were included in the 2014 Top Ten List which are either in process or have not been started:

- Wireless Communication Towers/Antennas-IN PROCESS
- Mass Policy: Airlock Entries and other mass consuming energy conservation features
- Employee housing annexation positive point allocations
- Transition Standards Near Carter Park-WITHDRAWN; *School District not interested in pursuing.*
- Wildlife Policy
- Public Art (off-site improvements)
- Parking: Residential parking in garages (positive points)

Staff would like to discuss the following items for inclusion in the 2015 Top Ten list (in no particular order).

1. Wireless Communication Towers/Antennas-*Currently in process*
2. Amenity Bonus Square footage/positive points (Policy 24/R Social Community)
3. Shuttles/positive point reallocation (Policy 25/R Transit)
4. Wood Shake Shingles
5. Local Landmarking- Klack Placer Cabin; County Courthouse; Tin Shop; Mikolitis Barn; Barney Ford House; ; Sawmill Wakefield site; Lomax Placer; Dipping Station
6. Policy 7R regarding retaining wall heights and site disturbance
7. Parking: Residential parking in garages (positive points)
8. Public Art (off-site improvements)
9. Mass Policy: Airlock Entries and other mass consuming energy conservation features

10. Employee housing annexation positive point allocations
11. Sandwich board signs/Outdoor display of merchandise
12. Development Agreement provisions relationship with point generating Development Code policies.

Staff would like direction from the Planning Commission on the recommended Top Ten list. Staff intends to pursue work on the approved top ten list as soon as time and resources allow. The order that they are forwarded to Planning Commission and Town Council will partly depend on the complexity of the projects.

Commissioner Questions / Comments:

- Mr. Lamb: I have a question on where the wood shingle issue came from. (Ms. Puester: The concern stemmed from a Town Council meeting around the concern of potential fire danger with wood shake shingle roofs after last year's fire south of town and flying embers. This conversation was under the previous Town Council so staff would plan to take this topic to the new Town Council to see if there is interest in pursuing as well as providing additional information. For instance, there was a Class A building code change that would apply to all roofs including wood shake shingle. We will probably take this to the Council first as staff and then if Council wants to pursue it, they will send it back to you. It would result in changes to the Handbook of Design Standards, Development Code and Building Code.)
- Ms. Dudney: Please clarify #3 Shuttles positive points, #10 Employee Housing and the Amenity Bonus to me. All three of these have a double dipping issue where the developer comes in and gets an agreement with the Council and which has an agreement regarding them and then they come to us and then get positive points. Am I thinking that this is the right way to look at these issues?
- Mr. Mamula: Really those are all separate point allocation issues within the Development Code as they would apply to any development without a Development Agreement. In a recent case, a Development Agreement did involve multiple policies and our question was related to points. I think #12 regarding Development Agreement as it relates to points becomes number one to discuss in my mind. I may be the only one thinking so but givens in the Agreement might want to have a mention if they are to be point neutral or not to give us direction. The Transit conversation is really if it should this still be 4 positive points always. The mass bonus for amenity space is a separate issue too, but I think the double dipping issue is really encapsulated in #12. I want to make sure we all agree with these and then come up with a couple we want to seriously handle and the Development Agreement is really the first focus in my mind. (Ms. Puester: Something to think about in #12 is not only is it a Council call but once you start adjusting points, such as not counting them, it will change the opportunities to receive positive points.) With the development agreement, you can gain positive points for issues that were discussed in the agreement but you can't get negative points for the items in that were already negotiated. So I would like to ask about making these neutral. (Mr. Mosher: These specific things could be discussed in both negative and positive points that are addressed in a development agreement.) I want to see if the Council is ok with addressing development agreements as a general policy change. Does everyone agree that this should be bumped to the top? (The Commissioners agreed by nodding their heads.)
- Mr. Schuman: I think #11 (sandwich board signs) should be toward the top.
- Mr. Mamula: I think Council is going to address this next week.
- Ms. Dudney: I think #1 can drop off too. (Ms. Puester: There is Federal regulation that is going to change as of February 1 that will change things again so that we will need to redraft the ordinance. Not sure yet if that impacts the general direction we are gong with this or if it is more the legality of the ordinance. If it is the latter than we will go right to Council.)
- Mr. Mamula: The public art offsite improvements, from my history the pendulum has swung both ways. I think this is an important discussion if we are going to allow the development community to

get offsite points. (Ms. Puester: It is important to note that just because a topic appears on this list; it certainly doesn't mean that we will defiantly be changing the policies or code. This is a list of what we have heard are issues that the Commission wanted further discussion on.)

Mr. Schroder: Is there any ongoing solar panel discussion in the historic district? (Ms. Puester: We do allow solar panels in the historic district right now even though we try to make them as obscure as possible. We don't have any plan to chance the policy. We should allow them as reasonable as possible. To reduce the number of potential panels in the District, the Council did build a solar garden with preferential treatment given to properties in the historic district.)

Mr. Brewer: It is my understanding that we did reserve that but not very many people took us up on it, so now these solar panels are on the open market. Once these are all sold out then the opportunities for properties in the conservation district will end at some point. We want to make sure the solar gardens are utilized. (Ms. Puester: Solar panels are not a permanent improvement so they can be removed when installed in the historic district.)

TOWN COUNCIL REPORT:

Mr. Brewer:

- Our last meeting was December 9, 5 weeks ago.
- Here is an update on other things, like the gas leak on Main Street. It just turned out to be a very strange occurrence where they didn't know exactly where it was leaking and has been a long process to rectify. No one knows still to this day where the leaking is occurring. Xcel Energy thinks there is a large pocket of gas leaking and they are going to vacuum it out of the ground, but a lot of uncertainty remains on how long it will take. It could be a naturally occurring event. (Mr. Schuman: I got a call that said they found the leak and that they will be closing it up tonight.) I hope that is the case, but I'm not too sure. There are still many businesses that are closed on the North end; I'm not feeling too confident that it is resolved.
- At our meeting on Dec. 9 we voted 6-1 to ratify the public vote that means that the Cannabis Club will have to move by February 2.

PRELIMINARY HEARINGS:

1) Pinewood Village 2 (MGT) PL-2014-0170, 837 Airport Road

Mr. Thompson presented a proposal to construct a new, 45-unit affordable rental apartment building. There will be 9 studio units, and 36 one-bedroom units. There will be 66 surface parking spaces for the project. The trash collection and recycling will be by way of a centralized dumpster enclosure. The exterior materials will include: natural cedar board and batten, cementitious lap siding, cultured stone veneer, heavy timber accents, and asphalt shingle roof. A material and color sample board was presented for Commission review.

Changes From the Previous Submittal

The applicant heard the concerns of the neighbors, Planning Commission, Town Council, and Staff. Hence, the applicant has revised the 2012 proposal significantly.

- The proposal has been reduced from an 81-unit affordable rental apartment project down to a 45-unit proposal.
- Density has been reduced from 61,054 sq. ft. down to 27,134 sq. ft.
- The total sq. ft. of the building(s), including hallways, stairways, and common areas has been reduced from 104,522 sq. ft. down to 33,175 sq. ft.
- The height of the building has been reduced from 54.7' (4 ½ stories) to the mean down to 36.75' (three stories).

- Two and three-bedroom units have been removed; now the proposal is for all studio and one-bedroom units.
- The previous submittal included underground parking, now all of the parking will be surface spots.
- The previous submittal was for two buildings, which has been reduced to one building.
- Previously the buildings had long unbroken rooflines, now the roofline is broken up in two spots and steps down on the edges of the building.

Policy 24R Employee Housing: Positive ten (+10) points.

Community Need: Positive six (+6) points.

Land use district 9.2: The landscape will provide adequate screening even though trees to the east won't be there.

Height / Number of Stories: Negative ten (-10) points.

Roof lines broken up: Positive one (+1) point.

Architectural Compatibility: Showed the proposed trash and recycling and bus shelter which match and the main building. Discussed the exterior treatments. Per the code the fiber cement board does not have to receive negative points if there are natural treatments too.

Cultured Stone: More than 25% per elevation of cultured stone incurs negative four (-4) points.

Location of bus shelter: Moved the bus stop to work. Positive four (+4) points for providing this shelter and pull out.

Policy 7R: Staff believes that the developer has done a good job of blending the building into the neighborhood. There is a large retaining wall in the rear of the property. Staff asked about stepping the tallest section into the hill above, but this pushes disturbance into Land Use District 1. We think it is better to have taller sections than disturb Land Use District 1. Do you believe that negative four (-4) points should be given for this?

There is also a proposal to use artificial material in the front; Versa Lock on the retaining wall. (Ms. Dudney: Is this stamped concrete or is it piece by piece?) It is piece by piece.

Policy 16 and 17: Access tees up directly across from the Rec Center, grading does work. There will be an emergency entrance provided. Pedestrian path will be put in to connect with the central Pinewood Village office. Good pedestrian access with this project. Staff is recommending positive three (+3) points. (Ms. Christopher: The sidewalk goes all the way to the bus stop?) Yes, it does go all the way to Claimjumper. Sidewalks will be all the way from Claimjumper driveway to the bus stop in Pinewood Village 1.

Landscaping: Positive four (+4) points. 103 trees total are proposed-mistake in the staff report; positive two (+2) points.

Parking: Does meet code requirements, no concerns here.

Utilities / Infrastructure: Sidewalks, 26R policy warrants positive four (+4) points.

Storage: We have asked that they look at providing more storage. Code requires 5% which the Applicant is exceeding this currently.

Recreational Opportunities: Single-track trail and outdoor area are provided; positive three (+3) points.

Snow Removal: Meets the snow storage requirement; Staff asked about removing some trees to better push snow into the retention pond.

Drainage: Engineers are reviewing this for final review.

Point Analysis: Total passing analysis of positive sixteen (+16) points.

Commissioner Questions / Comments:

Mr. Schuman: Who is putting in the sidewalk? (Mr. Thompson: Corum will be putting it along Airport Road the entire length of their property.)

Ms. Dudney: How is cultured stone made? (Mr. Thompson: It is concrete that is dyed.)

Mr. Schroder: Is there is precedent for gaining positive four (+4) points for a bus pullout? (Mr. Thompson: Yes, Shock Hill Master Plan Revision, and Sundowner II Condominium Remodel.) Internal circulation, they are earning positive three (+3) points; is this a precedent for positive points? (Mr. Thompson: Yes there are a few like the Breckenridge Design Center.) This seems a little funny that we are giving points for circulation. The retaining wall is our maximum multiplier maxed out on the retaining wall? (Mr. Thompson: Yes.)

Applicant Presentation:

Mr. Tim Casey: I think this is the third iteration and we are significantly down on units and number of buildings but we are pleased with how it works on the site. This is a Town Project that we have been asked to carry the ball on. We believe we have a site that works and is affordable and has the least impact. We appreciate your comments and the comments from the Community.

There were no questions for the Applicant.

Mr. Mamula opened the hearing for Public Comment:

Ms. Carol Rockne, 547 Broken Lance Drive: This project has come a long, long way and I appreciate it a lot. I have some questions. In your point analysis there is an error, there will be about 104 deciduous trees but in another location it says 63, when you have something in the point analysis and the proposal I wanted to know which will prevail. (Mr. Mamula: Once we get through the preliminary then the final we will evaluate again.) The retaining wall will be 16' tall, and then there is a trail above, is there any consideration for putting a fence there? For the construction, I'm hoping that they do things putting up outlets near the eaves that will work for the heat tape down the road. I hope the party walls will have insulation and be staggered. I hope the drainage pipes will be insulated. I really like this. Each unit will have a stacked washer and dryer? (Mr. Thompson: Yes.) That is great. Will there be some metal accents on the roof? (Mr. Thompson: Yes.) (Ms. Dudney: I'm confused on the number of trees.) (Mr. Thompson: The there are 104 trees; this will be corrected in the next staff report.)

Patrick McWilliams, Resident of Claimjumper: The south side Claimjumper residents have concerns on how near the driveway is to the south side of Claimjumper. (Mr. Thompson: Twenty feet at the closest point at the East end.) I appreciate the trees that were added, this is a wonderful new plan; I look forward to the bus stop and the sidewalk. Please put a crosswalk between Kingdom Park and these other units. Is the single track trail the one that will eventually connect to the Pence Miller trail? (Mr. Thompson: With an easement from Claimjumper.)

There was no further public comment and the hearing was closed.

There were two questions for the Planning Commission:

- 1) Did the Planning Commission agree with Staff's preliminary point analysis?
- 2) Did the Planning Commission have other concerns or comments on the proposal?

The Planning Department believes that Pinewood Village 2, PL-2014-0170, located at 837 Airport Road, Government Lot 14, with a passing point analysis, is ready to be scheduled for a Final Hearing.

Commissioner Questions / Comments:

Mr. Schuman: Does the color hue meet the code? (Mr. Thompson: Yes.)

Mr. Mamula: Are the Freeride people ok with the stop? (Mr. Thompson: Yes, this meets the standard and the pullout was requested.) I want to make sure that the Town will service this stop. (Mr. Thompson: From what Transit tells me, the Yellow is the busiest route, so yes, they plan on using it.) Is there a discussion about a crosswalk? (Mr. Thompson: I was told that the

sidewalk would get you down to Pinewood Village 1 where there is a crosswalk.) I think we need to ask the Town to add a crosswalk in front of this development because people will be crossing here. You could actually remove the one in front of the library as it is moving.

Mr. Schroder: Do we want to discuss 6R broken roof lines? To me it is not interesting, I feel that it breaks it falsely; I believe we don't offer the point.

Mr. Mamula: Is it a 50' roof line, have we allowed a 50' roof line with a clear story? (Mr. Grosshuesch: The elevation is unfair depiction because you won't ever see it this way, the dormers and the clear stories do break up the roof if we don't look from this vantage point.)

Mr. Lamb: I think there is precedent. (Mr. Mosher: Yes, the brewery and the distillery have this.) (Mr. Thompson: The distillery was the most recent case of this. The Planning Commission and Staff did ask the Applicant to step down the roof lines. I think they have done a good job. The light story will add light to the third floor hallways. If this isn't positive one (+1) point, then I don't know what is.)

Mr. Schuman: The West elevation has four dormers and the East has three dormers.

Mr. Mamula: We need to be careful of this I don't want to set precedent.

Ms. Dudney: I think it is worth positive one (+1) point because if we don't give it they could get rid of the clear story.

Mr. Schuman: If the color meets the Town chroma then I'm fine.

Mr. Mamula: Thank you for the change.

Mr. Payne (Developer): I would like to thank the staff and the community for helping us.

Mr. Mamula: Mr. Thompson, the staff report was easy to read. I liked the past precedent references; good job. Thank you.

COMBINED HEARINGS:

1) Re-subdivision of Tract B-2, Peak 7 Subdivision creating Public Open Space (MM) PL-2014-0164, Ski Hill Road

Mr. Mosher presented. Pursuant to the terms of the Annexation Agreement dated August 12, 2003 (Reception Number 730690, Section 5. 2.), the Applicant is required to transfer the 8.166 acre property (Tract B-4) to the Town as Public Open Space. This subdivision will codify this requirement.

In conjunction with the Peak 7 and 8 Subdivision Plan (PC#2003014) and the Peaks 7 and 8 Master Plan Annexation Agreement (Rec.# 730690), the applicant is required to transfer the subject property as Public Open Space in conjunction with applications for development permits within 5-years of the recordation of the Annexation Agreement. This transfer of this open space should have occurred in 2008, but the dedication is being processed now. Staff has no concerns.

Staff has advertised this application as a combined Preliminary and Final Hearing as the issues involved in the proposed project are such that no useful purpose would be served by requiring two separate hearings. This subdivision proposal is in general compliance with the Subdivision Standards. Staff recommends approval of Tract B-2 Resubdivision creating Tract B-4 as Public Open Space, PL-2014-0164, with the presented Findings and Conditions.

Commissioner Questions / Comments:

None.

Mr. Mamula opened the hearing to public comment.

Mr. Lou Cirillo, Owner of Lot 3, Peak 8 Place: The ponds above the trail (abandoned County Road 3) were maintained by Vail as well as the drainage. The ponds have failed and the drainage has failed over the years. I

want to make sure whoever going forward will be responsible to fix it. (Mr. Mosher: I believe this is outside the boundary so they will be maintained by Vail. However, I believe this will be a good opportunity with Open Space and Trails to address these concerns.)

There was no more public comment and the hearing was closed.

Mr. Lamb made a motion to approve the Re-subdivision of Tract B-2, Peak 7 Subdivision creating Public Open Space, PL-2014-0164, Ski Hill Road, with the presented Findings and Conditions. Ms. Christopher seconded, and the motion was approved unanimously (6-0).

OTHER MATTERS:

1) Class C Subdivisions Fourth Quarter Report (Memo Only)

2) Class D Majors Fourth Quarter Report (Memo Only)

Ms. Puester presented two memos summarizing Class C Subdivisions and Class D Majors approved since the last updates to the Commission in July of 2014.

Mr. Mamula: Can we have a site visit before the new Lincoln Park Bridge Street review? (Mr. Mosher: Yes, and I will ask the applicants to stake out some parameters of the site.)

Mr. Schuman: I have withdrawn my company's name from management for Lincoln Park so at that meeting maybe we can discuss the conflict of interest again.

Mr. Schroder: I had a neighbor ask me who they should send comments to. (Mr. Mosher: Send it to the Planner on the case which is me.)

Ms. Puester: Saving Places is February 4-6; if you can make it, please register yourself and then we will reimburse you. Also, we are trying to keep the Planning website up to date under Pending Projects. Feel free to send people to that about upcoming meeting for Class As and Bs. (Mr. Grossheusch: We are a Certified Local Government from the State and one of the things they look for is Planning Commissioner training. We stay in good standing if you attend the Saving Places conferences.)

ADJOURNMENT:

The meeting was adjourned at 8:25 pm.

Eric Mamula, Chair



MEMORANDUM

To: Mayor and Town Council
From: Shannon Haynes, Chief of Police
Date: January 5, 2014
Subject: Handicap parking changes

In 2014 HB 14-1029 passed the Colorado legislature and was signed by the Governor. The law essentially rewrites the state laws dealing with handicapped parking on both public and private property.

The new state law rewrites in its entirety the state statute regarding handicapped parking. In order to keep our local handicap ordinance in line with state statute, staff recommends amending Section 1208 of the Model Traffic Code as adopted by the Town to make the Town's Traffic Code match with the new state law.

Updates to the current Town Code include:

- Allowing for a motor vehicle with an identifying plate or placard to park in public parking, along public streets regardless of any time limitation, but for no more than four hours.
- Clarifying fines for each violation.
- Adding a violation for the creation or use of a device intended to give the impression that it is an identifying placard when viewed from outside the vehicle.

I will be present at the work session on Tuesday, January 13th to answer questions.

1 ***FOR WORKSESSION/FIRST READING – JAN. 13***

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 2015

9
10 AN ORDINANCE AMENDING THE MODEL TRAFFIC CODE FOR COLORADO, 2010
11 EDITION, CONCERNING RESERVED PARKING FOR PERSONS WITH DISABILITIES

12
13 WHEREAS, Section 42-4-110(1)(b), C.R.S., authorizes local authorities to adopt by
14 reference a model traffic code embodying the rules of the road and vehicle requirements set forth
15 in Article 4 of Title 42, C.R.S., and such additional local regulations as are provided for in
16 Section 42-4-111, C.R.S.; and

17
18 WHEREAS, the Town of Breckenridge has adopted (and amended) the Model Traffic
19 Code For Colorado, 2010 edition, as the Traffic Code for the Town; and

20
21 WHEREAS, Section 1208 of the Model Traffic Code For Colorado, 2010 edition, deals
22 with parking privileges for persons with disabilities; and

23
24 WHEREAS, Section 1208 of the Model Traffic Code For Colorado, 2010 edition, is the
25 local counterpart of Section 42-4-1208, C.R.S.; and

26
27 WHEREAS, the Colorado legislature recently adopted and the Governor signed into law
28 HB14-1029, entitled “An Act Concerning a Recodification of Laws Governing Reserved Parking
29 For Persons With Disabilities, And, In Connection Therewith, Making and Reducing
30 Appropriations”; and

31
32 WHEREAS, among other actions, HB14-1029 repealed and reacted with changes Section
33 42-4-1208, C.R.S.; and

34
35 WHEREAS, the Town Council finds, determines, and declares that Section 1208 of the
36 Model Traffic Code For Colorado, 2010 edition, should be amended as set forth in this
37 ordinance.

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

41
42 Section 1. The unnumbered paragraph of Section 7-1-2 of the Breckenridge Town Code
43 that amends Section 1208 of the Model Traffic Code For Colorado, 2010 edition, is repealed

1 and readopted with changes to read as follows:
2

3 **Section 1208 of the adopted code is amended to read in its entirety as follows:**
4

5 **1208. Reserved parking for persons with disabilities - applicability - rules.**
6

7 **(1) Definitions. As used in this section:**

8 (a) **“Department of Revenue” means the Colorado Department of Revenue.**

9 (b) **“Disability” or “disabled” has the same meaning as set forth in Section 42-3-204,**
10 **C.R.S.**

11 (c) **“Holder” means a person with a disability who has lawfully obtained an**
12 **identifying plate or placard.**

13 (d) **“Identifying figure” has the same meaning as set forth in Section 42-3-**
14 **204, C.R.S.**

15 (e) **“Identifying placard” has the same meaning as set forth in section 42-3-**
16 **204,C.R.S.**

17 (f) **“Identifying plate” has the same meaning as set forth in Section 42-3-204,**
18 **C.R.S.**

19 (g) **“Reserved parking” means a parking space reserved for a person with a**
20 **disability.**

21 **(2) Use of Plate or Placard.**

22 (a) **A person with a disability may use reserved parking on public property**
23 **or private property if the person displays an identifying plate or placard**
24 **while using reserved parking.**

25 (b) **When an identifying placard is used for reserved parking, the driver of**
26 **the parked motor vehicle shall ensure that the front of the identifying**
27 **placard is legible and visible through the windshield when viewed from**
28 **outside the vehicle. The driver shall hang the placard from the rear-view**
29 **mirror unless a rear-view mirror is not available or the individual is**
30 **physically unable to hang the placard from the rear-view mirror. If the tag is**
31 **not hung from the rear-view mirror, the driver shall display it on the**
32 **dashboard.**

33 (c) **A person with a disability who is a resident of a state other than Colorado may**
34 **use reserved parking in the Town if the motor vehicle displays an identifying plate**
35 **or placard issued by a state other than Colorado, and if:**

1 (I) The identifying plate or placard is currently valid in the state of issuance and
2 meets the requirements of 23 CFR 1235; and

3 (II) The holder has not been a resident in Colorado for more than ninety days.

4 (d) A motor vehicle with an identifying plate or a placard may be parked in
5 public parking areas along public streets or in private parking lots within the
6 Town regardless of any time limitation imposed upon parking in the area;
7 provided, however, no such vehicle may be parked in any reserved parking
8 on any public street within the Town for more than four consecutive hours.
9 The Town shall clearly post the appropriate time limits in the area(s) of the
10 Town where the four hour parking limitation is applicable. The ability to
11 park notwithstanding parking limitations does not apply to areas in which:

12 (I) Stopping, standing, or parking of all vehicles is prohibited;

13 (II) Only special vehicles may be parked; or

14 (III) Parking is not allowed during specific periods of the day in order to
15 accommodate heavy traffic.

16 (e) (I) The owner of public or private property within the Town may request the
17 installation of official signs or pavement markings identifying reserved parking
18 spaces. The request operates as a waiver of any objection the owner may assert
19 concerning enforcement of this section by a peace officer or a community service
20 officer. A peace officer or a community service officer may enforce this section on
21 private property notwithstanding any provision of law to the contrary.

22 (II)(A) The number and placement of accessible parking spaces should meet or
23 exceed Section 1106 of Chapter 11 of the 2012 (Second Printing) version of the
24 International Building Code, or any succeeding standard, published by the
25 International Code Council.

26 (B) The technical standards for accessible parking spaces should meet or exceed
27 section 502 of the 2009 version of ANSI A117.1, or any succeeding standard,
28 published by the International Code Council.

29 (C) Access aisles should post a “Wheelchair Access Aisle Absolutely No Parking”
30 sign, which blocks neither the access aisle nor accessible routes.

31 (D) The technical standards for post- or wall-mounted signs indicating accessible
32 parking spaces and van-accessible parking spaces should meet or exceed section
33 2B.46 concerning parking, standing, and stopping signs and section 2B.47
34 concerning design of parking, standing, and stopping of the 2009 version of the
35 Manual on Uniform Traffic Control Devices, or any succeeding standard, published
36 by the United States Federal Highway Administration.

1 (III) The owner of real property within the Town with multi-family residential
2 dwelling affixed and with reserved parking shall retain the reserved parking as
3 commonly owned for the tenants, owners, or visitors of the individual units within
4 the dwellings. This subparagraph (III) does not prohibit the sale of all commonly
5 owned property so long as the reserved parking is not severed from the other
6 elements.

7 (IV) A person shall not impose restrictions on the use of disabled parking unless
8 specifically authorized by a statute of Colorado and a resolution or ordinance duly
9 adopted by the Town Council of the Town, and notice of the restriction is
10 prominently posted by a sign clearly visible at the parking space.

11 (3) Misuse of Reserved Parking.

12 (a) A person without a disability shall not park in a parking space on public
13 or private property that is clearly identified by an official sign or by visible
14 pavement markings as being reserved parking or as being a passenger
15 loading zone unless:

16 (I) The person is parking the vehicle for the direct benefit of a person with a
17 disability to enter or exit the vehicle while it is parked in the reserved parking space; and

18 (II) An identifying plate or placard obtained under or authorized by Section 42-3-
19 204, C.R.S., is displayed in or on the vehicle if the license plate or placard is currently valid
20 or has expired less than one month before the day the person used the reserved parking.

21 (b)(I) A person, after using a reserved parking space that has a time limit, shall not
22 switch motor vehicles or move the motor vehicle to another reserved parking space
23 within one hundred yards of the original parking space within the same eight hours
24 in order to exceed the time limit.

25 (II)(A) Parking in a time-limited reserved parking space for more than three hours
26 for at least three days a week for at least two weeks creates a rebuttable
27 presumption that the person is violating this paragraph (b).

28 (B) This subparagraph (II) does not apply to privately owned parking spaces.

29 (c) A person shall not use reserved parking for a commercial purpose unless:

30 (I) The purpose relates to transacting business with a business the reserved parking
31 is intended to serve; or

32 (II) The owner of private property consents to allow the use.

33 (d)(I) An employee of an entity shall not use an identifying placard issued to the
34 entity unless the employee is transporting persons with disabilities.

1 (II) For a violation of this paragraph (d), the chief operations officer within
2 Colorado of the entity to whom the placard or plate was issued and the
3 offending employee are each subject to the penalties established by the
4 municipal judge.

5 (III) (A) It is an affirmative defense to a violation of this paragraph (d) for
6 the chief operations officer within Colorado that the entity enforces an
7 internal policy controlling access to and use of identifying placards issued to
8 the entity.

9 (B) If the placard used is expired by operation of Section 42-3-204 (6) (f),
10 C.R.S., it is an affirmative defense to a violation of this paragraph (d) that
11 the person did not know the placard was expired if the person who used the
12 placard was the person to whom it was issued.

13 (e) (I) A person who violates paragraph (a) of this Subsection (3) shall be punished
14 by a fine of \$100.00; provided, however, that any person who violates paragraph (a)
15 of this Subsection (3) by parking a vehicle owned by or leased to a commercial
16 carrier as defined in subsection (15) of the appendix to this code (Definitions) shall
17 be punished by a fine of \$200.00.

18 (II) A person who violates paragraphs (b) to (d) of this Subsection (3) shall be
19 punished by a fine of \$100.00..

20 (4) Blocking Access.

21 (a) Regardless of whether a person displays an identifying plate or placard, a person
22 shall not park a vehicle so as to block reasonable access to curb ramps, passenger
23 loading zones, or accessible routes, as identified in 28 CFR Part 36 Appendix A, that
24 are clearly identified unless the person is actively loading or unloading a person
25 with a disability.

26 (b) A person who violates this subsection (4) shall be punished by a fine of
27 \$100.00..

28 (5) Fraud and Trafficking.

29 (a) It is unlawful for a person to:

30 (I) Knowingly and fraudulently obtain, possess, use, or transfer an identifying
31 placard issued to a person with a disability;

32 (II) Knowingly make, possess, use, alter, or transfer what purports to be, but is not,
33 an identifying placard; or

1 (III) Knowingly create or use a device intended to give the impression that it is an
2 identifying placard when viewed from outside the vehicle.

3 (b) It is unlawful and a misdemeanor municipal offense for any person to violate
4 any provision of this subsection (5). Any person convicted of having violated any
5 provision of this subsection (5) shall be punished by a minimum fine of \$999. No
6 portion of such fine may be suspended by the Municipal Judge.

7
8 (6) Enforcement of Reserved Parking.

9 (a) A peace officer or a community service officer may check the
10 identification of a person using an identifying plate or placard in order to
11 determine whether the use is authorized.

12 (b)(I) A peace officer or a community service officer may confiscate an identifying
13 placard that is being used in violation of this section.

14 (II) The peace officer or a community service officer shall send a confiscated
15 placard to the Department of Revenue unless it is being held as evidence for
16 prosecution of a violation of this section. If the tag is being held as evidence, the
17 peace officer or a community service officer shall notify the Department of Revenue
18 of the confiscation and pending charges.

19 (III) The Department of Revenue shall hold and may dispose of a confiscated
20 placard in accordance with Section 42-4-1208(6)(b)(III), C.R.S.

21 (c) A peace officer or a community service officer may investigate an
22 allegation that a person is violating this section.

23 (d) A person who observes a violation of this section may submit evidence,
24 including a sworn statement, concerning the violation to any law
25 enforcement agency.

26 (e)(I) A peace officer or a community service officer may issue a penalty assessment
27 notice for a violation of paragraph (b), (c), or (d) of subsection (3) of this section by
28 sending it by certified mail to the registered owner of the motor vehicle. The officer
29 shall include in the penalty assessment notice the offense or infraction, the time and
30 place where it occurred, and a statement that the payment of the penalty assessment
31 and a surcharge is due within twenty days after the issuance of the notice. The
32 municipal court receives payment of the penalty assessment by the due date if the
33 payment is received or postmarked by the twentieth day after the vehicle owner
34 received the penalty assessment notice.

35 (II) If the penalty assessment and surcharge are not paid within twenty days after
36 the date the vehicle owner receives the assessment notice specified in subparagraph
37 (I) of this paragraph (e), the peace officer or community service officer who issued

1 the original penalty assessment notice shall file a complaint with a the municipal
2 court and issue and serve upon the registered owner of the vehicle a summons to
3 appear in court at the time and place specified.

4 (f)(I) The municipal court shall send certification of the entry of judgment for each
5 violation of paragraph (b), (c), or (d) of subsection (3) of this section to the
6 department.

7 (II) Upon receipt of certification of an entry of judgment for a violation of
8 paragraph (b), (c), or (d) of subsection (3) of this section, the Department of
9 Revenue shall not register the person's vehicle until all fines imposed for the
10 violations have been paid to the Town as provided in Section 42-4-1208(6)(f)(II),
11 C.R.S.

12 (III) Upon receipt of certification or independent verification of an entry of
13 judgment, the Department of Revenue shall revoke an identifying plate or placard
14 as provided in section 42-3-204 (7) (d), C.R.S., as provided in Section 42-4-
15 1208(6)(f)(III), C.R.S.

16 (g)(I) Notwithstanding any other provision of this section to the contrary, a holder is
17 liable for any penalty or fine for any misuse of an identifying plate or placard,
18 including the use of such plate or placard by any person other than a holder, unless
19 the holder furnishes sufficient evidence that the identifying plate or placard was, at
20 the time of the violation, in the care, custody, or control of another person without
21 the holder's knowledge or consent.

22 (II) A holder may avoid the liability described in subparagraph (I) of this
23 paragraph (g) if, within a reasonable time after notification of the violation, the
24 holder furnishes to the Town prosecutor or the Police Department the name and
25 address of the person who had the care, custody, or control of the identifying plate
26 or placard at the time of the violation or the holder reports the license plate or
27 placard lost or stolen to both the Police Department and the department.

28 (h) An employer shall not forbid an employee from reporting violations of this
29 section. A person shall not initiate or administer any disciplinary action against an
30 employee because the employee notified the authorities of a possible violation of this
31 section if the employee has a good-faith belief that a violation has occurred.

32 (i) A landlord shall not retaliate against a tenant because the tenant notified
33 the authorities of a possible violation of this section if the tenant has a good-
34 faith belief that a violation has occurred.

35 (j) In order to stop a vehicle from blocking access or illegally using reserved
36 parking, a peace officer or a community service officer may order a vehicle
37 that is used to violate this subsection to be towed to an impound lot or a
38 vehicle storage location. The peace officer shall verify that the vehicle has not

1 been stolen and report the fact of the tow to the Department of Revenue in
2 accordance with Section 42-4-1804, C.R.S.

3 (k) [INTENTIONALLY OMITTED]

4 Section 2. The repeal and readoption of Section 1208 of the Model Traffic Code For
5 Colorado, 2010 edition, as provided in this ordinance, shall not affect or prevent the prosecution
6 or punishment of any person for any act done or committed in violation of Section 1208 of
7 Model Traffic Code For Colorado, 2010, as it existed prior to the this ordinance taking effect.
8

9 Section 3. Except as specifically amended hereby, the Breckenridge Town Code, and the
10 various secondary codes adopted by reference therein, shall continue in full force and effect.
11

12 Section 4. The Town Council hereby finds, determines and declares that this ordinance
13 is necessary and proper to provide for the safety, preserve the health, promote the prosperity,
14 and improve the order, comfort and convenience of the Town of Breckenridge and the
15 inhabitants thereof.
16

17 Section 5. The Town Council hereby finds, determines and declares that it has the power
18 to adopt this ordinance pursuant to: (i) Section 42-4-110(1)(a), C.R.S.; (ii) Section 42-4-
19 111(1)(A), C.R.S; (iii) Section 42-4-1208, C.R.S.; (iv) Section 31-15-103, C.R.S. (concerning
20 municipal police powers); (v) Section 31-15-401, C.R.S.(concerning municipal police powers);
21 (vi) the authority granted to home rule municipalities by Article XX of the Colorado
22 Constitution; and (vii) the powers contained in the Breckenridge Town Charter.
23

24 Section 6. This ordinance shall be published as provided by Section 5.9 of the
25 Breckenridge Town Charter.
26

27 Section 7. The ordinance shall not become effective with respect to any state highway
28 located within the corporate limits of the Town of Breckenridge until it has been approved by
29 the Colorado Department of Transportation pursuant to Sections 42-4-110(1)(e) and 43-2-
30 135(1)(g), C.R.S.
31

32 INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED
33 PUBLISHED IN FULL this ____ day of _____, 2015. A Public Hearing shall be held at the
34 regular meeting of the Town Council of the Town of Breckenridge, Colorado on the ____ day of
35 _____, 2015, at 7:30 P.M., or as soon thereafter as possible in the Municipal Building of the
36 Town.
37
38

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: Shannon Haynes, Chief of Police
Date: January 5, 2014
Subject: Sale/Purchasing/Possession of tobacco by minors

Town code and State statute currently address both the purchase and sale of cigarettes to minors. Recently, the state amended the statutes governing the sale, purchase, and possession of nicotine products by minors to add e-cigarettes to the definition of a tobacco or nicotine product. After a review of state changes, staff is recommending Council consider an update to local ordinances to keep in line with state statute, as well as the impending update to the Town Smoking Ordinance adding an "Electronic Smoking Device" to the "Tobacco" definition.

In addition to including consistent definitions for "Tobacco" within Town code, staff recommends clearly defining ramifications for selling to an underage person and for underage purchase or possession.

I will be present at the work session on Tuesday, January 13th to answer questions.

1 ***FOR WORKSESSION/FIRST READING – JAN. 13***

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 2015

9
10 AN ORDINANCE AMENDING CHAPTER 3F OF TITLE 6 OF THE BRECKENRIDGE
11 TOWN CODE BY PROHIBITING THE FURNISHING OF CIGARETTES, TOBACCO
12 PRODUCTS, AND NICOTINE PRODUCTS TO PERSONS UNDER EIGHTEEN YEARS OF
13 AGE; AND PROHIBITING THE POSSESSION OF CIGARETTES, TOBACCO PRODUCTS,
14 AND NICOTINE PRODUCTS BY PERSONS UNDER EIGHTEEN YEARS OF AGE; AND
15 PROVIDING PENALTIES FOR VIOLATIONS OF SUCH PROHIBITIONS

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

19
20 Section 1. Sections 6-3F-12 and 6-3F-13 of the Breckenridge Town Code are repealed.

21
22 **The repealed sections read as follows:**

23
24 **6-3F-12: UNLAWFUL PURCHASING OF CIGARETTES BY UNDERAGE**
25 **PERSON:**

26
27 **It shall be unlawful for any person who is under the age of eighteen (18) years to**
28 **purchase any cigarettes or tobacco products.**

29
30 **6-3F-13: UNLAWFUL SALE OF CIGARETTES TO UNDERAGE PERSON:**

31
32 **It shall be unlawful for any person to sell, give away, dispose of, exchange, or**
33 **deliver, or to permit the sale, giving away, disposal, exchange, or delivery of**
34 **cigarettes or tobacco products to or for any person under the age of eighteen (18)**
35 **years. This offense is a strict liability offense.**

36
37 Section 2. Chapter 3F of Title 6 of the Breckenridge Town Code is amended by the
38 addition of a new Section 6-3F-12, which shall read in its entirety as follows:

39
40 **6-3F-12: FURNISHING CIGARETTES, TOBACCO PRODUCTS, OR**
41 **NICOTINE PRODUCTS TO MINORS PROHIBITED:**

42
43 **(1) (a) As used in this section, “cigarette, tobacco product, or nicotine**
44 **product” means:**

1
2 (I) A product that contains nicotine or tobacco or is derived from tobacco
3 and is intended to be ingested or inhaled by or applied to the skin of an
4 individual; or

5
6 (II) Any device that can be used to deliver tobacco or nicotine to the person
7 inhaling from the device, including, but not limited to, an electronic smoking
8 device as defined in Section 5-9-2 of this Code.

9
10 (b) Notwithstanding any provision of paragraph (a) of this subsection (1) to
11 the contrary, “cigarette, tobacco product, or nicotine product” does not
12 mean a product that the Food and Drug Administration of the United States
13 Department of Health and Human Services has approved as a tobacco use
14 cessation product.

15
16 (2) (a) A person shall not give, sell, distribute, dispense, or offer for sale a
17 cigarette, tobacco product, or nicotine product to any person who is under
18 eighteen years of age.

19
20 (b) Before giving, selling, distributing, dispensing, or offering to sell to any an
21 individual any cigarette, tobacco product, or nicotine product, a person shall
22 request from the individual and examine a government-issued photographic
23 identification that establishes that the individual is eighteen years of age or
24 older; except that, in face-to-face transactions, this requirement is waived if
25 the individual appears older than thirty years of age.

26
27 (c) A person who violates paragraph (a) or (b) of this subsection (2) commits
28 an infraction and, upon an entry of judgment for such violation, shall be
29 punished by a fine of two hundred dollars.

30
31 (d) It is an affirmative defense to a prosecution under paragraph (a) of this
32 subsection (2) that the person furnishing the cigarette, tobacco product, or
33 nicotine product was presented with and reasonably relied upon a document
34 that identified the individual receiving the cigarette, tobacco product, or
35 nicotine product as being eighteen years of age or older.

36
37 (3) (a) A person who is under eighteen years of age and who purchases or
38 attempts to purchase any cigarette, or tobacco products, or nicotine product
39 commits an infraction and, upon entry of judgment for such violation, shall
40 be punished by a fine of one hundred dollars. For a first offense under this
41 paragraph (3)(a) the Municipal Court, in lieu of a fine, may sentence the
42 person to participate in a tobacco education program.

43
44 (b) It is not an offense under paragraph (a) of this subsection (3) if the person
45 under eighteen years of age was acting at the direction of an employee of a

1 governmental agency authorized to enforce or ensure compliance with laws
2 relating to the prohibition of the sale of cigarettes, and tobacco products, or
3 nicotine products to minors.
4

5 Section 3. Chapter 3F of Title 6 of the Breckenridge Town Code is amended by the
6 addition of a new Section 6-3F-13, which shall read in its entirety as follows:
7

8 **6-3F-13: POSSESSION OF CIGARETTES, TOBACCO PRODUCTS, OR**
9 **NICOTINE PRODUCTS BY MINORS PROHIBITED:**
10

11 **(1) As used in this section, unless the context otherwise requires:**
12

13 **(a) “Cigarette, tobacco product, or nicotine product” has the same meaning**
14 **as set forth in Section 6-3F-12(1)(a) of this Code. Notwithstanding any**
15 **provision of paragraph (a) of this subsection (1) to the contrary, “cigarette,**
16 **tobacco product, or nicotine product” does not mean a product that the Food**
17 **and Drug Administration of the United States Department of Health and**
18 **Human Services has approved as a tobacco use cessation product.**
19

20 **(b) “Possession” means that a person:**
21

22 **(I) Has or holds any amount of cigarettes, tobacco products, or nicotine**
23 **products anywhere on his or her person;**
24

25 **(II) Owns or has custody of cigarettes, tobacco products, or nicotine**
26 **products; or**
27

28 **(III) Has cigarettes, tobacco products, or nicotine products within his or her**
29 **immediate presence and control.**
30

31 **(2)(a) Possession of a cigarette, tobacco product, or nicotine product by a**
32 **person who is under eighteen years of age is an infraction and, upon entry of**
33 **judgment for such violation, shall be punished by a fine of one hundred**
34 **dollars. For a first offense under this paragraph (2)(a) the Municipal Court,**
35 **in lieu of a fine, may sentence the person to participate in a tobacco**
36 **education program.**
37

38 **(b) It is not an offense under paragraph (a) of this subsection (2) if the person**
39 **under eighteen years of age was acting at the direction of an employee of a**
40 **governmental agency authorized to enforce or ensure compliance with laws**
41 **relating to the prohibition of the sale of cigarettes, tobacco products or**
42 **nicotine products to minors.**
43

44 Section 4. Section 6-3-2 of the Breckenridge Town Code is amended to read as follows:
45

1 6-3-2: FINES AND PENALTIES

2
3 Every person convicted of a violation of any provision of this chapter shall be
4 punished as provided in ~~section 1-4-1~~ Chapter 4 of Title 1 of this code.

5
6 Section 5. Except as specifically amended by this ordinance, the Breckenridge Town
7 Code, and the various secondary codes adopted by reference therein, shall continue in full force
8 and effect.

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

14
15 Section 7. The Town Council finds, determines and declares that it has the power to
16 adopt this ordinance pursuant to: (i) Section 18-13-121, C.R.S.; (ii) Section 25-14-301, C.R.S.;
17 (iii) Section 31-15-103, C.R.S. (concerning municipal police powers); (iv) Section 31-15-401,
18 C.R.S. (concerning municipal police powers); (v) the authority granted to home rule
19 municipalities by Article XX of the Colorado Constitution; and (vi) the powers contained in the
20 Breckenridge Town Charter.

21
22 Section 8. The Town Council finds, determines and declares that it has the power to
23 adopt this ordinance pursuant to the authority granted to home rule municipalities by Article XX
24 of the Colorado Constitution and the powers contained in the Breckenridge Town Charter.

25
26 Section 9. This ordinance shall be published and become effective as provided by Section
27 5.9 of the Breckenridge Town Charter.

28
29 INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED
30 PUBLISHED IN FULL this ____ day of _____, 2015. 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 _____, 2015, at 7:30 P.M., or as soon thereafter as possible in the Municipal Building of the
33 Town.

34
35 TOWN OF BRECKENRIDGE, a Colorado
36 municipal corporation

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40 By: _____
41 John G. Warner, Mayor
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ATTEST:

Helen Cospolich
Town Clerk



MEMORANDUM

To: Mayor and Town Council
From: Shannon Haynes, Chief of Police
Date: January 5, 2014
Subject: Smoking Ordinance changes

Over the last several months Council has discussed potential changes to ordinances related to smoking and tobacco use. Based on these discussions and a review of public feedback related to the enactment of buffer areas around entryways to businesses and around outdoor restaurant seating areas, staff is recommending the following changes:

- The addition of the definition for “Environmental Tobacco Smoke”, which includes vapor and aerosol from an electronic smoking device or from the smoker.
- The inclusion of any outdoor dining area to the definition of a “Food Service Establishment”.
- The addition of the definitions for “Electronic Smoking Device” and “Entryway”.
- The inclusion of all electronic smoking devices and similar products to current smoking and tobacco restrictions.
- An update to the current “General Smoking Restrictions” to include:
 - Entryways to all buildings and facilities;
 - On or within 10 feet of an outdoor dining area of any bar or food service establishment;
 - Town owned parks and open space areas;
 - Town owned outdoor sporting and athletic fields and facilities;
 - Town of Breckenridge public golf course grounds and buildings, excluding the course of play;
 - The paved recreation path;
 - Transit facilities (indoor and outdoor) and within 10 feet of a public transit facility waiting area.

An announcement of Council’s impending review of the Town smoking ordinance was provided to the Breckenridge Restaurant Association and GoBreck. It was also distributed via social media and a press release to the Summit Daily News.

I will be present at the work session on Tuesday, January 13th to answer questions.

1 ***FOR WORKSESSION/FIRST READING – JAN. 13***

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 2015

9
10 AN ORDINANCE AMENDING CHAPTER 9 OF TITLE 5 OF THE BRECKENRIDGE
11 TOWN CODE; MAKING ELECTRONIC SMOKING DEVICES SUBJECT TO THE TOWN’S
12 “SMOKING ORDINANCE”; AND AMENDING THE LIST OF INDOOR AND OUTDOOR
13 AREAS OF THE TOWN WHERE SMOKING IS PROHIBITED

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

17
18 Section 1. Section 5-9-1(A) of the Breckenridge Town Code is amended by the addition
19 of a new subsection (5) as follows:

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

21 . . .

22 **5. Current evidence suggests that the use of electronic smoking devices,**
23 **including, without limitation, electronic cigarettes, increases the exposure of**
24 **bystanders to potentially harmful exhaled aerosol toxicants, and further**
25 **reduces the incentive for smokers to quit using tobacco products. In addition,**
26 **the use of electronic smoking devices in places where smoking is currently**
27 **prohibited may frustrate the reasonable expectation of bystanders in such**
28 **places that there will be no risk increase from any product in the air they**
29 **breathe, even though there may be some degree of diminished risk from the**
30 **use of electronic smoking devices in comparison to second-hand smoke.**

31 Section 2. Section 5-9-1(B) of the Breckenridge Town Code is amended to read as
32 follows:

33 B. The Town Council hereby declares that the purpose of this chapter is to
34 preserve and improve the health, comfort, and environment of the people of the
35 town by limiting exposure to **environmental** tobacco smoke.

36
37 Section 3. The definition of “Bar” in Section 5-9-2 of the Breckenridge Town Code is
38 amended to read as follows:

BAR: Any ~~indoor~~ area that is operated and licensed

under article 47 of title 12, Colorado Revised Statutes, primarily for the sale and service of alcohol beverages for on premises consumption and where the service of food is secondary to the consumption of such beverages. **“Bar” includes, without limitation, any outdoor dining area operated as part of the licensed premises.**

1
2 Section 4. The definition of “Environmental Tobacco Smoke” in Section 5-9-2 of the
3 Breckenridge Town Code is amended to read as follows:
4

ENVIRONMENTAL TOBACCO
AND MARIJUANA SMOKE:

The complex mixture formed from the escaping smoke of burning tobacco or marijuana, and smoke exhaled by the smoker. **“Environmental Tobacco Smoke” also includes the escaping vapor or aerosol of an electronic smoking device, also known as “side stream smoke,” and vapor or aerosol exhaled by the smoker.**

5
6 Section 5. The definition of “Food Service Establishment” in Section 5-9-2 of the
7 Breckenridge Town Code is amended to read as follows:

FOOD SERVICE
ESTABLISHMENT:

Any ~~indoor~~ area or portion thereof in which the principal business is the sale of food for on premises consumption. The term includes, without limitation, restaurants, cafeterias, coffee shops, diners, sandwich shops, and short order cafes. **“Food Service Establishment” includes, without limitation, any outdoor dining area operated as part of the business.**

8
9 Section 6. The definition of “Smoking” in Section 5-9-2 of the Breckenridge Town Code
10 is amended to read as follows:
11

SMOKING:

(i) The burning of a lighted cigarette, cigar, pipe, or any other matter or substance that contains tobacco or marijuana, **or (ii) the active use of an electronic smoking device.**

12 Section 7. The definition of “Tobacco” in Section 5-9-2 of the Breckenridge Town Code
13 is amended to read as follows:

TOBACCO:

Cigarettes, cigars, cheroots, stogies, and periques; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff and

snuff flour; cavendish; plug and twist tobacco; fine cut and other chewing tobacco; shorts, refuse scraps, clippings, cuttings, and sweepings of tobacco; and other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or for smoking in a cigarette, pipe, or otherwise, or both for chewing and smoking. "Tobacco" also includes cloves and any other plant matter or product that is packaged for smoking, **and tobacco prepared, treated, or modified in such a manner that it may be ingested through the use of an electronic smoking device.**

1
2 Section 8. Section 5-9-2 of the Breckenridge Town Code is amended by the addition of
3 the following definitions:

**ELECTRONIC SMOKING
DEVICE:**

An electric or battery-operated device, the use of which resembles conventional smoking, which can be used to deliver a vapor of nicotine, vapor of a solution including nicotine, or aerosol of a solution including nicotine, or any other substance or flavor for inhalation. Electronic smoking device shall include, without limitation, an electronic cigarette, cigar, cigarillo, pipe, hookah, or any similar device. The term "electronic smoking device" does not include any device specifically approved by the United States Food and Drug Administration for use as a tobacco use cessation product, when such device is being used solely for such approved purpose.

ENTRYWAY:

The outside of a public doorway leading into a building or facility that is not exempted from this Chapter under Section 5-9-4. "Entryway" also includes the area of public or private property within a ten (10) foot radius outside of the doorway.

4
5 Section 9. Section 5-9-3 of the Breckenridge Town Code is amended to read as follows:

6
7 **5-9-3: GENERAL SMOKING RESTRICTIONS:**

- 1 A. Except as provided in section 5-9-4 of this chapter, and in order to reduce the levels of
2 exposure to environmental tobacco and marijuana smoke, smoking shall not be permitted
3 and no person shall smoke in any indoor area, including, but not limited to:
- 4 1. Public meeting places;
 - 5 2. Elevators;
 - 6 3. Government owned or operated means of mass transportation, including, but not
7 limited to, buses, vans, trains, **indoor public transit facilities and waiting areas**, and
8 transit shelters;
 - 9 4. Taxicabs and limousines;
 - 10 5. Gondolas;
 - 11 6. Grocery stores;
 - 12 7. Gymnasiums;
 - 13 8. Jury waiting and deliberation rooms;
 - 14 9. Courtrooms;
 - 15 10. Child daycare facilities;
 - 16 11. Healthcare facilities including hospitals, healthcare clinics, doctor's offices, and other
17 healthcare related facilities;
 - 18 **12. Retail stores:**
 - 19 13. Food service establishments;
 - 20 14. Bars;
 - 21 15. Indoor sports arenas **and facilities**;
 - 22 16. Restrooms, lobbies, hallways, and other common areas in public and private
23 buildings, condominiums, and other multiple-unit residential facilities;
 - 24 17. Restrooms, lobbies, hallways, and other common areas in hotels and motels, and in at
25 least seventy five percent (75%) of the sleeping quarters within a hotel or motel that are
26 rented to guests;
 - 27 18. Bowling alleys;

- 1 19. Billiard or pool halls;
- 2 20. Facilities in which games of chance are conducted;
- 3 21. The common areas of retirement facilities, publicly owned housing facilities, and
4 nursing homes, not including any resident's private residential quarters;
- 5 22. Public buildings;
- 6 23. Auditoria;
- 7 24. Theaters;
- 8 25. Museums;
- 9 26. Libraries;
- 10 27. To the extent not otherwise provided in section 25-14-103.5, Colorado Revised
11 Statutes, public and nonpublic schools;
- 12 28. Other educational and vocational institutions; ~~and~~
- 13 29. Town owned motor vehicles; and
- 14 30. Any place of employment that is not exempted. In the case of employers who own
15 facilities otherwise exempted from this chapter, each such employer shall provide a
16 smoke free work area for each employee requesting not to have to breathe environmental
17 tobacco and marijuana smoke. Every employee shall have a right to work in an area free
18 of environmental tobacco and marijuana smoke.

19 **B. In order to reduce the levels of exposure to environmental tobacco and marijuana**
20 **smoke, smoking shall not be permitted and no person shall smoke in any of the**
21 **following outdoor areas:**

22 **1. The entryways of all buildings and facilities listed in Subsection A of this**
23 **Section.**

24 **2. On or within a ten (10) foot radius of an outdoor dining area of a bar or food**
25 **service establishment.**

26 **3. Town owned parks and open space areas;**

27 **4. Town owned outdoor sporting and athletic fields and facilities;**

28 **5. The Town of Breckenridge public golf course grounds and buildings, excluding**
29 **the course of play; and**

1 **6. The paved recreational pathway running generally northerly and southerly**
2 **within the Town commonly known as the “bike path.”**

3 **7. Within a ten (10) foot radius of a public transit facility waiting area.**

4 Section 10. Section 5-9-4(E) of the Breckenridge Town Code is repealed.

5
6 NOTE: The repealed section provides an exemption from the Smoking Ordinance for:

7
8 E. The entryways of all buildings and facilities listed in Section 5-9-3 of this Chapter;

9
10 Section 11. Section 5-9-4(D) of the Breckenridge Town Code is amended to read as
11 follows:

12 D. **The indoor area of a**Any retail tobacco business.

13
14 Section 5-9-4(D) of the Breckenridge Town Code is deleted.

15
16 NOTE: The deleted section reads:

17
18 D. The entryways of all buildings and facilities listed in Section 5-9-3 of this Chapter,
19 except as provided in Section 5-9-3(B).

20
21 Section 12. Section 5-9-4(F) of the Breckenridge Town Code is amended to read as
22 follows:

23
24 F. The outdoor area of any business, **except as provided in Section 5-9-3(B).**

25
26 Section 13. Except as specifically amended by this ordinance, the Breckenridge Town
27 Code, and the various secondary codes adopted by reference therein, shall continue in full force
28 and effect.

29
30 Section 14. The Town Council finds, determines, and declares that this ordinance is
31 necessary and proper to provide for the safety, preserve the health, promote the prosperity, and
32 improve the order, comfort and convenience of the Town of Breckenridge and the inhabitants
33 thereof.

34
35 Section 15. The Town Council finds, determines, and declares that it has the power to
36 adopt this ordinance pursuant to the authority granted to home rule municipalities by Article XX
of the Colorado Constitution and the powers contained in the Breckenridge Town Charter.

37
38 Section 16. This ordinance shall be published and become effective as provided by
Section 5.9 of the Breckenridge Town Charter.

39 INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED
40 PUBLISHED IN FULL this ____ day of _____, 2015. A Public Hearing shall be held at the
41 regular meeting of the Town Council of the Town of Breckenridge, Colorado on the ____ day of

1 _____, 2015, at 7:30 P.M., or as soon thereafter as possible in the Municipal Building of the
2 Town.

3
4 TOWN OF BRECKENRIDGE, a Colorado
5 municipal corporation
6

7
8
9 By: _____
10 John G. Warner, Mayor

11
12 ATTEST:

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16 _____
17 Helen Cospolich
18 Town Clerk

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MEMORANDUM

TO: TOWN COUNCIL
CC: TOWN MANAGER, TIM GAGEN; ASSISTANT TOWN MANAGER, RICK HOLMAN
FROM: TAX AUDITOR, LESLIE FISCHER
SUBJECT: TOWN TAX CODE REVISIONS
DATE: 12/3/2014

Purpose:

Staff is proposing revisions to two sales tax exemption categories in the Town Code regarding charitable organizations and renewable energy.

Proposed Revisions:

Sales by Charitable Organizations –

The exemption as it is currently exists:

- Z. All occasional sales by a charitable organization under the following conditions:*
- 1. The sale of tangible personal property or concessions by the charitable organization takes place no more than ninety (90) days, whether consecutive or not, during any one calendar year;*
 - 2. The funds raised by the charitable organization through these sales are retained by the organization to be used in the course of the organization's charitable service; and*
 - 3. The funds raised in town by the charitable organization through these sales do not exceed twenty five thousand dollars (\$25,000.00) during any calendar year.*

Staff would like to propose the following changes:

- 1.) Staff would like to remove the reference to a specific dollar amount in the ordinance. We believe the other qualifications addressed by this exemption category will allow us to achieve the result the Town desires, and references to specific dollar amounts can lead to complications.

- 2.) Staff proposes aligning the Town's definition of "Charitable Organization" more closely with the State Statute. This change will result in the inclusion of some organizations not currently covered by the Town's exemption definition. We do recommend one change to the State definition: "local" has been added to the

description of amateur sports organizations. The overall goal is to be inclusive of organizations that effectively reduce the burden of the government.

Sources of Renewable Energy –

As the ordinance is currently written, it excludes the exemption of leases of renewable energy equipment. Staff would like to change the ordinance to exempt leased equipment. Please see revised language below and in the attached revised ordinance.

*Y. All sales, storage, **use, or leasing** of components used in photovoltaic or solar thermal systems and in the production of alternating current electricity from a renewable energy source, including but not limited to wind, as defined in section 3-1-2 of this chapter.*

Recommended Action:

We ask that Council review the proposed revisions in the attached ordinance. Staff will be present during the January 13 Work Session to respond to any questions that Council may have.

1 ***DRAFT January 13, 2015 DRAFT***

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 2015

9
10 AN ORDINANCE AMENDING CHAPTER 1 OF TITLE 3 OF THE BRECKENRIDGE
11 TOWN CODE, KNOWN AS THE “TOWN OF BRECKENRIDGE SALES TAX
12 ORDINANCE,” CONCERNING TAX EXEMPTIONS

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

15
16 Section 1. The definition of “charitable organization” in Section 3-1-2 of the
17 Breckenridge Town Code is amended to read as follows:

18 CHARITABLE ORGANIZATION:

~~Any entity which: a) has been certified as a not for profit organization under section 501(c)(3) of the internal revenue code, and b) is a religious or charitable organization. As used in this definition, a “charitable organization” is an organization which exclusively, and in a manner consistent with existing laws and for the benefit of an indefinite number of persons, freely and voluntarily ministers to the physical, mental or spiritual needs of persons, and which thereby lessens the burdens of government.~~
Any entity organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster local, national, or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation, and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office, or any veterans’

organization registered under section 501(c)(19) of the “Internal Revenue Code of 1986”, as amended, for the purpose of sponsoring a special event, meeting, or other function in the state of Colorado so long as such event, meeting, or function is not part of such organization’s regular activities in the state.

1
2 Section 2. Section 3-1-4 (Y) of the Breckenridge Town Code is amended to read as
3 follows:

4
5 Y. All sales, storage, **use, or leasing** of components used in photovoltaic or solar
6 thermal systems and in the production of alternating current electricity from a
7 renewable energy source, including but not limited to wind, as defined in section
8 3-1-2 of this chapter.
9

10 Section 3. Section 3-1-4 (Z) of the Breckenridge Town Code is amended to read as
11 follows:

12 Z. All occasional sales by a charitable organization under the following
13 conditions:

14
15 1. The sale of tangible personal property or concessions by the charitable
16 organization takes place no more than ninety days, whether consecutive or not,
17 during any one calendar year; **and**

18
19 2. The funds raised by the charitable organization through these sales are retained
20 by the organization to be used in the course of the organization’s charitable
21 service; ~~and~~

22
23 ~~3. The funds raised in town by the charitable organization through these sales do~~
24 ~~not exceed twenty five thousand dollars during any calendar year.~~
25

26 Section 4. Except as specifically amended by this ordinance, the Breckenridge Town
27 Code, and the various secondary codes adopted by reference therein, shall continue in full force
28 and effect.
29

30 Section 5. The adoption of this ordinance does not result in a new tax, a tax rate increase,
31 or a tax policy change directly causing a net tax revenue gain to the Town within the meaning of
32 Article X, §20 of the Colorado Constitution.
33

34 Section 6. The Town Council finds, determines, and declares that it has the power to
35 adopt this ordinance pursuant to the authority granted to home rule municipalities by Article XX
36 of the Colorado Constitution and the powers contained in the Breckenridge Town Charter.
37

38 Section 7. This ordinance shall be published and become effective as provided by Section
39 5.9 of the Breckenridge Town Charter.

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INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED
PUBLISHED IN FULL this ____ day of _____, 2015. A Public Hearing shall be held at the
regular meeting of the Town Council of the Town of Breckenridge, Colorado on the ____ day of
____, 2015, at 7:30 P.M., or as soon thereafter as possible in the Municipal Building of the
Town.

TOWN OF BRECKENRIDGE, a Colorado
municipal corporation

By: _____
John G. Warner, Mayor

ATTEST:

Helen Cospolich
Town Clerk

MEMORANDUM

To: Mayor and Town Council
From: Rick Holman, Assistant Town Manager
Date: January 5, 2015
Subject: Resolution for the Creation of Breckenridge Housing Authority

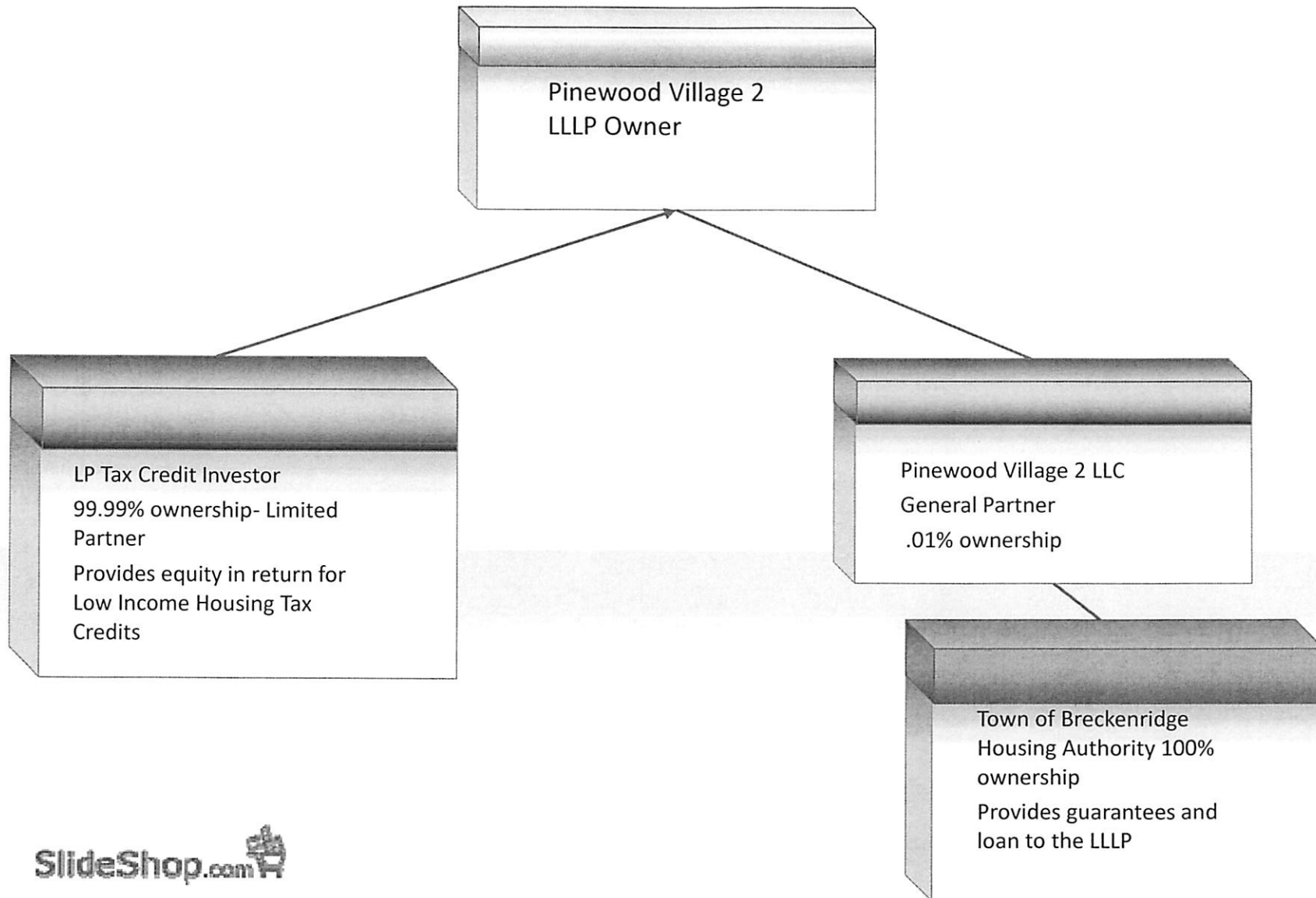
For the past few months, staff has been planning for the Pinewood 2 affordable rental housing project, part of which includes an application for low-income housing tax credits (LIHTC). In order to be eligible for a LIHTC project, it has been necessary to form a limited liability limited partnership between a general partner and the investor(s). Traditionally on these types of projects it is best to have the general partner be owned by an established municipal housing authority. One major advantage to having a housing authority as the owner of the general partner is the statutorily allowed property tax exemption for the project which are a critical component for investors. In this particular scenario, staff feels it is a cleaner process to establish our own Housing Authority for this purpose rather than utilize the existing Summit Combined Housing Authority which would require several additional side agreements. In addition, the Town will be pursuing other LIHTC projects in the future where this new housing authority can be used again. See the attached document to this memorandum that illustrates the organizational chart for the Pinewood 2 project and the role of this new housing authority.

In order to create a municipal housing authority, state statute requires the following steps:

- A Petition is signed by 25 residents requesting a public hearing to consider the need for the housing authority- see attachment
- Public notice of the hearing must be published by the Town Clerk
- One of two basic requirements must be found, either that “unsanitary or unsafe dwelling accommodations currently exist in the Town”, or, “there is a lack of safe or sanitary dwelling accommodations in the Town.” Staff believes the second criteria is the one that is applicable to the Town.
- Adoption by Town Council of a resolution that will create the housing authority based on the finding that “there is a lack of safe or sanitary dwelling accommodations in the Town.”
- The appointment of the governing body of the Housing Authority. Although this could be a separate body, the statute allows for the Town Council to serve as the appointed board of the new Housing Authority. Accordingly, the proposed resolution appoints the Town Council as the governing body of the new Housing Authority.
- Lastly, certified copies of the paperwork creating the new Housing Authority is filed with the state Department of Local Affairs. One item that must be filed is a certificate signed by the Town Council members in their capacity as the governing board of the new Breckenridge Housing Authority.

Staff will be presenting the Resolution and Certificate by Commissioners to the Council at your January 13th meeting for consideration.

Pinewood Village 2 Organizational Chart



WARNING:

DO NOT SIGN THIS PETITION UNLESS YOU ARE A RESIDENT OF THE TOWN OF BRECKENRIDGE.

PETITION FOR CREATION OF A HOUSING AUTHORITY IN THE TOWN OF BRECKENRIDGE

TO THE TOWN CLERK OF THE TOWN OF BRECKENRIDGE, COLORADO:

We, the undersigned residents of the Town of Breckenridge, Colorado, file this petition under and pursuant to Section 29-4-204 of "The Housing Authorities Law" of the State of Colorado (Chapter 29, Article 4, of the Colorado Revised Statutes, as amended), and hereby represent and state that: (1) unsanitary or unsafe inhabited dwelling accommodations exist in the Town of Breckenridge, Colorado; (2) there is a lack of safe or sanitary dwelling accommodations in said Town available for all the inhabitants thereof; and (3) there is a need for a municipal housing authority to function in the Town of Breckenridge.

WHEREFORE, in attestation of the above and foregoing, we have hereunto subscribed our names and set opposite the same our place of residence in the Town of Breckenridge, Colorado.

<u>Name</u>	<u>Residence Address</u>
1. <u>Ken C. Holman</u>	<u>27 Sheppard Cir Breckenridge CO 80424</u>
2. <u>Devin McLaughlin</u>	<u>1001 Garandusik DR. # B-10 Breck, 80424</u>
3. <u>[Signature]</u>	<u>39 Willow Green Breck 80424</u>
4. <u>[Signature]</u> Nils Nelson	<u>104 Tassels loop, Breck,</u>
5. <u>MM Nelson</u>	<u>113 WINDWOOD CR BRECK</u>
6. <u>[Signature] Jon Dorn</u>	<u>1105 SKI Hill RD UNIT C-73</u>
7. <u>Cynthia M Miller</u>	<u>30 Marksbury Way Breck 80424</u>
8. <u>Maria Pattenden</u>	<u>48 Forest Circle Breck 80424</u>

PETITION FOR CREATION OF A HOUSING AUTHORITY

	<u>Name</u>	<u>Residence Address</u>
9.	Ally Carter	110 South Harris Street
10.	Jennifer Schappert	103 Redfeather
11.	Jennifer	1420 Airport Road
12.	Kelly Gork	210 S. Harris St.
13.	Lea Chardonef	1006 Broken Lance Dr.
14.	Judith	107 N Harris St #204
15.	Allison Lopez	311 S. High Street #203
16.	MATT SCHWAAB	550 S. FRENCH ST. Apt. A
17.	Katie McBride	1390 Airport Road #1103
18.	Dan Williams	1185 Ski Hill Rd
19.	Todd Stoneberg	217 Wellington Rd
20.	Christopher Baylor	300 South Harris St
21.	J. J. Myon	110 N. High St. Breck.
22.	Mike King	1001 Grandview RD
23.	Charlie Hener	1001 Grandview RD

PETITION FOR CREATION OF A HOUSING AUTHORITY

	<u>Name</u>	<u>Residence Address</u>
24.	<u>Vincent Hutton</u>	<u>107 South High Street</u>
25.	<u>Susan K Br</u>	<u>35 Union Mill Breckenridge CO 80424</u>

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FOR WORKSESSION/ADOPTION – JAN. 13

RESOLUTION NO. 1

Series 2015

A RESOLUTION CONCERNING A HOUSING AUTHORITY FOR THE TOWN OF BRECKENRIDGE, COLORADO

WHEREAS, Section 29-4-204, C.R.S., provides for the creation of a municipal housing authority; and

WHEREAS, the Town Clerk of the Town of Breckenridge, Colorado has received a Petition duly signed by 25 residents of the Town of Breckenridge requesting a public hearing to consider the need for a housing authority; and

WHEREAS, notice of the public hearing to be held on January 13, 2015 was given publication in The Summit County Journal on December 26, 2014; January 2, 2015; and January 9, 2015 as required by law, and as evidenced by the Proof of Publication, a copy of which is marked **Exhibit “A”**, attached hereto, and incorporated herein by reference; and

WHEREAS, the Town Council of the Town of Breckenridge held a public hearing on January 13, 2015 for the purposes of considering the Petition and the request to consider a housing authority.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF BRECKENRIDGE, COLORADO:

Section 1. The Town Council of the Town of Breckenridge finds and determines that:

- A. Notice of the public hearing was properly given as required by Section 29-4-204, C.R.S.
- B. The Petition filed by the residents of the Town of Breckenridge, Colorado meets the basic requirements of Section 29-4-204(1), C.R.S.
- C. There is a lack of safe or sanitary dwelling accommodations in the Town available for all the inhabitants thereof.
- D. There is a need for a municipal housing authority to function in the Town of Breckenridge.

Section 2. There is hereby created the Town of Breckenridge Housing Authority. The authority shall be operated in accordance with Part 2 of Article 4 of Title 29, C.R.S., as amended from time to time, and other applicable laws.

1 Section 3. The geographical boundaries of such authority shall be the same as the
2 municipal boundaries of the Town of Breckenridge, Colorado, as amended from time to time.
3

4 Section 4. Notice of this resolution shall be given to the Mayor of the Town of
5 Breckenridge, Colorado as required by Section 29-4-204(4), C.R.S.
6

7 Section 5. Pursuant to the authority granted by Section 29-4-205(2), C.R.S., all members
8 of the Town Council of the Town of Breckenridge, Colorado shall *ex officio* be and hereby are
9 appointed the commissioners of the authority.
10

11 Section 6. The Mayor of the Town of Breckenridge, Colorado shall *ex officio* be
12 Chairman of the commissioners of the authority. The Mayor Pro Tem shall *ex officio* be Vice-
13 Chairman of the commissioners of the authority.
14

15 Section 7. Unless otherwise provided by rule of the authority, any document that
16 requires the written approval of the authority may be executed by the Mayor, or in absence or
17 incapacity of the Mayor, by the Mayor Pro Tem. In the event that both the Mayor and the Mayor
18 Pro Tem are absent from the Town or are incapacitated at the same time, the Town Manager or
19 Assistant Town Manager may lawfully sign such document on behalf of the authority.
20

21 Section 8. This resolution is effective upon adoption.
22

23 RESOLUTION APPROVED AND ADOPTED this 13th day of January, 2015.
24

25 TOWN OF BRECKENRIDGE
26

27
28
29 By: _____
30 John G. Warner, Mayor
31

32 ATTEST:
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37 _____
38 Helen Cospolich
39 Town Clerk
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1 APPROVED IN FORM

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Town Attorney	Date
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Exhibit "A"
Proof of Publication

Ad Name: 10814458A
Customer: Town of Breckenridge - 292800
Your account number is: 1003069

PROOF OF PUBLICATION

SUMMIT COUNTY JOURNAL

I, Matt Sandberg, do solemnly swear that I am the publisher of the Summit County Journal, that the same is a weekly newspaper printed, in whole or in-part, and published in the County of Summit, State of Colorado, and has a general circulation therein; that said newspaper has been published continuously and interruptedly in said County of Summit for a period of more than fifty-two consecutive weeks next prior to the first publication of the annexed legal notice or advertisement, that said newspaper has been admitted to the United States mail as second-class matter under the provisions of the act of March 3, 1879, or any amendment thereof, and that said newspaper is a weekly newspaper duly qualified for publishing legal notices and advertisements within the meaning of the laws of the State of Colorado.

That the annexed legal notice or advertisement was published in the regular and entire issue of every number of said weekly newspaper for the period of 3 consecutive insertions; and that the first publication of said notice was in the issue of said newspaper dated 12/26/2014 and that the last publication of said notice was dated 1/9/2015 in the issue of said newspaper.

In witness whereof, I have here unto set my hand this day, 01/06/2015.



Matt Sandberg
Publisher

Subscribed and sworn to before me, a notary public in and for the County of Summit, State of Colorado this day 01/06/2015.



Pamela J. Schultz, Notary Public
My Commission expires: **November 1, 2015**.



My Commission Expires 11/01/2015

NOTICE OF PUBLIC HEARING

Notice is hereby given that a petition has been filed with me as Town Clerk of the Town of Breckenridge, Colorado by 25 residents of said Town, pursuant to Chapter 29, Article 4, Colorado Revised Statutes, known and referred to as "The Housing Authorities Law," setting forth that there is need for a municipal housing authority to function in the Town. A public hearing will be held before the Town Council of the Town of Breckenridge on Tuesday, January 13, 2015 at 7:30 P.M., or as soon thereafter as the matter may be heard, in the Town Council Chambers, 150 Ski Hill Road, Breckenridge, Colorado, at which hearing a full opportunity to be heard will be granted to all residents and taxpayers of the Town of Breckenridge and to all other interested persons upon the question: (1) whether unsanitary or unsafe inhabited dwelling accommodations exist in the Town of Breckenridge, Colorado; (2) whether there is a lack of safe or sanitary dwelling accommodations in said Town available for all the inhabitants thereof. After such hearing the Town Council will determine whether such housing conditions exist in the Town of Breckenridge, and whether there is a need for a municipal housing authority to function in the Town of Breckenridge. Interested parties are urged to attend the public hearing.

Dated the 19th day of December, 2014.

Helen Cospolich
Town Clerk

Published in The Summit County Journal on: December 26, 2014; January 2, 2015; and January 9, 2015. (10814458)

**CERTIFICATE BY COMMISSIONERS OF
THE TOWN OF BRECKENRIDGE HOUSING AUTHORITY**

We, the undersigned Commissioners of the Town of Breckenridge Housing Authority, hereby certify that:

1. Pursuant to “The Housing Authorities Law” of the State of Colorado (Part 2 of Article 4 of Title 24, Colorado Revised Statutes, as amended), a notice was given by the Town Clerk of the Town of Breckenridge, Colorado, in the manner required by law, of the time, place and purposes of a public hearing to be held by the Town Council of the Town of Breckenridge on the question of the need for a municipal housing authority to function in the Town.

2. The public hearing was held by the Town Council on of January 13, 2015.

3. The Town Council, after such public hearing, adopted Resolution No. 1, Series 2015 pursuant to which the Town Council found, determined, and declared that there is a lack of safe or sanitary dwelling accommodations in the Town available for all the inhabitants thereof, and that there is need for a housing authority to function in the Town.

4. The Mayor of the Town was notified of such determination by the Town Council.

5. We are the duly elected, qualified, and acting members of the Town Council of the Town of Breckenridge.

6. Pursuant to Resolution No. 1, Series 2015, we are all *ex officio* the duly appointed as Commissioners of the Town of Breckenridge Housing Authority.

IN WITNESS WHEREOF we have hereunto subscribed our names as such Commissioners of the Town of Breckenridge Housing Authority this 13th day of January, 2015.

John G. Warner, Mayor/Commissioner

Mark Burke, Town Council Member/Commissioner

Ben Brewer, Town Council Member/Commissioner

HOUSING AUTHORITY COMMISSIONERS’ CERTIFICATE

Wendy Wolfe, Town Council Member/
Commissioner

Gary Gallagher, Town Council Member/
Commissioner

Elisabeth Lawrence, Town Council Member/
Commissioner

Erin Gigliello Town Council Member/
Commissioner

STATE OF COLORADO)
) ss.
COUNTY OF SUMMIT)

Subscribed and sworn to before me this ___ day of January, 2015 by John G. Warner, Mark Burke, Ben Brewer, Wendy Wolfe, Gary Gallagher, Elisabeth Lawrence and Erin Gigliello.

WITNESS my hand and official seal.

My commission expires: _____

Notary Public

HOUSING AUTHORITY COMMISSIONERS' CERTIFICATE

MEMORANDUM

TO: Town Council

FROM: Mark Truckey, Assistant Director of Community Development

SUBJECT: Density Sunset Covenant for the Prospector Park Property/Maggie Point Affordable Housing

DATE: December 30, 2014 for January 13, 2015 Meeting

JUBMP Policy Direction

The Joint Upper Blue Master Plan (JUBMP) provides policy direction on a number of land use issues in the Upper Blue Basin. The JUBMP has been adopted by the towns of Breckenridge and Blue River and Summit County. One of the major policy discussions that occurred in the 2011 update to the JUBMP was density for affordable housing.

The 1997 JUBMP contained a policy that essentially exempted deed restricted affordable housing projects from density requirements, as an incentive to encourage more affordable housing in the community. The 2011 JUBMP update recognized that affordable housing was still a high priority goal, but that there were impacts to the community from adding the housing density on top of the density already zoned in the basin. As a result, the 2011 JUBMP contains policies that address this issue and attempt to mitigate the impacts of new affordable housing development. The Council addressed this issue at numerous meetings, finally agreeing to a policy that for every four units of affordable housing constructed, one development right would be transferred from Town-owned property to partly mitigate the impacts of the new density. The JUBMP policy is listed below, with the Breckenridge provisions highlighted:

Policy/Action 2. The impacts of new affordable workforce housing on the overall density and activity levels within the Basin should be mitigated by permanently extinguishing density on County and/or Town of Breckenridge-owned properties. Recommended guidelines or goals for each jurisdiction to take into consideration when evaluating implementation of this policy are as follows:

- The County should strive to permanently extinguish density on County-owned properties at a minimum 1:2 ratio (i.e., extinguish 1 development right for every 2 affordable workforce housing units permitted to be built).*
- When new affordable workforce housing units are developed, the Town of Breckenridge should transfer density it owns to the affordable workforce housing site at a 1:4 ratio (i.e., transfer one development right for every four affordable workforce housing units permitted to be built).*
- This policy of extinguishing density to offset the impacts of new affordable workforce housing units is not applicable within the Town of Blue River.*

In 2012 the Town Council added a provision to the Development Code (Section 9-1-19-3A E1) that requires this 1:4 transfer of density for all new attainable workforce housing units.

Density at Maggie Point and Prospector Park

The Town has previously enacted two density transfers for workforce housing pursuant to the above discussed policy and Code sections. Density was transferred from the Carter Museum property to the Valley Brook housing project and density has been transferred from the McCain property to the property where the Pinewood 2 affordable housing project is proposed. The Maggie Point housing project on the south end of Town contains a mix of free-market and deed-restricted units. The Maggie Point developers will be obtaining TDRs for the free-market units at the site. The Town will be providing the density, per the 1:4 TDR ratio discussed above, for the deed-restricted units. A total of 10,098 square feet of density (6.31 single-family equivalent units) of deed-restricted attainable housing units are being constructed. At the 1:4 ratio, about 1.58 single family equivalent units (SFEs) of Town-owned density need to be extinguished to account for the Maggie Point density. Staff is proposing to extinguish two SFEs, in the event that some minor additions are proposed at a later date.

Staff proposes to strip the density off the town-owned Prospector Park property. There are 6.30 SFEs of residential density on the Prospector Park property. The attached resolution and density sunset covenant thus extinguish two development rights off the Prospector property. There will still be 4.30 SFEs remaining on the property after the two SFEs are sunsetted.

Council Action

The Council is asked to review the attached resolution and density sunset covenant, provide any additional direction or revisions regarding the wording in the documents, and then take action to adopt the attached resolution.

1 ***FOR WORKSESSION/ADOPTION – JAN. 13***

2
3 RESOLUTION NO. _____

4
5 SERIES 2015

6
7 A RESOLUTION AUTHORIZING THE EXECUTION AND RECORDING OF A DENSITY
8 SUNSET COVENANT

9 (For the Maggie Point Attainable Workforce Housing Project)

10
11 WHEREAS, pursuant to policies set forth in the recently adopted Joint Upper Blue
12 Master Plan, and in accordance with Section 9-1-19-3A, “Policy 3(Absolute) Density/Intensity”
13 of the Breckenridge Town Code, the Town is required to transfer density it owns to approved
14 attainable workforce housing projects at a 1:4 ratio (i.e., transfer one development right for every
15 four attainable workforce housing development rights permitted to be built); and
16

17 WHEREAS, the Maggie Placer LLC, a Colorado limited liability company, is developing
18 a housing project known as “Maggie Point”, which contains a number of attainable workforce
19 housing units; and
20

21 WHEREAS, the Town Council finds and determines it is therefore necessary and
22 appropriate to permanently extinguish two (2) single family equivalents of density from the
23 Town’s “Prospector Park” property in order to account for the density that was used to construct
24 attainable workforce housing units at the “Maggie Point” housing project; and
25

26 WHEREAS, a proposed “Density Sunset Covenant” has been prepared by the Town
27 Attorney, a copy of which is marked Exhibit “A”, attached hereto and incorporated herein by
28 reference; and
29

30 WHEREAS, the proposed Density Sunset Covenant permanently extinguishes two (2)
31 single family equivalents of density previously allocated to the Town’s Prospector Park property
32 in order to account for the density that was used to construct the attainable workforce housing
33 units at the “Maggie Point” housing project; and
34

35 WHEREAS, the Town Council has reviewed the proposed Density Sunset Covenant, and
36 finds and determines that it should be approved.
37

38 NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF
39 BRECKENRIDGE, COLORADO, as follows:

40
41 Section 1. The Density Sunset Covenant that is attached as Exhibit “A” to this
42 resolution is approved, and the Town Manager is authorized, empowered, and directed to sign
43 such document for and on behalf of the Town. After it is signed, the approved Density Sunset
44 Covenant shall be recorded in the real property records of the Clerk and Recorder of Summit
45 County, Colorado in order to give record notice that the Town has accounted for the density that

1 was used by Maggie Placer LLC to construct attainable workforce housing units at the “Maggie
2 Point” housing project.

3 Section 2. This resolution is effective upon adoption.

4
5 RESOLUTION APPROVED AND ADOPTED this ___ day of ___, 2015.

6
7 TOWN OF BRECKENRIDGE

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11 By: _____
12 John G. Warner, Mayor

13
14 ATTEST:

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18 _____
19 Helen Cospolich
20 Town Clerk

21
22 APPROVED IN FORM

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26 _____
27 Town Attorney Date

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DENSITY SUNSET COVENANT

This Covenant (“**Covenant**”) is made _____, 2015 by the TOWN OF BRECKENRIDGE, a Colorado municipal corporation (“**Town**”).

WHEREAS, Town owns the following described real property situate in the Town of Breckenridge, Summit County, Colorado:

PARCEL “A”

Lots 52 and 53, Bartlett and Shock Addition to the Town of Breckenridge; and

PARCEL “B”

Tract D, A Resubdivision Of Lot 17, Abbett Addition to the Town of Breckenridge, according to the Plat thereof filed May 20, 2002, at Reception No. 684187

(collectively, “**Town’s Property**”)

; and

WHEREAS, the Town’s Property is commonly known as the Town’s “Prospector Park” property; and

WHEREAS, pursuant to policies set forth in the Joint Upper Blue Master Plan, and in accordance with Section 9-1-19-3A, “Policy 3 (Absolute) Density/Intensity” of the Breckenridge Town Code, the Town is required to transfer density it owns to attainable workforce housing projects at a 1:4 ratio (i.e., transfer one development right for every four attainable workforce housing development rights permitted to be built); and

WHEREAS, the Maggie Placer LLC, a Colorado limited liability company, is developing attainable workforce housing units at the project known as “Maggie Point”; and

WHEREAS, the Town Council finds and determines it is therefore necessary and appropriate to transfer two (2) single family equivalents of density from the Town’s “Prospector park” property in order to account for the attainable workforce housing density that was constructed at the “Maggie Point” housing project.

NOW, THEREFORE, Town agrees as follows:

1. Extinguishment of Density. Two (2) single family equivalents (“SFEs”) of density previously allocated to Town’s Property is forever extinguished. Following the execution of this Covenant, there will be 4.30 SFEs of density remaining on the Town’s Property.

DENSITY SUNSET COVENANT

2. Recording; Covenant to Run With Land. This Covenant shall be placed of record in the real property records of Summit County, Colorado, and the covenants contained herein shall run with the land and shall bind the Town and all subsequent owners of Town's Property, or any interest therein.

3. Town's Acknowledgment of Covenant Validity. Town agrees that any and all requirements of the laws of the State of Colorado to be satisfied in order for the provisions of this Covenant to constitute a restrictive covenant running with the land shall be deemed to be satisfied in full, and that any requirements of privity of estate are intended to be satisfied, or, in the alternative, that an equitable servitude has been created to insure that the covenant herein contained shall run with the land. This covenant shall survive and be effective as to successors and/or assigns of all or any portion of Town's Property, regardless of whether such contract, deed or other instrument hereafter executed conveying Town's Property or portion thereof provides that such conveyance is subject to this Covenant.

4. Authorization By Resolution. The execution and recording of this Covenant was authorized by Town of Breckenridge Resolution No. __, Series 2015, adopted _____, 2015.

TOWN OF BRECKENRIDGE, a Colorado
municipal corporation

By: _____
Timothy J. Gagen, Town Manager

ATTEST:

Helen Cospolich,
Town Clerk

DENSITY SUNSET COVENANT

STATE OF COLORADO)
) ss.
COUNTY OF SUMMIT)

The foregoing instrument was acknowledged before me this ____ day of _____, 2015, 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

MEMORANDUM

To: Mayor and Town Council
From: Rick Holman, Assistant Town Manager
Date: January 7, 2015
Subject: Resolution for the Employment of Special Legal Counsel in Connection with the Pinewood II Housing Project

The Breckenridge Town Charter authorizes the Town Council to employ special counsel to serve under your direction. As part of our Pinewood II housing low-income housing tax credit project the need has arisen to employ a special tax credit attorney that specializes in these types of projects. The expense for these services was anticipated and has been built into our project budget.

The project team has selected an experienced and highly recommended attorney by the name of Jon L. Peterson who is employed by Winthrop & Weinstine, P.A. to serve in this capacity. Town Manager Tim Gagen, signed an agreement for services with Mr. Peterson in mid-December .

The attached resolution will ratify and approve the engagement of services with the law firm of Winthrop & Weinstine, P.A. In addition, the resolution further authorizes the Town Manager to employ additional special counsel as he determines necessary in connection with the Pinewood II housing project. Included in our budget are expenses related to a special bond attorney which we anticipate needing to employ for this project in the near future.

I will be available for questions at the January 13th work session.

1 **FOR WORKSESSION/ADOPTION – JAN. 13**

2
3 RESOLUTION NO. ____

4
5 Series 2015

6
7 A RESOLUTION CONCERNING THE EMPLOYMENT OF SPECIAL COUNSEL IN
8 CONNECTION WITH THE PINWOOD II HOUSING PROJECT
9

10 WHEREAS, Section 8.1 of the Breckenridge Town Charter authorizes the Town Council
11 to employ special counsel to serve under the direction of the Town Council; and
12

13 WHEREAS, the Town requires the services of various special counsel in connection with
14 the Pinewood II Housing Project; and
15

16 WHEREAS, the Town Manager has initially recommended to the Town Council that the
17 law firm of Winthrop & Weinstine, P.A. be employed as special counsel in connection with the
18 Pinewood II Housing Project; and
19

20 WHEREAS, the proposed engagement agreement between the Town and that the law
21 firm of Winthrop & Weinstine, P.A. has heretofore been executed by the Town Manager, and it
22 necessary and appropriate for the Town Council to ratify the previous execution of the agreement
23 by the Town Manager.
24

25 NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF
26 BRECKENRIDGE, COLORADO:
27

28 Section 1. The Town Manager’s prior execution of the engagement letter with the law
29 firm of Winthrop & Weinstine, P.A. is ratified, confirmed, and approved.
30

31 Section 2. The Town Manager is further authorized, empowered, and directed to employ
32 such additional special counsel as he determines to be necessary in connection with the
33 Pinewood II Housing Project. In connection therewith, the Town Manager is authorized to
34 execute such engagement letters as may be necessary in connection with the hiring of such
35 special counsel.
36

37 Section 3. This resolution is effective upon adoption.
38

39 RESOLUTION APPROVED AND ADOPTED this ____ day of ____, 2015.
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41 TOWN OF BRECKENRIDGE
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45 By _____
46 John G. Warner, Mayor

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ATTEST:

Helen Cospolich
Town Clerk

APPROVED IN FORM

Town Attorney Date



MEMORANDUM

TO: Town Council
FROM: Scott Reid and Tim Berry
DATE: January 7, 2015 (for January 13, 2015 meeting)
SUBJECT: Resolution ratifying Town Manger Tim Gagen's signature on Kingfisher Lode Purchase and Sale Agreement

The attached resolution ratifies and approves the Town Manager's signature on a Purchase and Sale agreement to acquire 43.75% of the Kingfisher Lode Claims from Summit County Government, pursuant to recent executive session discussions by BOSAC and Town Council.

The odd percentage interest to be acquired is based on 50% ownership of what Summit County Government has acquired in the parcels since 1999. Tim Gagen has already signed the Purchase and Sale agreement and the closing documents for the property.

We will be happy to answer any questions you have on Tuesday.

1 **FOR WORKSESSION/ADOPTION – JAN. 13**

2
3 RESOLUTION NO. _____

4
5 SERIES 2015

6
7 A RESOLUTION RATIFYING AND APPROVING THE TOWN MANAGER’S
8 ACQUISITION OF CERTAIN REAL PROPERTY
9 (Partial Interest in Kingfisher MS #4913, Little Erney MS#4913, Kit Carson MS#4913,
10 Belle MS#4913, and Gladstone MS #4734)

11
12 WHEREAS, the Town of Breckenridge desired to purchase from the Board of County
13 Commissioners of Summit County (“County”) the following real property located in Summit
14 County, Colorado:

15
16 An undivided 43.75% interest in the Kingfisher MS #4913, Little Erney
17 MS#4913, Kit Carson MS#4913, Belle MS#4913, and Gladstone MS #4734
18 mining claims

19
20 (collectively, the “Property”); and

21
22 WHEREAS, the Town Manager has previously entered into a Purchase and Sale
23 Agreement between the Town and the County with respect to the Property, a copy of which is
24 marked **Exhibit “A”**, attached hereto, and incorporated herein by reference (“Agreement”); and

25
26 WHEREAS, the Town Manager has further successfully concluded the purchase of the
27 Property from the County pursuant to the Agreement, and it necessary and appropriate for the
28 Town Council to ratify all action taken by the Town Manager with respect to the acquisition of
29 the Property.

30
31 NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF
32 BRECKENRIDGE, COLORADO, as follows:

33
34 Section 1. All action previously taken by the Town Manager with respect to the
35 acquisition of the abovedescribed Property is ratified, confirmed, and approved, including, but
36 not limited to: (i) the signing of the Agreement; (ii) the payment of the purchase price; (iii) the
37 signing of all closing documents; and (iv) the recording of the deed for the Property.

38
39 Section 2. This resolution shall become effective upon its adoption.

40
41 RESOLUTION APPROVED AND ADOPTED THIS _____ DAY OF _____, 2015.

TOWN OF BRECKENRIDGE, a Colorado
municipal corporation

By: _____
John G. Warner, Mayor

ATTEST:

Helen Cospolich
Town Clerk

APPROVED IN FORM

Town Attorney date

PURCHASE AND SALE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT ("*Agreement*"), dated December 23rd, 2014, is between the BOARD OF COUNTY COMMISSIONERS OF SUMMIT COUNTY, COLORADO (the "*Seller*"), and the TOWN OF BRECKENRIDGE, a Colorado municipal corporation ("*Purchaser*").

RECITALS

WHEREAS, the Seller is the owner of the following real property located within the County of Summit and State of Colorado:

An undivided 7/8 interest in the Kingfisher MS #4913, Little Erney MS #4913, Kit Carson MS #4913, Belle MS #4913, Gladstone MS# 4734

(the "*Property*"); and

WHEREAS, the Purchaser desires to acquire certain undivided interests in the Property from Seller, and Seller agrees to sell certain undivided interests in the Property to Purchaser, all as more fully set forth hereafter.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. **Purchase and Sale.** Seller agrees to sell to Purchaser, and Purchaser agrees to buy from Seller, the following:

An undivided 43.75% interest in the Property for the total price of Nineteen Thousand Seven Hundred Twenty-Three Dollars (\$19,723.00); and

Upon payment of the sales price at Closing, Seller shall provide Purchaser with a special warranty deed conveying an undivided 43.75% interest in the Property. The form of the deed shall be reasonably acceptable to Seller's and Purchaser's attorneys.

2. **Closing.** Closing shall occur on January 9, 2014 at the offices of Land Title Guarantee Company ("*LTGC*") in Breckenridge, Colorado, or at such other date and location as the parties may agree upon.

3. **Condition of Property.** The undivided interests in the Property described in Section 1 shall be delivered in the condition existing as of the date of this Agreement.

4. **Title Insurance.** Purchaser shall obtain, at its cost, any title insurance insuring the real property interest to be acquired by Purchaser pursuant to this Agreement.

5. **Severability.** In case one or more of the provisions contained in this Agreement, or any application hereof, shall be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained in this Agreement and the application thereof shall not in any way be affected or impaired thereby.

6. Entire Agreement; Subsequent Modification; Assignment. This Agreement constitutes the entire agreement between the parties relating to the subject hereof, and any prior agreements pertaining thereto, whether oral or written, have been merged and integrated into this Agreement. No subsequent modification of any of the terms of this Agreement shall be valid, binding upon the parties, or enforceable unless made in writing and signed by the parties. This Agreement shall not be assignable by Purchaser without Seller's prior written consent.

7. Governmental Immunity Act. The contracting parties understand and agree that the Seller and the Purchaser are relying on, and do not waive or intend to waive by any provision of this Agreement, the monetary limitations or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, *et seq.*, as from time to time amended, or any other law, protection or limitation otherwise available to the parties and to their respective officers, agents, fiduciaries, representatives and employees.

THIS AGREEMENT IS EFFECTIVE THE DATE FIRST WRITTEN ABOVE.

PURCHASER: TOWN OF BRECKENRIDGE,
COLORADO

SELLER: BOARD OF COUNTY
COMMISSIONERS OF SUMMIT
COUNTY, COLORADO

By: [Signature]
Timothy J. Gagen, Town Manager

By: [Signature]
Gary Martinez, County Manager

STATE OF COLORADO)
) ss.
County of Summit)

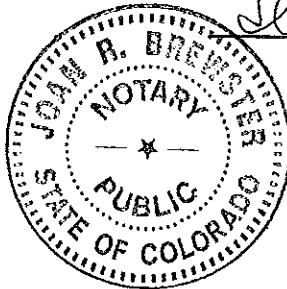
Approved
to form

[Signature]
Legal

The foregoing instrument was acknowledged before me this 23rd day of December, 2014, by Timothy J. Gagen as Manager of the Town of Breckenridge, Colorado.

My commission expires 5/3, 20 15. Witness my hand and official seal.

[Signature]
Notary Public



STATE OF COLORADO)
) ss.
County of Summit)

The foregoing instrument was acknowledged before me this 22 day of December, 2014, by Gary Martinez as County Manager of Summit County, Colorado.

My commission expires July 24, 20 18. Witness my hand and official seal.

[Signature]
Notary Public

GINA LYNN LAPPE
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20144029114
COMMISSION EXPIRES JULY 24, 2018

23

24

STATE OF CALIFORNIA
COUNTY OF LOS ANGELES
NOTARY PUBLIC
MY COMM. EXPIRES 07/15/2025

Memorandum

TO: TOWN COUNCIL
FROM: Dale Stein, Assistant Town Engineer
DATE: November 5, 2014
RE: Public Projects Update

Breckenridge Grand Vacations Community Center

Final work is progressing this week ahead of the grand opening celebration set for this Saturday, the 10th. The Contractor, County Staff, Town staff are all busy putting final touches on the building interior. Numerous volunteers are also very busy organizing and preparing for the Saturday celebration. Public Works crews will be onsite at the end of this week clearing snow from both the parking lots and the frontage along South Harris Street. A portion of the south parking lot will be closed on Saturday to allow for staging of the event.

Activities began on Saturday at 5:30 p.m. at the east main entrance on Harris Street.

Old Masonic Hall

Work at the Masonic Hall is progressing with drywall installation and interior concrete slab pours to follow. The building will be completed by mid-June and the final landscaping may take until July 1, depending on the spring weather and snow.

Breckenridge Theater Addition

The Town has contracted with Base Building Solutions as the general contractor for the project. Two proposals were received for the CMGC position. Currently the design team is working to complete the Design Development drawings so that a new budget estimate can be performed and presented to Council at the end of February. Construction is scheduled to begin in June, with March 2016 being the estimated completion timeframe.

Ice Arena Parking Expansion

Design work for the Ice Arena Parking Lot Expansion project is currently being completed by Town Staff. The new parking area will be constructed to the east of the existing ice arena parking lot, and will add approximately 62 new parking spaces to the lot. The project will also add new landscaping, street lighting, and improved drainage facilities around the parking area. Construction drawings for the project will be finished this winter and the project will be advertised for bids in March. Construction of the parking lot will be completed in the summer of 2015.

MEMO

TO: Mayor & Town Council
FROM: Tim Gagen, Town Manager
DATE: January 8, 2015
SUBJECT: Committee Reports for 1-13-2015 Council Packet

Recreation Advisory Committee **December 4, 2014** **Mike Barney/Jenise Jensen**

The Recreation Advisory Committee held its bimonthly meeting on December 4, 2014. Committee members include Don Danker, Judy Farrell, Marty Ferris, Toby Babich, Amy Perchick, Larry Willhite and Wolf Edberg. The following agenda items were covered:

- **Recreation Center Renovation:** Mike wanted to respond to the Committee regarding their questions on the Recreation Center renovation and next steps. Mike advised that Council requested that information be submitted by next year’s spring budget retreat in May. Mike reviewed the information contained in the memo to Council (dated April 15, 2014) and Jenise provided information on past Recreation Center improvement projects. During this discussion, Advisory Committee members asked questions or commented as follows:
 - If Option C was chosen, how many more staff members would be needed to operate the Recreation Center? Mike advised there would be a need for an additional full time tennis employee.
 - Is there enough tennis business to justify covering the outdoor courts? Don stated that there would need to be careful analysis of tennis participation in winter, the usage, times, etc.
 - Would there be a possibility of including pickleball, to supplement tennis usage?
 - Is there a way to make a separate “tennis” facility be usable for multiple activities? For example, two tennis courts and 2 multi-use areas?
 - What is the future of tennis as a sport nationwide? Any consideration of a separate tennis facility should be driven by numbers.
 - What would youth space look like? The committee saw it as usable for toddlers through about 11 years old and likes the idea of an indoor playground.
 - Would there be teen space? Will the new library meet needs for youth or teens, or the BGV Community Center?
 - There were questions on parking including would the current parking area support increased usage through a Rec Center expansion?
 - The Rec Center is a community amenity, but it is also a draw for visitors and this should be considered in renovation planning.
 - Can adequate planning be done in the requested time frame or is longer needed? Renovation planning would also need to include cost recovery.
 - Option C is attractive and includes the stand alone tennis facility. The reality is the community may not need more than 2 indoor courts year round and this should be considered.
 - Regarding pool expansion – may not need a wave pool, but perhaps more hot tubs and a diving board?

Mike advised the public process would start in January. The committee reaffirmed their interest and commitment to this project, which they feel is much needed. Mike stated that h would bring public process information back to the committee at their next meeting.

- **General Feedback:** The committee voiced feedback as a whole was that the parking lot was not adequately cleared of snow and ice after the recent snow storms and presented a risk to users. It is important that the Rec Center parking lot be cleared in a timely manner, especially with the physical therapy patients using the facility.
- **Next Meeting(s):** January 15th and February 19th.

Housing and Childcare Committee **December 9, 2014** **Laurie Best**

The Housing and Childcare Committee held its regular meeting on December 9, 2014. Attendees included Erin Gigliello, Ben Brewer, Gary Gallagher, Tim Gagen, Rick Holman, Peter Grosshuesch and Laurie Best. The following agenda items were covered:

1. Pinewood 2 Update

Application for Development Permit has been filed so this is now a pending project. No discussion of plan itself. Planning Commission prelim is January 6th and we expect the project will pass a point analysis.

LIHTC process is underway:

- RRP has been issued for a General Contractor- expect selection late Dec/early January. GC will assist with pricing and with constructability (ie analysis of mechanical systems, etc)
- Expect CHAFA approval in early January
- Bond Attorney has been selected (Stan Raines-Sherman and Howard)
- Tax Credit Attorney has been selected (Jon Peterson-Winthrop Weinstine)
- PABs will be placed in service by Citi Community (Brian Dale) using cash secured escrow trust which will minimize interest costs
- Breckenridge Housing Authority-Since the Town, as a municipality, cannot be a member of the LIHTC, LLLP Jon Peterson recommends Town establish a Housing Authority to be a member of the LIHTC partnership. The HA will provide property tax exemption for the project and will be more acceptable to investors with the Town’s direct backing. The Committee was supportive of creating the new Housing Authority and this will be scheduled in January.

Sanitation District Fees-Town will be requesting relief from some of the fees which are currently \$469,152 inclusion fee and \$490,003 pifs. This request and the Petition for Inclusion will be considered by the San District Board on Thursday January 8th @ 5:30.

2. Other Projects

The Committee reviewed the preliminary schedule to expedite other rental projects. The most aggressive schedule would include:

Pinewood 2 completion-Sept 2016

County Road 450 completion-Sept 2016 (for non-LIHTC project)

CMC/Airport Road completion-Sept 2017 for LIHTC project

Block 11-TBD (need civil plan for infrastructure and grading)

The Committee advised staff to continue to work to accelerate rental projects.

RFPs will be issued for design for County Road 450 in conjunction with the County and for CMC/Airport Road in conjunction with CMC.

Continue to explore opportunities for buy downs (ie-Skiers Edge sold for \$2.4m+/-)

The meeting adjourned at 3pm. The Next Meeting is January 13, 2015.

Police Advisory Committee (PAC)

January 7, 2015

Chief Haynes

The Police Advisory Committee (PAC) held its bimonthly meeting on January 7, 2015. The Chief and PAC members discussed the following:

- **Updates:** Chief Haynes updated the committee on the North Main Street gas leak, the recent hit and run, and college ski week.
- **Parking & Transit:** Chief Haynes presented committee members with an overview of parking in Breckenridge. This was the same presentation made to the GoBreck roundtable in November and the Parking & Transit Task Force in December. The committee was provided a brief update on the mission of the Task Force and the progress made to date.

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

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

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



November 30, 2014 Financial Report

Finance & Municipal Services Division

COMING BLACK FRIDAY!

THIS SALE IS GOING TO CREATE A BIG BANG!

TO BE CONTINUED!

FRIDAY, NOV. 23RD: ONLINE ONLY FOR ONE DAY!
WWW.BRECKENRIDGERECREATION.COM
28 DAYS, 12 HOURS, 15 MINUTES TO GO...

Black Friday Sale - One Day & Online Only! Get ready for an out-of-this-world sale at the Breckenridge Recreation Center.

Breckenridge Recreation Center Ski Season Pass - Only \$170
Stephen C. West Ice Arena Ski Season Pass - Only \$150

Visit www.breckenridgerecreation.com for more details

WWW.BRECKENRIDGERECREATION.COM

Recreation-
Black Friday Sale

Executive Summary

November 30, 2014

This report covers the year to date as of 11-30-2014.

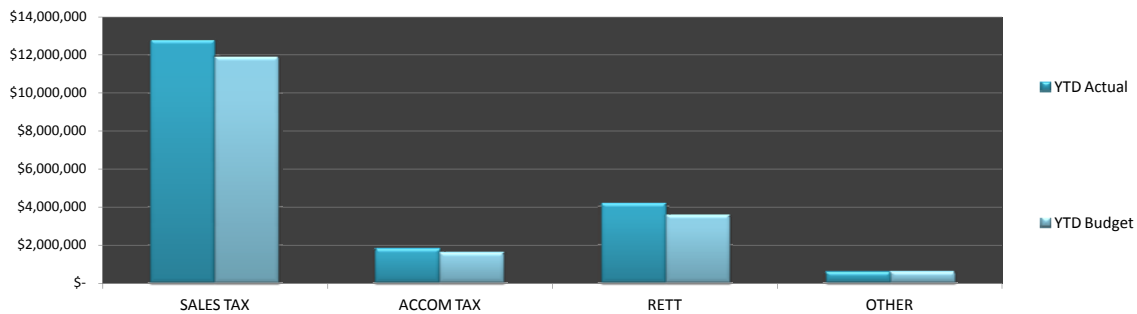
Revenues continue to be strong: Excise Fund revenue is ahead of budget by \$1.65M or 109% at \$19,333,285 vs. budget of \$17,687,080.

Sales Tax, Accommodations Tax and Real Estate Transfer Tax are ahead of budget (see table below for details)

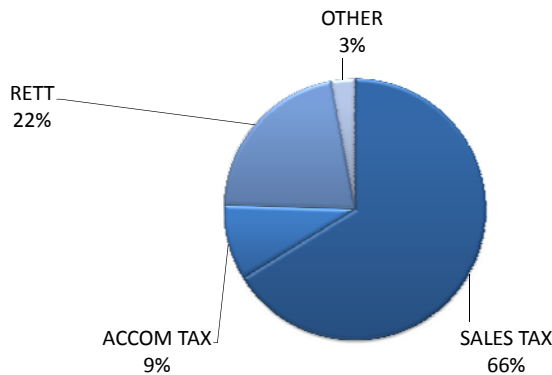
For more information on tax revenues (by month and business sector), please see the Tax Basics section of the Financials.

Staff will be available at the January 13 work session to answer any questions you may have.

Excise YTD Actual vs. Budget - by Source



YTD Actual Revenues - Excise



	YTD Actual	YTD Budget	% of Budget	Annual Budget	Current Year Projected	Prior YTD Actual	Prior Annual Actual
SALES TAX	\$ 12,800,081	\$ 11,928,573	107%	\$ 15,198,907	\$ 16,824,039	\$ 11,497,280	\$ 14,839,044
ACCOMMODATIONS TAX	1,794,937	1,602,711	112%	2,018,536	2,430,819	1,573,086	2,006,571
REAL ESTATE TRANSFER	4,166,214	3,561,083	117%	3,800,001	4,240,681	4,133,816	4,462,232
OTHER*	572,054	594,713	96%	761,138	660,557	628,271	810,708
TOTAL	\$ 19,333,285	\$ 17,687,080	109%	\$ 21,778,582	\$ 24,156,096	\$ 17,832,452	\$ 22,118,556

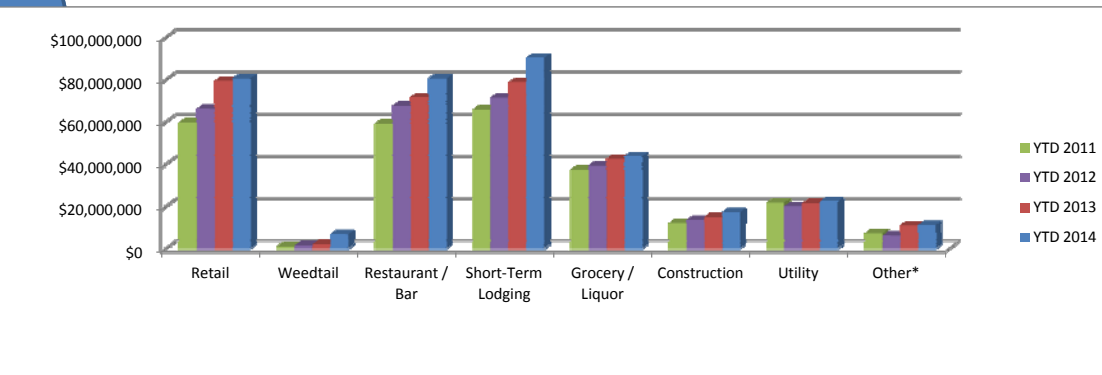
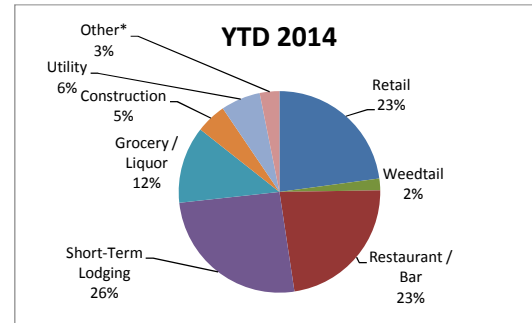
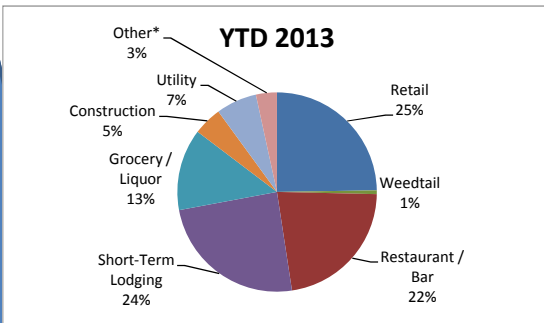
* Other includes Franchise Fees (Telephone, Public Service and Cable), Cigarette Tax, and Investment Income

The Tax Basics

Net Taxable Sales by Industry-YTD

Description	YTD 2011	YTD 2012	YTD 2013	2013		2013/2014		2014
				% of Total	YTD 2014	\$ Change	% Change	
Retail	\$59,521,922	\$65,969,412	\$79,231,692	24.72%	\$80,398,775	\$1,167,083	1.47%	22.88%
Weedtail	\$909,493	\$1,465,162	\$1,995,864	0.62%	\$6,572,626	\$4,576,762	229.31%	1.87%
Restaurant / Bar	\$58,926,864	\$67,526,042	\$71,380,559	22.27%	\$80,409,050	\$9,028,491	12.65%	22.88%
Short-Term Lodging	\$65,646,750	\$71,266,778	\$78,473,448	24.49%	\$90,136,888	\$11,663,440	14.86%	25.65%
Grocery / Liquor	\$37,324,974	\$39,206,743	\$42,395,779	13.23%	\$43,453,523	\$1,057,744	2.49%	12.36%
Construction	\$11,862,654	\$13,274,914	\$14,819,175	4.62%	\$17,189,250	\$2,370,074	15.99%	4.89%
Utility	\$21,585,033	\$19,839,882	\$21,298,451	6.65%	\$22,255,738	\$957,287	4.49%	6.33%
Other*	\$7,005,325	\$6,054,820	\$10,886,233	3.40%	\$11,011,225	\$124,992	1.15%	3.13%
Total	\$262,783,015	\$284,603,754	\$320,481,202	100.00%	\$351,427,074	\$30,945,873	9.66%	100.00%

* Other includes activities in Automobiles and Undefined Sales.



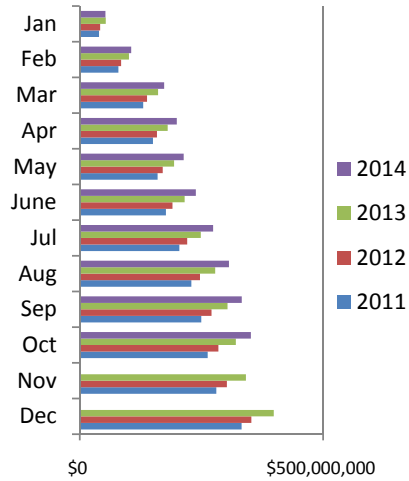
New Items of Note:

- October net taxable sales are currently ahead of 2013 by 8.75%.
- Year-to-date net taxable sales are currently ahead of 2013 by 9.66%.
- The Retail sector fell behind October 2013 sales, but remains up year-to-date.
- While Construction was up 27.66% over October 2013, the sector was still down from 2006-2008.
- The growth over prior year in the Grocery/Liquor sector began to slow in May. However, the sector is beginning to show improvement.
- Lodging, Construction, and Weedtail fared better than the aggregate of all sectors. This is a significant change from September sales.

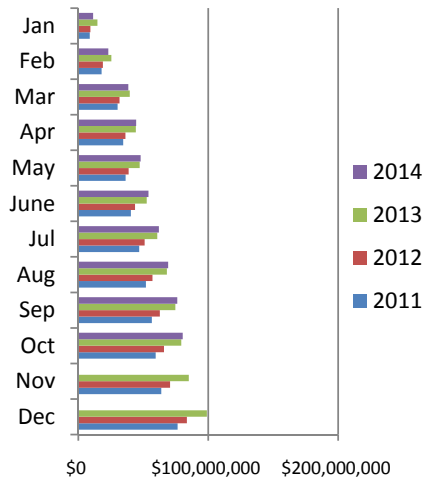
Continuing Items of Note:

- In 2014, a new category was added to the Sales by Sector pages for the Weedtail sector. The category encompasses all legal marijuana sales, regardless of medical or recreational designation. The Retail sector has been adjusted to remove the sales previously reported in this category. The jump in sales from 2013 to 2014 can be attributed to the legalization of sales of recreational marijuana.
- A section on Disposable Bag Fees was added in 2014.
- Taxes collected from the customer by the vendor are remitted to the Town on the 20th of the following month.
- Quarterly taxes are reported in the last month of the period. For example, taxes collected in the first quarter of the year (January – March), are include on the report for the period of March.
- Net Taxable Sales are continually updated as late tax returns are submitted to the Town of Breckenridge. Therefore, you may notice slight changes in prior months, in addition to the reporting for the current month.

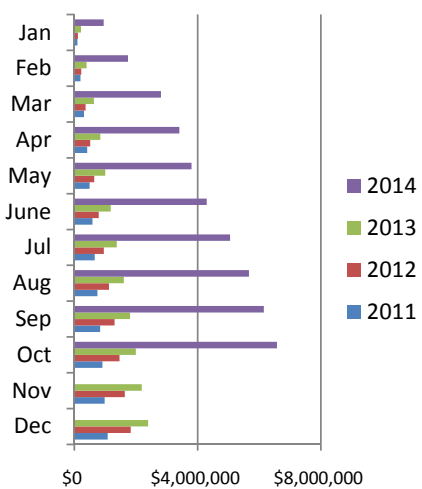
Net Taxable Sales by Sector - Town of Breckenridge Tax Base



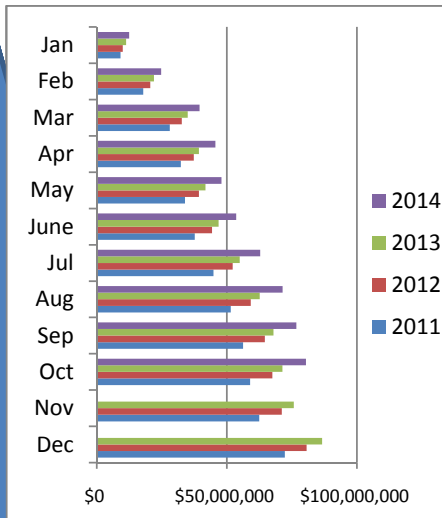
Total Net Taxable Sales					
					% change
	2011	2012	2013	2014 from PY	
Jan	\$39,457,505	\$41,718,482	\$53,336,557	\$52,688,655	-1.21%
Feb	\$39,794,165	\$43,279,998	\$47,661,413	\$52,922,066	11.04%
Mar	\$51,127,532	\$53,068,463	\$59,654,630	\$67,825,198	13.70%
Apr	\$19,740,992	\$20,550,689	\$19,835,788	\$25,818,830	30.16%
May	\$9,607,534	\$11,552,549	\$13,043,792	\$14,112,939	8.20%
June	\$17,133,963	\$20,161,932	\$21,824,324	\$24,883,726	14.02%
July	\$27,600,727	\$30,306,091	\$33,233,133	\$35,774,604	7.65%
Aug	\$24,681,057	\$26,378,253	\$29,614,066	\$32,492,355	9.72%
Sep	\$20,454,070	\$23,534,713	\$25,122,756	\$26,252,952	4.50%
Oct	\$13,185,469	\$14,052,583	\$17,154,744	\$18,655,750	8.75%
Nov	\$17,694,164	\$17,500,298	\$20,680,131	\$0	n/a
Dec	\$51,828,677	\$50,233,000	\$57,472,993	\$0	n/a
Total	\$332,305,855	\$352,337,052	\$398,634,326	\$351,427,074	



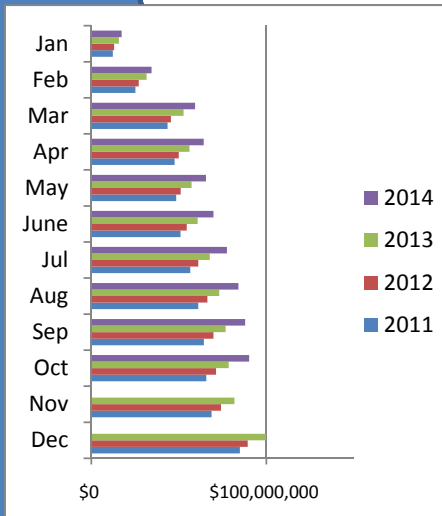
Retail					
					% change
	2011	2012	2013	2014 from PY	
Jan	\$8,873,745	\$9,332,951	\$14,740,883	\$11,368,774	-22.88%
Feb	\$9,025,467	\$9,561,486	\$10,714,990	\$11,727,549	9.45%
Mar	\$12,371,926	\$12,894,030	\$14,199,893	\$15,406,870	8.50%
Apr	\$4,281,042	\$4,535,877	\$4,640,272	\$6,089,379	31.23%
May	\$1,874,691	\$2,460,868	\$2,945,458	\$3,372,801	14.51%
June	\$4,051,674	\$4,935,052	\$5,421,774	\$6,089,184	12.31%
July	\$6,378,646	\$7,291,230	\$8,155,359	\$7,905,499	-3.06%
Aug	\$5,206,454	\$6,103,157	\$7,322,388	\$7,207,908	-1.56%
Sep	\$4,509,144	\$5,600,950	\$6,527,107	\$6,949,834	6.48%
Oct	\$2,949,134	\$3,253,812	\$4,563,566	\$4,280,976	-6.19%
Nov	\$4,372,344	\$4,647,092	\$5,843,691	\$0	n/a
Dec	\$12,521,962	\$12,981,465	\$13,828,152	\$0	n/a
Total	\$76,416,228	\$83,597,969	\$98,903,536	\$80,398,775	



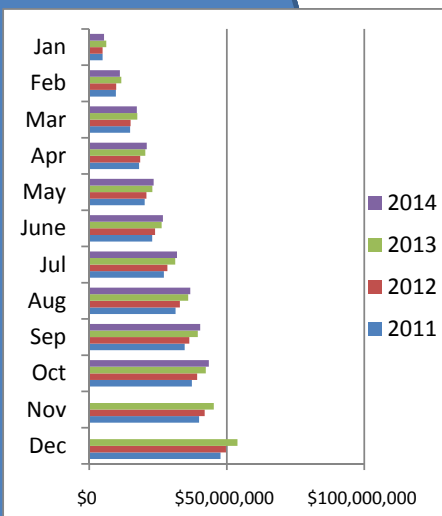
Weedtail					
					% change
	2011	2012	2013	2014 from PY	
Jan	\$98,400	\$112,836	\$213,016	\$951,609	346.73%
Feb	\$101,156	\$112,024	\$182,322	\$787,796	332.09%
Mar	\$114,141	\$138,857	\$236,589	\$1,068,198	351.50%
Apr	\$101,758	\$151,697	\$207,583	\$597,513	187.84%
May	\$79,694	\$130,681	\$165,344	\$397,864	140.63%
June	\$90,530	\$143,525	\$173,564	\$493,672	184.43%
July	\$74,297	\$166,596	\$198,017	\$755,747	281.66%
Aug	\$87,638	\$167,634	\$226,347	\$612,329	170.53%
Sep	\$87,116	\$180,635	\$203,715	\$482,512	136.86%
Oct	\$74,763	\$160,677	\$189,368	\$425,385	124.63%
Nov	\$73,632	\$171,386	\$192,819	\$0	n/a
Dec	\$97,903	\$189,064	\$205,254	\$0	n/a
Total	\$1,081,028	\$1,825,612	\$2,393,937	\$6,572,626	



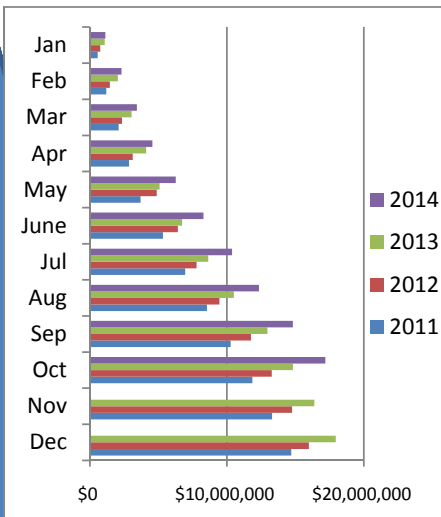
Restaurant / Bar					
	2011	2012	2013	2014	% change from PY
Jan	\$9,132,858	\$10,000,475	\$11,273,850	\$12,448,962	10.42%
Feb	\$8,708,081	\$10,576,852	\$10,704,428	\$12,281,889	14.74%
Mar	\$10,231,641	\$12,086,391	\$12,967,189	\$14,759,829	13.82%
Apr	\$4,227,322	\$4,662,012	\$4,310,574	\$6,111,111	41.77%
May	\$1,629,285	\$1,975,658	\$2,552,517	\$2,359,399	-7.57%
June	\$3,761,795	\$5,006,301	\$5,004,564	\$5,623,693	12.37%
Jul	\$7,179,297	\$7,964,540	\$8,164,898	\$9,240,264	13.17%
Aug	\$6,655,377	\$6,905,724	\$7,690,278	\$8,626,324	12.17%
Sep	\$4,725,746	\$5,423,426	\$5,254,681	\$5,270,971	0.31%
Oct	\$2,675,462	\$2,924,663	\$3,457,580	\$3,686,608	6.62%
Nov	\$3,522,382	\$3,613,665	\$4,385,744	\$0	n/a
Dec	\$9,843,423	\$9,534,760	\$10,871,039	\$0	n/a
Total	\$72,292,669	\$80,674,467	\$86,637,342	\$80,409,050	



Short-Term Lodging					
	2011	2012	2013	2014	% change from PY
Jan	\$12,273,406	\$12,980,188	\$15,698,448	\$17,238,218	9.81%
Feb	\$12,861,701	\$14,098,863	\$15,860,278	\$17,181,442	8.33%
Mar	\$18,399,939	\$18,334,344	\$21,139,859	\$24,785,430	17.25%
Apr	\$4,053,070	\$4,477,551	\$3,303,068	\$4,953,670	49.97%
May	\$832,715	\$1,088,308	\$1,263,021	\$1,277,400	1.14%
June	\$2,532,271	\$3,498,126	\$3,489,236	\$4,328,826	24.06%
Jul	\$5,513,083	\$6,619,464	\$6,874,194	\$7,643,345	11.19%
Aug	\$4,617,400	\$5,172,991	\$5,384,872	\$6,657,039	23.62%
Sep	\$3,209,320	\$3,501,612	\$3,680,342	\$3,757,838	2.11%
Oct	\$1,353,845	\$1,495,331	\$1,780,132	\$2,313,679	29.97%
Nov	\$2,982,078	\$2,764,095	\$3,266,469	\$0	n/a
Dec	\$16,181,397	\$15,265,907	\$18,041,999	\$0	n/a
Total	\$84,810,225	\$89,296,780	\$99,781,916	\$90,136,888	



Grocery / Liquor					
	2011	2012	2013	2014	% change from PY
Jan	\$4,853,813	\$4,857,276	\$6,202,934	\$5,396,830	-13.00%
Feb	\$4,803,009	\$4,962,402	\$5,467,845	\$5,757,737	5.30%
Mar	\$5,179,766	\$5,219,990	\$5,782,332	\$6,142,330	6.23%
Apr	\$3,261,348	\$3,469,430	\$2,961,839	\$3,595,478	21.39%
May	\$2,053,046	\$2,309,947	\$2,527,526	\$2,494,945	-1.29%
June	\$2,757,191	\$3,097,820	\$3,378,083	\$3,390,191	0.36%
Jul	\$4,219,220	\$4,489,506	\$4,954,547	\$5,095,848	2.85%
Aug	\$4,271,490	\$4,540,829	\$4,724,946	\$4,876,297	3.20%
Sep	\$3,278,161	\$3,404,220	\$3,465,662	\$3,605,574	4.04%
Oct	\$2,647,930	\$2,855,324	\$2,930,066	\$3,098,294	5.74%
Nov	\$2,598,982	\$2,778,270	\$2,869,441	\$0	n/a
Dec	\$7,776,073	\$7,705,640	\$8,615,254	\$0	n/a
Total	\$47,700,028	\$49,690,652	\$53,880,474	\$43,453,523	

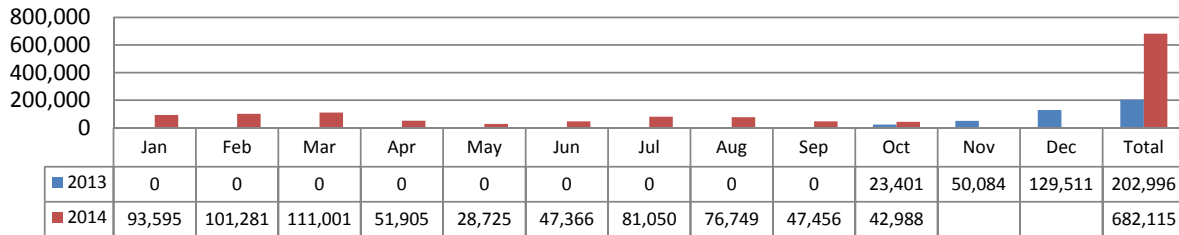


Construction					% change
	2011	2012	2013	2014	from PY
Jan	\$563,647	\$752,255	\$1,072,239	\$1,129,003	5.29%
Feb	\$633,474	\$703,811	\$964,673	\$1,171,370	21.43%
Mar	\$890,826	\$881,518	\$1,008,645	\$1,121,396	11.18%
Apr	\$770,474	\$779,206	\$1,055,938	\$1,140,743	8.03%
May	\$836,918	\$1,761,256	\$978,334	\$1,699,762	73.74%
Jun	\$1,630,112	\$1,540,822	\$1,653,588	\$2,027,078	22.59%
Jul	\$1,625,460	\$1,366,520	\$1,903,161	\$2,084,178	9.51%
Aug	\$1,594,166	\$1,670,785	\$1,870,078	\$1,969,423	5.31%
Sep	\$1,722,226	\$2,297,356	\$2,454,362	\$2,474,159	0.81%
Oct	\$1,595,351	\$1,521,388	\$1,858,158	\$2,372,139	27.66%
Nov	\$1,437,391	\$1,482,393	\$1,555,679	\$0	n/a
Dec	\$1,392,964	\$1,226,412	\$1,568,060	\$0	n/a
Total	\$14,693,010	\$15,983,720	\$17,942,915	\$17,189,250	

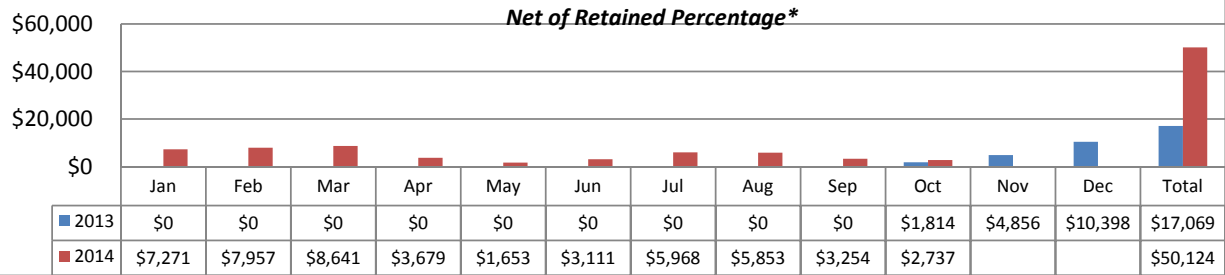
Disposable Bag Fees

The Town adopted an ordinance April 9, 2013 (effective October 15, 2013) to discourage the use of disposable bags and achieve a goal of the SustainableBreck Plan. The ten cent fee applies to most plastic and paper bags given out at retail and grocery stores in Breckenridge. The program is intended to encourage the use of reusable bags and discourage the use of disposable bags, thereby furthering the Town's sustainability efforts. Revenues from the fee are used to provide public information about the program and promote the use of reusable bags. Retailers are permitted to retain 50% of the fee (up to \$1000/month through October 31, 2014; \$100/month beginning November 1, 2014) in order to offset expenses incurred related to the program.

of Disposable Bags Reported by Month



Bag Fees Remitted by Month



*Retailers are permitted to retain 50% of the fee (up to \$1000/month through October 31, 2014; \$100/month beginning November 1, 2014) in order to offset expenses incurred related to the program. The retained percent may be used by the retail store to provide educational information to customers; provide required signage; train staff; alter infrastructure; fee administration; develop/display informational signage; encourage the use of reusable bags or promote recycling of disposable bags; and improve infrastructure to increase disposable bag recycling.

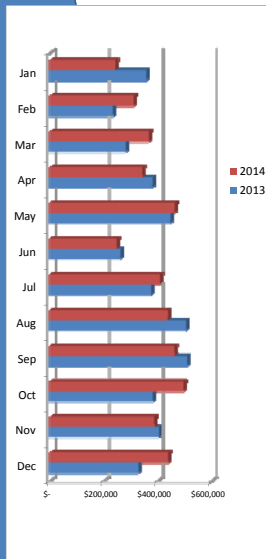
Real Estate Transfer Tax

New Items of Note:

- Revenue for the month of December was ahead of prior year by 33.58%, and surpassed the monthly budget by \$199,782.
- Collections ended the year up 3.20% from prior year, and ahead of budget by \$804,913 (through 12/31).
- At year end, 2014 churn lagged behind 2013 churn by only 0.83% . This is remarkably close, which is what would ideally be expected of the year-to-year measurement of "churn."
- Single Family Home sales accounted for the majority of the sales (33.92%), with Condominiums representing the next highest sales (26.64%) subject to the tax. Timeshare sales, which previously represented the second highest portion of sales, fell to third position.
- At the time of the budget process, 2014 RETT was projected at \$4,240,681. The amount that the Actual 2014 RETT exceeded this projection resulted in an additional \$364k in Excise Fund balance.

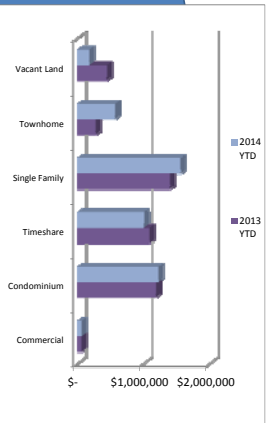
Continuing Items of Note:

- 2014 Real Estate Transfer Tax budget is based upon the monthly distribution for 2013.

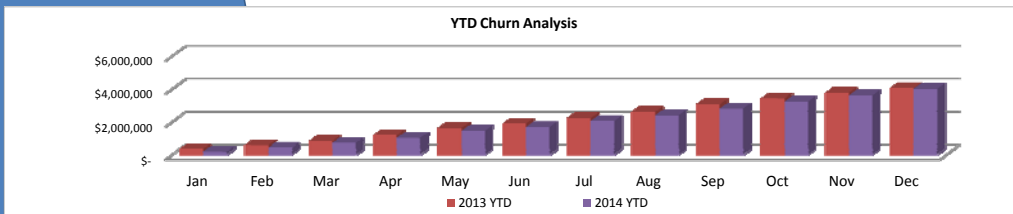


Total RETT						
	2012	2013	2014	% change	2014 Budget	+/- Budget
Jan	\$132,557	\$358,948	\$242,770	-32.37%	\$309,216	-\$66,446
Feb	\$234,630	\$234,357	\$311,353	32.85%	\$201,887	\$109,466
Mar	\$114,921	\$281,202	\$367,107	30.55%	\$242,242	\$124,865
Apr	\$174,514	\$380,279	\$343,886	-9.57%	\$327,592	\$16,294
May	\$292,708	\$446,840	\$461,783	3.34%	\$384,931	\$76,852
Jun	\$251,397	\$259,659	\$246,452	-5.09%	\$223,684	\$22,768
Jul	\$252,104	\$373,510	\$409,671	9.68%	\$321,761	\$87,910
Aug	\$388,749	\$504,694	\$436,174	-13.58%	\$434,769	\$1,405
Sep	\$311,285	\$509,838	\$463,305	-9.13%	\$439,201	\$24,104
Oct	\$387,028	\$381,475	\$495,973	30.01%	\$328,622	\$167,351
Nov	\$389,275	\$403,015	\$387,739	-3.79%	\$347,178	\$40,561
Dec	\$761,919	\$328,416	\$438,700	33.58%	\$238,918	\$199,782
Total	\$3,691,087	\$4,462,232	\$4,604,914		\$3,800,000	\$804,913

*December #s are as of 12/31/2014



by Category					
Description	2013 YTD	2014 YTD	\$ change	% change	% of Total
Commercial	\$ 63,535	\$ 66,522	2,987	4.70%	1.44%
Condominium	1,186,224	1,226,822	40,598	3.42%	26.64%
Timeshare	1,092,602	1,005,171	(87,431)	-8.00%	21.83%
Single Family	1,400,025	1,562,179	162,155	11.58%	33.92%
Townhome	277,817	562,215	284,398	102.37%	12.21%
Vacant Land	442,030	182,005	(260,025)	-58.83%	3.95%
Total	\$ 4,462,232	\$ 4,604,914	142,682	3.20%	100.00%



General Fund Revenues Summary

November 30, 2014

These next two pages report on results in our General Fund. This area contains most "Government Services," such as public works, police, planning, recreation facilities, and administrative function.

General Fund Revenue: At the end of November, the Town's General Fund was at 104% of YTD budget (\$20.2 million actual vs. \$19.5 million budgeted). The variances are described below.

Variance Explanations:

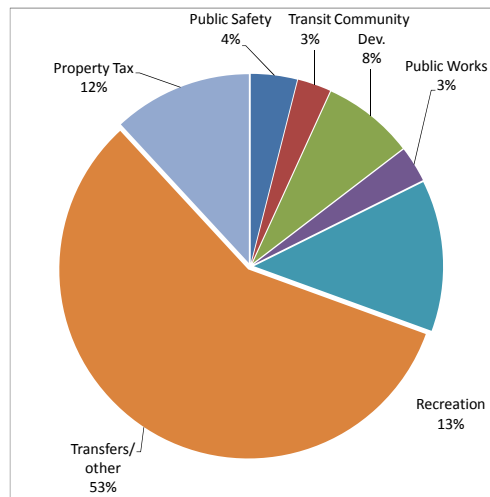
Recreation: the Black Friday Sale continues to be a success. Over the 5 day sale period \$176k in sales were generated (\$30k more than 2013). November Resident Pass Sales exceeded budget by \$39k. November monthly Resident pass sales were \$194k (resident pass sales average \$25k per month). Year to date Resident Pass sales are over YTD budget by \$108k.

Community Development: continues to approach 2008/2009 building permit and plan check fee revenues. Revenues from building permits are at \$676k YTD vs budget of \$435k. Plan check fees are at \$433k vs. budget of \$265k.

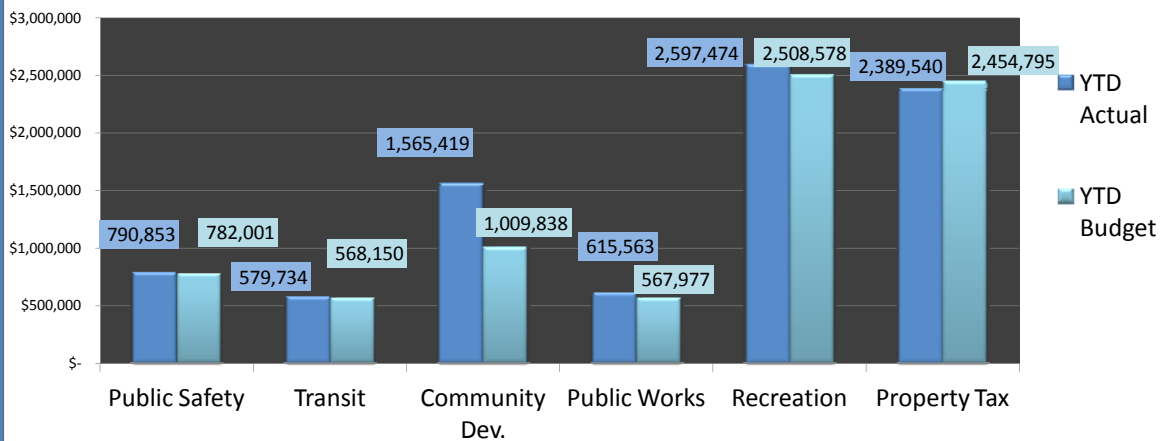
Public Works: over budget due to miscellaneous income such as Ice Castles.

Property tax-timing. Most payments have been received. Late payments will continue to trickle in.

GENERAL FUND YTD REVENUES



Gen. Fund YTD Revenue Act vs. Bud - by Program



General Fund Expenditures Summary

November 30, 2014

This page details the expense side of the General Fund. These figures represent the cost of providing the services contained in this fund (Public Safety, Transit, Recreation, Public Works, Community Development, and Administration).

The General Fund actual expenditures through November 30, 2014 were under budget by 4% at \$18,560,912 vs. budget of \$19,271,068 .

Variance Explanations:

Public Safety under budget due to wages (open positions) .

Admin under budget due to legal services and wages.

Transit under budget due to wages (open positions) .

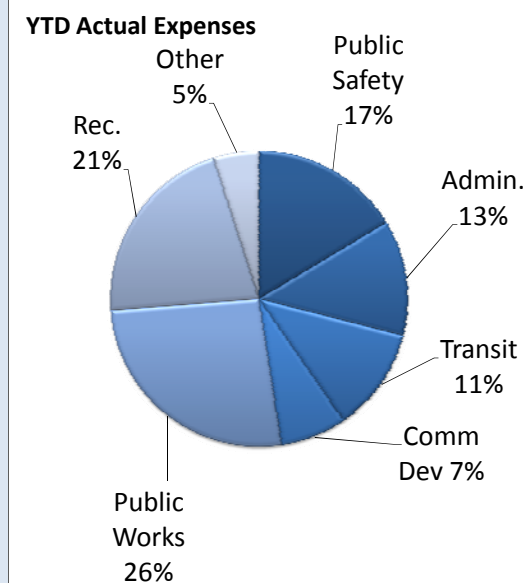
Comm Dev under budget due to wages and training.

Public Works slightly over budget due to last winter's large snowfall.

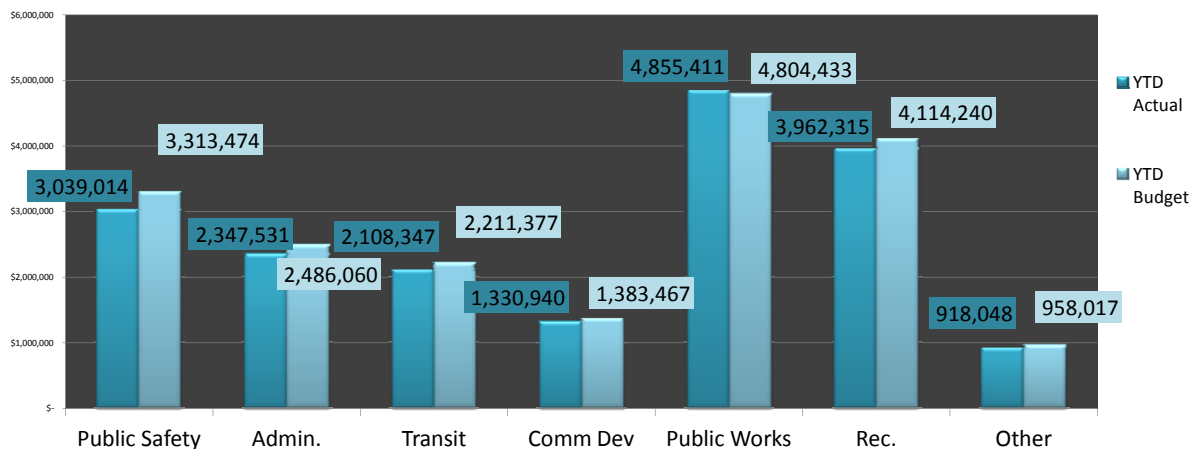
Recreation under budget due to a number of operational items (wages, advertising, utilities and janitorial services).

"Other" category:

- Nordic Center financing-did not draw as much as anticipated for new lodge construction project.
- Green Team: purchases of reuseable bags (not yet spent)



Gen. Fund YTD Expenditures Act. vs. Bud. - by Program



Combined Statement of Revenues and Expenditures

All Funds November 30, 2014

REVENUE	YTD Actual	YTD Budget	% of YTD Bud.	Annual Bud.
General Governmental				
1 Gen/Excise/MMJ/Child Cr/Spec Prj	\$ 33,976,063	\$ 31,728,772	107%	\$ 36,499,818
2 Special Revenue	9,896,381	9,691,072	102%	10,838,918
3 Internal Service	3,197,609	3,132,124	102%	3,461,464
4 Subtotal General Governmental	\$ 47,070,053	\$ 44,551,968	106%	\$ 50,800,200
5 Capital Projects	1,970,446	1,103,250	179%	1,110,000*
Enterprise Funds				
6 Utility Fund	3,640,441	3,792,582	96%	4,284,789
7 Golf	2,117,088	2,125,162	100%	2,137,530
8 Cemetery	26,025	20,780	125%	22,518
9 Subtotal Enterprise Funds	\$ 5,783,554	\$ 5,938,524	97%	\$ 6,444,837
10 TOTAL REVENUE	54,824,053	51,593,742	106%	58,355,037
11 Internal Transfers	28,595,030	28,488,529	100%	29,999,374
12 TOTAL REVENUE incl. x-fers	\$ 83,419,084	\$ 80,082,271	104%	\$ 88,354,411
EXPENDITURES				
	YTD Actual	YTD Budget	% of Bud.	Annual Bud.
General Governmental				
1 Gen/Excise/MMJ/Child Cr/Spec Prj	\$ 24,198,541	\$ 25,678,657	94%	\$ 27,481,706
2 Special Revenue	7,181,789	9,453,137	76%	9,709,682
3 Internal Service	2,429,779	3,206,817	76%	3,514,128
4 Subtotal General Governmental	\$ 33,810,109	\$ 38,338,611	88%	\$ 40,705,516
5 Capital Projects	13,891,937	9,747,683	143%	9,747,683**
Enterprise Funds				
6 Utility Fund	2,632,208	2,682,547	98%	3,005,074
7 Golf	1,600,589	1,623,070	99%	1,757,661
8 Cemetery	0	12,441	0%	13,572
9 Subtotal Enterprise Funds	\$ 4,232,797	\$ 4,318,058	98%	\$ 4,776,307
10 TOTAL EXPENDITURES	51,934,843	52,404,352	99%	55,229,506
11 Internal Transfers	28,595,030	28,488,518	100%	29,999,374
12 TOTAL EXPENDITURES incl. x-fers	\$ 80,529,873	\$ 80,892,870	100%	\$ 85,228,880
13 TOTAL REVENUE less EXPEND.	\$ 2,889,210	\$ (810,599)	N/A	\$ 3,125,531

*Capital fund revenue in excess of budget due to County revenue for Harris St. bldg. construction.

**Capital Fund expenses over budget due to projects authorized and funded in 2013.

General Governmental Funds - General, Excise, Child Care, Marijuana and Special Projects

Special Revenue Funds - Marketing, Affordable Housing, Open Space, and Conservation Trust

Internal Service Funds - Garage, Information Technology (IT), and Facilities

ALL FUNDS REPORT

November 30, 2014

The YTD breakdown of the revenue/expenses variances is as follows:

General Fund:

- Revenue:
 - Ahead of budget by \$723k-see General Fund Revenue page for more detail.
- Expense:
 - Under budget by \$710k. See General Fund Expense page of this report for more details.

Excise Fund:

- Revenue:
 - Ahead of budget by \$1.65 million-see Executive Summary or Tax Basics for more information.
- Expense:
 - Over budget due to transfer to Marketing which is based on actual Accommodation Tax collections.

Capital Fund:

- Revenue:
 - Over budget due to County contributions for Harris Street building (timing-was budgeted in 2013) as well as other fundraising for this project.
- Expense:
 - Over budget due to expenditure of prior year appropriated expenditures for Harris St. building. Spending authority in the Capital Fund does not expire annually. In 2014, projects appropriated and funded in the prior year are being completed.

Special Revenue Funds:

- Revenue:
 - Marketing Fund ahead of budget due to sales tax, accommodation tax and business licenses.
 - Affordable Housing under budget due to sales of assets budgeted but have not taken place.
 - Open Space ahead of budget due to sales tax.
- Expense:
 - Affordable Housing under budget due to capital expenditures which were budgeted by have not taken place.

Utility:

- Revenue:
 - Under budget due to PIF's.

Internal Service Funds:

- Revenue:
 - Ahead of budget due to insurance recoveries
- Expense:
 - Under budget due to timing of capital expenditures

Fund Descriptions:

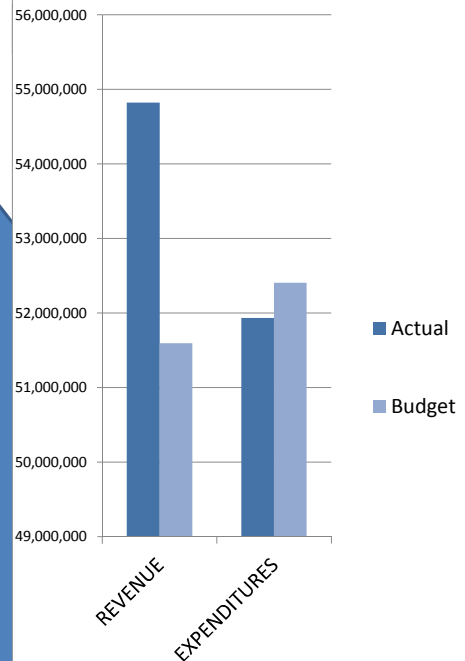
General Governmental - General, Excise, Capital, Special Projects, Child Care, Marijuana

Special Revenue Funds - Marketing, Affordable Housing, Open Space, and Conservation Trust

Enterprise Funds: Golf, Utility, Cemetery

Internal Service Funds - Garage, Information Technology (IT), and

YTD Actual Revenues and Expenditures vs. Budget



MEMORANDUM

To: Mayor and Town Council
From: Rick Holman, Assistant Town Manager
Date: January 7, 2015
Subject: Recommendation for Amendment to ByLaws of GoBreck, Inc.

GoBreck has asked for an opportunity to present a proposed amendment to their ByLaws to the Town Council at the January 13th work session. Attached is the proposed amendment that would allow for the extension of two board members due to rotate off in June of 2015 until June of 2016 and the two additional board members due to rotate off in June of 2016 would also be extended for a year.

Since the Town Council plays a role in the appointment of GoBreck Board members, they would like to discuss this matter with the Council prior to taking formal action on it with their Board of Directors. Lucy Kay will be present at the work session for this discussion.

**AMENDMENT TO BYLAWS OF GOBRECK, INC.
(A Non-Profit Corporation)**

January __, 2015

In accordance with the provisions of Article IX of the Bylaws of GoBreck, Inc. adopted on the 6th day of January, 2014, the following amendments are hereby adopted:

1. The provisions of Subsection A of Section 3 of Article IV are hereby amended to substitute “2016” and “2017” for “2015” and “2016” respectively in the sixth line thereof, so that the terms of the two Directors appointed to serve until June 15, 2015 will be extended to June 15, 2016 and the terms of the two Directors appointed to serve until June 15, 2016 will be extended to June 15, 2017.

2. The provisions of Subsection B of Section 3 of Article IV are hereby amended to substitute “2016” and “2017” for “2015” and “2016” respectively in the fifth line thereof, so that the terms of the two Directors appointed by the Council whose terms expire June 15, 2015 will be extended to June 15, 2016 and the term of the Director appointed by the Council whose term expires June 15, 2016 will be extended to June 15, 2017.

3. Subsection A of Section 4 of Article IV is hereby amended to add “, beginning in 2016,” after “Each year” in the first line thereof.

4. Subsection B of Section 4 of Article IV is hereby amended to add “, beginning in 2016,” after “Each year” in the first line thereof.

The foregoing Amendment to Bylaws of GoBreck, Inc. was adopted by a vote of at least two-thirds of all members of the Board of GoBreck, Inc. on the __ day of January, 2015.

GOBRECK, INC.
a Colorado non-profit corporation

By: _____
Chairman of the Board of Directors

Attest:

Secretary/Treasurer

Memo



To: Breckenridge Town Council Members
From: Helen Cospolich, Municipal Services Manager
CC: Tim Berry, Town Attorney
Date: 1/2/2015
Subject: Marijuana Local License Hearing Rules

Since the creation of a Town of Breckenridge Local Licensing Authority (the Authority) for marijuana, the Town has followed the State's licensing rules in the absence of defined local rules. In an effort to simplify the Town's procedures and use the rules for liquor license hearings as determined by the Town's Liquor Licensing Authority as a guide, we are proposing to adopt the attached new Marijuana Local License Hearing Rules.

The purpose of the Marijuana Local License Hearing Rules is to define a procedure to follow in the case a license hearing is required by the Authority. A license hearing would be the result of a local violation by a marijuana establishment.

As these are Administrative Rules and Regulations, no formal approval by Council is necessary. Staff will be at the work session to hear any comments or feedback Council may have. Following our discussion at the Work Session, we anticipate being able to issue the new rules.

Breckenridge under Chapter 14 of Title 4 of the Breckenridge Town Code, as amended from time to time.

LICENSED PREMISES: The premises that are the subject of a license.

PARTY: The Respondent and the Town of Breckenridge Police Department.

LICENSING ORDINANCE: Chapter 14 of Title 4 of the Breckenridge Town Code, as amended from time to time.

RESPONDENT: The person to whom an Order to Shown Cause or Summary Suspension Order is directed.

1
2 B. All terms defined in the Licensing Ordinance are adopted and incorporated into these
3 Rules by reference.

4 **Rule 8. Disciplinary Process: Non-Summary Suspensions.**

5
6 A. **Authority May Issue Order to Show Cause.** If the Local Licensing Authority, on its
7 own initiative or based on a complaint, has reasonable cause to believe that a Licensee has
8 violated:

- 9 1. Any Applicable Code;
10 2. Any Applicable Administrative Regulation;
11 3. The Licensing Ordinance;
12 4. The terms and conditions of a license; or
13 5. Any order issued by the Local Licensing Authority,

14 the Local Licensing Authority may issue and serve upon the Licensee an Order to Show Case as to
15 why its license should not be suspended or revoked.

16 B. **Contents of Order to Show Cause.** The Order to Show Cause shall identify the
17 Applicable Code, Applicable Administrative Regulation, provision of the Licensing Ordinance,
18 term and condition of the license, or order allegedly violated, and the facts alleged to constitute the
19 violation. The order shall also provide an advisement that the license could be suspended or
20 revoked should the charges contained in the notice be sustained upon final hearing. Disciplinary
21 hearings shall be conducted in accordance with these Rules.

22 **Rule 9. Disciplinary Process: Summary Suspensions.**

1 **A. How a Summary Suspension Action is Initiated**

2 1. **Summary Suspension Order.** When the Local Licensing Authority has reasonable
3 grounds to believe and finds that a Licensee has been guilty of a deliberate and willful
4 violation of any applicable law or regulation or that the public health, safety, or welfare
5 imperatively requires emergency action it may serve upon the Licensee a Summary
6 Suspension Order that temporarily or summarily suspends the license.

7 2. **Contents of Summary Suspension Order.** The Summary Suspension Order shall
8 identify the nature of the Local Licensing Authority’s basis for the summary suspension.
9 The Summary Suspension Order shall also provide an advisement that the License may
10 be subject to further discipline or revocation should the charges contained in the notice
11 be sustained following a hearing.

12 3. **Action After Summary Suspension Order Issued.** Proceedings for suspension or
13 revocation shall be promptly instituted and determined after the Summary Suspension
14 Order is issued.

15 **B. Summary Suspension Hearings.** Summary suspension hearings shall be expedited to
16 the extent practicable and shall be conducted in accordance with these Rules.

17 **Rule 10. Signs Required During Suspension.**

18 **A. Signs Required to be Posted.** Every Licensee whose license has been suspended,
19 whether summarily or after an administrative hearing, shall post two notices in conspicuous
20 places, one on the exterior and one on the interior of its premises, for the duration of the
21 suspension. The notices shall be at least 17 inches in length and 14 inches in width containing
22 lettering not less ½ inch in height.

23 1. **After Final Order Issued.** For suspension following issuance of a final order by the
24 Local Licensing Authority, the sign shall be in the following form:

25 NOTICE OF SUSPENSION
26 [RETAIL][MEDICAL] MARIJUANA LICENSES ISSUED
27 FOR THESE PREMISES HAVE BEEN
28 SUSPENDED BY ORDER OF THE LOCAL LICENSING AUTHORITY
29 FOR VIOLATION OF THE COLORADO RETAIL MARIJUANA CODE
30

31 2. **After Summary Suspension Order Issued.** For a summary suspension pending
32 issuance of a final order by the Local Licensing Authority, the sign shall be in the
33 following form:

34 NOTICE OF SUSPENSION
35 RETAIL [MEDICAL]MARIJUANA LICENSES ISSUED

MARIJUANA LICENSING ORDINANCE ADMINISTRATIVE RULES –
DISCIPLINARY HEARINGS

1 FOR THESE PREMISES HAVE BEEN
2 SUSPENDED BY ORDER OF THE LOCAL LICENSING AUTHORITY
3 FOR ALLEGED VIOLATION OF THE COLORADO RETAIL MARIJUANA CODE
4

5 B. Any advertisement or posted sign that indicates that the premises have been closed or
6 business suspended for any reason other than by the manner described in this Rule shall be deemed
7 a violation.

8 **Rule 11. Prohibited Activity By Licensee During Active Suspension.** Rule M1303(B) and
9 Rule R1303 (B) of the Administrative Rules and Rules of the Colorado Department of Revenue,
10 Marijuana Enforcement Division apply to prohibited activities by a licensee during a period of
11 active suspension.

12 **Rule 12. Administrative Hearings**

13 **A. General Procedures**

- 14 1. **Hearing Location.** Hearings shall generally be conducted by the Local Licensing
15 Authority, and, unless otherwise ordered by the Local Licensing Authority, shall be
16 conducted at the Breckenridge Town Hall, 150 Ski Hill Road, Breckenridge, Colorado.
- 17 2. **Scope of Hearing Rules.** These Rules shall be construed to promote the just and
18 efficient determination of all matters presented.
- 19 3. **Right to Legal Counsel.** A Respondent has a right to legal counsel throughout all
20 processes associated with the disciplinary action. Such counsel shall be provided solely
21 at the Respondent's expense.
- 22 4. **Right to Hearing.** A Respondent that has been served with an Order to Show Cause or
23 Summary Suspension Order shall be entitled to a hearing regarding the matters
24 addressed therein.
- 25 5. **Right to Present Evidence and Cross Examine Witnesses.** In any disciplinary
26 hearing, a Respondent has the right to present its case or defense; to present such
27 evidence as may be relevant; and to cross examine all witnesses. The Town of
28 Breckenridge Police Department has the same right to present its case; to present such
29 evidence as may be relevant, and to cross examine all witnesses. The Local Licensing
30 Authority may reasonably limit the testimony of witnesses whose testimony is unduly
31 repetitious, and the duration of a Party's cross examination of a witness. Documentary
32 evidence may be received in the form of a copy or excerpt if the original is not readily
33 available; but, upon request, any Party shall be given an opportunity to compare the copy
34 with the original.

1 **6. Waiver of Right to Hearing.** A Respondent may waive its right to a hearing by
2 submitting a written statement to the Local Licensing Authority to that effect before the
3 hearing.

4 **7. Burden of Proof.** Unless otherwise provided by law, the Town of Breckenridge Police
5 Department shall have the burden of proof with respect to all issues relegated to an Order
6 To Show Cause or a Summary Suspension Order. The Respondent shall have the burden
7 of proof as to any order as to which it is the proponent.

8 **8. Town’s Police Department Is A Party.** In all hearings held before the Local Licensing
9 Authority under the Licensing Ordinance, the Town of Breckenridge Police Department
10 shall be a Party, and shall represent the public interest. The fact that the Town’s Police
11 Department is a Party is not grounds for the disqualification of the Local Licensing
12 Authority.

13 **B. No Responsive Pleading Required.** No responsive pleading is required to be filed by
14 the Respondent. However, the Respondent may file a responsive pleading if desired any time prior
15 to the hearing. A copy of any responsive pleading shall be provided to the Town’s Municipal Court
16 Prosecutor concurrently with it having been filed with the Local Licensing Authority.

17 **C. Hearing Notices.**

18 **1. Notice of Hearing.** The Order to Show Cause shall comply with the requirements of
19 Rule 8(B), and shall notify the Respondent of the date, place, and time of the hearing
20 regarding whether discipline should be imposed against the Respondent’s license.
21 Hearings shall be scheduled and held as soon as is practicable.

22 **2. Mailed Notice Sufficient.** The Local Licensing Authority shall send the Order to Show
23 Cause to the Respondent in writing by first-class mail to the last mailing address of
24 record as shown in the records of the Local Licensing Authority. The Order to Show
25 Cause shall be mailed to the Respondent at least thirty (30) days prior to date of such
26 hearing. The Town Clerk’s Certificate of Mailing of the Order to Show Cause shall be
27 prima facie evidence of compliance with the requirements of this Rule.

28 **3. Continuances.** Continuances may be granted for good cause as described in this Rule. A
29 motion for a continuance must be timely. For purposes of this Rule, “good cause” may
30 include, but is not limited to: death or incapacitation of a Party or an attorney for a Party;
31 a court order staying proceedings or otherwise necessitating a continuance; entry or
32 substitution of an attorney for a Party a reasonable time prior to the hearing, if the entry
33 or substitution reasonably requires a postponement of the hearing; a change in the Parties
34 or pleadings sufficiently significant to require a postponement; a showing that more time
35 is clearly necessary to allow adequate preparation for the hearing; or agreement of the
36 Parties to a settlement of the case which has been or shall likely be approved by the Local
37 Licensing Authority. “Good cause” normally shall not include the following:

1 unavailability of counsel because of engagement in another judicial or administrative
2 proceeding, unless the other proceeding was involuntarily set subsequent to the setting in
3 the present case; unavailability of a necessary witness, if the witness' testimony can be
4 taken by telephone; or failure of an attorney or a Party timely to prepare for the hearing.

5 4. **Discovery Not Allowed.** Discovery is not permitted in connection with any hearing held
6 by the Local Licensing Authority.

7 **D. Conduct of Hearings**

8 1. **Electronic Recording.** The Local Licensing Authority shall cause all hearings to be
9 electronically recorded.

10 2. **Court Reporter.** A court reporter may be employed by any Party, at the expense of such
11 Party, to prepare a verbatim written record of the hearing.

12 3. **Telephonic Hearing.** The Local Licensing Authority may allow a hearing, or any
13 portion of the hearing, to be conducted in real time by telephone or other electronic
14 means. If a Party is appearing by telephone, the Party must provide actual copies of the
15 exhibits to be offered into evidence at the hearing to the Local Licensing Authority
16 before the hearing.

17 4. **General Hearing Procedures.** The following general procedures will be followed by
18 the Local Licensing Authority in connection with this hearing:

19 (a) First, counsel for the Police Department will be given the opportunity to present any
20 opening statement to the Local Licensing Authority that he desires to make.

21 (b) Next, the Licensee or its counsel will be given the opportunity to present any
22 opening statement to the Local Licensing Authority that it desires to make.

23 (c) Next, the Police Department will present its evidence with respect to the charge
24 against the Licensee. The Licensee or its counsel then be given an opportunity to
25 cross-examine the Police Department's witnesses about their testimony or records.

26 (d) Next, the Licensee or its counsel will be given an opportunity to present any
27 evidence that it may wish to offer with respect to the charge. This may involve the
28 calling of witnesses or the introduction of documentary evidence.

29 (e) Finally, the Parties will be given an opportunity to present any rebuttal evidence
30 that they desire to offer.

31 (f) The Local Licensing Authority shall be permitted to ask questions of any person
32 who testifies. This will occur after the testimony has been offered and any
33

1 cross-examination has occurred. If there are further questions which either party has
2 as a result of any of Local Licensing Authority’s questions, they will be permitted to
3 ask these questions.

4 (g) After all of the testimony and cross-examination has been concluded, the Parties
5 shall be given the opportunity to present a brief summation.

6 (h) After that, the hearing will be closed. In the event the Licensee is found to have
7 committed the violation(s) as alleged, or if the Local Licensing Authority determines
8 such evidence to be appropriate at this stage of the proceedings, evidence and
9 statements in mitigation and aggravation of the charges will be permitted.”

10 **5. Rules of Evidence Apply to Hearings.** To the extent practicable, the Colorado Rules of
11 Evidence apply. Unless the context requires otherwise, whenever the word “court,”
12 “judge,” or “jury” appears in the Colorado Rules of Evidence, such word shall be
13 construed to mean the Local Licensing Authority. However, when necessary to do so in
14 order to ascertain facts affecting the substantial rights of the Parties, the Local Licensing
15 Authority may receive and consider evidence not admissible under the Colorado Rules
16 of Evidence if such evidence possesses probative value commonly accepted by
17 reasonable and prudent persons in the conduct of their affairs.

18 **6. If Respondent Fails to Appear.** The Local Licensing Authority may proceed with the
19 hearing or enter default judgment if any Party fails to appear at hearing after proper
20 notice.

21 **7. Site Visits.**

22 (a) The Local Licensing Authority finds that visiting the site that is involved in a
23 pending disciplinary action can be a helpful way to gather relevant facts concerning
24 the application or disciplinary action. A site visit may lead to a better understanding of
25 a pending disciplinary action and, therefore, enhance the ability of the Local Licensing
26 Authority to make an appropriate decision. However, site visits present unique
27 problems in the context of the formal disciplinary hearing processes.

28 (b) As part of a disciplinary hearing, the Local Licensing Authority may schedule and
29 conduct a site visit when requested to do so by any Party or their counsel, or on its own
30 initiative. In connection with any site visit, all Parties shall be given an opportunity to
31 attend and participate in the site visit.

32 (c) Members of the public and the media are permitted to attend the site visit to listen to
33 the questions and comments of the Hearing Authority and the Parties, but the public
34 and media do not have the right to ask questions of the Hearing Authority or the Parties
35 during a site visit.

1 E. **Post Hearing.** After considering all the evidence, the Local Licensing Authority shall
2 determine whether the Party with the burden of proof has proven its case by a preponderance of the
3 evidence, and shall make written findings of evidentiary fact, ultimate conclusions of fact,
4 conclusions of law, and a recommendation. These written findings shall constitute the final
5 decision of the Town of Breckenridge for purposes of an appeal filed pursuant to Rule 106(a)(4) of
6 the Colorado Rules of Civil Procedure. See Rule 15.

7 F. **No Ex Parte Communication.** Ex parte communication shall not be allowed at any
8 point following the formal initiation of the hearing process. A Party or counsel for a Party shall not
9 initiate any communication with the Local Licensing Authority pertaining to any pending matter
10 unless all other Parties participate in the communication or unless prior consent of all other Parties
11 (and any pro se Parties) has been obtained. Parties shall provide all other Parties with copies of any
12 pleading or other paper submitted to the Local Licensing Authority in connection with a hearing or
13 with the exceptions process.

14 G. **Town Legal Representation.** In all hearings before the Local Licensing Authority the
15 Town of Breckenridge Police Department shall be represented by the Town’s Municipal Court
16 Prosecutor, or other special counsel designated by the Town Council. The Local Licensing
17 Authority shall be advised by the Town Attorney.

18 **Rule 13. Local Licensing Authority May Issue Subpoenas.**

19 1. **Party May Request Subpoenas.** A Party or its counsel may request the Local
20 Licensing Authority to issue subpoenas to secure the presence of witnesses or documents
21 necessary for the hearing.

22 2. **Request For Subpoenas – To Whom Delivered.** Requests for subpoenas to be issued
23 by the Local Licensing Authority must be delivered in person or by mail to the office of
24 the Town Clerk, 150 Ski Hill Road, Breckenridge, Colorado 80424. Subpoena requests
25 must include the return mailing address, and phone and facsimile numbers of the
26 requesting Party or its attorney.

27 3. **Content of Request For Subpoena Form.** Requests for subpoenas to be issued by the
28 Local Licensing Authority must be made on a “Request for Subpoena” form authorized
29 and provided by the Town Clerk. The Local Licensing Authority shall not issue a
30 subpoena unless the request contains the following information:

31 (a) Name of the Respondent;

32 (b) Town of Breckenridge Marijuana License number;

33 (c) Date of hearing;

34 (d) Location of hearing, or telephone number for telephone check-in;

- 1 (e) Time of hearing;
- 2 (f) Name of witness to be subpoenaed; and
- 3 (g) Mailing address of witness (home or business).
- 4 **4. Subpoena Duces Tecum.** A request for a subpoena duces tecum must identify each
5 document or category of documents to be produced.
- 6 **5. Request Form Sign By Party or Counsel.** Requests for subpoenas shall be signed by
7 the requesting Party or its counsel.
- 8 **6. Authority to Issue Subpoenas.** The Local Licensing Authority shall issue subpoenas
9 without discrimination. If the reviewing Local Licensing Authority denies the issuance
10 of a subpoena, or alters a subpoena in any material way, specific findings and reasons for
11 such denial or alteration must be made on the record, or by written order incorporated
12 into the record.

13 **7. Service of Subpoenas.**

- 14 (a) Service of any subpoena is the duty of the Party requesting the subpoena.
- 15 (b) All subpoenas must be served at least two (2) business days prior to the hearing.

16 **8. Subpoena Enforcement.**

- 17 (a) Any subpoenaed witness, entity, or custodian of documents may move to quash the
18 subpoena with the Local Licensing Authority.
- 19 (b) The Local Licensing Authority may quash a subpoena if he or she finds on the
20 record that compliance would be unduly burdensome or impracticable, unreasonably
21 expensive, or is unnecessary.

22 **Rule 14. Penalties.**

23 **A. Range of Penalties.** If the allegations against a Respondent are sustained after a
24 hearing, the range of available penalties that may be imposed by the Local Licensing Authority
25 include:

- 26 1. A verbal or written warning;
- 27 2. The revocation of the license;
- 28 3. The suspension of the license for a period of time not to exceed six months; and/or

1 4. The imposition of a fine or fine in lieu of suspension of up to \$100,000.

2 In determining an appropriate penalty, the Local Licensing Authority shall consider the
3 mitigating and aggravating factors enumerated below.

4
5 Sanctions may also include restrictions or conditions on the license.

6
7 **B. Other Factors**

8 1. The Local Licensing Authority shall take into consideration any aggravating and
9 mitigating factors surrounding the violation that could impact the type or severity of
10 penalty imposed.

11 2. The circumstances surrounding any penalty imposed shall be determined on a
12 case-by-case basis.

13 **C. Mitigating and Aggravating Factors.** The Local Licensing Authority shall consider
14 mitigating and aggravating factors when considering the imposition of a penalty. These
15 factors may include, but are not limited to:

16 1. Any prior violations that the Licensee has admitted to or was found to have engaged in.

17 2. Action taken by the Licensee to prevent the violation (e.g., training provided to
18 employees).

19 3. Licensee's past history of success or failure with compliance checks.

20 4. Corrective action(s) taken by the Licensee related to the current violation or prior
21 violations.

22 5. Willfulness and deliberateness of the violation.

23 6. Likelihood of reoccurrence of the violation.

24 7. Circumstances surrounding the violation, which may include, but are not limited to:

25 (a) Prior notification letter to the Licensee that an underage compliance
26 check would be forthcoming.

27 (b) The dress or appearance of an underage operative used during an
28 underage compliance check (e.g., the operative was wearing a high
29 school letter jacket).

30 8. Owner or manager is the violator or has directed an employee or other individual to
31 violate the law.

1 9. Participation in State-approved educational programs related to the operation of a Retail
2 Marijuana Establishment.

3 **Rule 15. Appeals of Local Licensing Authority Decision.** A decision of the Local Licensing
4 Authority shall be final, subject to the right of any aggrieved Party to contest the matter in an
5 appropriate court action commenced under Rule 106(a)(4) of the Colorado Rules of Civil
6 Procedure. For purposes of determining the time limit for the commencement of an action under
7 Rule 106(a)(4) of the Colorado Rules of Civil Procedure, the decision of the Local Licensing
8 Authority shall be deemed to be final upon the Local Licensing Authority’s issuance of the written
9 finding or decision following the conclusion of the administrative hearing. If the appealing Party
10 receives a copy of the written decision of the Local Licensing Authority at the time of the
11 administrative hearing, the time for the filing of the appeal pursuant to Rule 106(a)(4) of the
12 Colorado Rules of Civil Procedure shall commence from the date the appealing Party receives the
13 written decision. If the written decision of the Local Licensing Authority is transmitted to the
14 appealing Party by mail, the time for the filing of the appeal Rule 106(a)(4) of the Colorado Rules
15 of Civil Procedure shall commence from the date of the mailing of the written decision.

16 Dated: January ____, 2015
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19 _____
20 Timothy J. Gagen
21 Local Licensing Authority
22 Town of Breckenridge, Colorado
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500-368\ Disciplinary Actions Administrative Regs_2 (01-05-15)

MARIJUANA LICENSING ORDINANCE ADMINISTRATIVE RULES –
DISCIPLINARY HEARINGS

MEMORANDUM

TO: Town Council

FROM: Mark Truckey, Assistant Director Community Development

DATE: January 5, 2015 for January 13 Meeting

SUBJECT: Worksession: Amendments to the Sign Code and Outdoor Display Provisions of the Town Code

Background

Staff last discussed the Sign Code amendments with the Council at a work session on November 11, 2014. The discussion regarding the Sign Code has primarily focused on whether the existing prohibition on sandwich boards in the Code should in some way be relaxed. There has also been some discussion regarding whether the outdoor display provisions should be loosened to allow more than one item of outdoor display.

Staff initially solicited public input on the issue by conducting two surveys in the summer of 2014. One survey was through the EngageBreck website and the other was through GoBreck businesses. Respondents in both surveys were generally evenly split on the issue of allowing sandwich board signs to be placed outside of businesses.

A next step in the process involved the SustainableBreck Business Task Force, comprised of numerous retail and restaurant owners, which met and discussed the sign issues at two meetings in August and September. The Task Force eventually came to general agreement on a Strawman Proposal for addressing the sandwich board sign issue, along with certain outdoor display provisions in the Code, although there were opposing minority opinions from a couple of the Task Force members. The Strawman Proposal is attached. Generally, the Strawman Proposal would loosen the existing rules to allow sandwich boards provided they are kept on private property and not impeding pedestrian movement or snow removal.

The Council discussed the Task Force's Strawman Proposal at their November 11 meeting and decided to refer the issue to the Planning Commission for their input. The Planning Commission discussed the potential Sign Code amendments at a work session during their December 2 meeting. The Commission's input is provided below.

Planning Commission Input

The Planning Commission was not supportive of amending the Code to relax control provisions for either sandwich boards or outdoor display. The overall sentiment of the commission was that the Sign Code is generally working well at limiting visual clutter on Main Street. The Commission also expressed a concern that allowing sandwich boards could result in a proliferation of the boards throughout Town—the logic being that every business would feel they need a sandwich board to maintain their competitiveness with other businesses. At least one commissioner offered that although they favored not changing the Code, that if the Council decided to move forward with the changes the Strawman Proposal seemed a reasonable approach.

Public and Private Property Lines

The Strawman Proposal recommends that sandwich boards only be located on private property. There is also a provision that allows “leaner” signs where public right-of-way extends to the commercial building edge. Staff has done an analysis of the location of this public/private interface. The attached maps shows the location of private property lines in red and this can be compared to the location of sidewalks. The maps are focused on the 100 and 400 blocks of South Main Street. Generally, the sidewalks on Main Street and Ridge Street are located within the public right-of-way while the back edge of the sidewalk delineates the private property boundary. A few minor exceptions to this rule are:

- The plaza area in front of Lincoln West Mall at the southeast corner of Main and Lincoln (where the jerky cart is located) is on private property.
- In the area along the east side of the South Main Street 100 block that has a raised sidewalk (along with a lower sidewalk next to the street), the upper sidewalk is private and the lower is public right-of-way.
- At LaCima Mall, the sidewalks and lawn areas are public right-of-way and the stairways and retaining walls generally demark the private property edge.
- At the northwest corner of Park and South Main Street, the Four Seasons building (Breckenridge Fine Art Gallery), has some area of private property within the sidewalk/pedestrian area.
- A portion of the area at the southwest corner of Park and South Main Street, Main Street Station, is private property.

Applicability Outside Downtown Core

For clarification, the Sign Code’s prohibition of sandwich boards applies to all properties in Town. The display of outdoor merchandise provisions of the Code that limit businesses to one item of outdoor display are only applicable to the downtown core area. Commercial businesses outside the core (e.g., Parkway Center/City Market) do not have limitations on the amount of merchandise displayed outdoors.

Options for Council Consideration

Staff has provided two options below for the Council’s consideration.

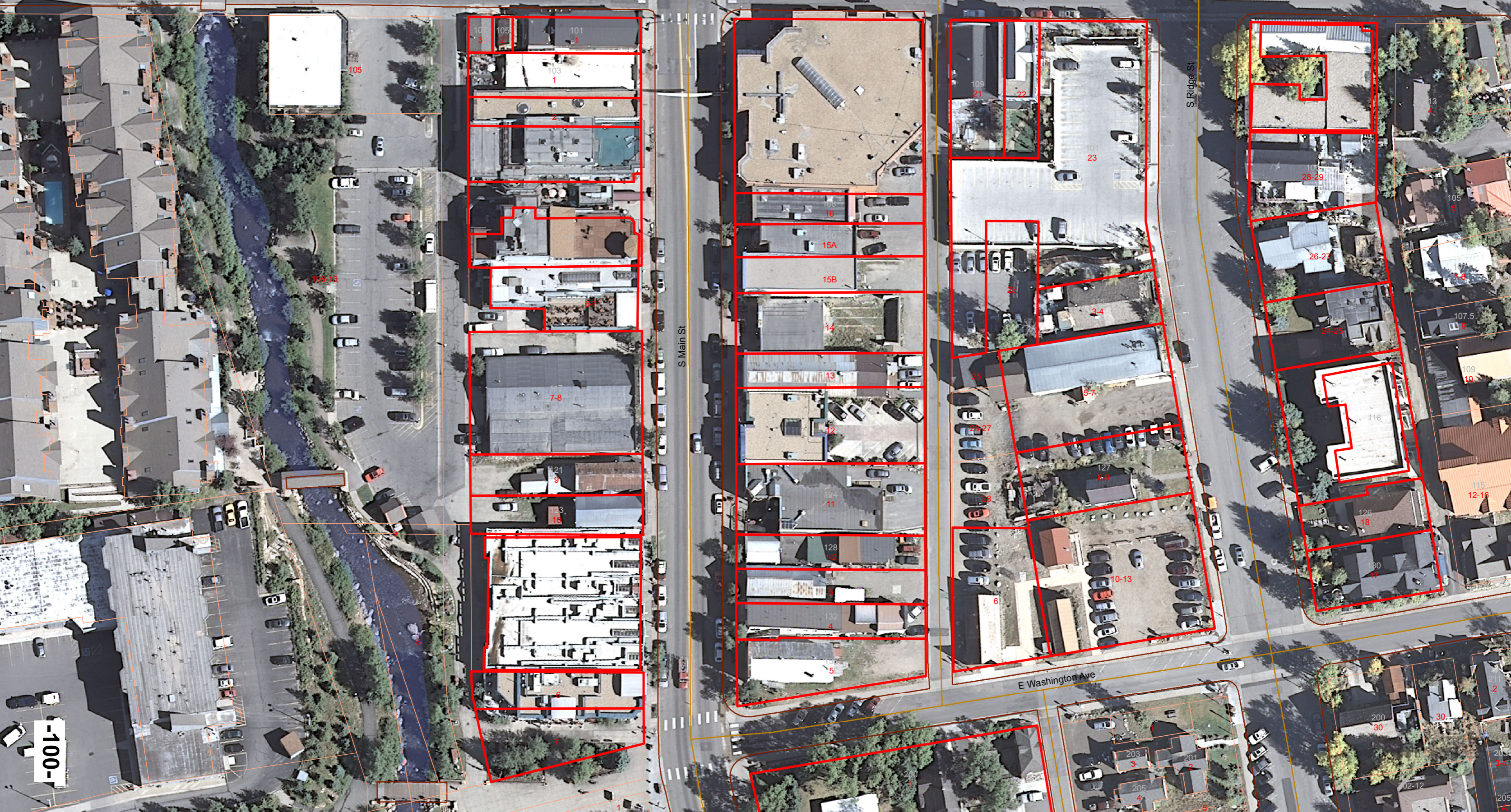
Option 1. No Action: retain the existing Sign Code prohibitions of sandwich boards and the one-item limit related to outdoor display.

Option 2: Enact the Recommendations of the Business Task Force: Amend the Code to incorporate the Strawman Proposal recommended by the Task Force (attached). If the Council opts to go with this option, they may also wish to discuss including a square footage allowance of outdoor private property that could be used by businesses to display their merchandise—currently only one item of merchandise may be displayed outside per business. Some Council members raised this issue at the November 11 meeting.

Staff seeks Council input on the above options, or other options the Council may identify.

**SustainableBreck BusinessTask Force Recommendations
Regarding Sandwich Boards and Outdoor Display
(aka The “Strawman Proposal”)**

1. Each business is entitled to display one of the following outside of their business:
 - a. One sandwich board; or
 - b. One piece of outdoor display (e.g., mannequin, one item of for-sale merchandise).
2. Where a business has a front and rear entrance (e.g., one entrance on Main St., a second entrance on the Riverwalk) then one display (as provided in #1 above) may be provided at an entrance at each end of the store.
3. The following parameters apply to outside display:
 - a. Sandwich board sign areas shall not exceed five square feet per side.
 - b. Sandwich board signs should consist of high quality material such as wood and/or chalkboard.
 - c. Sandwich boards and other items of outdoor display must be placed on private property.
 - d. Exemptions:
 - i. Where a business is located in a building that sits on the “build-to-line”, then a one-sided “leaner” sandwich board will be allowed to be placed on the sidewalk and rested against the building.
 - e. In no case shall sandwich boards or other outside display items be placed in a method that impedes pedestrian movement or snow removal operations.
 - f. Sandwich boards and other outside display items may not contain any type of illumination
 - i. No lighting, attachments or other decorations shall be hung on sandwich boards or outside display items.
 - g. Sandwich boards and other outside display items shall only be placed outside during the hours a business is open.
 - h. Sandwich board signage shall not be displayed during snow removal operating hours.
4. Sunset clause
 - a. If Council acts to amend the Code to address these issues, a one-year trial period is recommended.

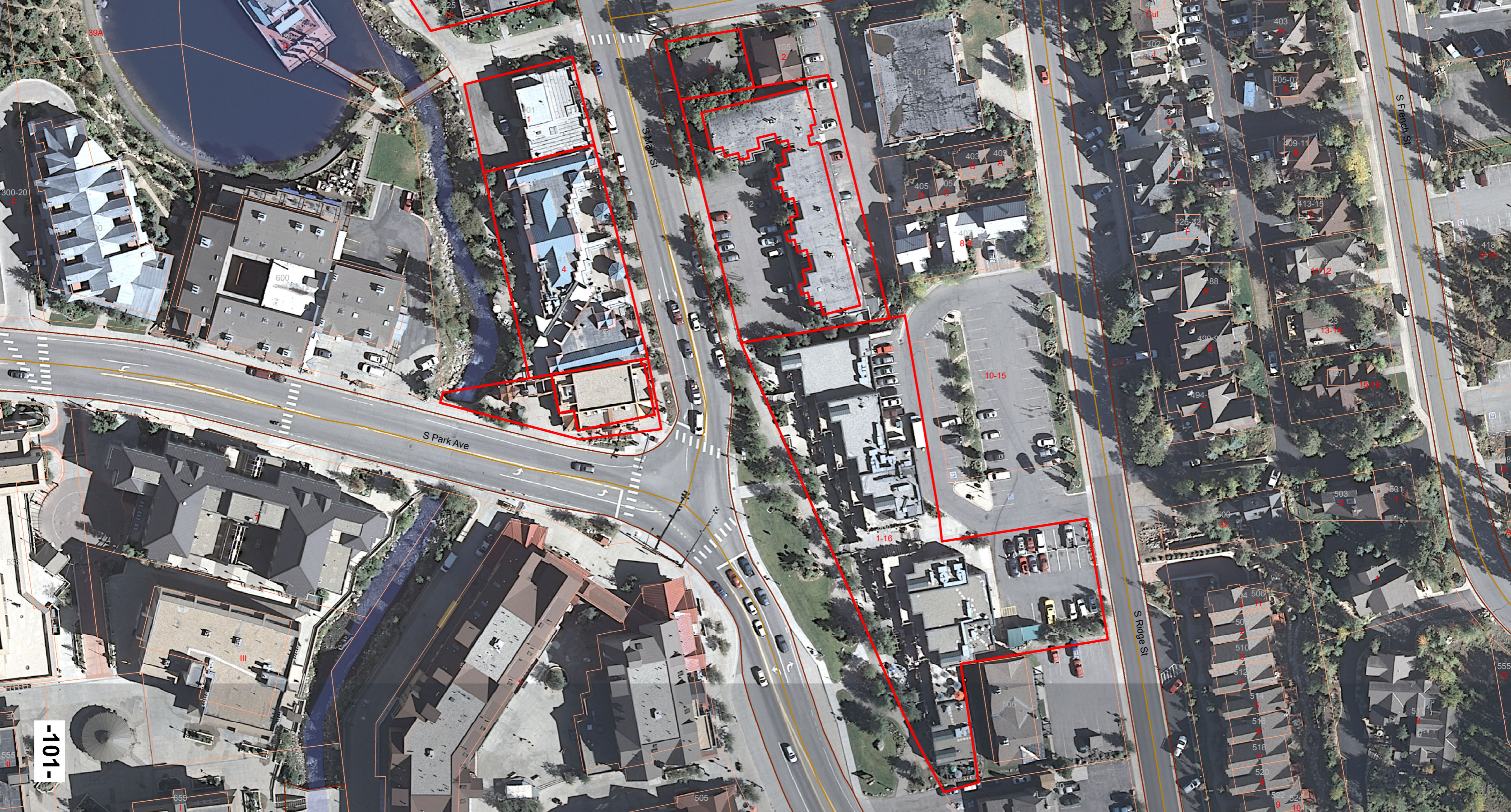


S Main St

S Ridge St

E Washington Ave

-100-



S Park Ave

S Main St

S Ridge St

S French St

-101-

39A

300-20

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10-15

601

600

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MEMORANDUM

TO: Town Council
FROM: Open Space Staff
DATE: January 7, 2015 (for January 13, 2015 meeting)
SUBJECT: 2015 State of the Open Space Report

Attached, please find the 2015 State of the Open Space report, revised to include 2014 acquisitions and stewardship activities.

Staff will provide a brief presentation of the report's contents, and will amend the document with Council direction prior to publication on the Town website.

We will be happy to answer any questions you have on Tuesday.



2015





Photo credit: Liam Doran

Cucumber Gulch Preserve

Open Space Program At a Glance

1996

Breckenridge voters approve 0.5% sales tax to fund open space acquisitions & management

\$19,300,933

Funds used to date for open space acquisitions

\$11,347,168

Funds contributed by Summit County Government towards joint purchases of open space

\$240,000

Price of the Swan River Placer (AKA, the Sanitation District Parcel), the program's first purchase.

148

Size in acres of the Golden Gate Placer, the first joint purchase with Summit County Open Space

2000

Year the Cucumber Gulch Overlay Protection District was adopted

1,683

Number of acres jointly purchased with Summit County through the B&B Mines acquisition, the program's largest

6

Number of seasonal Town Trail Crew staff charged with maintaining the extensive trail network providing public access to our open space properties

108

Total number of all open space acquisitions

4,544

Total number of acres protected as open space

MISSION STATEMENT:

The purpose of the Breckenridge Open Space Program is to preserve lands and trails through acquisition and stewardship efforts, with the goal of maintaining the unique mountain character of the Upper Blue Basin and our community's quality of life.

Open Space Acquisitions

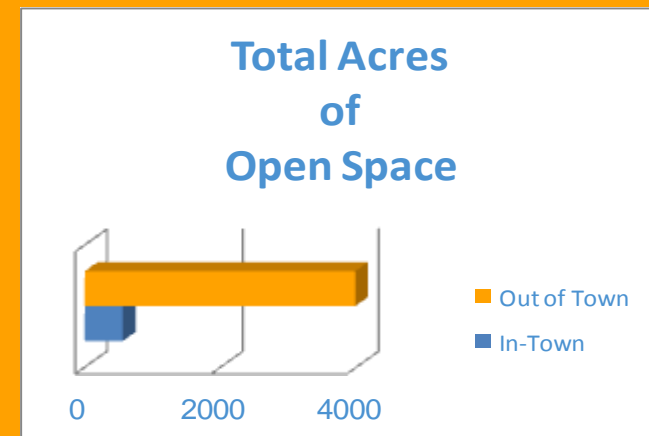
In 1996, a voter initiative passed which dedicated a 0.5% Town sales tax to open space acquisition and management. In the 18 years since its adoption, the Town's open space program has acquired a total of **4,425 acres** of property through purchases, land trades, dedications and joint purchases with Summit County Government. Of the 4,425 acres, 3,884 acres have been purchased and 541 acres have been acquired through land trades and dedications.

	Town & County Jointly Purchased Acres	Town Purchased Acres
Pre-1997	13.68	105.08
1997	171.55	15.5
1998	80.81	63.86
1999	153.69	19.33
2000	34.95	225.67
2001	610.68	10.94
2002	87.47	40.05
2003	38.72	62.02
2004	59.23	154.83
2005	1854.75	2.89
2006	0	6.85
2007	64.83	11.19
2008	27.44	3.64
2009	65.58	7.62
2010	73.78	-
2011	124.29	-
2012	86.25	-
2013	69	5
2014	196	-



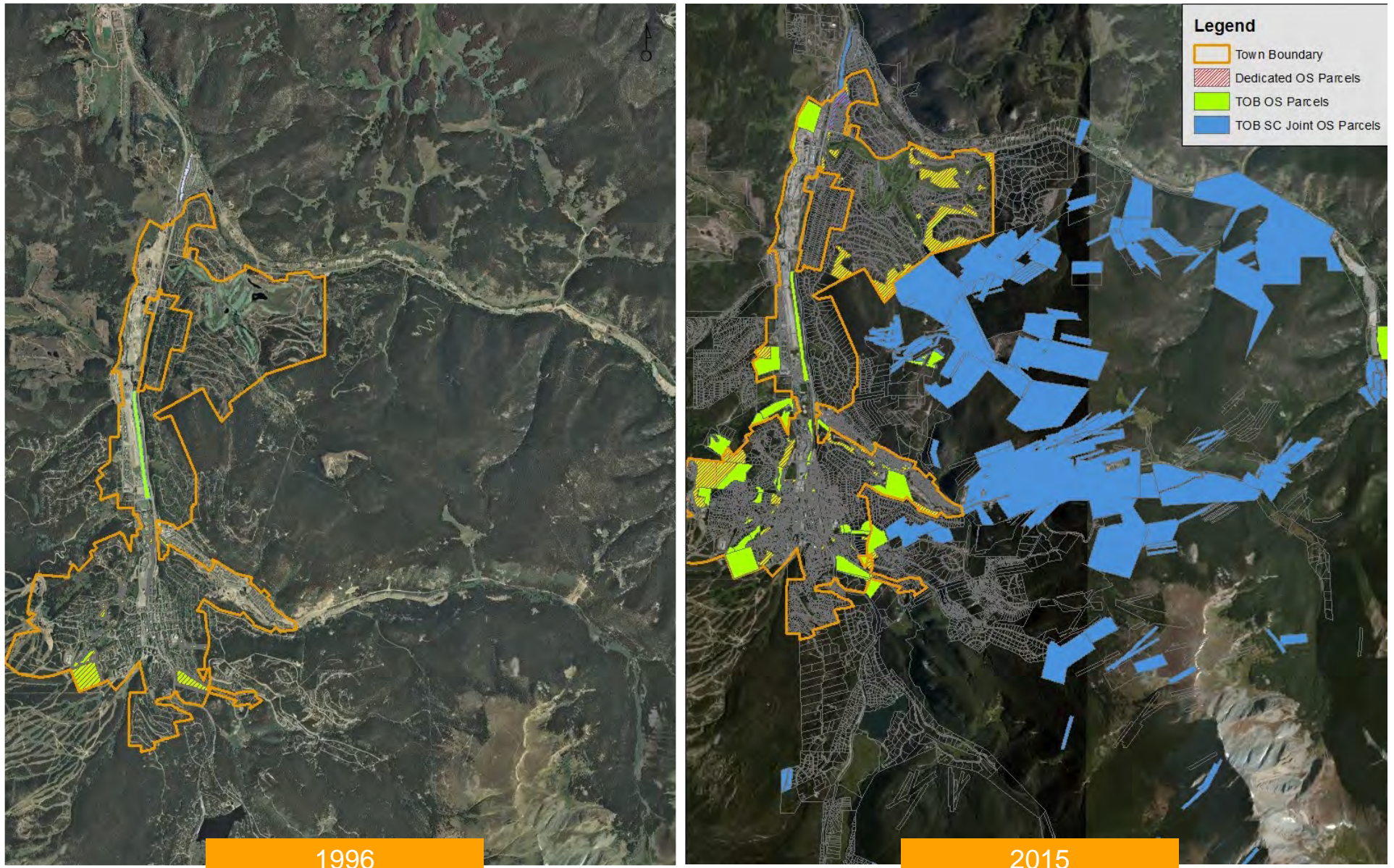
Did You Know?

The majority of open space acquisitions have been located outside of Town limits (3,984 acres out of Town versus 560 acres in-Town). The development philosophy in the Joint Upper Blue Master Plan focuses development in the core of Town and minimizes development in the surrounding backcountry.



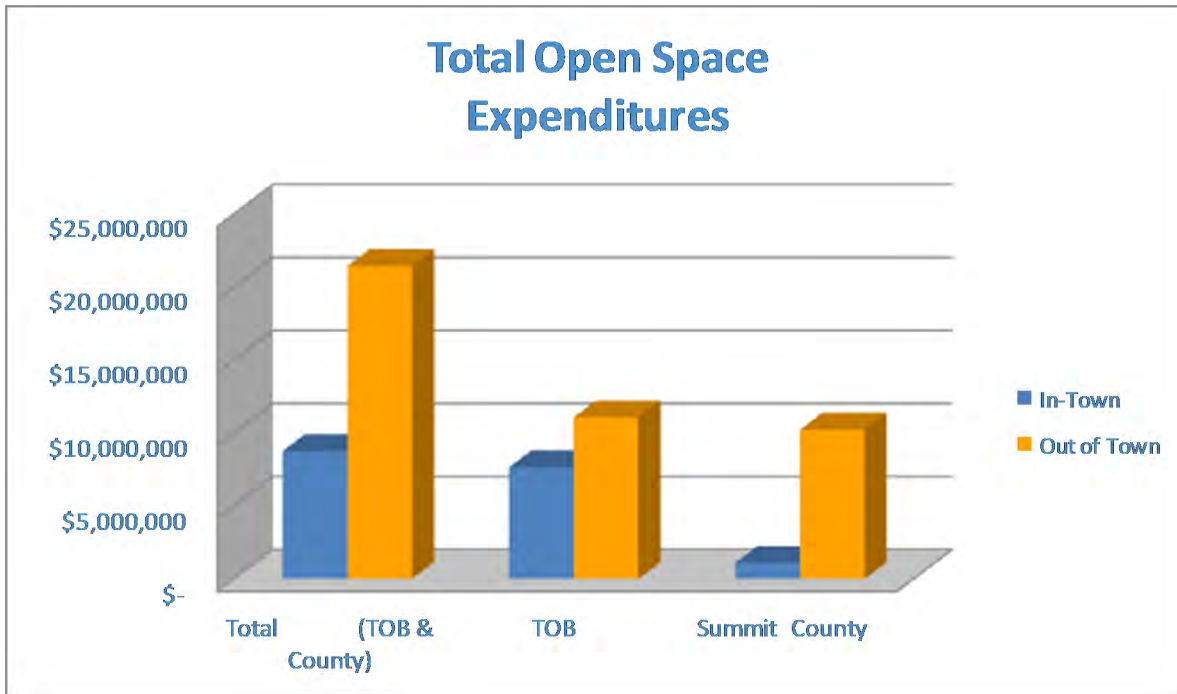
Open Space Comparison 1996 and 2015

Prior to the establishment of the Open Space program in 1997, the Town owned **119 acres** of open space. Today, the program manages **4,544 acres** of open space, **3,784 acres** of which was jointly acquired with Summit Count Government. A number of the joint purchases lie just outside the Town boundary.



Acquisition Expenditures

The Town has spent \$19,300,933 on open space acquisitions since the start of the Open Space Program. Of this amount, \$8,358,556 (43%) has been used for in-Town acquisitions and \$10,942,377 (57%) has been used for out of Town acquisitions.



	Total (TOB & County)	TOB	Summit County
In-Town	\$9,468,556	\$8,358,556	\$1,110,000
Out of Town	\$21,179,545	\$10,942,377	\$10,237,168
Total	\$30,648,101	\$19,300,933	\$11,347,168 *

*This is total amount Summit County has spent in the Upper Blue Basin. In addition to the Upper Blue Basin, Summit County purchases open space in its other three basins.



Did You Know?

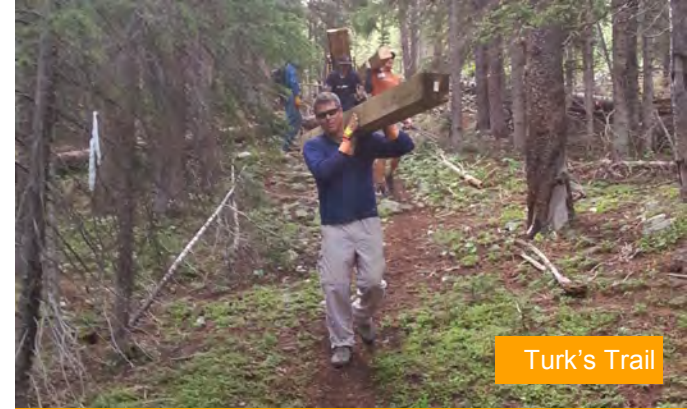
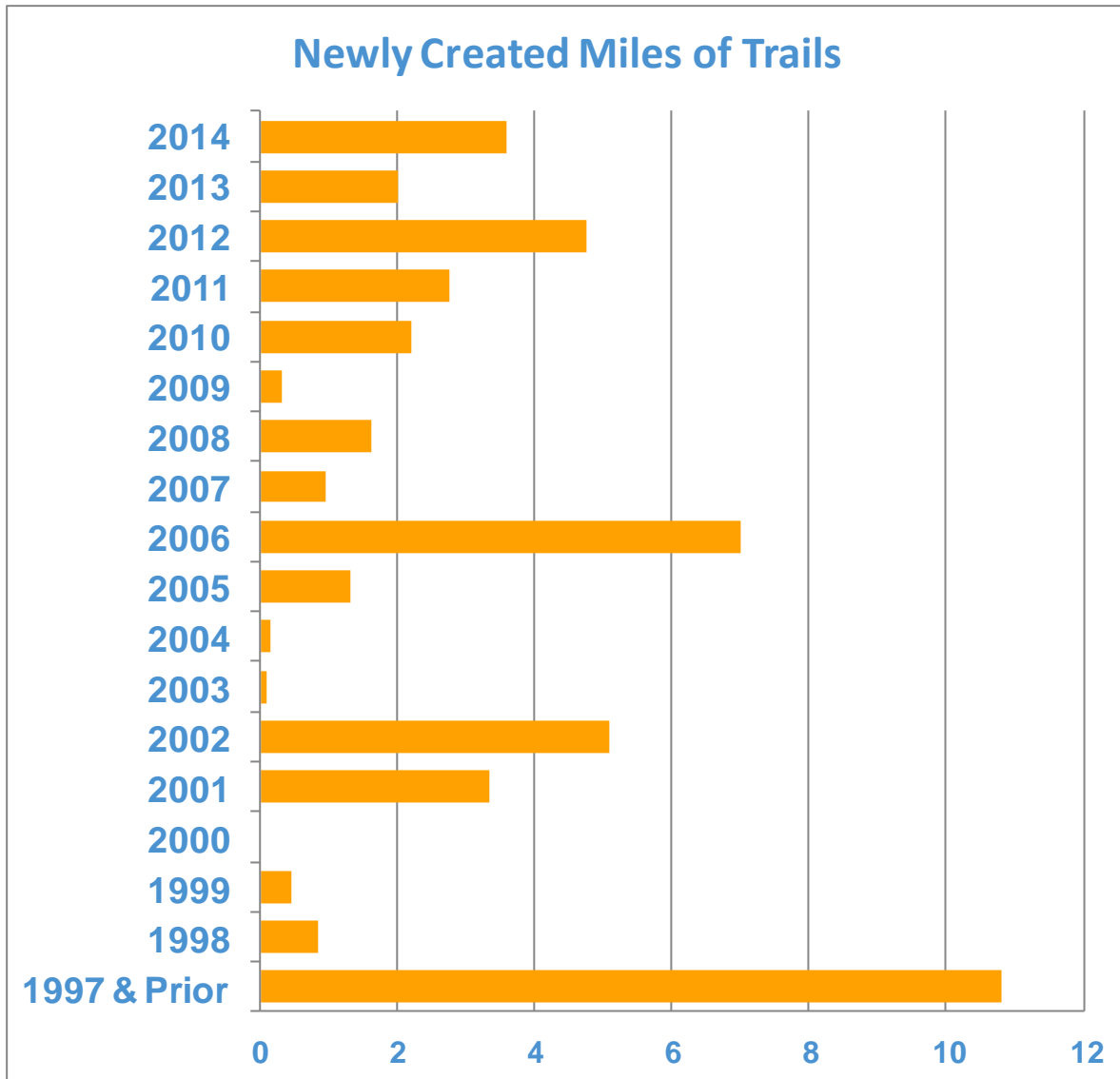
On a price-per-acre basis, in-Town acquisitions are substantially more expensive (\$59,928 per acre) than out of Town acquisitions (\$5,684 per acre). Of the 560 in-Town acres acquired, only 158 have been purchased.

Acquisition Price Per Acre



Trails

Prior to the establishment of the Open Space program in 1997 the Town managed **10.8 miles** of trails. Today the program manages **47.3 miles** of multi-use trails.



Did You Know?

In addition to the Town maintained network of trails, over 100 miles of designated trails can be connected to on nearby National Forest lands. Taken together, this trail network is one of the largest and most diverse in the country.

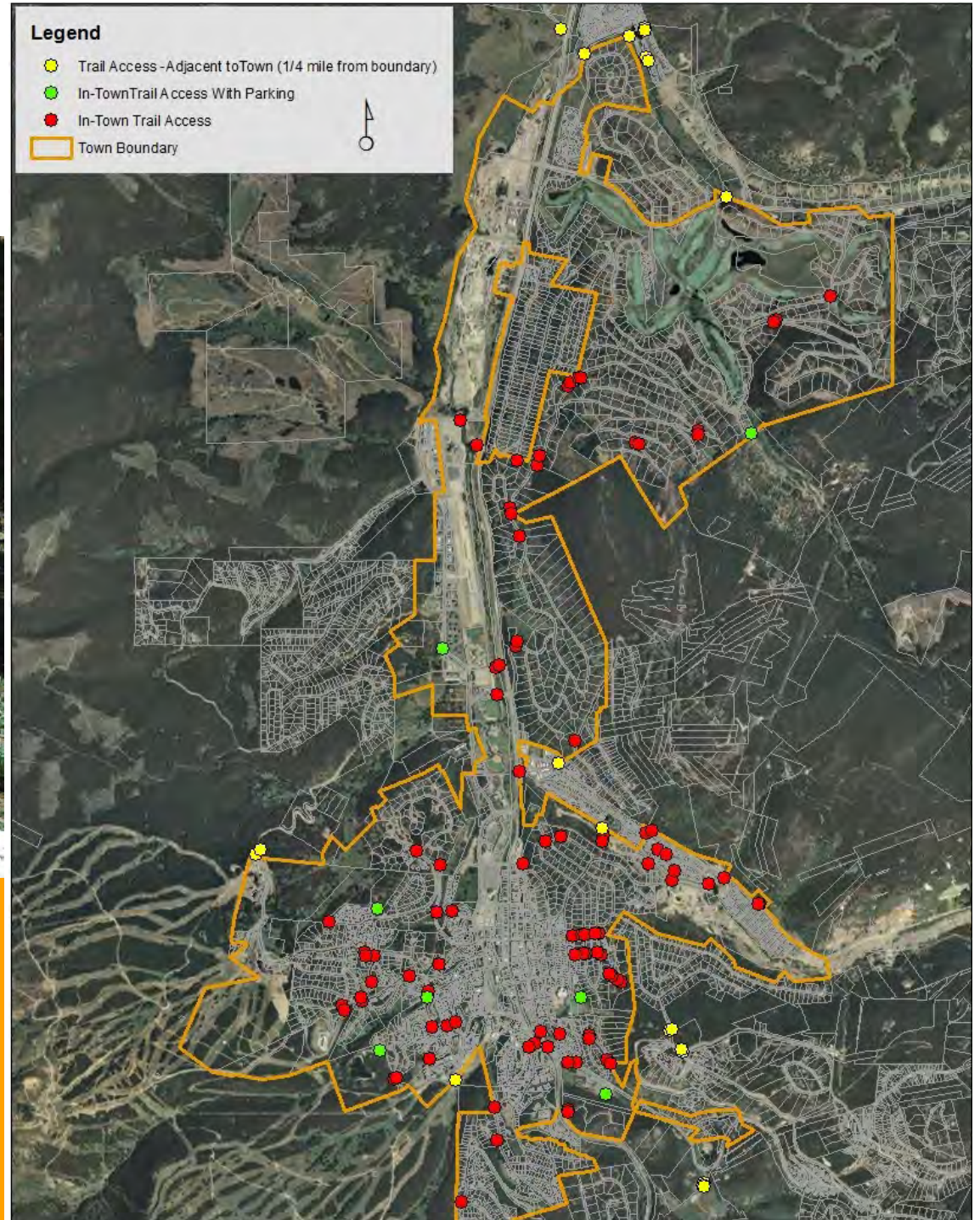
Trail Access

The Open Space program provides **120 trail access portals** located within the Town or within 1/4 mile of its boundary. The numerous portals provide convenient, legal access to Town-maintained trails.



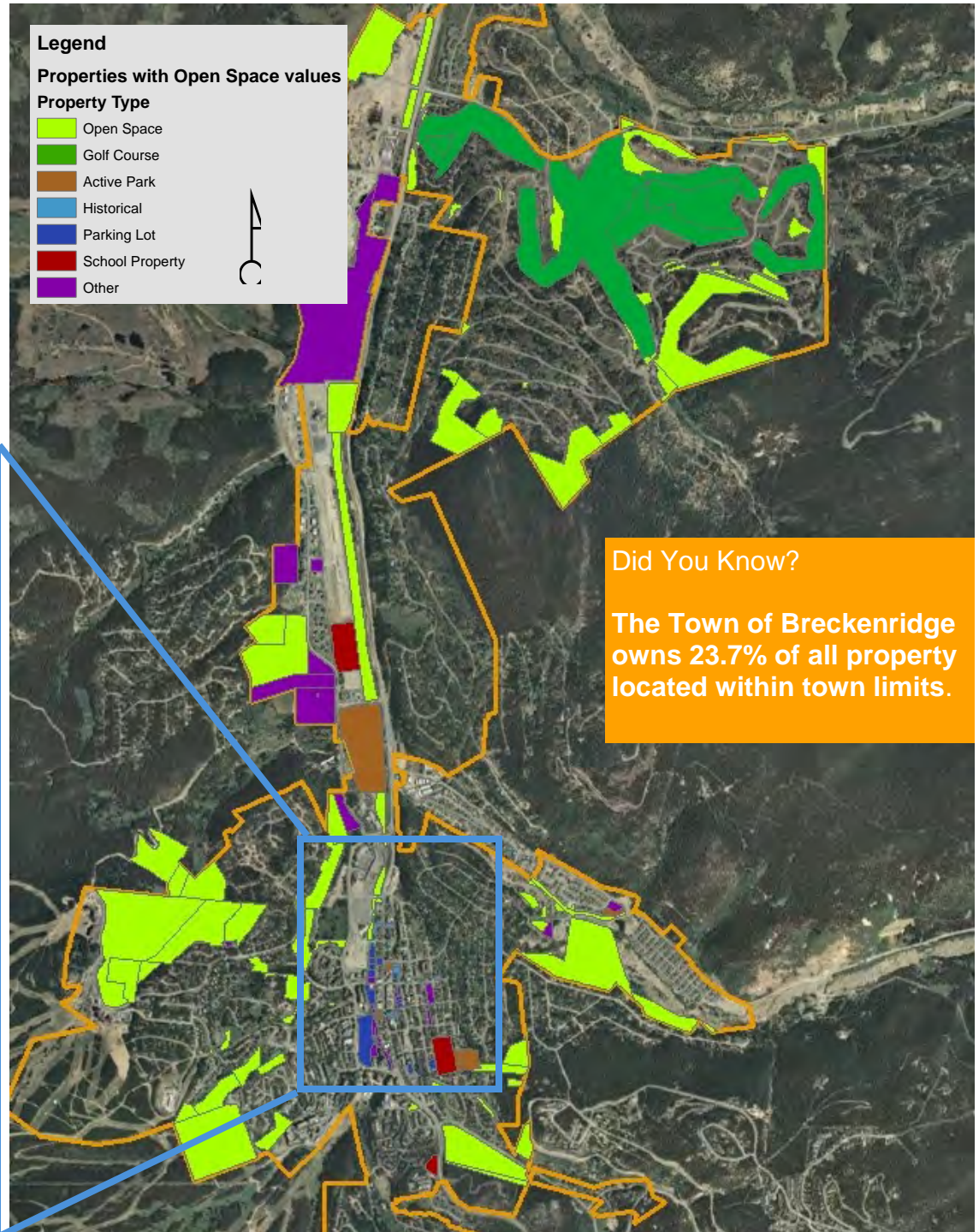
Did You Know?

80% of all in-Town properties are within 1/4 mile of a Town maintained trail access portal.



Other In-Town Properties with Open Space Values

Other community properties not managed by the open space program offer open space values such as relief from development, active park space, private open space and visual backdrop. Examples of properties that exhibit these qualities include historical sites, school properties, active parks, and the golf course. Many of the in-Town open space parcels were dedicated through the development permit process.



2014 Accomplishments

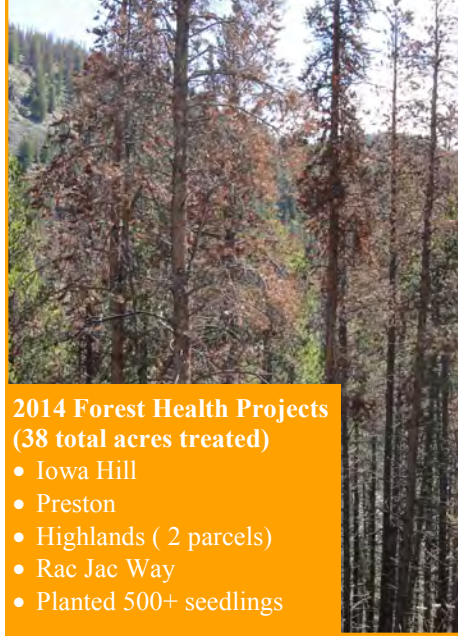
Acquisitions



2014 Acquisitions (196 acres)

- Candler Lode
- City Claims
- Monitor #1 Lode
- Frontier Claims
- **Kingfisher Claims**
- Laurium Mine property

Forest Health



2014 Forest Health Projects (38 total acres treated)

- Iowa Hill
- Preston
- Highlands (2 parcels)
- Rac Jac Way
- Planted 500+ seedlings

Way Finding/ Educational Signage



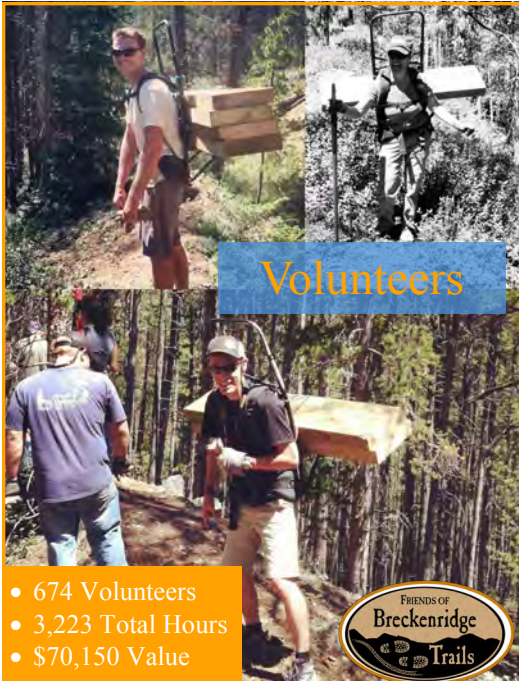
- 5 New Trail Posts
- 4 New Yield/ Trail Etiquette Signs
- 10 New Cucumber Seasonal Closure Signs
- 5 New Breckenridge Heritage Alliance Interpretive Signs.

Partnerships

SUMMIT COUNTY COLORADO



Volunteers



- 674 Volunteers
- 3,223 Total Hours
- \$70,150 Value

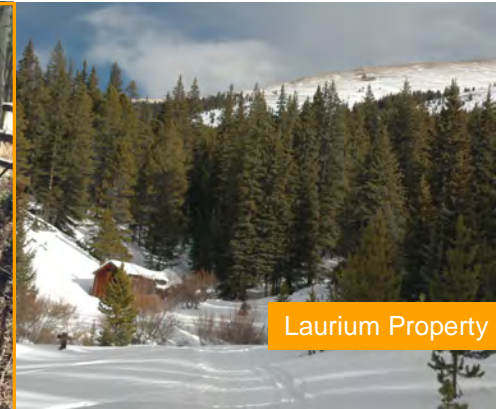


Trails



New Trails & Realignment (3.6 miles)

- Aspen Alley Trail
- B-Line Trail
- Turk's Trail
- Wire Patch Trail
- ZL Trail



Laurium Property

Did You Know?

In 2014, the Open Space program's budgeted revenues were \$2,495,177.



For more information please visit www.TownofBreckenridge.com

