



## BRECKENRIDGE TOWN COUNCIL REGULAR MEETING

Tuesday, January 13, 2015; 7:30 PM

Town Hall Auditorium

<b>I</b>	<b>CALL TO ORDER, ROLL CALL</b>	
<b>II</b>	<b>APPROVAL OF MINUTES - DECEMBER 9, 2014</b>	<b>3</b>
<b>III</b>	<b>APPROVAL OF AGENDA</b>	
<b>IV</b>	<b>COMMUNICATIONS TO COUNCIL</b>	
	A. CITIZEN'S COMMENT - (NON-AGENDA ITEMS ONLY: 3-MINUTE LIMIT PLEASE)	
	B. GOBRECK UPDATE	
<b>V</b>	<b>CONTINUED BUSINESS</b>	
	A. SECOND READING OF COUNCIL BILLS, SERIES 2015 - PUBLIC HEARINGS	
<b>VI</b>	<b>NEW BUSINESS</b>	
	A. FIRST READING OF COUNCIL BILLS, SERIES 2015 - PUBLIC HEARINGS	
	1. COUNCIL BILL NO. 1, SERIES 2015 - AN ORDINANCE AMENDING THE MODEL TRAFFIC CODE FOR COLORADO, 2010 EDITION, CONCERNING RESERVED PARKING FOR PERSONS WITH DISABILITIES	<b>7</b>
	2. COUNCIL BILL NO. 2, SERIES 2015 - AN ORDINANCE AMENDING CHAPTER 3F OF TITLE 6 OF THE BRECKENRIDGE TOWN CODE BY PROHIBITING THE FURNISHING OF CIGARETTES, TOBACCO PRODUCTS, AND NICOTINE PRODUCTS TO PERSONS UNDER EIGHTEEN YEARS OF AGE; AND PROHIBITING THE POSSESSION OF CIGARETTES, TOBACCO PRODUCTS, AND NICOTINE PRODUCTS BY PERSONS UNDER EIGHTEEN YEARS OF AGE; AND PROVIDING PENALTIES FOR VIOLATIONS OF SUCH PROHIBITIONS	<b>17</b>
	3. COUNCIL BILL NO. 3, SERIES 2015 - AN ORDINANCE AMENDING CHAPTER 9 OF TITLE 5 OF THE BRECKENRIDGE TOWN CODE; MAKING ELECTRONIC SMOKING DEVICES SUBJECT TO THE TOWN'S "SMOKING ORDINANCE"; AND AMENDING THE LIST OF INDOOR AND OUTDOOR AREAS OF THE TOWN WHERE SMOKING IS PROHIBITED	<b>23</b>
	4. COUNCIL BILL NO. 4, SERIES 2015 - AN ORDINANCE AMENDING CHAPTER 1 OF TITLE 3 OF THE BRECKENRIDGE TOWN CODE, KNOWN AS THE "TOWN OF BRECKENRIDGE SALES TAX ORDINANCE," CONCERNING TAX EXEMPTIONS	<b>31</b>
	B. RESOLUTIONS, SERIES 2015	
	1. RESOLUTION NO. 1, SERIES 2015 - A RESOLUTION CONCERNING A HOUSING AUTHORITY FOR THE TOWN OF BRECKENRIDGE, COLORADO	<b>36</b>
	2. RESOLUTION NO. 2, SERIES 2015 - A RESOLUTION AUTHORIZING THE EXECUTION AND RECORDING OF A DENSITY SUNSET COVENANT (For The Maggie Point Attainable Workforce Housing Project)	<b>47</b>
	3. RESOLUTION NO. 3, SERIES 2015 - A RESOLUTION CONCERNING THE EMPLOYMENT OF SPECIAL COUNSEL IN CONNECTION WITH THE PINWOOD II HOUSING PROJECT	<b>54</b>
	4. RESOLUTION NO. 4, SERIES 2015 - A RESOLUTION RATIFYING AND APPROVING THE TOWN MANAGER'S ACQUISITION OF CERTAIN REAL PROPERTY (Partial Interest In Kingfisher MS #4913, Little Erney MS#4913, Kit Carson MS#4913, Belle MS#4913, And Gladstone MS #4734)	<b>57</b>
	C. OTHER	
<b>VII</b>	<b>PLANNING MATTERS</b>	
	A. PLANNING COMMISSION DECISIONS	<b>64</b>

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

B. PLANNING COMMISSION REPORT (MR. BREWER)

**VIII REPORT OF TOWN MANAGER AND STAFF**

**IX REPORT OF MAYOR AND COUNCILMEMBERS**

A. CAST/MMC (MAYOR WARNER)

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

C. GOBRECK (MS. WOLFE)

D. BRECKENRIDGE HERITAGE ALLIANCE (MS. GIGLIELLO)

E. WATER TASK FORCE (MR. GALLAGHER)

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

**X OTHER MATTERS**

**XI SCHEDULED MEETINGS**

73

**XII ADJOURNMENT**

**CALL TO ORDER, ROLL CALL**

Mayor Warner called the meeting of December 9, 2014 to order at 7:30 pm. The following members answered roll call: Mr. Gallagher, Mr. Brewer, Ms. Lawrence, Mr. Burke, Ms. Wolfe, Ms. Gigliello and Mayor Warner.

**APPROVAL OF MINUTES - NOVEMBER 25, 2014**

With no changes or corrections to the meeting minutes of November 25, 2014, Mayor Warner declared they would stand approved as submitted.

**APPROVAL OF AGENDA**

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

**COMMUNICATIONS TO COUNCIL**

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

Mayor Warner opened Citizen's Comment.

Ms. Clover Stein, accompanied by Renee Bartnick, stated fluoridation of the Town of Breckenridge's water supply is an outdated and ineffective delivery of a drug to the entire population. She further stated there are similarities between fluoride and former drugs that were promoted as safe, including DDT, lead and cigarettes. Ms. Stein stated we believe we should eliminate our exposure, people in non-fluoridated communities are adequately fluoridated and fluoridation causes a range of serious effects, including arthritis, brain development. She then discussed the process of fluoride gas capture for production and the import of fluoride from China. Ms. Stein then stated the FDA has classified fluoride as a drug against dental decay that should be applied topically, not ingested and fluoride is administered without consent or medical oversight. She also stated each person reacts differently, and should get to choose whether or not to take this outdated medication. Ms. Stein and Ms. Bartnick handed binders to the Council members and asked they take time to read the materials, and to consider ending the practice of adding fluoride to the town's water supply.

Mr. Bryan Jackson continued the fluoride discussion, stating that citizens are paying for the controversial supplement and most of the world does not fluoridate water. He further stated Israel recently removed the supplement from its water supply and fluoride is a by-product of the fertilizer industry and the Town should shift the money to something else, regardless of the effectiveness.

Ms. Cheryl McDaniel stated she opposed being medicated without consent and that the fluoride goes into Lake Dillon and our water supply.

Ms. Jill Preinitz stated she agrees.

Ms. Rochelle Amaitz seconded that fluoride is poison.

Mr. William Walton mentioned a short documentary about a mini-ranch in Pagosa Springs where the horses became afflicted with abnormalities which led to the removal of fluoride in Pagosa Springs.

Mayor Warner then stated he is a dentist, and partly responsible for the fluoride in the water, which at the time was a 6-1 vote in favor. He thanked the speakers and stated he will read the materials and will give the issue due diligence.

With no further comments, Mayor Warner closed Citizen's Comment.

B. Red, White and Blue Fire District Update

Mr. Jay Nelson, Deputy Chief of the Red, White and Blue Fire District, was not present for the update. Mr. Gagen stated the Dillon Fire Chief resigned, and remarked there will be a report on the fire mitigation, and that Red, White and Blue is conducting background work on the fire mitigation effort.

C. GoBreck Update

Ms. Lucy Kay, Director of GoBreck, updated the Council on the November occupancy which was down 5%, with revenue up 7%. She further stated December looks soft, with the 27<sup>th</sup> starting a streak of occupancy, the 29<sup>th</sup> is over 95% occupancy, and New Year's Eve is over 95% occupancy, with the rest of the holiday at 90%. She also stated Martin Luther King day is at 90% occupancy, and the overall winter season is up 4% paid

occupancy over last year. Ms. Kay stated the market share report comes out on the 18<sup>th</sup>, and the most recent that is posted is from the end of October. She stated GoBreck has gone through a comprehensive revamp of their market research, to ensure they are getting information they can use. She also remarked that trends for early summer and late fall show strong sales tax and that there is a trend of more overnight guests staying Frisco, but she is not sure if that means lodging is moving out of Breckenridge to Frisco. Ms. Lawrence requested a children's division for the Santa Race next year. Ms. Kay stated the highlights of PR include the Race of the Santas in *Sunset Magazine*, which was also picked up by the *Houston Chronicle*; they sold out of the over 250 Santa suits, and may order 500 for next year; the *Breckenridge Bike Guide* was picked up in by the *Chicago Tribune* for fat bikes. She stated the Business Services group reported 60 retailers participated in the guided discovery retail program, with the next one on December 20<sup>th</sup>. She mentioned the Visitor's Guide will be released in the next week or two, with a partnership change to Summit Daily News, and a push for more digital rather than paper books. She stated GoBreck is enacting a sustainability plan to be greener, and there will be more iPads in the visitor center than brochure racks.

Mayor Warner read the results of the special election. He stated there were 1324 total votes, with 400 yes votes, and 924 no votes. He stated they will maintain an ordinance which is in place from 2013, requiring the Breckenridge Cannabis Club to move out of the downtown corridor, and will not allow any more in the foreseeable future in the downtown corridor. The council discussed if the vote needed to be validated.

Mr. Gagen mentioned that they also need to take up the issue of capping the number of licenses. The Council decided to let the decision stand as is, and discuss it at a later time.

#### **CONTINUED BUSINESS**

- A. Second Reading of Council Bills, Series 2014 - Public Hearings
  - 1. COUNCIL BILL NO. 42, SERIES 2014 - AN ORDINANCE APPROVING THE FOURTH AMENDMENT TO THE TOWN'S CABLE TELEVISION FRANCHISE AGREEMENT WITH COMCAST OF CALIFORNIA/COLORADO/WASHINGTON, LP  
Mayor Warner read the title into the minutes. Ms. Gigliello recused herself due to a conflict of interest. Mr. Gagen stated the lease has been extended for 6 months to allow for negotiations, and Council may see a final version in a couple months.

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

Mr. Gallagher moved to approve COUNCIL BILL NO. 42, SERIES 2014 - AN ORDINANCE APPROVING THE FOURTH AMENDMENT TO THE TOWN'S CABLE TELEVISION FRANCHISE AGREEMENT WITH COMCAST OF CALIFORNIA/COLORADO/WASHINGTON, LP. Ms. Wolfe seconded the motion. The motion passed 6-0, with Ms. Gigliello recusing herself.

#### **NEW BUSINESS**

- A. First Reading of Council Bills, Series 2014 - Public Hearings  
None.
- B. Resolutions, Series 2014  
None.
- C. Other

#### **PLANNING MATTERS**

- A. Planning Commission Decisions  
With no request to call an item off the consent calendar, Mayor Warner declared the Planning Commission Decisions would stand approved as presented.
- B. Planning Commission Report (Mr. Brewer)  
Mr. Brewer stated the planning commission conducted a good discussion about the sign code and sandwich boards, and there was an overwhelming feeling not to change the current code, but to enforce it even-handedly and aggressively. Mayor Warner complimented Mr. Brewer on diffusing the situation, and stated that having a liaison instead of a council representative has worked well. The Council discussed the merits of the change versus no change of the sign code, as well as the advantages and disadvantages of business locations inside and outside the town core in regard to applicability and enforcement. They further discussed the idea that a change needs to be made to the equitable enforcement of the sign code and how a notice should be sent out to business owners with the decision, how the Breckenridge Heritage Alliance tours are down 12%

because they may not use their sandwich boards, and concerns of having 150 sandwich boards on Main Street.

**REPORT OF TOWN MANAGER AND STAFF**

Mr. Gagen stated the Colorado Municipal League report is a good indication the legislative season is upon us. He mentioned there is a legislative workshop coming up.

**REPORT OF MAYOR AND COUNCILMEMBERS**

A. Cast/MMC (Mayor Warner)

Mayor Warner reported there is some level of support for the field house. He stated if there is a Recreation District, it should include an organized group of proponents, parents, etc. Mr. Brewer stated there is interest and support, but no meetings have happened. The Council agreed there should be overall county participation in order to keep it from being Breckenridge-focused. Mr. Brewer requested Town Council Members email the names of change agents who should participate in the group directly to him.

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

Ms. Lawrence stated they did not meet, and asked that someone else go in her place for the next meeting. Mayor Warner stated he may be able to go, but is not sure at this moment.

C. GoBreck (Ms. Wolfe)

Ms. Wolfe stated there is no update.

D. Breckenridge Heritage Alliance (Ms. Gigliello)

Ms. Gigliello stated there is no update.

E. Water Task Force (Mr. Gallagher)

Mr. Gallagher stated there is no update.

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

Mayor Warner stated he met the new chairman of the board, Michael Lundin, who comes with a great background, and is a fabulous addition to the community.

Mr. Gallagher stated there is no update, but Felice Huntley has agreed to come to the Board.

**OTHER MATTERS**

The Council discussed the outcome of the Special Election vote and how to proceed. Mr. Gagen stated if the Council wants to take action, a special meeting should be called, but if the Council wants to discuss items such as the cap, it can wait until the moratorium deadline in July. He stated that legally the Council does not have to vote, but may vote if the Council would like to have a public decision. The Council decided to affirm the advisory vote tonight.

Mr. Brewer moved to place the consideration of the question on the agenda. Ms. Wolfe seconded the motion. The motion passed 6-1 with Ms. Lawrence against.

Mr. Gallagher moved to approve and accept the results from the Special Election, held this day regarding the sale of marijuana in the downtown area, and accept the current legislation. Ms. Wolfe seconded the motion. The motion passed 6-1 with Ms. Lawrence against.

Mayor Warner stated for the record the results of the Special election with 1324 votes, 400 yes votes and 924 no votes. He stated the outcome means no Marijuana establishments in the downtown core after February 2<sup>nd</sup>, 2015, which is the current ordinance.

Ms. Lawrence stated she would like to see the new business list monthly.

Mayor Warner re-opened the discussion on the fourth color on the Hot House in the Cultural Arts District. The Council decided they are willing to make an exception for the Cultural Artist District, and allow the painted door to remain as is.

In relation to fluoride, Mayor Warner mentioned the website [www.ilikemysmile.org](http://www.ilikemysmile.org) and the Pugh Charitable Trust supports fluoridation. He also stated he will read the booklet handed out earlier and he would like to lead the process, which is a discussion not an opposition, to make an informed decision. The Council asked to see some numbers on fluoridation.

**SCHEDULED MEETINGS**

**ADJOURNMENT**

With no further business to discuss, the meeting adjourned at 9:22 pm. Submitted by Cathy

Boland, Accounting Coordinator.

ATTEST:

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John Warner, Mayor

DRAFT



## MEMORANDUM

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

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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 13<sup>th</sup> 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 13<sup>th</sup> 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:

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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 13<sup>th</sup> 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

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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**

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**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

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**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

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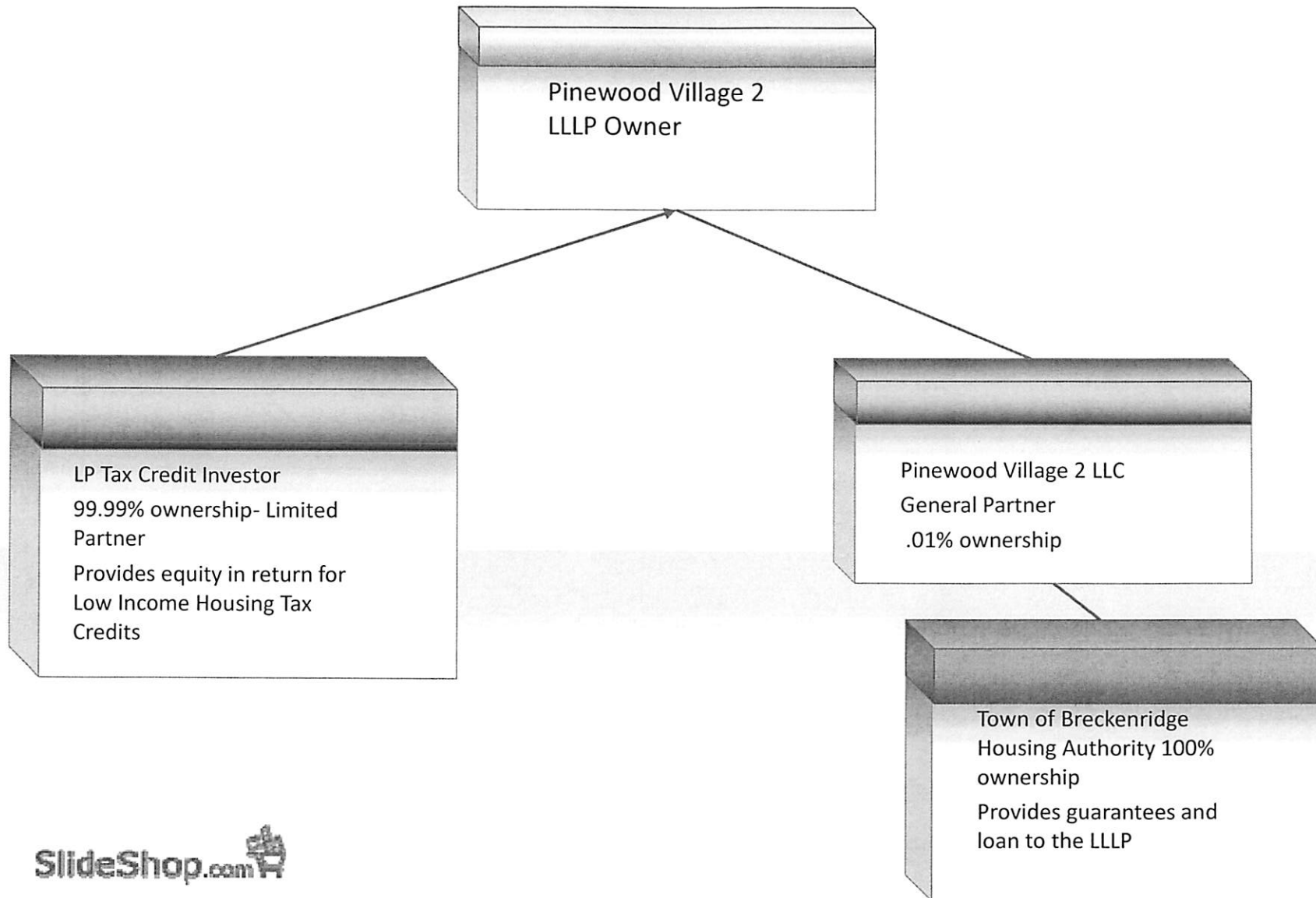
For the past few months, staff has been planning for the Pinewood 2 affordable rental housing project, part of which includes an application for low-income housing tax credits (LIHTC). In order to be eligible for a LIHTC project, it has been necessary to form a limited liability limited partnership between 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 13<sup>th</sup> 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>Carolyn M Miller</u>	<u>30 Marksburg Way Breck 80424</u>
8. <u>Maria Pattenden</u>	<u>48 Forest Circle Breck 80424</u>

PETITION FOR CREATION OF A HOUSING AUTHORITY

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









**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



## 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 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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10  
11 By: \_\_\_\_\_  
12 John G. Warner, Mayor

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14 ATTEST:

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18 \_\_\_\_\_  
19 Helen Cospolich  
20 Town Clerk

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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



## 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

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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 13<sup>th</sup> 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  
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13 WHEREAS, the Town requires the services of various special counsel in connection with  
14 the Pinewood II Housing Project; and  
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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.  
40

41 TOWN OF BRECKENRIDGE  
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45 By \_\_\_\_\_  
46 John G. Warner, Mayor

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ATTEST:

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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

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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.



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 23<sup>rd</sup>, 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.



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STATE OF CALIFORNIA  
COUNTY OF LOS ANGELES  
NOTARY PUBLIC  
MY COMM. EXPIRES 07/11/2018

**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.

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***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.



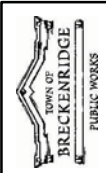
Re-Subdivision of Tract B-2,  
Peak 7 Subdivision, Creating  
Public Open Space  
Ski Hill Road

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  
use of the product for any purpose is at user's sole risk.



## PLANNING COMMISSION MEETING

The meeting was called to order at 7:00 pm

### ROLL CALL

Eric Mamula                      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





## Scheduled Meetings, Important Dates and Events

**Shading indicates Council attendance – others are optional**

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

### JANUARY 2015

Friday, January 9, 2015; 8-9am; Park and Main	Coffee Talk
Saturday, January 10, 2015; 5:30-7:30 pm	BGV Community Center Grand Opening Celebration
Sunday, January 11-17; 2015	Ullr Fest Celebrations
Tuesday, January 13, 2015; 3:00/7:30 pm	First Meeting of the Month
Tuesday, January 27, 2015; 3:00/7:30 pm	Second Meeting of the Month
Tuesday, January 27, 2015; 6:00 pm; TBA	Snow Sculpture Championships Opening Ceremony

### FEBRUARY 2015

Tuesday, February 10, 2015; 3:00/7:30 pm	First Meeting of the Month
Friday, February 13, 2015; 8-9am; TBA	Coffee Talk
Tuesday, February 24, 2015; 3:00/7:30 pm	Second Meeting of the Month

### MARCH 2015

Tuesday, March 10, 2015; 3:00/7:30 pm	First Meeting of the Month
Friday, March 13, 2015; 8-9am; TBA	Coffee Talk
Tuesday, March 24, 2015; 3:00/7:30 pm	Second Meeting of the Month

### OTHER MEETINGS

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

Other Meetings: CAST, CML, NWCCOG, RRR, QQ, I-70 Coalition