

ORDINANCE NO. 40

Series 2013

AN ORDINANCE AMENDING THE BRECKENRIDGE TOWN CODE CONCERNING THE IMPLEMENTATION OF "AMENDMENT 64" TO THE COLORADO CONSTITUTION

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

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

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

1. It is in the best interest of the people of the Town to protect nonsmokers from involuntary exposure to environmental tobacco and marijuana smoke in most indoor areas open to the public, public meetings, food service establishments, and places of employment;
2. A balance should be struck between the health concerns of nonconsumers of tobacco and marijuana products and the need to minimize unwarranted governmental intrusion into, and regulation of, private spheres of conduct and choice with respect to the use or nonuse of tobacco and marijuana products in certain designated public areas and in private places;
3. Smoking should not be prohibited in the entryway of any building or facility, and such determination is expressly authorized to be made by the Town pursuant to Section 25-14-207(2)(a), Colorado Revised Statutes; and
4. "Cigar-tobacco bars," as defined in Section 25-14-203(4), Colorado Revised Statutes, should not be exempted from the Town's smoking regulations as set forth in this Chapter.

Section 2. Section 5-9-2 of the Breckenridge Town Code is amended by the addition of the following definition:

MARIJUANA: Has the same meaning as in Section 16(2)(f) of Article XVIII of the Colorado Constitution.

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

ENVIRONMENTAL TOBACCO SMOKE: The complex mixture formed from the escaping smoke of a burning tobacco or marijuana, and smoke exhaled by the smoker.

Section 4. The definition of "Smoking" in Section 5-9-2 of the Breckenridge Town Code is amended to read as follows:

SMOKING: The burning of a lighted cigarette, cigar, pipe, or any other matter or substance that contains tobacco or marijuana.

Section 5. The introductory portion of Section 5-9-3(A) of the Breckenridge Town Code is amended to read as follows:

- A. Except as provided in Section 5-9-4 of this Chapter, and in order to reduce the levels of exposure to environmental tobacco and marijuana smoke, smoking shall not be permitted and no person shall smoke in any indoor area, including, but not limited to:

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Section 6. Section 5-9-3(A)(12) of the Breckenridge Town Code is amended to read as follows:

12. Any place of employment that is not exempted. In the case of employers who own facilities otherwise exempted from this Chapter, each such employer shall provide a smoke free work area for each employee requesting not to have to breathe environmental tobacco and marijuana smoke. Every employee shall have a right to work in an area free of environmental tobacco and marijuana smoke;

Section 7. The introductory portion of Section 5-9-4 of the Breckenridge Town Code is amended to read as follows:

5-9-4: EXCEPTIONS TO SMOKING RESTRICTIONS: Except as otherwise expressly provided in this Code, this Chapter shall not apply to:

Section 8. Section 5-9-4(G) of the Breckenridge Town Code is amended to read as follows:

G. A place of employment that is not open to the public and that is under the control of an employer that employs three (3) or fewer employees; provided, however, that this exemption does not apply to the smoking of marijuana; or

Section 9. Section 5-9-4 of the Breckenridge Town Code is amended by the addition of a new Section I, which shall read as follows:

I. The open and public consumption of marijuana in an outdoor area as described in Article I of Chapter 3 of Title 6 of the Breckenridge Town Code.

Section 10. The definitions of "cannabis" and "cannabis concentrate" in Section 6-3-5 of the Breckenridge Town Code are repealed.

Section 11. The title of Section 6-3F-16 of the Breckenridge Town Code is amended to read "Open Containers Of Alcohol Prohibited:".

Section 12. Section 6-3H-1 of the Breckenridge Town Code is repealed.

Section 13. Section 6-3H-6 of the Breckenridge Town Code is amended to read as follows:

6-3H-6: POSSESSION OF DRUG PARAPHERNALIA:

A. This Section does not apply to the possession, use, display, purchase, transport, sale or manufacture of marijuana accessories as defined in Section 16(2)(g) of Article XVIII of the Colorado Constitution by a person age twenty-one years or older.

B. As used in this Section, unless the context otherwise requires:

1. "Drug paraphernalia" means all equipment, products, and materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of the laws of the state of Colorado. "Drug paraphernalia" includes, but is not limited to:

a. Testing equipment used, intended for use, or designed for use in identifying or in analyzing the strength, effectiveness, or purity of controlled substances under circumstances in violation of the laws of the state of Colorado;

- b. Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances;
- c. Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from or in otherwise cleaning or refining marijuana;
- d. Blenders, bowls, containers, spoons, and mixing devices used, intended for use, or designed for use in compounding controlled substances;
- e. Capsules, balloons, envelopes, and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances;
- f. Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances; or
- g. Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish, or hashish oil into the human body, such as:
 - (1) Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;
 - (2) Water pipes;
 - (3) Carburetion tubes and devices;
 - (4) Smoking and carburetion masks;
 - (5) Roach clips, meaning objects used to hold burning material, such as a marijuana cigarette that has become too small or too short to be held in the hand;
 - (6) Miniature cocaine spoons and cocaine vials;
 - (7) Chamber pipes;
 - (8) Carburetor pipes;
 - (9) Electric pipes;
 - (10) Air driven pipes;
 - (11) Chillums;
 - (12) Bongs; or
 - (13) Ice pipes or chillers.

C. In determining whether an object is drug paraphernalia, a court, in its discretion, may consider, in addition to all other relevant factors, the following:

- 1. Statements by an owner or by anyone in control of the object concerning its use;
- 2. The proximity of the object to controlled substances;
- 3. The existence of any residue of controlled substances on the object;
- 4. Direct or circumstantial evidence of the knowledge of an owner, or of anyone in control of the object, or evidence that such person reasonably should know, that it will be delivered to persons who he knows or reasonably should know, could use the object to facilitate a violation of Subsection E of this Section;

5. Instructions, oral or written, provided with the object concerning its use;
6. Descriptive materials accompanying the object which explain or depict its use;
7. National or local advertising concerning its use;
8. The manner in which the object is displayed for sale;
9. Whether the owner, or anyone in control of the object, is a supplier of like or related items to the community for legal purposes, such as an authorized distributor or dealer of tobacco products;
10. The existence and scope of legal uses for the object in the community; and
11. Expert testimony concerning its use.

D. In the event a case brought pursuant to this Section is tried before a jury, the court shall hold an evidentiary hearing on issues raised pursuant to Subsection B of this Section. Such hearing shall be conducted in camera.

E. A person commits possession of drug paraphernalia if he possesses drug paraphernalia and knows or reasonably should know that the drug paraphernalia could be used under circumstances in violation of the laws of the Town or the state of Colorado.

F. Any person convicted of having violated Subsection E of this Section shall be punished by a fine of not more than one hundred dollars (\$100.00).

Section 14. Title 6 of the Breckenridge Town Code is amended by the addition of a new Chapter 3I, entitled "Offenses Concerning Marijuana", which shall read as follows:

CHAPTER 3

GENERAL OFFENSES

ARTICLE I: OFFENSES CONCERNING MARIJUANA

SECTION:

- 6-3I-1: Definitions
- 6-3I-2: Unlawful Possession or Open and Public, Consumption, Or Use of Marijuana By An Underage Person
- 6-3I-3: Unlawful Possession of Marijuana
- 6-3I-4: Open and Public, Consumption, or Use of Marijuana
- 6-3I-5: Unlawful Transfer of Marijuana to Underage Person
- 6-3I-6: Unlawful Transfer of Marijuana to Person Twenty-One Years of Age or Older
- 6-3I-7: Open Containers of Marijuana Prohibited
- 6-3I-8: Unlawful Acts in Marijuana Consumption Establishment; Public Nuisance
- 6-3I-9: Defendant to be Issued Summons and Must Promise to Appear in Court; When; Penalty Assessment Notice
- 6-3I-10: Immunity For Persons Who Suffer or Report An Emergency Drug Overdose Event
- 6-3I-11: Evidence at Trial
- 6-3I-12: Constitutional Provisions

6-3I-1: DEFINITIONS: As used in this Article the following words have the following meanings:

BUSINESS:	Has the meaning provided in Section 4-1-2 of this Code, but such term also includes any private club or membership club of any kind, regardless of how
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	created, organized or denominated.
EMERGENCY DRUG OVERDOSE:	Means an acute condition including, but not limited to, physical illness, coma, mania, hysteria, or death resulting from the consumption or use of a controlled substance, or another substance with which a controlled substance was combined, and that a layperson would reasonably believe to be a drug overdose that requires medical assistance.
FIRST OFFENSE:	Means that the person has not had a previous conviction, deferred prosecution, or deferred judgment for a violation of the same Section of this Article.
MARIJUANA:	Includes all parts of the plant <i>Cannabis sativa</i> L., whether growing or not; the seeds thereof; the resin extracted from any part of such plant; and every compound, manufacture, salt, derivative mixture, or preparation of such plant, its seeds, or resin but shall not include the mature stalks of such plant, fiber produced from its stalk, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture or preparation of its mature stalks, except the resin extracted therefrom, fiber, oil or cake, or the sterilized seed of such plant which is incapable of germination.
MARIJUANA CONCENTRATE:	Hashish, tetrahydrocannabinols or any alkaloid, salt, derivative, preparation, compound or mixture, whether natural or synthesized, or tetrahydrocannabinols.
MARIJUANA CONSUMPTION ESTABLISHMENT:	Means a business that is open to the general public and permits the burning, smoking, inhaling the vapors of, or otherwise consuming marijuana in any form on the premises of the business, even if: (i) admission requires the payment of a charge, admission fee, entry fee, membership fee, or other monetary charge or payment of any kind, or (ii) an entry fee, membership fee, or other monetary charge of any kind is suggested, recommended, or accepted by the operator of the business prior to admission.
MOTOR VEHICLE:	Has the meaning provided in the Town's Traffic Code adopted in Chapter 1 of Title 7 of this Code.
OPENLY AND PUBLICLY:	Means the commission of an unlawful act as described in Section 6-31-2 or Section 6-31-4 in any of the following places: 1) any land or area owned or controlled by the Town, such as public ways, streets, sidewalks, alleys, parking lots, or playgrounds, 2) public grounds or other outdoor areas owned and operated by any governmental entity other than the Town, 3) the common areas of buildings usually open to the general public, 4) any other outdoor area open to the general public, which includes a place to which the public or a substantial number of the public have access without restriction, including, without limitation, the exterior areas of buildings and facilities that are generally open or accessible to members of the public without restriction.
OPEN MARIJUANA	A receptacle or marijuana accessory as defined in

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CONTAINER:	Section 16(2)(g) of Article XVIII of the Colorado Constitution that contains any amount of marijuana and: (i) that is open or has a broken seal; (ii) the contents of which are partially removed; or (iii) there is evidence that marijuana has been consumed with the interior of the motor vehicle.
OUTDOOR AREA:	Any area or place outside of a building or other structure.
OWNER:	A sole proprietor if the business is operated as a proprietorship; the owner of the most shares if the business is operated as a corporation; the owner of the largest ownership interest in a limited liability company; a general partner if the business is operated as a general partnership; the general partner if the business is operated as a limited partnership; or the owner of the largest ownership interest in the business if the business is operated in any other form of business entity. If a business has more than one person who meets the definition of "owner", the term "owner" applies to all such persons.
SECOND OFFENSE:	Means an offense after the person is subject to a first offense.
SUBSEQUENT OFFENSE:	Means an offense after the person is subject to a third offense.
THIRD OFFENSE:	Means an offense after the person is subject to a second offense.

6-31-2: UNLAWFUL POSSESSION OR OPEN AND PUBLIC CONSUMPTION OR USE OF MARIJUANA BY AN UNDERAGE PERSON:

A. Except as described in Section C of this Section and in Section 6-31-10, it is unlawful for any person under twenty-one years of age to possess or openly and publicly consume or use marijuana or marijuana concentrate. Any person convicted of having violated this Section A shall be punished by a fine as follows:

Offense No.	Fine Amount
First Offense	\$100 or less
Second Offense	\$250 or less
Third Offense and Each Subsequent Offense	\$500

B. Pursuant to Rule 210(b)(5) of the Colorado Municipal Court Rules of Procedure the Municipal Judge shall specify by suitable schedules the amount of the fines to be imposed for a First Offense or a Second Offense violation of Section A of this Section.

C. The possession, consumption, or use of marijuana by any person under twenty-one years of age shall not constitute a violation of Section A of this Section if such possession, use, or consumption is lawful under Article 43.3 of Title 12, C.R.S.

D. Prima facie evidence of a violation of Section A of this Section shall consist of:

(1) evidence that the defendant was under twenty-one years of age and possessed or openly and publicly displayed, consumed, or used marijuana or marijuana concentrate anywhere within the Town; or

(2) evidence that the defendant was under twenty-one years of age and manifested any of the characteristics commonly associated with marijuana intoxication or impairment while present anywhere within the Town.

E. The procedure described in Section 6-3I-9 shall apply to persons charged with a violation of Section A of this Section.

6-3I-3: UNLAWFUL POSSESSION OF MARIJUANA:

A. Except as described in Section 6-3I-10, it is unlawful for any person twenty-one years of age or older to possess more than one ounce but no more than two ounces of marijuana. Any person convicted of having violated this Section A shall be punished by a fine as follows:

Offense No.	Fine Amount
First Offense	\$100 or less
Second Offense	\$250 or less
Third Offense and Each Subsequent Offense	\$500

B. Pursuant to Rule 210(b)(5) of the Colorado Municipal Court Rules of Procedure the Municipal Judge shall specify by suitable schedules the amount of the fines to be imposed for a First Offense or a Second Offense violation of Section A of this Section.

C. Except as described in Section 6-3I-10, it is unlawful for any person twenty-one years of age or older to possess more than two ounces of marijuana but no more than twelve ounces of marijuana, or not more than three ounces of marijuana concentrate. Any person convicted of having violated this Section C shall be punished as provided in Section 1-4-1 of this Code.

D. The procedure described in Section 6-3I-9 shall apply to persons charged with a violation of either Section A or Section C of this Section.

6-3I-4: OPEN AND PUBLIC CONSUMPTION OR USE OF MARIJUANA:

A. Except as described in Section 6-3I-10, it is unlawful for any person twenty-one years of age or older to openly and publicly consume, or use marijuana or marijuana concentrate. Any person convicted of having violated this Section A shall be punished by a fine as follows:

Offense No.	Fine Amount
First Offense	\$100 or less
Second Offense	\$250 or less
Third Offense	\$500

B. Pursuant to Rule 210(b)(5) of the Colorado Municipal Court Rules of Procedure the Municipal Judge shall specify by suitable schedules the amount of the fines to be imposed for a First Offense or a Second Offense violation of Section A of this Section.

C. Any person convicted of having committed a fourth violation Section A of this Section, or any violation of Section A of this Section subsequent to a fourth violation, shall punished, at a minimum, by a fine of not less than one thousand dollars (\$1,000.00) or, at a maximum, by a fine of not more than two thousand dollars (\$2,000.00) and by fifteen days in the county jail.

D. The procedure described in Section 6-3I-9 shall apply to persons charged with a violation of Section A of this Section; provided, however, the procedure described in Section 6-3I-9 shall not apply to a person charged with a fourth violation of Section A of this Section, or any violation of Section A of this Section subsequent to a fourth violation.

6-3I-5: UNLAWFUL TRANSFER OF MARIJUANA TO UNDERAGE PERSON:

It is unlawful for any person who is twenty-one years of age or older to transfer any amount of marijuana to any person who is less than twenty-one years of age. Any person convicted of having violated this Section shall be punished as provided in Section 1-4-1 of this Code.

6-3I-6: UNLAWFUL TRANSFER OF MARIJUANA TO PERSON TWENTY-ONE YEARS OF AGE OR OLDER:

A. It is unlawful for any person who is twenty-one years of age or older to transfer more than one ounce but no more than two ounces of marijuana to any person who is twenty-one years of

age or older for no consideration. Any person convicted of having violated this Section A shall be punished by a fine as follows:

Offense No.	Fine Amount
First Offense	\$100 or less
Second Offense	\$250 or less
Third Offense and Each Subsequent Offense	\$500

B. Pursuant to Rule 210(b)(5) of the Colorado Municipal Court Rules of Procedure the Municipal Judge shall specify by suitable schedules the amount of the fines to be imposed for a First Offense or a Second Offense violation of Section A of this Section.

C. It is unlawful for any person who is twenty-one years of age or older to transfer more than two ounces but no more than twelve ounces of marijuana to any person who is twenty-one years of age or older for no consideration. Any person convicted of having violated this Section B shall be punished as provided in Section 1-4-1 of this Code.

D. The procedure described in Section 6-3I-9 shall apply to persons charged with a violation of Section A of this Section, but not to persons charged with a violation of Section C of this Section.

6-3I-7: OPEN CONTAINERS OF MARIJUANA PROHIBITED:

A. It is unlawful for any person to possess any marijuana in any open marijuana container, or to consume marijuana, in the interior of a motor vehicle while the motor vehicle is either parked on a public street, right of way or alley within the Town, or is being operated on a public street, right of way or alley within the Town. A person convicted of having violated Section A of this Section shall be punished by a fine as follows:

Offense No.	Fine Amount
First Offense	\$100 or less
Second Offense	\$250 or less
Third Offense and Each Subsequent Offense	\$500

B. Pursuant to Rule 210(b)(5) of the Colorado Municipal Court Rules of Procedure the Municipal Judge shall specify by suitable schedules the amount of the fines to be imposed for a First Offense or a Second Offense violation of Section A of this Section.

C. Any peace officer is authorized to seize any marijuana or open marijuana container that is used in the commission of a violation of Section A of this Section. If no summons or notice is issued for a violation of Section A, and if the circumstances reasonably permit, the peace officer may require the person who has committed a violation of Section A to abandon the marijuana to the officer for destruction.

D. The procedure described in Section 6-3I-9 shall apply to persons charged with a violation of Section A of this Section.

6-3I-8: UNLAWFUL ACTS IN A MARIJUANA CONSUMPTION ESTABLISHMENT; DECLARED PUBLIC NUISANCE:

A. It is unlawful for any person to burn, smoke, inhale the vapors of, or otherwise consume marijuana in any form within a marijuana consumption establishment. Any person convicted of having violated this Section A shall be punished, at a minimum, by a fine of not less than one hundred dollars (\$100.00) or, at a maximum, by a fine of not more than one hundred dollars (\$100.00) and by fifteen (15) days in the county jail.

B. It is unlawful to own or operate a marijuana consumption business within the Town. Any person convicted of having violated this Section B shall be punished as provided in Section 1-4-1 of this Code. Each day during any portion of which a violation of this Section B occurs shall be a separate offense, and shall be punished accordingly.

C. Any marijuana consumption business that operates within the Town is a nuisance, and is subject to abatement as provided in Title 5, Chapter 1 of this Code.

6-31-9: DEFENDANT TO BE ISSUED SUMMONS AND MUST PROMISE TO APPEAR IN COURT; WHEN; PENALTY ASSESSMENT NOTICE:

A. Whenever a person is arrested or detained for a violation of any Section of this Article to which this Section applies, the arresting or detaining officer shall prepare a written notice or summons for such person to appear in court. The written notice or summons shall contain the name and address of such arrested or detained person, the date, time, and place where such person shall appear, and a place for the signature of such person indicating the person's written promise to appear on the date and at the time and place indicated on the notice or summons. One copy of said notice or summons shall be given to the person arrested or detained, one copy shall be sent to the Municipal Court, and such other copies as may be required by the law enforcement agency employing the arresting or detaining officer shall be sent to the places designated by such law enforcement agency. The date specified in the notice or summons to appear shall be at least seven days after such arrest or detention unless the person arrested or detained demands an earlier hearing. The place specified in the notice or summons to appear shall be the Municipal Court. The arrested or detained person, in order to secure release from arrest or detention, shall promise in writing to appear in the Municipal Court by signing the notice or summons prepared by the arresting or detaining officer. Any person who does not honor such written promise to appear commits a misdemeanor municipal offense, and upon conviction shall be punished as provided in Section 1-4-1 of this Code.

B. At the time that any person is arrested for the commission of a violation of Section 6-31-3 (Unlawful Possession of Marijuana), Section 6-31-4 (Open and Public Consumption or Use of Marijuana), (6-31-6 (Unlawful Transfer of Marijuana to Person Twenty-One Years of Age or Older), or Section 6-31-7 (Open Containers of Marijuana Prohibited) the arresting officer may offer to give a penalty assessment notice to the defendant. Such penalty assessment notice shall contain all the information required of a summons under the Colorado Municipal Court Rules of Procedure. The fine or penalty specified by the Municipal Judge in the schedules adopted pursuant to Rule 210(b)(5) of the Colorado Municipal Court Rules of Procedure for the violation charged and the surcharge thereon may be paid at the office of the Clerk of the Municipal Court, either in person or by postmarking such payment within twenty days from the date the penalty assessment notice is served upon the defendant. A defendant who does not furnish satisfactory evidence of identity or who the officer has reasonable and probable grounds to believe will disregard the summons portion of such notice may be issued a penalty assessment notice only if the defendant consents to be taken by the officer to the nearest mailbox and to mail the amount of the fine or penalty and surcharge thereon to the department. Acceptance of a penalty assessment notice and payment of the prescribed fine or penalty and any applicable surcharge thereon to the Clerk of the Municipal Court shall be deemed a complete satisfaction for the violation, and the defendant shall be given a receipt which so states when such fine or penalty and surcharge thereon is paid in currency or other form of legal tender. Checks tendered by the defendant to and accepted by the Clerk of the Municipal Court and on which payment is received by the Clerk of the Municipal Court shall be deemed sufficient receipt.

C. The penalty assessment shall not apply when it appears that the offense is a fourth or any subsequent alleged violation of any of the Sections described in Section A of this Section.

D. In no case may an officer issue a penalty assessment notice for a violation of any offense described in Section B of this Section to a minor under the age of eighteen years. All charges against minors shall be processed in accordance with Section A of this Section.

E. If the defendant refuses to accept service of the penalty assessment notice when such notice is tendered, the peace officer shall proceed in accordance with Section A of this Section.

F. Should the defendant accept service of the penalty assessment notice but fail to post the prescribed penalty and surcharge thereon within twenty days thereafter, the notice shall be construed to be a summons and complaint, and the case shall thereafter be heard in the Municipal Court. The maximum penalty that may be imposed shall not exceed the penalty set

forth in the applicable penalty assessment notice and any applicable surcharge.

6-3I-10: IMMUNITY FOR PERSONS WHO SUFFER OR REPORT AN EMERGENCY DRUG OVERDOSE EVENT:

A. A person shall be immune from prosecution for an offense described in Section C of this Section if:

(1) The person reports in good faith an emergency drug overdose event to a law enforcement officer, to the 911 system, or to a medical provider;

(2) The person remains at the scene of the event until a law enforcement officer or an emergency medical responder arrives, or the person remains at the facilities of the medical provider until a law enforcement officer arrives;

(3) The person identifies himself or herself to, and cooperates with, the law enforcement officer, emergency medical responder, or medical provider; and

(4) The offense arises from the same course of events from which the emergency drug overdose event arose.

B. The immunity described in Section A of this Section also extends to the person who suffered the emergency drug overdose event if all of the conditions of Section A are satisfied.

C. The immunity described in Section A of this Section shall apply to any offense described in this Article.

D. Nothing in this Section shall be interpreted to prohibit the prosecution of a person for an offense other than an offense listed in Section C of this Section or to limit the ability of the Town Attorney, municipal prosecutor, or a law enforcement officer to obtain or use evidence obtained from a report, recording, or any other statement provided pursuant to Section A of this Section to investigate and prosecute an offense other than an offense listed in Section C of this Section.

6-3I-11: EVIDENCE AT TRIAL: If determined by the Municipal Judge to be relevant to the charge brought against the defendant, during any trial for a violation of any Section of this Article:

A. Any container with labeling indicating the contents of the container is admissible into evidence, and the information contained on any label on the container is admissible into evidence and is not hearsay. The Municipal Judge may consider the information upon the label in determining whether the contents of the container were composed in whole or in part of marijuana or marijuana concentrate.

B. The qualitative result of a drug test or tests performed by or on behalf of a law enforcement agency with relevant jurisdiction shall be admissible at the trial of any person charged with a violation of this Section upon a showing that the device or devices used to conduct such test or tests have been approved as accurate in detecting drugs by the executive director of the Colorado Department of Public Health and Environment.

C. The Municipal Court shall take judicial notice of methods of testing a person's blood or urine for the presence of marijuana and of the design and operation of devices certified by the Colorado Department of Public Health and Environment for testing a person's blood or urine for the presence of marijuana. This Section does not prevent the necessity of establishing during a trial that the testing devices were working properly and that such testing devices were properly operated. Nothing in this Section precludes a defendant from offering evidence concerning the accuracy of testing devices.

6-3I-12: CONSTITUTIONAL PROVISIONS: The provisions of this Article do not apply to: (i) a person twenty-one years of age or older acting in conformance with Section 16 of Article XVIII of the state constitution; and (ii) a person acting in conformance with Section 14 of Article XVIII of the state constitution.

Section 15. Except as specifically amended hereby, the Breckenridge Town Code, and the various secondary Codes adopted by reference therein, shall continue in full force and effect.

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

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

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

INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED
PUBLISHED IN FULL this 24th day of September, 2013.

This ordinance was published in full on the Town of Breckenridge website on September 26, September 27, September 28, September 29 and September 30, 2013.

A public hearing on this ordinance was held on October 8, 2013.

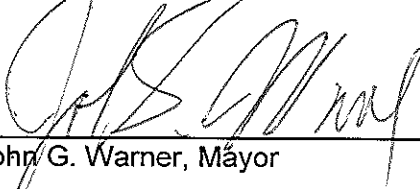
READ, ADOPTED ON SECOND READING AND ORDERED PUBLISHED IN FULL ON THE TOWN'S WEBSITE this 8th day of October, 2013. A copy of this Ordinance is available for inspection in the office of the Town Clerk.

ATTEST:

TOWN OF BRECKENRIDGE

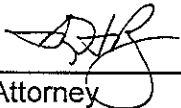
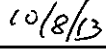


Helen Cospolich, Town Clerk



John G. Warner, Mayor

APPROVED IN FORM

Town Attorney Date

This Ordinance was published on the Town of Breckenridge website on October 10, October 11, October 12, October 13 and October 14, 2013. This ordinance shall become effective on November 13, 2013.