

ORDINANCE NO. 38

Series 2015

AN ORDINANCE MAKING MISCELLANEOUS AMENDMENTS TO THE BRECKENRIDGE TOWN CODE CONCERNING MARIJUANA

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

Section 1. The definition of "In Home Occupation" in Section 4-1-2 of the Breckenridge Town Code is amended to read as follows:

IN HOME OCCUPATION:

1. Any business legally operated from a residential structure in a residential district within the Town; or
2. A primary caregiver who cultivates marijuana within the Town for a patient in the primary residence of either the patient or primary caregiver.

Section 2. Section 4-1-2 of the Breckenridge Town Code is amended by the addition of the following definition:

PRIMARY CAREGIVER: Has the meaning provided in Section 4-14-5 of this Code.

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

B. In Home Business Occupation: The owner of each in home occupation as defined in this Chapter shall pay an annual fee of fifty dollars (\$50.00) per annum; provided, however, that no annual fee shall be required to be paid by a primary caregiver.

Section 4. Section 4-14-5 of the Breckenridge Town Code is amended by the addition of the following definitions:

PRIMARY CAREGIVER: Has the meaning provided in Section 25-1.5-106(2)(d.5), C.R.S.

PRIMARY CAREGIVER PERMIT: A permit issued to a primary caregiver by the local licensing authority pursuant to Section 4-14-17-1 of this Chapter.

Section 5. Chapter 14 of Title 4 of the Breckenridge Town Code, entitled "Marijuana Licenses and Regulations," is amended by the addition of a new Section 4-14-27-1, which shall read in its entirety as follows:

4-14-27-1: DUTIES OF PRIMARY CAREGIVERS:

- A. Commencing January 1, 2017 any primary caregiver cultivating marijuana in a residential structure within the Town shall provide to the local licensing authority a copy of such primary caregiver's registration with the State Licensing Authority filed pursuant to pursuant to Section 25-1.5-106(7)(e)(I)(A), C.R.S.
- B. If not contained in the primary caregiver's registration with the State Licensing Authority filed pursuant to pursuant to Section 25-1.5-106(7)(e)(I)(A), C.R.S., the primary caregiver shall provide the following information to the local licensing authority:
 1. Location of any medical marijuana cultivation;
 2. The Registry identification number for each patient; and

3. The number of plants authorized to cultivate for each patient.

The caregiver must update the registry within ten (10) days of any changes.

- C. A primary caregiver shall maintain a list of his or her patients including the registry identification card number of each patient at all times.
- D. Upon receipt of a copy of the primary caregiver's state registration, the local licensing authority shall issue a Town of Breckenridge Primary Caregiver Permit to such primary caregiver. Primary Caregiver Permits shall be for a term of one (1) calendar year, and shall be renewable upon compliance with all the provisions of this Section. There shall be no fee for the issuance or renewal of a Primary Caregiver Permit.
- E. Two or more primary caregivers shall not join together for the purpose of cultivating medical marijuana.
- F. A person may not register as a primary caregiver if he or she is licensed as a medical marijuana business or retail marijuana business.
- G. A primary caregiver who fails to register with the local licensing authority shall do so within ten (10) days of being informed of the duty to register by law enforcement or any Town official.
- H. If any person fails to register pursuant to notification, such person shall be prohibited from ever registering and acting as a primary caregiver within the Town.
- I. If a primary caregiver is charged with failing to register, a law enforcement agency shall not be civilly liable for the loss or destruction of the primary caregiver's medical marijuana plants.
- J. The Town shall share with other law enforcement agencies the minimum necessary information as allowed by the Federal Health Insurance Portability and Accountability Act of 1996, PL 104-191, and the implementing administrative regulations, such as patient and caregiver identification numbers, to ensure that a patient does not have more than one primary caregiver, or have both a caregiver and a medical marijuana center cultivating medical marijuana on his or her behalf at any given time.
- K. The information provided to the local licensing authority pursuant to this Section shall not be provided to the public and is confidential. However, upon receiving an address-specific request for verification, the local licensing authority or Town police department shall verify the location of a primary caregiver cultivation operation and share the information with another law enforcement or regulatory agency. The location of the cultivation operation must comply with all applicable local laws, rules, and regulations.
- L. A primary caregiver for no more than five (5) patients on the medical marijuana program registry at any time.

Section 6. Section 4-14-18 of the Breckenridge Town Code is amended to read as follows:

4-14-18: SUSPENSION OR REVOCATION OF LICENSE:

- A. A license issued by the local licensing authority may be suspended or revoked by the local licensing authority for of any of the following reasons:
 - 1. Violation of any Applicable Code;
 - 2. Violation of any Applicable Administrative Regulation;
 - 3. Violation of the Licensing Ordinance;
 - 4. Violation of the terms and conditions of a license;

5. Misrepresentation or omission of any material fact, or false or misleading information, on the license application or any amendment thereto, or any other information provided by the licensee to the local licensing authority related to the licensee's business;
 6. Violation of any law which, if it occurred prior to the submittal of the license application could have been cause for denial of the license application;
 7. Failure to maintain or to provide to the local licensing authority upon request any books, recordings, reports, or other records as required by applicable law;
 8. Failure to timely notify the local licensing authority and to complete any necessary forms for changes in financial interest, business manager, financier, or agent.
 9. Temporary or permanent closure or other sanction of the licensee by the local licensing authority, the Colorado Department of Public Health and Environment, or other governmental entity with jurisdiction, for failure of the licensee to comply with applicable health and safety provisions of any applicable code;
 10. Revocation or suspension of the state or local license of another medical marijuana business or retail marijuana establishment owned or controlled by the holder of Town medical marijuana business or retail marijuana establishment license; or
 11. The failure of a licensee to timely correct any violation of any applicable code, any applicable administrative regulation, the licensing ordinance, or the terms and conditions of the license's license within the time stated in a notice or order issued by local licensing authority.
- B. The procedure to suspend or revoke a local license shall be as procedures set forth in the applicable code, the applicable administrative regulations, and this chapter.
- C. In connection with the suspension of a license, the local licensing authority may impose reasonable conditions.
- D. In deciding whether a license should be suspended or revoked, and in deciding what conditions to impose in the event of a suspension, if any, the local licensing authority shall consider mitigating and aggravating factors when considering the imposition of a penalty. These factors may include, but are not limited to:
1. Any prior violations that the Licensee has admitted to or was found to have engaged in.
 2. Action taken by the Licensee to prevent the violation (e.g., training provided to employees).
 3. Licensee's past history of success or failure with compliance checks.
 4. Corrective action(s) taken by the Licensee related to the current violation or prior violations.
 5. Willfulness and deliberateness of the violation.
 6. Likelihood of reoccurrence of the violation.
 7. Circumstances surrounding the violation, which may include, but are not limited to:
 - A. Prior notification letter to the Licensee that an underage compliance check would be forthcoming.
 - B. The dress or appearance of an underage operative used during an underage compliance check (e.g., the operative was wearing a high school letter jacket).

8. The Owner or a manager is the violator or has directed an employee or other individual to violate the law.
- E. Participation in State-approved educational programs related to the operation of a Retail Marijuana Establishment, if applicable.
- F. If an offense is described in the applicable administrative regulations, the licensing authority shall follow the provisions of such regulation in deciding the appropriate sanction to be imposed upon the licensee.
- G. A license issued by the local licensing authority may be revoked if the local licensing authority determines that the licensed premises have been inactive, without good cause, for at least one (1) year.
- H. If the local licensing authority suspends or revokes a license the licensee may appeal the suspension or revocation to the district court pursuant to rule 106(a)(4) of the Colorado rules of civil procedure. The licensee's failure to timely appeal the decision is a waiver of the licensee's right to contest the denial or conditional approval of the application.
- I. No fee previously paid by a licensee in connection with the application shall be refunded if the licensee's license is suspended or revoked.
- J. If the local licensing authority revokes or suspends a license, the licensee may not remove any marijuana from the licensed premises except under the supervision of the Town's police department.

Section 7. Section 4-14-29 of the Breckenridge Town Code is amended by the addition of a new Section B.5, which shall read in its entirety as follows:

B.5 It is unlawful and a misdemeanor offense for any person to violate the following provisions of the state administrative regulations. Any person convicted of having violated any of the following provisions of the state administrative regulations shall be punished as provided in Section 1-4-1 of this code:

Medical Marijuana Administrative Regulations

- A. Regulation M 305 – Security Alarm and Lock Standards;
- B. Regulation M 306 – Video Surveillance;
- C. Regulation M 307 – Waste Disposal;
- D. Regulation M 309 – Medical Marijuana Business: Marijuana Inventory Tracking System (MITS);
- E. Regulation M 503 – Medical Marijuana Optional Premises Cultivation Operation: Inventory Tracking System
- F. Regulation M 901 – Business Records Required; and
- G. Regulation M 1202 – Requirement for Inspections and Investigations, Searches, Administrative Holds, and Such Additional Activities as May Become Necessary From Time to Time

Retail Marijuana Administrative Regulations

- A. Regulation R 305 – Security Alarm and Lock Standards;
- B. Regulation R 306 – Video Surveillance;
- C. Regulation R 307 – Waste Disposal;

- D. Regulation R 309 –Retail Marijuana Establishments: Marijuana Inventory Tracking System;
- E. Regulation R 503 –Retail Marijuana Cultivation Facility: Inventory Tracking System
- F. Regulation R 901 – Business Records Required; and
- G. Regulation R 1202 – Requirement for Inspections and Investigations, Searches, Administrative Holds, and Such Additional Activities as May Become Necessary From Time to Time

Section 8. Section 6-3I-1 of the Breckenridge Town Code is amended to include the following definitions:

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| MARIJUANA PRODUCT | Concentrated marijuana products and marijuana products that are comprised of marijuana and other ingredients and are intended for use or consumption, such as, but not limited to, edible products, ointments, and tinctures. |
| SINGLE-FAMILY RESIDENTIAL UNIT: | Has the meaning provided in Section 9-1-5 of this Code. |

Section 9. Section 6-3I-3 of the Breckenridge Town Code is amended to read as follows:

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

- A. Except as described in Section 6-3I-10 of this article, it is unlawful for any person twenty-one (21) years of age or older to possess more than one ounce but no more than two (2) 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. Except as described in Section 6-3I-10 of this article, it is unlawful for any person twenty-one (21) years of age or older to possess:
 1. More than eight (8) ounces of usable marijuana in a single-family residential unit;
 2. More than sixteen (16) ounces of a marijuana product in a solid form; or
 3. More than seventy two (72) ounces of a marijuana product in a liquid form.
- C. 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.
- D. Except as described in Section 6-3I-10 of this article, it is unlawful for any person twenty-one (21) years of age or older to possess more than two (2) ounces of marijuana but no more than twelve (12) ounces of marijuana, or more than one 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.
- E. The procedure described in Section 6-3I-9 shall apply to persons charged with a violation of either Section A or Section B of this Section.

Section 10. Section 6-3I-8-1 of the Breckenridge Town Code, entitled “Unlawful Acts Concerning the Extraction of Marijuana Concentrate,” is repealed.

Section 11: Chapter 13 of Title 9 of the Breckenridge Town Code is repealed and readopted with changes to read as follows:

CHAPTER 13

GROWING OF MARIJUANA IN A REGULATED STRUCTURE

SECTION:

- 9-13-1: SHORT TITLE
- 9-13-2: FINDINGS
- 9-13-3: PURPOSE
- 9-13-4: AUTHORITY
- 9-13-5: DEFINITIONS
- 9-13-6: REGULATIONS FOR THE GROWING OF MARIJUANA IN A REGULATED STRUCTURE
- 9-13-7: INSPECTION; INSPECTION WARRANT
- 9-13-8: APPLICABILITY OF NUISANCE ORDINANCE
- 9-13-9: CONDITION PRECEDENT TO CHALLENGE

9-13-1: SHORT TITLE: This Chapter is to be known and may be cited as the "2015 Town Of Breckenridge Marijuana Grow Ordinance."

9-13-2: FINDINGS: The Town Council adopts this Chapter based upon the following findings of fact:

- A. On November 7, 2000 the voters of the State of Colorado approved Amendment 20. Amendment 20 added Section 14 of Article XVIII to the Colorado Constitution, and created a limited exception from criminal liability under Colorado law (as opposed to federal law) for seriously ill persons who are in need of marijuana for specified medical purposes and who obtain and use medical marijuana under the limited circumstances described in Section 14 of Article XVIII of the Colorado Constitution.
- B. The Colorado legislature passed and the governor signed into law HB10-1284, entitled "An Act Concerning Regulation of Medical Marijuana, and Making an Appropriation Therefor." HB10-1284 adopted the "Colorado Medical Marijuana Code." HB10-1284 became effective July 1, 2010.
- C. On November 6, 2012 the voters of the State of Colorado approved Amendment 64. Amendment 64 added Section 16 of Article XVIII to the Colorado Constitution.
- D. Section 16(3)(b) of Article XVIII of the Colorado Constitution provides that it is not unlawful under Colorado law for a person twenty-one (21) years of age or older to possess, grow, process, or transport not more than six (6) marijuana plants, with three or fewer being mature, flowering plants, and to possess the marijuana produced by the plants on the premises where the plants were grown, provided that the growing takes place in an enclosed, locked space, is not conducted open or publicly, and is not made available for sale.
- E. The possession, growing, processing, or transporting of marijuana plants in an unregulated setting can affect the health, safety, and welfare of both the occupants of the structure within which the marijuana is possessed, grown, processed, or transported, and persons occupying nearby structures.
- F. The Town's experience is that the unregulated possession, growing, processing, or transporting of marijuana results in a significant number of instances of non-compliance with the Town's building and other technical codes. In addition to other potentially serious problems, non-compliance with the Town's building and other technical codes has the potential to result in a fire emanating from the structure within which the marijuana is possessed, grown, processed, or transported. Such a fire would affect the health, safety, and welfare of both the

occupants of the structure within which the marijuana is processed, possessed, grown, processed, or transported, and persons occupying nearby structures.

- G. Nothing in Section 14 or Section 16 of Article XVIII of the Colorado Constitution, or any other applicable law, immunizes persons who possess, grow, process, or transport marijuana in a regulated structure as hereafter defined from local regulation.
- H. The Town is a home rule municipal corporation organized and existing under its Charter and Article XX, Section 6 of the Colorado Constitution. As such, the Town possesses all powers granted to home rule municipalities by Colorado law.
- I. This Chapter 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 and the inhabitants thereof, and to reduce the number of public nuisances that exist within the Town.

9-13-3: PURPOSE: It is the purpose of this Chapter to require that persons possessing, growing, processing, or transporting marijuana in a regulated structure within the Town pursuant to Sections 14 or 16 of Article XVIII of the Colorado Constitution do so in a safe manner that does not endanger the public health, safety, and welfare, or create a public nuisance.

9-13-4: AUTHORITY: The Town Council finds, determines, and declares that it has the power to adopt this Chapter pursuant to:

- A. The Colorado Medical Marijuana Code, Article 43.3 of Title 12, C.R.S.;
- B. Section 16 of Article XVIII to the Colorado Constitution;
- C. The Local Government Land Use Control Enabling Act, Article 20 of Title 29, C.R.S.;
- D. Part 3 of Article 23 of Title 31, C.R.S. (concerning municipal zoning powers);
- E. Section 31-15-103, C.R.S. (concerning municipal police powers);
- F. Section 31-15-401, C.R.S. (concerning municipal police powers, including, but not limited to, the power to declare what is a nuisance and to abate the same);
- G. The authority granted to home rule municipalities by Article XX, Section 6 of the Colorado Constitution; and
- H. The powers contained in the Breckenridge Town Charter.

9-13-5: DEFINITIONS:

- A. The definitions contained in Sections 14 and 16 of Article XVIII of the Colorado Constitution are incorporated into this Chapter by reference.
- B. As used in this Chapter the following words have the following meanings, unless the context clearly requires otherwise:

COMMERCIAL USE:	Has the meaning provided in Section 9-1-5 of this Code.
ENCLOSED AND LOCKED SPACE:	The area within the regulated structure where marijuana is possessed, grown, processed, or transported pursuant to Sections 14 and 16 of Article XVIII of the Colorado Constitution, and that is secured at all points of ingress or egress with a locking mechanism such as a key or combination lock designed to limit access.
MARIJUANA:	Has the same meaning as in Section 16(2)(f) of

Article XVIII of the Colorado Constitution.

MIXED USE:	Has the meaning provided in Section 9-1-5 of this Code.
OPENLY:	The area within the regulated structure where marijuana is possessed, grown, processed, or transported is not protected from unaided observation lawfully made from outside the perimeter of the regulated structure not involving physical intrusion.
PERSON:	Has the meaning provided in Section 1-3-2 of this Code.
POLICE CHIEF:	The Police Chief of the Town, or the Police Chief's designee.
PUBLICLY:	The area within the regulated structure where the marijuana is possessed, grown, processed, or transported is open to general access without restriction.
REGULATED STRUCTURE:	Any structure located within the Town where marijuana is possessed, grown, processed or transported that is not licensed by the Town for such activity pursuant to Chapter 14 of Title 4 of this Code.
RESIDENTIAL USE:	Has the meaning provided in Section 9-1-5 of this Code.
SINGLE-FAMILY RESIDENTIAL UNIT:	Has the meaning provided in Section 9-1-5 of this Code.
STRUCTURE:	Has the meaning provided in Section 9-1-5 of this Code.
THC:	Means tetrahydrocannabinol.
TOWN:	Has the meaning provided in Section 1-3-2 of this Code.

9-13-6: REGULATIONS FOR THE GROWING OF MARIJUANA IN A REGULATED STRUCTURE: Marijuana plants shall not be possessed, grown, processed, or transported in or around any regulated structure within the Town except in compliance with the following regulations. It is unlawful and a misdemeanor offense for a person to violate any provision of this Section. In accordance with Section 1-4-1(B) of this Code, a person shall be guilty of a separate offense for each and every day during any portion of which any violation of the requirements of this section is committed, continued, or permitted by such person.

- A. The possession, growing, and processing, of marijuana plants within a regulated structure shall be done in full compliance with all applicable provisions of Section 14 and Section 16 of Article XVIII of the Colorado Constitution.
- B. Marijuana may be possessed, grown, processed, or transported within a regulated structure only by a person twenty-one (21) years of age or older.
- C. One person twenty-one years of age or older may not possess, grow, process, or transport more than six (6) marijuana plants within a regulated structure at any one time. Not more than three of the plants may be mature flowering plants.

- D. The owner of the marijuana plants described in Section C may lawfully possess the marijuana produced by the six (6) marijuana plants described in Section C on the premises where the plants were grown.
- E. None of the marijuana plants or the marijuana described in Section C or D may be sold or offered for sale.
- F. Marijuana may not be grown openly or publicly, or in any area that is located outside of the exterior walls of a regulated structure.
- G. If a person under twenty-one (21) years of age lives at the regulated structure, the cultivation area for the marijuana plants must be enclosed and locked.
- H. If no person under twenty-one (21) years of age lives at the regulated structure, the external locks of the regulated structure constitute an enclosed and locked space but if a person under twenty-one (21) years of age enters the regulated structure, the person must ensure that access to the marijuana cultivation site is reasonably restricted for the duration of that person's presence in the regulated structure.
- I. The possession, growing, processing, or transportation of marijuana plants shall be limited to the following areas within a regulated structure:
 - 1. Within a detached single-family residential unit, marijuana may be possessed, grown, processed or transported only within a defined and contiguous 150 square foot area;
 - 2. Within any regulated structure other than a detached single-family residential unit, marijuana may be possessed, grown, processed or transported only within a defined and contiguous 100 square feet area;
 - 3. Marijuana shall not be possessed, grown, processed or transported within the common area of any real property that is devoted to a residential use, commercial use, or a mixed use; and
 - 4. Not more than twelve (12) marijuana plants may be possessed, grown, processed or transported within a regulated structure at any one time, regardless of the number of persons twenty-one (21) years of age or older who then occupy the regulated structure.
- J. The possession, growing, processing, or transporting of marijuana shall not be perceptible from the exterior of the regulated structure where the plants are grown, including, but not limited to:
 - 1. Common visual observation;
 - 2. Light pollution, glare, or brightness that disturbs the repose of another;
 - 3. Undue vehicular or foot traffic, including unusually heavy parking in front of the regulated structure; and
 - 4. Noise from an exhaust fan in excess of the maximum permissible noise level described in Section 5-8-5 of this Code.
- K. The smell or odor of marijuana growing or being processed within a regulated structure shall not be capable of being detected by a person with a normal sense of smell from any adjoining lot, parcel, or tract of land not owned by the owner of the regulated structure, or from any adjoining public right of way.
- L. The space within the regulated structure where marijuana is possessed, grown, processed or transported shall meet all applicable requirements of the Town's building and technical codes adopted in Chapter 1 of Title 8 of this Code.

- M. If a person possesses, grows, processes, or transports marijuana within a regulated structure that he or she does not own, he or she shall obtain the written consent of the property owner before commencing to possess, grow, process or transport marijuana on the property.
- N. No chemical shall be used to enhance or extract THC from marijuana that is grown or processed in a regulated structure.
- O. Compressed, flammable gas shall not be used in a regulated structure as a solvent for the extraction of THC or other cannabinoids.

9-13-7: INSPECTION; INSPECTION WARRANT:

- A. Subject to the requirements and limitations of this section, the Police Chief shall have the right to enter upon any regulated structure within the Town where marijuana is being possessed, grown, processed, or transported during reasonable hours for the purpose of conducting a physical inspection of the premises to determine if the premises comply with the requirements of this Chapter. However, no agent or employee of the Town shall enter upon any property to conduct such an inspection without either the permission of the landowner or occupant, or without an inspection warrant issued pursuant to this section.
- B. If verbal permission to inspect the regulated structure from the affected landowner or occupant is not obtained, or if the regulated structure is locked and the Police Chief has been unable to obtain permission of the landowners or occupant, the Police Chief may request that an inspection warrant be issued by the municipal court judge pursuant to Rule 241 of the Colorado Municipal Court Rules of Procedure.
- C. In case of an emergency involving imminent danger to public health, safety, or welfare, the Police Chief may enter any regulated structure within the Town to conduct an emergency inspection for the possession, growing, processing, or transporting of marijuana without a warrant and without complying with the requirements of section.
- D. The Town Council declares that this Chapter is an ordinance involving a serious threat to the public safety or order within the meaning of Rule 241(a)(1) of the Colorado Municipal Court Rules of Procedure.
- E. The municipal court judge may issue an inspection warrant authorizing the inspection of a regulated structure for the possession, growing, processing, or transporting of marijuana in accordance with Rule 241(b) of the Colorado Municipal Court Rules of Procedure. Any inspection warrant issued pursuant to this section shall fully comply with the applicable provisions of Rule 241 of the Colorado Municipal Court Rules of Procedure.
- F. The municipal judge may impose such conditions on an inspection warrant as may be necessary in the judge's opinion to protect the private property rights of the landowner of the property to be inspected, or to otherwise make the warrant comply with applicable law.
- G. It shall be unlawful and a misdemeanor offense for any landowner or occupant to deny the Police Chief or other authorized person access to the property owned or occupied by such landowner or occupant if the Police Chief or other authorized person presents an inspection warrant issued pursuant to this Section.

9-13-8: APPLICABILITY OF NUISANCE ORDINANCE: The possession, growing, processing, or transportation of marijuana within a regulated structure in the Town in any manner that is not in compliance with the requirements of Section 9-13-6 is declared to be a public nuisance, and may be abated in the manner provided in Chapter 1 of Title 5 of this Code. Section 5-1-12 of this Code concerning the non-exclusivity of the nuisance abatement procedure described in Chapter 1 of Title 5 of this code applies with respect to the enforcement of this Chapter as well.

9-13-9: **CONDITION PRECEDENT TO CHALLENGE:** It is a condition precedent to any legal challenge to any portion of this chapter, or the application of any portion of this chapter to any specific property, that the person initiating such challenge shall have first given the Town written notice of intent to bring such challenge not less than ninety (90) days before filing any legal proceeding. Such notice shall be sent to the Town Council of the Town of Breckenridge by certified mail, return receipt requested, at P.O. Box 168, Breckenridge, Colorado 80424, and shall set forth: (i) the name and address of the claimant and the claimant's attorney, if any; and (ii) a concise statement of the factual and legal basis for the claimant's challenge to the this chapter, or the application of this chapter to the claimant's property. To the extent that the provisions of this section conflict with the notification requirements of section 24-10-109, C.R.S., or any other applicable law, the provisions of such statute or other applicable law shall control.

Section 12. Except as specifically amended by this ordinance, the Breckenridge Town Code, and the various secondary codes adopted by reference therein, shall continue in full force and effect.

Section 13. The adoption of this ordinance does not result in a new tax, a tax rate increase, or a tax policy change directly causing a net tax revenue gain to the Town within the meaning of Article X, Section 20 of the Colorado Constitution.

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

Section 15. The Town Council further 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 16. 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 November, 2015.

This ordinance was published in full on the Town of Breckenridge website on November 25, November 26, November 27, November 28 and November 29, 2015.

A public hearing on this ordinance was held on December 8, 2015.

READ, ADOPTED ON SECOND READING AND ORDERED PUBLISHED IN FULL ON THE
TOWN'S WEBSITE this 8th day of December, 2015. A copy of this Ordinance is available for
inspection in the office of the Town Clerk.

ATTEST:



Helen Cospolich, Town Clerk

TOWN OF BRECKENRIDGE


John G. Warner, Mayor

APPROVED IN FORM

