



**BRECKENRIDGE TOWN COUNCIL REGULAR MEETING**

Tuesday, June 13, 2017; 7:00 PM

Town Hall Auditorium

<b>I</b>	<b>CALL TO ORDER, ROLL CALL</b>	
<b>II</b>	<b>APPROVAL OF MINUTES - MAY 23, 2017</b>	<b>3</b>
<b>III</b>	<b>APPROVAL OF AGENDA</b>	
<b>IV</b>	<b>COMMUNICATIONS TO COUNCIL</b>	
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	B. BRECKENRIDGE TOURISM UPDATE	
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	2. COUNCIL BILL NO. 17, SERIES 2017 - SECOND READING OF AN ORDINANCE APPROVING A MASTER LEASE WITH OPTION TO PURCHASE WITH COLORADO MOUNTAIN COLLEGE, A COLORADO STATUTORY LOCAL COLLEGE DISTRICT (Tract D-2, A Resubdivision Of Tracts C And D, Runway Subdivision)	<b>13</b>
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\*Report of the Town Manager, Report of Mayor and Council Members; Scheduled Meetings and Other Matters are topics listed on the 7:00 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.

A.	PLANNING COMMISSION DECISIONS	<b>160</b>
<b>VIII</b>	<b>REPORT OF TOWN MANAGER AND STAFF</b>	
<b>IX</b>	<b>REPORT OF MAYOR AND COUNCILMEMBERS</b>	
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C.	BRECKENRIDGE TOURISM OFFICE (MS. GIGLIELLO)	
D.	BRECKENRIDGE HERITAGE ALLIANCE (MS. WOLFE)	
E.	WATER TASK FORCE (MR. DUDICK)	
F.	BRECKENRIDGE CREATIVE ARTS (MS. LAWRENCE)	
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\*Report of the Town Manager, Report of Mayor and Council Members; Scheduled Meetings and Other Matters are topics listed on the 7:00 pm Town Council Agenda. If time permits at the afternoon work session, the Mayor and Council may discuss these items. The Town Council may make a Final Decision on any item listed on the agenda, regardless of whether it is listed as an action item.

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**CALL TO ORDER, ROLL CALL**

Mayor Mamula called the meeting of May 23, 2017 to order at 7:06 pm. The following members answered roll call: Mr. Dudick, Mr. Bergeron, Ms. Lawrence, Mr. Burke, Ms. Wolfe, Ms. Gigliello and Mayor Mamula.

**APPROVAL OF MINUTES – MAY 9, 2017**

With no changes or corrections to the meeting minutes of May 9, 2017, Mayor Mamula declared they would stand approved as submitted.

**APPROVAL OF AGENDA**

Mr. Holman stated that an executive session was to be added to the end of the agenda. Mayor Mamula declared the agenda approved as presented with the one addition.

**COMMUNICATIONS TO COUNCIL**

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

Mayor Mamula opened Citizen's Comment. There were no comments and Citizen's Comment was closed.

B. Breckenridge Ski Resort Update

Mr. Gary Shimanowitz, Breckenridge Ski Resort, stated that things are progressing well on the Peak 8 Base Camp formerly known as the fun park; the Ski Hill Road project was hampered a bit by the recent snow, but is back on track; the gondola project, with all the changes, is ready to go and will open June 9th; and an agreement has finally been reached with the county regarding the Wintergreen project in Keystone.

C. Citizen Recognition

Mayor Mamula stated the Council has a special announcement. He further stated that for years, past councils have commented about wanting to implement a Citizen Leadership Award Program to award those citizens who have stepped up for the community in a variety of ways. He also stated anyone can nominate someone within the community and council will decide about the award, but this time he has nominated the first award recipient, Dave Pringle, for his 40 years of service on the Planning Commission, which will never be rivaled (as we are implementing term limits). Mayor Mamula congratulated Mr. Pringle and presented a plaque to be hung in the council chambers. Mr. Dave Pringle thanked the Council and stated he missed being in Council Chambers. He further stated he loved every minute of his involvement with the town and is honored by this award.

**CONTINUED BUSINESS**

A. Second Reading of Council Bills, Series 2017 - Public Hearings

1. COUNCIL BILL NO. 15, SERIES 2017 - AN ORDINANCE REPEALING AND READOPTING WITH CHANGES CHAPTER 3 OF TITLE 2 OF THE BRECKENRIDGE TOWN CODE CONCERNING THE BUILDING CODE BOARD OF APPEALS

Mayor Mamula read the title into the minutes. Mr. Tim Berry stated there were no changes to this ordinance from first reading.

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

Mr. Bergeron moved to approve COUNCIL BILL NO. 15, SERIES 2017 - AN

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ORDINANCE REPEALING AND READOPTING WITH CHANGES CHAPTER 3 OF TITLE 2 OF THE BRECKENRIDGE TOWN CODE CONCERNING THE BUILDING CODE BOARD OF APPEALS. Ms. Gigliello seconded the motion.  
The motion passed 7-0.

2. COUNCIL BILL NO. 16, SERIES 2017 - AN ORDINANCE AMENDING CHAPTER 1 OF TITLE 4 OF THE BRECKENRIDGE TOWN CODE, KNOWN AS THE "TOWN OF BRECKENRIDGE BUSINESS AND OCCUPATIONAL LICENSES AND TAX ORDINANCE," CONCERNING REQUIREMENTS FOR THE ADVERTISING OF ACCOMMODATION UNITS OFFERED FOR RENT

Mayor Mamula read the title into the minutes. Mr. Tim Berry stated there were no changes to this ordinance from first reading.

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

Mr. Dudick moved to continue COUNCIL BILL NO. 16, SERIES 2017 - AN ORDINANCE AMENDING CHAPTER 1 OF TITLE 4 OF THE BRECKENRIDGE TOWN CODE, KNOWN AS THE "TOWN OF BRECKENRIDGE BUSINESS AND OCCUPATIONAL LICENSES AND TAX ORDINANCE," CONCERNING REQUIREMENTS FOR THE ADVERTISING OF ACCOMMODATION UNITS OFFERED FOR RENT to the June 13, 2017 meeting so that staff can obtain answers to concerns that were brought up during the work session. Ms. Lawrence seconded the motion.

The motion passed 7-0.

**NEW BUSINESS**

- A. First Reading of Council Bills, Series 2017 - Public Hearings

1. COUNCIL BILL NO. 17, SERIES 2017 - AN ORDINANCE APPROVING A MASTER LEASE WITH OPTION TO PURCHASE WITH COLORADO MOUNTAIN COLLEGE, A COLORADO STATUTORY LOCAL COLLEGE DISTRICT (Tract D-2, A Resubdivision of Tracts C and D, Runway Subdivision)

Mayor Mamula read the title into the minutes. Mr. Berry stated that this ordinance authorizes the Town to enter into a lease with an option to purchase Colorado Mountain College. He further stated critical deal points are in the memo included in the packet, and there are some issues regarding insurance requirements which we expect to be resolved within the next three weeks, before the second reading of this Ordinance. Mr. Berry stated this ordinance is coming before you because our rules require that any lease over one year must be approved by ordinance and also our Charter requires that if you are going to convey property that you either you call an election or you approve the conveyance by ordinance.

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

Mr. Bergeron moved to approve COUNCIL BILL NO. 17, SERIES 2017 - AN ORDINANCE APPROVING A MASTER LEASE WITH OPTION TO PURCHASE WITH COLORADO MOUNTAIN COLLEGE, A COLORADO STATUTORY LOCAL COLLEGE DISTRICT (Tract D-2, A Resubdivision of Tracts C and D, Runway Subdivision). Ms. Wolfe seconded the motion.

Mr. Dudick stated he agreed with comments made this afternoon by Ms. Wolfe and Ms. Gigliello and that exploring this partnership within the community is a good thing. However, the amount of rent that CMC is paying the Town is virtual zero risk to them because they are going to recover that by leases with their students and the Town is carrying the financial burden of the \$5.8 million. Ms. Wolfe stated that any deals in the future with partners would be done a bit differently. Ms. Gigliello stated that she met with people from CMC, at their meet and greet, and that they are very excited about this project and she believes it will serve the people it is supposed to serve.

The motion passed 7-0.

2. COUNCIL BILL NO. 18, SERIES 2017 - AN ORDINANCE CONCERNING TERM LIMITS FOR MEMBERS OF THE TOWN OF BRECKENRIDGE PLANNING COMMISSION, THE TOWN OF BRECKENRIDGE OPEN SPACE ADVISORY COMMISSION, AND THE TOWN OF BRECKENRIDGE LIQUOR AND MARIJUANA LICENSING AUTHORITY

Mayor Mamula read the title into the minutes. Mr. Berry stated after this afternoon's work session he revised the ordinance from the version that is in the packet. He further stated the title has changed. Mr. Berry stated the ordinance eliminates all reference to the Liquor and Marijuana Licensing Authority; the section on term limits was removed; and the language with respect to filling a vacancy after a member has reached the term limit was revised.

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

Mr. Bergeron moved to approve the revised COUNCIL BILL NO. 18, SERIES 2017 - AN ORDINANCE CONCERNING TERM LIMITS FOR MEMBERS OF THE TOWN OF BRECKENRIDGE PLANNING COMMISSION AND THE TOWN OF BRECKENRIDGE OPEN SPACE ADVISORY COMMISSION. Ms. Gigliello seconded the motion.

Ms. Lawrence stated that she would still like to see some term limits on the Liquor and Marijuana Licensing Authority. Mr. Holman stated that at the meeting on June 13, 2017, there will be a revised ordinance dealing with that board.

The motion passed 7-0.

B. Resolutions, Series 2017

1. RESOLUTION NO. 15, SERIES 2017 - A RESOLUTION AUTHORIZING THE EXECUTION AND RECORDING OF A DENSITY SUNSET COVENANT (For the Denison Placer 2 Attainable Workforce Housing Project)

Mayor Mamula read the title into the minutes. Mr. Mark Truckey handed out a revised Resolution based upon direction from the work session. This only revision changes the single family equivalents of density from 3.26 to 4.0.

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

Mr. Dudick moved to approve the revised version of RESOLUTION NO. 15, SERIES 2017 - A RESOLUTION AUTHORIZING THE EXECUTION AND RECORDING OF A DENSITY SUNSET COVENANT (For the Denison Placer 2 Attainable Workforce

Housing Project). Mr. Burke seconded the motion.

The motion passed 7-0.

C. Other

**PLANNING MATTERS**

A. Planning Commission Decisions.

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

**REPORT OF TOWN MANAGER AND STAFF**

Mr. Holman stated he had two items.

1. Staff has received comments about the cancellation of Town Clean Up Day and not rescheduling. There is not a lot of availability, except for Sunday, June 4<sup>th</sup>, and it is too difficult to coordinate everything once again. We are planning a few more employee clean up days where staff goes out for two hours to pick up trash. We are advertising to the community that we have bags and gloves for pick up at Town Hall and at Public Works and if they leave the filled bags along the side of a main roadway they will be picked up until June 2, 2017. Ms. Wolfe requested that this information be posted on social media and Facebook.
2. Council has been invited to the employee kickoff party on June 8<sup>th</sup>. Please let Peyton know if you plan on attending the BBQ and/or golf outing.

**REPORT OF MAYOR AND COUNCILMEMBERS**

A. CAST/MMC (Mayor Mamula)

Mayor Mamula stated he and Mark Truckey went to Aspen May 18-19, 2017 meeting with mayors and council people with over 40 communities represented. The mayor from Aspen is invested in fighting climate change issues, and stated their town is 100% renewable energy. Mayor Mamula stated that as a representative of the Town he signed the board for the ACCO (Association of Climate Change Officers). This is a collective commitment to aggressively act on climate change. There are free classes offered online and we need 5-35 people in our community to go through the courses offered. Mr. Truckey and the renewable energy task force will be heading up this effort. Mayor Mamula stated that the prevailing theme at this meeting was “the Feds aren’t going to do it – so we have to.”

B. Breckenridge Open Space Advisory Committee (Mr. Bergeron)

Mr. Bergeron stated there was well-attended open house last night and Ms. Anne Murphy spoke. There will be new “You Are Here” maps, several trailhead kiosks and etiquette signs on our trails. Mr. Bergeron also stated he is giving the Memorial Day speech to veterans at Valley Brook Cemetery. Mayor Mamula mentioned that this year is BOSAC’s 20<sup>th</sup> year anniversary and he would like some ideas on what to do to celebrate that milestone.

C. Breckenridge Tourism Office (Ms. Gigliello)

Ms. Gigliello stated there was no May meeting.

D. Breckenridge Heritage Alliance (Ms. Wolfe)

Ms. Wolfe stated there was a presentation during the work session.

E. Water Task Force (Mr. Dudick)

Mr. Dudick stated there was a meeting last Tuesday and they had revised pricing for the new water plant from the previous 30% designed development to 60%, which is still within the tolerable range, but needing to get to 90%. It may be costing more

than we thought, but there are easy remedies for that. Ms. Lawrence asked when do we expect to reach 90%? Mr. James Phelps stated by the end of June.

- F. Breckenridge Creative Arts (Ms. Lawrence).  
Ms. Lawrence asked if the master plan would be discussed again, and were there any changes? Mayor Mamula stated he had some issues with the planning process, specifically the points discussion and that Ms. Wolfe would like to talk about the saturation point. Ms. Lawrence stated that the BCA just wants a seat at the table on these discussions and they will bring the plan back for adoption, and it needs to be adopted by resolution and then by a separate ordinance to adopt the new master plan. The council discussed, in depth, the pros and cons of the point system. She further stated Mr. Robb Woulfe would like to get this passed, and will remove the portion regarding the point system if that will get it done.
- G. Breckenridge Events Committee (Ms. Lawrence)  
Ms. Lawrence stated there is a meeting next week and Sydney Schwab will be leaving for the Town of Silverthorne.

#### **OTHER MATTERS**

Mr. Holman stated that Ms. Dykstra recently sent an email to Council with speaking points for the Town Hall meeting next Tuesday beginning at 5:30 pm. The idea for this is to spark conversation and have a dialog. Mr. Dudick stated he won't be here, so the water segment will be delivered by Mayor Mamula. Mayor Mamula stated he thinks this event should be kept on a high level, talking about what we've done this year and to let the people talk.

Ms. Wolfe stated a citizen contacted her and asked if the Town was going to do anything about the moose in town. They seem to be everywhere this year. Educating the public is the key – give the wildlife lots of room – be “moose aware”. She further stated it would be good to get the lodging companies on board with educating the people about moose.

Ms. Gigliello stated that she has heard a complaint about the dog park. She stated some people no longer take their dogs there as there are some dogs there without their owners. She asked if the police do regular rounds of the park? Chief McLaughlin stated that his officers go there quite frequently, but don't count a dogs-to-owner ratio. The Chief also stated they would look into the signage and make sure the rules are posted.

Mr. Bergeron asked about the different speed limits in town. Chief McLaughlin stated they are posted on the streets.

Mr. Burke talked about one officer going above and beyond when he was stopped for not having a current sticker on his license plate as someone had peeled it off his vehicle. Officer Galen Peterson told him a trick to keeping it on – once it is on your vehicle cut it with a knife with an X – if they try to take it off, they will only get a quarter of it.

Mr. Dudick attended an HOA meeting this weekend and there were a few people there wearing tin foil on their heads. He stated he was talking about the water plant and one of them stood up and asked “what is the town's plan for EMP (electronic magnetic pulse)”? Another person stood up and stated we should be more worried about solar flares. Mr. Dudick then asked what is going on with the banners on Hwy 9, what did we decide to do? Ms. Dykstra stated that on June 10<sup>th</sup> there will be flower baskets. Mr. Dudick stated he is in support of a banner across the highway advertising events in the town. A decision was made for Council to schedule sometime to have a discussion about the entrance to town and what it should look like, and involve the BTO and BCA.

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Mr. Dudick asked if there was a recreation center company group rate or employee pass?  
Mr. Scott Reid said that he would look into it.

**SCHEDULED MEETINGS**

**EXECUTIVE SESSION**

**ADJOURNMENT**

With no further business to discuss, the meeting adjourned at 8:40 pm. Submitted by Susan Brown, Municipal Services Specialist.

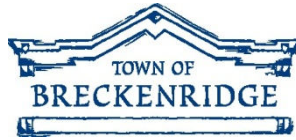
ATTEST:

\_\_\_\_\_  
Helen Cospolich, CMC, Town Clerk

\_\_\_\_\_  
Eric S. Mamula, Mayor

DRAFT





**TO:** BRECKENRIDGE TOWNCOUNCIL  
**CC:** RICK HOLMAN, TOWN MANAGER; SHANNON HAYNES, ASSISTANT TOWN MANAGER  
**FROM:** REVENUE SERVICES ADMINISTRATOR – HEATHER PEZZELLA  
**SUBJECT:** TOWN TAX CODE REVISIONS  
**DATE:** 05/31/2017

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Please find attached the modification to the Town of Breckenridge Town Code proposed revisions to business and occupational licenses. These changes were brought for first reading on May 9, and were outlined in the memo included in the May 9th work session packet. The second reading on May 23 was continued.

The intent of these revisions is to update our code to require accommodation units to list the business/occupational license in advertisements. There were a couple minor grammatical edits from first reading, which are noted with a strike-out and double underline. This item is up for second reading tonight.

1 **FOR WORKSESSION/SECOND READING –JUNE 13**

2  
3 Additions To The Ordinance As Approved on First Reading Are  
4 Indicated By **Bold + Double Underline**; Deletions By ~~Strikeout~~

5  
6 COUNCIL BILL NO. 16

7  
8 Series 2017

9  
10 AN ORDINANCE AMENDING CHAPTER 1 OF TITLE 4 OF THE BRECKENRIDGE  
11 TOWN CODE, KNOWN AS THE “TOWN OF BRECKENRIDGE “BUSINESS AND  
12 OCCUPATIONAL LICENSES AND TAX ORDINANCE,” CONCERNING  
13 REQUIREMENTS FOR THE ADVERTISING OF ANACCOMMODATION  
14 UNITSOFFERED FOR RENT

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

18  
19 Section 1. The definition of “Accommodation Unit” in Section 4-1-2 of the Breckenridge  
20 Town Code is amended to read as follows:

21  
22 ACCOMMODATION UNIT: Aseparate and distinct living units including  
23 condominium, townhome, house, trailer, studio unit,  
24 condo-hotel units, or any such other similar unit which is  
25 rented to any person, who, for consideration, uses,  
possesses or has the right to use or possess such  
accommodation unit for a period of 30 consecutive days  
or less, regardless of the number of days during a license  
year such unit is rented.

26  
27 Section 2. Section 4-1-2 of the Breckenridge Town Code is amended by the addition of  
28 the following definition:

29  
30 ADVERTISEMENT: A form of marketing communication that employs a  
nonpersonal message to promote the rental of an  
accommodation unit. This includes, but is not limited to,  
~~signage~~, mailing, brochures, print, ~~radio, television~~, internet  
listing, e-mail publication, social media, other electronic  
means, ~~telephone~~, or other means or methods regardless of  
the medium used.

31  
32 Section 3. Section 4-1-3 of the Breckenridge Town Code is amended to read as follows:

33  
34 4-1-3: LICENSE REQUIRED:

1 It shall be unlawful for any person to maintain, operate, or conduct any retail  
2 business or engage in any business activity in the town, including the delivery of  
3 goods (excluding wholesale) within the town which are purchased or contracted  
4 for outside the corporate limits of the town, without having first obtained a  
5 business and occupational license pursuant to this chapter. Advertisement of  
6 an accommodation unit that is located within the town is considered engaging in a  
7 business activity within the town. If business is transacted at two (2) or more  
8 separate locations by one person, a separate license for each place of business  
9 shall be required.

10  
11 Section 4. Chapter 1 of Title 4 of the Breckenridge Town Code is amended by the  
12 addition of a new Section 4-1-8-3, to be entitled “Special Conditions of a License;  
13 Advertisement of an Accommodation Unit,” which shall read as follows:

14  
15 4-1-8-3: SPECIAL CONDITIONS OF A LICENSE: ADVERTISEMENT OF AN  
16 ACCOMMODATION UNIT

17  
18 A. In addition to the other requirements of this chapter, the owner of an accommodation  
19 unit licensed pursuant to this chapter shall, as a condition of such license, be subject  
20 to the following requirements:

- 21 1. The owner of the accommodation unit shall list in the initial license  
22 application filed pursuant to this chapter all means, methods, and locations  
23 of advertisement for the rental of the accommodation unit that the owner  
24 intends to use, including, but not limited to, print publications  
25 advertisement and website advertisements.  
26
- 27 2. After a license has been issued, a licensee shall update the list of  
28 advertising information that was provided to the town with the initial  
29 license application within thirty (30) days of utilizing a means, method, or  
30 location of advertising the accommodation unit for rental.  
31
- 32 3. An advertisement offering to rent an accommodation unit must  
33 prominently display the Town’s business and occupational license number  
34 in the advertisement as, “Breckenridge Business License No. [insert  
35 number].” The failure to prominently display the required information in  
36 any advertisement of accommodation shall be a violation of this section.  
37

38 B. The licensee and owner of the accommodation unit shall each be liable for  
39 compliance with the requirements of this section. The licensee and owner of an  
40 accommodation ~~unit~~ units shall be given written notice of a violation of this section  
41 and fifteen (15) days within which to comply with the requirements of this section. It  
42 shall be an infraction for a licensee and owner of an accommodation unit to fail to  
43 comply with the requirements of this section. A person found to be in violation of this  
44 section, or against whom a default judgment has been entered, shall be subject to a  
45 minimum fine of two hundred dollars (\$200.00) up to a maximum fine of one  
46 thousand dollars (\$1,000.00) for each day of a violation of this section.

1 Section 5. Except as specifically amended by this ordinance, the  
2 BreckenridgeTownCode, and the various secondary codes adopted by reference therein, shall  
3 continue in full force and effect.  
4

5 Section 6. Based upon the information provided to it in connection with the adoption of  
6 this ordinance by the Financial Services Director of the Town, the Town Council finds,  
7 determines, and declares that the adoption of this ordinance will not result in a net tax revenue  
8 gain to the Town within the meaning of Article X, Section 20 of the Colorado Constitution, also  
9 known as the “TABOR Amendment.”  
10

11 Section 7. Except as specifically amended hereby, the Breckenridge Town Code, and the  
12 various secondary codes adopted by reference therein, shall continue in full force and effect.  
13

14 Section 8. The Town Council finds, determines, and declares that it has the power to  
15 adopt this ordinance pursuant to the authority granted to home rule municipalities by Article XX  
16 of the Colorado Constitution and the powers contained in the Breckenridge Town Charter.  
17

18 Section 9. This ordinance shall be published and become effective as provided by Section  
19 5.9 of the Breckenridge Town Charter.  
20

21 INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED  
22 PUBLISHED IN FULL this \_\_\_\_ day of \_\_\_\_\_, 2017. A Public Hearing shall be held at the  
23 regular meeting of the Town Council of the Town of Breckenridge, Colorado on the \_\_\_\_ day of  
24 \_\_\_\_\_, 2017, at 7:00 P.M., or as soon thereafter as possible in the Municipal Building of the  
25 Town.  
26

27 TOWN OF BRECKENRIDGE, a Colorado  
28 municipal corporation  
29  
30

31  
32 By: \_\_\_\_\_  
33 Eric S. Mamula, Mayor  
34

35 ATTEST:  
36  
37  
38  
39

40 \_\_\_\_\_  
41 Helen Cospolich  
42 Town Clerk  
43

**MEMO**

**TO: Breckenridge Town Council**

**FROM: Laurie Best-Community Development Department**

**RE: Second Reading-AN ORDINANCE APPROVING A MASTER LEASE WITH OPTION TO PURCHASE WITH COLORADO MOUNTAIN COLLEGE, A COLORADO STATUTORY LOCAL COLLEGE DISTRICT (Tract D-2, A Resubdivision of Tracts C and D, Runway Subdivision)**

**DATE: June 7, 2017 (for June 13th Meeting)**

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An Ordinance authorizing the master lease of twenty apartments within the D-2 project and option to purchase between the Town of Breckenridge and Colorado Mountain College (CMC) is scheduled for second reading. There are minor changes to the master lease since first reading that are shown in track changes. These changes are primarily clarifications to the insurance requirements for the tenant and the Town. The key deal points include:

- CMC agrees to lease 20 apartments (14 studios and 6 one bedroom units) in two buildings for a maximum term of three years
- The rent due from CMC to the Town is \$247,200 for the initial year-the rent is expected to increase annually based on the 80% AMI rental rate provided a 90% occupancy rate is achieved
- CMC will sublease the 20 apartments in the following order of priority-CMC students or employees, then other Upper Blue Employees, and then other Summit County Employees
- The Town will retain one building containing 10 apartments (4 one bedrooms and 6 studios) for Town employee one year leases
- The Town will engage a manager to administer the Town employee leases and oversee the property, and CMC will engage a manager to administer their sub-leases
- Within the three year lease term, CMC may exercise their option to purchase the entire D-2 project (30 apartments) for \$5,794,152 which covers the Town's construction costs (hard and soft), exclusive of the land and approximately \$312,500 in offsite infrastructure
- In the event CMC exercises the purchase option, the Town employee leases would be honored for the remainder of their term and a Town Deed Restriction will be recorded to restrict occupancy in perpetuity to CMC students or employees or other Upper Blue and Summit County employees

Staff supports this lease and the sale of the apartments to CMC. With the master lease the net operating income (revenue to the Town) is projected at approximately \$174,700 annually. If CMC exercises the purchase option the sales proceeds will be available to cover additional housing development. Staff recommends approval of the Ordinance as presented and will be available at your meeting if there are questions. Thank you.

1                   ***FOR WORKSESSION/SECOND READING – JUNE 13***

2  
3                   ***NO CHANGE TO ORDINANCE FROM FIRST READING***

4  
5                   Additions To The Lease With Option to Purchase As Approved on First Reading Are  
6                   Indicated By **Bold + Double Underline**; Deletions By ~~Strikeout~~

7  
8                   COUNCIL BILL NO. 17

9  
10                  Series 2017

11  
12                  AN ORDINANCE APPROVING A MASTER LEASE WITH OPTION TO PURCHASE WITH  
13                  COLORADO MOUNTAIN COLLEGE, A COLORADO STATUTORY LOCAL COLLEGE  
14                  DISTRICT

15                  (Tract D-2, A Resubdivision of Tracts C and D, Runway Subdivision)

16  
17                  WHEREAS, the Town owns Tract D-2, A Resubdivision of Tracts C and D, Runway  
18                  Subdivision, as shown on the plat as recorded on April 25, 2016 under Reception No. 1109588 in  
19                  the office of the Summit County Clerk and Recorder; and

20  
21                  WHEREAS, the Town desires to lease the subject property to Colorado Mountain  
22                  College, a Colorado statutory local college district (“CMC”); and

23  
24                  WHEREAS, the Town has also agreed to grant to CMC an option to purchase the subject  
25                  real property; and

26  
27                  WHEREAS, a proposed Master Lease With Option to Purchase with respect to the  
28                  subject property has been prepared and reviewed by the Town Council; and

29  
30                  WHEREAS, Section 15.4 of the Breckenridge Town Charter provides:

31  
32                  The council may lease, for such time as council shall determine, any real or  
33                  personal property to or from any person, firm, corporation, public and private,  
34                  governmental or otherwise.

35  
36                  and;

37  
38                  WHEREAS, Section 1-11-4 of the BreckenridgeTownCode requires that any real estate  
39                  lease entered into by the Town which exceeds one year in length must be approved by ordinance;  
40                  and

41  
42                  WHEREAS, Section 15.3 of the Breckenridge Town Charter provides that the Town  
43                  Council may lawfully authorize the sale of Town-owned real property by ordinance.

1 NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF  
2 BRECKENRIDGE, COLORADO:  
3

4 Section 1. The Master Lease With Option to Purchase between the Town and Colorado  
5 Mountain College, a Colorado statutory local college district (**Exhibit "A"** hereto), is approved;  
6 and the Town Manager is authorized, empowered, and directed to execute such document for and  
7 on behalf of the Town of Breckenridge.  
8

9 Section 2. If CMC exercises the option to purchase contained within the approved  
10 Master Lease With Option to Purchase, the Town Manager is authorized, empowered, and  
11 directed to take all necessary and appropriate action to close the sale of the real property that is  
12 the subject of the Master Lease With Option to Purchase. In connection therewith, the Town  
13 Manager shall have full power and authority to do and perform all matters and things necessary  
14 to the sale of the real property that is the subject of the Master Lease With Option to Purchase,  
15 including, but not limited to, the following:  
16

- 17 1. The making, execution, and acknowledgement of settlement  
18 statements, closing agreements, and other usual and customary  
19 closing documents;
- 20 2. The execution, acknowledgement, and delivery to the buyer of the  
21 deed of conveyance for the subject property; and  
22
- 23 3. The performance of all other things necessary to the sale of the  
24 subject property by the Town pursuant to the Master Lease With  
25 Option to Purchase.  
26

27  
28 The Town Council hereby ratifies and confirms, in advance, all action taken by the Town  
29 Manager pursuant to this Section 2.  
30

31 Section 3. The Town Council hereby finds, determines, and declares that it has the power  
32 to adopt this ordinance pursuant to: (i) Sections 15.3 and 15.4 of the Breckenridge Town Charter;  
33 (ii) Section 1-11-4 of the BreckenridgeTownCode; (iii) the authority granted to home rule  
34 municipalities by Article XX of the Colorado Constitution; and (iv) the powers contained in the  
35 Breckenridge Town Charter.  
36

37 Section 4. This ordinance shall be published and become effective as provided by Section  
38 5.9 of the Breckenridge Town Charter.  
39

40 INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED  
41 PUBLISHED IN FULL this \_\_\_\_ day of \_\_\_\_\_, 2017. A Public Hearing shall be held at the  
42 regular meeting of the Town Council of the Town of Breckenridge, Colorado on the \_\_\_ day of  
43 \_\_\_\_\_, 2017, at 7:00 P.M., or as soon thereafter as possible in the Municipal Building of the  
44 Town.  
45  
46



TOWN OF BRECKENRIDGE, a Colorado  
municipal corporation

By: \_\_\_\_\_  
Eric S. Mamula, Mayor

ATTEST:

\_\_\_\_\_  
Helen Cospolich, CMC,  
Town Clerk

**MASTER LEASE WITH OPTION TO PURCHASE**

**BETWEEN**

**TOWN OF BRECKENRIDGE,**  
a Colorado municipal corporation

and

**COLORADO MOUNTAIN COLLEGE,**  
a Colorado statutory local college district

1 **MASTER LEASE WITH OPTION TO PURCHASE**

2  
3 THIS MASTER LEASE WITH OPTION TO PURCHASE (“Lease”) is dated  
4 \_\_\_\_\_, 2017, and is between the **TOWN OF BRECKENRIDGE**, a Colorado  
5 municipal corporation (“the **Landlord**”) and **COLORADO MOUNTAIN COLLEGE**, a  
6 Colorado statutory local college district (“the **Tenant**”). The Landlord and the Tenant are  
7 sometimes individually referred to in this Lease as a “**Party**”, and are collectively referred to in  
8 this Lease as the “**Parties.**”

9  
10 **ARTICLE 1 - BASIC LEASE PROVISIONS**

11 1.1 **Leased Premises.** In consideration of the Tenant’s payment of rent and the keeping  
12 of the promises, covenants, and conditions required of the Tenant by this Lease, the Landlord  
13 leases to the Tenant, and the Tenant leases from the Landlord, for the term and upon the conditions  
14 of this Lease, the real property described on the attached **Exhibit “A”** (“**Leased Premises**”).

15 1.2 **Use Of Leased Premises.**

16 (a) The Tenant shall sublease the individual units within the Leased Premises to the  
17 following persons in order of priority: (i) to the Tenant’s students or employees; then (ii) to Upper  
18 Blue Employees; and then (iii) Other Summit County Employees. As used in this Section “**Upper**  
19 **Blue Employee**” means an employee of a business physically located in and serving the Upper  
20 Blue River Basin. “Upper Blue River Basin” means the geographic area bounded by Farmers  
21 Korner to the north; Hoosier Pass to the south; the Continental Divide to the East; and the top of  
22 the Ten Mile Range to the west. “**Other Summit County Employee**” means an employee of a  
23 business physically located in and serving any portion of Summit County, Colorado other than the  
24 Upper Blue River Basin. Such persons are referred to in this Lease as “**qualified subtenants.**”

25 (b) Notwithstanding Section 1.2A, the Tenant may also rent the Leased Premises to its  
26 students, faculty, or staff on a short-term basis for Tenant’s programs or events, or to provide for  
27 student or employee transition to long-term housing.

28 (c) The Tenant may determine the amount of the rent to be charged to its renters or  
29 subtenants, as well as the other terms and conditions of its rental agreements and subleases, and the  
30 Tenant’s rental agreement and sublease forms shall not require the approval of the Landlord;  
31 provided, however, no rental agreement or sublease shall be inconsistent with the terms and  
32 conditions of this Lease.

33 (d) The Tenant shall not use the Leased Premises for any other purpose without the  
34 Landlord’s prior written consent.

35 1.3 **Term.** Subject to earlier termination as hereafter provided, the term of this Lease  
36 shall be for a period of three (3) years, commencing on the later of (i) July 1, 2017, or the date that  
37 the Lease Conditions are satisfied and Tenant accepts occupancy of the Premise (the  
38 “**Commencement Date**”), and terminating June 30, 2020, or the date that is the last day of the

1 month in which the third (3<sup>rd</sup>) anniversary of the Commencement Date occurs. Nothing in this  
2 Lease permits the Tenant to use or occupy the Leased Premises after the expiration or earlier  
3 termination of this Lease, except if Tenant exercises its Option to purchase provided in Article 14.  
4 Unless Tenant exercises its Option to purchase provided in Article 14, if the Tenant continues to  
5 occupy the Leased Premises after such expiration or termination, such occupancy shall (unless the  
6 Parties otherwise agree in writing) be an extension of this Lease on a month-to-month basis only,  
7 and such occupancy shall be subject to all of the terms and conditions of this Lease.

8           **1.4 Lease Year Defined.** Each Lease Year, except the First Lease Year, consists of a  
9 period of 12 consecutive months. The First Lease Year commences on the Commencement Date  
10 and ends on July 31, 2018. The Second Lease Year commences August 1, 2018 and ends on July  
11 31, 2019. The Third Lease Year commences August 1, 2019 and ends on July 31, 2020.

12           **1.5 Conditions Before Lease Becomes Commencement.** The conditions set forth on  
13 the attached **Exhibit "B"** ("**Lease Conditions**") must be satisfied before the Term commences.  
14 The Tenant's acceptance of possession of the Leased Premises shall be conclusive evidence that  
15 the Lease Conditions have been fully satisfied. The Tenant can terminate this Lease in its sole and  
16 absolute discretion if it determines that any of the Lease Conditions have not been satisfied prior to  
17 accepting possession of the Leased Premises and, in such event, any rent paid to the Landlord prior  
18 to termination shall be refunded to the Tenant. If the Tenant takes possession of the Leased  
19 Premises it shall be conclusively presumed that all of the Lease Conditions were satisfied to the  
20 Tenant's satisfaction.

21           **1.6 Surrender of Leased Premises.**

22           (a) Unless Tenant purchases the Premises as contemplated herein, upon the expiration  
23 or earlier termination of this Lease the Tenant shall surrender the Leased Premises to the Landlord  
24 in good condition, ordinary wear and tear excepted. Not later than the last day of the term of this  
25 Lease, the Tenant shall remove its personal property and fixtures from the Leased Premises. The  
26 cost of such removal shall be borne by the Tenant, and the Tenant shall repair all injury or damage  
27 done to the Leased Premises in connection with the installation or removal of the Tenant's  
28 personal property and fixtures. All of the Tenant's fixtures that are so attached to the Leased  
29 Premises that they cannot be removed without material injury to the Leased Premises shall, at the  
30 Landlord's option, become the property of the Landlord upon installation and remain with the  
31 Leased Premises upon surrender.

32           (b) The Landlord may retain or dispose of any personal property, fixtures, alterations,  
33 or improvements left remaining by the Tenant at or upon the Leased Premises following the  
34 expiration or earlier termination of this Lease, and the Landlord is not accountable to the Tenant  
35 for any damages for the loss or destruction thereof, or for any part of the proceeds of sale, if any,  
36 realized by the Landlord. The Tenant waives all claims against the Landlord for any damages  
37 suffered by the Tenant resulting from the Landlord's retention or disposition of such personal  
38 property, fixtures, alterations, or improvements. The Tenant shall be liable to the Landlord for the  
39 Landlord's costs for storing, removing and disposing of any such personal property, fixtures  
40 (including trade fixtures) or alterations.

1           1.7     **Governmental Powers of the Landlord and the Tenant.**

2           (a)     The Tenant acknowledges that throughout the term of this Lease the Landlord has,  
3 and shall continue to have, those governmental rights, powers, and authority provided by  
4 applicable law, including, but not limited to, the *Breckenridge Town Charter* and the ordinances of  
5 the Town of Breckenridge, all as amended from time to time. The Tenant further acknowledges  
6 that the provisions of this Lease do not limit or restrict such rights, powers, and authority of the  
7 Landlord with respect to the Leased Premises when the Landlord is acting in its governmental  
8 capacity as a home-rule municipality under Colorado law.

9           (b)     The Landlord acknowledges that throughout the term of this Lease the Tenant has,  
10 and shall continue to have, those governmental rights, powers, and authority provided by  
11 applicable law. The Landlord further acknowledges that the provisions of this Lease do not limit or  
12 restrict such rights, powers, and authority of the Tenant with respect to the Leased Premises when  
13 the Tenant is acting in its governmental capacity as a statutory local college district under  
14 Colorado law.

15           1.8     **Property Management Services.**

16           (a)     Throughout the term of this Lease Landlord will contract with and pay a qualified  
17 property manager (the “**Property Manager**”) selected by Landlord to provide property  
18 management services for the Leased Premises other than those set forth in Section 1.8(b) below.  
19 To the extent that Tenant ~~elects to include within the property management agreement~~ desires any  
20 of the services described in Section 1.8(b) that are excluded from the Landlord’s property  
21 management agreement, Tenant shall execute a separate property management agreement and  
22 pay for such services.

23           (b)     It is agreed that the Tenant may elect at its expense to hire the Property Manager to  
24 perform the following:

- 25           (i)     Collect rent payments or other funds from Tenant’s subtenants;
- 26           (ii)    Pre-qualify or approve Tenant’s subtenants, including background checks;
- 27           (iii)   Track levels of occupancy at the Leased Premises; and
- 28           (iv)   Generally manage Tenant’s subleases, except as specifically provided in  
29 subsection (c), below.

30           (c)     The Property Manager shall, as part of its duties to the Landlord:

- 31           (i)     coordinate the cleaning and maintenance of the Building in which the Leased  
32 Premises are located; and
- 33           (ii)    coordinate the move in and move-out of Tenant’s subtenants.

1 **ARTICLE 2- RENT AND SECURITY DEPOSIT**

2 **2.1 Rent.**

3 (a) For the First Lease Year the Tenant agrees to pay the Landlord, without prior  
4 demand therefor and without any deduction or offset whatsoever, the total sum of \$247,200.00 as  
5 rent. Such rent shall be paid in consecutive monthly installments of \$20,600.00 each. Such rental  
6 represents the monthly rent of \$1,000.00 for each of the fourteen (14) studio units within the  
7 Leased Premises, and \$1,100.00 for each of the six (6) one-bedroom units [14 x \$1,000.00 + 6 x  
8 \$1,100.00 = \$20,600.00].

9 (b) For the Second Lease Year and the Third Lease Year the rent shall be increased to  
10 reflect 80% of the local Area Median Income (AMI) rate and can be further increased, in an  
11 amount not to exceed 3% over the prior year, to reflect corresponding AMI increases, but in either  
12 or both years only if the Tenant has achieved at least 90% average occupancy over the course of  
13 the prior 12-month period. The local AMI rate adjustment shall never result in a reduction of rent  
14 due under the Lease.

15 **2.2 “Additional Rent” Defined.** Any amount due to the from the Tenant under this  
16 Lease that is not specifically identified as “rent” pursuant to Section 2.1 is additional rent.

17 **2.3 Payment of Monthly Rent.** The monthly rent due to the Landlord shall be paid in  
18 advance each month during the term of this Lease of this Lease. The monthly rent for the first  
19 month of the term of this Lease shall be paid to upon the execution of this Lease. Thereafter, the  
20 monthly rent shall be paid to the Landlord not later than the 5<sup>th</sup> day of each month.

21 **2.4 Interest On Past Due Amounts.** The Tenant shall pay interest to the Landlord on  
22 any sum due to the Landlord under this Lease that is 30 days or more past due at the legal rate from  
23 the date due until the date such payment is fully paid.

24 **2.5 Place And Manner Of Payments.** All payments due to the Landlord under this  
25 Lease shall be made to:

26  
27 Town of Breckenridge Finance Director  
28 P. O. Box 168  
29 Breckenridge, CO 80424  
30

31 or at such other place as the Finance Director of the Town of Breckenridge may hereafter designate  
32 by written notice provided to the Tenant in accordance with Section 16.2 of this Lease. All sums  
33 shall be made in legal tender of the United States. Any check given to the Landlord shall be  
34 received subject to collection, and the Tenant agrees to pay any charges, fees, or costs incurred by  
35 the Landlord for the collection, including reasonable attorney’s fees.  
36

37 **2.6 Security Deposit.** Upon signing this Lease, the Tenant shall pay the Landlord the  
38 sum of \$50,000.00 for a security deposit (“**Security Deposit**”). The Security Deposit shall be held

1 by the Landlord as security for the faithful performance by the Tenant of all the terms and  
2 conditions of this Lease. The Landlord shall not be required to segregate the Tenant's Security  
3 Deposit from its other funds. In no event shall the Landlord be obligated to apply the Security  
4 Deposit to rent or other charges in arrears or to damages resulting for failure of the Tenant to  
5 perform the terms and conditions of this Lease. Application of the Security Deposit to the arrears  
6 of rental payments or damages shall be at the option of the Landlord. The Security Deposit shall be  
7 returned to the Tenant, without interest, within 60 days after this Lease expires or is terminated if  
8 not applied by the Landlord toward the payment of: (i) rent in arrears; (ii) damages suffered by the  
9 Landlord by reason of any breach of the terms and conditions of this Lease by the Tenant; or (iii)  
10 the expense of any cleaning that must be done if the Leased Premises are not left clean. In no event  
11 is the Security Deposit to be returned until the Tenant has vacated the Leased Premises and  
12 delivered possession (including the keys) to the Landlord. If the Tenant exercises the Option to  
13 Purchase the Leased Premises provided in Article 14 the Security Deposit shall become the earnest  
14 money for such purchase, and shall be applied to the Purchase Price at the Closing.

15 **ARTICLE 3 - LANDLORD'S DISCLAIMERS AND EXCULPATORY PROVISIONS**

16 3.1 **"As Is" Condition of Leased Premises.** Once the Tenant determines that all of the  
17 Lease Conditions described in Section 1.5 have been satisfied, and except as specifically agreed in  
18 this Lease to the contrary, the Leased Premises are leased **"AS IS," "WHERE IS," and "WITH**  
19 **ALL FAULTS,"** and the Landlord does not warrant or make any representation, express or  
20 implied, relating to the **MERCHANTABILITY**, quantity, quality, condition, suitability or  
21 **FITNESS FOR ANY PURPOSE WHATSOEVER** of the Leased Premises or any portion  
22 thereof. Except as expressly provided in this Lease, the Landlord has no liability whatsoever to  
23 undertake any repairs, alterations, removal, remedial actions, or other work of any kind with  
24 respect to any portion of the Leased Premises, or any portion thereof.

25 3.2 **Landlord's Non-liability.** As a material part of the consideration to be received by  
26 the Landlord under this Lease, the Tenant assumes all risk of damage to property or injury to  
27 persons in or upon the Leased Premises from any cause other than the Landlord's or the Property  
28 Manager's negligence or intentional act, and the Tenant waives all claims in respect thereof  
29 against the Landlord.

30 **ARTICLE 4 - TENANT'S AFFIRMATIVE OBLIGATIONS**

31 4.1 **Taxes.**

32 (a) As used in this Section, the term **"Taxes"** means all personal property and real  
33 property taxes levied, assessed or imposed by any taxing authority arising out of the Tenant's  
34 occupancy and use of the Leased Premises pursuant to this Lease.

35 (b) Pursuant to Section 39-3-105, C.R.S., all real or personal property owned by the  
36 Landlord is exempt from taxation. However, the Parties acknowledge that the Tenant's occupancy  
37 and use of the Leased Premises pursuant to this Lease may be deemed to be a "taxable possessory  
38 interest" pursuant to Section 39-1-103(17)(a), C.R.S.

1 (c) If applicable, the Landlord shall pay all Taxes lawfully assessed arising from the  
2 Tenant's occupancy and use of the Leased Premises pursuant to this Lease, and shall indemnify  
3 and defend the Tenant from any such Taxes. The Landlord shall pay all Taxes in a timely manner.  
4 Upon the Tenant's written request the Landlord shall provide to the Tenant a photostatic copy of  
5 the receipt(s) or cancelled check(s) showing payment of the Taxes. The Landlord may pay any  
6 Taxes in installments if permitted by law.

7 (d) If the Landlord is liable for the payment of any Taxes arising from the Landlord's  
8 occupancy and use of the Leased Premises pursuant to this Lease, the Landlord may, at its sole  
9 expense, contest such Taxes by the commencement and prosecution, in good faith and with due  
10 diligence, of appropriate legal proceedings. The Landlord shall make timely payment of such  
11 Taxes if the Landlord loses the contest. The Landlord shall advise the Tenant prior to instituting  
12 any such contest and shall as a condition of exercising such right provide the Tenant such  
13 reasonable assurance as it may request that such contest shall be in compliance with the provisions  
14 of this Section. The Tenant, at the Landlord's sole cost and expense, shall reasonably cooperate  
15 with the Landlord in any such contest; may join in the contest; and shall execute and deliver such  
16 documents and instruments as may be necessary or appropriate for prosecuting an effective  
17 contest.

18 4.2 **Non-Discrimination.** The Tenant:

19 (i) shall not discriminate against any employee or applicant for employment to work  
20 at the Leased Premises, or any applicant for a rental or sublease of any portion of the Leased  
21 Premises, because of race, color, creed, sex, sexual orientation, religion, national origin, or  
22 disability;

23 (ii) shall insure that applicants who are to work at the Leased Premises are employed  
24 and that employees are treated during employment without regard to their race, color, creed, sex,  
25 sexual orientation, religion, national origin, or disability;

26 (iii) shall in all solicitations or advertisements for employees to be engaged in the  
27 performance of work at the Leased Premises state that all qualified applicants shall receive  
28 consideration for employment without regard to race, color, creed, sex, sexual orientation,  
29 religion, national original or disability; and

30 (iv) shall comply with all applicable federal, state, and local laws, rules and  
31 regulations. The indemnification and termination provisions of this Lease apply to the Tenant's  
32 failure to comply with all applicable laws or regulations; provided that such indemnification and  
33 termination provisions shall not be applicable in the event that any such discrimination is caused  
34 by the Property Manager or Landlord's agents or contractors.

35 **ARTICLE 5 - TENANT'S NEGATIVE OBLIGATIONS**

36 5.1 **Improvements.**



1 (a) As used in this Article 5, “**Improvement**” means any physical improvement made,  
2 or proposed to be made, to the Leased Premises.

3 (b) No Improvement may be made to the Leased Premises by the Tenant except under  
4 the following conditions:

5 (i) No Improvement may be undertaken until the Tenant has obtained approval of  
6 plans and specifications for such Improvement from the Landlord, acting in its capacity as owner  
7 of the Leased Premises (and not in its governmental capacity). In connection therewith, the  
8 Landlord has the right to review and approve a proposed Improvement in its sole and absolute  
9 discretion.

10 (ii) The Tenant must also obtain a “Development Permit” from the Landlord, acting  
11 in the Landlord’s governmental capacity.

12 (iii) An Improvement must be constructed under the supervision of an architect or  
13 engineer licensed in the State of Colorado, selected and paid by the Tenant.

14 (iv) All work done in connection with the construction of an Improvement must be  
15 done in a good and workmanlike manner and in material conformity with the plans and  
16 specifications that are approved by the Landlord.

17 (v) The construction of an approved Improvement must be prosecuted with  
18 reasonable dispatch, subject to delays caused by Force Majeure Events (See Section 16.11). before  
19 any work begins. The Tenant must procure or cause the contractor for the work to procure  
20 insurance in accordance with Article 8 of this Lease, including worker’s compensation insurance  
21 covering all persons employed in connection with the work.

## 22 5.2 **Subleasing.**

23 (a) The Leased Premises have been leased to the Tenant with the expectation that the  
24 Tenant shall sublease the Leased Premises for the allowed uses described in Section 1.2 of this  
25 Lease. Accordingly, the Tenant may sublease the Leased Premises without the Landlord’s consent  
26 to Qualified Subtenants described in Section 1.2 of this Lease. The Tenant’s permitted subleases  
27 under this Section are, however, subject to the following requirements:

28 (i) All subleases shall be subject to the terms of this Lease;

29 (ii) Each sublease shall be for a minimum term of twelve (12) months; provided, that  
30 this requirement shall not apply to Tenant’s students, faculty, or staff occupying the Leased  
31 Premises on a short-term basis pursuant to Section 1.2(b);

32 (iii) The term of a sublease shall not extend beyond the term of this Lease; and

33 (iv) The Tenant shall remain liable for all of its obligations under this Lease,  
34 notwithstanding the execution of a sublease.

1 The Tenant may not sublease any portion of the Leased Premises to any person who is not a  
2 Qualified Subtenant as described in Section 1.2 of this Lease without obtaining the prior written  
3 consent of the Landlord.

4           **5.3 Assignment.** The Tenant may not assign or transfer any of its rights under this  
5 Lease without the prior written consent of the Landlord. If the Tenant attempts to make any  
6 assignment without the requisite consent of the Landlord, such assignment shall be void and, at the  
7 option of the Landlord, shall terminate this Lease. Any consent by the Landlord to any assignment  
8 of this Lease shall not be a waiver by the Landlord of the provisions of this Section as to  
9 subsequent transactions of the same or similar nature. In the event of any permitted assignment, the  
10 Landlord may, but is not required to, release the Tenant from its obligations hereunder for the  
11 remainder of the term of this Lease.

12           **5.4 Waste or Nuisance.** The Tenant shall not commit any waste, any public or private  
13 nuisance, or any other act or thing prohibited by law.

14           **5.5 Mechanic's Liens.**

15           (a) In connection with the construction of any Improvements, the Tenant shall cause  
16 the payment of all proper and valid invoices and charges of all contractors, subcontractors,  
17 suppliers, materialmen, and similar persons who furnish services or materials in connection with  
18 the construction process. If any person ever records a mechanic's lien to enforce any claim for  
19 services or materials alleged to have been provided in connection with the Leased Premises, the  
20 Tenant shall cause the same to be released of record within 60 days after the recordation thereof,  
21 and the Tenant shall be liable to satisfy and cause a discharge of any such mechanic's lien claim.  
22 Notwithstanding the foregoing, the Tenant may contest any such mechanic's lien claim, provided  
23 that the Tenant conducts such contest in a timely manner and with due diligence, and that the  
24 Tenant provides the Landlord with such security in connection therewith as the Landlord may  
25 reasonably require. In connection with any such contest, the Landlord may join and participate in  
26 any such contest, at the Tenant's expense (with participation to include, without limitation, the  
27 execution and filing of pleadings and the provision and gathering of testimony and other  
28 evidence). If the Tenant loses any such contest, with all further rights of appeal having expired, the  
29 Tenant must satisfy the mechanic's lien claim in full prior to any foreclosure sale or other  
30 disposition of the Leased Premises which is made for the purpose of satisfying the claim.

31           (b) Prior to commencement of construction of any Improvements, the Tenant shall  
32 deliver notices to all contractors and subcontractors and post notices in accordance with Section  
33 38-22-105, C.R.S. (as it may be amended or in accordance with similar statutes that may be  
34 substituted therefor in the future), in locations that shall be visible by persons performing any  
35 work, which notices shall state that the Landlord is not responsible for the payment of such work  
36 and setting forth such other information as may be reasonably required pursuant to such statutory  
37 provisions.

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**ARTICLE 6 - PERSONAL PROPERTY WARRANTY**

**6.1 Personal Option Parcel Warranty.**

- (a) The Landlord warrants that all personal property to be included within each unit of the Leased Premises shall be fully operational at the commencement of the term of this Lease.
- (b) If the Option to purchase provided in Article 14 is exercised, all remaining manufacturer and contractor warranties, if any exist at the time of the closing, shall be assigned to the Tenant.

**ARTICLE 7 - UTILITIES, TRASH REMOVAL, AND MAINTENANCE**

**7.1 Utilities.**

- (a) The Landlord shall pay for the following utilities used or consumed by the Tenant (or a subtenant) at the Leased Premises:
  - (i) Water;
  - (ii) Sewer;
  - (iii) Electricity;
  - (iv) Natural gas; and
  - (v) Trash removal.
- (b) The Tenant shall pay for the following utilities used or consumed by the Tenant (or a subtenant) at the Leased Premises:
  - (i) Cable television (if desired); and
  - (ii) Internet service (if desired).

**7.2 Trash Dumpster.** The Landlord shall arrange for a trash dumpster(s), including a dumpster for all recycling products, to be provided for the use of the Tenant and any occupants at the Leased Premises. Each sublease shall require all trash generated at the Leased Premises to be placed in the trash dumpster(s). Each sublease shall require all recycling generated at the Leased Premises to be placed in the recycling dumpster(s).

**7.3 Repairs and Maintenance.**

- (a) The Landlord shall be responsible for major or emergency repairs of the two buildings located on the Leased Premises (the “**Buildings**”). With respect to any Building, the term “**Major repairs**” include the substantial repair or replacement of the roof, foundation,

1 exterior walls and glass, plumbing system, heating and ventilation systems, electrical system, and  
2 the painting of the exterior of any Building. “**Emergency repairs**” include the substantial repair or  
3 replacement of any structural or non-structural component of the Buildings that must be performed  
4 immediately in order to maintain the structure in a safe and useable condition.

5 (b) The Landlord shall provide all required maintenance and upkeep of the Leased  
6 Premises and Buildings, including:

7 (i) any required “Major Repair” as defined above;

8 (ii) any required minor maintenance of the Leased Premises and Buildings; and

9 (iii) all required maintenance of and repairs to all personal property located in the  
10 units in the Building.

11 (c) The Property Manager shall keep the Leased Premises in a clean and sanitary  
12 condition at all times. However, all contracts for required janitorial and trash services for the  
13 Leased Premises shall be placed solely in the Landlord’s name.

14 (d) The Landlord shall provide all required watering, mowing, and maintenance of the  
15 landscaping of the grounds surrounding the Leased Premises. The Tenant shall not permit any  
16 person to provide maintenance work at the Buildings or Leased Premises until such person has  
17 been approved by the Town.

18 (e) The Landlord shall provide all necessary snow and ice plowing and removal from  
19 the parking lot(s), sidewalks, and walkways that serve the Leased Premises.

20 **7.4 Inspection And Entry.** The Landlord and the Landlord’s authorized  
21 representatives may enter the Leased Premises at all times during reasonable business hours to  
22 inspect the Leased Premises., provided that reasonable advance notice is delivered to Tenant and  
23 provided further that Landlord will not unreasonably interfere with subtenant’s occupancy. The  
24 Tenant further agrees that the Landlord may go upon the Leased Premises at reasonable times in  
25 order to:

26 (i) make any necessary repairs to the Leased Premises and perform any work therein  
27 that may be necessary to comply with the Landlord’s obligations under this Lease; any laws,  
28 ordinances, rules or regulations of any public authority; or that the Landlord may deem necessary  
29 to prevent waste or deterioration of the Leased Premises;

30 (ii) post any notice provided for by law; or

31 (iii) otherwise protect any and all rights of the Landlord.

32 Nothing in this Section implies or creates any duty on the part of the Landlord to do any work that  
33 under any provision of this Lease the Tenant is required to do, nor shall it constitute a waiver of the  
34 Tenant’s default in failing to do such work. No reasonable exercise by the Landlord of any rights

1 herein reserved shall entitle the Tenant to any damage or compensation of any kind from the  
2 Landlord for any injury, loss, damage, or inconvenience occasioned thereby, or to any abatement  
3 of rent.

#### 4 ARTICLE 8- INSURANCE

5 8.1 **Tenant's Liability Insurance.** Throughout the term of this Lease the Tenant shall,  
6 at its expense, carry and maintain all risk property insurance covering the Leased Premises  
7 in an amount equal to the full replacement value thereof, insuring against damage and  
8 destruction by fire, earthquake, vandalism, and other perils. Tenant also shall, at its  
9 expense, continuously maintain commercial general liability insurance covering the Tenant's  
10 operations on the Leased Premises with minimum limits of liability of not less than \$1,000,000 per  
11 occurrence and \$1,000,000 aggregate. The Tenant's property liability insurance policy shall  
12 name the Landlord as loss payee and Tenant's general liability policy shall be endorsed to  
13 include the Landlord as an additional insured. Each of Tenant's required insurance policies  
14 shall be primary insurance, and any insurance carried by Town shall be excess and not  
15 contributory insurance to that provided by Landlord. Tenant is solely responsible for any  
16 deductible losses under any of its required insurance policies.

17 8.2 **Worker's Compensation Insurance.** Throughout the term of this Lease the  
18 Tenant shall, at its expense, continuously maintain worker's compensation insurance as required  
19 by Colorado law insuring the payment of compensation to all its employees engaged in the  
20 performance of work at the Leased Premises.

21 8.3 **Additional Insurance Provisions.** Every insurance policy required to be carried  
22 by the Tenant by this Article 8 shall be primary insurance, and any insurance carried by the  
23 Landlord, its officers, or its employees, or carried by or provided through any insurance pool of  
24 which the Landlord is a member, shall be excess and not contributory insurance to that provided by  
25 the Tenant. The Tenant is solely responsible for any deductible losses under its required insurance  
26 policies.

27 8.4 **Insurance Criteria.** Insurance policies required by this Lease shall:

28 (i) be issued by insurance companies licensed to do business in the State of  
29 Colorado with general policyholder's ratings of at least A and a financial rating of at least XI in the  
30 most current *Best's Insurance Reports* available at the time such insurance is to be procured;  
31 provided, however, that Landlord's insurance policies required by this Lease may be  
32 provided by the Colorado Intergovernmental Risk Sharing Agency (CIRSA) even though  
33 such entity is not listed in the most current Best's Insurance Reports; and

34 (ii) provide that the insurance cannot be cancelled or materially changed in the scope  
35 or amount of coverage unless 30 days' advance notice is given to the Landlord.

36 8.5 **Evidence of Insurance.** Prior to the commencement of this Lease, and on each  
37 subsequent renewal or replacement of the required insurance policies, the Tenant shall provide to





1 (c) The failure by the Tenant to observe or perform any of the other covenants,  
2 conditions, or provisions of this Lease to be observed or performed by the Tenant, or to obey rules  
3 promulgated by the Landlord, within 30 days after service of written notice thereof by the  
4 Landlord to the Tenant. In the case of a non-monetary default that is not capable of being corrected  
5 within 30 days, the Tenant shall not be default if it commences correcting the default within 30  
6 days of service of a demand for compliance notice and thereafter corrects the default with due  
7 diligence.

8 10.2 **Landlord's Remedies Upon Default.** If the Tenant is in default under this Lease,  
9 the Landlord shall have all of the remedies provided for in such circumstances by Colorado law.

10 10.3 **Default By Landlord.** The Landlord shall be in default under this Lease if the  
11 Landlord fails to comply with any of the terms, provisions, or covenants of this Lease within 30  
12 days following service of written notice thereof by the Tenant. In the case of a non-monetary  
13 default that is not capable of being corrected within 30 days, the Landlord shall not be default if the  
14 Landlord commences correcting the default within 30 days of receipt of notification thereof and  
15 thereafter corrects the default with due diligence.

16 10.4 **Tenant's Remedies Upon Default.** If the Landlord is in default under this Lease,  
17 the Tenant shall have all of the remedies provided for in such circumstances by Colorado law.

18 **ARTICLE 11 - NONDISTURBANCE**

19 11.1 **Quiet Enjoyment.** Subject to the terms and conditions of this Lease, the Landlord  
20 covenants that so long as there is no default (after notice and opportunity to cure have been given)  
21 in any of the covenants, conditions, or provisions of this Lease to be performed, observed, or kept  
22 by the Tenant, the Tenant shall peaceably and quietly hold and enjoy the Leased Premises for the  
23 entire term of this Lease.

24 **ARTICLE 12 - LANDLORD'S RULES**

25 12.1 **Rules.** The Tenant shall faithfully observe and comply with any rules and  
26 regulations promulgated by the Landlord with respect to the Leased Premises. The Landlord's  
27 rules and regulations must be reasonable, and may not unilaterally change or significantly alter the  
28 material terms and conditions of this Lease. The rules and regulations, and any amendments  
29 thereto, shall be binding upon the Tenant upon delivery to the Tenant.

30 **ARTICLE 13 - HAZARDOUS MATERIALS**

31 13.1 **Hazardous Materials - Defined.** As used in this Section, the term "**Hazardous**  
32 **Materials**" means any chemical, material, substance or waste:

33 (i) exposure to which is prohibited, limited, or regulated by any federal, state,  
34 county, regional or local authority, or other governmental authority of any nature; or



1 (ii) that, even if not so regulated, may or could pose a hazard to the health or safety of  
2 the occupants of the Leased Premises including, without limitation, any petroleum, crude oil (any  
3 fraction thereof), natural gas, natural gas liquids, and those substances defined as “hazardous  
4 substances”, “hazardous materials”, “hazardous wastes” or other similar designations in the  
5 Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended,  
6 42 U.S.C. Section 6901 etseq., the Hazardous Materials Transportation Act, 49 U.S.C. Section  
7 1801 etseq., and any other governmental statutes, laws, ordinances, rules, regulations, and  
8 precautions.

9 13.2 **Hazardous Materials - Prohibited.** The Tenant shall full comply with all statutes,  
10 laws, ordinances, rules, regulations, and precautions now or hereafter mandated or advised by any  
11 federal, state, local, or other governmental agency with respect to the use, generation, storage, or  
12 disposal of Hazardous Materials. The Tenant shall not cause, or allow anyone else to cause, any  
13 Hazardous Materials to be used, generated, stored, or disposed of on or about the Leased Premises  
14 without the prior written consent of the Landlord, which consent may be revoked at any time. The  
15 Tenant’s indemnification of the Landlord pursuant to this Lease extends to all liability, including  
16 all foreseeable and unforeseeable consequential damages, directly or indirectly arising out of the  
17 use, generation, storage, or disposal of Hazardous Materials at the Leased Premises by the Tenant,  
18 any subtenant or subtenant’s guest, or any person claiming under the Tenant, including, without  
19 limitation, the cost of any required or necessary repair, cleanup, or detoxification and the  
20 preparation of any closure or other required plans, whether such action is required or necessary  
21 prior to or following the termination of this Lease, to the full extent that such action is attributable,  
22 directly or indirectly, to the use, generation, storage, or disposal of Hazardous Materials by the  
23 Tenant or any person claiming under the Tenant; provided, however, the written consent by the  
24 Landlord to the use, generation, storage, or disposal of Hazardous Materials shall excuse the  
25 Tenant from the Tenant’s obligation of indemnification. If the Tenant is in breach of the covenants  
26 herein, after notice to the Tenant and the expiration of the earlier of:

27 (i) the cure period provided in Section 10.1(c);

28 (ii) the cure period permitted under applicable law, regulation, or order,

29 then the Landlord may, in its sole discretion, declare a default under this Lease and/or cause the  
30 Leased Premises to be freed from the Hazardous Material and the cost thereof shall be deemed  
31 additional rent hereunder and shall immediately be due and payable from the Tenant. The  
32 obligations of the Tenant under this Section 13.2 shall survive the expiration or termination of this  
33 Lease and be fully enforceable thereafter, subject to any applicable statute of limitation.

#### 34 **ARTICLE 14- TENANT’S OPTION TO PURCHASE**

35 14.1 **Seller and Buyer Defined.** As used in this Article 14 the Landlord is the  
36 “**Seller**” and the Tenant is the “**Buyer**.”

37 14.2 **Grant of Option To Purchase.** As additional consideration for Buyer to enter  
38 into this Lease, the Seller grants to the Buyer the exclusive, irrevocable right and option

1 (“**Option**”) to purchase the real property described on the attached **Exhibit “C”** (“**Option**  
2 **Parcel**”). The Option Parcel includes the Leased Premises, and one additional building owned  
3 by the Landlord. There are no water or water rights, ditch or ditch rights, well permits, or water  
4 storage rights appurtenant to the Option Parcel, and no water and water rights, ditch and ditch  
5 rights, well permits, or storage rights shall be conveyed by the Seller to the Buyer in the event the  
6 Buyer exercises the Option. The Option is subject to the terms, conditions, and requirements of  
7 this Article 14.

8 14.3 **Term and Exercise of Option.** The Buyer may exercise the Option at any time  
9 during the term of this Lease by giving 75 days’ prior written notice to the Seller; provided,  
10 however, that the Buyer may not exercise the Option if, at the time of attempted exercise of the  
11 Option, the Buyer is in default under this Lease for which notice and an opportunity to cure have  
12 been provided. To exercise the Option, the Buyer must deliver written notice to the Seller in  
13 accordance with Section 16.2 of this Lease.

14 14.4 **If Timely Notice of Exercise of The Option Is Given.** Upon the timely giving  
15 of notice of the exercise of the Option, the remaining provisions of this Article 14 shall govern  
16 the closing of the sale and purchase of the Option Parcel. Such sale and purchase is hereafter  
17 referred to as the “**Closing**.”

18 14.5 **If Timely Notice of The Exercise of The Option Is Not Given.** Time is of the  
19 essence with respect to the Option exercise provided for in this Article 14. Accordingly, it is  
20 agreed that if the Buyer fails, for any reason, to give timely notice of the exercise of the Option  
21 prior to the expiration or termination of this Lease the Option shall terminate and each Party shall  
22 be released from any further obligations under this Article 14. Notwithstanding the foregoing, if  
23 proper notice was given at a time prior to the expiration of the term of this Lease, but the Closing  
24 would occur after such termination, then the notice shall be deemed timely, and this Lease shall  
25 automatically be extended by the time necessary to effect the Closing after the original termination  
26 date.

27 14.6 **Purchase and Sale of the Option Parcel.** On the Closing Date (as later defined  
28 in this Article 14) the Buyer shall purchase the Option Parcel from the Seller, and the Seller shall  
29 sell and convey the Option Parcel to the Buyer, all in accordance with and subject to the terms  
30 and conditions contained in this Article 14.

31 14.7 **Purchase Price.** The purchase price to be paid by the Buyer to the Seller for the  
32 Option Parcel (the “**Purchase Price**”) shall be \$5,794,152. Rent paid to Seller under this Lease  
33 shall not be credited toward the Purchase Price.

34 14.8 **Payment of Purchase Price.** The Purchase Price shall be paid to the Seller by the  
35 Buyer in cash at Closing, subject to an adjustment for closing costs as provided in Section 14.16.

36 14.9 **Earnest Money.** The Security Deposit described in Section 2.6 shall serve as  
37 earnest money (“**Earnest Money**”) for the Option, and shall be credited toward the Purchase

1 Price at Closing. If the Option does not close for any reason, the Earnest Money shall revert to  
2 the Security Deposit for this Lease.

3 14.10 **Due Diligence Documents.** Seller agrees to furnish to Buyer within 5 business  
4 days after Buyer's exercise of the Option the following due diligence materials related to the  
5 Option Parcel, and such other documents reasonably requested by Buyer which are in Seller's  
6 possession:

7 (a) Any survey, architectural plans, studies and specifications that may have been  
8 developed for the Option Parcel;

9 (b) All studies and reports in the possession of Seller relating to environmental status,  
10 soil tests, and any other information regarding the environmental and soil conditions;

11 (c) Summary and copies of all service contracts and management agreements,  
12 warranties, guarantees, licenses, permits, certificates of occupancy and building inspection  
13 approvals;

14 (d) All service contracts provided shall be redacted to exclude any confidential or  
15 pricing information;

16 (e) An inventory of all personal property that is anticipated to be included in the sale;

17 (f) A complete set of all as-built construction, site and development plans;

18 (g) A list of any pending litigation relating to the Option Parcel;

19 (h) A summary of the existing fire, extended risk, liability and other insurance policies  
20 held by Seller with respect to the Option Parcel, and a property and liability insurance loss report;  
21 and

22 (i) Any other information reasonably requested by Buyer and in the possession or  
23 control of Seller.

24

25 14.11 **Title Insurance.**

26 (a) Within 30 days from the date of the Buyer's timely notice of the exercise of the  
27 Option the Seller shall obtain and deliver to the Buyer, at the Seller's expense, a certificate of taxes  
28 due on the Option Parcel and a current title insurance commitment ("**Commitment**") issued by  
29 Land Title Guarantee Company - Breckenridge office ("**Title Company**"). The Commitment shall  
30 include legible copies of all instruments referred to in the Commitment. The Commitment shall  
31 provide for the deletion of all standard printed exceptions of Schedule B-2 thereof.

32 (b) All items on the Commitment shall be permitted title exceptions ("**Permitted**  
33 **Exceptions**") unless the Buyer notifies the Seller within 20 days of receipt of the Commitment of

1 any particular item(s) to which the Buyer objects. If the Buyer gives the Seller timely notice of a  
2 title objection then the Seller shall have 15 days within which to remove such exceptions, or to  
3 notify the Buyer that it is unable or unwilling to remove such exceptions, in which case the Buyer  
4 may elect to terminate the Option, or accept such exceptions and proceed to close the transaction.

5 (c) After Closing, the Seller shall obtain and deliver to the Buyer, at the Seller's  
6 expense, a title insurance policy for the Option Parcel in the amount of the Purchase Price showing  
7 fee simple absolute title being vested in the Buyer, subject only to the Permitted Exceptions.

8 14.12 **Survey.** Within 30 days of the Buyer's exercise of the Option, or such longer  
9 period of time as may be reasonably required for the completion of the survey, Buyer may obtain,  
10 at its cost, a current ALTA survey of the Option Parcel prepared by a Colorado registered land  
11 surveyor containing such information and detail as are sufficient to obtain extended title insurance  
12 coverage over survey exceptions and otherwise reasonably acceptable to Buyer's counsel and the  
13 mortgage lender. The survey shall be a document of title and shall be subject to the provisions of  
14 Section 14.11(b) of this Contract.

15 14.13 **Inspection Period.** Buyer shall have 60 days subsequent to the exercise of the  
16 Option to evaluate and inspect the Option Parcel and to verify to Buyer's satisfaction, in its sole  
17 and absolute discretion, that all aspects of the Option Parcel, including its condition, are acceptable  
18 ("**Inspection Period**"). Evaluations shall include, but not be limited, to the following:

- 19 (a) Soils/environmental testing (Phase I and II, if necessary);
- 20 (b) Inspect roof and structural components;
- 21 (c) Inspect all building systems such as plumbing, electrical, mechanical and HVAC  
22 equipment;
- 23 (d) Verify plan compliance with ADA Standards;
- 24 (e) Verify that there are no current code/zoning violations;
- 25 (f) Verify access to and from the Option Parcel, connections to utilities, storm and  
26 sewer, and appropriate easements off the Option Parcel to ensure legal operation of the  
27 improvements on the Option Parcel.

28 14.14 **Seller's Closing Certificate.** At Closing Seller shall deliver to Buyer a certificate  
29 confirming that, to the best of Seller's knowledge, there are no known material physical defects or  
30 environmental law violations, and no pending litigation involving the Option Parcel. If, for any  
31 reason, the Seller is unable to deliver this certificate the Buyer may waive the requirements of this  
32 Section 14.14, or Buyer may terminate this Article 14.

33 14.15 **Closing Date.** The transaction shall be closed at the offices of Land Title  
34 Guarantee Company - Breckenridge office ("**Title Company**"), 200 North Ridge Street,  
35 Breckenridge, Colorado, on or before the expiration of 75 days after the timely exercise of the

1 Option by the Buyer (the “**Closing Date**”). The Parties shall mutually agree on the Closing Date  
2 and time of Closing, but if the Parties are unable to agree, the Closing Date and time of Closing  
3 shall be established by the Title Company. The Closing Date may be extended by mutual  
4 agreement of the Parties.

5       **14.16 Conveyance of the Option Parcel.** On the Closing Date, the Seller shall convey to  
6 the Buyer marketable fee simple absolute title to the Option Parcel, subject only to: (a) the  
7 Permitted Exceptions; and (b) the remaining term of Landlord’s various leases for the portion of  
8 the Option Parcel located at 73 Denison Placer Road, Breckenridge, Colorado. Such conveyance  
9 shall be by special warranty deed. The form of the deed shall be subject to the review and approval  
10 of both the Seller and the Buyer.

11       **14.17 Closing Costs.** At Closing, the Buyer shall pay the cost of recording the deed  
12 conveying the Option Parcel to it. The Seller shall pay the cost of the title insurance premium, and  
13 tax certificate. Each Party shall pay one-half of the reasonable cost of closing services charged by  
14 the Title Company. Otherwise, each Party shall pay the usual and customary closing costs.

15       **14.18 Special Restrictive Covenant.** At Closing the Parties shall execute a Restrictive  
16 Covenant substantially in the form that is attached as **Exhibit “D” (“Restrictive Covenant”)**. The  
17 Restrictive Covenant shall be recorded with the Clerk and Recorder of Summit County, Colorado  
18 immediately following the deed conveying the Option Parcel to the Buyer, and shall be  
19 subordinate to no liens or encumbrances, other than the lien of the general property taxes for the  
20 year of Closing and the Permitted Title Exceptions set forth in the deed conveying the Option  
21 Parcel to the Buyer.

22       **14.19 No Tax Apportionment.** The Parties expect that the Option Parcel shall have been  
23 tax-exempt while owned by the Seller, and will remain tax-exempt while owned by Buyer.  
24 Accordingly, no apportionment of real property taxes is expected to be required at Closing.

25       **14.20 Seller’s General Disclaimer.** The Buyer acknowledges that the Option Parcel  
26 shall be conveyed and transferred at Closing “**AS IS**”, “**WHERE IS**”, and “**WITH ALL**  
27 **FAULTS**”, and that the Seller shall not warrant or make any representations, express or implied,  
28 relating to the **MERCHANTABILITY**, quality, condition, suitability, or **FITNESS FOR ANY**  
29 **PURPOSE WHATSOEVER** of the Option Parcel. The Seller shall have no liability to undertake  
30 any repairs, alterations, removal, remedial actions, or other work of any kind with respect to any  
31 portion of the Option Parcel. The Buyer also acknowledges and agrees that by virtue of its  
32 possession of the Option Parcel pursuant to this Lease, the Buyer shall be able to make the Buyer’s  
33 own determination concerning the merchantability, quality, condition, and suitability, or fitness  
34 for any purpose of the Option Parcel.

35       **14.21 Covenant Not to Convert Option Parcel to For Sale Units.** At Closing, Buyer  
36 shall covenant and agree with Seller not to convert the Option Parcel to “for sale” units without  
37 Seller’s consent until the time allowed for the filing of claims under the “Colorado Construction  
38 Defect Action Reform Act” (Part 8 of Article 20 of Title 13, C.R.S.) has expired. The Parties  
39 acknowledge that as of the date of this Lease such time is eight (8) years from the date of

1 substantial completion of the initial construction of the improvements made by Seller to the Option  
2 Parcel. The Parties agree to amend this Section 14.21 if the applicable provisions of Colorado  
3 Construction Defect Action Reform Act or Section 13-80-104, C.R.S., are amended prior to  
4 Closing.

5 14.22 **Survival.** All warranties, covenants, representations, agreements and guarantees  
6 contained in this Article 14 shall survive the closing, execution and delivery of the documents  
7 contemplated by this Article 14; and all Parties shall continue to be bound by this the provisions of  
8 this Article 14 until all of their respective obligations hereunder have been performed or satisfied.

9 14.23 **Termination of Existing Lease.** At Closing, the Parties shall execute a  
10 document in recordable form sufficient to terminate this Lease.

11 14.24 **Default by Seller.** If the Closing fails to occur by reason of Seller's improper  
12 failure or refusal to perform its obligations hereunder and same is not cured within seven (7) days  
13 after Seller's receipt of written notice thereof from Buyer, then Buyer shall be entitled as its sole  
14 remedies either (a) to terminate this Agreement and to the return of the Deposit, or (b) to seek  
15 specific performance of Seller's obligation to sell the Property to Buyer.

## 16 **ARTICLE 15- RIGHT OF FIRST OFFER AND RIGHT OF FIRST REFUSAL**

17 15.1 **Right of First Offer and Right of First Refusal.** At Closing the Parties shall  
18 execute Right of First Offer/Right of First Refusal Agreement substantially in the form that is  
19 attached as **Exhibit "E"**. Such agreements shall be recorded with the Clerk and Recorder of  
20 Summit County, Colorado immediately following the deed conveying the Option Parcel to the  
21 Buyer, and the Restrictive Covenant described in Section 14.18.

## 22 **ARTICLE 16 - MISCELLANEOUS**

23 16.1 **Attorney's Fees/Costs.** If any action is brought in a court of law by either Party to  
24 this Lease concerning the enforcement, interpretation, or construction of this Lease, the prevailing  
25 Party, either at trial or upon appeal, shall be entitled to reasonable attorney's fees, as well as costs,  
26 including expert witness' fees, incurred in the prosecution or defense of such action.

27 16.2 **Notices.** All notices required or permitted under this Lease must be given by  
28 registered or certified mail, return receipt requested, postage prepaid, or by hand or commercial  
29 carrier delivery, or by telecopies or electronic mail directed as follows:

30 If intended for the Landlord to:  
31  
32 Town of Breckenridge  
33 P.O. Box 168  
34 150 Ski Hill Road  
35 Breckenridge, Colorado 80424  
36 Attn: Town Manager

1           Telecopier number: (970)547-3104  
2           Telephone number: (970)453-2251  
3           Email: \_\_\_\_\_ [rickh@townofbreckenridge.com](mailto:rickh@townofbreckenridge.com)  
4           with a copy in each case (that shall not constitute notice) to:

5  
6           Timothy H. Berry, Esq.  
7           Timothy H. Berry, P.C.  
8           131 West 5th Street  
9           P. O. Box 2

10          Leadville, Colorado 80461  
11          Telecopier number: (719)486-3039  
12          Telephone number: (719)486-1889  
13          Email: \_\_\_\_\_ : [tberylw3@gmail.com](mailto:tberylw3@gmail.com)

14  
15          If intended for the Tenant, to:

16  
17          Matt Gianneschi, COO and Chief of Staff  
18          Colorado Mountain College  
19          802 Grand Avenue  
20          Glenwood Springs, Colorado 81601

21  
22          Telecopier number: (970) 384-8550 \_\_\_\_\_  
23          Telephone number: (970) 947-8321 \_\_\_\_\_  
24          Email: [mgianneschi@coloradomtn.edu](mailto:mgianneschi@coloradomtn.edu)

25  
26          with a copy in each case (that shall not constitute notice) to:

27  
28          Richard Gonzales, General Counsel  
29          Colorado Mountain College  
30          802 Grand Avenue  
31          Glenwood Springs, Colorado 81601  
32          Email: [rgonzalesgc@coloradomtn.edu](mailto:rgonzalesgc@coloradomtn.edu)

33  
34          AND

35  
36          Jay F. Kamlet  
37          Kamlet LLP  
38          3900 E. Mexico Ave., Suite 300  
39          Denver, Colorado 80210  
40          Email: [jkamlet@kamletlaw.com](mailto:jkamlet@kamletlaw.com)

41  
42          Any notice delivered by mail in accordance with this Section shall be effective on the second  
43          business day after the same is deposited in any post office or postal box regularly maintained by  
44          the United States postal service. Any notice delivered by telecopier or electronic mail in

1 accordance with this Section shall be effective upon receipt if concurrently with sending by  
2 telecopier or electronic mail receipt is confirmed orally by telephone and a copy of said notice is  
3 sent by certified mail, return receipt requested, on the same day to that intended recipient. Any  
4 notice delivered by hand or commercial carrier shall be effective upon actual receipt. Either Party,  
5 by notice given as above, may change the address to which future notices may be sent.  
6

7           **16.3 Incorporation of Exhibits.** All of the exhibits that are described in this Lease are  
8 attached hereto and incorporated into this Lease by reference.

9           **16.4 Additional Instruments.** The Parties shall deliver or caused to be delivered  
10 upon request such additional documents and instruments as may be required to accomplish the  
11 intent of this Lease.

12           **16.5 Waiver.** The failure of either Party to exercise any of its rights under this  
13 Agreement is not a waiver of those rights. A Party waives only those rights specified in writing and  
14 signed by the Party waiving such rights.

15           **16.6 Time of the Essence.** Time is of the essence under this Lease for the  
16 performance and observance of all obligations of the Landlord and the Tenant hereunder, and all  
17 provisions of this Lease are to be strictly construed.

18           **16.7 Severability.** If any provision of this Lease are held invalid or unenforceable, the  
19 remainder of this Lease shall not be affected thereby, it being the intent of the Parties that the  
20 provisions of this Lease shall be enforceable to the fullest extent permitted by law. There shall be  
21 substituted for any invalid or unenforceable provision a valid and enforceable provision as  
22 similar as possible to the invalid provision.

23           **16.8 Integration.** This Lease constitutes the entire agreement between the Parties  
24 with regard to the Leased Premises, and any extrinsic covenants, agreements, representations,  
25 warranties, conditions, or terms are superseded hereby and are no force or effect.

26           **16.9 Brokerage Commission.** The Landlord and the Tenant mutually warrant and  
27 represent to one another that neither of them has incurred any liability arising by, through, or  
28 under that Party for the payment of any brokerage fee or commission in connection with the  
29 transaction contemplated herein. If either of the Parties breaches the foregoing warranty and  
30 representation, it shall be liable to the other Party for any damage, liability, loss, claim or  
31 expense, including attorneys' fees, suffered by the other Party as a result of such breach. The  
32 liable Party shall pay to the other Party such sums as are due and owing pursuant to the foregoing  
33 within 30 days after demand by the other Party.

34           **16.10 Authority.** The person signing this Lease for the Landlord represents and  
35 warrants to the Tenant that the Landlord has all inherent legal power and authority requisite to  
36 entering into this Lease; has taken all action necessary to authorize the execution of this Lease  
37 and to perform and satisfy the transactions and obligations contained herein; and has duly  
38 authorized the signatory to execute and deliver this Lease on behalf of the Landlord. The person



1 signing this Lease for the Tenant represents and warrants to the Landlord that the Tenant has all  
2 inherent legal power and authority requisite to entering into this Lease; has taken all actions  
3 necessary to authorize the execution and delivery of this Lease and to perform and satisfy the  
4 transactions and obligations contained herein; and has duly authorized the signatory to execute  
5 and deliver this Lease on behalf of the Tenant.

6           **16.11 Force Majeure Events.** Except to the extent otherwise expressly provided by  
7 this Lease, if either the Landlord or the Tenant is delayed in the performance of any act required  
8 under this Lease by reason of strikes, boycotts, labor dispute, embargoes, shortages of materials,  
9 acts of God, acts of the public enemy, acts of superior governmental authority, weather  
10 conditions, floods, riots, rebellion, terrorism, sabotage, or any other circumstance for which such  
11 Party is not responsible or that is not in its power to control, the time for the performance of any  
12 such act shall be extended for a period equivalent to the period of such delay. Notwithstanding  
13 any indications to the contrary contained in the foregoing, Force Majeure Events do not include:  
14 (a) any financial incapacities or burdens suffered by either Party; (b) the effect of laws and  
15 regulations or the application and enforcement of the same by any governmental entity, or (c) a  
16 failure of timely performance by an agent or contractor of either Party. The application of Force  
17 Majeure Events is subject to the express limitations thereon contained in the other provisions of  
18 this Lease.

19           **16.12 Recording.** A fully signed copy of this Lease **SHALL BE** recorded in the real  
20 property records of the Clerk and Recorder of Summit County, Colorado.

21           **16.13 “Day” Defined.** Unless otherwise indicated, the term “day” means a calendar day  
22 (and not a business day).

23           **16.14 Amendment.** This Lease may not be modified except by a written Lease signed by  
24 both the Landlord and the Tenant. Oral modifications of this Lease are not permitted.

25           **16.15 Captions.** The headings of the sections and paragraphs contained in this Lease are  
26 for convenience only and do not define, limit, or construe the contents of the articles, sections and  
27 paragraphs.

28           **16.16 Advances By Landlord For Tenant.** If the Tenant fails to do anything required to  
29 be done by it under the terms of this Lease (other than a failure to make the payments to the  
30 Landlord herein required) the Landlord may, at is sole option, but without any obligation to do so,  
31 do or perform such act or thing on behalf of the Tenant, and in doing so the Landlord shall not be  
32 deemed to be a volunteer; provided, however, that before exercising its rights under this Section  
33 the Landlord must give notice to the Tenant as provided in Section 16.2, and afford the Tenant not  
34 less than 5 days from the giving of such notice within which to do or perform the act required by  
35 the Tenant. Upon notification to the Tenant of the costs incurred by the Landlord the Tenant shall  
36 promptly pay to the Landlord the full amount of costs and/or expenses incurred by the Landlord  
37 pursuant to this Section, together with interest thereon at the legal rate.

1           16.17 **Governmental Immunity.** In entering into this Lease both the Landlord and the  
2 Tenant are relying on, and do not waive or intend to waive by any provision of this Lease, the  
3 monetary limitations or any other rights, immunities, and protections provided by the Colorado  
4 Governmental Immunity Act, Section 24-10-101, etseq., C.R.S., as from time to time amended, or  
5 any other limitation, right, immunity or protection otherwise available to the Landlord or the  
6 Tenant, their officers, or their employees.

7           16.18 **No Adverse Construction Based On Authorship.** Each of the Parties stipulate  
8 and agree that it had the opportunity to participate in the drafting of this Lease. This Lease is not to  
9 be construed against either Party by virtue of such Party having drafted this Lease.

10           16.19 **Landlord's Consent.** Except as otherwise expressly provided to the contrary in  
11 this Lease, wherever in this Lease it is provided that some act requires the Landlord's prior  
12 consent, such consent shall not be unreasonably withheld by the Landlord.

13           16.20 **Governing Laws; Venue; Waiver of Jury Trial.** The laws of the State of  
14 Colorado shall govern the interpretation, validity, performance, and enforcement of this Lease.  
15 Any litigation brought to interpret or enforce this Lease shall be commenced in Summit County,  
16 Colorado. **BOTH PARTIES WAIVE THE RIGHT TO A JURY TRIAL IN ACTION TO ENFORCE,  
17 INTERPRET, OR CONSTRUE THIS AGREEMENT.**

18           16.21 **No Partnership.** The Landlord is not a partner, associate, or joint venturer of the  
19 Tenant in the conduct of the Tenant's business at the Leased Premises. The Tenant is an  
20 independent contractor without the right or authority to impose tort or contractual liability upon  
21 the Landlord.

22           16.22 **Annual Appropriation.**

23           (a) Notwithstanding anything herein contained to the contrary, the Landlord's  
24 financial obligations under this Lease are subject to an annual appropriation being made by the  
25 Town Council of the Town of Breckenridge, Colorado in an amount sufficient to allow the  
26 Landlord to perform its obligations hereunder. If sufficient funds are not appropriated, this Lease  
27 may be terminated by either Party without penalty, unless Tenant elects to perform Landlord's  
28 obligations under this Lease. The Landlord's obligations under this Lease do not constitute a  
29 general obligation indebtedness or multiple year direct or indirect debt or other financial obligation  
30 whatsoever within the meaning of the Constitution or laws of the State of Colorado.

31           (b) Notwithstanding anything herein contained to the contrary, the Tenant's financial  
32 obligations under this Lease are subject to an annual appropriation being made by the governing  
33 board of the Colorado Mountain College in an amount sufficient to allow the Tenant to perform its  
34 obligations hereunder. If sufficient funds are not appropriated, this Lease may be terminated by  
35 either Party without penalty. The Tenant's obligations under this Lease do not constitute a general  
36 obligation indebtedness or multiple year direct or indirect debt or other financial obligation  
37 whatsoever within the meaning of the Constitution or laws of the State of Colorado.



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TENANT:

COLORADO MOUNTAIN COLLEGE, a Colorado statutory local college district

By: \_\_\_\_\_

Title: \_\_\_\_\_

STATE OF COLORADO )  
 ) ss.  
COUNTY OF SUMMIT )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2017, by Rick G. Holman, Town Manager, and Helen Cospolich, CMC, Town Clerk, of the Town of Breckenridge, a Colorado municipal corporation.

WITNESS my hand and official seal.

My commission expires: \_\_\_\_\_.

\_\_\_\_\_  
Notary Public

STATE OF COLORADO )  
 ) ss.  
COUNTY OF SUMMIT )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2017, by \_\_\_\_\_, as \_\_\_\_\_, of Colorado Mountain College, a statutory local college district.

WITNESS my hand and official seal.

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My commission expires: \_\_\_\_\_.

\_\_\_\_\_  
Notary Public

Exhibit "A"

**LEGAL DESCRIPTION OF LEASED PREMISES**

---

The Leased Premises consist of two (2) buildings containing a total of fourteen (14) studio units and six (6) one-bedroom units located at 45 Denison Placer Road and 61 Denison Placer Road in Breckenridge, Colorado. The Leased Premises also includes the subdivided lot(s) upon which the two (2) buildings are located.

1 Exhibit "B"

2 **LEASE CONDITIONS**

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3  
4  
5 1. The Landlord shall have completed all of the site work (including paved parking areas,  
6 landscaping and drive aisles), substantially in accordance with the site plans and construction  
7 documents provided to the Tenant.  
8

9 2. The Landlord shall have completed the exterior and interiors of the two buildings, each building  
10 containing 10 dwelling units, that constitute the Leased Premises, including fixtures, carpeting,  
11 kitchen and bath appliances, washers/dryers, and other personal property proposed to be delivered  
12 at commencement), all as depicted in the site plans and construction documents provided to the  
13 Tenant, and have received a certificate of occupancy for the same, subject to minor punch-list  
14 items to be approved by the Tenant prior to commencement, and which will be completed by  
15 Landlord within 30 days thereafter. The Landlord anticipates being able to complete the foregoing  
16 and obtain the certificates of occupancy no later than July 1, 2017.  
17

18 3. The Tenant and the Landlord shall do a walk-through of the improvements 10 business days  
19 prior to commencement date of the Lease to develop a punch-list of items requiring the Landlord  
20 completion prior to commencement. The Tenant shall be satisfied in its sole discretion.  
21  
22  
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26

Exhibit "C"

**LEGAL DESCRIPTION OF OPTION PARCEL**

---

TRACT D-2, A RESUBDIVISION OF TRACTS C AND D, RUNWAY SUBDIVISION, AS SHOWN ON THE PLAT AS RECORDED ON APRIL 25, 2016 UNDER RECEPTION NO. 1109588 IN THE OFFICE OF THE SUMMIT COUNTY CLERK AND RECORDER.

Exhibit "C"



2 **RESTRICTIVE COVENANT**

3  
4  
5 **RESTRICTIVE COVENANT AND AGREEMENT**

6  
7 THIS RESTRICTIVE COVENANT AND AGREEMENT ("**Restrictive Covenant**")  
8 dated \_\_\_\_\_, 20\_\_\_\_, is between COLORADO MOUNTAIN  
9 COLLEGE, a Colorado statutory local college district (the "**Owner**"), and the TOWN OF  
10 BRECKENRIDGE, a Colorado municipal corporation ( the "**Town**").

11  
12 Recitals

13  
14 A. The Owner owns the real property described in Section 1 of this Restrictive Covenant.

15  
16 B. The Owner acquired the real property described in Section 1 from the Town  
17 concurrently with the execution of this Restrictive Covenant.

18  
19 C. It was a condition of the purchase contract between the Owner and the Town that the  
20 Owner create a valid and enforceable covenant running with the land assuring that the real  
21 property described in Section 1 will be used solely by a "Qualified Occupant" as defined in this  
22 Restrictive Covenant.

23  
24 D. The Owner declares and covenants that the regulatory and restrictive covenants  
25 contained in this Restrictive Covenant are covenants running with the land and are binding upon  
26 the Owner, and all subsequent owners of the real property described in Section 1, unless this  
27 Restrictive Covenant is released and terminated by the Town.

28  
29 NOW, THEREFORE, for good and valuable consideration, the sufficiency of which is hereby  
30 acknowledged, the Owner and the Town agree as follows:

31  
32 1. Property Subject To Covenant. This Restrictive Covenant applies to the following real  
33 property located in the Town of Breckenridge, Summit County, Colorado:

34  
35 TRACT D-2, A RESUBDIVISION OF TRACTS C AND D, RUNWAY  
36 SUBDIVISION, AS SHOWN ON THE PLAT AS RECORDED ON APRIL 25,  
37 2016 UNDER RECEPTION NO. 1109588 IN THE OFFICE OF THE SUMMIT  
38 COUNTY CLERK AND RECORDER.

39  
40 Also known as: 45, 61 and 73 Denison Placer Road, Breckenridge, Colorado  
41 80424

42  
43 2. Definitions. As used in this Restrictive Covenant:  
44

1           **“Any Other Summit County Employee”** means an employee of a business physically  
2 located in and serving any portion of Summit County, Colorado, other than the Upper Blue  
3 River Basin.

4  
5           **“Property”** means the real property described in Section 1 of this Restrictive Covenant.  
6

7           **“Qualified Occupant”** means: (i) a student or employee of Colorado Mountain College;  
8 (ii) an Upper Blue Employee; and (iii) any other Summit County Employee. In order for an  
9 Upper Blue Employee or other Summit County Employee to meet the definition of a  
10 Qualified Occupant, such person must be a subtenant of the Property pursuant to a sublease  
11 with a term of not less than twelve (12) months and shall, during the entire period of his or  
12 her occupancy of the Property, earn his or her living by working in Summit County,  
13 Colorado at least 30 hours per week.  
14

15           **“Upper Blue Employee”** means an employee of a business physically located in and  
16 serving the Upper Blue River Basin.  
17

18           **“Upper Blue River Basin”** means the geographic area bounded by Farmers Korner to the  
19 north; Hoosier Pass to the south; the Continental Divide to the East; and the top of the Ten  
20 Mile Range to the west.  
21

22           3. Occupancy Restriction. Except as provided in Section 4, the Property, and each of the  
23 individual units located within the Property, will only be used and occupied by a Qualified  
24 Occupant, together with such person’s spouse and minor children, if any.  
25

26           4. Exception. It shall not be a violation of this Restrictive Covenant if the Owner rents the  
27 Property, and any of the individual units within the Property, to its students, faculty, or staff on a  
28 short-term basis for Owner’s programs or events, or to provide for student or employee transition  
29 to long-term housing.  
30

31           5. Records; Inspection; Monitoring.  
32

33           A. The Town may examine, inspect, and copy the Owner’s records concerning the use and  
34 occupancy of the Property upon reasonable advance notice. The Town may enter the Property to  
35 determine compliance with this Restrictive Covenant, but the Town will first notify the Owner at  
36 least 24 hours in advance before making entry. The Town’s rights under this Section 5A may also  
37 be exercised by the Town’s authorized agent.  
38

39           B. The Owner will submit to the Town any information, document or certificate regarding  
40 the occupancy and use of the Property which the Town reasonably deems to be necessary to  
41 confirm the Owner’s compliance with the provisions of this Restrictive Covenant.  
42

43           6. Default; Notice. If the Owner fails to comply with this Restrictive Covenant, the Town  
44 may notify the Owner by written notice of such failure and provide the Owner a period of time to  
45 correct such failure. If the failure is not corrected to the satisfaction of the Town within the  
46 specified time, which will be at least 30 days after the date the Town mails the written notice to the

1 Owner, or within such further time as the Town determines is necessary to correct the violation  
2 (but not to exceed any limitation set by applicable law), the Town may, without further notice,  
3 declare a default under this Restrictive Covenant effective on the date of such declaration of  
4 default. The Town may then proceed to enforce this Restrictive Covenant.  
5

6 7. Equitable Relief. The Town may specifically enforce this Restrictive Covenant. The  
7 Town may obtain from any court of competent jurisdiction a temporary restraining order,  
8 preliminary injunction, and permanent injunction to obtain specific performance. Any equitable  
9 relief provided for in this Section 7 may be sought singly or in combination with such legal  
10 remedies as the Town may be entitled to, either pursuant to the provisions of this Restrictive  
11 Covenant or under the laws of the State of Colorado.  
12

13 8. Town Authority To Enforce. The restrictions, covenants, and limitations created by this  
14 Restrictive Covenant are only for the benefit of the Town. Only the Town may enforce this  
15 Restrictive Covenant.  
16

17 9. Waiver; Termination; Modification Of Covenant.

18  
19 A. The restrictions, covenants, and limitations of this Restrictive Covenant may be  
20 waived, terminated, or modified only with the written consent of both the Town and the Owner or  
21 other person who owns the Property on the date of the waiver, termination, or modification. No  
22 waiver, modification, or termination will be effective until the proper instrument is executed and  
23 recorded in the office of the Clerk and Recorder of Summit County, Colorado. The Town may also  
24 terminate this instrument by recording a release in recordable form without the signature of the  
25 owner of the Property. For convenience, such instrument may run to “the owner or owners and  
26 parties interested” in the Property.  
27

28 B. The Town and the Owner acknowledge that prior to the date of this Restrictive  
29 Covenant the Town has placed, or has required other owners of real property to place, certain  
30 restrictions on the use of real property located immediately adjacent to or within the Upper Blue  
31 River Basin. During the term of this Restrictive Covenant the Town and the Owner agree that if  
32 any of the land use restrictions described in the preceding sentence are modified or released by the  
33 Town, or if the Owner demonstrates to the reasonable satisfaction of the Town that it is no longer  
34 feasible for market, competitive, or economic reasons to achieve Owner’s public purpose  
35 objectives of owning the Property (i.e., the provision of student or local employee housing at a  
36 reduced but sustainable rent level), then the Town will consider modifying or releasing this  
37 Restrictive Covenant in written form acceptable for recording; provided, however, nothing in this  
38 sentence requires the Town to modify or release this Restrictive Covenant so long as the Town  
39 considers the request in good faith and acts reasonably in light of the Owner’s demonstration. No  
40 modification or termination of this Restrictive Covenant pursuant to this Section 9B shall be  
41 effective unless a proper document is recorded with the Clerk and Recorder of Summit County,  
42 Colorado pursuant to Section 9A.  
43

44 10. Statute of Limitations. The Owner hereby waives the benefit of and agrees not to  
45 assert in any action brought by the Town to enforce this Restrictive Covenant any applicable  
46 statute of limitation, including, but not limited to, the provisions of Section 38-41-119, C.R.S. If

1 any statute of limitation may lawfully be asserted by The Owner in connection with an action  
2 brought by the Town to enforce the terms of this Restrictive Covenant, each and every day during  
3 which any violation of this Restrictive Covenant occurs is to be deemed to be a separate breach of  
4 this Restrictive Covenant for the purposes of determining the commencement of the applicable  
5 statute of limitations period.  
6

7 11. No Conflicting Agreement. The Owner warrants to the Town that the execution and  
8 delivery of this Restrictive Covenant does not violate any existing agreement by Owner  
9 concerning the Property. The provisions of this Restrictive Covenant are paramount and  
10 controlling, and supersede any conflicting provision of any other agreement concerning the  
11 Property.  
12

13 12. Attorney's Fees. If any action is brought in a court of law by either party concerning  
14 the enforcement, interpretation, or construction of this Restrictive Covenant, the prevailing party,  
15 either at trial or upon appeal, is entitled to reasonable attorney's fees, as well as costs, including  
16 expert witness's fees, incurred in the prosecution or defense of such action.  
17

18 13. Notices. All notices provided for or required under this Restrictive Covenant must be  
19 in writing, signed by the party giving the notice, and will be deemed properly given when actually  
20 received or 2 days after mailed, postage prepaid, certified, return receipt requested, addressed to  
21 the parties hereto at their addresses appearing on the signature pages. Each party, by written notice  
22 to the other party, may specify any other address for the receipt of such instruments or  
23 communications. A notice to any owner of the Property subsequent to the Owner may be sent to  
24 the address to which tax notices are sent according to the records of the Summit County Treasurer.  
25 E-mail is not a valid method of giving notice under this Restrictive Covenant.  
26

27 14. Recording And Filing; Covenant Running With The Land.

28  
29 A. This Restrictive Covenant is to be recorded in the real property records of Summit  
30 County, Colorado.  
31

32 B. The Owner agrees that all of the requirements of the State of Colorado which must be  
33 satisfied for the provisions of this Restrictive Covenant to constitute a restrictive covenant running  
34 with the land are deemed to be fully satisfied. All requirements of privity of estate are intended to  
35 be satisfied, or in the alternative, an equitable servitude is created to insure that these restrictions  
36 run with the land. During the term of this Restrictive Covenant, each and every sublease relating to  
37 the Property will expressly provide that such contract, deed or instrument is subject to this  
38 Restrictive Covenant. However, the covenants contained in this Restrictive Covenant survive and  
39 will continue to be effective as to successors and assigns of all or any portion of the Property  
40 regardless of whether such contract, deed or other instrument provides that it is subject to this  
41 Restrictive Covenant.  
42

43 15. Mortgagee's Consent. Attached hereto as Exhibit "A" is the written consent to this  
44 Restrictive Covenant executed by all prior recorded lienholders on the Property as of the date of  
45 this Restrictive Covenant.  
46

1           16. Owner’s Covenant Of Title And Authority. The Owner covenants, represents, and  
2 warrants to the Town that The Owner has good and marketable title to the Property and full and  
3 complete legal authority to execute and deliver this Restrictive Covenant to the Town, subject only  
4 to the lien of the general property taxes for 20\_\_ and subsequent years.  
5

6           17. Applicable Law. This Restrictive Covenant is to be interpreted in accordance with the  
7 laws of the State of Colorado.  
8

9           18. Vesting and Term. The Town’s rights and interests under this Restrictive Covenant are  
10 vested immediately, and this Restrictive Covenant, and any amendments hereto, are binding and in  
11 full force and effect in perpetuity, unless terminated as provided in Section 9. Each provision  
12 contained in this Restrictive Covenant that is subject to the laws or rules sometimes referred to as  
13 the rule against perpetuities or the rule prohibiting unreasonable restraints on alienation will  
14 continue and remain in full force and effect for the period of twenty one years following the death  
15 of the last survivor of the issue of President Donald Trump, and the now living children of said  
16 issue, or until this Restrictive Covenant is terminated earlier by recorded instrument as provided in  
17 Section 9.  
18

19           19. Section Headings. Section headings are inserted for convenience only and in no way  
20 limit or define the interpretation to be placed upon this Restrictive Covenant.  
21

22           20. Terminology. Wherever applicable, the pronouns in this Restrictive Covenant  
23 designating the masculine or neuter apply equally to the feminine, neuter, and masculine genders.  
24 Wherever applicable within this Agreement, the singular includes the plural, and the plural  
25 includes the singular.  
26

27           21. Severability. If any provision of this Restrictive Covenant is finally determined to be  
28 invalid, illegal, or unenforceable, such determination does not affect the remaining provisions of  
29 this Restrictive Covenant.  
30

31           22. Entire Agreement. This Restrictive Covenant constitutes the entire agreement and  
32 understanding between the parties relating to the subject matter of this Restrict Covenant, and  
33 supersedes any prior agreement or understanding relating thereto.  
34

35           23. Binding Effect. This Restrictive Covenant is binding upon, and inures to the benefit of  
36 parties, and their successors and assigns, and all subsequent owners of the Property, or any interest  
37 therein.  
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OWNER:

COLORADO MOUNTAIN COLLEGE, a Colorado statutory local college district

By: \_\_\_\_\_

Title: \_\_\_\_\_

Owner's Address:

802 Grand Avenue  
Glenwood Springs, Colorado 81601

TOWN OF BRECKENRIDGE, a Colorado municipal corporation

By: \_\_\_\_\_

Rick G. Holman, Town Manager

ATTEST:

\_\_\_\_\_  
Helen Cospolich, CMC,  
Town Clerk

Town's Address:

P. O. Box 168  
Breckenridge, CO 80424

1 STATE OF COLORADO )  
2 ) ss.  
3 COUNTY OF SUMMIT )  
4

5 The foregoing instrument was acknowledged before me this \_\_\_\_ day of  
6 \_\_\_\_\_, 2017, by Rick G. Holman, Town Manager, and Helen Cospolich, CMC,  
7 Town Clerk, of the Town of Breckenridge, a Colorado municipal corporation.  
8

9 WITNESS my hand and official seal.

10  
11 My commission expires: \_\_\_\_\_.  
12  
13  
14

15 \_\_\_\_\_  
16 Notary Public  
17

18 STATE OF COLORADO )  
19 ) ss.  
20 COUNTY OF SUMMIT )  
21

22 The foregoing instrument was acknowledged before me this \_\_\_\_ day of  
23 \_\_\_\_\_, 2017, by \_\_\_\_\_,  
24 as \_\_\_\_\_, of Colorado Mountain College, a statutory local college  
25 district.  
26

27 WITNESS my hand and official seal.

28  
29 My commission expires: \_\_\_\_\_.  
30  
31

32 \_\_\_\_\_  
33 Notary Public  
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1 EXHIBIT "A"

2  
3 CONSENT AND SUBORDINATION AGREEMENT

4  
5 The undersigned, being the beneficiary of that certain deed of trust to the Public Trustee of  
6 Summit County, Colorado dated \_\_\_\_\_ and recorded \_\_\_\_\_ under Reception No.  
7 \_\_\_\_\_ of the records of the Clerk and Recorder of Summit County, Colorado (the  
8 "Deed of Trust") consents to the execution and recording of this Restrictive Covenant and  
9 Agreement ("Restrictive Covenant"), and agrees that the lien of the Deed of Trust is subordinated  
10 and made junior and subject to this Restrictive Covenant. If the Deed of Trust is foreclosed, this  
11 Restrictive Covenant will be treated as a prior and superior encumbrance, and any foreclosure sale  
12 will be made subject to this Restrictive Covenant.

13  
14 LIENHOLDER:

15  
16  
17 By: \_\_\_\_\_

18  
19 \_\_\_\_\_  
20 Title

21  
22  
23 STATE OF \_\_\_\_\_ )  
24 ) ss.  
25 COUNTY OF \_\_\_\_\_ )

26  
27 The foregoing instrument was acknowledged before me this \_\_\_\_ day of  
28 \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_,  
29 as \_\_\_\_\_ of \_\_\_\_\_.

30  
31 WITNESS my hand and official seal.

32  
33 My commission expires: \_\_\_\_\_  
34  
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36  
37 \_\_\_\_\_  
38 Notary Public  
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Exhibit "D"



**RIGHT OF FIRST OFFER/RIGHT OF FIRST REFUSAL AGREEMENT**

---

**RIGHT OF FIRST OFFER/RIGHT OF FIRST REFUSAL AGREEMENT**

THIS RIGHT OF FIRST OFFER/RIGHT OF FIRST REFUSAL AGREEMENT (the "**Agreement**") is made this \_\_\_ day of \_\_\_\_\_, 20\_\_\_, by and between COLORADO MOUNTAIN JUNIOR COLLEGE DISTRICT, a Colorado statutory junior college district, whose address is 802 Grand Avenue, Glenwood Springs, Colorado 81601 ("**CMC**"), and the TOWN OF BRECKENRIDGE, a Colorado municipal corporation, whose address is P.O. Box 168, Breckenridge, Colorado 804234 ("**Town**").

1. Recitals

1.1 Town, by Special Warranty Deed (the "**Deed**") dated \_\_\_\_\_, 20\_\_\_, and recorded \_\_\_\_\_, 20\_\_\_, at Reception No. \_\_\_\_\_ of the real estate records in the Office of the Clerk and Recorder of Summit County, Colorado, conveyed to CMC certain real property described in the Deed (the "**Property**"), which real property is the subject of this Agreement, and which CMC owns in fee simple, as more particularly described in **Exhibit A**, consisting of one page, attached hereto and by this reference made a part hereof.

1.2 CMC has agreed to grant to Town a right of first offer to acquire the Property upon the terms and conditions herein set forth. CMC has also agreed to grant to Town a right of first refusal to acquire the Property upon the terms and conditions herein set forth.

2. Consideration

2.1 In consideration of the sale and conveyance by Town to CMC of the Property, and for the further consideration of Ten Dollars (\$10.00) in hand paid to Town by CMC, and other good and valuable consideration, the receipt and sufficiency of which are hereby confessed and acknowledged by CMC, the parties hereto agree as hereinafter set forth.

3. Right of First Offer

3.1 CMC, for itself and its successors and assigns, hereby agrees that CMC will not sell the Property, or any part thereof, without first offering same to Town for purchase. This Agreement creates in Town a right of first offer to purchase the Property, or any portion thereof, according to the terms and conditions hereof.

3.2 The right of first offer granted in Section 3.1 above shall be honored by CMC and exercised by Town in the following manner:

(a) In case CMC desires to sell the Property, or any portion thereof, CMC shall first send a written offer to Town. Said offer shall state a specified price and all terms and conditions of the proposed sale.

(b) If Town desires to accept said offer, Town shall, within 30 days from receipt thereof, send its acceptance in writing to CMC.

(c) If a valid offer of sale is made by CMC to Town, and said offer is not accepted by Town as provided in subsection (b) above, then and for a period of one year from the date of mailing of the offer, CMC shall be free to sell the Property, or the portion thereof offered to Town, to any party whomsoever, but not at a lesser price or upon more favorable terms and conditions than offered to Town.

(d) If CMC does not sell the Property, or the portion thereof offered, before the expiration of said one-year period, then, before the Property or portion offered is sold to any other party, CMC shall make a new offer to Town of the Property, or any portion thereof, under the provisions of this Agreement. The Property or portion offered shall be considered sold on the date of execution of a valid and binding purchase and sale contract with no outstanding conditions or contingencies, provided that the Property or portion offered is conveyed to and accepted by the vendee under said contract according to the terms and conditions of said contract within six months thereafter. Town's failure to exercise, or Town's disclaimer of, such right with respect to any transfer of less than all of the Property shall not be deemed a waiver of such right with respect to that part of the Property owned by CMC after such transfer.

3.3 If any offer made by CMC according to the terms and conditions herein stated is rejected or is allowed to expire without acceptance by Town, Town agrees, within 10 days of receipt of a written request from CMC, to give to CMC or to any third person CMC shall designate, a written statement properly signed and acknowledged in recordable form that:

(a) an offer has been made by CMC in accordance with the terms and conditions of this Agreement, together with disclosure of the offering price and the terms of a proposed sale;

(b) said offer has been rejected by Town or has been allowed to expire; and

(c) CMC or any designated third person may rely upon such statement by Town as evidence of the submission and rejection or expiration of a valid offer made to Town pursuant to and in accordance with this Agreement.

3.4 This right of first offer shall apply to all transactions involving a conveyance of title to the Property, or any portion thereof, including but not limited to a purchase, an exchange, or any other transfer of an interest in the Property for consideration, other than a lease of no more than three years' duration.

#### 4. Terms and Conditions of Sale

4.1 Within 30 days after Town's acceptance of an offer from CMC, CMC shall deliver to Town a commitment for title insurance in the amount of the purchase price describing the Property, or portion thereof as the case may be, certified to a current date, and Town shall have 30 days after receipt of said commitment to examine title. Should such title examination disclose one or more defects sufficient to render title to the Property unmerchantable, Town may, within said 30-day period, and upon notification thereof to CMC in writing:

(a) waive said title defect or defects and accept title subject thereto, in which case the special warranty deed specified in Section 4.3 below shall expressly except said defects;

(b) reject title and withdraw its acceptance of the offer; or

(c) allow CMC 60 days within which to cure said defects. CMC agrees to use best efforts to cure said defects within such period of time, and agrees to notify Town when such defects have been cured, but in the event CMC is unable to cure all such defects within such period of time, Town shall, within 15 days after the end of such 60-day period, elect alternatives (a) or (b) of this section 4.1. In the event CMC cures such defects and gives Town notice thereof within said 60-day period, CMC shall, within a reasonable time, deliver to Town a current commitment for title insurance evidencing such cure of title defects, and thereafter the closing procedures set forth in this Agreement shall be followed.

4.2 If Town fails to give written notice of title defects and specify its election of alternatives 4.1(a), (b), or (c) above, it shall be conclusively presumed, for the purposes of this Agreement, that CMC's title is good and merchantable and is accepted by Town, except for defects of title or matters affecting title arising subsequent to the effective date of the title insurance commitment referred to in Section 4.1 above.

4.3 Within 30 days after acceptance of title, however such acceptance may be evidenced, and upon payment to CMC of the specified price and fulfillment by Town of the other terms of said offer, CMC shall convey title to the Property, or portion thereof, to Town in fee simple by good and sufficient special warranty deed acceptable to the title insurance company. Thereafter CMC shall pay the premium for and cause to be delivered to Town an ALTA owner's policy of title insurance in the amount of the purchase price insuring title to the Property, or portion thereof, in Town, subject only to title defects accepted by Town. Taxes, assessments, and any other charges against the Property shall be apportioned as of the date of closing.

## 5. Right of First Refusal

5.1 CMC, for itself and its successors and assigns, hereby agrees that CMC will not sell the Property, or any part thereof, without first offering same to Town for purchase. This Agreement creates in Town a right of first refusal to purchase the Property, or any part thereof, according to the terms and conditions hereof.

5.2 The right of first refusal granted in Section 5.1 above shall be honored by CMC and exercised in the following manner:

(a) If, at any time, CMC receives a bona fide third-party offer to purchase or otherwise acquire title to the Property, or any part thereof, any contract which may be entered into between CMC and such bona fide purchaser shall specifically provide that the transaction shall be subject to the right of first refusal set forth in this document.

(b) In the event that CMC enters into such contract with a bona fide third-party purchaser, Town shall have the prior right to purchase and acquire title to the Property, or the portion thereof described in such contract, upon the same terms and conditions as therein provided or, at Town's option, for cash.

(c) CMC shall submit to Town a duplicate original of an executed contract with the bona fide purchaser, together with duplicate originals executed by CMC of a contract between CMC and Town, containing the same terms and conditions as the purchase and sale contract with the third-party bona fide purchaser. If, after the receipt of such documents, Town shall fail to exercise Town's right of first refusal by signing and returning to CMC, within 15 days of receipt, a signed copy of said contract, together with the earnest money payment therein provided, CMC shall have the right to conclude the proposed sale and conveyance on the same terms and conditions, and no other, as in the contract with the bona fide third-party purchaser.

(d) Town's failure to exercise Town's right of first refusal, or Town's written disclaimer of such right, shall be deemed a waiver and cancellation of such right of first refusal if the proposed sale and conveyance to the same bona fide third-party purchaser is consummated. If the proposed sale and conveyance to the same bona fide third-party purchaser is not consummated, the right of first refusal herein set forth shall not be deemed waived or cancelled but shall remain in full force and effect. Town's failure to exercise, or Town's disclaimer of, such right with respect to any transfer of less than all of the Property shall not be deemed a waiver of such right with respect to that part of the Property owned by CMC after such transfer.

5.3 If any offer made by CMC according to the terms and conditions herein stated is rejected or is allowed to expire without acceptance by Town, Town agrees, within 10 days after receipt of a written request from CMC, to give to CMC or to any third person CMC shall designate, a written statement properly signed and acknowledged in recordable form that:

(a) an offer has been made by CMC in accordance with the terms and conditions of this Agreement, together with disclosure of the offering price and the terms and conditions of a proposed sale;

(b) said offer has been rejected by Town or has been allowed to expire; and

(c) CMC or any designated third person may rely upon such statement by Town as evidence of the submission and rejection or expiration of a valid offer made to Town pursuant to and in accordance with this Agreement.

5.4 This right of first refusal shall apply to all transactions involving a conveyance of title to the Property, or any portion thereof, including but not limited to a purchase, an exchange, or

any other transfer of an interest in the Property for consideration, other than a lease of no more than three years' duration.

## 6. Exempt Transfer

6.1 The parties hereto agree that a transfer of the Property, or any portion thereof, shall be made only after compliance with all of the provisions of this Agreement, except that the a transfer to the Colorado Mountain College Foundation, Inc. shall be exempt from the terms and conditions of this Agreement; provided, however, that if a transfer is made to Colorado Mountain College Foundation, Inc., Colorado Mountain College Foundation, Inc. shall be bound by all the covenants, terms, and conditions of this Agreement to the same extent as CMC.

## 7. Term of Existence

7.1 All rights and interests herein created and set forth in this Agreement shall remain in existence and shall constitute a valid encumbrance upon the Property during the life of President Donald Trump, and his issue living at the date of execution of this Agreement, as set forth on the first page hereof, plus 21 years thereafter, but no longer; except that the same shall be extinguished by the occurrence of any one or more of the following events:

(a) a sale of the entire Property to Town pursuant to the exercise of the right of first offer, as herein provided, and upon compliance by CMC with all of the terms and conditions of this Agreement; or

(b) a sale of the entire Property to any person other than the Colorado Mountain College Foundation, Inc. mentioned in Section 6.1 above pursuant to and upon compliance by CMC with all of the terms and conditions of this Agreement.

## 8. Miscellaneous

8.1 All offers, acceptances and any other notices or statements contemplated or required by this Agreement shall be sent by certified or registered United States mail, return receipt requested, to the intended recipient thereof at the addresses stated on the first page of this Agreement, or to such other addresses as may be designated in writing by any party. Any periods of time within which action is to be taken hereunder shall commence on the date notice thereof is received.

8.2 Subject to the limitation expressed in Section 7.1 above, this Agreement shall be binding upon and shall inure to the benefit of the successor and assigns of the parties hereto.

8.3 This Agreement is made in Colorado and shall be governed by and interpreted in accordance with the law of Colorado.

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first above written.

CMC:  
COLORADO MOUNTAIN JUNIOR COLLEGE  
DISTRICT, a Colorado statutory junior college  
district

By: \_\_\_\_\_

Title: \_\_\_\_\_

TOWN:

TOWN OF BRECKENRIDGE, a Colorado  
municipal corporation

By: \_\_\_\_\_  
Rick G. Holman, Town Manager

ATTEST:

\_\_\_\_\_  
Helen Cospolich, CMC,  
Town Clerk



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EXHIBIT "A"  
TO  
RIGHT OF FIRST OFFER/RIGHT OF FIRST REFUSAL AGREEMENT

Legal Description of the Property

TRACT D-2, A RESUBDIVISION OF TRACTS C AND D, RUNWAY  
SUBDIVISION, AS SHOWN ON THE PLAT AS RECORDED ON APRIL 25,  
2016 UNDER RECEPTION NO. 1109588 IN THE OFFICE OF THE SUMMIT  
COUNTY CLERK AND RECORDER.



**MEMO**

TO: Town Council  
FROM: Town Attorney  
RE: Council Bill No. 18 (Term Limits For Planning Commission and BOSAC)  
DATE: May 30, 2017 (for June 13<sup>th</sup> meeting)

---

The second reading of the ordinance imposing term limits on the members of the Planning Commission and BOSAC is scheduled for your meeting on June 13<sup>th</sup>.

The following minor changes to the ordinance are proposed:

1. On page 1, line 30, and again on page 2, line 20, the word “current” has been deleted. The word “current” is already used in each of the two sentences. Therefore, the deleted word is redundant and unnecessary.
2. Section F on Page 2 has been deleted. The substance of Section F is already covered in Section A, and Section F is therefore unnecessary.

I will be happy to discuss this matter with you on Tuesday.

1                   ***FOR WORKSESSION/SECOND READING – JUNE 13***

2  
3                   Additions To The Ordinance As Approved on First Reading Are  
4                   Indicated By **Bold + Double Underline**; Deletions By ~~Strikeout~~

5  
6                   COUNCIL BILL NO. 18

7  
8                   Series 2017

9  
10                  AN ORDINANCE CONCERNING TERM LIMITS FOR MEMBERS OF THE TOWN OF  
11                  BRECKENRIDGE PLANNING COMMISSION AND THE TOWN OF BRECKENRIDGE  
12                  OPEN SPACE ADVISORY COMMISSION

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

16  
17                  Section 1. Chapter 2 of Title 2 of the Breckenridge Town Code, concerning the Town of  
18                  Breckenridge Planning Commission, is amended by the addition of the following new Section 2-  
19                  2-3-1, which shall read as follows:

20                  2-2-3-1: TERM LIMITS:

21  
22                  A. In order to allow for more direct citizen participation in Town government, no  
23                  member of the planning commission shall serve more than three (3) consecutive four-  
24                  year terms in office, and no member of the planning commission shall be reappointed to  
25                  the commission if he or she has already completed three (3) consecutive four-year terms  
26                  in office. Time served on the commission resulting from an appointment made by the  
27                  Town Council to fill a vacancy on the commission does not count in determining  
28                  compliance with the limitation of this Section A.

29  
30                  B. The ~~current~~ members of the commission who are in office when Section A is adopted  
31                  shall be subject to Section A when their current terms of office expire. No member of the  
32                  commission may be reappointed if such action would violate Section A. Section A shall  
33                  not be applied to shorten the term of any member of the planning commission.

34  
35                  C. A person who is term-limited under Section A may not be appointed to the planning  
36                  commission until four (4) years have expired following the end of term of office that  
37                  resulted in the person being term-limited.

38  
39                  D. A person who is term-limited under Section A may be appointed to fill a vacancy and  
40                  serve out the remainder of the term of office of a member of the commission even though  
41                  four (4) years have not expired following the end of term of office that resulted in the  
42                  person being term-limited.

1           Section 2. Effective January 1, 2018 Section 2-4-3 of the Breckenridge Town Code,  
2 concerning the Town of Breckenridge Open Space Advisory Commission, is amended to read as  
3 follows:

4           2-4-3: TERM OF OFFICE; TERM LIMITS; VACANCIES

5  
6           A. The term of the members of the commission shall be four (4) years. In the  
7 event that a vacancy shall occur during the term of any appointed member, a  
8 successor shall be appointed by the town council to serve the unexpired portion of  
9 the term. Any appointment made to fill a vacancy on the commission shall be  
10 made in compliance with the requirements of section 9.4 of the town charter.

11  
12           B. In order to allow for more direct citizen participation in Town government, no  
13 member of the commission shall serve more than two (2) consecutive four-year terms in  
14 office, and no member of the commission shall be reappointed to the commission if he or  
15 she has already completed two (2) consecutive four-year terms in office. Time served on  
16 the commission resulting from an appointment made by the Town Council to fill a  
17 vacancy on the commission does not count in determining compliance with the limitation  
18 of this Section B.

19  
20           C. The ~~current~~ members of the commission who are in office on January 1, 2018 shall be  
21 subject to Section B when their current terms of office expire. Section B shall not be  
22 applied to shorten the term of any member of the commission. In 2018 and 2019 no  
23 person shall be reappointed to the commission who has at that time served eight (8) or  
24 more consecutive years on the commission.

25  
26           D. A person who is term-limited under Section B may not be appointed to the  
27 commission until four (4) years have expired following the end of term of office that  
28 resulted in the person being term-limited.

29  
30           E. A person who is term-limited under Section B of this Section may be appointed to  
31 serve out the remainder of another person's term of office on the commission even  
32 though four (4) years have not have expired following the end of term of office that  
33 resulted in the person being term-limited.

34  
35           ~~F. In the event that a vacancy shall occur during the term of any appointed~~  
36 ~~member of the commission, a successor shall be appointed by the town council to~~  
37 ~~serve the unexpired portion of the term. Any appointment made to fill a vacancy~~  
38 ~~on the commission shall be made in compliance with the requirements of section~~  
39 ~~9.4 of the town charter.~~

40  
41           Section 3. Except as specifically amended hereby, the Breckenridge Town Code, and the  
42 various secondary codes adopted by reference therein, shall continue in full force and effect.

43           Section 4. The Town Council hereby finds, determines and declares that it has the power  
44 to adopt this ordinance pursuant to the authority granted to home rule municipalities by Article  
45 XX of the Colorado Constitution and the powers contained in the Breckenridge Town Charter.



# Memo



**To:** Breckenridge Mayor and Town Council Members  
**From:** Taryn Power, Deputy Town Clerk  
**Date:** 6/7/2017  
**Subject:** Liquor and Marijuana Licensing Authority Term Limits

---

Attached is an ordinance to set term limits for the Liquor and Marijuana Licensing Authority to two, four year terms.

The Liquor and Marijuana Licensing Authority consists of five members who are appointed by the Town Council. Current members include:

- J.B. Katz, Chair (Term ends 2017)
- Bill Tatro (Term ends 2017)
- Tim Faust (Term ends 2017)
- Dave Blank (Term ends 2019)
- Leigh Girvin (Term ends 2019)

Per this ordinance, the new term limits would not become effective until January 31, 2018. As the Liquor & Marijuana Licensing Authority is a small committee, Town Council found it important that the existing members whose terms end this year be eligible to reapply for one remaining term. The purpose of allowing reappointment is to give the existing members time to bring the newer committee members up to date with liquor and marijuana licensing history and regulations in the Town of Breckenridge.

Staff will be available for questions at the meeting.

1 **FOR WORKSESSION/FIRST READING – JUNE 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 2017

9  
10 AN ORDINANCE CONCERNING TERM LIMITS FOR MEMBERS OF THE TOWN OF  
11 BRECKENRIDGE LIQUOR AND MARIJUANA LICENSING AUTHORITY

12  
13 BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BRECKENRIDGE,  
14 COLORADO:

15  
16 Section 1. Effective January 31, 2018 Chapter 5 of Title 2 of the Breckenridge Town  
17 Code, concerning the Town of Breckenridge Liquor and Marijuana Licensing Authority, is  
18 amended by the addition of the following new Section 2-5-4-1, which shall read as follows:

19 **2-5-4-1: TERM LIMITS:**

20  
21 **A. In order to allow for more direct citizen participation in Town government, no**  
22 **member of the authority shall serve more than two (2) consecutive four-year terms**  
23 **in office, and no member of the authority shall be reappointed to the authority if he**  
24 **or she has already completed two (2) consecutive four-year terms in office. Time**  
25 **served on the authority resulting from an appointment made by the Town Council**  
26 **to fill a vacancy on the authority does not count in determining compliance with the**  
27 **limitation of this Section A.**

28  
29 **B. The members of the authority who are in office on January 31, 2018 shall be**  
30 **subject to Section A when their current terms of office expire. No member of the**  
31 **authority may be reappointed if such action would violate Section A. Section A shall**  
32 **not be applied to shorten the term of any member of the authority.**

33  
34 **C. A person who is term-limited under Section A may not be appointed to the**  
35 **authority until four (4) years have expired following the end of term of office that**  
36 **resulted in the person being term-limited.**

37  
38 **D. A person who is term-limited under Section A may be appointed to fill a vacancy**  
39 **and serve out the remainder of the term of office of a member of the commission**  
40 **even though four (4) years have not expired following the end of term of office that**  
41 **resulted in the person being term-limited.**

42  
43 Section 2. Except as specifically amended hereby, the Breckenridge Town Code, and the  
44 various secondary codes adopted by reference therein, shall continue in full force and effect.



## MEMO

TO: Town Council

FROM: Town Attorney

RE: New Town Real Estate License Ordinance

DATE: June 5, 2017 (for June 13<sup>th</sup> meeting)

---

Almost twenty years ago the Town Council adopted an ordinance establishing a formal process for the granting of a “license” for the use of Town-owned real property. A “license” is a revocable authorization for a person (either a private person or another governmental entity) to use Town-owned real property for the person’s own use under certain specified terms and conditions.

A license is not an easement that typically restricts the Town’s use of its real property in perpetuity. A license can be terminated by the Town at any time, and without any liability to the holder of the license.

Licenses have been granted by the Town for a number of public and non-public uses of Town property, such as fences that encroach into the Town’s right-of-way, building overhangs that encroach into Town-owned easements, private walkway encroachments into Town right-of-way, and other similar circumstances where a public or private person proposes to use (or is already currently using) Town property for its own use.

The Town benefits from the issuance of a license agreement because the terms and conditions of the licensee’s use (or continued use) of the Town property are clearly set forth in the license agreement, and the right of the Town to require the licensee to stop using the Town property upon notice is agreed to and clearly set forth. This avoids any argument in the future should the Town elect to terminate the license agreement.

The licensee benefits from the issuance of a license agreement because formal permission to use the Town property is obtained, and so long as the licensee complies with the terms and conditions of the license agreement, the licensee can continue to use the Town’s property until the Town elects to terminate the license agreement. License agreements are typically transferable, so a license agreement that benefits a landowner can typically be transferred to future owners of the property. Note that a person cannot acquire ownership of Town owned real property by merely using or possessing the property for a specified number of years (a legal theory called “adverse possession”). Since adverse possession is not available with respect to Town real property, a license agreement is a benefit to the private person because the person is at least formally granted the right to use the Town property under certain specified terms and conditions.



The 1998 ordinance authorized the Town Engineer to approve the granting of a license for the use of Town property in three circumstances: (i) to authorize the continuation of an encroachment into Town real property that existed at the time the ordinance was adopted; (ii) to authorize the construction of a fence within Town real property; and (iii) when the issuance of a license agreement was a condition of an approved development permit. A 2002 amendment to the Town Real Estate License Ordinance authorized the Town Manager to grant a license for the use of Town property in connection with the Town Manager's approval of a contract for the use of such property. Any other request for a license to use Town property had to be formally approved by the Town Council.

In practice, the 1998 ordinance has worked reasonably well. However, some of the provisions of the current ordinance seem dated and no longer necessary. Other portions of the current ordinance are incomplete or inadequate. There are ways in which I think the current ordinance can be improved, and I have drafted the attached ordinance to try to do that.

The highlights of the proposed ordinance are as follows:

1. The proposed ordinance, like the original 1998 ordinance, still requires a license agreement for most nonpublic uses of Town-owned real property. The new ordinance clarifies that a license agreement is also required for the public use of Town real property by a quasi-municipal corporation, the county, state or the federal government. I think the requirement for a license agreement for any private or public use of Town real property is both appropriate and important.

Like the prior ordinance, however, an exception is made for grass, trees, shrubs, and flowers that may be placed by a private person within a Town right of way without a license agreement, but the proposed ordinance provides (as does the current ordinance) that the Town has no liability for the loss, damage, or destruction of any such landscaping materials. Other exceptions to the requirement for a person to obtain a license agreement from the Town are now clearly specified in Section 11-6-2B of the proposed ordinance. This is an improvement over the language in the current ordinance.

2. The most significant change proposed by the new ordinance is a simplification of the administrative process for the approval of a license agreement. Under the new ordinance, the Town Manager would have the authority to approve any license agreement for the use of Town-owned property. However, the Town Manager's decision to approve a license agreement is not purely discretionary; he can approve a license only when:

A. The license is required as a condition of an approved development permit; or

B. The nature, scope, location, and duration of the licensee's use or proposed use of the town real property will not substantially interfere with the town's need for complete control over its property; and the approved use of town real property pursuant to the requested license agreement will not result in the creation or continuation of a nuisance, or a threat to the public health, safety, or welfare.

The proposed ordinance requires the Town Manager to deny any request for a license agreement that fails to satisfy these criteria.

3. The current ordinance has detailed requirements for the form and content of a license agreement. Experience has shown that such detailed requirements are sometimes too specific, and that it would be better practice to simply provide that the form and content of a license agreement shall be acceptable to the Town Attorney. The proposed ordinance does that.

4. The current ordinance requires a licensee to reimburse the Town for my time in preparing a license agreement. The proposed ordinance allows (but does not require) the Town Manager to waive this requirement for a license agreement with another governmental entity.

I think the proposed ordinance is an improvement over the current Town Real Estate License Ordinance. Because a license agreement is fully revocable by the Town at any time, no license agreement entered into by the Town should ever prevent the Town from reclaiming full, unrestricted use of its property in the future should conditions or circumstances warrant.

I will be happy to discuss this ordinance with you on Tuesday.

1 **FOR WORKSESSION/FIRST READING – JUNE 13**

2  
3 COUNCIL BILL NO. \_\_\_\_

4  
5 Series 2017

6  
7 AN ORDINANCE REPEALING AND READOPTING WITH CHANGES CHAPTER 6 OF  
8 TITLE 11 OF THE BRECKENRIDGE TOWN CODE CONCERNING LICENSE  
9 AGREEMENTS FOR THE USE OF TOWN REAL PROPERTY

10  
11 BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BRECKENRIDGE,  
12 COLORADO:

13  
14 Section 1. Chapter 6 of Title 11 of the Breckenridge Town Code is repealed and  
15 readopted with changes to read as follows:

16  
17 **CHAPTER 6**

18  
19 **LICENSE AGREEMENTS FOR USE OF TOWN REAL PROPERTY**

20  
21 **SECTION:**

22  
23 **11-6-1: DEFINITIONS**

24 **11-6-2: LICENSE REQUIRED; EXCEPTIONS**

25 **11-6-3: AUTHORITY OF TOWN MANAGER TO APPROVE LICENSE**

26 **11-6-4: APPROVAL CRITERIA**

27 **11-6-5: FORM AND CONTENT OF LICENSE AGREEMENT**

28 **11-6-6: LICENSEE TO PAY TOWN ATTORNEY'S FEES**

29 **11-6-7: LICENSE FOR USE OF TOWN PROPERTY BY PUBLIC ENTITY**

30  
31 **11-6-1: DEFINITIONS: As used in this chapter, the following words have**  
32 **the following meanings:**

33  
34 **LICENSE AGREEMENT: A written agreement granting a revocable,**  
35 **personal privilege to use a specified portion of the town's real property for a**  
36 **defined and limited public or nonpublic use entered into by the town**  
37 **manager on behalf of the town pursuant to this chapter.**

38  
39 **LICENSEE: A person named as a licensee in a license agreement.**

40  
41 **NONPUBLIC USE: Any use of town real property by any person other than**  
42 **a quasi-municipal corporation, a county, a political subdivision of the state of**  
43 **Colorado or the United States government, or any agency or instrumentality**  
44 **thereof.**

45  
46 **PUBLIC USE: Any use of town real property by a quasi-municipal**

1 corporation, a county, a political subdivision of the state of Colorado or the  
2 United States government, or any agency or instrumentality thereof.

3  
4 TOWN REAL PROPERTY: Any real property interest owned by the town.

5  
6 11-6-2: LICENSE REQUIRED; EXCEPTIONS:

7  
8 A. Except as provided in section B, below, a license agreement is required for any  
9 public or nonpublic use of town real property.

10 B. This section does not apply to:

11 1. Use of town real property by the town.

12 2. Landscaping materials, including, but not limited to, grass, trees, shrubs and  
13 flowers, which materials may be placed within a town right of way without a  
14 license agreement or other authorization. The town shall have no liability to  
15 any person for the loss, damage or destruction of any landscaping materials  
16 placed within town right of way.

17 3. Use of town real property pursuant to a valid agreement, including, but not  
18 limited to, an easement, a lease, or a permit issued by the town.

19 4. Use of town real property when such property is made available by the town  
20 for use by the general public.

21 5. Use of town property as permitted by law.

22  
23 11-6-3: AUTHORITY OF TOWN MANAGER TO APPROVE LICENSE:

24 The town manager shall have the authority to approve and sign a license  
25 agreement for the public or nonpublic use of any town real property.

26  
27 11-6-4: APPROVAL CRITERIA:

28  
29 A. A license agreement may be approved by the town manager when such license is  
30 required as a condition of an approved development permit issued by the town.

31 B. Other license agreements may only be approved by the town manager if:

32 1. the nature, scope, location, and duration of the licensee's use or proposed use  
33 of the town real property will not substantially interfere with the town's need  
34 for complete control over its property; and

35 2. the approved use of town real property pursuant to the requested license  
36 agreement will not result in the creation or continuation of a nuisance, or a  
37 threat to the public health, safety, or welfare.

38  
39 Except as provided in section A of this section, any request for the granting of a  
40 license agreement that fails to satisfy both of these criteria shall be denied by the  
41 town manager.

1 **11-6-5: FORM AND CONTENT OF LICENSE AGREEMENT: The form**  
2 **and content of a license agreement shall be acceptable to the town attorney.**  
3

4 **11-6-6: LICENSEE TO PAY TOWN ATTORNEY'S FEES: The licensee**  
5 **shall pay the cost of having the town attorney prepare a license agreement**  
6 **approved pursuant to this chapter. The town manager may waive the**  
7 **requirements of this section in connection with a license for the public use of**  
8 **town real property approved pursuant to section 11-6-7.**  
9

10 **11-6-7: AGREEMENT FOR USE OF TOWN PROPERTY BY PUBLIC**  
11 **ENTITY: The town manager shall have the authority to approve and execute**  
12 **a license agreement for the public use of any Town property. Sections 11-6-4,**  
13 **11-6-5, and 11-6-6 shall apply to the town manager's approval of any license**  
14 **agreement pursuant to this section.**  
15

16 Section 2. Except as specifically amended by this ordinance, the  
17 BreckenridgeTownCode, and the various secondary codes adopted by reference therein, shall  
18 continue in full force and effect.  
19

20 Section 3. The Town Council finds, determines, and declares that it has the power to  
21 adopt this ordinance pursuant to the authority granted to home rule municipalities by Article XX  
22 of the Colorado Constitution and the powers contained in the Breckenridge Town Charter.  
23

24 Section 4. This ordinance shall be published and become effective as provided by Section  
25 5.9 of the Breckenridge Town Charter.  
26

27 INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED  
28 PUBLISHED IN FULL this \_\_\_\_ day of \_\_\_\_\_, 2017. A Public Hearing shall be held at the  
29 regular meeting of the Town Council of the Town of Breckenridge, Colorado on the \_\_\_ day of  
30 \_\_\_\_\_, 2017, at 7:00 P.M., or as soon thereafter as possible in the Municipal Building of the  
31 Town.  
32

33 TOWN OF BRECKENRIDGE, a Colorado  
34 municipal corporation  
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36  
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38 By: \_\_\_\_\_  
39 Eric S. Mamula, Mayor  
40  
41

1 ATTEST:

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\_\_\_\_\_  
Helen Cospolich  
Town Clerk

# **THE CURRENT TOWN LICENSE ORDINANCE THAT WOULD BE REPEALED**

## **Chapter 6 LICENSE AGREEMENTS FOR USE OF TOWN PROPERTY**

### **11-6-1: DEFINITIONS:**

### **11-6-2: LICENSE REQUIRED; EXCEPTION:**

### **11-6-3: AUTHORITY OF TOWN ENGINEER TO APPROVE LICENSE:**

### **11-6-4: SUBMITTAL REQUIREMENTS:**

### **11-6-5: APPROVAL CRITERIA:**

### **11-6-6: STANDARDS:**

### **11-6-7: TOWN MANAGER TO EXECUTE LICENSE AGREEMENT:**

### **11-6-8: FORM AND CONTENT OF LICENSE AGREEMENT:**

### **11-6-9: LICENSEE TO REIMBURSE TOWN:**

### **11-6-10: AUTHORITY OF TOWN MANAGER TO APPROVE CERTAIN LICENSES:**

### **11-6-1: DEFINITIONS:**

As used in this chapter, the following words shall have the following meanings:

**LICENSE AGREEMENT:** A written agreement granting a revocable, personal privilege to use a specified portion of the town's real property for a defined and limited nonpublic use.

**LICENSEE:** A person named as a licensee in a license agreement.

**NONPUBLIC USE:** Any use of town real property by any person other than the town, any quasi-municipal corporation, any political subdivision of the state of Colorado or the United States government or any agency or instrumentality thereof. Nonpublic use does not include use by the general public where town real property is made available by the town for use by the general public.

**TOWN REAL PROPERTY:** Any real property interest owned by the town including, but not limited to, town rights of way. (Ord. 28, Series 1998)

### **11-6-2: LICENSE REQUIRED; EXCEPTION:**

A license agreement is required for any nonpublic use of town real property, except as otherwise permitted by law or as expressly authorized by the town by easement or other written agreement or permit. However, landscaping materials, including, but not limited to, grass, trees, shrubs and flowers, may be placed within town real property without a license agreement or other authorization. The town shall have no liability to any person for the loss, damage or destruction of any landscaping materials placed within town real property. (Ord. 28, Series 1998)

### **11-6-3: AUTHORITY OF TOWN ENGINEER TO APPROVE LICENSE:**

The town engineer shall have the authority to approve the granting of a license agreement for the use of town real property when: a) a license agreement is required to authorize the continuation of an encroachment into town real property which existed at the date of the adoption of this chapter, b) a license agreement is required to authorize the construction of a fence within town real property, and c) a license agreement is required as a condition of approval of a development permit issued pursuant to [title 9, chapter 1](#) of this code. The town council may, in its discretion, approve the granting of a license agreement for other uses or under other circumstances. (Ord. 28, Series 1998)

#### **11-6-4: SUBMITTAL REQUIREMENTS:**

A person desiring to obtain a license agreement pursuant to this chapter shall submit to the town engineer a survey prepared by a licensed Colorado surveyor depicting the portion of the town real property for which the license agreement is requested, together with such other information as the town engineer shall reasonably require. (Ord. 28, Series 1998)

#### **11-6-5: APPROVAL CRITERIA:**

A license agreement may be approved by the town engineer only when: a) the nature, scope, location and duration of the licensee's use or proposed use of the town real property will not substantially interfere with the town's need for complete control over its property and b) the approved use of town real property pursuant to the requested license agreement will not result in the creation or continuation of a public or private nuisance or threat to the public health, safety or welfare. Any request for the granting of a license agreement which fails to satisfy both of these criteria shall be denied by the town engineer. (Ord. 28, Series 1998)

#### **11-6-6: STANDARDS:**

The following standards shall apply to the approval of a license agreement by the town engineer pursuant to this chapter:

- A. A license agreement may only be issued to the owner of real property abutting town real property, or another person with a legitimate need for a license agreement.
- B. Any fence constructed pursuant to a license agreement shall be constructed in compliance with the recommendations (both design standards and policies, whether denominated as a "priority policy" or not) of the "handbook of design standards", as well as any other applicable ordinances of the town. (Ord. 28, Series 1998)
- C. If a license agreement is requested in order to permit the erection of a fence or other improvement within town real property, such license agreement shall only be issued in connection with the issuance of a class D minor development permit. The execution of a license agreement may be a condition of approval of the required development permit. (Ord. 1, Series 2014)
- D. Any fence erected within town real property pursuant to a license agreement shall be placed no closer than eighteen inches (18") from the sidewalk. No license agreement shall be issued where no sidewalk exists within the portion of the town real property for which the license is issued, unless the town engineer determines that such a sidewalk will be constructed within a reasonable period of time following the issuance of the license agreement. (Ord. 28, Series 1998)



### **11-6-7: TOWN MANAGER TO EXECUTE LICENSE AGREEMENT:**

Upon the approval by the town engineer of the granting of a license agreement pursuant to this chapter, the town manager shall have the authority to execute such license agreement for and on behalf of the town. (Ord. 28, Series 1998)

### **11-6-8: FORM AND CONTENT OF LICENSE AGREEMENT:**

A license agreement shall be in form and substance acceptable to the town attorney; provided, however, that any license agreement entered into by the town shall include provisions acceptable to the town attorney which provide:

- A. The license agreement shall be fully revocable upon written notice to the licensee.
- B. The license agreement is fully transferable to subsequent owners of the licensee's property which abuts the town real property so long as the subsequent owner assumes the obligations of the licensee under the license agreement in a form acceptable to the town attorney.
- C. The town shall not be liable for the damage, destruction or loss of any property erected, installed, placed or maintained within town real property pursuant to a license agreement. (Ord. 28, Series 1998)
- D. The licensee shall provide commercial general liability insurance insuring against losses, damages or claims arising from the licensee's use of the town real property pursuant to a license agreement. Such insurance shall have limits of liability of not less than one million dollars (\$1,000,000.00), or such higher limits of liability as the town manager may require based upon the nature of the licensee's use of the town real property and other relevant factors. The town shall be named as an additional insured under such insurance policy. (Ord. 28, Series 2013)
- E. The licensee shall be required to indemnify the town from all losses, claims and damages arising from the licensee's use of the town real property pursuant to the license agreement. (Ord. 28, Series 1998)

### **11-6-9: LICENSEE TO REIMBURSE TOWN:**

A licensee shall reimburse the town for any actual and necessary costs incurred by the town in having the town attorney prepare a license agreement approved pursuant to this chapter. (Ord. 28, Series 1998)

### **11-6-10: AUTHORITY OF TOWN MANAGER TO APPROVE CERTAIN LICENSES:**

The town manager shall have the authority to administratively grant a revocable license for the nonpublic use of town owned real property in connection with the town manager's approval of a contract for the use of such property. The town manager shall not grant a revocable license for the use of town owned real property unless he determines that the granting of such license is necessary or appropriate and that the granting of such license would be in the best interest of the town. The provisions of section [11-6-6](#) of this chapter shall not apply to the town manager's decision to grant a revocable license for the use of town owned real property pursuant to this section. The provisions of sections [11-6-8](#) and [11-6-9](#) of this chapter shall apply to the town manager's granting of a revocable license for the use of town owned real property pursuant to this section insofar as the town manager

determines that such sections are relevant and appropriate for inclusion in the contract. The form of any contract which includes the granting of a revocable license for the use of town owned property pursuant to this section shall be subject to the approval of the town attorney. (Ord. 44, Series 2002)

## MEMO

TO: Town Council

FROM: Julia Puester, AICP, Planning Manager

RE: Ordinance 21, Series 2017 and Resolution 16, Series 2017- An Ordinance and Resolution to Adopt the “Breckenridge Public Art Program Master Plan + Policy 2016” As a Part of the Town’s Comprehensive Plan

DATE: June 7, 2017 (for meeting of June 13, 2017)

---

The “Breckenridge Public Art Program Master Plan + Policy 2016” is proposed to be part of the Town’s Comprehensive Plan (set forth in Chapter 4 of Title 9) and as such, staff has taken the Plan to the Planning Commission at their April 18 meeting. At that meeting, the Planning Commission approved (with a vote of 4-0) Resolution 1, Series 2017, A Resolution recommending the inclusion of the “Breckenridge Public Art Master Plan + Policy 2016” as part of the Town’s Comprehensive Plan.

The Town Council then held a work session on the new “Breckenridge Public Art Program Master Plan + Policy 2016” on May 23 with Breckenridge Creative Arts (BCA).

Comments received by the staff from the Town Council at that meeting have been reflected in the attached Plan. The changes since the work session include:

- **Section 5.2 Key Strategies, Initiatives + Opportunities:**

*Page 28, Strategy #4, Future Opportunities, the 4<sup>th</sup> bullet item was deleted to remove reference to the opportunity of increasing positive points for public art and offsite points.*

*Page 29, Strategy #4, Future opportunities, the 2<sup>nd</sup> bullet point, first sentence was modified to note that the “BCA staff will review proposed Capital Improvement Projects annually and identify those projects that lend themselves to the integration of public art. Once projects are identified, BCA staff will then initiate conversations with the appropriate staff from the Planning and Engineering Departments to look at opportunities to incorporate public art into public projects.” (This is now subsequently located on Page 28 as the 6<sup>th</sup> bullet item.)*

- **Section 6.3 Roles + Responsibilities:**

*Page 34, Breckenridge Town staff, last sentence was replaced to note that the “BCA staff and the Public Art Advisory Committee will provide assistance to Town staff on the review of all applications to locate public art within town to ensure that they satisfy the criteria outlined in the Master Plan + Policy.”*

- **Section 10.4 Special Guidelines by Project Type:**

*Page 45, Art in public development, 3<sup>rd</sup> sentence deleted to remove the reference to a separate Capital Improvement budget to be requested by BCA from the Town Council to fund approved public art projects within public projects.*

*Page 45, Art on private property, 3<sup>rd</sup> sentence replaced “identified Creative Zones” with “on private property”, as the Planning Staff would like to spend some time with the BCA staff to better understand the proposed Creative Zones. BCA Staff will reach to the Planning Staff in the future to review the proposed Creative Zones. This will be included in the upcoming 5-year plan for the public art program.*

*Page 46, Developer incentive guidelines, PAAC review the “s” (plural reference) was removed from points to be consistent with the existing positive point policy (where only one positive point is possible). This same revision was made under Town Planning Commission review.*

An ordinance is enclosed with this memo and staff has provided a recommended motion below. If approved, the Town Council will hold a public hearing on the Plan at the evening meeting and adopt a resolution as well as this ordinance. The resolution appears as the next agenda item.

#### **Recommended Motion**

*“I move to approve Ordinance 21, Series 2017, An ordinance recommending the inclusion of the ‘Breckenridge Public Art Program Master Plan + Policy 2016’ as part of the Town’s Comprehensive Plan.”*



1 Town of Breckenridge flood damage prevention ordinance<sup>6</sup>.

2 Breckenridge subdivision ordinance<sup>7</sup>.

3 Blue River walkway improvements plan. (Ord. 17, Series 1996)

4  
5  
6  
7 Town of Breckenridge trails plan (revised August 2008). (Ord. 2, Series 2009)

8  
9 ~~The art in public places master plan (revised January 2006). (Ord. 10, Series 2006)~~

10  
11 Upper Blue Nordic master plan (revised 2011). (Ord. 36, Series 2011)

12  
13 Cucumber Gulch recreation master plan. (Ord. 53, Series 2003)

14  
15 The arts district of Breckenridge master plan. (Ord. 1, Series 2005)

16  
17 **The Breckenridge Public Art Program Master Plan + Policy 2016**

18  
19 <sup>1</sup> See chapter 5 of this title.

20 <sup>2</sup> See title 10, chapter 4 of this code.

21 <sup>3</sup> See title 10, chapter 1 of this code.

22 <sup>4</sup> See chapter 3 of this title.

23 <sup>5</sup> See title 10, chapter 2 of this code,

24 <sup>6</sup> See title 10, chapter 3 of this code.

25 <sup>7</sup> See chapter 2 of this title.

26  
27 Section 2. Except as specifically amended hereby, the Breckenridge Town Code, and the  
28 various secondary codes adopted by reference therein, shall continue in full force and effect.

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

33 Section 4. The Town Council hereby finds, determines, and declares that it has the  
34 power to adopt this ordinance pursuant to: (i) the Local Government Land Use Control Enabling  
35 Act, Article 20 of Title 29, C.R.S.; (ii) Part 3 of Article 23 of Title 31, C.R.S. (concerning  
36 municipal zoning powers); (iii) Chapter 4 of Title 9 of the Breckenridge Town Code; (iv) the  
37 authority granted to home rule municipalities by Article XX of the Colorado Constitution; and  
38 (v) the powers contained in the Breckenridge Town Charter.

39 INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED  
40 PUBLISHED IN FULL this \_\_\_\_ day of \_\_\_\_\_, 2017. 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  
42 \_\_\_\_\_, 2017, at 7:00 P.M., or as soon thereafter as possible in the Municipal Building of the  
43 Town.  
44



TOWN OF BRECKENRIDGE, a Colorado  
municipal corporation

By \_\_\_\_\_  
Eric S. Mamula, Mayor

ATTEST:

\_\_\_\_\_  
Helen Cospolich , CMC,  
Town Clerk

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BRECKENRIDGE PUBLIC ART PROGRAM  
MASTER PLAN + POLICY 2016



Breckenridge Creative Arts

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  - 1.2 Types of Public Art
  - 1.3 What is a Public Art Master Plan?
- 2.0 Community Context
  - 2.1 Breckenridge Past + Present
- 3.0 Breckenridge Public Art Program
  - 3.1 Breckenridge Public Art Collection Overview
  - 3.2 History of the Public Art Collection
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  - 3.4 Temporary + Ephemeral Installations
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- B. Credits + Acknowledgements

# EXECUTIVE SUMMARY

The Breckenridge Public Art Program engages passersby from all walks of life, inciting conversation around topics that are quintessentially Breckenridge, from the picturesque mountain environment to rich local history. Pieces in the permanent collection occupy carefully-selected public spaces throughout town, and are thoughtfully curated to enhance the collective aesthetic experience of locals and visitors alike. In addition to the permanent collection, temporary and ephemeral installations bolster the experience of Breckenridge as a haven for creativity high in the Colorado Rocky Mountains.

Formerly managed by the Town of Breckenridge, the Breckenridge Public Art Program is now run by Breckenridge Creative Arts (BCA), a nonprofit organization that began operating in 2015. BCA spearheaded the creation of this

Public Art Program Master Plan + Policy, which builds on the Town's 2006 "Art in Public Places Master Plan" with input from community representatives to chart the course of public art in Breckenridge.

The document is divided into three major parts. Part 1 is the Public Art Master Plan, which gives creative direction to the Breckenridge Public Art Program. Part 2 is the Public Art Policy, which outlines the specific policies and procedures that guide day-to-day operations required to put the plan into action. Part 3 offers a visual tour of the Breckenridge public art collection as it stands today, representing rich stories of local lore, captivating vistas, environmental stewardship, and all the other aspects that make each piece uniquely Breckenridge.







# PART 1: PUBLIC ART MASTER PLAN

## 1.0 INTRODUCTION

### 1.1 Art in Public Space

What is public art? Public art can be defined as art that is located in the public realm—whether a large-scale, site-specific sculpture that forms the centerpiece of a community gathering place, a thoughtful piece perched inconspicuously along a public trail, or detail work integrated into functional items like benches, walkways, retaining walls, and architectural treatments. Works of public art often animate outdoor spaces, or they can enhance the interior spaces of community facilities like bus shelters, recreation centers, and government offices.

Public art comes in many shapes, sizes, and textures. Artworks can take on more traditional forms, such as sculptures, paintings, or mosaics, or they can utilize contemporary multimedia tools to produce transitory soundscapes, lighting installations, and projections. Some public art is representational, meaning the subject matter is recognizable—for example, a sculpture of a child reading or a horse and rider headed off into the distance. Other art is abstract, giving viewers the opportunity to interpret the artist’s meaning, and to draw their own meaning from a piece as well. Public art can be fashioned by a sole author with a singular voice, or many collaborators offering a multiplicity of viewpoints.

The best public art responds to the physical, cultural, natural, historical, or social context of a location and its community, honoring the beliefs its members hold dear while providing opportunities for engagement and social interaction. Through

public art, a sense of place and belonging can be created, and the diversity and creative aspirations of a community reflected. Thus a thoughtfully curated public art program is essential, for it not only represents a community’s heritage, but also the future it envisions for itself—contributing in a symbolic and visually stimulating way to the evolution of a community’s sense of identity.

Around the world, public art is used as a tool for beautification and economic development, with many cities integrating it into their planning processes as a way to revitalize public spaces. Well-considered public art enhances a community’s physical appearance and strengthens its identity, drawing residents and businesses as a result. A town that invests in public art shows that it is forward-thinking, and committed to fostering creativity by making cultural experiences available to all segments of the local and visiting community. In private development, public art can also be a beneficial investment—the enhanced aesthetic value leading to increased rentals or property values while improving a developer’s public image.

In addition to permanent works of public art, events featuring temporary or ephemeral installations by renowned or emerging artists can also help to grow the local economy by driving creative tourism.

## 1.2 Types of Public Art

The Breckenridge Public Art Program considers public art to be any art that is located on public or private property which is visible or accessible to the public.

Public spaces include parks, road allowances, tunnels, streets, courtyards, squares, and bridges, as well as building exteriors, foyers, and significant interior public areas of municipal buildings. Private properties located in visible or publicly accessible areas can also host public art. Each site provides an opportunity to enhance our shared spaces in a way that honors and reflects our character—whether on a long-term or fleeting basis—with the potential to confer economic benefits as well.

The Breckenridge Public Art Program focuses on three types of public art projects:

- **Permanent** - Permanent artworks are generally considered to be made from materials and construction methods that have a lifespan of at least 10 years.
- **Temporary** - Temporary artworks are pieces that have a defined lifespan of no more than five years and often much less, including seasonal exhibitions.
- **Ephemeral** - Ephemeral artworks are works with a very short lifespan, such as environmental installations, street art, and performances.

Within the above project types, public art falls into a wide variety of categories that include:

- **Iconic** - A standalone or significant work, where the artist's approach is largely independent of other considerations. In other words, this is "art-for-art's-sake." Examples include sculpture, water features, lighting, and multimedia. Often site-specific.
- **Site-specific** - Works designed specifically for, and responsive to, a particular site through scale, material, form, and concept. Could apply to all listed categories.
- **Functional** - Works or design elements in which the primary purpose is utilitarian, such as benches, bicycle racks, bus shelters, fences, and gates. Can also be decorative, integrated, or site specific.
- **Decorative** - Works in which the primary purpose is to aesthetically enhance an environment or structure, such as incorporated imagery or sculpture, paving elements, and lighting. Can also be functional, iconic, integrated, or site-specific.
- **Integrated** - Works that are fully incorporated within the design of the built or natural environment. Integrated works may include bridges, retaining walls, walkways, and buildings. Can also be decorative and/or functional.

# TEMPORARY PUBLIC ART IN BRECKENRIDGE





### 1.2 Types of Public Art continued

- **Interpretive** – Works in which the primary purpose is to describe, educate, and comment on issues, events, or situations. Examples include signage, pavement inlays, sculpture, seating, landscaping, murals, and text-based work. Can also be functional, decorative, iconic, and site specific.
- **Commemorative** – Works in which the primary purpose is to acknowledge and recall an event, activity, or person important to the local community and its visitors. Examples include sculpture, murals, pavement details, and gardens. Could apply to all listed categories.
- **Participatory or community-based** – Works in which the primary purpose is to engage artists and the general public in the creation of an artwork. These collaborations provide communities with the means to positively impact their environment and develop pride and ownership over their parks, streets, and public institutions. Could apply to all listed categories.

### 1.3 What is a Public Art Master Plan?

A Public Art Master Plan is a visioning piece that establishes the creative direction for a public art program. It is distinct from Public Art Policy, a set of specific procedures that guide daily work.

In a Master Plan, the underlying beliefs and strategies are intentionally broad, seated deep in a community's identity and reflective of the character it hopes to exhibit through public art. A Master Plan is a tool used to guide strategic decision-making by arts managers and committees of public representatives as they pursue opportunities for public art experiences, from the selection of new permanent public artworks to the programming of festivals, activities, and installations.

The Breckenridge Public Art Master Plan starts by looking at who we are—how our history, pastimes, values, and aspirations combine to create the community identity of Breckenridge. It is from this sense of collective identity that our current Public Art Program emerged.

From this strong foundation we then chart a course for the future of the Breckenridge Public Art Program by establishing meaningful, collectively generated, creative guidelines. Decision-making within the framework of the Master Plan ensures that the Breckenridge Public Art Program enhances our sense of place while positioning Breckenridge as a destination for creativity.





## 2.0 COMMUNITY CONTEXT

To move forward with a public art program that reflects the unique character of our mountain town and the diverse individuals who live, work, and play here, we first need to take stock of who we are and how we got here.

### 2.1 Breckenridge Past + Present

The Town of Breckenridge is a place of great historical importance with significant cultural assets, environmental features, and strong economic growth and potential. The distinctive attributes of Breckenridge hold considerable value to those who live, work, and play in this beautiful mountain destination.

Breckenridge is located high in Colorado's Rocky Mountains at a base elevation of 9,600 feet. Flanked by vast stretches of National Forest, it offers recreation opportunities to today's outdoor enthusiast from hiking, biking, and fly-fishing to winter snow sports. The town lies nestled in a forest of lodgepole pine and aspen trees beneath high mountain meadows that burst with wildflowers each summer, making for a striking and colorful contrast to the craggy, snow-covered Tenmile Range behind it.

Once a summer hunting ground for the Ute people, the area drew its first wave of permanent settlers with the discovery of gold in 1859. The Town of Breckenridge was founded that same year. Early settlers made a living from the earth, seeking gold in area waterways and hard rock deposits. The mining era saw several population booms—with the arrival of the railroad and advent of hard rock mining in the 1880's, and dredge boats in the early 1900's—followed by busts in which the population declined.

## 2.1 Breckenridge Past + Present continued

Those were rough-and-tumble years for the emerging town, in which the contrasts of the Old West—saloons and outlaws set against stringent Victorian values—were evident. The architectural style that emerged in this period is described as “simple Victorian vernacular,” less ornate than the detail work and bric-a-brac of traditional Victorian architecture. The hunt for gold and other precious metals spurred wealth and development in Breckenridge, but damaged some of the area’s natural and cultural resources.

The next wave of settlement in Breckenridge came with the opening of Breckenridge Ski Resort in 1961. The early days were again characterized by a pioneering, make-do attitude as ski bums took up residence in abandoned mining shacks; and a quirky, independent spirit that materialized in the form of the raucous annual celebration, Ullr Fest, which continues to this day.

In more recent history, Breckenridge has been the scene of a growing creative community. Some of the first cultural organizations include the Breckenridge Backstage Theatre, a local community theater troupe that incorporated in 1976, the Breckenridge Film Festival (1981), the Breckenridge Music Festival Orchestra (chartered in 1981), and the National Repertory Orchestra (founded in 1960, and moved to Breckenridge in 1993).

Today the Town of Breckenridge is home to a mix of local residents whose families were among the area’s early pioneers, and full-time and part-time residents who came later seeking the healthy lifestyle and opportunities for outdoor recreation that the high country offers. Although the year-round population is much smaller, Breckenridge accommodates tens

of thousands of people during peak seasons when out-of-town visitors come to ski and snowboard; to enjoy other winter activities like Nordic skiing, dog sledding, and snowshoeing; or to take part in summer activities like fishing, hiking, road cycling and mountain biking, golf, history tourism, shopping, music and art festivals, and other events.

Breckenridge residents value local history, with local restorations and preservations occurring on a grand scale. Those, along with the many museums, historic sites, and educational tours offered today, contribute to the perception of modern Breckenridge as a Victorian mountain town alive with history.

Residents and guests are likewise concerned with preserving, rehabilitating, and protecting the striking natural resources for which the area is known. A number of Town policies have been enacted with that goal in mind—one major example being the Blue River Reclamation Project, in which more than 300,000 tons of rock and cobble were removed from a mile-long stretch of the Blue River in the early 1990’s to allow the river to flow through town in the open air once more.

Steeped in culture and heritage, the Town of Breckenridge provides a unique mix of creative opportunities for people of all ages and interests. Generations of artists, makers, musicians, and writers have chosen to live in or visit this beautiful Rocky Mountain destination, its inspiration reflected in their work. Through visual and performing arts, heritage and museum activities, craft education, culinary and healing arts, design, film, and literature, the community offers a scenic mountain environment with diverse opportunities for individual self-expression and cultural exploration.





### 3.0 BRECKENRIDGE PUBLIC ART PROGRAM

The Breckenridge Public Art Program consists of three major components—a permanent public art collection, primarily outdoor sculptures, installed in public gathering spaces over the past two decades; events and festivals featuring installations of temporary or ephemeral public art including seasonal exhibitions; and public art-related programming such as tours or hands-on activities aimed at showcasing or inviting community participation in public art.

#### 3.1 Breckenridge Public Art Collection Overview

The Breckenridge Public Art Program currently has 31 pieces in its permanent public art collection, including one work under commission from contemporary sculptor Albert Paley that is slated for installation in 2017. The artworks occupy gathering spaces and public thoroughways around town, where they engage both residents and guests, inspiring dialog around topics that are quintessentially Breckenridge, from the picturesque mountain environment to rich local history.

Some sculptures memorialize local historical features and events, such as Robin Laws' bronze sculpture of two burros, laden with gold pans, which commemorates the role of pack burros in the region's mining history; or Richard A. Jagoda's steel sculpture of the Norse god Ullr, seen as the bringer of snow, who has been celebrated since the 1960's in the boisterous annual Ullr Fest event. Other pieces pay homage to the natural environment, such as Steuart Bremner's "Colorado River Rock Bridge" over Cucumber Creek, which bears stones representing tributaries of the Colorado River; and Jack Hill's "Kachina Steel," a steel-and-stone rendition of a kachina doll that contains sacred spring water inside it.

### **3.1 Breckenridge Public Art Collection Overview continued**

The collection includes four interior pieces—a watercolor painting of historic Main Street by Ann Weaver at Town Hall; a local landscape rendered in oil on canvas by Stephen Day, located at the Riverwalk Center; a large-scale, translucent collage suspended from the ceiling at the Breckenridge Recreation Center by David Griggs; and a commemorative quilt in mixed media fiber art by Summit Quilters, which hangs in the new Breckenridge Grand Vacations Community Center & South Branch Library.

The majority of the pieces in the collection are outdoor installations, specifically designed to weather the elements as they animate public spaces. Several, like the abstract sculpture by Chaz della Porta in front of the Stephen C. West Ice Arena that commemorates former local firefighter Chris Ethridge, are hewn with weathering steel, which evolves to form a stable, rust-like appearance. Others are cast in bronze. Seth Venable's bronze sculpture of historical figure Tom Groves features a giant “gold” nugget that is intended to be interactive; as visitors rub the nugget for luck, it will take on a new polish and shine with the passing years.

There are 22 representational artworks in the collection, and nine that can be considered abstract, including Paley's forthcoming piece—a 24-foot-tall, cobalt blue, steel sculpture of intersecting convex and concave planes intended to evoke the irregular contours of the mountains, and study how they interplay with natural light. The Paley piece, entitled “Syncline” after the geological feature of the same name, will be the first

permanent installation in Colorado by the renowned contemporary sculptor. Its commission has inspired a great deal of pride and is seen as representing the community's willingness to take risks, to collaborate, to face controversy, and to follow a public process that is thoughtful, respectful, and open. It also represents an interest in continuing to expand the Breckenridge public art collection with high quality works.

### **3.2 History of the Public Art Collection**

The existing collection spans more than 20 years, starting in 1994 with the installation of Robert Tully's sculpture series, “A Miner's Dream,” in the Blue River Plaza area, which includes a polished stone slide and a replica of a miner's cabin sunk into the earth so kids can crawl in the attic, among other pieces. Breckenridge Town Council commissioned the work as part of a Town effort to create an artful walkway along the river.

Commissioning the first piece of public art was a learning experience, however, which led the Town to form a committee of employees and citizens to create the first “Art in Public Places Master Plan,” adopted in 1996 (and updated in 2006) to guide future selections. The plan served as a blueprint for the Town of Breckenridge Community Development Department, which managed public art commissions and donations for almost two decades.

Also in 1996, Town Council established the Breckenridge Public Art Commission (BPAC), a group of local representatives with a passion for and background in the arts, to advise the Council

### **3.2 History of the Public Art Collection continued**

on issues pertaining to the Public Art Program, including new commissions, management of the collection, and programming around public art.

The past two decades saw commissions of new public artworks made on a project-by-project basis, with project themes selected based on site locations. For example, pieces chosen to occupy niches in the Breckenridge Historic District tend to speak to area history, such as Emanuel Martinez' three-tiered bronze sculpture of Barney L. Ford, an escaped slave who became a wealthy Breckenridge businessman and leading Colorado civil rights activist.

Each commission followed a set process that involved a call to artists, from which three finalists were selected to submit drawings and/or maquettes of their proposed pieces. Afterwards the public was invited to submit input on the proposals, upon which the BPAC made a recommendation to Town Council.

Other pieces were acquired for the collection through donations by arts enthusiasts and patrons, many by way of Sculpture on the Blue, an annual sculpture-on-loan exhibition initially launched by Summit County Arts Council, which the Town took on in 2004. Spearheaded by a group of dedicated and passionate volunteers, local philanthropists were invited to view and purchase pieces in the exhibition to donate to the public art collection. Among the works procured in this way were "Gone Fishing," a flat-panel steel fisherman by Steve Puchek who casts his line in the Blue River in perpetuity, and

"My Book," a bronze figure of a child poring through a picture book, by Jane Rankin, that now graces the South Branch Library's new location on Harris Street.

After more than 20 years of management by the Town of Breckenridge, the entire Public Art Program—including not only the permanent collection, but also events featuring temporary installations and public art-related programming—came under new management by a nonprofit entity called Breckenridge Creative Arts (BCA) in 2015. The BPAC was dissolved and replaced with a two-tiered advisory structure in which a Public Art Advisory Committee (PAAC) makes recommendations to the new BCA Board, which in turn advises Town Council.

One of BCA's major initiatives has been the Breckenridge Public Art Program Master Plan + Policy 2016, which constitutes a significant expansion of the previous master plan. One of the features of the 2016 plan is a well-defined set of criteria for the selection of public artworks, both for permanent and temporary installations. These criteria are based on a careful consideration of who and what Breckenridge represents, and are encapsulated in a set of thematic narratives that emerged from a visioning session between PAAC members and BCA staff. The goal was to identify the components of our local identity that combine to build a strong sense of Breckenridge as a place, so that future artworks continue to represent the beliefs, values, and ideals that the Breckenridge community holds dear.



# EPHEMERAL PUBLIC ART IN BRECKENRIDGE





### **3.3 Future of the Public Art Collection**

Thus, future public art selections will continue to reflect community ideals by taking creative direction from carefully constructed thematic narratives, which remove any guesswork for managers and policy-makers on how to proceed with selecting and implementing public art. Using the thematic narratives as guidelines, BCA and its advisory committees will pursue curatorial balance by seeking out pieces that exemplify those narratives that are less represented in the current collection, and enhance the diversity of mediums, artists, and perspectives. New artwork selections will engage viewers, inspire conversation, and provide opportunities for interaction or education whenever possible.

While it is likely that the thematic narratives will change over time as the Breckenridge community continues to redefine itself, the process of selecting artworks in keeping with a defined set of guiding principles is now established through the 2016 Master Plan. It provides a means for the ongoing selection of permanent artworks that strengthen the collective message about who we are and who we want to be, acknowledging diversity while building on our formative past to interpret and nurture the strong sense of place that continues to evolve in Breckenridge.

### **3.4 Temporary + Ephemeral Installations**

In addition to the permanent collection, the Breckenridge Public Art Program includes temporary and ephemeral installations that enliven public spaces for a limited period of time, often as a part of festivals and events or seasonal

exhibitions. One example is Sculpture on the Blue, a rotating outdoor sculpture exhibition near the Blue River that has provided a vibrant sculpture garden for visitors and the local community to enjoy throughout the summer for more than a decade.

Temporary artworks can have a lifespan of up to five years, but are often exhibited for much less time. One example is “The Blue Trees” by world-renowned artist Konstantin Dimopoulos, in which aspen trees in town were colored a brilliant blue as part of the Breckenridge International Festival of Arts (BIFA) in the summer of 2015. Intended to fade with the seasons, the natural pigment provided a changing contrast with the brightly colored fall leaves, and later the brilliant whiteness of snow, as it gradually disappeared from the landscape.

Another example is QUACK: An Artful Duck Exhibition, which was presented in 2015 in partnership with the Summit Foundation during the 28th Annual Great Rubber Duck Race. The temporary exhibition featured seven oversized fiberglass ducks, each hand-painted by a local artist, on display throughout downtown Breckenridge.

Ephemeral artworks are much more fleeting. Examples include the chalk murals created at the Street Arts Festival, a celebration of street, pavement, and graffiti arts that takes place throughout the Breckenridge Arts District during the Town’s July Fourth weekend celebration.

### **3.4 Temporary + Ephemeral Installations continued**

They can also include performances and installations like those featured in the Trail Mix series—in which classical musicians performed seemingly at random, and artists constructed ephemeral installations of visual art—on Breckenridge-area trails; or “Australia’s The Fruits,” an open-air act featuring performers perched atop flexible, swaying poles. Both acts took place at the Breckenridge International Festival of Arts, an event which in and of itself could be considered ephemeral art.

Other festivals fall into the classification of ephemeral art too—including the winter Fire Arts Festival, which features flaming sculptures and fire performers; the new spring festival, WAVE: Light + Water + Sound, which juxtaposes modern digital media with the historic backdrop of Breckenridge; and the summer Street Arts Festival.

### **3.5 Public Art Programming**

The final component of the Breckenridge Public Art Program is the programming of events and activities that pertain specifically to public art—whether their intent is to raise awareness, educate, or encourage community participation. Examples include guided tours of the permanent collection, and hands-on activities in which the public is invited to participate in the installation or creation of public artworks.

There is often some overlap between the larger program of cultural arts events and activities managed by Breckenridge Creative Arts, and those which can be considered to have a public art focus. An example is the Día de los Muertos celebration and exhibition in the Breckenridge Arts District, which is presented by BCA in partnership with Metropolitan State University Denver’s Department of Chicana/o Studies and the Colorado Folk Arts Council. The two-day event features hands-on workshops, art installations, and a community altar made by local participants. Within that lineup, the art installations and collectively made altar can be considered public art.





#### 4.0 BRECKENRIDGE CREATIVE ARTS

In an era of declining investment in the arts, the Town of Breckenridge has gone above and beyond to embrace arts and culture by building up its existing cultural organizations, renovating and establishing new arts facilities, giving voice to artistic visionaries, and supporting contemporary festivals to breathe life into a burgeoning creative culture.

A major vehicle in this effort has been Breckenridge Creative Arts (BCA)—or BreckCreate for short—an independent, nonprofit organization formed by the Town to take over management of its existing arts venues and resources while also raising the level of programming.

BCA incorporated as a Colorado nonprofit corporation in November 2014 and began operations in January 2015 with experienced arts executive Robb Woulfe at the helm. It received its 501(c)(3) designation in March 2015. The Town provides BCA with an annual operating budget of just under \$2 million.

The model is unique to Breckenridge and takes the place of hiring an outside firm or continuing arts operations through a Town department. Benefits include enhanced opportunities for outside funding as well as organizational transparency.



#### **4.1 Overview of BCA Venues + Programming**

One of BCA's primary responsibilities is to manage the Town's five cultural arts venues, including:

- The Riverwalk Center, which hosts the entire summer repertoires of the Breckenridge Music Festival Orchestra and the National Repertory Orchestra, in addition to a full schedule of visiting bands, musicians, and multimedia events
- The Breckenridge Theater, home to the resident theater troupe, Breckenridge Backstage Theatre, while also serving as an intimate performance space for a variety of other cultural arts offerings
- The Breckenridge Arts District, a campus of renovated historic structures that accommodate a year-long schedule of multidisciplinary arts and craft classes, and serve as studio space for local and visiting artists
- Old Masonic Hall, a recently renovated historic building on Main Street that serves multiple functions as an exhibition space and location for visual and performing arts classes
- The Speakeasy Movie Theater, housed in the recently renovated brick schoolhouse that now serves as the Breckenridge Grand Vacations Community Center & South Branch Library

These venues are used by a number of longstanding cultural organizations in the Breckenridge creative community, including the Breckenridge Backstage Theatre, Breckenridge Film Festival, Breckenridge Heritage Alliance, Breckenridge Music Festival, and National Repertory Orchestra.

In recent years the Town of Breckenridge has invested more than \$25 million into these venues, including building out the Breckenridge Arts District campus; converting the historic schoolhouse into the new Breckenridge Grand Vacations Community Center & Summit County South Branch Library, which includes the Speakeasy Theater; acquiring and renovating Old Masonic Hall; upgrading the Riverwalk Center facility and equipment; and renovating the Breckenridge Theater.

To maximize these assets, BCA plans additional programming for the Town's venues, both in partnership with and independent of the cultural partners who use these spaces. BCA aims to present multidisciplinary work that cuts across music, dance, film, spoken word, literary and visual arts, education, and the creative and technology sectors. It seeks out bold, relevant programming that engages its community as a creative partner, offers artistic experiences that reflect its time and place, invites audience co-creation and hands-on involvement, and showcases Breckenridge's global identity.

#### 4.1 Overview of BCA Venues + Programming continued

Core program activities offered by BCA include:

- **Fine Art + Studio Craft curriculum**, focusing on year-round education and enrichment on the Breckenridge Arts District campus, including classes, workshops, and open studios in media such as painting, textiles, ceramics, metalwork, silversmithing, and more
- **Artist-in-Residence**, a program designed to offer artists the time, space, and community to encourage growth and experimentation in their respective practice. Guest artists are chosen on the basis of artistic merit, and live and work on the Breckenridge Arts District campus for two to four weeks. Additionally, BCA offers affordable studio space to local artists.
- **BCA Presents**, a series of ticketed concerts, lectures, and performances with national and international talent at the Riverwalk Center
- **BCA Curates**, a program of temporary exhibitions, installations, and pop-up art events in studios and creative spaces within the Breckenridge Arts District; the acquisition, conservation, and preservation of the growing Town of Breckenridge public art collection; and festivals, exhibitions, and special events that feature curated content

Within these core program activities, the Breckenridge Public Art Program falls into BCA Curates.

#### 4.2 BCA Collaboration + Advocacy

An underlying tenet of BCA programming is accessibility—an ethos reflected in the numerous free events, affordable ticket pricing policy, scholarship opportunities, and broad geographic reach. Audiences include a wide cross section of the greater Summit County community, including children, teens, young adults, families, and senior citizens; as well as the many tourists and day visitors who travel to Breckenridge each year. BCA seeks to provide artistic experiences that are relevant to its diverse audiences, and to forge bonds between individuals and institutions to help create a community that is engaged in creative activity across the board.

Drawing on the strengths of its peer creative community, BCA undertakes frequent collaborations with local artists, organizations, and businesses. These community-based alliances foster diversity, inclusion, and growth.

Examples of programming collaborations include co-presentations with resident companies and/or member organizations within the Breckenridge Cultural Coalition, including Breckenridge Film Festival, Breckenridge Music Festival, and Breckenridge Tourism Office. In addition, BCA partners with other regional and statewide nonprofits including Summit County Arts Council, Colorado Art Education Association, St. Anthony Summit Medical Center, and the Brain Injury Alliance of Colorado.

The BCA planning team also works closely with the Community Engagement and Public Art Advisory Committees, two



# CONTEMPORARY PUBLIC ART FESTIVALS IN BRECKENRIDGE



#### **4.2 BCA Collaboration + Advocacy continued**

volunteer-based groups comprised of local artists, educators, and creative entrepreneurs, to ensure that the organization achieves a balance between presenting the best national and international programming to Breckenridge audiences, and incubating opportunities for local artists and cultural organizations.

#### **4.3 BCA Vision, Mission + Goals**

Ultimately Breckenridge Creative Arts serves as an umbrella and advocacy organization to grow and leverage artistic and creative resources throughout Breckenridge. Its vision is to see Breckenridge become a world-leading creative destination, and its mission is to promote Breckenridge as a vibrant, year-round creative destination by developing inspiring collaborative experiences that attract visitors and enrich the lives of its citizens.

BCA acts in partnership with the Town and in alignment with the Town's vision, leading the creative economic development of Breckenridge by:

- Cultivating the Town's cultural assets and promoting the community as a leading year-round creative destination
- Supporting and collaborating with local artists, organizations, and businesses that are mission-aligned and foster mutually beneficial relationships
- Maintaining exceptional venues for resident companies, special event partners, promoters, and rental groups
- Presenting high-quality performing arts events and visual arts exhibitions

- Providing education and community engagement opportunities with a focus on art-making experiences and opportunities for creative play
- Curating and organizing public art projects, culture walks, studio visits, and residency programs

To achieve these aims, BCA has established five primary goals in its Strategic and Operational Plan:

- To extend and enhance the experience of the "recreation visitor" through creative offerings that differentiate Breckenridge from other recreational destinations
- To attract the "creative visitor" to Breckenridge who has not considered the town as a destination
- To enhance the creative experience of our residents
- To optimize the Town's investment in the creative assets we manage and maintain
- To build an independent, financially sustainable organization

#### **4.4 BCA as Public Art Program Manager**

When BCA formed as a nonprofit entity to handle management of the Town's cultural assets and arts programming, the Breckenridge Public Art Program was among the programs it took on. Thus the guiding principles of the Breckenridge Public Art Program fall under, and are aligned with, the overarching vision, mission, and goals of BCA.

While we offer a description of BCA in this plan, note that the principles, policies, and procedures outlined in the Breckenridge Public Art Program Master Plan + Policy 2016 pertain specifically to the Breckenridge Public Art Program, and not the other programs under BCA's direction.

That said, because they fall under the same larger vision, mission, and goals, there are many commonalities between the Breckenridge Public Art Program and the other programs and resources under BCA's purview.

BCA promotes artistic experiences that are in keeping with the beliefs, values, and ideals of the Breckenridge community, in an effort to honor and strengthen the sense of Breckenridge as a place. Thus BCA programming often highlights the striking natural beauty of the high country, or juxtaposes contemporary themes with the historic backdrop of Breckenridge. It seeks to interpret environmental themes, or invite collaboration between audiences of all ages and cultural backgrounds. These thematic narratives underlie all BCA programming.

Therefore, the Breckenridge Public Art Program and the other programs under BCA's direction support and enhance one another.





## **5.0 GUIDING PRINCIPLES + STRATEGIES FOR THE PUBLIC ART PROGRAM**

To establish the future direction of the Breckenridge Public Art Program, the Public Art Advisory Committee joined Breckenridge Creative Arts staff members for a visioning and strategic planning session led by Art Management & Planning Associates (AMPA) in July of 2015. By focusing on positive organizational attributes—including strengths, opportunities, aspirations, and results—the group of representatives came to a common understanding of where the Public Art Program should be headed based on a shared assessment of what is most important to the Breckenridge community.

Specifically, the session resulted in a bold visioning statement for the Breckenridge Public Art Program—in alignment with and directly supporting the vision of Breckenridge Creative Arts—as well as key strategies required to achieve it. These guiding principles form the conceptual framework within which Breckenridge Creative Arts staff members plan and implement initiatives for the Public Art Program, so that all work is undertaken with a common purpose reflective of the community’s vision for public art in Breckenridge.

### **5.1 Vision for Public Art in Breckenridge**

The purpose of the Breckenridge Public Art Program is to integrate a wide range of artwork into public spaces in the community, and reflect the diversity of the region’s artists, artistic disciplines, and points of view. The program promotes education about the arts through its collection and related programming, and serves to raise the public’s awareness of their environment and to expand their knowledge and understanding of the arts. Thus our vision for public art in

### 5.1 Vision for Public Art in Breckenridge continued

Breckenridge, which resulted from the strategic planning session, is as follows:

**Vision: The Breckenridge Public Art Program engages, incites conversation, and is an integral part of the Breckenridge experience.**

### 5.2 Key Strategies, Initiatives + Opportunities

The group also collaborated on the following strategies, which are key to achieving the vision for public art in Breckenridge. For each strategy we list current initiatives that are either underway right now or already completed, as well as future opportunities under consideration.

**Strategy #1: Developing thematic narratives that provide context for the existing and evolving collection; and curating and commissioning public art based on those narratives to extend the sense of Breckenridge as a place**

By studying and describing thematic narratives that reflect the history and character of the Breckenridge community, we give context to the existing collection while inspiring future public art selections that are self-interpretive but grounded in a clear understanding of who we were in the past, who we are today, and who we hope to be in the future. Public artworks selected in this spirit will enhance and expand our sense of place in Breckenridge.

### Current Initiatives:

- Complete written and visual documentation of the 31 pieces in the existing permanent art collection, including descriptions, photographs, and project details such as the location, installation date, donor, and artist. This documentation serves as a starting point from which thematic narratives can be identified and further developed, providing continuity in the future selection of public artworks. Also supports Strategy #2. (Completed, 2016)
- Update and expand the Master Plan + Policies to describe thematic narratives that will guide decision-making about future permanent public art commissions, as well as temporary installations that enhance and expand the sense of Breckenridge as a place. By exploring the history and thoughtful processes followed to build the existing collection, the plan establishes how Breckenridge artworks reflect the character of the community, and ensures that the process for selecting future artworks continues to be relevant and thoughtful. Updated policies and procedures based on these narratives will guide the day-to-day work of program managers. (Completed, 2016)
- Seek out permanent and temporary public art installations that: 1) leverage and comment on the spectacular mountain environment; 2) commemorate, invite conversation about, or create an interesting juxtaposition with local history; 3) raise awareness about or comment on environmental topics; 4) explore diverse mediums while seeking balance between traditional and contemporary forms; 5) represent a balance of local, national, and international artists;



## 5.2 Key Strategies, Initiatives + Opportunities continued

- 6) encourage community and visitor engagement, interaction, and collaboration; 7) exemplify Breckenridge's willingness to take risks and face controversy while following a public process that is thoughtful, respectful, and open; and 8) differentiate Breckenridge from other mountain towns (Ongoing)
- Create and implement cutting-edge arts festivals and programs that feature intensely place-based installations such as the Fire Arts Festival, WAVE: Light + Water + Sound, Street Arts Festival, and Breckenridge International Festival of Arts (BIFA). Some of these festivals make use of alternative venues that are unique to Breckenridge, such as the Blue River, used for light projections in the WAVE festival, and hiking trails, used for the BIFA Trail Mix series, which includes pop-up classical music performances and environmental visual art installations. Also supports Strategy #3. (Ongoing)
  - Schedule temporary installations that comment on the environment, such as Konstantin Dimopoulos' "The Blue Trees," and Erin V. Sotak's "My Your Our Water" (Ongoing)
  - Commission permanent artworks that represent the future of Breckenridge, such as Albert Paley's "Syncline," a contemporary sculpture intended to illustrate the interplay of light on the intersecting convex and concave planes of the mountains. The piece also represents the community's willingness to take risks and face controversy through an open and honest public process. (Commission completed, scheduled for installation in 2017)

## Future Opportunities:

- Seek out permanent and temporary public art installations that continue to tell the story of Breckenridge, its history, people, and culture, and where we are headed as a community
- Continue to showcase the town as a place of beauty, emphasizing its landscape and natural elements such as water, mountains, trees, and sky
- Continue to develop and refine the thematic narratives that describe and extend the sense of Breckenridge as a place
- Engage the community in workshops, forums, and/or surveys to understand how they see Breckenridge, to discover how they perceive the public art already in town, to find out the opportunities and priorities they see for new public artworks, and to learn what they feel is missing from the story told through public art in Breckenridge. Also supports Strategy #5.
- Seek out permanent installations that commemorate more recent historical events, in alignment with the goal of the Breckenridge Heritage Alliance, a cultural partner, to tell the more recent history of Breckenridge
- Develop relationships with national art centers and other public art programs to participate in art-on-loan programs, and to explore opportunities for co-commissioning new work to exhibit at partner venues
- Study existing public art locales to plan Creative Zones for future public art that will expand and connect the collection, serve as icons for wayfinding, and promote a more walkable, pedestrian-friendly town

## 5.2 Key Strategies, Initiatives + Opportunities continued

### Strategy #2: Building educational/interactive components to inform or initiate the conversation

Through educational outreach we can increase understanding of public art and placemaking and how they contribute to the social, cultural, and economic well-being of the town.

#### Current Initiatives:

- Implement uniform plaques for the permanent public art collection; as well as signage, post cards, mobile app tours, and other informational pieces for temporary and ephemeral installations; to educate viewers about project themes, social relevance, and other aspects of public art installations. Also supports Strategy #3. (Ongoing)
- Recruit and hire a Director of Learning + Innovation to lead strategic initiatives in education, research, and outreach in order to connect BCA programs, including the Public Art Program, to a wide variety of audiences on campus, online, and offsite (Completed, 2016)

#### Future Opportunities:

- Create docent-led and self-guided tours of public art, as well as an educational video that showcases the collection, highlights some of its artists, and illustrates the installation process. Also supports Strategy #3.
- Utilize digital media such as podcasts, educational videos, blogs, listservs, and e-newsletters to create public education materials. Also supports Strategy #3.

- Host innovative educational events around the Public Art Program including lectures by participating artists, community workshops, adult and children's classes, and hands-on collaborative art activities. Also supports Strategy #3.
- Create technology-rich, interdisciplinary curricular materials, programs, and workshops around public art for pre-K to 12th-grade teachers and students, and reach out to public art teachers, public and private schools, and Summit School District to: 1) encourage participation in public art tours and activities; 2) seek representation by public art teachers on the PAAC; 3) garner input on how to further support educational initiatives around public art and related programming; and 4) strengthen overall collaboration with the school district and other educational agencies
- Establish opportunities for the participation of Breckenridge youth in hands-on public art projects
- Recruit and train volunteers, docents, interns, and instructors to directly assist with all educational and outreach programs
- Establish a system to assess opportunities for creative engagement to ensure maximum educational impact and that educational program goals are being met

## 5.2 Key Strategies, Initiatives + Opportunities continued

### Strategy #3: Expanding PR/marketing/relationship strategies to develop awareness

Through targeted marketing efforts, we can increase awareness about the Public Art Program in all segments of the local and visiting community, thereby stimulating the Town of Breckenridge's reputation as a creative destination while growing support for future projects and the program as a whole.

#### Current Initiatives:

- Develop a modern, mobile-responsive website that offers easily navigable online access to the Public Art Program for locals, visitors, and future visitors. The site includes a complete inventory of the Town's public art collection with an interactive map, links to current calls to artists (under Opportunities), a regularly-updated calendar of events, and other relevant information about the program and its projects. Also supports Strategy #2. (Completed, 2016)
- Utilize social media tools including Facebook and Instagram to raise awareness about public art festivals and programs, and to attract additional visitors to the BCA website (Ongoing)
- Launch a quarterly online magazine to expand awareness about the creative community in Breckenridge, including the Public Art Program. Each issue of /krē'ät/ includes a section called "Objectified" featuring a local object of art, and describes events that showcase temporary and ephemeral installations. Also supports Strategy #2. (Completed, 2015)

- Promote Public Art Program events and installations in mailings such as BCA's quarterly event catalog (Ongoing)
- Implement measurement strategies to capture BCA's impact, specifically as it relates to the Public Art Program, including collecting and analyzing demographic and market-related data regarding its audience (Ongoing)

#### Future Opportunities:

- Include a marketing and communications component in the Annual Operational Plan to guide future awareness-raising efforts about the Public Art Program. Specific opportunities listed below will be ranked according to priority and integrated into the annual plan by BCA staff.
- Create a digital and print pamphlet for the existing public art collection that can be used for self-guided art tours while documenting public art installations. Also supports Strategy #2.
- Create digital and print pamphlets for public art programs, such as Sculpture on the Blue, WAVE, and temporary and ephemeral installations. Also supports Strategy #2.
- Integrate the public art narrative, with links to Public Art Program tours and opportunities, into the Town of Breckenridge website
- Produce communications materials in both English and Spanish, to expand awareness about the Public Art Program. Also supports Strategy #2.
- Explore additional opportunities for expanding awareness of the Public Art Program in events such as Art Around Town and quarterly Creativity Crawls to encourage the community and visitors to explore the collection. Also supports Strategies #2 & #5.





## 5.2 Key Strategies, Initiatives + Opportunities continued

### Strategy #4: Integrating public art into the Town planning and development process

By integrating public art into the Town long range planning and Development Review process, while also pursuing external funding sources, we not only ensure the future of the Breckenridge Public Art Program, but also establish consistent criteria and processes through which public art pieces are selected and funded.

#### Current Initiatives:

- Update the Art in Public Places Master Plan to be renamed as the Breckenridge Public Art Program Master Plan + Policy. The updated document will guide the creative decision-making and day-to-day work of the Breckenridge Public Art Program while educating stakeholders and raising awareness about the program. Also supports Strategies #2 & #3. (In progress, 2016)
- Work with Town Engineering on the schedule and site planning for the installation of the Albert Paley sculpture, “Syncline” (In progress, 2016)
- Apply for a grant from Colorado Creative Industries to support BCA general operations, including administration of the Public Art Program (Received, 2015)
- Apply for the Breckenridge Arts District to be designated as a Colorado Certified Creative District. The designation includes a funding package benefitting BCA projects such as the Public Art Program, opens doors to additional funding through foundations and other supporters of public art, and supports marketing and education efforts.

Also supports Strategies #2 & #3. (Submitted and received, 2016)

#### Future Opportunities:

- Work with Town staff and Town Council to update the Breckenridge Town Code to adopt the new Breckenridge Public Art Program Master Plan + Policy.
- Work with the Town Council to develop a commitment to funding new public art projects within the BCA budget on an annual basis, or multi-year basis.
- Create a Public Art Collection Maintenance appropriation within BCA’s annual budget.
- Identify and pursue additional sources of revenue for public art in the private, business, and civic sectors, including individual and business donations and state and national funding
- Start a dialogue and develop training for Town staff, to educate them on the value of public art, and to encourage consideration of public art opportunities.
- BCA staff will review proposed Capital Improvement Projects annually and identify those projects that lend themselves to the integration of public art. Once projects are identified, BCA staff will then initiate conversations with the appropriate staff from the Planning and Engineering Departments to look at opportunities to incorporate public art into public projects. Annual identification of opportunities allows for the integration of public art in a thoughtful way. Such capital projects may include open space development, transportation sites such as bus stops, parking facilities, lighting, and pedestrian

## 5.2 Key Strategies, Initiatives + Opportunities continued

wayfinding projects. The funding for public art within capital projects shall have a separate budget line item. In addition, the integration of public art into capital projects will not cause any changes to the projects timeline nor impact any future maintenance operations.

- In general, the Capital Improvement Project budget process will be used for new acquisitions or for larger budget maintenance requirements to the collection. When a new acquisition is associated with a public project, there will be a separate capital budget and the project will be managed by BCA staff.
- BCA staff will work with the Town Clerk to develop and maintain a list of all public art pieces in the collection, their locations and values whereby the Town can adequately insure the public art collection at its estimated value

### **Strategy #5: Involving the local community and businesses in extending and advocating for the Public Art Program**

By engaging local community members and businesses in public art commissions and activities such as hands-on arts events and tours, we can inspire the community to take ownership of public art projects, thereby growing the reach and positive perception of the Breckenridge Public Art Program.

#### **Current Initiatives:**

- Create a Public Art Advisory Committee made up of key community stakeholders to advise and oversee the integration of visual artworks into public spaces (Completed, 2015)
- Create a Community Engagement Committee made

up of diverse community members and business owners (Completed, 2015)

- Invite the community to participate in the creation or installation of temporary or permanent works. A recent example was “The Blue Trees” by renowned artist Konstantin Dimopoulos, in which volunteers helped color aspens in town blue to spread an environmental message. (Ongoing)

#### **Future Opportunities:**

- Continue to increase community participation in public art through celebrations that feature interactive or participatory installations, such as WAVE: Light + Water + Sound and the Breckenridge International Festival of Arts
- Schedule joint meetings between the Public Art Advisory Committee (PAAC) and the Community Engagement Committee (CEC) so that the CEC remains informed of public art programs, and the PAAC can hear community questions, concerns, and desires relating to public art
- Develop a database of artists, arts organizations, private interests, community and civic leaders, and residents with an interest in public art to initiate a listserv for targeted communications and e-blasts about public art news and events
- Schedule forums and other educational outreach events with community leaders and residents, elected officials and policy makers, artists, project managers, art and design professionals, and other parties involved in public art programming and projects, to include presentations, open discussions, and progress reports on public art

## 5.2 Key Strategies, Initiatives + Opportunities continued

commissions. Also supports Strategies #2 & #3.

- Serve as a resource and clearinghouse for information about the public art field
- Engage current and potential partners in the private sector—including businesses, groups, and individuals—to team with BCA on funding and developing future public art projects
- Encourage businesses to host exhibitions, either in their front windows or within their spaces, to grow participation and thereby enhance public art programming
- Explore opportunities to partner with local galleries in a way that advocates for public art and related programming while also benefiting the galleries
- Engage current and potential partners for public art projects—including cultural partners, universities and colleges, K-12 schools, neighborhood organizations, transit departments, and other public agencies—to team with BCA on funding and developing future public art projects. Also supports Strategies #2, #3, & #4.

These strategies are the essence of the Breckenridge Public Art Program Master Plan, set forth in Part 1 of this document. They provide creative and planning guidance to BCA's staff and advisory committees, policy makers, and stakeholders to ensure that all initiatives contribute toward the collective vision of the Public Art Program.



# ENVIRONMENTAL PUBLIC ART IN BRECKENRIDGE





# PART 2: PUBLIC ART POLICY

The Public Art Policy section outlines the specific policies and procedures required to put the Master Plan into action. It includes detailed information about the Breckenridge Public Art Program’s governance, funding, oversight, management, project planning, and implementation. These policies and operating procedures guide the everyday work of policy makers and program managers, from commissioning new permanent and temporary pieces, to managing the existing permanent collection.

## 6.0 GOVERNANCE TOOLS FOR THE PUBLIC ART PROGRAM

The Breckenridge Public Art Program is governed by a series of ordinances adopted by Town Council as part of Breckenridge Town Code, including the Master Plan as a correlative document to the Development Code and Town Code. The public art policies are administered, and updates recommended, by a tiered legislative and advisory structure consisting of the Breckenridge Town Council, the Breckenridge Creative Arts Board of Directors (BCA Board), and the Public Art Advisory Committee (PAAC), with BCA and Town staff acting in a management capacity.

### 6.1 Breckenridge Public Art Code

Breckenridge Town Council first adopted a series of resolutions and ordinances pertaining to public art in 1996, in which public art was defined as:

“A work of art located on public or private property which is accessible to the public. Public art includes, but is not limited to painting, sculpture, graphic arts, tile, mosaics, photography, earthworks, environmental installations, and decorative arts.”

The resolutions and ordinances provided for:

- Establishing a Public Art Commission to provide guidance to the Town on the Public Art Program
- Adopting the first “Art in Public Places Master Plan” as a correlative document to Title 9 of Breckenridge Town Code, known as the Breckenridge Development Code
- Amending the Breckenridge Development Code for public art within the Historic District (Class C development application) and outside the Historic District (Class D development application)

In 2006, Town Council amended the Breckenridge Development Code to state the purpose and goal of public art:

**“The placement of art in public places enriches, stimulates, and enhances the aesthetic experience of the Town. The Town’s Public Art Program is designed to complement the visual experience that is the cornerstone of the Town’s identity. The Town recognizes and rewards the efforts of applicants who place art in publicly accessible areas on private property by providing an incentive as hereafter provided in this Policy.”**

The incentive took the form of a positive points program for developers installing public art projects. Such projects were to be privately owned, insured, and maintained, and conform to site and artwork selection criteria outlined in the “Art in Public Places Master Plan.”

### 6.1 Breckenridge Public Art Code continued

Town Council also adopted an updated “Art in Public Places Master Plan” in 2006.

In 2015, after Breckenridge Creative Arts incorporated and took on the management of the Public Art Program, Town Council passed a resolution to dissolve the Public Art Commission. The move was the first step in implementing the new advisory structure outlined below. Work on an updated, comprehensive Master Plan commenced, resulting in the “Breckenridge Public Art Program Master Plan + Policy.”

### 6.2 Public Art Master Plan + Policy

Upon adoption by Breckenridge Town Council, the “Breckenridge Public Art Program Master Plan + Policy 2016” becomes a correlative document to the Town Code and Development Code, replacing the “Art in Public Places Master Plan” that was originally adopted in 1996 and updated in 2006.

All works of public art will then become subject to the creative guidelines established in the Breckenridge Public Art Program Master Plan (Part 1 of this document) and the terms and conditions in the Public Art Policy (Part 2). This includes all permanent and temporary public art installations, whether commissioned through a Call to Artists protocol; purchased directly from an artist, agent, gallery, or other source; or received as a donation in the form of a bequest, gift, or sponsored acquisition. It includes all public art as defined by Breckenridge Town Code, whether funded by the Town’s general fund, co-sponsored or funded through a partnership between the Town and other agencies, funded through grants or donations, or funded privately by businesses or individuals.

### 6.3 Roles + Responsibilities

Upon establishment of Breckenridge Creative Arts as the manager of the Breckenridge Public Art Program, a new structure was put in place to oversee the program, and to develop and refine policy. This section outlines the roles and responsibilities of the legislative, management, and advisory bodies:

- **Town of Breckenridge** – The Town of Breckenridge is the owner and primary source of funding for public art projects in Breckenridge, including permanent and temporary installations as well as the festivals and programs that showcase them.
- **Breckenridge Town Council** – Breckenridge Town Council is the legislative body for the Public Art Program. This seven-member group of elected officials, including the mayor of Breckenridge, votes on ordinances and resolutions to adopt or amend public art policies within the Breckenridge Development Code, a subsection of Breckenridge Town Code.
- **Breckenridge Creative Arts Board of Directors (BCA Board)** – The Board of Directors of BCA plays a dual role as 1) a legislative body that votes on initiatives brought to it by BCA staff, and 2) an advisory body that makes recommendations to Town Council. Comprised of a diverse group of local professionals, civic leaders, and philanthropists, the 11-member Board of Directors meets monthly and is responsible for defining strategic vision, developing policy, and ensuring the fiscal soundness of BCA. Board members serve on committees for community engagement, finance and audit, governance and nominations, and public art.

### 6.3 Roles + Responsibilities continued

- **Breckenridge Creative Arts staff** – Breckenridge Creative Arts is the primary manager of the Public Art Program. Staffed by an experienced team of arts administrators, curators, and educators, BCA works with its Board of Directors, Town administration, Town Council, the Public Art Advisory Committee, resident companies, and other stakeholders to advance the Public Art Program.
- **Breckenridge Town staff** – Town of Breckenridge staff members also play a managerial role for the Public Art Program. All development permits, including those for public art installations, go through the Town of Breckenridge Community Development Department, which oversees all aspects of public and private development. Breckenridge Town staff and BCA staff work closely to ensure that public art projects are in keeping with Town Code, and to collaborate on suggestions regarding public art policy changes. BCA staff and the Public Art Advisory Committee will provide assistance to Town staff on the review of all applications to locate public art within Breckenridge to ensure that they satisfy the criteria outlined in the Master Plan + Policy.
- **Public Art Advisory Committee (PAAC)** – The Public Art Advisory Committee serves an advisory role as one of the standing committees of the BCA Board. An appointed group with no term limits, the PAAC consists of up to two directors of the Board along with invited community members, arts professionals, and a BCA staff member. The purpose of the PAAC is to oversee a thoughtful process of integrating visual works of art into public spaces, and to advise the BCA Board on public art

projects while acting as stewards of the Breckenridge Public Art Program’s vision and Master Plan.

### 6.4 Public Art Advisory Committee (PAAC)

The Public Art Advisory Committee assists with aesthetic enrichment of the town through public art by:

- Developing a public arts vision statement
- Advising on the creation of a comprehensive Master Plan for the Public Art Program
- Providing input on the development of a timeline and strategies to meet Master Plan objectives annually
- Contributing to the visual character and texture of the town in a way that reflects the community’s past, present, and future
- Advising on public art programs that provide opportunities to engage and encourage public dialog
- Advising on efforts to make public art and artistic experiences accessible to residents and visitors

The committee also advises on public art policy by:

- Providing input on the creation of a public record that catalogs the Breckenridge public art collection and reviews the collection annually to consider relocation, deaccession, renewed community engagement, and maintenance concerns
- Advising on the creation of, and administering comprehensive policy guidelines for, the selection and installation of public art purchased with Town, private, donor, or grant/foundation funding
- Providing input on a periodic review of new public art policy



#### 6.4 Public Art Advisory Committee (PAAC) continued

Last, the PAAC advises on public art programs by:

- Helping to identify funding sources for public art acquisition to promote the Town's cultural and economic health
- Advising on the development of public art partnerships within Town projects, private developers, the Breckenridge Arts District, and community arts and cultural organizations
- Advising on the use of public art to promote a more walkable town using public art as a wayfinding tool and with guided "art walks" or other options
- Providing input on efforts to broaden the community's knowledge and education about Breckenridge's public artworks and programs



## 7.0 FUNDING RESOURCES

The Town of Breckenridge is the primary funding source for the Breckenridge Public Art Program. Public funds are used to support the acquisition of new permanent pieces for the collection, as well as the ongoing maintenance of existing artworks. Operational costs related to permanent and temporary public art installations, including programs and festivals designed to raise awareness about the Public Art Program, are also supported by the Town.

Funding for the Breckenridge Public Art Program can be bolstered by grants, partnerships, collaborations, fundraising, and individual and business sponsorships. Such supplementary funding makes it possible to purchase or commission additional pieces for the collection, or support the Public Art Program in other ways like sponsoring education initiatives or creative marketing. Public artworks can also be acquired through private sector incentive programs, gifts, and loans. By pursuing opportunities for collaboration and supplemental funding, BCA can enhance the Public Art Program and contribute toward its long-term sustainability.

The PAAC will meet annually to prepare estimated costs for fiscal year public art programming, maintenance, and growth of the collection. Budget recommendations will be shared with the BCA Board in a timely manner to be considered for fiscal year budgeting.

## 7.1 Permanent Acquisitions

Public art is acquired to grow the permanent collection through a number of different funding or donation mechanisms:

- **Town budget** - The Town of Breckenridge provides funding support annually, as budgets allow, through a public art fund for projects located on Town property or private property with a public easement. This is the primary source of funding for Breckenridge public art projects.
- **Partnerships + co-sponsors** - Partnership projects are those that are funded in part by the Town's general fund and in part by an outside source. Partnership projects can be located on Town property, private property with a public easement, or private property that is visible to and benefitting the public.
- **Private donations** - Privately funded projects are those that are funded by an outside source other than the Town's general fund. Privately funded projects can be located on public property owned or managed by the Town; on private property on which a public easement has been granted; or on private property that is accessible to and utilized by the public. Outside funding sources may present themselves in the form of monetary donations from private individuals or businesses, donations garnered as part of a developer incentive program, or existing artworks.
- **Developer incentive program** - Developer incentive programs, in which the Town encourages private developers to contribute in whole or part to public art projects, can be used to raise funds for new acquisitions.





### 7.1 Permanent Acquisitions continued

- **Fundraising** - Community fundraising can be used to fund public art projects, whether in whole or combined with Town funds as approved.
- **Grants** - Grants can be used to fund public art projects, as specified in each individual grant application, when applicable to the Breckenridge Public Art Program.

### 7.2 Maintenance + Program Costs

The Town of Breckenridge also allocates an annual budget to Breckenridge Creative Arts, which is responsible for managing the Breckenridge Public Art Program, among other duties. Operating costs in the BCA budget that are associated specifically with the Public Art Program include:

- **Maintenance of the collection** - This includes all expenses and staff time required for the ongoing maintenance of public art pieces in the permanent collection.
- **Public Art Program costs** - These include all expenses and staff time required to manage the Breckenridge Public Art Program, including the administration and costs associated with programs and festivals geared toward raising awareness, education, and marketing the Public Art Program. Temporary and ephemeral public art installations are part of the Public Art Program costs subsumed under BCA's budget.

The outside funding sources outlined above can similarly bolster maintenance and program costs, and are actively sought as a way to grow and sustain all aspects of the Breckenridge Public Art Program.

## **8.0 PROJECT PLANNING**

Planning a public art project is a long-term process. It begins with big-picture planning that looks at what is best for the community and how proposed projects relate to organizational and program goals, as well as the strategies and criteria set forth in the Breckenridge Public Art Program Master Plan + Policy. Proposed permanent installations are evaluated to see how they relate to the existing collection, both in terms of physical location and thematic narratives. Temporary installations and public art programming too should be based on the strategies and thematic narratives, and are also evaluated in terms of how they relate to the year-round calendar of cultural events in Breckenridge. From there, staff can engage in the detailed planning work that each year, and each individual project, entails.

The following tools are used to plan the broad work that the Breckenridge Public Art Program will undertake in a five-year period, narrowing to the work planned for a single year.

### **8.1 Five-Year Project Plan**

The Five-Year Project Plan, currently under development, is a long-term planning tool that establishes what is on the horizon for the Breckenridge Public Art Program. A fluid document that narrows in scope as each year approaches, it allows managers to envision the program five years out, and then work with the board, committees, stakeholder groups, and Town Council to come to agreements about upcoming projects years in advance.

### **8.2 Annual Operational Plan**

Each year's work for the Breckenridge Public Art Program is guided by the Annual Operational Plan, developed by BCA staff in the fourth quarter of the previous calendar year. Projects that have been prioritized for a given year move from the Five-Year Project Plan into the Annual Operational Plan, which is based on the public art budget and any outside sources of funding available.

The Annual Operational Plan includes any and all components affecting the Public Art Program, from new commissions, donations, and acquisitions to maintenance, restoration, relocation, deaccessioning, and funding opportunities to be pursued for future pieces. Marketing components, metrics to assess program success, public art programming initiatives, and temporary and ephemeral installations are also included in the Annual Operational Plan.

The Annual Operational Plan should align with any public art initiatives outlined in BCA's Strategic + Operational Plan. Ultimately it describes a consensus on what and how projects should be prioritized for a given year. As such, the Public Art Advisory Committee advises on the Annual Operational Plan with input from other stakeholder groups.

## 9.0 SITE + ARTWORK SELECTION CRITERIA

All public art acquisitions are subject to the creative guidelines and terms and conditions outlined in the Breckenridge Public Art Program Master Plan + Policy. The following criteria inform objective decisions about what projects to pursue and select, and where to locate them, based on the thematic narratives and strategies identified in the Master Plan. Adherence to these criteria makes it possible for the Public Art Program to continue to grow a diverse collection that appeals to a broad audience while strengthening the sense of place in Breckenridge.

### 9.1 Site Selection Criteria

In selecting a site for public artwork, the following criteria should be prioritized:

- Locations that are highly visible, easily viewed, and broadly accessible to the public
- Locations with multiple uses that are centers of activity
- Locations that are enhanced by public art, such as those currently void of visual interest, or in which the addition of artwork would complete the location's visual experience
- Locations that provide a meaningful context for the art and strengthen the location's sense of place
- Locations that allow for wayfinding opportunities
- Locations that allow for reflection and provide a break from social activity
- Locations that encourage social interaction, participation, and dialog about artworks
- Locations that avoid excessive visual clutter
- Locations that do not create any obstacles for Town infrastructure or maintenance operations

Town Council should approve all proposed sites for public art in advance of an artwork's selection if it is to be installed on Town of Breckenridge property.

### 9.2 Artwork Selection Criteria

In selecting public artwork, the following criteria should be prioritized:

- The proposed artwork should suggest a relationship to one or more of the thematic narratives identified in the Master Plan by:
  - o Leveraging and commenting on the spectacular mountain environment
  - o Commemorating, inviting conversation about, or creating an interesting juxtaposition with local history
  - o Raising awareness about or commenting on environmental topics
  - o Exploring diverse mediums, materials, colors, and content matter while seeking stylistic balance between traditional and contemporary forms
  - o Representing a balance of local, national, and international artists
  - o Encouraging community engagement, interaction, and collaboration
  - o Exemplifying Breckenridge's willingness to take risks and face controversy while following a public process that is thoughtful, respectful, and open
  - o Differentiating Breckenridge from other mountain towns



PUBLIC ART SPECTACLES + PERFORMANCE INSTALLATIONS IN BRECKENRIDGE



### 9.2 Artwork Selection Criteria continued

- The proposed artwork should be identified as a priority in the Annual Operational Plan.
- The proposed artwork should have adequate funding.
- The proposed artwork should meet both site selection and artwork selection criteria.
- The proposed artwork should meet the intent of the project description in the Call to Artists process.
- The proposed artwork should be considered to have high artistic merit.
- The proposed artwork should further the mission of BCA and the vision of the Public Art Program.
- The proposed artwork should be considered from a marketing perspective on the basis of the ability of the artist or presentation to attract a broad audience, the potential for the artist or presentation to secure underwriting, and competition in the marketplace.
- The physical and conceptual permanence of a proposed artwork should be considered on the basis of maintenance, resistance to vandalism, safety concerns, and timelessness.
- The proposed artwork should be compatible with the selected site location, such as compatibility with the Historic District or Creative Zone. Basic elements to consider include scale, materials, existing/proposed landscaping, and existing/proposed lighting.
- The proposed artwork should be considered in the context of nearby works including how the proposed piece contributes to the overall context of the collection in a given location or Creative Zone, and how it contributes to the thematic narratives.

### 9.3 Creative Zones

The layout of Breckenridge lends itself to the establishment of “Creative Zones” in which a particular character or set of attributes, aligned to the thematic narratives, can be emphasized in order to strengthen that zone’s sense of place or add functionality such as wayfinding. For example, public artworks proposed for installation within the Historic District are considered in terms of how well they support, showcase, enhance, or interpret local history themes.

The following are examples of Creative Zones that might be established to support placemaking and wayfinding initiatives in Breckenridge:

- **Breckenridge Historic District** – The Town’s historic center, as defined by Town Code, with a focus on Main Street and primary hubs of activity running north/south through town
- **Breckenridge Cultural Corridor** – A spine of cultural activity that runs east/west from the Riverwalk Center at its western edge, through Blue River Plaza and up Washington Avenue to the Arts District, and terminating at the Breckenridge Grand Vacations Community Center & Summit County South Branch Library at its eastern edge. The Breckenridge Cultural Corridor intersects the Historic District and includes performance and exhibition spaces, art studios, theaters, museums, and historic landmarks.





### 9.3 Creative Zones continued

- **The Riverwalk + Rec Path** - To include walkways fronting the Blue River in the center of town, including the lawn and grounds around the Riverwalk Center, continuing along the Rec Path north to the Breckenridge Recreation Center grounds, Kayak Park, and the public trails along the Blue River to Valley Brook Road and beyond
- **The Recreation Center** - The hub of outdoor recreational activities that includes the Breckenridge Recreation Center grounds, Kayak Park, the bike path, and public trails fronting the Blue River at the north end of town
- **Transportation + Parking** - To include any walkways, routes, and landmarks connecting Town parking lots to downtown Breckenridge
- **Town of Breckenridge Trail Systems** - To include popular trails near town used for hiking, biking, and other outdoor recreation

When public art can serve as a wayfinding tool, it is a benefit.

## 10.0 PUBLIC ART PROJECT PROCESSES + GUIDELINES

This section outlines the processes by which public artworks should be selected and implemented, as well as guidelines for specific project types.

### 10.1 Selection Processes for Permanent Public Artworks

There are two major processes by which new permanent public artworks can be selected:

- **Call to Artists** – All permanent public art projects with a budget greater than \$10,000 are commissioned through the Call to Artists process outlined in Section 10.2, and should be approved by the BCA Board and Town Council. A similar Call to Artists process may be implemented for permanent projects funded at \$10,000 or less, but require only BCA Board approval in order to proceed.
- **Direct Purchase** – Existing artwork can also be purchased directly if the total value of the piece is \$10,000 or less, providing it fulfills the site and artwork selection criteria outlined in the Master Plan + Policy. Limited editions should be sought, taking into consideration where other editions are located to avoid selecting pieces already on display within a given radius from Breckenridge. The PAAC should reach a majority consensus on the purchase of existing art for the permanent collection before making its recommendation to the BCA Board. If the project budget is \$10,000 or less, BCA Board approval is sufficient for the project to proceed.

### 10.2 Call to Artists Process for Commissions over \$10,000

Once BCA staff and the PAAC have reached consensus on a Town Council-approved installation site, and on a concept that fits the artwork selection criteria outlined above, all permanent public art commissions with a budget greater than \$10,000 utilize the following selection process:

- **Project Intent** – The PAAC works with BCA staff to produce a project intent document, which includes background on the Breckenridge community, a description of the proposed project's intent, and the allotted budget.
- **Artist Recruitment** – A Call to Artists is then issued, in which artists are invited to submit applications including their resumes and information about past works. There is some flexibility in who is invited to submit applications, and the target group may vary from piece to piece. Some Calls to Artists will focus on local artists, or aim for diversity. Others may be advertised more broadly in order to solicit well-known artists on the national and international scene. In some cases, specific artists may be invited to submit applications, such as artists who have an established reputation and therefore whose work may attract attention and creative tourism to Breckenridge.
- **Finalist Selection** – With input from BCA staff, the PAAC selects three finalists from the field of applicants based on past works, and how well an artist's style fits the project intent and Breckenridge community.

## 10.2 Call to Artists Process for Commissions over \$10,000 continued

- **Proposal Submission** – The three finalists are then invited to submit proposals of what they will do to fulfill the project intent, with a concept design including maquettes or drawings of the proposed works. These proposals should be evaluated by BCA and Town staff for feasibility, in terms of engineering, ability to meet a proposed timeline, and other project planning components.
- **Public Input** – Once the final proposals are vetted for feasibility, the public is invited to comment on the proposed works. Methods for gathering public input can include public forums and educational displays with project drawings and questionnaires. Both methods should feature thoughtful questions, such as how well the proposed project fulfills the project intent, and how well it represents the community.
- **Proposal Selection + Approval** – The PAAC then reviews the public comments, comes to a majority consensus about which project best meets the project intent and fulfills community desires, and makes a recommendation to the BCA Board. The BCA Board votes to approve the project, and then makes a recommendation to Town Council for approval. All permanent public art projects with budgets over \$10,000 should be approved by Town Council before the project can proceed.

## 10.3 Implementation Process for Commissions over \$10,000

Once a project is approved by Town Council, the following implementation process is utilized:

- **Artist Contract** – BCA staff oversees a contract with the selected artist/s, to include the project scope, fee, timeline, and terms and conditions if applicable. The project scope generally includes the final design and engineering, artwork fabrication, insurance, transportation, and installation. Once the contract is signed, the artist receives an initial deposit of the agreed upon fee to begin work.
- **Final Design** – The artist should develop final design and engineering drawings, to be reviewed by BCA staff, and Town planning and engineering departments as appropriate. If there is a substantive change from the original concept design, the PAAC should also review the final design.
- **Fabrication** – The artist proceeds with fabrication upon approval of the final design, or as outlined in the contract. Upon approval of a midway project update from the artist—to include photos and other project status documentation—BCA issues a midway payment.
- **Installation** – The artist is responsible for the installation of the artwork, with coordination by BCA staff and assistance from Town staff as necessary, unless otherwise specified in the contract.
- **Communications** – BCA staff should plan and implement a communications strategy to provide the public with real-time project updates, and to educate and raise awareness about finished projects.

### 10.3 Implementation Process for Commissions over \$10,000 continued

- **Project Documentation** - The artist should submit copies of all finished plans, including final drawings and a maintenance and conservation plan, prior to project closeout.
- **Project Closeout** - Once all conditions of the contract are met and the above steps are completed, BCA staff should proceed with project closeout and final payment.

### 10.4 Special Guidelines by Project Type

The following additional guidelines pertain to specific project types:

- **Art in public development** - Upon identification of public projects that are appropriate for public art as noted in Section 5.2, BCA staff will work with PAAC to review the public project and make recommendations on how public art can be incorporated into the project. BCA staff will work with Town staff to make sure that the public art component of the project will not hinder the timeline or create any maintenance or operational issues. Public art may be incorporated in the form of architectural enhancements such as railings or tile details to creative designs for bus shelters and pedestrian way finding projects. Public art is not just textiles, paintings and sculpture.
- **Art on private property** - If a landowner wishes to install public artwork on private property, whether the artwork is privately funded in full or in partnership with the Town, the landowner should either: 1) grant a public easement to the Town for the site on which the artwork will be located;

or 2) agree to take financial and physical responsibility for the maintenance, restoration, or deaccessioning of the artwork in perpetuity via a covenant. To plan a public artwork in private development, developers should follow the Town's Development Code requirements. Town staff should share those applications to install public art on private property with BCA staff for review by the PAAC to ensure they satisfy the criteria outlined in the Master Plan + Policy. Public artwork installed on a public easement becomes the responsibility of BCA to maintain in perpetuity, following the guidelines set forth in the Master Plan + Policy, unless otherwise specified in an agreement between the Town/BCA and property owner.

- **Donations of public art** - All donations of public art to the permanent collection should meet the criteria outlined in the Master Plan + Policy, and be approved by a majority consensus of the PAAC and BCA Board. All donations with a value greater than \$10,000 should also be approved by Town Council. Not all proposed donations will be accepted. To propose a donation, patrons should contact BCA administrative staff who will research and prepare a recommendation to the PAAC. Accepted donations become the responsibility of BCA to maintain in perpetuity, as outlined in the Master Plan + Policy, unless otherwise specified in an agreement between the Town/BCA and donor.
- **Loans of public art** - Loaned artworks can be displayed as part of a temporary or ephemeral exhibition, such as the Sculpture on the Blue program. Artworks can be loaned by individual artists, curators, and/or cultural organizations. Loans of public art can be obtained through a Call to

#### 10.4 Special Guidelines by Project Type continued

Artists process, or direct selection by BCA staff with input from the PAAC. In either case a location is identified; artworks are selected based on feasibility and the criteria

- **Temporary + ephemeral artworks** – Temporary and ephemeral artworks can be obtained through a Call to Artists process, or direct selection by BCA staff with input from the PAAC. BCA staff is responsible for the curation of temporary and ephemeral artworks.
- **Developer incentive guidelines** – The Breckenridge Development Code includes a positive points program, adopted by Town Council in 2006, through which development permit applications are eligible to receive positive points if the PAAC finds that the proposed piece meets the criteria outlined in the Master Plan + Policy. The following guidelines will regulate the program until a revised policy is developed and adopted:
  - o **PAAC review:** The PAAC will review all projects eligible for a positive point to ensure they meet the criteria for site and artwork selection outlined in the Master Plan + Policy.
  - o **Town Planning Commission review:** The Planning Commission may award a positive point if it finds the project is of value for the receipt of positive points and meets the following criteria: 1) The internal circulation of the site is adequate; 2) The placement of the art does not have a negative impact on the point analysis of the property’s development permit (for example, it would have unacceptable consequences for circulation considerations, landscaping requirements, or some other

planning reason); 3) All applicable Development Code provisions are complied with, including Building and Fire Codes; 4) The Property owner makes adequate assurances that the artwork is to be privately owned, maintained, and insured.





may be recommended. Restoration is defined as bringing a piece back to its former condition. Depending on the scope of the work required, maintenance needs such as landscaping can be performed by the Town Public Works department. For specialized restoration work, BCA staff generally engages the services of an experienced contractor.

It is recommended that BCA acquire the services of a consultant to create a comprehensive inventory and maintenance plan for the entire collection, including a schedule for the specific type of maintenance required for individual pieces; and a timeline, an observation form, and recordkeeping techniques to help BCA staff systematize the maintenance review process and track projects.

#### 11.1 Maintenance + Restoration continued

The public art collection should also be appraised every 5-10 years in order to obtain the appropriate amount of insurance as the collection increases in value.

#### 11.2 Deaccessioning + Relocating Public Art

Public art selected and placed is not necessarily going to remain there in perpetuity. Public art may be deaccessioned for the following reasons:

- **Damage** - The art has been damaged, and is deemed by BCA staff and the PAAC or the property owner as not being cost effective to repair.
- **Safety** - The art has become potentially hazardous to the public.



- **Maintenance** – The cost to maintain the artwork has exceeded projected expectations of BCA staff and the PAAC or the property owner.
- **Reconfiguration of land** – The property owner desires to change the way he/she uses the property on which the art is located, and the art therefore becomes an obstacle to plans.
- **Flexibility + changing tastes** – As time passes and the community grows, its tastes may change; therefore the opportunity will be reserved to deaccession public art that is no longer compatible with community values.

staff with the consensus of the PAAC and BCA Board.

In the event the decision has been made to deaccession an artwork, the piece may be: 1) relocated to another public space; 2) stored indefinitely until another suitable location is found; or 3) returned to the artist or donor if such an arrangement had been agreed upon prior to installation or donation. In the event that none of the above occurs, the piece may be: 1) sold through a public bid process; 2) traded for other art; or 3) destroyed if the artist cannot be contacted. Unless other arrangements were made at the time of placement, proceeds from the sale of deaccessioned art should be returned to the public art fund to further the Public Art Program.

Public art may be relocated from its original installation site to a new, Town-approved location at the recommendation of BCA

## PART 3: BRECKENRIDGE PUBLIC ART COLLECTION



Title: **Syncline**  
 Artist: **Albert Paley**  
 Location: Riverwalk Center lawn  
 Medium: Steel  
 Source: Commissioned by the Town of Breckenridge  
 Installation date: To be installed in 2017



Title: **Sack Race**  
 Artist: **Jane Rankin**  
 Location: Behind the Welcome Center, along the riverwalk  
 Medium: Bronze  
 Source: Donated by the Bunchmans in memory of Pat and Harry Bunchman  
 Installation date: 2016



Title: **Toro**  
 Artist: **Fred Zietz**  
 Location: Blue River Plaza  
 Medium: Upcycled steel  
 Source: Donated by the partners at Downstairs at Eric's  
 Installation date: To be installed in 2016



Title: **Just the Two of Us**  
 Artist: **Guilloume**  
 Location: Breckenridge Grand Vacations Community Center & South Branch Library  
 Medium: Bronze  
 Source: Donated by Judy and John Goebel  
 Installation date: 2015



Title: **Prowlin'**  
 Artist: **Parker McDonald**  
 Location: Fuqua Livery Stable  
 Medium: Steel and moss rock  
 Source: Purchased by the Public Art Commission  
 Installation date: To be installed in 2016



Title: **The Library Quilt**  
 Artist: **Summit Quilters**  
 Location: Breckenridge Grand Vacations Community Center & South Branch Library  
 Medium: Mixed media fiber arts  
 Source: Donated by Summit Quilters  
 Installation date: 2015



Title: **Tom's Baby**  
 Artist: **Seth Vandable**  
 Location: Prospector Park  
 Medium: Bronze  
 Source: Funded by Anna and Mike Dudick and commissioned by the Town of Breckenridge  
 Installation date: 2015



Title: **Steel Drawing for Cooper**  
 Artist: **Steuart Bremner**  
 Location: Breckenridge Arts District campus  
 Medium: Steel and stone  
 Source: Donated by Cooper and Dave Walsh  
 Installation date: 2011; reinstalled 2014



Title: **Throne**  
 Artist: **Chaz della Porta**  
 Location: Breckenridge Arts District campus  
 Medium: Stone, steel, and glass  
 Source: Commissioned by the Town of Breckenridge  
 Installation date: 2014



Title: **Cattails**  
 Artist: **Doyle Svenby**  
 Location: Breckenridge Arts District campus  
 Medium: Found steel  
 Source: Donated by Doyle Svenby  
 Installation date: 2010



Title: **Popsicle**  
 Artist: **Doyle Svenby**  
 Location: Vista Point Park  
 Medium: Powder-coated steel  
 Source: Purchased by the Town of Breckenridge  
 Installation date: 2011



Title: **Outcropping House II**  
 Artist: **Albert Belleveau**  
 Location: Breckenridge Arts District campus  
 Medium: Steel and stone  
 Source: Purchased by the Town of Breckenridge  
 Installation date: 2009/10



Title: **Main Street Sunset**  
 Artist: **Ann Weaver**  
 Location: Town Hall  
 Medium: Watercolor  
 Source: Donated by Ann Weaver  
 Installation date: 2009



Title: **The Swing**  
 Artist: **Victor Issa**  
 Location: Timberline Learning Center  
 Medium: Bronze  
 Source: Donated by the Anilionis girls—Keri, Kristen, Katie, and Kelsie  
 Installation date: 2009



Title: **Mister Barney Ford**  
 Artist: **Emanuel Martinez**  
 Location: Barney Ford House Museum  
 Medium: Bronze  
 Source: Commissioned by the Town of Breckenridge  
 Installation date: 2007



Title: **Through the Eye of the Needle**  
 Artist: **Rik Sargent**  
 Location: Alpine Bank  
 Medium: Bronze and stone  
 Source: Commissioned by Alpine Bank and the Town of Breckenridge  
 Installation date: 2007



Title: **My Book**  
 Artist: **Jane Rankin**  
 Location: Breckenridge Grand Vacations Community Center & South Branch Library  
 Medium: Bronze  
 Source: Donated by the family of Anne and Jim Pinion  
 Installation date: 2007; reinstalled 2015



Title: **Athena First Flute + Lydia First Violin**  
 Artist: **Michael Adams**  
 Location: Riverwalk Center  
 Medium: Bronze and red slate  
 Source: Donated by the Breckenridge Music Festival  
 Installation date: 2006





Title: **Gone Fishin'**  
Artist: **Steve Puchek**  
Location: In the Blue River, east of the Riverwalk Center  
Medium: Steel  
Source: Donated by Pat and Jack Thomas  
Installation date: 2005



Title: **As Seasons Change**  
Artist: **Stephen Day**  
Location: Riverwalk Center  
Medium: Oil on canvas  
Source: Donated by Susanna Chlipala  
Installation date: 2004



Title: **Kachina Steel**  
Artist: **Jack Hill**  
Location: On the bike path by the Breckenridge Recreation Center  
Medium: Steel and stone  
Source: Donated by Susie and Rick Grossman  
Installation date: 2005



Title: **Chris Ethridge Memorial**  
Artist: **Chaz della Porta**  
Location: Stephen C. West Ice Arena  
Medium: Stone, steel, and bronze  
Source: Commissioned by the Town of Breckenridge  
Installation date: 2003



Title: **Colorado River Rock Bridge**  
Artist: **Steuart Bremner**  
Location: Kayak Park  
Medium: Wood, steel, and stone  
Source: Commissioned by the Town of Breckenridge  
Installation date: 2004



Title: **Soldiers of the Summit**  
Artist: **Robert J. Eccleston**  
Location: South of the Riverwalk Center  
Medium: Bronze  
Source: Project and fundraising launched by Marietta and Don Carlson, completed in collaboration with the Town of Breckenridge  
Installation date: 2003



Title: **Double Axle**  
Artist: **David Griggs**  
Location: Breckenridge Recreation Center  
Medium: Aluminum-framed acrylic panels layered with Duratrans film  
Source: Commissioned by the Town of Breckenridge  
Installation date: 2002



Title: **The Nest**  
Artist: **Chapel**  
Location: Intersection of Main and Ridge streets  
Medium: Bronze and stainless steel  
Source: Commissioned by the Town of Breckenridge  
Installation date: 2000



Title: **Ullr**  
Artist: **Richard A. Jagoda**  
Location: 500 S. Park Ave.  
Medium: Stainless and mild steel  
Source: Purchased by Atlas Development Corporation  
Installation date: 2000



Title: **Going Home**  
Artist: **Willie Morrison**  
Location: Carter Park  
Medium: Steel  
Source: Purchased by the Town of Breckenridge  
Installation date: 1998



Title: **Three Cowboys**  
Artist: **Stephen Hansen**  
Location: Breckenridge Heritage Alliance office  
Medium: Bronze  
Source: Commissioned by the Town of Breckenridge  
Installation date: 1997

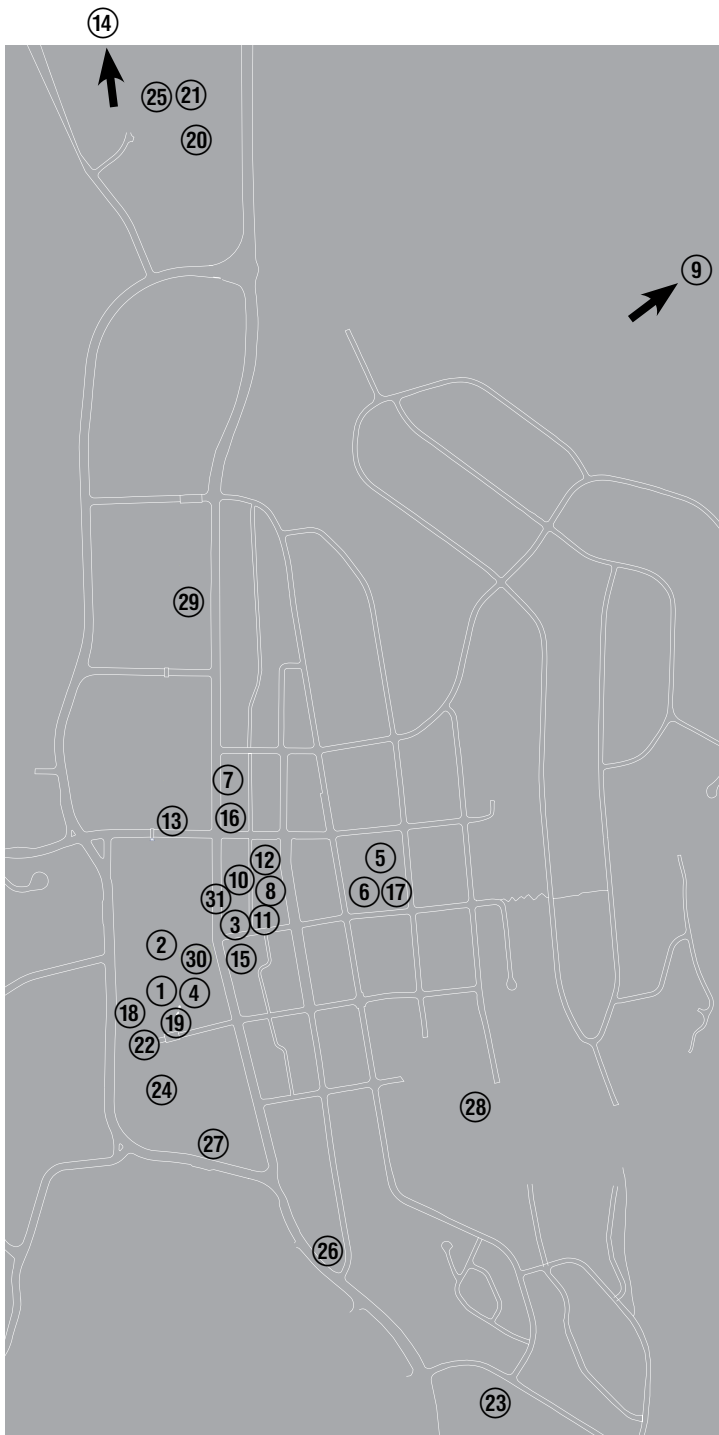


Title: **A Friend to Lean On**  
Artist: **Robin J. Laws**  
Location: 224 S. Main St.  
Medium: Bronze  
Source: Donated by the family of Maureen and Jim Nicholls  
Installation date: 1993



Title: **A Miner's Dream**  
Artist: **Robert Tully**  
Location: A collection of pieces in Blue River Plaza, along the riverwalk, and in the river itself  
Medium: Stone, steel, and wood  
Source: Commissioned by the Town of Breckenridge  
Installation date: 1994





## MAP OF PUBLIC ART IN BRECKENRIDGE

- ① Syncline
- ② Toro
- ③ Prowlin'
- ④ Sack Race
- ⑤ Just the Two of Us
- ⑥ The Library Quilt
- ⑦ Tom's Baby
- ⑧ Throne
- ⑨ Popsicle
- ⑩ Steel Drawing for Cooper
- ⑪ Cattails
- ⑫ Outcropping House II
- ⑬ Main Street Sunset
- ⑭ The Swing
- ⑮ Mister Barney Ford
- ⑯ Through the Eye of the Needle
- ⑰ My Book
- ⑱ Athena First Flute + Lydia First Violin
- ⑲ Gone Fishin'
- ⑳ Kachina Steel
- ㉑ Colorado River Rock Bridge
- ㉒ As Seasons Change
- ㉓ Chris Ethridge Memorial
- ㉔ Soldiers of the Summit
- ㉕ Double Axle
- ㉖ The Nest
- ㉗ Ullr
- ㉘ Going Home
- ㉙ Three Cowboys
- ㉚ A Miner's Dream
- ㉛ A Friend to Lean On

# BCA/PAAC GOALS + STRATEGIES

## GOALS

- |  |   |  |  |  |
|--|---|--|--|--|
| <p><b>1</b></p> <p>To extend and enhance the experience of the 'recreation' visitors through creative offerings that differentiate Breckenridge from other recreation destinations</p> | <p><b>2</b></p> <p>To attract 'creative' visitors to Breckenridge who have not considered the town as a destination</p> | <p><b>3</b></p> <p>To enhance the creative experience of our residents</p> | <p><b>4</b></p> <p>To optimize the Town's investment in the creative assets we manage and maintain</p> | <p><b>5</b></p> <p>To build an independent, financially sustainable organization</p> |
|--|---|--|--|--|

## STRATEGIES

- |  |   |  |  |   |  |  |   |
|--|---|--|--|---|--|--|---|
| <p><b>A</b></p> <p>Delivering innovative creative programming that entertains, enriches and educates</p> | <p><b>B</b></p> <p>Deepening community engagement through accessible entertaining programming</p> | <p><b>C</b></p> <p>Maintaining facilities and systems at or above industry standards</p> | <p><b>D</b></p> <p>Implementing economic models that lead to profitable operations</p> | <p><b>E</b></p> <p>Building the reputation of BreckCreate with Creative Thought Leaders</p> | <p><b>F</b></p> <p>Nourishing positive relationships with local, regional &amp; national creative partners</p> | <p><b>G</b></p> <p>Expanding a vibrant public arts program</p> | <p><b>H</b></p> <p>Building organizational capacity by implementing planning, leadership development and fundraising infrastructure</p> |
|--|---|--|--|---|--|--|---|

## SUPPORTING GOALS

- |                      |            |          |          |            |              |            |                      |
|----------------------|------------|----------|----------|------------|--------------|------------|----------------------|
| <p>1 2 3<br/>4 5</p> | <p>1 3</p> | <p>4</p> | <p>5</p> | <p>2 5</p> | <p>1 2 3</p> | <p>1 3</p> | <p>1 2 3<br/>4 5</p> |
|----------------------|------------|----------|----------|------------|--------------|------------|----------------------|

# CREDITS + ACKNOWLEDGEMENTS

The Breckenridge Public Art Program Master Plan + Policy 2016 represents the culmination of more than 20 years of investment in public art by the Town of Breckenridge, its representatives and residents. The process began in 1994 with Town Council's first sculpture commission, followed by its 1996 adoption of the first "Art in Public Places Master Plan" and establishment of the Breckenridge Public Art Commission (BPAC). In 2014, the Town of Breckenridge formed Breckenridge Creative Arts (BCA) as an independent nonprofit entity to take over management of its Public Art Program and related programming, supported by a Public Art Advisory Committee (PAAC) and BCA Board. This Master Plan, developed under BCA's auspices, owes a debt of gratitude to all of the following groups and individuals who contributed to and laid the groundwork for today's Public Art Program in Breckenridge over the last 20 years.

## **THANK YOU FOR 20 YEARS OF DEDICATION TO PUBLIC ART:**

Breckenridge Town Council

### **Town of Breckenridge Staff + Departments**

Senior Leadership

Public Works Department

Engineering Department

Community Development Department

Parks Department

### **Volunteer Commissions + Councils**

Breckenridge Public Art Commission (BPAC)

Summit County Arts Council

### **BCA Board**

Michael Lundin, Chair

Marsha Cooper, Vice Chair

Deb Kelleher Spiers, Secretary + Treasurer

Lindsay Eland

Amy Evans

Rick Holman, Ex-Officio

Felice F. Huntley

Elisabeth Lawrence

Bob Lowe

Kenneth Nelson

Robb Woulfe, Ex-Officio

### **BCA Senior Staff**

Robb Woulfe, President + CEO

Jenn Cram, Director of Public Programs + Engagement

Saam Golgoon, Director of Operations + Facilities

Neal M. Kerr, Director of Production + Technical Services

Susan Lyon, Director of Administration + Sales

Becca Spiro, Director of Learning + Innovation

## **CURRENT STAFF + COMMITTEE MEMBERS**

### **Public Art Advisory Committee (PAAC)**

Marsha Cooper, Co-chair

Amy Evans, Co-chair

Janis Bunchman

Darci Hughes

Tom Kramer

Donna Miller

Carl Scofield

Mara Sobeck

Tony Wilson

## **ARTISTS + DONORS**

### **Contributing Artists**

Michael Adams  
Albert Belleveau  
Steuart Bremner  
Chapel  
Stephen Day  
Chaz della Porta  
Robert J. Eccleston  
David Griggs  
Guilloume  
Stephen Hansen  
Jack Hill  
Victor Issa  
Richard A. Jagoda  
Robin J. Laws  
Emanuel Martinez  
Parker McDonald  
Willie Morrison  
Albert Paley  
Steve Puchek  
Jane Rankin  
Rik Sargent  
Summit High School students  
Summit Quilters  
Doyle Svenby  
Robert Tully  
Seth Vandable  
Ann Weaver  
Fred Zietz

### **Donors + Fundraisers**

Alpine Bank  
The Anilionis girls  
Atlas Development Corporation  
Breckenridge Music Festival  
The Bunchman Family  
Marietta and Don Carlson  
Susanna Chlipala

Downstairs at Eric's partners  
Anna and Mike Dudick  
Judy and John Goebel  
Susie and Rick Grossman  
The family of Maureen and Jim Nicholls  
The family of Anne and Jim Pinion  
Summit Quilters  
Summit School District  
Doyle Svenby  
Pat and Jack Thomas  
Cooper and Dave Walsh  
Ann Weaver

### **PLAN CONSULTANTS**

Kate Hudnut, Graphic Designer  
Erica Marciniac, Content Writer  
Deana Miller, AMPA (Art Management & Planning Services)  
Deb Kelleher Spiers, Strategist

### **PHOTO CREDITS**

Clockwise from top left, photo credits in parentheses

**Cover:** 'Cattails' by Doyle Svenby (Liam Doran)

**Page 3:** 'Ullr' by Richard A. Jagoda, 'Colorado River Rock Bridge' by Steuart Bremner, 'Cattails' by Doyle Svenby, 'Gone Fishin'" by Steve Puchek, 'Kachina Steel' by Jack Hill, 'Main Street Sunset' by Ann Weaver, 'Through the Eye of the Needle' by Rik Sargent, 'My Book' by Jane Rankin, 'Double Axle' by David Griggs, 'Three Cowboys' by Stephen Hansen, 'Chris Ethridge Memorial' by Chaz della Porta, 'A Miner's Dream' by Robert Tully (Liam Doran)

**Page 6:** 'The Swarm' by Tasha Lewis, part of BIFA (Liam Doran); 'Toga' by David Marshall, part of Sculpture on the Blue (Liam Doran); 'Van Duck' by Amy Evans, part of QUACK: An Artful Duck Exhibition (Liam Doran)

## PHOTO CREDITS continued

**Page 8:** J.R. Hodges Tin Shop (Liam Doran); Pup's Glide Shop (Liam Doran); Breckenridge waterfall (Liam Doran)

**Page 10:** 'The Nest' by Chapel (Liam Doran); 'The Library Quilt' by Summit Quilters (Liam Doran); 'Tom's Baby' by Seth Vandable (Liam Doran)

**Page 13:** Musician Russick Smith, part of BIFA (Liam Doran); chalk artist Naomi Haverland, part of the Street Arts Festival (Liam Doran); lighted sculptures, part of the International Snow Sculpture Championships (Carl Scofield); graffiti artist Emit, part of the Street Arts Festival (Liam Doran)

**Page 16:** Paper flower-making, part of Día de los Muertos (Jenise Jensen); 'Melt: Encaustic Assemblage' by Victoria Eubanks + Jenn Cram (Liam Doran); Breckenridge Arts District entry sign (Liam Doran)

**Page 19:** 'Light Origami' interior by KAZ Shirane, part of WAVE (Liam Doran); 'The Burning Pink Organ' by Alvin Sessions + Jamie Vaida, part of Fire Arts Festival (Carl Scofield); 'Projected Visions at the Blue River' by Ryan Patrick Griffin, part of WAVE (Liam Doran); 'Gillapourous Corvus' by Orion Fredericks, part of Fire Arts Festival (Liam Doran); 'Light Origami' exterior by KAZ Shirane, part of WAVE (Liam Doran)

**Page 22:** 'Going Home' by Willie Morrison (Liam Doran); 'Cattails' by Doyle Svenby (Liam Doran); 'Throne' by Chaz della Porta (Liam Doran)

**Page 27:** 'My Your Our Water' by Erin V. Sotak, part of WAVE (Liam Doran); 'The Pool' by Jen Lewin, part of WAVE (Liam Doran); 'The Blue Trees' by Konstantin Dimopoulos, part of BIFA (Liam Doran)

**Page 31:** 'The Glorietta' by Amy Scofield, part of BIFA (Carl Scofield); 'Hume's Guillotine' by Steuart Bremner + Terry Talty, part of BIFA (Carl Scofield); 'Two Roads' by Konstantin Dimopoulos, part of BIFA (Liam Doran)

**Page 35:** 'Through the Eye of the Needle' by Rik Sargent (Liam Doran); 'Chris Ethridge Memorial' by Chaz della Porta (Liam Doran); 'Steel Drawing for Cooper' by Steuart Bremner (Liam Doran)

**Page 37:** 'Popsicle' by Doyle Svenby (Liam Doran); 'Athena First Flute' by Michael Adams (Liam Doran); 'The Swing' by Victor Issa (Liam Doran)

**Page 40:** 'Australia's The Fruits,' part of BIFA (Carl Scofield); 'Saurus' by Close-Act Theatre, part of BIFA (Joe Kusumoto); STREB Extreme Action Company, part of BIFA (Joe Kusumoto); 'STX' by Close-Act Theatre, part of BIFA (Joe Kusumoto)

**Page 42:** Riverwalk Center (Liam Doran); fence detailing outside Old Masonic Hall (Liam Doran); 'Lodgepole Pine Fan' by Ben Roth, part of BIFA (Joe Kusumoto)

**Page 47:** 'As Seasons Change' by Stephen Day (Liam Doran); 'Double Axle' by David Griggs (Liam Doran); 'Main Street Sunset' by Ann Weaver (Liam Doran)

**Pages 49-54:** Rendering of 'Syncline' by Albert Paley (Albert Paley Studios); all other photos (Liam Doran)

**MEMO**

TO: Town Council

FROM: Julia Puester, AICP, Planning Manager

RE: Resolution 16, Series 2017- A Resolution to Adopt the “Breckenridge Public Art Program Master Plan + Policy 2016” As a Part of the Town’s Comprehensive Plan

DATE: June 7, 2017 (for meeting of June 13, 2017)

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A resolution to adopt the “Breckenridge Public Art Program Master Plan + Policy 2016” (Plan) as part of the Town’s Comprehensive Plan has been attached. Planning Commission approved (with a vote of 4-0) Resolution 1, Series 2017, A Resolution recommending the inclusion of the “Breckenridge Public Art Master Plan + Policy 2016” as part of the Town’s Comprehensive Plan at their April 13 meeting.

This resolution is preceded by a first reading on an Ordinance to adopt the Plan as this process requires both an Ordinance and Resolution. The previous memo regarding Ordinance 21, Series 2017, outlines the detailed Plan changes from the May 23 Town Council meeting.

A resolution is enclosed with this memo and staff has provided a recommended motion below.

**Recommended Motion**

*“I move to approve Resolution 16, Series 2017, A resolution recommending the inclusion of the ‘Breckenridge Public Art Program Master Plan + Policy 2016’ as part of the Town’s Comprehensive Plan.”*

1                   ***FOR WORKSESSION/ADOPTION – June 13, 2017***

2  
3   RESOLUTION NO.16

4  
5   SERIES 2017

6  
7                   A RESOLUTION AMENDING THE TOWN OF BRECKENRIDGE  
8                   COMPREHENSIVE PLAN TO INCLUDE THE “BRECKENRIDGE PUBLIC ART  
9                   PROGRAM MASTER PLAN + POLICY 2016” AS A PART THEREOF

10  
11                   WHEREAS, the Town of Breckenridge has previously adopted the Town of  
12                   Breckenridge Comprehensive Plan; and

13  
14                   WHEREAS, Section 9-4-1 of the Breckenridge Town Code provides the Town  
15                   Council may, from time to time, adopt additional parts of the Town Comprehensive Plan  
16                   in accordance with the procedures set forth in Section 9-4-4 of the Breckenridge Town  
17                   Code; and

18  
19                   WHEREAS, the “Breckenridge Public Art Program Master Plan + Policy 2016,”  
20                   has been prepared, a copy of which is marked **Exhibit “A”**, attached hereto, and  
21                   incorporated herein by reference; and

22  
23                   WHEREAS, the Town Council has reviewed the proposed “Breckenridge Public  
24                   Art Program Master Plan + Policy 2016” and is familiar with its contents; and

25  
26                   WHEREAS, the Town Council has received the recommendation of the Town’s  
27                   Department of Community Development that the “Breckenridge Public Art Program  
28                   Master Plan + Policy 2016” be incorporated into and made a part of the Town’s  
29                   Comprehensive Plan; and

30  
31                   WHEREAS, pursuant to Section 9-4-3 of the Breckenridge Town Code, the  
32                   proposed incorporation of the “Breckenridge Public Art Program Master Plan + Policy  
33                   2016” into the Town’s Comprehensive Plan has been referred to the Town of  
34                   Breckenridge Planning Commission; and

35  
36                   WHEREAS, the Town Council has received the favorable written  
37                   recommendation of the Planning Commission with respect to the proposed incorporation  
38                   of the “Breckenridge Public Art Program Master Plan + Policy 2016” into the Town’s  
39                   Comprehensive Plan; and

40  
41                   WHEREAS, Section 9-4-4 of the Breckenridge Town Code requires that a public  
42                   hearing be held by the Town Council prior to its consideration of a resolution to amend  
43                   the Town Comprehensive Plan; and



1 WHEREAS, a public hearing on the proposed amendment to the Town  
2 Comprehensive Plan was held on March 28, 2017, notice of which was published on the  
3 Town's web site in accordance with Section 9-4-4 of the Breckenridge Town Code; and  
4

5 WHEREAS, at the public hearing the Town Council received public comment  
6 concerning the proposed amendment to the Town Comprehensive Plan; and  
7

8 WHEREAS, the Town Council has considered the public comment concerning  
9 the proposed amendment to the Town Comprehensive Plan that was received at the  
10 public hearing; and  
11

12 WHEREAS, the Town Council finds and determines that the Town  
13 Comprehensive Plan should be amended to incorporate the "Breckenridge Public Art  
14 Program Master Plan + Policy 2016" as a part thereof.  
15

16 NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN  
17 OF BRECKENRIDGE, COLORADO, as follows:  
18

19 Section 1. The Town of Breckenridge Comprehensive Plan, adopted March 25,  
20 2008 by Resolution No. 11, Series 2008, as previously amended, is further amended by  
21 the inclusion of the "Breckenridge Public Art Program Master Plan + Policy 2016"  
22 (Exhibit "A" hereto) as a part thereof.  
23

24 Section 2. Pursuant to Section 9-4-4 of the Breckenridge Town Code, an attested  
25 copy of this resolution shall be certified by the Town Clerk to the Board of County  
26 Commissioners of Summit County.  
27

28 Section 3. This resolution shall become effective upon its adoption.  
29

30 RESOLUTION APPROVED AND ADOPTED THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2017.  
31

32 TOWN OF BRECKENRIDGE  
33  
34  
35

36 By \_\_\_\_\_  
37 Eric S. Mamula, Mayor  
38

39 ATTEST:  
40  
41

42 \_\_\_\_\_  
43 Helen Cospolich, CMC,  
44 Town Clerk



## MEMORANDUM

**To:** Mayor and Town Council  
**From:** Rick Holman, Town Manager  
**Date:** June 1, 2017 (June 13, 2017 Town Council)  
**Subject:** A Resolution in Support of Immigrants in Summit County

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The Town was approached by representatives from Summit Information Services who is working with a national organization called FWD.us. FWD.us promotes immigration reform around the Country and has a local representative here in Summit County. The Town was asked to bring forward a resolution to the Town Council that supports immigrants in Summit County and encourages Congress to find a collaborative and rational approach to passing comprehensive immigration reform.

The attached resolution is modeled after a resolution that was adopted by the Summit County Board of County Commissioners last month.

1 ***FOR WORKSESSION/ADOPTION – JUNE 13***

2  
3 RESOLUTION NO. \_\_\_\_

4  
5 Series 2017

6  
7 A RESOLUTION IN SUPPORT OF IMMIGRANTS IN SUMMIT COUNTY, COLORADO

8  
9 WHEREAS, immigrants play a vital role in our national, state, and local economies; and

10  
11 WHEREAS, in the state of Colorado there are more than 500,000 immigrant residents  
12 who pay taxes; and

13  
14 WHEREAS, Summit County’s increase in ethnic diversity was reflected in the last  
15 census, wherein the non-white population increased 54.16% and persons of Hispanic origin now  
16 make up over 14% of the County’s total permanent resident population; and

17  
18 WHEREAS, Summit County is home to four ski areas and tourism is the backbone of our  
19 economy and the industry utilizes the H-1B and H-2B visa programs to fill necessary jobs; and

20  
21 WHEREAS, Summit County celebrates the diversity and enrichments these individuals  
22 bring to our community and is proud to hold as one of its core values the opportunity for  
23 individuals to participate and succeed; and

24  
25 WHEREAS, thirty-three percent of students enrolled in the Summit School District speak  
26 a primary language other than English; and

27  
28 WHEREAS, there are thousands of Deferred Action for Childhood Arrivals (DACA)  
29 recipients in Colorado and a substantial number in Summit County and if DACA is rescinded  
30 could put the future of DACA youth in Summit County, Colorado at risk; and

31  
32 WHEREAS, June of 2017 marks the second annual Immigrant Heritage Month in the  
33 United States, meant to honor the accomplishments and role of immigrants in shaping U.S.  
34 history and culture; and

35  
36 WHEREAS, the Town Council of the Town of Breckenridge, Colorado supports an  
37 immigration system and policies that encourage opportunities that positively impact our  
38 economy, and recognizes that high skilled immigrants help to grow the economy, and that  
39 seasonal workers are needed to fill short term employment gaps.  
40

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

3  
4 Section 1. The Town Council recognizes the economic and community contributions  
5 immigrants have made for the people of Summit County.  
6

7 Section 2. The Town Council stands in support of Colorado’s congressional delegation  
8 and encourages Congress to find a collaborative and rational approach to passing comprehensive  
9 immigration reform that reflects the Town Council’s principles on immigration that reinforce  
10 economic and community strength.

11  
12 Section 3. This resolution is effective upon adoption.

13  
14 RESOLUTION APPROVED AND ADOPTED this \_\_\_ day of \_\_\_, 2017.

15  
16 TOWN OF BRECKENRIDGE

17  
18  
19  
20 By: \_\_\_\_\_  
21 Eric S. Mamula, Mayor

22  
23 ATTEST:

24  
25  
26  
27 \_\_\_\_\_  
28 Helen Cospolich, CMC,  
29 Town Clerk

30  
31 APPROVED IN FORM

32  
33  
34  
35 \_\_\_\_\_  
36 Town Attorney                      Date

## MEMORANDUM

**TO:** Town Council

**FROM:** Mark Truckey, Assistant Director of Community Development

**DATE:** June 7, 2017 for June 13 Meeting

**SUBJECT:** Resolution Reaffirming the Town's Commitment to Taking Climate Action

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In light of President Trump's recent decision to withdraw the United States from the Paris Climate Agreement, a consortium of mayors from across the country have reaffirmed their commitments to taking climate action. A statement was released by the "Climate Mayors" in response to the president's action. Mayor Mamula has signed on to this statement and it has gone viral, with some 246 mayors representing 56 million people already signing on to the statement. A link to the relatively short statement is included here: <https://medium.com/@ClimateMayors/climate-mayors-commit-to-adopt-honor-and-uphold-paris-climate-agreement-goals-ba566e260097> . A similar statement has been released by the "We Are Still In" contingency, which in addition to having many signatories from local governments includes a list several hundred universities and businesses: <http://wearestillin.com/> .

Part of the intent of the mayoral statement is to re-emphasize to the rest of the world that many places in the United States remain committed to pro-actively addressing the realities of climate change. As a further step in this reaffirmation, a number of communities are adopting resolutions indicating their continued commitment to addressing climate change at the local level. Attached is a proposed resolution for the Town Council's consideration that would make this reaffirmation. Staff will be available at the meeting to discuss this further.

# ***FOR WORKSESSION/ADOPTION – JUNE 13***

RESOLUTION NO. \_\_

SERIES 2017

## **A RESOLUTION REAFFIRMING THE TOWN OF BRECKENRIDGE'S COMMITMENT TO TAKING ACTION TO REDUCE CLIMATE IMPACTS**

WHEREAS, the Town of Breckenridge desires to protect and enhance quality of life for all those who live, work, learn and play in our community, as well as for our children and grandchildren; and

WHEREAS, there is scientific consensus regarding the reality of climate change and the recognition that human activity, especially the combustion of fossil fuels that create greenhouse gases, is an important driver of climate change; and

WHEREAS, climate change has been widely recognized by government, business and academic leaders as a worldwide threat with the potential to harm our economy, safety, public health, and quality of life; and

WHEREAS, many local, regional, and global economies are prioritizing energy efficiency and transitioning to low-carbon energy sources; and

WHEREAS, actions that reduce climate pollution also have potential to improve air quality, public health, energy security, social equity, our local natural environment, and quality of life for our residents; and

WHEREAS, the Town of Breckenridge has demonstrated a legacy of leadership against the threat of climate change; and

WHEREAS, the Town of Breckenridge remains committed to its adopted goals to reduce energy consumption as outlined in the SustainableBreck Plan and the Breckenridge Carbon Action Plan; and

WHEREAS, several drivers of climate pollution such as the production and use of energy in buildings and transportation can be influenced by local governments and the collective action of communities around the world; and

WHEREAS, the Town of Breckenridge adopted the Breckenridge Carbon Action Plan in 2009 and the SustainableBreck Plan in 2011 outlining steps the Town has committed to taking in partnership with others to achieve our climate action goals; and

WHEREAS, the Town of Breckenridge has already taken a variety of important actions to reduce greenhouse gas emissions and enhance quality of life in our community, including



installing some 1,500 kw of solar gardens and solar arrays on Town property, undertaking numerous energy efficiency upgrades in Town buildings, implementing several programs designed to increase energy efficiency in Town residences and businesses; and

WHEREAS, the Town of Breckenridge is in the process of developing a plan and setting goals to achieve 100% renewable energy sources in the Town; and

WHEREAS, we are joined in taking action on climate change by a global coalition of cities, state and national governments and community and private sector leaders who recognize the importance and potential of these actions to protect and enhance the well-being of current and future generations; and

WHEREAS, more than two hundred forty-six (246) mayors representing more than 56 million Americans have recently re-affirmed their cities' commitments to climate action; and

WHEREAS, the Town of Breckenridge actively collaborates with other local governments throughout our region, state, nation, and the world to learn from each other and identify win-win opportunities to take action on climate change while creating measurable benefits in our communities; and

WHEREAS, 195 countries, including the United States, vowed to address climate change in agreements reached in Paris in December 2015 (the "Paris Agreement"); and

WHEREAS, President Donald Trump's announcement seeking to withdraw the United States of America from the Paris Agreement undermines this critical global effort to confront one of the greatest challenges facing our community and communities all across the one planet we all share; and

WHEREAS, the reality of climate change has not been affected by recent political announcements; and

WHEREAS, the absence of federal leadership only increases the importance of local leadership in avoiding the most dangerous and costly effects of climate change; and

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

Section 1. The Town of Breckenridge re-affirms its commitment to taking action to reduce its impacts on climate with its adopted carbon action goals. The Town of Breckenridge continues to support the principles of the Paris Agreement and the participation of the United States of America as a party to the Paris Agreement. The Town of Breckenridge will continue to stand with cities and other public and private sector partners throughout the world to advance action in accordance with the goals outlined in the Paris Agreement. The Town of Breckenridge will take new steps to further our efforts and commitments to reducing its carbon footprint and moving towards cleaner and renewable sources of energy.

Section 2. This resolution is effective upon adoption.

RESOLUTION APPROVED AND ADOPTED this \_\_\_ day of \_\_\_, 2017.

TOWN OF BRECKENRIDGE

By: \_\_\_\_\_  
Eric S. Mamula, Mayor

ATTEST:

\_\_\_\_\_  
Helen Cospolich, CMC,  
Town Clerk

APPROVED IN FORM

\_\_\_\_\_  
Town Attorney                      Date

**MEMORANDUM**

**To:** Town Council

**From:** Peter Grosshuesch, Director of Community Development

**Date:** June 7, 2017

**Re:** Planning Commission Decisions of the June 6, 2017 Meeting.

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**DECISIONS FROM THE PLANNING COMMISSION AGENDA OF June 6, 2017:**

**CLASS C APPLICATIONS:**

1) Village at Breckenridge Plaza 2017 Temporary Tent, PL-2017-0158, 645 S Park Avenue. Installation of one 40 ft. x 100 ft. temporary event tent, totaling 4,000 sq. ft., on the Village at Breckenridge Plaza centrally located in the plaza in the space designed for temporary tents. *Approved.*

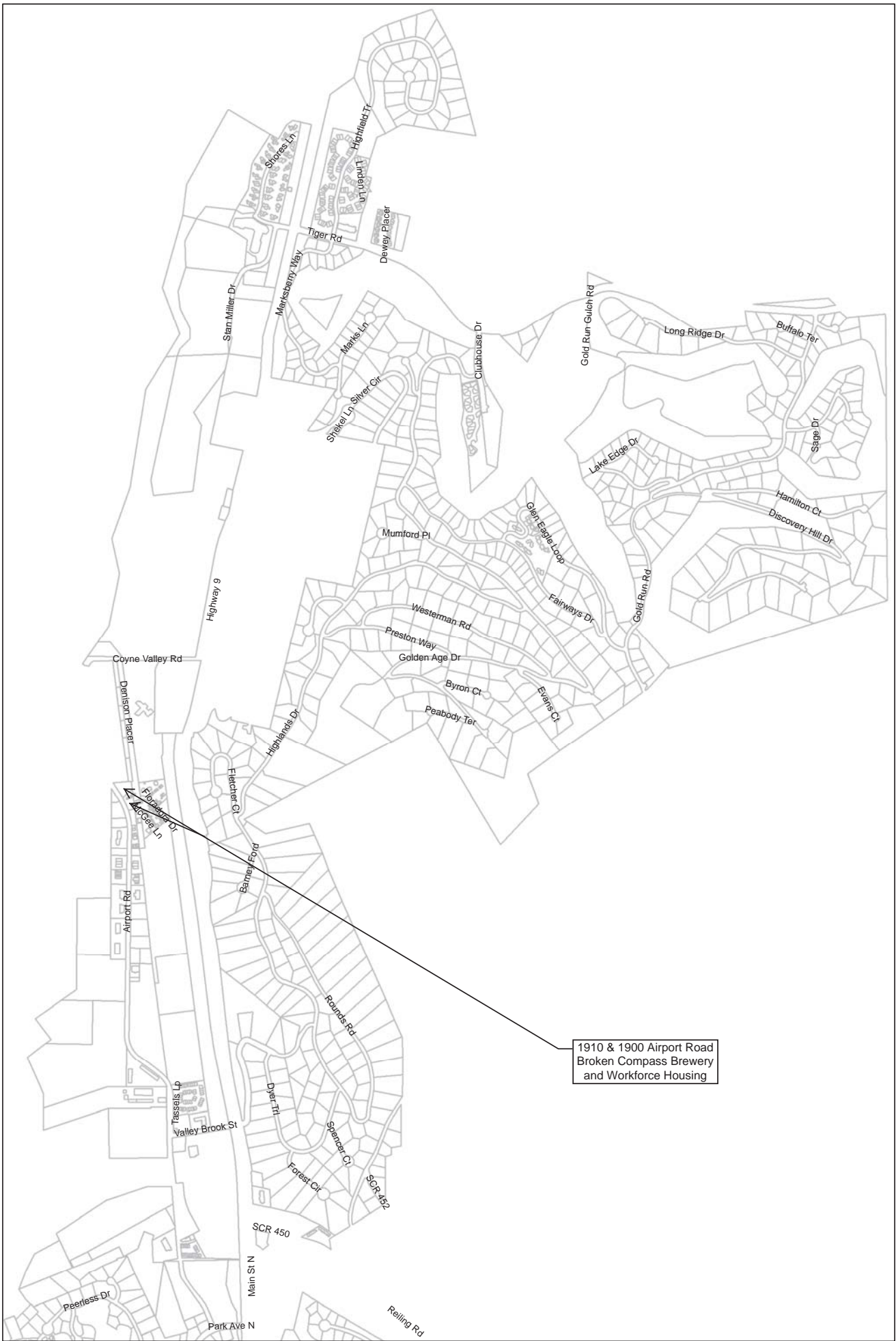
**CLASS B APPLICATIONS:**

None.

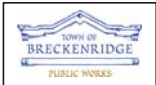
**CLASS A APPLICATIONS:**

1) Broken Compass Brewery & Workforce Housing, PL-2017-0051; 1910 & 1900 Airport Road. A proposal to construct a 9,852 sq. ft. brewery with indoor seating, outdoor patio area, parking lot, solar array, and 4 deed restricted workforce townhome units with attached one car garages (6,360 sq. ft.) on 1.2725 acres. *Approved.*

**OTHER:** None.



1910 & 1900 Airport Road  
Broken Compass Brewery  
and Workforce Housing





Ploss Residence  
305 North French Street

Lincoln Park at the  
Wellington Neighborhood  
Filing 3

Lincoln Park at the  
Wellington Neighborhood  
Filing 4



printed 4/11/2017

### Breckenridge South



**PLANNING COMMISSION MEETING**

The meeting was called to order at 5:30pm by Chair Schroder.

**ROLL CALL**

Christie Leidal (absent)	Jim Lamb	Ron Schuman
Mike Giller	Steve Gerard	
Dan Schroder	Gretchen Dudney	

**APPROVAL OF MINUTES**

With no other changes, the May 16, 2017, Planning Commission Minutes were approved as presented.

**APPROVAL OF AGENDA**

With no other changes, the June 6, 2017, Planning Commission Agenda was approved.

**PUBLIC COMMENT ON HISTORIC PRESERVATION ISSUES:**

- Lee Edwards, 103 N High St. – Will there be different topics each week? (Mr. Schroeder: No. It will only be historic district issues.) Some time ago, a ditch was placed in front of the front door at a Historic District residence to flow water away from the building. It was determined then by the state historical society that this was ok, yet it has been said recently that a new structure can't be raised. I would like the commission to be realistic about the roadway in front of historic structures.

**CONSENT CALENDAR:**

- 1) Village at Breckenridge Plaza 2017 Temporary Tents (CL) PL-2017-0158; 645 S Park Avenue.

The consent calendar was approved as presented.

**TOWN COUNCIL REPORT:**

Mr. Grossheusch presented:

- Corum is managing the Pinewood 1 and 2 projects and will also be property managers for Denison Commons. (Ms Dudney: Do the Denison Commons units qualify as work force housing?) Some do but students are also eligible.
- The ordinance for term limits for boards and commissions was passed on first reading. Planning Commissioners will be allowed a maximum of three full four-year terms. Past years will be counted but partial terms will not be counted.
- A resolution was adopted for TDR's on the Denison Commons project. The Town is stripping four units of density from the Carter Museum property to accommodate the density at Denison. Per the Joint Upper Blue Master Plan, for every four units of workforce housing built the Town must transfer one TDR.
- The Council held a work session with Breck Creative Arts regarding the Art in Public Places Master Plan proposed amendments. The Council was generally supportive of the Plan changes—the Planning Commission saw these a couple months ago. Council did ask that the potential for additional positive points for public art be removed from the Plan along with references to allowing points for placing art offsite.
- The Council wants to have a 20 year anniversary party for the open space program.

**FINAL HEARINGS:**

- 1) Broken Compass Brewery & Workforce Housing (CK) PL-2017-0051; 1910 & 1900 Airport Road

Mr. Kulick presented a final hearing on a proposal to build a 9,852 sq. ft. brewery with indoor seating, outdoor patio area, parking lot, solar array, and 4 deed restricted workforce townhome units with attached one car garages (6,360 sq. ft.) on 1.2725 acres.

*Commissioner Questions / Comments:*

Ms. Dudney: There is a typo on 5a. (Mr. Kulick – OK thank you. We will fix that.)

Mr. Giller: Will there be 2 CO's? One for residential and one for commercial? (Mr, Kulick - Yes, the workforce housing CO is required first because of the positive awarded.)

Mr. Schuman: Can we see the color renderings. (Mr. Kulick presented the color renderings.)

Ms. Dudney: Can you show us the west elevation please. (Mr. Kulick presented the west elevation.)

Mr. Rich Ciecuch, Design Builder, Presented:

I would like to show you the changes to the west elevation. You can see here there are more linear windows.

Mr Schroeder opened the hearing to public comment:

No Public Comments.

Questions to Commission:

- 1) Is the parking study agreeable?
- 2) Is the point analysis agreeable?
- 3) Snow storage

Ms. Dudney: I agree with the parking analysis. I agree with the point analysis and I think the snow storage is good.

Mr. Lamb: Parking analysis is agreeable and the points are agreeable. I am glad that drainage has been addressed appropriately.

Mr. Schuman: Agree with Parking study and the point analysis. The snow storage we'll know about when it starts snowing again.

Mr. Giller: I agree with the parking study. I agree with the point analysis and agree with the snow storage plan.

Mr. Gerard: Agree with parking. Agree with points but I am 50/50 on the snow storage.

Mr. Shroeder: I agree with the parking study and appreciate that it was done. I agree with the point analysis. I am ok on the snow. I also support the height analysis. I support the project as presented.

Ms. Dudney made a motion to approve. The motion was seconded by Mr. Lamb. The motion passed unanimously.

**PRELIMINARY HEARINGS:**

1) Ploss Residence (CK) PL-2017-0153; 305 N. French Street

Mr. Kulick presented a proposal to construct a new 4 bedroom, 4.5 bathroom single-family residence along North French Street, with a 1 bedroom, 2 bathroom bunkhouse, 2-car garage and separate 1-car garage along the Ridge Street Alley. An existing single-family home is planned for demolition prior to the construction of the proposed development.

*Commissioner Questions / Comments:*

Mr. Shroeder: How do we address the curb cut? (Mr. Kulick: If we are looking at the settlement perspective we don't want a big parking lot. However, it is an absolute policy reviewed by town engineers and needs to be adhered to. (Ms. Allen-Sabo: We will talk with Dale (Town Engineer) and we will make adjustments. It is a tough space and we will continue to work with Dale.) (Mr. Kulick: The way they broke up the garages and bunkhouse was encouraged by staff but the driveway design is not compliant.) (Ms. Puester: The project is over parked.)



- Ms. Dudney: The -3 points recommended under Design Standard 148, is this supper ceded by failing Priority Design Standards 95 and 96. (Mr. Kulick - It is largely it is supper ceded by Standards 95 and 96.)
- Mr. Schuman: Where are the triple hung windows on the south? (Mr. Kulick – Showed the location on the plans.)
- Mr. Gerard: Is there a triple hung on the deck? (Mr. Kulick – The railing going through makes it confusing. It is actually a slightly larger double hung.)

Architects Suzanne Allen-Sabo and Glen Camuso presented:

We have been working with Mosh and Chris for 5-6 months and have been working diligently to bring the project into compliance. We have a little more work to do with bringing to compliance but we are very close. Let's talk about the wall in question. Mr. Camuso: Rather than stepping this so much we brought this straight across. Run off goes to the back of garage so we will fill there. The owner preference was a screen wall up to 7 ft. above the upper story deck and it did not look good. The present configuration of the wall is where we settled. We were asked to eliminate the parking space on French street and we did, and to bring the yard out to the street to give it an in-town feel. Our client is willing to do that. We have eliminated one curb cut but still working with Dale on the final decision. We will also address the driveway location.

- Ms. Dudney: Do you think the comment is valid to step further? (Mr. Camuso: We could, but if we go farther than we already have we won't retain the earth for the basement.)
- Mr. Giller: Looks like the heated deck is at 9559 and the hillside grade is lower. That wall is not necessary for that grading. It is unusual to build a concrete privacy wall in the historic district. (Mr. Camuso: The snow level will likely be above the wall for a significant portion of the year.)
- Ms. Dudney: Will ground density be taken care of? (Ms. Allen-Sabo -Yes.)
- Ms. Dudney: Will the patio wall and solid to void be addressed? (Ms. Allen-Sabo -Yes. We found that the triple hung window was common in Victorian era buildings just not in Breckenridge.)
- Mr. Schuman: The front looks great. Has Dale taken into consideration that the French Street curb cut has been removed? (Ms. Allen-Sabo –Yes, he has and we will be working with him.)
- Mr. Giller: In regards to the patio grade, did you consider a vegetation option? (Ms. Allen-Sabo -We didn't but I think it is a good idea.)
- Mr. Giller: It appears in your model deviates from the plans and it is not a log and chinking look on the 2 car garage? (Mr. Camuso- That is true, we modified the siding to a vertical siding. In the model.)
- Ms. Dudney: What is the material on the single car garage? (Mr. Camuso- Reclaimed barn board.)

Mr. Schroeder opened the hearing to public comment.

Mr. Bill Tinker, who lives 2 lots north, commented: Great job following the evolution of the historic district. Snow storage in the ally is an issue. Snow stacks are not adequate for snow like we had this year. Good job overall. I agree with toning down the windows and by the way, there are currently no curb cuts on the alley.

Mr. Lee Edwards, who owns property on French Street, commented: I don't like trapezoid windows and they should stick with staff recommendation to change them. Thank goodness for removing the dirt parking in front of the house. The north side is open. The loss of 2 spaces on town right of way is detrimental. I think you should move the landscaping back and retain parking. (Mr. Kulick: There is discussion to extend parking down North French St. but that is under Town control and not the applicant's decision or responsibility. As of now, there is no on-street parking in front of the property because the entire width of the site functions as a driveway.) I think they should put two more parallel parking spaces on town right of way instead of landscaping. Match everything else on that side of the street. (Ms. Dudney: What does applicant think about that?) (Ms. Allen-Sabo: We designed landscaping because the town asked us to.) (Mr. Grosshuesch: Front

yard parking is discouraged in the historic district.) (Ms. Dudney: If they do this just because they want to do it, can the town take it back?) (Ms. Puester: The Streets Department can decide what they want to do with the right of way, it is covered under a revocable license agreement.) (Ms. Puester: The proposed landscaping meets the design standards). (Mr. Kulick: Currently town right of way kind of morphs into owner yards and that is what we want. It is not up to the applicant to put parking on town right of way nor are they responsible to provide public on-street parking. The town will decide. For now, it is best to landscape the area and modify it later if necessary. (Ms. Allen-Sabo: The Town hopes this project will inspire the neighbor's landscape to the road as well. I think Streets and Engineering are looking at on-street parking and will decide later. But in the mean time we are being asked to landscape and keep it looking nice.)

Questions for Commission:

- 1) Comments on windows and doors
- 2) Patio walls
- 3) Ornament and Detail

Ms. Dudney: I concur with staff on windows and doors. There shouldn't triple hung windows on east and north elevation and no full length window on the doors. I do not like the trapezoid window. I think the patio walls need to be redesigned. I agree with acceptability of corbels.

Mr. Giller: The overall look reminds me more of a mountain rustic look than a historic look. I would refer more to the district for look of your design. I agree with staff on the doors and windows. The patio wall is nothing but an inappropriate screening wall. I can live with corbels. I think the bunk house should be more differentiated from the historical buildings.

Mr. Gerard: I think our task is to stay true to the historical responsibility. I think we should go back to using double hung windows. The corbels are fine and not overly fancy. The patio walls don't look right. They remind me of the roof at Beaver Run and I don't like the look of them in this area. Distinctions in the alley could be a compromised between parties.

Mr. Schuman: Glazing needs to be toned down. I think the triple hung windows are ok on north and south side as they are not visible. The full length window on the door does not fit. I think the patio walls are fine. I don't think you will see them from the alley and they will help retain soil. I think the corbels are acceptable. I would like to see the landscaping go all the way to the pan. There are currently no curb cuts in the alley anywhere and I think we should keep it consistent.

Mr. Lamb: I think there is too much glazing. The trapezoid windows are ok. The walls are not consistent with the historic district but you also don't see slopes like this on other historic buildings. The walls may be needed because of the slope. Ornamentation is fine. I would like to see landscaping to the street. Is there an exception for curb cuts in an alley? The alley looks terrible now and it would be an improvement.

Mr. Schroder: I wonder if we get stuck thinking the shorter walls are ok because we have been seeing walls in the drawings from the beginning. I think it is overkill on the windows and there should be no triple hung windows. The glazing needs to be minimized.

Mr. Schroder called a break at 7:23. Meeting resumed at 7:30.

2) Lincoln Park at the Wellington Neighborhood Filing 3 Subdivision, (CL) PL-2017-0147, TBD Bridge Street

Mr. LaChance presented a proposal, per the Lincoln Park at the Wellington Neighborhood Master Plan, to subdivide a portion of Lot 2 Block 6 Wellington Neighborhood Subdivision into 13 lots, private alleys, public right of way, with private and public open space.

*Commissioner Questions / Comments:*

Mr. Schuman: When will the Midnight Sun pedestrian bridge be completed? (Mr. LaChance: The applicant

can give you details on that when they present. It is required to be completed before the last Certificate of Occupancy can be issued for Filing #2)

Dan McCreery (applicant), President of TNB, LLC. presented:

My intent is to put Midnight Sun and Central Park pedestrian bridges in this summer and then finish the Bridge Street bridge next summer. The market is strong, we have one house left to sell in Filing #2. All deed restricted homes are sold. (Ms. Puester: Mr. McCreery, when do you plan to construct the Vern Johnson Memorial Park?) (Mr. McCreery: This summer. We are using old railway cars and repurposed beams as platforms for viewing. I think it is a very nice architectural look.) (Ms. Puester: Mr. McCreery, could you please further discuss the bridges with Chapin after the meeting?) (Mr. McCreery: Sure.)

Mr. Schroder opened the hearing to public comment.

No public comments.

Commission agrees unanimously that the project is ready for a final hearing, with the revisions requested of the applicant by staff.

3) Lincoln Park at the Wellington Neighborhood Filing 4 Subdivision, (CL) PL-2017-0149, TBD Bridge Street

Mr. LaChance presented a proposal, per the Lincoln Park at the Wellington Neighborhood Master Plan, to subdivide a portion of three lots, (*Remainder Lot 2, Block 6, Wellington Neighborhood Subdivision # 2 Future Development/Lincoln Park at The Wellington Neighborhood; Lot 3, Block 6, Wellington Neighborhood Subdivision # 3 Remaining After Wellington 2 Plat 887815 05/19/08; and Pt Of Lot 4, Block 6, Wellington Neighborhood Sub Remainder of Lot 4, Block 6 After Wellington 2 Filing 5 Plat 99497# 2 Future Development/Lincoln Park at The Wellington Neighborhood*) into 12 lots, private alleys, public right-of-way including a vehicular bridge, and private and public open space.

Mr. Schroder opened the hearing to public comment.

No public comment.

*Commissioner Questions / Comments:*

No Questions.

Commission agrees unanimously that the project is ready for a final hearing, with the revisions requested of the applicant by staff.

**OTHER MATTERS:**

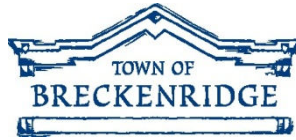
- Ms. Puester: Meet and greet invitation sent from Breckenridge Heritage Alliance. Friday meet and greet. Please RSVP or let me know now.

**ADJOURNMENT:**

The meeting was adjourned at 7:48 pm.

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Dan Schroder, Chair



**TO:** BRECKENRIDGE TOWNCOUNCIL  
**CC:** RICK HOLMAN, TOWN MANAGER; SHANNON HAYNES, ASSISTANT TOWN MANAGER  
**FROM:** FINANCE DEPARTMENT  
**SUBJECT:** BUSINESS AND OCCUPATIONAL LICENSES AND TAX ORDINANCE ADMINISTRATIVE REGULATIONS  
**DATE:** 6/6/2017

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### **Purpose**

The attached administrative regulations have been prepared for Council's review. These regulations are intended to provide guidance and clarification to staff and to the public on how the Town applies Chapter 4 of Title 3 of the Breckenridge Town Code, regarding Business and Occupational Licenses. The adoption of the regulations should allow for improved discovery of unlicensed accommodation units, leveling of the playing field within the lodging community and effective enforcement of the Town's Business and Occupation Licenses and Tax Ordinance. It is important to note that these revisions will not garner new net tax revenues for the Town and are not intended to tax transactions that the code does not presently tax.

### **Description**

Enclosed with this memo are the proposed Business and Occupational License ordinance administrative regulations. The points of note include: guidance on the definition of advertisement, specifying that accommodation units are units that are rented for a period of 30 consecutive days or less, conditions of the license, and how to list the license number in advertisements.

Staff expects that the clarification and guidance provided in these regulations will facilitate an improved and more transparent process for the public. The guidelines are also intended to prevent potential disputes related to any misinterpretations of the Code.

**Recommended Action:** We ask that Council review and provide any related comments on the attached regulations. Staff will be present during the June 13 Work Session to respond to any questions that Council may have. The regulations will be issued by Brian Waldes to be effective as of July 20, 2017.

1 ADMINISTRATIVE RULES AND REGULATIONS CONCERNING  
2 ACCOMMODATION UNIT ADVERTISEMENTS UNDER THE TOWN OF  
3 BRECKENRIDGE BUSINESS AND OCCUPATIONAL LICENSES ORDINANCE  
4

- 5 1. **Effective Date.** These regulations are effective July 20, 2017.
- 6 2. **Authority.** These regulations are issued by the Finance Director of the Town of  
7 Breckenridge pursuant to the authority granted by Section 4-1-10-A3 of the  
8 Breckenridge Town Code.
- 9 3. **Adoption Procedures.** The procedures set forth in Chapter 18 of Title 1 of the  
10 Breckenridge Town Code were followed in connection with the issuance of these  
11 regulations. Notice of the adoption of these regulations was given in accordance  
12 with the requirements set forth in Section 1-18-3 of the Breckenridge Town Code.
- 13 4. **Where can I find the Town’s requirements for advertising an**  
14 **accommodation unit?**

15 The Town of Breckenridge ordinance requirements for the advertising of  
16 accommodation units for rent are primarily found in Section 4-1-8-3 of the  
17 Breckenridge Town Code, which is a part of the Town’s “Business and  
18 Occupational Licenses and Tax Ordinance (BOLT).” This ordinance is referred  
19 in these regulations as the “BOLT Ordinance.” As explained in the BOLT  
20 Ordinance and these regulations, responsible persons are required to list their  
21 Town-issued BOLT license number in any advertisement for the rental of the  
22 accommodation unit that is associated with that BOLT license number. The  
23 BOLT license number for an accommodation unit is referred to in these  
24 regulations as the “license number.”  
25

- 26 5. **What is an advertisement?**

27 The BOLT Ordinance defines an “advertisement” as:

28  
29 A form of marketing communication that employs a non-personal message to  
30 promote the rental of an accommodation unit. This includes, without limitation,  
31 mailing, brochures, print, internet listing, e-mail publication, social media, other  
32 electronic means, or other means or methods regardless of the medium used.  
33

- 34 6. **What is an accommodation unit under the BOLT ordinance?**

35 The BOLT Ordinance defines an “accommodation unit” as:

36 Any person engaged in the business of accommodations rentals within the Town.  
37 Specifically short-term rentals, defined as ‘Accommodation Unit’ in Section 4-1-2

1 of the Breckenridge Town Code as, ‘separate and distinct living units including  
2 condominium, townhome, house, trailer, studio unit, condo-hotel units, or any  
3 such other similar unit which is rented to any person, who, for consideration, uses,  
4 possesses or has the right to use or possess such accommodation unit **for a period**  
5 **of 30 consecutive days or less**, regardless of the number of days during a license  
6 year such unit is rented.’

7 7. **What are the conditions of the license with respect to advertisements of an**  
8 **accommodation unit?**

9 A. Owners of accommodations units must list all means, methods, and  
10 locations of advertisement for the rental of the accommodation unit that the owner  
11 intends to use on the initial license application. All means, methods, and locations  
12 include all print and website advertisements.

13 B. After issuance of license, the licensee must update all advertising listings  
14 within 30 days of any changes in advertising means.

15 8. **When is the license number required to be shown in an advertisement for the**  
16 **rental of an accommodation unit?**

17 There are three advertising scenarios that would be applicable for requiring  
18 advertisements to have a Town license number listed. Multiple scenarios may  
19 apply, listed below:  
20

21 A. An owner advertises their accommodation unit for rent utilizing any  
22 means of advertising. The owner would need to include their Town license  
23 number in the advertisement.

24 B. A property management company lists an accommodation unit for rent  
25 utilizing any means of advertising. The property management company would  
26 need to include their Town business license number in the advertisement. Upon  
27 request by the Finance Director, the property management company would need  
28 to provide the individual accommodation license numbers of the units advertised.

29 C. A property management company or other party “feeds” an advertisement  
30 through varying distribution channels resulting in third party advertisements that  
31 the property management or other party do not manage or control. The individual  
32 unit license number is not required to be displayed. However, the advertising  
33 company may have requirements to post their own license number.

34 9. **What if I own a timeshare and advertise it on my own to rent?**  
35

36 Each timeshare unit should be licensed in the Town and the associated license

1 number must be displayed in advertisements for a specific unit. An owner that  
2 advertises their timeshare unit to rent may either contact their homeowner  
3 association or the finance department to obtain the timeshare unit’s individual  
4 license number. The license number the owner should use is the Town license  
5 assigned to the unit on the deed that assigns the current ownership.

6 10. **How should a BOLT license number be displayed in an advertisement?**  
7

8 A valid license number should be listed as “Breckenridge Business License No.  
9 [Insert number].” The license number listed should be the license number of the  
10 party maintaining the advertisement.

11 The license number is recommended to be prominently displayed somewhere in  
12 the listing, with no specific placement requirement.

13 11. **Where should the license number be displayed within the accommodations**  
14 **unit?**

15 The physical address of the licensed premise must be displayed within 5 feet of a  
16 main entrance of the licensed premises at all times. It is recommended to  
17 accomplish this by posting the BOLT license. Displaying the physical address by  
18 the main entrance is a safety protocol the Town implemented so that in the case of  
19 an emergency, guests staying in the accommodation unit may readily identify  
20 their physical location to emergency responders.

21 **Question:** I don’t like the way the paper license looks, can I display my license  
22 number and physical address in a decorative way in my unit?

23 **Answer:** Yes, as long as the property address is legibly displayed within 5 feet of  
24 the main entrance in the accommodation unit, the paper copy of the license may  
25 be available elsewhere in the unit for guests to see, such as in a “guest binder.”

26 12. **How do I apply for my license and pay the license fee?**

27 The **Accommodation Unit License Information Sheet** is submitted to the  
28 Finance Department, 150 Ski Hill Road, PO Box 8629, Breckenridge, CO 80424  
29 or emailed to [websitefinance@townofbreckenridge.com](mailto:websitefinance@townofbreckenridge.com). The Finance Department  
30 will process the form and then send an invoice for the amount due for the license.  
31 Payments can be made via [xpressbillpay.com](http://xpressbillpay.com) or send to PO Box 8629,  
32 Breckenridge, CO 80424.  
33

34 The annual fee for an accommodation unit license is based on the number of  
35 bedrooms in the unit or house as follows:



Studio Unit	\$75.00
One-Bedroom Unit	\$100.00
Two-Bedroom Unit	\$125.00
Three-Bedroom Unit	\$150.00
Four or more Bedroom Unit	\$175.00

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13. **Who is responsible for paying the license?**

The accommodation unit owner must ensure the BOLT license for the unit has been paid. Property management companies and those that rent the accommodation unit for a profit must maintain a valid separate business license to cover all of the accommodations units that they rent.

14. **What if I recently purchased my unit and plan to rent it out?**

The Finance Department receives information about an accommodation unit’s sale from the deed by which the unit owner acquired the unit, and will mail the new owner(s) an introductory letter and application form, explaining the licensing program. If the unit was previously licensed as a short-term rental unit, an initial fee may not be required. If the unit was not previously licensed and the new owner wishes to rent the accommodation unit on a short-term basis, a license fee will be pro-rated based on the date of sale.

15. **Do I need to place my BOLT license number on my business card or business sign?**

No, listing the BOLT license number is only required when you are advertising a specific accommodation unit to rent or advertising multiple listings in an advertisement.

16. **How will the Town contact a party who is advertising an accommodation unit in violation of the Section 4-1-8-3 of the BOLT Ordinance”?**

The Town will give the responsible party written notice of a suspected violation of the advertising requirements of the BOLT ordinance in the form of a warning letter. The responsible party will then have 15 days to comply with the requirements of Section 4-1-8-3 of the BOLT Ordinance.

17. **Are there penalties for noncompliance with the accommodation units advertising requirements of Section 4-1-8-3 of the BOLT Ordinance?**

1  
2 Yes. The Town Code provides for a minimum fine of two hundred dollars  
3 (\$200.00) up to a maximum fine of one thousand dollars (\$1,000.00) for **each day**  
4 of a violation. The accommodation license can be suspended or revoked by  
5 determination of the municipal court judge. The fine amount will be set by the  
6 Town's municipal judge.  
7

8 **18. What else can happen if I don't list my license number in advertisements?**  
9

10 It is a violation of the BOLT Ordinance for a person to fail to comply with the  
11 applicable accommodation unit advertising rules set forth in Section 4-1-8-3. The  
12 possible fine for noncompliance with Section 4-1-8-3 are described in Section 16  
13 of these regulations. An unpaid fine can be collected by the municipal court in the  
14 manner provided by law. The BOLT license for the affected accommodation unit  
15 may also be suspended or revoked.  
16

17 **19. How do I find out if my property is located with the Town?**  
18

19 Visit the **Summit County Assessor's website**  
20 ([http://www.co.summit.co.us/Assessor/assessor\\_home.htm](http://www.co.summit.co.us/Assessor/assessor_home.htm))  
21

22 **20. Disclaimer.**  
23

24 The Town's enforcement of the Business and Occupational Licenses and Tax  
25 Ordinance always involves applying the ordinance to the facts of a particular  
26 transaction. Not all possible factual scenarios involving the application of the  
27 Business and Occupational Licenses and Tax Ordinance are described in these  
28 regulations. Nothing in these regulations limits the Town's authority to apply the  
29 Business and Occupational Licenses and Tax Ordinance to factual situations not  
30 specifically described in these regulations.  
31

32 **21. Whom can I contact if I have any other questions concerning the Business**  
33 **and Occupational Licenses and Tax Ordinance?**  
34

35 The Town of Breckenridge, Revenue Services Administrator, 150 Ski Hill Road,  
36 PO Box 8629, Breckenridge, CO 80424, 970-547-3193  
37

38 Dated: \_\_\_\_\_, 2017  
39  
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43 \_\_\_\_\_  
Brian Waldes, Finance Director

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Town of Breckenridge, Colorado



## Scheduled Meetings

**Shading indicates Council required 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.*

### June 2017

Tuesday, June 13, 2017	3:00pm / 7:00 pm	Town Hall Chambers	First Meeting of the Month
Tuesday, June 27, 2017	3:00pm / 7:00 pm	Town Hall Chambers	Second Meeting of the Month

### July 2017

Tuesday, July 11, 2017	3:00pm / 7:00 pm	Town Hall Chambers	First Meeting of the Month
Friday, July 21, 2017	8:00am - 9:00am	Ice Rink	Coffee Talk
Tuesday, July 25, 2017	3:00pm / 7:00 pm	Town Hall Chambers	Second Meeting of the Month

### Other Meetings

June 13th, 2017	Breck Forward Task Force Meeting	8:00am
	Workforce Housing Committee	1:30pm
	Board of County Commissioners Meeting	1:30pm
June 14th, 2017	Breckenridge Heritage Alliance	Noon
June 20th, 2017	Liquor & Marijuana Licensing Authority	9:00am
	Planning Commission	5:30pm
June 20th - 23rd	Colorado Municipal League Annual Conference	Beaver Run
June 22nd, 2017	Breckenridge Tourism Office Board Meeting	8:30am
	CAST	2:30pm
	RW&B Board Meeting	3:00pm
June 26th, 2017	Open Space & Trails Meeting	5:30pm
June 27th, 2017	Board of County Commissioners Meeting	1:30pm
June 28th, 2017	QQ - Quality and Quantity - Water District	10:00am
	Summit Combined Housing Authority	9:00am
July 13th, 2017	I-70 Coalition	1:00pm
	Upper Blue Sanitation District	5:30pm
July 5th, 2017	Police Advisory Committee	7:30am
	Breckenridge Events Committee	9:00am
	Childcare Advisory Committee	3:00pm
July 11th, 2017	Board of County Commissioners Meeting	1:30pm
July 17th, 2017	Breckenridge Creative Arts	4:15pm
July 18th, 2017	Planning Commission Meeting	5:30pm
July 27th, 2017	Northwest Council of Governments	10:00am