



**TOWN OF  
BRECKENRIDGE**

**Town Council Regular Meeting**  
Tuesday, August 27, 2019, 7:00 PM  
Council Chambers  
150 Ski Hill Road  
Breckenridge, Colorado

**I. CALL TO ORDER, ROLL CALL**

**II. APPROVAL OF MINUTES**

A. TOWN COUNCIL MINUTES - AUGUST 13, 2019

**III. APPROVAL OF AGENDA**

**IV. COMMUNICATIONS TO COUNCIL**

A. CITIZEN'S COMMENT (NON-AGENDA ITEMS ONLY; 3-MINUTE TIME LIMIT PLEASE)

B. BRECKENRIDGE SKI RESORT UPDATE

**V. CONTINUED BUSINESS**

A. SECOND READING OF COUNCIL BILLS, SERIES 2019 - PUBLIC HEARINGS

1. *COUNCIL BILL NO. 23, SERIES 2019 - AN ORDINANCE AMENDING ARTICLE F OF CHAPTER 3 OF TITLE 6 OF THE BRECKENRIDGE TOWN CODE CONCERNING TOBACCO PRODUCTS*

2. *COUNCIL BILL NO. 24, SERIES 2019 - AN ORDINANCE AMENDING TITLE 4 OF THE BRECKENRIDGE TOWN CODE BY ADDING A NEW CHAPTER 18 ENTITLED "RETAIL TOBACCO BUSINESS LICENSING"*

**VI. NEW BUSINESS**

A. FIRST READING OF COUNCIL BILLS, SERIES 2019

1. *COUNCIL BILL NO. 25, SERIES 2019 - AN ORDINANCE AMENDING CHAPTER 3H OF TITLE 6 OF THE BRECKENRIDGE TOWN CODE CONCERNING THE SALE OF DOGS AND CATS BORN OR RAISED IN INHUMANE COMMERCIAL BREEDING FACILITIES*

2. *COUNCIL BILL NO. 26, SERIES 2019 - AN ORDINANCE AUTHORIZING THE GRANTING OF AN EASEMENT TO CHRISTIE HEIGHTS PARTNERSHIP AND CUCUMBER CREEK ASSOCIATES LLC (Tract A, Christie Heights Subdivision Filing No. 2)*

B. RESOLUTIONS, SERIES 2019

1. *RESOLUTION NO. 21, SERIES 2019 - A RESOLUTION APPROVING AN INTERGOVERNMENTAL AGREEMENT FOR PARTICIPATION IN THE ENVIRONMENTAL SYSTEMS RESEARCH INSTITUTE, INC. REGIONAL GOVERNMENT ENTERPRISE LICENSE AGREEMENT*

C. OTHER

**VII. PLANNING MATTERS**

A. PLANNING COMMISSION DECISIONS

**VIII. REPORT OF TOWN MANAGER AND STAFF**

**IX. REPORT OF MAYOR AND COUNCIL MEMBERS**

A. CAST/MMC (MAYOR MAMULA)

B. BRECKENRIDGE OPEN SPACE ADVISORY COMMITTEE (MR. BERGERON)

C. BRECKENRIDGE TOURISM OFFICE (MS. WOLFE)

D. BRECKENRIDGE HERITAGE ALLIANCE (MS. OWENS)

E. BRECKENRIDGE CREATIVE ARTS (MR. GALLAGHER)

F. BRECKENRIDGE EVENTS COMMITTEE (MS. GIGLIELLO)

G. WATER TASK FORCE (MR. GALLAGHER)

**X. OTHER MATTERS**

**XI. SCHEDULED MEETINGS**

A. SCHEDULED MEETINGS FOR AUGUST, SEPTEMBER AND OCTOBER

**XII. ADJOURNMENT**

**I) CALL TO ORDER, ROLL CALL**

Mayor Mamula called the meeting of August 13, 2019 to order at 7:00pm. The following members answered roll call: Mr. Bergeron, Ms. Owens, Mr. Gallagher, Mr. Carleton, Ms. Wolfe, Ms. Gigliello and Mayor Mamula.

**II) APPROVAL OF MINUTES**

**A) TOWN COUNCIL MINUTES - JULY 23, 2019**

With no changes or corrections to the meeting minutes of July 23, 2019, Mayor Mamula declared they would stand approved as submitted.

**III) APPROVAL OF AGENDA**

Mr. Holman stated there were no changes to the agenda. Mayor Mamula declared the agenda approved as presented.

**IV) COMMUNICATIONS TO COUNCIL**

**A) CITIZEN'S COMMENT (NON-AGENDA ITEMS ONLY; 3-MINUTE TIME LIMIT PLEASE)**

Mayor Mamula opened Citizen's Comment.

Adam Thomson and Jodi Schmidt, representing the new Breckenridge Retail Association, stated they have formed a new non-profit for local retailers. They also stated that board members and will be reaching out to local businesses to see if they would like to be part of the association. Mr. Carleton stated he was happy to discuss how to be a successful association with them.

Ms. Taylor Sienkiewicz introduced herself as a new reporter at the Summit Daily News. She stated she will be covering the Town Council meetings in the future.

Mr. Peter Haynes, representing the Summit Nordic Ski Club, stated the roller ski races this summer hosted more than 100 racers, and they look forward to this event next year. He thanked Council for its support, and also thanked the Town for allowing the placement of a roller ski treadmill at the Recreation Center, as well as for a partnership for the youth ski program.

Mr. Olof Hedberg, also representing Summit Nordic Ski Club, thanked Town Council for its support of the summer races, which drew skiers from around the country and the United States.

Mr. Mike McCormick, representing the Breck Epic bike event, thanked the Council and stated there are riders from all over the world who are in Breckenridge for the race.

There were no additional comments and Citizen's Comment was closed.

**B) BRECKENRIDGE TOURISM OFFICE UPDATE**

Ms. Lucy Kay, Director of the BTO, stated the Breck Etiquette program will be launched at Oktoberfest and it will showcase how to experience Breck respectfully. She further stated this initiative will include interactive videos and a website. Mr. Brett Howard stated the BTO hopes a "Yeti Challenge" will go viral with this initiative.

Mr. Kay also stated local 5th graders talked about sustainable tourism and helped craft some messages for guests to our community, and all residents will get a "what to expect" postcard regarding Oktoberfest. She stated sustainability messaging is a focus for Oktoberfest, and the BTO is working on cup recycling and also offering cans of beer at the event.

Ms. Kay explained that about half of the visits to the website are from out of state, and booking is pacing ahead of last year. She also stated summer is down slightly across the industry, and consumer confidence is still a little pessimistic overall. She stated the agency who did our DMP will feature the management plan on a world stage and we are a model for other communities.

**V) CONTINUED BUSINESS**

**A) SECOND READING OF COUNCIL BILLS, SERIES 2019 - PUBLIC HEARINGS**

**1) COUNCIL BILL NO. 15, SERIES 2019 - AN ORDINANCE AMENDING THE TOWN OF BRECKENRIDGE "LAND USE GUIDELINES" TO CREATE LAND USE DISTRICT 45**

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

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

Mr. Bergeron moved to approve COUNCIL BILL NO. 15, SERIES 2019 - AN ORDINANCE AMENDING THE TOWN OF BRECKENRIDGE "LAND USE GUIDELINES" TO CREATE LAND USE DISTRICT 45. Ms. Wolfe seconded the motion.

The motion passed 7-0.

**2) COUNCIL BILL NO. 16, SERIES 2019 - AN ORDINANCE PLACING RECENTLY ANNEXED PROPERTY IN LAND USE DISTRICT 45 (Kenington Townhomes – 2.80 acres, more or less)**

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

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

Mr. Bergeron moved to approve COUNCIL BILL NO. 16, SERIES 2019 - AN ORDINANCE PLACING RECENTLY ANNEXED PROPERTY IN LAND USE DISTRICT 45 (Kenington Townhomes – 2.80 acres, more or less). Mr. Gallagher seconded the motion.

The motion passed 7-0.

**3) COUNCIL BILL NO. 17, SERIES 2019 - AN ORDINANCE CHANGING THE LAND USE DISTRICT DESIGNATION FOR CERTAIN REAL PROPERTY (Huron Landing – 1.48 acres, more or less)**

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

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

Mr. Bergeron moved to approve COUNCIL BILL NO. 17, SERIES 2019 - AN ORDINANCE CHANGING THE LAND USE DISTRICT DESIGNATION FOR CERTAIN REAL PROPERTY (Huron Landing - 1.48 acres, more or less). Ms. Gigliello seconded the motion.

The motion passed 7-0.

**4) COUNCIL BILL NO. 18, SERIES 2019 - AN EMERGENCY ORDINANCE REPEALING AND READOPTING WITH CHANGES CHAPTER 5 OF TITLE 9 OF THE BRECKENRIDGE TOWN CODE, KNOWN AS THE "BRECKENRIDGE DESIGN STANDARDS"**

Mayor Mamula read the title into the minutes. Mr. Mark Truckey stated the only change of this ordinance from first reading is to make it effective immediately as an emergency ordinance.

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

Ms. Wolfe thanked the staff for their efforts on this ordinance.

Mr. Bergeron moved to approve COUNCIL BILL NO. 18, SERIES 2019 - AN EMERGENCY ORDINANCE REPEALING AND READOPTING WITH CHANGES CHAPTER 5 OF TITLE 9 OF THE BRECKENRIDGE TOWN CODE, KNOWN AS THE "BRECKENRIDGE DESIGN STANDARDS". Mr. Gallagher seconded the motion.

The motion passed 7-0.

- 5) COUNCIL BILL NO. 19, SERIES 2019 - AN EMERGENCY ORDINANCE AMENDING SECTION 9-1-19-4R OF THE BRECKENRIDGE TOWN CODE, KNOWN AS THE "TOWN OF BRECKENRIDGE DEVELOPMENT CODE," CONCERNING MASS

Mayor Mamula read the title into the minutes. Mr. Truckey stated there were no changes to this ordinance from first reading other than to make this an emergency ordinance effective immediately.

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

Mr. Bergeron moved to approve COUNCIL BILL NO. 19, SERIES 2019 - AN EMERGENCY ORDINANCE AMENDING SECTION 9-1-19-4R OF THE BRECKENRIDGE TOWN CODE, KNOWN AS THE "TOWN OF BRECKENRIDGE DEVELOPMENT CODE," CONCERNING MASS. Ms. Wolfe seconded the motion.

The motion passed 7-0.

- 6) COUNCIL BILL NO. 20, SERIES 2019 - AN ORDINANCE AMENDING CHAPTER 1 OF TITLE 3 OF THE BRECKENRIDGE TOWN CODE, KNOWN AS THE "TOWN OF BRECKENRIDGE SALES TAX ORDINANCE"

Mayor Mamula read the title into the minutes. Mr. Berry stated changes to this ordinance from first reading included those detailed in the memo in the packet and described during the work session.

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

Mr. Bergeron moved to approve COUNCIL BILL NO. 20, SERIES 2019 - AN ORDINANCE AMENDING CHAPTER 1 OF TITLE 3 OF THE BRECKENRIDGE TOWN CODE, KNOWN AS THE "TOWN OF BRECKENRIDGE SALES TAX ORDINANCE". Mr. Carleton seconded the motion.

The motion passed 7-0.

- 7) COUNCIL BILL NO. 21, SERIES 2019 - AN ORDINANCE PROHIBITING LICENSING ELECTRIC SCOOTER RENTAL BUSINESSES

Mayor Mamula read the title into the minutes. Ms. Haynes stated there were no changes to this ordinance from first reading.

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

Mr. Bergeron moved to approve COUNCIL BILL NO. 21, SERIES 2019 - AN ORDINANCE PROHIBITING LICENSING ELECTRIC SCOOTER RENTAL BUSINESSES. Mr. Wolfe seconded the motion.

The motion passed 7-0.

**VI) NEW BUSINESS**

- A) FIRST READING OF COUNCIL BILLS, SERIES 2019

- 1) COUNCIL BILL NO. 23, SERIES 2019 - AN ORDINANCE AMENDING ARTICLE F OF CHAPTER 3 OF TITLE 6 OF THE BRECKENRIDGE TOWN CODE CONCERNING TOBACCO PRODUCTS

Mayor Mamula read the title into the minutes. Ms. Haynes stated this ordinance would address youth use of nicotine by raising the age of the purchase to 21. She added the effective date will be added at second reading.

Mayor Mamula opened the public hearing.

Mr. Tim Gallagher, a Summit High School student and member of YESS, spoke about the negative impact of nicotine on an adolescent's brain. He stated youth are easily addicted and marketing is aimed at adolescents. He further stated it is rare to find someone in high school who hasn't used nicotine or tobacco products.

Ms. Amy Wineland, the Summit County Director of Public Health, stated Walmart raised the age to 21 for nicotine sales already and stated she supports this ordinance.

Dr. Don Parsons, a Dillon resident, thanked the Council for their efforts and for supporting youth in Breckenridge. He further stated we are celebrating these actions which will benefit the well-being of kids in this community, and he would like to see the signage include no vaping.

There were no additional comments and the public hearing was closed.

Mr. Bergeron thanked the youth in attendance and how they have impacted public awareness about this issue.

Ms. Gigliello moved to approve COUNCIL BILL NO. 23, SERIES 2019 - AN ORDINANCE AMENDING ARTICLE F OF CHAPTER 3 OF TITLE 6 OF THE BRECKENRIDGE TOWN CODE CONCERNING TOBACCO PRODUCTS. Ms. Wolfe seconded the motion.

The motion passed 7-0.

- 2) COUNCIL BILL NO. 24, SERIES 2019 - AN ORDINANCE AMENDING TITLE 4 OF THE BRECKENRIDGE TOWN CODE BY ADDING A NEW CHAPTER 18 ENTITLED "RETAIL TOBACCO BUSINESS LICENSING"

Mayor Mamula read the title into the minutes. Ms. Haynes stated this ordinance would license all retailers selling tobacco products. She further stated licenses would be renewed annually with compliance checks, the current provision to not allow someone under 21 to handle tobacco products would be changed to match the liquor rules, and the effective date would be November 1.

Mayor Mamula opened the public hearing.

Ms. Brianna Roach, Keystone resident and high school student, stated high school seniors can legally buy and distribute the product to their friends, and licensing will help with enforcement, including the sale to youth.

There were no additional comments and the public hearing was closed.

Mr. Carleton stated in other communities some businesses are choosing not to sell at all instead of becoming licensed retailers.

Mr. Bergeron moved to approve COUNCIL BILL NO. 24, SERIES 2019 - AN ORDINANCE AMENDING TITLE 4 OF THE BRECKENRIDGE TOWN CODE BY ADDING A NEW CHAPTER 18 ENTITLED "RETAIL TOBACCO BUSINESS LICENSING". Mr. Carleton seconded the motion.

The motion passed 7-0.

- B) RESOLUTIONS, SERIES 2019

- 1) RESOLUTION NO. 19, SERIES 2019 - A RESOLUTION APPROVING AN INTERGOVERNMENTAL AGREEMENT WITH SUMMIT COUNTY, COLORADO AND THE TOWN'S OF BLUE RIVER, DILLON, FRISCO, MONTEZUMA, AND SILVERTHORNE CONCERNING THE IMPLEMENTATION OF A SPECIAL SALES TAX UPON THE SALE OF CIGARETTES, TOBACCO PRODUCTS AND

**NICOTINE PRODUCTS WITHIN THE UNINCORPORATED AND INCORPORATED AREAS OF SUMMIT COUNTY**

Mayor Mamula read the title into the minutes. Ms. Haynes stated this resolution would place a county-wide question on the ballot in November, asking for approval of a tax on tobacco which would go into effect on January 1, 2020. An outside entity would collect the tax, which would be spent on cessation and enforcement programs.

Mayor Mamula opened the public hearing.

Mr. John Cesarno, representing Slopestyle Cigars, stated he believes cigars are used for special occasions, and although he agrees with what is being said by the others in attendance, this tax will be burdensome for his business. Mr. Gigliello asked about hand-rolled cigars, and Mr. Cesarno stated they are similar to the consumption of wine and don't have the same properties as cigarettes.

Ms. Amy Wieland, the Summit County Director of Public Health, stated cigarette use in the County is actually increasing, and youth use is increasing, including vaping. She further stated teens who use nicotine are more likely to use tobacco in the future.

Ms. Lauren Gilbert, representing Summit County Public Health, stated cigarette smoking kills more than 500,000 people per year in the US, and smoking illness costs billions of dollars. She stated the industry has tried to dismiss the evidence of the health risks, and has been found guilty of lying. She also stated e-cigarettes are meant to entice the next generation, and it's important to implement these strategies in our community.

Ms. Courtney Brown, a high school student representing the Youth Tobacco Coalition, stated youth who wish to quit vaping are in a dangerous place because of the prevalence of the products in the county. She further stated vaping products are accessible by high schoolers, who then give them to their friends. She stated 73% of SHS students said it was easy or very easy to get their hands on tobacco products, and 95% of tobacco users started before they were 18 years old. She stated this ordinance is what we need to prevent younger kids from being exposed to these products.

Mr. Max Bonenberger, a Summit High School student, stated all of these measures will be beneficial for youth. He described how easy it is to get the pods and how the tax will make it more difficult. He also stated this is an opportunity to invest in the community and the health of youth.

Mayor Mamula asked about a vaping ban, and Ms. Wineland stated the push right now is to impact all users of tobacco, and they are looking at all options in the future.

Mr. Bergeron stated he is a little concerned about including cigars with other tobacco products. Ms. Gigliello stated she agreed with Mr. Bergeron. Ms. Wolfe stated while she doesn't want to impact a successful small business, she knows that kids smoke what they can get their hands on, she doesn't know how we can make exceptions, and we need to protect our youth. Mr. Gallagher stated cigars could be in a different category and is prepared to change his view if necessary. Mr. Carleton stated he agrees with Ms. Wolfe. Ms. Owens also stated she agrees with Ms. Wolfe and she isn't comfortable making exceptions.

Mr. Holman stated this is an IGA with the County and it is to support the tax on the November ballot. He further stated any changes to the ballot language would have to go through the County Commissioners. Mayor Mamula stated he would rather see a prohibition of vaping products, and if you are smoking at this point in history there is enough evidence that says it's bad, but the Juul people have been lying about the safety of their products.

There were no comments and the public hearing was closed.

Mr. Bergeron moved to approve RESOLUTION NO. 19, SERIES 2019 - A RESOLUTION APPROVING AN INTERGOVERNMENTAL AGREEMENT WITH SUMMIT COUNTY, COLORADO AND THE TOWN'S OF BLUE RIVER, DILLON, FRISCO, MONTEZUMA, AND SILVERTHORNE CONCERNING THE IMPLEMENTATION OF A SPECIAL SALES TAX UPON THE SALE OF

CIGARETTES, TOBACCO PRODUCTS AND NICOTINE PRODUCTS WITHIN THE UNINCORPORATED AND INCORPORATED AREAS OF SUMMIT COUNTY. Mr. Carleton seconded the motion.

The motion passed 7-0.

- 2) **RESOLUTION NO. 20, SERIES 2019 - A RESOLUTION APPROVING A "REVOCATION OF DECLARATION" WITH RESPECT TO CERTAIN TOWN-OWNED REAL PROPERTY**

Mayor Mamula read the title into the minutes. Mr. Berry stated this resolution would revoke a declaration for an easement on the professional building next door to Town Hall.

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

Mr. Bergeron moved to approve RESOLUTION NO. 20, SERIES 2019 - A RESOLUTION APPROVING A "REVOCATION OF DECLARATION" WITH RESPECT TO CERTAIN TOWN-OWNED REAL PROPERTY. Ms. Gigliello seconded the motion.

The motion passed 7-0.

- C) **OTHER**

**VII) PLANNING MATTERS**

- A) **PLANNING COMMISSION DECISIONS**

Mayor Mamula declared the Planning Commission Decisions would stand approved as presented.

**VIII) REPORT OF TOWN MANAGER AND STAFF**

Reports of Town Manager and Staff were covered in the afternoon work session.

**IX) REPORT OF MAYOR AND COUNCIL MEMBERS**

Reports of the Mayor and Council Members were covered in the afternoon work session.

- A. Cast/MMC
- B. Breckenridge Open Space Advisory Committee
- C. Breckenridge Tourism Office
- D. Breckenridge Heritage Alliance
- E. Breckenridge Creative Arts
- F. Breckenridge Events Committee
- G. Water Task Force

**X) OTHER MATTERS**

Ms. Gigliello stated the intersection at Boreas Pass Road and Highway 9 is either incorrect or incomplete in the roadway painting.

**XI) SCHEDULED MEETINGS**

- A) **SCHEDULED MEETINGS FOR AUGUST AND SEPTEMBER**

**XII) ADJOURNMENT**

With no further business to discuss, the meeting adjourned at 8:26pm. Submitted by Helen Cospolich, CMC, Town Clerk.

ATTEST:

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

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





# Memo

To: Breckenridge Town Council Members  
From: Shannon Haynes, Assistant Town Manager  
Date: 8/21/2019  
Subject: Minimum Tobacco Product Age Ordinance (2<sup>nd</sup> Reading)

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The second reading of the Minimum Tobacco Product Age Ordinance is scheduled for August 27<sup>th</sup>. There are no substantive changes from first reading.

Tim Berry and I will be present at the work session on Tuesday, July 23<sup>rd</sup> to answer any questions.

1 **FOR WORKSESSION/SECOND READING – AUG. 27**

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. 23

7  
8 Series 2019

9  
10 AN ORDINANCE AMENDING ARTICLE F OF CHAPTER 3 OF TITLE 6 OF THE  
11 BRECKENRIDGE TOWN CODE CONCERNING TOBACCO PRODUCTS

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

15  
16 Section 1. Section 6-3F-12 of the Breckenridge Town Code is amended to read as  
17 follows:

18  
19 6-3F-12: FURNISHING TOBACCO PRODUCTS TO MINORS PROHIBITED:

20  
21 A. 1. As used in this section, “tobacco product” means:

22  
23 a. any product containing, made of, or derived from tobacco or nicotine  
24 that is intended for human consumption or is likely to be consumed,  
25 whether inhaled, absorbed, or ingested by any other means, including but  
26 not limited to, a cigarette, a cigar, pipe tobacco, chewing tobacco, snuff, or  
27 snus;

28  
29 b. any electronic smoking device as defined in section 5-9-2, and any  
30 substances that may be aerosolized or vaporized by such device, whether  
31 or not the substance contains nicotine; or

32  
33 c. any component, part, or accessory of subsection (a) or (b), whether or  
34 not these items contain tobacco or nicotine, including but not limited to  
35 filters, rolling papers, blunt or hemp wraps, hookahs, and pipes.

36  
37 2. Notwithstanding any provision of subsection A1 of this section to the contrary,  
38 “tobacco product” does not mean drugs, devices, or combination products  
39 authorized for sale by the U.S. Food and Drug Administration, as those terms are  
40 defined in the Federal Food, Drug, and Cosmetic Act.

41  
42 B. 1. A person shall not give, sell, distribute, dispense, or offer for sale a tobacco  
43 product to any person who is under twenty one (21) years of age.  
44

1 2. Before giving, selling, distributing, dispensing, or offering to sell to any  
2 individual any tobacco product a person shall request from the individual and  
3 examine a government issued photographic identification that establishes that the  
4 individual is twenty one (21) years of age or older; except that, in face to face  
5 transactions, this requirement is waived if the individual appears older than thirty  
6 (30) years of age.  
7

8 3. A person who violates subsection B1 or B2 of this section commits an  
9 infraction and, upon an entry of judgment for such violation, shall be punished by  
10 a fine of two hundred dollars (\$200.00).  
11

12 4. It is an affirmative defense to a prosecution under subsection B1 of this section  
13 that the person furnishing the ~~cigarette, tobacco product, or nicotine product~~ was  
14 presented with and reasonably relied upon a document that identified the  
15 individual receiving the ~~cigarette, tobacco product, or nicotine product~~ as being  
16 twenty one (21) years of age or older.  
17

18 C. 1. A person who is under twenty one (21) years of age and who purchases or  
19 attempts to purchase any ~~cigarette, tobacco product, or nicotine product~~ commits  
20 an infraction and, upon entry of judgment for such violation, shall be punished by  
21 a fine of one hundred dollars (\$100.00). For a first offense under this subsection  
22 C1 the municipal court, in lieu of a fine, may sentence the person to participate in  
23 a tobacco education program.  
24

25 2. It is not an offense under subsection C1 of this section if the person under  
26 twenty one (21) years of age was acting at the direction of an employee of a  
27 governmental agency authorized to enforce or ensure compliance with laws  
28 relating to the prohibition of the sale of ~~cigarettes, and tobacco products, or~~  
29 ~~nicotine~~ products to minors.  
30

31 Section 2. Section 6-3F-13 of the Breckenridge Town Code is amended to read as  
32 follows:  
33

34 **6-3F-13: POSSESSION OF TOBACCO PRODUCTS BY MINORS**  
35 **PROHIBITED:**  
36

37 A. As used in this section, unless the context otherwise requires:  
38

39 1. "Tobacco product" has the same meaning as set forth in subsection 6-3F-12A1  
40 of this article. Notwithstanding any provision of this subsection A1 to the  
41 contrary, "tobacco product" does not mean drugs, devices, or combination  
42 products authorized for sale by the U.S. Food and Drug Administration, as those  
43 terms are defined in the Federal Food, Drug, and Cosmetic Act.  
44

45 2. "Possession" means that a person:  
46

1 a. Has or holds any tobacco product anywhere on his or her person;

2  
3 b. Owns or has custody of a tobacco product; or

4  
5 c. Has a tobacco product within his or her immediate presence and control.

6  
7 B. 1. Possession of a tobacco product by a person who is under twenty one (21)  
8 years of age is an infraction and, upon entry of judgment for such violation, shall  
9 be punished by a fine of one hundred dollars (\$100.00). For a first offense under  
10 this subsection B1 the municipal court, in lieu of a fine, may sentence the person  
11 to participate in a tobacco education program.

12  
13 2. It is not an offense under subsection B1 of this section if the person under  
14 twenty one (21) years of age was acting at the direction of an employee of a  
15 governmental agency authorized to enforce or ensure compliance with laws  
16 relating to the prohibition of the sale of tobacco products to minors.

17  
18 Section 3. Except as specifically amended hereby, the Breckenridge Town Code, and the  
19 various secondary codes adopted by reference therein, shall continue in full force and effect.

20  
21 Section 4. The Town Council hereby finds, determines and declares that this ordinance is  
22 necessary and proper to provide for the safety, preserve the health, promote the prosperity, and  
23 improve the order, comfort and convenience of the Town of Breckenridge and the inhabitants  
24 thereof.

25  
26 Section 5. The Town Council hereby finds, determines and declares that it has the power  
27 to adopt this ordinance pursuant to: (i) Section 18-13-121, C.R.S.; (ii) Section 25-14-301, C.R.S.;  
28 (iii) Article 30 of Title 29; (iv) Section 31-15-103, C.R.S. (concerning municipal police powers);  
29 (v) Section 31-15-401, C.R.S. (concerning municipal police powers); (vi) the authority granted to  
30 home rule municipalities by Article XX of the Colorado Constitution; and (vii) the powers  
31 contained in the Breckenridge Town Charter.

32  
33 Section 6. The Town Council hereby finds, determines and declares that it has the power  
34 to adopt this ordinance pursuant to the authority granted to home rule municipalities by Article  
35 XX of the Colorado Constitution and the powers contained in the Breckenridge Town Charter.

36  
37 Section 7. This ordinance shall be published as required **and become effective as**  
38 **provided by Section 5.9 of** the Breckenridge Town Charter ~~and become effective on~~  
39 \_\_\_\_\_.

40  
41 INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED  
42 PUBLISHED IN FULL this \_\_\_\_ day of \_\_\_\_\_, 2019. A Public Hearing shall be held at the  
43 regular meeting of the Town Council of the Town of Breckenridge, Colorado on the \_\_\_\_ day of  
44 \_\_\_\_\_, 2019, at 7:00 P.M., or as soon thereafter as possible in the Municipal Building of the  
45 Town.

TOWN OF BRECKENRIDGE, a Colorado  
municipal corporation

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

ATTEST:

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

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

APPROVED IN FORM

\_\_\_\_\_  
Town Attorney



# Memo

To: Breckenridge Town Council Members  
From: Shannon Haynes, Assistant Town Manager  
Date: 8/21/2019  
Subject: Retail Tobacco Business Licensing

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The second reading of the Retail Tobacco Business Licensing Ordinance is scheduled for your meeting on August 27th. A few changes have been made from first reading. These include:

- Addition of a definition for an “Adult-Only Facility”
- Addition of a definition of the “Minimum Legal Sales Age for Tobacco Products”
- As requested by Council, the addition of language allowing employees under the age of twenty-one (21) to handle tobacco products providing they are supervised by another person on the licensed premise who is at least twenty-one (21) years old.
- Clarification on the responsibility of the Police Department in overseeing compliance activities.
- A change to the maximum age of individuals conducting compliance checks from eighteen (18) to twenty (20).
- Addition of November 1<sup>st</sup>, 2019 as the effective date of the ordinance.

Tim Berry and I will be available during the work session to answer any questions.

1 **FOR WORKSESSION/SECOND READING – AUG. 27**

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. 24

7  
8 Series 2019

9  
10 AN ORDINANCE AMENDING TITLE 4 OF THE BRECKENRIDGE TOWN CODE  
11 BY ADDING A NEW CHAPTER 18 ENTITLED  
12 “RETAIL TOBACCO BUSINESS LICENSING”

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

16  
17 Section 1. Title 4 of the Breckenridge Town Code is amended by the addition of a new  
18 Chapter 18, to be entitled “Retail Tobacco Business Licensing”, which shall read in its entirety  
19 as follows:

20  
21 CHAPTER 18

22  
23 RETAIL TOBACCO BUSINESS LICENSING

24  
25 SECTION:

- 26 4-18-1: Short Title
- 27 4-18-2: Authority
- 28 4-18-3: Legislative Intent
- 29 4-18-4: Definitions
- 30 4-18-5: License Required; Age Restriction
- 31 4-18-6: Application For License
- 32 4-18-7: Application Fee
- 33 4-18-8: Town Clerk’s Review of Application
- 34 4-18-9: Decision By Town Clerk
- 35 4-18-10: Standard Terms and Conditions of License
- 36 4-18-11: Authority To Impose Additional Conditions on License
- 37 4-18-12: Contents of License
- 38 4-18-13: Display of License
- 39 4-18-14: Minimum Legal Age Must Be Posted
- 40 4-18-15: License Not Transferable or Assignable
- 41 4-18-16: Duration of License
- 42 4-18-17: Renewal of License

- 1 4-18-18: Licensee’s Specific Duties and Obligations  
2 4-18-19: Administration and Enforcement of Licenses  
3 4-18-20: Disciplinary Action  
4  
5 4-18-21: Suspension or Revocation of License  
6 4-18-22: Decision Is Final  
7 4-18-23: Injunctive Relief; Abatement As Nuisance; Other Remedies  
8 4-18-24: Compliance Checks  
9 4-18-25: No Town Liability  
10 4-18-26: Designated Use of License Fees  
11 4-18-27: Rules and Regulations  
12  
13 4-18-1: SHORT TITLE: This Chapter shall be known and may be cited as the “Town Of  
14 Breckenridge Retail Tobacco Business Licensing Ordinance.”  
15  
16 4-18-2: AUTHORITY: The Town Council finds, determines, and declares that it has the power  
17 to adopt this Chapter pursuant to:  
18  
19 A. Section 31-17-501, C.R.S. (concerning municipal regulation of businesses);  
20 B. Section 31-15-401(1)(c), C.R.S. (concerning the power to declare and abate  
21 nuisances);  
22 C. The authority granted to home rule municipalities by Article XX of the Colorado  
23 Constitution; and  
24 D. The powers contained in the Breckenridge Town Charter.  
25 4-18-3: LEGISLATIVE INTENT: The intent and purpose of this Chapter is to regulate the  
26 occupation or privilege of selling tobacco products within the Town so as to protect the public  
27 health and safety.  
28  
29 4-18-4: DEFINITIONS: As used in this Chapter the following words have the following  
30 meanings:  
31

APPLICANT:	A person who has submitted an application for license pursuant to this Chapter.
<b><u>ADULT-ONLY FACILITY:</u></b>	<b><u>A physical location where each person attempting to enter the premises is required to present the person’s photographic government issued identification verifying that the person is at</u></b>



	<b><u>least the Minimum Legal Sales Age For Tobacco Products prior to entry.</u></b>
APPLICATION:	An application for license submitted pursuant to this Chapter.
DAY:	A calendar day, unless otherwise indicated.
GOOD CAUSE (for the purpose of refusing or denying a license renewal under this Chapter):	Means:  1. The licensee has violated, does not meet, or has failed to comply with: (a) any of the terms, conditions, or provisions of this Chapter; or (b) any rule and regulation promulgated by the Town Clerk pursuant to this Chapter; or  2. The licensee has failed to comply with: (a) any of the terms and conditions of its license including, but not limited to, any special terms or conditions that were placed on its license at the time the license was issued or were subsequently modified by the Town Clerk pursuant to Section 4-18-11B, or (b) any special condition that was placed on its license in prior disciplinary proceedings or that arose in the context of potential disciplinary proceedings.
LICENSED PREMISES:	The physical location for which a license is issued pursuant to this Chapter.
LICENSEE:	The person to whom a license has been issued pursuant to this Chapter.
<b><u>MINIMUM LEGAL SALES AGE FOR TOBACCO PRODUCTS:</u></b>	<b><u>Twenty-one (21) years of age.</u></b>
PERSON:	Has the meaning provided in Section 1-3-2 of this Code.

POLICE CHIEF:	The Police Chief of the Town, or the Police Chief designee authorized to act pursuant to Section 1-7-2 of this Code.
RETAIL TOBACCO BUSINESS:	A business that sells any tobacco product at retail.
TOBACCO PRODUCT:	<p>1. Any product containing, made of, or derived from tobacco or nicotine that is intended for human consumption or is likely to be consumed, whether inhaled, absorbed, or ingested by any other means, including but not limited to, a cigarette, a cigar, pipe tobacco, chewing tobacco, snuff, or snus;</p> <p>2. Any electronic smoking device as defined in Section 5-9-2 of this Code, and any substances that may be aerosolized or vaporized by such device, whether or not the substance contains nicotine; or</p> <p>3. Any component, part, or accessory of subsection (1) or (2), whether or not these items contain tobacco or nicotine, including but not limited to filters, rolling papers, blunt or hemp wraps, hookahs, and pipes.</p> <p>Notwithstanding any provision of this Chapter to the contrary, “tobacco product” does not mean drugs, devices, or combination products authorized for sale by the U.S. Food and Drug Administration, as those terms are defined in the Federal Food, Drug, and Cosmetic Act.</p>
TOWN:	Has the meaning provided in Section 1-3-2 of this Code.
TOWN CLERK:	The Town Clerk of the Town, or the Town Clerk’s designee authorized to act pursuant to Section 1-7-2 of this Code.

TOWN MANAGER:	The Town Manager of the Town, or the Town Manager's designee authorized to act pursuant to Section 1-7-2 of this Code.
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4-18-5: LICENSE REQUIRED; AGE RESTRICTION:

- A. No person shall conduct or carry on a retail tobacco business within the Town without a valid license issued by the Town Clerk pursuant to this Chapter. A separate license is required for each retail location in the Town where any tobacco product is sold at retail.
- B. No license shall be issued pursuant to this Chapter to any person under twenty one (21) years of age at the time of the submission of an application.

4-18-6: APPLICATION FOR LICENSE:

- A. A person seeking to obtain a license pursuant to this Chapter shall file an application with the Town Clerk. The form of the application shall be provided by the Town Clerk.
- B. A license issued pursuant to this Chapter does not eliminate the need for the licensee to obtain other required Town licenses related to the operation of the licensee's business, including, without limitation:
  - 1. a Town sales tax license; and
  - 2. a Town Business and Occupational Tax License.

4-18-7: APPLICATION FEE: An applicant shall pay to the Town Clerk an application fee when the application is filed. The purpose of the fee is to cover the Town's cost of administration of this Chapter, licensee education, inspections of licensed premises, regular compliance checks, documentation of violations (database management), and prosecutions of violations of licenses. For applications filed in 2019 the application fee is \$600.00. Thereafter, the amount of the application fee and the annual license renewal fee shall be fixed by the Town Council as part of its annual budget process. Once paid, an application fee is non-refundable except as may be required by law.

4-18-8: TOWN CLERK'S REVIEW OF APPLICATION:

- A. Upon receipt of a properly completed application, together with all information required in connection therewith and the payment of the application fee as required by Section 4-18-7 the Town Clerk shall transmit copies of the application to:
  - 1. the Police Chief; and

1 2. any other person or agency that the Town Clerk determines should  
2 properly investigate and comment upon the application.

3 B. Within twenty (20) days of receipt of a completed application the Police Chief  
4 and those referral agencies described in subsection A of this Section shall provide  
5 the Town Clerk with comments concerning the application.

6 C. If the Town Clerk requests the applicant to provide additional information that the  
7 Town Clerk reasonably determines to be necessary in connection with the  
8 investigation and review of the application, the applicant shall provide such  
9 information within five (5) days of the Town Clerk's request, unless the Town  
10 Clerk agrees to a longer time period.

11  
12 4-18-9: DECISION BY TOWN CLERK:

13  
14 A. The Town Clerk shall conditionally approve or deny an application within thirty  
15 (30) days of the receipt of a completed application unless, by written notice to the  
16 applicant, the decision period is extended for an additional ten (10) days if  
17 necessary for the Town Clerk to complete the Town Clerk's review of the  
18 application.

19 B. The Town Clerk shall issue a license under this Chapter when, from a  
20 consideration of the application, and such other relevant information as may  
21 otherwise be obtained, the Town Clerk determines that:

22 1. The application (including any required attachments and submissions) is  
23 complete and signed by the applicant, and the applicant has provided any  
24 additional information concerning the application requested by the Town  
25 Clerk pursuant to Section 4-18-8C;

26 2. The applicant has paid the application fee required by Section 4-18-7;

27 3. The application does not contain a material falsehood or  
28 misrepresentation; and

29 4. The granting of the application will not endanger public health or safety.

30 C. The Town Clerk shall deny an application for a license under this Chapter if the  
31 Town Clerk determines that:

32 1. Information contained in the application, or supplemental information  
33 provided by the applicant, is found to be false in any material respect;

34 2. The applicant has had a license issued under this Chapter revoked within  
35 the two (2) years immediately preceding the filing of the application, or

1 the applicant owned a fifty percent or greater interest in any business  
2 entity that has had a license issued under this Chapter revoked within the  
3 two (2) years immediately preceding the filing of the application;

4 3. The applicant is currently indebted to the Town for any lawfully assessed  
5 tax or fee; or

6 4. The granting of the application will endanger public health or safety.

7 D. If the application is denied, the Town Clerk shall clearly set forth in writing the  
8 grounds for denial.

9 E. If the application is conditionally approved, the Town Clerk shall clearly set forth  
10 in writing the conditions of approval.

11 F. If an application is denied the application fee shall not be refunded.

12 4-18-10: STANDARD TERMS AND CONDITIONS OF LICENSE: The following shall be  
13 standard terms and conditions for any license issued under this Chapter:

14 A. No self-service display of cigarettes or other tobacco products are permitted  
15 except in adult-only facilities.

16 B. No sales of tobacco products in vending machines are permitted except in adult-  
17 only facilities.

18 C. No employee of the licensee who is under the age of twenty one (21) years shall  
19 be permitted to handle, stock, or retrieve tobacco products **unless the employee is**  
20 **supervised by another person on the licensed premises who is at least twenty**  
21 **one (21) years of age.**

22 D. Prior to completing the sale of any tobacco product to a purchaser who appears to  
23 be thirty (30) years of age or younger the license's retail sales clerk shall examine  
24 the purchaser's government issued identification to verify that the purchaser is of  
25 legal age to purchase the product.  
26

27 4-18-11: AUTHORITY TO IMPOSE ADDITIONAL CONDITIONS ON LICENSE:

28 A. In addition to the standards terms and conditions set forth in Section 4-18-10, the  
29 Town Clerk shall have the authority to impose such additional reasonable terms  
30 and conditions on a license as may be necessary to protect the public health,  
31 safety, and welfare, and to obtain compliance with the requirements of this  
32 Chapter and other applicable law.  
33

34 B. For good cause shown, the Town Clerk may administratively modify or eliminate  
35 or add any license condition during the term of the license.

1 4-18-12: CONTENTS OF LICENSE: A license shall contain the following information:  
2

- 3 A. The name of the licensee;
- 4 B. The date of the issuance of the license;
- 5 C. The address at which the licensee is authorized to operate the business; and
- 6 D. The date of the expiration of the license.

7 A license must be signed by both the licensee and the Town Clerk to be valid.  
8

9 4-18-13: DISPLAY OF LICENSE: A license shall be prominently displayed in a publicly  
10 visible location at the licensed premises at all time.

11  
12 4-8-14: MINIMUM LEGAL AGE MUST BE POSTED: The minimum legal age to purchase  
13 tobacco products in the Town as provided in Sections 6-3F-12 of this Code shall be posted in a  
14 clearly visible location on the licensed premises.

15  
16 4-18-15: LICENSE NOT TRANSFERABLE OR ASSIGNABLE: A license is non-transferable  
17 and non-assignable. Any attempt to transfer or assign a license shall void the license.  
18

19 4-18-16: DURATION OF LICENSE: Each license issued pursuant to this Chapter shall be valid  
20 for one (1) year from the date of issuance.  
21

22 4-18-17: RENEWAL OF LICENSE:  
23

- 24 A. A licensee does not have a vested right or a property right in the renewal of a  
25 license issued pursuant to this Chapter.
- 26 B. Each license issued pursuant to this Chapter may be renewed as provided in this  
27 Section.
- 28 C. An application for the renewal of an existing license shall be made to the Town  
29 Clerk not less than forty-five (45) days prior to the date of expiration. No  
30 application for renewal shall be accepted by the Town Clerk after the date of  
31 expiration. The Town Clerk may waive the forty-five (45) days' time requirement  
32 set forth in this subsection if the applicant demonstrates an adequate reason.
- 33 D. At the time of the filing of an application for the renewal of an existing license the  
34 applicant shall pay to the Town a renewal fee in an amount fixed by the Town  
35 Council as part of its annual budget process.
- 36 E. The timely filing of a renewal application shall extend the current license until a  
37 final decision is made on the renewal application by the Town Clerk.

1 F. A license may be renewed by the Town Clerk. At the time of the renewal of a  
2 license the Town Clerk may impose any condition on a renewed license that the  
3 Town Clerk could lawfully impose on an original license pursuant to this Chapter.

4 G. The Town Clerk may refuse to renew a license for good cause.

5 4-18-18: LICENSEE’S SPECIFIC DUTIES AND OBLIGATIONS: In addition to the other  
6 requirements of this Chapter, it is the duty and obligation of each licensee to comply with the  
7 following:  
8

9 A. All of the terms and conditions of the license, including, without limitation, the  
10 standard license conditions described in Section 4-18-10 and any special  
11 condition imposed by the Town Clerk pursuant to Section 4-18-11;

12 B. All of the requirements of this Chapter; and

13 C. All laws, including federal, state and local Town ordinances pertaining to tobacco  
14 products that are applicable to the licensee’s business.

15 4-18-19: ADMINISTRATION AND ENFORCEMENT OF LICENSES: Except as provided in  
16 Section 4-18-20 with respect to the imposition of discipline against a licensee, the Town Clerk  
17 shall administer and enforce all provisions of this Chapter.

18 4-18-20: DISCIPLINARY ACTION:

19 A. The Town Manager shall be responsible for the imposition of all disciplinary  
20 action against licensees pursuant to this Chapter.

21 B. Any disciplinary hearing held pursuant to this Section shall be processed in  
22 accordance with Chapter 19 of Title 1 of this Code.

23 C. The penalties for violations of the terms and conditions of a licensee shall be as  
24 follows:

25 1. First violation within thirty-six months: A civil penalty of \$ 500.00 and/or  
26 suspension of the license for up to three (3) days as determined by the  
27 Town Manager.

28 2. Second violation within thirty-six months: A civil penalty of \$1,000.00  
29 and/or suspension of the license for up to seven (7) days, as determined by  
30 the Town Manager.

31 3. Third violation within thirty-six months: A civil penalty of \$2,000.00  
32 and/or suspension of the license for up to twenty (20) days, as determined  
33 by the Town Manager.

1           4.       Fourth violation within thirty-six months: Revocation of the license.

2           D.       For the purpose of disciplinary action imposed pursuant to this Chapter, a licensee  
3           is responsible and accountable for the conduct of the licensee's employees,  
4           officers, and agents occurring in connection with the operation of the retail  
5           tobacco business for which the license has been issued.

6   4-18-21: SUSPENSION OR REVOCATION OF LICENSE:  
7

8           A.       A license issued pursuant to this Chapter may be suspended or revoked by the  
9           Town Manager after a hearing for any of the following reasons:

10           1.       Fraud, misrepresentation, or a false statement of material fact contained in  
11           the license application.

12           2.       A violation of any Town, state, or federal law or regulation pertaining to  
13           the operation of the licensee's retail tobacco business for which the license  
14           was issued.

15           3.       As provided in Section 4-18-20C.

16           4.       A violation of any of the terms and conditions of the license, including,  
17           without limitation, any special condition imposed upon the license by the  
18           Town Clerk pursuant to Section 4-18-11.

19           5.       Licensee's operations at its licensed location have ceased for more than  
20           six (6) months for any reason.

21           6.       Ownership of the licensee business has been transferred without the new  
22           owner obtaining a license pursuant to this Chapter.

23           B.       In deciding whether a license should be suspended or revoked, the duration of any  
24           period of suspension, and what conditions, if any, to impose in the event of a  
25           suspension the Town Manager shall consider all of the following:  
26

27           1.       The nature and seriousness of the violation.

28           2.       Corrective action, if any, taken by the licensee.

29           3.       Prior violation(s), if any, by the licensee.

30           4.       The likelihood of recurrence.

31           5.       All circumstances surrounding the violation.

32           6.       Whether the violation was willful.

33           7.       The number of previous violations by the licensee.

34           8.       Previous sanctions, if any, imposed against the licensee.  
35



- 1 C. No fee previously paid by a licensee in connection with the application shall be  
2 refunded if such license is suspended or revoked.  
3
- 4 D. In connection with the suspension of a license, the Town Manager may impose  
5 reasonable conditions.
- 6 E. The removal of all tobacco products from public view is required during any  
7 period in which the licensee's license is suspended or revoked.
- 8 F. When a license has been revoked no new license shall be issued to the same  
9 licensee for the same licensed premises for a period of one (1) year after  
10 revocation.

11 4-18-22: DECISION IS FINAL:  
12

- 13 A. Any decision by the Town Clerk with respect to the processing of an application  
14 for the issuance of a license pursuant to this Chapter shall be a final decision of  
15 the Town and may be appealed to the district court pursuant to Rule 106(a)(4) of  
16 the Colorado Rules of Civil Procedure. The applicant's or licensee's (as  
17 applicable) failure to timely appeal the decision is a waiver the applicant's or  
18 licensee's right to contest the denial or conditional approval of the application.
- 19 B. Any decision made by the Town Manager with respect to the imposition of  
20 discipline against a licensee pursuant to this Chapter shall be a final decision of  
21 the Town and may be appealed to the district court pursuant to Rule 106(a)(4) of  
22 the Colorado Rules of Civil Procedure. The applicant's or licensee's (as  
23 applicable) failure to timely appeal the decision is a waiver the applicant's or  
24 licensee's right to contest the denial or conditional approval of the application.

25 4-18-23: INJUNCTIVE RELIEF; ABATEMENT AS NUISANCE; OTHER REMEDIES:  
26

- 27 A. If a person is required to have a valid license issued pursuant to this Chapter the  
28 operation of such person's business without such license may be enjoined by the  
29 Town in an action brought in the municipal court pursuant to Section 1-8-10 of  
30 this Code, or in any other court of competent jurisdiction.
- 31 B. The operation of a retail tobacco rental business within the Town without a valid  
32 license issued pursuant to this Chapter is declared to be a public nuisance, and is  
33 subject to abatement as provided by law.
- 34 C. The remedies provided in this Section are in addition to any other remedy  
35 provided by applicable law.

1 D. In any case in which the Town prevails in a civil action initiated pursuant to this  
2 Section, the Town may recover its reasonable attorney fees plus costs of the  
3 proceeding.

4 4-18-24: COMPLIANCE CHECKS:  
5

6 **A.** **Compliance with this Chapter shall be enforced by the Police Department.**  
7 **The Police Chief may designate additional individuals, departments or**  
8 **groups to assist with the enforcement of this Chapter as deemed appropriate.**

9 **B.** ~~A~~—A minimum of two (2) annual compliance checks of all licensees shall be  
10 conducted with persons over the age of fifteen (15) but less than ~~eighteen~~**twenty**  
11 **(1820) (herein after** under-aged operative) to enter the licensed premises to  
12 attempt to purchase tobacco products. All compliance checks shall comply with  
13 other applicable law.

14 **C.** ~~B~~—All licensed locations with compliance or inspection violations must be re-  
15 checked by the Police Department for compliance within forty five (45) days of a  
16 violation.

17 **D.** ~~C~~—The Police Department shall report compliance check results (passed checks  
18 and violations) to the Town Clerk.

19 **E.** ~~D~~—A database of compliance check results and hearing outcomes shall be  
20 maintained by Police Department.

21 4-18-25: NO TOWN LIABILITY: The adoption of this Chapter and the issuance of licenses  
22 pursuant to this Chapter shall not create any duty to any person. No person shall have any civil  
23 liability remedy against the Town, or its officers, employees or agents, for any damage or loss of  
24 any kind arising out of or in any way connected with the issuance of any license pursuant to this  
25 Chapter. Nothing in this Chapter shall be construed to create any liability or to waive any of the  
26 immunities, limitations on liability, or other provisions of the Colorado Governmental Immunity  
27 Act, Section 24-10-101, et seq., C.R.S., or to waive any immunities or limitations on liability  
28 otherwise available to the Town, or its officers, employees or agents.  
29

30 4-18-26: DESIGNATED USE OF LICENSE FEES: Immediately upon receipt or collection  
31 thereof, all license fees collected by the Town pursuant to this Chapter shall be deposited into a  
32 separate fund. Licensee fees shall be used only for the purposes described in Section 4-18-7.  
33 Monies credited to such fund shall not be available to be pledged or expended, by interfund  
34 transfer or otherwise, for any general purposes of the Town.  
35

36 4-18-27: RULES AND REGULATIONS: The Town Clerk shall have the authority from time to  
37 time to adopt, amend, alter, and repeal administrative rules and regulations as may be necessary  
38 for the proper administration of this Chapter. Such regulations shall be adopted in accordance

1 with the procedures established by Title 1, Chapter 18 of this Code. A violation of such  
2 regulations may be enforced in the Town’s Municipal Court.

3  
4 Section 2. The definition of “Electronic Smoking Device” in Section 5-9-2 of the  
5 Breckenridge Town Code is amended to read as follows:

6  
ELECTRONIC SMOKING DEVICE: Any device that may be used to deliver any  
aerosolized or vaporized substance to the  
person inhaling from the device, including,  
but not limited to, an e-cigarette, e-cigar, e-  
pipe, vape pen, or e-hookah. Electronic  
smoking device includes any component, part,  
or accessory of the device, and also includes  
any substance that may be aerosolized or  
vaporized by such device, whether or not the  
substance contains nicotine. Electronic  
smoking device does not include drugs,  
devices, or combination products authorized  
for sale by the U.S. Food and Drug  
Administration, as those terms are defined in  
the Federal Food, Drug, and Cosmetic Act.

7  
8 Section 3. Except as specifically amended hereby, the Breckenridge Town Code, and the  
9 various secondary Codes adopted by reference therein, shall continue in full force and effect.

10  
11 Section 4. The Town Council hereby finds, determines, and declares that this ordinance  
12 is necessary and proper to provide for the safety, preserve the health, promote the prosperity, and  
13 improve the order, comfort, and convenience of the Town of Breckenridge and the inhabitants  
14 thereof.

15  
16 Section 5. This ordinance shall be published as required-by the Breckenridge Town  
17 Charter and become effective on **November 1, 2019.**

18  
19 INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED  
20 PUBLISHED IN FULL this \_\_\_\_ day of \_\_\_\_\_, 2019. A Public Hearing shall be held at the  
21 regular meeting of the Town Clerk of the Town of Breckenridge, Colorado on the \_\_\_\_ day of  
22 \_\_\_\_\_, 2019, at 7:00 P.M., or as soon thereafter as possible in the Municipal Building of the  
23 Town.

TOWN OF BRECKENRIDGE, a Colorado  
municipal corporation

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

ATTEST:

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



# Memo

To: Breckenridge Town Council Members  
From: Shannon Haynes, Assistant Town Manager  
Date: 8/21/2019  
Subject: Sale of Dogs and Cats from Inhumane Breeding Facilities

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Several weeks ago Council was asked to consider enacting an ordinance that would prohibit the sale of dogs and cats produced in inhumane breeding facilities. Staff reviewed municipal ordinances from other jurisdictions and consulted with the community member requesting the ordinance.

The attached, proposed ordinance would prohibit any business from offering for sale dogs and cats from an inhumane breeding facility. The term "offer for sale" includes sale, delivering, offering for sale, barter, auction, or in any way disposing of a dog or cat.

Tim Berry and I will be available during the work session to answer any questions.

1 **FOR WORKSESSION/FIRST READING – AUG. 27**

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 2019

9  
10 AN ORDINANCE AMENDING CHAPTER 3H OF TITLE 6 OF THE BRECKENRIDGE  
11 TOWN CODE CONCERNING THE SALE OF DOGS AND CATS BORN OR RAISED IN  
12 INHUMANE COMMERCIAL BREEDING FACILITIES

13  
14 WHEREAS, the Town of Breckenridge has an interest in maintaining the public safety  
15 and welfare of the citizens of the Town; and

16  
17 WHEREAS, Section 31-15-501, C.R.S., authorizes municipalities to prohibit any  
18 offensive or unwholesome business practice; and

19 WHEREAS, the Humane Society of the United States has determined that puppy and  
20 kitten mills are inhumane commercial breeding facilities which disregard the animals' health -  
21 both physical and emotional - in order to maximize profits; and

22 WHEREAS, according to the Humane Society of the United States, these mills produce  
23 animals for sale, oftentimes at retail stores; and

24 WHEREAS, the Town Council finds and determines that the sale of dogs and cats from  
25 these mills is an unwholesome business practice and not in the best interest of the public welfare  
26 of the Town; and

27 WHEREAS, the Town Council desires to exercise its authority to address the sale of dogs  
28 and cats in retail stores that come from these mills, all as more fully provided in this ordinance.

29 NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF  
30 BRECKENRIDGE, COLORADO:

31  
32 Section 1. Chapter 3H of Title 6 of the Breckenridge Town Code is amended by the  
33 addition of a new Section 6-3H-10, which shall read in its entirety as follows:

34  
35 **6-3H-10 SALE OF ANIMALS FROM INHUMANE COMMERCIAL BREEDING**  
36 **FACILITIES:**

37  
38 A. **As used in this Section the following words shall have the following**  
39 **meanings:**

40  
**CAT:**

**Has the meaning provided in**  
**Section 6-2-2 of this Code.**

<u>DOG:</u>	<u>Has the meaning provided in Section 6-2-2 of this Code.</u>
<u>OFFER FOR SALE:</u>	<u>To sell, offer for sale or adoption, advertise for sale of, barter, auction, give away, or otherwise dispose of a dog or cat.</u>
<u>PET SHOP:</u>	<u>A retail establishment where dogs and/or cats are sold, exchanged, bartered, or offered for sale as pet animals to the general public at retail. Such definition does not include an animal care facility or animal rescue organization as defined in this Section.</u>
<u>PERSON:</u>	<u>Has the meaning provided in Section 1-3-2 of this Code.</u>

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- B. No pet shop shall sell, deliver, offer for sale, barter, auction, or otherwise dispose of a dog or a cat.
- C. A pet shop that offers space for the adoption of dogs or cats shall post, in a conspicuous location on the enclosure of each such animal, a sign listing the name of the animal care facility or animal rescue organization from which the pet shop acquired each dog or cat.
- D. Each violation of this Section shall constitute a separate offense.
- E. It is unlawful and a misdemeanor offense for any person to violate any provision of this Section. Any person convicted of violating any provision of this Section shall be punished as provided in chapter 4, title 1 of this code.
- F. The operation of a pet shop in violation of this Section is declared to be a public nuisance, and is subject to abatement as provided by law. In any case in which the Town prevails in a nuisance abatement action initiated pursuant to this Section, the Town may recover its reasonable attorney fees plus costs of the proceeding.

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

Section 3. The Town Council hereby finds, determines and declares that this ordinance is necessary and proper to provide for the safety, preserve the health, promote the prosperity, and

1 improve the order, comfort and convenience of the Town of Breckenridge and the inhabitants  
2 thereof.

3  
4 Section 4. The Town Council hereby finds, determines and declares that it has the power  
5 to adopt this ordinance pursuant to: (i) Section 31-15-103, C.R.S. (concerning municipal police  
6 powers); (ii) Section 31-15-501, C.R.S. (concerning municipal power to regulate businesses);  
7 (iii) Section 31-15-401, C.R.S. (concerning municipal police powers); (iv) the authority granted  
8 to home rule municipalities by Article XX of the Colorado Constitution; and (v) the powers  
9 contained in the Breckenridge Town Charter.

10  
11 Section 5. This ordinance shall be published and become effective as provided by  
12 Section 5.9 of the Breckenridge Town Charter.

13  
14 INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED  
15 PUBLISHED IN FULL this \_\_\_\_ day of \_\_\_\_\_, 2019. A Public Hearing shall be held at the  
16 regular meeting of the Town Council of the Town of Breckenridge, Colorado on the \_\_\_\_ day of  
17 \_\_\_\_\_, 2019, at 7:00 P.M., or as soon thereafter as possible in the Municipal Building of the  
18 Town.

19  
20 TOWN OF BRECKENRIDGE, a Colorado  
21 municipal corporation

22  
23  
24  
25 By: \_\_\_\_\_  
26 Eric S. Mamula, Mayor

27  
28 ATTEST:

29  
30  
31  
32 \_\_\_\_\_  
33 Helen Cospolich, CMC,  
34 Town Clerk





# Memo

To: Town Council  
From: Jeremy Lott, AICP, Planner II  
Community Development Department  
Date: August 21, 2019 for meeting of August 27, 2019  
Subject: First Reading: Cucumber Creek Estates Drainage and Detention Easement Relocation

---

Cucumber Creek Associates, LLC., the beneficiary of an existing Drainage and Detention Pond Easement on a Town owned Open Space parcel known as Christie Heights Subdivision #2, Tract A, has requested a relocation of the easement. This easement was dedicated on the now designated Open Space lot in 2001 with a replat of a portion of the original Christie Heights Subdivision, which included land where the Cucumber Creek Estates Subdivision and the Nordic Center are located. The existing easement is for the benefit of the Cucumber Creek Estates Subdivision only.

Tom Begley with Cucumber Creek Associates, LLC. has been working with the Engineering, Planning, and Open Space Departments to pull the easement further away from Cucumber Gulch to help prevent soil disturbance within the gulch area. The existing easement, roughly follows a portion of the Toad Alley Trail which could bring significant impacts to Cucumber Gulch. The proposed location of the new easement is a little further uphill, within a portion of the Interstate Nordic Center Trail and near a tree clearing. The new detention pond is being designed around any existing trees to further reduce site disturbance and removal of vegetation.

The existing easement can be abandoned by approval of the Town Manager, but the new easement does require Council approval since it will still be on Town owned property. Planning, Engineering, and Open Space staff are supportive of this request due to the reduced disturbance to Cucumber Gulch and the new location which preserves existing trees.

This is a first reading. Staff will be available at the meeting to answer any questions.

1 **FOR WORKSESSION/FIRST READING – AUG. 27**

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

4  
5 Series 2019

6  
7 AN ORDINANCE AUTHORIZING THE GRANTING OF AN EASEMENT TO CHRISTIE  
8 HEIGHTS PARTNERSHIP AND CUCUMBER CREEK ASSOCIATES LLC  
9 (Tract A, Christie Heights Subdivision Filing No. 2)

10  
11 WHEREAS, the Town owns the following described real property:

12  
13 Tract “A”, Christie Heights Subdivision Filing No. 2, according to the plat thereof  
14 filed January 31, 2001 under Reception No. 644114 of the records of the Clerk  
15 and Recorder of Summit County, Colorado, Town of Breckenridge, County of  
16 Summit, and State of Colorado

17  
18 (Tract “A”)

19 ; and

20  
21 WHEREAS, Tract A is burdened by certain drainage and detention pond easements that  
22 benefit certain properties adjacent to or near Tract A; and

23  
24 WHEREAS, Christie Heights Partnership, a California general partnership, and  
25 Cucumber Creek Associates LLC, a Colorado limited liability company, being the owners of the  
26 properties benefited by the existing drainage and detention pond easements, have requested the  
27 that the existing easements be terminated and replaced with a new drainage and detention pond  
28 easement over, across, and through Tract A; and

29  
30 WHEREAS, the Town Council of the Town of Breckenridge has determined that it  
31 should grant the requested easement; and

32  
33 WHEREAS, the Town Attorney has informed the Town Council that, in his opinion,  
34 Section 15.3 of the Breckenridge Town Charter requires that granting of the easement be  
35 authorized by ordinance.

36  
37 NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF  
38 BRECKENRIDGE, COLORADO:

39  
40 Section 1. The Town Manager is authorized, empowered, and directed to execute,  
41 acknowledge, and deliver to Christie Heights Partnership, a California general partnership, and  
42 Cucumber Creek Associates LLC, a Colorado limited liability company, an easement

1 substantially in the form marked **Exhibit "A"**, attached hereto, and incorporated herein by  
2 reference.

3  
4 Section 2. The Town Manager is further authorized, empowered, and directed to execute  
5 an agreement terminating: (i) the 25' Drainage Easement" and a "Drainage & Detention Pond  
6 Easement" over and across portions of the Town's Tract "A" as shown on the recorded plat for  
7 Christie Heights Subdivision Filing No. 2; and (ii) the Grant of Easement (Drainage and  
8 Detention Easement) dated January 18, 2001 and recorded January 31, 2001 at Reception No.  
9 644117 of the records of the Clerk and Recorder of Summit County, Colorado.

10  
11 Section 3. The Town Council finds, determines, and declares that it has the power to  
12 adopt this ordinance pursuant to the authority granted to home rule municipalities by Article XX  
13 of the Colorado Constitution and the powers contained in the Breckenridge Town Charter.

14  
15 Section 4. This ordinance shall be published and become effective as provided by Section  
16 5.9 of the Breckenridge Town Charter.

17  
18 INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED  
19 PUBLISHED IN FULL this \_\_\_\_ day of \_\_\_\_\_, 2019. A Public Hearing shall be held at the  
20 regular meeting of the Town Council of the Town of Breckenridge, Colorado on the \_\_\_\_ day of  
21 \_\_\_\_\_, 2019, at 7:00 P.M., or as soon thereafter as possible in the Municipal Building of the  
22 Town.

23  
24 TOWN OF BRECKENRIDGE, a Colorado  
25 municipal corporation  
26

27  
28 By: \_\_\_\_\_  
29 Eric S. Mamula, Mayor

30  
31 ATTEST:

32  
33  
34 \_\_\_\_\_  
35 Helen Cospolich, CMC,  
36 Town Clerk

37  
38 APPROVED IN FORM

39  
40  
41 \_\_\_\_\_  
42 Town Attorney

**GRANT OF EASEMENT  
(Drainage and Detention Pond Easement)**

This GRANT OF EASEMENT (“Grant”) is dated \_\_\_\_\_, 2019 and is between the TOWN OF BRECKENRIDGE, a Colorado municipal corporation, whose address is P. O. Box 168, Breckenridge, CO 80424 (“Grantor”), CHRISTIE HEIGHTS PARTNERSHIP, a California general partnership, whose address is P.O. Box 2340, Breckenridge, CO 80424 (“Christie Heights”), and CUCUMBER CREEK ASSOCIATES LLC, a Colorado limited liability company, whose address is P.O. Box 7, Breckenridge, CO 80424 (“CCA”). Christie Heights and CCA are collectively referred to in this Grant as the “Grantees.”

WITNESSETH THAT:

In consideration of Ten Dollars and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the following grants, agreements, covenants and restrictions are made:

1. Grant Of Easement. Grantor grants to Grantees, as tenants in common, their successors and assigns, a perpetual nonexclusive easement (“Easement”) for the purposes described in Paragraph 2, below, over, upon, across and through the following real property situate in the Town of Breckenridge, County of Summit and State of Colorado:

That portion of Tract “A”, Christie Heights Subdivision Filing No. 2, according to the plat thereof recorded January 31, 2001 at Reception No. 644114 of the records of the Clerk and Recorder of Summit County, Colorado described on the attached Exhibit “A” and depicted on the attached Exhibit “B”, which are both incorporated herein by reference.

2. Use Of Easement. The Easement shall be used only for: (i) drainage and detention of drainage from Cucumber Creek Estates Subdivision, including the natural flow of drainage from Cucumber Creek Estates Subdivision into the detention pond and other structures; and (ii) the construction, operation, and maintenance of drainage or detention structures constructed therein, together with the right of ingress and egress across the Easement for purposes of maintenance and repair of the drainage or detention structures by the Grantees, and their respective agents, employees, officers, contractors, licensees, invitees, lessees, successors, and assigns. No other use of the Easement shall be made or permitted by Grantees. Grantees shall not use or permit the use of the Easement in any manner that will interfere with Grantor’s use thereof as described in Paragraph 3.

3. Grantor’s Use Of Easement. Grantor shall have the right to use and occupy the Easement for any purpose not inconsistent with Grantee’s full and complete enjoyment of the rights hereby granted.

4. Improvements. Grantees shall not improve or construct any permanent improvement within the Easement without Grantor’s prior permission.

5. Maintenance Of Easement. Grantees, at their sole cost, shall maintain and repair the detention pond and drainage structures within the Easement so that they remain in a good and safe condition and state of repair and in accordance with all applicable laws, orders, rules and regulations. After any maintenance, upkeep or repair, Grantees, at their sole cost, shall restore Grantor's property (other than the Easement itself) to the condition it was in prior to such maintenance, upkeep, or repair. All such maintenance, repair, and other work on the Easement shall be done in a manner which will not unreasonably interfere with the Grantor's use of the Easement as described in Paragraph 3. All work on or to the Easement shall be completed in the shortest reasonable time with the least obstruction to and disturbance of the surface of the Easement.

6. Indemnification. Grantees, or their successors and assigns in title to any real property in Cucumber Creek Estates Subdivision, or any interest therein, jointly and severally, shall indemnify, defend, and hold Grantor harmless from all liability, damage, costs, claims, demands, judgments and causes of action (including without limitation, Grantor's reasonable attorney's fees) arising out of or related to the use or maintenance of the Easement by Grantees or their agents, employees, officers, contractors, licensees, invitees, lessees, successors or assigns, including, without limitation, any mechanic's liens which may be asserted or recorded against Grantor's property for services performed or materials supplied in connection with any work performed on the Easement by or at the request of Grantees; provided, however, Grantees shall have no obligation under this Paragraph 6 to the extent any such claim, demand, liability, damage, judgment, or cause of action is caused by the negligence of Grantor, its agents, employees, officers, contractors, licensees, lessees, successors, or assigns.

7. Non-Use Of Easement. Non-use or limited use of the Easement shall not prevent Grantees from thereafter making use of such Easement to the full extent herein authorized.

8. Termination Of Easement. The Easement shall be terminated automatically at such time and in the event that the Easement is abandoned by Grantees as evidenced by written documentation demonstrating an unequivocal intent to abandon the Easement. Upon request by Grantor, Grantees shall execute and deliver to Grantor any appropriate instruments to reflect the termination of the Easement.

9. Binding Effect. This Grant shall be placed of record in the real property records of Summit County, Colorado, and the covenants and conditions contained herein shall run with the land and shall bind, and the benefits shall inure to, respectively, Grantees, its successors and assigns, and all subsequent owners of real property located in Cucumber Creek Estates Subdivision, or any interest therein, and Grantor, its successors and assigns, and all subsequent owners of Tract A or any interest therein, in perpetuity.

10. Notices. All notices required or permitted under the terms of this Grant shall be in writing and shall be deemed given when a copy thereof, addressed as provided herein, is actually delivered, either personally, by overnight courier, or by certified or registered mail, return receipt requested, to a party at the address stated in the first paragraph of this Grant, and to any successors of a party, at the address for such successor shown on the recorded conveyance to such successor, or at such other address as Grantor, Grantees or such successor may notify the

other party of in writing in the manner provided in this paragraph.

11. Construction. The rule of strict construction does not apply to this Grant. This Grant shall be given a reasonable construction so that the intention of the parties to confer to Grantees a private easement as described in this Grant is carried out.

12. Governing Law. This Grant shall be governed by and construed in accordance with the laws of the State of Colorado.

GRANTOR:

TOWN OF BRECKENRIDGE, a Colorado  
municipal corporation

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

ATTEST:

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

GRANTEES:

CHRISTIE HEIGHTS PARTNERSHIP, a  
California general partnership

By: \_\_\_\_\_  
Timothy J. Casey, Managing Partner

CUCUMBER CREEK ASSOCIATES, LLC, a  
Colorado limited liability company

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

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

STATE OF COLORADO    )  
  ) ss.  
COUNTY OF SUMMIT    )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2019, by Rick G. Holman, as Town Manager, and Helen Cospolich, CMC, as 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 \_\_\_\_\_, 2019, by Timothy J. Casey, as Managing Partner, of Christie Heights Partnership, a California General Partnership.

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 \_\_\_\_\_, 2019, by \_\_\_\_\_, as \_\_\_\_\_ of Cucumber Creek Associates, LLC, a Colorado limited liability company.

WITNESS my hand and official seal.

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

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

600-324\Grant of Easement (New)(08-21-19)



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**Exhibit "A"**

**Legal Description of Easement**

A PARCEL OF LAND LOCATED WITHIN TRACT A, CHRISTIE HEIGHTS SUBDIVISION FILING NO. 2 AS RECORDED JANUARY 31, 2001 UNDER RECEPTION No. 644114 AND TRACT A, CUCUMBER CREEK ESTATES SUBDIVISION AS RECORDED JUNE 19, 2018 UNDER RECEPTION No. 1172546 AT THE SUMMIT COUNTY CLERK AND RECORDER'S OFFICE BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWESTERLY PROPERTY CORNER OF TRACT A, CUCUMBER CREEK ESTATES SUBDIVISION, SAID POINT ALSO BEING THE NORTHEASTERLY PROPERTY CORNER OF TRACT A, CHRISTIE HEIGHTS SUBDIVISION FILING NO. 2.

THENCE CONTINUING ALONG THE NORTHERLY PROPERTY LINE OF SAID TRACT A, CUCUMBER CREEK ESTATES S84°56'55"E A DISTANCE OF 30.21 FEET; THENCE DEPARTING SAID NORTHERLY PROPERTY LINE THE FOLLOWING (3) THREE COURSES :

- 1) S11°46'43"W A DISTANCE OF 126.08'
- 2) S43°51'27"W A DISTANCE OF 379.03'
- 3) 87.02 FEET ALONG A CURVE TURNING TO THE RIGHT HAVING A CENTRAL ANGLE OF 9°52'22", A RADIUS OF 505.00 FEET, AND A CHORD WHICH BEARS S48°47'38"W A DISTANCE OF 86.91 FEET.

SAID THREE COURSES ALSO BEING THE 30.00 FOOT REAR SETBACK LINE FOR TRACT A, CUCUMBER CREEK ESTATES SUBDIVISION.

THENCE CONTINUING N63°02'30"W A DISTANCE OF 33.88 FEET TO THE WESTERLY ANGLE POINT OF TRACT A, CUCUMBER CREEK ESTATES SUBDIVISION, SAID POINT ALSO BEING THE EASTERLY PROPERTY LINE OF TRACT A, CHRISTIE HEIGHTS SUBDIVISION FILING NO. 2 .

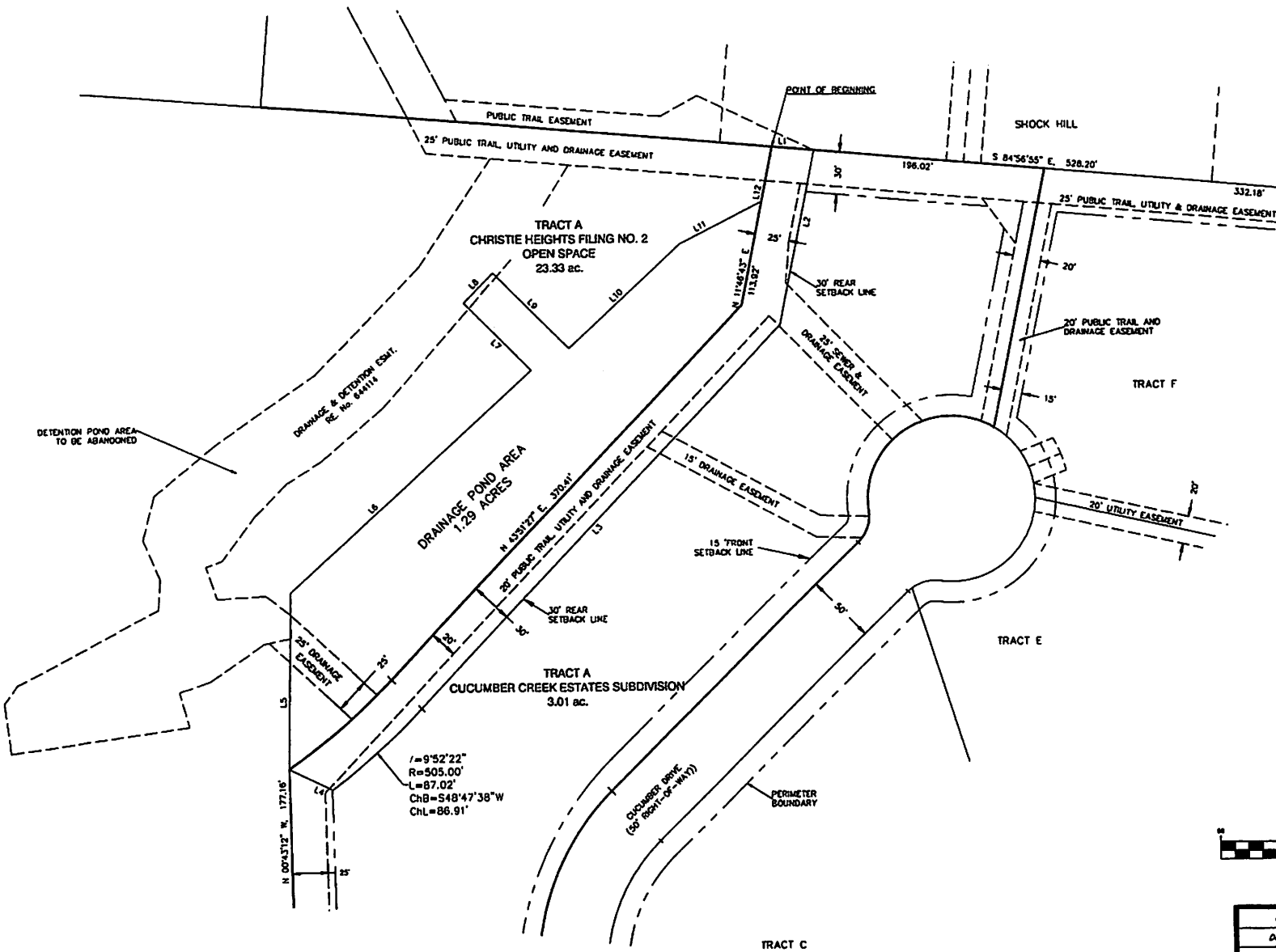
THENCE CONTINUING THE FOLLOWING (7) SEVEN COURSES:

- 1) N01°32'32"E A DISTANCE OF 125.58'
- 2) N47°41'38"E A DISTANCE OF 235.86'
- 3) N44°40'18"W A DISTANCE OF 68.05
- 4) N45°00'59"E A DISTANCE OF 30.00'
- 5) S44°53'39"E A DISTANCE OF 76.56'
- 6) N47°42'19"E A DISTANCE OF 109.58'
- 7) N63°49'24"E A DISTANCE OF 66.31' TO A POINT ON THE WESTERLY PROPERTY LINE OF TRACT A, CUCUMBER CREEK ESTATES, SAID POINT ALSO BEING THE EASTERLY PROPERTY LINE OF TRACT A, CHRISTIE HEIGHTS SUBDIVISION FILING NO. 2.

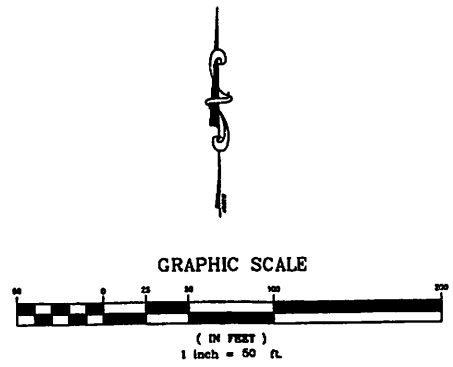
THENCE CONTINUING N11°46'43"E A DISTANCE OF 39.48 FEET TO THE TRUE POINT OF BEGINNING.

SAID EASEMENT CONTAINING 56,028 SQUARE FEET OR 1.29 ACRES MORE OR LESS.


**EXHIBIT - DETENTION POND**  
**TRACT A, CHRISTIE HEIGHTS SUBDIVISION FILING NO. 2 AND TRACT A, CUCUMBER CREEK ESTATES SUBDIVISION**  
 LOCATED IN SECTION 36, TOWNSHIP 6 SOUTH, RANGE 78 WEST OF THE SIXTH PRINCIPAL MERIDIAN  
 TOWN OF BRECKENRIDGE, COUNTY OF SUMMIT, STATE OF COLORADO



LINE TABLE		
LINE #	BEARING	DISTANCE
L1	S84°56'55"E	30.21
L2	S11°46'43"W	126.06
L3	S43°31'27"W	378.03
L4	N63°02'30"W	33.86
L5	N01°32'32"E	125.58
L6	N47°41'38"E	235.88
L7	N44°40'18"W	68.05
L8	N45°00'58"E	30.00
L9	S44°53'39"E	78.56
L10	N47°42'19"E	109.58
L11	N65°49'24"E	66.31
L12	N11°46'43"E	39.48



Drawn EKS	Draw 1985 POND.dwg	Project 1985
Date 7/29/2019	Scale 1" = 50'	Sheet 1 of 1


**SCHMIDT**  
 LAND SURVEYING, INC.  
 P.O. Box 5761  
 FRISCO, CO 80443 970-409-9963

**NOTICE:**  
 ACCORDING TO COLORADO LAW YOU MUST COMMENCE ANY LEGAL ACTION BASED UPON ANY DEFECT IN THIS SURVEY WITHIN THREE YEARS AFTER YOU FIRST DISCOVER SUCH DEFECT. IN NO EVENT, MAY ANY ACTION BASED UPON ANY DEFECT IN THIS SURVEY BE COMMENCED MORE THAN TEN YEARS FROM THE DATE OF CERTIFICATION SHOWN HEREON.

EXHIBIT "B"



# Memo

To: Breckenridge Town Council Members  
From: Mark Johnston, Public Works Assistant Director  
Date: 8/21/2019  
Subject: GIS Software Intergovernmental Agreement Resolution

---

Attached please find a resolution and Intergovernmental Agreement (IGA), which if approved, will facilitate the towns of Breckenridge, Frisco, and Silverthorne to share mapping software. Environmental Systems Research Institute, Inc. ("ESRI") is a provider of Geographic Information Software ("GIS") and has created a Regional Government Enterprise License Agreement ("ELA") intended for a group of small towns with a combined population under 25,000 to allow the towns to work together and enter into a single software licensing agreement. This licensing agreement allows for us to hold more seats and types of software at a lower price.

Staff will be available to answer any questions during the work session on August 27<sup>th</sup>.

1 ***FOR WORKSESSION/ADOPTION – AUG. 27***

2  
3 RESOLUTION NO. \_\_\_\_

4  
5 Series 2019

6  
7 A RESOLUTION APPROVING AN INTERGOVERNMENTAL AGREEMENT FOR  
8 PARTICIPATION IN THE ENVIRONMENTAL SYSTEMS RESEARCH INSTITUTE, INC.  
9 REGIONAL GOVERNMENT ENTERPRISE LICENSE AGREEMENT

10  
11 WHEREAS, Environmental Systems Research Institute, Inc. (“ESRI”) is a provider of  
12 Geographic Information Software (“GIS”); and

13  
14 WHEREAS, the Town, and the towns of Frisco and Silverthorne (individually a “Party”  
15 or collectively the “Parties”), each currently pay annual licensing fees to ESRI to maintain each  
16 Party’s software licenses previously purchased from ESRI; and

17  
18 WHEREAS, each Party would be required to pay substantial costs to acquire new  
19 software licenses and extensions on an individual basis; and

20  
21 WHEREAS, ESRI has created a Regional Government Enterprise License Agreement  
22 (“ELA”) intended for a group of small towns with a combined population under 25,000, to allow  
23 the towns to work together and enter into a single software licensing agreement in order to access  
24 more seats and types of software at a reduced annual fee than each town could afford  
25 individually; and

26  
27 WHEREAS, the ELA will allow the Parties access to the ESRI products listed in the  
28 ELA, including maintenance; and,

29  
30 WHEREAS, pursuant to Title 29, Article 1, Part 2, Colorado Revised Statutes, as  
31 amended, and Article XIV, Section 18 of the State Constitution, governments may contract with  
32 one another to provide any function, service or facility lawfully authorized to each of the  
33 contracting units and any such contract may provide for the joint exercise of the function,  
34 service or facility; and

35  
36 WHEREAS, a proposed “Intergovernmental Agreement For Participation In The  
37 Environmental Systems Research Institute, Inc. Regional Government Enterprise License  
38 Agreement” between the Town and the towns of Frisco and Silverthorne has been prepared, a  
39 copy of which is marked **Exhibit “A”**, attached hereto and incorporated herein by reference; and

40  
41 WHEREAS, the Town Council has reviewed the proposed intergovernmental agreement,  
42 and finds and determines that it would be in the best interest of the Town to enter into such  
43 agreement.

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

4 Section 1. The “Intergovernmental Agreement For Participation In The Environmental  
5 Systems Research Institute, Inc. Regional Government Enterprise License Agreement” with the  
6 towns of Frisco and Silverthorne” (Exhibit “A” hereto) is approved, and the Mayor is  
7 authorized, empowered, and directed to execute such agreement for and on behalf of the Town of  
8 Breckenridge.  
9

10 Section 2. This resolution is effective upon adoption.

11  
12 RESOLUTION APPROVED AND ADOPTED this \_\_\_ day of \_\_\_, 2019.

13  
14 TOWN OF BRECKENRIDGE  
15

16  
17  
18 By: \_\_\_\_\_  
19 Eric S. Mamula, Mayor  
20

21 ATTEST:  
22

23  
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25 \_\_\_\_\_  
26 Helen Cospolich, CMC,  
27 Town Clerk  
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29 APPROVED IN FORM  
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33 \_\_\_\_\_  
34 Town Attorney                      Date  
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**INTERGOVERNMENTAL AGREEMENT  
FOR PARTICIPATION IN  
THE ENVIRONMENTAL SYSTEMS RESEARCH INSTITUTE, INC.  
REGIONAL GOVERNMENT ENTERPRISE LICENSE AGREEMENT**

THIS INTERGOVERNMENTAL AGREEMENT ("Agreement"), is entered into as of the \_\_\_\_ day of \_\_\_\_\_, 2019 by and among the Town of Silverthorne, Colorado ("Silverthorne"), the Town of Breckenridge, Colorado ("Breckenridge"), and the Town of Frisco, Colorado ("Frisco"), referred to individually as a "Party" or collectively as the "Parties."

**RECITALS**

**WHEREAS**, Environmental Systems Research Institute, Inc. ("ESRI") is a provider of Geographic Information Software ("GIS");

**WHEREAS**, each of the Parties currently pays annual licensing fees to ESRI to maintain each Party's software licenses previously purchased from ESRI prior to this Agreement;

**WHEREAS**, each Party would be required to pay substantial costs to acquire new software licenses and extensions on an individual basis;

**WHEREAS**, ESRI has created a Regional Government Enterprise License Agreement ("ELA") intended for a group of small towns with a combined population under 25,000, to allow the towns to work together and enter into a single software licensing agreement in order to access more seats and types of software at a reduced annual fee than each town could afford individually;

**WHEREAS**, the ELA will allow the Parties access to the ESRI products listed in the ELA, including maintenance; and,

**WHEREAS**, the Parties have the authority to enter into this Agreement pursuant to Article XIV Section 18 of the Colorado Constitution and C.R.S. § 29-1-201, *et seq.*

**NOW, THEREFORE**, in consideration of the premises, the mutual promises, covenants and considerations contained herein, the sufficiency of which are acknowledged and confessed, the Parties agree as follows:

1. Authorized Entities. The entities authorized to use the ESRI products pursuant to the ELA are: Silverthorne, Breckenridge, and Frisco (the "Authorized Entities"). Silverthorne shall enter into ELA with ESRI, and shall act as the lead agency for the Authorized Entities in dealings with ESRI under the ELA. Breckenridge, and Frisco shall each execute an "Authorized Entity Acknowledgement Statement" which is included as an exhibit to the ELA. A copy of the ELA is attached to this Agreement, marked Exhibit A, and incorporated herein by this reference.

2. Geographic Information Systems Professional. Each Party shall be responsible for hiring a Geographic Information Systems professional (the "Consultant") to keep track of the types and quantities of software installed within each Party's organization. Each Party shall engage the Consultant, as needed, to answer questions and assist with software setup and installation.

3. Annual Licensing Fee The total annual licensing fee cost of the ELA is Thirty-five Thousand Dollars (\$35,000.00) for each year of the three (3) year initial term of the ELA. Silverthorne shall serve as Fiscal Agent for the Parties and shall be responsible to pay the annual ELA fee directly to ESRI. Silverthorne, acting as the Fiscal Agent, will invoice each Party for it's agreed upon share of the annual licensing fee. Each Party will have sixty (60) days from the date of the invoice to make payment to Silverthorne. The invoice will be issued no later than sixty (60) days before the ELA yearly renewal date.

Each Party hereby agrees to pay the following license fee to Silverthorne on an annual basis, following receipt of an invoice from Silverthorne, as follows:

Silverthorne:	\$12,500	(35.5%)
Breckenridge:	\$12,500	(35.5%)
Frisco:	\$10,000	(29%)

4. ArcGIS Online Subscription. Based on the funding obligations outlined in Paragraph 3, above, the ArcGIS Online Subscription components will be divided among the Parties as follows:

	Funding Percentage	Named Users
Silverthorne	35.5%	18
Breckenridge	35.5%	18
Frisco	29%	14
<b>TOTALS</b>	<b>100%</b>	<b>50</b>

5. Named User. Each Party shall assign one (1) Named User to the Consultant to use and access each Party's ArcGIS online subscription.

6. Virtual Campus Annual User License Allowance. The parties will split the Five Thousand (5,000) units for online training in the same percentages as outlined in the funding obligation, Paragraph 3, of this Agreement.

7. ESRI International User Conference Registrations. The ELA allows two people to attend the annual ESRI users conference each year without paying the conference registration fee. The Parties will decide amongst themselves who to send each year, if anyone. Each Party has the right to have one of its employees attend the conference every other year during the Term (as defined below) of the Agreement.

8. Single Point of Contact. Silverthorne's Public Works Director shall act as the single point of contact between the Parties and ESRI for orders and deliveries and will be responsible for redistribution of License key codes by email to eligible users in the Parties.

9. Individuals Authorized to Call ESRI. The Consultant will act as the authorized Tier 1 support Center to field calls from internal users of ESRI software. The Consultant will name two (2) employees who may directly contact ESRI for Tier 2 technical support.

10. Maintenance of Quantities and Types of Software Licenses. Each Party shall provide an annual report of installed ESRI software to ESRI.

11. Data Privacy. Each Party's data will be kept separate from the data of the other Authorized Entities and each Party will only be allowed to access the data allocated to them, unless otherwise authorized in writing by the Parties.

12. ESRI License. The Parties shall share the License(s) equally as needed. Each Party may use the License for a period of three (4) months during each twelve (12) month License term period. Each Party shall remove the License authorization from its computers/system, when the License is transferred to another Party. Silverthorne shall determine the order of use by the Parties for the License.

13. ESRI Reference Site. Each party shall act as an ESRI reference site and shall permit ESRI to publicize its use of ESRI software and services.

14. Term. This Agreement shall take effect on July 15, 2019 and shall remain in effect for a term of three (3) years to coincide with the ELA ("Term"). At the end of the Term, the Parties will have the option to remain as an Authorized Entity, continue under a renewal of the ELA and enter into a new Intergovernmental Agreement to replace this Agreement.

15. Contingent on Appropriation. Notwithstanding anything to the contrary contained herein, the payment of all direct and indirect obligations by any Party hereunder, in fiscal years subsequent to the current year, are contingent upon funds for this Agreement being duly appropriated and budgeted. If funds for this Agreement are not so appropriated and budgeted in any year subsequent to the fiscal year of execution of this Agreement, the non-appropriating Party may terminate this Agreement upon written notice to the other Parties. The fiscal year for all Parties is currently the calendar year. In the event a Party terminates the Agreement pursuant to this Paragraph, the remaining parties to the Agreement may elect to form a new agreement to reallocate the funding obligations between the remaining Parties in order to continue with the ELA.

16. ELA Incorporated Herein; Indemnification. The terms and requirements of the ELA are incorporated herein and made a part of this Agreement. Each of the Parties agrees to abide by all of the terms of the ELA. To the extent permitted by the Colorado constitution and statutes, each Party indemnifies the other from and against all claims, cases of action, damages, awards and attorney fees arising out of each Party's performance of its duties pursuant to this Agreement and the ELA. No Party waives any of the protections afforded it by the Colorado Governmental Immunity Act, § 24-10-101, et seq. C.R.S., or any other statutory or Common Law immunity.

17. Violation of Terms of ELA. In the event one of the Parties violates the terms of the ELA, and such violation causes the entire ELA to be terminated because of such Party's actions, the violating Party shall reimburse the other Parties for the pro-rated unused portion of the ELA term for which the non-violating Parties have paid.

18. Notices. All notices, demands or other communications required or permitted to be given hereunder will be in writing and any and all such items will be deemed to have been duly delivered upon personal delivery; or as of the third business day after mailing by United States mail, certified, return receipt requested, postage prepaid; or, as of 12:00 noon on the immediately following business day after deposit with Federal Express or a similar overnight courier service that provides evidence of receipt; or, if sent via e-mail, as of the date and time received as evidenced by a e-mail transmission receipt, addressed as follows:

Silverthorne:



Town of Silverthorne  
Attn: Tom Daugherty  
P.O. Box 1309  
601 Center Cir.  
Silverthorne, Colorado 80435  
Phone: (970) 262-7353  
E-mail: [tdaughterty@silverthorne.org](mailto:tdaughterty@silverthorne.org)

Breckenridge:  
Town of Breckenridge  
Attn: Mark Johnston  
P.O. Box 168  
Breckenridge, CO 80424  
Phone: (970) 547-3179  
E-mail: [markj@townofbreckenridge.com](mailto:markj@townofbreckenridge.com)

Frisco:  
Town of Frisco  
Attn: Jeff Goble  
P.O. Box 4100  
Frisco, Colorado 80443  
Phone: (970) 668-0836  
E-mail: [jeffg@townoffrisco.com](mailto:jeffg@townoffrisco.com)

Any Party, by notice given as provided above, may change the address to which future notices shall be sent.

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

20. Modification. This Agreement may be modified only by written instrument duly authorized and executed by the Parties hereto.

21. Effective Date. This Agreement shall be effective as of date first set forth above (the "Effective Date").

22. No Third Party Beneficiaries. This Agreement is intended to describe the rights and responsibilities only as between the Parties. It is not intended to, and shall not be deemed to confer rights to any persons or entities not named as Parties to this Agreement.

23. Successors and Assigns. This Agreement shall not be assignable by any Party unless approved in writing by the remaining Parties.

24. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.

25. Headings. The headings in this Agreement are for reference only and shall not limit or define the meaning of any provision of this Agreement.

26. Governing Law. This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of Colorado. Venue for any court proceeding related to this Agreement shall be proper and exclusive in the District Court for Summit County, Colorado.

27. Entire Agreement. This Agreement sets forth the entire understanding of the Parties with respect to the matters set forth herein as of the date hereto; it supersedes all prior oral or written agreements of the Parties as to the matters set forth herein.

28. No Joint Venture; No Agency. This is an Agreement among the Parties for obtaining services. This Agreement does not create a joint venture or partnership between or among the Parties, nor does it constitute any Party as an agent of any other.

29. Authorization. The signatories to this Agreement affirm and warrant that they are fully authorized to enter into and execute this Agreement, and all necessary actions, notices, meetings and/or hearings pursuant to any law required to authorize their execution of this Agreement have been made. The Parties hereto each represent that they possess the legal ability to enter into this Agreement.

*[Signatures on following page]*

**WHEREFORE**, the Parties hereto have executed this Agreement as of the date here first set forth above.

TOWN OF SILVERTHORNE

By: \_\_\_\_\_  
Ann-Marie Sandquist, Mayor

ATTEST:

By: \_\_\_\_\_  
Michele Miller, Town Clerk

TOWN OF BRECKENRIDGE

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

ATTEST:

By: \_\_\_\_\_  
Helen Cospolich, Town Clerk

TOWN OF FRISCO

By: \_\_\_\_\_  
Gary Wilkerson, Mayor

ATTEST:

By: \_\_\_\_\_  
Deborah Wohlmuth, Town Clerk

6/10/13

**EXHIBIT A**

[Regional Government Enterprise License Agreement]



May 29, 2019

Tom Dautherty  
Town of Silverthorne  
264 Brian Ave  
Silverthorne, CO 80498

Dear Tom,

The Esri Small Municipal and County Government Enterprise Agreement (EA) is a three-year agreement that will grant the Town of Silverthorne access to Esri® term license software on an unlimited basis including maintenance on all software offered through the EA for the term of the agreement. The Town of Breckenridge and the Town of Frisco are authorized entities on the agreement. The EA will be effective on the renewal date of July 15, 2019 and will require a firm, three-year commitment.

Based on Esri's work with several organizations similar to yours, we know there is significant potential to apply geographic information system (GIS) technology in many operational and technical areas within your organization. For this reason, we believe that your organization will greatly benefit from an enterprise agreement.

An EA will provide your organization with numerous benefits including:

- A lower cost per unit for licensed software
- Substantially reduced administrative and procurement expenses
- Maintenance on all Esri software deployed under this agreement
- Complete flexibility to deploy software products when and where needed

The following business terms and conditions will apply:

- All current departments, employees, and in-house contractors of the organization will be eligible to use the software and services included in the EA.
- If your organization wishes to acquire and/or maintain any Esri software during the term of the agreement that is not included in the EA, it may do so separately at the Esri pricing that is generally available for your organization for software and maintenance.
- The organization will establish a single point of contact for orders and deliveries and will be responsible for redistribution to eligible users.
- The organization will establish a Tier 1 support center to field calls from internal users of Esri software. The organization may designate individuals as specified in the EA who may directly contact Esri for Tier 2 technical support.

## EXHIBIT A

- The organization will provide an annual report of installed Esri software to Esri.
- Esri software and updates that the organization is licensed to use will be automatically available for downloading.
- The fee and benefits offered in this EA proposal are contingent upon your acceptance of Esri's Small Municipal and County Government EA terms and conditions.
- Licenses are valid for the term of the EA.

This program offer is valid for 90 days. To complete the agreement within this time frame, please contact me within the next seven days to work through any questions or concerns you may have. To expedite your acceptance of this EA offer:

1. Sign and return the EA contract with a Purchase Order or issue a Purchase Order that references this EA Quotation and includes the following statement on the face of the Purchase Order: "**THIS PURCHASE ORDER IS GOVERNED BY THE TERMS AND CONDITIONS OF THE ESRI SMALL MUNICIPAL AND COUNTY GOVERNMENT EA, AND ADDITIONAL TERMS AND CONDITIONS IN THIS PURCHASE ORDER WILL NOT APPLY.**" Have it signed by an authorized representative of the organization.
2. On the first page of the EA, identify the central point of contact/agreement administrator. The agreement administrator is the party that will be the contact for management of the software, administration issues, and general operations. Information should include name, title (if applicable), address, phone number, and e-mail address.
3. In the purchase order, identify the "Ship to" and "Bill to" information for your organization.
4. Send the purchase order and agreement to the address, email or fax noted below:

Esri  
Attn: Customer Service SG-EA  
380 New York Street  
Redlands, CA 92373-8100

e-mail: [service@esri.com](mailto:service@esri.com) fax  
documents to: 909-307-3083

I appreciate the opportunity to present you with this proposal, and I believe it will bring great benefits to your organization.

Thank you very much for your consideration.

Best Regards,

Lisa Ward

**EXHIBIT A**



**Quotation # Q-383474**

**Date:** May 31, 2019

**Customer # 346105    Contract #**

Town of Silverthorne  
Public Works Dept  
264 Brian Ave  
Silverthorne, CO 80498

**ATTENTION:** Tom Dautherty  
**PHONE:** (970) 262-7353  
**EMAIL:** tdaugherty@silverthorne.org

**Environmental Systems Research Institute, Inc.**  
**380 New York St**  
**Redlands, CA 92373-8100**  
**Phone: (909) 793-2853    Fax: (909) 307-3049**  
**DUNS Number: 06-313-4175    CAGE Code: OAMS3**

*To expedite your order, please attach a copy of this quotation to your purchase order.*  
*Quote is valid from: 5/24/2019 To: 8/22/2019*

Material	Qty	Term	Unit Price	Total
168177	1	Year 1	\$35,000.00	\$35,000.00
Populations of 0 to 25,000 Small Government Term Enterprise License Agreement - Year 1				
168177	1	Year 2	\$35,000.00	\$35,000.00
Populations of 0 to 25,000 Small Government Term Enterprise License Agreement - Year 2				
168177	1	Year 3	\$35,000.00	\$35,000.00
Populations of 0 to 25,000 Small Government Term Enterprise License Agreement - Year 3				

Subtotal:	\$105,000.00
Sales Tax:	\$0.00
Estimated Shipping and Handling (2 Day Delivery):	\$0.00
Contract Price Adjust:	\$0.00
<b>Total:</b>	<b>\$105,000.00</b>

Esri may charge a fee to cover expenses related to any customer requirement to use a proprietary vendor management, procurement, or invoice program.

<b>For questions contact:</b> Lisa Ward	<b>Email:</b> lward@esri.com	<b>Phone:</b> (909) 793-2853 x8231
<p>The items on this quotation are subject to and governed by the terms of this quotation, the most current product specific scope of use document found at <a href="https://assets.esri.com/content/dam/esrisites/media/legal/product-specific-terms-of-use/e300.pdf">https://assets.esri.com/content/dam/esrisites/media/legal/product-specific-terms-of-use/e300.pdf</a>, and your applicable signed agreement with Esri. If no such agreement covers any item quoted, then Esri's standard terms and conditions found at <a href="https://assets.esri.com/content/dam/esrisites/media/legal/ma-full/ma-full.pdf">https://assets.esri.com/content/dam/esrisites/media/legal/ma-full/ma-full.pdf</a> apply to your purchase of that item. Federal government entities and government prime contractors authorized under FAR 51.1 may purchase under the terms of Esri's GSA Federal Supply Schedule. Supplemental terms and conditions found at <a href="https://www.esri.com/en-us/legal/terms/state-supplemental">https://www.esri.com/en-us/legal/terms/state-supplemental</a> apply to some state and local government purchases. All terms of this quotation will be incorporated into and become part of any additional agreement regarding Esri's offerings. Acceptance of this quotation is limited to the terms of this quotation. Esri objects to and expressly rejects any different or additional terms contained in any purchase order, offer, or confirmation sent to or to be sent by buyer. Unless prohibited by law, the quotation information is confidential and may not be copied or released other than for the express purpose of system selection and purchase/license. The information may not be given to outside parties or used for any other purpose without consent from Esri. Delivery is FOB Origin.</p> <p align="center"><b>If sending remittance, please address to: Esri, P.O. Box 741076, Los Angeles, CA 90074-1076</b></p>		



EXHIBIT A



Quotation # Q-383474

Date: May 31, 2019

Environmental Systems Research Institute, Inc.
380 New York St
Redlands, CA 92373-8100
Phone: (909) 793-2853 Fax: (909) 307-3049
DUNS Number: 06-313-4175 CAGE Code: OAMS3

Customer # 346105 Contract #

Town of Silverthorne
Public Works Dept
264 Brian Ave
Silverthorne, CO 80498

To expedite your order, please attach a copy of this quotation to your purchase order. Quote is valid from: 5/24/2019 To: 8/22/2019

ATTENTION: Tom Dautherty
PHONE: (970) 262-7353
EMAIL: tdaugherty@silverthorne.org

If you have made ANY alterations to the line items included in this quote and have chosen to sign the quote to indicate your acceptance, you must fax Esri the signed quote in its entirety in order for the quote to be accepted.

If your organization is a US Federal, state, or local government agency; an educational facility; or a company that will not pay an invoice without having issued a formal purchase order, a signed quotation will not be accepted unless it is accompanied by your purchase order.

In order to expedite processing, please reference the quotation number and any/all applicable Esri contract number(s) (e.g. MPA, ELA, SmartBuy, GSA, BPA) on your ordering document.

BY SIGNING BELOW, YOU CONFIRM THAT YOU ARE AUTHORIZED TO OBLIGATE FUNDS FOR YOUR ORGANIZATION, AND YOU ARE AUTHORIZING ESRI TO ISSUE AN INVOICE FOR THE ITEMS INCLUDED IN THE ABOVE QUOTE IN THE AMOUNT OF \$35,000 PLUS SALES TAXES IF APPLICABLE.

Please check one of the following:

- I agree to pay any applicable sales tax.
[X] I am tax exempt, please contact me if exempt information is not currently on file with Esri.

Signature of Authorized Representative: Tom Dautherty
Name (Please Print): Tom Dautherty
Title: PW Director

Date: 7-18-19

The quotation information is proprietary and may not be copied or released other than for the express purpose of system selection and purchase/license. This information may not be given to outside parties or used for any other purpose without consent from Environmental Systems Research Institute, Inc. (Esri).
Any estimated sales and/or use tax reflected on this quote has been calculated as of the date of this quotation and is merely provided as a convenience for your organization's budgetary purposes.

Esri may charge a fee to cover expenses related to any customer requirement to use a proprietary vendor management, procurement, or invoice program.

For questions contact: Lisa Ward
Email: lward@esri.com
Phone: (909) 793-2853 x8231
The items on this quotation are subject to and governed by the terms of this quotation, the most current product specific scope of use document found at https://assets.esri.com/content/dam/esrisites/media/legal/product-specific-terms-of-use/e300.pdf, and your applicable signed agreement with Esri. If no such agreement covers any item quoted, then Esri's standard terms and conditions found at https://assets.esri.com/content/dam/esrisites/media/legal/ma-full/ma-full.pdf apply to your purchase of that item. Federal government entities and government prime contractors authorized under FAR 51.1 may purchase under the terms of Esri's GSA Federal Supply Schedule. Supplemental terms and conditions found at https://www.esri.com/en-us/legal/terms/state-supplemental apply to some state and local government purchases. All terms of this quotation will be incorporated into and become part of any additional agreement regarding Esri's offerings. Acceptance of this quotation is limited to the terms of this quotation. Esri objects to and expressly rejects any different or additional terms contained in any purchase order, offer, or confirmation sent to or to be sent by buyer. Unless prohibited by law, the quotation information is confidential and may not be copied or released other than for the express purpose of system selection and purchase/license. The information may not be given to outside parties or used for any other purpose without consent from Esri. Delivery is FOB Origin.
If sending remittance, please address to: Esri, P.O. Box 741076, Los Angeles, CA 90074-1076

**EXHIBIT A**

**Esri Use Only:**

Cust. Name \_\_\_\_\_  
 Cust. # \_\_\_\_\_  
 PO # \_\_\_\_\_  
 Esri Agreement # \_\_\_\_\_



**REGIONAL GOVERNMENT  
 ENTERPRISE AGREEMENT  
 (RG1)**

This Agreement is by and between \_\_\_\_\_ Town of Silverthorne \_\_\_\_\_ ("**Managing Customer**") and **Environmental Systems Research Institute, Inc. ("Esri")**.

This Agreement sets forth the terms for Managing Customer's use of Products and incorporates by reference (i) the Quotation and (ii) the Master Agreement. Should there be any conflict between the terms and conditions of the documents that comprise this Agreement, the order of precedence for the documents shall be as follows: (i) the Quotation, (ii) this Agreement, and (iii) the Master Agreement. This Agreement shall be governed by and construed in accordance with the laws of the state in which Managing Customer is located without reference to conflict of laws principles, and the United States of America federal law shall govern in matters of intellectual property. The modifications and additional rights granted in this Agreement apply only to the Products listed in Table A.

**Table A  
 List of Products**

**Uncapped Quantities**

**Desktop Software and Extensions** (Single Use)

ArcGIS Desktop Advanced  
 ArcGIS Desktop Standard  
 ArcGIS Desktop Basic  
 ArcGIS Desktop Extensions: ArcGIS 3D Analyst, ArcGIS Spatial Analyst, ArcGIS Geostatistical Analyst, ArcGIS Publisher, ArcGIS Network Analyst, ArcGIS Schematics, ArcGIS Workflow Manager, ArcGIS Data Reviewer

**Enterprise Software and Extensions**

ArcGIS Enterprise and Workgroup (Advanced and Standard)  
 ArcGIS Enterprise Extensions: ArcGIS 3D Analyst, ArcGIS Spatial Analyst, ArcGIS Geostatistical Analyst, ArcGIS Network Analyst, ArcGIS Schematics, ArcGIS Workflow Manager

**Enterprise Additional Capability Servers**

ArcGIS Image Server

**Developer Tools**

ArcGIS Engine  
 ArcGIS Engine Extensions: ArcGIS 3D Analyst, ArcGIS Spatial Analyst, ArcGIS Engine Geodatabase Update, ArcGIS Network Analyst, ArcGIS Schematics  
 ArcGIS Runtime (Standard)  
 ArcGIS Runtime Analysis Extension

**Limited Quantities**

One (1) Professional subscription to ArcGIS Developer\*  
 Two (2) Esri CityEngine Advanced Single Use Licenses  
 50 ArcGIS Online Viewers  
 50 ArcGIS Online Creators  
 10,000 ArcGIS Online Service Credits  
 50 ArcGIS Enterprise Creators  
 2 Insights for ArcGIS for use with ArcGIS Enterprise  
 2 Insights for ArcGIS for use with ArcGIS Online

**OTHER BENEFITS**

Number of Esri User Conference registrations provided annually	<b>2</b>
Number of Tier 1 Help Desk individuals authorized to call Esri	<b>2</b>
Maximum number of sets of backup media, if requested**	<b>2</b>
Self-Paced e-Learning	<b>Uncapped</b>
Five percent (5%) discount on all individual commercially available instructor-led training classes at Esri facilities purchased outside of this Agreement (Discount does not apply to Small Enterprise Training Package)	

\*Maintenance is not provided for these items

\*\*Additional sets of backup media may be purchased for a fee

**EXHIBIT A**

Managing Customer may accept this Agreement by signing and returning the whole Agreement with (i) the Quotation attached, (ii) a purchase order, or (iii) another document that matches the Quotation and references this Agreement ("Ordering Document"). **ADDITIONAL OR CONFLICTING TERMS IN MANAGING CUSTOMER'S PURCHASE ORDER OR OTHER DOCUMENT WILL NOT APPLY, AND THE TERMS OF THIS AGREEMENT WILL GOVERN.** This Agreement is effective as of the date of Esri's receipt of an Ordering Document, unless otherwise agreed to by the parties ("Effective Date").

This Agreement authorizes the entities listed in Attachment 1 (each an "Authorized Entity") to use Products listed in Table A, provided Authorized Entity signs and returns an executed Authorized Entity Acknowledgment Statement and agrees to be bound by the terms and conditions of this Agreement. Managing Customer may not Deploy any Products to an Authorized Entity until Managing Customer has received and sent to Esri the executed Authorized Entity Acknowledgment Statement.

**Term of Agreement:** Three (3) years

This Agreement supersedes any previous agreements, proposals, presentations, understandings, and arrangements between the parties relating to the licensing of the Products. Except as provided in Article 4—Product Updates, no modifications can be made to this Agreement.

Accepted and Agreed:

Town of Silverthorne \_\_\_\_\_  
(Managing Customer)

By: [Signature] \_\_\_\_\_  
Authorized Signature

Printed Name: Tom Daugherty \_\_\_\_\_

Title: Pw Director \_\_\_\_\_

Date: 7-19-19 \_\_\_\_\_

**MANAGING CUSTOMER CONTACT INFORMATION**

Contact: Tom Daugherty \_\_\_\_\_

Telephone: 970-262-7353 \_\_\_\_\_

Address: PO Box 827 \_\_\_\_\_

Fax: \_\_\_\_\_

City, State, Postal Code: Silverthorne, CO 80448

E-mail: tdaugherty@silverthorne.org

Country: USA \_\_\_\_\_

Quotation Number (if applicable): Q-383474

## EXHIBIT A

### 1.0—ADDITIONAL DEFINITIONS

In addition to the definitions provided in the Master Agreement, the following definitions apply to this Agreement:

**"Case"** means a failure of the Software or Online Services to operate according to the Documentation where such failure substantially impacts operational or functional performance.

**"Customer"** means Managing Customer and Authorized Entity.

**"Deploy", "Deployed" and "Deployment"** mean to redistribute and install the Products and related Authorization Codes within Customer's organization(s).

**"Fee"** means the fee set forth in the Quotation.

**"Maintenance"** means Tier 2 Support, Product updates, and Product patches provided to Managing Customer during the Term of Agreement.

**"Master Agreement"** means the applicable master agreement for Esri Products incorporated by this reference that is (i) found at <http://www.esri.com/legal/software-license> and available in the installation process requiring acceptance by electronic acknowledgment or (ii) a signed Esri master agreement or license agreement that supersedes such electronically acknowledged master agreement.

**"Product(s)"** means the products identified in Table A—List of Products and any updates to the list Esri provides in writing.

**"Quotation"** means the offer letter and quotation provided separately to Managing Customer.

**"Technical Support"** means the technical assistance for attempting resolution of a reported Case through error correction, patches, hot fixes, workarounds, replacement deliveries, or any other type of Product corrections or modifications.

**"Tier 1 Help Desk"** means Managing Customer's point of contact(s) to provide all Tier 1 Support within Customer's organization(s).

**"Tier 1 Support"** means the Technical Support provided by the Tier 1 Help Desk.

**"Tier 2 Support"** means the Esri Technical Support provided to the Tier 1 Help Desk when a Case cannot be resolved through Tier 1 Support.

### 2.0—ADDITIONAL GRANT OF LICENSE

**2.1 Grant of License.** Subject to the terms and conditions of this Agreement, Esri grants to Customer a personal, nonexclusive, nontransferable license solely to use, copy and Deploy quantities of the Products listed in Table A—List of Products for the Term of Agreement (i) for the applicable Fee and (ii) in accordance with the Master Agreement. Additionally, Esri grants to Managing Customer the right to Deploy for Customer's internal use, provided prior to Deploying to an Authorized Entity, Esri receives a signed copy of the Authorized Entity Acknowledgment Statement.

**2.2 Consultant Access.** Esri grants Customer the right to permit Customer's consultants or contractors to use the Products exclusively for Customer's benefit. Customer will be solely responsible for compliance by consultants and contractors with this Agreement and will ensure that the consultant or contractor discontinues use of Products upon completion of work for Customer. Access to or use of Products by consultants or contractors not exclusively for Customer's benefit is prohibited. Customer may not permit its consultants or contractors to install Software or Data on consultant, contractor, or third-party computers or remove Software or Data from Managing Customer locations, except for the purpose of hosting the Software or Data on Contractor servers for the benefit of Customer.

### 3.0—TERM, TERMINATION, AND EXPIRATION

**3.1 Term.** This Agreement and all licenses hereunder will commence on the Effective Date and continue for the duration identified in the Term of Agreement, unless this Agreement is terminated earlier as provided herein. Customer is only authorized to use Products during the Term of Agreement. For an Agreement with a limited term, Esri does not grant Customer an indefinite or a perpetual license to Products.

**3.2 No Use upon Agreement Expiration or Termination.** All Product licenses, all Maintenance, and Esri User Conference registrations terminate upon expiration or termination of this Agreement.

**3.3 Termination for a Material Breach.** Either party may terminate this Agreement for a material breach by the other party. The breaching party

## EXHIBIT A

will have thirty (30) days from the date of written notice to cure any material breach.

**3.4 Termination for Lack of Funds.** For an Agreement with government or government-owned entities, either party may terminate this Agreement before any subsequent year if Managing Customer is unable to secure funding through the legislative or governing body's approval process.

**3.5 Follow-on Term.** If the parties enter into another agreement substantially similar to this Agreement for an additional term, the effective date of the follow-on agreement will be the day after the expiration date of this Agreement.

**3.6 Termination of an Individual Authorized Entity.** Esri may terminate the license rights of a particular Authorized Entity for material breach without terminating this Agreement with Managing Customer. The breaching Authorized Entity will be given a period of thirty (30) days from the date of written notice to cure any material breach. Upon the termination of an Authorized Entity, all Products Deployed to the Authorized Entity will also terminate. Managing Customer shall reasonably cooperate with Esri in termination of an Authorized Entity for material breach of this Agreement, including enforcement of the Agreement with respect to such Authorized Entity. There will be no reduction in the Fee if an Authorized Entity's rights are terminated. The terminated Authorized Entity will have no further access to any benefits, entitlements, rights, or other items included in or otherwise related to this Agreement.

**3.7 Termination by Authorized Entity.** If an Authorized Entity no longer desires to participate in this Agreement, the Authorized Entity may terminate; however, there will be no decrease in the Fee as a result.

### 4.0—PRODUCT UPDATES

**4.1 Future Updates.** Esri reserves the right to update the list of Products in Table A—List of Products by providing written notice to Managing Customer. Customer may continue to use all Products that have been Deployed, but support and upgrades for deleted items may not be available. As new Products are incorporated into the standard program, they will be offered to Managing Customer via written notice for incorporation into the Products schedule at no

additional charge. Customer's use of new or updated Products requires Customer to adhere to applicable additional or revised terms and conditions in the Master Agreement.

**4.2 Product Life Cycle.** During the Term of Agreement, some Products may be retired or may no longer be available to Deploy in the identified quantities. Maintenance will be subject to the individual Product Life Cycle Support Status and Product Life Cycle Support Policy, which can be found at <http://support.esri.com/en/content/productlifecycles>. Updates for Products in the mature and retired phases may not be available. Customer may continue to use Products already Deployed, but Managing Customer will not be able to Deploy retired Products.

### 5.0—MAINTENANCE

The Fee includes standard maintenance benefits during the Term of Agreement as specified in the most current applicable Esri Maintenance and Support Program document (found at <http://www.esri.com/legal>). At Esri's sole discretion, Esri may make patches, hot fixes, or updates available for download. No Software other than the defined Products will receive Maintenance. Customer may acquire maintenance for other Software outside this Agreement.

#### a. Tier 1 Support

1. Managing Customer will provide Tier 1 Support through the Tier 1 Help Desk to all Customer's authorized users.
2. The Tier 1 Help Desk will be fully trained in the Products.
3. At a minimum, Tier 1 Support will include those activities that assist the user in resolving how-to and operational questions as well as questions on installation and troubleshooting procedures.
4. The Tier 1 Help Desk will be the initial point of contact for all questions and reporting of a Case. The Tier 1 Help Desk will obtain a full description of each reported Case and the system configuration from the user. This may include obtaining any customizations, code samples, or data involved in the Case.
5. If the Tier 1 Help Desk cannot resolve the Case, an authorized Tier 1 Help Desk

## EXHIBIT A

individual may contact Tier 2 Support. The Tier 1 Help Desk will provide support in such a way as to minimize repeat calls and make solutions to problems available to Customer's organization.

6. Tier 1 Help Desk individuals are the only individuals authorized to contact Tier 2 Support. Managing Customer may change the Tier 1 Help Desk individuals by written notice to Esri.

### b. Tier 2 Support

1. Tier 2 Support will log the calls received from Tier 1 Help Desk.
2. Tier 2 Support will review all information collected by and received from the Tier 1 Help Desk including preliminary documented troubleshooting provided by the Tier 1 Help Desk when Tier 2 Support is required.
3. Tier 2 Support may request that Tier 1 Help Desk individuals provide verification of information, additional information, or answers to additional questions to supplement any preliminary information gathering or troubleshooting performed by Tier 1 Help Desk.
4. Tier 2 Support will attempt to resolve the Case submitted by Tier 1 Help Desk.
5. When the Case is resolved, Tier 2 Support will communicate the information to Tier 1 Help Desk, and Tier 1 Help Desk will disseminate the resolution to the user(s).

## 6.0—ENDORSEMENT AND PUBLICITY

This Agreement will not be construed or interpreted as an exclusive dealings agreement or Customer's endorsement of Products. Either party may publicize the existence of this Agreement.

## 7.0—ADMINISTRATIVE REQUIREMENTS

**7.1 OEM Licenses.** Under Esri's OEM or Solution OEM programs, OEM partners are authorized to embed or bundle portions of Esri products and services with their application or service. OEM partners' business model, licensing terms and conditions, and pricing are independent of this Agreement. Customer will not seek any discount from the OEM partner or Esri based on the

availability of Products under this Agreement. Customer will not decouple Esri products or services from the OEM partners' application or service.

**7.2 Annual Report of Deployments.** At each anniversary date and ninety (90) calendar days prior to the expiration of this Agreement, Managing Customer will provide Esri with a written report detailing all Deployments. Upon request, Customer will provide records sufficient to verify the accuracy of the annual report.

## 8.0—ORDERING, ADMINISTRATIVE PROCEDURES, DELIVERY, AND DEPLOYMENT

### 8.1 Orders, Delivery, and Deployment

- a. Upon the Effective Date, Esri will invoice Managing Customer and provide Authorization Codes to activate the nondestructive copy protection program that enables Managing Customer to download, operate, or allow access to the Products. If this is a multi-year Agreement, Esri may invoice the Fee before the annual anniversary date for each year.
- b. Undisputed invoices will be due and payable within thirty (30) calendar days from the date of invoice. Esri's federal ID number is 95-2775-732.
- c. If requested, Esri will ship backup media to the ship-to address identified on the Ordering Document, FOB Destination, with shipping charges prepaid. Managing Customer acknowledges that should sales or use taxes become due as a result of any shipments of tangible media, Esri has a right to invoice and Managing Customer will pay any such sales or use tax associated with the receipt of tangible media.

**8.2 Order Requirements.** Esri does not require Managing Customer to issue a purchase order. Managing Customer may submit a purchase order in accordance with its own process requirements, provided that if Managing Customer issues a purchase order, Managing Customer will submit its initial purchase order on the Effective Date. If this is a multi-year Agreement, Managing Customer will submit subsequent purchase orders to Esri at least thirty (30) calendar days before the annual anniversary date for each year.

## EXHIBIT A

- a. All orders pertaining to this Agreement will be processed through Managing Customer's centralized point of contact.
- b. The following information will be included in each Ordering Document:
  - (1) Managing Customer name; Esri customer number, if known; and bill-to and ship-to addresses
  - (2) Order number
  - (3) Applicable annual payment due

### 9.0—MERGERS, ACQUISITIONS, OR DIVESTITURES

If Customer is a commercial entity, Customer will notify Esri in writing in the event of (i) a consolidation, merger, or reorganization of Customer with or into another corporation or entity; (ii) Customer's acquisition of another entity; or (iii) a transfer or sale of all or part of Customer's organization (subsections i, ii, and iii, collectively referred to as "**Ownership Change**"). There will be no decrease in Fee as a result of any Ownership Change.

- 9.1 If an Ownership Change increases the cumulative program count beyond the maximum level for this Agreement, Esri reserves the right to increase the Fee or terminate this Agreement and the parties will negotiate a new agreement.
- 9.2 If an Ownership Change results in transfer or sale of a portion of Customer's organization, that portion of Customer's organization will uninstall, remove, and destroy or transfer the Products to Customer.
- 9.3 This Agreement may not be assigned to a successor entity as a result of an Ownership Change unless approved by Esri in writing in advance. If the assignment to the new entity is not approved, Customer will require any successor entity to uninstall, remove, and destroy the Products. This Agreement will terminate upon such Ownership Change.

## EXHIBIT A

### ATTACHMENT 1 AUTHORIZED ENTITY LIST

1. Authorized Entity Name: Town of Breckenridge  
Contact Name: Mark Johnston  
Address: P.O. Box 168, Breckenridge, CO  
80424  
Phone: 970-547-3179  
E-mail: mjohnston@townofbreckenridge.com
2. Authorized Entity Name: Town of Frisco  
Contact Name: Jeff Goble  
Address: P.O. Box 4100, Frisco, CO 80443  
Phone: 970-668-0836  
E-mail: Jeffg@townoffrisco.com



**EXHIBIT A**

Prior to any Deployment to an Authorized Entity, Managing Customer shall require each such entity to be contractually bound to applicable terms and conditions by executing an Authorized Entity Acknowledgment Statement. Managing Customer shall keep a copy of the signed original acknowledgment for its records and forward a copy of the signed original to Esri. Esri may pursue remedies against Managing Customer or an individual Authorized Entity for material breach. Only Managing Customer has a right to Deploy.

**AUTHORIZED ENTITY ACKNOWLEDGMENT STATEMENT**

Environmental Systems Research Institute, Inc. ("Esri") and Town of Silverthorne ("Managing Customer"), have entered into an Agreement for licensing certain rights to use and Deploy Products and to receive maintenance for the term of the Agreement, subject to payment of fees and adherence to the terms and conditions of this Agreement. Esri has authorized Managing Customer to Deploy Products to Authorized Entity provided Authorized Entity signs and returns this Authorized Entity Acknowledgment Statement.

Accordingly, Authorized Entity, as a Customer, represents it has received and read the Agreement, and understands and agrees to be bound by the Agreement, for use of Products received from Managing Customer. Authorized Entity agrees that Esri may pursue remedies against Authorized Entity for material breach of the Agreement. All Deployments made by Managing Customer to Authorized Entity shall be made through Managing Customer's centralized point of contact. Tier 1 Help Desk will provide Maintenance to Authorized Entity. Authorized Entity grants Managing Customer the right to unilaterally sign amendments to this Agreement, which shall be binding on Authorized Entity.

No other rights are granted to Authorized Entity under this acknowledgment.

Accepted and Agreed:

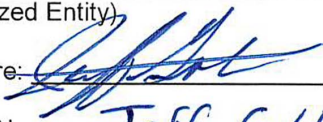
Town of Frisco  
(Authorized Entity)  
Signature:   
Printed Name: Jeff Goble  
Title: Public Works Director  
Date: 6/3/2019

EXHIBIT A

ATTACHMENT 1  
AUTHORIZED ENTITY LIST

1. Authorized Entity Name: Town of Breckenridge  
Contact Name: Mark Johnston  
Address: PO Box 168  
Breckenridge CO 80496  
Phone: 970-5470 3179 Phone: \_\_\_\_\_  
E-mail: Mark.Johnston E-mail: \_\_\_\_\_  
Mark.J@townofBreckenridge.com
2. Authorized Entity Name: Town of Frisco  
Contact Name: \_\_\_\_\_  
Address: \_\_\_\_\_
4. Authorized Entity Name: \_\_\_\_\_  
Contact Name: \_\_\_\_\_  
Address: \_\_\_\_\_



# Memo

To: Breckenridge Town Council Members  
From: Mark Truckey, Director of Community Development  
Date: August 21, 2019  
Subject: Planning Commission Decisions of the August 20, 2019 Meeting

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***DECISIONS FROM THE PLANNING COMMISSION MEETING, August 20, 2019:***

**CLASS A APPLICATIONS:** None.

**CLASS B APPLICATIONS:** None.

**CLASS C APPLICATIONS:** None.

**TOWN PROJECT HEARINGS:** None.

**OTHER:** None.

## PLANNING COMMISSION MEETING

The meeting was called to order at 5:30 p.m. by Chair Giller.

### ROLL CALL

Christie Mathews-Leidal	Jim Lamb	Ron Schuman
Mike Giller	Steve Gerard	
Dan Schroder –Arrived 5:31	Lowell Moore	

### APPROVAL OF MINUTES

With no changes, the August 6, 2019 Planning Commission Minutes were approved.

### APPROVAL OF AGENDA

With no changes, the August 20, 2019 Planning Commission Agenda was approved.

### PUBLIC COMMENT ON HISTORIC PRESERVATION ISSUES:

- No comments.

### WORK SESSIONS:

#### 1. Policy 50: Wireless Communication Facilities

Ms. Puester presented an overview of proposed amendments to Policy 50A in the Town Development Code to incorporate small cell and broadband and make some minor changes related to FCC rule clarifications. The Commission was asked for feedback regarding the proposed changes.

#### *Commissioner Questions / Comments:*

- Mr. Giller: On page 25 of the ordinance, where it speaks to the conservation district, uniqueness and beauty, can we add the word ‘integrity’? Line 4B (Ms. Puester: That should not be a problem) On page 28 of the ordinance, I think it is fine on 3.A, we covered with non-historic and non-contributing.
- Ms. Leidal: Do you have the administrative rules adopted?
- Ms. Puester: Yes, those are published on the website. It went straight to council for approval. It will be a document that changes over time as technology progresses and federal and state laws change. Those regs are where all the detail in the design and placement location are for small cells in the right of way.
- Mr. Moore: Can you walk me through how this process works for small cell? A company comes in and says we are going to put multiple small cells in the right of way. Then they come to staff and say the best location is x. What is the decision making process of saying that is okay here but not there?
- Ms. Puester: We have limited local decision making power per the federal regulations however, in my experience in conversations with providers thus far, the providers are willing to work with us to the extent that they can still provide the service where they need to as look into our alternative location solutions. We haven’t seen any applications for small cell yet, just discussions. Small cell gets location specific because it is a short span of frequency so they have to follow in a series of deployments when it is 5G. We will likely see these in small cell 4G technology first as 5G isn’t completely ready. 5G is going into larger markets first like downtown Denver. What we see first may not be in a string of deployments.
- Mr. Lamb: Is it faster? More bandwidth?
- Ms. Puester: Yes, more bandwidth because of all the streaming out there now. Providers are having trouble with bandwidth.
- Mr. Lamb: I also heard the 5G has to be placed close to other poles?
- Ms. Puester: That is our understanding of what the 5G would require, it is like breadcrumbs.

- Mr. Schuman: What kind of distances are we talking about? Verizon has a few in town at Beaver Run and the ballfield, AT&T has one or two.
- Ms. Puester: Those are macro sites, you would still be seeing those.
- Mr. Schuman: So in addition to those macros? How many more do they need?
- Ms. Puester: It is hard to say. On D Major or D Minor, you wouldn't see those unless reclassified if the Director had concerns, it would just be the new macro sites.
- Mr. Schroder: Given the class D staff level review needed for shot clock timing, I was looking at a comparison of parking meters that are out there, there is often consternation about new technology, does it all remain in class D and suddenly it will just be there? Like parking meters, it was just there.
- Mr. Truckey: Yes, with this, it is a cellular company with federal reg backing doing this... these things are going to be potentially tall and there isn't much we can do about it. There is some backlash to these. The Feds wanted to get this implemented so the US can keep competitive.
- Ms. Puester: Our local authority is limited federally, but so far the providers I have had preliminary discussions with have been willing to be sensitive to the things we value the most to some degree.
- Mr. Schroder: This is laying the framework for what is coming. No one likes change, whether it be solar panel or parking meters. Once it is in place, it is accepted eventually.
- Mr. Giller: Is there any requirement to co-locate small cell sites?
- Ms. Puester: It is encouraged in our admin standards.
- Mr. Giller: Is it possible we will see the three large operators with their own poles throughout town?
- Ms. Puester: Yes.
- Mr. Lamb: We are the primary people who would notice.
- Mr. Giller: Anything to keep the number of poles down.
- Mr. Schroder: Where does the height limit come from?
- Ms. Puester: That is in our admin standards that are separate from this on the website.
- Mr. Schroder: I kept expecting the size of the podium, but it sounds like that is not the case.
- Mr. Gerard: Page 31 of the packet, 24 of policy 50, Paragraph H 2 (a) that takes out our building height requirements since it is not a building.
- Ms. Puester: We can't have standards that make the technology impossible to exist.
- Mr. Giller: We had a lively debate a year or two ago about the installation on top of the post office. Have we done anything to clarify on page 27 of the ordinance, page 28 of the packet?
- Ms. Puester: They have not changed with regard to this section. Just because they can go in the right of way, doesn't mean putting anything on private property isn't possible.
- Mr. Schroder: Good job to the staff for tracking this and staying up to date.
- Ms. Puester: It is mostly Tim Berry and I'll pass it along.
- Mr. Schroder: I support changes made by staff.
- Mr. Schuman: I agree.
- Mr. Gerard: People won't like it at first but they want their phones to work.
- Mr. Giller: I support staff.

All in support.

**OTHER MATTERS:**

1. Town Council Summary (Memo Only)

- Mr. LaChance: With the annexation of Huron Landing, then Kenington became available for annexation. After public notice, it went for second reading the last council meeting. That Land Use District 45 is now in effect, so we will be updating the map.
- Mr. Truckey: Historic Design Standards were adopted. They took effect immediately as of last Tuesday. At the same time the Council lifted the moratorium in the historic district. Wanted to thank

- Mike and Steve for stepping up to help with the stakeholders group. Julia, Chapin, Chris did a ton of work on that as well. We've responded to the state's concerns and although it does not comply with all their wished, we had to balance that with property rights as well.
- Mr. Gerard: Have any applications come in yet?
- Ms. Puester: Yes, and having said that there are still two applications in process under the old code that you will still be reviewing.
- Mr. Gerard: Are the final versions available online now?
- Mr. Truckey: It takes months to reflect the change with the code codifier, so use the council packet version.
- Ms. Puester: We have hired a graphic designer to update the Handbook and will have that done in October with new photos and graphics, and it will be in HTML and so word searchable.
- Mr. Truckey: Peak 7 Chairlift. Everyone knows Indie chair is pretty busy. They want to add another chair lift just to the northwest there, not all the way to the base, but above Indie. It is a fast process, categorical exclusion...the lowest of three levels of environmental review with NEPA--a pretty quick turnaround. We found out right when it got released so we had little time to react. It is an 'infill' type of lift. If less than 5 acres are disturbed, it qualifies under that categorical exclusion. We requested an extension to that comment period, so we have a little more time until September 1. We are taking the council on a site visit tomorrow. Thought wetlands would be an issue, so it will have to be sensitively designed to avoid any problems there. There will be a lot of older spruce that needs to be removed... so some issues environmentally. How much town council will weigh in is to be seen. Since it is not directly affecting drainage into Cucumber Gulch, it may soften our comments. Construction would be next summer. Council is going to talk again at their next meeting, and decide what they want to put into the comment letter. Individual comment letters will be accepted by the Forest Service by September 1<sup>st</sup>. What the forest service does require is their BMP's (Best Management Practices).
- Mr. Giller: Want to speak to the conferences?
- Ms. Puester: We've signed everyone up except for those who cannot make it for the national historic conference. Hopefully you all booked your hotel. The APA conference, who is going to that one? Mike and Lowell... when it gets closer we can talk carpooling.
- Mr. Gerard: As an aside I think we got a new electric bus. (Mr. Truckey: September 10<sup>th</sup> will be a ribbon cutting and the second bus is coming.)

**ADJOURNMENT:**

The meeting was adjourned at 6:05pm.

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Mike Giller, Chair



## 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.*

### August 2019

<b>Tuesday, August 27, 2019</b>	<b>3:00pm / 7:00 pm</b>	<b>Town Hall Chambers</b>	<b>Second Meeting of the Month</b>
Aug. 10th - Sept. 2nd, 2019	All Day	Main Street	Labor Day Weekend Sidewalk Sales Days
August 31st, 2019	All Day	Blue River	Rubber Duck Race
August 31st, 2019	1:00pm - 4:00pm		Celebration of Mark Burke's Life

### September 2019

Sept. 6th - 8th, 2019	All Day	Main Street	Oktoberfest
September 9th, 2019	3:00pm - 5:00pm	Keystone Lodge	Launch of Peak Health Alliance
<b>Tuesday, Sept. 10th, 2019</b>	<b>3:00pm / 7:00 pm</b>	<b>Town Hall Chambers</b>	<b>First Meeting of the Month</b>
September 10th, 2019	8:00am	Public Works Yard	Electric Bus Ribbon Cutting
Sept. 12th - 15th, 2019	All Day	Throughout Town	Breckenridge Wine Classic
September 19th, 2019	3:00pm - 5:30pm	<i>TBD</i>	Mtn Bike with the Mayor, followed by Happy Hour
Sept. 19th - 22nd, 2019	All Day	Throughout Town	Breckenridge Film Festival
September 23rd, 2019	6:00pm - 10:00pm		FIRC Dinner
<b>Tuesday, Sept. 24th, 2019</b>	<b>3:00pm / 7:00 pm</b>	<b>Town Hall Chambers</b>	<b>Second Meeting of the Month</b>
September 26th, 2019	7:30am - 11:00am	Copper Mtn Resort	COO Breakfast

### Other Meetings

August 26th, 2019	Open Space & Trails Meeting	5:30pm
August 27th, 2019	Board of County Commissioners Meeting	9:00am / 1:30pm
August 27th - 28th, 2019	CAST	Noon
August 28th, 2019	Summit Stage Transit Board Meeting	8:15am
	Summit Combined Housing Authority	9:00am
September 3rd, 2019	Board of County Commissioners Meeting	9:00am
	Planning Commission Meeting	5:30pm
September 4th, 2019	Police Advisory Committee	7:30am
	Breckenridge Events Committee	9:00am
	Childcare Advisory Committee	3:00pm
September 10th, 2019	Board of County Commissioners Meeting	9:00am / 1:30pm
	Workforce Housing Committee	Noon
September 11th, 2019	Breckenridge Heritage Alliance	Noon
September 16th, 2019	Breckenridge Creative Arts	4:00pm



## 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.*

September 17th, 2019	Board of County Commissioners Meeting	9:00am
	Liquor & Marijuana Licensing Authority	9:00am
	Planning Commission Meeting	5:30pm
September 23rd, 2019	Open Space & Trails Meeting	5:30pm
September 24th, 2019	Board of County Commissioners Meeting	9:00am / 1:30pm
September 25th, 2019	Summit Stage Transit Board Meeting	8:15am
	Summit Combined Housing Authority	9:00am
September 26th, 2019	Transit Advisory Council Meeting	8:00am
	Breckenridge Tourism Office Board Meeting	8:30am
	RW&B Board Meeting	3:00pm
October 1st, 2019	Board of County Commissioners Meeting	9:00am
	Planning Commission Meeting	5:30pm
October 2nd, 2019	Police Advisory Committee	7:30am
	Breckenridge Events Committee	9:00am
	Childcare Advisory Committee	3:00pm
October 3rd, 2019	Upper Blue Sanitation District	5:30pm
October 8th, 2019	Board of County Commissioners Meeting	9:00am / 1:30pm
	Workforce Housing Committee	1:30pm
October 10th, 2019	I-70 Coalition	10:00am
October 15th, 2019	Board of County Commissioners Meeting	9:00am
	Liquor & Marijuana Licensing Authority	9:00am
	Planning Commission Meeting	5:30pm
October 17th, 2019	QQ - Quality and Quantity - Water District	9:00am
October 24th, 2019	Transit Advisory Council Meeting	8:00am
	Breckenridge Tourism Office Board Meeting	8:30am
	Northwest CO Council of Governments	10:00am
	RW&B Board Meeting	3:00pm
October 28th, 2019	Open Space & Trails Meeting	5:30pm
TBD	Water Task Force Meeting	8:30am
	Troll Committee Meeting	9:00am