



TOWN OF
BRECKENRIDGE

Town Council Work Session
Tuesday, April 28, 2020, 5:00 PM
VIRTUAL Council Chambers
Breckenridge, Colorado

This meeting will be broadcast live, but the public will NOT be permitted to attend the meeting in person due to COVID-19 concerns. If you are interested, please monitor the meeting by joining the live broadcast available online. Log-in information is available in the calendar section of our website: www.townofbreckenridge.com. Questions and comments can be submitted prior to the meeting to Mayor@townofbreckenridge.com or during the meeting using the Q&A feature in the Online Webinar.

I. PLANNING COMMISSION DECISIONS (5:00-5:05pm)

Planning Commission Decisions

II. LEGISLATIVE REVIEW (5:05-5:50pm)

Sustainable Building Code (Second Reading)

Employee Generation Code Amendment (Second Reading & Emergency Ordinance) - Item to be continued

Public Accommodation Tax Ordinance (Second Reading)

Ordinance Approving Sale of Partial Interest in Smuggler Claims (First Reading)

Breckenridge Professional Building Long-Term Lease Agreement - Zweig Law (First Reading)

Recreation Road and Trail Management IGA with Summit County (Resolution)

III. MANAGERS REPORT (5:50-6:10pm)

Public Projects Update

Parking and Transportation Update

Housing and Childcare Update

Committee Reports

Financials

Breckenridge Events Committee Update

IV. OTHER (6:10-6:15pm)

State of the Open Space Report

V. PLANNING MATTERS (6:15-7:00pm)

Logan Thompson Memorial Sculpture Town Project

Small Cell Recommendations

Small Cell Design Standards Modifications



Memo

To: Breckenridge Town Council Members
From: Mark Truckey, Director of Community Development
Date: April 8, 2020
Subject: Planning Commission Decisions of the April 7, 2020 Meeting

DECISIONS FROM THE PLANNING COMMISSION MEETING, April 7, 2020:

CLASS A APPLICATIONS: None.

CLASS B APPLICATIONS: None.

CLASS C APPLICATIONS: None.

TOWN PROJECT HEARINGS:

1. Milne/McNamara House and Eberlein House Restoration, Relocation and Site Modifications Town Project, 102 N. Harris Street, PL-2020-0037

A proposal to restore the historic Milne House which includes a new foundation and installation of a basement, relocation and restoration of the historic Eberlein House which includes a new foundation, outhouse relocation and restoration, installation of parking along the rear alley, new concrete steps and walkways, ADA accessibility, tree removal, landscaping, drainage modifications, and utility installations. *Approved.*

OTHER: None.



Breckenridge South



Milne/McNamara House and Eberlein House Restoration, Relocation and Site Modifications Town Project, 102 N. Harris Street

Collins Residence, 106 S. High Street

PLANNING COMMISSION MEETING

The meeting was called to order at 5:37 p.m. by Chair Gerard.

ROLL CALL

Christie Mathews-Leidal	Jim Lamb	Ron Schuman
Mike Giller	Steve Gerard	
Dan Schroder	Lowell Moore	

APPROVAL OF MINUTES

With the changes below, the March 17, 2020 Planning Commission Minutes were approved.

Mr. Gerard: On page 3 of the packet, my comment regarding workforce housing should be clarified to rooms or units.

APPROVAL OF AGENDA

With the changes below, the April 7, 2020 Planning Commission Agenda was approved.

Collins Residence Final Hearing has been requested to postpone by the applicant until an in-person meeting is possible. This continuance is currently allowed during the Public Health Emergency.

PUBLIC COMMENT ON HISTORIC PRESERVATION ISSUES:

- No Comments

FINAL HEARINGS:

1. Collins Residence (CK), 106 S. High Street, PL-2019-0068 (Continued to a future meeting, date TBD)

(Staff Recorded the Following People in Attendance at this electronic hearing via Zoom for the record, although not all in attendance spoke during public comment: Wallace Ducayet, Marie Sautter, KrisAnn, John Rynes, Erica Duvic, Lee Edwards, Deb Edwards, Kathrine)

TOWN PROJECTS:

1. Milne/McNamara House and Eberlein House Restoration, Relocation, and Site Modifications (CL), 102 N. Harris Street, PL-2020-0037 (Continued from the March 17, 2020 Meeting)

Mr. LaChance presented a proposal by the Breckenridge Heritage Alliance (BHA) to restore the historic Milne House which includes a new foundation and installation of a basement, relocation and restoration of the historic Eberlein House which includes a new foundation, outhouse relocation and restoration, installation of parking along the rear alley, new concrete steps and walkways, ADA accessibility, tree removal, landscaping, drainage modifications, and utility installations.

Commissioner Questions / Comments:

Mr. Giller: None
Mr. Lamb: None
Ms. Leidal: None
Mr. Moore: None
Mr. Schroder: None
Mr. Schuman: None
Mr. Gerard: Under policy 18A Parking, point analysis shows required 6 parking spaces and shows 7 spaces. Should be edited to 6. No other questions.

Ms. Larissa O'Neil, Breckenridge Heritage Alliance, presented:

The process started 3 years ago with opportunities for public comment including an open house and surveys and was it shown to Town Council more recently. Our top priority is to protect these historic structures and honor the history of the park, people who lived there and residential development overall. The newspapers in the Milne house will be preserved and interpreted as learning opportunities with access for hearing impaired. We also want to focus on the history of immigration. The McNamara's were an Irish family and the Eberlein's were one of the first Breckenridge locals. We want to focus on the architectural characteristics of the structures as contributing structures of the Historic District. Another goal is to increase public access to the park. Having staff on site is important to guide tours and monitor the site. We were also planning to use the space to store and preserve historic objects as part of our museum collections. Based on public comment the project has been misrepresented as an office park or just meeting space. However, there are opportunities for the public including gatherings, concerts, weddings, etc. We want to improve our facilities to better offer those services. Staff being there on a full time basis will be very helpful in furthering that goal and is the same as other similar parks in Colorado. We agree with the point analysis and the -3 points for removal of historic fabric. We have communicated with the Building Department about ADA issues on the site.

Ms. Janet Sutterley, Architect, presented:

Consulted with Graham Johnson, an expert in window and door preservation regarding an analysis of the three south opening treatments of the Eberlein. Outline of proposed interior work is included in the packet. Some interior millwork that was stated will be removed has already been removed. The window with a recently framed opening we are still considering it a historic window. We are aiming for a high level restoration and rehabilitation project. We have been in touch with Eli in regards to building code issues. Building code is sympathetic to historic structures but does not give much leeway in regards ADA. It is a simple request to add an ADA bathroom in the Milne house despite the loss of historic value. Engineering code has been considered and the parking layout is a result of that code.

Peter Grosssheusch, BHA Board Member:

We have tried to make changes based on previous comments and SHPO has been consulted and a historic door and window expert. We have had many opportunities for people to weigh in on this project.

The hearing was opened for Public Comment. Planning Commission notes that three emails were received and read by the Commission prior to the meeting.

Chris Sautter, 101 N High St.: My family has owned 101 N High St. for 25 years. We will have five commercial parking spaces 30' to the west of our house with this proposal. We were initially pleased to hear the park will be improved but do not like the offices and public parking places on a narrow alleyway. Noise, traffic issues where no parking was needed before is unacceptable. I have been an attorney for over 30 years and believe that the original documentation under which the property was acquired does not include offices and parking and violates the spirit of a park.

John Rynes, 101 N High St.: Proud of the efforts being taken to preserve the buildings. The alley provides the only access to three of the 15 townhomes for Wellington Square. It is also emergency access and dumpster access for all 15 Wellington Square homes and three neighbors. The alley is used as a play area for the children of Wellington Square. The Town of Breckenridge does not maintain the alley. All maintenance is paid for by Wellington Square HOA. The area where the parking is to be placed is the only area for snow storage along the alley. Why are six parking spaces required? There is plenty of parking across the street. Six additional cars coming and going will add traffic, reduce safety and create difficulties for maintenance and snow removal. Consider removing the 5 parking spaces and leave the ADA space. You will not need to move the Eberlein house and disrupt the landscaping.

Deb Edwards, 103 N High St.: I just learned of this hearing at 5pm tonight. Did not receive a mailing to this or prior hearings for this project. I have lived here for 30 years. Have been to the meetings held for improving

the park. We liked having the open spaces and historic structures across the alley and felt our view would be protected. We enjoy seeing the activities in the park. I am concerned about the parking and would like to see shared parking at the community center. Leaving one or two ADA spaces is not a concern. There is already a concern with cars parking in the alley to avoid paying for parking elsewhere. They block driveways and access to homeowners. I'm also wondering what the construction timeline of this project is? Will the town be accepting the maintenance of the alley upon the completion of this project?

Lee Edwards, 103 N High St.: I appreciate the responses to my inquiries this morning about the property and the project by staff. I did participate in the previous opportunities for public comment, however; we did not know the impact that project might have on our neighborhood. You are introducing something that shouldn't be there. A staff member on the property makes sense for interpretation. What is the budget that the council assigned to this project? No one is arguing with the use of the property. Expanding on the existing park is fine but adding complexity to the residential area should be reconsidered. This is a residential land use district--not institutional. I am discouraged in hearing about the interior work to be completed on the Eberlein house including the removal of interior fabric. Adding a vaulted roof is not appropriate for this project, the existing flat ceiling is historic. Town should have to follow the code including not removing the historic interior fabric.

Marie Sautter, 101 N High Street: I have lived here for 31 years. We are happy to see the park improved. The alley is a special place and do not understand why you need a parking place for six cars when there is plenty of parking across the street. The Library already has meeting rooms, bathrooms and parking. The alley serves as a playground area for kids and basketball games. I am against having a parking area across from my home. The office use is not appropriate for this space.

Chair Gerard asked if anyone else had public comment to speak or raise a hand. With no additional public comments, the hearing was closed. Chair Gerard asked staff to make any clarification or answer questions the public had.

Mr. LaChance: Public notice is not required for Town Projects per the Town Code. No notice was mailed for this hearing but notice was posted on the website. The maintenance of the alley will continue to be maintained by the Wellington Square townhomes in perpetuity as was agreed upon in the 1978 PUD. We are outside the parking service area and therefore each site is required to have on-site parking per the Code. With the substantial changes being proposed it is required to come into conformance with the code. No planned starting date for construction at this time.

Commissioner Questions / Comments:

- Mr. Lamb: This property is underutilized and I understand the concerns of the neighbors. Parking spaces are required per the code. The office use is very light and will not pose a threat to the neighborhood. To have someone in a wheelchair come from the library to this property is ridiculous. It should be approved as presented.
- Mr. Giller: The SHPO letter recommends following the Secretary of Interior standards. I do have some concerns, but I support the project in respect to the Town Code.
- Ms. Leidal: I don't have further questions at this point, and I do support the point analysis as presented. Thank you staff.
- Mr. Moore: I understand neighborhood concerns, however, I do not believe that this use would be inconsistent with the use of a park. The office use is minimal. I support the point analysis and the project. Supportive of having an ADA spaces but I am concerned about having the other spaces and the impact that it has on snow storage.
- Mr. Schroder: We do not have oversight on the interiors. We have to apply the code to this project. The project meets code and I recommend approval of the point analysis and project as presented.
- Mr. Schuman: I do support the plan. Unhappy with the plan to remove interior fabric and feel for the homeowners about the parking.

Mr. Gerard: I support the plan. The project is for the greater good. The impact to neighbors should be minimal. We are looking at this from the outside, not the inside. BHA does not want to lose historic properties and I do not anticipate to have that happen here. I recommend approval.

Chair Gerard reopened public comments as someone had “raised their hand” again after the public comment period was closed.

Public Comment:

John Rynes, 101 N High St.: Why can't we have everything that is proposed with the exception of the parking areas and leave the Eberlein where it is? Why does the code require that parking and why can't we make an exception? (Mr. Gerard: We cannot change projects that are presented to us. Town Council has the ability to change parts of the project. We can only approve or deny based on applicability to the code.)

Mr. Schroder made a motion to recommend the Town Council approve the project. Mr. Lamb seconded the motion. The motion passed 7-0.

OTHER MATTERS:

1. Town Council Summary

Mr. Truckey provided a summary of Town Council Meeting on March 24th. Many items were continued to make the virtual meeting shorter. St. Johns Development agreement was approved. Council allowed additional density for the project to connect the existing basement under the non-historic addition to the new landmarked basement area. Council approved the policy changes for 24R, Social Community and Amenity Spaces, which eliminates positive points for amenity spaces and added positive points under 25R Transit for projects where an all-electric shuttle was proposed.

2. Class D Majors Q1 2020 (Memo Only) 3 single family home approvals, no questions.

3. Class C Subdivisions Q1 2020 (Memo Only) 3 subdivision approvals, no questions.

ADJOURNMENT:

The meeting was adjourned at 7:06 pm.

Steve Gerard, Chair



Memo

To: Breckenridge Town Council Members
From: Mark Truckey, Director of Community Development
Date: April 22, 2020
Subject: Planning Commission Decisions of the April 21, 2020 Meeting

DECISIONS FROM THE PLANNING COMMISSION MEETING, April 21, 2020:

CLASS A APPLICATIONS: None.

CLASS B APPLICATIONS: None.

CLASS C APPLICATIONS:

1. Cucumber Way Residence, 137 Windwood Circle, PL-2020-0054
A proposal to construct a new 5,993 sq. ft. single family residence with 5 bedrooms and 5.5 bathrooms.
Approved.

TOWN PROJECT HEARINGS: None.

OTHER:

Two work sessions were conducted; the first regarding a proposal to renovate and remodel St. John's Church located at 100 S. French Street; and the second regarding updates to Policy 33R regarding energy conservation.



Cucumber Way Residence, 137
Windwood Circle

St. John's Church Addition
& Remodel Work Session,
100 S. French Street



NOT TO SCALE

Breckenridge South



PLANNING COMMISSION MEETING

The meeting was called to order at 7:03 p.m. by Chair Gerard. The meeting was a virtual electronic meeting through the Zoom platform, as a result of the COVID-19 crisis.

ROLL CALL

Christie Mathews-Leidal	Jim Lamb	Ron Schuman
Mike Giller	Steve Gerard	
Dan Schroder	Lowell Moore (arrived at 7:06 p.m.)	

APPROVAL OF MINUTES

With no changes, the April 7, 2020 Planning Commission Minutes were approved.

A letter from a member of the public was received by the Commission prior to the meeting, regarding the Milne/Eberlein project. The Commission voted to include the letter in the Town Council packet and make it part of the public record. The vote passed 7-0.

APPROVAL OF AGENDA

With no changes, the April 21, 2020 Planning Commission Agenda was approved.

As this was an electronic meeting, staff noted the following people in attendance from the public (as their name appeared in Zoom: Charlie Brumbaugh, Dan, Deb Edwards, Gayle, Melina, Reed, Wallace Ducayet, Brett, Amy)

PUBLIC COMMENT ON HISTORIC PRESERVATION ISSUES:

- None.

WORK SESSIONS:

1. St. John's Church Addition & Remodel (JL), 100 S. French Street, PL-2020-0063

Mr. Lott presented a work session for a proposal to renovate, remodel, and add a basement to a historic structure on South French Street. The following specific questions were asked of the Commission:

1. Since the windows and glazing proposed are mostly existing on the non-historic addition, does the Commission have any concerns with the glazing as proposed?
2. Does the Commission support raising the entire structure by approximately 9 inches?
3. Are there any other questions or concerns for the Commission at this time related to this proposal?

Commissioner Questions / Comments:

Mr. Giller: The west elevation of the two windows. (Mr. Lott: No changes to windows or doors on historic portion of the building?) Clarify that in the memo.

Ms. Leidal: Is the non-historic portion proposed to be raised? (Mr. Lott: Yes. The architect can provide more info.) So you will check that for next time? Are we comfortable with the height of the retaining walls and egress window on the east elevation? Can you help me understand what is going on with the south elevation, regarding the window well and egress? Are we increasing or reducing the setback? (Lott: I believe it is making it better. The overhang would meet the relative setback. I believe that overhang may be required for egress).

Mr. Schroder: I am wondering if someone could speak to the drainage, could it be addressed in lieu of raising the building.

Mr. Moore: To get that new excavated basement, do you need to move the church up or is it simply a drainage issue?

Mr. Gerard: On the north side of the building, where we have a narrow space between the building and the road, is there room to improve the sidewalk? (Mr. Lott: That is something we talked about

through the Development Agreement process. Staff did not want to eliminate any more yard. There are several utilities in the northeast corner of the property that could also be impacted. Through those discussions, we opted for the south side sidewalk with a pedestrian easement. The bus stop is at the sidewalk on French Street and it connects to the community center and preserves the yard.) Dealing with provisions of Policy 3A which says basement density does not count if we do not raise the building, what is the consequence of raising the elevation? It looks like the Development Agreement exempted the project from Policy 3A. (Mr. Lott: The consequence would be setting precedent by not having the historic relationship in terms of elevation).

Matt Stais, Architect:

Thanks to staff. On raising the building: we wanted to ask this in order to provide positive drainage away from building. Current grade slopes from easterly property line towards the door. Right now, the church has a little deck to step into parish hall door. The drainage issue is on the east side, but the building is tied together structurally between the historic and non-historic sections. Asking for opportunity to raise building to improve drainage, while also improving accessibility. We do not want to ask for anything more than we need. It is our understanding that there are other projects that have established precedent by raising the grade, including the Harris Residence. We have a stairway down at lower level to make the entire lower level under the entire structure to make a multi-function space for the community. The floor of the lower entry is proposed to be heated concrete and there may be opportunity to tie the drainage into this system. I thought this worksession would be a good time to ask the question of raising the building. Regarding window wells, the one on the north side is not for egress. We have two egress doors that meet code, confirmed with the Building Division. Window is for daylighting and air. Any issues with size and height of windows wells can be resolved with staff. The existing shed is not in the relative setback. We will make sure the new porch overhang stays out of the relative setback as well. Regarding sidewalk at north property line, this was worked out before I was involved with the project. There are issues the town had with sidewalk with snowplowing in winter. It is impossible to keep it clear. There is no sidewalk to the parking lot east of the property. Part of the development agreement is that the community uses the existing sidewalk to the south of the building. The church has agreed to dedicate an easement for mid-block pedestrian walkway. It is a really nice sidewalk that will take the place of any sidewalk on the north side. Regarding density and Policy 3A, the Development Agreement does exempt the project from Policy 3A.

Commissioner Questions / Comments:

Mr. Giller: As part of the basement installation, will you install a French drain or pump? (Mr. Stais: We would want to make the existing system more robust and install into storm sewer.) If you were to raise the building, have you thought about the two elevations? What would the extended foundation look like? (Mr. Stais: we would anticipate matching what is there. The intent is to have the existing historic part of the church remain exactly the way it is. We have landscaping proposed around the base of the building. We do have one iconic tree we want to keep and we would hide the foundation with shrubs.)

Ms. Leidal: Is there any interior modification to the building? Is the big space shown on the plans existing? Could you raise your ceiling and then bring up the floor so that you won't have to raise it on the outside? (Mr. Stais: We looked at that. We want to stiffen up the entire structure. The area that needs to get raised is on the right of what is shown on your screen, and that is all existing structure. Raising right hand side without raising the left hand side has proven to be unfeasible because the buildings are tied together. We have looked at it though, but that begins to mess with existing material slated to remain. It did not make a lot of sense according to the contractors.) So the 9' ceiling exists on the right side? (Mr. Stais: Yes, we are going down further. We need more room within the ceiling space for fire safety, lights, etc. The new lower level is about 2-3' below the existing lower level. We have to remove the entire lower level that exists so that when it is all said and done it will function properly.) So

what would another 9” do? (Mr. Stais: Nothing. That is not germane to the discussion. We are trying to create positive drainage away from the parish hall. We are unable raise it too much because we have ADA constraints on the sidewalk. The basement floor level is independent of the request on the main floor level). I do not understand, but thank you. (To put it another way, the request to raise the building is for drainage on the outside. The drainage forms a low spot at the southeast corner. We want to raise it 9” so that it slopes away from the door instead of creating a pool.) I do not understand why you cannot go down another 9”. (Mr. Stais: The yard that is there is creating the problem. What flows from the parking lot flows in towards the building.)

Mr. Giller: At that current low spot near the southeast corner, is there any kind of drainage structure? (Mr. Stais: No, not at this time). Could you re-grade to the North to the street, or could you connect to the new foundation drain? (Mr. Stais: We have been trying very hard to keep the grade at the property lines the same. We would have to deal with it internal to the project.) I would encourage looking at tying it into the subsurface drainage that you already need to install. Just take a look at it if you will.

Mr. Moore: It is all site specific, correct? (Mr. Stais: yes.)

Mr. Gerard: Mr. Lott, do you have any other comments?

Mr. Lott: Staff wanted to get the Commission’s feedback and then bring it back for a Combined Hearing.

Mr. Schuman: I do not support raising structure by 9”. Good plan, look forward to seeing in a Hearing.

Mr. Giller: No issue with glazing changes. I do think with all respect to Matt that drainage could be installed with subsurface drainage solution. You have four-tenths of a foot of drop. I think raising a historic building to solve that problem is not the right thing to do in historic preservation. Also, the lumens of the bulb on front porch seems a bit low for this type of application.

Ms. Leidal: I support proposed glazing. Thank you for walking through changes. I do not support raising the structure. I am concerned with the size of the window well. It is excessive and does not leave a lot of yard on that side. Make sure the porch and shed meet setback requirements. Good plan.

Mr. Schroder: I do not have any concerns with glazing as proposed. I support the project. I too believe support leaving the structure at its existing elevation.

Mr. Moore: I would like to see another exploration of drainage options. Concerned about raising the building. If it was not feasible to redo drainage in another way, I would support raising the structure. I support the glazing.

Mr. Lamb: I do not see the raising of the building as an issue. Probably has sunk 9” over the years, so I would totally support raising the building. This is part of Breckenridge. I want the project to be done right and think it will be.

Mr. Gerard: Fine with proposed glazing and exterior changes. I think it is a real plus to clean up the structure. I am going with the majority on the grade. I understand what you are up against Matt. I do not support raising the structure 9”. This will be great project for the Town. I understand why the Town engaged with the Development Agreement. I am concerned about code basis, precedent issue. I would trust staff to talk to the architect and bring back to the Commission as a Combined Hearing. (The Commission agreed.)

2. Policy 33R Energy Conservation

Mr. Sponable presented a Work Session on proposed changes to Policy 33R regarding energy conservation. The Commission was asked for any questions and/or feedback.

Commissioner Questions / Comments:

Mr. Giller: Did you look at awarding more points for large commercial fireplaces? (Mr. Sponable: We have not discussed that, but I can get back to you on that.)

- Ms. Leidal: Do you have to make reference to the IECC and the Breck Sustainable Building Code throughout this document? (Mr. Sponable: The IECC is the governing body for all building codes. There are also various requirements in the building code. Many of these are covered in both the IECC and the Development Code, as we are trying to do here. The relative nature of these policies apply only when the minimum requirements, as written in the Building Code, are met first.) I didn't know when you reference one, if you should reference the other. We are taking away positive points for receiving a HERS/ERI rating. Would you consider a positive point for a 10-19% improvement? (That is a discussion that we can have. For existing residential, anything that hits that \$50K project valuation mark is required to get a rating by the Building Code anyway. Older buildings would not have a hard time hitting 20% improvement to get to the (+2) point threshold.) I will defer to you. I don't know how you reach the thresholds. (Mr. Truckey: It is not very hard to get 20% improvement. We are open to considering less than that, but we would want to limit that to new structures, because it is an easy bar for existing structures to hop over.)
- Mr. Schuman: How would when you look at under paragraph A, first table: What does it take for someone to save 20-39% or 40-59% energy. I am concerned for the ability to earn positive points under our Code. (Mr. Sponable: There are a number of factors and a number of ways to achieve that goal. Improved insulation, better windows, energy efficient HVAC, etc. No one easy way.) The new IBC code requires so many things that to gain positive things, it is becoming much more difficult. (Mr. Truckey: You are right. The bar is getting set higher. We certainly cannot just give them points when they already are required do that with the building code.)
- Mr. Giller: Residential codes for construction have come a long way. Triple glazed windows, sealing framing, spray foam, triple heat exchangers; all of these are becoming mainstream. Bar is getting set higher but not too high.
- Mr. Schroder: I support as presented.
- Mr. Schuman: I am concerned about our Relative Code becoming more black and white, yes or no. How do you get positive points? Very little Relativism in certain areas of our code. Concerned and frustrated that it really only applies to the public. When the Town does 15,000 sq. ft. of heated space, we say it is for the public good. We are losing our relative Code ability.
- Mr. Giller: We should scale everything from heated sidewalks to pools. Base points for fireplaces on size.
- Ms. Leidal: I do support staff's proposed changes. Slowly taking away ability to earn positive points. Maybe the energy code is not the place to keep easy options for positive points. Maybe we do it elsewhere in the Development Code.
- Mr. Moore: I agree. Concerned with where you get positive points. I see on option for 0 points for health safety and welfare. But what about personal residence who needs to heat walkway for their own personal safety?
- Mr. Lamb: I support the changes.
- Mr. Gerard: I think the changes are necessary. I agree with Mike that we should consider more points for larger fireplaces. I think the Policy gives us some great flexibility. I support the recommended changes.

(Mr. Schroder left the meeting at 8:15 p.m.)

CONSENT CALENDAR:

1. Cucumber Way Residence (LS), 137 Windwood Circle, PL-2020-0054

With no call-ups, the Consent Calendar was approved as presented.

OTHER MATTERS:

1. Town Council update:

Mr. Truckey: Council met with the Summit Centura Health CEO earlier today in a special meeting. They expressed discomfort with rate at which testing is happening. The Tarn Dam repairs are being delayed to next year. Proceeding forward with parking structure. Bid came in less. Moving on that this year. The Mayor emphasized money for parking structure comes from parking and transportation tax which cannot be used for other purposes. Transportation tax has to be used for transit, parking, etc.

Mr. Gerard: Any discussion of facility openings? (Mr. Truckey: No, other than the governor's announcements. Some facility openings may happen in a phased approach over the next few weeks. We are working on a plan to transition back into the office, but no dates have been specified yet. Most Community Development employees are working remotely).

ADJOURNMENT:

The meeting was adjourned at 8:39 pm.

Steve Gerard, Chair



Memo

To: Town Council
From: Eli Johnston, Chief Building Official
Date: 4/22/2020
Subject: Sustainable Energy Code Adoption Second Reading

In 2019, Breckenridge adopted the Summit Community Climate Action Plan, a document that sets carbon reduction goals for our community. Two-thirds of Summit County’s emissions come from energy use in buildings – roughly one-third from residential buildings and one-third from commercial. In order to reach our goals of reducing emissions 50 percent by 2030 and 80 percent by 2050 in the Climate Action Plan, we must reduce building energy use.

One of the emissions-reduction strategies identified in the Climate Action Plan is adopting a Sustainable Building Code. This Sustainable Building Code would require energy savings in new construction above what can be achieved through the 2018 International Energy Conservation Code (IECC), which was recently adopted by the Town.

Through a year-long process that included Breckenridge, Summit County, Dillon, Silverthorne, High Country Conservation Center, local builders, architects, and energy consultants, our group determined that an acceptable Sustainable Building Code should utilize a nationally recognized program. The recommendations below meet those goals while achieving 10 percent energy savings in both residential and commercial new construction (compared to the 2018 IECC).

On February 25th 2020, the Breckenridge Building Department received a letter from the Summit County Builders Association regarding the adoption of the proposed energy codes. Their concerns were additional costs, the requirement for exterior insulation and the availability of HERS raters that will be needed to perform energy calculations. Staff met with Council at the February 25th first reading session to discuss the code changes. There was significant public comment at this meeting.

Staff has looked into the Builders’ concerns and has provided the following responses:

- The Summit County Builders Association and High Country Conservation had a meeting on March 4th to look at the modeling that was performed and discussed the addition cost differences. As a group they came up with a cost increase of one to two percent increase for the proposed Zero Energy Ready Homes (ZERH) program. I have included these cost estimates.
- In response to the required use of exterior insulation, commercial projects have been using exterior insulation on buildings throughout Breckenridge for years with no major failures. Additionally, the ZERH program does not require the use of exterior insulation. It is an option that can be used in the modeling software.
- The Breckenridge Building Department will continue to work with the building community regarding the availability of certified HERS raters. Currently there is one certified HERS rater in Frisco with several more undergoing certification in Eagle County. There are also

several raters that are in the Front Range area that could be used until more local companies were available. We will closely monitor this situation and will be communicating with contractors to make sure that there are HERS raters available within response a reasonable timeframe.

- I have personally discussed the issues raised by the Builders with Blake Nudell, president of the Builders Association. Although it is unlikely the Builders will unanimously support the proposal, staff is confident that the revisions will not represent a significant cost increase to builders. Both the Summit County Board of Commissioners and the Frisco Town Council have adopted the Sustainable Energy Code in the last month.

The Breckenridge Building Division along with the Summit Sustainable Building Code committee will also continue working with the building community after code adoption, to help educate and train local builders and designers on the new code requirements and compliance pathways. The committee will be offering a series of educational trainings from April – June 2020, prior to the proposed July 1, 2020 SSBC effective date. These trainings are being coordinated with support from the Colorado Energy Office and their code consultant, NORESO. Additional trainings can also be scheduled as needed to address common questions that may arise throughout the proposed 6-month grace period / testing period for residential code compliance (from July 1, 2020 – January 1, 2021). In addition to live trainings, the Department of Energy's website provides instant access to expert information on hundreds of high-efficiency construction topics.

Attached is the draft ordinance adopting the updated Codes. There are no substantive changes from the first reading. Staff will be available at the meeting to answer any questions from Council.

Efficiency Improvements for Different Code Pathways (Compared to Baseline)

		2018 IECC Prescriptive <i>Baseline</i>	2018 IECC Performance	ZERH
Small 2,570 ft ²	HERS*	60	57	51
	Efficiency Increase	--	3%	9%
	Construction Cost Increase	--	-0.6%	1%
Medium 4,517 ft ²	HERS*	64	59	52
	Efficiency Increase	--	5%	12%
	Construction Cost Increase	--	-0.6%	1%
Large 8,041 ft ²	HERS*	68	60	42
	Efficiency Increase	--	8%	26%
	Construction Cost Increase	--	-0.6%	2%

* Note that each point on the HERS scale represents a 1% increase or decrease in energy efficiency. The higher the score, the less efficient a home is. A HERS score of 0 is a net-zero energy building.

Updated 3/4/2020

2018 IECC Pathways vs ZERH Program // SMALL CUSTOM HOME

3 Bedroom Single Family - slab on grade

Square Footage 2570

	2018 IECC Prescriptive (Baseline)	2018 IECC Performance	ZERH Performance (2 options)	
Total Energy Package Costs ¹	\$ 80,312	\$ 75,263	\$ 79,158	\$ 83,742
Construction Cost / Square Foot Increase ²	\$ -	\$ (1.96)	\$ (0.45)	\$ 1.33
HERS Score	60	57	51	51
Annual Energy Savings ³	\$ 1,665	\$ 76	\$ 274	\$ 293
Key Specs⁴				
Windows	.30/any	.32/.28	.30/.36	.30/.36
Walls	R-20 + R-5	R-23	R-23	R-23 + R-5
Ceiling	R-49	R-60 Attic + R-49 Vault	R-60	R-60
Rim Joist	R-21	R-23	R-23	R-23
Floors	R-38	R-50	R-50	R-50
Slab	R-5	R-10	R-13	R-13
Slab Edge	R-15	R-10	R-15	R-15
ACH50	3	2	2	2
HVAC AFUE	95%	95%	95%	95%
Water Heater	0.67	0.76	0.76	0.76
Ventilation	ENERGY STAR exhaust fan	ENERGY STAR exhaust fan	ENERGY STAR exhaust fan	ENERGY STAR bath fan
Appliances	-	ENERGY STAR	ENERGY STAR	ENERGY STAR
Lighting	90% LED	100% LED	100% LED	100% LED

¹ Energy package costs include: windows, insulation, air sealing, mechanical equipment, ventilation, appliances, and lighting.

² Assuming a total build cost of \$350/SF, adding \$1.50 per SF to achieve ZERH standard increases total build cost by less than 1%.

³ 2018 IECC Prescriptive column represents baseline annual energy use. Subsequent columns highlight energy cost savings from alternative code pathways.

⁴ Items are bolded when they differ from the column/code to the immediate left.

Updated 3/4/2020

2018 IECC Pathways vs ZERH Program // MEDIUM CUSTOM HOME

4 Bedroom

Square Footage 4,517

	2018 IECC Prescriptive Baseline	2018 IECC Performance	ZERH Performance (2 options)	
Total Energy Package Costs ¹	\$ 159,840	\$ 151,880	\$ 173,015	\$ 169,680
Construction Cost / Square Foot Increase ²	\$ -	\$ (1.76)	\$ 2.92	\$ 2.18
HERS Score	64	59	52	52
Annual Energy Savings ³	\$ 2,584	\$ 129	268	\$ 268
Key Specs⁴				
Windows	.30/.25	.32/.30	.30/.30	.30/.25
Walls	R-20 + R-5	R-23	R-20 + R-5	R-23
Ceiling	R-49	R-60	R-49	R-60
Rim Joist	R-21	R-23	R-23	R-23
Floors	R-38	R-50	R-50	R-50
Slab	R-5	R-10	R-10	R-10
Slab Edge	R-15	R-5	R-15	R-15
Foundation	R-10 + R-13	R-10 + R-15	R-10 + R-15	R-10 + R-15
ACH50	3	3	1.7	1.7
HVAC AFUE	95%	95%	95%	95%
Water Heater	0.67	0.76	0.76	0.76
Ventilation	ENERGY STAR exhaust fan	ENERGY STAR exhaust fan	HRV	HRV
Appliances	-	ENERGY STAR	ENERGY STAR	ENERGY STAR
Lighting	90% LED	100% LED	100% LED	100% LED

¹ Energy package costs include: windows, insulation, air sealing, mechanical equipment, ventilation, appliances, and lighting.

² Assuming a total build cost of \$350/SF, adding roughly \$3 per SF to achieve ZERH standard increases total build cost by less than 1%.

³ 2018 IECC Prescriptive column represents baseline annual energy use. Subsequent columns highlight energy cost savings from alternative code pathways.

⁴ Items are bolded when they differ from the column/code to the immediate left.

Updated 3/4/2020

2018 IECC Pathways vs ZERH Program // LARGE CUSTOM HOME

6 Bedroom

Square Footage 8,041

	2018 IECC Prescriptive Baseline	2018 IECC Performance	ZERH Performance (2 options)	
			*Includes 5 kW solar PV to achieve target HERS score	
Total Energy Package Costs ¹	\$ 280,742	\$ 264,850	\$ 327,292	\$ 331,740
Construction Cost / Square Foot Increase ²	\$ -	\$ (1.98)	\$ 5.79	\$ 6.34
HERS Score	68	60	42	42
Annual Energy Savings ³	\$ 4,327	\$ 383	\$ 2,011	\$ 2,011
Key Specs⁴				
Windows	.30/.25	.32/.30	.30/.30	.30/.30
Walls	R-20 + R-5	R-23	R-20 + R-5	R-35
Ceiling	R-49	R-60	R-60	R-60
Rim Joist	R-21	R-23	R-21	R-35
Floors	R-38	R-50	R-50	R-50
Slab	R-5	R-10	R-13	R-13
Slab Edge	R-15	R-5	R-15	R-13
Foundation	R-10 + R-13	R-10 + R-15	R-10 + R-15	R-10 + R-15
ACH50	3	2	1.5	1.5
HVAC AFUE	95%	95%	95%	95%
Water Heater	0.67	0.76	0.76	0.76
Ventilation	ENERGY STAR exhaust fan	ENERGY STAR exhaust fan	HRV	HRV
Appliances	-	ENERGY STAR	ENERGY STAR	ENERGY STAR
Lighting	90% LED	100% LED	100% LED	100% LED
Renewable Energy	-	-	5 kW solar array	5 kW solar array

¹ Energy package costs include: windows, insulation, air sealing, mechanical equipment, ventilation, appliances, and lighting.

² Assuming a total build cost of \$350/SF, adding roughly \$6.50 per SF to achieve ZERH standard increases total build cost by 2%.

³ 2018 IECC Prescriptive column represents baseline annual energy use. Subsequent columns highlight energy cost savings from alternative code pathways.

⁴ Items are bolded when they differ from the column/code to the immediate left.

Updated 3/4/2020

1 **FOR WORKSESSION/SECOND READING – APRIL 25**

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. 7

7
8 Series 2020

9
10 AN ORDINANCE AMENDING CHAPTER 1 OF TITLE 8 OF THE BRECKENRIDGE
11 TOWN CODE BY AMENDING THE INTERNATIONAL RESIDENTIAL CODE, 2018
12 EDITION, AND THE INTERNATIONAL ENERGY CONSERVATION CODE, 2018
13 EDITION

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

17
18 Section 1. Amend Section 8-1-5 of the Breckenridge Town Code, concerning the
19 amendments to the International Residential Code, by adding the following provisions after item
20 number 42, and renumbering all following subsections of Section 8-1-5:

21
22 43. Section N1101.4 Above code programs is amended by adding a new subsection
23 N1101.4.1 Summit Sustainable Building Code to read as follows:

24
25 N1101.4 Summit Sustainable Building Code (SSBC). All new structures defined as
26 a residential building under Section N1101.6 of this chapter shall be designed and comply
27 with the Department of Energy’s Zero Energy Ready Home National Program.

28
29 Exception: All new residential structures defined per section N1101.4.1 shall register
30 and submit to be reviewed and inspected through the Department of Energy’s Zero
31 Energy Ready Home National Program as a training exercise per the Town of
32 Breckenridge Building Department. The training exercise program will be effective July
33 1, 2020 through December 31, 2020. Full compliance with the Department of
34 Energy’s Zero Energy Ready Home National Program shall be effective January 1,
35 2021.

36
37 44. Table N1102.1.2 (IECC R402.1.2) Insulation and Fenestration Requirements by
38 Component is amended by adding footnotes j and k to read as follows:

39
40 Footnote j. **For alterations, additions, and remodels of 1,500 square feet or less in**
41 **size**, R23 blown in bibs are permitted to be installed in walls in lieu of the R20+5 for
42 additions and remodels. If utilizing R23 blown in bibs, the roof/ceiling insulation
43 reductions detailed in N1102.2.1 and N1102.2.2.2 are not allowed.
44

1 Footnote k. A fenestration U-Factor of 0.32 is permitted for window replacements for
2 Climate Zones 7 and 8.

- 3
4 45. Section N1104 Electrical Power and Lighting Systems is amended by adding subsection
5 N1104.2, Electric Vehicle (EV) charging for new construction to read as follows:

6
7 N1104.2 Electric Vehicle (EV) charging for new construction. New construction shall
8 facilitate future installation and use of Electric Vehicle Supply Equipment (EVSE)
9 in accordance with the National Electrical Code (NFPA 70).

10
11 N1104.2.1 One and two family dwellings and townhouses. For each dwelling unit,
12 at least one EV Ready Space shall be provided. The branch circuit or raceway shall be
13 identified as “EV Ready” in the service panel or subpanel directory and the termination
14 shall be marked as “EV Ready”. The rough and final inspection shall include a blanked
15 electrical box and a raceway terminating in the electrical panel.

- 16
17 46. Section N1107.1 (R501.1) Scope is amended by adding subsection N1107.1.1,
18 Additions and alterations to read as follows:

19
20 N1107.1.1 (R501.1.2) Additions and alterations. Additions and interior alterations to
21 an existing building where the total valuation is \$50,000 or greater, an energy audit shall
22 be provided for the existing structure prior to permit issuance. The energy audit
23 recommendations and/or conclusions shall not affect the scope of the work submitted for
24 the permit.

25
26 Exceptions: Re-roofs, exterior siding repair or replacement, and deck additions, repairs,
27 or alterations shall not require an energy audit to be conducted.

28
29 Section 2. Amend Section 8-1-9 of the Breckenridge Town Code, concerning
30 amendments to the International Energy Conservation Code, by adding the following new
31 provisions:

- 32
33 2. Section C101 Scope and General Requirements is amended by adding a new section
34 C101.6 Summit Sustainable Building Code (SSBC).

35
36 C101.6 Summit Sustainable Building Code. (SSBC) In addition to the requirements of
37 Section C101.5, new buildings shall comply with the Summit Sustainable Building Code,
38 in accordance with Sections C101.6.1 and C101.6.2.

39
40 C101.6.1 Residential SSBC. All new residential structures in groups R-2, R-3, and R-4
41 occupancies above 3 stories but not more than 5 stories shall be in compliance with the
42 Department of Energy’s Zero Energy Ready Home National Program.

43
44 Exception: All new residential structures defined per section C101.6.1 shall register and
45 submit to be reviewed and inspected through the Department of Energy’s Zero Energy
46 Ready Home National Program as a training exercise per the Town of Breckenridge

1 Building Department. The training program will be effective July 1, 2020 through
2 December 31, 2020. Full compliance with the Department of Energy's Zero Energy
3 Ready Home National Program shall be effective January 1, 2021.
4

5 C101.6.2 Commercial SSBC. All new structures defined as a Commercial Building in
6 Chapter 2 except structures defined under C101.6.1 of this code shall comply with
7 amended Sections C401.2, C404.11, and C405.10.
8

- 9 3. Section 202 Definitions is amended by adding the following definitions within the
10 alphabetical order of the existing definitions:
11

12 Electric Vehicle (EV). A vehicle registered for on-road use, primarily powered by an
13 electric motor that draws current from a rechargeable storage source that is charged by
14 being plugged into an electrical current source.
15

16 Electric Vehicle Supply Equipment (EVSE). The electrical conductors and associated
17 equipment external to the electric vehicle that provide a connection between the premises
18 wiring and the electric vehicle to provide electric vehicle charging.
19

20 Electric Vehicle Supply Equipment (EVSE) Installed Space. A parking space with
21 electric vehicle supply equipment capable of supplying a 40-ampere dedicated branch
22 circuit rated at 208/240 volt from a building panel board.
23

24 EV Capable Space. A designated parking space which is provided with a listed raceway
25 capable of accommodating a 40-ampere minimum 208/240 volt dedicated branch circuit
26 for each future EV Ready or EVSE Installed parking space. Raceways shall not be less
27 than trade size 1 (nominal 1-inch inside diameter). Raceways shall originate at the main
28 service or subpanel and shall terminate into a listed cabinet, box, or, enclosure in close
29 proximity to the proposed location of the EV Capable parking spaces. Raceways are
30 required to be continuous at enclosed, inaccessible or concealed areas and spaces. The
31 service panel and/or subpanel shall provide capacity to install a 40-ampere minimum
32 208/240 volt dedicated branch circuit and space(s) reserved to permit installation of a
33 branch circuit overprotection device.
34

35 EV Ready Space. A designated parking space which is provided with minimum one 40-
36 ampere minimum 208/240 volt dedicated branch circuit for EVSE servicing electric
37 vehicles. The circuit shall terminate in a suitable termination point such as a receptacle,
38 junction box, or an EVSE, and be located in close proximity to the proposed location of
39 the EV Ready parking spaces.
40

- 41 4. Section C401.2 Application is amended to read as follows:
42

43 C401.2 Application. Commercial buildings shall comply with one of the following:
44

- 45 1. The requirements of ANSI/ASHRAE/IESNA 90.1. The building's annual
energy cost shall achieve savings of 25 percent or greater than the baseline

1 building energy model developed using ASHRAE 90.1 Energy Cost Budget
2 protocol.

3
4 2. The requirements of Sections C402 through C405 and C408. In addition,
5 commercial buildings shall comply with amended Section C406 and tenant spaces
6 shall comply with Section C406.1.1.

7
8 3. The requirements of Sections C402.5, C403.2, C403.3 through C403.3.2,
9 C403.4 through C403.4.2.3, C403.10.1 through C403.10.3, C403.11, C403.12,
10 C404, C405, C407, and C408. The building energy cost shall be equal to or less
11 than 75 percent of the standard reference design building.

12
13 5. Section C404 Service Water Heating is amended by adding a new Section 404.11
14 Building Water Use Reduction.

15
16 C404.11 Building Water Use Reduction. All commercial buildings shall comply with
17 the requirements as set forth in Section C404.11 and as shown in Table C404.11.1.

18
19 Exception: All structures complying with the Department of Energy's Zero Energy
20 Ready Home National Program do not have to comply with Section C404.11.

21
22 TABLE C404.11.1
23 PLUMBING FIXTURES AND FITTINGS REQUIREMENTS

PLUMBING FIXTURE	MAXIMUM
Water Closets (toilets) – flushometer single-flush valve type	Single-flush volume of 1.28 gal (4.8 L)
Water Closets (toilets) – flushometer dual-flush valve type	Full-flush volume of 1.28 gal (4.8 L)
Water Closets (toilets) – single-flush tank-type	Single-flush volume of 1.28 gal (4.8 L)
Water Closets (toilets) – dual-flush tank-type	Full-flush volume of 1.28 gal (4.8 L)
Urinals	Flush volume 0.5 gal (1.9 L)
Public lavatory faucets	Flow rate – 0.5 gpm (1.9 L/min)
Public metering self-closing faucet	0.25 gal(1.0 L) per metering cycle
Residential bathroom lavatory sink faucets	Flow rate – 1.5 gpm (5.7 L/min)
Residential kitchen faucets	Flow rate – 1.8 gpm (6.8 L/min) ^a
Residential showerheads	Flow rate – 2.0 gpm (7.6 L/min)
Residential shower compartment (stall) in dwelling units and guest rooms	Flow rate from all shower outlets total of 2.0 gpm (7.6 L/min) ^{211 elk}

24 a. With provision for a temporary override to 2.2 gpm (8.3 L/min) as specified in Section 404.11.1(g)

25
26 C404.11.1 Plumbing Fixtures and Fittings. Plumbing fixtures (water closets and urinals)
27 and fittings (faucets and showerheads) shall comply with the following requirements as
28 shown in Table C404.11.1.

29
30 A. Water Closets (toilets) – flushometer valve type. For single-flush, maximum
31 flush volume shall be determined in accordance with ASME A112.19.2/CSA

1 B45.1 and shall not exceed 1.28 gal (4.8 L) per flush. For dual-flush, the full
2 flush volume shall not exceed 1.28 gal (4.8L) per flush. Dual –flush fixtures shall
3 also comply with the provisions of ASME A112.19.14.
4

5 B. Water Closets (toilets) – tank-type. Tank-type water closets shall be certified
6 to the performance criteria of the USEPA WaterSense Tank-Type High-
7 Efficiency Toilet Specification and shall have a maximum full-flush volume of
8 1.28 gal (4.8L) per flush. Dual-flush fixtures shall also comply with the
9 provisions of ASME A112.19.14.
10

11 C. Urinals. Maximum flush volume, when determined in accordance with
12 ASME A112.19.2/CBA B45.1, shall not exceed 0.5 gal (1.9L) per flush. Flushing
13 urinals shall comply with the performance criteria of the USEPA WaterSense
14 Specification for Flushing Urinals. Non-water urinals shall comply with ASME
15 A112.19.19 (vitreous china) or IAPMO Z124.9 (plastic) as appropriate.
16

17 D. Public Lavatory Faucets. Maximum flow rate shall not exceed 0.5 gpm
18 (1.9L/min) when tested in accordance with ASME A112.18.1/CSA B 125.1.
19

20 E. Public Metering Self-Closing Faucet. Maximum water use shall not exceed
21 0.25 gal (1.0 L) per metering cycle when tested in accordance with ASME
22 A112.18.1/CSA B125.1.
23

24 F. Residential Bathroom Lavatory Sink Faucets. Maximum flow rate shall not
25 exceed 1.5 gpm (5.7 L) when tested in accordance with ASME A112.18.1/CSA
26 B125.1. Residential WaterSense High-Efficiency Lavatory Faucet Specifications.
27

28 G. Residential Kitchen Faucets. Maximum flow rate shall not exceed 1.8 gpm
29 (6.8 L/min) when tested in accordance with ASME A112.18.1/CSA B125.1.
30 Kitchen faucets shall be permitted to temporarily increase the flow greater than
31 1.8 gpm (6.8 L/min) but shall not exceed 2.2 gpm (8.3 L/min) and must
32 automatically revert to the established maximum flow rate of 1.8 gpm (6.8 L/min)
33 upon physical release of the activation mechanism or closure of the faucet valve.
34

35 H. Residential Showerheads. Maximum flow rate shall not exceed 2.0 gpm (7.6
36 L/min) when tested in accordance with ASME A112.18.1/CSA B125.1.
37 Residential showerheads shall comply with the performance requirements of the
38 USEPA WaterSense Specifications for Showerheads.
39

40 I. Residential Shower Compartment (stall) in Dwelling Units and Guest Rooms.
41 The allowable flow rate from all shower outlets (including rain systems,
42 waterfalls, body sprays, and jets) that can operate simultaneously shall be limited
43 to a total of 2.0 gpm (7.6 L/min).
44

1 Exception: Where the area of a shower compartment exceeds 2600 inch² (1.7 m²),
2 an additional flow of 2.0 gpm (7.6 L/min) shall be permitted for each multiple of
3 2600 inch² (1.7 m²) of floor area or fraction thereof.
4

5 J. Water Bottle Filling Stations. Water bottle filling stations shall be an integral
6 part of, or shall be installed adjacent to, not less than 50% of all drinking
7 fountains installed indoors on the premises.
8

9 C404.11.2 Appliances. Commercial appliances shall comply with the following
10 requirements:
11

12 A. Clothes Washers and Dishwashers installed within dwelling units shall
13 comply with the ENERGY STAR program requirements for Clothes Washers and
14 ENERGY STAR Program requirements for Dishwashers. Maximum water use
15 shall be as follows:
16

17 1. Clothes Washers – Maximum water factor (WF) of 5.4 gal/ft³ of drum
18 capacity (0.7 L/L of drum capacity)
19

20 2. Dishwashers – Standard size dishwashers shall have a maximum WF
21 3.8 gal/full operating cycle (14.3 L/full operating cycle). Compact sizes
22 shall have a maximum WF of 3.5 gal/full operating cycle (13.2 L/full
23 operating cycle). Standard and compact size shall be defined by
24 ENERGY STAR criteria.
25

26 B. Clothes washers installed in publicly accessible spaces (multifamily and
27 hotel common areas), and coin/card operated clothes washers of any size
28 used in laundromats, shall have a maximum WF of 4.0 gal/ft³ of drum
29 capacity during normal cycle (.053 L/L of drum capacity during normal
30 cycle).
31

32 C. Commercial dishwashers in commercial food service facilities shall meet all
33 ENERGY STAR requirements as listed in the ENERGY STAR Program
34 requirements for Commercial Dishwashers, Version 2.0.
35

36 C404.11.3 Commercial Food Service Operations. Commercial food service operations
37 (restaurants, cafeterias, food preparation kitchens, caterers, etc.) shall comply with the
38 following requirements:
39

40 A. Shall use high-efficiency pre rinse spray valves (I.e. valves that function at 1.3
41 gpm (4.9 L/min) or less and comply with a 26 second performance requirement
42 when tested in accordance with ASTM F2324.
43

44 B. Shall use dishwashers that comply with the requirements of the ENERGY
45 STAR Program for Commercial Dishwashers.
46

1 C. Shall use boiler-less/connectionless food steamers that consume no more than
2 2.0 gal/h (7.5 L/h) in the full operational mode.

3
4 D. Shall use combination ovens that consume not more than 10 gal/h (38 L/h) in
5 full operational mode.

6
7 E. Shall use air-cooled ice machines that comply with the requirements of the
8 ENERGY STAR Program for Commercial Ice Machines.

9
10 F. Shall be equipped with hands-free faucet controllers (foot controllers, sensor
11 activated, or other) for all faucet fittings within the food preparation area of the
12 kitchen and the dish room, including pot sinks and washing sinks.

13
14 C404.11.4 Medical and Laboratory Facilities. Medical and laboratory facilities,
15 including clinics, hospitals, medical centers, physician and dental offices, and medical
16 and nonmedical laboratories of all types shall comply with the following:

17
18 A. Use only water-efficient steam sterilizers equipped with:

19 1. Water-tempering devices that allow water to flow only when the
20 discharge of condensate or hot water from the sterilizer exceeds 140°F
21 (60°C).

22 2. Mechanical vacuum equipment in place of venture-type vacuum
23 systems for vacuum sterilizers.

24
25 B. Use film processor water-recycling units where large-frame X-ray films of
26 more than 6 inches (150 mm) in either length or width are processed.

27
28 Exception: Small dental X-ray equipment is exempt from this requirement.

29
30 C. Use digital imaging and radiography systems where the digital networks are
31 installed.

32
33 D. Use a dry-hood scrubber system or, if the applicant determines that a wet-
34 hood scrubber is required, the scrubber shall be equipped with a water
35 recirculation system. For perchlorate hoods and other applications where a hood
36 wash-down system is required, the hood shall be equipped with self-closing
37 valves on those wash down systems.

38
39 E. Use only dry vacuum pumps unless fire and safety codes (International Fire
40 Code) for explosive, corrosive, or oxidative gases require a liquid ring pump.

41
42 F. Use only efficient water treatment systems that comply with the following
43 criteria:

44 1. For all filtration processes, pressure gauges shall determine and display
45 when to backwash or change cartridges.

2. For all ion exchange and softening processes, recharge cycles shall be set by volume of water treated or based on conductivity or hardness.
3. For reverse osmosis and nanofiltration equipment with a capacity greater than 27 gal/h (100 L/h), reject water shall not exceed 60% of the feed water and shall be used as scrubber feed water or for the other beneficial uses on the project site.
4. Simple distillation is not an acceptable means of water purification.

G. With regard to food service operations within medical facilities, comply with Section 404.11.3.

6. Section C405 Electrical Power and Lighting Systems is amended by adding a Section C405.10 EV Charging for New Construction to read as follows:

C405.10 Electric Vehicle (EV) Charging for New Construction. The building shall be provided with electric vehicle (EV) charging in accordance with this section and the National Electrical Code (NFPA 70). When parking spaces are added or modified without an increase in building size, only the new parking spaces are subject to this requirement.

C405.10.1 Group A, B, E, I, M, R, and S-2 Occupancies. Group A, B, E, I, M, R occupancies with 3 or more dwelling units and/or sleeping units, and open or enclosed parking garages under S-2 occupancy shall be provided with electric vehicle charging in accordance with Table C405.10.1. Calculations for the number of spaces shall be rounded up to the nearest whole number. All EVSE Installed and EV Capable Spaces are to be included in the calculation for the minimum number of vehicle spaces as required by the International Building Code.

TABLE C405.10.1
EV Installed and EV Capable Space Requirements

Total Number of Parking Spaces	Minimum Number of EVSE Installed Spaces	Minimum Number of EV Capable Spaces
1-10	1	-
11-15	2	3
16-19	2	4
20-25	2	5
26+	2	20% of total parking spaces

C405.10.2 Identification. Construction documents shall designate all electric vehicle capable and electric vehicle supply equipment installed spaces and indicate the locations of conduit and termination points serving them. The circuit breakers or circuit breaker spaces reserved for the electric vehicle capable spaces and electric vehicle supply equipment installed spaces shall be clearly identified in the panel board.

1 C405.10.3 Accessible Parking. Where new EVSE Installed Spaces and/or new EV
2 Capable Spaces and new accessible parking are both provided, parking facilities shall be
3 designed so that at least one accessible parking space shall be EV Capable or EVSE
4 Installed.
5

6 7. Section C406.1 Requirements is amended to read as follows:
7

8 C406.1 Requirements. Buildings shall comply with the following:
9

- 10 1. On-site supply of renewable energy in accordance with Section C406.5.
- 11
- 12 2. Provisions of a dedicated outdoor air system for certain HVAC equipment
13 in accordance with Section C406.6.
- 14
- 15 3. One additional package selected from the following:
16
- 17 A. More efficient HVAC performance in accordance with Section C406.2.
- 18 B. Reduced lighting power in accordance with Section C406.3.
- 19 C. Enhanced lighting controls in accordance with Section C406.4.
- 20 D. High-efficiency service water heating in accordance with Section C406.7.
- 21 E. Enhanced envelop performance in accordance with Section C406.8.
- 22 F. Reduced air infiltration in accordance with Section C406.9.
- 23

24 Exception: If the total on-site renewable energy installed per Section C406.5 is at
25 least 10 percent of the energy used within the building for mechanical and service
26 water heating equipment and lighting regulated in Chapter 4, then buildings shall
27 not be required to comply with provisions 2 and 3 of Section C406.1.
28

29 8. Section C406.5 On-site renewable energy is amended to read as follows:
30

31 C406.5 On-site renewable energy. The total minimum ratings of on-site
32 renewable energy systems shall not be less than 3 percent of the energy used
33 within the building for building mechanical and service water heating equipment
34 and lighting regulated in Chapter 4.
35

36 9. Section C406.6 Dedicated outdoor air system is amended by adding Section
37 C406.6.1.
38

39 C406.6.1 Energy Recovery System. Where the supply of air flow rate of a fan system
40 exceeds 30 cfm of outside air, the system shall include an energy recovery system. The
41 energy recovery system shall be configured to provide a change in the enthalpy of the
42 outdoor air supply of not less than 50 percent of the difference between the outdoor air
43 and return air enthalpies, at design conditions. Where an air economizer is required, the
44 energy recovery system shall include a bypass or controls that permit operation of the
45 economizer as required by Section C403.5.
46

1 10. Section R101.1 Title is amended by adding the name “Town of Breckenridge”.

2
3 11. Section R101.5 Compliance is amended by adding a new Section R101.5.2
4 Sustainable Building Code to read as follows:

5
6 R101.5.2 Sustainable Building Code. All new structures defined as Residential
7 Buildings under Chapter 2 of this code shall be designed and comply with the
8 Department of Energy’s Zero Ready Home National Program.

9
10 Exception: All new residential structures defined per Section R101.5.2 shall register and
11 submit to be reviewed and inspected through the Department of Energy’s Zero Energy
12 Ready Home National Program as a training exercise per the Town of Breckenridge
13 Building Department. The training program will be effective July 1st, 2020 through
14 December 31st, 2020. Full compliance with the Department of Energy’s Zero Energy
15 Ready Home National Program shall be effective January 1st, 2021.

16
17 12. Section R202 Definitions is amended by adding the following definitions within the
18 alphabetical order of the existing definitions:

19
20 Electric Vehicle (EV). A vehicle registered for on-road use, primarily powered by an
21 electric motor that draws current from a rechargeable storage source that is charged by
22 being plugged into an electrical current source.

23
24 Electric Vehicle Supply Equipment (EVSE). The electrical conductors and associated
25 equipment external to the electric vehicle that provide a connection between the premises
26 wiring and the electric vehicle to provide electric vehicle charging.

27
28 Electric Vehicle Supply Equipment (EVSE) Installed Space. A parking space with
29 electric vehicle supply equipment capable of supplying a 40-ampere dedicated branch
30 circuit rated at 208/240 volt from a building panel board.

31
32 EV Capable Space. A designated parking space which is provided with a listed raceway
33 capable of accommodating a 40-ampere minimum 208/240 volt dedicated branch circuit
34 for each future EV Ready or EVSE Installed parking space. Raceways shall not be less
35 than trade size 1 (nominal 1-inch inside diameter). Raceways shall originate at the main
36 service or subpanel and shall terminate into a listed cabinet, box, or, enclosure in close
37 proximity to the proposed location of the EV Capable parking spaces. Raceways are
38 required to be continuous at enclosed, inaccessible or concealed areas and spaces. The
39 service panel and/or subpanel shall provide capacity to install a 40-ampere minimum
40 208/240 volt dedicated branch circuit and space(s) reserved to permit installation of a
41 branch circuit overprotection device.

42
43 EV Ready Space. A designated parking space which is provided with minimum one 40-
44 ampere minimum 208/240 volt dedicated branch circuit for EVSE servicing electric
45 vehicles. The circuit shall terminate in a suitable termination point such as a receptacle,

1 junction box, or an EVSE, and be located in close proximity to the proposed location of
2 the EV Ready parking spaces.

3
4 13. Table R402.1.2 Insulation and Fenestration Requirements by Component is
5 amended by adding footnotes j and k to read as follows:
6

7 Footnote j. **For alterations, additions, and remodels of 1,500 square feet or**
8 **less in size,** R23 blown in bibs are permitted to be installed in walls in lieu of the
9 R20+5 for additions and remodels. If utilizing the R23 bibs, the roof/ceiling
10 insulation reductions detailed in R402.2.1 and R402.2.2 are not allowed.
11

12 Footnote k. A fenestration U-Factor of 0.32 is permitted for window replacements
13 for Climate Zone 7 and 8.
14

15 14. Section R404 Electrical Power and Lighting Systems is amended by adding a new
16 Section R404.2, Electric vehicle (EV) charging for new construction to read as follow:
17

18 R404.2 Electric vehicle (EV) charging for new construction. New construction shall
19 facilitate future installation and use of Electric Vehicle Supply Equipment (EVSE) in
20 accordance with the National Electrical Code (NFPA 70).
21

22 R404.2.1 One and two family dwellings and townhouses. For each dwelling unit, at
23 least one EV Ready Space shall be provided. The branch circuit shall be identified as
24 “EV Ready” in the service panel or subpanel directory and the termination shall be
25 marked as “EV Ready”.
26

27 Exceptions: 1. EV Ready Spaces are not required where no parking spaces are
28 provided.
29 2. This section does not apply to parking spaces used exclusively
30 for delivery vehicle purposes.
31

32 R402.2 Multifamily dwellings (3 or more units). EVSE Installed and EV Capable
33 Spaces shall be provided in accordance with Table R404.2.2. Where the calculation of
34 percent served results in a fractional parking space, it shall be rounded up to the next
35 whole number. The service panel or subpanel circuit directory shall identify the space
36 reserved to support EV charging, as “EVSE Installed” or “EV Capable”.
37

38 TABLE R404.2.2
39 EV Ready Space and EV Capable Space Requirements

Total Number of Parking Spaces	Minimum Number of EV Ready Spaces	Minimum Number of EV Capable Spaces
1-10	1	-
11-15	1	3
16-19	2	4
20-25	2	5
26+	2	20% of total parking spaces

1
2 R404.2.3 Identification. Construction documents shall designate all electric vehicle
3 capable spaces, electric vehicle ready spaces, and electric vehicle supply equipment
4 installed spaces and indicate the locations of conduit and termination points serving them.
5 The circuit breakers or circuit breaker spaces reserved for the electric vehicle capable
6 spaces, electric vehicle ready spaces, and electric vehicle supply equipment installed
7 spaces shall be clearly identified in the panel board. The conduit for the electric vehicle
8 capable spaces shall be clearly identified at both the panel board and the termination
9 point at the parking space.

10
11 R404.2.4 Accessible Parking. Where new EVSE Installed Spaces and/or new EV
12 Ready Spaces and new accessible parking are both provided, parking facilities shall be
13 designed so that at least one accessible parking space shall be EV Ready or EVSE
14 Installed.

15
16 15. R501.1 Scope is amended by adding Section R501.1.2, Additions and alterations.

17
18 R501.1.2 Additions and alterations. Additions and interior alterations to an existing
19 building where the total valuation is \$50,000 or greater, an energy audit shall be provided
20 for the existing structure prior to permit issuance. The energy audit recommendations
21 and/or conclusions shall not affect the scope of work submitted for the permit.

22
23 Exceptions: Re-roofs, exterior siding repair or replacement, and deck additions, repairs,
24 or alterations shall not require an energy audit to be conducted.

25
26 Section 3. Except as specifically amended hereby, the Breckenridge Town Code, and the
27 various secondary codes adopted by reference therein, shall continue in full force and effect.

28
29 Section 4. The Town Council finds, determines, and declares that this ordinance is
30 necessary and proper to provide for the safety, preserve the health, promote the prosperity, and
31 improve the order, comfort and convenience of the Town of Breckenridge and the inhabitants
32 thereof.

33
34 Section 5. The Town Council finds, determines and declares that it has the power to
35 adopt this ordinance pursuant to: (i) Section 31-15-601, C.R.S.; (ii) Section 5.13 of the
36 Breckenridge Town Charter; and (iii) the powers granted to home rule municipalities by Article
37 XX of the Colorado Constitution.

38
39 Section 6. This ordinance shall be published as provided by Section 5.9 of the
40 Breckenridge Town Charter, and shall become effective July 1, 2020.

41
42 INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED
43 PUBLISHED IN FULL this ____ day of _____, 2020. A Public Hearing shall be held at the
44 regular meeting of the Town Council of the Town of Breckenridge, Colorado on the ___ day of
45 _____, 2020, at 7:00 P.M., or as soon thereafter as possible in the Municipal Building of the
46 Town.

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TOWN OF BRECKENRIDGE, a Colorado
municipal corporation

By: _____
Eric S. Mamula, Mayor

ATTEST:

Helen Cospolich, CMC,
Town Clerk

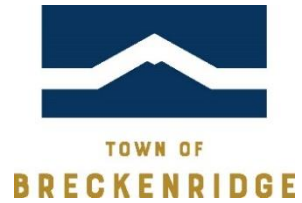


Memo

To: Town Council
From: Nichole Rex, Housing Planner II
Date: 4/22/2020 (for April 28th, 2020 meeting)
Subject: CONTINUANCE-AN ORDINANCE AMENDING CHAPTER 1 OF TITLE 9 OF THE BRECKENRIDGE TOWN CODE, KNOWN AS THE "TOWN OF BRECKENRIDGE DEVELOPMENT CODE," BY AMENDING POLICY 24 (ABSOLUTE) AND POLICY 24 (RELATIVE) CONCERNING HOUSING

On March 10, 2020, the Town Council considered an Ordinance amending Policy 24 Social Community (regarding Housing). The Ordinance was scheduled for second reading/public hearing on March 28, 2020. During this meeting, the second reading was continued to the Town Council meeting on April 28, 2020. Unfortunately, due to the on-going COVID-19 issues, staff believes that it would be most prudent to continue this second reading to a future date.

Staff recommends that Council continue the second reading to the Town Council meeting on May 26, 2020.



Memo

To: Breckenridge Town Council Members
From: Town Attorney
Date: 4/22/2020
Subject: Council Bill No. 12 (Revised Accommodation Tax Ordinance)

The second reading of the ordinance amending the Town's Accommodation Tax Ordinance is scheduled for your meeting on April 28th. There are no changes proposed to ordinance from first reading.

You will recall that the purpose of this ordinance is to adopt the language of the Denver short-term rental ordinance that was upheld by the Colorado Supreme Court.

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

1 **FOR WORKSESSION/SECOND READING – APRIL 28**

2
3 **NO CHANGE FROM FIRST READING**

4
5 COUNCIL BILL NO. 12

6
7 Series 2020

8
9 AN ORDINANCE AMENDING CHAPTER 4 OF TITLE 3 OF THE BRECKENRIDGE
10 TOWN CODE KNOWN AS THE “BRECKENRIDGE PUBLIC ACCOMMODATION TAX”
11 ORDINANCE

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

15
16 Section 1. The Town Council finds, determines, and declares as follows:

17 A. The Town of Breckenridge is a home rule municipal corporation organized existing
18 under Article XX of the Colorado Constitution.

19
20 B. The electors of the Town adopted the Breckenridge Town Charter on April 1, 1980.

21
22 C. Section 12.1 of the Breckenridge Town Charter provides that the Town Council of the
23 Town may, by ordinance, levy and collect excise taxes for municipal purposes.

24
25 D. The Town Council has heretofore enacted various municipal excise taxes, each of
26 which is currently codified in Title 3 of the Breckenridge Town Code.

27
28 E. In 1992 the electors of the state approved Article X, §20 of the Colorado Constitution,
29 commonly known as the “TABOR Amendment.”

30
31 F. The Town is a “district” as defined in TABOR.

32
33 G. Section 7(b) of TABOR establishes a formula for the calculation of a local district’s
34 (such as the Town’s) allowed annual fiscal year spending.

35
36 H. Section 7(d) of TABOR provides that local electors may approve a “voter-approved
37 revenue change” to the local district’s allowed annual fiscal year spending.

38
39 I. By Ordinance No. 28, Series 1995, the Town Council of the Town of Breckenridge
40 referred to the electors of the Town the following ballot question:

41
42 SHALL THE TOWN OF BRECKENRIDGE BE AUTHORIZED,
43 COMMENCING IN 1994 AND CONTINUING ANNUALLY THEREAFTER,
44 TO COLLECT AND RETAIN WHATEVER AMOUNTS ARE RAISED
45 ANNUALLY FROM ALL SOURCES, WITHOUT LIMITATION, AND THE

1 AUTHORITY TO EXPEND SUCH REVENUES FOR THE PURPOSES OF
2 PROVIDING FOR THE HEALTH, SAFETY AND WELFARE OF THE
3 PEOPLE OF THE TOWN OF BRECKENRIDGE, AS A VOTER-APPROVED
4 REVENUE CHANGE AND EXCEPTION TO THE LIMITS WHICH WOULD
5 OTHERWISE APPLY, PURSUANT TO ARTICLE X, SECTION 20 OF THE
6 COLORADO CONSTITUTION (ALSO KNOWN AS “TABOR” AND
7 ‘AMENDMENT ONE’); PROVIDED THAT NO TOWN TAX RATE OR MILL
8 LEVY SHALL BE INCREASED AND NO NEW TAX SHALL BE CREATED
9 WITHOUT FURTHER VOTER APPROVAL?
10

11 J. At a special municipal election held on November 7, 1995 the electors of the Town
12 approved the ballot question set forth in Section I, above.
13

14 K. In 2009 the Colorado Supreme Court issued its opinion in the case of Mesa County
15 Bd. of Comm’rs v State, 203 P.3d 519 (Colo. 2009). In its opinion the Supreme Court held that
16 when a municipality subject to TABOR has approved a broadly worded measure such as the
17 Town did in 1995, the municipality may thereafter amend its tax ordinance(s) without a new
18 election because, in the language of the Court’s opinion, “such a requirements would create
19 unnecessary redundancy.”
20

21 L. Pursuant to the Colorado Supreme Court’s holding in the case mentioned in Section K,
22 the adoption of this ordinance does not result in a “tax policy change” requiring approval of the
23 Town’s electors under TABOR.
24

25 M. The adoption of the ordinance does not create a new tax or tax rate.
26

27 Section 2. Chapter 4 of Title 3 of the Breckenridge Town Code is amended to read as
28 follows:

29 CHAPTER 4

30 BRECKENRIDGE PUBLIC ACCOMMODATION TAX

31 SECTION:

- 32
33
34
35 3-4-1: TITLE
36 3-4-2: LEGISLATIVE INTENT
37 3-4-3: DEFINITIONS
38 3-4-4: IMPOSITION OF TAX
39 3-4-5: EXEMPTIONS
40 3-4-6: COLLECTION OF TAX
41 3-4-7: VENDOR RESPONSIBLE FOR PAYMENT OF TAX
42 3-4-8: DUTY TO KEEP BOOKS AND RECORDS
43 3-4-9: CONSOLIDATION OF RETURNS
44 3-4-10: TRUST STATUS OF TAX IN POSSESSION OF VENDOR
45 3-4-11: COLLECTION AND REFUND OF DISPUTED TAX
46 3-4-12: REFUND PROCEDURE

- 1 3-4-13: EXAMINATION OF RETURNS; REFUNDS; CREDITS; AND
- 2 DEFICIENCIES
- 3 3-4-14: INTEREST ON LATE PAYMENTS; PENALTY
- 4 3-4-15: PENALTIES FOR DEFICIENCY CAUSED BY FRAUD
- 5 3-4-16: INVESTIGATION OF VENDOR’S BOOKS
- 6 3-4-17: AUDIT; ESTIMATED OF TAXES; PENALTY; INTEREST;
- 7 NOTICE; ASSESSMENT
- 8 3-4-18: REVIEW BY FINANCE DIRECTOR
- 9 3-4-19: REVIEW OF FINANCE DIRECTOR’S FINAL ORDER OR
- 10 DECISION
- 11 3-4-20: TAX LIEN
- 12 3-4-21: SALE UPON DISTRAINT
- 13 3-4-22: RELEASE OF LIEN
- 14 3-4-23: MANAGER MAY WAIVER PENALTY
- 15 3-4-24: LICENSE AND TAX IN ADDITION TO ALL OTHER TAXES
- 16 3-4-25: VIOLATIONS; EVASION OF COLLECTION OR PAYMENT OF
- 17 TAX

18
19 3-4-1: TITLE:

20
21 This Chapter shall be known as and referred to as the REVISED
22 BRECKENRIDGE PUBLIC ACCOMMODATION TAX.

23
24 3-4-2: LEGISLATIVE INTENT:

25
26 A. It is hereby declared to be the legislative intent of the Town Council that, for
27 the purposes of this Chapter, every person who purchases in the Town any
28 lodging is exercising a taxable privilege.

29
30 B. It is hereby declared to be the legislative intent of the Town Council that, for
31 the purposes of this Chapter, every vendor who shall make a sale of lodging to a
32 purchaser in the Town shall collect the tax imposed by this Chapter to the total
33 purchase price charged for such lodging furnished at any one (1) time by or to
34 every customer or buyer, in the manner set forth in this Chapter. It is the
35 legislative intent of the Town Council that the term “vendor” as used in this
36 Chapter shall include, without limitation, online travel companies to the
37 maximum extent permitted by law.

38
39 3-4-3: DEFINITIONS:

40
41 In addition to the definitions in Chapter 1 of this Title, when used in this Chapter
42 the following words shall have the following meanings unless the context requires
43 otherwise:

44

1 (1) Gross taxable sales means the total amount received in money, credits,
2 property or other consideration valued in money from sales and purchases of
3 lodging that is subject to the tax imposed in this Chapter.
4

5 (2) Lodging shall mean rooms or accommodations for overnight use furnished by
6 any person or the representative of any person to any person who for
7 consideration uses, possesses, occupies or has the right to use, possess or occupy
8 any such room or accommodation in a hotel, condominium hotel, apartment hotel,
9 condominium, lodging house, motel, motor hotel, guest house, guest ranch, resort,
10 mobile home, mobile home park, auto court, inn, trailer court, trailer park or
11 hotel, under any concession, permit, lease, contract, license to use or other similar
12 arrangement.
13

14 (3) Purchase or sale means the acquisition or furnishing for consideration by any
15 person of lodging within the Town.
16

17 (4) Purchaser means any person exercising the taxable privilege of purchasing
18 lodging.
19

20 (5) Tax means either the tax payable by the purchaser or the aggregate amount of
21 taxes due from a vendor during the period for which the vendor is required to
22 report collections under this Chapter.
23

24 (6) Vendor means a person making sales of or furnishing lodging to a purchaser in
25 the Town.
26

27 3-4-3: IMPOSITION OF TAX:

28

29 There is hereby levied and shall be collected and paid a tax by every person
30 exercising the taxable privilege of purchasing lodging as in this Chapter defined
31 an excise tax of three and four-tenths percent (3.4%) on the purchase price paid of
32 charged for such lodging.
33

34 3-4-4: EXEMPTIONS:

35

36 There shall be exempt from this Chapter the following:
37

38 (1) All lodging as defined in this Chapter furnished to any person who resides
39 continuously for a period of thirty (30) consecutive days or more in rooms or
40 accommodations or has the right to so reside pursuant to any written concession,
41 permit, contract, license to use or other written arrangement;

42 (2) All sales to the United States government; to the State of Colorado, its
43 departments or institutions, and the political subdivisions thereof, in their
44 governmental capacities only; and all sales to the Town and any department
45 thereof;

46 (3) All sales to charitable organizations that are:

- 1 a. Billed directly to the charitable organization;
- 2 b. Paid directly from funds of the charitable organization; and
- 3 c. Used exclusively for the charitable organization's organizational or operational
- 4 purposes.

5
6 3-4-5: COLLECTION OF TAX:

7
8 A. Every vendor making sales to a purchaser in the Town, which are taxable
9 under the provisions of this Chapter, at the time of making such sales is required
10 to collect the tax imposed by Section 3-4-3 from the purchaser.

11
12 B. The tax to be collected as provided by Section A of this Section shall be stated
13 and charged separately from the sale price and shown separately from the sale
14 price on any record thereof at the time when the sale is made or at the time when
15 evidence of the sale is made or at the time when evidence of the sale is issued or
16 employed by the vendor; provided, that when added such tax shall constitute a
17 part of such purchase price or charge and shall be a debt from the purchaser to the
18 vendor until paid and shall be recoverable at law in the same manner as other
19 debts. The tax shall be paid by the purchaser to the vendor, as trustee for and on
20 account of the Town, and the vendor shall be liable for the collection thereof and
21 on account of the Town.

22 C. Taxes paid on the amount of gross sales which are represented by accounts
23 which are found to be worthless and are actually and properly charged off as bad
24 debts for the purpose of the income tax imposed by the laws of the state may be
25 credited upon a subsequent payment of the tax herein provided; but if any such
26 accounts are thereafter collected by the taxpayer, a tax shall be paid upon the
27 amount so collected.

28
29 3-4-6: VENDOR RESPONSIBLE FOR PAYMENT OF TAX:

30
31 A. Amount. Every vendor shall add the tax imposed by Section 3-4-3 to the
32 purchase price or charge for lodging, and the vendor shall be liable and
33 responsible to the Town for the payment on a monthly basis of an amount
34 equivalent to such tax on all gross taxable sales, and also liable and responsible to
35 the Town for any collection in excess of that equivalent amount. Every vendor
36 shall on its return round each calculation, as directed on such form as the Finance
37 Director may require, to the nearest whole dollar and remit the rounded amount.
38 In rounding under this section, any amount of forty-nine cents (\$0.49) or less shall
39 be rounded down, and any amount of fifty cents (\$0.50) or higher shall be
40 rounded up.

41
42 B. Returns. Every vendor shall on or before the twentieth day of each month make
43 a return to the Finance Director for the preceding calendar month and remit to the
44 Finance Director simultaneously therewith the total amount due the Town as
45 provided by subsection (a). Returns of the vendor, or the Vendor's duly
46 authorized agent, shall contain such information and be made in such a manner

1 and upon such forms as the Finance Director may prescribe, and the Finance
2 Director may, by regulation duly adopted, extend the time up to one (1) year for
3 making returns and paying the tax due.
4

5 **3-4-7: DUTY TO KEEP BOOKS AND RECORDS**
6

7 It shall be the duty of every vendor hereunder to keep and preserve suitable
8 records of all sales made by the vendor and such other books or accounts as may
9 be necessary to determine the amount of the tax for the collection or payment of
10 which such vendor is liable under this Chapter. It shall be the duty of every
11 vendor to keep and preserve for a period of three (3) years following the due date
12 of the return or the payment of the tax all such books, invoices and other records
13 necessary to determine the tax and the same shall be open for examination by the
14 Finance Director. Upon demand by the Finance Director the vendor shall make
15 the books, invoices, accounts or other records it maintains available at the office
16 of the Finance Director or some other place designated by the Finance Director
17 for examination, inspection and audit by the Finance Director. The Finance
18 Director, in the Finance Director's discretion, may make, permit or cause to be
19 made the examination, inspection or audit of books, invoices, accounts and other
20 records so kept or maintained by the vendor. When the vendor shall have entered
21 into a binding agreement with the Town to reimburse it for all costs and expenses
22 incurred by the Town in order to have such examination, inspection or audit at a
23 place other than the place designated by the Finance Director, then such
24 examination, inspection or audit shall be made where such records are kept or
25 maintained by the vendor or as otherwise designated in the agreement.
26

27 **3-4-8: CONSOLIDATION OF RETURNS:**
28

29 A vendor doing business in two (2) or more places or locations, whether in or
30 without the Town, and collecting taxes under this Chapter may file one (1) return
31 covering all such places or locations, when accompanied by a supplemental report
32 showing the gross and net taxable sales and taxes collected thereon for each such
33 place or location.
34

35 **3-4-10: TRUST STATUS OF TAX IN POSSESSION OF VENDOR:**
36

37 All sums of money paid by the purchaser to the vendor as taxes imposed by this
38 Chapter shall be and remain public money, the property of the Town, in the hands
39 of such vendor, and the vendor shall hold the same in trust for the sole use and
40 benefit of the Town until paid to the Finance Director as herein provided, and for
41 failure so to pay to the Finance Director, such vendor shall be punished for a
42 violation hereof.
43

44 **3-4-11: COLLECTION AND REFUND OF DISPUTED TAX:**
45

1 Should a dispute arise between the purchaser and vendor as to whether or not the
2 sale of lodging is exempt from taxation under this Chapter, nevertheless, the
3 vendor shall collect and the purchaser shall pay such tax, and the vendor shall
4 thereupon issue to the purchaser a receipt or certificate, on forms prescribed by
5 the Finance Director, showing the names of the purchaser and vendor, the date,
6 price, amount of tax paid, and a brief statement of the claim of exemption. The
7 purchaser thereafter may apply to the Finance Director for a refund of such taxes,
8 and it shall be the duty of the Finance Director to determine the question of
9 exemption, subject to review by the courts.

10
11 3-4-12: REFUND PROCEDURE:
12

13 A. Generally. A refund shall be made or credit allowed for the tax paid under
14 dispute by any purchaser who has an exemption as provided in this Chapter.
15 Interest shall be paid on refunds, but not credits, for overpayments. Interest shall
16 accrue from the time the overpayment is made. The rate of interest shall be fixed,
17 and shall be the average monthly rate earned by the Town on the general fund for
18 the calendar year immediately preceding the year in which the refund is made.
19 Such refund shall be made by the Finance Director after compliance with the
20 conditions of this Chapter.

21
22 B. Application. Applications for a refund must be made within sixty (60) days
23 after the purchase of the lodging on which the exemption is claimed and must be
24 supported by the affidavit of the vendor accompanied by the original paid invoice
25 or sales receipt and a certificate issued by the vendor, and be made upon such
26 forms as shall be prescribed and furnished by the Finance Director, which forms
27 shall contain such information as the Finance Director shall prescribe.
28

29 C. Decisions. Upon receipt of such application, the Finance Director shall
30 examine the same with all due speed and shall give notice to the applicant by an
31 order in writing of the decision thereon.
32

33 D. Refunds not assignable. The right of any person to a refund under this Chapter
34 shall not be assignable, and application for refund must be made by the same
35 person who purchased the lodging and paid the tax thereon as shown in the
36 invoice of the sale thereof.
37

38 E. Penalty for violating refund provisions. Any applicant for refund under the
39 provisions hereinabove, or any other person, who shall make any false statement
40 in connection with an application for a refund of any tax shall be deemed guilty of
41 a violation of this Chapter.
42

43 F. Violations of refund provisions to be used as evidence of fraudulent intent. If
44 any person be convicted under the provisions of subsection (f), such conviction
45 shall be prima facie evidence that all refunds received by such person during the
46 current year were obtained unlawfully, and the Finance Director is hereby

1 empowered and directed to bring appropriate action for recovery of such refund.
2 A brief summary of the above mentioned penalties shall be printed on each form
3 application for refund.
4

5 G. Burden of proof. The burden of proof that sales of lodging on which tax
6 refunds are claimed are exempt from taxation under this Chapter shall be on the
7 one making such claim and such proof shall be by a preponderance of evidence.
8

9 3-4-13: EXAMINATION OF RETURNS; REFUNDS; CREDITS; AND
10 DEFICIENCIES.

11 As soon as practicable after the return is filed, the Finance Director shall examine
12 it and:
13

- 14
15 (1) If it then appears that the correct amount of tax to be remitted is greater or less
16 than that shown in the return, the tax shall be recomputed;
17 (2) If the amount paid exceeds that which is due, the excess shall be refunded with
18 interest pursuant to [insert interest section number], or credited, against any
19 subsequent remittance from the same person, provided, however, that a claim for
20 refund or credit is made within three (3) years of the date the return is filed or, if
21 the three-year period for assessment of tax has been extended as provide in this
22 Title, then a claim for refund or credit may be made within such extended period;
23 (3) If the amount paid is less than the amount due, the difference, together with
24 interest thereon at the rate of one (1) percent per month from the time the return
25 was due, shall be paid by the taxpayer within thirty (30) days after written notice
26 and demand to the taxpayer from the Finance Director.
27

28 3-4-14: INTEREST ON LATE PAYMENTS; PENALTY.
29

30 A. In any case in which a taxpayer fails to file a return or pay over the tax within
31 the time required by this Chapter, but without the intent to defraud, there shall be
32 added as a penalty fifteen (15) percent of the total amount of the deficiency, but
33 not less than twenty-five dollars (\$25.00), and interest in such cases shall be
34 collected at the rate of one (1) percent each month, or fraction thereof, on the
35 amount due on the deficiency from the time the return was due to the date the tax
36 is paid, which interest and addition shall become due and payable within thirty
37 (30) days after the written notice and demand by the Finance Director, and such
38 interest shall be assessed, collected and paid in the same manner as the tax itself.

39 B. Payments of part but less than all of a deficiency, including interest, or interest
40 and penalty, shall be first applied to penalty, if any, secondly to accrued interest
41 and, lastly, to the tax itself.
42

43 3-4-15: PENALTIES FOR DEFICIENCY CAUSED BY FRAUD:
44

45 If any part of the deficiency is due to fraud with the intent to evade the tax, then
46 there shall be added fifty (50) percent of the total amount of the deficiency, and in

1 such case the whole amount of the tax unpaid, including the additions, shall
2 become due and payable thirty (30) days after written notice and demand by the
3 Finance Director, and an additional one (1) percent per month on such amounts
4 shall be added from the date the return was due until paid.
5

6 3-4-16: INVESTIGATION OF VENDOR'S BOOKS.
7

8 For the purpose of ascertaining the correctness of a return or for the purpose of
9 determining the amount of tax due from any person, the Finance Director may
10 hold investigations and hearings concerning any matters covered by this Chapter
11 and may examine any relevant books, papers, records or memoranda of any such
12 person and may require the attendance of such person, or any officer or employee
13 of such person, or of any person having knowledge of such sales, and may take
14 testimony and require proof for their information. The Finance Director shall have
15 power to administer oaths to such persons.
16

17 3-4-17: AUDIT; ESTIMATE OF TAXES, PENALTY, AND INTEREST;
18 NOTICE; ASSESSMENT.
19

20 A. The Finance Director is authorized to examine, inspect and audit the books,
21 invoices, accounts and other records kept or maintained by the taxpayer for the
22 collection of the taxes imposed by this Chapter. If the Finance Director
23 determines that any taxpayer neglects or refuses to make a timely return in
24 payment of the taxes or to pay or to correctly account for any taxes as required by
25 this Chapter, the Finance Director shall make an estimate, based upon such
26 information as may be available, with or without employing investigative powers
27 vested in the Finance Director by this Chapter, of the amount of the taxes due for
28 the period or periods for which the taxpayer is delinquent; and upon the basis of
29 such estimated amount, compute and assess in addition thereto a penalty equal to
30 fifteen (15) percent thereof, together with the interest on such delinquent taxes at
31 the rate of one (1) percent each month, or a fraction thereof, from the date when
32 due until the date paid.
33

34 B. Promptly thereafter the Finance Director shall notify the delinquent taxpayer in
35 writing and demand payment thereof of such estimated taxes, penalty and interest.
36 (c) Such estimated amounts shall thereupon become an assessment, and such
37 assessment shall be final and due and payable from the taxpayer to the Town
38 thirty (30) days from the date of the notice and demand; provided, however, that
39 within said thirty-day period the delinquent taxpayer may petition the Finance
40 Director in writing for review of the assessment as provided in the applicable
41 provisions of this Title. The filing of a petition shall not toll the accrual of interest
42 on the amount of taxes due.
43

44 3-4-18: REVIEW BY FINANCE DIRECTOR:
45

1 A. Petitions. Petitions submitted to the Finance Director shall be in writing and
2 shall contain a statement of facts and reasons for and the amount of the requested
3 changes in the assessment or decision to deny or reduce a refund claim, and shall
4 otherwise comply with the applicable rules promulgated by the Finance Director
5 relating to petitions and hearings.
6

7 B. Time limit for filing petitions. Petitions shall be submitted to the Finance
8 Director within thirty (30) days from the date of the assessment or decision to
9 deny or reduce a refund claim. If a petition is not submitted within this time, the
10 assessment or decision is final and no further review is available.
11

12 C. Notice of hearing. The Finance Director shall notify the taxpayer in writing of
13 the time and place within the Town fixed for hearing.
14

15 D. Hearings. A hearing, if any, shall be conducted in accordance with applicable
16 rules promulgated by the Finance Director relating to petitions and hearings.
17

18 E. Finance Director may appoint designee. A hearing, if any, shall be before the
19 Finance Director or its designee, who is authorized to administer oaths, to take
20 testimony, to hear arguments, and to issue all necessary and appropriate orders
21 and decisions.
22

23 F. Burden of proof. The burden of proof that sales of lodging upon which refunds
24 of taxes are claimed, or for which modifications or cancellations of assessments
25 are sought, are exempt from or not subject to taxation under this Chapter shall be
26 on the taxpayer and such proof shall be by a preponderance of evidence.
27

28 G. Final order or decision. The final order or decision of the Finance Director or
29 its designee shall be in writing and notice thereof shall be mailed to the taxpayer
30 forthwith.
31

32 3-4-19: REVIEW OF FINANCE DIRECTOR'S FINAL ORDER OR DECISION. 33

34 A. Should the taxpayer be aggrieved by a final order or decision of the Finance
35 Director, the taxpayer may proceed to have same reviewed under Colorado Rules
36 of Civil Procedure 106(a)(4) by the district court for the fifth judicial district of
37 the state. The petition or complaint for review must be filed within thirty (30)
38 days from the date of the final order or decision. Any party, including the Town,
39 may appeal the final order or decision of the Finance Director and, also, the
40 decision of the district court (or such other tribunal having jurisdiction), using all
41 judicial, appellate, and extraordinary proceedings available.
42

43 B. Before filing a petition or complaint for review under Colorado Rules of Civil
44 Procedure 106(a)(4), the taxpayer shall file with the Finance Director a bond in
45 twice the amount of the taxes, interest and other charges audited and stated in the
46 final order or decision of the Finance Director, with surety as is provided in other

1 cases of appeal, or may deposit lawful money of the United States in the same
2 manner as herein provided.

3
4 3-4-20: TAX LIEN.

5
6 A. The tax imposed by this Chapter, together with the interest and penalties herein
7 provided and the costs of collection which may be incurred, shall be and, until
8 paid, remain a first and prior lien superior to all other liens upon the goods,
9 merchandise, furniture and fixtures, tools and equipment of any taxpayer, or used
10 by any taxpayer in conducting his business under lease, title retaining contract or
11 other contract arrangement, within the Town and shall take precedence on all such
12 property over other liens or claims of whatsoever kind or nature and may be
13 foreclosed by seizing under distraint warrant and selling so much of said goods,
14 merchandise, furniture and fixtures, tools and equipment as may be necessary to
15 discharge said lien.

16
17 B. The real or personal property of an owner who has made a bona fide lease to a
18 taxpayer shall be exempt from the lien created in this section (1) if such property
19 can reasonably be identified from the lease description and (2) if the lessee is
20 given no right to become the owner of the property leased. This exemption shall
21 be effective from the date of the execution of the lease until its termination if the
22 lease is filed or recorded, within ten (10) days after the execution of the lease,
23 with either the executive director of the state department of revenue or the clerk
24 and recorder of the Town. Where the lessor and lessee are blood relatives,
25 relatives by law, or have twenty-five (25) percent or more common ownership, a
26 lease between them shall not be considered bona fide for the purpose of this
27 section.

28
29 C. Any taxpayer who is in possession of property under the terms of a lease,
30 which property is exempt from lien as provided in this section, may be required
31 by the manager to make return of and pay over taxes collected at more frequent
32 intervals than monthly, or may be required to furnish security for the proper
33 payment of taxes whenever the collection of taxes appears to be in jeopardy.

34
35 3-4-21: SALE UPON DISTRAINT:

36
37 A. Causes. The Finance Director may issue a warrant directed to the Summit
38 County Sheriff, sometimes in this section referred to collectively as "agent,"
39 commanding the agent to distraint, seize and sell the goods, merchandise, furniture
40 and fixtures, tools and equipment of, or used by, the taxpayer, except such
41 personal property as is exempted from execution and sale by any statute of the
42 United States, for the payment of the tax due together with penalties and interest
43 accrued thereon and cost of execution, including thirty dollars (\$30.00) for every
44 warrant issued under this section, upon the happening of any one (1) of the
45 following:

- 1 (1) When any deficiency in tax is not paid within thirty (30) days from the
2 Finance Director's final decision thereon and no petition for review from such
3 determination has been filed with the district court for the fifth judicial district
4 within the period of time allowed by law for such review;
- 5 (2) When any amount of tax, penalty or interest is not paid within thirty (30) days
6 from the mailing or personal service of demand for payment thereof and no
7 protest thereof has been filed with the Finance Director within said period; or
- 8 (3) Immediately upon making of a jeopardy assessment or of the issuance of a
9 demand for payment, as provided in this section.

10
11 B. Notices. The agent charged with the collection shall make or cause to be made
12 an account of the property distrained, a copy of which, signed by the agent
13 making such distraint, shall be served, by leaving it with the owner or possessor
14 of the property or with some member of such person's family over the age of
15 eighteen (18) years, or at the person's usual place of abode or, if the person is a
16 business entity within the Town, with any officer, manager, accountant,
17 bookkeeper, general agent, registered agent, or agent for process, together with a
18 copy of said warrant stating the sum demanded. In lieu of the foregoing
19 provisions of this subsection for serving said account and warrant, if the owner or
20 possessor cannot be readily located, or has no dwelling or place of business within
21 the Town, the account and warrant may be served by mailing by certified mail to
22 the last known address of the owner or possessor. Said agent shall cause to be
23 published a notice of the time and place of sale, together with a description of the
24 property to be sold, in some newspaper of general circulation within the Town
25 and the agent shall cause such notice to be publicly posted at the location of the
26 property and place of sale, at the Denver courthouse, and in at least two (2) other
27 places within the Town. The taxpayer and those having possession of, or of public
28 record a security interest in, the property shall be notified of the time and place of
29 sale either in person or by certified mail, or, if that is impractical, by first class
30 mail. The time fixed for the sale shall not be less than ten (10) days nor more than
31 sixty (60) days from the date of such notification, and notification by mail shall be
32 presumed upon mailing.

33
34 C. Management of sale. Said sale may be adjourned from time to time by said
35 agent if he deems it advisable but not for a time to exceed in all ninety (90) days
36 from the date first fixed for the sale. When any property is advertised for sale
37 under distraint as aforesaid, the agent making the seizure shall proceed to sell
38 such property at public auction, offering the same at not less than a fair minimum
39 price, including the expenses of making the seizure, storing the property and of
40 advertising the sale, and if the amount bid for the property at the sale is not equal
41 to the fair minimum price so fixed, the agent conducting the sale may declare the
42 same to be purchased by him for the Town. The property so purchased may be
43 sold by the agent under such terms as the Finance Director may approve or
44 declared to be surplus property subject to disposition by the Finance Director of
45 general services. In any case of distraint for the payment of taxes, the property so
46 distrained shall be restored to the owner or possessor if, prior to the sale, the

1 amount due is paid together with the fees and other charges, or the property may
2 be so redeemed before sale by any person having a legal or equitable interest in
3 the property.
4

5 D. Certificate of title; return of surplus. In all cases of sale, the agent making the
6 sale shall issue a certificate of sale to each purchaser, and such certificate shall be
7 prima facie evidence of the right of the agent to make such sale and conclusive
8 evidence of the regularity of the proceedings in making the sale and shall transfer
9 to the purchaser all right, title and interest in and to the property sold. Any surplus
10 remaining above the taxes, interest, penalties, costs and expenses of making the
11 seizure and of advertising the sale shall be returned upon demand made within
12 one (1) year from the sale to the owner. Surplus remaining at the end of one (1)
13 year from the sale shall be deposited to the general fund.
14

15 E. Filing of notice of lien. Any agent to whom warrant has been issued may serve
16 a notice of lien in such form as the Finance Director may prescribe with the
17 person in possession of any personal property or rights to property, without regard
18 to its use in the business of the taxpayer, belonging to the taxpayer or file said
19 notice with the secretary of state and the clerk and recorder, and the service or
20 filing of such notice shall operate to perfect a lien upon such personal property or
21 rights to property from the date of such service or filing. The Finance Director
22 may release said lien as to any part or all of the property or rights to property
23 covered by any such lien upon such terms as he may deem proper.
24

25 F. Recurring distraint. If any taxpayer liable for the payment of any tax pursuant
26 to this Chapter repeatedly fails, neglects, or refuses to pay said tax within the time
27 required by this Chapter and the Finance Director has been required to issue
28 distraint warrants to enforce the collection of the tax due from such taxpayer, the
29 Finance Director is authorized to assess and collect the amount of the taxes due,
30 together with all interest and penalties thereon provided by law, and also an
31 additional penalty of one hundred dollars (\$100.00) each for the second and
32 following distraint warrant regarding the taxpayer that is issued by the Finance
33 Director pursuant to this Chapter.
34

35 G. When collection in jeopardy. If the Finance Director finds that collection of the
36 tax will be jeopardized by delay, in his discretion, he may declare the taxable
37 period immediately terminated, determine the tax, and issue notice and demand
38 for payment thereof; and having done so, the tax shall be due and payable
39 forthwith, and the Finance Director may proceed immediately to collect such tax
40 by distraint, levy and sale or as otherwise provided in this section. Collection by
41 seizure and sale may be stayed if the taxpayer gives such security for payment as
42 shall be satisfactory to the Finance Director. The taxpayer or other person entitled
43 to notice under this Title may request a hearing in writing before the Finance
44 Director regarding the jeopardy determination and the amount of the assessment.
45 A request for hearing must be made within seven (7) days after the notice and
46 demand for payment or distraint warrant is issued. The hearing shall be held

1 within fifteen (15) days of the request. The hearing shall be informal and need not
2 comply with the requirements of the applicable provisions of this Title, nor with
3 the applicable rules and regulations promulgated by the Finance Director relating
4 to hearings. The burden of proof shall be on the taxpayer or other person
5 requesting the hearing, and such proof shall be by a preponderance of evidence.
6 The Finance Director shall enter his decision within thirty (30) days after the
7 hearing and shall furnish a copy to the taxpayer or other person requesting the
8 hearing. If the taxpayer is aggrieved by the decision of the Finance Director, the
9 taxpayer may seek review pursuant to the applicable provisions of this Title. A
10 request for hearing under this section shall not stay collection proceedings unless
11 such request is accompanied by a bond or other security as shall be satisfactory to
12 the Finance Director.

13
14 3-4-22: RELEASE OF LIEN:
15

16 Any lien for taxes as shown on the records of the county clerks and recorders as
17 herein provided in this Chapter shall, upon the payment of all taxes, penalties and
18 interest covered thereby, be released by the manager of finance in the same
19 manner as mortgages or judgments are released.
20

21 3-4-23: MANAGER MAY WAIVE PENALTY:
22

23 The Finance Director is hereby authorized to waive, for good cause shown, any
24 penalty assessed as in this Chapter provided, and interest imposed in excess of
25 one (1) percent each month or fraction thereof of the tax deficiency, from the date
26 the tax is due until the date paid.
27

28 3-4-24: LICENSE AND TAX IN ADDITION TO ALL OTHER TAXES:
29

30 The tax imposed by this Chapter shall be in addition to all other taxes imposed by
31 law, except as otherwise provided in this Chapter.
32

33 3-4-25: VIOLATIONS; EVASION OF COLLECTION OR PAYMENT OF
34 TAX:
35

36 It shall be a violation of this Chapter for any vendor to refuse to make any return
37 provided to be made in this Chapter, or to make any false or fraudulent return, or
38 any false statement in any return, or to fail or refuse to make payment to the
39 Finance Director of any taxes collected or due the Town, or in any manner to
40 evade the collection and payment of the tax, or any part thereof, imposed by this
41 Chapter, or for any person or purchaser to fail or refuse to pay such tax or evade
42 the payment thereof, or to aid or abet another in any attempt to evade the payment
43 of the tax imposed by this Chapter. Any corporation making a false return or a
44 return containing a false statement shall be guilty of a violation of this Chapter.
45 Any person convicted of a violation of any provision of this Chapter shall be
46 punished as provided in Section 1-4-1 of this Code.

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

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

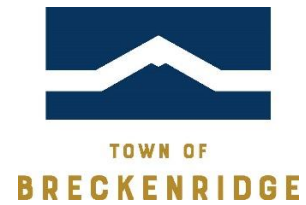
INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED PUBLISHED IN FULL this ____ day of _____, 2020. A Public Hearing shall be held at the regular meeting of the Town Council of the Town of Breckenridge, Colorado on the ___ day of _____, 2020, at 7:30 P.M., or as soon thereafter as possible in the Municipal Building of the Town.

TOWN OF BRECKENRIDGE, a Colorado
municipal corporation

By: _____
Eric S. Mamula, Mayor

ATTEST:

Helen Cospolich, CMC,
Town Clerk



Memo

To: Breckenridge Town Council Members
From: Anne Murphy, Open Space & Trails Manager
Date: 4/16/2020
Subject: Sale of 50% Ownership in Town-Owned Land to Summit County

This ordinance would allow the Town to sell a 50% undivided interest in the Smuggler, Silent Friend, Iron, and Crown Point Lodes to Summit County. The land is located in French Gulch adjacent to Breckenridge and was acquired by the Town in January 2020. The landowner wished to deal only with the Town at that time. Through an IGA with Summit County, the Town and County open space programs often jointly share in the costs and management of lands in the Upper Blue watershed outside of the Town limits. Selling a 50% undivided interest is consistent with ownership patterns in the French Gulch and Golden Horseshoe areas.

Staff supports the passage of this ordinance and will be in attendance to answer questions.

1 **FOR WORKSESSION/FIRST READING – APR. 28**

2 COUNCIL BILL NO. ____

3
4 Series 2020

5
6
7 AN ORDINANCE AUTHORIZING THE SALE OF TOWN-OWNED REAL PROPERTY
8 (Smuggler, Silent Friend, Iron, and Crown Point Lodes)
9

10 WHEREAS, the Town of Breckenridge is the owner of the following described real
11 property:

12
13 Smuggler and Silent Friend Lodes, MS# 6335
14 Iron and Crown Point Lodes, MS# 19905

15
16 (“Property”)

17 ; and

18
19 WHEREAS, the Town desires to sell and undivided 50% interest in the Property to the
20 Board of County Commissioners of Summit County; and
21

22 WHEREAS, a proposed Purchase and Sale Agreement between the Town and Board of
23 County Commissioners of Summit County, Colorado has been prepared, a copy of which is
24 marked **Exhibit “A”**, attached hereto, and incorporated herein by reference (“**Agreement**”); and
25

26 WHEREAS, the Town Council has reviewed the proposed Agreement, and finds and
27 determines that it would be in the best interest of the Town and its residents for the Town to sell
28 the Property to Board of County Commissioners of Summit County, Colorado pursuant to the
29 Agreement; and
30

31 WHEREAS, Section 15.3 of the Breckenridge Town Charter provides that the Town
32 Council may lawfully authorize the sale of Town-owned real property by ordinance.
33

34 NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF
35 BRECKENRIDGE, COLORADO:
36

37 Section 1. The Agreement between the Town and Board of County Commissioners of
38 Summit County, Colorado (**Exhibit “A”** hereto) is approved; and the Town Manager is hereby
39 authorized, empowered, and directed to execute such Agreement for and on behalf of the Town
40 of Breckenridge.
41

42 Section 2. The Town Manager is hereby further authorized, empowered and directed to
43 take all necessary and appropriate action to close the sale of the Property contemplated by the
44 Agreement. In connection therewith, the Town Manager shall have full power and authority to
45 do and perform all matters and things necessary to the sale of the Property pursuant to the
46 Agreement, including, but not limited to, the following:

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- 1. The making, execution and acknowledgement of settlement statements, closing agreements and other usual and customary closing documents;
- 2. The execution, acknowledgement and delivery to the Buyer of the deed of conveyance for the Property; and
- 3. The performance of all other things necessary to the sale of the Property by the Town pursuant to the Agreement.

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

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

INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED PUBLISHED IN FULL this ____day of _____, 2020. A Public Hearing shall be held at the regular meeting of the Town Council of the Town of Breckenridge, Colorado on the ____day of _____, 2020, at 7:00 P.M., or as soon thereafter as possible in the Municipal Building of the Town.

TOWN OF BRECKENRIDGE, a Colorado municipal corporation

By: _____
Eric S. Mamula, Mayor

ATTEST:

Helen Cospolich, CMC,
Town Clerk

PURCHASE AND SALE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT (“Agreement”), dated May _____, 2020, is between the BOARD OF COUNTY COMMISSIONERS OF SUMMIT COUNTY, COLORADO (the “*Seller*”), and the TOWN OF BRECKENRIDGE, a Colorado municipal corporation (“*Purchaser*”).

RECITALS

WHEREAS, the Seller is the owner of the following real property located in Section 32 of Township 6 South, Range 77 West; 6th Prime Meridian in the County of Summit, Colorado, to wit:

Smuggler and Silent Friend Lodes, MS# 6335
Iron and Crown Point Lodes, MS# 19905

(the “*Property*”); and

WHEREAS, the Purchaser desires to acquire certain undivided interests in the Property from Seller, and Seller agrees to sell certain undivided interests in the Property to Purchaser, all as more fully set forth hereafter.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Purchase and Sale. Seller agrees to sell to Purchaser, and Purchaser agrees to buy from Seller, the following:

An undivided 50% interest in the Property

for the total price of two-hundred and forty-five thousand dollars (\$245,000.00).

Upon payment of the sales price at Closing, Seller shall provide Purchaser with a special warranty deed conveying an undivided 50% interest in the Property. The form of the deed shall be reasonably acceptable to Seller’s and Purchaser’s attorneys.

2. Closing. Closing shall occur on June 17, 2020 at the offices of Land Title Guarantee Company (“*LTGC*”) in Breckenridge, Colorado, or at such other date and location as the parties may agree upon.

3. Condition of Property. The undivided interest in the Property described in Section 1 shall be delivered in the condition existing as of the date of this Agreement.

4. Title Insurance. Purchaser shall obtain, at its cost, any title insurance insuring the real property interest to be acquired by Purchaser pursuant to this Agreement.

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

6. Entire Agreement; Subsequent Modification; Assignment. This Agreement constitutes the entire agreement between the parties relating to the subject hereof, and any prior agreements pertaining thereto, whether oral or written, have been merged and integrated into this Agreement. No subsequent modification of any of the terms of this Agreement shall be valid, binding upon the parties, or enforceable unless made in writing and signed by the parties. This Agreement shall not be assignable by Purchaser without Seller's prior written consent.

7. Governmental Immunity Act. The contracting parties understand and agree that the Seller and the Purchaser are relying on, and do not waive or intend to waive by any provision of this Agreement, the monetary limitations or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, *et seq.*, as from time to time amended, or any other law, protection or limitation otherwise available to the parties and to their respective officers, agents, fiduciaries, representatives and employees.

THIS AGREEMENT IS EFFECTIVE THE DATE FIRST WRITTEN ABOVE.

SELLER: Town of Breckenridge, Colorado

By: _____
Rick G. Holman, Town Manager

STATE OF COLORADO)
) ss.
County of Summit)

The foregoing instrument was acknowledged before me this _____ day of _____, 2020, by Rick G. Holman as Town Manager of the Town of Breckenridge, Colorado.

My commission expires _____, 20 _____. Witness my hand and official seal.

Notary Public

**PURCHASER: Board of County Commissioners
of Summit County, Colorado**

By: _____
Scott Vargo, County Manager

STATE OF COLORADO)
) ss.
County of Summit)

The foregoing instrument was acknowledged before me this _____ day of _____, 2020, by Scott Vargo as County Manager of Summit County, Colorado.

My commission expires _____, 20 _____. Witness my hand and official seal.

Notary Public



Memo

To: Breckenridge Town Council
From: Rick Holman, Town Manager
Date: 04-22-2020
Subject: First Reading of an Ordinance to Approve a Long-Term Lease with Zweig Law, PC

Attached is the proposed first reading of an ordinance to approve a five-year lease with Zweig Law, PC that would allow this law firm to continue to lease office space in the Breckenridge Professional Building at 130 Ski Hill Road. The term will start on July 1, 2020 and end on June 30, 2025. The Town Council recently passed an ordinance that allows the Town Manager to approve leases up to 3 years in length, since this is a five-year lease, it must come in front of the Council per the Town Charter.

Staff supports this proposed lease and will be present at the meeting on April 28th to answer any questions the Council may have.

1 ***FOR WORKSESSION/FIRST READING – APRIL 28***

2
3 COUNCIL BILL NO. ____

4
5 Series 2020

6
7 AN ORDINANCE APPROVING A LEASE WITH ZWEIG LAW, PC
8 (Unit 200, Breckenridge Professional Building; 130 Ski Hill Road)

9
10 WHEREAS, the Town of Breckenridge owns the real property commonly known as the
11 Breckenridge Professional Building, located at 130 Ski Hill Road in Breckenridge, Colorado;
12 and

13
14 WHEREAS, Zweig Law, PC, has proposed to lease Unit 200 in the Breckenridge
15 Professional Building; and

16
17 WHEREAS, a proposed Lease between the Town and Zweig Law, PC, has been
18 prepared, a copy of which is marked **Exhibit “A”**, attached hereto and incorporated herein by
19 reference; and

20
21 WHEREAS, the proposed Lease has been reviewed by the Town Attorney and the Town
22 Council; and

23
24 WHEREAS, Section 15.4 of the Breckenridge Town Charter provides:

25
26 The council may lease, for such time as council shall determine, any real or
27 personal property to or from any person, firm, corporation, public and private,
28 governmental or otherwise.

29
30 and;

31
32 WHEREAS, Section 1-11-4 of the Breckenridge Town Code requires that any real estate
33 lease entered into by the Town that exceeds one year in length must be approved by ordinance.

34
35 NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF
36 BRECKENRIDGE, COLORADO:

37
38 Section 1. The proposed Lease between the Town and Zweig Law, PC, copy of which is
39 marked **Exhibit “A”**, attached hereto and incorporated herein by reference, is approved, and the
40 Town Manager is authorized, empowered, and directed to execute such Lease for and on behalf
41 of the Town of Breckenridge.

42
43 Section 2. The Town Council finds, determines, and declares that it has the power to
44 adopt this ordinance pursuant to the authority granted to home rule municipalities by Article XX
45 of the Colorado Constitution and the powers contained in the Breckenridge Town Charter.

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**BRECKENRIDGE PROFESSIONAL BUILDING
LEASE COVER AND SUMMARY SHEET**

TENANT NAME: Zweig Law, PC

Premises: Unit(s) 200

Tenant: Zweig Law, PC

Guarantor: Maryjo Zweig and Steve Zweig

Unit Area: Approximately 1,074 Square Feet

Lease Structure: NNN

Use: Law Office

Base Lease Rate:	Year	Beg	End	Rent/SF	Annual Inc	MO Rent	Yr Rent
	1	7/1/2020	6/30/2021	\$22.11		\$1,978.75	\$23,745.00
	2	7/1/2021	6/30/2022	\$23.21	5.0%	\$2,077.69	\$24,932.25
	3	7/1/2022	6/30/2023	\$24.38	5.0%	\$2,181.57	\$26,178.86
	4	7/1/2023	6/30/2024	\$25.59	5.0%	\$2,290.65	\$27,487.81
	5	7/1/2024	6/30/2025	\$26.87	5.0%	\$2,405.18	\$28,862.20

Lease Term: Five (5) Years

Option: See Section 2.2.

Rent & Additional Rent Commencement

Date: July 1, 2020

Date of Possession: Tenant currently occupies the Premises.

Security Deposit: \$ 2,250.00 (transferred from Cheroutes Zweig PC Lease with a termination date of May 31, 2020.)

Tenant Improvements: All tenant improvements require permits with the Town acting in its governmental capacity and Landlord approval

Parking Spaces: Non-exclusive use of Parking Areas. **No assigned parking spaces.**

Broker Commission: Landlord shall pay a commission to Breckenridge Real Estate Company, LLC.

Notes:

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COMMERCIAL LEASE

Breckenridge Professional Building

130 Ski Hill Rd.

THIS COMMERCIAL LEASE (“**Lease**”) is made and entered into as of the Effective Date, hereafter defined, between the TOWN OF BRECKENRIDGE, a Colorado municipal corporation (“**Landlord**”), and **Zweig Law, PC**, a Colorado corporation (“**Tenant**”). In consideration of the mutual covenants provided for herein, the parties hereto agree as follows:

I. PREMISES

Section 1.1. Landlord is the owner of certain real estate legally described as Condominium Unit(s) **200**, according to the Condominium Map of the Sawmill Station Square Commercial Building No. 1 recorded January 7, 1980, under Reception No. 201810, and as defined and described in the Condominium Declaration recorded January 7, 1980 at Reception No. 201809 and Amendment recorded September 14, 1084 at Reception No. 284378, all in the records of the Clerk and Recorder of Summit County, Colorado, Town of Breckenridge, County of Summit, State of Colorado, with an address of 130 Ski Hill Road, Unit(s) **200**, Breckenridge, CO 80424, consisting of approximately **1,074** square feet (collectively the “**Premises**”). Landlord hereby leases and demises to Tenant all of the Premises, plus the non-exclusive use of the “Common Areas” of the building known as the Breckenridge Professional Building (the Common Areas and Breckenridge Professional Building shall hereinafter be referred to collectively as the “**Professional Building**”). The term Common Areas as used in this Lease shall include, but not be limited to, all parking areas, access roads, walkway areas, and other portions of the Professional Building that are not designated as a unit or otherwise allocated for the exclusive use of any other unit or party.

Section 1.2. The Premises, including all units and the Common Areas, are subject to the terms, conditions and provisions of the Condominium Declaration for the Sawmill station Square Commercial Building No. 1 described in Section 1.1, as amended (“**Declaration**”).

Section 1.3. The Premises are leased in “**AS IS**” condition. Any changes in the condition of the Premises as delivered by Landlord shall be at Tenant’s sole cost and expense, and no credit shall be given nor any reduction in rent for changes or improvements made by Tenant. Tenant shall be responsible for all improvements to the Premises No improvements shall affect the exterior appearance thereof and all improvements shall be subject to Landlord’s prior written approval of plans to be provided by Tenant. Tenant shall be responsible for securing all necessary permits, at its sole cost and expense, from the Town of Breckenridge Building Department.

COMMERCIAL LEASE

1 II. TERM

2 Section 2.1. The “**Term**” of this Lease and the obligation to pay rent shall commence
3 on July 1, 2020 (“**Commencement Date**”), and shall continue until June 30, 2025,
4 unless sooner terminated as provided in this Lease.

5 Section 2.2. Landlord hereby grants to Tenant the right and option to renew the
6 initial Term of the Lease set forth in Section 2.1 hereof for one (1) additional successive
7 periods of five (5) years (a “**Renewal Term**”), such renewal term to begin, respectively,
8 upon the expiration of the original term of this Lease or the previous renewal term, as
9 applicable, and all terms, covenants and provisions of this Lease shall apply to such
10 renewal terms except that Rent shall be established as set forth in Section 3.2 herein, and
11 Tenant shall not have any further option to again renew the term of the Lease following the
12 exercise of the above-stated options. To exercise the option herein granted, Tenant shall
13 deliver written notice of its intent to renew (the “**Renewal Notice**”) to Landlord not earlier
14 than six (6) months, but not later than three (3) months, before the expiration of the initial
15 Term or renewal term, as applicable; provided, however, as a condition precedent to the
16 effectiveness of Tenant’s right to renew herein, Tenant must not be in default of any of its
17 obligations under this Lease beyond all applicable notice and cure periods at the time of
18 Tenant’s delivery of the Renewal Notice. If any one of the foregoing conditions precedent
19 are not satisfied, Tenant shall have no right to renew this Lease unless otherwise agreed to
20 by Landlord in writing in its sole and absolute discretion. In the event Tenant renews the
21 Lease pursuant to the terms hereof, then Landlord and Tenant shall execute an amendment
22 to this Lease extending the Term.

23 III. RENT

24
25 Section 3.1. Tenant covenants and agrees to pay Landlord in equal monthly
26 installments, “**Rent**” for the Premises during the initial Term as follows:

Year	Beg	End	Rent/SF	Annual Inc	MO Rent	Yr Rent
1	7/1/2020	6/30/2021	\$22.11		\$1,978.75	\$23,745.00
2	7/1/2021	6/30/2022	\$23.21	5.0%	\$2,077.69	\$24,932.25
3	7/1/2022	6/30/2023	\$24.38	5.0%	\$2,181.57	\$26,178.86
4	7/1/2023	6/30/2024	\$25.59	5.0%	\$2,290.65	\$27,487.81
5	7/1/2024	6/30/2025	\$26.87	5.0%	\$2,405.18	\$28,862.20

27 Beginning on the Commencement Date, Rent and Additional Rent (as hereinafter
28 defined) shall be due and payable each month, in advance, on the first day of each calendar
29 month without demand, set off, or deduction whatsoever, by check, money order or
30 cashier’s check to Landlord’s address or by automated clearing house (ACH) transfer into
31 Landlord’s bank account as designated by Landlord from time to time. Tenant shall also be
32 required to prepay last month’s rent on the Commencement Date.

1 Section 3.2. The Rent for each Renewal Term shall be determined prior to the start
2 of each Renewal Term at either the fair market rent for a similar unit in Town of
3 Breckenridge, or the average basic rent for a similar unit within the Professional Building,
4 whichever is higher. Landlord and Tenant shall execute an amendment to this Lease prior
5 to the start of each Renewal Term indicating the Rent according to the terms hereof.

6 Section 3.3. All items designated as “**Additional Rent**” under this Lease, as that
7 term is more fully described in Article IV hereof, shall be due and payable at the same time
8 as Rent is due, unless another time is specified. If any installment of Rent or Additional
9 Rent is not paid within five (5) days of when due, Landlord shall be entitled to collect a late
10 fee of five percent (5%) of the amount of the past due installment. Such late fee shall be
11 due and payable immediately as Additional Rent without any other notice or demand from
12 Landlord. Furthermore, any installment more than ten (10) days past due shall be
13 considered a loan from Landlord to Tenant which shall bear interest from the due date of
14 the installment or installments at the rate of eighteen percent (18%) per annum until fully
15 paid.

16 IV. ADDITIONAL RENT

17
18 Section 4.1. Tenant shall pay, as “**Additional Rent**,” Tenant’s pro-rata share, as
19 determined by the square footage of the Premises as a percentage of the square footage of
20 all units within the Professional Building (“**Pro Rata Share**”), of all of the following:

21 Section 4.1.1. Tenant shall be responsible for paying Tenant’s Pro Rata Share
22 of all monthly or other periodic costs of the common utilities for the Premises, currently
23 including trash disposal, water and sewer, and CAM as hereafter defined. To the extent
24 allowable by each utility provider, and in the event utilities are metered separately to the
25 Premises, Tenant shall contract directly with utility providers not paid by Landlord, and all
26 utility payments shall be directed to the respective utility providers including but not
27 limited gas, electric, internet, cable and telephone.

28 Section 4.1.2. Tenant shall be responsible for paying Tenant’s Pro Rata Share
29 of all operation and maintenance costs (“**CAM**”) of the Premises. CAM includes all
30 expenditures made by Landlord to operate and maintain the Professional Building,
31 including, but not limited to, utilities not separately metered to the Premises (common
32 trash disposal, water and sewer), repairs, replacement costs (due to ordinary and
33 extraordinary wear and tear or catastrophe), and snow/ice removal (including removal
34 from roofs and other building elements, abutting roadways, and walkways, as needed),
35 landscaping and lawn maintenance, painting, staining, and exterior building repair and
36 replacement, repair and replacement of utility systems, depreciation of machinery and
37 equipment used in such repair and replacement, and the cost of all personnel to implement
38 such services, including but not limited any management fees assessed by the Landlord’s
39 property manager. Any and every cost of repair or replacement of any portion of the
40 Professional Building shall be included in CAM and the foregoing list of items is provided
41 for illustrative purposes only and shall not be deemed a full, complete, or exhaustive list of

COMMERCIAL LEASE

1 all possible CAM. CAM shall include amounts deemed necessary by Landlord to establish
2 and maintain appropriate reserves, based upon commercially accepted practices, for the
3 eventual repair, maintenance and replacement of all exterior and structural elements of the
4 Professional Building, including, but not limited to, the roof elements, siding elements,
5 exterior painting and/or staining ("**CAM Reserves**").

6 Section 4.1.3. Real Estate Taxes.
7

8 4.1.3.1 As used in this Lease, the term "taxes" shall mean all personal property
9 and real property taxes which may be levied, assessed or imposed arising out of Tenant's
10 occupancy and use of the Premises pursuant to this Lease.
11

12 4.1.3.2 Pursuant to Section 39-3-105, C.R.S., all real or personal property owned
13 by Landlord is exempt from taxation. However, the parties acknowledge that Tenant's
14 occupancy and use of the Premises pursuant to this Lease may be deemed to be a taxable
15 possessory interest pursuant to Section 39-1-103(17)(a), C.R.S.
16

17 4.1.3.3 Any taxes lawfully assessed arising from Tenant's occupancy and use of
18 the Premises pursuant to this Lease shall be paid by Tenant, and Tenant shall indemnify and hold
19 Landlord harmless from any such taxes. Any taxes due arising from Tenant's occupancy and use
20 of the Premises pursuant to this Lease shall be paid by Tenant in a timely manner. Prior to the
21 last day for payment of such taxes without penalty or interest, Tenant shall provide to Landlord a
22 photostatic copy of the receipt(s) or cancelled check(s) showing payment of the taxes. Tenant
23 may pay any taxes in installments if permitted by law.
24

25 4.1.3.4 In the event Tenant is liable for the payment of any taxes arising from
26 Tenant's occupancy and use of the Premises pursuant to this Lease, Tenant shall have the right,
27 at its sole expense, to contest any such taxes by the commencement and prosecution, in good
28 faith and with due diligence, of appropriate legal proceedings; provided that Tenant makes
29 timely payment of such taxes if Tenant loses the contest. Tenant shall advise Landlord prior to
30 instituting any such contest and shall as a condition of exercising such right provide Landlord
31 such reasonable assurance as it may request that such contest will be in compliance with the
32 provisions of this Section. Town, at Tenant's sole cost and expense, shall reasonably cooperate
33 with Tenant in any such contest, may join in the contest, and shall execute and deliver such
34 documents and instruments as may be necessary or appropriate for prosecuting an effective
35 contest.
36

37 Section 4.1.4. Tenant shall be responsible for and shall pay before
38 delinquency all municipal, county, state, and federal taxes assessed during the Term of this
39 Lease against all services, goods and other sales from the Premises, furniture, fixtures,
40 equipment, goods and personal property of any kind owned by or placed in, upon or about
41 the Premises by Tenant. Within ten (10) days after demand, Tenant shall furnish Landlord
42 with satisfactory evidence of these payments.

1 Section 4.1.5. Landlord's Insurance Costs. Landlord shall procure and
2 maintain such fire and casualty, loss of rents, and liability insurance on the Premises as it
3 deems proper and appropriate ("**Insurance Costs**"). Tenant shall be responsible for paying
4 Tenant's Pro Rata Share of all Insurance Costs. Such insurance shall not be required to
5 cover any of the Tenant's property and the Tenant shall have no interest in any of the
6 proceeds of such insurance. Tenant shall procure and maintain insurance on the Premises
7 as set forth in Section XI.

8 Section 4.1.6. Tenant shall be responsible for paying any other Additional
9 Rent incurred as set forth in this Lease.

10 Section 4.2. All Additional Rent shall be paid by Tenant to Landlord in equal monthly
11 installments concurrent with the payment of Rent. Payments of Additional Rent shall be
12 calculated as follows: on, or before the commencement date of the Term, Landlord shall
13 give Tenant a statement of the estimated annual CAM, Real Estate Taxes (if any, paid by
14 Landlord for the Professional Building), and Insurance Costs for the Professional Building
15 based on the prior year's actual expenses ("**Estimate of Costs**"). Tenant shall pay
16 Additional Rent to Landlord based upon the Estimate of Costs divided by twelve (12). The
17 Estimate of Costs shall be the basis of such Additional Rent calculated until Tenant is
18 notified by Landlord of a change thereof. Within thirty (30) days of the end of each calendar
19 year, Landlord will compute actual CAM, Real Estate Taxes, and Insurance Costs for the
20 preceding year ("**Actual Costs**"). Landlord shall provide Tenant with a statement of Actual
21 Costs. In the event that Tenant's payment of Additional Rent for said calendar year totals
22 less than the Tenant's Pro Rata Share of the Actual Costs, Tenant shall be obligated to pay
23 Landlord, within ten (10) days of receipt of statement, the difference between Tenant's Pro
24 Rata Share of Actual Costs and the Additional Rent actually paid for said calendar year. In
25 the event Tenant's Additional Rent actually paid for said calendar year exceeds Tenant's
26 Pro Rata Share of Actual Costs, such excess shall be credited to Tenant's account. The
27 Actual Costs of the prior calendar year shall be used for the purpose of calculating the
28 Estimate of Costs for the then current year.

29 V. DEPOSIT

30
31 Section 5.1. To secure the faithful performance by Tenant of all of Tenant's
32 covenants, conditions, and agreements in the Lease to be observed and performed,
33 Landlord shall continue to hold Tenant's deposit in the amount of **Two Thousand Two**
34 **Hundred Fifty** Dollars (\$ **2,250.00**) as a security deposit (the "**Deposit**"). The Deposit
35 may also be used in the event of termination of the Lease by re-entry, eviction, or
36 otherwise. *Deposit transferred from Cheroutes Zweig PC Lease with a termination date of*
37 *May 31, 2020.*

38 Section 5.2. The parties agree: (1) that the Deposit or any portion thereof, may be
39 applied to cure any Default that may exist, and/or payment of subsequent damages and
40 costs incurred by Landlord, without prejudice to any other remedy or remedies that the
41 Landlord may have on account thereof, and upon such application Tenant shall pay

COMMERCIAL LEASE

1 Landlord on demand the amount so applied, which shall be added to the Deposit so it will
2 be restored to its original amount; (2) that Landlord shall not be obligated to hold the
3 Deposit as a separate fund; and (3) that should a Default occur, Landlord may, as an
4 additional remedy, increase the Deposit at its sole discretion.

5 Section 5.3. If Tenant shall perform all of its respective covenants and agreements
6 in the Lease, the Deposit, or the portion thereof not previously applied pursuant to the
7 provisions of the Lease, together with a statement, shall be returned to Tenant without
8 interest, provided Tenant has vacated the Premises and surrendered possession thereof to
9 Landlord.

10 VI. **GUARANTY**

11
12 Section 6.1. Tenant covenants and agrees that Maryjo Zweig and Steven
13 Zweig (collectively, "Guarantors") will execute and deliver a guaranty (the "**Guaranty**")
14 for the Term of the Lease. Guarantors shall execute the Guaranty, attached hereto as
15 **Exhibit A** and incorporated herein by reference, upon the mutual execution of this Lease.

16 VII. USE AND OPERATION OF PREMISES

17
18 Section 7.1. Tenant shall use the Premises for operating a law office, and for no
19 other purposes without Landlord's prior written consent, which consent may be withheld
20 in Landlord's sole discretion. Tenant shall be permitted to place and utilize the seating
21 currently placed in the hallway and shall have unrestricted access to the janitorial closet
22 located between the two restrooms closest to the Premises. Tenant shall also be permitted
23 to maintain televisions and a sound system in the Premises.

24 Section 7.2. Tenant's use of the Premises as provided in Section 7.1 shall be in
25 accordance with the following:

26 Section 7.2.1. Tenant shall not do any act or engage in any activities which
27 would result in a cancellation or increase in the rate of any insurance covering the
28 Professional Building.

29 Section 7.2.2. Tenant shall Tenant shall keep the Premises in a safe, sanitary,
30 clean and proper manner and condition and comply with all laws, regulations, development
31 permits, zoning regulations, rulings, ordinances, agreements or bylaws concerning the
32 Premises or Tenant's use of the Premises.

33
34 Section 7.2.3. Tenant shall not use the Premises in any manner which will
35 constitute waste, nuisance, or unreasonable annoyance.

36 Section 7.2.4. Tenant shall not intentionally do anything in the Premises that
37 will cause damage to the Premises. The Premises shall not be electrically overloaded. No
38 machinery, apparatus or other appliance shall be used or operated in or on the Premises

1 that will in any manner injure, vibrate or shake the Premises or cause unreasonable noise
2 to be transmitted to the public.

3 Section 7.2.5. Tenant shall not cause or permit any hazardous material to be
4 brought upon, kept or used in, or about the Premises by Tenant, its agents, employees,
5 contractors, or invitees. If Tenant breaches the obligations stated in the preceding
6 sentence, or if the presence of hazardous material on the Premises caused, or permitted by
7 Tenant results in contamination of the Premises, or if contamination of the Premises by
8 hazardous material otherwise occurs for which Tenant is responsible to Landlord for
9 resulting damage, then Tenant shall indemnify, defend, and hold Landlord harmless from
10 any and all resulting claims, judgments, damages, penalties, fines, costs, liabilities, or losses.

11 Section 7.3. Tenant shall not place or allow to be placed any permanent signs clearly
12 visible and readable from (and intended to advertise to) areas outside of the Premises,
13 upon, in or about the said Premises or any part thereof, except in compliance and
14 conformity with a sign permit issued by the Landlord in its governmental capacity. Further,
15 no sign shall be placed upon the Premises or the Professional Building by Tenant without
16 the prior written consent of Landlord, which consent shall not be unreasonably withheld.
17 Tenant is responsible for providing design and signage at Tenant's sole cost and expense. In
18 case Landlord shall deem it necessary to remove any such signs in order to paint or make
19 any repairs, alterations or improvements in or upon said Premises or any part thereof, they
20 may be so removed, but shall be replaced at Landlord's expense when the said repairs,
21 alterations or improvements shall have been completed. Any signs permitted by Landlord
22 shall be maintained by Tenant at its sole cost and shall at all times conform with all codes
23 or ordinances of the Town of Breckenridge, or other laws and regulations applicable
24 thereto.

25 Section 7.4. Tenant shall not cause or permit any violation of the Americans with
26 Disabilities Act (the "ADA") to occur on, or about the Premises by Tenant, its agents,
27 employees, contractors, or invitees. Tenant shall indemnify, defend and hold Landlord
28 harmless from any and all claims, judgments, damages, penalties, fines, costs, liabilities, or
29 losses (including, without limitation, diminution in value of the Premises, damages for the
30 loss or restriction of use of rentable or usable space, damages arising from any adverse
31 impact on marketing of space, and sums paid in settlement of claims, attorneys' fees,
32 consultation fees and expert fees) that arise during or after the Term as a result of such
33 violation. This indemnification of Landlord by Tenant includes, without limitation, costs
34 incurred in connection with any investigation of site conditions or any remedial work
35 required by any federal, state, or local governmental agency or political subdivision
36 because of any ADA violation present on or about the Premises. Tenant shall be permitted
37 to make such alterations to the Premises as may be necessary to comply with the ADA, at
38 Tenant's sole expense and upon the prior written consent of Landlord. Without limiting the
39 foregoing, if the presence of any ADA violation on the Premises caused or permitted by
40 Tenant results in remedial work on the Premises, Tenant shall promptly take all actions at
41 its sole expense as are required by any authority to comply with the ADA; provided that

1 Landlord's consent to such actions shall first be obtained, which shall not be reasonably
2 withheld.

3 Section 7.5. Tenant shall allow no auction, fire, liquidation, relocation, sheriff's,
4 receiver's distress, or bankruptcy sale in the Premises without the previous written
5 consent of the Landlord.

6 Section 7.6. Tenant's use of the Premises shall conform with and be subject to any
7 and all rules and policies the Landlord (or any condominium association for the
8 Professional Building ("**Association**") may adopt concerning use of the Professional
9 Building and the Common Area. for all tenants a Tenant shall use its best efforts to cause its
10 agents, employees, customers, invitees, licensees and concessionaries to comply with such
11 rules and policies.

12 **VIII. MAINTENANCE**

13
14 Section 8.1. Subject to Tenant's obligation to pay Additional Rent provided for in
15 Section IV, Landlord shall maintain the foundation, exterior walls, roof, and mechanical
16 systems of the Professional Building. Landlord shall provide janitorial services for the
17 purposes of daily cleaning of public restrooms and public walkways. The Association shall
18 maintain all common area walkways, signage on shared sign posts, landscaping, and
19 exterior lighting in good repair. All costs incurred by Landlord in performing the work and
20 duties described in this Section 8.1 shall be included in the CAM. Landlord shall use
21 reasonable efforts to cause any necessary repairs to be made promptly; provided, however,
22 that Landlord shall have no liability whatsoever for any delays in causing such repairs to be
23 made, including, without limitation, any liability for injury to or loss of Tenant's business,
24 nor shall any delays entitle Tenant to any abatement of Rent and Additional Rent or
25 damages, or be deemed an eviction of Tenant in whole or in part. Failure by the
26 Association to maintain the common areas, or other related agreements, shall expressly not
27 be a default by Landlord of any maintenance obligations hereunder.

28 Section 8.2. Tenant shall keep all of the Premises not required to be maintained by
29 Landlord and the Association under Section 8.1, including, without limitation, all
30 equipment, facilities and fixtures therein contained, all mechanical systems within the
31 Premises, in good order, condition and repair, in a neat, clean, sanitary and safe condition,
32 and in accordance with all applicable laws, ordinances and regulations of any governmental
33 authority having jurisdiction. Tenant shall permit no waste, damage, or injury to the
34 Premises. The Tenant's obligation to maintain the interior of the Premises shall specifically
35 include the obligation to maintain the Premises, including the furniture, fixtures, walls and
36 flooring, in a condition that is at the same standards of maintenance and repair as a first-
37 class commercial property. The Tenant's maintenance obligation with respect to the
38 fixtures, furniture, furnishings and equipment shall specifically include the obligation to
39 repair, restore and replace obsolete, broken, run-down, and worn out items on a regular
40 basis. The term equipment as used herein shall include all mechanical equipment located
41 within the Premises, including but not limited to heating and plumbing equipment and

COMMERCIAL LEASE

1 fixtures, and kitchen equipment and fixtures, if any. As set forth and subject to the
2 requirements set forth in Section 7.3 above, Tenant shall be responsible for the
3 maintenance and repair of any and all signs permitted on the Premises regarding Tenant's
4 business attached to the Professional Building.

5 Section 8.4. Tenant shall keep the exterior and the interior of all windows and the
6 glass in any doors or displays, clean and, in the event any such windows or glass in doors is
7 cracked or broken, shall forthwith, at Tenant's own expense, replace all such glass with
8 glass of the same quality, unless such replacement is required as the result of breakage
9 caused by the act or omission of Landlord, its customers, invitees, agents and employees.

10 **IX. ALTERATIONS**

11
12 Section 9.1. No alterations, additions, or improvements, including, but not limited
13 to, the provision or installation of electrical outlets or lines, lighting fixtures, plumbing lines
14 or fixtures, or other equipment required by Tenant, shall be made, and no fixtures shall be
15 installed or attached to the Premises without Landlord's prior written approval, which
16 shall not be unreasonably delayed or withheld, of plans and specifications provided by
17 Tenant at its sole cost and expense. In addition, Landlord reserves the right of reasonable
18 approval of Tenant's selection of all third party contractors performing work on Tenant's
19 improvements, and, in order to provide Landlord an opportunity both to exercise this right
20 and to post or serve notices of non-liability, Tenant shall provide Landlord with a written
21 list of all third party contractors who will be performing work on Tenant's improvements
22 at least ten (10) days prior to the beginning of any such work.

23 Section 9.2. Tenant shall furnish such indemnification against liens, costs, damages
24 and expenses as may be reasonably required by Landlord. Except as hereinafter provided,
25 Tenant shall not make any structural alterations in or additions to the Premises. If
26 structural or non-structural alterations or additions become necessary because of the
27 application of laws or ordinances or other directions, rules or regulations of any regulatory
28 authority having jurisdiction over the Premises or the business carried on by Tenant, or
29 because of any wrongful act or default on the part of Tenant, or because Tenant has
30 overloaded an electrical or other facility, Tenant shall make such alterations and additions
31 at its own cost and expense after first obtaining Landlord's written approval of plans and
32 specifications and furnishing such indemnification against liens, costs, damages and
33 expenses as Landlord may reasonably require.

34 Section 9.3. Unless otherwise provided herein, all alterations, additions or
35 improvements when made, installed, or attached to the Premises by Tenant, not including
36 trade fixtures of Tenant, shall belong to and become the property of Landlord and shall be
37 surrendered with the Premises as part thereof upon the expiration or sooner termination
38 of this Lease, without hindrance, molestation or injury. Notwithstanding that the
39 alterations, additions, or improvements may have become an integral part of the Premises,
40 Landlord may require Tenant to remove all or any part of such alterations, additions,
41 improvements, or fixtures, including without limitation the walls erected by Tenant, at the

COMMERCIAL LEASE

1 expiration or earlier termination of this Lease, restoring the premises to the same
2 condition existing at the beginning of the original term, ordinary wear and tear excepted. If
3 Landlord does so require, Tenant shall repair all damages resulting from such removal and
4 should Tenant fail to remove such alterations, additions, improvements or fixtures or fail to
5 repair damages resulting from such removal, Landlord may remove the same or make such
6 repairs for Tenant's account, and Tenant shall pay to Landlord, on demand, an amount
7 equal to Landlord's costs incurred in such removal or repair.

8 Section 9.4. All work with respect to any permitted alterations, additions, or
9 improvements, shall be done at Tenant's sole cost and expense in a good and workmanlike
10 manner, strictly in accordance with the plans and specifications required to have been
11 approved by Landlord. In doing said work, other Tenants of Landlord shall not be
12 adversely affected nor unreasonably inconvenienced. Tenant shall, at its own expense,
13 obtain all necessary building or other permits or approvals required by appropriate
14 governmental authorities prior to beginning such work. If any mechanics' or other liens
15 shall be created or filed against the Premises by reason of labor performed or materials
16 furnished for Tenant in the alteration, addition or repair to any building or improvement,
17 Tenant shall, within ten (10) days thereafter, at Tenant's own cost and expense, cause such
18 lien or liens, and any related notices, to be satisfied and discharged of record, unless Tenant
19 promptly disputes such lien or liens and protects Landlord with title insurance, a bond, or a
20 cash deposit reasonably satisfactory to Landlord. Failure to do so shall entitle Landlord to
21 resort to such remedies as are provided herein in the case of any default of this Lease, in
22 addition to such as are permitted by law.

23 Section 9.5. Any goods, inventory, equipment, trade fixtures or other personal
24 property of Tenant, whether affixed or not affixed to the Premises, not removed by Tenant
25 upon the termination of this Lease, or upon any quitting, vacating or abandonment of the
26 Premises by Tenant, or upon Tenant's eviction, shall be considered abandoned if not
27 removed within ten (10) days after notice from Landlord, and, if not removed within such
28 ten (10) days, Landlord shall have the right to sell or otherwise dispose of the same at the
29 expense of Tenant, and shall not be accountable to Tenant for any part of the proceeds of
30 such sale, if any.

31 Section 9.6. As provided in Colorado Revised Statutes §§ 39-26-117(1)(b) and 39-
32 26-205(3), both as amended from time to time, the Premises and all of the improvements
33 made to or installed in the Premises (whether constructed by, for or at the expense of
34 Landlord or Tenant), all of which shall be deemed property owned by Landlord, shall be
35 exempt from any lien for sales and use taxes otherwise imposed by the taxing authorities of
36 the State of Colorado. In order to secure this exemption from the date of execution of this
37 Lease, upon execution of this Lease, Landlord and, at Landlord's request, Tenant, shall
38 execute a memorandum of this Lease for filing with the Colorado Department of Revenue,
39 such memorandum to be in such form as may be prescribed by that Department.

40 X. UTILITIES AND SERVICES
41

1 Section 10.1. Tenant shall be responsible for contracting for and paying for all
2 electric, gas, telephone, cable and internet utility services, and any other separately
3 metered utilities provided to the Premises. Landlord, as part of CAM, will contract and pay
4 for all trash, water and sewer utility services provided to the Premises; provided, however,
5 in the event these utilities are metered separately in the future, Tenant shall contract
6 directly with utility providers not paid by Landlord, and all utility payments shall be
7 directed to the respective utility providers.

8 **XI. INSURANCE AND INDEMNIFICATION**
9

10 Section 11.1. The Tenant shall be responsible for any liability or damages and shall
11 indemnify and save Landlord harmless from any liability or damages for any loss, cost,
12 damage or expense (including reasonable attorneys' fees and expert witness fees) arising
13 out of any accident or other occurrence due to the negligence of the Tenant, its employees,
14 agents, servants, customers or other invitees.

15 Section 11.2. Landlord shall not be liable to Tenant for any damage to Tenant or
16 Tenant's personal property, fixtures, or Tenant improvements from any cause except when
17 such damage is the result of the negligence of Landlord, the Association, or their authorized
18 agents. Tenant waives all claims against Landlord for damage to persons or property
19 arising for any other reason.

20 Section 11.3. Landlord shall not be liable to Tenant for any damage occasioned by
21 plumbing, electrical, gas or other utility systems or facilities, for any damage resulting from
22 the leakage of water through any roof, wall, skylight or vent, or for any damage arising from
23 the acts or negligence of Tenant or other occupant of adjacent property, except where such
24 damage results from negligence of Landlord.

25 Section 11.4. Tenant shall maintain in full force and effect from the Effective Date
26 through the entire term of this Lease, at its own expense, the following policy or policies of
27 insurance:

28 Section 11.4.1. Comprehensive general liability insurance, including
29 property damage, insuring Landlord and Tenant from and against all claims, demands,
30 actions or liability for injury to or death of any persons, and for damage to property arising
31 from or related to the use or occupancy of the Premises or the operation of Tenant's
32 business with a liability limit of no less than One Million Dollars (\$1,000,000.00) per
33 occurrence with Two Million Dollars (\$2,000,000.00) aggregate per year. This policy must
34 contain coverage for Premises and operations, products and completed operations, blanket
35 contractual, personal injury, bodily injury and property damage. This insurance shall
36 include a contractual coverage endorsement specifically insuring the performance by
37 Tenant of its indemnity agreement contained in this Article XI. Such insurance shall name
38 Landlord and Landlord's mortgagee, if any, as an additional insured.

39 Section 11.4.2. Cause of Loss - "Special Form" property insurance, for the

COMMERCIAL LEASE

1 mutual benefit of Tenant, Landlord, and Landlord's mortgagee, if any, covering any
2 improvements and structures included as part of the Premises, the Improvements, and all
3 of Tenant's personal property and trade fixtures located on the Premises in an amount
4 equal to at least one hundred percent (100%) of the full replacement cost thereof. Such
5 insurance shall name Landlord and Landlord's mortgagee, if any, as an additional insured.
6 As often as any such policy expires or terminates, a renewal or replacement policy
7 providing similar coverage shall be obtained by Tenant. In the event of fire or other
8 casualty, proceeds of such policy shall be payable to Tenant and Landlord, as their
9 respective interests may appear.

10 Section 11.4.3. Worker's compensation insurance with a limit of no less than
11 that amount required by law.

12 Section 11.5. All policies of insurance described in this Article XI which Tenant is to
13 procure and maintain, shall be issued by responsible companies, reasonably acceptable to
14 Landlord and qualified to do business in the State of Colorado, and shall name Landlord as
15 an additional insured. Certificates of such insurance will be delivered to Landlord no later
16 than ten (10) days after the Effective Date and within thirty (30) days prior to the
17 termination or expiration of the term of each existing policy. All liability and property
18 damages policies procured and maintained by Tenant will contain the following provisions:
19 Landlord, although named as an additional insured, will nevertheless be entitled to
20 recovery under said policies for any loss occasioned to it, its servants, agents and
21 employees by reason of the negligence of Tenant, its officers, agents or employees; and the
22 company writing such policy will agree to give Landlord no less than thirty (30) days'
23 notice in writing prior to any cancellation, reduction, or modification of such insurance. All
24 policies procured and maintained by Tenant, as required by Section 11.4.1. will be written
25 as primary policies, not entitled to contribution from, nor contributing with any coverage
26 which Landlord may carry.

27 Section 11.6. Tenant's obligations to carry the insurance required by this Lease may
28 be brought within the coverage of a so-called blanket policy or policies of insurance carried
29 and maintained by Tenant, so long as Landlord will be named as additional insured under
30 such policies as its interest may appear; the coverage afforded to Landlord will not be
31 reduced or diminished by reason of the use of such blanket policy of insurance; and all
32 other requirements set forth in this Article XI are otherwise satisfied.

33 Section 11.7. If Tenant fails either to acquire the insurance required pursuant to
34 this Article XI or to pay the premiums for such insurance or to deliver required certificates,
35 Landlord may, in addition to any other rights and remedies available to Landlord for
36 default, acquire such insurance and pay the requisite premiums from them. Such
37 premiums will be payable by Tenant to Landlord immediately upon demand as Additional
38 Rent.

39 Section 11.8. Tenant will not carry any merchandise, stock of goods, or do anything
40 or permit its employees, guests and invitees to do anything in or about the Premises which

1 will in any way increases Landlord's insurance rates on the Premises. Tenant agrees to pay
2 to Landlord upon demand the amount of any increase in premiums for Landlord's
3 insurance resulting from the above, whether or not Landlord has consented to the act on
4 the part of Tenant or its employees, guests and invitees.

5 **XII. DAMAGE OR DESTRUCTION**
6

7 Section 12.1. In the event the Premises is damaged by fire or other peril covered by
8 "all risk" insurance and the Landlord decides to restore the Premises and the insurance
9 proceeds are made available to Landlord, Landlord agrees to repair the same, and this
10 Lease shall remain in full force and effect. The Tenant shall be obligated to promptly
11 restore and replace all of the furnishings, trade fixtures, leasehold improvements,
12 equipment and other personal property used in connection with the operation of the
13 Tenant's business.

14 Section 12.2. In the event the Premises is damaged as a result of any cause other
15 than the perils covered by "all risk" coverage insurance and the Landlord decides to restore
16 the Premises, then Landlord shall repair the same. If the Landlord decides not to restore
17 the Premises, then Landlord shall have the option: (i) to repair or restore such damage, this
18 Lease continuing in full force and effect, or (ii) to give notice to Tenant at any time within
19 sixty (60) days after such damage, terminating this Lease as of the date specified in such
20 notice, which date shall be no more than thirty (30) days after the giving of such notice.

21 Section 12.3. Landlord shall not be required to repair any damage by fire or other
22 cause, or to make any repairs or replacements of any leasehold improvements, fixtures or
23 other personal property of Tenant. Unless Landlord has notified Tenant that the Lease
24 shall be terminated, Tenant shall be required to restore all leasehold improvements,
25 fixtures or personal property to their condition prior to the date of such damage not later
26 than fifteen (15) days after the date by which Landlord has repaired damage to the
27 Premises, whether or not insurance proceeds are available to Tenant for such purpose. All
28 Tenant's work undertaken pursuant to this Article XII shall be completed in compliance
29 with this Lease.

30 **XIII. CONDEMNATION**
31

32 Section 13.1. If during the Term the whole or substantially all of the Premises shall
33 be taken as a result of the exercise of the power of eminent domain, or sold under the
34 threat of the exercise of said power, this Lease shall terminate as of the date of vesting of
35 title of the Premises pursuant to such proceeding. Substantially all of the Premises shall be
36 deemed to have been taken if a taking under any such proceeding shall involve such an area
37 that Tenant cannot reasonably operate in the remainder of the Premises the business being
38 conducted on the Premises at the time of such proceeding.
39

40 Section 13.2. If, during the Term, less than the whole or less than substantially all of
41 the Premises shall be taken in any such proceeding or sold under the threat thereof, this

COMMERCIAL LEASE

1 Lease shall not terminate. The rent thereafter due and payable by Tenant shall be abated in
2 such just proportion as the nature, value and extent of the part so taken or sold bears to the
3 whole of the Premises, and Landlord shall, as necessary, proceed to repair, restore and
4 place in proper condition for use and occupancy the part of the improvements on the
5 Premises not so taken.
6

7 Section 13.3. Any award granted for either partial or total taking shall be the sole
8 property of Landlord, and Tenant shall have no claim therein except that Tenant shall be
9 entitled to that portion of the award representing the value of such interests as Tenant may
10 have at the time of such taking and such damages, if any, as may be payable by the
11 condemning authority for relocation expense or other damage to Tenant's business, not
12 including any value attributable to this Lease or Tenant's right to lease at the rental rate in
13 effect at the time of such condemnation.
14

15 Section 13.4. The temporary taking of the Premises or any part thereof by any
16 public or quasi-public authority shall constitute a taking of the Premises only when the use
17 and occupancy by the taking authority has continued for longer than ninety (90)
18 consecutive days. During the ninety (90) day period all provisions of this Lease shall
19 remain in full force and effect except that the Rent shall be reasonably abated during such
20 period based on the extent to which the taking interferes with Tenant's use of the Premises.
21 Landlord shall be entitled to any award which may be paid for the use and occupation of
22 the Premises for the period involved.

23 XIV. ASSIGNMENT, SUBLETTING AND LICENSING 24

25 Section 14.1. Landlord shall have the right to transfer, assign, encumber, sell or
26 convey, in whole or in part, its interest in the Premises, and Landlord shall have the right to
27 transfer, assign, sell or convey its rights and obligations under this Lease including a
28 transfer to a purchaser. Within thirty (30) days after notice from Landlord, Tenant shall
29 execute and deliver to Landlord, in recordable form, a certificate reasonably satisfactory to
30 Landlord stating that this Lease is unmodified and in full force and effect, or in full force
31 and effect as modified, and stating the modification. The certificate shall also state the
32 amount of Rent paid during the preceding twenty-four (24) month period and the date to
33 which the rent has been paid. Failure to deliver the certificate within the thirty (30) day
34 period shall be conclusive upon Tenant that the Lease is in full force and effect and has not
35 been modified except as may be represented by Landlord in the certificate. Such failure
36 shall also, at Landlord's election, be deemed a default. Furthermore, if Tenant fails to
37 deliver the certificate within the thirty (30) day period, Tenant irrevocably appoints
38 Landlord as its special attorney-in-fact to execute and deliver the certificate to any third
39 party. At Landlord's request, Tenant shall furnish such financial information concerning
40 Tenant as may be reasonably required by a construction or permanent lender or purchaser
41 for the Premises.

42 Section 14.2. Tenant shall not assign this Lease or sublet the Premises or any part

1 thereof without the prior written consent of Landlord, which consent may be withheld in
2 Landlord's sole discretion. [As a condition to assignment to an entity, the majority owner of
3 the proposed assignee, or if the majority owner is an entity, the individual who is the
4 majority owner of the owner of the assignee, shall be required to execute and deliver a
5 personal guaranty in a form acceptable to Landlord.] If Tenant is a corporation, limited
6 liability company, or other entity that is not a natural person, any change in ownership of
7 more than thirty percent (30%) (over any period) of the ownership interest shall be
8 deemed an assignment of the Lease requiring the consent of Landlord hereunder. In the
9 event an assignment or sublease is permitted, all payments from assignee or sublessee
10 shall be made directly by said party to Landlord, and not through Tenant.

11 Section 14.2.1. In the event Tenant should desire to assign this Lease or sublet the
12 Premises or any part thereof, Tenant shall submit a written request ("**Request to Assign**")
13 to Landlord at least ninety (90) days in advance of the date on which Tenant desires to
14 make such assignment or sublease. Tenant's Request to Assign shall specify all of the terms
15 of said proposed sublease or assignment, the name and social security number of the
16 individual who will guaranty the Lease, as well as the name and address of each proposed
17 assignee or subtenant and guarantor, provided that should the proposed assignee or
18 subtenant be a business entity, Tenant shall also provide the names of the owners,
19 members or shareholders for the proposed entity and their respective shares or
20 percentage of ownership/interest. Included in the Request to Assign, Tenant shall provide
21 current and complete financial statements (including a balance sheet, income statement
22 and copies of federal tax returns for the previous two (2) years) of each proposed assignee
23 or subtenant and guarantor, as well as evidence of experience and success in operating a
24 commercial business. Landlord shall have a period of twenty (20) days following receipt of
25 Tenant's Request to Assign within which to notify Tenant in writing whether: Landlord (i)
26 consents to the assignment of this Lease or the sublease of such space for the duration
27 specified by Tenant in its notice; (ii) rejects the proposed assignment or sublease; or (iii)
28 requests additional information in order to reach a determination on the proposed
29 assignment or sublease. In the event more information is requested, Landlord shall have
30 ten (10) days following receipt of such additional information to deny or approve the
31 Request to Assign.

32 Section 14.2.2. In any case where Landlord consents to an assignment or
33 sublease of the Premises, the undersigned Tenant will remain liable for the performance of
34 all of the covenants, duties, and obligations in this Lease, including, without limitation, the
35 obligation to pay all rent and other sums to be paid, and Landlord shall be permitted to
36 enforce the provisions of this Lease against the undersigned Tenant and/or any assignee or
37 sublessee and guarantor without demand upon or proceeding in any way against any other
38 person.

39 Section 14.2.3. Regardless of whether Landlord consents to an assignment,
40 sublease, license, or occupancy, or use by another person or entity actually occurs, Tenant
41 shall reimburse Landlord, upon demand, for Landlord's reasonable expenses and attorneys'
42 fees incurred in conjunction with the review and documentation of any such assignment,

COMMERCIAL LEASE

1 sublease, license or occupancy or use by another person or entity for which Landlord's
2 consent is requested, and payment of such expenses and fees may be a condition of the
3 granting of Landlord's consent.

4 Section 14.3. No interest of Tenant in the Premises may be assigned by operation of
5 law and each of the following acts shall be considered an involuntary assignment and
6 constitute a default by Tenant under this Lease:

7 Section 14.3.1. The bankruptcy or insolvency of Tenant, the making of an
8 assignment of the benefit of creditors or institution by Tenant or another of a proceeding
9 under the Bankruptcy Act, in which Tenant is the bankrupt; or, if Tenant is a partnership or
10 consists of one or more persons or entities, the bankruptcy, insolvency or the making of an
11 assignment for the benefit of creditors by any partner of the partnership or other person or
12 entity.

13 Section 14.3.2. The levy of a writ of attachment or execution on this Lease,
14 which is not set aside or discharged within sixty (60) days.

15 Section 14.3.3. The appointment of a receiver with authority to take
16 possession of the Premises in any proceeding or action in which Tenant is a party.

17
18 **XV. DEFAULT**

19
20 Section 15.1. In addition to other defaults set forth in this Lease, the following shall
21 be deemed to be events of default by Tenant under this Lease:

22 Section 15.1.1. Tenant shall fail to pay any installment (or portion thereof)
23 of the Rent or Additional Rent (collectively, "**Rent Obligations**") required to be paid under
24 this Lease when due and such failure to pay shall continue for a period of three (3) days
25 after written notice is given to Tenant.

26 Section 15.1.2. Tenant shall vacate any substantial portion of the Premises
27 for a period in excess of ten (10) days.

28 Section 15.1.3. Tenant shall fail to comply with any term, provision or
29 covenant of this Lease, other than the payment of Rent Obligations and the failure is not
30 cured within twenty (20) days after notice is given to Tenant. If the default cannot be
31 cured within twenty (20) days, Tenant shall not be in default if Tenant commences to cure
32 and notifies Landlord of the schedule for completion within the twenty (20) day period,
33 and diligently and in good faith continues to cure the default, but in no event shall the cure
34 period be greater than forty five (45) days. Provided, however, if the Tenant is in default
35 under any individual term or provision of this Lease on more than two (2) occasions in a
36 consecutive twelve (12) month period, then the right to cure such event of default shall no
37 longer exist and shall constitute grounds for termination of this Lease.

1 Section 15.2. Upon the occurrence of an event of default, Landlord shall have
2 the option to pursue any one or more of the following remedies with or without notice or
3 demand in addition to any other remedies provided by law:

4 Section 15.2.1. Landlord can continue this Lease in full force and effect and
5 shall have the right to collect rent when due plus attorneys' fees and costs incurred by
6 Landlord in the collection of rent from Tenant. Landlord can enter the Premises and relet
7 them or any part of them to third parties for Tenant's account. Reletting may be for a
8 period shorter or longer than the remaining term of this Lease. Tenant shall pay to
9 Landlord the Rent Obligations due under this Lease on the dates when rent is due less the
10 rent Landlord receives from any reletting. Upon demand, Tenant shall be liable to Landlord
11 for all costs incurred in reletting the Premises, including, without limitation, broker's
12 commissions, attorneys' fees and like costs.

13 Section 15.2.2. Landlord can terminate Tenant's right to possession of the
14 Premises at any time by giving written notice. No other act by Landlord shall terminate
15 this Lease. Upon termination, Landlord has the right to recover from Tenant accrued and
16 unpaid rent prorated to the date of termination, the value of unpaid rents from the date of
17 termination to the date of a judicial award or other settlement less rent losses which could
18 reasonably have been avoided, the value of rents from the date of a judicial award or other
19 settlement to the date of expiration of the Lease less amounts of rent loss which Tenant
20 proves can be reasonably avoided by Landlord, and any other amounts including court
21 costs, attorneys' fees and broker's commissions, which are necessary to compensate
22 Landlord for all detriment proximately caused by Tenant's default. For the purposes of this
23 Section 15.2.2., the value of the future rents shall be equal to Rent.

24 Section 15.3. Landlord, at any time after Tenant commits a default, and appropriate
25 notice has been given without cure by Tenant, may cure the default. Any sum so paid by
26 Landlord in curing a default shall constitute Additional Rent due from Tenant and shall be
27 payable within ten (10) days after the making of demand therefor.

28 Section 15.4. No waiver of any provision in this Lease by Landlord shall be effective
29 unless it is set forth in a written instrument signed by Landlord. No waiver of any provision
30 in this Lease will imply or constitute a waiver of that or any other condition or agreement.
31 No failure of Landlord to enforce any right or remedy under this Lease will be a waiver of
32 the right or remedy. No act or thing done by Landlord or Landlord's agents during the Term
33 will be deemed an acceptance of a surrender of the Premises, and no agreement to accept a
34 surrender will be valid unless in writing signed by Landlord. The delivery of Tenant's keys
35 to any employee or agent of Landlord will not constitute a termination of this Lease or
36 surrender of the Premises unless Landlord has entered into a written agreement to that
37 effect. No payment by Tenant, nor receipt from Landlord, of a lesser amount than the rent
38 or other charges stipulated in this Lease will be deemed to be anything other than a
39 payment on account of the earliest stipulated rent. No endorsement or statement on any
40 check, or any letter accompanying any check or payment of rent, will be deemed an accord
41 and satisfaction. Landlord will accept the check for payment without prejudice to

COMMERCIAL LEASE

1 Landlord's rights to recover the balance of such rent or to pursue any other remedy
2 available to Landlord. If this Lease is assigned, or if the Premises or part of the Premises are
3 sublet or occupied by anyone other than Tenant, Landlord may collect rent from the
4 assignee, subtenant or occupant and apply the net amount collected to rent reserved in this
5 Lease. That collection will not be deemed a waiver of the covenant in this Lease against
6 assignment and subletting, or the acceptance of the assignee, subtenant or occupant as
7 Tenant, or a release of Tenant from the complete performance by Tenant of its covenants in
8 this Lease. The covenants set forth in the Lease are independent. Tenant shall have no right
9 to withhold or set off any Rent due Landlord.

10 Section 15.5. Landlord shall be in default of this Lease if it fails or refuses to
11 perform any provision of this Lease that it is obligated to perform if the failure is not cured
12 within twenty (20) days after notice of the default has been given to Landlord by Tenant. If
13 the default cannot be cured within twenty (20) days, Landlord shall not be in default if
14 Landlord commences to cure within the twenty (20) day period and diligently and in good
15 faith continues to cure the default. Landlord shall not be in default of this Lease if the
16 Association fails to maintain common elements and common areas in the Project.

17 Section 15.6. **LANDLORD AND TENANT HEREBY MUTUALLY WAIVE ANY AND**
18 **ALL RIGHTS WHICH EITHER PARTY MIGHT OTHERWISE HAVE TO REQUEST A TRIAL**
19 **BY JURY IN ANY PROCEEDING AT LAW OR IN EQUITY IN ANY COURT OF COMPETENT**
20 **JURISDICTION IN ANY ACTION ARISING FROM OR PERTAINING TO THIS LEASE.**

21 XVI. LANDLORD'S RIGHT OF ENTRY
22

23 Section 16.1. Landlord shall have the right, whenever the Premises are open for
24 business, to enter the Premises for the purposes of making inspections. Upon reasonable
25 advance notice to Tenant, Landlord shall have the right, at all reasonable hours, to enter the
26 Premises for the purposes of making repairs, restoring the Premises, or making alterations
27 or additions to the Professional Building as Landlord may deem necessary or desirable,
28 curing a default of Tenant, posting notices allowed under this Lease, posting "for sale" or
29 "for lease" signs during the last three (3) months of the Term or showing the Premises to
30 prospective brokers, agents or purchasers. Landlord's entry of the Premises for the
31 purposes of making repairs or alterations or additions to the Professional Building that
32 impact the Premises shall be made only after giving Tenant oral notice at least twenty-four
33 (24) hours in advance, except in the event of any repairs deemed by Landlord to be of an
34 emergency nature. Landlord shall not be liable for any unreasonable inconvenience,
35 disturbance, loss of business, nuisance or other damage arising out of Landlord's entry onto
36 the Premises except damage resulting from the acts or omissions of Landlord or its
37 authorized representatives. Tenant shall not be entitled to an abatement or reduction in
38 Rent if Landlord exercises any rights reserved under this Section 16.1, unless Landlord or
39 its representative's presence on the Premises continues for an extended amount of time or
40 significantly impairs Tenant's use of the Premises. Landlord shall conduct its activities on
41 the Premises as allowed in this Section 16.1 in a manner that will cause the least possible
42 inconvenience, annoyance, or disturbance to Tenant.

COMMERCIAL LEASE

1 XVII. SURRENDER OF PREMISES & HOLDING OVER

2
3 Section 17.1. Upon expiration of the Term, Tenant shall surrender to Landlord the
4 Premises and all Tenant's improvements and alterations in good condition, ordinary wear
5 and tear excepted. Tenant also shall remove all of Tenant's personal property that remain
6 on the Premises. If any such personal property is left remaining upon the Premises upon
7 termination or expiration of the Term, after ten (10) days written notice to Tenant,
8 Landlord may retain or dispose of any such personal property without liability to Tenant
9 for any damage resulting from such retention or disposition.

10 Section 17.2. If Tenant fails to surrender the Premises to Landlord within the time
11 provided in Section 17.1, Tenant shall hold Landlord harmless from all damages resulting
12 from Tenant's failure to surrender the Premises, including, without limitation, claims made
13 by a succeeding Tenant resulting from Tenant's failure to surrender the Premises.

14 Section 17.3. If Tenant, with Landlord's consent, remains on the Premises after the
15 time provided in Section 17.1, such holding over shall be deemed to be a month-to-month
16 tenancy terminable upon ten (10) days' notice given at any time by either party. All
17 provisions of this Lease, except those pertaining to term, shall apply to the month-to-month
18 tenancy.

19 Section 17.4. In the event of holding over by Tenant after the time provided in
20 Section 17.1 without consent of Landlord, the hold over shall be a tenancy at will and all the
21 terms of this Lease shall be applicable during that period except that Tenant shall pay
22 Landlord as Rent an amount equal to one-hundred and fifty percent (150%) of the last
23 month's Rent paid under the Lease and Additional Rent. Tenant shall vacate and deliver
24 the Premises to Landlord within ten (10) days upon receipt of notice from Landlord to
25 vacate. No holding over by Tenant, whether with or without consent of Landlord, shall
26 operate to extend this Lease.

27 XVIII. SECURITY INTEREST

28
29 Section 18.1. Tenant hereby grants to Landlord a first lien against and a security
30 interest in any and all of Tenant's furniture, fixtures, equipment and inventory located on
31 the Premises whenever acquired, their proceeds and the proceeds of any and all insurance
32 policies carried thereon as and for additional security for the faithful performance by
33 Tenant of all of its obligations hereunder. Tenant agrees to execute and deliver to
34 Landlord, upon request, such additional documents as Landlord may require, to establish
35 and perfect such security interest, including, without limitation, a financing statement in a
36 form satisfactory to Landlord, which is to be executed and delivered by Tenant to Landlord.
37 The exercise by Landlord of any rights in and to such furniture, fixtures, equipment and
38 inventory, upon default hereunder, shall be governed by Article IX of the Colorado Uniform
39 Commercial Code, as in effect at the time of such default, but such exercise shall not
40 preclude Landlord from exercising any or all other rights and remedies hereunder or as
41 provided by law or herein.

1 XIX. SUBORDINATION AND ESTOPPEL

2
3 Section 19.1. Tenant agrees that this Lease shall be subordinate to any
4 encumbrance affecting the Premises now of record or recorded after the date of this Lease,
5 provided that Tenant is granted a reasonable non-disturbance agreement. Such
6 subordination is and shall be effective without further act of Tenant. In the event of
7 foreclosure by the holder or beneficiary of any encumbrance recorded after the date of this
8 Lease, Tenant's right to possession of the Premises pursuant to the terms of this Lease,
9 shall continue, provided that Tenant is not in default and all rent payments are current and
10 provided further that Tenant shall attorn to such holder or beneficiary as may take title to
11 the Premises through foreclosure.

12 Section 19.2. Tenant agrees, at any time and from time to time, to execute,
13 acknowledge and deliver to Landlord, upon Landlord's request, any documents and
14 instruments which may reasonably be required by Landlord or by the holder or beneficiary
15 of a mortgage or deed of trust to evidence or effectuate such subordination. Tenant further
16 agrees, at any time and from time to time, to execute, acknowledge and deliver to Landlord,
17 a statement in writing certifying that this Lease is unmodified and in full force and effect,
18 or, if there have been modifications, that the same is in full force and effect as modified and
19 stating the modifications, and the dates to which any rent or other payments due
20 hereunder from Tenant have been paid in advance, if any, and stating such other
21 reasonable information about the Lease as may be requested, including, but not limited to,
22 whether or not, to the best of the knowledge and information of the Tenant, the Landlord is
23 in default in the performance of any covenant or condition of the Lease and, if so, specifying
24 each such default. It is intended that such a statement will be relied upon by the holder or
25 beneficiary, or prospective holder or beneficiary, of a mortgage or deed of trust, by
26 assignees of such holder or beneficiary or by prospective purchasers and that the Tenant
27 shall be estopped from asserting claims contrary to that which is set forth in such a
28 statement. If Tenant fails to execute and deliver any such documents, instruments or
29 statements within ten (10) days, Tenant irrevocably appoints Landlord as Tenant's special
30 attorney-in-fact to execute and deliver such documents, instruments and statements, and,
31 at Landlord's election, such failure shall be a material breach of this Lease.

32 XXI. MISCELLANEOUS

33
34 Section 21.1. If the interests of Landlord under this Lease shall be transferred by
35 reason of foreclosure or other proceedings for enforcement of any first mortgage on the
36 Premises, Tenant shall be bound to the transferee under the terms, covenants, and
37 conditions of this Lease for the balance of the term remaining, including any exercised
38 extensions or renewals, with the same force and effect as if the transferee were Landlord
39 under the Lease and Tenant agrees to attorn to the transferee, including the mortgagee
40 under any such mortgage, as its Landlord, the attornment be effective and self-operative
41 without the execution of any further instruments upon the transferee succeeding to the
42 interest of Landlord under this Lease, provided that Tenant is granted a reasonable non-

1 disturbance agreement. The respective rights and obligations of Tenant and the transferee
2 upon the attornment, to the extent of the then remaining balance of the term of this Lease
3 shall be and are the same as those set forth in this Lease.

4 Section 21.2. All notices or demands required or permitted under this Lease shall be
5 in writing and shall be effective if: (i) sent by registered or certified mail, postage prepaid,
6 and return receipt requested, with such notice or demand to be deemed given seven (7)
7 days after so deposited in the United States mail and addressed to the party at the address
8 as set forth below; or (ii) by personal delivery if sent by Federal Express, United Parcel
9 Service, or other similar delivery service, addressed to the party at the address as set forth
10 below; with such notice or demand to be deemed given upon delivery of same; or (iii) by
11 email, with proof of delivery with such notice or demand to be deemed given upon delivery
12 of the same. Either party may change its address by giving notice. Nothing in this Section
13 shall prevent the giving of notice in such manner as prescribed by the Colorado Rules of
14 Civil Procedure for the service of legal process. The initial addresses of the parties for
15 notice are:

16 Tenant:	Landlord:
17	
18 Zweig Law, PC	Town of Breckenridge
19 130 Ski Hill Rd. Ste. 200	P.O. Box 168
20 P.O. Box 204	Breckenridge, CO 80424
21 Breckenridge, CO 80424	Attn.: Rick G. Holman, Town
22 Manager	
23	

24 with a copy to:

25	
26 Breckenridge Real Estate Company, LLC	
27 Attn: Jason Swinger	
28 PO Box 5157	
29 Breckenridge, CO 80424	
30 Email: jason@realbreckenridge.com	

31 Section 21.3. Tenant shall not record this Lease or a Memorandum of Lease in any
32 public records.

33
34 Section 21.4. In the event of any default or breach of this Lease, or any provision
35 hereof, the party which is not in breach or default hereunder shall be entitled to recover
36 from the breaching or defaulting party all reasonable attorneys' fees and costs (including,
37 without limitation, expert witness fees) incurred by such non-breaching or non-defaulting
38 party in enforcing the terms and provisions of this Lease or in enforcing such party's rights
39 arising hereunder or pursuant to law.

40 Section 21.5. This Lease shall be binding and inure to the benefit of Landlord and
41 Tenant and their respective heirs, personal representative, successors and assigns.

COMMERCIAL LEASE

1 Section 21.6. This Lease shall be construed and interpreted in accordance with the
2 laws of the State of Colorado without regard to its conflict of laws rules that might require
3 it to be construed or interpreted under the laws of any other state. Venue shall be proper in
4 the state courts of Summit County, Colorado.

5 Section 21.7. Neither Landlord nor any agent of Landlord has made any
6 representations or promises with respect to the Premises except as expressly set forth in
7 this Lease. This Lease contains all the agreements of the parties and cannot be amended or
8 modified except by an agreement in writing.

9 Section 21.8. Upon Tenant paying the Rent and Additional Rent, and observing the
10 performing all of the terms, covenants and conditions contained in this Lease, Tenant shall
11 have quiet possession of the Premises for the entire term or any renewal thereof, subject to
12 all of the provisions of this Lease.

13 Section 21.9. When required by the context, the singular shall include the plural and
14 the use of any one gender shall include any other gender. The captions used herein are for
15 convenience only and shall not be considered a part of this Lease.

16 Section 21.10. The unenforceability, invalidity or illegality of any provisions of this
17 Lease shall not render any other provision unenforceable, invalid or illegal. To the extent
18 practicable, the invalid provisions shall be deemed to be amended to comply with
19 applicable law in such a way as to correspond as close as possible to the intent of the
20 parties as determined from the context.

21 Section 21.11. All indemnity obligations required by this Lease shall survive the
22 expiration or termination of this Lease and shall be fully enforceable thereafter, subject to
23 any applicable statute of limitation.

24 Section 21.11. As used in this Lease a “day” is a calendar day.

25 Section 21.13. In computing any period of time prescribed or allowed by this Lease,
26 the day of the act or triggering event from which the designated time begins to run shall
27 not be included and all references to days shall be calendar days.

28 Section 21.14. This Lease may be executed simultaneously in two (2) or more
29 counterparts, each of which shall be deemed an original and all of which, when taken
30 together, constitute one and the same document. The signatures of any party to any
31 counterpart shall be deemed a signature to, and may be appended to, any other
32 counterpart.

33 Section 21.13.The “Effective Date” of this Agreement shall be the date when the later
34 of Landlord and Tenant executes this Agreement.

35 IN WITNESS WHEREOF, the parties hereto have entered into this Lease Agreement
36 as of the day and year first above written.

COMMERCIAL LEASE

1

LANDLORD:

TOWN OF BRECKENRIDGE, a Colorado
municipal corporation

By: _____
Rick G. Holman, Town Manager

Date: _____

ATTEST:

Helen Cospolich, CMC,
Town Clerk

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13

TENANT:

Zweig Law, PC

By: _____
Steven M. Zweig

Title: Owner

Date: _____

1 EXHIBIT A

2 GUARANTY OF LEASE

3
4 FOR VALUE received, and in consideration for, and as an inducement to the Town of
5 Breckenridge, its successors and assigns (“**Landlord**”) entering into that certain
6 COMMERCIAL LEASE with a Commencement Date of July 1, 2020 (the “**Lease**”) with
7 Zweig Law, PC (“**Tenant**”), covering the Premises legally described as Condominium
8 Unit(s) 200, according to the Condominium Map of the Sawmill Station Square
9 Commercial Building No. 1 recorded January 7, 1980, under Reception No. 201810, and as
10 defined and described in the Condominium Declaration recorded January 7, 1980 at Reception
11 No. 201809 and Amendment recorded September 14, 1084 at Reception No. 284378, all in the
12 records of the Clerk and Recorder of Summit County, Colorado, Town of Breckenridge, County
13 of Summit, State of Colorado, with an address of 130 Ski Hill Road, Unit(s) 200,
14 Breckenridge, CO 80424:

15
16 The undersigned, Steven M. Zweig and Maryjo C. Zweig, guarantee the full and
17 timely performance and observance by Tenant of all financial obligations to be performed
18 and observed by Tenant in said Lease, including but not limited to the timely payment of
19 Rent, Additional Rent, CAM, taxes and insurance, and expressly agrees that the validity of
20 this agreement and the obligations of the guarantor hereunder shall in no wise be
21 terminated, affected, or impaired by reason of the assertion by Landlord against Tenant of
22 any of the rights or remedies reserved to landlord pursuant to the provisions of the said
23 Lease or by the relief of Tenant from any of Tenant’s obligations under the Lease by
24 operation of law or otherwise (including, but without limitation, the rejection of the Lease
25 in connection with proceedings under the bankruptcy laws now or hereafter enacted); the
26 undersigned hereby waiving all suretyship defenses.

27
28 The undersigned further covenant and agree that this guaranty shall remain and
29 continue in full force and effect for the entire Lease term. The undersigned further agree
30 that in any right of action which shall accrue to Tenant, under the Lease, Landlord may, at
31 Landlord’s option, proceed against the undersigned and Tenant, jointly and severally, and
32 may proceed against the undersigned without having commenced any action against or
33 having obtained any judgment against Tenant.

34
35 It is agreed that the failure of Landlord to insist in any one or more instance upon a
36 strict performance or observance of any of the terms, provisions, or covenants of the said
37 Lease or to exercise any right therein contained shall not be construed or deemed to be a
38 waiver or relinquishment for the future of such term, provisions, covenant, or right, but the
39 same shall continue and remain in full force and effect. Receipt by Landlord of Rent and
40 Additional Rent with knowledge of the breach of any provisions of the foregoing Lease
41 shall not be deemed a waiver of such breach.

42
43 The undersigned guarantors agree to pay, upon demand, all reasonable attorney
44 fees and other expenses of Landlord incurred in enforcing any provision of this guaranty,
45 provided Landlord prevails in any such enforcement action. Except as may be otherwise

1 specifically provided in the Lease, a subletting, assignment, or other transfer of the said
2 Lease, or any interest therein, shall not operate to extinguish or diminish the liability of the
3 undersigned guarantors under this guaranty; and wherever reference is made to the
4 liability of Tenant named in the said Lease, such reference shall be deemed likewise to refer
5 to the undersigned guarantors.
6

7 It is further agreed that all of the terms and provisions hereof shall inure to the
8 benefit of the respective heirs, personal representatives, successors and assigns of
9 Landlord, and shall be binding upon the respective heirs, personal representatives,
10 successors and assigns of the undersigned. All matters relevant to this guaranty shall be
11 construed in accordance with the laws of the State of Colorado, and any controversy arising
12 herefrom shall be governed by the laws of the State of Colorado without regard to its
13 conflict of laws rules that might require it to be construed or interpreted under the laws of
14 any other state. The undersigned agrees that in the event suit must be brought in
15 connection with the enforcement of or any other matters relating to this guaranty, the
16 District Court in and for Summit County, Colorado shall have personal jurisdiction over the
17 undersigned.
18

19 All terms used in this Guaranty of Lease that are defined in the Lease shall have the
20 meaning provided in the Lease.
21

22 IN WITNESS WHEREOF, the undersigned guarantors have caused this guaranty to
23 be executed this ____ day of _____, 2020.
24
25

26 _____
27 **Steven M. Zweig**
28
29

30 _____
31 **Maryjo C. Zweig**
32
33
34
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36



Memo

To: Breckenridge Town Council Members
From: Open Space & Trails Staff
Date: 4/22/2020
Subject: Recreation Road and Trail Management IGA with Summit County

The Town has had an intergovernmental agreement (IGA) with Summit County to guide the management and funding of joint land acquisitions since 2011. The existing IGA does not address shared responsibilities such as trail maintenance and construction on jointly owned or managed properties.

The Town and County have been working with the U.S. Forest Service to discuss joint management of the recreation roads and trails within an expanded area of the Golden Horseshoe. At the end of 2019, the County entered into a Special Use Authorization (SUA) with the U.S. Forest Service to manage these resources. Because the U.S. Forest Service authorizations only allow one applicant, or proponent, the Town and County have been working on an updated IGA to guide our shared responsibilities for not only the Golden Horseshoe recreation roads and trails management included in the SUA but also management of our jointly owned trail network. The attached IGA addresses this shared management.

The BOCC is also reviewing the IGA. Please let staff know of any questions or concerns.

1 WHEREAS, the County and the Town have agreed to jointly manage properties that both
2 have cooperated in purchasing as set forth in their previous Intergovernmental Agreement dated
3 March 2, 2011, as amended (“**Joint Properties**”); and
4

5 WHEREAS, the Town is qualified and capable of assisting the County in the
6 performance of certain of the County’s duties and obligations under the SUA; and
7

8 WHEREAS, the County and the Town anticipate having the staff and financial resource
9 sufficient to allow them to assume the responsibilities to perform their respective obligations, all
10 as more fully set forth in the Intergovernmental Agreement hereafter described; and
11

12 WHEREAS, the County and the Town have agreed between themselves as to the way in
13 which each of them will share in the performance of certain of the County’s duties and
14 obligations under the SUA, all as more fully set forth in the Intergovernmental Agreement
15 hereafter described; and
16

17 WHEREAS, the County and the Town have further agreed between themselves as to the
18 way in which each of them will share in the performance of certain duties and obligations
19 regarding roads and trails on Joint Properties, all as more fully set forth in the Intergovernmental
20 Agreement hereafter described; and
21

22 WHEREAS, a proposed Intergovernmental Agreement between the Town and Summit
23 County Government has been prepared, a copy of which is marked **Exhibit “A”**, attached hereto,
24 and incorporated herein by reference; and
25

26 WHEREAS, the Town Council has reviewed the proposed Intergovernmental Agreement
27 and finds and determines that it would be in the best interest of the Town to enter into such
28 agreement.
29

30 NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF
31 BRECKENRIDGE, COLORADO:
32

33 Section 1. The Intergovernmental Agreement with Summit County Government (**Exhibit**
34 **“A”** hereto) is approved, and the Mayor is authorized, empowered, and directed to execute such
35 agreement for and on behalf of the Town of Breckenridge.
36

37 Section 2. All resolutions, or parts thereof, inconsistent herewith are hereby repealed to
38 the extent only of such inconsistency. This repealer shall not be construed to revive any such
39 resolution, or part thereof, heretofore repealed.
40

41 Section 3. This resolution is effective upon adoption.
42

43 RESOLUTION APPROVED AND ADOPTED this ___ day of ___, 2020.
44

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TOWN OF BRECKENRIDGE, a Colorado municipal corporation

By: _____
Eric S. Mamula, Mayor

ATTEST:

Helen Cospolich, CMC,
Town Clerk

APPROVED IN FORM

Town Attorney Date

1 INTERGOVERNMENTAL AGREEMENT
2 (Recreation Road and Trail Management)
3

4 This Intergovernmental Agreement (“**Agreement**”) is dated _____,
5 2020 (“**Effective Date**”) and is between the TOWN OF BRECKENRIDGE, a Colorado
6 municipal corporation (“**Town**”) and SUMMIT COUNTY, COLORADO, acting by and through
7 the BOARD OF COUNTY COMMISSIONERS OF SUMMIT COUNTY, COLORADO
8 (“**County**”). The Town and the County are sometimes referred to individually as a “**Party**”, or
9 together as the “**Parties**.”
10

11 WHEREAS, the Town is a home rule municipal corporation organized and existing under
12 Article XX of the Colorado Constitution; and
13

14 WHEREAS, the County is a quasi-municipal corporation organized and existing under the laws
15 of the State of Colorado; and
16

17 WHEREAS, the County holds a Special Use Authorization approved by the U.S.
18 Department of Agriculture Forest Service (“**Forest Service**”) on July 17, 2019, a copy of which
19 is marked “**Exhibit “A”**”, attached hereto, and incorporated herein by reference (“**SUA**”); and
20

21 WHEREAS, the SUA applies to certain Forest Service lands located in Summit County,
22 Colorado as described and depicted in the SUA; and
23

24 WHEREAS, the SUA was issued to the County for the stated purpose of:

25
26 construction, operation, and maintenance responsibilities associated with
27 recreation road and trail resources in and around the Golden Horseshoe Area east
28 of Breckenridge, CO on National Forest System lands (including trailheads,
29 existing summer and winter roads, motorized trails (limited), and non-motorized
30 trails); and
31

32 WHEREAS, the SUA imposes certain duties and obligations on the County; and
33

34 WHEREAS, the County has determined that it is in its best interest to authorize the Town
35 to assist the County in the performance of certain of the County’s duties and obligations under
36 the SUA; and
37

38 WHEREAS, the County and Town have cooperatively funded the acquisition of over
39 5,000 acres of property to be held as public open space; and
40

41 WHEREAS, the County and Town are continuing to purchase open space properties
42 together; and
43

44 WHEREAS, the County and Town have agreed to jointly manage properties that both
45 have cooperated in purchasing according to their previous Intergovernmental Agreement dated
46 March 2, 2011, as amended (“**Joint Properties**”); and

INTERGOVERNMENTAL AGREEMENT

91

1
2 WHEREAS, the Town is qualified and capable of assisting the County in the
3 performance of certain of the County's duties and obligations under the SUA; and
4

5
6 WHEREAS, the Parties anticipate having the staff and financial resource sufficient to
7 allow them to assume the responsibilities set forth in this Agreement; and
8

9 WHEREAS, the Parties have agreed between themselves as to the way in which each of
10 the Parties will share in the performance of certain of the County's duties and obligations under
11 the SUA, all as more fully set forth in this Agreement; and
12

13 WHEREAS, the Parties have agreed between themselves as to the way in which each of
14 the Parties will share in the performance of certain duties and obligations regarding roads and
15 trails on Joint Properties, all as more fully set forth in this Agreement.
16

17 NOW, THEREFORE, for and in consideration of the mutual promises and covenants
18 contained herein, and intending to be legally bound, the Parties agree as follows:
19

20 1. Authority. This Agreement is entered into pursuant to the authority granted by Article
21 XIV, Section 18(2)(a) of the Colorado Constitution and Part 2 of Article 1 of Title 29, C.R.S.

22 2. Intent. It is the intent and purpose of this Agreement to establish a framework for the
23 Town and County to assist in the performance of the County's contractual obligation to the
24 Forest Service under the SUA to provide management, maintenance, and construction of
25 summer and winterized non-motorized trails and recreational roads within the Permit Area. The
26 Parties believe that their cooperative management and maintenance of the summer and winter
27 recreational resources located within the Permit Area will provide seamless management, and
28 therefore be to the mutual benefit of the Parties, their respective residents, and the many visitors
29 who use the Permit Area for recreational purposes each year. Because many Joint Properties are
30 within the Permit Area, and the Parties also desire to provide seamless management of all Joint
31 Properties, it is the further intent of this Agreement to define the management of recreational
32 roads and trails on Joint Properties. In the performance of their obligations under this
33 Agreement, the Parties will seek to implement the established Golden Horseshoe Management
34 Plan and the White River National Forest Travel Management Plan, as the same may be
35 amended from time to time throughout the Term of this Agreement.

36 3. Definitions.

37 A. In addition to the terms that are defined parenthetically in this Agreement, the
38 following terms have the following meanings, unless the context clearly requires otherwise:

Act: The Colorado Governmental Immunity Act, Part 1 of
Article 10 of Title 24, C.R.S., as amended from time to
time throughout the Term of this Agreement.

Authorized Representative:	A person designated by a Party as having the authority to settle a controversy on behalf of such Party pursuant to Section 13 of this Agreement.
Day:	A calendar day, unless otherwise indicated.
Defaulting Party:	A Party alleged to be in default under this Agreement.
NEPA:	The National Environmental Policy Act, as amended from time to time throughout the Term of this Agreement, and all applicable administrative rules and regulations.
Non-Defaulting Party:	The Party asserting that the other Party is in default under this Agreement.
Operations and Management (Operating) Plan:	The plan required to be prepared and revised annually by the County under Section IIIC of the SUA.
Permit Area:	The real property located in Summit County, Colorado that is the subject of the SUA. As described in the SUA, the Permit Area “covers approximately 75 miles in Sections 15, 16, and 24 through 36, T.6 S., R.77 W., and Sections 2, 3, 4, 5, 8, 9, 10, and 16, T.7 S., R.77 W., 6 th P.M., . . . as shown on the maps attached as Exhibit A and Exhibit B” to the SUA.
Term:	Both the initial term and all renewal terms of this Agreement as described in Section 4.
TMP:	The White River National Forest Travel Management Plan, as amended from time to time throughout the Term of this Agreement.
Will or Will Not:	Terms indicating a mandatory obligation to act or to refrain from acting, respectively, as described in this Agreement.

1
2 B. All of the defined terms in the SUA are incorporated by reference into this Agreement.
3

4 4. Term.

5
6 4.1 The initial term of this Agreement commences as of the Effective Date of this
7 Agreement and ends, subject to earlier termination as hereafter provided, on December 31, 2019.

8 4.2 On January 1, 2020, and on each subsequent January 1st, this Agreement will
9 automatically renew for successive terms of one year each until such time as either the Town or

1 the County give written notice of termination in accordance with the next sentence of this
2 Section 4.2. Beginning October 1, 2020, either Party may terminate this Agreement, without
3 cause and without liability for breach, by giving the other Party written notice of termination
4 prior to October 1st any calendar year. Such notice must be given in the manner provided for in
5 Section 14. Upon the giving of timely notice of termination, this Agreement will terminate (and
6 will not be renewed) on the next December 31st following the giving of the notice of termination.

7 5. Agreement Not An Assignment of the SUA. In recognition of the fact that the SUA is
8 not assignable or transferable, nothing in this Agreement shall be interpreted as an assignment
9 of the SUA. Notwithstanding anything contained in this Agreement, the County will remain
10 contractually obligated to the Forest Service as provided in the SUA.

11 6. Agreement To Cooperate Regarding Certain County Obligations Under the SUA. The
12 Parties agree to cooperate regarding the County's contractual obligations to the Forest Service
13 under the SUA with respect to the construction, operation, and maintenance of the Permit Area,
14 all as more fully set forth in this Agreement. All obligations of the SUA that are not agreed to be
15 jointly shared by the Parties in this Agreement shall remain the sole obligation of the County.
16 When assisting in the performance of the County's contractual obligations to the Forest Service
17 as described in the SUA with respect to the construction, operation, and maintenance of the
18 Permit Area the Town shall be authorized to act on behalf of the County as provided herein.

19 7. Description of Work to be Shared by the Parties. Unless otherwise agreed by the
20 Parties and the Forest Service, the work to be shared by the Parties under this Agreement may
21 be generally described as follows:

22 A. The maintenance and management of all current and future non-motorized
23 recreational trails and roads on Joint Properties, and assisting with the maintenance and
24 management of all current and future nonmotorized recreational trails and roads in the Golden
25 Horseshoe and adjacent Intermix prescription as set forth in the SUA and amended over time,
26 including trailheads and portals.

27 B. Assisting with signage and removal of dead, fallen, or hazardous trees on motorized
28 single-track trails.

29 C. Identifying any proposed changes to the boundary of the Permit Area.

30 D. Pending NEPA, reviewing, envisioning, planning, and implementing new sustainable
31 trails as generally depicted on the maps attached as exhibits to the SUA.

32 E. Pending NEPA, reviewing, establishing winter non-motorized use of trails within the
33 Permit Area for a variety of user groups, including fat bikes, as generally depicted on the maps
34 attached as exhibits to the SUA.

35 F. Town will conduct winter grooming of trails with administrative use of snowmobile
36 with grooming attachment on trails and snowcat on roads as approved in Exhibit B of the SUA
37 and amended by mutual agreement over time.

1 G. Maintaining the recreational road network within the Permit Area and on Joint
2 Properties.

3 H. Implementing closures of non-system, user-created routes in accordance with the
4 TMP.

5 I. Funding and staffing to construct various community trail projects within the Permit
6 Area and on Joint Properties.

7 J. Additional land acquisitions to assist with the seamless management approach within
8 the Permit Area and on Joint Properties.

9 K. Long term management of the recreational road network and non-motorized trail
10 facilities in the Permit Area and on Joint Properties.

11 L. Enhancing recreational experience via trail etiquette education efforts and wayfinding
12 signage.

13 M. Providing consistent updates on project progress within the Permit Area and on Joint
14 Properties.

15 N. Completing vegetation and forest health management on an “as needed” basis to
16 maintain a safe, sustainable recreational travel network.

17 8. Operations and Management Plan.

18 8.1 By the date established in the SUA the Parties will jointly develop the Operating
19 Plan (“Ops Plan”) required in Section IIIC of the SUA. However, the County (as the SUA
20 holder) will submit the Ops Plan as required by the SUA. After the submission and approval of
21 the initial Ops Plan, the Parties will jointly prepare any required revisions to the Ops Plan. As
22 provided in this Section 8, from time to time throughout the Term of this Agreement the Parties
23 will agree between themselves as to how to implement the Ops Plan.

24 8.2 The Ops Plan will lay out a mutually agreed plan for the work required to be
25 performed by the Parties in the Permit Area, and such other work within the Permit Area as the
26 Parties may desire (even though not required under the terms of the SUA). The Parties anticipate
27 that the Ops Plan (both as originally approved and as revised and updated throughout the Term
28 of this Agreement), will cover the anticipated work for approximately a 5-year period.

29 8.3 The Ops Plan will be signed by the County, and will include, without limitation,
30 mutually acceptable plans for the construction, operation, and maintenance of the summer and
31 winterized non-motorized trails and recreational roads within the Permit Area.

32 8.4 The Ops Plan may be revised and updated at any time, subject to the approval of
33 both of the Parties and the Forest Service.

1 8.5 At least annually the Parties will meet and confer to discuss the Ops Plan and any
2 work anticipated on Joint Properties, and define the allocation of the required work and funding
3 between the Parties.

4 8.6 Unless otherwise agreed by the Parties, plans for work by either Town or County
5 under this Agreement will always include the following provisions:

6 A. Proposals for new trail construction or realignments must be presented to each Party
7 in writing with sufficient time for review and approval. Written approval and all necessary
8 permits shall be obtained prior to construction.

9 B. Proposals for mechanical grading, excavation or any other “heavy maintenance”
10 which may alter the character or function of trails or roads must be presented to each Party in
11 writing with sufficient time for review and approval. Written approval and all necessary permits
12 shall be obtained prior to construction.

13 C. Because there are trails on Joint Properties and within the Permit Area that are
14 suitable for use by bicycles, and bicycles may also be operated as a part of the Town’s trail
15 network, the Town’s indemnity obligation under Section 12.1 will apply to liability, claims, and
16 demands, on account of injury, loss, or damage, including, without limitation, claims arising
17 from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any
18 other loss of any kind whatsoever, arising out of the construction, maintenance, operation, or use
19 of all features constructed by the Town on the trails within the Permit Area that are designed for
20 use by riders of bicycles.

21 D. The Party responsible for providing construction and maintenance activities for a
22 particular project that is covered by the Ops Plan will provide: (i) appropriate training of
23 employees and others who will be responsible for the performance of such construction and
24 maintenance activities; (ii) regular on-site monitoring and observance of the performance of the
25 work for the project; and (iii) posting information and warning signs (as deemed necessary by
26 such Party) at appropriate locations in or near the site of the work.

27 E. It is anticipated that in the absence of an emergency requiring action by the Parties at
28 other times of the year, maintenance and construction activities will occur primarily during the
29 summer field season from May – November each year.

30 F. When working within the area that is subject to this Agreement, each of the Parties
31 will take appropriate steps to minimize the chance of the occurrence of an event relating to
32 hazardous materials.

33 8.7 Neither Party is required to track staff time and costs required in connection with
34 the work required under this Agreement.

35 8.8 In recognition of the fact that throughout the Term of this Agreement the Parties
36 anticipate that each of them will have different staffing and financial resources available to
37 implement projects, it is agreed that this Agreement does not require the Parties to share equally
38 in project implementation. Subject to Section 9, each Party retains the right from time to time to

1 determine the extent to which it will participate in the implementation of work proposed under
2 this Agreement.

3 9. Financial Obligations Required To Implement Agreement.

4 9.1 The Parties will agree from time to time which Party will be responsible to
5 perform and pay for the work required to implement the Ops Plan or proposed on Joint
6 Properties. Subject to the Parties' obligations to jointly share certain expenses as described in
7 Section 8.8 , such Party will then be solely responsible for the performance of and the payment
8 for such work.

9 9.2 The Parties acknowledge that there will be times when one of the Parties may
10 provide more than 50% of the costs of the work under this Agreement. The Parties agree that the
11 allocation of the cost of the work will be determined on a project-by-project basis. Once a final
12 determination has been made as to the allocation of the costs and management responsibilities of
13 a particular project, the agreement with respect to the payment of the costs associated with such
14 particular project shall be confirmed in writing by both of the Parties.

15 9.3 The financial obligation of each of the Parties required to pay for its share of the
16 work to be performed is subject to annual appropriation by the governing body of such Party as
17 provided in Section 15 of this Agreement.

18 10. Amendments to the SUA. The County agrees that throughout the Term of this
19 Agreement it will not seek to amend the SUA without the prior approval of the Town.

20 11. Governmental Immunity. The Parties are each relying on, and do not waive or
21 intend to waive by any provision of this Agreement, the monetary limitations (presently
22 \$387,000 per person and \$1,093,000 per occurrence) or any other limitation, right, immunity,
23 defense or protection otherwise available to Town and the County, and their respective officers,
24 representatives, agents, and employees.

25 12. Mutual Indemnification.

26 12.1 Indemnification By Town. The Town will indemnify and defend the County, its
27 officers, employees, insurers, and self-insurance pool against all liability, claims, and demands,
28 on account of injury, loss, or damage, including, without limitation, claims arising from bodily
29 injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any
30 kind whatsoever, arising out of or in any manner connected with this Agreement, to the extent
31 that such injury, loss, or damage is caused by:

32 A. the negligence or intentional wrongful act or omission of the Town, or any officer,
33 employee, representative or agent of the Town; or

34 B. the Town's breach of this Agreement,

35 except to the extent such liability, claim or demand arises through the negligence or intentional
36 wrongful act of the County, its officers, employees, or agents, or the County's breach of this
37 Agreement. To the extent indemnification is required under this Agreement, the Town agrees to

1 investigate, handle, respond to, and to provide defense for and defend against, any such liability,
2 claims, or demands at its expense, and to bear all other costs and expenses related thereto,
3 including court costs and attorney fees.

4
5 12.2 Indemnification By County. The County will indemnify and defend the Town, its
6 officers, employees, insurers, and self-insurance pool against all liability, claims, and demands,
7 on account of injury, loss, or damage, including, without limitation, claims arising from bodily
8 injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any
9 kind whatsoever, arising out of or in any manner connected with this Agreement, to the extent
10 that such injury, loss, or damage is caused by:

11 A. the negligence or intentional wrongful act or omission of the County, or any officer,
12 employee, representative or agent of the County; or

13 B. the County's breach of this Agreement,

14 except to the extent such liability, claim or demand arises through the negligence or intentional
15 wrongful act of the Town, its officers, employees, or agents, or the Town's breach of this
16 Agreement. To the extent indemnification is required under this Agreement, the County agrees to
17 investigate, handle, respond to, and to provide defense for and defend against, any such liability,
18 claims, or demands at its expense, and to bear all other costs and expenses related thereto,
19 including court costs and attorney fees.

20
21 12.3 Indemnity Subject To Act. The obligation of a Party to indemnify and defend the
22 other Party pursuant to this Section 12 is expressly subject to any applicable limitation or
23 provision of the Act or any other law providing similar limitations or protections.

24 12.4 Indemnity For Worker's Compensation Claims.

25 A. The Town will indemnify and defend the County with respect to any claim,
26 damage, or loss arising out of any worker's compensation claim of any employee of the Town.

27 B. The County will indemnify and defend the Town with respect to any claim,
28 damage, or loss arising out of any worker's compensation claim of any employee of the County.

29 12.5 Survival. The obligation of a Party to indemnify and defend the other Party
30 pursuant to this Section 12 will survive the termination of this Agreement, and will continue to
31 be enforceable thereafter until such obligations are fully performed, subject to any applicable
32 statute of limitation or statute of repose.

33 13. Default; Resolution Of Disputes.

34 13.1 Default. A default will exist under this Agreement if any Party violates any
35 covenant, condition, or obligation required to be performed hereunder. If any Party fails to cure
36 such default within 20 business days after another Party gives written notice of the default to the
37 Defaulting Party, then, at the Non-Defaulting Party's option, the Non-Defaulting Party may
38 terminate this Agreement. In the event of a default not capable of being cured within 20 business

1 days, a Defaulting Party will not be in default hereunder if it commences curing the default
2 within 20 business days after receipt of written notice of default from the Non-Defaulting Party,
3 and thereafter cures such default with due diligence and in good faith. Notwithstanding any
4 Party's right to terminate this Agreement for an uncured default, this Agreement is subject to the
5 rights of any Party to invoke the remaining provisions of this Section 13.

6 13.2 Negotiation. Either Party may give the other Party written notice of any dispute
7 arising out of or related to this Agreement that is not resolved in the normal course of business.
8 The Parties will attempt in good faith to resolve any such dispute promptly by negotiations
9 between the Parties' Authorized Representatives. Within 15 business days after receipt of said
10 notice, Authorized Representatives will meet at a mutually acceptable time and place, and
11 thereafter as often as they reasonably deem necessary, to exchange relevant information and to
12 attempt to resolve the dispute. If the matter has not been resolved within 60 business days of the
13 notice of dispute, or if the Parties fail to initially meet within 15 business days, either Party to the
14 dispute may initiate mediation of the controversy as provided below.

15 13.3 Mediation. If the dispute has not been resolved by negotiation as provided above,
16 the Parties will endeavor to settle the dispute by mediation with a neutral third party. If the
17 Parties encounter difficulty in agreeing on a neutral third party, they may each appoint a neutral
18 third party and such third parties will appoint a neutral third party to mediate.

19 13.4 Arbitration. Any dispute arising out of or relating to this Agreement or the
20 breach, termination, or validity hereof, which has not been resolved by the methods set forth
21 above within 60 business days of the initiation of mediation, will be finally settled by binding
22 arbitration conducted expeditiously in accordance with the commercial arbitration rules of the
23 American Arbitration Association (or other rules as may be agreed to by the Parties) by a sole
24 arbitrator. The place of arbitration will be Breckenridge, Colorado. The arbitrator is not
25 empowered to award damages in excess of compensatory damages.

26 13.5 Provisional Remedies. The procedures specified in this Section 13 are the sole
27 and exclusive procedures for the resolution of disputes among the Parties arising out of or
28 relating to this Agreement; provided, however, that a Party may seek a preliminary injunction or
29 other provisional judicial relief if, in its judgment, such action is necessary to avoid irreparable
30 damage or to preserve the status quo. Despite such action, the Parties will continue to participate
31 in good faith in the procedures specified in this Section 13.

32 13.6 Performance To Continue. Each Party is required to continue to perform its
33 obligations under this Agreement pending final resolution of any dispute arising out of or
34 relating to this Agreement.

35 13.7 Extension Of Deadlines. All deadlines specified in this Section may be extended
36 by mutual agreement.

37 13.8 Costs. Each Party will pay its own costs with respect to negotiation and
38 mediation. The prevailing Party in any arbitration or provisional judicial relief is entitled to
39 reimbursement from the other Party for all reasonable costs and expenses, including attorney fees
40 in connection with such arbitration or provisional judicial relief.

1 14. Notices. All notices required or permitted under this Agreement must be given by
2 registered or certified mail, return receipt requested, postage prepaid, or by hand or commercial
3 carrier delivery, or by telecopies directed as follows:

4 If intended for Town to:
5 Open Space and Trails Manager
6 Town of Breckenridge
7 P.O. Box 168
8 Breckenridge, CO 80424
9 (970)547-3155

10
11 and
12 Town of Breckenridge
13 P.O. Box 168
14 150 Ski Hill Road
15 Breckenridge, Colorado 80424
16 Attn: Rick G. Holman, Town Manager
17 Telecopier number: (970)547-3104
18 Telephone number: (970)453-2251

19
20 with a copy in each case (which will not constitute notice) to:

21
22 Timothy H. Berry, Esq.
23 Town Attorney
24 Timothy H. Berry, P.C.
25 131 West 5th Street
26 P.O. Box 2
27 Leadville, Colorado 80461
28 Telephone number: (719)486-1889
29 Telecopier number: (719)486-3039

30
31 If intended for County, to:
32 Open Space and Trails Director
33 P.O. Box 5660
34 Frisco, CO 80443
35 Telephone number: (970)668-4067

36
37 and
38 Board of County Commissioners
39 P.O. Box 68
40 Breckenridge, Colorado 80424
41 Attn: Scott Vargo, County Manager
42 Telephone number: (970)453-3401
43 Telecopier number: (970)453-3535

44
45 with a copy in each case (which will not constitute notice) to:

1
2 Jeff Huntley, Esq.
3 Summit County Attorney
4 P.O. Box 68
5 Breckenridge, Colorado 80424
6 Telephone number: (970)453-3407
7 Telecopier number: (970)454-3535
8

9 Any notice delivered by mail in accordance with this Section 14 is deemed to have been duly
10 given and received on the third business day after the same is deposited in any post office or
11 postal box regularly maintained by the United States postal service. Any notice delivered by
12 telecopier in accordance with this Section 14 is deemed to have been duly given and received
13 upon receipt if concurrently with sending by telecopier receipt is confirmed orally by telephone
14 and a copy of said notice is sent by certified mail, return receipt requested, on the same day to
15 that intended recipient. Any notice delivered by hand or commercial carrier is deemed to have
16 been duly given and received upon actual receipt. Either Party, by notice given as above, may
17 change the address to which future notices may be sent. E-mail is not a valid method for the
18 giving of notice under this Agreement.
19

20 15. Annual Appropriation.
21

22 15.1 Town Appropriation. Notwithstanding anything herein contained to the contrary,
23 the Town's obligations under this Agreement are expressly subject to an annual appropriation
24 being made by the Town Council of the Town of Breckenridge in an amount sufficient to allow
25 Town to perform its obligations under this Agreement. If sufficient funds are not so appropriated,
26 this Agreement may be terminated by either Party without penalty upon notice given in the
27 manner described in Section 14. The Town's obligations under this Agreement do not constitute
28 a general obligation indebtedness or multiple year direct or indirect debt or other financial
29 obligation whatsoever within the meaning of the Constitution or laws of the State of Colorado.

30 15.2 County Appropriation. Notwithstanding anything herein contained to the contrary,
31 the County's obligations under this Agreement are expressly subject to an annual appropriation
32 being made by the Board of County Commissioners of Summit County, Colorado in an amount
33 sufficient to allow the County to perform its obligations under this Agreement. If sufficient funds
34 are not so appropriated, this Agreement may be terminated by either Party without penalty upon
35 notice given in the manner described in Section 14. The County's obligations under this
36 Agreement do not constitute a general obligation indebtedness or multiple year direct or indirect
37 debt or other financial obligation whatsoever within the meaning of the Constitution or laws of
38 the State of Colorado.

39 16. Third Parties. This Agreement does not confer upon or grant to any third party
40 any right to claim damages or to bring suit, action, or other proceeding against either the Town
41 or the County because of any breach of this Agreement, or because of any of the terms,
42 covenants, agreements and conditions contained in this Agreement.

1 17. Waiver. The failure of either Party to exercise any of its rights under this
2 Agreement is not a waiver of those rights. A Party waives only those rights specified in writing
3 and signed by either Party waiving its rights.

4 18. Independent Contractor. In connection with this Agreement each of the Parties
5 acts as an independent contractor (and not an agent or employee of the other Party), without the
6 right or authority to impose tort or contractual liability upon the other Party.

7 19. Applicable Law. This Agreement is to be interpreted in all respects in accordance
8 with the laws of the State of Colorado.

9 20. Entire Agreement. This Agreement constitutes the entire agreement and
10 understanding between the Parties as to the subject matter of this Agreement, and supersedes
11 any prior agreement or understanding relating thereto.

12 21. Amendment. This Agreement may be modified or amended only by a duly
13 authorized written instrument executed by the Parties. No oral amendment or modification of
14 this Agreement is allowed.

15 22. Severability. If any of the provisions of this Agreement are declared by a final
16 non-appealable judgment court of competent jurisdiction to be invalid, illegal or unenforceable
17 in any respect, the validity, legality and enforceability of the remaining provisions of this
18 Agreement will not in any way be affected or impaired thereby.

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

21 24. Authority. The individuals executing this Agreement on behalf of each of the
22 Parties represent to the other Party that they have all requisite powers and authority to cause the
23 Party for whom they have signed to enter into this Agreement, and to bind such Party to fully
24 perform its obligations as set forth in this Agreement.

25 25. No Adverse Construction. Both Parties acknowledge having had the opportunity
26 to participate in the drafting of this Agreement. This Agreement is not to be construed against
27 either Party based upon authorship.

28 26. Binding Effect. This Agreement is binding upon, and inures to the benefit of, the
29 Parties and their respective successor governing boards.

30 27. Approval By Governing Boards or Other Authority. In accordance with Section
31 29-1-203(1), C.R.S., this Agreement will not become effective unless and until it has been
32 approved by the governing bodies of both the Town and the County, or by such persons as has
33 the power to approve this Agreement on behalf of the Town and the County.

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TOWN OF BRECKENRIDGE, a Colorado
municipal corporation

By: _____
Eric S. Mamula, Mayor

ATTEST:

Helen Cospolich, CMC,
Town Clerk

BOARD OF COUNTY COMMISSIONERS OF
SUMMIT COUNTY, COLORADO

By: _____
Chair

ATTEST:

Kathleen Neel, Clerk and Recorder, and ex-officio
clerk to the Board of County Commissioners

EXHIBIT "A"
TO
INTERGOVERNMENTAL AGREEMENT

County's Special Use Authorization

[TO BE ATTACHED]

Memo

To: Breckenridge Town Council Members
From: Town Staff
Date: 4/22/2020
Subject: Public Projects Update



Fiber9600

Schedule: The 2020 work for Fiber9600 began on Tuesday April 21st. The initial work is taking place on Main Street between French Street and Watson Avenue.



River Park Phase 2

The scope of Phase 2 of River Park was recently modified in order to reduce the project budget. The modifications were approved by GOCO and contracts are being awarded for the work. Phase 2 will include additional custom “nature play” features for younger children, swings, a small-scale bike park, additional landscaping, and a parking lot.

Schedule: Work is scheduled to begin April 20, 2020 and be completed by July 2020. The majority of the park will remain open during the work.

Budget: The project is being awarded to several different contractors for different portions of construction. The plans and contracts have been modified to fit within the budget below.

Project Funding	
2020 Open Space Fund	\$ 140,000
2020 GOCO Grant	\$ 350,000
Total Budget	\$ 490,000

Asphalt Overlay

This project will include milling, patching, and asphalt overlay on Airport Road and Ski Hill Road. Airport Road locations include the area between Dennison Placer Road and Breckenridge Terrace, as well as the section between the north Recreation Center entrance and Park Avenue. Ski Hill Road locations include the section from Main Street to Park Avenue, between Boulder Ridge and Boulder Circle, and from Peak 7 Gondola stop to the Grand Lodge on Peak 7.

In addition to the traditional annual overlay, services will also be contracted for seal coating two parking lots (Golf Course and Town Hall employee lot) and testing a slurry seal product on Christie Lane. The intent of these treatments is to extend the life of the asphalt and increase time between overlays.

Schedule: The overlay project was awarded to the lowest bidder, Columbine Hills Concrete. The milling and overlay is scheduled to begin mid May 2020 and be completed by the end of June 2020. Once construction begins, detours and minor delays will be required at the overlay locations.

Budget: The bid awarded to Columbine Hills Concrete is within the project budget below.

Project Funding	
2020 CIP Asphalt Overlay	\$ 550,000
2019 CIP Asphalt Overlay Roll Over	\$ 450,000
Total Budget	\$1,000,000

Concrete Replacement

The project includes concrete replacement of sidewalks, curbs, curb ramps, and drainage pans at the following locations:

- Main Street (various locations between French Street and Park Ave)
- French Street (various locations between Main Street & Washington Ave)
- Wellington Road (various locations between French Street and Morning Star Drive)
- Other locations in Town as needed

The project was recently advertised for bids and was awarded to the low bidder, Columbine Hills Concrete.

Schedule: Construction is tentatively scheduled to begin the week of April 27th with work starting on Main Street. Work is scheduled to be completed by late June. Traffic detours and delays will occur in several of the locations to facilitate construction.

Budget: The bid awarded to Columbine Hills Concrete is within the project budget below.

Project Funding	
2020 CIP Concrete Replacement	\$ 300,000

Flora Dora Drive Improvements

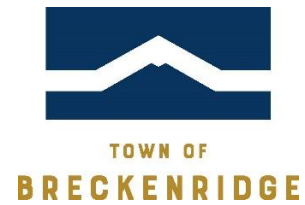
This project began in 2019 and included a raised crosswalk, extension of Flora Dora Drive, vehicle turnaround, storm sewer infrastructure, and a parking lot. Poor weather in October 2019 delayed the completion of construction. Work is scheduled to resume in late May and be completed in June. Minimal vehicle and pedestrian impacts are anticipated for the project.

South Riverwalk Extension

This project began in 2019 and included an extension of the Riverwalk pedestrian path from Jefferson Avenue towards Park Avenue (near the dredge pond). The project reached substantial completion in December 2019 and has been open to the public through the winter. Various items were not constructed due to weather, which includes landscaping, completion of railing, and final punch list/clean up items. This final work is scheduled to be completed in June 2020. Pedestrians will be detoured during a portion of the remaining work.

French Street Bridge Rail Repair

This project began in 2019 and included a repair of the concrete bridge rail on the French Street Bridge. Finishing work on the concrete aesthetics needs to be completed this year, which is scheduled for June.



Memo

To: Breckenridge Town Council Members
From: Rick Holman, Town Manager
Date: 4/22/2020
Subject: Committee Reports

No committee reports were submitted for this meeting.

Committees*	Representative	Report Status
Summit Stage Advisory Board	Jennifer Pullen	No Meeting/Report
Police Advisory Committee	Chief Jim Baird	No Meeting/Report
CMC Advisory Committee	Rick Holman	No Meeting/Report
Recreation Advisory Committee	Scott Reid	No Meeting/Report
Breckenridge Events Committee	Shannon Haynes	No Meeting/Report
Transit and Parking Advisory Committee	Jennifer Pullen	No Meeting/Report
Communications	Haley Littleton	No Meeting/Report

**Note: Reports provided by the Mayor and Council Members are listed in the Council agenda.*



TOWN OF
BRECKENRIDGE

March 31, 2020

Department of Finance



Executive Summary

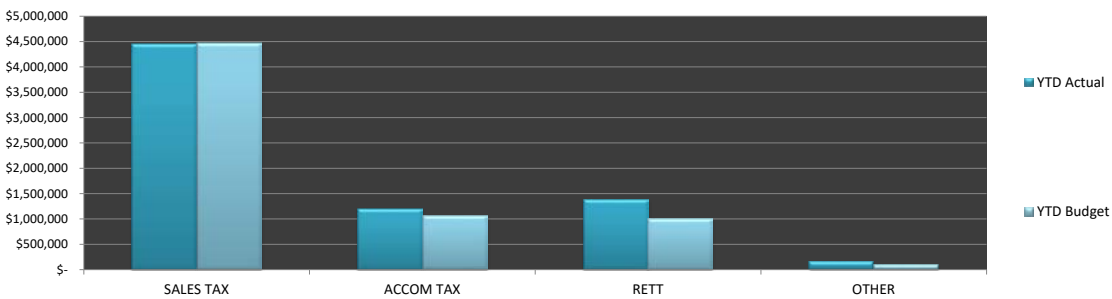
March 31, 2020

This report covers the first 3 months of 2020. March is largely reflective of February tax collections. Overall, we are approximately \$545k over 2020 budgeted revenues in the Excise fund. While sales tax is currently \$28k under YTD budget, it is \$128k over prior year (up 3% over Prior YTD). Real Estate Transfer Tax is up \$371k over budget, yet \$61k behind prior year.

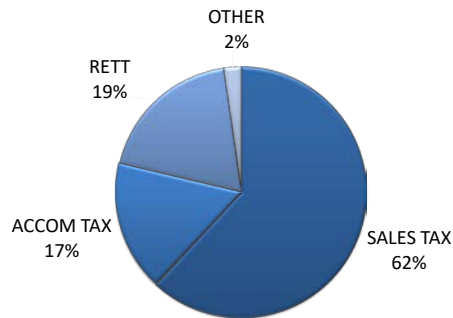
See the Tax Basics section of these financial reports for more detail on the sales, accommodations, and real estate transfer taxes.

Expenditures are holding the line, with the General Fund tracking slightly below YTD budgeted expense amount (see General Fund Expenditures Summary for details).

Excise YTD Actual vs. Budget - by Source



YTD Actual Revenues - Excise



	YTD Actual	YTD Budget	% of Budget	Annual Budget	Prior YTD Actual	Prior Annual Actual
SALES TAX	\$ 4,448,153	\$ 4,475,903	99%	\$ 25,345,100	\$ 4,319,363	\$ 27,405,403
ACCOMMODATIONS TAX	1,210,538	1,073,289	113%	3,726,500	1,017,044	3,901,868
REAL ESTATE TRANSFER	1,371,701	1,000,432	137%	5,700,000	1,432,683	7,166,614
OTHER*	157,938	93,185	169%	886,320	89,364	1,150,690
TOTAL	\$ 7,188,329	\$ 6,642,809	108%	\$ 35,657,920	\$ 6,858,453	\$ 39,624,576

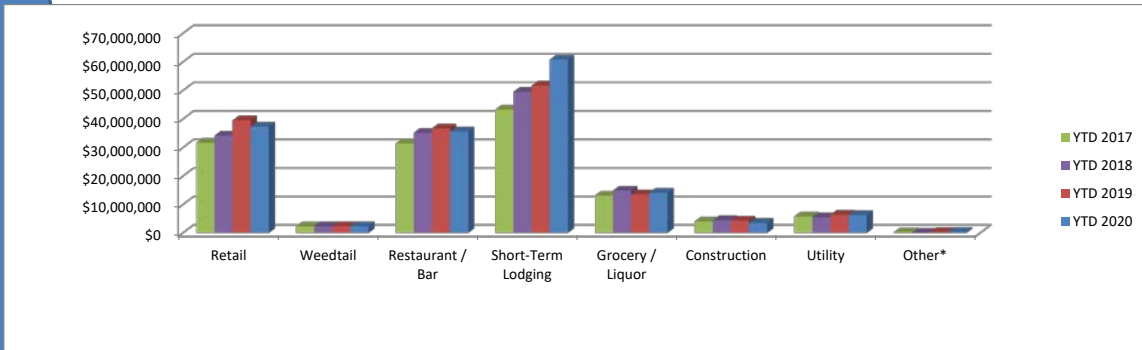
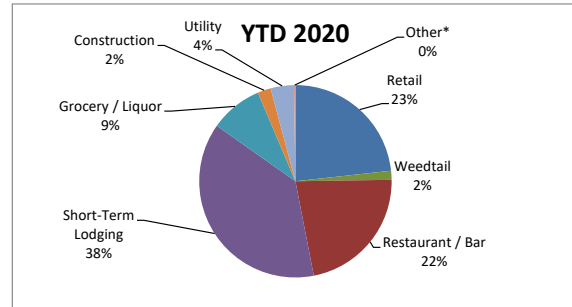
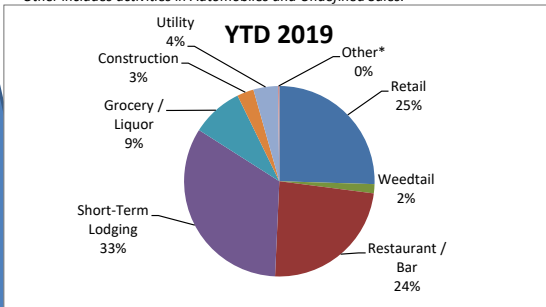
* Other includes Franchise Fees (Telephone, Public Service and Cable), Nicotine Tax, Cigarette Tax, and Investment Income

The Tax Basics: February 2020

Net Taxable Sales by Industry-YTD

Description	YTD 2017	YTD 2018	YTD 2019	2019		2019/2020		2020
				% of Total	YTD 2020	\$ Change	% Change	
Retail	\$31,746,720	\$34,191,380	\$39,578,166	25.49%	\$37,370,032	(\$2,208,134)	-5.58%	23.25%
Weedtail	\$2,339,606	\$2,376,788	\$2,422,461	1.56%	\$2,421,350	(\$1,111)	-0.05%	1.51%
Restaurant / Bar	\$31,458,164	\$35,219,211	\$36,764,756	23.67%	\$35,651,576	(\$1,113,181)	-3.03%	22.18%
Short-Term Lodging	\$43,370,527	\$49,580,156	\$51,730,203	33.31%	\$60,830,251	\$9,100,048	17.59%	37.85%
Grocery / Liquor	\$13,221,229	\$14,966,393	\$13,572,499	8.74%	\$14,201,285	\$628,786	4.63%	8.84%
Construction	\$4,076,416	\$4,497,449	\$4,405,163	2.84%	\$3,565,736	(\$839,427)	-19.06%	2.22%
Utility	\$5,858,607	\$5,521,717	\$6,457,295	4.16%	\$6,312,657	(\$144,638)	-2.24%	3.93%
Other*	\$303,492	\$107,116	\$366,763	0.24%	\$376,788	\$10,025	2.73%	0.23%
Total	\$132,374,762	\$146,460,210	\$155,297,307	100.00%	\$160,729,675	\$5,432,368	3.50%	100.00%

* Other includes activities in Automobiles and Undefined Sales.



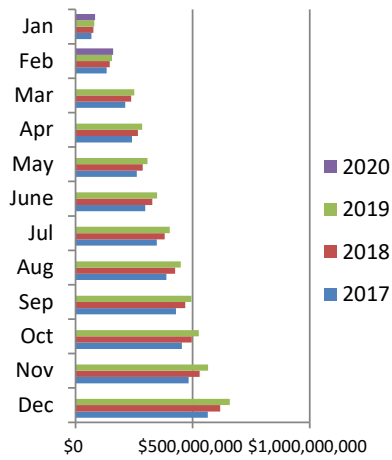
New Items of Note:

- For the year, net taxable sales are currently ahead of 2019 by 3.50%.
- February net taxable sales are currently ahead of February 2019 by 2.80%.
- For February 2020, there were decreases in Construction (24.05%), Retail (6.54%), and Restaurant (4.76%). The decrease in Construction is attributed to lower sales activity in the sector. The decrease in Retail and Restaurant sectors is attributed to non-filed returns.
- For February 2020, there were increases in Short Term Lodging (17.14%), Grocery/Liquor (5.21%), and Weedtail (0.98%).
- Distribution of disposable bags experienced a decrease over prior year, the decrease was 11.21%. The decrease is being attributed to less disposable bags being distributed in Town.

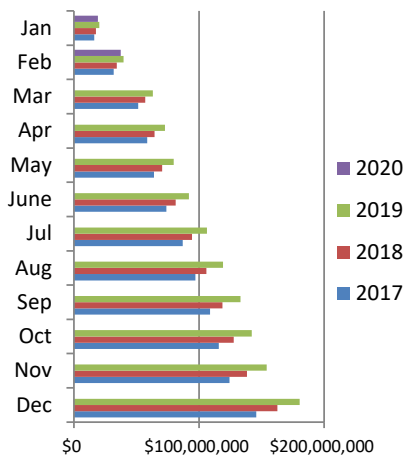
Continuing Items of Note:

- In 2014, a new category was added to the Sales by Sector pages for the Weedtail sector. The category encompasses all legal marijuana sales, regardless of medical or recreational designation.
- A section on Disposable Bag Fees was added in 2014.
- A section on Short Term Rentals was added in 2018.
- Taxes collected from the customer by the vendor are remitted to the Town on the 20th of the following month.
- Quarterly taxes are reported in the last month of the period. For example, taxes collected in the first quarter of the year (January – March), are included on the report for the period of March.
- Net Taxable Sales are continually updated as late tax returns are submitted to the Town of Breckenridge. Therefore, you may notice slight changes in prior months, in addition to the reporting for the current month.
- "Other" sales relate to returns that have yet to be classified. Much of this category will be reclassified to other sectors as more information becomes available.

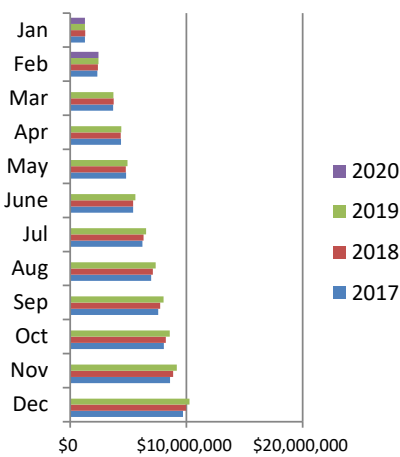
Net Taxable Sales by Sector-Town of Breckenridge Tax Base



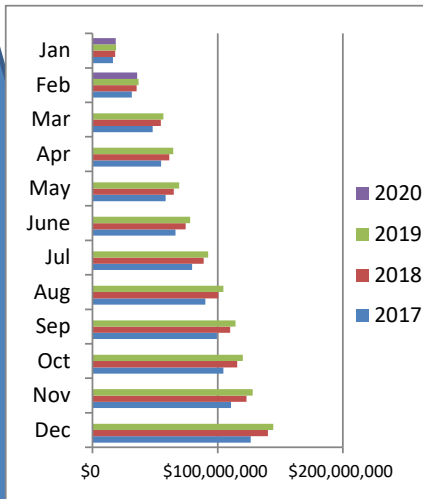
Total Net Taxable Sales					
	2017	2018	2019	2020	% change from PY
Jan	\$67,602,475	\$76,144,986	\$79,834,816	\$83,156,703	4.16%
Feb	\$64,772,287	\$70,315,224	\$75,462,491	\$77,572,972	2.80%
Mar	\$79,469,446	\$91,354,363	\$95,119,223	\$0	n/a
Apr	\$28,633,160	\$27,945,344	\$33,750,741	\$0	n/a
May	\$21,492,032	\$20,570,536	\$23,503,404	\$0	n/a
Jun	\$35,789,125	\$41,931,377	\$40,983,110	\$0	n/a
Jul	\$49,248,840	\$52,292,165	\$53,634,118	\$0	n/a
Aug	\$40,989,760	\$44,375,478	\$47,512,338	\$0	n/a
Sep	\$40,543,665	\$43,422,466	\$44,687,691	\$0	n/a
Oct	\$25,037,316	\$27,217,667	\$31,829,795	\$0	n/a
Nov	\$28,825,651	\$33,740,984	\$39,575,215	\$0	n/a
Dec	\$82,489,348	\$88,010,590	\$93,125,430	\$0	n/a
Total	\$564,893,106	\$617,321,181	\$659,018,371	\$160,729,675	



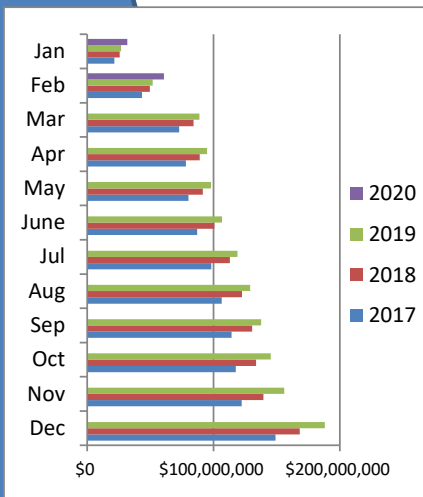
Retail					
	2017	2018	2019	2020	% change from PY
Jan	\$16,237,610	\$17,507,764	\$20,220,030	\$19,278,828	-4.65%
Feb	\$15,509,110	\$16,683,616	\$19,358,136	\$18,091,205	-6.54%
Mar	\$19,564,906	\$22,859,596	\$23,450,516	\$0	n/a
Apr	\$7,348,616	\$7,480,834	\$9,759,050	\$0	n/a
May	\$5,290,958	\$5,971,113	\$7,045,791	\$0	n/a
Jun	\$9,968,024	\$10,938,346	\$12,140,137	\$0	n/a
Jul	\$13,011,546	\$12,929,481	\$14,307,973	\$0	n/a
Aug	\$10,124,244	\$11,490,130	\$12,805,078	\$0	n/a
Sep	\$11,758,258	\$12,835,259	\$14,103,578	\$0	n/a
Oct	\$6,958,607	\$9,066,379	\$9,014,457	\$0	n/a
Nov	\$8,698,706	\$10,506,526	\$11,888,665	\$0	n/a
Dec	\$21,218,228	\$24,427,953	\$26,423,222	\$0	n/a
Total	\$145,688,813	\$162,696,999	\$180,516,633	\$37,370,032	



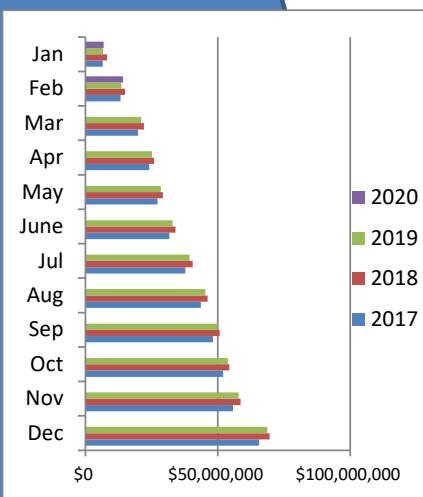
Weedtail					
	2017	2018	2019	2020	% change from PY
Jan	\$1,263,370	\$1,299,492	\$1,278,628	\$1,266,253	-0.97%
Feb	\$1,076,236	\$1,077,296	\$1,143,834	\$1,155,097	0.98%
Mar	\$1,343,407	\$1,360,559	\$1,291,752	\$0	n/a
Apr	\$683,486	\$603,052	\$682,583	\$0	n/a
May	\$436,712	\$432,876	\$525,557	\$0	n/a
Jun	\$608,808	\$646,541	\$691,544	\$0	n/a
Jul	\$798,038	\$884,964	\$905,548	\$0	n/a
Aug	\$756,690	\$804,530	\$845,682	\$0	n/a
Sep	\$596,781	\$624,657	\$658,693	\$0	n/a
Oct	\$484,253	\$496,522	\$536,078	\$0	n/a
Nov	\$554,576	\$615,385	\$605,820	\$0	n/a
Dec	\$1,112,445	\$1,131,042	\$1,088,987	\$0	n/a
Total	\$9,714,804	\$9,976,918	\$10,254,704	\$2,421,350	



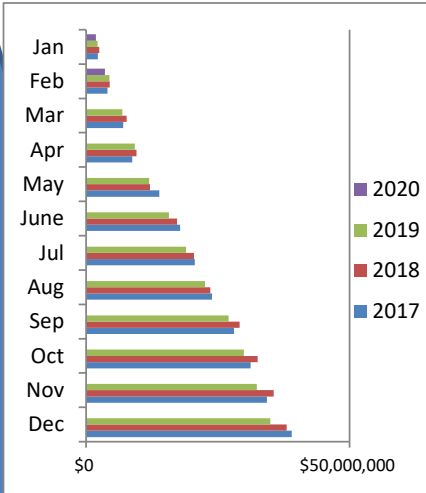
Restaurant / Bar					
	2017	2018	2019	2020 from PY	% change
Jan	\$16,276,306	\$18,113,738	\$18,862,733	\$18,601,981	-1.38%
Feb	\$15,181,858	\$17,105,472	\$17,902,023	\$17,049,595	-4.76%
Mar	\$16,595,811	\$19,308,728	\$19,848,169	\$0	n/a
Apr	\$6,821,901	\$6,767,406	\$7,976,390	\$0	n/a
May	\$3,448,281	\$3,635,557	\$4,574,924	\$0	n/a
Jun	\$8,089,688	\$9,485,924	\$8,944,958	\$0	n/a
Jul	\$13,124,240	\$14,352,235	\$14,288,581	\$0	n/a
Aug	\$10,631,602	\$11,842,888	\$12,227,112	\$0	n/a
Sep	\$9,211,502	\$9,446,920	\$9,607,131	\$0	n/a
Oct	\$5,227,314	\$5,536,613	\$5,844,363	\$0	n/a
Nov	\$6,000,732	\$7,424,201	\$7,827,028	\$0	n/a
Dec	\$15,895,058	\$17,163,832	\$16,542,804	\$0	n/a
Total	\$126,504,293	\$140,183,514	\$144,446,216	\$35,651,576	



Short-Term Lodging					
	2017	2018	2019	2020 from PY	% change
Jan	\$21,594,876	\$25,677,161	\$26,944,780	\$31,796,203	18.01%
Feb	\$21,775,651	\$23,902,995	\$24,785,423	\$29,034,048	17.14%
Mar	\$29,437,165	\$34,487,872	\$37,028,688	\$0	n/a
Apr	\$5,341,101	\$5,049,394	\$6,081,709	\$0	n/a
May	\$2,009,505	\$2,465,550	\$3,266,817	\$0	n/a
Jun	\$6,825,710	\$9,133,071	\$8,595,732	\$0	n/a
Jul	\$11,182,266	\$12,295,670	\$12,233,804	\$0	n/a
Aug	\$8,267,603	\$9,513,481	\$9,971,094	\$0	n/a
Sep	\$7,952,996	\$7,967,829	\$8,725,279	\$0	n/a
Oct	\$3,257,303	\$3,286,586	\$7,653,654	\$0	n/a
Nov	\$4,649,007	\$5,719,696	\$10,633,294	\$0	n/a
Dec	\$26,835,256	\$28,664,916	\$32,266,133	\$0	n/a
Total	\$149,128,440	\$168,164,221	\$188,186,409	\$60,830,251	



Grocery / Liquor					
	2017	2018	2019	2020 from PY	% change
Jan	\$6,608,924	\$8,108,346	\$6,653,945	\$6,922,182	4.03%
Feb	\$6,612,305	\$6,858,048	\$6,918,554	\$7,279,103	5.21%
Mar	\$6,672,292	\$7,172,637	\$7,480,138	\$0	n/a
Apr	\$4,258,760	\$3,761,922	\$4,118,397	\$0	n/a
May	\$3,098,290	\$3,340,611	\$3,354,349	\$0	n/a
Jun	\$4,439,619	\$4,746,854	\$4,448,586	\$0	n/a
Jul	\$6,059,042	\$6,474,680	\$6,385,747	\$0	n/a
Aug	\$5,817,425	\$5,681,926	\$5,986,763	\$0	n/a
Sep	\$4,621,933	\$4,553,381	\$4,568,142	\$0	n/a
Oct	\$3,807,540	\$3,652,184	\$3,935,787	\$0	n/a
Nov	\$3,726,441	\$4,245,207	\$3,950,006	\$0	n/a
Dec	\$9,924,458	\$11,003,103	\$10,901,776	\$0	n/a
Total	\$65,647,028	\$69,598,900	\$68,702,190	\$14,201,285	

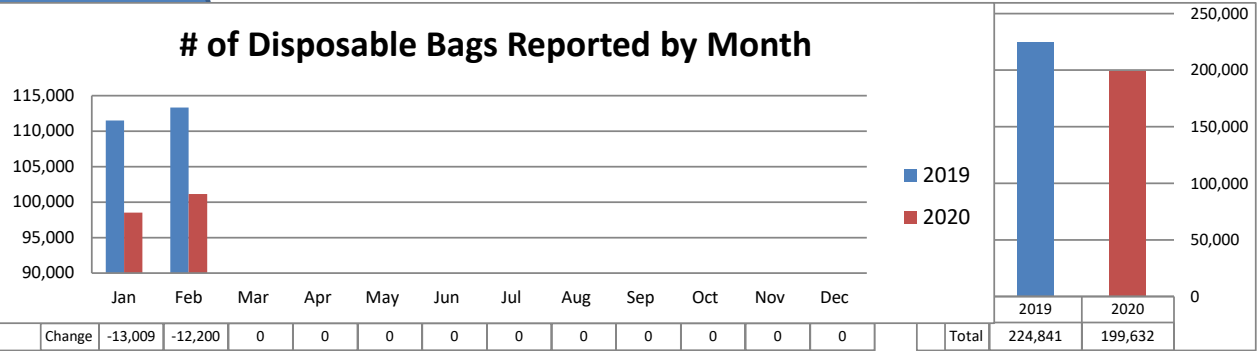


Construction					
	2017	2018	2019	2020 from PY	% change
Jan	\$2,256,554	\$2,495,432	\$2,191,917	\$1,884,839	-14.01%
Feb	\$1,819,863	\$2,002,017	\$2,213,246	\$1,680,897	-24.05%
Mar	\$2,975,176	\$3,214,875	\$2,455,156	\$0	n/a
Apr	\$1,695,492	\$1,843,247	\$2,389,008	\$0	n/a
May	\$5,145,491	\$2,593,694	\$2,701,508	\$0	n/a
Jun	\$3,934,209	\$5,114,362	\$3,745,071	\$0	n/a
Jul	\$2,814,450	\$3,211,940	\$3,296,217	\$0	n/a
Aug	\$3,264,339	\$3,106,074	\$3,581,082	\$0	n/a
Sep	\$4,134,350	\$5,567,218	\$4,484,815	\$0	n/a
Oct	\$3,164,595	\$3,430,003	\$2,848,648	\$0	n/a
Nov	\$3,105,611	\$3,031,270	\$2,476,540	\$0	n/a
Dec	\$4,692,726	\$2,468,175	\$2,589,271	\$0	n/a
Total	\$39,002,856	\$38,078,306	\$34,972,480	\$3,565,736	

Disposable Bag Fees

The Town adopted an ordinance April 9, 2013 (effective October 15, 2013) to discourage the use of disposable bags, achieving a goal of the SustainableBreck Plan. The \$.10 fee applies to most plastic and paper bags given out at retail and grocery stores in Breckenridge. The program is intended to encourage the use of reusable bags and discourage the use of disposable bags, thereby furthering the Town's sustainability efforts. Revenues from the fee are used to provide public information about the program and promote the use of reusable bags.

of Disposable Bags Reported by Month



Bag Fees Remitted by Month

Net of Retained Percentage*



*Retailers are permitted to retain 50% of the fee (up to a maximum of \$1000/month through October 31, 2014; changing to a maximum of \$100/month beginning November 1, 2014) in order to offset expenses incurred related to the program. The retained percent may be used by the retail store to provide educational information to customers; provide required signage; train staff; alter infrastructure; fee administration; develop/display informational signage; encourage the use of reusable bags or promote recycling of disposable bags; and improve infrastructure to increase disposable bag recycling.

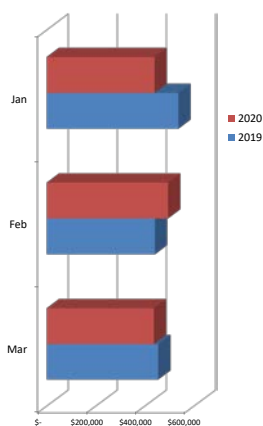
Real Estate Transfer Tax

New Items of Note:

- Revenue for the month of March was behind prior year by 3.85%, yet ahead of monthly budget by \$74,822.
- Year to date, revenue is behind prior year by 4.27%, yet has surpassed budget by \$372,472.
- Timeshare sales accounted for the majority of the sales (29.40%), with Single Family Home sales in the second position of highest sales (27.07%) subject to the tax. Condominium sales were in third position with (22.38%) in sales for the year.
- March 2020 churn was 10.94% above March 2019.

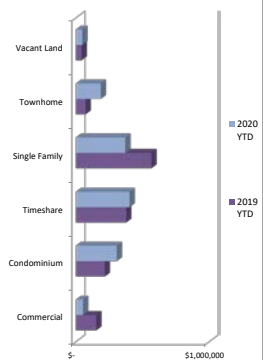
Continuing Items of Note:

- 2020 Real Estate Transfer Tax budget is based upon the monthly distribution for 2018.



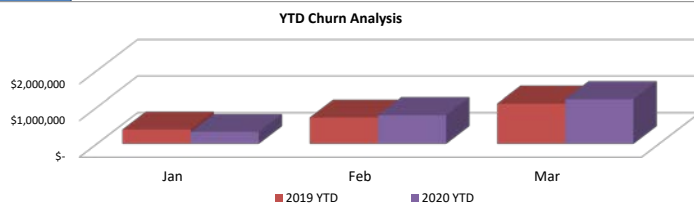
Total RETT						
	2018	2019	2020	% change	2020 budget	+/- Budget
Jan	\$350,102	\$536,802	\$439,913	-18.05%	\$323,732	\$116,181
Feb	\$338,813	\$441,411	\$494,762	12.09%	\$313,293	\$181,469
Mar	\$391,670	\$454,470	\$436,991	-3.85%	\$362,169	\$74,822
Apr	\$532,220	\$674,070	\$227,873	-66.19%	\$492,133	-\$264,260
May	\$618,610	\$781,528	\$0	n/a	\$572,016	n/a
Jun	\$468,350	\$480,111	\$0	n/a	\$433,074	n/a
Jul	\$564,797	\$510,302	\$0	n/a	\$522,256	n/a
Aug	\$778,848	\$784,245	\$0	n/a	\$720,185	n/a
Sep	\$398,296	\$684,950	\$0	n/a	\$368,296	n/a
Oct	\$622,750	\$561,093	\$0	n/a	\$575,844	n/a
Nov	\$598,966	\$604,298	\$0	n/a	\$553,851	n/a
Dec	\$500,878	\$653,338	\$0	n/a	\$463,151	n/a
Total	\$6,164,300	\$7,166,618	\$1,599,540		\$5,700,000	

*April #'s are as of 04/20/2020



by Category					
Description	2019 YTD	2020 YTD	\$ change	% change	% of Total
Commercial	\$ 153,800	\$ 54,276	(99,525)	-64.71%	3.96%
Condominium	217,324	306,966	89,642	41.25%	22.38%
Timeshare	377,369	403,215	25,846	6.85%	29.40%
Single Family	567,418	371,275	(196,142)	-34.57%	27.07%
Townhome	73,091	187,384	114,293	156.37%	13.66%
Vacant Land	43,680	48,450	4,770	10.92%	3.53%
Total	\$ 1,432,683	\$ 1,371,567	(61,116)	-4.27%	100.00%

* YTD as of March 31st

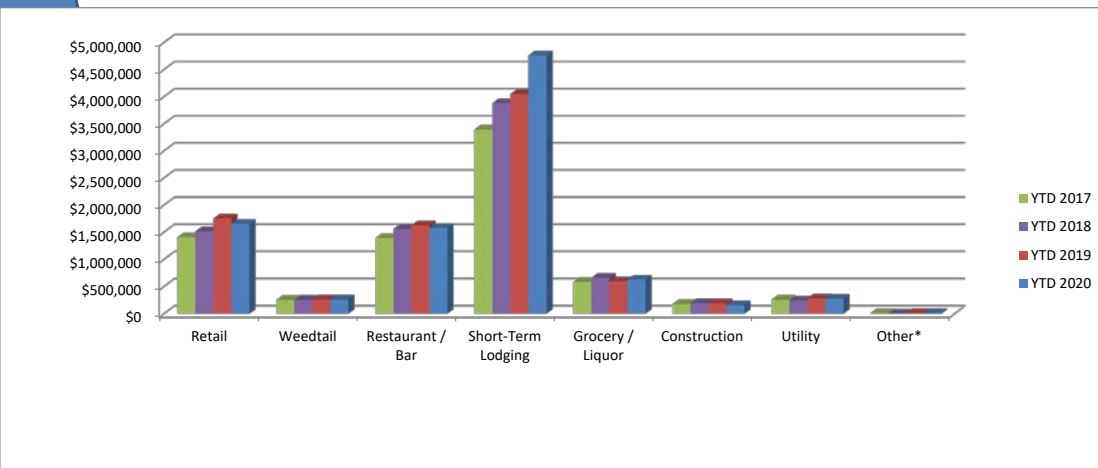
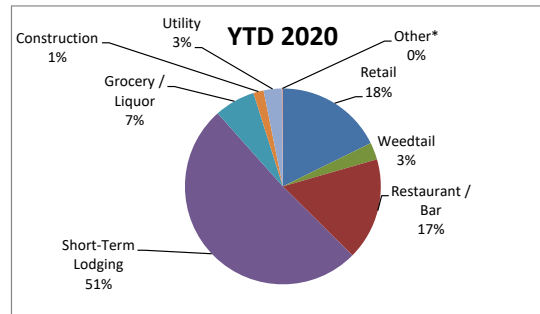
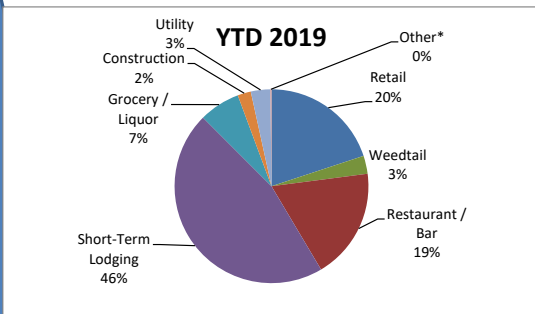


TAXES DUE - SALES, ACCOMMODATIONS, AND MARIJUANA TAXES

Tax Due by Industry-YTD

Description	YTD 2017	YTD 2018	YTD 2019	2019 % of Total	YTD 2020	2019/2020 \$ Change	2019/2020 % Change	2020 % of Total
Retail	\$1,406,380	\$1,514,678	\$1,753,313	19.93%	\$1,655,492	(\$97,820)	-5.58%	17.71%
Weedtail	\$255,719	\$259,783	\$264,775	3.01%	\$264,654	(\$121)	-0.05%	2.83%
Restaurant / Bar	\$1,393,597	\$1,560,211	\$1,628,679	18.52%	\$1,579,365	(\$49,314)	-3.03%	16.90%
Short-Term Lodging	\$3,395,912	\$3,882,126	\$4,050,475	46.05%	\$4,763,009	\$712,534	17.59%	50.96%
Grocery / Liquor	\$585,700	\$663,011	\$601,262	6.84%	\$629,117	\$27,855	4.63%	6.73%
Construction	\$180,585	\$199,237	\$195,149	2.22%	\$157,962	(\$37,187)	-19.06%	1.69%
Utility	\$259,536	\$244,612	\$286,058	3.25%	\$279,651	(\$6,407)	-2.24%	2.99%
Other*	\$13,445	\$4,745	\$16,248	0.18%	\$16,692	\$444	2.73%	0.18%
Total	\$7,490,874	\$8,328,404	\$8,795,958	100.00%	\$9,345,941	\$549,983	6.25%	100.00%

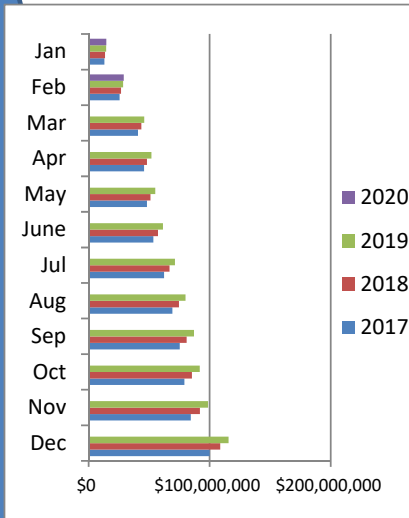
* Other includes activities in Automobiles and Undefined Sales.



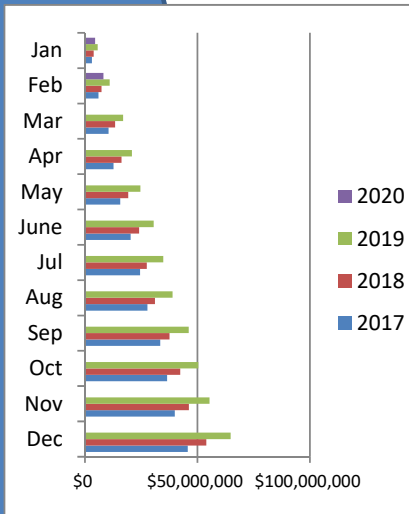
Items of Note:

- The general sales tax rate includes the 2.5% Town sales tax + 1.93% County sales tax distributed to the Town.
- The Short -Term Lodging sector includes an additional 3.4% accommodation tax.
- Weedtail includes an additional 5% marijuana tax (recreational and medical). The 1.5% distribution from the State is also included in this category. While the State distribution is only due on recreational sales, the majority of weedtail sales are recreational and the distribution has been applied to the entire sector.
- Report assumptions include: applying tax specific to a sector to the entire sector, as well as assuming the same tax base across the State, County, and Town taxes due. As a result, the numbers indicated above are a rough picture of taxes due to the Town and not an exact representation. Additionally, the data is representative of taxes due to the Town and not necessarily taxes collected year to date.

The Tax Basics: Retail Sales Sector Analysis

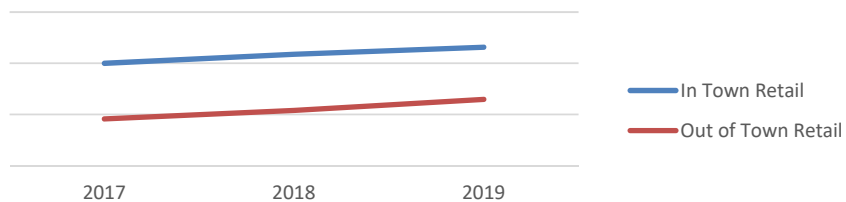


Retail: In-Town					
	2017	2018	2019	2020	% change from PY
Jan	\$13,096,116	\$13,605,184	\$14,542,794	\$14,756,678	1.47%
Feb	\$12,636,631	\$13,199,875	\$13,996,694	\$14,394,107	2.84%
Mar	\$15,085,056	\$16,811,167	\$17,537,004	\$0	n/a
Apr	\$5,099,020	\$4,668,932	\$5,830,752	\$0	n/a
May	\$2,310,164	\$2,924,905	\$3,269,082	\$0	n/a
Jun	\$5,342,764	\$6,111,383	\$6,258,173	\$0	n/a
Jul	\$8,865,951	\$9,530,914	\$10,024,612	\$0	n/a
Aug	\$6,848,954	\$7,903,296	\$8,652,385	\$0	n/a
Sep	\$6,082,012	\$6,303,509	\$6,972,672	\$0	n/a
Oct	\$3,877,500	\$4,349,427	\$4,729,944	\$0	n/a
Nov	\$5,248,808	\$6,626,993	\$6,905,161	\$0	n/a
Dec	\$15,513,951	\$16,711,142	\$17,008,563	\$0	n/a
Total	\$100,006,926	\$108,746,727	\$115,727,836	\$29,150,785	-74.81%



Retail: Out-of-Town					
	2017	2018	2019	2020	% change from PY
Jan	\$3,141,494	\$3,902,579	\$5,677,236	\$4,522,150	-20.35%
Feb	\$2,872,479	\$3,483,741	\$5,361,442	\$3,697,098	-31.04%
Mar	\$4,479,850	\$6,048,429	\$5,913,512	\$0	n/a
Apr	\$2,249,597	\$2,811,903	\$3,928,297	\$0	n/a
May	\$2,980,794	\$3,046,208	\$3,776,710	\$0	n/a
June	\$4,625,260	\$4,826,963	\$5,881,964	\$0	n/a
Jul	\$4,145,594	\$3,398,568	\$4,283,361	\$0	n/a
Aug	\$3,275,290	\$3,586,834	\$4,152,693	\$0	n/a
Sep	\$5,676,246	\$6,531,750	\$7,130,906	\$0	n/a
Oct	\$3,081,107	\$4,716,952	\$4,284,513	\$0	n/a
Nov	\$3,449,898	\$3,879,533	\$4,983,504	\$0	n/a
Dec	\$5,704,278	\$7,716,810	\$9,414,658	\$0	n/a
Total	\$45,681,887	\$53,950,272	\$64,788,796	\$8,219,248	-87.31%

Annual Retail Comparison



New Items of Note:

- Starting in March 2019, the Finance Department has split the Retail sector into two categories, In-Town Retail sales and Out-of-Town Retail sales. In-Town Retail sales comprise businesses that are in Town limits, the sector had an overall increase of 15.72% in 2019 as compared to 2017. The Out-of-Town Retail Sales had a overall increase in sales of 41.82% for 2019 compared to 2017.

General Fund Revenues Summary

March 31, 2020

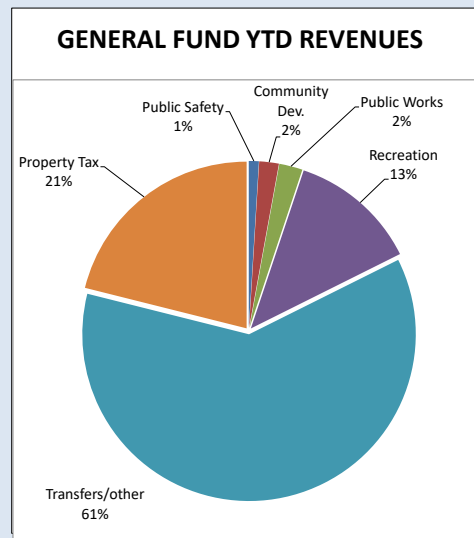
These next two pages report on 2020 year-to-date financials for the General Fund. This area contains most "Government Services," such as public works, police, community development, planning, recreation, facilities, and administrative functions.

General Fund Revenue: At the end of March, the Town's General Fund was at 96% of YTD budget (\$5.9M actual vs. \$6.1M budgeted).

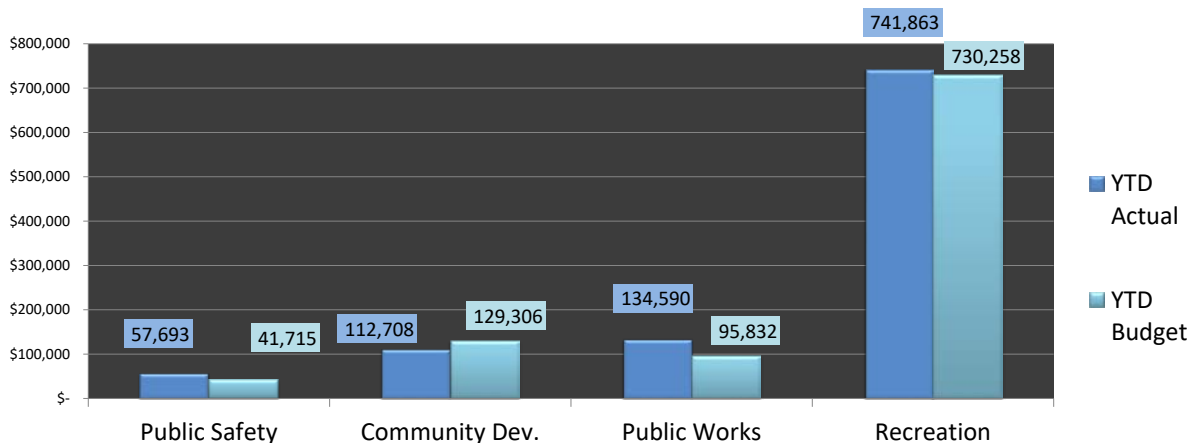
Property tax is under budget due to the timing of collections. This is expected to even out throughout the year.

Community Development is under budget due to building plan check fees being under budget. While this category was down last month, it is also attributed to the temporary inability to process permits related to Covid-19 office closures. Community Development has since resumed processing permits.

Recreation exceeded budget primarily in resident pass revenue. While it has exceed budget by \$38k YTD, it is down \$28k (or 18%) from prior YTD. Given recent Covid-19 related closures, this is expected to decline in future months.



Gen. Fund YTD Revenue Act vs. Bud - by Program



General Fund Expenditures Summary

March 31, 2020

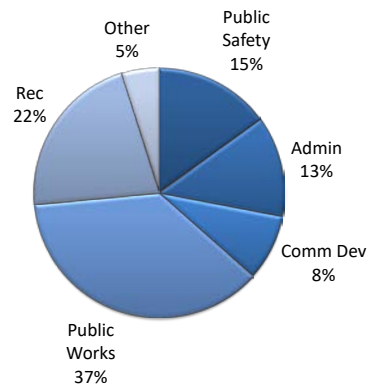
The General Fund as of March 31, 2020 was at 93% of budgeted expense (\$5.4M actual vs. \$5.8M budgeted). The below graphs represent the cost of providing the services contained in this fund (Public Safety, Recreation, Public Works, Community Development, and Administration).

Variance Explanations:

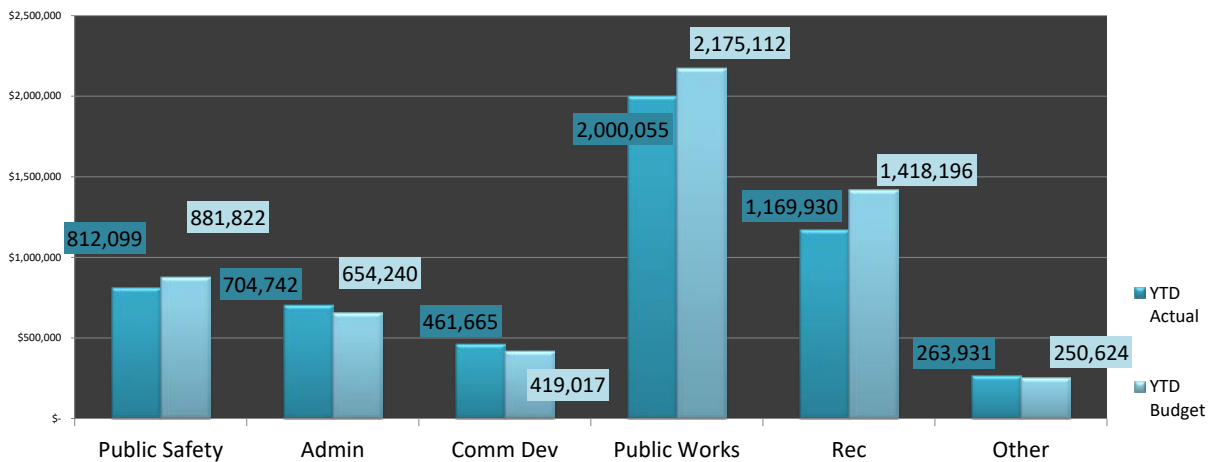
The main factor in departmental variances is the timing of 2020 expenses, versus the monthly 2018 actual expenses that the budget distribution is based upon. This variance will even itself out throughout the year and is most visible in smaller departments, such as Administration & Community Development.

Other differences are in actual personnel costs falling below budgeted personnel costs.

YTD Actual Expenses



Gen. Fund YTD Expenditures Act. vs. Bud. - by Program



Combined Statement of Revenues and Expenditures

All Funds March 31, 2020

REVENUE	YTD Actual	YTD Budget	% of YTD Bud.	Annual Bud.
General Governmental				
1 Gen/Excise/MMJ/Child Cr/Spec Prj/P&T	\$ 11,838,944	\$ 10,119,923	117%	\$ 103,292,281
2 Special Revenue	2,058,011	2,393,492	86%	14,890,136
3 Internal Service	2,324,627	2,249,925	103%	9,484,572
4 Subtotal General Governmental	\$ 16,221,582	\$ 14,763,340	110%	\$ 127,666,989
5 Capital Projects	46,473	9,995	465%	10,210,260
Enterprise Funds				
6 Utility Fund	932,017	1,162,775	80%	12,779,037
7 Golf	24,580	9,762	252%	2,660,636
8 Cemetery	2,600	0	N/A	15,900
9 Subtotal Enterprise Funds	\$ 959,197	\$ 1,172,537	82%	\$ 15,455,573
10 TOTAL REVENUE	17,227,251	15,945,872	108%	153,332,822
11 Internal Transfers	8,294,657	8,212,532	101%	48,821,982
12 TOTAL REVENUE incl. x-fers	\$ 25,521,908	\$ 24,158,404	106%	\$ 202,154,804
EXPENDITURES				
	YTD Actual	YTD Budget	% of Bud.	Annual Bud.
General Governmental				
1 Gen/Excise/MMJ/Child Cr/Spec Prj/P&T	\$ 7,301,165	\$ 7,779,849	94%	\$ 35,245,017
2 Special Revenue	2,009,121	1,866,405	108%	8,701,644
3 Internal Service	1,071,215	1,442,861	74%	9,389,465
4 Subtotal General Governmental	\$ 10,381,501	\$ 11,089,115	94%	\$ 53,336,126
5 Capital Projects	3,886,101	72,750,040	5%	72,750,040
Enterprise Funds				
6 Utility Fund	3,059,058	2,343,558	131%	9,995,990
7 Golf	208,975	287,300	73%	2,467,853
8 Cemetery	0	0	n/a	20,000
9 Subtotal Enterprise Funds	\$ 3,268,033	\$ 2,630,858	124%	\$ 12,483,843
10 TOTAL EXPENDITURES	17,535,635	86,470,013	20%	138,570,009
11 Internal Transfers	8,294,657	8,212,532	101%	48,821,982
12 TOTAL EXPENDITURES incl. x-fers	\$ 25,830,293	\$ 94,682,545	27%	\$ 187,391,991
13 TOTAL REVENUE less EXPEND.	\$ (308,384)	\$ (70,524,141)	N/A	\$ 14,762,813

General Governmental Funds - General, Excise, Special Projects, Marijuana, Child Care and Parking and Transportation

Special Revenue Funds - Marketing, Affordable Housing, Open Space, and Conservation Trust

Internal Service Funds - Garage, Information Technology (IT), Facilities, and Health Benefits

ALL FUNDS REPORT

March 31, 2020

The YTD breakdown of the revenue/expenses variances is as follows:

Governmental Funds:

General Fund:

- Revenue:
 - Under budget by \$200k. Please see General Fund Revenue page for more detail.
- Expense:
 - Under budget by \$400k. See General Fund Expense page of this report for more details.

Excise Fund:

- Revenue:
 - Ahead of budget by \$545k - see Executive Summary or Tax Basics for more information.

Special Revenue:

- Revenue:
 - Housing sales tax is down due to a delayed monthly sales tax payment.
- Expense:
 - Housing expenses are over YTD budget due to timing of expenses related to buy-down units. This will even out over the year.

Capital Fund:

- Revenue:
 - Ahead of budget mostly due to investment income and unbudgeted rock royalties.
 - The Combined Statement does not include transfers (appx. \$61.8M).
- Expense:
 - Under budget due to the timing of projects. The annual budget is assigned to January, although projects will occur throughout the year.

Enterprise Funds:

Utility:

- Revenue:
 - Plant Investment Fees are below budget.
- Expense:
 - Over 2020 budget due to timing of new water plant related expenses. However, this spending authority continues from the prior year and expenses are still below the appropriated amount.

Internal Service Funds:

- Expense:
 - Under budget due to timing of facilities & IT related projects for the year.

Fund Descriptions:

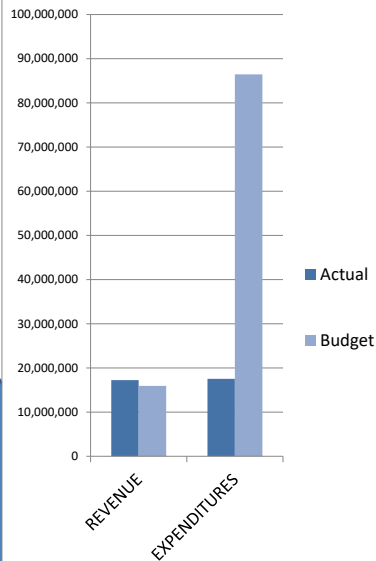
General Governmental - General, Excise, Capital, Special Projects, Child Care, Marijuana, and Parking and Transportation

Special Revenue Funds - Marketing, Affordable Housing, Open Space, and Conservation Trust

Enterprise Funds: Golf, Utility, Cemetery

Internal Service Funds - Garage, Information Technology (IT), and Facilities

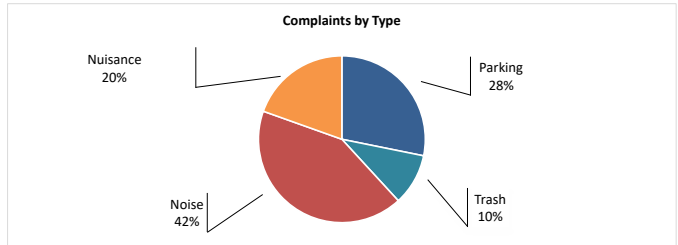
YTD Actual Revenues and Expenditures vs. Budget



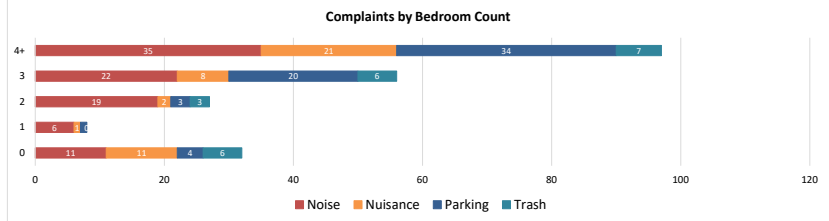
The Short Term Rental Basics

Complaints Made by Type									
Complaint Type	Quarter 1	Quarter 2	Quarter 3	Quarter 4	Jan-20	Feb-20	Mar-20	Total Calls	Percentage
Parking	17	6	15	8	7	3	6	62	28%
Trash	7	4	3	5	0	2	1	22	10%
Noise	25	6	29	11	15	3	4	93	42%
Nuisance	10	6	6	5	3	4	9	43	20%
Total	59	22	53	29	25	12	20	220	100%

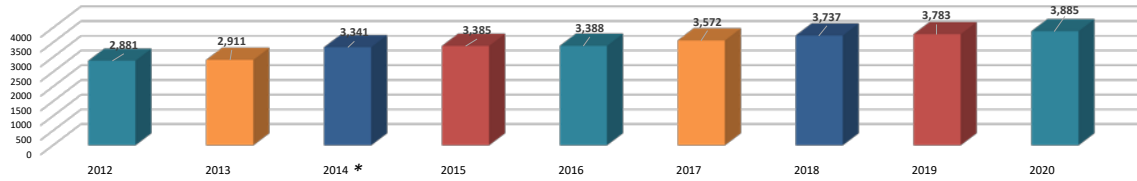
* "Nuisance" includes complaints not concerning Parking, Trash, or Noise.



Please note, all 9 of the complaints in March 2020 were for "Nuisance" calls concerning the STR Ban in Summit County

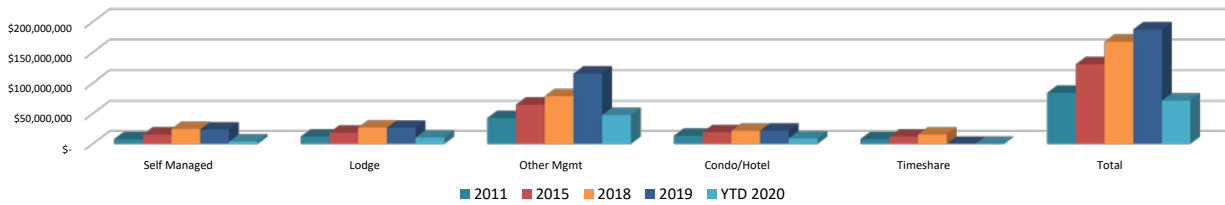


Number of Short Term Rental Licenses by Year



* In 2014, a change in licensing of timeshares changed causing a spike.

Taxable Sales by Mgmt Type



New Items of Note:

- VRBO will begin collecting and remitting Breckenridge sales and accommodations tax for hosts on January 1, 2020.
- Annual renewal billing occurred in November 2019.
- STR sent email communication to all STR License holders and property managers in March concerning the extended STR moratorium in the county through April 30, 2020; we have since sent out an updated communication regarding the extended order. Also, STR complaints that involved possible violations of this order have been coordinated with Chief Baird and Assistant Chief Gress. So far, with the exception of 1 complaint received during the first weekend of the order, all complaints have involved either long-term renters or property owners staying in their own homes.

Continuing Items of Note:

- Airbnb will begin collecting and remitting Breckenridge sales and accommodations tax for hosts on October 1, 2019.
- AirBnB sales fall into all management categories.
- Certain timeshares, such as Wyndham, Woods Manor, French Corner, and French Ridge, are filed on consolidated returns under Other Management Companies.
- Total active licenses fluctuates throughout the year. We use the number of active licenses on January 1 to determine annual number of licenses.
- STR Helper Hotline began accepting calls on January 1, 2019.
- The number to lodge a complaint is (970)-368-2044.



BEC Meeting
Wednesday, April 1st, 2020
Conference Call

Committee Members on Call: Todd Ranking, Erin Gigliello, Shannon Haynes, Lucy Kay, Casey Willis, Majai Bailey, Chase Banachowski, Stephen Costas, Chelsea Roth, Jeff Westcott, Carrie Benefiel, Dennis Lucero, Ken Miller, Sarah Wetmore

I) Call to order – Todd Ranking called the meeting to order at 9:30am.

II) Committee Updates

a) BTO Update

- Assuming June will not be business as usual. Cancelled Gold Panning and paring down Fourth of July celebration. Plan to proceed with parade and NRO but scaling back kids amusements and vendors. Also looking into the Air Force Academy band for the parade.
 - At this point assuming most August events will go as planned and going forward with Oktoberfest as scheduled.
- Planning for late summer/fall additions to drive business. Events that we could pull the trigger on quickly.
- Looking to build out Lighting and December events as a winter season kick off.
- Discussing ways to collaborate with BCA. Idea for a community Drive-in Movie event. Anticipating that as we come out of this people may want to socialize but in different ways.
- Working with Dixie Flag on creating a main street banner to go up in next few weeks. Message: *Thank you to those keeping us safe, fed, and well, love Breck.*

b) ToB Update

- ToB has issued \$1.5 million in COVID-19 Local Relief Grants. TC approved \$1 million be dispersed for small business grants through the ToB and an additional \$500k be designated to FIRC to assist individuals living or working in Breckenridge affected by COVID-19 Small Business relief and individual rental relief.
 - TC has made significant budget cuts in anticipation of a drastic drop in revenue.
- From an events perspective, important to transition into what we believe will be a big fall. Need to stay mindful that it will take time to ramp back up all the support aspects of events e.g. staffing.

c) BSR Update

- At this point in holding pattern in terms of planning. Not looking at winter season coming back and not planning to go forward with any spring events at this time. Mountain operations are on standby for on mountain tear down until stay at home order is lifted.

d) Jeff Westcott/Mav Sports

- Nothing cancelled at this point. In close communication with the resort around possibility of Imperial Challenge coming back in May – would have to comply with restrictions from state and town.
- Continuing with plans for summer with June remaining the big unknown.
 - Conversation around Fire Cracker 50 – Committee agreed that it makes sense to go forward with the race if there is a parade. Important part of the Town’s celebrations. Registration is currently open with 200+ signed up to date.
- Looking at creative ways to collaborate with other local entities and taking an “outside the box” approach to events.

e) BCA

- Wave canceled for 2020, back for 2021. Town Party on a wait-and-see. Moving forward with Fourth of July planning as well as BIFA and Trail Mix activities. Look and schedule of summer events are subject to change - adapting as needed.
- Ai WeiWei “Forever Bicycles” installation was originally scheduled May – Sept. 2020. Hoping to begin install as soon as possible. Permission granted to extend installation dates through October.
- River Walk Center – events cancelled through April. Remaining events are on hold.
- Drive-in Movie – next step would be securing a location, FM transmitter, and screen. Plan to utilize in-house projector.

f) NRO

- Right now moving forward as scheduled with ticket sales on April 15 and planning season as normal – exploring four critical paths to stay fluid.

III) Review Agenda items for next BEC Meeting May 6 , 2020

a) Planning - Confirm what’s still happening

b) Brainstorm: Good time to rework approach to all event with new event concepts – driving business priority.

- *Get crazy creative:* From an events standpoint, think about 4th quarter as a way to make up ground lost early summer.
- The flexibility piece – re-imagining what events can look like in interim time and ways to continue to engage people.



**TOWN OF BRECKENRIDGE
OPEN SPACE & TRAILS**



**STATE OF THE OPEN SPACE
2020 REPORT**

2019

open space & trails AT A GLANCE

\$22,482,947

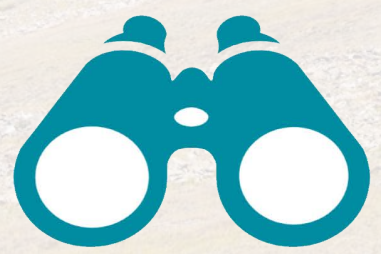


AMOUNT OF TOB FUNDS USED FOR OPEN SPACE ACQUISITIONS SINCE 1997



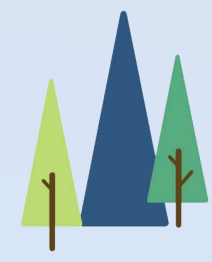
BOSAC established 4-year terms

BRECK OPEN SPACE ADVISORY COMMISSION



2

new summer seasonal naturalists in cucumber gulch preserve



1997

THE START OF THE OPEN SPACE PROGRAM



61.73

TOTAL MILES OF TRAILS



4,948

TOTAL ACRES CONSERVED



0.5% of sales tax in breckenridge directly supports open space



\$3,364,859

AMOUNT OF SALES TAX COLLECTED IN 2019 FOR OPEN SPACE



2019 OPEN SPACE BUDGET

\$2,767,351



5,073

NUMBER OF FRIENDS OF BRECK TRAILS VOLUNTEERS SINCE 2007

1,210

TOTAL NUMBER OF HOURS DONATED BY VOLUNTEERS IN 2019 TO FRIENDS OF BRECK TRAILS

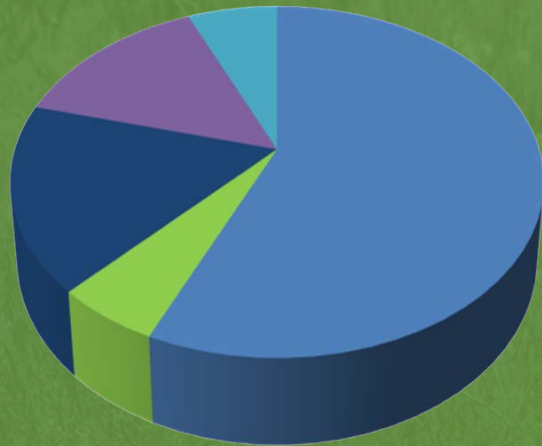


seven friends of breck trails events in 2019

2019 Open Space Budget

The total Open Space program budget for 2019 was \$2,767,351. The program preserves lands that enhance Breckenridge's unique mountain character and maintain our community's quality of life, now and in the future.

Land Acquisitions	1,567,187
Habitat & River Restoration	150,000
Administration	474,518
Trails Construction & Maintenance	396,225
Professional & Contracted Services	179,421
Total Budget	\$2,767,351



- Land Acquisitions (57%)
- Habitat & River Restoration (5%)
- Administration (17%)
- Trails Construction & Maintenance (14%)
- Professional & Contracted Services (6%)

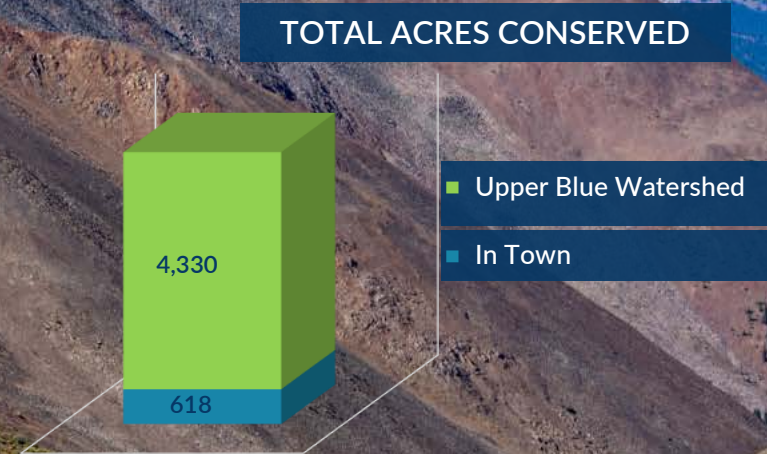


Open Space Acquisitions

Year	Acres
Pre-1997	119
1997	164
1998	150
1999	173
2000	261
2001	640
2002	128
2003	105
2004	214
2005	1,858
2006	7
2007	76
2008	70
2009	73
2010	74
2011	124
2012	91
2013	74
2014	153
2015	67
2016	82
2017	43
2018	92
2019	112
Total	4,948

In 1996, a voter initiative passed, which dedicated a 0.5% Town sales tax to open space acquisition and management.

In the 23 years since its adoption, the Town's Open Space program has acquired a total of 4,948 acres of property through purchases, land trades, dedications, and joint purchases with Summit County Government. The majority of these conserved acres are located in the Upper Blue watershed outside of the Town limits.

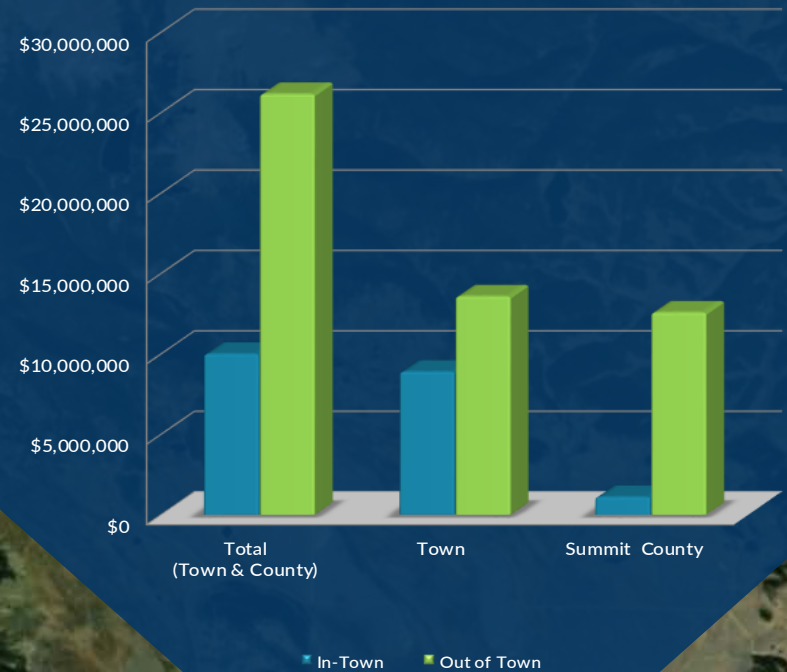


Open Space Conservation

Prior to the creation of the Open Space program in 1997, the Town owned 119 acres of open space. Today, the program manages 4,948 acres of open space, 4,330 acres of which were jointly acquired with Summit County Government.

The Town has spent \$22,482,947 in land purchases since 1997, while the County has spent \$13,690,615 on joint purchases in the Upper Blue watershed.

TOTAL OPEN SPACE EXPENDITURES



2019 Open Space

- Town Open Space
- Joint Town and County Open Space
- Dedicated Town Open Space
- Town Boundary



Open Space Land Management Highlights

- Conducted forest health/wildfire mitigation work on 5.5 acres of Town open space near a residential neighborhood
- Established new partnership with the County and The Nature Conservancy to test the use of aspen stands as natural wildfire fuel breaks
- Convened partners from the County, USFS, CO State Forest Service, and RWB Fire District to identify and prioritize joint forestry efforts in the Upper Blue basin
- Forged new stakeholder group to assess Quandary Peak trail and trailhead overcrowding issues and resource damage
- Treated invasive and noxious weeds on in-Town and jointly owned open space throughout the Upper Blue basin in partnership with our Streets & Parks Dept and Summit County Weed Control Dept



Cucumber Gulch Preserve

- Hired two new full-time summer seasonal Naturalist positions to help educate visitors and conduct research
- Conducted boreal toad surveys, resulting in two new documented sightings of toads
- Continued groundwater monitoring
- Reinforced banks in the middle Gulch that were undercut and unmaintained by beavers
- Removed invasive weeds from the upper Gulch
- Monitored bird species and beavers populations through surveys
- Maintained trail and wildlife cameras to assess wildlife populations and times of activity
- Interacted with the general public and provided education on the sensitive habitats and species within the Preserve
- Formed Joint Working Group with Breckenridge Ski Resort to examine gondola and wildlife impacts



Arts, Events, & Open Space

Connecting the vibrant arts, music, and events scene in Breckenridge with Open Space & Trails

ISAK HEARTSTONE

- Relocated Isak Heartstone to Town open space at Illinois Gulch with one-way directional Trollstigen Trail
- Partnered with Town Council, BreckCreate, Breck Tourism Office, and local citizens

TRAIL MIX

- Featured pop-up performances on Town open spaces and trails during the 10-day Breckenridge International Festival of Arts (BIFA)
- Inspired by themes of environment and mountain culture

RACE EVENTS

- Hosted several events and race series, including:

Breck Epic, Firecracker 50,
Summit Trail Running Series,
Summit Mountain Challenge,
and MTB Junior League





River Park

- Secured a second \$350,000 grant for Phase 2 of the nature-play River Park from Great Outdoors Colorado (GOCO)
- Designed final plans for Phase 2, which will be completed in 2020
- Constructed elements in 2020 include a toddler play and climbing area, Strider loop, fishing platform along the Blue River, and many other final touches
- Awarded the 2019 Starburst Award for River Park by the Colorado Lottery, which recognizes excellent use of Lottery Funds for conservation and community projects



2019 Trails Accomplishments

- Constructed two new trails totaling 0.98 miles, including RedPig and Trollstigen Trails
- Reconstructed Sidedoor Trail to include mountain biking features and changed it to a directional, or one-way, mountain bike trail
- Resurfaced the small pump track at the Wellington Bike Park and enhanced the blue line and large pump track
- Constructed a new pedestrian bridge and 800' long turnpike on the Saw Mill Trail
- Prioritized maintenance on existing trail system
- Groomed the Recreation Pathway and select singletrack trails throughout the winter months



Prior to the establishment of the Open Space program in 1997, the Town managed 10.8 miles of trails. Today the program manages 61.73 miles of multi-use trails.





Friends of Breckenridge Trails

- Recorded highest number of participants at local FOBT events, including 64 volunteers at one event
- Constructed 3,500 feet on the new RedPig Trail
- Planted over 200 perennials at River Park
- Conducted routine maintenance on trails, including Carter Park, B-Line, Barney Flow, Moonstone, Jack's Cruel Joke, and Barney Ford
- Removed over 200 lbs. of dog waste from the B&B Trailhead, X10U8, and Minnie Mine Trails
- 215 total volunteers in 2019
- Volunteers donated 1,210 hours of work, saving the Town \$30,077
- Seven scheduled FOBT events throughout summer season



Our People

The success of the Open Space program is dependent upon the many people who make our work possible, including the residents and visitors who experience our open space and trail network, our conservation partners, volunteers, Town staff, Breckenridge Open Space Advisory Commission (BOSAC), and Town Council. Thank you for making 2019 a successful year for Open Space and Trails.

2019 BOSAC Members

Matt Powers, Chair
Duke Barlow, Vice Chair
Ian Hamilton
Nikki LaRochelle
Carol Saade
Chris Tennal
Jeffrey Bergeron, Town Council Liaison

Open Space & Trails Staff

Scott Reid, Director of Recreation
Anne Murphy, Open Space & Trails Manager
Tony Overlock, Open Space & Trails Ops Supervisor
Joel Dukes, Open Space & Trails Lead
Michael Wagenseil, Trails Technician
Mike Flynn, Trails Technician
Jamey Schwartz, Trails Technician
Ryan Walker, Trails Technician
Ty Tuttle, Trails Technician



**TOWN OF BRECKENRIDGE
OPEN SPACE & TRAILS**

WWW.TOWNOFBRECKENRIDGE.COM



Memo

To: Town Council
From: Chapin LaChance, AICP, Planner II
Date: 4/22/2020, for the Work Session of 4/28/2020
Subject: Logan Thompson Memorial Sculpture Town Project

The Logan Thompson Memorial Sculpture is being reviewed as a staff level Town Project. No hearing is required.

The proposal by Breckenridge Creative Arts (BCA) is to install a 16 ft. tall memorial sculpture along the recreation path and near the skateboard park.

Attached to this memo is a Town Project staff report, point analysis, findings and conditions of approval, a site plan, artist narrative, and construction details for the sculpture for review.

Staff will be available at the Work Session to answer any questions. Staff is recommending the Town Council approve the project.



Town Project Staff Report

Subject: Logan Thompson Memorial Sculpture Town Project
(PL-2020-0071)

Date: April 22, 2020 (for the meeting of April 28, 2020)

Proposal: Installation of memorial public art sculpture on Town owned property along the recreation path near the Skateboard Park.

Project Manager: Chapin LaChance, AICP - Planner II

Property Owner: Town of Breckenridge

Applicant: Matt Neufeld, Breckenridge Creative Arts

Address: 857 Airport Rd.

Legal Description: *TR 6-77 Sec 30 Qtr 3 Mining Claim(s) cont 31.2022 acres Magnum Bonum Ms# 3139 French Gulch Ms# 2589 Triangle Of Govt Lot 47 Cont 0.4222 Breckenridge Recreation Center*

Land Use District: 3: Recreation (Intensity of Use and Structural Type by Special Review)

Area: Kingdom Park: 29.01 acres (1,263,675.6 square feet)

Site Conditions: The sculpture is proposed to be located in an undeveloped area east of the skateboard park at Kingdom Park, along the recreation path.

Adjacent Uses: North: Sports Turf Field
South: Recreation Path
East: Recreation Path, Blue River
West: Skateboard Park

Height: 16 ft.

Policy Discussion

Public Art (43/A & 43/R): The Absolute Policy does not apply to this project because the proposed art is not a mural. The sculpture is accessible from the public recreation path, with parking at the Recreation Center. The Town's Public Works Dept. has reviewed this proposal. For optimal safety, bicyclists recreating or commuting on the recreation path require visibility around the 90-degree bend in the recreation path at this location. In order to prevent collisions with bicyclists and ensure a safe viewing area for those who decide to stop along the recreation path and view the sculpture, a Condition of Approval has been added requiring the sculpture to be located a minimum of 6 ft. from the recreation path. Conditions of Approval have also been added requiring a crusher-fines pullout/viewing area of 6 ft. x 10 ft. minimum adjacent to the recreation path, and requiring that concrete foundation plans from an Engineer licensed in the state of CO be approved by the Town Engineer.

Hazardous Conditions (34/A and 34/R): The sculpture is proposed to be located outside of the floodplain.

Staff Recommendation

Staff finds that all Absolute policies have been met and no points are applicable under the Relative Policies. Staff recommends the Town Council approve the Logan Thompson Memorial Sculpture Town Project (PL-2020-0071), located at 857 Airport Rd., along with the attached Findings and Conditions of Approval.

TOWN OF BRECKENRIDGE

Logan Thompson Memorial Sculpture Town Project
857 Airport Rd.
PL-2020-0071

FINDINGS

1. This project is a “Town Project” as defined in Section 9-4-1 of the Breckenridge Town Code because it involves the planning and design of a public project.
2. The process for the review and approval of a Town Project as described in Section 9-14-5 of the Breckenridge Town Code was followed in connection with the approval of this Town Project.
3. Staff finds and the Town Council determines that the Town Project is necessary or advisable for the public good, and that the Town Project shall be undertaken by the Town.
4. Staff’s approval of this project was forwarded to the Town Council at the April 28th, 2020 Work Session.

CONDITIONS


1. **The proposed sculpture shall be located a minimum of 6 feet from the existing recreation path, with a crusher-fines viewing area a minimum of 6 feet deep and 10 feet wide.**
2. **Prior to installation, plans for the sculpture’s concrete foundation shall be prepared by an Engineer licensed in the state of CO and shall be approved by the Town Engineer.**
3. **Prior to any ground disturbance, the contractor shall have all underground utilities located.**
4. **The proposed sculpture shall not be installed in the 100 year floodplain.**


thompson memorial site map




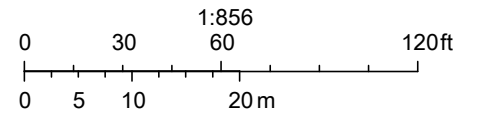
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Imagery2019.tif

 Green: Band_2

 Blue: Band_3

 Red: Band_1



Sources: Esri, HERE, Garmin, Intermap, increment Corp.,
 FAO, NPS, NRCAN, GeoBase, IGN, Kadaster 140 Ord
 Japan, METI, Esri China (Hong Kong), (c) OpenStreetMap
 GIS User Community



Logan Thompson Memorial Sculpture
Artists: Jason Dreweck & Teresa Hansen

Artists' Statement

As a lifelong snowboarder /artist meeting with the Thompson family and exploring the depths of this project initially left me perplexed regarding design elements. An emotional celebration of life and love in a contemporary dynamic fashion to be conveyed in its simplest form, yet impactful to all whom witness its spirit. As a team my mom and I feel that through our shared compassion and passions we've achieved the ultimate design and scope for installation.

At the top of the sculpture there is a snowboarder showcasing a dynamic 'Indy grab.' This trick was illustrated to us in two photos of Logan snowboarding and skateboarding. We learned that he also performed this trick his last time snowboarding in Breckenridge. By nature, snowboarders and skateboarders are opportunists in their riding. Constantly looking for features or obstacles to express their individual stylistic approach and essential to progression in their riding. With this in mind we felt strongly about incorporating the surrounding terrain.

Artistically this snowboarder just jumped the bridge launching him over the bike path to the installation site. The snowboarder is then suspended in full 'Indy grab' display to inspire any level of rider at the skate park. Elevated atop a contemporary ribbon to convey the spirit of this ride is eternal. The snowboarder looking down on us as we look up to be greeted by the warmth of his high polished bronze goggle lenses.

The entire sculpture will have a contemporary metallic silver patina with a black marbling effect and carefully selected high polished areas. The high polish displays stunning contrast illuminating the movement with warmth as the sunlight dances off from these planes. The artistic elements of this sculpture coalesce to make this the most dynamic snowboard public art sculpture in the world, which is extremely appropriate acknowledging Breckenridge's tremendous snowboard history.

Materials

This sculpture will be cast using the highest quality bronze. Due to scale and complex design there will also be a stainless steel interior structure welded inside the sculpture for additional support.

Size

Approximately 16' Height x 8' Width x 4' Depth.

Weight

The sculpture will weigh approximately 1100 lbs.

Installation

It is recommended a concrete base at least 8" larger on all sides than the footprint of the sculpture. Being placed in colder environment such as Breckenridge the depth of the pad should be below the freeze level.

We will use a truck mounted crane or an extendable reach forklift. The minimum reach of the crane must be at least as tall as the sculpture as well as any rigging. For this 16', 1100 lb. sculpture we will order a crane that extends at least 20' and has a minimum capacity of 2000 lbs.

The sculpture will have six 1" stainless steel tabs welded on the inside of the base that 1" stainless steel all-thread is screwed into and extends into the concrete pad six inches deep. Using a template, we will drill holes into the concrete pad to accept the all-thread. Using the crane to position the sculpture above the pad, the sculpture is lowered onto the pad to verify the all-thread aligns with the holes in the concrete. At this point the sculpture is raised up high enough to allow the holes to be filled with quick setting epoxy. The sculpture is then lowered to the pad with the all-thread going into the epoxy filled holes. Following these simple steps this sculpture will be secured and have a clean look to it.

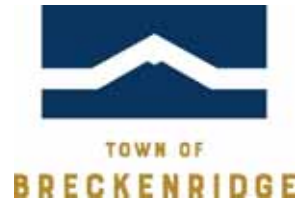
Maintenance

Little or no maintenance required. Polish with Johnsons paste wax once a year to eliminate airborne particles and natural oxidation.

Budget

Mold	\$16,000
Bronze Casting	\$58,900
Delivery+ Install	\$2,000
Artist Design and Execution	<u>\$15,100</u>
Total Investment	\$92,000

(Sculpture estimated value based on casting cost \$176,700)



Memo

To: Mayor and Town Council
From: Julia Puester, AICP, Assistant Community Development Director
Date: April 21, 2020 (for April 28, 2020 meeting)
Subject: Small Cell Direction Recommendation

Small Cell Facilities Background

The Federal Communications Commission (FCC) passed regulations September 26, 2018 pertaining to the deployment of 5G technology in municipal rights of ways (ROW). The new rules, making 5G readily accessible and removing barriers to 5G deployment became effective April 15, 2019 and apply to all municipalities nationwide. These regulations limit the requirements that local government can impose on 5G deployment (including undergrounding, aesthetic, historic, and environmental considerations) to those that are reasonable, comparable to requirements for other rights-of-way users, and published in advance. Further, the rules allow for unlimited access to small cell applications from providers in the Town Rights of Way.

At the March 24th meeting, Town Council gave staff direction to only allow small cell installations on buildings, not in the right of way on poles. While Town owned buildings prove easy to allow providers to locate upon, private property has more complications and providers are therefore unlikely to choose that option, even with potential Town funding. Staff spoke with several industry professionals to explore this concept and found the following concerns:

- 1) Cost- Private rooftop leases can cost between \$300-\$1,500+ per month as compared to a \$270/year fee (per FCC) to locate in the right of way. A typical 10+ year contract could have big cost implications to the carrier and/or the Town, should the Town decide to subsidize leases for private property installations.
- 2) Process- Since the design, location and lease terms are subject to private property owner approval, the length for approvals and complications with lease terms can be long and unknown. It is possible building owners, in the needed coverage area, will not want to accommodate small cells.
- 3) Physical barriers- Rooftops tend to have existing HVAC or other infrastructure not conducive for placement of small cells where needed for performance.

Based on these concerns, as expressed by industry professionals, staff feels that most providers will opt to utilize their option to locate in the Right of Way. Given this is likely to occur, staff is proposing a strategy that would set a standard for the types of small cell poles that the Town wants to see in the Right of Way. Without a preferred option for providers, staff foresees providers coming forward in the near future with more applications for less visually appealing poles than those proposed in this memo. This preferred approach, as discussed further below, tries to balance the need for residents, visitors and businesses access to data capacity and future smart city infrastructure while preserving the visual aesthetics of Town.

At this time, the Town has already received one formal small cell application on the Town owned Welcome Center rooftop. In addition, staff also has had recent conversations with Verizon on seven potential pole replacement locations throughout Town with a less than ideal design.

As noted in previous presentations, a Request for Information (RFI) was issued in December in an attempt to achieve a cohesive small cell approach that would allow for providers to co-locate on a more visually appealing pole that would minimize visual impact (specifically in the Town's National Registered Historic District). The preferred approach would utilize the Fiber9600 network. Of the six companies who responded to the RFI staff has selected a single successful respondent team – American Tower Corporation (ATC) and Denver based NeuComm. ATC, with a current presence in town via the ski area, has expressed a strong interest to bring the latest technologies to Town using a true shared infrastructure model designed to take into consideration the performance of existing and proposed macro site coverage. The approach, if Council finds worth pursuing, has three possible phases or a combination of such.

This proposal has the potential to co-locate different providers on buildings, as well as on smart poles, as needed. This approach would result in less small cell locations and visual impacts while providing increased cellular coverage and data capacity, as well as potentially hosting a strong public Wi-Fi service and providing for future smart city applications, if desired.

Below is a coverage heat map of existing 4G cellular coverage, produced by ATC/NeuComm. As viewed from the map, there are areas (the yellow and lighter green shaded locations) that could use increased data coverage which the providers will be seeking out at some point.

Existing 4G RF Coverage



Proposal

Staff realizes that there are concerns regarding radio frequency (RF) which is a result of this type of service and is sensitive to that. All infrastructure and providers are required to meet FCC rules and regulations regarding RF. Staff's analysis of the proposal is below.

Small Cell Poles

Six small cell smart poles are at three street intersections in the Town core, two new macro sites on Town owned buildings (to be further vetted as one is proposed on a historic site) and one existing camouflaged ATC macro site at the gondola station. This would give the Town core complete cellular and data capacity by installing camouflaged macro sites as a blanket coverage and increased data capacity through the smart poles. Phase 3 (map attached) includes coverage for areas outside the core of town. Please note that this is an estimate of locations as ATC has not completed mapping or worked directly with the providers to pin point their coverage gaps, as the Town has not authorized them to progress to the next stage of design.

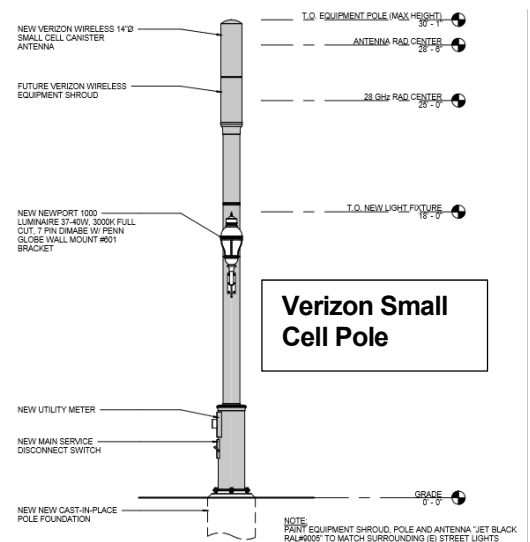
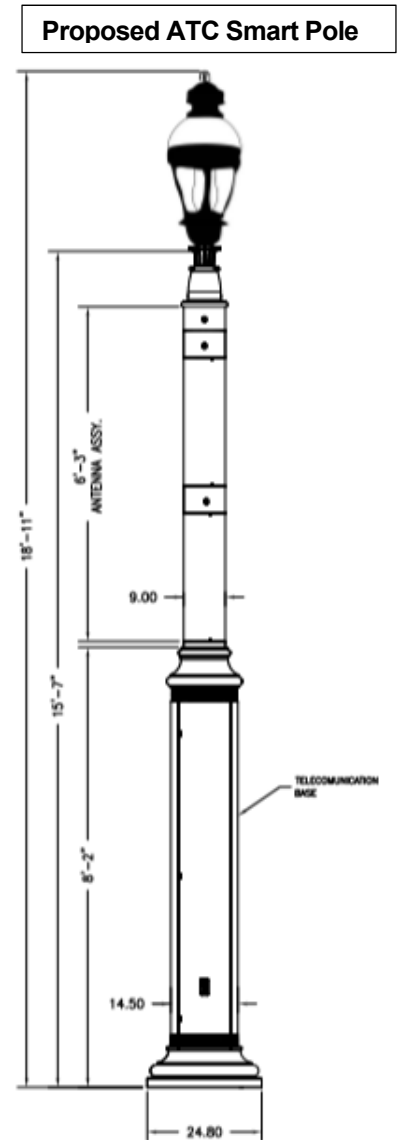
Co-location: The pole technology and design have been used before at the LA Convention Center and ATC offices. These poles are new to the market and although there are more locations under contract, they have yet to be installed. The poles can accommodate two separate providers, making it a small footprint for co-location.

Height: A diagram of a smart pole which mimics the Town pole and light fixture in the Conservation District has been included. The existing Town's Welsbach pole and light fixture measure 15 feet 8 inches at intersections (12 foot pole and 44 inch light fixture) and 12 feet 8 inches midblock (9 foot pole and 44 inch light fixture). The proposed smart poles designed for Breckenridge would measure 18 foot 11 inch (15 foot 7 inch pole and 44 inch light fixture). This would result in an increase of 3 feet 3 inches for the new smart poles at intersections, which is the desired location for smart poles.

Width: The smart poles are designed to be located at intersections. This design is the narrowest pole in diameter (24.8 inches as an *optional* decorative base, then decreases to 14.5 inch base diameter, after which it reduces to a 9 inch mid pole diameter for the remainder) that staff has seen which would allow for pedestrian and snowplowing activity on the sidewalks concerning staff in the past. The Town's existing poles are 3.5 inches in diameter. Staff has also included photos of similar installed smart poles (with slightly different light fixture at the end of this report).

For a comparison, staff has also included a diagram of the poles that Verizon has shown staff. The Verizon pole measures 30 feet in height, appears to be wider (dimension unknown), has a large shroud at the top and has the light fixture attached to the side.

Staff has provided phased maps showing the potential macro sites on Town buildings as well as smart pole replacements of existing poles attached to this report for specifics.



Wi-Fi: As a priority for the Fiber9600 project, staff incorporated a Wi-Fi system for the Town core into the RFI for further exploration. The Town has options when it comes to public Wi-Fi. It is possible to install Wi-Fi devices on Town owned infrastructure at a fairly low cost that would achieve reasonably good Wi-Fi coverage in the core of Town. If the Town is interested in providing Wi-Fi coverage in combination with this potential project, the first phase could consist of three Wi-Fi locations. Wi-Fi capability is provided for in the proposed smart poles, but more locations would be required for good public coverage. The need for additional locations could be achieved using existing Town poles with equipment small in scale and much less visually intrusive than small cells (Diagram attached).

Financial

There is no cost to the Town (with the exception of public Wi-Fi backhaul if needed beyond the Town's existing fiber backhaul). ATC/NeuComm would absorb all the upfront cost associated with the new infrastructure, including the design phase. ATC/NeuComm makes their money from having the providers sign on to utilize their infrastructure. There is potential revenue for the Town with lease rents that could be collected from the Town's existing fiber infrastructure and two building owned locations.

Council Questions:

Staff has the following questions for Town Council:

- Is the Council open to having these specific smart poles in the right of way?
- Does the Council want to proceed with this approach?
- Does the Council want to proceed with public Wi-Fi, either one its own or with ATC/NeuComm?

Staff Recommendation

Should the Council like these specific smart poles and wish to direct staff to proceed, staff recommends entering into an agreement with ATC/NeuComm for a detailed design plan to be provided to Council for review. An agreement would include a termination option should Council decide not to proceed with the plan as designed.

If the Council agrees with this approach and the smart poles proposed, staff would further recommend proceeding with a modification to the Small Cell Procedures and Design Guidelines to require these smart poles or something similar.

Staff will be available at the meeting to answer any questions that the Town Council may have.

Attachments:

ATC Pole Photo Simulation Comparison to Town Street Lights
ATC Smart Pole Photos
Potential Small Cell and Macros Maps
Wi-Fi Map and Diagram



Existing Intersection Street Lights



Proposed ATC Smart Poles

**American Tower Corporation (ATC)/NeuComm Smart Pole Photos
(with different light fixture)**



Potential Macro and Small Cell Sites-Maps

Macro sites are larger and would provide a larger range (overarching umbrella) for coverage. The smart poles (small cells) would distribute more location specific data capacity (for streaming etc.). ATC has an existing macro site at the gondola station that is shown to be utilized. Red translates to complete coverage.

Cellular - Smart Poles

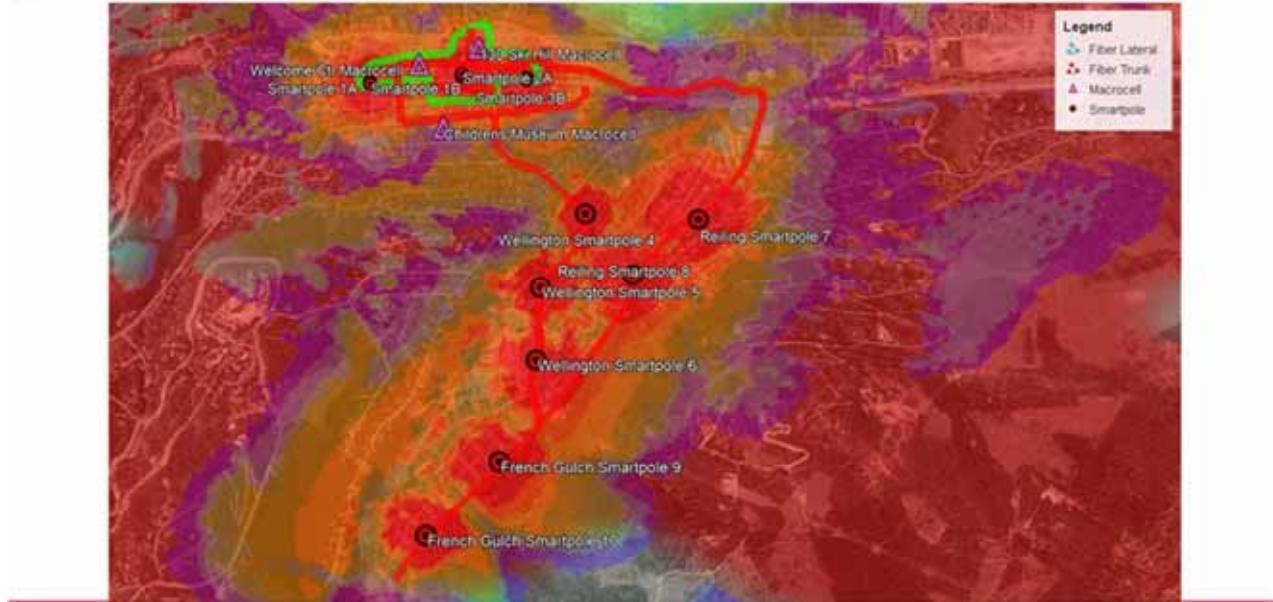


Cellular - Smart Poles and Macrocells



Potential Expansion Small Cell-Map: If Outside of Town Core was implemented

Cellular – Phase 3 Smart Poles and Macro Sites



Wi-Fi Potential Maps

WiFi - Smart Poles and Existing Town Poles



Wi-Fi Pole attachment for buildings or existing non-smart poles (can be black to match poles): Dimensions 10.12" x 3.31" x 1.18"





Memo

To: Mayor and Town Council
From: Julia Puester, AICP, Assistant Community Development Director
Date: 4/22/2020 for meeting of April 28, 2020
Subject: Small Cell Procedures and Design Guidelines Modifications

In order to have regulations regarding design guidelines for small cell infrastructure, the Town had to have Design Standards published prior to the April 15, 2019 effective date of the new Federal Communication Commission (FCC) rules. The Town's Design Standards were published on April 11, 2019 after receiving Town Council approval. At that time, staff stated that we would need to amend the Design Guidelines as more information regarding small cell infrastructure capabilities, advancements, and design trends emerged as the implementation of small cells begun to roll out across the country.

Since that time, small cells have started to be installed around the country and more information regarding capability and design of small cells is better known. Staff would like to recommend the following modifications be made to the Process and Design Guidelines. These modifications will better conform to what staff believes would be in line with recent Town Council direction and be more in character with the community, given what we now know regarding better small cell design. A highlight of the major changes are below.

- Moved 'Outside of Town Right of Way' to the highest preference category, putting 'In the Town Right of Way' preference second in all areas of Town.
- Reduced the 40' tall pole allowance to 30' in non-residential areas.
- Reduced the 30' tall pole allowance to 20' in residential areas and in the Town's Conservation District.
- Poles shall accommodate 2 providers.
- Added pole specification diagram to Exhibit 'A'.

A strike and bold/double underline version of all changes have been attached for further review. Staff recommends the Council motion to approve the changes attached.

Staff will be available at the meeting to answer any questions.

TOWN OF BRECKENRIDGE, COLORADO
SMALL CELL PROCEDURES AND DESIGN GUIDELINES
(~~May 2019~~ May 2020)

TABLE OF CONTENTS

	Page
1. Introduction	1
2. Definitions and Interpretation of Guidelines	1
3. Small Cell WCF Application Process	3
4. Small Cell WCF Design Standards - Generally	4
5. Pole Location	4
6. Street Lights	7
7. Specific Design Standards Applicable to the Type of Attachment or Location of Attachment	8
8. Undergrounding of Equipment	10
9. Costs of Installation, Operation and Maintenance of Pole and Small Cell WCF	10
10. Attachment to Town-owned Pole	11
11. License Agreement and Site Supplement	11
12. Administrative Waiver	12
13. Installation to Conform to Town Approvals	12
14. Fees	13
15. Other Required Permits	13

1. Introduction

These Small Cell Procedures and Guidelines (“**Guidelines**”) set forth and establish the procedures, standards, requirements, and design guidelines for the location of Small Cell Wireless Communication Facilities (“**Small Cell WCF**”) within Town of Breckenridge owned or controlled rights of way (“**Town ROW**”). In order to facilitate public access to a wide range of telecommunication, broadband, and wireless services and in accordance with Sections 29-27-401, et seq., Colorado Revised Statutes (C.R.S.), Sections 38-5.5-101, et seq., C.R.S., and the applicable provisions of the Telecommunications Act of 1996, including Sections 253 and 332, and as interpreted by Federal Communications Commission Order 18-133 (September 26, 2018), Small Cell WCF are authorized to be located within publicly owned or controlled rights of way, subject to the consent of the jurisdiction controlling the right of way.

In order to accommodate such Small Cell WCF and facilitate public access to wireless communication in a manner that does not create a safety concern for the traveling public; create overly congested use of the Town ROW by such facilities; or adversely affect or alter the unique aesthetic character, beauty, and historic charm of the Town, the Director of the Department of Community Development of the Town of Breckenridge (“**Town**”) hereby establishes the following design guidelines for Small Cell WCF proposed to be located in the Town ROW.

These Guidelines are intended to ensure a complete, thorough, and consistent review of proposals for the location of Small Cell WCF in the Town ROW in accordance with state, federal, and local laws, without creating barriers to the deployment of wireless communication services. These Guidelines may be revised as appropriate and in accordance with state and federal law to address technological changes in the telecommunication industry or as may be necessary in the judgement of the Director to provide for the efficient, safe, and appropriate function of the Town ROW.

These Guidelines supersede in their entirety all prior versions of the Town’s small cell guidelines.

2. Definitions and Interpretation of Guidelines

2.1 In addition to those terms defined parenthetically, the following definitions apply to these Guidelines:

- A. As used in these Guidelines, “**Small Cell WCF**” means and includes small cell facilities as defined in Section 29-27-402(4), C.R.S., as amended. This Section currently provides in pertinent part as follows:

(4)(a) “Small cell facility” means . . . :

- (II) A wireless service facility that meets both of the following qualifications:
 - (A) Each antenna is located inside an enclosure of no more than three cubic feet in volume or, in the case of an antenna that has exposed elements, the

antenna and all of its exposed elements could fit within an imaginary enclosure of no more than three cubic feet; and

(B) Primary equipment enclosures are no larger than seventeen cubic feet in volume. The following associated equipment may be located outside of the primary equipment enclosure and, if so located, is not included in the calculation of equipment volume: Electric meter, concealment, telecommunications demarcation box, ground-based enclosures, backup power systems, grounding equipment, power transfer switch, and cut-off switch.

(b) “Small cell facility” includes a micro wireless facility.

- B. “**Arts District**” means Lots 1 and 2, Art District Subdivision, Town of Breckenridge, Summit County, Colorado.
- C. “**Conservation District**” is described in the Town’s “Handbook Of Design Standards for the Historic and Conservation Districts.” The Conservation District is a geographic area within the Town which has been determined by the community to contain resources of special value to the community. To protect such special and sensitive resources special standards are required with respect to the proposed location of new Small Cell WCF within the Conservation District, all as provided in these Guidelines.
- D. “**Development Code**” means the Town of Breckenridge Development Code, codified as Chapter 1 of Title 9 of the Breckenridge Town Code, as amended from time to time.
- E. “**Director**” means the Director of the Department of Community Development of the Town, or such person’s designee acting pursuant to Section 1-7-2 of the Breckenridge Town Code.
- F. “**Facility**” means a Small Cell Facility as defined in Section A, above, and includes both that antenna and the primary equipment enclosure.
- G. “**Small Cell WCF Application**” or “**Application**” means an application to install a Small Cell WCF within the Town ROW filed with the Director pursuant to the Development Code.
- H. “**Town Engineer**” means the Town Engineer of the Town, or such person’s designee acting pursuant to Section 1-7-2 of the Breckenridge Town Code.

2.2 Rules of Interpretation

- A. These Guidelines are to be interpreted in accordance with the ordinances, rules, and regulations of the Town, as amended from time to time. These Guidelines do not

themselves repeal or amend Section 9-1-19-50A, “Policy 50 (Absolute) Wireless Communications Facilities,” of the Development Code.

- B. Except as expressly provided in these Guidelines to the contrary, if there is a conflict between these Guidelines and any ordinance, rule, or regulation of the Town, the ordinance, rule, or regulation shall prevail.
- C. Wherever applicable in these Guidelines, the singular shall include the plural, and the plural shall include the singular.

3. Small Cell WCF Application Process

3.1 Prior to submitting a Small Cell WCF Application the applicant is encouraged to initiate and schedule a pre-submittal meeting by contacting the Town’s Department of Community Development. However, a pre-submittal meeting is not required, and will only be held if the applicant requests one. By participating in the pre-submittal meeting, the applicant agrees that the mandatory review time stated in Section 3.6, below, does not start until the application is submitted, subject to the tolling provisions of Section 3.5.

3.2 A Small Cell WCF Application is classified and will be processed as a class D-minor development permit application as described in the Development Code. All provisions of the Development Code that are applicable to class D-minor development permit applications shall apply to a Small Cell WCF Application, but if there is a conflict between these Guidelines and the Development Code, these Guidelines will control. Without limiting the generality of the preceding sentence, the time normally allowed for processing of class D-minor development permit application does not apply to the processing of a Small Cell WCF Application (see Section 3.6, below).

3.3 All Small Cell WCF Applications must be submitted in hard copy; e-mailed applications will not be accepted. “Batched” applications to install multiple Small Cell WCF may be filed to the extent permitted by applicable law.

3.4 At the time of the submission of a Small Cell WCF Application the applicant must simultaneously pay the applicable Town fees as described in Section 14 of these Guidelines. If the required fees do not accompany the Small Cell WCF Application, the application will be rejected without prejudice and returned to the applicant by the Director.

3.5 The Director will review a Small Cell WCF Application for completeness and respond to the applicant within ten (10) days of the date of submission of the application with a report identifying any items missing from the application. The mandatory review periods provided in Section 3.6, below, shall be deemed tolled pending the applicant’s complete submission of any missing item identified in the Director’s completeness report.

3.6 The Director will complete his or her review of a Small Cell WCF Application and either approve, conditionally approve, or deny the application within ninety (90) days from the date of submission of the application, or from the date of submission of the completed

application if tolled due to an incomplete submission as provided above, whichever is the later date.

4. **Small Cell WCF Design Standards - Generally**

4.1 The following design guidelines shall apply to all Small Cell WCF proposed to be located within the Town ROW.

4.2 In accordance with the requirements of Section H4b of Section 9-1-19-50A, “Policy 50 (Absolute) Wireless Communications Facilities,” of the Development Code, when deciding a Small Cell Application the Director shall consider whether the proposed structure will adversely affect or alter the unique aesthetic character, beauty, and historic charm of the Town. If the Small Cell Application is for a location in the Conservation District, the Director shall consider those policies described in Section H4b of Section 9-1-19-50A, “Policy 50 (Absolute) Wireless Communications Facilities,” of the Development Code.

4.3 All equipment installation associated with a Small Cell WCF shall comply with Town’s Engineering Standards, the Americans with Disabilities Act and applicable regulations, and all other local, state, or federal laws and regulations.

4.4 No Small Cell WCF may be located or maintained in a manner that causes unreasonable interference. Unreasonable interference includes any use of the Town ROW that disrupts vehicle or pedestrian traffic, any interference with public utilities, and any other activity that will present a hazard to public health, safety, or welfare.

4.5 Because the Town does not have surveyed locations of all of the Town ROW, as part of a Small Cell Application it is the responsibility of the applicant to locate the Town ROW to the satisfaction of the Town Engineer.

5. ~~Pole~~ **Small Cell Location**

5.1 ~~Pole~~ **Small Cell** Location Requirements:

A. ~~Poles~~ **Small Cells** shall be placed on site in accordance with the Director’s approval, which approval will take into consideration and be based upon the following hierarchy of preference for placement and deployment:

(1) **Outside of the Conservation District:**

(a) **Outside of Town ROW:**

- (i) **Located on an existing traffic signal.**
- (ii) **Located on Town owned buildings.**
- (iii) **Located on privately owned buildings.**
- (iv) **Located on other publicly owned property and facilities.**
- (v) **Located on public and private utility installations.**

(vi) Located on non-publicly owned community facilities (such as places of worship, community centers, etc.).

(b) Within Town's ROW:

- (i) Located on an existing traffic signal.
- (ii) Located at street intersections on a replacement pole.**
- (iii) Located on a new pole that replaces an existing light pole, utility pole, or other vertical infrastructure in the same location.
- (iv) Located adjacent to commercial driveways.
- (v) Located on a new pole as to not obstruct facades of existing structures or other significant property features.
- (vi) Located on common property lines, as extended into the right of way.
- (vii) Located as to not obstruct significant view corridors.

~~(c) Outside of Town ROW:~~

- ~~(i) Located on an existing traffic signal;~~
- ~~(ii) Located on Town property.~~
- ~~(iii) Located on other publicly owned property and facilities;~~
- ~~(iv) Located on public and private utility installations.~~
- ~~(v) Located on non-publicly owned community facilities (such as places of worship, community centers, etc.).~~
- ~~(vi) Located at other locations if the preferred locations in (b)(i) - (v) cannot be made to work.~~

(2) Inside of the Conservation District:

(a) Outside of Town ROW:

- (i) Located on an existing traffic signal.**
- (ii) Located on Town owned buildings.**
- (iii) Located on privately owned buildings.**
- (iv) Located on other publicly owned property and facilities.**
- (v) Located on public and private utility installations.**
- (vi) Located on non-publicly owned community facilities (such as places of worship, community centers, etc.).**

(b) Within Town's ROW:

- (i) Located on existing traffic signal.
- (ii) Located at street intersections **on a replacement pole.**
- (iii) Located on an existing light pole, utility pole, or other vertical infrastructure in the same location.

- (iv) Located on a new pole that replaces an existing light pole, utility pole, traffic signal, or other vertical infrastructure in the same location.

~~(e) Outside of Town ROW:~~

- ~~(i) — Located on an existing traffic signal;~~
- ~~(ii) — Located on Town property.~~
- ~~(iii) — Located on other publicly owned property and facilities.~~
- ~~(iv) — Located on public and private utility installations.~~
- ~~(v) — Located on non-publicly owned community facilities (such as places of worship, community centers, etc.).~~
- ~~(vi) — Located at other locations if the preferred locations in (b)(i)-(v) cannot be made to work.~~

- (d) No poles or facilities may be located on any historic structure or on any Town-owned structure located within the Arts District.

- (e) All poles within the Conservation District must be located at street intersections. No pole may be located mid-block within the Conservation District.

- (3) An applicant may apply for a waiver from the strict application of the above hierarchy of placement locations as provided in Section 12, below.

- (4) Pole must be a minimum of 5' from a low pressure gas line, or 15' from a high pressure gas line.

B. Whether located within or outside of the Conservation District poles and facilities shall:

- (1) Not obstruct intersection sight distance or pedestrian visibility per AASHTO design guidelines.
- (2) Not obstruct, impede, or hinder pedestrian, vehicular, or bicycle traffic, parking, or snow plowing operations within the Town ROW.
- (3) Not encroach into pedestrian ways such as sidewalks, trails, or transit shelters/stops. A minimum clearance of 6' horizontally and 8' vertically shall be maintained in pedestrian ways.
- (4) Not be located so as to obstruct facades of existing structures or other significant property features.
- (5) Not be located along the frontage of a historic structure or historic site.
- (6) Not be located in a manner that obstructs access to adjacent property.

- (7) Not be located so as to obstruct significant view corridors.
 - (8) Avoid planned **public improvements including but not limited to** roadway improvements/development/bike **and recreation** paths.
 - (9) Avoid drainage constraints (swale, roadside drainage, drainage easement).
 - (10) Avoid utility conflicts (storm sewer, water, fiber, and other utilities).
 - (11) Be aligned with existing street trees, utility/street light poles.
- C. New freestanding poles that will replace an existing pole shall be placed in the same location as the pole to be replaced, unless otherwise ordered by the Town Engineer.
 - D. Freestanding poles fitted with an integrated street light shall be placed in the location approved by the Town Engineer.
 - E. Except as provided in Sections C and D, above freestanding poles (that are not traffic signal pole replacements or fitted with integrated street lights) shall be separated from other freestanding small cell poles by a minimum of 500 feet; provided, however, as provided above, within the Conservation District poles there is no minimum pole separation, but a pole may be located only at street intersections (i.e., no pole shall be located mid-block).
 - F. In accordance with the provision of Section 12, below, pole location variances of up to 50' may be authorized with justification based on meeting other technical requirements (sight triangles, trees, traffic operations, need to place on common property lines, or where requirements described herein are demonstrated to be an effective prohibition of the ability to provide wireless service).
 - G. All poles placed within Town ROW shall be conveyed to and shall become the property of the Town, unless otherwise ordered by the Town Engineer.

6. Street Lights

6.1 If the Town Engineer determines that there is a public safety need for a street light at the particular location, the Small Cell WCF shall be mounted on a new freestanding pole with an integrated streetlight, which pole and streetlight shall be owned and operated by the Town on the Town's electrical circuit. Required street light fixtures and luminaires are described on the attached Exhibit "A". New freestanding poles with integrated lights shall be poles that allow for collocation. Lighted locations shall only be at street intersections or commercial/multi-family access drives, unless another location is approved by the Town Engineer.

6.2 If the Town Engineer determines that there is a no public safety need for street light at the particular location, the Small Cell WCF shall be mounted on a freestanding pole without an integrated streetlight. Such pole shall be owned by the applicant who originally installed the

pole, or such entity's successor. ~~New~~ Freestanding poles without integrated lights shall be poles that allow for collocation.

7. Specific Design Standards Applicable to the Type of Attachment or Location of Attachment

7.1 ~~Attachment to or~~ Replacement of Existing Light Pole, Utility Pole, Traffic Signal, or Other Vertical Infrastructure:

- A. Owner of vertical infrastructure must approve use and placement of the Small Cell WCF.
- B. Maximum total pole height (including antenna) shall be as short as possible in order for the Small Cell WCF to operate properly, but in no event taller than:
 - (a) ~~40'~~ 30' in non-residential areas.
 - (b) ~~30'~~ 20' in residential areas and in the Town's Conservation District.
- C. Maximum antenna enclosure of 3.0 cubic feet.
- D. **Replacement of existing poles shall meet Exhibit 'A' of these Design Guidelines unless otherwise specified in this section.**
- E. A single pole mount ~~may have up to~~ **shall accommodate at least two providers within the antenna/equipment enclosure(s).**
- F. If mounted above the existing pole, **should this alternative design be approved by the pole owner as a more camouflaged design than the required pole in Exhibit 'A', the antenna must be concealed within a shroud ("cantenna"), with a tapered transition from antenna shroud to pole.**
- G. If replacing existing pole or if existing pole accommodates internal wiring, all wiring shall be internal to the pole.
- H. Application submittal materials shall include appropriate professional engineer-stamped plans and specifications showing such detail of the Small Cell WCF and its location as is reasonably required by the Director to evaluate the impacts of the proposed Small Cell WCF to structure it is to be attached to, including, but not limited to, the structural and loading capacity of the structure to which it is to be attached.

7.2 Freestanding Small Cell Pole (With or Without Integrated Street Light):

- A. Pole design and manufacture: **Shall meet Exhibit 'A' unless otherwise allowed in this section 7.2.**

B. If the Community Development Director finds that an application would be better sited with an alternative freestanding pole or alternative design than required in Exhibit 'A', the design shall meet the following standards.

- (1) If no other vertical infrastructure is present in area: round, straight, galvanized steel, painted with black with a matte finish with a two coat system with inorganic zinc-rich primer (shop coat) and high-build urethane top coat **may be considered**. The shop coat shall have a dry film thickness of 3.0 mils. The top coat shall have a thickness of 3.0 mils. The Town Engineer may approve an alternative coating system.
- (2) If other vertical infrastructure is present in area: design must be compatible with nearby poles (similar color, style, and appearance).
- (3) Pole shall be designed to accommodate a minimum of two small cell antennas in order to promote collocation. Collocated antennas shall not be located on top of each other so as to increase the overall height of the pole unless location on top of each other is required in order for both antennas to operate properly.
- (4) Equipment cabinet shall be painted black with a matte finish.
- (5) Equipment cabinet shall be integrated in base of pole and shall be round, unless otherwise authorized by the Town Engineer.
- (6) Equipment cabinet shall be fluted, unless otherwise authorized by the Town Engineer.
- (7) Antennas must be concealed within a cantenna, with a tapered transition from antenna shroud to pole.
- (8) Antenna/shroud shall be the minimum height required to allow the Small Cell WCF to operate properly, but no more than 8'0" in height.
- (9) Maximum antenna enclosure shall be three (3) cubic feet.
- (10) Breakaway supports should be used unless Clear Zone Analysis¹ indicates otherwise. Mass of breakaway support should not exceed 1,000 lbs.
- (11) **If the site location for a small cell is best served by an individualized design to be camouflaged into the site surroundings as agreed to between the Town and the provider, such design may be approved by the Town.**

C. Owner of vertical infrastructure must approve use.

¹ Clear Zone Parameters – see AASHTO Roadside Design Guide for recommended clearances based on speed, traffic volume, and roadside conditions.

D. Maximum total pole height (including all collocated antennas) shall be as short as possible in order for the Small Cell WCF to operate properly, but in no event taller than:

(a) ~~40'~~ **30' total structure** in non-residential areas.

(b) ~~30'~~ **20' total structure** in residential areas and in the Town's Conservation District.

In accordance with the provision of Section 12, below, height variances may be authorized with justification based on meeting other technical requirements; provided, however, in no event shall the total pole height, including all collocated antennas, exceed 50'.

E. Maximum equipment cabinet height: 6'0".

F. Application submittal materials shall include appropriate professional engineer-stamped plans and specifications showing such detail of the Small Cell WCF and its location as is reasonably required by the Director to evaluate the impacts of the proposed Small Cell WCF to structure it is to be attached to, including, but not limited to, the structural and loading capacity of the structure to which it is to be attached.

7.3 Strand-Mounted Small Cell (attached to an overhead wire):

A. Owner of vertical infrastructure must approve use.

B. Equipment attached to vertical infrastructure must be less than 3 cubic feet in volume.

C. Equipment attached to strands must be less than 3 cubic feet in volume.

D. A single strand mount may have up to two antenna/equipment enclosures.

E. Equipment shall not obstruct sight distance per AASHTO design guidelines or minimum vertical clearances in roadways.

8. Undergrounding of Equipment

8.1 Equipment associated with a Small Cell WCF that is not integrated in the pole, such as cabinets or boxes, must be located underground when determined by the Town Engineer to be necessary for traffic safety purposes, or where the Director determines that the above ground presence of the box or cabinet will not be aesthetically consistent with the community or neighborhood in which the Small Cell WCF is proposed to be located.

9. Costs of Installation, Operation and Maintenance of Pole and Small Cell WCF.

9.1 Cost of Installing and Operating Small Cell WCF.

- A. The owner of a Small Cell WCF shall pay all costs incurred in installing and operating its Small Cell WCF, including, but not limited to, the cost of obtaining any required fiber and the cost of the electricity required to operate its Small Cell WCF. Such owner shall install a separate meter to measure its electrical usage.

9.2 Maintenance of Poles

- A. Town shall maintain all poles it owns, including, but not limited to, all poles with integrated street lights attached. Town shall pay the cost of the electricity required to illuminate its street lights.
- B. All poles not owned by the Town shall be maintained by the owner of the Small Cell WCF that originally installed the pole, or such owner's successor. Such owner shall install a separate meter to measure its electrical usage, and shall pay the cost of the electricity required to operate its Small Cell WCF.

9.3 Maintenance of Small Cell WCF.

- A. All Small Cell WCF antennas and equipment placed within the Town ROW shall be maintained by the owner of the Small Cell WCF.

10. Attachment to Town-owned Pole

10.1 For any Small Cell WCF proposed to be located on any Town-owned pole within the Town ROW, the application submittal materials shall include appropriate engineering plans and specifications showing such detail of the Small Cell WCF and its location as is reasonably required by the Director to evaluate the impacts of the proposed Small Cell WCF to the Town ROW and the Town pole.

10.2 Without limiting the generality of the preceding Section 10.1, the engineering plans and specifications shall specifically include appropriate professional engineer-stamped certification(s) that:

- A. The proposed Small Cell WCF's operation will not interfere with the proper function of the particular Town pole upon which it is proposed for attachment; and
- B. The structural and loading capacity of the Town-owned pole will support the small cell facility proposed to be attached.

11. License Agreement and Site Supplement

11.1 If a class D-minor application is approved, the applicant shall enter into a Master License Agreement (MLA) with the Town. The Master License Agreement will require a Site Supplement to evidence the Town's approval of an individual Small Cell WCF location and attachment within the Town ROW covered by the MLA. Unless otherwise provided in the MLA,

the Town will issue an approved Site Supplement for attachment to a third-party owned pole that the Town has previously authorized within the Town ROW provided: (i) the applicant supplies the Town with a letter or other written authorization from the owner of the third-party pole; and (ii) the Small Cell WCF does not involve any ground-based equipment or otherwise increase the footprint of the third-party pole.

11.2 Site Supplements under an MLA or for attachment to a third-party owned pole shall be processed as part of a class D-minor application to install a Small Cell WCF within the Town ROW at the approved location.

11.3 The Town's approved form for a Master License Agreement and Site Supplement will be available from the Department of Community Development.

12. Administrative Waiver

12.1 Any of the above design guidelines may be waived by the Director upon written application that demonstrates the following waiver criteria:

- A. The design standard prohibits or has the effect of prohibiting the provision of wireless service through the Small Cell WCF at the particular location because the particular standard will not allow the technology to function at that location; and
- B. There is no existing nearby alternate pole for collocation or attachment that will provide the technological functionality and which otherwise meets the design standard sought to be waived; and
- C. The proposal for varying from the design standard represents a reasonable and best approximation of the particular standard sought to be waived; and
- D. The proposed alternative does not and will not constitute or create any public safety, health, or welfare concern.

12.2 If any particular design standard is approved for waiver, the Small Cell WCF proposed shall nevertheless meet all other applicable design guidelines not approved for waiver.

12.3 If a waiver request is denied for failure to meet any of the criteria specified above and there is no alternative for installation of the Small Cell WCF at the particular location in a manner that meets the applicable design guidelines, then such application for the Small Cell WCF for such specific location shall be denied.

13. Installation to Conform to Town Approvals

13.1 The manner of attachment, construction, and operation of an approved Small Cell WCF shall at all times comply with:

- A. All of the terms and conditions of the development permit that approved the Small Cell WCF;

- B. All of the approved plans and specifications; and
- C. All of the terms and conditions of the MLA and any applicable Site Supplement.

14. Fees

14.1 The fee for an application to install up to five (5) Small Cell WCF shall be \$500.00. An additional fee of \$100.00 shall be paid for each additional Small Cell WCF included with such application.

14.2 The fee for an application to install a new pole in the street in connection with the installation of a Small Cell WCF shall be \$1,000.00.

14.3 The annual fee to be paid to the Town in connection with the location of a Small Cell WCF in the Town right of way, as described in a Master License Agreement (and Site Supplement(s)) shall be \$270.00.

14.4 The fees described in Sections 14.1 through 14.3, above, covers all permits required by the Town with respect to an application to install a Small Cell WCF in the Town ROW. Such fees are no more than the amount reasonably necessary to recoup the Town's costs.

14.5 The fees described in this Section 14 supersede all other fees normally required by the Town in connection with a class D-minor development permit application, as well as all fees required for other Town permits required for the installation of a Small Cell WCF in Town ROW as described in Section 15.

15. Other Required Permits.

15.1 For Small Cell WCF approved for location in Town ROW, the following additional Town permits are required in addition to a class D-minor development permit:

- A. Building/electrical permit(s). Such permits are issued by the Town's Building Department.
- B. Right of Way/Street Cut Permit. Such permit is issued by the Town Engineer.

All additional Town permits will be issued within the time period described in Section 3.6.

15.2 An application for a Small Cell WCF development permit must be accompanied by applications and all required submittal materials for those additional Town permits described in Section 15.1. The applicant's Small Cell WCF Application will not be processed by the Director unless complete applications for those additional Town permits described in Section 15.1 are submitted to the Town along with the development code permit application. The mandatory review periods provided in Section 3.6, above, shall be deemed tolled pending the applicant's submission of the required complete applications for those additional Town permits described in Section 15.1.

Dated: ~~May 22, 2019~~ **April 29, 2020**.

Published on the Town of Breckenridge website on ~~May 23, 2019~~ **April 29, 2020**.

~~Peter Grosshuesch~~ **Mark Truckey**, Director
Department of Community Development
Town of Breckenridge, Colorado

~~500-333-1 Small Cell Design Guidelines May 2019 v7 (05-22-19)~~

Exhibit "A"

Poles and Luminaires

Inside the Conservation District

All poles in the Conservation District that the Town Engineer determines needs a street light shall use the following lighting standards:

A Newport 1000 Luminaire that is 37-40 watts, a color temp of 3000k, full cut off, 7 pin and dimmable. ~~Lights at intersections shall be mounted at 12' with a Penn Globe wall mount #601 bracket. Lights not at intersections shall be mounted at 9' with a Penn Globe wall mount #601 bracket.~~

Outside the Conservation District

Poles outside of the Conservation District that the Town Engineer determines needs a street light shall use one of the following lighting standards:

~~A Newport 1000 Luminaire that is 37-40 watts, a color temp of 3000k, full cut off, 7 pin and dimmable. Lights at intersections shall be mounted at 12' with a Penn Globe wall mount #601 bracket. Lights not at intersections shall be mounted at 9' with a Penn Globe wall mount #601 bracket.~~

Providence PROV-LK Luminaire that is 48 watts, a color temp of 3000K, full cut off, 7 pin and dimmable. ~~Lights at intersections shall be mounted at 12' with a Penn Globe wall mount #601~~

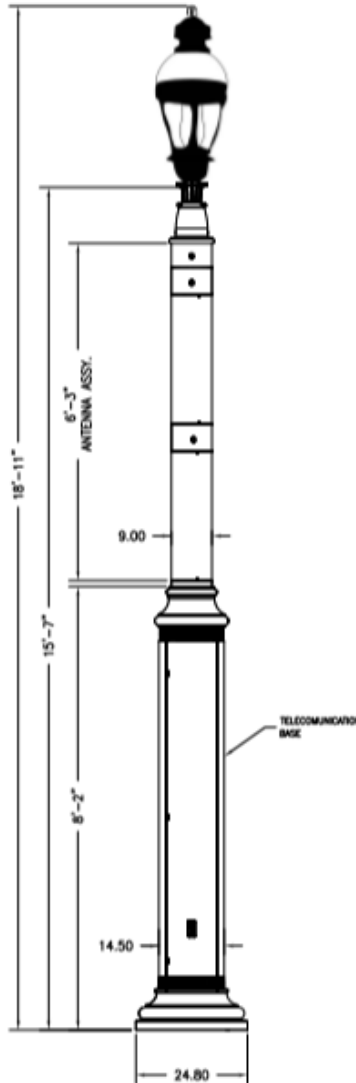


PLATE	ASTM A572 GR 50 or A1018 GR 50
ANCHOR BOLTS	ASTM F1554 GR 55
ANCHOR BOLT NUTS	ASTM A663 GR A
FLAT WASHERS	ASTM F436
CASTINGS	ASTM B26 (35BIM)
U.S. HARDWARE	A19-300 SERIES (18-8)
STRUCTURE FINISH	HD ONLY TO ASTM A153 & POWER COAT (RAL7040)
HARDWARE FINISH	HD ONLY TO ASTM A153
PIPE ANTENNA	AD13 TYPE 5

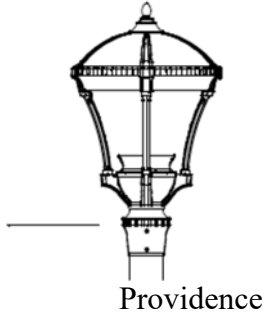
DESIGN CRITERIA

1. DESIGNED IN ACCORDANCE WITH 2013 AASHTO 9TH EDITION STANDARD SPECIFICATIONS FOR STRUCTURAL SUPPORTS FOR LUMINAIRES WITH 110 MPH WIND ZONE.
2. ALL WELDS SHALL COMPLY WITH AWS D1.1. ULTRASONIC AND MAGNETIC PARTIAL WELD INSPECTIONS CAN BE PERFORMED AT THE REQUEST OF THE CUSTOMER. WELD PROCEDURES ARE ON FILE AND MAY BE SUBMITTED IF REQUIRED.
3. ALL CERTIFICATIONS FOR STRUCTURAL MEMBERS WILL BE ON FILE FOR RECORD PURPOSES AND MAY NOT BE SUBMITTED IF REQUIRED MATERIAL ORIGIN SHALL BE MADE AND MELTED IN THE U.S.A.
4. DESIGNED IN ACCORDANCE WITH TM-222C.

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REV. A	FOR: 18-006
BY:	DATE:

~~bracket. Lights not at intersections shall be mounted at 9' with a Penn Globe wall mount #601 bracket.~~

For all locations, both inside and outside of the Conservation District, the Town Engineer will determine which of the two standards is required by evaluating existing lights types in the area and choosing the style that is most prevalent.



The Town Engineer may require the use of a luminaire different from the Providence and the Newport if required to maintain the aesthetic appearance of the area.

Maintaining Pedestrian and Maintenance Activity

The Town Engineer may remove the requirement for a decorative base of 24'5" if the pole would hinder adequate space for pedestrian movement and maintenance activity of the Town.