



Town Council Work Session
Tuesday, May 12, 2020, 4:30 PM
VIRTUAL Council Chambers

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 (4:30-4:35pm)

Planning Commission Decisions

II. LEGISLATIVE REVIEW (4:35-5:05pm)

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

Breckenridge Professional Building Lease Agreement (Second Reading)

Ordinance to Approve an Increase in the Water System Maintenance Fee (First Reading)

Overhead Walkway Lighting (First Reading)

Noise Ordinance Amendment (First Reading)

Ordinance to Amend Public Notice Requirements for Town Projects (First Reading)

III. MANAGERS REPORT (5:05-5:20pm)

Public Projects Update

Parking and Transportation Update

Committee Reports

Breckenridge Events Committee

IV. OTHER (5:20-5:40pm)

Reopening Committee Update

V. PLANNING MATTERS (5:40-6:20pm)

Sustainable Breck Annual Report

Policy 33R - Energy Conservation

Club Memberships

VI. EXECUTIVE SESSION - Personnel Matters and Acquisitions (6:20pm)



Memo

To: Breckenridge Town Council Members
From: Mark Truckey, Director of Community Development
Date: May 6, 2020
Subject: Planning Commission Decisions of the May 5, 2020 Meeting

DECISIONS FROM THE PLANNING COMMISSION MEETING, May 5, 2020:

CLASS A APPLICATIONS: None.

CLASS B APPLICATIONS: None.

CLASS C APPLICATIONS:

Fritzler Addition & Remodel, 94 Sunbeam Drive, PL-2020-0060

A proposal to construct a new two-car garage with suite above that is connected to the interior of an existing single family residence. The existing single-car garage will be converted into a bedroom. Additional minor changes to accommodate the addition are also proposed. *Approved.*

TOWN PROJECT HEARINGS: None.

OTHER: None.



Breckenridge South



PLANNING COMMISSION MEETING

The meeting was called to order at 5:30 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	

APPROVAL OF MINUTES

With the below changes, the April 21, 2020 Planning Commission Minutes were approved.

Ms. Leidal – I have a correction. The minutes stated I raised a question about the window well encroaching into the south setback but it was actually a question about the overhang.

APPROVAL OF AGENDA

With no changes, the May 5, 2020 Planning Commission Agenda was approved.

PUBLIC COMMENT ON HISTORIC PRESERVATION ISSUES:

- None.

CONSENT CALENDAR:

1. Fritzler Addition & Remodel (LS), 94 Sunbeam Drive, PL-2020-0060

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

OTHER MATTERS:

1. Town Council Update: Mr. Truckey presented information on the two most recent Town Council meetings.

April 28th

- The Sustainable Building Code was approved on second reading. Eli Johnston and Matt Wright provided research on the building cost differences between current code and updated code.
- The Housing Mitigation Policy discussion is on hold until a later date when an in-person meeting can take place.
- The Logan Thompson Memorial sculpture was approved as a Town Project at a location near the skate park.

Small Cell recommendations – Six small cell smart poles are proposed 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 American Tower Corporation 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 includes coverage for areas outside the core of town. The poles can accommodate two separate providers, making it a small footprint for co-location. We are working with American Tower and New-Com, and AT&T and Verizon to ensure the pole design will not only meet the Town's aesthetic but will be functional to the providers.

May 5th

- The Council adopted an emergency ordinance requiring face masks to be worn when entering businesses or when outside in public places and not able to maintain 6' of distance to other individuals.
- A proclamation was adopted to support mental Health Awareness Month.
- The Small Business Rent Relief Program has awarded \$630,000 for 209 businesses in April. The main focus of the program was to aid small retail and restaurant businesses. Landlords had to provide rental abatement or deferment to be eligible for the program. The Council is looking at offering an amount of half of the previous award for May rent relief.
- The Individual Relief fund has assisted 389 individuals with a total of \$500,000 in funding. The program is implemented by FIRC with funding provided by the Town. The Council is now looking at possibly providing some additional funding as there is a waiting list of over 100 individuals.
- The Council has decided to close down Main Street this summer to promote social distancing since our sidewalks are so narrow. The Town will possibly explore allowing restaurants to have seating in the right-of-way. Staff is in the in the process of figuring out the logistics.
- Sales Tax – March was 52% down over last year. It is projected the town will experience a 65% sales tax revenue decrease for the remainder of the year. Some of the budget reductions will affect the Planning Commission. Planning Commission dinners and training (along with staff training) have been eliminated for the remainder of the year. Large capital projects such as the Milne project have also been eliminated. The 2021 budget is more uncertain but we should have a better idea how the economic comeback is after July and August.

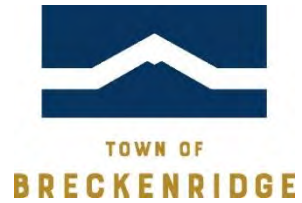
Commissioner Questions / Comments:

- Mr. Moore: A different company puts poles in and rents to the providers? (Ms. Puester: Yes, but we are trying to incentivize providers to rent space on buildings instead of poles with low rents.)
- Mr. Schuman: How long is the face mask emergency ordinance going to last? (Mr. Truckey: I believe it coincides with mayoral emergency declaration but will have to check.)
- Mr. Gerard: When is the Town re-opening? (Mr. Truckey: We will do a soft reopening of Town Hall next week with staggered staffing, in-person appointments and adequate social distancing. The rec center will be one of the last facilities to re-open. Decisions on restaurant in-person dining have not been made.)
- Mr. Schuman: Is the Business Rent Relief a grant program or a loan? (Mr. Truckey: It is a grant program.)
- Mr. Giller: Great idea closing Main Street to vehicular traffic, have you seen the pocket parks that are approximately the size of a parking space?
- Mr. Moore: Will we review the outside space businesses will use associated with the closing of Main Street? (Mr. Truckey: Most likely no because the review process will have to be expedited so it will be a staff administrative review.)
- Mr. Moore: Any update on the Peak 8 Hotel? (Mr. Kulick: I have been in correspondance with the developer and he is still continuing to move forward and has been focused on discussions pertaining to site work and infrastructure improvements.)
- Mr. Schuman: Will projects be given an extended vesting because of the circumstances. (Mr. Truckey: We have not explored that yet but if the current situation continues it is a possibility.)
- Mr. Gerard: We will likely be meeting virtually through the first meeting in June and likely beyond.

ADJOURNMENT:

The meeting was adjourned at 6:15pm.

Steve Gerard, Chair



Memo

To: Mayor and Town Council Members
From: Tim Berry, Town Attorney
Date: May 1, 2020
Subject: Council Bill No. 14 (Approving Sale of Partial Interest in Mining Claims to Summit County)

The second reading of Council Bill No. 14 authorizing the sale of a 50% interest in the Town's Smuggler, Silent Friend, Iron, and Crown Point Lodes to Summit County is scheduled for your meeting on May 12th. There are no changes proposed to ordinance from first reading.

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

1 ***FOR WORKSESSION/SECOND READING – MAY 12***

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

4
5 COUNCIL BILL NO. 14

6
7 Series 2018

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

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

14
15 Smuggler and Silent Friend Lodes, MS# 6335
16 Iron and Crown Point Lodes, MS# 19905

17
18 (“Property”)

19 ; and

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

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

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

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

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

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

43
44 Section 2. The Town Manger is hereby further authorized, empowered and directed to
45 take all necessary and appropriate action to close the sale of the Property contemplated by the

1 Agreement. In connection therewith, the Town Manager shall have full power and authority to
2 do and perform all matters and things necessary to the sale of the Property pursuant to the
3 Agreement, including, but not limited to, the following:

- 4
5 1. The making, execution and acknowledgement of settlement
6 statements, closing agreements and other usual and customary
7 closing documents;
- 8
9 2. The execution, acknowledgement and delivery to the Buyer of the
10 deed of conveyance for the Property; and
- 11
12 3. The performance of all other things necessary to the sale of the
13 Property by the Town pursuant to the Agreement.

14
15 Section 3. The Town Council hereby finds, determines, and declares that it has the power
16 to adopt this Ordinance pursuant to the authority granted to home rule municipalities by Article
17 XX of the Colorado Constitution and the powers contained in the Breckenridge Town Charter.

18
19 Section 4. This ordinance shall be published and become effective as provided by Section
20 5.9 of the Breckenridge Town Charter.

21
22 INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED
23 PUBLISHED IN FULL this ____ day of _____, 2018. A Public Hearing shall be held at the
24 regular meeting of the Town Council of the Town of Breckenridge, Colorado on the ____ day of
25 _____, 2018, at 7:00 P.M., or as soon thereafter as possible in the Municipal Building of the
26 Town.

27
28 TOWN OF BRECKENRIDGE, a Colorado
29 municipal corporation

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

35
36 ATTEST:

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38
39
40 _____
41 Helen Cospolich, CMC,
42 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**

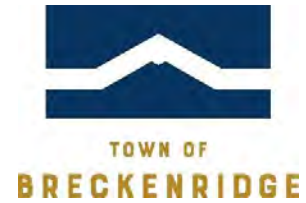
By: _____
Scott Vargo, County Manager

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: 05-06-20
Subject: Second Reading of an Ordinance to Approve a Long-Term Lease with Zweig Law, PC

Attached is the proposed second 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. This lease also has an option to renew an additional five years after the initial term. There are no changes to this ordinance or the lease from the first reading.

1 ***FOR WORKSESSION/SECOND READING – MAY 12***

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

4
5 COUNCIL BILL NO. 15

6
7 Series 2020

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

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

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

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

22
23 WHEREAS, the proposed Lease has been reviewed by the Town Attorney and the Town
24 Council; and

25
26 WHEREAS, Section 15.4 of the Breckenridge Town Charter provides:

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

31
32 and;

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

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

39
40 Section 1. The proposed Lease between the Town and Zweig Law, PC, copy of which is
41 marked **Exhibit “A”**, attached hereto and incorporated herein by reference, is approved, and the
42 Town Manager is authorized, empowered, and directed to execute such Lease for and on behalf
43 of the Town of Breckenridge.
44

1 Section 2. The Town Council finds, determines, and declares that it has the power to
2 adopt this ordinance pursuant to the authority granted to home rule municipalities by Article XX
3 of the Colorado Constitution and the powers contained in the Breckenridge Town Charter.
4

5 Section 3. This ordinance shall be published and become effective as provided by
6 Section 5.9 of the Breckenridge Town Charter.
7

8 INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED
9 PUBLISHED IN FULL this ____ day of _____, 2020. A Public Hearing shall be held at the
10 regular meeting of the Town Council of the Town of Breckenridge, Colorado on the ____ day of
11 _____, 2020, at 7:00 P.M., or as soon thereafter as possible in the Municipal
12 Building of the Town.
13

14 TOWN OF BRECKENRIDGE, a Colorado
15 municipal corporation
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19 By: _____
20 Eric S. Mamula, Mayor
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22 ATTEST:
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27 _____
28 Helen Cospolich
29 Town Clerk
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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

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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

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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

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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

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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

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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

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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.

COMMERCIAL LEASE

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

2
3
4
5
6
7
8
9
10
11
12
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

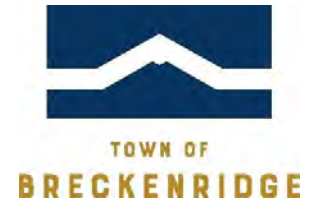
7 It is further agreed that all of the terms and provisions hereof shall inure to the
8 benefit of the respective heirs, personal representatives, successors and assigns of
9 Landlord, and shall be binding upon the respective heirs, personal representatives,
10 successors and assigns of the undersigned. 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 Maryjo C. Zweig
31
32
33
34
35
36



Memo:

To: Breckenridge Town Council
Cc: Rick Holman, Shannon Haynes
From: James Phelps, Director Public Works
Date: 5/6/2020 (For May 12 – TC Work Session)
Subject: First Reading - An Ordinance amending Section 12-4-23 of the Breckenridge Town Code concerning the Water Service Maintenance Fee (WSMF)

The Breckenridge Town Charter provides that the Town Council shall by ordinance establish rates for services provided by municipality-owned utilities.

The ordinance attached will amend section 12-4-23 of Title 12 – Municipal Water Service of the Town Code. The amended section will increase the Water Service Maintenance Fee from the current 2019 fee of \$8.00/cycle to \$12.00/cycle. There are six water-billing cycles per year. The new WSMF will take effect for the July 01, 2020 billing cycle and will remain in effect until changed by ordinance.

For clarification, on page 3, line 5 the WSMF is shown as \$4.00/Cycle. This was the total WSMF for 2017. Town Council Bill No. 10 Series 2017 provided for two automatic WSMF increases over two years for a total fee of \$6.00 (2018) and \$8.00 (2019). The WSMF ordinance change took effect January 2018.

The 2020 WSMF increase of \$4.00 was presented/approved as part of the Town Council budget presentation on Oct. 22, 2019. The sum of increase will result for one SFE an increase of \$24.00 or \$72.00 annually.

Staff will be present to answer any questions.

1 ***FOR WORKSESSION/FIRST READING – MAY 12***

2
3 Additions To The Current Breckenridge Town Code Are
4 Indicated By **Bold + Double Underline**; Deletions By ~~Strikeout~~

5
6 COUNCIL BILL NO. _____

7
8 Series 2020

9
10 AN ORDINANCE AMENDING SECTION 12-4-23 OF THE BRECKENRIDGE TOWN
11 CODE CONCERNING THE WATER SYSTEM MAINTENANCE FEE

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

15
16 Section 1. Findings. The Town Council of the Town of Breckenridge hereby finds and
17 determines as follows:

18
19 A. The Town of Breckenridge is a home rule municipal corporation organized and
20 existing pursuant to Article XX of the Colorado Constitution.

21
22 B. On April 1, 1980 the people of the Town of Breckenridge adopted the Breckenridge
Town Charter.

23 C. Section 13.1 of the Breckenridge Town Charter provides in pertinent part as follows:

24 The town shall have and exercise with regard to all utilities . . . all municipal
25 powers, including, without limitation, all powers now existing and which may be
26 hereafter provided by the Constitution and the statutes.

27
28 D. Section 13.1 of the Breckenridge Town Charter further provides that “the right of the
29 town to construct . . . any public utility, work or way, is expressly reserved.”

30 E. Section 31-35-402(1)(b), C.R.S., authorizes a municipality to operate and maintain
31 water facilities for its own use and for the use of public and private consumers and users within
32 and without the territorial boundaries of the municipality.

33 F. Pursuant to the authority granted by the Breckenridge Town Charter and Section 31-
34 35-402(1)(b), C.R.S., the Town owns and operates a municipal water system.

35 G. Section 13.3 of the Breckenridge Town Charter provides that “(t)he council shall by
36 ordinance establish rates for services provided by municipality-owned utilities.”

37 H. Section 31-35-402(1)(f), C.R.S., authorizes a municipality with respect to a municipal
38 water system:

1 To prescribe, revise, and collect in advance or otherwise, from any consumer or
2 any owner or occupant of any real property connected therewith or receiving
3 service therefrom, rates, fees, tolls, and charges or any combination thereof for the
4 services furnished by, or the direct or indirect connection with, or the use of, or
5 any commodity from such water facilities
6

7 I. Section 31-35-402(1)(f), C.R.S., further provides that the governing body of a
8 municipality is empowered to establish the rates, fees, tolls, and charges in connection with the
9 operation of its municipal water system “without any modification, supervision, or regulation of
10 any such rates, fees, tolls, or charges by any board, agency, bureau, commission or official other
11 than the governing body collecting them.”

12 J. The action of the Town Council in setting the rates, fees, tolls, and charges to be
13 charged and collected by the Town in connection with the operation of its municipal water
14 system is a legislative matter.

15 K. In connection with the adoption of this ordinance, the Town has reviewed, considered
16 and relied upon a study of the reasonably anticipated current and future maintenance and
17 expansion costs for the Town’s municipal water system, including the construction of a second
18 water treatment facility, as prepared by the Town’s Finance Director, and all other matters,
19 materials and information related thereto or submitted to the Town in connection therewith. All
20 such materials are to be considered part of the record of the proceedings related to the adoption
21 of this ordinance.

22 L. It is the belief of the Town Council that customers of the Town’s municipal water
23 system should pay their fair share of the capital costs associated with the ongoing operation and
24 the future replacement of the Town’s water system. The imposition of the Water Service
25 Maintenance Fee as a periodic charge to be paid by all users of the Town’s water system, all as
26 provided in this ordinance, is fully consistent with such beliefs.

27 M. The Water System Maintenance Fee imposed by this ordinance will help achieve the
28 Town’s long-term goals and objectives as set forth in Paragraph L of this Section 1.

29 N. The Water System Maintenance Fee imposed by this ordinance is a generally
30 applicable service fee designed to cover the capital and infrastructure costs associated with the
31 operation of the Town’s municipal water system.

32 O. The amount of the Water System Maintenance Fee imposed by this ordinance is
33 determined by the Town Council to be reasonably related to the future capital and infrastructure
34 costs in the adopted capital plan for the Town’s municipal water system.

35 Section 2. Section 12-4-20 of the Breckenridge Town Code is amended to read as
36 follows:

37
38 12-4-20: WATER SYSTEM MAINTENANCE FEE:

39
40 ~~Commencing with the billing statement issued by the Town in March 2010 (for~~

1 ~~water service provided during the months of January-February 2010), t~~There shall
2 be included with each billing statement for water service, and there shall be
3 assessed and paid by each owner whose water using property was connected to
4 the Town's water system during any portion of the billing cycle, in arrears, a
5 WSMF fee in the amount of ~~four dollars (\$4.00)~~ **twelve dollars (\$12.00)** per SFE
6 per billing cycle. The WSMF shall be a water charge within the meaning of
7 section 12-1-6 of this title, and shall be due and payable to the Town at the same
8 time and in the same manner as other water charges are due and payable to the
9 Town under this chapter. Unpaid WSMFs may be collected by the Town as
10 provided by chapter 6 of this title.

11
12 Section 3. Section 12-4-23 of the Breckenridge Town Code is amended to read as
13 follows:

14
15 12-4-23: ANNUAL ADJUSTMENT OF CERTAIN FEES AND CHARGES:

- 16
17 A. On January 1 of each year, commencing in 2018 and continuing thereafter, the
18 amount of the following fees and charges payable to the Town pursuant to
19 Chapter shall be increased as follows:
20
- 21 1. On January 1, 2018 the amount of the PIF to be paid to the Town pursuant
22 to Section 12-4-3 shall be increased by an amount equal to twenty (20%)
23 percent of the previous year's PIF. On January 1, 2019, and each year
24 thereafter, the amount of the PIF to be paid to the Town pursuant to Section
25 12-4-3 shall be increased by an amount equal to ten percent (10%) of the
26 previous year's PIF. The increased PIF rate shall apply to all applications for
27 water service that have not been fully paid by the effective date of such rate
28 increase.
29
 - 30 2. the amount of the in Town base user fee for all residential water users to be
31 paid to the Town pursuant to Section 12-4-11A shall be increased by an
32 amount equal to five percent (5%) of the previous year's base user fee.
33
 - 34 3. the amount of the excess use charge to be paid to the Town pursuant to
35 Section 12-4-11B shall be increased by an amount equal to five percent (5%)
36 of the previous year's excess use charge.
37
 - 38 4. each of the in Town base user fees for all nonresidential water users to be
39 paid to the Town pursuant to Section 12-4-12A shall be increased by an
40 amount equal to five percent (5%) of the previous year's base user fee.
41
 - 42 5. the fee due to the Town pursuant to Section 12-4-13 shall be increased by
43 an amount equal to five percent (5%) of the previous year's fee.
44
 - 45 6. the bulk water fee due to the Town pursuant to Section 12-4-14 shall be
46 increased by an amount equal to five percent (5%) of the previous year's bulk

1 water fee. The connection fee and deposit required by Section 12-4-14 shall
2 not be increased.

3
4 ~~B. On January 1, 2018 the water system maintenance fee (WSMF) to be paid to~~
5 ~~the Town pursuant to Section 12-4-20 shall be increased to six dollars (\$6.00)~~
6 ~~per SFE per billing cycle. On January 1, 2019 the water system maintenance~~
7 ~~fee (WSMF) to be paid to the Town pursuant to Section 12-4-20 shall be~~
8 ~~increased to eight dollars (\$8.00) per SFE per billing cycle. The water system~~
9 ~~maintenance fee (WSMF) as adjusted on January 1, 2019 shall remain in~~
10 ~~effect until changed by ordinance duly adopted by the Town Council.~~

11
12 ~~C. On January 1, 2018 the water system maintenance fee (WSMF) to be paid to~~
13 ~~the Town by each owner whose out of town water using property was~~
14 ~~connected to the Town's water system during any portion of the billing cycle~~
15 ~~pursuant to Section 12-5-6-1 shall be increased to six dollars (\$6.00) per SFE~~
16 ~~per billing cycle. On January 1, 2019 the water system maintenance fee~~
17 ~~(WSMF) to be paid to the Town by out of Town water users pursuant to~~
18 ~~Section 12-5-6-1 shall be increased to eight dollars (\$8.00) per SFE per billing~~
19 ~~cycle. The water system maintenance fee (WSMF) as adjusted on January 1,~~
20 ~~2019 shall remain in effect until changed by ordinance duly adopted by the~~
21 ~~Town Council.~~

22
23 ~~D.~~ B. Not later than thirty (30) days after a fee or charge enumerated above is
24 adjusted as provided the Town Clerk shall cause to be published a public
25 notice setting forth the amount of the adjusted fee or charge. Such notice shall
26 be published one time in a newspaper of general circulation in the Town;
27 provided, however, that the failure of the Town Clerk to cause such notice to
28 be published shall not affect the validity of the adjustment to the fee or charge
29 as made pursuant to this section.

30
31 Section 4. Section 12-5-6-1 of the Breckenridge Town Code is amended to read as
32 follows:

33
34 12-5-6-1: WATER SYSTEM MAINTENANCE FEE:

35
36 ~~Commencing with the billing statement issued by the town in March 2010 (for~~
37 ~~water service provided during the months of January through February 2010),~~
38 ~~†~~ There shall be included with each billing statement for out of town water service,
39 and there shall be assessed and paid by each owner whose out of town water using
40 property was connected to the town's water system during any portion of the
41 billing cycle, in arrears, a WSMF in the amount of ~~four dollars (\$4.00)~~ twelve
42 dollars (\$12.00) per SFE per billing cycle. The WSMF shall be a water charge
43 within the meaning of section 12-1-6 of this title, and shall be due and payable to
44 the town at the same time and in the same manner as other water charges are due
45 and payable to the town under this chapter. Unpaid WSMFs due from out of town
46 water users may be collected by the town as provided by chapter 6 of this title.

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Section 5. Except as specifically amended by this ordinance, the Breckenridge Town Code, and the various secondary codes adopted by reference therein, shall continue in full force and effect.

Section 6. The Town Council hereby finds, determines and declares that it has the power to adopt this ordinance pursuant to the provisions of Section 31-35-402, C.R.S., and the powers possessed by home rule municipalities in Colorado.

Section 7. This ordinance shall be published as required by the Breckenridge Town Charter and shall become effective July 1, 2020.

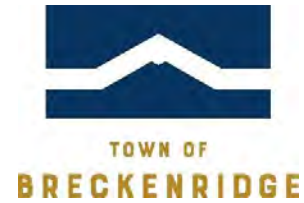
INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED PUBLISHED IN FULL this ____ day of _____, 2020. A Public Hearing shall be held at the regular meeting of the Town Council of the Town of Breckenridge, Colorado on the ___ day of _____, 2020, at 7:00 P.M., or as soon thereafter as possible in the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

TOWN OF BRECKENRIDGE, a Colorado
municipal corporation

By: _____
Eric S. Mamula, Mayor

ATTEST:

Helen Cospolich, CMC,
Town Clerk



Memo

To: Mayor and Town Council
From: Julia Puester, AICP, Assistant Community Development Director
Date: 5/4/2020 for meeting of May 12, 2020
Subject: Overhead Walkway Lighting First Reading

Staff took the bistro and decorative lighting topic to the March 10 Town Council worksession. At that meeting, staff received support for a new category of exterior lighting over walkways which would allow for similar installations as was approved by the Town Council for the Parking Structure project (between Town Hall and the Breckenridge Professional Building).

This code amendment would allow for year round decorative downcast, fully shielded lighting above walkways and between buildings in commercial Lighting Zones 1&2 (which generally includes the Historic District and areas east of Park Avenue).

Staff has attached the first reading of the ordinance and will be available at the meeting for any questions.

1 ***FOR WORKSESSION/FIRST READING – MAY 12***

2
3 Additions To The Current Breckenridge Town Code Are
4 Indicated By **Bold + Double Underline**; Deletions By ~~Strikeout~~

5
6 COUNCIL BILL NO. _____

7
8 Series 2020

9
10 AN ORDINANCE AMENDING CHAPTER 12 OF TITLE 9 OF THE BRECKENRIDGE
11 TOWN CODE CONCERNING OVERHEAD WALKWAY LIGHTING

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

15
16 Section 1. Section 9-12-7 of the Breckenridge Town Code is amended by the addition of
17 the following definition of “Overhead Walkway Lighting”:

18
OVERHEAD WALKWAY LIGHTING:

Downcast, fully shielded small white or clear “warm or “soft” bulbs which provide outdoor light for the purpose of directing pedestrian traffic through a narrow publicly owned access corridor that is not a public street or alley. Overhead walkway lights shall be installed on a black or gray wire or metal rod, not to exceed 3,000 Kelvin or a maximum of 850 total lumens across the property or area.

19
20 Section 2. Section 9-12-8 of the Breckenridge Town Code is amended by the addition of
21 a new item I as follows:

22
23 **I. Overhead Walkway Lighting: Overhead walkway lighting is permitted year**
24 **round in Lighting Zone 1 and Lighting Zone 2.**

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 hereby 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 hereby finds, determines and declares that it has the power
35 to adopt this ordinance pursuant to: (i) the Local Government Land Use Control Enabling Act,

1 Article 20 of Title 29, C.R.S.; (ii) Part 3 of Article 23 of Title 31, C.R.S. (concerning municipal
2 zoning powers); (iii) Section 31-15-103, C.R.S. (concerning municipal police powers); (iv)
3 Section 31-15-401, C.R.S.(concerning municipal police powers); (v) the authority granted to
4 home rule municipalities by Article XX of the Colorado Constitution; and (vi) the powers
5 contained in the Breckenridge Town Charter.

6
7 Section 6. This ordinance shall be published and become effective as provided by
8 Section 5.9 of the Breckenridge Town Charter.

9
10 INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED
11 PUBLISHED IN FULL this ____ day of _____, 2020. A Public Hearing shall be held at the
12 regular meeting of the Town Council of the Town of Breckenridge, Colorado on the ____ day of
13 _____, 2020, at 7:30 P.M., or as soon thereafter as possible in the Municipal Building of the
14 Town.

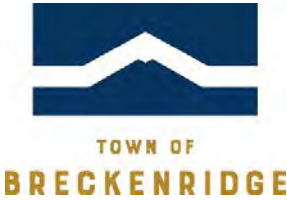
15
16 TOWN OF BRECKENRIDGE, a Colorado
17 municipal corporation
18

19
20
21 By: _____
22 Eric S. Mamula, Mayor
23

24 ATTEST:

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28 _____
29 Helen Cospolich, CMC,
30 Town Clerk
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Memo



To: Breckenridge Town Council Members
From: Jim Baird, Police Chief
Date: 4/16/2020
Subject: Noise Ordinance Change

The attached resolution, if passed by Council, would modify Town Code to make a violation of Chapter 8 of Title 5 (noise ordinance) an 'infraction' instead of a misdemeanor criminal violation (current). This change was recommended by Judge Allen during his annual update to Town Council.

The ordinance change in draft form does not provide for a higher fine than the current general infraction fine limit of \$500. This would effectively cap any violations at that amount. This change would also eliminate the right to a jury trial for those in violation as well as prohibit the sentencing of jail time.

I believe my staff can still effectively enforce the Town's Noise Ordinance with this change and recommend approval of the resolution. Tim Berry and I will be present in some manner at the work session on May 12th to answer any questions.

1 ***DRAFT March 17, 2020 DRAFT***

2
3 Additions To The Current Breckenridge Town Code Are
4 Indicated By **Bold + Double Underline**; Deletions By ~~Strikeout~~

5
6 COUNCIL BILL NO. ____

7
8 Series 2020

9
10 AN ORDINANCE CONCERNING THE PENALTY FOR VIOLATING CHAPTER 8 OF
11 TITLE 5 OF THE BRECKENRIDGE TOWN CODE CONCERNING NOISE

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

15
16 Section 1. Section 5-8-15A of the Breckenridge Town Code is amended to read as
17 follows:

18
19 5-8-15: PENALTY:

20
21 ~~A. It shall be a misdemeanor offense for any person to violate any provision of~~
22 ~~this chapter. Any person convicted of having violated any provision of this~~
23 ~~chapter shall be punished as set forth in title 1, chapter 4 of this code. **It is an**~~
24 ~~**“infraction”, as defined in section 1-3-2 of this Code, for any person to violate**~~
25 ~~**any of the provisions of this chapter. Every person found liable for a**~~
26 ~~**violation of any provision of this chapter shall be punished as provided in**~~
27 ~~**section 1-4-1-1 of this Code.**~~

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

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

36
37 Section 4. The Town Council hereby finds, determines and declares that it has the power
38 to adopt this ordinance pursuant to the authority granted to home rule municipalities by Article
39 XX of the Colorado Constitution and the powers contained in the Breckenridge Town Charter.

40
41 Section 5. This ordinance shall be published and become effective as provided by Section
42 5.9 of the Breckenridge Town Charter.

43
44 INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED
45 PUBLISHED IN FULL this ____ day of _____, 2020. A Public Hearing shall be held at the

1 regular meeting of the Town Council of the Town of Breckenridge, Colorado on the ___ day of
2 ____, 2020, at 7:00 P.M., or as soon thereafter as possible in the Municipal Building of the
3 Town.

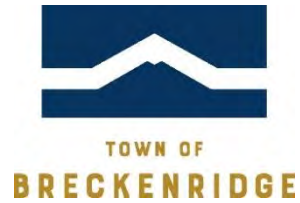
4
5 TOWN OF BRECKENRIDGE, a Colorado
6 municipal corporation
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10 By: _____
11 Eric S. Mamula, Mayor
12

13 ATTEST:
14

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17 _____
18 Helen Cospolich, CMC,
19 Town Clerk
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500-40\Noise Ordinance Infraction Ordinance (03-17-20)



Memo

To: Mayor and Town Council Members
From: Tim Berry, Town Attorney
Date: May 6, 2020
Subject: Proposed Amendments to Town Project Ordinance

Several years ago the Town Council adopted the Town Project Ordinance. This ordinance establishes a special process for reviewing and approving public projects proposed to be undertaken by the Town. The Town's Development Code regulates private development activities within the Town. In adopting the Town Project Ordinance the Town Council acknowledged that public projects should be processed differently than private development projects.

The enclosed ordinance amends the Town Project Ordinance as follows:

1. Section 1 of the ordinance clarifies that the Off-Street Parking Regulations and the Exterior Lighting Regulations do not apply to Town Projects.
2. Sections 2 and 3 of the ordinance establish a requirement that public notice of the Planning Commission's public hearing on a proposed Town Project, as well as public notice of the Town Council's final decision on a proposed Town Project. In both instances, public notice must be given in the same manner as public notice is given for a final hearing on a Class A development permit application. This will require that notice be mailed to all property owners whose property lies within 300 feet of the site of the proposed Town Project not less than 11 days nor more than 18 days prior to the Planning Commission or Town Council hearing on the proposed Town Project.
3. Not every Town Project is required to be referred to the Planning Commission for the Commission's recommendation. Section 4 of the ordinance amends the list of Town Projects that are not required to be referred to the Planning Commission to include the grading and underground utility work associated with a Town Project.
4. The list of Town Projects not requiring referral to the Planning Commission includes Town projects involving the erection or improvement of surface public parking facilities, as well as a Town Project that would be classified as a Class C, D major or D minor development (i.e., smaller projects) under the Town's Development Code. Section 5 of the ordinance clarifies that the approval of such Town Projects is to be made by the Community Development Director.

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

1 ***FOR WORKSESSION/FIRST READING – MAY 12***

2
3 Additions To The Current Breckenridge Town Code Are
4 Indicated By **Bold + Double Underline**; Deletions By ~~Strikeout~~

5
6 COUNCIL BILL NO. ____

7
8 Series 2020

9
10 AN ORDINANCE AMENDING CHAPTER 14 OF TITLE 9 OF THE BRECKENRIDGE
11 TOWN CODE CONCERNING TOWN PROJECTS

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

15
16 Section 1. Section 9-14-2 of the Breckenridge Town Code is amended to read as follows:

17
18 9-14-2: TOWN COUNCIL AUTHORITY OVER TOWN PROJECTS:

19
20 The town council, in its sole discretion, shall determine whether a town project is
21 necessary or advisable for the public good, and whether the project shall be
22 undertaken. If a town project is to be undertaken, the town council, in its sole
23 discretion, has the sole and final authority to determine all aspects of the town
24 project, including, but not limited to, its location and design. Chapters 1, 3 and 12
25 of this title and the town of Breckenridge land use guidelines do not apply to town
26 projects, but town projects shall be processed instead in accordance with the
27 provisions of this chapter.

28
29 Section 2. Section 9-14-4B of the Breckenridge Town Code is amended to read as
30 follows:

31
32 B. In connection with its review of a proposed town project, the planning
33 commission shall schedule and hold one or more public hearings, notice of which
34 shall be published on the town’s website for at least five (5) days prior to the
35 hearing. **In addition to posting on the Town’s website, notice of the planning**
36 **commission’s public hearing on a proposed town project shall be given in the**
37 **same manner as is required for a final hearing on a Class A development**
38 **permit application pursuant to chapter 1 of this title. Failure of a person to**
39 **receive the notice described in this section shall not impair the validity of the**
40 **planning commission’s public hearing on a proposed town project, or the**
41 **planning commission’s recommendation to the town council with respect to**
42 **such proposed town project.** Because the process of reviewing and approving a
43 town project is discretionary and administrative, and not quasi-judicial, any
44 member of the town council may properly attend the planning commission’s
45 public hearing(s) and deliberations with respect to a proposed town project.

1
2 Section 3. Section 9-14-4E of the Breckenridge Town Code is amended to read as
3 follows:

4
5 E. The final decision with respect to a proposed town project shall be made by the
6 town council at a regular or special meeting. **The date of the town council**
7 **meeting shall be determined by the Town Manager.** The proposed town project
8 shall be listed on the town council's agenda that is posted in advance of the
9 meeting on the town's website. **In addition to posting on the Town's website,**
10 **notice that the town council will consider a proposed town project at such**
11 **meeting shall be given in the same manner as is required for a final hearing**
12 **on a Class A development permit application pursuant to chapter 1 of this**
13 **title. Failure of a person to receive the notice described in this section shall**
14 **not impair the validity of any action taken by the town council on a proposed**
15 **town project.**

16
17 Section 4. Section 9-14-5A of the Breckenridge Town Code is amended by the addition
18 of the following provision:

19
20 **2.5. Grading and underground utility work associated with a town project.**

21
22 Section 5. Section 9-14-5A of the Breckenridge Town Code is amended to read as
23 follows:

24
25 9-14-5: TOWN PROJECTS NOT REQUIRING PLANNING COMMISSION
26 REVIEW:

27
28 A. Notwithstanding section 9-14-4 of this chapter, the planning commission is not
29 required to review and provide a recommendation with respect to the following
30 categories of town projects:

- 31 1. Public road or alley improvements;
32 2. The installation or replacement of the town's public utilities and structures
33 associated with the operation of the town's public utilities;
34 3. The erection or improvement of surface public parking facilities;
35 4. Minor repairs to any public facility;
36 5. Any work that would be classified as a class C, class D major, or class D minor
37 development under the town's development code; or
38 6. Any other proposed town project that the town council determines need not be
39 reviewed by the planning commission.

40
41 **Approval of exempt projects under Section A3 and A5 shall be made by the**
42 **Director. All other exempt projects shall not require approval of the**
43 **Director.**

44
45 B. All exempt projects may be undertaken by the town council without planning
46 commission review, and without formal town council approval.

1
2 C. Nothing in this section limits the discretionary authority of the town council to
3 have any of the exempted town projects reviewed by the planning commission if
4 the council determines that such review would be beneficial.
5

6 Section 6. Except as specifically amended hereby, the Breckenridge Town Code, and the
7 various secondary codes adopted by reference therein, shall continue in full force and effect.
8

9 Section 7. The town council hereby finds, determines and declares that this ordinance is
10 necessary and proper to provide for the safety, preserve the health, promote the prosperity, and
11 improve the order, comfort and convenience of the Town of Breckenridge and the inhabitants
12 thereof.

13 Section 8. The town council finds, determines and declares that it has the power to adopt
14 this ordinance pursuant to: (i) the Local Government Land Use Control Enabling Act, Article 20
15 of Title 29, C.R.S.; (ii) Part 3 of Article 23 of Title 31, C.R.S. (concerning municipal zoning
16 powers); (iii) Section 31-15-103, C.R.S. (concerning municipal police powers); (iv) Section 31-
17 15-401, C.R.S.(concerning municipal police powers); (v) the authority granted to home rule
18 municipalities by Article XX of the Colorado Constitution; and (vi) the powers contained in the
19 Breckenridge Town Charter.

20 Section 9. The town council finds, determines and declares that it has the power to adopt
21 this ordinance pursuant to the authority granted to home rule municipalities by Article XX of the
22 Colorado Constitution and the powers contained in the Breckenridge Town Charter.

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

25
26 INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED
27 PUBLISHED IN FULL this ____ day of _____, 2020. A Public Hearing shall be held at the
28 regular meeting of the town council of the Town of Breckenridge, Colorado on the ____ day of
29 _____, 2020, at 7:00 P.M., or as soon thereafter as possible in the Municipal Building of the
30 Town.

31
32 TOWN OF BRECKENRIDGE, a Colorado
33 municipal corporation
34

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37 By: _____
38 Eric S. Mamula, Mayor
39
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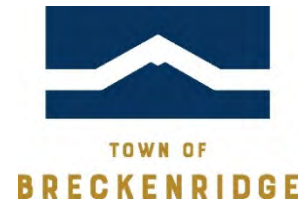
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Helen Cospolich, CMC,
Town Clerk

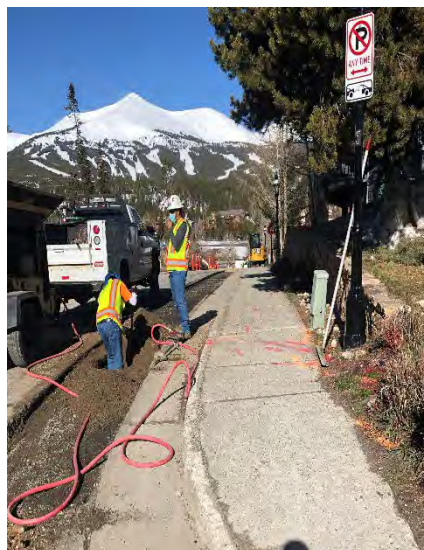
Memo

To: Breckenridge Town Council Members
From: Town Staff
Date: 5/6/2020
Subject: Public Projects Update



Fiber9600

Schedule: The 2020 work for Fiber9600 continues in the downtown core and is generally concentrated on the Ridge Street Alley, High Street, Harris Street, and N. Ridge Street. Trenching on N. Main Street and vault placement on Wellington Road are completed and awaiting asphalt restoration.



River Park Phase 2

Schedule: Construction has started on Phase 2 of River Park. The contractor completed excavation, grading, and placement of concrete curb. The foundations for the playground equipment are currently being excavated and the play feature installation will begin in the next week. The installation of the play features, the bike park construction, parking lot paving, and landscaping will continue through June.

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



Excavation, grading, concrete curbing, and placement of boulders was completed this week for the new play areas. The area shown above will have custom “nature play” features installed in the coming weeks.

Asphalt Overlay

Schedule: Asphalt milling for the overlay and replacement locations was completed this week. Several locations were added to the project due to poor roadway sections which had worsened in recent months. The project now includes replacement and other treatments at the following locations:

- Airport Road
- Ski Hill Road
- Tiger Road
- French Street
- Shock Hill Drive
- Golf Course Parking Lot
- Town Hall Employee Lot
- Christie Lane

Asphalt paving will begin this week and will continue through May. Once the asphalt replacement is complete, the roadways will be restriped. 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 Asphalt Overlay	\$ 550,000
2019 CIP Asphalt Overlay Roll Over	\$ 450,000
Total Budget	\$1,000,000

Concrete Replacement

Schedule: Concrete removal and replacement began last week on Main Street. Over the next couple weeks, concrete replacement will continue on Main Street and will also begin on Wellington Road. Wellington Road will remain open during construction, but the roadway will be reduce to a single lane during the day and minor delays will occur. Additionally, the concrete pan at Gold Flake Terrace will be replaced and traffic will be detoured around Gold Flake Terrace.

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

Project Funding	
2020 CIP Concrete Replacement	\$ 300,000

Summit Stage – Transit Board Update
February and March Performance 2020

Ridership Summary – February - March 2020

- Total February 2020 fixed-route ridership was 210,696, an 11.3% increase from February 2019 fixed-route ridership of 189,360.
 - Commuter Routes for February 2020 compared to 2019
 - Park County Commuter Route ridership was 1,308 people
 - Blue River Commuter down 51% in February
 - Lake County Commuter down 27% in February

- Total March 2020 fixed-route ridership was 98,763, a 50.3% decrease from March 2019 fixed-route ridership of 198,767. (*Transit service was suspended effective March 17, so these figures cover March 1 – 16, 2020, which represents a 50.7% decrease in service hours from March 2019*)
 - Commuter Routes for March 2020 compared to 2019
 - Park County Commuter Route ridership was 640 people
 - Blue River Commuter down 66% in March
 - Lake County Commuter down 59 % in March

- Summary of Operating Costs:
 - February 2020
 - Total operating expenses = \$788,025 (February 2019 = \$850,168)
 - Total maintenance costs = \$63,994 (February 2019 = \$72,888)
 - Total Feb fuel usage = 21,032 gallons diesel and 1,754 gallons gasoline (February 2019 = 23,422 gallons diesel and 1,466 gallons gasoline).
 - March 2020
 - Total operating expenses = \$752,793 (March 2019= \$669,996)
 - Total maintenance costs = \$102,520 (March 2019 = \$67,737)
 - Total March fuel usage = 12,233 gallons diesel and 777 gallons gasoline (March 2019 = 25,736 gallons diesel and 1,704 gallons gasoline).

Summit County Mass Transit Sales Tax Receipts

- December 2019 sales tax receipts were \$1,678,637
 - Total 2019 mass transit sales tax receipts were \$13,197,120- an increase of 11.66% or \$1,377,650 over 2018
- January 2020 mass transit sales tax receipts were \$1,458,631, an increase of 9.6% or \$128,088 over January 2019

COVID-19 Related:

- Summit Stage has resumed limited service effective April 27th. For the first 7 days of service 4/27 – 5/5 they have provided 1,487 rides, 349 of those were between Frisco, Breck, and Boreas.

Other Matters:

- Summit Stage’s Operations Manager, Geoff Guthrie has taken a position with CDOT Region 2 HQ in Pueblo as the Transit and Innovative Mobility Liaison. He will be leaving at the end of the month.

Minutes
Breckenridge Events Committee
Wednesday, May 6th, 2020
Virtual Meeting

Right event, right time, right result

Committee Members on Call: Todd Rankin, Dick Carleton, Shannon Haynes, Lucy Kay, Casey Willis, Jeff Westcott, Carrie Benefiel, Dennis Lucero, Ken Miller, Bruce Horii, Dave Feller, Majai Bailey, Sarah Wetmore

Guests: Mike McCormack, Deb Edwards, Emily Wahl, Carol Craig, Kat Slaughter, Matt Neufield, Cary Cooper, Austyn Dineen, Drea Edwards, Amy Sides, Corry Mihm, Lea Dreux

- I. Call to Order – Todd Rankin called the meeting to order at 9am.
 - a The Committee welcomed back Dick Carleton as the appointed Town Council Representative to BEC.
 - b A motion was made to approve the April 1, 2020 minutes.
 - M/S/P

- II. Upcoming Events Discussion
 - a Independence Day Celebration/Parade – BTO is working on alternative parade plan for Fourth of July. Event concept with flexibility to move with State Health requirements and new norms.
 - BTO presented idea of a procession through Breckenridge neighborhoods. Concept positioned for locals, providing animation in a way that promotes safe physical distancing practices.
 - Route drafted for feedback from ToB Public Works and PD. Rolling procession with no street closures and a PD escort at start and end. Proposed route includes neighborhoods of Lincoln Park/Wellington /French Creek, High St, Warriors Mark, Blue 52/ Airport Rd.
 - Committee agreed that if managed appropriately some activation would be good, and recommended BTO move forward with next steps of vetting concept.
 - Next steps: 1. Reach out to businesses to ensure critical mass with floats, 2. Confirm appetite within local community, 3. Logistics vetted through SEPA. BTO will loop in BEC before moving to next phase of planning.
 - Some precedent on a smaller scale with PD and RWB processions through neighborhoods. High school seniors also planning on some sort of graduation procession - may be able to take some learnings from that.
 - Discussion around adding a music component. If possible NRO would like to engage.
 - Alternative idea of a live stream parade where the audience participates virtually. Smaller foot print to manage.
 - b Firecracker 50 – Mav Sports partnering with Mike McCormack. Email went out updating participants. Currently vetting 3 scenarios: amended format, re-schedule, cancel. Would still consider holding the event without a parade. June 1, decision deadline.
 - Jeff looking to host a time trial race in Frisco, June 13 if he can meet physical distancing protocol. Point of contention is inability to prevent participants coming from out of town. Need to be mindful of where race if promoted. Will be telling to see what will be tolerated 3 weeks before 4th of July.
 - c Parking Structure Update
 - At this time, proceeding as if construction is going forward for this summer. Experiencing setback with municipal bond market. Goal to bring a funding ordinance to TC by second meeting in May for June a start.
 - Fiber installation is currently underway for the summer. Goal complete portion of project in core of town quickly.
 - d Summer Events/Pending SEPA
 - SEPA Committee pushed to Thursday to be able to provide updates from BEC.
 - BGV has decided to go virtual with the Heart Health Walk. Still inviting people to register and participate virtually. Hoping to continue with fundraising and sponsorships support. Some discussion around re-allocating funds toward broader community health efforts at this time.
 - BCA is working closely with Breck Film Fest on a drive in Movie Concept. Still no hard date. Targeting late may June.
 - 37th Annual July Arts Festival – **Cancelled**
 - Ai WeiWei “Forever Bicycles” installation, May – Sept. 2020 – **Delayed**
 - MT 2030 Sustainability Conference – **Postponed /TBA 2021**

- III. General Updates and Discussions

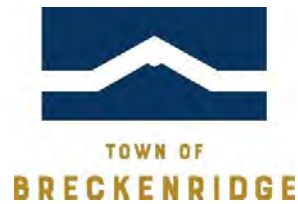
- a County Event Recommendations
 - A Group of local Summit County event planners created some recommendations for public health percussions related to events. The document was crafted based on the limited information received to date surrounding temporary event permits and is meant be a resource template that can be updated as things progress. Noted that Breckenridge was not involved in first round which created the guidance. Casey will represent BEC with the group going forward.
- b Sep/Oct/Nov Events Backfill and planning – Lucy
 - At this point BTO is proceeding as though things will be a little more normalized by fall. Looking at events to pull the trigger on quickly for late Sept-October period. Thinking about 4th quarter as a way to make up ground lost early summer. Good time to rework approach to all event with new event concepts – driving business priority
 - Oktoberfest -Looking at event in terms of it can be adapted in consideration of public safety concerns. Perusing idea of going all cans with Paulaner and researching RFID options for event.
 - Munich Oktoberfest cancelled (next September). BTO staying mindful of decision lead times for Snow Sculpture and Oktoberfest.
- c Pedestrianizing Main Street - Conversation out of Re-opening Committee meetings. TC has given go ahead to explore further.
 - Concept vetted with ToB Staff and PD. Still working out logistics internally for how to make sure that we are not creating undue hardships to business where avoidable. Looking to BEC/ BTO/BCA for input on atmosphere and design concept. Window of mid-June – August. Goal to have enough time to test fully and adjust as needed.
 - Option to permit restaurants to expand service on to sidewalk and areas of Main Street. Likely that restrictions on seating capacity will limit service inside businesses. Discussion around how to manage outdoor seating areas. Noted opportunity to draw on local music talent for programming.
 - Need to move quickly – coming up against deadlines for expanding liquor licenses to include outdoor areas.
 - Casey Willis to lead a Task Force formed to address design concept. Looking to include ToB, BCA, BRA, and Retail.

IV. Past Events Review – N/A

V. Review Agenda Items for next BEC Meeting June 3, 2020

- a Strategic Matrix - Breckenridge Restaurant Association (BRA) '21 Snow Sculpture Activation – Corry Mihm

VI. Meeting formally adjourned at 10:18am.



Memo

To: Breckenridge Town Council
From: Jessie Burley, Sustainability Coordinator
Date: May 12, 2020
Subject: SustainableBreck Annual Report

The Town Council adopted the SustainableBreck Plan in July of 2011 after several years of development and community input. One of the key aspects of the Plan was a goal of monitoring efforts over time to see how the community has progressed. A series of “Indicators” were identified to monitor progress against baseline data for each of the topics in the report. Some topics have also morphed to include goals outlined in subsequent plans like the Water Efficiency Plan and Climate Action Plan. Staff has prepared the 2020 Annual Report for Council’s review.

The monitoring indicators are displayed in a simple green, yellow, or red color indicating the Town’s progress on a particular topic. Green generally means progress towards Plan goals is being met while red indicates a topic area which still needs a lot of work. The data contained in the circles adds context to year over year changes, and the narrative highlights actions and achievements or describes challenges for each indicator.

As outlined in the Annual Report, a number of actions were undertaken in 2019 to further the Town’s sustainability efforts. Some highlights include:

- The Town provided \$1,500 rebates to homeowners and businesses who installed rooftop solar PV through Solarize Summit, a bulk purchase program designed to save on system costs. Over 177 kW on 37 homes were installed across the community.
- Breckenridge received new glass recycling stations at Carter Park and free food scrap drop off at the Breckenridge Recycling Center.
- The Breckenridge FreeRide added 2 new all electric buses and charging stations to the fleet with a grant to purchase more in 2020/21. Ridership on the FreeRide grew 11.3 percent over 2018.
- Open Space acquired 112 acres of land in 2019 adding to the nearly 5,000 acres protected through the program over its 20 year history.
- The Housing Program added 11 deed restricted units through the buy down program and launched Housing Helps to provide financial assistance to homeowners in exchange for deed restrictions.
- Forty acres of backcountry land were protected through the Transferable Development Rights (TDR) program for a total of 1,967 acres since the program began.
- Cucumber Preserve biologists spotted 2 boreal toads in 2019. There have been recent years when none have been recorded.
- Two more historic structures were landmarked in 2019.
- In 2019, the Town funded child care scholarships for 139 children. This represents approximately 50 percent of the children in care. The Invest in Teachers program has seen a 13.78 percent growth from 2016 to 2018.

Some of the findings of the Annual Report include:

- Early data suggests an 8 percent increase in energy use over 2018. This includes operations of the new bus charging and facility, a full year of tennis center operations, fiber meters, dumpster network

and surveillance, and construction use at the WTPII.

- Although the use of disposable bags increased by 4.5 percent in 2019, taxable sales increased 6.7 percent. Thus, there was a relative decrease in bag use compared to overall retail sales.
- Traffic volumes (as measured on Hwy 9 at Tiger Road) showed a 16.7 percent increase in traffic on Hwy 9. Breckenridge PD deployed manual traffic control for egress 92 times, or 25 percent of the year.
- Solid waste going to the landfill increased by 6 percent while diversion rates decreased to 18.2 percent.
- Real estate sales in 2019 increased 14.4 percent over 2018. Average lodging occupancies increased from 46.41 percent to 47.03 percent.
- Water demand increased 17.5 percent over 2018, which is also the same demand as in 2007, the baseline year. Single Occupancy Equivalents (SFE) increased 23 percent in that period. SFEs are based on a 2,000 square foot single-family home's usage)
- The overall health of Cucumber Preserve for wildlife continues to be in flux. The Naturalist program continues to engage residents and visitors in the Preserve and redirects them during annual season closures.

After the Council has reviewed the Annual Report, staff will post the report on the Town's [SustainableBreck.com web page](#). Staff appreciates any questions or suggestions that the Council has on the Annual Report.

SUSTAINABLEBRECK

2020
ANNUAL REPORT

sustainablebreck.com



TOWN OF
BRECKENRIDGE



SUSTAINABLEBRECK

2020

Annual Report

Looking back, the Town of Breckenridge made some major strides in 2019 towards our sustainability goals. It's an imperfect journey, but we are proud of how far we've come.

In October, Town Council and staff leadership attended the Mountain Towns 2030 Summit in Park City, renewing our commitments towards reducing greenhouse gas emissions and striving for carbon neutrality in our community. In addition, our new Destination Management Plan commits us to becoming leaders in the environmental space.

We have greenhouse gas reduction goals to cut emissions 80 percent by 2050 and have committed resources towards that end. We're beginning to electrify our fleet with two all electric buses already online and more coming in 2020/21. And we've provided rebates to homeowners and businesses who go solar through Solarize Summit.

This report is a snapshot of how far we've come on our sustainability journey. It reinforces our priorities and identifies gaps where we can further improve.

We welcome your feedback and input as we form policies and implement projects to achieve a carbon neutral and healthy future for our community. You can submit comments on our new website sustainablebreck.com.

Eric Mamula, Mayor



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Transportation...9

Water...11

Recreation & Open
Space...13

Forest Health...15

Housing...17

Land Use...19

Child Care...21

Wildlife...23



Acknowledgements

The creation of this report, the policy direction, and the implementation of action items identified by the SustainableBreck Plan requires the assistance, dedication, and commitment of the Town Council, various Town departments, numerous staff, and neighboring jurisdictions.

Thank you for helping keep Breckenridge green and clean.

Breckenridge Town Council
Community Development
Public Works
Recreation & Open Space
Breckenridge Tourism Office
Summit County Government
US Forest Service
CSU Extension
Xcel Energy
High Country Conservation Center
Summit Climate Action Collaborative



Monitoring Progress

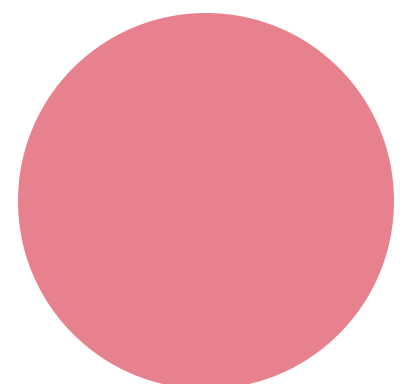
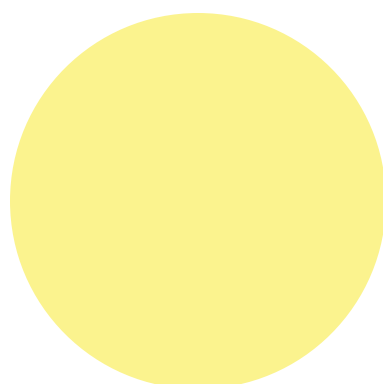
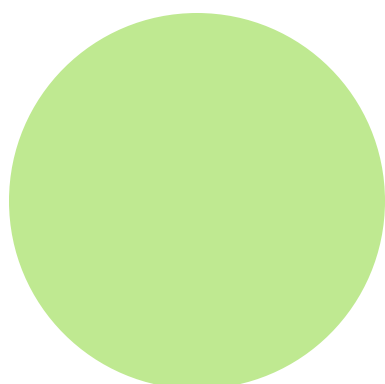
The monitoring program is designed to provide decision makers and community members a snapshot of progress made towards broad goals identified in each of the 10 sustainability categories.

Each sustainability category contains indicators with targets (milestones) for the year 2030 unless otherwise noted. Indicators are the measuring tools used to better understand the current progress toward achieving our goals.

1. Resource Conservation
2. Local Economy
3. Transportation
4. Water
5. Recreation & Open Space
6. Forest Health
7. Housing
8. Land Use
9. Child Care
10. Wildlife

MEASURING SUCCESS

Colored circles are assigned to each indicator that show the current state of achievement towards the 2030 targets. Numbers within those circles are a snapshot of current conditions. The description sections further highlight details related to the indicators.



Resource Conservation



Goals

The Town will:

1. Strive to significantly decrease overall resource use, specifically consumption of non-renewable energy, fuels, and non-recyclable materials.
2. Take a leadership role in reducing its own energy consumption.
3. Be powered by 100% renewable electricity for municipal facilities by 2025.
4. Explore innovative strategies to significantly reduce waste.





+8%

2018: 5,853,273 kWh
2019: 6,318,090 kWh

Energy Use

Target: 20% reduction in electricity and natural gas use by 2020

Town facility electricity consumption has increased in part due to new construction, growth, and new programs. This includes but is not limited to the North Bus Barn, two electric bus charging stations, and construction on the new Water Treatment Plant and dumpster enclosure surveillance and networking.

63%

Renewable Electricity for Town facilities

Renewable Energy

Target: 100% RE for municipal facilities by 2025

Target: 100% RE community wide by 2035

The Town, in partnership with HC3, launched Solarize Summit, a bulk purchase solar PV program designed to allow ease of access for residential rooftop solar. Rebates were offered in addition to the tax credit and bulk purchase discounts. The program saw 31 new solar installations, totaling 177 kW of capacity. Solarize will run again in 2020.

+6%

Solid Waste Generation

2018: 55,804 tons
2019: 59,255 tons

Solid Waste

Target: 20% reduction in solid waste generation by 2020

Target: 40% recycling diversion rate by 2020

Solid waste generation continues to grow with the number of people in town and a strong economy, particularly construction waste. Recycling diversion was 18.2% compared to our 40% goal. Safe Futures, a Summit County initiative, allocated \$1.8M toward new recycling programs including residential composting and additional glass depots, including at Carter Park.

+4.5%

Disposable Bag Use

2018: 1,028,729
2019: 1,075,945

Disposable Bag Use

Target: Reduce the number of single-use bags consumed

A renewed outreach and education effort resulted in new signage at retail and grocery stores. Over 50,000 Breck reusable bags were distributed to lodging and retail partners. Taxable sales increased 6.5% from 2018 to 2019, while bag use increased 4.5% in the same time period.

Local Economy



Goals

The Town will:

1. Focus on efforts to deliver a balanced, year-round economy driven by destination tourism by 2024.
2. Elevate and protect Breckenridge's authentic character and brand.
3. Provide an atmosphere which focuses on economic stability in real estate and commercial trades.





1.9%

Local
Unemployment

Local Unemployment

Target: No significant increase over previous year
Target: Increase in Area Median Income (AMI) annually

Local unemployment was back down to 1.9%, the same as 2017. Unemployment rates are so low that some employers are having a difficult time finding employees. AMI declined 1.6% over 2018.

+14.4%

Value of Real Estate
Sales

Real Estate

Target: Positive growth in real estate sales
Target: Reduction in number of foreclosure properties

Total real estate sales were \$711,945,217, an increase of 14.4% over 2018. Foreclosures for fee simple properties decreased to 4 compared to 7 in 2018. According to data from Land Title there were 670 residential transactions in Breckenridge in 2018, and 637 in 2019.

+1.3%

2019 Average Lodging
Occupancy

Lodging

Target: Increase in monthly occupancy over previous year

Average occupancy increased to 47.03% in 2019 compared to 46.41% in 2018. Average daily rate increased 5.2% with the largest increases in January, November and December.

+6.7%

Taxable Sales in 2019

Taxable Sales

Target: Positive trend in taxable sales over previous year

Taxable sales increased to \$658,346,910 in 2019 over \$617,307,632 in 2018.

Transportation



Goals

The Town will:

1. Strive to lessen automobile dependency in favor of alternative modes of travel to reduce consumption of fossil fuels.
2. Increase transit ridership by providing residents and visitors a convenient multi-modal transportation system that provides links to the ski area, base facilities, parking facilities, and throughout the community and region.





Alternative Modalities

Target: Increase percent of trips made by walking, biking, carpooling

Target: Obtain Bicycle Friendly Community platinum

According to the American Community Survey, nearly 40% of those surveyed commute by walking, carpooling, biking, or teleworking. However, this number decreased from 56% in 2017. Breckenridge is a proud Gold Level Bicycle Friendly Community.

-15.3%

2019 Alternative transportation

Traffic Volumes

Target: No net increase of number of vehicles entering town over 10 year average

Overall, the total number of vehicles counted at Tiger Rd. was 16.8% higher in 2019 than 2009. Winter volumes were higher than summer volumes. Breckenridge police department deployed manual traffic control measures for egress 92 times in 2019 or 25% of the year.

+16.7%

Traffic Count

2018: 7,493,359

2019: 7,618,943

Public Transit

Target: Increase transit ridership to 10% of total trips

Target: Increase ridership & per capita ridership above 2009 baseline

Public transit use held steady in 2018, the latest year for which we have data, accounting for 15.9% of all commuter trips. Breckenridge is second only to Aspen in public transit ridership. Transit ridership is up over half a million riders per year compared to the 2009 baseline.

+11.3%

Breckenridge Transit Ridership

2018: 1,177,164

2019: 1,310,282

Water

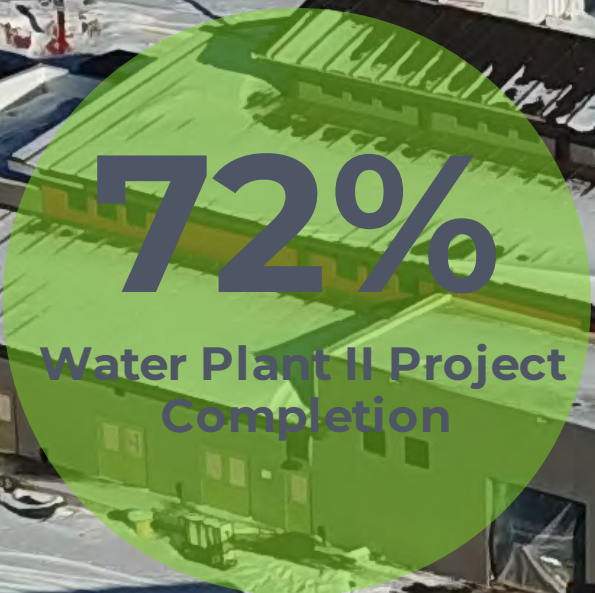


Goals

The Town will:

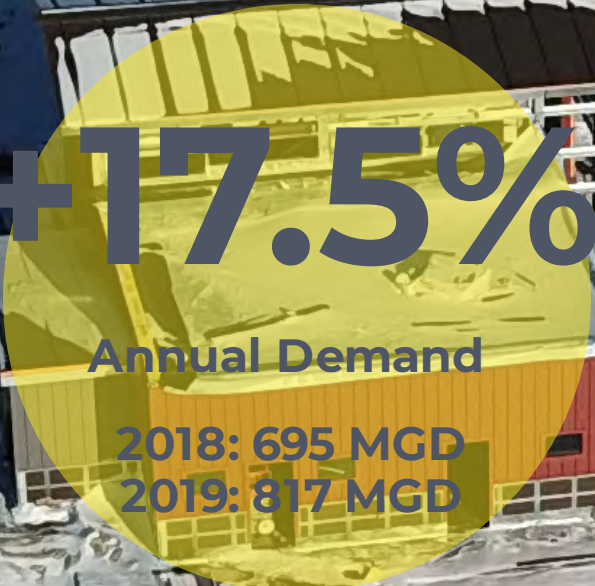
1. Maintain high standards of water quality.
3. Increase ability to fully store available water rights to ensure an adequate water supply for future generations.
4. Reduce annual demands by 20% by 2030.
5. Reduce peak demands during the summer associated with outdoor water use.





Water Plant II

The Water Plant II construction is on time and on budget. Contractors have completed 72% of the work at the time of this report. WTPII will provide additional "wet" water to the distribution system and will treat up to 4.5 million gallons of drinking water per day. This plant will allow for periodic shut down of the Gary Roberts Treatment Plant for maintenance and provide backup capability in the event of disaster like wildfire.



Annual Demand

Target: 20% reduction in annual demand over 2007 baseline

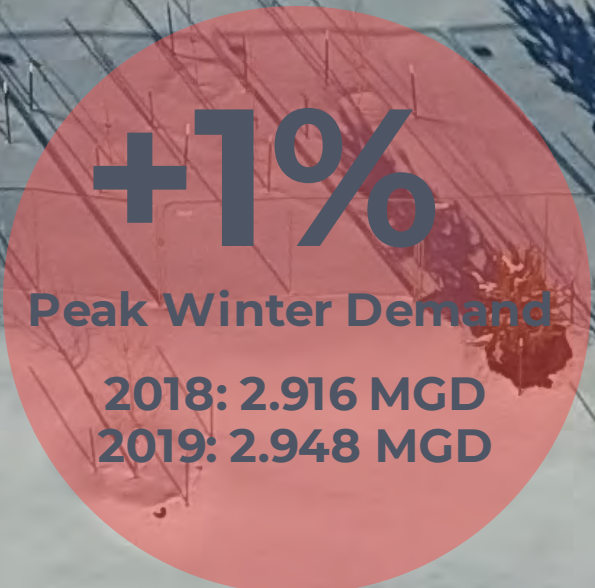
Demand has increased 17.7% over the 2007 baseline year (2007 and 2018 were virtually the same demand), while the single family equivalents have increased 23% since that time. A new program called Tame the Tap rolled out in 2019 for indoor water audits. The program fixes leaky toilets and replaces old fixtures for an estimated savings of 220,483 gallons per year.



Peak Summer Demand

Target: Reduce peak day summer demand

Much of the summer demand comes from outdoor irrigation. An outdoor water audit program called Slow the Flow helps homeowners and HOAs analyze irrigation systems, dial in efficient irrigation schedules, and makes recommendations for improvements. The Water Department fixed two sub-surface breaks and five surface breaks that were detected during the leak detection survey.



Peak Winter Demand

Target: Reduce peak day winter demand

The water utility joined Water Smart, a user friendly dashboard and analytics program that makes understanding water use easy for customers. There are 863 accounts registered which is 17.4% of accounts eligible.

Recreation & Open Space



Goals

The Town will:

1. Maintain existing inventory of open space properties and trails.
2. Acquire additional open space property that complements existing properties.
3. Increase trail connectivity.
4. Provide new recreational opportunities.
5. Renovate existing and develop new parks and facilities.





+112

**Acres of Open Space
Acquired in 2019**

Acres of Open Space

Target: Increase in open space acreage in the Upper Blue Basin

0.5% sales tax dedicated to open space acquisition. Over 20 years, 4,948 acres have been acquired through purchases, trades, land dedications, and joint purchases with Summit County Government.

0

**Acres of New Parks
in 2019**

Park Acreage

Target: Exceed 10.1 acres of park land per 1,000 residents

Over 50 acres are maintained for town parks. The new River Park adjacent to the Blue 52 neighborhood was dedicated in October 2018, with landscaping and parking improvements completed in 2019. Phase 2 of River Park will be completed in 2020. The Town has 11.4 acres of parks per person exceeding the target of 10.1 acres.

+.98

**Miles of Trail Added
in 2019**

Trail Miles

Target: Positive yearly growth of miles of trails maintained

In 2019, the Open Space and Trails program constructed and maintained new trails including the new Red Pig and Trollstigen. A total of 61.73 miles of trails are maintained by the Town.

Forest Health



Goals

The Town will:

1. Aggressively undertake forest health initiatives to protect residents and visitors from large scale wildfire.
2. Protect the Town's watershed and associated water supply infrastructure.
3. Conduct large scale replanting efforts in areas with extensive tree removal.





1.5K

Total Number of Homes

Chipping Program

Target: Positive yearly growth in total volume of material collected

Target: Positive yearly growth in number of households participating

In 2019, the number of Breckenridge homes that participated in the Chipping Program increased by 111. Over 4,577 piles of slash have been collected in Breckenridge since the project's inception in 2014.

6

Acres of Land Treated by the Town

Town Forest Management

Target: Positive yearly growth of total acres treated

The Town treated six acres of land in 2019. This program has also slowed due to reaching its goals.

740

Acres of Land Treated by USFS

USFS Forest Management

Target: Positive yearly growth of total acres treated

The Forest Service is under contract to treat a total of 3,500 acres of national forest surrounding Breckenridge by 2021. In 2019, projects took place on Ophir Mountain, Peak 7, and Swan Mountain.

Housing



Goals

The Town will:

1. Ensure the availability of affordable priced housing for its permanent residents.
2. Protect market-rate units serving as workforce housing.
3. Create deed restricted for sale units priced for workforce families.
4. Create deed restricted rental housing for workforce locals.





0

Rental Units Added

Housing Need - Rentals

Target: 488 units needed by 2020 to fill housing need based on 2016 housing needs assessment

151 rental units have been built since 2016 and the Town will break ground on 80 rental units on the McCain property in 2020. This project will not only provide rentals for 30-60% AMI, but also be a net zero energy community. A new housing needs assessment will be completed in 2020.

+11

Deed Restrictions in Buy-down Program

Housing Need - For Sale

Target: 171 units needed by 2020 to fill housing need based on 2016 housing needs assessment

The Housing program has shifted to focus on buy-downs and developing the Housing Helps program which provides financial assistance to homeowners in exchange for deed restrictions to support the local workforce. There are 19 applications pending in the Upper Blue.

+44

New Units Occupied

Private Sector Development

The private sector has also provided additional workforce housing with 44 units that came online in 2019. The Town is now looking to provide more workforce housing through new policies and programs that require and incentivize the private sector to develop housing for the workforce.

Land Use



Goals

The Town will:

1. Protect back-country lands and historic resources.
2. Maintain service commercial uses.
3. Not exceed the Upper Blue Basin's build-out numbers.





+40

**TDR Backcountry
Acres Protected in
2019**

Backcountry Protection

Target: Protection from development of 90-100% of private property in the backcountry

Since 2000, the Upper Blue Transfer of Development Rights (TDR) Program has protected 1,967 acres of sensitive backcountry resources. Eighty-six percent of backcountry lands have been protected.

+2

**New Historic
Landmarks**

Historic Resources

Target: No loss of historic structures, either through demolition or neglect

The Town proudly boasts one of Colorado's largest National Historic Districts, with over 200 contributing structures. Since 2003, 35 historic structures and properties have been locally landmarked (the Town's highest level of historic protection) in connection with redevelopment and preservation efforts.

+484

**New Residential
Units in Upper Blue**

Town Build Out

Target: Not to exceed targets established in Joint Upper Blue Master Plan

The combined total of residential units located in the Upper Blue Basin (Breckenridge, unincorporated Summit County, and Blue River) is 12,226, below the target cap of 14,255 units. The latest Upper Blue data is from 2018.

+1

**New Service
Commercial Unit**

Service Commercial

Target: No net loss of existing service commercial property

Service commercial in the Upper Blue basin increased by one unit in 2018 for an additional 266 square feet. This survey is conducted every two years.

Child Care



Goals

The Town will:

1. Ensure quality care is accessible and affordable for Breckenridge families and workforce.
2. Create quality child care programs that retain qualified and motivated teachers.
3. Secure long term funding, reduce costs, and achieve sustainable budgets at participating centers.





250

Children on Center Wait Lists

Center Occupancy

Target: 90-100% of daily slots filled and minimal waitlists

The majority of children on the wait list are infants and toddlers. There are currently 200 slots available in the Upper Blue on a daily basis. Schools are currently at capacity.

4.6

Average Years of Teacher Retention

Financial Sustainability

Target: Increase staff retention

Target: Operational expenses covered by adequate revenue

Teacher retention has increased with Invest in Teachers and other efforts to professionalize the workforce. Program guidelines require schools increase tuition to keep up with inflation. The Invest in Teacher Program has seen wage growth of 13.78% from 2016 to 2018 to an average of \$18.30/hour for our large centers.

\$7M

Tuition Assistance Since 2008

Child Care Attainability

Target: Ensure sufficient funds are available to fund scholarship for families who are cost burdened

During the 2018-2019 tuition cycle, 139 children received assistance. The tuition assistance program consistently helps about 50% of the children enrolled. The Summit Pre-K program has caused numbers to shift because more children are supported through the program.

4

Child Care Centers in Breckenridge

Quality Programming

Target: Centers meet quality standards by the State of Colorado

Our four partner schools have Colorado Shines Ratings and all schools have quality improvement plans in place.

Wildlife



Goals

The Town will:

1. Will preserve large, bio-diverse open spaces that serve as vital wildlife habitat through land purchases.
2. Implement the Cucumber Gulch Management Plan.





Cucumber Preserve Bird Diversity

Diversity takes into account the number of species and the relative abundance of each species. There were no significant changes to avian diversity in 2019 compared to 2018 across all habitats. However, long term monitoring does show significant decline in species diversity when comparing the periods 2013-2019 to 2006-2012.

Cucumber Preserve Beaver Activity

Beaver activity decreased in the Preserve in 2019 with only one active lodge and low number of beavers. The Naturalist program continues to engage residents and visitors in the Preserve and redirects them during the annual seasonal closure. Town staff and consultants regularly monitor and survey beaver activity and are investigating ways to increase populations numbers (i.e. reintroduction).

Cucumber Preserve Boreal Toads

Boreal toads, once abundant in Colorado, have only been sighted in the Preserve every couple of years. In 2019, there were 2 boreal toad sightings over none the previous year.

Moose Activity

While the moose activity has been increasing in number and activity, the police department had 170 wildlife related called in 2019. The Breckenridge Tourism Office, the Town, and Colorado Parks and Wildlife work to educate residents and visitors about proper behavior near moose and other wildlife.

SUSTAINABLE BRECK



Learn More:
www.sustainablebreck.com

sustainablebreck@townofbreckenridge.com

Memo



To: Town Council
From: Luke Sponable, Planner I
Date: May 4, 2020 (for meeting of May 12, 2020)
Subject: Worksession: 33/R Energy Conservation Update

At the April 28th Council meeting, the Sustainable Building Code was approved by the Council at second reading. The Sustainable Building Code will require a number of new sustainable measures to be included in residential and commercial projects. Some of these new requirements overlap with parts of the Development Code under Policy 33/R Energy Conservation. Staff is updating the Code to remove positive points for items that are now required, such as solar ready and Electric Vehicle (EV) ready projects to avoid “double dipping”, as well as adding the ability to obtain additional positive points for sustainability measures beyond the new requirements.

A summary of the changes is provided below:

- Removed one positive (+1) point for obtaining HERS/ERI Index (now required in Sustainable Building Code);
- Added one positive (+1) point for 10%-19% energy saved beyond the standard specified in the Sustainable Building Code for existing residential structures;
- Revised negative point schedule for heated paving and added additional points for heated paving above the existing 1,000 square foot threshold;
- Added negative points for commercial/multifamily outdoor pools and commercial/multifamily outdoor hot tubs;
- Removed positive points for new construction that is solar and EV ready (now required in Sustainable Building Code); and
- Added positive points for installation of additional EVSE Installed and EV Capable spaces over the minimum required in the Sustainable Building Code.

With recent projects having significant amounts of heated paving, we are proposing to increase the negative points for large amounts of heated pavement. Currently, if heated surfaces exceed 1,000 square feet in area, the maximum point assignment is negative three negative (-3) points. In recent applications, staff has seen large amounts of heated surfaces, well beyond 1,000 square feet in area. Therefore, staff is proposing to add additional negative points in 5,000 square foot increments.

The purpose of this worksession is to obtain feedback from the Council on the proposed code revisions. Proposed modifications are attached in bold and strikethrough. These edits were reviewed by the Planning Commission on April 21, 2020. At that meeting, there were some questions and comments, most of which have been incorporated in the attached draft. The Planning Commission commented on a preference for a scaled negative point schedule for hot tubs and pools based on square footage. The point

schedule and square footage thresholds have not been determined yet and staff will have those prepared prior to first reading.

Staff would like to hear any questions, comments, or concerns the Council may have.

9-1-19-33R: POLICY 33 (RELATIVE) ENERGY CONSERVATION:

The goal of this policy is to incentivize energy conservation and renewable energy systems in new and existing development at a site plan level. This policy is not applicable to an application for a master plan or subdivision. This policy seeks to reduce the community's carbon footprint and energy usage and to help protect the public health, safety and welfare of its citizens.

- A. Residential Structure Three Stories Or Less: ~~All new and existing residential developments are strongly encouraged to have a home energy rating survey (HERS)/Energy Rating Index (ERI) as part of the development permit review process to determine potential energy saving methods and to reward developments that reduce their energy use.~~

For new construction, positive points will be awarded for the percentage of energy use reduction of the new residential structure compared to the same building built to the minimum standards of the Town's most recently adopted International Energy Conservation Code residential provisions. ~~This shall mean, for an interim period, that the percent energy use reduction shall be compared to a baseline 70 HERS/ERI score. Upon adoption by the Town of the 2018 International Energy Conservation Code, the percent energy use reduction shall be compared to the baseline ERI score required as established in the code.~~ As subsequent International Energy Conservation Codes are adopted by the Town, the percent energy use reduction shall be compared to the baseline ERI score required established in that code.

For existing residential development, including additions, positive points will be awarded for the percentage of energy saved beyond the energy consumption analysis of the existing structure(s) as compared to the energy consumption of the proposed structure remodel.

Positive points will be awarded according to the following point schedule for new construction:

Points	New Structures; Percent Energy Saved Beyond Adopted Residential Energy Code Standard ¹
+1	Obtaining a HERS or ERI index
+2	20% - 39%
+3	40% - 59%
+4	60% - 79%
+5	80% - 99%
+6	100+%

Note:

1. International Energy Conservation Code (IECC) residential provisions.

Positive points will be awarded according to the following point schedule for structures that existed on - (insert date of adoption), which undergo major exterior remodels or additions:

Points	Existing Residential (Prior To (insert date of adoption); Percentage Improvement Beyond Existing HERS/ERI Index ²
+1	Obtaining a HERS/ERI index
<u>+1</u>	<u>10 – 19%</u>
+2	20 - 39%
+3	40 - 59%
+4	60 - 79%
+5	80 - 99%
+6	100+%

Note:

2. Existing HERS/ERI Index shall be for the structure prior to any modifications. Where an existing HERS/ERI score exceeds 125, a maximum score of 125 shall be assigned to the existing structure as a baseline to compare energy improvements to.

B. Commercial, Lodging And Multi-Family In Excess Of Three Stories In Height: New and existing commercial, lodging, and multi-family developments are strongly encouraged to take advantage of the positive points that are available under this policy by achieving demonstrable and quantifiable energy use reduction within the development. For new construction, positive points will be awarded for the percentage of energy use reduction of the performance building when compared to the same building built to the minimum standards of the adopted IECC¹⁰. The percentage of energy use saved shall be expressed as MBh (thousand BTUs/hour).

For modifications to existing buildings including additions, positive points will be awarded for the percentage of energy saved beyond the energy consumption analysis of the existing structure(s) compared to the energy consumption of the proposed structure remodel. Points shall be awarded in accordance with the following point schedule:

				Points	New Structures; Percent Energy Saved Beyond The <u>IECC</u> Minimum Standards	Existing Structures (Prior To August 14, 2012 (insert date of adoption); Percent Improvement Beyond Existing <u>Energy Consumption</u>
				+1	10% - 19%	10% - 19%
				+2	20% - 29%	20% - 29%

			Points	New Structures; Percent Energy Saved Beyond The <u>IECC</u> Minimum Standards	Existing Structures (Prior To August 14, 2012 (insert date of adoption); Percent Improvement Beyond Existing Energy Consumption
			+3	30% - 39%	30% - 39%
			+4	40% - 49%	40% - 49%
			+5	50% - 59%	50% - 59%
			+6	60% - 69%	60% - 69%
			+7	70% - 79%	70% - 79%
			+8	80%+	80%+

Positive points will be awarded only if an energy analysis has been prepared by a registered design professional as required by subsection E of this section, using an approved simulation tool in accordance with simulated performance alternative provisions of the Town's adopted Energy Code.

C. Excessive Energy Usage: Developments with excessive energy components are discouraged. To encourage energy conservation, the following point schedule shall be utilized to evaluate how well a proposal meets this policy:

Point Range	Design Feature
0	If the Planning Commission determines that any of the following design features are required for the health, safety and welfare of the general public (e.g., heated sidewalk in a high traffic pedestrian area), then no negative points shall be assessed.
-1	1 - 500 square feet heated driveway, sidewalk, plaza, etc.
-2	501 - 999 square feet heated driveway, sidewalk, plaza, etc.
-3	1,000 – 2,500 <u>2,499</u> square feet heated driveway, sidewalk, plaza, etc.
<u>-4</u>	<u>2,500 -5,000 square feet heated driveway, sidewalk, plaza, etc.</u>
<u>-1</u>	<u>For each additional 5,000 square feet of heated driveway, sidewalk, plaza, etc. over 5,000 square feet, one additional negative point shall be assigned.</u>

Point Range	Design Feature
1x(-1/0)	Outdoor commercial or common space residential gas fireplace (per gas fireplace).
<u>1x(-2/0)</u>	<u>Outdoor commercial or common space swimming pool (per swimming pool).</u>
<u>1x(-1/0)</u>	<u>Outdoor commercial or common space hot tub (per hot tub).</u>
0	Water features powered completely by a renewable energy source (e.g., solar, wind).
-1	Water features powered by conventional energy sources utilizing less than 4,000 watts or less than 5 horsepower.
-2	Large outdoor water features (per feature) powered by conventional energy sources utilizing over 4,000 watts or 5 horsepower motor or greater.

D. Other Design Features:

1x(- 2 4/+ 2 4) Other design features determined by the Planning Commission to conserve significant amounts of energy may be considered for positive points. Alternatively, other features that use excessive amounts of energy may be assigned negative points. However, positive points may not be assessed under this subsection D if the project has incurred positive points under subsection A or B of this section, with the exception of subsection D(1) of this section. Higher positive point assignments will be given to larger scaled projects that conserve a significant amount of energy. Larger projects that consume large amounts of energy would warrant larger negative points.

~~(1) 1x(+1) One positive point may be awarded for new construction that has been built solar and electric vehicle ready. In order to qualify as "solar and electric vehicle ready", the following must be provided:~~

- ~~a. Design of roof shall allow for a minimum of thirty percent (30%) designated area for PV (no obstructions or shading).~~
- ~~b. Locate and provide space for future required electrical equipment (inverter and meter).~~
- ~~c. Install conduit from roof to future electrical equipment locations.~~
- ~~d. Main electrical panel shall have space for future solar.~~
- ~~e. Structural live and dead loads included in roof design (only required for existing buildings).~~

~~f. A two hundred forty volt (240 v) outlet (or higher voltage) is provided in each garage bay to allow for charging of electric vehicles. For commercial and multi-family projects, one (1) 240-volt outlet is provided for each ten (10) parking spaces.~~

(E) EV Capable and EVSE Installed Spaces:

Positive points may be awarded for additional Electric Vehicle (EV) Capable and Electric Vehicle Supply Equipment (EVSE) Installed spaces over the required minimum as determined in the International Energy Conservation Code and Breckenridge Sustainable Building Code.

	<u>EV Capable</u>		<u>EVSE Installed</u>
<u>+1</u>	<u>10 additional spaces</u>	<u>+1</u>	<u>1 additional space</u>
<u>+2</u>	<u>20 additional spaces</u>	<u>+2</u>	<u>2 additional spaces</u>
<u>+3</u>	<u>30 or more additional spaces</u>	<u>+3</u>	<u>3 or more additional spaces</u>

E. General Provisions:

- (1) A projected analysis shall be submitted at the time of development permit application if positive points are requested as well as submittal of a confirmed analysis prior to the issuance of a certificate of occupancy or certificate of completion. A HERS/ERI analysis shall be performed by a certified HERS/ERI rater. An analysis of energy saved beyond the IECC shall be performed by the licensed Colorado engineer of record for the project.
- (2) No development approved with required positive points under this policy shall be modified to reduce the HERS/ERI index, percentage of improvement, or percentage of energy savings above the IECC standards in connection with the issuance of such development permit. ("Required positive points" means those points that were necessary for the project to be approved with a passing point analysis.)
- (3) Prior to the issuance of a certificate of occupancy each development for which positive points are awarded under this policy shall submit a letter of certification showing compliance with the projected energy rating or percentage of energy savings in comparison to the IECC. The required confirmed certification for a residential development three (3) stories or less in height shall be submitted by a certified HERS/ERI rater. The required confirmed certification for a residential development taller than three (3) stories, and for all commercial development, shall be submitted by a licensed Colorado engineer and accompanied by balance and commissioning reports. (Ord. 1, Series 2019)

Memo



To: Town Council
From: Chris Kulick, AICP; Senior Planner
Date: May 6, 2020 (for meeting of May 12, 2020)
Subject: Worksession: Club Membership Policy

In recent months there has been concern regarding fee based usage of amenity areas intended for overnight guests of larger resort properties throughout Town. Concerns about this usage include commercial activity in areas that were not counted as commercial density, impacts on parking, external circulation, and traffic impacts, and the lack of adequate amenity space for overnight guests and fee based users. Based on these concerns staff requests the Council weigh-in on whether we should consider possible code amendments to address club memberships. If the Council is supportive of exploring additional regulation, potential code amendments could include:

- Establishing an Amenity Club definition;
- Instituting Development Review procedures ;
- Regulating density and mass;
- Creating parking and external circulation standards (e.g., requiring traffic impact studies);
- Clarifying point eligibility under Policy 24/R;
- Instituting standards to ensure adequate amenity space is provided; or
- Possible prohibition of Amenity Clubs.

Staff will be available at the meeting for any questions.