

ORDINANCE NO. 23

Series 2017

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

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

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 Chapter 6 of Title 11 of the Breckenridge Town Code is repealed and readopted with changes to read as follows:

CHAPTER 6

LICENSE AGREEMENTS FOR USE OF TOWN REAL PROPERTY

SECTION:

- 11-6-1: DEFINITIONS
- 11-6-2: LICENSE REQUIRED; EXCEPTIONS
- 11-6-3: AUTHORITY OF TOWN MANAGER TO APPROVE LICENSE
- 11-6-4: APPROVAL CRITERIA
- 11-6-5: FORM AND CONTENT OF LICENSE AGREEMENT
- 11-6-6: LICENSEE TO PAY TOWN ATTORNEY'S FEES
- 11-6-7: LICENSE FOR USE OF TOWN PROPERTY BY PUBLIC ENTITY

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

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

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

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

PUBLIC USE: Any use of town real property by a quasi-municipal corporation, a county, a political subdivision of the state of Colorado or the United States government, or any agency or instrumentality thereof.

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

11-6-2: LICENSE REQUIRED; EXCEPTIONS:

- A. Except as provided in section B, below, a license agreement is required for any public or nonpublic use of town real property.
- B. This section does not apply to;
 - 1. Use of town real property by the town.
 - 2. Landscaping materials, including, but not limited to, grass, trees, shrubs and flowers, which materials may be placed within a town right of way without a license agreement or other authorization. The town shall have no liability to any person for the loss, damage or destruction of any landscaping materials placed within town right of way.
 - 3. Use of town real property pursuant to a valid agreement, including, but not limited to, an easement, a lease, or a permit issued by the town.
 - 4. Use of town real property when such property is made available by the town for use by the general public.
 - 5. Use of town property as permitted by law.

11-6-3: AUTHORITY OF TOWN MANAGER TO APPROVE LICENSE: The town manager shall have the authority to approve and sign a license agreement for the public or nonpublic use of any town real property.

11-6-4: APPROVAL CRITERIA:

- A. A license agreement may be approved by the town manager when such license is required as a condition of an approved development permit issued by the town.
- B. Other license agreements may only be approved by the town manager if:
 - 1. the nature, scope, location, and duration of the licensee's use or proposed use of the town real property will not substantially interfere with the town's need for complete control over its property; and
 - 2. the approved use of town real property pursuant to the requested license agreement will not result in the creation or continuation of a nuisance, or a threat to the public health, safety, or welfare.

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

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

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

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

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

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

INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED PUBLISHED IN FULL this 13th day of June, 2017.

This ordinance was published in full on the Town of Breckenridge website on June 14, June 15, June 16, June 17 and June 18, 2017.

A public hearing on this ordinance was held on June 27, 2017.

READ, ADOPTED ON SECOND READING AND ORDERED PUBLISHED IN FULL ON THE TOWN'S WEBSITE this 27th day of June, 2017. A copy of this Ordinance is available for inspection in the office of the Town Clerk.

ATTEST:

TOWN OF BRECKENRIDGE

_____/s/_____
Helen Cospolich, CMC, Town Clerk

_____/s/_____
Eric S. Mamula, Mayor

APPROVED IN FORM

_____/s/_____
Town Attorney Date

This Ordinance was published on the Town of Breckenridge website on June 29, June 30, July 1, July 2 and July 3, 2017. This ordinance shall become effective on August 2, 2017.