

ADMINISTRATIVE RULES AND REGULATIONS CONCERNING PERMITS ISSUED UNDER THE TOWN OF BRECKENRIDGE UNMANNED AIRCRAFT SYSTEM ORDINANCE

- A. **Effective Date.** These Regulations are effective March 28, 2018.
- B. **Authority.** These regulations are issued by the Town Manager of the Town of Breckenridge pursuant to the authority granted by Section 5-14-9 of the Breckenridge Town Code, which is commonly known as the Town’s “Unmanned Aircraft Systems Ordinance.”
- C. **Adoption Procedures.** The procedures set forth in Chapter 18 of Title 1 of the Breckenridge Town Code were followed in connection with the issuance of these Regulations. Notice of the adoption of these Regulations was given in accordance with the requirements set forth in Section 1-18-3 of the Breckenridge Town Code.
- D. **Conflict With UAS Ordinance.** These regulations do not amend the Town’s Unmanned Aircraft Systems Ordinance. If there is a conflict between these Regulations and the ordinance, the ordinance shall control.
- E. **Definitions.**

1. As used in these Regulations the following words have the following meanings, unless the context clearly requires otherwise:

- APPLICANT: A person who has submitted an application for permit pursuant to these Regulations.
- APPLICATION: An application for permit submitted pursuant to these Regulations.
- BUSINESS DAY: A day when the offices of the Town of Breckenridge are open for public business.
- DAY: A calendar day, unless otherwise indicated.
- PERMIT: A permit issued by the Town pursuant to these Regulations.
- PERMITTEE: The person to whom a permit has been issued pursuant to these Regulations.
- TOWN: Has the meaning provided in Section 1-3-2 of the Breckenridge Town Code.
- UAS: An aircraft, powered aerial vehicle, or other device without a human pilot aboard, the flight of which is

controlled either autonomously by onboard computers or by the remote control of a pilot operator on the ground or in another vehicle or aircraft, and all associated equipment and apparatus.

UAS
ORDINANCE: Chapter 14 of Title 5 of the Breckenridge Town Code, as amended from time to time.

2. All of the definitions in Section 5-14-3 of the UAS Ordinance are adopted by reference and incorporated into these Regulations.

F. **Delegation of Authority.** The Town Manager delegates to the Assistant Town Manager the responsibility to act on all applications received and permits issued by the Town pursuant to these Regulations, except for the responsibility to decide an appeal filed pursuant to Section Q or Section (W)(6) of these Regulations which shall be handled by the Town Manager. If, for any reason, the Assistant Town Manager is unable to handle the responsibilities delegated pursuant to these Regulations such responsibilities shall be handled by the Police Chief of the Town.

G. **Permit Required.** No person shall launch or land a UAS from any real property owned by the Town without a permit issued pursuant to these Regulations.

H. **Classes of Permits.** There are two (2) classes of permits that can be issued pursuant to these Regulations: (i) a "Single Flight Permit"; and (ii) an "Annual Permit."

1. **Single Flight Permit:** Single Flight Permits are for operators who want to operate a UAS at the specified location(s) over the course of a single date.

2. **Annual Permit:** Annual Permits are designed for operators who conduct numerous substantially similar flights over the course of a year.

I. **Application For Permit.**

1. A person seeking to obtain a permit shall file an application with the Assistant Town Manager. The form of the application shall be provided by the Assistant Town Manager.

2. An application for a permit shall be filed with the Assistant Town Manager not less than 7 days nor more than one year before the proposed UAS flight is to begin. The Assistant Town Manager may waive the minimum filing period and accept an application filed within a shorter time period if, after due consideration of the date, time, place, and nature of the proposed UAS flight(s), the Assistant Town Manager determines that

sufficient time exists for the proper investigation and review of the application; that the waiver will not present a hazard to public health, safety or welfare; and that the waiver will not create a substantial burden on the Town's staff or financial resources.

3. An application for a Single Flight Permit shall contain the following information:
 - (a) The name, address, and e-mail address (if any) of the applicant;
 - (b) The applicant's driver's license number or other form of valid, government-issued identification;
 - (c) A description, including type, make, model, dimensions and total weight of the UAS, including payload, and a digital photograph of the UAS proposed to be flown;
 - (d) Federal Aviation Administration (FAA) registration number of the UAS proposed to be flown;
 - (e) The location(s) of the proposed UAS flight;
 - (f) A description of the flight or type of flight proposed to be conducted;
 - (g) What payload(s), if any, will be attached to the UAS;
 - (h) The date and time at of the applicant's proposed UAS flight activities are proposed to be conducted;
 - (i) The reason for desiring to conduct the proposed UAS flight at the requested location; and
 - (j) Any additional information that the Assistant Town Manager reasonably determines to be necessary in connection with the investigation and review of the application.

4. An application for an Annual Permit shall contain the following information:
 - (a) The information required in Sections (3)(a) – (g), (i) and (j), above.
 - (b) In lieu of providing the date(s) and time(s) of proposed UAS flights in the application for an Annual Permit, the permittee shall provide notice in advance of individual flights to be undertaken pursuant to the Annual Permit as required by Section S of these Regulations;

- (c) Evidence that the applicant has in full force and effect a policy or policies of general liability insurance covering the proposed UAS flight(s) with minimum combined single limits of not less than One Million Dollars (\$1,000,000). Such insurance shall remain in full force throughout the entirety of the UAS flight(s) for which the permit is issued. The Town shall be named as an additional insured under such insurance policy. See Section S of these Regulations for action required of a permittee with respect to lapsed or cancelled general liability insurance.
 - (d) The applicant's agreement that the UAS will be operated in accordance with a community-based set of safety guidelines and within the programming of a nationwide community-based organization;
 - (e) Proof of any required FAA authorization and/or exemption if the applicant proposes a commercial use of a UAS pursuant to the permit for which the application is filed; and
 - (f) Any additional information that the Assistant Town Manager reasonably determines to be necessary in connection with the investigation and review of the application.
- 5. Each application shall contain the applicant's certificate as to the truth and accuracy of all of the information contained in the application.
 - 6. Applications shall be processed by the Assistant Town Manager in order of receipt.
- J. **Fees.** An applicant shall pay to the Town a non-refundable application fee when the application is filed. The purpose of the fee is to cover the administrative costs of processing the application. The application fee for a Single Flight Permit is \$25.00. The application fee for an Annual Permit is \$150.00.
 - K. **Investigation of Application.** Upon receipt of a properly completed application, together with all information required in connection therewith, and the payment of the application fee as required by Section J of these Regulations, the Assistant Town Manager shall review the application in accordance with the requirements of these Regulations.
 - L. **Standards For Issuance of Permit.** The Assistant Town Manager shall issue a permit when, from a consideration of the application and from such other information as may otherwise be obtained, the Assistant Town Manager determines that:
 - 1. denial of the application is not required under Section M of the regulations;

2. the application (including any required attachments and submissions) is complete, signed, and certified by the applicant;
3. the applicant has paid the application fee required by Section J of these Regulations;
4. the application does not contain a material falsehood or misrepresentation;
5. the application complies with all of the requirements of these Regulations;
6. the applicant is legally competent to contract under Colorado law;
7. the proposed UAS flight can be conducted without placing an excessive burden on the resources of the Town, including, without limitation, the Police and Public Works Departments, and the Red, White and Blue Fire Protection District;
8. the proposed UAS flight will not be unreasonably disruptive or cause a nuisance; and
9. the proposed UAS flight will not pose a substantial danger to the public health, safety, or welfare.

M. Denial of Permit.

1. The Assistant Town Manager shall deny an application for a permit if the Assistant Town Manager determines that:
 - (a) Information contained in the application, or supplemental information requested from the applicant, is found to be false in any material respect;
 - (b) The application fails to meet any of the standards for the issuance of a permit pursuant to these Regulations; or
 - (c) The applicant has failed to comply with the conditions of a permit issued under these Regulations within the 2 years immediately preceding the filing of the application.
2. If an application is denied the application fee shall not be refunded.

N. Authority to Impose Conditions on Permit. The Assistant Town Manager shall have the authority to impose such reasonable terms and conditions on a permit as may be necessary to protect the public health, safety, and welfare, and to obtain compliance with the requirements of these Regulations and applicable law.

O. **Decision By Assistant Town Manager.**

1. The Assistant Town Manager shall approve, deny or conditionally approve an application within 5 business days of the receipt of the completed application unless, by written notice to the applicant, the decision period is extended for an additional 5 business days; provided, however, that in any event the Assistant Town Manager shall render a decision on an application not less than 24 hours prior to the scheduled commencement of the proposed UAS flight which is the subject of the application. If the Assistant Town Manager accepts a late-filed application pursuant to Section I(1), the Assistant Town Manager shall render a decision on the application as promptly as possible, and in no event later than the scheduled commencement of the proposed UAS flight.
2. If an application is denied, the Assistant Town Manager shall clearly set forth in writing the grounds for denial and, where feasible, shall propose measures to cure the defects that lead to the denial of the application.
3. In the event an application is conditionally approved, the Assistant Town Manager shall clearly set forth in writing the conditions of approval.

P. **Notice of Decision.** The Assistant Town Manager shall notify the applicant of the Assistant Town Manager's decision on the application within 5 business days of rendering the decision. Notice shall be given by mailing a copy of the Assistant Town Manager's decision to the applicant by regular mail, postage prepaid, at the address shown in the application, or by sending a copy of the Assistant Town Manager's decision to the applicant at the applicant's e-mail address shown in the application. If mailed, notice is deemed to have been properly given upon mailing. If sent by e-mail, notice is deemed to have been sent upon the electronic mailing of the decision to the applicant's e-mail address shown in the application. Proof of delivery is not required for either method of delivering notice of the Assistant Town Manager's decision on the application.

Q. **Appeal of Denial of Conditional Approval of Permit.**

1. An applicant has the right to appeal the Assistant Town Manager's denial or conditional approval of an application to the Town Manager.
2. An applicant's appeal of the Assistant Town Manager's denial or conditional approval of an application shall be processed in accordance with Chapter 19 of Title 1 of this Code; provided, however, that the applicant's written notice of appeal shall be filed with the Town Manager within 10 days after the date of mailing of the Assistant Town Manager's decision on the application.
3. The applicant shall be provided with not less than 10 days' prior written notice of the appeal hearing to be held by the Town Manager.

4. The burden of proof in an appeal filed under this Section Q shall be on the applicant.
5. The Town Manager shall render a decision on an appeal within 5 business days after the conclusion of the hearing.
6. If the Town Manager finds by a preponderance of the evidence that the decision of the Assistant Town Manager was correct, the Town Manager shall uphold the decision of the Assistant Town Manager. If the Town Manager finds by a preponderance of the evidence that the decision of the Assistant Town Manager was incorrect, the Assistant Town Manager's decision shall be set aside and the permit issued (if it was previously denied) or the conditions of approval stricken or modified.
7. Any decision made by the Town Manager pursuant to this Section Q shall be a final decision and may be appealed to the district court pursuant to Rule 106(a)(4) of the Colorado Rules of Civil Procedure. The applicant's failure to timely appeal the decision is a waiver the applicant's right to contest the denial or conditional approval of the application.
8. If there is any conflict between the provisions and requirements of this Section Q and the provisions and requirements of Chapter 19 of Title 1 of this Code, the provisions and requirements of this Section Q shall control.

R. **Contents of Permit.**

1. A permit issued pursuant to these Regulations shall contain the following information:
 - (a) The name, address, and telephone number of the permittee;
 - (b) The location(s) of the UAS flight to be held pursuant to the permit;
 - (c) The date(s) of the UAS flight to be held pursuant to the permit;
 - (d) The starting and ending times the UAS flight to be held pursuant to the permit;
 - (e) An advisement to the permittee of the permittee's duties under Section V of these Regulations;
 - (f) An acknowledgment by the permittee that the permit may be summarily suspended by the Assistant Town Manager in accordance with Section (W)(5) of these Regulations;
 - (g) Any special conditions of approval imposed upon the permit by the Assistant Town Manager pursuant to Section N of these Regulations.

- (h) Such other information as the Assistant Town Manager determines to be necessary or appropriate for inclusion in the permit.
 - 2. A permit must be signed by both the applicant and the Assistant Town Manager to be valid.
- S. **Required Supplemental Information to Annual Permit.** During the term of an Annual Permit, the permittee shall provide the Assistant Town Manager with the following supplemental information:
 - (a) If the term of the permittee's required general liability insurance policy expires or otherwise terminates during the term of the Annual Permit, or if the permittee loses such insurance coverage for any reason during the term of the Annual Permit, the permittee shall not fly the permittee's UAS within the Town pursuant to the Annual Permit until the permittee has: (i) renewed the insurance policy, or obtained a replacement insurance policy that meets the requirements of Section I(4)(c) and has a term extending at least until the end of the term of the Annual Permit; and (ii) provided the Assistant Town Manager with notice of the renewed or replacement insurance policy.
 - (b) At least 48 hours prior to flying a UAS pursuant to the Annual Permit the permittee shall notify the Assistant Town Manager of the date(s) and time(s) of a permittee's intent to fly a UAS.
 - (c) Any supplemental notice required by this Section S shall be provided to the Assistant Town Manager by filing a supplement to the Annual Permit using such form as the Assistant Town Manager shall require.
- T. **Modification of Approved Permit.** For good and sufficient cause the Assistant Town Manager may modify an approved permit. There is no fee for a request to modify an approved permit.
- U. **Permit Not Transferable.** A permit is non-transferable and non-assignable. Any attempt to transfer or assign such permit voids the permit.
- V. **Duties of Permittee.** In connection with the holding of the event for which a permit is issued, a permittee shall:
 - 1. Comply with all of the terms and conditions of the permit;
 - 2. Comply with all applicable Town ordinances and state and federal laws;
 - 3. If the permit is an Annual Permit, maintain the insurance required by Section I(4)(c) of for the full duration of the permit; and

4. Permit inspection of its records by the Assistant Town Manager for the purpose of determining the permittee's compliance with the terms and conditions of the permit.

W. **Suspension or Revocation of Permit.**

1. A permit issued pursuant to these Regulations may be suspended or revoked by the Assistant Town Manager after hearing for the following reasons:
 - (a) fraud, misrepresentation or a false statement of material fact contained in the permit application;
 - (b) noncompliance with any of the duties set forth in Section V of these Regulations;
 - (c) a violation of any Town, state, or federal law or regulation;
 - (d) a violation of any of the terms and conditions of the permit;
 - (e) a violation of any of the provisions of these Regulations; or
 - (f) any unforeseen, unanticipated, or uncontrollable circumstance if the Assistant Town Manager determines that the permitted UAS flight under such circumstance would pose a threat to the public health, safety or welfare.
2. In connection with the suspension of a permit, the Assistant Town Manager may impose reasonable conditions.
3. A hearing held pursuant to this Section shall be processed in accordance with Chapter 19 of Title 1 of this Code.
4. In deciding whether a permit should be suspended or revoked, and in deciding what conditions to impose in the event of a suspension, if any, the Assistant Town Manager shall consider:
 - (a) the nature and seriousness of the violation;
 - (b) corrective action, if any, taken by the permittee;
 - (c) prior violation(s), if any, by the permittee;
 - (d) the likelihood of recurrence;
 - (e) all circumstances surrounding the violation;
 - (f) whether the violation was willful;

- (g) the number of previous permitted UAS flights held by the permittee;
 - (h) the number of previous violations by the permittee; and
 - (i) previous sanctions, if any, imposed against the permittee.
5. The Assistant Town Manager shall have the authority to summarily suspend a permit during a proposed UAS flight if it appears to the Assistant Town Manager that a permittee has violated one or more of the terms and conditions of a permit or any applicable law and, based upon the available information, the Assistant Town Manager, in consultation with the Police Chief, reasonably determines that such violation results in an immediate threat to the public health, safety and welfare. No appeal is allowed from a summary suspension of a permit issued by the Assistant Town Manager pursuant to this Section 5.
6. If the Assistant Town Manager suspends a permit, except for a summary suspension pursuant to Section 5 of this Section W, or revokes a permit, the permittee may appeal the suspension or revocation to the Town Manager in accordance with Chapter 19 of Title 1 of this Code. The burden of proof in such an appeal is on the permittee. The Town Manager shall render a decision on an appeal within 5 business days after the conclusion of the hearing. If the Town Manager finds by a preponderance of the evidence that the Assistant Town Manager acted correctly in suspending or revoking the permit, the Town Manager shall uphold the Assistant Town Manager's order of suspension or revocation. If the Town Manager finds by a preponderance of the evidence that the Assistant Town Manager acted improperly in suspending or revoking the permit, the appeal shall be sustained, and the Assistant Town Manager's order of suspension or revocation shall be set aside. Any decision made by the Town Manager pursuant to this Section (W)(6) shall be a final decision and may be appealed to the district court pursuant to Rule 106(a)(4) of the Colorado Rules of Civil Procedure. The permittee's failure to timely appeal the decision is a waiver the permittee's right to contest the denial or conditional approval of the application.
7. No fee previously paid by a permittee in connection with the application shall be refunded if such permit is suspended or revoked.

X. **Penalties; Injunctive Relief.**

1. It is a misdemeanor offense for any person to violate any provision of these Regulations. Any person convicted of having violated any provision of these Regulations shall be punished as set forth in Title 1, Chapter 4 of this Code.

2. Launch, flying, landing, or otherwise conducting a UAS flight without a valid permit issued pursuant to these Regulations may be enjoined by the Town in an action brought in a court of competent jurisdiction, including, but not limited to, the Town's municipal court pursuant to Section 1-8-10 of this Code.

Dated: _____, 2018

Rick G. Holman, Town Manager