

ORDINANCE NO. 17

Series 2020

AN ORDINANCE AMENDING CHAPTER 1 OF TITLE 9 OF THE BRECKENRIDGE TOWN CODE, KNOWN AS THE "TOWN OF BRECKENRIDGE DEVELOPMENT CODE," BY AMENDING POLICY 24 (ABSOLUTE) AND POLICY 24 (RELATIVE) CONCERNING HOUSING

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

Section 1. Section 9-1-5 of the Breckenridge Town Code in amended by the addition of the following definitions:

EMPLOYEE HOUSING IMPACT MITIGATION:	An obligation that requires developers to provide housing for a certain number of new employees that are generated by the developer's development, focusing solely on new development or the change of intensity of use in existing square footage (e.g. retail to restaurant) as related to employee generation impact and not taking into account secondary impacts.
FEE IN-LIEU:	A voluntary fee a developer may elect to pay to the Town in lieu of the construction of employee housing when an applicant is required to construct less than one (1) unit of employee housing.
EMPLOYEE GENERATION:	The total number of new employees that are generated by a development or change of intensity of use.
EMPLOYEE HOUSING:	<p>A dwelling unit the occupancy of which is restricted to a person eighteen (18) years of age or older who, during the entire period of his or her occupancy of the property, earns his or her living by working for a business located in and serving in Summit County, Colorado, an average of at least thirty (30) hours per week, together with such person's spouse and minor children, if any.</p> <p>All employee housing units shall be a minimum of three hundred fifty (350) square feet of density in size and shall each have a living area containing at a minimum: a kitchen sink; cooking appliance and refrigeration facilities, each having a clear working space; sleeping accommodations; a closet with a door; and a bathroom with a door, sink, toilet, and a bathtub or shower. Each employee housing unit shall have its own entrance. There shall be no interior access from any employee housing unit to any dwelling unit to which it is attached.</p>

Section 2. The first paragraph of Section 9-1-18-1(C)(2)(b)(1) of the Breckenridge Town Code is amended to read as follows:

(1) Five (5) copies of a site plan map and one (1) electronic copy in 11"x17" pdf format indicating the general site design of the application, including all existing and proposed improvements. The site plan map shall provide adequate detail to evaluate the preliminary landscaping; circulation; parking; snow stacking; location of all buildings and their entrances, uses and height; walls; fences; loading points; refuse container locations; location of all public rights-of-way; all existing

and proposed easements; drainage facilities; finished grade elevations; dimension lines where appropriate; and direction of stormwater runoff flows.

Section 3. Section 9-1-18-1(C)(2)(b) of the Breckenridge Town Code is amended by the addition of a new item number 17, which shall read as follows:

(17) An employee housing narrative as described in Section 9-1-19-24R, "Policy 24 (Relative) Social Community."

Section 4. The first paragraph of Section 9-1-18-1(D)(1)(c)(1) of the Breckenridge Town Code is amended to read as follows:

(1) Five (5) copies of a site plan map and one (1) electronic copy in pdf 11"x17" format shall depict the following details of the site information required for preliminary applications, revised in accordance with the input received from the Town's review of the preliminary application: all existing and proposed improvements; on and off site circulation; parking; snow stacking; location of all buildings and their entrances, uses and height; walls; fences; loading points; location of all public rights-of-way; all existing and proposed easements; drainage facilities; finished grade elevations; dimension lines where appropriate; and direction of stormwater runoff flows. In addition, the final site plan shall include the following: dimensions of building setbacks; dimensions of all public rights-of-way; types of surfacing; finished floor elevations for all proposed structures; lighting plan; sign locations and design (including lighting, materials and color); location of existing and proposed utilities (including sewer, water, drainage, telephone, power, gas, cable television and refuse container location); and names of adjacent subdivisions depicting their departing lot lines from the boundary of the subject property.

Section 5. Section 9-1-18-1(D)(1)(c) of the Breckenridge Town Code is amended by the addition of a new item number 11, which shall read as follows:

(11) An employee housing narrative as described in Section 9-1-19-24R, "Policy 24 (Relative) Social Community."

Section 6. The first paragraph of Section 9-1-18-2(C)(3)(a) of the Breckenridge Town Code is amended to read as follows:

a. Five (5) copies of a site plan map and one (1) electronic copy in pdf 11"x17" format indicating the general site design of the application, including all existing and proposed improvements. The site plan map shall provide adequate detail to evaluate the preliminary landscaping; circulation; parking; snow stacking; location of all buildings and their entrances, uses and height; walls; fences; loading points; refuse container locations; location of all public rights-of-way; all existing and proposed easements; drainage facilities; finished grade elevations; dimension lines where appropriate; and direction of stormwater runoff flows.

Section 7. Section 9-1-18-2(C)(3) of the Breckenridge Town Code is amended by the addition of a new item letter O, which shall read as follows:

(O) An employee housing narrative as described in Section 9-1-19-24R, "Policy 24 (Relative) Social Community."

Section 8. Section 9-1-18-2(D)(2) of the Breckenridge Town Code is amended to read as follows:

(2) Five (5) copies of a site plan map and one (1) electronic plan set in pdf 11"x17" format shall depict the following details of the site information required for preliminary applications, revised in accordance with the input received from the Town's review of the preliminary application: all existing and proposed improvements; on and off site circulation; parking; snow stacking; location of all buildings and their entrances, uses and height; walls; fences; loading points; location of all public rights-of-way; all existing and proposed easements; drainage facilities; finished grade elevations; dimension lines where appropriate; and direction of stormwater runoff flows. In addition, the final site plan shall include

the following: dimensions of building setbacks; dimensions of all public rights-of-way; names of all adjacent subdivisions depicting their departing lot lines from the boundary of the subject property; types of surfacing; finished floor elevations for all proposed structures; lighting plan; sign locations and design (including lighting, materials and color); location of existing and proposed utilities (including sewer, water, drainage, telephone, power, gas, cable television and refuse container location).

Section 9. Section 9-1-18-2(D) of the Breckenridge Town Code is amended by the addition of a new item number 13, which shall read as follows:

(13) An employee housing narrative as described in Section 9-1-19-24R, "Policy 24 (Relative) Social Community."

Section 10. Section 9-1-18-3(B) of the Breckenridge Town Code is amended by the addition of a new item 8, which shall read as follows:

B. Application Requirements: The applicant shall file an application, a short description of the proposal and three (3) copies of any maps, drawings or materials needed to adequately describe the proposal and one (1) electronic copy in pdf 11"x17 format. All drawings and maps shall be to scale. The application shall be accompanied by a fee in the amount required by chapter 10 of this title. The director may require the following materials to be submitted as a part of a complete application:

1. Site plan;
2. Landscaping and defensible space plan;
3. All elevations of the proposed building or modification;
4. Floor plans;
5. Preliminary drainage and utility plans;
6. A sample paint chip of each color to be used, keyed to the proposed location of the color on the building as shown on the elevation drawing; and
7. Electronic copy of plans. (Ord. 1, Series 2014)
8. An employee housing narrative as described in Section 9-1-19-24R, "Policy 24 (Relative) Social Community," if applicable.

Section 11. Section 9-1-19-24A, "Policy 24 (Absolute) Social Community," of the Breckenridge Town Code is amended by the addition of the following:

C. EMPLOYEE HOUSING IMPACT MITIGATION:

(1) The purpose of this Section C is to ensure that new development or changes in the intensity of use provide a reasonable amount of employee housing to mitigate the impact on available employee housing caused by such development.

(2) Subsections C – K, inclusive, of this policy shall apply to all new development and changes of use of the following land uses:

- a. Commercial Use
- b. Industrial Use
- c. Mixed Use
- d. Recreation and Leisure Amenities
- e. The following Residential Uses:
 - i. Boarding House
 - ii. Condominium
 - iii. Divisible Unit
 - iv. Hotel/Lodging/Inn
 - v. Multi-Unit Residential
 - vi. Timeshare Unit
 - vi. Townhomes

(3) This policy does not apply to institutional uses.

D. EMPLOYEE GENERATION AND MITIGATION RATES:

(1) The "Employee Generation Rates By Type of Use Table," below, shall be applied to each type of use listed in section (C)(2), above. For any use not listed, the Director shall determine the applicable employee generation rate by consulting the Town's then-current current nexus study.

EMPLOYEE GENERATION RATES BY TYPE OF USE TABLE

Type Of Use	Employee Generation Rate
Hotel/Lodging/Inn, Boarding House, Condominium, Divisible Unit, Timeshare Unit	0.6 employee per room, or 0.6 employee per unit, as applicable
Multi-Family Housing and Townhomes	0.33 employee per unit
Office (including real estate and property management office)	3.2 employees per 1,000 square feet of area
Conference facility	0.8 employee per 1,000 square feet of area
Eating and drinking establishment/restaurants and bars*	10.2 employees per 1,000 square feet of area
Health club	0.96 employee per 1,000 square feet of area
Retail store/personal service/service commercial/repair shop	2.4 employees per 1,000 square feet of area
Spa	2.1 employees per 1,000 square feet of area

*Outdoor dining areas shall be included in area calculation

(2) If an applicant submits competent evidence demonstrating that the employee generation rates contained in table "Employee Generation Rates By Type Of Use Table," above, do not accurately reflect the number of employees generated by the proposed development or change of intensity of use and the Planning Commission finds that such evidence warrants a deviation from those employee generation rates, the Planning Commission shall allow for such a deviation as the Planning Commission deems appropriate. The Town may, at its discretion, hire an independent third party consultant to verify the evidence provided by an applicant. The cost of such verification shall be paid or reimbursed by the applicant.

(3) Each development shall mitigate its impact on available employee housing by providing new employee housing for thirty five percent (35%) of the employees generated by the project, in accordance with the table "Employee Generation Rates By Type Of Use Table," above, and the requirements of this policy.

For example, for a development proposing two thousand five hundred (2,500) square feet of new area for an eating and drinking establishment/restaurant and bar and an additional five hundred (500) square feet of outdoor eating and drinking establishment/restaurant and bar, the required employee housing would be calculated as follows:

Building:

$$([2,500 \text{ square feet}/1,000 \text{ square feet}] \times [10.2]) = 25.5 \text{ new employees generated} \\ \times 35\% = 8.9 \text{ employees to be housed}$$

Outdoor Area:

$$([500 \text{ square feet}/1,000 \text{ square feet}] \times [10.2]) = 5.1 \text{ new employees generated} \\ \times 35\% = 1.78 \text{ employees to be housed}$$

TOTAL EMPLOYEES TO BE HOUSED:

$$8.9 + 1.78 = 10.68 \text{ employees to be housed}$$

(4) If an increase in employee generation is caused by a change in the intensity of a use in existing square footage (e.g. retail to restaurant), the employee housing requirements of this policy shall apply to the difference of new employees generated (e.g. different between retail and restaurant employee generation rate).

E. SIZE AND BUILDING REQUIREMENTS: The "Size of Employee Housing Table," below, establishes the minimum size of employee housing units and the number of employees that are able to be housed in each employee housing unit. Each employee shall be assessed at 350 square feet per employee.

SIZE OF EMPLOYEE HOUSING TABLE

Type Of Unit	Unit Size (GFA)	Number Of Employees Housed
Studio	438	1.25
1 bedroom	613	1.75
2 bedroom	788	2.25
3 or more bedroom	1,225	3.5

F. METHODS OF MITIGATION:

(1) On Site Mitigation: For all:

- (i) new construction (i.e., development that does not affect any existing buildings or structures); and
- (ii) demo/rebuild projects;
- (iii) development that involves a changes in intensity of use of existing square footage,

no less than twenty-five percent (25%) of the mitigation of employee housing required by this policy shall be accomplished with on-site units.

a. Exceptions: At the sole discretion of the Planning Commission, an exception may be granted from this subsection F1 based upon one of the following findings:

- i. Implementation of the on-site unit mitigation method would not be compatible with the other on-site or adjacent uses;
- ii. Implementation of the on-site mitigation method would be contrary to the goals of the applicable elements of the Town's land use guidelines;
- iii. Exceptional or unique conditions apply to the site, which generally do not apply to other sites, that prevents the implementation of the on-site unit mitigation method;
- iv. The method of mitigation proposed better achieves the general and specific purposes of this policy than the on-site mitigation unit method, as decided by the Town through a development agreement; or
- v. The project is located in the Conservation District.
- vi. An applicant may pay a fee in lieu of providing required employee housing only when the amount employee housing requirement required by this policy is less than 1.0 employee.

b. Deed Restrictions: All on-site employee housing shall be deed restricted in accordance with the Town's Housing Guidelines and Subsection H of this policy.

c. Remaining Portion of Requirement: Any remaining portion of the mitigation requirement not provided with on-site units shall be provided in accordance with Subsection 2 of this section.

(2) Off Site Mitigation: For all development projects except those mitigated by Subsection F1, the mitigation of employee housing required by this policy shall be accomplished through one or any combination of the methods further described in this section. Unless otherwise regulated by this policy, the choice of method(s) used to mitigate the employee housing requirements of this policy shall be at the sole discretion of the applicant.

Off-Site Units: The required number of employee housing units less the on site required mitigation, may be provided off-site within the Upper Blue Basin, provided that such employee housing units are deed restricted in accordance with subsections A-H of this policy.

(3) Payment Of Fees In-Lieu:

a. The fee in-lieu for each employee required to be housed by this policy shall be established annually by resolution of the Town Council

b. An administrative fee, established by resolution of the Town Council, shall be paid by the applicant in addition to the fee in-lieu

c. Fees in-lieu shall be due and payable prior to the issuance of a building permit for the development.

d. The Town shall use monies collected from fees in-lieu only to provide additional employee housing units.

e. An applicant may provide a payment of fees in-lieu only for any fractional remainder of the requirement generated under this policy totaling less than 1.0 employee.

G. ADMINISTRATION: Each application for development review or change of intensity of use shall include an employee housing narrative which includes the following:

(1) Calculation Method: The calculation of employee generation and the mitigation method by which the applicant proposes to meet the requirements of this policy;

(2) Plans: A dimensioned site plan and architectural floor plan that demonstrates compliance with Subsection E of this policy;

H. OCCUPANCY AND DEED RESTRICTIONS:

(1) Each employee housing unit provided pursuant to this policy shall be encumbered by a properly recorded restrictive covenant in a form acceptable to the Town Attorney. The terms of such restrictive covenant shall be consistent with this policy, and such restrictive covenant shall not be subordinate to any senior lien or encumbrance, except the lien of the general property taxes.

(2) Employee Housing shall not be leased or rented for a period less than one hundred twenty (120) consecutive days.

(3) Employee housing may be sold or transferred as a separate unit on the site.

(4) Employee housing shall not remain vacant for a period in excess of three (3) consecutive months unless, despite the owner's reasonable and documented efforts to fill the vacancy, the employee housing remains unoccupied.

(5) Employee housing shall be occupied at all times by a person eighteen (18) years of age or older who, during the entire period of his or her occupancy of the employee housing, earns his or her living by working for a business located in and serving in Summit County, Colorado, an average of at least thirty (30) hours per week, together with such person's spouse and minor children, if any.

(6) Each year, the owner of an employee housing unit shall submit an affidavit of compliance to the Town, or its assignee, containing the following information:

- a. Evidence to establish that the employee housing unit has been occupied throughout the year by an employee;
- b. The rental rate (unless owner occupied);
- c. The employee's employer; and
- d. Evidence to demonstrate that at least one person residing in the employee housing is an employee as defined in subsection (5), above.

I. TIMING: All employee housing required by this policy shall be provided prior to the issuance of a Certificate of Occupancy for the affected development.

J. NO TAKING: The Town Council intends that the application of this policy not result in an unlawful taking of private property without the payment of just compensation.

K. ACKNOWLEDGEMENT OF SUMMIT COUNTY HOUSING AUTHORITY IMPACT FEE: In connection with the adoption of this policy the Town Council considered the contributions made by the "Housing Development Impact Fee For Affordable Housing Purposes" adopted by the Summit Combined Housing Authority on December 6, 2006.

Section 12. The first paragraph of Subsection A of 9-1-19-24R, "Policy 24 (Relative) Social Community," of the Breckenridge Town Code is amended to read as follows:

A. Employee Housing: It is the policy of the Town to encourage the provision of employee housing units in connection with commercial, industrial, and multi-unit residential developments to help alleviate employee housing impacts created by the proposed uses. The schedule for positive points is based on the percentage of employees that a project mitigates. Any project that mitigates more than the required mitigation rate, may receive positive points in accordance with the table set forth below. Single-family and duplex residential projects may be awarded 1 positive points for providing an accessory dwelling unit.

B. Residential projects that consist of one hundred percent (100%) employee housing shall receive positive 10 points.

Points	Percentage Of Employees Mitigated
1	35.1-48.0
2	48.1-61.0
3	61.1-74.0
4	74.1-87.0
5	87.1-100

(2) General Provisions:

- a. The square footage of the employee housing units provided under this section shall be assessed against the allowed density and mass in the same manner as all other residential units, or square footage within the project.
- b. All employee housing units provided under this section shall be designed and planned in conjunction with the remainder of the project and shall not be designed as an add on to an existing building unless in conjunction with a larger addition.
- c. Each employee housing unit for which positive points are awarded under this policy shall be encumbered by a properly recorded restrictive covenant in a form acceptable to the Town Attorney. The terms of such restrictive covenant shall be consistent with this policy, and such restrictive covenant shall not be subordinate to any senior lien or encumbrance, except the lien of the general property taxes.

(3) Summer Seasonal Housing: Between May 1 and September 30 of any year, an employee housing unit may be lawfully occupied for a period not to exceed twelve (12) consecutive weeks by any person participating in or employed by the summer programs sponsored by a nonprofit organization or the Town. Such occupancy shall be authorized by a Class D minor development permit.

Section 13. Section 9-1-26 of the Breckenridge Town Code is amended to read as follows:

9-1-26 RESTRICTIVE COVENANTS:

A. Form and Execution of Restrictive Covenants: Any restrictive covenant required as a condition of approval of a development permit shall be in form and substance acceptable to the Town Attorney. Upon approval by the Town Attorney, any such covenant may be executed by the Town Manager or Director on behalf of the Town. At the time of the recording, a required restrictive covenant shall not be subordinate to any senior lien or encumbrance, except the lien of the general property taxes.

B. Substitution of Deed-Restricted Property: The owner of an employee housing unit which is restricted by a restrictive covenant as described in Section 9-1-19-24A, "Policy 24 (Absolute) The Social Community," or Section 9-1-19-24R, "Policy 24 (Relative) The Social Community," shall have the right to obtain the release of the restrictive covenant by substituting for the restricted unit another unit or property located in the Town or an unincorporated area of the Upper Blue River Basin which satisfies the definition of "employee housing" set forth in section 9-1-5 of this chapter. Provided, however, there shall be no right of substitution with respect to on site housing required under Section 9-1-19-24A, "Policy 24 (Absolute) The Social Community." The right of substitution shall be subject to the Town's approval of such substitute unit or property as being of comparable size and condition using the Class D minor development permit process. No such substitution shall be permitted unless the substitute unit or property shall be subjected to a restrictive covenant as required by subsection A of this section.

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

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

Section 16. This ordinance shall be published and shall 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 10th day of March, 2020.

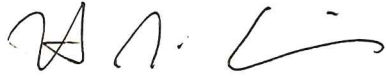
This ordinance was published in full on the Town of Breckenridge website on March 13, March 14, March 15, March 16 and March 17, 2020.

A public hearing on this ordinance was held on May 26, 2020.

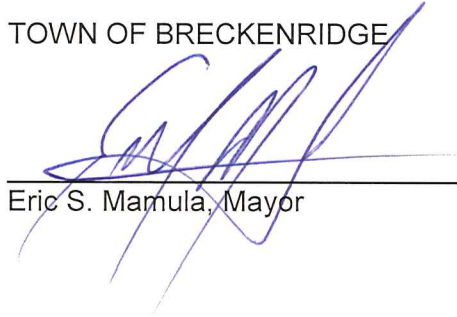
READ, ADOPTED ON SECOND READING AND ORDERED PUBLISHED IN FULL ON THE TOWN'S WEBSITE this 26th day of May, 2020. A copy of this Ordinance is available for inspection in the office of the Town Clerk.

ATTEST:

TOWN OF BRECKENRIDGE



Helen Cospolich, CMC, Town Clerk



Eric S. Mamula, Mayor

APPROVED IN FORM



Town Attorney

5/26/20

Date

This Ordinance was published on the Town of Breckenridge website on May 28, May 29, May 30, May 31 and June 1, 2020. This ordinance shall become effective on July 1, 2020.