

ORDINANCE NO. 6

Series 2022

AN ORDINANCE REGULATING EXTERIOR FOOD AND BEVERAGE AREAS

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

Section 1. That a new definition of “Exterior Food and Beverage” shall be added to the definitions of Section 9-1-5 and placed in the conventional alphabetical order reflected by the language underlined as follows:

9-1-5: DEFINITIONS:

Exterior Food and Beverage Area: An exterior patio, deck, soft surface area, rooftop deck or other exterior area used for commercial food or beverage service not associated with a vendor cart per section 9-1-19-49A.

Section 2. That CLASS C DEVELOPMENT of Section 9-1-5 of the Breckenridge Development Code shall be amended by adding the language underlined to read as follows:

CLASS C DEVELOPMENT: Any development which includes any of the following activities or elements:

K. Any exterior food and beverage area.

Section 3. That subsection D, entitled EMPLOYEE GENERATION AND MITIGATION RATES of Section 9-1-19-24A: POLICY 24 (ABSOLUTE) THE SOCIAL COMMUNITY is amended by adding the language underlined and deleting the language stricken to read as follows:

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.

Type Of Use	Employee Generation Rate
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
<u>Exterior Food and Beverage Areas</u>	<u>5.1 employees per 1,000 square feet</u>
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
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~~*Outdoor dining areas shall not 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 new indoor eating and drinking establishment/restaurant and bar for a development proposing two thousand five hundred (2,500) square feet of new area for an eating and drinking establishment/restaurant and bar,~~ the required employee housing would be calculated as follows:

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

A new exterior food and beverage area of one thousand (1,000) square feet would require employee housing calculated as follows: $(1,000 \text{ square feet}/1,000 \text{ square feet}) \times [5.1] = 5.1 \text{ new employees generated} \times 35\% = 1.79 \text{ employees to be housed.}$

Section 4. That a new Section 9-1-19-52A: POLICY 52 (ABSOLUTE) EXTERIOR FOOD AND BEVERAGE AREA be adopted by adding the following language:

9-1-19-52A: POLICY 52 (ABSOLUTE) EXTERIOR FOOD AND BEVERAGE AREAS:
Exterior Food and Beverage Areas shall:

1. Be located on the same lot as the commercial building;
2. Not exceed 30% of the total lot area;
3. If within the Conservation or Historic District, an Exterior Food and Beverage

area shall conform with the Handbook of Design Standards for Conservation and Historic Districts.

Section 5. That Section 9-3-8 A. and Section 9-3-8 B. of the Breckenridge Development Code is amended by adding the language underlined and deleting the language stricken to read as follows:

9-3-8: OFF STREET PARKING REQUIREMENT:

A. Within The Service Area: In connection with the development of all property within the service area there shall be provided the following amount of off street parking:

Land Use Category	Number Of Required Off Street Parking Spaces (Per TSF-GFA* Unless Otherwise Noted)
Land Use Category	Number Of Required Off Street Parking Spaces (Per TSF-GFA* Unless Otherwise Noted)

Residential:		
	Single-family	1.1
	Duplex	1.1
	Multi-family; efficiency, studio	1.1
	Multi-family; 1 bedroom plus	1.1
	Condominium; efficiency, studio	1.1
	Condominium; 1 bedroom plus	1.1
	Divisible unit	1.1
	Lodging, hotel, motel	1.1
	Dormitory	1.1
Commercial:		
	Retail sale, commercial:	
	General retail, commercial	1.4
	Supermarket	2.5
	Financial	1.9
	Office:	
	General office	1.4
	Government office	2.2
	Auto service station	3.0 per bay plus 1 per pump
	Restaurant, sit down	3.5
	<u>Exterior Food and Beverage Area</u>	<u>1.75</u>
	Auditorium, theater	0.3 per seat
	Church	0.5
	Convention center	3.1
	Library, museum	1.8
	Medical/dental clinic	3.3
	Commercial recreation	2.0

*TSF-GFA = 1,000 square feet of gross floor area.

B. Outside The Service Area: In connection with the development of all property outside the service area there shall be provided the following amount of off street parking:

Residential:		
	Single-family	2.0 per dwelling unit*

Duplex	1.5 per dwelling unit
Accessory apartment	1.0 per dwelling unit
Multi-unit residential and condominiums:	
Efficiency - studio	1.0 per dwelling unit
1 bedroom and larger	1.5 per dwelling unit
Divisible unit	+0.5 for each divisible room
Lodging, hotel, motel	1.0 per guestroom
Dormitory	0.5 per bed
Schools:	
Elementary and junior high	2 per classroom
High school	1 per 4 students and faculty
College	1 per 4 students and faculty
Commercial:	
Retail sale, commercial and office	1 per 400 square feet GFA (minimum 2 per building)
Construction - contracting	1 per 200 square feet
Manufacturing	1 per 400 square feet
Warehouse	1 per 1,000 square feet
Gas station/convenience market	1 per pump plus 1 per 250 square feet GFA
Restaurants - sit down, breweries, and distilleries	1 per 125 square feet
Restaurants - drive-in	1 per 100 square feet GFA
<u>Exterior Food and Beverage Area</u>	<u>1 per 175 square feet GFA</u>
Supermarket/grocery store	1 per 250 square feet GFA
Auditoriums - theaters	1 per 4 seats
Churches	1 per 6 seats
Convention center facility	By special review of the Director and Planning Commission
Library and museum	1 per 500 square feet GFA
Medical and dental clinics	1 per 300 square feet GFA
Hospital	1 per 3 beds
Commercial recreation indoor and outdoor	By special review of the Director and Planning Commission
Recreation and leisure amenity club	No additional parking shall be required or allowed for a development that includes a recreation and leisure amenity club beyond the required residential or commercial parking, as applicable

Section 6. That section 9-12-7: DEFINITIONS: shall be amended by adding the language underlined to read as follows:

9-12-7: DEFINITIONS:

When used in this chapter, the following words, terms, and phrases, and their derivations shall have the meanings provided in this section, except where the context clearly indicates a different meaning. Words, terms, and phrases, and their derivations used in this chapter which are defined in the Breckenridge Development Code (chapter 1 of this title) shall have the meaning provided in that chapter, unless there is a conflict with a specific definition set forth in this section, in which case the specific definition in this section shall control.

BISTRO LIGHTS: A display of small white or clear bulbs on a string or tubes used to call attention and provide light and ambiance to an ~~outdoor dining/bar~~ exterior food and beverage

area designated by the site plan in Lighting Zone 1. ~~Bistro lights shall consist only of light emitting diode (LED) bulbs. "Warm" or "soft" LED bulbs are preferred.~~

DECORATIVE LIGHTING: Decorative string lighting that outlines a building or structure; or decorative string lighting in trees; or decorative string lighting between commercial or mixed use buildings or to a post or structure forming a canopy over a walkway. ~~Decorative lighting shall consist only of light emitting diode (LED) bulbs. "Warm" or "soft" LED bulbs are preferred.~~

Section 7. That section 9-12-11: LIGHTING STANDARDS: shall be amended by adding the language underlined to read as follows:

9-12-11: LIGHTING STANDARDS:

A. Lighting standards for LZ-1 (Downtown Overlay District Lighting Zone):

1. Fully Shielded: Only fully shielded, downcast, semiopaque or opaque fixtures with no portion of bulb visible are permitted for commercial, mixed use, triplex, duplex and single-family residential structures, and garages associated with such uses. Such fixtures are prohibited for all other types of structures.

2. Pole Lights Generally: Pole lights may have a maximum of two (2) light sources per pole.

3. Bistro Lighting: Temporary Bbistro lighting is permitted at an outdoor dining/bar exterior food and beverage area designated by the site plan to provide light and ambiance. The term "temporary" as used in this section means .Bistro lighting includes a temporary arrangement of lighting bulbs or tubing from May 1 through October 31 of the same year. At all other times bistro lighting is unlawful. The following standards shall apply to temporary bistro lighting:

a) consist only of light emitting diode (LED) bulbs;

b) be used only with "warm" or "soft" LED bulbs that do not exceed a temperature of 2,800 Kelvin;

c) be downcast;

d) if on rooftops, bistro lights shall not be highly visible from the right of way (e.g. rooftop deck screened on a minimum of two sides by wall, adjacent buildings, etc.), and they must be setback a minimum of five (5) feet from the rooftop edge.

4. Photometric Plan: Commercial and mixed use properties require a photometric plan of estimated foot-candle levels with maximum and average illumination. Emitted light shall not be greater than one foot-candle at the property line, except at site entry points if determined by the Director to be necessary. Cut-sheets for all exterior light fixtures shall also be submitted with the photometric plan.

5. Maximum Fixture Height: Maximum fixture height as measured from finished grade:

Residential	15 feet
Commercial	18 feet
Pedestrian pathways	10 feet
Upper story decks	7 feet above deck
Eave overhangs (e.g., soffit)	10 feet
Eave overhangs (e.g., high soffits)	Plus 1 foot for every 5 feet from edge of eave*
<u>Bistro lights</u>	<u>15 feet above grade or 8 feet above rooftop deck</u>

Section 8. That section 9-12-12 shall be amended by adding the language underlined to read as follows:

9-12-12: LIGHTING STANDARDS FOR SPECIFIC USES:

A. Standards For Specific Uses:

1. Single-Family Residential: Exterior lighting shall be fully shielded, downcast and opaque with no bulb visible. Energy star rated compact fluorescent lamps are encouraged.

2. Gas Stations: Canopy fixtures shall be mounted on the lower surface of canopies and must be fully shielded in and of themselves (canopy edges do not qualify as shielding) by means of a flat lens recessed into the underside of the canopy or a flat lens with opaque sides. Lighting shall not exceed twenty (20) foot-candles. Areas outside service station pump island canopy shall be illuminated so that the maximum horizontal luminance at grade level is no more than ten (10) foot-candles.

3. Security Lighting: Security lighting should use the lowest possible illumination to effectively allow surveillance, be shielded, and directed downward toward designated areas. The use of motion sensors, timers, photocells or other means to activate lighting during times when it is needed is encouraged to conserve energy and provide safety and promote compatibility between different land uses. However, photocells are permitted only at primary entrances and where the light source is fully shielded. Security light intensity shall be a maximum of ten (10) foot-candles.

4. Architectural Accent Lighting: Fixtures must be fully shielded and downcast. Fixtures used to accent architectural features, materials, colors, style of buildings, landscaping or art shall be located, aimed and shielded so that light is directed downward onto those features. Uplighting is permitted if the illumination is effectively contained within an overhanging architectural element and is no more than forty watts (40 W).

5. Recreational Facilities: Lighting for fields, courts or tracks shall not exceed maximum luminance criteria as defined by the Illuminating Engineering Society of North America (IESNA). Exterior sports arenas with exterior luminaries for the playing area shall be extinguished by ten o'clock (10:00) P.M. or within one-half (1/2) hour after the conclusion of the final event of the day, whichever is later. The remainder of the facility lighting, except for reasons of security, shall be extinguished at ten o'clock (10:00) P.M. or within one hour after the event, whichever is later.

6. Signage Illumination: All signage in LZ-1, LZ-2 and LZ-3 shall comply with chapter 15 of this title. Signage utilizing lighting shall have fixtures mounted to the top of the sign structure aimed downward onto the sign from above. Fixtures shall be fully shielded so that light is directed only onto the sign facade and not aimed at the sky, adjacent streets, roads or properties.

7. Decorative, Overhead Walkway Lighting, And Bistro Lighting: Decorative, overhead walkway, and bistro lighting shall not blink all at once, flash, or rotate, nor create a hazard or nuisance from glare. Decorative, overhead walkway, and bistro lighting shall be maintained in good working condition at all times. Decorative lighting that outlines a building or structure shall not protrude from the upper wall plane or the roof. Decorative lighting shall consist: only of light emitting diode (LED) bulbs; "warm" or "soft" LED bulbs; that do not exceed a temperature of 2,800 Kelvin are required.

8. Parking Lots: Parking lots shall meet the requirements of section 9-3-8 of this title.

9. Bistro Lights. Bistro lights shall be extinguished by ten o'clock (10:00) P.M. or within one-half (1/2) hour after the close of business, whichever is later.

10. Commercial LED Strip Lighting shall:

- a) be white in color;
- b) not exceed 2,800 Kelvin;
- c) not flash or rotate;
- d) be installed so that the source is not visible;
- e) not exceed 1.5 watt maximum per linear foot; and,
- f) be installed at a height no greater than 4 feet as measured from the ground or floor directly below.

Section 9. That section 12-4-10 of Title 12, Chapter 4, Water Charges shall be amended by adding the language underlined to read as follows:

12-4-10: SCHEDULE OF SINGLE-FAMILY EQUIVALENTS (SFEs):

A. Schedule:

Water User Class		SFE
Water User Class		SFE
Residential:		
Accessory apartments, apartments, townhouses, triplexes and condominium units*:		
	1 or 2 bedrooms	0.80
	Each bedroom in excess of 2	0.40
	*Note: Divisible units in these units will be comparatively assessed as bedrooms, and the higher SFE assessment shall govern.	
	Bed and breakfast, lodges, hotels, motels and other lodging facilities available for overnight rental*, per rental room	0.40
	*Note: Divisible units in these units will be comparatively assessed as a condominium versus a hotel room, and the higher SFE assessment shall govern.	
	Dormitory style quarters, per unit of occupant capacity	0.10
Single-family residences and duplexes:		
	First 2,000 square feet	1.00
	Each additional square foot	0.00016
	Studio units (condominiums, accessory apartments, apartments, employee units)*, no bedrooms; kitchen facilities	0.55
	*Note: Divisible units in these units will be comparatively assessed as bedrooms, and the higher SFE assessment shall govern.	
Nonresidential:		
Automobile service stations:		
	Per fueling position	1.50
	Plus, per 1,000 square feet of retail space	0.40
	Beauty salon/hairdresser, per haircutting station	0.35
Car wash; self-service:		
	Per wash bay	2.00
	Per wash bay utilizing recirculating system whereby at least 60 percent of water provided is recirculated	1.00
	Churches, meeting rooms and similar facilities, per 1,000 square feet of building space	0.30
	Daycare center, per unit of childcare capacity	0.01
	Fire station buildings, per 1,000 square feet of building space	0.15

	Health spas/pools and hot tubs/athletic club facilities, per 1,000 square feet of building space	0.18
	Irrigated area, per 1,000 square feet of irrigated area in excess of 3,500 square feet of irrigated area	0.06
	Laundromat; commercial, per capacity of each commercial washing machine	0.08/lb.
	Laundromat; self-service, per washing machine	1.10
	Light industrial, service commercial, warehousing, per 1,000 square feet of building space	0.30
	Movie theater, per seat	0.01
	Offices and office buildings, per 1,000 square feet of building space	0.40
	Restaurants and lounges:	
	Major retail food establishments and lounges, per 1,000 square feet of building space	3.75
	Minor retail food establishments and lounges, per 800 square feet of building space	1.6
	Exterior Food and Beverage Areas, per 800 square feet of area	1.6
	Retail stores, per 1,000 square feet of building space	0.40
	Schools:	
	Without cafeteria or showers, per student, based on design capacity of school	0.02
	With cafeteria, gym and/or swimming pool, per student based on design capacity of school	0.03
	Ski rental shops, per 1,000 square feet of building space	0.28
	Travel trailer parks:	
	Without individual water and sewer hookups, per space	0.20
	With individual water and sewer hookups, per space	0.40

Section 10. 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 11. 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 8th day of February, 2022.

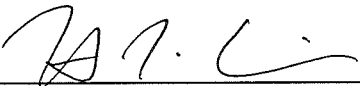
This ordinance was published in full on the Town of Breckenridge website on February 11, February 12, February 13, February 14 and February 15, 2022.

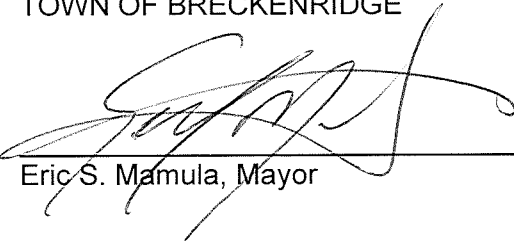
A public hearing on this ordinance was held on February 22, 2022.

READ, ADOPTED ON SECOND READING AND ORDERED PUBLISHED IN FULL ON THE TOWN'S WEBSITE this 22th day of February, 2022. 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

[Signature] 3.4.22
Town Attorney Date

This Ordinance was published on the Town of Breckenridge website on February 25, February 26, February 27, February 28 and March 1, 2022. This ordinance shall become effective on March 31, 2022.