

**RESOLUTION NO. 35
SERIES 2020**

**A RESOLUTION OF THE VAIL TOWN COUNCIL ESTABLISHING THE
VAIL COMMERCIAL RENT RELIEF PROGRAM AND DIRECTING THE
TOWN MANAGER TO PROVIDE FOR THE PROPER ADMINISTRATION
OF THE VAIL COMMERCIAL RENT RELIEF PROGRAM**

WHEREAS, on March 10, 2020, the Governor of the State of Colorado recognized the COVID-19 pandemic and declared a state of emergency;

WHEREAS, on March 13, 2020, the Town Manager declared a disaster emergency in and for the Town of Vail, Colorado, pursuant to the Colorado Disaster Emergency Act, C.R.S. § 24-33.5-701, *et seq.* (the "Act"), and Section 13.5 of the Town's Home Rule Charter;

WHEREAS, the emergency conditions caused by the COVID-19 pandemic, as defined by C.R.S. § 24-33.5-702 and the Charter, persist and require additional and sustained action by the Town; and

WHEREAS, the Town Council finds and determines that the establishment of a commercial rent relief program (the "Program"), in substantially the form as set forth the attached **Exhibit A**, is in the best interest of the public health, safety and welfare.

NOW THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF VAIL:

Section 1. The Town Council hereby establishes the Program, which shall initially be funded with up to \$1,000,000 from the Town's General Fund, which funding is evidenced by a budget amendment approved by the Town Council on July 21, 2020.

Section 2. The Town Manager is hereby directed to implement the Program and to provide for the proper administration of the Program to ensure that all monies in the Vail Relief Fund are used for the purposes set forth herein and distributed in an equitable manner.

INTRODUCED, READ, APPROVED AND ADOPTED THIS 4th DAY OF AUGUST 2020.

Dave Chapin, Mayor

ATTEST:

Tammy Nagel, Town Clerk

EXHIBIT A

COMMERCIAL RENT RELIEF PROGRAM

The model strives to achieve four key objectives to support and sustain local businesses:

1. Share the rent burden among landlord, town and tenant.
2. Provide a timeframe that addresses business challenges to meet rent requirements from August 1 through November 30, 2020.
3. Tie the rent abatement amount to the percentage of actual revenue shortfall versus same month last year in order to align relief with actual reduction in revenue performance.
4. Identify and approve the maximum relief funding per business and corresponding total funding from the Town of Vail for the program.

REQUIREMENTS OF ELIGIBLE BUSINESSES

- Business was open in Vail on March 1, 2020 and was in business for the 2019-20 winter season. Startup businesses in more recent months will be considered on a case-by-case-basis.
- Business is open and will be open at least six days a week between August 1 and November 30, 2020, with the exception of the month of October where business will be open at least five days per week, barring any public health orders that would preclude this. Businesses should typically be open at least 44 weeks per calendar year.
- Business employs 50 or fewer full time equivalent (FTE) employees.
- Business has a physical storefront location in the Town of Vail, holds a valid Vail business license, pays rent to a landlord and is current on all payment owed to the Town.
 - Deferred sales tax payments are due to the town by August 20th. Businesses with outstanding deferred sales tax beyond that date will be ineligible for rental relief until payment is made.
- Business must have a rent payment due to a landlord for the time period of August 1, 2020 - November 30, 2020. The business may not have any ownership interest in the property being leased.
- Business must pay monthly sales tax. Businesses that are service oriented and traditionally office in nature, such as accounting, law firms, property management, real estate, etc. do not qualify.
- Businesses with outlets outside Colorado are not eligible to apply, except for those businesses with a primary owner whose primary residence is in Eagle County.
- Landlord must participate in the program for business to be eligible. Town agrees to match the landlord abatement by month up to the maximum of \$15,000 per business within the confines of this program.

- Required documentation includes:
 - Current lease and Common Area Maintenance (CAM) charges to verify monthly rent burden. This includes any rent abatement effective for rent due for the period August 1 – November 30, 2020.
 - Colorado Secretary of State confirmation of certificate of good standing.
 - Landlord affidavit confirming the amount of the rent + CAM that was abated by month; the Town will match this amount and pay the landlord directly up to the per business maximum of \$15,000.

APPLICATION PROCESS

1. Business will apply via an online application for relief one month at a time in arrears.
2. Business will provide data to and obtain a signature from landlord verifying the reduction in revenue versus same month last year.
3. Landlord will abate rent plus CAM for each month by 50% of the % of shortfall in revenue, and Town will abate and pay to landlord an amount equal to the landlord abatement by month.

Example: Business normally does \$100,000 in revenue and pays \$10,000 a month in rent. Business revenue is \$60,000 or 60% of last year's revenue for a month within the confines of the program. The revenue reflects a shortfall of 40%. Landlord provides an abatement equal to 20% or \$2,000 of the monthly lease and Town matches the \$2,000 payment for given month and pays the landlord directly.
4. Application is due five business days after month end for the month prior.
5. Town will make every effort to pay landlord match within ten days of the receipt of the application and rent reduction documentation from landlord.
6. Maximum relief per business during the period August 1 – November 30 is \$15,000.
7. If the revenue gap is larger than the monthly rent plus CAM per lease, relief funds will max out at the monthly rent + CAM for that month.
8. TOV Finance will “audit” several randomly selected applications to verify revenue and rent + CAM information.