

PEOPLE'S ORDINANCE NO. 38

SERIES 1986

AN ORDINANCE CREATING AND ESTABLISHING A BUSINESS AND OCCUPATIONAL LICENSE TAX, PROVIDING FOR THE ADMINISTRATION AND ENFORCEMENT THEREOF AND PROVIDING PENALTIES FOR THE FAILURE TO COMPLY THEREWITH; REPEALING TITLE IV, BUSINESS AND LICENSE REGULATIONS, CHAPTER 1, BUSINESS LICENSES

WHEREAS, the Breckenridge Town Council has determined that increased tourism is necessary to the Town's economic welfare and recognizes the need for a financially viable marketing program to sustain this basic industry of this area; and

WHEREAS, the Town Council has determined that there is a need to generate funds for marketing in order to increase tourism, and has determined that other alternatives which may be available to so fund marketing are either not in the public's best interest or not in the public welfare when compared with a business and occupational license tax.

NOW, THEREFORE, BE IT ORDAINED by Town Council of the Town of Breckenridge, Colorado:

Section 1. Title IV, Business and License Regulations, Chapter 1, Business Licenses, of the Town of Breckenridge, is hereby repealed and re-enacted in its entirety, to be replaced with the following new Chapter 1. Business and Occupational Licenses and Tax.

Chapter 1. Business and Occupational Licenses and Tax

Section 4-1-1 Purpose. The purpose of this Ordinance shall be to require the licensing and regulation of business activities, occupations and enterprises conducted within the Town of Breckenridge and provide the Town with necessary information relating to businesses and professions operating within the Town in order to protect the health, welfare and safety of its inhabitants, and to generate and raise additional revenues for the Town for the purpose of marketing and promoting the Town and its environs as a year-round resort, to promote and market activities and events beneficial to the economic vitality of the community.

Section 4-1-2 Definitions. For the purposes of this Ordinance, the following terms, phrases, words and their derivations shall have the meanings given herein:

Accommodation Unit. Separate and distinct living units including condominium, town home, house, trailer, studio units, condo-hotel units, or any such other similar living unit which is rented to any person, who, for consideration uses, possesses or has the right to use or possess such accommodation unit provided such accommodation unit is so rented for more than fifteen days in any calendar year.

Business. The word "business" shall include all kinds of vocations, occupations, professions, enterprises, establishments, and all other kinds of activities and matters, together with all devices, machines, vehicles and appurtenances used therein, any of which are conducted for profit, gain, or benefit, either directly or indirectly, on any premises in the Town.

Business Licensee or Licensee. The word "business licensee" or "licensee" as used herein shall mean any person holding a valid Business and Occupational License issued by the Town hereunder.

Employee. Any person receiving compensation from a business licensee subject only to the following: Any person who works 20 hours or

more per week is considered a full-time employee. Any combination of persons who together work 20 hours or more per week are counted as one full-time employee for each increment of 20 hours, or fraction thereof, worked per week. An employee includes an owner, manager, partner, associate or proprietor who works for and receives compensation from his/her business and, further, includes commissioned agents.

Lodge. Any premise consisting of multiple rental rooms or units all held in common ownership, which shall include hotels, motels, boarding houses, and apartment buildings.

Long Term Rentals. Lease of premises to a person for a term in excess of thirty consecutive days.

Person. The word "person" shall include individuals, firms, partnerships, joint ventures, societies, associations, clubs, trustees, trusts, or corporations, or any officers, agents, employees, factors, or any types of personal representatives of any other person, under either personal appointment or pursuant to law.

Premises. The word "premises" is meant to include all lands, structures, places, and also the equipment and appurtenances connected or used therewith, in any business, and also any personal property which is either affixed to, or is otherwise used in connection with any business on such premises.

Vendor. Any established retail business not having an operating location within the Town at any time during the calendar year, but which otherwise does business within the Town.

A. Seasonal Vendor. A vendor doing retail business within the Town during part of the calendar year, for more than fourteen days but not exceeding four (4) calendar months per year, which months need not be consecutive.

B. Regular Vendor. A vendor doing retail business within the Town in excess of four (4) calendar months within each calendar year, which months need not be consecutive.

Section 4-1-3. License Required. It shall be unlawful for any person to maintain, operate, or conduct any retail business or engage in any business activity in the Town, including the delivery of goods (excluding wholesale) within the Town which are purchased or contracted for outside the corporate limits of the Town, without having first obtained a Business and Occupational License pursuant to this ordinance. A Business and Occupational License shall be obtained for each place of business within the Town regardless of whether the business conducted therein is a separate business or a branch, division or agency of a licensed business situated at another location in the Town.

Section 4-1-4. Fees. An annual Business and Occupational License tax is hereby levied upon every person doing business within the Town according to the following schedule:

A. Accommodation Units: The person owning such accommodation unit shall pay annual fees of:

<u>Type of Unit</u>	<u>Fee</u>
Studio Unit	\$ 75.00
One Bedroom Unit	\$ 100.00
Two Bedroom Unit	\$ 125.00
Three Bedroom Unit	\$ 150.00
Four or More Bedroom Unit	\$ 175.00

Each applicant shall advise the Town, by Affidavit, under oath, at the time of application hereunder, of the number of accommodation units applicant had for the prior year and the number of such units applicant intends to

have for the present year. The fees payable under this subsection A shall be based upon the number of accommodation units set forth for the current year in such Affidavit. Provided, however, multiple condo-hotel units held in common ownership, by the developer of a project or owner at the time of issuance of a certificate of occupancy, shall be taxed as lodge units for twenty-four (24) months after issuance of a certificate of occupancy, after which said condo-hotel units shall be assessed as accommodation units regardless of commonality of ownership. Any such units sold within the twenty-four (24) month period shall thereafter be assessed as accommodation units. For those commonly owned condo-hotel projects having certificates of occupancy as of the effective date of this ordinance, the above twenty-four (24) month period shall commence on the effective date of this ordinance.

B. In Home Business Occupation: Each in home business occupation as defined and approved as necessary by the Town pursuant to the Development Code shall pay \$50.00 per annum.

C. Lodge: Each owner of a Lodge as defined herein shall pay One Hundred Dollars (\$100.00) per rental unit or Fifty Dollars (\$50.00) per bedroom per annum, whichever is less.

D. Vendors: Each Regular Vendor shall pay One Hundred Dollars (\$100.00) per annum. Each Seasonal Vendor shall pay Fifty Dollars (\$50.00) per annum.

E. All other businesses and persons subject to this Ordinance shall pay an annual Business and Occupational License tax levy, as follows:

An annual fee based on the number of employees at each business in accordance with the following schedule:

<u>Number of Employees</u>	<u>Fee</u>
Less than 5	\$100.00
6 - 10	\$200.00
11 - 20	\$300.00
21 - 30	\$500.00
Greater than 30	\$600.00

Applicant shall advise the Town, by Affidavit, under oath, at the time of application hereunder, of the highest number of employees applicant had for the subject business for any one month in the prior year, and the highest number of employees applicant intends to employ for any one month for the current year. The fees payable under this subsection E shall be based upon the number of employees set forth for the current year in such Affidavit.

Section 4-1-5. Issuance of License. In order to facilitate the commencement of issuance of licenses and payment of fees pursuant to this Ordinance, licenses shall be issued initially as follows:

A. All persons who have a current Town business license shall be required to file an application for a new business and occupational license together with appropriate fees no later than December 15, 1986.

B. All other new or existing businesses who are subject to licensing pursuant to this ordinance shall make application for and pay the applicable fee based on the first letter in their business name according to the following schedule:

1. A - D      January 1 - January 31, 1987
2. E - N      February 1 - February 28, 1987
3. O - Z      March 1 - March 31, 1987

All licenses issued pursuant to this ordinance shall expire one year from the date of issuance and shall be renewed annually so long as such person continues in business.

4-1-6. Requirements of Licensee. Every licensee under this Chapter shall do the following:

A. Ascertain and at all times comply with all laws and regulations applicable to a licensed business;

B. Avoid any illegal, dangerous or harmful practices or conditions which are detrimental to the public property, health, welfare, peace or safety;

C. Refrain from engaging in business on the licensed premises during the period his license is revoked or suspended.

4-1-7. Denial of License.

A. An application for an annual business license will be denied by the Town Clerk only in the event the business sought to be licensed is an unlawful business or the person applying for the license is not qualified or licensed to engage in such business under applicable Federal or Colorado law.

B. In the event an application is denied, the Town Clerk shall deliver to the applicant a written order of denial which states the reasons therefore, together with a refund of the license fee submitted with the application.

4-1-8. Conditions of License.

A. Public Streets and Rights-of-Way: It shall be unlawful to conduct any business on the public streets or public rights-of-way in the Town.

B. Posting: The licensee shall post his current business license in a conspicuous place on the licensed premises at all times.

C. Nontransferable: No license pursuant to this Chapter shall be transferable.

4-1-9. Exemptions. Persons exempt from the provisions of this Chapter are as follows:

- Churches or established religious organizations
- Charitable corporations
- Hospitals
- Schools
- Governments
- Persons exempt under Federal or Colorado law (non-profit organizations)
- Accommodation units held for long term rental only

4-1-10. Administration and Enforcement.

A. Administration: The administration of the annual business licenses required by this Chapter shall be vested in the Town Clerk who is authorized to do the following:

1. Collect license fees;
2. Adopt all forms and prescribe the information to be given therein;
3. Promulgate and enforce all reasonable rules and regulations necessary to the operations and enforcement of this Chapter;
4. Investigate and determine the eligibility of each applicant for an annual business license;

5. Investigate, determine and order the revocation or suspension of an annual business license for violation by the licensee of a provision of this Chapter;
6. Examine at any time those records of each licensee which the Town Clerk determines are necessary to verify license requirements provided the contents of such records shall remain confidential and not a part of the public records.

B. Enforcement: The Town may seek an injunction to restrain a person from engaging in business on premises within the Town who does not obtain an annual business license under this Chapter or whose license is revoked or suspended, and this remedy shall be in addition to all other remedies prescribed in this Chapter by law.

4-1-11. Penalty. A violation of this Ordinance is a misdemeanor. Violation of any provision hereunder shall be punishable by a fine not to exceed \$300.00 or by imprisonment for a period not to exceed 90 days, or both. Each day that such violation exists or continues to exist shall be deemed a separate offense.

4-1-12. Enforcement. Pursuant to Section 31-20-101, et seq., C.R.S., the Town may cause any delinquent charges or fees made or levied hereunder to be certified to the Summit County Treasurer, to be collected and paid over by said Treasurer in the same manner as real or personal property taxes, including the provisions for the creation of a lien upon the subject property.

4-1-13. Attorney's Fees and Costs. In the event it is necessary for the Town to take action for the enforcement of this Ordinance, there shall be added to any fees due hereunder all reasonable costs and fees incurred by the Town, including reasonable attorney's fees. If any action is brought in a court of law by or against the Town relating to the enforcement, interpretation or construction of this Ordinance, or of any document provided for herein, or of any proceeding hereunder, the prevailing party in such action shall be entitled to reasonable attorney's fees as well as all costs incurred in the prosecution or defense of such action.

4-1-14. Intended Use of Proceeds. It is intended that the proceeds from the levy imposed pursuant to this Ordinance will be used for the payment of reasonable costs incurred in connection with the administration of this Ordinance, and for marketing and promotion of the Town's principal industry, being tourism, and for payment of expenses related to such marketing and promotion and to promote and market activities and events beneficial to the economic vitality of the community.

4-1-15. Enforcement Date. This Ordinance shall be in full force and effect for collection of the applicable Business and Occupational License fees on December 1, 1986.

4-1-16. Severability. If any section, sentence, clause, phrase, word or other provision of this Ordinance is for any reason held to be unconstitutional or otherwise invalid, such holding shall not affect the validity of the remaining sections, sentences, clauses, phrases, words or other provisions of this Ordinance, or the validity of this Ordinance in its entirety, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any section, sentence, clause, phrase, word or other provision.


4-1-17. Repeal of Conflicting Ordinances. On and after December 1, 1986, in the event that this Ordinance has taken full force and effect, every other ordinance of the Town, or part thereof, in conflict herewith is hereby repealed.

4-1-18. Amendment. With the exception of the amount of the tax to be levied pursuant to this Ordinance, all other provisions of this

Ordinance may be amended by the Town without further approval of the electors.

INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED PUBLISHED IN FULL ONLY this 23rd day of September, 1986. A Public Hearing on the Ordinance shall be held at the regular meeting of the Town Council of the Town of Breckenridge, Colorado, on the 14th day of October, 1986, at 7:30 p.m. or as soon thereafter as possible at Colorado Mountain College Auditorium.

ATTEST:

  
Rosemary Ahern, CMC, Town Clerk

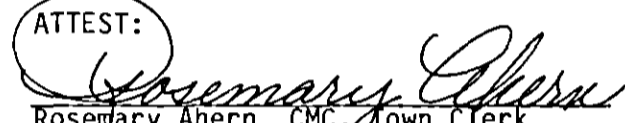
TOWN OF BRECKENRIDGE

  
Stephen C. West, Mayor

READ, ADOPTED ON SECOND READING AND ORDERED PUBLISHED BY TITLE ONLY this 14th day of October, 1986.

A copy of this Ordinance is available for inspection in the office of the Town Clerk.

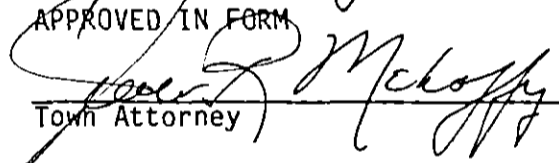
ATTEST:

  
Rosemary Ahern, CMC, Town Clerk

TOWN OF BRECKENRIDGE

  
Stephen C. West, Mayor

APPROVED IN FORM

  
Town Attorney

11/6/86  
Date