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PEOPLE'S ORDINANCE NO. 6

SERIES 1988

AN ORDINANCE AMENDING CHAPTER 3 OF TITLE 3 OF THE TOWN
CODE OF THE TOWN OF BRECKENRIDGE CONCERNING THE TOWN'S
REAL ESTATE TRANSFER TAX

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

Section I. Section 3-3-4 of the Town Code of the Town of Breckenridge,
entitled "Definitions", is amended by the inclusion of the
following definition:

DEED IN LIEU OF FORECLOSURE

A conveyance by a property owner to a secured party of pro-
perty which is the subject of a mortgage, deed of trust or
other security instrument in consideration of the can-
cellation of all or part of the indebtedness secured by such
security instrument.

Section II. Section 3-3-5 of the Town Code of the Town of Breckenridge,
entitled, "Amount of Tax", is amended so as to read in its
entirety as follows:

3-3-5 AMOUNT OF TAX:

- A. Where there is a taxable transfer between co-owners, the
real estate transfer tax shall be determined in accor-
dance with Section 3-3-6-1.
- B. As to all other taxable transfers, the real estate
transfer tax payable shall be one percent (1%) of the
consideration.
- C. The proceeds of the real estate transfer tax collected
pursuant to this Chapter shall be deposited in the
general fund or any special fund or funds of the Town as
the Town Council shall determine from time to time.

Section III. Section 3-3-6 of the Town Code of the Town of Breckenridge,
entitled "Exemptions", is amended so as to read in its
entirety as follows:

3-3-6: EXEMPTIONS: The real estate transfer tax imposed by
this chapter shall not apply to:

- A. Any transfer where there is no consideration or when the
consideration is five hundred dollars (\$500.00) or less.
- B. Any transfer wherein the United States or any agency or
instrumentality thereof, the State of Colorado, any
county, city and county, municipality, district or other
political subdivision of this State is either the gran-
tor or grantee.
- C. A gift of real property, where there is no consideration
other than love and affection or charitable donation.
- D. Any transfer between the same parties creating or ter-
minating a joint tenancy in real property; however, if
additional consideration or value is paid in connection
with such creation or termination, the tax shall apply
and be based upon such additional consideration.

- E. The transfer of title or change of interest in real property by reason of death, pursuant to a will, the law of descent and distribution, or otherwise.
- F. Transfers made pursuant to reorganization, merger or consolidation of corporations, or by a subsidiary to a parent corporation for no consideration other than cancellation or surrender of the subsidiary's stock, or transfers made to a corporation, partnership, limited partnership, joint venture, business trust or other association or organization if that association or organization is owned by the persons by whom such transfer was made, if such owners have the same relative interests in said association or organization as they had in the real property immediately prior to said transfer and there is no consideration other than their respective interests in the new association or organization.
- G. Transfer to make effective any plan confirmed or ordered by a court of competent jurisdiction under the Bankruptcy Code or in an equity receivership proceeding.
- H. Any transfer made and delivered without consideration for the purpose of confirming, correcting, modifying or supplementing a transfer previously recorded; making minor boundary adjustments; removing clouds of titles; or granting rights of way, easements or licenses.
- I. Any decree or order of a court of record quieting, determining or vesting title, including a final order awarding title pursuant to a condemnation proceeding.
- J. Any transfer between spouses or former spouses made pursuant to a Separation Agreement, Decree of Legal Separation or Dissolution of Marriage.
- K. Any transfer of cemetery lots.
- L. Any lease of any real property (or assignment or transfer of any interest in any such lease) provided the terms and conditions of such lease do not constitute a taxable lease of the property.
- M. Any mineral transfer or royalty transfer.
- N. Transfer to secure a debt or other obligation, or releases of real property which is security for a debt or other obligation.
- O. Any transfer by deed in lieu of foreclosure, provided that:
 - 1. Such transfer shall be exempt only if the Grantee in such deed is the person holding the obligation or instrument which is being cancelled, in whole or in part, in exchange for the transfer; and
 - 2. Such transfer shall be exempt only to the extent of the amount of the obligation which is being cancelled, in whole or in part, in exchange for the transfer.
- P. Any transfer by Sheriff's Deed, Public Trustee's Deed or other conveyance of real property in connection with an execution sale; foreclosure sale by the Public Trustee under a power of sale; court decree foreclosing a mortgage, deed of trust or other security instrument; or court decree of lien foreclosure, provided that:

1. Such transfer shall be exempt only if the Grantee is the person holding the obligation or instrument upon which the proceeding is based; and
 2. Such transfer shall be exempt only to the extent of the obligation to be satisfied at the execution or foreclosure sale and any obligations to prior lienholders paid from the sale.
- Q. Any executory contract for the sale of real property of less than three (3) years' duration under which the vendee is entitled to or does take possession thereof without acquiring title thereto or any assignment or cancellation of any such contract, provided that the tax imposed by this Chapter shall be paid when the vendee acquires title to the property.
- R. Any transfer that is made pursuant to a valid and legally enforceable contract for the sale entered into between the seller and purchaser prior to the date of adoption of this Chapter, pursuant to which transaction the deed or instrument of conveyance is executed and recorded on or before January 1, 1981.
- S. Any transfer that is made pursuant to a valid and legally enforceable pre-sale contract
1. entered into between a seller and purchaser prior to the date of adoption of this Chapter;
 2. pursuant to which transaction the deed or instrument of conveyance is executed and recorded on or before January 1, 1981. A "pre-sale contract" is defined as a valid and legally enforceable contract for the sale of real property which has been signed prior to the commencement of construction of improvements thereon, to be closed following completion of the improvements and pursuant to which contract seller is obliged to construct the improvements to the property after the contract is signed and prior to the closing date of the contract.
- T. Any sale or conveyance of real property or improvements for the purpose of constructing, or providing low or moderate priced housing units for sale or lease to low or moderate income persons; provided, that the parties to the transaction shall apply to the Town Manager for the exemption prior to its being allowed, and the parties shall agree to appropriately restrict the future use of the property to low and moderate priced housing units by recorded agreement, deed, restrictions, covenants, declaration or similar instrument as may be required by the Town Council.

Section IV.

There is hereby added to the Town Code of the Town of Breckenridge a new Section 3-3-6-1, to be entitled "Transfers Between Co-Owners", which shall read in its entirety as follows:

3-3-6-1 TRANSFERS BETWEEN CO-OWNERS:

- A. A non-exempt transfer from one or more co-owners to another co-owner or co-owners is taxable in accordance with this Section. The real estate transfer tax payable with respect to such transfer shall be one percent (1%) of the gross consideration paid by the Grantor to the Grantee for the transfer. Notwithstanding the

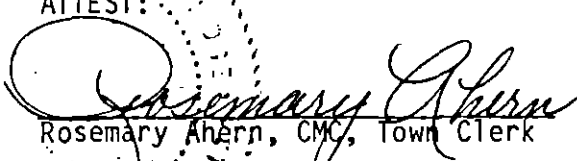
definition of "consideration" contained in Section 3-3-4, for the purpose of this Section 3-3-6-1 "gross consideration" shall mean and include:

1. Actual cash paid, the money equivalent of real and personal property delivered or conveyed in exchange for the transfer, or contracted to be paid or delivered or conveyed in return for the transfer; plus
 2. The amount of any lien, mortgage, contract indebtedness or other encumbrance or debt given to secure the purchase price, or any part thereof; plus
 3. The Grantor's proportionate share of the unpaid balance of any debt which is owed against the property at the time of the transfer and not satisfied in connection with such transfer. For purposes of this subparagraph 3, the "Grantor's proportionate share of any unpaid debt which is owed against the property at the time of the transfer" shall be determined by multiplying the Grantor's fractional or percentage ownership interest in the property prior to the transfer, times the unpaid balance of such debt existing as of the time of the transfer.
- B. The term "gross consideration" does not include as an addition thereto the amount of any outstanding lien or encumbrance in favor of the United States, the State of Colorado, or of a municipal or quasi-government corporation or district for taxes, special benefits or improvements.
- C. The real estate transfer tax on any transfer between co-owners by lease agreement shall be determined in accordance with the definition of "consideration" contained in Section 3-3-4.


Section V. Except as specifically amended hereby, the Town Code of the Town of Breckenridge and the various secondary codes adopted by reference therein, shall continue in full force and effect.

Section VI. This Ordinance shall be published and become effective as provided by law.

INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED PUBLISHED IN FULL this 12th day of April, 1988. A Public Hearing shall be held at the regular meeting of the Town Council of the Town of Breckenridge, Colorado on the 26th day of April, 1988, at 7:30 p.m. or as soon thereafter as possible in the Municipal Building of the Town.

ATTEST:

Rosemary Ahern, CMC, Town Clerk

TOWN OF BRECKENRIDGE


Stephen C. West, Mayor

READ, ADOPTED ON SECOND READING AND ORDERED PUBLISHED BY TITLE this 26th day of April, 1988.

Town Clerk
TOWN OF BRECKENRIDGE
PO Box 168
Breckenridge, CO 80424