

ORDINANCE NO. 33

Series 1996

AN ORDINANCE AMENDING CHAPTER 1 OF TITLE 3 OF THE BRECKENRIDGE TOWN CODE CONCERNING SALES TAX; AND CHAPTER 1 OF TITLE 4 OF THE BRECKENRIDGE TOWN CODE CONCERNING THE ISSUANCE OF A BUSINESS AND OCCUPATIONAL LICENSE

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

Section 1. Section 3-1-2 of the Breckenridge Town Code is hereby amended by the inclusion of the following additional definitions:

APPLICANT	A person who has made an application for the initial issuance or renewal of a sales tax license under the provisions of this Chapter.
LIMITED LIABILITY COMPANY	A limited liability company organized under Colorado law, or a limited liability company organized under the laws of another state.

Section 2. Paragraph N of Section 3-1-4 of the Breckenridge Town Code is hereby amended so as to read in its entirety as follows:

- N. Sales of tangible personal property shall be exempted from the operation of this Section if both of the following conditions exist:
1. The sales are to those who are residents or doing business outside the Town, and
 2. The articles purchased are to be delivered to the purchaser outside the Town by common carrier or by the conveyance of the seller or by mail.

Section 3. There is hereby added to the Breckenridge Town Code a new Paragraph N.5 of Section 3-1-4, which shall read in its entirety as follows:

- N.5 Drugs, Medical Devices:
1. All sales of medical supplies as defined in Section 3-1-2.
 2. All sales of therapeutic devices as defined in Section 3-1-2.
 3. All sales of prosthetic devices as defined in Section 3-1-2.

Section 4. There is hereby added to Chapter 1 of Title 3 of the Breckenridge Town Code a new Section 3-1-21-1, to be entitled "Denial of License", which shall read in its entirety as follows:

3-1-21-1: DENIAL OF LICENSE:

- A. An application for the initial issuance or renewal of a Breckenridge sales tax license shall be denied by the Finance Director if:
1. The business for which the license is sought is an unlawful business;
 2. The applicant is not qualified to engage in such business under applicable federal, state or local law; or
 3. The applicant or, in the event of an applicant which is other than a natural person, if any principal of the applicant, owes to the Town any unpaid and delinquent tax of any kind. As used in this subparagraph, the term "principal" means: (i) as to a corporation, any officer, director, or shareholder owning 50% or more of the issued and outstanding capital stock of the corporation, (ii) as to any general partnership, any partner, (iii) as to any limited partnership, any general partner, and (iv) as to any limited liability company, any manager or member owning more than a 50% interest in the entity. The term

"delinquent" means the non-payment of any tax obligation owed to the Town within 60 days of the date such obligation is due.

- B. Before denying an application the Finance Director shall cause a hearing to be held using the general procedures provided for the revocation of a license in Section 3-1-23. *In the event an application is denied*, the Finance Director shall deliver to the applicant a written order of denial stating the reason for denial.

Section 5. There is hereby added to Section 3-1-29-1 of the Breckenridge Town Code a new Subparagraph D, which shall read in its entirety as follows:

D. If a limited liability company has failed to collect or pay over collected sales tax to the Town as required by this Chapter, a rebuttable presumption shall arise that all managers of the limited liability or, if none, all members of the limited liability company, are the persons required to collect, truthfully account for and pay over the tax on behalf of the limited liability company. Such presumption may be rebutted by evidence demonstrating that another person or persons were responsible for the collection and payment of the tax on behalf of the limited liability company.

Section 6. There is hereby added to Section 4-1-2 of the Breckenridge Town Code a new definition of "Applicant", which shall read in its entirety as follows:

APPLICANT A person who has made an application for the initial issuance or renewal of an annual business and occupational license under the provisions of this Chapter.

Section 7. Section 4-1-7 of the Breckenridge Town Code is hereby amended so as to read in its entirety as follows:

4-1-7: DENIAL OF LICENSE:

- A. An application for the initial issuance or renewal of an annual business license shall be denied by the Town Clerk:

1. If the business for which the license is sought is an unlawful business;
2. If the applicant is not qualified to engage in such business under applicable federal, state or local law; or
3. If the applicant or, in the event of an applicant which is other than a natural person, if any principal of the applicant, owes to the Town any unpaid and delinquent tax of any kind. As used in this subparagraph, the term "principal" means: (i) as to a corporation, any officer, director, or shareholder owning 50% or more of the issued and outstanding capital stock of the corporation, (ii) as to any general partnership, any partner, (iii) as to any limited partnership, any general partner, and (iv) as to any limited liability company, any manager or member owning more than a 50% interest in the entity. The term "delinquent" means the non-payment of any tax obligation owed to the Town within 60 days of the date such obligation is due.

- B. Before denying an application the Town Clerk shall cause a hearing to be held using the general procedures provided for the revocation of a license in Section 4-1-10-1. In the event an application is denied, the Town Clerk shall deliver to the applicant a written order of denial stating the reason for denial, together with a refund of the license fee submitted with the application.

Section 8. Except as specifically amended hereby, the Breckenridge Town Code, and the various secondary codes adopted by reference therein, shall continue in full force and effect.

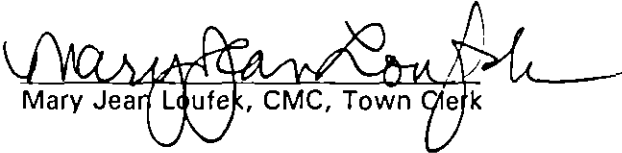
Section 9. The Town Council hereby finds, determines and declares that it has the power to adopt this Ordinance pursuant to the authority granted to home rule municipalities by Article XX of the Colorado Constitution and the powers contained in the Breckenridge Town Charter.

Section 10. 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 27th day of August, 1996. A Public Hearing shall be held at the regular meeting of the Town Council of the Town of Breckenridge, Colorado on the 10th day of September, 1996, at 7:30 P.M. or as soon thereafter as possible in the Municipal Building of the Town.

ATTEST:

TOWN OF BRECKENRIDGE


Mary Jean Loufek, CMC, Town Clerk


Stephen C. West, Mayor

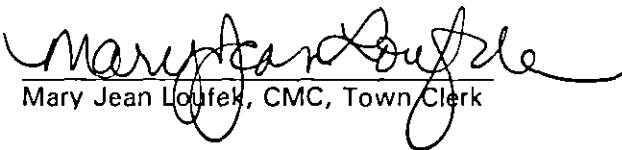
This Ordinance was published in full in *The Summit County Journal*, a newspaper of general circulation within the Town of Breckenridge, on September 4, 1996.

READ, ADOPTED ON SECOND READING AND ORDERED PUBLISHED BY TITLE this 10th day of September, 1996.

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

ATTEST:

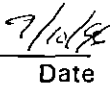
TOWN OF BRECKENRIDGE


Mary Jean Loufek, CMC, Town Clerk


Stephen C. West, Mayor

APPROVED IN FORM


Town Attorney


Date

This Ordinance was published by title in *The Summit County Journal*, a newspaper of general circulation within the Town of Breckenridge, on September 18, 1996.