

ORDINANCE NO. 3

Series 1997

AN ORDINANCE PROVIDING FOR AN INCREASE IN THE TOWN SALES TAX FROM TWO PERCENT (2%) TO TWO AND ONE-HALF PERCENT (2½%) EFFECTIVE JUNE 1, 1997; CREATING THE TOWN OF BRECKENRIDGE OPEN SPACE FUND; ALLOCATING TO THE TOWN'S OPEN SPACE FUND ONE HUNDRED PERCENT OF THE PROCEEDS OF SUCH SALES TAX INCREASE; PROVIDING FOR THE USE OF FUNDS DEPOSITED IN THE TOWN'S OPEN SPACE FUND; AND MAKING MISCELLANEOUS AMENDMENTS TO THE TOWN OF BRECKENRIDGE SALES TAX ORDINANCE CONSISTENT THEREWITH

WHEREAS, the Town of Breckenridge presently imposes a two percent (2%) sales tax on the sale of tangible personal property sold at retail or the furnishing of certain services, all as provided in Chapter 1 of Title 3 of the Breckenridge Town Code; and

WHEREAS, a citizen's initiative petition was heretofore submitted to the Town Clerk pursuant to Article VI of the Breckenridge Town Charter seeking the adoption of an ordinance which would (i) increase the rate of the sales tax within the Town of Breckenridge by one-half of one percent (from two percent (2%) to two and one-half percent (2½%)), effective June 1, 1997, for the purpose of funding an open space acquisition program for the Town, and (ii) direct the Town Council to adopt implementing legislation by June 1, 1997; and

WHEREAS, the Town Clerk certified to the Town Council that the citizen's initiative petition contained the requisite number of signatures under Section 6.3(a) of the Breckenridge Town Charter; and

WHEREAS, the Town Council reviewed and considered the ordinance proposed by the citizen's initiative petition as required by Section 6.6(a) of the Breckenridge Town Charter; and

WHEREAS, after full consideration the Town Council determined not to adopt the ordinance proposed by the citizen's initiative petition, and instead, adopted Resolution No. 23, Series 1996, which submitted the ordinance proposed by the citizen's initiative petition to a vote of the registered electors of the Town; and

WHEREAS, at the general election held November 5, 1996 the registered electors of the Town approved the ordinance requested by the citizen's initiative petition; and

WHEREAS, it is now necessary and appropriate for the Town Council to adopt legislation implementing the voter-approved initiated ordinance.

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

Section 1. Section 3-1-5 of the Breckenridge Town Code is hereby amended so as to read in its entirety as follows:

**3-1-5: SCHEDULE OF TAX:** There is hereby imposed a tax upon all sales of commodities and services specified in Section 3-1-3 and not exempt therefrom as specified in Section 3-1-4 at the rate of two and one-half percent (2½%) on the amount of the sale which shall be rounded off to the nearest penny; provided, however, that sales under the amount of twenty five cent (\$0.25) shall not be taxable.

Section 2. Paragraph A of Section 3-1-7 of the Breckenridge Town Code is hereby amended so as to read in its entirety as follows:

A. Every retailer or vendor engaged in business and selling at retail as defined in this Chapter shall be liable and responsible for the payment of an amount equivalent to two and one-half percent (2½%) of all sales made by him of commodities or services as specified in Section 3-1-3 of this Chapter, and shall file a return each month with the Finance Director on or before the twentieth day of each month for the preceding month and remit an amount equivalent to said two and one-half percent (2½%) of such sales to the Finance Director.

Section 3. Section 3-1-8 of the Breckenridge Town Code is hereby amended so as to read in its entirety as follows:

**3-1-8: RETAILER TO COLLECT TAX:** Retailers shall add the tax imposed to the sale price or charge, showing such tax as a separate and distinct item, and when added, such tax shall constitute a part of such price or charge and shall be a debt from the consumer or user to the retailer until paid and shall be recoverable at law in the same manner as other debts; provided, however, that the retailer shall be entitled, as collection agent of the Town, to apply and credit the amount of this collection against the two and one-half percent (2½%) rate to be paid by him under the provisions of Section 3-1-5 remitting any excess collected

over said two and one-half percent (2½%) to the Finance Director in the retailer's next monthly sales tax returns.

Section 4. Section 3-1-10 of the Breckenridge Town Code is hereby amended so as to read in its entirety as follows:

**3-1-10: SALES TAX, CREDIT FOR SALES OR USE TAXES PREVIOUSLY PAID TO ANOTHER MUNICIPALITY:** For transactions consummated on or after June 1, 1997, the Town's sales tax shall not apply to the sale of tangible personal property at retail or the furnishing of services if the transaction was previously subjected to a sales or use tax lawfully imposed on the purchaser or user by another statutory or home rule municipality equal to or in excess of two and one-half percent (2½%). A credit shall be granted against the Town's sales tax with respect to such transaction equal in amount to the lawfully imposed local sales or use tax previously paid by the purchaser or user to the previous statutory or home rule municipality. The amount of the credit shall not exceed two and one-half percent (2½%).

Section 5. Section 3-1-12 of the Breckenridge Town Code is hereby amended so as to read in its entirety as follows:

**3-1-12: EXCESS COLLECTIONS:** If any vendor shall during any reporting period collect as a tax any amount in excess of two and one-half percent (2½%) of his total taxable sales, he shall remit to the Finance Director the full net amount of the tax herein imposed, and also such excess. The retention by the retailer or vendor of any excess tax collections or the intentional failure to remit punctually to the Finance Director the full amount required to be remitted by the provisions of this Chapter is hereby declared to be a violation of this Chapter.

Section 6. Section 3-1-38 of the Breckenridge Town Code is hereby amended so as to read in its entirety as follows:

**3-1-38: AMENDMENTS:** The Town Council may amend, alter or change any provision of this Chapter, except as to the two and one-half percent (2½%) rate of tax herein imposed, by Ordinance duly adopted in accordance with the Breckenridge Town Charter. Such amendment, alteration or change need not be submitted to the electors of the Town for their approval.

Section 7. There is hereby added to the Breckenridge Town Code a new Chapter 5 of Title 3, to be entitled "Open Space Fund", which shall read in its entirety as follows:

## CHAPTER 5

### OPEN SPACE FUND

#### SECTION:

- 3-5-1: Definitions
- 3-5-2: Open Space Fund Established
- 3-5-3: Open Space Plan

**3-5-1: DEFINITIONS:** As used in this Chapter the following words shall have the following meanings:

**DESIGNATED REVENUES:** A sum equal to one half (½) of one percent (1%) of the revenues received by the Town from the collection of the Town's Sales Tax (as imposed by Chapter 1 of Title 3 of the Breckenridge Town Code).

**FUND:** The Town of Breckenridge Open Space Fund established by Section 3-5-2.

**OPEN SPACE PLAN:** A plan adopted from time to time by the Town Council providing for the acquisition, improvement and maintenance of public open space for the use and benefit of the citizens of and visitors to the Town of Breckenridge.

**3-5-2: OPEN SPACE FUND ESTABLISHED:** There is hereby established a special fund of the Town to be known as the "Town of Breckenridge Open Space Fund." Immediately upon receipt or collection thereof, the Designated Revenues shall be credited to said Fund and used solely for the purpose of funding the Town's Open Space Plan as described in Section 3-5-3. Moneys credited to such Fund shall not be available to be pledged or expended, by interfund transfer or otherwise, for any general purposes of the Town.

**3-5-3 OPEN SPACE PLAN:** The Town Council shall adopt by Ordinance an Open Space Plan. Such plan may be amended or revised from time to time by the Council.

Section 8. Notwithstanding the increase in the Town's Sales Tax as provided in this Ordinance, the funds which are intended by the Town Council to be expended by the Town for (i) the payment of expenses incurred in connection with the marketing and promotion of the Town as a year-round resort in order to expand and strengthen the Town's tourism industry, (ii) the payment of expenses incurred in connection with the promotion and marketing of activities and events which are of general benefit to the economic vitality of the community, and (iii) the payment of expenses incurred in connection with improving and maintaining guest services, as referred to in Ordinance No. 26, Series 1992, shall continue to be calculated on the basis of the Town's two percent (2%) sales tax which was in effect at the time of the adoption of said Ordinance No. 26, Series 1992. Accordingly, such funds shall be an amount equal to three and one-third percent (3 1/3%) of a sales tax of two percent (2%).

Section 9. 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.

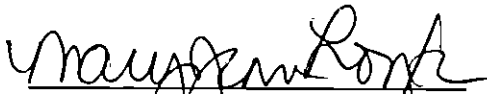
Section 10. The Town Council hereby finds, determines and declares that it has the power to adopt this Ordinance pursuant to the authority granted to home rule municipalities by Article XX of the Colorado Constitution and the powers contained in the Breckenridge Town Charter.


Section 11. This Ordinance shall be published and become effective on June 1, 1997.

INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED PUBLISHED IN FULL this 28th day of January, 1997. A Public hearing shall be held at the regular meeting of the Town Council of the Town of Breckenridge, Colorado on the 11th day of February 1997, 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 February 5, 1997.

READ, ADOPTED ON SECOND READING AND ORDERED PUBLISHED BY TITLE this 11th day of February, 1997.

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

2/11/97  
Date

This Ordinance was published by title in The Summit County Journal, a newspaper of general circulation within the Town of Breckenridge, on February 19, 1997.