

ORDINANCE NO. 35

Series 2006

AN ORDINANCE REPEALING AND READOPTING WITH CHANGES CHAPTER 1 OF TITLE 4 OF THE BRECKENRIDGE TOWN CODE, KNOWN AS THE TOWN OF BRECKENRIDGE "BUSINESS AND OCCUPATIONAL LICENSES AND TAX ORDINANCE"; SUBMITTING TO THE REGISTERED ELECTORS OF THE TOWN OF BRECKENRIDGE AT THE GENERAL ELECTION TO BE HELD ON NOVEMBER 7, 2006 THE QUESTION OF WHETHER, EFFECTIVE JANUARY 1, 2007, THE REVISED AND RESTATED TOWN OF BRECKENRIDGE "BUSINESS AND OCCUPATIONAL LICENSES AND TAX ORDINANCE" SET FORTH IN FULL IN SECTION 1 OF THIS ORDINANCE SHOULD BE ADOPTED BY THE REGISTERED ELECTORS OF THE TOWN AS A NEW TAX PURSUANT TO ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION; SETTING FORTH THE BALLOT TITLE; AND PROVIDING FOR THE CONDUCT OF THE ELECTION

WHEREAS, Section 31-15-501(1)(c), C.R.S., authorizes Colorado municipalities to license, regulate, and tax, subject to any law of this state, any lawful occupation, business place, amusement, or place of amusements and to fix the amount, terms, and manner of issuing and revoking license issued therefor; and

WHEREAS, the Town of Breckenridge ("Town") is a home rule municipal corporation organized and existing under Article XX of the Colorado Constitution; and

WHEREAS, the electors of the Town adopted the Town Charter on April 1, 1980; and

WHEREAS, Section 12.1 of the Town Charter provides that the Town Council of the Town ("Town Council") may, by ordinance, levy and collect an occupation tax for municipal purposes; and

WHEREAS, the Town Council, acting pursuant to the authority granted by Section 31-15-501(1)(c), C.R.S., and Section 12.1 of the Town Charter, has previously adopted Chapter 1 of Title 4 of the Breckenridge Town Code, known as the Town of Breckenridge "Business and Occupational Licenses and Tax Ordinance"; and

WHEREAS, a business and occupational tax, such as the Town of Breckenridge "Business and Occupational Licenses and Tax Ordinance", has been held by the Colorado Supreme Court to be an excise tax; and

WHEREAS, Section 31-11-111(2), C.R.S., authorizes the Town Council to refer questions to the registered electors of the Town; and

WHEREAS, the adoption of the revised and restated Town of Breckenridge "Business and Occupational Licenses and Tax Ordinance" as set forth in Section 1 of this ordinance would impose a new tax within the meaning of Article X, §20 of the Colorado Constitution; and

WHEREAS, Article X, §20 of the Colorado Constitution requires prior voter approval of a new tax; and

WHEREAS, Article X, §20 of the Colorado Constitution further provides that a ballot issue such as that set forth in Section 2 of this ordinance may be decided in conjunction with a state general election; and

WHEREAS, the next state general election will be held on November 7, 2006; and

WHEREAS, the Town Council has determined that there should be submitted to the registered electors of the Town at a special Town election to be held on November 7, 2006 in conjunction with the state general election, as a referred measure, the question of the adoption of the revised and restated Town of Breckenridge "Business and Occupational Licenses and Tax Ordinance" as set forth in Section 1 of this ordinance; and

WHEREAS, Section 31-11-111(2), C.R.S., provides that the Town Council or its designee shall fix a ballot title for the referred measure set forth in Section 2 of this ordinance; and

WHEREAS, the Town Council has determined that it should fix the ballot title for the referred measure set forth in Section 2 of this ordinance.

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

Section 1. Chapter 1 of Title 4 of the Breckenridge Town Code is hereby repealed and readopted with changes as hereafter set forth in this Section 1. The readopted ordinance is hereafter referred to as the "revised and restated Town of Breckenridge 'Business and Occupational Licenses and Tax Ordinance.'" The revised and restated Town of Breckenridge "Business and Occupational Licenses and Tax Ordinance" shall read in its entirety as follows:

CHAPTER 1

BUSINESS AND OCCUPATIONAL LICENSES AND TAX

SECTION:

- 4-1-1: Purpose
- 4-1-2: Definitions
- 4-1-3: License Required
- 4-1-4: Amount of Tax
- 4-1-5: Issuance Of License
- 4-1-6: Requirements Of Licensee
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- 4-1-9: Special Conditions Of License; Single-Family Accommodation Units
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- 4-1-11: Administration And Enforcement
- 4-1-12: Suspension Or Revocation Of Licenses; Payment Of Fine In Lieu Of Suspension
- 4-1-13: Due Date, Delinquencies And Penalties
- 4-1-14: Enforcement; Lien
- 4-1-15: Attorney Fees And Costs
- 4-1-16: Effective Date
- 4-1-17: Marketing Fund Established
- 4-1-18: Authority to Enter Into Contract
- 4-1-19: Authority To Amend—Non-Tax Rate Matters
- 4-1-20: Authority to Amend—Tax-Rate Matters

4-1-1: PURPOSE:

The purpose of this chapter shall be to: (a) require the licensing and regulation of business activities, occupations and enterprises conducted within the town; (b) provide the town with necessary information relating to businesses and occupations operating within the town in order to protect the health, welfare and safety of its inhabitants; (c) generate and raise additional revenues for the town for the purpose of marketing, advertising and promoting the town and its environs as a year round resort, and marketing, advertising and promoting activities and events which are beneficial to the economic vitality of the community, and (d) pay the costs of administering this chapter.

4-1-2: DEFINITIONS: For the purpose of this chapter, the following terms, phrases, words and their derivations shall have the meanings given herein:

ACCOMMODATION UNIT:

Separate and distinct living units including condominium, townhome, house, trailer, studio unit, condo-hotel units, or any such other similar unit which is rented to any person, who, for consideration, uses, possesses or has the right to use or possess such accommodation unit, regardless of the number of days during a license year such unit is rented.

AFFIDAVIT:

A written statement made under oath. The form of the required affidavit shall be established by the town clerk.

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.

BAR:	A business licensed to sell alcoholic beverages pursuant to the Colorado Liquor Code (Article 47 of Title 12, C.R.S) or the Colorado Beer Code (Article 46 of Title 12, C.R.S.) which does not meet the definition of a restaurant.
BED AND BREAKFAST:	An overnight lodging establishment, whether owned by a natural person or any legal entity, that is a residential dwelling unit or an appurtenance thereto, in which the innkeeper resides, or that is a building designed but not necessarily occupied as a single family residence that is next to, or directly across the street from, the innkeeper's residence, and in either circumstance, in which: (a) lodging accommodations are provided for a fee; (b) at least one meal per day is provided at no charge other than the fee for the lodging accommodations; and (c) there are not more than thirteen sleeping rooms available for transient guests.
BEDROOM:	A separate room in an accommodation unit designed as a sleeping area. An area of an accommodation unit commonly known as a "loft" shall be treated as a separate bedroom.
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.
EMPLOYEE:	Any person receiving compensation from a business licensee subject only to the following: any person who works twenty (20) hours or more per week is considered a full time employee. Any combination of persons who together work twenty (20) hours or more per week are counted as one full time employee for each increment of twenty (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.
IN HOME OCCUPATION:	Any business legally operated from a residential structure in a residential district within the town.
IN TOWN BUSINESS:	Any business operated from a fixed location within the town. "In town business" does not include in home occupations.
LICENSE:	A license issued by the town clerk pursuant to this chapter.
LICENSED PREMISES:	A premises for which a license has been issued by the town clerk pursuant to this chapter.

LICENSEE:	A person to whom a license has been issued by the town clerk pursuant to this chapter.
LICENSING YEAR:	The period for which a license issued under this chapter is valid as provided in section 4-1-5 of this chapter.
LIMITED LIABILITY ENTITY:	A limited liability company, limited liability partnership, limited liability limited partnership or similar business entity recognized by Colorado law which is intended to provide limited liability to its owners.
LODGE:	Any premises consisting of multiple rental rooms or units all held in common ownership, which shall include hotels, motels, boarding houses, and apartment buildings. A bed and breakfast is not a lodge.
LONG TERM RENTALS:	Lease of premises to a person for a term in excess of thirty (30) consecutive days.
NON-PROFIT ENTITY:	A non-profit corporation, foundation, institute or other non-profit business entity of whatever form organized and existing under the laws of any state of the United States.
MOTOR VEHICLE:	A motor vehicle as defined by the town's traffic code adopted pursuant to title 7, chapter 1 of this code.
PERSON:	Includes individuals, firms, partnerships, limited liability entities, 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:	Includes 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.
PROFESSIONAL:	A person whose profession or occupation requires a license issued by the State of Colorado pursuant to Title 12, C.R.S., or other applicable law.
RESTAURANT:	A business which includes a kitchen and dining space where, in consideration of payment, food and drink are provided to patrons.
SINGLE-FAMILY ACCOMMODATION UNIT:	An accommodation unit which is a single-family residential structure as defined in the town's development code ¹ ; provided, however, that a "chalet house" as defined in section 9-1-5 of this code shall not be considered to be a single-family accommodation unit.
SKI RESORT:	A business which, in consideration of payment

¹ See title 9, chapter 1 of this code.

of a fee, allows customers to slide downhill on snow or ice using skis, a snowboard or other device. A business that primarily offers Nordic (and not Alpine) skiing shall not be considered to be a ski resort.

STUDIO: An accommodation unit which does not contain a bedroom.

UTILITY: A nongovernmental business which provides gas, electricity or communications services, including, but not limited, to telephone, cable television and internet services.

VENDOR: Any person other than a professional who conducts business within the town without a permanent operating location.

Word and phrases not defined in this section shall be read in context and construed according to the rules of grammar and common usage. Words and phrases not defined in this section that have acquired a technical or particular meaning, whether by legislative definition or otherwise, shall be construed accordingly.

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 a valid business and occupational license pursuant to this chapter. If business is transacted at two (2) or more separate locations by one person, a separate license for each place of business shall be required.

4-1-4: AMOUNT OF TAX:

An annual business and occupational license tax is hereby levied upon every person doing business within the town according to the following schedule:

In Town Businesses

Type of Business	Base Tax Per Licensing Year	Plus (if applicable)
In Town Business		
1-2 Employees	\$418.00	
3-5 Employees	\$625.00	
6-10 Employees	\$1,009.00	
11-20 Employees	\$1,420.00	
21-30 Employees	\$1,852.00	
31 + Employees	\$2,248.00	
Restaurant/Bar	\$300.00	\$4.00 per occupant based on maximum allowed occupancy
Ski resort	\$115,000.00	
Second and each additional professional (in addition to applicable tax for the business ²)	\$125.00 per professional	
In home business	\$100.00	

² A license issued to a business under this Chapter includes one professional person. This additional tax is only due the second and each additional professional working in the licensed business.

Non-profit entity	\$25.00	
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Accommodation Units

Type of Unit	Tax Per Licensing Year
Studio	\$112.50
One bedroom unit	150.00
Two bedroom unit	187.50
Three bedroom unit	225.00
Four bedroom unit	262.50
Five bedroom unit	300.00
Six bedroom unit	337.50
Seven bedroom unit	375.00
Eight bedroom unit	412.50
Nine bedroom unit	450.00
Ten or more bedroom unit	487.50

Lodges And Bed And Breakfasts³

Classification	Base Tax Per Licensing Year	Plus
Lodge	\$500.00	\$75.00 per room
Bed & Breakfast	\$300.00	\$75.00 per room

Other

Classification	Amount of Tax Per Licensing Year
Utility with no permanent operating location in town	\$500.00
Vendor with no permanent operating location in town	\$200.00
Professional with no permanent operating location in town	\$150.00 per professional

A. The Finance Director shall determine the appropriate category for any person required to pay an annual tax under this section. In making such determination, the Finance Director shall place the taxpayer in the category which most nearly approximates the nature of the taxpayer's business or accommodation unit.

B. Each application for a license for a lodge or bed and breakfast shall be accompanied by an affidavit from or on behalf of the applicant setting forth: (a) the number of rooms which will be or are available for rent in the lodge or bed and breakfast during the upcoming licensing year if the application is approved the license is issued; and (b) the highest number of employees employed by the applicant at the Licensed Premises in any one month period during the prior licensing year or, for any new lodge or bed and breakfast, the highest number of employees the applicant intends to employ at the Licensed Premises in any one month period during the upcoming licensing year if the application is approved and the license issued. The tax payable under this subsection shall be based upon the number of rooms available for rent during the upcoming licensing year and the applicable highest number of employees to be employed at the Licensed Premises as set forth in such affidavit.

C. Each applicant for a license for a business which includes professionals shall be accompanied by an affidavit from or on behalf of the applicant setting forth the highest number of professionals employed by the applicant in any one month period during the prior licensing year or, for any new business, the highest number of professionals the applicant intends to employ in any one month period during the upcoming licensing year if the application is

³Owners of lodges and bed and breakfasts pay only the annual tax shown in this table. They are not required to pay the normal "In Town Business" tax rate.

approved and the license is issued. The tax payable under this subsection shall be based upon the applicable highest number of professionals to be employed at the Licensed Premises as set forth in such affidavit.

D. Each applicant for a license for any business other than a lodge or bed and breakfast shall be accompanied by an affidavit from or on behalf of the applicant setting forth the highest number of employees employed by the applicant at the Licensed Premises in any one month period during the prior year or, for any new business, the highest number of employees the applicant intends to employ at the Licensed Premises in any one month period during the upcoming licensing year if the application is approved and the license is issued. The tax payable under this subsection shall be based upon the applicable highest number of employees to be employed at the Licensed Premises as set forth in such affidavit.

4-1-5: ISSUANCE OF LICENSE:

A. The town clerk shall issue a license under this chapter upon presentation of a completed application therefor and payment of the tax required by section 4-1-4 of this chapter.

B. The town clerk shall issue a license for a single-family accommodation unit under this chapter only to the owner of such single-family accommodation unit.

C. A license issued under this chapter shall be valid for a period of one year commencing with the date of issuance and shall be renewed annually for so long as such person is subject to the licensing requirements of this chapter; provided, however, that a new license for an accommodation unit may initially be issued for other than a year to accommodate the Town's billing cycle for accommodation units.

D. Any business and occupational license issued under prior town law shall be valid for the period of time provided by the ordinances of the town which were in effect at the time of the issuance of such license. Nothing contained herein shall extend or shorten any business and occupational license issued under prior town law. Upon the expiration of such previous license, the licensee shall obtain a license in accordance with this section.

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 such person's license is revoked or suspended.

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 applicants, owes to the town any unpaid and delinquent tax of any kind. As used in this subsection, the term "principal" means: a) as to a corporation, any officer, director, or shareholder owning fifty percent (50%) or more of the issued and outstanding capital stock of the corporation, b) as to any general partnership, any partner, c) as to any limited partnership, any general partner, and d) as to any limited liability entity, any manager or member or owner owning more than fifty percent (50%) interest in the entity. The term "delinquent" means the nonpayment of any tax obligation owned to the town within sixty (60) days of the date such obligation is due.

B. Before denying an application the town clerk shall cause a hearing to be held in accordance with chapter 19 of title 1 of this code. In the event an application is denied, the town clerk shall refund to the applicant the license tax submitted with the application.

4-1-8: CONDITIONS OF LICENSE:

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

B. Nontransferable: No license issued pursuant to this chapter shall be transferable. Upon transfer of a licensed business or licensed premise, the transferee shall apply for and pay the taxes for a new annual business license; provided that an applicant for a new license for an accommodation unit shall receive a pro rata credit on the license taxes for the portion of the current licensing year remaining on any existing business license for such accommodation unit.

4-1-9: SPECIAL CONDITIONS OF LICENSE; SINGLE-FAMILY ACCOMMODATION UNITS:

A. Special Conditions: In addition to the other requirements of this chapter, the owner of a single-family accommodation unit licensed pursuant to this chapter shall, as a condition of such license, be subject to the following requirements:

1. The motor vehicles of all occupants of the single-family accommodation unit shall be parked only on the site of the single-family accommodation unit, or in a town designated parking area located off of the site of the single-family accommodation unit. No motor vehicles shall be parked on the lawn or landscaped areas of a single-family accommodation unit, or in the public street or right of way adjacent to the single-family accommodation unit. No person shall be permitted to stay overnight in any motor vehicle which is parked at a single-family accommodation unit. Further, all motor vehicles parked at a single-family accommodation unit shall comply with the requirements and be subject to the limitations of section 9-3-11 of this code.

2. No privately owned, nongovernmental vehicle with a passenger capacity of sixteen (16) persons or more shall be used to transport persons to or from a single-family accommodation unit, or parked upon the premises of a single-family accommodation unit.

3. The storage and disposal of all trash and garbage from a single-family accommodation unit shall comply with the requirements of section 5-2-3-1 of this code.

4. While occupying a single-family accommodation unit, no person shall: a) make, cause or control unreasonable noise upon the single-family accommodation unit which is audible upon a private premises that such occupant has no right to occupy in violation of subsection 6-3C-1A2 of this code, or b) violate title 5, chapter 8 of this code.

5. No single-family accommodation unit shall be operated in such a manner as to constitute a nuisance pursuant to title 5, chapter 1 of this code.

6. The licensee shall provide to the town clerk the name, address and telephone number of any current management company, rental agency or other person employed or engaged by the licensee to manage, rent or supervise the single-family accommodation unit. It shall be the duty of the licensee to update such information throughout the term of the license so that the town clerk always has the correct and current information.

7. At the time of the issuance of the license the licensee shall provide to the town clerk the name, address and telephone number of a local contact person who is authorized by the licensee to receive communications from the town concerning the single-family accommodation unit. The local contact person may be a management company, rental agent or other person employed or engaged by the licensee to manage, rent or supervise the single-family accommodation unit. The local contact person shall maintain a residence or permanent place of business within the town. The designated local contact person may be changed by the licensee from time to time throughout the term of the license. To effect such change, the licensee shall notify the town clerk of the change in writing and shall, at the same time, provide the town clerk with the name, address and telephone number of the licensee's replacement contact person. Any replacement contact person shall meet the requirements of this subsection A7.

B. Owner Liable: Compliance with the special conditions set forth in subsection A of this section shall be the nondelegable responsibility of the owner of a single-family accommodation unit; and each owner of a single-family accommodation unit shall be strictly liable for complying with the conditions set forth in subsection A of this section.

C. Licensee To Receive Special Conditions: At the time of the issuance of a license, the town clerk shall provide the licensee with a copy of the special conditions set forth in subsection A of this section.

D. Licensee To Post License And Special Conditions: The licensee shall post a copy of the license and the special conditions set forth in subsection A of this section in a conspicuous location in the single-family accommodation unit. The license and the special conditions shall remain continuously posted in the single-family accommodation unit throughout the term of the license.

E. Licensee To Provide Management Company With Special Conditions: The licensee shall provide any management company, rental agency or other person employed or engaged by the licensee to manage, rent or supervise the single-family accommodation unit with a copy of the special conditions set forth in subsection A of this section.

F. Revocation Or Suspension Of License: The failure of the licensee of a single-family accommodation unit to comply with the special conditions set forth in subsection A of this section shall constitute grounds for the suspension or revocation of the license. Any action to suspend or revoke the license shall be conducted by the town clerk in accordance with section 4-1-12 of this chapter.

Before an action is commenced to suspend or revoke a license for a single-family accommodation unit, the town clerk shall first provide the licensee with a written warning that an apparent violation of the special conditions of subsection A of this section has occurred, and the licensee shall be given a reasonable opportunity to cure such apparent violation. A copy of such warning notice shall also be sent to any management company, rental agency or other person employed or engaged by the licensee to manage, rent or supervise the licensed premises who has been properly identified by the licensee pursuant to subsection A6 of this section and to the local contact person identified by the licensee pursuant to subsection A7 of this section. Not more than one written warning shall be required to be sent during the term of each license.

4-1-10: EXEMPTIONS:

The following are exempt from the provisions of this chapter:

- A. Accommodation units held for long term rental only.
- B. Charities.
- C. Churches or established religious organizations.
- D. Governments.
- E. Hospitals.
- F. Schools.

4-1-11: 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 taxes due to the town under this chapter;
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 pursuant to section 1-8-10 of this code, or other applicable law, to restrain a person from engaging in business on premises within the town who has not obtained 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.

C. Presumption Of Continued Use: With respect to a license issued under this chapter to the owner of an accommodation unit, the town clerk shall be entitled to presume that such unit will continue to be rented as an accommodation unit in the next license year, thereby obligating such person to obtain a license for such unit under this chapter, until such time as the owner of such unit submits information to the town clerk, under oath, which demonstrates that such unit will not be rented as an accommodation unit.

D. Obligation To Provide Information: It shall be unlawful for any owner of real property within the town to fail or refuse to provide to the town clerk upon request information sufficient to permit the town clerk to determine if such person is required to obtain a license pursuant to this chapter. Any person convicted of violating the provisions of this subsection shall be punished as provided in subsection 4-1-13B of this chapter.

4-1-1-12 SUSPENSION OR REVOCATION OF LICENSES; PAYMENT OF FINE IN LIEU OF SUSPENSION:

A. A license issued pursuant to this chapter may be revoked by the town clerk after hearing for the following reasons:

1. Fraud, misrepresentation or a false statement of material fact contained in the license application;
2. Any violation of the provisions of this chapter; or
3. As to any person required to have a town sales tax license pursuant to title 3, chapter 1 of this code, proof that such license has been revoked by the finance director in accordance with section 3-1-23 of this code.

In connection with the suspension of a license, the town clerk may impose reasonable conditions.

B. A hearing to consider the possible revocation or suspension of a license shall be held in accordance with chapter 19 of title 1 of this code. Notice of hearing shall be given by the town clerk in writing to the licensee at the address shown on the license application, the management company, rental agency or other person employed or engaged by the licensee to manage, rent or supervise the licensed premises who has been properly identified by the licensee pursuant to subsection 4-1-9A6 of this chapter, and to the local contact person identified by the licensee pursuant to subsection 4-1-9A7 of this chapter. Such notice shall be mailed to the licensee, the management company, rental agency or other person employed or engaged by the licensee to manage, rent or supervise the licensed premises who has been properly identified by the licensee pursuant to subsection 4-1-9A6 of this chapter, and to the local contact person identified by the licensee pursuant to subsection 4-1-9A7 of this chapter, postage prepaid, as required by section 1-19-5.

C. In deciding whether a license should be suspended or revoked in accordance with this section, and in deciding what conditions to impose in the event of a suspension, if any, the town clerk shall consider: 1) the nature and seriousness of the violation; 2) corrective action, if any, taken by the licensee; 3) prior violation(s), if any, at the licensed premises by the licensee and the effectiveness of prior corrective action, if any; 4) the likelihood of recurrence; 5) all circumstances surrounding the violation; 6) whether the violation was willful; 7) the length of time the license has been held by the licensee; 8) the number of violations by the licensee within the applicable twelve (12) month period; 9) previous sanctions, if any, imposed against the licensee; and 10) other factors making the situation with respect to the licensee or the licensed premises unique.

D. If the town clerk determines after a hearing that cause exists for the imposition of a sanction against a licensee of a single-family accommodation unit pursuant to section 4-1-9 of this chapter, the town clerk shall impose the following sanction against the licensee:

First violation within 12 months:

Suspension of license for 30 days.
Licensee may pay administrative fine of

	\$200.00 within 3 days of entry of suspension order in lieu of serving suspension.
Second violation within 12 months:	Suspension of license for 60 days. Licensee may pay administrative fine of \$500.00 within 3 days of entry of suspension order in lieu of serving suspension.
Third violation within 12 months:	Suspension of license for 90 days. Licensee may pay administrative fine of \$999.00 within 3 days of entry of suspension order in lieu of serving suspension.
Fourth and each subsequent violation within 12 months:	Suspension for such period of time as town clerk may determine, not to exceed 1 year, or revocation of license. In determining what sanction to impose, the town clerk shall consider the factors set forth in subsection C of this section. For a fourth and each subsequent violation occurring within a 12 month period, no administrative fine may be accepted by the town clerk in lieu of the licensee serving a suspension or revocation.

E. If a license is suspended by the town clerk, upon the timely payment of the optional administrative fine as set forth above, the suspension order shall be deemed to have been satisfied. If a licensee shall elect not to pay the optional administrative fine as set forth above, the order of suspension shall become effective immediately, and no business shall be conducted by the licensee at the licensed premises during the period of suspension.

F. A person whose license has been revoked under this section may not apply for a new license for the same premises or business for a period of one year from the date the revocation took effect.

G No portion of a license tax previously paid by a licensee shall be refunded if such license is suspended or revoked.

4-1-13: DUE DATE, DELINQUENCIES AND PENALTIES:

A. **Payment Of Tax:** The tax imposed under this chapter is due and payable at the time the license expires, and is delinquent if it remains unpaid for thirty (30) days thereafter. In the event that the tax is not paid prior to becoming delinquent, a delinquency charge of ten percent (10%) of the amount of tax due shall be assessed in addition to the license tax.

B. **Violations; Penalties:** It is an "infraction", as defined in section 1-3-2 of this code, for any person to violate any of the provisions of this chapter. Every person found liable for a violation of any provision of this chapter shall be punished as provided in section 1-4-1-1 of this code.

4-1-14: ENFORCEMENT; LIEN:

A. **Enforcement:** Pursuant to section 31-20-105, CRS, the town may cause any delinquent taxes 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.

B. **Lien:** As to any license due with respect to an accommodation unit, the licensing taxes imposed by that chapter, and any penalty and attorney fees due with respect thereto, if not paid when due, shall constitute a perpetual lien upon the accommodation unit and shall have priority over all other liens except general tax liens, special improvement district assessment liens and those bona fide mortgages or trust deeds which were of record prior to the recording of this town's lien statement as hereafter provided. The town's lien shall continue until the amount due to the town is paid in full, or until the lien is discharged in the manner provided for by law. To perfect its lien hereunder, the town shall record with the clerk and recorder of Summit County a statement of lien describing the affected accommodation unit and setting forth the amount then

due to the town. The lien granted to the town hereunder shall be effective from and after the date of the recording of such lien statement.

4-1-15: ATTORNEY FEES AND COSTS:

If any action is brought in a court of law by or against the town relating to the enforcement, interpretation on construction of this chapter, or of any document provided for herein, or of any proceeding hereunder, the prevailing party in such action shall be entitled to reasonable attorney fees as well as all costs incurred in the prosecution or defense of such action.

4-1-16: EFFECTIVE DATE:

The adoption of this chapter was approved by the electors of the town at an election held November 7, 2006. It shall become effective January 1, 2007.

4-1-17: MARKETING FUND ESTABLISHED: There is hereby established a special fund of the town to be known as the marketing fund. Immediately upon receipt by the town of the tax revenues collected pursuant to this chapter, such revenues shall be credited to the marketing fund. The monies in the marketing fund may be used by the town council only for the specific purposes set forth in section 4-1-1. The amounts expended from the marketing fund shall be determined from time to time by the town council.

4-1-18: AUTHORITY TO ENTER INTO CONTRACT: The town council shall have the authority to contract with the Breckenridge Resort Chamber or other persons for services related to marketing, advertising and promoting the town and its environs as a year round resort and marketing, advertising and promoting activities and events beneficial to the economic vitality of the community. Any contract with the Breckenridge Resort Chamber entered into pursuant to this section shall require that membership in the Breckenridge Resort Chamber shall be open to all interested persons without charge as a condition precedent to the receipt of Town tax revenues pursuant to such contract.

4-1-19: AUTHORITY TO AMEND—NON-TAX RATE MATTERS: The provisions of this chapter may be amended from time to time by ordinance adopted by the town council; provided, however, that except as expressly provided in section 4-1-20, the provisions of section 4-1-4 may not be amended without the approval of the registered electors of the town.

4-1-20: AUTHORITY TO AMEND—TAX-RATE MATTERS: Once each fiscal year the Town Council, by ordinance duly adopted, may, but shall not be required to, uniformly increase the tax rates set forth in section 4-1-4. If the Council elects to increase such tax rates, the percentage increase in the tax rate shall be limited to the percentage increase, if any, in the Consumer Price Index produced by the Bureau of Labor Statistics, or any successor index, since the date the tax rates were last increased by the Town Council as authorized by this section. The percentage increase in the Consumer Price Index shall be based on the All Urban Consumer (CPI-U) for All Items, U.S. City Average, and shall be for the most recent period available immediately prior to the adoption of the ordinance providing for the increase in the tax rates.

Section 2 In conjunction with the state general election to be held on Tuesday, November 7, 2006 a special town election shall be held. At such election there shall be submitted to the vote of the registered electors of the town, as a referred measure under Article X, Section 20 of the Colorado Constitution and Section 31-11-111(2), C.R.S., the ballot issue hereinafter set forth. At the said election, the official ballot, including absentee and early ballots, shall state the substance of the ballot issue to be voted upon and, as so stated, shall constitute the ballot title, designation and submission clause, and each registered elector voting at the election shall indicate his or her choice on the ballot issue submitted, which shall be in the following form:

QUESTION ___ [Number/letter to be inserted by County Clerk]

EFFECTIVE JANUARY 1, 2007, SHALL TOWN BUSINESS AND OCCUPATIONAL LICENSE TAXES BE INCREASED BY \$665,000 ANNUALLY, AND BY WHATEVER ADDITIONAL AMOUNTS ARE RAISED ANNUALLY THEREAFTER, AND SHALL THE TOWN COUNCIL OF THE TOWN OF BRECKENRIDGE BE AUTHORIZED TO ADJUST THE RATE OF THE TOWN'S BUSINESS AND OCCUPATIONAL LICENSE TAX SUBSEQUENT TO JANUARY 1, 2007 TO REFLECT INCREASES IN THE CONSUMER PRICE INDEX, ALL BY ADOPTING THE REVISED AND RESTATED TOWN OF BRECKENRIDGE "BUSINESS AND OCCUPATION LICENSES AND TAX

ORDINANCE "AS SET FORTH IN FULL IN SECTION 1 OF ORDINANCE NO. 35, SERIES 2006?"

YES _____

NO _____

Section 3. In connection with the fixing of the ballot title for the referred measure as set forth in Section 2 of this ordinance, the Town Council of the Town of Breckenridge finds and determines as follows:

A. The Town Council has considered the public confusion that might be caused by misleading ballot titles.

B. The general understanding of the effect of a "yes" or "no" vote on the referred measure set forth in Section 2 of this ordinance will be clear to the electors.

C. The ballot title for the referred measure set forth in Section 2 of this ordinance will not conflict with those titles selected for any other measure that will appear on the municipal ballot at the November 7, 2006 election; and

D. The ballot title for the referred measure set forth in Section 2 of this ordinance correctly and fairly expresses the true intent and meaning of the measure.

Section 4. If a majority of all the votes cast at the election shall be for the ballot issue set forth in Section 2 of this ordinance ("ballot issue"), the revised and restated Town of Breckenridge "Business and Occupational Licenses and Tax Ordinance" as set forth in full in Section 1 of this ordinance shall be deemed to be adopted and shall become effective January 1, 2007. If the revised and restated Town of Breckenridge "Business and Occupational Licenses and Tax Ordinance" as set forth in Section 1 of this ordinance is adopted, the Town of Breckenridge shall be authorized to collect, retain and expend the full amount of the business and occupational taxes received by the Town in accordance with the approved ballot issue separate and apart from any other expenditures of the Town which may be limited pursuant to Article X, §20 of the Colorado Constitution, or any other state restriction on the Town's fiscal year spending, and the increased tax revenues authorized for collection, retention and expenditure by the passage of the ballot question shall not be counted in any such spending limitation. If a majority of all the votes cast at the election shall be against the ballot issue, the revised and restated Town of Breckenridge "Business and Occupational Licenses and Tax Ordinance" as set forth in full in Section 1 of this ordinance shall be deemed to have been defeated, and such ordinance shall not become effective.

Section 5. The special Town election to be held on November 7, 2006 to consider the ballot question shall be conducted as a coordinated election with Summit County. The Summit County Clerk and Recorder shall conduct the special Town election on behalf of the Town. Pursuant to Section 1-12-6 of the Breckenridge Town Code, the election shall be conducted under the Uniform Election Code of 1992. The cost of the election with respect to the ballot issue shall be paid from the general fund of the Town.

Section 6. Section 10-1-17 of the Breckenridge Town Code is hereby amended by the addition of a new subsection E, which shall read in its entirety as follows:

E. Unlawful to Conduct Business on Streets and Rights of Way: Except as expressly authorized by law, it shall be unlawful to conduct any business on the public streets or public rights of way in the town.

Section 7. The officers of the Town are authorized and directed to take all action necessary or appropriate to effectuate the provisions of this ordinance.

Section 8. The town clerk, or the coordinated election official if so provided by intergovernmental agreement, shall give or cause to be given the notice of election required by Section 1-5-205, C.R.S. Additionally, the town clerk shall cause the notice required by §20(3)(b) of Article X of the Colorado Constitution to be prepared and delivered in accordance with the requirements of applicable law.

Section 9. The town clerk shall serve as the designated election official of the Town the purposes of performing acts required or permitted by law in connection with the election on the ballot issue, and shall take such action as may be required to comply with all applicable laws pertaining to the conduct of the election.

Section 10. This ordinance shall be published as provided by Section 5.9 of the Breckenridge Town Charter.

Section 11. If this ordinance is approved by the electors at the election to be held November 7, 2007, it shall become effective as provided in Section 4 of this ordinance. Otherwise, this ordinance shall be null, void and of no force and effect whatsoever.

Section 12. 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.

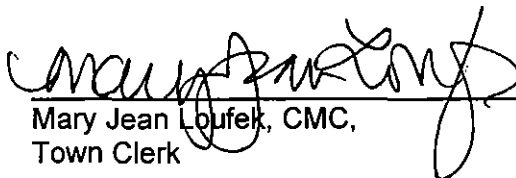
Section 13. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The Town Council hereby declares that it would have passed this ordinance, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases had been declared invalid.

Section 14. 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: (i) Article X, §20 of the Colorado Constitution; (ii) Article XX of the Colorado Constitution; (iii) the powers contained in the Breckenridge Town Charter; (iv) Section 31-11-111(2), C.R.S.; and (v) Section 31-15-501(1)(c), C.R.S.

INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED PUBLISHED IN FULL this 8th day of August, 2006. A Public Hearing shall be held at the regular meeting of the Town Council of the Town of Breckenridge, Colorado on the 22nd day of August, 2006, 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


Ernie Blake, Mayor

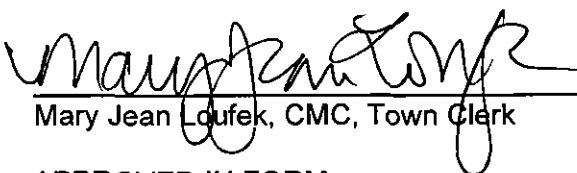
This Ordinance was published in full in the Summit County Journal, a newspaper of general circulation within the Town of Breckenridge on August 18, 2006.

The public hearing on this ordinance was held on August 22, 2006.

READ, ADOPTED ON SECOND READING AND ORDERED PUBLISHED IN FULL, this 22nd day of August, 2006. A copy of this Ordinance is available for inspection in the office of the Town Clerk.

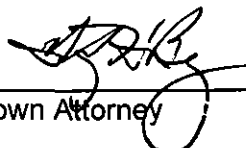
ATTEST:

TOWN OF BRECKENRIDGE


Mary Jean Loufek, CMC, Town Clerk


Ernie Blake, Mayor

APPROVED IN FORM


Town Attorney

8/22/06
Date

This ordinance was published in full in the Summit County Journal, a newspaper of general circulation within the Town of Breckenridge on September 1, 2006.