

ORDINANCE NO. 25

Series 2010

AN ORDINANCE SUBMITTING TO THE REGISTERED ELECTORS OF THE TOWN OF BRECKENRIDGE AT THE GENERAL ELECTION TO BE HELD ON NOVEMBER 2, 2010 THE QUESTION OF WHETHER, COMMENCING JANUARY 1, 2011, THE 'TOWN OF BRECKENRIDGE PUBLIC ACCOMMODATION TAX' TAX RATE SHOULD BE INCREASED FROM 2.4% TO 3.4% ON THE PRICE PAID FOR THE LEASING OR RENTAL OF ANY HOTEL ROOM, MOTEL ROOM OR OTHER ACCOMMODATION LOCATED IN THE TOWN AS A TAX RATE INCREASE TAX PURSUANT TO ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION; REQUIRING ALL OF THE INCREASED PUBLIC ACCOMMODATION TAX REVENUES COLLECTED BY THE TOWN AS A RESULT OF THE TAX RATE INCREASE TO BE PAID INTO A SPECIAL FUND OF THE TOWN AND USED ONLY TO MARKET AND ADVERTISE THE TOWN; SETTING FORTH THE BALLOT TITLE; AND PROVIDING FOR THE CONDUCT OF THE ELECTION

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 Breckenridge Town Charter provides that the Town Council of the Town ("Town Council") may, by ordinance, levy and collect excise taxes for municipal purposes, including, but not limited to, a "bed tax"; and

WHEREAS, on April 3, 1984 the electors of the Town approved and authorized the imposition of the Town of Breckenridge Public Accommodation Tax ("Accommodation Tax") in an amount not exceed two and four tenths percent (2.4%) of the price paid for the leasing or rental of any hotel room, motel room or other accommodation located in the Town; and

WHEREAS, Chapter 4 of Title 3 of the Breckenridge Town Code imposes a municipal excise tax equal to 2.4% of the price paid for the leasing and rental of any hotel room, motel room or other accommodation located in the Town; and

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

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

WHEREAS, Article X, §20 of the Colorado Constitution further provides that a ballot issue such as that set forth in Section 3 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 2, 2010; and

WHEREAS, the Town Council finds and determines that there should be submitted to the registered electors of the Town at a special Town election to be held on November 2, 2010 in conjunction with the state general election, as a referred measure, the question of whether Town's Accommodation Tax tax rate should be increased from 2.4% to 3.4% of the price paid for the leasing or rental of any hotel room, motel room or other accommodation located in the Town, with the increased Accommodation Tax revenues collected by the Town from the tax rate increase to be paid into a special fund and used only to market, advertise and promote the Town and its environs as a year round resort, and to market, advertise and promote activities and events which the Town Council determines are beneficial to the economic vitality of the community; 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 3 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 3 of this ordinance.

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

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

3-4-3: IMPOSITION OF TAX: On and after January 1, 2011, there is levied and shall be paid and collected an excise tax of three and four tenths percent (3.4%) on the price paid for the leasing or rental of any hotel room, motel room, or other accommodation located in the Town.

Section 2. The Breckenridge Town Code is amended by the addition of a new Chapter 8 of Title 3, to be entitled "Marketing Fund", which shall read in its entirety as follows:

CHAPTER 8

MARKETING FUND

SECTION:

3-8-1: Definitions
3-8-2: Marketing Fund

3-8-1: DEFINITIONS: As used in this Chapter the following words shall have the following meanings:

DESIGNATED REVENUES:

1. All revenues collected by the Town as a result of the elimination of the Town's sales tax vendor's fee as provided for in Ordinance No. 26, Series 1992;

2. All revenues collected by the Town as a result of the implementation and collection of the additional four tenths of a percent (.4%) Accommodation Tax as provided for in Ordinance No. 27, Series 1992;

3. All revenues collected by the Town as a result of the Town of Breckenridge "Business and Occupational License and Tax Ordinance"; and

4. All revenues collected by the Town from the one percent (1%) increase in the tax rate of the Town's Accommodation Tax approved by the electors on November 2, 2010,

together with such additional funds, if any, that may be designated from time to time by the Town Council for inclusion in the marketing fund.

MARKETING FUND:

The Town of Breckenridge Marketing Fund described in Section 3-8-2.

MARKETING PLAN:

A plan adopted from time to time by the Town Council for the marketing, advertising and promotion of the Town and its environs as a year round resort, as well for the marketing, advertising and promotion of activities and events which are beneficial to the economic vitality of the community. The marketing plan may include public relations activities, promotional activities, direct advertising, and financial support for certain events and activities recommend by the plan.

3-8-2: MARKETING FUND: On and after January 1, 2011, immediately upon receipt or collection thereof by the Town the designated funds shall be credited to the Marketing Fund that was previously established by the Town. The monies in the Marketing Fund shall be expended by the Town Council only to implement

the Marketing Plan. The amounts expended from the Marketing Fund shall be determined from time to time by the Town Council.

Section 3. In conjunction with the state general election to be held on Tuesday, November 2, 2010 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 early voters' 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 may 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]

SHALL TOWN OF BRECKENRIDGE TAXES BE INCREASED \$985,000 ANNUALLY COMMENCING JANUARY 1, 2011, AND THEREAFTER BY WHATEVER AMOUNT IS ACTUALLY COLLECTED, BY INCREASING THE "TOWN OF BRECKENRIDGE PUBLIC ACCOMMODATION TAX" TAX RATE FROM 2.4% TO 3.4% ON THE PRICE PAID FOR THE LEASING OR RENTAL OF ANY HOTEL ROOM, MOTEL ROOM OR OTHER ACCOMMODATION LOCATED IN THE TOWN AS A TAX RATE INCREASE APPROVED PURSUANT TO ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION AND OTHER APPLICABLE LAW, AND SHALL ALL OF THE PUBLIC ACCOMMODATION TAX REVENUES COLLECTED BY THE TOWN AS A RESULT OF THE APPROVED TAX RATE INCREASE BE PAID INTO A SPECIAL FUND AND USED ONLY TO MARKET AND ADVERTISE THE TOWN?

YES _____

NO _____

Section 4. In connection with the fixing of the ballot title for the referred measure as set forth in Section 3 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 3 of this ordinance will be clear to the electors.

C. The ballot title for the referred measure set forth in Section 3 of this ordinance will not conflict with those titles selected for any other measure that will appear on the municipal ballot at the November 2, 2010 special Town election; and

D. The ballot title for the referred measure set forth in Section 3 of this ordinance correctly and fairly expresses the true intent and meaning of the measure.

Section 5. If a majority of all the votes cast at the election shall be for the ballot issue set forth in Section 3 of this ordinance ("ballot issue"), the amendments to the Breckenridge Town Code set forth in full in Section 1 and Section 2 of this ordinance shall be deemed to be adopted and shall become effective January 1, 2011, and the Town of Breckenridge shall be authorized to collect, retain, and expend the full amount of the Accommodation Tax revenues collected by the Town as a result of the tax rate increase approved by the 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 amendments to the Breckenridge Town Code set forth in full in Section 1 and Section 2 of this ordinance shall be deemed to have been defeated, and such amendments to the Breckenridge Town Code shall not become effective.

Section 6. The special Town election on November 2, 2010 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 7. The officers of the Town are authorized and directed to take all action necessary or appropriate to effectuate the provisions of this ordinance. All action previously taken by the officers of the Town with respect to the ballot question set forth in this ordinance is ratified, confirmed and approved.

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. The Town Council hereby finds, determines and declares that this ordinance is necessary and proper to provide for the safety, preserve the health, promote the prosperity, and improve the order, comfort and convenience of the Town of Breckenridge and the inhabitants thereof.

Section 11. 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.

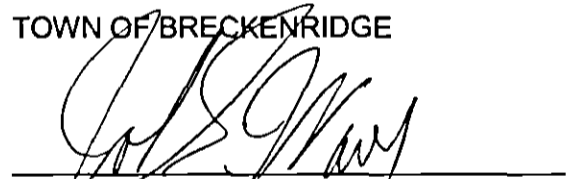
Section 12. This ordinance shall be published and become effective as provided by Section 5.9 of the Breckenridge Town Charter.

INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED PUBLISHED IN FULL this 10th day of August, 2010. A Public Hearing shall be held at the regular meeting of the Town Council of the Town of Breckenridge, Colorado on the 24th day of August, 2010, 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



John G. Warner, Mayor


The public hearing on this ordinance was held on August 24, 2010.

READ, ADOPTED ON SECOND READING AND ORDERED PUBLISHED BY TITLE ONLY this 24th day of August, 2010. This ordinance is available for inspection in the office of the Town Clerk.

ATTEST:

TOWN OF BRECKENRIDGE


Mary Jean Loufek, CMC, Town Clerk


John G. Warner, Mayor

APPROVED IN FORM


Town Attorney 8/24/10
Date

This ordinance was published by title in the Summit County Journal, a newspaper of general circulation within the Town of Breckenridge on September 3, 2010.