

ORDINANCE NO. 29

Series 2013

AN ORDINANCE SUBMITTING TO THE REGISTERED ELECTORS OF THE TOWN OF BRECKENRIDGE AT A SPECIAL TOWN ELECTION TO BE HELD ON NOVEMBER 5, 2013 THE QUESTION OF WHETHER, COMMENCING JANUARY 1, 2014, THE TOWN OF BRECKENRIDGE SHOULD IMPOSE AN EXCISE TAX OF FIVE PERCENT (5%) ON THE SALE OF RETAIL MARIJUANA AND RETAIL MARIJUANA PRODUCTS BY LICENSED RETAIL MARIJUANA ESTABLISHMENTS AS A NEW TAX PURSUANT TO ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION; REQUIRING REVENUES COLLECTED BY THE TOWN FROM THE NEW TAX TO BE USED ONLY FOR DESIGNATED PURPOSES; 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 Breckenridge 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; and

WHEREAS, on November 1, 2011 the electors of the Town approved the imposition of a local excise tax on the sale of medical marijuana and medical marijuana-infused products; and

WHEREAS, on November 6, 2012 the voters of the State of Colorado approved Amendment 64 adding Section 16 of Article XVIII to the Colorado Constitution; and

WHEREAS, the Colorado legislature passed and the governor signed into law HB13-1317, entitled "An Act Concerning the Recommendations Made in the Public Process For the Purpose of Implementing Retail Marijuana Legalized By Section 16 of Article XVIII of the Colorado Constitution, and, In Connection Therewith, Making an Appropriation"; and

WHEREAS, HB13-1317 became effective May 28, 2013; and

WHEREAS, HB13-1317 adopted the "Colorado Retail Marijuana Code"; and

WHEREAS, the Colorado Retail Marijuana Code authorizes the issuance by the state and local authorities of licenses for the lawful sale of retail marijuana by licensed retail marijuana establishments; and

WHEREAS, the Town Council intends to adopt its own local regulations for the sale of retail marijuana and retail marijuana products pursuant to its home rule authority and the authority provided in the Colorado Retail Marijuana Code; and

WHEREAS, the Town Council anticipates that, commencing on or about January 1, 2014, retail marijuana and retail marijuana products will be sold within the Town by licensed retail marijuana establishments; and

WHEREAS, the Town Council believes that the local excise tax on the sale of medical marijuana and medical marijuana-infused products that was approved by the electors of the Town on November 1, 2011 should be extended to cover the sale of retail marijuana and retail marijuana products under the Colorado Retail Marijuana Code; and

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

WHEREAS, Section 1-41-103, C.R.S., provides that a local government question involving a matter arising under Article X, Section 20 of the Colorado Constitution (known as the "TABOR Amendment"), including, but not limited to, approval of a new tax, may be submitted to the voters of the municipality at a local election to be held on the first Tuesday of November in each odd-numbered year; 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 5, 2013

in conjunction with the coordinated election to be held on that date, as a referred measure, the question of whether effective January 1, 2014 the Town should adopt a new five percent (5%) excise tax on the sale of retail marijuana and retail marijuana products within the Town by licensed retail marijuana establishments, with the revenues collected by the Town from such new tax to be used only for those purposes designated in 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 9 of Title 3 of the Breckenridge Town Code is amended to read in its entirety as follows:

#### CHAPTER 9

#### MARIJUANA EXCISE TAX

##### SECTION:

- 3-9-1: Definitions
- 3-9-2: Tax Imposed
- 3-9-3: Collection and Enforcement Procedures
- 3-9-4: Use of Collected Tax Revenues
- 3-9-5: Rules and Regulations

##### 3-9-1: DEFINITIONS:

A. The definitions contained in the Colorado Medical Marijuana Code, the Colorado Retail Marijuana Code, the state administrative regulations adopted pursuant to such statutes, and the Town's medical marijuana and retail marijuana licensing ordinances, each as amended from time to time, are incorporated into this Chapter by reference.

B. As used in this Chapter the following words shall have the following meanings:

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|----------------------------------|---|
| COLORADO MEDICAL MARIJUANA CODE: | Article 43.3 of Title 12, C.R.S., as amended from time to time.   |
| COLORADO RETAIL MARIJUANA CODE:  | Article 43.4 of Title 12, C.R.S., as amended from time to time.   |
| DESIGNATED REVENUES:             | All of the revenues received by the Town from the collection of the Town's marijuana excise tax imposed by Section 3-9-2.   |
| LAWFUL SALE OF MARIJUANA:        | Includes all sales within the Town of:<br><br>(1) medical marijuana and medical marijuana-infused products by persons licensed pursuant to the Colorado Medical Marijuana Code and applicable Town ordinances; (2) retail marijuana and retail marijuana products by persons licensed pursuant to the Colorado Retail Marijuana Code and applicable Town ordinances; and (3) medical marijuana, medical marijuana-infused products, retail marijuana, and retail marijuana products by persons concurrently licensed pursuant to the Colorado Medical Marijuana Code, the Colorado Retail Marijuana Code, and applicable Town ordinances. |

MEDICAL MARIJUANA:	Has the meaning provided in Section 12-43.3-104, C.R.S., which is part of the Colorado Medical Marijuana Code.
MEDICAL MARIJUANA -INFUSED PRODUCT:	Has the meaning provided in Section 12-43.3-104, C.R.S., which is part of the Colorado Medical Marijuana Code.
RETAIL MARIJUANA:	Has the meaning provided in Section 12-43.4-103, C.R.S., which is part of the Colorado Retail Marijuana Code.
RETAIL MARIJUANA PRODUCT:	Has the meaning provided in Section 12-43.4-103, C.R.S., which is part of the Colorado Retail Marijuana Code.

3-9-2: TAX IMPOSED: A tax is levied and shall be collected upon the lawful sale of marijuana within the Town at the rate of five percent (5.0%) of the price paid by the purchaser thereof rounded off to the nearest penny. The tax shall be collected by the licensed person and paid to the Town. The tax imposed by this section is in addition to, and not in lieu of, the sales tax owed to the Town in connection with the sale of medical marijuana and retail marijuana.

3-9-3: COLLECTION AND ENFORCEMENT PROCEDURES: Except for those provisions that by their terms cannot apply, the procedures for the collection and enforcement of the Town's sales tax as provided in Title 3, Chapter 1 of this Code shall apply to the collection and enforcement of the marijuana excise tax imposed by this Chapter.

3-9-4: USE OF COLLECTED TAX REVENUES: The Designated Revenues shall be used to pay or reimburse the Town for direct and indirect costs incurred for: (i) adequate training, enforcement, and administration of the Town's medical and retail marijuana regulations not otherwise covered by the fees collected by the Town under the Colorado Medical Marijuana Code, the Colorado Retail Marijuana Code, and the Town's ordinances, (ii) monies expended by the Town in connection with drug or drug and alcohol prevention programs and facilities (including, but not limited to, expenditures for the local detoxification center), and for (iii) other general purposes of the Town.

3-9-5: RULES AND REGULATIONS: The Financial Services Manager shall have the authority from time to time to adopt, amend, alter and repeal administrative rules and regulations as may be necessary for the proper administration of this Chapter. Such regulations shall be adopted in accordance with the procedures established by Title 1, Chapter 18 of this Code.

Section 2. A special Town election is called and shall be held on Tuesday, November 5, 2013 in connection with the coordinated election that is to be held on that day. 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 (the "**Ballot Issue**"). At the said election, the official ballot 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. At such election each registered elector voting at the election shall be given the opportunity to indicate his or her choice on the Ballot Issue (either "Yes/For" or "No/Against"), which shall be in the following form:

SHALL TOWN OF BRECKENRIDGE TAXES BE INCREASED BY SEVEN HUNDRED FIFTY THOUSAND DOLLARS (\$750,000) IN THE FISCAL YEAR COMMENCING JANUARY 1, 2014 AND ENDING DECEMBER 31, 2014, AND BY WHATEVER ADDITIONAL AMOUNTS ARE RAISED ANNUALLY THEREAFTER, BY IMPOSING, EFFECTIVE JANUARY 1, 2014, A NEW EXCISE TAX ON THE SALE WITHIN THE TOWN OF RETAIL MARIJUANA AND RETAIL MARIJUANA PRODUCTS AS DEFINED IN THE COLORADO RETAIL MARIJUANA CODE AND APPLICABLE TOWN ORDINANCES, AT THE RATE OF FIVE PERCENT (5%) OF THE PRICE PAID BY THE PURCHASER OF THE RETAIL MARIJUANA AND RETAIL MARIJUANA PRODUCTS, IN ACCORDANCE WITH ORDINANCE NO. 29, SERIES 2013, WHICH IS HEREBY APPROVED; AND SHALL THE REVENUE RECEIVED BY THE TOWN FROM

THE COLLECTION OF SUCH NEW TAX BE USED TO PAY OR REIMBURSE THE TOWN FOR DIRECT AND INDIRECT COSTS INCURRED OR EXPENDED BY THE TOWN FOR ADEQUATE TRAINING, ENFORCEMENT, AND ADMINISTRATION OF ALL APPLICABLE MARIJUANA LAWS AND REGULATIONS, TO SUPPORT LOCAL DRUG AND ALCOHOL PROGRAMS AND FACILITIES, AND FOR OTHER GENERAL PURPOSES OF THE TOWN; AND SHALL THE TOWN BE AUTHORIZED TO COLLECT AND SPEND SUCH REVENUE AS A VOTER APPROVED REVENUE CHANGE UNDER ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION ?

YES \_\_\_\_\_

NO \_\_\_\_\_

Section 3. In connection with the fixing of the ballot title for the Ballot Issue, 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 Ballot Issue will be clear to the electors.

C. The ballot title for the Ballot Issue will not conflict with those titles selected for any other measure that will appear on the municipal ballot at the November 5, 2013 special Town election; and

D. The ballot title for the Ballot Issue 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, the amendments to the Breckenridge Town Code set forth in full in Section 1 of this ordinance shall be deemed to have been adopted and shall become effective January 1, 2014, and on such date the Town of Breckenridge shall be authorized to collect, retain, and expend the full amount of the tax revenues collected by the Town as a result of the new excise tax approved by the Ballot Issue separate and apart from any other expenditures of the Town which may be limited pursuant to Article X, Section 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 Issue 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 of this ordinance shall be deemed to have been defeated, and such amendments to the Breckenridge Town Code shall not become effective, but the excise tax on the sale of medical marijuana and medical marijuana-infused products approved by the electors of the Town on November 1, 2011 shall continue in full force and effect notwithstanding the defeat of the Ballot Issue.

Section 5. The special Town election on November 5, 2013 to consider the Ballot Issue 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. 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 Issue is ratified, confirmed, and approved.

Section 7. 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 Section 20(3)(b) of Article X of the Colorado Constitution to be prepared and delivered in accordance with the requirements of applicable law.

Section 8. 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 9. The Town Council 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 10. The Town Council 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. Pursuant to Section 6.1(b) of the Breckenridge Town Charter, this ordinance is not subject to the people's reserved power of referendum because it calls a special election.

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 9th day of July, 2013.

This ordinance was published in full on the Town of Breckenridge website on July 11, July 12, July 13, July 14 and July 15, 2013.

A public hearing on this ordinance was held on July 23, 2013.

READ, ADOPTED ON SECOND READING AND ORDERED PUBLISHED IN FULL ON THE  
TOWN'S WEBSITE this 23rd day of July, 2013. A copy of this Ordinance is available for  
inspection in the office of the Town Clerk.

ATTEST:

TOWN OF BRECKENRIDGE

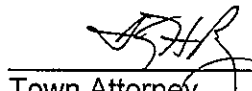


Helen Cospolich, Town Clerk



John G. Warner, Mayor

APPROVED IN FORM



Town Attorney

7/23/13

Date

This Ordinance was published on the Town of Breckenridge website on July 26, July 27, July 28, July 29 and July 30, 2013. This ordinance shall become effective on August 29, 2013.