

ORDINANCE NO. 31

Series 2013

AN ORDINANCE REPEALING AND READOPTING WITH CHANGES CHAPTER 1 OF TITLE 3 OF THE BRECKENRIDGE TOWN CODE, KNOWN AS THE "TOWN OF BRECKENRIDGE SALES TAX ORDINANCE"; AND MAKING RELATED AMENDMENTS TO THE BRECKENRIDGE TOWN CODE

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

Section 1. The Town Council finds, determines, and declares as follows:

A. The Town of Breckenridge Sales Tax Ordinance imposes a tax on the sale of tangible personal property at retail and the provision of certain taxable services as authorized by Colorado law.

B. Section 3-1-38 of the Breckenridge Town Code, which is part of the Town of Breckenridge Sales Tax Ordinance, provides as follows:

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

C. This ordinance does not change the sales tax rate established by the Town of Breckenridge Sales Tax Ordinance, or expand the sales tax base of the Town.

D. The Financial Services Manager has certified to the Town Council that he reasonably anticipates that this ordinance will be revenue neutral, in that the ordinance is not necessarily expected to result in a net tax revenue gain to the Town.

E. This ordinance is enacted primarily to update the Town's sales tax administration, collection and enforcement procedures, and not to raise additional taxes.

F. The adoption of this ordinance does not result in a new tax, a tax rate increase, or a tax policy change directly causing a net tax revenue gain to the Town within the meaning of Article X, §20 of the Colorado Constitution.

Section 2. Chapter 1 of Title 3 of the Breckenridge Town Code is repealed and readopted with changes to as to read in its entirety as follows:

CHAPTER 1

SALES TAX

SECTION:

- 3-1-1: LEGISLATIVE INTENT
- 3-1-2: DEFINITIONS
- 3-1-3: TAXABLE TRANSACTIONS AND ITEMS
- 3-1-4: ITEMS EXEMPT FROM TAX
- 3-1-5: SCHEDULE OF TAX
- 3-1-6: SALES TAX, NONAPPLICABILITY
- 3-1-7: RETAILER RESPONSIBLE FOR PAYMENT OF TAX
- 3-1-8: ACQUISITION, INCEPTION, AND CESSATION OF BUSINESS
- 3-1-9: RETAILER TO COLLECT TAX
- 3-1-10: TAX ON CREDIT SALES, ETC.
- 3-1-11: SALES TAX, CREDIT FOR SALES OR USE TAXES PREVIOUSLY PAID TO ANOTHER MUNICIPALITY
- 3-1-12: CLAIMS FOR RECOVERY
- 3-1-13: EXEMPTION; BURDEN OF PROOF
- 3-1-14: EXCESS COLLECTIONS
- 3-1-15: UNLAWFUL TO ASSUME OR ABSORB TAX
- 3-1-16: SPECIAL ACCOUNTING BASIS FOR REMITTANCE OF TAX
- 3-1-17: DUTY TO KEEP BOOKS AND RECORDS

- 3-1-18: INVESTIGATION OF BOOKS
- 3-1-19: COORDINATED AUDIT
- 3-1-20: STATUTE OF LIMITATIONS
- 3-1-21: SUBPOENAS
- 3-1-22: LICENSES FOR RETAIL SELLERS
- 3-1-23: SALES TAX LICENSES; APPLICATION AND CONTENT
- 3-1-24: DENIAL OF LICENSE
- 3-1-25: SALE AT RETAIL WITHOUT LICENSE
- 3-1-26: REVOCATION OF LICENSE
- 3-1-27: APPEAL
- 3-1-28: WHEN LICENSE NOT REQUIRED
- 3-1-29: MAP OR LOCATION GUIDE OF TOWN BOUNDARIES
- 3-1-30: COLLECTION AND REFUND OF DISPUTED TAX
- 3-1-31: REFUNDS
- 3-1-32: RECOVERY OF TAXES, PENALTY AND INTEREST
- 3-1-33: FAILURE TO COLLECT AND PAY OVER TAX, ATTEMPTING TO EVADE OR DEFEAT TAX
- 3-1-34: IMPOSITION OF CIVIL PENALTY ON RESPONSIBLE PARTIES
- 3-1-35: AUTHORITY OF FINANCIAL SERVICES MANAGER TO REQUIRE IMMEDIATE PAYMENT OF TAX
- 3-1-36: TAX LIEN; EXEMPTION FROM LIEN
- 3-1-37: NEGLIGENT OR INTENTIONAL TAX DEFICIENCY
- 3-1-38: INTEREST RATE ON DELINQUENT TAXES
- 3-1-39: INTEREST ON UNDERPAYMENT, OVERPAYMENT, NONPAYMENT OR EXTENSIONS OF TIME FOR PAYMENT OF TAX
- 3-1-40: OTHER REMEDIES
- 3-1-41: HEARINGS BY FINANCIAL SERVICES MANAGER
- 3-1-42: REVIEW BY DISTRICT COURT
- 3-1-43: ALTERNATIVE REVIEW BY DEPARTMENT OF REVENUE
- 3-1-44: AMENDMENTS
- 3-1-45: NOTICE OF SALES AND USE TAX ORDINANCE AMENDMENT
- 3-1-46: UNLAWFUL ACTS:

3-1-1: LEGISLATIVE INTENT:

It is the intent of this chapter that every person in the town who purchases at retail or leases any tangible personal property or purchases a taxable service as defined by this chapter is exercising a taxable privilege. All sales, leases, and purchases of "tangible personal property" as defined in this chapter are taxable unless specifically exempted in this chapter. The sales tax imposed on tangible personal property by this chapter applies to each transfer of ownership, possession, and control of such property and may occur more than once during the life of the property.

3-1-2: DEFINITIONS:

A. When not clearly indicated otherwise by the context, the following words and phrases, as used in this chapter, shall have the following meanings:

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| ACCESS SERVICE: | The services furnished by a local exchange company to its customers who provide telecommunications services which allow them to provide such telecommunications services. |
| 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. |
| AUCTION: | Any sale where tangible personal property is sold by an auctioneer who is either the agent for the owner of such property or is in fact the owner thereof. |
| AUTOMOTIVE VEHICLE: | Any vehicle or device in, upon, or by which any person or property is or may be transported or drawn upon a public highway, or any device used or designed for aviation or flight in the air. "Automotive vehicles" includes, but is not limited to, motor vehicles, trailers, |

semitrailers, or mobile homes. "Automotive vehicle" shall not include devices moved by human power or used exclusively upon stationary rails or tracks.

BUSINESS:

All activities engaged in, or caused to be engaged in, with the object of gain, benefit or advantage, direct or indirect.

CHARITABLE ORGANIZATION:

Any entity which: a) has been certified as a not for profit organization under section 501(c)(3) of the internal revenue code, and b) is a religious or charitable organization. As used in this definition, a "charitable organization" is an organization which exclusively, and in a manner consistent with existing laws and for the benefit of an indefinite number of persons, freely and voluntarily ministers to the physical, mental or spiritual needs of persons, and which thereby lessens the burdens of government.

CONSTRUCTION MATERIALS:

Tangible personal property which, when combined with other tangible personal property, loses its identity to become an integral and inseparable part of a completed structure or project including public and private improvements. Construction materials include, but are not limited to, such things as: asphalt, bricks, builder's hardware, caulking material, cement, concrete, conduit, electric wiring and connections, fireplace inserts, electrical heating and cooling equipment, flooring, glass, gravel, insulation, lathe, lead, lime, lumber, macadam, millwork, mortar, oil, paint, piping, pipe valves and pipe fittings, plaster, plumbing fixtures, putty, reinforcing mesh, road base, roofing, sand, sanitary sewer pipe, sheet metal, site lighting, steel, stone, stucco, tile, trees, shrubs and other landscaping materials, wallboard, wall coping, wallpaper, weather stripping, wire netting and screen, water mains and meters and wood preserver. The above materials, when used for forms, or other items which do not remain as an integral or inseparable part of a completed structure or project, are not construction materials.

CONSUMER:

- A. Any individual person; or
- B. Any person engaged in business in the town who uses, stores, distributes or otherwise consumes in the town tangible personal property or taxable services purchased from sources inside or outside the town.
- C. Any person residing or engaged in business in the town who is an end user of software that was purchased, leased, rented, or subscribed from sources inside or outside the town.

COMPONENTS USED IN SOLAR THERMAL SYSTEMS:

- A. Solar collectors including flat-plate collectors, evacuated tube collectors, solar air collectors, and concentrating solar thermal collectors;
- B. Tanks for the storage of gases or liquids that have been heated or cooled by solar-generated energy;
- C. Pumps, impellers, and fans for circulation of gases or liquids that have been heated or

- cooled by solar-generated energy;
- D. Heat exchangers used to transfer solar-generated energy;
- E. Support structures, racks, and foundations for any components listed in subparagraphs A to D of this definition and
- F. Any other system components such as piping, valves, gauges, fittings, insulation, and controls for any components listed in subparagraphs A to D of this definition.

COMPONENTS USED IN THE PRODUCTION OF ALTERNATING CURRENT ELECTRICITY FROM A RENEWABLE ENERGY SOURCE:

A. Included, but is not limited to, wind turbines, rotors and blades, solar modules, trackers, generating equipment, supporting structures or racks, inverters, towers and foundations, balance of system components such as wiring, control systems, switchgear, and generator step-up transformers, and concentrating solar power components that include, but are not limited to, mirrors, plumbing, and heat exchangers.

B. Shall not include any components beyond the point of generator step-up transformers located at the production site, labor, energy storage devices, or remote monitoring systems.

COVER CHARGE:

An admission charge made by a nightclub or similar entertainment establishment which may, or may not, entitle the patron paying such charge to receive tangible personal property, such as food and/or beverages.

DATA PROCESS EQUIPMENT:

Any equipment or system of equipment used in the storage, manipulation, management, display, reception or transmission of information including, but not limited to, computers, software, hardware or firmware.

DATA PROCESSING PROGRAMS:

Systems or applications that organize or manipulate data including, but not limited to, software, software as a service and internet subscription services.

DRUGS DISPENSED IN ACCORDANCE WITH A PRESCRIPTION:

Drugs dispensed in accordance with any order in writing, dated and signed by a licensed practitioner of the healing arts, or given orally by a practitioner, and immediately reduced to writing by the pharmacist, assistant pharmacist or pharmacy intern, specifying the name and address of the person for whom the medicine, drug or poison is offered and directions, if any, to be placed on the label.

ENGAGED IN BUSINESS IN THE TOWN:

Performing or providing services or selling, leasing, renting, delivering or installing tangible personal property for storage, use or consumption within the town. "Engaged in business in the town" includes, but is not limited to, any one of the following activities by a person:

A. Directly, indirectly or by a subsidiary maintains a building, store, office, salesroom, warehouse, or other place of business within the taxing jurisdiction;

B. Sends one or more employees, agents or commissioned salespersons into the taxing jurisdiction to solicit business or to install, assemble, repair, service or assist in the use of its products, or for demonstration or other reasons;

C. Maintains one or more employees, agents or commissioned salespersons on duty at a location within the taxing jurisdiction;

D. Owns, leases, rents or otherwise exercises control over real or personal property within the taxing jurisdiction; or

E. Makes more than one delivery into the taxing jurisdiction within a twelve (12) month

EXEMPT COMMERCIAL
PACKAGING MATERIALS:

period.

Containers, labels and shipping cases sold to a person engaged in manufacturing, compounding, wholesaling, jobbing, retailing, packaging, distributing or bottling for sale, profit or use that meets all of the following conditions:

- A. Is used by the manufacturer, compounder, wholesaler, jobber, retailer, packager, distributor or bottler to contain or label the finished product;
- B. Is transferred by said person along with and as part of the finished product to the purchaser; and
- C. Is not returnable to said person for reuse.

FINANCIAL SERVICES
MANAGER:

The financial services manager of the town or such other person designated by the municipality; financial services manager" shall also include such person's designee.

GROSS SALES:

The total amount received in money, credit, property or other consideration valued in money for all sales, leases or rentals of tangible personal property or services.

LICENSE:

A town sales and accommodation tax license.

LIMITED LIABILITY COMPANY:

A limited liability company organized under Colorado law, or a limited liability company organized under the laws of another state.

LOCAL EXCHANGE COMPANY:

Any person which provides public telephone or telecommunication exchange access liens, mobile telecommunications or channels necessary to effect the transfer of two-way voice or data grade information between the final user and the local telecommunications network.

LODGING SERVICES:

The furnishing, for a consideration, of a room or other accommodation in a hotel, inn, bed and breakfast establishment, apartment hotel, lodging house, condominium, condominium hotel, motor hotel, guesthouse, guest ranch, trailer coach, mobile home, auto camp, trailer court or trailer park, for a period less than thirty (30) consecutive days, under any rental agreement, concession, permit, right of access, license to use or other agreement, or otherwise, whereby any person uses, possesses or has the right to use or possess any such room or accommodation.

MEDICAL SUPPLIES:

Drugs, as ~~regulated~~ approved by the FDA, and dispensed by a pharmacist for humans in accordance with a prescription; insulin in all its forms dispensed pursuant to the direction of a licensed physician; glucose usable for treatment of insulin reactions; urine and blood testing kits and materials; insulin measuring and injecting devices. Including hypodermic syringes and needles; prosthetic devices; wheelchairs and hospital beds; drugs or materials when furnished by a doctor as part of professional services provided to a patient; and corrective eyeglasses, contact lenses, or

hearing aids. Medical marijuana is not a medical supply.

MOBILE MACHINERY AND SELF-PROPELLED CONSTRUCTION EQUIPMENT:

Those vehicles, self-propelled or otherwise, which are not designed primarily for the transportation of persons or cargo over the public highways, and those motor vehicles which may have originally been designed for the transportation of persons or cargo over the public highways, and those motor vehicles which may have originally been designed for the transportation of persons or cargo but which have been redesigned or modified by the mounting thereon of special equipment or machinery, and which may be only incidentally operated or moved over the public highways. This definition includes, but is not limited to, wheeled vehicles commonly used in the construction, maintenance, and repair of roadways, the drilling of wells and the digging of ditches.

NEWSPAPER:

A publication, printed on newsprint, intended for general circulation, and published regularly at short intervals, containing information and editorials on current events and news of general interest. The term newspaper does not include: magazines, trade publications or journals, credit bulletins, advertising inserts, circulars, directories, maps, racing programs, reprints, newspaper clipping and mailing services or listings, publications that include an updating or revision service, or books or pocket editions of books.

PAY TELEVISION:

Shall include, but not be limited to, cable, microwave or other television service for which a charge is imposed.

PERSON:

Any individual, firm, partnership, joint venture, corporation, limited liability company, estate or trust, receiver, trustee, assignee, lessee or any person acting in a fiduciary or representative capacity, whether appointed by court or otherwise, or any group or combination acting as a unit.

PRICE OR PURCHASE PRICE:

A. The price to the consumer, exclusive of any direct tax imposed by the federal government or by this article, and, in the case of all retail sales involving the exchange of property, also exclusive of the fair market value of the property exchanged at the same time and place of the exchange if:

1. Such exchanged property is to be sold thereafter in the usual course of the retailer's business, or
2. Such exchanged property is a vehicle and is exchanged for another vehicle and both vehicles are subject to licensing, registration, or certification under the laws of this state, including, but not limited to, vehicles operating upon public highways, off highway recreation vehicles, watercraft, and aircraft. Any money or other consideration paid over and above the value of the exchanged property is subject to tax.

- B. "Price" or "purchase price" includes:
1. The amount of money received or due in cash and credits.
 2. Property at fair market value taken in exchange but not for resale in the usual course of the retailer's business.
 3. Any consideration valued in money, such as trading stamps or coupons whereby the manufacturer or someone else reimburses the retailer for part of the purchase price and other media of exchange.
 4. The total price charged on credit sales including finance charges which are not separately stated. An amount charged as interest on the unpaid balance of the purchase price is not part of the purchase price unless the amount added to the purchase price is included in the principal amount of a promissory note; except the interest or carrying charge set out separately from the unpaid balance of the purchase price on the face of the note is not part of the purchase price. An amount charged for insurance on the property sold and separately stated is not part of the purchase price.
 5. Installation, delivery and wheeling-in charges included in the purchase price and not separately stated.
 6. Transportation and other charges to effect delivery of tangible personal property to the purchaser.
 7. Indirect federal manufacturers' excise taxes, such as taxes on automobiles, tires and floor stock.
 8. The gross purchase price of articles sold after manufacturing or after having been made to order, including the gross value of all the materials used, labor and service performed and the profit thereon.
 9. Software license fees.

- C. "Price" or "purchase price" shall not include:
1. Any sales or use tax imposed by the state of Colorado or by any political subdivision thereof.
 2. The fair market value of property exchanged if such property is to be sold thereafter in the retailers usual course of business. This is not limited to exchanges in Colorado. Out of state trade ins are an allowable adjustment to the purchase price.
 3. Discounts from the original price if such discount and the corresponding decrease in sales tax due is actually passed on to the purchaser. An anticipated discount to be allowed for payment on or before a given date is not an allowable adjustment to the price in reporting gross sales.

PROSTHETIC DEVICES:

Any artificial limb, part, device or appliance for human use which aids or replaces a bodily function; is designed, manufactured, altered or adjusted to fit a particular individual; and is prescribed by a licensed practitioner of the healing arts. Prosthetic devices include, but are not limited to, prescribed auditory, ophthalmic or ocular, cardiac, dental, or orthopedic devices or appliances, oxygen

concentrators and oxygen with related accessories.

PURCHASE OR SALE:

A. The acquisition for any consideration by any person of tangible personal property or taxable services that are purchased, leased, rented, sold, used, stored, distributed, or consumed, but excludes a bona fide gift of property or services. These terms include capital leases, installment and credit sales, and property and services acquired by:

1. Transfer, either conditionally or absolutely, of title or possession or both to tangible personal property;
2. A lease, lease-purchase agreement, rental or grant of a license, including royalty agreements, to use tangible personal property or taxable services. The utilization of coin operated devices, except coin operated telephones, which do not vend articles of tangible personal property shall be considered short term rentals of tangible personal property;
3. Performance of taxable services; or
4. Barter or exchange for other property or services including coupons.

B. The terms "purchase" and "sale" do not include:

1. A division of partnership assets among the partners according to their interests in the partnership;
2. The formation of a corporation by the owners of a business and the transfer of their business assets to the corporation in exchange for all the corporation's outstanding stock, except qualifying shares, in proportion to the assets contributed;
3. The transfer of assets of shareholders in the formation or dissolution of professional corporations;
4. The dissolution and the pro rata distribution of the corporation's assets to its stockholders;
5. A transfer of a partnership interest;
6. The transfer in a reorganization qualifying under section 368(a)(1) of the internal revenue code of 1954, as amended;
7. The formation of a partnership by the transfer of assets to the partnership or transfers to a partnership in exchange for proportionate interests in the partnership;
8. The repossession of personal property by a chattel mortgage holder or foreclosure by a lienholder;
9. The transfer of assets from a parent corporation to a subsidiary corporation or corporations which are owned at least eighty percent (80%) by the parent corporation, which transfer is solely in exchange for stock or securities of the subsidiary corporation;
10. The transfer of assets from a subsidiary corporation or corporations which are owned at least eighty percent (80%) by the parent corporation to a parent corporation or to another subsidiary which is owned at least eighty percent (80%) by the parent corporation, which transfer is solely in exchange for stock or securities of the parent

corporation or the subsidiary which received the assets;

11. The transfer of assets between parent and closely held subsidiary corporations, or between subsidiary corporations closely held by the same parent corporation, or between corporations which are owned by the same shareholders in identical percentage of stock ownership amounts, computed on a share by share basis, when a tax imposed by this article was paid by the transferor corporation at the time it acquired such assets, except to the extent that there is an increase in the fair market value of such assets resulting from the manufacturing, fabricating, or physical changing of the assets by the transferor corporation. To such extent any transfer referred to in this section B11 shall constitute a sale. For the purposes of this section B11, a closely held subsidiary corporation is one in which the parent corporation owns stock possessing at least eighty percent (80%) of the total combined voting power of all classes of stock entitled to vote and owns at least eighty percent (80%) of the total number of shares of all other classes of stock.

RELIGIOUS ORGANIZATION:

An organization which has qualified for tax exempt status as a religious organization under section 501(c)(3) of the internal revenue department and the accompanying regulations, and which is described in section 170(C) of the internal revenue code.

RETAIL SALES:

All sales except wholesale sales.

RETAILER:

Any person selling, leasing or renting tangible personal property or services at retail. Retailer shall include any:

- A. Auctioneer;
- B. Salesperson, representative, peddler or canvasser, who makes sales as a direct or indirect agent of or obtains such property or services sold from a dealer, distributor, supervisor or employer;
- C. Charitable organization or governmental entity which makes sales of tangible personal property to the public, notwithstanding the fact that the merchandise sold have been acquired by gift or donation or that the proceeds are to be used for charitable or governmental purposes.

RETURN:

The sales and accommodation tax reporting form used to report sales and accommodation tax.

SALES TAX:

The tax to be collected and remitted by a retailer on sales taxed under this code.

SCHOOL:

An educational organization which normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on.

SOFTWARE:

The internalized instruction code which

controls the basic operations (i.e., arithmetic and logic) of the computer, causing it to execute instructions contained in system programs, as an integral part of the computer. It is not normally accessible or modifiable by the user. A software program is one in which instructions and routines (programs) are determined necessary to program the customer's electronic data processing equipment to enable the customer to accomplish specific functions with his EDP system. The software may be in the form of:

- A. Systems programs (except for the instruction codes which are considered tangible personal property in this definition) - programs that control the hardware itself and allow it to compile, assemble and process application programs.
- B. Application programs - programs that are created to perform business functions or control or monitor processes.
- C. Prewritten (canned) - programs that are either systems programs or application programs in which the base program is not written specifically for the user.

SOFTWARE AS A SERVICE:	Software that is rented, leased or subscribed to from a provider at the consumer's location, including but not limited to applications, systems or programs.
SOFTWARE LICENSE FEE:	A fee charged for the right to use, or maintain a copy of, software, regardless of the form of the software.
SOFTWARE MAINTENANCE AGREEMENT:	An agreement, typically with a software provider, that may include (A) provisions to maintain the right to use the software; (B) provisions for software upgrades including code updates, version updates, code fix modifications, enhancements, and added or new functional capabilities loaded into existing software, or (C) technical support.
SOLAR THERMAL SYSTEM:	A system whose primary purpose is to use energy from the sun to produce heat or cold for: <ul style="list-style-type: none">A. Heating or cooling a residential or commercial building;B. Heating or cooling water; orC. Any industrial, commercial, or manufacturing process.
TANGIBLE PERSONAL PROPERTY:	Corporeal personal property.
TAX:	The sales tax due from a retailer.
TAX DEFICIENCY:	Any amount of tax that is not reported or not paid on or before the due date.
TAXABLE SALES:	Gross sales less any exemptions and deductions specified in this chapter.
TAXABLE SERVICES:	Services subject to tax pursuant to this chapter.
TAXPAYER:	Any person obligated to collect and/or pay tax under the terms of this chapter.

TELECOMMUNICATIONS SERVICE:

The transmission or facilitation of any two-way interactive electromagnetic communications including, but not limited to, voice, image, data and any other information, by the use of any means but not limited to wire, cable, fiber optical cable, microwave, radio wave, Voice over Internet Protocol (VoIP), remote access to computers and electronic storage equipment, or any combinations of such media. "Telecommunications service" includes, but is not limited to, basic local exchange telephone service, toll telephone service and teletypewriter service, including, but not limited to, residential and business service, directory assistance, cellular mobile telephone or telecommunication service, specialized mobile radio and two-way pagers and paging service, including any form of mobile two-way communication. Telecommunications service does not include separately stated nontransmission services which constitute computer processing applications used to act on the information to be transmitted.

THERAPEUTIC DEVICE:

Devices, appliances, or related accessories that are sold to correct or treat a human physical disability or surgically created abnormality; if such device, appliance or related accessory has a retail value of more than one hundred dollars (\$100.00), it must be sold in accordance with a written recommendation from a licensed doctor to qualify as a "therapeutic device" for purposes of this chapter.

TOTAL TAX LIABILITY:

The total of all tax, penalties or interest owed by a taxpayer and shall include sales tax collected in excess of such tax computed on total sales.

TOWN:

The town of Breckenridge, Colorado.

VENDING MACHINE:

Any device operated by coins, currency, or any substitute therefor.

WHOLESALE SALES:

Sales to licensed retailers, jobbers, dealers or wholesalers for resale. Sales by wholesalers to consumers are not wholesale sales. Sales by wholesalers to nonlicensed retailers are not wholesale sales.

WHOLESALER:

Any person selling to retailers, jobbers, dealers, or other wholesalers, for resale, and not for storage, use, consumption or distribution.

B. Wherever applicable, the pronouns in this chapter designating the masculine or neuter apply equally to the feminine, neuter, and masculine genders.

C. Wherever applicable in this chapter, the singular includes the plural, and the plural includes the singular.

3-1-3: TAXABLE TRANSACTIONS AND ITEMS:

There is hereby levied and shall be collected and paid a tax in the amount stated in section 3-1-

5 of this chapter, as follows:

- A. On the purchase price paid or charged upon all sales, purchases, rentals and leases of any duration of tangible personal property at retail, whether or not such property has been included in a previous taxable transaction.
- B. All sales are consummated at the place of business of the retailer unless the property sold is delivered by the retailer, his agent, a common carrier, or by mail. In the event of such delivery, the sale is consummated at the place of delivery.
- C. In the case of retail sales involving the exchange of property, on the purchase price paid or charged, including the fair market value of the property exchanged at the time and place of the exchange, excluding, however, from the consideration or purchase price the fair market value of the exchanged property, provided such exchanged property is to be sold thereafter in the usual course of the retailer's business.
- D. Upon telecommunication services including access services sold by local telephone exchange companies to providers of telecommunication services for use in providing such services for all intrastate telecommunication services originating from or received on telecommunication equipment in the town if the charge for the service is billed to a person in the town or billed to an affiliate or division of such person in the town on behalf of a person in the town.
- E. Upon access services sold by local telephone exchange companies to providers of telecommunication services for use in providing such services, whether furnished by public or private corporations or enterprises for all interstate telecommunication services originating from or received on telecommunication equipment in the town if the charge for the service is billed to a person in the town, or billed to an affiliate or division of such person in the town on behalf of a person in the town.
- F. Upon gas and electric service, whether furnished by municipal, public or private corporations or enterprises, and upon gas and electricity furnished and sold for domestic and commercial consumption and not for resale and upon steam when consumed or used by the purchaser and not resold in original form whether furnished or sold by municipal, public or private corporations or enterprises, if the charge is billed to a person in town.
- G. Upon the entire amount charged to any person or persons for lodging services.
- H. Upon the amount paid for all meals and beverages furnished in any restaurant, eating house, hotel, drugstore, club, resort, hospital, or other such place at which meals or food are regularly sold.
- I. Upon cover charges, if tangible personal property, such as food and/or beverages, is received as consideration for the amount paid.
- J. Upon all sales of food.
- K. Upon the sale, lease or transfer of computer programs (software).
- L. Upon pay, cable or subscription television services sold, purchased, leased, rented, furnished or used, including any equipment rentals furnished as a part of the price or separately stated, if the charge is billed to a person in the town.
- M. Upon pre-written (canned) software that is sold, licensed for use, subscribed to, leased or rented when delivered electronically or by any other method. Software is deemed to be used within the town if one of the following is true:
 - A. The end-user of the software is engaged in business in the town or resides in the town while using or accessing the software; or
 - B. The server or other computer equipment upon which the software, electronic files or electronic data reside or are maintained is located within the town.
- N. Software Maintenance Agreements when:
 - A. The agreement is mandatory to maintain the right to use the associated software: or
 - B. The agreement includes software upgrades and the cost for upgrading is not

separately calculated and stated from other aspects; or

C. The agreement includes technical support and the cost associated with technical support is not separately stated or calculated.

O. Upon software as a service, data processing equipment and data processing programs.

P. Upon sales of tangible personal property by a Retailer-Contractor, when acting as a retailer, shall be subject to sales tax on the total sales price.

Q. Upon the retail sale of medical marijuana and marijuana-infused products pursuant to the Colorado Medical Marijuana Code, Article 43.3 of Title 12, C.R.S.,

R. Upon the sale of retail marijuana or marijuana products pursuant to the Colorado Retail Marijuana Code, Article 43.4 of Title 12, C.R.S.

3-1-4: ITEMS EXEMPT FROM TAX:

There shall be exempt from taxation under the provisions of this chapter the following:

A. All sales to the United States government, to the state, its departments and institutions, and the political subdivisions thereof in their governmental capacities only when billed to and paid for by the governmental entity.

B. All sales made to "charitable organizations" as defined in section 3-1-2 of this chapter, in the conduct of their charitable functions only when billed to and paid for by the charitable organization.

C. All sales made to "religious organizations" as defined in section 3-1-2 of this chapter, in the conduct of their religious functions only when billed to and paid for by the religious organization.

D. All sales which the town is prohibited from taxing under the constitution or laws of the United States or the state.

E. Food for domestic home consumption, as defined in 7 USC section 2012(g) as amended, for purposes of the federal food stamp program as defined in 7 USC section 2012(h), as amended, purchased with food stamps pursuant to the federal food stamp program; or food purchased with WIC vouchers or checks pursuant to the federal special supplemental program for women, infants and children.

F. Cover charges, if the amount paid is strictly for admission to the vendor's place of business and tangible personal property, such as food and/or beverages, is not received as consideration for the amount paid.

G. All sales of cigarettes.

H. All sales made to schools, other than schools held or conducted for private or corporate profit.

I. All sales of motor fuel upon which there has accrued or has been paid the motor fuel tax prescribed by parts one and two of chapter 26 of title 39, Colorado Revised Statutes.

J. When utilized for the purpose of constructing tangible personal property for resale, or for improving real property. Sales to and purchases of tangible personal property by a person engaged in the business of manufacturing, compounding for sale, profit or use, any article, substance, commodity, which tangible personal property enters into the processing of or becomes an ingredient or component part of the product or service which is manufactured, compounded or furnished and the container, label or the furnished shipping cases thereof, shall be deemed to be wholesale sales and shall be exempt from taxation under this chapter.

K. Sales of "exempt commercial packaging materials" as defined in section 3-1-2 of this chapter.

L. When utilized for the purpose of constructing tangible personal property for resale, or for improving real property. Sales and purchases of electricity, coal, fuel, oil, gas or coke for use in processing, manufacturing, mining, refining, irrigation, building construction, telegraph, telephone and radio communication, street and railroad transportation services and all industrial uses, as well as the newsprint and printers ink for use by publishers of newspapers and

commercial printers, shall be deemed to be wholesale sales and shall be exempt from taxation under this chapter.

M. All sales and purchases of automotive vehicles which are required to be registered under the Colorado motor vehicle laws whether new or used under the following conditions:

1. The purchaser is not a resident of the town, and
2. The vehicle or mobile home is to be registered under an address outside of the town and will be primarily housed, located or occupied at such address or other place outside the town.

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.

O. Drugs, medical devices:

1. All sales of "medical supplies" as defined in section 3-1-2 of this chapter.
2. All sales of "therapeutic devices" as defined in section 3-1-2 of this chapter.
3. All sales of "prosthetic devices" as defined in section 3-1-2 of this chapter.

P. Fifty percent (50%) of the purchase price of: 1) factory built housing (including mobile homes), as such housing is defined in section 24-32-703(3), Colorado Revised Statutes, and of 2) other buildings or structures including conventional buildings shall be exempt from taxes under the provisions of this chapter; except that the entire purchase price in any subsequent sale of factory built houses or other buildings severed from real estate after such housing or severed building has once been subject to the payment of sales or use tax under the provisions of this chapter shall be exempt from taxes under the provisions of this chapter.

Q. The transfer of tangible personal property without consideration (other than the purchase, sale or promotion of the transferor's product) to an out of state vendee for use outside of this state in selling products normally sold at wholesale by the transferor.

R. The sale of tangible personal property for testing, modification, inspection, or similar type of activities in this state if the ultimate use of such property in manufacturing or similar type of activities occurs outside of this state and if the test, modification, or inspection period does not exceed ninety (90) days.

S. Any sale of any article to a retailer or vendor of food, meals, or beverages, which article is to be furnished to a consumer or user for use with articles of tangible personal property purchased at retail, if a separate charge is not made for the article to the consumer or user, if such article becomes the property of the consumer or user, together with the foods, meals or beverages purchased, and if a tax is paid on the retail sale as required by section 3-1-3H of this chapter.

T. Any sale of any container or bag to a retailer or vendor of food, meals, or beverages, which container or bag is to be furnished to a consumer or user for the purpose of packaging or bagging articles of tangible personal property purchased at retail, if a separate charge is not made for the container or bag to the consumer or user, together with the food, meals or beverages purchased, and if a tax is paid on the retail sales as required in section 3-1-3 of this chapter.

U. All transactions specified in section 3-1-3C of this chapter in which the fair market value of the exchanged property is excluded from the consideration or purchase price because such exchanged property is covered by section 3-1-3A or C of this chapter, and in which, because there is no additional consideration involved in the transaction, there is no purchase price within the meaning of section 3-1-2 of this chapter.

V. All sales of construction materials to contractors and subcontractors for use in the building, erection, alteration, or repair of structures, highways, roads, streets, and other public works owned and used by:

1. The United States government, the state, its departments and institutions, the political subdivisions thereof in their governmental capacities only;
2. Charitable organizations, as defined in section 3-1-2 of this chapter, in the conduct of their regular charitable functions and activities; or
3. Schools, other than schools held or conducted for private or corporate profit.

W. All sales of newspapers as defined in section 3-1-2 of this chapter.

X. All sales of customized software where the design or writing of a computer program is for a specific application of an individual user.

Y. All sales, storage, of components used in photovoltaic or solar thermal systems and in the production of alternating current electricity from a renewable energy source, including but not limited to wind, as defined in section 3-1-2 of this chapter.

Z. All occasional sales by a charitable organization under the following conditions:

1. The sale of tangible personal property or concessions by the charitable organization takes place no more than ninety days, whether consecutive or not, during any one calendar year;

2. The funds raised by the charitable organization through these sales are retained by the organization to be used in the course of the organization's charitable service; and

3. The funds raised in town by the charitable organization through these sales do not exceed twenty-five thousand dollars during any calendar year.

AA. All sales of tangible personal property by a school, other than schools held or conducted for private or corporate profit, under the condition that the funds raised by the school are retained by the organization to be used in the course of the school's service.

BB. All sales of tangible personal property, except automotive vehicles, at garage sales, yard sales or estate sales; provided that such sales are conducted no more than three times a year, each sale is limited to a maximum of 3 days in duration, that the sale occurs at the residence of the seller and that the property to be sold was originally purchased for use by members of the household where such sale is being conducted.

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 of this chapter and not exempt therefrom as specified in section 3-1-4 of this chapter 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 cents (\$0.25) shall not be taxable.

3-1-6: SALES TAX, NONAPPLICABILITY:

For transactions consummated on or after January 1, 1986, the Breckenridge sales tax shall not apply to the sale of construction and building materials, as the term is used in section 29-2-109, Colorado Revised Statutes, if such materials are picked up by the purchaser and if the purchaser of such materials presents to the retailer a building permit or other documentation acceptable to the town evidencing that a local use tax has been paid or is required to be paid.

3-1-7: RETAILER RESPONSIBLE FOR PAYMENT OF TAX:

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 (2 ½ %) 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 financial services manager 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 financial services manager.

B. Every retailer or vendor conducting a business in which the transaction between the vendor and the consumer consists of the supply of tangible personal property and services in connection with the maintenance or servicing of same, shall be required to pay the tax levied under this chapter on the full contract price, unless application is made to the financial services manager for permission to use a percentage basis of reporting the tangible personal property sold and the services supplied under such contract. The financial services manager is hereby authorized to determine the percentage based on the ratio of the tangible personal property included in the consideration as it bears to the total of the consideration paid under said combination contract or sale which shall be subject to the tax levied pursuant to the provisions of this chapter. This section shall not be construed to include terms upon which the tax is imposed on the full purchase price as defined herein.

3-1-8: Acquisition, inception or cessation of business:

A. Acquisition of an existing business.

1. Seller's responsibilities. Any person engaged in business in the town who sells such business shall file a final return. The reporting period for such return shall end on the date of the transfer of ownership of the business.

2. Purchaser's responsibilities.

(a) Any person who purchases an existing business shall be responsible for determining the total tax liability of that business and shall withhold from the initial purchase payment an amount sufficient to cover any such tax liability.

(b) Any amount so withheld shall be paid to the town within ten (10) days of the date of the sale of the business on forms prescribed by the financial services manager.

(c) Any purchaser who fails to withhold such tax due or fails to pay to the town the amount so withheld within the ten (10) day period allowed, shall, as well as the seller, be held liable for any unpaid tax due.

B. Inception of business; initial tax. Any person who purchases or establishes a business inside the town shall file an initial tax return.

1. Existing businesses. Sales tax shall be due on tangible personal property, except inventory held for lease, rental or resale, which is acquired with the purchase, transfer of ownership, or any other form of acquisition of a business. The tax shall be based on the price of such property as recorded in the bill of sale or agreement and constituting a part of the total transaction at the time of the sale or transfer, provided the valuation is as great or greater than the fair market value of such property. If the fair market value of the property is greater than the price recorded in the bill of sale or agreement, then the fair market value of the property shall be the basis for calculating the amount of tax due. Such tax shall be reported on a sale of assets tax return.

2. New businesses. Sales tax shall be paid on the price of all tangible personal property, except inventory held for lease, rental or resale, which is purchased inside the town. Such tax shall be reported on the seller's sales tax return.

3. Exceptions. In the case of businesses where the tangible personal property purchased is or shall be affixed to a building or premises and intended to be utilized in that fashion (i.e. automated or self serve car wash equipment, Laundromat washers and dryers, bowling lanes, and such properties), the business owner shall deduct this equipment on the sale of assets tax return and collect and remit sales tax on each transaction where the equipment is utilized by the customer or patron.

C. Cessation of business. Every person engaged in business in the town who quits doing business in the town shall file a final return. The reporting period for such return shall end on the last day of business in the town.

3-1-9: 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 of this chapter remitting any excess collected over said two and one-half percent (2½ %) to the financial services manager in the retailer's next monthly sales tax returns.

3-1-10: TAX ON CREDIT SALES, ETC.:

Whenever tangible personal property is sold which is taxable hereunder, under a conditional sales contract whereby the seller retains title as security for all or part of the purchase price, or whenever the seller takes a chattel mortgage on such tangible personal property to secure all or part of the purchase price, the total tax based on the total selling price shall become immediately due and payable. The tax shall be charged, or collected and remitted by the vendor. No refund or credit shall be allowed to either party of the transaction in case of repossession.

3-1-11: 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 %).

3-1-12: CLAIMS FOR RECOVERY:

The intent of this section is to streamline and standardize procedures related to situations where tax has been remitted to the incorrect municipality. It is not intended to reduce or eliminate the responsibilities of the taxpayer or vendor to correctly pay, collect, and remit sales and use taxes to the town.

A. As used herein, "claim for recovery" or "claim" means a claim for reimbursement of sales and use taxes paid to the wrong taxing jurisdiction.

B. When it is determined by the financial services manager of the town that sales tax owed to the town has been reported and paid to another municipality, the town shall promptly notify the vendor that taxes are being improperly collected and remitted, and that as of the date of the notice, the vendor must cease improper tax collections and remittances.

C. The town may make a written claim for recovery directly to the municipality that received tax and/or penalty and interest owed to the town, or, in the alternative, may institute procedures for collection of the tax from the taxpayer or vendor. The decision to make a claim for recovery lies in the sole discretion of the town. Any claim for recovery shall include a properly executed release of claim from the taxpayer and/or vendor releasing its claim to the taxes paid to the wrong municipality, evidence to substantiate the claim, and a request that the municipality approve or deny in whole or in part, the claim within ninety (90) days of its receipt. The municipality to which the town submits a claim for recovery may, for good cause, request an extension of time to investigate the claim, and approval of such extension by the town shall not be unreasonably withheld.

D. Within ninety (90) days after receipt of a claim for recovery, the town shall verify to its satisfaction whether or not all or a portion of the tax claimed was improperly received, and shall notify the municipality submitting the claim in writing that the claim is either approved or denied in whole or in part, including the reasons for the decision. If the claim is approved in whole or in part, the town shall remit the undisputed amount to the municipality submitting the claim within thirty (30) days of approval. If a claim is submitted jointly by a municipality and a vendor or taxpayer, the check shall be made to the parties jointly. Denial of a claim for recovery may only be made for good cause.

E. The town may deny a claim on the grounds that it has previously paid a claim for recovery arising out of an audit of the same taxpayer.

F. The period subject to a claim for recovery shall be limited to the thirty six (36) month period prior to the date the municipality that was wrongly paid the tax receives the claim for recovery.

3-1-13: EXEMPTION; BURDEN OF PROOF:

The burden of proving that any vendor, retailer, consumer or purchaser is exempt from collecting or paying the tax upon goods sold or purchased, paying the same to the financial services manager or from making such returns, shall be on the vendor, retailer, consumer, or purchaser under such reasonable requirements of proof as the financial services manager may prescribe.

3-1-14: 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 financial services manager 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 financial services manager the full amount required to be remitted by the provisions of this chapter is hereby declared to be a violation of this chapter.

3-1-15: UNLAWFUL TO ASSUME OR ABSORB TAX:

A. It shall be unlawful, except as provided below, for any retailer to advertise or hold out or state to the public or to any consumer, directly or indirectly, that the tax or any part thereof imposed by this chapter shall be assumed or absorbed by the retailer, or that it will not be added to the selling price of the property sold, or if added, that it or any part thereof shall be refunded. Any person violating any provision of this section shall be subject to the penalties herein provided in this chapter.

B. Nothing herein contained shall be deemed to prohibit any retailer selling malt, vinous or spirituous liquors by the drink from including in his sales price any tax levied under this chapter.

C. Sales tax may be included in the price of tangible personal property sold through vending machines or the price of utilizing such automatic sale devices as a rental of equipment.

D. No retailer selling malt, vinous or spirituous liquors by the drink or sales through a vending machine shall advertise or hold out to the public in any manner, directly or indirectly, that the tax levied by this chapter is not considered as an element in the sales price to the consumer.

3-1-16: SPECIAL ACCOUNTING BASIS FOR REMITTANCE OF TAX:

If the accounting methods employed by the vendor or licensed consumer in the transaction of his business, or other conditions, are such that returns made on the calendar month basis will impose unnecessary hardship, the financial services manager may, upon request of the vendor or licensed consumer, accept returns at such intervals as will, in his opinion, better suit the convenience of the taxpayer and will not jeopardize the collection of the tax. If any taxpayer who has been granted permission to file reports and pay tax on other than a monthly basis shall become delinquent, then authorization for such alternative method of reporting may be revoked by the financial services manager or his authorized agent, and immediately following notice of revocation, the taxpayer will be required to file reports and pay tax, interest and penalties on a monthly basis for all unreported or unpaid tax in the same manner required by law under conditions that would prevail if he has never been granted the alternate method of reporting and paying the tax.

3-1-17: DUTY TO KEEP BOOKS AND RECORDS:

A. Every person engaged in business in the town shall keep and preserve for a period of at least three (3) years adequate records of all sales and purchases made by him, and such other books and records as may be necessary to determine the amount of tax he is liable to collect or pay. These records must include the normal books of account maintained by the ordinarily prudent business person engaged in such business, together with all bills, receipts, invoices, cash register tapes, or other documents of original entry supporting the entries in the books of accounts together with all schedules or working papers used in connection with the preparation of tax returns.

B. Every person who uses construction equipment inside the town shall keep and preserve for at least three (3) years after the final certificate of occupancy or certificate of completion for such project is issued, records of the time each piece of construction equipment that was located inside the town and any sales tax paid on such construction equipment and related materials.

3-1-18: INVESTIGATION OF BOOKS:

For the purpose of ascertaining the correctness of a return, or for the purpose of determining the amount of tax due from any person, the financial services manager, or his duly authorized agent, may hold investigations and hearings concerning any matters covered by this chapter and may examine any relevant books, journals, ledgers, business bank account records, work papers of the taxpayer or accountant, records or memorandum of any such person and may require the attendance and testimony of such person.

3-1-19: COORDINATED AUDIT:

A. Any taxpayer licensed in this town pursuant to section 3-1-22 of this chapter, and holding a similar sales tax license in at least four (4) other Colorado municipalities that administer their own sales tax collection, may request a coordinated audit as provided herein.

B. Within fourteen (14) days of receipt of notice of an intended audit by any municipality that administers its own sales tax collection, the taxpayer may provide to the financial services manager of this town, by certified mail, return receipt requested, a written request for a coordinated audit indicating the municipality from which the notice of intended audit was received and the name of the official who issued such notice. Such request shall include a list of those Colorado municipalities utilizing local collection of their sales tax in which the taxpayer holds a current sales tax license and a declaration that the taxpayer will sign a waiver of any passage of time based limitation upon this town's right to recover tax owed by the vendor for the audit period.

C. Except as provided in section G of this section, any taxpayer that submits a complete request for a coordinated audit may be audited by this town during the twelve (12) months after such request is submitted only through a coordinated audit involving all municipalities electing to participate in such an audit.

D. If this town desires to participate in the audit of a taxpayer that submits a complete request for a coordinated audit pursuant to section C of this section, the financial services manager shall so notify the financial services manager of the municipality whose notice of audit prompted the taxpayer's request within ten (10) days after receipt of the taxpayer's request for a coordinated audit. The financial services manager shall then cooperate with other participating municipalities in the development of arrangements for the coordinated audit, including arrangement of the time during which the coordinated audit will be conducted, the period of time to be covered by the audit, and a coordinated notice to the taxpayer of those records most likely to be required for completion of the coordinated audit.

E. If the taxpayer's request for a coordinated audit was in response to a notice of audit issued by this town, this town's financial services manager shall facilitate arrangements between this town and other municipalities participating in the coordinated audit unless and until an official from some other participating municipality agrees to assume this responsibility. The financial services manager shall cooperate with other participating municipalities to, whenever practicable, minimize the number of auditors that will be present on the taxpayer's premises to conduct the coordinated audit on behalf of the participating municipalities. Information obtained by or on behalf of those municipalities participating in the coordinated audit may be shared only among such participating municipalities.

F. If the taxpayer's request for a coordinated audit was in response to a notice of audit issued by this town, this town's financial services manager shall, once arrangements for the coordinated audit between the town and other participating municipalities are completed, provide written notice to the taxpayer of which municipalities will be participating, the period to be audited and the records most likely to be required by participating municipalities for completion of the coordinated audit. The financial services manager shall also propose a schedule for the coordinated audit.

G. The coordinated audit procedure set forth in this section shall not apply:

1. When the proposed audit is a jeopardy audit,
2. To audits for which a notice of audit was given prior to the effective date of this section, or
3. When a taxpayer fails to provide a timely and complete request for a coordinated audit as provided in section B of this section.

3-1-20: STATUTE OF LIMITATIONS:

No sales tax, interest or penalties shall be assessed, nor shall any notice of lien be filed, or distraint warrant issued, or suit for collection be instituted, nor any action to collect the same be commenced, more than three (3) years after the date on which the tax was or is payable. A lien shall not continue after such period, except on taxes assessed before the expiration of the period for which a notice of a tax lien has been filed prior to the expiration of such period.

In the case of a false or fraudulent return with intent to evade tax, the tax together with interest and penalties thereon may be assessed, or proceedings for the collection of such taxes may be begun at any time without regard to the statute of limitations. Prior to the expiration of the period of limitation, the taxpayer and the financial services manager may agree in writing to an extension thereof, and the period so agreed on may be extended by subsequent agreements in writing.

When a taxpayer fails or refuses to file a return the sales tax may be assessed and collected without regard to the statute of limitations.

The period of limitation provided herein shall not run against the town for an audit period if written notice is given to the taxpayer prior to the expiration of the statute of limitations that the latter's records will be audited pursuant to this chapter. "Audit period" is the thirty six (36) month reporting period preceding the date of the notice of audit.

3-1-21: SUBPOENAS:

The financial services manager may issue a subpoena to compel a person to attend and give testimony or to produce books and records, workpapers, photographs or such other information that may be deemed necessary for the purpose of determining the amount of tax due from any person.

3-1-22: LICENSES FOR RETAIL SELLERS:

It shall be unlawful for any person to engage in the business of selling at retail on or after July 1, 1984, without having first obtained a Breckenridge sales tax license.

3-1-23: SALES TAX LICENSES; APPLICATION AND CONTENT:

Breckenridge sales tax licenses shall be granted only upon application stating the name and address of the person desiring such license, the name of such business and the character thereof, the location, including the street number of such business and such other facts as may be required by the financial services manager. Any person doing business as a wholesaler shall obtain a retailer's license if any sales are made at retail as defined herein. In case business is transacted at two (2) or more separate places by one person, a separate license for each place of business shall be required. The license shall be posted in a conspicuous place in the place of business for which it is used. No license shall be transferable.

3-1-24: DENIAL OF LICENSE:

A. An application for the initial issuance or renewal of a Breckenridge sales tax license shall be denied by the financial services manager 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 section A3, 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 company, any manager or member owning more than fifty percent (50%) interest in the entity. The term "delinquent" means the nonpayment of any tax obligation owed to the town within sixty (60) days of the date such obligation is due.

B. Before denying an application the financial services manager shall cause a hearing to be held using the general procedures provided for the revocation of a license in section 3-1-26 of this chapter. In the event an application is denied, the financial services manager shall deliver to the applicant a written order of denial stating the reason for denial.

3-1-25: SALE AT RETAIL WITHOUT LICENSE:

Any person engaging in the business of selling at retail in the town, without having secured a license therefor, except as specifically provided herein, shall be guilty of a violation of this chapter.

3-1-26: REVOCATION OF LICENSE:

The financial services manager may, on a reasonable notice and after full hearing, revoke the license of any person found by the financial services manager to have violated any provisions of this chapter.

3-1-27: APPEAL:

Any finding and order of the financial services manager revoking the license of any person shall be subject to review by the district court of the district where the business of the licensee is conducted, upon application of the aggrieved party. The procedure for review shall be as nearly

as possible the same as now provided for review of findings by writ of certiorari in accordance with rule 106(a)(4) of the Colorado rules of civil procedures.

3-1-28: WHEN LICENSE NOT REQUIRED:

No license shall be required of any person engaged exclusively in the business of selling commodities which are exempt from taxation under this chapter.

3-1-29: MAP OR LOCATION GUIDE OF TOWN BOUNDARIES:

The finance department shall make available to any requesting vendor a map or location guide showing the boundaries of the town. The requesting vendor may rely on such map or location guide and any update thereof available to such vendor in determining whether to collect a sales tax. No penalty shall be imposed or action or deficiency maintained against a vendor who in good faith complies with the most recent map or location guide available to such vendor.

3-1-30: COLLECTION AND REFUND OF DISPUTED TAX:

Should a dispute arise between the purchaser and seller as to whether or not any sale or commodity or service is exempt from taxation hereunder, nevertheless, the seller shall collect and the purchaser shall pay such tax, and the seller thereupon issues to the purchaser a receipt or certificate, on forms prescribed by the financial services manager, showing the names of the seller and purchaser, the items purchased, the date, price, amount of tax paid, and a brief statement of the claim of the exemption. The purchaser may thereafter apply to the financial services manager to determine the question of exemption, subject to review by the courts, as herein provided.

3-1-31: REFUNDS:

A. A refund shall be made, or credit allowed, for the sales tax so paid under dispute by any purchaser or user who claims an exemption pursuant to section 3-1-4 of this chapter. Such refund shall be made by the financial services manager after compliance with the following conditions precedent: Applications for refund must be made within sixty (60) days after the purchase of the goods or services whereon an exemption is claimed and must be supported by the affidavit of the purchaser accompanied by the original paid invoice or sales receipt and certificate issued by the seller and shall be made upon such forms as shall be prescribed therefor.

B. Upon receipt of such application, the financial services manager shall examine the same with due speed and shall give notice to the applicant in writing of his decision thereon. Aggrieved applicants, within thirty (30) calendar days after such decision is mailed to them, may petition the financial services manager for a hearing on the claim in the manner provided in section 3-1-41 of this chapter and may either appeal to the district court in the manner provided in section 3-1-42 of this chapter or to the department of revenue in the manner provided in section 3-1-43 of this chapter. The right of any person to a refund under this chapter shall not be assignable, and except as provided in section C of this section, such application for refund must be made by the same person who purchased the goods or services and paid the tax thereon as shown in the invoice of the sale thereof.

C. A refund shall be made or a credit allowed by the financial services manager to any person entitled to an exemption where such person establishes that: 1) a tax was paid by another person, the purchaser, on a purchase made on behalf of the person entitled to an exemption; 2) a refund has not been granted to such purchaser; and 3) the person entitled to the exemption paid or reimbursed such purchaser for such tax. The burden of proving that sales, services, and commodities on which tax refunds are claimed are exempt from taxation under this chapter or were not at retail shall be on the person making such claim under such reasonable requirements of proof as set forth in the rules and regulations prescribed therefor. No such refund shall be made or credit allowed in an amount greater than the tax paid less the expense allowance on such purchase retained by the vendor pursuant to section 3-1-9 of this chapter.

D. Such application for refund under section C of this section shall be made on forms furnished by the finance department. Upon receipt of such application and proof of the matters contained therein, the financial services manager shall give notice to the applicant by order in writing of his decision thereon. Aggrieved applicants within thirty (30) calendar days after such decision is mailed to them, may petition the financial services manager for a hearing on the claim in the manner provided in section 3-1-41 of this chapter and may either appeal to the district court in the manner provided in section 3-1-42 of this chapter or to the department of revenue in the manner provided in section 3-1-43 of this chapter. Any applicant for a refund under the

provisions of this section D, or any other person, who makes any false statement in connection with an application for a refund of any taxes is guilty of a violation of this chapter and shall be punished in the manner provided by state law.

E. Claims for tax monies paid in error or by mistake shall be made within three (3) years after the date of purchase of the goods or services for which the refund is claimed and shall be processed for refund in accordance with the rules and regulations prescribed therefor under section D of this section, except that the proceeds of any such claim for a refund shall first be applied by the finance department to any tax deficiencies or liabilities existing against the claimant before allowance for such claim by the finance department, and further except that if such excess payment of tax monies in any period is discovered as a result of an audit by the finance department, and deficiencies are discovered and assessed against the taxpayer as a result of such audit, then such excess monies shall be first applied against any deficiencies outstanding to the date of the assessment but shall not be applied to any future tax liabilities.

F. If any person is convicted under the provisions of this section, such conviction shall be prima facie evidence that all refunds received by such person during the current year were obtained unlawfully, and the financial services manager is empowered to bring appropriate action for recovery of such refunds. A brief summary statement of the above described penalties shall be printed on each form application of a refund.

G. The right of any person to obtain a refund pursuant to this chapter shall not be assignable.

3-1-32: RECOVERY OF TAXES, PENALTY AND INTEREST:

A. All sums of money paid by the purchaser to the retailer as taxes imposed by this chapter shall be and remain public money, the property of the town, in the hands of such retailer, and shall hold the same in trust for the sole use and benefit of the town until paid to the financial services manager, and for failure to so pay to the financial services manager, such retailer shall be punished as provided herein.

B. 1. If any person neglects or refuses to make a return in payment of the sales tax or to pay any sales tax as required by this chapter, then the financial services manager shall make an estimate, based upon such information as may be available, of the amount of taxes due for the period for which the taxpayer is delinquent and shall add thereto a penalty equal to the sum of fifteen dollars (\$15.00) for such failure or ten percent (10%) thereof, whichever is greater, and interest on such delinquent taxes at the rate imposed under section 3-1-38 of this chapter, plus one-half percent ($\frac{1}{2}$ %) per month from the date when due, not exceeding eighteen percent (18%) in the aggregate.

2. Promptly thereafter, the financial services manager shall give to the delinquent taxpayer written notice of such estimated taxes, penalty, and interest, which notice shall be sent by first class mail directed to the last address of such person on file with the finance department. Such estimate shall thereupon become a notice of deficiency. Within twenty (20) calendar days after the notice of deficiency is mailed, the taxpayer may petition the financial services manager for a hearing in the manner provided in section 3-1-41 of this chapter and either may appeal to the district court as provided in section 3-1-42 of this chapter or to the department of revenue as provided in section 3-1-43 of this chapter.

C. 1. If any taxes, penalty, or interest imposed by this chapter and shown due by returns filed by the taxpayer or as shown by assessments duly made as provided in this section are not paid within five (5) days after the same are due, then the financial services manager may issue a notice, setting forth the name of the taxpayer, the amount of the tax, penalties and interest, the date of the accrual thereof, and that the town claims a first and prior lien therefor on the real and personal property of the taxpayer, including, without limitation, the goods, inventory (stock in trade) and business fixtures of such taxpayer.

2. Said notice shall be on forms furnished by the finance department and shall be verified by the financial services manager or any duly qualified agent of the financial services manager whose duties are the collection of such tax, and may be filed in the office of the county clerk and recorder in which the taxpayer owns real or tangible personal property, and the filing of such notice shall create a lien on such property in that county and constitute notice thereof. After said notice has been filed, or concurrently therewith, or at any time when taxes due are unpaid, whether such notice shall have been filed or not, the financial services manager may issue a warrant directed to any duly authorized revenue collector, or to the sheriff of the county, commanding him to levy upon, seize, and sell sufficient of the real and personal property of the tax debtor found within his county to satisfy the amount due together with interest, penalties, and costs, as may be provided by law. Any such sales shall be made free and clear of all liens

and encumbrances.

D. Such revenue collector or the sheriff shall forthwith levy upon sufficient of the property of the taxpayer or any property used by such taxpayer in conducting his retail business, and said property so levied upon shall be sold in all respects with like effect and in the same manner as prescribed by law with respect to executions against property upon judgment of a court of record, and the remedies of garnishment shall apply. The sheriff shall be entitled to such fee in executing such warrants as are allowed by law for similar services.

E. Any lien for taxes as shown on the records of the county clerks and recorders as provided in this section, upon payment of all taxes, penalties, and interest covered thereby shall be released by the financial services manager in the same manner as mortgages and judgments are released.

F. The financial services manager may also treat any such taxes, penalties, and interest due and unpaid as a debt due to the town from the vendor. The return of the taxpayer of the assessment made by the financial services manager, as provided in this chapter, shall be prima facie proof of the amount due. Such debt may be collected by civil action brought against the vendor in a court of competent jurisdiction, and in such action the town shall be entitled to recover from the vendor, in addition to the tax, penalties and interest, its reasonable attorney fees incurred in the prosecution of such action.

G. In any action affecting the title to real estate or the ownership or rights to possession of personal property, the town may be made a party defendant for the purpose of obtaining an adjudication or determination of its lien upon the property involved therein. In any such action, the service of summons upon the financial services manager or any person in charge of the office of the financial services manager shall be sufficient service and shall be binding upon the town.

H. The financial services manager is authorized to waive, for good cause shown, any penalty assessed as provided in this chapter, and any interest imposed in excess of the rate determined pursuant to section B of this section shall be deemed a penalty.

3-1-33: FAILURE TO COLLECT AND PAY OVER TAX, ATTEMPTING TO EVADE OR DEFEAT TAX:

A. It shall be unlawful for any person required to collect, truthfully account for, and pay over to the town any tax imposed by this chapter to intentionally or knowingly fail to collect such tax, or to intentionally or knowingly fail to truthfully account for and pay over such tax to the town, or to intentionally or knowingly attempt to evade or defeat any such tax or the payment thereof.

B. If a corporation has failed to collect or pay over collected sales tax to the town as required by this chapter, a rebuttable presumption shall arise that the president, vice president, secretary and treasurer of the corporation are the persons required to collect, truthfully account for and pay over the tax on behalf of the corporation. 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 corporation.

C. If a partnership 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 partners of a general partnership, or the general partner(s) of a limited partnership, are the persons required to collect, truthfully account for and pay over the tax on behalf of the partnership. 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 partnership.

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.

3-1-34: IMPOSITION OF CIVIL PENALTY ON RESPONSIBLE PARTIES:

A. Any party responsible for the collection and payment of the tax imposed by this chapter on behalf of a corporation or partnership who willfully fails to collect such tax, or truthfully account for and pay over such tax to the town, or who willfully attempts in any manner to evade or defeat such tax or the payment thereof, shall, in addition to the other penalties provided by law, be

liable for the payment of a civil penalty equal to the total amount of tax evaded, or not collected, or not accounted for and paid over. Such civil penalty shall include all penalties and interest due to the town under this chapter, together with the town's reasonable attorney fees incurred in collecting such civil penalty. The civil penalty provided for in this section A shall apply only to the collection, accounting for, and payment over of taxes imposed on a person other than the vendor who is required to collect, account for and pay over such taxes pursuant to this chapter. An action to collect the civil penalty provided for in this section A may be brought in the district court and shall be governed by the Colorado rules of civil procedure.

B. If a corporation has failed to collect, account for or pay over collected sales tax to the town as required by this chapter, a rebuttable presumption shall arise that the president, vice president, secretary and treasurer of the corporation are the persons responsible for the collection and payment of the tax on behalf of the corporation. 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 corporation.

C. If a partnership has failed to collect, account for or pay over collected sales tax to the town as required by this chapter, a rebuttable presumption shall arise that all partners of a general partnership, or the general partner(s) of a limited partnership, are the persons responsible for the collection and payment of the tax on behalf of the partnership. 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 partnership.

D. If a limited liability company has failed to collect, account for 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 company or, if none, all members of the limited liability company, are the persons responsible for the collection and payment of 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.

3-1-35: AUTHORITY OF FINANCIAL SERVICES MANAGER TO REQUIRE IMMEDIATE PAYMENT OF TAX:

Notwithstanding the provisions of section 3-1-7 of this chapter with respect to the time for the payment of sales tax due to the town, whenever it appears from the records of the finance department or otherwise that sales tax due to the town has not been paid, or has not been paid in a timely fashion, the financial services manager, after notice and hearing, shall have the authority to require the payment to the town of the tax due under this chapter on a daily or weekly basis, as the financial services manager shall determine to be required to adequately assure that the tax due under this chapter will be paid to the town. The financial services manager shall give the vendor at least ten (10) days' notice of the time and place of such hearing. Notice shall be mailed to the vendor at the address shown on the town sales tax license. The financial services manager shall further have the authority to require payment of such tax on a daily or weekly basis into a separate account maintained by the vendor solely for payment of sales tax and accessible only to parties approved by the financial services manager. Failure to comply with any order of the financial services manager lawfully entered pursuant to this section 3-1-35 shall be sufficient grounds for the revocation of the vendor's sales tax license as provided in section 3-1-26 of this chapter.

3-1-36: TAX LIEN; EXEMPTION FROM LIEN:

A. 1. Except as provided in section A2 of this section, the sales tax imposed pursuant to section 3-1-5 of this chapter shall be a first and prior lien upon the real and personal property of or used by the taxpayer, including, without limitation, the goods, inventory (stock in trade) and business fixtures of such taxpayer, and shall take precedence over the other liens, encumbrances, security interest and claims of whatsoever kind or nature.

2. Any retailer or person in possession shall provide a copy of any lease pertaining to the assets and property described in section A1 of this section to the financial services manager within ten (10) days after seizure by the town of such assets and property. The financial services manager shall verify that such lease is bona fide and notify the owner that such lease has been received by the financial services manager. The financial services manager shall use his or her best efforts to notify the owner of the real or personal property which might be subject to the lien created in section A1 of this section. The real or personal property of an owner who has made a bona fide lease to a retailer shall be exempt from the lien created in section A1 of this section, a) if such property can reasonably be identified from the lease description, or b) if the lessee is given the option to purchase in such lease and has not exercised such option to become the

owner of the property leased. This exemption shall become effective from the date of the execution of the lease. Such exemption shall also apply if the lease is recorded with the clerk and recorder of Summit County. Motor vehicles which are properly registered in this state, showing the lessor as owner thereof, shall be exempt from the lien created in section A1 of this section; except that such lien shall apply to the extent that the lessee has an earned reserve, allowance for depreciation not to exceed fair market value, or similar interest which is or may be credited to the lessee. Where the lessor and lessee are blood relatives or relatives by law or have twenty five percent (25%) or more common ownership, a lease between such lessee and such lessor shall not be considered as bona fide for the purpose of this section A2.

3 Any retailer who sells out his business or stock of goods, or quits business, shall be required to make out the return as provided in this chapter within ten (10) days after the date he sold his business or stock of goods, or quit business, and his successor in business shall be required to withhold sufficient purchase money to cover the amount of said taxes due and unpaid until such time as the former owner produces a receipt from the financial services manager showing that the taxes have been paid or a certificate that no taxes are due.

4. If the purchaser of a business or stock of goods fails to withhold the purchase money as provided in section A3 of this section, and the taxes are due and unpaid after the ten (10) day period allowed, he, as well as the vendor, shall be personally liable for the payment of the taxes unpaid by the former owner. Likewise, anyone who takes any stock of goods or business fixtures of or used by any retailer under lease, title retaining contract, or other contract arrangement, by purchase, foreclosure sale, or otherwise, takes the same subject to the lien for any delinquent sales taxes owned by such retailer and shall be liable for the payment of all delinquent sales taxes of such prior owner, not, however, exceeding the value of property so taken or acquired.

B. Whenever the business or property of any taxpayer subject to this chapter shall be placed in receivership, bankruptcy, or assignment for the benefit of creditors, or seized under distraint for property taxes, all taxes, penalties, and interest imposed by this chapter and for which said retailer is in any way liable under the terms of this chapter shall be a prior and preferred claim against all the property of said taxpayer. No sheriff, receiver, assignee, or other officer shall sell the property of any person subject to this chapter under process or order of any court without first ascertaining from the financial services manager the amount of any taxes due and payable under this chapter, and if there are any such taxes due, owing, or unpaid, it is the duty of such officer to first pay the amount of said taxes out of the proceeds of said sale before making payment of any monies to any judgment creditor or other claims of whatsoever kind or nature. For the purposes of this section B, "taxpayer" includes "retailer".

3-1-37: NEGLIGENT OR INTENTIONAL TAX DEFICIENCY:

If any part of the deficiency in payment of the sales tax is due to negligence or intentional disregard of authorized rules and regulations of the town with knowledge thereof, but without intent to defraud, there shall be added ten percent (10%) of the total amount of the deficiency, and interest in such case shall be collected at the rate imposed under section 3-1-38 of this chapter, in addition to the interest provided by section 3-1-39 of this chapter on the amount of such deficiency from the time the return was due, from the person required to file the return, which interest and addition shall become due and payable ten (10) days after written notice and demand to such person by the financial services manager. If any part of the deficiency is due to fraud with the intent to evade the tax, then there shall be added one hundred percent (100%) of the total amount of the deficiency, and in such case, the whole amount of the tax unpaid, including the additions shall become due and payable ten (10) days after written notice and demand by the financial services manager, and an additional three percent (3%) per month on said amount shall be added from the date that the return was due until paid.

3-1-38: INTEREST RATE ON DELINQUENT TAXES:

When interest is required or permitted to be charged under section 3-1-32B, section 3-1-37 or section 3-1-39A of this chapter, the annual rate of interest shall be that rate of interest established by the state commissioner of banking pursuant to section 39-21-110.5, Colorado Revised Statutes.

3-1-39: INTEREST ON UNDERPAYMENT, OVERPAYMENT, NONPAYMENT OR EXTENSIONS OF TIME FOR PAYMENT OF TAX:

A. If any amount of sales tax is not paid on or before the last date prescribed for payment, then interest on such amount at the rate imposed under section 3-1-38 of this chapter shall be paid for the period from such last date to the date paid. The last date prescribed for payment shall be

determined without regard to any extension of time for payment and shall be determined without any regard to any notice and demand for payment issued, by reason of jeopardy, prior to the last date otherwise prescribed for such payment. In the case of a tax in which the last date for payment shall be deemed to be the date that the liability for the tax arises, and in no event shall such date be later than the date that notice and demand for the tax is made by the financial services manager.

B. Interest prescribed under this section and section 3-1-32B and section 3-1-37 of this chapter shall be paid upon notice and demand and shall be assessed, collected, and paid in the same manner as the tax to which such interest is applicable.

C. If any portion of a tax is satisfied by credit of an overpayment, then no interest shall be imposed under this section on the portion of the tax so satisfied for any period during which, if the credit has not been made, interest would have been allowed with respect to such overpayment.

D. Interest prescribed under this section and section 3-1-32B and section 3-1-37 of this chapter on any sales tax may be assessed and collected at any time during the period within which the tax to which such interest relates may be assessed and collected.

3-1-40: OTHER REMEDIES:

No provision of this chapter shall preclude the town from utilizing any other lawful penalties or other remedies applicable to the collection of sales taxes.

3-1-41: HEARINGS BY FINANCIAL SERVICES MANAGER:

A. If any person contests the financial services manager's deficiency notice or denial of a claim for refund, then he may apply to the financial services manager by petition in writing within twenty (20) calendar days after such deficiency notice is mailed to him for a hearing and a correction of the amount of the tax so assessed, in which petition he shall set forth the reasons why such hearing should be granted and the amount by which such tax should be reduced. The financial services manager shall notify the petitioner in writing of the time and place fixed by him for such hearing. After such hearing, the financial services manager shall make such order in the matter as is just and lawful and shall furnish a copy of such order to the petitioner.

B. Every decision of the financial services manager shall be in writing, and notice thereof shall be mailed to the petitioner within ten (10) days, and all such decisions shall become final upon the expiration of thirty (30) days after notice of such decision shall have been mailed to the petitioner, unless proceedings are begun within such time for review thereof as provided in section 3-1-42 or 3-1-43 of this chapter.

3-1-42: REVIEW BY DISTRICT COURT:

A. If any person contests the financial services manager's final decision on a deficiency notice or claim for refund, he may proceed to have same reviewed by the district court. The procedure of review shall be in accordance with rule 106(a)(4) of the Colorado rules of civil procedures.

B. Within fifteen (15) days after filing a notice of appeal as provided in this section, the taxpayer shall file with the district court a surety bond in twice the amount of the taxes, interest, and other charges stated in the final decision by the financial services manager that are contested on appeal. The taxpayer may, at his option, satisfy the surety bond requirement by a savings account or deposit in or a certificate of deposit issued by a state or national bank or by a state or federal savings and loan association, in accordance with the provisions of section 11-35-101(1), Colorado Revised Statutes, equal to twice the amount of the taxes, interest and other charges stated in the final decision by the financial services manager. The taxpayer may, at his option, deposit the disputed amount with the financial services manager in lieu of posting a surety bond. If such amount is so deposited, no further interest shall accrue on the deficiency contested during the pendency of the action. At the conclusion of the action, after appeal to the supreme court or the court of appeals of the state or after the time for such appeal has expired, the funds deposited shall be, at the direction of the district court, either retained by the financial services manager and applied against the deficiency or returned in whole or in part to the taxpayer with interest at the rate imposed pursuant to section 3-1-38 of this chapter. No claim for refund of amounts deposited with the financial services manager need be made by the taxpayer in order for such amounts to be repaid in accordance with the direction of the district court.

3-1-43: ALTERNATIVE REVIEW BY DEPARTMENT OF REVENUE:

In lieu of the procedure provided for in section 3-1-42 of this chapter, the taxpayer may elect a hearing on the financial services manager's final decision on a deficiency notice or claim for refund pursuant to procedure set forth in this section.

A. As used in this section, "state hearing" means a hearing before the executive director of the department of revenue or a delegate thereof as provided in section 29-2-106.1(3), Colorado Revised Statutes.

B. When the financial services manager asserts that sales taxes are due in an amount greater than the amount paid by a taxpayer, then the financial services manager shall mail a deficiency notice to the taxpayer by certified mail. The deficiency notice shall state the additional sales taxes due. The deficiency notice shall contain notification, in clear and conspicuous type, that the taxpayer has the right to elect a state hearing on the deficiency pursuant to section 29-2-106.1(3), Colorado Revised Statutes. The taxpayer shall also have the right to elect a state hearing on the financial services manager's denial of such taxpayer's claim for a refund of sales tax paid.

C. The taxpayer shall request the state hearing within thirty (30) days after the taxpayer's exhaustion of local remedies. The taxpayer shall have no right to such hearing if he has not exhausted local remedies, or if he fails to request such hearing within the time period provided for in this section C. For purposes of this section C, "exhaustion of local remedies" means:

1. The taxpayer has timely requested in writing a hearing before the financial services manager, and the financial services manager has held such hearing and issued a final decision thereon. Such hearing shall be informal, and no transcript, rules of evidence or filing of briefs shall be required, but the taxpayer may elect to submit a brief, in which case the financial services manager may submit a brief. The financial services manager shall hold such hearing and issue the final decision thereon within ninety (90) days after the financial services manager's receipt of the taxpayer's written request therefor, except that the town may extend such period if the delay in holding the hearing or issuing the decision thereon was occasioned by the taxpayer, but, in any such event, the financial services manager shall hold such hearing and issue the decision thereon within one hundred eighty (180) days of the taxpayer's request in writing therefor; or

2. The taxpayer has timely requested in writing a hearing before the financial services manager, and the financial services manager has failed to hold such hearing or has failed to issue a final decision thereon within the time periods prescribed in section C1 of this section.

D. If a taxpayer has exhausted his local remedies as provided in section C of this section, then the taxpayer may request a state hearing on such deficiency notice or claim for refund, and such request shall be made, and such hearing shall be conducted in the same manner as set forth in section 29-2-106.1(3) through (7), inclusive, Colorado Revised Statutes.

E. If the deficiency notice or claim for refund involves only the financial services manager, then in lieu of requesting a state hearing, the taxpayer may appeal such deficiency or denial of a claim for refund to the district court as provided in section 29-2-106.1(8), Colorado Revised Statutes, if the taxpayer complies with the procedures set forth in section C of this section.

F. No provision of this section shall prohibit the taxpayer from pursuing judicial review of a final decision of the financial services manager as otherwise provided in section 3-1-42 of this chapter.

3-1-44: 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 town charter. Such amendment, alteration or change need not be submitted to the electors of the town for their approval unless required by Article X, §20 of the Colorado Constitution.

3-1-45: NOTICE OF SALES AND USE TAX ORDINANCE AMENDMENT:

A. In order to initiate a central register of sales and use tax ordinances for municipalities that administer local sales tax collection, the financial services manager of the town shall file with the Colorado municipal league prior to the effective date of this section a copy of the town sales tax ordinance reflecting all provisions in effect on the effective date of this section.

B. In order to keep current the central register of sales and use tax ordinances for municipalities that administer local sales tax collection, the financial services manager of the town shall file

with the Colorado municipal league prior to the effective date of any amendment a copy of each sales tax ordinance amendment enacted by the town.

C. Failure of the town to file such ordinance or ordinance amendment pursuant to this section shall not invalidate any provision of the sales and use tax ordinance or any amendment thereto.

3-1-46: UNLAWFUL ACTS: It is unlawful and a misdemeanor offense for a retailer or vendor:

A. To fail to collect and remit tax to the town in accordance with the schedule set forth in this chapter, or in any manner to evade the collection and payment of the tax imposed by this chapter;

B. To knowingly and willfully swear to or verify any false tax return or other statement filed with the financial services manager as required by this chapter;

C. To retain any excess tax collections made under this chapter; and

D. To fail to have in full force and effect at the time of a sale a valid Breckenridge sales tax license issued pursuant to this chapter.

E. To violate any other provision of this chapter that is applicable to retailer or vendors.

Section 3. Section 3-7-4 of the Breckenridge Town Code is amended to read in its entirety as follows:

3-7-4: EXCEPTION; TOWN ATTORNEY, TOWN EMPLOYEES AND ENFORCEMENT PERSONNEL:

A. Nothing in section 3-7-1 of this chapter shall be construed to prohibit the inspection of tax returns and related information by the town attorney, other legal representatives, the financial services manager, other employees of the town with a need to know such information in connection with the performance of their duties, or law enforcement personnel of the town

B. Notwithstanding the provisions of this section, the financial services manager may furnish to the taxing officials of the State of Colorado, its political subdivisions, any other state, or political subdivision, or the United States, any information contained in tax returns and related documents filed pursuant to this title or in the report of an audit or investigation made with respect to a return, if the recipient jurisdiction agrees with the manager to grant similar privileges to the town and if such information is to be used by the jurisdiction only for tax purposes.

Section 4. 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 5. The repeal and readoption of Chapter 1 of Title 3 of the Breckenridge Town Code as provided for in this ordinance shall not affect any sales tax due to the Town under the previous version of Chapter 1 of Title 3 of the Breckenridge Town Code, or prevent the prosecution or punishment of any person for any act done or committed in violation of the previous version of Chapter 1 of Title 3 of the Breckenridge Town Code.

Section 6. 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 7. 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 23rd day of July, 2013.

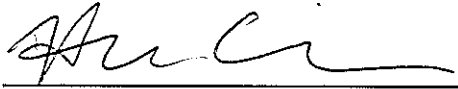
This ordinance was published in full on the Town of Breckenridge website on July 26, July 27, July 28, July 29 and July 30, 2013.

A public hearing on this ordinance was held on August 27, 2013.

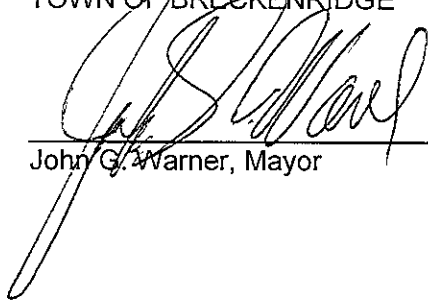
READ, ADOPTED ON SECOND READING AND ORDERED PUBLISHED IN FULL ON THE TOWN'S WEBSITE this 27th day of August, 2013. A copy of this Ordinance is available for inspection in the office of the Town Clerk.

ATTEST:

TOWN OF BRECKENRIDGE

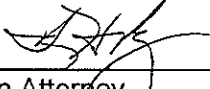


Helen Cospolich, Town Clerk



John G. Warner, Mayor

APPROVED IN FORM



Town Attorney

8/27/13

Date

This Ordinance was published on the Town of Breckenridge website on August 29, August 30, August 31, September 1 and September 2, 2013. This ordinance shall become effective on October 2, 2013.