

ORDINANCE NO. 6

Series 2016

AN ORDINANCE AMENDING TITLE 3 OF THE BRECKENRIDGE TOWN CODE, EFFECTIVE JULY 1, 2016, BY ADOPTING AN EXCISE LIFT TICKET TAX OF 4.5 % ON THE PRICE PAID FOR SINGLE AND MULTI-DAY SKI LIFT TICKETS PURCHASED FOR USE ONLY AT A LOCAL SKI AREA; PROVIDING THE DETAILS OF THE COLLECTION AND ADMINISTRATION OF SUCH TAX; CREATING A PARKING AND TRANSPORTATION FUND; AND REQUIRING REVENUES COLLECTED FROM THE NEW LIFT TICKET TAX TO BE USED ONLY FOR DESIGNATED PURPOSES

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

WHEREAS, Section 12.1 of the Breckenridge Town Charter provides that the Town Council of the Town ("**Town Council**") may, by ordinance, levy and collect excise taxes for municipal purposes; and

WHEREAS, at a special election held November 3, 2015 the Town Council submitted a ballot question to the registered electors of the Town, the submission clause of which read:

SHALL TOWN OF BRECKENRIDGE TAXES BE INCREASED \$4,000,000 ANNUALLY COMMENCING JULY 1, 2016, AND BY SUCH AMOUNTS AS ARE RAISED ANNUALLY THEREAFTER, BY IMPOSING AN ADMISSIONS EXCISE TAX OF 4.5% OF THE PRICE PAID FOR EACH LIFT TICKET PURCHASED, WITHIN THE TOWN OR ELSEWHERE, TO OBTAIN THE RIGHT OF ENTRY SOLELY TO A SKI AREA WHICH HAS ONE OR MORE SKI LIFTS LOCATED IN WHOLE OR IN PART WITHIN THE TOWN, FOR USE DURING THE ANNUAL PERIOD BETWEEN NOVEMBER 1 AND APRIL 30, PROVIDED THAT THE ADMISSIONS EXCISE TAX SHALL NOT APPLY TO (1) ANY SEASON PASS ALLOWING RIGHT OF ENTRY TO A SKI AREA FOR A MAJORITY OF THE SEASON OR (2) ANY LIFT TICKET WHICH PROVIDES THE RIGHT OF ENTRY TO ONE OR MORE SKI AREAS LOCATED OUTSIDE THE TOWN AS WELL AS A SKI AREA LOCATED WHOLLY OR PARTIALLY WITHIN THE TOWN, AND REQUIRING EVERY SKI AREA OPERATOR TO COLLECT SUCH ADMISSIONS TAX FOR THE TOWN; AND SHALL ALL OF THE ADMISSION EXCISE TAX REVENUES COLLECTED BY THE TOWN BE PAID INTO A SPECIAL FUND OF THE TOWN AND USED ONLY TO PAY FOR OR REIMBURSE THE TOWN FOR: (1) THE DIRECT AND INDIRECT COSTS OF OPERATING THE TOWN'S TRANSIT SYSTEM, INCLUDING, WITHOUT LIMITATION, LABOR, ROLLING STOCK, AND OTHER COSTS ASSOCIATED THEREWITH; (2) THE DIRECT AND INDIRECT COSTS OF PROVIDING PUBLIC PARKING WITHIN THE TOWN, INCLUDING, WITHOUT LIMITATION, LAND ACQUISITION COSTS, CONSTRUCTION, AND MAINTENANCE; AND (3) OTHER DIRECT AND INDIRECT COSTS INCURRED BY THE TOWN IN ENHANCING THE MOVEMENT OF PERSONS AND VEHICLES WITHIN THE TOWN, INCLUDING, WITHOUT LIMITATION, THE COST OF CONSTRUCTING AND MAINTAINING CROSSWALKS AND ROUNDABOUTS, AND SHALL THE TOWN COUNCIL BE AUTHORIZED TO PROVIDE BY ORDINANCE OTHER MATTERS NECESSARY TO THE IMPLEMENTATION, COLLECTION, AND ENFORCEMENT OF SUCH TAX?

; and

WHEREAS, the ballot question set forth above was approved by the registered electors of the Town by a vote of 1100 in favor and 223 opposed; and

WHEREAS, it is necessary and appropriate for the Town Council to adopt an ordinance implementing the ballot question that was approved by the electors of the Town at the November 3, 2015 special election; and

WHEREAS, all conditions precedent to the adoption of this ordinance have been satisfied.

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

Section 1. Title 3 of the Breckenridge Town Code is amended by the addition of a new Chapter 10, entitled "Lift Ticket Tax," which shall read in its entirety as follows:

CHAPTER 10

LIFT TICKET TAX

SECTION:

- 3-10-1: Purpose; Agreements Authorized
- 3-10-2: Definitions
- 3-10-3: Imposition of Tax
- 3-10-4: Tax Revenues To Be Deposited Into Parking and Transportation Fund
- 3-10-5: Exemptions; Burden of Proof
- 3-10-6: Payment Of Tax To Ski Area Operator
- 3-10-7: Collection of Tax By Ski Area Operator
- 3-10-8: Remittance Of Collected Tax
- 3-10-9: Preservation of Returns and Other Records; Confidentiality
- 3-10-10: Records and Accounts To Be Kept
- 3-10-11: Audit, Investigation, Collection; and Enforcement Procedures
- 3-10-12: Tax In Addition To Other Taxes
- 3-10-13: Administration By Financial Services Manager; Rules and Regulations
- 3-10-14: Amendments

3-10-1: PURPOSE; AGREEMENTS AUTHORIZED:

A. The purpose of this Chapter is to impose an excise tax of four and one-half percent (4.5%) on the price paid for each single and multi-day ski lift ticket purchased either within the Town or elsewhere only for use at a ski area which has one or more ski lifts located in whole or in part within the Town during the annual period between November 1 and April 30. Admission to such a ski area pursuant to such a single or multi-day ski lift ticket is a taxable privilege. It is the further purpose of this Chapter to require a ski area operator to collect such lift ticket tax for the Town, all as provided in this Chapter.

B. The Town is authorized to enter into one or more agreements with any ski area operator related to the ski area operator's collection of such lift ticket tax for the Town.

3-10-2: DEFINITIONS:

A. The following words and phrases, when used in this Chapter, shall have the following meanings:

DESIGNATED REVENUES:	All revenues collected by the Town pursuant to this Chapter.
FINANCIAL SERVICES MANAGER:	The Financial Services Manager of the Town, or such person's authorized representative.
LIFT TICKET:	A right to use a ski lift at a ski area.
LOCAL SKI AREA:	A ski area which has one or more ski lifts located in whole or in part within the Town.
PARKING AND TRANSPORTATION FUND:	The Town of Breckenridge Parking and Transportation Fund described in Section 3-11-2 of this Code.
RECORDS:	Any books, accounts, papers, memoranda, or other records of a ski area operator for a local ski area, regardless of their form or format, that is or may be relevant to determining the amount of the tax due from such ski area operator.

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SEASON PASS:	All lift ticket products that provide access to a local ski area for the majority of the ski season.
SKI AREA:	The area accessed by ski lifts designated and under the control of a single ski area operator.
SKI AREA OPERATOR:	Any business entity having operational responsibility from time to time for a local ski area.
TAX:	The tax payable to the Town pursuant to this Chapter.
TAXABLE LIFT TICKET:	A lift ticket purchased for use only at a local ski area and only during the annual period between November 1 and the following April 30.

B. Terms not defined in this Chapter shall be given their common meaning.

3-10-3: IMPOSITION OF TAX:

A. On and after 12:01 a.m., July 1, 2016 there is levied and there shall be paid by each purchaser of a taxable lift ticket an excise tax as described in this Chapter. Such tax is due and shall be paid for the exercise of a taxable privilege.

B. The amount of the tax hereby levied is four and one-half percent (4.5%) of the actual purchase price of each taxable lift ticket, whether purchased within the Town or elsewhere; provided that a tax derived from calculations resulting in a fraction of a cent being a part of the tax shall be increased or rounded to the next whole cent.

3-10-4: TAX REVENUES TO BE DEPOSITED INTO PARKING AND TRANSPORTATION FUND: Immediately upon receipt or collection, the designated revenues shall be credited to the Parking and Transportation Fund and used as provided in Section 3-11-3 of this Code.

3-10-5: EXEMPTIONS; BURDEN OF PROOF:

A. The tax imposed by this Chapter does not apply to:

1. Season passes;
2. Any lift ticket not specifically sold to provide the right of entry solely to a local ski area (including, by way of example, any lift ticket which provides the right of entry to one or more ski areas located outside of the Town as well as a local ski area);
3. Any passes or lift tickets sold for summer activities; or
4. Any other items or activities besides those lift tickets intended for ski lift use solely at a local ski area between November 1 and April 30.

B. The burden of proving that any transaction is not subject to the tax implemented by this Chapter shall be upon the person making such assertion.

3-10-6: PAYMENT OF TAX TO SKI AREA OPERATOR: The tax imposed by this Chapter shall be paid by the purchaser of the taxable lift ticket to the ski area operator that sold the taxable lift ticket.

3-10-7: COLLECTION OF TAX BY SKI AREA OPERATOR:

A. The tax imposed by this Chapter shall be collected from the purchaser of the taxable lift ticket by the ski area operator that sold the taxable lift ticket. In collecting the tax the ski area operator acts as a collection agent for the Town. Each ski area operator shall be liable and responsible for the collection of the tax as provided in this Chapter.

B. The tax imposed by this Chapter shall be added to the purchase price, charge, or other consideration paid for the taxable privilege of admission to a local ski area arising from the purchase of a taxable lift ticket.

C. A credit shall be allowed against the amount due to the Town under this Chapter for any tax that would be due for an unused single day taxable lift ticket, or any unused portion of a multi-day taxable lift ticket, the purchase price of which has been refunded by the ski area operator to the purchaser of the taxable lift ticket.

D. Nothing in this Chapter shall be read as limiting in any way or at any time a ski area operator's sole and absolute discretion to alter the terms, conditions, or price of any lift ticket, to create a new type of lift ticket, or to add or remove access to one or more ski areas located outside of the Town without regard to any resulting change to the applicability of the tax to such a lift ticket; provided, however, that any such ski area operator shall remain responsible for the collection and remittance of the tax on any and all taxable lift tickets.

3-10-8: REMITTANCE OF COLLECTED TAX:

A. Each ski area operator 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 to the Financial Services Manager all tax collected by such ski area operator during the preceding month.

B. The Financial Services Manager may, upon request of the ski area operator or other taxpayer, accept returns at such intervals as will, in the opinion of the Financial Services Manager, better suit the convenience of the ski area operator or other taxpayer and will not jeopardize the collection of the tax, including an annual tax return. If any ski area operator or other 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 or her authorized agent, and immediately following notice of revocation, the ski area operator or other 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 as if the ski area operator or other taxpayer had never been granted the alternate method of reporting and paying the tax.

C. The tax return and tax remitted to the Financial Services Manager shall be made in such manner and upon such forms as the Financial Services Manager may prescribe.

3-10-9: PRESERVATION OF RETURNS AND OTHER RECORDS; CONFIDENTIALITY:

A. Returns filed pursuant to this Chapter shall be preserved for a period of three (3) years from the date of filing with the Financial Services Manager, after which time the Financial Services Manager may order them destroyed.

B. Chapter 7 of this Title, concerning confidentiality of tax returns and information, applies to tax returns and information provided to the Town pursuant to this Chapter; provided, however, that the designated revenues credited to the Parking and Transportation Fund described in Section 3-11-2 of this Code shall not be confidential information and may be disclosed to the public.

3-10-10: RECORDS AND ACCOUNTS TO BE KEPT: Each ski area operator shall keep and preserve suitable records of all sales of taxable lift tickets sold, and such other books or accounts as may be necessary to determine the amount of tax for the collection or remittance of which the ski area operator is liable and responsible hereunder. It is the duty of each ski area operator to keep and preserve all such books, invoices, and other records for a period of three (3) years following the date the taxes were due to the Town. Such items shall be open for investigation by the Financial Services Manager. When a ski area operator fails or refuses to file a return the tax may be assessed by the Financial Services Manager and collected without regard to the statute of limitations.

3-10-11: AUDIT; INVESTIGATION; COLLECTION; AND ENFORCEMENT PROCEDURES: Except for those provisions that by their terms cannot apply, the procedures for audit, investigation, and enforcement of the Town's sales tax as provided in Chapter 1 of this Title shall apply to the audit, investigation, and enforcement of the tax imposed by this Chapter.

3-10-12: TAX IN ADDITION TO ALL OTHER TAXES: The tax imposed by this Chapter shall be in addition to all other taxes imposed by law.

3-10-13: ADMINISTRATION BY FINANCIAL SERVICES MANAGER; RULES AND REGULATIONS: The administration of all provisions of this Chapter is vested in and shall be exercised by the Financial Services Manager, who shall prescribe forms and formulate and promulgate reasonable rules and regulations in conformity with this Chapter for the making of returns, the ascertainment, assessment, and collection of taxes imposed, and the proper administration and enforcement thereof.

3-10-14: AMENDMENTS: This Chapter may be altered, amended, or repealed from time to time in the manner provided by law.

Section 2. Title 3 of the Breckenridge Town Code is amended by the addition of a new Chapter 11, entitled "Parking and Transportation Fund," which shall read in its entirety as follows:

CHAPTER 11

PARKING AND TRANSPORTATION FUND

SECTION:

- 3-11-1: Definitions
- 3-11-2: Parking and Transportation Fund
- 3-11-3: Use of Designated Revenues
- 3-11-4: Amendments

3-11-1: DEFINITIONS: As used in this Chapter the following words shall have the following meanings:

DESIGNATED REVENUES: All revenues collected by the Town from the Lift Ticket Tax adopted by Chapter 10 of Title 3 of this Code.

3-11-2: PARKING AND TRANSPORTATION FUND: There is hereby established a special fund of the Town to be known as the Town of Breckenridge Parking and Transportation Fund. Immediately upon receipt or collection, the designated revenues shall be credited to the Parking and Transportation Fund. The monies in the Parking and Transportation Fund shall be expended by the Town Council only for those purposes authorized in Section 3-11-3. The amounts expended from the Parking and Transportation Fund shall be determined from time to time by the Town Council.

3-11-3: USE OF DESIGNATED REVENUES: The designated revenues shall be used only by the Town to pay or reimburse the Town for:

- A. The direct and indirect costs of operating the Town's transit system, including, without limitation, labor, rolling stock, and other costs associated therewith;
- B. The direct and indirect costs of providing public parking within the Town, including, without limitation, land acquisition costs, construction, and maintenance; and
- C. Other direct and indirect costs incurred by the Town in enhancing the movement of persons and vehicles within the Town, including, without limitation, the cost of constructing and maintaining crosswalks and roundabouts.

3-11-3: AMENDMENTS: This Chapter may be altered, amended, or repealed from time to time in the manner provided by law.

Section 3. Any agreements entered into by the Town with a ski area operator prior to the effective date of this ordinance are hereby ratified.

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 Town Council hereby finds, determines and declares that it has the power to adopt this ordinance pursuant to: (i) Section 12.1 of the Breckenridge Town Charter;

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(ii) the authority granted to home rule municipalities by Article XX of the Colorado Constitution; and (iii) Section 31-15-501(1)(c) C.R.S.

Section 6. This ordinance shall be published as provided by Section 5.9 of the Breckenridge Town Charter, and shall become effective July 1, 2016.

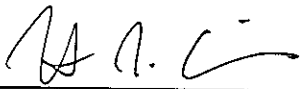
INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED PUBLISHED IN FULL this 23rd day of February, 2016.

This ordinance was published in full on the Town of Breckenridge website on February 26, February 27, February 28, February 29 and March 1, 2016.

A public hearing on this ordinance was held on March 22, 2016.

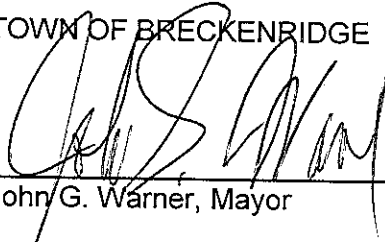
READ, ADOPTED ON SECOND READING AND ORDERED PUBLISHED IN FULL ON THE TOWN'S WEBSITE this 22nd day of March, 2016. A copy of this Ordinance is available for inspection in the office of the Town Clerk.

ATTEST:



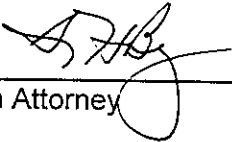
Helen Cospolich, Town Clerk

TOWN OF BRECKENRIDGE



John G. Warner, Mayor

APPROVED IN FORM



Town Attorney

3/22/16

Date

This Ordinance was published on the Town of Breckenridge website on March 24, March 25, March 26, March 27 and March 28, 2016. This ordinance shall become effective on April 27, 2016.