

ORDINANCE NO. 23

Series 2019

AN ORDINANCE AMENDING CHAPTER 1 OF TITLE 3 OF THE BRECKENRIDGE TOWN CODE, KNOWN AS THE "TOWN OF BRECKENRIDGE SALES TAX ORDINANCE"

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

Section 1. Section 3-1-2 of the Breckenridge Town Code is amended to read as follows:

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:

"Auction" means 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" means 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 vehicle includes, but is not limited to, motor vehicles, trailers, semi-trailers, or mobile homes. Automotive vehicle shall not include devices moved by human power or used exclusively upon stationary rails or tracks.

"Business" means all activities engaged in or caused to be engaged in with the object of gain, benefit, or advantage, direct or indirect.

"Carrier Access Services" means the services furnished by a local exchange company to its customers who provide telecommunications services which allow them to provide such telecommunications services.

"Charitable Organization" means any entity which: (1) has been certified as a nonprofit organization under Section 501(c)(3) of the Internal Revenue Code, and (2) is an organization which exclusively, and in a manner consistent with existing laws and for the benefit of an indefinite number of persons or animals, freely and voluntarily ministers to the physical, mental, or spiritual needs of persons or animals, and thereby lessens the burden of government.

"Coin Operated Device" means any device operated by coins or currency or any substitute therefor.

"Collection Costs" shall include, but is not limited to, all costs of audit, assessment, bank fees, hearings, execution, lien filing, distraint, litigation, locksmith fees, auction fees and costs, prosecution and attorney fees.

"Commercial Packaging Materials" means containers, labels, and/or cases, that become part of the finished product to the purchaser, used by or sold to a person engaged in manufacturing, compounding, wholesaling, jobbing, retailing, packaging, distributing or bottling for sale, profit or use, and is not returnable to said person for reuse. Commercial Packaging Materials does not include Commercial Shipping Materials.

"Community Organization" means a nonprofit entity organized and operated exclusively for the promotion of social welfare, primarily engaged in promoting the common good and general welfare of the community, so long as: (1) No part of the net earnings of which inures to the benefit of any private shareholder or individual; (2) No substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation; and (3) Which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office.

"Construction Materials" means tangible personal property which, when

combined with other tangible personal property, loses its identity to become an integral and inseparable part of a structure or project including public and private improvements. Construction materials include, but are not limited to, such things as: asphalt, bricks, builders' hardware, caulking material, cement, concrete, conduit, electric wiring and connections, fireplace inserts, electrical heating and cooling equipment, flooring, glass, gravel, insulation, lath, 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, wall board, wall coping, wall paper, 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 completed structure or project are not construction materials.

"Consumer" means any individual person or 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.

"Cover Charge" means a charge paid to a club 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 Processing Equipment" means 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 program, hardware or firmware.

"Digital Product" means a modern version of a traditional product including, but not limited to: (1) "digital images" which means works that include, but are not limited to, the following that are generally recognized in the ordinary and usual sense as "photographs," "logos," "cartoons," or "drawings." (2) "digital audio-visual works" which means a series of related images which, when shown in succession, impart an impression of motion, together with accompanying sounds, if any, (3) "digital audio works" which means works that result from the fixation of a series of musical, spoken, or other sounds, including ringtones. For purposes of the definition of "digital audio works", "ringtones" means digitized sound files that are downloaded onto a device and that may be used to alert the customer with respect to a communication, and (4) "digital books" which means works that are generally recognized in the ordinary and usual sense as "books".

"Engaged in Business in the Town" means 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:

- (1) Directly, indirectly, or by a subsidiary maintains a building, store, office, salesroom, warehouse, or other place of business within the taxing jurisdiction;
- (2) Sends one or more employees, agents or commissioned sales persons 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;
- (3) Maintains one or more employees, agents or commissioned sales persons on duty at a location within the taxing jurisdiction;
- (4) Owns, leases, rents or otherwise exercises control over real or personal property within the taxing jurisdiction; or
- (5) Makes more than one delivery into the taxing jurisdiction within a twelve month period.

"Finance Department" means the Finance Department of the Town.

"Finance Director or Director" means the Finance Director of the Town of Breckenridge or such other person designated by the municipality; "Finance Director" or "Director" shall also include such person's designee acting pursuant to Section 1-7-2 of this Code.

"Garage Sales" means sales of tangible personal property, except automotive vehicles, occurring at the residence of the seller, where the property to be sold was originally purchased for use by members of the household where such sale

is being conducted. The term includes, but is not limited to, yard sales, estate sales, and block sales.

“Gross sales” means 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.

“Internet Access Services” means services that provide or enable computer access by multiple users to the Internet, but shall not include that portion of packaged or bundled services providing phone or television cable services when the package or bundle includes the sale of internet access services.

“License” means a Town of Breckenridge sales tax license.

“Lodging Services” means the provision or facilitation of provision of any rooms or accommodations by any person, partnership, association, corporation, estate, representative capacity or any other combination of individuals by whatever name known to a person who, for consideration including barter, trade or timesharing uses, possesses or has the right to use or possess any room or other accommodation, including but not limited to a hotel, inn, bed and breakfast, apartment, single family residence, lodging house, condominium, motor hotel, guesthouse, guest ranch, trailer coach, mobile home, auto camp, trailer court and park, any portion of a dwelling unit or other area which accommodates a guest, or similar establishment, for a period of less than thirty consecutive days under any rental agreement, sharing or trade agreement, concession, permit, right of access, license to use, or other agreement.

“Manufacturing” means the operation or performance as a business of an integrated series of operations which places a product, article, substance, commodity, or other tangible personal property in a form, composition or character different from that in which it was acquired whether for sale or for use by a manufacturer. The change in form, composition or character must result in a different product having a distinctive name, character or use from the raw or prepared materials.

“Manufactured Home” means any preconstructed building unit or combination of preconstructed building units, without motive power, where such unit or units are manufactured in a factory or at a location other than the residential site of the completed home, which is designed and commonly used for occupancy by persons for residential purposes, in either temporary or permanent locations, and which unit or units are not licensed as a vehicle.

“Motor Fuel” means gasoline, casing head or natural gasoline, benzol, benzene and naphtha, gasohol and any liquid prepared, advertised, offered for sale, sold for use or used or commercially usable in internal combustion engines for the generation of power for the propulsion of motor vehicles upon the public highways. The term does not include fuel used for the propulsion or drawing of aircraft or railroad cars or railroad locomotives.

“Newspaper” means 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.

“Online Garage Sales” means sales of tangible personal property, except automotive vehicles, occurring online, where the property to be sold was originally purchased for use by the seller or members of the seller’s household.

“Person” means any individual, firm, partnership, joint venture, corporation, limited liability corporation, 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.

“Photovoltaic System” means a power system designed to supply usable solar power by means of photovoltaics, a method of converting solar energy into direct current electricity using semiconducting materials that create voltage or electric current in a material upon exposure to light. It consists of an arrangement of several components, including solar panels to absorb and convert sunlight into electricity, a solar inverter to change the electric current from DC to AC, as well as mounting, cabling and other electrical accessories to set up a working system.

“Prescription Drugs for Humans” means a drug which, prior to being dispensed or delivered, is required by the federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sect. 301, et. seq., as amended, and to state at a minimum the symbol “Rx Only,” and is 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, not including drugs available over the counter, and immediately reduced to writing by the pharmacist, assistant pharmacist, or pharmacy intern, specifying the name and any required information of the patient for whom the medicine, drug or poison is offered and directions, if any, to be placed on the label.

“Price or Purchase Price” means the aggregate value measured in currency paid or delivered or promised to be paid or delivered in consummation of a sale, without any discount from the price on account of the cost of materials used, labor or service cost, and 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.

“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, 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, applying, remodeling or repairing the property, 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.

“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-in’s 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, and the seller is not reimbursed for the discount by the manufacturer or someone else. 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 for Humans” means any artificial limb, part, device or appliance for human use which replaces a body part or aids or replaces a bodily function; is designed, manufactured, altered or adjusted to fit a particular patient;

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, and oxygen concentrators with related accessories.

“Purchase or Sale” means the acquisition for any consideration by any person of tangible personal property, other taxable products or taxable services that are purchased, leased, rented, sold, used, stored, distributed, or consumed. 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, other taxable products, or taxable services;
- (2) A lease, lease-purchase agreement, rental or grant of a license, including royalty agreements, to use tangible personal property, other taxable products, 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 tangible personal property, other taxable products, or services.

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 transfer of assets of shareholders in the formation or dissolution of professional corporations, if no consideration including, but not limited to, the assumption of a liability is paid for the transfer of assets; (3) The dissolution and the pro rata distribution of the corporation’s assets to its stockholders, if no consideration including, but not limited to, the assumption of a liability is paid for the transfer of assets; (4) A transfer of a partnership interest; (5) The transfer of assets to a commencing or existing partnership, if no consideration including, but not limited to, the assumption of a liability is paid for the transfer of assets; (6) The repossession of personal property by a chattel mortgage holder or foreclosure by a lienholder; (7) The transfer of assets from a parent company to a subsidiary company or companies which are owned at least eighty percent by the parent company which transfer is solely in exchange for stock or securities of the subsidiary corporation; (8) The transfer of assets from a subsidiary company or companies which are owned at least eighty percent by the parent company to a parent company or to another subsidiary which is owned at least eighty percent by the parent company which transfer is solely in exchange for stock or securities of the parent company or the subsidiary which received the asset; (9) The transfer of assets between parent and closely held subsidiary companies or between subsidiary companies closely held by the same parent company or between companies 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 company 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 company. To such an extent any transfer referred to in this paragraph (9) shall constitute a sale. For the purposes of this paragraph (9), a closely held subsidiary company is one in which the parent company owns stock possessing or membership interest in at least eighty percent of the total combined voting power of all classes of stock entitled to vote and owns at least eighty percent of the total number of shares of all other classes of stock.

“Renewable energy” means any energy resource that is naturally regenerated over a short time scale and derived directly from the sun (such as thermal, photochemical, and photoelectric), indirectly from the sun (such as wind, hydropower, and photosynthetic energy stored in biomass), or from other natural movements and mechanisms of the environment (such as geothermal and tidal energy). Renewable energy does not include energy resources derived from fossil fuels, waste products from fossil sources, or waste products from inorganic sources.

“Retail Sales” means all sales except wholesale sales.

“Retailer” means any person selling, leasing, renting, or granting a license to use

tangible personal property or services at retail. Retailer shall include, but is not limited to, any: (1) Auctioneer; (2) 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; (3) Charitable organization or governmental entity which makes sales of tangible personal property to the public, notwithstanding the fact that the merchandise sold may have been acquired by gift or donation or that the proceeds are to be used for charitable or governmental purposes; (4) Retailer-contractor, when acting in the capacity of a retailer.

“Retailer-Contractor” means a contractor who is also a retailer of building supplies, construction materials, or other tangible personal property, and purchases, manufactures, or fabricates such property for resale (which may include installation), repair work, time and materials jobs, and/or lump sum contracts.

“Return” means any form prescribed by the Town/town administration for computing and reporting a total tax liability.

“Sales Tax” means the tax that is or should be collected and remitted by a retailer on sales taxed under this Chapter.

“School” means a public or nonpublic school for students in kindergarten through 12th grade or any portion thereof.

“Software Program” means a sequence of instructions that can be measured, interpreted and executed by an electronic device (e.g. a computer, tablets, smart phones). Software program includes: (1) Custom software program, which is a software program prepared to the special order or specifications of a single customer; (2) Pre-written software program, which is a software program prepared for sale or license to multiple users, and not to the special order or specifications of a single customer. Pre-written software is commonly referred to as “canned,” “off-the-shelf (“COTS”),” “mass produced” or “standardized;” (3) Modified software, which means pre-written software that is altered or enhanced by someone other than the purchaser to create a program for a particular user; and (4) The generic term “software,” “software application,” as well as “updates,” “upgrades,” “patches,” “user exits,” and any items which add or extend functionality to existing software programs.

“Software as a Service” means software that is rented, leased or subscribed to from a provider and used at the consumer’s location, including but not limited to applications, systems or programs.

“Software License Fee” means a fee charged for the right to use, or maintain a copy of, software, regardless of the form of the software.

“Software Maintenance Agreement” means an agreement, typically with a software provider, that may include (1) provisions to maintain the right to use the software; (2) provisions for software upgrades including code updates, version updates, code fix modifications, enhancements, and added or new functional capabilities loaded into existing software, or (3) technical support.

“Solar Thermal Systems” means a system whose primary purpose is to use energy from the sun to produce heat or cold for: (1) Heating or cooling a residential or commercial building; (2) Heating or cooling water; or (3) Any industrial, commercial, or manufacturing process.

“Tangible Personal Property” means personal property that can be one or more of the following: seen, weighed, measured, felt or touched, stored, transported, or exchanged, or that is in any other manner perceptible to the senses.

“Tax” means the use tax due from a consumer or the sales tax due from a retailer or the sum of both due from a retailer who also consumes.

“Tax Deficiency or Deficiency” means any amount of tax, penalty, interest, or other fee that is not reported and/or not paid on or before the date that any return or payment of the tax is required under the terms of this Chapter.

“Taxable Sales” means gross sales less any exemptions and deductions specified in this Chapter.

“Taxable Services” means services subject to tax pursuant to this Chapter.

“Taxpayer” means any person obligated to collect and/or pay tax under the terms of this Chapter.

“Telecommunications Service” means the transmission of any two-way interactive electronic or 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), internet access, remote access to computers and electronic storage equipment, or any combinations of such media, including any form of mobile two-way communication.

“Television & Entertainment Services” means audio or visual content that can be transmitted electronically by any means, for which a charge is imposed.

“Therapeutic Device” means devices, appliances, or related accessories that correct or treat a human physical disability or surgically created abnormality.

“Total Tax Liability” means the total of all tax, penalties and/or interest owed by a taxpayer and shall include sales tax collected in excess of such tax computed on total sales.

“Town” means the Town of Breckenridge, Colorado.

“Wholesale Sales” means a sale by wholesalers to retailers, jobbers, dealers, or other wholesalers for resale and does not include a sale by wholesalers to users or consumers not for resale; the latter types of sales shall be deemed to be retail sales and shall be subject to the provisions of this chapter. Sales by wholesalers to non-licensed retailers are not wholesale sales.

“Wholesaler” means any person doing an organized wholesale or jobbing business and selling to licensed retailers, jobbers, dealers, or other wholesalers, for the purpose of 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.

Section 2. Section 3-1-3D of the Breckenridge Town Code is amended to read as follows:

D. Upon telecommunication services, including all international, interstate and intrastate telecommunication services originating from or received on telecommunication equipment in the Town, if the charge for the service is billed to an apparatus, telephone or account in the Town, except that for mobile telecommunication services liability shall be imposed only when the users’ place of primary use is within the Town. For the purposes of this subsection, “place of primary use” means, as defined in C.R.S. 29-1-1002, as amended.

Section 3. Section 3-1-3E of the Breckenridge Town Code is amended to read as follows:

E. Upon carrier 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.

Section 4. Section 3-1-3K of the Breckenridge Town Code is amended to read as follows:

K. Upon the sale, lease or transfer of a software program.

Section 5. Section 3-1-3L of the Breckenridge Town Code is amended to read as follows:

L. Upon television & entertainment 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.

Section 6. Section 3-1-3O of the Breckenridge Town Code is amended to read as follows:

O. Upon software as a service, data processing equipment, software program, and internet services subscriptions.

Section 7. Amend Sections 3-1-3P, Q, R and S of the Breckenridge Town Code is amended to read as follows:

P. Upon all software license fees.

Q. 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.

R. Upon the retail sale of medical marijuana and marijuana infused products pursuant to the Colorado Medical Marijuana Code, article 11 of title 44, Colorado Revised Statutes.

S. Upon the sale of retail marijuana or marijuana products pursuant to the Colorado Retail Marijuana Code, article 12 of title 44, Colorado Revised Statutes.

Section 8. Section 3-14-K of the Breckenridge Town Code is amended to read as follows:

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

Section 9. Section 3-1-4~~K~~Q of the Breckenridge Town Code is amended to read as follows:

O. Drugs, medical devices:

1. All sales of "medical supplies," including: 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 for humans; therapeutic devices; wheelchairs and hospital beds; prescription drugs for humans 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.

Section 3-1-4P of the Breckenridge Town Code is amended to read as follows:

P. Fifty percent (50%) of the purchase price of: 1) manufactured homes, 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 manufactured homes 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.

Section 10. Section 3-1-4Y of the Breckenridge Town Code is amended to read as follows:

Y. All sales, storage, use, or leasing of photovoltaic systems or solar thermal systems (and its components) and in the production of alternating current electricity from a renewable energy source. The exemption 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.

Section 11. Section 3-1-4BB of the Breckenridge Town Code is amended to read as follows:

BB. All sales of tangible personal property, except automotive vehicles, at online garage sales (no limit on days), garage sales; provided that such sales are conducted no more than three (3) times a year, each sale is limited to a maximum of three (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.

Section 12. Section 3-1-4 of the Breckenridge Town Code is amended by the addition of a new Section DD as follows:

DD. "Telecommunications service" under the following conditions:

a. Separately stated software that constitutes computer processing applications used to act on the information to be transmitted;

b. Carrier access service, interstate or international WATTS/800 service and interstate or international private communication services shall be exempt from taxation; or

c. Telecommunication services sold for resale to other persons for the purpose of providing telecommunication services to the final end user.

Section 13. Section 3-1-20 of the Breckenridge Town Code is amended to read as follows"

3-1-20: STATUTE OF LIMITATIONS:

A. 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.

B. 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 finance director may agree in writing to an extension thereof, and the period so agreed on may be extended by subsequent agreements in writing.

C. 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.

D. 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.

Section 14. Section 3-1-32C2 of the Breckenridge Town Code is amended to read as follows;

2. Said notice shall be on forms furnished by the finance department and shall be verified by the finance director or any duly qualified agent of the finance director 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 finance director 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 collection costs, as may be provided by law. Any such sales shall be made free and clear of all liens and encumbrances.

Section 15. 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 16. 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 17. 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 18. 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 23th day of July, 2019.


This ordinance was published in full on the Town of Breckenridge website on July 24, July 25, July 26, July 27 and July 28, 2019.

A public hearing on this ordinance was held on August 13, 2019.

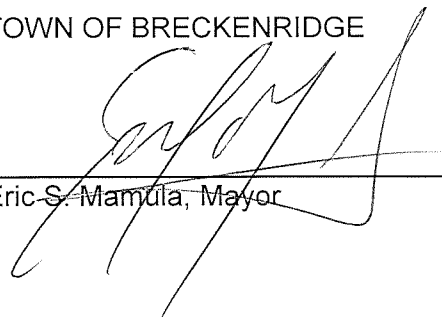
READ, ADOPTED ON SECOND READING AND ORDERED PUBLISHED IN FULL ON THE TOWN'S WEBSITE this 13th day of August, 2019. A copy of this Ordinance is available for inspection in the office of the Town Clerk.

ATTEST:

TOWN OF BRECKENRIDGE

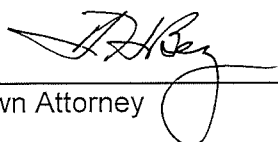


Helen Cospolich, CMC, Town Clerk



Eric S. Mamula, Mayor

APPROVED IN FORM



Town Attorney

8/13/19

Date

This Ordinance was published on the Town of Breckenridge website on August 16, August 17, August 18, August 19 and August 20, 2019. This ordinance shall become effective on September 19, 2019.