

ORDINANCE NO. 13

Series 2020

AN ORDINANCE AMENDING CHAPTER 4 OF TITLE 3 OF THE BRECKENRIDGE TOWN CODE KNOWN AS THE "BRECKENRIDGE PUBLIC ACCOMMODATION TAX" ORDINANCE

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 is a home rule municipal corporation organized existing under Article XX of the Colorado Constitution.

B. The electors of the Town adopted the Breckenridge Town Charter on April 1, 1980.

C. Section 12.1 of the Breckenridge Town Charter provides that the Town Council of the Town may, by ordinance, levy and collect excise taxes for municipal purposes.

D. The Town Council has heretofore enacted various municipal excise taxes, each of which is currently codified in Title 3 of the Breckenridge Town Code.

E. In 1992 the electors of the state approved Article X, §20 of the Colorado Constitution, commonly known as the "TABOR Amendment."

F. The Town is a "district" as defined in TABOR.

G. Section 7(b) of TABOR establishes a formula for the calculation of a local district's (such as the Town's) allowed annual fiscal year spending.

H. Section 7(d) of TABOR provides that local electors may approve a "voter-approved revenue change" to the local district's allowed annual fiscal year spending.

I. By Ordinance No. 28, Series 1995, the Town Council of the Town of Breckenridge referred to the electors of the Town the following ballot question:

SHALL THE TOWN OF BRECKENRIDGE BE AUTHORIZED, COMMENCING IN 1994 AND CONTINUING ANNUALLY THEREAFTER, TO COLLECT AND RETAIN WHATEVER AMOUNTS ARE RAISED ANNUALLY FROM ALL SOURCES, WITHOUT LIMITATION, AND THE AUTHORITY TO EXPEND SUCH REVENUES FOR THE PURPOSES OF PROVIDING FOR THE HEALTH, SAFETY AND WELFARE OF THE PEOPLE OF THE TOWN OF BRECKENRIDGE, AS A VOTER-APPROVED REVENUE CHANGE AND EXCEPTION TO THE LIMITS WHICH WOULD OTHERWISE APPLY, PURSUANT TO ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION (ALSO KNOWN AS "TABOR" AND 'AMENDMENT ONE'); PROVIDED THAT NO TOWN TAX RATE OR MILL LEVY SHALL BE INCREASED AND NO NEW TAX SHALL BE CREATED WITHOUT FURTHER VOTER APPROVAL?

J. At a special municipal election held on November 7, 1995 the electors of the Town approved the ballot question set forth in Section I, above.

K. In 2009 the Colorado Supreme Court issued its opinion in the case of Mesa County Bd. of Comm'rs v State, 203 P.3d 519 (Colo. 2009). In its opinion the Supreme Court held that when a municipality subject to TABOR has approved a broadly worded measure such as the Town did in 1995, the municipality may thereafter amend its tax ordinance(s) without a new election because, in the language of the Court's opinion, "such a requirements would create unnecessary redundancy."

L. Pursuant to the Colorado Supreme Court's holding in the case mentioned in Section K, the adoption of this ordinance does not result in a "tax policy change" requiring approval of the Town's electors under TABOR.

M. The adoption of the ordinance does not create a new tax or tax rate.

Section 2. Chapter 4 of Title 3 of the Breckenridge Town Code is amended to read as follows:

CHAPTER 4

BRECKENRIDGE PUBLIC ACCOMMODATION TAX

SECTION:

- 3-4-1: TITLE
- 3-4-2: LEGISLATIVE INTENT
- 3-4-3: DEFINITIONS
- 3-4-4: IMPOSITION OF TAX
- 3-4-5: EXEMPTIONS
- 3-4-6: COLLECTION OF TAX
- 3-4-7: VENDOR RESPONSIBLE FOR PAYMENT OF TAX
- 3-4-8: DUTY TO KEEP BOOKS AND RECORDS
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- 3-4-10: TRUST STATUS OF TAX IN POSSESSION OF VENDOR
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- 3-4-12: REFUND PROCEDURE
- 3-4-13: EXAMINATION OF RETURNS; REFUNDS; CREDITS; AND DEFICIENCIES
- 3-4-14: INTEREST ON LATE PAYMENTS; PENALTY
- 3-4-15: PENALTIES FOR DEFICIENCY CAUSED BY FRAUD
- 3-14-16: INVESTIGATION OF VENDOR'S BOOKS
- 3-14-17: AUDIT; ESTIMATED OF TAXES; PENALTY; INTEREST; NOTICE; ASSESSMENT
- 3-4-18: REVIEW BY FINANCE DIRECTOR
- 3-4-19: REVIEW OF FINANCE DIRECTOR'S FINAL ORDER OR DECISION
- 3-4-20: TAX LIEN
- 3-4-21: SALE UPON DISTRAINT
- 3-4-22: RELEASE OF LIEN
- 3-4-23: MANAGER MAY WAIVER PENALTY
- 3-4-24: LICENSE AND TAX IN ADDITION TO ALL OTHER TAXES
- 3-4-25: VIOLATIONS; EVASION OF COLLECTION OR PAYMENT OF TAX

3-4-1: TITLE:

This Chapter shall be known as and referred to as the REVISED BRECKENRIDGE PUBLIC ACCOMMODATION TAX.

3-4-2: LEGISLATIVE INTENT:

A. It is hereby declared to be the legislative intent of the Town Council that, for the purposes of this Chapter, every person who purchases in the Town any lodging is exercising a taxable privilege.

B. It is hereby declared to be the legislative intent of the Town Council that, for the purposes of this Chapter, every vendor who shall make a sale of lodging to a purchaser in the Town shall collect the tax imposed by this Chapter to the total purchase price charged for such lodging furnished at any one (1) time by or to every customer or buyer, in the manner set forth in this Chapter. It is the legislative intent of the Town Council that the term "vendor" as used in this Chapter shall include, without limitation, online travel companies to the maximum extent permitted by law.

3-4-3: DEFINITIONS:

In addition to the definitions in Chapter 1 of this Title, when used in this Chapter the following words shall have the following meanings unless the context requires otherwise:

(1) Gross taxable sales means the total amount received in money, credits, property or other consideration valued in money from sales and purchases of lodging that is subject to the tax imposed in this Chapter.

(2) Lodging shall mean rooms or accommodations for overnight use furnished by any person or the representative of any person to any person who for consideration uses, possesses, occupies or has the right to use, possess or occupy any such room or accommodation in a hotel, condominium hotel, apartment hotel, condominium, lodging house, motel, motor hotel, guest house, guest ranch, resort, mobile home, mobile home park, auto court, inn, trailer court, trailer park or hotel, under any concession, permit, lease, contract, license to use or other similar arrangement.

(3) Purchase or sale means the acquisition or furnishing for consideration by any person of lodging within the Town.

(4) Purchaser means any person exercising the taxable privilege of purchasing lodging.

(5) Tax means either the tax payable by the purchaser or the aggregate amount of taxes due from a vendor during the period for which the vendor is required to report collections under this Chapter.

(6) Vendor means a person making sales of or furnishing lodging to a purchaser in the Town.

3-4-3: IMPOSITION OF TAX:

There is hereby levied and shall be collected and paid a tax by every person exercising the taxable privilege of purchasing lodging as in this Chapter defined an excise tax of three and four-tenths percent (3.4%) on the purchase price paid of charged for such lodging.

3-4-4: EXEMPTIONS:

There shall be exempt from this Chapter the following:

(1) All lodging as defined in this Chapter furnished to any person who resides continuously for a period of thirty (30) consecutive days or more in rooms or accommodations or has the right to so reside pursuant to any written concession, permit, contract, license to use or other written arrangement;

(2) All sales to the United States government; to the State of Colorado, its departments or institutions, and the political subdivisions thereof, in their governmental capacities only; and all sales to the Town and any department thereof;

(3) All sales to charitable organizations that are:

- a. Billed directly to the charitable organization;
- b. Paid directly from funds of the charitable organization; and
- c. Used exclusively for the charitable organization's organizational or operational purposes.

3-4-5: COLLECTION OF TAX:

A. Every vendor making sales to a purchaser in the Town, which are taxable under the provisions of this Chapter, at the time of making such sales is required to collect the tax imposed by Section 3-4-3 from the purchaser.

B. The tax to be collected as provided by Section A of this Section shall be stated and charged separately from the sale price and shown separately from the sale price on any record thereof at the time when the sale is made or at the time when evidence of the sale is made or at the time when evidence of the sale is issued or employed by the vendor; provided, that when added such tax shall constitute a part of such purchase price or charge and shall be a debt from the purchaser to the vendor until paid and shall be recoverable at law in the same manner as other debts. The tax shall be paid by the purchaser to the vendor, as trustee for and on account of the Town, and the vendor shall be liable for the collection thereof and on account of the Town.

C. Taxes paid on the amount of gross sales which are represented by accounts which are found to be worthless and are actually and properly charged off as bad debts for the purpose of the income tax imposed by the laws of the state may be credited upon a subsequent payment of the tax herein provided; but if any such

accounts are thereafter collected by the taxpayer, a tax shall be paid upon the amount so collected.

3-4-6: VENDOR RESPONSIBLE FOR PAYMENT OF TAX:

A. Amount. Every vendor shall add the tax imposed by Section 3-4-3 to the purchase price or charge for lodging, and the vendor shall be liable and responsible to the Town for the payment on a monthly basis of an amount equivalent to such tax on all gross taxable sales, and also liable and responsible to the Town for any collection in excess of that equivalent amount. Every vendor shall on its return round each calculation, as directed on such form as the Finance Director may require, to the nearest whole dollar and remit the rounded amount. In rounding under this section, any amount of forty-nine cents (\$0.49) or less shall be rounded down, and any amount of fifty cents (\$0.50) or higher shall be rounded up.

B. Returns. Every vendor shall on or before the twentieth day of each month make a return to the Finance Director for the preceding calendar month and remit to the Finance Director simultaneously therewith the total amount due the Town as provided by subsection (a). Returns of the vendor, or the Vendor's duly authorized agent, shall contain such information and be made in such a manner and upon such forms as the Finance Director may prescribe, and the Finance Director may, by regulation duly adopted, extend the time up to one (1) year for making returns and paying the tax due.

3-4-7: DUTY TO KEEP BOOKS AND RECORDS

It shall be the duty of every vendor hereunder to keep and preserve suitable records of all sales made by the vendor and such other books or accounts as may be necessary to determine the amount of the tax for the collection or payment of which such vendor is liable under this Chapter. It shall be the duty of every vendor to keep and preserve for a period of three (3) years following the due date of the return or the payment of the tax all such books, invoices and other records necessary to determine the tax and the same shall be open for examination by the Finance Director. Upon demand by the Finance Director the vendor shall make the books, invoices, accounts or other records it maintains available at the office of the Finance Director or some other place designated by the Finance Director for examination, inspection and audit by the Finance Director. The Finance Director, in the Finance Director's discretion, may make, permit or cause to be made the examination, inspection or audit of books, invoices, accounts and other records so kept or maintained by the vendor. When the vendor shall have entered into a binding agreement with the Town to reimburse it for all costs and expenses incurred by the Town in order to have such examination, inspection or audit at a place other than the place designated by the Finance Director, then such examination, inspection or audit shall be made where such records are kept or maintained by the vendor or as otherwise designated in the agreement.

3-4-8: CONSOLIDATION OF RETURNS:

A vendor doing business in two (2) or more places or locations, whether in or without the Town, and collecting taxes under this Chapter may file one (1) return covering all such places or locations, when accompanied by a supplemental report showing the gross and net taxable sales and taxes collected thereon for each such place or location.

3-4-10: TRUST STATUS OF TAX IN POSSESSION OF VENDOR:

All sums of money paid by the purchaser to the vendor as taxes imposed by this Chapter shall be and remain public money, the property of the Town, in the hands of such vendor, and the vendor shall hold the same in trust for the sole use and benefit of the Town until paid to the Finance Director as herein provided, and for failure so to pay to the Finance Director, such vendor shall be punished for a violation hereof.

3-4-11: COLLECTION AND REFUND OF DISPUTED TAX:

Should a dispute arise between the purchaser and vendor as to whether or not the sale of lodging is exempt from taxation under this Chapter, nevertheless, the vendor shall collect and the purchaser shall pay such tax, and the vendor shall thereupon issue to the purchaser a receipt or certificate, on forms prescribed by the Finance Director, showing the names of the purchaser and vendor, the date, price, amount of tax paid, and a brief statement of the claim of exemption. The purchaser thereafter may apply to the Finance Director for a refund of such taxes, and it shall be the duty of the Finance Director to determine the question of exemption, subject to review by the courts.

3-4-12: REFUND PROCEDURE:

A. Generally. A refund shall be made or credit allowed for the tax paid under dispute by any purchaser who has an exemption as provided in this Chapter. Interest shall be paid on refunds, but not credits, for overpayments. Interest shall accrue from the time the overpayment is made. The rate of interest shall be fixed, and shall be the average monthly rate earned by the Town on the general fund for the calendar year immediately preceding the year in which the refund is made. Such refund shall be made by the Finance Director after compliance with the conditions of this Chapter.

B. Application. Applications for a refund must be made within sixty (60) days after the purchase of the lodging on which the exemption is claimed and must be supported by the affidavit of the vendor accompanied by the original paid invoice or sales receipt and a certificate issued by the vendor, and be made upon such forms as shall be prescribed and furnished by the Finance Director, which forms shall contain such information as the Finance Director shall prescribe.

C. Decisions. Upon receipt of such application, the Finance Director shall examine the same with all due speed and shall give notice to the applicant by an order in writing of the decision thereon.

D. Refunds not assignable. The right of any person to a refund under this Chapter shall not be assignable, and application for refund must be made by the same person who purchased the lodging and paid the tax thereon as shown in the invoice of the sale thereof.

E. Penalty for violating refund provisions. Any applicant for refund under the provisions hereinabove, or any other person, who shall make any false statement in connection with an application for a refund of any tax shall be deemed guilty of a violation of this Chapter.

F. Violations of refund provisions to be used as evidence of fraudulent intent. If any person be convicted under the provisions of subsection (f), such conviction shall be prima facie evidence that all refunds received by such person during the current year were obtained unlawfully, and the Finance Director is hereby empowered and directed to bring appropriate action for recovery of such refund. A brief summary of the above mentioned penalties shall be printed on each form application for refund.

G. Burden of proof. The burden of proof that sales of lodging on which tax refunds are claimed are exempt from taxation under this Chapter shall be on the one making such claim and such proof shall be by a preponderance of evidence.

3-4-13: EXAMINATION OF RETURNS; REFUNDS; CREDITS; AND DEFICIENCIES.

As soon as practicable after the return is filed, the Finance Director shall examine it and:

- (1) If it then appears that the correct amount of tax to be remitted is greater or less than that shown in the return, the tax shall be recomputed;
- (2) If the amount paid exceeds that which is due, the excess shall be refunded with interest pursuant to [insert interest section number], or credited, against any subsequent remittance from the same person, provided, however, that a claim for refund or credit is made within three (3) years of the date the return is filed or, if the three-year period for assessment of tax has been extended as provide in this Title, then a claim for refund or credit may be made within such extended period;

(3) If the amount paid is less than the amount due, the difference, together with interest thereon at the rate of one (1) percent per month from the time the return was due, shall be paid by the taxpayer within thirty (30) days after written notice and demand to the taxpayer from the Finance Director.

3-4-14: INTEREST ON LATE PAYMENTS; PENALTY.

A. In any case in which a taxpayer fails to file a return or pay over the tax within the time required by this Chapter, but without the intent to defraud, there shall be added as a penalty fifteen (15) percent of the total amount of the deficiency, but not less than twenty-five dollars (\$25.00), and interest in such cases shall be collected at the rate of one (1) percent each month, or fraction thereof, on the amount due on the deficiency from the time the return was due to the date the tax is paid, which interest and addition shall become due and payable within thirty (30) days after the written notice and demand by the Finance Director, and such interest shall be assessed, collected and paid in the same manner as the tax itself.

B. Payments of part but less than all of a deficiency, including interest, or interest and penalty, shall be first applied to penalty, if any, secondly to accrued interest and, lastly, to the tax itself.

3-4-15: PENALTIES FOR DEFICIENCY CAUSED BY FRAUD:

If any part of the deficiency is due to fraud with the intent to evade the tax, then there shall be added fifty (50) percent 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 thirty (30) days after written notice and demand by the Finance Director, and an additional one (1) percent per month on such amounts shall be added from the date the return was due until paid.

3-4-16: INVESTIGATION OF VENDOR'S 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 Finance Director may hold investigations and hearings concerning any matters covered by this Chapter and may examine any relevant books, papers, records or memoranda of any such person and may require the attendance of such person, or any officer or employee of such person, or of any person having knowledge of such sales, and may take testimony and require proof for their information. The Finance Director shall have power to administer oaths to such persons.

3-4-17: AUDIT; ESTIMATE OF TAXES, PENALTY, AND INTEREST; NOTICE; ASSESSMENT.

A. The Finance Director is authorized to examine, inspect and audit the books, invoices, accounts and other records kept or maintained by the taxpayer for the collection of the taxes imposed by this Chapter. If the Finance Director determines that any taxpayer neglects or refuses to make a timely return in payment of the taxes or to pay or to correctly account for any taxes as required by this Chapter, the Finance Director shall make an estimate, based upon such information as may be available, with or without employing investigative powers vested in the Finance Director by this Chapter, of the amount of the taxes due for the period or periods for which the taxpayer is delinquent; and upon the basis of such estimated amount, compute and assess in addition thereto a penalty equal to fifteen (15) percent thereof, together with the interest on such delinquent taxes at the rate of one (1) percent each month, or a fraction thereof, from the date when due until the date paid.

B. Promptly thereafter the Finance Director shall notify the delinquent taxpayer in writing and demand payment thereof of such estimated taxes, penalty and interest.

(c) Such estimated amounts shall thereupon become an assessment, and such assessment shall be final and due and payable from the taxpayer to the Town thirty (30) days from the date of the notice and demand; provided, however, that within said thirty-day period the delinquent taxpayer may petition the Finance Director in writing for review of the assessment as provided in the applicable provisions of this Title. The filing of a petition shall not toll the accrual of interest on the amount of taxes due.

3-4-18: REVIEW BY FINANCE DIRECTOR:

- A. Petitions. Petitions submitted to the Finance Director shall be in writing and shall contain a statement of facts and reasons for and the amount of the requested changes in the assessment or decision to deny or reduce a refund claim, and shall otherwise comply with the applicable rules promulgated by the Finance Director relating to petitions and hearings.
- B. Time limit for filing petitions. Petitions shall be submitted to the Finance Director within thirty (30) days from the date of the assessment or decision to deny or reduce a refund claim. If a petition is not submitted within this time, the assessment or decision is final and no further review is available.
- C. Notice of hearing. The Finance Director shall notify the taxpayer in writing of the time and place within the Town fixed for hearing.
- D. Hearings. A hearing, if any, shall be conducted in accordance with applicable rules promulgated by the Finance Director relating to petitions and hearings.
- E. Finance Director may appoint designee. A hearing, if any, shall be before the Finance Director or its designee, who is authorized to administer oaths, to take testimony, to hear arguments, and to issue all necessary and appropriate orders and decisions.
- F. Burden of proof. The burden of proof that sales of lodging upon which refunds of taxes are claimed, or for which modifications or cancellations of assessments are sought, are exempt from or not subject to taxation under this Chapter shall be on the taxpayer and such proof shall be by a preponderance of evidence.
- G. Final order or decision. The final order or decision of the Finance Director or its designee shall be in writing and notice thereof shall be mailed to the taxpayer forthwith.

3-4-19: REVIEW OF FINANCE DIRECTOR'S FINAL ORDER OR DECISION.

- A. Should the taxpayer be aggrieved by a final order or decision of the Finance Director, the taxpayer may proceed to have same reviewed under Colorado Rules of Civil Procedure 106(a)(4) by the district court for the fifth judicial district of the state. The petition or complaint for review must be filed within thirty (30) days from the date of the final order or decision. Any party, including the Town, may appeal the final order or decision of the Finance Director and, also, the decision of the district court (or such other tribunal having jurisdiction), using all judicial, appellate, and extraordinary proceedings available.
- B. Before filing a petition or complaint for review under Colorado Rules of Civil Procedure 106(a)(4), the taxpayer shall file with the Finance Director a bond in twice the amount of the taxes, interest and other charges audited and stated in the final order or decision of the Finance Director, with surety as is provided in other cases of appeal, or may deposit lawful money of the United States in the same manner as herein provided.

3-4-20: TAX LIEN.

- A. The tax imposed by this Chapter, together with the interest and penalties herein provided and the costs of collection which may be incurred, shall be and, until paid, remain a first and prior lien superior to all other liens upon the goods, merchandise, furniture and fixtures, tools and equipment of any taxpayer, or used by any taxpayer in conducting his business under lease, title retaining contract or other contract arrangement, within the Town and shall take precedence on all such property over other liens or claims of whatsoever kind or nature and may be foreclosed by seizing under distraint warrant and selling so much of said goods, merchandise, furniture and fixtures, tools and equipment as may be necessary to discharge said lien.
- B. The real or personal property of an owner who has made a bona fide lease to a taxpayer shall be exempt from the lien created in this section (1) if such property can reasonably be identified from the lease description and (2) if the

lessee is given no right to become the owner of the property leased. This exemption shall be effective from the date of the execution of the lease until its termination if the lease is filed or recorded, within ten (10) days after the execution of the lease, with either the executive director of the state department of revenue or the clerk and recorder of the Town. Where the lessor and lessee are blood relatives, relatives by law, or have twenty-five (25) percent or more common ownership, a lease between them shall not be considered bona fide for the purpose of this section.

C. Any taxpayer who is in possession of property under the terms of a lease, which property is exempt from lien as provided in this section, may be required by the manager to make return of and pay over taxes collected at more frequent intervals than monthly, or may be required to furnish security for the proper payment of taxes whenever the collection of taxes appears to be in jeopardy.

3-4-21: SALE UPON DISTRAINT:

A. Causes. The Finance Director may issue a warrant directed to the Summit County Sheriff, sometimes in this section referred to collectively as "agent," commanding the agent to distraint, seize and sell the goods, merchandise, furniture and fixtures, tools and equipment of, or used by, the taxpayer, except such personal property as is exempted from execution and sale by any statute of the United States, for the payment of the tax due together with penalties and interest accrued thereon and cost of execution, including thirty dollars (\$30.00) for every warrant issued under this section, upon the happening of any one (1) of the following:

- (1) When any deficiency in tax is not paid within thirty (30) days from the Finance Director's final decision thereon and no petition for review from such determination has been filed with the district court for the fifth judicial district within the period of time allowed by law for such review;
- (2) When any amount of tax, penalty or interest is not paid within thirty (30) days from the mailing or personal service of demand for payment thereof and no protest thereof has been filed with the Finance Director within said period; or
- (3) Immediately upon making of a jeopardy assessment or of the issuance of a demand for payment, as provided in this section.

B. Notices. The agent charged with the collection shall make or cause to be made an account of the property distrained, a copy of which, signed by the agent making such distraint, shall be served, by leaving it with the owner or possessor of the property or with some member of such person's family over the age of eighteen (18) years, or at the person's usual place of abode or, if the person is a business entity within the Town, with any officer, manager, accountant, bookkeeper, general agent, registered agent, or agent for process, together with a copy of said warrant stating the sum demanded. In lieu of the foregoing provisions of this subsection for serving said account and warrant, if the owner or possessor cannot be readily located, or has no dwelling or place of business within the Town, the account and warrant may be served by mailing by certified mail to the last known address of the owner or possessor. Said agent shall cause to be published a notice of the time and place of sale, together with a description of the property to be sold, in some newspaper of general circulation within the Town and the agent shall cause such notice to be publicly posted at the location of the property and place of sale, at the Denver courthouse, and in at least two (2) other places within the Town. The taxpayer and those having possession of, or of public record a security interest in, the property shall be notified of the time and place of sale either in person or by certified mail, or, if that is impractical, by first class mail. The time fixed for the sale shall not be less than ten (10) days nor more than sixty (60) days from the date of such notification, and notification by mail shall be presumed upon mailing.

C. Management of sale. Said sale may be adjourned from time to time by said agent if he deems it advisable but not for a time to exceed in all ninety (90) days from the date first fixed for the sale. When any property is advertised for sale under distraint as aforesaid, the agent making the seizure shall proceed to sell such property at public auction, offering the same at not less than a fair minimum price, including the expenses of making the seizure, storing the property and of advertising the sale, and if the amount bid for the property at the sale is not equal to the fair minimum price so fixed, the agent conducting the sale may declare the same to be purchased by him for the Town. The property so purchased may be

sold by the agent under such terms as the Finance Director may approve or declared to be surplus property subject to disposition by the Finance Director of general services. In any case of distraint for the payment of taxes, the property so distrained shall be restored to the owner or possessor if, prior to the sale, the amount due is paid together with the fees and other charges, or the property may be so redeemed before sale by any person having a legal or equitable interest in the property.

D. Certificate of title; return of surplus. In all cases of sale, the agent making the sale shall issue a certificate of sale to each purchaser, and such certificate shall be prima facie evidence of the right of the agent to make such sale and conclusive evidence of the regularity of the proceedings in making the sale and shall transfer to the purchaser all right, title and interest in and to the property sold. Any surplus remaining above the taxes, interest, penalties, costs and expenses of making the seizure and of advertising the sale shall be returned upon demand made within one (1) year from the sale to the owner. Surplus remaining at the end of one (1) year from the sale shall be deposited to the general fund.

E. Filing of notice of lien. Any agent to whom warrant has been issued may serve a notice of lien in such form as the Finance Director may prescribe with the person in possession of any personal property or rights to property, without regard to its use in the business of the taxpayer, belonging to the taxpayer or file said notice with the secretary of state and the clerk and recorder, and the service or filing of such notice shall operate to perfect a lien upon such personal property or rights to property from the date of such service or filing. The Finance Director may release said lien as to any part or all of the property or rights to property covered by any such lien upon such terms as he may deem proper.

F. Recurring distraint. If any taxpayer liable for the payment of any tax pursuant to this Chapter repeatedly fails, neglects, or refuses to pay said tax within the time required by this Chapter and the Finance Director has been required to issue distraint warrants to enforce the collection of the tax due from such taxpayer, the Finance Director is authorized to assess and collect the amount of the taxes due, together with all interest and penalties thereon provided by law, and also an additional penalty of one hundred dollars (\$100.00) each for the second and following distraint warrant regarding the taxpayer that is issued by the Finance Director pursuant to this Chapter.

G. When collection in jeopardy. If the Finance Director finds that collection of the tax will be jeopardized by delay, in his discretion, he may declare the taxable period immediately terminated, determine the tax, and issue notice and demand for payment thereof; and having done so, the tax shall be due and payable forthwith, and the Finance Director may proceed immediately to collect such tax by distraint, levy and sale or as otherwise provided in this section. Collection by seizure and sale may be stayed if the taxpayer gives such security for payment as shall be satisfactory to the Finance Director. The taxpayer or other person entitled to notice under this Title may request a hearing in writing before the Finance Director regarding the jeopardy determination and the amount of the assessment. A request for hearing must be made within seven (7) days after the notice and demand for payment or distraint warrant is issued. The hearing shall be held within fifteen (15) days of the request. The hearing shall be informal and need not comply with the requirements of the applicable provisions of this Title, nor with the applicable rules and regulations promulgated by the Finance Director relating to hearings. The burden of proof shall be on the taxpayer or other person requesting the hearing, and such proof shall be by a preponderance of evidence. The Finance Director shall enter his decision within thirty (30) days after the hearing and shall furnish a copy to the taxpayer or other person requesting the hearing. If the taxpayer is aggrieved by the decision of the Finance Director, the taxpayer may seek review pursuant to the applicable provisions of this Title. A request for hearing under this section shall not stay collection proceedings unless such request is accompanied by a bond or other security as shall be satisfactory to the Finance Director.

3-4-22: RELEASE OF LIEN:

Any lien for taxes as shown on the records of the county clerks and recorders as herein provided in this Chapter shall, upon the payment of all taxes, penalties

and interest covered thereby, be released by the manager of finance in the same manner as mortgages or judgments are released.

3-4-23: MANAGER MAY WAIVE PENALTY:

The Finance Director is hereby authorized to waive, for good cause shown, any penalty assessed as in this Chapter provided, and interest imposed in excess of one (1) percent each month or fraction thereof of the tax deficiency, from the date the tax is due until the date paid.

3-4-24: LICENSE AND TAX IN ADDITION TO ALL OTHER TAXES:

The tax imposed by this Chapter shall be in addition to all other taxes imposed by law, except as otherwise provided in this Chapter.

3-4-25: VIOLATIONS; EVASION OF COLLECTION OR PAYMENT OF TAX:

It shall be a violation of this Chapter for any vendor to refuse to make any return provided to be made in this Chapter, or to make any false or fraudulent return, or any false statement in any return, or to fail or refuse to make payment to the Finance Director of any taxes collected or due the Town, or in any manner to evade the collection and payment of the tax, or any part thereof, imposed by this Chapter, or for any person or purchaser to fail or refuse to pay such tax or evade the payment thereof, or to aid or abet another in any attempt to evade the payment of the tax imposed by this Chapter. Any corporation making a false return or a return containing a false statement shall be guilty of a violation of this Chapter. Any person convicted of a violation of any provision of this Chapter shall be punished as provided in Section 1-4-1 of this Code.

Section 3. The Town Council finds, determines, and declares that it has the power to adopt this ordinance pursuant to the authority granted to home rule municipalities by Article XX of the Colorado Constitution and the powers contained in the Breckenridge Town Charter.

Section 4. This ordinance shall be published and become effective as provided by Section 5.9 of the Breckenridge Town Charter.

INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED PUBLISHED IN FULL this 10th day of March, 2020.

This ordinance was published in full on the Town of Breckenridge website on March 13, March 14, March 15, March 16 and March 17, 2020.

A public hearing on this ordinance was held on April 28, 2020.

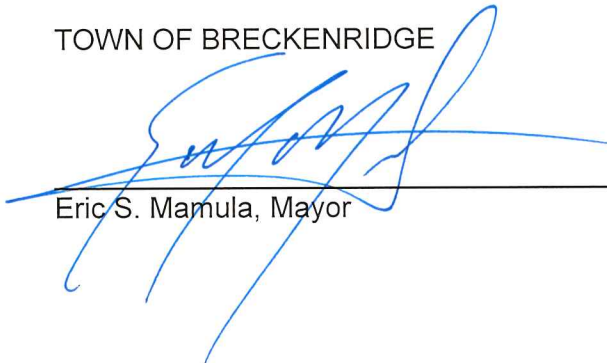
READ, ADOPTED ON SECOND READING AND ORDERED PUBLISHED IN FULL ON THE TOWN'S WEBSITE this 28th day of April, 2020. A copy of this Ordinance is available for inspection in the office of the Town Clerk.

ATTEST:

TOWN OF BRECKENRIDGE




Helen Cospolich, CMC, Town Clerk



Eric S. Mamula, Mayor

APPROVED IN FORM



Town Attorney

4/28/20
Date

This Ordinance was published on the Town of Breckenridge website on April 30, May 1, May 2, May 3 and May 4, 2020. This ordinance shall become effective on June 3, 2020.