

1 **FOR WORKSESSION/SECOND READING – AUG. 28**

2
3 Additions To The Ordinance As Approved on First Reading Are
4 Indicated By **Bold + Double Underline**; Deletions By ~~Strikeout~~

5
6 COUNCIL BILL NO. 20

7
8 Series 2018

9
10 AN ORDINANCE AMENDING CHAPTER 1 OF TITLE 4 OF THE BRECKENRIDGE
11 TOWN CODE, KNOWN AS THE TOWN OF BRECKENRIDGE “BUSINESS AND
12 OCCUPATIONAL LICENSES AND TAX ORDINANCE,” CONCERNING
13 ACCOMMODATION UNITS; REQUIRING A ~~LOCAL~~**RESPONSIBLE** AGENT FOR EACH
14 ACCOMMODATION UNIT; IMPOSING AN ACCOMMODATION UNIT
15 ADMINISTRATIVE FEE; MAKING CERTAIN REQUIRED FINDINGS WITH RESPECT TO
16 SUCH FEE; AUTHORIZING INSPECTIONS OF ACCOMMODATION UNITS; AND
17 MAKING OTHER AMENDMENTS TO THE BUSINESS AND OCCUPATIONAL
18 LICENSES AND TAX ORDINANCE

19
20 BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BRECKENRIDGE,
21 COLORADO:

22
23 Section 1. The definition of “Accommodation Unit” in Section 4-1-2 of the Breckenridge
24 Town Code is amended to read as follows:
25

ACCOMMODATION UNIT: A separate and distinct living unit including
condominium, townhome, house, trailer, studio unit,
condominium unit, or any such other similar unit which is
rented to any person, who, for consideration, uses,
possesses or has the right to use or possess such
accommodation unit for a period of less than 30
consecutive days, regardless of the number of days during
a license year such unit is rented.

26
27 Section 2. Section 4-1-2 of the Breckenridge Town Code is amended by the addition of
28 the following definitions:
29

AUTHORIZED PUBLIC INSPECTOR: With respect to inspections to be conducted pursuant to
Section 4-1-8-1A9 of this Chapter, any employee or
representative of the Town’s Finance Department, except
the Finance Director.

~~LOCAL~~
RESPONSIBLE
AGENT: A management company, rental agent, or individual who
is identified by a licensee as the licensee’s
~~local~~**responsible** agent pursuant to Section 4-1-8-1A6. **A**
licensee may, at the licensee’s option, identify an

alternate responsible agent to act for the licensee if the responsible agent, for any reason, is not successfully contacted by the Town in response to a complaint, or the administrative regulations adopted by the Finance Director pursuant to Section 4-1-10A3.

RENTAL AGENT: A management company, rental agent, or other person employed or engaged by the licensee to advertise the accommodation unit for rent, or to remit any required tax to the Town.

1
2 Section 3. The definition of “Single-Family Accommodation Unit” in Section 4-1-2 of
3 the Breckenridge Town Code is deleted.

4
5 Section 4. The Title of Section 4-1-4 of the Breckenridge Town Code is amended to read
6 “Annual License Tax.”

7
8 Section 5. Chapter 1 of Title 4 of the Breckenridge Town Code is amended by the
9 addition of a new Section 4-1-4-1, to be entitled “Annual Accommodation Unit Compliance
10 Fee,” which shall read as follows:

11
12 4-1-4-1: ANNUAL ACCOMMODATION UNIT ADMINISTRATIVE FEE:

13
14 A. Commencing with licenses for accommodation units issued for the January 2019
15 licensing period, and continuing each licensing year thereafter, there shall be added to
16 each accommodation unit license issued by the Finance Director pursuant to this
17 Chapter, and there shall be paid by the licensee of such license, an annual
18 accommodation unit administrative fee. The amount of the annual accommodation
19 unit administrative fee shall be:

Type Of Accommodation Unit	Annual Fee
Studio unit	\$25.00
1 bedroom unit	30.00
2 bedroom unit	35.00
3 bedroom unit	100.00
4 or more bedroom unit	150.00

20
21
22 **No accommodation unit license shall be issued until the applicable**
23 **accommodation unit administrative fee has been received by the Finance**
24 **Director.**

25
26 B. Condominiums, condominium/hotels, and hotels/lodgings/inns as defined in Section
27 9-1-5 of this Code are exempt from the requirement to pay the annual accommodation

1 unit administrative fee if they have: (a) a twenty four (24) hour front desk; (b) a
2 twenty four (24) hour telephone system; and (c) twenty four (24) hour on site private
3 security; chalet houses as defined in Section 9-1-5 of this Code are exempt from the
4 requirement to pay the annual accommodation unit administrative fee.
5

6 C. The accommodation unit administrative fee shall be due and payable to the Town at
7 the same time the tax required by Section 4-1-4 is due.
8

9 D. Beginning with the Town's 2019 fiscal year, the amount of the accommodation unit
10 administrative fee described in this Section shall be fixed by the Town Council as part
11 of its annual budget process. If, for any reason, the amount of such fee is not fixed by
12 the Town Council as part of its annual budget process, the fee for the preceding year
13 shall continue in full force and effect until changed by the Town Council.
14

15 E. It is the purpose of this Section to protect the public health, safety, and welfare by
16 establishing a comprehensive regulatory scheme for the Town that attempts to
17 address some of the negative impacts associated with the existence of the numerous
18 accommodation units within the Town, and to relieve Town taxpayers of the costs
19 that would otherwise be incurred by the Town in providing those services directly and
20 indirectly related to accommodation units within the Town as set forth in Section F,
21 below. The identified negative impacts of the numerous accommodation units within
22 the Town include, but are not limited to a significant change in the character of the
23 neighborhoods within the Town in which accommodation units are located, including,
24 but not limited to, significant impacts on parking, noise, and trash in such
25 neighborhoods.
26

27 F. Funds collected by the Town from the accommodation unit administrative fee
28 established by this Section shall be used to defray the reasonable direct and indirect
29 costs of the following Town services that are related to the identified negative
30 impacts of accommodation units within the Town described in Section E, above:
31

- 32 1. Administrative and personnel costs associated with developing and
33 implementing the accommodation unit administrative fee;
- 34 2. Costs of acquiring, training staff to use, updating, and replacing software and
35 other computer programs necessary to monitor the accommodation units within
36 the Town; and
- 37 3. Costs of enforcing the requirements of this Chapter, including, but not limited
38 to inspecting accommodation units within the Town.
39

40 No portion of the accommodation unit administrative fees collected by the Town shall
41 be used for any purpose other than those purposes enumerated in this Section F.
42

43 G. The accommodation unit administrative fee established by this Section is not
44 designed to raise revenues to defray the general expenses of Town government, but
45 rather is a charge imposed for the purpose of defraying some of the costs of the
46 particular Town services and programs described in Section F.

1
2 H. The Finance Director shall establish a method for separately accounting for all of the
3 accommodation unit administrative fees collected by the Town pursuant to this Section,
4 and the expenditure of such fees.
5

6 I. Based on the information that has been provided to the Town Council by the Finance
7 Director, the accommodation unit administrative fee imposed by this Section bears a
8 reasonable relationship to the anticipated cost of providing the Town programs and
9 services described in this Section.
10

11 Section 6. Section 4-1-5A1 of the Breckenridge Town Code is amended to read as
12 follows:
13

14 1. The Finance Director shall issue a license for an accommodation unit under this
15 Chapter only to the owner of such accommodation unit.
16

17 Section 7. Section 4-1-8-1 of the Breckenridge Town Code is amended to read as
18 follows:
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20 4-1-8-1: SPECIAL CONDITIONS OF LICENSE – ALL ACCOMMODATION
21 UNITS:
22

23 A. Special Conditions: Except as provided in Section G of this Section, in addition to
24 the other requirements of this Chapter, the owner of an accommodation unit
25 licensed pursuant to this Chapter shall, as a condition of such license, be subject
26 to the following requirements:

27 1. The motor vehicles of all occupants of the accommodation unit shall be parked
28 only on the site of the accommodation unit, or in a Town designated parking area
29 located off of the site of the accommodation unit. No motor vehicles shall be
30 parked on the lawn or landscaped areas of an accommodation unit, or in the
31 public street or right of way adjacent to the accommodation unit. No person shall
32 be permitted to stay overnight in any motor vehicle which is parked at an
33 accommodation unit. Further, all motor vehicles parked at an accommodation unit
34 shall comply with the requirements and be subject to the limitations of Section 9-
35 3-11 of this Code.

36 2. The storage and disposal of all trash and garbage from an accommodation unit
37 shall comply with the requirements of Title 5, Chapter 2 of this Code.

38 3. While occupying an accommodation unit, no person shall: a) make, cause or
39 control unreasonable noise upon the accommodation unit which is audible upon a
40 private premises that such occupant has no right to occupy in violation of
41 Subsection 6-3C-1A2 of this Code, or b) violate Title 5, Chapter 8 of this Code.

42 4. No accommodation unit shall be operated in such a manner as to constitute a
43 nuisance pursuant to Title 5, Chapter 1 of this Code.

1 5. The licensee shall provide to the Finance Director the name, address and
2 telephone number of any current rental agent for the accommodation unit. The
3 rental agent may be changed by the licensee from time to time throughout the
4 term of the license. To effect such change, the licensee shall notify the Finance
5 Director of the change in writing and shall, at the same time, provide the Finance
6 Director with the name, address and telephone number of the licensee's
7 replacement rental agent.

8 6. At the time of the issuance of the license the licensee shall also provide to the
9 Finance Director the name, address and telephone number of a ~~local~~**responsible**
10 agent who is authorized by the licensee to receive communications from the Town
11 concerning the accommodation unit, and who agrees in writing to comply with
12 the requirements of Subsection A7. The ~~local~~**responsible** agent may be the same
13 person ~~designed~~ **designated** by licensee pursuant to Subsection A5. The
14 designated ~~local~~**responsible** agent may be changed by the licensee from time to
15 time throughout the term of the license. To effect such change, the licensee shall
16 notify the Finance Director of the change in writing and shall, at the same time,
17 provide the Finance Director with the name, address and telephone number of the
18 licensee's replacement ~~local~~**responsible** agent.

19 7. A licensee's ~~local~~**responsible** agent, or such person's employee or designee,
20 shall be available twenty four (24) hours per day, seven (7) days per week, to
21 respond (as defined in the administrative rules and regulations) to any complaint
22 filed with or through the Town, or a website provided by the Town for such
23 purpose, about the operation or condition of the licensee's accommodation unit.
24 Such ~~local~~**responsible** agent shall respond to a complaint within a sixty (60)
25 minutes of receiving notice of such complaint. The ~~local~~**responsible** agent's
26 failure to respond to a complaint as required by this Section is chargeable to the
27 Owner pursuant to Subsection B of this Section.

28 8. Each accommodation unit shall comply with all of the following minimum
29 health and safety standards at all times while the property is being occupied:

- 30 a. The applicable requirements of the Town's building and technical
31 codes adopted by reference in Title 8, Chapter 1 of this Code;
- 32 b. The applicable requirements of any other ordinance, rule, or
33 administrative regulation of the Town;
- 34 c. The terms and conditions of any development permit issued to the
35 licensee with respect to the accommodation unit;
- 36 d. Smoke detectors and carbon monoxide detectors shall be installed in
37 the accommodation unit and shall be operable at all times; and
- 38 e. Wood-burning fireplaces and stoves in the accommodation unit shall
39 be cleaned on an annual basis.

1 9. Because accommodation units are, by their nature, intended to be occupied by
2 numerous guests for short periods of occupancy, it is determined that the Town's
3 ability to inspect accommodation units is in the interest of public safety.
4 Therefore, whenever it is necessary or desirable to make an inspection to enforce
5 the special requirements of this Subsection A, an authorized public inspector may
6 enter such accommodation unit at all reasonable times to inspect the same for the
7 purpose of enforcing such special conditions. Provided, that if such
8 accommodation unit is occupied, the authorized public inspector shall first present
9 proper credentials and request entry, and if such accommodation unit is
10 unoccupied, shall first make a reasonable effort to locate the owner, the
11 ~~local~~ **responsible** agent, or other person having charge or control of the
12 accommodation unit and request entry. If such entry is refused, or if the
13 accommodation unit is locked, the authorized public inspector shall have recourse
14 to every remedy provided by law to secure entry. When an authorized public
15 inspector has obtained a proper inspection warrant or other remedy provided by
16 law to secure entry, no owner, occupant, or any other persons having charge, care,
17 or control of any accommodation unit shall fail or refuse, after proper request is
18 made as herein provided, to promptly permit entry therein by the authorized
19 public inspector for the purpose of inspection of the accommodation unit. No
20 inspection warrant or permission shall be required for an authorized public
21 inspector to enter and inspect an accommodation unit in the case of an emergency
22 involving the potential loss of property or human life.

23 10. The municipal court judge may issue an inspection warrant authorizing the
24 inspection of an accommodation unit pursuant to this Section in accordance with
25 rule 241(b) of the Colorado municipal court rules of procedure. Any inspection
26 warrant issued pursuant to this Section shall fully comply with the applicable
27 provisions of rule 241 of the Colorado municipal court rules of procedure. The
28 municipal judge may impose such conditions on an inspection warrant as may be
29 necessary in the judge's opinion to protect the private property rights of the owner
30 of the accommodation unit to be inspected, or to otherwise make the warrant
31 comply with applicable law.

32 11. All property taxes that are lawfully assessed against an accommodation unit
33 shall be paid to the appropriate taxing authority.

- 34 B. Owner Liable: Compliance with the special conditions set forth in Subsection A
35 of this Section shall be the nondelegable responsibility of the owner of an
36 accommodation unit; and each owner of an accommodation unit shall be strictly
37 liable for complying with the conditions set forth in Subsection A of this Section.
- 38 C. Licensee To Receive Special Conditions: At the time of the issuance of a license,
39 the Finance Director shall provide the licensee with a copy of the special
40 conditions set forth in Subsection A of this Section.
- 41 D. Licensee To Post License And Special Conditions: The licensee shall post a copy
42 of the license and the special conditions set forth in Subsection A of this Section

1 within five (5) feet of the main entrance of the accommodation unit. The license
2 and the special conditions shall remain continuously posted in the accommodation
3 unit throughout the term of the license.

4 E. Licensee To Provide Rental Agent and ~~Local Agent~~**Responsible Agent** With
5 Special Conditions: The licensee shall provide any rental agent and the licensee's
6 ~~local~~**responsible** agent with a copy of the special conditions set forth in
7 Subsection A of this Section.

8 F. Revocation Or Suspension Of License: The failure of the licensee of an
9 accommodation unit to comply with the special conditions set forth in Subsection
10 A of this Section shall constitute grounds for the suspension or revocation of the
11 license. Any action to suspend or revoke the license shall be conducted by the
12 Finance Director in accordance with Section 4-1-10-1 of this Chapter.

13
14 Before an action is commenced to suspend or revoke a license for an
15 accommodation unit, the Finance Director shall first provide the licensee with a
16 written warning that an apparent violation of the special conditions of Subsection
17 A of this Section has occurred, and the licensee shall be given a reasonable
18 opportunity to cure such apparent violation. A copy of such warning notice shall
19 also be sent to any rental agent who has been properly identified by the licensee
20 pursuant to Subsection A5 of this Section and to the ~~local~~**responsible** agent
21 identified by the licensee pursuant to Subsection A6 of this Section. Not more
22 than one written warning shall be required to be sent during the term of each
23 license.

24 G. Condominiums, condominium/ hotels, and hotels/lodgings/inns as defined in
25 Section 9-1-5 of this Code are exempt from the provisions of this section if they
26 have: (a) a twenty four (24) hour front desk; (b) a twenty four (24) hour telephone
27 system; and (c) twenty four (24) hour on site private security; chalet houses as
28 defined in Section 9-1-5 of this Code are exempt from the provisions of this
29 section.

30 Section 8. Section 4-1-10A3 of the Breckenridge Town Code is amended to read as
31 follows:

32
33 3. Promulgate and enforce all reasonable rules and regulations necessary to the operations
34 and enforcement of this chapter. Such administrative rules and regulations shall be
35 adopted in accordance with the procedures established by title 1, chapter 18 of this Code.
36 A violation of the administrative rules and regulations issued by the Finance Director
37 pursuant to the authority granted by this Section shall be a misdemeanor municipal
38 offense and may be enforced by appropriate action in the Town's Municipal Court.
39

40 Section 9. Section 4-1-10-1A of the Breckenridge Town Code is amended to read as
41 follows:

42 A. A license issued pursuant to this chapter may be revoked by the Finance Director
43 after hearing for the following reasons:

1 1. Fraud, misrepresentation or a false statement of material fact contained in the
2 license application or any document submitted to the Finance Director pursuant to the
3 Finance Director’s administrative rules and regulations;

4 2. The failure or refusal of an owner of an accommodation unit to permit inspection
5 of the owner’s accommodation unit by an authorized public inspector as required by
6 Section 4-1-8-1;

7 3. Any violation of the provisions of this chapter; or

8 4. As to any person required to have a town sales tax license pursuant to title 3,
9 chapter 1 of this code, proof that such license has been revoked by the Finance
10 Director in accordance with Section 3-1-26 of this code.

11 In connection with the suspension of a license, the Finance Director may impose
12 reasonable conditions.
13

14 Section 10. The introductory portion of Section 4-1-10-1D of the Breckenridge Town
15 Code is amended to read as follows:
16

17 D. If the Finance Director determines after a hearing that cause exists for the
18 imposition of a sanction against a licensee of an accommodation unit pursuant to
19 Section 4-1-8-1 of this Chapter, the Finance Director shall impose the following
20 sanction against the licensee:

21 Section 11. Section 4-1-10-1B of the Breckenridge Town Code is amended to read as
22 follows:
23

24 B. Notice of a hearing to be held pursuant to this chapter shall be given by the
25 Finance Director in writing to the licensee at the address shown on the license
26 application, any rental agent identified by the licensee pursuant to subsection 4-1-
27 8-1A5 of this chapter, and to the ~~local~~**responsible** agent identified by the licensee
28 pursuant to subsection 4-1-8-1A6 of this chapter. Such notice shall be mailed
29 postage prepaid, at least twenty (20) days prior to the date set for the hearing. At
30 the hearing the licensee may appear with or without counsel and present such
31 evidence as may be relevant.
32

33 Section 12. Section 4-1-10-1F of the Breckenridge Town Code is amended to read as
34 follows:
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36 F. If the Finance Director suspends or revokes a business and occupational tax
37 license, the aggrieved licensee may appeal said suspension or revocation to the Town
38 Council by filing a letter of appeal with the Town Manager within twenty (20) days
39 after the date of mailing of the Finance Director’s order of suspension or revocation.
40 The Finance Director’s suspension or revocation of the license shall be stayed until
41 the appeal has been determined by the Town Council. The Town Council shall
42 conduct a de novo hearing on the appeal at a regular or special Town Council meeting

1 held within thirty (30) days of date of the filing of the letter of appeal, unless the
2 licensee agrees to a longer time. Notice of the de novo hearing shall be given to the
3 licensee by the Finance Director at least twenty (20) days before the hearing. The
4 burden of proof in the appeal shall be on the Town. At the appeal, the licensee may
5 appear with or without counsel and present such evidence as may be relevant. The
6 strict rules of evidence shall not apply to the de novo hearing. If the Town Council
7 finds by a preponderance of the evidence that grounds for suspension or revocation of
8 the license exist as specified in this Chapter, the Town Council may order the license
9 suspended or revoked; provided, however, that if the license is for an
10 accommodation unit the Town Council shall adhere to the provisions of Subsection D
11 of this Section. If the Town Council finds by a preponderance of the evidence that no
12 grounds exist for the suspension or revocation of the license, the appeal shall be
13 sustained, and the Finance Director's order of suspension or revocation shall be set
14 aside. The Town Council's decision shall be final, subject to the right of the licensee
15 to contest the matter in an appropriate court action commenced under rule 106(a)(4)
16 of the Colorado rules of civil procedure. For purposes of determining the time limit
17 for the commencement of an action under rule 106(a)(4) of the Colorado rules of civil
18 procedure, the Town Council's decision shall be deemed to be final upon the
19 Council's issuance of a written order of suspension or revocation of a license.

20 Section 13. Except as specifically amended by this ordinance, the Breckenridge Town
21 Code , and the various secondary codes adopted by reference therein, shall continue in full force
22 and effect.

23
24 Section 14. The Town Council finds, determines, and declares that it has the power to
25 adopt this ordinance pursuant to the authority granted to home rule municipalities by Article XX
26 of the Colorado Constitution, and, particularly, Section 12.1 of the Breckenridge Town Charter.

27
28 Section 15. This ordinance shall be published as required by Section 5.9 of the
29 Breckenridge Town Charter and shall become effective on January 1, 2019.

30
31 INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED
32 PUBLISHED IN FULL this ____ day of _____, 2018. A Public Hearing shall be held at the
33 regular meeting of the Town Council of the Town of Breckenridge, Colorado on the ____ day of
34 _____, 2018, at 7:00 P.M., or as soon thereafter as possible in the Municipal Building of the
35 Town.

36
37 TOWN OF BRECKENRIDGE, a Colorado
38 municipal corporation

39
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41 By: _____
42 Eric S. Mamula, Mayor
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ATTEST:

Helen Cospolich
Town Clerk

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