

ORDINANCE NO. 839

**AN ORDINANCE CONCERNING THE CITY'S VOTER-APPROVED
LODGING EXCISE TAX**

WHEREAS, by Ordinance No. 808 adopted on July 11, 2016, the City Council referred to the registered electors of the City a ballot issue concerning imposition of a three percent (3%) excise tax on the leasing or renting of any hotel room, motel room or other public lodging located in the City for a period of less than thirty (30) days, which ballot issue was approved by a majority of the registered electors at the City's regular election held on November 8, 2016; and

WHEREAS, the City Council desires to set forth the administrative framework for collecting such tax, as set forth herein.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DACONO, COLORADO:

Section 1. Chapter 4 of the Dacono Municipal Code is hereby amended by the addition of a new Article 6 to read as follows:

**ARTICLE 6
Lodging Tax**

- Sec. 4-180 Legislative intent
- Sec. 4-182 Definitions
- Sec. 4-184 Imposition and rate of tax
- Sec. 4-186 Liability for tax
- Sec. 4-188 Taxes collected held in trust
- Sec. 4-190 Licensing and reporting procedure
- Sec. 4-192 Maintenance and preservation of records
- Sec. 4-194 Enforcement of tax liability

Sec. 4-180 Legislative intent.

The legislative intent of the City Council in enacting this Article is that every person who, for consideration, leases or rents any hotel room, motel room, or other accommodation located within the City shall pay, and every person who furnishes for lease or rental any such accommodation shall collect, the tax approved by the registered electors of the City as forth in this Article.

Sec. 4-182 Definitions.

For the purposes of this Article, when not clearly otherwise indicated by context, the following terms, words, and phrases shall have the following meanings:

Business means all activities in which a person engages or in which such person causes another to be engaged with the object of gain, benefit or advantage, whether direct or indirect.

Hotel room, motel room, or other accommodation means any room or other accommodation in any hotel, apartment hotel, motel, lodging house, motor hotel, guest house, guest ranch, trailer coach, mobile home, auto camp, time-share unit, condominium unit, townhome, trailer court, private residence or any such similar place provided to any person who, for consideration, uses, possesses or has the right to use or possess such room or other accommodation for a period of less than thirty (30) consecutive days.

Sec. 4-184 Imposition of tax.

On and after the effective date of this ordinance, there is levied and shall be paid and collected an excise tax of three percent (3%) on the price paid for the leasing or rental of any hotel room, motel room, or other accommodation located within the City.

Sec. 4-186 Liability for tax.

(a) It is unlawful for any lessee or renter of a hotel room, motel room, or other accommodation located within the City to fail to pay, or for any lessor or renter of such accommodation to fail to collect, the tax levied by this Article.

(b) The burden of proving that any transaction is not subject to the tax imposed by this Article shall be upon the person upon whom the duty to collect the tax is imposed.

Sec. 4-188 Taxes collected held in trust.

All sums of money paid by a person who leases or rents any hotel room, motel room, or other accommodation as the lodging tax imposed by this Article are public monies that are the property of the City. The person required to collect and remit the lodging tax shall hold such monies in trust for the sole use and benefit of the City until paying them to the City.

Sec. 4-190 Licensing and reporting procedure.

(a) Every person with a duty to collect the tax set forth in this Article shall obtain a City business license in accordance with the requirements of Chapter 6 of this Code, and shall report such taxes collected on forms prescribed by the City and remit said taxes to the City on or before the same date that sales taxes are required to be submitted to the City. If sales taxes are required to be reported and paid on a monthly basis, the lodging tax shall be paid to the City on a

monthly basis. If sales taxes are required to be paid on a quarterly or annual basis, the lodging tax shall be paid to the City on that same basis.

(b) The tax, if not paid on the 20th day of the month for the preceding month or months under report, as provided for herein, shall become delinquent on the 21st day of that month.

(c) Interest shall accrue on all delinquent taxes from the day of the delinquency until paid or collected at the rate of one percent (1%) per month.

Sec. 4-192 Maintenance and preservation of records.

(a) The City may require any person to make such return, render such statement, or keep and furnish such records as the City may deem sufficient and reasonable to demonstrate whether or not the person is liable under this Article for payment or collection of the tax imposed herein.

(b) Any person required to make a return or file a report under this Article shall preserve duplicates of those returns or reports for three (3) years.

Sec. 4-194 Enforcement of tax liability.

(a) The tax imposed by this Article is a first and prior lien on real property and tangible personal property in which the person responsible to collect and remit the tax has an ownership interest, subject only to valid mortgages and other liens of record at the time of and prior to the recording of notice of the tax lien.

(b) The City shall have the right to recover all sums due pursuant to the terms of this Article by judgment and execution thereon in a civil action in any court of competent jurisdiction.

(c) The City may seek an injunction to restrain a person, business or entity from engaging in business within the City who does not comply with the requirements and payment of taxes as required under this Article.

(d) Pursuant to C.R.S. § 31-20-101, *et seq.*, the City may cause any delinquent charges, fees, or taxes made or levied hereunder to be certified to the County Treasurer, to be collected and paid over by the County Treasurer in the same manner as real or personal property taxes, including the provisions for the creation of a lien upon the subject property.

(e) In the event it is necessary for the City to take action for the enforcement of this Article, there shall be added to any fees, charges, and taxes due hereunder all reasonable costs and fees incurred by the City, including reasonable attorney fees and costs of collection. If any action is brought in a court

of law by or against the City relating to the enforcement, interpretation, or construction of this Article, of any document provided for herein, or of any proceeding hereunder, the prevailing party in such action shall be entitled to reasonable attorney fees as well as all costs incurred in the prosecution or defense of such action.

(f) All remedies set forth herein shall be cumulative and shall be available to the City in addition to any other remedies available by law.

Section 2. If any article, section, paragraph, sentence, clause, or phrase of this ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each part or parts hereof irrespective of the fact that any one part or parts be declared unconstitutional or invalid.

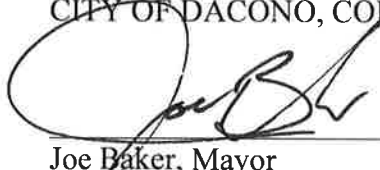
Section 3. All other ordinances or portions thereof inconsistent or conflicting with this ordinance or any portion hereof are hereby repealed to the extent of such inconsistency or conflict.

INTRODUCED, READ, ADOPTED ON FIRST READING, AND ORDERED PUBLISHED BY TITLE AND POSTED IN FULL this 13th day of November, 2017.

PUBLIC HEARING AND SECOND READING WILL BE THE 27th day of November, 2017, AT 6:00 P.M. AT DACONO CITY HALL, 512 CHERRY STREET, DACONO, CO.

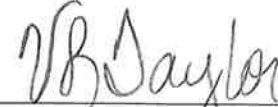
READ, ADOPTED ON SECOND READING, APPROVED, SIGNED, AND ORDERED PUBLISHED BY TITLE this 27th day of November, 2017.

CITY OF DACONO, COLORADO



Joe Baker, Mayor

ATTEST:



Valerie Taylor, City Clerk

Summary of Ordinance No. 839, **“AN ORDINANCE CONCERNING THE CITY’S VOTER-APPROVED LODGING EXCISE TAX”** Provides the administrative framework for collection of the City’s lodging excise tax, which was approved by voters at the November 8, 2016 election.