

ORDINANCE NO. 896

AN ORDINANCE AMENDING CHAPTER 4, ARTICLE 1 OF THE DACONO MUNICIPAL CODE CONCERNING THE CITY'S SALES AND USE TAX CODE

WHEREAS, the City currently imposes a sales tax on the sale of tangible personal property at retail and the furnishing of services, as set forth in Article 2 of Chapter 4 of the Dacono Municipal Code; and

WHEREAS, the City currently imposes a use tax on the privilege of storing, using or consuming in the City any construction and building materials, and motor or other vehicles on which registration is required, purchased at retail, as set forth in Article 1 of Chapter 4 of the Dacono Municipal Code; and

WHEREAS, by Ordinance No. 795 adopted on April 27, 2015, the City Council repealed and re-enacted Chapter 4, Article 1 of the Dacono Municipal Code in order to begin self-collecting the City's sales tax; and

WHEREAS, the City Council in Ordinance No. 795 stated its legislative intent that adoption of Ordinance No. 795 was not intended, and shall not be construed to, extend or increase the application, rate or amount of tax or constitute a tax policy change directly causing a net tax revenue gain or decrease from the sales and use tax currently imposed by the City; and

WHEREAS, thereafter, a scrivener's error in Section 4-18 of the Code was brought to the City's attention, which error was corrected, and by this ordinance the City Council desires to ratify and confirm such correction so that it correctly appears in the codified version of the City's ordinances, and to correct other minor typographical errors as set forth herein; and

WHEREAS, Section 4-2(d) of the Code currently provides that wherever the City's Sales and Use Tax Code refers to Title 39, Chapter 26, C.R.S., that reference shall mean the provisions of such state statute as was in effect as of June 30, 2015, but that changes made to such state statutes after that date may be added to the City's Sales and Use Tax Code by subsequent amendment; and

WHEREAS, the City Council finds it necessary and desirable to simplify the administration and collection of the City's sales and use taxes by providing that any changes made to the state statutes referenced in the City's Sales and Use Tax Code shall automatically be reflected in the City's Sales and Use Tax Code without further action by the City Council, thereby maintaining continued alignment between the City's tax base and the state tax base; and

WHEREAS, the City Council finds that maintaining such continued alignment with the state tax base will serve an important public purpose of relieving taxpayers' confusion and vendors' administrative burden from having to comply with the City's slightly disparate tax base; and

WHEREAS, the City Council finds the amendments to the City’s Sales and Use Tax Code set forth herein are an administrative adjustment to existing taxes and do not constitute a new tax or tax policy change, as those terms are used in Article X, § 20 of the Colorado Constitution (the “Taxpayers Bill of Rights” or “TABOR”), and that any revenue changes resulting from the amendments set forth herein will be in a de minimis amount and therefore voter approval is not required.

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

Section 1. Section 4-2(d) of the Dacono Municipal Code is hereby amended to read as follows (words to be deleted ~~stricken~~; words to be added underlined):

Sec. 4-2 Purpose and composition.

(d) The provisions of this Article shall be construed to effect uniformity of administration, enforcement and collection of taxes, and to establish uniform procedures, but shall not be construed to extend or increase the application, rate or amount of any tax levied or imposed herein; provided, however, that the imposition of a penalty, interest or both penalty and interest shall be lawful and shall not be construed as an extension or increase of the application, rate or amount of tax. The provisions of this Article shall not be interpreted as constituting any tax policy change directly causing a net tax revenue gain or decrease from sales and use tax imposed or authorized to be imposed by the City as of June 30, 2015. Wherever in this Code reference is made to Title 39, ~~Chapter~~ Article 26, C.R.S., that reference shall mean the provisions of such ~~Chapter Article~~ in effect as of June 30, 2015 as may from time to time be amended.

Section 2. Section 4-11(a) of the Dacono Municipal Code is hereby amended to read as follows (words to be deleted ~~stricken~~; words to be inserted underlined):

Sec. 4-11 Sales tax; taxable property and services

(a) There is hereby levied and there shall be collected a sales tax in the amount stated in Section 4-6 of this Article, upon the sale at retail of such tangible personal property and the furnishing of such certain services as are set forth in Title 39, ~~Chapter~~ Article 26, C.R.S., which provisions are incorporated herein by this reference; and upon the sale at retail of tangible personal property, on sales of food for home consumption and purchases of machinery or machine tools, and the furnishing of services on sales and purchases of electricity, coal, gas, fuel oil and coke for domestic and commercial consumption.

Section 3. Section 4-12(b)(12) of the Dacono Municipal Code is hereby amended to read as follows (words to be deleted ~~stricken~~; words to be inserted underlined):

Sec. 4-12 Sales tax; exempt property and services.

(b) The tax levied by Section 4-6 shall not apply to the following:

(12) Motor fuel upon which there has been accrued or paid either the gasoline tax or a special fuel tax, required by ~~Chapter~~ Article 27 of Title 39, C.R.S.

Section 4. Section 4-18 of the Dacono Municipal Code is hereby repealed and re-enacted to correct the scrivener's error in Ordinance No. 795, to read as follows:

Sec. 4-18 Taxable property.

The tangible personal property taxable by this Chapter shall be the same as the tangible personal property taxable pursuant to Part 109, Article 2, Title 29, C.R.S.

Section 5. 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 6. The repeal or modification of any provision of any prior ordinance by this ordinance shall not release, extinguish, alter, modify, or change in whole or in part any penalty, forfeiture or liability, either civil or criminal, which shall have been incurred under such provision, and each provision shall be treated and held as still remaining in force for the purpose of sustaining any judgment, decree, or order which can or may be rendered, entered, or made in such actions, suits, proceedings, or prosecutions.

Section 7. 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 AND POSTED BY TITLE THIS 26th day of October, 2020.

PUBLIC HEARING AND SECOND READING WILL BE THE 9th DAY OF NOVEMBER, 2020, 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 ____ day of _____, 2020.

CITY OF DACONO, COLORADO

Joe Baker, Mayor

ATTEST:

Valerie Taylor, City Clerk

Summary of Ordinance No. 896 “AN ORDINANCE AMENDING CHAPTER 4, ARTICLE 1 OF THE DACONO MUNICIPAL CODE CONCERNING THE CITY’S SALES AND USE TAX CODE”: Re-aligns the City’s Sales and Use Tax code with the state statutes, provides for continued alignment between the City and state tax base, and makes other minor corrections.