

ORDINANCE NO. 2022-02

AN ORDINANCE OF THE TOWN OF RICO, COLORADO, REPEALING ARTICLE III OF ORDINANCE NO. 335 AND ARTICLE III OF ORDINANCE NO. 2001-7; ADDING A NEW ORDINANCE REGARDING LODGING TAX TO IMPLEMENT A NEW VOTER APPROVED INCREASE TO LODGING TAX BEGINNING FEBRUARY 1, 2022; AND SETTING FORTH PENALTIES; AND DECLARING AN EMERGENCY.

WHEREAS, at the general biennial election held November 2, 2021, the voters authorized an increase in the Town's lodging tax from 1% to 7% on all nightly revenue derived from all lodging of thirty (30) days or less with 80% to the General Fund, 10% to Parks, Open Space and Trails Fund, and 10% to the Street Fund.

WHEREAS such voter authorized excise tax must be enacted through an ordinance of the Town and to meet deadlines established by the Town voters for implementing this voter approved excise tax, there is need for an immediate adoption of this ordinance.

WHEREAS the voters exempted this 7% tax from TABOR limits.

BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF RICO, COLORADO, as follows:

SECTION 1: EMERGENCY

The Trustees of the Town of Rico hereby finds this ordinance must take effect immediately to meet deadlines imposed by the State of Colorado Department of Revenue for implementation of a voter approved tax increase effective February 1, 2022, and this ordinance is necessary to the immediate preservation of the public peace, health, and safety, and that, for the reasons stated hereinabove, an emergency exists, and this ordinance shall take effect immediately upon adoption.

SECTION 2: REPEAL

Ordinance No. 2001-7, Article III is repealed. All other articles remain in full force and effect.

SECTION 3: NEW ORDINANCE FOR LODGING TAX

A. Purpose

The purpose of this Ordinance is to impose a Lodging Tax at the rate of 7% on all lodging.

B. Definitions

"Lodging" is defined as the business of furnishing overnight rooms or accommodations for a period of thirty (30) days or less, including but not limited to hotel and motel rentals, rentals of

cabins or residential properties, or parts thereof, rentals of recreation vehicles and rental of camping sites.

C. Lodging Tax Levied

There shall be levied and charged a Lodging Tax upon the rental of a Lodging at the following rates:

1. 7% on the base price per night, per occupied room, or site.
2. The proceeds from the Lodging Occupation tax shall be allocated in the following manner:
 - a. 80% to the general Fund.
 - b. 10% to Parks, Open Space and Trails Fund.
 - c. 10% to the Street Fund

D. Collection of Tax

1. Every vendor providing accommodations taxable by this Ordinance shall collect the tax from each customer and shall remit such tax and make a return to the Town on or before the 20th day of each month, on account of accommodations provided in the preceding month. Said return shall contain such information and be in such form as the Town may prescribe.
2. The burden of proving that any transaction is exempt from the tax shall be upon the vendor.
3. In the event any vendor collects more than the tax imposed by this section, such amount shall nonetheless be remitted, in full to the Town.
4. The tax collected by the vendor shall be held in trust by the vendor for the Town until remitted.
5. The vendor shall maintain, keep, and preserve suitable records of all transactions and such other books and accounts as may be necessary to determine the amount of taxes for which the vendor is liable. All such records shall be kept for at least a period of three (3) years and shall be open to inspection and audit by the Town at any reasonable time.
6. Except as otherwise provided by law, tax returns shall be kept confidential and used

only for administration and enforcement purposes.

E. Enforcement

1. It shall be unlawful for any person to fail to pay any tax imposed by this Section or for any vendor to fail to collect it and remit it to the Town or for any person to otherwise violate any provision of this Section.
2. A penalty in the amount of ten percent (10%) of the tax due or the sum of \$10.00, whichever is greater, shall be imposed upon the vendor and become due, in the event the tax is not remitted by the 20th of the month, as required by this Section and one percent (1%) interest shall accrue each month on the unpaid balance.
3. If any vendor fails to make an accurate return and pay the tax imposed by this Ordinance, the Town may make an estimate, based upon available information of the amount of tax due, and add the penalty and interest provided above. The Town shall mail notice of such assessment to the vendor at his address as indicated in Town records. If payment is not made within ten (10) days from the date of mailing, the Town may proceed as provided in this Section or otherwise allowed by law to collect such estimate and other amounts due.
4. The tax imposed by this Ordinance shall be a lien upon the goods and business fixtures of the vendor and upon the real property and appurtenant premises at which the taxable transactions occurred. The Town may foreclose such lien in accordance with the law and record notices of such lien in the Dolores County records.
5. The Town may certify the amount of any delinquent taxes as a delinquent charge upon the property at which the taxable transaction occurred to the County Treasurer for collection in the same manner as delinquent general ad valorem taxes are collected.
6. Any person convicted of violation of any provision of this Ordinance may be sentenced to a fine not to exceed one thousand (\$1,000) dollars for each twenty-four (24) hour period during which said business is conducted without such payment shall constitute a separate offense and violation of this Ordinance.

SECTION 4: EFFECTIVE DATE

The provisions of this Ordinance shall become effective upon adoption.

ORDINANCE 5: SEVERABILITY


If any clause, sentence, paragraph, or part of this ordinance or the application thereof to any person or circumstances shall for any reason be adjudged by a court of competent jurisdiction invalid, such judgment shall not affect application to other persons or circumstances.

SECTION 6: SAVINGS CLAUSE

The amendment of various provisions of this ordinance shall not affect any offense or act committed, any penalty incurred, any contract, right or duty established or accruing before the effective date of this ordinance.

INTRODUCED, READ, APPROVED AS INTRODUCED, AND ORDERED EFFECTIVE AND POSTED by the Rico Town Trustees this 19th day of January, 2022.

TOWN OF RICO, COLORADO

By 
Nicole Pieterse, Mayor

ATTEST:


Chauncey McCarthy, Town Manager