

ORDINANCE NO. 13, (Series 2021)

AN ORDINANCE OF THE CITY OF OURAY, COLORADO, REPEALING AND REPLACING SECTION 3-4 OF THE OURAY CITY CODE TO ADD REGULATIONS IMPLEMENTING A NEW VOTER APPROVED EXCISE TAX FOR SHORT-TERM RENTALS BEGINNING ON JANUARY 1, 2022; SETTING FORTH PENALTIES; AND DECLARING AN EMERGENCY.

WHEREAS, at the general biennial election held November 2, 2021, the voters authorized a fifteen percent (15%) excise tax on all nightly revenue derived from short-term rentals properties within in the City of Ouray, and have authorized certain uses of such tax, and

WHEREAS such voter authorized excise tax must be enacted through an ordinance of the city, and

WHEREAS, to meet deadlines established by the City of Ouray voters for implementing this voter approved excise tax, there is need for an immediate adoption of this ordinance.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF OURAY, COLORADO, as follows:

SECTION 1: EMERGENCY

The City Council of the City of Ouray 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 January 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 AND REPLACE

Section 3-4 of the Ouray Municipal Code is repealed and replaced as follows:

3-4 Lodging Occupation Tax and Short-Term Rental Excise Tax

A. Definitions

For purposes of this Section, the definitions of the words herein contained shall be defined as follows:

Camping Cabins means a camping facility, which may be a permanent structure, and that is dependent upon a service building for toilet, lavatory, and bathing facilities.

Commercial Property means any taxable real or personal property which is not classified for property tax purposes as either residential or agricultural.

Lodging Business has the same meaning as defined in Chapter 7 of this Code.

Lodging Unit has the same meaning as defined in Chapter 7 of this Code.

Short-Term Rental has the same meaning as defined in Chapter 7 of this Code.

Recreational Vehicle has the same meaning as defined in Chapter 7 of this Code.

B. Lodging Occupation Tax Levied

There shall be levied and charged a Lodging Occupation Tax upon the business of furnishing rooms or accommodations for consideration in a hotel, motel, apartment hotel, lodging house, motorhotel, guest house, short term rental, mobile home park, recreational vehicle park or other similar lodging business and upon the business of furnishing sites for consideration for recreation vehicles, trailers, tents, campers, camping cabins, and other similar businesses at the following rates:

1. 3.5% 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. 86.875% to the Tourism Fund, which exists solely for the purposes of destination marketing, management, and development to attract visitors to and enhance the visitorexperience within the City of Ouray, Colorado.
 - b. 11.875% to the Beautification Fund, which exists solely for improvements that enhance beautification of the city, park capital improvements, and maintenance.
 - c. 1.25% to the City of Ouray General Fund, to reimburse the City for administrative, enforcement, and clerical expenses incurred in the administration and collection of the tax authorized in this section.

C. Short-Term Rental Excise Tax Levied

There shall be levied and charged a Short-term Rental Excise Tax upon the business of renting or leasing of a single-family, duplex, or multi-family dwelling unit, or part thereof, for less than thirty (30) days at the follow rates:

1. Fifteen percent (15%) on the base price per night per unit permitted.

2. The proceeds from the Short-Term Rental Excise Tax shall be allocated as follows:
 - a. Fifty percent (50%) to debt incurred for the City's wastewater treatment plant and water treatment plant.
 - b. Fifty percent (50%) to funding housing programs.

D. Exemptions

1. The following transactions shall be exempt from the Lodging Occupation Tax imposed by this section:
 - a. Accommodations provided to the United States, State of Colorado, the City of Ouray, or any state agencies or political subdivisions.
 - b. Accommodations provided to an individual who is a permanent resident of a hotel, motel, apartment, hotel, lodging house, motor hotel, guest house, guest ranch, mobile home park, recreational vehicle park or other similar business, including but not limited to furnishing sites for recreation vehicles, trailers, tents, campers, camping cabins, and other similar businesses, pursuant to a written agreement for a period of at least thirty (30) consecutive days or more.
2. The Short-Term Rental Excise Tax shall not apply to any real property operating short-term rentals which is Commercial Property.

E. Collection of Tax

1. Every vendor providing accommodations taxable by this Section shall collect the tax from each customer and shall remit such tax and make a return to the City 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 City 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 City.
4. The tax collected by the vendor shall be held in trust by the vendor for the City until remitted to the city.
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 City at any reasonable time.

6. Except as otherwise provided by law, tax returns shall be kept confidential by the City and used only for administration and enforcement purposes.

F. 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 City 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 Section, the City may make an estimate, based upon available information of the amount of tax due, and add the penalty and interest provided above. The City shall mail notice of such assessment to the vendor at his address as indicated in City records. If payment is not made within ten (10) days from the date of mailing, the City 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 Section 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 City may foreclose such lien in accordance with the law and record notices of such lien in the Ouray County records.
5. The City 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 section 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 Section.

SECTION 3: EFFECTIVE DATE

The provisions of this Ordinance shall become effective upon adoption.

SECTION 4: 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 4: SAVINGS CLAUSE

The amendment of various provisions of the Ouray Municipal Code by 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 PUBLISHED on first reading by 4 To 1 vote of the Ouray City Council this 6th day of December 2021.

CITY OF OURAY, COLORADO

By 
Ethan Funk, Mayor

ATTEST:


Melissa M. Drake, City Clerk