

SUMMARY: Amends room tax ordinance to increase the tax rate.

BILL NUMBER 243

ORDINANCE NUMBER 243

AN ORDINANCE AMENDING LOVELOCK MUNICIPAL CODE (LMC) CHAPTER 31.170 TO INCREASE THE BASIC ROOM TAX RATE BY TWO AND ONE-HALF PERCENT (2.50%); AND, PROVIDING OTHER MATTERS PROPERLY RELATED THERETO.

SUMMARY: Repeals existing transient lodging tax (room tax) ordinance and adopts new transient lodging tax ordinance.

BILL NUMBER 249

ORDINANCE NUMBER 249

AN ORDINANCE AMENDING LOVELOCK MUNICIPAL CODE (LMC) CHAPTER 31 - ROOM TAX; REPEALING THE EXISTING LMC CHAPTER 31 IN ITS ENTIRETY AND ADOPTING A NEW LMC CHAPTER 31 PROVIDING FOR DEFINITIONS, IMPOSITION OF THE TAX, TAX RATE, REVENUES SUBJECT TO TAX, TAX EXEMPTIONS, TAX PAYMENT, PENALTIES AND INTEREST FOR TAX NON PAYMENT, TAX REFUNDS, OPERATOR LICENSING, TAX COLLECTION NOTICES, BOOKS AND RECORDS EXAMINATIN, RECORDS CONFIDENTIALITY, COLLECTION REPORTS, FINANCIAL STATEMENTS AND AUDITS, PROMULGATION OF RULES AND REGULATINS, VIOLATINS AND PENALTIES; AND PROVIDING OTHER MATTERS PROPERLY RELATED THERETO.

THE CITY COUNCIL OF THE CITY OF LOVELOCK DO ORDAIN AS FOLLOWS:

CHAPTER 31
ROOM TAX

- 31.010** Definitions.
- 31.020** Imposition and rate of tax.
- 31.030** Revenues subject to collection of transient lodging tax.
- 31.040** Exemption of certain mixed type lodgings.
- 31.050** Refund of tax collected from permanent rental.
- 31.060** License required—Duty of clerk.
- 31.070** Collection of tax.
- 31.080** Display of notice.
- 31.090** Payment of tax.
- 31.100** Penalties and interest.
- 31.110** Assignment of taxes.
- 31.120** Authority to collect tax.
- 31.130** Refund.
- 31.140** Examination of books and records.

- 31.150** Records confidential.
- 31.160** Collection reports, financial statements and audits.
- 31.170** Rules and regulations.
- 31.180** Violation–Penalties.

31.010 Definitions:

As used in this chapter, unless otherwise specifically defined, or unless the context requires otherwise, the words and terms have the meanings ascribed to them herein and govern the construction of this chapter.

1. "Accommodations tax" means transient lodging tax.
2. "Authority" means the city, county or other entity assigned with the responsibility for administration of the transient lodging tax.
3. "Board" means the governing board of the authority and, when the context requires, includes the board appointed pursuant to NRS 244A.599.
4. "City" means the City of Lovelock, Nevada, the only incorporated city situated in Pershing County, Nevada on the effective date of the ordinance codified in this chapter.
5. "City council" means the city council of the City of Lovelock, Nevada.
6. "City Tax Act" means NRS 268.0195, 268.095 and 268.096 through 268.0968, inclusive, as the same may be amended from time to time.
7. "County" means Pershing County, Nevada.
8. "County board" or "county commission" means the Board of County Commissioners of Pershing County, Nevada.
9. "County Tax Act" means NRS 244.335, and 244.3351 through 244.3359, inclusive, as the same may be amended from time to time.
10. "Fair and Recreation Board" or "Tourism Board" as used in this chapter means the county fair and recreation board for Pershing County and the City of Lovelock created and exercising powers in accordance with NRS 244A.597 to 244A.667, inclusive, and operating under the name from time to time designated for such board pursuant to NRS 244A.607.
11. "Gross receipts" means the total actual charges for transient lodging received by operators for the reporting period. This includes, but is not limited to, actual rent payments or consideration received by an operator in money, cash-value player points, trade or barter, property or other consideration valued in money for lodgings, any forfeited deposits, cancellation fees and no-show charges received by operators from transient guests, the pro-rated lodging portion of package programs, commissions, and all other revenues and fees received by operators and associated with the rental of transient lodging as provided in the regulations promulgated by the authority. Gross receipts do not include the amount of the transient lodging tax imposed pursuant to statute or ordinance, whether billed to the transient guest as transient lodging tax or not.

12. "License tax" means transient lodging tax.
13. "Lodgers tax" means transient lodging tax.
14. "Occupancy" means the use or possession, or the right to the use or possession of any room or portion thereof, in transient lodging for dwelling, lodging, or sleeping purposes.
15. "Occupant" means any natural person who, for rent or consideration, uses, possesses or has the right to use or possess any room in a transient lodging facility under any lease, concession, permit, right of access, license, contract or agreement.
16. "Operator" means the person who is the proprietor of transient lodging, whether in the capacity of owner, occupant, sub-lessee, mortgagee, licensee, realtor, real estate agency renting transient lodging, on-line discount booking agency, exchange company or any other capacity. Where the operator performs his or her function through a managing agent of any type or character other than an employee, the managing agency shall also be deemed an operator for the purposes of this chapter and shall have the same duties and liabilities as his or her principal. Compliance with the provisions of this chapter by either the principal or the managing agent shall, however, be considered to be compliance by both.
17. "Person" means a corporation, company, entity, firm, partnership, association and individual, and also includes an executor, administrator, trustee, receiver or other representative appointed according to law.
18. "Recreation Act" means NRS 244A.597 through 244A.667, inclusive.
19. "Room" or "rooms" means any accommodation rented by the operator of any facility described in the definition of "transient lodging."
20. "Room tax" means transient lodging tax.
21. "Transient lodging" means the operation of a premises kept as, used as, maintained as, or held out to the public to be, a place where sleeping, rooming or camping accommodations are furnished to the transient public, whether with or without meals, and includes any hotel, motel, auto court, motor lodge, lodge, lodging house, ranch resort, resort, dude ranch, bed and breakfast, inn, rooming house, guest house, tourist camp, recreational vehicle park, camper court, camper park, cabin, tent or other tourist or transient (meaning nonpermanent) lodging accommodations having three or more rooms, spaces or other units for rental, and shall be deemed to include a lodging house or rooming house or other premises where transient (meaning nonpermanent) trade is solicited, whether by advertising or otherwise.
22. "Transient lodging tax," "accommodations tax," "license tax," "lodgers tax" and "room tax" are used interchangeably and mean all license taxes pursuant to the County Tax Act or City Tax Act and heretofore, hereby or hereinafter collected, appropriated or assigned by the county or city levying, fixing or imposing the same for administration.

31.020 Imposition and rate of tax.

There are imposed license taxes for revenue on each operator of transient lodging within the

city in addition to business and other license taxes imposed, presently or in the future, by the Lovelock Municipal Code, equal to the respective amounts of the gross receipts derived by each operator from the rental of transient lodging inside the corporate limits of the city as follows:

1. Basic room tax 11.0%
2. State tourism promotion room tax 3/8ths of 1.0%
- 3.. Local tourism promotion room tax 5/8ths of 1.0%

31.030 Revenues subject to collection of transient lodging tax.

All revenues for the rental of transient lodging, whether or not the business holds itself out to provide such transient lodging through advertising of any kind and in any place, are presumed to be revenues from transient lodging subject to the collection of the transient lodging tax as provided in this chapter.

31.040 Exemption of certain mixed type lodgings.

If a premises is comprised of:

1. a permanent lodging area or section; and
2. a tourist, transient, short-term or other nonpermanent area or section, the operator may apply to the authority for recognition of the permanent section. If such application is approved, the revenues from the permanent section will be exempt from the requirement to collect transient lodging tax; provided, however, that if any nonpermanent rentals are thereafter made of units within the permanent section, the exemption terminates immediately and the operator is obligated to resume collection of the transient lodging tax for all units in the formerly permanent section.

In order to obtain approval of such division, the operator must make application to the authority for recognition of the division. Such division may not be merely the assignment of certain non-contiguous rooms, spaces or units as permanent, and other assigned as nonpermanent, with the two being interspersed. The division must result in actual recognizable and easily determined areas or groups of contiguous units, such as wings or floors of a building.

31.050 Refund of tax collected from permanent rental.

The presumption that the income from all transient lodging subject to the duty to collect transient lodging taxes is revenue from transient lodging, may be rebutted as to certain or all of such revenues, by proof that such lodging has in fact been permanent for a period of nine months. In such case, the occupant may make application for a refund within thirty (30) days after the nine-month period ends.

Claim for such refund shall be made to the authority by the occupant on the form prescribed by the authority and shall set out the date the rental began and date it ended and the amount of rental paid including taxes during the period for which the refund is sought.

The authority shall then submit the application to the operator to verify the period of the occupancy and the amount of rental paid including tax. The verified refund claim and application shall be submitted to the authority for authorization of a refund check.

The receipt by an occupant of a refund, or the eligibility of an occupant to receive a refund does not exempt the lodging unit from further collection of transient lodging tax. The operator shall at all times be required to continue to collect the transient lodging tax as required herein.

The right to a refund is not assignable by an occupant to an operator. In the event that the occupant continues to occupy accommodations subject to the collection of the transient lodging tax, the occupant shall become eligible for a refund at the end of each additional nine-month period.

31.060 License required—Duty of clerk.

1. It is unlawful for any person, either for himself or for any other person, to commence without first having procured a transient lodging license from the authority. The carrying on of any such rental business without first having procured a transient lodging license from the authority constitutes a separate violation of this chapter for each day that such business is so carried on.
2. The authority shall issue written transient lodging licenses as provided for in this chapter, in such form as it may prescribe, upon application therefore, at no charge.
3. The city clerk shall not issue a business license for the purpose of commencing or continuing a rental business as defined herein unless the applicant shall provide proof of issuance of a transient lodging license by the authority.

31.070 Collection of tax.

1. Each operator shall collect the tax and rental payment from each occupant.
2. The amount of the transient lodging tax must be added to the amount of the rental payment due unless the alternative procedure of subsection C of this section is utilized.
3. As an alternative procedure, the transient lodging tax may be included in the rental price.
4. The amount of the transient lodging tax shall be displayed separately from the price of the accommodations, room, or space on the guest registration card or other form of guest registration.

31.080 Display of notice.

1. Each operator shall prominently display in each room or suite of rooms or other accommodation leased as a unit, or at the operator's option, in a lobby at or in the immediate vicinity of the registration desk for the business, a sign reading substantially as follows:

Notice

For each rental this business is required by law to collect twelve percent (12%) in accommodations taxes.

The Management

2. If signs are utilized, they must be of sufficient number and size and posted in conspicuous places as to be readily visible to all customers in the operator's place of business.
3. If the transient lodging tax is included in the rental price, the sign must indicate that the tax is included in the rental price.

31.090 Payment of tax.

1. Unless otherwise provided pursuant to subsection B of this section, the transient lodging tax shall become due and payable to the authority on the first day of each month next succeeding the calendar month (or fraction thereof) during which the taxes accrued, and shall become delinquent after the fifteenth day of the same month.
2. The authority may permit the transient lodging tax to be paid quarterly and fix the quarterly period.
3. No taxes collected by the operator pursuant to this chapter are the property of the operator at any time; they are the property of the city unless assigned by the city, then they are the property of the assignee. The operator holds such taxes after collection as a trustee only. Failure to pay the taxes over as required herein constitutes use of property for a purpose other than that for which it was entrusted, which is a crime.

31.100 Penalties and interest.

If the transient lodging tax is not paid before it becomes delinquent, the operator shall pay:

1. A penalty of ten percent of the delinquent transient lodging tax;
2. Interest at the rate of one and one-half percent (1.5%) per month on such delinquent transient lodging tax, from the date of delinquency to the date of payment of such transient lodging tax, but the interest shall not exceed thirty percent of such tax;
3. The cost of collection of the tax, penalty and interest, including the court costs and attorney's fees.

31.110 Assignment of taxes.

The transient lodging tax proceeds may be appropriated or assigned by the city for administration in accordance with the Recreation Act by amendment to this chapter.

31.120 Authority to collect tax.

The authority to collect the transient lodging tax proceeds may be delegated or assigned by the city by amendment to this chapter.

31.130 Refund.

The authority has the authority to refund, without interest, to the operator any tax improperly collected by the authority.

31.140 Examination of books and records.

The authority or a duly authorized agent thereof is empowered to examine and audit the books, papers and records of any operator and to make investigations in connection therewith.

31.150 Records confidential.

- 1 The authority shall cause to be kept proper records including, without limiting the generality of the foregoing, records of:
 - (a) All transient lodging taxes imposed by this chapter which become due and which are collected;
 - (b) Delinquent taxes;
 - (c) Interest thereon;
 - (d) Penalties therefrom.

2. The records required by this section are confidential and shall not be revealed in whole or in part except in the necessary administration of this chapter or as otherwise provided by law.

31.160 Collection reports, financial statements and audits.

1. The authority shall cause to be prepared:
 - (a) Monthly reports of collections;
 - (b) A financial statement for each calendar quarter within thirty (30) days thereafter; and
 - (c) An annual audit pursuant to NRS 354.624.

2. A copy of each such collection report, financial statement and audit shall be filed forthwith with the city clerk and the county clerk.

31.170 Rules and regulations.

The authority is empowered to prescribe, adopt and enforce rules and regulations relating to the administration and enforcement of this chapter.

31.180 Violation—Penalties.

1. Any person violating any of the provisions of this chapter is guilty of a misdemeanor and upon conviction thereof shall be punished in accordance with the penalties prescribed in subsection 1 of NRS 193.150.

2. Any person violating any of the provisions of this chapter may be assessed an administrative fee by the authority in the sum of \$100.00 per day for each day that the violation continues. The fee authorized by this subsection may be imposed upon a finding of such violation by the governing board of the authority with or without a criminal conviction and is in addition to any criminal penalty which may be imposed.