

CHAPTER 36: TAXATION

Section

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LODGING TAX

§ 36.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

LODGING FACILITY. Any hotel, motel, rooming house, tourist court or resort within the city.

LODGING INCOME. The gross receipts from the furnishing for consideration of lodging at a hotel, motel, rooming house, tourist court, or resort, except the renting or leasing to a person or entity for more than 29 continuous days.

OPERATOR. The person who is the proprietor or who otherwise has control of a facility providing lodging, whether in the capacity of owner, lessee, sub-lessee, licensee, or in any other capacity.
(Ord. 428, passed 8-17-17)

§ 36.02 REGISTERING TO PAY TAX.

Each and every lodging facility hereafter commencing business, or engaging in any activity generating lodging income shall file with the Clerk notice of that operation, including the name and address of same, the nature of the operation, the number or rooms open for use by the public, and a schedule of the rate(s) for said rooms.

(Ord. 428, passed 8-17-17)

§ 36.03 IMPOSITION OF TAX.

There is hereby imposed a 3% tax on the total lodging income of any lodging facility, received after the effective date of this subchapter.

(Ord. 428, passed 8-17-17)

§ 36.04 EXEMPTIONS.

No tax shall be imposed for lodging paid by any officer or employee of a foreign government expressly exempt under federal or international law, nor by person to whom or whose occupancy is beyond the authority of this subchapter to tax. Further, no tax shall be imposed for lodging paid by a third party or the employee of a third party pursuant to a long-term contract between a lodging facility and a third party that was in existence prior to the effective date of this subchapter. No exemption shall be honored unless it is documented in writing, under the penalty of perjury.

(Ord. 428, passed 8-17-17)

§ 36.05 COLLECTION OF TAX.

Each operator shall impose and collect said tax at time of receipt of any income from lodging. All taxes so collected shall be held in trust by the operator for the benefit of the city.

(Ord. 428, passed 8-17-17)

§ 36.06 NOTICE OF TAX.

Each operator shall state the amount of the tax separately from the amount charged for lodging for each collection.

(Ord. 428, passed 8-17-17)

§ 36.07 ADVERTISING NO TAX PROHIBITED.

It shall be unlawful for an operator to advertise or hold out to the public or any person, directly or indirectly, that the tax here imposed, or any part of same will be assumed or absorbed by the operator, or that it will not be added to the lodging charge, or that any portion of same will be refunded.

(Ord. 428, passed 8-17-17)

§ 36.08 PAYMENT OF TAX.

Each operator shall pay the tax collected for each calendar month, to be paid no later than the 20th day following the month of, payable to the city, or to such entity as is authorized in writing by the city. (Ord. 428, passed 8-17-17)

§ 36.09 TAX RETURNS.

(A) At the time of each payment, each operator shall submit therewith a written return, furnished by the city, containing the following information for each reporting period:

- (1) The reporting period, with beginning and ending dates.
- (2) The itemized amount, if any, of lodging income that was not paid due to dishonored checks, credit card disputes, etc.
- (3) The total amount of exemptions, if any, with supporting documentation.
- (4) The total amount of lodging income actually received.
- (5) The amount of tax collected.
- (6) Any adjustments resulting from the curing or correction of items previously reported under division (A)(2) above.

(B) Operators shall retain their returns for a period of three years after their due date. (Ord. 428, passed 8-17-17)

§ 36.10 EXAMINATION OF RETURNS.

The city shall examine each return for accuracy, and may conduct such further examinations and/or investigations deemed appropriate to assure that accuracy. Any deficient tax, or any over payment, shall be due and payable within 20 days of determination and notice of same.

(Ord. 428, passed 8-17-17)

§ 36.11 FAILURE TO FILE A RETURN; FALSE RETURNS.

(A) If any operator fails to file a required return within the time prescribed, or shall, willfully or otherwise, file an incorrect, false or fraudulent return, the operator shall within five days of the receipt of written notice thereof file the required return, or a corrected return, and shall submit therewith any tax due.

(B) If an operator fails to file the required return, or the corrected return, the city may prepare such return, based upon such knowledge and information that is available, and forward same to the operator, with a demand for the tax due. Unless objected to in writing within said five-day period, the return prepared by the city shall be deemed valid and correct, and the operator shall have the burden of establishing that it is incorrect in any action or proceeding for the collection of same.

(Ord. 428, passed 8-17-17)

§ 36.12 PENALTIES ON TAX.

(A) *Failure to pay when due.* If any taxes imposed by this subchapter are not paid within the prescribed time, or any extension thereof, there shall be added thereto a penalty equal to 10% of any amount remaining so unpaid.

(B) *Failure to file return.* Should any person fail to timely file a return required by this subchapter, and it is shown that such failure is not due to willful neglect, then upon the filing of such return and the payment of the tax there shall be added thereto and paid therewith the sum of:

(1) Ten percent, if paid within 30 days of the due date.

(2) An additional 5% for each additional 30 days, or part thereof, from the due date. The minimum penalty shall be \$10, irrespective of the calculation.

(C) *False and/or fraudulent returns.* If any person willfully files a false or fraudulent return, or willfully attempts in any manner to defeat, evade or unlawfully minimize any tax herein imposed, or any penalty thereon, there shall be imposed a penalty equal to 50% of any amount due, less any amounts actually paid, in addition to any other penalties imposed herein. All payments due under this section shall be applied first to the penalties due, the balance to the tax.

(Ord. 428, passed 8-17-17)

§ 36.13 REFUNDS.

Any person may apply in writing for a refund of any tax paid in excess of the amount legally due for a given reporting period; provided, no such application shall be valid unless filed within one year of the date the tax was paid by the operator. The application shall set forth in detail all facts, accompanied by all relevant documents justifying the refund. If a refund is due, same shall be submitted to the applicant within 20 days of the date of that determination. If the application is denied, the applicant shall be so informed in writing, by certified mail.

(Ord. 428, passed 8-17-17)

§ 36.14 ADMINISTRATION.

(A) The Clerk shall administer, implement and enforce the assessment and collections of taxes and penalties imposed by this subchapter, and shall prepare and provide forms for returns and other documents necessary or incidental thereto and furnish them to all lodge facilities. The failure to deliver such forms shall not relieve any person from the obligations to pay the taxes herein required.

(B) The Clerk may examine the books, papers and records of any operator in order to verify the necessity of payment, or the accuracy of any payment required under this subchapter. Every operator of a lodging facility is hereby directed and required to provide the Clerk with the means, facilities and opportunity for such examinations.

(C) In the event arrangements are made for the administration, implementation and enforcement of the provisions of this subchapter with an agent, or another entity, notice of that fact to a lodging facility shall require each such facility to comply and cooperate with such agency, or entity, in all respects and for all purposes.

(Ord. 428, passed 8-17-17)

§ 36.15 CRIMINAL PENALTIES.

Any person or entity who or which shall willfully fail or refuse to pay any tax or penalty herein imposed, after written demand for same, or who shall refuse to permit the examination of the books, records, and papers in its possession, or under its control, or who willfully makes an incomplete, false or fraudulent return, shall be guilty of a misdemeanor.

If found guilty, any tax and/or penalty due shall be required and paid as restitution as part of any such proceedings.

(Ord. 428, passed 8-17-17)

§ 36.16 USE OF PROCEEDS.

All of the proceeds obtained from the collection of taxes/or penalties herein shall be used in accordance M.S. 469.190, as the same may be amended from time to time.

(Ord. 428, passed 8-17-17)

§ 36.17 SAVINGS CLAUSE.

Should a court of competent jurisdiction find any term, section or provision of this subchapter unlawful, such finding shall not void or invalidate any other part hereof.

(Ord. 428, passed 8-17-17)

