

## CHAPTER 114: LODGING TAX

### Section

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### § 114.01 COLLECTIONS

Every operator of a facility on which a lodging tax is due shall collect the tax at the time the consideration for such lodging is paid. The tax collection shall be deemed to be held in trust by every such operator for the City. The amount of tax shall be separately stated from the consideration charged for the lodging and those persons paying the tax shall receive a receipt of payment from the operator.

### § 114.02 PAYMENT.

Every person who collects a lodging tax shall pay the tax collected to the City monthly on or before the 20<sup>th</sup> day of the month following the month in which the tax is collected. At the time of payment, such person shall submit a return upon such forms and containing such information as the City Clerk may require. At a minimum, the return shall contain:

- (A) The total amount of consideration collected for lodging during the period covered by the return.
- (B) The amount of tax required to be collected and due for the period.
- (C) The signature of the person filing the return.
- (D) The period covered by the return.
- (E) The amount of uncollectible consideration charged subject to the lodging tax.

The operator may offset against the taxes payable with respect to any reporting period, the amount of tax imposed by this section and previously paid, and which became uncollectible during such reporting period, but only in proportion to the portion of such consideration that became uncollectible.

### **§ 114.03 PROCESSING RETURNS.**

The City Clerk shall, after a return is filed, examine the same make any investigation or examination of the records and accounts of the person making the return deemed necessary for determining its correctness. The tax computed on the basis of such examination shall be the tax due. If the tax due is found to be greater than paid, such excess shall be paid to the City within ten (10) days after receipt of a notice thereof given either personally or sent by registered mail to the address shown on the return. If the tax paid is greater than the tax found to be due, the excess shall be given credit for toward the next period return after determination of such refund.

### **§ 114.04 FAILURE TO FILE A RETURN.**

The City Clerk shall notify any operator of a facility subject to the provision of this section who fails to file a return or who files an incorrect, false or fraudulent return of such fact. Such operator shall file such return or corrected return within five (5) days of the receipt of such written notice and pay and tax due thereon. If such persons shall fail to file such return or corrected return, the City Clerk shall make a return or corrected return for such person from such knowledge and information as the City Clerk can obtain, and assess a tax on the basis thereof, which tax shall be paid within five (5) days of the receipt of written notice and demand for such payment. Any such return or assessment made by the City Clerk shall be prima facie correct and valid, and such person shall have the burden of establishing its incorrectness or invalidity in any such action or proceeding in respect thereto.

### **§ 114.05 PENALTIES.**

The following penalties shall apply in the given situations:

(A) Failure to file a return or pay a tax imposed by this section to the City within thirty (30) days of the due date: a penalty of ten percent (10%) of the unpaid tax.

(B) Failure to file a return or pay a tax imposed by this section to the City by more than thirty (30) days but less than sixty (60) days of the due date: a penalty of fifteen percent (15%) of the unpaid tax.

(C) Failure TO FILE A Return or pay a tax imposed by this section to the City by more than sixty (60) but less than ninety (90) days of the due date: a penalty of twenty percent (20%) of the unpaid tax.

(D) Failure to file a return or pay a tax imposed by this section to the City by more than ninety (90) days of the due date: a penalty of twenty-five percent (25%) of the unpaid tax.

(E) Failure to file a return or pay a tax imposed by this section to the City wherein the City Clerk is required to make a return or corrected return for such a person: a penalty of Ten Dollars (\$10.00) for each unfilled return.

(F) If the penalty as computed does not exceed Ten Dollars (\$10.00), a minimum penalty of Ten Dollars (\$10.00) shall be assessed. The penalty shall be collected in the same manner as the tax.

#### **§ 114.06 INTEREST.**

The amount of tax not timely paid, together with any penalty, shall bear interest at the rate of eight percent (8%) per annum from the time such tax should have been paid until paid. Any interest and penalty shall be added to the tax and be collected as a part thereof.

#### **§ 114.07 APPLICATION OF PAYMENTS.**

All payments shall be credited first to penalties, next to interest and then to the tax due.

#### **§ 114.08 ENFORCEMENT.**

If any portion of the tax imposed by this section including penalties thereon, is not paid within thirty (30) days after it is required to be paid, the City Attorney or City Clerk may institute such legal action as may be necessary to recover the amount due plus interest, penalties, the costs and disbursement of any action.

#### **§ 114.09 ADMINISTRATION OF TAX.**

The City Clerk shall administer and enforce the assessment and collection of the taxes imposed by this section. The City Clerk shall prepare blank forms for the returns and other documents required by this section and shall make them available to members of the public.

#### **§ 114.10 EXAMINATION OF RECORDS.**

The City Clerk may examine the books, papers and records of any operator of a facility subject to tax imposed by this section in order to verify the accuracy of any return made, or if no return was made, to ascertain the tax as provided in this section. Every such operator is directed and required to give to the City Clerk the means, facilities and opportunity for such examinations and investigations as are hereby authorized.

### **§ 114.11 USE OF PROCEEDS.**

The proceeds obtained from the collection of taxes pursuant to this section shall be used in accordance with Minnesota Statutes Section 469.190, as the same may be amended from time to time to fund a local convention or tourism bureau for the purpose of marketing and promoting the City as a tourist or convention center. The City may enter into an agreement with the Chamber of Commerce or other organization for such purposes.

### **§ 114.12 APPEALS.**

Any operator aggrieved by any notice, order or determination made by the City Clerk under this section may file with the City Clerk a petition for review of such notice, order or determination by the City Council. The petitions shall contain the name of the petitioner, the petitioner's address, the location of the lodging, the order, notice or determination subject to the review and the basis for the request for review. Upon receipt of the petition, the City Clerk will place the matter on the City Council agenda for a hearing as soon as practical. The City Clerk shall give the petitioner as least five (5) days prior written notice of the date, time and place of such hearing. At the hearing, the Petitioner shall be given an opportunity to show cause why the notice, order or determination should be modified or withdrawn. The City Council shall make written findings of fact and conclusions based upon this section and the evidence presented. The City Council may modify, reverse or affirm the notice, order or determination that is subject to the review. All requests for review must be made within one (1) year of the date of the notice, order or determination.