

Room Tax Ordinance Amendment

BILL NO. 2677

INTRODUCED BY COUNCIL

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 3 OF THE SPARKS MUNICIPAL CODE TO ALIGN THE CODE WITH CHANGES MADE BY THE RSCVA AND WITH CHANGES MADE IN THE NEVADA REVISED STATUTES; AND PROVIDING OTHER MATTERS PROPERLY RELATED THERETO.

THE CITY COUNCIL OF THE CITY OF SPARKS DOES ORDAIN:

Section 1. Section 3.04.020: "Definitions" is hereby amended as follows:

Section 3.04.020 Definitions.

As used in this chapter, unless the context requires otherwise:

- A. "Authority" means the Reno-Sparks Convention and Visitors Authority, designated and known prior to July 6, 1973, as the Washoe County Fair and Recreation Board;
- B. "Cities" means the cities of Reno and Sparks, the only two incorporated cities or towns now situate in Washoe County;
- C. "City Tax Act" means NRS 268.095 to 268.0966, inclusive, as the same may be amended from time to time;
- D. "County board" means the board of county commissioners of Washoe County;
- E. "County Tax Act" means NRS 244.335 to 244.3356, inclusive, as the same may be amended from time to time;
- F. "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

Room Tax Ordinance Amendment

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.

- G. "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.
- H. "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.
- I. "Operator" means the person who is the proprietor of transient lodging, whether in the capacity of owner, lessee, 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.
- J. "Person" means a corporation, firm, partnership, association or individual, and includes an executor, administrator, trustee, receiver or other representative appointed according to law;
- K. "Recreation Act" means NRS 244A.597 to 244A.777, inclusive, as the same may be hereafter amended from time to time;
- L. "Reno" means the incorporated city of Reno in the county;
- M. "Room" or "rooms" means any accommodation rented by the operator of any facility described in the definition of "transient lodging".
- N. "Sparks" means the incorporated city of Sparks in the county;

Room Tax Ordinance Amendment

- O. "Transient guest" means any individual occupant who has or shall have the right of occupancy to any room for dwelling, lodging or sleeping purposes in a transient lodging facility for less than twenty-eight consecutive days.
- P. "Transient lodging" means but is not limited to any facility, structure, or portion of any structure or accommodation ~~having three (3) or more units for rent and real estate rental services offering three (3) or more units~~ for rent which is occupied or intended or designed for occupancy by transient guests who pay rent or other consideration for dwelling, lodging, or sleeping purposes, and includes any hotel, resort hotel, motel, motor court, motor lodge, bed and breakfast, lodging house, rooming house, resident hotel and motel, guest house, tourist camp, resort and "dude" ranch, cabin, condominium, time-share properties, vacation home, apartment house, recreational vehicle park/campground, guest ranch, or other similar structure or facility, or portion thereof. The term "transient lodging" does not include any of the following: any hospital, sanitarium, medical clinic, convalescent home, nursing home, home for aged people, foster home, or other similar facility operated for the care or treatment of human beings; any asylum, jail, prison, orphanage or other facility in which human beings are being detained and housed under legal restraint; and housing owned or controlled by an educational institution and used exclusively to house students, faculty or other employees, and any fraternity or sorority house or similar facility occupied exclusively by students and employees of such educational institution, and officially recognized by it; any housing operated or used exclusively for religious, charitable or educational purposes by any organization having qualifications for exemption from property taxes under the laws of the state; any housing owned by a governmental agency and used to house its employees for governmental purposes; any room within a private dwelling house or other single-family dwelling unit if the permanent or principal owner also resides in and occupies the dwelling; any unit within a time-share project occupied by an owner, or the nonpaying guests of an owner, of a time-share in the time-share project, or in the time-share plan of which the time-share project is a part, who has the right to use or occupy a unit, pursuant to (a) a time-share instrument or (b) a time-share exchange program. The burden of establishing that the housing or facility is not transient lodging as defined herein shall be on the owner thereof, who shall file with the authority such information as the authority may require to establish and maintain such status.

Room Tax Ordinance Amendment

- Q. "Transient lodging tax" means the license tax or taxes levied pursuant to NRS 244.3351 to NRS 244.3359 of the County Tax Act and NRS 268.096 to NRS 268.0968 of the City Tax Act and heretofore, hereby or hereafter any other license tax or taxes appropriated or assigned by the county or city levying, fixing or imposing the same for administration by the recreation board.

(Ord. 1695, 1991: Ord. 1590 § 1, 1987; Ord. 655 § 1, 1966: 1962 Code § 105.138.) (Ord. 2393, Amended, 04/14/2008)

Section 2. Section 3.04.130: "Pledge agreement" is hereby amended as follows:

Section 3.04.130 Pledge agreement.

- A. The county and the cities shall each have contracted with the authority and with each other that the transient lodging taxes fixed and imposed, and appropriated or assigned thereto for administration, shall not be increased, decreased or otherwise modified, and the ordinance appertaining thereto shall not be modified, without the unanimous consent of the authority, county board and the city councils of Reno and Sparks, and in no event shall any change be made which shall prejudicially affect any pledge of transient lodging taxes as additional security for the payment of bonds issued pursuant to the Recreation Act.
- B. Such contract shall not become effective until the authority adopts a resolution reciting that such an ordinance has been adopted by the county board and each of the city councils of the cities and a certified copy of the resolution is filed with the clerk of the county board and each of the cities. ~~Such contract shall terminate within two years from the date or last date of such filing, or if any bonds are issued within such two year period, upon the redemption in full, principal and interest, of all bonds issued pursuant to the Recreation Act, the payment of which is secured by a pledge of all or any part of the transient lodging taxes.~~

(Ord. 1695, 1991: 1962 Code § 105.171.) (Ord. 2393, Amended, 04/14/2008)

SECTION 3: All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 4: The City Clerk is instructed and authorized to publish the title to this ordinance as provided by law.

SECTION 5: This ordinance shall become effective upon passage, approval and publication.

SECTION 6: The provisions of this ordinance shall be liberally construed to effectively carry out its purposes in the interest of the public health, safety, welfare and convenience.

Room Tax Ordinance Amendment

SECTION 7: If any subsection, phrase, sentence or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions.

SECTION 8: The City Council finds that this ordinance is **not** likely to impose a direct and significant economic burden upon a business or directly restrict the formation, operation or expansion of a business, or is otherwise exempt from Nevada Revised Statutes Chapter 237.

PASSED AND ADOPTED this ____ day of _____, 20__, by the following vote of the City Council:

AYES: _____

NAYS: _____

ABSTAIN: _____

ABSENT: _____

APPROVED this ____ day of _____, 20__, by:

GENO MARTINI, Mayor

ATTEST:

TERESA GARDNER, City Clerk

APPROVED AS TO FORM AND LEGALITY:

CHESTER H. ADAMS, City Attorney