

#### Sec 44-191 Definitions

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Hotel accommodations; motel accommodations* means any building or buildings in which the public may, for a consideration, obtain living quarters, sleeping or housekeeping accommodations. The term includes, but is not limited to, inns, motels, tourist homes or courts, lodginghouses, roominghouses and apartment houses. The term does not include a room in a dormitory operated by a religious organization, school, college or university for use by its students, faculty, or staff. Such building or buildings may sometimes be referred to herein as a "facility" or "hotel". A hotel or motel accommodation is sometimes referred to herein as a "hotel room" or "room".

*Owner* means any person having an ownership interest in or conducting the operation of a hotel or receiving the consideration for the rental of such hotel room.

*Permanent resident* means a tenant who, by written lease, has been granted a real interest in a specific hotel or motel accommodation by a landlord for a term of not less than one (1) month.

*Resident employee* means any person who works and lives in the same hotel.

*Tax collector* means an owner maintaining a place of business in the city.

(Ord. No. O87-5754, § 1, 12-29-87; Ord. No. O03-96, § 1, 7-22-03)

#### Sec 44-192 Tax; Incidence; Payment; Collection

- (a) *Tax imposed.* A tax is hereby levied and imposed upon the use and privilege of renting, leasing or letting a hotel room within the city at a rate of ~~six (6) three (3)~~ percent of the room rental rate (not including taxes or other nonroom rental charges added to the hotel bill) for each such hotel room rented for every twenty-four-hour period or any fraction thereof. In the event that no cash charge is levied for the occupancy of the room, a flat tax of \$10 per night shall be imposed on the rentor or the person who is granted the privilege of occupying the hotel room.
- (b) *Incidence of tax.* The ultimate incidence of and liability for payment of the tax is to be borne by the person who seeks the privilege of occupying the hotel room, such person hereinafter referred to as rentor.
- (c) *Payment of tax.* The tax herein levied shall be paid in addition to any and all other taxes and charges. It shall be the duty of the owner of every hotel to secure the tax from the rentor of the hotel room and to pay the tax over to the treasurer under the procedures prescribed by the treasurer, or as otherwise provided in this article.
- (d) *Collection.* Every person required to collect the tax levied by this article shall secure the tax from the rentor at the time he collects the rental payment for the hotel room. The amount due under the tax provided in this article shall be stated separately upon the invoice, receipt or other statement or memorandum given to the rentor at the time of payment.

(Ord. No. O87-5754, § 1, 12-29-87)

**Sec 44-193 Certificate Of Registration; Bond**

- (a) Every owner maintaining a place of business in the city shall obtain a certificate of registration as a tax collector from the treasurer no later than thirty (30) days after commencing such business.
- (b) Application for a certificate of registration shall be made to the treasurer upon forms furnished by him. Each such application shall be signed and verified by the applicant or a properly accredited agent, which in the case of a corporation shall include the president, any vice-president, the secretary, the treasurer or some other properly accredited agent acceptable to the treasurer. The application shall state:
  - (1) The name of the applicant and the address of the principal place of business.
  - (2) The residence address of the principal officers and the manager.
  - (3) The address of the principal place of business from which he engages in the business of providing hotel accommodations.
  - (4) The applicant's estimated receipts from renters' use and privilege of renting, leasing or subletting a hotel room within the city.
  - (5) Such other information as the treasurer may reasonably require.
- (c) Every applicant for a certificate of registration hereunder shall, within thirty (30) days after he commences to engage in the business of providing hotel accommodations, furnish a cash bond or a bond from a surety company authorized to do business in the state, or a bond secured by an assignment of a bank account or certificate of deposit, conditioned upon the applicant paying to the city all moneys becoming due under this article. The treasurer shall fix the amount of such security in each case, taking into consideration the amount of money expected to become due from the applicant under this article. The amount of security required by the treasurer shall be such as in his opinion, will protect the city against failure to pay the amount which may become due from the applicant under this article, but the amount of the security required by the treasurer shall not exceed three (3) times the amount of the applicant's average monthly tax collection and remission liability, or fifty thousand dollars (\$50,000.00), whichever amount is lower, but in no case less than fifty dollars (\$50.00). No certificate of registration under this article shall be issued by the treasurer until the applicant provides the treasurer with satisfactory security as herein provided for. The treasurer may waive the furnishing of a bond until July 1, 1988.
- (d) Upon receipt of the application for a certificate of registration in proper form, and upon approval by the treasurer of the security furnished by the applicant, the treasurer shall issue to such applicant a certificate of registration, provided that no certificate of registration shall be issued to any person who is in default to the city for moneys due under this article or any other article of this Code.

- (e) If the person so registered states that he operates other such places of business in the city, the treasurer shall furnish him with a subcertificate of registration for each place of business. All subcertificates of registration shall bear the same registration number as that appearing upon the certificate of registration to which such subcertificates related.
- (f) The certificate of registration shall be conspicuously displayed at the place of business which the person so registered states in his application to be the principal place of business from which he engages in the business of providing hotel accommodations in this city. A subcertificate of registration shall be similarly displayed at the place of business to which it relates.
- (g) With respect to security other than a bond from a surety company authorized to do business in the state upon which the treasurer may sue in the event of a forfeiture, if the tax collector fails to pay, when due, any amount whose payment such security guarantees, the treasurer shall, after such liability is admitted by the tax collector or established by the treasurer through the issuance of a final assessment that has become final as provided by law, convert the security which that tax collector has furnished into money for the city after first giving the tax collector at least ten (10) days' written notice, by registered or certified mail, to pay the liability or forfeit such security to the treasurer. If the security consists of a bank certificate of deposit, the treasurer shall convert the security into money by demanding and collecting the amount of such bank certificate of deposit from the bank which issued such certificate. If the treasurer realizes more from the security than the amount of such liability plus the expenses incurred by the treasurer in converting the security into money, the treasurer shall pay such excess to the tax collector who furnished such security and the balance shall be paid into the general fund.
- (h) The treasurer shall discharge any surety and shall release and return any security deposited, assigned, pledged or otherwise provided to it by a tax collector under this section within thirty (30) days after:
  - (1) Such tax collector becomes a prior continuous compliance tax collector; or
  - (2) Such tax collector has ceased to collect receipts on which he is required to remit tax to the treasurer, has filed a final tax return, and has paid to the treasurer an amount sufficient to discharge this remaining liability, as determined by the treasurer under this article.

The treasurer shall make a final determination of the tax collector's outstanding liability as expeditiously as possible after his final tax return has been filed; if the treasurer cannot make such final determination within forty-five (45) days after receiving the final tax return, within such period, he shall so notify the tax collector, stating his reason therefor.
- (i) Information supplied on the application required by this section shall be updated within thirty (30) days of any change or alteration thereof upon revision forms supplied by the treasurer.

#### Sec 44-194 Books And Records; Inspections; Contents

- (a) The treasurer, or any person certified by him as his deputy or representative, may enter the common and business premises of any hotel for inspection of books and records in order to effectuate the proper administration of this article and to assure the enforcement of the collection of the tax imposed.
- (b) No person shall prevent, hinder or interfere with the treasurer or his duly authorized deputy or representative in the discharge of his duties under this article.
- (c) It shall be the duty of every owner to keep accurate and complete books and records to which the treasurer or his duly authorized deputy or representative shall at all times have full access, which records shall include a daily sheet showing:
  - (1) The number of hotel rooms rented during the twenty-four-hour period, including multiple rental of the same hotel room where such shall occur.
  - (2) The actual hotel receipts collected for the date in question.
  - (2)(3) The number of "Comped" rooms to which a flat fee charge was assessed.

(Ord. No. O87-5754, § 1, 12-29-87)

#### Sec 44-195 Reporting; Transmittal; Delinquency; Penalty

- (a) *Monthly reporting.* The owner or owners of each hotel room within the city shall file monthly tax returns showing tax receipts received with respect to each hotel room during each month. The returns shall be due on or before the last day of the month for the preceding calendar month.

In addition, the owner of each hotel within the city that has collected ten thousand dollars (\$10,000.00) or more of the tax herein imposed and levied during its fiscal year shall provide the treasurer with a certified statement from an independent certified public accountant within one hundred eighty (180) days following the end of such hotel's fiscal year showing the amount of such tax which was due, collected, and paid to the city during the fiscal year.
- (b) *Transmittal of tax.* The tax shall be due on the day the monthly return is due as provided herein. At the time of filing such return, the owner shall pay to the treasurer all taxes, interest and penalties, if any, due for the period to which the return applies. A commission, as set by subsection (d), may be deducted when timely payments are made of taxes due.
- (c) *Failure to pay tax.* If for any reason any tax is not paid when due, a penalty and interest, as set by subsection (d), on the amount of tax which remains unpaid shall be added and collected, and the amount of commission set therein may not be deducted. Whenever any person shall fail to pay any tax as herein provided, the corporation counsel upon the request of the mayor shall bring or cause to be brought an action to enforce the payment of the tax on behalf of the city in any court of competent jurisdiction.

(d) *Schedule of certain rates.* The following rates are hereby set for purposes of this article; provided that, the treasurer may from time to time increase or decrease any rate hereunder in order to equal those rates set forth from time to time by the Hotel Operators' Occupation Tax Act [Ill. Rev. Stat. Ch. 1205, ¶ 481b. 31 et seq.]:

- (1) Commission, two and one-tenth (2.1) percent or twenty-five dollars (\$25.00) per calendar year whichever is greater, deducted from the amount of tax due, if payment is made on a timely basis.
- (2) Penalty, seven and one-half (7.5) percent added to the amount of tax unpaid and uncollected.
- (3) Interest, one and one-quarter (1.25) percent added per month to the amount of tax unpaid and uncollected.

(Ord. No. O87-5754, § 1, 12-29-87)

#### **Sec 44-196 Suspension Or Revocation Of Licenses For Failure To Pay Tax; Hearing**

If the mayor or other city official responsible for the issuance of a city license, permit or other approval, other than a liquor license shall find that any person has willfully evaded payment or collection and remittance of the tax imposed by this article, he may suspend or revoke the city license, permit or other approval held by such tax evader. Said person shall have an opportunity to contest the suspension or revocation at a hearing before the administrative hearing officer conducted pursuant to chapter 3 of this code. No suspension or revocation hereunder shall release or discharge the person from his civil liability for the payment or collection and remittance of the tax, nor from prosecution for such offense.

(Ord. No. O87-5754, § 1, 12-29-87)

#### **HISTORY**

Amended by Ord. [O20-032](#) on 5/26/2020

#### **Sec 44-197 Notice Of Noncompliance**

If it shall appear to the treasurer that any person has violated any provision of this article, or any rule or regulation promulgated hereunder, the treasurer may refer the matter to the corporation counsel for prosecution, or may issue such person a notice of noncompliance describing the violation and requesting it cease within a period of time not less than ten (10) days. If adequate proof that such violation has ceased is not submitted to the treasurer within the time period set in the notice, the treasurer may take any other appropriate action authorized by this article or otherwise provided by law.

(Ord. No. O87-5754, § 1, 12-29-87)

#### **Sec 44-198 Proceeds**

- (a) Except as provided in subsection (b), all proceeds resulting from the imposition of the tax under this article, including interest and penalties, shall be paid into the treasury of the city and be credited to and deposited in the general fund of the city.

- (b) Effective January 1, 1992, the city treasurer shall pay over up to ninety (90) percent of the proceeds of the tax imposed hereunder to the Aurora Area Convention and Vistors' Bureau ~~Tourism Council~~ subject to the terms of ~~under~~ any operating intergovernmental cooperation agreement approved, from time to time, by city council resolution, and the amount of the City's annual budget for such purpose.

(Ord. No. O87-5754, §§ 1, 2, 12-29-87; Ord. No. O91-89, § 1, 11-5-91; Ord. No. O92-93, § 1, 11-17-92)

#### Sec 44-199 Exemption

- (a) The tax imposed by this article shall not apply to hotel resident employees.
- (b) The tax imposed by this article shall not apply to the occupancy of a specific room by a permanent resident only if the following conditions are met:
- (1) The permanent resident actually occupied, or had the right to occupy, the room during the entire reporting period; and
  - (2) The specific room occupied by the permanent resident was not occupied on a non-leasehold basis at any time during the reporting period for which the exemption is claimed; and
  - (3) The permanent resident did not assign, sublease or otherwise transfer a real interest in the room during the reporting period for which the exemption is claimed.
- (c) In addition, a hotel owner, manager, or operator may only claim an exemption for occupancies by permanent residents if all of the following conditions are met:
- (1) Less than half of the rooms of the facility were available for occupancy on a non-leasehold basis on any day during the reporting period for which the exemption is claimed; and
  - (2) More than half of the rooms of the facility were actually occupied by permanent residents or were vacant each day of the reporting period for which the exemption is claimed; and
  - (3) The facility does not operate as a "hotel" within the meaning of Section 7 of the Innkeeper Protection Act (740 ILCS 90/7) as amended.

(Ord. No. O87-5754, § 1, 12-29-87; Ord. No. O03-96, § 2, 7-22-03)

#### Sec 44-200 Acts Of Agent Or Employee

Every act or omission of whatsoever nature constituting a violation of any of the provisions of this article, by any officer, director, manager or other agent or employee of an owner, shall be deemed and held to be the act of such owner, and the owner shall be liable and punishable in the same manner as if said act or omission had been done or omitted by the owner personally.

(Ord. No. O87-5754, § 1, 12-29-87)

#### **Sec 44-201 Penalties**

Any owner or person violating, disobeying, omitting, neglecting or refusing to comply with any of the provisions of this article shall be punished as provided in section 1-10, unless otherwise specifically provided in section 1-11.

(Ord. No. O87-5754, § 1, 12-29-87; Ord. No. O02-112, § 5, 11-22-02)

#### **Sec 44-202 Preparation; Service Of Citations**

The finance director and his designees are deemed peace officers and may prepare and serve citations personally or by certified mail for violations of sections 44-193, 44-194 or 44-195.

(Ord. No. O02-112, § 6, 11-22-02)