

## **TITLE 4. REVENUE AND TAXATION**

### **CHAPTER 1: RESIDENTIAL CONSTRUCTION TAX**

4.01.01: ESTABLISHMENT OF RESIDENTIAL CONSTRUCTION TAX: Pursuant to NRS 278.497 to 278.4987, inclusive, the Council hereby adopts the Residential Construction Tax, hereinafter "RCT".

(A) APPLICABILITY: The RCT shall apply to all new residential dwelling units, apartment houses and development of mobile home lots. The RCT shall not apply to reconstruction or replacement.

(B) PURPOSE: The purpose of the RCT is to raise revenue to enable the City of Fernley to provide neighborhood parks and facilities for parks which are required by the residents of those apartment houses, mobile homes and residences. The RCT shall be used in a manner consistent with the City of Fernley Park and Recreation plan for:

(1) Park facilities including turf, trees, irrigation, playground apparatus, playing fields, areas to be used for organized amateur sports, play areas, picnic areas, horseshoe pits and other recreational equipment or appurtenances designed to serve the natural persons, families and small groups from the neighborhood from which the tax was collected; or

(2) The acquisition, improvement or expansion of park sites not exceeding 25 acres designed to serve the recreational needs and outdoor needs of natural persons, families and small groups.

(C) RATES: The RTC is set at the following rates:

(1) RESIDENTIAL DWELLING UNITS: 1% of the valuation of the building permit issued based on the City's Valuation Data Table, or \$100 per dwelling unit, whichever is less;

(2) APARTMENT HOUSES: 1% of the valuation of the building permit issued based on the City's Valuation Data Table, or \$100 per dwelling unit, whichever is less;

(3) MOBILE HOME LOTS: 80% of the average RCT paid per residential dwelling unit during the preceding calendar year. The rate during the first year of implementation of this Ordinance shall be \$800.

(D) COLLECTION OF FEES: The RCT shall be collected at the time of issuance of a building permit or mobile home permit. Each fee shall be placed in a special, interest-bearing fund to be used specifically for the purposes defined in section B.

(E) ESTABLISHMENT OF PARK DISTRICTS: The City shall not be divided; any and all funds collected shall be done so into a collective account for the mutual benefit to all neighborhood parks, potential parks, facilities for parks; including turf, trees, irrigation, playground apparatus, playing fields, areas to be used for organized amateur sports, picnic areas, horseshoe pits and other recreational equipment.

(F) REFUND FOR UNUSED RCT: The RCT shall be used within five (5) years after the date of which 75% of residential dwelling units authorized within that subdivision or development first became occupied. The money paid by the subdivider or developer, which has not been used within that time, together with interest at the rate at which the City has invested the money, shall be refunded to the owner of the lots in the subdivision or development at the time of reversion on a pro-rata share. (ORD 2003-001 ORD 2011-004)

## CHAPTER 2: TRANSIENT LODGING TAX

4.02.01: DEFINITIONS: The definitions stated shall apply to this chapter unless the context requires otherwise.

CITY: City of Fernley, Lyon County, State of Nevada.

LESSEE: Any person renting accommodations from a licensee.

LICENSEE: The person, partnership, firm, corporation or other body corporate operating a rental business.

OCCUPANCY: The use or possession, or the right to the use or possession of any sleeping room/space or portion thereof, in transient lodging for dwelling, lodging, or sleeping purposes.

OCCUPANT: Any person who, for rent, uses, possesses or has the right to possess any sleeping room/space in transient lodging.

PACKAGE: Any aggregation of rights to room(s), food, refreshments, merchandise, entertainment, services, and/or other items grouped as a single unit and sold for a single price.

PERMANENT RESIDENT: Any individual occupant who has or shall have the right of occupancy for the same sleeping room/space in transient lodging for thirty-one consecutive days or more.

PERSON: Corporations, firms, partnership, associations and individuals, and also includes executors, administrators, trustees, receivers or other representatives appointed according to law.

RENT: The amount charged for a sleeping room/space in transient lodging, but does not include the amount charged for any food or beverage service or for personal services rendered to the occupant, such as but not limited to concierge services, clothes cleaning services, massage, or physician services.

### RENTAL BUSINESS AND ROOM:

1. The term "rental business" means the operation of any hotel, motel, auto court, motor court, lodge, lodging house, apartment, apartment house, apartment house hotel, rooming house, guest house, trailer court, trailer park, tourist camp, ranch resort, guest ranch, cabin or other accommodation having four (4) or more rooms for rental.
2. "Room," "rooms," and "room rentals" mean any accommodation rented by the operator of any facility described in the definition of "rental business."

**RENTAL BUSINESS:** 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.

**TRANSIENT GUEST:** Any person who has or shall have the right of occupancy to any sleeping room/space in transient lodging for thirty consecutive days or less.

**TRANSIENT LODGING:** Any facility, structure, or portion of any structure which is occupied or intended or designed for occupancy primarily by transient guests who pay rent for dwelling, lodging, or sleeping purposes, and includes any hotel, resort hotel, condo hotel, motel, residential hotel or motel, time-share project, vacation trailer park, campground, park for recreational vehicles, and any other similar structure, facility, or portion thereof.

**TRANSIENT LODGING TAXES:** All taxes levied pursuant to this chapter.

"TRANSIENT LODGING TAX" is also known as "ROOM TAX."

**4.02.02: TAX ON TRANSIENT LODGING:** There is hereby fixed and imposed on every licensee operating a transient lodging rental business within the city a transient lodging tax in the total amount of nine percent (9%) to be collected as follows (ORD 2010-013):

Nine percent (9%) of the gross income actually received, excluding the lodging tax, by each licensee for transient lodging rentals. Complimentary transient lodging (transient lodging which is provided at no cost to the occupant) is nontaxable. To be considered complimentary transient lodging, the transient lodging must be provided on an individual basis and not as part of any established package, advertised or otherwise, which includes other products or services. Transient lodging included in promotional packages is taxable. The taxable amount for such transient lodging is computed by obtaining the percentage that the transient lodging rackrate bears to the retail value of the package and multiplying that percentage by the package cost to the occupant, or the actual amount charged for the transient lodging, whichever is greater.

Example: Transient lodging with an established rack rate of fifty dollars (\$50.00) is included in the following package, which is sold for forty dollars (\$40.00):

|                         |           |
|-------------------------|-----------|
| Food credit             | \$ 10 .00 |
| Coins                   | \$ 10 .00 |
| Show or event ticket    | \$ 20 .00 |
| Drink tokens            | \$ 10 .00 |
| Rack rate               | \$ 50 .00 |
|                         |           |
| Retail value of package | \$100 .00 |

The rack rate equals fifty percent (50%) of the retail value of the package. Therefore, fifty percent (50%) of the package cost, or twenty dollars (\$20.00), must be allocated to transient lodging and included in taxable revenue.

**4.02.03: LICENSE REQUIRED:**

- A. It shall be unlawful for any person, either for himself or for another person, to commence or to carry on any transient lodging rental business without first having procured a license from the City Clerk so to do;
- B. The City Clerk shall, upon receipt of an application for a license, issue a license to such applicant who shall keep the same posted in his place of business in a conspicuous place.

**4.02.04: EXEMPTIONS AND EXCEPTIONS:** There shall be, and hereby is, exempted from the license tax on transient lodging:

- A. Rent paid for the use or occupancy of the same sleeping room/space by the same person after the thirtieth consecutive day of occupancy. Such persons are deemed to be permanent residents after the thirtieth consecutive day of occupancy;
- B. Rent paid directly by the federal government of the United States, the state of Nevada, a federally-chartered credit union, the American Red Cross, or foreign diplomats properly registered with the State Department of the United States;
- C. Complimentary rooms wherein there is no rent paid to the operator in conjunction with the occupancy;
- D. The cost of or rent paid for a room in transient lodging that is not used for sleeping, such as a meeting or storage room.

**4.02.05: TRANSIENT LODGING TAX TO BE COLLECTED FROM LESSEE:** Each licensee is, and shall be, required to add the amount of the transient lodging tax onto the amount of the transient lodging rentals due from each lessee. The amount of the tax shall be displayed separately from the price of the transient lodging rent on the registration card or other record of the licensee.

4.02.06: DISPLAY OF NOTICE: Each licensee shall prominently display in each room, space or other accommodation rented or at the option of the licensee, in the lobby at or in the immediate vicinity of the registration desk, a sign reading substantially as follows (ORD 2010-003):

*NOTICE*

*This business is required by law to collect a Nine Percent (9 %) transient lodging tax on any rental of transient lodging of less than thirty (30) days.  
The Management*

4.02.07: LICENSES: Licenses required by this chapter shall be issued by the City Clerk. Such licenses may be issued by the City Clerk on an annual calendar year basis; All licenses issued shall be valid for the period of time specified in such license. No licenses issued hereunder shall be transferable. There shall be no additional charge to the business license fee made to the licensee for any license issued hereunder.

4.02.08: AUTHORITY TO COLLECT TAX: The City Clerk is hereby authorized and empowered to collect the proceeds of this transient lodging tax, together with any and all interest and penalties in connection therewith, and to enforce by all appropriate and lawful means the provisions of this chapter, and to bring suit therefore as well as to proceed by any appropriate criminal action. The City Clerk is also hereby authorized and empowered to collect information related to daily occupancy and average daily rate; however, such information shall be deemed confidential pursuant to Nevada Revised Statutes section 268.490 (records; confidentiality).

4.02.09: PAYMENT OF TAX, INTEREST AND PENALTIES: Every licensee shall pay the transient lodging tax to the city clerk on or before the tenth day of the month (should the 10<sup>th</sup> day of the month fall on a weekend or recognized holiday, the return will be due the next regular business day) when such tax shall accrue. Payment of the transient lodging tax shall become delinquent on the twentieth day of the month. Should the 20<sup>th</sup> day of the month fall on a weekend or recognized holiday, the grace period will be extended to the next regular business day. Such tax becomes payable to the City Clerk by the licensee pursuant hereto. (ORD 2011-009)

4.02.10: RECEIPT OF PAYMENT: Payments by hand-delivery to the City Clerk or by metered mail must be received by the City Clerk on or before the final date allowed for payment in order to avoid penalties being assessed. A payment postmarked by the U.S. Postal Service on or before the final due date shall be considered to be timely payment and no penalty shall be incurred because it is actually received by the City Clerk after the payment due date.

4.02.11: FAILURE TO FILE TAX REPORT OR RETURN--PENALTY.

- A. It is unlawful for any licensee to fail, neglect or refuse to file any monthly report or return required by the City Clerk, whether or not said licensee shall have paid

over the taxes due to the City Clerk and whether or not there shall have been any taxes due the City Clerk.

- B. In the event of any such failure, neglect or refusal to file such report or return on the 10th day of each month the licensee will be granted a grace period until the twentieth day of the month. If the licensee shall not comply with the requirement to file within the ten day grace period, he shall pay a penalty of one hundred dollars for the first month for which no such report or return was filed. (ORD 2011-009)
- C. In the event of any such failure, neglect or refusal which shall continue for a second month, the licensee shall pay an additional two hundred fifty dollars for the second month and for each month thereafter until such report or return is filed and taxes paid.
- D. In the event of any such failure, neglect or refusal which shall continue for a third month, the City Council shall give notice to said licensee to appear at a time and place certain to show cause why his rental business license should not be revoked for such failure, neglect or refusal, the notice thereof to be given by certified mail to the address listed on the license and said notice to be posted with the United States Post Office at least fifteen days prior to the date of the hearing.
- E. Payment of the penalty does not relieve the licensee from the duty to collect and pay over the accommodations tax as provided in this chapter.

4.02.12: EXAMINATION OF BOOKS AND RECORDS: The City Clerk and his duly authorized agent are empowered to examine and audit the books, papers and records of any licensee or person operating a transient lodging rental business and to make investigations in connection therewith.

4.02.13: RECORDS TO BE KEPT BY OPERATOR OF TRANSIENT LODGING.

- A. Each operator shall maintain for a period of at least three years, daily records and monthly summaries that properly reflect the following minimum information:
  - 1. Total rooms available and occupied;
  - 2. Total rental revenue;
  - 3. Total rental revenue that is not subject to the taxes and documentation to support such exemptions;
  - 4. Guest folios or registration cards, including at a minimum, the occupant's name, room number, dates of occupancy; rent and taxes collected;
  - 5. Total taxes collected as imposed by this chapter;
  - 6. The number and dollar value of nonrevenue or complimentary rooms; and
  - 7. The number of rooms included in package or promotional offerings, the total dollar value of the package, and the total dollar value allocated to room charges.

- B. Acceptable methods of maintaining the above required information include guest folios or registration cards, daily transaction reports, general ledgers, cash journals, and similarly accepted books of accounting maintained by a reasonable business person. In addition, operators may be required to provide copies of bank statements, financial statements (audited, if available) prepared by their independent accountant, tax returns and similar documents that can be used to support rental revenue and exemptions.
- C. The calculation used to determine the cost of any package offered to include the value assigned to each component of the package.
- D. Each and every operator shall make the records noted in this section available during business hours for audit by the City Clerk or his designee for the collection of the taxes imposed by this chapter.

4.02.14: RECORDS TO BE KEPT BY ADMINISTRATOR--CONFIDENTIAL. The City Clerk will keep proper records of the transient lodging taxes herein fixed and imposed which become due and which are collected, including, without limiting the generality of the foregoing, records of delinquent taxes, interest thereon and penalties there from. These records shall be deemed confidential and shall not be revealed in whole or in part to anyone except in the necessary administration of this chapter or as otherwise provided by law.

4.02.15: FORMS AND COSTS: The City Clerk is hereby empowered and authorized to designate the form of and have prepared or printed all stationery, supplies, records, notices, receipts, licenses and other forms that the city clerk deems necessary or advisable in connection with the collection, administration and disbursement of the proceeds of this transient lodging tax, and to obtain all supplies, records and other property and equipment deemed necessary by the City Clerk in connection with the collection, administration, use and disbursement of the said transient lodging tax proceeds. All costs, expenses, charges and debts incurred by the City, or by the City Clerk under the provisions of this chapter, in connection with the imposition, collection, administration, use and disbursement of this transient lodging tax and the proceeds thereof shall be paid out of the park and recreational fund provided for in this chapter.

4.02.16: ALLOCATION AND USE OF TRANSIENT LODGING TAX FUNDS: The transient lodging tax in the total amount of nine percent (9%) of the gross income actually received, excluding the lodging tax, by each licensee for transient lodging rentals pursuant to this chapter shall be allocated and used by the City on the following percentages under the following categories. The transient lodging tax allocation shall be reviewed annually by the City Council:

- A. One percent (1%) of the transient lodging tax shall be distributed as follows:
  - 1. Three-eighths ( $\frac{3}{8}$ ) shall be paid to the department of taxation for deposit with the state treasurer for credit to the fund for the promotion of tourism.

2. Five-eighths ( $\frac{5}{8}$ ) shall be deposited with Lyon County to be used to advertise the resources of Lyon County and City of Fernley related to tourism, including available accommodations, transportation, entertainment, natural resources and climate, and to promote special events related thereto.
- B. The remaining eight percent (8%) of the transient lodging tax shall be: deposited in a Special Revenue Fund-Transient Lodging Tax of the City. Distribution of the funds collected from the Transient Lodging Tax shall be by resolution of the City Council.
- C. The proceeds of any portion of the transient lodging tax imposed pursuant to Nevada Revised Statutes 268.096 may not be used, unless otherwise specifically provided by state law or this code:
1. As additional security for the payment of, or to redeem, any general obligation bonds issued pursuant to Nevada Revised Statutes 244A.
  2. To defray the costs of collecting or administering the tax incurred by the county fair and recreation board.
  3. To operate and maintain recreational facilities under the jurisdiction of the county fair and recreation board.
  4. To improve and expand recreational facilities authorized by Nevada Revised Statutes 244A.597 to 244A.655, inclusive.

#### 4.02.17: USES AND PURPOSES OF TRANSIENT LODGING TAX PROCEEDS:

The City Council shall use the proceeds of the transient lodging tax provided by this chapter for the following use, uses, purpose or purposes, or any one or more thereof, at such times, in such amounts and in such manner as they shall determine, from time to time:

- A. Promotion of Tourism on Transient Lodging Tax Fund:
1. Three-eighths ( $\frac{3}{8}$ ) of the first one per cent (1%) of all proceeds of the tax must be paid to the department of taxation for deposit with the state treasurer for credit to the fund for the promotion of tourism.
  2. Five-eighths ( $\frac{5}{8}$ ) of the first one per cent (1%) of all proceeds of the tax must be deposited with Lyon County to be used to advertise the resources of Lyon County and City of Fernley related to tourism, including available accommodations, transportation, entertainment, natural resources and climate, and to promote special events related thereto.
- B. Civic Facilities:
1. Operating and maintaining facilities under the jurisdiction of the City Council.
  2. Improving, extending and bettering such facilities.
  3. Constructing, purchasing or otherwise acquiring such facilities.
  4. To establish, construct, purchase, lease, rent, acquire by gift, grant, bequest, devise, or otherwise acquire, reconstruct, improve, extend, better, alter, repair, equip, furnish, regulate, maintain, operate and manage facilities within or without the City, including personal property, real property, lands, improvements and fixtures thereof, property of any nature appurtenant thereto or used in connection

therewith, and every estate, interest and right, legal or equitable, therein, including terms for years.

5. To accept contributions, grants or other financial assistance from the federal government or any agency or instrumentality thereof, corporate or otherwise, the State of Nevada or any of its political subdivisions, or from any other source, for or in aid of any recreation facility within the area of operation of the City Council, and to comply with such conditions, trust indentures, leases or agreements as may be necessary, convenient or desirable.
6. To use such funds to pay the necessary expense of imposition, collection and expenditure of this transient lodging tax and the proceeds thereof.
7. To use such proceeds to repay any loans, debts or bonded indebtedness that the City Council may incur in connection with such facilities, and that in that connection to pledge this transient lodging tax and the proceeds thereof as security for the repayment of any such loans, debts, obligations secured by bond, bonds, and other indebtedness which may be incurred in connection with such recreation facilities.
9. For marketing and/or promotion of services serving the city.

4.02.18: REFUND: Any person aggrieved by the provisions contained herein shall present his claim to the City council prior to seeking any other form of administrative relief or judicial relief, except as otherwise required by law. The City Council shall have the authority to grant any appropriate relief from the provisions of this chapter, to include the authority to refund, with interest if appropriate, to any licensee, any transient lodging tax improperly collected by the City council or the City Clerk from such licensee and to include the authority to grant relief to any person who is determined by the City Council to have been adversely affected by any retroactive amendments to this chapter.

4.02.19: ENFORCEMENT. The City Clerk is charged with the enforcement of the provisions of this chapter and may employ such accountants, auditors, investigators, assistants and clerks as he or she may deem necessary for the efficient administration of this chapter.

4.02.20: PENALTIES: Any person violating any of the provisions of this chapter, or failing or refusing to collect or pay the transient lodging tax proceeds as herein provided, shall be deemed guilty of a misdemeanor, upon conviction thereof, be punished as provided in this code. Each day's violation of the provisions of this chapter may be deemed a separate offense. The City, by and through its City Clerk, or Mayor and/or City Council, is further empowered and authorized to pursue all rights, remedies, procedures, claims and causes of action it may have at law or in equity to enforce the provisions of this chapter and to collect this transient lodging tax from the persons owing the same, by civil action, including, without being limited to, injunctions.