

## Chapter 66 TAXATION\*

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\*Cross reference(s)--Administration, ch. 2; alcoholic beverages, ch. 6; businesses, ch. 18; fees, ch. 26; manufactured homes and trailers, ch. 42.  
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**ARTICLE I. IN GENERAL**

**Secs. 66-1--66-25. Reserved.**

**ARTICLE II. LODGING TAX\***

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\*State law reference(s)--Local lodging tax, Minn. Stat.  
§ 469.190.  
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**Sec. 66-26. 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:

*City clerk* means the city clerk or his designee.

*Lodger* means the person obtaining lodging from an operator.

*Lodging* means the furnishing for a consideration of camping sites by a municipal campground or of lodging by a hotel, motel, roominghouse, tourist court or resort, except

where such lodging shall be for a continuous period of 30 days or more to the same lodger. The furnishing of rooms by religious, educational or nonprofit organizations shall not constitute lodging for purposes of this article.

*Operator* means a person who provides lodging to others or any officer, agent or employee of such person.

*Person* means any municipality, individual, corporation, partnership, association, estate, receiver, trustee, executor, administrator, assignee, syndicate or any other combination of individuals. Whenever the term ``person'' is used in any provision of this chapter prescribing and imposing a penalty, the term, as applied to a corporation, association or partnership, shall mean the officers or partners thereof as the case may be.

*Rent* means the total consideration valued in money charged for lodging whether paid in money or otherwise, but shall not include any charges for services rendered in connection with furnishing lodging rather than the room charge itself.

*Tax* means the tax imposed by this article.

*Tax administrator* means the city clerk or other official or entity with which the city has contracted to collect the tax on its behalf and for administrative services.

(Ord. No. 135A, § 1, 10-26-88)

**Cross reference(s)**--Definitions generally, § 1-2.

**Sec. 66-27. Imposition of tax.**

Pursuant to Minn. Stat. § 469.190, there is hereby imposed a tax on the rent charged by an operator for providing lodging to any person. The tax shall be effective and commence December 1, 1988. A tax of three percent shall be imposed through December 31, 1995. This article shall be repealed effective December 31, 1995. The tax collected by

the operator shall be a debt owed by the operator to the city and shall be extinguished only by payment to the city. In no case shall the tax imposed by this section upon an operator exceed the amount of tax which the operator is authorized and required by this article to collect from a lodger.

(Ord. No. 135A, § 2, 10-26-88; Ord. No. 148, § 1, 10-17-90; Ord. No. 152, § 1, 6-12-91)

**Sec. 66-28. Collections.**

Each operator shall collect the tax imposed by this article at the time the rent is paid. The tax collections shall be deemed to be held in trust by the operator for the city. The amount of tax shall be separately stated from the rent charged for the lodging and those persons paying the tax shall receive a receipt of payment from the operator.

(Ord. No. 135A, § 3, 10-26-88)

**Sec. 66-29. Exceptions and exemptions.**

(a) *Exceptions.* No tax shall be imposed on rent for lodging paid by any officer or employee of a foreign government who is exempt by reason of express provisions of federal law or international treaty.

(b) *Exemptions.* An exemption shall be granted to any person as to whom or whose occupancy it is beyond the power of the city to tax. No exemption shall be granted except upon a claim therefor made at the time the rent is collected and such a claim shall be made in writing and under penalty of perjury on forms provided by the city. All such claims shall be forwarded to the city when the returns and collections are submitted as required by this article.

(Ord. No. 135A, § 4, 10-26-88)

**Sec. 66-30. Unlawful advertising of no tax.**

It shall be unlawful for any operator to advertise or hold out or state to the public or any customer, directly or

indirectly, that the tax or any part thereof will be assumed or absorbed by the operator, or that it will not be added to the rent or that, if added, it or any part thereof will be refunded. In computing the tax to be collected, amounts of tax less than \$0.01 shall be considered an additional cent.

(Ord. No. 135A, § 5, 10-26-88)

**Sec. 66-31. Payment and returns.**

(a) The taxes imposed by this article shall be paid by the operator to the tax administrator monthly not later than 25 days after the end of the month in which the taxes were collected. At the time of payment the operator shall submit a return upon such forms and containing such information as the city or its tax administrator may require. The return shall contain the following minimum information:

- (1) The total amount of rent collected for lodging during the period covered by the return.
- (2) The amount of tax required to be collected and due for the period.
- (3) The signature of the person filing the return or that of his agent duly authorized in writing.
- (4) The period covered by the return.
- (5) The amount of uncollectible rental charges subject to the lodging tax.

(b) The operator may offset against the taxes payable with respect to any reporting period the amount of taxes imposed by this article previously paid as a result of any transaction the consideration for which became uncollectible during such reporting period, but only in proportion to the portion of such consideration which became uncollectible.

(Ord. No. 135A, § 6, 10-26-88)

**Sec. 66-32. Examination of return; adjustments, notices and demands.**

The tax administrator shall, after a return is filed pursuant to this article, examine the same and 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 to be paid. If the tax due is found to be greater than that paid, such excess shall be paid to the tax administrator within ten days after receipt of a notice thereof given either personally or sent by certified 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 refunded to the person who paid the tax to the tax administrator within ten days after determination of such refund.

(Ord. No. 135A, § 7, 10-26-88)

**Sec. 66-33. Refunds.**

Any person may apply to the tax administrator for a refund of taxes for a prescribed period in excess of the amount legally due for that period, provided that no application for a refund shall be considered unless filed within one year after such tax was paid, or within one year from the date of the return, whichever period is the longer. The tax administrator shall examine the claim to determine the correctness of the claim and shall return any excess taxes paid. If no excess is found, the tax administrator shall so inform the applicant. If the claim is denied in full or in part, the applicant may make written application to the council for a hearing on the matter.

(Ord. No. 135A, § 8, 10-26-88)

**Sec. 66-34. Failure to file return.**

If any operator required by this article to file a return shall fail to do so within the time prescribed, or shall make, willfully or otherwise, an incorrect, false or

fraudulent return, the operator shall, upon written notice and demand given the person or by certified mail, file such return or corrected return within five days of receipt of such written notice and shall at the same time pay any tax due on the basis thereof. If such person shall fail to file such return or corrected return, the tax administrator shall file a return for such person from such knowledge and information as the tax administrator can obtain, and assess a tax on the basis thereof, which tax (less any payments theretofore made on account of the tax for the taxable period covered by such return) shall be paid within five days of the receipt of written notice and demand for such payment. Any such return or assessment made by the tax administrator shall be prima facie correct and valid, and such person shall have the burden of establishing its incorrectness or invalidity in any action or proceeding in respect thereto.

- (1) If any portion of a tax imposed by this article, including penalties thereon, is not paid within 30 days after it is required to be paid, the city may institute such legal action as may be necessary to recover the amount due plus interest, penalties, the cost and disbursements of any action.
- (2) Upon a showing of good cause, the tax administrator may grant an operator one 30-day extension of time within which to file a return and make payment of taxes as required by this chapter provided that interest during such period of extension shall be added to the taxes due at the rate of ten percent per annum.

(Ord. No. 135A, § 9, 10-26-88)

**Sec. 66-35. Penalties.**

(a) If any tax imposed by this article is not paid within the time herein specified for the payment, or any extension thereof, there shall be added thereto a specific penalty equal to ten percent of the amount remaining unpaid.

(b) In case of any failure to make and file a return within the time prescribed by this article, unless it is shown that such failure is not due to willful neglect, there shall be added to the tax in addition to the ten-percent specific penalty provided in subsection (a) above, ten percent if the failure is not for more than 30 days with an additional five percent for each additional 30 days or fraction thereof during which such failure continues, not exceeding 25 percent in the aggregate. If the penalty as computed does not exceed \$25.00, a minimum penalty of \$25.00 shall be assessed. The amount so added to any tax shall be collected at the same time and in the same manner and as a part of the tax unless the tax has been paid before the discovery of the negligence, in which case the amount so added shall be collected in the same manner as the tax.

(c) If any person willfully fails to file any return or make any payment required by this chapter, or willfully files a false or fraudulent return or willfully attempts in any manner to evade or defeat any such a tax or payment thereof, there shall also be imposed as a penalty an amount equal to 50 percent of any tax (less any amounts paid on the basis of such false or fraudulent return) found due for the period to which such return related. The penalty imposed by this subsection shall be collected as part of the tax, and shall be in addition to any other penalties provided by this article.

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

(e) The amount of tax not timely paid, together with any penalty provided by this section, shall bear interest at the rate of ten percent per annum from the time such tax should have been paid. Any interest and penalty shall be added to the tax and be collected as part thereof.

(Ord. No. 135A, § 10, 10-26-88)

**Sec. 66-36. Revocation or suspension of license.**

Whenever an operator fails to comply with any of the provisions of this article, the council may, after a hearing, suspend or revoke any licenses issued to the operator by the city. Before any such hearing, the operator shall be given ten days' written notice and the hearing shall be published in the legal newspaper of the city not less than ten days before the date of the hearing.

(Ord. No. 135A, § 11, 10-26-88)

**Sec. 66-37. Administration.**

The tax administrator shall administer and enforce the assessment and collection of the taxes imposed by this article. The tax administrator shall cause to be prepared blank forms for the returns and other documents required by this article and shall distribute the same throughout the city and furnish them on application, but failure to receive or secure them shall not relieve any person from any obligation required of him under this article.

(Ord. No. 135A, § 12, 10-26-88)

**Sec. 66-38. Examination of records.**

The tax administrator and those persons acting on behalf of the tax administrator authorized in writing by the tax administrator may examine the books, papers and records of any operator in order to verify the accuracy of any return made, or if no return was made, to ascertain the tax as provided in this article. Every such operator is directed and required to give to the tax administrator or to his duly authorized agent or employee the means, facilities and opportunity for such examinations and investigations as are hereby authorized.

(Ord. No. 135A, § 13, 10-26-88)

**Sec. 66-39. Agreement for collection.**

The city may agree with the state commissioner of revenue that a tax imposed pursuant to this article shall be

collected by the commissioner together with the tax imposed by Minn. Stat. ch. 297A, and subject to the same interest, penalties and other rules and that its proceeds, less the cost of collection, shall be remitted to the city.

(Ord. No. 135A, § 14, 10-26-88)

**Sec. 66-40. Violations.**

In addition to any other penalty prescribed in this article, any person who shall willfully fail to make a return required by this article, or who shall fail to pay the tax after written demand for payment, or who shall fail to remit the taxes collected or any penalty or interest imposed by this article after written demand for such payment or who shall refuse to permit the director or any duly authorized agents or employees to examine the books, records and papers under his or her control, or who shall willfully make any incomplete, false or fraudulent return shall be guilty of a misdemeanor.

(Ord. No. 135A, § 15, 10-26-88)

**Sec. 66-41. Use of proceeds.**

Ninety-five percent of the proceeds obtained from the collection of taxes pursuant to this article shall be used in accordance with Minn. Stat. § 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.

(Ord. No. 135A, § 16, 10-26-88)

**Sec. 66-42. Appeals.**

(a) Any operator aggrieved by any notice, order or determination made by the city clerk under this article may file a petition for review of such notice, order or determination detailing the operator's reasons for contesting the notice, order or determination. The petition shall contain the name of the petitioner, the petitioner's address

and the location of the lodging subject to the order, notice or determination.

(b) The petition for review shall be filed with the city clerk within ten days after the notice, order or determination for which review is sought has been mailed or served upon the person requesting review.

(c) Upon receipt of the petition the city clerk, or his designee, shall set a date for a hearing and give the petitioner at least five days' prior written notice of the date, time and place of the hearing.

(d) 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 petitioner may be represented by counsel of petitioner's choosing at petitioner's own expense.

(e) The hearing shall be conducted by the city clerk or his designee, provided only that the person conducting the hearing shall not have participated in the drafting of the order, notice or determination for which review is sought.

(f) The person conducting the hearing shall make written findings of fact and conclusions based upon the applicable sections of this article and the evidence presented. The person conducting the hearing may affirm, reverse or modify the notice, order or determination originally made by the city clerk.

(g) Any decision rendered by the city clerk or his designee pursuant to this section may be appealed to the council. A petitioner seeking to appeal a decision must file a written notice of appeal with the city clerk within ten days after the decision has been mailed to the petitioner. The matter will thereupon be placed on the council agenda as soon as is practical. The council shall then review the findings of fact and conclusions to determine whether they were correct. Upon a determination by the council that findings and conclusions were incorrect, the council may modify, reverse or affirm the decision of the city clerk or

his designee upon the same standards as set forth in subsection (f) of this section.

(Ord. No. 135A, § 17, 10-26-88)

**Sec. 66-43. Private or nonpublic data.**

Data collected from individuals or persons pursuant to this article shall be considered private data on individuals or nonpublic data pursuant to Minn. Stat. § 13.01 et seq.

(Ord. No. 135A, § 18, 10-26-88)