

ORDINANCE NO. 3378
(Amend Sections 4.48.010 and 4.48.020 of Chapter 4.48 – Transient Lodging and Gaming Taxes – of the Henderson Municipal Code)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HENDERSON, NEVADA, TO AMEND SECTIONS 4.48.010 - DEFINITIONS AND 4.48.020 - TRANSIENT LODGING TAXES TO BE COLLECTED - OF CHAPTER 4.48 - TRANSIENT LODGING AND GAMING TAXES - OF THE HENDERSON MUNICIPAL CODE.

WHEREAS, Ordinance 3243 was adopted on January 6, 2015; and

WHEREAS, Ordinance 2734 was adopted on July 1, 2008; and

WHEREAS, the Nevada State Legislature in the 30th Special Session (2016) did pass and the Governor of the State of Nevada did approve on October 17, 2016, Senate Bill 1 regarding an increase in the tax on transient lodging in Clark County and City of Henderson; and

WHEREAS, Section 33 of Senate Bill 1 requires that the County impose a tax on transient lodging to providers of transient lodging in the County, including the incorporated cities, that are within the “stadium district” and the “primary gaming corridor” as defined in Chapter 4.08 of the Clark County Code for the purpose of constructing a stadium; and

WHEREAS, the City is located within the “stadium district” and transient lodging within the City is subject to the tax for the purpose of constructing a stadium; and

WHEREAS, Section 58 of Senate Bill 1 requires that the City impose a tax on transient lodging to providers of transient lodging in the City for the purpose of expanding the Las Vegas Convention Center; and

WHEREAS, updates are currently required to ensure consistency with the Nevada Revised Statutes; and

NOW, THEREFORE, the City Council of the City of Henderson, Nevada, does ordain:

SECTION 1. Chapter 4.48 – Transient Lodging and Gaming Taxes is hereby amended as follows:

4.48.010 - Definitions.

Attrition means the use or occupancy of less than an agreed upon number of sleeping rooms/spaces by a group of persons.

Occupancy means 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.

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

Operator means the gaming licensee or the person who is the proprietor of transient lodging, whether in the capacity of owner, lessee, sub lessee, mortgagee, licensee, or any other capacity. Where the operator performs his or her functions through a managing agent of any type or character other than an employee, the managing agent shall also be deemed an operator for the purposes of this chapter and shall have the same duties, responsibilities, and liabilities as his or her principal. Compliance with the provisions of this chapter by either the principal or the managing agent shall be considered to be compliance by both.

Package means 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 means any individual occupant who has or shall have the right of occupancy for the same sleeping room/space in transient lodging for 31 consecutive days or more.

Person means an individual human being.

Rent means the amount charged for a sleeping room/space in transient lodging valued in money, barter or trade, 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.

Resort hotel shall have the same meaning as in chapter 4.32.

Significant delinquency means an operator failed to pay the transient lodging tax imposed by this chapter by the close of business on the first day of the month subsequent to the month that the payment was initially due.

Stadium district means the district created by Section 21 of Senate Bill 1 of the 30th Special Session (2016) of the Nevada State Legislature, which consists of all property located within (a) the County, including, without limitation, all property located within an incorporated city in the County; and (b) a radius of twenty-five (25) miles from the location at which the Board of County Commissioners holds its regular meetings as of the date of the passage and approval of SB 1. Any parcel, building or other structure located partially within the stadium district is deemed to be wholly within the stadium district.

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Total rental revenue means the total of all monies received by operators of transient lodging for the rental of sleeping rooms/spaces, including forfeited deposits, the value associated with the rental of the sleeping room/space when included as part of a package, resort fees, amenity fees, energy fees or surcharges, or any other fees, charges, or surcharges attributable to the rental of the room/space, charges for furnishings or appliances, charges for pets, charges associated with attrition cancellation fees, late arrival fees, no-show fees, amounts received as reimbursement for use of a sleeping room/space under an incentive program, and any amount received from room brokers, consolidators, discounters, travel agencies, or on-line travel operators or reservation companies, recoveries of rent previously written off as bad debt. Total rental revenue does not include the taxes imposed by this chapter, refunds, discounts, or uncollected rent that is written off as bad debt. *Total rental revenue shall include recoveries of rent previously written off as bad debt.*

Transient guest means any person who has or shall have the right of occupancy to any sleeping room/space in transient lodging for 30 consecutive days or less.

Transient lodging means 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 tax is also known as "room tax."

4.48.020 - Transient lodging taxes to be collected *(Effective through January 14, 2017)*

The operator is liable to the city for transient lodging taxes whether or not such taxes are actually collected from the paying transient guest. Every operator of transient lodging shall, in addition to all other taxes of every kind now or hereafter imposed by law, pay the following transient lodging taxes, in an amount equal to a percentage specified below of the rent charged by the operator to a transient guest or to a room broker, consolidator, discounter, travel agency, or on-line travel operator or reservation company:

- A. Convention and visitors authority transient lodging tax:

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1. Five percent of total rental revenue received from sleeping room/space rentals to transient guests by resort hotels; or
 2. Four percent of total rental revenue received from sleeping room/space rentals to transient guests by all other transient lodging locations;
- B. City of Henderson transient lodging tax of two percent of total rental revenue received from sleeping room/space rentals to transient guests; and
- C. Tourism and school district fund transient lodging tax of two percent of total rental revenue received from sleeping room/space rentals to transient guests; and
- D. Transportation district transient lodging tax of one percent of total rental revenue received from sleeping room/space rentals to transient guests~~[.]~~; and
- E. State education transient lodging tax of three percent of total rental revenue received from sleeping room/space rentals to transient guests.

4.48.020 - Transient lodging taxes to be collected (Effective beginning January 15, 2017 through February 28, 2017)

The operator is liable to the city for transient lodging taxes whether or not such taxes are actually collected from the paying transient guest. Every operator of transient lodging shall, in addition to all other taxes of every kind now or hereafter imposed by law, pay the following transient lodging taxes, in an amount equal to a percentage specified below of the rent charged by the operator to a transient guest or to a room broker, consolidator, discount, travel agency, or on-line travel operator or reservation company:

A. Convention and visitors authority transient lodging tax:

1. One-half of one percent (.5%) of the total rental revenue from the rental of transient lodging for the expansion of the Las Vegas Convention Center; and
2. Five percent of total rental revenue received from sleeping room/space rentals to transient guests by resort hotels; or
3. Four percent of total rental revenue received from sleeping room/space rentals to transient guests by all other transient lodging locations;

B. City of Henderson transient lodging tax of two percent of total rental revenue received from sleeping room/space rentals to transient guests; and

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C. Tourism and school district fund transient lodging tax of two percent of total rental revenue received from sleeping room/space rentals to transient quests; and

D. Transportation district transient lodging tax of one percent of total rental revenue received from sleeping room/space rentals to transient quests; and

E. State education transient lodging tax of three percent of total rental revenue received from sleeping room/space rentals to transient quests.

4.48.020 - Transient lodging taxes to be collected (Effective beginning March 1, 2017)

The operator is liable to the city for transient lodging taxes whether or not such taxes are actually collected from the paying transient guest. Every operator of transient lodging shall, in addition to all other taxes of every kind now or hereafter imposed by law, pay the following transient lodging taxes, in an amount equal to a percentage specified below of the rent charged by the operator to a transient guest or to a room broker, consolidator, discountor, travel agency, or on-line travel operator or reservation company:

A. Convention and visitors authority transient lodging tax:

1. One-half of one percent (.5%) of the total rental revenue from the rental of transient lodging pursuant for the expansion of the Las Vegas Convention Center; and

2. Five percent of total rental revenue received from sleeping room/space rentals to transient quests by resort hotels; or

3. Four percent of total rental revenue received from sleeping room/space rentals to transient quests by all other transient lodging locations;

B. City of Henderson transient lodging tax of two percent of total rental revenue received from sleeping room/space rentals to transient quests; and

C. Tourism and school district fund transient lodging tax of two percent of total rental revenue received from sleeping room/space rentals to transient quests; and

D. Transportation district transient lodging tax of one percent of total rental revenue received from sleeping room/space rentals to transient quests; and

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E. State education transient lodging tax of three percent of total rental revenue received from sleeping room/space rentals to transient guests; and

F. One-half of one percent (.5%) of the total rental revenue from the rental of transient lodging for the Clark County stadium district.

SECTION 2. If any section, subsection, sentence, clause, phrase, provision or portion of this Ordinance, or the application thereof to any person or circumstances, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions or provisions of this Ordinance or their applicability to distinguishable situations or circumstances.

SECTION 3. All ordinances, or parts of ordinances, sections, subsections, phrases, sentences, clauses or paragraphs contained in the Municipal Code of the City of Henderson, Nevada, in conflict herewith are repealed and replaced as appropriate.

SECTION 4. A copy of this Ordinance shall be filed with the office of the City Clerk, and notice of such filing shall be published once by title in the Review Journal, a newspaper having general circulation in the City of Henderson, at least ten (10) days prior to the adoption of said Ordinance, and following approval shall be published by title (or in full if the Council by majority vote so orders) together with the names of the Councilmen voting for or against passage for at least one (1) publication before the Ordinance shall become effective. This Ordinance is scheduled for publication on January 6, 2017, in the Review Journal.

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PASSED, ADOPTED, AND APPROVED THIS 3RD DAY OF JANUARY, 2017.

Andy Hafen, Mayor

ATTEST:

Sabrina Mercadante, MMC, City Clerk

The above and foregoing Ordinance was first proposed and read in title to the City Council on December 13, 2016, which was a Regular Meeting, and referred to a Committee of the following Councilmen:

“COUNCIL AS A WHOLE”

Thereafter on January 3, 2017, said Committee reported favorably on the Ordinance and forwarded it to the Regular Meeting with a do-pass recommendation. At the Regular Meeting of the Henderson City Council held January 3, 2017, the Ordinance was read in title and adopted by the following roll call vote:

Those voting aye: Andy Hafen, Mayor
 Councilmembers:
 Debra March
 Gerri Schroder

Those voting nay: None
Those abstaining: None
Those absent: John F. Marz

Andy Hafen, Mayor

ATTEST:

Sabrina Mercadante, MMC, City Clerk