

CHAPTER 52

ARTICLE III HOTEL TAX

***Cross-references:** Convention and Tourism Commission, § 2-701 et seq.; motels and tourist camps or courts, § 13-143 et seq.

§ 52-61. Citation.

This article shall be known and cited as Oklahoma City Hotel Tax Ordinance.

(Code 1970, § 14-60; Code 1980, § 52-46)

§ 52-62.1. Reserved.

Ord. No. 22538, § 1, adopted Sept. 14, 2004, repealed § 52-62, which pertained to definitions.

§ 52-62.1. 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:

- (1) *Director* means the Finance Director or his/her designated representative.
- (2) *Hotel* means any building or building(s), structure(s), trailer(s), or any other facility(ies) of any kind or nature, in which the public may, for consideration, obtain sleeping accommodations and in which two or more rooms are used for the accommodation of such guests (regardless of whether such rooms are located in one or several buildings, structures, trailers or facilities). The term shall include hotels, motels, tourist homes, houses or courts of any kind or nature, lodging houses, inns, rooming houses, bed and breakfast inns, corporate lodgings, trailer houses, trailer motels, dormitory space where bed space is rented to individuals or groups, apartments of any kind or nature, and all other similar facilities where rooms or any other space with sleeping facilities are furnished for a consideration. The term shall not include hospitals, sanitariums or nursing homes.

- (3) *Commission* means the Oklahoma City Convention and Visitors Commission.
- (4) *Hotel Tax* or *tax* means the tax levied pursuant to this article.
- (5) *Individual* means a human being.
- (6) *Occupancy* means the use or possession, or the right to the use or possession, of any room in a hotel, or the right to the use or possession of the furnishings or to the services and accommodations accompanying the use and possession of the room.
- (7) *Occupant* means a person, who for a consideration, uses, possesses, or has the right to the use or possession of any room in a hotel under any lease, concession, permit, right of access, license to use, or other agreement.
- (8) *Operator* means any person operating a hotel in this City, including, but not limited to, the owner, proprietor, lessee, sub-lessee, mortgagee in possession, licensee, manager or similar agent.
- (9) *Permanent resident* means an individual who has resided in a room in a hotel for not less than 30 consecutive days, with permanent residency to end when any break in such residency occurs.
- (10) *Person* means any individual, corporation, company, partnership, voluntary association, firm, club, society, organization or any other entity of whatever kind or nature.
- (11) *Rent* means the consideration received for occupancy valued in money, whether received in money or otherwise, including all receipts, cash, credits, and property or services of any kind or nature, and also any amount for which credit is allowed by the operator to the occupant, without any deduction(s) whatever.
- (12) *Report* means the monthly room tax report filed or required to be filed as provided in the article.
- (13) *Room* means any room or rooms of any kind in any part or portion of a hotel that are available for or let out for use or possessed for any purpose other than a place of assembly.

As used herein, “place of assembly” means a room or space which is capable of being occupied by 75 or more persons and which is used for educational, recreational, or amusement purposes and shall include: dancehalls; cabarets; nightclubs; restaurants; any room or space for public or private banquets, feasts, socials, card parties or weddings; lodge and meeting halls or rooms; skating rinks; gymnasiums; swimming pools; billiard; bowling and table tennis rooms; halls or rooms used for public or private catering purposes; funeral parlors; markets; recreational rooms; concert halls; broadcasting studios; and all other places of similar type of occupancy.

(Ord. No. 22538, § 2, 9-14-04)

§ 52-63. Reserved.

Ord. No. 22538, § 1, adopted Sept. 14, 2004, repealed § 52-63, which pertained to levied; amount.

§ 52-63.1. Levied; rate of level; rooms provide free of charge subject to tax.

There is hereby levied an excise tax of five-and-one-half percent upon the gross proceeds or gross receipts derived from all rent for every occupancy of a room or rooms in a hotel in this City. Rooms provided free of charge, through barter, trade or other arrangement or agreement of any kind or nature, are also subject to such tax at the sales value of the room so provided (with “sales value” to mean the price at which the room would be rented to the operator’s best customer in the ordinary course of business).

(Ord. No. 22538 § 2, 9-14-04)

§ 52-64. Reserved.

Ord. No. 22538, § 1, adopted Sept. 14, 2004, repealed § 52-64, which pertained to exemptions; acknowledgement required; records required.

52-64.1. Exemptions; acknowledgement required; records required.

(a) Exemptions. The following shall be exempt for the hotel tax levied in this article:

- (1) *A permanent resident*, as defined in Section 52-62.1; provided, any individual who qualifies as a *permanent*

resident shall be entitled to the exemption retroactive to the first day of residency;

- (2) The United States government or any agency of division thereof when paid **directly** by the United States government.
 - (3) The State of Oklahoma or any political subdivision thereof when paid **directly** by the State of Oklahoma or any political subdivision.
 - (4) Any public school or state-accredited private school when paid **directly** by the school, provided that its primary purpose is not carrying on a business for profit; and
 - (5) Any church when paid **directly** by the church, provided that its primary purpose is not carrying on a business for profit.
- (b) *Acknowledgement required.* Every hotel claiming exemptions shall submit a monthly exemption form, as provided by the Director, with each monthly room tax report. This exemption form shall indicate beginning and ending occupancy dates, number of rooms, number of nights, room(s) occupied, room rate, exempted amount, the name of the occupant seeking exemption, the exempt organization with which they are affiliated, reason for the exemption, and any other information required by the Director. **Every exemption form shall be signed by the hotel manager or authorized agent, so that the signature shall serve as an acknowledgement that all information contained on the exemption form is true and correct.** Upon submission of these forms to the City, the Director shall make a final determination as to the validity of all claimed exemptions. Should the Director determine that a claimed exemption is not valid, the hotel shall be assessed the five and one-half percent hotel tax plus applicable interest and penalties. The hotel claiming such exemption is liable for payment of the hotel tax.
- For purposes of this section, **an exemption will not be validated by the Director unless the exemption is claimed for the month in which it accrues.** For good cause shown, the Director may grant an extension for claiming an exemption.
- (c) *Records required.* Every operator shall be required to maintain copies of monthly room tax reports, monthly exemption forms and individual exemption forms upon the business premises of the

hotel for a period of three years. Such records shall be available for inspection and examination at any time upon demand by the Director, or a duly authorized agent or employee of the City. For purposes of this section individual exemption forms shall be available from the Director and shall include the following:

- (1) A statement declaring the reason for exemptions; name of the exempt organization;
- (2) The occupant's name, signature, business address and pertinent contact information (including but not limited to telephone numbers and e-mail addresses) of the occupant claiming the exemption;
- (3) The method of payment (must list the exempt entity who directly paid);
- (4) The date on which the exemption form is executed; and
- (5) An acknowledgement, by signature, of the exemption by an employee or agent of the hotel.

(Ord. No. 22538, § 2, 9-14-04)

§ 52-65. Tax to be separately designated on bills.

The operator shall separately designate charge and show the tax on all bills, statements, receipts or other evidence of charges or payments of rent for occupancy issued or delivered by the operator.

(Code 1970, § 14-65; Code 1980, § 52-50)

§ 52-66. Operator responsible for collection.

The operator shall be responsible for the collection of the tax from the occupant and shall be liable to the City for the tax.

(Code 1970, § 14-66; Code 1980, § 52-51)

§ 52-67. Certificates of registration.

- (a) Prior to commencement of business or opening, every hotel operator shall file with the Director
 - (1) a certificate of registration;

(2) an affidavit and designation of operator.

The required filings shall be made on forms prescribed by the Director.

- (b) The Director shall, within five (5) days after receipt of the required Certificate of Registration and Affidavit, issue, without charge, to the operator a Certificate of Authority empowering such operator to collect the tax from the occupant. The Certificate of Registration shall state the hotel to which it is applicable. Such Certificate of Authority shall be permanently displayed by the operator in such manner that it may be seen and come to the notice of all occupants and persons seeking occupancy. Such Certificate of Authority shall be non-assignable and non-transferable and shall be surrendered immediately to the Director upon the cessation of business at the hotel named, or upon its sale or transfer, or upon the change of designated operator.

(Code 1970, § 14-77; Code 1980, § 52-52; Ord. No. 18512, § 1, 7-15-86; Ord. No. 22729, § 1, 5-24-05)

§ 52-68. Records required.

Every operator shall keep records of every occupancy and of all rent paid, charged, or due thereon and of the tax payable thereon in such form as the Director may by regulation require. Such records shall be available for inspection and examination at any time upon demand by the Director, or a duly authorized agent or employee of the City, and shall be preserved for a period of three (3) years except that the Director may consent to their destruction within that period or may require that they be kept longer.

(Code 1970, § 14-67; Code 1980, § 52-53)

§ 52-69. Report.

- (a) Every operator shall file with the Director a report of occupancy and of rents and of the taxes payable thereon for the monthly period ending the last day of every month of each year. Said report is to be filed monthly with the City Treasurer and is due no later than the fifteenth (15th) day of the month directly following the reporting period.
- (b) The Director may permit or require the report to be made by shorter or longer periods and upon such dates as he/she may specify. The form of the report shall be prescribed by the Director

and shall contain such information as he/she may deem necessary for the proper administration of this article. The Director may require an amended report to be filed within ten (10) days after notice and to contain the information specified in the notice.

(Code 1970, § 14-68; Code 1980, § 52-54; Ord. No. 18512, § 2, 7-15-86; Ord. No. 22729, § 1, 5-24-05)

§ 52-70. Payment of tax.

At the time of filing a report of occupancy and of rents, each operator shall pay to the City Treasurer the taxes imposed by this article upon the rents included in such report, as well as all other monies collected by the operator acting or purporting to act under the provisions of this article. All the taxes for the period for which a report is required to be filed shall be due from the operator and payable to the City Treasurer on or before the date fixed for the filing of the report for such period without regard to whether a report is filed or whether the report which is filed correctly shows the amount of rents and the taxes due thereon.

(Code 1970, § 14-69; Code 1980, § 52-55; Ord. No. 22729, § 1, 5-24-05)

§ 52-71. Delinquent taxes.

All taxes not paid within fifteen (15) calendar days following the last day of the period shall be delinquent.

(Code 1970, § 14-79; Code 1980, § 52-56; Ord. No. 18512, § 3, 7-15-86; Ord. No. 22729, § 1, 5-24-05)

§ 52-72. Interest and penalties on unpaid taxes.

(a) If any tax levied by this article becomes delinquent, the operator responsible and liable for such tax shall pay interest on such unpaid tax at the rate of two percent (2%) per month on the unpaid balance from the date of delinquency; and

(b) If any tax levied by this article is not paid by the last calendar day of the month due, the operator responsible and liable for such tax shall pay a penalty on such unpaid tax at the rate of ten percent (10%) per month on the unpaid balance from the date of delinquency to a maximum of fifty percent (50%) of the tax.

(Code 1970, § 14-78; Ord. No. 16901, § 1, 10-12-82; Code 1980, § 52-57; Ord. No. 22729, § 1, 5-24-05)

§ 52-73. Bond required.

Where the Director believes that any operator is about to cease business, leave the state, or remove or dissipate assets, or is habitually late in filing reports and/or payments three (3) of the latest six (6) months, or for any other similar reason he/she deems it necessary in order to protect revenues under this article, he/she may require such operator to file with the City a bond issued by a surety company authorized to transact business in this State in such amount as the Director may fix to secure the payment of any tax or penalties and interest due, or which may become due from such operator. In the event that the Director determines that an operator is to file such bond, he/she shall give notice to such operator specifying the amount of bond required. The operator shall file such bond within five (5) days after the giving of such notice unless, within such five (5) days, the operator shall request in writing a hearing before the City Council, at which the necessary propriety and amount of the bond shall be determined by the City Council. Such determination shall be final and shall be complied with within fifteen (15) days thereafter. In lieu of such bond, securities approved by the Director, or cash in such amount as he/she may prescribe, may be deposited with the Director, who may at any time, after five (5) days notice to the depositor, apply them to any tax or penalties and interest due and for that purpose the securities may be sold at private or public sale.

(Code 1970, § 14-70; Code 1980, § 52-58; Ord. No. 22729, § 1, 5-24-05)

§ 52-74. Assessment and determination of tax.

If a report required by this article is not filed, or if a report, when filed, is incorrect or insufficient, the amount of tax due shall be assessed by the Director from such information as may be obtainable and, if necessary, the tax may be estimated on the basis of external indices, such as number of rooms, location, scale of rents, comparable rents, types of accommodations and services, number of employees, or other factors. Written notice of such assessments shall be given to the operator liable for the collection and payment of the tax. Thirty (30) days after the tax is delinquent, the Director shall send such operator a letter outlining the legal action to be taken at the end of sixty (60) days. Such assessment shall finally and irrevocably fix and determine the tax unless the operator against whom it is assessed, within sixty (60) days after the giving of notice of such assessment, shall apply in writing to the City Council for a hearing or unless the Director on his/her own motion shall reassess the same. After such hearing, the City Council shall give written notice within thirty (30) days of its determination to the operator against whom the tax is assessed and such determination shall be final.

(Code 1970, § 14-71; Code 1980, § 52-59; Ord. No. 22729, § 1, 5-24-05)

§ 52-75. Refunds and/or credits.

(a) The Director shall refund or credit any tax erroneously, illegally or unconstitutionally collected if written application from the operator, with the reasons therefore stated in writing, to the Director for such refund or credit made within one year from the date of payment thereof. No more than one application for refund or credit for a given period will be allowed unless authorized by the Director. For like causes, a refund or credit may also be made upon the initiative and the order of the Director within one year from the date of payment. No refund of money shall be made to the operator until he/she has repaid to the occupant the amount for which the application for refund is made. The Director, in lieu of any refund required to be made, may allow credit therefore on payments due from the operator.

(b) Upon application for a refund or credit the Director may require evidence with respect thereto, and make such investigation as he/she deems necessary. After making a determination as to the refund or credit, the Director shall provide notice thereof to the operator. Such determination shall be final unless the operator, within thirty (30) days after such notice, shall apply in writing to the City Clerk for a hearing before the City Council. After such hearing, the City Council shall give written notice of its decision to the operator. (Code 1970, § 14-72; Code 1980, § 52-60; Ord. No. 22729, § 1, 5-24-05)

§ 52-76. Notices.

Notices provided for under this article shall be deemed to have been given when such notice has been delivered personally to the operator, deposited in the United States mail to the last known address of the operator, or electronically mailed to the last known electronic mail address of the operator.

(Code 1970, § 14-73; Code 1980, § 52-61)

§ 52-77. Remedies exclusive.

The remedies provided in this article shall be exclusive remedies available to any operator for the review of tax liability imposed by this article.

(Code 1970, § 14-74; Code 1980, § 52-62; Ord. No. 22729, § 1, 5-24-05)

§ 52-78. Failure to file; submitting fraudulent reports; failure to post a bond; penalties and liens.

(a) The failure or refusal of any operator to file reports and remittances herein required, or the making of any false and fraudulent report for the purpose of avoiding or escaping payment of any tax or portion thereof rightfully due under this article, or failure to post a bond, shall be guilty of a Class “A” offense. Each day a violation exists shall constitute a separate offense and is subject to all penalties herein; and

(b) The Director shall have the ability to file a lien for non-payment of taxes, penalties and/or interest, as provided by 68 O.S. §§ 2701 and 2704.

(Code 1970, § 14-84; Code 1980, § 52-63; Ord. No. 18174, § 1, 7-9-85; Ord. No. 18512, § 4, 7-15-86; Ord. No. 20469, § 1, 10-24-95; Ord. No. 22729, § 1, 5-24-05)

State law references: Penalty for ordinance violations, 11 O.S. § 14-111; penal provision authorized, 68 O.S. § 2703.

§ 52-79. Operator's discount.

In order to remunerate an operator for maintaining tax records, filing reports, and remitting the tax when due a three percent (3%) discount shall be allowed upon hotel taxes paid prior to the time they become delinquent. In order to be eligible for the discount, the report and any monthly exemptions forms must accompany payment.

(Code 1970, § 14-80; Code 1980, § 52-64; Ord. No. 22729, § 1, 5-24-05)

§ 52-80. Records confidential.

The confidential and privileged nature of the records and files concerning the administration of the tax is legislatively recognized and declared, and to protect the same the provisions of 68 O.S. § 205 and each Subsection thereof are hereby adopted by reference and made fully effective and applicable to administration of the tax as if herein set forth.

(Code 1970, § 14-83; Code 1980, § 52-645 Ord. No. 22729, § 1, 5-24-05)

§ 52-81. Reserved.

Ord. No. 22538, § 1, adopted Sept. 14, 2004, repealed § 52-81, which pertained to the use of funds.

§ 52-81.1. Use of hotel tax funds.

All hotel tax revenues collected pursuant to the provisions of this article shall be set aside and used exclusively for the purpose of encouraging, promoting and/or foster the convention and/or tourism (visitor) development of the City by the following expenditures:

- (1) Four-elevenths of the revenues shall be expended for any projects, items, costs and/or expenses that encourage, promote and/or foster the convention and/or tourism (visitor) development of the City; and
- (2) Six-elevenths of the revenues shall be expended for improvements to the Oklahoma City Fairgrounds, not including operational costs; and
- (3) One-eleventh of the revenues shall be expended for the sponsorship and/or promotion of events recommended by the Oklahoma City Convention and Visitors Commission and anticipated to enhance the local economy though increased convention and/or tourism (visitor) activity in the City.

Provided, the expenditures specified above may be reduced proportionately in the amount(s) determined by the City Council to be necessary to defray and or all reasonable and necessary expenses and costs of the City or its agent(s) or contractor(s) in collecting, enforcing, and/or administering the taxes levied by this article and/or in administering and implementing the expenditures specified in this section; provided further, the tax levied by this article may also be expended to pay principal and interest on and costs of issuance and/or administration of bonds, notes or other obligations issued by a City public trust for the purpose of encouraging, promoting and/or fostering the convention and/or tourism (visitor) development of the City.

(Ord. No 22538, § 2, 9-14-04)

§ 52-82. General powers of Director.

In addition to all other powers granted to the Director, he/she is hereby authorized and empowered:

- (1) to make, adopt and amend rules and regulations appropriate to the carrying out of this article for the purposes thereof;

- (2) to extend, for cause shown, the time for filing any report for a period not exceeding thirty (30) days; and for cause shown to waive, remit, or reduce penalties or interest;
- (3) to delegate his/her functions hereunder to an assistant or other employee or employees of the City;
- (4) to assess, reassess, determine, revise and readjust the taxes imposed by this article;
- (5) to prescribe methods for determining the taxable and nontaxable rents.

(Code 1970, § 14-75; Code 1980, § 52-67; Ord. No. 18512, § 5, 7-15-86; Ord. No. 22729, § 1, 5-24-05)

§ 52-83. Reserved.

Ord. No. 22729, § 1, adopted May 24, 2005, repealed § 52-83, which pertained to the administration of oaths and compelling testimony.

§ 52-84. Amendments.

The people of Oklahoma City, by their approval of this article at an election, authorized the City Council, by ordinances duly enacted, to make such administrative and technical changes or additions in the method and manner of administration and enforcement of this article as may be necessary or proper for efficiency and fairness, except that the rate of the tax herein provided shall not be changed without approval of the qualified electors of the City as provided by law.

(Code 1970, § 14-85; Code 1980, § 52-69; Ord. No. 22729, § 1, 5-24-05)

State law references: Approval of tax by voters, 68 O.S. § 2705.

§ 52-85. Provisions cumulative.

The provisions hereof shall be cumulative, an in addition to any and all other ordinances.

(Code 1970, § 14-86; Code 1980, § 52-70)

§ 52-86. Examinations or investigations.

- (a) In the administration of this Article, the Director may make an examination or investigation of the place of business, the tangible personal property, equipment and facilities, and the books, records, papers, vouchers, accounts and documents of any person

subject to the hotel tax. It shall be the duty of every person subject to the hotel tax and of every director, officer, agent, or employee of such person, to exhibit to the Director the places of business, the tangible personal property, equipment and facilities, and the books, records, papers, vouchers, accounts and documents of such person, and to facilitate any such examination or investigation so far as it may be in his or her power so to do.

(b) Any person subject to the provisions of this chapter who is not in compliance with the requirements of this section shall not be granted a license to operate any hotel in the City.

§§ 52-87—52-120. Reserved.