

CHAPTER 110: GENERAL PROVISIONS

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LODGING TAX

' 110.01 DEFINITIONS.

For the purpose of ' ' 110.01 *et seq.*, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ADMINISTRATOR. The City Administrator for the City of Olivia.

CITY. The City of Olivia.

LODGER. The person obtaining lodging from an operator.

LODGING. The furnishing for consideration of lodging by a hotel, motel, or rooming house, except where the lodging shall be for a continuous period of 30 days or more to the same lodger(s). The furnishing of rooms by religious, educational, or nonprofit organizations shall not constitute **LODGING** for purpose of ' ' 110.01 *et seq.*

RENT. 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 other than the room charge itself.

SHALL. Is always mandatory.
(Ord. 237, passed 3-7-1994)

' 110.02 IMPOSITION OF TAX.

The tax on the rent charged by an operator for providing lodging will be set by city resolution, effective 1-1-1995. (See Appendix A).
(Ord. 237, passed 3-7-1994; Am. Ord. 243, passed 12-19-1994)

' 110.03 COLLECTIONS.

Each operator shall collect the tax imposed by this section 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. 237, passed 3-7-1994) Penalty, see ' 10.99

' 110.04 ADVERTISING NO TAX.

(A) 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.

(B) In computing the tax to be collected, amounts of tax less than 1% shall be considered an additional cent.
(Ord. 237, passed 3-7-1994) Penalty, see ' 10.99

' 110.05 PAYMENT AND RETURNS.

(A) The taxes imposed by ' ' 110.01 *et seq.* shall be paid by the operator to the city monthly, not later than 15 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 the forms and containing the information as the 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 or her agent duly authorized in writing;

(4) The period covered by the return; and

(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 ' ' 110.01 *et seq.* previously paid as a result of any transaction the consideration for which became uncollectible during the reporting period.

(Ord. 237, passed 3-7-1994) Penalty, see ' 10.99

' 110.06 EXAMINATION OF RETURN; ADJUSTMENTS; NOTICES AND DEMANDS.

(A) The Administrator shall, after a return is filed, 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 the examination shall be the tax to be paid.

(B) If the tax due is found to be greater than that paid, the excess shall be paid to the city within 10 days after receipt of a notice thereof given either personally or sent by registered 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 city within 10 days after determination of the refund.

(Ord. 237, passed 3-7-1994)

' 110.07 REFUNDS.

Any person may apply to the Administrator for a refund of taxes paid for a prescribed period

in excess of the amount legally due for that period, provided that no application for refund shall be considered unless filed within 1 year after the tax was paid or within 1 year from the filing of the return, whichever period is longer. The Administrator shall examine the claim and make and file written findings thereon denying or allowing the claim in whole or in part and shall mail a notice thereof by registered mail to the person at the address stated upon the return. If the claim is allowed in whole or in part, the taxes due under ' ' 110.01 *et seq.* from the claimant and the balance of the allowance, if any, shall be paid by the Administrator to the claimant.
(Ord. 237, passed 3-7-1994)

' 110.08 FAILURE TO FILE A RETURN.

(A) If any operator required by ' ' 110.01 *et seq.* 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, file the return or corrected return within 5 days of receipt of the written notice and shall at the same time pay any tax due on the basis thereof. If the person shall fail to file the return or corrected return, the Administrator shall make a return or corrected return for the person from the knowledge and information as the Administrator can obtain, and assess a tax on the basis thereof, which tax (less any payments covered by the return) shall be paid within 5 days of the receipt of written notice and demand for the payment. The return filed by the Administrator will be presumed to be prima facie correct and valid and the person shall have the burden of establishing its incorrectness or invalidity in any action or proceeding in respect thereto.

(B) If any portion of a tax imposed by ' ' 110.01 *et seq.* including penalties thereon is not paid within 30 days after it is required to be paid, the City Attorney may institute the legal action as may be necessary to recover the amount due plus interest, penalties, and the costs and disbursements of any action.

(C) Upon a showing a good cause, the 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 ' ' 110.01 *et seq.* provided that interest during the period of extension shall be added to the taxes due at the rate of 10% per annum.
(Ord. 237, passed 3-7-1994)

' 110.09 TAX PENALTIES.

(A) If any tax imposed by ' ' 110.01 *et seq.* is not paid within the time herein specified for the payment, or an extension thereof, there shall be added thereto a specific penalty equal to 10% of the amount remaining unpaid.

(B) In case of any failure to make and file and return within the time prescribed by ' 110.01 *et seq.*, unless it is shown that the failure is not due to willful neglect, there shall be added to the tax, in addition to the 10% specific penalty provided in division (A) above, 10% if the failure is for not more than 30 days with an additional 5% for each additional 30 days or fraction thereof

during which the failure continues, not exceeding 25% in the aggregate. If the penalty as computed does not exceed \$10, a minimum penalty in an amount set by Council from time to time shall be assessed. The amount so added to any tax shall be collected at the same time and the same manner 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. (See Appendix A).

(C) If any person willfully fails to file any return or make any payment required by ' 110.01 *et seq.*, or willfully files a false or fraudulent return, or willfully attempts in any manner to evade or defeat the tax or payment thereof, there shall also be imposed as a penalty an amount equal to 50% of any tax (less amounts paid on the basis of the false or fraudulent return) found due for the period to which the return related. The penalty imposed by this division (C) shall be collected as part of the tax, and shall be in addition to any other penalties provided by this section.

(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 8% per annum from the time the tax should have been paid until paid. Any interest and penalty shall be added to the tax collected as part thereof.

(F) In addition to any other penalties provided for hereunder, the City Council may, subject to the provisions set forth in ' 110.01 *et seq.*, suspend or revoke any license or permit issued by the city to the operator of the facility.
(Ord. 237, passed 3-7-1994)

' 110.10 ADMINISTRATOR OF TAX.

The Administrator shall administer and enforce the assessment collection of the taxes imposed by ' 110.01 *et seq.* The Administrator shall cause to be prepared blank forms for the returns and other documents required by ' 110.01 *et seq.* 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 under ' ' 110.01 *et seq.*
(Ord. 237, passed 3-7-1994)

' 110.11 EXAMINE RECORDS.

(A) The Administrator, and those persons acting on behalf of the Administrator and authorized in writing by the 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 ' 110.01 *et seq.*

(B) Every operator is directed and required to give to the Administrator or to his or her duly authorized agent or employee the means, facilities, and opportunity for the examinations and

investigations as are hereby authorized.
(Ord. 237, passed 3-7-1994) Penalty, see ' 10.99

' 110.12 CONTRACT WITH STATE.

(A) The Administrator is authorized to confer with the Minnesota Commissioner of Taxation in order that an agreement between the city and the Commissioner of Taxation may be entered into for the purpose of providing for the administration and collection of the taxes imposed by ' 110.01 *et seq.*

(B) The agreement shall not become effective until presented to the Council for its approval and, when so approved, the tax imposed by ' 110.01 *et seq.* shall be collected and administered by ' 110.01 *et seq.* pursuant to the terms of the agreement.
(Ord. 237, passed 3-7-1994)

' 110.13 VIOLATIONS.

Any person who shall willfully fail to make a return by ' 110.01 *et seq.*, 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 ' 110.01 *et seq.* after written demand for the payment, or who shall refuse to permit the Administrator or any duly authorized agents or employees to examine the books, records, and papers under his or her control, or who shall willfully fail to make a return by ' 110.01 *et seq.*, 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 ' 110.01 *et seq.* after written demand for the payment, or who shall refuse to permit the Administrator 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. 237, passed 3-7-1994) Penalty, see ' 10.99

' 110.14 USE OF PROCEEDS.

The City shall use at least 95% of the proceeds obtained from the collection of taxes pursuant to ' 110.01 *et seq.* and in accordance with state law, to fund a local convention or tourism bureau for the purpose of marketing and promoting the city as a tourist or convention center. The city may use up to 5% of the proceeds obtained hereunder to defray the costs and expenses of collection and administration of the tax. The city may contract with the person or organizations as it deems proper and necessary to establish and operate a Tourism and Convention Bureau.

(Ord. 237, passed 3-7-1994)

' 110.15 APPEALS.

(A) Any operator aggrieved by any notice, order, or determination made by the Administrator under ' 110.01 *et seq.* may file a petition for review of the notice, order, or determination. The petition shall contain the name of the petitioner, the petitioner's address, the location of the lodging subject to the order, notice or determination, and the grounds for review.

(B) The petition for review shall be filed with the Administrator within 10 days after the notice, order, or determination for which review is sought has been mailed or served upon the person requesting review.

(C) Upon the receipt of the petition, the Administrator, or his or her designee, shall set a date for a hearing and give the petitioner at least 5-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 Administrator, or his or her 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 section and the evidence presented. The person conducting the hearing may affirm, reverse, or modify the notice, order, or determination made by the Administrator.

(G) Any decision rendered by the Administrator pursuant to this section may be appealed to the City Council. A petitioner seeking to appeal a decision must file a written notice of appeal with the Administrator within 10 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 facts and conclusions to determine whether they are correct. Upon a determination by the Council that the findings and conclusions were incorrect, the Council may modify, reverse, or affirm the decision of the Administrator or his or her designee upon the same standards as set forth in ' 110.01 *et seq.*

(Ord. 237, passed 3-7-1994)

' 110.16 EFFECTIVE DATE.

Sections 110.01 *et seq.* shall become effective 4-1-1994.
(Ord. 237, passed 3-7-1994)

TAXICABS

' 110.50 LICENSE REQUIRED.

No person, firm, or corporation shall engage in the business of operating auto liveries or taxicabs on the streets of the City of Olivia, Renville County, Minnesota, without first paying the license and obtaining a license therefore as herein provided.

(1957 Code, ' 900:01) Penalty, see ' 10.99

' 110.51 APPLICATION.

Every person desiring to operate the business shall make application in writing, stating the place of business, the type, make, body style, and year of each car proposed to be operated upon the streets of the city as a taxicab or auto livery.

(1957 Code, ' 900:02)

' 110.52 FEES.

The fee for the license to operate the business shall be as follows: An amount set by Council from time to time on the first car proposed to be operated, and for each car after the first car proposed to be operated. (See Appendix A). The City Council shall have the power to limit the number of franchises, and also limit the number of cars to be used under each franchise.

(1957 Code, ' 900:03)

' 110.53 INSURANCE OR BOND REQUIRED.

No license shall be issued until the applicant files with the City Administrator, a good and sufficient surety bond or policy of insurance, whereby each car shall be covered against loss or injury for each passenger at least the maximum coverage for each accident, and also against loss or damage to property, that will provide at a minimum that coverage required by Minnesota Statutes section 65B.48 entitled "Reparation Security Compulsory" as it may be amended from time to time. Minnesota Statutes 65B.48 and other sections of the Minnesota Statutes referenced therein is hereby incorporated into this ordinance by reference the same as if it were fully set forth. Such insurance policy will be filed for each and every motor vehicle for which a license is applied. Such policy of insurance will contain a provision for a continuing liability thereunder to the full amount thereof, notwithstanding any recovery thereon.

The bond or insurance shall provide for the giving of notice to the city of the termination or cancellation of the bond or policy, and every license issued hereunder shall terminate upon the termination of the bond or policy.

(1957 Code, ' 900:04)

' 110.54 TERM; REVOCATION.

All licenses so issued shall terminate on December 31 in each year after the issuance thereof, and license fees shall be for the proportion which the remaining license bears to the license fee for the entire year. Each license so issued shall be subject to revocation by the City Council upon not less than 10 days notice to the licensee to show cause why his or her license should not be revoked.

(1957 Code, ' 900:05)

' 110.55 DRIVER'S LICENSE; MECHANIC'S CERTIFICATE.

(A) No person shall operate a taxicab or auto livery unless he or she possesses the appropriate license duly issued by the State of Minnesota, and unless he or she submits to the City Council, within 2 months after the adoption of ' ' 110.50 *et seq.*, and also at the other and further times as the City Council may direct, a certificate of approval on inspection of the brakes and principal mechanical operating parts of each taxicab or auto livery operated by him or her, which certificates shall be obtained from a reputable mechanic established in the business of automobile maintenance and repair.

(B) Upon request of this Council, succeeding certificates shall be issued preceding certificates, or by inspectors designated by the City Council.

(1957 Code, ' 900:06) Penalty, see ' 10.99

' 110.56 PASSENGERS; RATES.

No more than one passenger shall be carried in the front seat of any taxicab or auto livery. Each taxicab or auto livery shall charge the rates as shall be approved by the Council from time to time.

(1957 Code, ' 900:07)