

**Bill No. 2012- 01
ORDINANCE # 174 REVISED**

An ordinance amending the percentage collected from room tax and re-establishing the guidelines related thereto:

Sponsored by

Councilman Acklin & Councilman Moore

Summary:

Introduces the following Ordinance that sets forth the purpose; defines an Operator for the purpose of this ordinance; imposes the room tax and establishes the amount of tax to be collected from each operator, per rented room and/ or recreational vehicle (RV) space; discusses collection, late payment and interest, and delinquency collection; sets forth the guidelines for keeping City records as well as operator records; provides a severability clause; and sets forth the procedure for enactment. This ordinance supersedes Bill No. 2010-_____, Ordinance #_____.

THE CITY COUNCIL OF THE CITY OF CALIENTE DOES ORDAIN AS FOLLOWS:

Section 1: Purpose

The taxes imposed by this ordinance are for the purpose of benefiting the City of Caliente and its residents in the support of tourism and recreation within and immediately without the City, for the fulfillment of statutory requirements set forth in NRS 244A.645 and for supporting County and State funds for the promotion of tourism, as required and as voted on by the Council of the City of Caliente.

Section 2: Hotel or Motel Defined

"Hotel" or "Motel" means a property, however owned, in which rooms or suites of rooms generally are rented as transient lodgings and not as principal or permanent residences.

Section 3: Transient Lodging related to a Hotel or Motel Defined

"Transient Lodging" means a room or suite of rooms, which may be occupied:

- (a) Which may be occupied by persons for periods of less than 30 consecutive days; **or**
- (b) Which the services normally offered by hotels, including but not limited to regular maid and linen service, a front desk or a telephone switchboard, are provided, regardless of the length of occupancy of a person; **or**
- (c) Which are otherwise not intended, designed or constructed as principal or permanent residences or qualifying as a dwelling under the Caliente Municipal Code.

Section 4: Transient Lodging related to RV Spaces Defined

"RV Spaces as Transient Lodging" means RV spaces offered to the public:

- (a) Which may be occupied by persons for periods of less than 30 consecutive days; **or**
- (b) Which the services normally offered by RV Parks are provided, regardless of the length of occupancy of a person; **or**
- (c) Which are otherwise not intended, designed and/ or constructed as principal or permanent residences, not meeting the definition of Mobile Home/ Manufactured Home, under the Caliente Municipal Code.

Section 5: Operator Defined

"Operator" means the sole proprietorship, partnership, corporation or other business entity which manages, rents or operates a hotel or motel, or which rents recreational vehicle spaces that are regulated by this ordinance, including the officers and employees of the business entity.

Section 6: Room Tax Imposed; Amount Established

Hotels & Motels

There is a fixed and imposed ten percent (10%) tax on the room revenue derived by each hotel, motel, or other establishment which offers rooms to the public, that are not separate, permanent residences, which are located within the City.

Recreational Vehicle Spaces – Graduated Rate

There is a five percent (7.5%) tax imposed on the RV space revenue derived by each establishment which offers RV spaces to the public, that are not separate, permanent residences, which are located within the City. On July 1, 2012, that tax rate shall increase to ten percent (10%).

Section 7: Room Tax – Collection

The room tax herein imposed, shall be collected by the operator from the paying guests and shown as an add-on to the charge for occupancy of the rooms and/ or RV spaces. The operator is liable to the City for such taxes whether or not they are actually collected from the paying guest. Such taxes shall be paid to the City by the licensee on or before the fifteenth day of the month following the month in which the taxes accrued and shall be deemed delinquent if not paid on or before such date.

Section 8: Room Tax – Late Payment & Interest

Any licensee or operator failing to pay the taxes imposed by this ordinance by the due dates provided by this ordinance shall pay in addition to such tax, a penalty of ten percent of the amount thereof, plus interest on the amount of such delinquency at the rate of one and one-half percent per month, or fraction thereof, from the date when such tax became due and payable until the date of payment.

Section 9: Room Tax – Delinquency Collection

Whenever any licensee or operator shall be delinquent in the payment of any obligation imposed by this Chapter, the City Clerk may transmit notice of such delinquency to the City Attorney, who shall at once proceed to collect all sums due the City by appropriate legal action. In any suit brought to enforce the rights of the City hereunder a verified affidavit by the City Clerk showing the delinquency and the amount due shall be *prima facie* evidence of the amount of such delinquency and of compliance by said City with all the provisions of this Chapter relating to such obligation. In such action a writ of attachment or a lien may be issued as provided by law.

The foregoing remedies of the City shall be cumulative, and no action taken by said City nor any of its officers, shall be construed to be an election on the part of the City, or any of the officers thereof, to pursue any remedy to the exclusion of any other remedy which is provided by law for the collection of delinquent taxes or of a debt.

Section 10: City Records

The Director shall cause to be kept proper records of all license 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 therefrom, which 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.

Section 11: Operator Records

It shall be unlawful for any licensee or operator required to collect the room tax imposed by this ordinance to fail to maintain adequate room and/ or RV space records or to fail to make adequate records available, within seventy-two hours of written notice, to the Director or to any other person designated by him for the purpose of conducting an audit. These records must be made available within the City of Caliente during normal business hours. Adequate room and/ or RV records shall mean the following: Journal, daily cash summary, registration cards, folio for the three-year period preceding the date of audit, and any other records specified by the City Clerk's office.

Section 12: Severability.

If any paragraph, sentence, phrase or other portion of this Ordinance should be deemed illegal, inapplicable, unconstitutional or otherwise invalid, by a court of competent jurisdiction, such a holding shall not affect the remainder of this Ordinance and all portions of the Ordinance not held to be invalid shall continue and remain in full force and effect.

Section 13: Enactment Procedure.

The following procedure for enactment of a City ordinance shall be followed, pursuant to the Caliente City Charter:

- (1) This Ordinance shall be read to the City Council by title and summary;
- (2) This Ordinance shall be referred to a committee for consideration, including the City Attorney, the City Clerk and the sponsoring City Councilman.
- (3) The City Clerk is directed to prepare an adequate number of copies of this Ordinance for public distribution. The City Clerk is further directed to publish notice of this Ordinance, at least once in a newspaper qualified pursuant to the provisions of chapter 238 of NRS, in the City at least 10 days before its adoption.
- (4) The City Council shall then adopt or reject this Ordinance, within 30 days after the date of last publication.