

Sponsors: Hunter, Knox

POSSIBLE MOTION

I MOVE TO approve Ordinance 2018-13S on
second and final reading.

CITY AND BOROUGH OF SITKA
ORDINANCE NO. 2018-13S

AN ORDINANCE OF THE CITY AND BOROUGH OF SITKA AMENDING CHAPTER 4.24
"HOTEL, MOTEL AND BED AND BREAKFAST TRANSIENT ROOM TAX" OF THE SITKA
GENERAL CODE BY AMENDING THE HEADING TO "TRANSIENT LODGING TAX" AND
MODIFYING THE PROVISIONS BY CHANGING STRUCTURE REFERENCES TO
"LODGING", AND INCORPORATING PACKAGE PLANS

1. CLASSIFICATION. This ordinance is of a permanent nature and is intended to become a part of the Sitka General Code.

2. SEVERABILITY. If any provision of this ordinance or any application to any person or circumstance is held invalid, the remainder of this ordinance and application to any person or circumstance shall not be affected.

3. PURPOSE. The purpose of this ordinance is to update and amend Chapter 4.24 by changing the heading to "Transient Lodging Tax", by changing all structural references to "lodging", and to accurately capture all transient lodging in the city and borough for taxation, including package plans.

4. ENACTMENT. NOW, THEREFORE, BE IT ENACTED by the Assembly of the City and Borough of Sitka that the Sitka General Code is amended at Chapter 4.24, "Hotel, Motel and Bed and Breakfast Transient Room Tax," to now be known as "Transient Lodging Tax", and modifying sections 4.24.010 "Definitions", 4.24.020 "Imposition of hotel, motel, bed and breakfast transient room rental tax", 4.24.030 "Collection and accrual", 4.24.060 "Confidential and nonconfidential tax information", to reads as follows (new language underlined; deleted language stricken):

Chapter 4.24

~~HOTEL, MOTEL, AND BED AND BREAKFAST TRANSIENT ROOM~~ LODGING TAX

Sections:

- 4.24.010 Definitions.
- 4.24.020 Imposition of ~~hotel, motel, bed and breakfast-transient room~~ lodging rental-tax.
- 4.24.030 Collection and accrual.
- 4.24.040 Transient ~~room~~ lodging tax audits.
- 4.24.050 Youth camps.
- 4.24.060 Confidential and nonconfidential tax information.
- 4.24.070 Visitor activities enhancement fund.

4.24.010 Definitions.

For purposes of this section, the following words shall have the definitions below assigned.

A. "Guest" means an individual, corporation, partnership or association paying monetary or other consideration for the use of sleeping room or rooms in a hotel lodging

B. "~~Hotel~~" "Lodging" means a structure or portion of a structure which is occupied or intended and designed for occupancy by transients for dwelling, ~~lodging~~ or sleeping purposes and includes any hotel, motel, inn, ~~or bed and breakfast~~, lodge, or short-term rental.

53
54 C. "Package plan" means multiple services offered at one set rate. A package plan is commonly
55 referred to as "bundled services" or "package tour". This can include, but is not exclusive to,
56 fishing charters with room and board included when the charter is purchased.
57

58 C. D. "Rent" or "rents" means the amount paid or promised, in terms of money, as
59 consideration for the use by a transient of a room or rooms for lodging in a hotel, motel or other
60 public accommodation. It does not include the cost of food or entertainment, nor does it include
61 the cost of banquet or other facilities, not intended for use as overnight accommodations
62 lodging.
63

64 E. "Short-term rentals" means rentals of single dwelling units, or portions thereof, for less than
65 thirty consecutive days for money or other valuable consideration by one party which then
66 occupies the dwelling.
67

68 D. F. "Transient" means a person who occupies or has available for occupancy a suite, room,
69 or rooms in a hotel lodging for fewer than thirty consecutive days. An employee who occupies or
70 has available for fewer than thirty days a suite, room, or rooms lodging, rented or leased for
71 more than thirty days by an employer for use on a rotating basis by employees is not a
72 transient.
73

74 **4.24.020 Imposition of hotel, motel, bed and breakfast transient room lodging rental tax.**

75 A. There is enacted a tax on ~~hotel room rentals~~ lodging to transients computed on a
76 percentage of the ~~room~~ rent. This tax shall be applicable to all ~~room~~ lodging rentals to
77 transients, unless the rental is specifically exempted from taxation by constitution or other valid
78 law.
79

80 B. State and federal governments are exempt from this tax through purchase order or other
81 device obligating the government to pay for the ~~room~~ lodging. Government employees are not
82 exempt from this tax if the ~~room~~ lodging is rented to them individually or they have the ultimate
83 obligation to pay for the ~~room~~ lodging.
84

85 C. The tax shall be six percent of the ~~room~~ lodging rental ~~rate~~ charged.
86

87 D. The tax shall be in addition to the general sales tax of the municipality. The tax imposed in
88 this chapter shall be levied on the municipal sales tax portion of a rental bill. Neither shall the
89 general sales tax be levied on this ~~hotel~~ tax. Both taxes shall be computed individually on the
90 room rent.
91

92 **4.24.030 Collection and accrual.**

93 A. Every ~~hotel~~ lodging operator renting ~~rooms~~ lodging subject to taxation under this chapter
94 shall levy and collect the taxes imposed by this chapter from the transient guest at the time of
95 ~~collection of~~ charge for the ~~room~~ lodging and shall transmit the same, quarterly, to the city and
96 borough. The tax imposed shall be shown on the billing to the guest as a separate and distinct
97 item.
98

99 B. This tax accrues each day of occupancy and shall be paid by the ~~hotel~~ lodging operator to
100 the municipality at the time a tax return covering such date is due, irrespective of when the
101 guests actually pay their bill to the ~~hotel~~ lodging operator.

C. An operator may not advertise or state to the public or to any guest or renter, directly or indirectly, that the tax or any part of it will be assumed or absorbed by the operator of the ~~hotel~~ lodging, or that the tax will not be added to the rental or that it will be refunded, nor may an operator absorb or fail to add the tax or any part of it or refund any tax or fail to separately state the tax to the renter or guest.

D. Each transient guest is responsible for ~~room~~ the lodging rental tax imposed by this chapter and the tax shall be due and payable to the ~~hotel~~ lodging operator at the time the rent is paid. Any person who refuses to pay the tax shall execute a written refusal. A ~~hotel~~ lodging operator is not responsible for the payment of that tax to the municipality if it forwards to the municipality the signed refusal to pay executed by the guest. The municipality may proceed against the guest directly for collection of the tax. If the ~~hotel~~ lodging operator does not collect the tax from the guest nor receive a written refusal, both the ~~hotel~~ lodging and the guest shall be jointly and severally liable for payment to the municipality.

E. Enforcement and collection of this tax shall be according to the provisions of Chapter 4.09 of this code.

F. The municipal finance director is empowered to prepare and distribute a standard form of refusal to pay this tax by a guest.

G. When a guest pays for a package plan which includes lodging:

1. The amount applicable and apportioned to lodging for determination of the transient lodging tax shall be the same charge made for lodging when lodging is not part of a package plan.

2. The minimum amount of tax paid shall not be less than five dollars (\$5.00) per person, per night or .5% of the package plan, whichever is greater in value.

4.24.040 Transient ~~room~~ lodging tax audits.

A. Any operator who has established a transient ~~room~~ lodging tax account with the city and borough of Sitka, who is required to collect and remit a transient ~~room~~ lodging tax, or who is required to submit a transient ~~room~~ lodging tax return under the provisions of Title 4, Chapter 4.24 of the Sitka General Code is subject to a discretionary transient ~~room~~ lodging tax audit at any time. The purpose of such an audit is to examine the business records of the operator in order to determine whether appropriate amounts of transient ~~room~~ lodging tax revenue have been collected by the operator and remitted to the municipality.

B. The finance director shall be responsible for directing that transient ~~room~~ lodging tax audits take place and for selecting the particular operators whose business records will be audited.

C. Transient ~~room~~ lodging tax audits of operator's business records may be accomplished by either an employee of the city and borough of Sitka finance department or by an individual or firm under contract with the municipality.

D. Operators selected for a transient ~~room~~ lodging tax audit will be notified by letter and will be required to meet with, and make available for inspection and copying all pertinent business

records including income tax returns that may be requested for the prior six fiscal years for examination, to the finance department employee, or contractor conducting the audit, within thirty days of notification. Under extenuating circumstances, the finance director may grant an extension of time for compliance at the director's discretion.

E. After completion of a transient ~~room~~ lodging tax audit, operators subject to the audit will be notified of the results of the audit by letter. If the audit has resulted in an additional transient ~~room~~ lodging tax liability to the municipality, the additional transient ~~room~~ lodging tax must be remitted to the municipality within fourteen days after the receipt of the letter, or the additional transient ~~room~~ lodging tax will be considered delinquent and subject to the procedures on delinquencies outlined in Section 4.09.350. If the audit has resulted in a refund due the operator, the refund will be made to the operator within fourteen days, or applied to the operator's account, at the operator's option.

F. It shall be the operator's responsibility to maintain business records in sufficient detail to substantiate all information reported on transient ~~room~~ lodging tax returns, including rentals qualifying as exempt from taxation under the provisions of Section 4.24.020. If insufficient detail exists within an operator's business records to substantiate rental exemptions, such rentals may be reclassified as taxable rentals at the auditor's discretion and subject to transient ~~room~~ lodging tax collection and remittance.

G. Any operator notified of an additional transient ~~room~~ lodging tax liability as a result of a transient-~~room~~ lodging tax audit shall have the right to appeal the additional liability to the assembly. Such an appeal must be filed with the municipal clerk within thirty days of notification by letter of the liability. If an additional liability is appealed, the accumulation of penalties and interest under the provisions of Section 4.09.350 will be suspended on the date the appeal is filed with the municipal clerk; if the appeal is subsequently denied by the assembly, all such penalties and interest will be retroactive back to the original date of notification of additional liability by letter.

H. Any operator refusing to comply with the provisions of this section shall be subject to any or all of the procedures on delinquencies as outlined in Section 4.09.350, including the filing of a criminal complaint against the operator in district court.

I. All business records will be returned to the business after the audit is completed and all copies will be destroyed no later than five years after the audit.

4.24.050 Youth camps.

The provision of housing to students attending youth recreation, summer, and similar camps primarily serving persons under eighteen years of age are exempt from the tax levied in this chapter, ~~which is commonly called "the bed tax."~~

4.24.060 Confidential and nonconfidential tax information.

A. The following information is publicly available information:

1. Names and addresses of business owners who filed tax returns under this chapter;
2. Whether a business is registered to collect taxes under this chapter in the city and borough of Sitka;

3. Whether a business is current in filing tax returns and in remitting tax due under this chapter, and the number of returns not filed; and

4. Names and exemption numbers of governmental agencies which have received a tax-exempt number from the city and borough of Sitka relating to taxes due under this chapter.

B. The city and borough of Sitka may permit any authorized representative of any federal, state or other local government agency to inspect and copy any tax returns filed and reports prepared under this chapter, if the other governmental agency provides substantially similar access to the city and borough of Sitka and if the city and borough of Sitka determines that other governmental agency provides adequate safeguards for the confidentiality of the tax returns and reports.

C. Except as otherwise provided in this section, transient-room lodging tax forms and their contents shall be confidential and shall not be disclosed by the finance department except:

1. In connection with efforts by the city and borough of Sitka to collect the tax;

2. In response to a subpoena issued by a court, state agency or governmental board or commission;

3. In connection with legislative inquiry specifically authorized by the assembly;

4. In connection with the city and borough of Sitka audits for purposes of verifying city and borough of Sitka accounting practices;

5. In compilation of statistics and studies by the finance department for public distribution, so long as information from individual businesses is not identifiable as to source.

4.24.070 Visitor activities enhancement fund.

A. A new special revenue fund of the city and borough of Sitka, entitled the "visitor activities enhancement fund," is henceforth created. The purpose of the visitor activities enhancement fund shall be to serve as a depository for all ~~hotel, motel, and bed and breakfast transient room~~ lodging taxes henceforth collected until such funds are appropriated for visitor enhancement purposes.

B. ~~All hotel, motel, and bed and breakfast.~~ All transient room lodging taxes collected shall be deposited into the visitor activities enhancement fund.

C. The administrator, through the preparation of the annual consolidated operating budget of the municipality, shall plan for the appropriation of funds contained in the visitor activities enhancement fund. If appropriations are required above the amount authorized in the annual consolidated operating budget of the municipality, the administrator shall bring forth supplemental appropriation ordinances, in accordance with the Home Rule Charter of the City and Borough of Sitka.

D. The proceeds contained in the visitor activities enhancement fund may be appropriated by the assembly for any purpose related to the enhancement of tourism and visitor-related

activities in the municipality, to include but not be limited to contractual funding of a convention and visitor's bureau, funding of travel of municipal officials to travel-related conventions and trade shows, and procurement of tourism-related advertising. All such procurements shall be subject to municipal procurement regulations in accordance with Title 3.

E. If at any such time the visitor activities enhancement fund is dissolved, the net proceeds of the fund will revert back to the general fund. Also, at any time through an appropriation the assembly may direct the transfer of any amount of unexpended proceeds in the visitor activities enhancement fund to any other fund of the municipality to be used for any lawful purpose.

F. Any investment earnings on the unspent proceeds contained in the visitor activities enhancement fund shall be added to the corpus of the fund and will be available for appropriation by the assembly.

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5. EFFECTIVE DATE. This ordinance shall become effective October 1, 2018.

PASSED, APPROVED, AND ADOPTED by the Assembly of the City and Borough of Sitka, Alaska, this 22nd day of May, 2018.

ATTEST:

Mathew Hunter, Mayor

Melissa Henshaw, CMC
Acting Municipal Clerk

1st reading 5/8/18

2nd reading 5/22/18