

# **City of Scottsbluff, Nebraska**

**Tuesday, January 20, 2015**

**Regular Meeting**

## **Item Resolut.3**

**Council to consider an Ordinance providing for an occupation tax on hotel accommodations (second reading).**

**Staff Contact: Rick Kuckkahn, City Manager**

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE PROVIDING FOR AN OCCUPATION TAX ON HOTEL ACCOMMODATIONS; REPEALING PRIOR SECTIONS LOCATED IN CHAPTER 6, ARTICLE 6 AND CHAPTER 11, ARTICLE 2 OF THE SCOTTSBLUFF MUNICIPAL CODE, AND PROVIDING FOR AN EFFECTIVE DATE.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF SCOTTSBLUFF, NEBRASKA:

Section 1. Chapter 6, Article 6 of the Scottsbluff Municipal Code is amended by repealing the existing language and substituting the following language:

**“6-6-18. Occupation Taxes.**

The occupation tax referred to elsewhere in the municipal code shall be upon each of the following occupations and businesses (except as provided in such section) in amounts, respectively, as follows:

- A -

Alcohol, alcoholic liquors. Per year-	
Manufacture of alcohol and spirits .....	\$1,000.00
Catering Licensee .....	200.00
Manufacture of beer .....	500.00
Manufacture of wine .....	500.00
Alcoholic liquor (except beer) wholesaler .....	1,000.00
Beer wholesaler .....	250.00
A - retailer of beer only, for consumption on premises .....	200.00
B - retailer of beer only, for consumption off premises (sale in original packages only) .....	200.00
C - retailer of alcoholic liquors for consumption on premises and off premises (sale in original packages only), except nonprofit corporation which is a club .....	600.00
C - retailer of alcoholic liquors, including beer for consumption on the premises only, nonprofit corporation which is a club .....	150.00
D - retailer of alcoholic liquors, including beer, for consumption off premises (sale in original packages only) .....	400.00
I - retailer of alcoholic liquors, for consumption on premises only .....	500.00
Special Designated License, except for special designated license issued to a holder of a catering license ..	50.00 per day

Non-beverage User

Class 1 .....	5.00
Class 2 .....	25.00
Class 3 .....	50.00
Class 4 .....	100.00
Class 5 .....	250.00

- B -

Billboard advertising, bill posting, thrust upon public view or attention from billboards located upon private property, or elsewhere, for pay or hire, by persons, firms or corporations -	
Per Year .....	\$ 25.00

- D -

Dog kennels	
Kennel authorized to keep less than five (5) dogs	
Per Year .....	25.00

Kennel authorized to keep five (5) dogs or more	
Per Year	50.00
- F -	
Fire insurance company or association	
Per Year	5.00
- H -	
Hawkers and peddlers	
Per Week	5.00
Per Year	25.00
Hotel Accommodations	4% of gross receipts as defined in Section 11-2-6.
- P -	
Pawnbrokers	
Per Year	100.00
Petroleum products, refineries of	
Per Year	250.00
Pet shop	
Per Year	50.00"

Section 2. Chapter 11, Article 2 of the Scottsbluff Municipal Code is amended by amending Sections 11-2-4 and adding new Sections 11-2-6 through 11-2-11 and repealing the existing language in Sections 11-2-6 through 11-2-10 to provide as follows:

**“11-2-4. Tax; term; when due; generally.**

Except as provided in the provisions of this Article pertaining to Class C liquor licenses and hotel accommodations, on all occupations and businesses upon which such tax is levied at a yearly rate the year for such tax shall be deemed to begin with the first day of May of each year and shall end on the last day of April following; and such tax for each year shall be due and payable, in advance, on the first day of May of every year, and thereafter such tax shall be delinquent. The whole amount of every occupation tax levied at a daily or yearly rate must be paid in one (1) payment before the occupation or business is commenced, whether payment is made at the beginning of the day or year, or at any time thereafter; and no payment made at the beginning of the day or year shall be for any certain time less than such day or year. The whole amount of the tax on the manufacture, distribution or sale of alcoholic liquor shall be paid immediately after the final issuance of a license to the applicant under the Nebraska Liquor Control Act; provided, however, when there is a purchase of an existing licensed business and a new license of the same class is issued, or upon the issuance of a new license for a location which has not been previously licensed, the license fee and occupation taxes shall be prorated on a quarterly basis as of the date of issuance. The tax on hotel accommodations shall be paid according to the Section of this Article concerning such tax.”

**“11-2-6. Same; hotel accommodations.**

(A) Commencing on February 1, 2015, every person, entity, or association engaged in the business of offering or providing hotel accommodations to the public within the City, shall pay to the City an occupation tax equal to a percentage set out in Chapter 6, Article 6 on the gross receipts of the basic rental rates charged per occupied room per night for hotel accommodations. For purposes of this section, the following definitions shall apply:

- (1) Hotel shall mean any facility in which the public may, for a consideration, obtain sleeping accommodations in any space ordinarily used for accommodations. The term shall include hotels, motels, tourist homes, campgrounds, courts, lodging houses, inns and nonprofit hotels but hotel shall not be defined so as to include hospitals, sanitariums, nursing homes, chronic care centers, or dormitories or facilities operated by an educational institution and regularly used to house students.
- (2) Occupied room shall mean any space ordinarily used for sleeping accommodations and for which any occupant has, for consideration, obtained the use or possession, or the right to use or possess, for a period not to exceed thirty (30) continuous days. The term shall include camping space, trailer space or recreational vehicle space. The term does not include a function room such as a ballroom, banquet room, reception

room, or meeting room, provided it is not used as temporary sleeping accommodations.

- (3) Basic rental rate shall mean the monetary charge for the use of an occupied room in a hotel.
- (4) The term occupied room shall not mean, and no tax imposed by this Article shall be measured by or collected for:
  - a. Complimentary or other sleeping accommodations for which no consideration is charged;
  - b. Sleeping accommodations for which the consideration is paid by a person not subject to sales and use tax imposed by the Nebraska Revenue Act of 1967, as it is amended from time to time; or
  - c. Sleeping accommodations leased by an employer for use by its employees when a specific room is the subject of the lease, the lease extends for more than thirty (30) consecutive days, and consideration is actually paid for use during at least thirty (30) consecutive days.

(B) The Tax imposed by this Article shall be collected by the hotel operator from the occupant of each room to which the tax applies. The tax may be shown as an add-on to the charge for occupancy of the rooms and shall be collectible at the time the lodging is furnished, regardless of when the charge for the occupancy is paid. The operator shall remain responsible for payment of all taxes imposed whether or not the taxes are actually collected from the guests.

(C) It shall be unlawful for any hotel operator subject to this Article to fail to maintain or fail to make available to the City, upon seventy-two (72) hours notice, written records accurately and completely evidencing the number of rooms occupied, the dates the rooms are occupied, the amount of occupation tax due or paid under this Article, and such other information as is required by the Finance Director of the City. Such records shall be maintained for a period of three (3) years after the occupation tax is due.

(D) Notwithstanding any contrary provision of this Chapter, or Code, the tax imposed by this Article shall be due and payable on the first day of each calendar month next succeeding the month during which the room was occupied. All taxes not paid by the twenty-fifth day of the month in which they are due and payable shall be deemed to be delinquent. The hotel operator shall be assessed a penalty of ten percent (10%) on all delinquent amounts as well as interest of one percent (1%) per month or fraction thereof from the first of the month in which such tax becomes due and payable until the date of payment.”

**“11-2-7. Payment; procedure; receipt.**

The occupation tax levied pursuant to this Article shall be paid to the City Finance Director. Upon payment of the tax, the City Finance Director shall issue a receipt therefor to the person, persons, partnership, association, firm or corporation paying the same, properly dated and specifying on behalf of whom and for what the sum is paid; and the City Finance Director shall keep a proper account of such taxes.”

**“11-2-8. Tax moneys; fund.**

All amounts realized from the collection of the occupation tax levied pursuant to this Article shall be placed to the credit of the General Fund or such other fund or funds as designated by the City Council.”

**“11-2-9. Refund; prohibited.**

Except as otherwise provided for in this Article, no person, persons, partnership, association, firm or corporation paying such occupation tax shall be entitled to a refund of any part of the tax so paid.”

**“11-2-10. Nonpayment; distress proceedings.**

Upon the failure of any person, persons, partnership, association, firm or corporation to pay such tax when demand is made by the City, the City Finance Director is authorized to issue a distress warrant over the corporate seal, directed to the Police Chief and commanding the Police Chief forthwith to collect, by distress and sale of goods and chattels for the person, persons, partnership, association, firm or corporation in such warrant named, the occupation tax due and unpaid. The Police Chief for

their services shall be entitled to such fees out of the property distrained and sold as sheriffs receive for making levy and sale under execution. The costs created by reason of the distress sale shall be paid out of the property levied upon, in addition to the amount due on the occupation tax.”

**“11-2-11. Enforcement.**

Should any person, persons, partnership, association, firm or corporation fail to pay such tax when demand is made by the City, the City may recover the same, together with any applicable interest and penalties, in a civil action brought against such person, persons, partnership, association, firm or corporation. This remedy shall not be exclusive of any other type of proceeding available to the City, but shall merely be cumulative.”

Section 3. Previously existing Sections 6-6-18 and 11-2-6 through 11-2-11, and all other Ordinances and parts of Ordinances in conflict herewith are repealed; provided, however, this Ordinance shall not be construed to affect any rights, liabilities, duties or causes of action, either criminal or civil, existing or actions pending at the time when this Ordinance becomes effective.

Section 4. This Ordinance shall become effective upon its passage, approval and publication as provided by law.

PASSED AND APPROVED on \_\_\_\_\_, 2015.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

(Seal)