

COUNCIL OF THE TOWN OF INDIAN HEAD

Ordinance No. 04-01-24

Introduced By:	Mayor and Council
Date Introduced:	April 1, 2024
Town Council Hearing:	None
Amendments Adopted:	None
Date Adopted:	May 6, 2024
Date Effective:	May 26, 2024

AN ORDINANCE concerning

Imposition of Hotel Tax

FOR the purpose of imposing a certain tax upon the total amount paid for room rental to a hotel by or for certain transients, with certain exceptions; defining certain terms; establishing an obligation on certain hotels to collect the tax from transients, providing for the administration and enforcement of the collection of the tax; establishing penalties for violations; and generally related to the imposition and collection of a hotel tax in the Town of Indian Head.

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BY adding
Chapter 126 Taxation
Article IV Hotel Tax
Sections 126-4, 126-5, 126-6, 126-7 and 126-8
Code of the Town of Indian Head
(1990 Edition as amended)

BY repealing and reenacting, with amendments
Chapter 1 General Provisions
Article IV General Penalty
Section 1-37.J.
Code of the Town of Indian Head
(1990 Edition as amended)

SECTION 1. BE IT ENACTED BY THE COUNCIL OF THE TOWN OF INDIAN HEAD, That new Sections 126-4, 126-5, 126-6, 126-7 and 126-8 be and they are hereby added to Chapter 126, Taxation, to be under the new Article 4, Hotel Tax, Code of the Town of Indian Head (1990 Edition as amended), to read as follows:

Chapter 126 – TAXATION

ARTICLE IV, HOTEL TAX

§ 126-4 - WORD USAGE AND DEFINITIONS.

THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS ARTICLE HAVE THE FOLLOWING MEANINGS:

- (1) TRANSIENT: A PERSON WHO PAYS ROOM RENTAL FOR OCCUPANCY OF SLEEPING ACCOMMODATIONS IN A HOTEL.

(2) HOTEL: A PUBLIC OR PRIVATE HOTEL, INN, HOSTELRY, TOURIST HOME OR HOUSE, MOTEL, COTTAGE, APARTMENT, ROOMING HOUSE OR OTHER LODGING PLACE WITHIN THE TOWN, THAT, FOR COMPENSATION, PROVIDES SLEEPING ACCOMMODATIONS FOR TEN (10) OR MORE PERSONS AT ANY ONE TIME.

(3) ROOM RENTAL: THE TOTAL CHARGE MADE BY ANY HOTEL FOR SLEEPING ACCOMMODATIONS FURNISHED TO A TRANSIENT FOR A PERIOD NOT EXCEEDING FOUR (4) CONSECUTIVE MONTHS. ROOM RENTAL DOES NOT INCLUDE ANY HOTEL CHARGE FOR SERVICES OR FOR ACCOMMODATIONS OTHER THAN SLEEPING ACCOMMODATIONS. IF THE CHARGE MADE BY A HOTEL INCLUDES ANY CHARGE FOR SERVICES IN ADDITION TO A ROOM RENTAL CHARGE FOR THE USE OF SLEEPING ACCOMMODATIONS, THEN THE PORTION OF THE TOTAL CHARGE THAT REPRESENTS ONLY ROOM RENTAL SHALL BE DISTINCTLY SET OUT AND BILLED BY THE HOTEL AS A SEPARATE ITEM. IN THE ABSENCE OF ANY SEPARATE BILLING OR IDENTIFICATION, ALL CHARGES SHALL BE PRESUMED TO BE A ROOM RENTAL CHARGE FOR THE USE OF SLEEPING ACCOMMODATIONS.

(4) FINANCE OFFICER: THE TOWN OF INDIAN HEAD FINANCE OFFICER.

§ 126-5 - LEVY.

A. THERE IS LEVIED AND IMPOSED ON EACH AND EVERY TRANSIENT A TAX AT THE RATE OF TWO (2) PERCENT OF THE TOTAL AMOUNT PAID FOR ROOM RENTAL TO A HOTEL BY OR FOR A TRANSIENT, EXCEPT AS PROVIDED IN § 126-4.

B. EVERY HOTEL THAT RECEIVES ANY PAYMENT FOR ROOM RENTAL WITH RESPECT TO WHICH A TAX IS LEVIED UNDER THIS TITLE SHALL COLLECT THE TAX WHEN PAYMENT FOR THE ROOM RENTAL IS MADE. THE TAXES COLLECTED BY A HOTEL AS REQUIRED BY THIS TITLE SHALL BE DEEMED TO BE HELD IN TRUST BY THE HOTEL UNTIL REMITTED TO THE TOWN.

C. WHENEVER A HOTEL REQUIRED TO COLLECT AND PAY TO THE TOWN A TAX UNDER THIS TITLE CEASES DOING BUSINESS OR OTHERWISE DISPOSES OF ITS BUSINESS, ANY TAX PAYABLE UNDER THIS TITLE TO THE TOWN SHALL BECOME IMMEDIATELY DUE AND PAYABLE, AND THE HOTEL SHALL IMMEDIATELY MAKE A REPORT AND PAY THE TAX DUE.

§ 126-6 - REPORTS AND RECORDS, REMITTANCE OF TAX.

A. A HOTEL THAT COLLECTS THE TAX SHALL SUBMIT A REPORT UPON THE FORMS AS THE FINANCE OFFICER MAY PRESCRIBE AND REQUIRE, SHOWING THE AMOUNT OF ROOM RENTAL CHARGES COLLECTED, AND THE TAX REQUIRED TO BE COLLECTED, AND SHALL SIGN AND DELIVER THE REPORT TO THE FINANCE OFFICER WITH A REMITTANCE OF THE TAX. THE REPORTS AND REMITTANCES SHALL BE MADE ON OR BEFORE THE LAST DAY OF EACH MONTH AND SHALL COVER THE AMOUNT OF TAX COLLECTED DURING THE PRECEDING CALENDAR MONTH.

B. EVERY HOTEL LIABLE FOR THE COLLECTION AND PAYMENT TO THE TOWN OF ANY TAX IMPOSED BY THIS TITLE SHALL KEEP AND PRESERVE, FOR A PERIOD OF THREE (3) YEARS FROM THE DATE OF COLLECTION OF THE TAX, SUCH RECORDS AS MAY BE NECESSARY TO DETERMINE THE AMOUNT OF THE TAX THAT THE HOTEL WAS LIABLE TO COLLECT AND PAY TO THE TOWN. THE FINANCE OFFICER MAY INSPECT THESE RECORDS AT ALL REASONABLE TIMES.

§ 126-7 - EXEMPTIONS.

NO TAX SHALL BE PAYABLE UNDER THIS TITLE ON A ROOM RENTAL:

- (1) IN ANY HOSPITAL, MEDICAL CLINIC, NURSING HOME, REST HOME, CONVALESCENT HOME, OR HOME FOR AGED PERSONS OR PERSONS WITH DISABILITIES;
- (2) FROM A PRIVATE NONPROFIT EDUCATIONAL ORGANIZATION THAT:
 - (a) IS NOT ORGANIZED OR OPERATED FOR THE PURPOSE OF CARRYING ON OR PROMOTING A TRADE, BUSINESS, OR RELIGIOUS PHILOSOPHY; BUT
 - (b) PRINCIPALLY HOUSES GROUPS OF YOUNG PEOPLE EXCLUSIVELY FOR THE PURPOSE OF DEVELOPING LEADERSHIP AND CITIZENSHIP SKILLS AND PROMOTION OF THE GENERAL PUBLIC WELFARE; OR
- (3) FROM A NONPROFIT CHARITABLE, RELIGIOUS, EDUCATIONAL, RECREATIONAL OR LITERARY ORGANIZATION, OTHER THAN A COUNTRY CLUB, WHEN THE PRIMARY USE OF THE FACILITY IS OTHER THAN HOUSING OVERNIGHT GUESTS.

§ 126-8 - VIOLATION, INTEREST, PENALTIES, LIEN.

A. IF A HOTEL DOES NOT REMIT TO THE FINANCE OFFICER THE TAX REQUIRED TO BE COLLECTED AND PAID OR TO MAKE A PROPER REPORT TO THE FINANCE OFFICER, WITHIN THE TIME AND IN THE AMOUNT SPECIFIED BY THIS TITLE, THE FINANCE OFFICER SHALL ADD TO THE TAX INTEREST AT THE RATE OF ONE (1) PERCENT PER MONTH ON THE AMOUNT OF THE TAX FOR EACH MONTH OR PORTION OF A MONTH FROM THE DATE UPON WHICH THE TAX IS DUE, AND A PENALTY OF FIVE (5) PERCENT OF THE AMOUNT OF THE TAX PER MONTH OR PORTION OF A MONTH, NOT TO EXCEED A TOTAL OF TWENTY-FIVE (25) PERCENT OF THE TAX.

B. IF A HOTEL FAILS OR REFUSES TO COLLECT THE TAX AND TO MAKE, WITHIN THE TIME PROVIDED BY THIS TITLE, ANY REPORT AND REMITTANCE REQUIRED BY THIS TITLE, THE FINANCE OFFICER SHALL OBTAIN FACTS AND INFORMATION, INCLUDING BUT NOT LIMITED TO HISTORIC OCCUPANCY RATES AT THAT HOTEL, ON WHICH TO ESTIMATE THE AMOUNT OF TAX DUE. AS SOON AS THE FINANCE OFFICER OBTAINS THE FACTS AND INFORMATION, THE FINANCE OFFICER SHALL DETERMINE AND ASSESS AGAINST THE HOTEL THE TAX, INTEREST AND PENALTIES PROVIDED FOR BY THIS TITLE, AND SHALL NOTIFY THE HOTEL, BY MAIL SENT TO ITS PRINCIPAL PLACE OF BUSINESS IN THE TOWN OR ITS LAST KNOWN ADDRESS IF NO LONGER IN BUSINESS, THE TOTAL AMOUNT OF THE TAX, INTEREST AND PENALTIES, AND THAT THE TOTAL AMOUNT SHALL BE PAYABLE WITHIN TEN (10) DAYS FROM THE DATE OF THE NOTICE.

C. THE FINANCE OFFICER SHALL ASCERTAIN THE NAME OF EVERY HOTEL IN THE TOWN THAT IS LIABLE FOR THE COLLECTION OF THE TAX LEVIED UNDER THIS TITLE AND THAT DOES NOT COLLECT THE TAX OR MAKE THE REPORTS OR REMITTANCES REQUIRED BY THIS TITLE.

D. VIOLATIONS OF THIS TITLE ARE MUNICIPAL INFRACTIONS AND ENFORCEABLE PURSUANT TO THE PROVISIONS OF § C2-14.D. OF THE CHARTER OF THE TOWN OF INDIAN HEAD AND § 1-37 OF THE CODE OF THE TOWN OF INDIAN HEAD. EACH VIOLATION, AND EACH DAY A VIOLATION CONTINUES, IS A SEPARATE OFFENSE, AND SUBJECT TO A FINE IN THE AMOUNT OF \$250 FOR EACH OFFENSE. A CONVICTION OF A MUNICIPAL INFRACTION SHALL NOT RELIEVE ANY HOTEL OR TRANSIENT FROM THE PAYMENT, COLLECTION OR REMITTANCE OF THE TAX, INTEREST AND PENALTIES REQUIRED BY THIS TITLE.

E. IN ADDITION TO ANY OTHER ENFORCEMENT OR PENALTIES, THE TOWN MAY INSTITUTE INJUNCTIVE, MANDAMUS OR OTHER APPROPRIATE CIVIL PROCEEDING FOR ENFORCEMENT OF THIS TITLE OR TO CORRECT VIOLATIONS OF THIS TITLE.

F. TAXES LEVIED UNDER THIS TITLE, UNTIL REMITTED TO THE TOWN, ARE A LIEN AGAINST ALL REAL AND PERSONAL PROPERTY OF THE HOTEL LIABLE FOR THE COLLECTION OF THE TAX. THE TAX IS COLLECTIBLE IN THE SAME MANNER, AND BEARS THE SAME RIGHTS AND PRIORITIES, AS THE TOWN PROPERTY TAX UNDER THE TAX—PROPERTY ARTICLE.

SECTION 2. AND BE IT FURTHER ENACTED that Section 1-37.J. of the Code of the Town of Indian Head, Chapter 1, General Provisions, Article IV, General Penalty, of the Code of the Town of Indian Head (1990 Edition as amended) be and it is hereby repealed and reenacted, with amendments, to read as follows:

CHAPTER 1 GENERAL PROVISIONS

Article IV General Penalty

§ 1-37 Municipal infractions.

J. Enumeration of Code provisions to which this section is applicable.

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(13) CHAPTER 126, TAXATION, ARTICLE IV, HOTEL TAX.

SECTION 3. AND BE IT FURTHER ENACTED that this Ordinance shall become effective at the expiration of twenty (20) calendar days after its approval by the Council.

INDIAN HEAD TOWN COUNCIL

Brandon Paulin, Mayor

Ron Sitoula, Vice Mayor

Cassandra Grumbine, Councilwoman

ATTEST:

Andrea Brady, Town Clerk

Date

EXPLANATION:

CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
((Double Parenthesis)) indicate matter deleted from existing law.
Underlining indicates amendments to bill.
Strike Out indicates matter stricken from bill by amendment or deleted from the law by amendment.
*** indicates existing text omitted from this Ordinance