



**CITY OF GERING NEBRASKA**  
**Instructions for Occupation Tax on Lodging**

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The City of Gering, Nebraska imposes a 4% Lodging Occupation Tax. Effective June 12, 2019, businesses are required to remit the occupation tax to the City on a monthly basis. The tax is owed on gross receipts of lodging within the City which is subject to the lodging tax imposed by the Nebraska Department of Revenue exclusive of the occupation tax\*. The occupation tax is imposed on the business; however, the business may choose to pass the tax onto its customers by itemizing the occupation tax on the customer's bill as a separate line item.

For lodging businesses, the room rate plus Gering's occupation tax is the total amount subject to both sales tax and lodging tax. Below is an example on how to calculate the occupation tax, sales tax, and lodging tax on a hotel bill.

Hotel room rate	\$100.00
Add Gering occupation tax (4%)	<u>4.00</u>
Subtotal	\$104.00
Add sales tax (7.5% of subtotal)	7.80
Add lodging tax (5% of subtotal)	<u>5.20</u>
 Total bill	 \$117.00

The occupation tax return and payment are due the 25th day of the month following the month of collection. Penalty for not filing a return and paying the tax by the due date is 2% per month plus interest of 1% per month. Records must be maintained for three years for examination by the City.

For a more complete explanation, see CITY ORDINANCE NO. 2078 which can be accessed at [www.gering.org](http://www.gering.org).

If you have any questions about the implementation, calculation, or payment of occupation tax, please contact City of Gering at 308-436-5096

\* The Nebraska Department of Revenue considers occupation tax an expense of the business even if the business itemizes it on customer bills and it is part of the gross receipts subject to both sales and lodging tax. In the case of the City occupation tax on lodging, the revenue subject to the City's occupation tax is the amount subject to the State lodging tax not including the amount of the City's occupation tax.

**ORDINANCE NO. 2078**

AN ORDINANCE OF THE CITY OF GERING, NEBRASKA TO ENACT CHAPTER XI, ARTICLE 118, TO IMPOSE AN OCCUPATION TAX ON LODGING; AND TO PROVIDE WHEN THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT.

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

Section 1. That Title XI, Chapter 118, of the Official City Code be and the same is hereby enacted to read as follows:

**TITLE XI  
BUSINESS REGULATIONS  
CHAPTER 118 LODGING**

**Sec. 1. Purpose.**

Pursuant to the authority of *Nebraska Revised Statute* R.R.S. 1943, Section 16-205, the City Council finds, determines and declares that it is appropriate that a tax be imposed on all hotels as herein defined for the purpose of raising revenues. The forgoing determination is made with due consideration of business in the city and the relation of business to the municipal welfare, together with relation thereof to expenditures required by the city, and with consideration of just, proper and equitable distribution of the tax burdens within the city and other properly associated matters.

**Sec. 2. Definitions.**

As used in this article, the following words and phrases shall have the meanings ascribed to them in this section, except where the context clearly indicates or requires a different meaning:

*City* shall mean the City of Gering and the area within the corporate limits of the City of Gering.

*Hotel* shall mean any commercial, nonprofit, or state-owned facility where the public may obtain sleeping accommodations for payment. This includes any hotel, motel, tourist hotel, bed and breakfast, RV park, campground (charges for RV pads or tent sites, or inn. "Hotel" does not include: the portion of a health care facility (Licensed under the Health Care Facility Licensure Act) which provides rooms, lodging, or sleeping accommodations for a charge; or a facility operated by an approved educational institution used to house students.

*Person* shall mean any natural person, individual, partnership, association, organization or corporation of any kind or character engaging in the business of operating a hotel.

*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) contiguous 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, nor for complimentary or other sleeping accommodations for which no consideration is charged or for sleeping accommodations for which the consideration is paid by a person not subject to the sales and use tax imposed by the Nebraska Revenue Act of 1967.

*Taxpayer* shall mean any person or entity in the hotel business herein defined who is required to pay the tax herein imposed.

*Total consideration charged for occupancy* shall mean any and all charges that are subject to the lodging tax under the Nebraska Visitors Development Act, Neb.Rev.Stat. 81-1245 et. seq. excluding the city's lodging occupation tax.

**Sec. 3. Tax Imposed; Collection of Tax.**

(a) On or after June 1, 2019 each person engaged in the business of operating a hotel in the city shall pay an occupancy tax in the amount of four (4%) of the hotel consideration charged for occupancy per occupied room per night.

(b) The tax imposed by this article may be shown as an add-on to the charge for occupancy of the rooms. The hotel operator shall remain responsible for payment of all taxes imposed, whether or not the taxes are actually collected from the guests.

**Sec. 4. Return.**

Each and every person engaged in the business of operating a hotel within the city for the calendar month beginning June, 2019, and for each and every month thereafter, shall prepare and file, on or before the 25<sup>th</sup> day of the following month on a form prescribed and furnished by the city, a return for the taxable calendar month, and at the same time pay to the city the tax herein imposed. The return shall be verified and sworn to by an owner or officer of the business. The return shall be considered filed on time if mailed with payment enclosed in an envelope properly addressed to the City Finance Director, postage prepaid and postmarked before midnight of the 25<sup>th</sup> of the appropriate month. If the city offers online filing, the return will also be considered filed on time if filed online and electronic payment submitted to the City of Gering by midnight the 25<sup>th</sup> of the appropriate month.

**Sec. 5. Tax Cumulative.**

(a) The levy of tax under this article is in addition to all other fees, taxes, excises and licenses levied and imposed under any contract or any other provisions of this Code or ordinances of the city, in addition to any fee, tax, excise or licenses imposed by the state.

(b) Payment of the tax imposed by this article shall not relieve the person paying the same from payment of any other tax now or hereafter imposed by contract or ordinance or by this Code, including those imposed for any business or occupation he or she may carry on, unless so provided therein. The occupational taxes imposed by this article shall be cumulative except where otherwise specifically provided.

**Sec. 6. Use of Revenue.**

The four (4%) occupation tax imposed by this article shall be used to pay for the following including but not limited to these activities: historic restoration; education interpretive sites/facilities, such as museums; participatory sports facilities; facilities for pedestrians and bicycles that provide transportation; convention centers; community centers; cultural and heritage recreational sites and facilities; debt service with respect to activities outlined in this ordinance; all related supporting activities including ongoing operational and maintenance necessary to staff and run the facilities/projects at the discretion of the City Council.

**Sec. 7. Failure to File Return; Delinquency; Assessment by City Finance Director.**

(a) If any person neglects or refuses to file a return or make payment of the taxes as required by this article, the City Finance Director shall make an estimate, based upon such information as may be reasonable available, of the amount of taxes due for the period or periods for which the taxpayer is delinquent, and upon the basis of such estimated amount, compute and assess in addition thereto a penalty equal to two (2%) percent per month or fraction thereof from date when due, together with interest on such delinquent taxes, at the rate of one (1%) percent per month or fraction thereof from the date when due.

(b) The City Finance Director shall give the delinquent taxpayer written notice of such estimated taxes, penalty, and interest, which notice must be served personally or by certified mail.

(c) Such estimate shall thereupon become an assessment, and such assessment shall be final and due and payable from the taxpayer to the City Finance Director ten (10) days from the date of service of the notice or the date of mailing by certified mail; however, within such ten (10) day period the delinquent taxpayer may petition the City Finance Director for the revision or modification of such assessment and shall, within such ten (10) period, furnish the City Finance Director the facts and correct figures showing the correct amount of such taxes.

(d) Such petition shall be in writing, and the facts and figures submitted shall be submitted in writing and shall be given under oath of the taxpayer.

(e) The City Finance Director may then modify such assessment in accordance with the facts which he or she deems correct. Such adjusted assessment shall be made in writing, and notice thereof shall be mailed to the taxpayer within ten (10) days; and all such decisions shall become final upon the expiration of thirty (30) days from the date of service, unless proceedings are commenced within that time for appeal in the District Court.

(f) It shall be an offense for any person to fail to file a return or make payment of the taxes as required by this article.

#### **Sec. 8. Administration of Article; Miscellaneous Provisions.**

(a) The administration of the provisions of this article are hereby vested in the City Finance Director, or his or her designee, who shall prescribe forms in conformity with this article for the making of returns, for the ascertainment, assessment and collection of the tax imposed hereunder, and for the proper administration and enforcement hereof.

(b) All notices required to be given to the taxpayer under the provisions of this article shall be in writing. Notices shall be mailed by registered or certified mail, postage prepaid, return receipt requested, to the taxpayer at his or her last known address.

(c) It shall be the duty of every taxpayer to keep and preserve suitable records and other books or accounts as may be necessary to determine the amount of tax for which he/she is liable hereunder.

(1) Records of the gross revenue by which the tax is measured shall be kept separate and apart from the records of other sales or receipts in order to facilitate the examination of books and records as necessary for the collection of this tax.

(2) It shall be the duty of every such taxpayer to keep and preserve for a period of three (3) years all such books, invoices and other records, which shall be open for examination at any time by the City Finance Director or his or her duly designated persons. If such taxpayer keeps or maintains the books, invoices, accounts or other records, or any part thereof, outside of the state, upon demand of the City Finance Director such taxpayer shall make the same available at a suitable place within the city, to be designated by the City Finance Director, for examination, inspection and audit by the City Finance Director or his or her duly authorized persons. The taxpayer shall reimburse the city for the reasonable costs of the examination, inspection and audit if the City Finance Director determines that the taxpayer paid ninety percent or less of the tax owing for the period of the examination.

(3) The City Finance Director, in his or her discretion, may make, permit or cause to be made the examination, inspection or audit of books, invoices, accounts or their records so kept or maintained by such taxpayer outside the state where the same may be made available, provided such taxpayer shall have entered into a binding agreement with the city to reimburse it for all costs and expenses incurred by it in order to have such examination, inspection or audit made in such place.

(d) For the purpose of ascertaining the correctness of a return, or for the purpose of determining the amount of tax due from any taxpayer, the City Finance Director or his or her duly authorized persons, may conduct investigations concerning any matters covered by this article; and may examine any relevant books, papers, records or memoranda of any such taxpayer.

**Sec. 9. Recovery of Unpaid Tax by Action at Law.**

(a) The City Finance Director may also treat any such taxes, penalties or interest due and unpaid as a debt due the city.

(b) In case of failure to pay the taxes, or any portion thereof, or any penalty or interest thereon when due, the city may recover at law the amount of such taxes, penalties and interest in any court of Scotts Bluff County, Nebraska or of the county wherein the taxpayer resides or has its principal place of business having jurisdiction of the amounts sought to be collected.

(c) The return of the taxpayer or the assessment made by the City Finance Director, as herein provided, shall be prima facie proof of the amount due.

(d) The City Attorney may commence an action for the recovery of taxes due under this article and this remedy shall be in addition to all other existing remedies, or remedies provided in this article.

**Sec. 10. Suspension or Revocation of Licenses for Failure to Pay Tax; Hearing.**

If the City Council, after holding a hearing, shall find that any person has willfully evaded payment of collection and remittance of the tax imposed by this article, such official may suspend or revoke any license, permit or other approval held by such tax evader. Said person shall have an opportunity to be heard at such hearing to be held not less than seven (7) days after notice is given of the time and place of the hearing to be held, addressed to the last known place of business of such person. Pending the notice, hearing and finding, any license, permit or other approval issued by the city to the person may be temporarily suspended. No suspension or revocation hereunder shall release or discharge the person from civil liability for the payment or collection and remittance of the tax, nor from prosecution for such offense.

**Sec. 11.**

That all ordinances and resolution or parts of ordinances and resolutions in conflict herewith are hereby repealed.


**Sec. 12.**

It is in the intention of the City Council, and it is hereby ordained, that the provisions of this Ordinance shall become and be made part of the Code of the City of Gering, Nebraska, and the sections of this Ordinance may be renumbered to accomplish such intention.

**Sec. 13.**

This Ordinance shall be in full force and effect from and after its passage, approval and publication according to law and shall be published in pamphlet form by authority of the City Council.

PASSED AND APPROVED THIS 4th DAY OF June, 2019.

  
Mark A. Kaufman, Mayor

ATTEST:

  
Kathleen Welfl, City Clerk

