

## ARTICLE 8 - Lodging Occupation

**Editor's note**— Ord. No. [2017-03](#), § 1, adopted December 6, 2017 amended ch. 4 by the addition of a new art. 8, §§ 4-8-10, 6-3-20, 4-8-20—4-8-150, which provisions have been redesignated at the editor's discretion as art. 8, §§ 4-8-10—4-8-160, in order to preserve the sequential numbering of the sections.

### Sec. 4-8-10. - Purpose.

The City Council hereby finds, determines and declares:

- (a) For the purposes of this Article, every person that furnishes a lodging room or accommodation for consideration in the City of Cripple Creek is exercising a taxable privilege. The purpose of this Article is to impose a tax which will be paid by every vendor providing such lodging room or accommodation in the City of Cripple Creek, which tax will provide revenues for enumerated City services.
- (b) The classification of the provision of lodging as separate businesses and occupations is reasonable, proper, uniform and nondiscriminatory, and the taxable amount hereby levied is reasonable, proper, uniform, nondiscriminatory and necessary.

(Ord. No. [2017-03](#), § 1)

### Sec. 4-8-20. - Definitions.

When not clearly otherwise indicated by the context, the following words and phrases as used in this article shall have the following meanings:

- (a) "Lodging" shall mean hotel rooms, motel rooms, lodging rooms, motor hotel rooms, guest house rooms, recreational vehicle pads or other similar accommodations that are rented to persons for a period of less than one (1) month or thirty (30) consecutive days, but shall not include rentals under a written agreement for occupancy for a period of at least one (1) month or every thirty (30) days.
- (b) "Person" means an individual, partnership, firm, joint enterprise, limited liability company, corporation, estate or trust, or any group or combination acting as a unit, but shall not include the United States of America, the State of Colorado and any political subdivision thereof.
- (c) "Sale" means the furnishing for consideration by any person of lodging within the City.
- (d) "Tax" means the tax payable by the vendor or the aggregate amount of taxes due from vendor during the period for which the vendor is required to pay the occupation tax on the provision of lodging under this Article.
- (e) "Taxpayer" means the vendor obligated to pay the tax under the terms of this Article.
- (f) "Vendor" means a person furnishing lodging for consideration within the City.

(Ord. No. [2017-03](#), § 1)

### Sec. 4-8-30. - Levy of tax.

Effective January 1, 2018, there is hereby levied by the City of Cripple Creek an occupation tax on the provision of lodging upon every person or business that furnishes any hotel room, motel room,

lodging room, motor hotel room, guest house room, recreational vehicle pad or other similar accommodation for consideration for less than one (1) month or thirty (30) consecutive days within the City of Cripple Creek in the amount of six percent (6%) of the gross amount charged (less any other government fees or taxes) for the occupancy of lodging room or accommodation.

(Ord. No. [2017-03](#), § 1)

Sec. 4-8-40. - Exemptions.

The following transactions shall be exempt from the tax imposed by this Article.

- (a) Accommodations provided by the United States, the State of Colorado, its departments and institutions, and the political subdivisions of the State in their governmental capacities only.
- (b) Accommodations provided by those charitable, religious and eleemosynary organizations that have received from the Internal Revenue Service status under Section 501(c)(3) of the Internal Revenue Code as a tax-exempt organization, while in the conduct of their regular charitable, religious or eleemosynary functions and activities; and
- (c) Accommodations provided to a person who is a permanent resident of a hotel, motel, apartment hotel, lodging house, motor hotel, guest house, or other similar business pursuant to a written agreement for a period of at least one (1) month or thirty (30) consecutive days; and
- (d) Accommodations provided on a complimentary basis at no charge to the guest.

(Ord. No. [2017-03](#), § 1)

Sec. 4-8-50. - Use of revenues.

Revenues from the tax levied by this Article shall be used by the City for economic and community development, encouraging City tourism visits, and marketing of the City.

(Ord. No. [2017-03](#), § 1)

Sec. 4-8-60. - Collection of tax.

- (a) Every vendor providing lodging taxable under this Article shall remit such tax on or before the twentieth (20<sup>th</sup>) day of each month on account of lodging provided in the preceding month. Said payment shall be accompanied by a return which shall contain such information and be in such form as the City may prescribe.
- (b) The burden of proving that any transaction is exempt from the tax shall be upon the vendor.
- (c) If the accounting methods regularly employed by the vendor in the transaction of business, or other conditions, are such that the returns aforesaid made on a calendar month basis will impose unnecessary hardship, the City may, upon request of the vendor, accept returns at such intervals as will, in the opinion of the City Finance Director, better suit the convenience of the vendor and will not jeopardize the collection of the tax; provided, however, the Finance Director may by rule permit a vendor whose monthly tax obligation is less than sixty dollars (\$60.00) to make returns and pay taxes at intervals no greater than three (3) months.

- (d) It shall be the duty of every vendor to maintain, keep and preserve suitable records of all sales made by the vendor and such other books or accounts as may be required by the City in order to determine the amount of the tax of which the vendor is liable under this Article. Each vendor shall keep and preserve for a period of three (3) years, all such books, invoices and other records, and the same shall be open for examination by the City.
- (e) The tax to be paid by a vendor shall not be stated and charged separately from the sales price of lodging on any record thereof at the time when the sale is made or at the time when evidence of the sale is issued, provided vendor may indicate the sales price "includes 6% City of Cripple Creek Lodging Occupation Tax."

(Ord. No. [2017-03](#), § 1)

Sec. 4-8-70. - Audit of records.

- (a) For the purpose of ascertaining the correct amount of the occupation tax on the provision of lodging due from any person engaged in such business in the City under this Article, the City may conduct an audit by examining any relevant books, accounts and records of such person.
- (b) All books, invoices, accounts and other records shall be made available within the City limits and be open at any time during regular business hours for examination by the City. If any taxpayer refuses to voluntarily furnish any of the foregoing information when requested, the City Clerk may issue a subpoena to require that the taxpayer or its representative attend a hearing or provide any such books, accounts and records for examination.
- (c) Any exempt organization claiming exemption under the provisions of this Article is subject to audit in the same manner as any other person engaged in the lodging business in the City.

(Ord. No. [2017-03](#), § 1)

Sec. 4-8-80. - Tax overpayments and deficiencies.

An application for refund of tax monies paid in error or by mistake shall be made within three (3) years after the date of payment for which the refund is claimed. If the City Finance Director determines that within three (3) years of the due date a vendor overpaid the occupation tax on the provision of lodging, he shall process a refund or allow a credit against a future remittance from the same taxpayer. If at any time the City determines the amount paid is less than the amount due under this Article, the difference together with the interest shall be paid by the vendor within ten (10) days after receiving written notice and demand from the City. The City may extend that time for good cause.

(Ord. No. [2017-03](#), § 1)

Sec. 4-8-90. - Tax information confidential.

- (a) All specific information gained under the provisions of this Article which is used to determine the tax due from a taxpayer, whether furnished by the taxpayer or obtained through audit, shall be treated by the City and its officers, employees or legal representatives as confidential. Except as directed by judicial order or as provided in this Article, no City officer, employee or legal representative shall divulge any confidential information. If directed by judicial order, the officials

charged with the custody of such confidential information shall be required to provide only such information as is directly involved in the action or proceeding. Any City officer or employee who shall knowingly divulge any information classified herein as confidential, in any manner, except in accordance with proper judicial order, or as otherwise provided in this Article, or by law, shall be guilty of a violation hereof.

- (b) The City may furnish officials of any other governmental entity who may be owed lodging tax any confidential information, provided that said jurisdiction enters into an agreement with the City to grant reciprocal privileges to the City.
- (c) Nothing contained in this Section shall be construed to prohibit the delivery to a taxpayer or their duly authorized representative a copy of such confidential information relating to such taxpayer, the publication of statistics so classified as to prevent the identification of particular taxpayers, or the inspection of such confidential information by an officer, employee or legal representative of the City.

(Ord. No. [2017-03](#), § 1)

#### Sec. 4-8-100. - Forms and regulations.

The City Finance Director and City Clerk are hereby authorized to prescribe forms and promulgate rules and regulations to aid in the making of returns, the ascertainment, assessment and collection of said occupation tax on the provisions of lodging and, in particular and without limiting the general language of this Article, to provide for:

- (a) A form of report on the provision of lodging to be supplied to all vendors.
- (b) The records which vendors providing lodging are to keep concerning the tax imposed by this Article.

(Ord. No. [2017-03](#), § 1)

#### Sec. 4-8-110. - Enforcement and penalties.

- (a) It shall be unlawful for any person to intentionally, knowingly or recklessly fail to pay the tax imposed by this Article or to make any false or fraudulent return, or for any person to otherwise violate any provision of this Article. Any person convicted of a violation of this Article shall be deemed guilty of a municipal offense. Each day, or portion thereof, that any violation of this Article continues shall constitute a separate offense.
- (b) A penalty in the amount of ten percent (10%) of the tax due or the sum of ten dollars (\$10.00), whichever is greater, shall be imposed upon the vendor and become due in the event the tax is not remitted by the twentieth (20<sup>th</sup>) day of the month as required by this Article, or such other date as prescribed by the City Clerk, and one and one-half percent (1.5%) interest shall accrue each month on the unpaid balance. The City may waive, for good cause shown, any penalty assessed.
- (c) If any part of a deficiency is due to negligence or intentional disregard of regulations, but without intent to defraud, there shall be added ten percent (10%) of the total amount of the deficiency, and interest, from the vendor required to file a return. If any part of the deficiency is due to fraud with the intent to evade the tax, then there shall be added fifty percent (50%) of the total amount of the deficiency, together with interest and in such case, the whole amount of the unpaid tax, including

the additions, shall become due and payable ten (10) days after written notice and demand by the City.

- (d) If any vendor fails to make a return and pay the tax imposed by this Article, the City may make an estimate, based upon available information, of the amount of tax due and add the penalty and interest provided above. The City shall mail notice of such estimate by certified mail to the vendor at his address as indicated in the City records. Such estimate shall thereupon become as assessment, and such assessment shall be final and due and payable from the taxpayer to the City ten (10) days from the date of service of the notice or the date of mailing by certified mail; provided, however, that within the ten (10) day period such delinquent taxpayer may petition the City for a revision or modification of such assessment shall, within such ten (10) day period, furnish the City the documents, facts and figures showing the correct amount of such taxes due and owing.
- (e) Such petition shall be in writing and the facts and figures submitted shall be submitted either in writing or orally, and shall be given by the taxpayer under penalty of perjury. Thereupon, the City may modify such assessment in accordance with the facts submitted in order to effectuate the provisions of this Article. Such assessment shall be considered the final order of the City, and may be reviewed under Rule 106(a)(4) of the Colorado Rules of Civil Procedure, provided that the taxpayer gives written notice to the City of such intention within ten (10) days after the final order of assessment.

(Ord. No. [2017-03](#), § 1)

#### Sec. 4-8-120. - Tax lien.

- (a) The tax imposed by this Article, together with the interest and penalties herein provided and the costs of collection which may be incurred, shall be and, until paid, remain a first and prior lien superior to all other liens on all the tangible personal property of a taxpayer within the City and may be foreclosed by seizing under distraint warrant and selling so much thereof as may be necessary to discharge the lien. Such distraint warrant may be issued by the City whenever the taxpayer is in default in the payment of the tax, interest, penalty or costs. Such warrant maybe served and the goods subject to such lien seized by any City police officer, the Teller County Sheriff or any duly authorized employee of the City. The property so seized may be sold by the agency seizing the same or by the City in a public auction after ten (10) days have passed following an advertised notice in a newspaper published in the City, in the same manner as is prescribed by law in respect to executions against property upon judgment of a court of record, and the remedies of garnishment shall apply.
- (b) The tax imposed by this Article shall be, and remain, a first and prior lien superior to all other liens on the real property and appurtenant premises at which the taxable transactions occurred.

(Ord. No. [2017-03](#), § 1)

#### Sec. 4-8-130. - Recovery of unpaid tax.

- (a) The City may also treat any such taxes, penalties, costs or interest due and unpaid as a debt due the City from the Taxpayer.
- (b) In case of failure to pay the taxes, or any portion thereof, or any penalty, costs or interest thereon, when due, the City may recover at law the amount of such taxes, penalties, costs, the reasonable

value of any attorney's time or the reasonable attorney's fees charged, plus interest, in any county or district court of the county wherein the taxpayer resides or had a principal place of business (at the time the tax become due) having jurisdiction of the amount sought to be collected.

- (c) The return of the taxpayer or the assessment made by the City shall be prima facie proof of the amount due.
- (d) Such actions may be actions in attachment, and writs of attachment may be issued to the Cripple Creek Police or Teller County Sheriff as the case may be, and in any such proceeding no bond shall be required of the City, nor shall any police officer or sheriff require of the City an indemnifying bond for executing the writ of attachment or writ of execution upon any judgment entered in such proceedings. The City may prosecute appeals in such cases without the necessity of providing bond therefore.
- (e) It shall be the duty of the City Attorney, when requested by the City, to commence 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.
- (f) The City may certify the amount of any delinquent tax, plus interest, penalties and the costs of collection, as a charge against the property at which the taxable transaction occurred to the County Treasurer for collection in the same manner as delinquent ad valorem taxes.

(Ord. No. [2017-03](#), § 1)

#### Sec. 4-8-140. - Status of unpaid tax in bankruptcy and receivership.

Whenever the business or property of a taxpayer subject to this Article shall be placed in receivership, bankruptcy or assignment for the benefit of creditors, or seized under distraint for taxes, all taxes, penalties and interest imposed by this Article, and for which the taxpayer is in any way liable under the terms of the Article, shall be a prior and preferred lien against all the property of the taxpayer, except as to other tax liens which have attached prior to the filing of the notice, and no sheriff, receiver, assignee or other officer shall sell the property of any person subject to this Article under process or order of any court without first ascertaining from the City the amount of any taxes due and payable under this Article, and if there be any such taxes due, owing and unpaid, it shall be the duty of such officer to first pay the amount of taxes out of the proceeds of such sale before making payment of any monies to any judgment creditor or other claimants of whatsoever kind or nature, except the costs of the proceedings and other preexisting tax liens as above provided.

(Ord. No. [2017-03](#), § 1)

#### Sec. 4-8-150. - Hearings, subpoenas and witness fees.

- (a) Hearings before the City pursuant to provisions of this Article shall be held before the municipal judge. Any subpoena issued pursuant to this Article may be enforced by the Cripple Creek Municipal Judge. The fees of witnesses for attendance at hearings shall be the same as the fees of witnesses before the District Court, such fees to be paid when the witness is excused from further attendance. When the witness is subpoenaed at the instance of the City, such fees shall be paid in the same manner as other expenses under the terms of this Article, and when a witness is subpoenaed at the instance of any party to any such proceeding, the City may require that the cost of service of the subpoena and the fee of the witness be borne by the party at whose instance the

witness is summoned. In such case, the City may require a deposit to cover the cost of such service and witness fees. A subpoena issued as aforesaid shall be served in the same manner as a subpoena issued out of a court or record.

- (b) In the case of a false or fraudulent return with intent to evade taxation, the tax, together with interest and penalties thereon, maybe assessed or proceedings for the collection of such taxes may be commenced at any time.
- (c) Before the expiration of such period of limitation, the taxpayer and the City may agree in writing to an extension thereof, and the period so agreed on may be extended by subsequent agreements in writing.

(Ord. No. [2017-03](#), § 1)

Sec. 4-8-160. - Exemption from revenue limitation.

The occupation tax on the provision of lodging imposed by this Article and the use of revenues derived from said tax was approved by the electors of the City of Cripple Creek on November 7, 2017. As a part of said approval, the revenues are to be collected and spent as a voter approved revenue change, not withstanding any revenue or expenditure limitations contained in Article X, Section 20 of the Colorado Constitution.

(Ord. No. [2017-03](#), § 1)



**City of Cripple Creek****Lodging Tax Remittance Sheet - Version 1.0****Note: All information is confidential and will not be shared by the city with anyone.**

Entity Name

Month

Lodging Tax Rate 6.0% (b)

Denotes sections you complete.

Date	Gross Room Revenue (a)	Lodging Tax Due (a) * (b)	Number of Rooms Available ©	Number of Rooms Rented (d)	Average Rate Per Room (a)/(d)	Average Occupancy Per Room (d)/©
1						
2						
3						
4						
5						
6						
7						
8						
9						
10						
11						
12						
13						
14						
15						
16						
17						
18						
19						
20						
21						
22						
23						
24						
25						
26						
27						
28						
29						
30						
31						
Monthly Total						

Amount to remit to the City

Please note that this amount is due to the city on, or before, the 20th of the month following the month you are reporting. For example, if completing the report for May 2022, the tax is due into the City by June 20th, 2022

**Notes:**

(a) Gross Room Revenue is what you charged for the room and does not include State, County, or City sales tax owed on the revenue. Please see the attached Ordinance # 2017-03 for details concerning the lodging tax.

Please make checks payable to: City of Cripple Creek Treasurer's Account

Mail payments to: City of Cripple Creek Attn: City Clerk's Office P.O. Box 430 Cripple Creek, CO 80813



**City of Cripple Creek****Lodging Tax Remittance- Version 1.0****Note: All information is confidential and will not be shared by the city with anyone.**

Entity Name

Month

Lodging Tax Rate

6.0% (b)

Denotes sections you complete.

Other figures calculate automatically.

Date	Gross Room Revenue (a)	Lodging Tax Due (a) * (b)	Number of Rooms Available	Number of Rooms Rented	Average Rate Per Room	Average Occupancy Per Room
1		-			#DIV/0!	#DIV/0!
2		-			#DIV/0!	#DIV/0!
3		-			#DIV/0!	#DIV/0!
4		-			#DIV/0!	#DIV/0!
5		-			#DIV/0!	#DIV/0!
6		-			#DIV/0!	#DIV/0!
7		-			#DIV/0!	#DIV/0!
8		-			#DIV/0!	#DIV/0!
9		-			#DIV/0!	#DIV/0!
10		-			#DIV/0!	#DIV/0!
11		-			#DIV/0!	#DIV/0!
12		-			#DIV/0!	#DIV/0!
13		-			#DIV/0!	#DIV/0!
14		-			#DIV/0!	#DIV/0!
15		-			#DIV/0!	#DIV/0!
16		-			#DIV/0!	#DIV/0!
17		-			#DIV/0!	#DIV/0!
18		-			#DIV/0!	#DIV/0!
19		-			#DIV/0!	#DIV/0!
20		-			#DIV/0!	#DIV/0!
21		-			#DIV/0!	#DIV/0!
22		-			#DIV/0!	#DIV/0!
23		-			#DIV/0!	#DIV/0!
24		-			#DIV/0!	#DIV/0!
25		-			#DIV/0!	#DIV/0!
26		-			#DIV/0!	#DIV/0!
27		-			#DIV/0!	#DIV/0!
28		-			#DIV/0!	#DIV/0!
29		-			#DIV/0!	#DIV/0!
30		-			#DIV/0!	#DIV/0!
31		-			#DIV/0!	#DIV/0!
Monthly Total	-	-		0		

Amount to remit to the City

Please note that this amount is due to the city on, or before, the 20th of the month following the month you are reporting. For example, if completing the report for May 2022 the tax is due into the City by June 20th, 2022.

**Notes:**

(a) Gross Room Revenue is what you charged for the room and does not include State, County, or City sales tax owed on the revenue. Please see the attached Ordinance # 2017-03 for details concerning the lodging tax.

Please make checks payable to: City of Cripple Creek Treasurer's Account

Mail payments to: City of Cripple Creek Attn: City Clerk's Office P.O. Box 430 Cripple Creek, CO 80813

## City of Cripple Creek

## Lodging Tax Remittance Sheet - Version 1.0

Note: All information is confidential and will not be shared by the city with anyone.

Entity Name

Month

Lodging Tax Rate 6.0% (b)

Denotes sections you complete.  
Other figures calculate automatically.

Date	Gross Room Revenue (a)	Lodging Tax Due (a) * (b)
1	100.00	6.00
2	225.00	13.50
3	350.00	21.00
4	475.00	28.50
5	500.00	30.00
6	625.00	37.50
7	650.00	39.00
8	100.00	6.00
9	225.00	13.50
10	350.00	21.00
11	475.00	28.50
12	500.00	30.00
13	625.00	37.50
14	650.00	39.00
15	475.00	28.50
16	525.00	31.50
17	670.00	40.20
18	700.00	42.00
19	550.00	33.00
20	100.00	6.00
21	225.00	13.50
22	350.00	21.00
23	475.00	28.50
24	500.00	30.00
25	625.00	37.50
26	650.00	39.00
27	100.00	6.00
28	225.00	13.50
29	350.00	21.00
30	475.00	28.50
31	500.00	30.00
Monthly Total	13,345.00	800.70

Number of Rooms Available	Number of Rooms Rented	Average Rate Per Room	Average Occupancy Per Room
10	1	100.00	10.0%
10	2	112.50	20.0%
10	3	116.67	30.0%
10	4	118.75	40.0%
10	5	100.00	50.0%
10	6	104.17	60.0%
10	5	130.00	50.0%
10	1	100.00	10.0%
10	1	225.00	10.0%
10	2	175.00	20.0%
10	3	158.33	30.0%
10	4	125.00	40.0%
10	5	125.00	50.0%
10	6	108.33	60.0%
10	5	95.00	50.0%
10	1	525.00	10.0%
10	1	670.00	10.0%
10	2	350.00	20.0%
10	3	183.33	30.0%
10	4	25.00	40.0%
10	5	45.00	50.0%
10	6	58.33	60.0%
10	5	95.00	50.0%
10	1	500.00	10.0%
10	1	625.00	10.0%
10	2	325.00	20.0%
10	3	33.33	30.0%
10	4	56.25	40.0%
10	5	70.00	50.0%
10	6	79.17	60.0%
10	5	100.00	50.0%
	107		

Amount to remit to the City

800.70

Please note that this amount is due to the city on, or before, the 20th of the month following the month you are reporting. For example, if completing the report for May 2022, the tax is due into the City by June 20th, 2022.

## Notes:

(a) Gross Room Revenue is what you charged for the room and does not include State, County, or City sales tax owed on the revenue. Please see the attached Ordinance # 2017-03 for details concerning the lodging tax.

Please make checks payable to: City of Cripple Creek Treasures Account

Mail payments to: City of Cripple Creek Attn: City Clerk's Office P.O. Box 430 Cripple Creek, CO 80813