CHAPTER 40-57.3
CITY LODGING TAX

40-57.3-01. City lodging tax - Imposition - Amount - Disposition.

The governing body of any city may, by ordinance, impose a city tax, not to exceed two percent, upon the gross receipts of retailers on the leasing or renting of hotel, motel, or tourist court accommodations within the city for periods of less than thirty consecutive calendar days or one month. The tax imposed by this section shall be in addition to the state sales tax on rental accommodations provided in chapter 57-39.2 and any city which imposes the tax upon gross receipts described in this section shall deposit all proceeds in the city visitors' promotion fund. Moneys deposited in the city visitors' promotion fund shall be spent only as provided in this chapter. This chapter applies to all cities and does not limit the authority of a home rule city to levy any taxes authorized by other provisions of law.

40-57.3-01.1. City lodging and restaurant tax - Imposition - Amount - Disposition - Referral.

In addition to the tax under section 40-57.3-01, the governing body of any city may, by ordinance, impose a city tax, at a rate not to exceed one percent, upon the gross receipts of retailers on the leasing or renting of hotel, motel, or tourist court accommodations within the city for periods of less than thirty consecutive calendar days or one month and upon the gross receipts of a restaurant from any sales of prepared food or beverages, not including alcoholic beverages for consumption off the premises where purchased, which are subject to state sales taxes. For purposes of this section, "restaurant" means any place where food is prepared and intended for individual portion service for consumption on or off the premises and "prepared" includes heating prepackaged food. Accommodations, food, and beverages may all, each, or in any combination be subjected to the tax under this section, if all items in any category which are taxable under state law are taxable, except as otherwise provided in this section. The tax imposed under this section is in addition to state sales taxes on rental accommodations and restaurant sales and any city which imposes the tax under this section shall deposit all proceeds in the city visitors' promotion capital construction fund. Moneys deposited in the city visitors' promotion capital construction fund shall be spent only as provided in this chapter. An ordinance adopted under this section may not become effective sooner than sixty days after it is adopted by the governing body of the city. The provisions of chapter 40-12 with regard to referral of ordinances apply to an ordinance adopted under this section except that a petition to refer an ordinance adopted under this section must be presented to the governing body of the municipality before four p.m. on the sixty-fourth day after the ordinance described in the petition was adopted by the governing body of the municipality. Revenues from a tax imposed under this section may not be pledged under section 40-57.3-03 to payment of bonds or evidences of indebtedness until after the time has passed for filing a referral petition against an ordinance under this section or, if a referral petition is filed, until after the referral petition has been submitted to the vote of the electors of the municipality.

40-57.3-01.2. City motor vehicle rental tax - Imposition - Amount - Disposition - Definitions.

The governing body of any city may impose, by ordinance, a city tax at a rate not to exceed one percent upon the gross receipts of a retailer on the rental of any motor vehicle for fewer than thirty days if that motor vehicle is either delivered to a renter at an airport or delivered to a renter who was picked up by the retailer at an airport. The tax imposed under this section is in addition to state sales taxes on the rental of motor vehicles for fewer than thirty days. Any city that imposes the tax under this section shall deposit all proceeds in the city visitors' promotion fund. For purposes of this section, "motor vehicle" means a motorized passenger vehicle designed to be operated on highways and "retailer" means a company for which the primary business is the renting of motor vehicles for periods of fewer than thirty days.

40-57.3-02. City visitors' promotion fund - City visitors' promotion capital construction fund - Visitors' committee - Establishment - Purpose.

The governing body of any city which imposes a city tax pursuant to section 40-57.3-01, 40-57.3-01.1, or 40-57.3-01.2 shall, as appropriate, establish a city visitors' promotion fund, a city visitors' promotion capital construction fund, and a visitors' committee. The visitors' committee shall serve as an advisory committee to the city governing body in administering the proceeds from the taxes available to the city under this chapter. The moneys in the visitors' promotion fund must be used generally to promote, encourage, and attract visitors to come to the city and use the travel and tourism facilities within the city. The moneys in the visitors' promotion capital construction fund must be used generally for tourism or the purchase, equipping, improving, construction, maintenance, repair, and acquisition of buildings or property consistent with visitor attraction or promotion. The committee shall consist of five members appointed by the governing body of the city. These appointees shall serve without compensation, except for reimbursement for necessary expenses. Committee members shall serve for a term of four years, except that two of those initially appointed must be appointed for an initial term of two years. Vacancies must be filled in the same manner as the initial appointment. The committee shall elect a chairperson and vice chairperson from among its members to serve for a term of two years.

40-57.3-03. Budget - Contracts - Bonds - Capital construction.

The governing body of the city shall annually set the budget, if any, under which the committee shall operate. The governing body of the city may contract with any person, firm, association, corporation, or limited liability company to carry out the purposes of the city visitors' promotion fund or the city visitors' promotion capital construction fund created under section 40-57.3-02. The governing body of the city may irrevocably dedicate any portion of revenues from the tax authorized under section 40-57.3-01.1 and may authorize and issue bonds or other evidences of indebtedness in the manner prescribed by section 40-35-08 to be paid by those revenues for any purpose that moneys in the city visitors' promotion capital construction fund may be used. Such tax upon being pledged to payment of bonds or evidences of indebtedness issued pursuant to this section may not be reduced or repealed by the governing body or by the electors of the municipality by any initiated amendment to or referendum of the ordinance referred to in section 40-57.3-01.1, so long as any of such bonds or evidences of indebtedness remain outstanding. The proceeds from the tax imposed under section 40-57.3-01 may not be used for any type of capital construction or purchase of real property. The proceeds from the tax imposed under section 40-57.3-01.1 may be used only for payment of bonds issued, and the costs of issuance related thereto, under this section or for tourism or capital construction, maintenance, and repair or acquisition of property consistent with the purposes of this chapter.

40-57.3-04. Payment of tax - Collection by tax commissioner - Administrative expenses allowed - Rules.

The taxes imposed under this chapter are due and payable at the same time the taxpayer is required to file a return under chapter 57-39.2 and must be collected and administered by the tax commissioner in accordance with the relevant provisions of chapter 57-39.2. The taxpayer shall add the taxes imposed under this chapter to the sales, lease, or rental price and shall collect the tax from the consumer. A retailer may not advertise or hold out or state to the public, or to any consumer, directly or indirectly, that the taxes or any part of the taxes imposed under this chapter shall be assumed, absorbed, or refunded by the taxpayer. The amount the tax commissioner remits monthly to each city as taxes collected for that city's visitors' promotion fund and visitors' promotion capital construction fund must be reduced by three percent as an administrative fee necessary to defray the cost of collecting the taxes and the expenses incident to collection. The administrative fee must be deposited in the general fund in the state treasury. The tax commissioner shall adopt rules necessary for the administration of this chapter. The penalties and liabilities provided in sections 57-39.2-18 and 57-39.2-18.1 specifically apply to the filing of returns and administration of the taxes imposed under this chapter. The taxes imposed under this chapter are not taxes subject to chapter 57-39.4. The tax commissioner may offset future distributions of a tax imposed and collected under this chapter if there was a

previous overpayment of the tax distributed to the city. The tax commissioner, after consulting the appropriate local political subdivision, may determine the offset amount and time period for recovery of the overpayment of the tax distribution.