

1st READING 5-8-23 pg 150
FINAL READING 5-22-23 pg 153
MINUTE BOOK # 31

ORDINANCE 2023-17

**AN ORDINANCE AMENDING TITLE 5 OF THE CLEVELAND MUNICIPAL CODE
BY ADDING CHAPTER 7, HOTEL/MOTEL TAX.**

WHEREAS, Title 5 of the Cleveland Municipal Code establishes procedures, requirements and restrictions pertaining to municipal finance and taxation; and

WHEREAS, the Tennessee Code Annotated has been amended to authorize cities to implement a hotel occupancy privilege tax; and

WHEREAS, the amendments adopted herein address the responsibilities of the City of Cleveland in regard to the aforementioned amendments to state law concerning the local hotel/motel tax; and

WHEREAS, the City Council has determined that the amendments adopted herein are necessary and appropriate.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF CLEVELAND, TENNESSEE, AS FOLLOWS:

SECTION 1. Title 5 of the Cleveland Municipal Code, Municipal Finance and Taxation, is hereby amended by adding a new Chapter 7 to read as follows:

CHAPTER 7

HOTEL/MOTEL TAX

SECTION

- 5-701. Definitions.
- 5-702 City business license required.
- 5-703 Levy of tax authorized.
- 5-704 Disposition of tax.
- 5-705 Collection of refund.
- 5-706 Remittance of tax.
- 5-707 Monthly tax return.
- 5-708 No advertising of rebates.
- 5-709 Delinquent taxes – interest and penalty.
- 5-710 Records – inspection.
- 5-711 Administration and enforcement.
- 5-712 Deposit of funds.

5-701. Definitions. Whenever used in this chapter, terms shall have the meanings as defined by the applicable sections of Tennessee Code Annotated unless the context necessarily requires otherwise.

5-702. City business license required. No person shall conduct, keep, manage, operate or cause to be conducted, kept, managed or operated, either as owner, lessor, agent or attorney, any hotel in the city without having first obtained a valid and current city business license to do so.

5-703. Levy of tax authorized. The City Council of the City of Cleveland does hereby levy a privilege tax upon the privilege of occupancy in any hotel of each transient in the amount of four percent (4%) of the consideration charged by the operator. Such tax is a privilege tax upon the transient occupying such room and is to be collected as provided in this chapter.

5-704. Disposition of tax. The proceeds received by the City of Cleveland shall be designated and used to promote tourism and tourism development.

5-705. Collection and refund.

(1) Such tax shall be added by the operator to each invoice prepared by the operator for the occupancy of the hotel and given directly or transmitted to the transient. Such tax shall be collected by such operator from the transient and remitted to the city, or if the occupancy was secured through a short-term rental unit marketplace, remitted to the State of Tennessee pursuant to Tennessee Code Annotated, title 67, chapter 4, part 15.

(2) When a person has maintained occupancy for 30 continuous days, the person shall receive from the operator a refund or credit for the tax previously collected from or charged to said person, and the operator shall receive credit, in the form of a deduction on the monthly tax return, for the amount of the tax if previously remitted to the city.

5-706. Remittance of tax.

(1) The tax hereby levied shall be remitted by all operators who lease, rent or charge for any rooms, lodgings, or accommodations in hotels within the city to the City Clerk, such tax to be remitted not later than the 20th day of each month for the preceding month. The operator is hereby required to collect the tax from the transient at the time of the presentation of the invoice for such occupancy whether prior to occupancy or after occupancy as may be custom of the operator, and if credit is granted by the operator to the transient, then the obligation to the City for the tax shall be that of the operator.

(2) Any operator who is liable for the tax imposed under this chapter may round off all figures used on the tax return to the nearest dollar amount.

(3) For the purpose of compensating the operator for remitting the tax levied by this chapter, the operator shall be allowed to deduct two percent (2%) of the amount of the tax due and remitted to the City Clerk in the form of a deduction in submitting the report and paying the amount due by such operator, provided the amount due was not delinquent at the time of payment.

5-707. Monthly tax return - annual audit. The City Clerk shall be responsible for the collection of such tax. A monthly tax return under oath shall be filed with the City Clerk by the operator with such number of copies thereof as the City Clerk may reasonably require for the collection of such tax. The return of the operator shall include such facts and information as may be deemed reasonable for the verification of the tax due. The form of such return shall be developed by the City Clerk with the approval of the City Manager. The City Clerk shall have the authority and right to audit and inspect records of each operator in the city.

5-708. No advertising of rebates. No operator of a hotel shall advertise or state in any manner whether directly or indirectly that the tax or any part thereof will be assumed or absorbed by the operator or that it will not be added to the rent, or that if added, any part will be refunded.

5-709. Delinquent taxes - interest and penalty. Taxes collected by an operator which are not remitted to the City on or before the due dates are delinquent. An operator shall be liable for interest on such delinquent taxes from the due date at the rate of twelve percent (12%) per annum and is liable for an additional penalty of one percent (1%) for each month or fraction thereof such taxes are delinquent. Such interest and penalty shall become a part of the tax herein required to be remitted. Each occurrence of willful refusal of an operator to collect or remit the tax or willful refusal of a transient to pay the tax imposed is unlawful and shall be punishable by a civil penalty of fifty dollars (\$50) per day per offense.

5-710. Records - inspection. It is the duty of every operator liable for the collection and payment to the city of any tax imposed by this chapter to keep and preserve for a period of three years all records as may be necessary to determine the amount of such tax as he may have been liable for the collection of the payment to the city, which records the City Clerk shall have the right to inspect at all reasonable times.

5-711. Administration and enforcement. The City Clerk, under the guidance of the City Manager, in administering and enforcing the provisions of this chapter shall have as additional powers, those powers and duties with respect to collecting taxes as provided in Tennessee Code Annotated title 67 or otherwise by law for the county clerks.

(1) Upon any claim of illegal assessment and collection, the taxpayer has the remedies provided in Tennessee Code Annotated, title 67, chapter 23, it being the intent of this chapter that the provision of law which apply to the recovery of state taxes illegally assessed and collected shall also apply to the tax levied under the authority of this chapter. The City Clerk shall also possess those powers and duties as provided in Tennessee Code Annotated, section 67-1-707, for the county clerks with respect to the adjustment and refunds of such tax.

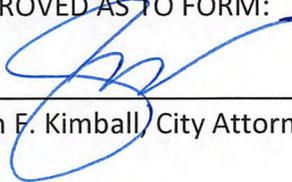
(2) With respect to the adjustment and settlement with taxpayers all errors of taxes collected by him under authority of this chapter shall be refunded by the city. The City Clerk shall have the authority to direct the refunding of same. Notice of any tax paid under protest shall be given to the City Clerk and any suit brought for recovery of tax paid under protest shall name the City Clerk.

5-712. Deposit of funds. The City Clerk is hereby charged with the duty of collection of the tax herein authorized and shall place the proceeds of such tax in accounts within the various funds as required.

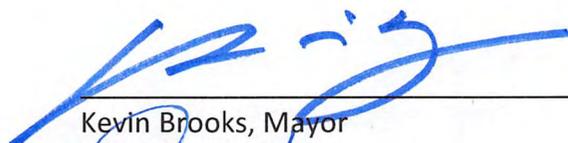
SECTION 2. Any Ordinance, Resolution, Motion or parts thereof in conflict herewith are hereby repealed and superseded. If any sentence, clause, phrase, or paragraph of this Ordinance is declared to be unconstitutional by any Court of competent jurisdiction, such holding will not affect any other portion of this Ordinance.

SECTION 3. BE IT FURTHER ORDAINED that this Ordinance shall take effect upon final reading, the public welfare requiring it, however the tax imposed herein will not take effect until August 1, 2023.

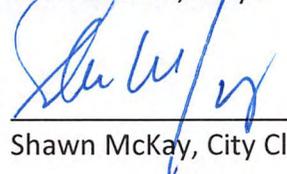
APPROVED AS TO FORM:



John F. Kimball, City Attorney



Kevin Brooks, Mayor



Shawn McKay, City Clerk



IMPORTANT

Taxpayer must file return even though no tax is due to the CITY OF CLEVELAND.

IMPORTANT

This return must be filed by the 20th of the month for the preceding month.

HOTEL/MOTEL TAX REPORT

Name of Hotel, Motel, etc. _____

Address _____ Phone No. _____

Name of Owner _____ Sales Tax # _____

Report for Calendar Month ending (Date) _____ Total Rooms for Rent _____

1. Gross Charge for Occupancy of Rooms \$ _____

2. Deductions for Permanent Residents of 30 continuous days or more \$ _____

3. Taxable Rents: Line 1 minus Line 2 \$ _____

4. Tax Due (4% of Line 3) \$ _____

5. COMPUTATION OF INTEREST & PENALTY FOR LATE REPORT

(a) Interest 12% Per Annum \$ _____
(Daily rate is .000328 of Line 4)

(b) Penalty 1% Per Month or Fraction Thereof \$ _____

(c) Total Interest & Penalty \$ _____

6. LESS 2% COMPENSATION FOR OWNER(S)/OPERATOR(S) FOR THE REMITTANCE OF TAX DUE ON LINE 4 IF NOT DELINQUENT \$ _____

7. Total Tax Due With This Report \$ _____

MAKE CHECK PAYABLE TO:

CITY OF CLEVELAND

MAILING ADDRESS:

P.O. Box 1519, CLEVELAND, TN 37364

(423) 472-4551

I declare under penalty of perjury that this return (including any accompanying statements) has been examined by me to the best of my knowledge and belief, and is a true, correct and complete return.

Signed _____ Title _____
(Owner, President, Partner or Authorized Representative)

Date _____

THIS LINE FOR OFFICIAL USE ONLY.

CHECK NUMBER _____ DATE RECEIVED _____

RECEIPT NUMBER _____