

ORDINANCE 2007 - 60

AN ORDINANCE AMENDING TITLE 6, CHAPTER 3 TO REQUIRE PERMITS FOR HOTELS OR MOTELS AND TO LEVY A PRIVILEGE TAX UPON THE OCCUPANCY IN ANY HOTEL OR MOTEL OR ANY PLACE IN WHICH ROOMS, LODGINGS OR ACCOMMODATIONS ARE FURNISHED TO TRANSIENTS FOR A CONSIDERATION.

WHEREAS, Tennessee Code Annotated § 67-4-1401 *et seq.* authorizes the levy by ordinance of a hotel/motel tax by any city with home rule in accordance with the Tennessee Constitution, Article XI, Section 9; now therefore

BE IT ORDAINED by the Board of Commissioners of the City of Mt. Juliet, Wilson County, Tennessee as follows:

Section 1: Title 6, Chapter 3 of the Mt. Juliet Code is hereby amended by adding Section 201, to be titled "Hotel/Motel Tax Levied" and containing the following language:

6-3-201 Hotel/Motel Tax Levied.

(a) **Definitions.** As used in this section, the following definitions apply:

- (1) "Consideration" means the consideration charged, whether or not received, for the occupancy in a hotel valued in money, goods, labor or otherwise, including all receipts, cash, credits, property and services of any kind or nature without any deduction there from whatsoever;
- (2) "Hotel" means any structure or space, or any portion thereof, which is occupied or intended or designed for occupancy by transients for dwelling, lodging or sleeping purposes, and includes any hotel, inn, tourist camp, tourist cabin, motel or any place in which rooms, lodgings or accommodations are furnished to transients for a consideration;
- (3) "Occupancy" means the use or possession, or the right to use or possession, of any room, lodgings or accommodations in any hotel;
- (4) "Operator" means the person operating the hotel whether as owner, lessee or otherwise.
- (5) "Persons" means any individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, estate, trust, business trust, receiver, trustee, syndicate or any other group or combination acting as a unit; and

ORDINANCE 2007 - 60

(6) "Transient" means any person who exercises occupancy or is entitled to occupancy of any rooms, lodgings or accommodations in a hotel for a period of less than thirty (30) continuous days;

(b) **Permit Required.** No person will 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 obtained a permit from the city recorder or his/her designee to do so;

(c) **Fee.** The fee for each hotel permit will be twenty-five dollars (\$25.00);

(d) **Permit Not Transferable.** No permit issued under this ordinance shall be transferred or assigned;

(e) **Permit Duration.** Hotel permits shall be issued annually and shall expire on the last day of December of each year;

(f) **Register Required; Availability for Inspection.** Every person to whom a hotel permit is issued under this ordinance shall at all times keep a standard hotel register, in which shall be inscribed the names of all guests renting or occupying rooms or accommodations in his hotel. Such register shall include the name of persons renting a room or accommodations, the number of the room or accommodation which the guest is to occupy, the time during which such room or accommodation is rented. The register shall be open to inspection at all times to the city recorder or his/her designee;

(g) **Privilege tax levied; use.**

(1) Pursuant to the provisions of Tennessee Code Annotated § 67-4-1401 *et seq.* (hereafter referred to as the "Hotel Tax Act") there is hereby levied a privilege of occupancy in any hotel of each transient. From and after the operative date of this ordinance the rate of the levy shall be 5% of the consideration charged by the operator. This privilege tax shall be collected by the hotel operator pursuant to the Hotel Tax Act. The hotel must disclose the amount of the tax to each invoice provided to guests;

(2) The proceeds received from this tax shall be available for the city's Parks and Recreation fund. Proceeds of this tax may not be used to provide a subsidy in any form to any hotel or motel;

(3) The Finance Director shall be designated as the authorized collector to administer and enforce this ordinance and the Hotel Tax Act.

ORDINANCE 2007 - 60

(h) Remitting the Tax. Remittance of the tax collected by the hotel operator to the city shall occur on or before than the 20th day of each month for the preceding month. When remitting the tax levied, the operator must submit a monthly report, under oath, on a form approved by the Board of Commissioners, and may report and deduct two percent (2%) of the amount due as compensation to the hotel operator for the accounting expense for remitting the tax;

(i) Interest and penalty for late payment. The hotel operator shall be liable to pay interest on delinquent hotel taxes, to be paid from the due date for remittance at the rate of twelve percent (12%) per annum and is liable for a penalty of one percent (1%) for each month or fraction of a month that the hotel tax is delinquent;

(j) Audit and Reporting of taxes. The City Manager shall cause to be conducted an annual audit of each hotel operator and shall report on the audits made on a quarterly basis to the Board of Commissioners;

(k) Records Requirement. The hotel operator must keep records of occupancy and taxes collected and remitted pursuant to this section for three years. The City may inspect these records at any time;

(l) Challenge and Dispute of Tax. The City Manager is hereby designated as the "municipal officer against whom suit may be brought" when a dispute arises as to the amount of hotel/motel tax to be remitted by an operator;

(m) Violation. In addition to interest and penalties described in paragraph (i) above, knowingly refusing to collect or remit the tax is a Class A misdemeanor, punishable by a fine for each day that the operator knowingly refused to collect or remit the tax. The fine for each offense shall be fifty dollars per day.

Section 2: In the case of conflict between this Ordinance, or any part thereof, and the whole or part of any existing Ordinance of the City, the conflicting Ordinance is repealed to the extent of the conflict, but no further.

Section 3: If any section, clause, provision or portion of this Ordinance is held to be invalid or unconstitutional by any Court of competent jurisdiction, such holdings shall not affect any other section, clause, provision or portion of this Ordinance.

Section 4: This Ordinance shall take effect on January 1, 2008, the public welfare requiring it.

ORDINANCE 2007 - 60

PASSED:

FIRST READING: 11/26/07

SECOND READING: 12/10/07

ATTEST:

Sheila S. Lockett
Sheila S. Lockett, CMC
City Recorder

APPROVED AS TO FORM:

Paula A. Flowers
Paula A. Flowers
City Attorney

Linda C. Elam
Linda C. Elam, Mayor

Ed Hagerly
Ed Hagerly, Vice-Mayor

Ray Justice
Ray Justice, Commissioner

Will Sellers
Will Sellers, Commissioner

James Bradshaw
James Bradshaw, Commissioner

Randy Robertson
Randy Robertson, City Manager