

CHAPTER 870
Transient Occupancy Tax

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870.01 DEFINITIONS.

As used in this chapter:

- (a) "Hotel" means every establishment kept, used, maintained, advertised or held out to the public to be a place where sleeping accommodations are offered to guests, in which five or more rooms are used for the accommodation of such guests, whether such rooms are in one or several structures.
- (b) "Transient accommodation" means every establishment kept, used, maintained, advertised or held out to the public to be a place where sleeping accommodations are offered to guests in which four or less rooms are used for the accommodation of such guests, whether such rooms are in one or several structures.
- (c) "Transient guests" means persons occupying a room or rooms for sleeping accommodations for less than thirty consecutive days.
- (d) "Vendor" means the person who is the owner or operator of the hotel or transient accommodation and who furnishes the lodging.
(Ord. 39-2006. Passed 9-18-06.)

870.02 IMPOSITION OF TAX.

(a) There is hereby levied an excise tax on transactions by which lodging by hotel or transient accommodation is or is to be furnished to transient guests. The tax is three percent (3%) of the amount paid or to be paid by the transient guest for the lodging. The tax applies and is collectible at the time the lodging is furnished regardless of the time when the price is paid. The tax does not apply to lodging furnished to the State, or any of its political subdivisions, or any charitable organizations for the lodging of transient indigent individuals, when such charitable organization pays the hotel or transient accommodation for such lodging.

(b) For the purpose of the proper administration of this chapter and to prevent evasion of the tax it is presumed that all lodging furnished by hotels or transient accommodations is subject to the tax until the contrary is established.
(Ord. 39-2006. Passed 9-18-06.)

870.03 TRANSIENT GUEST TO PAY TAX.

(a) The tax imposed by this chapter shall be paid by the transient guest to the vendor, and each vendor shall collect from the transient guest the full and exact amount of the tax payable on each taxable lodging.

(b) If the transaction is claimed to be exempt, the transient guest must furnish to the vendor, and the vendor must obtain from the transient guest, a certificate specifying the reason that the sale is not legally subject to the tax. If no certificate is obtained, it shall be presumed the tax applies. (Ord. 39-2006. Passed 9-18-06.)

870.04 REQUIRED RECORDS; INSPECTION AND DESTRUCTION.

Each vendor shall keep complete and accurate records of lodging furnished, together with a record of the tax collected thereon, which shall be the amount due under this chapter, and shall keep all invoices and such other pertinent documents. If the vendor furnishes lodging not subject to the tax the vendor's records shall show the identity of the transient guest, if the sale was exempted by reason of such identity, or the nature of the transaction if exempted for any other reason. Such records and other documents shall be open during business hours to the inspection by an authorized representative of the Village and shall be preserved for a period of four years unless the authorized representative, in writing, consents to their destruction within that period, or by order requires that they be kept longer.
(Ord. 39-2006. Passed 9-18-06.)

870.05 RETURNS REQUIRED.

(a) Each vendor shall on or before the twentieth day of each month make and file a return for the preceding month, on forms prescribed by the Income Tax Commissioner, showing the receipts from furnishing lodging, the amount of tax due from the vendor to the Village for the period covered by the return and such other information as the Income Tax Commissioner deems necessary for the proper administration of this chapter. The Income Tax Commissioner may extend the time for making and filing returns. Returns shall be filed by mailing the same to the Income Tax Commissioner, together with payment of the amount of tax shown to be due thereon.

(b) The Income Tax Commissioner may authorize vendors whose tax liability is not such as to merit monthly returns, as determined by the Income Tax Commissioner upon the basis of administrative costs to the Village, to make and file returns at less frequent intervals. Such authorization shall be in writing and shall indicate the intervals at which returns are to be filed.

(c) The Income Tax Commissioner shall stamp or otherwise make on all returns the date received by him and shall also show thereon by stamp or otherwise the amount of payment received with the return. Any vendor who fails to file a return under this chapter shall, for each day he so fails, forfeit and pay into the Village Treasury the sum of one dollar (\$1.00).

(d) The Income Tax Commissioner, if he deems it necessary in order to insure the payment of the tax imposed by this chapter, may require returns and payments to be made for other than monthly periods. The returns shall be signed by the vendor or his authorized agent. (Ord. 39-2006. Passed 9-18-06.)

870.06 VENDOR TO COLLECT TAX; PROHIBITION AGAINST REBATES.

No vendor shall fail to collect the full and exact tax as required by this chapter. No vendor shall refund, remit or rebate to a transient guest, either directly or indirectly, any of the tax levied pursuant to this chapter, or make in any form of advertising, verbal or otherwise, any statements which might imply that he is absorbing the tax, or paying the tax for the transient guest by an adjustment of prices, or furnishing lodging at a price including the tax, or rebating the tax in any other manner. (Ord. 39-2006. Passed 9-18-06.)

870.07 REPORTS MUST BE FILED; FRAUDULENT REPORTS.

(a) No person, including any officer of a corporation or employee of a corporation having control or supervision of or charged with the responsibility of filing returns, shall fail to file any return or report required to be filed by this chapter, or file or cause to be filed any incomplete, false, or fraudulent return, report or statement, or aid or abet another in the filing of any false or fraudulent return, report or statement.

(b) If any vendor required to file monthly returns under this chapter fails, on two consecutive months or on three or more months within a twelve-month period, to file such returns when due or to pay the tax thereon, or if any vendor authorized by the Income Tax Commissioner to file returns at less frequent intervals, fails on two or more occasions within a twenty-four month period, to file such returns when due or to pay the tax due thereon, the Income Tax Commissioner may:

- (1) Require such vendor to furnish security in an amount equal to the average tax liability of the vendor for a period of one year, as determined by the Income Tax Commissioner from a review of returns or other information pertaining to such vendor, which amount shall in no event be less than one hundred dollars (\$100.00). The security may be in the form of an advance tax payment to be applied to pay the tax due on subsequent returns, or a corporate surety bond, satisfactory to the Income Tax Commissioner, conditioned upon payment of the tax due with the returns from the vendor. The security must be filed within ten days following the vendor's receipt of the notice from the Income Tax Commissioner of its requirements.
- (2) A corporate surety bond filed under this section shall be returned to the vendor, if, for a period of twelve consecutive months following the date the bond was filed, the vendor has filed all returns and remitted payment therewith within the time prescribed in this chapter. (Ord. 39-2006. Passed 9-18-06.)

870.08 PERSONAL LIABILITY OF CORPORATE OFFICERS OR EMPLOYEES.

If any vendor corporation required to file returns and to remit tax due to the Village under the provisions of this chapter, fails for any reason to make such filing or payment, any of its officers or employees having control or supervision of or charged with the responsibility of filing returns and making payments, shall be personally liable for such failure. The dissolution of a corporation shall not discharge an officer's or employee's liability for a prior failure of the corporation to file returns or remit tax due. The sum due for such liability may be collected by assessment in the manner provided in this chapter. (Ord. 39-2006. Passed 9-18-06.)

870.09 INTENT OF CHAPTER.

It is the intent of this chapter to levy the excise tax of three percent (3%) on transactions by which lodging by a hotel is or is to be furnished to transient guests as referred to and authorized by Ohio R.C. 5739.09, and further, to levy an excise tax of three percent (3%) on transactions by which lodging by transient accommodations is or is to be furnished to transient guests. Accordingly, this chapter shall be construed to effectuate those purposes and so as to be consistent with any requirement of law compliance with which is a prerequisite to the validity of the tax intended to be levied hereby.

(Ord. 39-2006. Passed 9-18-06.)

870.99 PENALTY.

Whoever violates any section of this chapter shall be fined not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100.00) for a first offense. For each subsequent offense such person shall, if a corporation, be fined not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00), or if an individual, or a member of a partnership, firm or association, be fined not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100.00), or imprisoned not more than sixty days, or both.

(Ord. 39-2006. Passed 9-18-06.)