

ORDINANCE NUMBER O19-07-10

AN ORDINANCE OF THE COUNCIL OF THE CITY OF COOKEVILLE, TENNESSEE, AMENDING THE COOKEVILLE MUNICIPAL CODE TITLE 5 BY ADDING THERETO A CHAPTER 7 ADOPTING AND LEVYING A TAX ON THE PRIVILEGE OF OCCUPANCY OF A HOTEL AND ADOPTING THE MANNER OF COLLECTING AND ADMINISTERING THE TAX

ORDINANCE NO. O19-07-10
REQUESTED BY: CITY MANAGER
PREPARED BY: CITY MANAGER
APPROVED AS TO FORM AND

CORRECTNESS:



(City Attorney)

PASSED FIRST READING: 7-18-19
PASSED 2ND READING: 8-1-19
MINUTE BOOK _____ PAGE _____

THE COUNCIL OF THE CITY OF COOKEVILLE, TENNESSEE HEREBY ORDAINS:

Section I. That the Cookeville Municipal Code, Title 5 is hereby amended, adding Chapter 7, which shall be adopted and reads as follows:

5-701. Short Title.

This chapter shall be known and cited as the Cookeville Hotel/Motel Tax Ordinance.

5-702. Definitions.

As used in this chapter, unless the context otherwise requires:

(1) Consideration means the consideration charged, whether or not received, for the occupancy in a hotel valued in money whether to be received in money, goods, labor or otherwise, including all receipts, cash, credits, property and services of any kind or nature without any deduction therefrom whatsoever; provided, however, nothing in this definition shall be construed to imply that consideration is charged when the space provided to the person is complimentary from the operator and no consideration is charged to or received from any person

(2) Hotel means any structure, or any portion of any structure, which is occupied or intended or designed for occupancy by transients for dwelling, lodging or sleeping purposes, and includes any hotel, motel, inn, cabin, or any short term rental property as defined in the Cookeville Zoning Code Section 202, 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, or any room, lodgings, or accommodations in any hotel.

(4) Operator means the person operating the hotel whether as owner, lessee, or otherwise.

(5) Person means any individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, estate, trust, receiver, trustee syndicate, or any other group or combination acting as a unit.

(6) Remittance means received by the city clerk.

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

5-703. 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.

5-704. Levy of Tax Authorized.

The Council of the City of Cookeville does hereby levy a privilege tax upon the privilege of occupancy in any hotel of each transient in the amount of three percent (3%) 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.

5-705. Disposition of Tax.

The proceeds received by the City of Cookeville shall be designated and used solely to promote tourism and economic development. In the initial year, the proceeds shall be allocated to the general fund and thereafter, the proceeds may be distributed as the Council of the City of Cookeville by ordinance may direct.

5-706. Collection and Refund.

Such tax shall be added by each and every 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.

5-707. 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.

(2) 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.

5-708. 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 report 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 report shall be developed by the city clerk and approved by the Council of the City of Cookeville prior to use. The city clerk shall have the authority and right to audit and inspect records of each operator in the city.

5-709. 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.

5-710. Delinquent Taxes – Interest and Penalty.

Taxes collected by an operator which are not remitted to the city clerk 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.

5-711. 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.

5-712. Administration and Enforcement.

The city clerk 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 the city clerk and any suit brought for recovery of tax paid under protest shall name the city clerk.

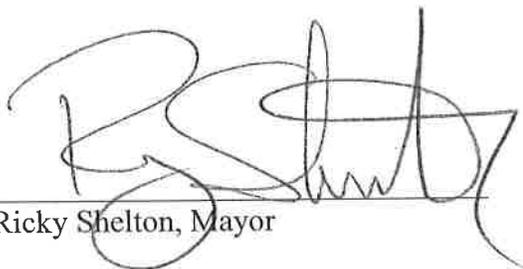
5-713. Deposit of Funds.

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 under section 5-705.

5-714. Severability Clause.

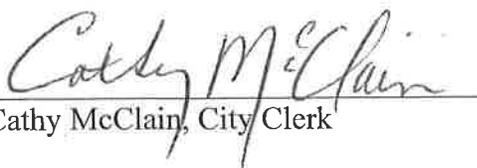
The provisions of this chapter are hereby declared to be severable. If any of its sections, provisions, exceptions, or parts be held unconstitutional or void, the remainder of the chapter shall continue to be in full force and effect, it being the legislative intent now hereby declared, that this chapter would have been adopted even if such unconstitutional or void matter had not be included herein.

Section II. That this ordinance shall take effect September 1, 2019, the public welfare requiring it.



Ricky Shelton, Mayor

ATTEST:



Cathy McClain, City Clerk