

ORDINANCE NO. 2017-18

AN ORDINANCE ENACTING NEW CODIFIED ORDINANCE CHAPTER 197, ENTITLED EXCISE TAX ON HOTEL LODGING, IN ORDER TO IMPOSE A PERMISSIVE SALES TAX ON LODGING AS ALLOWED BY THE REVISED CODE OF OHIO IN ORDER TO HELP FUND CITY SERVICES AND OPERATIONS

WHEREAS, the Revised Code of Ohio permits municipalities to impose an excise (sales) tax of 3% on the charges imposed by businesses in the municipality for lodging; and,

WHEREAS, due to loss of Local Government Funds from the State, the devaluation of real estate resulting in lower property tax receipts, and a decline in the population of the City resulting in lower income tax receipts, the City is in need of additional funds to maintain services and operations;

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Ashtabula, Ohio:

SECTION 1. That Codified Ordinance Chapter 197, a complete and accurate copy of which is attached hereto, shall be, and the same is hereby, enacted.

SECTION 2. It is hereby found and determined that all formal actions of this Council concerning and related to the passage of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its Committees that resulted in such formal action were in meetings open to the public in compliance with the requirements of Section 10 of the Municipal Charter of the City of Ashtabula, Ohio, and of R. C. Section 121.22.

SECTION 3. For the reasons stated in the preamble, this ordinance, if approved by the votes of five (5) or more members of Council, shall take effect immediately, otherwise 30 days thereafter.

PASSED: March 20, 2017

Josephine Misener  
Josephine Misener  
President of Council

<u>Vote:</u>	Yea	Nay
Misener:	<input checked="" type="checkbox"/>	<input type="checkbox"/>
McClure:	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Roskovics:	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Pugliese:	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Hosken:	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Speelman:	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Hamrick:	<input type="checkbox"/>	<input checked="" type="checkbox"/>

ATTEST LaVette E. Hennigan  
LaVette E. Hennigan  
Clerk of Council

APPROVED: James M. Timonere  
James M. Timonere  
City Manager

Approved as to form and correctness this 20<sup>th</sup> day of March, 2017.

Michael Franklin, Esq.  
Michael Franklin, Esq.  
Ashtabula City Solicitor

## EXHIBIT A

### CHAPTER 197

#### EXCISE TAX ON HOTEL LODGING

**197.01 Definitions**

**197.02 Excise Tax on Hotel Lodging**

**197.03 Collection and Remittance**

**197.04 Exemptions**

**197.05 Tax to be Separately Stated and Charged**

**197.06 Registration**

**197.07 Records; Inspection; Destruction**

**197.08 Failure to Collect and Report Tax**

**197.09 Monies Received**

**197.99 Penalty**

#### **197.01 DEFINITIONS.**

As used in this chapter, the following terms shall have the following meanings:

- (a) "Finance Director" means the Finance Director for the City of Ashtabula, Ohio.
- (b) "Hotel" means every establishment kept, used, maintained, advertised or held out to the public to be a place where sleeping accommodations are offered for a consideration to transient guests, whether in one or several structures.
- (c) "Operator" means the person who is the proprietor of the hotel, motel or bed and breakfast, whether in the capacity of owner, lessee, licensee, mortgagee in possession, or any other capacity.
- (d) "Rent" means the consideration received for occupancy valued in money, whether received in money or otherwise, including all receipts, cash, credits and property or services of any kind or nature, and also any amount for which the occupant is liable for the occupancy without any deduction.
- (e) "Transient guests" means a person(s) occupying a room or rooms for sleeping accommodations for less than thirty consecutive days.

#### **197.02 EXCISE TAX ON HOTEL LODGING.**

- (a) There is hereby levied and imposed an excise tax of three percent (3.0%) on rent received by a hotel for lodging furnished to transient guests within the City. The three percent excise tax levied herein is in addition to any tax imposed by the State or any of its subdivisions.
- (b) The transient guest shall pay the tax to the operator of the hotel at the time the rent is paid. If the rent is paid in installments, a proportionate share of the tax shall be paid with each installment. The unpaid tax shall be due upon the transient guests ceasing to occupy space in the hotel.

#### **197.03 COLLECTION AND REMITTANCE.**

- (a) Every operator of a hotel shall collect said excise tax immediately at the time the rent is paid by the transient guest.
- (b) Every operator of a hotel shall remit the excise tax collected pursuant to this chapter to the Finance Director on a quarterly basis in a manner and with such forms as prescribed by the Finance Director and approved by the City Manager. All remissions and reports shall be due on or before April 30th, July 31st, October 30th and January 31st for the quarters ending March 31, June 30, September 30 and December 31<sup>st</sup>, respectively.
- (c) The Finance Director may authorize operators whose tax liability is not such to merit quarterly returns, as determined by the Finance Director upon the basis of administrative costs of the City, to make and file at less frequent intervals. Such authorization shall be in writing and shall indicate the intervals at which returns are to be filed, which shall be not less frequent than yearly.
- (d) All returns and payments submitted by each operator shall be treated as confidential by the Finance Director and shall not be released except upon order of a court of competent jurisdiction or to an officer or agent of the United States, the State of Ohio, Ashtabula County or the City of Ashtabula, for official use only.

#### **197.04 EXEMPTIONS.**

(a) No tax shall be imposed under this chapter upon rents paid by the State or any of its political subdivisions. No exemption claimed under this subsection shall be granted except upon claim therefore made at the time rent is collected and under penalty of perjury upon a form prescribed by the Finance Director. All claims of exemption shall be made in the manner prescribed by the Finance Director.

(b) No transient guest shall present to the operator false evidence indicating that the lodging as furnished is not subject to the tax. If the transaction is claimed to be exempt, the transient guest must furnish to the operator, and the operator 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.

(c) All claims for exemptions from tax filed by transient guests with the operator during any reporting period shall be filed with returns required under Section 197.03.

#### **197.05 TAX TO BE SEPARATELY STATED AND CHARGED.**

The tax to be collected shall be stated and charged separately from the rent and shown separately on any record thereof, at the time when the occupancy is arranged or contracted and charged for, and upon every evidence of occupancy or any bill or statement or charge made for said occupancy issued or delivered by the operator, and the tax shall be paid by the occupant to the operator as trustee for and on account of the City, and the operator shall be liable for the connection thereof and for the tax.

#### **197.06 REGISTRATION.**

On or before March 31, 2017, or within thirty days after commencing business, whichever is later, each operator of any hotel renting lodging to transient guests shall register said hotel with the Director of Finance and obtain from him/her a transient occupancy registration certificate to be posted in a conspicuous place on the premises. Said certificate shall state the following:

1. The name of the operator;
2. The address of the hotel;
3. The date upon which the certificate was issued; and
4. "This Transient Occupancy Registration Certificate signifies that the person named on the face hereof has fulfilled the requirements of the City of Ashtabula Bed Tax ordinance by registering with the City of Ashtabula for the purpose of collecting from transient guests the Bed Tax and remitting said tax to the City of Ashtabula. This certificate does not constitute a permit."

#### **197.07 RECORDS; INSPECTION; DESTRUCTION.**

Each operator shall keep accurate records of lodging furnished and the tax collected thereon and/or any exemptions granted. Such records shall be made available during business hours for inspection by the Finance Director or his agents, and shall be preserved for a period of five (5) years unless the Finance Director consents in writing to their destruction.

#### **197.08 FAILURE TO COLLECT AND REPORT TAX.**

(a) In addition to the penalties provided in Section 197.99, any operator who fails to remit any tax imposed by this chapter within the time required shall pay a penalty equal to ten percent (10%) of the amount of the tax, in addition to the tax. For each additional thirty-day period or portion thereof during which either the tax or penalty remains unpaid, the operator shall be assessed interest on the unpaid balance at the greater of (i) one and one-half percent (1.5%), or (ii) one-twelfth (1/12<sup>th</sup>) of the then-prevailing Federal Reserve inter-bank rate.

(b) If any operator shall fail to collect said tax, or to make any report and remittance of said tax or any portion thereof, the Finance Director shall proceed to obtain information on which to base an estimate of the tax due. As soon as the Finance Director procures such information, the Finance Director shall determine and assess against such operator the tax and penalties provided for in this chapter. The Finance Director shall give written notice of the amount to the operator at his or her last known place of business. Such operator may make an application for a hearing on the amount assessed within fourteen business days after the notice was sent.

(c) If application by the operator for a hearing is not made within the time prescribed, the tax and penalties determined by the Finance Director shall become final and conclusive and immediately due. If such application is made, the Finance Director shall respond within fifteen (15) days with a hearing date before the Finance Director, which hearing shall be scheduled not be more than forty-five (45) days after the application for hearing is received by the Finance Director. At the hearing the operator shall offer evidence as to why said assessed amount is incorrect or should not be charged or collected. After such hearing the Finance Director shall determine the proper tax to be remitted, and shall give written notice to the operator within thirty (30) days of the conclusion of the hearing of the amount of such tax and penalties, if any. The amount determined shall be due within fifteen (15) days of the written notice.

**197.09 MONIES RECEIVED.**

The monies received under the provisions of this Chapter shall be deposited in the General Fund of the City of Ashtabula.

**197.99 PENALTY.**

(a) Any person knowingly violating any of the provisions of Sections 197.02(b), 197.03(a) or (b), 197.04(b), 197.05, 197.06 or 197.07 of this chapter shall be guilty of a misdemeanor of the fourth degree for a first offense, and a misdemeanor of the third degree for a second offense within three years of a predicate conviction.