

Amended Ordinance 32-13

By: Richard Sharp

An Ordinance authorizing the enactment of a Hotel/Motel/Bed & Breakfast Inn Tax.

Whereas, The City of Bexley has identified a need to attract a hotel or motel to complement its Main Street or Southwest Corridor development areas; and

Whereas, The City of Bexley is looking for additional revenue sources; and

Whereas, The absence of an enacted Hotel/Motel/Bed & Breakfast Inn tax may add uncertainty to potential development;

THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF BEXLEY, OHIO:

Section 1: That Chapter 882 of the Bexley City Administrative Code, to be titled Hotel/Motel/Bed & Breakfast Inn Tax, is hereby adopted:

CHAPTER 882

Hotel/Motel/Bed & Breakfast Inn Tax

882.01 DEFINITIONS

As used in this chapter, except where the content clearly indicates a different meaning:

- (a) "Bed & Breakfast Inn", "Hotel" and "Motel" all mean every establishment kept, used, maintained, and advertised or held out to the public to be a place where sleeping accommodations are offered to guests for monetary consideration, in which one or more rooms are used for the sleeping accommodation of such guests, whether such rooms are in one or several structures. College dorms and Student dorms are exempt from this definition.
- (b) "College dorms" or "Student dorms" mean structures where sleeping accommodations are offered by a college, accredited private primary or secondary institution, public school district, seminary or university to enrolled students, whether full time, part time, or for special event activities.
- (c) "Transient guest" means a person occupying a room or rooms for sleeping accommodations for less than thirty consecutive days.

882.01 IMPOSITION OF TAX

(a) Effective July 1st 2013, for the purpose of providing with which to meet the needs of the City for use in the general fund of the City, an excise tax of six percent (6%) [comprised of the up to three percent (3%) allowed by Ohio Revised Code Section 5739.08 (A) and up to an additional three percent (3%) allowed by Ohio Revised Code Section 5739.09 (B)] is hereby levied on transactions where sleeping accommodations by a Bed & Breakfast Inn, Hotel or Motel are furnished to transient guest(s), pursuant to Ohio Revised Code Section 5739.02(C)(1).

(b) The tax applies and is collectible at the time the sleeping accommodations are furnished, regardless of the time when the price is paid.

(c) The tax does not apply to lodging provided to the Federal government of the United States of America, State of Ohio, or any of its political subdivisions, or any charitable organization for the lodging of transient indigent individuals.

(d) For the purpose of the proper administration of this chapter, and to prevent the evasion of tax, it is presumed that all sleeping accommodations provided by a hotel/motel/bed & breakfast inns in this City are subject to tax until the contrary is established.

(e) Revenue generated by the provisions of this chapter shall be deposited to the specific funds specified below:

i) Funds generated by ORC Section 5739.08 (A) authority

A. 100% into into a newly created "Senior Citizen Services Fund",

ii) Funds generated by ORC Section 5739.09 (B) authority

A. 50% the general fund as a source for maintaining the Main St streetscape

B. 50% into the Community Events Fund originally established by Ordinance 44-96, that shall be renamed the "Tourism Promotion and Community Events Fund" "

(Note: ORC 5739.09(B) requires 50% for convention & visitors bureau activities, also note: Ordinance 44-96 preamble "An Ordinance to establish an encumbered fund to accept gifts and donations for the purpose of paying costs associated with community events, to appropriate money from such fund as moneys are received from time to time by the City . . .")

882.03 TRANSIENT GUEST TO PAY TAX

(a) The tax imposed by this Chapter shall be paid by the transient guest of to the vendor, and each vendor shall collect from the transient guests 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 statement specifying the reason the sale is not legally subject to the tax. If no statement is obtained, it shall be presumed that the tax applies.

882.05 REQUIRED RECORDS: INSPECTION & DESTRUCTION

(a) Each vendor shall keep full and accurate records of lodgings 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 another reason.

(b) Such records and other documents shall be open during business hours to the inspection of the Auditor and shall be preserved for a period of not less than 3 years, unless the Auditor, in writing, consents to their destruction within that period, or by order requires them no longer to be kept.

882.05 REQUIRED RETURNS:

(a) Each vendor shall file a quarterly return on forms prescribed by the auditor showing:

- (1) Total receipts from furnishing of lodging,
- (2) Amount of receipts exempt from taxation for lodging in excess of 30 days,
- (3) Amount of receipts exempt from taxation due to the governmental entity exemption,
- (4) Amount of tax due for the period being reported on the return,
- (5) Physical signature (or approved facsimile for internet based transactions) of the vendor or his authorized agent.
- (5) Any other information that the Auditor deems necessary for the proper administration of this chapter.

(b) The quarterly return is due on the last day of each month following the end of a quarter (quarters ending March, June, September and December) during a calendar year. The Auditor may extend the time for making and filing returns. The returns shall be filed by mailing the same to the Auditor, together with payment of the amount of tax shown to be due thereon. The Auditor may provide for a web based system either through the City's web-site or through a third party provider site as authorized by the Auditor or Council. The Auditor shall stamp or otherwise mark on all returns the date received by him or an authorized processor and shall also show thereon by stamp or otherwise the amount of the payment received with the return.

(c) The Auditor, if he or she deems it necessary, may either extend the time for making and filing returns or in order to insure the payment of the tax imposed by this chapter, or may require advance estimated payments more frequently than quarterly periods.

(d) Any vendor who fails to file a return under this chapter shall forfeit and pay into the City's General Fund the sum of one percent (1%) of the tax due, however the auditor may waive such penalty at his/her discretion if documented just cause is submitted by the vendor.

882.07 LIABILITY, ASSESSMENT, AND PETITION FOR REASSESSMENT & PENALTIES

(a) If any vendor collects the tax imposed by or pursuant to this chapter and fails to remit the same to the City as prescribed, he or she shall be personally liable for any amount collected which was failed to be remitted. The Auditor may make an assessment against such vendor based upon any information in the Auditor's possession. If any vendor fails to collect the tax or any transient guest fails to pay the tax imposed by or pursuant to this chapter on any transaction subject to the tax, such vendor or transient guest, shall be personally responsible for the amount of tax applicable to the transaction. The Auditor may make and assessment against either the vendor or the transient guest, as the facts may require, based upon any information in his or her possession. The assessment against the vendor in cases where the tax imposed by or pursuant to this chapter has not been paid or collected shall not discharge the transient guest's liability to reimburse the vendor for the tax applicable to such transaction.

(b) In each case, the Auditor shall give to the vendor written notice of such assessment. Such notice may be served upon the vendor personally or by

registered or certified mail. An assessment issued against the vendor, pursuant to the provisions of this chapter, shall not be considered an election of remedies.

(c) The auditor may make an assessment against any vendor who fails to file a return required by this chapter or fails to remit the proper amount of tax in accordance with this chapter. When information in the possession of the Auditor indicates that the amount required to be collected is, or should be, greater than the amount remitted by the vendor, the Auditor on the basis of test checks of a vendor's business for a representative period which is hereby authorized, determine the ratio which the tax required to be collected under this chapter bears to the hotel's or transient accommodations' lodgings, which determination shall be the basis of an assessment as herein provided in this chapter. Notice of such assessment shall be made in the manner prescribed by this chapter.

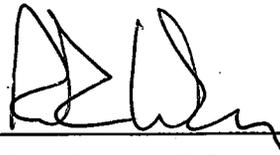
(d) Unless the vendor to whom said notice of assessment is directed, files within thirty days after service thereof, either personally or by registered or certified mail, a petition in writing, verified under oath by said vendor, or his authorized agent, having knowledge of the facts, setting forth with particularity the items of assessment objected to, together with the reasons for such objections, said assessments shall become conclusive and the amount thereof shall be due and payable, from the vendor so assessed, to the Auditor of the City of Bexley, Ohio. When a petition of reassessment is filed, the Auditor shall assign a time and place for the hearing of the same and shall notify the petitioner thereof by registered or certified mail, but the Auditor may continue the hearings from time to time if necessary.

(e) An annualized penalty of eighteen percent (18%) may be added to the amount of every assessment under this chapter. The Auditor may adopt and promulgate rules and regulations providing for the remission of penalties added to assessments made under this chapter.

(f) When any vendor files a petition for reassessment as provided in this chapter, the assessment made by the auditor, together with penalties thereon, shall become due and payable within ten days after the notice of finding made at the hearing has been served, either personally or by registered or certified mail, upon the party assessed.

Section 2: That this ordinance shall go into effect and be in force from and after the earliest period allowed by law.

Passed: 8-27, 2013



President of Council

Attest: _____

Clerk of Council

1st Reading 6-4-13

2nd Reading 6-25-13

3rd Reading 8-27-13

Approved: 8-27, 2013



Benjamin Kessler, Mayor