

VILLAGE OF GEORGETOWN, OHIO
ORDINANCE NO. 1195

AN ORDINANCE REGULATING HOTELS
WITHIN THE VILLAGE OF GEORGETOWN, OHIO

WHEREAS, the Council of the Village of Georgetown ("Village Council") seeks to impose a fee on the operators of hotels located within the Village of Georgetown (the "Village");

THEREFORE, BE IT ORDAINED by the Council of the Village of Georgetown, Brown County, Ohio, two-thirds (2/3) or more of all members thereof concurring as follows:

SECTION 1: DEFINITIONS

When used in this chapter and unless otherwise distinctly expressed, the following words and phrases shall have the meanings set out herein:

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

(b) "Fiscal Officer" means the Village of Georgetown Fiscal Officer.

(c) "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 guests, in which five (5) or more rooms are used for the accommodation of such guests, whether such rooms are in one or several structures.

(d) "Transient guests" means persons occupying a room or rooms for sleeping accommodations for less than thirty (30) consecutive days.

(e) "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 therefrom whatsoever.

(f) "Operator" means the person who is the proprietor of the hotel, whether in the capacity of owner, lessee, licensee, mortgagee in possession, or any other capacity. Where the operator performs his functions through a managing agent of any type or character, other than an employee, the managing agent shall be deemed an operator for the purposes of this chapter, and shall have the same duties and liabilities as his principal. Compliance with provisions of this chapter by either the principal or the managing agent shall, however, be considered to be compliance by both.

(g) "Occupancy" means the use or possession, or the right to the use or possession of any room or rooms or space or portion thereof, in any hotel for dwelling, lodging or sleeping purposes. The use or possession or right to use or possess any room or any suite of connecting rooms as office space, banquet or private dining rooms, or exhibit, sample or display space shall not be considered occupancy within the meaning of this definition unless the person exercising occupancy uses or possesses, or has the right to use or possess all or any portion of such room or suite of rooms for dwelling, lodging or sleeping purposes.

SECTION 2: RATE OF TAX

For the purpose of providing revenue with which to meet the needs of the Village of Georgetown, for the use of the general fund of the Village of Georgetown, there is hereby levied a tax of three (3%) percent on all rents received by a hotel for lodging furnished to transient guests.

Said tax constitutes a debt owed by the transient guest to the Village of Georgetown, which is extinguished only by payment to the operator as trustee for the Village of Georgetown, or to the Village of Georgetown.

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. If for any reason the tax due is not paid to the operator of the hotel, the Fiscal Officer may require that such tax shall be paid directly to the Fiscal Officer.

SECTION 3: EXEMPTIONS

No tax shall be imposed under this chapter:

- (a) Upon rents not within the taxing power of the Village of Georgetown under the Constitution or laws of Ohio or the United States;
- (b) Upon rents paid by the State of Ohio or any of its political subdivisions.

No exemption claimed under the above paragraphs of this section shall be granted except upon claim therefor made at the time rent is collected and under penalty of perjury upon a form prescribed by the Fiscal Officer. All claims of exemption shall be made in the manner prescribed by the Fiscal Officer.

SECTION 4: PROHIBITION OF FALSE EVIDENCE OF TAX-EXEMPT STATUS

No transient guest shall refuse to pay the full and exact tax as required by this chapter, or 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.

SECTION 5: 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 Village of Georgetown, and the operator shall be liable for the collection thereof and for the tax.

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 except in the manner hereinafter provided.

SECTION 6: REGISTRATION

Each operator of any hotel renting lodging to transient guests shall register said hotel with the Fiscal Officer and obtain from him a "Transient Occupancy Registration Certificate" to be at all times posted in a conspicuous place on the premises. Said certificate shall, among other things, state the following:

- (a) The name of the operator;
- (b) The address of the hotel;
- (c) The date upon which the certificate was issued;
- (d) "This Transient occupancy Registration Certificate signifies that the person named on the face hereof has fulfilled the requirements of the Hotel Tax ordinance by registering with the Fiscal Officer of the Village of Georgetown for the purpose of collecting from transient guests the Hotel Tax and remitting said tax to the Fiscal Officer. This certificate does not constitute a permit."

SECTION 7: RECORDS; INSPECTION; DESTRUCTION

Each operator 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 operator furnished lodging not subject to the tax, the operator's records shall show the identity of the transient guest, if the sale was not 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 for inspection by the Fiscal Officer and shall be preserved for a period of four (4) years, unless the

Fiscal Officer, in writing, consents to their destruction within that period, or by any order requesting that such records be kept for a longer period of time.

SECTION 8: REPORTING AND REMITTING

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

The Fiscal Officer may authorize operators whose tax liability is not such to merit monthly returns, as determined by the Fiscal Officer upon the basis of administrative costs of the Village of Georgetown, 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.

All claims for exemptions from tax filed by transient guests with the operator during the reporting period shall be filed with the return.

All returns and payments submitted by each operator shall be treated as confidential by the Fiscal Officer and shall not be released by him except upon order of a Court of competent jurisdiction or to an officer or agent of the United States, the State of Ohio, the County of Brown, or the Village of Georgetown, for official use only.

If for any reason, the hotel shall cease doing business in the Village of Georgetown, all returns and payments are due immediately upon cessation of business.

All taxes collected by operators pursuant to this chapter shall be held in trust for the account of the Village of Georgetown until payment thereof is made to the Fiscal Officer.

The Fiscal Officer, if he deems it necessary in order to insure the payment of the tax imposed by this ordinance, may require returns and payments to be made for other than monthly periods. The returns shall be signed by the operator or his authorized agent.

SECTION 9: PENALTIES AND INTEREST

(a) Original Delinquency. Any operator who fails to remit any tax imposed by this chapter within the time required shall pay a penalty equal to ten (10%) percent of the amount of the tax, in addition to the tax.

(b) Continued. Delinquency. Any operator who fails to remit any delinquent remittances on or before a period of thirty (30) days following the date on which the remittance first became delinquent shall pay a second delinquency penalty equal to ten (10%) percent of the amount of the tax and previous penalty in addition to the tax and the ten (10%) percent penalty first

imposed. An additional penalty equal to ten (10%) percent of the total tax and penalty of the previous thirty (30) day period shall be added for each successive thirty (30) day period that the account remains delinquent.

(c) Fraud. If the Fiscal Officer determines that the nonpayment of any remittance due under this chapter is due to fraud, a penalty equal to twenty-five (25%) percent of the amount of the tax shall be added thereto in addition to the penalties stated in subparagraphs (a) and (b) of this section.

(d) Interest. In addition to the previous penalties imposed, any operator who fails to remit any tax imposed by this chapter shall pay interest at the rate of one-half of one percent (0.5%) per month, or fraction thereof, on the amount of the tax exclusive of penalties, from the date on which the remittance first became delinquent until paid.

SECTION 10: FAILURE TO COLLECT

If any operator shall fail or refuse to collect said tax and to make, within the time provided in this chapter, any report and remittance of said tax or any portion thereof required by this chapter, the Fiscal Officer shall proceed in such manner as he may deem best to obtain facts and information on which to base his estimate of the tax due. As soon as the Fiscal Officer shall procure such facts and information as he is able to obtain upon which to base the assessment of any tax imposed by this chapter and payable by any operator who has failed or refused to collect the same and to make such report and remittance, he shall proceed to determine and assess against such operator the tax, interest and penalties provided for by this chapter. In case such determination is made, the Fiscal Officer shall give notice of the amount so assessed by serving it personally or by depositing it in the United States mail, postage prepaid, addressed to the operator so assessed at his last known place of business. Such operator may within ten (10) days after the serving or mailing of such notice make application in writing to the Fiscal Officer for a hearing on the amount assessed.

If application by the operator for a hearing is not made within the time prescribed, the tax, interest and penalties, if any, determined by the Fiscal Officer shall become final and conclusive and immediately due and payable. If such application is made, the Fiscal Officer shall give not less than five (5) days written notice in the manner prescribed herein to the operator to show cause at a time and place fixed in said notice why said amount specified therein should not be fixed for such tax, interest and penalties. At such hearing, the operator may appear and offer evidence why such specified tax, interest and penalties should not be fixed. After such hearing, the Fiscal Officer shall determine the proper tax to be remitted and shall thereafter give written notice to the person in the manner prescribed herein of such determination and the amount of such tax, interest and penalties. The amount determined to be due shall be payable after fifteen (15) days unless an appeal is taken as provided in Section 11.

SECTION 11: APPEAL

Any operator aggrieved by any decision of the Fiscal Officer with respect to the amount of such tax, interest and penalties, if any, may appeal to the Village of Georgetown Board of

Income Tax Appeals by filing a notice of appeal with him within fifteen (15) days of the serving or mailing of the determination of tax due. The Village of Georgetown Board of Income Tax Appeals shall fix a time and place for hearing such appeal, and shall give notice in writing to such operator at his last known place of business. The findings of the Village of Georgetown Board of Income Tax Appeals shall be final and conclusive and shall be served upon the appellant in the manner prescribed above for service of notice of hearing. Any amount found to be due shall be immediately due and payable upon the service of notice.

SECTION 12: ACTIONS TO COLLECT

Any tax required to be paid by a transient guest under the provisions of this chapter shall be deemed a debt owed by the transient guest to the Village of Georgetown. Any such tax collected by an operator which has not been paid to the Village of Georgetown shall be deemed a debt owed by the operator to the Village of Georgetown. Any person owing money to the Village of Georgetown under the provisions of this chapter shall be liable to an action brought in the name of the Village of Georgetown for the recovery of such amount.

SECTION 13: REFUNDS

(a) Whenever the amount of any tax, interest, or penalty has been overpaid or paid more than once or has been erroneously or illegally collected or received by the Village of Georgetown under this chapter, it may be refunded as provided in subsections (b) and (c) of this section provided a claim in writing therefor, stating under penalty of perjury the specific grounds upon which the claim is founded, is filed with the Fiscal Officer within three (3) years of the date of payment. The claim shall be on forms furnished by the Fiscal Officer.

(b) Any operator may claim a refund or take as credit against taxes collected and remitted the amount overpaid, paid more than once or erroneously or illegally collected or received when it is established in a manner prescribed by the Fiscal Officer that the person from whom the tax has been collected was not a transient guest; provided, however, that neither a refund nor a credit shall be allowed unless the amount of the tax so collected has either been refunded to the transient guest or credited to rent subsequently payable by the transient to the operator.

(c) A transient guest may obtain a refund of taxes overpaid or paid more than once or erroneously or illegally collected or received by the Village of Georgetown by filing of a claim in the manner provided in subsection (a) hereof, but only when the tax was paid by the transient guest directly to the Fiscal Officer, or when the transient guest having paid the tax to the operator, establishes to the satisfaction of the Fiscal Officer that the transient guest has been unable to obtain a refund from the operator who collected the tax.

(d) No refund shall be paid under the provisions of this section unless the claimant establishes his right thereto by written records showing entitlement thereto.

SECTION 14: MONIES RECEIVED

The monies received under the provisions of this chapter shall be credited to the general fund of the Village of Georgetown.

SECTION 15: PENALTY

Any person violating any of the provisions of this chapter shall be guilty of a misdemeanor of the third degree and shall be fined not more than five hundred (\$500.00) dollars or imprisoned not more than sixty (60) days, or both.

That the Council hereby finds and determines that all formal actions relative to the passage of this Ordinance were taken in an open meeting of the Council, and that all deliberations of this Council and of its Committees, if any, which resulted in formal action, were taken in meetings open to the public, in full compliance with applicable legal requirements, including Section 121.22 of the Ohio Revised Code.

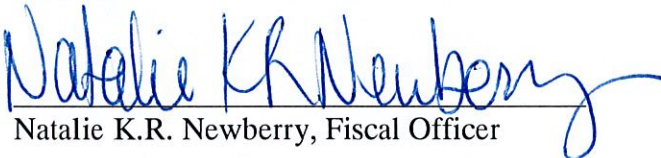
This Ordinance shall be in full force and effect from and after the earliest date allowed by law.

PASSED AND ADOPTED at a legally convened meeting of Council held on the 23rd day of March, 2017.



Dale E. Cahall, Mayor

ATTEST:



Natalie K.R. Newberry, Fiscal Officer

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