

Commissioners' Office, Lake County
Painesville, OH, April 6, 2017

The Board of County Commissioners, in and for Lake County, Ohio, met this day in regular session with the following members present:

Commissioners: Cirino, Hamercheck, and Troy

Commissioner Cirino presented the following resolution and moved its adoption.

RESOLUTION AMENDING THE RULES AND REGULATIONS GOVERNING THE IMPOSITION, COLLECTION, AND DISTRIBUTION OF THE LAKE COUNTY EXCISE TAX ON HOTEL LODGING FEES

WHEREAS, the Board of County Commissioners hereby finds and determines that all formal actions relative to the adoption of this resolution were taken in an open meeting of the Board of County Commissioners, and that all the deliberations of this Board of County Commissioners and of its committees, if any, which resulted in formal actions, were taken in meetings open to the public, in full compliance with applicable legal requirements, including Section 121.22 of the Revised Code; and

WHEREAS, on June 5, 1989, the Board of Lake County Commissioners imposed an excise tax of 1.25% on hotel lodging fees; and

WHEREAS, the Board of Lake County Commissioners enacted an additional 1.75% excise tax on hotel lodging fees by resolution dated April 3, 2003 for a period of 10 years; the Board renewed that additional tax by resolution May 14, 2013 to continue to levy a tax on hotel lodging fees at a total rate of 3.0% effective June 1, 2013; and the Board has increased the tax by an additional 2.0% for a total rate of 5.0%, effective June 1, 2017, after the resolution is passed by the Board; and

WHEREAS, the Board of Lake County Commissioners adopted Rules and Regulations on July 11, 1989 to govern the imposition, collection, and distribution of said excise tax on hotel lodging fees and amended said Rules and Regulations on October 8, 1991, January 3, 2002, September 4, 2003, August 2, 2012, and May 14, 2013; and

WHEREAS, the Board of Lake County Commissioners desires to amend said Rules and Regulations pursuant to R.C. 5739.09.

NOW, THEREFORE, BE IT RESOLVED, by the Board of County Commissioners, in and for Lake County, Ohio, that the amended Rules and Regulations governing the imposition, collection, and distribution of the Lake County Excise Tax on hotel lodging fees, incorporated herein and marked Exhibit "A", is hereby adopted, to take effect on the same day the additional 2.0% increase in the tax takes effect.

BE IT FURTHER RESOLVED, that the Clerk of this Board is directed to forward a certified copy of this resolution to the Lake County Auditor; Budget Director; George Luther, Hotel/Motel Tax Dept.; Prosecutor's Office; Mark Rantala, Executive Director, Lake County Port and Economic Development Authority, One Victoria Place, Suite 265A, Painesville, Ohio 44077.

Commissioner Hamercheck seconded the resolution and the roll being called upon its adoption, the vote resulted as follows:

"AYES": Cirino, Hamercheck, Troy

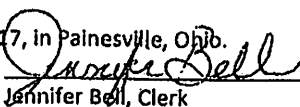
"NAYS": None.

Resolution adopted,
Jennifer Bell, Clerk

CLERK'S CERTIFICATION

I, Jennifer Bell, duly appointed Clerk of the Board of County Commissioners, do hereby certify that this is a true and accurate copy of a resolution adopted by said Board on April 6, 2017, and recorded in Commissioners' Journal, Volume 2017.

WITNESS my hand this sixth day of April, 2017, in Painesville, Ohio.



Jennifer Bell, Clerk
Board of Commissioners, in and
for Lake County, Ohio

**RULES AND REGULATIONS GOVERNING THE IMPOSITION, COLLECTION
AND DISTRIBUTION OF THE LAKE COUNTY EXCISE TAX ON HOTEL
LODGING FEES**

SECTION 1-DEFINITIONS

(A) "Administrator" means the Tax Administrator.

(B) "Hotel" means every establishment kept, used, maintained, advertised or held out to the public to be a place where sleeping accommodations and rooms are offered for consideration to guests, whether such rooms are in one (1) or several structures.

(C) "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 or motel for dwelling, lodging or sleeping purposes. The use or possession, or the right to use or possess, of 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 part of such room or suite of rooms for dwelling, lodging or sleeping purposes. "Use or possession" shall include the rights of a room remarketer as described in paragraph (F) of this section.

(D) "Operator" means any person that furnishes, arranges or facilitates to furnish occupancy in a hotel, including but not limited to, the proprietor of the hotel, whether in the capacity of owner, lessee, mortgagee in possession, licensee or any other capacity, a managing agent, a booking agent, a room seller or reseller, or any other agent or contractor, including a room remarketer. Such term shall include a room remarketer and such room remarketer shall be deemed to operate a hotel, or portion thereof, with respect to which such person has the rights of a room remarketer.

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

(F) "Room Remarketer" shall mean a person who reserves, arranges for, conveys, or furnishes occupancy, whether directly or indirectly, to a transient guest in an amount to be determined by the room remarketer, directly or indirectly, whether pursuant to a written or other agreement. Such person's ability or authority to reserve, arrange for, convey, or furnish occupancy, directly or indirectly, and determine rent there-fore, shall be the "rights of a room remarketer." Examples of a room remarketer include, but are not limited to, an online travel company, a tour operator, and/or a travel consolidator.

(G) "Rent" means the consideration received for occupancy, including any service or other charge or amount required to be paid as a condition for occupancy, valued in money whether

required to be paid in money or otherwise and whether received by the operator or a room remarketer or another person on behalf of either of them.

SECTION 2 -PURPOSE RATE AND APPLICATION OF TAX

There has been levied an excise tax on transactions by which lodging by a hotel is or is to be furnished to transient guests of three percent (3.0%) and further provided that, after deducting the real and actual costs of administering the tax and after returning to each municipal corporation or township that does not levy an excise tax on such transactions, a uniform percentage of the tax collected in the municipal corporation or in the unincorporated portion of the township from each such transaction, the remainder of the revenue arising from said tax shall be deposited in a separate fund and shall be spent solely to make contributions to the convention and visitors bureau operating within the county.

Effective June 1, 2013, the excise tax rate on such transactions shall be 3.0% and shall continue in full force and effect until further action by the Board of Lake County Commissioners.

Effective 30 days after the resolution increasing the lodging tax ("Tax Resolution") is adopted by the Board of Lake County Commissioners if no referendum petition has been filed, there shall be an additional 2.0% excise tax, for a total of 5.0%, on such transactions, which shall continue in full force and effect until further action by the Board of Lake County Commissioners. If a referendum petition is filed, the additional 2.0% excise tax, for a total of 5.0%, on such transactions, will not take effect until and unless the Tax Resolution is approved by a majority of those voting on the resolution. This additional 2.0% tax shall be deposited into a separate fund and shall be used only by the Lake County Ohio Port and Economic Development Authority (LCOPEDA) for the purpose of constructing or financing lakeshore improvement projects in accordance with law and the agreement entered into between the Board of Lake County Commissioners and the LCOPEDA, which is effective on June 1, 2017.

Said tax shall be known as the transient guest tax. Said tax applies and is collectable at the time the rent, or any portion thereof, 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 guest ceasing to occupy the space in the hotel. The operator(s) shall collect from the transient guest the full and exact amount of the tax payable to each taxable lodging. There are no exemptions from application of the transient guest tax.

For the purposes of the proper administration of said excise tax and to prevent evasion of said tax, it is presumed that all rent paid for lodging furnished by hotels within Lake County to transient guests is subject to the tax until the contrary is established.

SECTION 3 -TRANSIENT GUEST TOPAYTHE TAX

The transient guest tax shall be paid by the transient guest to the operator, and each operator shall collect from the transient guest the full and exact amount of the tax on the rent payable for each taxable lodging. The tax required to be paid and collected shall be deemed to be held in trust by

the operator until paid to the administrator. If for any reason the tax due is not paid to the operator, the administrator may require that such tax be paid directly to the administrator. No exemption shall be granted except upon a claim therefore made at the time rent is collected and under penalty of perjury upon a form prescribed by the administrator. To the extent the operator fails to collect the tax from the transient guest upon each taxable transaction or, having collected the tax, fails to return and remit the same when due, the tax is hereby imposed and levied upon the operator.

SECTION 4 - RECORDS AND ADVERTISING

The transient guest tax shall be stated and charged separately from the charge for the lodging and shown separately on a new record thereof, at the time the occupancy is arranged or contracted and charged for, and upon every evidence of the occupancy or any bill or statement or charge made for such occupancy issued or delivered by the operator.

Each operator shall, upon request, provide the administrator with a list of the number of non-transient guests at any given time. The burden of establishing that a guest is a non-transient guest, and therefore not subject to the tax, shall be upon the operator.

No operator 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 amount charged for the lodging, or that, if added, any part will be refunded.

The administrator may conduct such audits as are deemed necessary in order to insure compliance with these rules and regulations and the imposition and payment of the tax. Audits are an integral part of administering the tax and will be conducted at least annually or more frequently if necessary. A letter may be sent requesting such an Audit.

SECTION 5 - RETURNS REQUIRED

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

The administrator may authorize operators whose tax liability is not such as to merit monthly returns, as determined by the administrator upon the basis of administrative cost of the county, 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 exemption from the tax filed by a transient guest 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 administrator and shall not be released by him/her except upon order of a court of competent jurisdiction or to an officer or agent of the United States, the State of Ohio or the County of Lake, for official use only.

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

SECTION 6 - REFUNDS

The administrator shall refund or grant credits to operators for the amount of taxes paid illegally or erroneously or paid on an illegal or erroneous assessment where the operator had not reimbursed himself/herself from the transient guest. The transient guest may obtain a refund or credit for the amount of taxes paid illegally or erroneously, but only when the tax was paid by the transient guest directly to the administrator. No refund shall be paid unless the claimant established his right thereto by written records showing entitlement thereto and makes a claim in writing on forms furnished by the administrator, stating under penalty of perjury the specific grounds upon which the claim is founded. Such claims shall be filed with the administrator within three (3) years of the date of payment.

SECTION 7 - FAILURE TO COLLECT AND REPORT TAX

7.1 Determination - If any operator fails or refuses to collect the transient guests tax or to file a return to make a remittance of such tax or any portion thereof as required herein, the administrator shall proceed in such manner he may deem best to obtain information on which to base his estimate of the tax due. When the administrator has such information as he is able to obtain upon which to base the assessment of any tax imposed herein and payable by any operator who has failed or refused to collect the same or to file a return and to make a remittance of the proper amount thereof, he shall proceed to determine and assess against such operator the tax, penalty and interest provided for herein.

7.2 Notice of Hearing - If such determination is made, the administrator shall give notice of the amounts so assessed by serving the operator with a letter showing the assessment as such notice. The operator may, within ten (10) days after the service or mailing of such notice, make application in writing to the administrator for a hearing of the amount assessed. If the application by the operator is not made within the time prescribed, the tax, penalty and interest determined by the administrator shall become final, conclusive and immediately due and payable.

7.3 Hearing - If such application for a hearing is made, the administrator shall set a date for such a hearing. The administrator shall give written notice, not less than five (5) days prior to the hearing date, in the manner prescribed in this section, to the operator to show cause at a time and place fixed in such notice why the amount specified therein shall not be fixed for such acts and penalty. In any such hearing, the operator may appear and offer evidence why such specified tax and penalty should not be so fixed.

7.4 Decision - After such hearing, the administrator shall determine the proper tax to be remitted and shall thereafter give written notice to the person in the manner prescribed in this section of such determination in the amount of such tax, penalty and interest. The amount determined to be due shall be payable within fifteen (15) days thereafter.

SECTION 8 - APPEALS

Appeals from any ruling or determination of the administrator with respect to the amount of such tax and penalty shall be made as provided by law.

SECTION 9 - ACTIONS TO COLLECT

Any tax required to be paid by a transient guest as provided for herein shall be deemed a debt owed by the transient guest to Lake County. Any such tax collected by an operator which has not been paid to Lake County, or any such tax not charged which should have been charged, shall be deemed a debt owed by operator to Lake County. Any person owing money to Lake County under the provisions herein shall be liable in an action brought in the name of the county for the recovery of such amount.

SECTION 10 - RETURN TO CERTAIN COMMUNITIES

After deducting the real and actual costs of administering the tax, the administrator shall return to each municipal corporation or township that does not levy an excise tax on such transactions a uniform percentage of ten percent (10%) of the tax collected in the municipal corporation or in the unincorporated portion of the township from each such transaction.

SECTION 11 - DISTRIBUTION

After deducting the real and actual costs of administering the tax and after returning the amount due pursuant to Section 10, the administrator shall deposit 2.0% of the tax to the fund established for the LCOPEDA to be used by the LCOPEDA for lakeshore improvement projects in accordance with these regulations and the agreement entered into between the LCOPEDA and the Board of Lake County Commissioners. These funds shall be distributed to the LCOPEDA after approval for a lakeshore improvement project is given by the Board of Lake County Commissioners. The administrator shall deposit the remainder of the revenue arising from the tax in a separate fund and shall distribute same to the Lake County Visitors Bureau monthly in such amounts as authorized by the County Commissioners. All such revenue shall be used solely to make contributions to the Lake County Visitors Bureau.

SECTION 12 - RULES AND REGULATIONS

The administrator shall have the power to adopt additional rules and regulations not inconsistent with the terms herein for carrying out and enforcing the payment, collection and remittance of the transient guest tax. For purposes of these rules and regulations, notice may be given by regular U.S. mail to the operator's place of business, by certified mail, fax or e-mail.

SECTION 13 - INTENT

It is the intent of these rules and regulations to provide for the administration of imposing, collecting and distributing the levy of an excise tax of five percent (5.0%) on transactions by which lodging hotel is or is to be furnished to transient guests as referred to and authorized by Ohio Revised Code, Section 5739.09. Accordingly, these rules and regulations shall be construed to effectuate that purpose 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.

SECTION 14 - SEVERABILITY

If any sentence, clause, section or part of these rules and regulations, or any tax imposed as specified herein, is found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall affect only such clause, sentence, section or part and shall not affect or impair any of the remaining provisions, sentences, clauses or sections or other parts of these rules and regulations. It is hereby declared to be the intention of The Board of Commissioners of Lake County that these rules and regulations would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

SECTION 15 - PENALTY

Any operator who fails to remit any tax imposed herein within the time required shall pay a penalty equal to ten percent (10%) of the amount of the tax due in addition to the tax due, pursuant to Ohio Revised Code, Section 5739.09(A)(l).

In addition to said penalty and pursuant to Ohio Revised Code Section 5739.132(A), any operator who fails to remit any tax imposed herein shall pay interest at a rate equal to the "federal short-term rate" as prescribed in Ohio Revised Code Section 5703.47 for the payment of delinquent property taxes and other delinquent taxes, or fraction thereof, on the amount of the tax due exclusive of penalties, from the date on which the remittance first became delinquent until paid.

In addition, whoever violates any of the provisions herein shall be fined not less than Twenty-Five Dollars (\$25.00) nor more than One Hundred Dollars (\$100.00) pursuant to Ohio Revised Code Section 5739.99(D).

SECTION 16 - LAKE COUNTY VISITORS BUREAU

The amounts allocated herein to the Lake County Visitors Bureau are so appropriated on the express condition that said Visitors Bureau complies with and promotes county-wide the purposes of the transient guest tax and encourages tourism and travel to all of Lake County by advertising, education and informational means.

The Lake County Visitors Bureau shall provide for at least one (1) County Commissioner, or his/her designee, to be a member of its governing Board of Trustees and its Executive Committee. The Lake County Visitors Bureau shall provide the County Commissioners and the Tax Administrator with quarterly financial and performance reports, annual financial and performance reports and such other information that may be requested to show the use of the funds hereby appropriated and distributed. The Lake County Visitors Bureau shall submit to audits as requested by the County Commissioners and Tax Administrator.

The Lake County Visitor's Bureau is authorized to enter into agreements for additional collections efforts for unpaid hotel/motel bed taxes owed.