

MUSKEGON COUNTY BOARD OF COMMISSIONERS

**AMENDED ORDINANCE NO. 2013-406
(Formerly Ordinance No. 10)**

TITLE: An ordinance to provide for the assessment and collection of an excise tax on person engaged in the business of providing rooms for dwelling, lodging, or sleeping purposes to transient guests; to provide for the powers and duties of the Administrator; to provide for the power to contract for fund administration; to provide penalties; and to provide for the disposition of revenues. This ordinance shall be known and cited as the Accommodations Ordinance.

APPROVAL DATE: October 22, 2013

PUBLISH DATE: December 15, 2013

Section 1: Authority.

This ordinance is adopted under the authority of the following statutory sections: MCL 141.861 *et seq.* (1974 P.A. 263).

Section 2: Amendment.

The County of Muskegon Accommodations Ordinance of 1981, the December 21, 1990 Amendment to the County of Muskegon Accommodations Ordinance, the May 22, 2007 Amendment to the County of Muskegon Accommodations Ordinance and the County of Muskegon Accommodation Ordinance Rules and Regulations, are hereby amended.

Section 3: Purpose.

The purpose of this ordinance is to raise money to promote and encourage tourist and convention business in Muskegon County.

Section 4: Definitions.

- A. "Accommodations" means the room or other space provided for sleeping, including furnishing and other accessories therein. Accommodations do not include food and beverages.
- B. "Administrator" means the county administrator or his/her duly authorized representative.
- C. "Convention and entertainment facilities" means all or any part, or any combination of convention halls, auditoriums, stadiums, music

halls, arenas, meeting rooms, exhibit areas, and related public areas.

- D. "Person" means a natural person, partnership, fiduciary, association, corporation or other entity.
- E. "Revenues" means the income derived from the tax levied under this ordinance, plus interest and penalties imposed by this ordinance.
- F. "Transient guest" means a natural person staying less than thirty (30) consecutive days.

Section 5: Levy of Tax; Rate; Exceptions; Stipulation on Use of Partial Funds.

- A. A tax of five percent (5%) of the total charge for accommodations is levied upon, and shall be collected from, all persons engaged in the business of providing rooms for dwelling, lodging, or sleeping purposes to transient guests, whether or not membership is required for the use of the accommodations.
- B. No tax shall be levied hereunder upon hospitals or nursing homes.
- C. A portion of such tax, consisting of one-fifth (1/5) of revenues generated hereunder, shall be appropriated to the use of the convention and visitors bureau for use consistent with this ordinance, under terms and conditions as may be determined by the County Board of Commissioners.

Section 6: Collection.

All persons who are engaged in the business of providing rooms for dwelling, lodging, or sleeping purposes to transient guests shall pay the tax imposed in Section 5 of this ordinance for the County of Muskegon.

Section 7: Reports; Remittances.

- A. On or before the fifteenth (15th) of each month every person required in Section 6 of this ordinance to collect the tax that provides or expects to provide accommodations for 12 months of the year shall file a report for the preceding month with the Administrator.
- B. On or before the fifteenth (15th) of each month following March, June, September or December every person required in Section 6 of this ordinance to collect the tax that provides or expects to

provide accommodations for less than 12 months of the year shall file a report for the preceding quarter with the Administrator.

- C. The report must show the total amount of consideration paid for all accommodations in the preceding period, the amount of the tax due on such accommodations, and any other information that the Administrator may reasonably require.
- D. Every person shall pay the tax due at the time the report is filed. All tax payments shall be made to the County Treasurer by bank draft, check, cashier's check, money order, certificate of deposit or cash. All monies received shall be deposited in a special fund of the County, to be established by the County Treasurer. No remittance other than cash shall be a final discharge of liability for the tax levied until it has been paid in cash.

Section 8: Powers and Duties of Administrator; Rules and Regulations; Collection Expenses.

- A. The Administrator shall collect the tax imposed in Section 5 of this ordinance and shall administer and enforce this ordinance.
- B. The Administrator shall have the power to make such rules and regulations, subject to the approval of the County Board of Commissioners, as are necessary to effectively collect the tax, including tax liens for enforcement.
- C. The Administrator shall, upon reasonable notice, have access to books and records of a taxpayer to determine the correctness of any report filed and/or to determine the amount of taxes due.
- D. The Administrator shall furnish, to taxpayers, forms, instructions, manuals and other materials necessary for endorsement of the tax and the auditing of tax returns.
- E. The County shall receive from all proceeds collected under this ordinance, such amount as shall be determined from time to time by the County Board of Commissioners for collection expenses incurred, plus all interest and penalty fees.

Section 9: Power to Contract for Fund Administration.

The County may enter into a contract with an entity independent of the county government to carry out the purposes of this ordinance.

Section 10: Penalties.

- A. Any person who violates any provision of this ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined an amount not to exceed five hundred dollars (\$500.00) and/or imprisoned in the County Jail for a period not to exceed ninety (90) days.
- B. In addition, any person who fails to remit the tax when due or who otherwise violates this ordinance shall be charged an additional five percent (5%) of the amount of the unpaid tax per month or fraction thereof after the due date thereof until paid. However, said penalty shall not exceed twenty-five percent (25%) of the unpaid tax. In addition, delinquent taxes shall draw interest at the rate of one percent (1%) per month or fraction thereof of the unpaid tax after the due date thereof until paid.
- C. Any penalty and/or interest shall be collected as part of the tax. Any amounts received shall be credited first to penalty and/or interest.

Section 11: Abatements and Refunds.

- A. If a report or remittance is filed after the due date set forth in Section 7, and it is shown that the failure to file was due to reasonable cause and not due to willful neglect, as determined by the Administrator, the penalty and interest prescribed in Section 10 shall not apply.
- B. The Administrator has the authority to abate any part of the tax imposed under this ordinance as an economic incentive for new construction, subject to the approval of the County Board of Commissioners. Such abatement shall be for a limited period of time, and for a limited amount. The Administrator shall place his/her reasons for any abatement in a written recommendation and specify the length of the abatement and the amount. In order to receive the abatement, the tax must first be paid and then rebated according to the recommendation of the Administrator.

Section 12: Taxes Cumulative.

The taxes levied under this ordinance shall be in addition to any other taxes, charges, or fees.

Section 13: Revenues.

The revenues derived from the taxes imposed pursuant to this ordinance may be used by the County or by an authority organized pursuant to state law only for the following purposes:

- A. The cost of administration and enforcement of this ordinance; and
- B. The promotion and encouragement of tourist and convention business in the County.

Section 14: Severability.

If any section, subsection, sentence, clause, phrase, or portion of this ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

Section 15: Effective Date.

This ordinance shall become effective immediately upon publication.

Motion by Cross, second by Hughes, carried, to adopt the foregoing resolution at a regular meeting of the Muskegon County Board of Commissioners held on October 22, 2013.

I, Nancy A Water, Clerk of Muskegon County, State of Michigan, do hereby certify that the above is a true and correct copy of an ordinance adopted by the Muskegon County Board of Commissioners, Muskegon County, Michigan, at a regular meeting held on October 22, 2013, and that public notice of said meeting was given pursuant to and in full compliance with Act No. 257 of the Public Acts of Michigan of 1976, as amended. In testimony whereof, I have hereunto set my hand affixed the seal of my office, this 12th day of December, 2013.



Nancy A. Waters
Muskegon County Clerk