

ORDINANCE NO. 2022-09

AN ORDINANCE AMENDING ORDINANCE NO. 2019-09 ENTITLED “AN ORDINANCE REPEALING ORDINANCE NO. 2000 – 16 AND ESTABLISHING AN UPDATED DETAILED PRONOUNCEMENT OF THE COMPREHENSIVE PROCEDURES FOR THE COLLECTION, DISBURSEMENT AND ENFORCEMENT OF A TRANSIENT ROOM TAX”

WHEREAS, Kentucky Revised Statutes, Chapter 91A enables the Fiscal Court to, among other things, impose a transient room tax on persons occupying rooms provided by organizations doing business as motor courts, motels, hotels, inns, and other similar accommodations for the promotion of tourism, the operation and expansion of a convention center, and for the construction of pad arts centers; and

WHEREAS, Kentucky Revised Statutes, Chapter 91A provides that the Fiscal Court shall enact an ordinance for the collection and enforcement of a transient room tax; and

WHEREAS, the Fiscal Court enacted Ordinance No. 2019-09 on August 21, 2019, for the collection, disbursement, and enforcement of a transient room tax; and

WHEREAS, House Bill 8 was a KLC legislative initiative passed during the 2022 legislative session which amended KRS 91A.390(1)(b) to clarify that the transient room tax applies to rent for a suite, room, rooms, cabins, lodgings, campsites, or other accommodations charged by any hotel, motel, inn, tourist camp, tourist cabin, campgrounds, recreational vehicle parks, or any other place in which accommodations are regularly furnished to transients; and

WHEREAS, said amendment becomes effective January 1, 2023; and

WHEREAS, the Fiscal Court now desires to amend the ordinance establishing the McCracken County Transient Room Tax in order to effectuate changes in compliance with the updates to Kentucky Revised Statutes.

NOW, THEREFORE, BE IT ORDAINED BY THE FISCAL COURT OF THE COUNTY OF MCCRACKEN, COMMONWEALTH OF KENTUCKY:

Section 1. Purpose.

The purpose of this ordinance is to establish the procedures for the collection, use, disbursements, and enforcement of the transient room tax.

Section 2. Transient Room Tax Levy and Use.

A transient room tax, which may be adjusted from time to time, shall be levied within the geographical jurisdiction of McCracken County on every person, group, or organization doing business as a motor court, motel, hotel, inn, bed and breakfast, or like or similar accommodations, consisting of a percentage of the rent charged for every occupancy of a suite, room, [ø] rooms, **cabins, lodgings, campsites, or other accommodations charged** by [~~such person, company, corporation or other like or similar group or organization engaged in such business~~] **any hotel, motel, inn, tourist camp, tourist cabin, campgrounds, recreational vehicle parks, or any other place in which accommodations are regularly furnished to transients for consideration or by any person that facilitates the rental of the accommodations by brokering, coordinating, or in any other way arranging for the rental of the accommodations.**

This transient room tax within the geographic jurisdiction of McCracken County shall be in a total amount equal to 6% of the rent charged for each individual occupancy referenced above and shall consist of the following individually identified percentages with revenues from these percentages being used for the following individually identified purposes:

- A. **A tax of 3%** on the rent for every occupancy of a suite room, [ø] rooms, **cabins, lodgings, campsites, or other accommodations** charged by **any hotel, motel, inn, tourist camp, tourist cabin, campgrounds, recreational vehicle parks, or any other place in which accommodations are regularly furnished to transients for consideration or by any person that facilitates the rental of the accommodations by brokering, coordinating, or in any other way arranging for the rental of the accommodations** [~~all persons, companies, corporations, or other like or similar persons, groups or organizations doing business as motor courts, motels, hotels, inns, bed and breakfasts, or like or similar businesses~~] is hereby levied for use by the McCracken Sports Tourism Commission for the purpose of promoting and developing convention and tourist activities and facilities in McCracken County. Pursuant to KRS 91A.390(3), a portion of the money collected from the imposition of this tax as determined by the McCracken County Fiscal Court, upon advice and consent of the Sports Tourism Commission, may be used to finance the cost of acquisition, construction, operation, and maintenance of facilities useful in the attraction and promotion of tourists and convention business. Pursuant to KRS 91A.390(3) and KRS 91A.350, the balance of the money collected from the imposition of this tax shall be used for the purpose of promoting and developing convention and tourist activities and facilities.
- B. **An additional tax of 2%** shall be levied on the rent for every occupancy of a suite, room, [ø] rooms, **cabins, lodgings, campsites, or other accommodations** charged by

~~[all persons, companies, corporations, or other like or similar persons, groups or organizations doing business as motor courts, motels, hotels, inns, bed and breakfasts, or like or similar businesses]~~ **any hotel, motel, inn, tourist camp, tourist cabin, campgrounds, recreational vehicle parks, or any other place in which accommodations are regularly furnished to transients for consideration or by any person that facilitates the rental of the accommodations by brokering, coordinating, or in any other way arranging for the rental of the accommodations** and shall be applied to the retirement of bonds issued pursuant to KRS 91A.390(a) to finance in part the expansion or construction or operation of a governmental or non-profit convention center of fine arts center useful to the promotion of tourism located in the County.

- C. **An additional tax of 1%** shall be levied on the rent for every occupancy of a suite, room, ~~[or] rooms,~~ **cabins, lodgings, campsites, or other accommodations** charged by ~~[all persons, companies, corporations, or 3 other like or similar persons, groups or organizations doing business as motor courts, motels, hotels, inns, bed and breakfasts, or like or similar businesses]~~ **any hotel, motel, inn, tourist camp, tourist cabin, campgrounds, recreational vehicle parks, or any other place in which accommodations are regularly furnished to transients for consideration or by any person that facilitates the rental of the accommodations by brokering, coordinating, or in any other way arranging for the rental of the accommodations** for the purpose of meeting and paying the operating expenses of a convention center designated by the McCracken Fiscal Court.

Section 3. Exceptions to Transient Room Tax Levy.

Transient room taxes shall not apply to **rooms, lodgings, campsites, or accommodations supplied for a continuous** ~~[the rental or leasing of an apartment supplied by an individual or business that regularly holds itself out as exclusively providing apartments. Apartment means a room or set of rooms in an apartment building, fitted especially with a kitchen and usually leased as a dwelling for a minimum]~~ **period** of thirty (30) days or more **to a person.**

Section 4. Transient Room Tax Collections Procedure.

All persons, groups, organizations, or businesses as identified in Section 2 must file a monthly report in a manner and on a form prescribed by the McCracken County Treasurer.

- A. Such report shall be filed with the McCracken County Treasurer on or before the 20th day of every month for the previous month and covering a period beginning on the first day of the previous month and ending on the last day of the previous month. A report must be filed, regardless of any funds or taxes collected.

- B. A report shall be filed, regardless of whether any funds were collected and taxes due.
- C. Any tax payments shall be remitted with the report.
- D. Any late fee and interest shall be remitted with the report.
- E. Any filing received, or United States Post marked, after the 20th day following the reporting period shall be deemed late and shall be charged the following interest and penalties:
 - 1. A late fee of 10% of the tax due per month (or daily fraction thereof) shall be assessed. The minimum late fee assessed shall not be less than \$25.00 (twenty-five dollars).
 - 2. An interest charge of 7% per annum on all late remittances shall be assessed.
- F. For the purpose of verifying information, the treasurer may require the submission of certified copies of other state and federal tax documents.
- G. All funds collected pursuant to this section must be maintained in a separate account.
- H. All host participants in internet brokering arrangements to rent rooms, houses, farms, cabins, **campsites**, dwellings, or recreational vehicles with companies such as Air BNB, VRBO, or similar type businesses shall register with the McCracken County Treasurer, providing the precise location of their rental type unit(s), along with their tax identification numbers for the individual or company receiving the income from the rental-type units. The host participant shall be required to file all reports and comply with all sections on this Ordinance. However, if the internet broker service enters an enforceable written agreement with the McCracken County Fiscal Court to report, collect, and remit the taxes imposed by this ordinance, then the host participant will be excepted from the reporting requirements of this Ordinance.

Section 5. Disbursements of Transient Room Tax Funds.

The McCracken County Treasurer shall make monthly disbursements which may be adjusted from time to time by the Fiscal Court in the following manner:

Agency	Transient Room Tax	Distribution Percentage
McCracken County Sports Tourism Commission	3%	50%
The Convention Center and Fine Arts Center Escrow Account	2%	33.33%
Convention Center Designated by the McCracken Fiscal Court	1%	16.67%
TOTALS	6%	100%

Penalties and interest as a result of late payments must be disbursed at the same rates. The treasurer must use reasonable efforts to make disbursements on or before the 10th day of each month.

Section 6. Designation of Convention Center.

Effective September 1, 2019, and until further orders of the McCracken County Fiscal Court indicate otherwise, the Paducah – McCracken County Convention Center Corporation is designated as the McCracken County Convention Center to which the above-referenced 1% of transient room tax funds will be disbursed.

Section 7. Audit Authorized.

All persons, groups, organizations, or businesses as identified in Section 2 above and subject to the provisions of this ordinance shall maintain a record showing gross room rentals and permanent guest rentals, but a separate record shall not be required if the taxpayer's regular records contain such information. Whenever the McCracken County Treasurer considers it necessary for the proper administration of this ordinance, a taxpayer shall permit an officer or employee of the county to make an audit of such records and any other books, papers, files, and property of the taxpayer, and to examine witnesses under oath for the purpose of determining whether any provisions of this ordinance are being violated.

Section 8. Criminal Penalty for Violation.

Any person violating any provision of this chapter shall be guilty of a misdemeanor and shall, upon conviction, be subject to a fine of not more than \$500.00, or imprisonment for not more

than 30 days, or both, for each offense. For every month for which a report was not properly filed shall constitute a separate offense.

Section 9. Severability.

If any section, subsection, or clause of this Ordinance shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections, and clauses shall not be affected.

Section 10. Compliance With Open Meetings Laws.

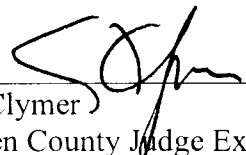
The McCracken County Fiscal Court hereby finds and determines that all formal actions relative to the adoption of this Ordinance were taken in an open meeting of said legislative body and that all deliberations of the Fiscal court, if any, which resulted in formal action, were in meetings open to the public, in full compliance with applicable legal requirements.

Section 11. Conflicts.

All ordinances, resolutions, orders or parts thereof in conflict with the provisions of this Ordinance are, to the extent of such conflict, hereby repealed and the provisions of this Ordinance shall prevail and be given effect.

Section 12. Effective Date and Implementation.

This ordinance shall be read on two separate days, published pursuant to KRS Chapter 242, and become effective on January 1, 2023.

BY: 
Craig Z. Clymer
McCracken County Judge Executive

ATTEST:

McCracken County Clerk

Introduced and publicly read on _____.

Publicly read and adopted on _____.

Recorded by County Clerk on _____.

Published by The Paducah Sun on _____.