

Re: ORDINANCE TO PROVIDE FOR IMPOSITION AND COLLECTION OF AN EXCISE TAX ON PERSONS ENGAGED IN THE BUSINESS OF PROVIDING ROOMS FOR TRANSIENT GUESTS

Adopted May 13, 1975

Resolution No. 75-131

An ordinance relating to and providing for the imposition and collection of an excise tax on persons engaged in the business of providing rooms for dwelling, lodging, or sleeping purposes to transient guests; to provide the circumstances under which such tax shall be imposed and collected; to provide for the powers and duties of the county treasurer; to grant the power to contract for fund administration; to establish the rate of such tax; to authorize and establish procedures to ascertain, assess, collect, administer and enforce said tax; to provide for the disposition of the revenues thereof; to provide for abatements and refunds; and to prescribe penalties for violations thereof.

THE PEOPLE OF THE COUNTY OF INGHAM, MICHIGAN, DO ORDAIN:

#### ARTICLE I

##### PURPOSE

Section 1. In the interest of the citizens of Ingham County, and for the benefit of the general public, and to promote and encourage tourist and convention business in the County of Ingham, and with the purpose of providing to the public and to the citizens convention and entertainment facilities as described in Act 263, Public Acts of Michigan, 1974, and to finance the acquisition, construction, improvement, enlargement, repair and maintenance of such convention and entertainment facilities, and to provide for the administration and enforcement of this Ordinance; the County of Ingham, Michigan, does hereby adopt the following ordinance pursuant to Act 156, Public Acts of Michigan, 1851, as amended.

#### ARTICLE II

##### DEFINITIONS

Section 2. For the purpose of this Ordinance, the following terms shall have the following meanings respectively designated for each:

Section 2.1 "ACCOMODATIONS" means the room or other space provided for sleeping, including furnishings and other accessories therein. Accomodations do not include food and beverages.

Section 2.2 "ADMINISTRATOR" means the official designated by the County to collect the tax and to administer and enforce this Ordinance.

Section 2.3 "BOARD OF COMMISSIONERS" means the Ingham County Board of Commissioners.

Section 2.4 "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.

Section 2.5 "COUNTY TREASURER" means the elected County Treasurer or the duly authorized representative thereof.

Section 2.6 "PERSON" means a natural person, partnership, fiduciary, association, corporation, or other entity.

Section 2.7 "REVENUES" means the income derived from the tax, plus interest and

penalties levied and assed under this Ordinance.

Section 2.8 "TRANSIENT GUEST" means a natural person staying less than thirty (30) consecutive days.

### ARTICLE III COUNTY TREASURER

Section 3. ADMINISTRATOR: The County Treasurer is hereby designated as the Administrator of the tax and methods of collection.

Section 3.1 POWERS AND DUTIES: The County Treasurer shall collect the tax imposed in Section 4 hereof and shall administer and enforce this Ordinance. The County Treasurer shall have the power to make such rules and regulations, subject to the approval of the Board of Commissioners, as are necessary to effectively collect the tax levied herein and shall, upon reasonable notice, have access to books and records necessary to enable the Treasurer to determine the correctness of any report filed as required by this Ordinance and the amount of taxes due under the provisions of this Ordinance. The County Treasurer shall furnish forms, instructions, manuals and other materials necessary for indorsement of the tax and the auditing of tax returns to each taxpayer.

Section 3.2 EXPENSES: The County shall receive from all proceeds collected under this Ordinance, such amount as shall be determined from time to time by the Board of Commissioners for collection expenses incurred by the County Treasurer's office plus all interest and penalty fees.

### ARTICLE IV TAX

Section 4. AMOUNT OF TAX: A tax is hereby imposed on and shall be collected from each each person engaged in the business of providing accommodations for dwelling, lodging or sleeping purposes for transient guests, whether or not membership is required for the use of the accommodations. The tax imposed hereunder shall be at a rate of two percent (2%) of the total charge, exclusive of taxes, for the accommodations subject to Act 263, Public Acts of Michigan, 1974, and this Ordinance.

Section 4.1 EXCEPTIONS: No tax shall be imposed hereunder upon cottages, hospitals or nursing homes, or upon a corporation or association organized and operated exclusively for religious, charitable or educational purposes, in which no part of the net earnings inures to the benefit of any private shareholder or individual.

Section 4.2 REPORTS: REMITTANCES: On or before the fifteenth day of each month, every person subject to this Ordinance shall submit, on forms provided by the County Treasurer, such facts and information as are required by the County Treasurer for the proper administration of this Ordinance, and shall file a report for the preceding month with the County Treasurer showing the total amount of consideration paid for all accommodations in the preceding month, the amount of the tax collected on such accommodations and any other information that the County Treasurer shall reasonably require. Such person shall pay the tax due on such accommodations based on the rate of tax imposed by this Ordinance at the time of filing the report with the County Treasurer. All remittances of tax imposed by this Ordinance shall be to the County Treasurer by bank draft, check, cashier's check, money order, certificate of deposit or money. The County Treasurer shall issue a receipt, and shall forthwith deposit all monies received in a special fund of the County; provided, however, that no remittance other than cash shall be a final discharge of liability for the tax here assessed and levied unless and until it has been paid in cash.

Section 4.3 INTEREST: Interest at the rate of one percent (1%) per month or a fraction thereof, shall be imposed on the unpaid tax after the due date thereof, until paid. Such interest shall continue at the rate of one percent (1%) per month, or fraction thereof, until paid. Any interest added shall be collected as part of the tax.

Section 4.4 RECORDS: The records of all persons engaged in the business of providing accommodations for dwelling, lodging or sleeping purposes to transient guests, except hospitals and nursing homes, shall be open to the inspection of the County Treasurer, at all reasonable times after reasonable notice of such inspection by the County Treasurer.

Section 4.5 TAX RETURN: Every person subject to the operation of this Ordinance shall file copies of any and all use tax returns required pursuant to the provisions of Act 94, Public Acts of Michigan 1938 as amended, within ten (10) days after they have been filed with the State of Michigan.

#### ARTICLE V

#### PENALTIES

Section 5. PENALTIES: The County Treasurer, after inspection and examination of the books and records of a person subject to this Ordinance, to the extent such books and records, or any other evidence available to the County Treasurer, requires a payment of a tax in excess of that paid by such person, in addition to the additional tax, and interest thereon, may impose a penalty of five percent (5%) of the amount of the unpaid tax per month or fraction thereof after the due date thereof, until paid. Such penalty shall not, however, exceed twenty-five percent (25%) of the unpaid tax. Any penalty shall be collected as part of the tax.

Section 5.1 FINES OR IMPRISONMENT: Any person found in violation of any of the provisions of this Ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be subject to a fine not to exceed Five Hundred and no/100 Dollars (\$500.00), or imprisonment in the county jail, not to exceed ninety (90) days, or both, at the discretion of the court.

Section 5.2 VIOLATION OF PROCESS: In the event of any violation of this Ordinance by a person engaged in the business of providing accommodations for dwelling, lodging or sleeping purposes to transient guests, except hospitals and nursing homes, the County Treasurer may proceed to make complaint before a judge of the courts of Ingham County, and obtain the issuance of a summons for the arrest of such person.

#### ARTICLE VI

#### ABATEMENTS AND REFUNDS

Section 6. REVIEW: Any aggrieved persons subject to this Ordinance may, within ten (10) days after payment of the tax, interest and/or penalty, under protest, file with the County Treasurer, upon forms provided by the County Treasurer, an application for a hearing for an abatement or refund of taxes, interest and/or penalty imposed hereunder. The applicant shall submit to the County Treasurer all the facts necessary for a competent determination.

Section 6.1 NOTICE OF HEARING: The County Treasurer, within ten (10) days of receipt of the application, shall notify the applicant of the date of the hearing, which shall not be more than forty-five (45) days from the date of the receipt of the application.

Section 6.2 HEARING: At the time and place set for the hearing, the applicant, or anyone in behalf of the applicant, shall be given an opportunity to be heard and submit such evidence as the applicant deems necessary to justify an abatement or refund of such taxes.

Section 6.3 DETERMINATION OF COUNTY TREASURER: At the time of the hearing, the County Treasurer shall listen to the facts and evidence as presented by the applicant and shall make a decision regarding abatement or refund of the applicant's tax, and, in making such decision shall consider, among other factors, the following:

- (a) Whether failure to file was due to reasonable cause and not due to wilful neglect.
- (b) Whether the tax was inadvertently collected from a person meeting the requirements in Section 4.1.
- (c) Whether the person responsible for payment of the tax inadvertently made an overpayment.
- (d) Whether charges for accommodations remain unpaid and there remains little likelihood that such charges will be collected.

Based on such factors, the County Treasurer may grant abatement or refund of taxes, interest and/or penalties imposed hereunder for just cause. The decision of the County Treasurer shall be in writing.

Section 6.4 COURT APPEAL: In the event the applicant is aggrieved by the decision of the County Treasurer, the applicant may, within thirty (30) days of receipt of the decision of the County Treasurer, file an action in the courts of Ingham County for a determination of such abatement or refund.

## ARTICLE VII DISPOSITION OF REVENUES

Section 7. REVENUE RECEIVING FUND: The revenues derived from the taxes imposed pursuant to this Ordinance shall be deposited in a special fund to be used by the County or an authority which is organized pursuant to state law, only for the following purposes:

- (a) To pay the cost of administration and enforcement of this Ordinance.
- (b) To finance, in whole or in part, the acquisition, construction, improvement, enlargement, repair or maintenance of convention and entertainment facilities, including the payment of principal and interest, when due, on bonds or other evidence of indebtedness issued by the County for convention and entertainment facilities.
- (c) To pay current or future annual rental payments by the County to an authority organized pursuant to state law for the purpose of acquiring, constructing, improving, enlarging, repairing or maintaining the convention and entertainment facilities and leasing them to the County.
- (d) To promote and encourage tourist and convention business in the County.

Section 7. 1 INVESTMENT OF FUNDS: Monies in the special fund may be invested by the County Treasurer. In the event such deposits are made, the security

representing the same shall be kept on deposit with the depository of the fund from which such investments are made, and such securities and the income therefrom shall become a part of the fund.

Section 7.2 POWER TO CONTRACT FOR FUND ADMINISTRATION: The County of Ingham may enter into a contract or contracts with the State of Michigan, a municipality within Ingham County, a non-profit agency or agencies outside of the County government, or one or more of the above, to carry out the purposes of this Ordinance on such terms and conditions as shall be agreed upon by the Board of Commissioners.

#### ARTICLE VIII

##### OTHER TAXES

Section 8. The taxes levied under this Ordinance shall be in addition to any other taxes, charges or fees.

#### ARTICLE IX

##### HEADINGS

Section 9. Headings shall be for purposes of convenience and shall in no way be a limitation on the contents of any paragraph of this Ordinance.

#### ARTICLE X

##### SEVERABILITY

Section 10. 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.

#### ARTICLE XI

##### EFFECTIVE DATE OF ORDINANCE

Section 11. This Ordinance and the tax imposed hereby shall become effective on the 1st day of August, 1975.