

ORDINANCE NO. 13-06

AN ORDINANCE TO THE CITY OF SOMERSET, KENTUCKY, ESTABLISHING AND CREATING A *CITY OF SOMERSET TOURIST AND CONVENTION COMMISSION*, PURSUANT TO KRS CHAPTER 91A, AND ESTABLISHING A *TRANSIENT ROOM TAX* AND A *SPECIAL TRANSIENT ROOM TAX* AS PERMITTED AND SET FORTH IN KRS CHAPTER 91A, AND ALL OTHER APPLICABLE LAW;

WHEREAS, the City is not an official member of the Pulaski County Tourist and Convention Commission; and

WHEREAS, the City of Somerset receives no transient room tax, or a part thereof, collected by the Pulaski County Tourist and Convention Commission and therefore does not benefit financially from participating in said commission in its current form; and

WHEREAS, the majority of establishments to which the County Transient Room Tax apply are within the corporate limits of the City of Somerset; and

WHEREAS, the City of Somerset has determined it is in their best interest to establish a *City of Somerset Tourist and Convention Center Commission* for the benefit of its citizens, to provide financial aid from a special tax under this established Commission to be used for any Convention Center(s), including but not limited to the Center for Rural Development, and finally for the promotion of tourism to the City of Somerset.

THEREFORE, be it ordained by the Common Council of the City of Somerset that there is hereby created a commission to be known as the *City of Somerset Tourist and Convention Commission* which shall be formed, and operated, as set forth in this Ordinance and according to all applicable law; and that there is further hereby created a Transient Room Tax to be charged, collected, and used as set forth in this Ordinance and according to all applicable law, 1% (One Percent) of which may be provided for Convention Center(s), including the Center for Rural Development.

**MEMBERSHIP OF COMMISSION, TERMS,
OFFICERS, ASSIGNED CITY EMPLOYEES, AND AUDIT**

I. APPOINTMENT AND TERMS

(A) The commission shall be composed of seven (7) members to be appointed by the mayor pursuant to KRS 91A.360.

(B) Vacancies shall be filled in the same manner as original appointments are made as set forth in KRS 91A.360(2).

(C) Pursuant to KRS 91A.360(3), the commissioners shall be appointed for terms of three (3) years; provided, that in making the initial appointments, the mayor shall appoint two (2) commissioners for a term of three (3) years; two (2) commissioners for a term of

four (4) years; and three (3) commissioners for a term of one (1) year. The commissioners shall be chosen for their appointments as set forth in KRS 91A.360(1)(a)-(d).

(D) Removal of a commissioner from office shall be done according KRS 91A.360(6).

II. COMPENSATION; LIABILITY

Members of the Tourist and Convention Commission shall serve on a voluntary basis and therefore shall not receive compensation. Further, Members of the Commission shall not be considered employees of the City of Somerset for any purposes, including but not limited to, worker's compensation, liability policies of any sort, and shall not enter contractual obligations, obtain City life or health insurance policies, nor any other City provided benefit.

III. ORGANIZATION; DUTIES; RESPONSIBILITIES

(A) The commission shall elect from its members a chairman and a treasurer, and may make such contracts as necessary to carry out the purpose of KRS 91A.350 to 91A.390, with the express approval of the Mayor. The commission's duties and responsibilities are set forth in KRS 91A.360(4), adopted herein by reference so long as they are not in conflict with this section, or any other sections of this Ordinance, and/or any other Ordinance and/or administrative regulation which apply to the commission. The Mayor may promulgate administrative regulations for the commission, and any persons assigned to work for the commission, subject to disapproval of the City Council per KRS 83A. All personnel/employees needed to assist the commission shall be City Employees/Officers and shall be assigned to the commission by the Mayor to assist in the commission's purposes. The Board shall have no authority to obtain, hire, or employ any person or entity for any purpose.

(B) The commission shall annually submit to the city council a request for funds for the operation of the commission for the ensuing fiscal year, just as all City Departments are required to do, and shall make all purchases and expenditures through the City's Financial Officer and/or the Budget Director and Procurement Officer as City regulations dictate. The commission shall follow all financial rules, just as required of other departments of the City, including but not limited to, the Model Procurement Code and all City procurement and surplus property regulations. The commission shall follow KRS 91A.360(5), and shall also provide bookkeeping of the commission and its account(s) to any City Officer as requested, meet all GSA Municipal auditing requirements, and all finances shall be handled by the City's Finance Officers of the Executive Department. In addition, no books or accounts shall be withheld from a City Officer and shall be made available pursuant to KRS 91A, and all other applicable law.

TRANSIENT ROOM TAX; SPECIAL TAX

I. IMPOSITION AND RATE

For the purposes of operation of the tourist and convention commission and to finance the cost of acquisition, construction, operation and maintenance of facilities useful in the attraction and promotion of tourist and convention business, there is hereby imposed and levied a *Transient Room Tax* of three (3) percent of the rent for every occupancy of a suite, room, or rooms, charged by all persons, corporations, or the like or similar persons, groups, or organizations doing business as motor courts, motels, hotels, inns, or the like or similar accommodations businesses; provided that this tax shall not apply to the rental or leasing of an apartment supplied by an individual or business that regularly holds itself out as exclusively providing apartments, pursuant to KRS 91A.390; in addition, the City Council herein enacts a *Special Transient Room Tax* of one (1) percent for the sole purpose of meeting the operating expenses of a convention center located within the city's corporate limits (See KRS 91A.390) and shall enforce and collect said tax in the same manner as the general Transient Room Tax.

II. QUARTERLY PAYMENT

Every person, company, corporation or the like or similar persons, groups, or organizations doing business as motor courts, motels, hotels, inns, or like or similar business supplying accommodations in the city shall pay to the city a transient room tax of three (3) percent of the gross rent for every occupancy of a suite, room or rooms charged and collected by them, and an additional special transient room tax of one (1) percent for the sole purpose of meeting the operating expenses of any convention center located within the corporate limits of the City. Payments shall be made quarterly for periods ending March thirty-first, June thirtieth, September thirtieth, and December thirty-first of each year. The tax shall be due and payable on or before the last day of the month next following the last day of each quarterly period, and shall be submitted with a return on a form furnished by or obtained from the City setting forth an aggregate amount of gross rentals charged and collected during the preceding quarter for every occupancy to which the transient room tax applies, as well as the same for the special transient room tax as set forth in the Ordinance, and all other pertinent information as the city may require.

III. INTEREST AND PENALTY ON UNPAID TAX

Any tax imposed by this article remaining unpaid after it becomes due as set forth herein shall be subject to a penalty of ten (10%) percent, together with interest at the rate of one-half of one percent for each month of delinquency, or fraction thereof, until paid.

IV. EXCEPTIONS

(A) The transient room tax, and the special transient room tax, imposed by this Ordinance shall not apply to rentals paid on occupancies of thirty (30) consecutive days or longer.

(B) The tax imposed by this article shall be in addition to other general taxes as well as other taxes including but not limited to occupational and/or business license tax(s).

V. RECEIPTS INCLUDED IN AUDIT

All receipts, payments and controls utilized by the city relating to the collection of the transient room taxes shall be included in the annual audit as prescribed by the Kentucky Revised Statutes.

VI. COMMISSION TO BE PAID, BUSINESS SUBJECT TO TAX

(A) The transient tax levied and imposed herein shall be paid by persons occupying rooms, premises, or similar areas for which the tax is levied pursuant to this Ordinance. The person, company, corporation, group or organization doing business as a motor court, motel, hotel, and/or the like, shall collect the tax from the persons occupying the premises. However, in the event that the tax is not collected, the person, company, corporation, group, organization, or the like doing business as a motor court, motel, hotel, inn or similar business shall pay an amount equal to the tax to the City pursuant to other provisions of this article.

(B) The special transient tax levied and imposed herein shall be paid by persons occupying rooms, premises, or similar areas for which the tax is levied pursuant to this Ordinance. The person, company, corporation, group or organization doing business as a motor court, motel, hotel, and/or the like, shall collect the tax from the persons occupying the premises. However, in the event that the tax is not collected, the person, company, corporation, group, organization, or the like doing business as a motor court, motel, hotel, inn or similar business shall pay an amount equal to the tax to the city treasurer pursuant to other provisions of this article.

(C) In consideration of collection and bookkeeping expenses, the person, company, corporation, group or organization subject to and collecting any tax imposed herein shall be paid a commission of two (2%) percent of all such taxes collected.

VII. PENALTIES

Any person who fails, neglects or refuses to make any return required by this Ordinance, or refuses to permit the City, or any agent designated on their behalf in writing, to examine books, records and papers, or any person who makes an incomplete, false, or fraudulent return, or attempts to do anything whatever to avoid the full disclosure of the amount of gross rent in order to avoid payment of this tax shall, upon conviction in a criminal court, be deemed guilty of a misdemeanor and shall be fined not

more than one hundred (\$100.00) dollars or imprisoned for not more than thirty (30) days, or both.

VIII. MISCELLANEOUS

(A) If any of this Ordinance is deemed by a court of competent jurisdiction to be unenforceable or unconstitutional, the remaining provisions of this Ordinance shall continue in full force and effect.


(B) Any Ordinance in conflict with this Ordinance or any policies in conflict with the ones enacted herein are hereby repealed in so far as the same are in conflict herewith.

(C) This ordinance shall be in full force and effect upon approval and publication according to law.

FIRST READING April 22, 2013

SECOND READING May 7, 2013

ATTEST: 
City Clerk, David Godsey

APPROVED: 
Mayor, Eddie Girdler