

**BILL NO. 98-61**

**ORDINANCE NO. 4611**

AN ORDINANCE AMENDING THE CODE OF ORDINANCES FOR THE CITY OF LEE'S SUMMIT, MISSOURI, BY ADDING DIVISION 7, LICENSE TAX ON HOTELS, MOTELS AND SIMILAR PLACES OF BUSINESS, TO ARTICLE II BUSINESS LICENSE TAXES, OF CHAPTER 28 TAXATION, LEVYING A LICENSE TAX ON CERTAIN GROSS RECEIPTS OF HOTELS, MOTELS AND SIMILAR PLACES OF BUSINESS, THE PROCEEDS OF WHICH SHALL BE USED TO PROMOTE THE GENERAL ECONOMIC WELFARE OF LEE'S SUMMIT, INCLUDING BUT NOT LIMITED TO THE ATTRACTION AND RETENTION OF BUSINESS AND INDUSTRY TO THE COMMUNITY AND/OR THE PROMOTION AND PROVISION OF FACILITIES FOR TOURISM, CONVENTIONS, AND VISITORS.

WHEREAS, the City of Lee's Summit is a constitutional charter city; and,

WHEREAS, Article VI, § 19(a) of the Missouri constitution states that, "Any city which adopts or has adopted a charter for its own government, shall have all powers which the general assembly of the state of Missouri has the authority to confer upon any city, provided such powers are consistent with the constitution of this state and are not limited or denied either by the charter so adopted or by statute. Such a city shall, in addition to its home rule powers, have all powers conferred by law"; and,

WHEREAS, the Charter for the City of Lee's Summit, adopted April 2, 1996, provides in § 13.1 that, "The City Council shall have the power by ordinance to license, tax and regulate all businesses, occupations, professions, vocations, activities or things whatsoever set forth and enumerated by the statutes of this state now or hereafter applicable to constitutional charter cities, or cities of any class, or of any population group, and which any such cities are now or may hereafter be permitted by law to license tax and regulate;" and,

WHEREAS, RSMo § 94.110 authorizes third class cities to impose a license tax on "hotels, rooming houses, boarding houses. . .and all others pursuing like occupations;" and,

WHEREAS, RSMo § 94.270 authorizes fourth class cities to impose a license tax on "hotels, [and] public boardinghouses;" and,

WHEREAS, RSMo § 94.360 authorizes special charter cities to impose a license tax on "hotels, roominghouses, boardinghouses. . .all others pursuing like occupations"; and,

WHEREAS, the City Council approved Ordinance No. 4560 on the 20<sup>th</sup> day of January, 1998, placing before the voters the question of whether an occupational license tax should be imposed on certain gross receipts of hotels, motels and similar places of business; and,

WHEREAS, the City Council approved Ordinance No. 4599 on 14<sup>th</sup> day of April, 1998, declaring the results of the April 7, 1998 general election at which the question of whether an occupational license tax should be imposed on certain gross receipts of hotels, motels and similar places of business was approved by a majority of the registered voters within the City of Lee's Summit, Missouri; and,

WHEREAS, in accordance with the question placed before the voters, said tax shall be utilized to promote the general economic welfare of Lee's Summit including, but not limited to, the attraction and retention of business and industry to the community and/or the promotion and provision of facilities for tourism, conventions, and visitors.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LEE'S SUMMIT, MISSOURI, as follows:

SECTION 1. That Chapter 28, Taxation, Article II Business License Taxes, of the Code of Ordinances for the City of Lee's Summit, Missouri, is hereby amended by adding Division 7, License Tax On Hotels, Motels And Similar Places Of Business, as follows:

**DIVISION 7. LICENSE TAX ON HOTELS, MOTELS AND SIMILAR PLACES OF BUSINESS**

**Sec. 28-\_\_\_\_\_. Definitions.**

The following works, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this section and shall be construed as indicated in this Section:

"*Gross Daily Rental Receipts*" shall mean the entire amount of any receipt from the rental of sleeping accommodations by Hotels or Motels, including all state, federal and local taxes, whether paid in cash, credits or property, and without any deduction or exemption therefrom whatsoever.

"*Hotel*" and "*Motel*" shall mean any structure, or building, under one management or ownership, which contains rooms furnished for the accommodation or lodging of guests, with or without meals being provided, and kept, used, maintained, advertised, or held out to the public as a place where sleeping accommodations are sought for pay or compensation to transient guests or permanent guests and having more than three (3) bedrooms furnished for the accommodation of such guests. This definition is intended to include tourist courts, bed and breakfast establishments and similar facilities, but not hospitals, nursing homes or convalescent centers.

"*Person*" shall mean an individual, partnership, corporation or other business entity.

"*Transient Guest*" shall mean any person who occupies a room in a Hotel or Motel for twenty-eight (28) consecutive days or less.

**Sec. 28-\_\_\_\_\_. Levy of Tax**

In addition to the license fees levied on Hotels and Motels pursuant to Article II. Occupational License Taxes, of this Chapter 28, there is hereby levied upon every person engaged in the business of operating and carrying on the business of the operation of a hotel or motel, an additional license tax in an amount equal to five percent (5%) of Gross Daily Rental Receipts derived from transient guests for sleeping accommodations.

**Sec. 28 - \_\_\_\_\_. Establishment and Use of Business and Industry Fund.**

There is hereby established a Business and Industry Fund in the City. All taxes levied, collected and appropriated pursuant to this Section shall be deposited to the credit of this fund. The Business and Industry Fund shall be used for the attraction and retention of business and industry to the community and/or the promotion and provision of facilities for tourism, conventions, and visitors.

**Sec. 28- \_\_\_\_\_. Payment of Tax.**

The license tax due under this Section shall be paid to the city Finance Department monthly. The license tax due for Gross Daily Rental Receipts collected each month shall be due and payable on or before the 20<sup>th</sup> day of the following month for which it is payable.

**Sec. 28- \_\_\_\_\_. Discount if Timely Paid.**

Any person subject to this division who pays the license tax on or before the date it is due and payable, shall receive a discount in the amount of two percent (2%) of the amount due. This discount is intended to reduce the cost of collection and to provide some remuneration for the persons collecting the tax. For purposes of this section, the payment must be postmarked or delivered on or before the date it is due and payable.

**Sec. 28- \_\_\_\_\_. Reports Required.**

Every person engaged in the business of operating a Hotel or Motel shall file monthly reports with the City Director of Finance on forms prescribed by the Director, giving such information as may be necessary to determine the amounts to which the license tax shall apply for the monthly period. The monthly reports shall be submitted with the monthly payments.

**Sec. 28- \_\_\_\_\_. Examination of Books, Records.**

The City Director of Finance or the Director's designee shall have the right at all reasonable times during business hours to make such examination and inspection of the books and records of the Hotel or Motel as may be necessary to determine the correctness of the reports required by this Section.

**Sec. 28- \_\_\_\_\_. Financial Assurance Requirement.**

(1) Renewal of any city business license or liquor license of any person who has been delinquent in remitting the additional license tax for or during three (3) or more months during the year preceding renewal shall be conditioned upon the posting of financial assurance, sufficient to secure payment of said taxes during the year of renewal. The amount of financial assurance shall be equal to the amount of license tax payments of such person during the year preceding renewal.

**BILL NO. 98-61**

**ORDINANCE NO. 4611**

(2) Financial assurance shall be in the form of a cash deposit, an irrevocable letter of credit from a bank with sufficient financial capability as determined by the Director of Finance, or a bond issued by a company rated A+ or better by A.M. Best and licensed to do business in the state of Missouri.

**Sec. 28- \_\_\_\_\_. Penalties for Nonpayment.**

For each month, or part thereof, any license tax provided for under this Division remains unpaid after the same shall be due and payable, there shall be added to such license tax as a penalty, ten percent (10%) of the amount of such license tax for the first month or part thereof the same is unpaid, and for each and every month thereafter two percent (2%) of the amount of such license tax shall be added until the same is fully paid. In no case shall the total penalty exceed thirty percent (30%) of the license tax. If the license tax as provided in this Section is not paid by the tenth day after said tax is due, the Director of Finance or the Director's designee may suspend or revoke, or initiate suspension or revocation of, the City business license and/or liquor license of the person liable for such license tax in accordance with the procedures provided by ordinance for the suspension or revocation of said licenses. In addition to the penalties provided herein, any person subject to the provisions of this Section who fails to file a statement or pay the license tax or files a false or fraudulent statement, required by this Division or within the time required by this Division shall, upon conviction thereof, be punished by a fine not exceeding five hundred dollars (\$500.00) or by imprisonment not exceeding three (3) months, or by both such fine and imprisonment.

**Sec. 28- \_\_\_\_\_. Administration Fee.**

Notwithstanding the provisions of Section 28-\_\_\_\_\_, the City shall be entitled to an administration fee to be charged against the Business and Industry Fund which shall reflect the cost to administer the levying, collecting and appropriating of the fund but which shall not in any circumstance exceed six percent (6%) of the amount collected during the year in which the fee is charged.

SECTION 2. That 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 thereof.

SECTION 3. That it is the intention of the City Council and is hereby ordained that the provisions of this ordinance shall become and be made a part of the Code of Ordinances for the City of Lee's Summit, Missouri.

SECTION 4. That all ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

SECTION 5. That this ordinance shall be in full force and effect from and after July 1, 1998.

**BILL NO. 98-61**

**ORDINANCE NO. 4611**

PASSED by the City Council for the City of Lee's Summit, Missouri, this 5<sup>th</sup> day of May, 1998.

  
\_\_\_\_\_  
Mayor Karen R. Messerli

ATTEST:

  
\_\_\_\_\_  
City Clerk Denise R. Chisum

APPROVED by the Mayor of said city this 5<sup>th</sup> day of May, 1998.

  
\_\_\_\_\_  
Mayor Karen R. Messerli

ATTEST:

  
\_\_\_\_\_  
City Clerk Denise R. Chisum

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Assistant City Attorney Joanne L. Graham