

CHAPTER 173  
Transient Occupancy Tax

173.01 Definitions.	173.09 Appeals.
173.02 Purpose, rate and application.	173.10 Actions to collect.
173.03 Transient guest to pay tax.	173.11 Rules and regulations.
173.04 Records inspection and destruction.	173.12 Intent of transient occupancy tax.
173.05 Tax to be separately stated and charged.	173.13 Interest for nonpayment on due date.
173.06 Returns required.	173.14 Allocation of funds.
173.07 Refunds.	173.99 Penalty.
173.08 Failure to collect and report tax; determination by Administrator.	

CROSS REFERENCE

Power to levy - see Ohio R.C. 5739.02(C)

173.01 DEFINITIONS.

For the purpose of this Chapter the terms, phrases, words and their derivatives shall have the meanings given in this Section. The singular shall include the plural, and the masculine shall include the feminine and the neuter.

(a) "Administrator" means the Finance Director or his authorized representative.

(b) "Hotel" or "motel" means every establishment kept, used, maintained, advertised or held out to the public to be a place where sleeping accommodations are offered for consideration to guests, in which five (5) or more rooms are used for the accommodation of such guests, whether such rooms are in one (1) or several structures.

(c) "Transient guest" means persons occupying a room or rooms for sleeping accommodations for less than thirty (30) consecutive days.

(d) "Vendor" means the person who is the owner or operator of the hotel or motel and who furnishes the lodging.  
(Ord. 121-72. Passed 1-8-73.)

173.02 PURPOSE, RATE AND APPLICATION.

(a) There is hereby levied an excise tax on transactions by which lodging by a hotel or motel is or is to be furnished to transient guests of three percent (3%) of the amount paid or to be paid by the transient guests for the lodging for the purpose of providing revenue with which to meet the needs of the City.

(b) Such tax, which shall be known as the transient occupancy tax, applies and is collectible at the time the lodging is furnished, regardless of the time when the price is paid.

(c) For the purpose of the proper administration of this Chapter and to prevent the evasion of the tax, it is presumed that all lodging furnished by hotels in this City to transient guests is subject to the tax until the contrary is established. (Ord. 121-72. Passed 1-8-73.)

#### 173.03 TRANSIENT GUEST TO PAY TAX.

The transient occupancy tax imposed by this Chapter shall be paid by the transient guest to the vendor, and each vendor shall collect from the transient guest the full and exact amount of the tax payable on each taxable lodging. The tax required to be collected under this Chapter shall be deemed to be held in trust by the vendor until paid to the Administrator as provided in Section 173.06. If for any reason the tax due is not paid to the vendor, the Administrator may require that such tax be paid directly to the Administrator.(Ord. 121-72. Passed 1-8-73.)

#### 173.04 RECORDS INSPECTION AND DESTRUCTION.

Each vendor shall keep complete and accurate records of lodging furnished, together with a record of the tax collected thereon. Such records shall be open during business hours to the inspection of the Administrator and shall be preserved for a period of three (3) years, unless the Administrator in writing consents to their destruction within that period, or by order required that they be kept longer.(Ord. 121-72. Passed 1-8-73.)

#### 173.05 TAX TO BE SEPARATELY STATED AND CHARGED.

(a) The transient occupancy tax shall be stated and charged separately from the charge for the lodging and shown separately on any record thereof, at the time when the occupancy is arranged or contracted and charged for, and upon every evidence of occupancy or any bill or statement or charge made for such occupancy issued or delivered by the vendor.

(b) No vendor shall advertise or state in any manner, whether directly or indirectly, that the tax or any part thereof will be assumed or absorbed by the vendor, or that it will not be added to the amount charged for the lodging, or that, if added, any part will be refunded, except in the manner provided in this Chapter. (Ord. 121-72. Passed 1-8-73.)

**173.06 RETURNS REQUIRED.**

(a) Each vendor shall on or before the last day of the month make and file a return for the preceding month, on forms prescribed by the Administrator, showing the receipts from furnishing lodging, the amount of tax due from the vendor to the City for the period covered by the return, and such other information as the Administrator deems necessary for the proper administration of this Chapter. The Administrator may extend the time for making and filing returns. Returns shall be filed by delivering or mailing the same to the Administrator together with payment of the full amount of tax shown to be due thereon.

(b) The Administrator may authorize vendors whose tax liability is not such as to merit monthly returns, as determined by the Administrator upon the basis of administrative costs to the City, to make and file returns at less frequent intervals. Such authorization shall be in writing and shall indicate the intervals at which returns are to be filed.

(c) All returns and payments submitted by each vendor shall be treated as confidential by the Administrator and shall not be released by him except upon order of a court of competent jurisdiction or to an officer or agent of the United States, the State of Ohio, the County of Cuyahoga or the City of Rocky River, for official use only.

(d) The Administrator, if he deems it necessary in order to insure the payment of the tax imposed by this Chapter, may require returns and payments to be made for other than monthly periods. The returns shall be signed by the vendor or his authorized agent.

(Ord. 121-72. Passed 1-8-73.)

**173.07 REFUNDS.**

The Administrator shall refund or grant credits to vendors for the amount of taxes paid illegally or erroneously or paid on any illegal or erroneous assessment where the vendor has not reimbursed himself from the transient guest. A transient guest may obtain a refund or credit for the amount of taxes paid illegally or erroneously but only when the tax was paid by the transient guests directly to the Administrator. No refund shall be paid unless the claimant establishes his right thereto by written records showing entitlement thereto and makes a claim in writing on forms furnished by the Administrator, stating under penalty of perjury the specific grounds upon which the claim is founded. Such claim shall be filed with the Administrator within three (3) years of the date of payment.

(Ord. 121-72. Passed 1-8-73.)

173.08 FAILURE TO COLLECT AND REPORT TAX; DETERMINATION BY ADMINISTRATOR.

(a) If any vendor fails or refuses to collect the transient occupancy tax or to file a return and to make a remittance of such tax or any portion thereof, as required by this Chapter, the Administrator shall proceed in such manner as he may deem best to obtain information on which to base his estimate of the tax due. When the Administrator has such information as he is able to obtain upon which to base the assessment of any tax imposed by this Chapter and payable by any vendor who has failed or refused to collect the same or to file a return and to make a remittance of the proper amount thereof, he shall proceed to determine and assess against such vendor the tax, penalty and interest provided for in this Chapter.

(b) In case such determination is made, the Administrator shall give notice of the amount so assessed by serving it personally or by registered or certified mail. Such vendor may within ten (10) days after the serving or mailing of such notice make application in writing to the Administrator for a hearing on the amount assessed. If application by the vendor is not made within the time prescribed, the tax, penalty and interest determined by the Administrator shall become final and conclusive and immediately due and payable. If such application is made, the Administrator shall give not less than five (5) days written notice in the manner prescribed in this Section to the vendor to show cause at a time and place fixed in such notice why such amount specified therein should not be fixed for such tax, penalty and interest. At any such hearing, the vendor may appear and offer evidence why such specified tax, penalty and interest should not be so fixed. After such hearing, the Administrator shall determine the proper tax to be remitted and shall thereafter give written notice to the person in the manner prescribed in this Section of such determination and the amount of such tax, penalty and interest. The amount determined to be due shall be payable after fifteen (15) days.

(Ord. 121-72. Passed 1-8-73.)

173.09 APPEALS.

Appeals from any ruling or determination of the Administrator with respect to the amount of such tax, penalty and interest shall be made to the Tax Board of Review of the City.

(Ord. 121-72. Passed 1-8-73.)

173.10 ACTIONS TO COLLECT.

Any tax required to be paid by a transient guest under the provisions of this Chapter shall be deemed a debt owed by the transient guest to the City. Any such tax collected by a vendor which has not been paid to the City shall be deemed a debt owed by the vendor to the City. Any person owing money to the City under the provisions of this Chapter shall be liable to an action brought in the name of the City for the recovery of such amount.

(Ord. 121-72. Passed 1-8-73.)

**173.11 RULES AND REGULATIONS.**

The Administrator shall have power to adopt rules and regulations not inconsistent with the terms of this Chapter for carrying out and enforcing the payment, collection and remittance of the transient occupancy tax. A copy of such rules and regulations shall be published as in the case of ordinances before they shall become effective and copies shall be printed and made available in the office of the Administrator.

(Ord. 121-72. Passed 1-8-73.)

**173.12 INTENT OF TRANSIENT OCCUPANCY TAX.**

It is the intent of this Chapter to levy the excise tax of three percent (3%) on transaction by which lodging by a hotel is or is to be furnished to transient guests as referred to and authorized by Ohio R.C. 5739.02(C). Accordingly, this Chapter shall be construed to effectuate that purpose and so as to be consistent with any requirement of law compliance with which is a prerequisite to the validity of the tax intended to be levied hereby.

(Ord. 121-72. Passed 1-8-73.)

**173.13 INTEREST FOR NONPAYMENT ON DUE DATE.**

If the tax imposed by this Chapter is not paid when due, there shall be added, as part of the tax, interest at the rate of one percent (1%) per month from the time when the tax became due until paid.

(Ord. 121-72. Passed 1-8-73.)

**173.14 ALLOCATION OF FUNDS.**

The tax levied by this Chapter shall be placed in the General Fund and shall be used only for the purpose for which the Fund was established.

(Ord. 121-72. Passed 1-8-73.)

**173.99 PENALTY.**

Whoever violates any provision of this Chapter shall be guilty of a misdemeanor and shall be fined not more than Five Hundred Dollars (\$500.00) or imprisoned not more than six (6) months, or both.

(Ord. 121-72. Passed 1-8-73.)