

ORDINANCE NO. O-10-08

AN ORDINANCE TO CREATE A NEW CHAPTER 3A ENTITLED "HOTEL RENTAL TAX" SO AS TO LEVY AND IMPOSE A HOTEL RENTAL TAX AS AUTHORIZED UNDER CHAPTER 24, SECTION 9-608 OF THE ANNOTATED CODE OF MARYLAND OF TWO PERCENT (2%) OF THE TOTAL AMOUNT PAID FOR ROOM RENTAL BY OR FOR A TRANSIENT FOR SLEEPING ACCOMMODATIONS

BE IT ORDAINED, by the Mayor and Council of the City of Gaithersburg, in public meeting assembled, that Chapter 3A entitled "Hotel Rental Tax" is created and shall read as follows:

Chapter 3A
Hotel Rental Tax

Sec. 3-1. Definitions

The following words and phrases when used in this Chapter have the following meanings:

(1) *Transient*: Any person who actually occupies sleeping accommodations in any hotel providing sleeping accommodations for which a transient charge is made.

(2) *Hotel*: Any public or private hotel, inn, hostelry, tourist home or house, motel, cottage, apartment, rooming house or other lodging place within the City, offering sleeping accommodations for ten (10) or more persons at any one time, that for compensation furnishes sleeping accommodations to any transient as defined in paragraph (1) of this subsection.

(3) *Room rental*: The total charge made by any hotel for sleeping accommodations or space furnished any transient for a period not exceeding four (4) consecutive months. It does not include any hotel charge for services or for accommodations other than sleeping accommodations. If the charge made by a hotel includes any charge for services or accommodations in addition to that for the use of sleeping space, then the portion of the total charge as represents only room rental shall be distinctly set out and billed by the hotel as a separate item.

(4) *Director*: Director of Finance and Administration or designee.

Sec. 3-2. Levy

(a) There is levied and imposed on each and every transient a tax at the rate of two percent (2%) of the total amount paid for room rental to any hotel, by or for a transient, for sleeping accommodations.

(b) Every hotel receiving any payment for room rental with respect to which tax is levied shall collect the amount of tax imposed by this Chapter at the time payment for the room rental is made. The taxes required to be collected by this Chapter shall be deemed to be held in trust by the hotel required to collect the tax until remitted as required by this Chapter.

(c) Whenever any hotel required to collect and pay to the City a tax under this Chapter shall cease doing business or otherwise dispose of its business, any tax payable under this Chapter to the City shall become immediately due and payable and the hotel shall immediately make a report and pay the tax due.

Sec. 3-3. Reports, records

(a) The hotel collecting the tax shall submit a report upon the forms and set forth the information as the Director may prescribe and require, showing the amount of room rental charges collected, and the tax required to be collected, and shall sign and deliver the same to the Director with a remittance of the tax. The reports and remittances shall be made on or before the last day of each month covering the amount of tax collected during the preceding month.

(b) It shall be the duty of every hotel liable for the collection and payment to the City of any tax imposed by this Chapter to keep and preserve, for a period of three (3) years, such records as may be necessary to determine the amount of the tax as the hotel may have been liable for the collection of and payment to the City, which records the Director shall have the right to inspect at all reasonable times.

Sec. 3-4. Exemptions

(a) No tax shall be payable under this Chapter on a room rental:

(1) In any hospital, medical clinic, nursing home, rest home, convalescent home, or home for aged persons;

(2) From a private nonprofit educational organization that:

a. Is not organized or operated for the purpose of carrying on or promoting a trade, business, or religious philosophy; but

b. Principally houses groups of young people exclusively for the purpose of developing leadership and citizenship skills and promotion of the general public welfare; or

(3) From a nonprofit charitable, religious, educational, recreational or literary organization, other than a country club, when the primary use of the facility is other than housing overnight guests.

Sec. 3-5. Violation; interest, penalties

(a) If any hotel shall fail or refuse to remit to the Director the tax required to be collected and paid by this Chapter or to make a proper report to the Director, within the time and in the amount specified by this Chapter, there shall be added to the tax by the Director interest at the rate of one (1) percent per month on the amount of the tax for each month or portion of a month from the date upon which the tax is due, and there shall be added to the tax by the Director a penalty of five (5) percent of the amount of the tax per month or portion of a month, not to exceed a total of twenty-five (25) percent of the tax.

(b) If any hotel shall fail or refuse to collect the tax and to make, within the time provided by this Chapter, any report and remittance required by this Chapter, the Director shall proceed in a manner as he or she may deem best to obtain facts and information on which to base his estimate of the tax due. As soon as the Director shall procure the facts and information as the Director is able to obtain upon which to base the assessment of any tax payable by any hotel that has failed or refused to collect the same and to make the report and remittance, the Director shall proceed to determine and assess against the hotel the tax, interest and penalties provided for by this Chapter and shall notify the hotel by mail sent to its last known place of address of the total amount of the tax and interest and penalties, and that total amount shall be payable within ten (10) days from the date of the notice.

(c) It shall be the duty of the Director to ascertain the name of every hotel providing sleeping accommodations in the City, liable for the collection of the tax levied under this Chapter that fails, refuses or neglects to collect the tax or to make, within the time provided by this Chapter, the reports or remittances required by this Chapter.

(d) Violations of provision of this Chapter are declared to be municipal infractions and enforceable pursuant to the provisions of Section 1-9 of the City Code. Each violation shall constitute a separate offense. The maximum penalty for each initial and repeat violation shall be established by resolution of the City Council. A conviction shall not relieve any hotel or transient from the payment, collection or remittance of the tax, interest and penalties.

In addition thereto, the city may institute injunctive, mandamus or any other appropriate or proceedings at law or equity for enforcement of this chapter or to correct violations of this chapter, and any court of competent jurisdiction shall have the right to issue restraining orders, temporary or permanent injunctions or mandamus or other appropriate form of remedy or relief.

Sec. 3-6. Payment by City to Montgomery County Conference and Visitors Bureau

The City shall distribute four percent (4%) of the hotel rental tax collected by the City to the Conference and Visitors Bureau in Montgomery County.

ADOPTED this 2nd day of September, 2008, by the City Council of Gaithersburg Maryland.

SIDNEY A. KATZ, MAYOR and
President of the Council

DELIVERED to the Mayor of the City of Gaithersburg, Maryland, this 2nd day of September, 2008. APPROVED by the Mayor of the City of Gaithersburg, this 2nd day of September, 2008.

Sidney A. Katz, Mayor

THIS IS TO CERTIFY that the foregoing ordinance as adopted by the City Council of Gaithersburg, in public meeting assembled, on the 2nd day of September, 2008, and that the same was approved/vetoed by the Mayor of the City of Gaithersburg on the 2nd day of September, 2008. This Ordinance will become effective on the 1st day of October, 2008.

James D. Arnoult, Acting City Manager