

COMMONWEALTH OF KENTUCKY
MENIFEE COUNTY FISCAL COURT
ORDINANCE NO. 24- _____

1ST READING 4-19-24
2ND READING 5-10-24

**AN ORDINANCE ESTABLISHING THE MENIFEE COUNTY TOURISM
COMMISSION AND IMPOSING A TRANSIENT ROOM TAX.**

WHEREAS, the Legislature of the Commonwealth of Kentucky has, by and through KRS 91A.345 to KRS 91A.394 has made provisions for the establishment of a Tourist and Convention Commission, and for the funding of same by the imposition of a transient room tax; and

WHEREAS, Menifee County Fiscal Court deems it in the public interest to establish such commission for the purpose of promoting recreational, convention, and tourist activity in Menifee County, Kentucky, and to impose a transient room tax for the purpose of funding the activities of sale commission.

NOW, THEREFORE, BE IE ORDAINED AND ENACTED by Menifee County Fiscal Court that:

**SECTION I
CREATION OF COMMISSION**

1.1 There is hereby created a commission to be known as Menifee County Tourism Commission, which commission is established for the purpose of promoting recreational, tourist, and convention activity in Menifee County, Kentucky.

**SECTION II
COMPOSITION OF COMMISSION; APPOINTMENT AND TERMS OF
COMMISSIONERS**

2.1 Members. The Menifee County Tourism Commission shall be composed of seven (7) voting commissioners who shall serve without compensation (but shall be reimbursed for reasonable expenses incurred in the performance of official duties) and who shall be citizens of Menifee County to be appointed by the Menifee County Judge Executive pursuant to subsection two (2) of KRS 91A.350 in the following manner:

- (A) One (1) commissioner shall be appointed from a list of three (3) or more names submitted by the City Commission of Frenchburg, Kentucky;
- (B) One (1) commissioner shall be appointed from a list of three (3) or more names submitted by the Menifee County Chamber of Commerce and certified as a member of the chamber;
- (C) Three (3) commissioners shall be appointed by the Menifee Fiscal Court; and

(D) The Mayor of the City of Frenchburg, Kentucky and President of the Menifee County Chamber of Commerce shall serve as ex-officio members of the Commission.

2.2 Length of terms. The term of each ex-officio commissioner shall be the same as his or her official tenure in his or her respective office/position. All other commissioners shall be appointed for a term of three (3) years, provided, that in making the initial appointments, the Menifee County Judge Executive shall appoint two (2) commissioners for a term of three (3) years, two (2) commissioners for a term of two (2) years, and one (1) commissioner for a term of one (1) year. There shall be no limitation on the number of terms to which a commissioner is reappointed. Subsequent appointments shall be for three (3) year terms.

2.3 Vacancies. Vacancies shall be filled in the same manner that originally appointments are made.

2.4 Removal. Any non-ex officio commissioner may be removed from office by the Menifee County Judge Executive as provided in KRS 65.007.

SECTION III ORGANIZATION, DUTIES, AND RESPONSIBILITIES OF COMMISSION

3.1 Election of officers. The Commission shall annually elect from its membership a chairman, a secretary, and a treasurer, and may employ such personnel and make such contracts as are necessary to effectively carry out the purpose of KRS 91A.345 to KRS 91A.394. Such contracts may include but shall not be limited to the procurement of promotional services, advertising services, and other services and materials relating to the promotion of tourist and convention business; provided, contracts of the type enumerated shall be made only with persons, organization, and firms with experience and qualifications for providing promotional services and materials such as advertising firms, chambers of commerce, publishers, and printers. Such contract(s) shall be submitted to the Menifee Fiscal Court for review and comment prior to the execution of such contract(s).

3.2 Meetings. The Commission shall meet at least monthly on a set date and time. The location of regular meeting shall be conducted at such publicly accessible locations in Menifee County, Kentucky as the Commission members shall determine. The Commission may hold such other meetings at such locations in Menifee County, Kentucky as are necessary to transact its business. Special meetings may be called by the Chairman or by call of any two (2) Commissioners. A majority of the membership of the Commission shall constitute a quorum for transacting business. Notice to the Menifee County Fiscal Court and the public of the time and place of all meetings shall be in conformity with applicable Kentucky Statutes and Menifee County Ordinances.

3.3 Budget. The Commission shall annually submit to the Menifee County Fiscal Court, no later than May 1 of each year a proposed budget for the ensuing fiscal year beginning on the first day of July. The proposed budget shall be approved, disapproved, or modified by the Menifee Fiscal Court as the Menifee Fiscal Court may determine. The proposed budget must be approved by two (2) readings before Menifee Fiscal Court and thereafter published in

accordance with the Kentucky Revised Statutes before effective. The Menifee County Fiscal Court shall include the Commission in the annual budget and shall provide funds for the operation of the Commission by imposing a transient room tax.

3.4 Audit. The books of the Commission shall be audited annually in conformity with KRS 91A.360(5) and KRS 65A.030 which are adopted as a part hereof by reference.

**SECTION IV
TRANSIENT ROOM TAX
COLLECTION PROCEDURES; EXCEPTIONS**

4.1 Transient room tax. For the purpose of operating and financing the Menifee County Tourism Commission, there is hereby imposed and levied a transient room on the rent for every occupancy of a suite, room, rooms, cabins, lodgings, campsites, or other accommodations charged by any hotel, motel, inn, tourist cabin, campgrounds, recreational vehicle parks, or any other place in which accommodations are regularly furnished to transients for consideration or by any person that facilitates the rental of the accommodations by brokering, coordinating, or in any other way arranging for the rent of the accommodation as follows: a local transient room tax of three percent (3%) [KRS 91A.390(1)(b)(1)] and one percent (1%) [KRS 91A.390(1)(c)] for a total of four percent (4%) of the gross rent charged for every occupancy outlined herein within Menifee County, Kentucky.

4.2 Registration. Any person, firm, company, or corporation engaged in the rental of or offering rental of a suite, room(s), cabins, lodging, campsites, tourist cabin(s), campgrounds, recreational vehicle parks, or any other place in which accommodations are regularly furnished to transients for consideration or by any person that facilitates the rental of the accommodations by brokering, coordinating, or in any other way arranging for the rental of the accommodations in Menifee County, Kentucky must be registered with the Menifee County Tourism Commission within thirty (30) days after commencing business. Registration form shall be furnished by the Menifee County Tourism Commission.

Registration is non-transferrable and shall not be assignable. In the event that a property is sold or otherwise transferred to a new owner, a new registration shall be required.

4.3 Payment of tax. Said transient room tax shall be paid monthly to the Menifee County Treasurer by the twentieth (20th) day of the following month. It must be returned together with a form furnished by the Menifee County Tourism Commission, which sets forth the aggregate number of gross rentals charged and collected during the occupancy to which the transient room tax applies.

If an operator ceases operating their lodging business for any reason, the form and taxes are due within thirty (30) days after the operator ceased doing business.

4.4 Termination of operation. An operator who is transferring, selling, or terminating its business shall notify the Menifee County Tourism Commission in writing of such sale, transfer, or termination, and the name and address of the purchaser / new owner.

4.5 Exceptions. Transient room taxes shall not apply as outlined herein to rentals paid on continuous occupancies of **sixty (60) consecutive days** or longer to the same person(s).

4.6 Responsibility of operator(s). All taxes collected by operators pursuant to this article shall be held in a separate trust account, apart from the rents or business revenues of the lodging business, for the benefit of the county until payment thereof is made to the tax collector.

The tax imposed by this ordinance shall be in addition to other general taxes, occupational or business license tax.

Each operator shall maintain records in support of every return submitted. All records of every operator are subject to annual audits by the Menifee County Tourism Commission and its agents. Disclosure shall be for the purpose of determining the accuracy of any return made, or if no return was made, to determine the amount of tax due and owing. Records disclosed subject to this provision shall be treated and considered as confidential and privileged except for official purposes, unless otherwise ordered by a court of law or specified provisions of state or federal law and shall not be open to inspection by the public.

4.7 Administration of funds collected. All moneys collected pursuant to this section and KRS 91A.400 shall be administered in accordance with KRS 91A.390(2) and (3).

SECTION V ENFORCEMENT AND PENALTY

5.1 Collection. The Menifee County Tourism Commission is charged with the duty power to collect the tax outlined herein. The Commission may, at its discretion, make and publish rules, regulations, and develop standardized forms as may be necessary to administer and enforce most efficiently the provisions of this Ordinance.

5.2 Late payments. All returns received after the due date (See section 4.3) shall be considered delinquent and assessed a penalty of the greater of one hundred dollars (\$100.00) or ten percent (10%) of the taxes due, with interest at the rate of one percent (1%) for each month of delinquency until paid in full. All delinquent payments are subject to legal action taken by the Menifee County Tourism Commission.

5.3 Lien on property(ies). A lien may be placed on the business property of any operator who is delinquent. The lien shall not be removed until the account is brought current and the operator has paid all administrative and other costs associated with the lien. The lien has the force, effect, and priority of a judgment lien.

5.4 Failure to comply. Any failure to comply with any provision of this Ordinance shall be subject to criminal and/or civil penalties.

A criminal conviction shall be subject to a fine of not less than two hundred fifty dollars (\$250.00) nor more than five hundred dollars (\$500.00), imprisonment of not more than ninety

(90) days, or both fine and imprisonment. Each day of any violation shall constitute a separate offense.

5.5. Fraudulent reporting. Any person who knowingly files a false or fraudulent report with the Menifee County Treasurer as required herein, shall be subject to criminal charge(s). Theft by failure to make the required disposition of the transient room tax shall be a Class B misdemeanor, unless:

(a) The value due is five hundred dollars (\$500.00) or more, but less than one thousand dollars (\$1,000.00), in which case it is a Class A misdemeanor;

(b) The value due is one thousand dollars (\$1,000.00) or more but less than ten thousand dollars (\$10,000.00), in which case it is a Class D felony;

(c) The value due is ten thousand dollars (\$10,000.00) or more, in which case it is a Class C felony.

(d) A person has three (3) or more convictions for fraudulent reporting within the last five (5) years, in which case it is a Class D felony. The five (5) year period shall be measured from the dates on which the offenses occurred for which the judgments of convictions were entered.

SECTION VI MISCELLANEOUS

6.1 Severability. The provisions of this Ordinance are severable. If any sentence, clause, or section of this Ordinance is for any reason found to be unconstitutional, illegal, or invalid, the constitutionality and legality of the remaining portions hereof shall not be affected and shall remain in full force and effect.

6.2. Effective date. This Ordinance shall become effective upon its passage and advertisement according to law.



RICK STILTNER,
MENIFEE COUNTY JUDGE EXECUTIVE

ATTEST:



CHRISTINE JOHNSON, FISCAL COURT CLERK

5-10-24

DATE