

**COUNTY OF MUSKEGON
STATE OF MICHIGAN**

ACCOMMODATIONS ORDINANCE RULES AND REGULATIONS

The Muskegon County Board of Commissioners on May 22, 2007 amended the Accommodations Ordinance which amendment became effective on June 11, 2007.

Section 9 of the Accommodations Ordinance permits the Administrator to make rules and regulations subject to the approval of the Board of Commissioners, which is also sanctioned by the enabling Act No. 263 of the Public Acts of Michigan of 1974.

Therefore, the following Rules and Regulations are adopted:

Rule 1: Tax Liens; Priorities; Sale of Business; Liability of Successor.

- A. The tax imposed under the Accommodations Ordinance, in addition to the interest, penalties, and costs that may accrue, shall be a lien in favor of Muskegon County against all property and rights of property, both real and personal, then owned or afterwards acquired by any taxpayer. The lien shall attach to the property from and after the date the taxes are due. The lien shall tax precedence over all other liens and encumbrances, irrespective of character or date.

- B. If any taxpayer liable for a tax levied under the Accommodations Ordinance shall sell out substantially all of his/her business or shall quit the business, such person shall make a final report within fifteen (15) days after the date of selling or quitting the business. The successor(s), if any, shall be required to withhold sufficient of the purchase money to cover the amount of the unpaid taxes, interest and penalties until the former owner produces a receipt from the County Treasurer showing that the taxes were paid, or a certificate stating that no taxes are due. If the successor(s) fails to withhold purchase money as required, he or they shall be personally liable for the unpaid taxes, interest and penalties.

Rule 2: Collection.

If the tax imposed under the Accommodations Ordinance is not paid when due, the Administrator may cause a demand to be made on the taxpayer for payment of the tax. If the tax remains unpaid for ten (10) days after such demand and no proceedings have been taken to review the same, the Administrator may forward the matter to Corporate Counsel for collection of same.

Rule 3: Jeopardy Assessment.

If the Administrator finds a taxpayer designs quickly to depart from the County or to remove his/her property therefrom, or to conceal himself or his/her property therein, or to do any other act tending to prejudice or to render ineffectual proceedings to collect the tax imposed under the Accommodations Ordinance, the Administrator shall provide notice of such findings to the taxpayer along with a demand for an immediate report and immediate payment of such tax. A warrant may issue immediately upon issuance of such jeopardy assessment and the tax shall be immediately due and payable. If the taxpayer furnishes evidence, to the satisfaction of the Administrator, that he will file the required reports and pay the tax, then such tax shall not be payable prior to the time otherwise fixed for payment.

Rule 4: Records to be Kept by Taxpayer.

- A. Every taxpayer shall keep a complete and accurate record of total charges received for accommodations. This record shall include daily sales records, receipts, and whether an exemption from accommodation taxes is claimed. These records shall be kept for six (6) years.
- B. If a taxpayer fails to keep the required records or if the Administrator has reason to believe the taxpayer's records are incomplete or inaccurate and that additional taxes are due, the Administrator has the authority to assess, upon such information as is available, the amount of the taxes due from the taxpayer. Such assessment, after notice and hearing as hereinafter provided, shall be deemed to be prima facie correct for the purpose of the Accommodations Ordinance and the taxpayer shall have the burden of proof in refuting such assessment.

Rule 5: Examination of Records and Enforcement.

- A. The Administrator may examine the books, records and papers of any person subject to taxation under the Accommodations Ordinance.
- B. The Administrator may issue a subpoena requiring any person to appear before him and be examined with regard to taxes owed under the Accommodations Ordinance. The Administrator may require the person to produce any books, records or papers of the taxpayer.
- C. In the case of disobedience of a subpoena, the Administrator may invoke the aid of the Muskegon County Circuit Court in requiring the attendance and testimony of witnesses and the production of books, records or papers of the taxpayer. The Circuit Court may issue an order

requiring witnesses to appear and testify before the Administrator and to produce books, records or papers of the taxpayer. Failure to obey the Circuit Court order may be punished by the Court as contempt thereof.

Rule 6: Incriminating Testimony and Immunity.

- A. No person shall be excused from testifying or producing books, records or papers of the taxpayer when ordered to do so by the Administrator upon the ground that the testimony or evidence may tend to incriminate him or subject him to a criminal penalty. However, no person shall be prosecuted or subjected to any criminal penalty for such testimony or production of books, records or papers of the taxpayer.
- B. No person shall be exempt from prosecution and punishment for perjury committed in testifying.

Rule 7: Hearing; Appeal; Correction of Assessment; Injunction.

- A. If the Administrator determines, after examining a taxpayer's report and reviewing additional information that may have been obtained, that the remittance accompanying the report was deficient, the Administrator shall give the taxpayer notice of the intention to levy such deficiency. The taxpayer may serve notice upon the Administrator within twenty (20) days demanding a hearing on the issue of such deficiency. If a timely hearing notice is served, the Administrator shall set a time and place for a public hearing and shall give reasonable notice thereof to the taxpayer.
- B. The taxpayer may appear at the hearing with counsel and present testimony. The Administrator shall render his/her decision in writing within a reasonable time after the hearing. If the Administrator finds that a deficiency does exist, he shall order the deficiency immediately due and payable.
- C. If the taxpayer disagrees with the Administrator's decision, the taxpayer shall be permitted, after paying the deficiency, to file an action in the Muskegon County Circuit Court to challenge the decision. This action shall be filed within ninety (90) days after payment of the deficiency and it shall be conducted in accordance with the statutes and procedural rules concerning actions at law.
- D. If the taxpayer is found entitled to recover any amount of the deficiency paid, such amount shall be paid from the general fund of Muskegon County on order of the Administrator and deducted from the current accommodations tax collections.

Dated: _____, 2007

James J. Derezinski, Chairman
Muskegon County Board of Commissioners

Dated: _____, 2007

Karen D. Buie
Muskegon County Clerk