

ORIGINAL

**DELAWARE COUNTY COUNCIL
COLLECTIONS AND AUDITS OF INNKEEPERS' TAX ORDINANCE
ORDINANCE 2008 - 004**

WHEREAS, it has been the policy and expressed desire of Delaware County, State of Indiana to promote and encourage development and tourism within Delaware County and the respective municipalities located therein; and

WHEREAS, the General Assembly of the State of Indiana has recognized the necessity and propriety of funding such activities at the local level by enacting INDIANA CODE 6-9-18, the Uniform County Innkeeper's Tax, which chapter has enabled Delaware County, by and through its County Council, to levy an Innkeeper's Tax in furtherance of the policy hereinabove stated; and

WHEREAS, pursuant to Indiana Code 6-9-18, the Uniform County Innkeeper's Tax, the Delaware County Council has, by Ordinance No. 1983 - 0 - 2 dated 15 April 1983, levied such a tax at the rate of five percent (5%) effective 15 April 1983, and the Board of Commissioners of Delaware County, pursuant to Indiana Code 6-9-18-5, created a commission to promote the development and growth of the convention, visitor, and tourism industry in the county, that commission being the Delaware County Convention & Tourism Commission (hereinafter "the Commission"); and

WHEREAS, Indiana Code 6-9-29-3 provides that should an ordinance have been adopted requiring payment of the Innkeeper's Tax to the Delaware County Treasurer (as was provided by Ordinance No. 1983 - 0 - 2), the Delaware County Treasurer (hereinafter "Treasurer") has the same rights and powers with respect to collecting the Innkeeper's Tax as would the Indiana Department of State Revenue; and

WHEREAS, it is the purpose, goal, and requirement of the Delaware County Council and the Treasurer to ensure the fair and timely collection of the Innkeeper's Tax; and

WHEREAS, Indiana Code 6-9-37-3(e) provides that all of the provisions of Indiana Code 6-2.5 relating to rights, duties, liabilities, procedures, penalties, definitions, exemptions, and administration are applicable to the imposition and administration of the tax imposed under this section.

NOW, THEREFORE, be it ordained by the Delaware County Council that:

- A. As previously provided in Ordinance No. 1983 - 0 - 2 , the Innkeeper's Tax shall be paid monthly to the Treasurer.
- B. The Treasurer may create forms for use by taxpayers for filing and collection of Innkeeper's Tax.
- C. For lodging facilities obligated to collect Innkeeper's Tax, a monthly report shall be submitted to the Treasurer, along with payment of any Innkeeper's Tax collected, by the 20th calendar day of the month following the month of collection, i.e. an Innkeeper's Tax monthly report shall be submitted by February 20th for activity in January.
- D. For purposes of the Ordinance, an Innkeeper's Tax monthly report shall be considered timely submitted if the envelope used to mail the report, and any payment, via first class US mail is postmarked on the 20th day of the month or before. The Treasurer shall also accept monthly reports and any payments at the Treasurer's office.

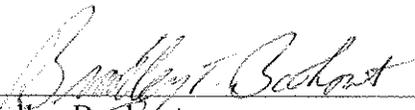
- E. A monthly report is due from any lodging facility covered by the Innkeeper's tax law even if no Innkeeper's Tax has been collected in that previous calendar month.
- F. If the 20th day of the month falls on a Saturday, Sunday, or legal holiday, the Innkeeper's tax monthly report shall be submitted by the next following business day.
- G. Any monthly reports submitted after the due date must include a penalty calculated at 10% of the Innkeeper's Tax paid or to be paid, without prorating for the number of days that the monthly report is overdue.
- H. Recognizing that Indiana Code 6-9-29-3 provides that the Treasurer has the same rights and powers with respect to collecting the Innkeeper's Tax as does the Department of State Revenue, the Treasurer is authorized to conduct audits and investigations of taxpayers concerning collection and payment of Innkeeper's Tax. Specifically, but not exclusive, the Treasurer may examine the books, records, papers, or other data bearing on the correctness of the Innkeeper's Tax returns, including those pertinent records of third parties handling funds for the credit of, or acting as an agent for, any lodging facility subject to the Innkeeper's Tax.
- I. Pursuant to Indiana Code 6-8.1-3-12, the Treasurer has concurrent jurisdiction with the Indiana Department of Revenue to investigate and audit Innkeeper's tax returns and reports; further, pursuant to Indiana Code 6-8.1-3-12(g)(3), at the discretion of the Treasurer, the cost of the audit of Innkeeper's Tax may be charged or assessed against the lodging facility audited.
- J. After completion of the audit, the results of the audit will be provided to the lodging facility by the audit firm or Treasurer.

K. Upon receipt of the audit results, the Treasurer shall either:

1. Remit to the lodging facility the amount of the Innkeeper's Tax overpaid; or
2. Send a statement to the lodging facility for the amount of Innkeeper's Tax due, requesting payment within thirty (30) business days of the date of the statement.

L. The Treasurer may retain accountants or investigators for purposes of conducting audits of lodging facilities subject to the Innkeeper's tax; the Treasurer may retain legal counsel for purposes of the bringing of enforcement actions for collection of the Innkeeper's Tax and cost thereof.

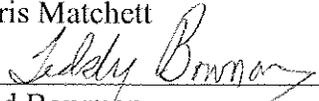
ADOPTED by the County Council of Delaware County, Indiana, this 25 day of March, 2008.



Bradley Bookout



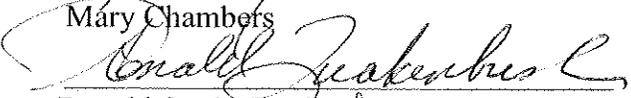
Chris Matchett



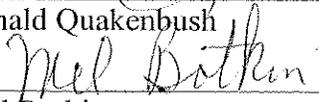
Ted Bowman



Mary Chambers



Ronald Quakenbush



Mel Botkin



Joe Russell

ATTEST:



Judith Rust, Delaware County Auditor