

ORDINANCE NO. 2016-036 ADM

AN ORDINANCE TO REPEAL AND REPLCE
ORDINANCE NO. 2016-024
THE LODGING TAX IN THE
CITY OF TRUSSVILLE, ALABAMA

BE IT ORDAINED by the City Council of the City of Trussville, Alabama that Chapter 52 of the City Code of the City of Trussville shall be and hereby is amended to include and establish, in addition to all other taxes levied therein, the levy of a lodging tax

Section 1. Definitions.

The following words, terms and phrases, when used herein, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Business: All activities engaged in or caused to be engaged in, by any person with the object of gain, profit, benefit, or advantage, either direct or indirect, to such person and all such activities which may be licensed under Code of Ala. 1975 §11-51-90 (1975).

City: The City of Trussville, Alabama.

City Clerk: The city clerk of the City of Trussville, Alabama.

Gross Proceeds: The value proceeding or accruing from the renting or furnishing of any room or rooms, lodgings or accommodations to transients in any hotel, motel, inn, tourist camp, tourist cabin, or any other place in which rooms, lodgings or accommodations are regularly furnished to transients for consideration, including any charge for use or rental of personal property and services furnished in such room or rooms, lodgings or accommodations.

One Spot: A system developed by the Alabama Department of Revenue which allows any taxpayer required to file and remit a state, county, or municipal sales or use tax, or a state, county, or municipal leasing or rental tax, or a state, county, or municipal lodgings tax, the ability to file and remit such sales and use tax or leasing or rental tax or lodgings tax returns and payments through an electronic single point of filing program. The system is known as the Optional Network Election for Single Point Online Transactions or "ONE SPOT."

Person: Any natural person, firm, partnership, association, corporation, limited liability company, receiver, trust, trustee, estate, executor, administrator or other entity, or any other group or combination of any thereof acting as a unit, and the plural as well as the singular number, unless the intention to give a more limited meaning is disclosed by context.

Taxpayer: Any person liable for taxes hereunder.

Section 2. Tax imposed; exemptions; definitions.

(a) There is hereby levied and imposed, in addition to all other taxes of every kind now imposed by law, a privilege or license tax upon every person, firm or corporation engaging in the business of renting or furnishing any room or rooms, lodgings, or accommodations to transients in any hotel, motel, inn, tourist camp, tourist cabin, or any other place in which rooms, lodgings, or accommodations are regularly furnished to transients for consideration, in the City of Trussville, Alabama, in an amount equal to six percent (6%) of the charge for such room, rooms, lodgings, or accommodations, including the charge for use or rental of personal property and services furnished in such room or rooms, lodgings, or accommodations. This license tax shall be in addition to any privilege, license, or lodging tax imposed by the State of Alabama, or by Jefferson County or St. Clair County.

(b) The tax shall not apply to rooms, lodgings, or accommodations supplied: (i) for a period of one hundred eighty (180) continuous days or more in any place; (ii) by camps, conference centers, or similar facilities operated by nonprofit organizations primarily for the benefit of, and in connection with, recreational or educational programs for children, students, or members or guests of other nonprofit organizations during any calendar year; (iii) in connection with the production of an approved project authorized by the Alabama Film Office and which meets criteria established by the Alabama Film Office through the Alabama Administrative Procedures Act; or (iv) by privately operated camps, conference centers, or similar facilities that provide lodging and recreational or educational programs exclusively for the benefit of children, students, or members or guests of nonprofit organizations during any calendar year.

(c) For purposes of subsection (b): "Children" means individuals under age 21; "student" is defined in accordance with 26 U.S.C. §151(c)(4), as in effect from time to time or by any successor law; "nonprofit organization" is an organization exempt from federal income tax under 26 U.S.C. §501(c)(3), as in effect from time to time or by any successor law; and "privately operated" refers to any camp, conference center, or similar facility other than those operated by a nonprofit organization as herein defined.

(d) The privilege or license tax levied by this Ordinance shall be known as the "Trussville Lodging Tax."

Section 3. License required.

If any person shall engage in or continue in any business for which the Trussville Lodging Tax is imposed by Section 2 of this article, as a condition precedent to engaging in or continuing in such business, he shall apply for and obtain from the City of Trussville a license to engage in and conduct such business for the current tax year upon the condition that he shall pay the taxes accruing to the City of Trussville under the provisions of this article; provided that no license shall be issued to any person who has not complied with the provisions of this article, and no provision in this article shall be construed as relieving any person from the payment of any other applicable license or privilege tax now or hereafter imposed by law.

Section 4. When tax due; monthly reports and payments.

The taxes levied under the provisions of this article, except as otherwise provided shall be due and payable in monthly installments on or before the twentieth day of the month next succeeding the month in which the tax accrues. On or before the twentieth day of each month after this chapter has taken effect, every person, firm or corporation on whom the taxes levied by this article are imposed shall render to the city clerk on a form prescribed by the city clerk, a true and correct statement showing the gross proceeds of the business for the next preceding month, together with such other information as the city clerk may demand and require, and at the time of making such monthly report the taxpayer shall compute the taxes due and shall pay to the city clerk the amount of taxes shown to be due. In the alternative, each such person, firm or corporation on whom the taxes levied by this article and imposed, may submit returns and remittance of the Trussville Lodging Tax through electronic submission to the Alabama Department of Revenue on or before the due date. In such case, the rules, regulations and procedures by the Alabama Department of Revenue concerning electronic submissions shall apply fully and are adopted hereby as if set forth fully herein.

Section 5. Cash and credit businesses.

Any person, firm or corporation taxable under this article having a cash and credit business may report such cash business and the taxpayer shall thereafter include in each monthly report all credit collections made during the month preceding and shall pay the taxes due thereon at the time of filing such report, but in no event shall the gross proceeds of such credit business be included in the measure of the tax to be paid until collections of such credit business have been made.

Section 6. Annual return and payment.

On or before thirty (30) days after the end of the tax year, each person, firm or corporation liable for the payment of the Trussville Lodging Tax levied by this article shall make a return showing the gross proceeds of business done and compute the amount of tax against him or it in accordance with the provisions of this article and deduct the amount of monthly payments as hereinbefore provided, if any have been made, and transmit with this report a remittance in the form required by this article covering the residue of the tax chargeable against him, to the office of the city clerk, and such report shall be verified by oath.

Section 7. Verification of reports.

The monthly reports herein required are not required to be made on oath, but wherever in this chapter any report is required to be sworn to, the same shall be sworn to by the taxpayer or his agent before some officer authorized to administer oaths; and any false statement of a material fact made with intent to defraud shall constitute perjury, and upon conviction thereof the person so convicted shall be punishable as provided by law.

Section 8. Penalty Calculations.

A. Failure to Timely File (FTTF).

The penalties for the failure to timely file the return required hereby shall be equal to the greater of 10% of the tax required to be paid on the return or \$50.00, as set forth in Ala. Code §40-2A-11(a) (1975). All Taxpayers that submit returns electronically to the Alabama Department of Revenue after midnight CST of the due date, are subject to a FTTF penalty which is the greater of 10% of the tax required to be paid on the return or \$50.

B. Failure to Timely Pay (FTTP).

The penalty for the failure to timely pay the tax payments required hereby shall be 10% of the delinquent tax, as set forth in Ala. Code §40-2A-11(b). Tax payments submitted by electronic means to the Alabama Department of Revenue must be remitted by the time specified by the Department and in accordance with its rules and regulations to avoid penalty. If a taxpayer fails to pay any amount required to be paid on any return within thirty (30) calendar days from the date of the first notice and demand therefore, there shall be added as a penalty one percent of the amount of the tax due, if the failure to pay is for not more than one month, with an additional one percent for each additional month or fraction thereof during which failure to pay continues, not exceeding twenty-five percent (25%) in the aggregate.

Section 9. Failure to make reports and keep records.

Any person, firm or corporation subject to the provisions of this Article who fails to make the reports as herein required, or who fails to keep the records as herein required, shall be guilty of a misdemeanor and upon conviction shall be fined not less than twenty-five dollars (\$25) nor more than five hundred dollars (\$500) for each offense. Each month of such failure shall constitute a separate offense.

Section 10. Willful refusal to make reports or permit examination of records.

Any person, firm or corporation subject to the provisions of this chapter willfully refusing to make the reports herein required, or who shall refuse to permit the examination of his or its records by the city clerk, or his duly authorized agents, shall be guilty of a misdemeanor, and upon conviction shall be fined not less than fifty dollars (\$50) nor more than five hundred dollars (\$500) for each offense, and in addition may be imprisoned in the city jail for a period not to exceed six (6) months. Each month of failure to make such a report shall constitute a separate offense and each refusal of a written demand of the city clerk to examine, inspect or audit such records shall constitute a separate offense.

Section 11. Failure to add tax to price of service; refund or absorption of tax prohibited.

It shall be unlawful for any person, firm or corporation engaged in or continuing within the City of Trussville in any business for which the Trussville Lodging Tax is required by this article to fail or refuse to add to the price of the service rendered the amount due by the taxpayer on account of the tax levied by this article. Nor shall any person refund or offer to refund all or any part of the amount collected as tax under this chapter or to absorb such tax or to advertise directly or indirectly the absorption or refund of such tax or any portion of the same. Any person, firm or corporation violating any of the provisions of this section shall be guilty of a misdemeanor and upon conviction shall be fined a sum not less than fifty dollars (\$50) nor more than one hundred dollars (\$100), or may be imprisoned in the city jail for not more than six (6) months, or by both such fine and imprisonment, and each act or violation of the provisions of this article shall constitute a separate offense.

Section 12. Violations restrained from continuing business.

Any taxpayer who shall violate any of the provisions of this chapter may be restrained from continuing in business, and the proper prosecution shall be instituted in the name of the City of Trussville, Alabama until such person shall have complied with the provisions of this article.

Section 13. Rules and regulations.

The City of Trussville or the Alabama Department of Revenue, as agent on its behalf, shall from time to time promulgate such rules and regulations for making returns and for ascertainment, assessment and collection of the tax imposed hereunder as it may deem necessary to enforce the provisions of this article, and upon request shall furnish to the taxpayer a copy of such rules and regulations.

Section 14. Repealer.

All ordinances or parts of ordinances adopted by the City Council of the City of Trussville, Alabama, that are inconsistent with the provisions of this ordinance are expressly repealed. Ordinance 2016-024 is repealed and replaced by this ordinance.

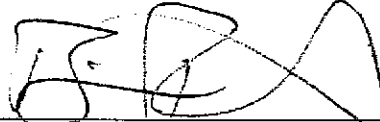
Section 15. Severability.

If any part, section or subdivision of this ordinance shall be held unconstitutional or invalid for any reason, such holding shall not be construed to invalidate or impair the remainder of this ordinance, which shall continue in full force and effect notwithstanding such holding.

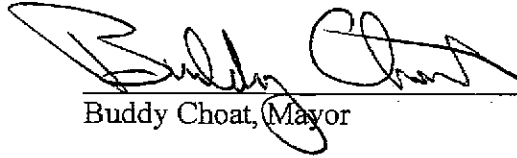
Section 16. Effective Date.

This ordinance shall become effective on February 1, 2017 after its adoption and publication as provided by law.


ADOPTED AND APPROVED: The 13th day of December, 2016.



Brian Plant, Council President



Buddy Choat, Mayor

Attest: 
Lynn B. Porter, City Clerk