

**COUNTY OF UNION,
ILLINOIS**

**ORDINANCE AMENDING, RESTATING AND CODIFYING
THE HOTEL OPERATORS' OCCUPATION TAX**

WHEREAS, pursuant to 55 ILCS 5/5-1030, the corporate authorities of any county may by ordinance impose a tax upon all persons engaged in such county in the business of renting, leasing or letting rooms in a hotel which is not located within a city, village, or incorporated town that imposes a tax under Section 8-3-14 of the Illinois Municipal Code, as defined in "The Hotel Operators' Occupation Tax Act", at a rate not to exceed five percent (5%) of the gross rental receipts from such renting, leasing or letting, excluding, however, from gross rental receipts, the proceeds of such renting, leasing or letting to permanent residents of that hotel, and may provide for the administration and enforcement of the tax, and for the collection thereof from the persons subject to the tax, as the corporate authorities determine to be necessary or practicable for the effective administration of the tax; and

WHEREAS, the Board of Commissioners of the County of Union, Illinois, has determined that it is in the best interest of Union County that an amended and restated Hotel Operators' Occupation Tax be adopted and codified.

NOW THEREFORE, LET IT BE ORDAINED BY THE BOARD OF COMMISSIONERS OF THE COUNTY OF UNION, ILLINOIS, AS FOLLOWS:

SECTION 1: All ordinances and resolutions, or parts thereof, in conflict with this ordinance are hereby repealed.

SECTION 2: The Union County Code is hereby amended by deleting Article IX of Chapter 36 in its entirety and replacing such Article as follows:

36-9-1 Definitions. The following words, terms, and phrases, when used in this Article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

(a) Board means the Board of Commissioners.

(b) Hotel means any building or buildings in which the public may, for a consideration, obtain living quarters, sleeping, and/or housekeeping accommodations. The term includes, but is not limited to inns, motels, bed & breakfast establishments, tourist homes or courts, lodging houses, apartment

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(b) Hotel means any building or buildings in which the public may, for a consideration, obtain living quarters, sleeping, and/or housekeeping accommodations. The term includes, but is not limited to inns, motels, bed & breakfast establishments, tourist homes or courts, lodging houses, apartment

houses, and any lodging within the County of Union which may be rented, leased, or let as a part of any holiday, vacation, or hunting package.

(c) Operator means any individual, partnership, society, association, joint stock company, corporation, estate, receiver, trustee, assignee, referee, or any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, and any combination of individuals operating a hotel in the County of Union, including but not limited to the owner or proprietor of such premises, lessee, sublessee, mortgagee in possession, licensee, or any other person operating the hotel. An operator of a small facility is any individual who owns a bed & breakfast, furnished apartment, or other furnished living unit that includes a dwelling place ordinarily occupied by a person as his or her own dwelling, and is intended for single-family occupancy that is regularly used as offered for the lodging of guests for consideration regardless of whether services such as meals, telephone, or linen services are provided.

(d) Occupancy means the use or possession, or the right to the use or possession, of any room or rooms in a hotel for any purpose, or the right to the use or possession of the furnishings or to the series and accommodations accompanying the use and possession of the room or rooms.

(e) Owner means any person having an ownership interest in or conducting the operation of a hotel or receiving the consideration for the rental of such hotel room.

(f) Room or rooms means any living quarters, sleeping, and/or housekeeping accommodations.

(g) Permanent resident means a tenant who, by written lease, has been granted a real interest in a specific hotel accommodation by an owner or operator for a term of not less than one (1) month or any person who works and lives in the same hotel.

(h) Person means any natural individual, firm, partnership, association, joint stock company, joint venture, public or private corporation, limited liability company, or a receiver, executor, trustee, guardian, or other representative appointed by order of any court.

(i) Rent or rental means the consideration received for occupancy, valued in money, whether received in money or otherwise, including all receipts, cash, credits, and property or services of any kind of nature.

(j) Treasurer means the Treasurer of the County of Union, Illinois.

36-9-2 Tax.

(a) A tax is hereby levied and imposed, upon the use and privilege of renting, leasing, or letting a hotel room within the County of Union at a rate of five percent (5%) of the gross rental receipts for each such hotel room rented for each twenty-four-hour period or any portion thereof for which a daily room charge is made: provided, however, that a tax shall not be levied or imposed upon any person who shall be a permanent resident.

(b) The tax herein levied and imposed shall be paid in addition to any and all other taxes and charges. It shall be the duty of the operator of every hotel to secure the tax from the renter of the hotel room and to pay the tax over to the Treasurer of Union County under the procedures prescribed by the Treasurer, or as otherwise provided in this Article.

(c) Every person required to collect the tax levied by this Article shall secure the tax from the renter at the time s/he collects the rental payment for the hotel room. The amount due under the tax provided in this Article shall be stated separately upon the invoice, receipt, or other statement or memorandum given to the renter at the time of payment.

(d) Persons subject to the tax hereby imposed may reimburse themselves for their tax liability for such tax by separately stating such tax as an additional charge, which may be stated in combination and in single amount with the state tax imposed under "The Hotel Operators' Occupation Tax Act" as provided in 35 ILCS 145/1 *et seq.*

36-9-3 Certificate of Registration.

(a) Every owner maintaining a place of business in Union County shall obtain a certificate of registration as a tax collector from the Treasurer within thirty (30) days after the effective date of this Article.

(b) Every owner commencing a place of business in Union County as described herein shall obtain a certificate of registration as a tax collector from the Treasurer no later than thirty (30) days after commencing such business.

(c) Each certificate of registration shall be valid for the period beginning January 1 of any year and ending on December 31 of the same year.

(d) Application for a certificate of registration shall be made to the Treasurer upon forms furnished by the Treasurer, which may include electronic formats. Each such application shall be endorsed and verified by the applicant or a

properly accredited agent, who in the case of a corporation shall include the president, any vice-president, the secretary, the treasurer, or some other properly accredited agent acceptable to the Treasurer.

(e) Information required to be on the application shall include, but not be limited to: name of hotel; name of owner and/or operator; physical address of hotel; mailing address for hotel, owner, or operator; and valid FEIN/TIN.

(f) Upon receipt of the application for a certificate of registration in proper form, the Treasurer shall issue to such applicant a certificate of registration, provided that no certificate of registration shall be issued to any person who is in default to the County of Union for moneys due under this Article.

(g) The certificate of registration shall be conspicuously displayed at the place of business which the person so registered states in his application to be the principal place of business from which he engages in the business of providing hotel accommodations in the County of Union.

(h) Information supplied on the application required by this section shall be updated within thirty (30) days of any change or alteration thereof upon revision forms supplied by the Treasurer, which may include electronic formats.

(i) It shall be unlawful for any person to establish, operate, or maintain, or permit to be established, operated, or maintained upon any property owned or controlled by her/him a hotel within the County without first obtaining a certificate of registration from the Treasurer. If the Treasurer shall find that any person has failed to file a tax return and/or pay the tax imposed by the Article or any fines and/or penalties assessed or costs assessed for the nonpayment or late payment of such tax, the Treasurer may suspend or revoke the certificate of registration held by such evader. No suspension or revocation hereunder shall release or discharge the person from his civil liability for the payment of collection and remittance of the tax, nor from prosecution for such offense.

(j) Any person who shall operate without a certificate of registration or who shall continue to operate after suspension or revocation of the same shall be subject to a preliminary or permanent injunction issued by the Circuit Court of Union County, Illinois, upon petition by the County to discontinue conducting business, and shall be subject to other penalties provided herein.

36-9-4 Books and records; Inspections; Contents.

(a) The Treasurer, or any person certified by her/him as a deputy or representative, may enter the common and business premises of any hotel for inspection of books and records in order to effectuate the proper administration of this Article and to assure the enforcement of the collection of the tax imposed.

(b) It shall be unlawful for any person to prevent, hinder, or interfere with the Treasurer or his duly authorized deputy or representative in the discharge of her/his duties under this Article.

(c) It shall be the duty of every owner to keep accurate and complete books and records to which the Treasurer or his duly authorized deputy or representative shall, at all times, have full access. These records shall include a daily sheet showing:

(1) The number of hotel rooms rented during the twenty-four-hour period, including multiple rentals of the same hotel room where such shall occur;

(2) The actual hotel receipts collected for the date in question; and

(3) Every occupancy and of all considerations paid, charged, or due thereon, and of the tax payable thereon in such forms as may be required by regulation prescribed by the Board or as otherwise provided in this Article for a period of three years.

(d) If any operator fails to keep such separate books or records, s/he shall be liable for the tax at the rate of five percent (5%) upon the entire proceeds from his hotel.

36-9-5 Reporting; Transmittal; Delinquency; Penalty.

(a) Every operator engaged in the business of renting, leasing, or letting rooms in a hotel within the County of Union shall file monthly tax returns with the Treasurer, showing the tax receipts received with respect to each hotel room during each month, and of the taxes payable thereon on forms prescribed by the Treasurer and consistent with returns required under "The Hotel Operators' Occupation Tax Act" as provided in 35 ILCS 145/1 et seq. If an operator does not rent, lease, or let a room within a reporting period, the operator is not exempt from filing said report. The returns shall be due on or before the last day of the month for the preceding calendar month. Electronic filing of returns is acceptable,

as provided by the Treasurer. The first taxing period for the purpose of this Article shall commence on February 1, 2015, and the tax return and payment for such period shall be due on or before March 31, 2015.

(b) The tax shall be due on the day the monthly return is due as provided herein. At the time of filing such return, the owner shall pay to the Treasurer all taxes and penalties, if any, due for the period to which the return applies.

(c) If any person fails to file the return with payment of the tax as required herein within thirty (30) days of the due date of the return shall result in a penalty of two hundred fifty dollars (\$250.00). The failure to file a return with payment within sixty (60) days of the due date of the return shall result in an additional penalty of seven hundred fifty dollars (\$750.00). The failure to file a return with payment within ninety (90) days shall result in the closure of the hotel until all returns, penalties, and taxes owed are provided and paid. All penalties will be added on the amount of tax which remains unpaid.

(d) Whenever any person shall fail to pay the taxes provided herein, an action not enforce payment shall be brought on behalf of the County of Union in any court of competent jurisdiction to enforce this Article and collect any delinquent tax and penalties and also the reasonable attorney fees, court costs, and other costs incurred by the County in enforcing any provision of this Article. The State's Attorney of Union County is authorized to use any methods of collection authorized under the laws of the State of Illinois and to seek injunctive relief including, but not limited to, filing of liens and lis pendens on the property, the seizure of any property, chattels, bank accounts, or other assets, and the closure of the hotel to enforce the provisions of this Article and to collect any amounts due under all sections of this Article.

(e) Every act or omission of whatsoever nature constituting a violation of any of the provisions of this article, by any operator, officer, director, manager, or other agent or employee of an owner shall be deemed and held to be the act of such owner and the owner shall be liable and punishable in the same manner as if said act or omission had been done or omitted by the owner personally.

(f) Notwithstanding any other provision in this Article concerning the time within which an operator may file his return, in the case of any operator who ceases to engage in a kind of business which makes him responsible for filing returns under this Article, such operator shall file a final return under this Article with the Treasurer not more than one month after discontinuing such business.

36-9-6 Notice of Noncompliance. If it shall appear to the Treasurer that any person has violated any provision of this Article, or any rule or regulation promulgated hereunder, the Treasurer may refer the matter to the State's Attorney for prosecution, or may issue such a person a notice of noncompliance describing the violation and requesting it cease within a period of time not less than ten (10) days. If adequate proof that such violation has ceased is not submitted to the Treasurer within the time period set in the notice, the Treasurer may take any other appropriate action authorized by this Article or otherwise provided by law.

36-9-7 Proceeds of Tax.

(a) All proceeds resulting from the imposition of the tax hereunder, including penalties, shall be paid into the treasury of the County of Union and shall be credited to and deposited in a separate fund of the County titled "Hotel Operators' Occupation Tax".

(b) The amounts collected shall be expended, per a policy adopted by the Board of Commissioners of the County of Union, Illinois, to attract nonresident overnight visitors to Union County by promoting tourism through support of campaigns, conventions, expositions, and theatrical, sports, and cultural activities or any other event or program that will attract nonresident overnight visitors to the county.

36-9-8 Exemptions.

(a) The tax imposed by this Article shall not apply to a permanent resident.

(b) The tax imposed by this Article shall not apply to the occupancy of a specific room by a permanent resident only if the following conditions are met:

(1) The permanent resident actually occupied, or had the right to occupy, the room during the entire reporting period; and

(2) The specific room occupied by the permanent resident was not occupied on a non-leasehold basis at any time during the reporting period for which the exemption is claimed; and

(3) The permanent resident did not assign, sublease, or otherwise transfer a real interest in the room during the reporting period for which the exemption is claimed.

(c) In addition, a hotel owner, manager, or operator may only claim an exemption for occupancies by permanent residents if all of the following conditions are met:

(1) Less than half of the rooms of the facility were available for occupancy on a non-leasehold basis on any day during the reporting period for which the exemption is claimed; and

(2) The facility does not operate as a "hotel" within the meaning of Section 7 of the Innkeeper Protection Act (740 ILCS 90/7) as amended.

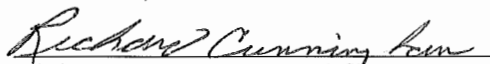
36-9-9 Savings/Severability.

In the event that any provision, clause, or part of this Article is found to be invalid by any court of competent jurisdiction, or in the event that any provision of this Article is repealed by the Board of Commissioners of the County, of Union, Illinois, the remaining provisions, clauses, and parts of this Article shall remain in effect, and shall be read together without the invalid or repealed provision, clause, or part to obtain its meaning.

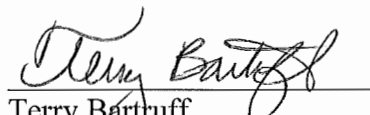
SECTION 3: This ordinance shall be effective upon its passage, approval and publication as provided by law.

SECTION 4: The Treasurer is hereby directed to mail a copy of this ordinance, along with an application for a certificate of registration and to each currently-known operator and owner of a hotel as defined herein, located in the County of Union. This mailing shall require a signature confirmation and said mailing shall constitute notice that the determination is effective and this is a determination of the Board of Commissioners of the County, of Union, Illinois. Failure to receive this mailing does not exempt an owner/operator of a hotel from the provisions established by this Article.

PASSED AND APPROVED at a regular meeting of the Board of Commissioners of the County of Union, Illinois this 9th day of January, 2015.


Richard Cunningham, Chairman

ATTEST:


Terry Bartruff
Union County Clerk

Commissioners voting aye: Bobby Toler Jr. Danny Hartline
Richard Cunningham Dale Russell Max Miller

Commissioners voting nay: _____

Abstention(s): _____

Absent: _____