

Ordinance of the County Board

Of

Kankakee County, Illinois

RE: AN ORDINANCE RELATING TO THE HOTEL AND MOTEL OPERATORS' OCCUPANCY 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 the business of renting, leasing or letting rooms in a hotel as defined the "Hotel Operators' Occupation Tax Act" at a rate not to exceed five (5%) of the gross rental receipts and may provide for the administration and enforcement of the tax and for the collection from the persons subject to 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, at the Executive Committee Meeting of September 27, 2012 after review, discussion and consideration, the committee decided that a replacement of the old ordinance for the Hotel and Motel Operators' Occupancy Tax should be presented to the County Board for adoption.

NOW, THEREFORE, BE IT ORDAINED, by the Kankakee County Board that the language contained herein shall repeal the former Hotel and Motel Operators' Occupancy Tax Ordinance and is hereby replaced with the following:

ARTICLE III. – HOTEL AND MOTEL OPERATORS' OCCUPANCY TAX

Sec. 50-65 – Title; purpose.

Sec. 50-66 – Definitions.

Sec. 50-67 – Tax imposed; rate; exemption.

Sec. 50-68 – Books and records.

Sec. 50-69 – Return of taxpayer; payment of tax.

Sec. 50-70 – Scope; Jurisdiction.

Sec. 50-71 – Penalty for violation of article

Sec. 50-65. - Title; purpose.

- (a) This article shall be known and cited as "The Hotel and Motel Operator's Occupation Tax Act" and the tax herein imposed shall be in addition to all other occupation or privilege taxes imposed by the state, county, or by any other municipal corporation or political subdivision of the state.
- (b) The purpose of this article is to allow collection of a county hotel-motel tax, for purposes designated in 55 ILCS 5/5-1030.

Sec. 50-66. - 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:

Hotel or motel means any building or buildings in which the public may, for a consideration, obtain living quarters, or sleeping or housekeeping accommodations. The term includes inns, motels, tourist homes or courts, lodging houses, rooming houses and apartment houses.

Occupancy means the use or possession, or the right to the use or possession, of any room or rooms in a hotel or motel for any purpose, or the right to the use or possession of the furnishings or to the services and accommodations accompanying the use and possession of the room.

Operator means any person operating a hotel or motel.

Permanent resident means any person who occupied or has the right to occupy any room in a hotel or motel for at least thirty (30) consecutive days.

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

Rent and rental mean 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 or nature.

Room and rooms mean any living quarters, sleeping or housekeeping accommodations.

(Code 1981, § 18-35; Ord. of 5-10-1983; Res. No. 2003-03-11-749, 3-11-2003)

Sec. 50-67. - Tax imposed; rate; exemption.

- (a) A tax is imposed upon persons engaged in the business of renting, leasing or letting rooms in a hotel or motel, at the rate of four percent (4%) 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 or motel.
- (b) Persons subject to the tax imposed by this article may reimburse themselves for their tax liability under this article by separately stating such tax as an additional charge.

(Code 1981, § 18-36; Ord. of 5-10-1983; Res. No. 2003-03-11-749, 3-11-2003; Res. No. 205-3-08-32, 3-8-2005)

Sec. 50-68. - Books and records.

Every operator shall keep separate books or records of his business as an operator, so as to show the rents and occupancies taxable under this article separately from his transactions not taxable hereunder. If any such operator fails to keep such records, his tax liability shall be computed from the entire proceeds from his hotel or motel.

(Code 1981, § 18-37; Ord. of 5-10-1983; Res. No. 2003-03-11-749, 3-11-2003)

Sec. 50-69. - Return of taxpayer; payment of tax.

- (a) As provided hereinafter in this section, every person engaged in the business of renting, leasing, or letting rooms in a hotel or motel in the court shall file a return on the 20th day of each month with the county treasurer stating:

- (1) The name of the operator;

- (2) His residence address and the address of his principal place of business and the address of the principal place of business (if that is a different address) from which he engages in the business of renting, leasing or letting rooms in a hotel or motel in the county;
 - (3) The total amount of rental receipts received by him during the preceding calendar month from renting, leasing or letting rooms during such preceding calendar month;
 - (4) The total amount of receipts received by him during the preceding month from renting, leasing, or letting rooms to permanent residents during such preceding calendar month;
 - (5) The total amount of other exclusions from gross rental receipts allowed by this article;
 - (6) Gross rental receipts which were received by him during the preceding calendar month and upon the basis of which the tax is imposed;
 - (7) The amount of tax due;
 - (8) The amount of penalty due, if any; and
 - (9) Such other reasonable information as the county may require.
- (b) The operator shall pay tax liability to the county on the 20th day of each month.
 - (c) Quarter annual and annual returns, as to form and substance, shall be subject to the same requirements as monthly returns.
 - (d) 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 county treasurer, not more than one month after discontinuing such business.
 - (e) Where the same person has more than one business registered with the county under separate registrations, such person shall not file each return that is due as a single return covering all such registered businesses, but shall file separate returns for each such registered business.
 - (f) In his return, the operator shall determine the value of any consideration other than money received by him in connection with the renting, leasing or letting of rooms in the course of his business, and he shall include such value in his return. Such determination shall be subject to review and revision by the county treasurer.
 - (g) Where the operator is a corporation, the return filed on behalf of such corporation shall be signed by the president, vice-president, secretary or treasurer or by the properly accredited agent of such corporation.
 - (h) The person filing the return herein provided for shall, at the time of filing such return, pay to the county treasurer the amount of tax herein imposed. All monies received by the county treasurer under the provisions of this article shall be paid into the county treasury.
 - (i) The county treasurer may, upon separate written notice to a taxpayer, require the taxpayer to prepare and file with the county treasurer on a form prescribed by the county treasurer, within not less than sixty (60) days after receipt of the notice, an annual information return for the tax year specified in the notice. Such annual return to the county treasurer shall include a statement of gross receipts as shown by the operator's last state income tax return. If the total receipts of the business as reported in the state income tax return do not agree with the gross receipts reported to the county treasurer for the same period, the operator shall attach to his annual information return a schedule showing a reconciliation of the two amounts and the reasons for the difference. The operator's annual information return to the county treasurer shall also disclose payroll information of the operator's business during the year covered by such return and any additional reasonable information which the county treasurer deems would be helpful in determining the accuracy of the monthly, quarterly or annual tax returns by such operator, as hereinbefore provided for in this section.
 - (j) If the annual information return required by this section is not filed when and as required, the taxpayer shall be liable for a penalty equal to one percent of the tax due from such taxpayer under this article during the period to be covered by the annual return, for each month or fraction of a month until such return is filed as required, the penalty to be assessed and collected in the same manner as any other penalty provided for in this article.
 - (k) The chief executive officer, proprietor, owner or highest ranking manager shall sign the annual return to certify the accuracy of the information contained therein. Any person who willfully signs the annual return containing false or inaccurate information shall be guilty of perjury and punished accordingly. The annual return form prescribed by the county treasurer shall include a warning that the person signing the return may be liable for perjury.
 - (l) The foregoing portion of this section concerning the filing of an annual information return shall not apply to an operator who is not required to file an income tax return with the United States Government.

(Code 1981, § 18-38; Ord. of 5-10-1983; Res. No. 2003-03-11-749, 3-11-2003)

Sec. 50-70. –Scope; jurisdiction

- (a) *Scope.* This article shall apply to any hotel or motel operated within the boundaries of the county which is not located within a city, village or unincorporated town that imposes a tax under the Illinois Municipal Code, 65 ILCS 5/8-3-14. The County may enter into intergovernmental agreements with any city, town, village or other governmental entity. The County may enter into contracts, at its discretion, with private entities, chambers of commerce, and visitors and convention bureaus to expend funds collected under this Article, as authorized under 55 ILCS 5/5-1030, and within any limits or grants of authority which are contained within Intergovernmental Agreements.
- (b) *Jurisdiction.* Jurisdiction of disputes shall be in the Twenty First Judicial Circuit Court.

(Code 1981, § 18-39; Ord. of 5-10-1983; Res. No. 2003-03-11-749, 3-11-2003; Res. No. 2005-03-08-32, 3-8-2005)

Sec. 50-71. - Penalty for violations of article.

- (a) The failure to provide the return as required in Section 50-69 (a) above herein within 30 days of the due date shall result in a penalty of five hundred dollars (\$500.00). The failure to file a return within sixty (60) days of the due date of the return shall result in an additional penalty of fifteen hundred dollars (\$1,500). The failure to file a return within ninety (90) days shall result in an additional penalty of three thousand dollars (\$3,000). The failure to provide a return within one hundred twenty days (120) shall result in an additional penalty of five thousand dollars (\$5,000). The failure to provide a return within one hundred fifty days (150) shall result in the closure of the motel or hotel until all returns, penalties and taxes owing are provided and paid.
- (b) The States Attorney of Kankakee 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, the suspension of a county liquor license and the closure of the hotel or motel to enforce the provisions of this article and to collect any amounts due under all sections of this Article.
- (c) Any person who fails to comply with any other section of this article shall be punished as a separate offense or offenses as provided in section 1-9 of the County Code.

(Code 1981, § 18-40; Ord. of 5-10-1983; Res. No. 2003-03-11-749, 3-11-2003)

FOOTNOTE(S):

⁽²¹⁾ **State Law reference**— County hotel-motel tax, 55 ILCS 5/5-1030. (Back)

PASSED and APPROVED this 9th day of October, 2012.


Michael Bossert, County Board Chairman

ATTEST:

Bruce Clark, County Clerk