



**CITY OF URBANA, ILLINOIS
FINANCE DEPARTMENT**

MEMORANDUM

TO: Mayor Diane Wolfe Marlin and City Council Members
FROM: Elizabeth Hannan, Finance Director
DATE: November 7, 2019
SUBJECT: **Ordinance Amending the Hotel/Motel Use Tax**

Introduction: Attached is a proposed Ordinance revising the Urbana City Code to clarify that the City's 7% hotel/motel use tax is applicable to Airbnb and similar "facilitators." This proposed Ordinance has an effective date of February 1, 2020 to allow time for facilitators to implement the collection.

Discussion: Staff had been working with a representative of Airbnb to enter into a Voluntary Collection Agreement (VCA), under which Airbnb would collect the City's hotel/motel use tax for properties in the City of Urbana. After extensive discussion, Airbnb advised that it would be unable to complete a VCA with the City of Urbana due to the need to prioritize VCAs for larger governments.

After further discussion, both internally and with Airbnb representatives, staff determined that modifications to the City Code could be made to require Airbnb, as well as other, similar facilitators, to collect the City's hotel/motel use tax. This has the advantage of applying to other facilitators, such as HomeAway, VRBO, etc. Staff will contact those facilitators to inform them of the change, if the Ordinance is adopted.

This approach would also be more equitable, since all operators and facilitators of short-term accommodations would be required to collect and remit the tax.

Section 22-65 (b) related to depositing receipts related to conventions in a "tourism fund," has been removed. While this language has existed in the City Code for many years (since at least 1986, which is when this section was last amended), this fund was either never established, or was eliminated at some point. Reported receipts from the "conventions" portion of the tax are tracked by Finance staff. Those receipts were \$18,074 in FY2019.

Other, minor revisions are also included in this Ordinance.

Fiscal Impact: The increase in hotel/motel use tax revenues related to this change is difficult to estimate because data is not available for transactions that are not currently being reported to the City. Staff believes it will be at least \$50,000 annually.

Alternatives:

1. Forward the Ordinance amending the City Code related to the hotel/motel use tax for City Council approval on November 18.
2. Do not forward the Ordinance for City Council approval.

Recommendation: Forward the Ordinance amending the City Code related to the hotel/motel use tax for City Council approval on November 18.

ORDINANCE NO. 2019-11-064

**AN ORDINANCE AMENDING URBANA CITY CODE CHAPTER 22, ARTICLE V.,
SECTION 22-60 THROUGH SECTION 22-65**

(Amendment to Hotel/Motel Use Tax)

WHEREAS, the City of Urbana (“City”) is a home rule unit of local government pursuant to Article VII, Section 6, of the Illinois Constitution, 1970, and may exercise any power and perform any function pertaining to its government and affairs not otherwise expressly reserved to the State of Illinois by legislation, including imposing a use tax on the privilege of renting a hotel, motel, or similar overnight lodging accommodations for a period of not more than thirty (30) consecutive days; and

WHEREAS, the City has adopted an ordinance which provides for a use tax for the privilege of renting a hotel, motel, or similar overnight lodging accommodations for a period of not more than thirty (30) consecutive days (UCC Secs. 22-60 *et seq.*, “Hotel/Motel Use Tax”); and

WHEREAS, there has been some confusion insofar as whether the aforesaid Hotel/Motel Use Tax applies to persons who act as facilitators or brokers that arrange hotel, motel, or other like lodging accommodations at hotel, motel, or lodging guests on behalf of persons who own or operate hotels, motels, or other lodging accommodations; and

WHEREAS, the City Council deems it necessary and appropriate to amend UCC Secs. 22-60, 22-61, 22-62, and 22-63 to clarify the application of the City’s Hotel/Motel Use Tax as applying to persons who act as facilitators and/or brokers who arrange hotel, motel, and other like lodging accommodations for guests on behalf of persons who own or operate hotels, motels, or other lodging accommodations.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Urbana, Champaign County, Illinois, as follows:

Section. 1.

Urbana City Code Chapter 22, “Taxation,” Article V, “Hotel/Motel Use Tax,” Section 22-60, “Definitions”, Section 22-61, “Tax”, Section 22-62, “Books and records”, and Section 22-63, “Transmittal of tax revenue”, shall be and hereby is amended as follows with strike-through words representing language to be deleted and underlined words representing language to be added:

Sec. 22-60. Definitions.

For the purpose of this article, whenever any of the following words, terms or definitions are used herein, they shall have the meaning ascribed to them in this section.

Hotel room or motel room means a room within a structure kept, used or maintained as or advertised or held out to the public to be an inn, motel, hotel, apartment hotel, lodging house, dormitory or other place where sleeping, rooming, office, conference or exhibition accommodations are furnished for lease or rent, whether with or without meals. One room offered for rental with or without an adjoining bath shall be considered as a single hotel or motel room.

Facilitator means any person who provides a means through which a person, operator, or operator’s agent may offer a hotel room or motel room for rent, regardless of whether the rental or leasing charge is transferred through or processed by such facilitator, or by a separate entity.

~~*Owner Operator*~~ means any person or persons having a sufficient proprietary interest in conducting the operation of a hotel or motel room or receiving the consideration for the rental of such hotel or motel room so as to entitle such person or persons to all or a portion of the net receipts thereof.

Person means any natural person, trustee, court appointed representative, syndicate, association, partnership, firm, club, company, corporation, business trust, institution, agent, government corporation, municipal corporation, district or other political subdivision, contractor, supplier, vendor, vendee, operation, user or owner, or any officers, agents, employees or other representative, acting either for himself/herself/themselves, or for any other person in any capacity, or any other entity recognized by law as the subject of rights and duties. The masculine, feminine, non-binary, singular or plural is included in any circumstances.

Sec. 22-61. - Tax.

(a) There is hereby levied and imposed upon the use and privilege of renting a hotel or motel room within the city a tax of seven (7) percent of the rental or leasing charge for each such hotel and motel room rented for each twenty-four-hour period or any portion thereof; provided, however, that the tax shall not be levied and imposed upon any person to rent a

hotel or motel room for more than thirty (30) consecutive days who works or lives in the same hotel or motel.

(b) The ultimate incident of and liability for payment of said tax shall be borne by the person who seeks the privilege of occupying any such hotel or motel room, said person hereinafter referred to as "renter."

(c) The tax herein levied shall be paid in addition to any and all other taxes and charges. It shall be the duty of the ~~owner, manager or operator~~ or facilitator of every hotel or motel to act as trustee for and on account of the city, and to secure said tax from the renter of the hotel or motel room and pay over to the city collector said tax under procedures prescribed by the city ~~comptroller~~ finance director or as otherwise provided in this article.

(d) Every person required to collect the tax levied by this article shall secure said tax from the renter at the time he/she/it collects the rental payment for the hotel or motel room. Upon the invoice receipt or other statement or memorandum of the rent given to the renter at the time of payment, the amount due under the tax provided in this article shall be stated separately on said documents.

Sec. 22-62. - Books and records.

The city ~~comptroller~~ finance director, or ~~any person~~ anyone certified as his/her/their deputy or representative, may enter the premises of any hotel or motel for inspection and examination 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. It shall be unlawful for any person to prevent, hinder, or interfere with the city ~~comptroller~~ finance director or his/her/their duly authorized deputy or representative in the discharge of his/her/their duties and the performance of this article. It shall be the duty of every ~~owner~~ operator to keep accurate and complete books and records to which the city ~~comptroller~~ finance director or his/her/their deputy or authorized representative, shall at all times have access, which records shall include a daily sheet showing:

- (1) The number of hotel or motel rooms rented during the twenty-four-hour period, including multiple rentals of the same hotel rooms where such shall occur; and
- (2) The actual hotel or motel tax receipts collected for the date in question.

Sec. 22-63. – Transmittal of tax revenue.

(a) The ~~owner-operator~~ or ~~owners-operators~~ or facilitator of each hotel or motel room within the city shall file tax returns showing tax receipts received with respect to each hotel and motel room during each month period commencing on June 1, 1981, and continuing on the first day of every month thereafter on forms prescribed by the city ~~comptroller~~ finance director. The return shall be due on or before the fifteenth day of the calendar month

succeeding the end of the month filing period. A separate return shall be filed for each place of business within the city regardless of ownership.

(b) The first taxing period for the purpose of this article shall commence on June 1, 1981, and the tax return and payment for such period shall be due on or before July 15, 1981. Thereafter reporting periods and tax payments shall be in accordance with the provisions of this article. At the time of filing said tax returns, the ~~owner-operator or facilitator~~ shall pay to the city all taxes due for the period to which the tax return applies.

(c) If for any reason any tax is not paid when due, a penalty at the rate of one percent per thirty-day period, or portion thereof, from the day of delinquency shall be added and collected.

Sec. 22-64 – Collection.

Whenever any person shall fail to pay any tax as herein provided, the city comptroller shall bring or cause to be brought an action to enforce the payment of said tax on behalf of the city in any court of competent jurisdiction.

Sec. 22-65 – Proceeds of tax and fines.

(a) ~~Except as provided in subsection (b) of this section, any~~ Any and all revenues resulting from the imposition and collection of the tax under this article, including penalties, shall be paid into the treasury of the city and shall be credited to and deposited in the corporate fund of the city.

~~(b) — Any and all revenues resulting from the imposition and collection of the tax under this article upon persons whose rental or leasing of a hotel or motel room in the city is in connection with participation in a convention shall be allocated to a separate fund to be known as the "tourism fund", which such fund is hereby created. For the purposes of this subsection (b), the term "convention" shall mean a meeting, conference, exhibition, or the like with respect to which a block or group of twenty (20) or more rooms are reserved or contracted for in advance of the convention by a single contracting or sponsoring entity or group, and with respect to which meeting, conference, and/or exhibition space and facilities or group meals are provided for such persons through the contracting or sponsoring entity or group by such hotel or motel. In the event a hotel or motel has insufficient rooms or facilities as required for the convention (such insufficiency herein referred to as "overflow"), the provisions of this subsection (b) shall apply to persons registered for such convention and who are required to find hotel or motel accommodations in a hotel or motel other than the hotel or motel where the contracting or sponsoring entity or group has made arrangements for such convention. The hotel or motel providing such rooms, including the overflow rooms, shall maintain adequate and sufficient records to evidence such revenues resulting solely from the imposition of the tax under this article by such persons in connection with such participation in a convention. Any such amounts so collected by the city and so allocated to the "tourism fund" shall be expended by the city in such manner as is approved by the city council in the annual budget ordinance solely to promote tourism and conventions within the city or otherwise to attract nonresident overnight visitors to the city.~~

Section 2.

This Ordinance shall become effective on February 1, 2020.

Section 3.

Those sections, paragraphs, and provisions of the Urbana City Code that are not expressly amended or repealed by this Ordinance are hereby re-enacted, and it is expressly declared to be the intention of this Ordinance not to repeal or amend any portions of the Urbana City Code other than those expressly set forth as amended or repealed in this Ordinance. The invalidity of any section or provision of this Ordinance hereby passed and approved shall not invalidate other sections or provisions thereof.

Section 4.

This Ordinance shall not be construed to affect any suit or proceeding pending in any court, or any rights acquired, or a liability incurred, or any cause or causes of action acquired or existing prior to the effective date of this Ordinance; nor shall any right or remedy of any character be lost, impaired, or affected by this Ordinance.

Section 5.

The City Clerk is directed to publish this Ordinance in pamphlet form by authority of the corporate authorities, and this Ordinance shall be in full force and effect from and after its passage and publication in accordance with Section 1-2-4 of the Illinois Municipal Code.

This Ordinance is hereby passed by the affirmative vote, the “ayes” and “nays” being called, of a majority of the members of the Council of the City of Urbana, Illinois, at a meeting of said Council.

PASSED BY THE CITY COUNCIL this ____ day of _____, _____.

AYES:

NAYS:

ABSENT:

ABSTAINED:

Charles A. Smyth, City Clerk.

APPROVED BY THE MAYOR this ____ day of _____, _____.

Diane Wolfe Marlin, Mayor