

ORDINANCE NO. 9393

AN ORDINANCE AMENDING THE CITY CODE, SECTION 45 REGARDING HOTEL/MOTEL TRANSIENT OCCUPANCY RENTAL UNITS AND RELATED MATTERS

WHEREAS, the City of Quincy, pursuant to law, presently has in effect certain provisions in regard to a hotel/motel transient rental unit tax in effect with the City of Quincy Code in Section 145; and

WHEREAS, the City of Quincy deems it to be in the best interests of the citizens of the City of Quincy and the public in general that said provisions regarding a hotel/motel and transient/occupancy rental unit tax be amended as provided herein; and

WHEREAS, the City Council of the City of Quincy deems it to be an appropriate exercise of the municipal corporate authority of the City, including, but not necessarily limited to, the power to promote and protect the public health, safety and welfare, the power to impose utility taxes, the power to promote and protect the public health, safety and welfare, and the home rule power of the City of Quincy to amend the present hotel/motel and transient occupancy rental unit tax as provided herein.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF QUINCY, ADAMS COUNTY, ILLINOIS, AS FOLLOWS:

Section 1. That the corporate authorities hereby find that all of the recitals hereinbefore states as contained in the preamble to this ordinance are full, true and correct and do hereby, by reference, incorporate and make them a part of this ordinance as legislative findings.

Section 2. That the purposes of this ordinance shall include amending Chapter 45, Hotel Operator's Tax of the Municipal Code of the city of Quincy as provided herein.

Section 3. That prospectively, Chapter 45, Hotel Operator's Tax of the Municipal Code of the city of Quincy is hereby amended to prospectively provide as follows, which provisions herein shall specifically supersede prospectively the prior provisions within Chapter 45 and additionally supersede the provisions of any other ordinance and/or part thereof in conflict with the provisions of this ordinance, which shall prospectively provide as follows:

HOTEL OPERATOR'S TAX

 **§ 45.015 TITLE.**

This subchapter shall be known as the city hotel or motel room rental use or privilege tax and the tax herein imposed shall be in addition to all other

occupation, use, privilege, or other taxes imposed by the city, by any other political subdivision of the state or by the state.

(1980 Code, § 17.201)

 **§ 45.016 DEFINITIONS.**

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

HOTEL or ***MOTEL*** means a structure kept, used or maintained as or advertised or held out to the public to be an inn, motel, hotel, apartment-hotel, apartment, home, lodging house, dormitory or place where sleeping, rooming, office, conference or exhibition accommodations are furnished for lease or rent, whether with or without meals. For avoidance of doubt, Transient Occupancy Rental Units are Hotels under this definition.

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 place where sleeping, rooming, office, conference or exhibition accommodations are furnished for lease or rent, 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***. The number of hotel or motel rooms within a suite shall be computed on the basis of those rooms utilized for the purpose of sleeping.

TRANSIENT OCCUPANCY RENTAL UNIT means a dwelling unit or a habitable unit that is offered, in whole or in part, for rent, lease or hire that is rented, leased or hired for which a Lessor receives consideration from a person for a period of thirty (30) days or less and that person has the right to use, occupy or possess all or part of the dwelling unit or habitable unit for said period.

LESSOR is a person having a sufficient proprietary interest in conducting the operation of a Hotel, or receiving the consideration for the rental of all or part of such Hotel, so as to entitle such person to all or a portion of the net receipts thereof, including Facilitators, as defined herein.

FACILITATOR is any person or entity who provides a means through which a person may book a Hotel room and/or Transient Occupancy Rental Unit to Lessees, regardless of whether payment is transferred through or processed by such Facilitator. Facilitators are considered Lessors, as used herein. Online Travel Companies are considered Facilitators, as used herein.

ONLINE TRAVEL COMPANY is an organization that books, reserves, or rents hotel or motel rooms and makes other travel arrangements for consumers via the World Wide Web, internet or other digital means. Online Travel Companies are considered Facilitators, as used herein.

LESSEE is any person who pays for the privilege of occupying all or part of a Hotel.

GROSS RENT means the total amount of consideration for occupancy, valued in money, whether received in money or likewise, including all receipts, cash, credits, and property or services of any kind or nature, including but not limited to, amounts charged for the making, booking, facilitating, or servicing of reservations. Gross rent means both (a) the “net rate” paid to the hotel or motel by a Facilitator for room occupancy by the consumer; and (b) the amount retained by the Facilitator for travel-related services provided to the consumer (sometimes referred to as a “facilitation fee”), and any additional amounts retained by the Facilitator as compensation for its services to the consumer for the individual transaction, or, in the instance of a consumer’s direct rental of a room with the hotel or motel, gross rent shall mean the amount charged by the hotel or motel directly to the consumer for the occupancy of the room.

PERSON means any natural person, receiver, administrator, executor, conservator, assignee, trust in perpetuity, trust, estate, firm, co-partnership, joint venture, club, company, business trust, domestic or foreign corporation, association, syndicate, society of any group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit, or otherwise, whenever the term “Person” is used in any clause prescribing and imposing a penalty, the term as applied to associations shall mean the owners or part-owners thereof, and as applied to corporations, the offices thereof, , or any other entity recognized by law as the subject of rights and duties.

PERMANENT RESIDENT means any person who has occupied orh as the right to occupy all or part of a Hotel for more than (30) consecutive days.

(1980 Code, § 17.202)

§ 45.017 HOTEL USE TAX IMPOSED.

(A) There is hereby levied and imposed a tax of eight (8) percent of the Gross Rent charged for the privilege and use of renting a hotel or motel room within the City of Quincy for each 24-hour period or any portion thereof for which a room charge is made: provided, however, that the tax shall not be levied and imposed upon a person who works and lives in the same hotel or motel.

(B) Accommodations within said buildings or structures which are leased to the same occupant for a period of more than thirty (30) consecutive days shall be exempt from the tax provisions of this Article.

(C) Lessors renting, leasing, or letting Hotel rooms with the City are required to collect the Hotel Use Tax; however, the ultimate incidence of any liability for payment of the tax is to be borne by the Lessee.

(D) The Hotel Use Tax shall be paid in addition to any and all other taxes and charges.

(E) It shall be the duty of the Lessor of every Hotel within the City to separately state such tax at the eight (8) percent rate upon the total amount of compensation charged for the use of the Hotel. The lessor shall also state separately the amount of tax on the invoice for the transaction that will be tendered to the Lessee.

(F) It shall be the duty of every Lessor of every Hotel within the City to collect the tax from the Lessee at the time the Lessee pays for the privilege of occupying all or part of a Hotel Transient Occupancy Rental Unit, and to remit to the City Treasurer the tax under procedures provided for in this chapter or or as otherwise prescribed by the City. If more than one Person is the Lessor as related to a particular transaction, the Lessors are jointly and severally responsible for collecting and remitting the tax.

(G) It shall not be a defense to this ordinance that the Lessor is not licensed by the City to rent Hotels and the Lessor will still be required to remit the proper tax to the City and obtain the necessary license(s).

(1980 Code, § 17.203) Penalty, see § [45.999](#)

§ 45.018 RULES AND REGULATIONS.

The City Treasurer may promulgate rules and regulations not inconsistent with the provisions of this subchapter concerning enforcement and application of this subchapter. The phrase **RULES AND REGULATIONS** includes, but is not limited to, case-by-case determination of whether or not the tax imposed by this subchapter applies.

(1980 Code, § 17.204)

§ 45.019 LICENSE/REGISTRATION REQUIRED.

(A) 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 the person a hotel or motel within the city without having first obtained a license/certificate of registration therefore from the City Treasurer or without complying with all provisions of this subchapter.

(B) No license/certificate of registration shall be issued or annually renewed for a hotel or motel delinquent in payment of the use and privilege tax or the payment of any fines and/or penalties assessed for the nonpayment or late payment thereof.

(C) The license/certificate of registration shall be valid for one year.

(1980 Code, § 17.205) Penalty, see § [45.999](#)

§ 45.020 BOOKS AND RECORDS.

The City Comptroller, or any person certified as his or her 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 subchapter 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 or his or her duly authorized deputy or representative in the discharge of his or her duties and the performance of this subchapter. It shall be the duty of every Lessor to keep accurate and complete books and records to which the City Comptroller or his or her deputy or authorized representative shall at all times have access, which records shall include a daily sheet showing:

(A) The number of hotel or motel rooms rented during the 24-hour period, including multiple rentals of the same hotel rooms where such still occur; and

(B) The actual hotel or motel tax receipts collected on the date in question.

(1980 Code, § 17.206) Penalty, see § [45.999](#)

§ 45.021 TRANSMITTAL OF TAX REVENUE.

(A) The Lessor of each hotel within the City shall file tax returns and remit collected taxes to the City Treasurer Office showing tax receipts received with respect to each Hotel during each monthly period commencing on December 1, 1999, and continuing on the first day of every month thereafter on forms prescribed by the City. The return shall be due on or before the last day of the calendar month succeeding the end of the monthly filing period. Each Lessor shall file an application with the City Treasurer's Department for a City taxpayer identification number prior to filing the first tax return.

(B) The first taxing period for the purpose of this subchapter shall commence on December 1, 1999; and the tax return and payment for the period shall be due on or before January 31, 2000. Thereafter, reporting periods and tax payments shall be in accordance with the provisions of this subchapter. At the time of filing the tax returns, the owner shall pay to the City Treasurer all taxes due for the period to which the tax return applies.

(1980 Code, § 17.207)

§ 45.022 LATE PAYMENT AND PENALTIES

- A. Any notice, payment, remittance or other filing required to be made to the city for the tax imposed by this article shall be considered late unless it is (a) received by the City Treasurer on or before the due date imposed by this article, or (b) received via a method consistent with the current established standards of filing and payment determined by the City.

- B. In the event a determination has been made that a tax is due and owing, through audit, assessment or other bill sent, the tax must be paid within the time frame otherwise indicated.
- C. Interest. The city hereby provides for the amount of interest to be assessed on a late payment, underpayment or non-payment of the tax, to be 2% per annum, based on a year of 365 days and the number of days elapsed.
- D. Late filing and payment penalties.
 - 1. If a tax return is not filed within the time and manner provided by the controlling tax ordinance, a late filing penalty of 5% of the amount of tax required to be shown as due on a return shall be imposed; and a late payment penalty of 2% of the tax due shall be imposed.
 - 2. If no return is filed within the time or manner provided by the controlling tax ordinance and prior to the city issuing a notice of tax delinquency or notice of tax liability, then a failure to file penalty shall be assessed equal to 7% of the total tax due for the applicable reporting period for which the return was required to be filed.
 - 3. A late filing or payment penalty shall not apply if a failure to file penalty is imposed by the controlling ordinance.

45.023 DEMAND FOR PAYMENT AND COLLECTION.

(A) In the event any person required to do so by this subchapter fails to register with the Treasurer, or fails to file a return when due with the Treasurer, or fails to pay any amount of tax when due, or if the Treasurer determines that any return filed with him or her is incorrect in that it understates the amount of tax due from the person filing the return then the Treasurer, under any and all cases, shall determine the amount of tax imposed by this subchapter due from the person based upon his or her best judgment and the information available to him or her and shall make a written demand for payment of the amount to the person. The determination of the amount due by the Treasurer as stated in the demand for payment shall become final within ten days after receipt of the demand by the taxpayer. Prior to the expiration of the ten-day period, the demand may be modified, amended, or rescinded by the Treasurer upon his or her own authority, provided that any modification or amendment shall not become final until ten days after the receipt by the taxpayer of a written notice of the modification or amendment.

(B) Whenever any person shall fail to pay any tax as provided in this subchapter, the Corporation Counsel, or designee of the Legal Department, shall, upon the request of the City Comptroller, bring or cause to be brought an action to enforce the payment of the tax on behalf of the city in any court of competent jurisdiction.

(1980 Code, § 17.208) Penalty, see § [45.999](#)

§ 45.024 PROCEEDS OF TAX.

(A) The amounts collected by the city pursuant to this tax shall be expended by the city to promote tourism, special events and conventions (including use and promotion of the Oakley-Lindsay Convention Center) and otherwise to attract nonresident and overnight visitors to the municipality. The tax shall be remitted to the Quincy Metropolitan Exposition Auditorium and Office Building Authority (herein “Authority”) upon and subject to the condition that the authority expend not more than one-fourth of the tax receipts for the promotion, of municipal tourism and special events, and the balance thereof (three-fourths) for the promotion, maintenance and operation of the Oakley-Lindsay Convention Center.

(B) No funds received pursuant to this subchapter shall be used to advertise for or otherwise promote new competition in the hotel business.

(1980 Code, § 17.209) Penalty, see § [45.999](#)

§ 45.025 SUSPENSION OF LICENSES.

If the Mayor, after hearing held by or for him or her, shall find that any person has willfully avoided payment of the tax imposed by this subchapter, or any fines and/or penalties assessed for the nonpayment or late payment of the tax, he or she may suspend or revoke all city licenses held by the tax evader. The owner manager or operator of the hotel or motel shall have an opportunity to be heard at the hearing to be held not less than five days after notice of the time and place of the hearing to be held, addressed to him or her at his or her last known place of business.

(1980 Code, § 17.210)

§ 45.026 EXCHANGE OF INFORMATION.

The Mayor of the city is hereby authorized to enter into an agreement with the State Department of Revenue, or any other department or agency of the state, providing for the exchange of information between the state department or agency and the city which will facilitate the collection and auditing of the tax imposed by this subchapter. Any information received by the city pursuant to the agreement shall be kept by the Treasurer and shall be subject to the confidentiality requirements imposed by law.

(1980 Code, § 17.212)

§ 45.027 TERM; CONSTRUCTION.

The tax provided under this subchapter of this code shall be imposed and collected in the manner set forth herein until or unless the same shall be modified, amended or repealed by ordinance amending this code or other ordinance of the City Council. Effective November 1, 2016, unless otherwise provided by ordinance duly adopted, the tax imposed by § [45.017](#) above, shall

be reduced to a rate of 8% of the rental or leasing charge. These said rates to be reviewed and if decided by appropriate City Council action, revised annually beginning in January of 2018 at the second regular meeting of the City Council in January, but no later than the final City Council Meeting in January, and every subsequent January of every year prior to budget review process. If the re-affirmation, re-adoption or revision is not accomplished on the annual schedule listed herein, the rate will revert to the rate in effect prior to the adoption of Ordinance 9058. Nothing herein shall be construed to limit, restrict or waive the right and authority of the City Council to amend, modify or repeal this subchapter or to create any vested right or interest therein.

(1980 Code, § 17.213) (Ord. 9314, passed 9-18-2017)

§ 45.028 CONTRACTS.

Contracts consistent with this subchapter may be entered into between the City Council and organization affected thereby, including, but not limited to the authority, regarding the terms and conditions for the expenditure and accounting of the tax revenues in accordance with this subchapter.

(1980 Code, § 17.214)

45.029 OTHER ACTIONS AUTHORIZED

The officers, employees and/or agents of the City of Quincy shall take all action necessary or reasonably required to carry out, give effect to and consummate the amendments contemplated by this ordinance and shall take all action necessary in conformity therewith. The officers, employees and/or agents of the City are specifically authorized and directed to draft and disseminate any and all necessary forms to be utilized in connection with these amendments. Any and all actions previously performed by officials, employees and/or agents of the City in connection with carrying out and consummating the intent of this ordinance are hereby authorized, approved and ratified by this reference.

Section 4. Headings: That the headings of the articles, sections, paragraphs and subparagraphs of this Ordinance are inserted solely for the convenience of reference, and form no substantive part of this Ordinance nor should they be used in any interpretation or construction of any substantive provision of this ordinance.

Section 5. Publication of Ordinances: That this ordinance shall be published in accordance with all applicable state and local laws. Copies of this ordinance shall be made available to the public upon request at the City Clerk's office.

Section 6. Application: That this ordinance shall be liberally construed and administered to supplement all of the City tax ordinances. To the extent that any ordinance is in conflict with or inconsistent with this ordinance, this ordinance shall be controlling.

Section 7. Severability: That if any section, paragraph or provision of this ordinance shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph or provision shall not affect any of the remaining provisions of this ordinance.

Section 8. Effective Date: That this ordinance shall be in full force and effect for all Hotel bookings made on or after January 1, 2020.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Quincy, Adams County, Illinois, held on the 9th day of December, 2019.