

ORDINANCE 3882

AN ORDINANCE AMENDING THE MARION CITY CODE REGARDING HOTEL OPERATORS' OCCUPATION TAX:

WHEREAS The City finds it necessary, on occasion, to amend and update sections of the Marion City Code; and

WHEREAS The City finds it necessary to amend part of Ordinance Number 3730 so codified in Title 3, Chapter 5, Article A, Section 4 of the City Code;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARION, ILLINOIS THAT THE FOLLOWING AMENDMENTS ARE MADE:

3-5A-4: HOTEL OPERATORS' OCCUPATION TAX:

A. Definitions: As used in this section, the following terms shall have the following meanings:

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| CITY: | The City of Marion, Illinois. |
| CITY COUNCIL AND CORPORATE AUTHORITIES: | The City Council of the City of Marion, Illinois. |
| FACILITATOR: | 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. |
| FINANCE DIRECTOR-TREASURER: | The City Finance Director-Treasurer of the City of Marion, Illinois. |
| GROSS RENT: | The total amount of consideration 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, 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.

- HOTEL:** A structure kept, used or maintained as or advertised or held out to the public to be an inn, motel, 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.
- LESSEE:** Any person who pays for the privilege of occupying all or part of a hotel.
- LESSOR:** Any 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.
- ONLINE TRAVEL COMPANY:** 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.
- OPERATOR:** As applicable, the owner/operator of each hotel within the city of Marion and the person(s) having a right of property operating such hotel under applicable law.
- PERMANENT RESIDENT:** Any person who has occupied or has the right to occupy all or part of a hotel for at least seven (7) consecutive days.
- PERSON:** 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 or 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.
- TRANSIENT OCCUPANCY RENTAL UNIT:** 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.

B. Tax Imposed; Rate And Restrictions:

1. The corporate authorities of the city hereby impose a tax upon all persons engaged in the city in the business of renting, leasing or letting rooms in a hotel at a rate of three percent (3%) of the gross rental receipts from such renting, leasing or letting, excluding, however, from the gross rental receipts, the proceeds of such renting, leasing or letting to permanent residents of that hotel.

2. Persons subject to the tax imposed pursuant to this section may reimburse themselves for their tax liability for such tax by separately stating such tax as an additional charge, which charge may be stated in combination, in a single amount, with state tax imposed under the Hotel Operators' Occupation Tax Act. However, the tax shall not be levied and imposed upon any permanent resident or to a person who works and lives in the same hotel or motel.

3. Nothing in this section shall be construed to authorize the city to impose a tax upon the privilege of engaging in any business which, under the constitution of the United States, may not be made the subject of taxation by the State of Illinois.

C. Registration Requirements:

1. Each hotel located within the boundaries of the city shall file a "certificate of registration" within the office of the City Clerk, whose office is located at Marion City Hall, 1102 Tower Square, Marion, Illinois. Registration forms shall be available to each hotel operator through the office of the City Clerk's Office.

2. It is the duty of the hotel operator to update the "certificate of registration" form on an annual basis. The final date for filing and updating this certificate of registration shall be December 15 of each year, commencing December 15, 2011, following the effective date hereof. Any new business coming under license to do business as a hotel within the city shall file a certificate of registration no later than thirty (30) days following the first day of operation as a new hotel business.

D. Report Required: Each Lessor shall file an "occupancy tax report" each month following the effective date hereof. The report shall contain the total dollar gross receipts received from room occupancy rentals along with the total amount due and payable to the city as required by this section. Occupancy tax reports shall be available to each hotel operator and Lessor through the office of the City Clerk.

E. Duty to Collect: 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 the tax under procedures provided for in this chapter or 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. The Lessor receiving the revenue from the Lessee is responsible for

F. Due Date; Late Payment Penalty: All taxes due the city shall be paid and remitted to the city on or before the last day of the month immediately following the month of collection. A one

percent (1%) late penalty will be due and payable to the city should any hotel Lessor fail to file an occupancy tax report by the end of each given month, and an additional one percent (1%) each month thereafter.

G. Remittance Of Taxes; Disposition And Use Of Funds:

1. All taxes due and owing the city under this section shall be made payable by or on behalf of the Lessor to the "City Clerk of the City of Marion, Illinois", and shall be due and payable monthly to the City Clerk on or before the tenth day of each month after the effective date hereof. The finance director- treasurer shall transfer such funds, by the fifteenth of the month following collection, into a separate fund established for the city tourism fund.

2. The amounts collected by the city pursuant to this section shall be expended by the city solely to promote tourism and conventions within the city or otherwise to attract nonresident overnight visitors to the city.

3. No funds received pursuant to this section shall be used to advertise for or otherwise promote new competition in the hotel business.

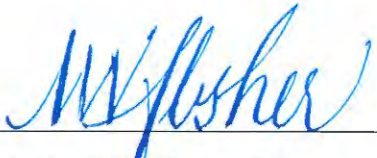
H. Interpretation And Effective Date:

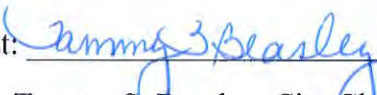
1. This section incorporates chapter 6 of this title concerning the local government taxpayers' bill of rights act.

2. This section shall be effective immediately upon its adoption, approval and publication in pamphlet form; provided, that the hotel tax imposed by this section shall not become effective until the later of: a) June 22, 2011; or b) the date that the Illinois finance authority's qualified 501(c)(3) not for profit revenue bonds (Williamson County events commission project), series 2003, are not outstanding. Pursuant to section 6 (powers of home rule units) of article VII (local government) of the constitution of the state of Illinois, sections 1-2-4, 8-1-7 and 4-5-13 of the Illinois municipal code shall not apply to this section. (Ord. 2356, 6-13-2011; amd. 2013 Code; Ord. 3216, 9-8-2014; Ord. 3730, 5-24-2021)

Passed and Approved by the Marion City Council this 8th day of May 2023.

Signed by the Mayor this 8th day of May 2023.


Michael W. Absher, Mayor

Attest: 
Tammy S. Beasley, City Clerk