

ARTICLE 28
MOTEL AND HOTEL TAXES

PART I. MOTEL/HOTEL TAX.

SECTION 1. DEFINITIONS.

The terms “hotel” (which includes a motel), “operator”, “occupancy”, “room” or rooms”, “permanent resident”, “rent” or “rental”, “department”, and “person” are hereby defined and shall have the meanings provided in 35 ILCS 145/2 as that section may be in force from time to time.

The term “City” shall mean and refer to the City of Mt. Vernon, an Illinois municipal corporation.

The term “Department” shall mean and refer to the City Finance Department of the City of Mt. Vernon, Illinois.

The term “return” shall mean any return filed or required to be filed as provided in this ordinance.

SECTION 2. TAX. There is hereby levied and imposed a tax of five percent (5%) of the gross rental receipts from the renting, leasing or letting a hotel or motel room within the City of Mt. Vernon for each 24-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. A permanent resident is hereby defined to be a person who rents a hotel or motel room in the same establishment for more than 30 consecutive days or to a person who works and lives in the same hotel or motel.

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 charge 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.

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 to pay the amount of the tax to the Department under procedures prescribed by the Department or as otherwise provided in this ordinance.

SECTION 3. RECORDS TO BE KEPT. Every operator shall keep records of every occupancy and of all rent paid, charged or due thereon and of the tax payable thereon in such form as may be required by regulation prescribed by the Department or as otherwise provided in this ordinance. Such records shall be available for inspection and examination for any proper purpose at any reasonable time upon demand by the Department or a duly authorized agent or employee of the City and shall be preserved for a period of three years unless the Department shall prescribe a shorter period of time. It shall be unlawful for any person to prevent, hinder, or interfere with the Department or the duly authorized deputy or representative of the Department

in the discharge of the duties of the Department.

SECTION 4. RETURNS. Every operator shall file monthly with the Department a return of occupancy and of rents and of the taxes payable thereon on forms prescribed by the Department and consistent with returns required under The Hotel Operators' Occupation Tax Act found in 35 ILCS 145/1 et seq on or before the 15th 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.

The first taxing period for the purpose of this ordinance shall commence on August 1, 2005, and the tax return and payment for such period shall be due on or before September 15, 2005. Thereafter reporting periods and tax payments shall be in accordance with the provisions of this ordinance. At the time of filing such tax returns, the operator shall pay the full amount of all tax due hereunder.

If for any reason any tax is not paid when due, a penalty at the rate of one percent per 30-day period or portion thereof from the date of delinquency shall be added and collected.

SECTION 5. OFFICER LIABILITY. Any officer or employee of any corporation which is an operation subject to the provisions of this Article who has control, supervision or responsibility of collecting tax proceeds, filing returns, and/or transmitting collected tax proceeds of the tax herein imposed by this Article and who fails to collect such tax or to file such return or to transmit any tax proceeds so collected to the City shall be personally liable for any such amounts required to be collected or collected, including penalties thereon and all costs of collection. The personal liability of such officer or employee as provided herein shall survive the dissolution of the corporation.

SECTION 6. COLLECTION. Whenever any person shall fail to pay any tax due hereunder or penalty, the Department shall bring or cause to be brought in the name of the City an action to enforce payment of the tax in any court of competent jurisdiction, together with the costs of such collection.

SECTION 7. PROCEEDS OF TAXES. All proceeds resulting from the imposition of the tax hereunder, including penalties, shall be paid into the treasury of the City of Mt. Vernon and shall be credited to and deposited in the corporate funds of the City.

SECTION 8. CERTIFICATE OF REGISTRATION. It shall be unlawful and a violation of this Ordinance for any person to establish, operate or maintain or permit to be established, operated or maintained upon any property owned or controlled by him a hotel or motel within the City without first obtaining a Certificate of Registration from the Department or without complying with all provisions of this Article. Such registration shall be issued by the Department and shall be subject to revocation by the Department. If the Department shall find that any person has failed to pay the tax imposed by this Article or any fines and/or penalties assessed or costs assessed for the nonpayment or late payment of such tax, the Department may suspend or revoke the Certificate of Registration held by such evader. The owner, manager or

operator of the hotel or motel shall have an opportunity to be heard at a hearing to be held by the Finance Director not less than 5-days after mailing of a notice of the time and place of the hearing to the address appearing upon the Certificate of Registration. Any person who shall operate without a Certificate of Registration or who shall continue to operate after revocation of same shall be subject to a preliminary or permanent injunction issued by the Circuit Court of Jefferson County, Illinois upon petition by the City to discontinue conducting business, and shall be subject to the other penalties provided herein.

SECTION 9. VIOLATION. If any person shall violate the provisions of this ordinance in addition to any and all other penalties provided herein shall upon conviction thereof be fined not less than \$5.00 nor more than \$200.00 and a separate offense shall be deemed to have been committed upon each day in which such violation occurs or continues.

Whenever any person shall fail to pay the taxes provided herein, an action to enforce payment shall be brought on behalf of the City of Mt. Vernon in any court of competent jurisdiction to enforce this Article and collect any delinquent tax, interest and penalties and also the reasonable attorneys' fees, court costs, and other costs incurred by the City in enforcing any provision of this Article.

PART II. MUNICIPAL SERVICE TAX.

SECTION 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:

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

(2) "Operator" means any person owning or operating a hotel.

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

(4) "Room" or "rooms" means any living quarters, sleeping or housekeeping accommodations. 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.

(5) "Permanent resident" means any person who occupied or has the right to occupy any room or rooms, regardless of whether or not it is the same room or rooms, in a hotel for at least 30 consecutive days.

(6) "Department" means the Department of Finance of the City of Mt. Vernon.

(7) "Person" means any natural individual, firm, partnership, association, joint stock company, joint adventure, public or private corporation, limited liability company, or a receiver,

executor, trustee, guardian or other representative appointed by order of any court.

SECTION 2. TAX. There is hereby levied and imposed upon the use and privilege of renting a hotel or motel room within the City of Mt. Vernon a tax of \$2.00 per room for each 24-hour period or any portion thereof for which a daily room charge is made, provided that the tax shall not be levied and imposed on any person who rents a hotel or motel room for more than 30 consecutive days or to a person who works and lives in the same hotel or motel; the tax must be charged for the initial 30 consecutive days, unless a signed rental contract is on file with the tax collector; upon the 31st consecutive day of rental, the renter is due a refund or credit from the tax collector for the 30 consecutive days of tax paid. Persons engaged in the business of renting, leasing or letting rooms in a hotel only to permanent residents are exempt from the provision of Part II of this Article.

The ultimate incident of and liability for payment of the tax imposed herein shall be borne by the person who seeks the privilege of occupying any such hotel or motel room, such person being hereinafter referred to as "renter". 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 of every hotel or motel to act as trustee for and on account of the City and to secure such tax from the renter of the hotel or motel room and pay over to the City of Mt. Vernon such tax under procedures prescribed by the Department of Finance of the City or as otherwise provided in this article. Every person required to collect the tax levied by this Article shall secure such tax from the renter at the time he collects the rental payment for the hotel or motel room. Upon the invoice receipt or other statement of memorandum, if the rent is given to the renter at the time of payment, the amount due under the tax provided in this Article shall be stated separately on such documents.

SECTION 3. CERTIFICATE OF REGISTRATION. It shall be unlawful and a violation of this Ordinance for any person to establish, operate or maintain or permit to be established, operated or maintained upon any property owned or controlled by him a hotel or motel within the City without first obtaining a Certificate of Registration from the Department or without complying with all provisions of this Article. Such registration shall be issued by the Department and shall be subject to revocation by the Department. If the Department shall find that any person has failed to pay the tax imposed by this Article or any fines and/or penalties assessed or costs assessed for the nonpayment or late payment of such tax, the Department may suspend or revoke the Certificate of Registration held by such evader. The owner, manager or operator of the hotel or motel shall have an opportunity to be heard at a hearing to be held by the Finance Director not less than 5-days after mailing of a notice of the time and place of the hearing to the address appearing on the Certificate of Registration. Any person who shall operate without a Certificate of Registration or who shall continue to operate after revocation of same shall be subject to a preliminary or permanent injunction issued by the Circuit Court of Jefferson County, Illinois upon petition by the City to discontinue conducting business, and shall be subject to the other penalties provided herein.

SECTION 4. BOOKS AND RECORDS. Every operator shall keep accurate and complete books and records of every occupancy and of all rent paid and which shall include a

daily sheet showing (1) the number of hotel or motel rooms rented during the 24-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. Such records shall be available for inspection and examination for any proper purpose at any reasonable time upon demand by the Department or a duly authorized agent or employee of the City and shall be preserved for a period of 3-years unless the Department shall prescribe a shorter period of time. It shall be unlawful for any person to prevent, hinder or interfere with the Department or the duly authorized representative of the Department or of the City in the discharge of his/her duties and the performance of this Article. Every hotel or motel 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 transactions which are not taxable hereunder.

SECTION 5. TAX RETURNS; FILING. Every operator shall file monthly with the Department a return of occupancy showing the number of hotel or motel rooms rented during each calendar month and of the municipal service motel/hotel tax payable thereon on forms prescribed by the Department. The return shall be due on or before the 15th 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. The first taxing period for the purpose of this Ordinance shall commence on July 1, 2003, and the tax return and payment for such period shall be due on or before August 15, 2003. Thereafter, reporting periods and tax payments shall be in accordance with the provisions of this Ordinance. At the time of filing such tax returns, the operator shall pay the full amounts of all tax due hereunder.

If for any reason any tax is paid when due, a penalty at the rate of one percent (1%) per 30-day period or portion thereof from the date of delinquency shall be added and collected.

SECTION 6. OFFICER LIABILITY. Any officer or employee of any corporation which is an operation subject to the provisions of this Article who has control, supervision or responsibility of collecting tax proceeds, filing returns, and/or transmitting collected tax proceeds of the tax herein imposed by this Article and who fails to collect such tax or to file such return or to transmit any tax proceeds so collected to the City shall be personally liable for any such amounts required to be collected or collected, including penalties thereon and all costs of collection. The personal liability of such officer or employee as provided herein shall survive the dissolution of the corporation.

SECTION 7. PROCEEDS OF TAX. All proceeds resulting from the imposition of the tax hereunder, including penalties, shall be paid into the treasury of the City of Mt. Vernon and shall be credited to and deposited in the corporate funds of the City.

SECTION 8. FINE AND COST OF COLLECTION. Any person who violates the provisions of this Article shall be punishable by fine of not less than \$5.00 nor more than \$200.00. Each day during which a violation continues shall be recorded as a separate punishable offense.

Whenever any person shall fail to pay the taxes provided herein, an action to enforce

payment shall be brought on behalf of the City of Mt. Vernon in any court of competent jurisdiction to enforce this Article and collect any delinquent tax, interest and penalties and also the reasonable attorneys' fees, court costs, and other costs incurred by the City in enforcing any provision of this Article.