

120-O-19

AN ORDINANCE

Amending Portions of the City Code to Correct Hotel-Motel, Bed and Breakfast Establishments, and Vacation Rental Tax Due Dates and Late Fees Assessed

WHEREAS, the City of Evanston ("City"), as a home rule unit of local government as provided by Article VII, Section 6 of the Illinois Constitution of 1970 has the authority to exercise any power and perform any function pertaining to its government and affairs except as limited by Article VII, Section 6 of the Illinois Constitution of 1970; and

WHEREAS, pursuant to its home rule powers and Section 8-11-6a of the Illinois Municipal Code, 65 ILCS 5/8-11-6a, the City may enact a tax based on the use of a hotel or motel room or similar facility; and

WHEREAS, pursuant to said authority and the City's home rule powers, the City has determined to amend Section 3-2-4 "Hotel-motel, bed and breakfast establishments, and vacation rental tax" of the City of Evanston Code of 2012, as set forth in this Ordinance,

NOW BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EVANSTON, COOK COUNTY, ILLINOIS:

SECTION 1: Sections 3-2-4-4 and 3-2-4-5 of the "Hotel-motel, bed and breakfast establishments, and vacation rental tax" Chapter within the City Code are hereby amended to read as follows:

3-2-4-4. - ADMINISTRATION AND ENFORCEMENT.

The City Manager or his/her designee is hereby designated as the administration and enforcement officer of the tax hereby imposed on behalf of the City. It shall be the responsibility and duty of the City Manager or his/her designee to collect all amounts due the City from the owners, operators and licensees of the businesses subject to this tax within the City.

A sworn monthly hotel, motel, bed and breakfast establishment, and vacation rental occupancy tax return for each completed calendar month is due within twenty (20) days of the completion of the calendar month. At the time of filing such tax returns, the owner, operator or licensee must pay to the City Manager or his/her designee all taxes due for the period to which the tax return applies.

The City Manager or his/her designee, or any person certified by him/her as his/her deputy or representative, may enter the premises of any hotel, motel, bed and breakfast establishment, or vacation rental for the purposes of inspection and examination of its books and records for the proper administration of this Section, and for the enforcement of collection of the tax hereby imposed. It is unlawful for any person to prevent, hinder or interfere with the City Manager or his/her designee or his/her duly authorized deputy or representative in the discharge of his/her duties hereunder.

3-2-4-5. - ENFORCE PAYMENT OF TAX.

(A) *Failure to Pay.* Whenever any person shall fail to pay any taxes herein provided, or when any owner, operator or licensee of a hotel, motel, bed and breakfast establishment, or vacation rental in the City shall fail to collect the tax hereby imposed from any person who has the ultimate liability for payment of the same, the Corporation Counsel shall, upon request of the City Manager or his/her designee, 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.

If the City Manager, after a hearing held by or for him/her, shall find that any hotel, motel or vacation rental owner, operator or licensee has willfully evaded his/her responsibility to collect the tax imposed by this Section, he/she may suspend or revoke all City licenses held by such tax evader. Said person shall have an opportunity to be heard at such hearing, to be held not less than five (5) days after notice of the time and place thereof, addressed to him/her at his/her last known place of business. Any suspension or conviction resulting from such hearing shall not relieve or discharge any civil liability for nonpayment of the tax due.

(B) *Interest and Penalties.* In the event of failure by any hotel, motel, bed and breakfast establishment, or vacation rental owner, operator or licensee to collect and pay to the City Manager or his/her designee the tax required hereunder within twenty (20) days following the completion of the calendar month, a late fee penalty of ten percent (10%), per month, of the tax.

SECTION 2: The findings and recitals contained herein are declared to be prima facie evidence of the law of the City and shall be received in evidence as provided by the Illinois Compiled Statutes and the courts of the State of Illinois.

SECTION 3: All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 4: If any provision of this Ordinance or application thereof to any person or circumstance is held unconstitutional or otherwise invalid, such invalidity shall not affect other provisions or applications of this Ordinance that can be given effect without the invalid application or provision, and each invalid application of this Ordinance 120-O-19 is severable.

SECTION 5: This Ordinance 120-O-19 shall be in full force and effect on after its passage, approval, and publication in the manner provided by law.

Introduced: October 14, 2019

Adopted: October 14, 2019

Approved:

November 4, 2019

Stephen H. Hagerty
Stephen H. Hagerty, Mayor

Attest:

Edwards Gomez
Devon Reid, City Clerk

Edwards Gomez, Deputy City Clerk

Approved as to form:

Michelle L. Masoncup
Michelle L. Masoncup, Corporation Counsel