

ORDINANCE NO. A-383-01-10

**AN ORDINANCE AMENDING CHAPTER 60, SECTION 7 OF
THE VILLAGE OF BURR RIDGE MUNICIPAL CODE**

WHEREAS, the Board of Trustees intends that the tax required in Section 60-7-1, *et seq.* of the Village of Burr Ridge Municipal Code be applied fairly and equitably to all hotels and motels in the Village; and

WHEREAS, the Board of Trustees finds that the imposition of the tax required in in Section 60-7-1, *et seq.* of the Village of Burr Ridge Municipal Code does not apply to the extended stays of permanent residents, as set forth below, but that stays of lesser duration should be taxed at a rate consistent with principles of equality and fairness to the same extent as non-permanent residents and that the tax set for in this Section best serves the public health, safety, and welfare.

NOW, THEREFORE, BE IT ORDAINED by the President and Board of Trustees of the Village of Burr Ridge, Du Page and Cook Counties, Illinois, as follows:

SECTION 1: The above recitals and findings are incorporated herein and made a part hereof.

SECTION 2: That Chapter 60, Section 7 of the Village of Burr Ridge's Municipal Code is hereby amended to read in its entirety as follows:

“Municipal Hotel and Motel Room Tax

Sec. 60-7-1 Intent; Definitions:

(A) The Board of Trustees intends that the tax required in this Section be applied fairly and equitably to all hotels and motels in the Village. The Board of Trustees finds that the imposition of the tax required in this Section does not apply to the extended stays of permanent residents, as set forth below, but that stays of lesser duration should be taxed at a rate consistent with principles of equality and fairness to the same extent as non-permanent residents and that the tax set for in this Section best serves the public health, safety, and welfare.

(B) In the interpretation and construction of this Section, the following definitions shall apply unless they are inconsistent with the manifest intent of the Board of Trustees or unless the context clearly requires otherwise:

(1) **Hotel and Motel** Includes every building or structure kept, used, maintained, advertised and held out to the public to be a place where lodging, or lodging and food, or apartments, suites, or other accommodations are offered for consideration, in which four (4) or more rooms, apartments or suites, or other accommodations are used for the lodging, or lodging and food, for such guests, or as otherwise defined as a "hotel" in The Hotel Operators'

Occupation Tax Act of the State of Illinois as amended from time to time (35 ILCS 145/1, *et seq.*).

(2) **Person** Any natural person, trustee, receiver, administrator, executor, conservator, assignee, trust in perpetuity, trust, estate, firm, copartnership, 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 partnerships shall mean the partners thereof, as applied to associations shall mean the owners or part-owners thereof, and as applied to corporations, the officers thereof.

(3) **Permanent Resident** Any natural person who has 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 or motel for more than 30 consecutive days.

(4) **Gross Room Rental Revenues** All gross room sale (rental) revenues (exclusive of other taxes) from such rental, leasing or letting, exclusive of revenues received from food, beverage and other sales. Gross Room Rental Revenues shall include only the basic room charge exclusive of meals, beverages and other "package" items.

Sec. 60-7-2 Tax Imposed:

(A) Effective May 1, 2003, the tax is levied and imposed upon the use and privilege of engaging in the business of renting, leasing or letting of room(s) in a motel or hotel (as hotel is defined herein or in The Hotel Operators' Occupation Tax Act of the State of Illinois) in the Village shall be imposed at the rate of three percent (3%) of the Gross Room Rental Revenues. The tax herein levied shall be in addition to any and all other taxes.

(B) A tax shall not be levied pursuant to this Section and imposed upon any hotel or motel stay for any period beyond 30 consecutive days' stay in a hotel or motel. However, the tax levied pursuant to this Section shall be imposed upon the Gross Room Rental Revenues accrued in the first 30 consecutive days of the stay of any hotel or motel patron or resident.

(C) Persons engaged in such business and subject to the tax imposed pursuant to the authority granted by this Section may reimburse themselves for their tax liability for such tax by separately stating such tax as an additional charge on the bill to the individuals renting, leasing or letting any such rooms, which charge may be stated in combination, in a single amount, with the state tax imposed under The Hotel Operators' Occupation Tax Act of the State of Illinois.

Sec. 60-7-3 Payment and Collection of Tax:

The owner, manager or operator of each hotel or motel shall bear, jointly and severally, the duty to pay the tax and may collect the tax from each user, lessee or tenant of rooms in such hotel or motel. Every person required to pay the tax levied by this Section who wishes to reimburse himself for the tax may secure said tax from the user, lessee or tenant of a room or rooms at the time he collects the price, charge or rent to which it applies. If reimbursement is sought, every user, lessee or tenant shall be given a bill, invoice, receipt or other statement or

memorandum of the price, charge, or rent payable upon which the tax herein imposed is computed, and the amount of the tax shall be stated, charged and shown separately thereon (by itself or in combination with the state tax). The tax shall be paid to the person collecting it as trustee for and on behalf of the Village.

Sec. 60-7-4 Administration and Enforcement:

The Village Treasurer is hereby designated as the administration and enforcement officer of the tax hereby imposed on behalf of the Village. It shall be the responsibility and duty of the Village Treasurer and/or his designee to collect all amounts due the Village from the owners, managers and operators of motels and hotels in the Village. A sworn monthly hotel and motel occupancy tax return, on a calendar month basis, shall be filed by each owner, manager, or operator of each hotel or motel in the Village with the Village Treasurer, on forms prescribed by him, showing all receipts from each renting, leasing or letting of rooms during the preceding month. Said returns are to be filed within ten (10) days after the end of the month covered by said return, with the tax herein imposed due and owing as of the first day of the month following the month covered by said return.

Each return shall be accompanied by payment to the Village of all taxes due and owing for the month covered by the return.

During the normal business working hours of any such hotel or motel, the Village Treasurer, or any person certified by him as his deputy or representative, may enter the premises of any hotel or motel for the purposes of inspection and examination of its books and records for the proper administration of this Section, and for the enforcement of the collection of the tax hereby imposed. It is unlawful for any person to prevent, hinder or interfere with the Village Treasurer or his duly authorized deputy or representative in the discharge of his duties hereunder. It shall be the duty of every owner, manager or operator to keep accurate and complete books and records, containing all information necessary for the computation and collection of the tax herein imposed, and which the Village Treasurer or his duly authorized deputy or representative shall at all such times have full access, which records shall include, but are not necessarily limited to, a daily sheet showing: (a) the number of hotel or motel rooms rented during the twenty four (24) hour period, including multiple rentals of the same hotel or motel room when such occurs, and (b) the actual hotel or motel room tax receipts collected for the date in question.

Sec. 60-7-5 Suit for Collection; Revocation of License:

When any owner, manager or operator of a hotel or motel in the Village shall fail to pay the tax hereby imposed, the Village Attorney shall, upon request of the Village Administrator, bring or cause to be brought an action to enforce the payment of said tax on behalf of the Village in any court of competent jurisdiction. If the Village President, after a hearing held by or for the Village President, shall find that any hotel or motel owner, manager or operator has willfully evaded his responsibility to pay the tax imposed by this Section, the Village President may suspend or revoke all Village licenses, included but not limited to any liquor license issued under this Code, held by such person. Said person shall have an opportunity to be heard at such hearing, to be held not less than five (5) days after notice is given of the time and place thereof, addressed to him at his last known place of business. Pending notice, hearing and finding, any license of which such person may be possessed may be temporarily suspended by the Village

President, unless the law prohibits any such suspension. Any suspension or conviction resulting from such hearing shall not relieve or discharge any civil liability for nonpayment of the tax due.

Sec. 60-7-6 Interest and Penalties:

In the event of failure by any hotel or motel owner, manager or operator to pay to the Village Treasurer the tax required hereunder within ten (10) days after the same shall be due, interest shall accumulate and be due upon said tax at the rate of one percent (1%) per month commencing as of the first day of the month following the month for which the tax was to have been paid. In addition, a penalty of ten percent (10%) of the tax and interest due shall be assessed and collected against any hotel or motel owner, manager or operator who shall fail to pay and remit the tax imposed by this Section.

Sec. 60-7-7 Disposition of Proceeds of Tax:

All proceeds resulting from the imposition of the tax under this Section, including interest and penalties, shall be paid into the Treasury of the Village and shall be credited to and deposited in a special revenue fund of the Village entitled Hotel and Motel Tax Fund, and shall be expended by the Village solely to promote tourism and conventions within the Village or otherwise to attract non-resident overnight visitors to the Village. Moreover, no funds received pursuant to this Section shall be used to advertise for or otherwise promote new competition in the hotel business. (A-383-1-91)

Sec. 60-7-8 Penalty for Violation:

In addition, any person found guilty in a court of competent jurisdiction of violating, disobeying, omitting, neglecting or refusing to comply with or resisting or opposing the enforcement of any provision of this Section, upon conviction thereof, shall be punished by a fine of not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00) for the first offense, and not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00) for the second and each subsequent offense. Each day any violation of any provision of this Section shall continue to exist shall constitute a separate offense.”

SECTION 3: Those sections, paragraphs, and provisions of Chapter 60, Section 7 of the Village of Burr Ridge’s Municipal Code which 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 Village of Burr Ridge Municipal Code other than those expressly amended in Section 2 of this Ordinance.

SECTION 4: The invalidity of any section or provision of this Ordinance hereby passed and approved shall not invalidate other sections or provisions thereof.