

CITY OF LEROY  
COUNTY OF MC LEAN  
STATE OF ILLINOIS

ORDINANCE NO. 816

AN ORDINANCE AMENDING THE MUNICIPAL CODE  
OF THE CITY OF LEROY, ILLINOIS, 1975 (as amended),  
BY ADDITION OF NEW CHAPTER 33A, TAXATION,  
ARTICLE I, SECTION 1 THRU SECTION 10,  
HOTEL OPERATORS' OCCUPATION TAX

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ADOPTED BY THE CITY COUNCIL OF THE CITY OF LE ROY  
THIS 5th DAY OF October, 1998

PRESENTED: October 5, 1998

PASSED: October 5, 1998

APPROVED: October 5, 1998

RECORDED: October 5, 1998

PUBLISHED: October 5, 1998

In Pamphlet Form

Voting "Aye" 5

Voting "Nay" 0

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The undersigned being the duly qualified and City Clerk of the City of LeRoy does hereby certify that this document constitutes the publication in pamphlet form, in connection with and pursuant to Section 1-2-4 of the Illinois Municipal Code, of the above-captioned ordinance and that such ordinance was presented, passed, approved, recorded and published as above stated.

(SEAL)



City Clerk of the City of  
LeRoy, McLean County, Illinois

Dated: October 5, 1998.

AN ORDINANCE AMENDING THE MUNICIPAL CODE  
OF THE CITY OF LEROY, ILLINOIS, 1975 (as amended),  
BY ADDITION OF NEW CHAPTER 33A, TAXATION,  
ARTICLE I, SECTION 1 THRU SECTION 10,  
HOTEL OPERATORS' OCCUPATION TAX

WHEREAS, the Mayor and City Council of the City of LeRoy, McLean County, Illinois, an Illinois municipal corporation, find that it is in the best interests of the City and its residents that a tax on transient lodging revenues be adopted for the City of LeRoy;

NOW, THEREFORE, BE IT ORDAINED, by the City Council of the City of LeRoy, Illinois, in lawful meeting assembled, as follows:

**Section 1. Title.** This Article shall be known and cited as "The Hotel Operators' Occupation Tax Ordinance" and the tax herein imposed shall be in addition to all other occupation or privilege taxes imposed by the State of Illinois and City of LeRoy.

**Section 2. Definitions.** As used in this Ordinance, unless the context otherwise requires, the following words shall have the definitions as set forth hereafter:

- (1). "City" means the City of LeRoy.
- (2). "Operator" means any person operating a hotel.
- (3). "Occupancy" means the use or possession, or the right to the use or possession, of any room or rooms in a hotel for any purpose, or the right to the use of 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.
- (5). "Permanent Resident" means any person who occupied or has the right to occupy any room or rooms in a hotel for at least thirty (30) consecutive days.
- (6). "Rent" or "Rental" means the consideration received 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.

(7). "Person" means any natural individual, firm, partnership, association, joint stock company, joint adventure, public or private corporation, or a receiver, executor, trustee, guardian or other representative appointed by order of any court.

**Section 3. Rate - Exemption.**

A. Effective April 1, 1999, a tax is imposed upon persons engaged in the business of renting, leasing or letting rooms in a hotel at the rate of ~~two~~ per cent ( $\frac{2}{100}$  %) of the gross rental receipts for such renting, leasing or letting, excluding, however, from gross rental receipts, the proceeds of such renting, leasing or letting to permanent residents of that hotel, and excluding therefrom any amount of state tax imposed and collected pursuant to "The Hotel Operators' Occupation Tax Act" (35 ILCS 145/1, et seq.).

B. Persons subject to the tax imposed by this Article may reimburse themselves for their tax liability under this Article by separately stating such tax as an additional charge, which charge may be stated in combination, in a single amount, with any State of Illinois tax imposed pursuant to "The Hotel Operators' Occupation Tax Act".

C. If any hotel operator collects an amount (however designated) which purports to reimburse such operator for hotel operators' occupation tax liability measured by receipts which are not subject to hotel operators' occupation tax, or if any hotel operator, in collecting an amount (however designated) which purports to reimburse such operator for hotel operators' occupation tax liability measured by receipts which are subject to tax under this Ordinance, collects more from the customer than the operator's hotel operators occupation tax liability in the transaction is, the customer shall have a legal right to claim a refund of such amount from such operator. However, if such amount is not refunded to the customer for any reason, the hotel operator is liable to pay such amount to the City.

**Section 4. Books and Records.** Every operator shall keep separate books or records of his, her or its business as an operator so as to show the rents and occupancies taxable under this Ordinance separately from his, her or its transactions not taxable hereunder. If any such operator fails to keep separate books or records, he, she, or it shall be liable to tax at the rate designated in Section 3 of this Article I of this Chapter 33A of the Municipal Code of the City of LeRoy, McLean County, Illinois, 1975 (as amended), upon the entire proceeds from his, her or its hotel. Upon reasonable notice to the operator, all applicable books and records shall be made available to the City or its authorized representative for its, or his or her, evaluation with respect to this Ordinance.

**Section 5. Certificate of Registration - Law Applicable.** It shall be unlawful for any person to engage in the business of renting, leasing or letting rooms in a hotel in the City of LeRoy without a Certificate of Registration from the City Clerk or the State of Illinois. Those persons who are registered with and have a Certificate of Registration from the State of Illinois do not have to register with the City Clerk.

**Section 6. Return of Taxpayer - Payment of Tax.**

A. Except as provided hereinafter in this Section, on or before the last day of each calendar month, every person engaged in the business of renting, leasing or letting rooms in a hotel in the City of LeRoy during the preceding calendar month shall file a return with the City stating:

1. Name of the Operator
2. Address of the Operator's principal place of business and the address of the principal place of business from which he, she or it engages in the business of renting, leasing or letting rooms in a hotel in the City of LeRoy;
3. Total amount or rental receipts received by him, her or it during the preceding calendar month from renting, leasing or letting rooms during such preceding calendar month and consideration other than money shall be described in detail;
4. Total amount of rental receipts received by him, her or it during the preceding calendar month from renting, leasing or letting rooms to permanent residents during such preceding calendar month and the component parts of this amount shall be described in detail;
5. Total amount of other exclusions from gross rental receipts allowed by this Ordinance and the component parts of this amount shall be described in detail;
6. Gross rental receipts which were received by him, her or it during the preceding calendar month and upon the basis of which the tax is imposed;
7. The amount of tax due;
8. The amount of penalty due, if any;
9. Such other reasonable information as the City may require.

B. If the operator's average monthly tax liability to the City does not exceed \$100.00, the City may authorize his, her or its returns to be filed on a quarter-annual basis, with the return for January, February and March of a given year being due by April 30 of such year, with the return for April, May and June of a given year being due by July 31 of such year; with the return for July, August and September of a given year being due by October 31 of such year; and with the return for October, November and December of a given year being due by January 31 of the following calendar year. Such quarter-annual returns, as to form and substance, shall be subject to the same requirements as monthly returns.

C. If the Operator's average monthly tax liability to the City does not exceed \$25.00, the City may authorize his, her or its returns to be filed on an annual basis with the return for a given calendar year being due by January 31 of the following calendar year. Such annual returns, as to form and substance, shall be subject to the same requirements as monthly returns.

D. Notwithstanding any other provision in this Ordinance concerning the time within which an operator may file his, her or its return, in the case of any operator who ceases to engage in a kind of business which makes him, her, or it responsible for filing returns under this Ordinance, such operator shall file a final return under this Ordinance with the City not more than one (1) month after discontinuing such business.

E. If the same person has more than one business registered with the City under separate registrations under this Ordinance, such person shall not file each return that is due as a single return covering all such registered businesses, but shall file separate returns for each such registered business.

F. In his, her or its return, the operator shall determine the value of any consideration or the money received by him, her or it in connection with the renting, leasing or letting of rooms in the course of his, her or its business, and he, she or it shall include such value in his, her or its return and shall describe it in detail. Such determination shall be subject to review and revision by the City in the manner hereinafter provided for the correction of returns.

G. Each return filed by an operator shall be signed by the president, vice-president, secretary or treasurer of a corporation, by an active partner of a partnership, or by an individual operator, or by the properly authorized agent of any operator.

H. The person filing the return herein provided for shall, at the time of filing such return, pay to the City the amount of tax herein imposed. If a return is not filed when and as required, or if a tax payment is not made as required, the taxpayer shall be liable for a penalty equal

to five percent (5%) of the tax due during the applicable period for each month, or fraction of a month, until such return is filed and payment is made as required. The Mayor of the City of LeRoy shall be authorized to compromise or waive part or all of the penalty requirements of this section if he or she finds that the situation for which the person is to be charged was due entirely or in part to the fault of the City, or any agent thereof, or the person to be charged under said section was without fault in bringing about the situation for which he, she, or it is to be charged, and the imposition of the financial requirements would work a hardship upon the person.

I. The City may, upon separate written notice to a taxpayer, require the taxpayer to prepare and file with the City on a form prescribed by the City within not less than thirty (30) days after receipt of the notice an annual information return for the tax year specified in the notice. Such annual return to the City shall include a statement of gross receipts as shown by the operator's last State of Illinois income tax return and any other reasonable information as the City may require. If the total receipts of the business as reported in the State of Illinois income tax return do not agree with the gross receipts reported to the City for the same period, the operator shall attach to his, her or its annual information return a schedule showing a reconciliation of the two amounts and the reasons for the difference.

J. If the annual information return required by this section is not filed when and as required, the taxpayer shall be liable for a penalty equal to 1/5 of 1% of the tax which became due from such taxpayer under this Ordinance during the period to be covered by the annual return for each month or fraction of a month until such return is filed as required. The authority of the Mayor of the City of LeRoy to waive part or all of the previously stated penalty is also applicable to this penalty.

K. The chief executive officer, proprietor, owner, senior partner or highest ranking manager shall sign the aforesaid annual information return to certify the accuracy of the information contained therein. Any person who willfully signs said annual return containing false or inaccurate information shall be guilty of perjury and punished accordingly. The annual return form prescribed by the City shall include a warning that a person signing the return may be liable for perjury.

L. The foregoing portions of this Ordinance concerning the filing of an annual information return shall not apply to an operator who is not required to file an income tax return with the United States government.

**Section 7. Violations.**

A. Any person engaged in the business of renting, leasing or letting hotel rooms in the City of LeRoy who fails to make a return, or to keep books, or who violates any rule or regulation of the City for the administration and enforcement of the provisions of this Ordinance, or any officer or agent of a corporation engaged in the business of renting, leasing or letting hotel rooms in this State who signs a fraudulent return made on behalf of such corporation, shall, upon conviction therefor, be fined not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00) for each offense.

B. Any hotel operator who collects or attempts to collect an amount (however designated) which purports to reimburse such operator for hotel operators' occupation tax liability measured by receipts which such operator knows are not subject to hotel operators' occupation tax, or any hotel operator who over-collects or attempts to over-collect an amount purporting to reimburse such operator for hotel operators' occupation tax liability in a transaction which is subject to the tax that is imposed by this Ordinance shall, upon conviction therefor, be fined not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00) for each offense.

C. Any person who violates any provision of section 5 of this Ordinance shall, upon conviction therefor, be fined not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00) for each offense.

**Section 8. Exemptions.** Persons engaged in the business of renting, leasing or letting rooms in a hotel only to permanent residents are exempt from the provisions of this Article.

**Section 9. Delinquent Taxes - Liens.** In the event any Hotel Operators' Occupation Tax, including penalties, is not paid within sixty (60) days after payment thereof is due, such charges shall be deemed and are hereby declared to be delinquent, and thereafter such delinquent taxes and all subsequent taxes, including penalties, incurred while the delinquent charges remain unpaid and all costs of filing any lien notice(s) and of releasing any lien(s) shall constitute a lien upon the real estate to which such taxes relate. The City Clerk or the City attorney is hereby authorized to file sworn statements showing such delinquencies and subsequent taxes, including penalties, in the office of the Recorder of Deeds of McLean County, Illinois. These statements shall contain the legal description of the involved premises, the amount of the unpaid taxes and penalties and a notice that the City claims a lien for the total amount. The filing of such statements shall be deemed lien notices for the payment of such taxes and penalties.

**Section 10. Foreclosure of Lien and Other Judicial Action.**

A. Any and all lien(s) for Hotel Operators' Occupation Tax(es) established by law against the premises to which they relate may be enforced and foreclosed by and on behalf of the City at any time in the appropriate Circuit Court of McLean County, Illinois, according to the rules and practices of said court. Said lien(s) also may be enforced and foreclosed by intervention at any time in any suit already commenced in said court and any other court whatever when said intervention is proper under the law. Whenever the City is made a defendant in any suit in any court, it shall have full power to enforce said lien(s) in said proceedings at any time in any manner permitted by law. The party or parties responsible for said taxes and penalties may also be sued for the amount thereof as debt(s) owed to the City. The City attorney is hereby authorized to take any judicial action referred to herein on behalf of the City or to authorize any other person to do so.

B. No method(s) herein provided for collecting said taxes shall be considered as excluding any other remedy or any other method of collecting said taxes but shall be concurrent with all other remedies and methods.

PASSED by the City Council of the City of LeRoy, Illinois, upon the motion by .....  
Dave McClelland....., seconded by ..... Ron Litherland..... by roll  
call vote on the 5th..... day of ..... October....., 1998, as follows:

Aldermen elected ..... 6 ..... Aldermen present ..... 5 .....

VOTING AYE:  
Ryan Miles, Dawn Thompson, Dave McClelland, Ron Litherland, Dick Oliver  
.....  
(full names)

VOTING NAY:  
none  
.....  
(full names)


ABSENT:  
W. H. Weber  
.....  
(full names)

ABSTAIN:  
none  
.....  
(full names)


OTHER:  
none  
.....  
(full names)




and deposited and filed in the office of the City Clerk in said municipality on the 5th day of  
October, 1998.

  
Sue Marcum, City Clerk of the City of LeRoy,  
McLean County, Illinois

APPROVED BY the Mayor of the City of LeRoy, Illinois, this 5th day of  
October, 1998.

  
Robert Rice, Mayor of the City of LeRoy, McLean  
County, Illinois

ATTEST: (SEAL)

  
Sue Marcum, City Clerk,  
City of LeRoy, McLean County, Illinois

CERTIFICATE

I, Sue Marcum, certify that I am the duly appointed and municipal clerk of the City of LeRoy, of McLean County, Illinois.

I further certify that on October 5, 1998, the Corporate Authorities of such municipality passed and approved Ordinance No. 816, entitled:

AN ORDINANCE AMENDING THE MUNICIPAL CODE  
OF THE CITY OF LEROY, ILLINOIS, 1975 (as amended),  
BY ADDITION OF NEW CHAPTER 33A, TAXATION,  
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which provided by its terms that it should be published in pamphlet form.

The pamphlet form of Ordinance No. 816, including the Ordinance and a cover sheet thereof, was prepared, and a copy of such Ordinance was posted at the municipal building, commencing on October, 1998, and continuing for at least ten days thereafter. Copies of such Ordinance were also available for public inspection upon request in the office of the municipal clerk.

Dated at LeRoy, Illinois, this 5th day of October, 1998.

(SEAL)

  
Municipal Clerk

STATE OF ILLINOIS        )  
                                  ) SS:  
COUNTY OF McLEAN        )

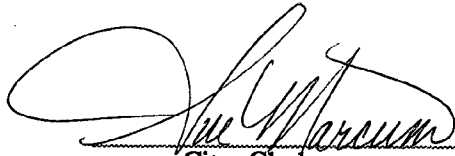
I, Sue Marcum, do hereby certify that I am the duly qualified and acting City Clerk of the City of LeRoy, McLean County, Illinois, and as such acting City Clerk that I am the keeper of the records and files of the Mayor and the City Council of said City.

I do further certify that the foregoing is a true, correct and complete copy of an ordinance entitled:

**AN ORDINANCE AMENDING THE MUNICIPAL CODE  
OF THE CITY OF LEROY, ILLINOIS, 1975 (as amended),  
BY ADDITION OF NEW CHAPTER 33A, TAXATION,  
ARTICLE I, SECTION 1 THRU SECTION 10,  
HOTEL OPERATORS' OCCUPATION TAX.**

I do further certify said ordinance was adopted by the City Council of the City of LeRoy at a regular meeting on the 5th day of October, 1998, and prior to the making of this certificate the said ordinance was spread at length upon the permanent records of said City where it now appears and remains as a faithful record of said ordinance in the record books.

Dated this 5th day of October, 1998.

  
\_\_\_\_\_  
City Clerk

(SEAL)