

**CITY OF FREEPORT
STEPHENSON COUNTY, ILLINOIS**

ORDINANCE NO. 2018-31

**AN ORDINANCE AMENDING CHAPTER 886 ENTITLED “HOTEL TAX” OF THE
CODIFIED ORDINANCES OF THE CITY OF FREEPORT, ILLINOIS**

**ADOPTED BY THE
CITY COUNCIL
OF THE
CITY OF FREEPORT, ILLINOIS
THIS ____ DAY OF _____, 2018**

**Published in pamphlet form by authority of the
City Council of the City of Freeport,
Stephenson County, Illinois, this
____ day of _____, 2018.**

**AN ORDINANCE AMENDING CHAPTER 886 ENTITLED “HOTEL TAX” OF THE
CODIFIED ORDINANCES OF THE CITY OF FREEPORT, ILLINOIS**

ORDINANCE NO. 2018-31

WHEREAS, the City of Freeport, Illinois (“City”) has Codified Ordinances of the City (the “Code”); and

WHEREAS, Chapter 886 of the Code entitled “Hotel Tax” provides for the imposition of a hotel tax and regulations related thereto; and

WHEREAS, the City now desires to amend various provision of Chapter 886 as set forth herein; and

WHEREAS, the City Council finds that such amendments are in the best interest of the public health, safety, morals and general welfare of the residents of the City of Freeport.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FREEPORT, ILLINOIS as follows:

Section 1. The above-recitals are incorporated herein and made a part hereof.

Section 2. That Chapter 886 of the Code entitled “Hotel Tax” is hereby amended to read as follows (additions shown as underlines and deletions as strikethroughs):

**“CHAPTER 886
HOTEL TAX**

886.01 Purpose.

886.02 Definitions.

886.03 Imposition of tax; liability for payment; reports; books and records; inspections.

886.04 Tourism Promotion Fund.

886.05 Effect on pending suits, etc.

886.99 Penalty.

CROSS REFERENCES

Hotel Operators' Occupation Tax - see 35 ILCS 145/1 et seq.

Hotel and motel tax by home rule municipalities - see 65 ILCS 5/8-11-6a

Stephenson County Convention and Visitors Bureau - see ADM. Ch. 286

Bed and breakfast establishments - see B.R. & T. Ch. 810

Hotels and motels generally - see B.R. & T. Ch. 836

886.01 PURPOSE.

The purpose of this chapter is to generate revenue to be placed in a fund to generate tourism through the promotion of lodging, restaurants, attractions, conventions, expositions and theatrical, sport, cultural and other similar activities.

(1977 Code § 31-201; Ord. 90-4. Passed 2-5-90; Ord. 2004-52. Passed 9-7-04.)

886.02 DEFINITIONS.

For purposes of this chapter, the following words and phrases shall have the meanings respectively applied to them:

- (a) "Department" means the Illinois Department of Revenue.
- (b) "Hotel" means any building or buildings in which the public may, for a consideration, obtain living quarters or sleeping or housekeeping accommodations. The term "hotel" includes cabins, inns, motels, tourist homes or courts, lodging houses, rooming houses, apartment houses and bed and breakfast houses.
- (c) "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 or possession of the furnishings or to the services and accommodations accompanying the use and possession of the room or rooms.
- (d) "Permanent resident" means any man or woman who occupied or has the right to occupy any room or rooms in a hotel for at least thirty consecutive days for his or her own personal use unrelated to the conducting of any business or occupation.
- (e) "Person" means any natural individual, firm, partnership, association, joint stock company, joint venture or public or private corporation, or a receiver, executor, trustee, conservator or other representative appointed by order of any court.
- (f) "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.
- (g) "Renter" means any person who pays for the privilege of using or occupying a hotel room for the period for which payment is made.
- (h) "Room" or "rooms" means any living quarters or sleeping or housekeeping accommodations.
- ~~(i) "Stephenson County Convention and Visitors Bureau" and "Freeport/Stephenson County Convention and Visitors Bureau" are used interchangeably throughout this chapter and have the same meaning.~~

886.03 IMPOSITION OF TAX; LIABILITY FOR PAYMENT; REPORTS; BOOKS AND RECORDS; INSPECTIONS.

(a) There is hereby levied and imposed a tax upon all persons engaged in the business of renting, leasing or letting rooms in a hotel which is located within the corporate boundaries of the City, at a rate of ~~three~~ five percent of the gross rental receipts from such renting, leasing or letting for any purpose for each twenty-four hour period, or portion thereof, excluding, however, from the gross rental receipts the proceeds of such rents, leasing or letting to permanent residents. ~~Effective October 1, 2004, and only upon~~

~~formal execution of an agreement with the Stephenson County Visitors Bureau and adoption of companion legislation by the County of Stephenson and the Village of Lena, a tax of an additional two percent, for a total tax of five percent, shall be imposed on such persons, through December 31, 2024.~~ The tax imposed herein shall be in addition to any and all other taxes and charges applicable to such hotels, but such other taxes and charges shall not be construed to be a part of the charge upon which this tax is levied.

(b) The ultimate incidence of, and liability for, payment of the tax levied herein is to be borne by the person engaged in the business of leasing, renting or letting said rooms. Such owners and operators may reimburse themselves for their tax liability for this tax by separately stating such tax as an additional charge to the resident, which charge may be stated in combination, as a single amount, with the State tax imposed under "The Hotel Operator's Occupation Tax," as provided 35 ILCS 145/1 et seq., as amended. No tax is imposed based upon any permanent residents of any hotel.

(c) No person engaged in the business of renting, leasing or letting rooms in a hotel shall reimburse himself or herself for the imposition of this tax at a rate higher than the tax imposed by this chapter.

(d) Any person subject to this tax shall transmit to the Finance Director or his or her designee, on or before the last day of each calendar month, a sum of money equal to the taxes collected pursuant to this chapter for the preceding calendar month, proof of which filing may be satisfied by date of postmark, and simultaneously therewith shall transmit a report upon forms supplied by the Finance Director or his or her designee indicating the gross receipts from the renting, leasing or letting of hotel rooms to all renters, including permanent residents as defined in this chapter, and such other information as the Finance Director or his or her designee may reasonably require for the enforcement of this chapter. Any person subject to this tax shall also file with the Finance Director or his or her designee copies of all sales tax receipts and report forms which the person is required to file with the State. These documents shall be filed with the Finance Director or his or her designee no later than five business days after said documents are transmitted to the State.

(e) Any person engaged in the business of renting, leasing or letting of hotel rooms shall maintain complete and accurate books and records, including a daily sheet showing the gross receipts for the hotel rentals for the day reported.

(f) For purposes of enforcing and administering this chapter, the Finance Director or his or her designee may, after providing reasonable notice, have access during normal business hours to the books and records of persons and businesses subject to this chapter. The Finance Director or his or her designee may, at least annually, inspect said books and records and shall file a written report of his or her findings with the City Manager ~~and with the Clerk of the Freeport/Stephenson County Conventions and Visitors Bureau.~~

(g) The Finance Director or his or her designee shall permit the representative of any unit of local government in Stephenson County which enacts a similar hotel/motel tax ordinance to inspect the records of his or her office which pertain to the tax imposed by this chapter. The Finance Director or his or her designee shall also forward to each such other unit of local government copies of all such documents filed with him or her by

persons or businesses subject to this tax which are located within the corporate limits of that unit of local government.

(h) This tax shall not in any manner constitute an indebtedness by the City subject to any limitation imposed by statute or otherwise.

(i) If any person required to file a return fails to do so, the Finance Director or his or her designee shall determine the amount of tax due according to his or her best judgment and information, which amount shall be prima-facie correct and shall be prima-facie evidence of the correctness of the amount of tax due.

(j) If for any reason any tax is not paid when due, a ten percent penalty of the total tax due shall be assessed. In addition, an interest penalty at the rate of two percent per thirty-day period, or portion thereof, from the day of delinquency, shall be added and paid.

886.04 TOURISM PROMOTION FUND.

(a) There is hereby established a Tourism Promotion Fund into which the City ~~Treasurer~~ Finance Director shall, by the twentieth day of each month, place the proceeds resulting from the previous month's collection of this hotel tax. The moneys in this Fund shall be utilized ~~solely and exclusively~~ for the purpose of promoting tourism, conventions, economic growth and hotel/motel overnight stays in the City and the Stephenson County area.

(b) Any agreements to fund the activities of any organization or governmental agency for the promotion of tourism, conventions, special events and other attractions with the proceeds of the tax imposed in this chapter must be by separate written agreement, specifically, but not limited to, a separate agreement with the Greater Freeport Partnership ~~Freeport/Stephenson County Convention and Visitors Bureau~~, which includes, at a minimum, the following terms, and is to be separately approved by City Council:;

(1) Upon presentation of a proper voucher, the Finance Director or his or her designee shall pay funds from the Tourism Promotion Fund to the Greater Freeport Partnership ~~Freeport/Stephenson County Convention and Visitors Bureau~~ to use to promote tourism, conventions, economic growth and hotel/motel overnight stays in Freeport and Stephenson County, by activities including, but not limited to:

- A. Publishing promotional material, such as a visitors' guide;
- B. Executing an advertising campaign promoting Freeport/Stephenson County and events and activities therein.
- C. Exploring signage needs, particularly in conjunction with the by-pass.
- D. Participating in regional and state-wide tourism organizations.
- E. Working with group tour operators and meeting planners to encourage business in Freeport/Stephenson County.
- F. Maintaining office facilities and staff to direct the promotional efforts.
- G. Undertaking activities to encourage development of new tourism attractions, festivals, businesses, and other tourism products.

~~(c) Further, an amount not to exceed \$40,000.00 per year shall be paid out of the Tourism Promotion Fund by the City to the Greater Freeport Partnership to be utilized by the Greater Freeport Partnership towards amounts owed by the Greater Freeport Partnership to the Freeport/Stephenson County Visitors Center associated with the rental and use of the visitors' center by the Greater Freeport Partnership. Such \$40,000.00 amount may be utilized towards items, including, but not limited to, rent owed by the Greater Freeport Partnership for use of the visitors' center and payments towards the Freeport/Stephenson County Visitors Center's mortgage, real estate taxes, building insurance and annual preventative maintenance costs. Such amounts owed by the Greater Freeport Partnership to the Freeport/Stephenson County Visitors Center shall be determined by a separate agreement between the Freeport/Stephenson County Visitors Center board and the Greater Freeport Partnership. The proceeds of the additional two percent tax imposed under Section 886.03(a) shall be used for rental of space in the Freeport/Stephenson County Visitors Center, through the earlier of December 31, 2024; such time as the costs of construction of such center are determined by the City to have been reimbursed to the Freeport Area Economic Development Foundation; or the center fails to be utilized for appropriate expenditures under state law. Rental amounts will be determined by separate agreement between the Freeport/Stephenson County Visitors Bureau and the Freeport Area Economic Development Foundation, but in no circumstance shall exceed \$40,000.00 per year. Any proceeds of the additional two percent tax imposed under section 886.03(a) which are not used for rental of such space may be utilized under (b) herein.~~

The amount appropriated to support the efforts of the Greater Freeport Partnership Convention and Visitors Bureau shall be included in the City's annual appropriation ordinance. The Finance Director or his or her designee shall not transmit any funds to the ~~Bureau~~ Greater Freeport Partnership in excess of the amount appropriated without first obtaining approval of the corporate authorities.

886.05 EFFECT ON PENDING SUITS, ETC.

Nothing herein adopted shall be construed to affect any suit now pending in any court or any rights accrued or liability incurred or any cause or causes of action accrued or existing under any prior resolution or ordinance, nor shall any right or remedy of any character be lost, impaired or affected by this chapter.

886.99 PENALTY.

In addition to any other payment or penalty provided in this chapter or elsewhere by law or ordinance, any person who violates any provision of this chapter shall be fined not less than two hundred dollars (\$200.00) nor more than five hundred dollars (\$500.00) for a first offense, and not less than three hundred dollars (\$300.00) nor more than seven hundred fifty dollars (\$750.00) for a second and each subsequent offense during any 180-day period. A separate and distinct offense shall be regarded as having been committed each day upon which said person shall continue any such violation.”

Section 3. This Ordinance shall be effective immediately upon its passage by the City Council, its approval by the Mayor, and its publication as provided by law.

Section 4. All ordinances or parts of ordinances in conflict with this Ordinance are repealed insofar as they conflict.

Section 5. If any section, clause or provision of this Ordinance be declared by a Court of competent jurisdiction to be invalid, such decision shall not affect the validity of the Ordinance as a whole or any part thereof, other than the part so declared to be invalid, and this City Council hereby expressly declares that it would have enacted this Ordinance even with the invalid portion deleted.

Section 6. This Ordinance is expressly adopted pursuant to the Home Rule Authority of the City of Freeport as created by Article 6 of Section VII of the Illinois Constitution of 1970.

PASSED BY THE CITY COUNCIL OF THE CITY OF FREEPORT, ILLINOIS this ___ day of _____, 2018.

Dovie L. Anderson, City Clerk

YEAS: _____

NAYS: _____

ABSTAIN: _____

PRESENT: _____

APPROVED by the Mayor of the City of Freeport this ___ day of _____, 2018.

Jodi Miller, Mayor

Date Published: _____

Date Effective: _____

Approved as to form:

City Legal Counsel