

VILLAGE OF CARBON CLIFF

ORDINANCE NO. 2018-22

ORDINANCE AMENDING THE HOTEL ACCOMMODATION TAX

WHEREAS, The Corporate Authorities of municipalities are authorized by 65 Illinois Compiled Statutes 5/8-3-14 to impose a tax upon all persons engaged in such municipality in the business of renting, leasing or letting rooms in a hotel, as defined in “The Hotel Operators’ Occupation Tax Act,” to promote tourism and conventions, or otherwise attract nonresident overnight visitors to the municipality;

WHEREAS, the Village of Carbon Cliff has determined that it is in the best interest of the municipality to impose a tax upon hotels and motels as defined within this Ordinance and pursuant to the Illinois Municipal Code and the Hotel Operators Occupation Tax Act.

NOW THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF The Village of Carbon Cliff;

Section 1. This Ordinance shall be codified as Title I, Article 15.

Section 2. Title. Pursuant to the 65 Illinois Compiled Statutes 5/8-3-14, as amended, this ordinance shall be known and cited as the “Hotel Accommodations Tax Ordinance” and the tax herein imposed shall be known and cited as the “Hotel Accommodations Tax.”

Section 3. Definitions and Construction.

A. For the purpose of this ordinance, whenever any of the following words, terms or definitions are used herein, they shall have the following meaning:

- (1.) Village: The Village of Carbon Cliff.
- (2.) Treasurer: The Treasurer of the Village of Carbon Cliff.
- (3.) Hotel Accommodations: A room or rooms in any building or structure located in the Village and kept, used or maintained as or advertised or held out to the public to be an inn, motel, hotel, apartment hotel, lodging house, dormitory or place, where sleeping, rooming, conference or exhibition accommodations are furnished for lease or rent, whether with or without meals, in which ten (10) or more such accommodations are used or maintained for guests, lodgers or roomers. The term “Hotel Accommodations” does not include an accommodation which a person occupies, or has the right to occupy, as his domicile and permanent residence.
- (4.) Person: Any natural person, receiver, administrator, executor, conservator, assignee, trust in perpetuity, trust, estate, firm, partnership, joint venture, club, company, business trust, domestic or foreign corporation, association, syndicate, society, or any group of individuals acting as a unit, where mutual, cooperative, fraternal, for profit, nonprofit or otherwise. Whenever the term “Person” is used in any clause prescribing and imposing a penalty, the term as

applied to corporations shall include the officers thereof, and as applied to any other entity, the owners or part-owners thereof.

- B. In this ordinance, unless the text otherwise requires, words in the singular number include the plural and in the plural include the singular; words of the masculine gender include the feminine and the neuter; and when the sense so indicates, words in the neuter gender may refer to any gender.

Section 4. Tax Imposed.

There is hereby imposed and shall accrue, as set forth in Section 12, and be collected a tax, as herein provided, upon the rental or leasing of any Hotel Accommodations at the rate of five percent (5%) of the gross rental or leasing charge.

Section 5. Tax Borne By Lessee.

The ultimate incidence of and liability for payment of said tax shall be borne by the hotel owner, manager or operator of such Hotel Accommodations. The tax herein levied shall be in addition to any and all other taxes. The hotel owner, manager, or operator may reimburse themselves for their tax liability for such tax by charging the lessee or tenant of such Hotel Accommodations by separately stating such tax as an additional charge, which charge may be stated in combination, in a single amount, with State tax imposed under "The Hotel Operators' Occupation Tax Act," on the lessee's or tenant's statement of charges. It shall be the duty of every owner, manager or operator of Hotel Accommodations to secure said tax from the lessee or tenant of said Hotel Accommodations and pay over to the Treasurer said tax under rules and regulations prescribed by the Treasurer and as otherwise provided by this ordinance.

Section 6. Collection.

The tax herein levied shall be secured by the hotel owner, manager or operator from the lessee or tenant when collecting the price, charge, or rent to which it applies. Every 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 Hotel Accommodations tax shall be stated, charged and shown separately. The Hotel Accommodations tax shall be paid to the Treasurer or the authorized representative of this office on a monthly basis. The tax, along with a copy of Illinois Department of Revenue form RHM-1 (Hotel Operators' Occupation Tax Return), shall be due on or before the 30th day of the succeeding calendar month.

Section 7. Payment and penalty for nonpayment.

- A. Every owner, manager or operator of Hotel Accommodations shall file a sworn tax return on a monthly basis with the Treasurer showing tax receipts received with respect to Hotel Accommodation space rented or leased during the preceding monthly period, upon forms prescribed by the Treasurer. At the time of filing said tax return, the owner, manager or operator of Hotel Accommodations shall pay to the Treasurer all taxes due for the period to which the tax return applies.
- B. If for any reason any tax is not paid when due, a penalty at the rate of two percent (2%) per month on the amount of tax which remains unpaid shall be added and collected. Whenever any person shall fail to pay any tax as herein provided, upon the request of the Treasurer, the Village Attorney shall bring or cause to be brought an action to

enforce the payment of said tax in behalf of the Village in any court of competent jurisdiction with the cost of such enforcement to be borne by the owner of the Hotel Accommodations.

Section 8. Records.

Every owner, manager or operator of Hotel Accommodations shall keep books and records showing the prices, rents or charges made or charged, and occupancies taxable under this ordinance. The Treasurer, or his designate, shall at all reasonable times have full access to said books and records.

Section 9. Suspension or revocation of licenses.

If the President, after hearing held by or for him, shall find that any Person has willfully avoided payment of the tax imposed by this ordinance, he may suspend or revoke all Village licenses held by said tax evader. The owner, manager or operator of the Hotel Accommodations shall have an opportunity to be heard and such hearing shall not be held less than five days after notice of the time and place of the hearing, addressed to the owner, manager or operator at his last known place of business. The suspension or revocation of any license shall not release or discharge the owner, manager or operator of Hotel Accommodations from civil liability for the payment of the tax nor for prosecution of such offense.

Section 10. Proceeds.

All proceeds resulting from the imposition of the tax under this ordinance, including penalties, shall be distributed within 30 days after the 30th day of the calendar month as follows:

- A. Four percent (4%) of the gross tax revenue collected shall be retained by the Village to defray the costs of administering and processing the imposition and collection of the tax.
- B. The balance of the gross tax revenue collected shall be invested by the Director of Community and Administrative Services in accordance with the written "Investment Policy" of the Village.
- C. The amounts collected from the Hotel Accommodations tax shall only be expended by the Village to expand and maintain Village owned bike/multi-purpose trails, to promote tourism and conventions within the Village, and to attract nonresident overnight visitors to the Village.

Section 11. Penalties.

Any Person found guilty for violating, disobeying, omitting, neglecting, or refusing to comply with, or resisting or opposing the enforcement of any of the provisions of this ordinance, except when otherwise specifically provided, upon conviction thereof shall be guilty of a municipal offense and punished by a fine of not less than Two Hundred Dollars (\$200.00) nor more than Three Hundred Dollars (\$300.00) for the first offense and not less than Three Hundred Dollars (\$300.00) nor more than Seven Hundred Fifty Dollars (\$750.00) for the second and each subsequent offense within a two-year calendar period, provided, however, that all actions seeking the imposition of fines only shall be filed as

quasi-criminal actions subject to the provisions of the Illinois Civil Practice Act (735 ILCS 1-101 etseq.). A separate and distinct municipal offense shall be regarded as committed each day when any person shall continue any such violation of the ordinance, or otherwise permit a continuing violation after notification.

Section 12. Severability.

If any provision, clause, sentence, paragraph, section, or part of this ordinance, or application thereof to any person, firm, corporation, public agency or circumstance, shall for any reason, be adjudged by a court of competent jurisdiction to be unconstitutional or invalid, said judgment shall not affect, impair or invalidate the remainder of this ordinance and the application of such provision to other persons, firms, corporations, public agencies or circumstances, but shall be confined in its operation to the provision, clause, sentence, paragraph, section, or part thereof directly involved in the controversy in which such judgment shall have been rendered and to the person, firm, corporation, public agency, or circumstance involved. It is hereby declared to be the legislative intent of the Village Board of Trustees that this ordinance would have been adopted had such unconstitutional or invalid provision, clause, sentence, paragraph, section or part thereof not been included.

Section 13. Time of effect.

This ordinance shall be in full force and effect on September 18, 2018, after its passage, publication in pamphlet form, and approval as provided by law.

ADOPTED by the Board of Trustees for the Village of Carbon Cliff this 18th day of September 2018.

	<u>AYES</u>	<u>NAYS</u>	<u>ABSENT</u>
Todd Cantrell	_____	_____	_____
Keith Curry	_____	_____	_____
Robert Dreher	_____	_____	_____
Leevon Harris	_____	_____	_____
Alma Neels	_____	_____	_____
Larry Scott	_____	_____	_____
Ayes:	_____	Nays:	_____
		Absent:	_____

APPROVED by the President of the Board of Trustees of the Village of Carbon Cliff this 18th Day of September 2018.

Bill Hintz, Village President

ATTEST:

Karen L. Hopkins, Village Clerk