

CITY OF LAVON, TEXAS

ORDINANCE NO. 2022-06-07

Enact Hotel Occupancy Tax

AN ORDINANCE OF THE CITY OF LAVON, TEXAS, ADDING CHAPTER 1 “GENERAL PROVISIONS”, ARTICLE 1.04 “TAXATION”, DIVISION 3 “SALES AND USE TAXES”, SECTIONS 1.04.063 TO 1.04.090 TO BE RESERVED, AND DIVISION 4 “HOTEL OCCUPANCY TAX” TO THE CITY’S CODE OF ORDINANCES; PROVIDING FOR THE CITY’S ADOPTION OF A HOTEL OCCUPANCY TAX AND THE ADMINISTRATION, PAYMENT, AND COLLECTION OF SUCH TAX; PROVIDING A PENALTY; PROVIDING SAVINGS AND SEVERABILITY CLAUSES; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE IS ADOPTED TO BE OPEN TO THE PUBLIC AS REQUIRED BY LAW; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Lavon (“**City**”) has authority pursuant to Texas Tax Code 351.002, by ordinance to impose a tax on a person who, under a lease, concession, permit, right of access, license, contract, or agreement, pays for the use or possession or for the right to the use or possession of a room that is in a hotel, costs \$2 or more each day, and is ordinarily used for sleeping; and

WHEREAS, Section 156.001 of the Texas Tax Code defines “hotel” as a building in which members of the public obtain sleeping accommodations for consideration; and

WHEREAS, pursuant to Texas Tax Code 351.003, a municipality may impose a hotel occupancy tax at any rate not to exceed seven percent (7%) of the price paid for a room in a hotel; and

WHEREAS, pursuant to Texas Tax Code 351.0025, a municipality with a population of less than 35,000 may impose its hotel occupancy tax in the municipality’s extraterritorial jurisdiction; and

WHEREAS, the City Council finds that there are prospective hotels taking interest in business in and around the City; and

WHEREAS, the City Council of the City (the “**City Council**”) desires to enact a hotel occupancy tax and impose rates, rules, regulations, reporting schedules, and penalties; and

WHEREAS, the City Council finds that the adoption of this Ordinance will promote and provide for the health, safety, and welfare of the City.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LAVON, TEXAS:

SECTION 1. Recitals

The City Council hereby finds that the statements set forth in the recitals of this Ordinance are true and correct, and the City Council hereby incorporates such recitals as part of this Ordinance.

SECTION 2. Reserving Chapter 1 “General Provisions”, Article 1.04 “Taxation”, Division 3

“Sales and Use Taxes”, Sections 1.04.063 to 1.04.090.

Chapter 1 “General Provisions”, Article 1.04 “Taxation”, Division 3 “Sales and Use Taxes”, Sections 1.04.063 to 1.04.090 are hereby reserved in the City’s Code of Ordinances for future regulations in Division 3.

SECTION 3. Adoption of Chapter 1 “General Provisions”, Article 1.04 “Taxation”, Division 4 “Hotel Occupancy Tax”

Chapter 1 “General Provisions”, Article 1.04 “Taxation”, Division 4 “Hotel Occupancy Tax” of the City’s Code of Ordinances is hereby amended to add Division 4 “Hotel Occupancy Tax” to read entirely as provided in Exhibit “A,” attached hereto and incorporated herein.

SECTION 4. Penalty

Any person violating any provision of this Ordinance shall, upon conviction, be fined a sum in accordance with the general penalty provided in section 1.01.009 of the City’s Code of Ordinances. Each time that a provision of this Ordinance is violated shall constitute a separate offense. An offense under this division is a misdemeanor. The penalty provisions imposed under this Ordinance shall not preclude the City from filing suit to enjoin the violation. The City retains all legal rights and remedies to it pursuant to local, state and federal law.

SECTION 5. Savings

This Ordinance shall be cumulative of all other ordinances of the City and shall not repeal any of the provisions of such ordinances except in those instances where provisions of those ordinances are in direct conflict with the provisions of this Ordinance; whether such ordinances are codified or uncodified, and all other provisions of the ordinances of the City, codified or uncodified, not in conflict with the provisions of this Ordinance, shall remain in full force and effect. Any repeal occurring due to this provision shall not abate any pending prosecution or lawsuit and/or prevent any prosecution or lawsuit from being commenced for any violation occurring before the effective date of this Ordinance.

SECTION 6. Severability

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs and sections of this Ordinance be severable, and if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this Ordinance, and the remainder of this Ordinance shall be enforced as written.

SECTION 7. Open Meeting

That it is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public as required by law, and that public notice of the time, place, and purpose of said meeting was given, all as required by Section 551.042, Texas Government Code.

SECTION 8. Effective Date

This Ordinance shall take effect immediately from and after its passage and publication as may be required by governing law.

PASSED AND APPROVED by the City Council of the City of Lavon, Texas this 21st day of June 2022.


Vicki Sanson, Mayor

ATTEST:


Rae Norton, City Secretary



Exhibit A

Chapter 1 General Provisions

ARTICLE 1.04. Taxation

Division 3. Sales and Use Taxes

Sec. 1.04.063-1.04.090 Reserved

Division 4. Hotel Occupancy Tax

Sec. 1.04.091. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Administrator shall mean the accounting administrator of the city.

Consideration shall mean the cost of the room in such hotel only if the room is one ordinarily used for sleeping, and shall not include the cost of any food served or personal services rendered to the occupant of such room not related to the cleaning and readying of such room for occupancy.

Hotel shall mean any building in which the public may, for a consideration, obtain sleeping accommodations. The term shall include hotels, motels, tourist homes, lodging houses, cabins, inns, rooming houses, trailer houses, trailer motels, dormitories where bed space is rented, apartments not occupied by permanent resident, short-term rentals, and all other facilities where rooms or sleeping facilities or space are furnished for consideration. The term "hotel" does not include a residence or portion of a residence rented to a member of the resident's family, hospitals, sanitariums, or nursing homes.

Occupancy shall mean the use or possession, or the right to the use or possession, of any room in a hotel if the room is one ordinarily used for sleeping and if the occupant's use, possession, or right to use or possession extends for a period of less than thirty (30) days.

Occupant shall mean anyone who, for consideration, uses, possesses, or has a right to use or possess any room in a hotel if the room is one ordinarily used for sleeping.

Short-term rental shall mean any residence or residential structure, or portion thereof, rented for a period of less than thirty (30) days. The term does not include (i) a unit that is used for a nonresidential purpose, including an educational, health care, retail, restaurant, banquet space, or event center purpose or another similar use; or (ii) a bed and breakfast.

Sec. 1.04.092. Established and levied.

There is hereby established and levied a tax upon the cost of occupancy of any room ordinarily used for sleeping and furnished by any hotel in the city or in the city's extraterritorial jurisdiction. Such tax is hereby levied at the rate of seven (7) percent of the consideration paid to the hotel by the occupant of the room.

Sec. 1.04.093. Expenditure of revenues.

The revenues derived from the hotel occupancy tax levied pursuant to this division shall be expended only for the purposes authorized by Texas Tax Code Chapter 351, as it exists or may be amended, as the city council may direct and authorize.

Sec. 1.04.094. Collection of tax by hotel and payment to city.

The tax levied pursuant to this division upon hotel occupancy shall be collected by each hotel within the city or within the city's extraterritorial jurisdiction upon collection by said hotel of the consideration paid by the occupant of the sleeping room. Such revenues shall be paid by the hotel to the city through its finance office by the fifteenth (15th) day of the month following each monthly reporting period in which the tax is earned pursuant to section 1.04.097 of this division.

Sec. 1.04.095. Records to be maintained by hotel.

Every hotel within the city or within the city's extraterritorial jurisdiction shall keep and maintain an accurate record of the consideration and the hotel occupancy tax paid by the occupant of each sleeping room in the hotel, and any employee, agent, officer or representative of the city shall be authorized to have access to the records maintained hereunder at all reasonable times.

Sec. 1.04.096. Rules and regulations for implementation.

The administrator shall have the power to make any rules and regulations necessary to effectively collect the tax. The administrator shall, upon giving reasonable notice, have access to all books and records necessary to enable him to determine the correctness of any report filed as required by this division and the amount of taxes due under this division.

Sec. 1.04.097. Reporting requirements.

- (a) By the 15th day of the month following each month in which a tax is earned, every person required by this division to collect the tax shall file a report with the administrator showing:
 - (1) The consideration paid for all occupancies in the preceding month;
 - (2) The amount of the tax collected on the occupancies; and
 - (3) Any other information the administrator may reasonably require.
- (b) Every person required by this division to collect the tax shall pay the tax due on all occupancies in the preceding month to the administrator at the time of filing the report required under subsection (a) of this section.

Sec. 1.04.098. Offenses and penalties.

- (a) A person commits an offense if the person:
 - (1) Fails to collect the tax;
 - (2) Fails to file a report as required by this division;
 - (3) Fails to pay the administrator the tax when payment is due; or
 - (4) Files a false report.
- (b) An offense committed under subsection (a) of this section is punishable by a fine as provided in section 1.01.009.
- (c) In addition to any penalties imposed under subsection (b) of this section, a person failing to pay the tax to the administrator within the time required shall pay an additional ten (10) percent of the tax due as a penalty. An additional ten (10) percent of the tax due shall be paid thirty (30) days later if the tax is not paid. The penalty provided by this subsection may never be less than five dollars (\$5.00). Delinquent taxes shall draw interest at the rate of ten (10) percent per year beginning thirty (30) days from the date the tax is due.

Sec. 1.04.099. Collection authorized.

Civil action for collections. In addition to any other remedies allowed by state law, the city attorney or other attorney acting for the city may bring suit against a person who is required to file a report required by section 1.04.097, collect the tax imposed by this chapter and/or pay the collections over to the city if such person has failed to file a tax report, collect the tax and/or pay the tax when due in order to collect the tax not paid, obtain the reports or to enjoin the person from operating a hotel in the municipality until the tax is paid and/or the report filed, as applicable. In addition to the amount of any tax owed under this chapter, the person is liable to the city for the city's reasonable attorney's fees and a penalty equal to fifteen (15) percent of the total amount of the tax owed, pursuant to Texas Tax Code § 351.004.