

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF COPPELL, TEXAS AMENDING THE CODE OF ORDINANCES BY REPEALING CHAPTER 1 ‘ADMINISTRATION’, ARTICLE 1-14, ‘HOTEL OCCUPANCY TAX’, IN ITS ENTIRETY, AND REPLACING IT WITH A NEW CHAPTER 1 ‘ADMINISTRATION’, ARTICLE 1-14, ‘HOTEL OCCUPANCY TAX; PROVIDING FOR COLLECTION; PROVIDING FOR DELINQUENCY; PROVIDING FOR AUDIT; PROVIDING A REPEALING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A SAVINGS CLAUSE; PROVIDING A PENALTY OF FINE NOT TO EXCEED THE SUM OF FIVE HUNDRED DOLLARS (\$500.00) FOR EACH OFFENSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Coppel finds it will benefit to amend and update the City’s Code of Ordinances; and

WHEREAS, the City of Coppel believes that the amendments to the Article 1-14 “Hotel Occupancy Tax” are needed in the best interests of the citizens.

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

SECTION 1. The City of Coppel Code of Ordinances, to repeal Chapter 1 ‘Administration’, Article 1-14 – ‘Hotel Occupancy Tax’, in its entirety and replace with a new Chapter 1, ‘Administration’, Article 1-14 ‘Hotel Occupancy Tax’, to hereinafter read as follows:

“CHAPTER 1 – ADMINISTRATION

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ARTICLE 1-14 – HOTEL OCCUPANCY TAX

Sec. 1-14-1 - Definitions

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

City manager means the city manager of the city or designee.

Consideration means the cost of the room, sleeping space, bed or dormitory space or other facilities in a hotel, as defined herein, and shall not include the cost of any food served or personal services rendered to the occupancy of such room or space for occupancy, and shall not include any tax assessed by any other governmental agency for occupancy of the room.

Hotel means any building or buildings in which members of the public obtain sleeping accommodations, for a consideration. The term includes hotels, motels, tourist homes, houses or courts, lodging houses, inns, rooming houses, or bed and breakfast or any short-term rental home as defined in the Code of Ordinances. The term does not include: hospitals, sanitariums or nursing homes; or a dormitory or other housing facility owned or leased and operated by an institution of higher education or a private or independent institution of higher education as those terms are defined by Section 61.003, Education Code, used by the institution for the purpose of providing sleeping accommodations for person engaged in an educational program or activity at the institution.

Occupancy means the use or possession, or the right to the use or possession, of any room or space in a hotel, as defined herein, if the room or space 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 30 consecutive days.

Occupant means person, who, for a consideration uses, possesses, or has a right to use, possess, resells, subleases, brokers or otherwise gives consideration for any room or space in a hotel, as defined herein, under any lease, concession, permit, right of access, license, contract or agreement, if the room is one ordinarily used for sleeping.

Online travel website, travel broker or agent means a person, firm, company, corporation or association that provides services to the public for discount sale or rental of hotel rooms or accommodations, as defined herein.

Permanent resident means any occupant who has or shall have the right of occupancy of any room or sleeping space or facility in a hotel for at least 30 consecutive days or more during a current calendar year, a portion thereof or preceding year.

Person means any individual, company, corporation, online travel website, travel broker or agent or association, owning, operating, managing or controlling any hotel.

Quarterly period means a quarter of the calendar year. The first quarter is composed of the months of January, February, and March; the second quarter is composed of the months of April, May, and June; the third quarter is composed of the months of July, August, and September; and the fourth quarter is composed of the months of October, November, and December.

Sec. 1-14-2. - Tax imposed.

A tax equal to seven percent (7%) of the consideration paid will be levied on a person who, under a rented, 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, as defined herein, costs \$2 or more each day, and is ordinarily used for sleeping.

Sec. 1-14-3. - Disposition of revenue.

The revenue received from any occupancy tax authorized under this article shall be used only for the purposes authorized by V.T.C.A., Tax Code Ch. 351, as amended.

Sec. 1-14-4. - Collection of tax.

- (A) Every person, including any short-term rental or online travel companies, owning, operating, managing, or controlling any hotel in the city shall collect the tax imposed by this article and remit to the City such tax and report as provided herein.
- (B) The City may bring suit against a person who is required to collect the tax imposed by this chapter and pay the collections over to the City, and who has failed to file a tax report or pay the tax when due, to collect the tax not paid or to enjoin the person from operating a hotel in the City until the tax is paid or the report filed.
- (C) In addition to the amount of any tax owed under this chapter, the person is liable to the City for:
 - (1) the City's reasonable attorney's fees;
 - (2) the costs of an audit conducted under Section 1-14-5, as determined by the City using a reasonable rate, but only if:
 - i. The tax has been delinquent for at least two complete municipal fiscal quarters at the time the audit is conducted; and
 - ii. The City has not received a disbursement from the comptroller as provided by Section 156.2513 of the Texas Tax Code related to the person's concurrent state tax delinquency described by section 351.008 of the Texas Tax Code or City has failed to receive a remittance of the tax due from the owner/operator as provided in this Article.
 - (3) A penalty equal to 15 percent of the total amount of the tax owned if the tax has been delinquent for at least one complete municipal fiscal quarter; and
 - (4) Interest as provided by sections 351.0042 and 111.060(b), Texas Tax Code.

Sec. 1-14-5. – Audit.

- (A) If a person required to file a tax report under this chapter does not file the report as required by the City, the City may determine the amount of tax due under this chapter by:
 - (1) conducting an audit of each hotel in relation to which the person did not file the report as required by the City; or
 - (2) using the tax report filed for the appropriate reporting period under this ordinance relation to that hotel.

- (B) If the person did not file a tax report under this ordinance for that reporting period in relation to that hotel, the city may estimate the amount of tax due by using the tax reports in relation to that hotel filed during the previous calendar year under this chapter or under state law. An estimate made under this subsection is prima facie evidence of the amount of tax due for that period in relation to that hotel.
- (C) The authority to conduct an audit under this section is in addition to any other audit authority provided by statute, charter, or ordinance. A City may directly perform an audit authorized by this section or contract with another person to perform the audit on an hourly rate or fixed-fee basis. A City shall provide at least 30 days' written notice to a person who is required to collect the tax imposed by this chapter with respect to a hotel before conducting an audit of the hotel under this section.

Sec. 1-14-6. - Reports.

On the last day of the month following each quarterly period, every hotel required by this article to collect the tax shall file a report with the city manager showing: the consideration paid for all occupancies in the preceding quarter; the amount of the tax collected on such occupancies; and, any other information as the city manager may reasonably require. Such person shall pay the tax due on all occupancies in the preceding calendar quarter to the city manager at the time of filing the report required herein.

Sec. 1-14-7. - Tax collection on termination of business.

- (A) If a person who is liable for the payment of an amount under this article is the owner of the hotel or single-family residence used as a short term rental and sells the hotel, the successor to the seller or the seller's assignee shall withhold an amount of the purchase price sufficient to pay the amount due until the seller provides a receipt from the City showing that the amount has been paid or a certificate stating that no amount is due.
- (B) The purchaser of a hotel or single-family residence used as a short term rental who fails to withhold an amount of the purchase price as required by this section is liable for the amount required to be withheld to the extent of the value of the purchase price.
- (C) The purchaser of a hotel or single-family may request that the City issue a certificate stating that no tax is due or issue a statement of the amount required to be paid before a certificate may be issued. The City shall issue the certificate or statement within 60 days after receiving the request or within 60 days after the day on which the records of the former owner of the hotel are made available for audit, whichever period expires later. In either event, the City shall issue the certificate or statement within 90 days after the date of receiving the request.

- (D) If the City fails to mail the certificate or statement within the applicable period provided by subsection (C) of this section, the purchaser is released from the obligation to withhold from the purchase price or pay the amount due.
- (E) The period of limitation during which the City may assess tax against the purchaser under this section is four years from the date when the former owner of the hotel sells the hotel or when a determination is made against the former owner, whichever event occurs later. At any time within three years after a deficiency determination against the purchaser has become due and payable, the city attorney may bring an action in a district court of Dallas County or a court of any other state of the United States in the name of the city to collect the delinquent amounts together with penalties and interest.

Sec. 1-14-8. - Penalties.

- (A) A person commits an offense if:
 - (1) The person fails to collect the tax;
 - (2) The person fails to file a report as required by this article;
 - (3) The person fails to pay the tax when payment is due;
 - (4) The person files a false report; or
 - (5) The person fails to comply with section 1-14-7 when purchasing a hotel.
- (B) An offense committed under subsection (A) of this section shall be a class C misdemeanor.
- (C) The city attorney or other attorney acting for the city may bring suit against a person who is required to collect the tax imposed by this article and pay the collections over to the city and who has failed to file a tax report or pay the tax when due to collect the tax not paid or to enjoin the person from operating a hotel in the city until the tax is paid or the report filed, as applicable, as provided by the court's order. In addition to the amount of any tax owed under this article, the person is liable to the city for the city's reasonable attorney's fees and a penalty equal to 15 percent of the total amount of the tax owed.”

SECTION 2. That all provisions of the ordinances of the City of Coppell in conflict with the provisions of this ordinance be, and the same are hereby, repealed, and all other provisions of the ordinances of the City of Coppell not in conflict with the provisions of this ordinance shall remain in full force and effect.

SECTION 3. That should any sentence, paragraph, subdivision, clause, phrase or section of this ordinance be adjudged or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this ordinance as a whole, or any part or provision thereof other than the part so decided to be invalid, illegal or unconstitutional, and shall not affect the validity of the Code of Ordinances as a whole.

SECTION 4. An offense committed before the effective date of this ordinance is governed by the prior law and the provisions of the Code of Ordinances, as amended in effect when the offense was committed, and the former law is continued in effect for this purpose.

SECTION 5. That any person, firm or corporation violating any of the provisions or terms of this ordinance shall be subject to the same penalty as provided for in the Code of Ordinances of the City of Coppell, as heretofore amended, and upon conviction shall be punished by a fine not to exceed the sum of five hundred dollars (\$500.00) for each offense.

SECTION 6. This Ordinance shall take effect immediately from and after its passage and the publication of the caption, as the law and charter in such cases provide.”

DULY PASSED by the City Council of the City of Coppell, Texas, on the _____ day of _____, 2018.

CITY OF COPPELL, TEXAS

KAREN SELBO HUNT, MAYOR

ATTEST:

CHRISTEL PETTINOS, CITY SECRETARY

APPROVED AS TO FORM:

ROBERT E. HAGER, CITY ATTORNEY