

ORDINANCE NO.:2018-16

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LOCKHART, TEXAS UPDATING CHAPTER 54, ARTICLE IV OF THE CITY CODE, ENTITLED "HOTEL OCCUPANCY TAX," TO REFLECT CHANGES IN STATE LAW REGARDING DEFINITIONS, EXEMPTIONS, AND PENALTIES; PROVIDING REPEALER; PROVIDING SEVERABILITY; PROVIDING PENALTIES; PROVIDING PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Lockhart imposes and collects municipal hotel occupancy taxes pursuant to Chapters 156 and 351 of the Texas Tax Code; and

WHEREAS, the Lockhart City Council has determined that updating the city's Hotel Occupancy Tax ordinance is necessary to reflect changes in the Texas Tax Code; and

WHEREAS, the City has determined that this ordinance serves a public purpose by providing funding to promote tourism and the convention and hotel industry in the city.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LOCKHART, TEXAS, that Chapter 54, Article IV, Sections 54-116, 54-117 and 54-122 of the Code of Ordinances, City of Lockhart, Texas are hereby amended by adding definitions and replacing subsections to read as follows:

Sec. 54-116. - Definitions.

Hotel: a building in which members of the public obtain sleeping accommodations for consideration. The term includes a hotel, motel, tourist home, tourist house, tourist court, lodging house, inn, rooming house, bed and breakfast, or short term rental. The term does not include a hospital, sanitarium, nursing home, 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 Texas Education Code, Sec. 61.003 and used by the institution for the purpose of providing sleeping accommodations for persons engaged in an educational program or activity at the institution, or an oilfield portable unit as defined in Texas Tax Code, Sec. 152.001.

Permanent resident: a person who has a right to use or possess a room in a hotel for at least 30 consecutive days, so long as there is no interruption of payment for the period.

Short term rental: the rental of all or part of a residential property to a person who is not a permanent resident as defined herein.

[all other Definitions remain unchanged]

Sec. 54-117. - Levy, rate, exemptions.

(b) Pursuant to Texas Tax Code, Sec. 351.006, the following are exempt from the city's hotel occupancy tax:

- (1) A permanent resident of a hotel, as defined herein.
- (2) The United States, a governmental entity of the United States, or an officer or employee of a governmental entity of the United States when traveling on or otherwise engaged in the course of official duties for the governmental entity.
- (3) The State of Texas, or an agency, institution, board, or commission of this state other than an institution of higher education shall pay the tax imposed by this ordinance and is entitled to a refund of the amount of tax paid in accordance with Texas Tax Code, Sec. 156.154. For purposes of this subsection, an institution of higher education has the meaning assigned by Texas Education Code, Sec. 61.003.
- (4) A state officer or employee of a state governmental entity described in subsection (3), above, who is entitled to reimbursement for the cost of lodging and for whom a special provision or exception to the general rate of reimbursement under the General Appropriations Act is not applicable shall pay the tax imposed by this chapter. The state governmental entity with whom the person is associated is entitled to a refund of the tax paid as provided in subsection (3).
- (5) A state officer or employee of a state governmental entity described in subsection (3), above, for whom a special provision or exception to the general rate of reimbursement under the General Appropriation Act applies and who is provided with photo identification verifying the identity and exempt status of the person is not required to pay the tax and is not entitled to a refund.
- (6) A guest who in good faith provides a properly completed exemption certificate stating that the guest is qualified for an exemption provided in this section or state law, such certificate being supported by documentation required under rules adopted by the state comptroller.

[all other subsections remain unchanged]

Sec. 54-122. – Penalties for violation of sections 54-116 through 54-121.

(b) 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 is liable to the city for a penalty equal to 15 percent of the total amount of the tax owed if the tax has been delinquent for at least one complete fiscal quarter. Nothing in this ordinance constitutes a waiver or limitation of remedies that are available at law or equity to the city to enforce this ordinance or state law.

[all other subsections remain unchanged]

II. Repealer: All other ordinances, sections, or parts of ordinances heretofore adopted by the City of Lockhart in conflict with the provisions set out above in this ordinance are hereby repealed or amended as indicated.

III. Severability: If any provision, section, clause, sentence, or phrase of this ordinance is for

any reason held to be unconstitutional, void, invalid, or un-enforced, the validity of the remainder of this ordinance or its application shall not be affected, it being the intent of the City Council in adopting and of the Mayor in approving this ordinance that no portion, provision, or regulation contained herein shall become inoperative or fail by way of reasons of any unconstitutionality or invalidity or any other portion, provision or regulation.

IV. Publication: The City Secretary is directed to cause this ordinance caption to be published in a newspaper of general circulation according to law.


V. Effective Date: This ordinance shall become effective ten (10) days after passage.

PASSED, APPROVED and ADOPTED this the 19th day of June, 2018.


CITY OF LOCKHART


LEW WHITE, MAYOR

ATTEST:


CONNIE CONSTANCIO
CITY SECRETARY

APPROVED AS TO FORM:


PETER GRUNING
CITY ATTORNEY