

ORDINANCE NO. 2023-004

AN ORDINANCE BY THE CITY COUNCIL OF THE CITY OF HITCHCOCK, TEXAS AMENDING THE CODE OF ORDINANCES TITLE III ENTITLED "ADMINISTRATION", CHAPTER 39 ENTITLED "TAXATION" BY AMENDING SECTION 39.04 ENTITLED "HOTEL OCCUPANCY TAX" AND PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE

WHEREAS, the City of Hitchcock is authorized to regulate ordinances pursuant to Texas Local Government Code;

WHEREAS, the City Council of the City of Hitchcock, Texas needs to amend the Code of Ordinance Title III Entitled "Administration", Chapter 39 Entitled "Taxation" by amending Section 39.04 Entitled "Hotel Occupancy Tax"; and

WHEREAS, the City Council determines that amending Title III, Chapter 39, Section 39.04, will promote the health, safety and welfare of the City;

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

Section 1. The above and foregoing recitals are hereby found to be true and correct and are incorporated herein as findings of fact. The City Council hereby further finds and determines that the rules, regulations, terms, conditions, provisions, and requirements of this ordinance are reasonable and necessary to protect the public health, safety, and quality of life. The City of Hitchcock's Code of Ordinances, Section 39.04 Entitled "Hotel Occupancy Tax" is hereby amended by deleting in its entirety all the existing language in Section 39.04 and replacing it with the following:

Sec. 39.04 - Hotel Occupancy Tax.

(A) Definitions. For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

Consideration. The cost of the room in such hotel 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. Any building or buildings in which the public may, for a consideration, obtain sleeping accommodations. The term shall include hotels, motels, tourist homes, houses or courts, lodging houses, inns, rooming houses or other buildings where rooms are furnished for a consideration, but shall not be defined so as to include hospitals, sanitariums or nursing homes.

Occupancy. The use or possession, or the right to use or possess, any room or rooms in a hotel for any purpose.

Occupant. Anyone, who, for a consideration, uses, possesses or has the right to use or

possess any room or rooms in a hotel under any lease, concessions, permit, right of access, license, contract or agreement.

Permanent resident. Any occupant who has or shall have the right of occupancy of any room or rooms in a hotel for at least 30 consecutive days during the current calendar year or preceding year.

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

Short-term rental. A dwelling unit, or portion thereof, that is offered or provided to a guest by a short-term rental owner or operator for a fee for fewer than thirty consecutive nights. They are commonly referred to as vacation rentals. They are a form of tourist or transient accommodations. Short-term rental units may be whole house rentals, apartments, condominiums, or individual rooms in homes. For administration and enforcement of this title, the terms "overnight rental," "nightly rental," and "vacation rental" are interchangeable with short-term rentals and often rented out using a marketplace such as "Airbnb" and "VRBO" or other common marketplaces.

(B) Levy of tax; rate; exception

(1) There is hereby levied a tax upon the cost of occupancy of any room or space furnished by any hotel where such cost of occupancy is at the rate of \$2.00 or more per day, such tax to be equal to seven percent of the consideration paid by the occupant of such room to such hotel.

(2) No tax shall be imposed hereunder upon a permanent resident.

(C) Collection. Every person owning, operating, managing or controlling any hotel shall collect the tax imposed in this article for the city. The Director of Finance shall send certified letters each month to each hotel that is delinquent in the filing or paying of hotel occupancy taxes. The Director of Finance shall provide written notification to the City Attorney of delinquent accounts that are 30 days delinquent in the payment of taxes in the amount of \$100.00 or more. The City Attorney is authorized to take all necessary legal actions, including filing litigation, without further authorization by City Council.

(D) Report and payments. Every person required to collect the tax imposed in this section shall file a monthly report with the city showing the consideration paid for all room occupancies in the preceding month, the amount of tax collected on such occupancies and any other information the city may reasonably require. This report shall be filed with the Director of Finance on or before the 20th day of the month following the reported monthly period. The person filing the report shall pay the tax due on such occupancies at the time of filing such report.

(E) Rules and regulations. The Director of Finance shall have the power to make such rules and regulations as are necessary to effectively collect the tax levied herein, and shall,

upon reasonable notice have access to books and records necessary to enable him to determine the correctness of any report filed as required by this section and the amount of taxes due under the provisions of this section.

(F) Penalties.

- (1) Penalties shall never be less than \$1.00. Delinquent taxes shall draw interest at the rate of six percent per annum beginning 60 days from the date due.
- (2) It shall be an offense for a person to violate divisions (C) or (D) hereof which shall be punishable by a fine not to exceed \$500.00. Each day a violation is allowed to continue shall constitute a separate offense.

(G) Distribution of tax proceeds.

- (1) An amount equal to one percent of all of the tax proceeds, including penalties and interest, shall be deducted by the city to defray costs of collection and administration.
- (2) All remaining proceeds of the tax, including penalties and interest, shall be expended for the following purposes:
 - (a) Three-sevenths for promotion of tourism and the convention and hotel industry, advertising and conducting solicitations and promotional programs to attract tourists and convention delegates or registrants to the municipality or vicinity.
 - (b) Four-sevenths for organization whose primary purposes are historical preservation and restoration, in the encouragement, promotion, improvement and application of the arts, including music (instrument and vocal), dance, drama, folk art, creative writing, architecture, design and allied fields, painting, sculpture, photography, graphic and craft arts, motion pictures, television, radio, tape and sound recording, and the arts related to the presentation, performance, execution and exhibition of these major art forms. Organizations for the receipt of distributors shall be selected based on criteria and procedures set forth in that document entitled "Criteria and Selection Procedures for Contributions of Hotel Occupancy Tax to Arts and Historical Preservation." Such document shall not be amended without City Council's approval.

(H) Fire life safety inspections required. Fire life safety inspections are required yearly in January. The inspections shall be conducted according to the requirements of the ordinances and codes adopted by the city.

(I) Collection of hotel occupancy tax in the extraterritorial jurisdiction.

- (1) Tax Code Title 3 Local Taxation Subtitle D Local Hotel Occupancy Taxes Chapter 351 Subchapter A Section 351.0025 allows a municipality with a

population of less than 35,000 to impose the tax authorized under Section 351.002 in the municipality's extraterritorial jurisdiction and may collect the hotel occupancy tax.

(2) The municipality may not impose a tax under this section (351.0025) if as a result of the adoption the combined rate of state, county, and municipal hotel occupancy taxes in the extraterritorial jurisdiction exceeds 15 percent of the price paid for a room in a hotel.

Section 2. This ordinance shall be cumulative of all provisions of the City of Hitchcock, Texas, except where the provisions of this Ordinance are in direct conflict with the provisions of such Ordinances, in which event the more restrictive provision shall apply.

Section 3. It is hereby declared to be the intention of the City Council of the City of Hitchcock that the phrases, clauses, sentences, paragraphs, and sections of this Ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this Ordinance should 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, since the same would have been enacted by the City Council without incorporation in this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

Section 4. All rights and privileges of the City of Hitchcock are expressly saved as to any and all violations of the provisions of any Ordinances affecting land use or development, which have accrued at the time of the effective date of this Ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such Ordinances, same shall not be affected by this Ordinance but may be prosecuted until final disposition by the courts.

Section 5. This Ordinance shall be effective immediately upon the passage, approval and publication as required by law.

PASSED AND APPROVED this the 20th day of February, 2023.



Christopher E. Armacost, Mayor
City of Hitchcock

ATTEST:



Ruth Ann Sandino, City Secretary
City of Hitchcock

APPROVED AS TO FORM:



Kyle L. Dickson, City Attorney
City of Hitchcock