



ORDINANCE NO. 3796

AN ORDINANCE OF THE CITY OF FARMERS BRANCH, TEXAS, AMENDING CHAPTER 78 "TAXATION", "ARTICLE III "HOTEL/MOTEL OCCUPANCY TAX" OF THE CODE OF ORDINANCES OF THE CITY OF FARMERS BRANCH, TEXAS, BY AMENDING SECTION 78-76 BY AMENDING THE DEFINITION OF SHORT-TERM RENTAL AND ADDING A DEFINITION FOR SHORT-TERM RENTAL LISTING SERVICE; BY AMENDING 78-79 (a), (b) AND (c) REQUIRING A SHORT-TERM RENTAL LISTING SERVICE TO COLLECT HOTEL OCCUPANCY TAX; BY AMENDING SECTION 78-80 TO REQUIRE SHORT-TERM RENTAL LISTING SERVICE TO MAKE THE REQUIRED REPORTS; AND BY AMENDING SECTION 78-82(a) TO APPLY THE PENALTIES TO SHORT-TERM RENTAL LISTING SERVICES; BY AMENDING CHAPTER 26 "BUSINESSES" ARTICLE VIII. "SHORT-TERM RENTAL HOUSING" OF THE CODE OF ORDINANCES OF THE CITY OF FARMERS BRANCH, TEXAS, BY AMENDING SECTION 26-502 TO ADD SUBSECTION (k) TO PROVIDE FOR THE DENIAL OF AN APPLICATION FOR SHORT-TERM RENTAL LICENSE IF APPLICANT IS DELINQUENT TO PAYMENT OF HOTEL/MOTEL OCCUPANCY TAX; BY PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY OF FINE NOT TO EXCEED TWO HUNDRED DOLLARS (\$200.00) FOR EACH OFFENSE; PROVIDING FOR INJUNCTIVE RELIEF; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Farmers Branch deems it necessary, for the purpose of promoting the health, safety, morals and general welfare of the City and its residents, to adopt and enforce regulations regarding the collection of and reporting of hotel occupancy tax for short-term rentals within the City; and

WHEREAS, the City Council, having considered the recommendation of the City Administration, finds it in the public interest to amend the City's existing ordinances regarding the collection of and reporting of hotel occupancy tax for short-term rentals within the City.

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

SECTION 1. Chapter 78, "Taxation," Article III "Hotel/Motel Occupancy Tax" of the Code of Ordinances of the City of Farmers Branch, Texas, is amended by amending section 78-76 to amend the definition of Short-Term Rentals, by adding a definition of Short-Term Rental Listing Services, and by amending sections 78-79 (a), (b) and (c), 78-80 and 78-82(a) to require Short-Term Rental Listing Services to collect hotel occupancy tax, make the required reports and to be subject to the penalties of Article III to read as follows:

ARTICLE VIII. HOTEL/MOTEL OCCUPANCY TAX

Sec. 78-76. - 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:

....

Short-Term Rental means a dwelling that is (a) used or designed to be used as a place where a person may reside, including a single-family dwelling, garage apartment, guest house or a unit in a multi-unit building, including an apartment, condominium, cooperative or timeshare; and (b) rented wholly or partly for a fee and for a period of less than thirty (30) consecutive days. The term “Short-Term Rental” does not include a premises 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 a bed-and-breakfast or hotel as defined in the Farmers Branch Comprehensive Zoning Ordinance.

....

ADD

“Short-Term Rental Listing Service means a person, company or other legal entity that participates in the Short-Term rental business by facilitating and/or collecting a fee for booking services through which a person may offer Short-Term Rentals to potential guests. Short-Term Rental Listing Services usually, though not necessarily, provide booking services through an online platform that allows a person to advertise the premises through a website or mobile application provided by the Short-Term Rental Listing Service and the Short-Term Rental Listing Service conducts a transaction by which potential guests arrange their use and their payment, whether the potential guest pays rent directly to the person or to the Short-Term Rental Listing Service.”

Sec. 78-79. - Collection.

(a) Every person owning, operating, managing or controlling any hotel or motel shall collect the tax imposed in section 78-77 for the city; provided, however, that failure of an operator, manager, management company or controller of any hotel or motel to collect or make payment of the full amount of such tax owed to the city places the responsibility for the full amount of such tax owed to the city upon the person owning the hotel or motel or its successor or assignee, which shall include any person acquiring ownership through foreclosure or any other legal means. Any Short-Term Rental Listing Service that contracts with or provides services to the person who owns, operates or manages a Short-Term Rental shall collect the tax imposed in section 78-77 for the city; provided, however, that the failure of the Short-Term Rental Listing Service to collect or make payment of the full amount of such tax owed to the city places the responsibility for the full amount of such tax owed to the city upon the person owning or operating the Short-Term Rental, or its successor or assignee, which shall include any person acquiring ownership through foreclosure or any other legal means.

(b) Any person and Short-Term Rental Listing Service collecting the subject tax is hereby authorized to deduct and withhold from the person's payment to the city, as reimbursement for the

cost of collecting the tax, one percent of the amount of tax collected and required to be reported to the city.

(c) Any person and Short-Term rental Listing Service collecting the subject tax shall forfeit the one percent reimbursement for failure to pay the tax or to file reports as required by this article.

(d)

(e)”

Sec. 78-80. – Reports.

On the last day of the month following each monthly period, every person and Short-Term rental Listing Service required in section 78-79 to collect the tax imposed in section 78-77, shall file a report with the city showing the consideration paid for all room and short-term rental occupancies in the preceding month, the amount of the tax collected on such occupancies, and any other information as the city manager may reasonably require. Such persons and platforms shall pay the tax due on such occupancies at the time of filing such report.”

Sec. 78-82. – Penalties for violation of article.

(a) If any person or Short-Term Rental Listing Service shall fail to collect the tax imposed in section 78-77, shall fail to file a report as required in section 78-80, shall fail to pay to the city the tax as imposed in section 78-77, when such payment is due, shall fail to withhold an amount from the purchase price to satisfy outstanding hotel/motel occupancy taxes collected but unpaid to the city when purchasing or acquiring an interest in a hotel, motel or short-term rental, or shall file a false report, or any person who forecloses upon any hotel, motel or short-term rental which has collected but not paid to the city the full amount of hotel/motel tax, such person or Short-Term Rental Listing Service shall be deemed guilty of a misdemeanor and, upon conviction, be punished by a fine not to exceed \$200.00 for each offense, and a separate offense shall be deemed committed each day during or on which an offense occurs or continues. In addition, such person who fails to remit the tax imposed by this article within the time required shall be charged five percent of the amount due as a penalty, and after the first 30 days shall be charged an additional ten percent of such tax; provided, however, that the penalty shall never be less than \$1.00. Delinquent taxes shall draw interest at the rate of ten percent per annum beginning 60 days from the date due.

(b) ...”

SECTION 2. Chapter 26, “Businesses” Article VIII “Short-Term Rental Housing”, Section 26-502 is amended to add subsection (k) to provide the building official may deny an application for a Short-Term Rental for an applicant that is delinquent in the payment of the hotel occupancy tax under chapter 78 of the Code of Ordinances of the City of Farmers Branch, Texas, to read as follows:

Sec. 26-502. - License application; place of business; issuance; suspension; renewal and expiration; appeals.

(a)

(k) Upon receipt of an application for a Short-Term Rental license, the building official shall deny the application if the applicant (resident owner or non-resident owner) is delinquent in the payment of the required hotel/motel occupancy taxes pursuant to chapter 78, article III of this Code.”

SECTION 3. All ordinances and parts of ordinances inconsistent, or in conflict, with this ordinance are hereby repealed. All other ordinances and parts of ordinances not inconsistent, or in conflict shall remain in full force and effect.

SECTION 4. If any section, paragraph, subdivision, clause, phrase or provision of this ordinance shall be judged to be invalid or unconstitutional by a court of competent jurisdiction, the same shall not affect the validity of this ordinance as a whole or any portion thereof other than the portion so decided to be invalid or unconstitutional.

SECTION 5. An offense committed before the effective date of this ordinance is governed by the prior law and the provisions of the Code of Ordinances when the offense was committed, and the former law is continued in effect for this purpose.

SECTION 6. Any person, firm, or corporation violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and, upon conviction in the municipal court of the City of Farmers Branch, Texas, shall be punished by a fine not to exceed the sum of Two Hundred Dollars (\$200.00) for each offense. Every day a violation occurs shall constitute a separate offense.

SECTION 7. This ordinance shall take effect immediately from and after its passage and the publication of the caption, as the law and charter in such case provides.

DULY PASSED BY THE CITY COUNCIL OF THE CITY OF FARMERS BRANCH, TEXAS, ON THE 15th DAY OF AUGUST 2023.

ATTEST:

APPROVED:

Stacy Henderson, City Secretary

Terry Lynne, Mayor

APPROVED AS TO FORM:

Peter G. Smith, City Attorney
(PGS4-25-23-2023 TM 134725)