



ORDINANCE NO. 3583

AN ORDINANCE OF THE CITY OF FARMERS BRANCH, TEXAS, AMENDING THE FARMERS BRANCH CODE OF ORDINANCES CHAPTER 78 "TAXATION", ARTICLE III "HOTEL/MOTEL OCCUPANCY TAX" TO CONFORM WITH ORDINANCE NO. 3575; PROVIDING A REPEALING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Farmers Branch has found it to be in the public interest to adopt regulations relating to the use of single-family residential dwelling units as a "short-term rental" dwelling and provide for the licensing and inspection of same; and

WHEREAS, the addition of short-term rentals to the Farmers Branch Code of Ordinances requires Chapter 78 "Taxation", Article III "Hotel/Motel Occupancy Tax" to be updated;

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 is amended as follows:

- A. Section 78-76 "Definitions" is amended by amending the definitions of "Occupancy", "Occupant," and "Person" to read as follows:

Occupancy means the use or possession, or the right to the use or possession, of any room in a hotel or short-term rental if the room is one ordinarily used for sleeping and if the occupant's use, possession or right to use or possess extends for a period of less than 30 days.

Occupant means anyone, who, for a consideration, uses, possesses, or has a right to use or possess, any room in a hotel or short-term rental if the room is one ordinarily used for sleeping.

Person means any individual, company, corporation or association owning, operating, managing or controlling any hotel or short-term rental.

- B. Section 78-76 "Definitions" is amended by adding a definition for the phrase "Short-Term Rental" to read as follows:

Short-Term Rental means any single-family residence leased or rented for a period of thirty consecutive days or less.

- C. Section 78-77 "Levy of tax; rate; exceptions" is amended to read in its entirety as follows:

Sec. 78-77. Levy of tax; rate; exceptions.

There is hereby levied a tax upon the cost of occupancy of any room or space furnished by any hotel or short-term rental where such cost of occupancy is at the rate of \$2.00 or more per day. Such tax shall be equal to seven percent of the consideration paid by the occupant of such room, space or facility to such hotel or short-term rental, exclusive of other occupancy taxes imposed by other governmental agencies.

- D. Subsections (a), (d), and (e) of Section 78-79 "Collection" are amended to read in their entirety as follows:

(a) Every person owning, operating, managing or controlling any hotel, motel or short-term rental 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, motel or short-term rental 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, motel or short-term rental, or its successor or assignee, which shall include any person acquiring ownership through foreclosure or any other legal means.

(d) Upon the sale of a hotel, motel or short-term rental, the purchaser of the hotel, motel or short-term rental, or other successors in interest to the hotel, motel or short-term rental, shall withhold from the purchase price an amount sufficient to pay to the city the full amount of all collected but unpaid hotel/motel occupancy taxes owed to the city. Upon payment of such taxes to the city, the tax collector shall deliver a certificate of the paid hotel/motel occupancy tax. The purchaser of a hotel, motel or short-term rental or other successors in interest to a hotel, motel or short-term rental who fails to withhold the full amount of hotel/motel tax collected but unpaid to the city out of the purchase price, as required by this section, is liable for the amount required to be withheld.

(e) If a person forecloses upon a hotel, motel or short-term rental which has collected hotel/motel occupancy taxes that have not been paid to the city, responsibility for the payment of the full amount of such collected but unpaid taxes shall be that of the person foreclosing upon the hotel, motel or short-term rental.

- E. Section 78-82 "Penalties for violation of article" is amended to read in its entirety as follows:

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

- (a) If any person 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 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) The municipal attorney or other attorney acting for the city may bring suit against a person who is required to collect the tax imposed 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 or short-term rental in the municipality 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, this 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. All provisions of the ordinances of the City of Farmers Branch 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 Farmers Branch not in conflict with the provisions of this ordinance shall remain in full force and effect.

SECTION 3. 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 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. This Ordinance shall take effect on October 1, 2019, and the publication of the caption, as the law and charter in such cases provide.

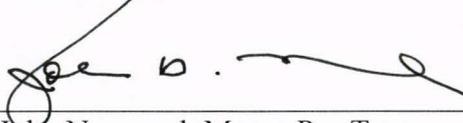
DULY PASSED BY THE CITY COUNCIL OF THE CITY OF FARMERS BRANCH, TEXAS, ON THIS THE 23RD DAY OF JULY 2019.

ATTEST:



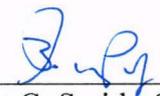
Amy Piukana, City Secretary

APPROVED:



John Norwood, Mayor Pro Tem

APPROVED AS TO FORM:



Peter G. Smith, City Attorney
(kbl:5/23/19:109336)