

## ORDINANCE NO. 529

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CLARENDON, TEXAS: AMENDING THE CODE OF ORDINANCES, CITY OF CLARENDON, TEXAS, CHAPTER 11, ARTICLE 11.03, TO CLARIFY THAT SHORT-TERM RENTALS MUST PAY THE MUNICIPAL HOTEL OCCUPANCY TAX, TO CLARIFY THE APPROPRIATE USES OF THE MUNICIPAL HOTEL OCCUPANCY TAX, AND TO CLARIFY THAT THE CITY SECRETARY ADMINISTERS THE MUNICIPAL HOTEL OCCUPANCY TAX; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A PENALTY; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE**

**WHEREAS**, chapter 251 of the Texas Tax Code allows a municipality to, by ordinance, impose a hotel occupancy tax within the municipality; and

**WHEREAS**, the City Council of the City of Clarendon, Texas, has previously adopted Ordinance No. 270 (now codified as Chapter 11, Article 11.03, Code of Ordinances, City of Clarendon, Texas), authorizing and levying a municipal hotel occupancy tax pursuant to Chapter 351 of the Texas Tax Code; and

**WHEREAS**, section 156.001(b) of the Texas Tax Code provides that for purposes of the imposition of a hotel occupancy tax under chapter 351 of the Texas Tax Code, the term "hotel" includes a short-term rental, defined as "the rental of all or part of a residential property to a person who is not a permanent resident [of the property]"; and

**WHEREAS**, there has been a proliferation of short-term rentals being operated within the City of Clarendon; and

**WHEREAS**, the City Council of the City of Clarendon now desires and believes it is in the best interest of the City to confirm, clarify, and publicize that short-term rentals are subject to the municipal hotel occupancy tax pursuant to Chapters 351 and 156 of the Texas Tax Code; and

**WHEREAS**, the City Council of the City of Clarendon desires to update Ordinance No. 270 to reflect the abolishment of the city tax assessor/collector position and to reflect the current practice of the City Secretary administering the municipal hotel occupancy tax program; and

**WHEREAS**, section 351.101 of the Texas Tax Code provides that revenue from the municipal hotel occupancy tax may be used only for limited enumerated uses/ that promote tourism and the convention and hotel industry; and

**WHEREAS**, Ordinance 270 further restricts the permissible uses for a portion of the City's hotel occupancy tax revenue to only certain uses within state law; and

**WHEREAS**, the City Council of the City of Clarendon desires to provide flexibility for the City to spend its hotel occupancy tax revenue within any of the uses allowed by state law.

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CLARENDON, TEXAS:**

**SECTION 1.** That the Code of Ordinances, City of Clarendon, Texas, Chapter 11, Article 11.03 is amended as follows:

**§ 11.03.001 Definitions.**

As employed in this article, unless the context would dictate otherwise, the following words, terms, and phrases are defined as follows:

*Consideration.* The cost of the room in such hotel only if the room is one ordinarily used for sleeping, 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,[short-term rentals,] or other buildings where rooms are furnished for a consideration, but "hotel" shall not be defined so as to include hospitals, sanitariums, or nursing homes.

Monthly period. The regular calendar month of the year.

Occupancy. The use or possession, or the right to the use or possession, of any room in a hotel if the room 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 thirty (30) days.

Occupant. Anyone who, for a consideration, uses, possesses, or has a right to use or possess any room in a hotel if the room is one ordinarily used for sleeping.

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

Person. Any individual, company, corporation, or association owning, operating, managing or controlling any hotel.

[Short-term rental. A residential dwelling unit or portion thereof that is rented out for compensation on a temporary basis for a period of less than 30 consecutive days.]

#### **§ 11.03.002 Levied; exemptions; use.**

- (a) There is hereby levied a tax on 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 7% of the consideration paid by the occupant for such room to such hotel.
- (b) No tax shall be imposed hereunder upon a permanent resident.
- (c) No tax shall be imposed hereunder upon a corporation or association organized and operated exclusively for religious, charitable, or educational purposes, no part of the net earnings of which insures to the benefit of any private shareholder or individual.
- (d) All revenues derived from the tax assessed by this article shall be used in keeping with the purposes as set forth in Tax Code, section 351.101, as amended.

#### **§ 11.03.003 Collection.**

Every person owning, operating, managing, or controlling any hotels shall collect the tax imposed hereinabove for the benefit of the city.

#### **§ 11.03.004 Reports.**

On or before the fifteenth (15th) of April, July, October and January of each calendar year, every person required under this article to collect the tax imposed herein shall file a report with the city secretary showing any consideration paid for all room or sleeping space occupancies in the preceding quarter, the amount of tax collected on such occupancies and any other information as the city secretary may reasonably require, which report shall be in writing. Such person shall pay the tax due on such occupancies at the time of filing such report.

#### **§ 11.03.005 Rules and regulations.**

The city secretary shall adopt such procedures, rules and regulations as are reasonably necessary effectively to collect the tax levied herein, and shall, upon request of any person owning, operating, managing or controlling any hotel, furnish a copy of such procedures, rules and regulations for the guidance of such person and facilitate the collection of such tax as such collection is required herein. Such procedures, rules and regulations shall be in writing and a copy thereof shall be placed on file with the city secretary. The city secretary

shall be permitted to have access to books and records during reasonable business hours as shall be necessary to enable him or her to determine the correctness of the amount due under the provisions of this section, or to determine whether a report should have been filed and the amount, if necessary, of taxes due.

**§ 11.03.006 Penalties.**

- (a) If any person required by the provisions of this article to collect the tax imposed herein, or make reports required herein and to pay the city secretary the taxes imposed herein, shall fail to collect such taxes, file such report, or collect such taxes, or if any such person shall file a false report, or any person shall violate any of the provisions of this article, such person shall be deemed guilty of a misdemeanor and upon conviction be punished by a fine in accordance with the general penalty provided in section 1.01.009 of this code.
- (b) If the operators of any hotel shall fail to file a report for any period as required by this article or shall fail to pay the tax for any period as required by this article, then the city secretary is hereby authorized to make an assessment of the tax for such period. The tax assessed, together with any penalties provided by statute, shall be a prior and superior lien on all property of the motel.
- (c) There shall be imposed a penalty of five percent (5%) per month or any part of a month on any tax delinquency.

**SECTION 2. Severability.** The provisions of this ordinance are declared to be severable. If any section, sentence, clause or phrase of the ordinance shall for any reason be held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this ordinance, but they shall remain in full force and effect, it being the legislative intent that this ordinance shall remain in effect notwithstanding the validity of any part.

**SECTION 3. Savings Clause.** All ordinances, or parts thereof, that are in conflict or inconsistent with any provision of this ordinance are hereby repealed to the extent of such conflict, and the provisions of this ordinance shall be and remain controlling as to the matters regulated herein.

**SECTION 4. Penalty.** A violation of this ordinance is punishable in accordance with Section 1.01.009 of the Code of Ordinances, City of Clarendon, Texas.

**SECTION 5. Publication.** This ordinance shall be published as required by law.

**SECTION 6. Effective Date.** This ordinance shall take effect immediately upon its adoption by the City Council and publication as may be required by governing law.

**SECTION 7. Open Meetings.** It is hereby officially found and determined that the meeting at which this ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the *Open Meetings Act, Chapter 551, Gov't. Code*.

PASSED, APPROVED AND ADOPTED on this the 12th day of December, 2024.

ATTEST:

  
Machiel Covey, City Secretary

  
Jacob Fangman, Mayor