

Ordinance No. 16-051

An ordinance amending the “Taxation” Chapter of the Code of the City of Arlington, Texas, 1987, through the amendment of Article IV, Hotel Occupancy Tax, Section 4.01, Definitions, by the amendment of the definition of “Hotel”, and the addition of the definitions of “Monthly Period” and “Short-term Rental”; Section 4.02, Tax Authorized; Tax Rate; Exceptions to Tax, Subsection (C), by the addition of Subsection (4); Section 4.03, Exemptions and Refunds, Subsection (B); Section 4.04, Collection; Payment to City; Fee; Section 4.05, Reports; and Section 4.08, Penalties, Subsection (C); and through the amendment of Article VIII, Additional Hotel Occupancy Tax, Section 8.01, Definitions, by the amendment of the definition of “Hotel”, and the addition of the definitions of “Monthly Period” and “Short-term Rental”; Section 8.02, Tax Authorized; Tax Rate; Exceptions to Tax, Subsection (C), by the addition of Subsection (4); Section 8.04, Exemptions and Refunds, Subsection (B); Section 8.05, Collection; Payment to City; Fee; Statement of Tax Purpose Required; Section 8.06, Reports; Section 8.09, Penalties, Subsection (C); relative to collecting, reporting, paying, exceptions, exemptions and penalties; and providing for a fine of up to \$500 for each offense in violation of the ordinance; providing this ordinance be cumulative; providing for severability, governmental immunity, injunctions and publication; and becoming effective January 1, 2017

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ARLINGTON, TEXAS:

1.

That the “Taxation” Chapter of the Code of the City of Arlington, Texas, 1987, is hereby amended through the amendment of **Article IV, Hotel Occupancy Tax, Section 4.01, Definitions**, by the amendment of the definition of “Hotel”, and the addition of the definitions of “Monthly Period” and “Short-term Rental”, so that said definitions shall be and read as follows:

“**Hotel**” shall mean any building or complex of buildings, trailer, converted railroad pullman car, or any other facility 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, trailer houses, trailer motels, parked railroad pullman cars used for sleeping accommodations and not involving the transportation of travelers, dormitory where bed space is rented, apartments not occupied

by permanent residents, and all other facilities where rooms or sleeping facilities or space are furnished for a consideration. The term does not include:

1. a hospital, sanitarium, or nursing home; or
2. 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 Section 61.003 of the Texas Education Code, as amended, that is used by the institution for the purpose of providing sleeping accommodations for persons engaged in an educational program or activity at the institution; or
3. an oilfield portable unit, as defined by Section 152.001 of the Texas Tax Code, as amended.

“Monthly Period” shall mean the regular calendar months of the year.

“Short-term Rental” shall mean the rental of all or part of a residential property to a person who is not a permanent resident under Section. 156.101 of the Texas Tax Code, as amended.

Further, **Article IV, Section 4.02, Tax Authorized; Tax Rate; Exceptions to Tax**, Subsection (C), is hereby amended by the addition of Subsection (4) so that hereafter said Subsection shall be and read as follows:

4. Cost paid for food served by hotel and cost of personal services performed by the hotel for the person except for those services related to cleaning and readying the room for use or possession.

Further, **Article IV, Section 4.03, Exemptions and Refunds**, Subsection (B), is hereby amended so that hereafter said Subsection shall be and read as follows:

- B. A state governmental entity described in Section 156.103(b) of the Texas Tax Code, as amended, shall pay the tax imposed by this article, but is entitled to a refund of the tax paid.

Further, **Article IV, Section 4.04, Collection; Payment to City; Fee**, is hereby amended so that hereafter said Section shall be and read as follows:

Section 4.04 Collection; Payment to City; Fee

- A. Every person owning, operating, managing or controlling any hotel shall collect the tax imposed under this article and pay same to the City with the report required in accordance with all requirements and procedures set forth in this article.

- B. The tax shall be submitted to the Director on or before the 20th day of the month following each monthly period unless the taxpayer qualifies to submit taxes quarterly.
- C. If taxpayer owes less than \$500 for a monthly period or \$1,500 for a quarterly period, the taxpayer qualifies to submit the tax quarterly to the Director payable on the 20th day after the end of the quarterly period.

Further, **Article IV, Section 4.05, Reports**, is hereby amended so that hereafter said Section shall be and read as follows:

Section 4.05 Reports

- A. Every person required to collect the tax by this article shall file a report with the Director in the form required by the Director to accurately reflect the amount of taxes owed.
- B. Reports shall be submitted to the Director on or before the 20th day of the month following each monthly period unless the taxpayer qualifies to submit reports quarterly.
- C. If taxpayer owes less than \$500 for a monthly period or \$1,500 for a quarterly period, the taxpayer qualifies to submit report quarterly to the Director payable on the 20th day after the end of the quarterly period.

Further, **Article IV, Section 4.08, Penalties**, Subsection (C), is hereby amended so that hereafter said Subsection shall be and read as follows:

- C. In addition to any criminal penalties imposed under Subsection (B) of this section, a person shall pay five percent (5%) of the tax due as a penalty if the person fails to pay the tax or file the report as required by this article by the due date. An additional penalty of five percent (5%) of the tax due shall be paid if the tax is not paid within thirty (30) days from the date the tax was due. Another penalty of five percent (5%) of the tax due shall be paid if the tax is not paid within sixty (60) days from the date the tax was due. The penalties provided by this subsection may never be less than One Dollar (\$1.00). Delinquent taxes shall draw interest at the rate of ten percent (10%) per annum beginning sixty (60) days from the date the tax was due.

Further, **Article VIII, Additional Hotel Occupancy Tax, Section 8.01, Definitions**, is hereby amended by the amendment of the definition of “Hotel”, and the addition of the definitions of “Monthly Period” and “Short-term Rental”, so that said definitions shall be and read as follows:

“Hotel” shall mean any building or complex of buildings, trailer, converted railroad pullman car, or any other facility 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, trailer houses, trailer motels, parked railroad pullman cars used for sleeping accommodations and not involving the transportation of travelers, dormitory where bed space is rented, apartments not occupied by permanent residents, and all other facilities where rooms or sleeping facilities or space are furnished for a consideration. The term does not include:

1. a hospital, sanitarium, or nursing home; or
2. 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 Section 61.003 of the Texas Education Code, as amended, that is used by the institution for the purpose of providing sleeping accommodations for persons engaged in an educational program or activity at the institution; or
3. an oilfield portable unit, as defined by Section 152.001 of the Texas Tax Code, as amended.

“Monthly Period” shall mean the regular calendar months of the year.

“Short-term Rental” shall mean the rental of all or part of a residential property to a person who is not a permanent resident under Section 156.101 of the Texas Tax Code, as amended.

Further, **Article VIII, Section 8.02, Tax Authorized; Tax Rate; Exceptions to Tax**, Subsection (C), is hereby amended by the addition of Subsection (4), so that hereafter said Subsection shall be and read as follows:

4. Cost paid for food served by hotel and cost of personal services performed by the hotel for the person except for those services related to cleaning and readying the room for use or possession.

Further, **Article VIII, Section 8.04, Exemptions and Refunds**, Subsection (B), is hereby amended so that hereafter said Subsection shall be and read as follows:

- B. A state governmental entity described in Section 156.103(b) of the Texas Tax Code, as amended, shall pay the tax imposed by this article, but is entitled to a refund of the tax paid.

Further, **Article VIII, Section 8.05, Collection; Payment to City; Fee; Statement of Tax Purpose Required**, is hereby amended so that hereafter said Section shall be and read as follows:

Section 8.05 Collection; Payment to City; Fee; Statement of Tax Purpose Required

- A. Every person owning, operating, managing or controlling any hotel shall collect the tax imposed under this article and pay same to the City with the report in accordance with all the requirements and procedures set forth in this article.
- B. The tax shall be submitted to the Director on or before the 20th day of the month following each monthly period unless the taxpayer qualifies to submit taxes quarterly.
- C. If taxpayer owes less than \$500 for a monthly period or \$1,500 for a quarterly period, the taxpayer qualifies to submit the tax quarterly to the Director payable on the 20th day after the end of the quarterly period.
- D. Each bill or other receipt for a hotel charge subject to the tax imposed by this article must contain a statement in a conspicuous location stating;

"The City of Arlington requires that an additional tax of two percent (2%) be imposed on each hotel charge for the purpose of financing a project, consisting of the Dallas Cowboys Complex Development Project approved by the voters of the City on November 2, 2004."

Further, **Article VIII, Section 8.06, Reports**, is hereby amended so that hereafter said Section shall be and read as follows:

Section 8.06 Reports

- A. Every person required to collect the tax by this article shall file a report with the Director in the form required by the Director to accurately reflect the amount of taxes owed.
- B. Reports shall be submitted to the Director on or before the 20th day of the month following each monthly period unless the taxpayer qualifies to submit reports quarterly.
- C. If taxpayer owes less than \$500 for a monthly period or \$1,500 for a quarterly period, the taxpayer qualifies to submit report quarterly to the Director payable on the 20th day after the end of the quarterly period.

Further, **Article VIII, Section 8.09, Penalties**, Subsection (C), is hereby amended so that hereafter said Subsection shall be and read as follows:

- C. In addition to any criminal penalties imposed under Subsection (B) of this section, a person shall pay five percent (5%) of the tax due as a penalty if the person fails to pay the tax or file the report as required by this article by the due date. An

additional penalty of five percent (5%) of the tax due shall be paid if the tax is not paid within thirty (30) days from the date the tax was due. Another penalty of five percent (5%) of the tax due shall be paid if the tax is not paid within sixty (60) days from the date the tax was due. The penalties provided by this subsection may never be less than One Dollar (\$1.00). Delinquent taxes shall draw interest at the rate of ten percent (10%) per annum beginning sixty (60) days from the date the tax was due.

2.

Any person, firm, corporation, agent or employee thereof who violates any of the provisions of this ordinance shall be guilty of a misdemeanor and upon conviction thereof shall be fined an amount not to exceed Five Hundred and No/100 Dollars (\$500) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

3.

This ordinance shall be and is hereby declared to be cumulative of all other ordinances of the City of Arlington, and this ordinance shall not operate to repeal or affect any of such other ordinances except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this ordinance, in which event such conflicting provisions, if any, in such other ordinance or ordinances are hereby repealed.

4.

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional, such holding shall not affect the validity of the remaining portions of this ordinance.

5.

All of the regulations provided in this ordinance are hereby declared to be governmental and for the health, safety and welfare of the general public. Any member of the City Council or any City official or employee charged with the enforcement of this ordinance, acting for the City of Arlington in the discharge of his/her duties, shall not thereby render himself/herself personally liable; and he/she is hereby relieved from all personal liability for any damage that might accrue to persons or property as a result of any act required or permitted in the discharge of his/her said duties.

6.

Any violation of this ordinance can be enjoined by a suit filed in the name of the City of Arlington in a court of competent jurisdiction, and this remedy shall be in addition to any penal provision in this ordinance or in the Code of the City of Arlington.

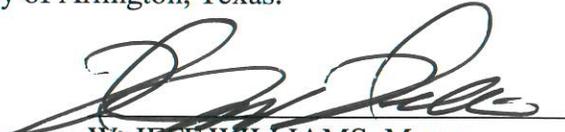
7.

The caption and penalty clause of this ordinance shall be published in a newspaper of general circulation in the City of Arlington, in compliance with the provisions of Article VII, Section 15, of the City Charter. Further, this ordinance may be published in pamphlet form and shall be admissible in such form in any court, as provided by law.

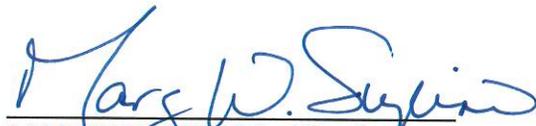
8.

This ordinance shall become effective January 1, 2017.

PRESENTED AND GIVEN FIRST READING on the 20th day of September, 2016, at a regular meeting of the City Council of the City of Arlington, Texas; and GIVEN SECOND READING, passed and approved on the 11th day of October, 2016, by a vote of 7 ayes and 0 nays at a regular meeting of the City Council of the City of Arlington, Texas.


W. JEFF WILLIAMS, Mayor

ATTEST:


MARY W. SUPINO, City Secretary

APPROVED AS TO FORM:
TERIS SOLIS, City Attorney

BY 