

**ORDINANCE NO. 24-02-1349**

**AN ORDINANCE OF THE CITY OF MURPHY, TEXAS, AMENDING CHAPTER 18 "TAXATION" IN THE CITY'S CODE OF ORDINANCES BY ADDING ARTICLE 18.05 "HOTEL OCCUPANCY TAX" TO PROVIDE FOR THE ADMINISTRATION AND COLLECTION OF HOTEL OCCUPANCY TAXES WITHIN THE CITY; PROVIDING SAVINGS, REPEALING, AND SEVERABILITY CLAUSES; PROVIDING A PENALTY; PROVIDING THAT THE MEETING AT WHICH THIS ORDINANCE WAS PASSED WAS OPEN TO THE PUBLIC AS REQUIRED BY LAW; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City of Murphy (the "City") is authorized to adopt ordinances that are necessary for the government, interest, welfare, or good order of the City pursuant to Section 51.012 of the Texas Local Government Code; and

**WHEREAS**, the City Council of the City (the "City Council") adopted Chapter 18 of its Code of Ordinances which sets forth various regulations for taxation; and

**WHEREAS**, the City is authorized by Texas Tax Code Chapter 351, and specifically Section 351.002, to impose a hotel occupancy tax on a person who, under a lease, concession, permit, right of access, license, contract, or agreement, pays for the use or possession or for the right to the use or possession of a room that is in a hotel, costs \$2 or more each day, and is ordinarily used for sleeping ("HOT"); and

**WHEREAS**, Section 156.001 of the Texas Tax Code defines a hotel to include short-term rentals for HOT purposes; and

**WHEREAS**, pursuant to Texas Tax Code 351.003, a municipality may impose a HOT at any rate not to exceed seven percent (7%) of the price paid for a room in a hotel; and

**WHEREAS**, pursuant to Texas Tax Code 351.0025, a municipality with a population of less than 35,000 may impose its HOT in the municipality's extraterritorial jurisdiction; and

**WHEREAS**, the City is authorized specifically to collect delinquent HOT pursuant to Section 351.004 of the Texas Tax Code by the filing of an injunction suit or by other remedies provided by law or ordinance; and

**WHEREAS**, the City Council finds that the provisions adopted herein pertaining to the collection and enforcement of the HOT would benefit the tourism, convention, and hotel industry in the City, and finds it prudent and in the City's best interest and that of its citizens to adopt the Ordinance.

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

**Section 1. Incorporation of Recitals.** The above and foregoing recitals are true and correct and are incorporated herein and made a part hereof.

**Section 2. Findings.** After due deliberations and information and other materials received, the City Council has concluded that the adoption of this Ordinance is in the best interests of the City, and of the public health, safety, and welfare of its citizens.

**Section 3. Amendment to Chapter 18 "Taxation".** Chapter 18 "Taxation" of the City's Code of Ordinances is hereby amended to add Article 18.05 "Hotel Occupancy Tax" to read as provided in **Exhibit A**, attached hereto and incorporated herein for all purposes.

**Section 4. Savings/Repealing Clause.** All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict; but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the repeal prevent a prosecution from being commenced for any violation if occurring prior to the repeal of the ordinance. Any remaining portions of said ordinances shall remain in full force and effect.

**Section 5. Severability.** The provisions of this Ordinance are declared to be severable. If any section, sentence, clause or phrase of this 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 effect notwithstanding the validity of any part.

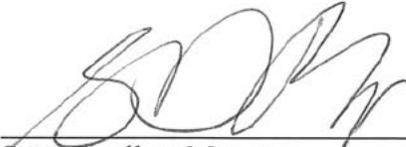
**Section 6. Penalty.** It shall be unlawful for any person, firm, corporation, or other business entity to violate any provision of this Ordinance, and any person, firm, corporation, or other business entity violating or failing to comply with any provision hereof shall be deemed guilty of a misdemeanor and upon conviction shall be subject to a fine in accordance with Section 1.01.009 of the City's Code of Ordinances.

**Section 7. Open Meeting.** It is hereby found and determined that the meeting at which this Ordinance was passed was open to the public as required by law, and that public notice of the time, place, and purpose of said meeting was given, all as required by Chapter 551, Texas Government Code.

**Section 8. Effective Date.** This Ordinance shall take effect immediately upon its adoption by the City Council and after publication as may be required by the Texas Local Government Code.

**PASSED, APPROVED, AND ADOPTED** by the City Council of the City of Murphy, Texas this the 20th day of February, 2024.



  
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Scott Bradley, Mayor  
City of Murphy

ATTEST:  
  
\_\_\_\_\_  
Kandi Jackson, City Secretary

## Exhibit A

### *ARTICLE 18.05. HOTEL OCCUPANCY TAX*

#### **Sec. 18.05.001. 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:

*Administrator* shall mean the City staff member responsible for administering and collecting the tax for the City described in this Article.

*Consideration* shall mean the cost of a room or space in a hotel 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* shall mean any building in which the public may, for consideration, obtain sleeping accommodations. The term shall include hotels, motels, tourist homes, lodging houses, cabins, inns, rooming houses, trailer houses, trailer motels, dormitories where bed space is rented, apartments not occupied by permanent resident, short-term rentals, and all other facilities where rooms or sleeping facilities or space are furnished for consideration. The term "hotel" does not include a residence or portion of a residence rented to a member of the resident's family or hospitals, sanitariums, or nursing homes.

*Occupancy* shall mean the use or possession, or the right to the use or possession, of any room in a hotel if the room is one ordinarily used for sleeping and if the occupant's use, possession, or right to use or possession extends for a period of less than thirty (30) days.

*Occupant* shall mean anyone who, for 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* shall mean a person who has the right to use or possess a room in a hotel for at least thirty (30) consecutive days, so long as there is no interruption of payment for the period.

*Short-term rental* shall mean the rental of all or part of a residential property to a person who is not a permanent resident.

#### **Sec. 18.05.002. Established and levied.**

There is hereby established and levied a tax upon the cost of occupancy of any room ordinarily used for sleeping and furnished by any hotel in the city or in the city's extraterritorial jurisdiction where such costs of occupancy is at the rate of two dollars (\$2.00) or more per day. Such tax is hereby levied at the rate of seven (7) percent of the consideration paid to the hotel by the occupant of the room, and shall be administered in accordance with Texas Tax Code Chapter 351, and this Ordinance. All persons, organizations, and entities specified for exemption in Texas Tax Code Chapter 351, as amended, are exempt from the payment of the tax imposed under this section.

**Sec. 18.05.003. Expenditure of revenues.**

The revenues derived from the hotel occupancy tax levied pursuant to this article shall be expended only for the purposes and in the manner authorized by Texas Tax Code Chapter 351, as it exists and or may be amended, as the city council may direct and authorize.

**Sec. 18.05.004. Collection of tax by hotel and payment to city.**

The tax levied pursuant to this Article upon hotel occupancy shall be collected by each person owning, operating, managing, or controlling any hotel within the City or within the City's extraterritorial jurisdiction upon collection by said person of the consideration paid by the occupant of the sleeping room. Such revenues shall be paid by the hotel to the City by the fifteenth (15th) day of the month following each monthly reporting period in which the tax is earned pursuant to section 18.05.007.

**Sec. 18.05.005. Records to be maintained by hotel.**

Every hotel within the City or within the City's extraterritorial jurisdiction shall keep and maintain an accurate record of the consideration and the hotel occupancy tax paid by the occupant of each sleeping room in the hotel, and any employee, agent, officer, or representative of the City shall be authorized to have access to the records maintained hereunder at all reasonable times.

**Sec. 18.05.006. Rules and regulations for implementation.**

- (a) The administrator shall have the power to make any rules and regulations necessary to effectively collect the tax. The administrator shall, upon giving reasonable notice, have access to all books and records necessary to determine the correctness of any report filed as required by this Article and the amount of taxes due under this Article.
- (b) Each hotel shall register with the administrator, in a form prescribed by the administrator. The administrator shall keep records of all hotels in the city. The hotel operator may be required to provide updated contact information on a regular basis.
- (c) Each hotel operator shall schedule an annual inspection by the building inspector of the interior and exterior of a hotel to determine compliance with state and local laws, including the Texas Health and Safety Code. A nonrefundable inspection fee shall be paid to the city by the hotel operator. If entry for a building inspector is refused by a hotel operator, the building inspector may seek a warrant permitting entry pursuant to Texas Code of Criminal Procedure art. 18.05, as the same may be amended from time-to-time.

**Sec. 18.05.007. Reporting requirements.**

- (a) On the 15th day of the month following each month in which a tax is earned, every person required by this Article to collect the tax shall file a report with the administrator showing:
  - (1) The consideration paid for all occupancies in the preceding month;
  - (2) The amount of the tax collected on the occupancies; and
  - (3) Any other information the administrator may reasonably require.

- (b) Every person required by this Article to collect the tax shall pay the tax due on all occupancies in the preceding month to the administrator at the time of filing the report required under subsection (a) of this Section.

**Sec. 18.05.008. Offenses and penalties.**

- (a) A person commits an offense if he:
  - (1) Fails to collect the tax;
  - (2) Fails to file a report as required by this Article;
  - (3) Fails to pay the administrator the tax when payment is due; or
  - (4) Files a false report.
- (b) An offense committed under subsection (a) of this Section is punishable by a fine as provided in section 1.01.009 of the Code of Ordinances.
- (c) In addition to any penalties imposed under subsection (b) of this section, a person failing to pay the tax to the administrator within the time required shall pay an additional ten (10) percent of the tax due as a penalty. An additional ten (10) percent of the tax due shall be paid thirty (30) days later if the tax is not paid. The penalty provided by this subsection may never be less than five dollars (\$5.00). Delinquent taxes shall draw interest at the rate provided in Texas Tax Code Chapter 351.

**Sec. 18.05.009. Civil action for collections authorized.**

In addition to any other remedies allowed by state law, the City attorney or other attorney acting for the City may bring suit against a person who is required to file a report required by Section 18.05.007, collect the tax imposed by this chapter and/or pay the collections over to the City if such person has failed to file a tax report, collect the tax and/or pay the tax when due in order to collect the tax not paid, obtain the reports or to enjoin the person from operating a hotel in the municipality until the tax is paid and/or the report filed, as applicable. In addition to the amount of any tax owed under this chapter, the person is liable to the City for the City's reasonable attorney's fees and a penalty equal to fifteen (15) percent of the total amount of the tax owed, pursuant to Texas Tax Code § 351.004.