

ORDINANCE NO. 250121-01

AN ORDINANCE OF THE CITY OF LEONARD, TEXAS AMENDING THE CITY OF LEONARD CODE OF ORDINANCES, CHAPTER 11 "TAXATION," ARTICLE 11.04 "HOTEL OCCUPANCY TAX," BY AMENDING SECTION 11.04.001 "DEFINITIONS," TO ADD ADDITIONAL DEFINITIONS; AND BY AMENDING SECTION 11.04.002 "LEVY; USE OF REVENUE," SUBSECTION (A), TO INCREASE THE TAX RATE TO SIX PERCENT (6%); AND BY REPEALING AND REPLACING SECTION 11.04.006 "VIOLATIONS; PENALTIES," TO COMPLY WITH TEXAS TAX CODE CHAPTER 351; PROVIDING FOR INCORPORATION; PROVIDING AMENDMENTS; PROVIDING FOR A MAXIMUM PENALTY NOT TO EXCEED FIVE HUNDRED DOLLARS (\$500); PROVIDING SEVERABILITY, SAVINGS AND REPEALER CLAUSES; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City of Leonard (the "City") is a Type A general law municipality located in Fannin County, Texas, created in accordance with the provisions of the Texas Local Government Code and operating pursuant to the enabling legislation of the State of Texas; and

WHEREAS, the City originally adopted a Hotel Occupancy Tax ordinance pursuant to Tax Code Chapter 156 levying a hotel occupancy tax of 2.00%; and

WHEREAS, the hotel market has changed with the advent of short-term rental listing services, such as Airbnb, VRBO, and others; and

WHEREAS, the City Council of the City of Leonard (the "City Council") desires to update the City's hotel occupancy tax ordinance to address these market changes and to increase the hotel occupancy tax rate; and

WHEREAS, Section 351.002(a) of the Texas Tax Code authorizes a city to impose a local hotel occupancy tax on certain hotel occupancies costing \$2 or more each day; and

WHEREAS, Section 351.003(a) of the Texas Tax Code allows for a maximum tax rate of seven percent (7%); and

WHEREAS, the City Council finds that it would be in the best interest of the City to increase the municipal hotel occupancy tax to six percent (6%) to promote tourism within the City; and

WHEREAS, the City Council hereby determines that the adoption of this Ordinance is in the best interest of the public at large and the citizens of the City, and the increase in the hotel occupancy tax rate will provide economic benefit to, and help promote tourism within, the City.

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

Section 1. Incorporation of Findings. The findings set forth above are incorporated as if fully set forth herein.

Section 2. Amendments. Chapter 11 “Taxation,” Article 11.04 “Hotel Occupancy Tax,” of the Code of Ordinances of the City of Leonard, Texas, is hereby amended as provided below. All other sections of Article 11.04 not expressly amended herein shall remain in full force and effect.

2.1 Section 11.04.001 “Definitions” is hereby amended by adding the following definitions in alphabetical order:

City The City of Leonard, Texas.

Hotel Operator. Any person owning, operating, managing, or controlling a Hotel in the City, including but not limited to the owner or proprietor of such premises, Short-Term Rental Listing Service, lessee, sub-lessee, lender in possession or any other person operating such hotel and who is subject to collecting and remitting the tax.

Short-term rental. 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.

Short-Term Rental Listing Service. 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 or tourists. 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.

2.2 Section 11.04.001 “Definitions” is hereby amended by repealing the definitions for “Consideration,” “Hotel,” and “Occupancy,” and replacing them with the following:

Consideration The cost of a room, bed space, or other facilities in a Hotel or short-term rental. Consideration shall not include the cost of food served or personal services rendered to the occupant not related to cleaning and readying such room

or space for occupancy, nor include any tax assessed for occupancy thereof by any other governmental agency.

Hotel Any building in which members of the public obtain sleeping accommodations for consideration. The term includes a hotel, motel, tourist home, tourist house, tourist court, lodging house, inn, rooming house, or bed and breakfast. The term does not include a hospital, sanitarium, or nursing home; a dormitory or other housing facility owned or leased and operated by an institution of higher education, used by the institution for the purpose of providing sleeping accommodations for persons engaged in an education program or activity at the institution; or an oilfield portable unit. The term includes a Short-Term Rental.

Occupancy The use or possession or the right to the use or possession of any room or rooms in a Hotel for any purpose, sleeping space, bed, or other facility in a short-term rental under any concession, permit, right of access, license, contract, or agreement.

2.3 Section 11.04.002 “Levy; use of revenue,” Subsection (a) is hereby repealed and replaced with the following:

- (a) There is hereby levied in the City and within the City’s extraterritorial jurisdiction a tax of six percent (6%) of the consideration paid by an occupant for a room or sleeping space occupancies in a Hotel which costs \$2.00 or more each day and is ordinarily used for sleeping.

2.4 Section 11.04.003 “Collection.” is hereby repealed in its entirety and replaced with the following:

§ 11.04.003 Registration and Collection.

- (a) Registration. Each Hotel Operator, excluding Short-Term Rental Listing Services, shall register as a hotel tax collector within thirty (30) days after commencing such business. Registration shall be made upon forms furnished by the City. Information supplied on the registration form shall be updated within thirty (30) days of any change or alteration thereof upon registration forms supplied by the City. Failure to register or update registration shall result in penalties as provided in this ordinance.
- (b) Collection. Every person owning, operating, managing, or controlling any hotel in the city shall collect the tax imposed in section 11.04.002(a) for the municipality.

2.5 Section 11.04.006 “Violations; penalties.” is hereby repealed in its entirety and replaced with the following:

§ 11.04.006 **Failure to collect tax; penalties.**

- (a) The City may bring suit against a person who is required to collect the tax imposed by this chapter and pay the collections over to the municipality, 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 in the municipality until the tax is paid or the report filed, as applicable, as provided by a court order. In addition to the amount of any tax owed under this chapter, the person is liable to the municipality for:
 - (1) The municipality's reasonable attorney's fees;
 - (2) The costs of an audit pursuant to Texas Tax Code Section 351.004(a-1), as determined by the municipality using a reasonable rate, but only if:
 - A. The tax has been delinquent for at least two complete municipal fiscal quarters at the time the audit is conducted; and
 - B. The municipality has not received a disbursement from the comptroller as related to the person's concurrent state tax delinquency; and
 - (3) A penalty equal to 15 percent (15%) of the total amount of the tax owed if the tax has been delinquent for at least one complete municipal fiscal quarter; and
 - (4) Interest on the unpaid amount from the first day after the date due until the tax is paid.
- (b) If any Hotel Operator did not file a tax report for that reporting period in relation to that Hotel, the municipality may estimate the amount of tax due by using the tax reports in relation to that Hotel filed during the previous calendar year under this chapter. An estimate made under this subsection is prima facie evidence of the amount of tax due for that period in relation to that Hotel.
- (c) The authority to conduct an audit under this section is in addition to any other audit authority provided by statute, charter, or ordinance. A municipality may directly perform an audit authorized by this section or contract with another person to perform the audit on an hourly rate or fixed-fee basis. A municipality shall provide at least 30 days' written notice to a person who is required to collect the tax imposed by this chapter with respect to a Hotel before conducting an audit of the Hotel under this section.
- (d) A municipality must bring suit under this section not later than the fourth anniversary of the date the tax becomes due, unless:
 - (1) With intent to evade the tax, the person files a false or fraudulent report with the municipality; or
 - (2) The person has not filed a report for the tax with the municipality.
- (e) If any Hotel Operator fails to collect the tax as provided herein, fails to file a report as required herein, or fails to tax as imposed in this article, when such report or payment is due, or shall file a false report, then such person or entity shall be deemed guilty of a misdemeanor and, upon conviction, shall be punished by a fine not to exceed \$500.00.

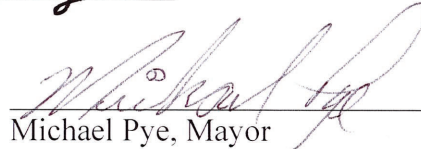
- (f) In addition to penalties provided by this section, the City may pursue other civil legal action against a Hotel Operator who fails to comply with this article through any means authorized by Chapter 351 of the Texas Tax Code.”

Section 3. Severability Clause. Should any section, subsection, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. The City hereby declares that it would have passed this Ordinance, and each section, subsection, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences clauses and phrases be declared unconstitutional or invalid.

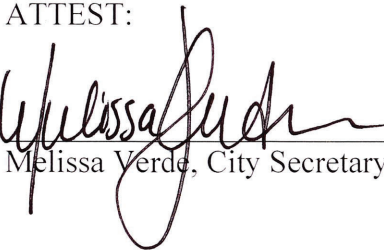
Section 4. Savings/Repealer Clause. All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict; but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the repeal prevent a prosecution from 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. Effective Date. This Ordinance shall become effective upon adoption and after publication as required by the Texas Local Government Code.


DULY PASSED, APPROVED AND ADOPTED by the City Council of the City of Leonard, Texas, on this the 21st day of January 2025.


Michael Pye, Mayor

ATTEST:


Melissa Verde, City Secretary

APPROVED AS TO FORM:


Zinzi Bonilla, City Attorney

