

**ORDINANCE NO. 5079**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DENISON, TEXAS, AMENDING CHAPTER 24 “TAXATION”, ARTICLE III “HOTEL OCCUPANCY TAX”, SECTION 24-46, “DEFINITIONS”, SECTION 24-47, “ESTABLISHED AND LEVIED”, SECTION 24-49, “COLLECTION OF TAX BY HOTEL AND PAYMENT TO CITY”, AND SECTION 24-50 “RECORDS TO BE MAINTAINED BY HOTEL”, OF THE CODE OF ORDINANCES OF THE CITY OF DENISON, TEXAS, AS AMENDED; PROVIDING A PENALTY; PROVIDING REPEALING, SAVINGS, AND SEVERABILITY CLAUSES; FINDING AND DETERMINING THE MEETING AT WHICH THIS ORDINANCE IS ADOPTED WAS OPEN TO THE PUBLIC AS REQUIRED BY LAW; PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE.**

**WHEREAS**, the City of Denison, Texas (the “City”) is a home rule municipality pursuant to Article II, Section 5 of the Texas Constitution, Section 9.001 et seq, Texas Local Government Code, and its Home Rule Charter; and

**WHEREAS**, the City is authorized by Chapter 351 of the Texas Tax Code to impose a tax for occupancy of a hotel room as outlined therein; and

**WHEREAS**, the City has imposed and levied such a hotel occupancy tax (the “HOT”), as set forth in Article III, Chapter 24 of the City’s Code of Ordinances; and

**WHEREAS**, the City, which has a population of less than 35,000, is authorized by Section 351.0025 to impose the HOT in the City’s extraterritorial jurisdiction; and

**WHEREAS**, the City Council of the City of Denison, Texas (“City Council”) finds that the provisions of Article III, Chapter 24 of the Code of Ordinances pertaining to the enforcement and collection within the City’s extraterritorial jurisdiction need to be clarified and updated; and

**WHEREAS**, the City Council finds it prudent and in the City’s best interest to amend Chapter 24, Article III of the Denison Code of Ordinances as set forth below.

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

**Section 1. Findings incorporated.** The findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein.

**Section 2. Amendments.**

**2.01.** Chapter 24, “Taxation”, Article III, Section 24-46, “Definitions”, is hereby amended by replacing the definition of “Hotel” and adding the definition of “Short-term rental”, each to read entirely as follows:



*Hotel* shall mean any building in which the public may, for a 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, hospitals, sanitariums, or nursing homes.

*Short-term rental* shall mean consideration for occupancy of all or part of a residential structure/ residential property, whether or not permanently occupied by others.

**2.02.** Chapter 24, “Taxation”, Article III, Section 24-47, “Established and levied.” is hereby amended as follows (with additions being reflected as underscored text):

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. 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.

**2.03.** Chapter 24, “Taxation”, Article III, Section 24-49, “Collection of tax by hotel and payment to city.” is hereby amended as follows (with additions being reflected as underscored text):

The tax levied pursuant to this article upon hotel occupancy shall be collected by each hotel within the city or within the city’s extraterritorial jurisdiction upon collection by said hotel of the consideration paid by the occupant of the sleeping room. Such revenues shall be paid by the hotel to the city through its finance office by the fifteenth (15<sup>th</sup>) day of the month following each monthly reporting period in which the tax is earned pursuant to section 24-52.

**2.04.** Chapter 24, “Taxation”, Article III, Section 24-50, “Records to be maintained by hotel.” is hereby amended as follows (with additions being reflected as underscored text):

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.

**Section 3. Penalty.** Any person, firm or corporation violating any of the provisions or terms of this Ordinance shall be guilty of a misdemeanor and upon conviction shall be subjected to a fine not to exceed the sum of Five Hundred Dollars (\$500.00) for each offense, and each and every day such violation is continued shall be deemed to constitute a separate offense. In addition, such person, firm, or corporation who fails to remit the hotel occupancy tax imposed by this Ordinance within the time required shall be subject to the collection procedures and penalties authorized by Chapter 351 and other relevant provisions of the Texas Tax Code, as it exists or may be amended, and as adopted by the City of Denison in Sections 24-53 and 24-54. Furthermore, delinquent hotel occupancy taxes shall also draw interest at the rate of ten percent (10%) per annum beginning thirty (30) days from the date due.



**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 Clause.** Should any section, subsection, sentence, clause, 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. Denison 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 6: Open Meeting.** That 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 Section 551.041 of the Texas Government Code.

**Section 7. Effective Date.** This Ordinance shall become effective immediately upon its adoption and its publication as required by law.

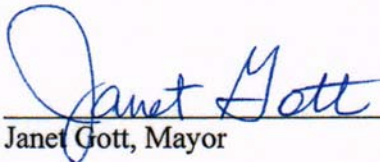
On motion by Council Member Greenleaf, seconded by Council Member Crawley, the above and foregoing ordinance was passed and approved on this the 5<sup>th</sup> day of October, 2020 by the following vote:

Ayes: Mayor Janet Gott; Mayor Pro Tem JC Doty; Council Members Brian Hander, Teresa Adams, Obie Greenleaf; Robert Crawley and Kristofor Spiegel

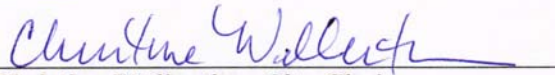
Nays:

Abstentions:

At regular meeting, October 5, 2020.

  
Janet Gott, Mayor

ATTEST:

  
Christine Wallentine, City Clerk

