

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SHOREACRES, TEXAS, AUTHORIZING THE CITY COUNCIL TO CREATE ARTICLE IV – “HOTEL OCCUPANCY TAX” UNDER CHAPTER 58 – TAXATION OF THE CODE OF ORDINANCES OF THE CITY OF SHOREACRES, TEXAS; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY AND AN EFFECTIVE DATE.**

WHEREAS, currently there is no Hotel Occupancy Tax under Chapter 58 – Taxation in the City of Shoreacres Code of Ordinances; and

WHEREAS, Chapter 351 of the Texas Tax Code authorizes communities to collect a Hotel Occupancy Tax (HOT) and use these funds to promote tourism and the hotel industry; and

WHEREAS, the Council recognizes the importance of attracting visitors to support the hotel industry in the City; and

WHEREAS, the Council recognizes that tourism stimulates commercial activity and supports existing businesses in the City.

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

Article IV entitled “Hotel Occupancy Tax” of Chapter 58 entitled “Taxation,” of the Code of Ordinances, City of Shoreacres, Texas, is hereby added to read as follows:

**CHAPTER 58 – TAXATION**

**ARTICLE IV – HOTEL OCCUPANCY TAX**

**Section 1.1. Definitions.**

The following words, terms, and phrases, for the purpose of this Ordinance, except where the context clearly indicated another meaning, are respectively defined as follows:

*Consideration* means the cost of a room in a hotel and does not include:

- 1) The cost of any food served, or personal services rendered to the occupant not related to cleaning and readying the room or space for occupancy; or
- 2) Any tax assessed by any other governmental agency for occupancy of the room.

*Director* means the chief financial officer of the town or the designated representative.

*Hotel* means 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, short term rental structure, or bed and breakfast. 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 the Texas Education Code, § 61.003, as amended, that is used by the institution for the purpose of providing sleeping accommodations for persons engaged in educational program or activity at the institution; or
- 3) an oilfield portable unit, as defined by Texas Tax Code, Section 152.001.

*Occupancy* means the use or possession, or the right to the use or possession, of any room in a hotel. Further defined as room or rooms, sleeping space, bed or other facility in a hotel for any purpose.

*Occupant* means any person who, for a consideration, uses, possesses or has the right to use or possess any room in a hotel under any lease, concession, permit, right of access, license, contract or agreement.

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

*Quarterly Period* means the regular calendar quarters of the year, the first quarter being composed of the months of January, February, and March; the second quarter being the months of April, May, and June; the third quarter being the months of July, August, and September; and the fourth quarter being the months of October, November, and December.

*Short Term Rental (STR) Business* means any location where you provide sleeping accommodations for consideration. This includes the operation of VRBO, HomeAway, and Airbnb's.

*Tax* means the hotel occupancy tax levied in this section pursuant to chapter 351 of the Texas Tax Code, as amended.

*Tourist* means an individual who travels from the individual's residence to a different municipality, county, state, or country for pleasure, recreation, education, or culture.

### **Section 1.2. Tax levied; amount.**

There is hereby levied within the corporate limits of the City a tax upon the cost of occupancy of any room furnished by any hotel where such cost of occupancy is at the rate of two dollars (\$2.00) or more per day. The rate of the tax shall be seven percent (7%) of the price paid by the occupant of such room to such hotel.

### **Section 1.3. Collection of tax generally.**

- a) A person who owns, operates, manages, or controls a hotel and/or short-term rental (STR) or collects payment for the use or possession or for the right to the use or possession of a hotel room and/or STR shall collect the tax levied by this Ordinance for the City.

- b) A person who collects the tax shall deposit the tax proceeds into a separate liability account and may not use the tax proceeds for any purpose other than payment to the City.
- c) The hotel and/or short-term rental (STR) operator shall be entitled to one percent (1%) of the hotel occupancy tax revenues collected as reimbursement for the operator's administrative costs for collecting the tax. However, as further described in this Ordinance, this reimbursement may be forfeited at the discretion of the City if the hotel and/or short-term rental (STR) operator fails to timely pay over the tax or timely file a report as required by the City or files a false report with the City.

**Section 1.4. Quarterly reports by operators.**

On the last day of the month following each quarterly period, every person required to collect the tax imposed by this Ordinance shall file a report with the Assessor-collector of taxes showing the price paid for all room occupancies in the preceding quarter, the amount of the tax collected on such occupancies, and any other information the assessor-collector may reasonably require. Such person shall pay the tax due on such occupancies at the time of filing such report. The report shall be in a form prescribed by the assessor-collector. The assessor-collector is hereby authorized and directed to do all things necessary or convenient to carry out the terms of this Ordinance.

**Section 1.5. Authority of tax assessor-collector to prescribe additional regulations; access to books and records.**

The assessor-collector shall have the power to make such rules and regulations as are reasonable and necessary to effectively collect the tax levied by this Ordinance, and shall upon reasonable notice have access to books and records necessary to enable him to determine the correctness of any report filed as required by this Ordinance, and the amount of taxes due under the provisions of this Ordinance.

**Section 1.6. Penalties for delinquent reports and payments.**

If any person shall fail to file a report as required in this Ordinance or shall fail to pay to the tax assessor-collector the tax imposed in this Ordinance when the report or payment is due, he shall forfeit five percent (5%) of the amount due as a penalty, and after the first thirty (30) days he shall forfeit an additional five percent (5%) of such tax; provided, however, that such penalty shall never be less than one dollar (\$1.00). Delinquent taxes shall draw interest at the rate of twelve percent (12%) per annum beginning sixty (60) days from the date due.

**Section 1.7. Use of revenue.**

The revenue derived from the hotel occupancy tax shall be used in accordance with V.T.C.A. Tax Code §351.101.

**Section 1.8. Enforcement; additional penalty.**

The City Attorney is hereby authorized to bring suit against any person required to collect the tax imposed by this Ordinance and pay the collection over to the City and who has failed to file a report or pay the tax when due. Such suit may seek to enjoin such person from operating a

hotel in the City until the tax is paid or the report is filed, or both, as applicable, and as provided in the injunction. In addition to the amount of any tax owed under this Ordinance, the person is liable to the City for the City's reasonable attorney's fees and a penalty equal to fifteen percent (15%) of the total amount of the tax owed.

**Section 1.9. Severability.**

Should any section, subsection, sentence, clause or phrase of this Ordinance be declared unconstitutional and/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 of Shoreacres hereby declares that it would have passed this Ordinance, and each section, subsection, sentence, clause and phrase thereof regardless of whether any one or more sections, subsections, sentences, clauses and/or phrases may be declared unconstitutional and/or invalid.

**Section 1.10. Effective date.**

This Ordinance shall become effective from and after its adoption.

PASSED AND APPROVED this the \_\_\_\_ day of \_\_\_\_\_, 2022.

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DAVID JENNINGS, Mayor  
City of Shoreacres, Texas

ATTEST:

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Karen Mericle, City Secretary