

ORDINANCE NO 3820

AN ORDINANCE REVISING CERTAIN PROVISIONS OF ORDINANCE NO. 3157 LEVYING AND ASSESSING A SALES TAX OF FIVE PERCENT (5%) IN ADDITION TO PRESENT SALES TAXES UPON THE GROSS PROCEEDS OR GROSS RECEIPTS DERIVED FROM RENTS RECEIVED FROM OCCUPANCY OF SHORT-TERM RENTAL FACILITIES; PROVIDING FOR USE OF TAX FUNDS; PROVIDING FOR SUBSISTING STATE TAX PERMITS; PROVIDING EXEMPTIONS; PROVIDING FOR CERTIFICATES OF EXEMPTIONS; PROVIDING FOR TAX TO BE SEPARATELY DESIGNATED ON BILLING; PROVIDING FOR THE ADMINISTRATION AND COLLECTION OF TAX; REQUIRING THE FILING OF RETURNS; PROVIDING FOR INTEREST AND PENALTIES FOR FAILURE TO PAY TAX WHEN DUE; PROVIDING FOR TAXPAYER TO KEEP RECORDS; REQUIRING OPERATORS TO COLLECT THE TAX; PROVIDING FOR DISCOUNT; AUTHORIZING THE CITY COUNCIL TO MAKE ADMINISTRATION AND TECHNICAL CHANGES AND ADDITIONS, EXCEPT TAX RATES; MAKING THE TAX CUMULATIVE; PROVIDING SEVERABILITY OF PROVISIONS; PROVIDING FOR PAYMENT OF TAX; REQUIRING BONDS; PROVIDING FOR ASSESSMENT AND DETERMINATION OF TAX; PROVIDING FOR REFUNDS; PROVIDING FOR NOTICES; PROVIDING FOR REMEDIES; PROVIDING GENERAL POWERS FOR THE TREASURER; REQUIRING CERTIFICATES OF REGISTRATION; PROVIDING FOR ADMINISTRATIVE FEES; MAKING RECORDS CONFIDENTIAL; PROVIDING PENALTY FOR FRAUDULENT RETURNS; PROVIDING FOR PAYMENT OF LEGAL FEES; REQUIRING APPROVAL OF ORDINANCE BY MAJORITY OF REGISTERED VOTERS VOTING AT AN ELECTION HELD FOR SUCH PURPOSE AS PROVIDED BY LAW; FIXING EFFECTIVE DATES; AND PROVIDING FOR SEVERABILITY.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VINITA, OKLAHOMA.

SECTION 1: WHEREAS, the City Council has considered a short-term rental facilities tax Ordinance.

NOW, THEREFORE, the City of Vinita Short-Term Rental Facilities Tax Ordinance of 2023 is adopted as follows:

SECTION 7-50. Citation and Codification.

This ordinance shall be known and cited as the City of Vinita Short-Term Rental Facilities Tax Ordinance of 2023, and is hereinafter referred to as "Ordinance".

SECTION 7-51. Subsisting State Permits.

All valid and subsisting permits to do business by the Oklahoma Tax Commission pursuant to the Oklahoma Sales Tax Code are, for the purposes of this Ordinance, hereby ratified, confirmed, and adopted in lieu of any requirement for an additional city permit for the same purpose.

SECTION 7-52. Effective Date and Termination.

This Ordinance as originally enacted became effective as of November 1, 2001, after being approved by the registered voters of the City of Vinita, Oklahoma, at a municipal election held on the 25th day of September, 2001, held in the manner prescribed by law: following which the same has remained in effect and shall not be repealed unless repealed by a majority of the registered voters of the City of Vinita, Oklahoma, voting to repeal same in the manner as required by its approval, although subject to periodic revisions as deemed necessary by the City Council for the City of Vinita in the manner for such revisions according to law.

SECTION 7-53 Definitions.

(a) Treasurer shall mean the Treasurer of the City of Vinita.

(b) Short-Term Rental Facilities shall mean any building or buildings, structures, trailers, or other facilities of any kind or nature, in which the public may, for consideration, obtain sleeping accommodations in which one or more rooms are for the accommodation of such guests (regardless of whether such room(s) are in one or several buildings, structures, trailers, or facilities). The term shall include hotels, apartment hotels, motels, tourist homes, houses or courts of any kind or nature, lodging houses, bed and breakfast inns, inns, rooming houses, corporate lodgings, trailer houses, trailer motels, apartments of any kind or nature, cabins, recreational vehicles, motorhomes, travel trailers, trailers, dormitory space where bed space is rented to individuals or groups, and sleeping rooms not occupied by "permanent residents," and all other facilities where rooms or sleeping accommodations or space are furnished for consideration. The term shall not include hospitals, sanitariums, nursing homes, assisted living centers, or senior care facilities.

(c) Occupancy shall mean the use or possession, or the right to use or possess any room or rooms in a facility or the right to the use or possession of the furnishings, or to the services and accommodations accompanying the use and possession of the room or rooms.

(d) Occupant shall mean a person who for a consideration uses, possesses, or has the right to use or possess any room or rooms in a facility under any lease, concession, permit, right of access, license to use, or other agreement.

(e) Operator shall mean any person operating a facility in this city, including but not limited to, the owner, proprietor, lessee, sublessee, mortgagee in possession, licensee, or any other person otherwise operating such facility.

(f) Permanent Resident shall mean an individual who has resided in a room in a hotel for not less than 30 consecutive days, with permanent residence to end when any break in such residency occurs.

(g) Person shall mean any individual, corporation, company, partnership, voluntary association, firm, club, society, organization, or any other entity of whatever kind or nature.

(h) Rent shall mean the consideration received for occupancy valued in money, whether received in money or otherwise, including all receipts, cash, credits, and property or services of any kind or nature, and also any amount for which credit is allowed by the operator to the occupant, without any deduction therefrom whatsoever.

(i) Return shall mean any return filed or required to be filed as herein provided.

(j) Room shall mean any room or rooms of any kind in any part or portion of a facility that is available for or let out for use or possession for any purpose other than a place of assembly. As used herein, "place of assembly" means a room or space which is not capable of being occupied for lodging purposes and which is used for educational, recreational, or amusement purposes and shall include: dance halls; cabarets; night clubs; restaurants; any room or space for public or private banquets, feasts, socials, card parties, or weddings; lodge and meeting halls or rooms; skating rinks; gymnasiums; swimming pools; billiards; bowling, and table tennis rooms; halls or rooms used for public or private catering purposes; funeral parlors; markets; recreational rooms; concert halls broadcasting studios; and all other places of similar type of occupancy.

(k) Tax shall mean the tax levied pursuant to this Ordinance.

SECTION 7-54 Use of Funds.

Funds collected pursuant to the provisions of this article shall be set aside and used exclusively for one or more of the following purposes:

1. Encouraging, promoting, and fostering conventions, conferences, and tourism development and meetings in the City of Vinita.

2. Solicitation of visitor attractions, events, tourism, conferences, conventions, and meetings in the City of Vinita.

SECTION 7-55 Tax Levied.

There is hereby levied an excise tax of five percent (5%) of the gross rental receipts derived from all sales taxable under the Oklahoma Sales Tax Code upon the service of furnishing rooms by short-term rental facilities within the City of Vinita, Oklahoma, except that the tax shall not be assessed where the rent is less than \$5.00 per day. This excise tax shall be in addition to any existing sales taxes imposed by the City of Vinita or the State of Oklahoma.

SECTION 7-56 Exemptions.

Officers, agents, representatives, or employees of any government, corporation, organization, or association that is legally exempted from Oklahoma Sales Taxation or City of Vinita Sales Taxation and whose occupancy of the room is required in connection with the official business or affairs of said government, corporation, organization, or association, shall be exempt from the tax levied by this article.

SECTION 7-57 Proof of Exemption Required.

Any person claiming to be exempt from the tax pursuant to Section 7-407 shall display proof of exemption and a tax identification number certifying that the corporation, organization, or association with which he is affiliated is exempt from the tax.

SECTION 7-58 Tax to be Designated.

The operator shall separately designate, charge, and show all taxes on all bills, statements, receipts, or any other evidence of charges or payment of rent for occupancy issued or delivered by the operator.

SECTION 7-59 Operator Responsibility for Collection.

The operator shall be responsible for the collection of the tax from the occupant and shall be liable to the City for the tax.

SECTION 7-60 Discount.

In order to compensate an operator for keeping tax records, filing reports, and remitting the tax when due, a discount equal to that allowed by the Oklahoma Tax Commission for the collection of sales taxes shall be allowed upon all taxes paid prior to the time they become delinquent.

SECTION 7-61 Records.

It shall be the duty of every operator required to make a return and pay any tax under this article to keep and preserve suitable records of the gross daily rentals together with other pertinent records and documents which may be necessary to determine the

amount of tax due hereunder and such other records as will substantiate and prove the accuracy of such returns. All records shall remain in the City and be preserved for a period of three (3) years, unless the Treasurer, in writing, has authorized their destruction or disposal at an earlier date, and shall be open to examination at any time by the Treasurer or by any of his duly authorized agents. The burden of proving that a sale was not a taxable sale shall be upon the operator who makes the sale.

SECTION 7-62 Returns.

(a) The tax levied hereunder shall be due and payable to the Treasurer on the first day of each month, except as herein provided, by any person liable for the payment of any tax due under this article. For the purpose of ascertaining the amount of the tax payable under this article, it shall be the duty of all operators, on or before the 15th day of each month, to deliver to the Treasurer, upon forms prescribed and furnished by him, returns, under oath, showing the gross receipts or gross proceeds arising from rents received from occupancy of short-term rental facilities during the preceding calendar month. Such returns shall show such further information as the Treasurer may require to correctly compute and collect the tax herein levied. In addition to the information required on returns, the Treasurer may request and the operator shall furnish any information deemed necessary for a correct computation of the tax levied herein. Such operator shall compute and remit to the Treasurer the required tax due for the preceding calendar month. The remittance or remittances of the tax shall accompany the returns herein required. If not paid on or before the 15th day of such month, the tax shall be delinquent after such date; provided, that no interest or penalty shall be charged on such return filed on or before the 20th day of such month.

(b) The Treasurer may permit or require returns to be made by shorter or longer periods and upon such dates as he may specify. The form of return shall be prescribed by the Treasurer and shall contain such information as he may deem necessary for the proper administration of this article. The Treasurer may require amended returns to be filed within twenty (20) days after notice, which amended return shall contain the information specified in the notice.

SECTION 7-63 Payment of Tax.

At the time of filing a return of occupancy and of rents, each operator shall pay to the Treasurer the tax imposed by this article upon the rents included in such return, as well as all other monies collected by the operator acting or purporting to act under the provisions of this article.

SECTION 7-64 Bond Required.

Where the Treasurer believes that any operator is about to cease business, leave the State, or remove or dissipate assets, or for any other similar reason he deems it necessary in order to protect revenues under this article, he may require such operator to file with the City a bond issued by a surety company authorized to transact business in

this State in such amount as the Treasurer may fix to secure the payment of any tax or penalties and interest due, or which may become due, from such operator. In the event that the Treasurer determines that an operator is to file such bond, he shall give notice to such operator specifying the amount of bond required, which shall in no event exceed twice the amount of the sum in controversy. The operator shall file such bond within five (5) days after receiving such notice unless within such five (5) days the operator shall request in writing a hearing before the City Council at which time the necessity and amount of the bond shall be determined by the City Council. Such determination shall be final and shall be complied with within fifteen (15) days thereafter. In lieu of such bond, securities approved by the Treasurer or cash in such amount as he may prescribe may be deposited with the Treasurer, who may at any time after five (5) days' notice to the depositor apply them to any tax and/or penalties due, and for that purpose, the securities may be sold at private or public sale.

SECTION 7-65 Assessment and Determination of Tax

If a return required by this article is not filed, or if a return when filed is incorrect or insufficient, the amount of tax due shall be assessed by the Treasurer from such information as may be obtainable and, if necessary, the tax may be estimated on the basis of external indices, such as number of rooms, location, the scale of rents, comparable rents, types of accommodations and services, number of employees, or other factors. Written notice of such assessments shall be given to the person liable for the collection and payment of the tax. Such assessment shall finally and irrevocably fix and determine the tax unless the person against whom it is assessed, within ninety (90) days after the giving of notice of such assessment, shall apply in writing to the City Council for a hearing or unless the Treasurer upon his own initiative shall reassess the same. After such hearing the City Council shall give written notice of its determination to the person against whom the tax is assessed and such determination shall be final.

SECTION 7-66 Refunds.

(a) Procedure. The Treasurer shall refund or credit any tax erroneously, illegally, or unconstitutionally collected if a written application to the Treasurer for such refund shall be made within ninety (90) days from the date of payment thereof. For like causes and in the same period, a refund may be made upon the initiative and the order of the Treasurer. Whenever a refund is made, the reasons therefore shall be stated in writing. Such application may be made by the person upon whom such tax was imposed and who has actually paid the tax. Such application may also be made by the person who has collected and paid such tax to the Treasurer provided that the application is made within ninety (90) days of the payment by the occupant to the operator, but no refund of money shall be made to the operator until he has repaid the occupant the amount for which the application for refund is made. The Treasurer, in lieu of any refund required to be made, may allow credit therefor on payments due from the applicant.

(b) Determination and Hearing. Upon application for a refund, the Treasurer may receive evidence with respect thereto, and make such investigation as he deems necessary. After making a determination as to the refund, the Treasurer shall give notice thereof to the applicant. Such determination shall be final unless the applicant, within ninety (90) days after such notice, shall apply in writing to the City Council for a hearing. After such a hearing, the City Council shall give written notice of its decision to the applicant.

SECTION 7-67 Notices.

Any notice provided for under this article shall be deemed to have been given when such notice has been delivered personally to the operator or deposited in the United States Mail addressed to the last-known address of the operator.

SECTION 7-68 Remedies Exclusive.

The remedies provided in this article shall be exclusive remedies available to any person for the review of tax liability imposed by the article.

SECTION 7-69 Treasurer Powers.

In addition to all other powers granted to the Treasurer, he is hereby authorized and empowered:

(a) To make, adopt, and amend rules and regulations appropriate to the collection of taxes pursuant to this article;

(b) To extend for cause shown the time for filing any return for a period not exceeding sixty (60) days; and, for cause shown, to waive, remit, or reduce penalties or interest;

(c) To delegate his functions hereunder to an assistant or other employee or employees of the City;

(d) To assess, reassess, determine, revise, and readjust the taxes imposed by this article;

(e) To prescribe methods for determining the taxable and non-taxable rents.

SECTION 7-70 Registration Certificates – Certificates of Authority.

Every operator shall file with the Treasurer a Registration Certificate in a form prescribed by said Treasurer within ten (10) days after the effective date of this article or, in the case of operators commencing business or opening new short-term rental facilities after such effective date, within three (3) days after such commencement or opening. The Treasurer shall, within five (5) days after the filing of such certificate, issue without charge to each operator a Certificate of Authority empowering such operator to collect the tax from the occupant and duplicates thereof for each additional short-term rental

facility. Each certificate of duplicate shall state the short-term rental facility to which it is applicable. Such Certificates of Authority shall be permanently displayed by the operator in such a manner that it may be seen and come to the notice of all occupants and persons seeking occupancy. Such certificates shall be non-assignable and non-transferable and shall be surrendered immediately to the Treasurer upon the cessation of business at the short-term rental facility, or upon its sale or transfer.

SECTION 7-71 Administration.

One percent (1%) of the gross receipts derived from taxes collected pursuant to this article shall be retained by the Office of the Treasurer for the purpose of administering and collecting the tax.

SECTION 7-72 Interest.

If any tax levied by this article becomes delinquent, the person responsible and liable for such tax shall pay interest on such unpaid tax at the rate of one and one-half percent (1.5%) per month on the unpaid balance from the date of delinquency until said unpaid balance is paid in full.

SECTION 7-73 Records Confidential.

The confidential and privileged nature of the records and files concerning the administration of tax is legislatively recognized and declared; and to protect the same, the provision of 68 O.S. (1981) §205 of the State Sales Tax Code, and each subsection thereof, are hereby adopted by reference and made fully effective and applicable to the administration of this article as if herein set forth.

SECTION 7-74 Fraudulent Returns.

The willful failure or refusal of any operator to make reports and remittances herein required or the making of any false or fraudulent report for the purpose of avoiding or escaping payment of tax or a portion thereof rightfully due under this article shall be an offense against the City of Vinita, punishable upon conviction by a fine of not more than Two Hundred Dollars (\$200.00) per day. Each day of such failure or refusal shall constitute a separate offense.

SECTION 7-75 Amendments.

The people of Vinita, by their approval of this Ordinance at the election herein provided, hereby authorize the City Council, by ordinance duly enacted, to make such administrative and technical changes or additions in the method and manner of administering and enforcing this article as may be necessary or proper for efficiency and fairness, except that the rate of the tax herein provided shall not be changed without approval of the qualified voters of the City as provided by law.

SECTION 7-76 Provisions Cumulative.

The provisions hereof shall be cumulative and in addition to any and all other taxing provisions of City ordinances.

SECTION 7-77 Provisions Severable.

The provisions hereof are hereby declared to be severable, and if any section, paragraph, sentence, or clause of this Ordinance is for any reason held invalid or inoperative by any court of competent jurisdiction, such decision shall not affect any other section, paragraph, sentence, or clause hereof.

SECTION 7-78 Payment of Legal Fees.

In the event, a suit in a court of competent jurisdiction is caused to be filed, either on behalf of or against the City of Vinita, and said cause is the direct result of the conditions, stipulations, or requirements hereinbefore set forth, any amount necessary to pay all legal fees incurred by the City, as well as fines or penalties imposed against it, shall be set aside from the monies authorized to be collected hereby in payment thereof, regardless of whether said cause was for the purpose of enforcing or defending the provision of this Ordinance.

SECTION 11: If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions of this Ordinance.

Emergency Ordinance: That for the preservation of public health, peace, and safety of the citizens of the City of Vinita, Oklahoma, an emergency is hereby declared to exist, by reason whereof its passage, this Ordinance shall be in full force and effect from and after its passage, approved and publication.

PASSED AND APPROVED by the City Council of the City of Vinita, Oklahoma, with the Emergency Clause being approved and voted on separately, on this 5th day of September, 2023.

City of Vinita, Oklahoma


JOSH D. LEE, MAYOR

ATTEST:



Brian K Prince
BRIAN PRINCE, CITY CLERK

Approved as to form:

Leonard M. Logan IV
LEONARD M. LOGAN IV, CITY
ATTORNEY