ORDINANCE

AN ORDINANCE AMENDING ARTICLE II, "HOTEL OCCUPANCY TAX," OF CHAPTER 74, "TAXATION," OF THE CODE OF ORDINANCES, CITY OF BURLESON, TEXAS BY AMENDING SECTION 74-31, "DEFINITIONS," TO AMEND THE DEFINITION FOR HOTEL AND ADD DEFINITIONS FOR OWNER, SHORT-TERM RENTAL, AND TAX ASSESSOR-COLLECTOR, BY AMENDING SECTION 74-33, "COLLECTION," TO REQUIRE REMMITTANCE, BY AMENDING SECTION 74-34, "REPORTS," TO ALLOW THE CITY MANAGER TO REQUEST ADDITIONAL DOCUMENTATION FOR REPORTS, BY AMENDING SECTION 74-37, "PENALTIES FOR VIOLATION OF THIS ARTICLE," TO SPECIFY ADDITIONAL REMEDIES ARE AVAILABLE, AND IMPOSING INTEREST AND PENALITIES FOR LATE PAYMENTS, BY ADDING SECTION 74-38, "CRIMINAL PENALTY," MAKING IT A MISDEMEANOR OFFENSE TO VIOLATE THE PROVISIONS OF THIS ARTICLE PUNISHABLE UPON CONVICTION BY A FINE NOT TO EXCEED FIVE HUNDRED DOLLARS; BY ADDING SECTION 74-39, "DISPOSITION OF TAX COLLECTION AND USES," SPECIFYING THE CITY'S HANDLING AND USE OF TAX MONIES RECEIVED, BY ADDING SECTION 74-40, "CITY RECORDS OF TAX COLLECTION AND USES," REQUIRING THE CITY MAINTAIN BOOKS AND ACCOUNTS, AND BY ADDING SECTION 74-41, "COLLECTION PROCEDURES ON PURCHASE OF HOTEL," REQUIRING THE PURCHASER OF A HOTEL TO WITHHOLD AN AMOUNT OF THE PURCHASE TO PAY THE TAX DUE AND BE LIABLE FOR SUCH AN AMOUNT UNTIL THE SELLER PROVIDES ARE RECEIPT FROM THE CITY; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY FOR VIOLATIONS HEREOF; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Burleson, Texas ("City") is a home rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Texas Local Government Code; and

WHEREAS, Section 351.002 of the Texas Tax Code provides for the imposition and collection of a local municipal occupancy tax on a person using a hotel, as that term is defined in Section 156.001 of the Code and in this Ordinance; and

WHEREAS, the City Council has adopted an ordinance levying a local municipal occupancy tax on behalf of the City on a person using a hotel pursuant to Chapter 351 of the Texas Tax Code, which is codified in Article II "Hotel Occupancy Tax" of Chapter 72 "Taxation" of the City of Burleson Code of Ordinances (2005), as amended (the "Hotel Occupancy Tax Ordinance"); and

WHEREAS, the City Council, after due and careful consideration, desires to amend its Hotel Occupancy Tax Ordinance as set forth herein in this ordinance;

WHEREAS, the City Council finds and determines that the adoption of this ordinance is necessary and proper and in the best interests of the public health, safety, and general welfare.

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

SECTION I.

Section 74-31, "Definitions," of Article II, "Hotel Occupancy Tax," of Chapter 74, "Taxation," of the Code of Ordinances, City of Burleson, Texas is hereby amended to amend the definition of "HOTEL" to read as follows without removing or replacing any of the other existing text in the section:

§ 74-31. Definitions.

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"HOTEL — A 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. Hotel includes a short-term rental. The term does not include:

(1) A hospital, sanitarium, or nursing home;

(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 V.T.C.A., Education Code § 61.003, used by the institution for the purpose of providing sleeping accommodations for persons engaged in an educational program or activity at the institution; or

(3) An oilfield portable unit, as defined by V.T.C.A., Tax Code § 152.001."

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SECTION II.

Section 74-31, "Definitions," of Article II, "Hotel Occupancy Tax," of Chapter 74, "Taxation," of the Code of Ordinances, City of Burleson, Texas is hereby amended to add the following definitions to read as follows without removing or replacing any of the other existing text in the section:

§ 74-31. Definitions.

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"OWNER — means an individual person, proprietorship, partnership, corporation, association, or other legal entity."

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"SHORT-TERM RENTAL — The rental of all or part of a residential property to a person who is not a permanent resident under V.T.C.A., Tax Code § 156.101."

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"TAX ASSESSOR-COLLECTOR – The tax assessor collector of the city. Unless otherwise designated by the city manager in writing, the tax assessor collector of the city shall be the city manager."

SECTION III.

Section 74-33, "Collection," of Article II, "Hotel Occupancy Tax," of Chapter 74, "Taxation," of the Code of Ordinances, City of Burleson, Texas is hereby amended to read as follows:

"**§ 74-33. Collection.**

Every person owning, operating, managing or controlling any hotel shall collect the tax imposed in section 74-32 for the city and remit the same to the tax assessor-collector on or before the due date, and at the same time file the report required by section 74-34 herein."

SECTION IV.

Section 74-34, "Reports," of Article II, "Hotel Occupancy Tax," of Chapter 74, "Taxation," of the Code of Ordinances, City of Burleson, Texas is hereby amended to read as follows:

"**§ 74-34. Reports.**

On or before the last day of the month following each quarterly period, every person required in section 74-33 to collect the tax imposed herein shall file a report with the city manager or designated agent showing the consideration paid for all room occupancies in the preceding quarter, the amount of the tax collected on such occupancies, and any other information the city manager or his designated agent may reasonably require. The city manager may request, and a person required to collect the tax shall provide within a reasonable time, additional documentation verifying the information contained in the report to the city. Such person shall pay the tax use on such occupancies at the time of filing such report and on and before the due date of such report."

SECTION V.

Section 74-37, "Penalties for violation of article," of Article II, "Hotel Occupancy Tax," of Chapter 74, "Taxation," of the Code of Ordinances, City of Burleson, Texas is hereby amended to read as follows:

"**§ 74-37. Penalties for violation of article.**

(a) If any person shall fail to collect the tax imposed herein; or shall fail to file a report as required herein; or shall fail to pay to the tax assessor-collector the tax as imposed herein when said report for payment is due, or shall file a false report, then the city may invoke the provisions of V.T.C.A., Tax Code §§ 111.060, 156.202, 351.004, and 351.0042.
(b) Any person who fails to pay the tax within the time period required in section 74-33 herein shall be charged interest at the maximum rate allowed by state law.
(c) In addition to the tax imposed by this article, a person shall pay a penalty of fifteen percent (15%) of the tax due if the tax has been delinquent for at least one municipal fiscal quarter and if the person: (1) fails to file a report on or before the due date, or (2) fails to pay the tax imposed on or before the due date.
(d) The remedies provided by this section are in addition to all other available remedies at law or in equity."

SECTION VI.

Article II, "Hotel Occupancy Tax," of Chapter 74, "Taxation," of the Code of Ordinances, City of Burleson, Texas is hereby amended by adding Section 74-38, "Criminal Penalty," to read as follows:

"**§ 74-38. Criminal Penalty.**

If any person required by the provisions of this article to collect the tax imposed herein, or make reports as required herein, and pay to the City the tax imposed herein, shall fail to collect such tax, file such report or pay such tax, or if any such person shall files a false report, or such person shall violate any of the provisions of this article, the City is authorized to impose a misdemeanor fine for a violation of this article. A person who violates this article shall be guilty of a misdemeanor and upon conviction shall be assessed a fine not to exceed Five Hundred Dollars ($500.00)."

SECTION VII.

Article II, "Hotel Occupancy Tax," of Chapter 74, "Taxation," of the Code of Ordinances, City of Burleson, Texas is hereby amended by adding Section 74-39, "Disposition of tax collection and uses," to read as follows:

"**§ 74-39. Disposition of tax collection and uses.**

Subject to the legislative discretion of the city council, monies from the tax levied herein received by the city may be deposited into an account to be maintained by the city, and the funds and balances of such account shall be managed and invested in compliance with the city's investment policy and state law. All monies from the tax levied herein shall be expended as provided by state law, and, subject to the exercise of legislative discretion and appropriations of the city council,

may be set aside, budgeted, and appropriated for use and expenditure by the city for such purposes."

SECTION VIII.

Article II, "Hotel Occupancy Tax," of Chapter 74, "Taxation," of the Code of Ordinances, City of Burleson, Texas is hereby amended by adding Section 74-40, "City records of tax collection and uses," to read as follows:

"**§ 74-40. City records of tax collection and uses.**

The city shall maintain books and accounts that accurately identify the receipt and expenditure of all monies derived from the tax levied herein as provided in V.T.C.A., Tax Code § 351.108."

SECTION IX.

Article II, "Hotel Occupancy Tax," of Chapter 74, "Taxation," of the Code of Ordinances, City of Burleson, Texas is hereby amended by adding Section 74-41, "Collection procedures on purchase of hotel," to read as follows:

"**§ 74-41. Collection procedures on purchase of hotel.**

(a) If a person who is liable for the remittance of a tax under this article is the owner of a hotel and sells the hotel, the successor to the seller or the seller's assignee shall withhold an amount of the purchase price sufficient to remit the amount due until the seller provides a receipt by an individual designated by the city to provide the receipt showing that the amount has been remitted or to issue a certificate showing that no tax is due.
(b) The purchaser of a hotel who fails to withhold an amount of the purchase price as required by this section is liable for the amount required to be withheld to the extent of the value of the purchase price.
(c) The purchaser of a hotel may request that the individual designated by the city to provide a receipt under subsection (a) above issue a certificate stating that no tax is due or issue a statement of the amount required to be remitted before a certificate may be issued. The individual designated by the city shall issue the certificate or statement not later than the sixtieth day after the date that the individual receives the request.
(d) If the individual designated by the city to provide a receipt under subsection (a) above fails to issue the certificate or statement within the period provided by subsection (c) above, the purchaser is released from the obligation to withhold the purchase price or remit the amount due.
(e) The city manager may designate in writing one or more individuals to act on behalf of the city pursuant to subsections (c) and (d)."

SECTION X.

This Ordinance shall be cumulative of all provisions of ordinances of the City, except where the provisions of this Ordinance are in direct conflict with the provisions of such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed.

SECTION XI.

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs, and sections of this Ordinance are severable and if any phrase, clauses, sentence, paragraph, or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this Ordinance, since the same would have been enacted by the City Council without the incorporation in its ordinance of any such unconstitutional phrase, clause, sentence, paragraph, or section.

SECTION XII.

Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this ordinance shall be fined not more than Five Hundred Dollars ($500.00) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense. Penalties provided for in this ordinance are in addition to any other criminal or civil remedies that the City may pursue under federal, state, or local law.

SECTION XIII.

All rights and remedies of the City are expressly saved as to any and all violations of the provisions of Chapter 74 of the Code of Ordinances, City of Burleson, Texas and or any other ordinances which have accrued at the time of the effective date of this Ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this Ordinance but may be prosecuted until final disposition by the courts.

SECTION XIV.

The City Secretary is hereby directed to publish the caption and penalty clause of this Ordinance as required by state law.

SECTION XV.

This Ordinance shall become effective January 1, 2027, after its passage and the publication of the caption of said ordinance as the law and the City Charter in such cases provides.

AND IT IS SO ORDAINED.

PASSED AND APPROVED this _____ day of _____, 20_____.

First Reading: the _____ day of _____, 20_____.

Final Reading: the _____ day of _____, 20_____.

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Chris Fletcher, Mayor
City of Burleson, Texas

ATTEST:

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Amanda Campos, City Secretary

APPROVED AS TO FORM:

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E. Allen Taylor, Jr., City Attorney