

ORDINANCE NO. 22-19

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF COLUMBUS, NEBRASKA, TO AMEND ORDINANCE NO. 05-47 (COLUMBUS CITY CODE) BY ENACTING CHAPTER 115 OF TITLE XI ENTITLED "LODGING TAX" TO IMPOSE AN OCCUPATION TAX ON LODGING; PROVIDING FOR AN EFFECTIVE DATE; AND PROVIDING FOR THE PUBLICATION OF THIS ORDINANCE IN PAMPHLET FORM.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF COLUMBUS, NEBRASKA THAT:

Section 1. Chapter 115, of Title XI, entitled "LODGING FACILITY TAX", of the Columbus City Code is hereby enacted and created to read as follows:

CHAPTER 115 LODGING FACILITY TAX

§ 115.01: Purpose.

Pursuant to the authority of Nebraska Revised Statutes § 16-205, the City of Columbus finds, determines and declares that it is appropriate that a tax be imposed on all lodgings facilities as herein defined for the purposes of raising revenues. The foregoing determination is made with due consideration of business in the city and the relation of business to the municipal welfare, together with relation thereof to expenditures required by the city, and with consideration of just, proper and equitable distribution of the tax burdens within the city and other properly associated matters. This tax to be imposed on all lodging facilities as herein defined is for the intent of raising revenues for the operation of Columbus Park and Recreation Facilities.

§ 115.02: Definitions.

As used in this chapter, the following words and phrases shall have the meanings ascribed to them in this section, except where the context clearly indicates or requires a different meaning:

City shall mean the City of Columbus and the area within the corporate limits of the City of Columbus.

Lodging Facility shall mean any commercial, nonprofit, or state-owned facility where the public may obtain sleeping accommodations for payment. This includes any hotel, motel, tourist lodging facility, courts, campground (charges for RV pads or tent sites), inn, or short-term rentals (rentals for a period of not longer than 30 days). "Lodging facility" does not include: the portion of a health care facility (licensed under the Health Care Facility Licensure Act) which provides rooms, lodging, or sleeping accommodations for a charge; or a facility operated by an approved educational institution used to house students.

Person shall mean any natural person, individual, partnership, association, organization or corporation of any kind or character engaging in the business of operating a lodging facility.

Room shall mean any space ordinarily used for sleeping accommodations and for which

any occupant has, for consideration, obtained the use or possession, or the right to use or possess, for a period not to exceed thirty (30) contiguous days. The term shall include camping space, trailer space or recreational vehicle space. The term does not include a function room such as a ballroom, banquet room, reception room, or meeting room, provided it is not used as temporary sleeping accommodations, nor for complimentary or other sleeping accommodations for which no consideration is charged or for sleeping accommodations for which the consideration is paid by a person not subject to the sales and use tax imposed by the Nebraska Revenue Act of 1967.

Taxpayer shall mean any person engaged in the lodging business herein defined who is required to pay the tax herein imposed.

Total consideration charged for occupancy shall mean any and all charges that are subject to the lodging tax under the Nebraska Visitors Development Act, Neb. Rev. Stat. § 81-1245 et sq. excluding the city's lodging facility occupation tax.

§ 115.03: Tax Imposed; Collection of Tax.

(A) Each person engaged in the business of operating a lodging facility in the city shall pay an occupancy tax in the amount of four percent (4%) of the lodging consideration charged for occupancy per occupied room per night.

(B) The tax imposed by this chapter shall be collected by the lodging facility operator from the occupant of each room to which the tax applies. The tax imposed by this chapter may be shown as an add-on to the charge for occupancy of the rooms and shall be collectible at the time the lodging is furnished, regardless of when the charge for the occupancy is paid. The lodging facility operator shall remain responsible for payment of all taxes imposed, whether or not the taxes are actually collected from the guests.

§ 115.04: Return.

Each and every person engaged in the business of operating a lodging facility within the city for the calendar month beginning December 2022, and for each and every month thereafter, shall prepare and file, on or before the 25th day of the following month on a form prescribed and furnished by the city, a return for the taxable calendar month, and at the same time to pay to the city the tax herein imposed. The return shall be verified and sworn to by an owner or officer of the business. The return shall be considered filed on time if mailed with payment enclosed in an envelope properly addressed to the City Finance Department, postage prepaid and postmarked before midnight of the 25th of the appropriate month. If the city offers online filing, the return will also be considered filed on time if filed online and electronic payment submitted to the City of Columbus by midnight of the 25th of the appropriate month.

§ 115.05: Tax Cumulative.

(A) The levy of tax under this chapter is in addition to all other fees, taxes, excises and licenses levied and imposed under any contract or any other provisions of this Code or ordinances of the city, in addition to any fee, tax, excise or license imposed by the state.

(B) Payment of the tax imposed by this chapter shall not relieve the person paying the same from payment of any other tax now or hereafter imposed by contract or ordinance or by this Code, including those imposed for any business or occupation he or she may carry on, unless so provided therein. The occupational taxes imposed by this

Code shall be cumulative except where otherwise specifically provided.

§ 115.06: Failure to File Return; Delinquency; Assessment by City Finance Director-City Treasurer.

(A) If any person neglects or refuses to file a return or make a payment of the taxes as required by this chapter, the City Finance Director-City Treasurer shall make an estimate, based upon such information as may be reasonably available, of the amount of taxes due for the period or periods for which the taxpayer is delinquent, and upon the basis of such estimated amount, compute and assess in addition thereto a penalty equal or two percent (2%) per month or fraction thereof from date when due, together with interest on such delinquent taxes, at the rate of one percent (1%) per month or fraction thereof from the date when due.

(B) The City Finance Director-City Treasurer shall give the delinquent taxpayer written notice of such estimated taxes, penalty, and interest, which notice must be served personally or by certified mail.

(C) Such estimate shall thereupon become an assessment, and such assessment shall be final and due and payable from the taxpayer to the City Finance Director-City Treasurer ten (10) days from the date of service of the notice or the date of mailing by certified mail; however, within such ten (10) day period the delinquent taxpayer may petition the City Finance Director-City Treasurer for a revision or modification of such assessment and shall, within such ten-day period, furnish the City Finance Director-City Treasurer the facts and correct figures showing the correct amount of such taxes.

(D) Such petition shall be in writing, and the facts and figures submitted shall be submitted in writing and shall be given under oath of the taxpayer.

(E) The City Finance Director-City Treasurer may then modify such assessment in accordance with the facts which he or she deems correct. Such adjusted assessment shall be made in writing, and notice thereof shall be mailed to the taxpayer within ten (10) days; and all such decisions shall become final upon the expiration of thirty (30) days from the date of service, unless proceedings are commenced within that time for appeal in the District Court.

(F) It shall be an offense for any person to fail to file a return or make payment of the taxes as required by this chapter.

§ 115.07: Administrative of Chapter; Miscellaneous Provisions.

(A) The administration of the provisions of this chapter are hereby vested in the City Finance Director-City Treasurer, or his or her designee, who shall prescribe forms in conformity with this chapter for the making of returns, for the ascertainment, assessment and collection of the tax imposed hereunder, and for the proper administration and enforcement hereof.

(B) All notices required to be given to the taxpayer under the provisions of this chapter shall be in writing. Notices shall be mailed by registered or certified mail, postage prepaid, return receipt requested, to the taxpayer at his or her last known address.

(C) It shall be the duty of every taxpayer to keep and preserve suitable records and

other books or accounts as may be necessary to determine the amount of tax for which he/she is liable hereunder.

- i. Records of the gross revenue by which this tax is measured shall be kept separate and apart from the records of other sales or receipts in order to facilitate the examination of books and records as necessary for the collection of this tax.
- ii. It shall be the duty of every such taxpayer to keep and preserve for a period of three (3) years all such books, invoices and other records, which shall be open for examination at any time by the City Finance Director-City Treasurer or his or her duly designated persons. If such taxpayer keeps or maintains the books, invoices, accounts or other records, or any part thereof, outside of the state, upon demand of the City Finance Director-City Treasurer such taxpayer shall make the same available at a suitable place within the city, to be designated by the City Finance Director-City Treasurer, for examination, inspection and audit by the City Finance Director-City Treasurer or his or her duly authorized persons. The taxpayer shall reimburse the city for the reasonable costs of the examination, inspection and audit if the City Finance Director-City Treasurer determines that the taxpayer paid ninety percent or less of the tax owing for the period of the examination.
- iii. The City Finance Director-City Treasurer, in his or her discretion, may make, permit or cause to be made the examination, inspection or audit of books, invoices, accounts or other records so kept or maintained by such taxpayer outside of the state at the place where same are kept or maintained or at any place outside the state where the same may be made available, provided such taxpayer shall have entered into a binding agreement with the city to reimburse it for all costs and expenses incurred by it in order to have such examination, inspection or audit made at such place.

(D) For the purpose of ascertaining the correctness of a return, or for the purpose of determining the amount of tax due from any taxpayer, the City Finance Director-City Treasurer or his or her duly authorized persons, may conduct investigations concerning any matters covered by this chapter; and may examine any relevant books, papers, records or memoranda of any such taxpayer.

§ 115.08: Right of City to Sue.

In case any lodging facility shall fail to make payment of the occupation tax provided for by this chapter at the time specified for such payment, the City shall have the right to sue any such company in any court of competent jurisdiction for the amount of such occupation tax due and payable under the terms and provisions of this chapter and may recover judgment against any such company for such amount so due, together with interest and penalties, and may have execution thereon

Section 2. The sections, subsections, paragraphs, sentences, clauses, and phrases of this ordinance are severable, and if any section, subsection, paragraph, sentence, clause, or phrase of this ordinance shall be declared invalid, unenforceable, or unconstitutional by the valid judgment or decree of a court of competent jurisdiction, such invalidity, unenforceability, or unconstitutionality shall not affect any of the remaining sections, subsections, paragraphs, sentences, clauses, or phrases of this ordinance.

Section 3. This Ordinance shall be in full force and effect from and after its passage, approval, and publication according to law. Publication shall be in pamphlet form as authorized by Neb. Rev. Stat. § 16-405 with distribution to be made by making copies available to the public upon request at the City office.

INTRODUCED BY COUNCIL MEMBER Charlie Bahn

PASSED AND ADOPTED THIS 3 DAY OF October, 2022.



Jan B. Beatty
MAYOR

ATTEST:

Janelle Kline
CITY CLERK

APPROVED AS TO FORM:

AK
CITY ATTORNEY