

ORDINANCE NO. 616

AN ORDINANCE OF THE CITY OF NOBLE, OKLAHOMA, (THE "CITY"), LEVYING AND ASSESSING AN EXCISE TAX (LODGING SALES TAX) OF FIVE PERCENT (5.0%) (IN ADDITION TO ANY AND ALL OTHER EXCISE TAXES NOW IN FORCE), UPON THE GROSS PROCEEDS OR GROSS RECEIPTS DERIVED FROM RENTS RECEIVED FROM OCCUPANCY OF HOTEL OR MOTEL ROOMS, PROVIDING FOR USE OF TAX FUNDS; PROVIDING FOR TAX RATE; PROVIDING EXEMPTIONS; PROVIDING TAX TO BE SEPARATELY DESIGNATED ON BILLS; PROVIDING FOR OPERATOR'S DUTIES; PROVIDING FOR BOND REQUIREMENTS; PROVIDING FOR ASSESSMENT AND DETERMINATION OF TAX; PROVIDING FOR REFUNDS; PROVIDING FOR NOTICES; PROVIDING FOR REMEDIES EXCLUSIVE; PROVIDING FOR AN AGREEMENT OF ADMINISTRATION; PROVIDING GENERAL POWERS OF THE CITY; REQUIRING CERTIFICATES OF REGISTRATION; MAKING RECORDS CONFIDENTIAL; PROVIDING FOR CRIMINAL PENALTIES; PROVIDING FOR CIVIL REMEDIES; REQUIRING APPROVAL OF ORDINANCE BY MAJORITY OF REGISTERED VOTERS VOTING AT AN ELECTION HELD FOR SUCH PURPOSE AS PROVIDED BY LAW; FIXING EFFECTIVE DATES; PROVIDING FOR SEVERABILITY; AND CONTAINING OTHER PROVISIONS RELATED THERETO.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NOBLE, OKLAHOMA:

ARTICLE I. Subject to the approval by a majority of the qualified electors of the City of Noble, Oklahoma, at an election held January 14, 2025, the following shall be codified and incorporated into the Code of Ordinances, City of Noble, Oklahoma:

Section 1. Citation and Codification.

This Ordinance shall be known and cited as the City of Noble Lodging Tax Ordinance.

Section 2. Definitions.

As used in this Ordinance:

"City" shall mean the City of Noble, Oklahoma.

"City Administrator" shall mean the City Manager of the City, or such other individual as may be designated from time to time by the City Council to act in such capacity.

"City Council" shall mean duly authorized City Council of the City acting in their official capacity.

"Hotel" shall mean any building or buildings, structures, trailer, or other facility in which the public may, for consideration, obtain sleeping accommodations, and in which rooms are used

for the accommodation of such occupant whether such rooms are in one or several structures. The term shall include hotels, apartment hotels, motels, tourist courts, lodging houses, inns, rooming houses, recreational vehicle (RV) park spaces, and all other facilities where rooms or sleeping facilities or space are furnished for consideration. The term shall not include hospitals, mental health care facilities, assisted living centers or nursing homes.

“*Occupancy*” shall mean the use or possession, or the right to the use or possession of any room or rooms in a Hotel.

“*Occupant*” shall mean the person, who for a consideration, uses, possesses, or has the right to the use or possession of any room or rooms in a Hotel under any lease, concession, permit, right of access, license to use, or other agreement.

“*Operator*” shall mean any person operating a Hotel within the City, including, but not limited to, the owner, proprietor, manager, lessee, sublessee, mortgagee in possession, licensee, or any other person otherwise operating such Hotel.

“*Person*” shall mean any individual, corporation, company, partnership, voluntary association, firm, club, society, organization or any other entity of whatever kind or nature.

“*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.

“*Return*” shall mean any report filed or required to be filed as herein provided.

“*Room*” shall mean any room or suite of rooms of any kind in any part or portion of a Hotel which is available for or let out for use or possessed for sleeping facilities.

“*Tax*” shall mean the tax levied pursuant to this Ordinance.

Section 3. Tax Rate.

There is hereby levied an excise tax of five percent (5.0%) (in addition to any and all other excise taxes now in force) upon the gross proceeds or gross receipts derived from all rent for every occupancy of a room or rooms in a Hotel in this City. Rooms provided free of charge, through barter, trade or any other arrangement or agreement of any kind or nature, are also subject to such tax at the sales value of the room so provided (with “sales value” to mean the price at which the room would be rented to the operator’s best customer in the ordinary course of business).

Section 4. Exemptions.

The exemptions from excise tax enumerated in Title 68, Oklahoma Statutes, as amended, Section 1350 *et. seq.* (the “Oklahoma Sales Tax Code”) are hereby adopted and incorporated herein by reference. To the extent any conflicts in connection with the permitted exemptions

should arise under this Ordinance and the Oklahoma Sales Tax Code, the Oklahoma Sales Tax Code shall prevail.

Section 5. Tax to be Separately Designated on Bills.

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

Section 6. Operator's Duties.

(a) *Operator responsible for collections.* The operator shall be responsible for the collection of the tax from the occupant and shall be liable to the City for the tax which shall be held in trust by the operator until paid to the City or the Oklahoma Tax Commission pursuant to an agreement to collect municipal lodging taxes as set forth in Title 68, Oklahoma Statutes, as amended, Section 2701 *et. seq.* of the Oklahoma Sales Tax Code. The operator shall join the City as a party to any action brought by the operator to enforce collection of the tax.

(b) *Records to be kept.* Every operator shall keep records of every occupancy and of all rent paid, charged, or due thereon and of the tax payable thereon in such form as the City Administrator or Oklahoma Tax Commission may by regulation require. Such records shall be available for inspection and examination at any time upon demand by the City Administrator, or a duly authorized agent or employee of the City or the Oklahoma Tax Commission, and shall be preserved for a period of three years.

(c) *Returns.*

(1) In the event of collection of the Tax levied pursuant to this Ordinance by the Oklahoma Tax Commission, each operator shall file with the City Administrator a copy of their completed Oklahoma State Sales Tax Form within twenty (20) days after the end of each month following the effective date of this Ordinance.

(2) In the event of collection of the Tax levied pursuant to this Ordinance by the City, every operator shall file with the City Administrator a return as prescribed by the City and shall contain such information as may be deemed necessary and proper for the administration of this Ordinance, of any occupancy and of rents, and of the taxes payable thereon for the period ending on the last day of each month following the effective date of this Ordinance. Such return shall be filed within the first twenty (20) days after the end of each such month. The City Administrator may require amended returns to be filed within ten (10) days after notice and to contain the information specified in the notice.

(d) *Payment of tax.* The payment of the tax levied pursuant to this Ordinance shall be due prior to the twentieth (20th) day following the month during which the charge for the occupancy of a Hotel is incurred by the occupant, or at such times as returns may be

submitted to the Oklahoma Tax Commission in accordance with the Oklahoma Sales Tax Code. At the time of filing a return of occupancy and of rents, each operator shall pay to the City treasurer or the Oklahoma Tax Commission (in the manner and form prescribed for payment of the municipal lodging tax under the laws of the State of Oklahoma) the taxes imposed by this Ordinance upon the rents included in such return. All taxes not paid with a timely return shall be delinquent. All the taxes for the period for which a return is required to be filed shall be due from the operator and payable to the City treasurer or Oklahoma Tax Commission on or before the date fixed for the filing of the return for such period without regard to whether a return is filed or whether the return which is filed correctly shows the amount of rents and the taxes due thereon.

(e) *Deduction for Record Keeping.* For so long as the operator maintains compliance with the collection and remittance of the Tax due hereunder, the Operator shall be allowed a deduction in accordance with the provisions of Title 68, Oklahoma Statutes, as amended, Section 1367.1, as compensation for the keeping and maintaining of sales tax records, filing reports and remitting the tax when due.

(f) *Delinquent taxes.* All taxes not paid within twenty (20) calendar days following the last day of the period for the collection of the tax levied by this Ordinance shall be delinquent.

(g) *Interest and penalties on unpaid taxes.* If any tax levied by this Ordinance becomes delinquent, the person responsible for and liable for remittance of such tax shall pay penalties on such unpaid tax at the rates and charges as established in Title 68, Oklahoma Statutes, as amended, Section 217.

Section 7. Bond Required; City Collection.

In the event of initial collection of the Tax levied hereunder shall be collected by the City, or after such termination of an Agreement of Administration authorized in Section 12 hereof, where the City Administrator believes that any Operator is about to cease business, leave the state, or remove or dissipate assets, or for any other similar reason the City Administrator deems it necessary in order to protect revenues under this Ordinance may require such operator to file with the City a bond issued by a surety company authorized to transact business in the state in such amount as the City Administrator 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 City Administrator determines that an operator is to file such bond, the City Administrator shall give notice to such operator specifying the amount of security required. The operator shall file such security as a performance bond or irrevocable letter of credit within five (5) days after the filing of such notice unless within such five (5) days the operator shall request in writing a hearing before the City Council, at which time the necessary propriety 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, a cash or securities escrow, in an amount and under terms approved by the City Administrator, may be deposited with the City Administrator, who may at any time after five days notice to the depositor, apply them to any tax and/or any penalties due and for that purpose the securities may be sold at private or public sale.

Section 8. Assessment and Determination of Tax.

If a return required by this Ordinance is not filed, or if a return when filed is incorrect or insufficient, the amount of tax due shall be assessed by the City Administrator or the Oklahoma Tax Commission 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, 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:

- (a) Unless the person against whom it is assessed shall apply in writing to the City Council for a hearing within sixty (60) days after the City gives notice of such assessment; or
- (b) Unless the City Administrator decides to reassess the same.

After such hearing, the City Council shall give written notice of its determination within thirty (30) days to the person against whom the tax is assessed and such determination shall be final.

Section 9. Refunds.

- (a) *Procedure.*
 - i. *Oklahoma Tax Commission Collection of Tax.* If collection of the tax levied pursuant to this ordinance is delegated to the Oklahoma Tax Commission pursuant to an agreement for the collection of municipally imposed lodging tax, the Oklahoma Tax Commission shall be responsible for making refunds to taxpayers previously collected by the Oklahoma Tax Commission on the City's behalf in accordance with the guidelines, procedures and regulations previously adopted by the Oklahoma Tax Commission.
 - ii. *City Collection of Tax.* The City Administrator shall direct the refund or credit of any tax erroneously, illegally or unconstitutionally collected if written application to the City Administrator for such refund is made within two years from the date of payment thereof. For like causes, and in the same period, a refund may be so made upon the initiative of the City Administrator, subject to existing limits on the authority of the City Administrator as to amount. The City Administrator, in lieu of any refund required to be made, may allow credit thereof on payments due from the applicant. Whenever a refund is made, the reasons therefor shall be stated in writing. Such application may be made by the person who has collected and paid such tax to the City treasurer; however, no refund of money shall be made to the operator until the operator has repaid to the occupant the amount for which the application for refund is made.
 - 1) *Determination and hearing.* Upon application for a refund the City Administrator may receive evidence with respect thereto, and make such investigation as is deemed necessary. After making a determination

as to the refund, the City Administrator shall give written notice thereof to the applicant. Such determination shall be final unless the applicant, within thirty (30) days after such notice, shall apply in writing to the City Council for a hearing. After such hearing the City Council shall give written notice of its decision to the applicant.

Section 10. Notices.

Notices provided for under this Ordinance shall be deemed to have been given when such notice has been delivered personally to the operator or deposited in the United States mail, postage prepaid, to the last known address of the operator. In the absence of written evidence received by the City to the contrary, the last known address shall be presumed to be the address shown on the certificate of registration as required by Section 14 herein.

Section 11. Remedies Exclusive.

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

Section 12. Agreement of Administration.

Upon approval of the Tax by a majority of the qualified voters of the City, the City shall be authorized, but not obligated, to enter into an Agreement of Administration (the "Agreement") with the Oklahoma Tax Commission for collection of the Tax levied hereunder. Should the City elect to enter into said Agreement, Operators shall follow the normal rules and procedures of collection and administration of excise tax as prescribed by the Oklahoma Tax Commission. In the event of a subsequent change in administration and collection of the Tax, Operators shall be notified in accordance with the notice provisions required under state law and the rules of the Oklahoma Tax Commission of the date of such change in collection practices and any requirements of Operators enumerated under this Ordinance where the City shall serve as the collector of the Tax.

Section 13. General Powers of the City Administrator.

In addition to all other powers granted to the City Administrator, the City Administrator is hereby authorized:

- (a) To make, adopt and amend rules and regulations appropriate to the execution of this Ordinance and for the purposes hereof;
- (b) To extend for cause shown the time for filing any return for a period not exceeding thirty (30) days; and for cause shown to waive, remit, or reduce penalties or interest;
- (c) To delegate functions hereunder to authorized designees for the City;
- (d) To assess, reassess, determine, revise and readjust the amount of taxes (but not the tax rate) imposed by this Ordinance;

- (e) To prescribe methods for determining the taxable and nontaxable rents;
- (f) To administer oaths and take affidavits concerning any matter or proceeding under this Ordinance; and
- (g) To subpoena and require the attendance of witnesses and the production of books, papers and documents to secure information pertinent to the performance and the enforcement of this Ordinance and to examine them in relation thereto.

Section 14. Certificates of Registration.

Every operator shall file with the City Administrator a certificate of registration in a form prescribed by the City Administrator within ten days after the effective date of this Ordinance, or in the case of operators commencing business or opening new Hotels after such effective date, within three days after such commencement or opening. The City Administrator shall, within five days after such registration, 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 Hotel. Each certificate or duplicate shall state the Hotel to which it is applicable. Such certificate of authority shall be permanently displayed by the operator in such manner that it may be seen and will come to the notice of all occupants and persons seeking occupancy. Such certificates shall be non-assignable, nontransferable, and shall be surrendered immediately to the City Administrator upon the cessation of business at the Hotel named, or upon its sale or transfer.

Section 15. Purpose.

All taxes collected pursuant to provisions of this Ordinance shall be placed in the general funds of the City, shall be budgeted and appropriated annually by the City, and shall be expended exclusively for the following purpose: to provide revenues for the support of the functions of the municipal government of the City of Noble, Oklahoma, and any and all revenues derived hereunder may be expended by the governing body of the municipality for any purposes for which funds may be lawfully expended as authorized.

Section 16. Records Confidential.

The confidential and privileged nature of the records file concerning the administration of the Hotel tax is legislatively recognized and declared and, in order to protect the same, the provisions of Title 68, Oklahoma Statutes, as amended, Section 205 of the State Sales Tax Code, and each subsection thereof and all amendments thereto, as hereby adopted by reference and made fully effective and applicable to the administration of this Ordinance as if here set forth.

Section 17. Criminal Penalties.

- (a) The willful intent or refusal of any taxpayer to make reports and remittances therein required, or the making of any false and fraudulent report for the purpose of avoiding or escaping payment of any tax or portion thereof rightfully due under this Ordinance, shall constitute a violation of the Code of Ordinances of the City and shall be subject to a general penalty as set forth in the City Code of the City.

(b) The failure by an operator to file a security bond as required, to register or to display the certificate of registration, or to separately state the tax on the bill or to collect such tax from the occupant, shall constitute a violation of the Code of Ordinances of the City and shall be subject to a general penalty as set forth in the City Code of the City.

Section 18. Civil Remedies.

(a) Whenever any operator, occupant or other person shall fail to collect and/or pay over any tax, or to owe any tax, penalty or interest imposed by this Ordinance as herein provided, the City Administrator may authorize the director of finance to file notice of liens on behalf of the City against the real estate upon which the Hotel is located and/or against all franchises, property and rights to property, whether real or personal, then belonging to or thereafter acquired by the person owing the tax pursuant to Title 68, Oklahoma Statutes as amended, Section 2701 and Section 2704.

(b) The liens shall, upon proper filing, attach to the real estate and/or personal property then owned or thereafter acquired by the debtor, whether such property is used by the debtor in the operation of business or is under the authority of an assignee, trustee, or receiver for the benefit of creditors, from the date such taxes are due and payable as allowed by Title 68, Oklahoma Statutes, as amended, Section 2704.

(c) The City Administrator shall notify the person owing the tax by personal service or by certified mail that the City will file such liens if any delinquent taxes, interest and/or penalties are not paid within fifteen (15) days of receiving such notice.

(d) The City Administrator may also authorize the City attorney to institute an action in personam and in rem to enforce payment and collect any delinquent taxes, penalties and/or interest.

Section 19. Amendments.

The people of the City, by their approval of this Ordinance at the election hereinabove provided for, hereby authorize the City by Ordinance duly enacted to make such administrative and technical changes or additions in the method and manner of administration and enforcing this Ordinance as may be necessary or proper for efficiency and fairness or in order to make the same consistent with the Oklahoma Sales Tax Code, except that the rate of the tax and the purpose of the tax herein provided for shall not be changed without approval of the qualified electors of the City as provided by law.

Section 20. Provisions Cumulative.

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

Section 21. Severability.

The provisions of this Ordinance are severable, and if any part or provision hereof shall be adjudged invalid by any court of competent jurisdiction, such adjudication shall not affect or impair any of the remaining parts or provisions hereof.

Section 22. Effective Date and No Termination Date.

The provisions of this Ordinance and the collection of the excise tax referenced herein shall become effective on and after April 1, 2025, subject to approval by a majority of the qualified electors of the City voting on the same in the manner prescribed by law. The provisions of this Ordinance and the collection of the excise tax referenced herein shall have no stated termination date.

ARTICLE II. Any ordinance or parts of ordinances of the City, found to be in conflict herewith are hereby repealed.

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PASSED AND ADOPTED AND SIGNED BY THE MAYOR THIS 4TH DAY OF
NOVEMBER, 2024.

CITY OF NOBLE, OKLAHOMA

(SEAL)

Mayor

ATTEST:

City Clerk