

**AN ORDINANCE OF THE CITY OF FRISCO, TEXAS REPEALING ORDINANCE NOS. 94-08-13 AND 00-08-04; PROVIDING FOR THE LEVY OF A HOTEL OCCUPANCY TAX PURSUANT TO §351.001, *et seq.*, TEXAS TAX CODE; PROVIDING FOR A PENALTY FOR THE VIOLATION OF THIS ORDINANCE; PROVIDING FOR REPEALING SAVINGS AND SEVERABILITY CLAUSES; PROVIDING FOR AN EFFECTIVE DATE OF THIS ORDINANCE; AND PROVIDING FOR THE PUBLICATION OF THE CAPTION THEREOF.**

WHEREAS, THE City Council of the City of Frisco, Texas ("City Council") is of the opinion that it is in the public interest to expend public funds to: (1) advertise the City of Frisco, Texas ("Frisco"); (2) encourage tourism; and (3) promote Frisco in general; and

WHEREAS, the City Council finds that a large portion of the public facilities are necessarily supplied for the use of transient public in the form of display, entertainment, convention, historical, and art facilities; and

WHEREAS, the burden of financing the facilities and programs should be spread to the extent possible among the persons for whom the facilities are being provided and held and receive the benefits of same from time to time; and

WHEREAS, §351.003 of the Texas Tax Code allows for the levy of tax not to exceed seven percent (7%) of the price paid for a room; and

WHEREAS, the City Council has investigated and determined that it would be advantageous and beneficial to Frisco and its inhabitants to repeal Ordinance Nos. 94-08-13 and 00-08-04 for the sole purpose of consolidating the rules and regulations relating to the hotel occupancy tax authorized by the Texas Tax Code.

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

SECTION 1: Findings Incorporated. The findings set forth above are incorporated into the body of this ordinance as if fully set forth herein.

SECTION 2: Ordinances Nos. 94-08-13 and 00-08-04 Repealed. Frisco Ordinance Nos. 94-08-13 and 00-08-04 are repealed in their entirety and replaced by this Ordinance for the sole purpose of consolidating the rules and regulations relating to the hotel occupancy tax authorized by the Texas Tax Code. The effective date of the repeal discussed in this Section shall not occur until the effective date of this Ordinance at which time Ordinance Nos. 94-08-13

and 00-08-04 shall be repealed. Such repeal shall not abate any pending prosecution and/or lawsuit or prevent any prosecution and/or lawsuit from being commenced for any violation of Ordinance Nos. 94-08-13 and 00-08-04 occurring before the effective date of this Ordinance.

**SECTION 3: Definitions.**

*City Manager* shall mean the City Manager of Frisco or his/her designated representative.

*Consideration* shall mean the cost of the room in such hotel only if the room is one ordinarily used for sleeping and shall not include the cost of any food served or personal services rendered to the occupant of such room not related to the cleaning and readying of such room for occupancy.

*Hotel* shall mean a building or buildings in which the public may, for a consideration, obtain sleeping accommodations. The term shall include hotels, motels, tourist homes, houses or courts, lodging houses, inns, rooming houses or other buildings where rooms are furnished for a consideration, but "*hotel*" shall not be defined so as to include hospitals, sanitariums or nursing homes.

*Hotel Occupancy Tax* shall mean the tax imposed by Section 4 of this Ordinance.

*Monthly/Month collection/reporting period* shall mean the regular calendar months of the year.

*Occupancy* shall mean the use or possession, or the right to the use or possession, of any room in a hotel if the room is one ordinarily used for sleeping and if the occupant's use, possession or right to use or possession extends for a period of less than thirty (30) days.

*Occupant* shall mean anyone who, for a consideration, uses, possesses or has a right to use or possess any room in a hotel if the room is one ordinarily used for sleeping.

*Permanent resident* shall mean any occupant who has or shall have the right of occupancy of any room or rooms or sleeping space or facility in a hotel for at least thirty (30) consecutive days during the current calendar year or preceding year.

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

**SECTION 4: Levy of Tax, Rate; Exemptions.** There is hereby levied a tax upon the cost of occupancy of any room or space furnished by any hotel where such cost of occupancy is at the rate of TWO DOLLARS (\$2.00) or more per day,

such tax to be equal to seven percent (7%) of the consideration paid by the occupant of such room, space or facility to such hotel, exclusive of other occupancy taxes imposed by other governmental agencies. Exemptions to the levy of the hotel occupancy tax described herein shall be the same as those prescribed by §351.006, Texas Tax Code, as it exists or may be amended.

**SECTION 5: Extraterritorial Jurisdiction.** Any hotel occupancy tax provided herein shall be imposed in the Frisco extraterritorial jurisdiction, provided, however, that the levy such taxed shall not result in a combined rate of state, county or municipal hotel occupancy taxes in the extraterritorial jurisdiction which exceeds fifteen percent (15%) of the price paid for a room in a hotel.

**SECTION 6: Disposition of Revenue.** The revenue derived from the hotel occupancy tax will only be used for the purposes authorized by ' 351.001, *et seq.*, Tax Code, as it exists or may be amended, as the City Council may direct and authorize.

**SECTION 7: Collection.** Every person owning, operating, managing or controlling any hotel shall collect the hotel occupancy tax imposed in Section 4 of this Ordinance for Frisco.

**SECTION 8: Reports (Change Effective July 1, 2004).** On the last day of the month following each quarterly period, every person required to collect the tax imposed in Section 7 of this Ordinance shall file a report with the City Manager 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 as the City Manager or his or her designated representative may reasonably require. Such person shall pay the hotel occupancy tax due on such occupancies at the time of filing such report.

Effective July 1, 2004, every person required to collect the tax imposed in Section 7 of this Ordinance shall file a report with the City Manager showing the consideration paid for all room occupancies in the preceding calendar month, the amount of the tax collected on such occupancies and any other information as the City Manager may reasonably require. Timely reports must be submitted so as to arrive at the City Manager's office by the twentieth (20<sup>th</sup>) day of the month following the calendar month collection/reporting period. Such person shall pay the hotel occupancy tax due on such occupancies at the time of filing such report.

**SECTION 9: Rules and Regulations.** The City Manager shall have the power to make such rules and regulations as are necessary to effectively collect the hotel occupancy tax levied by this Ordinance and shall upon reasonable notice have access to books and records necessary to enable him/her 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 10:** Penalty Provision. If any person, firm, corporation or business entity shall fail to collect the hotel occupancy tax imposed by this Ordinance, or shall fail to file a report as required herein, or shall fail to pay to the City Manager the tax imposed by this Ordinance when said report for payment is due, or shall file a false report, then such person, firm, corporation or business entity shall be deemed guilty of a misdemeanor and upon conviction be punished a fine of not less than FIFTY DOLLARS (\$50.00) nor more than FIVE HUNDRED DOLLARS (\$500.00). In addition, such person, firm, corporation or business entity who fails to remit the hotel occupancy tax imposed by this Ordinance within the time required shall forfeit ten percent (10%) of the amount due as a penalty, and after the first thirty (30) days shall forfeit an additional ten percent (10%) of such hotel occupancy tax. Provided, however, that the penalty shall never be less than ONE DOLLAR (\$1.00). Delinquent hotel occupancy taxes shall draw interest at the rate of ten percent (10%) per annum beginning sixty (60) days from the date due.

**SECTION 11:** Collection Fee. Frisco shall retain one percent (1%) of the gross amount of the hotel occupancy taxes collected to cover the cost of said collection duties.

**SECTION 12:** Savings/Repealing Clause. All provisions of any Frisco ordinances in conflict herewith are repealed to the extent they are in conflict, but such repeal shall not abate any pending prosecution for the violation of the repealed ordinance, nor shall the repeal prevent a prosecution from being commenced for any violation if occurring prior to the repeal of the ordinance; provided, however, Frisco Ordinance Nos. 94-08-13 and 00-08-14 shall remain in full force and effect until the effective date of this Ordinance. Any remaining portions of said ordinances shall remain in full force and effect.

**SECTION 13:** Severability. Should any section, subsection, sentence, clause or phrase of this Ordinance be declared unconstitutional 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. Frisco hereby declares that it would have passed this Ordinance, and each section, subsection, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional or invalid.

**SECTION 14:** Effective Date. This Ordinance after the adoption and publication as required by law and Frisco's City Charter shall become effective at midnight, July 1, 2004.

READ, CONSIDERED, PASSED AND APPROVED by the City of Frisco, Texas, on this the 1st day of June, 2004.



*E. Michael Simpson*  
E. MICHAEL SIMPSON, Mayor

ATTESTED TO AND  
CORRECTLY RECORDED BY:

*Nan Parker*  
NAN PARKER  
City Secretary

APPROVED AS TO FORM:

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