ORDINANCE

CITY OF NEW ORLEANS

CITY HALL: February 6, 2020

CALENDAR NO. 32,905

NO. ____________________ MAYOR COUNCIL SERIES

BY: COUNCILMEMBERS GISLESON, PALMER AND BANKS (BY REQUEST)

AN ORDINANCE to amend and reordain Chapter 150 of the Code of the City of New Orleans by adding Article XIV to levy an occupancy tax on Short Term Rentals of overnight lodging in the City of New Orleans, in accordance with ACT 169 of the 2019 Regular Session of the Louisiana Legislature; to provide for the collection and distribution of the proceeds of such tax; and otherwise to provide with respect thereto.

WHEREAS, During its 2019 Regular Session, the Louisiana Legislature adopted House Bill No. 43 (Act 169), enacting La. R.S. 47:338.220, authorizing the City Council to levy and collect an occupancy tax on Short Term Rentals of overnight lodging in the city in an amount not to exceed six and three quarters percent (6 ¾ %) of the rent or fee charged for such occupancy but only after a ballot proposition authorizing the levy of such tax was approved by a majority of electors of the city voting at an election held for that purpose in accordance with the Louisiana Election Code; and

WHEREAS, at an election held on Saturday, November 16, 2019, a majority of the voters of the city participating in the election approved authorizing the City Council to levy and collect in perpetuity, beginning January 1, 2020, a Short Term Rentals Occupancy Tax in an amount not to exceed six and three quarters percent (6 ¾ %) of the rent or fee charged for such occupancy, with the proceeds of such tax, except for a reasonable fee, if any, being distributed as follows: seventy-five percent (75%) dedicated to the infrastructure fund of the city created pursuant to Ordinance No. 27,986 M.C.S., and twenty-five percent (25%) allocated, pursuant to a multi-year cooperative
endeavor agreement approved by the City Council, to New Orleans & Company to be used to promote tourism in the City; **NOW THEREFORE**

**SECTION 1. THE COUNCIL OF THE CITY OF NEW ORLEANS HEREBY**

**ORDAINS,** That Article XIV of Chapter 150 of the Code of the City of New Orleans is hereby ordained to read as follows:

"**CHAPTER 150. TAXATION**

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**ARTICLE XIV. SHORT TERM RENTALS OCCUPANCY TAX**

Section 150-1261. Tax Levied.

There is hereby levied a tax upon the paid occupancy of Short Term Rentals located within the City of New Orleans. The occupancy tax is levied at the rate of six and three quarters percent (6 ¾%) of the rent or fee charged for such occupancy. The occupancy tax shall be in addition to all other taxes and fees levied upon the occupancy of Short Term Rentals in the city.

Section 150-1262. Definitions.

Except as otherwise expressly provided in this article, the following terms and their variant forms shall mean the following:

"Booking Transaction" means any contractual agreement between a Guest and an Owner relative to a Short Term Rental.

"Guest" means any person who occupies a dwelling unit pursuant to a Short Term Rental.

"Operator" means a natural person possessing a Short Term Rental operator's permit. An Operator who meets the legal requirements may also possess a Short Term Rental owner permit.

"Owner" means a person who owns at least a 50 percent interest in a dwelling unit used for Short Term Rentals.

"Person" means and shall have the same definition as that contained in R.S. 47:301(8).
"Platform" means one or more portals, listing services, or websites under common ownership or control through which a person, other than an Owner, collects or receives a fee, directly or indirectly, for facilitating Booking Transactions. A Platform shall not include a service that merely posts advertisements for Short Term Rentals.

"Short Term Rental" means the use and enjoyment of a Dwelling Unit, or any portion thereof, as defined in Sec. 26-614, by a Guest for a period of less than thirty consecutive days, in exchange for money, commodities, fruits, services, or other performances. Hotels, motels, bed and breakfasts, and other land uses explicitly defined and regulated separately from Short Term Rentals are not considered to be Short Term Rentals.

Section 150-1263. When due and payable.

(a) Every Guest who occupies a Short Term Rental unit shall be responsible for the payment of the occupancy tax levied herein, which shall be due and payable at the time of payment in connection with a Booking Transaction, regardless if collected directly by the Owner or on behalf of an Owner by a Platform.

(b) Except as provided in Section 150-1264, an Owner shall collect and shall timely remit to the Department of Finance all applicable local and state taxes and City fees owed in connection with any Booking Transaction, including without limitation the tax imposed by this article.

Section 150-1264. Collection by a Platform.

If payment in connection with a Booking Transaction is facilitated by or through a Platform, the Platform shall collect and timely remit to the Department of Finance all applicable local and state taxes and City fees owed in connection with the Booking Transaction, including without limitation the tax imposed by this article. The failure of a Platform to properly collect and remit taxes as
required by this Section shall not relieve an Owner of the obligation to pay taxes and fees owed in
connection with the Booking Transaction, including without limitation the tax imposed by this article.

Section 150-1265. Collection of excess tax prohibited.

Whoever advertises or collects a Short Term Rental occupancy tax in excess of the tax actually due
shall be guilty of a misdemeanor.

Section 150-1266. Distribution of tax proceeds.

(a) Except for any reasonable collection fee which may be established by the Director of
Finance, the proceeds of the tax shall be distributed as follows:

1) Seventy-five percent (75%) of the proceeds shall be deposited into the
Infrastructure Maintenance Fund, created pursuant to Ordinance No. 27,986
M.C.S. and codified at Sec. 70-415.278, et seq. of the Code of the City of New
Orleans.

2) Twenty-five percent (25%) of the proceeds shall be allocated to New Orleans &
Company, pursuant to a multi-year cooperative endeavor agreement approved by
the City Council, and used to promote tourism in the city.

(b) Until such time as the City and New Orleans & Company enter into a multi-year
cooperative endeavor agreement providing for distribution of the monies generated
hereby, or during any period in which such cooperative endeavor agreement is not in
effect, twenty-five percent (25%) of any monies collected pursuant to this Article shall
be segregated within the general fund and maintained in sufficient reserves until such
time as they are distributed to New Orleans & Company in accordance with La. R.S.
47:338.220.
Section 150-1267. Report and remittance.

(a) On or before the 20th day of each month, each Platform responsible for remitting the Short Term Rental occupancy tax imposed by this article shall remit all taxes and fees collected in connection with one or more Short Term Rental units during the previous month to the Department of Finance.

(b) On or before the 20th day of each month, each Owner responsible for remitting the Short Term Rental occupancy tax imposed by this article shall remit all taxes and fees collected in connection with one or more Short Term Rental units during the previous month to the Department of Finance.

(c) Such remittance shall be accompanied by a report on forms prepared by the Department of Finance that reasonably detail the basis for calculating and collecting the remittance and reasonably enable the department to determine the proper remittance of the tax imposed by this article, Short Term Rental fees, or other sales and uses taxes. Such reports must be accompanied by a certified check, post office or express money order, electronic payment, or cash for the amount of the tax due as indicated in the report.

(d) The tax report required by this Section shall be signed by the person responsible for the remittance of the tax or a duly authorized representative. Such signature shall constitute a warranty that the report has been read, examined, and to the best of the person signing’s knowledge and belief, the statement and figures therein contained are true, correct and complete.

Section 150-1268. Inspections.

In order that the Department of Finance may have additional means of checking and verifying the accuracy of reports submitted pursuant to Section 150-1267, all the records, books, and other
documents utilized to make such reports as required by the preceding section, shall be open for
inspection by the Department of Finance at all reasonable hours for a period of four years
commencing with the calendar year in which the tax becomes due and continuing for a period of the
three subsequent consecutive calendar years thereafter. Submitted reports and correlating records
shall be and shall remain confidential as required by State law.

Section 150-1269. Penalties – Civil.

To further enforce the collection of the taxes due under this article, independent of and in addition to
the enforcement of the criminal penalties provided for under this Section, the Department of Finance
and/or the Department of Law are hereby vested with authority, on motion in court of competent
jurisdiction, to invoke and include in a rule or summary proceeding against any person responsible
for the remittance of the tax, including a Platform, requiring them to show cause in not less than two
or more than ten days after service thereof, exclusive of holidays, which matter may be tried out of
term and in chambers, and shall always be tried by preference, why such person should not be
enjoined and restrained from further pursuit of the business; and in case such rule is made absolute,
the order thereon rendered shall be considered a judgment in favor of the city prohibiting, restraining,
and enjoining from further pursuit of the business until such time as the delinquent tax, penalties,
interest, attorney’s fees, and costs due have been paid; and every violation of the injunction shall be
considered as a contempt of court and punishable as such according to law.

Section 150-1270. Penalties – Criminal.

(a) If any tax due under this article is not collected and remitted within the time prescribed
herein, it shall become delinquent, and in addition to being liable for the tax due plus
interest, the responsible person, including a platform, shall be subject to a penalty of
twenty percent of the amount of the tax and interest.
(b) Any person responsible for the remittance of the tax shall be liable for attorney's fees in the amount of ten percent of the tax, interest, and penalty in all cases wherein an attorney is required to assist in the collection.

(c) Any person signing and filing a daily or monthly report subsequently found to be grossly incorrect, false, fraudulent, or in violation of any of the other provisions of this article, shall be, upon conviction, guilty of a misdemeanor.

Sections 150-1271 – 150-1299 – Reserved.”

ADOPTED BY THE COUNCIL OF THE CITY OF NEW ORLEANS

______________________________

PRESIDENT OF THE COUNCIL

DELIVERED TO THE MAYOR ON __________________________

APPROVED:
DISAPPROVED: __________________________

______________________________

MAYOR

RETURNED BY THE MAYOR ON __________________________ AT __________________________

______________________________

CLERK OF COUNCIL

ROLL CALL VOTE:
YEAS:
NAYS:
ABSENT:
RECUSED:
CHECK SHEET TO BE USED FOR CLEARING ORDINANCES, MOTIONS, AND RESOLUTIONS BEFORE SUBMISSION TO COUNCIL CLERK

The originating agency shall attach a copy of each proposed ordinance, motion, or resolution to the check sheet for processing in the sequence indicated after preparing a synopsis. The detailed memorandum of explanation shall also be attached to this check sheet.

SYNOPSIS OF DOCUMENT: Ordinance to amend the Code of the City of New Orleans by adding and ordaining Article XIV to Chapter 150 thereof to levy an occupancy tax on Short Term Rentals of overnight lodging in the City of New Orleans.

1. Department Head

2. Department of Law

3. Chief Administrative Officer

4. Director of Council Relations

5. Initials of Sponsoring Council Member

COUNCIL ACTION

Council Members Present: ____________________________

Absent: ____________________________

AMENDMENTS: ____________________________

FINAL ADOPTION:

MOVED:

2ND:

YEAS:

NAYS:

ABSENT:

RECUSED:

Reviewed by the Chief Administrative Officer after adoption by the City Council and prior to the Mayor's signature.

REF. POLICY MEMORANDUM NO. 3
LEGISLATIVE SUMMARY

TO ACCOMPANY ORDINANCES
BEFORE SUBMISSION TO CLERK OF COUNCIL

Requesting Department or Agency:  Intergovernmental Relation
Name of Contact Person:  Tara Richard
Telephone Number:  504-658-4931
Email Address:  tgrichard@nola.gov

Initials of Sponsoring Councilmember(s):  [Signature]

DETAILED SYNOPSIS OF THE ORDINANCE

Please generally describe the purpose, intent, and effect of the proposed ordinance.

Ordinance to levy an occupancy tax on Short Term Rentals with proceeds of such tax to be

distributed as follows: 75% dedicated to the Infrastructure Maintenance Fund and 25% allocated

pursuant to a multi-year CEA approved by City Council, to New Orleans & Company to be used to

promote tourism in the city. Ordinance levies the tax approved by voters at the end of 2019.
LEGISLATIVE SUMMARY

If the Ordinance is to effectuate a contract, CEA, or other similar agreement (hereafter contract), please provide the following additional information.

☑ If this section is not applicable, please check this box.

The parties involved:

________________________________________________________________________

The obligations, expectations, and deliverables of the parties involved:

________________________________________________________________________
________________________________________________________________________
________________________________________________________________________

Any fiscal implications for the City with the contract:

________________________________________________________________________
________________________________________________________________________
________________________________________________________________________

The public purpose and need for the contract:

________________________________________________________________________
________________________________________________________________________
________________________________________________________________________

The duration of the contract:

________________________________________________________________________
________________________________________________________________________
________________________________________________________________________
LEGISLATIVE SUMMARY

If the Ordinance is to effectuate an amendment to the Codes of the City of New Orleans, please provide the following additional information.

☐ If this section is not applicable, please check this box.

The existing provision(s) of the Code being proposed for amendment:

Creates a new Article XIV in Chapter 150 of the City Code titled 'Short Term Rental Occupancy Tax.'

The general content/requirements of the existing Code provision:

Creates a new Code provision.

How the proposed ordinance will alter the existing Code provision(s):

Creates a new Code provision.

Why these changes are needed:

The voters of the city of New Orleans voted to approve this Short Term Rental Occupancy Tax.

REQUESTED ADOPTION DATE: __________________________

Reference: Council Rule 41 & City Code Section 2-813