

FIRST READING: June 7, 2022

SECOND READING: September 20, 2022

ORDINANCE NO. 6560

AN ORDINANCE AMENDING CHAPTER 3.24 OF THE LOVELAND MUNICIPAL CODE TO PROVIDE FOR THE COLLECTION AND REMITTANCE OF ACCOMMODATION TAX BY MARKETPLACE FACILITATORS AND ELIMINATE THE LODGING PROVIDER 3.33% WITHHOLDING OPTION

WHEREAS, the City of Loveland (“City”) is a home-rule municipality organized under Article XX of the Colorado Constitution and with the authority of the City’s home rule charter; and

WHEREAS, the City has autonomous taxing authority under Article XX, section 6, of the Colorado Constitution to raise revenue to conduct City affairs and render services; and

WHEREAS, pursuant to such authority, the City has adopted and enacted an excise tax on lodging services pursuant to Chapter 3.24 of the Loveland Municipal Code; and

WHEREAS, the City’s lodging tax is intended to be levied on sales of lodging by owners of such lodging establishments, their agents, and any other entity that sells the right to access the lodging, including marketplace facilitators; and

WHEREAS, the City’s tax administration will improve by clarifying how marketplace facilitators must collect and remit the lodging services accommodation tax; and

WHEREAS, the City has historically permitted lodging providers to retain a portion of the collected tax revenues—the lesser of 3.33% of such revenues or \$300—to cover the expenses of collection and remittance of lodging tax to the City and the City finds that such tax retention is no longer in the public interest; and

WHEREAS, this clarification regarding marketplace facilitators and elimination of the lodging provider tax retention will not create a new tax on any City taxpayer nor affect in any way existing tax levels; and

WHEREAS, the City Council finds that such amendments are in the best interest of the City and its citizens.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LOVELAND, COLORADO:

Section 1. That Section 3.24.010 of the Loveland Municipal Code shall be amended in its entirety to read as follows:

“Unless the context requires otherwise, the following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section:

City manager shall mean the City Manager of the City of Loveland, or his or her designee.

Finance department shall mean the duly constituted Finance Department of the City of Loveland.

Lodging customer shall mean any person who, through a taxable lodging transaction, acquires lodging services from a lodging provider.

Lodging price shall mean the gross price paid or value given, exclusive of other taxes paid, by the lodging customer for the provision of lodging services.

Lodging provider shall mean any person providing lodging services or such provider's authorized agent or a marketplace facilitator.

Lodging services shall mean: (1) The providing of rooms or accommodations, except meeting rooms, by any person to any other person who for consideration uses, possesses, or has the right to use or possess any room, except a meeting room, in a hotel, inn, bed and breakfast residence, apartment, lodging house, motor hotel, guest house, guest ranch, trailer coach, mobile home, automobile camper trailer court and park, or similar establishment, for a period of less than 30 consecutive days under any concession, permit, right of access, license to use or other agreement, or otherwise; and (2) The sale of the right to access, use, or possess rooms or accommodations, except meeting rooms, in a hotel, inn, bed and breakfast residence, apartment, lodging house, motor hotel, guest house, guest ranch, trailer coach, mobile home, automobile camper trailer court and park, or similar establishment, for a period of less than 30 consecutive days under any concession, permit, right of access, license to use or other agreement, or otherwise.

Lodging tax or *tax* shall mean the excise tax imposed by this chapter payable by the purchaser of lodging services or the aggregate amount of taxes due from a lodging provider during the period for which such person is required to report the collections of this tax as herein specified.

Lodging transaction shall mean the providing of lodging services.

Marketplace shall mean a physical or electronic forum, including, but not limited to, a store, a booth, an internet website, a catalog, or a dedicated sales software application, where lodging services are offered for sale.

Marketplace facilitator shall mean a person who: (1) Contracts with a marketplace seller to facilitate for consideration, regardless of whether or not the consideration is deducted as fees from the transaction, the sale of the marketplace seller's lodging services through the person's marketplace; (2) Engages directly or indirectly, through one or more affiliated persons, in transmitting or otherwise communicating the offer or acceptance between a purchaser and the marketplace seller; and (3) Either directly or indirectly, through agreements or arrangements with third parties, collects payment from the purchaser on behalf of the seller. Marketplace facilitator does not include a person that exclusively provides internet advertising services or lists lodging services for sale, and that does not otherwise meet this definition.

Marketplace seller shall mean a person, regardless of whether or not the person is engaged in business in the city, which has an agreement with a marketplace facilitator and offers lodging services through a marketplace owned, operated, or controlled by a marketplace facilitator.

Person shall mean any individual, entity, firm, partnership, joint venture, corporation, estate or trust, receiver, trustee, assignee, lessee, limited liability company, or any person or entity acting in a fiduciary or representative capacity for any individual or entity, whether appointed by the court or otherwise, or any group or combination acting as a unit, and includes the plural as well as the singular number.

State shall mean the State of Colorado.

Taxpayer shall mean any person obligated to account to the city for taxes collected or to be collected under the terms of this chapter.”

Section 2. That a new Section 3.24.025 of the Loveland Municipal Code be adopted to read as follows:

“3.24.025 Tax levied on and collectible by authorized agents and marketplace facilitators.

For the purposes of clarity, the excise tax levied under this Chapter 3.24 for lodging services is levied upon direct providers of lodging services, as well as all entities and agents that sell lodging services on the behalf of, or with the permission of, the ultimate lodging service provider. Such entities and agents, including marketplace facilitators, shall be subject to the requirements of this Chapter 3.24 as any other lodging provider and shall collect taxes on the lodging price paid to such entity or agent, which price shall include the gross amount paid by the lodging customer, excluding other taxes paid, and shall include any profits fees or charges paid to the entity or agent by the lodging customer.”

Section 3. That Section 3.24.110(A) of the Loveland Municipal Code shall be amended in its entirety to read as follows:

“Every lodging provider shall be liable and responsible for the payment of an amount equal to three percent of all proceeds derived from the providing of lodging services as established pursuant to Section 3.24.020 and any such lodging provider shall file a return each month with the finance department on or before the twentieth day of each month for the preceding month and remit an amount equivalent to the lodging tax collected to the finance department.”

Section 4. That Section 3.24.240 of the Loveland Municipal Code shall be amended in its entirety to read as follows:

“It shall be the duty of every lodging provider engaged or continuing in business in the city, for the transaction of which a lodging license is required hereunder, to keep and preserve suitable records of all lodging transactions made by such person and such other books or accounts as may be necessary to determine the amount of tax for the collection of which such person is liable under this chapter. All such books, invoices and other records shall be preserved for a period of three years and shall be open for examination at any time by the city manager.”

Section 5. That as provided in City Charter Section 4-9(a)(7), this Ordinance shall be published by title only by the City Clerk after adoption on second reading unless the Ordinance has been amended since first reading in which case the Ordinance shall be published in full or the amendments shall be published in full. This Ordinance shall be in full force and effect ten days after its final publication, as provided in City Charter Section 4-8(b).

ADOPTED this 20th day of September, 2022.

Jacki Marsh
Jacki Marsh, Mayor

ATTEST:

Delynn Coldiron
Delynn Coldiron, City Clerk



APPROVED AS TO FORM:

Mark A. ...
Assistant City Attorney

Ordinance 6560

I, Delynn Coldiron, City Clerk of the City of Loveland, Colorado, hereby certify that the above and foregoing Ordinance was introduced at a regular (or special) meeting of the City Council, held on June 7, 2022 and was initially published in the Loveland Daily Reporter-Herald, a newspaper published within the city limits, in full on June 11, 2022 and by title except for parts thereof which were amended after such initial publication which parts were published in full in said newspaper on September 24, 2022.

Delynn Coldiron
Delynn Coldiron, City Clerk



Effective Date: October 4, 2022