

ORDINANCE NO. 97-4
REPLACING ORDINANCE NO.79-7

AN ORDINANCE LEVYING A HOTEL OCCUPANCY TAX, PROVIDING FOR COLLECTIONS, REPORTS THEREOF, GRANTING THE CITY OR COUNCIL ASSIGNEE AUTHORITY TO MAKE RULES AND REGULATIONS, AND ASSESSING A PENALTY FOR VIOLATION THEREOF.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF JAMAICA BEACH, STATE OF TEXAS:

Section 1. Definitions

- (a) "Hotel" means any building or buildings in which the public may, for a consideration, obtain sleeping accommodations, including hotels, motels, tourist homes, houses or courts, lodging houses, inns, rooming houses, or other buildings where rooms are furnished for a consideration, including houses rented privately by property owners, but not including hospitals, sanitariums or nursing homes.
- (b) "Consideration" means the cost of the room in a hotel only if the room is ordinarily used for sleeping, and not including 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.
- (c) "Occupancy" means the use or possession, or the right to the use or possession, of any room or rooms in a hotel if the room is one which is ordinarily used for sleeping and if the occupant is other than a permanent resident as hereinafter defined.
- (d) "Occupant" means anyone who, for a consideration, uses, possesses, or has a right to use or possess any room or rooms in a hotel under any lease, concession, permit, right of access, license, contract or agreement, other than a permanent resident as hereinafter defined.
- (e) "Person" means any individual, company, corporation or association owning, operating, managing or controlling any hotel.
- (f) "Quarterly period" means the regular calendar quarters of the year, the first quarter being composed of the months of October, November and December; the second quarter being the months of January, February and March; the third quarter being the months of April, May and June; and the fourth quarter being the months of July, August and September.
- (g) "Permanent resident" means any occupant who has or shall have the right to occupancy of any room or rooms in a hotel for at least thirty (30) consecutive days during the calendar year or preceding year.
- (h) "Delinquent" means overdue by ten (10) days or more in any given reporting period.

Section 2. Tax Levied/Amount/Exemptions

There is hereby levied a tax of seven percent (7 %) of the price paid for a room in a hotel on every person who, under a lease, concession, permit, right of access, license, contract, or agreement, pays for the use or possession or for the right to the use or possession of a room that is in a hotel and is ordinarily used for sleeping. The price of a room in a hotel does not include the cost of food served by the hotel and the cost of personal services performed by the hotel for the person except those services related to the cleaning and readying of the room for possession.

Exceptions are as follow:

- (1) No tax shall be imposed upon a permanent resident.
- (2) No tax shall be imposed for federal or state employees traveling on official business.
- (3) No tax shall be imposed for diplomatic personnel who present a Tax Exemption card issued by the United States Department of State.
- (4) No tax shall be imposed for federal or state military personnel traveling on official military business. This exemption does not cover military staff on leave or between stations.
- (5) No tax shall be imposed hereunder upon a corporation or association organized and operated exclusively for religious, charitable or educational purposes no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Section 3. Collection of Tax

Every person owning, operating, managing or controlling any hotel shall collect the tax levied by this ordinance for the City of Jamaica Beach.

Section 4. Quarterly Reports

On the last day of the month following each quarterly period (beginning the last day of the month following the first quarterly period of calendar year 1998), every person required to collect the tax imposed hereby shall file a report with the City of Jamaica Beach showing the price paid for all room occupancies in the preceding quarter, the amount of the tax collected on such occupancies, and any other information the City Administrator may reasonably require. Such person shall pay the tax due on such occupancies at the time of filing such report. The report shall be in a form prescribed by the City. The City is hereby authorized and directed to do all such things necessary or convenient to carry out the terms of this ordinance. The City shall have the authority to request and receive within 15 days documentation for information contained in the report to the City by the hotel.

Section 5. Rules and Regulations of City Administrator/Access to Books and Records

The City Administrator shall have the power to effectively collect the tax levied hereby, and shall upon notice of 15 days have access to books and records necessary to enable him to determine the correctness of any report filed as required by this ordinance, and the amount of taxes due under the provisions of this article.

Section 6. Penalties

Any person violating any of the provisions of this article, including hotel operators who fail to collect the tax, fail to file a return, file a false return, or who are delinquent in their tax payment, shall be guilty of a misdemeanor and shall, upon conviction, be fined in any sum not to exceed Five Hundred and No/100 (\$500.00) Dollars, and each twenty-four (24) hours of any such violation shall constitute a separate offense.

Section 7. Additional Penalties

- (a) The City is hereby authorized to take legal action against any person required to collect the tax imposed hereby and pay the collection over to the City and who has failed to file a report, or filed a false report, or failed to pay the tax when due.
- (b) The City Attorney is hereby authorized to bring suit against any person required to collect the tax imposed hereby and required to pay the collection over to the City and who has failed to file a report, or filed a false report, or failed to pay the tax when due. Such suit may seek to collect such tax not paid or to enjoin such person from operating a hotel in the city until the tax is paid or the report is filed or both, as applicable and as provided in the injunction.

Section 8. Use of Revenue Derived from Levy of Hotel Occupancy Tax

The revenue derived from any hotel occupancy tax imposed and levied by this ordinance may be used only to promote tourism and the convention and hotel industry, and that use is limited to the following:

- (1) the acquisition of sites for and the construction, improvement, enlarging, equipping, operation, and maintenance of convention center facilities (as such is defined in V.A.T.S. Tax Code, Section 351.001);
- (2) the furnishing of facilities, personnel, and materials for the registration of convention delegates or registrants;

- (3) advertising and conducting solicitations and promotional programs to attract tourists and convention delegates or registrants to the municipality or its vicinity;
- (4) the encouragement, promotion, improvement, and application of the arts, including instrumental and vocal music, dance, drama, folk art, creative writing, architecture, design and allied fields, painting, sculpture, photography, graphic and craft arts, motion pictures, radio, television, tape and sound recording, and other arts related to the presentation, performance, execution, and exhibition of these major art forms; and
- (5) historical restoration and preservation projects or activities or advertising and conducting solicitations and promotional programs to encourage tourists and convention delegates to visit preserved historic sites or museums:
 - (a) which are at or in the immediate vicinity of convention center facilities; or
 - (b) which are located elsewhere in the municipality or its vicinity that would be frequented by tourists, convention delegates, or other visitors to the municipality.

Revenue derived from the hotel occupancy tax shall be expended only in a manner which directly enhances and promotes tourism and the convention and hotel industry as hereinbefore delineated. Such revenue shall not be used for the general revenue purposes or general governmental operations of the municipality which are not directly related to promoting the hotel and convention industry or tourism in the municipality.

Section 9. Administrative Requirements/Accountability/Keeping of Records

The City Council may, by contract, delegate to a person, including another governmental entity or a private organization, the management or supervision of programs and activities funded with revenue from the hotel occupancy tax. The City Council shall approve in writing in advance the annual budget of the entity to which it delegates those functions, and shall require the entity to make periodic reports to the City Council at least annually listing the expenditures made by the entity of revenue from the tax provided by the municipality.

The entity must maintain the revenue provided by the municipality from the tax in a separate account established for that purpose and may not commingle that revenue with any other money or maintain it in any other account.

The municipality may not delegate to any person or entity the management or supervision of its convention and visitors programs and activities funded with revenue from the hotel occupancy tax other than by contract as provided herein.

The approval by the City Council of the annual budget of the entity to which these functions are delegated creates a fiduciary duty in the person or entity with respect to the revenue provided by the municipality to the person or entity under the contract.

A person or entity with whom the municipality contracts to conduct authorized activities shall maintain complete and accurate financial records of each expenditure of hotel occupancy tax revenue made by the person or entity and, on request of the City Council or other person, shall make the records available for inspection and review.

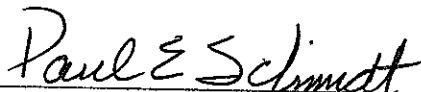
Hotel occupancy tax revenue may be spent for day-to-day operations, supplies, salaries, office rental, travel expenses, and other administrative costs only if those administrative costs are incurred directly in the promotion and servicing of expenditures hereinbefore authorized. The portion of the total administrative costs for activities for which hotel occupancy tax revenue may be used may not exceed the administrative costs actually incurred in conducting the authorized activities.

Hotel occupancy tax revenue may not be spent for travel for a person to attend an event or conduct an activity the primary purpose of which is not directly related to the promotion of the person's job as pertains to the enhancement and promotion of tourism and the hotel and convention industry in an efficient and professional manner.


The hotel occupancy tax authorized herein shall become effective commencing on the first day of January, 1998.

In the event that any one or more of the provisions, clauses or words of this ordinance or the application thereof to any situation or circumstance shall for any reason be held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect any other provisions, clauses, or words of this ordinance or the application thereof to any other situations or circumstance and it is intended that this ordinance shall be severable and that it shall be construed and applied as if such invalid or unconstitutional clause, section, provision, or word had not been included herein.

PASSED AND APPROVED this 20 day of October, 1997 to be effective the first day of January, 1998.


Paul E. Schmidt, Mayor

ATTEST:


Teri White, City Secretary