

ORDINANCE NO. 2011-004

AN ORDINANCE OF THE CITY OF ROBINSON, TEXAS AMENDING ORDINANCE NO 97-017, THAT ESTABLISHED REGULATIONS IMPOSING A HOTEL OCCUPANCY TAX; PROVIDING FOR THE USES OF THE REVENUE DERIVED FROM THE TAX; PROVIDING FOR THE COLLECTION OF THE TAX; PROVIDING REMEDIES FOR FAILURE TO REPORT, COLLECT OR PAY THE TAX AND THE IMPOSITION OF PENALTIES; PROVIDING THAT THE VIOLATION IS A MISDEMEANOR OFFENSE PUNISHABLE BY A FINE NOT TO EXCEED \$500 PER DAY; PROVIDING LIABILITY FOR SUCCESSOR OWNERS OF HOTELS; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT THEREWITH; PROVIDING FOR SEVERABILITY; DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE WAS ADOPTED WAS NOTICED AND OPEN TO THE PUBLIC AS REQUIRED BYLAW.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ROBINSON, TEXAS:

SECTION 1. That the following words, terms and phrases are, for the purpose of this ordinance, except where the context clearly indicates a different meaning, defined as follows:

- A. "Hotel" shall mean a building in which members of the public obtain sleeping accommodations for consideration. The term shall include a hotel, motel, tourist home, tourist house, tourist court, lodging house, inn, or rooming house, but does not include a hospital, sanitarium, or nursing home.
- B. "Consideration" shall mean the cost of the room, sleeping space, bed or dormitory space or other facilities in such hotel and shall not include the cost of any food served or personal services rendered to the occupant not related to cleaning and readying such room or space for occupancy, and shall not include any tax assessed for occupancy thereof by any other governmental agency.
- C. "Occupancy" shall mean the use or possession, or the right to use or possession of any room, space or sleeping facility in a hotel for any purpose.
- D. "Occupant" shall mean anyone, who, for a consideration, uses, possesses, or has a right to use or possess any room or rooms, or sleeping space or facility in a hotel under any lease, concession, permit, right of access, license, contract or agreement.
- E. "Person" shall mean any individual, company, corporation, or association owning, operating, managing or controlling any hotel.
- F. "Finance Department" shall mean the Finance Department of the City of Robinson.
- G. "Quarterly Period" shall mean the regular calendar quarters of the year, the first quarter being composed of the months of January, February and March, the second quarter being the months of April, May and June, the third quarter being the months of July, August and September, and the fourth quarter being the months of October, November and December.
- H. "Permanent Resident" shall mean any occupant who has or shall have the right to occupancy of any room or rooms or sleeping space or facility in a hotel for at least thirty (30) consecutive days during the calendar year or preceding year.

SECTION II. That there is hereby levied a tax upon the occupant of any room or space furnished by any hotel where such costs of occupancy is at the rate of two dollars (\$2.00) or more per day, such tax to be equal to seven (7) percent of the consideration paid by the occupant of such room, space of facility to such hotel, exclusive of other occupancy taxes imposed by other governmental units effective as of January 1998. No tax shall be imposed hereunder upon a permanent resident.

No tax shall be imposed on the United States government; an agency or entity of the United States government; or an officer or employee of a governmental entity of the United States when traveling on or otherwise engaged in the course of official duties for the governmental entity. The State of Texas, or an agency, institution, board, or commission of this state other than an institution of higher education shall pay the tax but is entitled to a refund. To receive a refund of tax paid the governmental entity entitled to the refund must file a refund claim on a form provided by the City and containing the information required by the City. The State Comptroller by rule has prescribed the form that must be used and the information that must be provided. The state is entitled to the refund sought by a state official or employee. However, a state officer or employee of a state governmental entity for whom a special provision or exception to the general rate of reimbursement under the General Appropriations Act applies and who is provided with photo identification verifying the identity and exempt status of the person is not required to pay the tax and is not entitled to a refund.

SECTION III. That all revenue derived from the occupancy tax imposed in Section II hereof will only be used to promote tourism and the convention and hotel industry, and that use is limited to the following:

- A. The acquisition of sites for the construction, improvement, enlarging, equipping, repairing, operation and maintenance of convention center facilities or visitor information centers, or both;
- B. The furnishing of facilities, personnel and materials for the registration of convention delegates or registrants;
- C. Advertising and conducting solicitations and promotional programs to attract tourists and convention delegates or registrants to the city or its vicinity;
- D. 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, television, radio, tape and sound recording, and other arts related to the presentation, performance, execution and exhibition of these major art forms; and
- E. 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:
 - (1) at or in the immediate vicinity of convention center facilities or visitor information centers, or
 - (2) located elsewhere in the city or its vicinity that would be frequented by tourists and convention delegates.

At least that portion of the hotel occupancy tax equal to one (1%) percent of the consideration paid by an occupant of hotel rooms shall be allocated for the purposes in subsection C. The portion of the hotel occupancy tax revenue allocated by the city for the purposes provided in subsection A above may not exceed seventy-five (75%) percent of the total of such tax revenue. No more than one (1%) percent of the consideration paid by an occupant of hotel rooms may be used for purposes specified in subsection D above. If the city does not allocate any hotel occupancy tax revenues for the purposes provided in subsection A above, then the city may not allocate more than fifty (50%) percent of the hotel occupancy tax revenues for the purposes provided by subsection E above.

SECTION IV. That every person shall collect the tax imposed in Section II hereof for the City of Robinson, Texas. On the last day of the month following each quarterly period, every person required herein to collect the tax imposed in this ordinance shall file a report with the Finance Department showing the consideration paid for all room occupancies in the preceding quarter, the amount of tax collected on such occupancies, and any other information as the Finance Department may reasonably require. Every person required herein to collect the tax imposed in this ordinance shall pay the amount of tax collected from occupants during the period of the report at the time of filing the report as provided above.

SECTION V. That the Director of the City's Finance Department shall have the power to make such rules and regulations as are necessary to effectively collect the tax imposed in this ordinance, and shall, upon reasonable notice to the person required to collect the tax, have access to books and records of such person as is necessary to enable the tax assessor-collector to determine the correctness of any report filed as required by Section IV and the amount of taxes due under the provisions of Section II.

SECTION VI. The city attorney or other attorney acting for the city may bring suit against a person who is required to collect the tax imposed by this ordinance and pay the collections over to the city and who has failed to file a tax report or pay the tax when due to collect the tax not paid or to enjoin the person from operating a hotel in the city until the tax is paid or the report filed, as applicable, as provided by the court's order. In addition to the amount of any tax owed under this ordinance, the person is liable to the city for:

- (1) the city's reasonable attorney's fees;
- (2) the costs of an audit conducted, as determined by the city using a reasonable rate, but only if the tax has been delinquent for at least two complete municipal fiscal quarters at the time the audit is conducted; and
- (3) a penalty equal to 15 percent of the total amount of the tax owed.

If a person required to file a tax report does not file the report as required by the city, the city attorney or other attorney acting for the city may determine the amount of tax due under this ordinance by:

- (1) conducting an audit of each hotel in relation to which the person did not file the report as required by the city; or

- (2) using the tax report filed for the appropriate reporting period with the state comptroller in relation to that hotel.

If the person did not file a tax report under with the state comptroller for that reporting period in relation to that hotel, the city attorney or other attorney acting for the city may estimate the amount of tax due by using the tax reports in relation to that hotel filed during the previous calendar year for city or state occupancy taxes. An estimate made under this subsection is prima facie evidence of the amount of tax due for that period in relation to that hotel.

The City shall be entitled to seek any other available remedies allowed by statute or charter.

In addition, any person required by this ordinance to collect the tax imposed herein, or to make reports as required herein, who fails to collect such tax, file such report, or pay such tax, or who shall file a false report, shall be deemed guilty of a misdemeanor, for each day such failure occurs, and upon conviction shall be punished by a fine not to exceed \$500.00.

SECTION VII. That if a person who is liable for the payment of an amount under Section IV is the owner of the hotel, and sells the hotel, the successor to the seller or the seller's assignee shall withhold an amount of the purchase price sufficient to pay the amount due until the seller provides a receipt from the Finance Department showing that the amount has been paid or a certificate stating that no amount is due. The purchaser of a hotel who fails to withhold an amount of the purchase price as required by this Section VII is liable for the amount required to be withheld to the extent of the value of the purchase price. The purchaser of a hotel may request that the Finance Department issue a certificate stating that no tax is due or issue a statement of the amount required to be paid before a certificate may be issued. The Finance Department shall issue the certificate or statement within sixty (60) days after receiving the request. If the Finance Department fails to mail to the purchaser at the address he provides to the Finance Department, the certificate or statement within the applicable period provided by paragraph C of this section to the purchaser at the address he provides to the Finance Department, the purchaser is released from the obligation to withhold the purchase price or pay the amount due. The period of limitation during which the City may assess tax against the purchaser under this section is four (4) years from the date when the former owner of the hotel sells the hotel or when a determination is made against the former owner, whichever event occurs later. At any time within three (3) years after a deficiency determination against the purchaser has become due and payable the City may bring action in a District Court of McLennan County or a court of any other state of the United States in the name of the City of Robinson, Texas to collect the delinquent amounts together with penalties and interest.

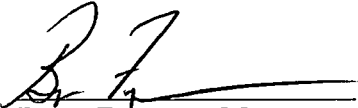
SECTION VIII. That all other ordinances and parts of ordinances, codes, regulations, policies and guidelines of the City of Robinson, Texas which are in conflict with this ordinance are hereby repealed to the extent of such conflict.

SECTION IX. That if any provision of the ordinance is found by a Court of competent jurisdiction to be invalid, unconstitutional, or unenforceable, or if the application of this ordinance to any person or circumstance is found to be invalid, unconstitutional or unenforceable, such invalidity,

unconstitutionality or unenforceability shall not affect the other provisions or applications of this ordinance which can be given effect without the invalid, unconstitutional or unenforceable provision or application, and to this end the provisions of this ordinance are declared to be severable.

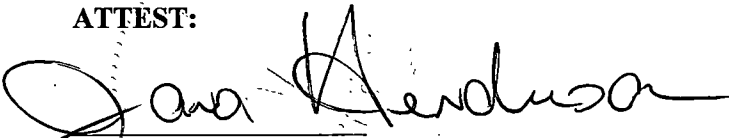
SECTION X. It is hereby officially found and determined that the meeting at which this ordinance is passed is open to the public as required by law and that public notice of the time, place, and purpose of said meeting was given as required by law.

PASSED AND APPROVED THIS THE 12TH DAY OF APRIL, 2011.



Bryan Ferguson, Mayor

ATTEST:



Jana Henderson
City Secretary