

## CHAPTER 11

### TAXATION

#### ARTICLE 11.100 ADOPTION OF STATE LAW

The provisions of state law applicable to municipalities shall apply to and govern the payment of taxes due and owing to the city and penalties in connection therewith to the same extent and if such provisions, by the terms thereof, have been made applicable to city taxes by ordinances of the city. (1965 Code of Ordinances, Chapter 19, Article I, Section 19-1)

#### ARTICLE 11.200 HOTEL OCCUPANCY TAX\*<sup>(1)</sup>

##### Sec. 11.201 Definitions

The following words, terms and phrases are for the purpose of this article except where the context clearly indicates a different meaning, defined as follows:

*Consideration.* The cost of the room, sleeping space, bed or other facility in such hotel 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, sleeping space, bed or other facility for occupancy.

*Hotel.* Any building or buildings, trailer or other facility in which the public may for a consideration, obtain sleeping accommodations. The terms 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, sanitarium or nursing homes.

*Occupancy.* The use or possession or the right to use or possess any room or rooms, sleeping space, bed or other facility in a hotel for any purpose.

*Occupant.* Anyone who for a consideration uses, possesses or has right to use or possess any room or rooms, sleeping space, bed or other facility in a hotel under any lease, concession, permit, right of access, license, contract or agreement.

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

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

*Quarterly Period.* 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.

(1965 Code of Ordinances, Chapter 19, Article II, Section 19-21)

#### **Sec. 11.202 Levy of Tax, Rate; Exception**

(a) 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 be equal to seven (7) percent of the consideration paid by the occupant of such room to such hotel.

(b) No tax shall be imposed hereunder upon a corporation or association organized and operated exclusively for religious, charitable or educational purposes nor part of the net earnings of which inures to the benefit of any private shareholder or individual.

(1965 Code of Ordinances, Chapter 19, Article II, Section 19-22)

#### **Sec. 11.203 Collection**

Every person owning, operating, managing or controlling any hotel shall collect the tax imposed in Section 11.202 hereof for the City of Brownfield. (1965 Code of Ordinances, Chapter 19, Article II, Section 19-23)

#### **Sec. 11.204 Reports**

On the last day of the month following each quarterly period every person required hereby to collect the tax imposed by this article shall file a report with the city secretary showing the consideration paid for all room occupancies in the preceding quarter, the amount of tax collected on the city's behalf on such occupancies, and any other information as the city secretary may reasonably require. Such person shall pay over the tax due on such occupancies at the time of

filing such report. There shall also be furnished to the city secretary at the time of payment of such tax a copy of the quarterly tax report filed with the state comptroller in connection with the State of Texas Hotel Occupancy Tax. (1965 Code of Ordinances, Chapter 19, Article II, Section 19-24)

**Sec. 11.205 Enforcement**

The city secretary shall have the power to make such rules and regulations as are necessary to effectively collect the tax levied herein and shall upon reasonable notice have access to books and records necessary to enable him to determine the correctness of any report filed as required by this article and the amount of taxes due under the provisions of this article. (1965 Code of Ordinances, Chapter 19, Article II, Section 19-25)

**Sec. 11.206 Violations**

If any person required by the provisions of this article to collect the tax imposed herein, makes reports as required herein and pays to the city secretary the tax imposed herein shall fail to collect such tax, shall fail to file such report or shall fail to pay such tax, such person shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine in accordance with the general penalty provision set forth in Section 1.109 of this code. (1965 Code of Ordinances, Chapter 19, Article II, Section 19-26)

**Sec. 11.207 Delinquency Penalties**

If any person shall fail to file a report as required herein or shall fail to pay to the city secretary the tax as imposed herein when such report or payment is due, he shall forfeit five (5) percent of the amount due as penalty, and after the first thirty (30) days he shall forfeit an additional five (5) percent of such tax. Provided, however, that the penalty shall never be less than one dollar (\$1.00). Delinquency taxes shall draw interest at the rate of six (6) percent per annum beginning sixty (60) days from the date due. (1965 Code of Ordinances, Chapter 19, Article II, Section 19-27)

**ARTICLE 11.300 HOTEL/MOTEL TAX REVENUE OVERSIGHT BOARD**

**Sec. 11.301 Created**

(a) The hotel/motel tax revenue oversight board shall consist of eight (8) members divided into two categories; standing members and at-large members.

(1) Standing Members.

*Brownfield Code of Ordinances*

- (A) The following members are standing members:
- (i) Mayor pro tem;
  - (ii) Two (2) members consisting of a hotel or motel owner and/or management each to be appointed by the city council;
  - (iii) The city's recreation director;
  - (iv) The executive director of the city's area chamber of commerce.

*Brownfield Code of Ordinances*

- (B) Any standing member who shall cease to be eligible to be a board member because such member no longer possesses one of the above stated positions shall immediately resign or be subject to removal by the city council.

(2) At-Large Members.

- (A) The following members are at-large members: Three (3) citizens from the city.
- (B) The at-large members shall consist of citizens of the city who are not current officers or members of the boards already represented as standing members and shall be appointed by the city council for a term of three (3) staggering years.
- (C) At-large members may be removed by the city council as follows:
  - (i) If a member misses 2 meetings during a calendar year.
  - (ii) With or without cause by a majority vote of all members of the council.
- (D) Any at-large member who becomes a member/officer of a board represented as a standing member shall cease to be eligible as an at-large board member and shall immediately resign and shall be replaced by the city council.

(b) Vacancies shall be filled for the unexpired term of any member whose place becomes vacant for any cause in the same manner as the original appointment was made. Each member reappointed or each new appointee, except those appointed to fill an unexpired term, shall serve for a full term of three (3) years unless removed as herein provided. The at-large members shall not serve more than two terms in succession and until their successors have been appointed by the city council. Nothing prohibits a past at-large member from serving on the board again after the lapse of one (1) year.

(c) All members of the board shall attend a hotel/motel occupancy tax training within sixty (60) days of the date of appointment to the board. The city secretary will notify the members of the day, time, and location of the required meeting.

**Sec. 11.302 Meetings**

The mayor pro tem shall serve as the chairman of the board. Meetings of the board shall be held on a quarterly basis as follows: Third Monday in November, Third Monday in February, Third Monday in May, and Third Monday in August. All meetings of the board shall be open to the public following the posting of an agenda in accordance with chapter 551 of the Texas Government Code (The Texas Open Meetings Act). The board shall keep minutes of its

proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicate such fact.

**Sec. 11.303 Scope of Authority**

The board shall have the authority to administer funds received by the city pursuant to chapter 351 of the Texas Tax Code with the exception of funds otherwise expended by the city council pursuant to a contract with a third party or otherwise. All funds under the control of the board shall be administered in accordance with chapter 351 of the Texas Tax Code. The board is hereby authorized to expend up to two thousand and no/100 dollars (\$2,000.00) without the approval of the city council so long as such expenditures are in accordance with the city budget approved by the city council. All expenditures in excess of two thousand and no/100 dollars (\$2,000.00) shall be presented to the city council for their consideration. The maximum amount allotted per event is five thousand and no/100 dollars (\$5,000.00).

**Sec. 11.304 Accounting**

(a) All funds administered by the board shall be held by the city and all disbursements shall be signed by the city manager and the city secretary. All funds administered by the board shall be audited each year as a part of the city's comprehensive annual financial audit.

(b) The mayor pro tem shall present to the city council the compliance report of all events approved for funding by the hotel/motel occupancy tax revenue oversight board at the second council meeting of the month following the board's quarterly meeting.

(Ordinance 2048 adopted 2/20/14)

**Endnotes**

**1 (Popup - Popup)**

\* **State Law reference**-Authority of municipality to impose hotel occupancy tax, V.T.C.A., Tax Code, Chapter 351.