

ORDINANCE NO. 450, AMENDMENT 2AN ORDINANCE AMENDING
AN ORDINANCE ADOPTING THE
HOTEL OCCUPANCY TAX IN THE
TOWN OF ANTHONY, TEXAS

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF ANTHONY, TEXAS, THAT:

Ordinance No. 450 previously adopted on the 22nd day of April, 2008, be and is hereby amended and shall now read as follows:

Definitions: The following words, terms and phrases, when used in this ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Consideration means the cost of the room, sleeping space, bed or other facilities in such hotel and shall not include the cost of any food served or personal services rendered to the occupant of such room or space not related to the cleaning and readying of such room or space for occupancy, and shall not include any tax assessed for occupancy thereof by any other governmental agency.

Hotel means a building or facility in which members of the public may obtain sleeping accommodations for consideration. The term includes a hotel, motel, tourist home, tourist house, tourist court, lodging house, bed and breakfast or other building where space is furnished for consideration. The term does not include a hospital, sanitarium, nursing home or dormitory or housing facility owned or leased and operated by an institution of higher education or a private or independent institution of higher education, as defined by the State Education code, used by the institution for the purpose of providing sleeping accommodations for persons engaged in an educational program or activity at the institution.

State law references: Similar provisions, V.T.C.A., Tax Code §156.001(1); definition adopted V.T.C.A., Tax Code §351.001(5).

Occupancy means the use, possession, or 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.

Occupant means anyone, who, for a consideration, for any purpose, 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.

Permanent Resident means 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 30 consecutive days, so long as there is no interruption of payment for the period.

Person means any individual, partnership, company, corporation, association, or other legal entity owning, operating, managing or controlling any hotel.

Quarterly Period means the regular calendar quarters of the year. The first quarter being 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.

Levy of Tax, rate; exception

- (a). There is hereby levied a tax upon the occupant of any room or space furnished by any hotel within the Town where such costs of occupancy is at the rate of two dollars or more per day, such tax to be equal to four (4%) percent of the consideration paid by the occupant of such room, space, or facility, to such hotel, exclusive of other occupancy taxes imposed by other governmental agencies effective as of July 1, 2008.
- (b). The person required to collect the tax set forth in subsection (a) may deduct and withhold from the person's payment to the Town, as reimbursement for the cost of collecting the tax, an amount not to exceed one percent of the tax due and required to be reported to the Town. If taxes due under this article are not paid to the Town within the time required or if the person required to file a report fails to file the report when due, the person forfeits the claim to the reimbursement that could have been taken if the tax had been paid or the report filed when due.
- (c). No tax shall be imposed under this section upon a permanent resident.
- (d). No tax shall be imposed under this section upon any occupant of any room or space rented from a corporation or association organized and operated exclusively for religious, charitable or educational purposes, if no part of the net earnings of which inures to the benefit of any private shareholder or individual.
- (e). All revenue derived from the occupancy tax imposed in subsection (a), except the one percent which may be withheld under subsection (b), will be used only for those purposes permitted by law.

Collection

Every person owing, operating, managing or controlling any hotel shall collect the tax imposed by this ordinance for the Town. The failure of the person, firm or corporation owning, operating, managing or controlling said hotel, to collect sufficient monies from occupants to satisfy said tax shall not excuse the obligation to pay said tax to the Town. Any person who receives or collects hotel tax from an occupant shall hold the amount so collected in trust for the benefit of the Town and is liable to the Town for the full amount collected plus any accrued penalties and interest on the amount collected.

Reports

On the last day of each month, every person required to collect the tax imposed in this ordinance on the Town's behalf shall file a report with the Town Clerk showing the consideration paid for all occupancies in the preceding quarter, the amount of tax due such occupancies, and any other information as the Town Clerk may reasonably require. Such person shall pay the amount of tax due from occupants during the period of the report at the time of filing the report. There shall also be furnished to the Town's Clerk at the time of such report and payment, a copy of the state hotel occupancy tax report(s) for the corresponding period.

Rules and Regulations

The Town Clerk shall have the power to make such rules and regulations as are necessary to effectively collect the tax levied in this ordinance, and shall upon reasonable notice have access to books and records necessary to enable the Town Clerk to determine the correctness of the report filed as required by this ordinance and the amount of taxes due under the provisions of this ordinance.

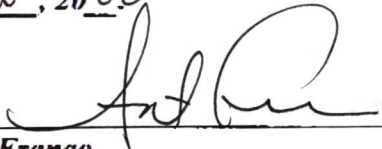
Penalties

If any person shall fail to collect the tax imposed in this ordinance, or shall fail to file a report as required in this ordinance, or shall fail to pay to the town the tax imposed in this ordinance when such report for payment is due, or shall file a false report, then such person shall be deemed guilty of a misdemeanor and upon conviction be punished by a fine not to exceed \$500.00 per quarter. In addition, such person who fails to remit the tax imposed by this ordinance within the time required shall pay a fee of ten (10%) percent of the total amount of the tax owed, and after the first 30 days shall pay an additional five percent of the total amount of the tax owed. Delinquent taxes shall draw daily interest at the rate of ten (10%) per cent per annum beginning 30 days from the date due on the tax imposed by this ordinance.

The Attorney acting for the Town may bring suit against a person who is required to collect the hotel occupancy tax and pay the collections over to the Town, and who has failed to file a tax report or pay the tax when due, to collect the delinquent taxes, or to enjoin the person from operating a hotel in the Town until the tax is paid or the report filed, as applicable, as provided by a court order. In addition to the amount of any tax owed, the person is liable to the Town for reasonable attorney fees, the costs of an audit conducted as determined by the Town using a reasonable rate if the tax has been delinquent for at least two months at the time the audit is conducted.

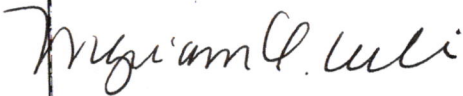
That this Ordinance was duly enacted with all the requisites and formalities incident thereto the enactment of ordinances, and such is evidenced by the below signatures.

SIGNED AND ENACTED this 10th day of June, 2008



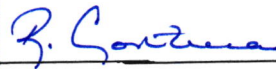
Art Franco
Mayor

Attest:



Myriam P. Uribe
Town Clerk

Approved:



Richard Contreras
Town Attorney

