

ORDINANCE NO. 2018 - 514

AN ORDINANCE OF THE TOWN OF ANTHONY, TEXAS REPEALING IN ITS ENTIRETY ORDINANCES 331, 450, 450 AMENDMENT 1, AND 450 AMENDMENT 2 AND ADOPTING THE HOTEL OCCUPANCY TAX

WHEREAS, the Town of Anthony, Texas desires to develop a tourism industry for the benefit of the Town; and

WHEREAS, the promotion and growth of the tourism industry will enhance the City; and

WHEREAS, there is available a Hotel Occupancy Tax of up to six percent (6%) as provided by State Statute, the proceeds of which can be utilized by the Town to promote tourism, and enhance the arts and historical preservation of the Town; and

WHEREAS, it is deemed in the best interest of the Town to accomplish the goals as set forth above, and to enact and approve six percent (6%) Hotel/Motel Occupancy Tax; the proceeds of which can be devoted to the foregoing purposes; and

WHEREAS, the Town Council of the Town of Anthony, Texas deems it in the best interest of the Town to adopt a Hotel/Motel Occupancy Tax;

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

1. TAX LEVIED

There is hereby levied, enacted, and approved a six percent (6%) Hotel/Motel Occupancy Tax within the incorporated municipal boundaries (i.e., Town limits) of the Town of Anthony, Texas.

2. 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 providing sleeping accommodations for persons engaged in an educational program or activity at the institution.

Occupancy means the use, possession, or right to use or possess any 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 thirty (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.

3. LEVY OF TAX, RATE, AND EXEMPTIONS

- 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 six percent (6%) 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.
- 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 (1%) of the tax due and required to be reported to the Town. If taxes due under this ordinance 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 inure 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.

4. COLLECTION OF TAX

Every person owning, 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.

5. REPORTS

On the twentieth (20th) day of the month following each last day of the month, every person required to collect the tax imposed hereby shall file a report with the Town Clerk showing the price paid for all room occupancies in the preceding month, the amount of the tax collected on such occupancies, and any other information the Town Council 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 Town Council and shall contain a copy of the state report filed for the comparable period.

The Town Clerk is hereby authorized and directed to do all such things necessary or convenient to carry out the terms of this ordinance.

The Town Clerk shall have the authority to request and receive within a reasonable time, documentation for information contained in the report to the Town by the hotel.

6. RULES AND REGULATIONS

The Town Clerk shall have the power to make such rules and regulations as 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.

7. ENFORCEMENT

A. Offenses

- (1) It shall be unlawful for any person to fail to file a report with the Town Clerk in accordance with this Ordinance.
- (2) It shall be unlawful for any person to fail to render payment to the Town Clerk of taxes levied by this Ordinance.

B. Administrative Penalties

Any person committing one or more of the following shall be charged an administrative penalty:

- (1) failure to file a report as required by this Ordinance;
- (2) filing a false report; or
- (3) failure to pay to the Town Clerk the tax as imposed herein when said report payment is due.

Any person committing the above acts shall pay an amount equal to fifteen percent (15%) of the amount due as penalty.

8. ADDITIONAL PENALTIES

A. In addition to the amount of any tax owed under this Ordinance and the state law, the person is liable to the Town for the municipality's reasonable attorney's fees.

B. The Town is hereby authorized to take the following actions against any person required to collect the tax imposed hereby and pay the collection over to the Town and who has failed to file a report, or filed a false report, or failed to pay the tax when due:

- (1) Require the forfeiture of any revenue the Town allowed the hotel operator to retain for its cost of collecting the tax;
- (2) Bring suit against the hotel for noncompliance;
- (3) Ask the District Court to enjoin operation of the hotel until the report is filed and the tax is paid; and/or

(4) Bring suit against the hotel seeking any other remedies provided in the injunction.

9. ADDITIONAL AUTHORIZATION TO BRING SUIT

The Town is hereby authorized to sue any person required to collect the tax imposed hereby and required to pay the collector over to the Town and who has failed to file a report, or filed a false report, or failed to pay 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.

10. USE OF TAX REVENUE

A. 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) Funding the establishment, improvement, or maintenance of a convention center or visitor information center;
- (2) Paying the administrative costs for facilitating convention registration;
- (3) Paying for advertising, solicitations, and promotions that attract tourists and convention delegates to the Town or its vicinity;
- (4) Expenditures to promote the arts;
- (5) Funding historical restoration or preservation programs;
- (6) Funding certain expenses, including promotional expenses, directly related to a sporting event within counties with a population of under 1 million;
- (7) Funding the enhancement or upgrading of existing sports facilities or sports fields;
- (8) Funding transportation systems for tourists; and
- (9) Signage directing tourists to sights and attractions that are visited frequently by hotel guests in the municipality.

B. 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.

11. ADMINISTRATIVE REQUIREMENTS

A. The Town Council hereby delegates to the Town Clerk, the management or supervision of programs and activities funded with revenue from the hotel occupancy tax.

B. The Town Clerk 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.

C. The Town Clerk shall maintain complete and accurate financial records of each expenditure of hotel occupancy tax revenue made under the direction of the person or entity contracted, if any, and on request of the Town Council shall make the records available for inspection and review.

D. Hotel occupancy tax revenue may be spent for day-to-day operations, supplies, salaries, office rental, travel expenses, and 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 cost incurred in conducting the authorized activities.

12. EFFECTIVE DATE

The Hotel Occupancy Tax authorized herein shall become effective on May 14, 2018 and shall thereafter be collected on all rooms under occupancy (as that term is herein defined) from and after the effective date, regardless of the date upon which payment or reservation for the occupancy was made.

13. REPEALER

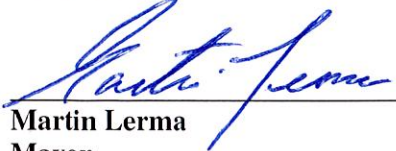
This Ordinance, upon its enactment and effective date, shall repeal all conflicting provisions that may be contained in other City ordinances or regulations, except to the extent they apply to obligations and violations arising prior to the enactment of this Ordinance.

14. SEVERABILITY

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 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.

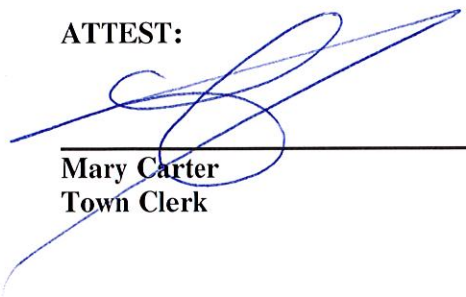
PASSED, ADOPTED AND APPROVED THIS 14 DAY OF May, 2018.

APPROVED:



Martin Lerma
Mayor

ATTEST:



Mary Carter
Town Clerk



ROLL CALL VOTE:

Mayor Pro-tem Benjamin Romero	<u>Yes</u>
Councilor Jose Garcia	<u>Yes</u>
Councilor Shawn Weeks	<u>Yes</u>
Councilor Louie Alfaro	<u>Yes</u>
Councilor Eddie Chavez	<u>Yes</u>