

ORDINANCE NO. 253

AN ORDINANCE AUTHORIZING LEVY OF A LOCAL HOTEL OCCUPANCY TAX; ESTABLISHING THE TAX RATE, EFFECTIVE DATE, LIABILITY FOR TAX WHEN PURCHASING A HOTEL, TAX PAYMENT PROCEDURES, PENALTIES FOR FAILURE TO REPORT OR COLLECT THE TAX, AND ENFORCEMENT AUTHORITY OF THE CITY, DEFINITION OF THE USE OF THE HOTEL OCCUPANCY TAX FUNDS AND MANAGEMENT OF THE TAX REVENUES AFTER PASSAGE OF THIS ORDINANCE; PROVIDING A SEVERABILITY CLAUSE; DEFINING THE EFFECTIVE DATE OF THE ORDINANCE; AND DOCUMENTING PASSAGE OF THE ORDINANCE.

WHEREAS, the city council of the City of Tioga seeks to improve the economic development of the City of Tioga and tourism in the City and its vicinity,

WHEREAS, a local hotel occupancy tax provides an important source of funding for these objectives,

THEREFORE, the city council of the City of Tioga approves the levy of a local hotel occupancy tax within the City of Tioga. In addition, the City of Tioga approves the levy of a hotel occupancy tax within its extra-territorial jurisdiction (ETJ).

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF Tioga TEXAS THAT:

SECTION 1. Definition

A hotel room is defined as a hotel, motel, tourist home, tourist court, lodging house, inn, rooming house, or bed and breakfast. The price of a room does not include the cost of food served by the hotel or the cost of other personal services. The use of the term "hotel" hereafter refers to the business operating a hotel room as defined above.

SECTION 2. Tax Rate

- a) A local hotel occupancy tax rate of seven percent (7%) of the fee paid for the use of a hotel room normally used for sleeping within the City limits of the City of Tioga is hereby established.
- b) **IN ADDITION**, a local hotel occupancy tax rate of seven percent (7%) of the fee paid for the use of a hotel room normally used for sleeping within the extra-territorial jurisdiction of the City of Tioga is hereby established.

SECTION 3. Exemption

An exemption from the hotel tax is granted for persons who have contracted to use a hotel room for more than thirty (30) consecutive days. In addition, federal employees, foreign diplomatic personnel, and certain high-level state employees may present a tax exemption certificate to a hotel. State employees must pay the hotel occupancy tax when paying their bill; this tax will be refunded to the exempt employer through a separate process. The city may not grant additional exemptions.

SECTION 4. Effective Date of Tax

The effective date of the city's hotel occupancy tax is October 1, 2006.

SECTION 5. Purchasing a Hotel

- a. Persons buying a hotel must retain out of the purchase price an amount sufficient to cover any delinquent hotel occupancy taxes that are due to the city. If the buyer does not remit to the city such amount or show proof that the hotel is current remitting its hotel occupancy taxes, the buyer becomes liable for any delinquent hotel occupancy taxes due on the purchased hotel.
- b. The purchaser of a hotel may request the city to provide a receipt showing that no hotel occupancy tax is due on the property to be purchased. The city is required to issue the statement not later than the 60th day after the request. If the city fails to issue the statement within the deadline, the purchaser is released from the obligation to withhold the amount due from the purchase price.

SECTION 6. Payment Procedures

- a) The hotel customer pays the local hotel occupancy tax to the hotel. The hotel then remits the tax to the city on a quarterly basis.
- b) The city secretary will send a tax return form to each hotel business by the last day of a fiscal quarter.
- c) The hotel business will complete the designated tax return form, attach a copy of the hotel's tax report completed for the State Comptroller, pay the tax amount, and return them to the city secretary by the

30th of the month following a fiscal quarter (i.e. January, April, July, or October)

- d) The city may use the state report data to check the completeness of the local report.
- e) The city may request hotel occupancy tax audit information from the State Comptroller. However, the city must keep such information confidential and use the information only for enforcement or administration of the city's hotel tax.
- f) The hotel business is authorized to retain one percent (1%) of the amount of hotel occupancy taxes collected as reimbursement for the costs of collecting the tax.

SECTION 7. Penalties for Failure to Report or Collect the Tax

- a) The city authorizes the imposition of a fifteen percent (15%) penalty and a provision to allow the collection of attorney fees against any hotel operator who is late or fraudulent in remittances.
- b) Any person or business which fails to collect the tax, fails to file a return, files a false return, or fails to timely make the remittance shall result in the person and/or business being guilty of a misdemeanor and punishable under the provisions of the Texas Penal Code. Each and every occurrence that this Section may be violated shall constitute a separate offense.

SECTION 8. Enforcement Authority

In addition to the penalties described above, the city may take the following action(s) against a hotel operator who fails to report or collect the local hotel occupancy tax:

- 1) Require the forfeiture of any revenue the city allowed the hotel operator to retain for the cost of collecting the tax;
- 2) Bring a civil suit against the hotel operator for noncompliance;
- 3) Ask the district court to enjoin operation of the hotel until the report is filed and/or the tax is paid;
- 4) Any other remedies provided under Texas law.

SECTION 9. Management of Funded Activities

- 1) The city will approve in writing the portion of the city's annual budget that involves expenditures of hotel occupancy tax funds. This approval will be in advance of any expenditure.
- 2) The city secretary will prepare and submit a quarterly report to the city council. The report must list all expenditures made by the city from the hotel occupancy tax revenue. The report should also list which category the expenditure qualifies under.
- 3) The city secretary will maintain complete and accurate financial records of each expenditure of hotel occupancy tax revenue. These records must be made available for inspection and review upon the request of the city council or upon a request from any other person.
- 4) The city will maintain the hotel occupancy tax revenue in a separate bank account established for that purpose. This account cannot be commingled with any other account.

SECTION 10. Severability Clause

If any provision of this ordinance or any section thereof, in any circumstance is held invalid, the validity of the remainder of the ordinance and of the application of any of the other provisions or sections shall not be affected.

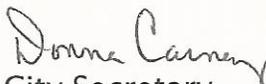
SECTION 11. Effective date of the ordinance

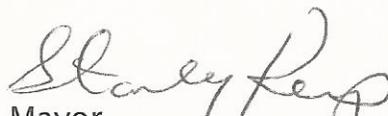
This ordinance shall take effect immediately from and after its passage and the publication of the caption of such ordinance as the law in such cases provides.

Passed and approved this day the 14 day of August,
2006.

ATTEST:

APPROVED:


City Secretary


Mayor