

**VILLAGE OF THE HILLS
ORDINANCE NO.-XX-XX-XX**

Hotel Occupancy Tax

AN ORDINANCE AMENDING THE VILLAGE OF THE HILLS CODE OF ORDINANCES CHAPTER 5, *BUSINESS REGULATIONS*; TO ADOPT A NEW ARTICLE 5.01 TO BE ENTITLED *HOTEL OCCUPANCY TAX*, TO PROVIDE FOR THE AUTHORIZATION, COLLECTION, AND USE OF SUCH TAX; TO PROVIDE DEFINITIONS, A TAX RATE OF SEVEN PERCENT OF THE PRICE OF A HOTEL, MOTEL, OR OTHER LODGING ROOMS, REPORTING REQUIREMENTS, PENALTIES FOR VIOLATION, ADMINISTRATIVE REQUIREMENTS, AND PROVIDING FOR FINDINGS OF FACT; SEVERABILITY; REPEALER; EFFECTIVE DATE; AND PROPER NOTICE AND MEETING.

WHEREAS, the City Council of the Village of the Hills, Travis County, Texas seeks to provide for the public health, safety and welfare of its citizens; and

WHEREAS, Chapter 351, Texas Tax Code, authorizes cities to collect a hotel occupancy tax for certain specified purposes and uses; and

WHEREAS, the City Council held discussion and invited public comment on the proposed amendments in a public hearing held _____; and

WHEREAS, the City Council finds that it is in the best interests of the citizens of Village of the Hills, Texas, to adopt the proposed amendment;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE VILLAGE OF THE HILLS, TEXAS, that:

Section 1. Findings of Fact

All of the above premises are hereby found to be true and correct legislative and factual findings of the City Council and are hereby approved and incorporated into the body of this ordinance as if copied in their entirety.

Section 2. Amendment

Chapter 5, Business Regulations, is hereby amended to add new Article 5.01, Hotel Occupancy Tax which shall read as follows:

ARTICLE 5.01 HOTEL OCCUPANCY TAX

Section 5.01.001 Authority

This ordinance is adopted under the authority of the Constitution and laws of the State of Texas, particularly including Chapters 156 and 351, Texas Tax Code.

Section 5.01.002 Purpose

The purpose of this ordinance is to enact a Hotel Occupancy Tax within the corporate limits of Village of the Hills, Texas.

Section 5.01.003 Definitions

For the purpose of regulating business within the city, the following terms, phrases, words and their derivations shall have the meaning ascribed to them in this Section, except where the context clearly indicates a different meaning.

Consideration. The cost of the room in a hotel only if the room is ordinarily used for sleeping, and not including 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 for occupancy.

Hotel. Any building or buildings in which the public may for a consideration obtain sleeping accommodations, including hotels, motels, tourist homes, houses of courts (tourist courts), lodging houses, inns, rooming houses, bed and breakfast establishments or other buildings where rooms are furnished for a consideration, but not including hospitals, sanitariums or nursing homes, dormitories or other housing provided by higher education institutions.

Occupancy. The use or possession, or the right to the use or possession, of any room or rooms in a hotel if the room is one which is ordinarily used for sleeping and if the occupant is other than a permanent resident as hereinafter defined.

Occupant. Anyone who, for a consideration, uses, possesses, or has a right to use or possess any room or rooms in a hotel under any lease, concession, permit, right of access, license, contract or agreement, other than a permanent resident as hereinafter defined.

Permanent resident. Any occupant who has or shall have the right of occupancy of any room or rooms in a hotel for thirty (30) consecutive days during the calendar year or preceding year.

Person. Any individual, company, group, organization, entity (including government entities), corporation or association owning, operating, managing or controlling any hotel, as the term hotel is defined by state and local law.

Quarterly period. The regular calendar quarters of the year, the first quarter being composed of the months of October, November and December; the second quarter being the months of January, February, and March; the third quarter being the months of April, May and June; and the fourth quarter being the months of July, August, and September.

Tax collector. The director of finance of the city.

Section 5.01.004 Tax levied; amount; exemptions

(a) There is hereby levied a tax of seven percent (7%) of the price paid for a room in a hotel on every person who, under a lease, concession, permit, right of access, license, contract, or agreement, pays for the use or possession or for the right to use or possession of a room that is in a hotel, costs two dollars (\$2.00) or more each day, and is ordinarily used for sleeping. The price of a room in a hotel does not include the cost of food served by the hotel and the cost of personal services performed by the hotel for the person except those services related to the cleaning and readying of the room for possession.

(b) Exceptions are as follows:

1. No tax shall be imposed upon a “permanent resident,” as defined above.
2. No tax shall be imposed for federal or state employees traveling on official business.
3. No tax shall be imposed for diplomatic personnel who present a tax exemption card issued by the United States Department of State.
4. No tax shall be imposed for federal or state military personnel traveling on official military business. This exemption does not cover military staff on leave or between stations.

Section 5.01.005 Collection

Every person operating, managing or controlling any hotel shall collect the tax levied by this article for the city and deliver same to the tax collector, the director of finance for the city.

Section 5.01.006 Quarterly reports to tax collector

On the last day of the month following each quarterly period, every person required to collect the tax imposed hereby shall file a report with the collector of taxes showing the price paid for all room occupancies in the preceding quarter, the amount of the tax collected on such occupancies, and any other information the collector 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 collector. Additionally, the person shall file a copy of the quarterly report filed with state hotel occupancy tax. The collector is hereby authorized and directed to do all such things necessary or convenient to carry out the terms of this article. The collector shall have the authority to request and receive within a reasonable time documentation for information contained in the report to the city by the hotel.

Section 5.01.007 Rules and regulations of tax collector; access to books and records

The tax collector shall have the power to make such rules and regulations as are reasonable and necessary to effectively collect the tax levied hereby, and shall upon reasonable notice have access to books and records necessary to enable him/her 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.

Section 5.01.008 Penalties

(a) If any person shall fail to file a report as required herein or shall file a false report or shall fail to pay to the tax collector the tax as imposed herein when said report or payment is due, he shall forfeit five percent (5%) of the amount due as penalty, and after the first thirty (30) days he shall forfeit an additional five percent (5%) of such tax. However, such penalty shall never be less than ten dollars (\$10.00). Delinquent taxes shall draw interest at the rate of ten percent (10%) per annum beginning sixty (60) days from the due date.

(b) Any person violating any of the provisions of this article, including hotel operators who fail to collect the tax, fail to file a return, or file a false return, or who are delinquent in their tax payment, shall be guilty of a misdemeanor and shall, upon conviction, be fined as provided for in the general penalty provision found in Section 1.01.009 of this code, and each twenty-four (24) hours of any such violation shall constitute a separate offense.

Section 5.01.009 Additional remedies

The city 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 city and who has failed to file a report, or filed a false report, or failed to pay the tax when due:

1. Bring suit against the hotel for noncompliance; and/or
2. Bring suit against the hotel seeking any other remedies provided under state law.

Section 5.01.010 Additional authorization to bring suit for violations

The city attorney is hereby authorized to bring suit against any person required to collect the tax imposed hereby and required to pay the collection over to the city and who has failed to file a report, or filed a false report, or failed to pay the 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.

Section 5.01.011 Use of revenue

(a) The revenue derived from any hotel occupancy tax imposed and levied by this article may be used only to promote tourism and the convention and hotel industry, and that use is limited to the following (as mandated by state law, Texas Tax Code, Chapter 351):

1. The acquisition of sites for and the construction, improvement enlarging, equipping, repairing, operation, and maintenance of convention center facilities (as such is defined in Texas Tax Code, Section 351.001);

2. The furnishing of facilities, personnel, and materials for the registration of convention delegates or registrants;
3. Advertising and conducting solicitations and promotional programs to attract tourists and convention delegates or registrants to the municipality or its vicinity;
4. 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, radio, television, tape and sound recording, and other arts related to the presentation, performance, execution, and exhibition of these major art forms; and
5. Historical restoration and preservation projects or activities or advertising and conducting solicitation and promotional programs to encourage tourists and convention delegates to visit preserved historic sites or museums:

A. Which are at or in the immediate vicinity of convention center facilities; or

B. Which are located elsewhere in the municipality or its vicinity that would be frequented by tourists, convention delegates or other visitors to 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.

Section 5.01.012 Authority to contract for administration of funded programs

(a) The city council may, by contract, delegate to a person, including another governmental entity or a private organization, the management or supervision of programs and activities funded with revenue from the hotel occupancy tax. The city council shall approve in writing in advance the annual budget of the entity to which it delegates those functions, and shall require the entity to make periodic reports to the city council at least annually listing the expenditures made by the entity of revenue from the tax provided by the municipality.

(b) The entity 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 to any other account.

(c) The municipality may not delegate to any person or entity the management or supervision of its convention and visitors programs and activities funded with revenue from the hotel occupancy tax other than by contract as provided herein.

(d) The approval by the city council of the annual budget of the entity to which these

functions are delegated shall maintain complete and accurate financial records of each expenditure of hotel occupancy tax revenue made by the person or entity and, on request of the city council or other person, shall make the records available for inspection and review.

(e) A person or entity with whom the municipality contracts to conduct authorized activities shall maintain complete and accurate financial records of each expenditure of hotel occupancy tax revenue made by the person or entity and, on request of the city council or other person, shall make the records available for inspection and review.

(f) Hotel occupancy tax revenue may be spent for day-to-day operations, supplies, salaries, office rental, travel expenses, and other 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 costs actually incurred in conducting the authorized activities.

(g) Hotel occupancy tax revenue may not be spent for travel for a person to attend an event or conduct an activity the primary purpose of which is not directly related to the promotion of the person's job in an efficient and professional manner.

Section 3. Severability

Should any sentence, paragraph, subdivision, clause, phrase, or section of this ordinance be adjusted or held to be unconstitutional, illegal, or invalid, the same shall not affect the validity of this ordinance in whole or any part or provision thereof, other than the part so declared to be invalid, illegal or unconstitutional.

Section 4. Repealer

The provisions of this ordinance shall be cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein; provided, however, that all prior ordinances or parts of ordinances inconsistent or in conflict with any of the provisions of this ordinance are hereby expressly repealed to the extent that such inconsistency is apparent. This ordinance shall not be construed to require or allow any act which is prohibited by any other ordinance.

Section 5. Effective Date

This ordinance shall take effect on _____.

Section 6. Proper Notice and Meeting

It is hereby officially found and determined that the meeting at which this ordinance was passed was open to the public as required and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code.

ADOPTED, PASSED AND APPROVED this _____ day of _____, 2022.

VILLAGE OF THE HILLS

Greg Wharton, Mayor

ATTEST:

Sonya De La Fuente, City Secretary

APPROVED AS TO FORM:

Patty L. Akers, City Attorney