

ARTICLE 11.05
HOTEL OCCUPANCY TAX

§ 11.05.001. Definitions.

In this article, the following words, terms, and phrases shall have the meanings associated therewith:

Chief financial officer. The person designated by the city's director of finance.

City. The City of Cameron, Texas.

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 members of the public obtain sleeping accommodations for a consideration, including, but not limited to, hotels, motels, tourist homes, tourist houses, tourist courts, lodging houses, inns, rooming houses, bed and breakfast facilities, or other buildings where rooms are furnished for a consideration, but not including hospitals, sanitariums, nursing homes or a dormitory or other housing facility owned or leased and operated by an institution of higher education or private or independent institution of higher education as those terms are defined by section 61.003, Texas 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.

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, concessions, permit, right of access, license, contract, or agreement, other than a permanent resident as hereinafter defined.

Person. Any individual, company, corporation, partnership, venture, or association, owning, operating, managing, or controlling any hotel.
(Ordinance 2010-03-15-010 adopted 3/15/10)

§ 11.05.002. Tax levied; amount; exemptions.

- (a) There is hereby levied a tax of seven percent (7%) within the corporate limits of the city and its extraterritorial jurisdiction on the consideration 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 of for the right to the use and possession of a room that is in a hotel, costs \$2.00 or more each day, and is ordinarily used for sleeping.
- (b) Exceptions to subsection (a) are as follows:
 - (1) No tax shall be imposed upon a permanent resident, as defined by Texas Tax Code section 156.101.
 - (2) No tax shall be imposed for federal employees of federal entities described in Texas Tax

Code section 156.103(a).

- (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 in leave or between stations.
 - (5) An employee of a state governmental entity described in Texas Tax Code section 156.103(b) shall pay the tax imposed by this article but is entitled to a refund of the tax paid.
 - (6) A state officer or employee of a state governmental entity described by subsection (5) for whom a special provision or exception to the general rate of reimbursement under the Texas General Appropriations Act applies and who is provided with photo identification verifying the identity and exempt status of the person is not required to pay the tax and is not entitled to a refund. The photo identification of a state officer or employee described by this section may be modified for the purposes of this section.
 - (7) A person who is described by Texas Tax Code section 156.103(c) shall pay the tax imposed by this article but the state governmental entity with whom the person is associated is entitled to a refund of the tax paid.
 - (8) 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.
- (c) To receive a refund of tax paid under this article, the governmental entity entitled to the refund must file a refund claim on a form provided by the city containing the information required by the city.
 - (d) A governmental entity may file a refund claim with the city under this article only for each calendar quarter for all reimbursements accrued during that quarter.
 - (e) The right to use or possess a room in a hotel is exempt from taxation under this article if the person required to collect the tax receives, in good faith from a guest, an exemption certificate stating qualification for an exemption provided in subsection (b). The exemption must be supported by documentation evidencing the exemption.
- (Ordinance 2010-03-15-010 adopted 3/15/10)

§ 11.05.003. Tax collection and reimbursement for collection expenses.

- (a) Every person owning, operating, managing, or controlling any hotel within the corporate limits of the city or its extraterritorial jurisdiction, shall collect the tax levied by this article for the city. The tax shall be remitted to the city's chief financial officer by the twentieth (20th) day from the end of the month during which such tax was collected. Such tax as is deposited with the city's chief financial officer shall be maintained in a separate account.
- (b) The hotel operator shall be entitled to one percent (1%) of the hotel occupancy tax revenues

collected as reimbursement for the operator's administrative costs for collecting the tax. The city's chief financial officer shall make said payments promptly after collection. However, as hereinbelow provided, this reimbursement may be forfeited at the discretion of the city if the hotel operator fails to timely pay over the tax or timely file a report as required by the city or file a false report with the city.

- (c) By the twentieth day (20th) from the end of the month during which such tax was collected, every person required to collect the tax imposed hereby shall file a report with the city's chief financial officer showing the consideration paid for all room occupancies in the preceding quarter, the amount of the tax collected on such occupancies, the amount of permanent and regular exemptions granted, and any other information the city's chief financial officer 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 city's chief financial officer. The city's chief financial officer 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.

(Ordinance 2010-03-15-010 adopted 3/15/10)

§ 11.05.004. Use of tax 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:
- (1) The acquisition of sites for and the construction, improvement, enlarging, equipping, repairing, operation, and maintenance of convention center facilities or visitor information centers, or both;
 - (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 city 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 solicitations and promotional programs to encourage tourists and convention delegates to visit preserved historical sites or museums:
 - (A) Which are at or in the immediate vicinity of convention center facilities; or
 - (B) Which are located elsewhere in the city or its vicinity that would be frequented by tourists, convention delegates, or other visitors to the city.
 - (6) Expenses, including promotion expenses, directly related to a sporting event in which

the majority of participants are tourists who substantially increase economic activity at hotels and motels within the city or its vicinity.

- (7) When applicable, the uses enumerated in Texas Tax Code section 351.101(a)(7)–(8).
- (b) Revenue derived from the tax imposed by this article shall be expended only in a manner which directly enhances and promotes tourism and the convention and hotel industry as permitted by subsection (a). Such revenue shall not be used for the general revenue purposes or general governmental operations of the city which are not directly related to promoting the hotel and convention industry or tourism in the city.
- (c) 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 city. The entity must maintain the revenue provided by the city 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.
- (d) The city may not delegate to any person or entity the managements 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. The approval by the city council of the annual budget of the entity to which these functions are delegates creates a fiduciary duty in the person or entity with respect to the revenue provided by the city to the person or entity under the contract.
- (e) A person or entity with whom the city 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.
- (h) The allocations for the purposes provided in subsection (a) above are limited as follows:
- (1) At least one percent (1%) of the tax imposed must be used for the purposes described in subsection (a)(3).
 - (2) Not more than 15 percent (15%) of the hotel occupancy tax revenue collected or the

amount of tax received by the municipality at the rate of one percent (1%) of the cost of a room, whichever is greater, may be used for the purposes described in subsection (a)(4).

- (3) If the city does not allocate any hotel occupancy tax revenue for the purposes provided by subsection (a)(1), then the city may allocate not more than 50 percent (50%) of the hotel occupancy tax revenue collected by the city for the purposes provided by subsection (a)(5).

(Ordinance 2010-03-15-010 adopted 3/15/10)

§ 11.05.005. 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 city's chief financial officer the tax as imposed herein when said report or payment is due, he shall forfeit five percent (5%) of the amount due as a 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 one and no/100 dollars (\$1.00). 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 portion or provision of this article, including hotel operators who fail to collect the tax, fail to file a return, file a false return, or who are delinquent in their tax payment, shall be deemed guilty of a misdemeanor and, upon conviction therefor, shall be punishable by a fine not to exceed \$500.00. Each day a violation occurs or continues shall be deemed a separate offense.

(Ordinance 2010-03-15-010 adopted 3/15/10)

§ 11.05.006. Additional penalties.

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) Require the forfeiture of any revenue the city allowed the hotel operator to retain for its cost of collecting the tax;
- (2) Bring suit against the hotel operator or hotel owner for noncompliance; and/or
- (3) Bring suit against the hotel operator or hotel owner seeking any other remedies provided under state law.

(Ordinance 2010-03-15-010 adopted 3/15/10)

§ 11.05.007. Additional authorization to bring suit.

- (a) The city attorney is hereby authorized to bring suit against any person who is required to collect the tax imposed by this article and pay the collections over to the city and who has failed to file a tax report or pay the tax when due to collect the tax not paid or to enjoin the person from operating a hotel in the city until the tax is paid or the report filed, as applicable, as provided by the court's order. 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.

- (b) In addition to the tax owed to the city under this article, the person is liable to the city for:
 - (1) The city's reasonable attorney's fees;
 - (2) The costs of an audit conducted for a person who did not file the report as required by the city, as determined by the city using a reasonable rate, but only if the tax has been delinquent for at least two complete municipal fiscal quarters at the time the audit is conducted; and
 - (3) A penalty equal to 15 percent of the total amount of the tax owed.
- (c) If a person required to file a tax report under this article does not file the report as required by the city, the city attorney or other attorney acting for the municipality may determine the amount of tax due under this article by:
 - (1) Conducting an audit of each hotel in relation to which the person did not file the report as required by the municipality; or
 - (2) Using the tax report filed for the appropriate reporting period under Texas Tax Code section 156.151 in relation to that hotel.
- (d) If the person did not file a tax report under Texas Tax Code section 156.151 for that reporting period in relation to that hotel, the city attorney or other attorney acting for the city may estimate the amount of tax due by using the tax reports in relation to that hotel filed during the previous calendar year under this article or section 156.151. An estimate made under this subsection is prima facie evidence of the amount of tax due for that period in relation to that hotel.
- (e) The authority to conduct an audit under this section is in addition to any other audit authority provided by statute, charter, or article.
- (f) Section 16.061, Texas Civil Practice and Remedies Code, applies to the collection of a tax under this article. A limitation period provided by Texas Tax Code chapter 101 relating to the time allowed to assess taxes and bring a suit to collect taxes does not apply to a tax imposed under this article or to a suit brought under this section.
- (g) The remedies provided by this article are in addition to other available remedies.
(Ordinance 2010-03-15-010 adopted 3/15/10)

§ 11.05.008. Collection procedures on purchase of hotel.

- (a) If a person who is liable for the payment of a tax under this chapter is the owner of a hotel and sells the hotel, the successor to the seller or the seller's assignee shall withhold an amount of the purchase price sufficient to pay the amount due until the seller provides a receipt by a person designated by the city to provide the receipt showing that the amount has been paid or a certificate showing that no tax is due.
- (b) The purchaser of a hotel who fails to withhold an amount of the purchase price as required

by this section is liable for the amount required to be withheld to the extent of the value of the purchase price.

- (c) The purchaser of a hotel may request that the person designated by the city to provide a receipt under subsection (a) issue a certificate stating that no tax is due or issue a statement of the amount required to be paid before a certificate may be issued. The person designated by the city shall issue the certificate or statement not later than the 60th day after the date that the person receives the request.
- (d) If the person designated by the city to provide a receipt under subsection (a) fails to issue the certificate or statement within the period provided by subsection (c), the purchaser is released from the obligation to withhold the purchase price or pay the amount due.

(Ordinance 2010-03-15-010 adopted 3/15/10)

§ 11.05.009. Records.

The city shall comply with the provisions provided in Texas Tax Code section 351.108.

(Ordinance 2010-03-15-010 adopted 3/15/10)

§ 11.05.010. Adoption of state law.

The provisions of Texas Tax Code chapter 351, as amended, are adopted by this reference.

(Ordinance 2010-03-15-010 adopted 3/15/10)