

AN ORDINANCE RELATING TO HOTEL OCCUPANCY TAX AS AUTHORIZED BY THE TAX CODE CHAPTER 351, VERNON'S TAX CODES ANNOTATED; PROVIDING DETAILS RELATING THERETO AND PENALTIES FOR VIOLATION THEREOF; ESTABLISHING PROCEDURES FOR COLLECTION, ACCOUNTING FOR, AND PURPOSES FOR WHICH SUCH MONEYS MAY BE USED; PROVIDING DEFINITIONS AND CONTAINING OTHER PROVISIONS RELATING TO SUCH FUNDS; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCE IN CONFLICT HEREWITH; AND PROVIDING AN EFFECTIVE DATE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SEADRIFT, TEXAS:

SECTION I: DEFINITIONS

The following words, terms and phrases shall, for the purposes of this ordinance, and except where the context clearly indicates differently, mean:

(a) HOTEL: Any building or buildings in which the public may, for consideration, obtain sleeping accommodations, including hotels, motels, tourist homes, houses or 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.

(b) 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.

(c) 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.

(d) 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.

(e) PERSON: Any individual, company, corporation or association owning operating, managing or controlling any hotel.

(f) TAX ASSESSOR-COLLECTOR: The Finance Director of the City of Seadrift.

(g) 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.

(h) PERMANENT RESIDENT: Any occupant who has or shall have the right to the occupancy of any room or rooms in a hotel for at least thirty (30) consecutive days during the calendar year or preceding year.

(i) TAX: The tax hereinafter levied by this ordinance.

SECTION 2: TAX; AMOUNT; EXEMPTIONS

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 the use or possession of a room that is in a hotel, costs \$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 nor 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.

Exceptions are as follows:

- (a) No tax shall be imposed upon a permanent resident.
- (b) No tax shall be imposed for federal or state employees traveling on official business.
- (c) No tax shall be imposed for diplomatic personnel who present a Tax Exemption card issued by the United States Department of State.
- (d) 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 3: REGISTRATION

Each person owning, managing, operating and/or controlling any hotel within CITY or its extraterritorial jurisdiction shall register with CITY within thirty (30) days of the effective date of this ordinance on a form to be provided by the Assessor Collector. Thereafter, each person owning, managing, operating and/or controlling any hotel within CITY or its extraterritorial jurisdiction shall be required to re-register for each change in ownership, management, operation or control of any hotel.

Failure to file any registration or re-registration as required herein shall be considered a violation of this ordinance and shall be subject to the penalties provided for herein.

SECTION 4: COLLECTION OF TAX

Every person owning, managing or controlling any hotel shall collect tax levied by this ordinance for the City of Seadrift.

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. However, as hereinafter provided, this reimbursement shall be forfeited if the hotel operator fails to timely pay over the tax or timely file any report as required by City or files a false report with the City.

All revenues derived from the levy and collection of the Hotel/Motel Occupancy Tax, including any penalties and/or interest, after deducting any cost of collection, shall be kept separate and apart from all other funds of the City.

SECTION 5: QUARTERLY REPORTS TO TAX ASSESSOR COLLECTOR

On the last day of the month following each quarterly period (beginning the last day of the month following the second quarterly period of calendar year 1997), every person required to collect the tax imposed hereby shall file a report with the Assessor 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 Assessor 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 Assessor Collector.

SECTION 6: RULES AND REGULATIONS OF TAX ASSESSOR COLLECTOR; ACCESS TO BOOKS AND RECORDS

The Assessor 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 to determine the correctness of any report filed as required by this Ordinance, and the amount of taxes due under the provisions hereof.

The Assessor Collector is hereby authorized and directed to do all such things necessary or convenient to carry out the terms of this Ordinance. The Assessor 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 7: PENALTIES/FINES

If any person shall fail to file a report as required herein, or shall file a false report, fail to register or re-register as required herein, or shall fail to pay to the Assessor Collector the tax as imposed herein when said report or payment is due, he shall be assessed fifteen percent (15%) of the tax due as penalty after the first thirty (30) days. However, such penalty shall never be less than the sum of Twenty Five (\$25.00) Dollars. Delinquent taxes shall draw interest at the rate of ten percent (10%) per annum.

Any person violating any of the provisions of this ordinance, including hotel operators who fail to (a) register or re-register as required herein; (b) collect the tax, (c) file required returns/reports, (d) file false returns/reports, or (e) are delinquent in their tax payment, shall be guilty of a misdemeanor and shall, upon conviction, be fined a sum not to exceed Five Hundred (\$500.00) Dollars, and each twenty four (24) hour period such violation continues shall constitute a separate offense.

SECTION 8: ADDITIONAL PENALTIES

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 fails to file a report, or files a false report, or fails to pay the tax when due:

- (a) Require the forfeiture of any revenue City allowed the hotel operator to retain for its cost of collecting the tax;
- (b) Bring suit against the hotel for noncompliance; and/or
- (c) Bring suit against the hotel seeking any other remedies provided under Texas law.

SECTION 9: ADDITIONAL AUTHORIZATION TO BRING SUIT

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 or its extraterritorial jurisdiction until the tax is paid or the report is filed, or both, as applicable and as provided by orders of the Court.

In addition to the amount of tax owing to City, the person shall be liable to City for reasonable attorney fees, and a penalty equal to fifteen (15%) percent of the total amount of tax owing to City.

The remedies provided by this section are in addition to other available remedies

SECTION 10: USE OF REVENUE DERIVED FROM LEVY OF HOTEL OCCUPANCY TAX

The revenue derived from any hotel occupancy tax imposed and levied by this ordinance may be used as provided in Chapter 351, Vernon's Annotated Texas Civil Statutes as the same now exists, or as it may be amended from time to time.

SECTION 11: 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 authorized by 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 authorized by City to provide a receipt under subsection (a) above 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 authorized by City shall issue the certificate or statement not later than the 60th day after the date that the request was received.

(d) If the person authorized by the municipality 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.

SECTION 12: REPEALING CLAUSE

All ordinances or parts of ordinance in conflict herewith, are hereby repealed.

SECTION 13: INVALIDITY

If any word, phrase, clause, sentence, paragraph, section or other part of this Ordinance, or any application thereof to any person or circumstance, shall ever be held to be invalid or unconstitutional by any court of competent jurisdiction, the remainder of this Ordinance and the application of such word, phrase, clause, sentence, paragraph, section or other part of this

Ordinance to any person or circumstance shall not be affected thereby.

SECTION 14: EFFECTIVE DATE

This ordinance shall become effective immediately upon its approval and passage by City Council and publication as required by the City Charter.

FIRST READING this the 4 day of February, 1997.

...*Mark Danni*.....
MAYOR

SECOND READING this the 4 day of March, 1997.

...*Mark Danni*.....
MAYOR

PASSED AND APPROVED this 4 day of March, 1997.

...*Mark Danni*.....
MAYOR

ATTEST:

Paula Moncrey.....
CITY SECRETARY

APPROVED AS TO FORM AND CONTENT:

John Gifford.....
CITY ATTORNEY