

ORDINANCE NO. 349

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BULVERDE, TEXAS AMENDING CHAPTER 11 (TAXATION) OF THE CODE OF ORDINANCES OF THE CITY BY ADDING A NEW ARTICLE 11.04, HOTEL OCCUPANCY TAX, LEVYING A HOTEL OCCUPANCY TAX UPON THE OCCUPANT OF A ROOM IN ANY HOTEL/MOTEL WITHIN THE CORPORATE LIMITS AND EXTRATERRITORIAL JURISDICTION OF THE CITY OF BULVERDE, TEXAS; DEFINING TERMS; ESTABLISHING A TAX RATE OF SEVEN PERCENT (7%) OF THE CONSIDERATION PAID BY SUCH OCCUPANT OF SUCH ROOM; PROVIDING FOR EXCEPTIONS; REQUIRING REPORTS TO THE CITY; PROVIDING FOR PENALTY AND INTEREST OF DELINQUENT TAXES; PROVIDING FOR ADDITIONAL PENALTIES; PROVIDING AN EFFECTIVE DATE AND PROVIDING SEVERABILITY.

WHEREAS, Chapter 351 of the Texas Tax Code authorizes municipalities to levy a tax on a 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/motel, and is ordinarily used for sleeping; and

WHEREAS, a municipality with a population of less than 35,000 may impose the Hotel Occupancy Tax authorized under Section 351.0025 of the Texas Tax Code in the City's extraterritorial jurisdiction..

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

Section 1. DEFINITIONS

The following words, terms and phrases are, for the purposes of this article, except where the context clearly indicates a different meaning, defined as follows:

Consideration. The cost of the room in a hotel and shall not include 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, and shall not include any tax assessed for occupancy thereof by any other governmental agency.

Hotel. A building in which members of the public may obtain sleeping accommodations for a consideration. The term shall include hotels, motels, tourist homes, houses or courts, lodging houses, inns, rooming houses, but "hotel" shall not be defined so as to include hospitals, sanitariums or nursing homes.

Lodging Provider. Any person owning operating managing or controlling a hotel in the City, including but not limited to the owner or proprietor of such premises, lessee, sub lessee, lender in possession or any other person operating such hotel and who is subject to collecting and remitting the tax.

Occupancy. The use or possession or the right to the use or possession of any room or rooms in a hotel for any purpose.

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.

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

Person. Any individual, company, corporation or association owning, operating, managing or controlling any hotel.

Quarterly period. The regular calendar quarters of the year, the first quarter being composed of 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.

Tax collector. The tax collector for the city.

Section 2. LEVY OF TAX

There is hereby imposed as authorized by and for the purposes provided in Chapter 351 Texas Tax Code a tax of **seven percent (7%)** of the price paid for a room in a hotel located within the corporate limits and extraterritorial jurisdiction of the City on a 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 two dollars (\$2) or more each day and is ordinarily used for sleeping. This 7% tax is exclusive of other occupancy taxes imposed by other governmental agencies.

Section 3. EXEMPTIONS

- A. No tax shall be imposed for federal or state employees traveling on official business.
- B. No tax shall be imposed for diplomatic personnel who present a Tax Exemption card issued by the United States Department of State.
- C. No tax shall be imposed for federal or state military personnel traveling on official military business.

Section 5. COLLECTION

A. Every lodging provider owning, operating, managing or controlling any hotel shall collect the tax imposed in this Ordinance for the City.

B. Collection procedures on purchase of hotel. A purchaser of a hotel shall withhold from the purchase price an amount sufficient to pay all of the taxes due under this article. A purchaser who fails to withhold the amount of taxes due shall be liable for the amount required to be withheld to the extent of the value of the purchase price. A purchaser may request in writing from the city the tax status, and the city shall prepare a certificate of no tax due or a statement of the amount of tax due, which shall be issued by the city within sixty (60) days of the request.

Section 6. REPORTS

A. City. On or before the last day of the month following each quarterly period, every person required in this ordinance to collect the tax imposed herein shall file a report with the City Administrator or his designee showing the consideration paid for all room occupancies in the preceding quarter, the amount of the tax collected on such occupancies, and any other information as the City Administrator or his designee may reasonably require. Such person shall pay the tax due on such occupancies at the time of filing such report.

B. State comptroller. At the end of each quarter, each hotel shall provide a copy of the quarterly report filed with the State Comptroller to the City Administrator or his designee.

Section 7. POWERS OF THE CITY

The City shall have the power to make such rules and regulations as are 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 City to determine the correctness of any report filed as required by this ordinance and the amount of taxes due under the provisions of this ordinance.

Section 8. PENALTIES

A. If any person shall fail to collect the tax imposed herein, or shall fail to file a report as required herein, or shall fail to pay to the City, the tax, as imposed herein, when said report or payment is due, or shall file a false report, then such person shall be deemed guilty of a misdemeanor and, upon conviction, shall be punished by a fine not to exceed five hundred dollars (\$500.00). In addition, such person who fails to remit the tax or violates the reporting provisions imposed by this article within the time required is liable to the city for the amount of reasonable attorney's fees and a penalty equal to fifteen (15) per cent of the total amount of the tax owed authorize by Tax Code, Section 351.004. Delinquent taxes shall draw interest at the rate of twelve (12) per cent per annum, beginning sixty (60) days from the date due, pursuant to Tax Code, Sections 156.201 and 1 11.060.

B. In addition to the penalties imposed by subsection A, the City Attorney or other attorney acting for the City may bring suit against a person, who is required to collect the tax imposed by this ordinance and pay the collections over to the municipality 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 municipality until the tax is paid or the report filed as provided by the court's order. In addition to the amount of any tax owed under this chapter, the person is liable to the municipality for the municipality's reasonable attorney fees and a penalty equal to fifteen (15) per cent of the total amount of the tax owed. The remedies provided by this section are in addition to other available remedies as authorized by Tax Code, Section 351.004.

Section 9. RECORDS

Each lodging provider shall keep complete and accurate records of taxable sales and of charges, together with a record of the tax collected thereon, and shall keep all invoices and other pertinent documents in such form as the taxing authority may require. Such records and other documents shall be preserved for a period of not less than three (3) years, unless the taxing authority shall consent in writing to their destruction within that period or shall require that they be kept for a longer period. Such records shall be made available to the City upon demand in writing within a reasonable period of time. Failure to maintain the required records shall result in penalties punished under the criminal misdemeanor laws as provided in Section 8.

Section 10. REGISTRATION

Each lodging provider shall register as a hotel tax collector within thirty (30) days after commencing such business. Registration shall be made upon forms furnished to the operator by the city. Information supplied on the registration form shall be updated within thirty (30) days of any change or alteration thereof upon registration forms supplied by the city. Failure to update registration shall result in penalties punished under the criminal misdemeanor laws as provided in Section 8.

Section 11. SEVERABILITY CLAUSE

If any provision of this Ordinance or its application to any person or circumstances is held invalid for any reason, the invalidity does not affect any other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this extent the provisions of this Ordinance are declared to be severable.

Section 12. SAVINGS CLAUSE

An offense committed before the effective date of this Ordinance is governed by the prior law in effect when the offense was committed and the former law is continued in effect for this purpose.

Section 13. REPEALING CLAUSE

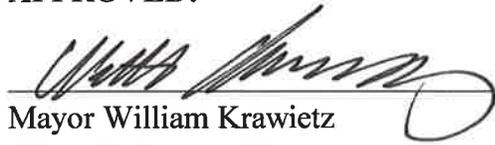
All ordinances, parts of ordinances, or resolutions in conflict herewith are expressly repealed.

SECTION 14. EFFECTIVE DATE.

This Ordinance shall become effective September 1, 2013.

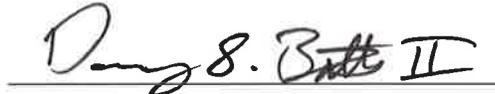
PASSED AND ADOPTED this 13th day of August, 2013.

APPROVED:



Mayor William Krawietz
City of Bulverde, Texas

ATTEST:



Danny S. Batts II, City Secretary

