

ORDER IMPOSING HOTEL OCCUPANCY TAX ATASCOSA COUNTY, TEXAS

WHEREAS, effective September 1, 2021, the Texas Legislature amended Tex. Tax Code Chapter 352 by adding provisions which authorize a county with a population of less than 60,000.00 in which an annual strawberry festival is held in a location that is not the county seat of the county to levy and collect a hotel occupancy tax calculated as a percent of the price paid for a room in a hotel in the County, except that the tax rate may not exceed 2% of the price paid for a room in a hotel; and

WHEREAS, Atascosa County is a county with a population of less than 60,000.00 in which an annual strawberry festival is held in a location that is not the county seat of the county.

WHEREAS, Tex. Tax Code Section 352.002(a) requires that the Commissioners Court of Atascosa County may impose the hotel occupancy tax by adoption of an order or resolution; and

WHEREAS, the Commissioners Court deems it in the best interests of the County to impose the hotel occupancy tax authorized under Subchapters A of Chapter 352 of the Texas Tax Code, as amended.

NOW, THEREFORE, IT IS HEREBY ORDERED BY THE COMMISSIONERS COURT OF ATASCOSA COUNTY, TEXAS AS FOLLOWS:

Section 1 Findings and Determinations

The declarations, determinations and findings declared, made and found in the preamble to, this Order are hereby adopted, restated and made a part of the operative provisions hereof.

Section 2 Definitions

Unless otherwise expressly provided or the context clearly requires otherwise, the following terms shall have the meanings specified below when used in this Order:

1. "County" shall mean Atascosa County, Texas and shall include its designee.
2. "Consideration" shall mean the price of a room, sleeping space, bed or other facility in a Hotel and does not include the cost of food served by the Hotel or the cost of personal services rendered to the Occupants of the room not related to cleaning and readying the room, sleeping space, bed, or other facility for occupancy.
3. "Governmental Entity" shall mean the United States, the State of Texas, or an agency, institution, board or commission of the State of Texas other than an institution of higher education.

4. "Hotel" shall mean any building or buildings, trailer, or other facility in which members of the public obtain sleeping accommodations for consideration. The term includes a hotel, motel, tourist home, tourist house, tourist court, lodging house, inn, rooming house or bed and breakfast, but does not include a hospital, sanitarium, nursing home, or a dormitory or other housing facility owned or leased and operated by an institution of higher education or a private or independent institution of higher education as those terms are defined by Section 61.003, Education Code, and used by the institution for the purpose of providing sleeping accommodations for persons engaged in an educational program or activity at the institution.
5. "Occupancy" shall mean the use or possession or the right to the use or possession of any room or rooms, sleeping space, bed, or other facility in a Hotel if the room is one ordinarily used for sleeping and if the Occupant's use, possession or right to use or possess extends for a period of less than thirty days.
6. "Occupant" shall mean a person who, for consideration; uses, possesses or has a right to use or possess any room or rooms, sleeping space, bed, or other facility ordinarily used for sleeping in a Hotel under any lease, concession, permit, right of access, license, contract or agreement.
7. "Person" shall mean any individual, partnership, trust, company, corporation, association or other entity.
8. "State Legal Holiday" shall mean a date included on the list of legal holidays for banking purposes, which is published in the Texas Register before January 1 of each year by the treasurer, or its successor, and distributed to each Texas state agency that receives reports or payments, pursuant to Section 111.053(b) of the Texas Tax Code.

Section 3 Taxes Imposed

- A. There is hereby levied and imposed a tax upon the Occupant of any room or space furnished by any in a hotel within the county for which the cost of occupancy is at the rate of \$2.00 or more per day, and such tax shall be equal to two percent (2%) of the price paid for the Occupancy a room in the Hotel (the "hotel occupancy tax"), except that no hotel occupancy tax shall be imposed on the cost of a room occupied as follows:
- (1) by a Person with the right to use or possess the room for at least thirty consecutive days without interruption of payment during such period; and
 - (2) by Governmental Entities or officers and employees of a Governmental Entity when travelling on or otherwise engaged in the course of official duties for the Governmental Entity, which exception is more fully described in Section 6 of this Order.

Section 4
Exemptions and Refunds

- A. A Person described in Section 156.101 or Section 156.103(d) of the Texas Tax Code, as amended, is exempt from the payment of the hotel occupancy tax imposed under this Order.
- B. A Governmental Entity excepted from the tax imposed by Chapter 156 of the Texas Tax Code, as amended, under Section 156.103(a)(1) or (a)(3) of that chapter shall pay the hotel occupancy tax imposed by this Order, but is entitled to a refund of the tax paid.
- C. A Person described In Section 156.103(c) of the Texas Tax Code, as amended, shall pay the hotel occupancy tax imposed by this Order, but the State Governmental Entity entitled to the refund must file a refund claim with the County providing all information on the form prescribed by the state comptroller and provided by the County. A Governmental Entity may file a refund claim with the County only for each calendar quarter for all reimbursements accrued during that quarter.

Section 5
Collection of Tax

- A. Every Person owning, operating, managing or controlling any hotel shall collect the imposed by this Order on behalf of the County on every occupancy occurring on and after the effective date provided in this Order, and such Persons shall report and remit the tax to the County in accordance with all requirements and procedures set forth in this Order.

Section 6
Reports; Payments; Fees

- A. On the 20th day of the month following each month in which a hotel occupancy tax imposed by this Order is earned, every Person required by this Order to collect such tax shall file a report with the County's Auditor's office showing:
 - 1. The consideration paid for all occupancies in the preceding month;
 - 2. The amount of the hotel occupancy tax collected on the occupancies;
 - 3. Any other information the County may reasonably require in order to assist the County in properly accounting for the proper collection of the taxes imposed herein.
- B. Every Person required by this Order to collect the hotel occupancy tax shall pay the tax due on all occupancies in the preceding month to the County at the time of filing the report required under Subsection A of this Section 6 of the Order.
- D. If the day referenced in Subsection A of this Section 6 falls on a weekend or State Legal Holiday, the County must receive the tax by the next day that does not fall on a weekend

or State Legal Holiday. If the tax is paid by mail, the date of receipt by the County is the date postmarked by the U.S. Postal Service.

- F. Each remittance of a hotel occupancy tax required by this Order must contain the following statement and representation:

THE TAX REMITTED AND PAID TO ATASCOSA COUNTY WITH THIS REPORT WAS COLLECTED PURSUANT TO THE REQUIREMENTS OF THE ORDER IMPOSING A HOTEL OCCUPANCY TAX BY THE ATASCOSA COUNTY COMMISSIONERS COURT.

Section 7

Penalties and Interest for Late Filings and Non-Compliance

- A. Any Owner of a Hotel who fails to report when required by this Order or who fails to pay the hotel occupancy tax when due and as required in this Order, shall pay a penalty of five percent (5%) of the amount of the tax due. If the Owner fails to file the report or pay the tax before the 31st day after the date that the report or tax payment was due, he shall pay an additional penalty of five percent (5%) of the amount of the tax due.
- B. Delinquent hotel occupancy taxes and accrued penalties draw interest at the rate of ten percent (10%) per year beginning sixty (60) days after the date on which the tax was due to the County.
- C. In addition to the amount of hotel occupancy tax, penalties and interest, the County shall be entitled to all its costs and reasonable attorneys' fees incurred in enforcing this Order against the Person owning, controlling, operating or managing a Hotel and in collecting any tax owed by the Person under this Order.
- D. An attorney acting on behalf of the County, or the County Attorney for Atascosa County, may bring suit against a Person who is required to collect the hotel occupancy tax imposed hereby and who has failed to file a tax report or pay the tax when due in order to either (i) collect the tax not paid, or (ii) enjoin the Person from operating a Hotel in the County until the tax is paid or the report is filed. The remedy provided by this section is in addition to other available remedies.

Section 8

Tax Collection on Purchase of a Hotel

- A. If the Person who is liable for the payment of the hotel occupancy tax under this Order 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 of tax due until the seller provides a receipt from the person designated by the County 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 falls 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 County to provide a receipt under Subsection A of this Section 8 of the Order 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 County shall issue the certificate or statement not later than the 60th day after the date the person receives the request
- D. If the person designated by the County to provide the receipt under the preceding Subsection A of this Section 8 of the Order 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 9
Reimbursement for Collection of Taxes

- A. A person required to collect and remit a tax under Section 5 of this Order may retain one percent of the amount collected and required to be remitted as a reimbursement to the Person for the costs of collecting the tax.
- B. However, a Person required to collect and remit the tax imposed under Section 5 is not entitled to reimbursement under this Section unless the County receives the amount required to be collected not later than the 15th day after the end of the collection period. If the 15th day is a weekend or State Legal Holiday, the County must receive the amount required to be collected not later than the first working day after the 15th day. If the Person remits the amount required to be collected by mail, the date postmarked by the United States Postal Service is considered to be the date of receipt by the County.

Section 10
Use of Revenue Derived From Imposition of Tax

- A. The revenue derived from the hotel occupancy tax imposed under this Order must be deposited into the Hotel Occupancy Tax Account of the Fund of the County and be used for any lawful purpose specified Texas Tax Code Section 351.112 or for debt service on bonds issued for such a purpose, except that the revenue deposited in the Hotel Occupancy Tax Account may not be used for the general revenue purposes or general governmental operation of the county.

Section 11
Effective Date

This Order shall be effective on September 1, 2021 and shall remain in effect until amended or rescinded by the Commissioners Court. However, the taxes imposed hereunder

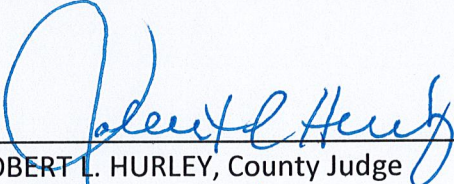
shall not be effective after all bonds or other obligations issued to pay the costs of the Approved Venue Project are paid in full.

Section 12
Rulemaking

The County is hereby authorized to do all things necessary or convenient and within its legal authority to carry out the terms of this Order and reserves the right to make rules in connection with the tax imposed by this Order. The County shall, upon giving reasonable notice to the Person owning or operating a Hotel, have access to all books and records necessary to enable the County or its designee to determine the correctness of any report filed as required by this article and the amount of taxes due under this Order.

Section 13
Severability

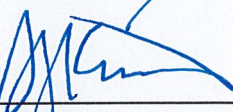
In case anyone or more of the provisions, clauses or words of this Order or the application thereof to any situation or circumstances shall for any reason be held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect any other provisions, clauses or words of this Order or the application thereof to any other situation or circumstance, and it is intended that this Order shall be severable and shall be construed and applied as if any such invalid or unconstitutional section, provision, clause or word had not been included herein.



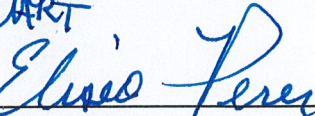
ROBERT L. HURLEY, County Judge



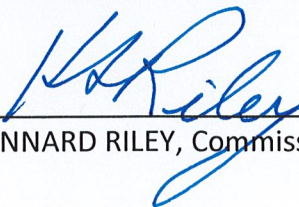
MARK GILLESPIE, Commissioner, Precinct 1



~~STEWART KNOWLTON, Commissioner, Precinct 2~~
STUART



ELISEO PEREZ, Commissioner, Precinct 3



KENNARD RILEY, Commissioner, Precinct 4

Attest: Theresa Carrasco, Chief Deputy
Diane Gonzales, County Clerk
Atascosa County, Texas

