

ORDINANCE NO. 15-053

AN ORDINANCE OF THE CITY OF GALVESTON, TEXAS, AMENDING ARTICLE III “HOTEL OCCUPANCY TAX” OF CHAPTER 33 “TAXATION” OF “THE CODE OF THE CITY OF GALVESTON 1982, AS AMENDED” BY MODIFYING CERTAIN DEFINITIONS; INCORPORATING THE TWO PERCENT (2%) TAX APPROVED BY THE QUALIFIED VOTERS UNDER ORDINANCE NO. 01-006; PROVIDING THAT A TWENTY-FIVE DOLLAR (\$25.00) LATE FEE BE ASSESSED FOR PERSONS FAILING TO FILE ZERO DOLLAR TAX REPORTS; CLARIFYING CERTAIN PROVISIONS RELATED TO RECORDS, REPORTS, PAYMENTS, PENALTIES, AND TAX COLLECTION SUITS; MAKING VARIOUS FINDINGS AND PROVISIONS RELATED TO THE SUBJECT; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on October 28, 2014, the City Council of the City of Galveston, Texas, authorized the City Manager to enter into an Interlocal Agreement, on behalf of the City, with the Galveston Island Park Board of Trustees (the “Park Board”) to, among other things, transition duties related to the collection of local hotel occupancy taxes; and

WHEREAS, throughout the implementation phase, the City and the Park Board have identified a variety of procedural items necessary for the transition including amendments to provisions related to hotel occupancy taxes as outlined in the City Code; and

WHEREAS, on March 24, 2015, the Park Board recommended “Short Term Rental Registration Policies” which included assessing a twenty-five (\$25.00) late fee to those persons failing to timely file a “zero report” for any property having no rental activity; and

WHEREAS, Section 156.202(d) of the Texas Tax Code authorizes the State Comptroller to collect fifty dollars (\$50.00) when a person fails to timely file a report without regard to whether any taxes are due for the reporting period (i.e., a “zero report”); and

WHEREAS, Section 351.004(d) of the Texas Tax Code provides that the remedies provided for in Section 351.004 are in addition to other available remedies including those imposed by city ordinance; and

WHEREAS, on April 9, 2015, the City Council considered the recommended “Short Term Rental Registration Policies” as adopted by the Park Board including the assessment of a \$25.00 late fee for the failure to timely file “zero reports” for hotel occupancy tax collections which requires amendment to the City Code; and

WHEREAS, the City Attorney further recommends modifying some definitions in Chapter 33 of the City Code and clarifying certain provisions in Section 33-99.2 relating to tax collection suits; and

WHEREAS, on May 26, 2015, the Park Board approved additional changes to the “Short Term Rental Registration Policies” and “Hotel Occupancy Tax Payment Options” which are

being brought before the Galveston City Council and which have been incorporated into this Ordinance to amend the City Code; and

WHEREAS, the City Council of the City of Galveston, Texas, deems it in the public interest to approve the recommended changes to Article III “Hotel Occupancy Tax” of Chapter 33 “Taxation” of the Code of the City of Galveston 1982, as amended, in order to further the implementation of local hotel occupancy taxes by the Galveston Island Park Board of Trustees on behalf of the City and in accordance with the Interlocal Agreement previously approved by the City Council.

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

SECTION 1. The findings and recitations set out in the preamble to this Ordinance are found to be true and correct and they are adopted by the City Council and made a part hereof for all purposes.

SECTION 2. Section 33-86 “Definitions” of Chapter 33 “Taxation,” Article III “Hotel Occupancy Tax,” of “The Code of the City of Galveston 1982, as amended” is hereby amended, in part, to read and provide as follows:

“Sec. 33-86. Definitions.

* * * * *

City shall mean the City of Galveston, Texas, or its designated representative.

* * * * *

Convention Center Facilities or Convention Center Complex shall mean civic centers, civic center buildings, auditoriums, exhibition halls, and coliseums that are owned by the city or other governmental entity or that are managed in whole or part by the city. The term includes parking areas or facilities that are for the parking or storage of conveyances and that are located at or in the vicinity of other convention center facilities.

Director shall mean the finance director of the department designated by the City Manager to enforce and administer this article, or the City Manager’s designated representative.”

SECTION 3. Section 33-87 “Levy of tax; rate” of Chapter 33 “Taxation,” Article III “Hotel Occupancy Tax,” of “The Code of the City of Galveston 1982, as amended” is hereby amended, in part, to read and provide as follows:

“Sec. 33-87. Levy of tax; rate.

* * * * *

(b) There shall also be levied a tax upon the cost of occupancy of any room or space furnished by any hotel where such cost of occupancy is at the rate of two dollars (\$2.00) or more per day, such tax to be equal to an additional two (2) percent of the consideration paid by the occupant of such room to such hotel as approved by the qualified voters of the City of

Galveston in a special election held on January 20, 2001, pursuant to Chapter 334 of the Local Government Code, which designated the Galveston Island Convention Center at the San Luis Resort as a “venue project” to be funded by the issuance of bonds pursuant to Chapter 351 of the Texas Tax Code.

(b)-(c) No tax shall be imposed hereunder upon a permanent resident.”

SECTION 4. Section 33-89 “Availability of records, reports, and payments” of Chapter 33 “Taxation,” Article III “Hotel Occupancy Tax,” of “The Code of the City of Galveston 1982, as amended” is hereby amended, in part, to read and provide as follows:

“Sec. 33-89. Availability of records, reports, and payments.

* * * * *

(b) Every person required to collect the tax imposed in this article shall file a monthly report with the director in the form required by the director accurately reflecting the amount of taxes owed, the amount collected, and the consideration paid for all room occupancies in the preceding month. This report shall be filed with the director no later than ten (10) days the twentieth (20th) day of the month following the reported monthly period. Persons that owes less \$500.00 per month or less than \$1,500.00 per calendar quarter may file a quarterly report. The person filing the report shall pay the tax due at the time of filing such report.

(c) The City is authorized to assess a twenty-five (\$25.00) late fee to any person who fails to timely file a zero report for any property having no rental activity.

(d) Persons may pay with credit cards and shall be charged a convenience fee based on the payment amount. All Automated Clearing House (“ACH”) payments may be made and shall be charged up to a \$2.00 fee per transaction regardless of the amount of the check.

(e) The City is authorized to establish hotel occupancy tax payment options as allowed by law.”

SECTION 5. Section 33-91 “Penalties” of Chapter 33 “Taxation,” Article III “Hotel Occupancy Tax,” of “The Code of the City of Galveston 1982, as amended” is hereby amended, in part, to read and provide as follows:

“Section 33-91. Penalties.

* * * * *

(f) This section shall not be construed to limit or restrict the city council's powers to release, relinquish, compromise and/or settle the penalty and/or interest due for delinquent hotel occupancy taxes as provided by the Texas Constitution or other applicable laws. All penalties shall be deposited into the City’s settlement fund.”

SECTION 6. Section 33-99.2 “Tax Collection Suit” of Chapter 33 “Taxation,” Article III “Hotel Occupancy Tax,” of “The Code of the City of Galveston 1982, as amended” is hereby amended, in part, to read and provide as follows:

“Sec. 33-99.2. Tax collection suit.

* * * * *

(e) There is no limitation period on either the time allowed to assess taxes or to bring a suit to collect taxes imposed under this article if a false or fraudulent report is filed or in the event no report is filed.

(f) The City is further authorized to pursue any additional actions and any other available remedies to collect local hotel occupancy taxes as authorized by state law.”

SECTION 7. It is declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable. If any phrase, clause, sentence, paragraph, or section of this Ordinance should be declared invalid by a final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this Ordinance.

SECTION 8. All Ordinances or parts thereof in conflict herewith are repealed to the extent of such conflict only.

SECTION 9. In accordance with the provisions of Sections 12 and 13 of Article II of the City Charter, this Ordinance has been publicly available in the office of the City Secretary for not less than 72 hours prior to its adoption; that this Ordinance may be read and published by descriptive caption only.

SECTION 10. This Ordinance shall be and become effective from and after its adoption and publication in accordance with the provisions of the Charter of the City of Galveston.

APPROVED AS TO FORM:

DOROTHY PALUMBO
CITY ATTORNEY

I, Janelle Williams, Secretary of the City Council of the City of Galveston, do hereby certify that the foregoing is a true and correct copy of an Ordinance adopted by the City Council of the City of Galveston at its Regular Meeting held on the 25th day of June, 2015, as the same appears in records of this office.

IN TESTIMONY WHEREOF, I subscribe my name hereto officially under the corporate seal of the City of Galveston this 26th day of June, 2015.

Secretary for the City Council
of the City of Galveston