

## AN ORDINANCE

### AMENDING THE CODE OF ORDINANCES, CITY OF CORPUS CHRISTI, CHAPTER 17 REGARDING HOTEL OCCUPANCY TAXATION; PROVIDING FOR PENALTIES; PROVIDING FOR SEVERANCE; AND PROVIDING FOR PUBLICATION.

**SECTION 1.** The City Code of Ordinances, Chapter 17, Article II Taxation, Sections 17-35 through 17-42, regarding collection of hotel occupancy taxes, is amended to read as follows

#### **“Sec. 17-35. Room occupancy tax--Definitions.**

As used in sections 17-36 through 17-40, the following words, terms and phrases are defined as follows

**Consideration:** The cost of the room in a hotel only if the room is one ordinarily used for sleeping, 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.

**Folio.** Primary documentation produced by a hotel that demonstrates interaction between the lodging provider and the occupant, and which, at a minimum, reflects the name and address given by the occupant, the date(s) of occupancy, the amount of consideration charged for each date together with the amounts of applicable tax.

**Hotel:** A building 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. The term does not include

- (1) A hospital, sanitarium, or nursing home; or
- (2) 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, used by the institution for the purpose of providing sleeping accommodations for persons engaged in an educational program or activity at the institution.

**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, sublessee, lender in possession, licensee or any other person operating such hotel and who is subject to collecting and remitting the tax imposed upon guests.

**Monthly period:** The regular calendar month of the year.

**Occupancy:** Shall mean the use or possession, or the right to the use or possession of any room in a hotel if the room is one ordinarily used for sleeping and if the occupant's use, possession or right to use or possession extends for a period of less than thirty (30) days.

**Occupant or guest:** Anyone, who, for a consideration, uses, possesses, or has a right to use or possess any room or rooms of sleeping space or facility 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 or sleeping space or facility in a hotel for at least thirty (30) consecutive days during the current calendar year or preceding year.~~

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

**Tax assessor and collector:** The tax assessor and collector of this city.

**“Sec. 17-36. Same--Levy of taxes; rates; registration; exceptions.**

(a) There is hereby imposed, as authorized by and for the purposes provided in Chapter 351, Texas Tax Code, a tax of nine (9) per cent of the price paid for a room in a hotel 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 (\$2.00) or more each day, and is ordinarily used for sleeping.

(b) Every person engaging or about to engage in business as a lodging provider in the city shall immediately register with the finance director on a form provided by said official. Persons engaged in such business must so register not later than thirty (30) days after the date that this ordinance becomes effective. Such registration shall set forth the name under which such person transacts business or intends to transact business, the location of his place(s) of business and such other information which would facilitate the administration of the tax as prescribed by the finance director. The registration shall be signed by the owner if a natural person in case of ownership by an association or partnership, by a member or partner in case of ownership by a corporation, by an officer. The finance director shall, after such registration, issue without charge a certificate of authority to each lodging provider to collect the tax from the occupant. A separate registration shall be required for each place of business of a lodging provider. Each certificate shall state the name and location of the business to which it is applicable.

(c) ~~No tax shall be imposed hereunder upon a permanent resident.~~ Exceptions to tax are as follows:

(1) No tax shall be collected from a guest after becoming a permanent resident. A

guest becomes a permanent resident either after thirty (30) continuous days' occupancy, or upon notifying the lodging provider in writing of his intention to occupy a guest room for longer than thirty (30) continuous days and then proceeding to actually occupy the guest room for such period. A guest who would express intent, but fails to stay thirty (30) continuous days, is not a permanent resident and is not excepted from the tax. However, a guest who expresses intent and does stay is excepted from the tax as of the date he notified the lodging provider of his intention. A lodging provider may levy the tax for the first thirty (30) days and refund tax if guest meets the criteria for a permanent resident.

(2) No tax shall be collected from the U.S. federal government nor an officer or employee of said government when traveling on government business and presenting official identification.

(3) No tax shall be collected from the following Texas quasi-governmental entities, nor an officer or employee of any thereof when traveling on business and presenting official identification: public facility corporations, housing authorities, housing finance corporations, and health facilities development corporations.

(4) No tax shall be collected from electric cooperatives formed under Chapter 161 of the Texas Utilities Code, nor telephone cooperatives formed under Chapter 162, nor an officer or employee of either thereof when traveling on business and presenting official identification.

(5) Generally, employees of State governmental agencies must pay the tax; however, no tax shall be collected from a State of Texas officers officials or employees such as heads of State agencies, members of State boards and commissions, district attorneys, State judges (District Courts, Courts of Appeals, Court of Criminal Appeals, and Supreme Court), State legislators, legislative employees, Secretary of the Senate and the Executive Director of the Legislative Council, when traveling on State business, when presenting a photo identification card issued by a State agency verifying the identity that specifically states they are exempt from hotel occupancy taxes under Tax Code Section 156.103(d) and a completed hotel tax exemption certificate and exempt status.

(6) No tax shall be collected from a foreign diplomat when presenting a tax exemption card issued by the United States Department of State.

**"Sec. 17-37. Same--Collection.**

(a) Every person owning, operating, managing or controlling any hotel lodging provider shall collect the tax imposed in section 17-36 hereof for the city. The lodging provider shall provide a receipt to each guest, which receipt shall reflect both the amount of consideration and the amounts of this and other tax applicable. In lieu of a receipt for a room that is prepaid through a third party booking entity, the lodging provider shall include in its monthly report the amount of consideration actually

received by the hotel and applicable tax due. All tax shall be due from the guest, and shall be collected by the lodging provider at the same time that the consideration is collected. The lodging provider shall be liable for any amount of tax that he fails to collect appropriately on revenue that is actually received by the hotel and must remit to the city any amount of tax collected in excess of that which should have been collected.

(b) Lodging provider selling or quitting business. If any lodging provider liable for any amount under this ordinance sells his business or quits his business, he shall make a final return and remittance of taxes due within fifteen (15) days after the date of selling or quitting the business.

(c) Duty of successors or assignees of lodging provider to withhold tax from purchase money. If any lodging provider liable for any amount of tax, interest or penalty under this ordinance sells out his business or quits the business, his successors or assigns shall withhold sufficiently from the purchase price to cover such amount until the former owner produces from the finance director either a receipt reflecting full payment or a certificate stating that no amount is due.

(d) Liability for failure to withhold. If the purchaser of a business fails to withhold from the purchase price as required, he shall be personally liable for the payment of the amount required to be withheld by him to the extent of the purchase price.

(e) Credit for tax or penalty overpaid. If the lodging provider or person determines that he has overpaid hotel tax or penalty to the City, such person shall have four (4) years from the date of payment to file a claim in writing stating the specific ground upon which the claim is founded. The claimant may request a hearing before the City Manager or designee at which the claim and any other information available will be considered. The City Manager or designee shall approve or disapprove the claim, and notify the claimant of his action.

**“Sec. 17-38. Same--Reports.**

On or before the last day of the month following each monthly period, every person required in section 17-37 hereof to collect the tax imposed herein shall file a report with the finance department showing the consideration paid for all room or sleeping space occupancies in the preceding month, the amount of tax collected on such occupancies, number of room nights available during the reporting period, number of room nights rented occupied during the reporting period, and any other information as the finance department may reasonably require, which report shall be in writing. Such persons shall pay the tax due on such occupancies at the time of filing of such report, provided that a one per cent discount may be retained for payment within the initial thirty-day period made before the due date. Reports must be postmarked or received by the last day of the month following the reporting period to be timely.

**“Sec. 17-39. Same--Procedures.**

(a) The finance department shall adopt procedures, rules, and regulations as are reasonably necessary to effectively collect the tax levied herein, and shall upon request of any person owning, operating, managing, or controlling any hotel furnish a copy of such procedures, rules, and regulations for the guidance of such person and facilitate the collection of such tax as a collection is required herein. Such procedures, rules, and regulations shall be in writing and a copy thereof shall be placed on file with the city secretary. ~~The finance department shall be permitted to have access to books and records of the taxpayer during reasonable business hours as shall be necessary to enable the finance department to determine the correctness of any report filed under section 17-38, and to determine the correctness of the amount due under the provisions of this article, or to determine whether or not a report should have been filed and the amount, if necessary, of taxes due.~~

(b) Records required from lodging providers. Every lodging provider offering guest rooms in the city shall preserve, for a minimum of four (4) years, all folios, receipts, itemized statements from third party booking entities, certificates of exemption and such other documents as the finance director may prescribe, and in such form as he or she may require. Said records shall at all times be available with reasonable notice for examination within the city.

(c) Examination of records, audits. The finance director or any person authorized in writing by her or him may examine the books, papers, records, financial reports, equipment and other facilities of any lodging provider offering guest rooms and any lodging provider liable for the tax, in order to verify the accuracy of any return made, or if no return is made by the lodging provider, to ascertain and determine the amount required to be paid. Such examination shall be conducted with reasonable notice at the place of lodging provision, unless the finance director shall authorize another place within the city. In the event that the tax has been delinquent for at least (2) complete fiscal quarters, the reasonable cost of the examination may be assessed against the lodging provider.

(d) Authority to require reports, contents. In administration of the provisions of this ordinance, the finance director may require the filing of reports by any person or class of persons having in their possession or custody information relating to the guest rooms which are subject to the tax. The reports shall be filed with the finance director when required by said official, and shall set forth the consideration for each occupancy, the date(s) of occupancy, the basis for exemption, or such other information as the finance director may prescribe.

**“Sec. 17-40. Same--Penalties.**

(a) If the person who is required to pay the tax imposed by sections 17-35 through 17-39 fails to collect such tax, file a report, or does not pay the tax when it is due, the person shall pay to the city a penalty of ~~five (5)~~ fifteen (15) per cent of the amount due

~~(b) - If the person who is required to pay the tax to the finance department does not file a report or pay the tax within thirty (30) days after it is due, the person shall pay to the city a penalty of an additional five (5) per cent of the amount of tax due.~~

~~(c) The minimum penalty under this section is one dollar (\$1.00).~~

**~~“Sec. 17-41. Same--Interest--Reserved.~~**

~~Any tax imposed by sections 17-35 through 17-39 which remains unpaid sixty one (61) days after the day due accrues interest at ten (10%) per annum from that day to the date of payment.~~

**~~“Sec. 17-42. Same--Criminal penalty.~~**

(a) A person commits an offense if the person fails to file a report with the finance department, collect a tax for the city, or pay a tax to the finance department as the person is required to do by sections 17-35 through 17-39, or fails to follow any procedure, rule, or regulation promulgated by authority of section 17-39.

(b) An offense under this section is a misdemeanor punishable by fine as provided in section 1-6 of the Corpus Christi City Code.”

**SECTION 2.** If for any reason any section, paragraph, subdivision, clause, phrase, word or provision of this ordinance shall be held invalid or unconstitutional by final judgment of a court of competent jurisdiction, it shall not affect any other section, paragraph, subdivision, clause, phrase, word, or provision of this ordinance, for it is the definite intent of this City Council that every section, paragraph, subdivision, clause, phrase, word or provision of this ordinance be given full force and effect for its purpose.

**SECTION 3.** A violation of this ordinance or requirements implemented hereunder shall constitute an offense, punishable as provided in Section 1-6 of the City Code of Ordinances.

**SECTION 4.** Publication shall be made in the official publication of the City of Corpus Christi as required by the City Charter of the City of Corpus Christi.

**SECTION 5.** This Ordinance takes effect on July 1, 2007.

That the foregoing ordinance was read for the first time and passed to its second reading on this the 8th day of MAY, 2007, by the following vote:

Henry Garrett	<u>Aye</u>	Bill Kelly	<u>Aye</u>
Brent Chesney	<u>ABSENT</u>	Rex A. Kinnison	<u>Aye</u>
John E. Marez	<u>Aye</u>	Jesse Noyola	<u>Aye</u>
Melody Cooper	<u>Aye</u>	Mark Scott	<u>Aye</u>
Jerry Garcia	<u>Aye</u>		

That the foregoing ordinance was read for the second time and passed finally on this the 15th day of MAY, 2007, by the following vote:

Henry Garrett	<u>Aye</u>	Bill Kelly	<u>Absent</u>
Brent Chesney	<u>Aye</u>	Rex A. Kinnison	<u>Aye</u>
John E. Marez	<u>Aye</u>	Jesse Noyola	<u>Aye</u>
Melody Cooper	<u>Aye</u>	Mark Scott	<u>Absent</u>
Jerry Garcia	<u>Aye</u>		

**APPROVED AND PASSED** on this 15th day of MAY, 2007.

**ATTEST:**

Armando Chapa  
Armando Chapa, City Secretary

Henry Garrett  
Henry Garrett, Mayor

Approved May 2007

Lisa Aguilar  
Lisa Aguilar  
Assistant City Attorney  
for City Attorney

<p><b>EFFECTIVE DATE</b></p> <p><u>07-01-07</u></p>
---

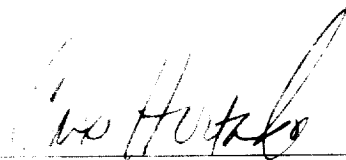
**PUBLISHER'S AFFIDAVIT**

State of Texas )  
County of Nueces )

CITY OF CORPUS CHRISTI  
Ad # 5743350  
PO #


Before me, the undersigned, a Notary Public, this day personally came CRIS HURTADO, who being first duly sworn, according to law, says that she is LEGAL SALES REPRESENTATIVE of the *Corpus Christi Caller-Times*, a daily newspaper published at Corpus Christi in said City and State, generally circulated in Aransas, Bee, Brooks, Duval, Jim Hogg, Jim Wells, Karnes, Kenedy, Kleberg, Live Oak, Nueces, Refugio, San Patricio, Victoria and Webb Counties, and that the publication of, NOTICE OF PASSAGE OF ORDINANCE NO. which the annexed is a true copy, was inserted in the *Corpus Christi Caller-Times* on the Friday 21ST 2007 day(s) of MAY 2007.

\$88.02

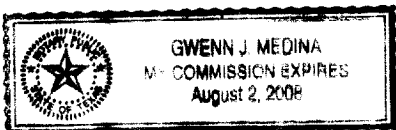


LEGAL SALES REPRESENTATIVE  
two (2) Time(s)

On this 14 day of May, 2007 I certify that the attached document is a true and an exact copy made by me.



Notary Public, Nueces County, Texas





May 21, 2007 - Monday

**NOTICE OF PASSAGE  
OF ORDINANCE NO.  
027265**

Amending the Code of Ordinances, City of Corpus Christi, Chapter 17 regarding hotel occupancy taxation; providing for penalties; providing for publication. This ordinance was passed and approved by the City Council of the City of Corpus Christi on May 15, 2007. This ordinance takes effect on July 1, 2007.

*/s/* Armando Chapa  
City Secretary  
City of Corpus Christi