Ordinance No. 2016.11
Village of Salado
County of Bell
State of Texas
April 7, 2016

AN ORDINANCE OF THE VILLAGE OF SALADO, TEXAS, AMENDING ORDINANCE 2008.25, ESTABLISHING A HOTEL-MOTEL OCCUPANCY TAX AND ABOLISHING THE VILLAGE TOURISM COUNCIL, TO PROVIDE A FIVE-HUNDRED ($500) ADMINISTRATIVE PENALTY; PROVIDING FOR AN EFFECTIVE DATE AND PROVIDING FOR A SEVERABILITY CLAUSE

WHEREAS, on July 5, 2007, the Board of Aldermen of the Village of Salado ("Board of Aldermen") enacted Ordinance No. 2007.05, which among other things, created that Village of Salado's ("Village") Tourism Council and established a hotel-motel occupancy tax including an enforcement provision and administrative fines for offenders; and

WHEREAS, on June 19, 2008 the Board of Aldermen amended Ordinance No. 2007.05 and adopted Ordinance No. 2008.25, which provided for rules and regulations for the Salado Tourism Council; and

WHEREAS, the Board of Aldermen have determined that the administrative fines should be amended to include a penalty of five-hundred ($500) dollars; and

WHEREAS, the Board of Aldermen of the Village of Salado deems it in the best interest of the Village of Salado to amend said Ordinance No. 2008.25 to abolish the Tourism Council and to;

NOW THEREFORE, be it ordained by the Board of Aldermen of the Village of Salado that Ordinance No. 2008.25 is hereby amended as follows:

Section 1. Findings of Fact

The foregoing recitals are incorporated into this Ordinance by reference as findings of fact of the Board of Aldermen, as if expressly set forth herein.

Section 2. Enactment

Ordinance No. 2008.25 is amended by removal of Attachment B in its entirety, and amended as provided for in Attachment A, and is hereby enacted as the Village of Salado Hotel-Motel Occupancy Tax Ordinance.

Section 3. Severability

If any provision, section, subsection, sentence, clause or phrase of this Ordinance, or the application of same to any person or set circumstances for any reason is held to be unconstitutional, void or invalid or for any reason unenforceable, the validity of the remaining portions of this ordinance of the application thereby shall remain in effect, it being the intent of the Board of Aldermen of the Village of Salado, Texas in adopting this Ordinance, that no portion thereof or provision contained herein shall become inoperative or fail by any reason of unconstitutionality or invalidity of any portion or provision.

Section 4. Repealing Conflict

All ordinances and parts of ordinances in conflict with this Ordinance are hereby repealed to the extent of conflict with this Ordinance.

Section 5. Publishing & Effective Date

This Ordinance shall become effective immediately upon publication.

PASSED AND APPROVED this, the 7th day of April, 2016, by a 5 (ayes) to 0 (nays) and 0 (abstentions) vote of the Board of Aldermen of Salado, Texas.

THE VILLAGE OF SALADO, TEXAS

Skip Blancett, Mayor

ATTEST:

Mary Ann Ray, Village Secretary

ATTACHMENT "A"

1. TAX LEVIED

A. There is hereby levied, enacted, and approved a seven (7%) percent Hotel-Motel Occupancy Tax within the incorporated municipal boundaries (i.e., City Limits) of the Village of Salado and it's Extraterritorial Jurisdiction (ETJ).

2. DEFINITIONS

A. The following words, terms and phrases are defined as follows:

(1) **Hotel:** Any 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, short-term rental or bed and breakfast.

(2) **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.

(3) **Grant:** A transfer of moneys from the Hotel-Motel Tax Account to designated recipients following formal request procedures.

(4) **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.

(5) **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.

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

(7) **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.

3. TAX AMOUNT & EXCEPTIONS

A. 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 two dollars ($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

and 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.

B. Exemptions are as follows:

(1) No tax shall be imposed upon a permanent resident.
(2) No tax shall be imposed for federal or state employees traveling on official business.
(3) No tax shall be imposed for diplomatic personnel who present a Tax Exemption card issued by the United States Department of State.
(4) 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.

4. COLLECTION OF TAX

A. Every person owning, operating, managing or controlling any hotel shall collect the tax levied by this ordinance for the Village of Salado.

B. The hotel operator shall be entitled to one half of one-percent (.5%) of the hotel occupancy tax revenues collected by the hotel as reimbursement for the operator's administrative costs for collecting the tax. However, as herein below provided, this reimbursement may be forfeited at the discretion of the Village if the hotel operator fails to timely pay over the tax or timely file a report as required by the Village or file a false report with the Village.

5. MONTHLY REPORT TO VILLAGE SECRETARY

A. On the twentieth (20^{th}) day of the month following each last day of the month, every person required to collect the tax imposed hereby shall file a report with the Village Secretary showing the price paid for all room occupancies in the preceding month, the amount of the tax collected on such occupancies, and any other information the Board of Aldermen may reasonably require. Such person shall pay the tax due on such occupancies at the time of filing such report.

B. Every person required to collect the tax imposed hereby and file a report with the Village Secretary are hereby granted the option to report local Hotel/Motel tax on a quarterly basis. Such quarterly reports of the local hotel/motel tax shall be reported and paid at the same time the state Hotel/Motel tax is paid.

C. The report shall be in a form prescribed by the Board of Aldermen and shall contain a copy of the state report filed for the comparable period.

D. The Village Secretary and Mayor are hereby authorized and directed to do all such things necessary or convenient to carry out the terms of this Ordinance.

E. The Village Secretary shall have the authority to request and receive within a reasonable time documentation for information contained in the report to the Village by the hotel.

6. REGULATIONS RELATING TO ACCESS TO BOOKS & RECORDS

The Board of Aldermen 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/her 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.

7. ENFORCEMENT

A. Offenses

(1) It shall be unlawful for any person to fail to file a report with the Village Secretary in accordance with this Ordinance.

(2) It shall be unlawful for any person to fail to render payment to the Village Secretary of taxes levied by this Ordinance.

B. Administrative Penalties

Any person committing one or more of the following shall be charged an administrative penalty:

(1) failure to file a report as required by this Ordinance;
(2) filing a false report; or
(3) failure to pay to the Village Secretary the tax as imposed herein when said report payment is due.

Any person committing the above acts shall pay an amount equal to ten percent (10%) of the amount due as penalty.

After the first ten (10) days of delinquency, an additional fee of five-hundred ($500.00) dollars shall be added to the amount owed. An additional penalty of ten percent (10%) shall be added to each additional thirty (30) days of delinquency after the initial first ten (10) days of delinquency.

C. Criminal Fines

Any person violating any of the provisions of this Ordinance, including hotel operators who fail to collect the tax, fail to file a return, file a false return, or who are delinquent in their tax payment, shall be guilty of a misdemeanor and shall, upon conviction, be fined in any sum not to exceed five hundred dollars ($500.00). Each twenty-four (24) hours of any such violation shall constitute a separate offense.

8. ADDITIONAL PENALTIES

A. In addition to the amount of any tax owed under this Ordinance and state law, the person is liable to the Village for the municipality's reasonable attorney's fees.

B. The Village 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 Village and who has failed to file a report, or filed a false report, or failed to pay the tax when due:

(1) Require the forfeiture of any revenue the Village allowed the hotel operator to retain for its cost of collecting the tax;
(2) Bring suit against the hotel for noncompliance;
(3) Ask the District Court to enjoin operation of the hotel until the report is filed and the tax is paid; and /or
(4) Bring suit against the hotel seeking any other remedies provided under Texas law.

9. ADDITIONAL AUTHORIZATION TO BRING SUIT

The Village 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 Village 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 Village until the tax is paid or the report is filed or both, as applicable and as provided in the injunction.

10. USE OF TAX REVENUE

A. The revenue derived from any hotel occupancy tax imposed and levied by this ordinance may be used only to promote tourism and the convention and hotel industry, and that use is limited to the following:

(1) the acquisition of sites for and the construction, improvement, enlarging, equipment, repairing, operation, and maintenance of convention center facilities (as such is defined in the Texas Tax Code, Section 351.001);

(2) the furnishing of facilities, personnel, and materials for the registration of convention delegates or registrants;

(3) advertising and conducting solicitations and promotional programs to attract tourists and convention delegates or registrants to the municipality or its vicinity;

(4) the encouragement, promotion, improvement, and application of the arts, including instrumental and vocal music, dance, drama, folk art, creative writing, architecture, design and allied fields, painting, sculpture, photography, graphic and craft arts, motion pictures, radio, television, tape and sound recording, and other arts related to the presentation, performance, execution, and exhibition of these major art forms; and

(5) historical restoration and preservation projects or activities or advertising and conducting solicitations and promotional programs to encourage tourists and convention delegates to visit preserved historic sites or museums:

(a) which are at or in the immediate vicinity of convention center facilities; or
(b) which are located elsewhere in the municipality or its vicinity that would be frequented by tourists, convention delegates, or other visitors to the municipality.

B. Revenue derived from the hotel occupancy tax shall be expended only in a manner which directly enhances and promotes tourism and the convention and hotel industry as hereinbefore delineated. Such revenue shall not be used for the general revenue purposes or general governmental operations of the municipality which are not directly related to promoting the hotel and convention industry or tourism in the municipality.

11. ADMINISTRATIVE REQUIREMENTS

A. The Board of Aldermen may, by contract, delegate to a person, including another governmental entity of a private organization, the management or supervision of programs and activities funded with revenue from the hotel occupancy tax. The Board of Aldermen shall approve in writing in advance the annual budget of the Village Tourism Director to which it delegates the Tourism functions, and shall require the entity to make periodic reports to the Board of Aldermen at least annually listing the expenditures made by the Village Tourism Director of revenue from the tax provided by the municipality.

B. The Village Secretary must maintain the revenue provided by the municipality from the tax in a separate account established for that purpose and may not commingle that revenue with any other money or maintain it in any other account.

C. The municipality may not delegate to any person or entity the management or supervision of its convention and visitors programs and activities funded with revenue from the hotel occupancy tax other than by contract as provided herein. The Tourism Director will submit requests for checks for expenditures to the Village Secretary. The approval by the Village Board of Aldermen of the annual budget of the Tourism Director to which these functions are delegated creates a fiduciary duty in the person or entity with respect to the revenue provided by the municipality to the person or entity under the contract.

D. The Village Secretary shall maintain complete and accurate financial records of each expenditure of hotel occupancy tax revenue made under the direction of the Tourism Director, and on request of the Board of Aldermen shall make the records available for inspection and review.

E. Hotel occupancy tax revenue may be spent for day-to-day operations, supplies, salaries, office rental, travel expenses, and other administrative costs only if those administrative costs are incurred directly in the promotion and servicing of expenditures hereinbefore authorized. The portion of the total administrative costs for activities for which hotel occupancy tax revenue may be used may not exceed the administrative costs actually incurred in conducting the authorized activities.

F. Hotel occupancy tax revenue may not be spent for travel for a person to attend an event or conduct an activity the primary purpose of which is not directly related to the promotion of the person's job in an efficient and professional manner.

12. EFFECTIVE DATE

The hotel occupancy tax authorized herein shall become effective October 1, 2007, and shall thereafter be collected on all rooms under occupancy (as that term is herein defined) from and

after the effective date, regardless of the date upon which payment or reservation for the occupancy was made.

14. REPEALER

This Ordinance, upon its enactment and effective date, shall repeal all conflicting provisions that may be contained in other Village ordinances or regulations.

15. SEVERABILITY

In the event that any one or more of the provisions, clauses, or words of this ordinance or the application thereof to any situation or circumstance 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 ordinance or the application thereof to any other situations or circumstance and it is intended that this ordinance shall be severable and that it shall be construed and applied as if such invalid or unconstitutional clause, section, provision, or word had not been included herein.