



# City of Borger

## Hotel Occupancy/Venue Tax Regulations

### ARTICLE 11.04 HOTEL/MOTEL OCCUPANCY TAX

#### Sec. 11.04.001 Definitions

The following words, terms, and phrases, for the purpose of this article, except where the context clearly indicates another meaning, are respectively defined as follows:

1. City Manager. The city manager or his or her authorized designee.
2. Consideration. The cost of a room, sleeping space, bed, or dormitory space in a Hotel, Motel, or other such facility does not include the cost of food served by the facility or the cost of personal services rendered to the occupants of the room or space not related to cleaning and readying the room for occupancy.
3. Governmental Entity. The United States, the State, or an agency, institution, board, or commission of the State, other than an institution of higher education.
4. Hotel. A building in which members of the public obtain sleeping accommodations for consideration, including a hotel, motel, tourist home, tourist house, tourist court, lodging house, inn, rooming house, or bed and breakfast, and does not include (i) a hospital, sanitarium, or nursing home, (ii) 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, as amended, and used by the institution for the purpose of providing sleeping accommodations for persons engaged in an educational program or activity at the institution, or (iii) an oilfield portable unit, as defined by Section 152.001, Texas Tax Code, as amended. The term "hotel" includes a short-term rental in which the rental of all or part of a residential property to a person who is not a permanent resident under Section 156.101, Texas Tax Code, as amended.
5. Occupancy. 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.
6. Occupant. A person who, for consideration, uses, possesses, or has a right to use or possess any room ordinarily used for sleeping in a hotel under any lease, concession, permit, right of access, license, contract, or agreement.
7. Person. Any individual, partnership, trust, company, corporation, association, or other entity.
8. State. shall mean the State of Texas.

#### Sec. 11.04.002 Levy

There is hereby levied and imposed a tax upon the occupant of any room in a hotel within the City for which the cost of occupancy is at the rate of \$2.00 or more per day, and such tax shall

be equal to seven percent (7%) of the price paid for the occupancy of a room in the hotel, except as follows:

- A. No tax shall be imposed on a United States governmental entity described in Section 156.103(a), Texas Tax Code, as amended.
- B. A State governmental entity described in Section 156.103(b), Texas Tax Code, as amended, which shall pay the 7% Hotel Occupancy Tax, is entitled to a refund of the 7% Hotel Occupancy Tax paid.
- C. A person who is described by Section 156.103(d), Texas Tax Code, as amended, is exempt from the payment of the 7% Hotel Occupancy Tax.
- D. A person who is described by Section 156.103(c), Texas Tax Code, as amended, shall pay the 7% Hotel Occupancy Tax but the State governmental entity with whom the person is associated is entitled to a refund of the 7% Hotel Occupancy Tax paid.

#### **Sec. 11.04.003 Collection**

Every person owning, operating, managing, or controlling any hotel shall collect the 7% Hotel Occupancy Tax imposed on behalf of the City on every occupancy occurring on and after the effective date, and such person shall report and pay the 7% Hotel Occupancy Tax to the City in accordance with all requirements and procedures set forth in this Article.

Each bill or other receipt for a hotel charge subject to the 7% Hotel Occupancy Tax imposed by this Article shall contain a statement, with the appropriate taxing jurisdiction references, in a conspicuous location stating:

THE APPLICABLE HOTEL OCCUPANCY TAX RATE COLLECTED BY THIS HOTEL FROM THE CUSTOMER FOR THE STATE OF TEXAS IS 6%. THE APPLICABLE HOTEL OCCUPANCY TAX RATE COLLECTED FROM THE CUSTOMER BY THIS HOTEL, LOCATED WITHIN THE CITY LIMITS OF THE CITY OF BORGER, TEXAS, IS 9%. THE APPLICABLE HOTEL OCCUPANCY TAX RATE COLLECTED BY THIS HOTEL FROM THE CUSTOMER FOR HUTCHINSON COUNTY, TEXAS IS 0%.

To receive a refund of the 7% Hotel Occupancy Tax paid, the governmental entity entitled to the refund must file a refund claim on a form provided by the City and containing the information required by the City. The State Comptroller by rule shall prescribe the form that must be used and the information that must be provided.

A governmental entity may file a single refund claim with the City for each calendar quarter for all reimbursements accrued during that quarter.

The right to use or possess a room in a hotel is exempt from taxation if the person required to collect the 7% Hotel Occupancy Tax receives, in good faith from a guest, an exemption certificate stating qualification for an exemption. The exemption must be supported by the documentation required under rules adopted by the State Comptroller and the City.

#### **Sec. 11.04.004 Adoption of procedures; rules and regulations; access to books and records**

The city manager shall adopt such procedures, rules and regulations as are reasonably necessary to effectively collect the 7% Hotel Occupancy 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 the 7% Hotel Occupancy Tax as such 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 city manager shall be permitted to have access to books and records during reasonable business hours as shall be necessary to enable the city manager 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.

#### **Sec. 11.04.005 Reports, Payments and Fees**

On the 20<sup>th</sup> day of the month following each month in which the 7% Hotel Occupancy Tax is earned, every person required by this Article to collect the 7% Hotel Occupancy Tax shall file an online report with the City showing:

- A. the consideration paid for all occupancies in the preceding month
- B. the amount of 7% Hotel Occupancy Tax collected on the occupancies
- C. any other information the City or any third-party collection agency as may reasonably require in order to assist the City in properly accounting for the collection of the 7% Hotel Occupancy Tax imposed herein, and
- D. Shall certify that the consideration and other associated information reported to the City for this period is identical to the consideration and associated information reported to the Texas Comptroller on Form 12-100.

Every person required by this Article to collect the 7% Hotel Occupancy Tax shall pay the 7% Hotel Occupancy Tax due on all occupancies in the preceding month to the City at the time of filing the report required by this Section.

Whenever a notice is required to be given or an act to be done a certain length of time before any proceeding shall be had, the day on which such notice is given or such act is done shall not be counted in computing the time, but the day on which such proceeding is to be had shall be counted. If the last day is a Saturday, Sunday, or legal holiday, the period is extended until the end of the next day which is neither a Saturday, Sunday, nor a holiday.

#### **Sec. 11.04.006 Sale of Properties**

If the person who is liable for the payment of a the 7% Hotel Occupancy Tax under this Article 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 7% Hotel Occupancy Tax due until the seller provides a receipt by a person designated by the City to provide the receipt showing that the amount has been paid or a certificate showing that no 7% Hotel Occupancy Tax is due.

The purchaser of a hotel who fails 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.

The purchaser of a hotel may request that the person designated by the City to provide a receipt under this Section to issue a certificate stating that no 7% Hotel Occupancy 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 City shall issue the certificate or statement not later than the 60<sup>th</sup> day after the date the person receives the request.

If the person designated by the City to provide the receipt under this Section fails to issue the certificate or statement within the period provided by this Section, the purchaser is released from the obligation to withhold the purchase price or pay the amount due.

#### **Sec. 11.04.007 Exemptions**

A person or governmental entity described in Sections 156.101, 156.103(a), or 156.103(d) of the Texas Tax Code, as amended, is exempt from the payment of the 7% Hotel Occupancy Tax imposed under this Article.

A governmental entity excepted from the tax imposed by Chapter 156, Texas Tax Code, as amended, under Section 156.103(b) of the same shall pay the 7% Hotel Occupancy Tax imposed by this Article, but is entitled to a refund of the 7% Hotel Occupancy Tax paid.

A person described in Section 156.103(c), Texas Tax Code, as amended, shall pay the 7% Hotel Occupancy Tax imposed by this Article, but the State governmental entity entitled to the refund must file a refund claim with the City providing all information on the form prescribed by the State Comptroller and provided by the City. A governmental entity may file a refunded claim with the City only once for each calendar quarter for all reimbursements accrued during that quarter.

### **ARTICLE 11.05 VENUE TAX**

#### **Sec. 11.05.001 Definitions**

The following words, terms, and phrases, for the purpose of this article, except where the context clearly indicates another meaning, are respectively defined as follows:

1. City Manager. The city manager or his or her authorized designee.
2. Consideration. The cost of a room, sleeping space, bed, or dormitory space in a Hotel, Motel, or other such facility does not include the cost of food served by the facility or the cost of personal services rendered to the occupants of the room or space not related to cleaning and readying the room for occupancy.
3. Governmental Entity. The United States, the State, or an agency, institution, board, or commission of the State, other than an institution of higher education.

4. Hotel. A building in which members of the public obtain sleeping accommodations for Consideration, including a hotel, motel, tourist home, tourist house, tourist court, lodging house, inn, rooming house, or bed and breakfast, and does not include (i) a hospital, sanitarium, or nursing home, (ii) 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, as amended, and used by the institution for the purpose of providing sleeping accommodations for persons engaged in an educational program or activity at the institution, or (iii) an oilfield portable unit, as defined by Section 152.001, Texas Tax Code, as amended. The term "hotel" includes a short-term rental in which the rental of all or part of a residential property to a Person who is not a permanent resident under Section 156.101, Texas Tax Code, as amended.
5. Occupancy. 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.
6. Occupant. A Person who, for Consideration, uses, possesses, or has a right to use or possess any room ordinarily used for sleeping in a Hotel under any lease, concession, permit, right of access, license, contract, or agreement.
7. Person. Any individual, partnership, trust, company, corporation, association, or other entity.
8. State. shall mean the State of Texas.

#### **Sec. 11.05.002 Levy**

There is hereby levied and imposed a tax upon the occupant of any room in a hotel within the City 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 of a room in the hotel, except as follows:

- A. No tax shall be imposed on a United States governmental entity described in Section 156.103(a), Texas Tax Code, as amended.
- B. A State governmental entity described in Section 156.103(b), Texas Tax Code, as amended, which shall pay the 2% Hotel Occupancy Tax, is entitled to a refund of the 2% Hotel Occupancy Tax paid.
- C. A person who is described by Section 156.103(d), Texas Tax Code, as amended, is exempt from the payment of the 2% Hotel Occupancy Tax.
- D. A person who is described by Section 156.103(c), Texas Tax Code, as amended, shall pay the 2% Hotel Occupancy Tax but the State governmental entity with whom the person is associated is entitled to a refund of the 2% Hotel Occupancy Tax paid.

#### **Sec. 11.05.003 Collection**

Every person owning, operating, managing, or controlling any hotel shall collect the 2% Hotel Occupancy Tax imposed on behalf of the City on every occupancy occurring on and after

the effective date, and such person shall report and pay the 2% Hotel Occupancy Tax to the City in accordance with all requirements and procedures set forth in this Article.

Each bill or other receipt for a hotel charge subject to the 2% Hotel Occupancy Tax imposed by this Article shall contain a statement, with the appropriate taxing jurisdiction references, in a conspicuous location stating:

THE APPLICABLE HOTEL OCCUPANCY TAX RATE COLLECTED BY THIS HOTEL FROM THE CUSTOMER FOR THE STATE OF TEXAS IS 6%. [THE APPLICABLE HOTEL OCCUPANCY TAX RATE COLLECTED FROM THE CUSTOMER BY THIS HOTEL, LOCATED WITHIN THE CITY LIMITS OF THE CITY OF BORGER, TEXAS, IS 9%. THE APPLICABLE HOTEL OCCUPANCY TAX RATE COLLECTED BY THIS HOTEL FROM THE CUSTOMER FOR HUTCHINSON COUNTY, TEXAS IS 0%.

To receive a refund of the 2% Hotel Occupancy Tax paid, the governmental entity entitled to the refund must file a refund claim on a form provided by the City and containing the information required by the City. The State Comptroller by rule shall prescribe the form that must be used and the information that must be provided.

A governmental entity may file a single refund claim with the City for each calendar quarter for all reimbursements accrued during that quarter.

The right to use or possess a room in a hotel is exempt from taxation if the person required to collect the 2% Hotel Occupancy Tax receives, in good faith from a guest, an exemption certificate stating qualification for an exemption. The exemption must be supported by the documentation required under rules adopted by the State Comptroller and the City.

#### **Sec. 11.05.004 Adoption of procedures; rules and regulations; access to books and records**

The city manager shall adopt such procedures, rules and regulations as are reasonably necessary to effectively collect the 2% Hotel Occupancy 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 the 2% Hotel Occupancy Tax as such 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 city manager shall be permitted to have access to books and records during reasonable business hours as shall be necessary to enable the city manager 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.

#### **Sec. 11.05.005 Reports, Payments and Fees**

On the 20<sup>th</sup> day of the month following each month in which the 2% Hotel Occupancy Tax is earned, every person required by this Article to collect the 2% Hotel Occupancy Tax shall file a report with the City showing:

- A. the Consideration paid for all occupancies in the preceding month

- B. the amount of 2% Hotel Occupancy Tax collected on the occupancies
- C. any other information the City or any third-party collection agency as may reasonably require in order to assist the City in properly accounting for the collection of the 2% Hotel Occupancy Tax imposed herein, and
- D. Shall certify that the consideration and other associated information reported to the City for this period is identical to the consideration and associated information reported to the Texas Comptroller on Form 12-100.

Every person required by this Article to collect the 2% Hotel Occupancy Tax shall pay the 2% Hotel Occupancy Tax due on all occupancies in the preceding month to the City at the time of filing the report required by this Section.

Whenever a notice is required to be given or an act to be done a certain length of time before any proceeding shall be had, the day on which such notice is given or such act is done shall not be counted in computing the time, but the day on which such proceeding is to be had shall be counted. If the last day is a Saturday, Sunday, or legal holiday, the period is extended until the end of the next day which is neither a Saturday, Sunday, nor a holiday.

#### **Sec. 11.05.006 Sale of Properties**

If the person who is liable for the payment of a the 2% Hotel Occupancy Tax under this Article 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 2% Hotel Occupancy Tax due until the seller provides a receipt by a person designated by the City to provide the receipt showing that the amount has been paid or a certificate showing that no 2% Hotel Occupancy Tax is due.

The purchaser of a hotel who fails 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.

The purchaser of a hotel may request that the person designated by the City to provide a receipt under this Section to issue a certificate stating that no 2% Hotel Occupancy 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 City shall issue the certificate or statement not later than the 60<sup>th</sup> day after the date the person receives the request.

If the person designated by the City to provide the receipt under this Section fails to issue the certificate or statement within the period provided by this Section, the purchaser is released from the obligation to withhold the purchase price or pay the amount due.

#### **Sec. 11.05.007 Exemptions**

A person or governmental entity described in Sections 156.101, 156.103(a), or 156.103(d) of the Texas Tax Code, as amended, is exempt from the payment of the 2% Hotel Occupancy Tax imposed under this Article.

A governmental entity excepted from the tax imposed by Chapter 156, Texas Tax Code, as amended, under Section 156.103(b) of the same shall pay the 2% Hotel Occupancy Tax imposed by this Article, but is entitled to a refund of the 2% Hotel Occupancy Tax paid.

A person described in Section 156.103(c), Texas Tax Code, as amended, shall pay the 2% Hotel Occupancy Tax imposed by this Article, but the State governmental entity entitled to the refund must file a refund claim with the City providing all information on the form prescribed by the State Comptroller and provided by the City. A governmental entity may file a refunded claim with the City only once for each calendar quarter for all reimbursements accrued during that quarter.

**Sec. 11.05.008 Violations; penalties; additional enforcement actions**

Any owner of a hotel who fails to report when required by this Article or who fails to pay the 2% Hotel Occupancy Tax when due and as required in this Article, shall pay a penalty of five percent (5%) of the amount of 2% Hotel Occupancy Tax due. If the owner of a hotel fails to file the report or pay the 2% hotel occupancy tax before the 31<sup>st</sup> day after the date that the report or 2% Hotel Occupancy Tax payment was due, the owner of a hotel shall pay an additional penalty of five percent (5%) of the amount of the 2% Hotel Occupancy Tax due.

Delinquent 2% Hotel Occupancy Taxes and accrued penalties draw interest, to the extent permitted by current law, at the rate of ten percent (10%) per year beginning sixty (60) days after the date on which the 2% Hotel Occupancy Tax was due to the City.

In addition to the amount of tax, penalties, and interest, the City shall be entitled to all its costs and reasonable attorneys' fees incurred in enforcing this Article against the person owning, controlling, operating, or managing a hotel and in collecting any 2% Hotel Occupancy Tax owed by the person under this Article.

As set forth in the Act, an attorney acting on behalf of the City, or the Criminal District Attorney for the City, may bring suit against a person who is required to collect the tax imposed hereby and who has failed to file a 2% Hotel Occupancy Tax report or pay the 2% Hotel Occupancy Tax when due in order to either (i) collect the 2% Hotel Occupancy Tax not paid, or (ii) enjoin the person from operating a hotel in the City until the tax is paid or the report is filed. The remedies provided by this Section are in addition to other available remedies.