

ORDINANCE NO. 02-92-03

AN ORDINANCE OF THE CITY OF JEWETT ENTITLED "HOTEL OCCUPANCY TAX". IMPOSING A TAX IN THE AMOUNT OF THREE PERCENT (3%); AND PROVIDING A PENALTY FOR VIOLATION OF THE ORDINANCE BY FORFEITURE OF FIVE PERCENT (5%) OF THE AMOUNT DUE AND/OR BY A FINE IN A SUM NOT TO EXCEED \$500.00; CONTAINING A SEVERABILITY CLAUSE; CONTAINING A CLAUSE REPEALING CONFLICTING ORDINANCES AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Chapter 351 of the Texas Tax Code authorizes municipalities such as the City of Jewett to impose and collect by Ordinance a tax on the occupancy of hotel rooms as therein defined; and

WHEREAS, the City Council of the City of Jewett is of the opinion that the imposition and collection of such tax, in accordance with Chapter 351 would be of advantage to the City in the promotion of tourism and the convention and hotel industry in accordance with Section 351.101 of the Texas Tax Code; and

WHEREAS, the City Council of the City of Jewett, Texas, has determined to impose a tax in the amount of three percent (3%);

NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF JEWETT, TEXAS:

Section One

The Ordinances of the City of Jewett, Texas, shall be and is hereby amended by the addition to Chapter Six of said Code Article VI as follows:

ARTICLE VI

HOTEL OCCUPANCY TAX

Sec. 1-110 - Definitions

(a) Hotel: Any building or buildings in which the public may, for a consideration obtain sleeping accommodations, including hotels, motels, tourist homes, houses or courts, lodging houses, inns, rooming houses, or other buildings where rooms are furnished for a consideration, but not including hospitals, sanitariums or nursing homes.

(b) 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.

(c) 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.

(d) 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.

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

(f) Tax Assessor-Collector: The tax assessor and collector of the City of Jewett.

(g) Quarterly Period: The regular calendar quarters of the year, the first quarter being composed of the months of October, November and December; the second quarter being the months of January, February and March; the third quarter being the months of April, May and June; and the fourth quarter being the months of July, August and September.

(h) 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.

Sec. 1-111 - Tax Levied; Amount; Exemptions.

There is hereby levied a tax of three percent (3%) 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 \$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.

Exceptions are as follows:

- (a) No tax shall be imposed upon a permanent resident.
- (b) No tax shall be imposed for federal or state employees traveling on official business.
- (c) No tax shall be imposed for diplomatic personnel who present a Tax Exemption Card issued by the United States Department of State.
- (d) 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.

Sec. 1-112 - Collection of Tax.

Every person owning, operating, managing or controlling any hotel shall collect the tax levied by this Ordinance for the City of Jewett.

Sec. 1-113 - Quarterly Reports to Tax Assessor-Collector

On the last day of the month following each quarterly period (beginning the last day of the month following the second quarterly period of calendar year 1992), every person required to collect the tax imposed hereby shall file a report with the assessor-collector of taxes showing the price paid for all room occupancies in the preceding quarter, the amount of the tax collected on such occupancies, and any other information the assessor-collector may reasonably require. Such person shall pay the tax due on such occupancies at the time of filing such report. The report shall be in a form prescribed by the assessor-collector. The assessor-collector is hereby authorized and directed to do all such things necessary or convenient to carry out the terms of this Ordinance. The assessor-collector shall have the authority to request and receive within a reasonable time documentation for information contained in the report to the city by the hotel.

Sec. 1-114 - Rules and Regulations of Tax Assessor-Collector; Access to Books and Records

The assessor-collector 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 to determine the

correctness of any report filed as required by this Ordinance, and the amount of taxes due under the provisions of this article.

Sec. 1-115 - Penalties

If any person shall fail to file a report as required herein or shall file a false report or shall fail to pay to the tax assessor-collector the tax imposed herein when said report or payment is due, he shall forfeit five percent (5%) of the amount due as penalty, and after the first thirty (30) days, he shall forfeit an additional five percent (5%) of such tax. However, such penalty shall never be less than ONE AND NO/100THS DOLLARS (\$1.00). Delinquent taxes shall draw interest at the rate of ten percent (10%) per annum beginning sixty (60) days from the due date.

Any person violating any of the provisions of this article, 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 AND NO/100THS DOLLARS (\$500.00), and each twenty-four (24) hours of any such violation shall constitute a separate offense.

Sec. 1-116 - Additional Penalties

The city 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 City and who has failed to file a report, or filed a false report, or failed to pay the tax when due:

- (a) Require the forfeiture of any revenue the city allowed the hotel operator to retain for its cost of collecting the tax;
- (b) Bring suit against the hotel for non-compliance; and/or
- (c) Bring suit against the hotel seeking any other remedies provided under Texas law.

Sec. 1-117 - Additional Authorization to Bring Suit

The City Attorney 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 city and who has failed to file a report, or filed a false report, or failed to pay the tax when due. Such

promotes tourism and the convention and hotel industry as hereinbefore delineated. Such revenue shall not be used for the general revenue purposes of general governmental operations of the municipality which are not directly related to promoting the hotel and convention industry or tourism in the municipality.

**Sec. 1-119 - Administrative Requirements:
Accountability; Keeping of Records**

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

The entity 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.

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 approval by the City Council of the annual budget of the entity 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.

A person or entity with whom the municipality contracts to conduct authorized activities shall maintain complete and accurate financial records of each expenditure of hotel occupancy tax revenue made by the person or entity and, on request of the City Council or other person, shall make the records available for inspection and review.

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.

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.

Section Two - Severability

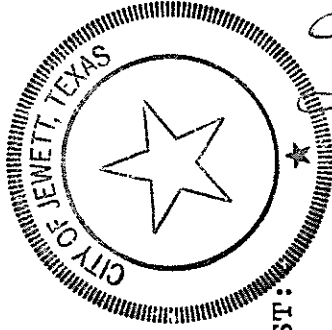
It is hereby declared to be the intention of the City Council that the several provisions of this Ordinance are severable, and if any court of competent jurisdiction enters a final order which holds that any section, sub-section, sentence, clause, phrase or other portion of this Ordinance is invalid, illegal, or otherwise unenforceable, then any such portion shall be deemed a separate, distinct and independent provision, and any such ruling shall not affect any other provisions of this Ordinance which are not specifically designated as being illegal, invalid or unenforceable.

Section Three - Repeal of Conflicting Ordinances

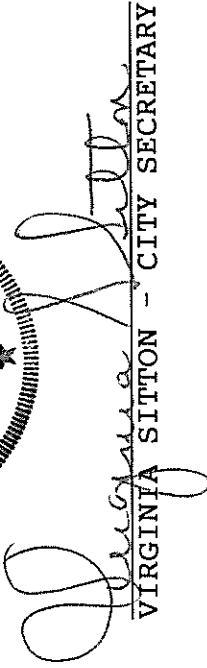
All Ordinances or parts of Ordinances conflicting with the provisions of this Ordinance be and the same are hereby repealed.


Section Four - Effective Date

The Hotel Occupancy Tax authorized herein shall become effective on the 24th day of February, 1992



ATTEST:


VIRGINIA SITTON - CITY SECRETARY


HERMAN HAMMOND - MAYOR
CITY OF JEWETT, TEXAS