

City of Cottonwood Shores

ORDINANCE 11043

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COTTONWOOD SHORES, TEXAS, PROVIDING FOR THE COLLECTION OF A HOTEL OCCUPANCY TAX; PROVIDING FOR THE COLLECTION OF THE TAX IN THE EXTRA TERRITORIAL JURISDICTION; PROVIDING FOR CERTAIN DEFINITIONS; PROVIDING FOR AN EFFECTIVE DATE; PROVIDING FOR A PENALTY NOT TO EXCEED FIVE HUNDRED DOLLARS (\$500.00) FOR EACH OFFENSE; AND PROVIDING A SEVERABILITY CLAUSE.

History: January 17, 2013 – Repealed Ordinance 081607 and Adopted Ordinance 11043  
July 6, 2017 – Added Short-Term Rentals

**WHEREAS**, Section 351.011, V.A.T.S., Municipal Hotel Occupancy Tax, sets forth the authority of the municipality to levy by ordinance a hotel occupancy tax upon the cost of occupancy of any room or other hotel facility used for sleeping, within the corporate limits of said city where the charge for the room \$2.00 or more per day; and

**WHEREAS**, the City Council has determined that the income that would become available from the hotel occupancy tax would be in the best interest of the citizens of the City of Cottonwood Shores;

**WHEREAS**, the City Council has determined that levy of the hotel occupancy tax in the extraterritorial jurisdiction as authorized by Section 351.0025, V. A. T. S. would be in the best interest of the citizens of the citizens of the City of Cottonwood Shores;

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COTTONWOOD SHORES, TEXAS:**

**Section 1 – Definitions.**

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

- 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 or a short-term rental site, only if the room or site 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 clearing and readying of such room for occupancy.
- c) **Financial Officer**: The Financial Officer of the City of Cottonwood Shores.
- d) **Occupancy**: The use or possession, or the right to the use or possession, of any room or rooms in a hotel or short-term rental if the room or site is one which is ordinarily used for sleeping and if the occupant is other than a

- permanent resident as hereinafter defined.
- e) Occupant: Anyone who, for a consideration, uses, possess, or has a right to use or possess any room or rooms in a hotel or short-term rental site under any lease, concession, permit, right of access, license, contract or agreement, other than a permanent resident as hereinafter defined.
  - f) Person: Any individual, company corporation or association owning, operating, managing or controlling.
  - 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 any room or rooms in a hotel for a least thirty (30) consecutive days during the calendar year or preceding year.
  - i) Short-term rental: any house, apartment, building or buildings, in which the public may, for a consideration, obtain sleeping accommodations, on a short, temporary basis, as an alternative to a hotel or motel; not including hospitals, sanitariums or nursing homes.

**Section 2 - Tax Levied; Amount; Exemptions.**

Within the corporate limits of the City of Cottonwood Shores as now or hereafter existing, there is hereby levied a tax of seven percent (7%) of the price for a room in a hotel or short-term rental on every person who, under a lease, concession, permit, right of access, license, contract, or agreement, pays for 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 or short-term rental does not include the cost of food served by the hotel or short-term rental and the cost of personal services performed by the hotel or short-term rental for the person except those services performed by the hotel or short-term rental related to the cleaning and readying of the room or site 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 State 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.

**Section 3 - Taxes Levied in the Extraterritorial Jurisdiction; Amount; Exemptions.**

Within the extraterritorial jurisdiction of the City of Cottonwood Shores, as now or hereafter

existing, there is hereby levied a tax of two percent (2%) of the price for a room in a hotel or in a short-term rental site on every person who, under a lease, concession, permit, right of access, license, contract, or agreement, pays for use or possession, or for the right to use or possess a room that is in a hotel or in a short-term rental site, costs \$2.00 or more each day, and is ordinarily used for sleeping. The price of a room in hotel or in a short-term rental site does not include the cost of food served by the hotel or in a short-term rental site and the cost of personal services performed by the hotel or in a short-term rental site for the person except the services performed by the hotel or in a short-term rental site for those services related to cleaning and readying of the room or site for possession.

Exceptions are the following:

- 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.

#### **Section 4 - Collection of Tax**

Every person owning, operating, managing or controlling any hotel or short-term rental, shall collect the tax levied by this ordinance for the City of Cottonwood Shores.

The hotel or short-term rental operator shall be entitled to one percent (1%) of the hotel occupancy tax revenues collected as reimbursement for the operator's administrative costs for collecting tax. However, as herein below provide this reimbursement may be forfeited at the discretion of the city if the hotel operator fails to timely pay over the tax or timely file a report as required by the city or file a false report with the city.

#### **Section 5 - Quarterly Reports to City Financial Officer.**

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 2007), every person required to collect the tax imposed hereby shall file a report with the City Financial Officer 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 City Financial Officer may reasonably require. Such person shall pay the tax due on such occupancies at the time of the filing such report. The report shall be in a form prescribed by the Financial Officer. The Financial Officer is hereby authorized to request and receive within reasonable time documentation for information contained in the report to the City by the hotel or short-term rental.

#### **Section 6 - Rules and Regulations of the City Treasurer; Access to Books and Records.**

The Cit Financial Officer shall have the power to make such rules and regulation 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.

**Section 7 - Penalties**

In any person shall fail to file a report as required herein or shall file a false report or shall fail to pay to the Financial Officer the tax as imposed herein when said report or payment is due, he shall forfeit an additional five percent penalty, and after the first thirty (30) days, so shall forfeit an additional five percent (5%) of such tax. However, such penalty shall never be less than One and No/100 (\$1.00) Dollar. 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 or short-term rental 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/00 (\$500.00) Dollars, and each twenty-four (24) hours of any such violation shall constitute a separate offense.

**Section 8 - 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 or short-term rental operator to retain for its cost of collecting the tax;
- b) Bring suit against the hotel or short-term rental for noncompliance; and/or
- c) Bring suit against the hotel seeking any other remedies provided under Texas law.

**Section 9 - 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 file a report, or filed a false report, or to enjoin such person from operating a hotel in the city until the tax is paid or the report is filed or both, as applicable and as provided in the injunction.

**Section 10 - Use of Revenue Derived from Levy of Hotel Occupancy Tax.**

The revenue derived from any hotel or short-term rental 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, equipping, repairing, operation, and maintenance of convention center facilities (as such is defined

in V.A.T.S. 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.

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.

**Section 11 - 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 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 if 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 if those administrative costs 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 12 - Effective Date**

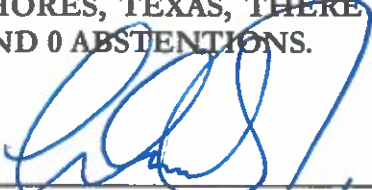
The hotel occupancy tax authorized herein shall become effective commencing on the first day of the month following the date upon which this ordinance or an amended form thereof has been adopted and enacted by the City of Cottonwood Shores.

**Section 13 - 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 circumstances 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.

ORIGINAL ORDINANCE PASSED, APPROVED AND ADOPTED this 16th day of August, 2007.

AMENDED ORDINANCE PASSED THIS THE 6<sup>TH</sup> DAY OF JULY, 2017, AT A MEETING OF THE CITY COUNCIL OF THE CITY OF COTTONWOOD SHORES, TEXAS, THERE BEING A QUORUM PRESENT, BY 5 YEAS, 0 NAYS AND 0 ABSTENTIONS.



Donald Orr, Mayor

ATTEST:



Sheila C. Moore  
City Administrator/City Secretary

