

**City of Cottonwood Shores**

**ORDINANCE 4004**

**AN ORDINANCE LEVYING ANNUAL FEES ON HOLDERS OF PERMITS AND LICENSES ISSUED UNDER THE STATE ALCOHOLIC BEVERAGE CODE; PROVIDING FOR REFERRAL AND REVIEW PROCEDURES; PROVIDING FOR THE CHIEF OF POLICE TO MAKE RECOMMENDATIONS; PROVIDING PENALTY AND OPEN MEETING CLAUSES; PROVIDING AN EFFECTIVE DATE; AND PROVIDING FOR RELATED MATTERS.**

**History:**

April 5, 2012: Amended Ordinance Numbers 032488-1C, 031600 and 9010 to Ordinance 11010

August 2, 2012: Repealed Ordinance 11010, replaced with Ordinance 4004; amended enforcement and fines.

May 10, 2018: Amended permit fees payment policy.

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

**Section 1 – State Law Authority:**

This Ordinance is passed pursuant to and is referable to the Texas Alcoholic Beverage Code ("TABC"), and the provisions of such code are hereby adopted insofar as the same are applicable, and shall govern the administration and enforcement of this Ordinance.

**Section 2 -- Definitions:**

For the purpose of this Ordinance, all definitions, words, terms, and phrases set forth in the TABC, as amended from time to time, are hereby adopted and made a part hereof.

**Section 3 – License and Permit Fees:**

1. Pursuant to the authority granted to cities in Section 11.38, TABC, there is hereby prescribed and levied an annual permit fee for each premises located within the City of Cottonwood Shores (the "City") that is required to obtain and hold a permit issued under the provisions of Subchapter B, Chapter 11, TABC. Such annual fee is hereby established as an amount equal to one-half (50%) of the annual state permit fee payable for and with respect to each such premises.
2. Pursuant to the authority granted to cities in Section 61.36, TABC, there is hereby prescribed and levied an annual license fee for each premises located within the City that is required to obtain and hold a permit issued under the provisions of Subchapter B, Chapter 61, TABC. Such annual license fee is hereby established as an amount equal to one-half (50%) of the annual state license fee payable for and with respect to each such premises.

**Section 4 – Payment of Fees:**

The annual license fee shall be due and payable on or before January 1 of each year. No person shall engage in the business of selling or serving alcoholic beverages within the City without first having paid the applicable fees established by the City.

As per the Texas Alcoholic Beverage Code (TABC), Title 3, Subtitle A, Chapter 11.38(b) Local Fee Authorized: **The commission or administrator may cancel a permit if it finds that the permittee has not paid a fee levied under this section. A permittee who sells an alcoholic beverage without first having paid a fee levied under this section commits a misdemeanor punishable by a fine of not less than \$10 nor more than \$200.**

The City's Financial Officer shall issue an appropriate receipt for the payment of such fee and the holder of the state permit or license involved shall display such receipt in some conspicuous place on the premises in the same manner that the applicable state license or permit is displayed.

### **Section 5 – Review and Recommendation:**

For the purposes of obtaining a recommendation as provided for in Section 11.41, TABC, every person, firm or entity making application for a permit, pursuant to Subchapter B of Chapters 11 or 61, TABC, within the City, shall be required to provide such information as may be reasonably required, including a copy of the application made to the Alcoholic Beverage Commission (the "Commission") and a personal history, to the Chief of Police. The Chief of Police shall review such application and materials, make such reasonable investigation as is deemed prudent, and make a written recommendation pursuant to Section 11.41, TABC. In the event the Chief of Police makes a written objection to the issuance of any such permit or license, such recommendation shall be communicated to the Commission and no City permit or license shall be issued by the City on such application until such time, if any, as the Commission shall grant the requested permit or license.

### **Section 6 – Hours of Operation:**

A permittee or licensee operating an authorized bar or private club within the City limits may sell and allow persons to consume or be served alcoholic beverages on the premises on any day permitted by the TABC between the hours of 12:00 midnight and 2:00 a.m. and during all other hours as may be permitted by the TABC.

### **Section 7 – Cancellation and Suspension of Permits:**

A permit or license issued pursuant to this Ordinance may be cancelled, denied or revoked as provided in Subchapter C of Chapters 11 or 61, TABC. The City shall have all powers, duties and remedies permitted in Chapter 11 or 61, TABC.

### **Section 8 – Violations and Penalties:**

Any individual, association, corporation or legal entity commits an offense if they sell alcoholic beverages without first having paid the permit fees levied under this Ordinance in full prior to the date due. An offense under this section shall be filed with the Municipal Court of Cottonwood Shores by complaint or citation issued by the Code Enforcement Officer or any Peace Officer of the State of Texas and is punishable by the assessment of a fine not to exceed two thousand dollars (\$2,000.00). Each day or portion of a day in which the violation occurs shall be considered a separate offense and may be filed as such in the municipal court.

Such penalty shall be in addition to all the other remedies provided herein. Any violation of this Ordinance may be considered as grounds for cancellation, suspension or denial of a permit.

**Section 9 – Amendment and Repeal of Ordinances:**

Ordinance 4004 is hereby amended in its entirety and the code of ordinances and all ordinances or parts of ordinances in conflict with this ordinance are hereby repealed to the extent of such conflict.

**Section 10 – Severability:**

If any provision of this Ordinance or the application of any provision to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications hereof which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

**Section 11 -- Effective Date:**

This Ordinance shall take effect immediately from and after its passage and publication in the manner set forth in and required by the Local Government Code.

**Section 12 – Open Meetings:**

That it is hereby officially found and determined that the meeting at which this Ordinance is passed was open to the public as required and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act (*Chapter 551, Local Government Code*).

**PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF COTTONWOOD SHORES, TEXAS, AT A MEETING ON THE 10<sup>TH</sup> DAY OF MAY 2018, THERE BEING A QUORUM PRESENT, WITH 5 VOTES IN FAVOR, 0 VOTES AGAINST AND 0 ABSTENTIONS.**



Donald Orr, Mayor



Attest:



Sheila C. Moore  
City Administrator/City Secretary