

**CITY OF CUSHING
ORDINANCE NO. 12-20-21-04**

AN ORDINANCE AMENDING SECTIONS 17-43, 17-45, 17-47, AND 17-48 OF THE CUSHING CITY CODE HOTEL/MOTEL TAX; PROVIDING FOR EXEMPTIONS; MODIFYING OPERATOR'S DUTIES; DEFINING ASSESSMENT AND DETERMINATION OF TAX; PROVIDING FOR REFUNDS UNDER CERTAIN CONDITIONS; PROVIDING FOR SEVERABILITY AND REPEAL; AND, DECLARING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE CITY OF CUSHING AS FOLLOWS:

Section 1. Cushing City Code Section 17-43 Amended. That the Cushing City Code is hereby amended as follows:

§ 17-43 Exemptions.

- A. Occupancy. The following shall be exempt from the tax levied in this article:
 - (1) A permanent resident, provided, any person who qualifies as a permanent resident shall be entitled to the exemption retroactive;
 - (2) The United States government or any agency or division thereof when paid directly by the United States government;
 - (3) The State of Oklahoma or any political subdivision thereof when paid directly by the state or any political subdivision;
 - (4) Any public school or state-accredited private school when paid directly by the school, provided that its primary purposes in not carrying on a business for profit; and
 - (5) Any church when paid directly by the church, provided that its primary purposes in not carrying on a business for profit.
- B. Certificate of exemption required. Any and all exemptions from the tax will be those allowed pursuant to state law and the sales tax code exemptions, as determined exclusively by the Oklahoma Tax Commission.

Section 2. Cushing City Code Section 17-45 Amended. That the Cushing City Code is hereby amended as follows:

§ 17-45 Operator's duties.

- A. Operator responsible for collections. The operator shall be responsible for the collection of the tax from the occupant and shall be liable to the city for the tax which shall be held in trust by the operator until paid to the city. The operator shall join the city as a party to any action brought by the operator to enforce collection of the tax.
- B. Records to be kept. Every operator shall keep records of every occupancy and of all rent paid, charged, or due thereon and of the tax payable thereon in such form as the city treasurer may by regulation require. Such records shall be available for inspection and examination at any time upon demand by the city treasurer, or a duly authorized agent or employee of the city, and shall be preserved for a period of three years.
- C. Returns.
 - (1) The tax levied hereunder shall be due and payable to the city treasurer or the Oklahoma Tax Commission pursuant to an agreement to collect municipal lodging taxes. The tax shall and returns shall be due on the 20th day of each month, except as herein provided, by any person liable for the payment of any

tax due under this article. All returns shall show such further information as the city treasurer or the Oklahoma Tax Commission may require to correctly compute and collect the tax herein levied. In addition to the information required on returns, the city treasurer or the Oklahoma Tax Commission may request and the operator shall furnish any information deemed necessary for a correct computation of the tax levied herein. Such operator shall compute and remit to the city treasurer or the Oklahoma Tax Commission the required tax due for the preceding calendar month. The remittance or remittances of the tax shall accompany the returns herein required. All penalties and interest shall be charged by the Oklahoma Tax Commission as promulgated by sales tax rules.

- (2) Should the City enter into an agreement with the Oklahoma Tax Commission for the collection of municipal lodging tax, to the extent that anything in this article conflicts with the procedures of administration and collection under the provisions of 68 O.S. § 201 *et seq.* "Uniform Tax Procedure," the Uniform Tax Procedure shall prevail.
 - (3) In the event that any agreement between the City and the Oklahoma Tax Commission shall expire or become invalid, then the operator shall compute and pay the required tax to the city treasurer as otherwise proscribed by the provisions of this §17-45.
- D. Payment of tax. At the time of filing a return of occupancy and of rents, each operator shall pay to the city treasurer the taxes imposed by this article upon the rents included in such return. All taxes not paid with a timely return shall be delinquent. All the taxes for the period for which a return is required to be filed shall be due from the operator and payable to the city treasurer on or before the date fixed for the filing of the return for such period without regard to whether a return is filed or whether the return which is filed correctly shows the amount of rents and the taxes due thereon.
- E. Delinquent taxes. All taxes not paid within 15 calendar days following the last day of the period shall be delinquent.
- F. Interest and penalties on unpaid taxes. If any tax levied by this article becomes delinquent, the person responsible and liable for such tax shall pay interest on such unpaid tax at the rate of one and one-half percent per month on the unpaid balance from the date of delinquency. If any tax levied by this article is not paid within 30 calendar days of the month due, the operator responsible and liable for such tax shall pay a penalty on such unpaid tax at the rate of ten percent per month on the unpaid balance from the date of delinquency to a maximum of 50 percent of the tax.

Section 3. Cushing City Code Section 17-47 Amended. That the Cushing City Code is hereby amended as follows:

§ 17-47 Assessment and determination of tax.

If a return required by the ordinance codified in this chapter is not filed, or if a return when filed is incorrect or insufficient, the amount of tax due shall be assessed by the Oklahoma Tax Commission from such information as may be obtainable and, if necessary, the tax may be estimated on the basis of external indices, such as number of rooms, location, scale of rents, comparable rents, types of accommodations and services, number of employees, or other factors. Written notice of such assessments shall be given to the person liable for the collection and payment of the tax. Such assessment shall finally and irrevocably fix and determine the tax.

Section 4. Cushing City Code Section 17-48 Amended. That the Cushing City Code is hereby amended as follows:

§ 17-48 Refunds.

The Oklahoma Tax Commission shall direct the refund or credit of any tax erroneously, illegally, or unconstitutionally collected if written application to the Oklahoma Tax Commission for such refund is made within two years from the date of payment thereof. Such application may be made by the person who has collected and paid such tax to the Oklahoma Tax Commission.

Section 5. Severability. Severability is intended throughout and within the provisions of the ordinance. If any provision, including any exception, part, phrase, or term, or the application thereof to any persons or circumstances is held invalid, the application to other persons or circumstances shall not be affected thereby and the validity of the ordinance in any and all other respects shall not be affected thereby

Section 6. Repeal. That all ordinances or parts of ordinances in conflict with this ordinance be and the same are now expressly repealed.

Section 7. Declaration of Effective Date. This ordinance shall become effective on July 1, 2022.

PASSED, APPROVED AND ADOPTED this 20th day of December, 2021.

ATTEST:

B.J. Roberson, Chairman
Board of Commissioners

Jerrica A. Worthy
City Clerk

Approved as to Form:

Jonathan Huseman
City Attorney