

**NOTICE OF MEETING
CITY COUNCIL OF THE CITY OF GALVESTON
THURSDAY - JANUARY 26, 2023 - 9:00 A.M.
ROOM 204 - CITY HALL
823 ROSENBERG, GALVESTON, TEXAS
TELEPHONE: (409) 797-3510**

WORKSHOP AGENDA

1. DECLARATION OF A QUORUM AND CALL MEETING TO ORDER
2. ROLL CALL
3. DISCUSSION ITEMS
 - 3.A. Clarification Of Consent And Regular City Council Agenda Items - This Is An Opportunity For City Council To Ask Questions Of Staff On Consent And Regular Agenda Items (40 Min)
 - 3.B. Discussion Of Council Goals For 2023 (Brown - 20 Min)
 - 3.C. Discussion Of Sand Placement Policy (Robb/Brown - 15 Min)
 - 3.D. Election Order - Charter Amendment (Legal - 20 Min)

Discussion Of An Ordinance Of The City Council Of The City Of Galveston, Texas, Ordering And Calling A Special Election To Be Held In The City On The 6th Day Of May, 2023, For The Purpose Of Submitting To The Qualified Voters Of The City Of Galveston, Texas, A Proposition To Amend City Charter Article Viii Section 2(A) To Provide That Hotel Occupancy Tax (Hot) Be Appropriated And Expended In Compliance With State Law Which Requires That If A Municipality Imposes Hot Tax At A Rate Of 4% Then 3% Of The Proceeds Shall Be Appropriated By The City For The Purpose Of Advertising And Conducting Solicitations And Promotional Programs To Attract Tourists And Convention Delegates Or Registrants To The Municipality; Eliminating The Requirement That Hot Tax Funds Be Given To The Beach Park Board Of Trustees; Making Provisions For The Conduct And Giving Notice Of The Election; Designating Polling Places; Designating Dates And Hours For Early Voting; Designating The Date And Hours For The Election Day; Providing For Publication Of The Notice Of The Election; Providing Bilingual Election Requirements; Providing For A Severability Clause; Providing An Open Meetings Clause; Providing A Savings Clause; Declaring Findings Of Fact; And Providing For An Effective Date And Making Various Findings And Provisions Related To The Subject.

Documents:

[MAY 6 2023 ELECTION - CHARTER - HOT TAX AMEND.DOC](#)
[MEMORANDUM ON HOT CHARTER ELECTION.DOCX](#)

- 3.E. Council Updates (Staff - 30 Min)
 1. City/Park Board Interlocal Agreement

2. Alternate Revenue - Parking
3. Mental Health/GPD Program
4. Update on the Master Drainage meeting on the West end of the Island (Robb/Brown)
5. Status update on the Skymaster Road Boat Launch (Robb/Brown)

Documents:

[LONG TERM PARKING ORDINANCE V3.DOCX](#)

3.F. Report Of City Council's Park Board Representative (Bouvier/Brown - 10 Minutes)

3.G. Report Of City Council's Wharves Board Representative (Brown - 10 Minutes)

4. ADJOURNMENT

I certify that the above Notice of Meeting was posted in a place convenient to the public in compliance with Chapter 551 of the Texas Government Code on January 20, 2023 at 12:30 P.M.

Janelle Williams

Janelle Williams, City Secretary

IN ACCORDANCE WITH THE PROVISIONS OF THE AMERICANS WITH DISABILITIES ACT (ADA), PERSONS IN NEED OF A SPECIAL ACCOMMODATION TO PARTICIPATE IN THIS PROCEEDING SHALL, WITHIN THREE (3) DAYS PRIOR TO ANY PROCEEDING, CONTACT THE CITY SECRETARY'S OFFICE, SUITE 201, 823 ROSENBERG, GALVESTON, TEXAS 77550 (409-797-3510).

ORDINANCE NO. 23-_____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GALVESTON, TEXAS, ORDERING AND CALLING A SPECIAL ELECTION TO BE HELD IN THE CITY ON THE 6TH DAY OF MAY, 2023, FOR THE PURPOSE OF SUBMITTING TO THE QUALIFIED VOTERS OF THE CITY OF GALVESTON, TEXAS, A PROPOSITION TO AMEND CITY CHARTER ARTICLE VIII SECTION 2(a) TO PROVIDE THAT HOTEL OCCUPANCY TAX (HOT) BE APPROPRIATED AND EXPENDED IN COMPLIANCE WITH STATE LAW WHICH REQUIRES THAT IF A MUNICIPALITY IMPOSES HOT TAX AT A RATE OF 4% THEN 3% OF THE PROCEEDS SHALL BE APPROPRIATED BY THE CITY FOR THE PURPOSE OF ADVERTISING AND CONDUCTING SOLICITATIONS AND PROMOTIONAL PROGRAMS TO ATTRACT TOURISTS AND CONVENTION DELEGATES OR REGISTRANTS TO THE MUNICIPALITY; ELIMINATING THE REQUIREMENT THAT HOT TAX FUNDS BE GIVEN TO THE BEACH PARK BOARD OF TRUSTEES; MAKING PROVISIONS FOR THE CONDUCT AND GIVING NOTICE OF THE ELECTION; DESIGNATING POLLING PLACES; DESIGNATING DATES AND HOURS FOR EARLY VOTING; DESIGNATING THE DATE AND HOURS FOR THE ELECTION DAY; PROVIDING FOR PUBLICATION OF THE NOTICE OF THE ELECTION; PROVIDING BILINGUAL ELECTION REQUIREMENTS; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING AN OPEN MEETINGS CLAUSE; PROVIDING A SAVINGS CLAUSE; DECLARING FINDINGS OF FACT; AND PROVIDING FOR AN EFFECTIVE DATE AND MAKING VARIOUS FINDINGS AND PROVISIONS RELATED TO THE SUBJECT.

WHEREAS, Section 41.001(a) of the Texas Election Code provides that political subdivisions, such as the City of Galveston, may call and hold elections only at certain dates in the year; and, control

WHEREAS, May 6, 2023, is a uniform election date that the City of Galveston may hold an election to submit amendments to the City Charter under the provisions of Section 41.001 of the Texas Election Code; and,

WHEREAS, the City Council desires to submit to the qualified voters of the City of Galveston, Texas a proposed amendment to the City Charter; and,

WHEREAS, in accordance with Article III, Section 1(a) of the City Charter, no election to consider a Charter amendment has been held in the two years preceding May 6, 2023; and,

WHEREAS, on January 26, 2023, the Galveston City Council unanimously approved entering into a contract with the County of Galveston for the administration of election services pursuant to the applicable provisions of the Texas Election Code; and,

WHEREAS, the present language in City Charter Article VIII Section 2(a) which requires that Hotel Occupancy Tax “levied at the rate of 3%, after the expense of collection, shall be appropriated by the city for the use by the beach park board of trustees for the purpose of advertising and promoting the city's recreational advantages and advertising and promoting

recreational facilities under the board's supervision and control" conflicts with state law and should be amended to be in accord with the applicable state statutes; and,

WHEREAS, the City Council of the City of Galveston hereby deems it in the best interest of the City to order a Special Election to be held on Saturday May 6, 2023, which is a uniform election date established by Section 41.001(a), Texas Election Code, as amended, between the hours of 7:00 a.m. and 7:00 p.m. for the purpose of submitting to the qualified voters of the City a proposition to amend the City Charter to add provisions clarifying that hotel occupancy tax (HOT) be expended in compliance with State law which requires that if a City imposes HOT tax in an amount in excess of 4% for the cost of a room, that 3% of the amount collected be appropriated by the City for use in advertising and conducting solicitations and promotional programs to attract tourists and convention delegates or registrants to the municipality as provided in **SECTION 4** below.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GALVESTON, TEXAS:

SECTION 1. That the findings and recitations set out in the preamble to this Ordinance are found to be true and correct and they are hereby adopted by the City Council and made a part hereof for all purposes.

SECTION 2. Pursuant to the provisions of Article III of the Charter of the City of Galveston and section 3.005 of the Texas Election Code, a Special Election for the year 2023, is hereby called and ordered for the purpose of submitting to the qualified voters of the City the proposition set out in **SECTION 4** below to amend the City Charter Article VIII., Section 2(a) to eliminate conflicts with state law related to the expenditure of hotel occupancy tax (HOT) to be held in the City of Galveston on Saturday, May 6, 2023, between the hours of 7 o'clock a.m. and 7 o'clock p.m., as provided in section 41.031 of the Texas Election Code, as well as, a period of early voting in accordance with the provisions of the Texas Election Code.

SECTION 3. The Special Election hereby called and ordered shall be conducted in accordance with the provisions of this Ordinance, the requirements of the Charter of the City of Galveston, the Constitution and laws of the State of Texas regulating the holding of Special Elections. The Special Election called and ordered shall be conducted in accordance with the provisions of the Election Services Agreement by and between the City and Galveston County approved by City Council on January 26, 2023.

SECTION 4. That the following proposition shall be submitted to the qualified voters of the City in accordance with the law to-wit:

PROPOSITION 1

SHALL CITY CHARTER ARTICLE VIII SECTION 2(a) BE AMENDED TO CLARIFY THAT IF HOTEL OCCUPANCY TAX (HOT) FUNDS ARE IMPOSED BY THE CITY AT A RATE IN EXCESS OF 4% OF THE COST OF A ROOM, THEN 3% OF THE PROCEEDS OF SUCH TAX SHALL BE APPROPRIATED BY THE CITY FOR THE PURPOSE OF ADVERTISING AND CONDUCTING SOLICITATIONS AND PROMOTIONAL PROGRAMS TO ATTRACT TOURISTS AND CONVENTION DELEGATES OR REGISTRANTS TO THE CITY IN COMPLIANCE WITH STATE LAW.

In the event of approval of this proposition, Article VIII., Section 2(a) of the City Charter shall be amended to read and provide as follows:

Section 2(a). Tax on Occupants of Hotel Rooms.

Hotel Occupancy Tax shall be expended only in compliance with State law. The City Council may impose on the occupants of hotels, as that term is defined by State law, a tax as permitted by State law on the amount paid for rooms; and may provide for the collection, on behalf of the City, of such tax by the operator of the hotel from the occupant of the room, and transmittal of the proceeds of the tax to the City. If the tax is by the City is imposed at a rate of four or more percent, then 3% of the proceeds shall be appropriated by the city and for the purpose of advertising and promoting the city's recreational advantages and conducting solicitations and promotional programs to attract tourists and convention delegates or registrants to the city.

No portion of the tax appropriated by the City for advertising and promoting the city's recreational advantages and advertising and promoting recreational facilities shall be used by the beach park board of trustees for capital improvements nor shall the beach park board of trustees ever pledge such proceeds as security for a bond issue.

SECTION 5. That the proposition shall appear on the ballot of this election in the following form:

PROPOSITION 1

SHALL CITY CHARTER ARTICLE VIII SECTION 2(a) BE AMENDED TO CLARIFY THAT IF HOTEL OCCUPANCY TAX (HOT) FUNDS ARE IMPOSED BY THE CITY AT A RATE IN EXCESS OF 4% OF THE COST OF A ROOM, THEN 3% OF THE PROCEEDS OF SUCH TAX SHALL BE APPROPRIATED BY THE CITY FOR THE PURPOSE OF ADVERTISING AND CONDUCTING SOLICITATIONS AND PROMOTIONAL PROGRAMS TO ATTRACT TOURISTS AND CONVENTION DELEGATES OR REGISTRANTS TO THE CITY IN COMPLIANCE WITH STATE LAW.

() FOR

() AGAINST

As to the foregoing proposition each voter shall indicate their vote by marking the appropriate box which registers either a vote “for” or a vote “against”.

SECTION 6. Should the proposition not receive the number of votes necessary to be approved, the sales and use tax and its apportionment shall not be changed until approved by an election or until April 1, 2029 whichever occurs first.

SECTION 7. In accordance with Chapter 43 and other applicable provisions of the Texas Election Code, this election shall be conducted utilizing countywide polling places as designated by the County of Galveston. The City Council hereby designates the locations listed in **Exhibit 1** as countywide polling places to be utilized for this election.

SECTION 8. The ballot shall conform to all requirements of the laws of the State of Texas governing the same. Such ballot shall contain the preceding proposition.

SECTION 9. All qualified voters of the City of Galveston shall be entitled to vote at the Special Election so hereby called and ordered. The Special Election shall be conducted in accordance with the applicable laws of the State of Texas between the hours of 7 o’clock a.m. and 7 o’clock p.m. on Saturday, May 6, 2023 (“Election Day”).

SECTION 10. Voting machines and/or ballot boxes shall be used in the election in accordance with the provisions of the laws of the State of Texas relating to the use of voting machines, ballot boxes, and elections. Pursuant to the Election Services Agreement with the City of Galveston, Hart Intercivic Direct Record Electronic (DRE) Voting Machines will be used during the conduct of the subject Special Election being called by this Ordinance.

SECTION 11. (a) In compliance with Section 271.006 of the Texas Election Code, Dwight D. Sullivan, Galveston County Clerk, is appointed as the Early Voting Clerk. Other deputy early voting clerks shall be appointed as needed to process early voting mail and to conduct early voting by personal appearance. The main early voting polling place is designated as the Galveston County Justice Center, 600 – 59th Street, 1st Floor Vending Room, Galveston, Texas 77551. Early voting by personal appearance is available at such other early voting polling places designated by the Early Voting Clerk.

(b) Qualified electors voting early who are unable to vote in person shall vote by mail as prescribed by the laws of the State of Texas. Applications for ballots by mail may be sent to the Early Voting Clerk as follows:

- By Mail: Attn: Ballots by Mail, c/o Dwight D. Sullivan, Galveston County Clerk, P. O. Box 17253, Galveston, Texas 77552-7253;
- By Fax: 409.765.3249 (Please put “Attention Ballots By Mail” on the cover sheet);
or
- By Email: absenteeballotapplications@co.galveston.tx.us (If this method is used, an application from the County Clerk’s Elections Division website will need to be printed, filled out completely, signed, and scanned before submitting as an attachment to the email).

In accordance with Section 84.007 of the Texas Election Code, the first day to apply for a ballot by mail is January 1, 2023. The last day to apply for a ballot by mail is April 25, 2023 (received, not postmarked). The deadline for receipt of a Federal Post Card Application (FPCA) from a registered voter is April 25, 2023.

The Galveston County Clerk must physically receive marked ballots by the last mail delivery on Election Day which is Saturday, May 6, 2023 at 3:00 o'clock p.m. If a marked ballot is being mailed from outside of the United States, the ballot must be received by the last mail delivery on the fifth day after Election Day. In addition, marked ballots from individuals voting by mail may be hand delivered in person only while polls are open on Election Day. Only the person casting the marked ballot may surrender the ballot in person. Such ballots will be accepted between the hours of 7:00 a.m. and 7:00 p.m. at the Galveston County Clerk's Office, Elections Division, 600 – 59th Street, 3rd Floor, Galveston, Texas 77551.

(c) Early voting by personal appearance shall begin on Monday, April 24, 2023, and end on Tuesday, May 2, 2023, and shall be conducted during the following hours:

<i>Day</i>	<i>Date</i>	<i>Hours of Operation</i>
Monday	April 24, 2023	8:00 am to 5:00 pm
Tuesday	April 25, 2023	8:00 am to 5:00 pm
Wednesday	April 26, 2023	8:00 am to 5:00 pm
Thursday	April 27, 2023	8:00 am to 5:00 pm
Friday	April 28, 2023	8:00 am to 5:00 pm
Monday	May 1, 2023	7:00 am to 7:00 pm
Tuesday	May 2, 2023	7:00 am to 7:00 pm

(d) The City Council hereby appoints the County's duly appointed representatives to the Early Voting Ballot Board.

SECTION 12. (a) Notice of said election shall be given (1) by filing a copy of this election Ordinance with the City Secretary; and (2) by publication as required by state law. The notice shall be in accordance with state law.

(b) The Mayor is hereby authorized to sign an "Order of Election" and "Notice of Special Election." Council directs the City Secretary to post the "Order of Election" and publish and post the "Notice of Special Election," in both English and Spanish in accordance with state law.

SECTION 13. Officers of the election shall immediately at the close of the election return to the City Council the results of the election. The City Council shall canvass the returns and declare the results of the election as provided in the Agreement between the City and the County, and as permitted by law.

SECTION 14. The provisions of 42 U.S.C.A. § 1973aa-1a, 28 C.F.R. Part 55, and section 272.001 et seq. of the Texas Election Code, regarding members of a single-language

minority, shall be observed with respect to printing, programming, and disseminating voting notices, forms, balloting materials, instructions, assistance or other materials or information relating to the electoral process, including ballots, and all such election materials shall be printed, programmed, processed, and/or provided in the Spanish language as well as the English language, and at each Election precinct there shall be a Judge, Alternate Judge, or Clerk who is fluent in the Spanish language and who shall be instructed and required to provide assistance to any voter desiring same.

SECTION 15. The County of Galveston shall appoint eligible persons in the following capacities in accordance with the Texas Election Code, and those persons shall have the duties and responsibilities as prescribed by state law:

Central Count Station Manager, Clerk, Tabulation Supervisor, Assistant to the Tabulation Supervisor, Judge of the Central Count Station, Clerks and Early Voting Ballot Board.

SECTION 16. The City Secretary is hereby authorized and instructed to provide and furnish all necessary election supplies to conduct said Special Election and to comply with federal, state, and local laws and in the conduct thereof. This will be provided through the Election Services of the County of Galveston.

SECTION 17. The City Council reserves the right to amend or modify this Ordinance, including, but not limited to, the Early Voting and Election Day polling locations.

SECTION 18. In the event any provision of the Election Services Agreement with the County conflicts with any provision of this Ordinance, the provisions of this Ordinance shall control with respect to the City election.

SECTION 19. It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable and, if any phrase, clause, sentence, paragraph or section of this Ordinance should be declared invalid by the final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this Ordinance, because the same would have been enacted by the City Council without the incorporation in this Ordinance of any such invalid phrase, clause, sentence, paragraph or section.

SECTION 20. It is hereby officially found and determined that notice of the meeting at which this Ordinance is adopted was given as required by Chapter 551 of the Texas Government Code (the "Texas Open Meetings Act") and that such meeting has been open to the public at all times when this Ordinance was discussed and acted on.

SECTION 21. All Ordinances or parts thereof in conflict herewith are repealed to the extent of such conflict only.

SECTION 22. In accordance with the provisions of Sections 12 and 13 of Article II of the City Charter, this Ordinance has been publicly available in the Office of the City Secretary

for not less than 72 hours prior to its adoption; and that this Ordinance may be read and published by descriptive caption only.

SECTION 23. This Ordinance shall be and become effective from and after its adoption and publication in accordance with the provisions of the Charter of the City of Galveston.

APPROVED AS TO FORM:

DONALD S. GLYWASKY
CITY ATTORNEY

I, Janelle Williams, Secretary of the City Council of the City of Galveston, do hereby certify that the foregoing is a true and correct copy of an Ordinance adopted by the City Council of the City of Galveston at its Regular meeting held on the 26th day of January, 2023, as the same appears in records of this office.

IN TESTIMONY WHEREOF, I subscribe my name hereto officially under the corporate seal of the City of Galveston this _____ day of _____, 2023.

City Secretary for the City Council
of the City of Galveston, Texas

EARLY VOTING
VOTING LOCATIONS

MAIN EARLY VOTING POLLING PLACE

Galveston County Justice Center
600 – 59th Street
1st Floor Concession Area
Galveston, Texas

#1 Galveston County Courthouse
722 Moody Street
Galveston, TX 77550

#2 Moody Methodist Church
2803 53rd Street
Galveston, TX 77551

#3 Seaside Baptist Church
16534 Termini-San Luis Pass Rd.

Galveston, TX 77554

#4 COG Historic Pump Station
715 30th Street
Galveston, TX 77550

#5 Galveston GISD Admin Bldg.
3904 Avenue T
Galveston, TX 77550

Friendswood Activity Building
416 Morningside Drive
Friendswood, TX 77546

Jacob White
2200 Parkwood Ave
Friendswood, TX 77546
Carver Park
6415 Park Ave.
Texas City, TX 77591

MUD 12 Building
2929 Hwy 6 2nd Floor
Bayou Vista, TX 77563

La Marque Community Room
1109 Bayou Road
La Marque, TX 77568

Hitchcock ISD Admin
7801 Neville
Hitchcock, TX 77563

Bacliff Fire Department
600 Grand Avenue
Bacliff, TX 77518

Kemah Community Center
800 Harris Avenue
Kemah, X 77565

La Marque Fire Admin
5715 Texas Ave
La Marque, TX 77568

Joe Faggard Building
1750 State Hwy 87
Port Bolivar, TX 77650

Dickinson Community Center
2714 Hwy 3
Dickinson, TX 77539
San Leon Fire Dept.
337 12th Street
San Leon, TX 77539

Santa Fe City Hall
12002 Highway 6
Santa Fe, TX 77510

Santa Fe Museum
13304 Hwy 6
Santa Fe, TX 77510

Nessler Center
2010 5th Ave. North
Texas City, TX 77590

Dickinson City Hall
4403 Highway 3
Dickinson, TX 77539

Hometown Heroes Park
1001 E. League City Parkway
League City, TX 77573

Creekside Inter
4320 W. Main Street
League City, TX 77573

ELECTION DAY
VOTING LOCATIONS

Saturday May 6, 2023

#1 Galveston County Courthouse
722 Moody Street
Galveston, TX 77550

#2 Moody Methodist Church
2803 53rd Street
Galveston, TX 77551

#3 Seaside Baptist Church
16534 Termini-San Luis Pass Rd.
Galveston, TX 77554

#4 COG Historic Pump Station
715 30th Street
Galveston, TX 77550

#5 Galveston GISD Admin Bldg.
3904 Avenue T
Galveston, TX 77550

Friendswood Activity Building
416 Morningside Drive
Friendswood, TX 77546

Jacob White
2200 Parkwood Ave
Friendswood, TX 77546

Joe Faggard Building
1750 State Hwy 87
Port Bolivar, TX 77650

Dickinson Community Center
2714 Hwy 3
Dickinson, TX 77539

MEMORANDUM

TO: Members of City Council

FROM: Donald Glywasky, City Attorney

DATE: January 14, 2023

RE: Proposed Ordinance ordering a Charter Election to amend City Charter Art. VIII Sec. 2a related Hotel Occupancy Tax

On both the workshop and regular meeting agendas is a proposed Ordinance amending the City Charter section related to HOT tax. This memo is to provide information related to the proposed Ordinance.

The Ordinance provides for the conduct of a special election to amend the City Charter. Charter elections may be held every two years and there has not been a Charter election in the past two years. If there is to be a Charter election in May, the January 26 meeting is the last scheduled meeting date of Council during which the Charter election may be timely ordered.

The present language in election would place before the voters the proposition whether Charter Article VIII Sec 2a should be amended. Because the present Charter language is not in conformity with state law an amendment would be appropriate.

The language of present Charter Article VIII Sec 2(a) language is as follows:

Section 2(a) Tax on Occupants of Hotel Rooms. The City Council may impose on the occupants of hotels, as that term is defined by State law, a tax as permitted by State law on the amount paid for rooms; and may provide for the collection, on behalf of the City, of such tax by the operator of the hotel from the occupant of the room, and transmittal of the proceeds of the tax to the City. The proceeds of any such tax levied at the rate of 3%, after the expense of collection, shall be appropriated by the city for the use by the beach park board of trustees for the purpose of advertising and promoting the city's recreational advantages and advertising and promoting recreational facilities under the board's supervision and control; provided, however, that no portion of the tax levied at the rate of 3% for advertising and promoting the city's recreational advantages and advertising and promoting recreational facilities shall be used by the beach park board of trustees for capital improvements nor shall such proceeds ever be pledged as security for a bond issue.

The present Charter language conflicts with state law in two ways.

Under Tex. Tax Code §351.105 (b) If the tax authorized by this chapter is imposed by an eligible coastal municipality at a rate of four or more percent of the cost of a room, no lesser amount than the amount of revenue derived from the application of the tax at a rate of three percent of the cost of a room shall be used for the purpose provided by Section 351.101(a)(3). That section in turn states HOT funds may be used for “advertising and conducting solicitations and promotional programs to attract tourists and convention delegates or registrants to the municipality or its vicinity”.

The first conflict is that statute provides that the use of HOT for advertising is required only if the HOT tax is imposed by the City at a rate of 4% or more. The present Charter language ignores that threshold; the Charter provides the first 3% of any HOT imposed should be used for advertising and promotional programs. This inconsistency should be address and brought into conformity with state law.

The next conflict is that the Charter requires 3% of the HOT funds will be appropriated for the use by the beach park board of trustees for the purpose of advertising and promoting the city's recreational advantages and advertising and promoting recreational facilities under the board's supervision and control. No written contract is required under the present Charter. This conflicts with Tex. Tax Code §351.101(c) which states “[T]he municipality may not delegate to any person the management or supervision of its convention and visitors programs and activities funded with revenue from the tax authorized by this chapter other than by contract...”. The present Charter language ignores the need for a written contract and should be amended.

Accordingly, the proposed Ordinance has been submitted for your approval.

ORDINANCE NO. 23-_____

AN ORDINANCE OF THE CITY OF GALVESTON, TEXAS, AMENDING "THE CODE OF THE CITY OF GALVESTON 1982, AS AMENDED", CHAPTER 19, "LICENSES, PERMITS AND BUSINESS REGULATIONS", BY ADDING ARTICLE VIII "LONG TERM PAID PARKING"; IMPOSING A FEE TO BE PAID BY OPERATORS OF VEHICLES PARKED IN EXCESS OF FORTY EIGHT HOURS IN CERTAIN LONG TERM PARKING FACILITIES; PROVIDING FOR THE COLLECTION OF THE FEE BY OPERATORS OF LONG TERM PARKING LOTS AND DELIVERY OF THE FUNDS TO THE CITY; PROVIDING FOR PENALTIES FOR FAILURE TO COMPLY; MAKING VARIOUS FINDINGS AND PROVISIONS RELATED TO THE SUBJECT; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the proliferation of long term paid parking in the City of Galveston has been a noteworthy development which has presented a number of challenges to the City; and

WHEREAS, the increase in the number of vehicles entering onto the island and utilizing a long term parking venue have had an impact in city infrastructure through increased traffic congestion, storm water runoff, security issues, and other related risks; and

WHEREAS, to ameliorate the impact of the users of long term parking facilities in the City Council deems it advisable an necessary to impose a fee on such users to minimize indirect costs otherwise borne by ad valorem tax payers; and

WHEREAS the City deems it advisable to collect such fee through the operators of long term parking facilities on the island for delivery to the City; and

WHEREAS, the implementation of this section is expected to allow the City to track and enforce these provisions and recover expenditures.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GALVESTON, TEXAS:

SECTION 1. The findings and recitations set out in the preamble to this Ordinance are found to be true and correct and they are hereby adopted by the City Council and made a part hereof for all purposes.

SECTION 2. The Code of the City of Galveston 1982, as amended, Chapter 19, “Licenses, Permits and Business regulations”, is hereby amended by adding Article VII, “Long Term Parking” as follows:

ARTICLE VII

Sec. 19-133. – Definitions.

- (a) For purposes of this section Long Term Parking (LTP), is defined as vehicle parking in excess of 48 consecutive hours in a parking lot for which the operator of the lot receives compensation. Excluded from this definition are parking lot used by residents on a contractual basis for long term parking, parking in employer owned or designated parking lots, or parking at institutions of higher education.
- (b) For purposes of this section, a vehicle is defined as any motorized conveyance operated on streets and/or highway and for which registration by a state is required.
- (c) A parking lot is any area of land utilized by an owner for parking vehicles for a period of time in excess of 48 consecutive hours. Excluded from this definition are temporary lots permitted by the City for special events.
- (d) Parking is defined as the physical driving the vehicle onto the lot at the time a parking fee is assessed by the operator or the acceptance of an online reservation for parking at a future date for which payment is made.

Sec. 19-134. – Registration of Long Term Parking facilities.

- (a) The owner/operator of a business that offers Long Term Parking shall register each parking facility with the City of Galveston.
- (b) The owner/operator must submit the following information on a long-term parking registration form:
 - (1) The name, address, and telephone number of the property owner
 - (2) The name, address, and telephone number of the entity running the paid parking operation, if different from the owner
 - (3) The location of the parking facility.
 - (4) The number of parking spaces.
 - (5) Such other information as the city manager, or designee, deems reasonably necessary to administer this section.
- (c) A registration fee of ten dollars payable to the City will accompany the registration form.

Sec. 19-136. – Assessment of Parking fee.

- (a) Each vehicle that parks at a Long Term Parking facility in excess of 48 hours in the City of Galveston shall pay a fee of \$1.10 per day or fraction thereof which shall be collected by the owner or operator of the facility and forwarded to the City.
- (b) On the fifteenth of each month, the operator of the parking facility shall file a report for the preceding month to the city identifying the number of vehicles which have parked or made reservations to park at the facility in excess of 48 hours, and the sum collected from those vehicles as payment in satisfaction of the assessment made in this section. The City shall prescribe the form to be utilized.
- (c) The operator shall retain the amount of 10% of the fee collected per vehicle as compensation for collecting and accounting for the assessment herein.
- (d) The operator shall file the report and transfer the net fees collected electronically to the City as in a manner designated by the City Manager.

Sec. 19-137. - Compliance—Penalty provision.

- (a) The owner or operator shall comply with all applicable laws, rules and regulations pertaining to the collection of the assessment made hereunder.

(b) Failure to comply.

(1) Failure to register. The city may issue a notice of violation to any owner(s) or operator, for failure to register the parking facility as required by this section.

(2) Failure to collect assessment. the city may issue citations to any owner which parks vehicles at his facility in excess of 48 hours and fails to make payment for the assessment made hereunder.

(c) Penalty.

(1) A violation under this section is a class C misdemeanor offense punishable upon conviction by a fine not to exceed five hundred dollars (\$500.00) per offense. Each day shall constitute a separate offense. Each unpaid assessment on a vehicle is a separate offense.

(2) If such maximum penalty provided for by this code or any such offense is greater than the maximum penalty provided for the same or a similar offense under the laws of the state, then the maximum penalty for violation as provided by state statute shall be the maximum penalty under this code.

(3) If the owner fails to register his facility and/or make payment of the assessment made hereunder, the City may seek injunctive relief to cease operation of the facility and file a civil action to recover any assessments which otherwise have been due the City as well as any other civil remedy available.

SECTION 3. It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this Ordinance are severable and, if any phrase, clause, sentence, paragraph or section of this Ordinance should be declared invalid by the final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance.

SECTION 4. All Ordinances or parts thereof in conflict herewith are repealed to the extent of such conflict only.

SECTION 5. In accordance with the provisions of Sections 12 and 13 of Article II of the City Charter this Ordinance has been publicly available in the office of the City Secretary for not less than 72 hours prior to its adoption; that this Ordinance may be read and published by descriptive caption only.

SECTION 6. After adoption, this Ordinance shall be and become effective on _____, 2023.

APPROVED AS TO FORM:

DONALD S. GLYWASKY
CITY ATTORNEY

I, Janelle Williams, Secretary of the City Council of the City of Galveston, do hereby certify that the foregoing is a true and correct copy of an Ordinance adopted by the City Council of the City of Galveston at its regular meeting held on the _____ day of _____, 2023 as the same appears in records of this office.

IN TESTIMONY WHEREOF, I subscribe my name hereto officially under the corporate seal of the City of Galveston this _____ day of _____, 2023.

Secretary for the City Council
Of the City of Galveston