

**TOWN OF CARLTON LANDING  
SPECIAL MEETING OF THE BOARD OF TRUSTEES**

Location: 10B Boulevard, Carlton Landing, Oklahoma, also known as  
the Carlton Landing Academy Cafeteria  
Wednesday; April 1, 2020 at 1:00 p.m.

This meeting shall include teleconference/videoconference participation.  
Members attending remotely (videoconference/teleconference) shall be:

Mary Myrick (teleconference)  
Clay Chapman (teleconference)  
Chuck Mai (teleconference)  
Kris Brule (teleconference)

Members attending physically shall be:  
Joanne Chinnici

Members of the Public who would like to participate via teleconference may call:

1 346-248-7799 or 1 669-900-6833

Meeting ID#: 771 267 8360#

There is no Participant ID so just hit #

**NOTICE AND AGENDA**

1. Call to Order
2. Roll Call
3. Consider, discuss and approve repealing Ordinance 2020-03-01 relating to finance and taxation; Enacting new provisions of the Carlton Landing Town Code, Sections 1 through 29, Lodging/Hotel/Motel Tax Code; Providing that if any part or -parts hereof be held invalid or ineffective the remaining portions shall not be affected; Providing for an effective date, or take any other appropriate action..  
Exhibit: [Carlton Landing - Hotel Tax Ordinance 3-15-2020](#)
4. Consider, discuss and approve repealing Resolution 2020-03-02 directing that a Special election be held regarding the implementation of a lodging/hotel/motel tax; Declaring a time when polls are to be open; Stating requirements for Ballot; Making certain Special election laws applicable; Stating responsibilities of County Election Board and County Election Board Secretary; Requiring publication of Resolution; and providing for absentee ballots; and approve Notice of Election; or take any other appropriate action..  
Exhibit: [Carlton Landing - Hotel Tax Resolution](#)
5. Consider, discuss and approve Ordinance 2020-04-01 relating to finance and taxation; Enacting new provisions of the Carlton Landing Town Code, Sections 1 through 29, Lodging/Hotel/Motel Tax Code; Providing that if any part or parts hereof be held invalid or ineffective the remaining portions shall not be affected; Providing for an effective date, or take any other appropriate action..  
Exhibit: [Carlton Landing - Hotel Tax Ordinance 4-1-2020](#)
6. Consider, discuss and approve Resolution 2020-04-01 directing that a Special election be held regarding the implementation of a lodging/hotel/motel tax; Declaring a time when polls are to be open; Stating requirements for Ballot; Making certain Special election laws applicable; Stating responsibilities of County Election Board and County Election Board Secretary; Requiring publication of Resolution; and providing for absentee ballots; and approve Notice of Election; or take any other appropriate action.

Exhibit:Carlton Landing - Hotel Tax Resolution 4-1-2020,  
Carlton Landing - Notice of Election 4-1-2020Carlton Landing - Hotel Tax - BALLOT - Election  
4-1-2020

7. Consider, discuss and approve Ordinance 2020-04-02 opting out of the OKLAHOMA TOWN MEETING ACT; requiring elections and initiative and referendum questions to be decided only through elections conducted by the COUNTY ELECTION BOARD; repealing all conflicting ordinances or parts of ordinances; and providing for an effective date or take any other appropriate action.

Exhibit:2015-12-19 ORDINANCE-opting out TMA

8. Comments and questions by Governing Body members regarding items for future consideration.
9. Adjournment-

**I certify that the foregoing Notice and Agenda was posted in prominent view at 10 Boulevard, Carlton Landing, Oklahoma, also known as “the High School Classroom” at \_\_\_\_\_ M on the \_\_\_\_th day of March 2020, being at least 48 hours prior to the Special Meeting described above.**

\_\_\_\_\_  
**Signature of Person Posting the Agenda**

**Jan Summers**  
**Printed Name of Person Posting the Agenda**

Agenda Special Meeting of the CL BOT  
Page 1 of 2

## **Town of Carlton Landing**

### **Ordinance No. 2020-03-01**

**An Ordinance relating to finance and taxation; Enacting new provisions of the Carlton Landing Town Code, Sections 1 through 29, Lodging/Hotel/Motel Tax Code; Providing that if any part or parts hereof be held invalid or ineffective the remaining portions shall not be affected; Providing for an effective date;**

#### **Ordinance**

Be it ordained by the Town Board of Trustees of the Town of Carlton Landing, Oklahoma, that the provisions of this Ordinance shall become and be made a part of the code of ordinances of the Town of Carlton Landing, Oklahoma, and the sections of this ordinance may be renumbered to accomplish this intention:

#### **SECTION 1. - CITATION.**

This article shall be known and cited as "Town of Carlton Landing Lodging/Hotel Tax Ordinance."

#### **SECTION 2. - DEFINITIONS.**

The following words, terms and phrases, when used in this article, shall have the meanings described to them in this section, except where the context clearly indicates a different meaning:

**TOWN ADMINISTRATOR:** shall mean the person holding the position of Town Administrator within the town or the Administrator's designated representative.

**HOTEL:** shall mean any building or building structure, trailer, or other facility in which the public may, for consideration, obtain sleeping accommodations in which five or more rooms are used for the accommodation of such guests, whether such rooms are in one or in several structures. This term shall include hotels, apartment hotels, motels, tourist homes, houses or courts, lodging houses, inns, rooming houses, trailer houses, trailer motels, dormitory space where bed space is rented to individuals or groups, apartments not occupied by "permanent residents," and all other facilities where rooms or sleeping facilities or space are furnished for a consideration. The term shall not include hospitals, sanitariums, assisted living centers or nursing homes, nor shall this term affect permanent resident facilities as defined below for residents for terms in excess of 30 days.

**OCCUPANCY:** shall mean the use or possession, or the right to the use or possession, of any room or rooms in a hotel, or the right to use or possession of the furnishings or to the services and accommodations accompanying the use and possession of the room.

OCCUPANT: shall mean a person, who for a consideration, uses, possesses or has the right to the use or possession of any room or rooms in a hotel under lease, concession, permit, right to access, license to use, or other agreement.

OPERATOR: shall mean any person operating a hotel in this city, including but not limited to, the owner, proprietor, lessee, sublessee, mortgagee in possession, licensee, manager or similar agent, or any other person otherwise operating such hotel.

PERMANENT RESIDENT: shall mean any occupant who has or shall have the right of occupancy of any room in a hotel/motel for at least 30 consecutive days during the calendar year or preceding year.

RENT: shall mean the consideration received for occupancy valued in money, whether received in money or otherwise, including all receipts, cash, credits, and property or services of any kind or nature, and also any amount for which credit is allowed by the operator to the occupant, without any reduction therefrom whatsoever.

RETURN: shall mean any return filed or required to be filed as herein provided.

ROOM: shall mean any room or rooms of any kind in any part or portion of the hotel which is available for or let out for the use of or possessed for any purpose other than a place of assembly. As used herein, "place of assembly" means a room or space which is capable of being occupied by 75 or more persons and which is used for educational, recreational or amusement purposes and shall include: dance halls, cabarets, nightclubs, restaurants, any room or space for public or private banquet, feasts, socials, card parties or weddings, lodge and meeting halls or rooms, skating rinks, gymnasiums, swimming pools, billiard, bowling and table tennis rooms, halls or rooms used for public or private catering purposes, funeral parlors, markets, recreational rooms, concert halls, broadcasting studios, and all other places of similar type of occupancy.

TAX: shall mean the tax levied pursuant to this article.

### **SECTION 3. - LEVIED AMOUNT; ROOMS PROVIDED FREE OF CHARGE SUBJECT TO TAX.**

There is hereby levied and imposed an excise tax of seven percent (7%) upon the gross proceeds or gross receipts derived from all rent for every occupancy of a room or rooms in a hotel in this city that is subject to sales tax. Room(s) provided free of charge, through barter, trade or any other arrangement or agreement of any kind or nature, are also subject to such tax at the sales value of the room so provided (with "sales value" to mean the price at which the room would be rented to the operator's best customer in the ordinary course of business).

### **SECTION 4. - EXEMPTIONS; ACKNOWLEDGMENT REQUIRED; RECORDS REQUIRED.**

(a) *Exemptions.* Any rent that is exempt from payment of sales tax.

- (b) *Acknowledgment required.* Every hotel shall submit a monthly exemption form, as provided by the Town Administrator, with each monthly room tax report. This exemption form will indicate the name of the person seeking exemption, the exempt organization with which they are affiliated, the period of occupancy, number of rooms occupied and any other information required by the Town Administrator. Every exemption form shall be signed by the hotel manager or authorized agent, so that the signature shall serve as an acknowledgment that all information contained in the exemption form is true and correct. Upon submission of these forms to the city, the Town Administrator shall make a final determination as to the validity of all claimed exemptions. Should the Town Administrator determine that a claimed exemption is not valid, the hotel shall be assessed the then current percentage of tax applicable, within three months of the date that the exemption is claimed. The hotel claiming such exemption shall become liable for payment of the tax and shall submit the same with their next monthly tax remittance.

For purposes of this section, an exemption will not be validated by the Town Administrator unless the exemption is claimed for the month in which it accrues. For good cause shown, the Town Administrator may grant an extension for claiming an exemption.

- (c) *Records required.* Every operator shall be required to maintain copies of monthly room reports, monthly exemption forms and individual exemption forms upon the business premises of the hotel for a period of three years. Such records shall be available for inspection and examination at any time upon demand by the Town Administrator, or a duly authorized agent or employee of the city. For purposes of this section, individual exemption forms shall be available from the Town Administrator and shall include the following:
- (1) A statement declaring the reason for exemptions;
  - (2) The name, signature, address, home telephone and work telephone numbers of the person claiming the exemption;
  - (3) The date on which the exemption form is completed; and
  - (4) An acknowledgment, by signature, of the exemption by an employee or agent of the hotel.

#### **SECTION 5. - TAX TO BE SEPARATELY DESIGNATED ON BILLS.**

The operator shall separately designate, charge and show the tax on all bills, statements, receipts or any other evidence of charges or payments of rent for occupancy issued or delivered by the operator.

#### **SECTION 6. - OPERATOR RESPONSIBLE FOR COLLECTION.**

The operator shall be responsible for the collection of the tax from the occupant and shall be liable to the city for the tax.

#### **SECTION 7. - CERTIFICATES OF REGISTRATION.**

- (a) Prior to commencement of business or opening, every hotel operator shall file with the Town Administrator:
  - (1) A certificate of registration;
  - (2) An affidavit and designation of operator.

The required filings shall be made on forms prescribed by the Town Administrator.

- (b) The Town Administrator shall, within five days after receipt of the required registration and affidavit, issue without charge, to each operator, a certificate of authority empowering such operator to collect the tax from the occupant and duplicates thereof for each additional hotel. Each certificate or duplicate shall state the hotel to which it is applicable. Such certificate of authority shall be permanently displayed by the operator in such manner that it may be seen and come to the notice of all occupants and persons seeking occupancy. Such certificates shall be nonassignable and nontransferable and shall be surrendered immediately to the Town Administrator upon the cessation of business at the hotel named, or upon its sale or transfer, or upon the change of designated operator.

#### **SECTION 8. - RECORDS REQUIRED.**

Every operator shall keep records of every occupancy of all rent paid, charged or due thereon and of the tax payable thereon in such form as the Town Administrator may by regulation require. Such records shall be available for inspection and examination at any time upon demand by the Town Administrator, or a duly authorized agent or employee of the city; and shall be preserved for a period of three years, except that the Town Administrator may consent to their destruction within that period or may require that they be kept longer.

#### **SECTION 9. - RETURNS.**

- (a) Every operator shall file with the Town Administrator a return of occupancy and of rents and of the taxes payable thereon for the period ending the last day of every month of each year. Said returns shall be filed on a monthly basis and are due no later than the fifteenth day of the month directly following the reporting period.
- (b) The Town Administrator may permit or require returns to be made by shorter or longer periods and upon such dates as the Town Administrator may specify. The form of the return shall be prescribed by the Town Administrator and shall contain such information as the Town Administrator may deem necessary for the proper administration of this article. The Town Administrator may require amended returns to be filed within ten days after notice and to contain the information specified in the notice.

#### **SECTION 10. - PAYMENT OF TAX.**

At the time of filing a return of occupancy and of rents, each operator shall pay to the Town Administrator the taxes imposed by this article upon the rents included in such return, as well as all other monies collected by the operator acting or purporting to act under the provisions of this

article. All taxes for the period for which a return is required to be filed shall be due from the operator and payable to the Town Administrator 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.

#### **SECTION 11. - DELINQUENT TAXES.**

The tax levied by this article shall be due and payable when the return is filed. All taxes not paid within 15 days following the last day of the period shall be delinquent.

#### **SECTION 12. - INTEREST ON UNPAID/DELINQUENT TAXES.**

- (a) 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 three percent (3%) per month on the unpaid balance from the date of delinquency.
- (b) If any tax levied by this article is not paid by the last calendar day 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 (10%) per month on the unpaid balance from the date of delinquency to a maximum of fifty percent (50%) of the tax.

#### **SECTION 13. - COLLECTION BY SUIT.**

Such taxes and interest due hereunder shall at all times constitute a prior, superior and paramount claim as against the claim of unsecured creditors and may be collected by suit as any other debt.

#### **SECTION 14. - BOND REQUIRED.**

Where the Town Administrator believes that any operator is about to cease business, leave the state, or remove or dissipate assets, or for any other similar reason the Town Administrator deems it necessary in order to protect revenues under this article, the Town Administrator may require such operator to file with the city a bond issued by a surety company authorized to transact business in this state in such amount as the Town Administrator may fix to secure the payment of any tax or penalties and interest due, or which may become due from such operator. In the event the Town Administrator determines that an operator is to file such bond, the Town Administrator shall give notice to such operator specifying the amount of bond required. The operator shall file such bond within five days after the giving of such notice unless, within such five days, the operator shall request in writing, a hearing before the city council or its designee, at which the propriety and amount of the bond shall be determined by the city council or its designee. Such determination shall be final and shall be complied with, within 15 days thereafter. In lieu of such bond, securities approved by the Town Administrator, or cash in such amount as the Town Administrator may prescribe, may be deposited with the Town Administrator, who

may at any time after five days' notice to the depositor, apply then to any tax and/or penalties due, and for that purpose the securities may be sold at a public or a private sale.

#### **SECTION 15. - ASSESSMENT AND DETERMINATION OF TAX.**

If a return required by this article is not filed, or if a return when filed is incorrect or insufficient, the amount of tax due shall be assessed by the Town Administrator 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 that tax unless the person against whom it is assessed, within 90 days after the giving of notice of such assessment, shall apply in writing to the city council or its designee for a hearing or unless the Town Administrator on his/her own motion shall reassess the same. After such hearing, the city council or its designee shall give written notice of its determination to the person against whom the tax is assessed and such determination shall be final.

#### **SECTION 16. - REFUNDS.**

- (a) The Town Administrator shall refund or credit any tax erroneously, illegally or unconstitutionally collected if written application to the Town Administrator for such refund shall be made within two years from the date of payment thereof. For like causes, and in the same period, a refund may be so made upon the initiative and the order of the Town Administrator. Whenever a refund is made, the reasons therefor shall be stated in writing. Such application may also be made by the person who has collected and paid such tax to the Town Administrator, providing that the application is made within one year of the payment of the occupant to the operator, but no refund of money shall be made to the operator until he has repaid to the occupant the amount for which the application for refund is made. The Town Administrator, in lieu of any refund required to be made, may allow credit thereof on payment due from the applicant.
- (b) Upon application for a refund, the Town Administrator may receive evidence with respect thereto, and make such investigation as he deems necessary. After making a determination as to the refund, the Town Administrator shall give notice thereof to the applicant. Such determination shall be final unless the applicant, within 90 days after such notice, shall apply in writing to the city council or its designee for a hearing. After such hearing, the city council, or its designee, shall give written notice of the decision to the applicant.

#### **SECTION 17. - NOTICES.**

Notices provided for under this article shall be deemed to have been given when such notice has been delivered personally to the operator or deposited in the United States Mail, addressed to the last known address of the operator.



**SECTION 18. - REMEDIES EXCLUSIVE.**

The remedies provided in this article shall be exclusive remedies available to any person for the review of tax liability imposed by this article.

**SECTION 19. - FAILURE TO FILE; SUBMITTING FRAUDULENT RETURNS; FAILURE TO POST A BOND; PENALTIES.**

The failure or refusal of any operator/taxpayer to make reports and remittances herein required, or the making of any false and fraudulent report for the purpose of avoiding or escaping payment of any tax or portion thereof rightfully due under this article or failure to post a bond, shall be an offense and, upon conviction thereof, the offending taxpayer shall be subject to costs and to a fine of not more than \$200.00 or imprisonment for not more than 30 days, or both such fine and imprisonment. Each day a violation exists shall constitute a separate offense and is subject to all penalties herein.

**SECTION 20. - OPERATOR'S DISCOUNT FOR KEEPING RECORDS.**

In order to remunerate an operator for keeping tax records, filing reports, and remitting the tax when due, a two percent (2%) discount shall be allowed upon all taxes paid prior to the time they become delinquent.

**SECTION 21. - RECORDS CONFIDENTIAL.**

The confidential and privileged nature of the records and files concerning the administration of the hotel tax is legislatively recognized and declared, and to protect the same the provisions of 68 O.S. § 205, and each subsection thereof, is hereby adopted by reference and made fully effective and applicable to administration of the tax as if herein set forth.

**SECTION 22. - USE OF FUNDS.**

All taxes collected pursuant to the provisions of this article shall be deposited into the city's general fund.

**SECTION 23. - GENERAL POWERS OF TOWN ADMINISTRATOR.**

In addition to all other powers granted to the Town Administrator, he/she is hereby authorized and empowered:

- (1) To make, adopt and amend rules and regulations appropriate to the carrying out of this article for the purposes thereof.

- (2) To extend for cause shown, the time for filing and return for a period not exceeding 60 days; and for cause shown to waive, remit, or reduce penalties or interest.
- (3) To delegate his/her functions hereunder to an assistant or other employee or employees of the city.
- (4) To assess, reassess, determine, revise and readjust the taxes imposed by this article.
- (5) To prescribe methods for determining the taxable and nontaxable rents.

**SECTION 24. - ADMINISTRATION OF OATHS AND COMPELLING TESTIMONY.**

The Town Administrator, or his/her designated representative, shall have the power to administer oaths and take affidavits in relation to any matter or proceeding in the exercise of their powers and duties under this article. The Town Administrator shall have the power to subpoena and require the attendance of witnesses and the production of books, papers and documents to secure information pertinent to the performance of his/her duties hereunder and all the enforcement of this article and to examine them in relation thereto.

**SECTION 25. - PROCEEDINGS TO RECOVER TAX.**

- (a) Whenever any taxpayer or other person shall fail to collect and pay over any tax or any tax penalties due and owing, or interest imposed by this article as herein provided, the city attorney shall, upon request of the Town Administrator, take appropriate action to enforce the payment of same.
- (b) Pursuant to the authority of 68 O.S. § 2701 et seq., all taxes, interest and penalties imposed by this article, are hereby declared to constitute a lien in favor of the Town of Carlton Landing, upon all franchises, property and rights to property, whether real or personal, then belonging to or thereafter acquired by the person, firm or corporation owing the tax, whether such property is employed by such person, firm or corporation in the conduct of its business or in the hands of an assignee, trustee, or receiver, for the benefit of a creditor, from the date said taxes are due and payable under provisions of this article.

**SECTION 26. - AMENDMENTS.**

The citizens of Carlton Landing, by their approval of this article at the election herein provided, hereby authorize the Board of Trustees, by ordinance duly enacted, to make such administrative and technical changes or additions in the method and manner of administration and enforcing this article as may be necessary or proper for efficiency and fairness; except that the rate of the tax herein provided shall not exceed **five, six, seven** percent without approval of the qualified electors of the city as provided by law.

**SECTION 27. - PROVISIONS CUMULATIVE.**

The provisions hereof shall be cumulative, and in addition to any and all other taxing provisions of the city ordinances.

**SECTION 28. - PROVISIONS SEVERABLE.**

The provisions hereof are hereby declared to be severable, and if any section, paragraph, sentence or clause of this article is for any reason held invalid or inoperative by any court of competent jurisdiction, such decision shall not affect any other section, paragraph, sentence or clause hereof.

**SECTION 29. - EFFECTIVE DATE.**

This article shall become and be effective on the first day of October 1, 2020, subject to the approval of the majority of registered voters of the Town of Carlton Landing voting on the same in the manner prescribed by law.

PASSED AND APPROVED BY THE TOWN BOARD OF TRUSTEES OF THE CARLTON LANDING, OKLAHOMA, this \_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Joanne Chinnici  
Mayor  
Town of Carlton Landing

SEAL

ATTEST:

\_\_\_\_\_  
Jan Summers  
Town Clerk

**TOWN OF CARLTON LANDING**

**Resolution 2020-03-02**

A Resolution directing that a Special election be held regarding the implementation of a lodging/hotel/motel tax; Declaring a time when polls are to be open; Stating requirements for Ballot; Making certain Special election laws applicable; Stating responsibilities of County Election Board and County Election Board Secretary; Requiring publication of Resolution; and providing for absentee ballots;

BE IT RESOLVED by the Mayor and Board of Trustee of the Town of Carlton Landing, Oklahoma that;

Section 1: Special Election. A special election shall be held on June 30, 2020, between the hours of 7:00 a.m. and 7:00 p.m., at the regular polling places for the precincts of the Town, for the purpose of submitting the following question to the registered voters of the Town:

**BALLOT**

**Proposition No. 1**

Shall Carlton Landing, Oklahoma Ordinance No. 20-03-02 adopted the 21<sup>st</sup> day of March, 2020, enacting an excise tax of seven percent (7%) upon the gross proceeds or gross receipts derived from lodging/hotel/motel rooms, with two percent of said tax collected to be used for expenses in monitoring the collection, expenditure and auditing of the lodging/hotel/motel tax and ninety-eight percent to be deposited in a fund to be used for parks, recreation, fitness, health, tourism, convention, development or promotion be approved?

For the Proposition                      FOR \_\_\_\_\_

Against the Proposition              AGAINST \_\_\_\_\_

If the voter desires to vote for the above Proposition, the voter shall complete the arrow to the right of the word "FOR".

If the voter desires to vote against the above Proposition, the voter shall complete the arrow to the right of the word "AGAINST".

Section 2: Applicable Law. The Pittsburg County Election Board shall conduct the election, canvas the returns and certify the results to the Town Board of Trustees. The election shall be conducted in accordance with the provisions of the general elections laws of the State of Oklahoma;

Section 3: Filing with the Secretary of the Election Board. This resolution shall be filed with the Secretary of the Pittsburg County Election Board not fewer than sixty (60) days prior to the election;

Section 4: Publication of Resolution. This resolution shall be published in a newspaper of general circulation in the Town at least ten (10) days before the election;

Section 5: Absentee Ballots. Absentee ballots shall be provided in accordance with the provisions of the general election laws of the State of Oklahoma.

ADOPTED in Regular session this 21<sup>st</sup> day of March, 2020.

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Joanne Chinnici  
MAYOR

ATTEST:

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Jan Summers  
City Clerk

SEAL

Item No. \_\_\_\_\_

Date: March 21, 2020

## **AGENDA ITEM COMMENTARY**

**ITEM TITLE:** Consider, discuss and approve Ordinance \_\_\_\_\_ relating to finance and taxation; Enacting new provisions of the Carlton Landing Town Code, Sections 1 through 29, Lodging/Hotel/Motel Tax Code; Providing that if any part or parts hereof be held invalid or ineffective the remaining portions shall not be affected; Providing for an effective date, or take any other appropriate action.

**INITIATOR:** Greg Buckley, Town Administrator, Mayor Chinnici

**STAFF INFORMATION SOURCE:** Greg Buckley, Town Administrator

**BACKGROUND:** At the February 15, 2020 Board of Trustees meeting, the Board directed staff to develop an Ordinance establishing a Lodging/Hotel/Motel Tax. The proposed Ordinance establishes the rate, provides for certain exemptions, operator responsibilities, and penalty for non-payment.

One of the discussion items at the February Board of Trustees meeting was what other communities charged for Lodging Tax.

Seaside, Florida is often referenced relating to Carlton Landing. Seaside's lodging tax rate is eleven percent (11%), with six percent (6%) as State Sales Tax and five percent (5%) as County Lodging tax. Oklahoma Lodging Tax rates range from three percent (3%) to nine percent (9%). Area Lodging Tax rates: Eufaula – (9%), McAlester – (6%), Muskogee (8%), Grove (5%) and Sand Springs (7%). It appears most cities are about five percent (5%).

Lodging tax is a tax imposed on short term rental properties. The Carlton Landing Hospitality Office provided there were 1,200 nights of rental in 2019 with approximately forty units/homes participating in the rental program. An analysis of sales tax collected for 2019 showed the Town received almost \$15,700.00 from lodging. Using an average of \$300.00 per night at three percent (3%) tax, a lodging tax would generate approximately \$10,800.00 in revenue. For Fiscal Year 2019-20 year to date, the Town has received about \$13,533.00 in sales tax revenue. The Lodging Tax Analysis, attached, shows potential revenue using four percent (4%), five percent (5%), six percent (6%) or seven percent (7%) tax rate with an average \$250.00, \$300.00 or \$350.00 per night rate. At \$300 per night and 1,200 nights per year possible income is from \$14,400.00 to \$25,200.00 annually. At \$300 per night 2,000 nights per year possible income is from \$24,000.00 to \$42,000.00 annually.

Under Oklahoma Statute any tax implemented within a Town or City must be approved by the voters prior to going into effect. Approving this Ordinance and setting the tax levy will not go into effect until approved by the voters. In order to be placed on the next available election the Ordinance needs to be approved by April 15, 2020 and sent to Pittsburgh County Election Board. The election will be held June 30, 2020 as part of the Pittsburgh County Primary election. Anticipated cost is two hundred dollars (\$200.00) for printing of Ballots. If our election is not at

the same time as another election the cost would be about one thousand five hundred dollars (\$1,500.00). One Hundred percent (100%) of the revenue would be allocated to the general fund for operations of the Town.

It is anticipated the State of Oklahoma Tax Commission will collect the Lodging Tax for the Town, like Sales and Use Tax. If the State collects the Lodging Tax, the start date for Lodging/Hotel/Motel Tax will be October 1. Like the Sales and Use Tax the start date would be the first day of the quarter after 60 day notice to vendors. The other option is for the Town to collect and administer the Lodging Tax in-house.

**FUNDING:** None

**EXHIBITS:** Lodging Tax Ordinance, Lodging Sales Tax Analysis, Lodging Tax Analysis

**RECOMMENDED ACTION:** Approve Ordinance \_\_\_\_\_ relating to finance and taxation; Enacting new provisions of the Carlton Landing Town Code, Sections 1 through 29, Lodging/Hotel/Motel Tax Code; Providing that if any part or parts hereof be held invalid or ineffective the remaining portions shall not be affected; Providing for an effective date

## **Town of Carlton Landing**

### **Ordinance No. 2020-04-01**

**An Ordinance relating to finance and taxation; Enacting new provisions of the Carlton Landing Town Code, Sections 1 through 29, Lodging/Hotel/Motel Tax Code; Providing that if any part or parts hereof be held invalid or ineffective the remaining portions shall not be affected; Providing for an effective date;**

#### **Ordinance**

Be it ordained by the Town Board of Trustees of the Town of Carlton Landing, Oklahoma, that the provisions of this Ordinance shall become and be made a part of the code of ordinances of the Town of Carlton Landing, Oklahoma, and the sections of this ordinance may be renumbered to accomplish this intention:

#### **SECTION 1. - CITATION.**

This article shall be known and cited as "Town of Carlton Landing Lodging/Hotel Tax Ordinance."

#### **SECTION 2. - DEFINITIONS.**

The following words, terms and phrases, when used in this article, shall have the meanings described to them in this section, except where the context clearly indicates a different meaning:

**TOWN ADMINISTRATOR:** shall mean the person holding the position of Town Administrator within the town or the Administrator's designated representative.

**HOTEL:** shall mean any building or building structure, trailer, or other facility in which the public may, for consideration, obtain sleeping accommodations in which five or more rooms are used for the accommodation of such guests, whether such rooms are in one or in several structures. This term shall include hotels, apartment hotels, motels, tourist homes, houses or courts, lodging houses, inns, rooming houses, trailer houses, trailer motels, dormitory space where bed space is rented to individuals or groups, apartments not occupied by "permanent residents," and all other facilities where rooms or sleeping facilities or space are furnished for a consideration. The term shall not include hospitals, sanitariums, assisted living centers or nursing homes, nor shall this term affect permanent resident facilities as defined below for residents for terms in excess of 30 days.

**OCCUPANCY:** shall mean the use or possession, or the right to the use or possession, of any room or rooms in a hotel, or the right to use or possession of the furnishings or to the services and accommodations accompanying the use and possession of the room.



OCCUPANT: shall mean a person, who for a consideration, uses, possesses or has the right to the use or possession of any room or rooms in a hotel under lease, concession, permit, right to access, license to use, or other agreement.

OPERATOR: shall mean any person operating a hotel in this city, including but not limited to, the owner, proprietor, lessee, sublessee, mortgagee in possession, licensee, manager or similar agent, or any other person otherwise operating such hotel.

PERMANENT RESIDENT: shall mean any occupant who has or shall have the right of occupancy of any room in a hotel/motel for at least 30 consecutive days during the calendar year or preceding year.

RENT: shall mean the consideration received for occupancy valued in money, whether received in money or otherwise, including all receipts, cash, credits, and property or services of any kind or nature, and also any amount for which credit is allowed by the operator to the occupant, without any reduction therefrom whatsoever.

RETURN: shall mean any return filed or required to be filed as herein provided.

ROOM: shall mean any room or rooms of any kind in any part or portion of the hotel which is available for or let out for the use of or possessed for any purpose other than a place of assembly. As used herein, "place of assembly" means a room or space which is capable of being occupied by 75 or more persons and which is used for educational, recreational or amusement purposes and shall include: dance halls, cabarets, nightclubs, restaurants, any room or space for public or private banquet, feasts, socials, card parties or weddings, lodge and meeting halls or rooms, skating rinks, gymnasiums, swimming pools, billiard, bowling and table tennis rooms, halls or rooms used for public or private catering purposes, funeral parlors, markets, recreational rooms, concert halls, broadcasting studios, and all other places of similar type of occupancy.

TAX: shall mean the tax levied pursuant to this article.

### **SECTION 3. - LEVIED AMOUNT; ROOMS PROVIDED FREE OF CHARGE SUBJECT TO TAX.**

There is hereby levied and imposed an excise tax of five percent (5%) upon the gross proceeds or gross receipts derived from all rent for every occupancy of a room or rooms in a hotel in this city that is subject to sales tax. Room(s) provided free of charge, through barter, trade or any other arrangement or agreement of any kind or nature, are also subject to such tax at the sales value of the room so provided (with "sales value" to mean the price at which the room would be rented to the operator's best customer in the ordinary course of business).

### **SECTION 4. - EXEMPTIONS; ACKNOWLEDGMENT REQUIRED; RECORDS REQUIRED.**

(a) *Exemptions.* Any rent that is exempt from payment of sales tax.

- (b) *Acknowledgment required.* Every hotel shall submit a monthly exemption form, as provided by the Town Administrator, with each monthly room tax report. This exemption form will indicate the name of the person seeking exemption, the exempt organization with which they are affiliated, the period of occupancy, number of rooms occupied and any other information required by the Town Administrator. Every exemption form shall be signed by the hotel manager or authorized agent, so that the signature shall serve as an acknowledgment that all information contained in the exemption form is true and correct. Upon submission of these forms to the city, the Town Administrator shall make a final determination as to the validity of all claimed exemptions. Should the Town Administrator determine that a claimed exemption is not valid, the hotel shall be assessed the then current percentage of tax applicable, within three months of the date that the exemption is claimed. The hotel claiming such exemption shall become liable for payment of the tax and shall submit the same with their next monthly tax remittance.

For purposes of this section, an exemption will not be validated by the Town Administrator unless the exemption is claimed for the month in which it accrues. For good cause shown, the Town Administrator may grant an extension for claiming an exemption.

- (c) *Records required.* Every operator shall be required to maintain copies of monthly room reports, monthly exemption forms and individual exemption forms upon the business premises of the hotel for a period of three years. Such records shall be available for inspection and examination at any time upon demand by the Town Administrator, or a duly authorized agent or employee of the city. For purposes of this section, individual exemption forms shall be available from the Town Administrator and shall include the following:
- (1) A statement declaring the reason for exemptions;
  - (2) The name, signature, address, home telephone and work telephone numbers of the person claiming the exemption;
  - (3) The date on which the exemption form is completed; and
  - (4) An acknowledgment, by signature, of the exemption by an employee or agent of the hotel.

#### **SECTION 5. - TAX TO BE SEPARATELY DESIGNATED ON BILLS.**

The operator shall separately designate, charge and show the tax on all bills, statements, receipts or any other evidence of charges or payments of rent for occupancy issued or delivered by the operator.

#### **SECTION 6. - OPERATOR RESPONSIBLE FOR COLLECTION.**

The operator shall be responsible for the collection of the tax from the occupant and shall be liable to the city for the tax.

#### **SECTION 7. - CERTIFICATES OF REGISTRATION.**

- (a) Prior to commencement of business or opening, every hotel operator shall file with the Town Administrator:
  - (1) A certificate of registration;
  - (2) An affidavit and designation of operator.

The required filings shall be made on forms prescribed by the Town Administrator.

- (b) The Town Administrator shall, within five days after receipt of the required registration and affidavit, issue without charge, to each operator, a certificate of authority empowering such operator to collect the tax from the occupant and duplicates thereof for each additional hotel. Each certificate or duplicate shall state the hotel to which it is applicable. Such certificate of authority shall be permanently displayed by the operator in such manner that it may be seen and come to the notice of all occupants and persons seeking occupancy. Such certificates shall be nonassignable and nontransferable and shall be surrendered immediately to the Town Administrator upon the cessation of business at the hotel named, or upon its sale or transfer, or upon the change of designated operator.

#### **SECTION 8. - RECORDS REQUIRED.**

Every operator shall keep records of every occupancy of all rent paid, charged or due thereon and of the tax payable thereon in such form as the Town Administrator may by regulation require. Such records shall be available for inspection and examination at any time upon demand by the Town Administrator, or a duly authorized agent or employee of the city; and shall be preserved for a period of three years, except that the Town Administrator may consent to their destruction within that period or may require that they be kept longer.

#### **SECTION 9. - RETURNS.**

- (a) Every operator shall file with the Town Administrator a return of occupancy and of rents and of the taxes payable thereon for the period ending the last day of every month of each year. Said returns shall be filed on a monthly basis and are due no later than the fifteenth day of the month directly following the reporting period.
- (b) The Town Administrator may permit or require returns to be made by shorter or longer periods and upon such dates as the Town Administrator may specify. The form of the return shall be prescribed by the Town Administrator and shall contain such information as the Town Administrator may deem necessary for the proper administration of this article. The Town Administrator may require amended returns to be filed within ten days after notice and to contain the information specified in the notice.

#### **SECTION 10. - PAYMENT OF TAX.**

At the time of filing a return of occupancy and of rents, each operator shall pay to the Town Administrator the taxes imposed by this article upon the rents included in such return, as well as all other monies collected by the operator acting or purporting to act under the provisions of this

article. All taxes for the period for which a return is required to be filed shall be due from the operator and payable to the Town Administrator 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.

#### **SECTION 11. - DELINQUENT TAXES.**

The tax levied by this article shall be due and payable when the return is filed. All taxes not paid within 15 days following the last day of the period shall be delinquent.

#### **SECTION 12. - INTEREST ON UNPAID/DELINQUENT TAXES.**

- (a) 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 three percent (3%) per month on the unpaid balance from the date of delinquency.
- (b) If any tax levied by this article is not paid by the last calendar day 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 (10%) per month on the unpaid balance from the date of delinquency to a maximum of fifty percent (50%) of the tax.

#### **SECTION 13. - COLLECTION BY SUIT.**

Such taxes and interest due hereunder shall at all times constitute a prior, superior and paramount claim as against the claim of unsecured creditors and may be collected by suit as any other debt.

#### **SECTION 14. - BOND REQUIRED.**

Where the Town Administrator believes that any operator is about to cease business, leave the state, or remove or dissipate assets, or for any other similar reason the Town Administrator deems it necessary in order to protect revenues under this article, the Town Administrator may require such operator to file with the city a bond issued by a surety company authorized to transact business in this state in such amount as the Town Administrator may fix to secure the payment of any tax or penalties and interest due, or which may become due from such operator. In the event the Town Administrator determines that an operator is to file such bond, the Town Administrator shall give notice to such operator specifying the amount of bond required. The operator shall file such bond within five days after the giving of such notice unless, within such five days, the operator shall request in writing, a hearing before the city council or its designee, at which the propriety and amount of the bond shall be determined by the city council or its designee. Such determination shall be final and shall be complied with, within 15 days thereafter. In lieu of such bond, securities approved by the Town Administrator, or cash in such amount as the Town Administrator may prescribe, may be deposited with the Town Administrator, who

may at any time after five days' notice to the depositor, apply then to any tax and/or penalties due, and for that purpose the securities may be sold at a public or a private sale.

#### **SECTION 15. - ASSESSMENT AND DETERMINATION OF TAX.**

If a return required by this article is not filed, or if a return when filed is incorrect or insufficient, the amount of tax due shall be assessed by the Town Administrator 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 that tax unless the person against whom it is assessed, within 90 days after the giving of notice of such assessment, shall apply in writing to the city council or its designee for a hearing or unless the Town Administrator on his/her own motion shall reassess the same. After such hearing, the city council or its designee shall give written notice of its determination to the person against whom the tax is assessed and such determination shall be final.

#### **SECTION 16. - REFUNDS.**

- (a) The Town Administrator shall refund or credit any tax erroneously, illegally or unconstitutionally collected if written application to the Town Administrator for such refund shall be made within two years from the date of payment thereof. For like causes, and in the same period, a refund may be so made upon the initiative and the order of the Town Administrator. Whenever a refund is made, the reasons therefor shall be stated in writing. Such application may also be made by the person who has collected and paid such tax to the Town Administrator, providing that the application is made within one year of the payment of the occupant to the operator, but no refund of money shall be made to the operator until he has repaid to the occupant the amount for which the application for refund is made. The Town Administrator, in lieu of any refund required to be made, may allow credit thereof on payment due from the applicant.
- (b) Upon application for a refund, the Town Administrator may receive evidence with respect thereto, and make such investigation as he deems necessary. After making a determination as to the refund, the Town Administrator shall give notice thereof to the applicant. Such determination shall be final unless the applicant, within 90 days after such notice, shall apply in writing to the city council or its designee for a hearing. After such hearing, the city council, or its designee, shall give written notice of the decision to the applicant.

#### **SECTION 17. - NOTICES.**

Notices provided for under this article shall be deemed to have been given when such notice has been delivered personally to the operator or deposited in the United States Mail, addressed to the last known address of the operator.

**SECTION 18. - REMEDIES EXCLUSIVE.**

The remedies provided in this article shall be exclusive remedies available to any person for the review of tax liability imposed by this article.

**SECTION 19. - FAILURE TO FILE; SUBMITTING FRAUDULENT RETURNS; FAILURE TO POST A BOND; PENALTIES.**

The failure or refusal of any operator/taxpayer to make reports and remittances herein required, or the making of any false and fraudulent report for the purpose of avoiding or escaping payment of any tax or portion thereof rightfully due under this article or failure to post a bond, shall be an offense and, upon conviction thereof, the offending taxpayer shall be subject to costs and to a fine of not more than \$200.00 or imprisonment for not more than 30 days, or both such fine and imprisonment. Each day a violation exists shall constitute a separate offense and is subject to all penalties herein.

**SECTION 20. - OPERATOR'S DISCOUNT FOR KEEPING RECORDS.**

In order to remunerate an operator for keeping tax records, filing reports, and remitting the tax when due, a two percent (2%) discount shall be allowed upon all taxes paid prior to the time they become delinquent.

**SECTION 21. - RECORDS CONFIDENTIAL.**

The confidential and privileged nature of the records and files concerning the administration of the hotel tax is legislatively recognized and declared, and to protect the same the provisions of 68 O.S. § 205, and each subsection thereof, is hereby adopted by reference and made fully effective and applicable to administration of the tax as if herein set forth.

**SECTION 22. - USE OF FUNDS.**

All taxes collected pursuant to the provisions of this article shall be deposited into the city's general fund.

**SECTION 23. - GENERAL POWERS OF TOWN ADMINISTRATOR.**

In addition to all other powers granted to the Town Administrator, he/she is hereby authorized and empowered:

- (1) To make, adopt and amend rules and regulations appropriate to the carrying out of this article for the purposes thereof.

- (2) To extend for cause shown, the time for filing and return for a period not exceeding 60 days; and for cause shown to waive, remit, or reduce penalties or interest.
- (3) To delegate his/her functions hereunder to an assistant or other employee or employees of the city.
- (4) To assess, reassess, determine, revise and readjust the taxes imposed by this article.
- (5) To prescribe methods for determining the taxable and nontaxable rents.

**SECTION 24. - ADMINISTRATION OF OATHS AND COMPELLING TESTIMONY.**

The Town Administrator, or his/her designated representative, shall have the power to administer oaths and take affidavits in relation to any matter or proceeding in the exercise of their powers and duties under this article. The Town Administrator shall have the power to subpoena and require the attendance of witnesses and the production of books, papers and documents to secure information pertinent to the performance of his/her duties hereunder and all the enforcement of this article and to examine them in relation thereto.

**SECTION 25. - PROCEEDINGS TO RECOVER TAX.**

- (a) Whenever any taxpayer or other person shall fail to collect and pay over any tax or any tax penalties due and owing, or interest imposed by this article as herein provided, the city attorney shall, upon request of the Town Administrator, take appropriate action to enforce the payment of same.
- (b) Pursuant to the authority of 68 O.S. § 2701 et seq., all taxes, interest and penalties imposed by this article, are hereby declared to constitute a lien in favor of the Town of Carlton Landing, upon all franchises, property and rights to property, whether real or personal, then belonging to or thereafter acquired by the person, firm or corporation owing the tax, whether such property is employed by such person, firm or corporation in the conduct of its business or in the hands of an assignee, trustee, or receiver, for the benefit of a creditor, from the date said taxes are due and payable under provisions of this article.

**SECTION 26. - AMENDMENTS.**

The citizens of Carlton Landing, by their approval of this article at the election herein provided, hereby authorize the Board of Trustees, by ordinance duly enacted, to make such administrative and technical changes or additions in the method and manner of administration and enforcing this article as may be necessary or proper for efficiency and fairness; except that the rate of the tax herein provided shall not exceed **five, six, seven** percent without approval of the qualified electors of the city as provided by law.

**SECTION 27. - PROVISIONS CUMULATIVE.**

The provisions hereof shall be cumulative, and in addition to any and all other taxing provisions of the city ordinances.

**SECTION 28. - PROVISIONS SEVERABLE.**

The provisions hereof are hereby declared to be severable, and if any section, paragraph, sentence or clause of this article is for any reason held invalid or inoperative by any court of competent jurisdiction, such decision shall not affect any other section, paragraph, sentence or clause hereof.

**SECTION 29. - EFFECTIVE DATE.**

This article shall become and be effective on the first day of October 1, 2020, subject to the approval of the majority of registered voters of the Town of Carlton Landing voting on the same in the manner prescribed by law.

PASSED AND APPROVED BY THE TOWN BOARD OF TRUSTEES OF THE CARLTON LANDING, OKLAHOMA, this \_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Joanne Chinnici  
Mayor  
Town of Carlton Landing

SEAL

ATTEST:

\_\_\_\_\_  
Jan Summers  
Town Clerk



Item No. \_\_\_\_\_

Date: March 21, 2020

## **AGENDA ITEM COMMENTARY**

**ITEM TITLE:** Consider, discuss and approve Resolution \_\_\_\_\_ directing that a Special election be held regarding the implementation of a lodging/hotel/motel tax; Declaring a time when polls are to be open; Stating requirements for Ballot; Making certain Special election laws applicable; Stating responsibilities of County Election Board and County Election Board Secretary; Requiring publication of Resolution; and providing for absentee ballots; and approve Notice of Election; or take any other appropriate action.

**INITIATOR:** Greg Buckley, Town Administrator, Mayor Chinnici

**STAFF INFORMATION SOURCE:** Greg Buckley, Town Administrator

**BACKGROUND:** Under Oklahoma Statute, taxes are required to be approved by a majority of the voters of the city or town. The Board of Trustees of Carlton Landing approved a Lodging Tax Ordinance and now requires the approval of the voters to become effective. The Resolution set the election on June 30, 2020 to coincide with the County Primary election. There are certain dates when a city or town may call or hold an election. To meet the filing deadline and notice requirement for June 30, 2020, the Resolution calling for an election must be approved by April 15, 2020.

**FUNDING:** None

**EXHIBITS:** Election Resolution – Lodging Tax, Notice of Election, Ballot

**RECOMMENDED ACTION:** Approve Resolution \_\_\_\_\_ directing that a Special election be held regarding the implementation of a lodging/hotel/motel tax; Declaring a time when polls are to be open; Stating requirements for Ballot; Making certain Special election laws applicable; Stating responsibilities of County Election Board and County Election Board Secretary; Requiring publication of Resolution; and providing for absentee ballots; and approve Notice of Election.

**TOWN OF CARLTON LANDING**

**Resolution 2020-04-01**

A Resolution directing that a Special election be held regarding the implementation of a lodging/hotel/motel tax; Declaring a time when polls are to be open; Stating requirements for Ballot; Making certain Special election laws applicable; Stating responsibilities of County Election Board and County Election Board Secretary; Requiring publication of Resolution; and providing for absentee ballots;

BE IT RESOLVED by the Mayor and Board of Trustee of the Town of Carlton Landing, Oklahoma that;

Section 1: Special Election. A special election shall be held on June 30, 2020, between the hours of 7:00 a.m. and 7:00 p.m., at the regular polling places for the precincts of the Town, for the purpose of submitting the following question to the registered voters of the Town:

**BALLOT**

**Proposition No. 1**

Shall Carlton Landing, Oklahoma Ordinance No. 2020-04-01 adopted the 1<sup>st</sup> day of April, 2020, enacting an excise tax of five percent (5%) upon the gross proceeds or gross receipts derived from lodging/hotel/motel rooms, with two percent of said tax collected to be used for expenses in monitoring the collection, expenditure and auditing of the lodging/hotel/motel tax and ninety-eight percent to be deposited in a fund to be used for parks, recreation, fitness, health, tourism, convention, development or promotion be approved?

For the Proposition                      FOR \_\_\_\_\_

Against the Proposition              AGAINST \_\_\_\_\_

If the voter desires to vote for the above Proposition, the voter shall complete the arrow to the right of the word "FOR".

If the voter desires to vote against the above Proposition, the voter shall complete the arrow to the right of the word "AGAINST".

Section 2: Applicable Law. The Pittsburg County Election Board shall conduct the election, canvas the returns and certify the results to the Town Board of Trustees. The election shall be conducted in accordance with the provisions of the general elections laws of the State of Oklahoma;

Section 3: Filing with the Secretary of the Election Board. This resolution shall be filed with the Secretary of the Pittsburg County Election Board not fewer than sixty (60) days prior to the election;

Section 4: Publication of Resolution. This resolution shall be published in a newspaper of general circulation in the Town at least ten (10) days before the election;

Section 5: Absentee Ballots. Absentee ballots shall be provided in accordance with the provisions of the general election laws of the State of Oklahoma.

ADOPTED in Special session this 1<sup>st</sup> day of April, 2020.

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Joanne Chinnici  
MAYOR

ATTEST:

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Jan Summers  
City Clerk

SEAL

**NOTICE OF ELECTION  
TOWN OF CARLTON LANDING, OKLAHOMA**

**BE IT RESOLVED** by the governing body of the Town of Carlton Landing, Oklahoma that for the purpose of enacting an excise tax on lodging/hotel/motel that:

\_\_\_\_\_ 1. Special election shall be held on Tuesday, June 30, 2020;

**BE IT FURTHER RESOLVED** that the issue of said Town to be voted upon:

Proposition No. \_\_\_\_\_

Shall The Town of Carlton Landing, Oklahoma Ordinance No. 2020-04-01; adopted the 1<sup>st</sup> day of April, 2020, enacting an excise tax of five percent (5%) upon the gross proceeds or gross receipts derived from the rent from occupancy of lodging/hotels/motels, with two percent of said tax collected to be used for expenses in monitoring the collection, expenditure and auditing of the lodging/hotel/motel tax and ninety-eight percent to be deposited in a fund to be used for parks, recreation, fitness, health, tourism, convention, development or promotion be approved?

**BE IT FURTHER RESOLVED** that each voter must be a qualified voter by virtue of being a resident and registered voter within the municipality on or before June 5, 2020.

**BE IT FURTHER RESOLVED** that the following question shall be submitted to the registered voters of this municipality at the Special election.

**BE IT FURTHER RESOLVED** that absentee ballots will be provided in accordance with State Law.

ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

(Seal)

ATTEST:

\_\_\_\_\_

BALLOT

Proposition No. \_\_\_\_

Shall The Town of Carlton Landing, Oklahoma Ordinance No. 2020-04-01 adopted the 1<sup>st</sup> day of April, 2020, enacting an excise tax of five percent (5%) upon the gross proceeds or gross receipts derived from the rent from occupancy of lodging/hotels/motels with one hundred percent (100%) of said tax collected to be deposited to the general fund and used for general operation(s) of the Town?

For the Proposition                      FOR\_\_\_\_\_

Against the Proposition              AGAINST\_\_\_\_\_

Item No. \_\_\_\_\_

Date: April 1, 2020

## **AGENDA ITEM COMMENTARY**

**ITEM TITLE:** Consider, discuss and Ordinance 2020-04-02 opting out of the OKLAHOMA TOWN MEETING ACT; requiring elections and initiative and referendum questions to be decided only through elections conducted by the COUNTY ELECTION BOARD; repealing all conflicting ordinances or parts of ordinances; and providing for an effective date or take any other appropriate action.

**INITIATOR:** Greg Buckley, Town Administrator,

**STAFF INFORMATION SOURCE:** Greg Buckley, Town Administrator

**BACKGROUND:** Currently the Town falls under the Oklahoma Town meeting Act which provides that the Town is responsible for holding and conducting its own elections. For the County Election Board to hold and oversee the Lodging/Hotel/Motel Tax Ordinance election the Town has to opt out of following the Statute. June 30, 2020 is already a Countywide election so the most efficient and cost effect way for the Town to hold the election is to piggyback on the County election, otherwise the Town will have to print the Ballots, man the voting poll and residents would have to go to two different polling places to vote in both the County and Town elections.

**FUNDING:** None

**EXHIBITS:** Ordinance Opting out of Town Meeting Act

**RECOMMENDED ACTION:** Approve Ordinance 2020-04-02 opting out of the OKLAHOMA TOWN MEETING ACT; requiring elections and initiative and referendum questions to be decided only through elections conducted by the COUNTY ELECTION BOARD; repealing all conflicting ordinances or parts of ordinances; and providing for an effective date

[Published in McAlester News-Capital on \_\_\_\_\_, 2020]

**ORDINANCE NO. 2020-04-02**

AN ORDINANCE OPTING OUT OF THE OKLAHOMA TOWN MEETING ACT; REQUIRING ELECTIONS AND INITIATIVE AND REFERENDUM QUESTIONS TO BE DECIDED ONLY THROUGH ELECTIONS CONDUCTED BY THE COUNTY ELECTION BOARD; REPEALING ALL CONFLICTING ORDINANCES OR PARTS OF ORDINANCES; AND PROVIDING FOR AN EFFECTIVE DATE.

**ORDINANCE**

BE IT ORDAINED BY THE TOWN BOARD OF TRUSTEES OF THE TOWN OF CARLTON LANDING, OKLAHOMA:

SECTION 1. Pursuant to 11 O.S. § 16-302, the Town of Carlton Landing, Oklahoma hereby declares that from the effective date of this ordinance it shall not be governed by the Oklahoma Town Meeting Act as a means of electing its officers and deciding initiative and referendum questions.

SECTION 2. The Town of Carlton Landing, Oklahoma shall elect its officers and decide initiative and referendum questions through elections conducted by the County Election Board pursuant to 11 O.S. § 16-101 et seq.

SECTION 3. Any ordinances or parts of ordinances in conflict herewith are, to the extent of such conflict, hereby repealed.

SECTION 4. The effective date of this Ordinance shall be May 1, 2020.

ADOPTED by the Town Board of Trustees of the Town of Carlton Landing, Oklahoma, and SIGNED by the Mayor on the 1st day of April, 2020.

Town of Carlton Landing, Oklahoma

By \_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
Town Clerk

(SEAL)