

Oconee County, Georgia

AN ORDINANCE AUTHORIZING THE IMPOSITION OF AN EXCISE TAX ON ROOMS, LODGINGS AND ACCOMMODATIONS WITHIN THE SPECIAL DISTRICT SITUATE IN THE UNINCORPORATED AREA OF OCONEE COUNTY, GEORGIA

WHEREAS, pursuant to Article 3 of Chapter 13 of Title 48 of the Official Code of Georgia, the Oconee County Board of Commissioners, the "Board", is authorized to impose an excise tax on rooms, lodgings and accommodations within the special district situate in the unincorporated area of Oconee County; and

WHEREAS, the Board has determined that the funds raised from such a levy would benefit the citizens of Oconee County and contribute to the promotion of tourism, conventions and trade shows; and

WHEREAS, the Oconee County Board of Commissioners is desirous of adopting an ordinance for the imposition of such an excise tax;

It Is, Therefore, Ordained by the Oconee County Board of Commissioners as follows:

ARTICLE ONE: DEFINITIONS

For the purpose of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Due date: From the twentieth day after the close of the monthly period for which tax is to be computed.

Guest room: A room occupied or intended, arranged or designed for occupancy, by one or more occupants for the purpose of living quarters or residential use.

Hotel: A hotel, motel, inn, lodge, tourist camp, tourist cabin, or any other place in which rooms, lodgings or accommodations are regularly furnished for value.

Monthly period: The calendar months of any year.

Occupancy: The use or possession or the right to the use or possession of any room or apartment in a hotel or the right to the use or possession of the furnishings or to the services and accommodations accompanying the use and possession of the room.

Occupant: Any person who, for a consideration, uses, possesses, or has the right to use or possess any room in a hotel under any lease, concession, permit, right of access, license to use or other agreement or otherwise.

Operator: Any person operating a hotel in Oconee County, including, but not limited to, the owner or proprietor of such premises, lessee, sublease, lender in possession, licensee or any other person otherwise operating such hotel.

Permanent residents and exemptions: Any occupant of a given date who has or shall have occupied or has or shall have the right of occupancy of any guest room in a hotel for more than ten consecutive days next preceding such date or for five or more consecutive days for use by Georgia state or local government officials or employees when traveling on official business.

Person: An individual, firm, partnership, joint venture, association, social club, fraternal organization, joint-stock company, corporation, nonprofit corporation or cooperative nonprofit membership, estate, trust, business trust, receiver, trustee, syndicate or any other group or combination acting as a unit, the plural as well as the singular number excepting the United States of America, the state and any political subdivision thereof of either, upon which Oconee County is without power to impose the tax herein provided.

Rent: 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 the amount for which credit is allowed by the operator to the occupant, without any deduction therefrom whatsoever.

Return: Any return filed or required to be filed as provided in this chapter.

Tax: The tax imposed by this chapter.

ARTICLE TWO: ADMINISTRATION

- (a) The Finance Director shall administer and enforce the provisions of this Ordinance for the collection of the tax imposed by this Ordinance.
- (b) Every operator renting guest rooms in Oconee County to a person shall keep such records, receipts, invoices and other pertinent papers in such form as the Finance Director may require.
- (c) The Finance Director, or designee, may examine the books, papers, records, financial reports, equipment and other facilities of any operator renting guest rooms to a person and any operator liable for the tax in order to verify the accuracy of any return made or, if no return is made by the operator, to ascertain the amount required to be paid.
- (d) In the administration of the provisions of this chapter, the Finance Director may require the filing of reports by any persons or class of persons having in such person's or persons' possession or custody information relating to rentals of guest rooms which are subject to the tax. The reports shall be filed with the Finance Director when required by

such director and shall set forth the rental charged for each occupancy, the date or dates of occupancy, and such other information as the Finance Director may require.

ARTICLE THREE: IMPOSITION AND RATE

There shall be paid a tax of six percent of the rent for every occupancy of a guest room in a hotel in Oconee County. The tax imposed by this chapter shall be paid upon any occupancy on and after January 1, 2008, although such occupancy is had pursuant to a contract, lease or other arrangement made prior to such date.

ARTICLE FOUR: COLLECTION

Every operator maintaining a place of business in Oconee County as provided in Article Three and renting guest rooms in Oconee County not exempted under Article Five shall collect a tax of six percent on the amount of rent from the occupant.

ARTICLE FIVE: EXEMPTIONS

No tax pursuant to this chapter shall be imposed upon a permanent resident, Georgia state, or local government official or employee while traveling on official business.

ARTICLE SIX: REGISTRATION OF OPERATOR

Every person engaging or about to engage in business as an operator of a hotel in Oconee County shall immediately register with the Finance Director on a form provided by the same. The privilege of registration after the imposition of the tax shall not relieve any person from the obligation of payment or collection of tax on and after the date of imposition thereof, regardless of registration. The registration shall set forth the name under which such person transacts business or intends to transact business, the location of his or her places of business, and such other information which would facilitate the collection of the tax as the Finance Director may require. The registration shall be signed by the owner if a natural person; in case of ownership by an association or partnership, by a member or partner; in the case of ownership by a corporation, by an officer. The Finance Director shall, after such registration, issue without charge a certificate of authority to each operator to collect the tax from the occupant. A separate registration shall be required for each place of business of an operator. Each certificate shall state the name and location of the business to which it is applicable.

ARTICLE SEVEN: PAYMENT

- (a) All amounts of such taxes shall be due and payable to the Finance Director monthly on or before the twentieth date of every month next succeeding each respective monthly period.
- (b) On or before the twentieth day of the month following each monthly period, a return for the preceding monthly period shall be filed with the Finance Director showing the gross rent, rent from permanent and exempt residents, taxable rents, amount of tax collected or otherwise due for the related period, and such other information as may be required by the Finance Director.
- (c) Payments received after the twentieth date of the month shall be assessed a penalty of ten percent of the amount due but not less than \$100.00 and interest at the rate of one percent per month or any part thereof.
- (d) The operator collecting the tax shall be allowed a percentage of the tax due and accounted for and shall be reimbursed in the form of a deduction in submitting, reporting and payment of the amount due, if such amount is not delinquent at the time of payment. The rate of the deduction shall be the same rate authorized for deductions from the state sales and use tax under O.C.G.A. § 48-8-50.

ARTICLE EIGHT: DEFICIENCIES

- (a) If the Finance Director is not satisfied with the return or returns of the tax or the amount of the tax required to be paid to Oconee County by any person, he or she may compute and determine the amount to be paid upon the basis of any information within his or her possession or that may come into his or her possession. One or more deficiency determinations may be made of the amount due for one or more monthly periods.
- (b) The amount of the determination shall bear interest at the rate of one percent per month or fraction thereof from the due date of the taxes.
- (c) The Finance Director, or designee, shall give to the operator written notice of his or her determination. The notice may be served personally or by mail; if by mail, such service shall be addressed to the operator at his address as it appears in the records of the Finance Director. Service by mail is complete when delivered by certified mail with a receipt signed by the addressee.
- (d) Except in the case of failure to make a return, every notice of a deficiency determination shall be mailed within three years after the twentieth day of the calendar month following the monthly period for which the amount is proposed to be determined or within three years after the return is filed, whichever period should last expire.

ARTICLE NINE: FAILURE TO FILE RETURN

(a) If any person fails to make a return, the Finance Director shall make an estimate of the amount of the gross receipts of the person or, as the case may be, of the amount of the total rentals in Oconee County which are subject to the tax. The estimate shall be made for the period or periods in respect to which the person failed to make the return and shall be based upon any information which is or may come into the possession of the Finance Director. Written notice shall be given in the manner prescribed in Article 8(c).

(b) The amount of the determination shall bear interest at the rate of one percent per month or fraction thereof from the twentieth day of the month of any portion thereof should have been returned, until the date of payment. In addition, a penalty of ten percent of the determination, but not less than \$100.00, shall also be assessed for failure to file a return.

ARTICLE TEN: OVERPAYMENT

Whenever the amount of any tax or interest has been paid more than once or has been erroneously or illegally collected or received by Oconee County under this chapter, it may be offset by the Finance Director. If the operator or person determines that he or she has overpaid or paid more than once, which fact has not been determined by the Finance Director, he or she will have three years from the date of payment to file a claim in writing stating the specific ground upon which the claim is founded. The claim shall be audited. If the claim is approved by the Finance Director, the excess amount paid Oconee County may be credited on any amounts then due and payable from the persons by whom it was paid or his or her administrators or executors.

ARTICLE ELEVEN: PURCHASERS OR SUCCESSORS

(a) If any operator liable for any amount under this chapter sells out his business or quits the business, his successors or assigns shall withhold sufficient of the purchase price to cover the amount until the former owner produces a receipt from the Finance Director showing that he has been paid or a certificate stating that no amount is due.

(b) If the purchaser of a business fails to withhold funds from the purchase price as required, he or she shall be personally liable for the payment of the amount required to be withheld by him to the extent of the purchase price.

ARTICLE TWELVE: COLLECTION ACTION

At any time within three years after any tax or any amount of tax required to be collected becomes due and payable and at any time within three years after the delinquency of any tax or any amount of tax required to be collected, the Finance

Director may bring an action in a court of competent jurisdiction in the name of Oconee County to collect the amount delinquent, together with interest, court fees, filing fees, attorney's fees and other legal fees incident thereto.

ARTICLE THIRTEEN: USE OF PROCEEDS

The proceeds of this tax shall be used in accordance with O.C.G.A. § 48-13-51(a)(4).

ARTICLE FOURTEEN: PENALTIES

(a) Any person violating any of the provisions of this Ordinance shall be deemed guilty of a misdemeanor and may be punished to the maximum amount allowed by state law. Each such person shall be guilty of a separate offense for each day during any portion of which any violation of any provision of this chapter is committed, continued or permitted by such person and shall be punished accordingly. Any operator or other person who fails to register as required herein or to furnish any return required to be made or who fails or refuses to furnish a supplemental return or other data required by the Finance Director or who renders a false or fraudulent return shall be deemed guilty of any offense and upon conviction thereof shall be punished as aforesaid.

(b) Any person who fails to pay any taxes due under this chapter shall not be permitted to renew his or her business license or alcoholic beverage license until all such taxes have been paid in full.

DONE, this 3rd day of July, 2007.

OCONEE COUNTY BOARD OF COMMISSIONERS

Melvin Brown

Chairman

Jim Luke

Member

Donald H. Kerr

Member

Margaret Jones

Member

[Signature]

Member

Attest:

Alma M. Lindberg
County Clerk

(SEAL)