

**AN ORDINANCE TO AMEND THE HOTEL/MOTEL EXCISE TAX  
ORDINANCE FOR THE CITY OF MOULTRIE; TO REPEAL  
CONFLICTING ORDINANCES AND FOR OTHER PURPOSES**

**BE IT ORDAINED** by the Mayor and Council of the City of Moultrie, and it is hereby ordained by authority of same that:

**Section 1.** That Section 102-36 of the Hotel/Motel Excise Tax Ordinance of the City of Moultrie be and the same is hereby deleting the present Section 102-36 and inserting in lieu thereof the following:

**“Sec. 102-36. – Definitions.**

The following words, terms and phrases shall, for the purposes of this ordinance and except where the context clearly indicates a different meaning:

*City* means the City of Moultrie and, variously, the incorporated territory of the City wherein the City government is empowered to impose this tax by O.C.G.A. § 48-13-50, et seq.

*City Clerk* means the duly appointed Clerk of the City of Moultrie and any other public official, or non-natural person designated by the governing authority to administer the tax.

*Due date* means the twentieth (20th) day after the close of the period for which the tax is to be computed.

*Extended stay rental* means providing for value to the public a hotel or motel room for longer than thirty (30) consecutive days to the same customer under one (1) agreement for more than thirty (30) days, but shall not include day-to-day or week-to-week rentals that are renewed or extended to cumulatively extend beyond thirty (30) consecutive days to the same customer.

*Folio* means the primary documentation produced by a hotel/motel that demonstrates interaction between the lodging provider and the occupant, and which, at a minimum, reflects the name and address given by the occupant, the date(s) of occupancy, the amount of rent charged for each date together with the amounts of applicable excise tax, and the method(s) of payment.

*Guest room* means the structural accommodations occupied, or intended, arranged, or designed for transient occupancy, by one (1) or more occupants for the purpose of temporary living quarters.

*Hotel/Motel* means any physical structure or any portion of such a facility, including any house, rooming house, Turkish bath, bachelor hotel, studio hotel, motel, motor hotel, auto or trailer court, truckstop, tourist cabin, campground, lodge, inn, time-share or other condominium, apartment, public club, or private club, containing guest accommodations and which is occupied, or is intended or designed for temporary occupancy, by paying guests, whether rent is paid in money, goods, labor, or otherwise. It does not include any school dormitory, hospital, asylum, sanitarium, orphanage, jail, prison, or other facility in which human beings are housed and detained under legal restraint.

*Lodging provider means:*

- a. Any person or entity operating a hotel in the City including, but not limited to, the owner or proprietor of such premises, lessee, sub-lessee, lender in possession, licensee or any other person operating such hotel; and who is subject to the taxation imposed for furnishing for value to the public any rooms, lodgings, or accommodations.
- b. Any person or entity as defined by O.C.G.A. § 48-8-2(8)(M.3) who is subject to the taxation imposed for facilitating the furnishing for value to the public any rooms, lodgings or accommodations on behalf of another person.

*Occupancy means the use or possession, or the right to the use or possession of any guest room 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 guest room.*

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

*Permanent resident means any occupant who, as of a given date, has or shall have occupied or has or shall have the right of occupancy of any guest room in a hotel/motel for not less than thirty (30) continuous days next preceding such date.*

*Prescribed period means the months and/or quarters of the calendar year as prescribed by the City Clerk for return and remittance of the tax. A bifurcated scheme in the best interest of the City's administration shall be permissible provided that such is based upon the reasonable and equitable classification of lodging providers.*

*Person means any natural individual, firm, partnership, joint adventure, association, social club, fraternal organization, joint stock company, corporation, cooperative, estate, trust, receiver, trustee, syndicate, or any other group or combination acting as a unit, the plural as well as the singular number; excepting a franchiser as defined by O.C.G.A § 48-13-50.4(i); and the United States and the State of Georgia and any instrumentality of either thereof upon which the city is without power to impose the tax.*

*Rent means 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 lodging provider to the occupant, without any deduction therefrom whatsoever."*

**Section 2.** That Section 102-37 of the Hotel/Motel Excise Tax Ordinance of the City of Moultrie be and the same is hereby deleting the present Section 102-37 and inserting in lieu thereof the following:

**"Sec. 102-37. – Levy of excise tax.**

Pursuant to O.C.G.A. § 48-13-50 et seq. there is hereby levied an excise tax of seven percent (7%) of the charge to the public upon the furnishing for value to the public of any room, lodging or accommodations furnished by any person or legal entity licensed by or required to pay business or occupation taxes to the city for operating a hotel, motel, inn, lodge, tourist camp, tourist cabin or any other place in which rooms, lodgings, or accommodations are regularly furnished for

value; provided that no such tax shall be levied upon the fees or charges for any rooms, lodgings or accommodations for use as meeting rooms; provided further that no such tax shall be levied upon the fees or charges for any rooms, lodgings or accommodations furnished for a period of one or more days for use by state or local government officials or employees when traveling on official business; or as otherwise provided by law.”

**Section 3.** That Section 102-38 of the Hotel/Motel Excise Tax Ordinance of the City of Moultrie be and the same is hereby deleting the present Section 102-38 and inserting in lieu thereof the following:

**“Sec. 102-38. – Collection of tax by lodging provider.**

- (a) Every lodging provider furnishing guest rooms in a hotel/motel in the City shall collect a tax of seven percent (7%) on the amount of rent from the occupant unless an exception is provided in this Chapter or under Section 102-39. The lodging provider shall provide a receipt to each occupant, which receipt shall reflect both the amount of rent or actual value of the consideration and the amounts of the tax applicable. This tax shall be due from the occupant, and shall be collected by the lodging provider at the same time that the rent is collected or other consideration provided. The lodging provider shall be liable to the City for the full amount received or collected as tax, whether collected appropriately or inappropriately; and for any amount of tax that should have been collected, but was not.
- (b) Any person who receives or collects the tax or any consideration represented to be the tax from another person or entity holds the amount so collected in trust for the benefit of the City and is liable to the City for the full amount collected, plus penalty and interest.
- (c) Any person or entity which controls or supervises the collection of the tax from another person, or any person who controls the accounting for or remittance of the tax, and who willfully fails to remit or cause to be remitted the tax is liable as a responsible person for an amount equal to the tax not remitted or caused to be remitted, plus penalty and interest. The dissolution of a corporation, partnership or other business or fraternal association does not affect a responsible natural person’s liability under this sub-section. Furthermore, the liability imposed by this sub-section shall be in addition to any other penalty provided by law.”

**Section 4.** That Section 102-39 of the Hotel/Motel Excise Tax Ordinance of the City of Moultrie be and the same is hereby deleting the present Section 102-39 and inserting in lieu thereof the following:

**“Sec. 102-39. - Exceptions.**

No tax shall be collected from an occupant of extended stay lodging; or after becoming a permanent resident; or from an occupant who certifies in writing that he is staying in such accommodations as a result of his residence having been rendered uninhabitable by fire or other casualty; or from the United States and the State of Georgia or any instrumentality of either thereof; or from any official or employee of the State, its units of local government or any other instrumentality of the State, when traveling on official business and presenting written

substantiation thereof or paying by State or local government credit or debit card; or from a foreign sovereign enjoying exemption by treaty or consular convention, when presenting substantiation issued by the United States Department of State. Occupancy provided without charge in money or otherwise is not subject to this tax."

**Section 5.** That Section 102-40 of the Hotel/Motel Excise Tax Ordinance of the City of Moultrie be and the same is hereby deleting the present Section 102-40 and inserting in lieu thereof the following:

**"Sec. 102-40. - Registration of lodging provider; form and contents; execution; certificate of authority.**

Every person or entity engaging or about to engage in business as a lodging provider in the City shall immediately register with the City Clerk on a form provided by said official. Persons engaged in such business must so register not later than thirty (30) days after the date that this ordinance becomes effective. Such registration shall set forth the name under which such person transacts business or intends to transact business, the location of his place(s) of business and such other information which would facilitate the administration of the tax as prescribed by the City Clerk. The registration shall be signed by the owner if a natural person; in case of ownership by an association or partnership, or by a member or partner; in case of ownership by a corporation, by an officer. The City Clerk shall, after such registration and upon request of the lodging provider, issue without charge a certificate of authority to collect the tax from the occupant. A separate registration shall be required for each place of business of a lodging provider. Each certificate issued shall state the name and location of the business to which it is applicable."

**Section 6.** That Section 102-41 of the Hotel/Motel Excise Tax Ordinance of the City of Moultrie be and the same is hereby deleting the present Section 102-41 and inserting in lieu thereof the following:

**"Sec. 102-41. - Determination generally; due date; returns; payments.**

- (a) All amounts of such tax shall be due and payable to the City Clerk on or before the twentieth (20th) day of the month next succeeding the respective prescribed period. The tax shall become delinquent for any prescribed period after the twentieth (20th) day of each succeeding month during which it remains unpaid.
- (b) A lodging provider who fails to make any return or to pay the amount of tax as prescribed, shall be assessed a specific penalty to be added to the tax in the amount of five percent (5%) or five dollars (\$5.00), whichever is greater, if the failure is for one (1) month or less; and an additional five percent (5%) or five dollars (\$5.00), whichever is greater, for each additional month or fraction thereof in which such failure shall continue; provided, however, that the aggregate penalty for any single violation shall not exceed twenty-five percent (25%) or twenty-five dollars (\$25.00), whichever is greater. Delinquent amounts shall bear interest monthly, or fraction thereof, until paid at the rate set forth in O.C.G.A. § 48-2-40.
- (c) Acceptance of delinquent return and remittance without imposing penalty and interest; authority; requirements. If the failure to make any return or to pay the amount of tax by the due date results from providential cause shown to the satisfaction of the governing authority of the City by affidavit attached to the return, and remittance is made within ten (10) days of the due date, such return may be accepted exclusive of penalty and interest.

- (d) O.C.G.A. § 48-2-41 and § 48-2-43 shall apply the waiver interest and penalties; provided, however, that the governing authority shall stand in lieu of the Georgia Commissioner of Revenue, and the City shall stand in lieu of the State.
- (e) In the case of a false or fraudulent return, or of failure to file a return where willful intent exists to defraud the city of any tax due, a penalty of fifty percent (50%) of the tax due shall be assessed.
- (f) On or before the twentieth (20th) day of the month next succeeding the respective prescribed period, a return for such preceding period together with appropriate remittance shall be filed with the City Clerk. The return shall report the gross rent, taxable rent, exempt rent, amount of tax collected or otherwise due for the period, and such other information as may be required by the city clerk.
- (g) The governing authority of the City may, for good cause, extend the time for making returns for not longer than thirty (30) days. No extension shall be valid unless granted in writing upon written application of the lodging provider. Such grant may not be applicable for longer period than twelve (12) consecutive months. A lodging provider granted an extension shall remit tax equaling not less than one hundred percent (100%) of the tax paid for the corresponding period of the prior fiscal year; such remittance to be made on or before the date the tax would otherwise come due without the grant of extension. No penalty or interest shall be charged during the first ten (10) days of the extension period. Thereafter, interest shall be collected on the unpaid balance at the rate set forth in O.C.G.A. § 48-2-40.
- (h) Lodging providers 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 paying the amount due, if the amount is not delinquent at the time of payment. The rate of the deduction shall be three percent (3%) of the amount due, but only if the amount due was not delinquent at the time of payment."

**Section 7.** That Section 102-41 of the Hotel/Motel Excise Tax Ordinance of the City of Moultrie be and the same is hereby deleting the present Section 102-41 and inserting in lieu thereof the following:

**"Sec. 102-41. – Deficiencies.**

- (a) If the City Clerk is not satisfied with the return or returns of the tax or the amount of the tax required to be paid to the City by any lodging provider, he/she may compute and determine the amount required to be paid upon the basis of any information within his possession or that may come into his possession. One (1) or more deficiency determinations may be made of the amount due for one (1) or more prescribed periods.
- (b) Penalty and interest shall be assessed upon the amount of any determination, as provided by Sec. 102.40 of this Chapter."
- (c) The City Clerk shall give to the lodging provider written notice of his/her determination. The notice may be served personally or by mail; if by mail, such service shall be addressed to the lodging provider at his/her/its address as it appears in the records of the City. Service by mail is complete when delivered by

certified mail with a receipt signed by the addressee, or when made by statutory overnight delivery.

- (d) Except in cases of failure to make a return or of fraud, every notice of deficiency determination shall be mailed within three (3) years after the twentieth (20th) day of the month following the respective prescribed period for which the amount is proposed to be determined, or within three (3) years after the return is filed, whichever period should last expire.

- (e) Appeal or protest of deficiency determination. The procedure for contesting a deficiency determination shall be as provided by O.C.G.A. § 48-5-380.

**Section 8.** That Section 102-42 of the Hotel/Motel Excise Tax Ordinance of the City of Moultrie be and the same is hereby deleting the present Section 102-42 and inserting in lieu thereof the following:

**“Sec. 102-42. - Determination if no return made.**

- (a) If any lodging provider fails to make a return, the City Clerk shall make an estimate of the amount of the gross receipts of the lodging provider, or as the case may be, of the amount of total rentals in the City which are subject to the tax. The estimate shall be made for the period or periods in respect to which the lodging provider failed to make the return and shall be based upon any information which is or may come into the possession of the city clerk. Written notice shall be given in the manner prescribed in Sec. 102-41(c).
- (b) Penalty and interest shall be assessed upon the amount of any determination, as provided by Sec. 102-41(b).”

**Section 9.** That a new Section 102-43 of the Hotel/Motel Excise Tax Ordinance of the City of Moultrie be and the same is hereby created with the following:

**“Sec. 102-43. - Collection of tax by the City.**

- (a) At any time within three (3) years after any tax or any amount of tax required to be collected becomes due and payable, and at any time within three (3) years after the delinquency of any tax or any amount of tax required to be collected, the City Clerk may bring an action in a court of competent jurisdiction in the name of the city to collect the amount delinquent together with penalty, interest, court fees, filing fees, attorney’s fees and other legal fees incident thereto.
- (b) If any lodging provider liable for any amount under this ordinance sells or quits the business, he shall make a final return and remittance within fifteen (15) days after the date of selling or quitting the business.
- (c) If any lodging provider liable for any amount of tax, interest or penalty under this ordinance sells quits the business, its successors or assigns shall withhold sufficiently from the purchase price to cover such amount until the former owner produces from the City Clerk either a receipt reflecting full payment or a certificate stating that no amount is due.

- (d) If the purchaser of a business fails to withhold from the purchase price as required, they shall be personally liable for the payment of the amount required to be withheld by them to the extent of the purchase price.
- (e) Whenever the amount of any tax, penalty or interest has been paid more than once, or has been erroneously or illegally collected or received by the City, it may be refunded by the governing authority. If the lodging provider or person determines that he has overpaid or paid more than once, which fact has not been determined by the City Clerk, such person shall have three (3) years from the date of payment to file a claim in writing stating the specific ground upon which the claim is founded. The claimant may request a hearing before the governing authority at which the claim and any other information available will be considered. The governing authority shall approve or disapprove the claim, and notify the claimant of its action."

**Section 10.** That a new Section 102-44 of the Hotel/Motel Excise Tax Ordinance of the City of Moultrie be and the same is hereby created with the following:

**"Sec. 102-44. - Administration of ordinance; record keeping.**

- (a) The City Clerk shall administer and enforce the provisions of this ordinance for the collection of the tax.
- (b) Every lodging provider shall preserve, for a minimum of three (3) years, all folios, receipts, certificates of exemption and such other documents as the City Clerk may prescribe, and in such form as required by the City Clerk. Said records shall be made available for examination within the City.
- (c) The City Clerk or any person authorized in writing by the City Clerk may examine the books, papers, records, financial reports, equipment and other facilities of any lodging provider liable for the tax, in order to verify the accuracy of any return made, or if no return is made by the lodging provider, to ascertain and determine the amount required to be paid. The examination shall be conducted at the place of lodging provision, unless the City Clerk shall stipulate another place within the City. However, such an examination respecting a person merely facilitating rental may be undertaken only upon the request of that person as provided for by O.C.G.A. § 48-13-50.4(h).
- (d) In administration of the provisions of this ordinance, the City Clerk may require the filing of reports by any person or class of persons having in their possession or custody information relating to the rental of guest rooms which are subject to the tax. The reports shall be filed with the City Clerk when required by said official, and shall set forth the rental charged for each occupancy, the date(s) of occupancy, the basis for exemption, or such other information as the city clerk may prescribe."

**Section 11.** That a new Section 102-44 of the Hotel/Motel Excise Tax Ordinance of the City of Moultrie be and the same is hereby created with the following:

**"Sec. 102-44. - Violations.**

Any lodging provider that fails, neglects or refuses to register for collecting the tax as provided by Sec. 102-40, or to collect the tax as provided by Sec. 102-37 shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than one hundred dollars (\$100.00), or confinement for a term not to exceed three (3) months, or both fine and confinement. Any lodging provider who fails or refuses to make any return as provided by

Section 6, to keep adequate records or to open them for inspection by the City, or to furnish other data reasonably requested by the governing authority shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than one hundred dollars (\$100.00), or confinement for a term not to exceed three (3) months, or both. Any lodging provider who makes a false or fraudulent return with intent to evade the tax shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than one hundred dollars (\$100.00), nor more than three hundred dollars (\$300.00), or confinement for a term not to exceed three (3) months, or both. Each and every day during any portion of which any violation is committed, continued or permitted, shall constitute a separate offense and shall be punished accordingly.

**Section 12.** That a new Section 102-45 of the Hotel/Motel Excise Tax Ordinance of the City of Moultrie be and the same is hereby created with the following:

**“Sec. 102-45. - Effective date.**

This ordinance and the tax levied hereby shall become effective upon the first (1<sup>st</sup>) day of the second (2<sup>nd</sup>) calendar month following its adoption.

**Section 13.** That a new Section 102-46 of the Hotel/Motel Excise Tax Ordinance of the City of Moultrie be and the same is hereby created with the following:

**“Sec. 102-46 – 102-70. – Reserved.”**

**Section 13.**

a. It is hereby declared to be the intention of the Mayor and Council that all sections, paragraphs, sentences, clauses and phrases of this Ordinance are or were, upon their enactment, believed by the Mayor and Council to be fully valid, enforceable and constitutional.

b. It is hereby declared to be the intention of the Mayor and Council that, to the greatest extent allowed by law, each and every section, paragraph, sentence, clause or phrase of this Ordinance is severable from every other section, paragraph, sentence, clause or phrase of this Ordinance. It is hereby further declared to be the intention of the Mayor and Council that, to the greatest extent allowed by law, no section, paragraph, sentence, clause or phrase of this Ordinance is dependent upon any other section, paragraph, sentence, clause or phrase of this Ordinance.

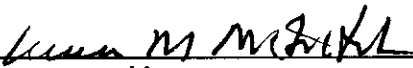
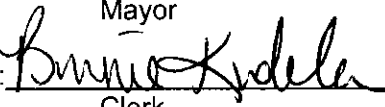
c. In the event any section, paragraph, sentence, clause or phrase of this Ordinance shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is the express intent of the Mayor and Council that such invalidity, unconstitutionality or unenforceability shall, to the greatest extent allowed by law, not render invalid, unconstitutional or otherwise unenforceable any of the remaining sections, paragraphs, sentences, clauses and phrases of this Ordinance and that, to the greatest extent allowed by law, all remaining sections, paragraphs, sentences, clauses



and phrases of the Ordinance shall remain valid, constitutional, enforceable and of full force and effect.

**BE IT FURTHER ORDAINED** that the preamble of this Ordinance shall be considered to be and is hereby incorporated by reference as if fully set out therein and the provisions of this Ordinance shall become and be made part of the Code of Ordinances, City of Moultrie, Georgia and the sections of this Ordinance may be renumbered or relettered to accomplish such intention and that all ordinances and parts of ordinances in conflict herewith be and the same are hereby repealed and that this Ordinance be codified in a manner consistent with the laws of the State of Georgia and City of Moultrie.

**CITY OF MOULTRIE**

By:   
Mayor  
Attest:   
Clerk

Read first and second times

4/4/2023

Read third time and passed

4/18/2023