

ARTICLE IV. LODGING OCCUPANCY EXCISE TAX

Sec. 20-60. Definitions.

The following words, terms and phrases shall, for the purposes of this article and except where the context clearly indicates a different meaning, be defined as follows:

City means the City of Kingsland and, variously, the incorporated territory of the city, wherein the City of Kingsland is empowered to impose this tax by O.C.G.A. § 48-13-51(a)(4), et seq.

City finance director means the duly appointed City Finance Director of the City of Kingsland or his or her designee.

Due date means the 20th day after the close of the monthly period for which the tax is to be computed.

Estimated tax liability means the lodging provider's prospective tax liability based upon the average monthly tax remittance in the prior fiscal year, as adjusted for change in tax rate or substantial change in circumstances due to damage to the lodging facility.

Folio means primary documentation produced by an innkeeper's lodging facility 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 lodging charges charged for each date together with the amounts of applicable excise tax(es), and the method(s) of payment.

Guest means any person who receives a room, lodging, or accommodation that is subject to the tax levied under this Code section.

Innkeeper means any person that furnishes for value to the public any room or rooms, lodgings, or accommodations within the City and that is licensed by, or required to pay business or occupation taxes to the City for operating a hotel, motel, inn, lodge, tourist camp, tourist cabin, campground, or any other place in which room or rooms, lodgings, or accommodations are regularly furnished for value. Without limiting the foregoing, the term innkeeper shall also include marketplace innkeepers, as that term is defined below.

Lodging Charges means the consideration received for the use or possession of any room, lodging, or accommodation. Said term include all consideration, 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 innkeeper to the guest, without any deduction therefrom whatsoever.

Lodging space means a room, quarters or space occupied, or intended, arranged, or designed for transient occupancy, by one or more occupants for the purpose of living quarters or residential use.

Lodging facility means any structure or any portion of a structure furnished by any person or legal entity licensed by or required to pay business or occupancy taxes to the municipality for operating a hotel, motel, inn, lodge, tourist camp, tourist cabin, campground, or any other place in which rooms, lodgings, or accommodations are regularly or periodically furnished for value to the public. Value may be paid in rent, money, goods, labor, or otherwise.

Marketplace innkeeper means a dealer as defined O.C.G.A. § 48-8-2(8)(M.3) that is required to collect and remit the tax imposed by O.C.G.A. § 48-8-1, et seq., for acting as a marketplace facilitator as such term is defined in O.C.G.A. § 48-8-2(18.1) for facilitating the furnishing for value to the public any room or rooms, lodgings, or accommodations on behalf of another person.

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~~Lodging provider means any person operating a lodging facility 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 lodging facility; and who is subject to the taxation imposed for furnishing for value to the public any rooms, lodgings, or accommodations.~~

Monthly period means the calendar months of any year.

~~Occupancy means the use or possession, or the right to the use or position of any guest quarter or apartment in a lodging facility or the use or possession of the furnishings or to the services and accommodations accompanying the use and possession of the room.~~

~~Occupant means any person who, for a consideration, uses, possesses, or has the right to use or possess any space in a lodging facility 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 lodging facility for not less than 30 continuous days next preceding such date.~~

Person means any 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 the United States, 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 there from whatsoever.~~

Tax means the excise tax on occupants imposed by this article, as authorized provided for by O.C.G.A. 48-13-51(a)(4), et seq.

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Sec. 20-61. Tax rate.

~~Unless an exemption under section 20-63 applies, there shall be levied and collected an excise tax at the rate of six percent upon the furnishing for value to the public of any room or rooms, lodgings, or accommodations facilitated or furnished by an innkeeper paid for every occupancy of a lodging space in a lodging facility in the city a tax at the rate of six percent of the amount of rent unless an exemption is provided under section 20-63.~~

Sec. 20-62. Collection of tax by ~~lodging provider~~innkeeper.

(a) ~~The excise tax shall be imposed on the innkeeper and shall apply to the furnishing for value of any room, lodging, or accommodation. Every person or entity subject to a tax levied as provided in this Article shall, except as provided elsewhere in this Article, be liable for the tax at the rate of six percent on the lodging charges actually collected or, if the amount of taxes collected from the guest is in excess of the total amount that should have been collected, the total amount actually collected must be remitted. Every lodging provider renting lodging space in this city shall collect a tax of six percent on the amount of rent from the occupant unless an exemption is provided under section 20-63. The lodging providerinnkeeper shall provide a receipt to each guestoccupant, which receipt shall reflect both the amount of lodging chargesrent and the amounts of this and other tax(es) applicable.~~

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(b) ~~Any tax levied as provided in this Article is also imposed upon every person or entity who is a guest and who receives a room, lodging, or accommodation that is subject to the tax levied under this Article. Every such guest subject to the tax levied under this Article shall pay the tax to the innkeeper providing or facilitating the room, lodging, or accommodation. The tax shall be a debt of the person obtaining the room, lodging, or~~

accommodation to the innkeeper providing or facilitating such room, lodging, or accommodation until it is paid and shall be recoverable at law by the innkeeper providing or facilitating such room, lodging, or accommodation in the same manner as authorized for the recovery of other debts. The innkeeper collecting the tax from the guest shall remit the tax to the City, and the tax remitted shall be a credit against the tax imposed by this Article on the innkeeper providing or facilitating the room, lodging, or accommodation.

~~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. The lodging provider shall be liable for any amount of tax that he fails to collect appropriately, and must remit to the city any amount of tax collected in excess of that which should have been collected.~~

Sec. 20-63. Exemptions.

The excise tax imposed by this Article shall not apply to:

- (a) Charges made for continuous use of any rooms, lodgings, or accommodations after the first 30 days of continuous occupancy. No tax shall be collected from an occupant of any lodging space in a lodging facility on the rent paid for day 31 and thereafter of continuous occupancy. That is, after the occupant has become a permanent resident;
- (b) Charges made for any rooms, lodgings, or accommodations provided to any persons ~~or from an occupant~~ who certifies in writing that ~~they are~~ ~~he is~~ staying in such accommodations as a result of ~~their~~ ~~his~~ residence having been destroyed by fire or other casualty;
- (c) Any rooms, lodgings, or accommodations furnished for a period of one or more days ~~or~~ for use by Georgia state or local governmental officials or employees when traveling on official business. Notwithstanding the availability of any other means of identifying the person as a state or local government official or employee, whenever a person pays for any rooms, lodgings, or accommodations with a state or local government credit or debit card, such rooms, lodgings, or accommodations shall be deemed to have been furnished for use by a Georgia state or local government official or employee traveling on official business for purposes of the exemption provided by this paragraph. For purpose of the exemption provided under this paragraph, a local government official or employee shall include officials or employees of counties, municipalities, consolidated governments, or county or independent school districts; ~~or-~~
- (d) The use of meeting rooms and other such facilities or any rooms, lodgings, or accommodations provided without charge.

Sec. 20-64. Registration of ~~lodging provider~~innkeeper; form and contents; execution; certificate of authority.

Every person engaging or about to engage in business as an innkeeper in this city shall immediately register with the city finance director on a form provided by said official. Persons engaged in such business must so register not later than 30 days after the date that this article 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 finance director. 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 case of ownership by a corporation, by an officer. The city finance director shall, after such registration, issue without charge a certificate of authority to each ~~lodging provider~~innkeeper to collect the tax from the ~~occupant~~guest. A separate registration shall be required for each place of business of an innkeeper. Each certificate shall state the name and location of the business to which it is applicable.

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Sec. 20-65. Determination generally; returns; payments.

- (a) *Due date of taxes.* All amounts of such tax shall be due and payable to the city finance director monthly on or before the 20th day of the month next succeeding the respective monthly period. The tax shall become delinquent for any monthly period after the 20th day of each succeeding month during which it remains unpaid.
- (b) ~~Civil Penalty and interest for failure to pay tax by due date.~~ *An lodging provider innkeeper* who fails to make any return or to pay the amount of tax as prescribed, shall, ~~in addition to other penalties and interest provided by law,~~ be assessed a specific penalty to be added to the tax in the amount of five percent or \$5.00, whichever is greater, if the failure is for one month or less; and an additional five percent or \$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 25 percent or \$25.00, whichever is greater.
- (c) ~~Interest for Failure to Pay Tax. The amount of the unpaid tax, exclusive of penalties, shall bear interest at the rate of one percent per month, or fraction thereof, from the twentieth day of the month following the monthly period, for which the amount or any portion thereof should have been returned, until the date of payment. Delinquent amounts shall bear interest at the rate of one percent per month, or fraction thereof, until paid.~~
- (d) ~~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 days of the due date, such return may be accepted exclusive of penalty and interest.
- (e) ~~Waiving of penalty and interest; authority.~~ O.C.G.A. § 48-2-41, relating to the authority to waive interest, and O.C.G.A. § 48-2-43, relating to the authority to waive penalty, shall apply; 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.
- (f) ~~Penalty for fraud.~~ 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 50 percent shall be assessed.
- (g) ~~Return; remittance; time of filing; lodging provider innkeepers required to file; contents.~~ On or before the 20th day of the month succeeding each monthly period, a return for the preceding monthly period together with appropriate remittance shall be filed with the city finance director. The return shall report the gross ~~rent~~ ~~lodging charges~~, taxable ~~rent~~ ~~lodging charges~~, exempt ~~rent~~ ~~lodging charges~~, amount of tax collected or otherwise due for the period, and such other information as may be required by the city finance director. However, if the estimated tax liability for any monthly period shall exceed \$2,500.00 for a ~~lodging provider innkeeper~~ who, in the prior fiscal year remitted tax greater than \$2,500.00 in any three consecutive months, such ~~lodging provider innkeeper~~ shall file an estimated return and remit not less than 50 percent of the estimated tax liability for the monthly period by the 20th day of that same monthly period. The amount of tax so remitted shall be credited against the amount to be due with the regular return for the monthly period to be filed on the 20th day of the succeeding month.
- (h) ~~Extension of time of filing; authority; requirements; remittance; penalty and interest.~~ The governing authority of the city may, for good cause, extend the time for making returns for not longer than 30 days. No extension shall be valid unless granted in writing upon written application of the ~~lodging provider innkeeper~~. Such grant may not be applicable for longer period than 12 consecutive months. A ~~lodging provider innkeeper~~ granted an extension shall remit tax equaling not less than 100 percent 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

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without the grant of extension. No penalty or interest shall be charged during the first ten days of the extension period. Thereafter, interest shall be collected on the unpaid balance at the rate of one percent per month.

- (h) *Collection fee allowed ~~lodging provider innkeepers~~. ~~Lodging provider innkeepers~~ 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 of the amount due, but only if the amount due was not delinquent at the time of payment.*

Sec. 20-66. Deficiency determinations.

- (a) *Recomputation of tax; authority to make; basis of recomputation.* If the city finance director 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 innkeeper~~, he ~~or 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 or more deficiency determinations may be made of the amount due for one or more monthly periods.
- (b) *Penalty and interest for failure to pay tax.* Penalty and interest shall be assessed upon the amount of any determination, as provided by section 20-65.
- (c) *Notice of determination; service of.* The city finance director shall give to the ~~lodging provider innkeeper~~ written notice of his determination. The notice may be served personally or by mail; if by mail, such service shall be addressed to the ~~lodging provider innkeeper~~ at his 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) *Time within which notice of deficiency determination to be mailed.* Except in cases of failure to make a return or of fraud, every notice of deficiency determination shall be mailed within three years after the 20th 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.
- (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.

Sec. 20-67. Determination if no return made.

- (a) *Estimate of gross receipts.* If any ~~lodging provider innkeeper~~ fails to make a return, the city finance director shall make an estimate of the amount of the gross receipts of the ~~lodging provider innkeeper~~, or as the case may be, of the amount of total ~~rent lodging charges~~ in this city which are subject to the tax. The estimate shall be made for the period or periods in respect to which the ~~lodging provider innkeeper~~ failed to make the return and shall be based upon any information which is or may come into the possession of the city finance director. Written notice shall be given in the manner prescribed in subsection 20-66(c).
- (b) *Penalty and interest for failure to pay tax.* Penalty and interest shall be assessed upon the amount of any determination, as provided by section 20-65.

Sec. 20-68. Collection of tax by city.

- (a) *Action for delinquent tax; time for.* 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 city finance director 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. However, t-he bringing of such an action shall not be a prerequisite for the issuance of a fieri facias (fi. fa.) under the provisions of this Article.

- (b) ~~Lodging provider~~innkeeper ~~selling or quitting business~~. If any ~~lodging provider~~innkeeper liable for any amount under this article sells ~~or quits-out~~ his ~~or her~~ business ~~or quits his business~~, he ~~or she~~ shall make a final return and remittance within 15 days after the date of selling or quitting the business.
- (c) *Duty of successors or assignees of ~~lodging provider~~innkeeper to withhold tax from purchase money.* If any ~~lodging provider~~innkeeper liable for any amount of tax, interest, or penalty under this article sells ~~out his business~~ or quits ~~his or her~~the business, ~~his or her~~his successors or assigns shall withhold sufficiently from the purchase price to cover such amount until the former owner produces from the city finance director either a receipt reflecting full payment or a certificate stating that no amount is due.
- (d) *Liability for failure to withhold.* If the purchaser of a business fails to withhold 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 ~~or her~~ to the extent of the purchase price.
- (e) *Credit for tax, penalty or interest paid more than once or erroneously or illegally collected.* 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~~innkeeper or person determines that he has overpaid or paid more than once, which fact has not been determined by the city finance director, such person shall 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 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.
- (f) The City is authorized to issue a fieri facias (fi. fa.) for execution and levy to satisfy the amount of any tax, penalty, or interest due but not paid under the provisions of this ordinance.

Sec. 20-69. Administration of article; recordkeeping.

- (a) *Authority of city finance director.* The city finance director shall administer and enforce the provisions of this ordinance for the collection of the tax.
- (b) *Records required from ~~lodging provider~~innkeepers, etc; form.* Every ~~lodging provider~~innkeeper ~~renting guest quarters~~ in the city shall preserve, for a minimum of three years, all folios, receipts, certificates of exemption and such other documents as the city finance director may prescribe, and in such form as he may require. Said records shall at all times be available for examination within the city.
- (c) *Examination of records; audits.* The city finance director or any person authorized in writing by him may examine the books, papers, records, financial reports, equipment and other facilities of any ~~lodging provider~~innkeeper ~~renting guest quarters and 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~~innkeeper, to ascertain and determine the amount required to be paid.
- (d) *Authority to require reports; contents.* In administration of the provisions of this article, the city finance director may require the filing of reports by any person or class of persons having in their possession or custody information relating to the ~~rent~~lodging charges of guest quarters which are subject to the tax. The reports shall be filed with the city finance director when required by said official, and shall set forth the ~~rent~~lodging charges charged for each occupancy, the date(s) of occupancy, the basis for exemption, or such other information as the city finance director may prescribe.

Sec. 20-70. Violations.

Any ~~lodging provider innkeeper~~ who fails, neglects or refuses to collect the tax as provided by section 20-62 shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than \$100.00, or confinement for a term not to exceed three months, or both fine and confinement. Any ~~lodging provider innkeeper~~ who fails or refuses to make any return as provided by section 20-65, 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 \$100.00, or confinement for a term not to exceed three months, or both. Any ~~lodging provider innkeeper~~ 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 \$100.00, nor more than \$300.00, or confinement for a term not to exceed three 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.

Sec. 20-71. ~~Effective date.~~

~~This article and the tax levied hereby shall become effective on the first day of the second month following its adoption.~~

Sec. 20-72. ~~Proceeds of tax.~~

The proceeds of this tax will be expended as required by O.C.G.A. § 48-13-51~~(a)(4)~~, *et seq.*

Secs. 20-72~~3~~—20-75. Reserved.

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