

**COUNTY OF DADE
STATE OF GEORGIA**

ORDINANCE NO. 07 – 05 – 18

AN ORDINANCE TO IMPLEMENT AN EXCISE TAX ON ROOMS, LODGINGS, AND ACCOMMODATIONS; TO PROVIDE FOR THE COLLECTION BY OPERATOR; TO PROVIDE FOR ADMINISTRATION; TO PROVIDE FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, the Board of Commissioners of Dade County (“Dade County”) is the county governing authority of Dade County, Georgia;

WHEREAS, O.C.G.A. § 48-13-51(b) authorizes county governing authorities to levy an excise tax on revenue derived from the furnishing of accommodations, and establishes procedures, conditions, and limitations for the same;

WHEREAS, the Board of Commissioners of Dade County, Georgia, is further authorized under O.C.G.A. § 48-13-51(b) to make available the funds so collected for the purpose of promoting, attracting, stimulating, and developing conventions and tourism in Dade County; and

WHEREAS, by prior resolution (R-06-18), the Board of Commissioners of Dade County, Georgia, has requested its local legislative delegation to introduce a local legislative act authorizing the adoption of a Hotel-Motel Tax;

WHEREAS, local legislation has been approved by the State of Georgia (2018 H.B. 980) authorizing Dade County to adopt a Hotel-Motel Excise Tax of up to eight percent (8%) as authorized pursuant to O.C.G.A. § 48-13-51(b) within a tax district comprised of the unincorporated areas of Dade County);

WHEREAS, public meetings have been held for citizen comments for such purposes;

NOW, THEREFORE, the Board of Commissioners of Dade County, Georgia, Georgia, does hereby adopt publish, promulgate, and ordain the following ordinance:

SECTION 1

Ordinance Name/Citation

This ordinance shall be known as the “Dade County Excise Tax on Rooms, Lodgings and Accommodations”.

SECTION 2

Authorization Paragraph Citation

This ordinance is enacted by virtue of the powers set out in O.C.G.A. § 48-13-51(b), as amended.

SECTION 3

Ordinance Purpose

The purpose of this ordinance is to enact an excise tax upon the furnishing for value to the public of any room or rooms, lodgings or accommodations furnished by any person or legal entity licensed by or required to pay business or occupational taxes to, Dade County for operating within the special district any lodging accommodations regularly furnished for value.

SECTION 4

Definitions

Definitions: As used in this ordinance, the following words, terms and phrases shall have the meanings ascribed to them herein, except when the context clearly indicates a contrary meaning.

- a. **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, business entity, or any other group or combination acting as a unit, to include the plural as well as the singular number, excepting, however, the United States of America, the State of Georgia, and any political subdivision of either thereof upon which the governing authority of Dade County is without power to impose the tax herein provided.
- b. **Tax:** means the tax on occupants imposed by this article, as provided by O.C.G.A. §48-13-51(b).
- c. **Estimated Tax Liability:** 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 hotel.
- d. **Lodging Operator:** any person operating any lodging accommodations (as set out herein) in Dade County, including, but not limited to, the owner or proprietor of such premises, the lessee, sub lessee, lender in possession, licensee, online travel companies, or any other person otherwise operating such hotel/motel, including private owners who rent or lease private residences for more than two days in any one year.
- e. **Occupant:** any person (or persons utilizing as a single unit) who, for a consideration, uses, possesses, or has the right to use or possess, any lodging accommodations under any lease, concession, permit, right of access, license, agreement or otherwise.

- f. **Occupancy:** the use or possession, or the right to use or possession, of any lodging accommodations, or the right to use or possession of the furnishings or to the services and accommodations accompanying the use and possession of the accommodations.
- g. **Lodging Accommodations:** any structure or improvement, or any portion of a structure or improvement, including without limitation any hotel, motel, motor hotel, inn, lodge, tourist camp, tourist cabin, campground, or any other place in which rooms, lodgings, or accommodations are regularly or periodically furnished for value and designed for occupancy by guests, whether rent is paid in money, goods, labor or otherwise.
- h. **Guest Room:** a room, rooms, or space, occupied, or intended, arranged, or designed for occupancy, by one or more occupants for the purpose of living quarters or residential use.
- i. **Rent:** the considerations or value received in money or otherwise, including all receipts, cash, credits, and property or services of all kind or nature, and also the amount for which credit is allowed by the operator to the occupant, without any deduction there-from whatsoever.
- j. **Permanent resident:** any occupant who as of a given date shall have occupied, or has or shall have the right of occupancy, of any guest room in a hotel for at least ninety (90) consecutive days.
- k. **Return:** any return filed or required to be filed as herein provided.
- l. **Due Date:** the twentieth (20th) day after the close of monthly period for which tax is to be computed.
- m. **Folio:** means the primary documentation produced by a lodging operator that demonstrates interaction between the operator 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(es), and the method(s) of payment.
- n. **Monthly Period:** means the calendar months of any year.

SECTION 5

Tax Rate

Rate of Taxation: There is hereby set and levied on the occupant of a lodging accommodation located within the special district a tax in the amount of eight percent (8 %) of the gross rent for such occupancy.

SECTION 6

Effective Date

Commencement/Effective Date of Ordinance: The tax herein imposed shall be paid upon any occupancy occurring on or after January 1, 2019, including, but not limited to such occupancy that was entered into pursuant to a contract, lease or other agreement entered into prior to such date.

SECTION 7

Tax Exemptions

Exemption from Tax: No tax shall be levied pursuant to this ordinance under the following situations:

- a. No tax shall be levied under this Section for the use of meeting rooms.
- b. No tax shall be levied under this Section for the use of any jail cell, detention center or other building where such housing or detention is under legal restraint.
- c. No tax shall be levied under this Section for the use of any hospital medical treatment facility.
- d. No tax shall be levied under this Section upon the fees or charges for any room, lodgings or accommodations furnished for a period of one or more days to the State of Georgia employees or officials when traveling on official business.
- e. No tax shall be levied under this Section upon the fees or charges for any room, lodging or accommodations furnished for a period of one or more days to local government employees or officials when traveling on official business.
- f. No tax shall be levied under this section for rentals over thirty (30) consecutive days.
- g. No tax shall be levied under this Section upon any persons who certify that they are staying in such room, lodging, or accommodation as a result of the destruction of their home or residence by fire or other casualty or natural disaster.

SECTION 8

Tax Exemption of Permanent Resident

Exemption – Permanent residences: Notwithstanding any other provision of this section, no tax shall be imposed hereunder upon a permanent resident.

SECTION 9

Instructions for Lodging Operator

Collection of tax by Lodging Operator: It shall be the duty of every Lodging Operator providing lodging accommodations within the jurisdictional boundaries of Dade County, Georgia to collect the tax on occupants as imposed herein.

SECTION 10

Lodging Operator Registration

Registration of Lodging Operator: Every person engaging in or about to engage in the business of providing lodging accommodations, as above defined, in the special district shall immediately register said business with the Dade County Tax Commissioner's Office, as the duly authorized representative of Dade County, on a form provided by the Dade County Tax Commissioner for such purpose. Persons engaged in

such business must so register no later than thirty (30) days after the date this section becomes effective, but such grace period for the filing of the registration after the effective date of the tax shall not relieve any person from the obligation of payment or collection of such tax on and after the date of imposition thereof.

- a. The required registration hereunder shall set forth the name under which the operator transacts business or intends to transact business; the location of the place or places of business, the mailing address of the business, the principal contact person at said business and such other information as would facilitate the collection of the tax.
- b. The registration shall be signed by the owner (if a natural person), by an officer (if a corporation) or a partner (if a partnership).
- c. A separate registration shall be required for each place of business of a Lodging Operator. However, a realtor offering cabins for rent shall be deemed to be one place of business and shall not require a separate registration for each cabin rented.
- d. An operator offering more than one cabin or unit for rent under the same federal and state tax identification number shall be required to file the same number of returns as required by the State of Georgia for the filing of state sales tax returns.

SECTION 11

Operating Certificate

Certificate of taxing authority: Upon the registration of an operator as hereinabove provided, the Dade County Tax Commissioner, as the duly authorized representative of Dade County, shall issue to such operator a certificate of authority to collect the tax on occupant. Each certificate shall state the name and location of the business or person to which it relates. In order to comply with the mandates of the applicable Laws of the State of Georgia, an administrative fee is hereby implemented on any business or person under the purview of the within ordinance. Said administrative fee shall be in the amount of \$25.00 payable annually. Said administrative fee shall be remitted to the Dade County Tax Commissioner, before the 1st day of January following the effective date of this ordinance. This administrative fee shall be \$75.00 in any year in which it is not paid before February 28. The Dade County Tax Commissioner, or designated representative, shall issue a lodging certificate to said enterprise paying said administrative fee.

SECTION 12

Tax Remittance

Due date and required report: All taxes levied by this Ordinance shall be due and payable to the Dade County Tax Commissioner or designated representative of Dade County, monthly, on or before the twentieth (20th) day of every month next succeeding each respective month in which taxes are collected, and payment shall be accompanied by return for the preceding monthly period showing the gross rent, rent from permanent residents, taxable rent, amount of tax collected or otherwise due for a period, and such other information as may be required by the Tax Commissioner or governing authority of Dade County, Georgia.

In the event that an Operator is permitted under applicable state guidelines to make quarterly sales tax returns to the State of Georgia, said Operator shall be permitted to make quarterly sales tax returns to Dade County, Georgia. At the time of registration, the Operator shall indicate that he is permitted to make quarterly sales tax returns together with month and day said quarterly returns are due. The failure of the Operator to indicate that he is permitted under applicable state statute to file quarterly reports will infer that monthly reports are due and collectable.

At the time any such report is due, the Operator shall file a copy of the corresponding state sales tax return for the sole purpose of verifying the sums reported and due.

In the event an Operator is permitted under applicable state guidelines to file annual excise, or lodging tax returns, to the State of Georgia, said operator is required to file monthly or quarterly returns for lodging tax to Dade County, Georgia.

In the event there are no rentals in a reporting period, lodging providers are required to file a return to Dade County, Georgia stating they had zero rentals for the period.

SECTION 13

Fund Transfer

Deposit to general fund: No later than the twenty-fifth (25th) day of each month, the Tax Commissioner shall transfer to the General Fund of Dade County Fund such excise taxes as have been paid under the provisions of this ordinance, and the statute-required portion of such funds shall thereafter at the direction of the Board of Commissioners be expended for the promotion of the tourism industry in Dade County, or such funds at the direction of the Board of Commissioners of Dade County, Georgia, may otherwise be expended for the purpose of promoting tourism, conventions and trade shows as provided by statute.

SECTION 14

Operator Collection Fee

Collection fee allowed operators: Operators collecting the tax levied hereunder 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. 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 15

Lodging Operator Records

Each operator collecting a tax under the provisions of this section shall keep for a period of at least three years all records, receipts, invoices, and other pertinent papers setting forth the rental charged for each occupancy, the date or dates of occupancy, and such other information as the County may, in writing, from time to time require.

SECTION 16

Termination of Business by Lodging Operator

If any operator becomes liable for any amount required to be paid by this section and subsequent thereto sells or quits the business, the successors or assignees of such operator shall withhold a sufficient amount of the purchase price to cover such amount due. In the event said purchaser of the business fails to withhold the required amount, he/she/it shall become personally liable for the extent of the tax owed, together with any applicable penalties and interest. Any operator or person who ceases to operate the entity under which the same is registered with the County, said operator or person must notify the Board of Commissioners, a political subdivision of the State of Georgia, or its designee, in writing within thirty (30) days of closing said enterprise.

SECTION 17

Duties of the Local Government Authority

The Dade County Tax Commissioner or designee of the Dade County Board of Commissioners shall administer and enforce the provisions of this section for the collection of the tax herein imposed, and in so doing shall have the following powers:

- (a) To examine, or authorize the examination of, books, papers, records, financial reports, equipment, and other facilities of any operator subject to this Ordinance, in order to verify the accuracy of any return made, or if no return is made by the operator, to ascertain and determine the amount required to be paid.
- (b) To require the filing of reports by any person or persons having in their possession or custody information relating to rentals which are subject to the tax herein levied; and,
- (c) To allow a credit on any amount due payable from persons who paid the tax herein levied but who were erroneously or illegally subjected thereto.

SECTION 18

Penalties for Violations of this Ordinance

The penalties for the violations of this ordinance shall be those as set forth in O.C.G.A. § 48-13-58 through 48-13-66, and shall include but not necessarily limited to the following:

Penalty and Interest: The operator, in the event of operator's failure to pay tax when due, shall pay a penalty of one percent (1 %) of the amount due plus interest on the total amount of delinquent taxes at the rate of one percent (1 %) per annum. In

addition, the operator shall not be entitled to the fee allowed in section 14 of this Ordinance. The late penalty will be strictly enforced.

Further Penalties Against the Lodging Operator:

- (a) If any operator fails to file a return as required under the provisions of this section, the County shall make an estimate of the amount of gross rentals which are subject to the tax. The estimate shall be made for the period or periods in which the operator failed to file the return and shall be based upon any information which is or may come into the possession of the County.
- (b) The Board of Commissioners of Dade County, Georgia, a political subdivision of the State of Georgia or its designated representative(s) shall give to the operator written notice of determination as herein provided. The notice may be served personally or by mail; if by mail such service shall be addressed to the operator at his/her/its last known address as it appears on any of the County's records. Service by mail is complete when delivered by certified mail with a receipt signed by the addressee.
- (c) The amount of the determination made hereunder shall bear interest at the rate of three-fourths of one percent per month, or a 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 day of payment.
- (d) In addition, a penalty of five percent (5%) of the tax due or \$5.00 whichever is greater for each 30 days or fraction thereof of delinquency, not to exceed twenty five percent (25%) or \$25.00 in the aggregate, whichever is greater, shall be assessed and paid by the operator to the County.
- (e) The estimated tax together with applicable penalties and interest may be collected utilizing any of the enforcement methods set forth in this Ordinance.

At any time within three years after any tax or any portion of such tax required to be collected becomes due and payable, the County Attorney at the direction of the Dade County Tax Commissioner or designee of the Dade County Board of Commissioners may bring an action in a court of competent jurisdiction in the name of the County to collect such amount due together with interest, court fees, filing fees, attorney's fees, and other legal fees incident thereto.

Any person who shall do anything prohibited by this Ordinance or who shall fail to do anything required by this Ordinance shall be guilty of a misdemeanor, amenable to the process of the Magistrate Court of Dade County, Georgia and upon conviction, shall be assessed with any penalty, including fine, confinement, or both, allowed by law for the violation of County Ordinances or Ordinances each and every day that such violation exists shall be deemed a separate offense.

In order to enforce this Ordinance or to correct or abate any violation of the Ordinance, the Board of Commissioners of Dade County, Georgia, in addition to other remedies may institute injunction, mandamus, or other appropriate action.

SECTION 19

Severability Clause and Repealer

- (a) If any paragraph, subparagraph, sentence, clause, phrase, or any portion of this Ordinance shall be declared invalid or unconstitutional by any Court of competent jurisdiction, or if the provisions of any part of this Ordinance as applied to any particular situation or set of circumstances shall be declared invalid or unconstitutional, such invalidity shall not be construed to affect the portions of this Ordinance not so held to be invalid, or the application of this Ordinance to other circumstances not so held to be invalid. It is hereby declared to be the intent of the Board of Commissioners to provide separable and divisible parts, and it does hereby adopt any and all parts hereof as may not be held invalid for any reason.
- (b) All Ordinances or parts of Ordinances in conflict with the terms of this Ordinance are hereby repealed, but it is hereby provided that any Ordinance or law which may be applicable hereto and aid in carrying out or making effective the intent, purpose and provisions hereof, which shall be literally construed to be in favor of Dade County is hereby adopted as part hereof.
- (c) The effective date of this Ordinance shall be the 1st day of January, 2019, only upon approval by the State of Georgia as required by law.

PROPOSED AND FIRST READING took place on the 7th day of June 2018.

SECOND READING AND ADOPTION took place on the 5th day of July 2018.



GEORGIA

**BOARD OF COMMISSIONERS
DADE COUNTY,**

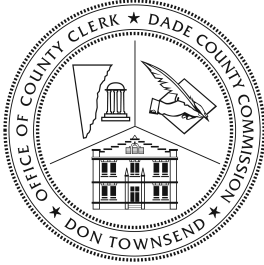
BY: _____
TED RUMLEY
Chairperson/County Executive

ATTEST:

BY: _____
DON TOWNSEND
County Clerk
Dade County, Georgia

CLERK'S CERTIFICATE

I, Don Townsend, County Clerk of Dade County Board of Commissioners, do hereby certify that the foregoing Ordinance constitutes a true and correct copy of the Ordinance, adopted on June 7, 2018 and July 5, 2018, by the Dade County Board of Commissioners. After due notice was given in accordance with law; and the Commission being duly called and assembled, at which a quorum was present, the Dade County Board of Commissioners did adopt the attached Ordinance, the original appearing as a public record in the Minute Book of said Commission which is in my custody and control.



Given under my hand and the Seal of Dade County this 5th day of July 2018.

Patrick D. Townsend, Jr.
County Clerk
Dade County, Georgia