



City of Lilburn

in Gwinnett County

State of Georgia

Ordinance

Number:

2022-584

Date of Reading and Adoption: April 11, 2022

At the meeting of the Lilburn City Council held at 340 Main Street, Lilburn, Georgia.

AN ORDINANCE TO MODIFY CHAPTER 62, TAXATION, OF THE CODE OF ORDINANCES OF THE CITY OF LILBURN, BY ADDING ARTICLE III, EXCISE TAX ON ROOMS, LODGING, AND ACCOMMODATIONS, TO PROVIDE FOR AN EFFECTIVE DATE, AND FOR OTHER PURPOSES.

Add the following to Chapter 62, Taxation, as Article III, Excise tax on rooms, lodging, and accommodations:

Sec. 63-80. Definitions

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

Guest room means 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 means any structure or any portion of a structure, including any lodging house, rooming house, dormitory, Turkish bath, bachelor hotel, studio hotel, motel, motor hotel, auto court, inn, public club, or private club, containing guest rooms and which is occupied, or is intended or designed for occupancy, by guests, whether rent is paid in money, goods, labor, or otherwise. It does not include any jail, hospital, asylum, sanitarium, orphanage, prison, detention, or other buildings in which human beings are housed and detained under legal restraint.

Innkeeper means:

- a) any person that furnishes for value to the public any room or rooms, lodgings, or accommodations in 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; or
- b) A dealer as defined by O.C.G.A. § 48-8-2 that is required to collect and remit the tax imposed by O.C.G.A. § 48-8-1 for acting as a marketplace facilitator for facilitating the furnishing for value to the public any room or rooms, lodgings, or accommodations on behalf of another person.

Marketplace facilitator means a person that contracts with a seller in exchange for any form of consideration to make available or facilitate a retail sale that is taxable on behalf of such seller by directly or through any agreement or arrangement with another person.

Occupancy means the use or possession, or the right to the use or possession of any room or apartment 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 means 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 means any person operating a hotel or short-term rental in the city including but not limited to the owner or proprietor of such premises, the lessee, the sublessee, lender in possession, licensee, or any other person operating such hotel or short-term rental.

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 operator to the occupant, without any deduction therefrom.

Short-term rental means a structure defined in section 14-500 of this Code.

Sec. 63-81. Tax levied; amount.

There is hereby imposed an excise tax in the amount of three percent of the charge to the public upon the furnishing for value of any room or rooms or lodging or accommodations furnished by any person licensed by or required to pay business or occupation taxes to Lilburn for operating a hotel within the meaning of this article.

Sec. 63-82. Effective date; limit on aggregate taxes.

The tax herein imposed shall be paid upon any occupancy occurring on or after July 1, 2022, although such occupancy is had pursuant to a contract, lease, or other agreement entered into prior to such date. No tax shall be levied under this section for the use of meeting rooms, and the aggregate of taxes levied upon rent for such occupancy shall not exceed eight percent of such rent.

Sec. 63-83. Collection of tax by operator.

Every operator maintaining a place of business in Lilburn, as provided in the next preceding section, and renting guest rooms in Lilburn, not exempted under section 63-84 shall collect a tax of three percent on the amount of rent from the occupant.

Sec. 63-84. Exemptions.

- (a) Notwithstanding any other provision of this chapter, no tax shall be imposed hereunder on accommodations furnished to a permanent resident, furnished for use a meeting rooms, or furnished for a period of one or more days for use by state or local government offices or employees traveling on official business.
- (b) The tax authorized by this chapter shall not apply to charges to any rooms, lodgings, or accommodations provided to 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.

Sec. 63-85. Payment dates; information required on return.

- (a) Due date of taxes. All amount of such taxes shall be due and payable to the Finance Director or designee monthly on or before the twentieth day of the next month following each respective period.
- (b) Return. 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 or designee showing the gross rent, rent from permanent residents, taxable rent, and amount of tax collected or otherwise due for the related period, and such other information as may be required by the Finance Director.

Sec. 63-86. Failure to file; tax estimate; notice of determination

- (a) Estimate of gross receipts. If any person fails to make a return, the Finance Director or designee 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 Lilburn which are subject to 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.
- (b) Interest on amount found due. The amount of the determination shall bear interest at a 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 should have been returned, until the date of payment.

Sec. 63-87. Authority of Finance Director; examination of records.

- (a) Every operator renting guest rooms in Lilburn to a person shall keep such records, receipts, invoices, and other pertinent papers in such form as the Finance Director may require.
- (b) 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 not return is made by the operator, to ascertain

and determine the amount required to be paid.

Sec. 63-88. Violations.

Any person violating any of the provisions of this article shall be deemed guilty of an offense and upon conviction thereof shall be punished as provided in section 1-8 of the Code of Ordinances of Lilburn. Each such person shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of the article is committed, continued, or permitted by such person, and shall be punished accordingly. Any operator or any 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 director or who renders a false or fraudulent return shall be deemed guilty of an offense and upon conviction thereof shall be punished as aforesaid.

Sec. 63-89. Collection of tax.

- a) *Action for 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 director may bring an action in a court of competent jurisdiction in the name of Lilburn to collect the amount delinquent together with interest, court fees, filing fees, attorney's fees and other legal fees incident thereto.
- b) *Duty of successors or assignees of operator to withhold tax from purchase money.* If any operator liable for any amount under this article sells out his business or quits the business, his successors or assigns shall withhold sufficient of the purchase price to cover such amount until the former owner produces a receipt from the director showing that he has been paid or a certificate stating that no amount is due.
- c) *Liability for failure to withhold; certificate of notice of amount due; time to enforce successor's liability.* If the purchaser of a business fails to withhold purchase price as required, he shall be personally liable for the payment of the amount required to be withheld by him to the extent of the purchase price.
- d) *Tax credit, or interest paid more than once or erroneously or illegally collected.* Whenever the amount of any tax or interest has been paid more than once or has been erroneously or illegally collected or received by Lilburn under this article, it may be offset by the director. If the operator or person determines that he has overpaid or paid more than once, which fact has not been determined by the director, he will have three years from date of payment to file a claim in writing stating the specific ground upon which claim is founded. The claim shall be audited. If the claim is approved by the director, the excess amount paid

Lilburn may be credited on any amounts then due and payable from the person by whom it was paid, or his administrators or executors.

Sec. 63-90. Proceeds.

The proceeds of the hotel motel tax will be used in accordance with the provisions of O.C.G.A. § 48-13-51(a)1.

Sec. 63-91 – 99. Reserved.

SO ORDAINED this the 11th day of April, 2022.

Tim Dunn, Mayor
City of Lilburn

ATTEST:

Melissa L. Penate, CMC
City Clerk