

**ORDINANCE FOR
EXCISE TAX ON ROOMS, LODGINGS, AND ACCOMODATIONS**

AN ORDINANCE TO CONTINUE THE LEVY OF EXCISE TAXES ON ROOMS, LODGINGS, AND ACCOMMODATIONS; TO CHANGE THE RATE THEREOF; TO SPECIFY THE EXPENDITURE OF THE PROCEEDS THEREOF; TO PROVIDE FOR RETURNS AND REMITTANCES, EXTENSIONS, ALLOWANCES TO COLLECTORS, THE KEEPING OF BOOKS AND RECORDS, EXCEPTIONS, REQUIREMENTS UPON INNKEEPERS SELLING OR QUITTING A BUSINESS, THE OBLIGATIONS OF STATE PARKS AND AUTHORITIES, THE OBLIGATIONS OF CHARITABLE TRUSTS, UNPAID TAXES, THE FAILURE TO MAKE RETURNS, INTEREST, PENALTIES, AND WAIVERS, PERIODS OF LIMITATION, ANNUAL REPORTS, AN EFFECTIVE DATE, THE TERMINATION OF PREVIOUSLY LEVIED TAX, AND THE REPEAL OF CONFLICTING ORDINANCES AND RESOLUTIONS.

BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF LOWNDES COUNTY:

Section 1. Statutory Authority.

This Ordinance is adopted pursuant to authority conferred by Article 13 of Title 48 of the Official Code of Georgia Annotated.

Section 2. Definitions.

As used in this Ordinance, the term:

- (a) "County" means Lowndes County, Georgia.
- (b) "Board" means the Board of Commissioners of the County.
- (c) "Destination marketing organization" shall having the meaning set forth in OCGA § 48-13-50.2.
- (d) "District" means the territorial limits of the special district located within the County created by OCGA § 48-13-50.1.
- (e) "Innkeeper" means any person who is subject to taxation under this Ordinance for the furnishing for value to the public any rooms, lodgings, or accommodations.
- (f) "Private sector nonprofit organization" shall having the meaning set forth in OCGA § 48-13-50.2.
- (g) "Promoting tourism, conventions, and trade shows" means planning, conducting, or participating in programs of information and publicity designed to attract or advertise tourism, conventions, or trade shows.

(h) "Tourism product development" means the expenditure of funds for the creation or expansion of physical attractions which are available and open to the public and which improve destination appeal to visitors, support visitors' experience, and are used by visitors. Such expenditures may include capital costs and operating expenses. Tourism product development may include:

- (1) Lodging for the public for no longer than 30 consecutive days to the same customer;
- (2) Overnight or short-term sites for recreational vehicles, trailers, campers, or tents;
- (3) Meeting, convention, exhibit, and public assembly facilities;
- (4) Sports stadiums, arenas, and complexes;
- (5) Golf courses associated with a resort development that are open to the general public on a contract or fee basis;
- (6) Racing facilities, including dragstrips, motorcycle racetracks, and auto or stock car racetracks or speedways;
- (7) Amusement centers, amusement parks, theme parks, or amusement piers;
- (8) Hunting preserves, trapping preserves, or fishing preserves or lakes;
- (9) Visitor information and welcome centers;
- (10) Wayfinding signage;
- (11) Permanent, nonmigrating carnivals or fairs;
- (12) Airplanes, helicopters, buses, vans, or boats for excursions or sightseeing;
- (13) Boat rentals, boat party fishing services, rowboat or canoe rentals, horse shows, natural wonder attractions, picnic grounds, river-rafting services, scenic railroads for amusement, aerial tramways, rodeos, water slides, or wave pools;
- (14) Museums, planetariums, art galleries, botanical gardens, aquariums, or zoological gardens;
- (15) Parks, trails, and other recreational facilities; or
- (16) Performing arts facilities.

Other terms defined in OCGA § 48-13-50.2 shall have the meanings in this Ordinance provided in said Code section.

Section 3. Resolution and Local Act.

This Ordinance is adopted subsequent and pursuant to:

(a) the Resolution of the Board made January 13, 2015 (the “Resolution”) specifying the subsequent rate of tax, identifying projects or tourism product development purposes, and specifying the allocation of proceeds of the tax, and

(b) House Bill 431, Act No. 216, of the Georgia General Assembly enacted during the 2015 Session of the General Assembly and approved by the Governor of the State of Georgia May 12, 2015 in accordance with OCGA § 48-13-51(b)(5) (“House Bill 431”).

Section 4. Contract with Authorized Entity; Budget Plans.

In accordance with OCGA § 48-13-51(e)(2), prior to each fiscal year of the County in which the tax is levied, the Board shall:

(a) contract with an authorized entity other than a destination marketing organization for the expenditure of certain expected proceeds of the tax levied by this Ordinance for promoting tourism, conventions, and trade shows;

(b) adopt a budget plan specifying how the expected proceeds of the tax levied by this Ordinance are to be expended; and

(c) prior to the adoption of such budget plan of the County, obtain from such authorized entity a budget plan for expenditures to be made by such entity for promoting tourism, conventions, and trade shows which shall be made a part of the budget plan of the County.

Section 5. Levy of Tax; Rate.

Within the District, the Board hereby levies an excise tax at the rate of seven percent (7%) of the charge for 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 occupation taxes to, the County for operating within the District 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.

Section 6. Expenditure.

Pursuant to and in accordance with the Resolution and House Bill 431, the proceeds of the tax levied by this Ordinance shall be allocated as follows:

(a) The amount of the proceeds of the tax equal to the amount which would be collected at the rate of 3 percent (3%), the expenditure of which is not governed by the remaining portions of this Section 6, shall be expended for such authorized purposes as are determined by the Board.

(b) In accordance with OCGA § 48-13-51(b)(6), the County shall expend an amount equal to the amount by which the total taxes levied by this Ordinance which would be collected at the rate of 5 percent (5%) exceed the taxes which would be collected at the rate of 3 percent (3%) for the purposes of promoting tourism, conventions, and trade shows in accordance with OCGA § 48-13-51(a)(3).

(c) In accordance with OCGA § 48-13-51(b)(5) and § 48-13-51(e)(2):

- (1) an amount equal to not less than fifty percent (50%) of the total amount of taxes collected that exceed the amount of taxes that would be collected at the rate of five percent (5%) shall be expended for promoting tourism, conventions, and trade shows: (A) by the destination marketing organization designated by the County, or (B) through a contract or contracts with an entity other than a destination marketing organization with which the County may continue to expend proceeds of the tax for promoting tourism, conventions, and trade shows pursuant to OCGA § 48-13-51(e)(2); and in the case of such clause (B), prior to each fiscal year in which the tax is imposed, the County shall adopt a budget plan specifying how the proceeds of such tax are to be expended and shall obtain from such entity with which the County proposes to contract to meet the expenditure requirements of such clause (B) a budget plan for expenditures to be made by such entity for promoting tourism, conventions, and trade shows with the budget plan of such entity to be made a part of the County budget plan; and
- (2) the remaining amount of the taxes collected that exceed the amount of taxes that would be collected at the rate of five percent (5%) which are not otherwise expended under paragraph (1) of this subsection (c) shall be expended for tourism product development.

As also provided in the Resolution, the projects or tourism product development purposes for tax levied by this Ordinance shall be the planning, conducting, or participating in programs of information and publicity designed to attract or advertise tourism, conventions, or trade shows in accordance with OCGA § 48-13-50.2(4) and the creation or expansion of physical attractions which are available and open to the public which improve the destination appeal to visitors, support visitors' experience, and which are used by visitors, the expenditures for which may include capital costs and operating expenses, in accordance with and including tourism product development purposes specified in OCGA § 48-13-50.2(6).

Section 7. Returns; Remittance.

Each Innkeeper, on or before the twentieth (20th) day of each month, shall transmit a return and remit taxes due showing the gross charges taxable under this Ordinance during the preceding calendar month. The returns required by this Section 7 shall be made upon such forms prescribed, prepared, and furnished by the County. The forms prescribed, prepared, and furnished by the County for making returns and remitting taxes due under this Ordinance shall provide for the disclosure of all information deemed necessary by the County for a determination of the taxes due under this Ordinance. The Innkeeper shall use only the forms prescribed, prepared, and furnished by the County. The Innkeeper shall complete the prescribed form(s) to disclose all information for which the form provides disclosure. An incomplete return form shall not be considered a return. An Innkeeper making an incomplete return form shall be subject to penalties as herein provided for the failure to make a return. The form(s) prescribed, prepared, and furnished by the County shall include the following declaration to be signed by the Innkeeper:

“Under penalty of perjury, I declare that I have examined this document and supporting documentation and to the best of my knowledge, information, and belief, they are true, correct, and complete.”

Together with each of its monthly returns, each Innkeeper shall also submit to the County a copy of its monthly return for the corresponding period required by the State of Georgia for reporting sales and use taxes (currently Georgia Department of Revenue Form ST-3). In the event there is no tax to be collected under this Ordinance by an Innkeeper for a month, such Innkeeper shall nevertheless file a return showing zero (-0-) as the tax collected for such month.

Section 8. Extensions; Failure to Make Return and Pay Required Tax.

- (a) In accordance with OCGA §48-13-53.3(a),
 - (1) The County may, for good cause, extend the time for making any returns required under this Ordinance for not more than 30 days.
 - (2) No extension granted pursuant to paragraph (1) of this subsection (a) shall be valid unless granted in writing upon written application, and then the extension shall only be valid for a period, as appropriate, of not more than 12 consecutive months or four consecutive calendar quarters.
 - (3) Upon the grant of any extension authorized by this subsection (a), the Innkeeper shall remit to the County on or before the date the tax would otherwise become due without the grant of the extension an amount which equals not less than 100 percent of the Innkeeper's payment for the corresponding period of the preceding tax year.
 - (4) No interest or penalty shall be charged by reason of the granting of an extension pursuant to this subsection (a) during the first ten (10) days of each extension period. Thereafter, interest shall be collected upon the

unpaid balance of the Innkeeper's liability at the rate of one (1%) percent per month as specified in Code Section 48-2-40 and for purposes thereof any period of less than one (1) month shall be considered one (1) month.

(b) In accordance with OCGA § 48-13-53.3(b), in the event any Innkeeper fails to make a return and pay the tax as provided by this Ordinance or makes a grossly incorrect return or a return that is false or fraudulent, the County shall make an estimate for the taxable period of taxable charges of the Innkeeper. Based upon its estimate, the County shall assess and collect the taxes, interest, and penalties, as accrued, on the basis of the assessments.

Section 9. Allowance to Collector.

As authorized by OCGA § 48-13-52, each person collecting the tax authorized by this Ordinance 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 due 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 10. Registration of Innkeeper; Certification of Registration.

Every Innkeeper in the District shall immediately register its business with the County for purposes of the tax and other provisions of this Ordinance. Such Innkeeper must so register such business no later than thirty (30) days after the date this Ordinance becomes effective or, if later, after the date the Innkeeper's such business begins, but such grace period for registration of such business after the effective date of the tax or after the date such business begins shall not relieve any person from the obligation of collection or payment of such tax on and after the date of imposition thereof.

(a) The required registration hereunder shall set forth the name under which the Innkeeper transacts business or intends to transact business; the street address location(s) of the place or places of business, the mailing address of the business, the principal contact person at such business, and such other information as the County may request.

(b) The registration shall be signed by the owner (if a natural person), by an officer (if a corporation), a manager or member (if a limited liability company), a partner (if a partnership), or authorized representative of any other entity.

(c) A separate registration shall be required for each place of business of an Innkeeper.

Upon the registration of an Innkeeper and its business as hereinabove provided, the County shall issue to such Innkeeper a certificate evidencing such registration. Each certificate shall state the name and location of the business or person to which it relates. The Innkeeper shall maintain such registration at the business for examination by the County.

Section 11. Records and Books.

(a) In accordance with OCGA § 48-13-53.4, each Innkeeper required to make a return and pay any tax under this Ordinance shall keep and preserve:

- (1) suitable records of the charges taxable under this Ordinance; and
- (2) other books of account which are necessary to determine the amount of tax due.

(b) All books, invoices, and other records required by this Section 11 to be kept shall be open to examination at all reasonable hours by the County.

Section 12. Exempt From Tax.

In accordance with OCGA § 48-13-51(h), the tax authorized by this Ordinance shall not apply to:

(a) Charges made for 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;

(b) The use of meeting rooms and other such facilities or any rooms, lodgings, or accommodations provided without charge;

(c) Any rooms, lodgings, or accommodations furnished for a period of one or more days 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 subsection (c). For purpose of the exemption provided under this subsection (c), a local government official or employee shall include officials or employees of counties, municipalities, consolidated governments, or county or independent school districts; or

(d) Charges made for continuous use of any rooms, lodgings, or accommodations after the first 30 days of continuous occupancy.

Section 13. Innkeepers Selling or Quitting Business.

In accordance with OCGA § 48-13-53.1, if any Innkeeper liable for any tax, interest, or penalty imposed by the Ordinance, sells his or her business or quits the business, he or she shall make a final return and payment of any and all tax, interest and penalty imposed by this Ordinance within fifteen (15) days after the date of selling or quitting the business. The Innkeeper's successors or assigns, if any, shall withhold a sufficient amount of the purchase price as required by said Code section and upon failing to do so shall be personally liable for the payment of any taxes, interest,

and penalties due under this Ordinance and unpaid by the former owner or assignor in an amount as provided in said Code Section.

Section 14. Lodges Operated Under Jurisdiction of Department of Natural Resources or Other State Authority.

Any state park or authority subject to OCGA § 48-13-54 shall agree as required by OCGA § 48-13-54 to collect and to remit to the County the amounts provided in OCGA § 48-13-54. The sums so collected and remitted shall be expended only as provided by OCGA § 48-13-54.

Section 15. Charitable Trusts.

A charitable trust or functionally related business of a charitable trust subject to OCGA § 48-13-55 shall be subject to taxes levied under this Ordinance only to the extent provided in said OCGA § 48-13-55. Amounts collected and remitted under the authority of this Section 15 and OCGA § 48-13-55 shall be expended solely as provided in said OCGA § 48-13-55.

Section 16. Unpaid Tax.

The tax imposed by this Ordinance shall become delinquent for each month after the twentieth (20th) day of each succeeding month during which it remains unpaid.

Section 17. Interest.

Taxes owed the County pursuant to this Ordinance shall bear interest at the rate of one percent (1%) per month from the date the tax is due until it is paid, in accordance with OCGA § 48-2-40. Any period of less than one (1) month shall be considered one (1) month.

Section 18. Penalties Added to Tax for Failure to Pay.

In accordance with OCGA § 48-13-58,

(a) When any Innkeeper fails to make any return or to pay the full amount of the tax required by this Ordinance, the County shall impose, in addition to other penalties provided by law, a penalty to be added to the tax in the amount of five (5%) percent or \$5.00, whichever is greater, if the failure is for not more than thirty (30) days and an additional five (5%) percent or \$5.00, whichever is greater, for each additional thirty (30) days or fraction of 30 days during which the failure continues. The penalty for any single violation shall not exceed 25 percent or \$25.00 in the aggregate, whichever is greater.

(b) If such failure is due to providential cause shown to the satisfaction of the Board in affidavit form attached to the return and remittance is made within ten (10) days of due date, the return may be accepted exclusive of penalties and interest.

(c) In the case of a false or fraudulent return or of a failure to file a return where willful intent exists to defraud the Board of any tax due under this Ordinance, a penalty of fifty (50%) percent of the tax due shall be assessed.

Section 19. Waiver of Interest and Penalties; Periods of Limitation.

The provisions of OCGA § 48-13-57 relating to authority to waive interest on unpaid taxes, authority to waive penalties, and periods of limitation for assessment of taxes shall apply to taxes imposed by this Ordinance. As such, the County may:

(a) Waive interest on unpaid taxes in accordance with OCGA § 48-2-41;

(b) Waive penalties in accordance with OCGA § 48-2-43; and

(c) The periods of limitation for assessment of taxes set forth in OCGA § 48-2-49 shall apply to the assessment of the amount of any tax imposed by this Ordinance.

Section 20. Annual Report to Department of Community Affairs.

The County shall, as a condition of continuing authorization to impose the tax levied by this Ordinance, annually file with the Georgia Department of Community Affairs the report required by OCGA § 48-13-56.

Section 21. Violations of Ordinance.

In addition to the other provisions of this Ordinance, to the fullest extent permitted by law, violations of this Ordinance may be cited to the Lowndes County Magistrate Court which may impose penalties for such violations in accordance with the provisions of OCGA § 4-10-15 governing violations of county ordinances.

Section 22. Effective Date.

This Ordinance shall become effective the first day of the second month following the adoption of this Ordinance.

Section 23. Termination of Previously Levied Tax.

The tax previously levied by the Board pursuant to OCGA § 48-13-51(a) shall terminate as of the effective date of this Ordinance.

Section 24. Severability of Provisions.

If any article, section, part, subpart, subsection, paragraph, item, sentence, clause, phrase or word of this Ordinance is declared or adjudged to be invalid or unconstitutional, such declaration or adjudication shall not affect the remaining provisions or portion of this Ordinance, which shall remain of full force and effect as if such portions so declared or adjudged invalid or

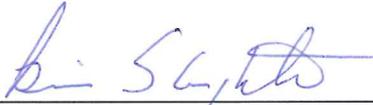
unconstitutional were not originally a part of this chapter. The Board declares that it would have enacted the remaining provisions or parts of this Ordinance had it known that such portion hereof would be declared and adjudged invalid or unconstitutional.

Section 25. Repealer.

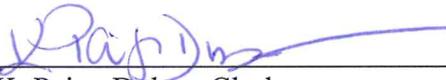
All ordinances or parts of ordinances, or resolutions or parts of resolutions, in conflict with this Ordinance shall be and the same are repealed as of the effective date of this Ordinance.

IT IS SO ORDIANED the 28th day June, 2016.

BOARD OF COMMISSIONERS
OF LOWNDES COUNTY

By: 

Bill Slaughter, Chairman

By: 

K. Paige Dukes, Clerk