

ORDINANCE NO. _____

WHEREAS, the General Assembly of Georgia has authorized cities and counties to levy a certain excise tax as described in Title 48, Chapter 13, Article 3 of the Official Code of Georgia Annotated, O.C.G.A. §§ 48-13-50 through 48-13-63, commonly known as the hotel-motel tax; and

WHEREAS, the City of Cartersville, Georgia, has imposed this hotel-motel tax for several decades; and

WHEREAS, technology has made it possible for persons or entities to offer lodging through the internet; and

WHEREAS, this technology allows persons to offer rooms in their home, accessory buildings, or other such structures or portions of structures as lodging; and

WHEREAS, these lodging innovations, along with more traditional lodging options, such as hotels and motels, are all available within the City of Cartersville; and

WHEREAS, these lodging innovations have become a burgeoning industry in the City of Cartersville, the State of Georgia, and the United States; and

WHEREAS, the City of Cartersville, Georgia, desires to clarify the applicability of its hotel-motel tax to these lodging innovations by revising and modernizing the Code of the City of Cartersville, Georgia, to better reflect technological changes and this burgeoning industry;

NOW, THEREFORE, these premises considered, the Mayor and City Council of the City of Cartersville hereby adopt this ordinance as follows:

SECTION I:

BE IT ORDAINED by the Mayor and City Council of the City of Cartersville, and it is ordained by authority of the same, that Chapter 10. Licenses, Taxation and Miscellaneous Business Regulations, Article III, Section 10-41. Definitions. of the Code of Ordinances of the City of Cartersville, Georgia, is hereby amended to revise the definitions of “Hotel,” “Occupancy,” and “Occupant,” and to add the terms “Innkeeper,” “Marketplace facilitator,” “Marketplace operator,” “Short-term rentals,” and “Tourism Development Purposes” so that said section now reads as follows in its entirety:

Section 10-41. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Due date means not later than the 20th day after the close of the monthly period for which the tax is to be computed.

Guestroom 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. It shall not include meeting rooms or exhibition halls.

Hotel means any structure or any portion of a structure in which a person furnishes for value to the public any rooms, lodgings, or accommodations, including, but not necessarily limited to, any lodginghouse, roominghouse, dormitory, cabin, vacation home, apartment, condominium, townhome, residence, accessory building, Turkish bath, bachelor hotel, studio hotel, motel, motor hotel, auto court, inn, public club, or private club, containing guestrooms and which is occupied or is intended or designed for occupancy by guests, whether rent is paid in money, goods, labor, or otherwise. For the purposes of this article, this term shall encompass any structure or portion of a structure that a person furnishes for value to the public for rooms, lodgings, or accommodations, and which such person advertises through a marketplace facilitator, common—but not exclusive—examples of which include Airbnb.com, Booking.com, Hometogo.com, and VRBO.com. This term does not include any jail, hospital, asylum, sanitarium, nursing or convalescent home, orphanage, prison, detention, or other building in which human beings are housed and detained under legal restraint.

Innkeeper means any person who is subject to taxation under this article for the furnishing for value to the public any rooms, lodgings, or accommodations; and any person or organization who voluntarily collects the tax under this article. For the purposes of this article, a marketplace facilitator shall be considered an innkeeper.

Marketplace facilitator means a person who contracts with the operator of a hotel, in exchange for any form of consideration, to make available or facilitate a rental that is taxable under this article on behalf of such operator by directly or through any agreement or arrangement with another person:

(a) Providing a service that makes available or facilitates such rental in any manner, including, but not limited to, promoting, marketing, advertising, taking orders or reservations for, providing the physical or electronic infrastructure that brings purchasers and operators together for, or otherwise similarly assisting the operator in making such rental, or transmitting or otherwise similarly communicating the offer and acceptance between the operator and the renter for, or otherwise similarly assisting the operator for such rental, but excluding merely processing the payments for such rental; and

(b) Collecting, charging, processing, or otherwise facilitating payment for such rental on behalf of the operator.

Marketplace operator means any operator who conducts a rental through or facilitated by any physical or electronic marketplace or platform operated directly or indirectly by a marketplace facilitator.

Monthly period means a calendar month of any year.

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 the use or possession of the furnishings or to the services and accommodations accompanying the use and possession of the room or apartment. This term shall include short-term rentals.

Occupant means any person who, for a consideration, uses, possesses, or has the right of occupancy of any guestroom 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 in the city including, but not limited to, the owner or proprietor of such premises, or a lessee, sublessee, lender in possession, licensee or any other person otherwise operating such hotel.

Permanent resident means any occupant of a hotel, once that occupant has stayed in the hotel for more than 30 consecutive days.

Person means 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 or any other group or combination acting as a unit, except the United States of America, the state and any political subdivision of either thereof upon which the city is without power to impose the tax provided in this article.

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 whatsoever.

Return means any return filed or required to be filed as provided in this article.

Short-term rental means the rental of a vacation home, apartment, guestroom, or any room of overnight lodging for a period of thirty (30) consecutive days or less. This term shall encompass the rental of a vacation home, apartment, guestroom, or any room of overnight lodging that a person advertises through a marketplace facilitator, common—but not exclusive—examples of which include Airbnb.com, Booking.com, Hometogo.com, and VRBO.com. Unless otherwise provided in this article, short-term rentals as defined herein shall be subject to the tax imposed by this article.

Tax means the tax imposed by this article.

Tourism development purposes means the expenditure of funds, which may include capital costs and operating expenses, 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.

Travel trailer means any moveable vehicle or structure, including trailers, campers, vans, buses, motor homes, and other recreation vehicles.

Travel trailer park means a facility providing space for the parking of trailers, campers, vans, buses, or motor homes.

SECTION II:

BE IT ORDAINED by the Mayor and City Council of the City of Cartersville, and it is ordained by authority of the same, that Chapter 10. Licenses, Taxation and Miscellaneous Business Regulations, Article III, Section 10-44. Collection of Tax by Operator. of the Code of Ordinances of the City of Cartersville, Georgia, is hereby amended to read as follows in its entirety:

Sec. 10-44. - Collection of tax by operator or marketplace facilitator; receipt to occupant; rules for reporting and remittance of taxes collected.

- (a) Every operator renting guestrooms in the city shall collect a tax of eight percent on the amount of rent from the occupant unless an exemption is provided under section 10-43.
- (b) Such operator shall provide a receipt to each occupant to whom the tax is charged, showing the amount of rent and the amount of all taxes by category.
- (c) Any marketplace facilitator who facilitates for a marketplace operator the renting of a guestroom in the city that is subject to the tax imposed under this article shall be responsible for collecting, reporting, and remitting the tax in the same manner as an operator. If a marketplace facilitator is responsible for collecting, reporting, and remitting the taxes imposed in this article, then the marketplace operator shall be relieved of such responsibility. Any marketplace facilitator who fails to collect, report, or remit taxes as required under this article shall be liable in the same manner as an operator and shall be subject to all the administrative and remedial provisions of this article.
- (d) All taxes shall be due and collected at the same time that the rent is collected.
- (e) The proceeds of such taxes shall be used in accordance with O.C.G.A. § 48-13-51(b).

SECTION III:

BE IT ORDAINED by the Mayor and City Council of the City of Cartersville, and it is ordained by authority of the same, that Chapter 10. Licenses, Taxation and Miscellaneous Business Regulations, Article III, Section 10-46. Registration of Operator; Certificate of Authority. of the Code of Ordinances of the City of Cartersville, Georgia, is hereby amended to read as follows in its entirety:

Sec. 10-46. - Registration of operator and marketplace operator; form and contents; execution; certificate of authority.

- (a) Every person engaging or about to engage in business as an operator in the city shall immediately register with the city clerk on a form provided therefrom. 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 collection of the tax as the city clerk may require. 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 the case of ownership by a corporation, by an officer. The city clerk shall, after such registration, issue without charge a certificate of authority to each operator to collect the tax from the occupant. A separate registration shall be required for each place of business of an operator. Each certificate shall state the name and location of the business to which it is applicable.
- (b) Each marketplace operator engaging or about to engage in short-term rental activities in the city shall register with the city clerk on a form provided therefrom. Such registration shall set forth the name under which such person transacts business or intends to transact business, the physical address of the guestrooms for rent in the city, and such other information which would facilitate the collection of the tax as the city clerk may require. 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 the case of ownership by a corporation, by an officer. On his or her application, a marketplace operator shall designate the marketplace facilitator(s) through whom he or she facilitates the renting of a guestroom in the city. If a marketplace operator makes any substantial changes to his or her registration, such as changes to the marketplace facilitator(s) through whom he or she facilitates the renting of a guestroom or the location or the number of guestroom(s), he or she must file an amendment to his or her registration within fifteen (15) days of any such change on a form provided therefore.

SECTION IV:

BE IT ORDAINED by the Mayor and City Council of the City of Cartersville, and it is ordained by authority of the same, that Chapter 10. Licenses, Taxation and Miscellaneous Business Regulations, Article III, Section 10-47. Determination, returns and payments. of the Code of Ordinances of the City of Cartersville, Georgia, is hereby amended to read as follows in its entirety:

Sec. 10-47. - Determination, returns, and payments.

- (a) All amounts of the tax shall be due and payable monthly on or before the 20th day of every month next succeeding each respective monthly period.
- (b) On or before the 20th day of the month following each monthly period, each operator shall file a return with the city clerk, showing the gross rent, rent from permanent residents, rent from government officials or employees while traveling on official business, taxable rent, amount of taxes due for the related period, and such other information as may be required by the city clerk.
- (c) Operators and marketplace facilitators who collect, report, and submit the tax shall be allowed a percentage of the tax due and accounted for and shall be reimbursed in the form of a deduction on the amount due, if such amount is not delinquent at the time of payment. The rate of deduction shall be the rate authorized for deductions from the state sales and use tax under O.C.G.A. §§ 48-8-1, et seq.

SECTION V:

These ordinances shall become effective July 1, 2021.

SECTION VI:

BE IT ORDAINED by the Mayor and City Council of the City of Cartersville, and it is ordained by authority of the same, that if any portion of this ordinance is for any reason found to be invalid or unconstitutional by the final decision of any tribunal of competent jurisdiction, it is the intention of the Mayor and City Council of the City of Cartersville that the remainder of this ordinance shall be in full force and effect.

SECTION VI:

BE IT ORDAINED by the Mayor and City Council of the City of Cartersville, and it is ordained by authority of the same, that all ordinances or parts of ordinances in conflict herewith be, and the same are hereby, repealed.

FIRST READING: _____
SECOND READING: _____

MATTHEW J. SANTINI, MAYOR

ATTEST: _____
JULIA DRAKE, CITY CLERK