

**STATE OF GEORGIA
COUNTY OF CLAYTON**

ORDINANCE NO. 2024-__

1 AN ORDINANCE BY THE MAYOR AND CITY COUNCIL OF THE CITY OF
2 FOREST PARK, GEORGIA TO AMEND CHAPTER 5 (HOTEL, MOTEL, LODGING EXCISE
3 TAX) WITHIN TITLE 3 (FINANCE) IN THE CITY’S CODE OF ORDINANCES; TO
4 PROVIDE AN ADOPTION DATE; TO PROVIDE AN EFFECTIVE DATE; AND FOR OTHER
5 LAWFUL PURPOSES.

6 **WHEREAS**, the duly elected governing authority of the City of Forest Park, Georgia (the
7 “City”) is the Mayor and Council thereof; and

8 **WHEREAS**, O.C.G.A. § 36-35-3 provides cities the power to adopt clearly reasonable
9 ordinances, resolutions or regulations relating to the cities’ property and affairs; and

10 **WHEREAS**, the City desires to amend its Code of Ordinances (“Code”) to adhere to new
11 hotel, motel, and other similar accommodation tax provisions pursuant to the recently adopted
12 City of Forest Park Act 435 and O.C.G.A. § 48-13-51; and

13 **WHEREAS**, the amendments contained herein would benefit the health, safety, morals,
14 and welfare of the citizens of the City.

15 **BE IT AND IT IS HEREBY ORDAINED BY THE MAYOR AND COUNCIL OF**
16 **THE CITY OF FOREST PARK, GEORGIA THAT**, and by the authority thereof:

17 **Section 1.** Title 3 (“Finance”), Chapter 5 (“Hotel, motel, lodging excise tax”) in the City’s
18 Code is hereby amended by deleting all text within the chapter in its entirety, and inserting new
19 language in lieu of, to be read and codified as set forth in **Exhibit A** attached hereto and
20 incorporated herein.

21 **Section 2.** The preamble of this Ordinance shall be considered to be and is hereby
22 incorporated by reference as if fully set out herein.

23 **Section 3.** This Ordinance shall be codified in a manner consistent with the laws of the
24 State of Georgia and the City.

25 **Section 4.** (a) It is hereby declared to be the intention of the Mayor and Council that all
26 sections, paragraphs, sentences, clauses, and phrases of this Ordinance are or were, upon their
27 enactment, believed by the Mayor and Council to be fully valid, enforceable, and constitutional.

28 (b) It is hereby declared to be the intention of the Mayor and Council that, to the greatest
29 extent allowed by law, each and every section, paragraph, sentence, clause, or phrase of this
30 Ordinance is severable from every other section, paragraph, sentence, clause, or phrase of this
31 Ordinance. It is hereby further declared to be the intention of the Mayor and Council that, to the
32 greatest extent allowed by law, no section, paragraph, sentence, clause, or phrase of this Ordinance
33 is mutually dependent upon any other section, paragraph, sentence, clause, or phrase of this
34 Ordinance.

35 (c) In the event that any phrase, clause, sentence, paragraph or section of this Ordinance
36 shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise unenforceable
37 by the valid judgment or decree of any court of competent jurisdiction, it is the express intent of
38 the Mayor and Council that such invalidity, unconstitutionality or unenforceability shall, to the
39 greatest extent allowed by law, not render invalid, unconstitutional or otherwise unenforceable any
40 of the remaining phrases, clauses, sentences, paragraphs or sections of the Ordinance and that, to
41 the greatest extent allowed by law, all remaining phrases, clauses, sentences, paragraphs and
42 sections of the Ordinance shall remain valid, constitutional, enforceable, and of full force and
43 effect.

44 **Section 5.** All ordinances and parts of ordinances in conflict herewith are hereby expressly
45 repealed.

46 **Section 6.** The effective date of this Ordinance shall be the date of adoption unless
47 otherwise stated herein.

48 **Section 7.** The City Clerk, with the concurrence of the City Attorney, is authorized to
49 correct any scrivener’s errors found in this Ordinance, including any exhibits, as enacted.

50 **ORDAINED** this _____ day of _____, 2024.

CITY OF FOREST PARK, GEORGIA

Angelyne Butler, *Mayor*

ATTEST:

City Clerk (SEAL)

APPROVED AS TO FORM:

City Attorney

EXHIBIT A

CHAPTER 5. – HOTEL, MOTEL, LODGING EXCISE TAX

51 *Sec. 3-5-1. – Purpose.*

52 (a) The purpose of this chapter is to enact an excise tax upon the furnishing for value to the
53 public of any room or rooms, lodgings or accommodations furnished by any person or
54 legal entity licensed by or required to pay business or occupational taxes to the City of
55 Forest Park, Georgia for operating within the city a hotel, motel, inn, lodge, tourist
56 camp, tourist cabin, campground, rental cabin, or any other place in which rooms,
57 lodgings, or accommodations are regularly furnished for value.

58
59 (b) The authority to levy the excise tax herein is granted in Act 435 (HB 921) of the 2024
60 Regular Session of the Georgia General Assembly, enacted in accordance with the
61 procedures set forth in O.C.G.A. § 48-13-51.

62 *Sec. 3-5-2. – Definitions.*

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

65 (1) *Due date.* The twentieth (20) calendar day after the close of monthly period for which
66 tax is to be computed. (O.C.G.A. § 48-13-50.2(1)).

67
68 (2) *Guest room.* Accommodations occupied, or intended, arranged, or designated for
69 transient occupancy of not more than thirty (30) continuous calendar days by one or
70 more occupants for the purpose of living quarters or residential use. (O.C.G.A. § 48-
71 13-51(h)(4)).

72 (3) *Hotel or motel.* Any structure or any portion of a structure, including any lodging
73 house, rooming house, dormitory, Turkish bath, bachelor hotel, studio hotel, motel,
74 motor hotel, auto court, inn, tourist camp, tourist cabin, public club, or private club,
75 containing guest rooms and which is occupied, or is intended or designed for
76 occupancy, by guests, whether rent is paid in money, goods, labor, or otherwise. It
77 does not include any jail, hospital, asylum, sanitarium, orphanage, prison, detention
78 or other building in which human beings are housed and detained under legal
79 restraint.

80 (4) *Monthly period.* The calendar months of any year.

81 (5) *Occupancy.* The use or possession, or the right to the use or possession of any room
82 or apartment in a hotel or the right to the use of possession of the furnishings or to
83 the services and accommodations accompanying the use and possession of the room.

84 (6) *Occupant*. Any person who, for a consideration, uses, possesses, or has the right to
85 use or possess any room in a hotel under any lease, concession, permit, right of
86 access, license to use or other agreement, or otherwise.

87 (7) *Operator*. Any person operating a hotel or motel in the City, including, but not limited
88 to the owner or proprietor of the premises, lessee, sublessee, lender in possession,
89 license or any other person otherwise operating a hotel or motel.

90 (8) *Permanent resident*. Any occupant as of a given date who has or shall have occupied,
91 or has or shall have the right of occupancy, of any guest room in a hotel or motel for
92 at least thirty (30) consecutive calendar days next preceding the given date; provided
93 that state or local government officials and employees revealing on official
94 governmental business shall be considered permanent resident pursuant to O.C.G.A.
95 § 48-13-51(g)(3).

96 (9) *Person*. An individual, firm, partnership, joint venture, association, social club,
97 fraternal organization, joint stock company, corporation, nonprofit corporation or
98 cooperative nonprofit membership, estate, trust, business trust, receiver, trustee,
99 syndicate, or any other group or combination acting as a unit, the plural as well as the
100 singular number, excepting the United States of America, the State of Georgia, and
101 any political subdivision of either thereof upon which the City is without power to
102 impose the tax herein provided.

103 (10) *Rent*. The consideration received for occupancy valued in money, whether received
104 in money or otherwise, including all receipts, cash, credits and property or services
105 of any kind or nature, and the amount for which credit is allowed by the operator to
106 the occupant, without any deduction therefrom whatsoever.

107 (11) *Tax*. The tax imposed by this chapter.

108 (12) *Tourism product development*. The expenditure of funds for the creation or expansion
109 of physical attractions which are available and open to the public and which improve
110 destination appeal to visitors, support visitors' experience, and are used by visitors.
111 Such expenditures may include capital costs and operating expenses. Tourism
112 product development may include:

113 a. Lodging for the public for no longer than thirty (30) consecutive calendar days
114 to the same customer;

115 b. Overnight or short-term sites for recreational vehicles, trailers, campers, or
116 tents;

117 c. Meeting, convention, exhibit, and public assembly facilities;

118 d. Sports stadiums, arenas, and complexes;

- 119 e. Golf courses associated with a resort development that are open to the general
120 public on a contract or fee basis;
- 121 f. Racing facilities, including dragstrips, motorcycle racetracks, and auto or
122 stock car racetracks or speedways;
- 123 g. Amusement centers, amusement parks, theme parks, or amusement piers;
- 124 h. Hunting preserves, trapping preserves, or fishing preserves or lakes;
- 125 i. Visitor information and welcome centers;
- 126 j. Wayfinding signage;
- 127 k. Permanent, nonmigrating carnivals or fairs;
- 128 l. Airplanes, helicopters, buses, vans, or boats for excursion or sightseeing;
- 129 m. Boat rentals, boat party fishing services, rowboat or canoe rentals, horse
130 shows, natural wonder attractions, picnic grounds, river-rafting services,
131 scenic railroads for amusement, aerial tramways, rodeos, water slides, or wave
132 pools;
- 133 n. Museums, planetariums, art galleries, botanical gardens, aquariums, or
134 zoological gardens;
- 135 o. Parks, trails, and other recreational facilities; or
- 136 p. Performing arts facilities. (O.C.G.A. § 48-13-50.2(6)).

137 *Sec. 3-5-3. – Tax levied.*

138 There is hereby levied and imposed an excise tax on any person or legal entity licensed
139 by or required to pay a business or occupation tax to the City of Forest Park, Georgia for
140 operating a hotel, as defined under this ordinance. This excise tax shall be eight percent (8%) of
141 the charge to the public for such rooms, lodgings, or accommodations, and shall go into effect
142 on August 1, 2024, pursuant to O.C.G.A. § 48-13-51(g). This excise tax shall be imposed under
143 the authorization of Act 435 HB 921 of the 2024 Regular Session of the Georgia General
144 Assembly pursuant to O.C.G.A. § 48-13-51.

145 *Sec. 3-5-4. – Exemptions.*

146 Except as otherwise provided in O.C.G.A. § 48-13-51(h), as amended, this tax shall not
147 apply to:

- 148 (1) the charges for the use of meeting rooms or for any rooms, lodgings, or
149 accommodations provided to any persons who certify that they are staying in such
150 room lodging, or accommodation due to the destruction of their home or residence
151 by fire or other casualty;
- 152 (2) The use of meeting rooms and other such facilities or any rooms, lodgings, or
153 accommodations provided without charge;
- 154 (3) Any rooms, lodgings, or accommodations furnished for a period of one or more days
155 for use by Georgia state or local governmental officials or employees when traveling
156 on official business. Notwithstanding the availability of any other means of
157 identifying the person as a state or local government official, whenever a person pays
158 for any rooms, lodgings, or accommodations with a state or local government credit
159 or debit card, such rooms, lodgings, or accommodations shall be deemed to have
160 been furnished for use by a Georgia state or local government official traveling on
161 official business for purposes of the exemption provided by this paragraph. For
162 purpose of the exemption provided under this paragraph, a local government official
163 shall include officials or employees of counties, municipalities, consolidated
164 governments, or county or independent school districts; or
- 165 (4) Charges made for continuous use of any rooms, lodgings, or accommodations after
166 the first thirty (30) calendar days of continuous occupancy.

167 *Sec. 3-5-5. - Use of revenue.*

- 168 (a) Pursuant to O.C.G.A. § 48-13-51(b)(5)(A), an amount equal to not less than fifty percent
169 (50%) of the total amount of taxes collected that exceed the amount of taxes that would
170 be collected at the rate of five percent (5%) shall be expended for promoting tourism,
171 conventions, and trade shows by the destination marketing organization, as defined in
172 this ordinance, designated by the city council of the City of Forest Park, Georgia; and
- 173 (b) Pursuant to O.C.G.A. § 48-13-51(b)(5)(B), the remaining amount of taxes collected that
174 exceed the amount of taxes that would be collected at the rate of five percent (5%) which
175 are not otherwise expended under (a) of this Section shall be expended for tourism
176 product development, as defined in this ordinance.

177 *Sec. 3-5-6. - Collection of tax by operator.*

178 Every such guest subject to the tax levied under this chapter shall pay the tax to the person
179 or entity providing the room, lodging, or accommodation. The tax shall be a debt of the person
180 obtaining the room, lodging, or accommodation to the person or entity providing such room,
181 lodging, or accommodation until it is paid and shall be recoverable at law by the person or entity
182 providing such room, lodging, or accommodation in the same manner and authorized for other
183 debts. The person or entity collecting the tax shall remit the tax to the City of Forest Park,
184 Georgia, and the tax remitted shall be a credit against the tax imposed by this section on the
185 person or entity providing the room, lodging, or accommodation.

186 *Sec. 3-5-7. - Registration of operator; form and contents; execution; certificate of authority.*

187 Every person engaging or about to engage in business as an operator of a hotel or motel
188 in this City shall immediately register with the City Manager, on a form provided by the City.
189 Persons engaged in that business must so register no later than thirty (30) calendar days after the
190 date this chapter becomes effective and the tax is imposed, by the privilege of registration after
191 the imposition of the tax shall not relieve any person from the obligation of payment or collection
192 of tax on and after the date of imposition thereof, regardless of registration.

193 *Sec. 3-5-8. - Determination; due date; returns and payments; collection fee.*

194 (a) All amounts of the tax shall be due and payable to the City's Finance Director monthly
195 on or before the due date, as defined by this ordinance, of every month succeeding each
196 respective monthly period.

197 (b) On or before the due date of the month following each monthly period, a return for the
198 preceding monthly period shall be filed with the City Manager showing the gross rent,
199 rent from permanent residents, taxable rent, amount of tax collected or otherwise due for
200 the related period, and any other information as may be required by the City Manager.

201 (c) Operators collecting a tax shall be allowed a percentage of the tax due and accounted for
202 and shall be reimbursed in the form of a deduction in submitting, reporting, and payment
203 of the tax due, only if the amount is not delinquent at the time of payment. The rate of
204 deduction shall be three percent of the amount due.

205 *Sec. 3-5-9. - Deficiency determination; interest; notice.*

206 (a) If the City Finance Director is not satisfied with the return or returns of the tax or the
207 amount of the tax required to be paid to the City by any person, he or she may compute
208 and determine the amount required to be paid upon the basis of any information within
209 his possession or that may come into his possession and shall report such discrimination
210 may be made of the amount due for one or more monthly periods.

211 (b) The amount of the determination shall bear interest at the rate of one percent (1%) per
212 month, or fraction thereof from the due date of taxes.

213 (c) The City Manager or his/her designated representative shall give to the operator written
214 notice of the determination. The notice may be served personally or by mail; if by mail
215 the service shall be addressed to the operator at the address as it appears in the records of
216 the City Manager. Service by mail is complete when delivered by certified mail with a
217 receipt signed by addressee.

218 (d) Except in the case of failure to make a return, every notice of a deficiency determination
219 shall be mailed within three (3) years after the twentieth (20th) day of the calendar month
220 following the monthly period for which the amount is proposed to be determined, or
221 within three (3) years after the return is filed, whichever period should last expire.

222 *Sec. 3-5-10. - Determination if no return made; interest.*

223 (a) If any person fails to make a return, the City's Finance Director shall make an estimate
224 of the amount of the gross receipts of the person, or as the case may be, of the amount of
225 the total rentals in the City which are subject to the tax. The estimate shall be made for
226 the period or periods in respect to which person fails to make the return and shall be
227 based upon any information which is or may come into the possession of the City's
228 Finance Director. Such determination shall be reported to and confirmed by the
229 governing authority. Written notice of the determination shall be given in a manner
230 prescribed in section 3-5-9(c).

231 (b) The amount of the determination shall bear interest at the rate of one percent (1%), or
232 fraction thereof, from the due date following the monthly period, for which the amount
233 or any portion thereof should have been returned, until the date of payment.

234 (c) In addition to the interest provided for by subsection (b) of this section, delinquent
235 penalties shall be added to all unpaid balances at the rates prescribed by O.C.G.A. § 48-
236 13-58.

237 *Sec. 3-5-11. - Administration of chapter; authority of city manager; records.*

238 (a) The City Manager shall administer and enforce the provisions of this chapter for the
239 collection of the tax imposed by this chapter.

240 (b) Every operator renting guest rooms in this City to a person shall keep any records,
241 receipts, invoices, and other pertinent papers in any form as the City Manager may
242 require.

243 (c) The City Manager or any person authorized in writing by the City Manager may examine
244 books, papers, records, financial reports, equipment and other facilities of any operator
245 renting guest rooms to a person and any operator liable for the tax, in order to verify the
246 accuracy of any return made, or if no return is made by the operator, to ascertain and
247 determine the amount required to be paid.

248 (d) In administration of the provisions of this chapter, the City Manager may require the
249 filing of reports by any person or class of person having in that person's possession or
250 custody, information relation to rentals of guest rooms which are subject to the tax. The
251 reports shall be filed with the City Manager and shall set forth the rental charge for each
252 occupancy, the date or dates of occupancy, and any other information as the City may
253 require.

254 *Sec. 3-5-12. - Violations.*

255 (a) Any person responsible for reporting, return or payment of the taxes levied pursuant to
256 this chapter shall be punished as provided in O.C.G.A. § 48-13-58.1 through 48-13-63.
257 In the event any such person is in violation of any of the provision of this chapter that are

258 not otherwise covered by state law then, upon conviction, such person shall be deemed
259 guilty of an offense and shall be punished in municipal court to the extent of that court's
260 authority.

261 (b) Such person shall be guilty of a separate offense for each and every calendar day during
262 any portion of which any violation of any provision of this chapter is committed,
263 continued, or permitted by that person, and shall be punished accordingly. Any operator
264 or any other person who fails to register as required herein, or to furnish any return
265 required to be made, or who fails or refuses to furnish a supplemental return or other data
266 required by the City, or who renders a false or fraudulent return shall be deemed guilty
267 of an offense and upon conviction thereof shall be punished as aforesaid.

268 *Sec. 3-5-13. - Collection of tax; liability.*

269 (a) At any time within three (3) years after any tax or any amount of tax required to be
270 collected becomes due and payable, and at any time within three (3) years after the
271 delinquency of any tax or any amount of tax required to be collected under this chapter,
272 the City may bring an action in a court of competent jurisdiction to collect the amount
273 delinquent, together with the interest, court fees, filing fees, attorneys' fees and other
274 legal fees incident thereto.

275 (b) If any operator liable for any amount under this chapter sells out his business or quits the
276 business, this successors or assigns shall withhold a sufficient amount of the purchase
277 price to cover the amount required until the former owner produce a receipt from the City
278 Clerk showing that the indebtedness had been paid or a certificate stating that no amount
279 is due.

280 (c) If the purchaser of a business fails to withhold from the purchase price as required, he
281 shall be personally liable for the payment of the amount required to be withheld by him
282 to the extent pf the purchase price.

283 (d) Whenever the amount of any tax or interest has been paid more than once or has been
284 erroneously or illegally collected or received by the City under this chapter, it may be
285 refunded by the City. If the operator or person determines that he/she has overpaid or
286 paid more than once, which fact has not been determined by the City, he will have thirty
287 (30) calendar days from the date that overpayment was made to provide to the City in
288 writing, via U.S. Certified Mail or overnight delivery, the specific ground upon which
289 the claim is founded. The claim shall be audited. If the claim is approved by the City, the
290 excess amount paid may be credited to any amounts then due and payable from the person
291 by whom it was paid, or his administrators or executors. Should the operator receive a
292 bill for hotel/motel taxes after already remitting such taxes to the City, the operator must
293 provide proof in writing to the City of the previous payment. Such documentation should
294 be provided via U.S. Certified Mail or overnight delivery. The City will audit the claim
295 of previous payment, and if the City finds the operator has made the previous payment,
296 the City shall adjust its records accordingly and issue a statement of payment to the
297 operator.