

ORDINANCE O-03-19

**STATE OF GEORGIA
COUNTY OF WALKER**

AN ORDINANCE TO IMPLEMENT TITLE 48, CHAPTER 13, ARTICLE 3, SECTION 51 (a) (1) OF THE OFFICIAL CODE OF GEORGIA ANNOTATED, - EXCISE TAX ON ROOMS, LODGINGS, AND ACCOMMODATIONS, AND TO PROVIDE FOR THE COLLECTION BY OPERATOR; TO PROVIDE FOR ADMINISTRATION; TO PROVIDE FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, the governing authority of Walker County, a political subdivision of the State of Georgia, is authorized under Title 48, Chapter 13, Article 3, Section 51 of the Official Code of Georgia Annotated, to levy certain excise taxes; and

WHEREAS, Walker County, a political subdivision of the State of Georgia, is designated as a “special district” pursuant to Title 48, Chapter 13, Article 50.1 of the Official Code of Georgia Annotated for the purpose of implementing an excise tax on rooms, lodging and accommodations; and

WHEREAS, SB480 of the 2018 Regular Session of the Georgia General Assembly authorizes imposition of an excise tax of up to 8% by Walker County pursuant to O.C.G.A. § 48-13-51(b); and

WHEREAS, the governing authority of Walker County, a political subdivision of the State of Georgia, is required under Title 48, Chapter 13, Article 3, Section 51 of the Official Code of Georgia Annotated to make available a designated portion of funds so collected for the purpose of promoting, attracting, stimulating, and developing conventions and tourism by a destination marketing organization in Walker County; and

WHEREAS, Walker County, a political subdivision of the State of Georgia, is authorized under Title 48, Chapter 13, Article 3, Section 51 of the Official Code of Georgia Annotated to make available a designated portion of funds so collected for the purpose of tourism product development in Walker County, with any balance of the funds so designated for the purpose of promoting, attracting, stimulating and developing conventions and tourism by a destination marketing organization in Walker County; and

WHEREAS, the options of local citizens having been heard at public meetings called for such purposes;

NOW THEREFORE, the governing authority of Walker County, a political subdivision of the State of Georgia, resolves to adopt an Excise Tax Ordinance pursuant to said authority; and therefore, the governing authority of Walker County, a political subdivision of the State of Georgia does publish, state and promulgate the following ordinance:

Chapter 54 shall be amended by adding Article VI

Section I: Short Title

This ordinance shall be titled the "Hotel-Motel Tax Ordinance of 2019."

Section II: Intent, Purpose, and Authorization to Levy Excise Tax

- (a) The intent of this ordinance is to levy an excise tax on rooms, lodgings, and accommodations to provide additional funding for the promotion of tourism, conventions and trade shows in Walker County, Georgia.
- (b) 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 Walker County for operating within the special district a hotel, motel, inn, lodge, tourist camp, tourist cabin, rental cabin or any other place in which rooms, lodgings or accommodations are regularly furnished for value.
- (c) This excise tax shall be imposed under the authorization of SB480 of the 2018 Regular Session of the Georgia General Assembly, pursuant to O.C.G.A. § 48-13-51(b).

Section III: Definitions

The following terms, for the purposes of this ordinance, shall be defined as follows:

- (a) *County*. The territorial limits of Walker County, Georgia under the governing authority of the Sole Commissioner.
- (b) *County Clerk*. The duly appointed county clerk, or his/her designee.
- (c) *Destination Marketing Organization*. A private sector nonprofit organization or other private entity which is exempt from federal income tax under Section 501(c)(6) of the Internal Revenue Code of 1986 that is supported by tax under this article, government budget allocations, private membership, or any combination thereof and the primary responsibilities of which are to encourage travelers to visit their destinations, encourage meetings and expositions in the area, and to provide visitor assistance and support as needed (O.C.G.A. § 48-13-50.2(1)).
- (d) *Due Date*. The twentieth (20th) day after the close of monthly period for which tax is to be computed. (O.C.G.A. § 48-13-53.2(a))
- (e) *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 (O.C.G.A. § 48-13-53.2(b))
- (f) *Finance Director*. The duly appointed administrator of finances for Walker County, Georgia.
- (g) *Folio*. The primary documentation produced by a hotel or other Facility 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.

- (h) *Guest Room*. Accommodations occupied, or intended, arranged, or designated for transient occupancy of not more than thirty (30) continuous days (O.C.G.A. § 48-13-51(h)(4)), by one (1) or more occupants for the purpose of living quarters or residential use.
- (i) *Hotel*. Includes any hotel, motel, inn, lodge, tourist camp, tourist cabin, campground, or any other place in which rooms, lodgings, or accommodations are regularly furnished for value and shall apply to the furnishing for value any room, lodging, or accommodation. (O.C.G.A. § 48-13-51(a)(1)(B)(i))
- (j) *Innkeeper/Lodging Provider/Operator*. Any person who is subject to taxation under this article for the furnishing for value to the public any rooms, lodgings, or accommodations. (O.C.G.A. § 48-13-50.2(2))
- (k) *Monthly Period*. Any calendar month in any year.
- (l) *Occupancy*. The use or possession, or the right to use or possession, of any room or apartment in a hotel or motel, or the right to use or possession of the furnishings or to the services and accommodations accompanying the use and possession of the room or apartment.
- (m) *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 room or hotel or motel under any lease, concession, permit, right of access, license, agreement or otherwise.
- (n) *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 more than 30 (thirty) consecutive days.
- (o) *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, except the United States of America, the State of Georgia, and any other political subdivision thereof upon which the governing authority of Walker County is without power to impose the tax herein provided.
- (p) *Private Sector Non-Profit Organization*. A chamber of commerce, a convention and visitors bureau, a regional travel association, or any other private group organized for similar purposes which is exempt from federal income tax under Section 501(c)(6) of the Internal Revenue Code of 1986; provided, however, that a county or municipality which has prior to April 1, 1990, contracted for a required expenditure under this Code section with a private group which is exempt from federal income tax under provisions of Section 501(c) of the Internal Revenue Code other than Section 501(c)(6) may continue to contract for required expenditures with such a private group. (O.C.G.A. § 48-13-50.2(3))
- (q) *Promoting Tourism, Conventions, and Trade Shows*. Planning, conducting, or participating in programs of information and publicity designed to attract or advertise tourism, conventions, or trade shows. (O.C.G.A. § 48-13-50.2(4))
- (r) *Rent*. 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 lodging provider to the occupant, without any deduction therefrom whatsoever.

- (s) *State Authority*. An authority created by state law which serves a state-wide function, including, but not limited to, the Georgia Agricultural Exposition Authority, Georgia Aviation Authority, Georgia Building Authority, Georgia Development Authority, Georgia Environmental Finance Authority, Jekyll Island Authority, Lake Allatoona Preservation Authority, Georgia Medical Center Authority, Georgia Ports Authority, Georgia Regional Transportation Authority, State Road and Tollway Authority, Sports Hall of Fame Authority, Georgia Technology Authority, and Georgia World Congress Center Authority, but shall not mean an authority created for support of a local government or a local purpose or function and shall not include authorities such as area planning and development commissions and any organizational entities they may create, regional commissions and any organizational entities they may create, or local water and sewer authorities. (O.C.G.A. § 48-13-50.2(5)).
- (t) *Tax*. The excise tax of 5% from October 1, 2019, through September 30, 2020, and 8% beginning October 1, 2020, on occupants imposed by this ordinance, as provided for by O.C.G.A. § 48-13-51(b).
- (u) *Tax Administrator*. The individual appointed by the governing authority of Walker County, Georgia; or the individual of any office of Walker County government which may in the future be designated as the administrative entity to collect, administer, and complete the required annual reporting of the tax.
- (v) *Tourism Product Development*. 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: (A) Lodging for the public for no longer than 30 consecutive days to the same customer; (B) Overnight or short-term sites for recreational vehicles, trailers, campers, or tents; (C) Meeting, convention, exhibit, and public assembly facilities; (D) sports fields, stadiums, arenas, and complexes; (E) Golf courses associated with a resort development that are open to the general public on a contract or fee basis; (F) Racing facilities, including dragstrips, motorcycle racetracks, and auto or stock car racetracks or speedways; (G) Amusement centers, amusement parks, theme parks, or amusement piers; (H) Hunting preserves, trapping preserves, or fishing preserves or lakes; (I) Visitor information and welcome centers; (J) Wayfinding signage; (K) Permanent, nonmigrating carnivals or fairs; (L) Airplanes, helicopters, buses, vans, or boats for excursions or sightseeing; (M) 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; (N) Museums, planetariums, art galleries, botanical gardens, aquariums, or zoological gardens; (O) Parks, trails, and other recreational facilities; or (P) Performing arts facilities. (O.C.G.A. § 48-13-50.2(6))

Section IV: Tax Rate

- (a) There is hereby set and levied on the occupant of a guest room of any hotel/motel/cabin/residence/short-term rental/lodge located within the special tax district a tax in

the amount of 5% from October 1, 2019, through September 30, 2020, and 8% beginning October 1, 2020, of the gross rent for such occupancy.

Section V: Effective Date

- (a) This Ordinance shall take effect on the 1st day of October, 2019.

Section VI: Exemptions

- (a) In accordance with O.C.G.A. § 48-13-51(h), the tax imposed by this ordinance shall not apply to (1) 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; (2) The use of meeting rooms and other such facilities or any rooms, lodgings, or accommodations provided without charge; (3) 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 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 paragraph. For purpose of the exemption provided under this paragraph, a local government official or employee shall include officials or employees of counties, municipalities, consolidated governments, or county or independent school districts; or (4) Charges made for continuous use of any rooms, lodgings, or accommodations after the first 30 days of continuous occupancy. (O.C.G.A. § 48-13-51(h))

Section VII: Use of Revenue

- (a) Pursuant to O.C.G.A. § 48-13-51(b)(5)(A), an amount equal to not less than 50 percent of the total amount of taxes collected that exceed the amount of taxes that would be collected at the rate of 5 percent shall be expended for promoting tourism, conventions, and trade shows by the destination marketing organization, as defined in Section III of this ordinance, designated by the governing body of Walker County; and
- (b) Pursuant to O.C.G.A. § 48-13-51(b)(5)(B), the remaining amount of taxes collected that exceed the amount of taxes that would be collected at the rate of 5 percent which are not otherwise expended under Section VII, Paragraph (a) of this ordinance shall be expended for tourism product development, as defined in Section III of this ordinance; and

(c) Pursuant to O.C.G.A. § 48-13-51(a)(3), the amount of taxes that would be collected at the rate of 5 percent, as referenced in Section VII, Paragraphs (a) and (b) of this ordinance, an amount equal to the amount by which the total taxes collected under this Code section exceed the taxes which would be collected at a rate of 3 percent for the purpose of: (A) promoting tourism, conventions, and trade shows; (B) supporting a facility owned or operated by a state authority for convention and trade show purposes or any other similar or related purposes; (C) supporting a facility owned or operated by a local government or local authority for convention and trade show purposes or any other similar or related purposes, if a written agreement to provide such support was in effect on January 1, 1987, and if such facility is substantially completed and in operation prior to July 1, 1987; (D) supporting a facility owned or operated by a local government or local authority for convention and trade show purposes or any other similar or related purposes if construction of such facility is funded or was funded prior to July 1, 1990, in whole or in part by a grant of state funds; (E) supporting a facility owned by a local government or local authority for convention and trade show purposes and any other similar or related purposes if construction of such facility is substantially funded or was substantially funded on or after February 28, 1985, by a special county 1 percent sales and use tax authorized by Title 48, Chapter 8, Article 3 as amended and if such facility was substantially completed and in operation prior to December 31, 1993; or (F) for some combination of such purposes. Amounts so expended shall be expended only through a contract or contracts with the state, a department of state government, a state authority, a convention and visitors bureau authority created by local Act of the General Assembly for a municipality, or a private sector nonprofit organization, or through a contract or contracts with some combination of such entities, except that amounts expended for purposes (C) and (D) may be so expended in any otherwise lawful manner.

SO ORDAINED by the Sole Commissioner of Walker County, Georgia, this _____ day of _____, 2019.

Attest:

Shannon K. Whitfield
Sole Commissioner
Walker, County Georgia

Rebecca Wooden
County Clerk