



**AN ORDINANCE FOR THE CITY OF HAHIRA
ACCOMMODATIONS (HOTEL/MOTEL) EXCISE TAX**

BE IT ORDAINED by the Mayor and Council of the City of Hahira, Georgia, and it is hereby ordained by the authority of same, as follows:

The Code of Ordinances for the City of Hahira is hereby amended by labeling existing Sections 16-1 through 16-3 of Chapter 16 as "Article I" and adding a new Article II to Chapter 16 entitled "Article II, Accommodations (Hotel/Motel) Excise Tax, Sections 16-21 through 16-33" which will read as follows:

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:

Sec. 16-21. Definitions

City means the City of Hahira, Georgia and, variously, the incorporated territory of the City of Hahira, Georgia, wherein the City is empowered to impose this tax by O.C.G.A. §48-13-51(a)(3) et seq.;

City Manager shall mean the duly appointed City Manager of the City of Hahira, Georgia or his designee;

Due date means not later than the 20th day after the close of the monthly period for which the 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. It shall not include meeting rooms or exhibition halls.

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, nursing or convalescent home, orphanage, prison, detention, or other building in which human beings are housed and detained under legal restraint.

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.

Occupant means any person who, for a consideration, uses, possesses or has the right of use or possession of any guest 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 in the City including, but not limited to, the owner or proprietor of such premises, or a lessee, sub-lessee, 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 ten (10) 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.

Tax means the tax imposed by this Article.

Sec. 16-22. Intent

It is the intent of the City of Hahira, Georgia to impose a tax, pursuant to authority granted by the General Assembly of this State, pursuant to O.C.G.A. §48-13-51(a)(3) et seq., the funds from which taxation shall be used for public purposes and may be used for the purpose of promoting, attracting, stimulating, and developing conventions and tourism in the City.

Sec. 16-23. Imposition; rate

There is hereby imposed and there shall be paid a tax of five percent (5%) of the rent for every occupancy of a guest room in a hotel in the City. The tax shall be paid upon any occupancy on and after the Effective Date, although such occupancy is had pursuant to a contract, lease, or other arrangement made prior to such date. The tax imposed by the ordinance is hereby imposed on the Operator and on any Occupant.

Sec. 16-24. Collection of tax by Operator; receipt to Occupant; rules for reporting and remittance of taxes collected

(a) Every Operator maintaining a place of business in the City, as provided in the next preceding section, and renting guest rooms in the City, not exempt under Section 16-25

of this Chapter, shall collect a tax of five percent (5%) on the amount of rent from the Occupant.

(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) All taxes due shall be collected at the same time as rent is collected.

(d) An Operator shall be liable for any amount of tax that he fails to collect appropriately and must remit to the City any amount of tax collected in excess of that which should have been collected.

(e) The proceeds of such taxes shall be used in accordance with O.C.G.A. § 48-13-51(a)(5.3).

Sec. 16-25. Exemptions

No tax shall be imposed under this Article upon a permanent resident, as defined in Section 16-21, upon Georgia State or local government officials or employees when traveling on official business, or upon charges for 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. The tax authorized by this ordinance shall not apply to charges for the use of meeting rooms and other such facilities or to rooms, lodgings or accommodations provided without charge.

Sec. 16-26. Registration of Operator; form and contents; execution; certificate of authority

Every person engaging or about to engage in business as an Operator of a hotel in this City shall register within forty-five (45) days from the date this Article becomes effective with the City Manager or his designee on a form provided therefor. 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 Secretary 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 Manager or his designee 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.

Sec. 16-27. Determination, returns, and payments

(a) All amounts of the taxes shall be due and payable monthly on or before the 20th day of every month succeeding each respective monthly period.

(b) On or before the 20th day of the month following each monthly period, each Operator of each hotel shall file a return with the City Manager or his designee, showing the

gross rent, rent from exempted individuals, taxable rent, amount of taxes due for the related period, and such other information as may be required by the City Manager.

(c) An Operator who fails to make a return or to pay the amount of the tax as prescribed, shall be assessed a specific penalty to be added to the tax in the amount of five percent (5%) thereof or \$5.00, whichever is greater, if the failure is for one month or less; and an additional five percent (5%) thereof or \$5.00, whichever is greater, for each additional month or fraction thereof in which such failure shall continue; provided, however, that the aggregate penalty for any single violation shall not exceed twenty-five percent (25%) of the outstanding tax debt or \$25.00, whichever is greater.

(d) The City Manager or his designee may, for good cause shown, extend the time for making returns for not longer than thirty (30) days. No extension shall be valid unless granted in writing upon written application of the Operator. An Operator granted an extension shall remit a tax equaling not less than one hundred percent (100%) of the tax paid for the corresponding period of the prior fiscal year; such remittance to be made on or before the date the tax would otherwise come due without grant of the extension. If the Operator requesting an extension was not in operation during the corresponding period in the previous year, a remittance of a tax equaling not less than one hundred percent (100%) of the tax paid for the previous month shall be given.

Sec. 16-28. Deficiency determinations

(a) *Re-computation of tax; authority; basis of re-computation.* If the City Manager or his designee is not satisfied with the accuracy of the return of the tax or the amount of the tax required to be paid to the City by any person, he may compute and determine the amount required to be paid upon the basis of any information within his possession or that may come into his possession. One or more deficiency determinations may be made of the amount due for one or more monthly periods.

(b) *Interest on deficiency.* The amount of the determination shall bear interest at the rate of twelve percent (12%) per annum from the due date of taxes.

(c) *Notice of determination; service.* The City Manager or his designee shall give to the Operator written notice of his determination. The notice may be served personally or by mail; if by mail, such service shall be addressed to the Operator at his address as it appears in the records of the City Manager or his designee. Service by mail is complete when delivered by certified mail with a receipt signed by the addressee, or when made by statutory overnight delivery.

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

(e) *Appeal or protest of deficiency determination.* The procedure for contesting a deficiency determination shall be as provided in O.C.G.A. §48-5-380.

Sec. 16-29. Determination if no return made

(a) If any Operator fails to make a return, the City Manager or his 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 this City which are subject to the tax. The estimate shall be made for the periods in respect to which the person failed to make the return and shall be based upon any information which is in, or may come into, the possession of the City Manager or his designee. Written notice shall be given in the manner prescribed in Section 16-28

(b) The amount of the determination shall bear interest at the rate of twelve percent (12%) per annum, from the due date of taxes, until the date of payment.

Sec. 16-30. Administration of Article

(a) *Authority of City Manager.* The City Manager or his designee shall administer and enforce the provisions of this Article for the collection of the tax imposed by this Article.

(b) *Records required from operators; form.* Every Operator renting guest rooms in this City to a person shall keep such records, receipts, invoices, and other pertinent papers and in such form as the City Manager or his designee may require.

(c) *Examination of records; audits.* The City Manager or his designee authorized in writing by the City Manager 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 no return is made by the Operator, to ascertain and determine the amount required to be paid.

(d) *Authority to require reports; contents.* In the administration of the provisions of this Article, the City Manager or his designee may require the filing of reports by any persons or class of persons having in their possession or custody information relating to rentals of guest rooms which are subject to the tax. The reports shall be filed with the City Manager or his designee when required by same and shall set forth the rental charged for each occupancy, the dates of occupancy, and such other information as the Secretary may require.

Sec. 16-31. Violations

Any Operator who fails, neglects, or refuses to collect the tax as provided by Section 16-24 shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than \$1000.00, or confinement for a term not to exceed twelve (12) months, or both fine and confinement. Any Operator who fails or refuses to make any return as provided by Section 16-27, to keep adequate records or to open them for inspection by the City, or to furnish other data reasonably requested by the governing authority shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than \$1000.00, or confinement for a term not to exceed twelve (12) months, or both. Any Operator who makes a false or fraudulent return with intent to evade the tax shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than \$750.00, nor more than \$1000.00, or confinement for a term not to exceed twelve (12) months, or both. Each and every day during any portion of which any violation is

committed, continued, or permitted shall constitute a separate offense and shall be punished accordingly.

Sec. 16-32. Collection of tax

(a) *Action for tax.* At any time within three (3) years after any tax or any amount of tax required to be collected under this Article becomes due and payable and at any time within three (3) years after the delinquency of any tax or any amount of tax required to be collected, the City Manager or his designee may bring an action in a court of competent jurisdiction in the name of the City to collect the amount delinquent together with interest, court fees, filing fees, attorney's fees, and other legal fees incident thereto.

(b) *Operator selling or quitting business.* If any Operator that is liable for any amount under this Article sells his business or quits his business, he shall make a final return and remittance within fifteen (15) days after the date of selling or quitting the business.

(c) *Duty of successors or assignees of operator to withhold tax from purchase money.* If any Operator liable for any amount under this section sells or otherwise transfers his business, then the purchaser, or the seller's successors or assigns shall withhold a sufficient amount from the purchase price of the business to cover any deficient amount until the former owner produces a receipt from the City Manager or his designee showing that all taxes due under this Article have been paid or a certificate from the Business License Clerk stating that no amount is due.

(d) *Liability for failure of purchaser to withhold.* 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.

(e) *Overpayments.* Whenever the amount of any tax or interest has been paid more than once, or has been erroneously or illegally collected or received by the City under this section, it may be offset by the City Manager or his designee. If the Operator or person determines that he has overpaid or paid more than once, which fact has not been determined by the City Manager or his designee, he shall have three (3) years from date of payment to file claim in writing stating the specific ground upon which claim is founded. The claim shall be audited. If the claim is approved, the excess amount paid the City may be credited on any amounts then due and payable from the person by whom it was paid, or his administrators, executors, successors, or assigns.

SO ORDAINED, this 4th day of December, 2008.

Wayne Bullard
Mayor

Attest:

Belinda Chapell
City Clerk