

CITY OF LOOKOUT MOUNTAIN, GEORGIA

ORDINANCE NO. 138

AN ORDINANCE

To impose a tax, pursuant to authority granted by the General Assembly of this State, the funds from which taxation shall be used for public purposes; to provide the penalty for the violation hereof; and for other purposes.

BE IT ORDAINED by the City Council of the City of Lookout Mountain, Georgia, and it is hereby ordained:

SECTION 1. Definitions. As used herein, the following terms shall have the meanings indicated:

- (a) City. The City of Lookout Mountain, Georgia.
- (b) Due date. The twentieth day after the end of the monthly period for which tax is to be computed.
- (c) Guest room. A room occupied, or intended, arranged, or designed for occupancy, by one (1) or more occupants for the purpose of living quarters or residential use. It shall not include meeting rooms or exhibition halls.
- (d) Hotel/motel. Any structure or any portion of a structure, including any motel, lodge, lodging house, rooming house, dormitory, hotel, motor hotel, auto court, inn, bed and breakfast inn, tourist camp, tourist cabin, 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. Such term does not include any jail, hospital, asylum, sanitarium, orphanage, prison, detention center, or other buildings in which human beings are housed and detained under legal restraint.
- (e) Monthly period. The calendar months of any year.
- (f) Occupancy. The use or possession, or the right to the use or possession, of any room or apartment in a hotel/motel 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.

(g) Occupant or Guest. Any person who, for a consideration, uses, possesses, or has the right to use or possess any room in a hotel/motel under any lease, concession, permit, right of access, license to use, or other agreement, or otherwise.

(h) Operator. Any person operating a hotel/motel in the City of Lookout Mountain, Georgia, including, but not limited to, the owner or proprietor of such premises, the lessee, sublessee, lender in possession, licensee, or any other person otherwise operating such hotel/motel.

(i) Permanent resident. Any occupant as of a given date who has or shall have occupied or has or shall have the right of occupancy of any guest room in a hotel/motel for at least ten (10) consecutive days next preceding such date.

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

(k) 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 operator to the occupant, without any deduction therefrom whatsoever.

(l) Return. Any return filed or required to be filed as herein provided.

(m) Clerk. The City Clerk of Lookout Mountain, Georgia.

(n) Tax. The tax imposed by this Ordinance.

SECTION 2. Imposition and Rate of Tax.

There is hereby imposed and there shall be paid a tax of three percent (3%) of the rent for every occupancy of a guest room in a hotel/motel in the City. The tax shall be paid upon any occupancy on and after the effective date of this Ordinance, although such occupancy is had pursuant to a contract, lease, or other arrangement made prior to such date.

SECTION 3. Collection of Tax by Operator.

It shall be the duty of every operator of a hotel/motel located within the City to collect from the occupants the tax levied and imposed upon the occupancy of guest rooms by the provisions of this Ordinance.

SECTION 4. Exemptions.

Notwithstanding any other provision of this Ordinance, no tax shall be levied as provided in this Ordinance upon the fees or charges for any rooms, lodgings, or accommodations furnished for use (a) by Georgia state or local government officials or employees when traveling on official business, (b) by permanent residents, or (c) as meeting rooms.

SECTION 5. Registration of Operator.

Every person engaging or about to engage in business as an operator of a hotel/motel in this City shall immediately register with the Clerk. Persons engaged in such business must so register not later than thirty (30) days after the date this Ordinance becomes effective, but such privilege of registration after the imposition of such tax shall not relieve any person from the obligation of payment or collection of tax on and after the date of imposition thereof, regardless of registration. Such registration shall set forth (a) the name under which such person transacts business or intends to transact business, (b) the location of his place or places of business, and (c) such other information which

would facilitate the collection of the tax as the Clerk may require. The registration shall be signed by the owner if a natural person; by a member or partner in case of ownership by an association or partnership; and by an executive officer in the case of ownership by a corporation.

A separate registration shall be required for each place of business of an operator.

Upon the registration of an operator as hereinbefore provided, the Clerk shall issue to such operator without charge a certificate of authority to collect the tax from the occupants, stating the name and location of the business to which it is applicable. Such certificates shall be nonassignable and nontransferable, and shall be returned immediately to the Clerk upon the cessation of business by the registered operator at the location named, or upon sale or transfer of such business at said location.

SECTION 6. Due date, Returns, Time of Filing, and Collection Fee allowed Operators.

(a) Due date.

All taxes levied and imposed by this Ordinance shall be due and payable to the City monthly on or before the twentieth day after the end of the monthly period for which tax is to be computed.

(b) Return.

On or before the twentieth day of the month following each monthly period, a return for the preceding monthly period shall be filed with the Clerk, in such form as the Clerk may prescribe, by every operator liable for the payment of tax hereunder.

All returns shall show the gross rent, exempt rent, taxable rent, amount of tax collected or otherwise due for the monthly period for which filed, and such other information as may be required by the Clerk, and shall be accompanied when filed by remittance of the net amount of tax due.

(c) Collection fee.

Operators collecting the tax levied hereunder 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 payment of the amount due, if said amount is not delinquent at the time of payment. The rate of the deduction shall be the same rate authorized for deductions from state sales and use tax under the Georgia Retailers' and Consumers' Sales and Use Tax Act, §48-8-50 of the Official Code of Georgia Annotated, as now or hereafter amended.

SECTION 7. Deficiency Determinations.

(a) Recomputation of tax. If the Clerk is not satisfied with the return or the amount of the tax required to be paid to the City by any person, he or she 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 (1) or more deficiency determinations may be made of the amount due for one (1) or more monthly periods.

(b) Interest on deficiency. The amount of the determination shall bear interest at the monthly rate of three-fourths of one percent (.75%) or fraction thereof from the due date of taxes.

(c) Notice of determination. The Clerk or his or her designated representatives shall give to the operator written notice of the deficiency 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 Clerk. Service by mail is complete when delivered by certified mail and with a receipt signed by the addressee.

(d) Time within which notice of deficiency determined to be mailed. Except in the case of failure to make a return, every notice of a deficiency determination shall be mailed within one (1) year after the twentieth day

of the calendar month following the monthly period for which the amount is proposed to be determined, or within one (1) year after the return is filed, whichever period should last expire.

(e) Offsetting of overpayments. In making a determination the Clerk may offset overpayments for a period or periods against unpaid tax found to be due for another period or periods, against penalties, and against the interest on such unpaid tax.

SECTION 8. Determination if No Return is Made.

(a) Estimate of gross receipts. If any operator fails to make a return, the Clerk shall make an estimate of the amount of the gross receipts of the operator 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 period or periods in respect to which the person failed to make the return and shall be based upon any information which is or may come into the possession of the Clerk. Upon the basis of this estimate, the Clerk shall compute and determine the amount required to be paid to the City, adding to the sum thus determined a penalty equal to fifteen percent (15%) thereof.

(b) Interest on amount found due. The amount of the unpaid tax found to be due shall bear interest at the rate of three-fourths of one percent (.75%) per month from and after the twentieth day of the month following the monthly period for which the amount should have been returned until the date of payment of such tax, penalties, and interest.

(c) Notice of determination; service of. Promptly after making his or her determination, the Clerk shall give to the operator written notice of his or her determination, which notice may be served personally or by mail in the manner prescribed for service of notice of a deficiency determination.

SECTION 9. Administration of Chapter.

(a) Authority of Clerk. The Clerk shall administer and enforce the provisions of this Ordinance for the collection of the tax imposed by this Ordinance.

(b) Records required from operators. Every operator renting guest rooms in this City to a person shall keep such records, receipts, invoices, and other pertinent papers in such form as the Clerk may require.

(c) Examination of records; audits. The Clerk, or any person authorized in writing by the Clerk, 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. In administration of the provisions of this Ordinance, the Clerk may require the filing of reports by any person or class of persons having in such person's or persons' possession or custody information relating to rentals of guest rooms which are subject to the tax. The reports shall be filed with the Clerk when required by the Clerk and shall set forth the rental charged for each occupancy, the date or dates of occupancy, and such other information as the Clerk may require.

SECTION 10. Violations.

Any person violating any of the provisions of this Ordinance shall be deemed guilty of an offense and upon conviction thereof shall be punished by paying a fine of not more than \$500 and not less than \$50. Each such person shall be guilty of a separate offense for each and every day or portion thereof during which any violation of any provision of this Ordinance is committed, continued, or permitted by such person, and shall be punished accordingly.

Any operator or other person who fails to register as required herein, or to furnish any return required to be made, or who fails or refuses to furnish a supplemental return or other data required by the Clerk, or who renders a false or fraudulent return shall be deemed guilty of an offense and upon conviction thereof shall be punished as aforesaid. Any person required to make, render, sign, or verify any report who makes any false or fraudulent report, with intent to defeat or evade the determination of an amount due required by this Ordinance to be made shall be deemed guilty of an offense and upon conviction thereof shall be punished as aforesaid.

The City Attorney for the City of Lookout Mountain, Georgia, is empowered to collect delinquent taxes due under this Ordinance and, in the collection of same, is hereby expressly granted all powers as provided in Ordinance No. 120.

SECTION 11. It is the intention of the City Council of the City of Lookout Mountain, Georgia, and it is hereby ordained, that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of Lookout Mountain, Georgia, and the sections of this Ordinance may be renumbered to accomplish this intention.

SECTION 12. If any section, subsection, sentence, or clause of this Ordinance be adjudged invalid, such adjudication shall not affect the validity of the Ordinance as a whole or any section, subsection, sentence, or clause hereof not adjudged invalid.

SECTION 13. All other ordinances or parts heretofore enacted by the City in conflict herewith are hereby repealed.

SECTION 14. This Ordinance shall be effective ten (10) days after its adoption by at least three members of the Council of the City of Lookout Mountain, Georgia, after two readings at least one week apart.

APPROVED ON FIRST READING ON January 19, 1989.

James Bowfinger
Member of City Council

James A. Cherry
Member of City Council

James E. Bullock
Member of City Council

James D. Ensign
Member of City Council

Member of City Council

Haywood
Mayor of Lookout Mountain,
Georgia

APPROVED AND ADOPTED ON SECOND READING ON February 16, 1989.

James Bowfinger
Member of City Council

James E. Bullock
Member of City Council

Susan W. Petterway
Member of City Council

James D. Ensign
Member of City Council

Member of City Council

Haywood
Mayor of Lookout Mountain,
Georgia

ATTEST:

Maria P. [Signature]
City Clerk of Lookout Mountain,
Georgia

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