

WHITE COUNTY BOARD OF COMMISSIONERS

WHITE COUNTY ORDINANCE NO. 2009-14

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES FOR WHITE COUNTY, GEORGIA IN ORDER TO LEVY AN EXCISE TAX OF EIGHT (8%) PERCENT PURSUANT TO SUBSECTION (b) OF O. C. G. A. § 48-13-51; TO PROVIDE PROCEDURES, CONDITIONS, AND LIMITATIONS TO THE IMPOSITION OF THE EXCISE TAX; TO PROVIDE FOR RELATED MATTERS; TO PROVIDE FOR EFFECTIVE DATE; TO REPEAL CONFLICTING LAWS; AND FOR OTHER PURPOSES.

WHEREAS, on February 2, 2009, the White County Board of Commissioners adopted Resolution No. 2009-6 providing that White County desired to levy an eight (8%) percent excise tax pursuant to O. C. G. A. § 48-13-51(b) upon rooms, lodgings and accommodations for the purposes of promoting tourism, conventions and trade shows. and providing for expenditures for tourism product development; and

WHEREAS, the Georgia General Assembly has passed House Bill 632 (2009) and which authorizes the governing authority of White County to levy an eight (8%) percent excise tax in order to accomplish the purposes of Resolution 2009-6 including but not limited to the promotion of tourism, conventions, and trade shows, as well as expenditures for tourism product development.

THEREFORE, BE IT ORDAINED by the above-referenced authority, the following:

SECTION 1.

PROCEDURES, CONDITIONS AND LIMITATIONS REGARDING THE LEVY OF AN EIGHT PERCENT (8%) EXCISE TAX UPON ROOMS, LODGINGS AND ACCOMMODATIONS WITHIN THE UNINCORPORATED AREA OF WHITE COUNTY, GEORGIA.

White County, Georgia, by and through its governing authority, does hereby amend its Code of Ordinances, to replace in their entirety Section 66-71 to Section 66-84, and substituting in lieu thereof, new Sections 66-71 to 66-85, and which shall read as follows:

ARTICLE III.

LODGING TAX

Section 66-71. Levied

There is hereby levied an excise tax at the rate of eight (8%) percent of the rent paid for the occupancy of any room, lodging or accommodation furnished by any person or legal entity within the unincorporated portions of the county. The tax applies to hotels, motels, inns, lodges, tourist camps, tourist cabins or any other place in which rooms, lodgings or accommodations are available.

Section 66-72.Exemptions

(a) No tax shall be levied as provided in this article upon:

(1) Charges made for any rooms, lodgings or accommodations provided to any persons who certifies that they are staying in such room, lodging or accommodation as a result of the destruction of their home or residence by a fire or other casualty; or

(2) The use of meeting rooms and other such facilities or any rooms, lodgings or accommodations provided without charge; or

(3) Any rooms, lodgings or accommodations furnished for a period of one (1) or more days for use by Georgia State or local governmental officials or employees when traveling on official business. Notwithstanding other means of identification, a person paying for rooms, lodgings or accommodations with a State or local government credit or debit card shall be a Georgia State or local government official or employee traveling on official business. 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.

Section 66-73. Duty of Operator to Collect

Each operator maintaining a place of business in the unincorporated portions of the County as provided in Section 66-71 and renting occupancy, lodging or accommodations not exempted under Section 66-72 shall collect a tax of eight (8%) percent on the amount of rent from the occupant.

Section 66-74.Registration

(a) Every person engaging in or about to engage in business as an operator of any establishment pursuant to this article shall immediately register such business with the County, on a form provided by the County for such purpose. Such registration shall set forth the name under which the operator transacts business or intends to transact business, the location of the place or places of business, and such other information as would facilitate the collection of the tax by the County. The owner if a natural person, a member or general partner in case of ownership by an association or partnership or an appropriate officer in the case of ownership by a corporation shall sign the registration.

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

Section 66-75. Certificate of Authority

Upon the registration of an operator pursuant to this article, the County shall issue to such operator without charge a certificate of authority to collect the tax on occupants. Each certificate shall state the name and location of the business to which it relates. Such certificate of authority shall also constitute a license by the County to operate such an establishment; provided, however, that such license shall not relieve the operator from obtaining any other required licenses or permits.

Section 66-76. Due, payable monthly

(a) All taxes levied by this article shall be due and payable to the County monthly on or before the 20th day of every month next succeeding each respective month in such taxes are collected. The payment and return for the preceding month confirming the gross rent, rent from permanent residents, taxable rent, amount of tax collected or otherwise due for the period as well as information requested by the County.

(b) The monthly report shall have attached thereto a copy of the corresponding month's state department of revenue sales and use tax report (Form ST-3).

Section 66-77. Compensation for Collection

Operators collecting the tax levied by this article shall be allowed a percentage of the tax due and accounted for and shall be reimbursed in the form of a deduction for submitting, reporting and payment of the amount due if such amount is not delinquent at the time of payment. The rate of the deduction shall be three percent of the total amount of tax collected.

Section 66-78. Delinquency; Estimation; Enforcement

(a) If any operator fails to file a return as required under the provisions of this article, the County shall make an estimate of the amount of gross rentals, which are subject to the tax. The estimate for the period or periods in which the operator failed to file a return shall include any information, which has or may come into the possession of the County.

(b) The Board of Commissioners or its designated representative shall give to the operator written notice of the determination as herein provided. Service of the notice shall in person or by mail. If by mail, the service shall be to the operator at the address appearing in the County's records. Service by mail is complete when delivered by certified mail with a receipt signed by the addressee.

(c) The amount of the determination made under this Section shall bear interest at the rate of 0.75 percent per month or fraction thereof from the 20th day of the month following the monthly period, for which the amount or any portion thereof should have been returned, until the date of payment.

(d) In addition, a penalty of five percent (5%) of the tax due or \$5.00, whichever is greater for each thirty-(30) day period or fraction thereof, not to exceed twenty five percent (25%) or \$25.00 whichever is greater shall be assessed and paid by the operator to the County.

(e) The estimated tax, together with applicable penalties and interest is collectible utilizing any of the enforcement methods set forth in this article.

Section 66-79. Required Records

Each operator collecting a tax under the provisions of this article shall keep for a period of at least three years all records, receipts, invoices, and other pertinent papers setting forth the rental charged for each occupancy, the date or dates of occupancy and such other information as the County may require.

Section 66-80. Enforcement, Powers

The Board of Commissioners or its designated representative shall administer and enforce the provisions of this article for the collection of the tax imposed by this article, and in so doing shall have the power to:

- (1) Examine, or authorize the examination of, books, papers, records, financial reports, equipment, and other facilities of any operator subject to this article, 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.
- (2) Require the filing of reports by any person having in his possession or custody information relating to rentals which are subject to the tax levied by this article; and
- (3) Allow a credit on any amount due and payable from persons erroneously or illegally charged.

Section 66-81. Collection by Court Action

Within three years after the tax or any portion of the tax becomes due and payable, the County Attorney at the direction of the Board of Commissioners may bring an action in a court of competent jurisdiction to collect such amount due together with interest, court fees, attorney's fees and other legal fees incident thereto.

Section 66-82. Effect of Sale of Establishment

If any operator becomes liable for any amount required to be paid by this article and subsequent thereto sells out or quits the business, the successors or assignees of such operator shall withhold a sufficient amount of the purchase price to cover such amount due. If such purchaser of the business fails to withhold the required amount, he shall become personally liable therefore to the extent of the tax owed, together with any applicable penalties and interest.

Section 66-83. Penalties for Violation

(a) Any person who violates the terms of this article or who fails to do anything required by this article shall be guilty of a misdemeanor, amenable to the process of the County Magistrate Court and upon conviction, shall be punished as provided in Section 1-19.

(b) In order to enforce this article or to correct or abate any violation of this article, the Board of Commissioners, in addition to other remedies any institute injunction, mandamus or other appropriate action.

Section 66-84.Proceeds for the Tax

The proceeds of this tax shall be used in accordance with O. C. G. A. § 48-13-51(b) and White County Resolution 2009-6, duly passed by the White County Board of Commissioners at their February 2, 2009 regular meeting, and with said resolution attached as a part of the public minutes for said public meeting.

Section 66-85.Repeal of Prior Tax Rate and Effective Date of New Rate

The eight (8%) excise tax imposed herein shall become effective on the first day of the second month following the passage of this ordinance by the White County Board of Commissioners. The prior five (5%) percent excise tax levied under the previous sections of the White County Code shall continue in effect until the effective date of the eight (8%) percent excise tax, and then the prior five (5%) percent excise tax shall be repealed.

SO ORDAINED this _____ day of _____, 2009.

**WHITE COUNTY BOARD
OF COMMISSIONERS**

By:

Travis Turner, Chairman

By:

Joe Campbell, Post 2

By:

Craig Bryant, Post 1

Attest:

Shanda Smallwood