

STATE OF GEORGIA  
DEKALB COUNTY

ORDINANCE 2017-06-07

CITY OF STONECREST

AN ORDINANCE TO PROVIDE FOR THE COLLECTION OF A HOTEL-MOTEL TAX

AN ORDINANCE TO PROVIDE FOR THE COLLECTION OF A HOTEL-MOTEL TAX AND THE USE OF PROCEEDS FROM SUCH TAX AS AUTHORIZED UNDER CHAPTER 13, SECTION 51 OF TITLE 48 OF THE OFFICIAL CODE OF GEORGIA ANNOTATED; TO PROVIDE FOR SEVERABILITY; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, the duly elected governing authority of the City of Stonecrest ("City") is the Mayor and Council thereof; and

WHEREAS, the governing authority desires to enact its Code of Ordinances to provide for the collection of a Hotel-Motel Tax as authorized under Chapter 13, Section 51, Title 48 of the Official Georgia Code of Ordinances Annotated; and

WHEREAS, the health, safety, and welfare of the citizens of Stonecrest, Georgia, will be positively impacted by the adoption of this Ordinance; and

WHEREAS, upon adoption of this ordinance, the City will provide for public viewing a copy of the same on its website;

Now THEREFORE BE IT RESOLVED by the Mayor and Council of the City of Stonecrest as follows:

SECTION 1.  
ESTABLISHMENT OF A HOTEL-MOTEL TAX

A. Definitions

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

(1)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, or any other group or combination acting as 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.

- (2) Operator: Any person operating a hotel or motel in the city, including, but not limited to, the owner or proprietor of the premises, lessee, sublessee, lender in possession, licensee or any other person otherwise operating a hotel or motel.
- (3) Occupant: Any person who, for a consideration, uses, possesses, or has the right to use or possess any room in a hotel under any lease, concession, permit, right of access, license to use or other agreement, or otherwise.
- (4) Occupancy: 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.
- (5) Hotel or motel: 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, orphanage, prison, detention, or other buildings in which human beings are housed and detained under legal restraint.
- (6) Guest room: A room occupied, or intended, arranged, or designed for occupancy, by one or more occupants for living quarters or residential use.
- (7) 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 the amount for which credit is allowed by the operator to the occupant, without any deduction therefrom whatsoever.
- (8) 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 or motel for at least 30 consecutive days next preceding the given date; provided that state and local government officials and employees traveling on official governmental business shall be considered permanent residents pursuant to O.C.G.A. 48-13-51(g)(3).
- (9) Return: Any return filed or required to be filed as provided in this article.
- (10) Tax: The tax imposed by this article.
- (11) Monthly period: The calendar months of any year.
- (12) Due date: From the 20th day after the close of the monthly period for which tax is to be computed.

## B. Tax Levied

There is hereby levied and imposed an excise tax on any person or legal entity licensed by or required to pay a business or occupation tax to the City of Stonecrest for operating a hotel, motel, inn, lodge, tourist camp, tourist cabin, campground, or any other place in which rooms, lodgings, or accommodations are regularly furnished for value at a tax at the rate of eight percent (8%) of the lodging charges actually collected from the hotel or motel guest and who receives a room, lodging, or accommodation that is subject to the tax.

C. Amount of Tax and Use of Revenue Derived from Tax

The tax will be a total of eight percent (8%) and is authorized pursuant to O.C.G.A. 48-1351 (b), and the proceeds of this tax shall be used in accordance with O.C.G.A. 48-13-51(b)(5) and O.C.G.A. 48-13-51(b)(6), with proceeds to be collected and used for the following statutory purposes: the first five percent (5%) to be collected and allocated towards any and all uses permitted under O.C.G.A. 48-13-51(a)(3), with the first three percent (3%) for use in the City's General Revenue Fund, and the remaining two percent (2%), shall be expended for purposes of promoting and marketing tourism conventions and trade shows through a contract with one or more Destination Marketing Organizations ("DMOs") as defined by O.C.G.A. 48\* 13-50.2(1); proceeds for the next one and one-half percent (1 h%) to be collected and allocated towards tourism, convention, and tradeshow promotion and marketing activities of one or more of the aforementioned DMOs; proceeds from the final one and one-half percent (1 h%) to be collected and allocated towards activities of tourism product development as defined in O.C.G.A. § 48-13-50.2(6).

D. Collection of Tax by Operator

Every such guest subject to the tax levied under \_\_\_\_\_ section shall pay the tax to the person or entity providing the room, lodging, or accommodation. The tax shall be a debt of the person obtaining the room, lodging, or accommodation to the person or entity providing such room, lodging, or accommodation until it is paid and shall be recoverable at law by the person or entity providing such room, lodging, or accommodation in the same manner as authorized for other debts. The person or entity collecting the tax shall remit the tax to the City of Stonecrest, and the tax remitted shall be a credit \_\_\_\_\_ against the tax imposed by section on the person or entity providing the room, lodging, or accommodation.

E. Exemptions.

The tax hereby levied and imposed shall not apply to charges made for any rooms, lodgings, or accommodations provided to any persons who certify that they are staying in such room, lodging, or accommodation because of the destruction of their home or residence by fire or other casualty. The tax shall apply to the fees or charges for any rooms, lodgings, or accommodations during the first 30 days of continuous occupancy and shall not apply to charges imposed for any continuous occupancy thereafter. The tax shall not apply to charges made for the use of meeting rooms or other such facilities or to any rooms, lodgings, or accommodations provided without charge. The tax shall not apply to the charges for any rooms, lodgings, or accommodations furnished for a period of one or more days for use by Georgia state or local government officials or employees while traveling on official business.

F. 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 or motel in this city shall immediately register with the city manager of the City, on a form provided by the city. Persons engaged in that business must so register no later than thirty (30) days after the date this article becomes effective and the tax is imposed, but the privilege of registration after the imposition of the 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.

G. Determination; due date; returns and payments; collection fee.

(a) All amounts of the hotel/motel tax shall be due and payable to the City finance director monthly on or before the twentieth day of every month succeeding each respective monthly period.

(b) 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 City manager showing the gross rent, rent from permanent residents, taxable rent, amount of tax collected or otherwise due for the related period, and any other information as may be required by the City manager.

(c) Operators collecting a tax 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 tax due, only if the amount is not delinquent at the time of payment. The rate of deduction shall be three percent of the amount due.

H. Deficiency determinations: interest; notice.

(a) If the City finance director is not satisfied with the return or returns 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 and shall report such discrimination to the governing authority for confirmation. One or more deficiency determinations may be made of the amount due for one or more monthly periods.

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

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

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

I. Determination if no return made• interest.

(a) If any person fails to make a return, the city finance director shall make an estimate of the amount of the gross receipts of the person, or, of the amount of the total rentals in the city which are subject to the tax. The estimate shall be made for the period or periods in respect to which the person fails to make the return and shall be based upon any information which is or may come into the possession of the city's finance director. Such determination shall be reported to and confirmed by the governing authority. Written notice of the determination shall be given in a manner prescribed in section (any section providing for manner of written notice b city

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

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

J. Administration of article; authority of city manager: records.

(a) The city manager shall administer and enforce the provisions of this article for the collection of the tax imposed by this article.

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

(c) The City Manager or any person authorized in writing by the City Manager may examine 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, 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) In administration of the provisions of this article, the City Manager may require the filing of reports by any person or class of persons having in that person's 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 and shall set forth the rental charge for each occupancy, the date or dates of occupancy, and any other information as the City may require.

K. Violations.

(a) Any person responsible for reporting, return or payment of the taxes levied pursuant to this Article shall be punished as provided in O.C.G.A. 48-13-58.1 through 48-13-63. In the event any such person is in violation of any of the provisions of this article that are not otherwise covered by state law then, upon conviction, such person shall be deemed guilty of an offense and shall be punished in municipal court to the extent of that court's authority.

(b) Such person shall be guilty of a separate offense for each day during any portion of which any violation of any provision of this article is committed, continued, or permitted by

that person, and shall be punished accordingly. Any operator or any 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 City, or who renders a false or fraudulent return shall be deemed guilty of an offense and upon conviction thereof shall be punished as aforesaid.

L. Collection of tax: purchaser liable.

(a) At any time within three years after any tax or any amount of tax required to be collected becomes due and payable, and at any time within three years after the delinquency of any tax or any amount of tax required to be collected under this article, the City may bring an action in a

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court of competent jurisdiction to collect the amount delinquent, together with the interest, court fees, filing fees, attorney's fees and other legal fees incident thereto.

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

(c) If the purchaser of a business fails to withhold from the 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.

(d) 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 article, it may be refunded by the City. If the operator or person determines that he has overpaid or paid more than once, which fact has not been determined by the City, he will have 30 days from the date that overpayment was made to provide to the City in writing, via U.S. Certified Mail or overnight delivery, the specific ground upon which the claim is founded. The claim shall be audited. If the claim is approved by the City, the excess amount paid may be credited on any amounts then due and payable from the person by whom it was paid, or his administrators or executors. Should the operator receive a bill for hotel-motel taxes after already remitting such taxes to the City, the operator must provide proof in writing to the City of the previous payment. Such documentation should be provided via U.S. Certified Mail or overnight delivery. The City will audit the claim of previous payment, and if the City finds the operator has made the previous payment, the City shall adjust its records accordingly and issue a statement of payment to the operator.

SECTION 11.

The preamble of this Ordinance shall be and is hereby incorporated by reference as if fully set out herein.

SECTION 111.

This Ordinance shall be codified in a manner consistent with the laws of the State of Georgia and the City.

SECTION IV.

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

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

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

SECTION V.

All ordinances and parts of ordinances in conflict herewith are hereby expressly repealed.

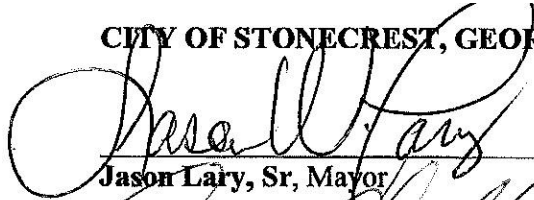
SECTION VI.

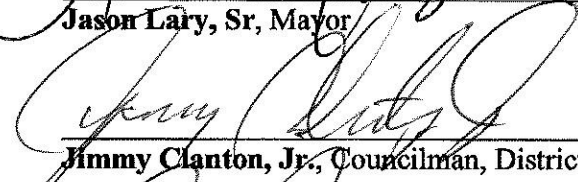
The effective date of this Ordinance shall be the date of adoption unless otherwise stated herein.

ORDAINED this 19<sup>th</sup> day of June, 2017,

[SIGNATURES CONTINUED NEXT PAGE]

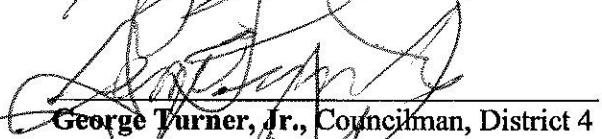
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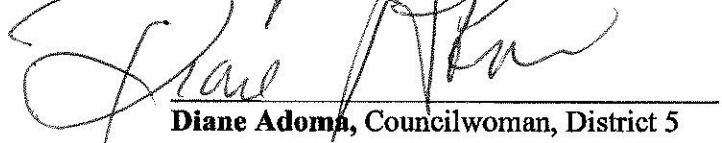
  
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**Jason Lary, Sr, Mayor**

  
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**Jimmy Clanton, Jr., Councilman, District 1**

  
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**Rob Turner, Councilman, District 2**

  
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**Jazzmin Cobble, Councilwoman, District 3**


  
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**George Turner, Jr., Councilman, District 4**

  
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**Diane Adoma, Councilwoman, District 5**

ATTEST:

  
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**Brenda James, Acting City Clerk**

APPROVED AS TO FORM BY:

  
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City Attorney