

1 STATE OF GEORGIA
2 COUNTY OF DEKALB
3 CITY OF STONECREST

ORDINANCE 2017- 12-01

4
5 **AN ORDINANCE OF THE CITY OF STONECREST, GEORGIA, ADOPTING**
6 **ARTICLE VII, EXCISE TAX ON RENTAL MOTOR VEHICLES OF CHAPTER 24,**
7 **TAXATION, OF THE CODE OF ORDINANCES OF THE CITY OF STONECREST,**
8 **GEORGIA**
9

10 **WHEREAS**, the City of Stonecrest, Georgia Mayor and City Council are authorized by Section
11 1.03(b)(4) of the City Charter to adopt business regulations and levy certain business taxes as
12 authorized by the laws of the State of Georgia; and
13

14 **WHEREAS**, O.C.G.A. Section 48-13-90 *et seq.* authorizes the City to levy an excise tax upon the
15 rental charge collected by a rental motor vehicle concern when such charge constitutes a taxable
16 event for purposes of sales and use tax under Article 1, Chapter 8 of Title 48 of the Official Code
17 of Georgia Annotated.
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19 **THEREFORE**, the Mayor and City Council of the City of Stonecrest, Georgia, hereby ordain as
20 follows:
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22 **Section 1:** The Code of the City of Stonecrest, Georgia, is hereby amended by adding
23 **Article VII, Excise Tax on Rental Motor Vehicles of Chapter 24, Taxation, that reads as**
24 **follows:**

25 **CHAPTER 24. TAXATION**
26

27 **ARTICLE VII. – EXCISE TAX ON RENTAL MOTOR VEHICLES**
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29 **Sec. 24-150. – Definitions.**
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31 The following words, terms and phrases, when used in this article, shall have the meanings
32 ascribed to them in this section, except where the context clearly indicates a different meaning:
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34 *Director of finance* means the head or director of the city finance department or his designee.
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36 *Month or monthly period* shall mean the calendar months of any year.
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38 *Rental charge* means the total value received by a rental motor vehicle concern for the rental or
39 lease for 31 or fewer consecutive days of a rental motor vehicle, including total cash and
40 nonmonetary consideration for the rental or lease including, but not limited to, charges based on
41 time or mileage and charges for insurance coverage or collision damage waiver but excluding all
42 charges for motor fuel taxes or sales taxes.

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Rental motor vehicle means a motor vehicle designed to carry ten (10) or fewer passengers and used primarily for the transportation of persons that is rented or leased without a driver regardless of whether such vehicle is licensed in the state.

Rental motor vehicle concern means a person or legal entity which owns or leases five (5) or more rental motor vehicles and which regularly rents or leases such vehicles to the public for value.

Tax, excise tax or taxes shall mean the tax imposed by this article.

Sec. 24-151. – Authority; rules and regulations; records.

- (a) *Authority.* The director of finance shall administer and enforce this article for the levy and collection of the tax.
- (b) *Rules and regulations.* The director of finance shall have the power and authority to make and publish reasonable administrative rules and regulations not inconsistent with this article or other ordinances of the city or laws of the state or the constitution of the state or the United States for the administration and enforcement of this article and the collection of the tax under this article.
- (c) *Records required.* Every rental motor vehicle concern subject to this article shall keep such records, receipts, invoices and other pertinent papers reflecting the number of rental motor vehicles rented or leased and the gross rental charges received by each rental motor vehicle concern for each month, in such form as the director of finance may require.

Sec. 24-152. – Levy of tax.

- (a) Within the corporate limits of the city there is assessed and levied an excise tax upon each rental charge collected by any rental motor vehicle concern when such charge constitutes a taxable event for the purposes of the sales and use tax as provided for under Article 1, Chapter 8 of the Official Code of Georgia Annotated, as amended. The tax levied pursuant to this article shall be in the amount of three percent (3%) of the rental charge as defined herein. The tax levied pursuant to this article shall be imposed only at the time when, and the place where a customer pays sales tax with respect to the rental charge. The customer who pays a rental charge that is subject to the tax levy as provided in this article shall be liable for the tax. The tax shall be paid by the customer to the rental motor vehicle concern. The tax shall be a debt of the customer to the rental motor vehicle concern until it is paid and shall be recoverable at law in the same manner as authorized for the recovery for other debts.
- (b) The rental motor vehicle concern collecting the tax shall remit the tax to the director of finance of the city and the tax thus remitted shall be a credit against the tax imposed by this article on the rental motor vehicle concern. Every rental motor vehicle concern subject to the tax levied by this article shall be liable for the tax at the rate of three percent (3%) upon the rental charges actually collected or the amount of taxes collected from the customers, whichever is, greater.

87

88 **Sec. 24-153. – Uses of tax proceeds.**

89 The projects and purposes for which the proceeds of the tax levied by this article are to be
90 expended are specified as follows:

- 91 (a) Promoting industry, trade, commerce and tourism;
- 92 (b) Capital outlay projects consisting of the construction of convention, trade, sports, and
93 recreational facilities, or public safety facilities, including the acquiring, constructing,
94 renovating, improving, and equipping of parking facilities, pedestrian walkways, plazas,
95 connections, and other public improvements associated with such convention, trade,
96 sports and recreational facilities or public safety facilities or the retirement of debt issued
97 with respect to such capital outlay projects; and
- 98 (c) Maintenance and operation expenses or security and public safety expenses associated
99 with subparagraph (b) of this section.

100

101 **Sec. 24-154. – Exclusion from tax.**

102 No tax shall be imposed pursuant to this article on the rental charge associated with the rental
103 or lease of a rental motor vehicle if either:

- 104 (a) The customer picks up the rental motor vehicle outside the state and returns it within the
105 state; or
- 106 (b) The customer picks up the rental motor vehicle in the state and returns it outside the
107 state.

108 **Sec. 24-155. – Authorized deduction for expenses.**

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110 Each rental motor vehicle concern collecting the tax imposed by this article shall be
111 allowed to retain three percent (3%) of the tax due and collected and may retain that amount in the
112 form of a deduction for expenses incurred in submitting, reporting and paying the amount of taxes
113 due, but only if the amounts due are not delinquent at the time of payment.

114

115 **Sec. 24-156. – Monthly statement required showing rental charges and taxes.**

116

- 117 (a) On or before the 20th day of each month following the month of _____, 20__,
118 the rental motor vehicle concern liable for the tax provided for herein shall transmit to the director
119 of finance a statement showing the rental charges and taxes collected by authority of this article
120 for the immediately preceding calendar month. Along with said statement, the rental motor vehicle
121 concern shall submit to the director of finance the taxes due pursuant to this article for that
122 particular month.

123

124 (b) Failure to remit taxes by the due date shall subject the rental motor vehicle concern to a
125 penalty of five percent (5%) of the taxes then due and in addition to such penalty, interest on the
126 unpaid taxes then due computed at the rate of one percent (1%) per month.

127
128 **Sec. 24-157. – Records.**

129
130 In order to aid in the administration and enforcement of the provisions of this article and to
131 collect all the tax imposed, all rental motor vehicle concerns are hereby required to keep a record
132 of the number of rental motor vehicles rented or leased and all rental charges for rental motor
133 vehicles and taxes collected which are related thereto. Said records shall be open for inspection
134 and copying by any duly authorized agent of the city during regular business hours.

135
136 **Sec. 24-158. – Deficiency Determinations.**

137
138 (a) If the director of finance is not satisfied with the statement or statements of the excise tax
139 provided for herein, or the amount of the tax paid to the city by any rental motor vehicle concern,
140 the director of finance may compute and determine the amount required to be paid upon the basis
141 of any information that is or may come into possession of the director of finance. One (1) or more
142 deficiency determinations may be made of the amount due for one (1) or more monthly periods.

143
144 (b) The amount of the deficiency determination made by the director of finance shall bear
145 interest at the rate of one percent (1%) per month or fraction thereof from the due date of the taxes
146 found to be due but not paid.

147
148 (c) The director of finance shall give to the rental motor vehicle concern a written notice
149 of any such deficiency determination. The notice may be served personally or by mail and if by
150 mail the service shall be addressed to the operator or the owner of the rental motor vehicle concern
151 at the address as the same appears in the business license or other records of the director of finance
152 as provided to him by each rental motor vehicle concern. Service by mail is complete when
153 delivered by certified mail with a receipt signed by an addressee or agent of the addressee.

154
155 (d) Except in cases of failure to file a statement, every notice of deficiency determination
156 shall be mailed within three (3) years after the 20th day of the calendar month following the
157 monthly period in which the amount proposed to be determined or within three (3) years after the
158 statement is filed, whichever period shall expire last.

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160 **Sec. 24-159. – Failure to file a statement.**

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162 (a) If any rental motor vehicle concern fails to file a statement as required in this article, the
163 director of finance shall make an estimate of the excise tax due. The estimate shall be made for the
164 period or periods in respect to which the rental motor vehicle concern has failed to file a statement
165 and shall be based upon such information that is or may come into the possession of the director
166 of finance. Written notice shall be given in the manner as prescribed above in section 24-158(c).

167
168 (b) The amount of the delinquency determination shall bear interest at the rate of one (1)

169 percent per month or fraction thereof from the 20th day of the month following the monthly period
170 for which the amount of any portion thereof should have been paid until the date of payment.

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172 **Sec. 24-160. – Audit authority.**

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174 Duly authorized employees of the city upon exhibition of identification and during regular business
175 hours may examine and copy the books, papers, records, financial reports, equipment and other
176 facilities if necessary of any rental motor vehicle concern in order to verify the accuracy of any
177 statement filed pursuant to this article or if no statement is filed by the rental motor vehicle concern,
178 to ascertain or determine the amount of tax required to be paid.

179
180 **Sec. 24-161. – Withholding tax on sale of business.**

181
182 (a) If any rental motor vehicle concern liable for any amount under this article transfers or sells
183 its business or quits the business, its successors or assigns shall withhold sufficient amounts from
184 the purchase price to cover any amounts required to be paid pursuant to this article until the former
185 owner or operator of the rental motor vehicle concern produces a receipt from the director of
186 finance or his designee showing that the indebtedness has been paid or a certificate stating that no
187 amount is due.

188
189 (b) If the purchaser of a business or rental motor vehicle concern fails to withhold from
190 the purchase price all amounts due as required herein such purchaser will be personally liable for
191 the payment of the amount of the outstanding tax required to be withheld to the extent of such
192 purchase price.

193
194 **Sec. 24-162. – Penalty for violation.**

195
196 (a) In addition to the interest charges and delinquent penalties specified in this article,
197 any person who fails or refuses to comply with the provisions of this chapter, upon citation by the
198 finance department and conviction of the violation in a court of competent jurisdiction, will be
199 subject to a fine and/or imprisonment in accordance with this Code. Where any violation or offense
200 continues from day to day, each day's continuance thereof will constitute a separate offense.

201
202 (b) For a third and each subsequent violation of this chapter, the court shall impose a
203 fine of not less than two hundred fifty dollars (\$250.00) in addition to any other penalty or
204 punishment imposed by the court.

205
206 (c) The tax levied by this article shall be effective on the first day of
207 _____, 20__ and shall continue until its permissible existence shall expire as provided
208 by law, or until otherwise terminated by the Georgia General Assembly or the City Council.

209
210 **Section 2:**

- 211 1. It is hereby declared to be the intention of the Mayor and City Council that all sections,
212 paragraphs, sentences, clauses and phrases of this Ordinance are and were, upon their

213 enactment, believed by the Mayor and City Council to be fully valid, enforceable and
214 constitutional.

215
216 2. It is hereby declared to be the intention of the Mayor and City Council that, to the greatest
217 extent allowed by law, each and every section, paragraph, sentence, clause or phrase of this
218 Ordinance is severable from every other section, paragraph, sentence, clause or phrase of
219 this Ordinance. It is hereby further declared to be the intention of the Mayor and City
220 Council that, to the greatest extent allowed by law, no section, paragraph, sentence, clause
221 or phrase of this Ordinance is mutually dependent upon any other section, paragraph,
222 sentence, clause or phrase of this Ordinance.

223
224 3. In the event that any phrase, clause, sentence, paragraph or section of this Ordinance shall,
225 for any reason whatsoever, be declared invalid, unconstitutional or otherwise
226 unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is
227 the express intent of the Mayor and City Council that such invalidity, unconstitutionality,
228 or unenforceability shall, to the greatest extent allowed by law, not render invalid,
229 unconstitutional or otherwise unenforceable any of the remaining phrases, clauses,
230 sentences, paragraphs or sections of the Ordinance and that, to the greatest extent allowed
231 by law, all remaining phrases, clauses, sentences, paragraphs and sections of the Ordinance
232 shall remain valid, constitutional, enforceable, and of full force and effect.

233
234 4. All ordinances or resolutions and parts of ordinances or resolutions in conflict herewith are
235 hereby expressly repealed.

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237 5. The within ordinance shall become effective upon its adoption.

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239 6. The provisions of this Ordinance shall become and be made part of The Code of the City
240 of Stonecrest, Georgia, and the sections of this Ordinance may be renumbered to
241 accomplish such intention.


242 **SO ORDAINED AND EFFECTIVE** this the 4 day of December, 2017.

243 Approved:
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247 Jason Lary, Sr., Mayor
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250 As to form:
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254 City Attorney
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Attest:

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Brenda James, City Clerk