



City Council Regular Meeting

Monday, January 08, 2024

5:15 PM

City Hall, 129 E Memorial Dr, Dallas GA 30132

Individuals with disabilities who require certain accommodations in order to allow them to observe and/or participate in this meeting, or who have questions regarding the accessibility of a meeting or the facilities, are required to promptly contact the City's ADA Coordinator at 770-443-8110 ext. 1604 to allow the city to make reasonable accommodations for those persons.

AGENDA

OATH OF OFFICE

Prior to the regular meeting, Oath of Office will be administered to the re-elected Mayor Kelly, re-elected Councilmembers Henson and Cochran, and the newly elected Councilmember Callaway.

CALL TO ORDER

INVOCATION AND PLEDGE

RECOGNITION OF VISITORS AND COMMENTS

Andrew Rodriguez, The Dallas Markets

MINUTES APPROVAL

1. [Monday, December 4, 2023, Regular Meeting Minutes](#)

CONSENT AGENDA

OLD BUSINESS

NEW BUSINESS

2. Appointment of Ron Johnson as the Community Development Director.
3. **First Read:** Ordinance Amendment; OA-2024-01 Hotel Motel Tax update.

ADDITIONAL/COMMENTS

ADJOURNMENT



City Council Regular Meeting

Monday, December 04, 2023

5:15 PM

City Hall, 129 E Memorial Dr, Dallas GA 30132

Individuals with disabilities who require certain accommodations in order to allow them to observe and/or participate in this meeting, or who have questions regarding the accessibility of a meeting or the facilities, are required to promptly contact the City's ADA Coordinator at 770-443-8110 ext. 1604 to allow the city to make reasonable accommodations for those persons.

MINUTES

CALL TO ORDER

PRESENT

- Mayor L. James Kelly
- Councilmember Leah Alls
- Councilmember Nancy Arnold
- Councilmember Christopher Carter
- Councilmember Michael Cason
- Councilmember James Henson
- Councilmember Cooper Cochran

INVOCATION AND PLEDGE

Councilmember Cason led the Invocation & Pledge.

RECOGNITION OF VISITORS AND COMMENTS

Andrew Rodriguez, The Dallas Markets

MINUTES APPROVAL

1. Motion to adopt the Monday, November 6, 2023, Regular Meeting Minutes.

Motion made by Councilmember Arnold, Seconded by Councilmember Alls.

Voting Yea: Councilmember Alls, Councilmember Arnold, Councilmember Carter, Councilmember Cason, Councilmember Henson, Councilmember Cochran

CONSENT AGENDA

None

OLD BUSINESS

2. Motion to adopt Ordinance Amendment NO. OA-2023-09: Chapter 32 – Streets, Sidewalks and Other Public Places; Article IV. – Required Minimum Standards; Sections 32-89 through 32-119.

Motion made by Councilmember Henson, Seconded by Councilmember Cason.

Voting Yea: Councilmember Alls, Councilmember Arnold, Councilmember Carter, Councilmember Cason, Councilmember Henson, Councilmember Cochran

3. Motion to adopt ORD-2023-03, An ordinance to amend the Charter of the City of Dallas, to amend Chapter 2, Article II Sections 2-37 through 2-70 to repeal conflicting ordinances and for other purposes.

Motion made by Councilmember Carter, Seconded by Councilmember Cochran.

Voting Yea: Councilmember Alls, Councilmember Arnold, Councilmember Carter, Councilmember Cason, Councilmember Henson, Councilmember Cochran

4. 2024 Board and Committee Appointments for consideration, no action taken.

NEW BUSINESS

5. Motion to approve purchase of cellular devices and equipment for the Police Department at an estimated amount of \$105,000 to be paid from 911 Fees.

Motion made by Councilmember Alls, Seconded by Councilmember Arnold.

Voting Yea: Councilmember Alls, Councilmember Arnold, Councilmember Carter, Councilmember Cason, Councilmember Henson, Councilmember Cochran

6. Motion to adopt RES-2023-17; Enter into a loan agreement DWLSL2022132 with GEFA. This loan agreement will provide Principal Forgiveness Funding in an amount of \$144,230 towards all project expenditures once all loan funds are drawn.

Motion made by Councilmember Cochran, Seconded by Councilmember Cason.

Voting Yea: Councilmember Alls, Councilmember Arnold, Councilmember Carter, Councilmember Cason, Councilmember Henson, Councilmember Cochran

7. Motion to adopt RES-2023-18; West Dallas Collector Sewer Extension Project - Phase I; Enter into a loan agreement CW2021008A with Georgia Environmental Finance Authority. This loan agreement will provide Principal Funding in an amount of \$2,583,800 towards project expenditures.

Motion made by Councilmember Carter, Seconded by Councilmember Henson.

Voting Yea: Councilmember Alls, Councilmember Arnold, Councilmember Carter, Councilmember Cason, Councilmember Henson, Councilmember Cochran

8. Motion to approve the Lead Service Line Inventory Project: GEFA loan # DWLSL2022132 – EXHIBIT F; Authorization for Mayor to execute Loan Agreement.

Motion made by Councilmember Cochran, Seconded by Councilmember Alls.

Voting Yea: Councilmember Alls, Councilmember Arnold, Councilmember Carter, Councilmember Cason, Councilmember Henson, Councilmember Cochran

9. Motion to approve the West Dallas Collector Sewer Extension Project, Phase I - Additional Funding: GEFA loan # CW2021008A – EXHIBIT F; Authorization for Mayor to execute Loan Agreement.

Motion made by Councilmember Arnold, Seconded by Councilmember Carter.

Voting Yea: Councilmember Alls, Councilmember Arnold, Councilmember Carter, Councilmember Cason, Councilmember Henson, Councilmember Cochran

10. Motion to approve Patty Morales plumbing charge reimbursement request in the amount of \$656.

Motion made by Councilmember Cochran, Seconded by Councilmember Henson.

Voting Yea: Councilmember Alls, Councilmember Arnold, Councilmember Carter, Councilmember Cason, Councilmember Henson, Councilmember Cochran

11. Motion to approve Pumpkinvine Creek WPCP – Capital Equipment Replacement: Purchase two (2) Eaton VFD Basin Aerators from Baker Technical Services in the amount of \$95,680.

Motion made by Councilmember Alls, Seconded by Councilmember Henson.

Voting Yea: Councilmember Alls, Councilmember Arnold, Councilmember Carter, Councilmember Cason, Councilmember Henson, Councilmember Cochran

12. Motion to approve the Water and Sewer System – Monthly Service Charge & System Development Fee implementation.

Motion made by Councilmember Alls, Seconded by Councilmember Arnold.

Voting Yea: Councilmember Alls, Councilmember Arnold, Councilmember Carter, Councilmember Cason, Councilmember Henson, Councilmember Cochran

13. Motion to approve Champions in Motion ActiveStars Indoor Pavilion use at Sara Babb Park at a discounted rate.

Motion made by Councilmember Arnold, Seconded by Councilmember Alls.

Voting Yea: Councilmember Alls, Councilmember Arnold, Councilmember Carter, Councilmember Henson, Councilmember Cochran

Excused: Councilmember Cason

ADDITIONAL/COMMENTS

Mayor Kelly recognized Councilman Cason on his Retirement with 20 years of Service.

ADJOURNMENT

Motion to adjourn.

Motion made by Councilmember Cason, Seconded by Councilmember Carter.

Voting Yea: Councilmember Alls, Councilmember Arnold, Councilmember Carter, Councilmember Cason, Councilmember Henson, Councilmember Cochran

Mayor, L. James Kelly

Date

City Clerk, Tina Clark

Date

DRAFT



STAFF ACTION ITEM

MEETING DATE: 01/08/2024
TITLE: OA- 2024-01- Hotel Motel Tax
PRESENTED BY: Amber Whisner, Business Development

AGENDA ITEM DESCRIPTION (Agenda Content):

Consideration for OA-2024-01 Hotel Motel Tax

HISTORY/PAST ACTION:

None

FINANCIAL IMPACT:

INFORMATION:

First read for Ordinance Amendment 2024-01. Update to Hotel Motel Excise Tax. Percentage change from 5 to 8 percentage and restructure on recipient of funds.

**ORDINANCE
AMENDMENT
NO. OA-2024-01**

CHAPTER 10 – BUSINESSES

**ARTICLE VII. EXCISE TAX ON ROOMS, LODGING, AND
ACCOMODATIONS**

SECTION 10-205 through 10-244

WHEREAS, The Charter of the City of Dallas, Georgia does allow the Mayor and Council to adopt Ordinances to provide for rules and regulations concerning excise taxes for rooms, lodgings and accommodations furnished for value within the City of Dallas, Georgia and for the safety, health, and welfare of the citizens of the City of Dallas, Georgia; **AND**

WHEREAS, The Charter of the City of Dallas, Georgia does allow the Mayor and the City Council, by ordinance, to levy and assess taxes for rooms, lodgings and accommodations furnished for value in the City of Dallas; **AND**

WHEREAS, The Mayor and the City Council of Dallas, Georgia considered the proposed amendment at a duly noticed public meeting on _____, 2024; **AND**

WHEREAS, The Mayor and the City Council of Dallas, Georgia have determined that this amendment is in the best interest of the City’s residents and for their safety, health and welfare and the public good; **AND**

THEREFORE, be it ordained by the Mayor and the City Council of Dallas, Georgia:

SECTION I.

That **CHAPTER 10 – BUSINESSES, ARTICLE VII. EXCISE TAX ON ROOMS, LODGING, AND ACCOMODATIONS, SECTIONS 10-205 through 10-244** is hereby struck in its entirety and replaced with the following:

ARTICLE VII. EXCISE TAX ON ROOMS, LODGING, AND ACCOMMODATIONS¹

¹Ord. No. OA-2009-02, adopted August 3, 2009, amended article VII in its entirety to read as herein set out. Former article VII, §§ 10-205—10-218, pertained to rooms, lodgings and accommodations, and derived from Ord. No. OA-2008-01, §§ 5-430.1—5-430.14, 4-7-2008.

Sec. 10-205. Purpose.

- (a) It is declared the purpose and the intent of the City of Dallas, Georgia that an excise tax be levied upon any room or rooms, lodgings and accommodations furnished for value within the City of Dallas, Georgia and that said funds be made available for the purpose of promoting, attraction, stimulating and developing tourism within the City of Dallas, Georgia and for the provision of other city services.
- (b) The City of Dallas, Georgia does hereby levy and impose an excise tax of eight percent upon the furnishing for value to the public of any room or rooms, lodgings, or accommodations furnished by any person or legal entity licensed by, or required to pay business or occupation taxes to the City of Dallas, Georgia for operating a hotel, motel, inn, lodge, tourist camp, tourist cabin, campground or any place in which rooms, lodgings or accommodations are regularly furnished for value.

(Ord. No. OA-2009-02, 8-3-2009)

Sec. 10-206. Definitions.

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

City means the City of Dallas, Georgia, and variously, the incorporated territory of the city, wherein the City of Dallas, is empowered to impose this tax by O.C.G.A. 48-13-50 et seq.

City clerk means the duly appointed city clerk of the City of Dallas, Georgia or the clerk's designee.

Destination Marketing Organization: Hereby referred to as DMO; a private sector nonprofit organization or other private entity which is exempt from federal income tax under Section 501(c)(6) of the Internal Revenue Code of 1986 that is supported by the tax under this article, government budget allocations, private membership, or any combination thereof and the primary responsibilities of which are to encourage travelers to visit their destinations, encourage meetings and expositions in the area, and provide visitor assistance and support as needed. O.C.G.A. § 48-13-50.2(1)

Due date means from the 20th day after the close of the monthly period for which the tax is to be computed.

Estimated tax liability means the operator's prospective tax liability based upon tax remittance in the prior fiscal year, as adjusted for change in tax rate or substantial change in circumstances due to damage to the hotel.

Folio means primary documentation produced by a hotel that demonstrates interaction between the operator and the occupant and which, at a minimum, reflects the name and address given by the occupant, the date(s) of occupancy, the amount of rent charged for each date together with the amounts of applicable excise tax(es) and the method(s) of payment.

Guestroom 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.

Hotel means any structure or any portion of a structure, including lodging house, rooming house, dormitory, Turkish bath, bachelor hotel, studio hotel, motel, motor hotel, auto court, truck stop, tourist cabin, campground, lodge, inn, time-share or other condominium, apartment community, public club or private club, containing guestrooms and which is occupied, or is intended or designed for occupancy, by paying guests, whether rent is paid in money, goods, labor or otherwise. It does not include any hospital, asylum, sanitarium, orphanage, jail, prison, or other buildings in which human beings are housed and detained under legal restraint.

Monthly period means the calendar month of any year.

Occupancy means the use or possession, or the right to use or possession of any guestroom or apartment in a hotel, or the right to the use or possession of the furnishings or the services and accommodations accompanying the use and possession of the room.

Occupant means any person who, for a consideration, uses, possesses, or has the right to use or possess any guestroom 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, lessee, sublessee, lender in possession, licensee or any other person operating such hotel and who is subject to the taxation imposed for furnishing for value to the public any rooms, lodgings, or accommodations.

Permanent resident means any occupant as of a given date who has or shall have occupied or has or shall have the right of occupancy of any guestroom in a hotel for not less than 30 continuous days next preceding such date.

Person means an individual, firm, partnership, joint adventure, association, social club, fraternal organization, joint stock company, corporation, cooperative, estate, 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, the State of Georgia and any instrumentality of either thereof upon which the city is without power to impose the tax.

Private Sector Non-Profit Organization: A chamber of commerce, a convention and visitors bureau, a regional travel association, or any other private group organized for similar purposes which is exempt from federal income tax under Section 501(c)(6) of the Internal Revenue Code of 1986; provided, however, that a county or municipality which has prior to April 1st, 1990, contracted for a required expenditure under this Code section with a private group which is exempt from federal income tax under provisions of Section 501(c) of the Internal Revenue Code other than Section 501(c)(6) may continue to contract for required expenditures with such a private group. O.C.G.A § 48-13-50.2(3)

Promoting Tourism, Conventions, and Trade Shows: Planning, conducting, or participating in programs of information and publicity designed to attract or advertise tourism, conventions, or trade shows. O.C.G.A. § 48-13-50.2(4)

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.

Tax means the tax imposed by this article, as provided by O.C.G.A. 48-13-50 et seq.

Tourism Product Development means the expenditure of funds for the creation or expansion of physical attractions which are available and open to the public and which improve destination appeal to visitors, support visitors' experience, and are used by visitors. Such expenditures may include capital costs and operating expenses. Tourism product development may include: (A) Lodging for the public for no longer than 30 consecutive days to the same customer; (B) Overnight or short-term sites for recreational vehicles, trailers, campers, or tents; (C) Meeting convention, exhibit and public assembly facilities; (D) Sports stadiums, arena, and complexes; (E) Golf courses associated with a resort development that are open to the general public on a contract or fee basis; (F) Racing facilities, including dragstrips, motorcycle racetracks, and auto or stock car racetracks or speedways; (G) Amusement centers, amusement parks, theme parks, or amusement piers; (H) Hunting preserves, trapping preserves, or fishing preserves or lakes; (I) Visitor information and welcome centers; (J) Wayfinding signage; (K) Permanent, nonmigrating carnivals or fairs; (L) Airplanes, helicopters, buses, vans, or boats for excursions or sightseeing; (M) Boat rentals, boat party fishing services, rowboat or canoe rentals, horse shows, natural wonder attractions, picnic grounds, river-rafting services, scenic railroads for amusement, aerial tramways, rodeos, water slides, or wave pools; (N) Museums, planetariums, art galleries, botanical gardens, aquariums, or zoological gardens; (O) Parks, trails, and other recreational facilities; or (P) Performing arts facilities. O.C.G.A. § 48-13-50.2(6)

(Ord. No. OA-2009-02, 8-3-2009)

Sec. 10-207. Tax rate.

There shall be paid for every occupancy of a guestroom in any hotel in the City of Dallas, Georgia, a tax at the rate of eight percent of the amount of any rent unless an exemption is provided under section 10-210.

(Ord. No. OA-2009-02, 8-3-2009)

Sec. 10-208. Collection of tax by operator.

Every operator renting guestrooms in this city shall collect a tax of eight percent on the amount of rent from the occupant unless an exemption is provided under section 10-210. The operator shall provide a receipt to each occupant, which receipt shall reflect both the amount of rent and the amounts of this and other tax(es) applicable. This tax shall be due from the occupant, and shall be collected by the operator at the same time that the rent is collected.

(Ord. No. OA-2009-02, 8-3-2009)

Sec. 10-209. Proceeds of the tax.

- (a) The proceeds of the tax shall be used in accordance with O.C.G.A. 48-13-51(a)(3).
- (b) Expenditure of proceeds.
 - (1) A portion of the taxes collected shall be expended in accordance with 48-13-51(b)(5)
 - (2) Prior to the beginning of each fiscal year, the designated DMO shall provide to the city council a budget detailing the proposed expenditure of the funds

provided under this ordinance. Such budget, after being approved by the city council, shall be made a part of the budget for the city.

- (3) The DMO selected by the city shall provide to the city council audit verification that the DMO has made use of the funds in conformity with the proposed budget and the general purpose of this article.
- (4) By January 31 of each year, the City of Dallas will designate a DMO, by memorandum per a written policy approved by the Mayor and Council and kept on file with the City Clerk.

(Ord. No. OA-2009-02, 8-3-2009)

Sec. 10-210. Exemption.

The tax imposed by this ordinance shall not apply to:

- a) Charges made for any 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; O.C.G.A. § 48-13-51(h)(1)
- b) The use of meeting rooms and other such facilities or any rooms, lodgings, or accommodations provided without charge; O.C.G.A. § 48-13-51(h)(2)
- c) Any rooms, lodgings, or accommodations furnished for a period of one or more days for use by Georgia state or local governmental officials or employees when traveling on official business. Notwithstanding the availability of any other means of identifying the person as a state or local government official or employee, whenever a person pays for any rooms, lodgings, or accommodations with a state or local government credit or debit card, such rooms, lodgings, or accommodations shall be deemed to have been furnished for use by a Georgia state or local government official or employee traveling on official business for purposes of the exemption provided by this paragraph. 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; O.C.G.A. § 48-13-51(h)(3)
- d) Charges made for continuous use of any rooms, lodgings, or accommodations after the first 30 days of continuous occupancy. O.C.G.A. § 48-13-51(h)(4)

(Ord. No. OA-2009-02, 8-3-2009)

Sec. 10-211. Registration of operator; form and contents; execution; certificate of authority.

Every person engaging in or about to engage in business as an operator of a hotel in this city shall immediately register with the city clerk, on a form provided by said official. Persons engaged in such business must so register not later than 30 days after the date that this article becomes effective. 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 administration of the tax as prescribed by the city clerk. 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 case of ownership by a corporation, by an officer. The city clerk 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.

(Ord. No. OA-2009-02, 8-3-2009)

Sec. 10-212. Determination generally; returns, payments.

- (a) *Due dates of taxes.* All amounts of such tax shall be due and payable to the city clerk monthly on or before the 20th day of every month next succeeding each respective monthly period. The tax shall become delinquent for each monthly period after the 20th day of each succeeding month during which it remains unpaid.
- (b) *Penalty and interest for failure to pay tax by due date.* An operator who fails to make any return or to pay the amount of tax as prescribed, shall be assessed a specific penalty to be added to the tax in the amount of five percent or \$5.00, whichever is greater, if the failure is for one month or less; and an additional five percent 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 25 percent or \$25.00, whichever is greater. Delinquent amounts shall bear interest at the rate of one percent per month, or fraction thereof, until paid.
- (c) *Acceptance of delinquent return and remittance without imposing penalty and interest; authority; requirements.* If the failure to make any return or to pay the amount of tax by the due date results from providential cause shown to the satisfaction of the governing authority of the city by affidavit attached to the return, and remittance is made within ten days of the due date, such may be accepted exclusive of penalty and interest.
- (d) *Waiving of penalty and interest; authority.* O.C.G.A. 48-2-41, relating to the authority to waive interest, and O.C.G.A. 48-2-43, relating to the authority to waive penalty, shall apply; provided, however, that the governing authority shall stand in lieu of the Georgia Commissioner of Revenue, and the city shall stand in lieu of the state.
- (e) *Penalty for fraud.* In the case of a false or fraudulent return, or of failure to file a return where willful intent exists to defraud the city of any tax due, a penalty of 50 percent shall be assessed.
- (f) *Return; remittance; time of filing; operators required to file; contents.* On or before the 20th day of the month succeeding each monthly period, a return for the preceding

monthly period together with appropriate remittance shall be filed with the city clerk. The return shall report the gross rent, taxable rent, exempt rent, amount of tax collected or otherwise due for the period, and such other information as may be required by the city clerk. However, if the estimated tax liability for any monthly period shall exceed \$2,500.00 in any three consecutive months, such operator shall file an estimated return and remit not less the 50 percent of the estimated tax liability for the monthly period by the 20th day of that same monthly period. The amount of tax so remitted shall be credited against the amount to be due with the regular return for the monthly period to be filed on the 20th day of the succeeding month.

- (g) *Extension of time of filing; authority; remittance; penalty and interest.* The governing authority of the city may, for good cause, extend the time for making returns for not longer than 30 days. No extension shall be valid unless granted in writing upon written application of the operator. Such grant may not be applicable for longer period than 12 consecutive months. An operator granted an extension shall remit tax equaling not less than 100 percent 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 the grant of extension. No penalty or interest shall be charged during the first ten days of the extension period.
- (h) *Collection fee allowed operators.* Operators collecting the 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 paying the amount due, if the amount is not delinquent at the time of payment. The rate of the deduction shall be three percent of the amount due, but only if the amount due was not delinquent at the time of payment.

(Ord. No. OA-2009-02, 8-3-2009)

Sec. 10-213. Deficiency determinations.

- (a) *Recomputation of tax; authority to make; basis of recomputation.* If the city clerk 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 operator, the clerk may compute and determine the amount required to be paid upon the basis of any information within the clerk's possession or that may come into the clerk's possession. One or more deficiency determinations may be made of the amount due for one or more monthly periods.
- (b) *Penalty and interest for failure to pay tax.* Penalty and interest shall be assessed upon the amount of any determination as provided by section 10-212.
- (c) *Notice of determination; service of.* The city clerk shall give to the operator written notice of the clerk's determination. The notice 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. Service by mail is complete when delivered by certified mail with a receipt signed by addressee.
- (d) *Time within which notice of deficiency determination to be mailed.* Except in cases of failure to make a return or of fraud, every notice of deficiency determination shall be mailed within three 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 years after the return is filed, whichever period should last expire.

(Ord. No. OA-2009-02 , 8-3-2009)

Sec. 10-214. Determination if no return made; unsatisfactory return.

- (a) *Estimate of gross receipts.* If any operator fails to make a return, the city 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 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 operator failed to make the return and shall be based upon any information which is or may come into the possession of the city clerk. Written notice shall be given in the manner prescribed in section 10-213(c).
- (b) *Penalty and interest for failure to pay tax.* Penalty and interest shall be assessed upon the amount of any determination, as provided by section 10-212.

(Ord. No. OA-2009-02, 8-3-2009)

Sec. 10-215. Collection of tax by city.

- (a) *Action for delinquent tax; time for.* 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, the city clerk may bring an action in a court of competent jurisdiction in the name of the city to collect the amount delinquent together with penalty, interest, court fees, filing fees, attorney's fee and other legal fees incident thereto.
- (b) *Operator selling or quitting business.* If any operator liable for any amount under this article sells out his business or quits his business, he shall make a final return and remittance within 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 article sells out his business or quits the business, his successors or assigns shall withhold sufficiently from the purchase price to cover such amount until the former owner produces from the city clerk either a receipt reflecting full payment or a certificate stating no amount is due.
- (d) *Liability for failure to withhold.* If the purchaser of a business fails to withhold purchase as required, he shall be personally liable for the payment amount required to be withheld by him to the extent of the purchase price.
- (e) *Credit for tax, penalty or interest paid more than once or erroneously or illegally collected.* Whenever the amount of any tax, penalty or interest has been paid more than once, or has been erroneously or illegally collected or received by the city, it may be offset by the governing authority. If the operator or person determines that he has overpaid or paid more than once, which fact has not been determined by the city clerk, such person shall have three years from the date of payment to file a claim in writing stating the specific ground upon which the claim is founded. The claim shall be

audited. If the claim is approved by the governing authority, the excess amount paid to the city may be credited on any amounts then due and payable from the person by whom it was paid.

(Ord. No. OA-2009-02, 8-3-2009)

Sec. 10-216. Administration of article; record keeping.

- (a) *Authority of city clerk.* The city clerk shall administer and enforce the provisions of this article for the collection of the tax.
- (b) *Records required from operators, etc; form.* Every operator renting guestrooms in the city shall preserve, for a minimum of three years, all folios, receipts, certificates of exemption and such other documents as the city clerk may prescribe, and in such form as the clerk may require. Said records shall at times be available for examination within the city.
- (c) *Application for sales tax audit reports.* Each year, in the month of January, the city clerk shall request in writing from the Georgia Commissioner of Revenue any reports of sales tax audits conducted of hotels in the city during the preceding calendar year.
- (d) *Examination of records; audits.* The city 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 guestrooms 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.
- (e) *Authority to require reports; contents.* In administration of the provisions of this article, the city clerk may require the filing of reports by any person or class of persons having in their possession or custody information relating to the rental of guestrooms which are subject to the tax. The reports shall be filed with the city clerk when required by said official, and shall set forth the rental charged for each occupancy, the date(s) of occupancy, the basis for exemption, or such other information as the city clerk may prescribe.

(Ord. No. OA-2009-02, 8-3-2009)

Sec. 10-217. Violations.

Any person violating any of the provisions of this article shall be deemed guilty of an offense and, upon conviction thereof, shall be punished by a fine of not less than \$100.00 nor more than \$300.00, or confinement for a term not to exceed three months. Each such person shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of this article is committed, continued or permitted by such person, and shall be punished accordingly. Any operator 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 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.

(Ord. No. OA-2009-02, 8-3-2009)

Secs. 10-218 – 10-244. Reserved.

SECTION II. REPEAL OF CONFLICTING ORDINANCES. That all ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION III. SEVERABILITY CLAUSE. If any section, sentence, clause or phrase of this ordinance or any part thereof is for any reason found to be invalid by a court of competent jurisdiction, such decision will not affect the validity of the remainder of this ordinance or any part thereof.

SECTION IV. EFFECTIVE DATE. Following passage and approval of this ordinance by the Mayor and City Council, this ordinance shall be effective on and after _____, 2024.

SO SHALL IT BE ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF DALLAS, GEORGIA, THIS THE ____ DAY OF _____, 2024.

L. James Kelly, Mayor

James R. Henson, Councilmember

Cooper Cochran, Councilmember

Nancy R. Arnold, Councilmember

Christopher B. Carter, Councilmember

Leah Alls, Councilmember

Candace Callaway, Councilmember

ATTEST:

Tina Clark, City Clerk of the City of Dallas, GA

Date