

TAXATION

Chapter 22

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- Art. I. In General, §§ 22-1—22-20
Art. II. Hotel/Motel Tax, §§ 22-21—22-32

***Charter reference**—Taxes and assessments, § 6.101 et seq.

Cross references—Tax levies not affected by Code or ordinance adopting Code, § 1-6(3); excise tax on wholesale malt beverage dealers, § 4-71 et seq.; excise tax on wine, § 4-141 et seq.; excise tax on distilled spirits, § 4-221 et seq.; license fees generally, § 12-21 et seq.; insurers' license fees and premium tax, § 12-41 et seq.

State law reference—Revenue and taxation, OCGA Title 48.

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ARTICLE I. IN GENERAL

Sec. 22-1. Use of county assessments.

Pursuant to Section 6.101 of the Charter, the city council hereby elects to use the county assessment of property for the purpose of taxation by the city, and the county shall be requested to furnish appropriate information for such purposes for each year that city taxes are levied on such property.

Sec. 22-2. Delinquent date.

The tax books of the city shall close on December 20 of each year, and after that date taxes will become delinquent and executions may issue.

(Code 1967, § 22-4)

Charter references—Council to prescribe tax due dates, § 6.103; collection of delinquent taxes, § 6.104.

Sec. 22-3. City-county sales and use tax.

A combination city-county local sales and use tax of one (1) percent is hereby levied for the city by the city council.

(Res. of 9-4-79)

State law reference—Joint city-county sales and use tax, OCGA § 48-8-80 et seq.

Sec. 22-4. Occupational license tax on telephone companies.

(a) Each telephone company operating in the city shall pay an occupational license tax in the amount of three (3) percent of the recurring local service revenues by such company from subscribers located within the city. Such tax shall be paid in quarterly installments, each of which shall be due on or before the last day of the second month following the end of each calendar quarter and shall be based on recurring local service revenues billed during such calendar quarter.

(b) For the purposes of this section, the term “recurring local service revenues” shall mean:

(1) Monthly charges for local exchange service, including:

- a. Charges for additional listing and joint users;
- b. The guarantee portion of the charge for semi-public pay station services;
- c. Charges for local message rate services, including mobile service local messages; and
- d. Subscribers station revenues from teletype-writer exchange service.

(2) Charges for morse transmission, signaling, date transmission, remote metering and supervisory control, where both terminal points are within the city limits.

(3) All charges for local private line services (except audio and video program transmission services) where both terminals of the private line are within the city limits.

Nothing in this definition shall preclude the charging of a separate franchise fee for the transmission of audio or video programs to customers by CATV companies.

(Code 1967, § 13-15)

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Sec. 22-5. Homestead exemptions from ad valorem taxes.

- (a) For purposes hereunder, the term “homestead” shall be defined in the Official Code of Georgia Annotated Section 48-5-40.
- (b) Each resident of the City of Forsyth is granted an exemption from that person’s homestead from all City of Forsyth ad valorem taxes in the amount of two thousand dollars (\$2,000.00). The value of the homestead in excess of the exempted amount shall remain subject to taxation.
- (c) In addition to the exemption granted in subparagraph (b) above, each resident of the City of Forsyth who is sixty-five (65) years of age or older is granted an exemption from that person’s homestead from all City of Forsyth ad valorem taxes in the amount of four thousand dollars (\$4,000.00). The value of the homestead in excess of the exempted amount shall remain subject to taxation.
- (d) The exemptions granted by this section shall not apply to or affect any county school taxes, state taxes, or county taxes for county purposes.
- (e) The exemptions granted hereunder shall apply to all taxable years beginning January 1, 1991, and all subsequent years.
- (f) An applicant seeking a homestead exemption hereunder shall file on or before April 1 a written application with the city clerk or the designee of the city clerk, which may be the Tax Commissioner of Monroe County or other designees. The failure to properly file the application shall constitute a waiver of the homestead exemption on the part of the applicant failing to make the application for such exemption for that year.
- (g) The owner of a homestead which is actually occupied by the owner as a residence and homestead shall not have to apply for the exemption more than once so long as the owner remains in continuous occupation of the residence as a homestead. The exemption shall automatically be renewed from year to year so long as the owner continuously occupies the residence as a homestead. Those persons who have applied for and received homestead exemptions under county applications shall automatically be renewed as city applicants from year to year so long as the owner continuously occupies the residence as a homestead.
- (h) The application forms for the homestead exemptions shall be furnished by the city clerk or designees of the city clerk not later than February 1 of each year.
- (i) The application shall provide for:
 - (1) A statement of ownership of the homestead, a complete description of the property on which homestead exemption is claimed, when and from whom the property was acquired, the kind of title held, and the amount of liens, if any, and to whom due; and
 - (2) The approval of the application by the city clerk or the designee of the city clerk.
- (j) A form of oath shall be provided and shall be administered to the applicant seeking the homestead exemption. The oath may be administered and witnessed by the city clerk, any authorized designee of the city clerk, or any individual authorized by law to administer oaths.

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- (k) The city clerk or the designee of the city clerk shall deliver to any interested person the forms prescribed for the exemption, and the applicant must answer all questions correctly to be entitled to an approval of the application. The city clerk and designees shall receive all applications for homestead exemption and shall file and preserve the applications.
- (l) The application for the homestead exemption of individuals sixty-five (65) years of age or older shall be in such form as prescribed by the city clerk, and the application shall require the applicant's social security number.
- (m) The determination of eligibility of any applicant hereunder to claim any of the exemptions provided by this section shall be made by the city clerk, subject to the governing authority of the city, and further subject to appeal to the Superior Court. Any such appeal must be filed within thirty (30) days after the final determination by the governing authority and shall be a de novo proceeding.
(Ord. of 2-5-91, § 1)

Secs. 22-6—22-20. Reserved.

ARTICLE II. HOTEL/MOTEL TAX*

Sec. 22-21. Title.

This article shall be known and may be cited as "The Forsyth Hotel/Motel Tax Ordinance."
(Ord. of 5-3-88, § 1)

Sec. 22-22. 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:

Campground. Temporary living accommodations for recreational, camping, and travel use for any type of portable structure without a permanent foundation, which can be towed, hauled, or driven including, but not limited to, tents, travel trailers, truck campers, camping trailers, and self-propelled motor homes or recreational vehicles.

City. The City of Forsyth.

Due date. From the twentieth day after the close of the monthly period for which tax is to be computed.

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.

***Editor's note**—Ord. of May 3, 1988, §§ 1—3, did not specifically amend the Code, hence inclusion herein as Art. II, §§ 22-21—22-33, was at the discretion of the editor.

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Hotel. Any structure or 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.

Monthly period. The calendar months of any year.

Occupancy. The use or possession, or right to the use or possession of any guest room or apartment in a hotel or premises of a campground 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 premises of a campground.

Occupant. Any person who, for a consideration, uses, possesses, or has the right to use or possess any room at a hotel or premises of a campground under any lease, concession, permit, right of access, license to use or other agreement, or otherwise.

Operator. Any person operating a hotel or campground in the City of Forsyth, including, but not limited to, the owner or proprietor of such premises, lessee, sublessee, lender in possession, licensee or any other person otherwise operating such hotel.

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 premises of a campground for at least thirty (30) consecutive days next preceding such date.

Person. An individual, firm, partnership, joint adventure, association, social club, fraternal organization, joint stock company, corporation, nonprofit corporation or co-operative nonprofit membership, 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.

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.

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

Tax. The tax imposed by this article.
(Ord. of 5-3-88, § 2)

Sec. 22-23. Imposition and rate of tax.

There shall be paid a tax of five (5) percent of the rent for every occupancy of a guest room in a hotel or campground in the City of Forsyth. The tax imposed by this article shall be paid upon any occupancy on

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and after the first day of the second month following adoption of this article, although such occupancy is had pursuant to a contract, lease, or other arrangement made prior to such date.

(Ord. of 5-3-88, § 3; Ord. of 1-17-89, § 2)

Sec. 22-24. Collection of tax by operator; receipt to occupant; rules for collection schedules.

Every operator maintaining a place of business in this city, as provided in the next preceding section, and renting guest rooms or campground accommodations in this city, not exempted under Section 22-25 of this article shall collect a tax of five (5) percent on the amount of rent from the occupant.

(Ord. of 5-3-88, § 4)

Editor's note—The editor has changed the rate of tax from four (4) to five (5) percent in this section in light of the rate change made in Section 22-23 by Ord. of Jan. 17, 1989.

Sec. 22-25. Exemptions.

No taxes shall be imposed hereunder:

- (1) Upon a permanent resident;
- (2) Upon any rooms, lodgings or accommodations used only as meeting rooms;
- (3) Any rooms, lodgings or accommodations furnished for a period of one (1) or more days for use by Georgia state or local government officials or employees when traveling on official business.
- (4) Charges made for any rooms, lodgings, or accommodations provided to any occupants 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.

(Ord. of 5-3-88, § 5)

Sec. 22-26. 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 campground in this city shall immediately register with the clerk of the city, on a form provided by said clerk. Persons engaged in such business must so register not later than thirty (30) days after the date this article becomes effective and the tax is imposed as set forth in Section 22-23, 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 the name under which such person transacts business or intends to transact business, the location of his place or places of business and 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; in case of ownership by an association or partnership, by a member or partner; in the case of ownership by a corporation, by an officer. The 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. of 5-3-88, § 6)

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Sec. 22-27. Determination, returns and payments.

- (a) *Due date of taxes.* All amount of such taxes shall be due and payable to the city clerk monthly on or before the twentieth day of every month next succeeding each respective monthly period as set forth in Section 22-22.
- (b) *Return; time of filing; persons required to file; contents.* 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 clerk showing the gross rent, rent from permanent residents, taxable rent, amount of tax collected or otherwise due for the related period, and such other information as may be required by the clerk.
- (c) *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 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 tax under the "Georgia Retailer's and Consumers Sale and Use Tax Act", approved February 20, 1951 (Ga. Laws, 1951, p. 360), as now or hereafter amended.
(Ord. of 5-3-88, § 7)

Sec. 22-28. 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 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. One (1) or more deficiency determinations may be made of the amount due for one (1) or more monthly periods.
- (b) *Penalty, and interest on deficiency.* The amount of the determination shall bear a penalty at the rate of 5% of the deficiency, or \$5.00, whichever is greater; and the amount of the determination of the deficiency shall bear interest at the rate of three-fourths of one (0.75) percent per month.
- (c) *Notice of determination; service of.* The city clerk or his designated representative shall give to the operator written notice of his 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 with a receipt signed by addressee.
- (d) *Time within which notice of deficiency determination to be mailed.* Except in the case of a failure to make a return, every notice of a deficiency determination shall be mailed within three (3) 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 (3) years after the return is filed, whichever period should last expire.
(Ord. of 5-3-88, § 8)

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Sec. 22-29. Determination if no return made.

- (a) *Estimate of gross receipts.* If any person fails to make a return, the city clerk shall make an estimate of the amount of the gross receipts of the person, 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 city clerk. Written notice shall be given in the manner prescribed in Section 22-28(c).
- (b) *Penalty; and interest on amount found due.* The amount of the determination shall bear a penalty at the rate of 5% of the amount found due; and the amount of the determination shall bear interest at the rate of three-fourths of one (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.

(Ord. of 5-3-88, § 9)

Sec. 22-30. Administration of article.

- (a) *Authority of city clerk.* The city clerk shall administer and enforce the provisions of this article for the collection of the tax imposed by this article.
- (b) *Records required from operators, etc., form.*
Every operator renting guests rooms in this city to a person shall keep such records, receipts, invoices, and other pertinent papers in such forms as the clerk may require.
- (c) *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 guest rooms to a person and any operator liable for the tax, in order to verify that accuracy of any return made, or if no return is made the operator, to ascertain and determine the amount required to be paid.
- (d) *Authority to require reports; contents.* In administration of the provisions of this article, the city clerk may require the filing of reports by any persons 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 city clerk when required by the clerk and shall set forth the rental charged for each occupancy, the date or dates of company, and such other information as the clerk may require.

(Ord. of 5-3-88, § 10)

Sec. 22-31. Severability.

If any section, subsection, sentence, clause, phrase or a portion of this article shall be declared invalid or unconstitutional by any court of competent jurisdiction, or if the provisions of any part of this article as applied to any particular situation or set of circumstances shall be declared invalid or unconstitutional, such invalidity shall not be construed to affect the portions of this article not so held to be invalid, or the application of this article to other circumstances not so held to be invalid. It is hereby declared as the intent that this article would have been adopted had such invalid portion not been included herein.

(Ord. of 5-3-88, § 11)

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Sec. 22-32. 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 not to exceed three hundred dollars (\$300.00). Each person shall be guilty of a separate offense for each and every day during any portion of which any violation of any provisions of the article is committed, continued, or permitted by such 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 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. of 5-3-88, § 12)

Sec. 22-33. Collection of tax.

- (a) *Action for tax; time for.* At any time within three (3) years after any tax or any amount of tax required to be collected becomes due and payable and at any time within three (3) years after the delinquency of any tax or any amount of tax required to be collected, the mayor of the City of Forsyth may bring an action in a court of competent jurisdiction in the name of the city to collect the amount delinquent together with interest, court fees, filing fees, attorney's fees and other legal fees incident thereto.
- (b) *Duty of successors and 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 sufficient of the purchase price to cover such amount until the former owner produces a receipt from the city clerk showing that he has paid or a certificate stating that no amount is due.
- (c) *Liability for failure to withhold; certificate of notice of amount due; time to enforce successor's liability.* If the purchaser of a business fails to withhold purchase price as required, he shall be personally liable for the payment of the amount required to be withheld by him or to the extent of the purchase price.
- (d) *Tax credit, or interest paid more than once or erroneously or illegally collected.* 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 offset by the city clerk. If the operator or person determines that he has overpaid or paid more than once, which fact has not been determined by the clerk, he will have three (3) years from the date of payment to file claim in writing stating the specific ground upon which claim is founded. The claim shall be audited. If the claim is approved by the city clerk, the excess amount paid the city may be credited on any amounts then due and payable from the person by whom it was paid, or his administrator or executors.

(Ord. of 5-3-88, § 13)