

Chapter 22

TAXATION

- Art. I. In General, §§ 22-1—22-20**
- Art. II. Hotel/Motel Tax, §§ 22-21—22-39**

ARTICLE I. IN GENERAL

Sec. 22-1. Use of county assessments.

The City Council hereby elects to use the county assessment of property for the purpose of taxation by the city. The city shall request appropriate information from the county 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, unpaid taxes will become delinquent and shall be subject to penalties.

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

A combination city-county local sales and use tax of one percent is hereby levied for the city, by the City Council.

Sec. 22-4. 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 et seq.
- (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) 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) An applicant seeking a homestead exemption hereunder shall file a written application with the city clerk or the designee of the city clerk on or before April 1 of the applicable calendar year. The failure to properly file the application shall constitute a waiver of the homestead exemption on the part of the resident failing to make the application for such exemption for that year.
- (f) 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.
- (g) The application forms for the homestead exemptions shall be furnished by the city clerk or designee of the city clerk not later than February 1 of each year.

- (h) 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.
- (i) 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.
- (j) 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 or designee shall receive all applications for homestead exemption and shall file and preserve the applications.
- (k) 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 or designee, and the application shall require the applicant's social security number.
- (l) 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) calendar days after the final determination by the governing authority and shall be a de novo proceeding.

Secs. 22-5—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."

Sec. 22-22. Authorization.

This ordinance is enacted by virtue of the powers set out in Title 48, Chapter 13, Article 3, Section 51(a)(3) of the Official Code of Georgia Annotated, as amended; and pursuant to the provisions of HB 317, effective July 1, 2021, (amending Article III of Chapter 13 of Title 48 of the OCGA) so as to administer this ordinance in conformity with the provisions of amended Article III of Chapter 13 of Title 48.

Sec. 22-23. Purpose.

The purpose of this ordinance is to enact an excise tax upon the letting of any room or rooms, lodgings, or accommodations for value to the public by any person or legal entity licensed by or required to pay business or occupational taxes to the City of Forsyth for operating a hotel, motel, inn, lodge, tourist camp, tourist cabin, rental cabin, or any other place in which rooms, lodgings, or accommodations are regularly furnished for value within the city.

Sec. 22-24. 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:

Estimated tax liability. The Innkeeper's prospective tax liability based upon the average monthly remittance in the prior fiscal year, as adjusted for change in tax rate or substantial change in circumstances due to damage to the lodging.

Guest room. A room or lodging occupied, or intended, arranged, or designed for occupancy, by one or more temporary occupants for the purpose of living quarters or temporary residential use.

Hotel/Motel/Cabin/Residence/Lodge. Any structure or portion of a structure, including any lodging house, studio, hotel, motel, motor hotel, auto court, inn, public club, lodge, tourist camp, tourist cabin, rental cabin, 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. The terms "hotel", "motel", "cabin", "residence", and "lodge" may be used interchangeably throughout this article.

Innkeeper. Means any person that furnishes for value to the public any room or rooms, lodgings, or accommodations and that is licensed by or required to pay business or occupation taxes to the City of Forsyth for operating a hotel, motel, inn, lodge, tourist camp, tourist cabin, campground, or any other place in which room or rooms, lodgings, or accommodations are regularly furnished for value; or a dealer as defined in subparagraph (M.3) of paragraph (8) of OCGA §48-8-2 or facilitating the furnishing for value to the public any room or rooms, lodgings, or accommodations on behalf of another person, and means a "marketplace innkeeper."

Monthly period. Any single calendar month of any year.

Occupancy. The use or possession, or right to use or possess, any room or suite in a hotel, motel, cabin, residence, or lodge, or the right to the use or possess the furnishings or the services and accommodations accompanying the use and possession of the room or suite.

Occupant. Any person (or persons utilizing as a single unit) who uses, possesses, or has the right to use or possess any room or hotel, motel, cabin, residence, or lodge under any lease, concession, permit, right of access, license, agreement, or otherwise.

Operator. Any person operating a hotel, motel, cabin, residence, or lodging in the City of Forsyth, including, but not limited to, the owner or proprietor of such premises, lessee, sub-lessee, lender in possession, licensee, online travel company, innkeeper, or any other person otherwise operating such hotel, motel, cabin, residence, or lodging, including private owners who rent or lease private residences for more than two days in any year, and including an Innkeeper as defined herein.

Permanent resident. Any occupant who as of a given date 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 30 consecutive days or has signed a legal agreement to occupy any guest room in a hotel, motel, residence, or lodge for at least 30 consecutive days.

Rent. The considerations or value received in money or otherwise, including all receipts, cash, credits, and

property or services of all 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 on occupants imposed by this article, as provided by O.C.G.A. 48-13-51(a)(3).

Sec. 22-25. Imposition and rate of tax.

There is hereby set and levied on the occupant of guest room of any hotel, motel, cabin, residence, or lodge located within the city a tax in the amount of 5 percent of the gross rent for such occupancy.

Sec. 22-26. Effective date.

The tax herein imposed shall be paid upon any occupancy occurring on or after January 1, 2017, including, but not limited to such occupancy that was entered into pursuant to a contract, lease, or other agreement entered into prior to such date.

Sec. 22-27. Exemptions.

No tax shall be levied pursuant to this ordinance under the following situations:

- (1) Use of meeting rooms;
- (2) Use of any jail cell, detention center, or other building where such housing or detention is under legal restraint;
- (3) Use of any hospital or medical treatment facility.
- (4) Any room, lodging, or accommodations furnished for a period of one or more days to Stand of Georgia or local government employees or officials when traveling on official business.
- (5) Rentals over 30 consecutive days or rentals contracted to extend beyond 30 consecutive days.
- (6) 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 or natural disaster.
- (7) Permanent residences.
- (8) Lodgings or accommodations that do not provide physical shelter.

Sec. 22-28. Instructions for lodging operator.

It shall be the duty of every operator providing lodging accommodations within the City of Forsyth to collect the tax on occupants as imposed herein.

Sec. 22-29. Registration of operator; form and contents; execution; certificate of authority.

Every person engaging in or about to engage in the business of providing lodging accommodations in the city, as above defined, shall immediately register with the city clerk or designee, on a form provided by

the clerk for such purpose. Persons engaged in such business must so register not later than thirty (30) days after the date this article becomes effective, but such grace period for the filing of the registration after the effective date of the tax shall not relieve any person from the obligation of payment or collection of such tax on and after the date of imposition thereof.

- (1) The required registration hereunder shall set forth the name under which the operator transacts business or intends to transact business; the location of the place or places of business, the mailing address of the business, the principal contact person at said business and such other information as would facilitate the collection of the tax.
- (2) The registration shall be signed by the owner (if a natural person), by an officer (if a corporation) or a partner (if a partnership).
- (3) A separate registration shall be required for each place of business of an operator; however, a realtor offering cabins for rent shall be deemed to be one place of business and shall not require a separate registration for each cabin rented.
- (4) An operator offering more than one cabin or unit for rent under the same federal and state tax identification number shall be required to file the same number of returns as required by the State of Georgia for the filing of state sales tax returns.

Sec. 22-30. Operating certificate.

Upon the registration of an operator as hereinabove provided, the city clerk or designee shall issue to such operator a certificate of authority to collect the tax on occupants. Each certificate shall state the name and location of the business or person to which it relates.

Sec. 22-31. Due date and required report.

Due date and required report. All taxes levied by this article shall be due and payable to the city clerk or designated representative of the City of Forsyth monthly, on or before the twentieth day of every month succeeding each respective month in which taxes are collected. Payment shall be accompanied by a return for the preceding monthly period showing the gross rent, rent from permanent residents, taxable rent, amount of tax collected or otherwise due for a period, and such other information as may be required by the Tax Commissioner or governing authority of the City of Forsyth.

In the event there are no rentals in a reporting period, lodging providers are required to file a return to the City of Forsyth stating they had zero rentals for the period.

Sec. 22-32. Collection fee allowed operators.

Operators collecting the tax levied hereunder 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. The rate of the reduction shall be 3 percent of the amount due, but only if the amount due was not delinquent at the time of payment.

Sec. 22-33. Penalties against the Operator.

- (a) If any operator fails to file a return as required under the provisions of this section, the City of Forsyth shall calculate an estimated tax liability for the operator. The estimate shall be made for the period or periods in which the operator failed to file the return and shall be based upon any information which is or may come into the possession of the city.
- (b) The City Council of the City of Forsyth or its designated representative(s) shall give to the

operator written notice of determination as herein provided. The notice may be served personally or by mail; if by mail, such service shall be addressed to the operator at his/her last known address as it appears on any of the city's records. Service by mail is complete when delivered by certified mail with a receipt signed by the addressee.

- (c) The amount of the determination made hereunder shall bear interest at the rate of three-fourths of one percent per month, or a fraction thereof, from the twentieth day of the month following the monthly period for which the amount of any portion thereof should have been returned, until the day of payment.
- (d) In addition, a penalty of 5 percent of the tax due or \$5.00, whichever is greater, for each 30 calendar days or fraction thereof of delinquency, not to exceed 25 percent or \$25.00 in the aggregate, whichever is greater, shall be assessed and paid by the operator to the City of Forsyth.
- (e) The estimated tax liability, together with applicable penalties and interest may be collected utilizing any of the enforcement methods set forth in this article.
- (f) The operator, in the event of operator's failure to pay tax when due, shall not be entitled to the operator collection fee authorized by this article. The late penalty will be strictly enforced.

Sec. 22-34. Lodging operator records.

Each operator collecting a tax under the provisions of this section shall keep for a period of at least three years all records, receipts, invoices, and other pertinent papers setting forth the rent charged for each occupancy, the date or dates of occupancy, and such other information as the City of Forsyth may, in writing, from time-to-time require.

Sec. 22-35. Duties of the City.

The City Council or its designated representative(s) shall administer and enforce the provisions of this section for the collection of the tax herein imposed, and in so doing shall have the following powers:

- (a) To examine, or authorize the examination of, books, papers, records, financial reports, equipment, and other facilities of any operator subject to this article, in order to verify the accuracy of any return made, or if no return is made by the operator, to determine the amount required to be paid.
- (b) To require the filing of reports by any person or persons having in their possession or custody information relating to rentals which are subject to the tax herein levied; and,
- (c) To allow a credit on any amount due payable from persons who paid the tax herein levied but who were erroneously or illegally subjected thereto.

Sec. 22-36. Legal obligation.

- (a) At any time within three years after any tax or any portion of such tax required to be collected becomes due and payable, the city attorney, at the direction of the City Council, may bring an action in a court of competent jurisdiction in the name of the City of Forsyth to collect such amount due together with interest, court fees, filing fees, and other legal fees incident thereto.
- (b) If any operator becomes liable for any amount required to be paid by this article and subsequent thereto sells or quits the business, the successors or assignees of such operator shall

withhold a sufficient amount of the purchase price to cover such amount due. In the event said purchases of the business fails to withhold the required amount, he or she shall become personally liable for the extent of the tax owed, together with any applicable penalties and interest. Any operator or person who ceases to operate the entity under which the same is registered within the City of Forsyth, said operator or person must notify the city clerk in writing within 30 days of closing said enterprise.

- (c) Any person who shall do anything prohibited by this article or who shall fail to do anything required by this article shall be guilty of a misdemeanor, amenable to the process of the Municipal Court and upon conviction, except as otherwise provided by state law, shall be assessed with a fine of not more than \$300.00 per offense or imprisonment for not more than three months per offense, or both, unless said person had outstanding tax liability under this ordinance of greater than \$10,000. Any person who shall have outstanding tax liability of greater than \$10,000 shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for not less than one year nor more than 10 years.
- (d) In order to enforce this article or to correct or abate any violation of the article, the City Council, in addition to other remedies, may institute injunction, mandamus, or other appropriate action.

Sec. 22-37. Repealer and effective date.

All ordinances or parts of ordinances in conflict with the terms of this article are hereby repealed. The effective date of this article shall be the first day of February, 2016.

Sec. 22-38. Fees.

In order to comply with the mandates of the applicable Laws of the State of Georgia, an administrative fee is hereby implemented on any business or person under the purview of this article. Said administrative fee shall be in the amount of \$25.00, payable annually. The administrative fee shall be remitted to the city clerk, before the first day of December of each year that this article is in effect. If the administrative fee is paid by an operator with prior registration under the purview of this article after the first day of December of any fiscal year that this article is in effect, the fee shall be \$75.00. Persons registering new business under the purview of this article shall pay an administrative fee of \$25.00 at the time of registration. Upon receipt of payment, the city clerk or designee shall issue a lodging certificate to the enterprise paying said administrative fee.