

STATE OF GEORGIA
COUNTY OF FULTON

AN ORDINANCE TO ADOPT AND APPROVE AD VALOREM, HOTEL-MOTEL, AND MOTOR VEHICLE RENTAL TAXES AND PROVIDING FOR THEIR INCLUSION AND IDENTIFICATION IN THE FUTURE DEVELOPED CODE OF ORDINANCES FOR THE CITY OF SANDY SPRINGS, GA TO BE REFERENCED IN THE FUTURE AS CHAPTER 10 (TAXES) AS ATTACHED HERETO AND INCORPORATED HEREIN, PROVIDING FOR AN EFFECTIVE DATE; AND REPEALING ALL CODE AND LAWS WHICH MAY BE IN CONFLICT WITH THIS ORDINANCE

BE IT ORDAINED by the City Council of the City of Sandy Springs, GA while in regular session on January 3, 2006 at 7:00 p.m. as follows:

SECTION 1. That the Ordinance relating to Taxes is hereby adopted and approved; and is attached hereto as if fully set forth herein; and,

SECTION 2. That this Ordinance shall be designated as Chapter 10 of the Code of Ordinances of the City of Sandy Springs, GA; and,

SECTION 3. That the First Reading of this Ordinance was on December 27, 2005; and,

SECTION 4. This Ordinance shall be effective January 3, 2006.

NOW, THEREFORE, BE IT SO ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF SANDY SPRINGS, this the 3rd day of January, 2006.

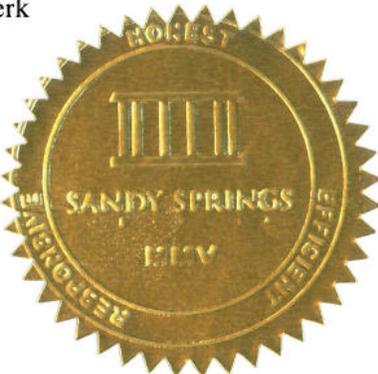
Approved:


Eva Galambos, Mayor

Attest:


Jeanette R. Marchiafava, City Clerk

(Seal)



Chapter 10: Taxes

Article 1: Ad Valorem Taxes.

Section 1: Annually Set.

On or before June 30 of each year the Council shall set the millage rate for ad valorem taxes for all real property within the City for ad valorem tax purpose

Section 2: Due Date.

The ad valorem taxes due the City shall become due and payable between July 1 and October 15 of each year, any said taxes not paid in full by the last day specified shall, notwithstanding any existing law, be in default, and shall bear interest and penalties, now or hereafter, as provided by law for taxes which are delinquent or in default, and executions shall be issued therefore, after December 31, of the year in which such taxes became delinquent

Section 3: Fines for Delinquent Payment.

- (a) Any person failing to return his real property, for tax purposes, on or before the 1st day of April of each year shall be assessed a penalty of 10 percent of the amount of taxes due the City. Said penalty shall be in addition to the amount of ad valorem taxes due the City and also in addition any costs and interest and interest permitted by law.
- (b) Partial payments shall not be accepted.

Section 4: Collection of Delinquent Taxes.

- (a) The duty to collect by levy and sale, or otherwise, for delinquent taxes is hereby imposed upon the Deputy City Manager as the City Tax Collector or his designee as issuing officer, and the Sheriff of Fulton County as execution officer. All levies of execution for delinquent taxes shall be in the name of the City. This duty may be contracted, by the City Council, to a third party.
- (b) It shall be the duty of the City Tax Collector or, his designee, to comply with all provisions of Georgia law applicable to the provision for issuing, sale and transfer of tax executions and laws governing judicial sales and to:
 - (i) Keep a file of all newspapers in which an official advertisement appears;
 - (ii) Keep an execution docket in which shall be entered a full description of all executions;
 - (iii) Maintain a book of all sales;

- (iv) Maintain an index to the sales and executions.
- (c) The City Tax Collector shall sign all levies, notices, advertisements, and the like in his name for the City.
- (d) Execution issued in the name of the City for delinquent ad valorem taxes shall be directed and delivered to the Sheriff of Fulton County, who shall enter the execution upon the docket to be kept in his office and he shall proceed to enforce the collection of the execution in the manner prescribed by law.
- (e) The City Tax Collector will issue all fi. fas. for delinquent taxes and the Sheriff of Fulton County shall execute such fi. fas. under the same procedures provided by law governing execution of such process from the superior court, or by the use of any other available legal process and remedies.

Section 5: Assessment of Property for Ad Valorem Taxes.

- (a) The Fulton County Board of Tax Assessors is hereby designated to have the responsibility for assessment and valuation of property within the City limits. The City Council shall adopt the assessment and valuations made by the Board of Tax Assessors of Fulton County for all property located within the City limits, as may be established from year to year by the Fulton County Board of Tax Assessors.
- (b) The City Council does authorize the Tax Commissioner of Fulton County to make such adjustments in the collection of individual items of tax, and to make such refunds as may be proper and necessary, by adding to or deducting from the distribution due the City at the next period of accounting, along with stated explanation of the correction.

Article 2: Hotel and Motel Tax.

Section 1: Definitions:

- (a) *Guest room* means a room, lodging, or accommodation occupied or intended for occupancy by one or more occupants but does not mean a meeting room which is intended, designed, or used for meetings.
- (b) *Hotel* means a structure or any portion of a structure, including but not limited to, rooming or lodging houses, inns, motels, motor hotels and courts, hotels, cabins, public or private clubs, and tourist camps, which contain guest rooms which are regularly furnished for value to the public.
- (c) *Occupancy* means the use or possession or the right to the use or possession of any guest room in a hotel or the right to the use or possession of the furnishing of services or accommodations which accompany the use or possession of a guest room in a hotel.

- (d) *Occupant* means any person who for a consideration uses or possesses or has the right to use or possess a guest room in a hotel under any lease, concession, contract, permit, right of access, license, or other agreement.
- (e) *Operator* means any person operating a hotel in the City, including the owner, proprietor, lessee, sublessee, licensee, or other entity operating the premises.
- (f) *Person* means any individual, firm, partnership, association, corporation, organization, company, estate, trust, receiver, trustee, syndicate, or other group, combination, or entity.
- (g) *Rent* means the consideration received for the occupancy of a guest room in a hotel whether received in money, property, services, or credits.
- (h) *Tax* means the tax imposed by this Article.

Section 2: Tax Imposed; Exceptions.

- (a) There is imposed, assessed, and levied, and there shall be paid an excise tax of seven percent (7%) of the rent for every occupancy of a guest room in a hotel in the City. The tax shall be paid on any occupancy after December 1, 2005 within the city limits.
- (b) The tax imposed by this Article shall not apply to:
 - (i) Any charges for any rooms, lodgings, or accommodations provided to any persons who certify that they are occupying such accommodations as a result of the destruction of their home by fire or other casualty;
 - (ii) Any charges for continuous occupancy after the initial 10 days of continuous occupancy; or
 - (iii) Any rent for a guest room in a hotel which is occupied by a Georgia state or local government official or employee who is traveling on official business.

Section 3: Liability for Payment.

Every person occupying a guest room in a hotel in the City is liable for the tax imposed by this Article. The liability for the tax is not extinguished until the tax has been paid to the City; however, the occupant is relieved from further liability upon the payment of the rent to the operator. Additionally, any operator who neglects, fails, or refuses to collect the tax from the occupant shall be liable for and shall pay the tax and any interest and penalties assessed.

Section 4: Operator registration; certificate of authority.

- (a) Every person engaged in or about to engage in the operating as an operator of a hotel in the City shall register at City Hall on a form provided by the City. Persons engaged in

the business must so register not later than December 31, 2005, but the failure to register shall not relieve any person from the obligation of payment or collection of the tax.

- (b) The registration shall set forth the name under which the person transacts business or intends to transact business, the location of his place or places or business, and other information which would facilitate the collection of the tax as the City 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 a partner; in the case of ownership by a corporation, by an executive officer or some person specifically authorized by the corporation to sign the registration.
- (c) The City shall, after the 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 and shall be prominently displayed therein so as to be seen and to come readily to the notice of all occupants and persons seeking occupancy.
- (d) The certificates shall be nonassignable and nontransferable and shall be returned immediately to the City Manager or his or her designee, upon the cessation of business at the location named or upon the sale or transfer of the business at that location.

Section 5: Filing Return; Payment; Collector Reimbursement.

- (a) The tax shall become due and payable from the occupant at the time of occupancy of a guest room in a hotel in the City. All such taxes collected by the operator shall be due and payable to the City of Sandy Springs on or before the 20th day of every month next succeeding the month in which the occupancy occurs.
- (b) On or before the 20th day of every month, a return for the preceding month shall be filed with the City of Sandy Springs by every operator liable for the collection and payment of the tax imposed by this Article. The return shall be in such form as the City shall prescribe, and shall show the gross rent, the taxable rent, the amount of tax collected or otherwise due for such month, and such other information as the City may require.
- (c) The person required to file the return shall deliver the return and the remittance of the net amount of the tax due to the City of Sandy Springs.
- (d) If the amount of the tax due is not delinquent at the time of payment to the City, the operator may deduct three percent (3%) of the amount of the tax due as reimbursement for collecting the tax.

Section 6: Disposition of Revenue.

All revenue collected by the City pursuant to this Article shall be expended in a manner consistent with Georgia law codified at O.C.G.A. § 48-13-50 et seq.

Section 7: Delinquent Penalty.

Any operator who fails to pay the tax to the City on or before the due date shall pay a penalty of 10 percent of the tax not paid plus interest on the unpaid tax at the rate of 1 percent per month.

Section 8: Enforcement and Administration.

- (a) The Deputy City Manager as the City Tax Collector shall administer and enforce the provisions of this Article.
- (b) The City Tax Collector, in conjunction with the City Finance Director, shall have the power and authority to make reasonable rules and regulations not inconsistent with this Article or other laws or ordinances for the administration and enforcement of the provisions of the Article and the collection of the tax.
- (c) Every operator renting guest rooms in a hotel in the City shall keep such records, receipts, invoices, and other pertinent papers in such form as the City Manager or his or her designee, may require.
- (d) The City Tax Collector or any person authorized in writing by the City Manager may examine the books, papers, records, financial reports, and facilities of any operator renting guest rooms and any operator liable for the tax in order to verify the accuracy of and return made or to ascertain and determine the amount of tax which should be paid.
- (e) In administering this Article, the City Tax Collector may require the filing by operators of reports relating to the rental of guest rooms.

Section 9: Penalties

Any operator or person who violates any provision of this Article shall be guilty of a misdemeanor and upon conviction shall be punished as provided in this Code.

Article 3: Rental Motor Vehicle Excise Tax

The City Council does exercise its authority as granted by Georgia law (O.C.G.A. § 48-13-90 et seq.) to levy an excise tax on rental motor vehicles to be used for the purposes provided by Georgia law.

Section 1: Definitions:

- (a) *Motor vehicle* means a motor vehicle designed to carry ten 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 of Georgia.
- (b) *Rental motor vehicle concern* means a person or legal entity which owns or leased five or more rental motor vehicles and which regularly rents or leases such vehicles to the public for value.
- (c) *Month or monthly period* shall mean the calendar months of any year.
- (d) *Rental charge* means the total value received by a rental motor vehicle concern for the rental or lease of 31 or fewer consecutive days of a rental motor vehicle, including the total cash and nonmonetary consideration for the rental or lease including, but not limited to, charges based on time or mileage and charges for insurance coverage or collision damage waiver but excluding all charges for motor fuel taxes or sales taxes.
- (e) *Tax, Excise tax or taxes* shall mean the tax imposed by this article

Section 2: Authority and Records

- (a) The Deputy City Manager shall administer and enforce this article for the levy and collection of the tax.
- (b) Every rental motor vehicle concern subject to this article shall keep such records, receipts, invoices and other pertinent papers in such form as the Deputy City Manager may require.

Section 3: Excise Tax Levied

- (a) There is hereby 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 O.C.G.A. ch 8 art, 1, as amended on any motor vehicle rental charge made in the City of Sandy Springs after December 31, 2005. The tax levied pursuant to this article shall be in the amount of three percent 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 pay 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 recover for other debts.
- (b) The rental motor vehicle concern collecting the tax shall remit the tax to the City of Sandy Springs 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.

- (c) The Council declares that the proceeds received from the excise tax levied by this article are to be expedited for use in public safety facilities, including pedestrian sidewalks, installation of traffic lights, street lighting for public safety purposes, and for the maintenance of such systems of traffic lights and streets lights within the territorial city limits.

Section 4: Exceptions

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

- (i) The customer picks up the rental motor vehicle outside the State of Georgia and returns it within the State of Georgia;

- (ii) The customer picks up the rental motor vehicle in the State of Georgia and returns it outside the State of Georgia.

Section 5: Amount of tax allowed to be retained for expenses

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

Section 6: Statement required showing gross rental charges and taxes

- (a) On or before the 20th day of each month following the month of December 2005, the motor vehicle concern liable for the tax provided for herein shall transmit to the City of Sandy Springs, a statement showing the gross rental charges and gross taxes collected authority of this article for each preceding calendar month. Along with said statement, the motor vehicle concern shall submit the net taxes due for each particular month.

- (b) Failure to remit taxes by the due date shall subject the rental motor vehicle concern to a penalty of five percent (5%) of the tax then due and in addition to such penalty, interest thereon the unpaid principal amount due, computed at the rate of one percent per month.

Section 7: Records

In order to aid in the administration and enforcement of the provisions of this article and collect all the tax imposed, all rental motor vehicle concerns are hereby required to keep a record

rental charges for rental motor vehicles and taxes collected which are related thereto. Said records shall be open for inspection and copying by the City Manager, or his designee, during business hours.

Section 8: Deficiency determinations

(a) If the Deputy City Manager is not satisfied with the return or returns of the excise provided for herein, or the amount of the tax required to be paid to the city by any rental vehicle concern he may compute and determine the amount required to be paid upon the of any information within his possession or that may come into his possession. One deficiency determinations may be made of the amount due for one or more monthly periods.

(b) The amount of the determination made by the Deputy City Manager shall bear interest the rate of one percent per month or fraction thereof from the due date of the taxes found due by him.

(c) The Deputy City Manager or his or her designee shall give to the rental vehicle concern a written notice of any such determination. The notice may be made personally or by mail and if by mail the service shall be addressed to the operator or the of the rental motor vehicle concern at the address as the same appears in the records of the Deputy City Manager as provided to him by each rental motor vehicle concern. Service shall be complete when delivered by certified mail with a receipt signed by an addressee or agent addressee.

(d) Except in cases of failure to make a return, every notice of deficiency determination shall be mailed within three years after the 20th day of the calendar month following the period in which the amount proposed to be determined or within three years after the return was filed, whichever period shall expire last.

Section 9: Audit authority

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

Section 10: Withholding tax on sale of business

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

(b) If the purchaser of a business or rental motor vehicle concern fails to withhold from the purchase price as required herein such purchaser shall be personally liable for the payment of the amount of the outstanding tax required to be withheld by him to the extent of such purchase price.

Section 11: Penalty for violation

- (a) In addition to the interest charges and delinquent penalties specified in this article any person violating any provision of this article shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished as provided in this Code. Such persons shall be guilty of a separate offense for each and every day during which any violation of any provision of this article is committed, continued, or permitted by that person and shall be punished accordingly.
- (b) The tax levied by this article shall be effective on the first day of January, 2006 and shall continue until its permissible existence shall expire as provided by law.