

## CHAPTER 23

### ANNEXATION: HOTEL/MOTEL

#### ARTICLE I.

##### Sec. 23-1. Definitions.

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

- (a) "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.
- (b) "Operator". Any person operating a hotel in the City of East Dublin, including, but not limited to, the owner or proprietor of such premises, lessee, sub-lessee, lender in possession, licensee or any other person otherwise operating such hotel.
- (c) "Occupant". Any person who, for a consideration, uses, possesses, or has the right to use or possess any room in a hotel under any lease, concession, permit, right of access, license to use or other agreement, or otherwise.
- (d) "Occupancy". The use or possession, or the right to the use or possession of any room or apartment in a hotel 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.
- (e) "Hotel". Any structure or any 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.
- (f) "Guest Room". A room occupied, or intended, arranged, or designed for occupancy, by one or more occupants for the purpose of living quarters or residential use.
- (g) "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.

- (h) "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 for at least ten consecutive days next preceding such date.
- (i) "Return". Any return filed or required to be filed as herein provided.
- (j) "City". The City of East Dublin.
- (k) "Tax". The tax imposed by this Ordinance.
- (l) "Monthly Period". The calendar months of any year.
- (m) "Due Date". From the twentieth day after the close of the monthly period for which tax is to be computed.

**Sec. 23-2. Imposition and Rate of Tax.**

There shall be paid a tax of five per centum (5%) of the rent for every occupancy of a guest room in a hotel in the City of East Dublin. The tax imposed by this Ordinance shall be paid upon any occupancy on and after \_\_\_\_\_, although such occupancy is had pursuant to a contract, lease or other arrangement made prior to such date. (Amended by Ord. of 10-14-2002)

**Sec. 23-3. 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 in this City, not exempted under Section 4 of this Ordinance shall collect a tax of five per centum (5%) on the amount of rent from the occupant. (Amended by Ordinance of October 14, 2002)

**Sec. 23-4. Exemptions.**

No tax shall be imposed hereunder upon a permanent resident.

**Sec. 23-5. 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 in this City shall immediately register with the City, on a form provided by said City. Persons engaged in such business must so register not later than thirty (30) days after the date this Ordinance becomes effective and the tax is imposed as set forth in Section 2, 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 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 partner; in the case of ownership by a corporation, by an officer. The City 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.

#### **Sec. 23-6. Determination, Returns and Payments.**

- (a) **Due Date of Taxes.** All amounts of such taxes shall be due and payable to the City monthly on or before the twentieth day of every month next succeeding each respective monthly period as set forth in Section 1.
- (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 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 City.
- (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 Chapter 8 of Title 48 of the Official Code of Georgia Annotated.

#### **Sec. 23-7. Deficiency Determinations.**

- (a) **Recomputation of Tax; Authority to Make; Basis of Recomputation.** If the City 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, it may compute and determine the amount required to be paid upon the basis of any information within its possession or that may come into its possession. One or more Deficiency Determinations may be made of the amount due for one or more monthly period.
- (b) **Interest on Deficiency.** The amount of the determination shall bear interest at the rate of three-fourths of one per cent per month, or fraction thereof from the due date of taxes.
- (c) **Notice of Determination; Service of.** The City or designated representatives 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 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 the case of 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.

**Sec. 23-8. Determination if No Return Made.**

- (a) Estimate of Gross Receipts. If any person fails to make a return, the City 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. Written notice shall be given in the manner prescribed in Section 7 (c).
- (b) Interest on Amount Found Due. The amount of the determination shall bear interest at the rate of three-fourths of one per cent per month, or fraction thereof, from the twentieth 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.

**Sec. 23-9. Administration of Ordinance.**

- (a) Authority of City Clerk. The City Clerk shall administer and enforce the provisions of this Ordinance for the collection of the tax imposed by this Ordinance.
- (b) Records Required from Operators, etc., Form. Every operator renting guest rooms in this city to a person shall keep such records, receipts, invoices, and other pertinent papers in such form as the City Clerk may require.
- (c) Examination of Records; Audits. The City Clerk or any person authorized in writing by the City 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 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.
- (d) Authority to Require Reports; Contents. In administration of the provisions of this Ordinance, the City Clerk may require the filing of reports by any persons or class of persons having in such person 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 City Clerk and shall set forth the rental charged for each occupancy, the date or dates of occupancy, and such other information as the City Clerk may require.

**Sec. 23-10. Severability.**

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

#### **Sec. 23-11. Violations.**

Any person or corporation violating any of the provisions of this Ordinance shall be deemed guilty of an offense and upon conviction thereof shall be punished as provided in **Sections** or of the Code of Ordinances of the City of East Dublin, Georgia. Each such person or corporation shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of the Ordinance 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 or who renders a false or fraudulent return shall be deemed guilty of an offense and upon conviction thereof shall be punished as aforesaid.

#### **Sec. 23-12. 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 City 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 or Assignees of Operator to Withhold Tax from Purchase Money. If any operator liable for any amount under this Ordinance 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 showing that he has been 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 Successors' 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 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 Ordinance, it may be offset by the City. If the operator or person determines that he has overpaid or paid more

than once, which fact has not been determined by the City, he will have three (3) years from 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 administrators or executors. (Ord. of 2-85)