

CHEROKEE COUNTY, GEORGIA

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE BY THE CHEROKEE COUNTY BOARD OF COMMISSIONERS  
AMENDING THE HOTEL/MOTEL OCCUPANCY TAX ORDINANCE

WHEREAS, the Constitution of the State of Georgia, approved by the voters of the State in November 1982, and effective July 1, 1983, provides in Article IX, Section 2, Paragraph 1 thereof, that the governing authority of the County may adopt clearly reasonable ordinances, resolutions, and regulations; and

WHEREAS, O.C.G.A. § 36-1-20 authorizes the County to adopt ordinances preserving the public health, safety, and welfare, and to adopt appropriate measures to enforce those ordinances; and

WHEREAS, in the interests of the health, safety, and general welfare of the citizens of Cherokee County, Georgia, the Board of Commissioners of Cherokee County desires to exercise its authority to amend the Hotel/Motel Occupancy Tax Ordinance to include Short-Term Rentals in the definition of Hotel and to provide for the remittance of excise taxes on rooms, lodging, and accommodations by marketplace innkeepers who furnish or facilitate such services; and

WHEREAS, appropriate notice and hearing on the ordinance contained herein have been carried out according to general and local law.

NOW, THEREFORE, the Board of Commissioners of Cherokee County, Georgia hereby ordains as follows:

Section 1. Chapter 30, Article III of the Cherokee County Code of Ordinances is hereby amended as shown in Exhibit A hereto, with additions indicated by underline and deletions indicated by ~~striketrough~~.

Section 2. All other ordinances shall continue in full force and effect and shall remain unaffected, except where such ordinance, or part thereof, conflicts herewith, in which case such ordinance, or part thereof, is hereby repealed.

Section 3. It is the express intent of the Board of Commissioners of Cherokee County, Georgia that this Ordinance be consistent with both federal and state law. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared severable.

Section 4. This Ordinance shall become effective 30 days following the date of adoption.

BE IT RESOLVED this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

CHEROKEE COUNTY BOARD OF COMMISSIONERS

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Harry Johnston, Chairman

Attest:

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Christy Black, County Clerk

# Exhibit A

## Chapter 54 – Taxation

### Article III. Hotel/Motel Occupancy Tax

#### Sec. 54-66. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except when the context clearly indicates a contrary meaning:

- (a) *County* means Cherokee County, Georgia.
- (b) *Due date* means the 20th day after the close of monthly period for which tax is to be computed.
- (c) *Estimated tax liability* means the ~~operator~~innkeeper's prospective tax liability based upon the average monthly 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.
- (d) *Folio* means the primary documentation produced by a hotel that demonstrates interaction between the ~~operator~~innkeeper 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.
- (e) *Guest room* means a room or rooms within a hotel, which are occupied, or intended, arranged, or designed for occupancy, by one or more occupants for value and for the purpose of temporary or long term living quarters or residential use.
- (f) *Hotel* means 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, lodge, tourist camp, tourist cabin, rental cabin, campground, bed and breakfast, short-term home rental, or any other place containing guest rooms and which is occupied, or is intended or designed for occupancy, by guests for value, whether rent is paid in money, goods, labor or otherwise. The term does not include any hospital, asylum, sanitarium, orphanage, jail, prison, detention building or other building in which human beings are housed or detained under legal restraint.
- (g) *Innkeeper* means:
  - (1) Any person that furnishes any guest rooms within a hotel to the public for value in the special district, or one who otherwise operates a hotel or is entitled to be paid the rent received for occupancy of a guest room within such hotel, including, but not limited to, the owner or proprietor of such premises, the lessee, sub lessee, lender in possession, licensee, or any other person otherwise operating such hotel or entitled to be paid the rent received for occupancy of a guest room within such hotel; or
  - (2) A marketplace facilitator who facilitates the furnishing for value to the public any guest rooms on behalf of another person in any manner, including, but not limited to,

## Exhibit A

promoting, marketing, advertising, taking reservations, collecting payment, or as otherwise defined by O.C.G.A. § 48-13-50.2 (2)(B).

(h) Marketplace innkeeper means an innkeeper as defined in section 54-66 (g)(2).

(i) Monthly period means a calendar month of any year.

(j) Occupancy means the use or possession, or the right to use or possession, of any guest room ~~or apartment~~ in a hotel, or the right to use or possession of the furnishings or to the services and accommodations accompanying the use and possession of the guest room ~~or apartment~~.

(k) Occupant means any person (or persons utilizing as a single unit) who, for consideration, uses, possesses, or has the right to use or possess, any guest room in a hotel under any lease, concession, permit, right of access, license, agreement or otherwise

~~Operator means any person operating a hotel or entitled to be paid the rent received for occupancy of a guest room within such hotel in the special district, including, but not limited to, the owner or proprietor of such premises, the lessee, sub-lessee, lender in possession, licensee, online travel companies, or any other person otherwise operating such hotel or entitled to be paid the rent received for occupancy of a guest room within such hotel, including private owners who rent or lease private residences for more than two days in any one year.~~

(l) Permanent resident means any occupant who, as of a given date, has or shall have occupied, or has or shall have the right of occupancy, of any guest room in a hotel for at least 90 consecutive days.

(m) Person means an individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, nonprofit corporation or cooperative nonprofit membership, estate, trust, business trust, receiver, trustee, syndicate, business entity, or any other group or combination acting as a unit, to include the plural as well as the singular number, excepting, however, the United States of America, the state, and any political subdivision of either thereof upon which county is without power to impose the tax provided for in this article.

(n) Rent means the retail rate of 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~~innkeeper to the occupant, without any deduction therefrom whatsoever.

(o) Return means any return filed or required to be filed as provided in this article.

(p) Tax means the tax on occupants imposed by this article, as provided by O.C.G.A. § 48-13-51(b).

(q) Special district means the geographical boundaries of the county and all of the territory within the county, except territory located within the boundaries of any municipality which imposes an excise tax on charges to the public for rooms, lodging, and accommodations within such municipal boundaries.

## Exhibit A

(f) *Supervisor* means the supervisor of the business license office, or the supervisor of any office of the county which may in the future be designated as the administrative entity to collect the tax.

### **Sec. 54-67. Purpose.**

Pursuant to O.C.G.A. § 48-13-51(b), the purpose of this article is to enact an excise tax 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 occupational taxes to, the county for operating a hotel within the special district. The provisions of this article are intended to be in accordance with O.C.G.A. § 48-13-50, *et seq.*, and shall be administered in conformity with such Code sections.

### **Sec. 54-68. Authorization; tax rate; proceeds of tax.**

- (a) This article is enacted by virtue of the powers set out in O.C.G.A. § 48-13-51(b), as amended, and a local Act passed by the General Assembly in accordance with such statute.
- (b) There is hereby set and levied on the occupant of a guest room of any hotel located within the special ~~D~~district a tax in the amount of six percent of the gross rent for such occupancy.
- (c) The proceeds of this tax shall be used in accordance with O.C.G.A. § 48-13-51(b), the resolution adopted by the governing authority of the county, and the local Act enacted by the General Assembly, which require as follows:
  - (1) The amount of taxes collected on the first three percent of the excise tax shall be expended as determined by future action of the board of commissioners, in accordance with O.C.G.A. § 48-13-51(b)(5)(B) and § 48-13-51(a)(3);
  - (2) The amount of taxes collected on that portion of such excise tax above three percent but not above five percent shall be expended for promoting tourism, conventions, and trade shows by contract with one or more private nonprofit organizations, in accordance with O.C.G.A. § 48-13-51(b)(5)(B) and § 48-13-51(a)(3);
  - (3) An amount equal to not less than 50 percent of the total amount of taxes collected that exceed the amount of taxes that would be collected at the rate of five percent shall be expended for promoting tourism, conventions and trade shows by contract with the Cherokee County Chamber of Commerce, a private nonprofit organization under the laws of the state; and
  - (4) The remaining amount of taxes collected that exceed the amount of taxes that would be collected at the rate of five percent shall be expended for tourism product development, including, but not limited to, capital costs and operation expenses for the Cherokee County Conference Center.
- (d) Pursuant to O.C.G.A. § 48-13-58(b), all civil penalties and interest added to any tax imposed under this article and collected by the county shall be included as revenue derived from such tax for purposes of the expenditure requirements provided herein.

(~~d~~e) The county shall obtain and adopt budget plans each year in compliance with O.C.G.A. § 48-13-51(e)(1) and require audit verifications as described in O.C.G.A. § 48-13-51(f).

**Sec. 54-69. Administration and enforcement of article.**

- (a) Authority of business license department. The business license department shall administer and enforce the provisions of this article.
- (b) Additional rules and regulations. The business license department shall have the power and the authority to make and publish reasonable rules and regulations, not inconsistent with this article or other applicable law, for the administration and enforcement of the provisions of this article and the collection of taxes under this article.
- (c) Authority to examine relevant records. In administration of the tax, the business license department may examine, or authorize the examination of, folios, books, papers, records, financial reports, equipment, and other facilities of any ~~operator~~innkeeper subject to this article, in order to verify the accuracy of any return made, or if no return is made by the ~~operator~~innkeeper, to ascertain and determine the amount required to be paid.
- (d) Authority to require reports. In administration of the tax, the business license department may require the filing of reports by any person or class of persons having in his or their possession or custody information relating to rentals of guest rooms which are subject to the tax. The reports shall be filed with the business license department when required by the department and shall set forth the rental charged for each occupancy, the dates of occupancy, and such other information as the business license department may require.
- (e) Authority to credit/refund. In administration of the tax, the business license department may allow a credit on any amount due and payable from persons who paid the tax herein levied but who were erroneously or illegally subjected thereto.

**Sec. 54-70. Persons liable for tax; extinguishment of liability.**

Except as otherwise provided herein, every person occupying a guest room in a hotel in the special district is liable for the tax imposed by this article. The occupant's liability shall not be extinguished until the tax has been paid to the county, except that a receipt is sufficient to relieve the occupant from further liability for the tax to which the receipt refers, provided such receipt is from an ~~operator~~innkeeper authorized by the supervisor of the business license department to maintain a hotel in the special district.

**Sec. 54-71. Tax exemptions.**

In accordance with and in addition to the exemptions provided in O.C.G.A. § 48-13-51(h), no tax shall be levied pursuant to this article under the following situations:

- (1) For the use of meeting rooms and other such facilities or any rooms, lodgings, or accommodations provided without charge;

- (2) Where any room, lodgings or accommodations are furnished for a period of one or more days to the State of Georgia or local governmental officials or employees when traveling on official business.
- (3) For rentals after the first 30 days of consecutive occupancy.
- (4) Where the persons staying in such room, lodging, or accommodation 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.
- (5) For rentals to any corporation or association organized and operated exclusively for religious, charitable or educational purposes, or for more than one of such purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.
- (6) Where the ~~operator~~innkeeper is a charitable trust, or a functionally related business of a charitable trust, except as otherwise allowed under O.C.G.A. § 48-13-55.

Notwithstanding any other provision of this section, no tax shall be imposed hereunder upon a permanent resident.

#### **Sec. 54-72. Facilities operated by the department of natural resources.**

Pursuant to O.C.G.A. § 48-13-54, as may be amended, any state park operated under the jurisdiction of the Georgia Department of Natural Resources, or a state authority that is administratively attached to the Georgia Department of Natural Resources, which state park or authority regularly furnishes for value lodge rooms as well as meals and conference or meeting facilities or has a minimum of 20 cabins and which rooms, facilities, or cabins are located in the special district shall agree to collect and remit to the county amounts which are equal to, or partially equal to, the amounts which would be collected and remitted to the county under the tax levied by the county under this article if such rooms, facilities, or cabins were privately operated. The sums so collected and remitted shall only be expended for development, promotion, and advertising of such rooms, facilities, or cabins from which the money was collected and remitted or for similar purposes of promoting, advertising, stimulating, and developing conventions and tourism in the special district so long as said promotion or advertising prominently features the state park or state authority rooms, facilities, or cabins.

#### **Sec. 54-73. ~~Collection of tax by operator~~ Registration of innkeeper.**

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

- (1) ~~Registration of operator.~~ Every person engaging in or about to engage in business as an ~~operator~~innkeeper of a hotel, as defined in section 54-66 (g)(1), in the special district shall immediately register said business with the county's business license department, as the duly authorized representative of the county, on a form provided by the department for such purpose. Such registration shall:

- a. Set forth the name under which the ~~operator~~innkeeper 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 as the business license department may require.
- b. Be signed by the owner (if a natural person), by an executive officer or someone specifically authorized by the corporation to sign the registration (if a corporation) or a member or partner (if an association, limited liability company, or partnership).

A separate registration shall be required for each place of business of an ~~operator~~innkeeper. 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. An ~~operator~~innkeeper 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 for the filing of state sales tax returns.

- (2) Occupancy tax/operating certificate. Within ten days of the proper and complete registration of an ~~operator~~innkeeper, as hereinabove provided, the supervisor of the business license department shall issue to such registrant a certificate of authority to collect the tax from occupants, together with a duplicate thereof for each additional place of business of such registrant. Each certificate and duplicate shall state the name and location of the business or person to which it is applicable and shall be prominently displayed at each location so as to be seen and come to the notice readily of all occupants and persons seeking occupancy. Such certificate shall be nonassignable and shall be returned to the business license department upon the cessation of business at the location named or upon its sale or transfer.

#### **Sec. 54-74. Collection of tax by innkeeper.**

- (~~13~~) Collection by ~~operator~~innkeeper. Every ~~operator~~innkeeper ~~maintaining a place of business in the special district and renting guest rooms~~ in the special district shall collect the tax imposed by this article at the time of collecting the rent from the occupant and on demand shall give the occupant a receipt therefor. In all cases of transactions upon credit or deferred payment, the payment of the tax to the ~~operator~~innkeeper may be deferred in accordance therewith, and the ~~operator~~innkeeper shall be liable therefor at the time and to the extent that such credits are incurred in accordance with the rate of tax owing on the rent. The board of commissioners shall have the power to adopt rules and regulations prescribing methods and schedules for the collection and payment of the tax.

(2) Where the occupant pays rent directly to a marketplace innkeeper, the marketplace innkeeper shall constitute the innkeeper with respect to the transactions taxable pursuant to this section that it facilitates on behalf of another person. All taxes levied or imposed by this article on transactions facilitated by a marketplace innkeeper shall be paid by the occupant to the marketplace innkeeper.

(4) Each innkeeper shall be liable for the full amount of taxes levied or imposed by this article on its transactions or the amount of tax collected by such innkeeper from all purchasers on all such transactions, whichever is greater.



(5) A transaction that is not taxable pursuant to section 54-71 shall not be taxable to the innkeeper.

(6) In the event that the marketplace innkeeper fails to remit the full amount of taxes levied or imposed by this article to Cherokee County, the innkeeper shall be liable for the full amount of taxes levied or imposed by this article.

(74) Unlawful advertising regarding tax. It is unlawful for any ~~operator~~innkeeper to advertise or hold out or state to the public or to any guest, directly or indirectly, that the tax imposed by this article or any part thereof will be assumed or absorbed by the ~~operator~~innkeeper or that it will not be added to the rental of the guest room, or that, if added, it or any part thereof will be refunded.

(85) Tax remittance; due date and required report.

a. Due date for payment.

1. In accordance with O.C.G.A. § 48-13-51(a)(1)(B)(ii), the tax imposed by this article shall be due and payable from the occupant to the ~~operator~~innkeeper at the time of occupancy of any hotel in this special district, and the tax shall be a debt of the occupant to the ~~operator~~innkeeper until it is paid and shall be recoverable at law by the ~~operator~~innkeeper in the same manner as authorized for recovery of other debts.

2. Pursuant to O.C.G.A. § 48-13-53.2(a), each ~~operator~~innkeeper shall remit taxes due to the business license department monthly, on or before the 20th day of every calendar month next succeeding each respective month (or fiscal period) for which the return is being filed. Such payment shall be accompanied by a return (in such form as the business license department may prescribe) for the preceding monthly period showing the gross rent, rent from permanent residents, rents exempt from tax, taxable rent, amount of tax collected or otherwise due for the related period, and such other information as may be required by the business license department or governing authority of Cherokee County.

b. Estimated tax payment. Pursuant to O.C.G.A. § 48-13-53.2(b), if the estimated tax liability of an ~~operator~~innkeeper for any return period exceeds \$2,500.00, the ~~operator~~innkeeper shall file a return and remit to the business license department not less than 50 percent of the estimated tax liability for the return period on or before the 20th day of the period. The amount of the payment of the estimated tax liability shall be credited against the amount to be due on the return required under subsection 5.a. above. This subsection shall not apply to any ~~operator~~innkeeper unless during the previous fiscal year the ~~operator~~innkeeper's monthly payments exceeded \$2,500.00 per month for three consecutive months or more.

c. Delinquent payment. Pursuant to O.C.G.A. § 48-13-53.6, the tax imposed by this article shall become delinquent for each month after the 20th day of each succeeding month during which it remains unpaid.

- d. State sales tax return. At the time any such report is due, the ~~operator~~innkeeper shall file a copy of the corresponding state sales tax return for the sole purpose of verifying the sums reported and due.
- e. No rentals in reporting period. In the event there are no rentals in a reporting period, ~~operator~~innkeepers are required to file a return to the county stating they had zero rentals for the period.
- f. Extension of time for filing return or paying tax.
  1. Pursuant to O.C.G.A. § 48-13-53.3, the supervisor of the business license department may, for good cause, extend the time for making any returns or paying any tax required under this article for a period not to exceed 30 days. To be valid, such extension must be granted upon written application, and an extension shall only be valid for a period, as appropriate, of not more than 12 consecutive months (or four consecutive calendar quarters). No further extension of time may be granted.
  2. Upon the grant of any extension authorized herein, the ~~operator~~innkeeper shall remit to the business license department, on or before the date the tax would otherwise become due without the grant of the extension, an amount which equals not less than 100 percent of the ~~operator~~innkeeper's payment for the corresponding period of the preceding tax year.
  3. No interest or penalty shall be charged by reason of the granting of an extension during the first ten days of each extension period. Thereafter, except as otherwise expressly provided by law, interest shall accrue and be collected upon the unpaid balance of the ~~operator~~innkeeper's liability at the rate of one percent per month from the date the tax is due until the date the tax is paid, or as otherwise specified in O.C.G.A. § 48-2-40. For the purposes of this paragraph, any period of less than one month shall be considered to be one month.

**Sec. 54-7~~5~~4. Collection allowance.**

Pursuant to O.C.G.A. § 48-13-52, ~~operator~~innkeepers 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 such 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.

**Sec. 54-7~~6~~5. Deficiency or overpayment; late payment; failure to pay or file return.**

- (a) Recomputation of tax. If the business license department has a reasonable basis to believe that information on the return or the amount of tax paid is incorrect, 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 than one deficiency determination may be made of the amount due for one or more than one period.

- (b) Determination of tax when no return made. Pursuant to O.C.G.A. § 48-13-53.3(b), if any ~~operator~~innkeeper fails to file a return and pay the tax as required by this ordinance, the business license department shall make an estimate of the amount of the gross receipts of the ~~operator~~innkeeper, or as the case may be, of the amount of gross rent which is subject to the tax. The estimate shall be made for the period or periods in respect to which the ~~operator~~innkeeper failed to file the return and shall be based upon any information which is or may come into the possession of the business license department. Upon the basis of this estimate, the business license department shall compute and determine the amount required to be paid to the county, adding to the sum, per month, from the day after the close of each monthly period for which tax is due until the date of payment, any penalties and interest authorized herein. One or more than one determination may be made for one or for more than one period.
- (c) Interest on deficiency or late payment. The amount of the determination made under subsection (b) of this section (without deduction for the collection allowance authorized in section 54-74 of this article) shall bear interest at a rate of one percent per month (or fraction thereof) from the first day after the close of the prior monthly period for which the amount or any portion thereof should have been returned until the date of payment.
- (d) Penalty on deficiency or late payment. Pursuant to O.C.G.A. § 48-13-58, when an ~~operator~~innkeeper fails to make any return or to pay the full amount of the tax required by this article, there shall be imposed, in addition to other penalties provided by law, a penalty to be added to the tax in the amount of five percent of the determination (without deduction for the collection allowance authorized in section 54-74 of this article) or \$5.00, whichever is greater, for each 30 days or fraction thereof of delinquency. The penalty for any single violation shall not exceed 25 percent of the determination or \$25.00 in the aggregate, whichever is greater. Such penalty shall be assessed and paid by the ~~operator~~innkeeper to the county. In addition, the ~~operator~~innkeeper shall not be entitled to the collection allowance authorized in section 54-74 of this article. The late penalty will be strictly enforced; provided that, if the failure to make a return or to pay the full amount of the tax required is due to providential cause shown to the satisfaction of the business license department in affidavit form attached to the return and remittance is made within ten days of due date, the return may be accepted exclusive of penalties and interest.
- (e) Offsetting of overpayments. In making a determination under this section, the business license department may offset overpayment for a period against underpayments for another period, against penalties, and against the interest on underpayments. However, pursuant to O.C.G.A. § 48-13-51(a)(1)(B), if it is determined by the supervisor that overpayment of tax was made by the occupants to the ~~operator~~innkeeper, the entire amount of all overpayments of tax will be made to the business license department without any deduction for the collection allowance provided for in section 54-74 of this article.
- (f) Penalty for fraud or intent to evade tax. Pursuant to O.C.G.A. § 48-13-58(a), in the case of a false or fraudulent return or of a failure to file a return where willful intent exists to defraud the county of any tax due under this article, a penalty of 50 percent of the tax due shall be assessed.

- (g) Service of notices. The business license department or its designated representative shall give to the ~~operator~~innkeeper written notice of its determination under this section. The notice may be served personally or by mail. If served by mail, the notice shall be addressed to the ~~operator~~innkeeper at his/her/its last known address as it appears in the records of the business license department. In case of service by mail of any notice required by this article, the service is complete when delivered by certified mail with a receipt signed by the addressee.
- (h) Time limit for service of notice of deficiency determination. Except in the case of fraud, intent to evade this article or authorized rules or regulations, or failure to make a return, every notice of a deficiency determination shall be mailed within three years after the fifth day of the calendar month for which the amount is proposed to be determined, or within three years after the return is filed, whichever period expires later.
- (i) Refunds. 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 county under this article, it may be refunded, provided a verified claim in writing therefor, stating the specific grounds upon which the claim is founded, is filed with the business license department within three years from the date of payment. The claim shall be audited and shall be made on forms provided by the supervisor. If the claim is approved by the board of commissioners, the excess amount collected or paid may be refunded or may be credited on any amounts that are due and payable from the ~~operator~~innkeeper from which it was collected or by whom it was paid and the balance executors.
- (j) Collection. The estimated tax together with applicable penalties and interest may be collected utilizing any of the enforcement methods set forth in this article.

**Sec. 54-776. ~~Operator~~Innkeeper records.**

- (a) Records retention. Each ~~operator~~innkeeper collecting a tax under the provisions of this article shall keep, for a period of at least three years, a folio and such other suitable 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 county may, in writing, from time to time require.
- (b) Examination of records. The business license department, or any person or entity authorized in writing by the county, may at all reasonable hours examine the folio, books, invoices, financial reports and other records of the ~~operator~~innkeeper and any other person liable for the tax, and may investigate the character of the business of the ~~operator~~innkeeper in order to verify the accuracy of any return made, or, if no return is made by the ~~operator~~innkeeper, to ascertain and determine the amount required to be paid.

**Sec. 54-787. Enforcement action and duties upon sale or closure of business.**

- (a) Action to collect tax. At any time within three years after any tax or any portion of such tax required to be collected becomes due and payable, the county attorney at the direction of the board of commissioners may bring an action in a court of competent jurisdiction in the name of the county to collect such amount due together with penalties and interest, court fees, filing fees, attorney's fees, and other legal fees incident thereto.

- (b) Return upon ceasing to operate; duty of successors of ~~operator~~innkeeper to withhold tax from purchase money. An ~~operator~~innkeeper must notify the business license department in writing within 30 days of closing its business. Further, in accordance with O.C.G.A. § 48-13-53.1, if any ~~operator~~innkeeper becomes liable for any amount under this article and subsequent thereto sells or quits the business, such ~~operator~~innkeeper shall make a final return and payment of all tax due within 15 days after the date of selling or quitting the business. The ~~operator~~innkeeper's successors or assignees, if any, shall withhold a sufficient amount of the purchase price to cover such amount due until the former owner produces either a receipt from the business license department showing that the county has been paid the amount due or a certificate stating that no amount is due. In the event said purchaser of the business fails to withhold the required amount from the purchase price as required, the purchaser shall become personally liable for the payment of any taxes, interest, and penalties accruing under this article and unpaid by the former owner or assignor. The personal liability of the purchaser in such a case shall not exceed the amount of the total purchase money, but the property being transferred shall in all cases be subject to the full amount of the tax lien arising from the delinquencies of the former owner. Paid executions may be transferred and enforced as otherwise provided by law.

**Sec. 54-~~798~~. Violations.**

- (a) In addition to any other violations for which criminal or civil penalties or punishments specifically are provided by applicable law, it shall be unlawful for any person to violate any provision of this article for which punishment is not otherwise provided. 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 Magistrate Court of Cherokee County and, upon conviction, shall be assessed with any penalty, including fine, confinement, or both, allowed by law for the violation of Cherokee County Ordinances. Each and every day that such violation exists shall be deemed a separate offense.
- (b) In order to enforce this article or to correct or abate any violation of the article, the Cherokee County board of commissioners, in addition to other remedies, may institute actions for injunctive or other appropriate relief.

**Sec. 54-~~8079~~. Severability; repealer.**

- (a) If any paragraph, subparagraph, sentence, clause, phrase, or any 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 to be the intent of the board of commissioners to provide separable and divisible parts.
- (b) All ordinances, or parts of ordinances, in conflict with the terms of this article are hereby repealed, but it is hereby provided that any ordinance or law which may be applicable hereto and aid in carrying out or making effective the intent, purpose and provisions hereof, which shall be liberally construed to be in favor of county, is hereby adopted as part hereof.

**Sec. 54-8~~10~~. Effective date.**

In accordance with O.C.G.A. § 48-13-51(g)(2), the effective date of this article shall be the first day of the second month following adoption. The tax herein imposed shall be paid upon any occupancy occurring on or after the effective date of this article, 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.

**Secs. 54-8~~21~~—54-100. Reserved.**