

FIRST READING August 11, 2020
ADVERTISED August 4, 2020
PASSED September 8, 2020

AN ORDINANCE NO. BR2020-16

AN ORDINANCE TO AMEND SECTION 35.07 OF THE CITY OF BLUE RIDGE CODE; TO IMPLEMENT TITLE 48, CHAPTER 13, ARTICLE 3, SECTION 51 OF THE OFFICIAL CODE OF GEORGIA ANNOTATED, EXCISE TAX ON ROOMS, LODGINGS, AND ACCOMMODATIONS, AND TO PROVIDE FOR THE COLLECTION BY OPERATOR; TO PROVIDE FOR ADMINISTRATION; TO PROVIDE FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, the governing body of the City of Blue Ridge, a political subdivision of the State of Georgia, is authorized under Title 48, Chapter 13, Article 3, Section 51 of the Official Code of Georgia Annotated levy certain excise taxes; and

WHEREAS the City of Blue Ridge, a political subdivision of the State of Georgia, is designated as a "special district" pursuant to Title 48, Chapter 13, Article 50.1 of the Official Code of Georgia Annotated for the purpose of implementing an excise tax on rooms, lodging and accommodations; and

WHEREAS House Bill 1162 of the 2020 Regular Session of the Georgia General Assembly authorizes imposition of an excise tax of up to 8% by the City of Blue Ridge pursuant to O.C.G.A. § 48-13-51(b); and

WHEREAS, the governing body of the City of Blue Ridge, a political subdivision of the State of Georgia, is required under Title 48, Chapter 13, Article 3, Section 51 of the Official Code of Georgia Annotated to make available a designated portion of funds so collected for the purpose of promoting, attracting, stimulating, and developing conventions and tourism by a destination marketing organization in the City of Blue Ridge; and

WHEREAS the City of Blue Ridge, a political subdivision of the State of Georgia is authorized under Title 48, Chapter 13, Article 3, Section 51 of the Official Code of Georgia Annotated to make available a designated portion of funds so collected for the purpose of tourism product development in the City of Blue Ridge, with any balance of the funds so designated for the purpose of promoting, attracting, stimulating, and developing conventions and tourism by a destination marketing organization in the City of Blue Ridge

WHEREAS, the options of local citizens having been heard at public meetings call for such purposes;

NOW, THEREFORE, BE IT ORDERED, AND IT IS HEREBY ORDAINED the governing body of the City of Blue Ridge, a political Subdivision of the State of Georgia, resolves to adopt an Excise Tax Ordinance pursuant to said authority; and therefore, the governing body of the City of Blue Ridge, a political

subdivision of the State of Georgia does publish, state and promulgate the following ordinance:

SECTION I
SHORT TITLE

This Article shall be known as the Hotel-Motel Excise Tax Ordinance of the City of Blue Ridge.

SECTION 35.07
INTENT, PURPOSE, AND AUTHORIZATION TO LEVY EXCISE TAX

(a) The intent of this ordinance is to levy an excise tax on rooms, lodgings, and accommodations to provide additional funding for the promotion of tourism, conventions, and trade shows in the City of Blue Ridge, Georgia.

(b) The purpose of this ordinance 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 City of Blue Ridge for operating within the special district 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.

(c) This excise tax shall be imposed under the authorization of HB 1162 of the 2020 Regular Session of the Georgia General Assembly, pursuant to O.C.G.A. § 48-13-51(b).

SECTION 35.08
DEFINITIONS

The following terms, for the purposes of this ordinance, shall be defined as follows:

- (a) *City*. The territorial limits of the City of Blue Ridge, Georgia under the governing authority of the City Council and Mayor.
- (b) *City Clerk*. The duly appointed city clerk, or his/her designee.
- (c) *Destination Marketing Organization*. A private sector nonprofit organization or other private entity which is exempt from federal income tax under Section 501(c)(6) of the Internal Revenue Code of 1986 that is supported by the tax under this article, government budget allocations, private membership, or any combination thereof and the primary responsibilities of which are to encourage travelers to visit their destinations, encourage meetings and expositions in the area, and provide visitor assistance and support as needed (O.C.G.A. § 48-13-50.2(1)).
- (d) *Due Date*. The twentieth (20th) day after the close of monthly period for which tax is to be computed. (O.C.G.A. § 48-13-53.2(a)).
- (e) *Return*. The primary documentation produced by a hotel or other Facility that demonstrates interaction between the operator 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.

(f) *Guest Room.* Accommodations occupied, or intended, arranged, or designated for transient occupancy of not more than thirty (30) continuous days (O.C.G.A. § 48-13-51(h)(4)), by one (1) or more occupants for the purpose of living quarters or residential use.

(g) *Hotel.* Includes any hotel, motel, inn, lodge, tourist camp, travel trailer park, tourist cabin, campground, or any other place in which rooms, lodgings, or accommodations are regularly furnished for value and shall apply to the furnishing for value of any room, lodging, or accommodation. (O.C.G.A. § 48-13-51(a)(1)(B)(i)).

(h) *Monthly Period.* Any calendar month of any year.

(i) *Occupancy.* The use or possession, or the right to use or possession, of any room or apartment in a hotel or motel, or the right to use or possession of the furnishings or to the services and accommodations accompanying the use and possession of the room or apartment.

(j) *Occupant.* Any person (or persons utilizing as a single unit) who, for a consideration, uses, possesses, or has the right to use or possess, any room or hotel or motel or travel trailer space under any lease, concession, permit, right of access, license, agreement or otherwise.

(k) *Operator or Lodging Provider.* Any person, partnership, or any other form of entity who is subject to taxation under this article for the furnishing for value to the

public any rooms, lodgings, travel trailer spaces or accommodations. This includes, without limitation, any owner, operator, proprietor, lessee, lender in possession, or any other person otherwise operating a hotel. (O.C.G.A. § 48-13-50.2(2))

(l) *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 for more than 30 (thirty) consecutive days.

(m) *Person.* 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 of Georgia, and any political subdivision of either thereof upon which the governing authority of the City of Blue Ridge is without power to impose the tax herein provided.

(n) *Promoting Tourism, Conventions, and Trade Shows.* Planning, conducting, or participating in programs of information and publicity designed to attract or advertise tourism, conventions, or trade shows (O.C.G.A. § 48-13-50.2(4)).

(o) *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 lodging provider to the occupant, without any deduction therefrom whatsoever.

(p) *State Authority.* An authority created by state law which serves a state-wide function, including, but not limited to, the Georgia Agricultural Exposition Authority, Georgia Aviation Authority, Georgia Building Authority, Georgia Development Authority, Georgia Environmental Finance Authority, Jekyll Island Authority, Lake Allatoona Preservation Authority, Georgia Medical Center Authority, Georgia Ports Authority, Georgia Regional Transportation Authority, State Road and Tollway Authority, Sports Hall of Fame Authority, Georgia Technology Authority, and Georgia World Congress Center Authority, but shall not mean an authority created for support of a local government or a local purpose or function and shall not include authorities such as area planning and development commissions and any organizational entities they may create, regional commissions and any organizational entities they may create, or local water and sewer authorities. (O.C.G.A. § 48-13-50.2(5)).

(q) *Tax.* The excise tax of 8% on occupants imposed by this ordinance, as provided for by O.C.G.A. § 48-13-51(b).

(r) *Tourism Product Development.* the expenditure of funds for the creation or expansion of physical attractions which are available and open to the public and which improve destination appeal to visitors, support visitors' experience, and are

used by visitors. Such expenditures may include capital costs and operating expenses. Tourism product development may include: (A) Lodging for the public for no longer than 30 consecutive days to the same customer; (B) Overnight or short-term sites for recreational vehicles, trailers, campers, or tents; (C) Meeting, convention, exhibit, and public assembly facilities; (D) Sports stadiums, arenas, and complexes; (E) Golf courses associated with a resort development that are open to the general public on a contract or fee basis; (F) Racing facilities, including dragstrips, motorcycle racetracks, and auto or stock car racetracks or speedways; (G) Amusement centers, amusement parks, theme parks, or amusement piers; (H) Hunting preserves, trapping preserves, or fishing preserves or lakes; (I) Visitor information and welcome centers; (J) Wayfinding signage; (K) Permanent, nonmigrating carnivals or fairs; (L) Airplanes, helicopters, buses, vans, or boats for excursions or sightseeing; (M) Boat rentals, boat party fishing services, rowboat or canoe rentals, horse shows, natural wonder attractions, picnic grounds, river-rafting services, scenic railroads for amusement, aerial tramways, rodeos, water slides, or wave pools; (N) Museums, planetariums, art galleries, botanical gardens, aquariums, or zoological gardens; (O) Parks, trails, and other recreational facilities; or (P) Performing arts facilities. (O.C.G.A. § 48-13-50.2(6)).

(s) *Travel Trailer* means any moveable vehicle or structure, including trailers, campers, vans, buses, motor homes or other recreational vehicles.

(t) *Travel Trailer Park* means a facility providing space for the parking of travel trailers.

SECTION 35.09
IMPOSITION AND RATE OF TAX AND EFFECTIVE DATE

There is hereby set and levied on the occupant of a guest room of any hotel/motel/cabin/residence/lodge, short-term rental or travel trailer space located within the City a tax in the amount of 8% of the gross rent for such occupancy. This Ordinance shall take effect on the first day of the second month following the adoption of this Ordinance which will be November 1, 2020. All taxes due and payable prior to November 1, 2020, under the previous Code section shall remain due and payable pursuant to the previous provisions of this Code.

SECTION 35.10
EXEMPTIONS

In accordance with O.C.G.A. § 48-13-51(h), the tax imposed by this ordinance shall not apply to (1) Charges made for any rooms, lodgings, or accommodations provided to 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 are a permanent resident; (2) The use of meeting rooms and other such facilities or any rooms, lodgings, or accommodations provided without charge; (3) Any rooms, lodgings, or

accommodations furnished for a period of one or more days for use by Georgia state or local governmental officials or employees when traveling on official business. Notwithstanding the availability of any other means of identifying the person as a state or local government official or employee, whenever a person pays for any rooms, lodgings, or accommodations with a state or local government credit or debit card, such rooms, lodgings, or accommodations shall be deemed to have been furnished for use by a Georgia state or local government official or employee traveling on official business for purposes of the exemption provided by this paragraph. For purpose of the exemption provided under this paragraph, a local government official or employee shall include officials or employees of counties, municipalities, consolidated governments, or county or independent school districts; or (4) Charges made for continuous use of any rooms, lodgings, or accommodations after the first 30 days of continuous occupancy. (O.C.G.A. § 48-13-51(h)).

SECTION 35.11
USE OF REVENUE

(a) Pursuant to O.C.G.A. § 48-13-51(b)(5)(A), 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 5 percent shall be expended for promoting tourism, conventions, and trade shows by the destination marketing organization,

as defined in this ordinance, designated by the governing body of the City of Blue Ridge; and

(b) Pursuant to O.C.G.A. § 48-13-51(b)(5)(B), the remaining amount of taxes collected that exceed the amount of taxes that would be collected at the rate of 5 percent which are not otherwise expended under Section 35.11, Paragraph (a) of this ordinance shall be expended for tourism product development, as defined in this ordinance; and

(c) Pursuant to O.C.G.A. § 48-13-51(a)(3), the amount of taxes that would be collected at the rate of 5 percent, as referenced in Section 35.11, Paragraphs (a) and (b) of this ordinance, an amount equal to the amount by which the total taxes collected under this Code section exceed the taxes which would be collected at a rate of 3 percent for the purpose of: (A) promoting tourism, conventions, and trade shows; (B) supporting a facility owned or operated by a state authority for convention and trade show purposes or any other similar or related purposes; (C) supporting a facility owned or operated by a local government or local authority for convention and trade show purposes or any other similar or related purposes, if a written agreement to provide such support was in effect on January 1, 1987, and if such facility is substantially completed and in operation prior to July 1, 1987; (D) supporting a facility owned or operated by a local government or local authority for convention and trade show purposes or any other similar or related

purposes if construction of such facility is funded or was funded prior to July 1, 1990, in whole or in part by a grant of state funds or is funded on or after July 1, 1990, in whole or substantially by an appropriation of state funds; (E) supporting a facility owned by a local government or local authority for convention and trade show purposes and any other similar or related purposes if construction of such facility is substantially funded or was substantially funded on or after February 28, 1985, by a special county 1 percent sales and use tax authorized by Article 3 of Chapter 8 of this title, as amended and if such facility was substantially completed and in operation prior to December 31, 1993; or (F) for some combination of such purposes. Amounts so expended shall be expended only through a contract or contracts with the state, a department of state government, a state authority, a convention and visitors bureau authority created by local Act of the General Assembly for a municipality, or a private sector nonprofit organization, or through a contract or contracts with some combination of such entities, except that amounts expended for purposes (C) and (D) may be so expended in any otherwise lawful manner.

SECTION 35.12
COLLECTION OF TAX BY OPERATOR

Every operator maintaining a place of business in this City and renting guest rooms or travel trailer space in this City, not exempted, shall collect a tax of five

(5%) percent prior to _____, and a tax of five (8%) percent on or after _____, on the amount of rent from the occupant.

SECTION 35.13
REGISTRATION OF OPERATOR; CERTIFICATION OF AUTHORITY

Every person engaging or about to engage in business as an operator of a hotel, motel, or travel trailer park in this City shall immediately register with the City Clerk on a form provided by the City Clerk. 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 businesses, and such other information which would facilitate the collection of the tax as the City Clerk may require. The registration shall be signed by the owner if a natural person; in case of ownership by corporation, by an officer. The City Clerk shall after such registration, issue without charge a certificate of authority to each operator to collect the tax from the occupant. A separate registration shall be required for each place of business of an operator. Each certificate shall state the name and location of the business to which it is applicable.

SECTION 35.14
DETERMINATION, RETURNS AND PAYMENTS

(a) *Due date of taxes.* The tax imposed by this article shall be due and payable to the City monthly on the twentieth day of the month next succeeding the monthly period in which it accrued.

(b) *Return; time of filing; persons required to file contents.* On or before the twentieth day of each month, a return for the preceding monthly period shall be filed with the City Clerk showing the gross rent, rent from permanent residents, taxable rent, amount of tax collected or otherwise due, and such other information as may be required by the City Clerk.

(c) *Collection fee allowed operators.* Operators collecting tax shall be allowed a percentage of the tax due and accounted for and shall be reimbursed in the form of a deduction from the amount due, if such amount is not delinquent at the time of payment. The rate of the deduction shall be three (3%) percent of the amount due, but only if the amount due was not delinquent at the time of payment.

SECTION 35.15 **DEFICIENCY DETERMINATIONS**

(a) *Re-computation of tax; authority to make basis of re-computation.* If the City Clerk is not satisfied with the return filed by any person pursuant to this article, he or she may compute and determine the amount required to be paid upon the basis of any information available to him. One (1) or more deficiency determinations may be made of the amount due for one (1) or more monthly periods.

(b) *Interest of deficiency.* The amount of any deficiency determination shall bear interest at the rate of one (1) percent per month or fraction thereof from the due date of the taxes.

(c) *Service of notice of determination.* The City Clerk or his designated representation shall give to the operator written notice of any deficiency determination. The notice may be served personally or by certified mail/statutory overnight delivery; if by certified mail such service shall be addressed to the operator at his address as it appears in the records of the City Clerk. Service by certified mail is complete upon the signing by the addressee of the return receipt acknowledging delivery. 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 is later.

SECTION 35.16
DETERMINATION IF NO RETURN MADE

(a) *Estimate of gross receipts.* If any person fails to make a return, the City Clerk shall make an estimate of the amount of the gross receipts of the person, or as the case may be, of the amount of the total rentals of such person that are subject to the tax. The estimate shall be made for the period or periods in respect to which the person failed to make the return and shall be based upon any information which is or may come into the possession of the City Clerk. Written notice shall be given in the manner prescribed in section 35.15.

(b) *Interest on amount found due.* The amount of such determination shall bear interest at the rate of one (1) percent per month or 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 date of payment.

SECTION 35.17
MISCELLANEOUS ADMINISTRATIVE PROVISIONS

(a) *Authority of City Clerk.* The City Clerk shall administer and enforce the provisions of this article relating to the collection of the tax imposed by this article. The City Clerk may utilize the City Attorney in the collection of the tax.

(b) *Records required from operators, etc.; form.* Every operator renting guest rooms or travel trailer space in this City to persons shall keep such records, receipts, invoices, and other pertinent papers, and in such form, as the City Clerk may require such that an accurate accounting can be made of any tax due under this article.

(c) *Examination of records.* 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 or travel trailer space to persons 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.* In the administration of the provisions of this article, the City Clerk may require the filing of reports by any person having in his possession or custody information relating to rentals of guest rooms or travel trailer space 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 dates of occupancy, and such other information of the City Clerk may require.

SECTION 35.18
VIOLATIONS

Any person violating any of the provisions of this article shall be deemed guilty of an offense and upon conviction thereof shall be punished up to the maximum penalties allowed by the City Charter and as determined by a court of competent jurisdiction. Each such person shall be guilty of a separate offense for each day during any portion of which any violation of any provision of this section 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 in this article, or to furnish any return required to be made, or who fails or refuses to furnish a supplemental return or other data required by the City Clerk or who renders a false or fraudulent return shall be deemed guilty of an offense.

Further, any operator who is delinquent in tendering the tax owed or who has failed to file a return shall not be granted an occupational tax certificate

[business license] until said operator has paid any tax owed and properly filed a return.

SECTION 35.19
COLLECTION OF TAX

(a) *Action of tax.* At any time within three (3) years after any amount of tax required to be collected under this article becomes due and payable and at any time with three (3) years after the delinquency of any tax or any amount of tax required to be collected, the City Attorney 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 section sells a business or quits the business, said operator's successors or assigns shall withhold sufficient of the purchase price to cover such amount until the former operator produces a receipt from the City Clerk showing that he or she has been paid or a certificate stating that no amount is due.

(c) *Liability for failure of purchaser to withhold.* If the purchaser of a business fails to withhold the tax due from the purchase price as required, the purchaser shall be personally liable for the payment.

(d) *Overpayments.* 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 section, it may be offset by the City Clerk. If the operator or person determines that he has overpaid or paid more than once, which fact has not been determined by the City Clerk, he shall 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.

SECTION II **REPEAL OF CONFLICTING ORDINANCES TO REMOVE CONFLICT**

With the exception of any zoning ordinance or zoning classification, all parts of ordinances in conflict with the terms of this ordinance are hereby repealed to the extent of the conflict, but it is hereby provided that any ordinance or law which may be applicable hereto and aid in carrying out and making effective the intent, purpose and provisions hereof, is hereby adopted as a part hereof and shall be legally construed to be in favor of upholding this Ordinance on behalf of the City of Blue Ridge, Georgia. Further, it is the intent of the City Council that it be able to assess and collect hotel/motel excise tax of (5%) until this Ordinance shall go into effect. The previous version of Sections 35.07 to 35.18 shall stand repealed in their entirety upon the effective date of this Ordinance.

SECTION III
SEVERABILITY

If any paragraph, subparagraph, sentence, clause, phrase or any other portion of this Ordinance should be declared invalid or unconstitutional by any Court of competent jurisdiction or if the provisions of any part of this Ordinance as applied to any particular person, situation or set of circumstances is declared invalid or unconstitutional, such invalidity shall not be construed to affect the provisions 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 to be the legislative intent of the City Council of the City of Blue Ridge, Georgia to provide for separate and divisible parts and it does hereby adopt any and all parts hereof as may not be held invalid for any reason.

SECTION IV
EFFECTIVE DATE

The effective date of this Ordinance shall be immediately upon its passage by the City Council and execution by the Mayor or upon fifteen (15) days expiring from the date of its passage without a veto of said Ordinance by the Mayor as set forth in the City Charter at Section 3.23(b).

SO ORDAINED, this 8 day of September, 2020.

BLUE RIDGE CITY COUNCIL

By: _____
Mayor

Attest Ordinance Passed: September 8, 2020

Attest:

Assistant City Clerk Chris Mortimer