

**AGENDA  
PUBLIC HEARING  
THE GOVERNING AUTHORITY  
OF WALKER COUNTY, GEORGIA**

Walker County Courthouse Annex III, 201 S Main Street  
LaFayette, Georgia 30728

- Date:** Thursday, March 14, 2019
- Time:** Public Hearing 6:00 PM  
The Regular Scheduled Commissioners Meeting will immediately follow the Public Hearing
- Invocation:** Given by Commissioner Shannon Whitfield
- Call to Order:** Commissioner Whitfield will call the meeting to order
- Pledge:** United States Flag
- Pledge:** Georgia Flag

**Open of Public Hearing  
Old Business:**

- I. Ordinance O-01-19 amends language in Chapter 34 regulating Land Development to include and adjust the Public Nuisance Ordinance of 2004. It would also add Chapter 12 to the County Code of Ordinances regulating Building and Building construction **(second reading)**
- II. Ordinance O-02-19 amends language in Chapter 46 regulating Construction of Roads for County Maintenance to bring current standards in line with surrounding counties **(second reading)**

**New Business:**

- I. Ordinance O-03-19 implements Title 48, Chapter 13, Article 3, Section 51 of the Official Code of Georgia placing an excise tax on rooms, lodging and accommodations
- II. Ordinance O-04-19 adds Chapter 14 to the County Code of Ordinances establishing the "Walker County Business Code"

**Adjournment:** Commissioner Whitfield will adjourn the Public Hearing

**ORDINANCE O-01-2019**

**AN ORDINANCE OF THE WALKER COUNTY SOLE COMMISSIONER INCORPORATING AND AMENDING THE PUBLIC NUISANCE ORDINANCE OF 2004 BY AMENDING CHAPTER 34 LAND DEVELOPMENT OF THE WALKER COUNTY CODE OF ORDINANCES; CREATING CHAPTER 12 ON BUILDING AND BUILDING CONSTRUCTION; ADDRESSING BLIGHTED PROPERTIES IN THE UNINCORPORATED AREA OF THE COUNTY AND FOR OTHER PURPOSES**

**WHEREAS**, there is strong interest in addressing real property that is unfit for human habitation, is unfit for its current commercial, industrial or business use and is not in compliance with applicable codes; is vacant and being used in connection with the commission of criminal activity; or constitutes an endangerment to the public health or safety as a result of unsanitary or unsafe conditions; and

**WHEREAS**, there is strong interest in addressing real property with conditions including defects increasing the hazards of fire, accidents, or other calamities, lack of adequate ventilation, light, or sanitary facilities, dilapidation, disrepair, structural defects, and uncleanliness; and

**WHEREAS**, existing county ordinances covering public nuisances require updating to reflect changes in state law regarding real property with conditions including those described above; and

**NOW THEREFORE BE IT HEREBY ORDAINED**, that Part II of the Walker County Code of Ordinances is amended to incorporate the Public Nuisance Ordinance of 2004 into Chapter 34 Land Development and to add Chapter 12 Buildings and Building Construction as follows:

**CHAPTER 34 LAND DEVELOPMENT**

**Article VIII. Public Nuisances**

Sec. 34-600 -- Sec. 34-650	Reserved.
Sec. 34-651.	Nuisance prohibited.
Sec. 34-652.	Purposes.
Sec. 34-653.	Definitions.
Sec. 34-654.	Illustrative examples of nuisances.
Sec. 34-655.	Abandoned vehicles.
Sec. 34-656.	Trees and other vegetation.
Sec. 34-657.	Noise.
Sec. 34-658.	Penalty.
Sec. 34-659.	Notice to abate.
Sec. 34-660.	Service of notice.
Sec. 34-661.	Contents of notice.
Sec. 34-662.	Continuing right of entry.

Sec. 34-663. County may correct violation.  
Sec. 34-664. Statement of costs.  
Sec. 34-665. Tax liens.

## ARTICLE VIII. PUBLIC NUISANCE

Sec. 34-600 -- Sec. 34-650 Reserved.

### **Sec. 34-651. Nuisance prohibited.**

It shall be unlawful for any person, firm, corporation or other entity to cause, permit, maintain, or allow the creation or maintenance of a public nuisance, as defined or more specifically described in this Ordinance.

### **Sec. 34-652. Purposes.**

It is important for a community to appear clean, well kept, and generally clear of public nuisances, eyesores and unhealthy conditions. The appearance of a community weighs heavily in the decisions of prospective residents and businesses in locating to a particular area. A clean, safe and well-kept community can stabilize or increase property values, provide a healthy environment and make citizens proud of the area in which they live. Accordingly, a community needs a set of regulations to keep the area clean, remove unsightly conditions and prevent unhealthy and unsafe situations from occurring. It is therefore the purpose and intent of this Ordinance to encourage a clean, healthy and satisfying environment; one free of nuisances, eyesores and unhealthy, unsafe or devaluating conditions. To this end, this Ordinance seeks to regulate and protect the health, safety, welfare, values and aesthetics of properties.

### **Sec. 34-653. Definitions.**

For the purposes of this Ordinance, the following words are defined:

*Nuisance:* Anything that causes hurt, inconvenience or damage to another, and the fact that the act done may otherwise be lawful, shall not keep it from being a nuisance. The inconvenience complained of shall not be fanciful, or such as would affect only one of fastidious taste, but it shall be such as would affect an ordinary, reasonable person. Nuisances are either public or private.

*Public Nuisance:* A public nuisance is one, which damages all persons who come within the sphere of its operation, though it may vary in its effects on individuals.

*Private Nuisance:* A private nuisance is one limited in its injurious effects to one or a few individuals.

*Continuing Nuisance:* A continuing nuisance does not have to be constant or unceasing, but merely one that occurs often or regularly, or one that occurs after a notification has been given that the activity is

causing such harm as would constitute a nuisance as defined herein and/or a request for abatement has been made.

Exceptions: The following shall be exemptions under this ordinance:

- (a) No agricultural activities carried on by an agricultural facility or operation as defined by O.C.G.A. § 41-1-7 within an A-1 zone shall be deemed a violation of this ordinance.
- (b) No activities of publicly owned property shall be deemed a violation of this ordinance.
- (c) The normal lawful activities of sport shooting ranges shall not be deemed a violation of this ordinance.
- (d) The normal lawful activities of businesses and industries presently in existence or later established in their proper respective zones shall not be deemed to be in violation of this ordinance.

*Abandoned vehicle:* A vehicle, including cars, trucks, trailers, boats, motorcycles, recreational vehicles, mobile homes, manufactured homes, or any other similar vehicle, that meets one or more of the following conditions:

- (a) Has been left unattended upon a highway, street, or alley or other public property outside a designated parking space for a period of 48 hours; and/or,
- (b) Is within public view and is inoperable, partially or wholly dismantled, wrecked, junked, discarded, or of similar condition, or any vehicle without a current license plate if required by law, and is located outside of an enclosed building, garage, carport, wrecked motor vehicle compound, or other place of business designated and lawfully used for the storage of such inoperable vehicles, for a period exceeding 30 days.
- (c) Has no tag displayed on the vehicle or the owner cannot provide to the County Police Officer proof of insurance.

**Sec. 34-654.**

**Illustrative examples of nuisances.**

The following conditions if present for thirty (30) or more days, with the exception of noise issues or safety hazards (which can be a nuisance without continuing for 30 days), whether on occupied or unoccupied lands, public or private property, are hereby declared to be and constitute a nuisance and shall be abated if determined to be a public nuisance, although this section shall not be construed to be limiting with regard to its enumeration of nuisances.

- (a) Weeds or grass allowed to grow to a height greater than 12 inches on the average, except in relationship to agricultural operations, or any accumulation of dead weeds, grass or brush, that may provide safe harborage for rats, mice, snakes and/or other vermin.
- (b) Vegetation that obstructs the safe passage or line-of-sight of motorists or pedestrians at an intersection or driveway connection with a public or private street or alley, or along any street or sidewalk.
- (c) Dead or dying trees or other vegetation, which may cause a hazardous situation if they fall.
- (d) Accumulation of rubbish, trash, refuse, junk, construction debris, and other abandoned materials, metals, lumber, old refrigerators or freezers, or other such items that exceeds ~~eight (8)~~ three (3) thirty gallon trash bags full of materials.
- (e) The keeping or maintenance of more than two abandoned vehicles in public view or in a manner inconsistent with this Ordinance.

- (f) The carcasses of animals or fowl not disposed of within a reasonable time after death. (which may be a safety hazard)
- (g) Any building or other structure which is in such a dilapidated condition that it is unfit for human habitation, or kept in such an unsanitary condition that it is a menace to the health of people residing in the vicinity thereof, or presents a fire hazard.
- (h) All noises which may annoy or inhibit others in their enjoyment of the use of their property.
- (i) All disagreeable or obnoxious odors or stenches, as well as the conditions, substances or other causes, which give rise to the emission or generation of such odors and stenches (including smoke and fires which can be safety hazards).
- (j) The pollution of any public well, stream, lake, canal or body of water by sewage, dead animals, creamery, industrial wastes, agricultural wastes or other substances (which can be safety hazards).
- (k) Any building, structure or other place or location where any activity is conducted, performed or maintained in violation of local, state or federal law (which can be a safety hazard).
- (l) Any accumulation of stagnant water.
- (m) Any method of human excretion disposal, which does not conform to the provisions of local ordinances, or state or federal law.
- (n) The generation of smoke or fumes in sufficient amounts to cause odor or annoyance to the citizens of the County (which can be a safety hazard).
- (o) The allowance of any roll-off containers to remain on a site more than 30-days without being emptied or any accumulation of waste materials outside the roll-off container.
- (p) The allowance of washout from existing or new driveways or access drives to property that is deposited onto County maintained roads (safety hazard).

**Sec. 34-655. Abandoned Vehicles**

It shall be unlawful to maintain ~~more than two~~ abandoned vehicles as defined by this Ordinance, and any abandoned vehicle is hereby declared a public nuisance and shall be abated as provided in this Ordinance. Any junked automobile, truck, vehicle, watercraft or utility trailer of any kind or type shall not be parked or stand on any private property **except within an enclosed building or on** public roads and is hereby found to create a condition tending to reduce the value of private property, to promote blight and deterioration, and invite plundering and vandalism, to create fire hazards, to constitute a nuisance creating a hazard to the health and safety of minors, and to be injurious to the health, safety and general welfare and, when on county streets, to create a traffic hazard and endanger public safety. ~~This is a supplement and shall not replace Walker County's existing junk car ordinance.~~

**Sec. 34-656. Trees and other vegetation.**

It shall be unlawful for the owner or occupant of any lot or land lying and abutting on an intersection of two streets or the intersection of two streets or the intersection of a driveway and a street to allow any trees, shrubs, or bushes lying on said lot or land to grow to a height or in a manner which restricts the line of sight, or which threatens safety or restricts passage of motorists or pedestrians within a public right-of-way or sidewalk.

The following plants shall not be installed as landscape material:

- (a) Kudzu (*Pueraria lobata*); and

- (b) Popcorn or Chinese Tallow Tree (*Sapium Sebiferum*).

**Sec. 34-657. Noise.**

It shall be unlawful for any person to create or assist in creating, permit, or continue any unreasonably loud, disturbing, or unnecessary noise in the County. Noise of such character, intensity, and duration that is detrimental to the reasonable comfort, health or life of any individual is prohibited. The following acts, among others, are declared to be loud, disturbing and unnecessary noises that constitute a nuisance, and which will be in violation of this Ordinance and which shall be abated if determined to be a public nuisance.

- (a) The keeping or maintenance of any domestic animal which **is a public nuisance animal as defined in Chapter 10 of the Code of Ordinances of Walker County**, ~~due to prolonged or habitual barking, howling, whining, or other noises, causes annoyance to neighboring residents, or interferences with the reasonable use and enjoyment of the premises occupied by such residents, is hereby declared to be a public nuisance and shall be abated as provided in this Ordinance.~~
- (b) The sounding of any bell, horn, whistle, mechanical device operated by compressed air, or signal device while not in motion, except as danger signal for an unnecessary and unreasonable period of time.
- (c) The use of any siren, other than police, fire, or emergency vehicle.
- (d) The use of operation of any musical instrument, radio, loud speaker, or sound amplifying device so loudly as to disturb persons in the vicinity thereof between the hours of 11:30 p.m. and 8:00 a.m. and during other hours where it is extremely excessive and offensive unless a permit is issued by the Walker County ~~Commissioner~~ **governing authority** for such activities.
- (e) The erection, excavation, demolition, alteration, or repair of any building or structure in the vicinity of residential dwellings between the hours of ~~9:00~~ **10:00** p.m. and 7:00 a.m., except in the case of urgent necessity in the interest of public safety, and then, only with a permit from the County Police.
- (f) The creation of excessive noise on any street adjacent to any school, institution of learning, court or religious congregation while the same are in session, or within 150 feet of a hospital which unreasonably interferes with the working of such institution.
- (g) The shouting or crying of peddlers, vendors, or residents, which disturbs the peace and quiet of a residential area.
- (h) The unnecessary creation of loud or excessive noise in connection with unloading or loading of vehicles or merchandise.
- (i) The use of any vehicle that is in a state of disrepair as to create loud or unnecessary grinding, rattling, backfiring, or other noise.

**Sec. 34-658. Penalty.**

The penalty for each separate violation of this ordinance shall be a fine not less than \$500 and not to exceed \$1,000 and/or 60 days imprisonment. Each day the nuisance continues after receiving a written

notice of abatement, or after being convicted of a citation without notice of abatement, constitutes a separate and continuing violation.

**Sec. 34-659. Notice to abate.**

Law enforcement officials may issue a citation for any violation of this ordinance without warning or notice to abate. However, for violations, which tend to be continuing in nature, the enforcement officer may first issue a notice to abate.

Whenever enforcement officers determine that a nuisance is found to exist within the jurisdiction of the County, the County Police Officer may give written notice of the owner or occupant of the property upon which such a nuisance exists or upon the person causing or maintaining the nuisance, to abate the nuisance.

**Sec. 34-660. Service of notice.**

The owner or occupant causing the nuisance should be served personally with the complaint or summons, if possible. If however, after reasonable effort has been made and personal service cannot be achieved, service may be had by issuance of the "Notice of Abatement" as provided herein.

**Sec. 34-661. Contents of notice.**

- (a) The notice to abate a nuisance issued under the provisions of this Ordinance shall contain the following:
  - (1) The owner shall have fifteen (15) days from the date of the notice to correct the violation;
  - (2) The location of the nuisance, if the nuisance is stationary;
  - (3) A description of what constitutes the nuisance;
  - (4) A statement of acts necessary to abate the nuisance; and
  - (5) A statement that if the nuisance is not abated as directed, the County may file an action in Magistrate Court to prosecute the violations, and
- (b) If corrective action, as directed, is not taken within fifteen (15) days after conviction (unless there is a different special period of time specified in judges order) the County will conduct the necessary corrective action and bill the property owner for the cost as a special tax, which will become a lien against the property if not paid within sixty (60) days of the date of mailing the bill to the property owner.
- (c) The notice shall be mailed by certified mail, return receipt requested, to the occupant's (if any) or the owner's address at the location of the activity creating the nuisance, and to the owner (if any) or the owner's address at the location of the activity creating the nuisance, and to the owner (if different from the occupant) as it appears on the County's Tax records and by:
  - (1) Posting the notice on or near the front door of each building on the property to which the violation relates; or
  - (2) If the property contains no buildings, posting the notice on a placard attached to a stake driven into the ground on the property to which the violation relates, with letters two and one-half (2 ½) inches high in bold type stating "NOTICE".

- (d) If the owner/occupant fails to correct the violation within the time allotted, the County may enter upon the property and employ another to do so, in order to correct the violation to include mowing, filling, draining, leveling, removal or any other appropriate action necessary to abate or correct the violation(s) and the cost incurred by the County shall be charged to the property owner;
- (e) If, within sixty (60) days after a bill for costs has been mailed to the owner's last known address, the owner fails to pay in full all costs incurred by the County to abate or correct the violation(s) a tax lien shall be filed against the property to secure all costs, expenses and reasonable attorney fees as allowed for receiving of tax liens.

**Sec. 34-662. Continuing right of entry.**

For a continuing right of entry by the County, notice of a second violation conviction shall be given to the owner as provided by this ordinance, to occur within twelve (12) months of the first. The second notice shall be the same as the first with second notice shown in bold at the top of the notice. The notice shall also contain a statement that, if the property owner fails to fully abate the violation(s) of this ordinance, the County may enter the property, as necessary, for the following 365 days to correct the present and any further violations without further notice to the owner and may assess the costs thereof as provided by this ordinance, including administrative fees.

**Sec. 34-663. County may correct violation.**

If at the expiration of fifteen (15) days after the second notice is given, as provided in this paragraph, the owner fails to correct the violation(s), the County may immediately enter upon the property and do the work, or pay for the work to be done, as necessary to correct the violation(s) after the second notice has been given as provided in this ordinance, the County may enter the property for the next 365 days as necessary to correct further violations without further notice to the owner and may assess the costs, expenses, administrative fees, and reasonable attorney's fees thereof as provided herein.

**Sec. 34-664. Statement of costs.**

A statement of the costs incurred by the County in correcting a violation shall be mailed to the property owner. The costs shall include an administrative fee of one hundred dollars (\$100). Payment for the statement shall be due within sixty (60) days of the date of mailing.

**Sec. 34-665. Tax liens,**

~~Lien to secure costs.~~—The statement for the County's abatement costs will be a special tax and if it is not paid in a timely manner, the County may assess a special tax lien on the property, which will be collected as any other tax lien.



## BUILDING AND BUILDING CONSTRUCTION

### Article I. In General

Secs. 12-1 -- 12-50. Reserved

### Article II. Blighted and Derelict Property

- Sec. 12-51. Short title.
- Sec. 12-52. Definitions.
- Sec. 12-53. Duty of owners of property and construction thereon.
- Sec. 12-54. Declaration of public nuisance.
- Sec. 12-55. Powers of the public officer.
- Sec. 12-56. Complaint in rem in magistrate court; procedure; lien; approval.
- Sec. 12-57. Service of complaints on owners and parties in interest.
- Sec. 12-58. Limitation of liability for code enforcement; no special duty created.
- Sec. 12-59. General cleanliness of premises.
- Sec. 12-60. Disorderly house.
- Sec. 12-61. Violations; enforcement penalties.
- Sec. 12-62. - 12-100. Reserved.

#### **Sec. 12-51. Short title.**

This article is known as the "Blighted and Derelict Property Ordinance."

#### **Sec. 12-52. Definitions.**

As used in this article, these terms have the following meanings:

*Blighted* or *derelict* means any construction, as defined in this section, or property within the county which (i) is constructed or maintained in violation of applicable codes; (ii) is unfit for human habitation or commercial, industrial, or business use or occupancy due to inadequate provisions for ventilation, light, air, sanitation, or open spaces; (iii) poses an imminent harm to life or other property due to fire, flood, hurricane, tornado, earthquake, storm or other natural catastrophe; (iv) is vacant and used in the commission of drug crimes; (v) is occupied and used repeatedly for the commission of illegal activities, including facilitating organized crime or criminal enterprises, after written notice to the owner of such activities conducted therein; (vi) is abandoned; (vii) has graffiti on any exterior wall or facade visible from other private or public property; (viii) has wooden boards, plywood, other wood based material, or any other non-transparent material covering any window or door; (ix) has visible exterior deterioration, including, but not limited to, faded, chipped, or peeling paint, broken, loose or missing siding material, broken, cracked, or otherwise compromised doors, windows, or other openings; or (x) otherwise constitutes an endangerment to the public health or safety as a result of unsanitary or unsafe conditions.

*County* means the unincorporated area of Walker County, Georgia.

*County's codes* means the standard codes adopted by Walker County under Part II, Chapter 1 of this Code, including but not limited to housing, fire or life safety code, and minimum standard building codes.

*Closing* means causing a construction, as defined below, to be vacated and secured against unauthorized entry.

*Construction* means any building, dwelling, or other structure, or part thereof, used and occupied for human habitation or commercial, industrial, or business uses, or intended to be so used, and includes any outhouses, improvements, and appurtenances belonging thereto or usually enjoyed therewith and also includes any building or structure of any design. As used in this article, the term "construction" does not mean or include any building or structure located on a farm, or any agricultural facility or other building or structure used for the production, growing, raising, harvesting, storage, or processing of crops, livestock, poultry, or other farm products.

*Drug crime* means an act which is a violation of O.C.G.A. Title 16, Chapter 13, Article 2, known as the "Georgia Controlled Substances Act."

*Graffiti* means any inscriptions, words, figures, paintings, or other defacements that are written, marked, etched, scratched, sprayed, drawn, painted, or engraved on or otherwise affixed to any surface of public or private property by means of any aerosol paint container, broad-tipped marker, gum label, paint stick, graffiti stick, etching equipment, brush, or other device capable of scarring or leaving a visible mark on any surface without prior authorization from the owner or occupant of the property.

*Governing authority* means the Sole Commissioner or Board of Commissioners of Walker County, Georgia.

*Interested party* means:

- (1) The "owner";
- (2) Person or persons in possession of a property and premises;
- (3) Those parties having an interest in the property as revealed by a certification of title to the property conducted in accordance with the title standards of the State Bar of Georgia;
- (4) Those parties having filed a notice in accordance with O.C.G.A. § 48-3-9; and
- (5) Any other party having an interest in the property whose identity and address are reasonably ascertainable from the records of the county or records maintained in the county courthouse or by the clerk of court; provided, however, interested party does not include the holder of the benefit or burden of any easement or right-of-way whose interest is properly recorded and this interest remains unaffected.

*Owner* means the holder of the title in fee simple and every mortgagee of record whether a person, firm, association, or corporation.

*Property* means any real property located within the unincorporated area of the county, whether improved or unimproved, and includes any unimproved premises on which a construction is sited.

*Public authority* means any member of the governing authority, any director of a public housing authority, or any officer who is in charge of any department or branch of government (municipal, county, or state) relating to health, fire, life safety, building regulations, or to other activities concerning any construction, as defined above, or use of private property within the unincorporated area of the county.

*Public officer* means the Director of Planning, Zoning and Inspections who is authorized to exercise the powers prescribed by this article, and any officer or employee of the county to whom he or she delegates such authority.

*Repair* means altering or improving a construction so as to bring it into compliance with the county's codes and the cleaning or removal of debris, trash, and other materials present and accumulated which create a health or safety hazard in or about any construction.

*Resident* means any person residing in the county's jurisdiction where the property is located on or after the date on which the alleged nuisance arose.

**Sec. 12-53. Duty of owners of property and constructions thereon.**

The owner of any construction and any property within the county must construct and maintain such construction and property in conformance with the county's codes and any other laws and ordinances which regulate or prohibit activities on private property and which declare it to be a public nuisance to construct or maintain any construction or of use private property in violation of such codes, laws, or ordinances.

**Sec. 12-54. Declaration of public nuisance.**

Any blighted or derelict construction or property within the county constitutes a public nuisance. Any property within the county on which is being regularly conducted any activity or land use in violation of applicable laws and ordinances, including all applicable zoning ordinances, also constitutes a public nuisance. Nothing in this Article section shall be read to supersede Chapter 34 of the county's codes.

**Sec. 12-55. Powers of the public officer.**

(a) In carrying out duties under to this article, the public officer has, in addition to those powers otherwise conferred upon or delegated to him or her by other ordinances of the county, the power to:

- (1) Investigate and inspect the condition of any construction and private property within the county to determine if the structure and property uses are in violation of this article. Entries onto private property must be made in a manner so as to cause the least possible inconvenience; provided, however, the public officer cannot enter into any occupied construction without first having obtained the consent of the owner or a person in possession. In those cases where consent to entry is denied after reasonable request, the public officer may apply to the magistrate court for an administrative search warrant upon showing probable cause that a violation exists.
- (2) To retain experts including certified real estate appraisers, qualified building contractors, and qualified building inspectors, engineers, surveyors, accountants, and attorneys.
- (3) To appoint and fix the duties of such officers and employees of the county as he or she deems necessary to carry out the purposes of this article; and
- (4) To delegate any of his or her functions and powers under this article to such officers, employees, or agents as he or she may designate.

(b) In addition to the procedures set forth in this article, the public officer may issue citations for violations of the applicable codes or conditions declared to constitute a public health or safety hazard or general nuisance and seek enforcement of such citations before the magistrate court prior to issuing a complaint in rem as provided in this article. Nothing in this article shall be construed to impair or limit in any way the power of the county to define and declare nuisances and to cause their removal or abatement by other summary proceedings.

**Sec. 12-56. Complaint in rem in magistrate court; procedure; lien; appeal.**

(a) Whenever a public official determines that any construction or property constitutes a public nuisance under this article or a request is filed with the public officer by a public authority or by at least five residents of the county charging that any construction or property constitutes a public nuisance under section this article, the public officer may make an investigation or inspection of the

specific construction or property and make a written report of his findings. The public officer may be guided in his or her investigation by documenting conditions, which may include, but are not limited to:

- (1) Defects increasing the hazards of fire, accidents or other calamities;
- (2) Lack of adequate ventilation, light or sanitary facilities;
- (3) Dilapidation;
- (4) Disrepair by failure to conform to applicable codes and ordinances;
- (5) Structural defects which render the structure unsafe for human habitation or occupancy;
- (6) Uncleanliness; or
- (7) The presence of graffiti which is visible from adjoining public or private property.

(b) If the public officer's investigation or inspection identifies that any construction or property constitutes a public nuisance under this article, the public officer will file a complaint in rem in the magistrate court of Walker County against the lot, tract, or parcel of real property on which such construction is situated or where such public health hazard or general nuisance exists and shall cause summons and a copy of the complaint to be served on the interested parties in such construction or property. The complaint shall identify the subject real property by appropriate street address and official tax map reference; identify the interested parties; state with particularity the factual basis for the action, and contain a statement of the action sought by the public officer to abate the alleged nuisance. The summons shall notify the interested parties that a hearing will be held before the magistrate court at a set date and time. The hearing must be held not less than fifteen (15) days nor more than forty-five (45) days after the service of a complaint filed in the magistrate court. The interested parties have the right to file an answer to the complaint and to appear in person, or by attorney and offer testimony at the time and place fixed for the hearing.

(c) If, after such notice and hearing, the court determines that the construction or property constitutes a public nuisance under this article, the court shall state, in writing, findings of fact in support of such determination and shall issue and cause to be served upon the interested parties an order:

- (1) If the repair, alteration, or improvement of the construction can be made at a reasonable cost, which is not more than fifty (50) percent of the fair market value of the construction as determined from the tax records of the county, in relation to the present value of the construction requiring the owner, within the time specified in the order, to repair, alter, or improve such construction so as to bring it into full compliance with the applicable codes relevant to the cited violation; and, if applicable, to secure by closing; or
- (2) If the repair, alteration, or improvement of the construction in order to bring it into full compliance with applicable codes relevant to the cited violations cannot be made at a reasonable cost, which is not more than fifty (50) percent of the fair market value of the construction as determined from the tax records of the county, in relation to the present value of the construction requiring the owner, within the time specified in the order, to demolish and remove such construction and all debris from the property.

(d) For purposes of this section, the court shall make its determination of reasonable cost in relation to the present value of the construction without consideration of the value of the land on which the structure is situated; provided, however, that costs of the preparation necessary to repair, alter, or improve a structure may be considered; and, provided further, that if the unsatisfactory condition is limited solely to the presence of graffiti, the construction must not be ordered demolished or closed, but its owner may be ordered to repair the same by cleaning or removal of the

graffiti. Income and financial status of the owner shall not be a factor in the court's determination. The present value of the structure and the costs of repair, alteration, or improvement may be established by affidavits of real estate appraisers with a Georgia appraiser classification as provided in O.C.G.A. title 43, chapter 39A, qualified building contractors, or qualified building inspectors without actual testimony presented. Costs of repair, alteration, or improvement of the structure shall be the cost necessary to bring the structure into compliance with the applicable codes relevant to the cited violations in force in the jurisdiction.

(e) If the owner fails to comply with an order to repair or demolish the construction, the public officer must cause the construction to be repaired, altered, or improved, or to be vacated and closed, or demolished within two hundred seventy (270) days of the expiration of time specified in the order for abatement by the owner. Any time during which such action is prohibited by a court order issued pursuant to subsection (c) of this section or any equitable relief granted by a court of competent jurisdiction shall not be counted toward the two hundred seventy (270) days in which such abatement action shall commence. The public officer must cause to be posted on the main entrance of the construction a placard with the following words:

"This building is unfit for human habitation or commercial, industrial, or business use and does not comply with the applicable codes or has been ordered secured to prevent its use in connection with drug crimes or constitutes an endangerment to public health or safety as a result of unsanitary or unsafe conditions. The use or occupation of this building is prohibited and unlawful."

(f) If the public officer has the structure demolished, reasonable effort shall be made to salvage reusable materials for credit against the cost of demolition. The proceeds of any moneys received from the sale of salvaged materials shall be used or applied against the cost of the demolition and removal of the structure, and proper records shall be kept showing application of sales proceeds. Any such sale of salvaged materials may be made without the necessity of public advertisement and bid. The public officer and governing authority are relieved of any and all liability resulting from or occasioned by the sale of any such salvaged materials, including, without limitation, defects in such salvaged materials.

(g) The amount of the cost of demolition, including all court costs, appraisal fees, and all other costs necessarily associated with the abatement action, including restoration to grade of the real property after demolition, shall be a lien against the real property upon which such cost was incurred.

(h) The lien provided for in subsection (e) shall attach to the real property upon the filing of a certified copy of the order requiring repair, closure, or demolition in the office of the Clerk of Superior Court of Walker County, Georgia, and shall relate back to the date of the filing of the lis pendens notice required under this article. The clerk of superior court shall record and index such certified copy of the order in the deed records of the county and enter the lien on the general execution docket. The lien shall be superior to all other liens on the property, except liens for taxes to which the lien shall be inferior, and shall continue in force until paid. After filing a certified copy of the order with the clerk of superior court, the public officer shall, within ninety (90) days of the completion of repairs, demolition or closure, forward a copy of the order and a final statement of costs to the county tax commissioner.

(i) The amount of the lien shall be collected in the manner as all other ad valorem taxes are collected by the county.

(j) The tax commissioner must remit the amount collected to the county. The tax commissioner may retain an amount equal to the cost of administering collection of the lien. Any amount retained for administration must be deposited in the general fund of the county to pay the cost of administering the lien.

(k) The governing authority may waive and release any such lien imposed on property upon the owner of such property entering into a contract with the county agreeing to a timetable for rehabilitation of the real property or the construction on the property and demonstrating the financial means to accomplish such rehabilitation.

(l) Review of a magistrate court order requiring the repair, alteration, improvement, or demolition of a construction must be by writ of certiorari.

**Sec. 12-57. Service of complaints or orders upon owners and parties in interest.**

(a) Summons and copies of the complaint shall be served in the following manner:

(1) In all cases, a copy of the complaint and summons must be conspicuously posted on the construction or property within three (3) business days of filing of the complaint and at least fourteen (14) days prior to the date of the hearing.

(2) At least fourteen (14) days prior to the date of the hearing, the public officer must mail copies of the complaint and summons by certified mail or statutory overnight delivery, return receipt requested, to all interested parties whose identities and addresses are readily ascertainable. Copies of the complaint and summons must also be mailed by first class mail to the property address to the attention of the occupants, if any;

(3) For interested parties whose mailing address is unknown, a notice stating the date, time, and place of the hearing shall be published in the newspaper in which the sheriff's advertisements appear in such county once a week for two (2) consecutive weeks prior to the hearing; and

(4) A notice of lis pendens shall be filed in the office of the clerk of superior court in which the construction or property is located at the time of filing the complaint in the magistrate court.

(b) The public officer must cause an affidavit of service to be filed of record in the magistrate court prior to the hearing showing compliance with the service requirements of this section. This affidavit constitutes a prima facie showing of minimum procedural due process and constitutes sufficient proof that service was perfected.

(c) Orders and other filings made subsequent to service of the initial complaint must be served in the manner provided in this section on every interested party who answers the complaint or appears at the hearing. Any interested party who fails to answer or appear at the hearing waives all further notice in the proceedings.

**Sec. 12-58. Limitation of liability for code enforcement; no special duty created.**

It is the intent of this article to protect the public health, life, safety and general welfare of residents and visitors of the county, but not to create any special duty or relationship with any individual person or to any specified property within or without the boundaries of the county. Approval of a permit and inspection of a property does not guarantee or warrant to the owner or occupants thereof that the property has been constructed, maintained or operated in conformance with applicable codes, laws and regulations. The county reserves the right to assert all available immunities and defenses in any action seeking to impose monetary damages upon the county, its officers, employees, or agents arising out of any alleged failure or breach of duty or relationship as may now exist or later be created. To the extent any federal or state law or regulation requires compliance as a condition precedent to the issuance of a permit, plan, or design approval, inspection or other activity by the county, its officers, employees, or agents, issuance of such permit, approval, or inspection does not constitute a waiver or estoppel of the condition precedent, and it remains the obligation and responsibility of the owner, his design professional(s), and contractor(s) to satisfy such legal requirements.

**Sec. 12-59. General cleanliness of premises.**

The owner and occupant of property within the county is independently responsible for keeping the premises, including any construction thereon and the full yard thereof, clean and free from all garbage, refuse, filth, dirt, ashes, trash, rubbish or other offensive materials.

**Sec. 12-60. Disorderly house.**

(a) Any person who keeps and maintains, either by himself or others, a common, ill-governed and disorderly house, to the encouragement of gaming, drinking, illicit drug activity, or other misbehavior, to the common disturbance of the neighborhood or orderly citizens, shall be guilty of an offense against the county; provided, however, before any person is charged under this subsection, written notice shall be given the owner of the property and the person in possession thereof by the chief of police stating the general, customary and common habits of the house, giving fair notice of this subsection and the conduct proscribed thereby.

(b) Any person who shall allow any boisterous, noisy, drunken or riotous persons to assemble or remain in their house, apartment or upon their property, after receiving oral notice from a police officer that boisterous, noisy, drunken or carousing activities have caused complaint and annoyance to the common disturbance of the neighborhood or orderly citizens, shall be guilty of an offense against the county; provided, however, no person shall be charged under this subsection unless the owner or person in possession of the premises has been afforded an opportunity to disburse the assembly or offending person from the premises. This subsection shall not preclude a police officer from arresting any individual for criminal trespass where such individual knowingly and without authority remains on private property after being notified by the owner or lawful occupant to depart.

**Sec. 12-61. Violations; enforcement penalties.**

Any person who willfully refuses to comply with the provisions of this article will be cited to appear before the magistrate court and, upon conviction, may be punished according to the provisions of Chapter VII, section 7-18 of the county's charter.

**Sec. 12-62. - 12-100. Reserved.**

# AFFIDAVIT OF PUBLICATION

State of Georgia,  
County of Walker

} S.S.

I, Donald Stilwell do solemnly

swear that I am the  
Publisher of THE  
WALKER COUNTY MESSENGER, printed and published  
at LaFayette in the State of Georgia, and that from my  
personal knowledge and reference to files of said

document of:

Nuisance

WALKER COUNTY MESSENGER in

NEWS

6+13, 2019

before me

Donald Stilwell

March, 2019

LaRever

Notary Public

## NOTICE OF PUBLIC HEARING

The Governing Authority of Walker County, Georgia proposes to amend the County Code of Ordinances. **O-01-19** amends language in Chapter 34 regulating Land Development to include and adjust the Public Nuisance Ordinance of 2004. It would also add Chapter 12 to the County Code of Ordinances regulating Buildings and Building Construction.

Public hearings on the proposed ordinance will be held on February 28, 2019 & March 14, 2019 at 6:00 p.m. at the Walker County Courthouse Annex III, 201 S Main Street in LaFayette, GA.

Copies of the proposed ordinance are available for review at the Commissioner's Office (101 S Duke St, LaFayette) and online at [walkercountyga.gov](http://walkercountyga.gov).



ORDINANCE O-02-19

STATE OF GEORGIA  
COUNTY OF WALKER

AN ORDINANCE TO AMEND CHAPTER 46, SECTION 46-2 PERTAINING TO  
CONSTRUCTION OF ROADS FOR COUNTY MAINTENANCE AND FOR OTHER  
PURPOSES

**WHEREAS**, the governing authority of Walker County is responsible for the adoption of standards of road construction for roads to be placed on county maintenance; and

**WHEREAS**, the current standards of roads to be placed on county maintenance are not in accord with the standards of surrounding counties; and

**WHEREAS**, there is strong public interest in durable and lasting county infrastructure, including the county road system, of quality sufficient to reduce maintenance cost; and

**WHEREAS**, there is strong public interest in county roads constructed as to contribute to safe travel;

**NOW THEREFORE**, the governing authority of Walker County, Georgia does publish, state and promulgate the following ordinance:

Chapter 46 shall be amended by striking the entirety of the Section and replacing it with the following, to-wit:

**Sec. 46-2. Construction of roads for county maintenance.**

- (a) The following specifications have been adopted by Walker County, Georgia and will be required for the building of roads that are to be considered for placement on County maintenance.
- (1) The minimum right-of-way will be 50 feet wide. The paved width shall be governed by the Walker County Planning Commission due to the four (4) classes of road.
  - (2) Inspection by a County official shall be required during construction at every stage of construction including, but not limited to after the following: clearing, grubbing, the stripping of topsoil, subbase compaction, base layer, binder layer and topping layer. At each inspection, proper drainage, pipe size and class will be approved. Grading for the roadbed must be done by proper grading methods. During or upon completion of the roadway bed, on-site inspection will be required to determine if material is suitable for subbase. Should this subbase be in question, then the County Inspector will have the State Highway Department test

the material. If the material is not approved, a minimum of one-foot of Class A or B chert shall be applied to the roadbed and rolled or the subbase must pass a county-approved compaction test showing at least 95% compaction. The base material must be a minimum of six-inch graded aggregate base (GAB) rolled meeting current minimum GDOT specifications. The base binder must be a minimum thickness of two-inches when compacted. The topping must be a minimum of two-inches thickness when compacted. The Road Department Director or a designee will inspect each stage for compliance.

(3) Paving may be done by two (2) methods:

- a. Option #1: Base to be primed with .30 gallons cutback asphalt primed per square yard and allowed to cure for sufficient time. A bituminous surface treatment consisting of .40 to .45 gallons asphalt per square yard with 50 pounds No. M-5 stone per square yard and sealed with bituminous seal consisting of .30 gallons of asphalt per square yard covered with 22 to 24 pounds of stone, size #7. The additional paving to consist of 1½ inches of asphaltic concrete plant mix hot E topping, to meet the specifications of the Georgia Highway Department standards. (The developer may delay the finish topping until after the subdivision has been completed and heaving truck hauling into subdivision has been finished, provided a sufficient bond has been received by the County Commissioner, guarantee that the final paving will be done.)
- b. Option #2: Base to be primed with .30 gallons cutback asphalt prime per square yard, allowed to cure sufficient time. A surface treatment of two-inches of asphaltic concrete plant mix to meet the specifications of the Georgia Highway Department standards.

SO ORDAINED by the Sole Commissioner of Walker County, Georgia, this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

Attest:

\_\_\_\_\_  
Shannon K. Whitfield  
Sole Commissioner  
Walker, County Georgia

\_\_\_\_\_  
Rebecca Wooden  
County Clerk

# AFFIDAVIT OF PUBLICATION

State of Georgia,  
County of Walker

} S.S.

I, Donald Stilwell do solemnly

swear that I am the  
Publisher of THE  
WALKER COUNTY MESSENGER, printed and published  
at LaFayette in the State of Georgia, and that from my  
personal knowledge and reference to files of said  
publication the subject matter of:

## NOTICE OF PUBLIC HEARING

The Governing Authority of Walker County, Georgia proposes to amend the County Code of Ordinances. O-02-19 amends language in Chapter 46 regulating Roads & Rights of Way to revise the section covering construction of roads for county maintenance.

Public hearings on the proposed ordinance will be held on February 28, 2019 & March 14, 2019 at 6:00 p.m. at the Walker County Courthouse Annex III, 201 S Main Street in LaFayette, GA.

Copies of the proposed ordinance are available for review at the Commissioner's Office (101 S Duke St, LaFayette) and online at [walkercountyga.gov](http://walkercountyga.gov).

Rights of Way

WALKER COUNTY MESSENGER in

US

20, 2019

before me  
Stilwell

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Reuss

Notary Public



ORDINANCE O-03-19

STATE OF GEORGIA  
COUNTY OF WALKER

**AN ORDINANCE TO IMPLEMENT TITLE 48, CHAPTER 13, ARTICLE 3, SECTION 51 (a) (1)  
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 authority of Walker County, 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 levy certain excise taxes; and

**WHEREAS**, Walker County, 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**, SB480 of the 2018 Regular Session of the Georgia General Assembly authorizes imposition of an excise tax of up to 8% by Walker County pursuant to O.C.G.A. § 48-13-51(b); and

**WHEREAS**, the governing authority of Walker County, 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 Walker County; and

**WHEREAS**, Walker County, 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 Walker County, 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 Walker County; and

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

**NOW THEREFORE**, the governing authority of Walker County, a political subdivision of the State of Georgia, resolves to adopt an Excise Tax Ordinance pursuant to said

authority; and therefore, the governing authority of Walker County, a political subdivision of the State of Georgia does publish, state and promulgate the following ordinance:

Chapter 54 shall be amended by adding Article VI

Section I: Short Title

This ordinance shall be titled the "Hotel-Motel Tax Ordinance of 2019."

Section II: 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 Walker County, 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 Walker County 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 SB480 of the 2018 Regular Session of the Georgia General Assembly, pursuant to O.C.G.A. § 48-13-51(b).

Section III: Definitions

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

- (a) *County*. The territorial limits of Walker County, Georgia under the governing authority of the Sole Commissioner.
- (b) *County Clerk*. The duly appointed county 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 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 to 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) *Estimated Tax Liability*. The lodging provider'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 (O.C.G.A. § 48-13-53.2(b))
- (f) *Finance Director*. The duly appointed administrator of finances for Walker County, Georgia.

- (g) *Folio*. 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.
- (h) *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.
- (i) *Hotel*. Includes any hotel, motel, inn, lodge, tourist camp, 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 any room, lodging, or accommodation. (O.C.G.A. § 48-13-51(a)(1)(B)(i))
- (j) *Innkeeper/Lodging Provider/Operator*. Any person who is subject to taxation under this article for the furnishing for value to the public any rooms, lodgings, or accommodations. (O.C.G.A. § 48-13-50.2(2))
- (k) *Monthly Period*. Any calendar month in any year.
- (l) *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.
- (m) *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 under any lease, concession, permit, right of access, license, agreement or otherwise.
- (n) *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.
- (o) *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, except the United States of America, the State of Georgia, and any other political subdivision thereof upon which the governing authority of Walker County is without power to impose the tax herein provided.
- (p) *Private Sector Non-Profit Organization*. A chamber of commerce, a convention and visitors bureau, a regional travel association, or any other private group organized for similar purposes which is exempt from federal income tax under Section 501(c)(6) of the Internal Revenue Code of 1986; provided, however, that a county or municipality which has prior to April 1, 1990, contracted for a required expenditure under this Code section with a private group which is exempt from federal income tax under provisions of Section 501(c) of the Internal Revenue Code other than Section 501(c)(6) may continue to contract for required expenditures with such a private group. (O.C.G.A. § 48-13-50.2(3))

- (q) *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))
- (r) *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.
- (s) *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)).
- (t) *Tax.* The excise tax of 8% on occupants imposed by this ordinance, as provided for by O.C.G.A. § 48-13-51(b).
- (u) *Tax Administrator.* The individual appointed by the governing authority of Walker County, Georgia; or the individual of any office of Walker County government which may in the future be designated as the administrative entity to collect, administer, and complete the required annual reporting of the tax.
- (v) *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 fields, 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))

#### Section IV: Tax Rate

- (a) There is hereby set and levied on the occupant of a guest room of any hotel/motel/cabin/residence/short-term rental/lodge located within the special tax district a tax in the amount of 8% of the gross rent for such occupancy.

#### Section V: Effective Date

- (a) This Ordinance shall take effect on the 1st day of May, 2019.

#### Section VI: Exemptions

- (a) 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; (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 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 VII: 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 Section III of this ordinance, designated by the governing body of Walker County; 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 VII, Paragraph (a) of this ordinance shall be expended for tourism product development, as defined in Section III of 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 VII, 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; (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 Title 48, Chapter 8, Article 3 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.

SO ORDAINED by the Sole Commissioner of Walker County, Georgia, this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

Attest:

\_\_\_\_\_  
Shannon K. Whitfield  
Sole Commissioner  
Walker, County Georgia

\_\_\_\_\_  
Rebecca Wooden  
County Clerk

ORDINANCE O-04-2019

Chapter 14

**BUSINESSES\***

**Article I. Reserved**

Secs. 14-1 -- 14-30. Reserved.

**Article II. In General**

- Sec. 14-31. Title
- Sec. 14-32. Occupation Tax Registration Established
- Sec. 14-33. Purpose and Scope of Tax
- Sec. 14-34. Definitions

**Article III. Occupation Tax Established**

- Sec. 14-35. Administration and regulatory fee structure; occupation tax structure.
- Sec. 14-36. Occupation tax levied; restrictions.
- Sec. 14-37. Paying occupation tax of business with no location in state.
- Sec. 14-38. Each line of business to be identified on business registration.
- Sec. 14-39. Number of businesses considered to be operating in the county.
- Sec. 14-40. Practitioners exclusively practicing for a government.
- Sec. 14-41. When tax due and payable; effect of transacting business when tax delinquent; penalties.
- Sec. 14-42. Allocation of gross receipts of business with multiple intrastate or interstate locations.
- Sec. 14-43. Exemption on grounds that business is operated for charitable purpose.
- Sec. 14-44. Evidence of state registration required if applicable; state registration to be displayed.
- Sec. 14-45. Evidence of qualification required if applicable.
- Sec. 14-46. Businesses not covered by this article.
- Sec. 14-47. When occupation tax due and payable.
- Sec. 14-48. More than one place or line of business.
- Sec. 14-49. Returns confidential.

**Article IV. Enforcement**

- Sec. 14-50. Enforcement of article.
- Sec. 14-51. Liability of officers and agents; registration required; failure to obtain.

- Sec. 14-52. Subpoena and arrest powers.
- Sec. 14-53. Businesses and practitioners required to provide certain information; inspections of books and records.
- Sec. 14-54. Tax registration revoked for failure to pay tax, file returns, permit inspection of books.
- Sec. 14-55. Effect of failure to comply with ordinance provisions; continuing in business after tax registration revocation.
- Sec. 14-56. Lien taken for delinquent tax.

#### **Article V. Miscellaneous**

- Sec. 14-57. Amendment or repeal of article.
- Sec. 14-58. Applications of provisions to prior ordinance.
- Sec. 14-59. Provisions to remain in full force and effect until changed by governing authority.
- Sec. 14-60. Requirement of public hearing before tax increase.
- Sec. 14-61. Options to establish exemption or reduction in occupation tax.
- Sec. 14-62. Prohibition against unconstitutional application of penalties.

#### **Article VI. Reserved**

- Sec. 14-63 -- 89. Reserved.

## ARTICLE I. - RESERVED

Sec. 14-1 -- Sec. 14-31. Reserved.

## ARTICLE II. - IN GENERAL

**Sec. 14-31. - Title.**

This chapter shall be known as the “Walker County Business Code.”

**Sec. 14-32. - Occupation tax required for business dealings in county.**

For each year, every person engaged in any business, trade, profession or occupation in the unincorporated areas of the county, whether with a location in the county or in the case of an out-of-state business with no location in the state exerting substantial efforts within the state pursuant to O.C.G.A. § 48-13-7, shall pay an occupational tax for such business, trade, profession or occupation, which tax and any applicable registration shall be displayed in a conspicuous location in the place of business if the taxpayer has a permanent business location in the county. If the taxpayer has no permanent location in the county, such business tax registration shall be shown to the revenue collection office of the county upon request.

**Sec. 14-33. - Purpose and scope of tax.**

The occupation tax levied in this article is for regulatory purposes. The payment of the tax is not a condition precedent to the practice of any such profession, trade or calling. The occupation tax only applies to those businesses and occupations which are covered by the provisions of O.C.G.A. §§ 48-13-5—48-13-26. All other applicable businesses and occupations are taxed by the local government pursuant to the pertinent general and/or local law and ordinance.

**Sec. 14-34. - Definitions.**

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

*Administrative fee* means a component of an occupation tax which approximates the reasonable cost of handling and processing the occupation tax and accompanying returns.

*Business* means any person who, within the unincorporated areas of the county, engages in or causes to be engaged in and/or represents him or herself to be engaged in any occupation or activity with the object of gain, benefit or advantage either directly or indirectly, excluding hobbies. Any person advertising by any means, including but not limited to signs, cards, circulars, billboards, newspapers, broadcast media, social media, websites and other online platforms, that he or she is engaged in any business of any kind shall be liable for the appropriate occupation tax required under this article and the appropriate fee therefor.

*Business tax registration* means a business license. This business license is obtained from the revenue collection office after the requisite occupation tax and/or regulatory fees has been paid to the revenue collection office. The phrase "business tax registration" and "business registration" are used interchangeably in this article.

*Date of commencing operations* means the date on which a business becomes engaged in business in the county.

*Dominant line* means the type of business, within a multiple line business, that the greatest amount of income is derived from.

*Employee* means an individual whose work is performed under the direction and supervision of the employer and whose employer withholds FICA, federal income tax or state income tax from such individual's compensation or whose employer issues to such individual for purposes of documenting compensation a form I.R.S. W-2, but not a form I.R.S. 1099. The term "employee" also includes owners, partners, officers or managers who work for a business, whether or not such person is salaried.

*Hobby* means any activity the facts and circumstances of which make deductions not allowable for the activity under 26 CFR § 1.183-2, expressly excluding activities subject to taxation under the county's hotel/motel tax ordinance.

*Location of office* means a physical location and shall not include a temporary work site which serves a single customer or project.

*Number of employees* of the business or practitioner means as computed on a full-time position basis or a full-time position equivalent basis, provided that for the purposes of this computation an employee who works 40 hours or more weekly shall be considered a full-time employee and that the average weekly hours of employees who work less than 40 hours weekly shall be added and such sum shall be divided by 40 to produce full-time position equivalents.

*Occupation tax* means a tax levied on persons, partnerships, corporations or other entities for engaging in an occupation, profession or business for revenue raising purposes.

*Person* means and shall include sole proprietors, corporations, partnerships, nonprofit or any other form of business organization, but specifically excludes charitable nonprofit organizations which utilize 80 percent of their proceeds for charitable purposes.

*Practitioner of profession or occupation* means a practitioner of a profession or occupation who by state law requires state licensure regulating such profession or occupation, but does not include a practitioner who is an employee of a business if the business pays an occupation tax.

*Regulatory fee* means payments, whether designated as license fees, permit fees or by any other name, which are required by the county as an exercise of its police power and as a part of or an aid to regulation of an occupation, profession or business. The amount of a regulatory fee shall approximate the reasonable cost of the actual regulatory activity performed by the county and may not include an administrative fee.

*Revenue collection office* means the county department of planning.

### **ARTICLE III. OCCUPATION TAX ESTABLISHED**

#### **Sec. 14-35. - Administration and regulatory fee structure; occupation tax structure.**

- (a) A nonprorated, nonrefundable administrative fee of \$25.00 shall be required on all business and occupation tax accounts for the initial start-up and reopening of those accounts.
- (b) A regulatory fee will be imposed as provided under O.C.G.A. § 48-13-9 on those applicable businesses.

#### **Sec. 14-36. - Occupation tax levied; restrictions.**

- (a) *Levy.* An occupation tax shall be levied upon those businesses and practitioners of professions and occupations with one or more locations or offices in the unincorporated part of the county, including home-based businesses, and/or upon the applicable out-of-state businesses with no location or office in the state pursuant to O.C.G.A. § 48-13-7 based upon the number of employees of the business or practitioner.

(b) *Occupation tax schedule.* The tax rate determined by the number of employees for each business, trade, profession or occupation shall be as follows and will be developed and updated from time to time by the county department of planning and community development:

Employees	Tax Liability
0-5	\$50.00
6-10	\$75.00
11-25	\$100.00
26-49	\$125.00
50+	\$150.00

(c) *Restrictions.*

- (1) No business or practitioner shall be required to pay more than one occupation tax for each of its locations.
- (2) No occupation tax shall be required from real estate brokers, agents or companies whose offices are located outside the taxing jurisdiction and who sell property inside the taxing jurisdiction.
- (3) An occupation tax shall not be levied in any other manner except as described in this section.

- (4) Out-of-state businesses with no location in the state shall be assessed occupation taxes based on the number of employees engaged in substantial efforts in the state.
- (5) Newly established businesses shall be required to estimate the number of employees from the date of commencement to the end of the calendar year, and such fee shall be paid within 30 days from the date of commencing operations.

**Sec. 14-37. - Paying occupation tax of business with no location in state.**

- (a) Registration and assessment of an occupation tax shall be imposed on those businesses and practitioners of professions with no location or office in the state if the business's largest dollar volume of business in the state is in the county and the business or practitioner:
  - (i) Has one or more employees or agents who exert substantial efforts within the jurisdiction of the county for the purpose of soliciting business or serving customers or clients; or
  - (ii) Owns personal or real property which generates income and which is located within the jurisdiction of the county.
- (b) Any business or practitioner of a profession with no location or office in the state shall be exempt from assessment of an occupation tax under this article if such business or practitioner submits proof of payment of a local business or occupation tax in another state on the business's or practitioner's sales or services in the state.

**Sec. 14-38. - Each line of business to be identified on business registration.**

The business registration of each business operated in the county's jurisdiction shall identify the line or lines of business it conducts. No business shall conduct any line of business without first having that line of business registered with the revenue collection office and that line of business being noted by the revenue collection office upon the business registration form which is to be displayed by the business owner.

~~**Sec. 14-39. - Number of businesses considered to be operating in the county.**~~

~~When a person conducts business at more than one fixed location, each location or place shall be considered a separate business for the purpose of an occupation tax.~~

**Sec. 14-40. - Practitioners exclusively practicing for a government.**

Any practitioner whose office is maintained by and who is employed in practice exclusively by the United States, the state, a municipality or county of the state, instrumentalities of the United States, the state, a municipality or county of the state shall not be required to obtain a license or pay an occupation tax for that practice.



**Sec. 14-41. - When tax due and payable; effect of transacting business when tax delinquent; penalties.**

- (a) Each occupation tax shall be for a calendar year unless otherwise specifically provided. Such registration and occupation tax shall be payable January 1 of each year and shall, if not paid by March 31 of each year, be subject to penalties for delinquency as provided in this article. On any new profession, trade or calling begun in the county, the registration and occupation tax shall be considered delinquent if not obtained immediately upon beginning business. A penalty of ten percent of the amount of occupation tax payable shall be imposed upon payments made after March 31 in the case of businesses in operation on January 1 of such year and upon any payment for a new profession, trade or calling begun in the county if such occupation tax payment is not made immediately upon beginning business. The amount of occupation tax due under this article shall equal one-half that of a total year if business is begun after June 30 of that year. The tax registration provided for in this article shall be issued by the director of planning and if any person whose duty is to obtain a registration shall, after such registration or occupation tax becomes delinquent, transact or offer to transact, in the county, any kind of profession, trade or calling subject to this article without having first obtained such registration, such offender shall, upon conviction by the county magistrate judge, be punished as provided in section 1-12 in the discretion of the magistrate judge presiding.
- (b) In addition to the above remedies, the Walker County Police Department may proceed to collect in the same manner as provided by law for tax executions.

**Sec. 14-42. - Allocation of gross receipts of business with multiple intrastate or interstate locations.**

- (a) For those businesses that have multiple operations inside and outside the county, the number of employees used to determine the occupation tax assessed will be only those employees who work in the county's jurisdiction.
- (b) Upon request, the business or practitioner with a location or office situated in more than one jurisdiction shall provide to the county information necessary to determine the number of employees who work in the county's jurisdiction.

**Sec. 14-43. - Exemption on grounds that business is operated for charitable purpose.**

No business on which a business registration or occupation tax is levied by this article shall be exempt from such registration or tax on the ground that such business is operated for a charitable purpose unless 80 percent or more of the entire proceeds from such business are devoted to such purpose, and proof of exemption from the local tax assessor's office must be provided.

**Sec. 14-44. - Evidence of state registration required if applicable; state registration to be displayed.**

- a. Each person who is licensed by the secretary of state pursuant to O.C.G.A. title 43 shall provide evidence of proper and current state licensure before the county registration may be issued.
- b. Each person who is licensed by the state shall post the state license in a conspicuous place in the licensee's place of business and shall keep the license there at all times while the license remains valid.

**Sec. 14-45. - Evidence of qualification required if applicable.**

Any business required to obtain health permits, bonds, certificates of qualification, certificates of competency or any other regulatory matter shall first, before the issuance of a county business registration, show evidence that such requirements have been met.

**Sec. 14-46. - Businesses not covered by this article.**

The following businesses are not covered by the provisions of this article, but may be assessed an occupation tax or other type of tax pursuant to the provisions of other general laws of the state or by local law:

1. Those businesses regulated by the state public service commission.
2. Those electrical service businesses organized under O.C.G.A. § 46-3-1 et seq.
3. Any farm operation for the production from or on the land of agricultural products, but not including agribusiness.
4. Cooperative marketing associations governed by O.C.G.A. § 2-10-105.
5. Insurance companies governed by O.C.G.A. § 33-8-8 et seq.
6. Motor common carriers governed by O.C.G.A. § 46-7-15.
7. Those businesses governed by O.C.G.A. § 48-5-355 (businesses that purchase carloads of guano, meats, flour, bran, cottonseed or cottonseed meal and hulls).
8. Agricultural products and livestock raised in the state governed by O.C.G.A. § 48-5-356.
9. Depository financial institutions governed by O.C.G.A. § 48-6-93, provided that the county, pursuant to the authority granted in O.C.G.A. § 48-6-93, hereby levies a tax on depository financial institutions located within the unincorporated portions of the county at the rate of 0.25 percent of Georgia gross receipts.
10. Facilities operated by a charitable trust governed by O.C.G.A. § 48-13-55.

**Sec. 14-47. - When occupation tax due and payable.**

The amount of occupation tax shall be payable to the county, at the department of planning, on January 1 each year and shall be delinquent if not paid by March 31 of each year.

**Sec. 14-48. - More than one line of business.**

Where a business includes more than one line, such business shall be required to obtain the necessary registration for each line and pay an occupation tax in accordance with the prevailing taxing method and tax rate for each line.

**Sec. 14-49. - Returns confidential.**

- (a) The applications and returns made to the county for an occupational tax payment certificate pursuant to this article shall be confidential and shall not be made public except in the event of litigation with respect thereto; nor shall they be subject to the inspection of any person except the county manager, county attorney, director of planning and their authorized and designated agents or representatives. All contents of the return shall be confidential and open only to the officials, employees, agents or clerks of the county using the returns for the purpose of the occupation tax levy and the collection of the tax. Independent auditors or bookkeepers employed by the county shall be classified as employees for purposes of this article and section. The governing authority shall have the right to open such returns to the inspection of a committee composed of the governing authority, or any portion thereof, to effect an analysis of the fee rates, or an investigation of the operation of the license fee department, or to secure dates regarding a case in litigation. It shall be unlawful for any person to make public or to inform any other person as to the contents of such application or return, or to permit inspection thereof by any person except as required by this section.
- (b) Any person violating the provisions of this section as it pertains to the number of employees of a business shall, upon conviction thereof, be punished as determined by the magistrate court judge. In addition, any employee of the county who divulges such information shall be subject to immediate discipline.
- (c) Nothing in this section shall be construed to prohibit the publication by the county of various statistics, so classified as to discourage the identification of particular returns and the items thereof, or the inspection of the records by duly qualified tax or investigative employees of the federal, state, county government.

**ARTICLE IV. ENFORCEMENT**

**Sec. 14-50. - Enforcement of article.**

It is hereby made the duty of the director of planning, or his designee, or the Walker County Police Department to see that the provisions of this section relating to occupation taxes are

observed; the Walker County Police Department, or the director of planning, or his designee, shall summon the violator by citation in magistrate court. It is hereby made the further duty of the Walker County Police Department, or the director of planning, or his designee, to inspect all registrations issued by the county, as often as in their judgment it may seem necessary to determine whether the registration held is a proper one for the business to be transacted thereunder.

**Sec. 14-51. - Liability of officers and agents; registration required; failure to obtain.**

All persons subject to the occupation tax levy pursuant to this article shall be required to obtain the necessary registration for such business as described in this article, and in default thereof the officer or agent soliciting for or representing such persons shall be subject to the same penalty as other persons who fail to obtain a registration. Every person commencing business in the county after January 1 of each year shall likewise obtain the registration provided for in this article before commencing the business. Any person transacting or offering to transact in the county any kinds of business, trade, profession or occupation without first having obtained such registration, shall be subject to penalties provided therefor.

**Sec. 14-52. - Subpoena and arrest powers.**

The Walker County Police Department shall have full subpoena and arrest powers in conjunction with any violation pertaining to this article.

**Sec. 14-53. - Businesses and practitioners required to provide certain information; inspections of books and records.**

- (a) All businesses and practitioners doing business in the county shall provide to the director of planning of the county:
  - (i) The address of any location or office maintained by such business or practitioner in the county jurisdiction;
  - (ii) A description of the business or types of businesses conducted or occupation or profession performed at such locations; and
  - (iii) The payment of any business or occupation tax or regulatory fee to any other city or county.
- (b) In any case, the county, through its officers, agents, employees or representatives, may inspect the books of the business or person for which the returns are made. The county or its representatives shall have the right to inspect the books or records of the business of which the return was made in the county, and upon demand of the county such books or records shall be submitted for inspection by a representative of the county within 30 days. Failure to submit such books or records within 30 days shall be grounds for revocation of the tax registration currently existing to do business in the county.

Adequate records shall be kept in the county for examination by the county at the county's discretion. If, after examination of the books or records, it is determined that a deficiency occurs as a result of underreporting, a penalty of 15 percent of the correctly assessed business fee plus 125 percent of the prime interest rate times the amount of any deficiency will be assessed for the period delinquent. For purposes of this section, the prime interest rate shall be that which is published in The Wall Street Journal on the first business day of the year in which the underreporting is identified.

**Sec. 14-54. - Tax registration revoked for failure to pay tax, file returns, permit inspection of books.**

Upon the failure of any business to pay the occupation tax or any part thereof before it becomes delinquent, upon failure to make any returns within the time required in this article, upon failure to make a true return, upon failure to amend a return to set forth the truth, or upon failure to permit inspection of its books, any business tax registration granted by the county under this article permitting the owner of the business to do business for the current year shall be, ipso facto, revoked. No new business tax registration shall be granted by the county for the operation of a business for which any part of the occupation tax is at that time unpaid, nor to an individual, firm or corporation who has failed to submit adequate records as requested by the revenue collection office in accordance with the provisions in this article. In the case of those practitioners where the local government cannot suspend the right of the practitioner to conduct business, the imposition of civil penalties shall be permitted and pursued by the county in the case of delinquent occupation taxes.

**Sec. 14-55. - Effect of failure to comply with ordinance provisions; continuing in business after tax registration revocation.**

Any persons, their managers, agents or employees who do business in the county after the registration for such business has been revoked as provided in section 14-52, hereby required to make occupation tax returns, and who fail to make such returns within the time and in the manner provided in this article, who refuse to amend such returns so as to set forth the truth, or who shall make false returns; and any persons, their managers, agents or employees who refuse to permit an inspection of books in their charge when the officers, agents, employees or representatives of the county request such inspection, during normal county business hours, for the purpose of determining the accuracy of the returns provided for in this article, shall be subject to penalties provided in this article. In the case of those practitioners where the local government cannot suspend the right of the practitioner to conduct business, the imposition of civil penalties shall be permitted and pursued by the local government in the case of delinquent occupation tax. A penalty of 100 percent of the assessed occupation tax will be imposed.

**Sec. 14-56. - Lien taken for delinquent tax.**

In addition to the other remedies provided for in this article for the collection of the occupation tax levied in this article, the county, upon any tax or installment of such tax becoming delinquent and remaining unpaid, shall issue execution for the correct amount of such tax against the persons, partnership or corporation liable for such tax, which such execution shall bear interest at the rate of 18 percent annum from the date when such tax or installment becomes delinquent, and the lien shall cover the property in the county of the person, partnership or corporation liable for such tax, all as provided for in the laws and ordinances of the county and the laws of the state. The lien of such occupation tax shall become fixed on and date from the time when such tax or any installment thereof becomes delinquent. The execution shall be levied by the county upon the property of defendant located in the county, and sufficient property shall be advertised and sold to pay the amount of such execution, with interest and costs incurred. All other proceedings in relation thereto shall be had as provided by the laws and ordinances of the county and the laws of the state, and the defendant in execution shall have the rights of defense, by affidavit of illegality and otherwise, which are provided by the applicable laws in regard to tax executions. When a nulla bona entry has been entered by the proper authority upon an execution issued by the county against any person defaulting on the occupation tax, the person against whom the entry was made shall not be allowed or entitled to have or collect any fees or charges whatsoever for services rendered after the entry of the nulla bona. If at any time after the entry of nulla bona has been made, the person against whom the execution issues pays the tax in full together with all interest and cost accrued on the tax, the person may collect fees and charges due him as though he had never defaulted in the payment of taxes.

## **ARTICLE V. MISCELLANEOUS**

### **Sec. 14-57. - Amendment or repeal of article.**

This article shall be subject to amendment or repeal, in whole or in part, at any time, and no such amendment or repeal shall be construed to deny the right of the governing authority to assess and collect any taxes or other charges prescribed. Such amendment may increase or lower the amounts and tax rates of any occupation and may change the classification thereof. The payment of any occupation tax provided shall not be construed as prohibiting the levy or collection by the jurisdiction of additional occupation taxes upon the same person, property or business.

### **Sec. 14-58. - Applications of provisions to prior ordinance.**

This article does not repeal or affect the force of any part of any ordinance passed where taxes levied under such prior ordinance have not been paid in full. The parts of ordinances heretofore and hereinafter passed as provided for the issuing and enforcing of execution for any tax assessment required by such ordinances, or that imposed fines or penalties for the nonpayment of such tax, or for failure to pay regulatory fees provided for in such ordinance or ordinances, or

failure to comply with any other provisions of this article, shall continue and remain in force until such tax, regulatory fee or assessment shall be fully paid.

**Sec. 14-59. - Provisions to remain in full force and effect until changed by governing authority.**

This article shall remain in full force and effect until changed by amendment adopted by the governing authority. All provisions hereto relating to any form of tax levied in this article shall remain in full force and effect until such taxes have been paid in full.

**Sec. 14-60. - Requirement of public hearing before tax increase.**

The governing authority shall conduct at least one public hearing before adopting any ordinance or resolution which will increase the rate of occupation tax as set forth in this article.

**Sec. 14-61. - Options to establish exemption or reduction in occupation tax.**

The governing authority may by subsequent ordinance or resolution provide for an exemption, reduction or cap in occupation tax to one or more types of businesses or practitioners of occupations or professions as part of a plan for economic development or attracting or encouraging selected types of businesses or practitioners of selected occupations or professions. Such exemptions or reductions in occupation tax shall not be arbitrary or capricious, and the reasons shall be set forth in the minutes of the governing authority.

**Sec. 14-62. - Prohibition against unconstitutional application of penalties.**

No penalties, whether criminal or civil in nature or effect, shall be unconstitutionally applied to any person, partnership, corporation or other entity licensed by the state pursuant to O.C.G.A. title 43, O.C.G.A. § 14-7-2(2), or O.C.G.A. § 14-10-2(2).

**ARTICLE VI. RESERVED.**

**Secs. 14-63—14-89. - Reserved**

# AFFIDAVIT OF PUBLICATION

State of Georgia,  
County of Walker

} S.S.

Donald Stilwell do solemnly

swear that I am the

Publisher

of THE

WALKER COUNTY MESSENGER, printed and published

in the State of Georgia, and that from my  
reference to files of said

document of:

Occupancy

of THE WALKER COUNTY MESSENGER in

WS

27, 2019

before me

Stilwell

ch, 2019

Teressa Reeves



## NOTICE OF PUBLIC HEARING

The Governing Authority of Walker County, Georgia proposes to implement Title 48, Chapter 13, Article 3, Section 51 of the Official Code of Georgia. O-03-19 places an excise tax on rooms, lodging and accommodations.

The Governing Authority of Walker County, Georgia also proposes to amend Chapter 14 of the county code of ordinances concerning Businesses. O-04-19 would add an Occupation Tax, or License to Conduct Business.

Public hearings on the proposed ordinances will be held on March 14, 2019 and March 28, 2019 at 6 p.m. at the Walker County Courthouse Annex III, 201 S Main Street in LaFayette, GA. Copies of the proposed ordinances are available for review at the Commissioner's Office (101 S Duke St, LaFayette) and online at [walkercountyga.gov](http://walkercountyga.gov).