New Business #10

COUNTY AGENDA REQUEST

Department:	Code Enforcement	Presenter(s):	Officer Kathy Hobbs
Meeting Date:	Thursday, April 24, 2014	Type of Request:	New Business

Wording for the Agenda:

Consideration of staff's recommendation to adopt Ordinance 2014-08, establishing Operating Regulations for Short Term Lodging and Tourist Accommodations by designating Sections 6-165 through 6-205 of Article VI as a new Article pertaining to "Tourist accommodations" to Chapter 6 of the Fayette County Code of Ordinances, becoming effective June 1, 2014.

Background/History/Details:

This item was discussed at the Board of Commissioners Retreat on April 4, 2014.

Ordinance 2014-08 will establish Operating Regulations for Short Term Lodging and Tourist Accommodations. This ordinance will establish required permits (including permits for food service), require hotel operators to maintain record for each rental, authorize specified county officers and departments to review the records, and establishes health, sanitation, and safety standards.

Ordinance 2014 is attached as backup for review.

What action are you seeking from the Board of Commissioners?

Approval of staff's recommendation to adopt Ordinance 2014-08, establishing Operating Regulations for Short Term Lodging and Tourist Accommodations by designating Sections 6-165 through 6-205 of Article VI as a new Article pertaining to "Tourist accommodations" to Chapter 6 of the Fayette County Code of Ordinances, becoming effective June 1, 2014.

If this item requires funding, please describe:

Not Applicable.

Has this request been considered within the past two years?	Yes	If so, when?	Friday, April 4, 2014
Is Audio-Visual Equipment Required for this Request?*	No	Backup Provided with Request?	Yes

**** All audio-visual material must be submitted to the County Clerk's Office no later than 48 hours prior to the meeting. It is also your department's responsibility to ensure all third-party audio-visual material is submitted at least 48 hours in advance.***

Approved by Finance	Yes	Reviewed by Legal	
Approved by Purchasing	Not Applicable	County Clerk's Approval	Yes
Administrator's Approval			

Staff Notes:

DRAFT

State of Georgia
Fayette County

Ordinance
2014-08

AN ORDINANCE TO ADD TO THE CODE OF ORDINANCES FOR FAYETTE COUNTY, GEORGIA; TO ESTABLISH OPERATING REGULATIONS FOR SHORT TERM LODGING AND TOURIST ACCOMMODATIONS; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE FOR SERVERABILITY; TO PROMOTE THE PUBLIC HEALTH, SAFETY AND WELFARE AND FOR OTHER PURPOSES.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS FOR FAYETTE COUNTY, GEORGIA AND IT IS HEREBY ENACTED PURSANT TO THE AUTHORITY OF THE SAME THAT THE CODE OF ORDINANCES OF FAYETTE COUNTY AS IT PERTAINS TO REGULATION OF SPECIFIC OCCUPATIONS (CHAPTER 6), BE AMENDED AS FOLLOWS:

Section 1. **By designating Sections 6-165 through 6-205 of Article VI of Chapter 6 as a new Article pertaining to "Tourist accommodations" to Chapter 6 to be number and read as follows:**

ARTICLE VI: Tourist accommodations

6-165 Definitions

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

Bed and Breakfast Inn –means an establishment of 5 guest rooms or less, which serves food to its registered guests and not to the public at large. Includes serving breakfast or similar early morning meal and an appropriate light snack in which the price of the food is included price of the overnight accommodation. For the purpose of these rules, "Bed and Breakfast Inn" refers to an establishment in which the predominant relationship between the occupants thereof and the owner or operator of the establishment is that of guest and innkeeper.

County – means unincorporated Fayette County wherein the county is empowered to impose this tax by O.C.G.A. 48-13-50 et seq.

Finance Director – means The Finance Director appointed by the Board of Commissioners of Fayette County, Georgia.

Guestroom- means a room occupied or intended, arranged or designed for occupancy by one or more occupants and used for that purpose and where overnight occupant is allowed.

Hotel- means any structure or any portion of a structure, including any lodging house, rooming house, motel, studio hotel, auto court, inn, public club, vacation house or private club containing guest rooms and which is occupied or is intended or designed for occupancy by guest, whether rent is paid in money, goods, labor, or otherwise, or any other place in which rooms, lodging or accommodations are regularly furnished for value. The length of stay for hotels as defined is limited to not more than 30 consecutive days.
It does not include any jail, hospital, asylum, sanitarium, orphanage, prison, detention, or other buildings in which human beings are housed and detained under legal restraint. In addition to the foregoing, for purposes of this Ordinance, a residence in which accommodations are furnished for rent is also considered a "hotel".

Innkeeper – means any person who is furnishing for value to the public any room(s), lodging, or accommodations.

Monthly period – means the calendar months of any year

Occupancy-transient - means occupancy or use by a paying guest or tenant for a period of less than 30 consecutive days or by the offering or advertising of a residence as being available in whole or in part to be used for such occupancy. Such occupancy is characteristic of hotel, motels, boarding houses, rooming houses or what ever called.

Occupant - means any person who, for a consideration, uses, possesses or has the right to use or possess any guestroom in a hotel under any lease, concession, permit, right of access, license to use or other agreement or otherwise

Operator – means any person operating a hotel (as defined in this article) in unincorporated Fayette County, including but not limited to the owner or proprietor of the premises, lessee, sub lessee, lender in possession, license to or any other person otherwise operating a hotel.

Permanent resident – means any occupant as of a given date who has or shall have occupied or shall have the right of occupancy of any guestroom in a hotel for at least 30 consecutive days next preceding that date. The right of occupancy for at least 30 consecutive days is clearly established through the advance payment of 30 days' rent or a lease has been signed in excess of 30 days

Premises –means and includes all physical buildings, appurtenances, parking lots, and all property owned and/or used by the tourist accommodation.

Rent – means the consideration received for occupancy valued in money whether received in money or otherwise, including all receipts, cash, credits and property or service4s of any kind or nature, and also the amount for which credit is allowed by the operator to the occupant, without any deduction therefrom.

Special Event – means an organized occasion such as a social function.

Tax- the tax imposed by this ordinance

Tourist, traveler, overnight guest - means anyone who has a home address somewhere else other than where he/she is spending the night and where he/she pays a fee for the accommodations.

Tourist accommodations –means any facility consisting of two or more rooms or dwelling units providing lodging and/or other accommodations for tourist, travelers or overnight guest including tourist cabins, tourist courts, tourist cottages, tourist homes, trailer parks, trailer parks, trailer courts, motels, motor hotels, hotels, vacation homes and any similar place by whatever name called.

Vacation home – means any residential structure used for transient occupancy not limited to cabins, single-family dwelling, or other such residential structures as permitted. Occupancy or use by a paying guest or tenant must be for a period of less than 30 consecutive days.

6-166 Permit required

a. Every person engaging in or about to engage in business as an operator of a hotel in the county shall immediately apply and obtained approval for the business with the county code enforcement department on the forms provided by the code enforcement department for such business. Persons engaged in such business must obtain a permit no later than 30 days after this section becomes effective; but such grace period for registration after the effective date of this section shall not relieve any person from the obligation of payment or collection of such permit fee on and after the date of imposition thereof. The required permit hereunder shall set forth the name under which the operator transacts business, and other such information as would be required by code enforcement. The permit application shall be signed by the owner if a natural person, by a member or partner in case of ownership by partnership, or an officer in the case of corporation.

b. A separate permit will be required for each location of business.

c. Bed and Breakfast Inn A bed and breakfast Inn shall be permitted subject to the following

1. No food preparation, except beverages, is permitted within individual guest rooms
2. Meal service may be provided to registered guest and not open to the public
3. The operator of the bed and breakfast shall be a full-time resident of the structure in which the bed and breakfast inn is housed.
4. The bed and breakfast shall be permitted by right and a maximum of five guest rooms may be permitted following approval as a special use.

d. Permit/Food Service

It shall be unlawful for any person, firm, corporation, or other entity to operate a food service establishment, a mobile food unit, or a temporary food service operation in Fayette County without a valid food service permit issued by the Board of Health, as defined in Food Service Rules and Regulations.
It shall be unlawful for any person, firm, corporation, or other entity to operate a food service establishment, a mobile food unit, or a temporary food service, operation during any period of time that a permit for such operation has been suspended by the Board of Health. No person, firm, corporation or other entity shall operate a food service establishment, a mobile food operation, or a temporary food service operation in violation of the "Food Service Rules and Regulations" as adopted by the Board of Health

6-167 Records

Each hotel operator shall keep for a period of at least three (3) years all records, receipts, invoices and other pertinent papers setting forth rental charged for each occupancy, the date or dates of occupancy, and such other information as required by code enforcement.

6-168 Examination of records

The Director of Finance, Code Enforcement office, county health department, or any authorized law enforcement agency shall enforce the provisions of this chapter for the enforcement of this ordinance.

6-169 Standards for health, sanitation, and safety

a. The Georgia Department of Public Health and county boards of health shall have the power to promulgate the rules and regulations to ensure the protection of public health. Such rules and regulations shall prescribe reasonable standards for health, sanitation and safety of all applicable locations under this article.

b. The County board of health is empowered to adopt and promulgate supplementary rules and regulations consistent with those adopted by the State board of health.

c. The Georgia Department of Health and the county boards of health and their duly authorized agents are authorized and empowered to enforce compliance with this article and the rules and regulations adopted under this chapter and in connection therewith, to enter upon and inspect the premises of location included in this article at any reasonable time and in a reasonable manner.

6-170 Alterations to structure, signs

No exterior alterations may be made that would indicate the residence was being used for housing transient, travelers, and tourists.

Article 2

Division 1
Licensing procedure

6-171 Application

The application shall consist of the following:

a. Application supplied by Code Enforcement
b. The applicant and each individual applying for a license must be a citizen or legal resident of the United States
c. Location of business
d. Copy of set room rates and fees
e. Consent for background
f. Fingerprints ran through Fayette County Sheriff Office
g. Verification of ownership
h. Corporation papers
i. Approval of Health Department Fayette County- permitted maximum capacity
j. Approval of Fire Marshal Fayette County – permitted maximum capacity
k. Approval Zoning -
l. Approval of Permits and Building department – compliance with all property maintenance and building codes
m. Certified plans of property and structure.
n. Copy of guest occupancy agreement as required by OCGA 43-21-3.2
o. Occupational tax certificate
p. Registration of property for excise and sales tax
q. Copy of Sales tax certificate number
r. Any other information as requested by Fayette County Code Enforcement or Fayette County Board of Commissioners

6-172 Fees

All fees shall be set by the Fayette county Board of Commissioners and changed as deemed necessary.

6-173 Issuance of license

a. Upon approval of the application for the license by the Board of Commissioners and the timely payment of the license fee, Code Enforcement shall issue the appropriate license for the year in which approval was granted.
b. No license shall be issued to any business listed in this section or person where any individual having interest either as owner, partner, principal stockholder, or licensee, whether such interest is direct or indirect, or beneficial or absolute, has been convicted or has taken a plea of nolo contendere within 5 five years for conviction involving moral turpitude, or (5) five years immediately prior to the filing date of the application for any felony or (2) years for any misdemeanor of any state or of the Untied States or any municipal or county ordinance which would have any effect on the applicant's ability to properly conduct such business, except traffic offenses. The term "conviction" as used in this section shall include adjudication of guilty pea, plea of nolo contendere or forfeiture of a bond when charged with a crime.
c. The board of commissioners on appeal, may waive any conviction as a disqualification if it finds that it would have no material effect upon the applicant's ability to properly conduct its business if such license were granted. Upon payment by the applicant of a fee set by the board of commissioners the county manager shall schedule a hearing before Fayette County Board of Commissioners for its consideration as to whether a license can be granted.

6-174 Annual renewal of licenses:

All licenses are annual licenses that run from January 1 to December 31 of each year.

6-175 License transfer

a. No license permitted under this section shall be transferred from one owner to the other
b. Any violation of this section shall constitute due cause for probation, suspension, or revocation of the license or licenses granted by the Board of Commissioners

6-176 Display of permit.

Every recipient of a permit shall keep such permit conspicuously displayed at all places where such business is conducted.

Section 6-177-179 Reserved

Division 3

Hotel, motel, lodging, Bed and Breakfast Excise tax

6-180 Hotel, Lodging, Bed and Breakfast Excise tax: report: penalty for failure to file: payment

a. Imposition and Rate of Tax.

There is hereby levied and assessed, and there shall be paid a tax of three percent (3%) of the rent for every occupancy of a guest room in a hotel, tourist camp, tourist cabin, campground, or any other place, including residences, in which rooms, lodgings, or accommodations are furnished for value in the unincorporated area of Fayette County. The tax imposed by this Ordinance shall be paid upon any occupancy on and after June 1st 2014, although such occupancy is had pursuant to a contract, lease or other arrangement made prior to such date. Where rent is paid, or charged or billed, or falls due on either a weekly, monthly or other less than 30 day basis, the rent so paid, charged, billed or falling due shall be subject to the tax herein imposed to the extent that it covers any portion of the period from June1, 2014, and any monthly period thereafter. The proceeds of the lodging tax will be used in accordance with O.C.G.A. § 48-13-51(a)(2).

b. **Persons Liable for Tax; Extinguishment of Liability**.

Every person occupying a guest room in a hotel in the unincorporated area of Fayette County is liable for the tax. This liability is not extinguished until the tax has been paid to this County except that a receipt from an operator naming a place of business in this County or from an operator who is authorized by the Finance Director under such rules and regulations as he may prescribe, to collect the tax and who is, for the purposes of this Ordinance, regarded as an operator maintaining a place of business in the unincorporated area of Fayette County, which receipt is given to the occupancy pursuant to Section 2-14-12 hereof, is sufficient to relieve the occupancy from further liability for the tax to which the receipt refers.

c. Collection of Tax by Operator; Receipt to Occupant; Rules for Collection Schedules.

Every operator maintaining a place of business in the unincorporated area of Fayette County, as provided in the next preceding section, and renting guest rooms in the unincorporated area of Fayette County, not exempted under this Ordinance shall, at the time of collecting rent from the occupant and on demand shall give to the occupant a receipt therefore. In all cases of transactions upon credit or deferred payment, the payment of tax to the operator may be deferred in accordance therewith, and the operator shall be liable therefore at the time and to the extent that such credits are incurred in accordance with the rate of tax owing on the amount thereof. The Finance Director shall have the power to adopt rules and regulations prescribing methods and schedules for the collection and payment of the tax.

d. Unlawful Advertising Regarding Tax.

It is unlawful for any operator to advertise or hold out or state to the public or to any guest directly or indirectly, that the tax or any part thereof will be assumed or absorbed by the operator or that it will not be added to the rental of the guest room, or that, if added, it or any part thereof, will be refunded.

e. Exemptions.

No tax shall be imposed hereunder:

1) Upon fees, rents, or charges made for continuous use of any guest rooms, lodgings, or accommodations after the first 30 days of continuous occupancy.

2) Upon the fees or charges for any guest rooms, lodging or accommodations furnished for a period of one or more days for use by Georgia state or local government officials or employees when traveling on official business.

3) Upon charges made for any guest rooms, lodgings, or accommodations provided to any persons who certify by affidavit 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

f. Registration of Operator; Form and Contents; Execution; Certificate of Authority.

Every person engaging or about to engage in business as an operator of a hotel in the unincorporated area of Fayette County shall immediately register with the Finance Director of the County, on a form provided by the Finance Director. Persons engaged in such business must so register not later than fifteen (15) days after the date this Ordinance becomes effective and the tax is imposed as set forth in the ordinance, but such privilege of registration after the imposition of such tax shall not relieve any person from the obligation of payment or collection of tax on and after the date of imposition thereof, regardless of registration. Such registration shall set forth the same name under which such person transacts business or intends to transact business, the location of his place or places of business and such other information which would facilitate the collection of the tax as the Finance Director may require. The registration shall be signed by the owner if a natural person; in case of ownership by an association or partnership, by a member or partner; in the case of ownership by a corporation, by an executive officer or some person specifically authorized by the corporation to sign the registration. The Finance Director shall, after such registration, issue without charge a certificate of authority to each operator to collect the tax from the occupant. A separate registration shall be required for each place of business of an operator. Each certificate shall state name and location of the business to which it is applicable and shall prominently display therein so as to be seen and to come readily to the notice of all occupants and persons seeking occupancy. Such certificates shall be nonassignable and nontransferable and shall be returned immediately to the Finance Director upon the cessation of business at said location. Should the Finance Director deem it necessary, in order to facilitate initial registration hereunder of persons engaged in business, or prior to the date of imposition of tax as set forth therefore, other than those provided in this section. Such provisions shall be made to effect the purposes hereof.

g. Determination, Returns and Payments.

1) Due Date of Taxes. The tax imposed by this Ordinance shall become due and payable from the occupant at the time of occupancy of any Hotel in the unincorporated area of Fayette County. All amount of such taxes collected by any operator shall be due and payable to the Finance Director monthly on or before the twentieth day of every month next succeeding such respective monthly period as set forth in this ordinance.

2) Return; Time of Filing; Persons Required to File; Execution. On or before the twentieth day of the month following each monthly period shall be filed with the Finance Director in such form as Finance Director may prescribe, by every operator, liable for the payment of tax hereunder. For purposes of this section, a return shall be deemed filed if postmarked on the twentieth day, or, if the twentieth day falls upon a Holiday recognized by the State of Georgia or upon a Saturday or Sunday, then a return postmarked on the next business day shall be regarded as timely filed.

3) Contents of Return. All returns shall show the gross rent, rent from permanent residents, taxable rent, amount of tax collected or otherwise due for the related period, and such other information as may be required by the Finance Director

h. Delivery of Return and Remittance.

The person required to file the return shall deliver the return, together with the remittance of the Net Amount of Tax Due to the Finance Department at 140 W. Stonewall Ave Suite 101, Fayetteville, Ga. 30214

i. Collection Fee Allowed Operators.

Operators collecting the tax shall be allowed a percentage of the tax due and accounted for and shall be reimbursed in the form of a deduction in submitting, reporting and paying the amount due, if said amount is not delinquent at the time of payment. The rate of the deduction shall be the same rate authorized for deductions as provided in O.C.G.A. § 48-13-52, as now or hereafter amended.

j. Deficiency Determinations.

1) Recomputation of Tax; Authority to Make; Basis of Recomputation, If the Finance Director is not satisfied with the return or returns of the tax or the amount of the tax required to be paid to the County by any person, he may compute and determine the amount required to be paid upon the basis of any information within his possession or that may come into his possession. One or more than one Deficiency Determinations may be made of the amount due for one or more than one monthly period.

2) Interest on Deficiency. The amount of the determination, exclusive of penalties, shall bear interest at the rate of one percent per month, or fraction thereof from the twentieth day after the close of the monthly period for which the amount or any portion thereof should have been returned until the date of payment.

3) Offsetting of Overpayments. In making a determination the Finance Director may offset overpayments, for a period or periods, against underpayments, for another period or periods, against penalties, and against the interest on underpayments. The interest on underpayments shall be computed in the manner set forth in Section 2-14-29(c).

4) Penalty; Negligence or Disregard of Rules and Regulations. Reserved.

5). Penalty for Fraud or Intent to Evade. If any part of the deficiency for which a deficiency determination is made due to fraud or an intent to evade any provisions of this Ordinance or other authorized rules and regulations, a penalty of fifty percent (50%) of the total amount of taxes due, exclusive of penalties, shall be added thereto in addition to the other penalties provided in this Ordinance.

6) Notice of Finance Director's Determination; Service of. The Finance Director, or his designated representative, shall give to the operator written notice of his determination. The notice may be served personally or by mail; if by mail such service shall be addressed to the operator at his address as it appears in the records of the Finance Director. In case of service by mail of

any notice required by this Ordinance, the service is complete at the time of deposit in the United States Post Office.

7) Time Within Which Notice of Deficiency Determination to be Mailed. Except in the case of fraud, intent to evade this Ordinance or authorized rules or regulations, or failure to make a return, every notice of a deficiency determination shall be mailed within three (3) years after the twentieth day of the calendar month following the monthly period for which the amount is proposed to be determined, or within three (3) years after the return is filed, whichever period should last expire.

k. Determination if No Return Made.

1) Estimate of Gross Receipts. If any person fails to make a return, the Finance Director shall make an estimate of the amount of the gross receipts of the person, or as the case may be, of the amount of the total rentals in the unincorporated area of Fayette County which are subject to the tax. The estimate shall be made for the period or periods in respect to which the person failed to make the return and shall be based upon any information which is or may come to the possession of the Finance Director. Upon the basis of this estimate the Finance Director shall compute and determine the amount required to be paid the County, adding to the sum thus determined any applicable penalties. One or more determinations may be made for one or for more than one period

2) Manner of Computation; Offsets; Interest. In making a determination the Finance Director may offset overpayments for a period or penalties, and against the interest on the under payments. The interest on under payments shall be computed in the manner set forth in this ordinance

3) Interest on Amount Found Due. The amount of the determination, exclusive of penalties, shall bear interest at the rate of one percent (1%) per month, or fraction thereof, from the twentieth day of the month following the monthly period, for which the amount or any portion thereof should have been returned, until the date of payment.

4) Penalty for Fraud or Intent to Evade. If the failure of any person to file a return is due to fraud or an intent to evade this Ordinance or rules and regulations, a penalty of fifty percent (50%) of the amount required to be paid by the person, exclusive of penalties, shall be added thereto in addition to the other penalties provided in this Ordinance) Giving of Notice; Manner of Service. Promptly after making his determination, the Finance Director shall give the person written notice to be served personally or by mail in the manner prescribed for service of notice of a deficiency determination.

L. Penalties and Interest for Failure to Pay Tax.

1) When any operator fails to make any return or to pay the full amount of the tax imposed by this Ordinance, a penalty shall be added to the tax in the amount of three percent (3%) or $3.00, whichever is greater, if the failure is for not more than 30 days. An additional penalty of three percent (3) or $3.00, whichever is greater, shall be added for each additional 30days or fraction of 30 days during which the failure continues. The penalty for any single violation under this Section shall not exceed 25 percent (25%) or $25.00 in the aggregate, whichever is greater. The penalty imposed herein shall be in addition to the tax, any other penalties, and interest on the unpaid tax as set forth in this Ordinance.

2) The amount of the unpaid tax, exclusive of penalties, shall bear interest at the rate of one percent (1%) per month, or fraction thereof, from the twentieth day of the month following the monthly period, for which the amount or any portion thereof should have been returned, until the date of payment.

M. Collection of Tax.

1) Security, the Finance Director May Exact; Amount; Sale Of; Notice of Sale; Return of Surplus. The Finance Director whenever he deems it necessary to insure compliance with this Ordinance, may require any person subject thereto to deposit with him such security as the Finance Director may determine. The amount of the security shall be fixed by the Finance Director but shall not be greater than twice the person's estimated average liability for the period for which he files returns, determined in such a manner as the Finance Director deems proper, or five thousand dollars ($5,000.00), whichever amount is the less The amount of the security may be increased by the Finance Director subject to the limitations herein provided. The Finance Director may sell the security at public auction, with the approval of the Board of Commissioners if it becomes necessary so to do in order to recover any tax or any amount required to be collected, interest or penalty due. Notice of the sale may be served upon the person who deposited the security personally or by mail; if by mail, service shall be made in the manner prescribed for service of a notice of a deficiency determination and shall be addressed to the person at his address as it appears in the records of the Finance Director. Upon any sale, any surplus above the amounts due shall be returned to the person who deposited the security.

2) Action for Tax; Time for. At any time within three (3) years after any tax or amount of tax required to be collected becomes due and payable and at any time within three (3) years after the delinquency of any tax or any amount of tax required to be collected, the Finance Director may bring action in the courts of this State, or any other State, or of the United States in the name of the County to collect the amount delinquent together with penalties and interest, court fees, filing fees, attorney's fees and other legal fees incident thereto. The bringing of such an action shall not be a prerequisite for the issuance of a fi. fa. under the provisions of subsection (g) hereof.

3)) Duty of Successors or Assignees of Operator to Withhold Tax from Purchase Money.

If any operator liable for any amount under this Ordinance sells out his business or quits the business, his successors or assigns shall withhold a sufficient portion of the purchase price to cover such amount until the former owner produces a receipt from the Finance Director showing that he has been paid or a certificate stating that no amount is due.

4) Liability for Failure to Withhold; Certificate of Notice of Amount Due; Time to Enforce Successor's Liability.
If the purchaser of a business fails to withhold purchase price as required in subsection (c), the purchaser shall become personally liable for the payment of the unpaid taxes. Within thirty (30) days after receiving a written request from the purchaser for a certificate, the Finance Director shall either issue the certificate or mail notice to the purchaser at the address as it appears on the records of the Finance Director of the amount that must be paid as a condition of issuing the certificate. The time within which the obligation of a successor may be enforced shall start to run at the time the operator sells out his business or at the time that the determination against the operator becomes final, whichever event occurs the later. Any purchaser that fails to withhold from the purchase price the amount of unpaid taxes or fails to pay any amount of such tax for which it becomes liable as a result of said purchase shall not be permitted to obtain an occupation tax certificate or alcoholic beverage license until all such taxes, including all penalties and interest, have been paid in full.

5) Tax Credit, Penalty or Interest Paid More than Once or Erroneously or or Illegally Collected. Whenever the amount of any tax, penalty, or interest has been paid more than once, or has been erroneously or illegally collected or received by the County under this Ordinance, it may be offset as provided in Section 2-14-28(c). If the operator or person determines that he has overpaid or paid more than once, which fact has not been determined by the Finance Director he will have three (3) years from date of payment to file claim in writing stating the specific ground upon which claim is founded. The claim shall be audited by the Fayette County Finance Department. If the claim is approved by the Finance Director, the excess amount paid the County may be credited on any amounts then due and
payable from, the person by whom it was paid, or his administrators or executors.

6) Lien for Taxes. The lien of taxes collectible under the provisions of this Ordinance shall date from January 1 of the year in which the taxes become due, and the lien of such taxes shall be a special lien on the property upon which the same are due and a general lien against all property of the taxpayer owing same.

7) County Administrator authorized to issue fieri facias. The Fayette County Administrator is hereby authorized to issue a fieri facias (fi. fa.) for execution and levy to satisfy the amount of any tax, penalty, or interest due but not paid under the provisions of this Ordinance.

8) Eligibility for occupational tax and/or alcoholic beverage license. Any person who fails to pay the tax imposed herein to the County or fails to pay any amount of such tax required to be collected and paid to the County shall not be permitted to obtain or renew their occupation tax certificate or alcoholic beverage license until all such taxes, including all penalties and interest, have been paid in full.

N. Administrator of Excise Tax Ordinance.

1) Authority of Finance Director. The Finance Director shall administer and enforce the provisions of excise tax division of this Ordinance for the levy and collection of the tax imposed by this Ordinance.

2) Rules and Regulations. The Finance Director shall have the power and authority to make and publish reasonable rules and regulations not inconsistent with the Ordinance, other laws or ordinances of Fayette County and the State of Georgia, or the constitution of this State or the United States for the administrator and enforcement of the provisions of this Ordinance and the collection of the taxes hereunder.

3) Records Required from Operators, etc., Form. Every operator renting guest rooms in the unincorporated area of Fayette County to a person shall keep such records, receipts, invoices, and other pertinent papers in such form as the Finance Director may require.

4) Examination of Records; Audits. The Finance Director or any person authorized in writing by the Finance Director may examine the books, papers, records, financial reports, equipment and other facilities of any operator renting guest rooms to a person and any operator liable for the tax, in order to verify the accuracy of any return made, or if no return is made by the operator, to ascertain and determine the amount required to be paid.

5) Authority to Require Reports; Contents. In administering the provisions of this Ordinance, the Finance Director may require the filing of reports by any person or class of persons having in such person's or persons' possession or custody information relating to rentals of guest rooms which are subject to the tax. The reports shall be filed with the Finance Director when required by the Finance Director and shall set forth the rental charged for each occupancy, the date or dates of occupancy, and such other information as the Finance Director may require.

6) Disclosure of Business of Operators, etc., Limitation on Rule. The Finance Director or any person having an administrative duty under this Ordinance shall not make known in any manner the business affairs, operations or information obtained by an audit of books, papers, records, financial reports, equipment and other facilities of any operator or any other person visited or examined in the discharge of official duty, or the amount or source of income, profits, losses, expenditures, or any particular thereof, set forth or disclosed in any return, or to permit any

return or copy thereof or any book containing any abstract or particulars thereof to be seen or examined by any person not having such administrative duty under this Ordinance, except in case of Judicial proceedings or other proceedings necessary to collect the tax hereby levied and assessed, or as required by the Georgia Open Records Act. Successors, receivers, trustees, executors, administrators, assignees and guarantors, if directly interested, may be given information as to the items included in the measure and amount of unpaid tax or amounts of tax required to be collected, interest and penalties.

O. Severability.

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

P. Violations.

Any person violating any of the provisions of this Ordinance shall be deemed guilty of an offense and upon conviction thereof shall be punished as provided in this section of the Code of Ordinances of Fayette County. Each such person shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of this Ordinance is committed, continued, or permitted by such person, and shall be punished accordingly.

Any operator or other person who fails to register as required herein, or to furnish any return required to be made, or who fails or refuses to furnish a supplemental return or other date required by the Finance Director or who renders a false or fraudulent return shall be deemed guilty of an offense and upon conviction thereof shall be punished as aforesaid. Any person required to make, render, sign, or verify any report who makes any false or fraudulent report, with intent to defeat or evade the termination of an amount due required by this Ordinance to be made shall be deemed guilty of an offense and up convictions thereof shall be punished as aforesaid

Q. Effective Date.

This Ordinance shall become effective upon the 1st day of June 2014. Amendments to this Ordinance shall become effective upon the date specified by the Fayette County Board of Commissioners when said amendment is adopted.

R. Proceeds of tax:

The proceeds of the hotel, motel, tax will be used in accordance with the provisions of OCGA 48-13-51(a)(2)

6-181 License transfer

A No license permitted under this section shall be transferred from one owner to the other
B Any violation of this section shall constitute due cause for probation, suspension, or revocation of the license or licenses granted by the Board of Commissioners

6-182-185 RESERVED

Division 4
OPERATING REGULATIONS

6-186 Employee Health and safety

The health and safety code as written by the Georgia Health Department 511-6-2

6-186 Water Supply

The water supply shall comply with all Federal, state and local laws and or ordinances to include the Georgia Public Heath department section 511-6-2

6-187 Toilet Facilities

Toilet, lavatory and bathing facilities shall be provided at all tourist accommodations. Such facilities shall be easily accessible, convenient and available to patron at all times and operated as per Ga. Department of Health section 511-6-2.

6-188 Sewage

Public sewer is not available in unincorporated Fayette County therefore, sewage disposal shall be provided to effectively dispose of all water carried wastes in a sanitary manner as stated in Ga. Public Health section 511-6-2).

6-189 Plumbing

All plumbing in tourist accommodations shall comply with all State and local laws, ordinances, or regulations.

6-190 Parking

A) All parking at the location shall not exceed 1 vehicle per 2 overnight guests and 1 motorcycle per 1 overnight guest of which vehicles and/or motorcycles shall not exceed half the maximum capacity of the home

B) No commercial vehicles over 8,000 lbs and/or over 2 axles shall be allowed in residentially zoned neighborhoods

6-191 Insect and Rodent Control

Effective measures, approved by the health authority, intended to eliminate the presence of rodents and flies roaches and other insects on the premises shall be utilized. The premises shall be kept in such condition as to prevent the harborage or feeding of insects or rodents. .

6-192 Property maintenance

All structures and facilities at the location must be kept in compliance with all State and local laws and ordinances to include but not limited to

a. Fire Safety-Life Safety Code
b. Swimming Pools
c. Laundry rooms
d. Grounds
e. Food service – as allowed

f. HVAC
g. Any outdoor noise shall be subject to the county's noise control ordinance.
h. International Property Maintenance Code

6-193 Parking

A) All parking at the location shall not exceed 1 vehicle per 2 overnight guests and 1 motorcycle per 1 overnight guest of which vehicles and/or motorcycles shall not exceed half the maximum capacity of the home

B) No commercial vehicles over 8,000 lbs and/or over 2 axles shall be allowed in residentially zoned neighborhoods, except for deliveries being made for a minimum period of time not to exceed 15 minutes

6-194 Special events

(a) Only lodging may occur at tourist accommodations.
(b) Special event permits are permitted at commercial zoned property only by permit.

6-195 Registration of Guest

The licensee is required to keep a guest register. Each guest shall register on the date of their arrival, stating their names, current residence, address and description and license plate number of the vehicle they are using. The guest register shall be kept by the licensee for at least 3 years and made available for examination by a representative of the county or any authorized law enforcement agency.

6-196 Violations.

Whenever in this code or in any ordinance of the County any act is prohibited or is declared to be unlawful, or whenever in such code or ordinance the doing of any act is declared to be unlawful, and no specific penalty is provided therefore, the violation of such provision of this code of any ordinance shall subject the person committing the violation to a fine not exceeding $1000.00 and costs or to imprisonment for a term not exceeding sixty (60) days, or to both such fine and imprisonment, any or all of such penalties to be imposed at the discretion of the judge.

The infliction of a penalty under the provisions of this section shall not prevent the revocation of any permit or of license or the taking of other punitive or remedial action where called for or permitted under the provisions of the code

Sections 6- 197-199 Reserved

Division 3
SUSPENSION, REVOCATION PROBATION

6-200 Revocation.

a. Causes. The license issued pursuant to this division may be revoked by the board of commissioners of the county, after notice and hearing, for any of the following causes:

1. Any fraud, misrepresentation or false statement contained in the application for license;

2. Any fraud, misrepresentation or false statement made in connection with any transaction;

3. Any violation of this division; or conducting the business licensed under this division in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health safety or general welfare of the public.

b. Hearing.

1. Notice of hearing for revocation of a license shall be given in writing, setting forth specifically the grounds of the complaint and the time and place of the hearing. The notice shall be served on the licensee by handling the same personally to the person in charge of the licensees business, or by mailing the same, postage prepaid, to the licensee at his last known address at least five (5) days prior to the date set out for the hearing.

2. The giving of such notice shall suspend the license pending the outcome of the hearing, and business operations under the license shall cease

6-201 Violations; penalties.

a. Violations. It shall be unlawful for any operator to commit any of the following acts:

1. Fail to make an entry of any material matter in his permanent book required to be kept by this division;
2. Make any false entry therein;
3. Falsify, obliterate, destroy or remove from his place of

business such permanent record book;
4. Refuse to allow any duly authorized law enforcement officer after proper identification to inspect such permanent record book, or any goods in his possession, during the ordinary hours of business or at other reasonable time;
5. Fail to maintain a record of each purchase transaction for at least (2) two years and at least (2) years after ceasing to engage in such business within the county;
6. Failure to obtain the required identification from the guest
7. Penalty. Any person, firm or corporation which shall violate any of the provisions of the within division shall have their specific regulation occupation permit revoked.

Section 6-202-205 Reserved

Section 2 That the preamble of this Ordinance shall be considered to be and is hereby incorporated by reference as if fully set out herein.

Section 3 a. It is hereby declared to be the intention of the Board of Commissioners that all Sections, paragraphs, sentences clauses, and phrases of this Article are and were, upon their enactment, believed by the Board of Commissioners to be fully valid, enforceable and constitutional.
b. It is hereby declared to be the intention of the Board of Commissioners that, to the greatest extent allowed by law, each and every section, paragraph, sentence, clause or phrase of this ordinance severable from every other section, paragraph, sentence, clause or phrase of this ordinance. It is hereby further declared to be the intention of the Board of Commissioners that, to the greatest extent allowed by law, no section, paragraph, sentence, clause or phrase of this article is mutually dependent upon any other section, paragraph, sentence, clause, or phrase of this article.

c. In the event that any phrase, clause, sentence, paragraph or section of this article shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise unenforceable by the valid judgment or decree of any court of competent jurisdiction. It is the express intent of the Board of Commissioners that such invalidity, unconstitutionality, or unenforceability shall, to the greatest extent allowed by law, not render invalid, unconstitutional or otherwise unenforceable any of the remaining phrases, clauses, sentences, paragraphs, or unconstitutional or otherwise unenforceable any of the remaining phrases, clauses, sentences, paragraphs or Sections of the Article and that, to the greatest extent allowed by law, all remaining phrases, clauses, sentences, paragraphs and Sections of the Article shall remain valid, constitutional, enforceable, and of full force and effect.

Section 4. All ordinances or resolutions and parts of ordinances or resolutions in conflict herewith are hereby expressly repealed.

Section 5. The effective date of this Ordinance shall be the date of adoption unless otherwise specified herein.

IT IS SO ORDAINED THIS 24th DAY OF April 2014

BOARD OF COMMISSIONERS

_____
Steve Brown, Chairman

ATTEST:

_____
Floyd Jones, Clerk

_____
Dennis Davenport
Interim County Attorney