

**CITY OF DAPHNE, ALABAMA  
ORDINANCE 2022-56**

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**AN ORDINANCE TO REPEAL AND REPLACE THE CITY OF DAPHNE'S LODGING TAX  
ORDINANCE 2014-06, AS ADOPTED BY THE CITY COUNCIL ON FEBRUARY 17, 2014**

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**WHEREAS**, the City Council of the City of Daphne has adopted an Ordinance to Impose Lodging Taxes, as Ordinance No. 2014-06; and

**WHEREAS**, the City Council has determined an additional occupancy fee shall be added to the existing lodging tax Ordinance, which is currently in effect; and

**WHEREAS**, the City Council deems that an additional fee included with the lodging tax and the allocation to the Lodging Tax Fund, are in the best interest of the citizens of the City of Daphne.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA** as follows:

**SECTION 1. DEFINITIONS**

Unless the context clearly indicates a different meaning, the words, terms and phrases used in this Ordinance shall have the following respective meanings:

“City” shall mean the City of Daphne, State of Alabama.

“Finance Director” shall mean the finance director duly hired by the Mayor.

“Revenue Officer” shall mean the revenue officer of the City.

“Person” shall mean any person, firm, corporation, partnership, association, administrator, trustee, or other fiduciary.

“Transient” shall mean a person to whom rooms or lodging are Rented for a period of less than 180 continuous days.

“Fiscal year” shall mean the period commencing on October 1 of any calendar year and ending on September 30 of the then next succeeding calendar year.

**SECTION 2. LEVY OF LODGING TAX**

There is hereby levied and imposed, in addition to all other taxes of every kind, now imposed by law, a privilege or license tax upon every person engaging within the City in:

- (a) The business of renting or furnishing any room, lodgings or accommodations to transients in any hotel, motel, inn, tourist camp, tourist cabin, short term rental, or any other place in which rooms

or lodgings are regularly furnished to transients for a consideration, said tax to be in an amount equal to six percent (6%) of the charge of such room, rooms, lodgings, or accommodations, including the charge for use or rental of personal property and services furnished in such rooms plus two dollars (\$2.00) per night per room; provided, however that charges for property sold or services furnished which are required to be included in the computation of the tax levied by Alabama Sales Tax Statutes, shall not be included in computing the tax herein levied; or

- (b) The business of renting or furnishing space for accommodation of trailers for a consideration, said tax to be in an amount equal to six percent (6%) of the charge for such trailer space; provided, however, that charges made by persons in the business of renting trailer space for use of washing machines, electric power, garbage collection, water supply, and other such charges shall not be included in the measure of said tax, but only the charge for trailer space proper shall be so included.

The tax herein levied shall not apply to rooms, lodgings, or accommodations supplied for a period of 180 continuous days, or longer in any place; or to any additional exemptions stated in ALA. CODE §40-26-1.

### **SECTION 3. DUE DATE OF TAXES AND MONTHLY REPORTS**

The taxes levied under the provisions of this Ordinance, except as otherwise provided, shall be due and payable in monthly installments on or before the 20<sup>th</sup> day of the month next succeeding the month in which the tax accrues. On or before the 20<sup>th</sup> day of each month every person on whom the taxes herein levied are imposed, shall render to the Revenue Officer on a form prescribed by the Revenue Officer, a true and correct statement showing the gross proceeds of the business subject to said tax for the then next preceding month, together with such other information as the Revenue Officer may demand and require, and at the time of making such monthly report the taxpayer shall compute the taxes due and shall pay to the Revenue Officer the amount of taxes shown to be due.

### **SECTION 4. CREDIT COLLECTIONS**

Any person subject to the taxes herein levied who conducts business on a credit basis may defer reporting credit rental and charges until after their collection, and in the event so defers reporting them, they shall thereafter include in each monthly report all credit collections made during the then proceeding month and shall pay the amount of taxes measured thereby at the time of filing such report.

### **SECTION 5. MAINTENANCE OF RECORDS**

It shall be the duty of every person engaging or continuing in any business subject to the taxes herein levied to keep and preserve suitable records of the gross proceeds of such business and such other books or accounts as may be necessary to determine the amount of tax for which he/she is liable under the provisions of this Ordinance. Such records shall be kept and preserved for a period of two (2) years and shall be open for examination at any time by the Revenue Officer or other duly authorized representative of the City.

### **SECTION 6. OATHS**

The monthly reports herein required to be made are not required to be made on oath; but the annual returns provided for in Section 5 hereof shall be sworn to by the taxpayer or his agent before some officer authorized to administer oaths; and any false statement of a material fact made with intent to defraud shall constitute perjury, and upon conviction thereof the person so convicted shall be punishable as provided by

law.

## **SECTION 7. VIOLATION OF THIS ORDINANCE**

Any person subject to the provisions of this Ordinance who fails for any reason to make the reports as herein required, or who fails to keep the records as herein required, shall be guilty of a misdemeanor and upon conviction shall be fined not less than \$25.00 nor more than \$100.00 for each offense. Each month of such failure shall constitute a separate offense.

Any person subject to the provision of this Ordinance who willfully refuses to make the reports herein required or who refuses to permit the examination of his or its records by the Revenue Officer, or other duly authorized agent of the City, shall be guilty of a misdemeanor, and upon conviction shall be fined not less than \$50.00 nor more than \$100.00 for each offense, and in addition may be imprisoned in the municipal jail for a period not to exceed six (6) months. Each month of failure to make such report shall constitute a separate offense, and each refusal of a written demand of the Revenue Officer to examine, inspect or audit such records shall constitute a separate offense.

## **SECTION 8. PENALTY AND INTEREST**

Any person who fails to properly and timely file any return required hereunder on or before the date prescribed shall be assessed as penalty pursuant to ALA CODE §40-2A-11a (as amended), which at the time of the adoption of this Ordinance, is equal to the greater of ten percent (10%) of the tax due or \$50.00. Such penalty shall be assessed and collected as part of the tax.

Any person who fails to fully and timely pay any tax required hereunder on or before the date prescribed shall be assessed a penalty pursuant to ALA CODE §40-2A-11b (as amended), which at the time of the adoption of this ordinance, is equal to ten percent (10%) of the unpaid tax amount. Such penalty shall be assessed and collected as part of the tax.

Any person who fails to fully and timely pay any tax required hereunder on or before the date prescribed shall be assessed interest equal to one percent (1%) per month or any part thereof.

## **SECTION 9. USE OF PROCEEDS**

- A. The proceeds collected from the six percent (6%) lodging taxes which are collected described in Section 2(a) and 2(b) are hereby divided as follows:
- (1) Ten percent (10%) shall be paid at least quarterly and used for the purpose of providing funding to the Industrial Development Board for the action items, implementation of strategies, and tactics included in the then current Strategic Economic Development Plan as approved and adopted by the City Council.
  - (2) Five percent (5%) shall be paid at least quarterly and used for the action items, implementation of strategies and purpose of providing funding for the Downtown Redevelopment Authority as approved by the City Council.
  - (3) Thirty-two percent (32%) shall be used for the purpose of continued bay front uses such as acquisitions, development, and maintenance along with the service of debt incurred through the acquisition of bay front property.

- (4) The remainder of the lodging tax proceeds (53%) shall be used for the purpose of ground related capital for recreation, which does not include such items as trucks or the maintenance of fields.

B. The proceeds collected from the two-dollar (\$2.00) per night per room occupancy fee described in Section 2(a) shall be deposited into the Lodging Tax Fund to be appropriated by the City Council pursuant to applicable law.

#### **SECTION 10. SEVERABILITY**

The provisions of this Ordinance are severable. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.

#### **SECTION 11. EFFECTIVE DATE**

This Ordinance shall take effect and be in force from and after January 1, 2023, and publication as required by law.

#### **SECTION 12. INFORMATION MAY NOT BE DIVULGED**

It shall be unlawful for any person connected with the administration of this Ordinance to divulge any information obtained by him/her in the course of inspection and examination of the books of account, invoices, bank statements, sales tax records, state and federal income tax records, or other reports and memoranda or the taxpayer made pursuant to the provisions hereof, except to the Mayor, the City Council, the Finance Director, the Revenue Officer, the City Attorney, and those representatives connected with the administration of this Code, or pursuant to court order or judicial process.

#### **SECTION 13. REPEALER**

Ordinance Nos. 1995-15, 1997-28, 2000-25, 2000-34, 2009-28, 2009-55, 2010-09, 2012-48, 2014-06, and 2016-52 are hereby repealed in their entirety. All other City Ordinances or parts thereof in conflict with the provision of this Ordinance, in so far as they conflict, are hereby repealed.

**ADOPTED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, THIS 6<sup>th</sup> DAY OF September, 2022.**

ATTEST:

  
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Robin LeJeune, Mayor

  
Candace G. Antinarella, CMC, City Clerk