

ORDINANCE NO. 3
(Series 2023)

**AN ORDINANCE AMENDING TITLE 3 OF THE GEORGETOWN MUNICIPAL CODE
CONCERNING THE GEORGETOWN LODGING TAX**

WHEREAS, the Town of Georgetown is a Colorado municipal corporation operating under a Territorial Charter and governed by its Board of Selectmen; and

WHEREAS, the Georgetown Board of Selectmen (“Board”) is authorized by the Territorial Charter and the Colorado Revised Statutes to enact ordinances for the preservation of the public health, safety, and welfare; and

WHEREAS, the Board is authorized by the Territorial Charter to impose sales, use, and other excise taxes; and

WHEREAS, at the November 8, 2022 general election, the voters of the Town approved a referred question authorizing imposition and collection of a two percent (2%) sales tax on lodging services within the Town, effective as of January 1, 2023; and

WHEREAS, the Board has implemented the will of voters to provide for the imposition and collection of said voter-approved tax by the adoption of Chapter 3.28 of the Georgetown Municipal Code; and

WHEREAS, the Board wishes to amend Chapter 3.28 to add certain purpose and enforcement sections, and to renumber and restate and reenact the entire Chapter.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF SELECTMEN OF THE TOWN OF GEORGETOWN, COLORADO:

Section 1. Chapter 3.28 of the Georgetown Municipal Code as adopted by Ordinance No. 5, Series 2022, is amended by renumbering existing sections, adopting new sections, and restating and reenacting the entire Chapter to read in its entirety as follows:

CHAPTER 3.28

Lodging Tax

3.28.010 Purpose and intent.

This chapter is enacted to implement the vote of the Town electors made on November 8, 2022 to adopt and impose a two percent (2%) sales tax on the furnishing of lodging services in the Town. The tax hereby imposed is an excise tax, which by its nature is a sales tax on a specific category of goods or service - in this case the furnishing of lodging services. See *Rinn v. Bedford*, 102 Colo. 475 (1938) This tax is imposed on the customer purchasing the lodging services, as vendee, and is collected by the lodging establishment furnishing the services, as vendor. The Board declares its intent to adopt this tax as a lodging tax within the meaning of the same in CRS 30-11-107.5.

3.28.020 Definitions.

For the purposes of this Chapter 3.28, the following terms are defined:

LODGING HOUSE. A private single-family home, townhome or condominium with individual rooms that may be rented to paying guests.

LODGING SERVICES. The furnishing of rooms or accommodations by any person, partnership, association, corporation, estate, representative capacity or any other combination of individuals by whatever name known to a person who for a consideration uses, possesses, or has the right to use or possess any room in a hotel, motel, bed and breakfast inn, apartment hotel, lodging house, motor hotel, guesthouse, guest ranch, trailer coach, mobile home, auto camp, or trailer court and park, for a period of less than 30 consecutive days under any concession, permit, right of access, license to use, or other agreement, or otherwise.

LODGING TAX. The tax on lodging authorized by this Chapter.

PERSON. A corporation, firm, or other body corporate, partnership, association or individual, including an executor, administrator, trustee, receiver or other representative appointed according to law and acting in a representative capacity, and as herein limited includes the United States of America, the state of Colorado, any corporation, department, instrumentality or agency of the federal government or the state government, or any political subdivision of the state.

VENDEE. A natural person to whom lodgings are furnished in the exercise of the taxable service of lodging.

VENDOR. A person furnishing lodgings in the exercise of the taxable service of lodging.

3.28.030 Lodging tax imposed; use of revenues.

There is hereby imposed a two percent (2%) Town tax on lodging services, commencing on January 1, 2023, on the purchase price paid or charged to persons for lodging services as included in the definition of "sale" in section 39-26-102(11), CRS. This tax shall be in addition to the 4.5 % Town general sales tax on goods and services imposed by Chapter 3.08 of the Georgetown Municipal Code. The revenues from this tax shall be used solely for support of the activities of the Town's Business Promotion Commission, organization, promotion, marketing and management of public events, activities in support of business recruitment, management and development, coordinating tourism promotion activities, housing and childcare for the tourism-related workforce, including seasonal workers and for other workers in the community, facilitating and enhancing visitor experiences, including extended seasonal maintenance and use of the Guanella Pass Scenic Byway, capital expenditures for housing and childcare for the tourism-related workforce, including seasonal workers and for other workers in the community, and capital expenditures related to facilitating and enhancing visitor experiences.

3.28.040 Exemption from tax

(a) The following shall be exempt from the tax imposed under this chapter:

(1) Lodging rentals or sales to the United States government and all departments and institutions thereof, the State and departments, institutions, and political subdivision thereof, and the Town; but only in the exercise of their governmental functions and only when such rentals or sales are supported by official government purchase orders or other officials documentation, and paid for by draft or warrant drawn on the government, state, or Town's account directly to the vendor.

(2) Lodging rentals or sales to charitable organizations duly established and recognized under state or federal law, but only to the extent any such rental or sale is transacted in the conduct of the organization's regular charitable functions and activities and is paid for directly by the organization without reimbursement therefor.

(b) The burden of proving that any rental, sale or other transaction is exempt from the tax imposed under this chapter shall be on the person asserting such exemption under such reasonable requirements of proof as the Town Treasurer may prescribe.

3.28.050 Collection of tax; reporting; vendor's fee.

Every vendor providing lodging services as provided in this chapter shall collect the tax thereon on behalf of the Town and shall act as a trustee therefor. The tax shall be collected from persons using the lodging services in accordance with the chapter and shall be remitted to the Town on or before the 20th day of the month following the month in which the tax has been paid and collected. Each vendor shall make a report upon payment of the tax on such forms as shall be provided the Town Treasurer.

3.28.060 Duty of vendor; books and records.

The vendor shall maintain adequate records of lodging services sales to be retained at the vendor's office, which records shall be open to inspection by the Town during reasonable hours, the same to be retained for no less than three (3) years.

3.28.070 Failure to pay tax; failure to make return computation; penalty; notice.

(a) If any vendor makes a return computation as required by this chapter without paying the tax then due, the vendor shall be liable for the tax plus a penalty equal to ten percent (10%) thereof but not less than ten dollars (\$10). The Town shall give the delinquent vendor written notice of such estimated tax penalty and interest, which notice shall be served personally or by certified mail.

(b) If any vendor neglects or refuses to make a computation return to pay the tax as required by this chapter, the Town shall give the delinquent vendor written notice of noncompliance, which notice shall be served personally or by certified mail.

(c) If a return and payment is not made by the vendor within fifteen (15) days of such notice, the Town may bring an action in law or equity in court for collection of any amounts due, including without limitation, penalties thereof, interest on the unpaid principal at a rate not exceeding one percent (1%) per month, the cost of collection, and reasonable attorney's fees incurred in connection therewith.

3.28.080 Tax information confidential.

(a) All specific information obtained under the provisions of this chapter used to determine the tax due from a vendor, whether furnished by the vendor or obtained through audit, shall be treated by the Town and its officers, employees, or legal representatives as confidential. Except in accordance with judicial order or as otherwise provided by law, neither the Town nor any official employee thereof shall divulge or make known in any way, any information disclosed in any document, report, or return filed under this chapter, except such information as displayed on a tax license.

(b) Notwithstanding any other provision of this chapter, the Town Treasurer any furnish to

taxing officials of the State or its political subdivisions, any other state or political subdivision, or the United States, any information contained in tax returns and related documents filed pursuant to this chapter, or in the report of an audit or investigation made with respect to a return, if the recipient jurisdiction agrees to grant similar privileges to the Town, and provided that such information shall be used by the recipient jurisdiction only for tax purposes.

3.28.090 Authority of Town Treasurer.

The Town Treasurer is hereby authorized and directed to provide for direct Town collection of the tax imposed by this Chapter, separate and apart from the general Town sales tax collected by the Colorado Department of Revenue on behalf of the Town. The Treasurer may adopt and implement such procedures, forms and other materials as necessary and convenient in the exercise of this authority. In administering this chapter, the Town Treasurer shall have the following powers and authority:

- (a) To render written interpretation of the provisions of this chapter and any administrative rules or regulations adopted pursuant thereto.
- (b) To prescribe forms and administrative procedures for the ascertainment and collection of the tax.
- (c) To formulate and promulgate appropriate regulations to effectuate the purpose of this chapter, except that any such regulations shall not become effective until the same have been reviewed and approved by the Board of Selectmen at a noticed public hearing.
- (d) To require any vendor or person to make additional returns, render statements, furnish records, or make informational reports to determine whether or not such vendor or other person is liable for the collection or payment of a tax.
- (e) To administer oaths and take testimony.
- (f) To designate agents to assist in the performance of the duties and responsibilities set forth in this chapter.
- (g) To issue subpoenas for witnesses and/or the production of books, accounts, and records required to be kept under the provisions of this chapter, such subpoenas to be service in accordance with the Colorado Municipal Court Rules of Procedure, including the payment of fees. In the event a duly served subpoena is not honored, the Town Treasurer may request the Town Attorney to seek enforcement of the same in the Municipal Court.
- (h) To maintain and make available to any person a current map showing the boundaries of the Town, which map can be relied upon by persons and vendors for the purpose of collecting the tax imposed under this chapter.

Section 2. Effective Date. This ordinance shall take effect upon final adoption as provided by Section 5.26 of the Territorial Charter.

INTRODUCED, READ, APPROVED AND ORDERED POSTED IN FULL ON FIRST READING on the 24th day of January, 2023.

**INTRODUCED ON SECOND READING, FINALLY ADOPTED AND ORDERED
POSTED AFTER PUBLIC HEARING on the 14th day of February, 2023.**

TOWN OF GEORGETOWN



Lynette Kelsey, Police Judge

ATTEST:



Jennifer Yobski, Town Clerk

Posted up in full on the Town's website and at Town Hall and two (2) other designated posting locations within the limits of the Town after final adoption, in accordance with Section 5.26 of the Territorial Charter.



Jennifer Yobski, Town Clerk

Date: 2-15-23



