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**STATE OF GEORGIA
CITY OF HAPEVILLE**

ORDINANCE NO. _____

AN ORDINANCE TO AMEND CHAPTER 17 (“FINANCE AND TAXATION”), ARTICLE 5 (“OCCUPATIONAL TAXES”), SECTION 17-5-3 (“ADMINISTRATIVE AND REGULATORY FEE STRUCTURE”) AND TO CREATE CHAPTER 17 (“FINANCE AND TAXATION”), ARTICLE 5 (“OCCUPATIONAL TAXES”), SECTION 17-5-29 (“TRANSFERABILITY OF OCCUPATIONAL TAX CERTIFICATE”) OF THE CODE OF ORDINANCES, CITY OF HAPEVILLE, GEORGIA; TO PROVIDE FOR SEVERABILITY; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE AN EFFECTIVE DATE; AND TO PROVIDE FOR OTHER LAWFUL PURPOSES.

WHEREAS, the mayor and council shall have full power and authority to provide for the execution of all powers, functions, rights, privileges, duties and immunities of the city, its officers, agencies, or employees granted by the City of Hapeville’s Charter or by state law; and,

WHEREAS, the municipal government of the City of Hapeville (hereinafter “City”) and all powers of the City shall be vested in the Mayor and Council. The Mayor and Council shall be the legislative body of the City; and,

WHEREAS, amendments to any of the provisions of the City’s Code may be made by amending such provisions by specific reference to the section number of the City’s Code; and,

WHEREAS, every official act of the Mayor and Council which is to become law shall be by ordinance; and,

WHEREAS, the governing authority of the City finds it desirable and necessary to amend Chapter 17 of the City Code of Ordinances to allow for the transferability of occupational tax certificates under limited circumstances.

BE IT, AND IT IS HEREBY ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF HAPEVILLE, GEORGIA THAT:

Section One. Section 17-5-3 (Administrative and regulator fee structure) in Chapter 17 (Finance and Taxation), Article 5 (Occupational Taxes) of the City Code of Ordinances is hereby amended by striking the section in its entirety and inserting in lieu thereof the following language:

- (a) A non-prorated, nonrefundable administrative fee of \$25.00 shall be required on all business and occupation tax accounts for the initial startup, renewal, or reopening of those accounts.
- (b) A regulatory fee will be imposed as permitted under O.C.G.A. § 48-13-9 on applicable businesses for which regulations under the city's police power are adopted.

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- (c) A non-prorated, nonrefundable administrative fee of \$_____ shall be required by all qualified businesses attempting to transfer its occupational tax certificate to a new business, owner, or entity that acquires the qualified business prior to renewal of the occupational tax certificate.

Section Two. Section 17-5-29 (Transferability of occupational tax certificate) in Chapter 17 (Finance and Taxation), Article 5 (Occupational Taxes) of the City Code of Ordinances is hereby created and shall state the following language:

Occupational tax certificates may be transferred between businesses that have a current occupational tax certificate and acquiring entities, or subsequent owners of the business (hereinafter referred to collectively as “subsequent business owners” or “acquiring business owners”), if all of the following criteria are met:

- (a) *Business type and location.* The original business and the subsequent business must be identical in type and nature (i.e. both businesses must be Mexican restaurants, Italian restaurants, extended-stay hotels, bed and breakfast, boutique hotels, etc.). The operating addresses for the original and subsequent business must remain at the same location.
- (b) *Proof.* Prior to the approval of the transfer, the acquiring business owners must provide the City with documentation showing the sale and purchase agreement of the subject property, the method or payment and calculation of the prorated occupational tax to be paid by the acquiring business owners to the original business owner(s), and a completed application of transfer provided by the City.
- (c) *Responsibility of payment.* The legal owners of the subject property at the time of occupational tax assessment will be liable to the City for any additional occupation taxes levied. The original business owners and the subsequent business owners will be responsible for ensuring the occupational taxes paid to the City are internally balanced within the sale or acquisition transaction between the parties. The City will not make any demands or requests for refunds to any business, owner, or entity for claims regarding the overpayment of occupational taxes brought by acquiring business owners nor any other party.
- (d) *Compliance with current zoning.* All businesses must be in compliance with current zoning standards. Non-conforming use permits and approvals are non-transferrable. If a business owner operated a business based on an approved non-conforming use, the non-conforming use is not transferrable to acquiring business owners. Acquiring business owners must apply for a non-conforming use permit in conformity with the provisions of Chapter 93 (Zoning) to acquire approval for any non-conforming uses.
- (e) *Payment of future occupational tax.* The payment of future occupation taxes levied under this article shall be in accordance with the provisions set forth herein.

Section Three. Codification and Certify. This Ordinance adopted hereby shall be codified and certified in a manner consistent with the laws of the State of Georgia and the City.

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Section Four. Severability.

(a) It is hereby declared to be the intention of the Mayor and Council that all sections, paragraphs, sentences, clauses and phrases of this Ordinance are or were, upon their enactment, believed by the Mayor and Council to be fully valid, enforceable and constitutional.

(b) It is hereby declared to be the intention of the Mayor and Council that, to the greatest extent allowed by law, each and every section, paragraph, sentence, clause or phrase of this Ordinance is severable from every other section, paragraph, sentence, clause or phrase of this Ordinance. It is hereby further declared to be the intention of the Mayor and Council that, to the greatest extent allowed by law, no section, paragraph, sentence, clause or phrase of this Ordinance is mutually dependent upon any other section, paragraph, sentence, clause or phrase of this Ordinance.

(c) In the event that any phrase, clause, sentence, paragraph or section of this Ordinance 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 Mayor and Council 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 sections of the Ordinance and that, to the greatest extent allowed by law, all remaining phrases, clauses, sentences, paragraphs and sections of the Ordinance shall remain valid, constitutional, enforceable, and of full force and effect.

Section Five. Repeal of Conflicting Ordinances. All ordinances and parts of ordinances in conflict herewith are hereby expressly repealed.

Section Six. Effective Date. The effective date of this Ordinance shall be the date of adoption unless otherwise stated herein.

ORDAINED this _____ day of _____, 2019.

CITY OF HAPEVILLE, GEORGIA

Alan Hallman, Mayor

ATTEST:

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Crystal Griggs-Epps, City Clerk

APPROVED BY:

City Attorney