

AN ORDINANCE TO AMEND THE ORDINANCE ADOPTED BY THE BOARD OF SUPERVISORS OF PATRICK COUNTY, VIRGINIA, EFFECTIVE SEPTEMBER 10, 2003, AND AMENDED MAY 10, 2004, ENTITLED "TRANSIENT OCCUPANCY TAX ORDINANCE".

BE IT ORDAINED by the Board of Supervisors of Patrick County, Virginia, as follows:

At a Business Meeting of the Board of Supervisors of the County of Patrick, held at the Patrick County Veteran's Memorial Building on Thursday, December 30, 2021, at 9:00 a.m.

On motion by Clyde DeLoach to adopt the proposed Transient Occupancy Tax Ordinance seconded by Denise Stirewalt and carried 4:1.

Voting Aye: Stirewalt, Kendrick, DeLoach, Harris

Voting Nay: Fulk

Definitions

The following words, terms and phrases, when used in this ordinance, shall have the meanings ascribed to them as set forth as follows, except where the context clearly indicates a different meaning:

Accommodations – shall mean, any room or space for which tax is imposed on the retail sale pursuant to this Ordinance and includes but is not limited to, any public or private hotel, inn, apartment, hostelry, tourist home or house, motel, rooming house, or other lodging place within the County offering lodging and the owner and operator thereof, who for compensation, furnishes lodging to any transients as hereinafter defined.

Accommodations fee – shall mean the room charge less the discount room charge, if any, provided that the accommodations fee shall not be less than \$0.

Accommodations intermediary – shall mean any person other than an accommodations provider that facilitates the sale of an accommodation, charges a room charge to the customer, and charges an accommodations fee to the customer, which fee it retains as compensation for facilitating the sale. For purposes of this definition, "facilitates the sale" includes brokering, coordinating, or in any other way arranging for the purchase of the right to accommodations via a transaction directly, including via one or more payment processors, between a customer and an accommodations provider.

Accommodations provider – shall mean any person that furnishes accommodations to the general public for compensation. The term "furnishes" includes the sale of use or possession or the sale of the right to use or possess.

Hotel - shall mean, but is not limited to, any public or private hotel, bed & breakfast, inn, hostelry, tourist home or house, tourist camp, tourist cabin, camping grounds, motel, rooming house or other lodging place within the County offering lodging, for compensation, to any transient.

Lodging – shall mean, but is not limited to, any room, accommodation, or space furnished to any transient, including the provision of utilities or other services to that room, accommodation or space.

Retail sale – shall mean the sale or charge for any room or rooms, lodging, or accommodations furnished to transients for less than ninety (90) continuous days by any hotel, motel, inn, tourist camp, tourist cabin, camping ground, club, or any other place in which rooms, lodging, space, or accommodations are regularly furnished to transients for consideration.

Room rental – shall mean the full retail price charged to the transient for the use of the accommodations, including any accommodations fee, before taxes. Any additional charges made in connection with the rental of accommodations are deemed to be part of the charge for the room and are subject to the tax. Toll charges for long-distance calls are not subject to the tax.

Transient – shall mean any person who, for any period of not more than thirty (30) consecutive days, either at his own expense or at the expense of another, obtains the use or possession of a room or space occupied for lodging in any apartment, hotel, townhouse, private home, campground or like buildings for rent to transients for which lodging or use of space for a price is charged.

Travel campground – shall mean any area, site, lot, field or tract of land offering spaces for recreational vehicles or campsites for transient dwelling purposes, or temporary dwelling during travel, or recreational or vacation uses.

Levy of tax.

There is hereby levied and imposed on each transient a tax equivalent to five percent (5%) of the total amount paid by the customer for the use or possession of a room or space occupied for lodging after midnight of January 1, 2004, by or for any such transient. No more than two percent of the five percent levied shall lie expended for administration of this tax and for the general budget; the remainder shall be expended for the promotion of tourism in Patrick County.

Exemptions.

No tax shall be payable hereunder on lodging paid to any hospital, medical clinic, convalescent home, or home for the aged. No tax shall be payable on charges for lodging paid by any official or employee of the federal government or of this state or County, when on official business and upon the presentation of proper identification.

Collection.

For any retail sale of accommodations not facilitated by an accommodations intermediary, the accommodations provider shall collect the amount of tax hereby imposed from the transient, computed on the total price paid for the use or possession of the accommodations and shall remit the same to the County and shall be liable for the same.

For any retail sale of accommodations facilitated by an accommodations intermediary, the accommodations intermediary shall be deemed as a facility making a retail sale of an accommodation. The accommodations intermediary shall collect the tax imposed pursuant to this ordinance, computed on the room charge. When the accommodations are at a hotel, the

accommodations intermediary shall remit the taxes on the accommodations free to the locality and shall remit any remaining taxes to the hotel, which shall remit such taxes to the County. When the accommodations are at any other accommodations, the accommodations intermediary shall remit the taxes on the room charge to the County.

An accommodations intermediary shall not be liable for taxes under this ordinance remitted to an accommodations provider but that are then not remitted to the County by the accommodations provider. For any retail sale of accommodations facilitated by an accommodations intermediary, an accommodations provider shall be liable for that portion of the taxes under this section that relate to the discount room charge only to the extent that the accommodations intermediary has remitted such taxes to the accommodations provider.

In any retail sale of any accommodations in which an accommodations intermediary does not facilitate the sale of the accommodations, the accommodations provider shall separately state the amount of the tax in the bill, invoice, or similar documentation and shall add the tax to the total price paid for the use or possession of the accommodations. In any retail sale of an accommodations in which an accommodations intermediary facilitates the sale of the accommodations, the accommodations intermediary shall separately state the amount of the tax on the bill, invoice, or similar documentation and shall add the tax to the room charge; thereafter, such tax shall be a debt from the customer to the accommodations intermediary, recoverable at law in the same manner as other debts.

Reports and Remittances.

Every person receiving payment for a lodging for which a tax is levied under this ordinance shall make out a report for each quarter showing the amount of charges collected for room rental and the amount of tax required to be collected. Such reporting shall show the total price paid by the customer (excluding any taxes) for the use or possession of a room or space occupied for lodging by or for a transient and the tax required to be collected.

The monthly reports shall be made on forms prescribed by the Commissioner of the Revenue and shall be signed by the owner or operator of the room or space occupied for lodging. They shall be delivered to the Commissioner of the Revenue on or before the twentieth (20th) day of the calendar month following the month being reported. The remittance of the amount of tax due shall be paid to the County Treasurer.

Discount.

For the purpose of compensating those responsible for the collection of the tax imposed by this ordinance, every owner or operator of the room or space occupied for lodging shall be allowed three percent (3%) of the amount of the tax due and accounted for in the form of a deduction on his monthly return, provided the amount due is not delinquent at the time of payment.

Collections in trust for the County.

All amounts collected as taxes under this ordinance shall be deemed to be held in trust by the person collecting them until remitted to the County.

Penalty and interest for failure to remit tax.

If any person whose duty it is to do so shall fail or refuse to remit the tax required by this ordinance within the time and in the amount required, there shall be added to the tax by the Treasurer a penalty in the amount of ten percent (10%) of the tax, and interest thereon at the rate of ten percent (10%) per annum, which shall be computed upon the tax and penalty from the date such were due and payable.

Advertising payment or absorption of tax prohibited.

No owner or operator of a room or space occupied for lodging shall advertise or hold out to the public in any manner, directly or indirectly, that all or any part of a tax imposed under this ordinance will be paid or absorbed by that person or by anyone else, or that the person or anyone else will relieve any transient of the payment of all or any part of the tax.

Preservation of records.

It shall be the duty of every person liable for collection and remittance of the taxes imposed by this ordinance to keep and preserve, for a period of two (2) years, records showing all lodging taxable under this ordinance, the amount charged for each lodging, the date thereof, the taxes collected thereon, and the amount of tax required to be collected by this ordinance. The Commissioner of the Revenue and his or her employees or agents shall have the power to examine such records at reasonable times and without unreasonable interference with the business of such person for the purpose of administering and enforcing the provisions of this ordinance and to make transcripts or copies of all or any parts thereof.

Duty of person going out of business.

Whenever any person required to collect and remit to the County any tax imposed by this ordinance shall cease to operate or otherwise dispose of his or her business, the tax shall immediately become due and payable and the person shall immediately make report and remittance thereof.

Commissioner of the Revenue; other powers and duties.

It shall be the duty of the Commissioner of the Revenue to ascertain the name of every person operating a room or space occupied for lodging in the County liable for the collection of the tax levied in this ordinance.

The Commissioner of the Revenue shall have the power to adopt rules and regulations not inconsistent with the provisions of this ordinance for the purpose of carrying out and enforcing this ordinance. A copy of such rules and regulations shall be on file and available for public examination in the Commissioner of the Revenue's office. Failure or refusal to comply with any rules and regulations promulgated under this ordinance shall be deemed a violation of this ordinance.

Commissioner of the Revenue to ascertain names of violators of article; issuance of summons to violators.

- (a) It shall be the duty of the Commissioner of the Revenue to ascertain the name of every person in the County liable for the collection of the tax imposed by this ordinance who fails, refuses or neglects to collect such tax or to make the reports and remittances required by this ordinance. The Commissioner of the Revenue may

have issued a summons for such person, and the summons may be served upon such person by the County Sheriff or Deputy Sheriffs in the manner provided by law. The Commissioner of Revenue may seek a conviction or other civil remedy, including injunction, against such person.

- (b) If any transient refuses to pay the tax imposed by this ordinance, the person providing the lodging to the transient may call upon the Sheriff's Department for assistance, and the investigating law enforcement officer may, when probable cause exists, issue the transient a summons returnable to the general district court as provided by law.

Violations.

Any person violating or failing to comply with any of the provisions of this ordinance shall, upon conviction thereof, be guilty of a Class 3 Misdemeanor. Conviction shall not relieve any person from the payment, collection, or remittance of the tax, penalties and interest as provided in this ordinance. Each violation or failure shall be a separate offense.