



County of Washington, Virginia
COUNTY ADMINISTRATION BUILDING
1 GOVERNMENT CENTER PLACE
ABINGDON, VIRGINIA 24210

BOARD OF SUPERVISORS

BOARD OF SUPERVISORS

MIKE RUSH

CHAIRMAN
E-11 "TAYLOR" ELECTION DISTRICT

RANDY L. PENNINGTON

VICE-CHAIRMAN
B-11 "JEFFERSON" ELECTION DISTRICT

PHILLIP B. MCCALL

A-11 "HARRISON" ELECTION DISTRICT

CHARLIE S. HARGIS JR.

C-11 "MADISON" ELECTION DISTRICT

C. WAYNE STEVENS JR.

D-11 "MONROE" ELECTION DISTRICT

SAUL A. HERNANDEZ

F-11 "TYLER" ELECTION DISTRICT

DWAYNE A. BALL

G-11 "WILSON" ELECTION DISTRICT

At a meeting of the Washington County Board of Supervisors, held the meeting on the June 11th, 2024, at 6:30 p.m., at the County Government Center Building in Abingdon, Virginia, the following were present:

PRESENT

Mike Rush, Chairman
Phillip McCall
Randy L. Pennington
Charlie Hargis
Wayne Stevens

REPRESENTING

E-11 "Taylor" Election District
A-11 "Harrison" Election District
B-11 "Jefferson" Election District
C-11 "Madison" Election District
D-11 "Monroe" Election District

Jason Berry, County Administrator
Brandon Snodgrass, County Attorney
Tammy Sturgill, Director of Budget and Finance

ABSENT

Saul Hernandez
Dewayne Ball

F-11 "Tyler" Election District
G-11 "Wilson" Election District

At the aforementioned meeting, on Motion of Mr. Pennington, second by Mr. Stephens, Ordinance Number was 2024-05, adopted, as follows.

AN ORDINANCE TO AMEND ARTICLE VII, SECTION 58-252 OF CHAPTER 58 OF THE CODE OF THE COUNTY OF WASHINGTON, VIRGINIA, TO UPDATE THE TRANSIENT OCCUPANCY TAX

WHEREAS, the Board of Supervisors of Washington County, Virginia, by ordinance imposed a transient occupancy tax in accordance with Article 6 of Code of Virginia Title 58.1, Chapter 38;

WHEREAS, the Board of Supervisors of the County of Washington, Virginia finds it necessary to revise its local ordinance to increase the transient occupancy tax to seven percent to remain competitive with surrounding localities.

NOW, THEREFORE, ON THE BASIS OF THE FOREGOING, and in consideration of the best interests of the public health, welfare, and safety, and having held a public hearing on this proposed ordinance, the Board of Supervisors of the County of Washington, Virginia hereby ordains the following:

1. That this ordinance shall be deemed effective immediately upon its adoption by the Board;
2. That should any section or provision of this ordinance be decided to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity or constitutionality of any other section or provision of this ordinance or the Washington County Code;
3. That Section 252 of Chapter 58 of the Code of the County of Washington, Virginia (2002, as amended) shall be revised as set forth herein, subject to Article, Division, Section, and Subsection titles and numbers amendment by the Editor as necessary for Code consistency. New language is indicated by underline, and deletions are indicated by strikethrough.

CODE OF COUNTY OF WASHINGTON, VIRGINIA

CHAPTER 58 -- TAXATION

ARTICLE VII. TRANSIENT OCCUPANCY TAX

Cross reference(s)—Businesses, Chapter. 18.

State law reference(s)—Authority of county to adopt provisions relating to transient occupancy tax, Code of Virginia, § 58.1-3819.

Sec. 58-251. 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:

Accommodations means any lodging as such is defined in this article that is furnished to transients for a consideration. Accommodations does not include rooms or space offered by a person in the business of providing conference rooms, meeting space, or event space if the person does not also offer rooms available for overnight sleeping. Accommodations shall include any room or space for which tax is imposed on the retail sale of the same pursuant to this article.

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

Accommodations intermediary means any person other than an accommodations provider that (i) facilitates the sale of an accommodation, and (ii) either (a) 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; (b) collects a room charge from the customer; or (c) charges a fee, other than 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 use accommodations via a transaction directly, including via one or more payment processors, between a customer and an accommodations provider. However, accommodations intermediary does not include a person:

- (1) If the accommodations are provided by an accommodations provider operating under a trademark, trade name, or service mark belonging to such person; or
- (2) Who facilitates the sale of an accommodation if (i) the price paid by the customer to such person is equal to the price paid by such person to the accommodations provider for the use of the accommodations and (ii) the only compensation received by such person for facilitating the sale of the accommodation is a commission paid from the accommodation provider to such person; or
- (3) Who is licensed as a real estate licensee pursuant to Virginia Code Article 1 (§54.1-2100 et seq.) of Chapter 21 of Title 54.1, when acting within the scope of such license.

Accommodations provider means 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.

Affiliate means with respect to any person, any other person directly or indirectly controlling, controlled by, or under common control with such person. For purposes of this definition, "control" (including controlled by and under common control with) shall mean the power, directly or indirectly, to direct or cause the direction of the management and policies of such person whether through ownership or voting securities or by contract or otherwise.

Commissioner means the commissioner of the revenue of the county.

Discount room charge means the full amount charged by the accommodation provider to the accommodation intermediary, or an affiliate thereof, for furnishing the accommodations.

Lodging means any bed and breakfast, public or private hotel, apartment hotel, hostelry, motel, inn, tourist camp, tourist cabin, tourist home or house, camping grounds, club, boarding house, rooming house, travel campgrounds, and or other place in the county offering short-term rental for one or more persons at any one time for dwelling, lodging, or sleeping purposes, and the owner and operator thereof, who, for compensation, furnishes such place for short-term rental to any transients as hereinafter defined.

Person means any individual, firm, partnership, association, corporation, person acting in a representative capacity or any group of individuals acting as a unit.

Retail sale means a sale to any person for any purpose other than for resale.

Room charge means the full retail price charged to the customer, before taxes, for short term

rental_of accommodations, including any fee charged to the customer and retained as compensation for facilitating the sale of such short-term rental, whether described as an accommodations fee, facilitation fee, or any other name. The room charge shall be determined in accordance with 23 VAC 10-210-730 and the related rulings of the Virginia Department of Taxation on the same.

Short-term rental means the provision of accommodations suitable or intended for occupancy for dwelling, sleeping, or lodging purposes, for a period of fewer than 30 consecutive days, in exchange for a charge for the occupancy.

Transient means any person who, for a period of fewer than 30 consecutive days, either at his own expense or at the expense of another, obtains room or space from an accommodations provider for which a charge is made.

Travel campground means any area, site, lot, field or tract of land offering spaces for recreational vehicles, campers or campsites for short term rental.

Treasurer means the treasurer of the county.

(Code 1997, § 58-241; Ord. No. 2016-003, § 3, 5-11-2016, eff. 7-1-2016; Ord. No. 2021-07, § 3, 11-9-2021)

Cross reference(s)—Definitions generally, § 1-2.

Sec. 58-252. Levy and rate.

- (a) In addition to any other tax imposed by law, there is hereby imposed and levied a transient occupancy tax on short-term rental of accommodations. The tax shall be imposed on the room charge, as such is defined in this article, that is paid by the customer for the short-term rental.
- (b) The transient occupancy tax imposed pursuant to the authority of this article shall be imposed only for the use or possession of any room or space that is suitable or intended for occupancy by transients for dwelling, lodging, or sleeping purposes.
- (c) The transient occupancy tax shall be imposed at the rate of **five seven** percent of the room charge paid by the customer for the use or possession of the room or space.
- (d) The revenue from **three five** percent of such tax shall be designated and spent solely for tourism and travel, marketing of tourism or initiatives that, as determined after consultation with the local tourism industry organizations, including representatives of lodging properties located in the

county, attract travelers to the locality, increase occupancy at lodging properties, and generate tourism revenues in the locality.

(Code 1997, § 58-242; Ord. No. 2016-003, § 3, 5-11-2016, eff. 7-1-2016; Ord. No. 2021-07, § 3, 11-9-2021)

State law reference(s)—Transient occupancy tax, Code of Virginia, § 58.1-3819(A); Imposed only on room or space suitable for dwelling, lodging, or sleeping, Code of Virginia, § 58.1-3826(A).

Sec. 58-253.Exceptions to tax.

- (a) No transient occupancy tax shall be payable on charges for rooms or spaces paid to any hospital, medical clinic, convalescent home, or home for the aged.
- (b) The transient occupancy tax shall not be levied on charges for rooms or spaces rented and continuously occupied by the same individual or same group of individuals for 30 or more days in hotels, motels, boarding houses, travel campgrounds, and other facilities offering short-term rentals.

(Code 1997, § 58-243; Ord. No. 2021-07, § 3, 11-9-2021)

State law reference(s)—Transient occupancy tax not applicable to continuous rental for 30 or more days, Code of Virginia, § 58.1-3819(B).

Sec. 58-254.Collection.

- (a) Every person receiving any payment for room rental with respect to which a tax is levied under this article shall collect the amount of tax imposed by this article at the time payment for such room rental is made. Such tax shall be deemed to be held in trust by the person required to collect the tax until remitted to the county as required by section 58-255.
- (b) For any retail sale of accommodations not facilitated by an accommodations intermediary, the accommodations provider shall collect the tax imposed pursuant to this article, imposed on the room charge as defined in this article, and shall remit the same to the locality and shall be liable for the same.
- (c) For any retail sale of accommodations facilitated by an accommodations intermediary, the accommodations intermediary shall be deemed under this article as a facility making a retail sale of an accommodation. The accommodations intermediary shall collect the tax imposed pursuant to this article, imposed on the room charge as defined in this article, and shall remit the same to the locality and shall be liable for the same;
- (d) For any transaction for the retail sale of accommodations involving two or more parties that meet the definition of accommodations intermediary, nothing in this section shall prohibit such parties from making an agreement regarding which party shall be responsible for collecting and remitting

the tax, so long as the party so responsible is registered with the locality for purposes of remitting the tax. In such event, the party that agrees to collect and remit the tax shall be the sole party liable for the tax, and the other parties to such agreement shall not be liable for such tax.

- (e) 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 room charge. In any retail sale of any accommodations in which an accommodations intermediary facilitates the sale of the accommodation, 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 accommodation intermediary, recoverable at law in the same manner as other debts.

(Code 1997, § 58-244; Ord. No. 2016-003, § 3, 5-11-2016, eff. 7-1-2016; Ord. No. 2021-07, § 3, 11-9-2021)

State law reference(s)—Transient occupancy tax collections held in trust for county, Code of Virginia, § 58.1-3819; Transient occupancy tax obligations, accommodations intermediary, and accommodations provider, Code of Virginia, § 58.1-3826.

Sec. 58-255. Reports required and remittance of tax.

- (a) The person collecting the tax levied under this article shall submit to the commissioner a report upon such forms and setting forth such information as the commissioner may prescribe and require. Such report shall show the amount of room charge, fees, and tax collected and the amount of transient occupancy tax required to be collected; and shall be signed by a duly authorized representative of the person; and shall be delivered to the commissioner with the remittance of such tax.
- (b) Such reports and remittances shall be made monthly on or before the 20th day of the month and covering the amount of tax collected during the preceding month, unless the amount of transient occupancy tax required to be collected is less than six hundred dollars (\$600.00) in any calendar year, then such reports and remittances shall be made yearly on or before the 20th day of January and covering the amount tax collected during the proceeding year. If the remittance is by check or money order, the check or money order shall be made payable to the county. All remittances pursuant to this article that are received by the commissioner must be promptly delivered to the treasurer. The commissioner and treasurer of the county shall have the power to examine pertinent records for the purpose of administering or enforcing the provisions of this article.
- (c) Additionally, together with the report and remittance required by this section, each accommodations intermediary must submit to the commissioner a monthly report that lists the

property addresses and gross receipts for all accommodations facilitated by the accommodation intermediary in the county within the preceding month.

(Code 1997, § 58-245; Ord. No. 2016-003, § 3, 5-11-2016, eff. 7-1-2016; Ord. No. 2021-07, § 3, 11-9-2021)

State law reference(s)—Authority to levy up to five percent, Code of Virginia, § 58.1-3819.

Sec. 58-256. Commission allowed for collection of tax.

Any local hotel and motel businesses, or any class thereof, collecting the transient occupancy tax shall be allowed a commission of five percent of the total amount of tax collected during each monthly reporting period, this commission to be deducted from the remittance of the amount of tax due and accounted for in each monthly reporting period specified in this article. No commission shall be allowed if the amount due is delinquent. The commission allowed in this section is for the purpose of defraying the expenses incurred by persons required to collect this tax.

(Code 1997, § 58-246; Ord. No. 2021-07, § 3, 11-9-2021)

State law reference(s)—Authority to allow commission of amount not less than three percent and not more than five percent, Code of Virginia, § 58.1-3819(D).

Sec. 58-257. Surcharge and interest.

If any person fails or refuses to remit to the commissioner of the revenue the tax required to be collected and paid under this article within the time and in the amount specified in this article, there shall be added to such tax by the treasurer a surcharge of ten percent. Further, if the tax remains delinquent and unpaid for a period of one month from the date it is due and payable, there shall be added to such tax by the treasurer interest at the rate of ten percent per annum, which shall be computed on the taxes and surcharge from the first day of the month for each month or portion thereof from the date upon which the tax was due as provided in this article.

(Code 1997, § 58-247; Ord. No. 2016-003, § 3, 5-11-2016, eff. 7-1-2016; Ord. No. 2021-07, § 3, 11-9-2021)

State law reference(s)—Penalty for failure to pay by due date, §§ 58.1-3915, 58.1-3916; Interest assessment, § 58.1-3916.

Sec. 58-258. Penalty.

It shall be unlawful for any person to fail or refuse to collect the taxes proposed under this article, or to fail or refuse to make the reports and remittance as required. Whoever violates or fails to

comply with any of the provisions of this article or any regulation promulgated pursuant thereto shall be subject to criminal prosecution and penalty in accordance with provisions of state law. Any person convicted of willful failure or refusal to file a tax return at the times required by this article will be subject to criminal penalties as follows. If the tax lawfully assessed in connection with the return that was not filed is \$1,000 or less, then such failure or refusal to file will be punishable as a Class 3 misdemeanor. If the tax lawfully assessed in connection with the return that was not filed is more than \$1,000, then such failure or refusal to file will be punishable as a Class 2 misdemeanor. In determining the penalty to be applied in the event that a person has not filed a tax return as required by this Article, the penalty will be based on the amount due to the County as determined by the Commissioner. Each such failure or refusal will constitute a separate offense. Such conviction shall not relieve any such person from the obligation of payment, collection, and remittance of such tax plus applicable penalties and interest as provided in this article.

(Code 1997, § 58-248; Ord. No. 2016-003, § 3, 5-11-2016, eff. 7-1-2016)

State law reference(s)—Penalty for failure to collect and account for tax, Code of Virginia, § 58.1-3907.

Sec. 58-259. Applicability.

The provisions of this article shall apply throughout the county, including the incorporated towns within the county that do not impose a tax on transient occupancy. The tax imposed by this article shall not be imposed in any incorporated town in the county that imposes a tax on transient occupancy.

(Code 1997, § 58-249)

Sec. 58-260. Commissioner powers and duties.

- (a) If any person required to collect and remit the tax imposed by this article fails to file a statement and a remittance, or if the Commissioner has reasonable cause to believe that an erroneous statement has been filed, the Commissioner may proceed to determine the amount due to the county pursuant to Va. Code § 58.1-3903.
- (b) The Commissioner will ascertain the name of every person operating lodging for short-term rental in the county liable for the collection of the tax levied by this article.
- (c) The Commissioner has the power to adopt rules and regulations not inconsistent with the provisions of this article and the Code of Virginia for the purpose of carrying out and enforcing the payment, collection, and remittance of the tax levied by this article; and, if adopted, shall maintain a copy of such rules and regulations on file and available for public examination in the Commissioner's office during regular office hours.

State law reference(s)—Omitted local taxes or levies, Code of Virginia, § 58.1-3903.
Secs. 58-261—58-280.Reserved.

The vote on the motion to adopt Ordinance 2024-05 was as follows:

Mr. Rush:	Aye	Mr. Stevens:	Aye
Mr. McCall:	Aye	Mr. Pennington:	Aye
Mr. Hargis:	Aye	Mr. Ball:	Absent
Mr. Hernandez:	Absent		

I hereby certify that the foregoing is a true and exact extract copy of the record of motion and vote as recorded for them minutes of June 11, 2024.

COUNTY OF WASHINGTON

Jason Berry, County Administrator

ATTEST:

Alicia Roland, Recording Clerk