

## **ORDINANCE NO. 21-15(5)**

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 15, TAXATION, ARTICLE 9, TRANSIENT OCCUPANCY TAX, OF THE CODE OF THE COUNTY OF ALBEMARLE, VIRGINIA

BE IT ORDAINED By the Board of Supervisors of the County of Albemarle, Virginia, that Chapter 15, Taxation, Article 9, Transient Occupancy Tax, is hereby amended as follows:

### **By Amending:**

- Sec. 15-900 Definitions
- Sec. 15-901 Transient occupancy tax imposed; amount.
- Sec. 15-902 Collecting and remitting the tax; reports.
- Sec. 15-903 Preserving records.
- Sec. 15-905 Enforcement; duty of Director of Finance.

### **By Amending and Renaming:**

- Sec. 15-904 Duty of ~~lodging provider~~ when going out of business.

## **Chapter 15. Taxation**

### **Article 9. Transient Occupancy Tax**

#### **Sec. 15-900 Definitions.**

As used in this article, the terms that appear in Virginia Code § 58.1-3818.8 have the definitions given in that section.

(Code 1988, § 8-41; Ord. No. 98-8(2), 6-10-98; § 15-900, Ord. 98-A(1), 8-5-98; Ord. 17-15(1), adopted 6-14-17, effective 8-1-17; Ord. 19-15(1), 4-17-19; Ord. 21-15(5), 12-1-21)

**State law reference(s)**—Va. Code §§ 58.1-3818.8, 3819.

#### **Sec. 15-901 Transient occupancy tax imposed; amount.**

A transient occupancy tax is hereby imposed on the use or possession of all rooms or spaces in hotels, motels, boarding houses, travel campgrounds, and other facilities offering guest rooms for fewer than 30 consecutive days as follows:

- A. *Tax rate.* The rate of this tax is five percent of the amount charged for the use or possession.
- B. *Applicability of Virginia Code §§ 58.1-3819 and 58.1-3826 to this article.* Except as otherwise provided in this article, Virginia Code §§ 58.1-3819 and 58.1-3826 apply to this article.

(11-28-73; 8-15-74; 4-13-88; 3-19-97; § 8-41; Code 1988, § 8-42, Ord. No. 98-8(2), 6-10-98; § 15-901, Ord. 98-A(1), 8-5-98; Ord. 08-15(1), 10-1-08; Ord. 17-15(1), adopted 6-14-17, effective 8-1-17; Ord. 19-15(1), 4-17-19; Ord. 21-15(5), 12-1-21)

**State law reference(s)**—Va. Code §§ 58.1-3819, 3826.

#### **Sec. 15-902 Collecting and remitting the tax; reports.**

Each accommodations intermediary or accommodations provider shall collect and remit the tax imposed under this article and submit reports, in accordance with Virginia Code § 58.1-3826, and as follows:

- A. *Duty to collect the tax.* The accommodations intermediary or accommodations provider has the duty to collect the tax at the time payment for the lodging becomes due and payable, regardless of how payment is made.

- B. *Tax added to the cost of the room or space.* The accommodations intermediary or accommodations provider shall add the amount of the tax owed by the purchaser to the cost of the accommodation.
- C. *Taxes collected held in trust until they are remitted.* The taxes collected shall be held in trust by the accommodations intermediary or accommodations provider until remitted to the County.
- D. *Accommodations provider entitled to commission.* Every accommodations provider is allowed a commission of three percent of the amount of tax due and accounted for; however, an accommodations provider is not allowed a commission if any part of the amount of taxes due is delinquent at the time of payment.
- E. *Reporting.* The accommodations intermediary or accommodations provider shall complete a report on a form and containing the information as the Director of Finance may require, showing the amount of gross receipts collected and the tax required to be collected.
- F. *When report delivered and taxes remitted.* The accommodations intermediary or accommodations provider shall sign and deliver the report to the Director of Finance with remittance of the tax. The reports and remittance of the tax shall be made on or before the twentieth day of each month.

((§ 15-902: 8-15-74, 4-13-88; § 8-42; Code 1988, § 8-43, Ord. No. 98-8(2), 6-10-98; § 15-902, Ord. 98-A(1), 8-5-98) (§ 15-903: Code 1988, § 8-44; Ord. No. 98-8(2), 6-10-98; § 15-903, Ord. 98-A(1), 8-5-98) (§ 15-904: Code 1988, § 8-45; Ord. No. 98-8(2), 6-10-98; § 15-904, Ord. 98-A(1), 8-5-98); § 15-902, Ord. 19-15(1), 4-17-19; Ord. 21-15(5), 12-1-21)

**State law reference(s)**—Va. Code § 58.1-3819.

### **Sec. 15-903 Preserving records.**

Each accommodations intermediary or accommodations provider who is liable for remitting the taxes imposed by this article shall keep complete records as follows:

- A. *Records required to be kept.* The accommodations intermediary or accommodations provider shall keep records showing the gross receipts, the amount charged the purchaser for each possession or use, the date thereof, the taxes collected thereon, and the amount of tax required to be collected by this article.
- B. *How long records must be kept.* The accommodations intermediary or accommodations provider shall retain the records identified in subsection (A) for three years.
- C. *Inspection of records by the Director of Finance.* The Director is authorized to examine the records at reasonable times and without unreasonable interference for the purpose of administering and enforcing this article. The Director is authorized to make copies of any records.

(Code 1988, § 8-46; Ord. No. 98-8(2), 6-10-98; § 15-905, Ord. 98-A(1), 8-5-98; § 15-903, Ord. 19-15(1), 4-17-19; Ord. 21-15(5), 12-1-21)

**State law reference(s)**—Va. Code § 58.1-3819.

### **Sec. 15-904 Duty when going out of business.**

When any accommodations provider ceases to operate or otherwise dispose of its business, any tax payable under this article shall become immediately due and payable and that person shall immediately make a report and pay the tax due.

(Code 1988, § 8-47; Ord. No. 98-8(2), 6-10-98; § 15-906, Ord. 98-A(1), 8-5-98; § 15-904, Ord. 19-15(1), 4-17-19; Ord. 21-15(5), 12-1-21)

**State law reference(s)**—Va. Code § 58.1-3819.

### **Sec. 15-905 Enforcement; duty of Director of Finance.**

The Director of Finance may promulgate rules and regulations for the interpretation, administration, and enforcement of this article. The Director shall ascertain the name of every accommodations provider liable for collecting the tax imposed under this article who fails, refuses, or neglects to collect the tax or to make the reports and remittances required by this article.

(Code 1988, § 8-48; Ord. No. 98-8(2), 6-10-98; § 15-907, Ord. 98-A(1), 8-5-98; § 15-905, Ord. 19-15(1), 4-17-19; Ord. 21-15(5), 12-1-21)

**State law reference(s)**—Va. Code § 58.1-3819.

### **Sec. 15-906 Violations of article.**

- A. *Class 1 misdemeanor.* Any person who commits the following acts shall be guilty of a Class 1 misdemeanor:
1. *Willful failure to collect, account for, or remit.* Any corporate or partnership officer as defined in Virginia Code § 58.1-3906, or any other person required to collect, account for, and remit the tax under this article, who willfully fails to collect or truthfully account for, and remit any such tax.
  2. *Evasion or attempt to evade.* Any person who willfully evades or attempts to evade the tax or payment thereof.
- B. *Conviction does not relieve.* A person's conviction under this section does not relieve any person from the payment, collection, or remittance of the taxes or penalties provided for in this article.
- C. *Agreement to pay taxes or penalties does not relieve criminal liability until fully paid.* Any agreement by any person to pay the taxes or penalties provided for in this article by a series of installment payments does not relieve any person of criminal liability for violating this article until the full amount of taxes and penalties agreed to be paid by that a person is received by the Director of Finance.
- D. *Each violating act is a separate offense.* Each failure, refusal, neglect, or violation, and each day's continuance thereof, is a separate offense.

(Code 1988, § 8-52; Ord. No. 98-8(2), 6-10-98; § 15-911, Ord. 98-A(1), 8-5-98; Ord. 07-15(2), 10-3-07, effective 1-1-08; § 15-906, Ord. 19-15(1), 4-17-19)

**State law reference(s)**—Va. Code §§ 58.1-3906, 58.1-3907; as to punishment for class 1 misdemeanor, see § 18.2-11.

I, Claudette K. Borgersen, do hereby certify that the foregoing writing is a true, correct copy of an Ordinance duly adopted by the Board of Supervisors of Albemarle County, Virginia, by a vote of \_\_\_\_\_ to \_\_\_\_\_, as recorded below, at a regular meeting held on \_\_\_\_\_.

\_\_\_\_\_  
Clerk, Board of County Supervisors

	<u>Aye</u>	<u>Nay</u>
Mr. Gallaway	_____	_____
Ms. LaPisto-Kirtley	_____	_____
Ms. Mallek	_____	_____
Ms. McKeel	_____	_____
Ms. Palmer	_____	_____
Ms. Price	_____	_____