

## ARTICLE XII. TRANSIENT OCCUPANCY TAX

### Sec. 47-1. 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:

**Treasurer** means the Treasurer of Floyd County, Virginia or deputy treasurer.

**Commissioner of Revenue** means the Commissioner of Revenue of Floyd County, Virginia or deputy commissioner.

**Hotel** includes, but is not limited to, any public or private hotel, inn, apartment hotel, hostelry, tourist home or house, motel, boardinghouse, bed and breakfast or other lodging place within the county offering lodging to any transient for compensation.

**Lodging** includes, but is not limited to, any space or room furnished any transient.

**Person** includes, but is not limited to, an individual, firm, partnership, association, corporation, person acting in a representative capacity, or any group of individuals acting as a unit.

**Room rental** means the total charge, exclusive of any tax imposed on such charge, made by any hotel or travel campground for lodging or use of space furnished any transient. If the charge made by any hotel or travel campground to a transient includes any charge for services or accommodations in addition to that of lodging or use of space, then such portion of the total charge as represents only lodging or space rental shall be distinctly set out and billed to such transient by such hotel as a separate item.

**Transient** means the same person who, for a period of less than 30 consecutive days, either at his own expense or at the expense of another, obtains lodging or use of space in any hotel or travel campground, for which lodging or use of space a charge is made.

**Travel campground** means 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, recreational or vacation uses.

**State law:** § 58.1-3819 of the Code of Virginia.

### Sec. 47-2. Levy; amount; expenditure.

There is hereby imposed and levied by the county on each transient tax in the amount of five percent (5%) of the total amount paid for lodging by or for any transient to any hotel or travel campground. Such tax shall be collected from such transient at the time and in the manner provided in this article. Any excess tax collected over two percent (2%) shall be designated and spent as provided pursuant to § 58.1- 3819 of the Code of Virginia, as amended.

### Sec. 47-3. Collection.

Every person receiving any payment for lodging with respect to which a tax is levied under this article shall collect the amount of tax thereby imposed from the transient on whom the tax is levied, or from the person paying for such lodging at the time payment for such lodging 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 in this article.

#### **Sec. 47-4. Reports and remittance of tax.**

The person collecting the tax levied under this article shall make a report upon such forms and setting forth such information as the Commissioner of Revenue may prescribe and require. Such reports shall show the amount of lodging charges collected and the tax required to be collected, and shall be signed and delivered to the Commissioner of Revenue with a remittance of such tax. Such report and remittance shall be made at least once in every 30-day period and not later than the 20th day of the month next following the month in which such tax was collected.

#### **Sec. 47-5. Penalty for failure to file report or pay tax; interest on unpaid tax.**

(a) If any person, whose duty it is so to do, shall fail or refuse to file with the Commissioner of Revenue the report required under this article within the time specified in this article, there shall be assessed a penalty in the amount of ten percent of the tax assessable on such report. Such penalty shall be assessed on the day following the day on which the report was due unless otherwise provided by Code of Virginia, § 58.1-3903, as amended. Any such penalty, when assessed, shall become a part of the tax. The imposition of such penalty shall not be deemed a defense to any criminal prosecution for failing to make any report required in this article.

(b) If any person, whose duty it is so to do, shall fail or refuse to remit to the Commissioner of Revenue the tax required to be collected and paid under this article within the time specified in this article, there shall be assessed a penalty in the amount of ten percent of the tax past due. Such penalty shall be assessed on the day following the day on which the tax was due unless otherwise provided by Code of Virginia, § 58.1-3903, as amended. Any such penalty, when assessed, shall become a part of the tax.

(c) In addition, there shall be assessed interest at the rate of ten percent per year on the amount of tax past due, which interest shall commence on the day following the day on which the tax was due unless otherwise provided by Code of Virginia, § 58.1-3903, as amended.

#### **Sec. 47-6. Procedure upon failure to file return or pay tax.**

If any person shall fail or refuse to collect the tax imposed under this article or to make within the time provided in this article the reports and remittance required in this article, the Commissioner of Revenue shall make an estimate of the amount of taxes due the county by such person upon the best information available and shall proceed to determine and assess against such person such tax and penalty and interest as provided for in this article. The Commissioner of Revenue shall notify such person by registered mail, sent to his last known place of address, of the amount of such tax and interest and penalty, and the total amount thereof shall be payable within ten days from the date of such notice. The Commissioner of Revenue shall have the power to examine such books and records as is provided for by law.

#### **Sec. 47-7. Criminal penalties.**

Any corporate or partnership officer as defined in Code of Virginia, § 58.1-3906, or any other person required to collect, account for and pay over the tax levied in this article who willfully fails to collect or truthfully account for and pay over such tax, and any such officer or person who willfully evades or attempts to evade any such tax or the payment thereof, shall be guilty of a class 1 misdemeanor.

All other provisions of said Ordinance not in conflict herewith shall remain in full force and effect. This amendment shall become effective immediately upon adoption.

Adopted by the following recorded vote this 8th day of July, 2008:

	Aye		Nay
David W. Ingram	<u>      </u>	absent	<u>      </u>
J. Fred Gerald	<u>      </u>		<u>  X  </u>
W. R. Gardner, Jr.	<u>  X  </u>		<u>      </u>
Jerry W. Boothe	<u>  X  </u>		<u>      </u>
Virgel H. Allen	<u>  X  </u>		<u>      </u>

ATTEST Dan J. Campbell  
Dan J. Campbell  
County Administrator