ARTICLE XII. TRANSIENT OCCUPANCY TAX

Sec. 70-268. Statement of purpose and intent.

This article is enacted to exercise the power granted to the Board of Supervisors of Louisa County to levy a tax on the total amount paid for transient room rentals, as defined herein. This power is granted pursuant to the Code of Virginia, § 58.1-3819. The purpose of this tax is to generate revenue for tourism, marketing, and service improvements in Louisa County, enhancing local economic development and community welfare.

(Ord. of 6-17-24(2024-8))

Sec. 70-269. Definitions.

For the purpose of this article, the following terms shall have the meanings ascribed:

Accommodations: any room or rooms, lodgings, accommodations or space at a Lodging Establishment for which tax is imposed on the retail sale of the same pursuant to this Article.

Accommodations Provider: 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.

Accommodations Fee: The amount paid to or retained by the accommodations intermediary for facilitating the sale. The accommodations fee shall be distinctly set out as a separate fee.

Accommodations intermediary: Any person other than an accommodations provider who facilitates the sale of an accommodation and either: (1) charges a room charge to the transient which includes an accommodations fee, which fee it retains as compensation for facilitating the sale; (2) collects a room charge from a transient; or (3) charges a fee, other than an accommodations fee, to the transient, which fee it retains as compensation for facilitating the sale. For the 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 transient and an accommodations provider. An accommodations intermediary is deemed to be a dealer making a retail sale of an accommodation.

"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 that person;

(2) Who facilitates the sale of an accommodation if (i) the price paid by the transient to the person is equal to the price paid by the transient to the Accommodations Provider for the accommodations, and (ii) the only compensation received by the person facilitating the sale of the accommodation is a commission paid from the Accommodations Provider to that person; or

(3) Who is licensed as a real estate licensee pursuant to Virginia Code § 54.1-2100 et seq. and acting within the scope of such license.

Lodging Establishment : Any hotel, motel, inn, bed and breakfast, or other facility offering guest rooms rented out for continuous occupancy for fewer than 30 consecutive days.

Retail Sale: A sale to any person for any purpose other than for resale. The term "retail sale" includes the sale or charges for any accommodations furnished to transients for less than thirty (30) consecutive days.

Room Charge: ~~*rental:* The total charge made by a lodging establishment for the use and occupancy of any room or space furnished to a transient~~. The total retail price charged, before taxes, by the Accommodations Provider for transient's use and occupancy of the Accommodations, including any fee charged to a transient and retained as compensation for facilitating the sale, whether described as an accommodations fee, facilitation fee, or any other name.

Transient: Any person who, for a period of ~~not more than~~ less than thirty (30) consecutive days, obtains lodging at a lodging establishment for which a charge is made.

Transient occupancy tax (TOT): A tax imposed on the total charge for room rental in a lodging establishment.

(Ord. of 6-17-24(2024-8)) (Ord .)

Sec. 70-270. Levy of tax; amount.

A transient occupancy tax of seven percent is hereby levied and imposed on the total amount paid for room charges ~~room rentals~~ by every transient for the use or possession of accommodations in ~~any lodging establishment~~ in the County.

This tax shall be in addition to any other taxes imposed by law.

(Ord. of 6-17-24(2024-8)) (Ord.)

Sec. 70-271. Collection of tax by ~~lodging establishments~~ Accommodations Provider.

~~Every lodging establishment in Louisa County shall collect the total amount of TOT from the transient at the time of payment for the room rental. The lodging establishment shall hold these funds in trust until remitted to the county.~~

For retail sales of Accommodations, not facilitated by an Accommodations Intermediary, the Accommodations Provider shall be liable for and collect from the transient, at the time of payment of the room charges, the total amount of the TOT.

The tax collected under this Article shall be deemed to be held in trust for the County, by the Accommodations Provider, until remitted to the County.

(Ord. of 6-17-24(2024-8))

Sec. 70-272. Reports and remittances.

Each ~~lodging establishment~~ Accommodations Provider, with respect to which a tax is levied under this article, shall make out a report, upon such forms and setting forth such information as the commissioner of the revenue may prescribe and require, including all purchases taxable under this article, the amount charged the purchaser for each such purchase, the date thereof, the taxes collected thereon and the amount of tax required to be collected by this article, and shall sign and deliver such report to the commissioner of the revenue with a remittance of such tax made payable to the treasurer of the county. Such reports and remittances shall be made on or before the twentieth day of each month, covering the amount of tax collected during the preceding month.

(Ord. of 6-17-24(2024-8);

An Accommodations Provider shall not be required to transmit a report to the Commissioner of the Revenue if (i) all retail sales of accommodations owned by the accommodations provider are facilitated by an Accommodations Intermediary and (ii) the accommodations provider attests to the locality that all such sales were facilitated by an Accommodations Intermediary. Such attestation shall be effective for 12 months beginning with the month in which the attestation is made. Thereafter, such attestation shall be due annually on a date determined by the locality. However, such accommodations provider shall transmit returns for the retail sale of any accommodations not facilitated by an accommodations intermediary as otherwise required by this article

An Accommodations Intermediary shall submit to the Commissioner of Revenue the property addresses and gross receipts for all accommodations facilitated by the Accommodations Intermediary in the County. Such information shall be submitted monthly. The information provided to the Commissioner of Revenue or any other local tax or revenue officer or employee of the Couty or any other person to whom such tax information is divulged, shall be confidential and shall not be divulged to any other department or official of the locality or any other political subdivision of the Commonwealth. Such information shall be used by such officials only for the purpose of levying and collecting retail sales and use tax, transient occupancy tax, and other taxes imposed on the sale of accommodations

(Ord)

Sec. 70-273. Enforcement and administration.

The commissioner of the revenue shall promulgate rules and regulations for the interpretation, administration, and enforcement of this article. It shall also be the duty of the commissioner of the revenue to ascertain the name of every ~~seller~~ Accommodations Provider liable for collection of the tax imposed by this article, who fails, refuses or neglects to collect such tax or to make the reports and remittances required by this article.

(Ord. of 6-17-24(2024-8)) (Ord. of 7 - - 22026)

Sec. 70-274. Penalties for noncompliance.

(a) *Late filing and remittance penalties.* If any lodging establishment, required to collect and remit the transient occupancy tax, fails or refuses to file any report required by this article, or to remit to the county treasurer the tax within the specified time and amount, a penalty shall be imposed. The penalty will be ten percent of the total tax amount due for the first month the tax is past due. An additional five percent penalty will be added for each subsequent month the tax remains unpaid. The total penalty shall not exceed 25 percent of the total tax due or $10.00, whichever is greater. The total penalty shall not exceed the amount of the tax assessed.

(b) *Penalties for fraudulent returns.* In the case of a false or fraudulent return filed with the intent to defraud the county of any tax due under this article, a penalty of 50 percent of the tax shall be assessed against the lodging establishment responsible for collecting such tax.

(Ord. of 6-17-24(2024-8))

Sec. 70-275. Exemptions.

Certain types of lodging or circumstances may be exempt from the TOT as determined by the Board of Supervisors and in accordance with state law.

No transient occupancy tax shall be payable on charges for accommodations paid to any hospital, medical clinic, convalescent home, or home for the aged.

(Ord. of 6-17-24(2024-8)) (Ord.)

Sec. 70-276. Severability.

If any section, subsection, sentence, clause, phrase, or portion of this article is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

(Ord. of 6-17-24(2024-8))

Sec. 70-277. Discount.

For the purpose of compensating ~~sellers~~ Accommodations Providers for the collection of the tax~~es~~ imposed by this article, every ~~seller~~ Accommodations Provider shall be allowed five percent 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.

(Ord. of 6-17-24(2024-8) (Ord.)

~~**Sec. 70-278. Effective date.**~~

~~This article shall be in full force and effect from July 1, 2024, following its passage and adoption.~~

~~(Ord. of 6-17-24(2024-8))~~