

AN ORDINANCE AMENDING AND REPLACING “ARTICLE IX. - TRANSIENT  
OCCUPANCY TAX” OF THE CODIFIED ORDINANCES OF THE COUNTY OF BLAND,  
VIRGINIA

**WHEREAS**, Section 58.1-3819 of the Code of Virginia, which enabled localities to levy a transient occupancy tax, was significantly revised by action of the Virginia General Assembly in 2021 to provide for collection of the tax when accommodations are booked through an intermediary; and

**WHEREAS**, the Board of Supervisors desires to conform the County's ordinance governing collection and remittance of a transient occupancy tax to the revised form of Section 58.1-3819 of the Code of Virginia.

**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 Bland, Virginia hereby ordains the following:

**Article IX is hereby amended and replaced as follows (underlines are additions, strikethroughs are deletions):**

ARTICLE IX. - TRANSIENT OCCUPANCY TAX

Sec. 50-270. – Definitions.

Accommodations means 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 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 use accommodations via a transaction directly, including via one or more payment processors, between a customer and an accommodations provider. 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 accommodations provider to such person.

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. Accommodations provider shall include hotel, motel, inn, tourist camp, tourist cabin, camping grounds, club, boarding houses, travel campgrounds, and other persons offering a room or space that is suitable or intended for occupancy by transients for

dwelling, lodging, or sleeping purposes.

*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 accommodations provider to the accommodations intermediary, or an affiliate thereof, for furnishing the accommodations.

*Hotel* means any public or private hotel, inn, apartment hotel, hostelry, tourist home or house, motel, boardinghouse, rooming house, bed and breakfast, or other lodging place in the county which offers lodging to any transient for compensation.

*Lodging* means any space or room furnished to any transient.

*Person* includes 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 by the accommodations intermediary or by the accommodations provider, as applicable, for the use of the

accommodations, including without limitation any accommodations fee and accommodations intermediary fee, before taxes.

Short-term rental means the provision of a room or space that is 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 6 vehicles, campers or campsites for transient dwelling purposes, or temporary dwelling during 7 travel, camping, recreation or vacation uses.

Treasurer means the treasurer of the county.

Sec. 50-271. - Levy of tax; amount.

~~Pursuant to the authority granted under the Code of Virginia, § 58.1-3819, there is hereby imposed upon every hotel, motel, boarding house, and travel campground within the county, a transient occupancy tax of five percent of the amount of charge for the occupancy of any room or space occupied, except that, such tax shall not apply to rooms or spaces rented for continuous occupancy by the same individual or group for 30 or more days. As per the Code of Virginia, § 58.1-3819, any excess over two percent 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.~~

- a. In addition to any other tax imposed by law, there is hereby imposed and levied a transient occupancy tax on hotel, motel, inn, tourist camp, tourist cabin, camping

grounds, club, boarding houses, travel campgrounds, and other facilities offering room or space rented out for continuous occupancy for fewer than 30 consecutive days.

- 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 percent of the room charge paid by the customer for the use or possession of the room or space.
- d. The revenue from three 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 county.
- e. 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. 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.

Sec. 50-272. - Payment and collection of tax.

~~It shall be the duty of each hotel, motel, boarding house, and travel campground to collect from the occupant the tax hereby imposed and levied and collected during each calendar month shall be reported and paid by each such business to the treasurer on or before the 15th day of the second next calendar month thereafter. The required report shall be in a form prescribed by the commissioner of revenue who shall be responsible for enforcement of this article.~~

- 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 in this article.
- 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 and shall remit the same to the county and shall be liable for the same.
- c. For any retail sale of accommodations facilitated by an accommodations intermediary, the accommodations intermediary shall collect the tax imposed pursuant to this article and shall remit the same to the locality and shall be liable for the same, except as follows. When the accommodations are at a hotel, the accommodations intermediary shall remit the taxes on the accommodations fee to the county and shall remit any remaining taxes to the hotel, which shall remit such taxes to the county. When the accommodations are at a short term rental, as defined by Virginia Code §15.2-983, or at any other accommodations, the accommodations intermediary shall remit the taxes on the room charge to the county.
- d. An accommodations intermediary shall not be liable for taxes under this article 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 article that relate to the discount room charge only to the extent that the accommodations intermediary has remitted such taxes to the accommodations provider.

- 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 accommodations intermediary, recoverable at law in the same manner as other debts.
- f. The tax hereby imposed and levied and collected during each calendar month shall be reported and paid to the commissioner of the revenue by each such person on or before the 15th day of the second next calendar month thereafter. The required report shall be in a form prescribed by the commissioner of revenue who shall be responsible for enforcement of this article. If the remittance is by check or money order, the check or money order shall be made payable to Bland County.

Sec. 50-273. - Preservation of records.

Every ~~business~~ person subject to collect the tax hereby imposed shall keep complete and accurate records which shall show the amount of room charge, fees, and tax collected and the amount of transient occupancy tax required to be collected and any other record necessary to document the calculation of or collection of the applicable fees or tax. ~~the number of rooms or spaces occupied, the date thereof, the amount of charge for the occupancy of each such room or space and the amount of tax imposed.~~ Such records shall be available for inspection by the commissioner of revenue.

Sec. 50-274. - Violation of article; penalty.

~~A violation of any provision of this ordinance shall constitute a misdemeanor punishable by a fine of not more than \$1,000.00, 12 months in jail, or both. In addition to such penalty, the commissioner shall assess the amount of the tax owed hereunder personally against the violator, including interest from when such tax was due, owing and payable at the rate of ten percent and with a ten percent penalty on such tax for nonpayment and collect the same by any method allowed by the Code of Virginia.~~

- a. 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 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 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.
- b. 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.

This ordinance shall be deemed effective upon passage. 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 Bland County Code.