

**ORDINANCE NO. 2021-06**

**ORDINANCE AMENDING, RESTATING, AND REORDAINING CHAPTER 38,  
ARTICLE IX, OF THE CRAIG COUNTY CODE TO CONFORM WITH THE CODE OF  
VIRGINIA**

**WHEREAS**, the Craig County Board of Supervisors (the "Board") has determined that Chapter 38, Article IX of the Craig County Code merits amendment to conform with recent amendments to the Code of Virginia; and,

**WHEREAS**, Virginia Code § 58.1-3819 authorizes localities to collect transient occupancy tax on the gross proceeds of room rentals of hotels, motels, boarding houses, travel campgrounds, and other facilities offering guest rooms rented out for continuous occupancy for fewer than 30 consecutive days; and,

**WHEREAS**, Virginia Code § 58.1-3819 has been amended to provide that beginning September 1, 2021, the transient occupancy tax shall be computed upon the basis of the total charges or the total price paid for use or possession of the room(s), including fees charged by accommodations intermediaries for facilitating the sale between the accommodations provider and the person purchasing the accommodations; and,

**WHEREAS**, Virginia Code § 58.1-3826 has been amended to further provide that for any room rental where an accommodations provider contracts with an intermediary (i.e. a booking company) to facilitate the sale of accommodations and the intermediary charges the customer for the room and also an accommodations fee, the intermediary would be deemed the dealer for the transaction and would be required to separately state the taxes on the invoice and to collect the taxes on the entire amount paid for the use or possession of the room;

**WHEREAS**, after notice and public hearing, the Board of Supervisors wishes to amend the Craig County Code to comport with state law and to fully encompass the revisions embodied in §§ 58.1-3819 and 58.1-3826.

NOW, THEREFORE, BE IT ORDAINED by the Board of Supervisors of Craig County, Virginia, that Chapter 38, Article IX of the Craig County Code is hereby amended and re-numbered to read as follows:

**ARTICLE IX  
Transient Occupancy Tax**

**NOW, THEREFORE, BE IT ORDAINED** by the Craig County Board of Supervisors that Chapter 38, Article IX of the Craig County Code is hereby repealed, replaced and reordained as follows:

## ARTICLE IX. TRANSIENT OCCUPANCY TAX

### Sec. 38-300. Definitions.

The following words and phrases when used in this section shall, for the purposes of this article, have the following respective meanings, except where the context clearly indicates a different meaning:

*Accommodation(s)*: any room or rooms, lodgings, or accommodations in any hotel, motel, inn, tourist camp, tourist cabin, camping grounds, club, house, or any other place in which rooms or accommodations for lodging are regularly furnished to transients for consideration. The term accommodations includes but is not limited to any short-term rental as defined in Virginia Code § 15.2-983.

*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 item.

*Accommodations intermediary*: any person other than an accommodations provider who facilitates the sale of an accommodation, charges a room charge to the customer, and charges an accommodations fee, 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 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 that person; or
- (2) Who facilitates the sale of an accommodation if (i) the price paid by the customer to the person is equal to the price paid by the person 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.

*Accommodations provider*: any person who 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.

*Commissioner*: The commissioner of the revenue of Craig County.

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

*Room rental*: The total price, exclusive of any tax imposed on such charge, paid by the customer for the use or possession of any accommodations. If the price paid by the

customer includes any charge for services or accommodations in addition to the use or possession of the room or space at such accommodations, then the portion of such price paid by the customer for the use or possession of the room or space shall be distinctly set out and billed as a separate item.

*Total price paid:* the total price charged to the customer. It will include the room charge and the accommodations fee, if any.

*Transient:* Any individual, or group of individuals, who obtains the use or possession of any room or space in any accommodations for a period of less than 30 consecutive days for which a price is charged.

*Treasurer:* The treasurer of Craig County.

### **Sec. 38-301. Registry of Accommodations/ Short-Term Rentals.**

A. Prior to offering any property located in Craig County for transient accommodations, each accommodations provider thereof shall register with the commissioner upon such forms, and setting forth such information, as the commissioner of the revenue may prescribe. Each registration shall remain valid for a term of one (1) year, and shall be renewed by the operator annually for every year that such operator offers short-term rentals within the County.

B. An accommodations provider may register more than one property on a single registration and shall add to an existing registration any subsequent additions of property.

C. The obligations and remedies imposed herein are in addition to all other provisions of law, including without limitation the requirements imposed under the Craig County Code of Ordinances.

D. No registration shall be required pursuant to this section who is (i) licensed by the Real Estate Board or is a property owner who is represented by a real estate licensee; (ii) registered pursuant to the Virginia Real Estate Time-Share Act (§ 55-360 et. seq., Code of Virginia); (iii) licensed or registered with the Department of Health, related to the provision of room or space for lodging; (iv) licensed or registered with the County of Craig related to the rental or management of real property, including licensed real estate professionals, hotels, motels, campgrounds, and bed and breakfast establishments.

### **Sec. 38-302. Levy and rate of tax.**

In addition to any other tax imposed by law, there is hereby imposed and levied a tax of five (5) percent of the total price paid by or for a customer for use or possession of any lodging accommodations for continuous occupancy for fewer than 30 consecutive days. The tax shall be collected at the time and in the manner provided by this article.

**Sec. 38-303. Exceptions.**

No tax shall be payable hereunder in any of the following instances:

- (1) On room rental paid by any federal, state, county or city official or employee when on official business, and the government concerned either pays the rental or reimburses the employee or official.
- (2) On room rental paid to any hospital, medical clinic, convalescent home or home for aged people.

**Sec. 38-304. Collection.**

A. For sales of accommodations not facilitated by an accommodations intermediary, the accommodations provider shall collect the amount of the transient occupancy tax from the person paying for the accommodations when the charges for the accommodations are paid.

B. For sales of accommodations facilitated by an accommodations intermediary, the accommodations intermediary shall collect the transient occupancy tax computed on the total price paid.

C. The taxes required to be collected hereunder shall be deemed to be held in trust by the person required to collect the same until remitted as hereinafter required.

D. The revenues collected from that portion of the tax over two percent shall be designated and spent for promoting tourism, travel or business that generates tourism or travel for Craig County.

**Sec. 38-305. Reports and remittance.**

The person collecting transient occupancy tax shall make out a report upon such forms, and setting forth such information, as the commissioner may prescribe, showing the total price paid by the customer for the use or possession of a room or space occupied for lodging and the tax required to be collected and shall sign and deliver the same to the treasurer with a remittance of such tax. 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. Any accommodations provider may, upon written application to, and with good cause shown, and upon the written consent of the commissioner, make reports and remittances on an accounting period basis. Any remittances made hereunder by check or money order shall be payable to Craig County.

**Sec. 38-306. Penalty and interest for failure to register.**

A. Any accommodations provider required to register under this ordinance who offers a property as an accommodation or short-term rental without having first registered such property

with the County shall be presented with a notice of violation and given 15 days from the date of the notice of violation to register with the Commissioner of the Revenue without penalty. Failure to register within the 15 days will result in a ~~and assessed a~~ penalty of \$500.00. Notices of violation shall be posted on the property and mailed by First-Class U.S.- Mail to the address shown on the property tax records of the County. Any operator assessed a penalty shall be prohibited from offering the property as a short-term rental until the penalty is paid and the property is registered as a short-term rental property. The commissioner is empowered to issue notices of violation and impose the penalty provided for herein.

B. Any accommodations provider who is found to have violated this ordinance or other applicable state laws, County ordinances or other regulations relating to short-term rentals, on more than three (3) occasions shall be prohibited from registering and offering the property in question for short-term rental.

**Sec. 38-307. Penalty and interest for nonpayment of tax.**

If any person shall fail or refuse to remit to the treasurer any of the taxes required to be collected and paid under this section, or fail or refuse to submit the reports required by this section within the time and in the amount specified in this section, there shall be added to such taxes by the treasurer a penalty of five percent if the failure is for not more than one month, with an additional five percent for each additional month, or fraction thereof, during which the failure continues, not to exceed 25 percent in the aggregate; however, in no case shall the penalty be less than \$10.00 and such minimum penalty shall apply whether or not any tax is due for the period in which such return was required. In addition, there shall be added to such unpaid tax interest at the rate of eight percent per annum on the amount of tax delinquent, such interest to commence on the first day of the month following the month in which such taxes are due.

**Sec. 38-308. Failure to collect, report or remit tax; action by commissioner of the revenue.**

If any person shall fail or refuse to collect, in whole or in part, or properly to report or remit, transient occupancy taxes within the time required by this section, the commissioner shall proceed in such manner as he may deem best to obtain facts and information on which to base his estimate of the taxes due. As soon as the commissioner has procured such facts and information he shall make his estimate of the tax due and proceed to determine and assess against such person such estimated tax due together with the penalties and the total amount thereof shall be payable within ten days from the date of such notice; however, before any determination or assessment is made by the commissioner that any person is liable for tax penalty and interest under this section, he shall give such person notice and an opportunity to be heard concerning such possible determination and assessment.

**Sec. 38-309. Records.**

It shall be the duty of every person liable for the collection and payment to the County of transient occupancy taxes imposed by this section to keep and preserve for a period of five years such suitable records as may be necessary to determine the amount of such tax as he may

have been liable for collection of and payment to the County, which records the commissioner and the treasurer shall have the right to inspect and copy at all reasonable times.

**Sec. 38-310. Cessation of business.**

Whenever any person required to collect and pay to the County any tax under this article shall cease to operate or otherwise dispose of his business, any tax payable to the County shall become immediately due and payable, and such person shall immediately make a report and pay the tax due.

**Sec. 38-311. Additional penalties.**

A. Any person willfully failing or refusing to file a return as required under this article shall, upon conviction thereof, be guilty of a class 1 misdemeanor, and each violation or failure to comply shall constitute a separate offense punishable as provided in section 1-15, except that any person failing to file such return shall be guilty of a class 3 misdemeanor, punishable as provided in section 1-15, if the amount of tax lawfully assessed in connection with the return is \$1,000.00 or less. Any person violating or failing to comply with any other provision of this article shall be guilty of a class 1 misdemeanor, punishable as provided in section 1-15.

B. Except as provided in subsection (a) of this section, any corporate or partnership officer, as defined in Code of Virginia, § 58.1-3906, or any other person required to collect, account for or pay over the tax imposed under this article, who willfully fails to collect or truthfully account for and pay over such tax, or who willfully evades or attempts to evade such tax or payment thereof, shall, in addition to any other penalties imposed by law, be guilty of a class 1 misdemeanor, punishable as provided in section 1-15.

C. The punishment provided for in this section shall be in addition to any other remedy for the collection of taxes provided for by law.

D. Any criminal case brought pursuant to this section may be prosecuted by either the attorney for the Commonwealth or other attorney charged with the responsibility for prosecution of a violation of local ordinance.

**Sec. 38-312. Powers and duties of commissioner of the revenue.**

It shall be the duty of the commissioner to ascertain the name of every accommodations provider in the County subject to the tax levied by this section. The commissioner shall have the power to adopt rules and regulations not inconsistent with the provisions of this section for the purpose of carrying out and enforcing the payment, collection and remittance of the tax herein levied.

**Sec. 38-313. Duty of treasurer.**

The treasurer shall have the power and duty of collecting the taxes imposed and levied under this article and shall cause the same to be paid into the general treasury for the County.

The treasurer shall have all the enforcement powers as authorized by Code of Virginia, tit. 58.1, as amended, for purposes of this article.

**Secs. 38-314 -- - Reserved.**