

**ORDINANCE AMENDING AND REENACTING CHAPTER 30 (TAXATION),
ARTICLE IX. (TRANSIENT OCCUPANCY TAX) OF THE CODE OF THE CITY OF
CHARLOTTESVILLE, VIRGINIA (1990), AS AMENDED, TO CONFORM THE CITY'S
PROCESS FOR COLLECTION AND REPORTING OF TRANSIENT OCCUPANCY
TAX WITH RECENT CHANGES IN STATE ENABLING LEGISLATION**

BE IT ORDAINED by the Council of the City of Charlottesville, Virginia, that the provisions of Chapter 30 (Taxation), Article IX (Transient Occupancy Tax) of the Code of City of Charlottesville, Virginia (1990), as amended, are hereby amended and re-ordained as follows:

Sec. 30-252. 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:

~~Lodging Facility~~~~Accommodation~~ means any public or private hotel, inn, hostelry, short-term rental, motel or rooming, boarding or lodging house within the city offering lodging as defined in this section, for compensation, to any transient as defined in this section.

Discount room charge means the full amount charged by the ~~accommodations~~~~lodging~~ provider to the ~~accommodations~~~~lodging~~ intermediary, or an affiliate thereof, for furnishing the ~~accommodation~~~~lodging~~.

Hotel means any structure or group of structures for rent or for hire that is primarily kept, used, maintained, advertised, or held out to the public as a place where sleeping accommodations are offered to transients in return for compensation.

~~Accommodation~~~~Lodging~~ means the rental of room or space to any transient for compensation, in a ~~lodging facility~~~~n accommodation~~ as defined in this section, by an ~~accommodations~~ ~~lodging~~ provider or ~~accommodations~~~~lodging~~ intermediary, or the occupancy of such room or space by such transient.

~~Accommodations~~~~Lodging~~ fee means the room charge less the discount room charge, if any, provided that the ~~accommodations~~~~lodging~~ fee shall not be less than zero dollars (\$0.00).

~~Accommodations~~~~Lodging~~ intermediary means any person other than an ~~accommodations~~~~lodging~~ provider that:

- (1) Facilitates the sale of an accommodation; and
- (2) Either:
 - a. Charges a room charge to the customer, and charges an ~~accommodations~~~~lodging~~ fee to the customer, which fee it retains as compensation for facilitating the sale; or
 - b. Collects a room charge from the customer; or
 - c. Charges a fee, other than an ~~accommodations~~~~lodging~~ 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 (1) or more payment processors, between a customer and an ~~accommodations~~~~lodging~~ provider. The

term "~~accommodationslodging~~ intermediary" does not include a person:

1. Who provides ~~accommodationslodging~~ while operating under a trademark, trade name, or service mark belonging to such person;
2. Who facilitates the sale of ~~accommodationslodging~~ if:
 - i. The price paid by the customer to such person is equal to the price paid by such person to the ~~accommodationslodging~~ provider for the use of the ~~accommodationlodging~~; and
 - ii. The only compensation received by such person for facilitating the sale of the ~~accommodationlodging~~ is a commission paid from the ~~accommodationslodging~~ provider to such person;
3. Who is licensed as a real estate licensee pursuant to [Virginia Code] Article 1 (§ 54.1-2100 et seq.) of Chapter 21 of Title 54.1, when acting within the scope of such license.

~~AccommodationsLodging~~ 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.

Room charge means the full retail price charged to the transient for the use of the accommodation. Room charge includes any fee charged to the customer and retained as compensation for facilitating the sale, whether described as an ~~accommodations-lodging~~ fee, facilitation fee, or any other name. Any additional charges made in connection with the rental of accommodations are deemed to be a part of the charge for the room and are subject to the tax. For example, additional charges for movies, parking, local telephone calls and similar services are subject to the tax. Toll charges for long-distance telephone calls are not subject to the tax.

Short-term rental means any building, structure, or unit, on the same tax parcel, sharing the same mailing address, that is used, or is intended to be used, as a residence or home for one (1) or more persons available for rent or for hire to transients.

Transient means any person who, for a period of fewer than thirty (30) consecutive days, either at their own expense or at the expense of another, obtains ~~accommodationslodging~~ for which a charge is made at an ~~lodging facilityaccommodation~~, as defined in this section.

(Code 1976, § 10-60; 9-7-21(1), § 2; Ord. No. O-21-138, 10-4-21; Ord. No. O-22-136, § 1, 10-27-22)

Cross reference(s)—Definitions and rules of construction generally, § 1-2.

Sec. 30-253. Levied.

There is hereby imposed and levied upon every transient obtaining ~~accommodationslodging~~ within the city, in addition to all other taxes and fees of every kind now imposed by law, a tax equivalent to nine (9) percent of the total room charge paid for the ~~accommodationlodging~~ by the transient, or on the transient's behalf.

(Code 1976, § 10-61; 5-19-97, § 1; 4-13-04(9), § 1; 4-12-16, § 1, eff. 7-1-16; 4-1-19(1), § (1), eff. 7-1-19; Ord. No. O-21-138, 10-4-21; Ord. No. O-22-136, § 1, 10-27-22; Ord. No. O-24-057, § (1), 5-6-24)

State law reference(s)—Authority of city to impose tax on transient room rentals, Code of Virginia, § 58.1-3819.

Sec. 30-254. Exemptions.

No tax shall be payable under this article on any charge for ~~accommodationlodging~~ in, and during care or treatment in, any hospital, medical clinic, nursing or convalescent home, extended health care facility, sanatorium or sanitorium, home for the aged, infirmed, orphaned, disabled, or other like facility; or in any dormitory, as that term is defined in chapter 34, section 34-1200 of this Code.

(Code 1976, § 10-67; 6-16-14; Ord. No. O-21-138, 10-4-21; Ord. No. O-22-136, § 1, 10-27-22; Ord. No. O-23-082, 6-5-23)

Sec. 30-255. Collection.

- (a) For any ~~accommodationlodging~~ not facilitated by an ~~accommodationlodging~~ intermediary, the ~~accommodationlodging~~ provider shall collect the tax levied pursuant to this article from the transient, or from the person paying for the lodging, at the time that payment for the ~~accommodationlodging~~ is made, computed on the total price paid for the use or possession of the ~~accommodationlodging~~, and shall remit the same to the city and shall be liable for the same.
- (b) For any ~~accommodationlodging~~ facilitated by an ~~accommodationlodging~~ intermediary, the ~~accommodationlodging~~ intermediary shall be deemed to have made a retail sale of the ~~accommodationlodging~~ and is responsible for collecting the tax levied for the ~~accommodationlodging~~ from the transient or the person paying for the ~~accommodationlodging~~, at the time that payment for the ~~accommodationlodging~~ is made, computed on the room charge and shall remit the same to the city and shall be liable for the same.
- (c) For any transaction for the retail sale of accommodations involving two (2) or more parties that meet the definition of ~~accommodationlodging~~ intermediary, nothing in this section shall prohibit such parties from making an agreement regarding which party shall be responsible for collecting and remitting the tax, so long as the party so responsible is registered as a dealer with the locality. In such event, the party agreeing to collect and remit the tax shall be the sole party liable for the tax, and the other parties to such agreement shall not be liable for such tax.
- (d) For any retail sale of ~~accommodationlodging~~ facilitated by an ~~accommodationlodging~~ intermediary, nothing herein shall relieve the ~~accommodationlodging~~ provider from liability for retail sales and use taxes on any amounts charged directly to the customer by the ~~accommodationlodging~~ provider that are not collected by the ~~accommodationlodging~~ intermediary.
- (e) In any retail sale of any ~~accommodationlodging~~ in which an ~~accommodationlodging~~ intermediary does not facilitate the sale of the ~~accommodationlodging~~, the ~~accommodationlodging~~ provider shall separately state the amount of the tax in the bill, invoice, or similar documentation and shall add the tax to the total price paid for the use or possession of the ~~accommodationlodging~~. In any retail sale of any ~~accommodationlodging~~ in which an ~~accommodationlodging~~ intermediary facilitates the sale of the ~~accommodationlodging~~, the ~~accommodationlodging~~ 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~~lodging intermediary, recoverable at law in the same manner as other debts.

The taxes collected by any person shall be deemed to be held in trust for the city by the person required to collect them, until they have been remitted to the city as provided in this article.

(Code 1976, § 10-62; Ord. No. O-21-138, 10-4-21; Ord. No. O-22-136, § 1, 10-27-22)

State law reference(s)—Scope of transient tax, Code of Virginia, § 58.1-3826.

Sec. 30-256. Reports and remittances generally.

- (a) Every person collecting any tax levied by this article shall make out a report thereof, upon such forms and setting forth such information as the commissioner of the revenue may prescribe and require, showing the total room charge paid by the customer and the amount of tax required to be collected thereon, and shall deliver the same to the commissioner together with a remittance of such tax, made payable to the city treasurer. If a person, including an ~~n accommodations~~lodging intermediary is collecting taxes from, or on behalf of, multiple accommodations, the report shall also be sufficient to identify the total charges and tax owed on ~~accommodations~~lodging at each individual accommodation, including the ~~lodging facility's~~accommodation's address. Such reports and remittances shall be made on or before the twentieth of each month, covering the amount of tax collected during the preceding month. ~~Lodging providers shall be required to file monthly reports with the commissioner even in the event no tax is due and regardless of whether they collected the tax or if it was done on their behalf by a lodging intermediary. All remittances received under this article by the commissioner shall be promptly turned over to the treasurer.~~
- (b) ~~Notwithstanding subsection (a), an accommodations provider shall not be required to submit 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 are 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 March 1 (or the first business day thereafter if March 1 falls on a weekend or holiday), on such forms and in such manner as the Commissioner of the Revenue may prescribe and require. However, such accommodations provider shall make out and submit a report in accordance with subsection (a) for the retail sale of any accommodations not facilitated by an accommodations intermediary and shall remit such tax as otherwise required by this article. Accommodations providers who fail to provide the annual attestation required by this subsection shall file monthly reports with the commissioner even in the event no tax is due and regardless of whether they collected the tax or if it was done on their behalf by an accommodations intermediary. All remittances received under this article by the commissioner shall be promptly turned over to the treasurer.~~

(Code 1976, § 10-62; 4-10-12, § 1, eff. 1-1-13; Ord. No. O-21-138, 10-4-21; Ord. No. O-22-136, § 1, 10-27-22)

Sec. 30-257. Collector's records.

It shall be the duty of every ~~accommodation~~lodging provider or ~~accommodation~~lodging intermediary liable for taxes under this article or for the collection and remittance of any tax imposed by this article, to keep and preserve for the current year and the three (3) prior years such suitable records as may be necessary to determine the amounts paid for ~~accommodation~~lodging, and tax thereon for which that ~~accommodation~~lodging provider or ~~accommodation~~lodging intermediary may have been responsible for collecting and paying to the city.

~~Accommodations~~Lodging providers who have the taxes owed on their accommodation collected by a third party such as an ~~accommodation~~lodging intermediary are also obligated to keep records under this section on the amounts that were collected on their behalf by said third party. All records kept under this section should be sufficient to identify each individual accommodation for which the ~~lodging~~ charges ~~and/or fees~~ were collected, and the tax owed for transient stays at that accommodation, including the ~~lodging facility's~~accommodation's address. The commissioner of the revenue shall have the right to inspect all such records at any reasonable time.

(Code 1976, § 10-65; 9-7-21(1), § 2; Ord. No. O-21-138, 10-4-21; Ord. No. O-22-136, § 1, 10-27-22)

Sec. 30-260. Procedure upon failure to collect, report, etc.

- (a) If any person, whose duty it is to do so, shall fail or refuse to collect the tax imposed under this article and make timely report and remittance thereof, the commissioner of the revenue shall proceed in such manner as is practicable to obtain facts and information on which to base an estimate of the tax due. As soon as the commissioner has procured such facts and information as may be obtainable, upon which to base the assessment of any tax payable by any person who has failed to collect, report or remit such tax, the commissioner shall proceed to determine and assess against such person the tax, penalty and interest provided in this article, and shall notify such person by certified or registered mail sent to their last known address, of the amount of such tax, penalty and interest, and the total amount thereof shall be payable within ten (10) days from the date such notice is sent.
- (b) It shall be the duty of the commissioner of the revenue to ascertain the name of every ~~accommodation~~lodging provider and ~~accommodation~~lodging intermediary providing ~~accommodation~~lodging in the city, liable for the 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. The commissioner may have issued a summons for such person, which summons may be served upon such person by any city police officer in the manner provided by law, and one (1) return of the original thereof shall be made to the general district court for the city.

(Code 1976, §§ 10-64, 10-68; 9-7-21(1), § 2; Ord. No. O-21-138, 10-4-21; Ord. No. O-22-136, § 1, 10-27-22)