

**ORDINANCE AMENDING AND RE-ENACTING
TITLE 4 CHAPTER 2 ARTICLE F SECTION 4-2-76.1 THROUGH 4-2-80
RELATED TO TRANSIENT OCCUPANCY TAX
OF THE CODE OF ORDINANCES
CITY OF HARRISONBURG, VIRGINIA**

Be it ordained by the Council of the City of Harrisonburg, Virginia:

The following sections be amended as shown:

Sec. 4-2-76.1. Definitions.

For the purpose of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section:

- (1) ~~(1) Commissioner of revenue: The commissioner of revenue of the city or any of his or her duly authorized deputies or agents.~~ Accommodations: means any room or space for which tax is imposed on the retail sale of the same pursuant to this article.
- (2) Accommodations fee: means the room charge less the discount room charge, if any, provided that the accommodations fee shall not be less than zero dollars (\$0).
- (+)(3) 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 consumer 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 accommodations is a commission paid from the accommodations provider to such person.
- (42) 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. An accommodations provider may be any public or private hotel, inn, apartment hotel, hostel, tourist home or house, tourist camp, tourist cabin, travel campground, motel, short-term rental, homestay, or other lodging place within the city, and the owner and operator thereof, who, for compensation, furnishes lodging to any transients as hereinafter defined. ~~Hotel: Any public or private hotel, inn, apartment hotel, hostel, tourist home or house, motel,~~

~~short term rental, homestay, or other lodging place within the city, and the owner and operator thereof, who, for compensation, furnishes lodging to any transients as hereinafter defined.~~

- (5) 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 through ownership or voting securities or by contract or otherwise.
- (6) Commissioner of revenue: The commissioner of revenue of the city or any of his or her duly authorized deputies or agents.
- (7) City Treasurer: means the treasurer of the city and any of his or her duly authorized deputies and agents.
- (8) Discount room charge: means the full amount charged by the accommodations provider to the accommodations intermediary, or an affiliate thereof, for furnishing the accommodations.
- (9) Person: means any individual, firm, partnership, association, corporation, person acting in a representative capacity or any group of individuals acting as a unit.
- (10) Retail Sale: means a sale to any person for any purpose other than for resale.
- (113) Room or space rental charge: ~~The total charge made by~~ means the full retail price charged to the customer by the accommodations intermediary for the use of the accommodations, including any accommodations fee as well as any charges made in connection with the rental of the accommodations, before taxes. ~~any hotel or travel campground for lodging or space furnished any transient. If the charge made by such hotel or travel campground to transients includes any charge for services or accommodations in addition to that of lodging, and the use of space, then such portion of the total charge as represents only room and space rental shall be distinctly set out and billed to such transient by such hotel or travel campground as a separate item. The room charge shall be determined in accordance with 23VAC10-210-730 and the related rulings of the Virginia Department of Taxation on the same.~~
- (124) Transient: ~~means~~ Any natural person who, for any period of not more than thirty (30) consecutive days either at his own expense or at the expense of another, obtains lodging accommodations from any accommodations provider, or the use of any space in any hotel or travel campground as defined in this section, for which lodging or use of space a charge is made.
- (135) Travel campground: Any area or tract of land used to accommodate two (2) or more camping parties, including tents, travel trailers or other camping outfits.

Sec. 4-2-77. Levy and rate.

In addition to all other taxes of every kind, now or hereafter imposed by law, there is hereby imposed and levied on each and every transient a tax equivalent to seven (7) percent of the total amount ~~price paid by the transient for the use or possession of any -room or spaced space rental~~

~~to any hotel, motel, bed and breakfast, travel campground or for~~ occupied for accommodations by or for such transient, any other overnight lodging.

Sec. 4-2-78. Exceptions.

No tax shall be payable hereunder on room or space rental paid to any hospital, medical clinic, nursing or convalescent home, extended health care facility, sanatorium or sanitorium, ~~or home of the aged, infirmed, orphaned, disabled, or intellectual disability or other like facility;~~ or in any educational institution.

Sec. 4-2-79. Collection.

- (a) For any retail sale of accommodations not facilitated by a accommodations intermediary, the accommodations provider shall collect the tax imposed pursuant to this article, computed on the total price paid for the use or possession of the accommodation and shall remit the same to the city and shall be liable for the same.
- (b) For any retail sale of accommodations facilitated by an accommodations intermediary, the accommodations intermediary shall be deemed under this article as a facility making a retail sale of an accommodation. The accommodations intermediary shall collect the tax imposed pursuant to this article, computed on the room charge. When the accommodations are at a hotel, the accommodations intermediary shall remit the taxes on the accommodations fee to the city and shall remit any remaining taxes to the hotel, which shall remit such taxes to the city. When the accommodations are at a short-term rental, as defined in Cod of Virginia § 15.2-983, or at any other accommodations, the accommodations intermediary shall remit the taxes on the room charge to the city.
- (c) An accommodation intermediary shall not be liable for taxes under this article remitted to an accommodations provider but that are then not remitted to the city 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 related to the discount room charge only to the extent that the accommodations intermediary has remitted such taxes to the accommodations provider.
- (d) 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 total price paid for the use of possession of the accommodations. 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.
- (e) The taxes required to be collected under this section shall be deemed to be held in trust by the person required to collect such taxes, until remitted as required in this article.

Every person receiving any payment for room or space rental with respect to which a tax is levied under this article shall collect the amount of tax hereby imposed from the transient on whom the same is levied or from the person paying for such room or space rental at the time payment for such room or space rental is made.

Sec. 4-2-80. Reports.

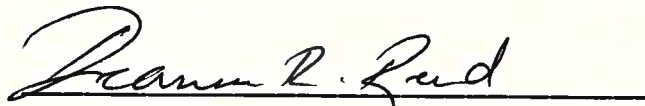
The person collecting any tax levied under this article shall make out a report upon forms, setting forth information as the commissioner of revenue may prescribe and require. Such reporting shall showing the amount total price paid by the transient for the use or possession of a of room or space space rental charges collected occupied for accommodations by or for a transient, and the total tax required to be collected, The report and shall be signed and delivered the same to the commissioner of revenue with a remittance of such tax to the city treasurer.

Such reports and remittances shall be made on or before the twentieth (20th) day of the month following each calendar month and covering the amount of tax collected during the preceding calendar month.

It shall be the duty of every person liable for the collection and payment to the city of any tax imposed by this article to keep and to preserve, for a period of five (5) years, such suitable records as may be necessary to determine the amount of such tax as he may have been responsible for collecting and paying to the city. The commissioner of the revenue or their duly authorized agents shall have the power to examine such records at reasonable times and without unreasonable interference with the business of such person for the purpose of administering and enforcing the provisions of this article, and to make transcripts of all or any parts thereof.

The remainder of Title 5 Article F is reaffirmed and reenacted in its entirety, except as hereby modified.

This ordinance shall be effective from the 9th day of November, 2020. Adopted and approved this 9th day of November, 2020.



MAYOR

ATTESTE:



CITY CLERK