

AT A RECESSED MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE FIRST DAY OF JULY, NINETEEN HUNDRED EIGHTY-THREE AT 8:00 A.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

A. ROLL CALL

Perry M. DePue, Chairman, Powhatan District
 Abram Frink, Jr., Vice-Chairman, Roberts District
 Jack D. Edwards, Berkeley District
 Stewart U. Taylor, Stonehouse District

James B. Oliver, Jr., County Administrator
 John E. McDonald, Assistant to the County Administrator
 Frank M. Morton, III, County Attorney

B. BOARD CONSIDERATION

1. Proposed Transient Occupancy Tax

Mr. Morton presented this matter to the Board recommending adoption of the Ordinance.

Mr. DePue asked how close this Ordinance paralleled the City of Williamsburg's Ordinance.

Mr. Morton stated that the County's Ordinance is similar to the Ordinance of the City of Williamsburg except for the provisions relating to the meals tax.

Mr. Oliver stated that Mrs. Frances Waltrip, Commissioner of the Revenue Office, has met with or communicated directly with every known lodging provider in the area concerning the new tax.

Mr. Edwards made the motion to approve the Ordinance.

On a roll call, the vote was AYE: DePue, Frink, Edwards, Taylor (4).
 NAY: (0).

ORDINANCE NO. 136A-2

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 18. TAXATION, OF THE CODE OF THE COUNTY OF JAMES CITY, BY ADDING A NEW ARTICLE, ARTICLE IV, TRANSIENT LODGING TAX, SECTION 18-14 THROUGH 18-24.

BE IT ORDAINED by the Board of Supervisors of James City County that Chapter 18, Taxation, of the Code of the County of James City be and the same is, hereby, amended and reordained by adding a new Article IV, Transient Lodging Tax, Sections 18-14 through 18-24.

ARTICLE IV. TRANSIENT LODGING TAX

Section 18-14. Tax levied

There is hereby levied and imposed, in addition to all other taxes and fees of every kind now imposed by laws, on each transient a tax equivalent to two (2) per cent of the total amount paid for lodging by or for any such transient to any hotel. Such tax shall be collected from such transient at the time and in the manner provided by this article.

Section 18-15. Definitions.

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

- (a) Lodging. Space or room furnished any transient, including the total charge made by any hotel for room or space furnished any transient. If the charge made by such hotel to such transient includes any charge for services or accommodations in addition to that of lodging and/or the use of space, then such portion of the total charges as represents only room and/or space rental shall be distinctly set out and billed to such transient by such hotel as a separate item.
- (b) Commissioner. The Commissioner of the Revenue of the County or his authorized designee.
- (c) Treasurer. The Treasurer of the County or his authorized designee.
- (d) Hotel. Any public or private hotel, inn, hostelry, tourist home or house, motel, rooming house, travel campground or tourist camps, or other lodging place within the County offering lodging, as defined herein, for compensation, to any transient as defined herein.
- (e) Person. Any individual, partnership, society, association, joint stock company, corporation, estate, receiver, trustee, assignee, referee or any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise; and any combination or group of individuals acting as a unit.
- (f) Transient. Any person who, for a period of not more than thirty (30) consecutive days, either at his own expense, or at the expense of another, obtains lodging at any hotel as defined herein.

Section 18-16. Collection procedure.

Every person receiving any payment for lodging with respect to which a tax is levied under this article shall collect the amount of such tax so imposed from the transient on whom such tax is levied or from the person paying for such lodging at the time payment for such lodging is made. 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. (Ord. No. 538, Section 3, 12-11-80)

Section 18-17. Reports and remittance of tax collected.

- (a) It shall be the duty of every seller in acting as the tax collection medium or agency for the County to collect from the purchaser, for the use of the County, the tax hereby imposed and levied at the time of collecting the purchase price charged for the lodging, and the taxes collected during each calendar month shall be reported to the Commissioner of Revenue and remitted by each seller to the Treasurer on or before the twentieth day of the following calendar month. The taxes collected by a seller shall be deemed to be held in trust by such seller until they have been remitted to the Treasurer. The required report shall be in such form as may be prescribed by the Commissioner of the Revenue.
- (b) Any seller collecting the tax on transactions exempt or not taxable under this article shall transmit to the Treasurer such erroneously or illegally collected tax unless and until he can affirmatively show that the tax has since been refunded to the purchaser or credited to his account.

Section 18-18. Interest and penalties upon failure or refusal to remit tax.

If any person shall fail or refuse to remit to the Treasurer 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 by the Treasurer a penalty in the amount of ten (10) per cent thereof and interest thereon at the rate of eight (8) per cent per annum, which shall be computed upon the taxes and penalty from the date such taxes are due and payable.

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Section 18-19. Failure or refusal to collect and report tax.

If any person shall fail or refuse to collect the tax imposed under this article and to make, within the time provided in this article, the reports and remittances required in this article, 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 tax due. As soon as the Commissioner shall procure such facts and information as he is able to obtain upon which to base the assessment of any tax payable by any person who has failed or refused to collect such tax, and to make such report and remittance, he shall proceed to determine and assess against such person such tax, penalty and interest as provided for in this article, and shall notify such person by registered mail sent to his last known place of address, of the amount of such tax, interest and penalty, and the total amount thereof shall be payable within ten (10) days from the date of the mailing of such notice.

Section 18-20. Records to be kept by person liable for collection and payment of tax.

It shall be the duty of every person liable for the collection and payment to the County of any tax imposed by this article to keep and to preserve for a period of four (4) years such suitable records as may be necessary to determine and show accurately the amount of such tax as he may have been responsible for collecting and paying to the County. The Commissioner may inspect such records at all reasonable times.

Section 18-21. Tax immediately due and payable upon cessation of business.

Whenever any person required to collect and remit the tax imposed and levied by this article shall go out of business, dispose of his business or otherwise cease to operate, all of such taxes collected shall thereupon be reported and remitted to the Commissioner of the Revenue and remitted to the Treasurer.

Section 18-22. Exemptions from tax.

No tax shall be payable under this article on charges for lodging paid to any hospital, medical clinic, convalescent home, home for the aged or paid by any person, as defined in Section 18-15 (e) who obtains lodging at any hotel, for a period exceeding thirty (30) consecutive days.

Section 18-23. Penalty for violation of article.

Any person violating or failing to comply with any of the provisions of this article shall be punished, upon conviction thereof, by a fine not exceeding one thousand dollars (\$1,000.00) or confinement in jail not exceeding twelve (12) months, or both. Each violation or failure shall constitute a separate offense. Such conviction shall not relieve any such person from the payment, collection or remittance of the tax as provided in this article.

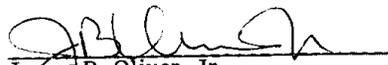
Section 18-24. Severability.

If any provision of this article, or any application of such provision to any application of such provision to any person or under any circumstances shall be invalid, the remainder of this article, or the application of such provisions to persons or under circumstances, other than those to which it shall have been held invalid, shall not be affected thereby.

Mr. Taylor made the motion to adjourn.

On a roll call, the vote was AYE: DePue, Frink, Edwards, Taylor (4).
NAY: (0).

The Board of Supervisors Meeting **ADJOURNED** at 8:15 A.M.


James B. Oliver, Jr.
Clerk to the Board