

ADOPTED

NOV 20 1989

ORDINANCE NO. 107A-10

BOARD OF SUPERVISORS
JAMES CITY COUNTY
VIRGINIA

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 18, TAXATION, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE II, EXEMPTION OF CERTAIN PERSONS FROM REAL ESTATE TAXES, SECTION 18-11. AMOUNT OF EXEMPTION; ARTICLE III. PERSONAL PROPERTY TAX, BY ADDING SECTION 18-13.4. PENALTY FOR VIOLATION OF ARTICLE; BY AMENDING ARTICLE IV. TRANSIENT LODGING TAX, SECTION 18-23. PENALTY FOR VIOLATION OF ARTICLE; ARTICLE VI. REAL ESTATE ASSESSMENT, SECTION 18-29. BOARD OF EQUALIZATION--ESTABLISHED; SECTION 18-30. SAME--QUALIFICATION; APPOINTMENT; BY ADDING ARTICLE VIII. SHORT-TERM RENTAL TAX, SECTION 18-49. DEFINITIONS; SECTION 18-50. LEVY OF TAX; AMOUNT; SECTION 18-51. TREASURER--TAXATION OF RENTAL PROPERTY THAT IS NOT DAILY RENTAL PROPERTY; SECTION 18-52. PAYMENT AND COLLECTION; SECTION 18-53. PROCEDURE UPON FAILURE TO COLLECT, REPORT, ETC.; SECTION 18-54. PENALTY AND INTEREST; SECTION 18-55. EXEMPTIONS; SECTION 18-56. RENTERS'S CERTIFICATE OF REGISTRATION; AND SECTION 18-57. VIOLATION OF ARTICLE.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 18, Taxation, is hereby amended and reordained by amending Section 18-11. Amount of exemption; by adding Section 18-13.4. Penalty for violation of article; by amending Section 18-23. Penalty for violation of article; by amending Section 18-29. Board of Equalization--established; by amending Section 18-30. Same--Qualification; appointment; and by adding Article VIII, Short-Term Rental Tax, Section 18-49.

Definitions; Section 18-50. Levy of tax; amount; Section 18-51. Treasurer--Taxation of rental property that is not daily rental property; Section 18-52. Payment and collection; Section 18-53. Procedure upon failure to collect, report, etc.; Section 18-54. Penalty and interest; Section 18-55. Exemptions; Section 18-56. Renter's certificate of registration; and Section 18-57. Violation of article.

Chapter 18. Taxation

Article II. Exemption of certain persons from real estate taxes

Section 18-11. Amount of exemption.

Any person or persons qualifying under Section 18-10 shall be exempt from real estate taxes; provided, however, that no such exemption shall exceed four hundred dollars \$400.00 (3-12-73, Section 3-1; Ord. No. 70A-1, 8-8-77; Ord. No. 70A-2, 4-27-81; Ord. No. 70A-3, 11-15-82)

Article III. Personal Property Tax

Section 18-13.4. Penalty for violation of article.

Any person violating or failing to comply with any provision of this article shall be guilty of a Class 3 misdemeanor; provided, however, if the amount of tax due and unpaid for any installment exceeds \$1,000 any person failing to remit payment when due shall be guilty of a Class 1 misdemeanor. 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. (Ord. No. 136A-2, 7-1-83)

Article IV. Transient Lodging Tax

Section 18-23. Penalty for violation of article.

Any person violating or failing to comply with any provisions of this article shall be guilty of a Class 3 misdemeanor; provided, however, if the amount of tax due and unpaid for any installment exceeds \$1,000 any person failing to remit payment when due shall be guilty of a Class 1 misdemeanor. Each violation or failure shall constitute separate offense. Such conviction shall not relieve any such person from the payment, collection or remittance of the tax as provided in this article. (Ord. No. 136A-2, 7-1-83)

Article VI. Real Estate Assessment

Section 18-29. Board of Equalization - Established.

Pursuant to Section 58.1-3373 of the Code of Virginia, 1950, as amended, there is created in the County of James City a permanent board of equalization which shall be called the James City County Board of Equalization. Such board shall consist of five members appointed by the circuit court for the City of Williamsburg and County of James City, as follows: one for a term of one year, one for a term of two years, and three for a term of three years. As the terms of the initial appointees expire, their successors shall be appointed for terms of three years. (Ord. No. 107A-6, 1-4-88)

Section 18-30. Same - Qualification; appointment.

Members of the board of equalization shall meet the requirements set forth in Section 58.1-3374 of the Code of Virginia, 1950, as amended. Not later than January 15 of each year the Board of Supervisors shall, by resolution, submit the name of at least one qualified freeholder in the County to the circuit court for the City of Williamsburg and County of James City for each appointment to the board of equalization pursuant to Section 58.1-3373 of the Code of Virginia, 1950, as amended. The board shall elect a chairman and a secretary from among its members. (Ord. No. 107A-6, 1-4-88)

Article VIII. Short-Term Rental Tax

Section 18-49. Definitions

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

Commissioner of the revenue: The commissioner of the revenue of the county and any of his duly authorized deputies, assistants, employees or agents.

Daily rental property: All tangible personal property held for rental and owned by a person engaged in the short-term rental business, except trailers, as defined in Section 46.1-1(33) of the Code of Virginia and other tangible personal property required to be licensed or registered with the Department of Motor Vehicles, Department of Game and Inland Fisheries, or the Department of Aviation.

Person: Any individual, corporation, company, association, firm, partnership or any group of individuals acting as a unit.

Short-term rental business: A person is engaged in the short-term rental business if not less than eighty percent (80%) of the gross rental receipts of such business in any year are from transactions involving rental periods of

ninety-two (92) consecutive days or less, including all extensions and renewals to the same person or a person affiliated with the lessor. "Affiliated" shall mean any common ownership interest in excess of five percent (5%) of any officers or partners in common with the lessor and lessee. For purposes of this test, (i) any rental to a person affiliated with the lessor shall be treated as rental receipts but shall not qualify for purposes of the eighty percent (80%) requirement, and (ii) any rental of personal property which also involves the provision of personal services for the operation of the personal property rented shall not be treated as gross receipts from rental. The delivery and installation of tangible personal property shall not mean operation.

Treasurer: The treasurer of the county and any of his duly authorized deputies, assistants, employees or agents.

Section 18-50. Levy of tax; amount.

Pursuant to Section 58.1-3510 of the Code of Virginia, there is hereby assessed and imposed on every person engaged in the short-term rental business a tax of one (1) percent on the gross proceeds of such business. Such tax shall be in addition to the tax levied pursuant to Section 58.1-605 of the Code of Virginia. "Gross proceeds" means the total amount charged to each person for the rental of daily rental property, excluding any state and local sales tax paid pursuant to the Virginia Retail Sales and Use Tax Act.

Section 18-51. Treasurer -- Taxation of rental property that is not daily rental property.

Except for daily rental passenger cars, rental property that is not daily rental property shall be classified for taxation pursuant to Section 58.1-3503 of the Code of Virginia.

Section 18-52. Payment and Collection of tax.

Every person engaged in the short-term rental rental business shall collect the rental tax from the lessee of the daily rental property at the time of the rental. The lessor of the daily rental property shall transmit a quarterly return to the commissioner of the revenue, indicating the gross proceeds derived from the short-term rental business and shall remit therewith the payment of such tax as is due for the quarter. The quarterly returns and payment of tax shall be filed with the commissioner of the revenue on or before the 20th day of each of the months of April, July, October and January, representing, respectively, the gross proceeds and taxes collected during the preceding quarters ending March 31, June 30, September 30 and December 31. The return shall be upon such forms and setting forth such information as the commissioner of the revenue may require, showing the amount of gross receipts and the tax required to be collected. The taxes required to be collected under this article shall be deemed to be held in trust by the person required to collect such taxes until remitted as required in this article.

Section 18-53. Procedure upon failure to collect, report, etc.

If any person, whose duty it is so to do, shall fail or refuse to collect the tax imposed under this article and to make, within the time provided in this article, the returns and remittances required in this article, the commissioner of the revenue 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 of the revenue 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 return and remittance, he shall proceed to determine and assess against such person the tax, penalty and interest provided for by this article and shall notify such person, by registered mail, sent to his last known place of address, of the total amount of such tax, penalty and interest and the total amount thereof shall be payable within ten (10) days from the date of such notice. In the event such tax is not paid within ten (10) days from the date of the notice, the treasurer shall proceed to collect same in accordance with Chapter 9 of Title 58.1 of the Code of Virginia.

Section 18-54. Penalty and interest.

If any person, whose duty it is so to do, shall fail or refuse to remit to the commissioner of the revenue the tax required to be collected and paid under this article within the time specified in the article, there shall be added to such tax a penalty in the amount of ten (10) percent of the tax past due or the sum of ten (10) dollars, whichever is the greater. The assessment of such penalty shall not be deemed a defense to any criminal prosecution for failing to make any return or remittance as required in this article. Additionally, interest on late payments of all taxes due shall be added at the rate of eight (8) percent per year. Penalty and interest for failure to pay the tax assessed pursuant to this article shall be assessed on the first day following the day such quarterly installment payment is due.

Section 18-55. Exemptions.

No tax shall be collected or assessed on (i) rentals by the commonwealth, any political subdivision of the commonwealth or the United States or (ii) any rental of durable medical equipment as defined in subdivision 22 of Section 58.1-608 of the Code of Virginia. Additionally, all exemptions applicable in Chapter 6 of Title 58.1 of the Code of Virginia (Section 58.1-600, et. seq.) shall apply mutatis mutandis to the daily rental property tax.

Section 18-56. Renter's certificate of registration.

Every person engaging in the business of short-term rental of tangible personal property shall file an application for a certificate of registration with the commissioner of the revenue. The application shall be on a form prescribed by the commissioner of the revenue and shall set forth the name under which the applicant intends to operate the rental business, the location and such other information as the commissioner may require.

Each applicant shall sign the application as owner of the rental business. If the rental business is owned by an association, partnership or corporation, the application shall be signed by a member, partner, executive officer or other person specifically authorized by the association, partnership or corporation to sign.

Upon approval of the application by the commissioner of the revenue, a certificate of registration shall be issued. The certificate shall be conspicuously displayed at all times at the place of business for which it is issued.

The certificate is not assignable and shall be valid only for the person in whose name it is issued and the place of business designated.

Section 18-57. Violation of article.


Any person violating or failing to comply with any provision of this article shall be guilty of a Class 3 misdemeanor; provided, however, if the amount of tax due and unpaid for any quarterly installment exceeds \$1,000, any person failing to remit payment when due shall be guilty of a Class 1 misdemeanor. 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.

This ordinance shall be effective on and after January 1, 1990.

Thomas D. Mahone

Thomas D. Mahone, Chairman
Board of Supervisors

ATTEST:



David B. Norman
Clerk to the Board

<u>SUPERVISOR</u>	<u>VOTE</u>
NORMENT	AYE
TAYLOR	AYE
EDWARDS	AYE
DEPUE	AYE
MAHONE	NAY

Adopted by the Board of Supervisors of James City County, Virginia,
this 20th day of November, 1989.

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