

Madison County Ordinance No. 2011-7

ORDINANCE
TO ESTABLISH AN OCCUPANCY TAX
IN THE AMOUNT OF FIVE PERCENT (5%)
ON TRANSIENT ACCOMMODATIONS IN MADISON COUNTY

BE IT ORDAINED by the Madison County Board of Supervisors that, pursuant to authority set forth within Virginia Code §58.1-3819, there is hereby established a requirement of a transient occupancy tax in Madison County, as follows:

1. Section 1—Levy of tax; rate

- a. A tax is hereby levied and imposed on the occupancy of all rooms or spaces in hotels, motels, boarding houses, travel campgrounds, and other facilities offering any guest room rented out for occupancy within Madison County. Such tax shall be assessed at the rate of five percent (5%) of the amount charged for such occupancy. Revenues received by the county from that portion of the tax over two percent (2%) shall be designated and spent solely for tourism and travel, marketing of tourism or initiatives that, as determined after consultation with the local tourism industry organizations, attract travelers to the county and generate tourism revenues in the county.
- b. The taxes imposed by this ordinance shall be in addition to the sales tax currently imposed by the county and shall be in addition to all other taxes and fees of any kind now or hereafter imposed by the county.
- c. For purposes of this ordinance:
 - i. The term "travel campground" means and includes but is not necessarily limited to a travel trailer camp, recreation camp, family campground, camping resort, camping community, or any other area, place, parcel, or tract of land, by whatever name called, on which three or more campsites are occupied or intended for occupancy, or facilities are established or maintained, wholly or in part, for the accommodation of camping units for periods of overnight or longer, whether the use of the campsites and facilities is granted gratuitously, or by rental fee, lease, or conditional sale, or by covenants, restrictions, and easements.
"Campground" does not include a summer camp, migrant labor camp, or

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park for mobile homes as defined in this section and in §§ 32.1-203 and 36-71, or a construction camp, storage area for unoccupied camping units, or property upon which the individual owner may choose to camp and not be prohibited or encumbered by covenants, restrictions, and conditions from providing his sanitary facilities within his property lines.

- ii. "*Camping unit*" means and includes a tent, tent trailer, travel trailer, camping trailer, pickup camper, motor home, and any other device or vehicular type structure for use as temporary living quarters or shelter during periods of recreation, vacation, leisure time, or travel.
 - iii. "*Campsite*" means and includes any plot of ground within a campground used or intended for occupation by the camping unit.
 - iv. The term "*lodging provider*" means any person who operates a hotel, motel, boarding house, travel campground or other facility located in Madison County, wherein any guest room or space is rented out for occupancy.
 - v. The word "*person*" includes any individual, corporation, partnership, association, cooperative, limited liability company, trust, joint venture, or any other legal or commercial entity and any successor, representative, agent, agency or instrumentality thereof.
 - vi. The term "*purchaser*" means any person who rents a room or space in a hotel, motel, boarding house or travel campground located in Madison County for fewer than thirty (30) consecutive days of continuous occupancy.
- d. The tax imposed hereunder shall not apply to rooms or spaces rented and continuously occupied by the same individual or same group of individuals for thirty (30) or more days in hotels, motels, boarding houses, travel campgrounds and other facilities offering guest rooms or other spaces for occupancy.

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- e. The following are exempt from the tax imposed by this ordinance:
 - i. Facilities owned and operated by churches or religious bodies, including:
 - (i) any incorporated church or religious body and (ii) any corporation mentioned in Virginia Code Section 57-16.1; and
 - ii. Facilities owned and operated by the Young Men's Christian Associations and similar religious associations, including religious mission boards and associations, orphan or other asylums, reformatories, hospitals and nunneries, conducted not for profit but exclusively as charities.

2. Section 2—Payment and collection

- a. All lodging providers liable for collection of taxes imposed by this ordinance shall collect the amount of tax imposed from the purchaser on whom the same is levied at the time payment for such lodging becomes due and payable, whether payment is made in cash or on credit by means of a credit card or otherwise. The amount of tax owed by the purchaser shall be added to the cost of the room or space by the lodging provider, who shall pay the taxes collected to the county as provided in this ordinance. All transient occupancy tax collections for facilities and accommodations situated in Madison County shall be deemed to be held in trust for Madison County, and shall be remitted to Madison County by the lodging provider without regard for the location at which payment is made by the purchaser or received by the lodging provider.

3. Section 3—Reports and remittances, generally

- a. Every lodging provider liable for collection of taxes under this ordinance shall make out a report, upon such forms and setting forth such information as the county may prescribe and require, showing the amount of receipts collected and the tax required to be collected thereon, and shall sign and deliver such report to the county along with a remittance of such tax. Such reports and remittance shall be made on or before the fifteenth day of each month, covering the amount of tax collected during the preceding calendar month.

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- b. For the purpose of compensating lodging providers for the collection of the tax imposed by this ordinance, every lodging provider shall be allowed three percent (3%) of the amount of tax due and accounted for in each monthly report, in the form of a deduction on his monthly remittance of payment, not to exceed one hundred dollars (\$100) per monthly remittance; provided, however, that no deduction shall be allowed if any portion of a payment is delinquent at the time of payment.

4. Section 4—Preservation of records

It shall be the duty of every lodging provider liable for collection and remittance of the taxes imposed by this ordinance to keep and preserve, for a period of three (3) years, records showing gross rental receipts, the amount charged the purchaser for each stay, the date thereof, the taxes collected thereon and the amount of tax required to be collected by this ordinance. The county, through its designated officials and agents shall have the authority to examine and copy such records at reasonable times, for the purpose of administering and enforcing the provisions of this article.

5. Section 5—Advertising payment of absorption of tax

No person shall advertise or hold out to the public in any manner, directly or indirectly, that all or any part of the tax imposed by this ordinance will be paid or absorbed by such person or anyone else, or that the seller or anyone else will relieve the purchaser of payment of all or any part of the tax.

6. Section 6—Duty when going out of business

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

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7. Section 7—Administration and enforcement

It shall be the duty of the commissioner of the revenue to ascertain the name of every lodging provider liable for the collection of the tax imposed by this ordinance, and the name of every such lodging provider who fails, refuses or neglects to collect such tax or to make the reports and remittances required by this ordinance. The commissioner of the revenue shall have all of the enforcement powers as authorized by the Code of Virginia, including, without limitation, sections 58.1-3100 to 58.1-3122.1, as amended.

8. Section 8—Procedure upon failure to collect tax; make reports and remittances

If any lodging provider whose duty it is to do so shall fail or refuse to collect the tax imposed under this ordinance, or to make, within the time provided in this ordinance, the reports and remittances required by this ordinance, the commissioner of the revenue shall proceed in such manner as he may deem best to obtain facts and information on which to base an estimate of the tax due and thereafter, the commissioner shall proceed to determine and assess against such lodging provider the taxes and penalties provided for by this ordinance and shall notify such lodging provider, by certified mail sent to his last known place of address, of the total amount of such taxes and penalties. The total amount of taxes and penalties shall be payable to the county ten (10) days from the date such notice is sent.

9. Section 9—Duty of county treasurer

The treasurer of Madison County shall have the power and the duty of collecting the taxes and penalties levied and imposed under this ordinance and shall cause the taxes to be paid into the general treasury of the county.

10. Section 10—Penalty for late remittance or false return

- a. If any lodging provider whose duty it is to do so 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 ordinance, there shall be added to such tax by the treasurer a penalty in the amount of ten percent (10%) of the total

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amount of the tax owed, if the failure is not for more than thirty (30) days, with an additional 10 percent of the total amount of the tax owed for each additional 30 days or fraction thereof during which the failure continues, not to exceed 25 percent of the taxes collected but not remitted; provided however, that the minimum penalty shall be ten dollars (\$10.00) or the amount of the tax assessable, whichever is less.

- b. If any lodging provider whose duty it is to do so shall fail or refuse to file any return or report required by this ordinance within the time specified, there shall be added to such tax a penalty in the amount of ten percent (10%) of the tax assessable on such return or \$10, whichever is greater; provided, however, that the penalty shall in no case exceed the amount of the tax assessable.
- c. It shall be unlawful for any person to willfully fail or refuse to file any return or report required under this ordinance or to make any false statement with the intent to defraud in connection with any return required by this article. It shall be a Class 3 misdemeanor if the amount of the tax lawfully assessed in connection with the return is \$1,000 or less, and it shall be a Class 1 misdemeanor if the amount of the tax lawfully assessed in connection with the return is more than \$1,000.

11. Section 11—Violation a misdemeanor

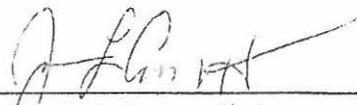
- a. Any corporate or partnership officer as defined in Virginia Code section 58.1-3906, or any other person required to collect, account for and pay over a tax under this ordinance, who willfully fails to collect or truthfully account for and pay over such tax, and any such person who willfully evades or attempts to evade any such tax or payment thereof, shall be guilty of a Class 1 misdemeanor. Conviction under this section shall not relieve any person from the payment, collection or remittance of the taxes or penalties provided for in this ordinance. Any agreement by any person to pay the taxes or penalties provided for in this ordinance by a series of installment payments shall not relieve any person or criminal liability for violation of this article until the full amount of taxes and penalties agreed to be paid by such person is received by the treasurer.

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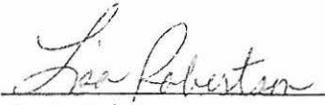
b. Each failure, refusal, neglect or violation, and each day's continuance thereof, shall constitute a separate offense.

12. *This ordinance shall be effective as of July 1, 2011.*

Adopted this 12th day of April, 2011, on motion of Supervisor Allen, seconded by Supervisor Elliott.


James L. Arrington, Chairman
Madison County Board of Supervisors

	Aye	Nay	Abstain	Absent
Eddie Dean	<u> x </u>	_____	_____	_____
James L. Arrington	<u> x </u>	_____	_____	_____
J. Dave Allen	<u> x </u>	_____	_____	_____
Eddie Dean	<u> x </u>	_____	_____	_____
Jerry J. Butler	<u> x </u>	_____	_____	_____
Pete J. Elliott	<u> x </u>	_____	_____	_____


Lisa A. Robertson
Madison County Administrator