



CITY OF POQUOSON

OFFICE OF THE COMMISSIONER OF THE REVENUE

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January 9, 2023

TO: City Council

THROUGH: Randy Wheeler, City Manager

FROM: Joseph B. Coccimiglio, Commissioner of the Revenue

RE: **Ordinance Proposing the City Code Chapter 74, Article XII, Division 1, Section 471-485**

Virginia State Code § 58.1-3819 states that by duly adopted ordinance a locality may levy a transient occupancy tax on short term rentals offering rooms to guests for periods of fewer than 30 consecutive days.

In order that the City of Poquoson may administer and collect transient occupancy taxes on what are commonly referred to as “short term rentals” the office of the Commissioner of the Revenue recommends that the City of Poquoson approve and adopt the attached proposed draft language consisting of new Article XII – Transient Occupancy Tax, Chapter 74, section 74-471 through section 74-585.

**ORDINANCE PROPOSING THE CITY CODE CHAPTER 74, ARTICLE XII, DIVISION
1, SECTIONS 471 – 485**

WHEREAS, proposed article XII to add section 74-471 through section 74-485 that are currently not in use.

Chapter 74

Taxation

Article XII. Transient Occupancy Tax

Sec. 74-471. Definitions

Definitions

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

(b)

Accommodations Provider - Any business, individual, or group of individuals furnishing or offering lodging or any room or rooms, or accommodations in any hotel, motel, inn, tourist camp, tourist cabin, camping grounds, club, or any other place in which rooms, lodging, space, or accommodations are regularly furnished to transients for a consideration. The term "furnishing" includes the sale of use or possession or the sale of the right to use or possess.

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.

Accommodation fee - means the room charge less the discount room charge, if any, provided that the accommodations fee shall not be less than \$0.

Commissioner - Commissioner of the Revenue of the City of Poquoson, Virginia, or any duly authorized deputies or agents.

Lodging - means any room or rooms, lodging or space furnished to any transient for dwelling, lodging, or sleeping purposes.

Lodging Place - any public or private hotel, inn, hostelry, tourist home or house, tourist camp, tourist cabin, camping grounds, motel, rooming house or other lodging place within the city offering lodging for compensation to any transient.

Room Rentals - classified as a lodging place - any public or private hotel, inn, hostelry, tourist home or house, tourist camp, tourist cabin, camping grounds, motel, rooming house or other lodging place within the city offering lodging for compensation to any transient.

Room Rental Charge - The total charge made by any such lodging place and/or space furnished to any such transient before taxes.

Transient - any 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 in any lodging place.

Transient Occupancy Tax - the tax on the rental of rooms or a house paid by the guest (transient) and remitted to the City of Poquoson by the host.

Treasurer – Treasurer of the City of Poquoson, Virginia, or any duly authorized deputies or agents.

Sec. 74-472. – Levy of tax; amount

In addition to all other taxes and fees of any kind now or hereafter imposed by law, a tax is hereby levied and imposed on the room rental charge to a transient by any and all accommodations providers in the City of Poquoson. All accommodations providers are required to levy and impose on each transient a tax equivalent to eight (8) percent of the total amount of the rental room charge paid for lodging, plus a flat tax of 2 dollar(s) (\$2.00) per room for each night of lodging at any lodging place.

Sec. 74-473. – Collection of tax generally.

Any accommodations provider or accommodations intermediary that offers lodging to any transient for a room rental charge shall collect, file with the Commissioner of the Revenue and remit the amount of tax to the Treasurer as imposed under this article from the accommodations provider(s) or accommodations intermediary.

Sec. 74-474. – Report and remittance of tax.

Each month all accommodations providers or any accommodations intermediaries that provide such service are required to collect the tax and complete a City of Poquoson local excise tax filing form and remit such form to the Commissioner of the Revenue on or before the 20th day of the following month.

It is the responsibility of the person collecting the tax whether it be the accommodations provider or the accommodations intermediary to report and remit the tax on or before the twentieth day of the following month, covering the amount of tax collected during the preceding month (example: August taxes are due by September 20)

If no tax is collected during a month, a ticket shall be filed indicating zero taxes collected.

Sec. 74-475. – Procedure upon failure to collect and report.

If any accommodations provider whose duty it is to do so 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 mentioned in this article, the Commissioner of the Revenue shall proceed in such manner as they 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, they shall proceed to determine and assess against such accommodations provider the tax and penalties provided for by this article and shall notify the accommodations provider the total amount of such tax and penalties and the total amount shall be payable within ten days from the date such notice is sent.

Sec. 74-476. –Advertising payment or absorption of tax.

No accommodations provider or accommodations intermediary shall advertise or hold out to the public in any manner, directly or indirectly, that all or any part of the tax imposed under this article will be paid or absorbed by the accommodations provider or the accommodations intermediary or that anyone else will relieve the transient of the payment of all or any part of the tax.

Sec. 74-477. – Preservation of records.

It shall be the responsibility of any accommodation’s provider and, if there exists, the accommodations intermediary liable for collections and remittance of the taxes imposed by this article, to keep and preserve for a period of three years records showing gross receipts for the rentals of any such lodging place.

Sec. 74-478. – Duty of accommodations provider when no longer offering room rentals.

Whenever any accommodations provider required to collect or pay the city a tax under this article shall cease to operate or otherwise cease offering room rentals, any tax payable under this article shall become immediately due and payable, and such person shall immediately make a report and pay the tax due.

Sec. 74-579. – Duty of Treasurer.

The Treasurer shall have the power and the duty of collecting the taxes imposed and levied hereunder and shall cause the same to be paid into the general treasury for the City.

Sec. 74-580. – Penalty of late remittance or false return.

If any accommodations provider or accommodations intermediary whose duty it is to do so shall fail or refuse to file any report required by this article or to remit to the Commissioner of the Revenue 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 Commissioner of the Revenue a penalty in the amount of ten (10) percent thereof and interest thereon at the rate of eight (8) percent per annum, which shall be computed upon the taxes and penalty from the date such taxes are due and payable.

Sec. 74-581--74-585. Reserved.

WHEREAS, there exists no current code to address the taxation and administration of transient occupancy tax, and

WHEREAS, the sections 74-471 through 74-485 are established by office of the City of Poquoson Commissioner of the Revenue and confers the duties upon the Office of the City Manager, and

WHEREAS, the section 74-471 identifies the definitions used in the proposed transient occupancy tax ordinance, as well as the accompanying administrative and legislative sections, and

WHEREAS, the City may now impose a transient occupancy tax on all short-term rentals, and

WHEREAS, careful and thorough consideration was given the proposed code sections:

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Poquoson, Virginia:

Section 1. That Article XII, Chapter 74 sections 471-485: being the proposed transient occupancy tax ordinance in the City Code of Poquoson, Virginia hereby be approved.

Section 2: That this ordinance shall be in effect on or after its adoption.

ADOPTED: _____

TESTE: _____

City Clerk