

RESOLUTION NO. RS-2015-18

**A RESOLUTION IMPOSING A HOTEL RENTAL TAX IN
WASHINGTON COUNTY, MARYLAND**

RECITALS

The Board of County Commissioners of Washington County (the "Board") has the authority to adopt a resolution imposing a tax on a transient charge paid to a hotel located in Washington County pursuant to Md. Code, Local Government Article, Title 20, Subtitle 4.

The Board recognizes the benefit that tourism brings to Washington County in the form of valuable jobs, economic gain and desirable living standards.

The Board realizes that the tourism industry has great potential for the further advancement and promotion of Washington County.

The Board understands the need to raise revenues to promote business and tourism that directly benefits the hotel and motel industry of Washington County.

By Resolution adopted on August 23, 2005, the Board imposed a hotel rental tax and adopted a Hotel Rental Tax Revenue and Distribution Policy (the "Policy").

Chapter 188 of the 2015 Acts of the Maryland General Assembly altered the due date of certain annual reports and repealed and modified certain reporting requirements of the Board relating to the hotel rental tax revenue.

The Board believes it to be in the best interests of the citizens of the County for the Board to adopt this resolution in order to bring the Policy into compliance with State law.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Washington County, Maryland, that any prior ordinances or resolutions providing for the collection of a hotel rental tax are hereby repealed upon the effective date of this resolution.

BE IT FURTHER RESOLVED, that a hotel rental tax is imposed and a revenue distribution policy is adopted as set forth below.

Imposition of Hotel Rental Tax; Revenue Distribution Policy

Section 1. Definitions. In this Policy, the following words and phrases have the meanings indicated.

(a) "BOARD" means the Board of County Commissioners of Washington County, Maryland.

(b) "HOTEL, MOTEL, APARTMENT, COTTAGE OR OTHER SIMILAR PLACE" means any public or private hotel, inn, hostelry, tourist home or house, motel, rooming house, apartment house, cottage, or other similar lodging place, offering sleeping accommodations or space for one or more persons at any time, and the owner and operator thereof, which for compensation holds out to furnish or furnishes sleeping accommodations or space to any transient. It shall not apply to a structure that is not permanently affixed to the earth.

(c) "ROOM OR BUILDING RENTAL" means the total charge made by any hotel, motel, apartment, cottage or any other similar place for sleeping accommodations or space furnished to a transient. If the charge includes any amount for services or accommodations in addition to the use of sleeping space, the portion of the total charge which represents only room or building rental shall be distinctly set out and billed to the transient as a separate item.

(d) "PERSON" means any individual, corporation, company, association, firm, co-partnership, or legal entity or any group of individuals acting as a unit, and includes any trustee, receiver, assignee or personal representative thereof.

(e) "TRANSIENT" means any person who, for any period of not more than thirty (30) days, obtains sleeping accommodations or space, either at his or her own expense or at the expense of another, in any hotel, motel, apartment, cottage or other similar place for which there is a room or building rental.

(f) "TRANSIENT CHARGE" means a hotel charge for sleeping accommodations for a period not exceeding thirty (30) days, but not a hotel charge paid by the federal government, a state, or an agency or instrumentality of a state or of the federal government.

Section 2. Imposition of tax. The Board is authorized to and hereby does impose a tax on the amount paid for room or building rental by or for a transient at a hotel, motel, apartment, cottage, or other similar place providing sleeping accommodations at a rate of six percent (6%) of the room or building rental.

Section 3. Payment of tax. A person shall pay the hotel rental tax to the hotel when the person pays the transient charge. A hotel shall give the person who is required to pay a

transient charge a bill that identifies the transient charge as a separate item from any other charge; and collect the hotel rental tax from the person who pays the transient charge. A hotel holds hotel rental tax collected in trust for the Board until the hotel pays the tax to the Board as required under this Policy.

Section 4. Collection of tax. Each person who receives any payment for room or building rental on which a tax is levied under this resolution shall collect the amount of tax imposed from the transient or person on whom it is levied or from the person paying for the room or building rental at the time payment is made. The taxes required to be collected under this section shall be deemed held in trust by the person required to collect them until remitted as required in this section.

Section 5. Tax collection reports. The person collecting the tax shall make out a report upon forms and setting forth information the Board prescribes and requires, showing the amount of room or building rental charges that have been collected and the tax required to be collected; and the person shall sign and deliver the report to the Board, with a remittance of the tax required hereunder. The reports and remittances shall be made on or before the 25th day of each month, covering the sales and the amount of tax collected during the preceding calendar month.

Section 6. Delinquency charges. If a person fails or refuses to remit to the Board the tax required to be collected and paid under this section, within the time and in the amount specified in this section, there shall be added to the tax by the Board interest at the rate of one (1%) percent per month on the amount of the tax for each month or portion thereof from the date upon the tax is due, as provided in this section. If the tax remains delinquent and unpaid for a period of one month from the date it is due and payable, there shall be added to the tax by the Board a penalty of ten (10%) percent of the amount of the tax. The Board may proceed to collect delinquent and unpaid taxes by suit or distraint. Until the taxes are collected, they shall be a lien upon the real and personal property of the person required to pay the tax, and shall be collectable in the same manner as real property taxes assessed against that property.

Section 7. Sales Tax Division. The Retail Sales Tax Division of the Comptroller's Office shall supply to the Board information to aid in verification of the liability for the tax. The Retail Sales Tax Division may make a reasonable charge for this assistance, which shall be paid by the Board and treated as a part of the reasonable costs of collecting the tax.

Section 8. Regulations. The Board may adopt regulations not inconsistent with this Policy and deemed necessary to provide for an orderly, systematic, and thorough collection and distribution of the tax imposed in this section. If and as applicable, the laws and the rules and regulations in effect as to the Retail Sales Tax and the State Use Tax in Maryland shall be adopted and followed by the Board in adopting a regulation.

Section 9. Treasurer's bond. The surety bond of the Treasurer of the County may be increased by the Board, in relation to the monies collected and distributed under this section. The premium for any increase in the surety bond shall be deemed part of the costs of imposing and collecting the tax imposed in this section.

Section 10. Collection fee; bond.

(a) Each person collecting the tax is eligible to receive a collection fee to cover the person's expenses in the collection and remittance of the tax. The collection fee shall be a 1.5% discount in the amount of tax paid to the Board, and shall be automatically available to each person, who, on or before the due date, files the hotel rental tax return and pays the hotel rental tax.

(b) The Board, in order to protect the revenues to be obtained under this section, may require any person collecting the tax to file with the Board a surety bond issued by a surety company authorized to do business in this state and approved by the State Insurance Commissioner as to solvency and responsibility, in such amount or amounts from time to time as the Board may fix to secure the payment of the tax due or which may become due from the person collecting the tax. If the Board determines that the person is to file such a bond, the Board shall give notice to the person to that effect specifying the amount of bond required. The person collecting the tax shall file the bond within five (5) days after receiving the notice unless within that period, the person requests in writing a hearing before the Board, at which hearing, the necessity, propriety, and amount of the bond shall be determined by the Board. This determination is final and shall be complied with within fifteen (15) days after the person collecting the tax receives notice thereof. In lieu of the bond required by paragraph one of this subsection, securities approved by the Board or cash in such amount as the Board prescribes may be deposited, which shall be kept in the custody of the Board. The Board at any time without notice to the depositor of the securities or cash may apply them to any tax due, and for that purpose the securities may be sold by the Board at public or private sale without notice to the depositor of the securities.

Section 11. Disposition of Revenue Collected. Fifty percent (50%) of the total hotel rental tax revenue shall be deposited to the general fund of Washington County to be used to fund the Hagerstown/Washington County Convention and Visitors' Bureau. The remaining balance shall be deposited to a special fund used only to cover actual administrative costs (including wages, postage, and supplies) and legal fees incurred in administering this Policy, to develop tourism attractions, to enhance economic development, and to support cultural and recreational projects in Washington County. A municipal corporation in Washington County may apply to the Board for funding from the special fund established under this paragraph for an eligible project within the municipal corporation. The Board shall make the distributions required under this section between the 15th day and the 30th day of each calendar month.

Section 12. *Reporting Requirements.* The Board shall post on the County's website a report on the hotel rental tax revenue collected and the manner in which it was used in the preceding fiscal year **on or before November 1st of each year.**

Section 13. *Effective date.* This Policy shall be retroactive to the 1st day of July, 2000, with the following exceptions:

- (1) Section 11 shall be retroactive to the 1st day of July, 2005, and
- (2) Section 12 shall be retroactive to the 1st of July, 2015.

Section 14. *Severability.* If any provision of this Ordinance or the application thereof to any Person is held invalid by a court of competent jurisdiction, the remainder of this Ordinance and the application of such provisions to Persons or circumstances other than those as to which it is held invalid shall not be affected thereby. The powers conferred by this Ordinance shall be in addition and supplemental to the powers conferred by any other law.

Adopted this 29th day of September, 2015 and effective as set forth in Section 13.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
OF WASHINGTON COUNTY, MARYLAND




Vicki C. Lumm, Clerk



Terry L. Baker, President

Approved as to form
and legal sufficiency:



Kirk C. Downey
Deputy County Attorney

Mail to:

County Attorney's Office
100 W. Washington Street
Hagerstown, MD 21740

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