

**ADMINISTRATIVE PROCEDURES FOR THE COLLECTION
OF THE CUMBERLAND COUNTY OCCUPANCY TAX**

WHEREAS, the Board of Commissioners of Cumberland County, North Carolina, has enacted an Ordinance known as the "Cumberland County Occupancy Tax", codified as Article IX of Chapter 7 of the Cumberland County Code, and thereby imposed and levied a tax at the rate of three (3) percent upon the gross receipts of every person, firm, corporation, or association derived from the rental of any sleeping room or lodging furnished in any hotel, motel, or inn located in Cumberland County subject to the three (3) percent sales tax levied by the State of North Carolina; and

WHEREAS, said Board pursuant to said Ordinance authorized Cumberland County Tax Collector to collect said tax and to promulgate and implement reasonable administrative procedures necessary to enforce said Ordinance;

NOW THEREFORE, the Tax Collector of Cumberland County hereby promulgate and announce the following procedures for enforcement of the Cumberland County Occupancy Tax Ordinance order and direct all persons subject to the tax imposed by ordinance and all persons entrusted with the enforcement of ordinance to comply with such procedures:

1. DETERMINATION OF PERSONS SUBJECT TO THE TAX:

a. The Tax Collector or designated representative thereof shall compile a list of persons, firms, corporations, and associations subject to the occupancy tax. Such list shall be compiled from data obtained as follows;

- (1) Names, addresses and other identifying data obtained from the North Carolina Department of Revenue pertaining to persons, firms, corporations and associations furnishing sleeping rooms or other lodging in any hotel, motel, or inn located in Cumberland County and subject to the North Carolina three (3) percent sales tax pursuant to N.C.G.S., Section 105-164.4(a)(3). A copy of this statute is attached as Enclosure 1.
- (2) Names and addresses obtained from various advertising or other informational media of persons, firms, corporations and associations which hold themselves out as furnishing sleeping rooms or other lodging in any hotel, motel, or inn located in Cumberland County and are determined to be subject to the North Carolina three (3) percent sales tax pursuant to N.C.G.S., Section 105-164.4(a)(3). In cases of doubt the latter determination may be obtained from the County Attorney's office.

b. Upon a determination that a person, firm, corporation or association is subject to the tax, an occupancy tax account shall be opened for such taxpayer to which tax payments shall be credited and disbursements debited

2. NOTIFICATION OF PERSONS SUBJECT TO TAX:

a. The Tax Collector or designated representative, upon determining that a person, firm, corporation or association is subject to the occupancy tax, shall send notice to said person or organization of such determination, together with a copy of the ordinance and

these procedures, return forms with instructions on completing the returns, and a demand for payment of such taxes as may become due thereafter. There is no need for further notice to persons and organizations which are currently complying with the ordinance and these procedures or which have been once sent such notice.

b. Upon notification of such determination or upon a change of status of such person or organization making them no longer subject to the tax, such person or organization may apply to the Tax Collector for a ruling that they are not subject to the tax. Such application shall be in writing, state with particularity why the applicant is not subject to the tax, be accompanied by supporting documentation, and be submitted within thirty (30) days of such notification or change in status. If requested, the Tax Collector shall hold a conference with the applicant or its representative prior to issuing a ruling. The Tax Collector's ruling shall be in writing.

c. A ruling adverse to the applicant may be appealed to the Occupancy Tax Appeals Panel, consisting of the County Manager, the Assistant County Manager with supervisory responsibility for the Tax Collector, and the County Finance Director. Such appeal shall be in writing, state with particularity why the appellant is not subject to the tax, be accompanied by supporting documentation, and be submitted within thirty (30) days of the date of the Tax Collector's ruling.

3. FORM OF RETURN:

All returns submitted in compliance with the ordinance and these procedures shall be on the form attached hereto as Enclosure 2. Those may reproduce this form subject to the tax.

4. PREPARATION OF THE RETURN:

Returns shall be prepared and submitted as follows:

a. The return shall report all receipts from the rental of sleeping rooms and lodging for a calendar month.

b. The return, together with payments due, shall be submitted to the Office of the Tax Collector on or before the 15th day of the month following the month covered by the return.

c. The return may be submitted in person or by mail addressed to the Cumberland County Tax Collector, Post Office Box 449, and Fayetteville, NC 28302. The return shall be deemed received upon delivery in person or upon the date shown on the U.S. Postal Service postmark on the enveloping submitting the return by mail.

d. Occupancy taxes, to include any penalties for late filing, must be paid on all rentals until such time as a rental exceeds ninety (90) days and such rental was made under a written contract reserving lodging for a period greater than ninety (90) days. When such a rental does in fact exceed ninety (90) days, the taxpayer is entitled to and may apply the amount of tax (excluding penalties) previously paid for such rental (i.e., amounts paid before the 91st day was reached) against any occupancy taxes that become subsequently due. This is intended to allow the taxpayer to refund such amounts to the lodgers out of monies that would otherwise be paid as taxes. Accordingly, to effectuate that result, the return shall contain the following data:

- (1) Receipts for the month from all rentals of sleeping rooms and other lodging, not including the amount of state sales tax or occupancy tax charged.

- (2) Receipts for the amount from rentals under written contract with the same person for a period of 90 days or more, if during the month the period of occupancy under such contract exceeded 90 days. "Under written contract" means one or more documents, which may be a registration form or similar record, showing in writing the identity of the contracting parties, the nature and identity of the lodging being rented (room number, for example) by the contract, and the period of stay reserved by beginning and ending date.
- (3) The amount of item (1) less the amount of item
- (4) The amount in item (3) multiplied by the tax rate of 3 percent.
- (5) The amount of occupancy tax previously paid on receipts from rentals not exceeding 90 days if such rentals were under written contract with the same person for a period exceeding 90 days and if during the month the period of occupancy under such contract exceeded 90 days.
- (6) The amount in item (4) less the amount in item
- (7) The amount of any penalty due for failure to submit this or a previous return on time (\$10.00 per day) for each day after the 15th day of the Month following the month for which the return is due until and including the day before payment. Is made.
- (8) The amount in item (6) plus the amount in item (7). This is the amount to be remitted with the return.

e. In the event that the amount to be credited on line (5) exceeds the amount of tax and penalty owed for the month of the return (i.e., if the amount on line (8) is a negative number), the Tax Collector will credit such excess against the amount of taxes owed but not paid on previous returns, if any, and thereafter, within fifteen (15) days of the receipt of the return, refund the amount of the remaining excess to the taxpayer.

f. In the event that a hotel, motel, or inn, as defined in Section 7-322(a), shall provide rooms, lodging, or accommodations to representatives or employees of a common carrier regulated by the Interstate Commerce Commission, or by any state, pursuant to a continuing contract, said hotel, motel, or inn shall submit a copy of the contract to the Tax Collector. The number of rooms as set forth in the contract shall be presumed to be the number of rooms not subject to the tax imposed pursuant to Code Article IX. The taxpayer shall identify the rooms as occupied pursuant to the contract in any return filed with the Tax Collector. However, the Tax Collector, pursuant to Code Section 7-322(c)(4) may rebut the presumption through an examination of the records of the taxpayer and the taxpayer shall be liable as provided in Section 7-322(d) for the failure to report and pay taxes due. In the event that no contract as provided herein is entered into between the hotel, motel, or inn and the common carrier, tax shall be due and payable for each room as provided on a per day basis.

5. EXEMPTION FROM RETURNS OR TAX:

a. Only the following are exempted from the requirement to submit returns:

- (1) Persons, firms, corporations, and associations furnishing sleeping rooms or lodging in hotels, motels, or inns not located in the County or not

subject to the North Carolina three (3) percent sales tax pursuant to N.C.G.S., Section 105-164.4 (a)(3). A determination by the Tax Collector that a person or organization is subject to the said sales tax may be set aside only by a written determination by the County Attorney, Secretary of the Department of Revenue, State Attorney General or a court of competent jurisdiction.

- (2) Charitable, educational, benevolent or religious institutions or organizations which furnish sleeping rooms or lodging on a nonprofit basis, if such institutions or organizations are exempt from Cumberland County property taxes pursuant to determinations of the County Assessor. County property taxes pursuant to determinations of the County Assessor.

b. No person, firm, corporation or association, otherwise subject to the tax, shall be exempt from submitting a return or from payment of the tax because of the status of the entity or persons renting or occupying the sleeping rooms or lodgings furnished. For example, if a property tax exempt charitable organization rents lodging, the occupancy tax is due; if a person on military orders or federal or state business rents lodging, the tax is due.

c. In the event that any taxpayer furnishes a sleeping room or lodging for rent to a member or representative of the armed forces and payment therefor is remitted and made to the taxpayer directly by the occupant of the sleeping room or lodging, such rental payment is subject to the occupancy tax. Only in the event that a rental payment is made directly by the United States government to the taxpayer by check, draft, or other form of payment, shall the occupancy tax not be due and payable.

6. PAYMENT OF TAX:

a. Payment of the tax and any penalty due pursuant to a return shall be remitted to the office of the Tax Collector together with the return. A return shall be deemed not received when not accompanied by payment in full of the tax due.

b. If a return is submitted in person, payment shall be made either in cash or by personal or organizational check bearing the tax identification number of the remitting person or organization. If a return is submitted by mail, payment shall be made only by personal or organizational check bearing the tax identification number of the remitting person or organization.

c. If checks are returned because of insufficient funds on deposit, a service charge in the amount set from time to time by the Tax Collector for returned checks tendered in payment of County property taxes.

7. PROCESSING OF PAYMENTS AND RETURNS:

a. Upon receipt, each return shall be stamped with date received by the Tax Collector's office.

b. All returns shall be filed and otherwise handled privileged information in accordance with Section 7-322(c)(3) the Cumberland County Code.

c. All payments will be processed on the day received in the same manner as all other tax payments for deposit the following day.

8. ENFORCEMENT OF ORDINANCE:

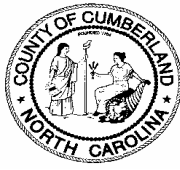
- a. Each account will be reviewed by the fifth (5th) working day following the 15th day of each month. If a return with payment still has not been received on the date of review, the taxpayer whose account is delinquent shall be notified of such delinquency by certified mail and a demand made for submission the return and payment of the taxes and penalties due.
- b. A taxpayer filing a late return shall compute the penalties due at the rate of ten dollars (\$10.00) per day until the day of payment and submit the amount of penalty due along with the tax due.
- c. If a return is filed late without including payment of the taxes or penalties due, the taxpayer shall be sent a civil penalty citation stating the number of days late and the amount of the penalty at the rate of ten dollars (\$10.00) per day. A civil penalty citation form is attached hereto as Enclosure 3. The citation shall give the taxpayer the option of paying the penalty separately before the next return is due or including the penalty with the next return.
- d. A failure to file a return or failure to include payment of taxes or penalties with a timely filed return for three (3) consecutive months shall on the date the third return or payment would have been due shall constitute a willful failure to render a return or pay taxes and penalties and a misdemeanor charge pursuant to Section 7-322(d)(2) of the Cumberland County Code shall be filed with County magistrate against the taxpayer.

9. AUDITS:

- a. The records of occupancy and account books of every person, firm, corporation and association subject to the occupancy tax may be examined at any time during usual business hours by designated representatives of the Tax Collector or by the internal auditors of Cumberland County in accordance with Section 7-322(c)(4) of the Cumberland County Code.
- b. The designated representative of the Tax Collector or the internal auditor who is refused or otherwise denied access to the premises of a person or organization subject to the tax or access to the records and books of such taxpayer shall report such refusal or denial to the Tax Collector who shall issue a civil penalty citation to the taxpayer in accordance with Section 7-322(d)(3) of the Cumberland County Code.

10. EFFECTIVE DATE:

The effective date of these procedures shall be October 1, 1984.



COUNTY of CUMBERLAND
Office of the Tax Administrator

February 1, 2002

MEMORANDUM

TO: All Hotel / Motel Owners

FROM: Gwen G. Izzell; Tax Auditor

RE: Revision to the Occupancy Tax Levy in Cumberland County

On January 28th, 2002, the Board of Cumberland County Commissioners voted to amend Article IX of Chapter 7 of the Cumberland County Code for the Room Occupancy Tax. The revision to the tax will be as follows:

1. Effective March 1st 2002, the Room Occupancy tax will change from "three (3)" percent to "four (4)" percent.
2. Effective January 1st, 2004, the Room Occupancy tax will increase to "five (5)" percent.
3. Effective January 1st, 2005, the Room Occupancy tax will increase to "six (6)" percent.

Enclosed is a copy of the amendment for your records. The Room Occupancy tax return will be due April 15th, 2002 at the new rate. Revised forms will be sent within the next few days. Should you have any questions, please feel free to contact our office at (910) 678-7590.

**AN ORDINANCE OF THE CUMBERLAND COUNTY BOARD OF
COMMISSIONERS AMENDING ARTICLE IX OF CHAPTER 7 OF THE
CUMBERLAND COUNTY CODE, TO REVISE THE OCCUPANCY TAX LEVY
IN CUMBERLAND COUNTY**

BE IT ORDAINED by the Cumberland County Board of Commissioners, that Article IX of Chapter 7 of the Cumberland County Code is amended as follows:

1. Section 7-321(b) of the Cumberland County Code is amended by inserting immediately after the word "Laws" the following phrase: "and Chapter 484 of the 2001 Sessions Laws".
2. Section 7-321(c) of the Cumberland County Code is amended as of March 1, 2002 by deleting "three (3)" immediately prior to the words "per cent" and inserting in lieu thereof "four (4)".
3. Section 7-321(c) of the Cumberland County Code is amended as of January 1, 2004 by deleting "three (3)" immediately prior to the words "per cent" and inserting in lieu thereof "five (5)".
4. Section 7-321(c) of the Cumberland County Code is amended as of January 1, 2005 by deleting "three (3)" immediately prior to the words "per cent" and inserting in lieu thereof "six (6)".
5. Section 7-322(c)(3) of the Cumberland County Code is amended by deleting the reference to the "Fayetteville Area Convention and Visitors' Bureau" and inserting in lieu thereof "Cumberland County Tourism Development Authority".
6. Section 7-323 of the Cumberland County Code is amended by inserting after the phrase "October 1, 1984," the phrase "except as specifically amended by the Board of Commissioners' ordinance of January 28th 2002,"
7. All other ordinances or portions thereof in conflict with this ordinance are repealed.
8. Sections 1, 5 and 6 of this ordinance shall be effective immediately upon its adoption as by law provided; Section 2 of this ordinance is effective at 12:01 am. on March 1, 2002; Section 3 of this ordinance is effective at 12:01 a.m. on January 1, 2004; Section 4 of this ordinance is effective at 12:01 am.on January 1, 2005.

This the 28th day of January, 2002.