

A RESOLUTION ESTABLISHING A HOTEL ROOM OCCUPANCY TAX
Draft Resolution No. 39/2012-13

WHEREAS, the Town of Carrboro was authorized by Chapter 439, Part XIV of the 2001 Session Laws to adopt a resolution levying a tax of up to 3% on the gross receipts derived from the rental of hotel or motel rooms; and

WHEREAS, G.S. § 160A-215 establishes procedures for the adoption, administration and enforcement of such a tax;

NOW THEREFORE, THE BOARD OF ALDERMEN OF THE TOWN OF CARRBORO RESOLVES:

Section 1. The Carrboro Town Code is amended by adding a new Chapter 8A as follows:

CHAPTER 8A

HOTEL AND MOTEL ROOM OCCUPANCY TAX

Section 8A-1. Tax Levied.

There is hereby levied a room occupancy tax of three percent (3%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the town that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations when furnished in furtherance of their nonprofit purpose.

Section 8A-2. Payment of Tax.

(a) As provided in G.S. 160A-215(c), a retailer who is required to remit to the Department of Revenue the State sales tax imposed by G.S. 105-164.4(a)(3) on accommodations is required to remit a room occupancy tax to the town on and after the effective date of this Chapter. The room occupancy tax applies to the same gross receipts as the State sales tax on accommodations and is calculated in the same manner as that tax. A rental agent or a facilitator, as defined in G.S. 105-164.4(a)(3), has the same responsibility and liability under the room occupancy tax as the rental agent or facilitator has under the State sales tax on accommodations.

(b) If a taxable accommodation is furnished as part of a package, the bundled transaction provisions in G.S. 106-164.4D apply in determining the sales price of the taxable accommodation. If those provisions do not address the type of package offered, the person offering the package may determine an allocated price for each item in the package based on a reasonable allocation of revenue that is supported by the person's business records kept in the

ordinary course of business and calculate tax on the allocated price of the taxable accommodation.

(c) A retailer must separately state the room occupancy tax. Room occupancy taxes paid to a retailer are held in trust for and on account of the town.

(d) The town shall design and furnish to all appropriate businesses and persons in the town the necessary forms for filing returns and instructions to ensure the full collection of the tax. An operator of a business who collects a room occupancy tax may deduct from the amount remitted to the town a discount equal to the discount the State allows the retailer for State sales and use tax.

(e) As provided in G.S. 160A-215(d), the tax levied by this Chapter shall be due and payable to the town finance officer in monthly installments on or before the 20th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the 20th day of each month, prepare and render a return on a form prescribed by the town. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied. A room occupancy tax return filed with the town is not a public record and may not be disclosed except in accordance with G.S. 160A-208.1.

Section 8A-3. Penalties.

As provided in G.S. 160A-215(e), a person, firm, corporation, or association who fails or refuses to file a room occupancy tax return or pay a room occupancy tax as required by this Chapter shall be subject to the civil and criminal penalties set by G.S. 105-236 for failure to pay or file a return for State sales and use taxes. The Board of Aldermen has the same authority to waive the penalties for a room occupancy tax that the Secretary of Revenue has to waive the penalties for State sales and use taxes.

Section 8A-4. Distribution and Use of Tax Revenue.

The town shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Carrboro Tourism Development Authority (CTDA). The CTDA shall use at least two-thirds of the funds remitted to it under this section to promote travel and tourism in Carrboro and shall use the remainder for tourism-related expenditures. The following definitions apply in this section:

- (1) Net Proceeds. Gross proceeds less the cost to the town of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars (\$500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross receipts collected each year.
- (2) Promote travel and tourism. To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or

business travelers to the area. The term includes administrative expenses incurred in engaging in these activities.

- (3) Tourism-related expenditures. Expenditures that, in the judgment of the CTDA, are designed to increase the use of lodging facilities, meeting facilities, and convention facilities in the town by attracting tourists or business travelers to the town. The term includes tourism-related capital expenditures.

Section 8A-5. Carrboro Tourism Development Authority: Appointment and Membership.

(a) The Carrboro Tourism Development Authority (CTDA) is hereby created, which shall be a public authority under the Local Government Budget and Fiscal Control Act.

(b) The CTDA shall consist of three members appointed by the Board of Aldermen. Members need not reside within the town, but at least one-third of the members must be individuals who are affiliated with businesses that collect the tax in the town, and at least three-fourths of the members must be individuals who are currently active in the promotion of travel and tourism in the town.

(c) Subject to subsection (d), members shall be appointed for terms of one year. The initial terms of all appointees shall expire on January 31 of the year that follows the initial appointments. Subsequent terms shall run from February 1 of one year to January 31 of the following year. Vacancies shall be filled for the remainder of the unexpired term. Members may be appointed to successive terms without limitation.

(d) Members shall serve at the pleasure of the Board of Aldermen and may be removed by the Board at any time with or without cause.

(e) Members shall serve without compensation.

Section 8A-6. Meetings of CTDA.

(a) The CTDA shall meet as necessary to carry out its powers and duties as specified below. All meetings shall be held in conformity with the Open Meetings Law.

(b) A quorum for the CTDA shall consist of three members, except that if one seat is vacant, a quorum shall consist of two members. All actions of the CTDA shall be taken by majority vote, a quorum being present.

(c) Upon the initial appointment of members to the CTDA and upon the commencement of each new term, the Board of Aldermen shall appoint one member to serve as chair of the CTDA during that term. If a vacancy occurs during a term, the Board shall designate another member to serve as chair for the remainder of that term. The chair may take part in all deliberations and vote on all issues.

Section 8A-7. Powers and Duties of the CTDA.

(a) The CTDA shall expend the net proceeds of the tax levied under this Chapter for the purposes provided in this Section 8A-4. The Authority shall promote travel, tourism, and conventions in the town, sponsor tourist-related events and activities in the town, and finance tourist-related capital projects in the town. The town's finance officer shall serve ex officio as the finance officer for the CTDA.

(b) The CTDA shall report quarterly and at the close of the fiscal year to the Board of Aldermen on its receipts and expenditures for the preceding quarter and for the year in such detail as the Board may require.

Section 2. This resolution shall become effective on the first day of the second month following its adoption.