

STATE OF WEST VIRGINIA
RANDOLPH COUNTY COMMISSION SS:

At a regular session of the Randolph County Commission in and for the aforesaid County and State, at the James F. Cain Courthouse Annex, on the 7th day of September, 2017 at 10:00 a.m.

PRESENT: Michael Taylor, President of the Randolph County Commission and Chris See and Mark Scott, Commissioners thereof.

Meeting called to order by Commissioner Taylor

PUBLIC COMMENT:

Phil Hudok appeared before the Commission. He showed a power point presentation to the Commission. He discussed the Elkwater Dam and lake area. He said it is a beautiful resource but with no access road into it. He said he had to carry 3 kayaks into it up a hill with a gate. This lake is not being used. He said when the Dam was being built the public was told it was going to be accessible for boating and fishing. He said the government needs to keep their promises. Commissioner Taylor said it is his understanding that the Elkwater Dam is under the control of the State Soil and Conservation District. He said he would reach out to them about this. He said the County Commission provides funding every year for the maintenance around the Dam. Commissioner See said he heard they were going to put a boat ramp on the Monterville side, but they never did. Commissioner Scott said some people use it but not a lot.

Rhett Duesenberry appeared before the Commission. He said he is a resident of Elkins and has recently been employed by Congressman Alex Mooney as a field representative working in Randolph and several other counties. He said he wanted to introduce himself to the Commission. Commissioner Scott said they are glad to have him and look forward to working with him.

MINUTES:

Commissioner Scott moved to approve the minutes from the regular meeting that was held on August 17, 2017, as submitted.

All yes – Motion passed unanimously

REPORTS:

911/OEM Director, Cindy Hart appeared before the Commission. She said they just had a federal audit done with no errors.

CORRESPONDENCE: None

ANNOUNCEMENTS:

Commissioner Taylor announced that the Commission received a check for \$747,342.50 from a grant for the new radio tower up on Rich Mountain. He thanked Cindy Hart and

Terry Wilfong for doing all the hard work to apply for and get this grant. Cindy Hart said this is the largest check for communications that the State has ever written.

ITEMS FOR DISCUSSION/ACTION:

CONSIDER FUNDING REQUEST FROM THE MAYOR OF MILL CREEK, LARRY SERRETT, FOR IMPROVEMENTS FOR MILL CREEK COMMUNITY BUILDING
(See attached letter)

Larry Serrett, Mayor of Mill Creek, appeared before the Commission. He said they are still working on the community building at Hamill Park in Mill Creek. He said they have run out of money to complete the building and he is there to ask the Commission for any funding they can give. He said they need an Ansul Fire System, tables and chairs and they would like to build a deck that is handicap accessible. He said all the labor will be volunteers. He said they are working with donations and fundraisers to finish the building to get it ready to rent out to the public for birthday parties, etc. He said the building was dedicated to Judge, Robert E. Maxwell on June 10, 2017. Commissioners Taylor and See said they were there for the dedication ceremony. Commissioner Scott said he had been there also and the building is impressive.

Commissioner Scott moved to approve the funding request in the amount of \$5,000.00 to the Town of Mill Creek for upgrades to the community building at Hamill Park, and that is to be taken out of Hotel/Motel tax funds.

All yes – Motion passed unanimously

CONSIDER THE HIRE OF CREWS AND ASSOCIATES TO ASSIST IN THE LOAN PROCESS FOR FUNDING THE RECONSTRUCTION OF THE PROPOSED NEW LOCATION FOR THE 911 CENTER

Commissioner Taylor said this is an engagement letter that needs signed to engage the services of Crews and Associates to do the paperwork to get the bonds and other documents needed to revamp the old Emerson Phares building at the Airport which is the proposed new location of the Randolph County 911 Center. Cindy Hart said the plans should be done by October 1st.

Commissioner See moved to approve the signing of the proposal from Crews and Associates in regards to the bonding and funding of the new 911 center.

All yes – Motion passed unanimously

CONSIDER THE HIRE OF STEPTOE AND JOHNSON AS BOND COUNSEL FOR THE LOAN FOR REMODEL AND UPGRADES OF THE PROPOSED NEW LOCATION FOR THE 911 CENTER

Commissioner Taylor said this is another engagement letter that needs signed for Steptoe and Johnson to provide legal bond counsel and to work with Crews and Associates on getting the bonding and funding for the new 911 center. He said the Randolph County Building Commission will also have to sign this document.

Commissioner Scott moved to give authority for Commissioner Michael Taylor to sign the engagement letter for Steptoe and Johnson, as presented.

All yes – Motion passed unanimously

CONSIDER APPROVAL OF PART TIME HIRE IN THE COUNTY COMMISSION OFFICE

(See letter attached)

Commissioner Taylor said their administrative assistant, Donna Haddix, is going to be off work on medical leave for 3 to 6 weeks. The Commission advertised for a part time position on the County website. Former County Commissioner Joyce Johns applied for the position. Commissioner Taylor said this will be on a part time as needed basis until Mrs. Haddix returns to work.

Commissioner Scott moved to approve the hiring of Joyce Johns at an hourly rate of \$10.00 per hour with no benefits and on an as needed basis.

All yes – Motion passed unanimously

CONSIDER APPROVAL OF ENGAGEMENT OF SERVICES FROM CPA, LISA DANIELS SMITH TO ASSIST IN THE BOOKKEEPING PRACTICES FOR THE COUNTY COMMISSION

Commissioner Taylor said the Commission has been discussing the bookkeeping and feel that they need to get up to modern day standards and have better accountability.

Commissioner Scott said he worked with Mrs. Smith at the City of Elkins and she does an excellent job. She currently teaches governmental accounting at the college. She can help the County Commission with budgets, expenditures etc. She will be retained on a contractual basis and she is not taking anybody's job. Sheriff Brady asked if the elected officials would be able to call her for advice also? Commissioner Scott said yes he could. County Clerk, Brenda Wiseman said she would like everyone to know that her office handles the bookkeeping for the County and nothing has been done wrong. She said there is an audit done every year with no findings of errors in the bookkeeping department. Commissioner Taylor said there was a problem with how an account was set up. Sheriff Brady said she will not tell his office what to do if the Auditor and State Code say different.

Commissioner Scott moved to retain the services of CPA Lisa Daniels Smith at the rate of \$50.00 per hour, payable by invoice when services are rendered.

All yes – Motion passed unanimously

CONSIDER APPROVAL OF HOTEL/MOTEL PROTOCOL FOR ADMINISTRATIVE RULES AND REGULATIONS FOR HOTEL/MOTEL TAX COLLECTIONS AND DELINQUENCIES

(See attached copy)

Commissioner Taylor said the county has a Hotel/Motel tax ordinance in place and we have updated the Ordinance but there needs to be a process in which the Sheriff can do something to the Hotels/Motels that don't pay. This protocol was drawn up by the Sheriff and his staff and reviewed by the Prosecuting Attorney. Sheriff Brady said he is trying to treat all the Hotel/Motels fairly. Commissioner Scott said this answers the question of what's next. Commissioner See said this should cover everything now. Commissioner Scott moved to approve the policy and procedure for the Hotel/Motel tax, as submitted.

All yes – Motion passed unanimously

CONSIDER APPROVAL OF FUNDING REQUEST FROM THE RANDOLPH COUNTY BOARD OF EDUCATION FOR ASSISTANCE FOR JOBS FOR WV PROGRAM

(See attached letter)

Commissioner Scott said this is a mentor program to work with high risk students to make sure they graduate and try to get jobs for them when they graduate. The cost of the program is \$5,000.00 and Randolph County Schools is willing to pay \$2,500.00 and is asking the Commission for the other \$2,500.00. Commissioner Taylor said we need to help save these students and it would be an investment in our youth. Commissioner See said it would be good for the workforce in the County. Commissioner Scott said the mentor is a former college professor.

Commissioner Scott moved to give \$2,500.00 to the Randolph County Board of Education for the Jobs for WV program and this is to be taken out of contractual services. All yes – Motion passed unanimously

CONSIDER REQUEST FROM ELKINS VFD WITH ASSISTANCE FOR MOUNTAIN STATE FOREST FESTIVAL FIREMAN'S PARADE

(See letter attached)

Tyler Harris appeared before the Commission on behalf of the Elkins Volunteer Fire Department. He said every year the Elkins VFD has the fireman's parade during the Mountain State Forest Festival and they have a dinner and awards ceremony afterward. He said there are usually 200-300 people that attend the dinner and ceremony. He said he was there to ask for a donation of \$1,500.00 to help with this event.

Commissioner See moved to approve the funding request from the Elkins Volunteer Fire Department in the amount of \$1,500.00 and that is to be taken out of Hotel/Motel tax funds.

All yes – Motion passed unanimously

FINAL SETTLEMENTS/ANNUAL ACCOUNTINGS:

Commissioner Scott moved to approve the 9 final settlements/annual accountings, as submitted.

Kevin L. Bell

Sarah H. Conrad

Jeffrey Lynn Loftis

Joyce Kay Maize

Glenna Joan McCollam

Harry Joseph Murphy

Georgia M. Scott

Bruce Robert Thompson

Jerry C. Williams

All yes – Motion passed unanimously

BUDGET REVISION: None

ERRONEOUS ASSESSMENTS/DIVISIONS OF PROPERTY:

Commissioner Scott moved to approve the erroneous assessments/divisions of property, as submitted. All yes - Motion passed unanimously.

PAYMENT OF BILLS:

Commissioner See moved to pay the bills, as submitted.
All yes - Motion passed unanimously

ADJOURN THE MEETING:

Commissioner See moved to adjourn the meeting at 11:12 a.m.
All yes - Motion passed unanimously

Attest: _____

TOWN OF MILL CREEK
PO BOX 128
MILL CREEK, WV 26280
PHONE: 304-335-4795
FAX: 304-335-4796

*\$5000
HOTEL/Motel
TAX.*

September 7, 2017

Randolph County Commission
Elkins WV 26241

Dear Sirs:

We are still working on our community building at Hamill Park in Mill Creek. There are still a few things we need to complete the building before we can rent it out to the public. All work will be done on a volunteer basis. We are asking for funds to complete the following:

Ansul Fire System	\$ 4,000.00
Tables and chairs (20 sets @ \$250.00 per set)	5,000.00
A deck that is handicap accessible	11,000.00
Total	<u>\$20,000.00</u>

The building was dedicated to Judge, Robert E. Maxwell on June 10, 2017, and we would appreciate any help you can give us to help us complete our project.

Thank you.

Larry A. Serrett
Larry A. Serrett/Mayor
Town of Mill Creek

Randolph County Commission



Commissioners

Michael M. Taylor

Chris Sec

Mark D. Scott

September 07, 2017

County Clerk, Randolph County
2 Randolph Avenue
Elkins, WV 26241
Attn: Payroll Department

Ms. Wiseman:

At the regularly scheduled County Commission Meeting held on September 7, 2017, the County Commission approved to hire Ms. Joyce Johns as a part-time employee in the Commission Office on a as needed basis. This position is a part-time, non-benefited position. The starting pay will be at an hourly rate of \$10.00 per hour.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Michael M. Taylor'.

Michael M. Taylor, President
Randolph County Commission

Randolph County

Hotel Operator Policy Manual

Hotel & Motel Occupancy Tax
Randolph County, WV

Policy Established July 2017

Introduction

The Randolph County Commission enacted our Hotel & Motel Occupancy Tax Ordinance (appendix A) as prescribed by WV state code chapter 7 article.18 to support area tourism and the efforts of the Randolph County Convention & Visitor's Bureau to keep the economy of Randolph County strong.

The Randolph County Commission is the taxing authority for all monies collected as result of the Randolph County Hotel & Motel Occupancy Tax Ordinance. The Sheriff of the County shall be the County's agent for the collection of this Hotel & Motel Occupancy Tax. (§7-18-3f, §7-18-13)

The Randolph County Commission shall have the power to initiate audits and/or legal remedies for collection of the tax authorized by this Ordinance. We have created this policy manual to establish documentation of our processes so that everyone involved can have a consistent understanding of expectations. (§7-18-8, §7-18-11, §7-18-12, §7-18-13e, §7-18-15)

The following items are covered in this manual:

- Process Overview
- Delinquency Procedures
- Financial Audit Procedures

For your convenience, we have also included:

- Appendix A:** Randolph County, WV Hotel-Motel Ordinance
- Appendix B:** Hotel & Motel Occupancy Tax Remittance Form
- Appendix C:** Contact Information

Process Overview

For complete knowledge of everything included in our ordinance, please read the latest version of our Hotel & Motel Occupancy Tax Ordinance which is provided in appendix A. Please note that we will use terminology defined in article 2 of the Randolph County Hotel & Motel Occupancy Tax Ordinance within this policy manual.

Tax overview

Hotels located within the unincorporated limits of Randolph County shall collect an occupancy tax from the consumer equal to 6% of consideration paid for the use or occupancy of the hotel room. (§7-18-1c, §7-18-2c)

Hotel operators are permitted to commingle taxes collected with the proceeds of the rental of hotel accommodations. However, all taxes collected are deemed to be held in trust by the hotel until they are remitted to the Sheriff of Randolph County. (§7-18-4)

Remittance & Reporting Expectations

The monies collected by the hotel-motel ordinance are vitally important to the Randolph County Convention & Visitors Bureau. As prescribed by WV State Code, all taxes are due and payable by the 15th of the month following their collection.

§7-18-10. Tax return and payment.

Unless otherwise provided by ordinance, order, rule or regulation of the taxing authority, the tax authorized by this article, if imposed or levied by any municipality or county, shall be due and payable in monthly installments on or before the fifteenth day of the calendar month next succeeding the month in which the tax accrued: *Provided*, That for credit sales in which the tax authorized by this article is not collected by the hotel operator at the time of such sales, such tax shall not, for purposes of this article, be regarded as having accrued until the date on which it is either received by the hotel operator or upon the expiration of the thirty day payment period set forth in section six of this article, whichever shall first occur. The hotel operator shall, on or before the fifteenth day of each month, prepare and deliver to the taxing authority a return for the preceding month, in the form prescribed by the taxing authority. Such form shall include all information necessary for the computation, collection and subsequent distribution of the tax as the taxing authority may require. A remittance in the amount of the amount of the tax due shall accompany each return. Each return shall be signed by the hotel operator or his duly authorized agent.

Please notice, that a fully completed remittance form is due for each month. If you have a month where no monies are due, we will accept copies of completed remittance forms via

email or fax. Similarly, we are willing to accept proactive notices of upcoming closures. Simply send written notice along with a \$0 due remittance form and we will mark \$0 payments in our system for each of the affected months. Please make sure to clearly identify your hotel as well as your contact information in all correspondences to us.

For administrative purposes, Randolph County will use the following rule to determine delinquency:

- **Due date:** 15th of the month following collection
- **Past due** if not stamped received by the Randolph County Sheriff's Office Personnel by the 25th of the month following collection. Please note that our office closes at 4:30pm.

All taxes remaining unpaid after 4:30pm on the 25th of the month following their collection will be considered delinquent and subject to delinquency penalty as prescribed by our County Ordinance.

The first month that the tax is delinquent, a penalty of 5% shall be assessed for the delinquent period. Each additional month that the tax remains delinquent, an additional 1% penalty per month shall be assessed. No payment for a subsequent period shall be collected until all prior delinquent taxes have been paid in full including all penalties assessed thereto.

Delinquency Procedures

To be prescribed by the County Commission

Effective July 1, 2017 the Randolph County Commission will take steps to ensure that all hotel occupancy taxes are being received on a timely basis. To achieve this goal, we have created the following process.

Delinquency process outline:

- 1) Delinquency Notice 1
- 2) Delinquency Notice 2
- 3) Delinquency Notice 3
- 4) Perform Audit
- 5) Apply Appropriate Legal Remedies if delinquency persists

After the 25th of the month delinquency notices will go out to all hotels that did not submit a fully completed remittance form and monies due for the preceding month.

Once a hotel has been issued three delinquency notices and is eligible for a fourth within a twelve-month period, recommendations will be made for an audit to be performed by a third-party auditor on the hotel to identify amount of taxes owed to the county.

Financial Audit Procedure

The Randolph County Commission reserves the right to initiate an audit of any hotel operator at any time to verify the accuracy of taxes remitted and/or estimate the tax liability of a delinquent hotel.

Audits will be performed, as authorized at the direction, of the Randolph County Commission to ensure the accurate assessment, collection, and refund of the Hotel and Motel Occupancy Tax(WV code 7-12-13(a)).

Keeping & Preserving Records

57-18-11. Keeping and preserving of records.

Each hotel operator shall keep complete and accurate records of taxable sales and of charges, together with a record of the tax collected thereon, and shall keep all invoices and other pertinent documents in such form as the taxing authority may require. Such records and other documents shall be preserved for a period of not less than three years, unless the taxing authority shall consent in writing to their destruction within that period or shall require that they be kept for a longer period.

Audit Process

A Hotel located within the unincorporated limits of Randolph County that has been selected for an audit will be notified by certified letter two weeks in advance of the audit.

To prepare for the audit the hotel operator must provide each of the following items in an orderly manner grouped for each month of the year in audit.

- Each month's record of daily transactions
- Documentation supporting the month's tax-free transactions
- Schedule A of the State and Use Sales Tax for each month
- Copy of the Monthly County Hotel & Motel Occupancy Tax Remittance Form
- Copies of checks (or other proof of payment) of taxes
- Completed Hotel Questionnaire which includes the following questions (but not exhaustive)
 - o Name of Hotel
 - o Tax ID #
 - o Name of Hotel owner
 - o Name, title, signature, & date of person completing questionnaire
 - o Total number of rooms
 - o Range of room rates (per day) Lowest \$, Highest \$
 - o Phone number
 - o Address
 - o Email address
 - o Website address

The Randolph County Commission will bear the cost of the audit.
Hotel Operator's will be notified of Audit results in writing.

The County Commission will enforce collection in the following manner:

Commission's right to obtain an injunction

If the hotel operator fails to comply with these provisions, the County Commission may proceed to obtain an injunction restraining the hotel operator from doing business in this County until the hotel operator fully complies with the provisions of this policy. (§7-18-13a)

Commission's right to initiate civil suit

If the hotel operator fails to comply with these provisions, the County Commission may initiate a civil suit against the hotel operator. (§7-18-13a)

Commission's right to initiate criminal penalties

If the hotel operator fails to comply with these provisions, the County Commission may pursue the filing of criminal charge against the hotel operator. (§7-18-15)

Appendix A: Randolph County, WV Hotel-Motel Ordinance

ORDER AMENDING AND ESTABLISHING HOTEL AND MOTEL OCCUPANCY TAX

An Order amending a room occupancy tax on hotels-motels located within the unincorporated areas of Randolph County, West Virginia; establishing procedures for the collection, distribution, and administration of such tax and establishing penalties for failure to comply with the requirements or provisions of this order.

Be it Ordered by the Randolph County Commission of Randolph County, Elkins, West Virginia, as follows:

ARTICLE I - GENERAL PROVISIONS

Section 1.1 - Authority

This order is adopted by the Randolph County Commission in accordance with the provisions Article 18, Chapter 7 of the Code of West Virginia, as amended.

Section 1.2 - Purpose

The purpose of this order is to levy an occupancy tax on hotel and motel rooms located in the unincorporated areas of Randolph County for the following purposes:

(A) At least fifty (50%) percent of the net received during the fiscal year by the County, pursuant to requirement of the Code of the State of West Virginia shall be transmitted to the Randolph County Convention & Visitors Bureau, Inc. for the promotion of conventions and tourism.

(B) The remaining portion of the net revenues receivables during the fiscal year by the County may be expended for one or more of the following purposes:

(1) The planning, construction, reconstruction, establishment, acquisition, improvement, renovation, extension, enlargement, equipment, maintenance, repair, and operation of publicly owned convention facilities including, but not limited to, arenas, auditoriums, civic centers, and convention centers;

(2) The payment of principal or interest or both on revenue bonds issued to finance such convention facilities;

(3) The promotion of conventions;

(4) the construction or maintenance of public parks, tourist information centers, and recreation facilities (including land acquisition); or

(5) The promotion of the arts.

Article II - Definitions

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Section 2.1

For the purpose of this order the following words, phrases, and terms are defined.

(A) "Consideration paid" or "consideration" means the amount received in money, credits, property or other consideration for or in exchange for the right to occupy a hotel room as herein defined.

(B) "Consumer" means a person who pays the consideration for the use or occupancy of a hotel room. The term "consumer" does not mean the government of the United States of America, its agencies or instrumentalities, or the government of the State of West Virginia or political subdivisions thereof.

(C) "Convention and or visitor's bureau" are interchangeable and shall mean the Randolph County Convention & Visitors Bureau, Inc.

(D) "Convention center" means a convention facility owned by the state, county, municipality, or other public entity or instrumentality and shall include all facilities, including armories, commercial, office, community service, and parking facilities for the accommodation and entertainment of tourists and visitors, constructed in conjunction with the convention center and forming reasonable appurtenances thereto.

(E) "County" means the County of Randolph.

(F) "Evade" means to willfully and fraudulently commit any act with the intent of depriving the County of payment of any tax which there is a known legal duty to pay.

(G) "Fraud" means any false representation or concealment as to any material fact made by any person with the knowledge that it is not true and correct, with the intention that such representation or concealment be relied upon by the County.

(H) "Fiscal Year" means the year beginning July first and ending June thirtieth of the next calendar year.

(I) "Hotel" means any facility, building or buildings, publicly or privately owned (including a facility located in a state, county or municipal park), in which the public may, for a consideration, obtain sleeping accommodations. The term includes but is not limited to, boarding houses, hotels, motels, inns, courts, condominiums, lodges, cabins and tourist homes. The term "hotel" includes state, county and city parks offering accommodations as herein set forth. The term "hotel" does not mean a hospital, sanitarium, extended care facility, nursing home or university or college housing unit, or any facility providing fewer than three rooms in private homes, not exceeding a total of ten days in a calendar year, nor any tent, trailer or camper campsites. Provided, That where a university or college housing unit provides sleeping accommodations for the general nonstudent public for a consideration, the term "hotel" does, if otherwise applicable, apply to those accommodations for the purposes of this tax.

(J) "Hotel operator" means the person who is proprietor of a hotel, whether in the capacity of owner, lessee, mortgagee in possession, licensee, trustee in possession, trustee in bankruptcy, receiver, executor or in any other capacity. Where the hotel operator performs his or her functions through a managing agent of any type or character other than an employee, the managing agent is a hotel operator for the purposes of this order and has the same duties and liabilities as his or her principal. Compliance with the provisions of this order by either the principal or the managing agent is, however, considered to be compliance by both.

(K) "Hotel room" means any room or suite of rooms or other facility affording sleeping accommodations to the general public and situated within a hotel. The term "hotel room" does not include: (1) A banquet room, meeting room or any other room not primarily used for, or in conjunction with, sleeping accommodations; (2) Sleeping accommodations rented on a month-to-month basis or other rental arrangement for thirty days or longer at the inception at a boarding house, condominium, cabin, tourist home, apartment or home; or (3) Sleeping accommodations rented by a hotel operator to those persons directly employed by the hotel operator for the purposes of performing duties in support of the operation of the hotel or related operations.

(L) "Net proceeds" means the gross amount of tax collections less the amount of tax lawfully refunded.

(M) "Person" means any individual, firm, partnership, joint venture, association, syndicate, social club, fraternal organization, joint stock company, receiver, corporation, guardian, trust, business trust, trustee, committee, estate, executor, administrator or any other group or combination acting as a unit.

(N) "Promotion of the arts" means activity to promote public appreciation and interest in one or more of the arts. It includes the promotion of music for all types, the dramatic arts, dancing, painting, and the creative arts through shows, exhibits, festivals, concerts, and musical plays.

(O) "Recreational facilities" means and includes any public park, parkway, playground, public recreation center, athletic field, sports arena, stadium, skating rink or arena, golf course, tennis courts and other park and recreation facilities, whether of a like or different nature, that are owned by the County.

(P) "State park" means any state-owned facility which is part of this state's park and recreation system established pursuant to the Code of the State of West Virginia. For purposes of this order, any recreational facility otherwise qualifying as a "hotel" and situated within a state park is considered to be solely within the county in which the building or buildings comprising the facility are physically situated, notwithstanding the fact that the state park within which the facility is located may lie within the jurisdiction of more than one county.

(Q) "Tax," "taxes" or "this tax" means the hotel occupancy tax authorized by this order.

(R) "Taxing authority" means the County of Randolph.

(S) "Taxpayer" means any person liable for the tax authorized by this order.

(T) "Willfully" means the intentional violation of a known legal duty to perform any act required to be performed by any provision of this order, in respect of which the violation occurs; provided, that the mere failure to perform any act shall not be a willful violation under this order. A willful violation of this order requires that the defendant have had knowledge or notice of a duty to perform such act, and that the defendant, with knowledge of or notice of such duty, intentionally failed to perform such act.

ARTICLE III - INCORPORATION OF TAX

Section 3.1 - Levy of Tax

There is hereby levied a County hotel/motel tax, as hereinafter described, upon all hotels and motels located within the unincorporated limits of Randolph County, including any hotels owned by the state or by any political subdivision of this state. The tax shall be imposed on the consumer and shall be collected by the hotel operator as part of the consideration paid for the occupancy hotel room. (Provided, however, the tax shall not be imposed on any consumer occupying a hotel room for thirty or more consecutive days.)

Section 3.2 - Rate of Tax

The rate of tax imposed shall be six (6) percent of the consideration paid for the use or occupancy of a hotel room. Such consideration shall not include the amount of tax imposed on the transaction under Article 15, Chapter 11 of the Code of West Virginia on charges for meals, valet service, room service, telephone service or other charges of consideration not paid for use or occupancy of a hotel room.

ARTICLE IV - DUTIES AND PROCEDURES FOR HOTEL/MOTEL OPERATORS

Section 4.1 - Consumer to pay tax; hotel or hotel operator

Not to represent that it will absorb tax; accounting by hotel

(A) The consumer shall pay to the hotel operator the amount of tax imposed by the County of Randolph, which tax shall be added to and shall constitute a part of the consideration paid for the use and occupancy of the hotel room, and which shall be collectible as such by the hotel operator who shall account for, and remit to the County, all taxes paid by consumers. The hotel operator shall separately state the tax authorized by this order on all bills, invoices, accounts, books of account records relating to consideration paid for occupancy or use of a hotel room. The hotel operator may commingle tax collected hereunder with the proceeds of the rental of hotel accommodations. The County's claim shall be enforceable against, and shall be

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superior to, all other claims against the moneys so commingled excepting only claims of the state for moneys held by the hotel pursuant to the provision of Article 15, Chapter 11 of the Code of West Virginia. All taxes collected pursuant to the provisions of this order shall be deemed to be held in trust by the hotel until the same shall have been remitted to the taxing authority as hereinafter provided.

(B) A hotel or hotel operator shall not represent to the public in any manner, directly or indirectly, that it will absorb all or any part of the tax or that the tax is not to be considered an element in the price to be collected from the consumer.

Section 4.2 - Occupancy Billed to Government Agencies or Employees

(A) Hotel room occupancy billed directly to the federal government shall be exempt from this tax: Provided, that rooms paid for by a federal government employee for which reimbursement is made shall be subject to this tax.

(B) Hotel room occupancy billed directly to this state or its political subdivision shall be exempt from this tax. Provided, that rooms paid for by an employee of this state for which reimbursement is made shall be subject to this tax.

Section 4.3 - Collection of Tax When Sale on Credit

A hotel operator doing business wholly or partially on a credit basis shall require the consumer to pay the full amount of tax due upon a credit sale at the time such sale is made or within thirty (30) days thereafter.

Section 4.4 - Receivership Bankruptcy; Priority of Tax

In the distribution, voluntary or compulsory, in receivership, bankruptcy or otherwise, of the property or estate of any person, all taxes due and unpaid authorized under this order shall be paid from first money available for distribution in priority of all claims and liens except taxes and debts due to the United States which under federal law are given priority over the debts and liens created by Order of the County Commission for this tax and taxes and debts due to the State of West Virginia. Any person charged with the administration or distribution of any such property or estate who shall violate the provisions of this section shall be personally liable for any taxes accrued and unpaid which are chargeable against the person whose property or estate is in administration or distribution.

Section 4.5 - Failure to Collect or Remit Tax; Liability of Hotel Operator

If any hotel operator fails to collect the tax authorized by this order and levied pursuant to this order or shall fail to properly remit such tax to the taxing authority, he shall be personally liable for such amount as he failed to collect or remit: Provided, that such hotel operator shall not be held liable for failure to collect such tax if the hotel operator can by good and substantial evidence prove the refusal of the purchaser to pay this tax despite the diligent effort in good faith of the hotel operator to collect the tax.

Section 4.6 - Total Amount Collected to be Remitted

No profit shall accrue to any person as a result of the collection of the tax authorized under this order. Notwithstanding that the total amount of such taxes collected by a hotel operator may be in excess of the amount for which a consumer would be liable by the application of the levy of six (6%) percent for the occupancy of a hotel room or rooms, the total amount of all taxes collected by any hotel operator shall be remitted to the taxing authority as hereinafter provided.

Section 4.7 - Tax Return and Payment

(A) The tax authorized by this order shall be due and payable in monthly installments on or before the fifteenth day of the calendar month next succeeding the month in which the tax accrued. Provided, that for credit in which the tax authorized by this order is not collected by the hotel operator at the time of such sales, such tax shall not, for purposes of this order, be regarded as having accrued until the date on which it is either received by the hotel operator or upon the thirty day payment period set forth in Section 4.3 of this order, whichever shall first occur. The hotel operator shall, on or before the 15th of each month prepare and deliver to the Sheriff/Treasurer of Randolph County a return for the preceding month, in the form prescribed by the County Commission. Such form shall include all information necessary for the computation, collection and subsequent distribution of the tax as the County may require. A remittance for the amount of the tax due shall accompany each return. Each return shall be signed by the hotel operator or his duly authorized agent.

(B) For the first month that the tax is delinquent, there shall be assessed by the Sheriff/Treasurer a penalty in the amount of five percent of the tax due for the delinquent period. For each additional month that the tax remains delinquent, there shall be further assessed an additional one percent penalty until the tax is paid. No payment for a subsequent period shall be collected until all prior delinquent taxes have been paid in full with all penalties assessed thereto.

Section 4.8 - Keeping and Preserving Records

Each hotel operator shall keep a complete accurate record of taxable sales and of charges, together with a record of the tax collected thereon, and shall keep all invoices and other pertinent documents in such forms as the taxing authority may require. Such records and other documents shall be preserved for a period of not less than three years, unless the taxing authority shall consent in writing to their destruction within that period or shall require that they be kept for a longer period.

Section 4.9 - Liability of Officers

If the taxpayer is an association or corporation, the officer thereof actually participating in the management or operation of the association or corporation shall be personally liable, jointly and severally, for any default on the part of the association or corporation; and payment of tax, fines, additions to tax or penalties which may be imposed by state law, order of

the County Commission or other authority may be enforced against such officers as against the association or corporation which they represent.

ARTICLE V - ADMINISTRATION

Section 5.1 - General Procedure and Administration

The administrative procedure for the assessment, collection and refund of the tax authorized by this order shall be established by the County to aid in the efficient administration of the tax and distribution of its proceeds.

Section 5.2 - Proceeds of Tax: Application of Proceeds

(A) Application of proceeds - The net proceeds of the tax collected and remitted to the taxing authority pursuant to this order shall be deposited into the general revenue of the County and after appropriation thereof shall be expended only as provided in subsection (b) and (c) of this section.

(B) Required expenditures - At least fifty (50) percent of the net revenue receivable during the fiscal year by the County, pursuant to this order shall be transmitted to the Randolph County Convention & Visitors Bureau, Inc. For the promotion of conventions and tourism.

(C) Permissible expenditures - After making the appropriation required by subsection (b) of this section, the remaining portion of the net revenues receivable during the fiscal year by the County, pursuant to this order, may be expended for one or more of the purposes set forth in this subsection but for no other purpose. The purpose for which expenditures may be pursuant to this subsection are as follows:

(1) The planning, construction, reconstruction, establishment, acquisition, improvement, renovation, extension, enlargement, equipment, maintenance, repair and operation of publicly owned convention facilities including, but not limited to arenas, auditoriums, civic centers and convention centers;

(2) The payment of principal or interest or both on revenue bonds issued to finance such convention facilities;

(3) The promotions of conventions;

(4) The construction or maintenance of public parks, tourist information centers and recreation facilities (including land acquisition); or

(5) The promotion of the arts.

ARTICLE VI - EXCLUSIONS

Section 6.1

7

The following exclusions shall apply in the administration of this tax:

(A) The term "consumer" shall not be construed to mean the government of the United States of America, its agencies or instrumentalities, or the government of the State of West Virginia or a political subdivision thereof;

(B) Hotel room occupancy billed directly to the federal government shall be exempt from this tax.

(C) Hotel room occupancy billed directly to the State of West Virginia or its political subdivisions shall be exempt from this tax.

ARTICLE VII - PENALTIES

Section 7.1 - Criminal Penalties

(A) It shall be unlawful for any person to willfully refuse to collect or to pay the tax or to willfully refuse to make the return required to collect or to pay the tax or to willfully refuse to make the return required to be made by this order, or to willfully make any false or fraudulent return or false statement in any return with the intent to defraud any taxing authority, or to willfully evade the payment of the tax, or any part thereof; or for any person to willfully aid or abet another in any attempt to evade the payment of the tax, or for any officer or partner or principal of any corporation or association to willfully permit to be made for such corporation or association any false return, or any false statement in any return authorized by this order, with the intent to evade the payment of this tax.

(B) Any person willfully violating any of the provisions of this order shall for the first offense be guilty by misdemeanor, and, upon conviction thereof, shall be fined not more than five hundred dollars or imprisoned for a period of not more than thirty days, or both fined and imprisoned. For each offense after the first offense, such person shall be guilty of a felony, and, upon convictions thereof, shall be fined not less than one thousand dollars nor more than ten thousand dollars or imprisoned in the penitentiary not less than one year nor more than three years, or in the discretion of the Court be confined in the county jail not more than one year, or both fined and imprisoned.

(C) Every prosecution for any offense arising under this section shall be commenced within three years after the offense was committed, notwithstanding any provision of this order to the contrary.

(D) Proceedings against any person under this section shall be initiated in the county of this state wherein such person resides if any element of the offense occurs in such county of residence, then in the county where the offense was committed.

ARTICLE VIII - SEVERABILITY

Section 8.1 Severability

If any section, subsections, paragraph, sentence, clause or phrase of this order shall be declared invalid for any reason whatsoever, such decision shall not affect the remaining portions of this order which shall remain in force and effect, and for this purpose the provisions of this order are hereby declared to be severable.

ARTICLE IX - ENACTMENT

Section 9.1 - Effective Date

This order shall take effect on the 2 day of March, 2017.

Section 9.2

Order this 2 day of March, 2017.

THE COUNTY COMMISSION OF RANDOLPH COUNTY

Michael M. Taylor
MICHAEL M. TAYLOR, PRESIDENT

Chris See
CHRIS SEE, COMMISSIONER

Mark D. Scott
MARK D. SCOTT, COMMISSIONER

APPROVED AS TO FORM:

Michael W. Parker
PROSECUTING ATTORNEY
MICHAEL W. PARKER

ATTEST:

Brenda Wiseman
BRENDA WISEMAN, COUNTY CLERK

Appendix B: Hotel & Motel Occupancy Tax Remittance Form

Randolph County, West Virginia Hotel and Motel Occupancy Tax Ordinance Article 4 Section 7

WV State Code 97-18

Monthly Return of Hotel Occupancy Tax Randolph County, West Virginia Please complete all * fields legibly	
* For Month Ending:	
* Due on or Before:	
* Business Name:	
* Business FEIN#:	
* Contact Address:	
* Contact Phone:	
* Line 1	Gross "Hotel room" Receipts <small>see WV State Code 97-18-3 or Randolph County Hotel-Motel Order Article 2 Section 1 for definition details</small>
* Line 2	Exemptions (attach copies of exemption certificates) <small>see WV State Code 97-18-5 or Randolph County Hotel-Motel Order Article 4 Section 2 for details</small>
* Line 3	Other Exemptions (provide reason below) <small>Please provide reason for other exemptions here:</small>
* Line 4	Total Exempt Receipts (add Lines 2 & 3)
* Line 5	Net Taxable Receipts (Line 1 less Line 4)
* Line 6	Tax Due (Enter 6% of Line 5)
* Line 7	Credit or Debit (Over or Underpayment in prior months)
* Line 8	Delinquency Fee <small>see Randolph County Hotel-Motel Order Article 4 Section 7b for details</small>
* Line 9	Total Tax Due (sum of Lines 6, 7, and 8) <small>Make checks, money orders, or bank drafts payable to RANDOLPH COUNTY SHERIFF and mail completed return to Randolph County Sheriff, PO Box 1330, Elkins WV 26241</small>
* Signature:	I hereby certify that the information and statements contained herein and in any schedule or exhibits attached are true and correct
* Name printed:	
* Official Title:	
* Date:	
OFFICE USE ONLY	

RANDOLPH COUNTY HOTEL AND MOTEL OCCUPANCY TAX REMITTANCE FORM

LAST UPDATED DECEMBER 2016

Appendix C: Contact Information

Sheriff's Office Information

Sheriff: Mark T. Brady
Phone: (304) 636-2100
Fax: (304) 636-2093
Website: coming soon
Address: 4 Randolph Ave Suite 100; Elkins WV 26241
Hotel-Motel Contact: Deputy Treasurer, Angela Barrickman

Randolph County Convention & Visitors Bureau Information

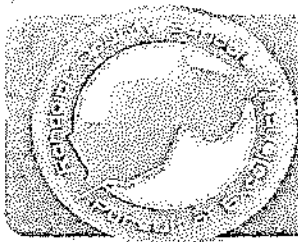
Executive Director: Brenda Pritt
Phone: (304)636-2780
Website: www.randolphcountywv.com
Address: 1302 N Randolph Avenue; Elkins WV 26241

Circuit Clerk Office Information

Circuit Clerk: Phil Riggleman
Phone: 304-636-2765
Website: <https://randolphcountycommissionwv.org/circuit-clerks-office/>
Address: 2 Randolph Avenue; Elkins WV 26241

Commission Office Information

Commissioners: Mark Scott; Chris See; Mike Taylor, president
Phone: 304-636-2057
Website: <https://randolphcountycommissionwv.org/county-commission/>
Address: 4 Randolph Ave Suite 102; Elkins WV 26241



Randolph County Schools

Empower. Inspire. and Reimagine.

40 EAST MAIN STREET JACKSON, WV 26221
Telephone: (304) 636-9150 Fax: (304) 636-9157

*\$2500
Chant Summers*

TO: Randolph County Commission
FROM: *gab* Gabriel J. Devono, Superintendent
DATE: August 25, 2017
RE: Request for matching funds

Randolph County Schools has been afforded the opportunity to initiate the Jobs for WV Program. We had the opportunity to meet in the office of Mr. Joe Wallace, member of the WV State Board of Education to gather information regarding this opportunity for our school system and for our students.

The initial cost of this program is \$5000.00. Randolph County Schools is willing to pay \$2500.00 and is respectfully requesting matching funds from the Randolph County Commission for the remaining \$2500.00.

If you have any further questions or concerns, please do not hesitate to contact me at (304) 636-9150 ext. 107.

Office of the Superintendent



ELKINS VOLUNTEER FIRE DEPARTMENT

216 FOURTH STREET • ELKINS, WEST VIRGINIA 26241

Randolph County Commission
4 Randolph Ave
Elkins, WV 26241

9/2
AIST
HOTEL/MOTEL
TAX

September 7, 2017

Commissioners,

On behalf of the Elkins Volunteer Fire Department, we are requesting assistance to support the 81th annual Mountain State Forest Festival Fireman's parade. The Elkins Volunteer Fire Department has multiple expenses associated with this event including food for 200-300 firemen, trophies, awards, etc. We are asking the Randolph County Commission for a \$1,500 donation.

Thank you for your support,

Elkins Volunteer Fire Department

"SERVICE TO OUR COMMUNITY"