



# Northumberland County, Virginia

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## MEMORANDUM

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**TO:** Northumberland County Board of Supervisors

**FROM:** E. Luttrell Tadlock, County Administrator

**SUBJECT:** Consideration of an ordinance approving the joining of the Chesapeake Bay Region Cigarette Tax Board

**DATE:** August 29, 2023

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**Issue:** Consideration of an ordinance approving the joining of the Chesapeake Bay Region Cigarette Tax Board, with the County of Northumberland a member thereof, and bestowing on such entity all powers necessary and proper for the performance of its duties as provided by law.

**Recommendation:** Adoption of this proposed language would be necessary if the Board adopts the Cigarette Tax.

**Discussion:** Beginning July 1, 2021, counties were able to levy a cigarette tax. The Board of Supervisors requested additional information related to this matter and requested that an ordinance be prepared and advertised for consideration.

Currently, the counties and towns participating in the Chesapeake Bay Region Cigarette Tax Board are Westmoreland County, Lancaster County, Middlesex County, Essex County, Accomack County, Northampton County, Town of Montross, Town of Colonial Beach, Town of Urbanna, Town of Warsaw, and Town of Chincoteague. The Chesapeake Bay Region Cigarette Tax Board oversees the assessment, collection, and disbursement and enforcement of this regional cigarette tax.

Attached is the agreement to join The Chesapeake Bay Region Cigarette Tax Board, which includes the Northern Neck Planning District Commission's designation as the Board administrative/fiscal agent.

**AN ORDINANCE APPROVING MEMBERSHIP IN A JOINT ENTITY KNOWN AS THE CHESAPEAKE BAY  
REGION CIGARETTE TAX BOARD**

**WHEREAS**, pursuant to the authority granted to localities under § 15.2-1300 of the Code of Virginia, 1950, as amended, the Board of Supervisors of the County of Northumberland, Virginia has determined that membership in the Chesapeake Bay Region Cigarette Tax Board (the "Board") would serve the public interest in promoting the efficient administration, collection, accounting, disbursement, compliance monitoring and enforcement of cigarette taxes assessed by the County and the other localities desiring to join the Board; and,

**WHEREAS** a public hearing on this proposed Ordinance was held by the Board of Supervisors of the County of Northumberland, Virginia on \_\_\_\_\_, 2023, duly advertised as required by law and considered for adoption; and,

**WHEREAS**, the Board of Supervisors has reviewed an agreement establishing the Board and defining its powers, duties, and other procedures, the text of which is attached hereto and incorporated herein as "Exhibit A," and agrees with the terms as set forth therein; and,

**WHEREAS**, the Board of Supervisors of Northumberland County, Virginia has been notified that the requisite number of localities have approved the formation of the Board and the aforementioned agreement and the Board of Supervisors wishes to authorize the County's membership therein, and authorize the execution of said agreement on the County's behalf.

**NOW WHEREFORE**, the Board of Supervisors of Northumberland County hereby **ORDAINS AS FOLLOWS**:

1. Under authority of 15.2-1300, the County's membership in the Chesapeake Bay Region Cigarette Tax Board, is hereby approved,; and,

2. The agreement, attached hereto as Exhibit A, is hereby APPROVED and the County Administrator is authorized to execute the same on behalf of the governing body; and,

3. The powers and authority of the Board, as set forth in the agreement are hereby APPROVED.

This Ordinance shall be effective \_\_\_\_\_.

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Richard F. Haynie, Chairman

## CHESAPEAKE BAY REGION CIGARETTE TAX AGREEMENT

THIS AGREEMENT, is entered into and dated as of the latest execution and acknowledgment by any party hereto, by and between

- (1) Westmoreland County, Virginia;
- (2) Lancaster County, Virginia;
- (3) Middlesex County, Virginia;
- (4) Essex County, Virginia;
- (5) Accomack County, Virginia;
- (6) Northampton County, Virginia;
- (7) Town of Montross, Virginia;
- (8) Town of Colonial Beach, Virginia;
- (9) Town of Urbanna, Virginia;
- (10) Town of Warsaw, Virginia;
- (11) Town of Chincoteague, Virginia; or any two or more of

the foregoing;

WHEREAS, the parties hereto desire to enter an Agreement for the purpose of the establishment of the Chesapeake Bay Region Cigarette Tax Board for the joint administration, collection and enforcement of their respective Cigarette Tax Ordinances pursuant to the provisions of these ordinances and Section 15.2-1300 and 58.1-3832, *et seq.*, of the Code of Virginia, (1950), as amended;

NOW THEREFORE, the parties enter into the following agreement:

1. **NAME AND DURATION**

The Board shall be called the Chesapeake Bay Region Cigarette Tax Board. Its duration shall be perpetual, subject to the provisions of Paragraph 8 hereof.

2. **MEMBERSHIP AND VOTING POWERS**

The Board shall be composed of one representative from each jurisdiction hereinbefore named or later added with consent of the Chesapeake Bay Region Cigarette Tax Board. Said representative may designate an alternate to attend meetings and vote in his or her place; however, each jurisdiction shall be entitled to only one vote. Action of the Board shall be by majority vote.

3. **OFFICERS AND MEETINGS**

Each year, the Board shall elect a Chairman, Vice-Chairman and Secretary/Treasurer, who shall serve at the pleasure of the Board. The Officers of the Board shall be chosen from the jurisdictional representatives. Said officers shall be empowered to sign in the name of the Board on all legal documents, including bank deposits and withdrawals. The Board shall meet from time to time as deemed necessary by the Chairman.

4. **POWERS OF THE BOARD**

The Board shall be delegated the following powers:

- a. Assessment, collection and disbursement of the cigarette tax for each participating jurisdiction;
- b. Audit of the sale or use of cigarettes within each participating jurisdiction;
- c. Provision of information for criminal prosecution by the affected participating jurisdictions;
- d. Provide guidance and oversight to the designated Administrative/Fiscal Agent;
- e. Management of a general operating fund to ensure proper funding of Board operations on an ongoing basis;
- f. Designation of a depository bank or banks;
- g. To hold and convey personal property. The Board shall have no power to hold or convey real property;
- h. To enter into contracts;
- i. Any other powers granted to the Board by the respective local ordinances and the Code of Virginia (1950), as amended.

5. **LIABILITY INSURANCE**

The Board shall maintain and have authority to secure insurance coverage as deemed appropriate. General liability insurance shall be maintained through a commercial policy, in limits of not less

than \$500,000.00. Any liability in excess of the amounts of insurance coverage will be shared by the members of the Board proportionately based upon each jurisdiction's share of the number of taxable packs of cigarettes reported in the twelve (12) months preceding the incident which gave rise to the liability, as compared to the taxable packs of cigarettes reported during that same time period in all the participating jurisdictions.

## 6. Operational Provisions

The Northern Neck Planning District Commission (NNPDC) is designated as the administrative/fiscal agent. Normal routine duties of the Board in administration and supervision of the Cigarette Tax Ordinances shall be delegated to the NNPDC. Actions and decisions of the NNPDC shall bind the Board unless patently wrongful or the result of willful misconduct, but the Board may at anytime overrule a decision or action by the NNPDC subject to lawful rights of third parties. The duties of the Administrative/Fiscal Agent shall include, but are not limited to, the following:

- a. Preparation of annual administrative cost estimates;
- b. As authorized by the Board, employment of or contracting for staff assistance including providing employee benefits, and, equipment and supplies.
- c. Preparation of reports as the Board may require;
- d. Authorization of disbursements from Board accounts

including, but not limited to, disbursements to the participating jurisdictions.

Each member jurisdiction will be charged a fee of 5% of the tax revenue to cover the NNPDC cost to act as administrative/fiscal agent as described above. In the event that the NNPDC costs exceed the amount collected from the 5% fee, each jurisdiction will be charged its pro-rata share of that amount based on its tax revenues as a percentage of the total tax revenues from all member jurisdictions collected.

7. **COLLECTION OF THE CIGARETTE TAX**

The cigarette tax shall be assessed and collected on the basis of the "reporting method" according to the respective ordinances and according to the rules, regulations and procedures adopted by the Board.

8. **DISBURSEMENT OF RECEIPTS, MANAGEMENT OF FUNDS**

Disbursements shall be made to each participating jurisdiction on a monthly basis. Prior to disbursement to jurisdictions, the 5% administrative fee shall be deducted from total revenues and allocated to the jurisdictions proportionately based upon the number of taxable packs of cigarettes reported within the jurisdiction during the month as compared to the total number of taxable packs of cigarettes reported in all the participating jurisdictions. The

disbursement to each participating jurisdiction shall be determined by the tax rate of the jurisdiction multiplied by the taxable packs of cigarettes reported within the jurisdiction, plus interest and penalties, plus the jurisdiction's proportional share of all other revenues, less discounts and proportional expenses.

All monies shall be deposited in the name of the Chesapeake Bay Region Cigarette Tax Board. All checks drawn on Board accounts shall require signature by the NNPDC Executive Director and a Board Officer.

9. **TERMINATION**

a. In the event any participating jurisdiction decides, by ordinance, to terminate its participation in the Board, notice to the Board shall be given sixty (60) days prior to its date of termination. The terminating jurisdiction shall receive within thirty (30) days of its date of termination its share of total revenues less proportionate expenses, operating fund, and depreciated value of physical property used by the Board. The representative of such terminating jurisdiction shall not serve on the Board beyond the termination date.

b. In the event the number of jurisdictions which desire to continue to participate in the Board is less than two (2) in number, the Board shall be dissolved and shall cease to exist. In such



event, the Board shall liquidate all assets and disburse to each jurisdiction participating at the time each such jurisdiction's share of the liquidated assets and all proceeds and monies held. Such distribution shall be based upon each jurisdiction's proportionate share of the number of taxable packs of cigarettes reported in the preceding twelve (12) months as compared to the taxable packs of cigarettes reported during that same time period in all the jurisdictions participating in the Board at the time the Board is dissolved.

10. **IMPLEMENTATION**

Each jurisdiction shall by ordinance signify its desire to be a member of the Board and its acceptance of the provisions of this Agreement.

This Agreement shall take effect upon the signature of the proper officials of any two (2) of the jurisdictions below and shall take effect as to any other jurisdiction upon signature of the proper official of such jurisdiction.

Westmoreland County, VA

By: \_\_\_\_\_

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

Lancaster County, VA

By: \_\_\_\_\_

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

Middlesex County, VA

By: \_\_\_\_\_

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

Essex County, VA

By: \_\_\_\_\_

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

Town of Montross, VA

By: \_\_\_\_\_

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

Town of Colonial Beach, VA

By: \_\_\_\_\_

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

Town of Urbanna, VA

By: \_\_\_\_\_

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

Town of Warsaw, VA

By: \_\_\_\_\_

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

County of Accomack, VA

By: \_\_\_\_\_

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

County of Northampton, VA

By: \_\_\_\_\_

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

Town of Chincoteague, VA

By: 

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Michael T. Tolbert  
Town Manager

Date: September 6, 2022

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