

# Middlesex County Board of Supervisors



At a meeting of the Middlesex County Board of Supervisors held on July 6, 2021 at 7:00 p.m. in the Board Room of the Historic Courthouse, Saluda, Virginia: On a motion duly made by Supervisor Koontz, and seconded by Supervisor Kimbrough, the following Ordinance was adopted by the following vote:

John B. Koontz, Jr.	Aye
Wayne H. Jessie, Sr.	Aye
Reginald A. Williams, Sr.	Aye
Lud H. Kimbrough, III	Aye
Peter W. Mansfield	Aye

## **AN ORDINANCE APPROVING THE FORMATION OF A JOINT ENTITY TO BE KNOWN AS THE CHESAPEAKE BAY REGION CIGARETTE TAX BOARD AND BESTOWING ON SUCH ENTITY ALL POWERS NECESSARY AND PROPER FOR THE PERFORMANCE OF ITS DUTIES AS PROVIDED BY LAW**

**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 Middlesex has determined that it would serve the public interest to establish a joint entity to be known as the Chesapeake Bay Region Cigarette Tax Board (the "Board") in order to efficiently administer the collection, accounting, disbursement, compliance monitoring and enforcement of cigarette taxes assessed by the localities desiring to join the Board; and,

**WHEREAS** a public hearing on this proposed Ordinance was held by the Middlesex County Board of Supervisors on July 6, 2021, 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 aforementioned agreement provides that it shall become effective upon the approval by the governing bodies of at least two (2) localities of Westmoreland County, Lancaster County, Middlesex County or the Town of Montross and the execution of said agreement by their authorized representatives; and,

**WHEREAS**, the Board of Supervisors wishes to authorize the formation of the Board with the County of Middlesex as a member thereof, and authorize the execution of said agreement by August 1, 2021 on its behalf.

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

1. Under authority of 15.2-1300, and upon the approval and execution of two (2) or more localities of Westmoreland County, Lancaster County, Middlesex County, or the Town of Montross there is hereby created and established the Chesapeake Bay Region Cigarette Tax

Board, which shall act as the agent of the localities for the administration of their respective cigarette tax ordinances; 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 August 1, 2021.

A Copy Teste:

A handwritten signature in black ink, appearing to read "Matthew Walker", written over a horizontal line.

Matthew Walker

Clerk/County Administrator

# 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) Town of Montross, 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

Town of Montross, VA

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

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

\_\_\_\_\_  
Title