

COUNTY OF FOREST, PENNSYLVANIA

ORDINANCE NO. 2022-1

**AN ORDINANCE IMPOSING A HOTEL ROOM RENTAL
TAX TO FUND TOURIST PROMOTION; ESTABLISHING
PROCEDURES FOR THE COLLECTION OF THE TAX;
AND IMPOSING PENALTIES**

WHEREAS, pursuant to Act 18 of 2016, April 1955, Aug. 9, P.L. 323, No. 130, § 1770.10, added 2016, April 20, P.L. 134, No. 18, § 3, imd. effective, 16 Pa. Stat. Ann. § 1770.10 (West), the Board of Commissioners of Forest County may impose a hotel room rental excise tax to fund tourist promotion; and

WHEREAS, the Board of Commissioners of Forest County desires to raise revenues to fund tourist promotion activities within the County of Forest; and

WHEREAS, the following Ordinance replaces and supersedes Forest County Ordinance No. 2019-02.

IT IS HEREBY ORDAINED AND ENACTED, by the Board of Commissioners of the County of Forest, as follows:

Section 1. Short Title.

This ordinance shall be known and may be cited as the "Forest County Hotel Tax Ordinance".

Section 2. Authority and Purpose.

A. This ordinance is authorized pursuant to Act of April 20, 2016, 134, No.18, Section 3, 16 P.S. Section 1770.10.

B. The purpose of this ordinance is to raise revenues to fund tourist promotion activities within the County of Forest, Pennsylvania.

Section 3. Definitions.

The following words and phrases, when used in this Ordinance, shall have the meaning given to them in this Section 3, unless the context clearly indicates otherwise:

"Accommodation Fee" The amount by which the rent exceeds the discount room charge, if any.

"Booking Agent" A person or entity which facilitates or collects payment for hotel accommodations on behalf of or for an operator. The term "Booking Agent" shall not include a person who merely publishes advertisements or accommodations.

"Discount Room Charge" The amount charged by an operator to a booking agent in connection with the sale of an accommodation by the Booking Agent.

"Bed and Breakfast" or "Homestead." A public accommodation consisting of a private residence, which contains ten or fewer bedrooms, used for providing overnight accommodations to the public and in which breakfast is the only meal served and is included in the charge for the Room.

"Cabin." A permanent structure with beds and running water and indoor sanitary facilities that is located on a campground on State land or private property and is available to provide overnight lodging for Consideration to persons seeking temporary accommodations. The term does not include a yurt or walled tent.

"Conflict of Interest." Use by a board member, director, officer or employee of a Recognized Tourist Promotion Agency of the authority of his or her office or employment or any confidential information received through his or her capacity in relation to a Recognized Tourist Promotion Agency for the private pecuniary benefit of himself or herself, a member of his or her Immediate Family or a business with which he or she or a member of his or her Immediate Family is associated. The term does not include an action having a de minimis economic impact or which affects to the same degree a class consisting of the general public or a subclass consisting of an industry, occupation or other group which includes a board member, director, officer or employee, a member of his or her Immediate Family or business with which he or she or a member of his or her Immediate Family is associated.

"Consideration." Receipts, fees, charges, rentals, leases, cash, credits, property of any kind or nature or other payment, including bartering, received by Operators in exchange for or in consideration of the use or Occupancy by a Transient of a Room or Rooms in a Hotel for a temporary period.

"Exemption" in certain situations, an employee of the Commonwealth of Pennsylvania or the Government of the United States is exempt from the payment of the tax. A hotel owner does not have to collect the tax if the customer or the booking agent who represents the customer, presents a bona fide exemption certificate or document identifying the customer as an employee on official business for the Commonwealth of Pennsylvania or the Government of the United States.

"County." The County of Forest, Pennsylvania.

"Hotel." A hotel, motel, inn, guesthouse, rooming house, Bed and Breakfast, Homestead or other structure which holds itself out by any means, including bartering, advertising, license registration with an innkeepers' group, convention listing association, travel publication or similar association or with a government agency, as being available to provide overnight lodging

for Consideration to persons seeking temporary accommodation, including a personal residence or a public accommodation consisting of a private residence; any place which advertises to the public at large or any segment thereof that it will provide beds, sanitary facilities or other space for a temporary period to members of the public at large; any place recognized as a hostelry or any Cabin. The term does not include any of the following:

- (1) A charitable institution.
- (2) A portion of a facility that is devoted to persons who have an established permanent residence.
- (3) A college or university student residence hall currently occupied by students enrolled in a degree program.
- (4) An educational or religious institution camp for children, including a camp registered under the act of November 10, 1959 (P.L. 1400, No. 497), entitled "An act providing for the annual registration of organized camps for children, youth and adults; defining the duties of the Department of Health of the Commonwealth of Pennsylvania; and prescribing penalties."
- (5) A hospital.
- (6) A nursing home.
- (7) Part of a campground that is not a Cabin.

"Hotel Room Rental Tax Return." The monthly or quarterly return filed by each Operator or booking agent of a Hotel within the County when paying the Tax imposed by this Ordinance.

"Immediate Family." A spouse, parent, brother, sister or child.

"Marketing." An action by a Recognized Tourist Promotion Agency that includes, but is not limited to, promoting and encouraging visitors to visit a specific County, counties or geographic region.

"Occupancy." The use or possession or the right to the use or possession by any person other than a Permanent Resident of any Room in a Hotel or private residence for any purpose or the right to the use or possession of the furnishings or to the services accompanying the use and possession of the Room.

"Operator." Any individual, partnership, nonprofit or profit-making association or corporation or other person or group of persons including but not limited to, any online type platform who maintains, operates, manages, owns, or has custody of or otherwise possess the right to rent or lease overnight accommodations in a building to the public for Consideration.

The Operator shall be liable to the County as agent thereof for the payment of the tax to the County Treasurer as provide in this section.

"Patron." Any person who pays or barter the Consideration for the Occupancy of a Room or Rooms in a Hotel.

"Permanent Resident." A person who has occupied or has the right to Occupancy of a Room or Rooms in a Private Residence or Hotel as a Patron or otherwise for a period exceeding thirty (30) consecutive days.

"Recognized Tourist Promotion Agency." The nonprofit corporation, organization, association or agency which is engaged in planning and promoting programs designed to stimulate and increase the volume of tourist, visitor and vacation business within the County and certified by the County as of the effective date of this Ordinance or under Section 1770.11 of the County Code.

"Room." A space in a building set aside for use and Occupancy by a Patron or otherwise, for Consideration, having at least one bed or other sleeping accommodations provided.

"Tax." The Hotel Room Rental Tax established by this Ordinance.

"Transaction." The activity involving the obtaining by a Transient or Patron of the use or Occupancy of a Room from which Consideration emanates to the Operator under an expressed or implied contract including but not limited to payments through a Booking Agent, under an express or implied contract

"Transient." An individual who obtains accommodation in a Hotel by means of registering at the facility or online for the Occupancy of a Room for the personal or business use of the individual or company by paying a fee to the Operator or Booking Agent under an express or an implied contract

"Treasurer." The Treasurer of Forest County, Pennsylvania.

Section 4. Imposition of Hotel Room Rental Tax.

A. There is hereby imposed a Tax of five (5%) percent on the Consideration received by each Operator or booking agent. of a Hotel within the County for each Transaction of renting a Room or Rooms to a Transient or Transients.

B. If a booking Agent, acting for an Operator, collects payment for rent, the Booking Agent must collect and remit the tax applicable to the amount charged by the Operator as well as any Accommodation fee charged to the Transient. An Operator shall not be liable for any taxed owed for an accommodation Fee received by a Booking Agent.

C. If the County or any duly authorized representative is unable to determine the Tax due from Operator records, the Tax due for each tax year shall be determined to be the lesser of the following:

i. Five (5%) percent of the Consideration that could have been received by the Operator for all Hotel Rooms during the tax year at Occupancy rates in effect at the time of the determination; or

ii. Five (5%) percent of the annualized Consideration received during the tax year prior to the determination.

D. Immediately upon adoption of this Ordinance, the County Hotel Room Rental Tax set forth herein shall replace and supersede the former County Hotel Room Rental Tax that was established by Forest County Ordinance No. 2019-02.

Section 5. Collection of Tax.

The Tax shall be collected by the Operator from the Patron.

Section 6. Payment of the Tax.

A. The Operator or Booking Agent shall pay the Tax to the County Treasurer as follows:

i. Every Operator or Booking Agent shall transmit to the Treasurer, on or before the twenty-fifth (25th) day of the month following each calendar quarter, a return for the calendar quarter preceding the month in which the return is made. The return shall report the amount of Consideration received for the Transactions during the calendar quarter for which the return is made, the amount of Tax due from the Operator for that quarter, and such other information as the Treasurer may require.

ii. Every Operator or Booking Agent shall transmit to the Treasurer on a monthly or quarterly basis, to be determined by the Treasurer, on or before the twenty-fifth (25th) day of the following month or calendar quarter, a return for the month or calendar quarter preceding the time period in which the return is made. The return shall report the amount of Consideration received for the Transactions during the month or calendar quarter for which the return is made, the amount of Tax due from the Operator or Booking Agent for that month or calendar quarter, and such other information as the Treasurer may require.

iii. Every Operator or Booking Agent, at the time of filing such required return, shall compute and pay over to the Treasurer the Taxes shown as due on the return for the period for which the return is made.

iv. If an Operator enters the business of operating a Hotel during a calendar quarter, the first return shall be made on the twenty-fifth (25th) day of the first calendar

month following completion of the calendar quarter, even though the return covers less than the full calendar quarter.

Section 7. Filing of a Room Rental Tax Return.

The Operator or Booking Agent shall file a Hotel Room Rental Tax Return when paying the Tax summarizing the Consideration received on forms provided by or approved by the County. In the event the Operator or Booking Agent has collected no Tax during the reporting period, the Operator must still file a return verifying that there was no taxable income for the reporting period according to the prescribed time requirements.

Section 8. Collection and Disposition of Revenues.

A. The County Treasurer shall collect the Tax and deposit the revenues received from the Tax into a segregated fund, entitled the "Hotel Tax Fund."

B. The County Treasurer shall distribute the revenues from the Hotel Tax Fund in the following manner:

i. The County Treasurer shall first deduct and pay over to the County General Fund an administrative fee of four (4%) per centum of all Taxes collected under this Ordinance; provided that the aggregate amount of the administrative fee during any tax year shall not exceed the limit imposed from time to time by Pennsylvania statute; and

ii. The County Treasurer shall distribute all remaining revenues in the Hotel Tax Fund to the Recognized Tourist Promotion Agency not later than sixty (60) days after receipt of the revenues from the Tax.

iii. Overpayments – Whenever the amount of Hotel Room Tax, interest, charges, costs, or attorney fees has been overpaid, the overpayment may be refunded to the Hotel Operator or Booking Agent, provided a verified written claim is filed by the Hotel Operator or Booking Agent with the Treasurer within three (3) years of the payment date and stating the specific grounds why the claim was made. The Hotel Operator or Booking Agent must either return the refunded payment to the patron or credit such amount to the patron's account. If the patron's whereabouts are unknown or unascertainable after a reasonable investigation, such refund shall be resubmitted by the Hotel Operator or Booking Agent to the Treasurer and shall be subject to the applicable escheat laws and statutes. Any overpayments due will be credited to the next or future reports filed by the Hotel Operator or Booking agent.

Section 9. Designation of Recognized Tourist Promotion Agency.

The County Commissioners shall from time to time by resolution designate the Recognized Tourist Promotion Agency that shall be entitled to receive distributions from the Hotel Tax Fund. The resolution may provide for the conditions upon which the distributions are

made and restrictions upon the manner in which such distributions are used. The Chief Clerk of the County shall provide the Treasurer with a certified copy of each resolution promptly upon its adoption.

Section 10. Use of Revenues.

A. The Recognized Tourist Promotion Agency shall use the funds distributed to it under this Ordinance to directly fund tourist promotion for the County of Forest.

B. Any Recognized Tourist Promotion Agency receiving any revenues from the Tax authorized by this Ordinance shall annually submit an audited report on the income and expenditures incurred by the Recognized Tourist Promotion Agency to the Board of County Commissioners for each calendar year no later than August 1 of the subsequent calendar year.

Section 11. Record Keeping Requirements for Operators.

Each Operator or Booking Agent shall maintain and retain all records necessary to confirm proper collection and payment of the Tax imposed by this Ordinance until the expiration of three (3) years after the Hotel Room Rental Tax Returns for such year have been filed.

Section 12. Access to Records; Audits and Examinations of Records.

The County, the County Treasurer, or their duly authorized representatives, shall have access to all books, documents, papers, bank accounts and records of the Operator or Booking Agent and of the Recognized Tourist Promotion Agency that are directly pertinent to the collection and expenditure of the proceeds of the Tax authorized by this Ordinance for the purpose of making audit, examination, excerpts and transcripts. The County Treasurer or other duly authorized representative of the County shall have the discretion to direct an audit to be conducted of the books, documents, papers, bank accounts and records of the Operator or Booking Agent and/or the Recognized Tourist Promotion Agency. In any County-directed audit, the Operator shall receive two (2) weeks' notice. Unless otherwise directed by the County Treasurer or other duly authorized representative of the County, for each County-directed audit, the requested records of the Operator shall be delivered to the County Treasurer at Forest County Courthouse, 526 Elm Street #1 Tionesta, PA 16353.

Section 13. Penalties.

A. A penalty of \$100.00 shall be imposed on the Operator or Booking Agent of a Hotel for the late filing of any Hotel Room Rental Tax Return.

B. A penalty of one and one-half per centum (1.5%) per month on the Tax due shall be imposed upon the Operator or Booking Agent of a Hotel for failure to timely collect and remit the Tax imposed under this Ordinance. The penalties may be waived if there is an acceptable reason for failing to file or pay as determined by the Forest County Board of Commissioners or its agent. Use of reporting agents of other third-party service providers (Booking Agents) does

not relieve an Operator of the responsibility to ensure that tax returns are filed and all taxes and penalties are paid correctly and on time.

C. The penalties shall be added to and paid with the filing of the Hotel Room Rental Tax Return. The County shall retain all late fees and penalties imposed under this Ordinance.

Section 14. Enforcement

A. Whenever any Operator or booking agent shall fail to pay the Taxes herein provided, the County may bring a Civil Action against anyone who violates any of the provisions of this Ordinance. There shall be added to the claim reasonable attorney fees as permitted under Section 7106 of the Municipal Lien Law, 53 P.S. Section 7101, et seq. In addition to other remedies available for collection of debts, the County may file a Lien upon the hotel in the name of the County and for the use of the County as provided by law.

B. In addition to any civil remedies imposed by this Ordinance, an Operator or booking agent of a hotel who violates any of the provisions of this Ordinance shall be subject to criminal penalties in a summary proceeding in an amount not exceeding \$100.00 for the first offense and \$500.00 for each subsequent offense, together with costs of prosecution for same.

C. In default of the payment of any fine or cost imposed herein, the Court may impose a sentence of imprisonment for a term not exceeding thirty (30) days.

D. Each time that the Operator or Booking Agent violates a provision of this Ordinance shall be considered a separate offense. Each day that the Operator's violation of this Ordinance continues shall constitute a separate offense.

Section 15. Administration.

The County Treasurer shall be responsible for administering the provisions of this Ordinance. The Treasurer may promulgate and implement administrative rules and regulations, provided that the same are first submitted to the Board of County Commissioners for approval.

Section 16. Severability.

Each section and subsection of this Ordinance shall be deemed to be severable and not affected by any determination that any other provision of this ordinance is unenforceable.

Section 17. Effective Date.

This Ordinance shall take effect on February 1, 2022.

Section 18. Repealer.

Forest County Ordinances No. 2004-02, No. 2017-01 and No. 2019-02 are hereby repealed, although any liabilities incurred under said ordinances shall carry-over and remain enforceable and collectible in the manner provided under this Ordinance.

ENACTED AND ORDAINED by the Board of Commissioners of the County of Forest, Pennsylvania, this 19th day of January, 2022.

COUNTY OF FOREST

By: Mark S. Kingston
Mark S. Kingston, Chairman

Robert J. Snyder, Jr.
Robert J. Snyder, Jr., Commissioner

Basil D. Huffman
Basil D. Huffman, Commissioner

ATTEST:

Lynette Greathouse
Lynette Greathouse, Chief Clerk