

THE BOARD OF COMMISSIONERS
OF THE COUNTY OF FOREST
COMMONWEALTH OF PENNSYLVANIA

ORDINANCE NO. 1 OF 2017

AMENDING BY RESTATEMENT IN THE ENTIRETY
ORDINANCE NO. 2 of 2004 IMPOSING A TAX ON HOTEL
ROOMS TO FUND COUNTY-WIDE TOURIST PROMOTION

IT IS HEREBY ORDAINED AND ENACTED, by the Board of Commissioners of the County of Forest, as provided by Act No. 142 of 2000 of the General Assembly of the Commonwealth of Pennsylvania, the following Ordinance imposing a Hotel Room Excise Tax.

SECTION 1.

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

SECTION 2 - PURPOSE.

The Commissioners of the County of Forest, Pennsylvania intend to raise revenues to fund county-wide tourist promotion.

SECTION 3 - DEFINITIONS.

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

"Consideration" - Receipts, fees, charges, leases, cash, credits, property of any kind or nature, or other payment 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 any temporary period.

"County" - The County of Forest, Pennsylvania.

"Hotel" - The term includes a hotel, motel, inn, guest house or other structure which holds itself out by any means, including 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 or use of facility space for consideration to persons seeking temporary accommodation; 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 temporary period to members of the public at large; any place recognized as a hostelry.

The term does not include any portion of a facility that is devoted to persons who have an established permanent residence, a college or university student residence hall or any private campground; any cabins, campgrounds or other facilities located on State land.

"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 for any purpose, or the right to the use or possession of the furnishings or to the services accompanying the use or possession of the room.

"Operator" - An individual, partnership, limited liability company, nonprofit or profit-making association or corporation or other person or group of persons who maintain, operates, manages, owns, has custody of or otherwise possesses the right to rent or lease overnight accommodations in a hotel to the public for consideration.

"Patron" - A person who pays 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 hotel as a patron for a period exceeding thirty (30) consecutive days.

"Records" - includes, but is not limited to, the number of daily transactions, the rate of each occupancy, the revenues received for all transactions, cash receipts and sales journals, cash disbursements and purchase journals, and general ledgers.

"Rooms" - A space in a hotel set aside for use and occupancy for patrons, or otherwise, for consideration, having at least one (1) bed or other sleeping accommodation in a room or a group of rooms.

"Tax Year" - The tax year is the calendar year.

"Tourist Promotion Agency (TPA)" - An organization, agency or corporation designated by the Board of Commissioners of the County of Forest as the County's TPA. The TPA must be duly established, designated and recognized as such in accordance with and pursuant to the Act of April 28, 1961 (P.L. 111, No. 50) known as the "Tourist Promotion Law".

"Transaction" - The activity involving the obtaining by a transient or patron of the use or occupancy of a hotel room from which consideration is payable to the operator under an express or implied contract.

"Transient" - An individual who obtains accommodation in a hotel by means of registering at the facility for the temporary occupancy of a room for the personal use of the individual by paying a fee to the operator.

SECTION 4 - IMPOSITION OF HOTEL EXCISE TAX

(A) A three (3%) percent tax is hereby imposed on the consideration received by each operator of a hotel within the County from each transaction of renting a room or rooms to transients.

(B) If the County or any duly authorized representative is unable to determine the tax due from operator records, the tax due for each unpaid tax year shall be determined to be the lesser of the following:

1. Three (3%) 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 determination.

2. Three (3%) percent of the annualized consideration received during the tax year prior to determination.

SECTION 5 - COLLECTION OF THE HOTEL EXCISE TAX

The tax shall be collected by the operator from the patron of the room or rooms.

SECTION 6 - PAYMENT OF THE HOTEL EXCISE TAX

(A) The operator shall pay the tax to the County Treasurer on the same periodic basis (monthly or quarterly) as the operator is required to pay Pennsylvania Sales Tax collections to the Commonwealth of PA.

(B) The payment shall be postmarked no later than the 20th day of the month following the close of the applicable period.

SECTION 7 - FILING OF A HOTEL TAX RETURN

The operator shall file a hotel tax return when paying the tax summarizing the consideration received.

SECTION 8 - COLLECTION AND DISPOSITION OF REVENUES

- (A) The County Treasurer shall collect the tax and deposit the revenues received from the tax in a special fund.
- (B) The County shall distribute the revenues from the special fund in the following manner:
 - 1. Deduct from the fund 4% thereof to defray the County's costs attributable to the collection of the tax.
 - 2. Subject to the following, distribute the remaining revenues not later than sixty (60) days after receipt to the recognized tourist promotion agency.
 - a.) The recognized tourist promotion agency shall use tax revenues to directly fund county-wide tourist promotion as contained in the plan documents.
 - b.) The 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 to the County Board of Commissioners no later than September 1.

SECTION 9 - RECORD KEEPING REQUIREMENTS

- (A) Operators not filing tax returns shall maintain records at the hotel for three (3) years after the close of the tax year.
- (B) Operators filing tax returns shall maintain records for three (3) years after a hotel tax return for a tax year has been filed.

SECTION 10 - ACCESS TO RECORDS

The County or any duly authorized representative shall have access to any books, documents, papers and records of the operator and recognized tourist promotion agency which 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 transcriptions.

SECTION 11 - LATE PAYMENT PENALTY AND INTEREST

Collections not timely remitted pursuant to Section 6 shall be subject to a penalty of five (5%) and shall additionally bear interest at the same rate as from time to time established by the Pennsylvania Department of Revenue as applicable to delinquent state sales tax remittances.

SECTION 12 - ENFORCEMENT

Whenever any operator shall fail to pay the tax as herein provided, upon request of the County Treasurer, the County Solicitor shall bring or cause to be brought a civil action in any Court having jurisdiction to enforce the payment of all taxes, late payment fees, interest and cost of suit (including a reasonable attorney fee of five (5%) percent).

SECTION 13 - PENALTIES

(A) Any person who shall violate any of the provisions of this Ordinance shall, upon conviction thereof, appear in a summary proceeding before the District Judge in Forest County, be sentenced to pay a fine of not more than seventy five dollars (\$75.00) for the first offense, one hundred fifty dollars (\$150.00) for the second offense, three hundred dollars (\$300.00) for the third and each additional offense, and cost of prosecution for each violation thereof, and in default of payment of such fine and costs, to undergo imprisonment for not more than thirty (30) days.

(B) Each twenty-four (24) hour period during which a violation exists after notice shall have been given in writing by registered mail, return receipt requested, shall constitute a separate violation of this Ordinance.

SECTION 14 - ADMINISTRATION

The County Treasurer shall be responsible for administering the provisions of this Ordinance. The County Treasurer shall promulgate and submit administrative rules and regulations to the Board of Commissioners for their approval within thirty (30) days of the enactment of this Ordinance.

SECTION 15 - SEVERABILITY OF PROVISIONS

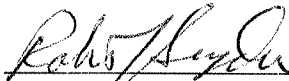
If any provisions, clause, sentence, paragraph, section or part of this Ordinance, or application thereof to any person, firm, corporation, public agency or circumstance, shall for any reason, be adjudged by a Court of competent jurisdiction to be unconstitutional or invalid, said judgment shall not affect, impair, or invalidate the remainder of this Ordinance and the application of such provisions to other persons, firms, corporation, public agencies or circumstances, but shall be confined in its operation to the provision, clause, sentence, paragraph, section, or part thereof directly involved in the controversy in which such judgment shall have been rendered and to the person, firm, corporation, public agency or circumstances involved. It is hereby declared to be the legislative intent of the Board of Commissioners that this Ordinance would have been adopted had such unconstitutional or invalid provision, clause, sentence, paragraph, section or part thereof not been included.

SECTION 16 - AMENDATORY RESTATEMENT IN ENTIRETY

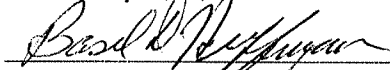
This Ordinance amends Ordinance No. 2 of 2004 by restatement in entirety.

DULY ADOPTED AND ENACTED, By the Board of Commissioners of the County of Forest, this 7th day of September, 2017.


Forest County Commissioners



Robert J. Snyder, Jr., Chairman



Basil D. Huffman



Norman J. Wimer

Attest:



Lynette Greathouse, Chief Clerk