

**BOARD OF COMMISSIONERS
COUNTY OF BUTLER
COMMONWEALTH OF PENNSYLVANIA**

**ORDINANCE 2016-02
(AMENDMENT TO ORDINANCE 2001-01)**

HOTEL ROOM RENTAL TAX

**IMPOSING AN EXCISE TAX ON HOTEL ROOM
RENTALS TO FUND COUNTY-WIDE TOURIST PROMOTION**

IT IS HEREBY ORDAINED AND ENACTED, by the Board of Commissioners of the County of Butler (hereinafter Board of Commissioners), as provided by Title 16 P.S. § 1770.10 et. seq. of the General Assembly of the Commonwealth of Pennsylvania, the following Ordinance.

WHEREAS, the Board of Commissioners formerly approved Ordinance 2001-01 at their November 14, 2001, Public Meeting; and

WHEREAS, the Board of Commissioners wishes to amend Ordinance 2001-01, to read as follows:

Section 1 - Short Title

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

Section 2 - Purpose

The Board of Commissioners continues to raise revenues that directly 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:

Bed and Breakfast or Homestead - A public accommodation consisting of a private residence, which contains ten (10) 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 of the room.

Booking Agent - A person or entity who facilitates reservations or collects payment for Hotel accommodations on behalf of or for a Hotel Operator. Merely publishing an advertisement for accommodations does not make the publisher a Booking Agent.

Cabin - A permanent structure with beds and running water 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.

Consideration - Receipts, fees, charges, rentals, leases, cash, credits, property of any kind or nature, or other payment received by Hotel Operators or Booking Agents 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 - Any County of the third through eighth class that was authorized to levy a Hotel occupancy or room rental tax under the former section 1770.2 or 1770.6.

Hotel - A Hotel, motel, inn, guest house, rooming house, bed and breakfast, homestead 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 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 hostelry or any cabin. The term does not include any of the following:

- (a) A charitable institution.
- (b) A portion of a facility that is devoted to persons who have an established permanent residence.
- (c) A college or university student residence hall currently occupied by students enrolled in a degree program.
- (d) An educational or religious institution camp for children, including a camp registered under the act of November 10, 1959 (P.L. 1400, No. 497)⁹, 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."
- (e) A hospital.
- (f) A nursing home.
- (g) Part of a campground that is not a cabin.

Hotel Operator or Booking Agent - An individual, partnership, nonprofit or profit-making association or corporation, or other person or group of persons who maintain, operate, manage, own, have custody of or otherwise possess the right to rent or lease overnight accommodations in a building to the public for Consideration.

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

Marketing - An action by a recognized tourism 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 a person, other than a Permanent Resident of any Hotel room or rooms for any purpose, or the right to the use or possession of the furnishings, services or to the services accompanying the use and possession of a room.

Patron - Any natural person who pays the Consideration for occupancy of a Hotel room or rooms.

Permanent Resident - A person occupying or has the right to occupy a Hotel room or rooms for thirty (30) consecutive days or more.

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 a County and certified by the County as of the effective date of this subsection or under section 1770.11.

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

Regional Tourist Promotion Activities - Services, activities, facilities and events which result in a significant number of nonresidents visiting the County for recreational, cultural or educational purposes.

Room - A space in a building set aside for use and occupancy by patrons or otherwise, for Consideration, having at least one (1) bed or other sleeping accommodations provided.

Tax Year - The tax year is the calendar year.

Temporary - A period of time not exceeding thirty (30) consecutive days.

Transaction - The activity involving a transient or patron obtaining occupancy of a Hotel room from which Consideration is payable to the Hotel Operator or Booking Agent under an express or an implied contract.

Transient - An individual who obtains Hotel accommodations by means of registering at the facility for temporary occupancy of a room for personal use by paying a fee to the Hotel Operator or Booking Agent.

Treasurer - The office of the Treasurer for the County of Butler.

Section 4 - Imposition of Hotel Room Rental Tax

- (a) A five percent (5%) tax is imposed on Consideration received by a Hotel Operator or Booking Agent within the County from each transaction of renting a room or rooms to accommodate transients.
- (b) If the County or any duly authorized representative is unable to determine the tax due from Hotel Operator or Booking Agent records, the tax due for each unpaid tax year shall be determined to be the lesser of the following:
 - (1) Five percent (5%) of the Consideration that could have been received by the Hotel Operator or Booking Agent for all rooms during the tax year at occupancy rates in effect at the time of the determination.
 - (2) Five percent (5%) of the annualized Consideration received during the tax year prior to the determination.

Section 5 - Collection of the Hotel Room Rental Tax

- (a) The Hotel Operator or Booking Agent shall collect Hotel Room Rental Tax from the patron or patrons of every room or rooms rented. The Hotel Operator or Booking Agent shall then remit the tax collected to the Treasurer in accordance with the Rules and Regulations.

- (b) A Booking Agent may, or if required by applicable state law, shall collect and remit the tax on behalf of an Operator. An Operator shall not be responsible for collecting and remitting the tax on any transaction for which it has received confirmation that the Booking Agent has collected and remitted the tax.

Section 6 - Payment of the Hotel Room Rental Tax

- (a) The Hotel Operator or Booking Agent shall pay the Hotel Room Rental Tax to the Treasurer as follows:
 - (1) Every Hotel Operator or Booking Agent shall transmit to the Treasurer, on or before the twentieth (20th) day of each calendar month, a return for the calendar month preceding the month in which the return is made, which return shall report the amount of Consideration received for the transactions during the calendar months for which the return is made, the amount of tax due from the Hotel Operator or Booking Agent for that month, and such other information as the Treasurer may require.
 - (2) Every Hotel Operator or Booking Agent, at the time of filing every 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.
 - (3) If a Hotel Operator or Booking Agent enters the business of the renting of rooms subsequent to the effective date of this Ordinance, the first return shall be filed on the twentieth (20th) day of the first calendar month subsequent thereto. The first return and tax payment due shall be for all transactions occurring during the preceding calendar month based upon the actual taxable transactions occurring during the preceding calendar month.

Section 7 - Filing of a Hotel Room Rental Tax Return

The Hotel Operator or Booking Agent shall file a Hotel Room Rental Tax Return when paying the tax summarizing the Consideration received.

Section 8 - Collection and Disposition of Revenues

- (a) The Treasurer shall collect the tax from the Hotel Operator or Booking Agent 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) The Treasurer shall deduct from the fund an administrative fee of four percent (4%) of all Hotel taxes collected to defray all direct and indirect costs related to the implementation of the tax and all direct and indirect costs related to collection, auditing, and distribution of the revenue collected.
 - (2) The Treasurer shall distribute to the recognized tourist promotion agency authorized to act within the County all remaining revenues not later than sixty (60) days after receipt of the tax revenues.

Section 9 - Use of the Revenues

- (a) The recognized tourist promotion agency shall use tax revenues to directly fund County-wide tourism, convention promotion, and tourism development.

- (b) The recognized tourist promotion agency shall present to the Board of Commissioners an Annual Plan that will provide an outline of the goals and objectives for county-wide tourism, convention promotion, and tourism development proposed for the upcoming year by October 1 to be reviewed and acted upon by the County by January 1 of each calendar year. In the event that the Board of Commissioners disapproves the proposed Annual Plan, the two (2) parties agree to work together in a good faith effort to resolve the disputed issues in a timely manner prior to January 1. Should the plan not receive approval by the County by January 1, the current Annual Plan will remain in effect until such time as an acceptable plan is developed or the Board of Commissioners elects to appoint an alternate recognized tourist promotion agency. This Annual Plan will provide an outline of the goals and objectives for operations, programs, and development activities proposed for the upcoming year. The Annual Plan will also include details regarding the proposed manner in which operations and programming will be conducted, including a staffing plan, basic operating budget, a capital budget and performance measures to review the previous year's activities with an explanation of any variations between the proposed activities and what actually occurred during the year. The Annual Plan will also include a copy of an independent accounting firm's full audit report of the prior year's finances along with the IRS Form 990. The recognized tourist promotion agency shall be required to provide for a full audit by an independent CPA.

Any modifications or revisions to the Annual Plan shall be submitted to the County for approval. Agreement on the Annual Plan is essential to the distribution of funds to the recognized tourist promotion agency and must be approved at a Public Meeting of the Board of Commissioners.

Section 10 - Recordkeeping Requirements

For each calendar year or part thereof during which a Hotel does any business or receives any Consideration, the Hotel Operator or Booking Agent shall maintain and retain all records for such year until the expiration of three (3) years after the Hotel Room Rental Tax Return for such year has been filed.

Section 11 - Access to Records

The County or duly authorized representative shall have access to any books, documents, papers, and records of the Hotel Operator or Booking Agent 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 12 - Late Payment Fees

If for any reason the tax is not paid when due under the provisions of Section 6, a late payment fee at the rate of eighteen percent (18%) per year, or one and one-half percent (1-1/2%) per month, on the amount of the tax which remains unpaid shall be added and collected.

Section 13 - Enforcement

All taxes due and unpaid under this article shall be recoverable by the County in accordance with Rules and Regulations established by the Treasurer. When any Hotel Operator or Booking Agent shall fail to pay the tax as herein provided, upon request of the Treasurer, the County Solicitor shall bring or cause to be brought a civil action in any Court having jurisdiction to enforce payment of all taxes and late payment fees due. In addition to other remedies available to collect 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.

Section 14 - Penalties

Any person who shall violate any of the provisions of this Ordinance shall, upon conviction thereof, in a summary proceeding before any Magisterial District Judge in Butler County, be sentenced to pay a fine of not more than seventy five dollars (\$75) for the first offense, one hundred fifty dollars (\$150) for the second offense, two hundred and fifty dollars (\$250) for the third offense, and three hundred dollars (\$300) for the fourth 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 ten (10) days. Said fines and costs shall be in addition to, and not in lieu of, the payment of the tax and interest as set forth in Section 12.

Section 15 - Administration

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

Section 16 - Severability of Provisions

If any provision, 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 provision 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 17 - Effective Date

- (a) This Ordinance shall take effect on August 1, 2016.
- (b) The proper officers of the County are hereby authorized and directed to take any and all action necessary to implement the Hotel Room Rental Tax in accordance with this Ordinance.


DULY ENACTED AND ORDAINED at a Public Meeting of the Board of Commissioners of the County of Butler, Pennsylvania, held this 6th day of July 2016.

ATTEST

BOARD OF COMMISSIONERS




 Scott J. Andrejchak
 Chief Clerk



 Leslie A. Osche, Chairman



 Kimberly D. Geyer



 Kevin E. Boözel, M.S.