

COUNTY OF LANCASTER, PENNSYLVANIA

ORDINANCE NO. 46

AN ORDINANCE IMPOSING AN EXCISE 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 Lancaster, as provided by Act No. 18 of 1997 of the General Assembly of the Commonwealth of Pennsylvania, as amended and supplemented, (16 P.S. § 1770.2 et seq.), the following Ordinance imposing a hotel room excise tax.

Section 1. Short Title

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

Section 2. Purpose

The Commissioners of the County of Lancaster, 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, rentals, 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 Lancaster, Pennsylvania.

"Hotel." The term includes a hotel, motel, inn, guest house or other structure within the County 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; or 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 or a college or university student residence hall or any private campground, or any cabins, public 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 and possession of the room.

"Operator." 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 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.

"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 as provided in the Act of April 28, 1961 (P.L. 111, No. 50) known as the "Tourist Promotion Law." As of the date of enactment of this Ordinance, such agency is the Pennsylvania Dutch Convention and Visitors Bureau, 501 Greenfield Road, Lancaster, Pennsylvania.

"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.

"Room." A space in a hotel set aside for use and occupancy by 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.

"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 an 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.

"Treasurer." The Office of Treasurer of the County of Lancaster.

Section 4. Imposition of a County Hotel Excise Tax

(a) A One and one-tenth percent (1.10%) 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 and shall be known as the "hotel excise tax."

(b) If the County is unable to determine the hotel excise tax due from Operator records, the hotel excise tax due for each unpaid tax year shall be determined to be the lesser of the following:

(1) One and one-tenth percent (1.10%) 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; and

(2) One and one-tenth percent (1.10%) of the annualized consideration received during the tax year prior to the determination.

(c) The County hotel excise tax shall take effect at 12:01 a.m., Eastern Standard Time on January 1, 2000; provided, however, that the County hotel excise tax shall take effect, shall be and remain in effect, and may be collected only at such times and for so long as the Lancaster County Hotel Room Rental Tax (pursuant to Ordinance No. 45 of 1999) is (1) in effect, (2) being collected, and (3) being disbursed to and applied by the Lancaster County Convention Center Authority pursuant to said Ordinance No. 45 of 1999.

Section 5. Collection of the Hotel Excise Tax

(a) The hotel excise tax shall be collected by the Operator from the Patron of the Room or Rooms and paid over to the County pursuant to Section 6 hereof.

Section 6. Payment of the Hotel Excise Tax

(a) The Operator shall pay the hotel excise tax to the Treasurer as follows:

(1) Every Operator shall transmit to the Treasurer, on or before the twenty-fifth (25th) 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 month for which the return is made, the amount of tax due from the Operator for that month, and such other information as the Treasurer may require.

(2) Every Operator, 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 an Operator enters the business of the renting of Rooms subsequent to the effective date of this Ordinance, the first return shall be filed on the twenty-fifth (25th) 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 during the preceding calendar month.

Section 7. Filing of a Hotel Excise Tax Return

(a) All Operators shall file with the Treasurer a hotel excise tax return reporting the taxable and non-taxable consideration received. The return shall be filed in accordance with the provisions of Section 6 herein and such rules and regulations as promulgated and adopted by the County.

Section 8. Collection and Disposition of Revenues

(a) The Treasurer shall collect the hotel excise tax and deposit the revenues received from the hotel excise 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 any direct or indirect costs attributable to collection of the hotel excise tax.

(2) 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 hotel excise tax revenues.

Section 9. Use of the Revenues

(a) The recognized tourist promotion agency shall use hotel excise tax revenues to fund county-wide tourist promotion.

(b) The recognized tourist promotion agency receiving any revenues from the hotel excise tax authorized by this Ordinance shall annually submit an audited report on the

income and expenditures incurred to the County Board of Commissioners and to the Board of the Lancaster County Convention Center Authority. Such audited report shall be submitted within ten (10) days of receipt of same by the recognized tourist promotion agency.

Section 10. Recordkeeping Requirements

For each calendar year or part thereof during which a Hotel does any business or receives any consideration, the Operator shall maintain and retain all records for such year until the expiration of three (3) years after the hotel excise tax return for such year has been filed.

Section 11. Access to Records

(a) 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 related, directly or indirectly, to the determination or collection of the hotel excise tax, or to the expenditure of the proceeds of the hotel excise tax authorized by this Ordinance for the purpose of making audits, examinations, excerpts and transcriptions.

Section 12. Late Payment Fees

(a) If, for any reason the hotel excise tax is not paid when due under the provisions of Section 6, a late payment fee at the rate of nine (9.0) percent, per year, or three-quarters (.75) percent per month, on the amount of the hotel excise tax which remains unpaid shall be added and collected.

Section 13. Enforcement

(a) Whenever any Operator shall fail to pay the hotel excise 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 and late payment fees due.

Section 14.

[INTENTIONALLY OMITTED]

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 the 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 immediately upon enactment thereof.

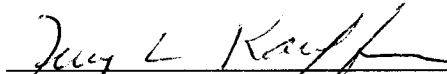
(b) The proper officers of the County are hereby authorized and directed to take any and all action necessary to implement the County hotel excise tax in accordance with this Ordinance.

DULY ENACTED AND ORDAINED at a public meeting of the Board of County Commissioners of the County of Lancaster, Pennsylvania held on the 15th day of September, 1999.

COUNTY OF LANCASTER

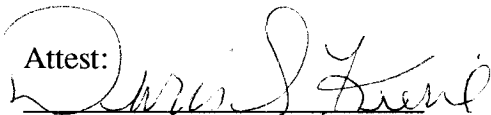


Paul Thibault, Chairman

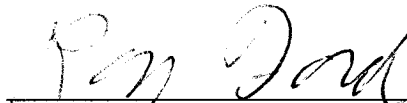


Terry L. Kauffman, Vice Chairman

Attest:



Doris Kiehl, Chief Clerk



Ron Ford, Commissioner