

**BOARD OF COMMISSIONERS
COUNTY OF WARREN
COMMONWEALTH OF PENNSYLVANIA**

ORDINANCE NO. 2 of 2002

HOTEL ROOM RENTAL TAX

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 Warren, as provided by Act 142 of 2000, Senate Bill 1154 (16 P.S. 1770.2 et seq.) of the General Assembly of the Commonwealth of Pennsylvania, the following Ordinance imposing a hotel room rental excise tax.

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 Commissioners of the County of Warren, Pennsylvania, intend to raise revenues to 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 the 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 Warren, 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, conversation 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 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.

The term does not include any portion of a facility that is devoted to persons who have an established permanent residence; hospitals, nursing homes; assisted living centers; 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 for any purpose, or the right to use or possession of the furnishings or to the services accompanying the use and possession of the room.

“Operator.” All individual, partnership, nonprofit or profit-making associations or corporations or other person or group of person’s 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 counties served by the agency as that term is defined in the Act of April 28, 1961 (P.L. 111, No. 50) known as “Tourist Promotion Law.”

“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 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.

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

“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 accommodations 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 the Treasurer of the County of Warren.

Section 4 Imposition of Hotel Room Rental Tax

- (a) A three (3.0) percent tax is hereby imposed on the consideration received by 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 (3.0) 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.
 - 2) Three (3.0) percent of the annualized consideration received during the tax year prior to the determination.
- (c) The County Hotel Room Rental Tax shall take effect on July 1, 2002.

Section 5 Collection of the Hotel Room Rental Tax

- (a) The tax shall be collected by the Operator from the Patron of the room or rooms.

Section 6 Payment of the Hotel Room Rental Tax

- (a) The Operator shall pay the Hotel Room Rental Tax to the County 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 months for which the return is made, the amount of tax due from the Operator for the month, and such other information as the Treasurer may require.
 - 2) Every Operator, at the time of filing each 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 Transaction during the preceding calendar month.

Section 7 Filing of a Hotel Tax Return

- (a) The Operator shall file a hotel tax return when paying the tax summarizing the consideration received.

Section 8 Collecting 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 and retain as an administrative fee the taxes collected hereunder an amount not to exceed in any tax year the lesser of 2% per centum of all taxes collected hereunder or \$40,000.00, which latter amount shall be adjusted bi-annually, beginning two years after the date of enactment, by the percentage growth in the consumer price index for all urban consumers as determined by the United States Department of Labor.
 - (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 tax revenues.

Section 9 Use of the Revenues

- (a) The Recognized Tourist Promotion Agency shall use tax revenues to directly fund county-wide tourist promotion.
- (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 for each calendar year no later than May 1 at the subsequent year.

Section 10 Record Keeping 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 Room Rental 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 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

- (a) 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 nine (9.0) percent, per year, or three-quarters (.75) percent per month, on the amount of the tax which remains unpaid shall be added and collected.

Section 13 Enforcement

- (a) 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 and late payment fees due.

Section 14 Penalties

- (a) Any person who shall violate any of the provisions of this Ordinance shall, upon conviction thereof, in a summary proceeding before any district magistrate in Warren County, be sentenced to pay a fine of not more than Seventy-Five Dollars and No Cents (\$75.00) for the first offense, One Hundred Fifty Dollars and No Cents (\$150.00) for the second offense, Two Hundred Fifty Dollars and No Cents (\$250.00) for the third offense, and Three Hundred Dollars and No Cents (\$300.00) 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 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 15 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 16 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 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 July 1, 2002.
- (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 Warren, Pennsylvania, held on the 19th day of June, 2002.

ATTEST


Diane C. Bloomgren
Chief Clerk

WARREN COUNTY COMMISSIONERS


James P. Hunter, Chairman


John M. Zavinski


Howard C. Brush

