

BOARD OF COMMISSIONERS
COUNTY OF BEAVER, COMMONWEALTH OF PENNSYLVANIA

ORDINANCE NO. 120516-ORD

AN ORDINANCE IMPOSING A 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 Beaver, as provided by Title 16 P.S. § 1770.10 et. seq. of the General Assembly of the Commonwealth of Pennsylvania, the following Ordinance imposing a Hotel Room Rental Tax.

WHEREAS, the Board of Commissioners formerly approved Ordinance 123008 at their December 30, 2008, Public Meeting; and

WHEREAS, the Board of Commissioners wishes to amend Ordinance 123008, 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 Commissioners of Beaver County, Pennsylvania, 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 for 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.

“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, 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 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 payments 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 The County of Beaver, Pennsylvania

“Hotel” A hotel, motel, bed & breakfast, inn, guest house, rooming house, homestead 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 accommodations; 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 establish 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), 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, non-profit 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 use or possession by any 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 Consideration for the 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.

"Recognized Tourist Promotion Agency" The nonprofit corporation, organization, association, agency or department 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 subsection or under section 1770.11. For Beaver County that would be the Department of Recreation and Tourism.

"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 accommodation provided.

“Tax Year” The tax year is the calendar year.

“Temporary Period” 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 under an express or implied contract.

“Transient” Any individual who obtains Hotel accommodations by means of registering at the facility for temporary occupancy of a Room for the personal use by paying a fee to the Hotel Operator or Booking Agent.

“Treasurer” The Office of the Treasurer of the County of Beaver.

Section 4. Imposition of Hotel Room Rental Tax.

- A. A five (5%) percent tax is hereby imposed on the Consideration received by each Hotel Operator or Booking Agent within the County from each Transaction of renting a Room of 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 (5%) percent 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 (5%) percent of the annualized Consideration received during the Tax Year prior to the determination

Section 5. Registration

- A. Within thirty (30) days of commencing business, each Operator of any hotel, motel, bed & breakfast, inn, guest house, rooming house, homestead shall register said business with the County Treasurer by completing the Registration Form provided by the Treasurer. The Operator of said business shall obtain from the County Treasurer a certificate evidencing his authority to collect the occupancy tax and said certificate shall at all times be posted in a conspicuous place on the premises.

Section 6. Collection of the Tax

- A. The Hotel Operator or Booking Agent shall collect Hotel Room 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 the Hotel Operator. A Hotel Operator shall not be responsible for collecting and remitting the tax on any transaction for which is has received confirmation that the Booking Agent has collected and remitted the tax.

Section 7. Payment of the Hotel Room Rental Tax

- A. The Hotel Operator shall pay the Hotel Room Rental Tax to the County Treasurer as follows:
1. Every Hotel Operator or Booking Agent shall transmit to the Treasurer, on or before the twenty-fifth 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 renting Rooms subsequent to the effective date of this Ordinance, the first return shall be filed on the twenty-five (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 months.

Section 8. Filing of a Hotel Room Tax Return

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

Section 9. Collection and Disposition of Revenues

- A. The County Treasurer shall collect the tax from the Hotel Operator or Booking Agent and deposit the revenues received from the tax in a restricted fund to be used for tourism promotion.
- B. The County shall distribute the revenues from the restricted 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, annual auditing and distribution of the revenue collected.
 - 2. The Treasurer shall distribute to the recognized tourist promotion agency all remaining revenues not later than sixty (60) days after receipt of the tax revenues.

Section 10. 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.
 - 1. Marketing the area served by the agency as leisure travel destination.
 - 2. Marketing the area served by the agency as a business, convention or meeting destination.
 - 3. Using all appropriate marketing tools to accomplish these purposes, including, but not limited to, advertising, publicity, publications, direct marketing, sales, technology and participation in industry wide trade shows that attract tourists or travelers to the area served by the agency.

Programs, expenditures or grants that are directly and substantially related to tourism or a business, convention, or meeting travel destination within the county, augment and do not compete with private sector tourism or travel efforts and

improve and expand the county as a destination market as deemed necessary by the recognized tourist promotion agency.

4. Any other tourism or travel marketing or promotion, expenditure or project that does not compete with private sector tourism or travel efforts as deemed necessary by the recognized tourist promotion agency.
5. The recognized Tourist Promotion Agency will conduct an independent audit report of the prior year's finances.

Section 11. Recordkeeping Requirements

- A. 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 Tax Return for such year has been filed.

Section 12. Access to Records

- A. The County or any 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 13. Late Payment Fees

- A. If for any reason the tax is not paid when due under the provisions of Section 7 a late payment fee at the rate of eighteen (18.0) percent per year, or one-and-a-half (1.5) percent per month, on the amount of the tax which remains unpaid and shall be added and collected.

Section 14. Enforcement

- A. 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 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. In addition to other remedies available to collect debt, 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 15. Penalties

- A. Any person who shall violate any of the provisions of the Ordinance shall, upon conviction thereof, in a summary proceeding before any Magisterial District Justice in Beaver 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 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 13.
- 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 16. Administration

- A. The County Treasurer shall be responsible for administering the provisions of this Ordinance. The County Treasurer shall promulgate the Rules and Regulations as are necessary to implement this Ordinance and are consistent herewith and shall submit a copy of said Administrative Rules and Regulations to the Board of Commissioners for their approval within thirty (30) days of the enactment of this Ordinance.

Section 17. Severability of Provisions

- A. 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 of 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, provision, section or part thereof not been included.

Section 18. Effective Date

- A. This Ordinance shall take effect January 1, 2017, 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 Room Rental Tax in accordance with this Ordinance.

Section 19. Repeals

- A. All Ordinances or parts of Ordinances inconsistent with this Ordinance are hereby repealed insofar as they may be inconsistent herewith; specifically Ordinance No. 123008-ORD is hereby repealed.

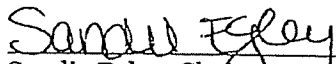
DULY ENACTED AND ORDAINED at as public meeting of the Board of Commissioners of the County of Beaver, Pennsylvania, held on the 5th day of December, 2016.

ATTEST:

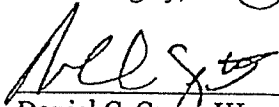


Julie Richards
Chief Clerk

COUNTY OF BEAVER
BOARD OF COMMISSIONERS

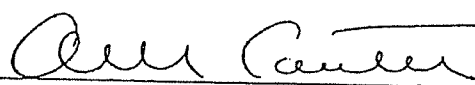


Sandie Egle, Chairwoman

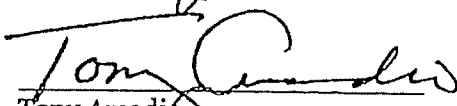


Daniel C. Camp III

Approved as to Form:
And Legality:



Andrea M. Cantelmi
County Solicitor



Tony Amadio