

COUNTY OF CLINTON  
COMMONWEALTH OF PENNSYLVANIA

ORDINANCE 2022 - 4

AN ORDINANCE REAFFIRMING AND IMPOSING THE HOTEL ROOM RENTAL TAX TO FUND TOURIST PROMOTION IN CLINTON COUNTY, IMPOSING A RATE OF TAX, PROVIDING FOR THE COLLECTION, DEPOSIT AND DISTRIBUTION OF TAX REVENUES, AUTHORIZING EXPENDITURES OF THE TAX AND REPEALING ORDINANCE 2016-1 AS SUBSEQUENTLY AMENDED

WHEREAS, the Commissioners of the County of Clinton by Ordinance 2016-1 established a hotel room rental tax for purposes of funding tourist promotion in Clinton County; and

WHEREAS, the Clinton County Commissioners have determined that it would be appropriate to reenact the Hotel Room Tax Ordinance in its entirety as provided further herein; and

WHEREAS, upon enactment, this Ordinance is intended to supplant and replace the prior Ordinance as amended.

SECTION 1. TITLE

This Ordinance shall be known and cited as the Hotel Tax Ordinance of Clinton County.

SECTION 2. 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:

“Accommodation Fee”. The amount by which the rent exceeds the discount room charge, if any.

“Bed and Breakfast” or “Homestead”. A public accommodation consisting of a private residence, which contains ten 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 which facilitates or collects payment for hotel accommodations on behalf of or for an operator. The term “booking agent” shall not include a person who merely publishes advertisements for accommodations.

“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, a 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 minimus economic impact or which affects to the same degree a class consisting of the general public or a subclass consisting of an 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”. The 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, inn, bed & breakfast or any other similar lodging establishment as defined below for any temporary period.

“County”. The County of Clinton, Pennsylvania.

“Discount Room Charge”. The amount charged by an operator to a Booking Agent in connection with the sale of an accommodation by the Booking Agent.

“Hotel”. A hotel, motel, inn, guest house, rooming house, Bed and Breakfast, homestead, Cabin 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 governmental agency, as being available to provide overnight lodging for consideration to persons seeking temporary accommodation; any place which advertises to the public at a 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 or any Cabin. The term does not include any of the following: (1) a charitable institution; (2) a portion of a facility that is devoted to persons who have an established permanent resident; (3) a college or university student residence hall currently occupied by students enrolled in a degree program; (4) 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”; (5) a hospital; (6) a nursing home; and (7) part of a campground that is not a Cabin.

“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 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.

“Occupant”. A person (other than a permanent resident) who, for a consideration, uses, possesses or has a right to use or possess any room or rooms in a Hotel under any lease, concession, permit, right of access, license or agreement.

“Operator”. Any individual, partnership, limited liability company, nonprofit or profit-making association or corporation or other person or group of persons, including but not limited to Booking Agent, who maintain, operate, manage, own or have custody or otherwise possess the right to rent or lease overnight accommodations in a building to the public for consideration.

“Patron”. Any person who pays the consideration for a room or accommodation 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 or otherwise for a period exceeding thirty (30) consecutive days.

“Recognized Tourist Promotion Agency”. A nonprofit corporation, organization, association or agency designated by the County as this County Tourist Promotion 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. The Tourist Promotion Agency 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.

"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.

"Rent". The consideration received for occupancy valued in money, whether received in money or otherwise, including all receipts, cash, credits and property or services of any kind or nature, accommodation fees and any amount for which the occupant is liable for the occupancy without any deduction therefrom whatsoever, including any amount charged by a Booking Agent. The term "rent" shall not include a gratuity.

"Room". A space in a Hotel or other facility set aside for use and occupancy by Patrons, or otherwise, for consideration, having at least one bed or other sleeping accommodation provided therein.

"Transaction". The activity involving the obtaining by a Transient or Patron of the use or occupancy of a Room from which consideration emanates 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 elected treasurer of the County.

SECTION 3. IMPOSITION OF HOTEL ROOM RENTAL TAX (TAX)

1. A five (5%) 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. A five (5%) percent tax is hereby imposed on the Accommodation Fee received by each Booking Agent.
2. If the County or any duly authorized representative is unable to determine the tax due from an Operator or Booking Agent records, the tax due for each unpaid tax month shall be determined to be the lesser of the following:
  - A. Five (5%) percent of the Consideration that could have been received by the Operator and, in the case of the tax due on the Accommodation Fee, five (5%) percent of the Accommodation Fee received by the Booking Agent for all Hotel rooms during the month at occupancy rates in effect at the time of the determination; or
  - B. Five (5%) percent of the monthly Consideration or Accommodation Fees received by the Operator or Booking Agent during any month within the previous sixty (60) months.

SECTION 4. COLLECTION OF THE TAX

The tax shall be collected by the Operator or Booking Agent from Patrons and paid over to the Treasurer. Nothing herein shall be construed to relieve the Operator or Booking Agent from liability for failure to collect the tax from a Patron.

SECTION 5. BOOKING AGENT OBLIGATIONS

A Booking Agent shall provide the Treasurer with a comprehensive listing of each Operator with whom the Booking Agent contracts and who is located within the County. The

listing shall provide the property owner's or owners' name(s) and the property address(es). The listing shall include the name of the Operator, if the Operator is different than the property owner. A Booking Agent shall update the listing on a quarterly basis and provide the updated listing to the Treasurer.

#### SECTION 6. EXEMPTIONS

1. A Permanent Resident, is excluded from the tax upon the Occupancy of any Room or Rooms during which, or at the expiration of which, he is or becomes a permanent resident.
2. The only other exceptions from the tax shall be as set forth in Title 61 Pa. Code 38.2 which is incorporated herein by reference. These exemptions shall include:
  - A. Ambassadors, ministers and consular officers of foreign governments;
  - B. Occupancy of Rooms by United State Government; and
  - C. Occupancy of Rooms by other exempt entities.
3. No person or entity other than those referred to by the preceding paragraphs of this section shall be exempt from the tax.

#### SECTION 7. PAYMENT OF THE TAX

1. The Operator shall pay the tax to the Treasurer monthly.
2. The payment shall be postmarked no later than the 15<sup>th</sup> day of the month following the month during which Operator or Booking Agent collected Consideration and/or Accommodation Fees.

SECTION 8. FILING OF A TAX RETURN

The Operator or Booking Agent when paying the tax shall file a tax return on forms prepared by the County summarizing the Consideration and/or Accommodation Fees received and providing documentation as deemed necessary by the County.

SECTION 9. COLLECTION AND DISPOSITION OF REVENUES

1. The Treasurer shall collect the tax and deposit the revenues received from the tax in a special fund established for the purpose.

2. The Treasurer shall distribute the revenue from the special fund in the following manner:

A. Deduct and retain from the fund an administrative fee equal to four (4%) percent of the tax collected.

B. Distribute all remaining revenues to the County's Tourist Promotion Agency no later than sixty (60) days after receipt of the tax revenues. The revenues from the special fund shall be used by the Tourist Promotion Agency for the following purposes:

1. Convention promotion;
2. Marketing the area served by the County's Tourist Promotion Agency as a leisure travel destination;
3. Marketing the area served by the County's Tourist Promotion Agency as a business travel destination;
4. Using all appropriate marketing tools to accomplish these purposes, including, but not limited to, advertising,



publicity, publications, direct marketing, direct sales and participation in industry trade shows;

5. Projects or programs that are directly and substantially related to tourism within the County, augment and do not unduly complete with private sector tourism efforts and improve and expand the County as a destination market; and
6. Any other tourism marketing or promotion program deemed necessary by the County's Tourism Promotion Agency.

#### SECTION 10. AUDIT

1. The Tourist Promotion Agency shall use tax revenues as provided herein.
2. The Tourist Promotion Agency receiving any revenues from the tax authorized by this Ordinance shall submit prior to March 31<sup>st</sup> of the following year an audited report of the income and expenditures of the revenues distributed by the Treasurer.

#### SECTION 11. RECORDKEEPING REQUIREMENTS

Operators shall retain records for three (3) years after a return is filed.

#### SECTION 12. ACCESS TO RECORDS

The County or any duly authorized representative of the County shall have access to any books, documents, papers and records of the Operator and the 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 transcripts.

SECTION 13. LATE PAYMENT PENALTY FEE

If for any reason the tax is not paid when due under the provisions of Sections 3 and 7, a penalty of one and one-half (1.5%) percent per month shall be imposed upon the Operator of a Hotel or Booking Agent for failure to timely collect and remit the tax.

SECTION 14. ENFORCEMENT

Whenever any Operator or Booking Agent shall fail to pay the tax as herein provided, 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. In addition, the County may bring or cause to be brought a civil action in any Court having jurisdiction to enforce payment of all taxes, late payment fees, interest and costs of suit.

SECTION 15. 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 Clinton County, be sentenced to pay a fine of not more than One Thousand (\$1,000.00) Dollars or to undergo imprisonment for not more than ten (10) days, or both.

SECTION 16. 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 consistent with the Ordinance.

SECTION 17. 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, corporations, 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 18. REPEAL OF ORDINANCE 2016-1, AS AMENDED

Ordinance 2016-1, as amended, is hereby repealed. The repeal of Ordinance 2016.1 as amended notwithstanding, nothing herein shall interfere with or affect the collection of any delinquent hotel room rental tax for any period prior to the enactment of the Hotel Tax and any costs, interest, fines, penalties, late payment fees or any enforcement action initiated or that could have been initiated under Ordinance 2016-1, as amended, prior to the effective date of this Ordinance.

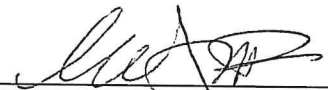
SECTION 19. EFFECTIVE DATE

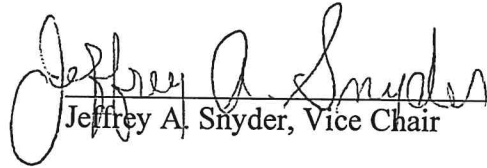
1. This Ordinance shall become effective upon enactment.
2. The proper officers of the County are hereby authorized and directed to take any and all action necessary to implement the Hotel tax in accordance with this Ordinance.

ENACTED AND ORDAINED this 29<sup>th</sup> day of December, 2022.

BOARD OF COMMISSIONERS

  
\_\_\_\_\_  
Jann R. Meyers, Chief Clerk

  
\_\_\_\_\_  
Miles D. Kessinger, III

  
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Jeffrey A. Snyder, Vice Chair

  
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Angela Harding, Commissioner