

BOARD OF COMMISSIONERS
COUNTY OF BUTLER
COMMONWEALTH OF PENNSYLVANIA

ORDINANCE NO. 2001-1

HOTEL ROOM RENTAL TAX

**AN ORDINANCE 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, as provided by Act 142 of 2000 (16 P.S. § 1770.6) of the General Assembly of the Commonwealth of Pennsylvania, the following Ordinance imposing a hotel room rental 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 Butler, 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 this Section unless the context clearly indicates otherwise.

"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 of the room.

"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 Butler, Pennsylvania.

"Hotel." The term includes a hotel, motel, bed and breakfast, homestead, inn, guest house 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 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 on 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 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 sixty (60) 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 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.

“Room.” A space in a hotel set aside for use and occupancy by patrons, or otherwise, for consideration, having at least one 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 the Treasurer of the County of Butler.

Section 4. Imposition of Hotel Room Rental Tax

- (a) A three (3%) 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 accommodate 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%) 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%) percent of the annualized consideration received during the tax year prior to the determination.

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 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 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 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

- (a) The Operator 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 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) The Treasurer shall deduct from the fund an administrative fee of two percent (2%) of all hotel taxes collected, not to exceed \$40,000 annually, 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 Butler County 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 1st to be reviewed and acted upon by the County by January 1st of each calendar year. In the event that the Commissioners disapprove the proposed Annual Plan, the two parties agree to work together in a good faith effort to resolve the disputed issues in a timely manner prior to January 1st. Should the plan not receive approval by the County by January 1st, 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 this 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 by the County Commissioners at a public meeting.

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 room rental tax return for such year has been filed.

Section 11. Access to Records

- (a) The County or 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 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

- (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 Butler 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, and 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 12.

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 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.

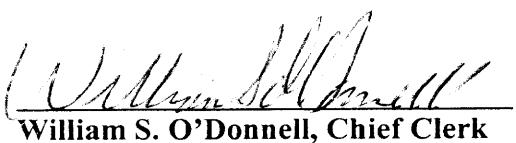
Section 17. Effective Date

- (a) This Ordinance shall take effect on January 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 Room Rental Tax in accordance with this Ordinance.

DULY ENACTED AND ORDAINED at a public meeting of the Board of County Commissioners of the County of Butler, Pennsylvania, held the 14th day of November, 2001.

**BUTLER COUNTY
BOARD OF COMMISSIONERS**

ATTEST:



William S. O'Donnell

William S. O'Donnell, Chief Clerk

By: _____
James L. Kennedy, Chairman

By: _____
Glenn L. Anderson

By: _____
Joan T. Chew