

BOARD OF COMMISSIONERS
COUNTY OF WARREN
COMMONWEALTH OF PENNSYLVANIA
Commissioners Bill No. 1 of 2010

ORDINANCE NO. 1-2011

HOTEL ROOM RENTAL TAX

AN ORDINANCE IMPOSING A TAX ON THE RENTING OF ROOMS IN HOTELS, MOTELS, INNS, GUEST HOUSES, CABINS, COTTAGES OR OTHER SUCH BUILDINGS TO FUND COUNTY-WIDE TOURISM 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 room rental excise tax.

Section 1: Short Title

This Ordinance shall be known and may be cited as the “Warren County Hotel Room Rental Tax Ordinance.”

Section 2: Purpose

The Commissioners of the County of Warren, Pennsylvania, intend to raise revenues to directly fund tourist promotion initiatives which will include, but are not limited to, multi-media advertising, promotional events and festivals, and the administration of like activities.

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.

“Class 1 Hotels”: operations accruing, based on an annual calculation, an average monthly room rental tax of \$100 (one-hundred dollars) or more

“Class 2 Hotels”: operations that accrue, based on an annual calculation, less than an average monthly room rental tax of \$100 (one-hundred dollars)

“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

“Emergency Resident”: an individual who temporarily resides in a hotel as a result of an emergency placement by an agency such as, but not limited to, the American Red Cross, Salvation Army, City Rescue Mission, Forest/Warren Department of Human Services, etc., said emergency placement resulting from an emergency situation, such as fire, tornado, flood, administrative crisis, or other similar disaster event

“Hotel”: the terms include a hotel, motel, inn, guest house, cabins, cottages 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 residence hall; furthermore, any facility owned and operated by a local, commonwealth, or federal government is exempt from collecting the Hotel Room Rental Tax.

“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 the possession of the room.

“Operator”: all individual, partnership, non-profit or profit-making associations or corporations 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 a room or rooms in a hotel as a patron for a period exceeding thirty (30) consecutive days.

“Recognized Tourist Promotion Agency”: the non-profit 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.” The Recognized Tourist Promotion Agency will be annually authorized through resolution by the Warren County Commissioners at a regularly scheduled Commissioners Business Meeting.

“Records”: includes but is not limited to, the number of daily transactions, the rate of 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, Pennsylvania.

Section 4: Registration of Lodging Establishments

(4.1) Any Operator of a lodging facility that meets the requirements to collect the Room Rental Tax must register their facility with the Warren County Commissioners. The Operator is solely responsible to come forward and make known to Warren County their intentions through registration.

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(5.0)1. Any lodging facility that is owned (whether solely or partially) by a business, firm or corporation must provide a valid legal mailing address and telephone number for the business, firm or corporation with ownership interest. In addition, the business, firm, or corporation must delegate one individual to be the person responsible for acting on behalf of the business, firm or corporation with respect to all requirements of this Ordinance. The business, firm or corporation is solely responsible for keeping its

legal mailing address and telephone number updated and current with the County Commissioners.

- (5.1) The Chief Clerk of the Warren County Commissioners is the agent all Operators must use to register their operations with Warren County.
- (4.3) Any Operator failing to register their operations with Warren County prior to opening their establishment or collecting considerations for overnight lodging may be subject to the penalties as set forth in Section 14 contained herein.
- (4.4) Seasonal Operators of lodging facilities must submit written documentation to the Chief Clerk regarding their seasonal activities with the submission of their final report for the season. Within this documentation, date of their projected opening for the following season must be included.

If a Seasonal Operator conducts any business during their off season, written notification must be given to the Chief Clerk prior to conducting business.

- (4.5) If an Operator is closing a facility which is subject to this Ordinance, they must notify the Chief Clerk upon submission of final report through written notification outlining their intentions.

Section 5: Imposition of Room Rental Tax

- (5.1) A three (3.0) percent tax is hereby imposed on the consideration received by each transaction of renting a room or rooms to transients.
- (5.2) If the County or any duly authorized representative is unable to determine the tax due from operator records, the tax due for each unpaid reporting period will be determined under one of the following criteria:
 - (5.2.1) Three (3.0) percent of the consideration that could have been received by the operator for all hotel rooms during the reporting period at occupancy rates in effect at the time of the determination.
 - (5.2.2) Three (3.0) percent of the consideration received during the reporting period prior to the determination

Section 6: Collection of Room Rental Tax and Exemption Criteria

- (6.1) The tax shall be collected by the operator from the patron of the room or rooms.

(6.2) The operator shall be exempt from collecting hotel room rental tax on considerations paid by patrons under the following criteria:

(6.2.1) The patron meets the aforementioned definition of a permanent and / or an emergency resident.

(6.2.2) A detailed set of records shall be maintained recording all exempt transactions, including but not limited to the starting and ending date of the room rental, the determining criteria applied to the patron justifying the exemption, and the name and legal residence of the patron.

Section 7: Payment of the Room Rental tax

(7.1) “Class 1 Hotel” operators shall pay the Hotel Room Rental Tax to the County Treasurer as follows:

(7. .1) “Class 1 Hotel” operators 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 the 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.

(7. .2) “Class 1 Hotel” operators, 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.

(7. .3) If a “Class 1 Hotel” operator enters the business of renting 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 shall be for all transactions occurring during the preceding calendar month based upon the actual taxable transaction during the preceding calendar month.

(7.2) “Class 2 Hotel” operators shall pay the Hotel Room Rental Tax to the County Treasurer as follows:

(7.2.1) “Class 2 Hotel” operators shall transmit to the treasurer, on or before the twenty-fifth (25th) day of any month following the end of a quarter, a quarterly return reporting the amount of the 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 quarter, and such other information as the treasurer may require.

(7.2.2) “Class 2 Hotel” operators, at the time of filing each required quarterly return, shall compute and pay over to the treasurer the taxes shown as due on the quarterly return for the period for which the return is made.

(7.2.3) If a “Class 2 Hotel” operator enters the business of renting 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 to the quarter thereto. The first return and tax payment shall be for all transactions occurring during the preceding quarter based upon the actual taxable transaction during the preceding calendar month.

(7.2.4) The schedule of quarters is the following:

- (7.2.4.1) 1st Quarter – January, February, March
- (7.2.4.2) 2nd Quarter – April, May, June
- (7.2.4.3) 3rd Quarter – July, August, September
- (7.2.4.4) 4th Quarter – October, November, December

Section 8: Filing of the Room Rental Tax Form

The operator shall file a hotel tax return when paying the tax summarizing the consideration received.

Section 9: Collection and Disposition of Revenues

- (9.1) The county treasurer shall collect the tax and deposit the revenues received from the tax in a special fund.
- (9.2) The county shall distribute the revenues from the special fund in the following manner:
 - (9. .1) deduct and retain as an administrative fee from the taxes collected an amount of two percent applied against all Hotel Taxes for the period in question.
 - (9. .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 10: Use of the Revenues

- (10.1) the recognized tourist promotion agency shall use tax revenues to directly fund county-wide tourist promotion
- (10.2) 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 November 1st at the subsequent year.

Section 11: 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 12: Access to Records

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 13: Late Payment Fees

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 14: Enforcement

Whenever any operator shall fail to pay the tax as herein provided, the County shall bring or cause to be brought a summary proceeding in a Magisterial District Court of competent jurisdiction to enforce the payment of all taxes and late payment fees due. Said proceeding shall be brought in the same manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure.

Section 15: Penalties

(15.1) Any Operator who is found by the court to have violated any of the provisions of this ordinance shall be sentenced to pay a fine based upon the following:

(15.1.1) first offense.....	\$75.00
(15.1.2) second offense.....	\$150.00
(15.1.3) third offense.....	\$250.00
(15.1.4) fourth offense and each additional.....	\$300.00

and/or to undergo imprisonment for a period of not more than 10 days.

All associated costs of prosecution for each violation shall be added in addition to the aforementioned fees.

- (15.2) Each seven (7) day period during which a violation exists after notice is given (in writing by registered mail, return receipt requested) shall constitute a separate violation of this ordinance.
- (15.3) Any Operator failing to comply with the reporting requirements as set forth herein may be subject to paying additional compensation representative of the unsubmitted Hotel Room Rental Tax as referenced in Section 5.2 of this Ordinance.

Section 16: Administration

The county treasurer shall be responsible for administering the provisions of the 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 17: 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 of Warren County, Pennsylvania, 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: Effective Date

- (18.1) This ordinance shall take effect immediately upon enactment thereof.
- (18.2) 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.
- (18.3) This ordinance supersedes any previously enacted agreements, resolutions, ordinances or any other administrative act as set forth by the Warren County Commissioners; specifically, Ordinance 1-2008 of November 12th, 2008 and the Agreement of June 19, 2002 are hereby superseded by the implementation of this ordinance.

DULY ENACTED AND ORDAINED at a public meeting of the Board of Commissioners of the County of Warren, Pennsylvania, held on the 27th day of the month July 27, 2011.

COUNTY OF WARREN

John E. Eggleston Chairman

Terry Hawk, Vice-chairman

John R. Bortz, Jr., Secretary

Attest:

Pam Matve,
Chief Clerk