

BOARD OF COMMISSIONERS,
COUNTY OF YORK,
COMMONWEALTH OF PENNSYLVANIA

ORDINANCE NO. 1997-08

HOTEL EXCISE 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 York, as provided by Act No. 18 of 1997 of the General Assembly of the Commonwealth of Pennsylvania, the following Ordinance imposing a hotel room excise tax.

Section 1. Short Title

This Ordinance shall be known and may be cited as the "County Hotel Excise Tax Ordinance."

Section 2. Purpose

The Commissioners of the County of York, 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.

"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 York, 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, 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; 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; 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 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 (1) 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 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.

Section 4. Imposition of Hotel Excise Tax

(a) A two (2.0) per cent 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.

(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) Two (2.0) per cent 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) Two (2.0) per cent of the annualized consideration received during the tax year prior to the determination.

Section 5. Collection of the Hotel Excise Tax

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

Section 6. Payment of the Hotel Excise Tax

(a) The operator shall pay the tax to the County Treasurer as follows.

(1) Operators with annual revenue in the preceding calendar year less than Two Hundred Fifty Thousand Dollars and No Cents (\$250,000.00) shall pay on a calendar year quarterly basis.

(2) Operators with annual revenue in the preceding calendar year equal to or greater than Two Hundred Fifty Thousand Dollars and No Cents (\$250,000.00) shall pay on a monthly basis.

(b) The payment shall be postmarked no later than the last day of the month following the close of the quarter or the 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. 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) Deduct from the fund any direct or indirect costs attributable to collection of the tax.

(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.

Section 10. Recordkeeping Requirements

(a) Operators Filing Tax Returns

(1) Each operator in the County filing hotel tax returns shall maintain records at the hotel for three (3) years after the close of the tax year.

(b) Operators Not Filing Tax Returns

(1) Each operator in the County who has not filed hotel tax returns shall maintain records for three (3) years after a hotel tax return for a tax 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) per cent, per year, or three-quarters (.75) per cent 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 York 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 Twenty Five Dollars and No Cents (\$225.00) 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 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

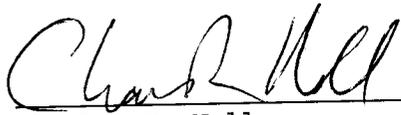
This Ordinance shall take effect as of February 1, 1998.

Ordained and enacted this 31st day of December, 1997.

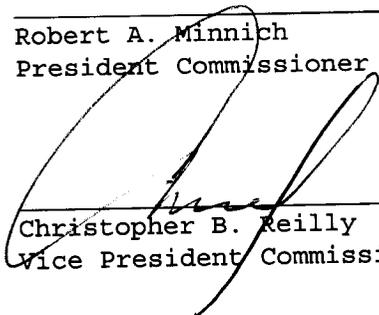
(SEAL)

BOARD OF COMMISSIONERS

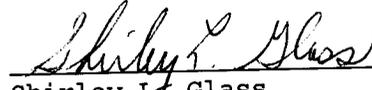
ATTEST:


Charles R. Noll
Administrator/Chief Clerk

Robert A. Minnich
President Commissioner



Christopher B. Reilly
Vice President Commissioner



Shirley L. Glass
Commissioner