

**BOARD OF COMMISSIONERS
COUNTY OF YORK
COMMONWEALTH OF PENNSYLVANIA**

ORDINANCE 2016-03

**AMENDMENT TO YORK COUNTY CODE CHAPTER 107 FOR THE PURPOSE OF
INCREASING RATE OF HOTEL EXCISE TAX AND PENALTY ON HOTEL
OPERATORS FOR UNTIMELY REMITTANCE**

WHEREAS, the County of York adopted a hotel excise tax, as amended, on 12-31-1997 by Ordinance 1997-08; York County Code, Chapter 107;

WHEREAS, the hotel excise tax rate in Section 107-4 of the York County Code sets the rate at 3%;

WHEREAS, the Pennsylvania Legislature authorized the County of York to impose a hotel excise tax not to exceed to 5% under Act 18 of April 20, 2016, HB No. 794, Session 2015, and increase the penalty on hotel operators for untimely remittance of said excise tax, inter alia; and

WHEREAS, the York County Commissioners desire to amend the York County Code, Chapter 107.

NOW THEREFORE, with the above matters incorporated by reference herein, it is **HEREBY ORDAINED AND ENACTED**, the following Ordinance amending existing sections to the York County Code:

Section 1. General.

The York County Code, Chapter 107, shall be amended, as follows:

ARTICLE I

§ 107-1. Title.

This article shall be known and may be cited as the "County Hotel Room Rental Tax

Ordinance."

§ 107-3. Definitions.

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.

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 minimis 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.

HOTEL. A hotel , motel, inn, guesthouse, rooming house, bed and breakfast , homestead 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 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 hostel 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.O. 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.
- (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.

OPERATOR. Any 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 building to the public for consideration.

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 the county and certified by the county as of the effective date of this ordinance or under Section 107-15.

ROOM. A space in a building set aside for use and occupancy by patrons or otherwise, for consideration, having at least one bed or other sleeping accommodations provided.

TRANSACTION. The activity involving the obtaining by a transient or patron of the use or occupancy of a hotel room from which consideration emanates to the operator under an expressed or implied contract.

§ 107-4. Imposition of Tax.

A tax of 5% 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.

§ 107-8. 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 established for that purpose.

B.(1) Deduct from the fund an administration fee in an amount established from time to time by resolution or motion but not to exceed 4% of the taxes collected in any tax year to defray the costs associated With the collection of the tax.

§ 107-9. Use of revenues; report.

A. The revenues from the special fund shall be used by the recognized tourist promotion agency for any of the following purposes:

- (1) Marketing the area served by the agency as a leisure travel destination.
- (2) Marketing the area served by the agency as a business, convention or meeting travel 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 trade shows that attract tourists or travelers to the area served by the agency.

(4) 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. The following shall apply to grants awarded under this paragraph:

- (i) Grants require a cash or in-kind local match of at least 25%.
- (ii) Grants may not be used for signage that promotes a specific private entity on the situs of that entity, except where the signage also carries the logo of a recognized tourist promotion agency.

(5) Any other tourism or travel marketing or promotion program, expenditure or project that does not compete with private sector tourism or travel efforts as deemed necessary by the recognized tourist promotion agency.

§ 107-12. Late payment fees.

A penalty of one and one-half per centum per month shall be imposed upon the operator of a hotel for failure to timely collect and remit the tax authorized by the provisions of this Article. In addition to other remedies available for collection of debts, 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.

§ 107-15. Administration; Certification of Recognized Tourist Promotion Agencies.

A. The County Treasurer shall be responsible for administering the provisions of this article. The County Treasurer shall promulgate and submit administrative rules and regulations to the Board of Commissioners for their approval from time to time by resolution or motion.

B. The county may certify a nonprofit corporation, organization, association or agency to serve as the county's recognized tourist promotion agency. The county may not have more than one recognized tourist promotion agency at any given time.

(1) The county must certify the recognized tourist promotion agency by resolution of the Board of Commissioners, concurred in by resolution of the governing bodies of cities, boroughs, towns or townships with the county which have an aggregate or more than fifty per centum of the total population of the county as determined by the most recently completed Federal decennial census.

(2) The recognized tourist promotion agency shall operate until that agency has dissolved as an entity, withdrawn its certification or has been decertified by the county as provided under this section.

(3) Notwithstanding any other provision of law, the county may decertify the recognized tourist promotion agency by resolution of the Board of Commissioners, concurred in by resolution of the governing bodies of cities, boroughs, towns or townships with the county

which have an aggregate or more than sixty-five per centum of the total population of the county as determined by the most recently completed Federal decennial census. The county shall hold at least one public hearing on decertification no less than seven days before a meeting to adopt a resolution for decertification.

C. This section shall apply to recognized tourist promotion agencies, regardless of the date on which they were recognized under the act of July 4, 2008 (P.L. 621, No. 50), known as the "Tourism Promotion Act," or certified by the county under section.

Section 2. Repealer.

This Ordinance shall supersede and repeal all ordinances, resolutions and parts thereof inconsistent or conflicting herewith.

Section 3. Effective Date.

This Ordinance shall become effective on July 1, 2016.

Section 4. Severability Clause.

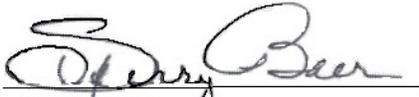
If any sentence, clause, section or part of this Ordinance is for any reason found to be unconstitutional, illegal, or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair the remaining provisions, sentences, clauses, section or parts of this Ordinance. It is hereby declared to be the intent of the York County Board of Commissioners that this Ordinance would have been adopted and would be enforceable had such unconstitutional, illegal, or invalid sentence, clause, section or part thereof not been included herein.

[SIGNATURE LINE TO IMMEDIATELY FOLLOW]

Duly enacted and ordained this 11th day of May, 2016, by the Board of Commissioners of York County, Pennsylvania in lawful session duly assembled.

ATTEST:

COUNTY OF YORK



Sherry Baer
Chief Clerk/Office Manager

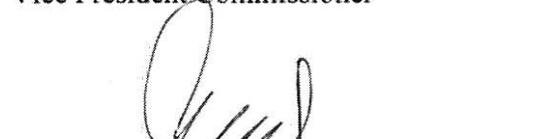


Susan P. Byrnes
President Commissioner

(SEAL)



Doug Hoke
Vice President Commissioner



Christopher R. Reilly
Commissioner

The above Ordinance was ordained, enacted, a:nd adopted this 11th day of May 2016, at a regular meeting of the Board of Commissioners of the County of York duly advertised and assembled upon motion of Commissioner Hoke and seconded by Commissioner Reilly and passed with a vote of 3 yes and 0 no.