

COUNTY OF FAYETTE  
ORDINANCE NO. 2017 - 17-07-20-54

AN ORDINANCE IMPOSING AN EXCISE TAX ON THE CONSIDERATION RECEIVED BY EACH OPERATOR OF A HOTEL, AS DEFINED BY THIS ORDINACE, FROM EACH TRANSACTION OF RENTING A ROOM OR ROOMS TO ACCOMMODATE TRANSIENTS, AS DEFINED BY THIS ORDINANCE, AND FROVIDING FOR THE COLLECTION, PAYMENT, REPORTS AND RETURNS OF SAID TAX, AND PENALTIES FOR VIOLATION OF ANY PROVISIONS OF THE ORDINANCE.

The Board of Commissioners of the Cou ty of Fayette ordains as follows:

Section 1. Short Title

This Ordinance may be cited as the *Fayette County Hotel Room Rental Excise Tax Ordinance*

Section 2. Authority and Purpose

- A. This Ordinance is authorized pursuant to the Act of December 22, 2000, P.L. 1019, No. 142, as amended by the Act of July 5, 2005, P.L. 38, No. 12, 16 P.S. Section 1770.6 and amended by Act 18 of 2016, P.L. 134, No. 18, of the General Assembly of the Commonwealth of Pennsylvania ("Act").
- B. The purpose of this Ordinance is to raise revenues to be used by the County's Recognized Tourist Promotion Agency for purposes authorized by the Act.

Section 3. Definitions

The following words and phrases, when used in this Ordinance, shall have the meaning given to them in this section, unless th 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 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.

**Board** - The Board of County Commissioners of the County of Fayette.

**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 Fayette

**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 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 residence.
- (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), 8 entitled "An act providing for the annual 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, 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 of a Hotel Room for Transient, overnight Occupancy 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 a Room.

**Occupancy** generally shall not include the use or possession of a common area, banquet or meeting room for the purposes other than Transient, overnight Occupancy.

**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, including the agents of such individuals.

**Patron** - Any 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 or otherwise for a period exceeding thirty 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 a County and certified by the County. As of the effective date of this Ordinance, the Recognized Tourist Promotion Agency is the Laurel Highlands Visitors Bureau.

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

**Tax** - The Hotel Room Rental Tax established by this Ordinance.

**Tax Year** - A calendar year beginning January 1 and ending December 31 of the same calendar year.

**Temporary** - A period of time not exceeding thirty (30) days.

**Transaction** - The activity involving the obtaining by a Transient or Patron of the use or Occupancy of a Hotel Room for 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 Treasurer of the County of Fayette

**Section 4. Imposition of Hotel Room Rental Excise Tax**

A. There is hereby imposed an excise tax of five percent (5%) on the Consideration received by each Operator of a Hotel as defined by this Ordinance from each Transaction of renting a Room or Rooms to accommodate Transients.

**Section 5. Collection of Tax**

The Hotel Room Rental Excise Tax shall be collected by Operators from Patrons.

**Section 6. Payment of the Tax**

A. The Operator shall pay the Hotel Room Rental Excise Tax to the County treasurer as follows:

1. Every Operator shall transmit to the County Treasurer, on or before the 25<sup>th</sup> day of each month for receipts for the preceding month. The return shall report the amount of Consideration received for Transactions during the month for which the return was made, the amount of the tax due from the Operator for the month, and such other information as the County Treasurer may reasonable require.

2. Every Operator, at the time of filing such required return, shall compute and pay over to the County Treasurer of the Hotel Room Rental Excise Tax shown as due on the return for the period for which the return is made.

3. If an Operator first commences the business of operating a Hotel during a calendar month, the first return shall be made on the 25<sup>th</sup> day of the month following completion of such a time period, even though the return covers less than the full month.

B. The Hotel Room Rental Tax shall replace and supersede the County Room Rental Excise Tax established by the ~~1991~~ County Ordinance Number *08-3-27-43* immediately upon adoption of this ordinance.

**Section 7. Collection and Disposition of Revenues**

A. The County Treasurer shall collect the Tax and deposit the revenues received from the tax into a segregated fund, entitles the *Hotel Room Rental Excise Tax Fund*.

B. The County Treasurer shall distribute the revenues from the Hotel Excise Tax Fund in the following manner:

1. The County Treasurer shall first deduct and pay over to the County General Fund an administrative fee an amount equal to four per centum (4%) of all taxes collected under this Ordinance.
2. The County Treasurer shall distribute all remaining revenues in the Hotel Excise Tax Fund to the Recognized Tourist Promotion Agency within sixty (60) days.

#### Section 8. Use of Revenues

A. The Recognized Tourist Promotion Agency shall use the funds distributed to it under this Ordinance for any or all of the following purposes:

1. Marketing the area served by the agency as 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, publication, 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 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:
  - a. Grants require a cash or in-kind local match of at least 25%.
  - b. 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 Tourism Promotion Agency.

#### Section 9. Record Keeping Requirements for Operators

For each calendar year or part of 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 Renal Room Tax return for such year has been filed.

### Section 10. Access to Records

The County or its duly-authorized representative shall have access to all books, documents, papers and records of the Operator and the Recognized Tourism Promotion Agency which are directly pertinent to the collection and expenditures of the proceeds of the tax authorized by this Ordinance for the purpose of making audit, examination, excerpts and transcripts. Notwithstanding the aforesaid, to the extent allowed by state law, the underlying books, documents, papers, records and tax returns of the Operator shall not be deemed "public records" and it shall be unlawful for any officer, agent or employee of the County to divulge or to make known in any manner whatsoever, not provided by law, except for official purposes, to any person the amount or source of income, profits, losses, expenditures, or any particular thereof set forth or disclosed in any return, or to permit any return or copy thereof of set forth or disclosed in any return, or to permit any return or copy thereof or any book containing any abstract particulars thereof, to be seen or examined by any person except as provided by law and it shall be unlawful for any person to print or publish in any manner whatsoever not provided by law, any return or any part thereof or source of income, profits, losses or expenditures appearing in any return.

### Section 11. Penalties

If for any reason the return is not filed, and/or the tax is not paid and received in the Treasurer's office or postmarked by 5:00 p.m. on the 25<sup>th</sup> day when due, under the provisions of Section 6, a penalty of one and one-half per centum (1.5%) per month shall be imposed upon the Operator of a hotel for failure to timely collect and remit the tax authorized by this Ordinance. 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.

### Section 12. Administration

The County Treasurer shall be responsible for administering the provisions of this Ordinance. The County Treasurer may promulgate and implement administrative rules and regulation relating to the imposition and collection of the Hotel Room Rental Excise Tax, provided that the same are first submitted to the Board for approval.

### Section 13. Severability

Each section and subsection of this Ordinance shall be deemed to be severable and not affected by any determination that any other provision of this Ordinance is enforceable.

**Section 14. Effective Date**

A. This Ordinance shall take effect immediately upon adoption and its provision shall supersede all inconsistent Ordinances, including without limitation, FAYETTE County Ordinance Number 08-3-27-43

B. The proper officers of the County are hereby authorized and directed to take any and all actions necessary to implement the County Room Rental Excise Tax in accordance with this Ordinance.

ADOPTED THIS 20<sup>th</sup> DAY OF July, 2017.

COUNTY OF FAYETTE

Attest:

Jay Clark  
Chief Clerk

Wanda Givens  
Commissioner

Dave Kline  
Commissioner

Commissioner

FAYETTE County

Fayette County

County