

COUNTY OF JEFFERSON, PENNSYLVANIA

ORDINANCE NO. 2004-02

AN ORDINANCE IMPOSING AN EXCISE TAX ON HOTEL ROOMS
TO FUND TOURIST PROMOTION; ESTABLISHING PROCEDURES
FOR THE COLLECTION OF THE TAX; AND IMPOSING PENALTIES

WHEREAS, pursuant to Act of December 22, 2000, P.L. 1019, No. 142, Section 4, 16 P.S. Section 1770.6, the Board of Commissioners of Jefferson County may impose an excise tax on hotel room to fund tourist promotion; and

WHEREAS, the Board of Commissioners of Jefferson County desires to raise revenues to fund tourist promotion activities within the County of Jefferson;

NOW, THEREFORE, in consideration of the foregoing, the Board of Commissioners of the County of Jefferson hereby ordain and enact the following:

Section 1. Short Title.

This ordinance shall be known and may be cited as the "Jefferson County Hotel Room Rental Tax Ordinance".

Section 2. Authority and Purpose.

1. This ordinance is authorized pursuant to Act of December 22, 2000, P.L. 1019, No. 142, Section 4, 16 P.S. Section 1770.6.

2. The purpose of this ordinance is to raise revenues to fund tourist promotion activities within the County of Jefferson.

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 for 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 Jefferson.

"Hotel" - 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 or 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 in a hotel for any purpose or the right to the use or possession of the furnishing 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 is responsible for paying 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 (30) consecutive days.

"Recognized Tourist Promotion Agency" - A nonprofit corporation, organization, association or agency which is engaged in planning and promotion 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".

"Rooms" - 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 group of rooms.

“Tax Year” - The tax year is the calendar year beginning January 1

“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 an 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.

Section 4. Imposition of Hotel Room Rental Tax.

A. There is hereby imposed a hotel room rental tax of three (3%) per cent on the consideration received by each Operator of a Hotel 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 tax year shall be determined to be the lesser of the following:

1. 3% 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; or 2. 3% of the annualized consideration received during the tax year prior to the determination.

C. The County Hotel Room Rental Tax shall take effect on July 1, 2004.

Section 5. Collection of Tax.

The Hotel Room Rental Tax shall be collected by the Operator from the Patron.

Section 6. Payment of the 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 25th day of the month following each calendar quarter, a return for the calendar quarter preceding the month in which the return is made. The return shall report the amount of Consideration received for the Transactions during the calendar quarter for which the return is made, the amount of tax due from the Operator for that quarter, and such other information as the Treasurer may require.

2. Every Operator, at the time of filing such 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 operating a Hotel during a calendar quarter, the first return shall be made on the 25th day of the first calendar month following completion of the calendar quarter, even though the return covers less than the full calendar quarter.

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, entitled the "Hotel Tax Fund".

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

1. The County Treasurer shall first deduct and pay over to the County General Fund an administrative fee of 2% of all taxes collected under this ordinance; provided that the aggregate amount of the administrative fee during any tax year shall not exceed the limit imposed from time to time by Pennsylvania statute; and 2. The County Treasurer shall distribute all remaining revenues in the Hotel Tax Fund to the Recognized Tourist Promotion Agency as determined from time to time by resolution of the Board of County Commissioners.

Section 8. Designation of Recognized Tourist Promotion Agency.

The County Commissioners shall from time to time by resolution designate the Recognized Tourist Promotion Agency which shall be entitled to receive distributions from the Hotel Tax Fund. The Resolution may provide for the conditions upon which the distributions are made and restrictions upon the manner in which such distributions are used. The Chief Clerk of the County shall provide the Treasurer with a certified copy of each resolution promptly upon its adoption.

Section 9. Use of Revenues.

A. The Recognized Tourist Promotion Agency shall use the funds distributed to it under this ordinance to directly fund tourist promotion for the County of Jefferson.

B. Any Recognized Tourist Promotion Agency receiving any revenues from the tax authorized by this ordinance shall annually submit to the Board of County Commissioners for each calendar year no later than August 1 of the subsequent calendar

year; (a) a report of the income generated by the Hotel Room Rental Tax and the expenditures of same by the Agency; and (b) a copy of the Agency's annual audit report."

Section 10. Record Keeping Requirements for Operators.

Each Operator shall maintain and retain all records necessary to confirm proper collection and payment of the tax imposed by this ordinance until the expiration of three years after the hotel room rental tax returns for such year have been filed.

Section 11. Access to Records.

The County or its duly authorized representative shall have access to all books, documents, papers and records of the Operator and of the 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 transcripts.

Section 12. Late Filing Fee and Interest.

A. Any return filed after the due date shall be subject to a late filing fee of \$50.

B. Any payment of the Hotel Rental Room Tax made after the due date shall be subject to late payment interest at the rate of 9% per annum, or three-fourths of 1% per month, on the amount of the tax which remains unpaid.

C. Late filing fees and late payment interest shall be added to and paid with the filing of the return.

Section 13. Enforcement.

Whenever any Operator shall fail to pay the taxes herein provided, upon request of the County Treasurer, the County Solicitor shall bring a civil action in any court having jurisdiction to enforce the payment of all taxes, fees and interest due. There shall be added to the claim reasonable attorney fees in an amount not exceeding ten (10%) per cent of the claim and costs of suit.

Section 14. Penalties.

A. Any person who violates any of the provisions of this ordinance shall, upon conviction thereof in a summary proceeding, be sentenced to pay a fine of not more than \$100 for the first offense, not more than \$200 for the second offense, and not more than \$300 for any third or subsequent offense, together with the cost of prosecution for each violation.

B. In default of the payment of any fine or cost imposed above, the Court may impose a sentence of imprisonment for a term not exceeding thirty (30) days

C. Each day that a violation continues after notice has been given in writing shall constitute a separate offense under this ordinance.

Section 15. Administration.

The County Treasurer shall be responsible for administering the provisions of this ordinance. The County Treasurer may promulgate and implement administrative rules and regulations, provided that the same are first submitted to the Board of County Commissioners for approval.

Section 16. 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 unenforceable.

Section 17. Effective Date.

This ordinance shall take effect on July 1, 2004.

ENACTED AND ORDAINED by the Board of Commissioners of the County of Jefferson, Pennsylvania, this 29th day of April, 2004.

COUNTY OF JEFFERSON

By:

Paul Corbin
Paul Corbin, Chairman

James P. McIntyre
James P. McIntyre, Commissioner

Jeffrey E. Pisarcik
Jeffrey E. Pisarcik, Commissioner

ATTEST,

Karen Lupone
Karen Lupone, Chief Clerk