

COUNTY OF LYCOMING
COMMONWEALTH OF PENNSYLVANIA
ORDINANCE NO. 2017-05

AN ORDINANCE

OF THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF LYCOMING, COMMONWEALTH OF PENNSYLVANIA, AMENDING COUNTY OF LYCOMING ORDINANCES 99-7, 2004-1, 2014-9 AND 2017-01 ENTITLED, AS AMENDED, “AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF COUNTY OF LYCOMING, COMMONWEALTH OF PENNSYLVANIA, PURSUANT TO THE COUNTY CODE, ACT OF AUGUST 9, 1955 (P.L. 323, NO. 130), AS AMENDED, 16 P.S. § 101 ET. SEQ.; ESTABLISHING PROCEDURES FOR THE COLLECTION OF THE TAX IMPOSED; PROVIDING FOR THE SEVERABILITY OF PROVISIONS; AND REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES OR RESOLUTIONS INSOFAR AS THE SAME SHALL BE INCONSISTENT HERewith AND PROVIDING WHEN THIS ORDINANCE SHALL BECOME EFFECTIVE.”

WHEREAS, the County of Lycoming, Commonwealth of Pennsylvania is a Fifth Class County; and

WHEREAS, the Williamsport-Lycoming Chamber of Commerce d/b/a Lycoming County Visitors Bureau is a Recognized Tourist Promotion Agency designated to act within the County; and

WHEREAS, the County presently imposes an excise tax on the Consideration received by each Operator of a Hotel, motel, inn, guest house or other similar structure within the County from each Transaction of renting a Room or Rooms to Transients pursuant to Ordinance 99-7, as amended, known as the Tourist Promotion Assessment Ordinance of Lycoming County; and,

WHEREAS, the Act of April 20, 2016, P.L. 134, No. 18, Session of 2016, No. 2016-18 (“Act 18”), amended the County Code to authorize amendments to the Hotel Room Rental Tax in Third through Eighth Class Counties within the Commonwealth; and,

WHEREAS, this Ordinance amends the Tourist Promotion Assessment Ordinance as authorized by Act 18 and as more specifically set forth herein below.

NOW THEREFORE, BE IT ENACTED AND ORDAINED BY THE COMMISSIONERS OF THE COUNTY OF LYCOMING, AS FOLLOWS:

SECTION 1:

TITLE

This Ordinance amends the Tourist Promotion Assessment Ordinance of Lycoming County, as previously amended, which shall henceforth be cited as cited as the Hotel Occupancy Tax Assessment Ordinance of Lycoming County.

SECTION 2:

DEFINITIONS

The following words when used in this Ordinance shall have the meanings given to them in this section:

1. Bed and breakfast or homestead: A public accommodation consisting of private residences, which contain 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.
2. 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.

3. 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 of 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.
4. Consideration. Receipts, fees, charges, rentals, leases, cash, credits, property of any kind or nature, or the 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.
5. County. The County of Lycoming in the Commonwealth of Pennsylvania.
6. 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 hostelry; or any cabin. The term does not include any of the following:
 - A charitable institution.
 - A portion of a facility that is devoted to persons who have an established permanent residence.
 - A college or university student residence hall currently occupied by students enrolled in a degree program.
 - An educational or religious institution camp for children, including a camp registered under the act of November 10, 1959 (P.L.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."
 - A hospital.
 - A nursing home.
 - Part of a campground that is not a cabin.
7. Immediate Family: A spouse, parent, brother, sister or child.

8. Marketing: An action by a recognized tourist promotion agency that includes, but is not limited to, promoting and encouraging visitors to visit a specific county, counties or geographic region.
9. Occupancy. The use or possession or the right to use or possession by any person other than a permanent resident of any room in a hotel for any purpose or the right to use or possession of the furnishings or to the services accompanying the use and possession of the room.
10. Operator. An individual, partnership, non-profit, or profit-making association or corporation or other person or group of person 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.
11. Patron. A person who pays the consideration for the occupancy of a room or rooms in a hotel.
12. 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.
13. 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 subsection or under section 1770.11.
14. 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 group of rooms.
15. Temporary. A period of time not exceeding thirty (30) consecutive days.
16. 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.
17. Transient. Any individual who obtains accommodation in a hotel by means of registering at the facility for the temporary occupancy of a room for the person use of the individual by paying a fee to the operator.
18. Exemption. Employees of the Commonwealth of Pennsylvania, any political subdivision of the Commonwealth of Pennsylvania or the United States are exempt from payment of the tax. An operator is not required to collect the tax if the described governmental employee presents a bona fide exemption certificate or a document identifying the

customer as an employee on official business for the Commonwealth of Pennsylvania, a political subdivision of the Commonwealth of Pennsylvania or the United States.

SECTION 3:

IMPOSITION, RATE AND PURPOSE OF TAX

There is hereby imposed a tax of five percent (5%) on the consideration received by each operator of a hotel, as defined herein, within the County from each transaction of renting a room or rooms to accommodate transients.

SECTION 4:

COLLECTION PAYMENT, REPORTS AND RETURNS OF TAX

1. The tax shall be collected by the Operator from the Patron of the Room and paid over to the County where the Hotel is located.
2. The Lycoming County Treasurer shall collect the tax and deposit the revenues received from the tax in a special fund established for that purpose.
3. Subsequent to the deduction for administrative costs established in Section 7 of this ordinance, the County shall distribute in accordance with the law all revenues received from the tax no later than sixty (60) days after receipt of the tax revenues.
4. The reporting and payment deadline for each month's tax collection is to be in accordance with the hotel's payment of their PA sales tax to the state. Every report and return shall be made upon forms approved by the Lycoming County Treasurer, which may be amended as deemed necessary. The report must include the following information:
 - a. Completed TPA form,
 - b. Payment to Lycoming County, including penalty, as stated in Section 5 of this Ordinance, if payment is after the deadline stated above.
5. Upon request, the Hotel Operator shall permit inspection and make available to the County all books and records which such Operator is otherwise required to maintain pursuant to federal and state law and regulations.
6. On or before June 1st of each year, the Recognized Tourist Promotion Agency shall submit to the Lycoming County Board of Commissioners a budget reflecting the proposed expenditures of such funds.

- a. The revenues from the special fund shall be used by the Recognized Tourist Promotion Agency for any of the following purposes:
 - i. Marketing the area served by the agency as a leisure travel destination.
 - ii. Marketing the area served by the agency as a business, convention or meeting travel destination.
 - iii. 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.
 - iv. 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:
 1. Grants require a cash or in-kind local match of at least 25%.
 2. 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.
 - v. 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.
7. An annual audited report on the income and expenditures incurred by the Recognized Tourist Promotion Agency receiving any revenue from the tax authorized hereunder shall be submitted by the Recognized Tourist Promotion Agency to the County Commissioners within ninety (90) days of the end of the Recognized Tourist Promotion Agency's fiscal year.
8. If the Recognized Tourist Promotion Agency fails to submit an annual audit as required hereunder within ninety (90) days of the end of the Recognized Tourist Promotion Agency's fiscal year, the County shall withhold the tax revenues collected and deposited in a special fund until the required annual audit is submitted to the County.
9. Every operator, at the time of filling every return required by this section shall compute and pay to the County Treasurer the taxes collected by him and due to the County during the period from which the report is made.

10. Upon request, the hotel/inn operator shall permit inspection and make available to the County all books and records which such operator is otherwise required to maintain pursuant to federal and state law and regulations. These records shall be maintained for a period of three (3) years from the date of filing of the applicable room tax returns.
11. The Lycoming County Board of Commissioners may promulgate appropriate rules and regulations to implement the provisions of this Ordinance.
12. Every report and return shall be made upon forms approved by the County Treasurer. The County Treasurer may amend said forms as the County Treasurer deems appropriate and necessary to collect the hotel excise tax authorized hereunder.

SECTION 5:

PENALTIES

1. The Treasurer is hereby given the authority to impose and collect all penalties to Operators who fail to file a completed return and pay all tax due, on a timely basis, as set forth under Section 4 above. The return and payment shall be deemed timely filed and paid if either:
 - a. A mailed completed return with full tax payment is mailed to the Lycoming County Treasurer's Office postmarked on or before the date the hotel's PA sales tax is to be paid to the state, or
 - b. A completed return with full tax payment are delivered to the Lycoming County Treasurer's Office, during its normal business hours, on or before the date the hotel's PA sales tax is to be paid to the state. When the date falls on a weekend or on a legal County holiday, then the return and payment shall be deemed timely if filed and paid at the Lycoming County Treasurer's Office, during its regular business hours, on its next regular business day.
2. A monthly 1.5% penalty shall be assessed on any Hotel Operator for failure to timely collect and remit the Hotel Occupancy tax.
3. In addition to other remedies available for the collection of debts, the County may also file a lien on the Hotel in the name of the County.
4. If the audited report or financial statement is not received within 90 days of the end of the Tourist Promotion Agency's fiscal year, the County shall withhold Hotel tax revenues in a special account until it is submitted.
 - a. If the County does not take such action within 120 days of the end of the Tourist Promotion Agency's fiscal year, DCED may require the County to do so until the audited report or financial statement is received.

5. In addition to the other penalties set forth herein, whenever any person shall fail to pay the hotel excise tax as herein provided, upon request of the Board of County Commissioners and/or 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, late fees, and interest due and costs of suit.

SECTION 6:

REPEAL

All ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed.

SECTION 7:

ADMINISTRATIVE FEE

For the purpose of defraying the costs associated with the collection of the tax imposed under this ordinance, the County will deduct and retain an administrative fee of four percent (4%) of the taxes collected from all Hotels.

SECTION 7.1:

CONFLICT OF INTEREST

Any board member, director, officer or employee of a Recognized Tourist Promotion Agency shall disclose to the Recognized Tourist Promotion Agency the nature of any conflict of interest or financial interest and recuse himself or herself from any action taken on behalf of the Recognized Tourist Promotion Agency which may result in a private pecuniary benefit to the individual, a member of the individual's immediate family or a business with which the individual or member of the individual's immediate family is associated.

SECTION 8:

SEVERABILITY

If any section, clause, phrase, portion or provision of this Ordinance is for any reason determined by a court of competent jurisdiction to be invalid, such holding shall not affect the validity of the remaining portions of the Ordinance.

SECTION 9:

EFFECTIVE DATE

This Ordinance shall be effective the 1st day of January, 2018, and shall remain in effect until the expiration of the appropriate enabling legislation, or amendment thereof, or by action of the Board of Commissioners of the County of Lycoming.

Duly enacted this 21st day of December, 2017.

COUNTY OF LYCOMING

ATTEST:


Matthew A. McDermott, Chief Clerk


Jack R. McKernan, Chairman


Tony R. Mussare, Vice Chairman

-OPPOSED-
Richard Mirabito, Secretary