

**ORDINANCENO. 2019-02  
OF THE  
BOARD OF COUNTY COMMISSIONERS  
OF THE  
COUNTY OF CHESTER  
COMMONWEALTH OF PENNSYLVANIA  
HOTEL ROOM TAX**

**WHEREAS**, Chester County previously authorized the collection of a hotel tax through Ordinance #2 of 1999, which Ordinance was thereafter amended by the following Ordinances: Ordinance #3 of 2012 and Amendment to Ordinance #1 of 2017;

**WHEREAS**, the Pennsylvania State legislature originally adopted enabling legislation for local hotel tax imposition and collection known as Act 18 of 1997, which has been amended subsequently thereto, including Act 18 of 2016, which amended the same to expand the enabling provisions of prior law, and Act 109 of 2018, which expanded enabling provisions to add additional definitions and coverage of the tax;

**WHEREAS**, the Chester County Commissioners have determined that it would be appropriate to reenact the Hotel Room Tax Ordinance in its entirety as provided further herein;

**WHEREAS**, upon enactment, this Ordinance is intended to supplant and replace the prior Ordinances and Amended Ordinance referenced above;

**NOW, THEREFORE, BE IT ENACTED:**

**SECTION 1: TITLE**

This Ordinance shall be known and cited as the Hotel Tax Ordinance of Chester County.

**SECTION 2: DEFINITIONS**

The following words when used in this Ordinance shall have the meanings ascribed to them in this section.

1. **"Accommodation Fee."** The amount by which the rent exceeds the discount room charge, if any.
2. **"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.
3. **"Booking Agent."** A person or entity which facilitates or collects payment for hotel accommodations on behalf of or for an operator. The term "Booking Agent" shall not include a person who merely publishes advertisements for accommodations.

4. "**Cabin.**" A permanent structure with beds, running water and indoor sanitary facilities that is located on a campground, State land or private property and is available to provide overnight lodging for consideration to persons seeking temporary accommodations. The terms do not include a yurt or walled tent.
5. "**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.
6. "**Consideration.**" The 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, inn, bed & breakfast or any other similar lodging establishment as defined below for any temporary period.
7. "**County.**" The County of Chester, Commonwealth of Pennsylvania.
8. "**Discount Room Charge.**" The amount charged by an operator to a Booking Agent in connection with the sale of an accommodation by the Booking Agent.
9. "**Exemption.**" In certain situations, an employee of the Commonwealth of Pennsylvania or the Government of the United States is exempt from the payment of the tax. A hotel owner does not have to collect the tax if the customer presents a bona fide exemption certificate or a document identifying the customer as an employee on official business for the Commonwealth of Pennsylvania or the Government of the United States.
10. "**Hotel.**" A hotel, motel, inn, guest house, or other building located within the County, including a personal residence, which holds itself out by any means including advertising, license, registration with any innkeeper's group, convention listing association, travel publication or similar association or with any government agency as being available to provide overnight lodging or use of facility space for consideration to persons seeking temporary accommodation; 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; a Cabin; any place recognized as a hostelry, provided, that portions of such facilities which are devoted to persons who have established permanent

residence shall not be included in this definition. Hotel does not include college or university residence halls or dorms, any charitable, educational or religious institution summer camp for children, any hospital or nursing home, or any portions of a campground that is not a Cabin. Hotel shall also include a "bed and breakfast, 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.

11. **"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.
12. **"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/inn 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.
13. **"Operator."** Any individual, partnership, nonprofit or profit-making association or corporation or other person or group of persons who maintain, operate, manage, own or have custody of, or otherwise possess the right to rent or lease, including but not limited to Booking Agents, overnight accommodations in any hotel /inn to the public for consideration.
14. **"Patron."** Any person who pays the consideration for a room or accommodation in a Hotel.
15. **"Permanent Resident."** Any person who has occupied or has the right to occupy any room or rooms in a Hotel as a patron or otherwise for a period exceeding thirty (30) days.
16. **"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 in accordance with State law.
17. **"Rent."** The consideration received for occupancy valued in money, whether received in money or otherwise, including all receipts, cash, credits and property or services of any kind or nature, and also accommodation fees and any amount for which the occupancy is liable for the occupant without any deduction therefrom whatsoever, including any amount charged by a Booking Agent. The term Rent shall not include a gratuity.
18. **"Room."** A space in a Hotel or other facility set aside for use and by patrons, or otherwise, for consideration, having at bed or other sleeping accommodation provided therein.
19. **"Temporary."** A period of time not exceeding thirty (30) consecutive days.
20. **"Transaction."** The activity involving the obtaining by a transient or patron of the use or occupancy of a Hotel room or accommodation, from which consideration emanates to the Operator, including but not limited to payments through a Booking Agent, under an express or an implied contract.

21. **"Transient."** Any individual who obtains an accommodation in any Hotel for himself by means of registering at the facility for the temporary occupancy of any room for the personal use of that individual by paying to the Operator of the facility, or a Booking Agent, if applicable, a fee in consideration thereof.

### **SECTION 3: IMPOSITION, RATE AND PURPOSE OF TAX**

1. There is hereby imposed a tax 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.
2. Effective August 1, 2019, the rate shall be five percent (5%) tax.
3. If a Booking Agent, acting for an Operator, collects payment for Rent, the Booking Agent must collect and remit the tax applicable to the amount charged by the Operator as well as any Accommodation Fee charged to the Transient. An Operator shall not be liable for any tax owed for an Accommodation Fee received by a Booking Agent.

### **SECTION 4: COLLECTION, PAYMENT, REPORTS AND RETURNS OF TAX**

1. Prior to operating a Hotel, the Operator shall contact the County Treasurer's office to receive information regarding this Ordinance and related Chester County Hotel Room Tax Forms which are available on the County's website.
2. The Operator shall collect the tax imposed by this Ordinance from the patron of the room and pay it over to the County as provided hereinafter. The Operator shall be liable to the County as agent thereof for the payment of the tax to the County Treasurer as provided in this section.
3. The County Treasurer is hereby authorized and directed to collect the tax imposed herein and deposit the revenues received from the tax in a special fund account established for that purpose. After deducting from the fund any direct or indirect costs attributable to collection of the tax, the County shall distribute to the Chester County Conference and Visitors Bureau all revenues received from the tax not later than sixty (60) days after receipt of the tax revenues. The revenues from the special fund account shall be used by the Visitors Bureau for any or all of the following purposes:
  - (a) Convention promotion
  - (b) Marketing the area served by the agency as a leisure travel destination
  - (c) Marketing the area served by the agency as a business travel destination
  - (d) Using all appropriate marketing tools to accomplish these purposes including, but not limited to, advertising, publicity, publications, direct marketing, direct sales and participation in industry trade shows.
  - (e) Projects or programs that are directly and substantially related to tourism within the County, augment and do not unduly compete with private sector tourism efforts and improve and expand the County as a destination market.
  - (f) Any other tourism marketing or promotion program deemed necessary by the recognized tourist promotion agency.

4. The County Treasurer is hereby authorized to establish any additional rules and regulations concerning the collection of the hotel tax not inconsistent with this Ordinance or applicable law.
5. Every report and return shall be made by an Operator upon a form furnished by the Chester County Treasurer.
6. Every Operator shall transmit to the County Treasurer, the report concurrent with the reporting deadline as is currently established for the submission to the Commonwealth of Pennsylvania for State Sales Tax. The report shall include the amount of consideration received for the transactions during the month or quarter for which the return is made, the amount of tax collected by the Operator during that period, number of rooms available, and other such information as the County Treasurer may require.
7. Every Operator, at the time of filing 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.
8. Upon request, the 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.
9. The Chester County Board of Commissioners may promulgate appropriate rules and regulations to implement the provisions of this Ordinance. In addition, all funds collected pursuant to this Ordinance and distributed to a tourist promotion agency must comply with applicable regulations promulgated by the Department of Community and Economic Development or any other state agency.
10. That on or before June 1, of each year, the Chester County Conference & Visitors Bureau shall submit to the Chester County Board of Commissioners a budget reflecting the proposed expenditures of such funds.
11. An annual audited report on the income and expenditures incurred by the Chester County Conference & Visitors Bureau receiving any revenue shall be submitted by the Chester County Conference & Visitors Bureau to the County Commissioners by September 30<sup>th</sup> of the subsequent year.

#### **SECTION 5: PENALTIES**

1. Any person violating any of the provisions of this Ordinance may be subject to the following penalties:
  - Upon conviction in a summary proceeding, a fine not in excess of one hundred and 00/100 dollars (\$100.00) to be paid to the use of the County with costs of prosecution.

2. Each violation shall constitute a separate offense subject to the penalties outlined above.
3. For each whole or part of a month a return is not filed and tax paid when required, there shall be a penalty of one and one-half percent ( 1 ½%) of the unpaid tax due for any month unpaid with that return. The maximum penalty is eighteen percent (18 %) per year. The penalties may be waived if there is an acceptable reason for failing to file or pay as determined by the Chester County Board of Commissioners or its agent. Use of reporting agents of other third- party service providers does not relieve an Operator of the responsibility to ensure that tax returns are filed and all taxes are paid correctly and on time.
4. Interest shall also accrue on the amount of tax that is not filed and paid by the due date. The amount of interest on late payments shall be computed daily at a rate announced annually by the Pennsylvania Department of Revenue as it is initially established by the Secretary of the US Treasury from the due date until the date paid. Interest is computed by multiplying the late paid or unpaid tax time's day's delinquent time's daily interest rate. The daily interest rate equals annual interest rate divided by number of days in the year.

#### **SECTION 6: ADMINISTRATIVE FEES**

An administrative fee shall be retained by the County for the purpose of recouping administrative costs. The rate set shall be four percent (4%) of the total collections under this Ordinance in a calendar year.

#### **SECTION 7: REPEAL**

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

#### **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 August, 2019, and shall remain in effect until the expiration of the appropriate enabling legislation, or amendment thereof, or any subsequent action taken by the Chester County Board of Commissioners.

IN WITNESS WHEREOF, the County of Chester hereby adopts and enacts this Ordinance this 25<sup>th</sup> of July, 2019.

ATTEST:

COMMISSIONERS:

  
Kara C. Rahn, Chief Clerk

  
Michelle Kichline, Chairman

  
Kathi Cozzone, Commissioner

  
Terence Farrell, Commissioner

DATE: 7.25.19

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