

**COUNTY OF FRANKLIN COMMONWEALTH OF PENNSYLVANIA
ORDINANCE NO. 02**

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF FRANKLIN, COMMONWEALTH OF PENNSYLVANIA, PURSUANT TO THE COUNTY CODE, ACT OF AUGUST 9, 1955, AS AMENDED, AND 16 P.S. §1770.10; PROVIDING FOR THE IMPOSITION OF AN EXCISE TAX ON THE USE OR OCCUPANCY OF A ROOM OR ROOMS IN A HOTEL, MOTEL, BED AND BREAKFAST, HOMESTEAD, INN, GUEST HOUSE OR SIMILAR STRUCTURE HELD OUT TO THE PUBLIC FOR OVERNIGHT ACCOMODATIONS; ESTABLISHING A RATE OF TAX; ESTABLISHING PROCEDURES FOR THE COLLECTION OF THE TAX IMPOSED; ESTABLISHING THE EFFECTIVE DATE OF THIS ORDINANCE; AND REPEALING ALL ORDINANCES OR RESOLUTIONS INsofar AS THE SAME SHALL BE INCONSISTENT HEREWITH.

WHEREAS, the Franklin County Board of Commissioners (“Commissioners”) previously imposed a hotel occupancy tax via Ordinance 2017-01 to fund tourism and tourism development; and

WHEREAS, the Commissioners wish to amend the previously-imposed Franklin County Tourist Promotion Assessment Ordinance to provide that certain individuals and organizations are exempt from the payment of said tax as provided in Pennsylvania law and regulations.

NOW THEREFORE, the Franklin County Board of Commissioners hereby enacts and ordains the following:

SECTION 1: Title. This Ordinance shall be known and cited as the Franklin County Tourist Promotion Assessment Ordinance.

SECTION 2: Definitions. The following words when used in this Ordinance shall have the meanings given to them in this Section:

"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 affect 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.

"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 Franklin, Commonwealth of Pennsylvania

"Hotel" - A hotel, motel, inn, guesthouse, rooming house, bed and breakfast, homestead, or other structure that 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:

- (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) 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 regions.

"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 or 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 possesses the right to rent or lease overnight accommodations in a building to the public for consideration.

"Patron" - A person who pays 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" - 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.

"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.

"Transient" - The 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 elected Treasurer of the County of Franklin.

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: Exemptions from Taxation

The following individuals and organizations shall be exempt from the payment of the tax imposed herein:

(1) **Ambassadors, ministers and consular officers of foreign governments.**

(a) Ambassadors, ministers and other diplomatic representatives of foreign governments properly accredited to the United States, are exempt from tax upon their occupancy of rooms. This exemption does not apply to consular officers or to officers of foreign governments other than those specified in this section, unless such exemption arises from treaties or reciprocal agreements existing between such foreign governments and the United States.

(b) A person claiming exemption from the tax under this subsection is required to present to the hotel operator the numbered identification card issued by the Commonwealth of Pennsylvania, Department of Revenue, Bureau of Accounts Settlement. Consular officers and officials of foreign governments should submit written proof of the treaty or agreement under which similar exemption is granted by their country to consular officers and officials of the United States together with proof that such treaty or reciprocal agreement is presently in effect and that they are an officer or official entitled to prerogatives thereunder. If exemption has already been accorded under the sales and use tax portion of the TRC the numbered identification card is valid for hotel occupancy tax purposes.

(2) **Occupancy of hotel rooms by United States Government.** Occupancy of hotel rooms by the United States Government shall be exempt from tax in accordance with the following:

(a) Occupancy of rooms by the Government of the United States, or its agencies, or by an employee or representative of the Government of the United States or its agencies, when the occupancy is solely for official purposes and the rent is paid by the Government of the United States or its agencies, is exempt from tax.

(b) Occupancy of rooms by National Banks, Federal Savings and Loan Associations, Joint Stock Land Banks, National Park Commissioners, or their employees or representatives, or by Federal licensees such as warehouses, stockyards, construction contractors engaged in the improvement of real estate owned by a Federal agency, or similar corporations, companies, institutions, or persons, or their employees or representatives, regardless of the purpose of the occupancy, is not exempt from the Hotel Occupancy Tax. Members of the Armed Forces are not exempt from tax upon occupancy of rooms unless acting as authorized representatives of the Government of the United States or one of its agencies and

are otherwise entitled to exemption under the provisions of paragraph (a).

- (3) **Occupancy of hotel rooms by other exempt entities.** Occupancy of rooms, the charges for which are billed to and paid by the following organizations, shall be exempt from tax. Charges paid by employees or other agents of these organizations shall be subject to tax even though the employee or agent is reimbursed by the exempt organization:
 - (a) Federal Credit Unions organized under the provisions of the Federal Credit Union Act (12 U.S.C.A. § § 1751—1795k).
 - (b) Commonwealth credit unions formed and incorporated under Credit Union Act (15 P. S. § § 12301—12333).
 - (c) Public authorities created under the act of June 28, 1935 (P. L. 463) and the Municipal Authorities Act of 1945 (53 P. S. § § 301—322).
 - (d) Co-operative agriculture associations required to pay corporate net income tax under the provisions of the Co-operative Agricultural Association Corporate Net Income Tax Act (72 P.S. § § 3420-21—3420-30).
 - (e) Electric cooperative corporations formed under the Electric Cooperative Corporation Act (15 P. S. § § 12401—12438).
- (4) **Occupancy of hotel rooms by the Commonwealth of Pennsylvania.**
 - (a) Occupancy of rooms by the Commonwealth of Pennsylvania or its agencies, or by an employee or representative of the Commonwealth or its agencies, when such occupancy is solely for official purposes, and the rent is paid by the Commonwealth of Pennsylvania or its agencies is exempt from tax.
 - (b) This subsection shall not be construed to grant an exemption to any local government be it a county or municipality, whose occupancy shall be subject to the tax.
- (5) No person or entity other than those referred to in this section may be exempt from the Hotel Occupancy Tax.

SECTION 5: Collection, Payment, Reports and Returns of Tax

- (1) 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.
- (2) The Treasurer shall collect the tax from the operator and shall deposit the revenue received in a special fund established solely for the following purposes:

- a. Marketing the area served by the agency as a leisure travel destination.
- b. Marketing the area served by the agency as a business, convention or meeting travel destination.
- c. 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.
- d. 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 twenty-five percent.
 - 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.
- e. 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.

The Treasurer shall within sixty (60) days of the receipt of the tax, distribute the tax revenues, subsequent to the deduction for administrative costs established in Section 5 of this Ordinance, to the recognized tourist promotion agency in Franklin County.

- (3) Every operator shall transmit to the County Treasurer, a tax return on forms prepared and required by the County concurrent with the reporting schedule established by the County. The report shall include the amount of consideration received for the transactions during the period 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.
- (4) 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 the operator and due to the County during the period from which the report is made.
- (5) Upon request, an operator must 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 the filing of the applicable room tax returns.

- (6) The Treasurer shall be responsible for administering the provisions of this Ordinance. The Franklin County Board of Commissioners may promulgate appropriate rules and regulations to implement the provisions of this Ordinance.
- (7) On or before December 1st of each year, the recognized tourist promotion agency shall submit to the Franklin County Board of Commissioners a budget reflecting the proposed expenditures of such funds for its next fiscal year.
- (8) An annual audited report or financial statement on the income and expenditures incurred during its most recently ended fiscal year by the recognized tourist promotion agency receiving any revenue shall be submitted to the County Commissioners by July 15th of the subsequent year.

SECTION 6: Administrative Fee

An administrative fee of four (4%) per centum of the tax collected per year shall be retained by the County for the purposes of defraying the costs associated with the collection of the tax imposed under this Ordinance and otherwise performing its obligations under this Ordinance.

SECTION 7: Penalties

A penalty of one and one-half (1 ½%) per centum 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 8: Repeal

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

SECTION 9: 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 10: Effective Date

This Ordinance shall be effective the 12th day of August , 2020 .

ENACTED AND ORDAINED THIS ___12th___ DAY OF __August__, 2020__

ATTEST:

Carrie Jo Gray

COUNTY OF FRANKLIN

By: *D. S. Keller*

_____ David S. Keller, Chairman

By: *John T. Flannery*

_____ John T. Flannery

By: *Robert G. Ziobrowski*

_____ Robert G. Ziobrowski