

COUNTY OF FULTON  
COMMONWEALTH OF PENNSYLVANIA

ORDINANCE No. 2 of 2024

AN ORDINANCE OF THE BOARD OF COMMISSIONERS OF THE COUNTY OF FULTON, COMMONWEALTH OF PENNSYLVANIA, PURSUANT TO THE COUNTY CODE, PUBLIC LAW NO.134, NO.18, SECTION 3; 16 P.S. SECTION 1770.10, ET SEQ., AS AMENDED; PROVIDING FOR THE IMPOSITION OF A 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 ACCOMMODATIONS; ESTABLISHING PROCEDURES FOR THE COLLECTION OF THE TAX IMPOSED; PROVIDING FOR SEVERABILITY OF PROVISIONS; 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.

IT IS HEREBY ORDAINED AND ENACTED by the Board of Commissioners of the County of Fulton and Commonwealth of Pennsylvania as provided by Public Law No. 134, No. 18, Section 3 (16 P.S. Section 1770.10, et seq.) of the General Assembly of the Commonwealth of Pennsylvania, the following Ordinance imposing a hotel room rental tax.

Section 1. Short Title.

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

Section 2. Purpose.

The Commissioners of the County of Fulton and Commonwealth of Pennsylvania intend to raise revenues to directly fund county-wide tourist promotion.

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 (10) 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.

"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.

"Cabin." A permanent structure with bed(s) 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.

"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 Fulton, Pennsylvania.

"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 innkeeper's 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 accommodations; 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 or cabin.

The term "hotel" does not include any of the following:

3.1 A charitable institution.

3.2 A portion of a facility that is devoted to persons who have an established permanent residence.

3.3 A college or university student residence hall currently occupied by students enrolled in a degree program.

3.4 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.

3.5 A hospital.

3.6 A nursing home.

3.7 Part of a campground that is not a cabin.

"Occupancy". The use or possession or the right to the use or possession by any person other than a permanent resident of any room 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.

"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 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 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 the County which at the signing of this Ordinance is the Fulton County Tourist Promotion Agency.

"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 a group of rooms.

"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 elected Treasurer of the County or, if there is no elected Treasurer of the County, such other official or agent of the County as may be designated by the County to collect and account for the tax authorized by this Ordinance.

#### Section 4. Imposition of Hotel Room Rental Tax.

4.1 A four (4%) percent tax is hereby imposed on the consideration received by each operator of a hotel within the County from each transaction of renting a room or rooms to transients. A four (4%) percent tax is hereby imposed on the accommodation fee received by each booking agent.

4.2 If the County or any duly authorized representative is unable to determine the tax due from operator or booking agent records, the tax due for each unpaid tax year shall be determined to be the lesser of the following:

4.2.1 Four (4%) percent of the consideration that could have been received by the operator and, in the case of the tax due on the accommodation fee, four (4%) percent of the accommodation fee received by the booking agent for all hotel rooms during the tax year at occupancy rates in effect at the time of the determination.

4.2.2 Four (4%) percent of the annualized consideration and, in the case of the tax due on the accommodation fee, four (4%) percent of the annualized accommodation fee, received during the tax year prior to the determination.

#### Section 5. Collection of the Hotel Room Rental Tax.

The tax shall be collected by the operator or booking agent from the patron of the room or rooms and paid to the County Treasurer. The operator shall be liable to the County as an agent thereof for the payment of the tax to the County Treasurer as provided in this Ordinance.

#### Section 6. Payment of the Hotel Room Rental Tax.

6.1 The operator shall pay the hotel room rental tax to the County Treasurer as follows:

6.1.1 Every operator shall transmit to the County Treasurer on or before the twenty-fifth (25<sup>th</sup>) day of each calendar quarter a return for the calendar quarter preceding the calendar quarter in which the return is made, which return shall report the amount of consideration received for the transactions during the calendar quarters for which the return is made, the amount of tax due from the operator for that month and such other information as the County Treasurer may require.

6.1.2 Every operator at the time of filing every required return shall compute and pay over to the County Treasurer the taxes shown as due on the return for the period for which the return is made.

6.1.3 If an operator enters the business of the renting of rooms subsequent to the effective date of this Ordinance, the first return shall be filed on the twenty-fifth (25<sup>th</sup>) day of the first calendar quarter subsequent thereto. The first return and tax payment due shall be for all transactions occurring during the preceding calendar quarter based upon the actual taxable transactions during the preceding calendar quarter.

#### Section 7. Filing of a Hotel Room Rental Tax Return.

The operator shall file a hotel room rental tax return when paying the tax summarizing the consideration received.

#### Section 8. Collection and Disposition of Revenues.

8.1 The County Treasurer shall collect the tax and deposit the revenues received from the tax in a special fund.

8.2 The County shall distribute the revenues from the special fund in the following manner:

8.2.1 Deduct from the fund for payment of direct and indirect costs four (4%) percent of the total revenue collected.

#### Section 9. Use of Revenues.

The recognized tourist promotion agency shall use tax revenues to directly fund county wide tourism promotion, convention promotion and tourism development. The County Commissioners shall determine the allocation of funds generated by the tax including but not limited to budget and financial review and the establishment of audit requirements.

#### Section 10. Recordkeeping Requirements.

For each calendar year or part 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 room rental tax return for such year has been filed.

#### Section 11. Access to Records.

The County or any duly authorized representative shall have access to any books, documents, papers and records of the operator and 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, exceptions and transcriptions.

#### Section 12. Late Payment Fees.

If for any reason the tax is not paid when due under the provisions of Section 6, a late payment fee at the rate of one and one-half (1.5%) percent per month or eighteen (18%) percent annually on the amount of the tax which remains unpaid shall be added and collected.

#### Section 13. Enforcement.

Whenever any operator shall fail to pay the tax as herein provided, upon request of 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 and late payment fees due.

#### Section 14. Penalties.

14.1 Any person who shall violate any of the provisions of this Ordinance shall, upon conviction thereon in a summary proceeding before any district magistrate in Fulton County, be sentenced to pay a fine of not more than Seventy-Five Dollars (\$75.00) for the first offense, One Hundred Fifty Dollars (\$150.00) for the second offense, Two Hundred Fifty Dollars (\$250.00) for the third offense and Three Hundred Dollars (\$300.00) for the fourth and each additional offense and costs of prosecution for each violation thereof and, in default of payment of such fines and costs, to undergo imprisonment for not more than thirty (30) days.

14.2 Each twenty-four (24) hour period during which a violation exists after notice shall have been given in writing by registered mail, return receipt requested, shall constitute a separate violation of this Ordinance.

#### Section 15. Administration.

The County Treasurer shall be responsible for administering the provisions of this Ordinance. The County Treasurer shall promulgate and submit administrative rules and regulations to the Board of Commissioners for their approval within thirty (30) days of the enactment of this Ordinance.

#### Section 16. Severability of Provisions.

If any provision, clause, sentence, paragraph, section or part of this Ordinance or application thereof to any person, firm, corporation, public agency or circumstance, shall for any reason be adjudged by a Court of competent jurisdiction to be unconstitutional or invalid, said judgment shall not affect, impair or invalidate the remainder of this Ordinance and the application of such provision to other persons, firms, corporation, public agencies or circumstances, but shall be confined in its operation to the provision, clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered and to the person, firm, corporation, public agency or circumstances involved. It is hereby declared to be the legislative intent of the Board of Commissioners that this Ordinance would have been adopted

had such unconstitutional or invalid provision, clause, paragraph, section or part thereof not been included.

Section 17. Effective Date.

17.1 This Ordinance shall take effect on April 1<sup>st</sup>, 2025.

17.2 The proper officers of the County are hereby authorized and directed to take any and all action necessary to implement the County hotel room rental tax in accordance with this Ordinance.

DULY ENACTED AND ORDAINED at a public meeting of the Board of Commissioners of the County of Fulton and Commonwealth of Pennsylvania held the 17<sup>th</sup> day of December, 2024.

COUNTY OF FULTON

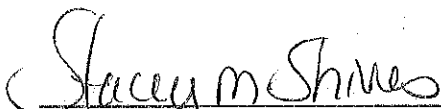
BY:

  
Randy H. Bunch, Chairman.

  
Steven L. Wible, Vice Chairman

  
Hervey P. Hann

ATTEST:

  
Stacey M. Shives, Chief Clerk

(Seal)