

WS 7/30/08
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THE BOARD OF COMMISSIONERS
OF THE COUNTY OF DAUPHIN, PENNSYLVANIA

ORDINANCE NO. 5 - 2008

AN ORDINANCE AMENDING SECTION 7B OF ORDINANCE 1-2008, THE HOTEL TAX, DEFINING THE DATES BY WHICH TAXES COLLECTED MUST BE REMITTED TO THE COUNTY TREASURER REQUIRING THE SAME BE REMITTED NO LATER THAN THE LAST DAY OF THE MONTH FOLLOWING THE CLOSE OF THE COLLECTION PERIOD.

WHEREAS, the General Assembly previously enacted 16 P.S. §1770.5 permitting counties meeting certain criteria to impose a hotel tax not to exceed two per centum, and providing for the distribution of revenues from the hotel tax for the purposes of promoting tourism; and

WHEREAS, the County of Dauphin satisfies the criteria set forth in 16 P.S. §1770.5; and

WHEREAS, the Board of Commissioners of the County of Dauphin, Pennsylvania, pursuant to 16 P.S. §1770.5, enacted Ordinance No. 3-1999 to levy a hotel tax of two per centum in the County and to provide for the distribution of revenues from the hotel tax in accordance with 16 P.S. §1770.5; and

WHEREAS, the General Assembly amended 16 P.S. §1770.5 to permit the imposition of a hotel tax not to exceed three per centum, and providing for the distribution of revenues from the first two per centum of the tax and separate distribution of the revenues from the third per centum of the tax;

WHEREAS, thereafter and pursuant thereto, by adoption of Ordinance 1-2008, the Board of Commissioners levied an in county hotel occupancy tax of three per centum and provided for distribution of revenues therefore in accordance with 16 P.S. § 1770.5; and

WHEREAS, the General Assembly has amended 16 P.S. § 1770.5 to permit the imposition of a hotel occupancy tax not to exceed five per centum and providing for the distribution of the fifty percent of the revenues guaranteed therefrom to the Tourist Promotion Agency and the separate distribution of the other fifty percent of the revenue therefrom as set forth in the law.

AND NOW, the Board of County Commissioners of the County of Dauphin, as provided by and to comply with 72 P.S. §1770.5 as amended by the General Assembly of the Commonwealth of Pennsylvania, HEREBY ORDAINS AND ENACTS the following Ordinance imposing a hotel room excise tax.

SECTION 1

Ordinance No. 3-2001 is hereby repealed and rescinded.

SECTION 2

This Ordinance shall be known and may be cited as “The County Hotel Tax Ordinance of the County of Dauphin.”

SECTION 3 - PURPOSE

The Commissioners of the County of Dauphin, Pennsylvania, intend to raise revenues to fund county-wide tourist promotion to fund an authority authorized by law in the County within a region of sports facility; and to fund a tourism promotion agency for the marketing and promotions of a third class city in the County, as provided by 16 P.S. §1770.5 as amended.

SECTION 4 - 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:

- a. *"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 payment or consideration of the use or occupancy by a transient of a room or rooms in a hotel for any temporary period.
- b. *"County"* - The County of Dauphin, Pennsylvania.
- c. *"Debt Service on Bonds"* - Any cost related to the issuance, refinancing, refunding, or payment or any other costs associated with the issuance and maintenance of bonds or notes by an authority or a city of the third class.
- d. *"Hotel"* - The term includes a hotel, motel, 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; 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.

e. *"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.

f. *"Operator"* - An individual, partnership, limited liability company, non-profit or profit-making association or corporation or other person or group of persons who maintains, operates, manages, owns, has custody of or otherwise possesses the right to rent or lease overnight accommodations in a hotel to the public for consideration.

g. *"Patron"* - A person who pays consideration for the occupancy of a room or rooms in a hotel.

h. *"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.

i. *"Records"* - Includes, but is not limited to, the number of daily transactions, the rate of each occupancy, the revenues received for all transactions, cash receipts and sales journals, cash disbursements and purchase journals, and general ledgers.

j. *"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.

k. *"Tax Year"* - The tax year is the calendar year.

l. *"Tourist Promotion Agency (TPA)"* - An organization, agency or corporation designated by the Board of Commissioners of the County of Dauphin, Pennsylvania, as the

County's TPA. The TPA must be duly established, designated and recognized as such in accordance with and pursuant to the Act of April 28, 1961 (P.L. 111, No. 50), 73 P.S. §401 et. seq., known as the "Tourist Promotion Law."

m. "Transaction" - The activity involving the obtaining by a transient or patron the use or occupancy of a hotel room or rooms from which consideration is payable to the operator under an express or implied contract.

n. "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.

SECTION 5 - IMPOSITION OF HOTEL EXCISE TAX

a. A five (5%) per centum 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.

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

1. Five (5%) per cent 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.
2. Five (5%) per cent of the annualized consideration received during the tax year prior to the determination.

SECTION 6 - COLLECTION OF THE HOTEL EXCISE TAX

The tax shall be collected by the operator from the patron of the room or rooms.

SECTION 7 - PAYMENT OF THE HOTEL EXCISE TAX

a. The operator shall pay the tax to the County Treasurer as follows:

1. Operators with annual revenue in the preceding calendar year less than Two Hundred Fifty Thousand (\$250,000.00) Dollars shall pay on a quarterly basis.

2. Operators with annual revenue in the preceding calendar year equal to or greater than Two Hundred Fifty Thousand (\$250,000.00) Dollars shall pay on a monthly basis.

b. The payment remitted by monthly filers shall be postmarked no later than the last day of the month following the close of the month in which payments were collected. The payment remitted by quarterly filers shall be postmarked no later than the last day of the month following the close of the quarter in which payments were collected.

SECTION 8 - FILING OF A HOTEL TAX RETURN

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

SECTION 9 - COLLECTION AND DISPOSITION OF REVENUES

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

b. The disposition of the revenues from the special fund attributable to the levy of the first two per centum of the tax shall be as follows:

1. twenty per centum of all revenues received per annum shall be distributed by the treasurer to a city of the third class in the county of the third class in the county of the third class imposing the tax for the appropriate and reasonable marketing and promotional expenses of promoting tourism in the city of a third class and the costs associated with the renovation, rehabilitation, extension, furnishing, equipping, substantial repair or construction of a tourism-related facility located within the city of the third class, including for payment of the debt service on bonds issued for such projects;

2. ten per centum of all revenues received per annum shall be distributed by the treasurer to the county commissioners who may accept the funds which may be used for tourism and regional promotion purposes to be determined by the county commissioners, or, if the county commissioners elect not to accept the funds, the funds shall be distributed by the treasurer to the TPA for the appropriate and reasonable marketing and promotional expenses of the TPA in promoting tourism in the county of the third class imposing the tax, excluding promotion of a city of the third class receiving revenues under clause (1); and

3. seventy per centum of all revenue received per annum shall be distributed by the treasurer to qualified authorities located within the county of the third class imposing the tax for payment of the debt service on bonds issued for the construction of the county regional sports facility

have a seating capacity of ten thousand to fourteen thousand seats, which is owned, in whole or in part, or leased by the applicable authority, and which is located within the county of the third class imposing the tax. The following are qualified authorities for purposes of this clause:

(i) an authority incorporated pursuant to the former act of May, 1945 (P.L.382, No. 164), known as the "Municipality Authorities Act of 1945);

(ii) an industrial or commercial development authority incorporated pursuant to the act of August 23, 1967 (P.L.251, No.102), known as the "Economic Development Financing Law); and

(iii) a redevelopment authority incorporated pursuant to the act of May 24, 1945 (P.L.991, No. 385), known as the "Urban Redevelopment Law."

(c.1) The disposition of the revenues from the special fund attributable to the levy of the third per centum of the tax, if levied, shall be distributed at the discretion of the county commissioners and used solely for tourism and regional promotion purposes.

(c.2) The disposition of the revenues from the special fund attributable to the levy of the remaining two per centum of the tax shall be distributed by the treasurer as follows:

(1) Fifty per centum shall be distributed to the TPA for the appropriate and reasonable marketing and promotional expenses for promoting tourism in the county imposing the tax; and

(2) Fifty per centum shall be distributed as follows:

(i) Seventy-five per centum to an authority incorporated pursuant to the former act of May 2, 1945 (P.L.382, No. 164), known as the "Municipality Authorities Act of 1945," located within the county of the third class currently imposing a tax for payment of the debt service on bonds issued for the construction of the county regional sports facility having a seating capacity of ten thousand to fourteen thousand seats, which is owned, in whole or in part, or leased by the applicable authority, and which is located with in the county of the third class imposing the tax. Such authority shall use the tax distribution identified in this section for the improvement, support, rehabilitation, revitalization, construction, fit-out and reconstruction of one or more tourism or tourism infrastructure-related facilities, including, but not limited to, for the payment of debt service on bonds related thereto.

(ii) Twenty-five per centum shall be distributed to the TPA for the appropriate and reasonable marketing and promotional expenses of promoting tourism in a city of the third class located within the county of the third class imposing the tax and the same shall be used in accordance with a plan approved by the TPA.

SECTION 10 - COLLECTION AND DISPOSITION OF REVENUES
FROM THE THIRD PER CENTUM OF THE HOTEL TAX

a. The County Treasurer shall deposit the remaining revenues received from the third per centum of the tax in a special fund, separate and apart from the special fund created pursuant to Section 9.a of this Ordinance, as designated by the Board of County Commissioners.

b. The County Treasurer shall deduct and direct or indirect costs attributable to the collection of the third per centum of the tax as set forth in Section 11 herein.

c. The remaining revenues received from the third per centum of the tax shall be distributed at the discretion of the Board of County Commissioners and used solely for tourism and regional promotion purposes.

SECTION 11 - DIRECT AND INDIRECT COLLECTION COSTS

The County Treasurer shall deduct any direct or indirect costs attributable to the collection of the tax, and two-thirds (2/3) of the those costs shall be deducted from the revenues received from the first two per centum of the tax as set forth in Section 9 herein, and one-third (1/3) of those costs shall be deducted from the revenues received from the third per centum of the tax as set forth in Section 10 herein.

SECTION 12 - USES OF THE REVENUES BY THE TOURIST
PROMOTION AGENCY (TPA)

a. The Tourist Promotion Agency shall use the revenues it receives from the tax as provided herein, and said use must be approved by the Board of County Commissioners.

b. The Tourist Promotion Agency receiving any revenues from the tax authorized by this Ordinance shall annually submit an audited report on the income and expenditures incurred by the County Board of Commissioners.

SECTION 13 - RECORD KEEPING REQUIREMENTS

a. Operators not filing tax returns shall maintain records at the hotel for at least three (3) years after the close of the tax year.

b. Operators filing tax returns shall maintain records for at least three (3) years after the filing of the hotel tax return for the tax year.

SECTION 14 - 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, excerpts and transcriptions.

SECTION 15 - LATE PAYMENT FEES AND INTEREST

If for any reason the tax is not paid when due under the provisions of Section 7 of this Ordinance, a late payment fee of One Hundred (\$100.00) Dollars, plus interest at the rate of nine (9%) per cent per year, or three-quarters (.75%) per month, on the amount of the tax which remains unpaid, shall be added and collected.

SECTION 16 - ENFORCEMENT

Whenever any operator shall fail to pay the tax as herein provided, upon request of the County Treasurer or the Board of County Commissioners, the County Solicitor shall bring or cause to be brought a civil action, in any Court having jurisdiction, to enforce payment of all taxes, late payment fees, interests and cost of suit, including a reasonable attorney fee of five (5%) per cent.

SECTION 17 - PENALTIES

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

b. 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 18 - 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 19 - SEVERABILITY OF PROVISIONS

If any section, provision, clause, sentence, paragraph 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, corporations, public agencies or circumstances, but shall be confined in its operation to the section, provision, clause, sentence,


paragraph 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 circumstance 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 section, provision, clause, sentence, paragraph or part thereof not been include.

SECTION 20 – EFFECTIVE DATE

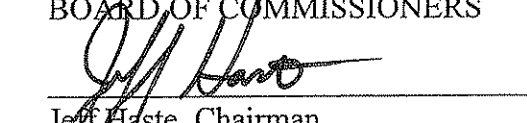
This Ordinance shall take effect March 1, 2008.


DULY ADOPTED AND ENACTED, by the Board of Commissioners of the County of Dauphin, this 30th day of July, 2008, in lawful session and duly assembled.

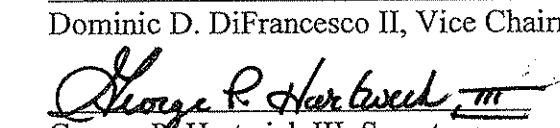
ATTEST:


Chad Saylor
Chief Clerk/Chief of Staff

COUNTY OF DAUPHIN
BOARD OF COMMISSIONERS


Jeff Haste, Chairman


Dominic D. DiFrancesco II, Vice Chairman


George P. Hartwick III, Secretary

(SEAL)