

**BOARD OF COMMISSIONERS
COUNTY OF MERCER
COMMONWEALTH OF PENNSYLVANIA**

ORDINANCE NO. 2025 - 001

AMENDED AND RESTATED ORDINANCE OF THE BOARD OF COMMISSIONERS OF THE COUNTY OF MERCER, COMMONWEALTH OF PENNSYLVANIA, IMPOSING A COUNTY WIDE HOTEL ROOM RENTAL EXCISE TAX; DEFINING TERMS USED IN THE ORDINANCE; SETTING A RATE OF TAXATION AT 5% OF THE CONSIDERATION PAID FOR HOTEL LODGING; PROVIDING FOR THE COLLECTION OF THE TAX; REQUIRING MONTHLY REMITTANCE TO THE COUNTY TREASURER; PROVIDING FOR A 4% ADMINISTRATIVE FEE; RESTRICTING USE OF FUNDS RECEIVED FROM THE TAX; PROVIDING FOR FEES, PENALTIES AND OTHER ADMINISTRATIVE REQUIREMENTS; MAKING PROVISIONS SEVERABLE; REPEALING INCONSISTENT ORDINANCES; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the County of Mercer adopted a Hotel Excise Tax by Ordinance 2001-1, with Amendments ("Prior Ordinance"); and

WHEREAS, the enabling statute for such Hotel Excise Tax (16 P.S. §1770.10), as it applies to the County, has been amended by Act 14 of May 8, 2024 (16 Pa. C.S.A. §17507); and

WHEREAS, the County wishes to amend and restate the County's Hotel Excise Tax Ordinance to conform to Act 14 of May 8, 2024.

NOW, THEREFORE, with the above recitals being incorporated herein, it is **HEREBY ORDAINED AND ENACTED** that the Prior Ordinance is hereby amended and restated as follows:

SECTION 1 SHORT TITLE:

This Ordinance shall be known and may be cited as "Mercer County Hotel Excise Tax Ordinance."

SECTION 2 PURPOSE:

The purpose of this excise tax is to raise revenue to fund the County's recognized tourist promotion agency for the marketing of the County for tourism and the development of programs and grants related to tourism or a business, convention, or travel destination within the County.

SECTION 3 DEFINITIONS:

The following words and phrases when used in this Ordinance shall have the following meaning as given to them unless the context in which it is used clearly indicates otherwise:

"Bed and breakfast." or "homestead." A public accommodation, consisting of a private residence, which contains 10 or fewer bedrooms, used for providing overnight accommodations to the public and 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 terms do 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 involving 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 of 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 Mercer, Pennsylvania.

"County Treasurer." The Office of the Treasurer of the County of Mercer.

"Hotel." A hotel, motel, inn, guest house, rooming house, bed and breakfast, homestead 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 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 temporary period to members of the public at large; any place recognized as a hostelry or cabin. The term does not include any charitable, educational, or religious institution, summer camp for children, hospital, nursing home, part of a campground that is not a cabin, or a portion of a facility that is devoted to persons who have established a permanent residence.

"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 the County.

"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 and possession of the room.

"Operator." Any 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." Any 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 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 April 20, 2016, or under section 17508 (relating to certification of recognized tourist promotion agencies).

"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.

"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 provided.

"Tax year." The tax year is the calendar year.

"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 express or implied contract.

"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 4 IMPOSITION OF HOTEL EXCISE TAX:

- (a) A five (5.0%) percent excise tax is hereby imposed on the Consideration received by each Operator of a Hotel within the County from each Transaction of renting a Room to accommodate Transients.

- (b) If the County or any duly authorized representative is unable to determine the tax due from the Records of an Operator, the tax due for each unpaid tax year shall be determined to be the lesser of the following:
 - (1) Five (5.0%) percent 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 (5.0%) percent of the annualized Consideration received during the tax year prior to the determination.
- (c) The Mercer County Hotel Excise Tax Ordinance as amended and restated herein shall take effect on February 6, 2025.

SECTION 5 COLLECTION OF THE HOTEL EXCISE TAX:

The Hotel Excise Tax shall be collected by the Operator from Patrons and Transients.

SECTION 6 PAYMENT OF THE HOTEL EXCISE TAX:

- (a) The Operator shall pay the Hotel Excise Tax to the County Treasurer as follows:
 - (1) Every Operator shall transmit to the County Treasurer, on or before the twenty-fifth (25th) day of each calendar month, a Hotel Excise Tax Return for the calendar month immediately preceding the month in which the return is made, which return shall report: a) the total amount of Consideration received by the Operator for all Transactions during the calendar month for which the return is made; b) the total amount of tax due from the Operator for that month; c) such other information as the County Treasurer may reasonably require; and d) the tax due.
 - (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.
 - (3) If an Operator enters the business of renting a Room after the effective date of this Ordinance, the first return shall be filed on the twenty-fifth (25th) day of the first calendar month subsequent thereto. The first return and tax payment due shall be for all Transactions occurring during the preceding calendar month based upon the actual taxable transactions during the preceding calendar month.

SECTION 7 FILING OF A HOTEL TAX RETURN:

The Operator shall file a Hotel Excise Tax Return as required by Section 6 of this Ordinance when paying the tax summarizing the Consideration received.

SECTION 8 COLLECTION AND DISPOSITION OF TAX REVENUES:

- (a) The County Treasurer shall collect the Hotel Excise Tax and deposit the revenues received from the tax in a segregated special fund, entitled Hotel Excise Tax Fund.
- (b) The County Treasurer shall distribute the revenues from the Hotel Excise Tax Fund in the following manner:
 - (1) The County Treasurer shall first deduct and pay over to the County General Fund an administrative fee which equals four (4%) percent of all taxes collected under this this Ordinance.
 - (2) The County Treasurer shall distribute all remaining funds in the Hotel Excise Tax Fund to the Recognized Tourist Promotion Agency no later than sixty (60) days after the receipt of the tax revenues.
- (c) The County Treasurer may implement Rules and Regulations with respect to the collection of the Hotel Excise Tax from Operators.

SECTION 9 USE OF TAX REVENUES:

The Hotel Excise Tax revenues distributed to the Recognized Tourist Promotion Agency shall be used for the following purposes:

- (a) Marketing the County as a leisure travel destination and a business, convention, or meeting travel destination through the use of appropriate marketing tools, 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 County.
- (b) Developing programs and making expenditures and grants that are directly and substantially related to tourism or a business, convention or meeting travel destination which 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. The following shall apply to grants awarded under this paragraph:
 - (i) Grants require a cash or in-kind local match of 25%.
 - (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 the County's recognized tourist promotion agency.
- (c) Supporting 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.

SECTION 10 RECORD KEEPING 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 expiration of three (3) years after the Hotel Excise Tax Return for such year has been filed.

SECTION 11 ACCESS TO RECORDS:

The County or any duly authorized representative of the County 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 Hotel Excise Tax authorized by this Ordinance for the purpose of making audit, examination, excerpts, and transcriptions.

SECTION 12 LATE PAYMENT FEES:

- (a) If for any reason the Hotel Excise Tax is not paid by an Operator when due under the provisions of Section 6, a late payment fee at the rate of eighteen (18.0%) percent, per year, or one and a half (1.5%) percent, per month (or any portion thereof), on the amount of the tax which remains unpaid shall be added and collected.
- (b) Late payment fees shall be added to and paid by Operator with the filing of a Hotel Excise Tax Return.
- (c) If any Operator shall fail to file a timely return as required by Section 6 of this Ordinance, the same shall be a summary offense and upon conviction before a court of competent jurisdiction punishable by fines of up to \$600.00 per day for each day that the return remains unfiled after its due date.

SECTION 13 ENFORCEMENT:

Whenever any Operator shall fail to pay the Hotel Excise 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:

- (a) Any person who shall violate any of the provisions of this Ordinance shall, upon conviction thereof, in a summary proceeding before any district magistrate in Mercer County, be sentenced to pay a fine of not more than Seventy-Five Dollar and 00/100 Dollars (\$75.00) for the first offense, One Hundred Fifty and 00/100 Dollars (\$150.00) for the second offense, Two Hundred Fifty and 00/100 Dollars (\$250.00) for the third offense and Three Hundred Dollars and 00/100 Dollars (\$300.00) for the fourth and each additional offense, and cost of prosecution for

each violation thereof, and in default of payment of such fine and costs, to undergo imprisonment for not more than thirty (30) days.

- (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 15 ADMINISTRATION:

- (a) The County, with the assistance of 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. Upon passage, the County Chief Clerk shall send a certified copy of this Ordinance and any approved regulations to the Recognized Tourist Promotion Agency.
- (b) 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 actions 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 a member of the individual's Immediate family is associated.
- (c) Nothing in this Ordinance shall be construed to be in conflict with the law. If any provision of this Ordinance is held to conflict with the law, the provisions of 16 Pa. C.S.A. §17507, as it now exists or is hereafter amended, shall control. Further, if any provision of this Ordinance is held unenforceable for any reason other than a conflict with the law, then such provision shall be modified to be enforceable and reflect the parties' intention. All remaining provisions of this Ordinance shall remain in full

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, sentence, paragraph, section of part thereof not been included.

SECTION 17 REPEALER:

All ordinances or parts of ordinances including but not limited to Ordinances 2000-1, 2002-6, 2016-3 and 2019-02 which are inconsistent herewith are hereby repealed.

SECTION 18 EFFECTIVE DATE:

This Ordinance shall take effect on February 6, 2025. The proper officers of the County are hereby authorized and directed to take any and all action necessary to implement the Hotel Excise Tax in accordance with this Ordinance.

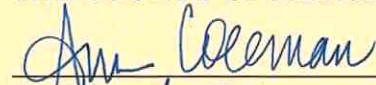
DULY ENACTED AND ORDAINED at a public meeting of the Board of County Commissioners of the County of Mercer, Pennsylvania, held on the 6th day of February 2025.

ATTEST:

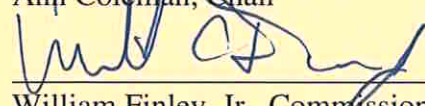


Roni Shilling, Chief Clerk

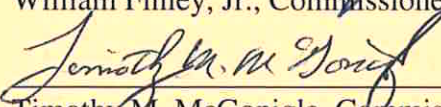
BOARD OF COMMISSIONERS
THE COUNTY OF MERCER



Ann Coleman, Chair



William Finley, Jr., Commissioner



Timothy M. McGonigle, Commissioner