

COUNTY OF LANCASTER, PENNSYLVANIA

ORDINANCE NO. 45

AN ORDINANCE

SIGNIFYING THE INTENTION AND DESIRE OF THE BOARD OF COMMISSIONERS OF THIS COUNTY TO IMPOSE AND ENACT A HOTEL ROOM RENTAL TAX UNDER PROVISIONS OF THE ACT OF ASSEMBLY APPROVED DECEMBER 27, 1994, P.L. 1375, NO. 152, AS AMENDED AND SUPPLEMENTED, KNOWN AS THE THIRD CLASS COUNTY CONVENTION CENTER AUTHORITY ACT; SETTING FORTH DEFINITIONS; IMPOSITION AND RATE OF TAX; THE COLLECTION, DEPOSIT AND DISTRIBUTION OF TAX REVENUES; EXPENDITURES FROM FUNDS; THE EFFECTIVE DATE OF THE TAX; AUTHORIZING ALL OTHER NECESSARY ACTION; AND REPEALING ALL INCONSISTENT ORDINANCES OR PARTS OF ORDINANCES.

WHEREAS, the County of Lancaster, Pennsylvania (the "County"), is a third class county and a political subdivision of the Commonwealth of Pennsylvania (the "Commonwealth"); and

WHEREAS, the health, safety and general welfare of the people of the County and the Commonwealth are directly dependent upon the continual encouragement, development, growth and expansion of business, industry, commerce, and tourism within the County and the Commonwealth; and

WHEREAS, unemployment, the spread of indigency and the heavy burden of public assistance and unemployment compensation can be avoided by the promotion, attraction, stimulation, development and expansion of business, industry, commerce and tourism in the County and the Commonwealth, and

WHEREAS, the development of convention centers is appropriate within the Redevelopment Assistance Eligible Area of a third class county and the attraction of business to this County and the Commonwealth as a result of such development is an important factor in the continual encouragement, promotion, attraction, stimulation, development, growth and expansion of business, industry, commerce and tourism within the County, the surrounding counties and the Commonwealth as a whole; and

WHEREAS, the development of a convention center will provide benefits to the Hotel industry throughout the entire County of Lancaster; and

WHEREAS, the development of a convention center will also provide benefits to the restaurant and entertainment industries located throughout the County, to all other businesses and individuals who will benefit by the attraction of major conventions and tourists, and to other individuals and businesses whose livelihood is dependent on major conventions and tourists and to the general public, and

WHEREAS, the County, acting jointly with the City of Lancaster, Lancaster County, Pennsylvania (the "City"), has heretofore created the Lancaster County Convention Center Authority pursuant to the provisions of the Act to assist in the development of a Conference/Convention Center at Penn Square in the City, the proposed site of the Conference/Convention Center as of the date of this Ordinance; and

WHEREAS, the need for and promotion of the Conference/Convention Center, which is the type of facility which will provide significant benefits to the general public, will require the expenditure of public money and it is therefore appropriate for the County to impose and collect a Hotel room rental tax on the consideration received by each operator of a Hotel within the County, as provided in the Act, and

WHEREAS, the site of the proposed Conference/Convention Center is within a Redevelopment Assistance Eligible Area; and

WHEREAS, an important aspect of the development of the Conference/Convention Center and proceeding with the project will be the removal and redevelopment of blighted areas within the City, and

WHEREAS, the purpose of the Conference/Convention Center is the promotion, attraction, stimulation, development and expansion of business, industry, commerce and tourism throughout the County, the surrounding counties and the Commonwealth.

NOW, THEREFORE, the Commissioners of the County of Lancaster hereby ordain as follows:

A. Definitions.

In this Ordinance (including the recitals hereto) the following words and phrases (whether or not begun with a capital letter) shall have the meanings given to them in this section unless the context clearly requires otherwise:

1. "Act." The Third Class County Convention Center Authority Act (Act of December 27, 1994, P.L. 1375, No. 162), as amended and supplemented.

2. "Authority." The "Lancaster County Convention Center Authority," an agency and public instrumentality of this Commonwealth and a body politic and corporate created pursuant to the Act.

3. "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.

4. "Convention Center", "Conference Center" or "Conference/Convention Center." Any land, improvement, structure, building, or part thereof, or property interest therein, whether owned by or leased by or to or otherwise acquired by the Authority, appropriate for any of the following: large public assemblies, the holding of conventions, conferences, trade exhibitions, and other business, social, cultural, scientific and public interest events, and all facilities, furniture, fixtures and equipment necessary or incident thereto, including meeting rooms, dining rooms, kitchens, ballrooms, reception areas, registration and pre-function areas, truck loading areas (including access thereto), access ways, common areas, lobbies, offices and areas appurtenant to any of the preceding, together referred to as the "Main Convention Area," and also including other buildings, structures or facilities for use in conjunction with the foregoing, including, but not limited to, provisions for off-street parking, retail areas and other improvements related to the center owned by or leased by or to the Authority for the purpose of producing revenues to assist in defraying any costs or expenses of the convention center.

5. "Hotel." A hotel, motel, inn, guesthouse or other building located within the Market Area 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 any 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, provided that portions of such facility which are devoted to persons who have established permanent residence shall not be included in this definition. The term "Hotel" does not include a Bed and Breakfast, Homestead or Inn as defined in the Act of May 23, 1945 (P.L. 926 No. 369), referred to as the Public Eating and Drinking Place Law.

6. "Market Area." The entire County of Lancaster, Pennsylvania. The Commissioners hereby declare that they have determined that the entire area within the County of Lancaster

will derive a material benefit from the existence of the Convention Center within the County.

7. "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.

8. "Operator." Any individual, partnership, non-profit 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 to the public for consideration in any Hotel in the Market Area.

9. "Patron." Any person who pays the consideration for the occupancy of a room or rooms in a Hotel, except for Patrons that are specifically exempted by Federal, State or County law.

10. "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) consecutive days.

11. "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.

12. "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 accommodations provided therein.

13. "Temporary." A period of time not exceeding thirty (30) consecutive days.

14. "Tourist Promotion Agency." The agency designated from time to time by the County Commissioners to be eligible for grants from the Department of Community and Economic Development pursuant to the Act of April 28, 1961 (P.L. 111, No. 50), 73 P.S. §401 et seq., as amended, known as the "Tourist Promotion Law." As of the date of enactment of this Ordinance, such agency is the Pennsylvania Dutch Convention and Visitors Bureau, 501 Greenfield Road, Lancaster, Pennsylvania.

15. "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 an implied contract.

16. "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 a fee in consideration thereof.

17. "Treasurer." The Office of Treasurer of the County of Lancaster.

B. Imposition and Rate of Tax

1. There is hereby imposed an excise tax on the consideration received by each Operator of a Hotel within the Market Area, from each Transaction of renting a Room or Rooms to accommodate Transients, at the rate provided in Paragraph B.2. The tax shall be collected by the Operator from the Patron of the Room and paid over to the County pursuant to Paragraph C.1, and shall be known as the "Lancaster County Hotel Room Rental Tax" or "the Hotel Room Rental Tax."

2. The rate of the Lancaster County Hotel Room Rental Tax shall be 3.9 percent (3.9%) of the consideration referred to in Paragraph B.1.

3. The Lancaster County Hotel Room Rental Tax shall take effect at 12:01 A.M., Eastern Standard Time on January 1, 2000.

4. If the County is unable to determine the Hotel Room Rental Tax due from Operator records, the Hotel Room Rental Tax due for each unpaid tax year shall be determined to be the lesser of the following:

(1) 3.9 percent (3.9%) 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; and

(2) 3.9 percent (3.9%) of the annualized consideration received during the tax year prior to the determination.

C. Collection, Deposit and Distribution of Tax Revenues

1. The Treasurer shall collect the Hotel Room Rental Tax from each Operator and each month shall deposit the revenues received from the Hotel Room Rental Tax in the Tourist Promotion Agency Fund and Convention Center Authority Fund, which are hereby established for the purposes set forth herein. Interest on moneys deposited in such funds shall accrue proportionately to the respective funds as provided in the Act.

2. Within thirty (30) days of the Treasurer's collection of the Lancaster County Hotel Room Rental Tax, there shall be deposited in the Tourist Promotion Agency Fund, established pursuant to Paragraph C.1., for the use of the designated Tourist Promotion Agency, twenty percent (20%) of all Lancaster County Hotel Room Rental Tax revenues collected by the Treasurer; provided, however, that if an event of default has occurred and is continuing with respect to any bonds, notes or other indebtedness of the Authority incurred to finance the construction of the Convention Center, 100% of the revenues received from the Lancaster County Hotel Room Rental Tax shall be deposited by the Treasurer in the Convention Center Authority Fund.

3. Within thirty (30) days of the Treasurer's collection of the Lancaster County Hotel Room Rental Tax, except as otherwise provided in Paragraph C.2 hereof, there shall be deposited in the Convention Center Authority Fund, established pursuant to Paragraph C.1., for the use of the Authority for Convention Center purposes eighty percent (80%) of all Lancaster County Hotel Room Rental Tax Revenues collected by the Treasurer. Upon the collection of these funds, the Treasurer shall provide these funds directly to the Authority.

D. Expenditures from Funds.

1. Provided that no event of default has occurred and is continuing with respect to any bonds, notes or other indebtedness of the Authority incurred to finance the construction of the Convention Center, revenues received from the Hotel Room Rental Tax and deposited in the Tourist Promotion Agency Fund shall be disbursed by the Treasurer of the County to the Tourist Promotion Agency within ten (10) days after deposit to the Tourist Promotion Agency Fund. All funds transferred to the designated Tourist Promotion Agency pursuant to this Paragraph D. shall be used by the designated Tourist Promotion Agency as permitted by law.

2. Expenditures from the Convention Center Authority Fund established for the Authority shall be used by the Authority at its discretion for any use permitted by the Act, including, but not limited to the following:

(a) Any debt service or lease payments of the Authority.

(b) Costs associated with financing, constructing, improving, maintaining, furnishing, fixturing and equipping the Convention Center.

(c) Costs associated with the development of the Convention Center, including, but not limited to, design, engineering and feasibility costs.

(d) Costs associated with the operation and management of the Convention Center.

(e) Costs associated with promoting marketing and otherwise encouraging use of the Convention Center.

(f) General purposes of the Convention Center.

E. Reports, Returns, Payment and Collection of Tax and Records.

1. The Treasurer is hereby authorized to establish rules and regulations concerning the collection of the Hotel Room Rental Tax.

2. All taxes collected by any Operator in the Market Area in accordance with this Ordinance shall constitute a trust fund for the County and such trust shall be enforceable against such Operator and any other person who receives any part of such fund without consideration, or who knows that the Operator is committing a breach of trust; provided, however, that any person receiving payment of a lawful obligation of the Operator from such fund shall be presumed to have received the same in good faith and without any knowledge of the breach of trust.

3. The Operator shall collect the Lancaster County Hotel Room Rental Tax from the Patron of the Room and shall pay it over to the County as provided herein and in the rules and regulations established and approved by the County. The Operator shall be liable to pay to the County out of its own funds or at its own cost and expense all amounts of the Lancaster County Hotel Room Rental Tax required to be collected by the Operator but which the Operator fails to collect or to pay over to the County.

4. Every report and return of or concerning the Hotel Room Rental Tax shall be made upon a form developed by the Treasurer.

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

6. Every Operator, at the time of filing every return required by this Paragraph E. shall compute and pay over to the Treasurer the taxes shown as due on the return for the period for which the return is made.

7. Every Operator shall maintain records, which shall be open to inspection or review by, and/or made available to, the Treasurer upon its request, which shall include, but not be

limited to, the number of Transactions in each of the Operator's Hotels in the Market Area reflected on an hourly, daily, or weekly basis, the rate(s) charged for each Occupancy, the Consideration received from all Transactions during the month for which each return is made, as well as such other information as the Treasurer may require.

8. 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.

9. The County or any duly authorized representative shall have access to any books, documents, papers and records of the Operator and designated Tourist Promotion Agency which are related, directly or indirectly, to the determination or collection of the Hotel Room Rental Tax, or to the expenditure of the proceeds of the Hotel Room Rental Tax authorized by this Ordinance for the purpose of making audits, examinations, excerpts, and transcriptions.

10. 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 (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.

F.

[INTENTIONALLY OMITTED]

G. Enforcement.

Whenever any Operator shall fail to pay the Hotel Room Rental Tax as herein provided, upon request of the 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, penalties and costs of suit.

H.

[INTENTIONALLY OMITTED]

I. Effective Date.

This Ordinance shall take effect immediately upon enactment thereof.

J. Implementation and Administration.

The proper officers of this County are hereby authorized and directed to take any and all action necessary to implement the Lancaster County Hotel Room Rental Tax in accordance with the provisions of the Act and in accordance with this Ordinance.

K. Prior Ordinances.

All ordinances, or parts thereof, insofar as the same are inconsistent herewith, are repealed hereby.

L. Severability of Provisions.

In the event any provision, section, sentence, clause or part of this Ordinance shall be held to be invalid, such invalidity shall not affect or impair any remaining provision, section, sentence, clause or part of this Ordinance, it being the intent of this County that the remainder of this Ordinance shall remain in full force and effect.

DULY ENACTED AND ORDAINED at a public meeting of the Board of County Commissioners of the County of Lancaster, Pennsylvania held on the 15th day of September, 1999.

COUNTY OF LANCASTER

Paul Thibault
Paul Thibault, Chairman

Terry L. Kauffman
Terry L. Kauffman, Vice Chairman

Ron Ford
Ron Ford, Commissioner

Attest:

Doris Kiehl
Doris Kiehl, Chief Clerk