

ORDINANCE #110

FIRST READING - August 19, 1997
SECOND READING - August 28, 1997

AN ORDINANCE IMPOSING A TAX OF 4% OF THE CONSIDERATION RECEIVED BY AN OPERATOR OR HOTEL WITHIN LACKAWANNA COUNTY FROM EACH TRANSACTION OF RENTING A ROOM OR ROOMS TO ACCOMMODATE TRANSIENTS

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

WHEREAS, the purpose of county owned tourist and recreational facilities, sports facilities, visitors center, county municipal authorities, and the County's designated tourist promotion agency is the promotion, attraction, stimulation, development, and expansion of business, industry, commerce, and tourism throughout the County of Lackawanna; and

WHEREAS, the continued financial support of the aforementioned facilities, authorities, and agencies would provide benefits to the hotel industry throughout the entire County of Lackawanna;

The Commissioners of the County of Lackawanna hereby ordain as follows:

A. DEFINITIONS.

In this Ordinance the following words and phrases shall have the meanings given to them in this Section unless the context clearly requires otherwise:

1. "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.
2. "COUNTY." Lackawanna County.
3. "COUNTY COMMISSIONERS." The Lackawanna County Commissioners.
4. "HOTEL." 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; or 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.
5. "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 the service accompanying the use or possession of the room.
6. "OPERATOR." An individual, partnership, limited partnership, nonprofit or profit making association or corporation, limited liability company, limited liability partnership or other entity 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.
7. "PATRON." A person who pays the consideration for the occupancy of a room or rooms in a hotel.
8. "PERMANENT RESIDENT." A person who occupies 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.
9. "ROOM." A space in a hotel set aside for use and occupancy by patrons, or otherwise, for consideration, having at least one bed or other sleeping accommodation in a room or group of rooms.
10. "TOURIST PROMOTION AGENCY (TPA)." An organization, agency or corporation designated to be such by the Board of Commissioners of the county in which the tax is imposed. The TPA shall be duly established, designated and recognized as the County's TPA in accordance with and pursuant to the Act of April 28, 1961 (P.L. 111, No. 50), known as the "Tourist Promotion Law."
11. "TRANSACTION." The activity involving the obtaining by a transient or patron of the use or occupancy of a hotel room from which consideration is payable to the operator under an express or an implied contract.
12. "TRANSIENT." A person 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.

B. IMPOSITION AND RATE OF TAX.

1. There is hereby imposed a tax of 4% of the consideration received by each operator of a hotel within the County from each transaction of renting a room or rooms to accommodate transients. The tax shall be collected by the operator from the patron of the room and paid over to the County pursuant to Section C (1) and shall be known as the Hotel Room Rental Tax.

C. DEPOSIT AND DISTRIBUTION OF TAX REVENUES.

1. The Lackawanna County Personal Property Tax Department, now to be known as the Lackawanna County Personal Property and Hotel Room Rental Tax Department, is hereby designated as the collector of the Hotel Room Rental Tax, and shall collect the tax from the operator and submit all funds to Lackawanna County's legally sanctioned and duly designated Tourist Promotion Agency (TPA) which shall deposit said funds in a special account established for this purpose.

2. The TPA shall be entitled to use a maximum of 20% of all Hotel Room Rental Tax revenues received for the appropriate and reasonable operation, marketing and promotional expenses of the TPA.

3. The remaining Hotel Room Rental Tax revenues received, amounting to not more than 80% thereof, shall be used for the reasonable expenses associated with collection and enforcement of the Hotel Room Rental Tax and for County-owned tourist and recreational facilities, sports facilities or visitor centers; or for other tourism-related activities as determined by the County Commissioners.

D. REPORTS, RETURNS, PAYMENT AND COLLECTION OF TAXES.

1. All taxes collected by any operator in accordance with this Ordinance shall constitute a trust fund for the County and such trust shall be enforceable against such person and any person receiving any part of such fund without consideration, or knowing 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 presume to have received the same in good faith and without any knowledge of the breach of trust.

2. 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 herein. The operator, if he fails to collect the tax or pay it to the County when due, shall be liable to the County for the payment of the tax provided for herein.

3. Every report and return shall be made upon a form furnished by the County Commissioners.

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

5. Every operator at the time of filing every return required by this Section shall compute and pay to the County the taxes shown as due on the return for the period for which the return is made.

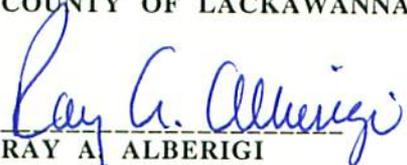
6. Every operator shall maintain records, which shall be made available to the County Commissioners or their designee upon its request, which shall include, but not be limited to, the number of transactions in each hotel reflected on an hourly, daily, or weekly basis, the rate(s) charged for each occupancy, the consideration received from all transactions during the month for which each return is made, as well as such other information as the County may require.

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

E. If any provision or portion of this Ordinance shall be determined by a court of competent jurisdiction to be invalid or unconstitutional, such a determination shall not affect any other provision or portion of this Ordinance.

F. This ordinance shall take effect on September 15, 1997.

COUNTY OF LACKAWANNA


RAY A. ALBERIGI


JOSEPH J. CORCORAN


JOHN SEMIO

ATTEST:



WILLIAM A. JENKINS,
ACTING ADMINISTRATIVE DIRECTOR

Approved as to form and legality:



JOSEPH A. O'BRIEN, ESQUIRE
COUNTY SOLICITOR