

**Board of Commissioners
County of Potter
Commonwealth of Pennsylvania**

Ordinance No. 1 , 2014

**AN ORDINANCE IMPOSING AN EXCISE TAX ON CONSIDERATION
RECEIVED BY OPERATORS OF A HOTEL, MOTEL, BED AND BREAKFAST,
HOMESTEAD, INN, GUEST HOUSE, HOSTELRY OR OTHER STRUCTURE
PROVIDING OVERNIGHT LODGING OF TEMPORARY
ACCOMODATIONS FOR THE PUBLIC AT LARGE AND PROVIDING
PENALTIES FOR VIOLATIONS HEREOF**

IT IS HEREBY ORDAINED AND ENACTED, by the Board of Commissioners of the County of Potter, being an eighth (8th) class duly organized and existing under the laws of the Commonwealth of Pennsylvania, Act No. 12 of 2005 (the Act) (*16 P.S. §1770.6.*) of the General Assembly of the Commonwealth of Pennsylvania, as follows;

Section 1. Short Title

This Ordinance shall be known and may be cited as the “**Potter County Hotel Excise Tax Ordinance**”.

Section 2. Purpose

The revenues derived through the excise tax imposed hereby, after deduction for administrative cost as permitted under the Act, shall be used by the Potter County recognized tourist promotion agency, as said terms are defined in said Act, for the purpose of tourism, convention promotion and tourism development.

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 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.

“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, *exclusive of any payments received for meals or other amenities provided in addition to the use or occupancy of the room or rooms, even though said meals or amenities are included in the published and imposed room rate.*

“County.” The County of Potter, Commonwealth of 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 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 or any private campground or any cabins, public campgrounds, or other facilities located on State land.

“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 non-profit 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 Potter County as that term is defined in the Act of April 28, 1961 (P.L. 111, No. 50) known as “Tourist

Promotion Law”, which upon the adoption of this ordinance is the Potter County Visitors Association, 118 North Main Street, Coudersport, PA 16915.

“Records.” Includes, but is not limited to, the record of the number of daily transactions, the rate of consideration imposed for each occupancy, the revenues received for all transactions, cash receipts and sales journals, sales tax records and reports and such other general ledgers or journals used or maintained to record and/or determine the total revenues received from the use or occupancy by a transient of a room or rooms in a hotel for any temporary period.

“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 in a room or a group of rooms.

“Tax year.” The tax year is the calendar year beginning January 1st and ending December 31st.

“Temporary.” A period of time not exceeding thirty (30) consecutive days.

“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 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 or rooms for the personal use of the individual by paying a fee to the operator.

“Treasurer.” The elected treasurer of Potter 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 Board of Commissioners to collect and account for the tax authorized by this ordinance.

Section 4. Imposition of Hotel Excise Tax

- (a) A three (3.0%) 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.
- (b) There is also hereby imposed, such interest and penalties for delinquent reporting and/or payment of the tax as hereinafter established and as prescribed in the rules and regulations duly adopted by the Potter Board of Commissioners, as permitted herein.

- (c) All operators shall keep and maintain sufficient records of their business transactions affected by and subject to the provisions of this ordinance, through the use of books, journals, ledgers, computer spread sheets or such other form or means of permanent record keeping within which all the activities subject to the tax hereby imposed, shall be documented.
- (d) Tax Year for purpose of this ordinance shall be calendar year, beginning January 1st and ending December 31st of each year.

Section 5. Collection of the Hotel Excise Tax

- (a) The tax shall be collected by the hotel operator from the patron at the time the consideration is received for the use or occupancy of the room or rooms.

Section 6. Filing of Tax Return and Payment of the Tax

- (a) The operator shall report and make payment of the tax collected to the County Treasurer as follows:

- (1) Every Operator shall transmit to the Treasurer on the forms provided by said treasurer, a quarterly return of the tax collected for the three (3) calendar months, or portion thereof, preceding the month in which the return is due, in accordance with the following schedule.

<u>QUARTER</u>	<u>RETURN/TAX PAYMENT DUE DATE</u>
(1 st .) Jan., Feb., & Mar.	April 30th.
(2 nd .) Apr., May & June	July 31st.
(3 rd .) Jul., Aug., & Sept.	October 31st.
(4 th .) Oct., Nov., & Dec.	January 31st.

- (2) The return shall report the total amount of all consideration received for the Transactions during the three months for which the return is made, the amount of tax due from the Operator for that quarter, and such other information as the Treasurer may require.
- (3) Every Operator, at the time of filing the quarterly return, shall also pay over to the Treasurer the taxes shown as due on the return for the period for which the return is made plus any interest or penalty if due.

- (4) A tax return and the payment of tax due transmitted to the Treasurer by U.S. Mail, postage pre-paid, post marked on or before the due date, shall be deemed timely filed and paid.

Section 7. Late Payment and Filing Penalties

- (a) The following interest and penalties for late filing of a tax return or late payment of the tax due are hereby imposed, subject to certain exceptions or abatement as hereinafter provided.
 - (1) For each whole or part of a month that a *return is not filed when due*, a penalty of five (5%) percent of the amount of the unpaid tax is hereby imposed for each whole or part of a month after the due date until the return is filed, but not to exceed a total of twenty-five (25%) percent of the tax due.
 - (2) For each whole or part of a month that the *tax is paid late*, a late payment penalty of five tenths (.5%) percent of the amount of the unpaid tax is hereby imposed for each whole or part of a month after the due date until the tax is paid, but not to exceed a total of twenty five (25%) percent of the tax due.
 - (3) Exception to the imposition of penalties for late filing of a return or late payment of the tax due or abatement of such penalties imposed may be granted if reasonable cause is shown for the late filing or payment, said entitlement to exception or abatement to be determined in the sole discretion of the Treasurer.
 - (4) In addition to any penalties imposed for late payment of the tax due, the delinquent amount due shall also bear interest at the rate of six (6%) percent per annum from the due date to the date of payment to the Treasurer.
 - (5) Any delinquent operator shall also be subject to the fines and penalties as hereinafter imposed for violations or failure to comply with the terms and provisions of this ordinance in addition to the interest and penalties imposed by the foregoing paragraphs (1) through (4).
 - (6) In the event the County institutes legal proceedings to enforce the filing of a required tax return or to compel the payment of the tax due, the delinquent operator shall also pay all cost of prosecution including reasonable attorneys fees incurred or the equivalent thereof if the prosecution is handled by the salaried County Solicitor.

Section 8. Receipt and Disposition of Tax Revenues

- (a) The County Treasurer shall collect the tax and deposit the revenues received in a special fund entitled "Hotel Excise Tax Fund".
- (b) The Treasurer shall distribute the revenues in the special fund quarterly, not later than sixty (60) days after receipt of the quarterly tax revenues, in the following manner
 - (1) To defray the cost associated with the collection of the tax as an administrative fee, two (2%) percent of the total revenue collected or Forty Thousand Dollars (\$40,000) annually, whichever is less, shall be transferred to the County general Fund.
 - (2) After deduction of the administrative fee, distribute all remaining revenues to the recognized tourist promotion agency authorized to act within the County.

Section 9. Use of the Revenues

The recognized tourist promotion agency shall use the tax revenues to directly fund county-wide tourism promotion, convention promotion and tourism development consistent with the Rules and Regulations duly adopted by the Potter County Board of Commissioners as provided for herein.

Section 10. Access to Records

The Treasurer or any agent or representative duly authorized by the Potter County Board of Commissioners shall have access to any operator's books, documents, papers, and records for the purpose of conducting an audit to confirm compliance with the terms and provisions of this ordinance and the Rules and Regulations promulgated pursuant hereto.

Any agent or representative duly authorized by the Potter County Board of Commissioners shall have access to the books, documents, papers, and records of the recognized tourist promotion agency which are directly pertinent to the expenditure of the proceeds of the tax authorized by this Ordinance for the Purpose of conducting an audit, to confirm compliance with the terms and provisions of this ordinance and the Rules and Regulations promulgated pursuant hereto.

Section 11. Provision for Rules and Regulations

The Board of Commissioners of Potter County are hereby authorized and empowered to promulgate Rules and Regulations for the implementation and enforcement of this ordinance,

including the authority to change, amend, increase, decrease, abolish or modify the imposition and the amount of the penalties and interest provided under Section 7 above through duly adopted resolution/resolutions and the publication of same.

Section 12. Penalties

- (a) Any person violating any of the provisions of this Ordinance shall, upon summary conviction thereof at a summary proceeding before any district magistrate in Potter County, be sentenced to pay a fine of not more than six hundred (\$600.00) dollars, to be paid to the use of Potter County, with costs of prosecution including reasonable attorneys fees incurred or the equivalent thereof if the prosecution is handled by the salaried County Solicitor, or to be imprisoned for not more than ten (10) days, or both.
- (b) In addition to the fine/fines imposed in accordance with paragraph (a) above, the Treasurer is hereby empowered to institute any and all other legal remedies or proceedings available in the enforcement of the terms and provisions of this ordinance including but not limited to the obtaining of a court order enjoining and restraining any violation/violations hereof or to compel compliance herewith.
- (c) Each twenty four (24) hour period during which a violation continues after written notice is served in person or by U.S. registered mail, return receipt requested, advising that said violation be abated, shall constitute a separate violation of this Ordinance.

Section 13. Administration

The County Treasurer shall be responsible for administering this Ordinance in accordance with its terms and provisions and the Rules and Regulations duly adopted and promulgated by the Board of Commissioners.

Section 14. Severability of Provisions

If any provision, clause, sentence, paragraph, section or part of this Ordinance or the 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. 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 or part thereof not been included.

Section 15. Effective Date

This Ordinance shall take effect immediately upon enactment hereof and, to the extent and only to the extent that this Ordinance differs from Potter County Ordinance No. 1 of 2004, this Ordinance shall supersede and replace said Ordinance No. 1 of 2004.

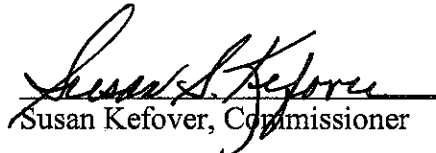
DULY ENACTED AND ORDAINED at a public meeting of the Board of Commissioners of the County of Potter, on this 24 day of July, 2014.



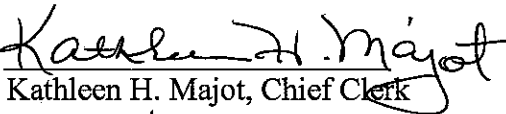
Douglas Morley, Chairman



Paul Heimel, Commissioner



Susan Kefover, Commissioner

Attest: 
Kathleen H. Majot, Chief Clerk
7/24/14