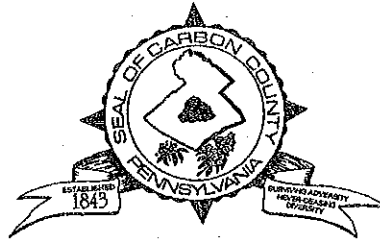


CARBON COUNTY TREASURER

RONALD J. SHEEHAN

KATHLEEN M. BENYO
First Deputy

KAREN M. YAICH
Second Deputy



P.O. BOX 247
JIM THORPE, PA 18229

Telephone: (570) 325-2251
Fax: (570) 325-2696

TO: Hotel Tax License Holders

FROM: Ronald J. Sheehan
Treasurer

DATE: December 1, 2016

RE: Hotel Tax Ordinance
#2016-04

On April 20, 2016, Governor Wolf signed Act 18 that amends the County Hotel Excise Tax Law. Act 18 amends certain definitions and regulations and allows counties to tax at a rate of 3% to 5%. Carbon County has opted to remain at 3% at the current time.

Because of the changes associated with the implementation of Act 18, the Carbon County Board of Commissioners has adopted a new Hotel Tax Ordinance #2016-04 and a new set of rules and regulations. Both to have an effective date of January 1, 2017. An overview and updated forms are enclosed. Copies of the Ordinance and Rules and Regulations are available under the County Treasurer's Department at www.carboncounty.com.

The dates for reporting have not changed. Carbon County still uses a calendar quarter and reports and remittances are due by the 25th day of the month following the quarter end. Reports are due even if there were no revenues or taxes collected. The late payment interest penalty has increased to 1.5% and will be assessed on all payments received after the due date.

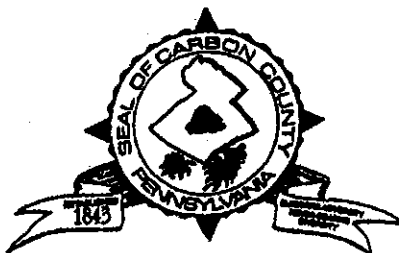
As always, if you should have any questions concerning the Hotel Tax, please feel free to give me a call.

Sincerely,

Ronald J. Sheehan
Treasurer
Carbon County, PA

OFFICE OF THE CARBON COUNTY COMMISSIONERS

Commissioners
Wayne E. Nothstein, Chairman
Tom J. Gerhard, Vice-Chairman
William J. O'Gurek, Member
Eloise K. Ahner, County Administrator
Daniel A. Miscavige, Solicitor



Court House Annex
P.O. Box 129
Jim Thorpe, PA 18229-1238

Telephone: (570) 325-3611
FAX: (570) 325-3622
E-mail: cccommis@ptd.net

Dear Lodging Operation:

On December 1, 2016, the Carbon County Board of Commissioners enacted Ordinance No. 2016 - 04. The Carbon County Hotel Room Rental Excise Tax Ordinance, as provided by Act 18 of 2016 (16 P.S. 1700.6 et Seq.) of the General Assembly of the Commonwealth of Pennsylvania. This is an Ordinance imposing a room rental excise tax on rented lodging facility rooms to fund tourist promotion. The use of this revenue shall directly fund tourism promotion throughout Carbon County by the Pocono Mountains Visitors Bureau

The Carbon County Hotel Room Rental Excise Tax will take effect on Sunday, January 1, 2017 at a rate of three (3%) percent and shall be charged to the cost of each room occupied by a patron and be payable to the operator of the lodging facility. The operator of the lodging facility shall remit the Carbon County Hotel Room Rental Excise Tax, payable to the Carbon County Treasurer, on or before the twenty-fifth (25th) day of the month following the close of the calendar quarter. Penalties and interest will be applied to all late reporting. The calendar quarters are as follows:

<u>Calendar Quarter</u>	<u>Due Date</u>
1 st Quarter/January 01 – March 31	April 25 th
2 nd Quarter/April 01 – June 30	July 25 th
3 rd Quarter/July 01 – September 30	October 25 th
4 th Quarter/October 01 – December 31	January 25 th

Enclosed are copies of forms needed by you to report the collection of the tax. Please submit the form marked Exhibit A (Registration Application) to the Carbon County Treasurer immediately. If you are currently registered and collecting the tax, you do not need to submit a new registration form. You will then receive your certificate authorizing the collection of the Carbon County Hotel Room Rental Excise Tax. Collection of the tax shall begin on Sunday, January 1, 2017. Once the tax is collected for the calendar quarter, submit payment along with the completed form marked Exhibit C (Quarterly Report) by the 25th day of the month following the close of the calendar quarter to the Carbon County Treasurer. For permanent resident status and credit, please refer to the form marked Exhibit B (Exemption certificate).

Exhibit A – Carbon County Registration Application. To be filled out by the Lodging Facility Operator and returned to the Carbon County Treasurer. (New registrants only). The lodging facility will receive a Carbon County Certificate of Authorization, authorizing the lodging facility to collect the tax. The Certificate shall be displayed in a prominent place.

Exhibit B – Carbon County Hotel Room Rental Excise Tax Exemption. If a lodging facility has a permanent resident (a person who has occupied a room or rooms in a lodging facility as a patron for a period exceeding thirty (30) consecutive days, or any other exempt person residing in the lodging facility, these individuals are exempt from paying the Carbon County Hotel Room Rental Excise Tax.

The Exemption Certificate must be completed in its entirety and must be returned with the quarterly payment to the Carbon County Treasurer by the 25th of the month following the close of the calendar quarter. The lodging facility is exempt from paying the Carbon County Hotel Room Rental Excise Tax on a permanent resident.


Exhibit C – Carbon County Hotel Room Rental Excise Tax Quarterly Report. Complete this form for each calendar quarter beginning January 1, 2017. This form must accompany each payment to the Carbon County Treasurer by the 25th day of the month following the close of the calendar quarter.

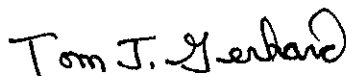
We thank you for your cooperation in this matter. All necessary forms are available under the County Treasurer department at www.CarbonCounty.com.


If you have any questions regarding this Ordinance, please address them to the Carbon County Treasurer, Ronald J. Sheehan, PO Box 247, Jim Thorpe, PA 18229 (570-325-2251) or Eloise K. Ahner, Carbon County Chief Clerk/County Administrator, PO Box 129, Jim Thorpe, PA 18229 (570-325-3611).

Sincerely Yours,

CARBON COUNTY BOARD OF COMMISSIONERS


WAYNE E. NOTHSTEIN
Chairman


TOM J. GERHARD
Vice-Chairman


WILLIAM J. O'GUREK
Member

Enclosures

**BOARD OF COMMISSIONERS
COUNTY OF CARBON
COMMONWEALTH OF PENNSYLVANIA**

ORDINANCE 2016-04

**AMENDED AND RESTATED CARBON COUNTY ORDINANCE IMPOSING
AN EXCISE TAX: ON THE CONSIDERATION RECEIVED FOR
TEMPORARY RENTAL OF HOTEL ROOMS; TO FUND MARKETING
OF THE COUNTY FOR TOURISM, TRAVEL, BUSINESS CONVENTION
AND MEETING TRAVEL DEVELOPMENT; ESTABLISHING PROCEDURES
FOR THE COLLECTION OF THE TAX; AND IMPOSING PENALTIES**

WHEREAS, the County of Carbon adopted a Hotel Excise Tax by Ordinance 2006-02 ("Prior Ordinance"); and

WHEREAS, the enabling statute for such Hotel Excise Tax as it applies to the County has been amended by Act 18 of April 20, 2016; and

WHEREAS, the County wishes to amend and restate the County's Hotel excise tax ordinance to conform to the Act of April 20, 2016.

NOW, THEREFORE, with the above matters incorporated by reference herein, it is HEREBY ORDAINED AND ENACTED, that the prior Ordinance is hereby amended and restated as follows:

Section 1. Short Title.

This Ordinance may be cited as the "Carbon County Hotel Room Rental Excise Tax Ordinance".

Section 2. Authority and Purpose.

1. This Ordinance is authorized pursuant to the Act 18 of April 20, 2016, P.L. 134, No. 18, 16 P.S. Section 1770.10 ("Enabling Statute").

2. The purpose of this Ordinance is to continue to raise revenues to fund the activities of the County's Recognized Tourist Promotion Agency within the County of Carbon as authorized by the Enabling Statute.

Section 3. Definitions.

The following words and phrases when used in this Ordinance shall have the meanings 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.

"Board". The Board of County Commissioners of the County of Carbon.

"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 term does not include a yurt or walled tent.

"Calendar Quarter." January 1 through March 31; April 1 through June 30; July 1 through September 30; and October 1 through December 31.

"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 having 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 or 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 a Temporary period. Where a Hotel markets American Plan ("AP"), Modified American Plan ("MAP"), or any other form of packages, which include Occupancy, food and beverages, and/or other products or services, the portion of the package Plan Consideration to be allocated to Occupancy for purposes of taxation hereunder shall equate to the lowest Consideration for Occupancy paid to the Operator for the same Room, on the same date.

"County." The County of Carbon.

"Hotel." A Hotel, motel, inn, guesthouse, Rooming house, Bed and Breakfast, Homestead 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 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 or any Cabin. The term does not include any of the following:

(1) A charitable institution which is a "Purely Public Charity". The term "Purely Public Charity" shall be defined in Article VIII, Section 2 of the Pennsylvania Constitution, and the institutions of Purely Public Charity Act, Act 55 of 1997, 10 P.S. Section 371, et. Seq., an employee for a Purely Public Charity must present a tax exemption certificate issued by the Department of Revenue to support such exemption. The exemption shall not include college, university, education or religious institutions under exemptions (3) and (4) hereafter, other than as stated with respect to the type of facilities included in exemptions (3) and (4).

(2) A portion of a facility that is devoted to persons who have an established permanent residence.

(3) A college or university student residence hall currently occupied by students enrolled in a degree program.

(4) An educational or religious institution camp for children, including a camp registered under the act of November 10, 1959 (P.L.1400, No.497), entitled "An act providing for the annual registration of organized camps for children, youth and adults; defining the duties of the Department of Health of the Commonwealth of Pennsylvania; and prescribing penalties."

(5) A hospital.

(6) A nursing home.

(7) Part of a campground that is not a Cabin.

The term specifically does not include the initial sale, resale or licensing of timeshare units or residences, whether the Transaction conveys a timeshare unit or personal residence in fee simple, or leases or licenses same. Notwithstanding the aforesaid, the term does include: (a) single-family residences, multi-family residences, and timeshare units which are marketed as stated herein before in the definition of "Hotel"-by the owner and/or his/her agent, or by Hotel Operators in the same manner as they market their Hotel Rooms, for Occupancy of a Room or Rooms in a Hotel for a period of thirty (30) consecutive days or less, unless occupied by the owner thereof; and (b) the rental for Occupancy by private campgrounds of Rooms, Cabins, guesthouses, or any other structure to provide Temporary overnight Occupancy of a Room, for persons, other than the owner or members thereof (in the case of a private membership campground), seeking

Temporary accommodation, but not including the renting of lots or tracts without structures thereon.

"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 a specific County, counties or geographic region.

"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 building to the public for Consideration.

"Patron." Any person who pays the Consideration for the Occupancy of a Room or Rooms in a Hotel. The term "Patron" shall not include employees of the Commonwealth of Pennsylvania, the federal government, or Purely Public Charities while on business for their respective employer (i.e. Commonwealth of Pennsylvania, Federal Government, or Purely Public Charity).

"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.

"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 the County and certified by the County as of the effective date of this sub-section or under section 14 of this Ordinance.

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

"Room." A space in a building set aside for use and Occupancy by Patrons or otherwise, for Consideration, having at least one bed or other sleeping accommodations provided.

"Temporary." Occupancy of a Room or Rooms in a Hotel for a period of thirty (30) consecutive days or less.

"Transaction." The activity involving the obtaining by a Transient or Patron of the Temporary use or Occupancy of a Hotel Room from which Consideration inures to the Operator under an expressed 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.

"Treasurer." The Treasurer of the County of Carbon.

Section 4. Imposition of Hotel Room Rental Excise Tax.

• A. There is hereby imposed an excise tax at a rate of three (3%) percent on the Consideration received by an Operator of a Hotel from each Transaction of renting a Room or Rooms to accommodate Transients.

• B. The County Hotel Room Rental Excise Tax under this Amended and Restated Ordinance shall take effect on January 1, 2017 ("Effective Date"). Any written agreements in existence prior to the 1st day of January, 2017 ("Adoption Date"), between the Operator of a Hotel and a Patron for the renting of a Room or Rooms to accommodate Transients after the Effective Date, shall not be subject to the rates stated in this Ordinance but rather the rates originally stated in Ordinance No. 2006-02.

Section 5. Collection of Tax.

The Hotel Room Rental Excise Tax shall be collected by Operators from Patrons.

Section 6. Payment of the Tax.

A. The Operator shall pay the Hotel Room Rental Excise Tax to the County Treasurer as follows:

1. Every Operator shall transmit to the County Treasurer, on or before the 25th day of the month (April, July, October, and January) following each calendar quarter, a return for the calendar quarter ending during the month immediately preceding the month in which the return is made. The return shall report the amount of consideration received for transactions during the calendar quarter for which the return was made, the amount of the tax due from the Operator for such calendar quarter, and such other information as the County Treasurer may reasonably require.

2. Every Operator, at the time of filing such required return, shall compute and pay over to the County Treasurer the Hotel Room Rental Excise Tax shown as due on the return for the period for which the return is made.

3. If an Operator first commences the business of operating a Hotel during a Calendar Quarter, the first return shall be made on the 25th day of the month following completion of such Calendar Quarter, even though the return covers less than the full Calendar Quarter.

4. The Operator shall file a hotel room rental tax return when paying the tax summarizing the consideration received.

Section 7. Collection and Disposition of Revenues.

A. The County Treasurer shall collect the Tax and deposit the revenues received from the tax into a separate segregated fund, entitled the *Hotel Room Rental Excise Tax Fund*.

B. The County Treasurer shall distribute the revenues from the Hotel Room Rental 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 Ordinance.

2. The County Treasurer shall distribute all remaining revenues in the Hotel Room Excise Tax Fund to the Recognized Tourist Promotion Agency within sixty (60) days after the end of each Calendar Quarter.

Section 8. Use of Revenues.

A. The revenues distributed from the Hotel Room Rental Excise Tax Fund to the Recognized Tourist Promotion Agency pursuant to Section 7(B)(2) hereof shall be used by the Recognized Tourist Promotion Agency for any of the following purposes:

1. Marketing the area served by the agency as a leisure travel destination.

2. Marketing the area served by the agency as a business, convention or meeting travel destination.

3. Using all appropriate Marketing tools to accomplish these purposes, 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 area served by the agency.

4. Programs, expenditures or grants that are directly and substantially related to tourism or a business, convention or meeting travel destination within the County, 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 by the Recognized Tourist Promotion Agency as directed by the County.

5. 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 by the Recognized Tourist Promotion Agency as directed by the County.

6. The following shall apply to all grants awarded under this Section 8 to a specified organization:

a. A "grant" is money provided to a for-profit or non-profit entity as a general request for funds, for a specific period of time, where the funds will be distributed by the Recognized Tourist Promotion Agency to the entity (rather than being paid directly by the Recognized Tourist Promotion Agency for expenses clearly incurred as described in Section 8(A)(1), (2), (3), (4) or (5) hereof) based on applications made to and recommended by the County to the recognized Tourist Promotion Agency; Procedure is outlined in a Memorandum of Understanding executed between the County and the Recognized Tourist Promotion Agency.

b. The monies being requested by the organization shall be limited to items listed under Section 8(A)(1), (2), (3), (4) or (5):

c. Grants shall require a cash or in-kind local match of at least 25%.

d. Grants shall 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 a Recognized Tourist Promotion Agency.

e. Grants shall not be used by the Grantee to compete with any other private sector tourism or travel efforts in the County as determined by the Recognized Tourist Promotion Agency.

f. All Grants shall require the Grantee to provide a proposal setting forth the specific use of the requested funds, and reconciling such use(s) with the purposes set forth in this Section 8(A)(1), (2), (3), (4) and/or (5). Within ninety (90) days after completion date for use of the Grant, the Grantee shall provide to the County for transmission to the recognized Tourist Promotion Agency and an audit of the Grant usage or shall provide a financial record of the Grant usage with verification to be executed by an authorized officer of the Grantee. Such Grant audit shall provide an independent review of Grantee's records, verification of financial record accuracy, and confirmation of compliance with the Grant requirements as well as the uses set forth in 8(A)(1), (2), (3), (4) and (5) hereof.

B. Each taxable year for any tax imposed under this section shall run concurrently with the County's financial year.

C. (1) An audited report or financial statement, as determined by the County in consultation with the Recognized Tourist Promotion Agency, on the income and expenditures incurred by a Recognized Tourist Promotion Agency receiving any revenues from the tax authorized under this section shall be submitted annually by the Recognized Tourist Promotion Agency to the County Commissioners and the Secretary of Community and Economic Development.

(2) a. If a Recognized Tourist Promotion Agency fails to submit an annual audit report or financial statement required under subsection (f) within ninety days of the end of the Recognized Tourist Promotion Agency's fiscal year, the corresponding County may withhold tax revenues collected and deposited in a Hotel Room Rental

Excise Tax Fund under this section until the required annual audit report or financial statement is submitted to the County.

b. In the event the County does not take action under paragraph (a) within one hundred eighty (180) days of the end of the Recognized Tourist Promotion Agency's fiscal year, the Secretary of Community and Economic Development may require the County to withhold tax revenues collected and deposited in a Hotel Room Rental Excise Tax Fund under this section until the required annual audit report or financial statement is submitted to the County and the Department of Community and Economic Development.

Section 9. Record Keeping Requirements for Operators.

Each Operator shall maintain and retain all records necessary to confirm proper collection and payment of the tax imposed by this Ordinance until the expiration of seven (7) years after the Hotel Room Rental Excise Tax returns have been filed.

Section 10. Access to Records.

The County or its duly-authorized representative shall have access to all books, documents, papers and records of the Operator and the 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 transcripts. Notwithstanding the aforesaid, to the extent allowed by state law, the underlying books, documents, papers, records and tax returns of the Operator shall not be deemed "public records" and the officers, agents and employees of the County shall not divulge or make known whatsoever in any manner or to any person, unless provided by law or for official purposes, the amount or source of income, profits, losses, expenditures, or any particulars thereof as set forth or disclosed in any return, or to permit any return or copy thereof or any book containing any abstract of particulars thereof, to be seen or examined by any person except as provided by law or as necessary for official purposes, including enforcement.

Section 11. Late Filing Fee.

A. Any payment of the Hotel Room Rental Excise Tax made after the Due Date shall be subject to late payment interest at the rate of eighteen (18%) percent per annum, or one and one-half (1.5%) percent per month, on the amount of the tax which remains unpaid.

B. Late filing fees shall be added to and paid with the filing of the return.

Section 12. Enforcement.

Whenever an Operator shall fail to pay the taxes herein provided, upon request of the County Treasurer, the County may bring a civil action in any court having jurisdiction to enforce the payment of all taxes, fees and interest due. There shall be added to the claim reasonable attorney fees, in an amount not to exceed ten (10%) percent of the amount due.

In addition to other remedies available for collection of debts, the County may file a lien upon the Hotel in the name of the County for use of the County as provided by this Ordinance.

Section 13. Administration.

A. The County, with the assistance of the County Treasurer and the County Controller, shall be responsible for administering the provisions of this Ordinance. The County Commissioners, with the assistance of the Treasurer, if requested, may promulgate and implement administrative rules and regulations relating to the imposition and collection of the Hotel Room Rental Excise Tax.

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 action 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.

Section 14. Certification of Recognized Tourist Promotion Agencies.

A. The County may certify a nonprofit corporation, organization, association or agency to serve as the County's Recognized Tourist Promotion Agency. The County may not have more than one Recognized Tourist Promotion Agency.

B. (1) The County may certify a Recognized Tourist Promotion Agency under subsection (a) by proper resolution of the governing body of the County, concurred in by resolution of the governing bodies of cities, boroughs, towns or townships within the County which have an aggregate of more than fifty per centum of the total population of the County as determined by the most recently completed Federal decennial census.

C. A Recognized Tourist Promotion Agency shall operate until that Agency has dissolved as an entity, withdrawn its certification or has been decertified by the County under subsection (D) hereafter.

D. (1) Notwithstanding any other provision of law, a County may decertify a Recognized Tourist Promotion Agency by proper resolution of the governing body of a County, concurred in by resolution of the governing bodies of cities, boroughs, towns or townships within the County which have an aggregate of more than sixty-five per centum of the total population of the County as determined by the most recently completed Federal decennial census.

(2) The County shall hold at least one public hearing on decertification no less than seven days before a meeting to adopt a resolution under this subsection.

Section 15. Severability.

Each section and subsection of this Ordinance shall be deemed to be severable and not affected by any determination that any other provision of this Ordinance is enforceable.

Section 16. Effective Date.

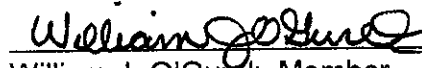
The terms of this Amended and Restated County Ordinance shall take effect on January 1, 2017, and any terms in the Prior Ordinance, which are different from this Amended and Restated Ordinance, and any other documents executed between the County and the Recognized Tourist Promotion Agency, before the Effective Date of this Amended and Restated Ordinance, hereafter shall be "void" and of no effect.

DULY ENACTED AND ORDAINED at a public meeting of the Board of County Commissioners of Carbon, Pennsylvania, held on the 1st day of December, 2016.


CARBON COUNTY BOARD OF COMMISSIONERS


Wayne E. Nothstein, Chairman


Tom J. Gerhard, Vice-Chairman


William J. O'Gurek, Member

Attest:


Eloise K. Ahner, Chief Clerk/County Administrator

**BOARD OF COMMISSIONERS
COUNTY OF CARBON
COMMONWEALTH OF PENNSYLVANIA**

**ORDINANCE 2016-04
(AMENDMENT TO ORDINANCE 2006-02)**

HOTEL ROOM RENTAL TAX

**RULES AND REGULATIONS
Effective January 1, 2017**

SECTION 1

1.1 OBJECTIVES

These Rules and Regulations are designed to establish a uniform practice and procedure for the imposition and collection of the Hotel Room Rental Tax as follows:

- Collection of the Hotel Room Rental Tax by Operators within the County of Carbon's geographic boundaries; and
- Remittance of the Hotel Room Rental Tax by Operators to the Carbon County Treasurer (hereinafter referred to as "Treasurer"); and
- Official reporting procedures and forms to be used by Operators and other relevant Rules and Regulations concerning the collection of the Hotel Room Rental Tax.

1.2 OPERATOR – CERTIFICATE OF AUTHORIZATION

- Within thirty (30) days after commencing business, each Operator shall register with the Treasurer.
- The Treasurer shall issue a Certificate of Authorization to the Operator which must be posted at all times in a conspicuous place on the Hotel premises.

1.3 DEFINITIONS

All terms used in the Rules and Regulations shall have the same definitions as defined in Ordinance 2016 - , Hotel Room Tax.

The following words and terms when used in these Rules and Regulations shall have the following meanings, unless the context clearly indicates otherwise:

Bed and Breakfast or Homestead – A public accommodation consisting of a private residence, which contains ten (10) 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 of 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 term does not include yurt or walled tent.

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 – Any County of the third through eighth class that was authorized to levy a Hotel occupancy or room rental tax under the former section 1770.2 or 1770.6.

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 innkeepers' 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 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 or any cabin. The terms does not include any of the following:

(a) A charitable institution.

(b) A portion of a facility that is devoted to persons who have an established permanent residence.

(c) A college or university student residence hall currently occupied by students enrolled in a degree program.

(d) An educational or religious institution camp for child, including a camp registered under the act of November 10, 1959 (P.L. 1400, No. 497)⁸, entitled, "An act providing for the annual registration of organized camps for children, youth, and adults; defining the duties of the Department of Health of the Commonwealth of Pennsylvania; and prescribing penalties."

(e) A Hospital

(f) A nursing Home.

(g) Part of a campground that is not a cabin.

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 a specific County, Counties, or geographic region.

Occupancy – The use or possession, or the right to the use or possession by a person, other than a Permanent Resident of any Hotel room or rooms for any purpose, or the right to the use or possession of the furnishings, services or to the services accompanying the use and possession of a room.

Operator – An 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 in a building to the public for Consideration.

Patron – Any natural person who pays the Consideration for occupancy of a Hotel room or rooms.

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.

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 the County and certified by the County as of the effective date of this subsection or under section 1770.11

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

Room – A space in a building set aside for use and occupancy by patrons or otherwise, for Consideration, having at least one (1) bed or other sleeping accommodations provided.

Tax Year – The tax year is the calendar year.

Temporary – Occupancy of a Room or Rooms in a Hotel for a period of thirty (30) consecutive days or less.

Transaction – The activity involving a transient or patron obtaining occupancy of a Hotel room from which Consideration is payable to the Operator under an express or implied contract.

Transient – An individual who obtains Hotel accommodations by means of registering at the facility for temporary occupancy of a room for personal use by paying a fee to the Operator.

Treasurer – The Office of Treasurer for the County of Carbon.

SECTION 2.

2.1 IMPOSITION AND COMPUTATION OF TAX

- a) Tax Imposed Upon Patrons – An excise tax of three percent (3%) of the Consideration is imposed upon every Hotel room occupied by a patron in this County, effective January 1, 2017. The terms Consideration and Occupancy are defined in Section 1.3, Definitions. The tax shall be collected from the patron by the Operator at the time the Consideration is due, whether on a daily, weekly, or biweekly rental period basis. In the absence of

evidence to the contrary, it is presumed that Consideration is due at the expiration of a rental period.

- b) **Tax Not Imposed Upon Permanent Residents** – A tax is imposed upon patron, and not upon Permanent Residents. Reference shall be made to Section 1.3, Definitions. An Operator may not collect tax upon the Consideration for a rental period during or at the expiration of which the lessee becomes a Permanent Resident. If an Operator collects tax in advance for a rental period which is or becomes exempt from tax by reason of the lessee becoming a Permanent Resident, the Operator shall refund the tax so collected to the Permanent Resident.
- c) **Price of Meals Included in Consideration Charges** – Where the amount of Consideration charged by an Operator includes the price of any meals, the tax upon the meals shall be separately reported. The charges for meals, when not separately stated and itemized by the Operator shall be presumed to be distributed as follows unless upon application of an Operator, the county approves a different Consideration basis.

TABLE 1 – MEALS INCLUDED WITH ROOM CONSIDERATION

	Allocation of Charges For rooms and meals	
	<u>Room</u>	<u>Meals</u>
Breakfast only	90%	10%
Lunch or dinner only	75%	25%
Breakfast and dinner, or lunch and dinner	65%	35%
Breakfast, lunch, and dinner	50%	50%

- d) **Presumption of Taxability** – For the purpose of proper administration of the tax, it is presumed that all patrons are subject to tax until the contrary is established, and the burden of proving that a patron is not taxable is on the Operator:

A three percent (3%) tax is imposed on Consideration received by an Operator for the transaction of occupying a room or rooms to accommodate transients.

The Hotel Room Rental Tax shall be collected by the Operator at the time of the transaction.

SECTION 3.

3.1 PERMANENT RESIDENT

The Hotel Room Rental Tax shall be imposed for occupancy by patrons and not by Permanent Residents. Permanent Resident status is only attainable by a natural person and not a firm, partnership, association, corporations, fiduciary, or other entity unless otherwise specifically included by these Rules and Regulations.

- a) Procedure for Permanent Resident Credits – If a patron completes thirty (30) days of consecutive occupancy, the patron is a Permanent Resident and such status remains effective as long as the patron’s occupancy remains continuous and uninterrupted at the same Hotel. Upon a patron obtaining Permanent Resident status, the patron shall be given a refund or credit by the Operator for the thirty (30) days preceding the patron achieving Permanent Resident status. The Operator is entitled to a credit for the Operator’s refund or credit to the patron and the Operator’s credit shall be noted on the next monthly return filed by the Operator. To report exemptions, an Operator may file an internally generated report from the Hotel’s operating system that clearly identifies those patrons that qualified for an exemption.
- b) Guidelines for Implementation – A rental period, for the purpose of this subsection, is a period of time (day, week, month or the like), during which, under and subject to terms of a legally enforceable contract, a patron has a continuous right to occupy a room or rooms in a Hotel and is legally bound to pay Consideration therefore. (In absence of evidence to the contrary, it is presumed that a rental period runs from the date of first occupancy or first payment of rental to the date on which a subsequent payment or Consideration is due). A mere statement of intention to occupy or to permit occupancy on the part of a patron, Operator or both, does not create a rental period unless the period in question is the subject of a legally enforceable contract.

The occupancy or right of occupancy must be for thirty (30) consecutive days. A patron who merely has the right to use a room or rooms on intermittent days of a week or month is not qualified to become a Permanent Resident, even though the patron cumulatively occupies a room for a period exceeding thirty (30) days.

A Permanent Resident who breaks the consecutive and continuing occupancy loses the status of Permanent Resident and will be considered a transient patron and subject to the Hotel Room Rental Tax.

If a Permanent Resident transfers from one Hotel to another, even though both Hotels are owned and/or operated by the same Operator, continuous occupancy has been interrupted. If Permanent Resident changes rooms in the same hotel, continuous occupancy has not been interrupted.

3.2 EXEMPTIONS AND NON-EXEMPTIONS

- a) Permanent Residents – A Permanent Resident, defined in Section 1.3, Definitions, is excluded from Hotel Room Rental Tax liability upon the occupancy of any room or rooms in a Hotel for any rental period during which, or at the expiration of which, he/she is or becomes a Permanent Resident. Permanent Resident status is only attainable by a natural person and not a firm, partnership, association, corporation, fiduciary, or other entity.
- b) Ambassadors, Ministers and Consular Officers of Foreign Governments – Ambassadors, ministers, and other diplomatic representatives of foreign governments properly

accredited to the United States are exempt from tax upon their occupancy of room or rooms. This exemption does not apply to consular officers or to officers of foreign governments other than those specified in this section, unless such exemption arises from treaties or reciprocal agreements existing between such foreign governments and the United States.

- A person claiming exemption from the Tax under this subsection is required to apply in writing therefore to the Bureau of Accounts Settlement, Department of Revenue, Harrisburg, Pennsylvania, Attention: Exemption Unit. Ambassadors, ministers and other diplomatic representatives of foreign governments should submit written proof that they are properly accredited to the United States. Consular officers and officials of foreign governments should submit written proof to the treaty or agreement under which similar exemption is granted by their country to consular officers and officials of the United States together with proof that such treaty or reciprocal agreement is presently in effect and that they are an officer or official entitled to prerogatives there under. If exemption has already been accorded under the sales and use tax portion of the Tax Reform Code, the numbered identification card is valid for Hotel Room Rental Tax purposes.
 - If a request for exemption is approved, a numbered identification card will be issued to the applicant. This card shall be shown by the exempt patron to the Operator when a claim for exemption is made.
- c) Occupancy of Hotel Rooms by the United States Government
- Occupancy of Rooms by the United States Government or its agencies, or by an employee or representative of the United States Government or its agencies, when the occupancy is solely for official purposes and Consideration is paid by the United States Government or its agencies, is exempt from the Hotel Room Rental Tax.
 - Occupancy of Rooms by National Banks, Federal Savings and Loan Associations, Joint Stock Land Banks, National Park Commissioners or their employees or representatives, or by Federal licensees such as warehouses, stockyards, construction contractors engaged in the improvement of real estate owned by a Federal agency, or similar corporations, companies, institutions, or persons, or their employees or representatives, regardless of the occupancy purpose, is not exempt from the Hotel Room Rental Tax. Occupancy of Rooms by members of the Armed Forces are not exempt from the Hotel Room Rental Tax unless acting as authorized representatives of the United States Government or its agencies, and are otherwise entitled to exemption.
- d) Occupancy of Hotel Rooms by Other Exempt Entities – The following entities are exempt from the Hotel Room Rental Tax:
- Federal Credit Unions organized under the provisions of the Federal Credit Union Act (12 U.S.C.A. §§ 1751 – 1795k).

- Commonwealth Credit Unions formed and incorporated under Credit Union Act (15 P.S. §§ 12301 – 12333).
 - Public Authorities created under the Act of June 28, 1935 (P.L. 463) and the Municipal Authorities Act of 1945 (53 P.S. §§ 301-322).
 - Co-operative agriculture associations required to pay corporate net income Tax under the provisions of the Co-operative Agricultural Association Corporate Net Income Tax Act (72 P.S. §§ 3420-21 – 3420-30).
 - Electric cooperative corporations formed under the Electric Cooperative Corporation Act (15 P.S. §§12401 – 12438).
 - Another organization claiming an exempt status under a particular statute shall make application to the Bureau of Sales and Use Tax, Attn: Legal Division for approval to use the exemption.
- e) Occupancy of Hotel Rooms by the Commonwealth of Pennsylvania – Occupancy of Rooms by the Commonwealth of Pennsylvania or its agencies, or by an employee or representative of the Commonwealth or its agencies, when such Occupancy is solely for official purposes and the Consideration is paid by the Commonwealth of Pennsylvania or its agencies, are exempt from the Hotel Room Rental Tax.

THIS SECTION SHALL NOT BE CONSTRUED TO GRANT AN EXEMPTION TO ANY LOCAL GOVERNMENT, BE IT A COUNTY OR MUNICIPALITY, WHERE OCCUPANCY OF HOTEL ROOMS SHALL BE SUBJECT TO THE HOTEL ROOM RENTAL TAX.

- f) Occupancy of Hotel Rooms by the American Red Cross – Pursuant to a Federal Court Case (Department of Employment, et al v. US, et al, 87 S. Ct. 464 (1966)) The Court ruled that the American Red Cross was an instrument of the United States Government for purposes of immunity from State Taxation. Although employees of the American Red Cross are not actually employees of the United States Government, the Court agreed that they should be treated as tax exempt entities when Occupancy is used for official purposes and provided that the American Red Cross pays the applicable Consideration. A Hotel room or rooms occupied by homeless victims of a disaster are exempt from Hotel Room Rental Tax so long as the American Red Cross pays for the room or rooms and proper documentation is presented.
- g) Religious Organizations, Charities, Educational Institutions etc. – A Hotel room or rooms occupied by these organizations and institutions are required to pay Hotel Room Rental Tax.
- h) Other Non-Exemptions – No person or entity other than those referenced above may be exempt from paying Hotel Room Rental Tax.

- i) Requests for Exemptions – The burden of proving a Hotel room or rooms is exempt from paying Hotel Room Rental Tax is the sole responsibility of the Operator who must demonstrate the same through accurate records. Any request for exemption from paying the Hotel Room Rental Tax liability based upon Federal, State, or Local statutory authority or other proper entitlement, shall be reviewed by the Operator on a case by case basis to determine the nature and extent of the requested exemption.

3.3 RECORDS

- a) Records of Exempt Occupancies – The Operator shall maintain records of support and identification for all exempt occupancies, exemption certificates, exemption letters, direct payment permits, and other documents relating to exemptions from paying Hotel Room Rental Tax. In all instances where an Operator claims an exemption to the Ordinance pursuant to the Rules and Regulations, the Operator will retain copies of patron identification cards or other records indicating the exempt patron's job number, employer, place of employment, or other identifying information. In any case, where an Operator fails to maintain adequate support documentation as required under these Rules and Regulations, any room for which there is inadequate records shall be considered to be occupied for the entire period for which the support records are lacking.
 - So long as a Carbon County Hotel Room Rental Tax Exemption Certificate was completed upon qualifying for a permanent resident exemption and subsequently submitted to the Treasurer, that particular permanent resident patron will not need to complete the Hotel Room Rental Tax Exemption Certificate every month going forward, so long as the continuity of renting the room goes uninterrupted. Refer to paragraph 3.1, Permanent Resident.
- b) Monthly Exemption Statement – The Operator shall provide to the Treasurer a Monthly Exemption Statement itemizing all exemptions claimed. The Treasurer will accept Hotel computer software generated exemption reports so long as they list all the same information as the Monthly Exemption Statement. As backup for all exemptions claimed, a completed copy of the Hotel Room Tax Exemption Certificate should be attached to the Monthly Exemption Statement.
- c) Upon the Treasurer's request, any Booking Agent shall provide a list of all Operators in the County that have listed Hotels with it, including but not limited to the Hotel's address, phone number, email address, the Operator's contact information, and any other requested information.
- d) Any Booking Agent that lists one (1) or more County Hotels and that does not collect the tax on behalf of all Operators of such Hotels, shall provide the County quarterly and within thirty (30) days of the end of the calendar quarter, a list of all County Hotels that it listed the prior calendar year but for which it did not collect and remit, along with each Operator's address, phone number, email address, and any other requested information.

- e) Any Booking Agent that lists one or more County Hotels (i) shall, at the time any Operator first lists a County Hotel with it, notify the Operator of the Operator's tax obligations to the County; and (ii) shall annually provide all Operators of one or more County Hotels with a reminder of their tax obligations to the County. In both cases, The Operator shall use language provided or approved by the Treasurer.

SECTION 4

4.1 TAX COLLECTIONS, REPORT FORMS, RETURNS, PAYMENTS, RECORDS RETENTION, HOTEL OPERATOR RECORDS, RECORDS LOCATION

- a) Tax Collections – The Operator shall collect Hotel Room Rental Tax from the patron as imposed by Ordinance 2016- and remit tax to the Treasurer, as detailed herein. Any Hotel Room Rental Tax collected by the Operator that is not paid to the Treasurer shall be deemed a debt owed to Carbon County. Any patron, Operator owing any monies to Carbon County pursuant to the provisions of Ordinance 2016 - and these Rules and Regulations, shall be liable to Carbon County for the same. Any action to collect under Ordinance 2016- or these Rules and Regulations, shall be brought by Carbon County of Carbon County's designee. Except as otherwise provided in Ordinance 2016- or the Rules and Regulations, an Operator's duty as considered by the Treasurer, is to collect Hotel Room Rental Tax under the same fiduciary obligation as placed on local tax collectors under the Pennsylvania Local Tax Collection Law.
- b) Report Forms – The following reports and returns are available on the Treasurer's web page: www.CarbonCounty.com
- Monthly Tax Collection Report
 - Hotel Room Rental Tax Exemption Certificate
- c) Returns
- (1) Quarterly Returns
- a. Every Operator shall transmit to the County Treasurer, on or before the 25th day of the month (April, July, October, and January) following each calendar quarter, a return for the calendar quarter ending during the month immediately preceding the month in which the return is made. The return shall report the amount of consideration received for transactions during the calendar quarter for which the return was made, the amount of the tax due from the Operator for such calendar quarter, and such other information as the County Treasurer may reasonably require.
- b. Every Operator, at the time of filing such required return, shall compute and pay over to the County Treasurer the Hotel Room Rental Excise Tax shown as due on the return for the period for which the return is made.

QUARTER ENDING

March 31
June 30
September 30
December 31

DUE DATE

April 25
July 25
October 25
January 25

The report shall include the amount of Hotel Room Rental Tax collected by the Operator and any other information required or requested by the Treasurer.

d) Payments

- (1) Payment Calculation – The Operator shall timely and accurately compute the amount of Hotel Room Rental Tax due the County based on Hotel Room Consideration transactions.
- (2) Interest and Penalties for Late Returns – Any return filed after the due date shall be subject to a late filing fee of Fifty Dollars (\$50.00). If any amount of tax due is not received by the Treasurer by the due date, a late charge of eighteen percent (18%) per year, or one and one-half percent (1.5%) per month shall be added for each month or fraction thereof during which any of the Hotel Room Rental Tax remains unpaid or not properly remitted in accordance with these Rules and Regulations
- (3) Payment Methods to the Treasurer – At the time of filing the monthly reports, the Operator shall compute and timely and unconditionally remit to the Treasurer in immediately available fund, the Hotel Room Rental Tax collected by the Operator and due to the County.
- (4) Failure to Collect and Report Tax; Determination of Tax by the Treasurer – If any Operator shall fail or refuse to collect the Hotel Room Rental Tax or to make, within the time provided, any report and remittance of said tax or any portion thereof required by this article or the regulations relative thereto, the Treasurer shall proceed in such manner as he/she may deem best to obtain facts and information on which to base his/her estimate of the tax due. As soon as the Treasurer is able to obtain information upon which to base the assessment of any tax imposed by this article and payable by any Operator who has failed or refused to collect the same and to make such report and remittance, the Treasurer shall proceed to determine and assess against such Operator or the tax and penalties provided for by the Ordinance as well as lawfully interest. In the event such determination is made, the Treasurer shall give a notice of the amount so assessed by serving it personally or by depositing it in the U.S. Mail, postage prepaid, addressed to the Operator so assessed at his/her last known place of business. Such Operator may within ten (10) days after the serving or mailing of said notice make application in writing to the Treasurer for a hearing on the amount assessed. If application by the Operator for a hearing is not made within the time

prescribed, the tax, interest, and penalties, if any determined by the Treasurer, shall become final and conclusive and immediately due and payable. If such application is made, the Treasurer shall give not less than five (5) days written notice in the manner prescribed herein to the Operator to show cause at the time and place fixed in said notice why said amount specified therein should not be fixed for such tax, interest, and penalties. At such hearing, the Operator may appear and offer evidence of why such specified tax, interest, and penalties should not be so fixed. After such hearing, the Treasurer shall determine the proper tax to be remitted and shall thereafter give written Notice to the person in the manner prescribed herein of such determination and the amount of such tax, interest, and penalties. The amount determined to be due shall be payable after thirty (30) days unless an appeal is taken as provide for in paragraph 4.1 (d) (5).

- (5) Appeal – Any Operator aggrieved by any decision by the Treasurer with respect to the amount of such tax, interest, and penalties, if any, may appeal to the Court of Common Pleas by filing a notice of appeal with the Treasurer within thirty (30) days of the serving or mailing of the determination of tax due.
- e) Records Retention – For each calendar year or partial year during which a Hotel does any business or receives any Consideration, the Operator shall maintain and retain all back up documents for such year until the expiration of three (3) years after the Hotel Room Rental Tax reports for such year have been filed.
- f) Operator Records – Every Operator shall be liable to keep and preserve all records as may be necessary to determine the amount of the Hotel Room Rental Tax. Said records shall include, but not limited to as follows: lease agreements; general ledgers; night auditor and maid reports; traffic summaries; source of business reports; and any other documents which support room revenues and exemptions. Said records shall be filed in a manner that allows ready access by an authorized agent of the County, who shall have the right to inspect same at all times.
- g) Records Location – The records shall be maintained at the place of business where the subject rooms were rented.

4.2 FAILURE TO COLLECT AND REPORT

- a) Determination Process – If any Operator fails to register with the Treasurer or fails or refuses to collect the Hotel Room Rental Tax under these Rules and Regulations, or fails or refuses to produce any report on the official Treasurer forms as required by these Rules and Regulations, the Treasurer or any duly authorized representative of the County shall proceed in such manner as deemed necessary to obtain the facts and information on which to base an estimation of the Hotel Room Rental Tax due, together with any interest late charges, costs, and attorney fees.
- b) Access to Records – The County or 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 Hotel Room Rental Tax authorized by this Ordinance for the purpose of making audit examination, excerpts, and transcriptions.

- c) **Determination Calculation** – If the Treasurer or any duly authorized representative of the County is unable to determine the Hotel Room Rental Tax due from the Operator records, the Hotel Room Rental Tax due for each unpaid tax year, or part thereof, shall be determined to be the lesser of the following.
- Three percent (3%) for 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.
 - Three percent (3%) of the annualized Consideration received during the tax year prior to the determination.
- d) **Determination Notification** – The Treasurer shall give determination notice to the Operator either in person or United States Mail at Operator’s last known place of business.
- e) **Operator’s Response to Determination** – The Operator has ten (10) days to respond in writing to the Treasurer to request a hearing on the amount calculated in the determination. If the Operator responds in writing within the time prescribed, the Treasurer shall give no less than five (5) days prior written notice to the Operator of a hearing to show cause why the determination is improper. If the Operator does not make such application within the time prescribed, the amount due in the determination shall become final and conclusive and immediately become due and payable to the County of Carbon.
- f) **Determination Hearing Outcomes (Assessment)** – At the conclusion of the determination hearing, the Treasurer shall ascertain the proper amount of Hotel Room Rental Tax due, together with any late charge, interest, costs, and attorney fees. A written notice shall be provided to the Operator for the total assessment amount due. The assessment will be payable within thirty (30) days unless an appeal is taken pursuant to these Rules and Regulations.
- g) **Failure to Remit Assessment** – The Operator shall have thirty (30) days to remit the amount of the assessment. If the Operator fails to remit the assessment amount to the Treasurer within thirty (30) days after receipt of written notice, the County Solicitor may bring or cause to be brought a civil action in any court having jurisdiction to enforce payment of all tax and late payment fees due, or file a municipal lien against the Hotel in the name of the County and for the use of the County as provided by law.

4.3 APPEAL PROCESS

An Operator aggrieved by any decision of the Treasurer with respect to the amount due for the Hotel Room Rental Tax, interest late charges, costs, and attorney fees, may appeal the decision of the County to the Court of Common Pleas of Carbon County, pursuant to the applicable rules of the Pennsylvania Rules of Civil Procedure. The Treasurer reserves the right to waive such late charges, costs, or attorney fees based upon good cause shown.

SECTION 5

5.1 REFUNDS TO OPERATOR

- a) Overpayments – Whenever the amount of Hotel Room Rental Tax, interest late charges, costs, or attorney fees has been overpaid, the overpayment may be refunded to the Operator provided a verified written claim is filed by the Operator with the Treasurer within three (3) years of the payment date and stating the specific grounds why the claim was made. The Operator must either return the refunded payment to the patron or credit such amount to the patron's account. If the patron's whereabouts are unknown or unascertainable after a reasonable investigation, such refund shall be resubmitted by the Operator to the Treasurer and shall be subject to the applicable escheat laws and statutes.

SECTION 6

6.1 RIGHT TO PRIVACY

All reports, returns, and forms submitted to the Treasurer are subject to public disclosure under the Pennsylvania Right to Know Law. The Treasurer shall not disclose any confidential information that is otherwise protected by law.

6.2 SEVERABILITY OF PROVISIONS

In the event any provision section, sentence, clause, or part of these Rules and Regulations shall be held invalid, such invalidity will not affect or impair any remaining provision, section, sentence, clause, or part of these Rules and Regulations; it being the intent of the Treasurer that the remainder of these Rules and Regulations shall remain in full force and effect.

6.3 AMENDMENTS

The Treasurer reserves the right to, from time to time without advanced notice, amend and/or supplement these Rules and Regulations. Amendments and/or supplements to the Rules and Regulations will be made available to each Operator.