

ORDINANCE - 52296
HOTEL ROOM RENTAL TAX

WHEREAS, the health, safety and general welfare of the taxpayers of the County of Luzerne, Pennsylvania (the "County of Luzerne") are directly dependent upon the continual encouragement, development, growth, and expansion of business, industry commerce, and tourism within the County of Luzerne; and

WHEREAS, the development of an arena-convention center is appropriate within the area of the County of Luzerne and the attraction of business to the County of Luzerne as a result of such development is an important factor in the continued encouragement, promotion, attraction, stimulation, development, growth, and expansion of business, industry, commerce, and tourism throughout the County of Luzerne; and

WHEREAS, the purpose of the arena-convention center is the promotion, attraction, stimulation, development, and expansion of business, industry, commerce, and tourism throughout the County of Luzerne; and

WHEREAS, the development of an arena-convention center would provide benefits to the hotel industry throughout the entire County of Luzerne;

The Commissioners of the County of Luzerne 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. "Authority" or "Luzerne County Convention Center Authority." An agency and public instrumentality of this Commonwealth and a body politic and corporate created pursuant to the Act of May 2, 1945, (P.L. 382).

2. "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.

3. "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, provision 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.

4. "Hotel." A hotel, motel, inn, guesthouse or other building located within the County which holds itself out by any means including advertising, license, registration with any 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.

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 to the services accompanying the use and possession of the room.

6. "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 in any hotel to the public for consideration.

7. "Patron." Any person who pays the consideration for the occupancy of a room or rooms in a hotel.

8. "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.

9. "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.

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

11. "Tourist promotion agency." The agency designated by the County Commissioners to be eligible for grants from the Department of Commerce 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."

12. "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.

13. "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.

14. "Treasurer." The Office of the Treasurer of the County of Luzerne.

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 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.

2. The rate of tax shall be five percent (5%) on the effective date of this Ordinance.

C. Deposit and distribution of tax revenues.

1. The Treasurer shall collect the tax from the operator and deposit the revenues received from the tax in special funds established for purposes set forth herein. Interest on moneys deposited in the funds shall accrue proportionately to the respective funds as provided herein. The

Treasurer is hereby authorized to establish rules and regulations concerning the collection of the tax.

2. Upon the effective date of this Ordinance, there shall be deposited in a special fund, established pursuant to Subsection (1), for the use of the designated tourist promotion agency, twenty percent (20%) of all revenues received from taxes imposed pursuant to this Section.

3. The balance of revenues to be received from taxes imposed pursuant to this Section shall be deposited in a special fund, established pursuant to Subsection (1), for the use of the Authority for convention center purposes. Within ten (10) days of the deposit of these funds, the Treasurer shall provide these funds directly to the Authority for the purposes set forth below.

D. Expenditures from funds.

1. Expenditures from the fund established pursuant to Section C (1) for the tourist promotion agency shall be used by the designated tourist promotion agency at its discretion for:

a. advertising and publicizing tourist attractions in the area served by the agency;

b. promoting and attracting conventions, exhibitions and other functions to utilize facilities in the area served by the agency;

c. promoting and otherwise encouraging the use of the facilities in the area served by the agency by the public as a whole.

2. Expenditures from the fund established pursuant to Section C (1) for convention center authority purposes shall be used by the Authority at its discretion for the following uses:

a. projected annual 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.

3. During the first fiscal year in which the hotel room rental tax is collected, the Authority shall deposit twenty-five percent (25%) of the moneys turned over to it by the Treasurer up to a total of two hundred and fifty thousand dollars (\$250,000.00) into a special, interest-bearing account. This account shall be used to satisfy projected annual debt service. This account shall be administered by the Treasurer until such time as the bonds to finance construction of the Convention Center are issued, whereupon the account shall be administered by

the Trustee of the bonds. If, at any time, revenues generated by the hotel room rental tax are insufficient to satisfy annual debt service, the Trustee may use the principal and any interest generated thereon in the account to satisfy such debt service. Withdrawal of funds from this account by the Trustee shall constitute an event of default such that revenues received from the tax shall not be deposited in the Tourist Promotion Agency Fund established under Section C (1) until such event of default is deemed cured. Such event of default shall be deemed cured when the Treasurer deposits into the account an amount equal to that which was withdrawn previously.

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

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 be presumed 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 hereinafter. 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 to the Treasurer as provided in this Section.

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

4. Every operator shall transmit to the Treasurer, 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 Treasurer may require.

5. Every operator, at the time of filing every return required by this Section shall compute and pay to the Treasurer 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 Treasurer 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 Treasurer may require.

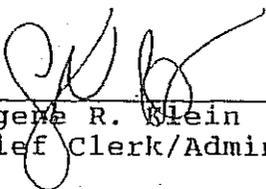
7. If an operator enters the business of the renting of Hotel rooms subsequent to the effective date of this

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.

SECTION 3. This Ordinance shall take effect on July 1, 1996.

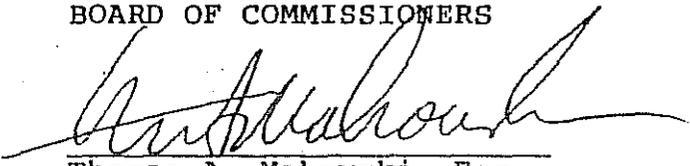
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ATTEST:



Eugene R. Klein
Chief Clerk/Administrator

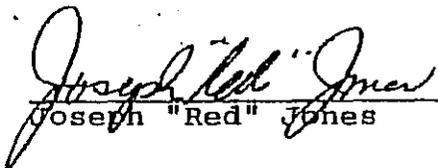
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