

Be it enacted by the Preston County Commission,
A new ordinance as follows:

HOTEL TAX ORDINANCE

AN ORDINANCE OF THE COUNTY COMMISSION OF PRESTON COUNTY, WEST VIRGINIA, REGARDING THE COUNTY HOTEL TAX, UNDER THE AUTHORITY OF CHAPTER 7, ARTICLE 18, SECTION 2, SUBSECTION C OF THE OFFICIAL CODE OF WEST VIRGINIA, 1931, AS AMENDED.

WHEREAS:

1. West Virginia Code §7-18-1(a) authorizes a county to impose and collect a privilege tax upon the occupancy of hotel rooms located within its taxing jurisdiction; and

2. West Virginia Code §7-18-1(c) provides that a county's authority to impose such a tax is limited in its application to hotels located outside the corporate limits of any municipality; and

3. West Virginia Code §7-18-2(c), as amended in 2007, provides that such a tax may be up to six percent of the consideration paid for the use or occupancy of a hotel room; and

4. West Virginia Code Chapter 7 Article 18 sets forth the parameters for such taxation and is incorporated herein by reference;

THEREFORE, the County Commission of Preston County, West Virginia, adopts the following Ordinance:

1. The tax created herein applies uniformly throughout the geographic boundaries of Preston County, West Virginia, except within the geographic boundaries of any incorporated municipality.

2. The Preston County Hotel Tax rate is hereby set at six percent of the consideration paid by a consumer for the use or occupancy of a hotel room;

3. Provided however, that the aforementioned tax shall not be imposed on any consumer occupying a hotel room for thirty or more consecutive days, nor upon any hotel room occupancy billed directly to the federal government or to the State of West Virginia or its political subdivisions.

4. The consideration upon which this tax is calculated shall not include the amount of tax imposed as state consumer sales tax, or charges for meals, valet service, room service, telephone service or other charges or consideration not paid for use or occupancy of a hotel room.

5. The tax is imposed upon the consumer and shall be collected by the hotel operator. The hotel operator shall separately state the tax authorized by this Ordinance on all bills, invoices, accounts, books of account and records relating to consideration paid for occupancy or use of a hotel room.

6. The hotel operator shall account for all taxes paid by consumers under this Ordinance, and shall remit all such taxes to the Sheriff of Preston County in the manner prescribed by West Virginia Code §7-18-10.

7. For purposes of this Ordinance:

(a) "Consideration paid" or "consideration" means the amount received in money, credits, property or other consideration for or in exchange for the right to occupy a hotel room as herein defined.

(b) "Consumer" means a person who pays the consideration for the use or occupancy of a hotel room. The term "consumer" shall not be construed to mean the

government of the United States of America, its agencies or instrumentalities, or the government of the state of West Virginia or political subdivisions thereof.

(c) "Hotel" means any facility, building or buildings, publicly or privately owned, in which the public may, for a consideration, obtain sleeping accommodations. The term shall include, but not be limited to, boarding houses, hotels, motels, inns, courts, condominiums, lodges, cabins and tourist homes. The term "hotel" shall not be construed to mean any hospital, sanitarium, extended care facility or nursing home; nor any facility providing fewer than three rooms in a private home or where the total days of use or occupancy does not exceed ten days in a calendar year; nor any tent, trailer or camper campsites.

(d) "Hotel operator" means the person who is proprietor of a hotel, whether in the capacity of owner, lessee, mortgagee in possession, licensee, trustee in possession, trustee in bankruptcy, receiver, executor or in any other capacity. Where the hotel operator performs his functions through a managing agent of any type or character other than an employee, the managing agent shall also be deemed a hotel operator for the purposes of this Ordinance and shall have the same duties and liabilities as his principal. Compliance with the provisions of this article by either the principal or the managing agent shall, however, be considered to be compliance by both.

(e) "Hotel room" means any room or suite of rooms or other facility affording sleeping accommodations to the general public and situated within a hotel. The term "hotel room" shall not be construed to mean a banquet room, meeting room or any other room not primarily used for, or in conjunction with, sleeping accommodations.

(f) "Person" means any individual, firm, partnership, joint venture, association, syndicate, social club, fraternal organization, joint stock company, receiver, corporation, guardian, trust, business trust, trustee, committee, estate, executor, administrator or any other group or combination acting as a unit.

First Reading: 8 / 11 / 2009;

Second Reading and Public Hearing: 8 / 24 / 2009;

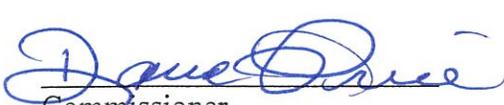
Adopted this 8th day of Sept. 2009, effective immediately upon passage.



President of the Commission



Commissioner



Commissioner