

**Local Law No. 1 of 2025**  
**(OCCUPANCY TAX FOR HOTELS)**

**Section 1: Legislative Intent**

Nearly two dozen surrounding communities have occupancy taxes for Hotel users. This occupancy tax is a way for the Town of Cortlandt to raise revenue in the same way that other communities do. The application of this Occupancy Tax includes an apartment hotel, motel, or a boarding house, whether or not meals are served.

**Section 2: Addition of Occupancy Tax to the Town Code**

The following provisions shall be added to Chapter 275: Taxation of the Town Code.

**Section 1: Definitions:**

**HOTEL**

A building or portion of it which is regularly used and kept open as such for the lodging of guests. The term "hotel" includes an apartment hotel, motel, or a boarding house, whether or not meals are served.

**OPERATOR**

Any person operating a hotel in the Town of Cortlandt, including, but not limited to, an owner or proprietor of such premises, lessee, sublessee, mortgagee in possession, licensee or any other person otherwise operating such hotel.

**PERSON**

An individual, partnership, society, association, joint-stock company, corporation, estate, receiver, trustee, assignee, referee or any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, or any combination of the foregoing.

**RENT**

The consideration received for occupancy valued in money, whether received in money or otherwise, for the occupancy of a room in a hotel for any period of time.

**RETURN**

A document designed by the Comptroller and filled out by the operator on a regular basis detailing the rents received for occupancies of rooms in a prescribed time period and the applicable tax payable thereon.

## **Section 2: Tax Imposed**

- A. The rate of such tax shall not exceed three percent (3%) of the per diem rental rate for each room whether such room is rented on a daily or longer basis.
- B. All taxes shall be paid by the person liable therefor to the owner of the room for hire in the tourist home, inn, club, hotel, motel or other similar place of public accommodation occupied or to the person entitled to be paid the rent or charge for the room for hire in the tourist home, inn, club, hotel, motel or other similar place of public accommodation occupied for and on account of the Town of Cortlandt imposing the tax and that such owner or person entitled to be paid the rent or charge shall be liable for the collection and payment of the tax; and that such owner or person entitled to be paid the rent or charge shall have the same right in respect to collecting the tax from the person occupying the room for hire in the tourist home, inn, club, hotel, motel or other similar place of public accommodation, or in respect to nonpayment of the tax by the person occupying the room for hire in the tourist home, inn, club, hotel, motel or similar place of public accommodation, as if the taxes were a part of the rent or charge and payable at the same time as the rent or charge.
- C. **Exemptions:** The following shall be exempt from Occupancy Taxation in the Town of Cortlandt:
  - 1. The State of New York, or any public corporation (including a public corporation created pursuant to agreement or compact with another state or the Dominion of Canada), improvement district or other political subdivision of the state;
  - 2. The United States of America, insofar as it is immune from taxation;
  - 3. Any corporation or association, or trust, or community chest, fund or foundation organized and operated exclusively for religious, charitable or educational purposes, or for the prevention of cruelty to children or animals, and no part of the net earnings of which inures to the benefit of any private shareholder or individual and no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation; provided, however, that nothing in this paragraph shall include an organization operated for the primary purpose of carrying on a trade or business for profit, whether or not all of its profits are payable to one or more organizations described in this paragraph.
  - 4. A permanent resident of a hotel or motel. For the purposes of this section, the term "permanent resident" shall mean a natural person occupying any room or rooms in a hotel or motel for at least thirty consecutive days.

## **Section 3: Collection Procedure**

- A. Within thirty days of the adoption of the enabling Local Law, all Hotels as defined in this Local Law shall return a copy of the Certificate of Registration on a form prescribed by the Town Comptroller.

- B. All Operators of Hotels shall submit returns showing amounts owed to the Town for the previous month by the fifth day of each month. Payment shall be received by the Town Comptroller on the tenth day of each month for all revenue owed to the Town from occupancy tax collected for the preceding month.
- C. All revenues resulting from the imposition of the tax under the local laws shall be paid into the treasury of the Town of Cortlandt and shall be credited to and deposited in the general fund. Such revenues may be used for any lawful purpose.
- D. All new Hotels completed after the effective date of this Local Law shall file the Certificate of Registration with the Comptroller prior to receiving a Certificate of Occupancy.
- E. Except in the case of a willfully false or fraudulent return with intent to evade the tax, no assessment of additional tax shall be made after the expiration of more than three years from the date of the filing of a Return, provided, however, that where no Return has been filed as provided by law the tax may be assessed at any time.

#### **Section 4: Penalties for Offenses**

- A. Any Operator failing to file a Return shall pay a penalty of \$100 for each day that the Return is late, which may be waived by the Town Comptroller.
- B. Any tax due shall be subject to a penalty of 5% of the amount of tax due per month, compounded monthly on the 11<sup>th</sup> day of each month, or any fraction of a month to a maximum of a 25% for taxes owed for each twelve-month period. Upon Application, the Town Board may waive by resolution any penalties if the Town Board decides a penalty waiver is authorized by compelling, extenuating circumstances.

#### **Section 5: Appeals Procedure**

Any final determination of the amount of any tax payable hereunder shall be reviewable for error, illegality or unconstitutionality or any other reason whatsoever by a proceeding under article seventy-eight of the civil practice law and rules if application therefore is made to the Supreme Court within thirty days after the giving of notice of such final determination, provided, however, that any such proceeding under Article Seventy-Eight of the Civil Practice Law and Rules shall not be instituted unless:

- a. The amount of any tax sought to be reviewed, with such interest and penalties thereon as may be provided for by local laws or regulations shall be first deposited and there shall be filed an undertaking, issued by a surety company authorized to transact business in this State and approved by the Superintendent of Financial Services of this State, in such amount as a Justice of the Supreme Court shall approve to the effect that if such proceeding be dismissed or the tax confirmed the petitioner will pay all costs and charges which may accrue in the prosecution of such proceeding; or
- b. At the option of the petitioner, such undertaking may be in a sum sufficient to cover the taxes, interest and penalties stated in such determination plus the costs and

charges which may accrue against it in the prosecution of the proceeding, in which event the petitioner shall not be required to pay such taxes, interest or penalties as a condition precedent to the application.

**Section 6: Refund**

Where any taxes imposed hereunder shall have been erroneously, illegally, or unconstitutionally collected and application for the refund therefore duly made to the proper fiscal officer or officers, and such officer or officers shall have made a determination denying such refund, such determination shall be reviewable by a proceeding under Article Seventy-Eight of the Civil Practice Law and Rules, provided, however, that such proceeding is instituted within thirty days after the giving of the notice of such denial, that a final determination of tax due was not previously made, and that an undertaking is filed with the proper fiscal officer or officers in such amount and with such sureties as a Justice of the Supreme Court shall approve to the effect that if such proceeding be dismissed or the taxes confirmed, the petitioner will pay all costs and charges which may accrue in the prosecution of such proceeding.

**Section 3: Severability**

If any provisions of this Local Law are held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, the remaining provisions of the local law shall remain in effect.

**Section 4: Effective Date**

This Local Law shall take effect immediately upon filing with the Secretary of State.

**BY ORDER OF THE TOWN BOARD  
OF THE TOWN OF CORTLANDT  
LAROUE ROSE SHATZKIN  
TOWN CLERK**

**Adopted February 11, 2025  
At a Regular Meeting  
Held at Town Hall**