

TOWN OF VIENNA ROOM TAX ORDINANCE

ORIGINAL

ORDINANCE NO. 12-15-2014

AN ORDINANCE FOR COLLECTION OF TAX ON OVERNIGHT LODGING

WHEREAS, Section §66.0615 provides that a municipality may adopt a resolution imposing a tax on the privilege of furnishing, at retail, rooms or lodging to transients by hotel keepers, motel operators and other persons furnishing accommodations that are available to the public; and,

WHEREAS, if a tax is imposed under this statute, the municipality must spend at least 70% of the room tax collected on tourism promotion and development, as defined in Section §66.0615 (1) (fm), and that the remaining amount may be devoted to supporting tourist services, events or for other purposes; and,

WHEREAS, the Town of Vienna has had a room tax since 2002 and it is in need of updating.

NOW THEREFORE, the Town Board of the Town of Vienna hereby enacts the following ordinance.

Sec. 1. Definitions.

In this chapter, the following shall apply:

Gross receipts has the meaning as defined in Wis. STAT. §76.48(d):

"Gross receipts" means total revenue received from the retail furnishing of rooms, lodging, or similar accommodations by a hotel or motel as defined herein.

Hotel and motel have the meaning as defined in Wis. STAT. §77.52(2) (a)1:

"Hotel and motel" means a building or a group of buildings in which the public may obtain accommodations for a consideration, including, without limitation, such establishments as inns, motels, tourist homes, tourist houses or courts, bed and breakfast establishments, lodging houses, rooming houses, summer camps, apartment hotels, resort lodges and cabins, commercial indoor lodging facilities and any other building or group of building in which accommodations are available to the public, except accommodations rented for a continuous period of more than 30 consecutive days and accommodations furnished by any hospitals, sanitariums or nursing homes or by corporations or associations organized and operated exclusively for religious, charitable or educational purposes provided that no part of the net earnings of such corporations and associations inures to the benefit of any private shareholder or individual.

"*Municipality*" means the Town of Vienna, Dane County, Wisconsin

"*Payor*" means the person or entity who owes the tax imposed by this article.

"*Room tax*" means the tax imposed by this Ordinance.

Tourism has the meaning as defined in Wis. STAT. §66.0615(1) (e):

“Tourism” means any travel for recreational, business or educational purposes.

Transient has the meaning as defined in WIS. STAT. §77.52(2) (a)1:

“Transient” means any person residing for a continuous period of less than 30 consecutive days in a hotel, motel, or other furnished accommodations available to the public.

“*Tourism Commission*” means a nonprofit organization that provides staff, development or promotional services for the tourism industry in the municipality, and as one of its primary purposes the generation of paid overnight stays. The tourism commission must have a governing board comprised of over 50% representation from the area's restaurants, drinking places, gift/souvenir shops, hotels, motels, bed and breakfasts, tourist rooming houses, public golf courses, amusement parks or other tourist attractions; 25% or more of the total board must be owner's or operators of room tax paying lodging establishments.

Tourism promotion and development has the meaning as defined in WIS. STAT. §66.0615 (1) (fm):

“Tourism promotion and development” means any of the following that are significantly used by transient tourists and reasonably likely to generate paid overnight stays at more than one establishment on which a room tax may be imposed, that are owned by different persons and located within the municipality; or, if the municipality has only one such establishment, reasonably likely to generate paid overnight stays in that establishment:

1. Marketing projects, including advertising media buys, creation and distribution of printed or electronic promotional tourist materials, or efforts to recruit conventions, sporting events, or motorcoach groups.
2. Transient tourist informational services.
3. Tangible municipal development, including a convention center.

Sec. 2. Imposition of room tax.

Pursuant to WIS. STAT. §66.0615, a tax is hereby imposed on the privilege and services of furnishings, at retail, of rooms or lodging to transients by hotel keepers, motel operators and other persons furnishing accommodations that are available to the public, irrespective of whether membership is required for the use of the accommodations. Such tax shall be at the rate of 5% percent of the gross receipts from such retail furnishing of rooms or lodgings. Such tax shall not be subject to the selective sales tax imposed by WIS. STAT. §77.52 (2) (a) 1, and may not be imposed upon sales to the federal government and persons listed under WIS. STAT. §77.54 (9a).

Sec. 3. Distribution of room taxes collected.

Upon receipt of the room taxes that are collected, the Town shall distribute 70% of the room taxes to the Tourism Commission.

Sec. 4. Creation and duties of Tourism Commission:

A. The Tourism Commission shall consist of five members who shall be appointed by the Town Chairman with approval of the Town Board. The Tourism Commission will consist of the following personnel:

- (1) Two representatives from the local lodging industry;
- (2) The Town Clerk;
- (3) Two representatives from local businesses.
- (5) Each member's term will be for a one year period and each member may serve multiple terms.

B. The Tourism Commission shall spend the room taxes on tourism promotion and development.

C. The Tourism Commission shall not use any of the room tax revenue to construct or develop a lodging facility

Sec. 5. Tracking and reporting room tax revenue expenditures:

The Tourism Commission shall track the use of room tax revenue expenditures and state its impact on generating paid over night stays in the community. The Tourism Commission shall permit and allow inspections of its records pertaining to the use of the room tax funds upon request of the Tourism Commission at reasonable times. The Tourism Commission shall provide a written report as determined by the Tourism Commission, no less than annually, and such report shall be available to the Municipality and general public upon request.

Sec. 6. Collection of tax.

A. The collection of the tax imposed by this article shall be administered by the Town Treasurer. The tax imposed is due and payable on the last day of the month next succeeding the calendar quarters for which imposed. A return shall be filed with the town treasurer, by those furnishing at retail such rooms and lodging, on or before the same date on which the tax is due and payable. Such return shall show the gross receipts of the preceding calendar quarters from such retail furnishings of rooms or lodging, the amount of taxes imposed for such period, and such other non-confidential information as the city treasurer deems reasonably necessary. Every person required to file such a quarterly return shall, with their first return, elect to file an annual calendar or fiscal year return. Such annual return shall be filed within 90 days of the close of each such calendar or fiscal year. The annual return shall summarize the quarterly returns, reconcile and adjust for errors in the quarterly returns, and shall contain such additional non-confidential information as the city treasurer requires. Such annual returns shall be made on forms as prescribed by the city treasurer. All such returns shall be signed by the person required to file a return or his/her duly authorized agent, but

need not be verified by oath. The town treasurer may, for good cause, extend the time for filing any return, but in no event longer than one month from the filing date.

B. The correct amount of tax shall accompany each quarterly tax return and be made payable to the town.

Sec. 7. Sale or conveyance of business.

If any person liable for any amount of tax under this section sells out their business or stock of goods or quits the business, their successors or assigns shall withhold sufficient of the purchase price to cover such amount until the former owner produces a receipt from the city treasurer that it has been paid or a certificate stating that no amount is due. If [any] person subject to the tax imposed by this section fails to withhold such amount of tax from the purchase price as required, they shall become personally liable for payment of the amount required to be withheld by them to the extent of the price of the accommodations valued in money.

Sec. 8. Determination of tax by audit.

A. The town treasurer may, by office audit, determine the tax required to be paid to the town or the refund due to any person under this chapter. This determination may be made upon the basis of the facts contained in the return being audited or on the basis of any other information within the city treasurer's possession. One or more such office audit determinations may be made of the amount due for anyone or for more than one period.

B. The town treasurer may, by field audit, determine the tax required to be paid to the town or the refund due to any person under this chapter. The determination may be made upon the basis of the facts contained in the return being audited or upon any other information within the city treasurer's possession. Whenever the town treasurer has probable cause to believe that the correct amount of room tax has not been assessed or that the tax return is not correct, the town treasurer is authorized to examine and inspect the financial records pertaining to the furnishing of accommodations at the establishment in question in order to verify the tax liability of that person or of another person.

Sec. 9. Failure to file Room Tax Return.

If any person fails to file a return by this chapter, the town treasurer shall make an estimate of the amount of the gross receipts under subsection 6. Such estimate shall be made for the period for which such person failed to make a return and shall be based upon any information which is in the town treasurer's possession or may come into his/her possession. On the basis of this estimate, the town treasurer shall compute and determine the amount required to be paid to the city. One or more such determinations may be made for one or more than one period.

Sec. 10. Forfeiture relating to failing to comply with a request to inspect and audit the person's financial records and failing to file returns timely.

- A. A forfeiture, not to exceed 5 % of the room tax, may be imposed on a person who fails to comply with a request to inspect and audit the person's financial records.
- B. Require the person who is subject to pay an amount of taxes that is due to pay said tax plus interest at the rate of 1% per month on the unpaid balance. No refund or modification of the payment determined may be granted until the person files a correct room tax return, and permits the municipality to inspect and audit his or her financial records.
- C. A forfeiture, not to exceed 25 % of the room tax due for the previous year or \$5,000.00, whichever is less, of the tax imposed, may be imposed in the event that the room tax is not paid.

Sec. 11. Record keeping requirements.

Every person liable for the tax imposed by this ordinance shall keep or cause to be kept such records, receipts, invoices and other pertinent papers relating to the payment of room taxes in such form as the city treasurer requires.

Sec. 12. Confidentiality of tax returns.

A. All tax returns, schedules, exhibits, writings or audit reports relating to such returns, on file with the city treasurer are deemed to be confidential, except the city treasurer may divulge their contents to the following, and no others:

- (1) The person who filed the return.
- (2) Employees or agents of the town treasurer or other persons for use in the discharge of the duties of their office (unless otherwise prohibited by law), or by order of a court.

B. No person having an administrative duty under this section shall make known in any manner the business affairs, operations or information obtained by an investigation of records or any person on whom a tax is imposed by this article, or the amount of source of income, profits, losses, expenditures, or any particular thereof, set forth or disclosed in any return, or to permit any return or copy thereof to be seen or examined by any person, except as otherwise provided in this ordinance.

- (1) Persons violating this confidentiality subsection may be required to forfeit not less than \$100 nor more than \$500.

Sec. 13. Effective Date.

This Ordinance shall become effective on January 1, 2015.

The above and foregoing Ordinance was duly adopted at a regular meeting of the Town Board of the Town of Vienna on the 15th day of December, 2014.

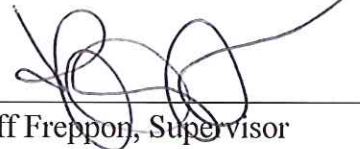
TOWN OF VIENNA



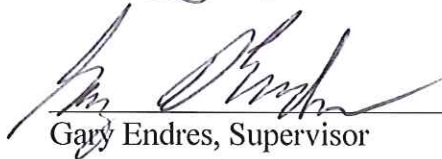
Lonnie Breggeman, Chairperson



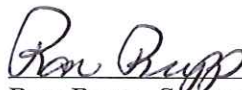
Dave Ripp, Supervisor



Jeff Freppon, Supervisor



Gary Endres, Supervisor



Ron Rupp, Supervisor

ATTEST:



Shawn Haney, Town Clerk