

TOWN OF GARDINER OCCUPANCY TAX LAW

Proposed amendments to Sections 7, 9, 15 and 17 — redline

Proposed amendments shown as Word tracked changes.

SECTION 1. AUTHORITY

This Local Law is adopted pursuant to the authority granted to the Town of Gardiner by Section 1202-II of the New York State Tax Law.

SECTION 2. LEGISLATIVE INTENT

The Town Board finds that visitors utilizing transient lodging facilities within the Town benefit from municipal services and infrastructure. The purpose of this Local Law is to ensure visitors contribute a fair share toward municipal services, assist with tourism related costs, and establish a transparent occupancy tax system.

SECTION 3. IMPOSITION OF TAX

A tax is imposed upon every occupant of a taxable lodging facility. The tax rate shall be four percent (4%) of the per diem rent charged for occupancy of a Lodging Facility and/or tourist facility, exclusive of separate state, county, and local sales and occupancy tax.

SECTION 4. DEFINITIONS

Lodging Facility includes any building, structure, or portion thereof used or intended for occupancy for sleeping purposes by guests, including but not limited to hotels, motels, inns, bed and breakfast establishments, short-term rentals, tiny homes, bungalows, lodges, cabins, cottages, and RVs (mobile or immobile) provided by the Operator, including all of the above located within tourist facilities. Lodging Facility also includes domes and tents in which electrical service is provided.

Occupant means any person occupying a lodging unit for consideration.

Operator means any person or entity providing a lodging facility, including the owner, manager, lessee, sublessee, mortgagee in possession, licensee, booking agent, or any other person receiving consideration for occupancy otherwise operating such facility.

Permanent Resident means a person occupying one or more rooms as their principal residence for ninety (90) consecutive days or longer.

RV means recreational vehicles registered for use and capable of mobility in their current condition.

SECTION 5. EXEMPTIONS

a. 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;

- b. The United States of America, insofar as it is immune from taxation;
- c. 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.
- d. RVs owned by the occupants, tents and domes without electrical service and owner-occupied bed and breakfast establishments containing no more than eight guest sleeping beds.

SECTION 6. REGISTRATION

All Lodging Facilities shall register with the Town of Gardiner annually, including exempt facilities. Registration shall include name of owner, name of Operator, address of owner, address of Operator, contact information for owner and Operator, emergency contact person and phone number, address of Lodging Facility, tax map parcel number of Lodging Facility (Section, Block and Lot), number of rooms available for occupancy, number of lodging units available for occupancy, number of beds available for occupancy, type of accommodations/Lodging Facility, booking platforms utilized (e.g. Airbnb, VRBO, etc.) and/or booking process utilized, including contact information for booking platforms or process, and such other information as may be required by the Town's Occupancy Tax Policy.

Operation of a taxable Lodging Facility without registration with the Town of Gardiner constitutes a violation of the law.

SECTION 7. ADMINISTRATION

The tax imposed by this Local Law shall be administered and enforced by the Town Supervisor, or such other officers, employees or agent as may be designated by resolution of the Town Board. No agent or contractor shall receive information covered by Section 15 until it has agreed in writing to comply with that Section.

The Town Board is hereby authorized to adopt by resolution an Occupancy Tax Policy governing the administration, collection, reporting and enforcement of this tax.

SECTION 8. COLLECTION OF TAX

The operator shall collect the tax from the occupant and remit it to the Town along with all required returns.

SECTION 9. RETURNS AND REMITTANCE

Returns shall be filed quarterly and shall be due on March 20, June 20, September 20 and December 20 of each year, covering the three-month periods ending on the last day of February, May, August and November, respectively. ~~April 20, July 20, October 20 and January 20 of each year, covering the periods of the first, second, third, and fourth calendar quarter, respectively.~~
Returns shall be submitted on forms prescribed by the Town. Returns shall be submitted even if no tax is due. A return shall include the operator's identifying information, a certification, and

Commented [1]: Aligns reporting periods and payment deadlines with the existing Ulster County occupancy tax to reduce duplicative administrative work.

the dollar amounts needed to compute and reconcile the tax. It shall not require guest names, reservation details, or other guest-level information. Records needed to verify a return remain available under Section 11.

SECTION 10. RECORD RETENTION

Records and administrative forms shall be maintained for six years.

SECTION 11. AUDITS

The Town may conduct audits upon reasonable notice. Operators shall make available all books, records, reservations, receipts, and related documents necessary to verify tax compliance.

SECTION 12. PENALTIES

Any tax not timely paid shall be subject to a penalty equal to ten percent (10%) of the unpaid amount, together with interest, at the rate of one percent (1%) per month or fraction thereof not to exceed twenty five percent [25%] per annum. Failure to file the required return may constitute a violation of this Local Law.

SECTION 13. ENFORCEMENT

The Town may maintain an action in any court of competent jurisdiction to recover unpaid taxes, penalties, interest, costs, and reasonable attorney's fees where authorized by law.

SECTION 14. FALSE STATEMENTS

No person shall knowingly provide false information in any registration, return or report required by this Local Law.

SECTION 15. CONFIDENTIALITY OF TAX RECORDS

Information obtained through tax returns and audits shall be confidential except as required by law, court order, audit, enforcement proceedings, FOIL, or other lawful governmental purpose. The Town shall protect information collected through registration, tax returns and audits to the fullest extent allowed by law. It shall use applicable exemptions under Public Officers Law Section 87(2) to protect nonpublic business information and personal privacy, while releasing any portions of a record that can be separated and are not exempt.

Access for tax administration, enforcement or legally authorized financial oversight shall be limited to the information reasonably needed for those purposes.

Before releasing nonpublic information about an operator or its guests for any other purpose, the Town shall give the operator written notice. The notice shall identify the information and the proposed release date. Notice is not required if the law prohibits it. The Town shall give the operator 15 business days after receipt of the notice to object or to seek a court order blocking release, unless a shorter period is required by FOIL, other law, or a court order.

In a public report that the law does not require, the Town shall not reveal an operator's nonpublic tax return information, directly or through figures from which that information could reasonably be determined.

Nothing in this Section permits the Town to withhold information or delay disclosure when disclosure is required by law or court order.

SECTION 16. SEVERABILITY

If any provision of this Local Law shall be adjudged invalid, such judgment shall not affect or impair the validity of the remainder thereof.

SECTION 17. EFFECTIVE DATE

This Local Law shall take effect immediately upon filing with the Secretary of State; the tax imposed herein shall take effect 60 days after said effective date. The tax shall not apply to a stay, or the part of a stay, that occurs within 12 months after the tax takes effect, if the reservation was confirmed in writing before this Local Law takes effect.