

**TOWN OF LAFAYETTE
CHIPPEWA COUNTY
STATE OF WISCONSIN
ORDINANCE 2019-02**

ROOM TAX ORDINANCE

The Town Board of the Town of Lafayette, Chippewa County, Wisconsin hereby ordains as follows:

A. PURPOSE

Section 66.0615, Wis. Stats., authorizes the imposition of a tax on the privilege of furnishing, at retail, except sales for resale, rooms or lodging to transients by hotelkeepers, motel operators, lodging marketplaces, owners of short-term rentals, and other persons furnishing accommodations that are available to the public, irrespective of whether membership is required for use of the accommodations.. The Town Board finds that such a tax furthers the public interest of promoting tourism development in the Town.

B. DEFINITIONS

The following definitions shall be applicable in this ordinance:

- (1) “Gross receipts” means total revenue received from the retail furnishing of rooms, lodging, or similar accommodations by a hotel or motel as defined herein.
- (2) “Hotel” has the meaning as defined in Wis. Stats. §66.0615(1)(b).
- (3) “Lodging marketplace” has the meaning as defined in Wis. Stats. §66.0615(1)(bs).
- (4) “Motel” has the meaning as defined in Wis. Stats. §66.0615(1)(c).
- (5) “Short-term rental” has the meaning defined in Wis. Stats. §66.0615(1)(dk).
- (6) “Tourism” has the meaning as defined in Wis. Stats. §66.0615(1)(e).
- (7) “Tourism entity” has the meaning as defined in Wis. Stats. §66.0615(1)(f).
- (8) “Tourism promotion and development” has the meaning as defined in Wis. Stats. §66.0615(1)(fm).
- (9) “Transient” has the meaning as defined in Wis. Stats. §66.0615(1)(g).

C. IMPOSITION OF ROOM TAX

Pursuant to Wis. Stats. §66.0615, a tax is imposed on the privilege and service of furnishing, at retail, of rooms or lodging to transients by hotel keepers, motel operators lodging marketplaces, owners of short-term rentals, and other persons furnishing accommodations that are available to the public, irrespective of whether membership is required for use of the accommodations. Such tax shall be at a rate of 6% 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. Stats. §77.54 (9a).

D. COLLECTION OF ROOM TAX

(1) This collection of tax imposed by this ordinance shall be administered by the Town Treasurer. The tax imposed for each calendar quarter is due and payable on the fifteenth (15th) day of the month next succeeding the calendar quarter 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 such tax is due and payable. Such return shall show the gross receipts of the preceding quarter from such retail furnishing of rooms or lodging, the amount of taxes imposed for such period, and such other information as the Town Treasurer deems necessary. Every person required to file such quarterly return shall, with the submission of the first return, elect to file an annual calendar year or fiscal year return. Such annual return shall be filed within thirty days of the close of each such calendar or fiscal year. The annual return shall summarize the monthly/quarterly returns, reconcile and adjust for errors in the monthly/quarterly returns, and shall contain such additional information as the Town Treasurer requires. Such annual returns shall be made on forms as prescribed by the Town Treasurer. All such returns shall be signed by the person required to file a return or 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.

(2) The correct amount of tax shall accompany each quarterly tax return and be made payable to the Town.

E. DISTRIBUTION OF ROOM TAX AND TOURISM COMMISSION

(1) Upon receipt of the room taxes that are collected, the Town shall distribute Thirty Percent (30%) to the Town's general fund. Seventy Percent (70%) shall be deposited into a segregated fund for the Town Parks, Recreation, Tourism, & Land Use Planning Commission (the "Tourism Commission"). Collectively, the Tourism Commission and the Tourism Entity shall spend 70% of the room taxes collected by the Town on tourism promotion and development. Disbursement of the remaining collected room taxes shall be approved by the Town Board. The Tourism Commission shall include a member to represent the lodging industry. The Town Chair shall appoint a member of the Tourism Commission to represent tourism stakeholders in the Town, which shall be approved by majority vote of the Town Board, and which representative shall be reappointed annually.

(2) The Tourism Commission shall contract with the Tourism Entity who shall spend the room taxes on tourism promotion and development. The Tourism Commission shall distribute One-Half (35% of total room taxes collected by the Town) of the room taxes to the Tourism Entity which has contracted with the Town.

(3) The Tourism Commission and Tourism Entity, with whom it contracts, shall not use any of the room tax revenue to construct or develop a lodging facility.

F. ROOM TAX PERMIT

(1) No person shall operate a lodging facility in the Town without first obtaining a room tax permit for each lodging facility. Application shall be made to the Town Treasurer on forms provided by

the Town Treasurer. The application shall set forth the name under which the applicant transacts or intends to transact business, the location of the principal place of business, and such other information as the Treasurer requires. The application shall be signed by the owner, if a sole proprietor, or the person authorized to act on behalf of such applicant, if the applicant is an entity. If the applicant is not the owner of the property subject to the lodging facility, the applicant shall include a guaranty signed by the owner assuring payment of any room tax collected by the applicant. In lieu of any guaranty, the applicant may post a bond, issued by a bonding company in a form acceptable to the Town Treasurer, in an amount equal to the estimated gross annual room tax to be collected for the respective lodging facility. The Town Treasurer shall issue a permit to the person for each lodging facility for which application on is made upon payment of a Ten Dollars (\$10.00) fee for each lodging facility. The permit is nontransferable and is valid only for the named lodging facility and the person or entity named in said permit. The permit shall be posted in a conspicuous place in the lodging facility for which it is issued.

(2) In the event the person ceases to do business at the lodging facility for which the permit was issued or conveys or transfers the business or person's interest in it, or assigns the interest to another person, the person shall, within ten (10) days of such event, notify the Town Treasurer of such change and return to the Town Treasurer any such permit issued for the lodging facility.

G. REVOCATION OR SUSPENSION

Whenever any person fails to comply with this ordinance, the Town Treasurer may, upon ten (10) days' notification after affording such person the opportunity to show cause why the permit should not be revoked, revoke or suspend any or all of the permits held by such person. The Town Treasurer shall give to such person written notice of the suspension or revocation of any affected permits. The Town Treasurer shall not issue a new permit after the revocation of a permit unless the Town Treasurer is satisfied that the former holder of the permit will comply with the provisions of this ordinance. A fee in the amount of ten dollars (\$10.00) shall be imposed for the renewal or issuance of a permit which has been previously suspended or revoked.

H. 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, his/her successors or assigns shall withhold sufficient amounts of the purchase price to cover such amount until the former owner produces a receipt from the Town 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 Paragraph fails to withhold such amount of tax from the purchase price as required, he/she shall become personally liable for payment of the amount required to be withheld by them, which shall not exceed the value of the purchase price subject to the respective sale.

I. DETERMINATION OF TAX BY AUDIT

(1) 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 ordinance. 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 Town 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.

(2) 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 ordinance. The determination may be made upon the basis of the facts contained in the return being audited or upon any other information within the Town 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.

J. REQUIRED RECORDS

Every person holding a permit under this ordinance shall, for a period of two (2) calendar years, maintain and make available for inspection at the request of the Town Treasurer, the account books, records, receipts, invoices and similar records relating to the payment of room taxes in such form as the Town Treasurer requires. The Town Treasurer may, upon audit of returns, records and other information received, determine the tax to be paid or refunded. An appeal from any additional tax imposed may be made by the any person holding a permit under this ordinance upon written notice to the Town Treasurer within twenty (20) days following the date that notice of the assessment is mailed to such person. The Town Board shall hold a hearing on such appeal within thirty (30) days after the Town Treasurer receives the notice of appeal and shall grant or deny said appeal.

K. FAILURE TO FILE RETURN; ESTIMATE

If any person fails to file a return as required by this ordinance, the Town Treasurer shall make an estimate of the amount of the gross receipts under Paragraph C. 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 the Town Treasurer's possession. On the basis of this estimate, the Town Treasurer shall compute and determine the amount required to be paid to the Town. One or more such determinations may be made for one or more than one period.

L. FORFEITURE RELATING TO FAILURE TO COMPLY WITH REQUEST TO INSPECT AND AUDIT THE PERSON'S FINANCIAL RECORDS AND FAILING TO FILE RETURNS TIMELY

(1) The Town may impose a forfeiture, not to exceed 5% of the room tax, on a person who fails to comply with a request to inspect and audit the person's financial records.

(2) The Town may 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.

(3) A forfeiture, not to exceed 25% of the room tax due for the previous year or \$3,000.00, whichever is less, of the tax imposed, may be imposed in the event that the room tax is not paid.

(4) Enforcement of this ordinance under this Paragraph shall include costs of prosecution. Each violation and each day a violation continues or occurs shall constitute a separate offense.

M. CONFIDENTIALITY OF TAX RETURNS

(1) All tax returns, schedules, exhibits, writings or audit reports relating to such returns, on file with the Town Treasurer, are deemed to be confidential, except the Town Treasurer may divulge their contents to the following, and no others:

(a) The person who filed the return.

(b) Persons using the information in the discharge of duties imposed by law or of the duties of their office.

(c) By order of a court.

(2) No person having an administrative duty under this Paragraph, or designee(s) having knowledge of any tax return, shall make known in any manner the business affairs, operations or information obtained by an investigation of records of any person on whom a tax is imposed by this ordinance, or the amount or 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 provided in this Paragraph.

N. SEVERABILITY

In the event any portion of this ordinance is or becomes invalid or illegal, the remaining portions shall remain in full force and effect.

O. EFFECT

This ordinance is effective on publication or posting. The Town Clerk shall properly post or publish this ordinance as required under s. 60.80, Wis. stats.

Adopted this _____ day of _____, 2019.

Town Board:

David Staber

Jeff Peck

Tom Larson

Dave Hunt

Sharon McIlquham

Attest:

Laura Konwinski, Clerk