

CHAPTER 25

SPECIAL TAXES

25.01 ROOM TAX - HOTEL AND MOTEL.

A. Definitions.

The following definitions shall apply in the interpretation and enforcement of this section:

Hotel or **Motel** means a building or group of buildings in which the public may obtain accommodations for a consideration, including, without limitation, such establishments as inns, motels, hotels, tourist rooms, tourist houses or courts, lodging houses, rooming houses, summer camps, apartment hotels, resort lodges and cabins, and any other building in which accommodations are available to the public, except: (1) accommodations rented for a continuous period of more than one month, and (2) accommodations furnished by hospitals, sanatoriums, or nursing homes, or by corporations or associations organized and operated exclusively for religious, charitable or educational purposes, provided no part of the net earnings of such corporations and associations inure to the benefit of any private shareholder or individual.

Gross Receipts has the meaning, insofar as applicable, as defined in Section 77.51 (4)(a), (b) and (c), Wis. Stats.

Customer as used in this chapter, means any person residing for a continuous period of time less than one month in a hotel, motel or furnished accommodation available to the public.

Person Responsible means the sole owner of a business subject to this chapter, the partners if a partnership owns a business subject to this chapter, or the corporate president, designated general manager or agent if a corporation owns a business subject to this chapter.

B. Room Tax Imposed.

Pursuant to Section 66.75, Wis. Stats., a room tax is imposed on the privilege of furnishing at retail rooms or lodging to customers 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 8% of the gross receipts from such retail furnishing of rooms or lodging. Such tax shall be collected from the customer when the customer's bill is paid, and shall be paid by the person responsible to the Clerk-Treasurer on a monthly basis. Such tax shall not be subject to the selective sales tax imposed by Section 77.52(2), Wis. Stats. The proceeds of such tax shall be remitted monthly so as to be received by the Clerk-Treasurer on or before the 20th day of the month following the month in which the tax was collected.

C. Permit.

Every person furnishing rooms or lodging under Section B, above, shall file an application with the Clerk-Treasurer for a room tax identification number for each place of business. Every application shall be submitted upon a form prescribed by the Clerk-Treasurer which shall set forth the name of the applicant, the name under which the applicant intends to transact business, the location of the place of business, and such other information as the Clerk-Treasurer requires. The application shall be signed by the person responsible as defined in this ordinance. No person, firm or corporation shall provide lodging to any customer in any hotel or motel, without having a valid permit and room tax identification number in accordance with the provisions of this ordinance.

D. Tax Number.

The Clerk-Treasurer shall issue to each applicant a separate number for each place of business within the Village. Such number is not assignable, is valid only for the person in whose name it is issued, and may be used only for the collection of the room tax at the place designated therein.

E. Records to be Kept.

Every person liable for the tax imposed by this section shall keep or cause to be kept such records, receipts, invoices and other pertinent papers in such form as the Clerk-Treasurer requires.

F. Filing of Returns.

- (1) A monthly return shall be filed with the Clerk-Treasurer, by each person responsible subject to Section B above, on or before the day on which such tax is due and payable. Such return shall show the gross receipts of the preceding calendar month from such retail furnishing of rooms or lodging, the amount of tax imposed for such period, and such other information as the Clerk-Treasurer deems necessary to administer this section.
- (2) An annual return shall be filed on or before March 31st for the preceding calendar year and shall contain such information as the Clerk-Treasurer requires to administer this section. Each return shall be signed by the person responsible, or an authorized agent, but need not be verified by oath. The Clerk-Treasurer, for good cause, may extend the time of filing any annual return, but not longer than 30 days from the filing date.
- (3) If any person required to make a return fails, neglects or refuses to do so for the amount and in the manner, form and time prescribed herein, the Clerk-Treasurer, according to his or her best judgment, shall determine the amount of the tax due the Village and make an assessment upon the person responsible. Each person whose tax is determined by the Clerk-Treasurer shall pay the amount so determined plus

simple interest at the rate of 1% per month on the unpaid balance from the due date of the return until the date paid. No refund or modification of the payment as determined by the Clerk-Treasurer may be granted until the person files a correct room tax return and permits the Clerk-Treasurer or an authorized agent to inspect and audit the records of the business, as required to be kept in Section E above.

- (4) In addition to any other forfeiture provided herein, whether imposed or not, a forfeiture of \$100.00 is hereby imposed upon and shall be collected from, each person responsible who fails to file the return required by Section F(1) and/or Section F(2) above, when, where and in the form required, as herein provided.

G. Clerk-Treasurer's Right of Inspection and Audit.

- (1) Whenever the Clerk-Treasurer has probable cause to believe that the correct amount of room tax has not been assessed upon and collected from customers, or that the tax return is not correct, the Clerk-Treasurer may cause an inspection and audit of the financial records of any person who is hereby required to collect the tax, to determine whether or not the correct amount of room tax is assessed, collected and paid according to this ordinance.

- (2) In the event any person required to collect the tax, fails to comply with a request by the Clerk-Treasurer or an authorized agent to permit him or her to inspect and audit the person's financial records as above, such person, upon conviction of a failure to comply with such request, shall forfeit an amount of 5% of the tax due the Village at the time of the audit.

H. Confidentiality.

Information obtained under this section shall be confidential, except that the Clerk-Treasurer may provide information to persons using the information, such as room tax commissioners, in the discharge of duties imposed by law or the duties of their office, or when otherwise directed by order of a court. The Clerk-Treasurer may publish statistics classified so as not to disclose the identity of particular returns. Any person who violates any provision of this subsection shall forfeit not less than \$100.00 nor more than \$300.00.

I. Administration and Payment of Taxes.

This chapter shall be administered by the Clerk-Treasurer. The tax imposed for a month is due and payable on the 20th day of the month following the month in which the tax is collected from the customer.

J. Failure to Pay Tax When Due.

- (1) In addition to the forfeitures elsewhere provided in this ordinance, and the tax due under this chapter, a forfeiture of 25% of the room tax due for the previous year, or \$5,000.00, whichever is less, shall be imposed upon any person responsible who shall be convicted of allowing or permitting the monthly tax imposed hereby to become delinquent under this chapter.
- (2) The tax imposed by this section shall become delinquent if not paid within 30 days after the due date of the return, or within 30 days after the expiration of an extension period if one has been granted. If a return is filed late, or if no return is filed, the due date for payment of the taxes imposed is the due date of the return.
- (3) In order to protect the revenue due the Village, the Clerk-Treasurer shall require any person responsible who is liable for the tax imposed by this section, who fails to pay the tax as herein required, to file with the Clerk-Treasurer before or after the permit is issued, such security, not in excess of \$5,000.00 cash or a surety bond equal to the prior month's tax, as the Clerk-Treasurer shall determine. If any person responsible fails or refuses to file such security, the Clerk-Treasurer may refuse or revoke the permit. If any person responsible is delinquent in the payment of the taxes or any forfeiture imposed by this section 25.01, the Clerk-Treasurer may, upon 10 days' notice and after giving the person responsible an opportunity to confer, recover the taxes, interest and forfeitures from the security or surety deposited with the Clerk-Treasurer by such person responsible. No interest shall be paid or allowed by the Village to any person for the deposit of such security.

K. Application of Revenue.

- (1) That of the room tax collected under this ordinance:
 - (a) 96% shall be paid for tourism promotion and development as provided in the Cooperation Agreement between the cities of Green Bay and De Pere, the Villages of Allouez, Ashwaubenon and Howard, Brown County, the Oneida Tribe of Indians of Wisconsin, the green Bay Area Room Tax Commission, the Redevelopment Authority of the City of Green Bay, and the Community Development Authority of the Village of Ashwaubenon, as initially stated and as the same may hereafter be amended from time to time.
 - (b) 4% shall be retained by the Village for its administrative costs, and deposited in the General fund.
- (2) The escrow account established at subparagraph (b) shall be held until there first be established a "Commission" to coordinate tourism promotion and development for a "zone", as those terms are defined in Section 66.75(1), Wisconsin Statutes, and as created under Sections 66.30 and 66.75(lm)(c), Wisconsin Statutes, and as may be hereafter

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provided by amendment of this ordinance. Monies shall be disbursed as provided by the Section 66.30 Intergovernmental Cooperation Agreement.

L. Exemptions.

The tax hereby created and imposed is not subject to the selective sales tax imposed by Section 77.52(2)(a)1, Wisconsin Statutes, and shall not be imposed on sales to the federal government, to the State of Wisconsin or any municipality, unit, agency or instrumentality thereof, or an entity listed in Section 77.54(9a), Wisconsin Statutes.