

STATE OF WISCONSIN
TOWN OF WASHINGTON, VILAS COUNTY
CODE OF ORDINANCES

CHAPTER 16: ROOM TAX ORDINANCE

Amended October 2, 2023

16.01 Title and Purpose

The title of this ordinance is the Town of Washington Room Tax Ordinance. The purpose of this ordinance is to impose a tax for the promotion and development of tourism on short-term lodging rental.

16.02 Authority

The Town of Washington has the authority to enact this ordinance under its village powers under §60.22, Wis. Stat. and the specific authority under §66.0615 Wis. Stat.

16.03 Definitions

- A. Gross Receipts has the meaning defined in §77.51(a), insofar as applicable to receipts from furnishing at retail, rooms or lodging to transients by hotel keepers, motel operators, and other owners of lodging marketplaces furnishing lodging available to the public.
- B. Commission means an entity created by one or more municipalities in a zone to coordinate tourism promotion and tourism development for the zone.
- C. Hotel or Motel means a building or group of buildings in which the public may obtain lodging for a consideration including, without limitation, such establishments as inns, motels, tourist homes, tourist houses, rooming houses, summer camps, apartment hotels, resort lodges and cabins, and any other building or group of buildings in which lodging is available to the public, including mobile homes as defined in §66.058(1)(d) Wis. Stats. This definition does not include lodging rented for a continuous period of 30 days or more, lodging furnished by any hospital, sanatorium or nursing home, or by a corporation or association organized and operated exclusively for religious, charitable or educational purposes, provided no part of the net earnings of such corporation or association inures to the benefit of any private shareholder or individual.

- D. Marketplace Provider means any person who facilitates a retail sale by a seller by listing or advertising for sale by the seller, in any manner, tangible personal property, or items, property, or goods as specified in §77.52(1)(b), (c), or (d) Wis. Stats. or a service specified under §77.52(2)(a) Wis. Stats. and, who directly, through agreement or arrangements with 3rd parties, processes the payment from the purchaser for the retail sale, regardless of whether the person receives compensation or other consideration in exchange for the services provided by the person.
- E. Marketplace Seller means a person who sells products through a physical or electronic marketplace operated by a marketplace provider, regardless of whether the seller is required to be registered with the WI Department of Revenue.
- F. Municipality means the Town of Washington, Vilas County, Wisconsin.
- G. Owner means the owner of a short-term rental business subject to the provisions of this chapter.
- H. Person means a natural person, sole proprietorship, partnership, limited liability company, company, corporation, association, or the owner of a single-owner entity that is disregarded as a separate entity under Chapter 71, Wis. Stats.
- I. Room Tax means a tax on the gross receipts derived from furnishing or selling rooms or lodging subject to this chapter.
- J. Rental Property Registration means the annual registration with the Town of all short-term rental properties subject to the provisions of this chapter.
- K. Room Tax Return means a form prescribed and provided by the Town Treasurer for computing and submitting monthly or quarterly payment of the room tax. Such room tax return shall report the gross receipts subject to the room tax hereunder, the amount of the room tax due and shall contain additional information as the Town Treasurer may require on such form.
- L. Short-term Rental means rental of a residential dwelling for fewer than 30 consecutive days.

- M. Transient means any individuals residing for a continuous period of fewer than 30 consecutive days in lodging defined as a hotel or motel in this chapter.
- N. Town means the Town of Washington, Vilas County, WI.
- O. Town Board means the Town of Washington Board of Supervisors.
- P. Treasurer means the Town of Washington Treasurer.
- Q. Wis. Stats. means the Wisconsin Statutes, including successor provisions to cited statutes.

16.04 Imposition of Tax

- A. Room Tax: Pursuant to §66.75, Wis. Stats., the Town Board of the Town of Washington hereby establishes a tax rate of 4.5% to be imposed on any hotel, motel, short-term rental or any other form of renting or lodging in the Town of Washington.

The room tax shall not be applicable to any rental exceeding a period of time of 30(thirty) consecutive days.

The room tax shall not be subject to the selective sales tax imposed by §77.52(2)(a)(I) Wis. Stats. and may not be imposed on sales to the federal government and persons listed under §77.54(9)(a) Wis. Stats.

- B. Package Rates: If lodging is provided as part of a package rate which includes other goods and/or services, such as food, boat and motor, educational instruction, etc., irrespective of whether membership is required for use of the lodging, the room tax shall be applied only to that portion of the package rate representing gross receipts as defined in section 16.03 of this ordinance. The determination of the portion of the package rate representing gross receipts as defined in section 16.03 of this ordinance will be made by the Town Treasurer upon application by the owner or operator of the rental property. In the event the Town Treasurer is unable to determine the portion of the package rate representing the gross receipts as defined in section 16.03 of this ordinance, the Town Treasurer shall refer the determination to the Town Board, which shall make the final determination. The Town Board shall make such determination based on evidence presented to it by the owner or operator of the rental property.
- C. Distribution of Tax: Upon receipt of the room taxes collected, the municipality shall distribute 90% of room taxes to the Eagle River Room Tax Commission and shall retain 10% in the municipality's general fund.

16.05 Requirements for Rentals not Managed by a Marketplace Provider

- A. Annual Rental Property Registration: All short-term rental property within the Town of Washington and subject to the provisions of this ordinance shall annually be registered by the rental owner with the Town Treasurer in a manner prescribed by the Town Treasurer. The deadline for completing the annual registration shall coincide with the deadline for annually obtaining a Wisconsin Lodging License as prescribed in section 72.04(2), Wisconsin Administrative Code. Failure to comply with this provision may result in a penalty as prescribed in section 16.07(C) of this ordinance.

- B. Reporting of Room Taxes: Owners shall file a room tax return and tax payments with the Town Treasurer within 30 days of the end of the applicable quarter. Failure to file this return will result in penalties pursuant to section 16.07 of this ordinance and forfeiture of Room Tax permit.

- C. Timely Filing of Returns: Any return that is filed under provisions of this ordinance that is postmarked by the United States Postal Service on or before the due date shall be considered timely filed. If a return is postmarked after the due date, a delinquent filing fee will be imposed in an amount determined by the Town of Washington Treasurer. Unpaid taxes bear interest of 1% per month from due date, until first day of the month following the month of payment.

- D. Extension of Time to File Returns: The Treasurer may, for good cause, grant an extension of time to file a room tax return or a room tax annual reconciliation return for a period not exceeding 30 days from the date due.

- E. Estimate of Taxes for Failure to File: If an owner fails to file a return as required by this ordinance within 30 days following the due date, the Treasurer shall give such owner written notice of the failure to file. In the event that such owner fails to respond by filing all required returns within 10 days of the date of the notice, the Treasurer shall make an estimate of the amount of the gross receipts under this ordinance. Such estimate shall be made for the period for which such owner failed to file a return, based upon the prior year's returns, if available, or upon any information as the Treasurer to inspect and audit the owner's financial records. Each owner is required to pay room tax determined pursuant to this subsection shall also pay interest at the rate of 1% per month on the unpaid balance.

- F. Record Keeping Requirements: Owners subject to the provisions of this ordinance shall keep or cause to be kept accurate records of gross receipts from furnishing or selling short-term lodging available to the public.
- G. Responsibility for Unpaid Tax: If an owner liable for any amount of tax under this ordinance sells his/her business, stock of goods, or quits the business, the original owner and his/her successors or assigns shall be jointly and severally liable for any unpaid tax due under this ordinance.

16.06 Requirements for Rentals Managed by a Marketplace Provider

- A. Annual Rental Property Registration: All short-term rental property within the Town of Washington and subject to the provisions of this ordinance shall annually be registered by the rental owner with the Treasurer in a manner prescribed by the Treasurer.
- B. Marketplace providers shall collect the tax imposed by the Town on behalf of the marketplace seller or rental property owner and forward it to the Town Treasurer, on a quarterly basis, along with the Wisconsin Department of Revenue Marketplace Provider Municipal Room Tax Return form, except that a marketplace provider shall forward the tax to the Town more frequently if the marketplace provider and the Town enter into a written agreement providing for more frequent submissions. The marketplace provider shall notify the marketplace seller or rental property owner that the marketplace provider has collected and forwarded the required taxes. The Town may not impose and collect a room tax from the marketplace seller or rental property owner if the Town collects the room tax as described in this paragraph.

If any lodging marketplace fails to comply with this provision, the Town Treasurer shall notify in writing all rental property owners represented by said lodging marketplace:

1. That their lodging marketplace is delinquent in filing a tax return.
 2. That the tax return for their rental property or properties is subject to an interest rate of 1% per month on the unpaid balance.
 3. That their lodging marketplace may become subject to the enforcement provisions of section 16.07 of this ordinance.
- C. The rental property owner is required to file a quarterly return with the Town Treasurer even if the tax is paid on their behalf by a Marketplace Provider. If using a Marketplace Provider, the owner, when submitting the quarterly room tax report, is required to attach to that report their Marketplace Provider financial report demonstrating the amount of tax paid to the Township by the Marketplace Provider on the owner's

behalf. On the quarterly room tax return, the rental receipts collected by the Marketplace Provider will be noted and backed out of total taxable receipts. The owner will pay the tax due on the gross receipts for the quarter less the amount of receipts collected and tax paid through their marketplace provider. Failure to file this return will result in penalties pursuant to section 16.07 of this ordinance and forfeiture of the Short Term Rental License.

In the event that the marketplace provider does not pay the requisite amount of room tax to the Town of Washington or file the necessary documents with the Town of Washington, it is understood that the rental property owner is obligated for the room tax that is due. The obligation of the rental property owner to pay this tax becomes effective in the event the marketplace provider does not pay the room tax to the Town within thirty (30) days of its due date.

16.07 Enforcement

- A. Pursuant to §66.0615, Wis. Stats., as a means of enforcing the collection of any room tax imposed, the Town may exchange audit or other information with the Wisconsin Department of Revenue and may do the following:
 1. If the Town has probable cause to believe the correct amount of room tax has not been assessed or that the tax return is not correct, the Town may inspect and audit the financial records of any owner or lodging marketplace subject to this ordinance to determine whether the correct amount of room tax is assessed and whether any room tax return is correct.
 2. Assess a forfeiture not to exceed 5 percent of the room tax due.
 3. Determine the room tax due, to the Town's best judgement, if an owner or lodging marketplace required to make a return fails, neglects or refuses to do so for the amount, in the manner and form and within the time prescribed by the Town.
 4. Require any owner or lodging marketplace who is subject to this ordinance to pay an amount of room tax that the Town determines to be due, plus interest at the rate of 1 percent per month, on the unpaid balance. No refund or modification of the payment determined may be granted until the owner or lodging marketplace files a correct room tax return and permits the Town to inspect and audit the financial records.
 5. Enact a schedule of forfeitures, not to exceed 25 percent of the room tax due for the previous year or \$5,000.00, whichever is less, to be imposed for failure to pay the appropriate room tax.

- B. Any delinquent tax return, for which an extension of time to file has not been granted by the Treasurer, shall be subject to a \$20.00 late filing penalty for the first offense and a \$50.00 late filing penalty for all subsequent offenses, exclusive of interest or other penalties.
- C. Any person who violates any provision of this ordinance other than as described in section 16.06(B) may be subject to a forfeiture of \$50.00 plus court costs for the first offense, \$100.00 plus court costs for the second offense, or \$200.00 plus court costs for all subsequent violations.

16.08 Confidentiality

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

- A. The owners or lodging marketplaces who filed the return or their legal representatives.
- B. The Wisconsin Department of Revenue.
- C. Owners or lodging marketplaces using the information in the discharge of duties imposed by law or the duties of their office or by order of a court.

16.09 Severability

If any provision of this ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable.

16.10 Adoption of Ordinance

This ordinance, adopted by a majority of the town board with a quorum present and voting and proper notice having been given, formally adopts the Town of Washington Room Tax Ordinance.

This ordinance repeals and replaces all room tax ordinances previously adopted by the Town of Washington.

16.11 Effective Date

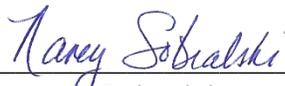
This ordinance is effective upon adoption and publication or posting. The Town Clerk shall properly post or publish this ordinance under §60.80, Wis. Stats.

Adopted this 2nd day of October 2023.



Jim Egan, Town Chairperson

Attest:



Nancy Sobralski, Town Clerk

Effective Date / Posted 10-4-2023