

# CHAPTER 11

## Collection of Tax on Overnight Lodging

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### **Sec. 2-11-1 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 hotelkeepers, 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 the promotion and development of tourism, as defined in Section 66.0615(e) , and that the remaining amount may be devoted to the municipality a general funds; and

Whereas, the town has researched the issue of implementing a room tax and has determined that the collection of such a tax would benefit the town in its efforts to attract over night travelers engaged in business, educational or recreational activities.

Now Therefore, the Town of Packwaukee hereby enacts the following ordinance.

### **Sec. 2-11-2 Definitions and election to participate.**

“Gross revenues” has the meaning as defined in WIS. STAT 76.48 (d), insofar as applicable: “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 or 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, apartments hotels, resort lodges and cabins, commercial indoor lodging facilities and any other building or groups 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 share holder or individual.

“Municipality” means the Town of Packwaukee, Wisconsin

“Payor” means the person or entity that owes the tax imposed by this ordinance.

“Room tax” means the tax imposed by this ordinance.

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

“Tourism Entity” means a nonprofit organization that came into existence before January 1, 1992, and provides staff, development or promotional services for the tourism industry in a municipality.

“Commission” means an entity created by one or more municipalities in a zone to coordinate tourism promotion, and development for the zone.

“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.

“Zone” shall have the meaning set forth in Section 66.0615 (1)(h) and shall cover the area of all municipalities in Marquette County, Wisconsin that elect to be so included. For the purpose of this ordinance the Town of Packwaukee elects to be included in this zone and hereby agrees that the entirety of this zone is perceived to be a single destination by the traveling public.

The members of the zone and specifically the Town of Packwaukee elect hereby to create a Commission, as defined in section 66.0615(1)(a), to coordinate tourism promotion and development for the zone. Membership of the Commission shall include at least one half of its members drawn from representatives of the Wisconsin lodging and tourism industry and shall also be established in accord with Section 66.0165(1m)(c)2.

### **Sec. 2-11-3 Imposition of 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 4.5 percent of the gross receipts

from such retail furnishings 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. 2-11-4 Distribution of room taxes collected.**

Upon receipt of the room taxes that are collected, the municipality shall distribute 75% of room taxes to the Commission and shall retain 25% in the municipality's general fund.

#### **TRACKING AND REPORTING ROOM TAX REVENUE EXPENDITURES:**

The Tourism Entity shall track and measure the impact of all room tax revenue expenditures and shall permit and allow inspections of its records pertaining to the use of the room tax funds upon request of the municipalities, at reasonable times. The Tourism Entity shall report at least annually to the Commission the purposes for which the room tax revenues it received were spent and impact of such expenditures as stated above, and the Commission in turn shall report back to the municipality the purposes for which the room taxes revenues it received were spent. No room tax revenue may be used to construct or develop a lodging facility. The Commission shall permit and allow inspections of its records pertaining to the use of the room tax funds upon request of the municipality, at reasonable times. The Commission shall permit and allow inspections of its records pertaining to the use of the room funds upon request of the municipality, at reasonable times.

#### **Sec. 2-11-5 Collection of tax.**

The municipal treasurer shall administer the collection of the tax imposed by this article. 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 municipal 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 other information as the municipal treasurer deems necessary. Every person required to file such a quarterly return shall, with their first returns, 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 information as the city treasurer requires. Such annual returns shall be made on forms as prescribed by the municipal 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 municipal treasurer may, for good cause, extend the time for filing any return, but in no event longer than one month from the filing date. The correct amount of tax shall accompany each quarterly tax return and be made payable to the municipality. Any unpaid tax imposed by this article may, in addition to other penalties available herein, be

deemed to be an assessment on any land owned by the payor inside the legal boundaries of the municipality.

### **Sec. 2-11-6 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 municipal 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 the amount required to be withheld by them to the extent of the price of the accommodations valued in money.

### **Sec. 2-11-7 Determination of tax by audit.**

- (a) The municipal treasurer may, by office audit, determine the tax required to be paid to the municipality 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 municipal 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 municipal treasurer may, by field audit, determine the tax required to be paid to the municipality 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 municipal treasurer's possession. Whenever the municipal 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 municipal treasurer is authorized to examine and inspect the books, records, memoranda, and property of any person in order to verify the tax liability of that person or of another person. Nothing herein shall prevent the municipal treasurer from making a determination of tax at any time.

### **Sec. 2-11-8 Failure to file return.**

If any person fails to file a return by this chapter, the municipal treasurer shall make an estimate of the amount of the gross receipts under subsection [2-11-7]. 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 municipal treasurer's possession or may come into his/her possession. On the basis of this estimate, the municipal treasurer shall compute and determine the amount required to be paid to the municipality adding to the sum thus arrived at, a penalty equal to ten percent thereof. One or more such determinations may be made for one or more than on period.

### **Sec. 2-11-9 Forfeiture relating to returns not filed timely.**

A forfeiture of 25 percent of the tax imposed for the previous year or \$1,000.00 whichever is less, is hereby established and is due and owing in the event that the room tax is not paid within 230 days after the due date of the return. In addition to this forfeiture, all unpaid taxes under this section shall bear interest at the rate of 12 percent per annum from the due date of the return until the first day of the month following the month in which the tax is paid or deposited with the municipal treasurer. All refunded taxes shall bear interest at 12 percent per annum from the due date of the return until the first day of the month following the month in which said taxes are refunded. An extension of time within which to file a return shall not operate to extend the due date of the return for purposes of interest computation. If the municipal treasurer determines that any overpayment of tax has been made intentionally or by reason of carelessness or neglect, or if the tax which was not accompanied by a complete return, it shall not allow any interest thereon.

### **Sec. 2-11-10 Delinquent tax returns**

Delinquent tax returns shall be subject to a \$25.00 late filing fee. The tax imposed by this article shall become delinquent if not paid by the due date of the return.

### **Sec. 2-11-11 Filing of fraudulent returns.**

If a person files a false or fraudulent return with the intent in either case to defeat or evade the tax imposed by this article, a penalty of 50 percent shall be added to the tax required to be paid exclusive of interest and other penalties.

### **Sec. 2-11-12 Posting of security as requested by municipal treasurer.**

In order to protect the revenue of the municipality, the municipal treasurer may require any person liable for the tax imposed by this chapter to place with him or her such security, not in excess of \$5,000.00 as the municipal treasurer determines. If any tax payer is delinquent in the payment of taxes imposed by this article, the municipal treasurer may, upon 10 days notice, recover the taxes, interest and penalties from the security placed with the municipal treasurer by such taxpayer. No interest shall be paid or allowed by the municipality to any person for the deposit of such security.

### **Sec. 2-11-13 Record keeping requirements.**

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

### **Sec. 2—11-14 Confidentiality of tax returns**

All tax returns, schedules, exhibits, writings and audit reports relating to such returns, on file with the municipal treasurer, shall be deemed to be confidential. The municipal treasurer may only divulge the information contained therein to the following persons: the person who filed the return; the officers, employees, or agents of the municipal treasurer; other persons for use in the discharge of their duties as imposed by law or in the discharge of the duties of their office (unless otherwise prohibited by law); or by an order of a court. No person in the administration of this section shall disclose the business affairs, operations or information obtained through an investigation of records from anyone upon whom a tax is imposed by this ordinance. Neither, shall the amount or source of income, profits, losses, expenditures nor any part thereof, that is set forth or disclosed in any return be further disclosed. No such administrator shall permit any return or copy thereof to be seen nor examined by an person, except as provided in this section or by any subsequent ordinances or resolutions adopted by the municipality pertaining to the confidentiality of the information described in this section. Persons that violate this section may be required to forfeit not less than \$100.00 or more than \$500.00 for each such act committed.

## **Sec. 2 - 11- 15 Penalties**

Any person who is subject to the tax imposed by this chapter who fails or refuses to permit the inspection of records by the municipal treasurer after such inspection has been duly requested by the municipal treasurer, or who fails to file a return as provided in this article, or who fails to post security requested by the municipal treasurer or who violates any other provisions of this section, shall be subject to a forfeiture not to exceed \$250.00 for each day, or portion thereof, that such violation continues. Each day is hereby deemed to constitute a separate offense. The total forfeiture imposed shall not exceed five percent of the tax imposed by this chapter upon said person.

## **Sec. 2 - 11- 16 Exemptions**

For the tax year 2004, any person or business otherwise required to file a return and make payment to the municipality under this article will be allowed an exemption from the requirement to collect and pay room tax for any signed contract dated prior to adoption of this article in which the contract guarantees the lodging rates. This exemption will expire on January 1, 2005.

The effective date of this agreement shall be the date upon which the last listed municipality so enters.

It is anticipated that from time to time, the area that the public perceived to be a single destination will change, and additional municipalities will recognize that they have become part of that geographic area, therefore, it is anticipated that additional

municipalities may join this agreement in the future, by mutual agreement of all municipalities then involved.

Effective date of this ordinance shall be March 9, 2005

Signed by Neil Johnson and Janny Slama