

## ARTICLE I-A. ROOM TAX

### SECTION 8-1.1 ROOM TAX AND PERMIT REGULATIONS

(A) Definitions.

Except as otherwise specified, terms in this Article shall have the meaning as defined in Wisconsin Statutes Section 66.0615.

- (1) "Gross receipts" has the meaning as defined in Wisconsin Statutes, Section 77.51(11)(a)(b) and (c) insofar as applicable.
- (2) "Person" shall have the meaning as defined in Chapter 1 of this Municipal Code.

(B) Room Tax Imposed and Distribution.

Pursuant to Section 66.0615 of the Wisconsin Statutes, a tax is hereby imposed on the privilege and service of furnishing, at retail, of 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 the use of the accommodations. Such tax shall be at the rate of ten percent (10%) of the gross receipts from such retail furnishing of rooms or lodging. Such tax shall not be subject to the selective sales tax imposed by Section 77.52(2) of the Wisconsin Statutes. The proceeds of such tax shall be remitted monthly to the City Treasurer.

- (1) The treasurer shall distribute the room tax receipts on a monthly basis, as follows:
  - a. 2% of the room tax shall, as authorized by Wisconsin Statute 66.0615, be used for long term debt obligations associated with the Oshkosh Convention Center.
  - b. 2% of the room tax shall be used for the purpose of fulfilling the City's obligations towards operations and maintenance of the Oshkosh Convention Center, as well as other costs incurred by the City to support tourism in the City of Oshkosh.
  - c. 6% of the room tax shall be paid to the Oshkosh Convention and Visitors Bureau, hereby designated as a tourism entity as that term is defined in section 66.0615 Wisconsin Statutes.

(C) Room Tax Permit.

Every person furnishing rooms or lodging under Subsection (B) shall file with the City Treasurer an application for a permit for each place of business. Every application for a permit shall be made upon a form prescribed by the City Treasurer and shall set forth the name under which the applicant intends to transact business, the location of the place of business, and such other information as the City Treasurer requires. The application shall be signed by the owner if a sole

proprietor and, if not a sole proprietor, by a person authorized to act on behalf of such applicant. At the time of making an application, the applicant shall pay such fee as may be established by the Council by Resolution.

Upon submission of a completed application, and deposit of security if required under subsection H below by the applicant, the City Treasurer shall grant and issue to the applicant a separate permit for each place of business within the City. Such permit is not assignable and is valid only for the person in whose name it is issued and for the transaction of business at the place designated therein. It shall at all times be conspicuously displayed at the place for which issued.

The permit shall remain valid so long as the permittee shall own and operate the permitted hotel, motel, short term rental or other lodging and only so long as permittee is in compliance with the provisions of this Article. Upon sale or other transfer of ownership of the premises or business such permit shall automatically expire.

(D) Filing of Room Tax Returns.

This Article shall be administered by the City Treasurer. The tax shall be payable monthly and shall be received by the City no later than the last business day of the month next succeeding the calendar month for which imposed.

(1) Direct Filing.

Except as provided below, a return shall be filed with the City Treasurer by persons 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 room receipts of the preceding calendar month from such retail furnishing of rooms or lodging, the amount of room taxes imposed for such period, and such other information as the City Treasurer deems necessary. The City Treasurer may, for good cause, extend the time of filing of any return, but in no event longer than one month from the scheduled filing date.

(2) Filing through a Lodging Marketplace registered with the State of Wisconsin Department of Revenue.

If a short term rental is rented through a lodging marketplace that is registered with the State Department of Revenue, the lodging marketplace may collect the room tax as provided in Section 66.0615(5) of the Wisconsin Statutes and pay the required room tax directly to the City. The owner of the short term rental shall submit a monthly return which shall indicate which rentals have been made and that room taxes have been collected through the registered lodging marketplace. Room taxes shall be submitted for any rentals where room tax is not collected and submitted through the lodging marketplace. Subject to the provisions of Section 66.0615 of the Wisconsin Statutes, Owner shall remain responsible for any room tax payments not submitted through the Lodging Marketplace.

(E) Liability for Tax on Sale or Transfer of Business.

If any person liable for any amount of tax under this section sells the business or stock of goods or quits the business, such person's successors or assigns shall withhold sufficient of the purchase price

to cover such amount until the former owner produces a receipt from the City Treasurer that it has been paid or a certificate stating that no amount is due. If a person subject to the tax imposed by this section fails to withhold such amount from the purchase price as required, that person shall become personally liable for payment of the amount required to be withheld to the extent of the price of the accommodations valued in money.

(F) Records and Audits.

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 City Treasurer requires.

Subject to the provisions of Section 66.0615 of the Wisconsin Statutes, the City Treasurer may, by office or field audit, determine the tax required to be paid to the City or the refund due to any person under this section. 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 City Treasurer's possession. The City 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 another person.

The permit of any person who is subject to the tax imposed by this section who fails or refuses to permit the inspection of his records by the City Treasurer after such inspection has been duly requested by the City Treasurer may be revoked as provided under paragraph (G)(6) below.

(G) Remedies and Penalties for Failure to Obtain Required Permits, for Delinquent Filing or Failure to File Returns.

Subject to the provisions of Section 66.0615 of the Wisconsin Statutes, the following Remedies and Penalties shall apply to violations of this Article:

(1) Failure to Obtain Permit.

Any person in violation of the terms of this section by failing to obtain and/or maintain a permit, when such permit is required, shall be subject to a penalty of seventy-five dollars (\$75.00) plus the costs of prosecution per day for each violation. Each room or unit separately rented or offered for rent, and each day of such rental or offer for rental of such unit, shall be a separate violation. In addition, the City may obtain an appropriate order for injunctive relief to discontinue violation of this section.

(2) Delinquent Tax Returns.

Delinquent tax returns shall be assessed a \$10.00 late filing fee. Upon filing of a delinquent return, the entire tax finally determined shall be subject to a penalty of 25 percent of the tax, exclusive of any interest or other penalties; or \$5000 whichever is less. The City Treasurer shall determine the amount required to be paid and shall notify the person submitting the return, together with the permit holder if that is a different person, of the assessment of the penalty.

(3) Failure to File Return, Failure to Pay Tax Due.

If any person fails to file a return as required by this section, fails to pay the tax due upon the

return or files an incomplete, incorrect or fraudulent return, the City Treasurer shall make an estimate of the amount of the gross receipts. Such estimate shall be based upon any information which is in the City Treasurer's possession or may come into his/her possession. On the basis of this estimate, the City Treasurer shall compute and determine the amount required to be paid to the City, adding to the sum arrived at a penalty equal to 25 percent thereof or \$5000 whichever is less.

(4) Penalties – When Due.

Any Penalty assessed by the City Treasurer under this section shall be due in full within 30 days from the date of the notice and invoice of the penalty amount.

(5) Interest.

All unpaid taxes or assessments under this section shall bear interest at the rate of 1 percent per month 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 City Treasurer. 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. No interest shall accrue on any over-payment of the tax due. Penalties shall bear interest at the rate of 1 percent per month from the due date of the penalty until paid.

(6) Suspension or Revocation of Permit.

The City elects not to be strictly bound by Chapter 68, Wisconsin Statutes, with respect to administrative procedure in regard to revocation or suspension proceedings under this Article.

When any person fails to comply with this section, the City Treasurer may, upon 10 days notification and after affording such person the opportunity to show cause why their permit should not be revoked, revoke or suspend any or all of the permits held by such person. The City Treasurer shall give to such person a written determination regarding the suspension or revocation of any permits.

The permit holder or their authorized representative may request a review of such decision by filing a request for review with City Treasurer within ten (10) calendar days of mailing of the original determination of the City Treasurer. The request shall state the basis for the request and additional information may be presented at that time. The City Treasurer shall schedule a hearing for requests for review and within 20 days of the date of hearing shall make a determination in writing which shall be mailed to the permit holder and their authorized representative, if applicable. Such determination shall be a final determination subject to judicial review as provided in Section 68.13 of the Wisconsin Statutes.

The City Treasurer shall not issue a new permit after the revocation of a permit unless he/she is satisfied that the holder of the permit will comply with the provisions of this section. The fee for renewal or issuance of a permit which has been previously suspended or revoked shall be the same as for a new permit and shall be established by resolution of the Council.

(H) Security may be Required.

In order to protect the revenue of the City, the City Treasurer may require any person liable for the tax imposed by this section to place with the City, before or after a permit is issued, such security, not in excess of \$5,000 as the City Treasurer determines. If any taxpayer fails or refuses to place such security, the City Treasurer may refuse to issue or may revoke any permit issued under this section. If any taxpayer is delinquent in the payment of the taxes imposed by this section, the City Treasurer may, upon 10 days notice, recover the taxes, interest and penalties from the security placed with the City Treasurer by such taxpayer. No interest shall be paid or allowed by the City to any person for the deposit of such security.

(I) Confidentiality.

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

- (1) The person who filed the return.
- (2) Officers, agents, or employees of the Federal Internal Revenue Service or the State Department of Revenue.
- (3) Officers, employees, or agents of the City of Oshkosh as may be necessary to administer this Article and/or to enforce collection.

Statistics and other information may be disclosed or published provided that the information does not disclose the identity of particular individuals or businesses.

No person having an administrative duty under this section 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 section, 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 sub-section. Any person who shall violate the provisions of this subsections shall be subject to a forfeiture not to exceed \$200.

(J) Separability and Conflict

If any section, subsection, paragraph, sub-paragraph, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions of this ordinance.

All ordinances or parts of ordinances which are inconsistent or contrary to this ordinance are repealed.