

ORDINANCE NO. 2023-08

CITY OF OCONTO, OCONTO COUNTY, WISCONSIN

ROOM TAX ORDINANCE

Whereas, Section 66.0615 of Wisconsin Statutes provides for the imposition of a Room Tax; and

Whereas, it is deemed to be in the best interested of the City of Oconto to implement a Room Tax for tourism promotion and development in the City of Oconto; and

Now, therefore, the City of Oconto does hereby enact the following ordinance:

Section 1 – Definitions. In addition to the terms defined in this Section, the terms used in this Ordinance shall have definitions, if any, set forth in the Room Tax Act (as defined below).

- (A) “Hotel, Motel and Short-term Rentals” shall mean a building or group of buildings in which the public may obtain accommodations for consideration, including without limitation, such as inns, motels, tourist homes, apartment hotels, resort lodges, and cabins and any other building or group of buildings in which accommodations are available to the public, except accommodations rented for continuous period of more than 30 days and accommodations furnished by any hospital, sanatorium or nursing home, 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 shareholder or individual.
- (B) “Gross Receipts” shall mean the total revenue received from the retail furnishing of rooms, lodging or similar accommodations by a Hotel, Motel, or Short-term Rental, and defined herein calculated prior to the payment, imposition, or expense of any cost, including but not limited to, rental commissions.
- (C) “OCEDC” shall mean the Oconto County Economic Development Corporation, a Wisconsin nonstock corporation, and its successors.
- (D) “Operators” shall mean hotelkeepers, motel operators, lodging marketplaces, owners of short-term rentals, and other persons furnishing accommodations that are available to the public, which are located in the City of Oconto to pay Room Tax under this Ordinance.
- (E) “Quarterly Payment Date” shall mean each January 31, April 30, July 31, and October 31, each of which is the last day of the month next succeeding the end of a calendar quarter.
- (F) “Rental Agents” shall mean any person(s) or businesses who is not the lodging owner but who is collecting payments for the rental of facilities as described above, for one or more lodging owners or businesses covered under this ordinance.

- (G) "Room Tax" shall mean a tax on the privilege of furnishing, at retail, except sales for resales, rooms or lodging to transients by the Operators, pursuant to the Room Tax Act.
- (H) "Room Tax Act" shall mean Section 66.0615 of the Wisconsin Statutes, as amended from time to time.
- (I) "Room Tax Permit" shall mean a permit issued by City of Oconto annually to owners of Hotels, Motels, Short-Term Rentals or other as defined in Section 1 of this Ordinance.
- (J) "Transient" shall mean any person residing for a continuous period of less than 30 days in a hotel, motel, or other furnished accommodations available to the public.

Section 2 – Imposition of Tax.

- (A) Pursuant to §66.0615, Wis. Stats., a tax of 8% is hereby imposed on the privilege and service of furnishing, at retail, except sales for resale, rooms or lodging to transients by the Operators. Operators shall remit all Room Taxes to the City Treasurer in accordance with the requirements of this Ordinance and the Room Tax Act. Such Room Tax shall not be subject to the selective sales tax imposed by Wis. Stats., Section 77.52(2)(a)(1), sales to the Federal Government, sales for resale or persons listed under Wis. Stats. 77.54(9a).
- (B) The revenue collected from the Room Tax shall be allocated as follows:
 - a. Thirty percent (30%) shall remain with the City of Oconto, said funds shall be used as the City sees fit.
 - b. Seventy percent (70%) shall be remitted to the Tourism Entity (OCEDC), or its successor, to provide staff, support services and assistance for the Oconto County Tourism Zone.

Section 3 – Collection and Administration.

- (A) This section shall be administered by the City Administrator. The tax imposed is due and payable within 30 days of the end of each quarter. A return shall be filed with the City Administrator by those furnishing at retail such rooms, lodging or sites within the City on or before the same date on which such tax is due and payable upon a form approved by the City. Every person required to file such quarterly returns shall file an annual calendar year return. Such annual return shall be filed within 30 days of the close of each calendar year.
- (B) The annual return shall summarize the quarterly returns, reconcile, and adjust for errors in the monthly returns and shall contain certain additional information as the City Administrator requires. The City Administrator may, for good cause, extend the time for filing any return, but in no event longer than 30 days from the filing date.
- (C) Whenever the City has probable cause to believe that the correct amount of Room Tax has not been assessed or that the return is not correct, the City shall inspect and audit the financial records of any person subject to the Room Tax to determine whether or

not the correct amount of Room Tax is assessed and whether or not any Room Tax return is correct.

- (D) Any person who is subject to the tax imposed by this section who fails or refuses to permit the inspection of financial records by the City Administrator after such inspection has been requested by the City Administrator shall be subject to a forfeiture not to exceed five percent (5%) of the tax the City determines to be due.

Section 4 – Tourism Entity. OCEDC shall act as the “Tourism Entity,” as that term is defined in the Room Tax Act, for purposes of providing staff, support, and assistance in developing and implementing programs to promote the Oconto County Tourism Zone to visitors, as more fully set forth in an agreement between the City of Oconto and OCEDC.

Section 5 – Operator Permit. Every Operator is required under this article to file with the City Administrator an application for a permit for each place of business that is required to pay Room Tax hereunder. Every application for a permit shall be submitted to the City Administrator using a form prescribed by the City and shall set forth the name under which the Operator transacts or intends to transact business, the location of its place of business, and such other information as the City requires. The application shall be signed by the owner of the operation if a sole proprietor and, if not a sole proprietor, by an authorized representative of such Operator. Together with the permit application, each Operator shall pay the City a fee established by the governing body for each permit. A permit issued hereunder is non-transferable.

Section 6 – Penalty for Violations. In addition to the schedule of forfeiture described in Section 8 hereof, any Operator in violation of the terms of this article by failing to obtain a permit shall be subject to a penalty not to exceed \$200.00 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, injunctive relief is hereby authorized to discontinue any violation of this article. Any Operator deemed to have violated any of the provisions of this article shall be obligated to pay the costs of prosecution, in addition to actual attorney fees expended in the course of said enforcement. The City may revoke or suspend any permit issued hereunder for failure to comply with the provisions hereof.

Section 7 – Liability for Room Tax on Sale or Transfer of Business. If any Operator sells or transfers all or substantially all of its interest in its hotel, motel or other lodging accommodation, its successors or assigns shall withhold sufficient amounts from the purchase price to pay any amount of Room Tax liability due through the sale or transfer date until the Operator produces a receipt from the City Administrator that its liability has been paid in full or a certificate stating that no Room Tax amount is due. If a successor Operator fails to withhold such amount from the purchase price as required, such successor Operator shall be become liable for payment of the Room Tax amount it is required to withhold.

Section 8 – Schedule of Forfeitures. In addition to paying the Room Taxes due hereunder, any Operator that has failed to pay any Room Tax when due shall be required to pay a forfeiture in an amount to 25 percent of the Room Tax due from the Operator to the City for the previous year and unpaid, or \$5,000.00, whichever is less, for failure to pay the Room Tax due hereunder.

Section 9 – Required Records. 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 Administrator requires.

Section 10 – Confidentiality of Information. To the extent permitted under the law, the information provided to the City under Wis. Stats. § 66.0615(2) shall remain confidential; provided, however, that the City or any employee thereof may use such information in the discharge of duties imposed by law or of the duties of their office or by order of a court. Persons violating the provisions of this subsection may be required to forfeit not less than \$100.00 nor more than \$500.00.

Section 11 – Enforcement.

(A) The City shall enforce this article in accordance with the Room Tax Act.

(B) When any person fails to comply with any provision of this Ordinance, the Administrator may, upon ten (10) days written notification and after affording such person the opportunity to show due cause why his permit should not be revoked or suspended, revoke or suspend any or all the permits held by such person under this Ordinance. If such a permit is revoked or suspended, the City Administrator shall give to such person written notice of the same. The City Administrator shall not issue a new permit after revocation of a permit until said persons complies with the provisions of the Ordinance. A fee shall be imposed for the renewal or issuance of a permit previously suspended or revoked.

Section 12 – Severability. The provisions of this Ordinance shall be deemed severable, if any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or portion of this Ordinance is for any reason held to be 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 portion of this Ordinance.

Section 13. Effective Date. This Ordinance shall take effect January 1, 2024, and upon publication as required under § 60.80, Wis. Stats.

Dated this 18th day of July 2023.

Motion by Wittkopf,

Seconded by Bake.

6 ayes, 0 nays, 0 absent, 0 abstain.