

TOWN OF CLAYTON, COUNTY OF WINNEBAGO, STATE OF WISCONSIN
ORDINANCE NO. 2020-009

An Ordinance Repealing A General Ordinance of the Town of Clayton Creating Section 9.1 of the Municipal Code Pertaining to Hotel and Motel Room Tax and Creating Section 9.1 of the Municipal Code Relating to Hotel and Motel Room Tax

WHEREAS, the Town of Clayton (the "Town") is a duly organized and existing town created under the provisions of the laws of the State of Wisconsin; and

WHEREAS, Section 66.0615 of the Wisconsin Statutes authorizes the governing body of a municipality to adopt an ordinance imposing a tax (the "Room Tax") on the privilege of furnishing, at retail, except sales for resale, 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; and

WHEREAS, this Town Board previously enacted a room tax ordinance (the "Prior Ordinance") imposing a 5% Room Tax comprising:

- i. A 3% Room Tax collected for the support of the Fox Cities Convention & Visitors Bureau, Inc., a Wisconsin non-stock, nonprofit corporation, a 5% portion of which will be retained by the Town for use in the general fund;
- ii. A 2% Room Tax collected for the payment of debt service on bonds issued by the Redevelopment Authority of the City of Appleton, Wisconsin, to partially fund construction of the Fox Cities Performing Arts Center (the "PAC Bonds") and, upon payment in full of the PAC Bonds, to be reallocated for the purposes of the Tourism Facilities Room Tax (as defined below) (the "PAC Room Tax"); and

WHEREAS, subsequent to the adoption of the Prior Ordinance, certain facts and assumptions contemplated and described in the Prior Ordinance have changed, including that the PAC Bonds have been paid in full; and

WHEREAS, the Town desires (i) to clarify the allocation of the Room Tax imposed in the Prior Ordinance by removing reference to the PAC Room Tax (ii) to make conforming changes to the CVB Room Tax; and

WHEREAS, this Town Board finds that the best interests of the Town are served by the adoption of this Ordinance; and

NOW THEREFORE BE IT ORDAINED that the Town Board of the Town of Clayton, Winnebago County, Wisconsin do ordain as follows:

1. Recitals. The above recitals are incorporated by reference herein and made a part hereof.

2. Amendment and Restatement of Code Section, Chapter 9, Section 1 of the Municipal Code of the Town of Clayton, Hotel and Motel Room Tax - Permit and Regulations is hereby repealed and restated in its entirety to read as follows:

Section 9.1 Room Tax.

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

- (1) "CVB" shall mean the Fox Cities Convention & Visitors Bureau, Inc., a Wisconsin nonstock corporation, and its successors.
- (2) "Gross Receipts" means the sale price, as defined in Wisconsin State Statutes, §77.51(15b) insofar as applicable.
- (3) "Hotel" and "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 homes, tourist houses or courts, lodging houses, rooming houses, summer camps, apartment hotels, resort lodges and cabins and any other buildings in which accommodations are available to the public, except accommodations rented for a continuous period of more than one month and accommodations furnished by any hospitals, sanitoriums 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 incurred to benefit of any private shareholder or individual.
- (4) "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 Town and are obligated to pay Room Taxes under this Ordinance.
- (5) "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.
- (6) "Room Tax" shall mean a tax on the privilege of furnishing, at retail, except sales for resale, rooms or lodging to transients by the Operators, pursuant to the Room Tax Act.
- (7) "Room Tax Act" shall mean Section 66.0615 of the Wisconsin Statutes, as amended from time to time.

- (8) "Transient" means any person residing for a continuous period of less than one month in a hotel, motel or other furnished accommodations available to the public.
- (B) Imposition of Room Tax. Pursuant to the Room Tax Act, there is hereby imposed a 3% Room Tax on the privilege of furnishing, at retail, except sales for resale, rooms or lodging to transients, by the Operators. Operators shall remit all Room Taxes to the Town's Clerk-Treasurer. Such 3% Room Tax shall be allocated as follows:
- (1) The Treasurer shall direct 5% to the general fund, with the balance of the proceeds directed to the CVB to be used for the promotion of the Fox Cities as a convention location and tourist area.
- (C) The Town shall forward the Room Taxes it has received, to be used as described above, to the following parties:
- (i) The CVB Room Tax to the CVB, Collection and Administration of Room Tax: Operator Reports.
- (ii) This Ordinance shall be administered by the Town's Clerk.
- (iii) The Room Tax imposed by this Ordinance shall be payable on each Quarterly Payment Date to the Town. A report shall be filed by each Operator with the Town's Clerk-Treasurer on or before each Quarterly Payment Date. Such report shall show the gross room receipts of the preceding calendar quarter from such retail furnishing of rooms or lodging, the amount of Room Tax imposed for such period, and such other information as the Town deems necessary.
- (iv) Every Operator required to file such quarterly report shall, with its first report, elect to file an annual report based on either the calendar year or its fiscal year. Such annual report shall be filed within 90 days after the close of each such calendar or fiscal year. The annual report shall summarize the quarterly reports, shall reconcile and adjust for errors in the quarterly reports, and shall contain certain such additional information as the Town requires. Such annual reports shall be signed by a representative of the Operator or its duly authorized agent, but need not be verified by oath.
- (v) The Town may, for good cause, extend the due date for filing any report, but in no event shall such extension be longer than one month after the due date.
- (D) Operator Permit Required. Every Operator is required under this Ordinance to file with the Town's Clerk 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 Town's Clerk using a form prescribed by the Town 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 Town requires. The application shall be signed by the owner of the Operator 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 Town an initial fee of \$100.00 for each permit. A permit issued hereunder is nontransferable.

(E) Penalty for Violations. In addition to the Schedule of Forfeiture described in subsection hereof, any Operator in violation of the terms of this Ordinance 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 Ordinance. Any Operator deemed to have violated any of the provisions of this Ordinance shall be obligated to pay the costs of prosecution, in addition to actual attorney fees expended in the course of said enforcement. The Town may revoke or suspend any permit issued hereunder for failure to comply with the provisions hereof.

(1) 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 Town's Treasurer 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 become liable for payment of the Room Tax amount it is required to withhold.

(J) Schedule of Forfeiture. 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 equal to 25% of the Room Tax due from the Operator to the Town for the previous year and unpaid, or \$5,000, whichever is less, for failure to pay the Room Tax due hereunder.

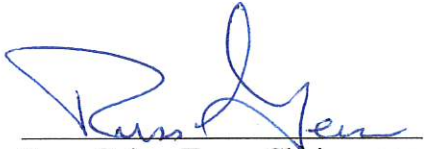
(K) Confidentiality of Information. To the extent permitted under the law, the information provided to the Town under Section 66.0615 (2) of the Wisconsin Statutes shall remain confidential; provided, however, that the Town or any employee thereof may use such information in the discharge of duties imposed 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 nor more than \$500.

(L) Enforcement. The Town shall enforce this Ordinance in accordance with the Room Tax Act.

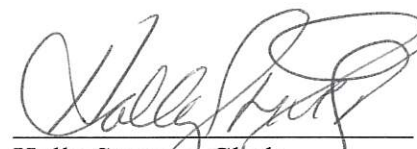
3. Publication of Ordinance. This Ordinance shall be published within 30 days after its passage, either in its entirety or in the form of a notice containing the information required under Section 60.80(5)(b) of the Wisconsin Statutes, in the official newspaper of the Town as a Class I notice under Chapter 985 of the Wisconsin Statutes.
4. Conflicting Ordinances Superseded Severability. This Ordinance continues, amends, and restates the Prior Ordinance. All ordinances or parts of ordinances in conflict with the provisions of this Ordinance are repealed to the extent of such conflict. The invalidity of any section or provision of this Ordinance hereby adopted and approved shall not invalidate other sections or provisions hereof.
5. Effective Date. This Ordinance shall take effect on July 1st 2020.

Adopted this 17th Day of June, 2020

APPROVED:


Russ Geise, Town Chairperson

ATTEST:


Holly Stevens, Clerk