

CHAPTER 17

ROOM TAX

17.01 Definitions. For purposes of this Chapter, the terms, phrases, words, and their derivations shall have the meanings set forth in Wis. Stat., § 66.0615(1), as amended.

17.02 Imposition of Room or Lodging Tax. Pursuant to Wis. Stat., § 66.0615(1m)(a), a tax is imposed, except sales for resale and exemptions required by law, 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, except private residential properties irrespective of whether membership is required for use of the accommodations. Any tax imposed under this section is not subject to the selective sales tax imposed by Wis. Stat., § 77.52(2)(a)(l) and may not be imposed on sales to the federal government and persons listed under Wis. Stat., § 77.54(9a). Such tax shall be at the rate of 8% of the gross receipts from such retail furnishing of rooms or lodgings.

17.03 Quarterly Collection of Tax.

- a. This section shall be administered by the Town Treasurer. The tax imposed for each calendar quarter is due and payable on the last day of the month next succeeding the calendar quarter for which imposed. A return shall be filed with the Town Treasurer by those furnishing at retail such rooms and lodging on or before the same date on which such tax is due and payable. The return shall show the gross receipts of the preceding calendar quarter from the retail furnishing of rooms or lodging, the amount of taxes imposed for the period, and such other information as the Town Treasurer deems necessary, provided it is directly related to the tax period.
- b. Every person required to file a quarterly return shall also file an annual calendar year return, which shall be filed within 90 days after the end of the calendar 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 Town Treasurer requires, provided it is directly related to the tax. All annual returns shall be signed by the person required to file the return, or his or her duly-authorized agent.

17.04 Tax Liability on Transfer of Business. If any person liable for any amount of tax under this Chapter sells their business, their successors or assigns shall withhold a sufficient amount of the purchase price to cover the tax imposed under this Chapter until the former owner produces a receipt from the Town Treasurer that it has paid or certification stating that no amount is due. If a person subject to the tax imposed by this Chapter fails to withhold such amount of tax from the purchase price as required, that person shall be personally liable for payment of the amount required to be withheld to the extent of the price of the accommodations valued in money.

17.05 Determination of Tax. If a person required to make a return under this Chapter fails, neglects, or refuses to do so, the Town Treasurer may determine the tax due under this Chapter according to his or her best judgment and may require that person to pay the amount of taxes the Town Treasurer determines to be due plus interest at the rate of 1% per month on the unpaid balance. No refund or modification of the payment determined may be granted until the person files a correct room tax return and permits the Town to inspect and audit his or her financial records.

17.06 Audits. If the Town has probable cause to believe that the correct amount of room tax has not been assessed by any person or that any person's tax return is not correct, the Town Treasurer may inspect and audit the financial records of that person pertaining to the furnishing of accommodations to determine whether the correct amount of room tax is assessed and whether any room tax return is correct. If a person fails to comply with a request to inspect and audit the person's financial records under this section, that person shall be liable for forfeitures of 5% of the tax due under this Chapter.

17.07 Delinquent Tax Returns. Delinquent tax returns shall be subject to a \$25 late filing fee. The tax imposed by this Chapter is delinquent if not paid on the last day of the month succeeding the calendar quarter for which the tax was imposed.

17.08 Failure to Pay Tax. Any person who fails to pay the room tax prescribed by this Chapter shall be subject to a forfeiture of not less than 15% nor more than 25% of the tax due, together with the costs of prosecution, and in default of payment thereof to imprisonment in the county jail until such costs and forfeitures have been paid, but not to exceed 90 days.

17.09 General Penalty. Any violation of, or noncompliance with, any of the provisions of this Chapter for which a penalty has not been prescribed elsewhere in this Chapter shall subject the violator to a forfeiture of not less than \$100 nor more than \$500, together with costs of prosecution and attorneys' fees, and in default of payment thereof to imprisonment in the county jail until such forfeiture has been paid but not to exceed 60 days. Each day of a violation or non-compliance shall constitute a separate offense.

17.10 Security. If any person fails to timely file a return as required by this Chapter, or fails to timely pay their tax liability as required by this Chapter, the Town Treasurer may require that person to place security, not to exceed \$5,000, with the Town.

17.11 Records to be Maintained. Every person liable for the tax imposed by this Chapter shall keep or cause to be kept such records, receipts, invoices and other papers in such form as the Town Treasurer requires.

17.12 Severability. If any section, subsection, sentence, or phrase of this Chapter shall be held invalid, illegal, unenforceable, or unconstitutional by a 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 Chapter, and there shall be substituted for the provision at issue a valid and enforceable provision as similar as possible to the provision at issue.

17.13 Effective Date. This Chapter shall take effect upon its adoption and publication or posting as required by law.

17.14 Directive to Town Clerk. The Town Clerk is authorized and directed to make all changes necessary in the current Code of Ordinances to implement the terms of this Chapter.

Effective Date.

This ordinance shall be effective upon its adoption and publication as required by law.

Amended this 7th day of September 2016

Town of Wilson by John Ehmann, Town Chairman

Published as a Class I notice in *The Sheboygan Press* on the 8th day September 2016.

Posted in three places within the Town on the 9th day of September 2016.

Georgene Lubach, Clerk

UNOFFICIAL