

ORDINANCE 2023-15

AN ORDINANCE TO CREATE A SECTION OF THE MUNICIPAL CODE OF THE VILLAGE OF HOBART, BROWN COUNTY, WISCONSIN, SPECIFICALLY ARTICLE IV (HOTELS, MOTELS AND ROOM TAX ORDINANCE) OF CHAPTER 40 (FINANCE AND TAXATION)

Purpose: The purpose of this Ordinance is to create a room tax in the Village of Hobart, and establish the collection process, use of funds by the Village and the penalties for evading the tax.

The Village Board of the Village of Hobart, Brown County, Wisconsin, does ordain as follows:

Section 1: Article IV (Hotels, Motels and Room Tax Ordinance) of Chapter 40 (Finance and Taxation) of the Municipal Code of the Village of Hobart, is hereby created to read as follows:

§ 40-13 Definitions.

For the purpose of this section the following words, terms and phrases shall have the following meanings ascribed to them in this section:

- A. "Customer" means any person residing for a continuous period of time less than one month in a hotel, motel or furnished accommodation available to the public.
- B. "Gross receipts" means, insofar as applicable, as defined in Wis. Stats. § 77.51(4)(a), (b) and (c).
- C. "Hotel or motel" means a building or group of buildings in which the public may obtain accommodations for a consideration including, without limitation, inns, motels, hotels, tourist rooms, tourist houses or courts, lodging houses, rooming houses, summer camps, apartment hotels, resort lodges and cabins and any other building in which accommodations are available to the public, except accommodations including mobile homes as defined in Wis. Stats. § 66.0435(1)(d), rented for a continuous period of more than one month and accommodations furnished by hospitals, sanitariums or nursing homes or by corporations or associations organized and operated exclusively for religious, charitable or educational purposes, provided no part of the net earnings of such corporations and associations inure to the benefit of any private shareholder or individual.
- D. "One month" means a calendar month or 30 days, whichever is less, counting the first day of the rental and not counting the last day of the rental.
- E. "Person responsible" means the sole owner of the business subject to this article; the partners if a partnership owns the business subject to this article, the corporate president or designated general manager or agent if a corporation owns the business subject to this article.
- F. "Tourism" means travel for recreational, business or educational purposes.

G. "Tourism promotion and tourism development" means any of the following that are significantly used by transient tourists and reasonably likely to generate paid overnight stays at more than one establishment on which a tax under this section may be impose.

1. Marketing projects, including advertising media buys, creation and distribution of printed or electronic promotional tourist materials, or efforts to recruit conventions, sporting events, or motor coach groups.
2. Tourist informational services.
3. Tangible municipal development, including a convention center.

H." Transient" means any person, firm, corporation, or entity residing for a continuous period of less than one (1) month in a hotel, motel, or other furnished accommodations available to the public. Excluding from the definition of transient shall be all state employees or officials, employees of any state agency, officials or employees of any political subdivision of the state, and officials or employees of any municipal corporation provided, however, said individual(s) is/are acting within his/her/their employment or official capacity.

§ 40-14 Tax Imposed, Allocation and Disposition

A. Tax Imposed. Pursuant to Wis. Stats. § 66.0615 (1m) (a), a tax is imposed on the privilege of furnishing at retail rooms or lodging to customers by hotelkeepers, motel operators, and other persons furnishing accommodations that are available to the public, irrespective of whether membership is required for the use of the accommodation. Such tax shall be at the rate of eight percent of the gross receipts from such retail furnishing of rooms or lodging. Such tax shall be collected from the customer when the customer's bill is paid, and shall be paid by the person responsible to the Financial Custodian as directed by the Village Board on a monthly basis. Such tax shall not be subject to the selective sales tax imposed by Wis. Stats. § 77.52(2). The proceeds of such tax shall be remitted to and received by the Financial Custodian monthly on or before the 20th day of the following month.

B. Allocation and Disposition of the Room Tax.

1. The proceeds of the room tax shall be apportioned 75 percent to the Bay Area Room Tax Commission for tourism promotion and tourism development within the municipal limits of and outside the municipal limits of the Village of Hobart.
2. The remaining 25 percent of the proceeds shall remain with the Village, with one-half of said proceeds to be allocated to the Village's Debt Service Fund, to be applied to the payment of current and future debt obligations, and one-half of said proceeds to be allocated to the Park and Recreation Fund, to finance improvements and initiatives to address and improve the quality of life for the residents of the Village.

§ 40-15 Permit.

Every person furnishing rooms or lodging under § 40-14 shall file with the Village Treasurer an application for each place of business. Every application shall be made upon a form prescribed by the Village Treasurer and shall set forth the name under which the applicant intends to transact business, location of the place of business and such other information as the Village Treasurer requires. The

application shall be signed by the owner, if a sole proprietor, or, if not a sole proprietor, by the person responsible who is authorized to act on behalf of the business.

§ 40-16 Tax Number.

The Village Treasurer shall issue to each applicant a separate number for each place of business within the Village. Such a number is not assignable and is valid only for the person in whose name it is issued and for the collection of the room tax at the place designated therein.

§ 40-17 Records Retention.

Every person liable for the tax imposed by this article shall keep or cause to be kept such records, receipts, invoices and other pertinent papers in such form as required by the Village Treasurer and the State of Wisconsin.

§ 40-18 Filing Returns.

A. Returns to be filed. Returns shall be filed with the Village Treasurer by persons subject to § 40-14 on or before the day such tax is due and payable. The return shall show the gross receipts from such retail furnishing of rooms or lodging of the preceding calendar month, the amount of tax imposed and such other information as the treasurer deems necessary for administrative purposes. An annual return shall be filed within 90 days of the close of each calendar or fiscal year and shall contain such information as the Village Treasurer requires to administer this section. Each return shall be signed by the person required to file a return or an authorized agent, but need not be verified by oath. The Village Treasurer may for good cause extend the time of filing any return, but not longer than 30 days from the filing date.

B. Failure to file. If any person required to make a return fails, neglects or refuses to do so for the amount and in the manner, form and time prescribed herein, the Village Treasurer, according to their best judgment, shall determine the amount of the tax due the Village and make a doomsday assessment upon the person who fails to file and pay on a timely basis. Each person whose tax is determined by the Village Treasurer shall pay the amount determined plus interest at the rate of one percent per month on the unpaid balance. No refund or modification of the payment as determined by the Village Treasurer may be granted until the person files a correct room tax return and permits the clerk-treasurer or an authorized agent to inspect and audit the records of the business required to be kept in section § 40-17.

C. Late filing fee. In addition to any other forfeiture provided herein, whether imposed or not, a forfeiture of \$100.00 shall be imposed upon and collected from any person each time such person fails to file the return required in subsection (A) of this section on a timely basis.

§ 40-19 Village Treasurer's Right of Inspection, Audit, and Cure.

A. Whenever the Village Treasurer has probable cause to believe that the correct amount of room tax has not been assessed upon and collected from customers or that the tax return is not correct, the Village Treasurer may cause an inspection and audit of the financial records of any person subject to § 40-14 to determine whether or not the correct amount of room tax is assessed, collected and paid according to sections § 40-14 and § 40-18.

B. If any person subject to § 40-14 fails to comply with a request by the Village Treasurer or an authorized agent to inspect and audit the person's financial records as in subsection (a) of this section, such person

shall be subject to a forfeiture in the amount of five percent of the tax due the Village at the time of the audit.

C. If any person subject to § 40-14 fails to comply with a request by the Village Treasurer or an authorized agent to inspect and audit the person's financial records as in subsections (a) or (b) of this section, such person shall be subject to any other forms of cure identified below and as permitted under Wisconsin statutes applicable at that time.

§ 40-20 Confidentiality.

A. Information obtained under this article shall be confidential, except the Village Treasurer may provide information to persons using the information in the discharge of duties imposed by law, the duties of their office, or by order of a court. The Village Treasurer may publish statistics classified so as not to disclose the identity of particular returns.

B. Any person who violates any provision of this section shall forfeit not less than \$100.00 nor more than \$500.00.

§ 40-21 Administration and Payment of Taxes.

This section shall be administered by the Village Treasurer and the Village Administrator. The tax imposed for the month is due and payable on the 20th day of the month following the collection of the tax from the customer under § 40-14.

§ 40-22 Liability on Sale of Business.

A. If any person, firm, corporation, or entity liable for any amount of tax under this Ordinance sells out his/her business or stock of goods or quits the business, his/her successors or assigns shall withhold a sufficient portion of the purchase price to cover such amount until the former owner produces a receipt from the Village Treasurer for the Village that he/she has paid all tax due hereunder or a certificate stating that no amount is due has been obtained.

B. Any person, firm, corporation, or entity who by said purchase becomes subject to the tax imposed by this Ordinance fails to withhold such amount of tax from the purchase price as required, he/she shall become personally liable for payment of the amount required to be withheld by him/her to the extent of the price of the accommodations valued in money.

§ 40-23 Failure to Pay Tax When Due.

A. Forfeitures. In addition to the forfeitures provided in this chapter and the tax due under this article, a forfeiture of 25 percent of the room tax due for the previous year under § 40-14 or \$5,000.00, whichever is less, shall be imposed upon any person or business that allows the monthly tax imposed to be delinquent under this article.

B. Delinquent taxes. The tax imposed by this article shall become delinquent if not paid within 30 days after the due date of the return or within 30 days after the expiration of an extension prior if one has been granted. If a return is filed late or there is no return filed, the due date for the taxes imposed is the due date of the return.

C. Security may be required. In order to protect the revenue of the Village, the Village Treasurer shall require any person liable for the tax imposed by this section, who fails to pay the tax as herein required, to file with the Village Treasurer before or after the permit is issued such security not in excess of \$5,000.00 cash or a surety bond equal to the prior months tax as the Village Treasurer may refuse or revoke its permit. If any taxpayer is delinquent in the payment of the taxes imposed by this section, the Village Treasurer may, upon ten day's notice and after giving the taxpayer an opportunity to confer, recover the taxes, interest and penalties from the security or surety placed with the Village Treasurer by such taxpayer. No interest shall be paid or allowed by the Village to any person for the deposit of such security.

Section 2: Any Ordinance or parts thereof, inconsistent herewith, are hereby repealed.

Section 3. This Ordinance shall be effective from and after its passage by the Village Board and publication as required by law.

Passed and approved this day of , 2023.

Richard Heidel, Village President

Attest:

Aaron Kramer, Village Administrator

I, , am the Village Clerk of the Village of Hobart, Brown County, Wisconsin. I hereby certify that the aforementioned is a true and exact reproduction of the original ordinance or resolution adopted by the Village Board.

IN WITNESS WHEREOF, I have executed this Certificate in my official capacity on 2023.

(Seal)

Village Clerk-Treasurer