

AN ORDINANCE REPEALING AND RECREATING SECTION 10.03 OF THE MUNICIPAL CODE OF THE TOWN OF SHEBOYGAN, SHEBOYGAN COUNTY, WISCONSIN RELATED TO ROOMS OR LODGING

NOW, THEREFORE, the Town Board of Supervisors of the Town of Sheboygan does hereby ordain as follows:

Section 1. Repealing and Recreating Code. Section 10.03 of the Municipal Code of the Town of Sheboygan, Sheboygan County, Wisconsin, is hereby repealed and recreated to read as follows:

"10.03 ROOMS OR LODGINGS.

(1) **Definitions.** In addition to those terms defined in this Section, for the purpose of this article, the terms, phrases, words and their derivations shall have the meanings given in §66.0615, Wis. Stats., as amended.

Room tax means a tax imposed by this ordinance on the privilege of furnishing, at retail (except sales for resale), rooms or lodging to transients by hotels and motels and other persons furnishing accommodations which are available to the public, including accommodations available or reserved through internet based networks (collectively, "Operators"), irrespective of whether membership is required for use of the accommodations, pursuant to the Room Tax Act.

Room Tax Act means §66.0615, Wis. Stats., as amended from time to time.

Room tax commission means the Room Tax Commission created by the municipalities within the Sheboygan Area Tourism Zone through that Room Tax Commission and Tourism Zone Agreement effective as of the 1st day of January, 2017.

Zone shall have the meaning set forth in §66.0615(1)(h), Wis. Stats. and for the purposes of this ordinance, shall refer to that geographic area encompassing the City of Sheboygan, the Town of Sheboygan, and the Town of Wilson. The term "zone" as used in this chapter of the Town code, is deemed to be a single destination as perceived by the traveling public.

(2) **Imposition of Rooms or Lodging Tax; Rate.** Pursuant to the Room Tax Act, there is hereby imposed upon the privilege of furnishing, at retail (except sales for resale) rooms or lodging to transients by hotels and motels and other persons furnishing accommodations that are available to the public, including accommodations available or reserved through internet based networks, except private residential properties, irrespective of whether membership is required for use of the accommodations, within the Town. Any tax imposed under this section

is not subject to the selective sales tax imposed by §77.52(2)(a)(1), Wis. Stats., and may not be imposed on sales to the federal government and persons listed under W.S.A., §77.54(9a), Wis. Stats. Such Room Tax shall be imposed at the total rate of eight percent (8%) on the gross receipts from such retail furnishing of rooms or lodgings within the Town. Operators shall remit all collected Room Tax revenues to the Town Clerk in accordance with the requirements of this Ordinance and the Room Tax Act. Seventy percent (70%) of the Room Tax collected that must be spent on tourism promotion and tourism development as required by the Room Tax Act shall then be paid to the Room tax commission or its designees or assigns, unless otherwise indicated herein, to be used for purposes of coordinating tourism promotion and tourism development within the Zone.

(3) Quarterly Collection of Tax.

(a) This section shall be administered by the Town Clerk. 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 Clerk by those 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 receipts of the preceding calendar quarter from such retail furnishing of rooms or lodging, the amount of taxes imposed for such period, and such other information as the Town Clerk deems necessary, provided it is directly related to the tax.

(b) Every person required to file such quarterly returns shall also file an annual calendar year return which shall be filed within 90 days of the close of each 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 Clerk requires, provided it is directly related to the tax. Such annual returns shall be made on forms prescribed by the Town Clerk. All annual returns shall be signed by the person required to file a return, or his duly authorized agent, but need not be verified by oath.

(4) Permit Required.

(a) Every Operator under this ordinance shall file with the Town Clerk an application for a permit for each place of business that is required to collect Room Tax hereunder. Every application for a permit shall be made upon a form prescribed by the Town and shall set forth the name under which the applicant transacts or intends to transact business, the location of the place of business, and such other information as the Town requires. The application shall be signed by the owner if a sole proprietor and, if not a sole proprietor, by the person authorized to act on behalf of such sellers. At the time of making an application, the applicant shall pay the Town an initial fee of twenty dollars (\$20.00), and annually thereafter, for each permit. A permit issued hereunder is non-transferable. The permit shall be renewed each year by July 1.

(b) After compliance with subsection (a), the Town Clerk shall issue a separate permit to each applicant for each place of business within the Town. 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. The Town Clerk shall issue the permit no later than 45 days after application. If the application for a permit is denied, the applicant shall be given written notice of the reasons for denial and shall be given an opportunity to be heard thereon. If the applicant desires a public hearing, he shall file a written request therefor with the Town Clerk. The Town Board of Supervisors shall hold a public hearing thereon no later than 30 days following filing of the request for hearing.

(c) Suspension/Revocation

1. Any permit issued under this ordinance may be suspended or revoked by the Town Board of Supervisors for a violation of any provision of this ordinance. The permittee shall be given notice of the reasons for the suspension or revocation and opportunity to be heard before the Town Board of Supervisors for the purpose of determining whether such suspension shall be imposed or whether the permit shall be revoked. Upon sworn, written complaint of the Town Clerk filed with the Town Clerk's office alleging that a person holding a permit under this ordinance has violated this ordinance, the Town Board of Supervisors shall issue a summons signed by the Town Clerk and directed to any Ordinance Enforcement Officer of the Town or other process server. The summons shall command the permittee complained of to appear before the Town Board of Supervisors on a day and place named in the summons, not less than three days and not more than ten days from the date of issuance, and show cause why his or her permit should not be revoked or suspended. The summons and a copy of the complaint shall be served on the permittee at least three days before the time at which the permittee is commanded to appear. Service shall be in the manner provided under Chapter 801 of the Wisconsin Statutes for service in civil actions in circuit court.

2. If the permittee does not appear as required by the summons, the allegations of the complaint shall be taken as true; and if the Town Board of Supervisors finds the allegations sufficient, the permit shall be revoked. The Town Clerk shall give notice of the revocation to the person whose permit is revoked. If the permittee appears as required by the summons and denies the complaint, both the complainant and the permittee may produce witnesses, cross examine witnesses and be represented by counsel. The permittee shall be provided a written transcript or digital recording of the hearing at his expense, upon request. If, upon the hearing, the Town Board of Supervisors finds the complaint to be true, the permit shall either be suspended or

revoked. The Town Clerk shall give notice of the suspension or revocation to the person whose permit is suspended or revoked. If the Town Board of Supervisors finds the complaint untrue, the proceeding shall be dismissed without cost to the accused. Upon suspension or revocation, the permittee shall surrender his permit to the Town Clerk's office.

3. The Town Clerk shall not issue a new permit in any of the following circumstances:

- A. during any period of suspension.
- B. during the term of any permit that has been revoked.
- C. to any applicant who is in non-compliance with any of the terms of this ordinance.

5. Tax Liability on Transfer of Business. If any person liable for any amount of tax under this ordinance sells the business or stock of goods or quits the business, the successors or assigns shall withhold sufficient funds from the purchase price to cover such amount until the former owner produces a receipt from the Town Clerk that it has been paid or a certificate stating that no amount is due. If a person subject to the tax imposed by this ordinance fails to withhold such amount of tax 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.

6. Determination of Tax. If a person required to make a return under this ordinance fails, neglects, or refuses to do so, the Town Clerk may determine the tax due under this ordinance according to his or her best judgment and may require that person to pay the amount of taxes the Town Clerk 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

7. Audits; Failure to Comply with Request to Audit. 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 Clerk 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 by the Town Clerk to inspect and audit financial records pursuant to this ordinance, that person shall be subject to a forfeiture of five percent of the tax due, together with the costs of prosecution.

8. Delinquent Tax Returns. Delinquent tax returns shall be subject to a \$25 late filing fee. The tax imposed by this ordinance is delinquent if not paid

on the last day of the month succeeding the calendar quarter for which the tax was imposed.

9. Interest on Unpaid Taxes. All unpaid taxes under this ordinance shall bear interest at the rate of one percent per month from the due date of the return until the first day of the month following the month in which the tax was paid.

10. Failure to Pay Tax. Any person who fails to pay the room tax prescribed by this ordinance shall be subject to a forfeiture of not less than 15 percent or more than 25 percent of the tax due, together with the costs of prosecution.

11. Fraudulent Tax Returns. If a person files a false or fraudulent return with the intent in either case to defeat or evade the tax imposed by this article, a penalty of 50 percent shall be added to the tax required to be paid, exclusive of interest and other penalties.

12. General Penalty. Any violation of, or noncompliance with, any of the provisions of this ordinance for which a penalty has not been prescribed in this section shall subject the violator to a forfeiture of not less than \$100.00, or more than \$500.00. Any person 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. 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. The Town may revoke or suspend any permit issued hereunder for failure to comply with the provisions hereof.

13. Security. If any person fails to timely file a return, as required by this ordinance, or fails to timely pay his tax liability as required by this ordinance, the Town Clerk may require such person to place security, not to exceed \$5,000.00 with the Town.

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

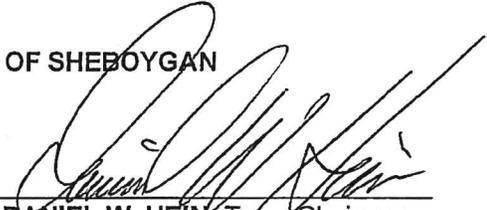
15. Confidentiality of Records. To the extent permitted under the law, the information provided to the Town under §66.0615(2), Wis. Stats., shall remain confidential; provided, however, that the Town or any employee thereof or its attorneys may use such information in the discharge of duties imposed by law or of the duties of their office or by order of a court. Persons violating the provisions of this section may be required to forfeit not less than \$100 nor more than \$500."

2017. **Section 2. Effective Date.** This Ordinance shall take effect on January 1,

Adopted this 15th day of November, 2016.

TOWN OF SHEBOYGAN

By: _____


DANIEL W. HEIN, Town Chairman

CERTIFICATE OF ADOPTION

I hereby certify that the foregoing Ordinance was duly adopted by the Town Board of Supervisors of the Town of Sheboygan on the 15th day of November, 2016.


CATHY CONRAD, Town Clerk

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