

ORDINANCE NUMBER 1-2024

ROOM TAX ORDINANCE

WHEREAS, the Town of Green Lake, Green Lake County, Wisconsin (the "Municipality"), is a municipal corporation organized and existing under and pursuant to the laws of the State of Wisconsin and is authorized by Section 66.0615(1m) Wisconsin Statutes, as mentioned (hereinafter sometimes referred to as the "Act"), to:

1. Enact a tax on the privilege and service of furnishing, at retail, except sales for resale, room, lodging to transients by hotel keepers, motel operators, short-term rental owners, marketplace vendors and other persons furnishing accommodations that are available to the public.

WHEREAS, the Municipality wishes to enact a room tax in order to develop and promote the tourism industry in the Municipality.

NOW, THEREFORE, the Town Board of the Town of Green Lake, does ordain as follows:

1. Name. This Ordinance shall be known as the Room Tax Ordinance, of the Town of Green Lake, Green Lake County, Wisconsin.
2. Definitions. As used in this Ordinance, the following terms shall have the meanings provided:
 - a. "Hotel" or "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, tourist homes, tourist houses or courts, bed and breakfast establishments, lodging houses, rooming houses, summer camps, apartments hotels, resort lodges and cabins, resort hotels, short-term rentals as defined in Section 66.0615(1)(dk) of the Wisconsin Statutes, and any other building or group of buildings in which accommodations are available to the public, except accommodations, including mobile homes as defined in Section 66.0435(1)(d), rented for continuous period of more than one month and accommodations furnished by any hospital, 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 inure to the benefit of any private shareholder or individual.
 - b. "Gross receipts" has the meaning as defined in Wisconsin Statutes, Section 77.51(4)(a), (b) and (c) insofar as applicable.
 - c. "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.
3. Imposition of Tax. Pursuant to Wisconsin Statutes, Section 66.0615(1m), a tax is hereby imposed on the privilege and service of furnishing, at retail, (except sales for resale) rooms or lodging to transients by hotelkeepers, motel operators, owners of short-term rentals, marketplace providers and other persons furnishing accommodations that are available to the public, irrespective of whether membership is required for the use of the accommodations. Such tax shall be at the rate of eight percent (8%) of the gross receipts from such retail furnishing of rooms or lodgings. Such tax shall not be subject to the selective sales tax imposed by Wis. Status. Section 77.52(2)(a)1.

And may not be imposed on sales to the federal government and persons listed under Section 77.54(9a), Wis. Stats.

4. Collection of Tax. This section shall be administered by the Town Clerk or Treasurer. The tax imposed for the initial calendar quarter (from the effective date of this ordinance through the end of that calendar quarter), and for each calendar quarter thereafter 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 or Treasurer, 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 or Treasurer deems necessary. Every person required to file such quarterly return shall, with his first return, elect to file an annual calendar year or fiscal year return. Such annual return shall be filed within ninety (90) days of the close of each such calendar or fiscal 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 or Treasurer requires. Such annual returns shall be made on forms as prescribed by the Town Clerk or Treasurer. All such returns shall be signed by the person required to file a return or his duly authorized agent but need not be verified by oath. The Town Clerk or Treasurer may, for good cause, extend the time for filing any return, but in no event longer than one month from the filing date. The correct amount of tax shall accompany each quarterly tax return and be made payable to the Town. Any unpaid tax imposed by this article may, in addition to other penalties available herein, be deemed to be an assessment on any land owned by the payor inside the legal boundaries of the Town.
5. Permit. Every person furnishing rooms or lodging under Subsection 3. shall file with the Town Clerk an application for a permit for each place of business. At the time of making an application the applicant shall pay to the Town Clerk or Treasurer a fee of three hundred dollars (\$300.00) for permit and twenty-five dollars (\$25.00) for each additional location permit. Every application for a permit shall be made upon a form prescribed by the Town Clerk or Treasurer and shall set forth the name under which the applicant transacts or intends to transact business, and the location or locations of the rentals, and such other information as the Town Clerk or Treasurer 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. Permit is valid unless no tax is paid for four (4) consecutive quarters, or one (1) year, at which time the permit will be voided.
6. Issue and Display of Permit. After compliance with Subsection 5. and Subsection 15. by the applicant, the Town Clerk or Treasurer shall grant and issue to each applicant a separate permit for each location rented 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. It shall at all times be conspicuously displayed at the place for which issued.
7. Revocation of Permit. Whenever any person fails to comply with this section the Town Clerk or Treasurer may, upon ten (10) days notification and after affording such person the opportunity to show cause why his/her permit should not be revoked, revoke or suspend any and all of the permits held by such person. The Town Clerk or Treasurer shall give to such person written notice of the suspension or revocation of any of his/her permits. The Town Clerk or Treasurer shall not issue a new permit after the revocation of a permit unless he/she is satisfied that the former holder of the permit will comply with the provisions of this section. A fee of five hundred dollars (\$500.00) shall be imposed for the renewal or issuance of a permit, which has been previously suspended or revoked.

8. Successor Liability. If any person liable for any amount of tax under this section sells out his/her business or stock of goods or quits the business, his/her successors or assigns shall withhold sufficient amount of tax from the purchase price to cover such amount until the former owner produces a receipt from the Town Clerk or Treasurer that it has been paid or a certificate stating that no amount is due. If a person subject to the tax imposed by this section 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.
9. Office Audit. The Town Clerk or Treasurer may, by office audit, determine the tax required to be paid to the Town or the refund due to any person under this section. This determination may be made upon the basis of the facts contained in the return being audited or on the basis of any other information within the Town Clerk or Treasurer's possession. Whenever the Town Clerk or Treasurer has probable cause to believe that the correct amount of room tax has not been assessed or that the tax return is not correct, one or more such office audit determinations may be made of the amount due for any one or for more than one period.
10. Field Audit. The Town Clerk or Treasurer may, by field audit, determine the tax required to be paid to the Town or the refund due to any person under this section. The determination may be made upon the basis of the facts contained in the return being audited or upon any other information within the Town Clerk or Treasurer's possession. Whenever the Town Clerk or Treasurer has probable cause to believe that the correct amount of room tax has not been assessed or that the tax return is not correct, the Town Clerk or Treasurer is authorized to examine and inspect the books, records, memoranda, and property of any person in order to verify the tax liability of that person or of another person. Nothing herein shall prevent the Town Clerk or Treasurer from making a determination of tax at any time.
11. Estimated Assessment. If any person fails to file a return as required by this section, the Town Clerk or Treasurer shall make an estimate of the amount of the gross receipts under subsection 3. Such estimate shall be made for the period for which such person failed to make a return and shall be based upon any information, which is in the Town Clerk or Treasurer's possession or may come into his/her possession. On the basis of this estimate the Town Clerk or Treasurer shall compute and determine the amount required to be paid to the Town, adding to the sum thus arrived at a penalty equal to ten percent (10%) there-of. One or more such determinations may be made for one or more than one period.
12. Default; Forfeiture. A forfeiture of twenty-five percent (25%) of the room tax due for the previous year or five thousand dollars (\$5,000.00), whichever is less, of the tax imposed, is hereby established and due and owing in the event that the room tax is not paid within thirty (30) days after the due date of return. In addition to this forfeiture, all unpaid taxes under this section shall bear interest at the rate of twelve percent (12%) per annum from the due date of the return until the first day of the month following the month in which the tax is paid or deposited with the Town Clerk or Treasurer. All refunded taxes shall bear interest at twelve percent (12%) per annum from the due date of the return until the first day of the month following the month in which said taxes are refunded. An extension of time within which to file a return shall not operate to extend the due date of the return for purposes of interest computation. If the Town Clerk or Treasurer determines that any overpayment of tax has been made intentionally or by reason of carelessness or neglect, or if the tax, which was overpaid, was not accompanied by a complete return it shall not allow any interest thereon.

13. Late Filing; Fee. Delinquent tax returns shall be subject to a twenty-five dollars (\$25.00) late filing fee. The tax imposed by this section shall become delinquent if not paid by the due date of the return.
14. False of Fraudulent Return. If a person files a false or fraudulent return with the intent in either case to defeat or evade the tax imposed by this section, a penalty of fifty percent (50%) shall be added to the tax required to be paid, exclusive of interest and other penalties.
15. Security for Payment. In order to protect the revenue of the Town, the Town Clerk or Treasurer may require any person liable for the tax imposed by this section to place with him or her, before or after a permit is issued, such security, not in excess of five thousand dollars (\$5,000.00) as the Town Clerk or Treasurer determines. If any taxpayer fails or refuses to place such security, the Town Clerk or Treasurer may refuse or revoke such permit. If any taxpayer is delinquent in the payment of the taxes imposed by this section, the Town Clerk or Treasurer may, upon ten (10) days' notice, recover the taxes, interest and penalties from the security placed with the Town Clerk or Treasurer by such taxpayer. No interest shall be paid or allowed by the Town to any person for the deposit of such security.
16. 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 Town Clerk or Treasurer requires.
17. Confidentiality of Returns and Records. All tax returns, schedules, exhibits, writing or audit reports relating to such returns, on file with the Town Clerk or Treasurer are deemed to be confidential, except the Town Clerk or Treasurer may divulge their contents to the following, and no others:
 - a. The person who filed the return
 - b. Officers, agents, or employees of the Federal Internal Revenue Service or the State Department of Revenue.
 - c. Such other public officials of the Town of Green Lake, when deemed necessary.
18. Confidentiality. No person having an administrative duty under this section shall make known in any manner the business affairs, operations or information obtained by an investigation of records of any person on whom a tax is imposed by this section, or the amount or source of income, profits, losses expenditures, or any particular thereof, set forth or disclosed in any return, or to permit any return or copy thereof to be seen or examined by any person, except as provided in the subsection 17.
19. Failure to Obtain Permit. Any person who is subject to the tax imposed by this section who fails to obtain a permit as required in subsection 5., or who fails or refuses to permit the inspection of his records by the Town Clerk or Treasurer after such inspection has been duly requested by the Town Clerk or Treasurer, or who fails to file a return as provided in this section, or who violates any other provisions of this ordinance, shall be subject to a forfeiture not to exceed two hundred fifty dollars (\$250.00). Each day, or portion thereof, that such violation continues is hereby deemed to constitute a separate offense. The total forfeiture imposed shall not exceed five percent (5%) of the tax imposed by this ordinance.

20. Application of Proceeds of Tax. The proceeds of the tax shall be applied as authorized and required by applicable law. Thirty percent (30%) of the proceeds shall be retained and used by the Town in reimbursement of its costs for establishing and operating the Room Tax program and for its general purposes. The balance, seventy percent (70%) shall be forwarded to a tourism entity to be used for tourism promotion and tourism development. The tourism entity shall report to the Town annually the purposes for which revenues were spent.

21. Effective Date. This Ordinance shall become effective January 1, 2025, ~~2024~~.

Adopted this 9 day of December, 2024.

By the Town Board of the Town of Green Lake, Green Lake County, Wisconsin.

Chairperson: Burke

Date: 12-9-2024

Clerk: Kate Menn

Date: 12-9-2024

Approved as to form:

[Signature]
Justin Sondalle, Town Attorney

Please note that this ordinance shall take effect upon publication or posting as set for in Sec. 60.80, Wis. Stats.