

Chapter 336

TOURISM ZONE AND ROOM TAX

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| § 336-1. Definitions. | § 336-6. Distribution of room taxes collected. |
| § 336-2. Creation of tourism zone. | § 336-7. Tourism entity. |
| § 336-3. Imposition of room tax. | § 336-8. Tracking and reporting room tax revenue expenditures. |
| § 336-4. Permit for lodging establishment. | § 336-9. When effective. |
| § 336-5. Creation of Commission. | |

[HISTORY: Adopted by the Town Board of the Town of Washington 6-13-2007 by Ord. No. 2007-2. Amendments noted where applicable.]

§ 336-1. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

COMMISSION — Has the meaning defined in § 66.0615(1)(a), Wis. Stats. If two or more municipalities in a zone impose a room tax under § 66.0615(1m)(a), Wis. Stats., the municipalities shall enter into a contract under § 66.0301, Wis. Stats., to create a commission under § 66.0301(2), Wis. Stats. Each municipality in a single zone that imposes a room tax shall levy the same percentage of tax. If the municipalities are unable to agree on the percentage of tax for the zone, the commission shall set the percentage.

GROSS RECEIPTS — Has the meaning as defined in § 76.48(d), Wis. Stats.: "Gross receipts" means total revenue received from the retail furnishing of rooms, lodging, or similar accommodations by a hotel or motel as defined herein.

HOTEL and MOTEL — Have the meaning as defined in § 77.52(2)(a)1, Wis. Stats.: "Hotel and motel" means a building or a 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, apartment hotels, resort lodges and cabins, commercial indoor lodging facilities and any other building or group of buildings in which accommodations are available to the public, except accommodations rented for a continuous period of more than 30 consecutive days and accommodations furnished by any hospitals, sanitariums 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 inures to the benefit of any private shareholder or individual.

MUNICIPALITY — The Town of Washington, County of Door, Wisconsin.

PAYER — The person or entity who owes the tax imposed by this chapter.

ROOM TAX — The tax imposed by this chapter.

TOURISM — Has the meaning as defined in § 66.0615(1)(e), Wis. Stats.: "Tourism" means any travel for recreational, business or educational purposes.

TOURISM ENTITY — Has the meaning as defined in § 66.0615, Wis. Stats. A nonprofit organization that provides staff, development or promotional services for the tourism industry in the municipality, and as one of its primary purposes the generation of paid overnight stays. The tourism entity must have a governing board comprised of over 50% representation from the area's restaurants, drinking places, gift/souvenir shops, hotels, motels, bed-and-breakfasts, tourist rooming houses, public golf courses, amusement parks or other tourist attractions; 25% or more of the total board must be owners or operators of room tax paying lodging establishments.

TOURISM PROMOTION AND DEVELOPMENT — Has the meaning as defined in § 66.0615(1)(fm), Wis. Stats.: "Tourism promotion and 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 room tax may be imposed, that are owned by different persons and located within the municipality; or, if the municipality has only one such establishment, reasonably likely to generate paid overnight stays in that establishment:

- A. 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.
- B. Transient tourist informational services.
- C. Tangible municipal development, including a convention center.

TOURISM ZONE — Has the meaning as defined in § 66.0615, Wis. Stats.: "Tourism Zone" means an area made up of two or more municipalities that, those municipalities agree, is a single destination as perceived by the traveling public.

TRANSIENT — Has the meaning as defined in § 77.52(2)(a)1, Wis. Stats.: "Transient" means any person residing for a continuous period of less than 30 consecutive days in a hotel, motel, or other furnished accommodations available to the public.

§ 336-2. Creation of tourism zone.

Pursuant to § 66.0615, Wis. Stats., the Town of Washington will join the Door County Tourism Zone for the purpose of promoting the County and Washington Island as a single destination and has passed by resolution the Door County Tourism Zone Commission Agreement.

§ 336-3. Imposition of room tax.

- A. Tax imposed. Pursuant to § 66.0615, Wis. Stats., a tax is hereby imposed on the privilege and services of furnishing, at retail, of rooms or lodging to transients by hotel keepers, motel operators 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 5.5% 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 § 77.52(2)(a)1, Wis. Stats., and may not be imposed upon sales to the federal government and persons listed under § 77.54(9a), Wis. Stats.

B. Taxation effective date. The effective date of the room tax shall be August 1, 2007.

C. Room tax returns.

(1) Room tax should be paid by the lodging property on a monthly basis. It should be paid by the end of the month following the month in which it was collected unless the end of the month falls on a Saturday or Sunday, which would make it due on Monday.

(2) While the room tax is owed to the local municipality which imposed the tax, for convenience and collection purposes, all checks are to be sent directly to the Commission. The Commission will send one check by the 15th of each month to the municipality for 30% of all room tax collected the previous month along with a report showing the amount of room tax collected from each lodging property.

D. Room tax responsibility. The correct amount of room tax shall accompany each lodging property's report and be made payable to the Door County Tourism Zone Commission. If any person liable for any amount of tax under this agreement sells out their business or otherwise quits the business, their successors or assigns shall withhold sufficient of the purchase price to cover such amount until the former owner produces a receipt from the municipal treasurer that it has been paid or a certificate stating that no amount is due. If any person subject to the tax imposed by this agreement fails to withhold such amount of tax from the purchase price as required, they shall become personally liable for the payment of the amount required to be withheld by them.

E. Room tax return. The room tax return filed with the room tax payment by the lodging property shall contain the following information: name of the business, physical address, postal address, municipality located within, name of the designated person filling out the return, month and year the return is for, total room tax to be paid (which should equal total lodging sales multiplied by the 5.5% room tax) and the signature of the person filling out this return, attesting to the accuracy of the return. The Commission shall establish the form of the return and how the document can be received (either paper and/or electronic document).

F. Delinquent room tax.

(1) Delinquent room tax returns shall be subject to a \$25 late filing fee. The tax imposed by this chapter shall become delinquent if not paid by the due date of the return. A forfeiture of 25% of the room tax due is hereby established and due and owing in the event that the room tax is not paid within 30 days after the due date of the return. To prevent payment omissions, within 10 days of a past due room tax payment, the Commission, if they were to receive the check, should send a written past due statement to the designated person or agent at the late paying lodging business. In addition to this forfeiture, all unpaid taxes under this chapter shall bear interest at the rate of 12% per annum from the due date of the return until received and deposited by the Commission. Whenever the Commission has

probable cause to believe that the correct amount of room tax has not been assessed or that the tax return is not correct, or that the tax has not been paid, the Commission 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 another person. The Commission shall make an estimate of the amount of the tax owed. On the basis of this estimate, the Commission shall add a penalty of 5% thereof. If past due tax, interest or penalties are due at the beginning of a calendar year, a new annual room tax lodging permit will not be issued by the Town of Washington Clerk/Treasurer unless satisfactory financial arrangements have been made with the Clerk/Treasurer and the Commission to satisfy payment.

- (2) The Commission shall coordinate enforcement efforts for delinquent room tax collection and may contract with a collection agency. The Commission shall be responsible for prosecuting fraudulent returns and collecting delinquent tax, penalties and interest. All amounts recovered, whether in the form of tax, penalties or interest shall be subject to the provisions of § 336-6 hereof so that 70% of all such amounts recovered shall be retained by the Commission with the remaining 30% paid to the municipality.
 - (3) Confidentiality of reports. All room tax returns, schedules, exhibits, writings or audit reports relating to such returns on file with the Commission and the municipality are deemed confidential pursuant to § 66.0615(3), Wis. Stats., except they may divulge their contents to the following, and no others:
 - (a) The person who filed the return.
 - (b) Officers, employees or agents of the municipal treasurer and the Commission.
 - (c) Other persons for the use in the discharge of duties imposed by law, or in the discharge of the duties of their office (unless otherwise prohibited by law), or by order of a court.
- G. Exemptions in 2007 (see intergovernmental agreement). The following exemptions shall automatically expire on December 31, 2007. For 2007, there may be exemptions to the collection of the room tax subject to audit. Any person or business otherwise required to file a return and make a payment under this agreement will be allowed an exemption from the requirement to collect and pay room tax for any signed contract dated prior to the adoption of the agreement in which the contract guarantees the lodging rates and the applicable taxes. This also applies to any gift certificate purchase before the adoption of this agreement, which is not for a fixed dollar amount, but instead, for the amount paid, guarantees a particular lodging rate and the applicable taxes. This exemption does not apply to reservations made before the adoption of this agreement, which are not binding contracts. The Commission shall establish provisions for the proper reporting of these exemptions.

§ 336-4. Permit for lodging establishment.

- A. Permit required. Any party supplying transient lodging [§ 77.52(2)(a)1, Wis. Stats.] in the Town of Washington shall obtain and maintain a permit from the Town of Washington Clerk/Treasurer permitting the rental of accommodations.
- B. Permit application. Any party furnishing lodging accommodations to transient guests in the Town of Washington shall annually file, on or before the end of the year, with the Town of Washington Clerk/Treasurer, an application to operate each place of business subject to this chapter. There shall be no cost for the filing of the application for the permit. The application form shall include, at minimum, the following information:
- (1) The name of the business under which the person, partnership or corporation transacts business or intends to transact business. (This name shall agree with that used for sales tax permits.)
 - (2) The name of the agent for the business or other person designated as responsible to remit the room tax. Means to contact this person, including e-mail address, postal address, telephone number, fax number and cell phone number.
 - (3) The physical and mailing address of the business.
 - (4) Number of rental units at the location for each month of the year during which the business is operating.
 - (5) The signature of the person designated in Subsection B(2) above.
- C. Permit review and issuance. The Commission accepts the application, reviews it for accuracy and issues the permit. The permit shall not be assignable. The permit shall only be valid for the person named on the application as being responsible to remit the Room Tax. In cases where that person should change or the ownership should change during the life of the permit, the application and issuance of a new permit shall be necessary.
- D. Penalty for failure to obtain and maintain a permit for the rental of accommodations. Any party in violation of the terms of this chapter by failing to obtain or maintain a lodging permit, when such permit is required, shall be subject to a forfeiture of not less than \$20 nor more than \$100 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 violation of this chapter. Any party deemed to have violated this chapter shall be obligated to pay the costs of prosecution, in addition to actual attorney fees expended in the enforcement of this chapter. **[Amended 1-9-2008 by Ord. No. 2008-1]**
- E. Tourism Zone Commission. Authority is hereby delegated to the Door County Tourism Zone Commission to act as agent of this municipality in the enforcement of this chapter for violation of the requirement of obtaining and maintaining a lodging permit when such lodging permit is required. The Door County Tourism Zone Commission shall have and may exercise the full authority which would otherwise be available to this municipality in the enforcement of this chapter, including the ability to seek endorsement and penalties for failure to comply with the chapter section requiring a lodging permit. **[Added 1-9-2008 by Ord. No. 2008-1]**

§ 336-5. Creation of Commission.

- A. Commission purpose. The municipality shall enter into a contract under § 66.0615, Wis. Stats., to create a commission under the Intergovernmental Cooperation provisions of § 66.0301, Wis. Stats., being the Door County Tourism Zone Agreement, a copy of which is attached to this chapter and incorporated by reference herein. The Commission shall contract with a tourism entity for the promotion of the destination with a minimum of 70% of the room taxes collected.
- B. Commission membership. The Commission created by a Tourism Zone Agreement under § 66.0615, Wis. Stats., shall consist of the following members:
- (1) Three members from each municipality in which annual tax collections exceed \$1,000,000.
 - (2) Two members from each municipality in which annual tax collections exceed \$300,000.
 - (3) One member from each municipality in which the annual tax collections are \$300,000 or less.
 - (4) Two additional members, who represent the Wisconsin hotel and motel industry, shall be appointed to the Commission by a majority vote of members of the Commission, or a duly authorized nominating committee, and these individuals shall serve for a one-year term at the pleasure of the Commission and may be reappointed. These members shall not be members of the Board of Directors or employees of the tourism entity.
- C. Commission member appointment process and term of office (see intergovernmental agreement). Members of the Commission shall be appointed by the principal elected official in the municipality and shall be confirmed by a majority vote of the members of the municipality's governing body who are present when the vote is taken. Commissioners shall serve a one-year term, at the pleasure of the appointing official, and may be reappointed. If a member of the Commission resigns or is removed for cause, the municipal body that appointed the member may appoint another person to fulfill the unexpired term. If the subject member was appointed by the Chairperson, they may appoint another person to fill the unexpired term. Members of the Commission shall receive no pay, but may be reimbursed for their travel expense.
- D. Applicability of State Open Meetings Law. While membership on the Commission is provided for each municipality in the zone agreement, all membership positions need not be filled if a municipality does not see a need. A member community that does not appoint a representative shall not count towards the determination of a quorum. The Commission shall be subject to the provisions of the Wisconsin Open Meetings and Open Records Laws, as amended.
- E. Role of Commission. The Commission shall perform such tasks as are specified in the Tourism Zone Agreement.

§ 336-6. Distribution of room taxes collected.

Upon receipt of the room taxes that are collected, the municipality shall distribute a minimum of 70% of the room taxes to the Tourism Zone Commission. The municipality shall retain 30% of the room taxes or less for such purposes as the Town Board shall determine. All municipalities will still receive their monthly, quarterly and annual reports if room tax checks are sent directly to the Commission.

§ 336-7. Tourism entity.

The Commission shall contract with a tourism entity which shall spend the room taxes on tourism promotion and development. The tourism entity shall not use any of the room tax revenue to construct or develop a lodging facility.

§ 336-8. Tracking and reporting room tax revenue expenditures.

The tourism entity shall track the use of room tax revenues and expenditures and state its impact on generating paid overnight stays in the community. The tourism entity shall permit and allow inspections of its records pertaining to the use of the room tax funds upon request of the Tourism Commission at reasonable times. The tourism entity shall provide a written report as determined by the Tourism Commission, no less than annually, and such report shall be available to the municipality and public upon request.

§ 336-9. When effective.

This chapter shall be effective on its passage and publication with the following condition: that at least two of the municipalities listed below adopt the Room Tax and Tourism Zone Agreement in substantially the same form prior to April 1, 2007:

- Town of Washington
- Village of Sister Bay
- Town of Baileys Harbor
- Town of Gibraltar
- Town of Egg Harbor
- Village of Egg Harbor
- Village of Ephraim
- City of Sturgeon Bay
- Town of Sevastopol
- Town of Liberty Grove
- Town of Jacksonport