

## CITY OF ALMA LOCAL ROOM TAX ORDINANCE

Ordinance No. 09-10-01

### AN ORDINANCE FOR COLLECTION OF TAX ON OVERNIGHT LODGING

WHEREAS, Section 66.0615 provides that a municipality may adopt a resolution imposing a tax on the privilege of furnishing, at retail, rooms, or lodging to transients by hotel keepers, motel operators and other persons furnishing accommodations that are available to the public; and,

WHEREAS, if a tax is imposed under this statute, the municipality must spend at least 70% of the room tax collected on tourism promotion and development, as defined in Section 66.0615(1)(fm), and that the remaining amount may be devoted to supporting tourist services, events or for other purposes; and,

WHEREAS, the Common Council has researched the issue of implementing a room tax and has determined that the collection of such a tax would benefit the City in its efforts to attract paid over night lodging at multiple lodging properties for the benefit of the community.

NOW THEREFORE, the Common Council of the City of Alma hereby enacts the following ordinance to be effective January 1<sup>st</sup>, 2010 and to be located at Section (10-100) of the City Municipal Code.

#### Sec. (10-100.) Definitions.

In this chapter, the following shall apply:

*Gross receipts* has the meaning as defined in Wis. Stats. 76.48(d):

“Gross receipts” means total revenue received from the retail furnishing of rooms, lodging, or similar accommodations by a hotel, motel as defined herein.

*Hotel and motel* have the meaning as defined by Wis. Stats. 77.52(2)(a)1:

“Hotel and motel” means a building or a group of buildings in which the public may obtain accommodations for a consideration, including, without limitations, such establishments as inns, motels, tourist homes, tourist house 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 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 as associations organized and operated exclusively for religious, charitable

or educational purposes provided that no part of the net earnings for such corporations and association inures to the benefit of any private shareholder or individual.

*"Municipality"* means the City of Alma, Wisconsin.

*"Payor"* means the person or entity who owes the tax imposed by this article.

*"Room tax"* means the tax imposed by this Ordinance.

*Tourism* has the meaning as defined in Wis. Stats. 66.061(1)(e):

*"Tourism"* means any travel for recreational, business or educational purposes.

*Transient* has the meaning as defined in Wis. Stats. 77.52(2)(a)1:

*"Transient"* means any person residing for a continuous period of less than 30 consecutive days in a hotel, motel or other furnished accommodation available to the public.

*"Tourism Entity"* means 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 restaurants, drinking places, gift/souvenir shops, hotels, motel, bed and breakfasts, tourist rooming houses, public golf courses, amusements parks or other tourist attractions; 25% or more of the total board must be owner's or operators of room tax paying lodging establishments.

*Tourism promotion and development* has the meaning as defined in Wis. Stats. 66.0615(1)(fm):

*"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:

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

Sec. (10-101.) Imposition of room tax.

Pursuant to Wis. Stat. 66.0615, a tax is hereby imposed on the privilege and services of furnishings, 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 Five percent (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 Wis. Stat. 77.52(2)(a)1, and may not be imposed upon sales to the federal government and persons listed under Wis. Stat. 77.54 (9a).

Sec. (10.102.) Distribution of room taxes collected.

Upon receipt of the room taxes that are collected, the City shall distribute Seventy percent (70%) of the room taxes to the Tourism Commission. However, if the City retains Thirty percent (30%) of the room taxes or less, then such funds shall be retained by the City in its general fund.

Sec. (10-103.) Creation and duties of Tourism Commission:

A. The Tourism Commission shall consist of six members who shall be appointed by the Mayor or City Manager with approval of the city council. The Tourism Commission will consist of the following personnel:

- (1) Two representatives from the local lodging industry;
- (2) A city council member;
- (3) Two representatives from the tourism industry; and,
- (4) The Mayor or City Manager, who shall serve as Chairperson, or his/her designee.
- (5) Except for the Mayor or City Manager, each member's term will be for a one year period and each member may serve multiple terms.

B. The Tourism Commission shall contract with the Tourism Entity who shall spend the room taxes on tourism promotion and development.

C. The Tourism Commission and Tourism Entity, with whom it contracts, shall not use any of the room tax revenue to construct or develop a lodging facility.

Sec. (10-104.) Tracking and reporting room tax revenue expenditures.

The Tourism Commission shall track the use of room tax revenue expenditures and state its impact on generating paid over night stays in the community. The Tourism Commission 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 Commission 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 general public upon request.

Sec. (10-105.) Collection of tax.

A. The collection of the tax imposed by this article shall be administered by the city treasurer. The tax imposed is due and payable on the last day of the month next succeeding the calendar quarters for which imposed. A return shall be filed with the city treasurer, by those furnishing at retail such rooms and lodging, on or before the same date on which the tax is due and payable. Such return shall show the gross receipts of the preceding calendar quarters from such retail furnishings of rooms or lodging, the amount of taxes imposed for such period, and such other non-confidential information as the city treasurer deems reasonably necessary. Every person required to file such a quarterly return shall, with their first return, elect to file an annual calendar or fiscal year return. Such return shall be filed within 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 non-confidential information as the city treasurer requires. Such annual returns shall be made on forms as prescribed by the city treasurer. All such returns shall be signed by the person required to file a return or his/he duly authorized agent, but need not be verified by oath. The city treasurer may, for good cause, extend the time for filing any return, but in no event longer than one month from the filing date.

B. The correct amount of tax shall accompany each quarterly tax return and be made payable to the city.

Sec. (10-106.) Sale or conveyance of business.

If any person liable for any amount of tax under this section sells out their business or stock of goods or 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 city 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 section fails to withhold such amount of tax from the purchase price as required, they shall become personally liable for payment of the amount required to be withheld by them to the extent of the price of the accommodations valued in money.

Sec. (10-107.) Determination of tax by audit.

A. The city treasurer may, by office audit, determine the tax required to be paid to the city or the refund due to any person under this chapter. 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 city treasurer's possession. One or more such office audit determinations may be made of the amount due for anyone or for more than one period.

B. The city treasurer may, by field audit, determine the tax required to be paid to the city or the refund due to any person under this chapter. The determination may be made upon the basis of the facts contained in the return being audited or upon any other information within the city treasurer's possession. Whenever the city 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 city treasurer is authorized to examine and inspect the financial records pertaining to the furnishing of accommodations at the establishment in question in order to verify the tax liability of that person or of another person.

Sec. (10-108.) Failure to file Room Tax Return

If any person fails to file a return by this chapter, the city treasurer shall make an estimate of the amount of the gross receipts under subsection (10.105.) 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 city treasurer's possession or may come into his/her possession. On the basis of this estimate, the city treasurer shall compute and determine the amount required to be paid to the city. One or more such determinations may be made for one or more than one period.

Sec. (10-109.) Forfeiture relating to failure to comply with a request to inspect and audit the person's financial records and failing to file returns timely.

A. A forfeiture, not to exceed 5% of the room tax, may be imposed on a person who fails to comply with a request to inspect and audit the person's financial records.

B. Require the person who is who is subject to pay an amount of taxes that is due to pay said tax 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 municipality to inspect and audit his or her financial records.

C. A forfeiture, not to exceed 25% of the room tax due for the previous year or \$3,000.00, whichever is less, of the tax imposed, may be imposed in the event that the room tax is not paid.

Sec. (10-110.) Record keeping requirements.

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 relating to the payment of room taxes in such form as the city treasurer requires.

Sec. (10-111.) Confidentiality of tax returns.

A. All tax returns, schedules, exhibits, writings or audit reports relating to such returns, on file with the city treasurer are deemed to be confidential, except the city treasurer may divulge their contents to the following, and no others:

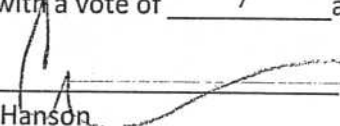
- (1) The person who filed the return.
- (2) Employees or agents of the city treasurer or other persons for use in the discharge of the duties of their office (unless otherwise prohibited by law), or by order of a court.

B. No person having an administrative duty under this action shall make known in any manner the business affairs, operations or information obtained by an investigation of records or any person on whom a tax is imposed by this article, or the amount of 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 otherwise provided in this ordinance.


Sec. (10-112.) Exemptions.

For the tax year 2010, any person or business otherwise required to file a return and make payment to the city under this article will be allowed an exemption from the requirement to collect and pay room tax for any signed contract dated prior to adoption of this article in which the contract guarantees lodging rates. This exemption will expire on December 31, 2009.

Duly adopted this 5<sup>th</sup> day of October, 2009 by the Common Council of the City of Alma with a vote of 7 aye and 0 nay. by roll call vote.

  
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Corey Hanson  
Mayor

Attest:

  
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Linda Torgerson  
City Clerk/Treasurer