

ORDINANCE NUMBER 7.01

AN ORDINANCE OF THE TOWN OF BLOOMING GROVE ESTABLISHING A TRANSIENT ROOM TAX

The Town Board of the Town of Blooming Grove, Dane County, Wisconsin, does ordain as follows:

Section A. Room Tax.

1. In this section:
 - 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, lodging houses, rooming houses, summer camps, apartment hotels, resort lodges and cabins 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 one month 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, and excepting mobile home parks.
 - b. "Gross receipts" has the meaning as defined in sec. 77.51(4), Stats., 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.
2. Pursuant to sec. 66.75, Stats., a tax is hereby imposed on the privilege and service 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 six percent (6%) of the gross receipts from such retail furnishing of rooms or lodging. Such tax shall not be subject to the selective sales tax imposed by sec. 77.52(2), Stats.

The proceeds of such tax, when collected, less all collection expenses, shall be remitted quarterly to the General Fund of the Town of Blooming Grove to be used by the Town at its discretion for the general welfare of the Town, including improving and maintaining the Town's water and sewer service.

3. This section shall be administered by the Treasurer. The tax imposed for the month of January, 2006, 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 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 Treasurer deems necessary.
4. Every person furnishing rooms or lodging under subsection 2 shall file with the Treasurer an application for a permit for each place of business. Every application for a permit shall be made upon a form prescribed by the Treasurer and shall set forth the name under which the applicant transacts or intends to transact business, the location of his place of business, and such other information as the 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.
5. After compliance with subsection 4 and subsection 14 by the applicant, the Treasurer shall grant and issue to each applicant a separate permit 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. It shall at all times be conspicuously displayed at the place for which issued.
6. Board of Housing Tax Review. Any person who shall question the tax herein levied may file a petition setting forth the reason for the challenge of the tax, and the merits of such challenge shall be determined by a Board of Housing Tax Review which shall consist of the Town Treasurer, the Town Board Chairperson, one member of the Town Board appointed by the Town Board Chairperson representing the housing industry. As a condition to such review, payment of the tax challenged shall be required, and if the tax has been wrongfully assessed, it shall be returned to the person who has paid such tax under protest. Said member of the Board of Housing Tax Review representing the industry shall be appointed by the Town Board Chairperson for a period of two years and shall hold office until his or her successor is appointed and qualified, and the member of the Town Board appointed by the Chairperson shall also be appointed for a period of two years and until his or her successor is appointed and qualified.
7. If any person liable for any amount of tax under this section sells out his or her business or stock of goods or quits the business, his or her successors or assigns shall withhold sufficient amounts of the purchase price to cover such amount until the former owner produces a receipt from the 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 or she shall become personally liable for payment of the amount required to be withheld by him to the extent of the price of the accommodations valued in money.

8. The 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 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.
9. The 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 facts contained in the return being audited or upon any other information within the Treasurer's possession. The Treasurer is authorized to exam and inspect the state sales tax records, and memoranda, of any person in order to verify the tax liability of that person or of another person.
10. If a person fails to file a return as required by this section, the Treasurer shall make an estimate of the amount of the gross receipts under subsection 2. Such estimate shall be made for the period for which such person failed to make a return and shall be based upon the State Sales Tax records and memoranda as stated in subsection 9. On the basis of this estimate the 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%) thereof. One or more such determinations may be made for one or more than one period.
11. All unpaid taxes under this section shall bear interest at the rate of twelve percent (12%) per annum from the date due of the return until the first day of the month following the month in which the tax is paid or deposited with the 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 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.
12. Delinquent tax returns shall be subject to a Twenty-five and no/100 Dollars (\$25.00) late filing fee. The tax imposed by this section shall become delinquent if not paid:
 - a. In the case of a timely filed return, within thirty (30) days after the due date of the return, or within thirty (30) days after the expiration of an extension period if one has been granted.
 - b. In the case of no return filed or a return filed late, by the due date of the return.
13. If due to negligence no return is filed, or a return is filed late, the entire tax finally determined shall be subject to a penalty of ten percent (10%) of the tax exclusive

of any interest or other penalties. If a person fails to file a return when due or 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 ten percent (10%) shall be added to the tax required to be paid, exclusive of interest and other penalties.

14. 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 Treasurer requires.
15. All tax returns, schedules, exhibits, writings or audit reports relating to such returns, on file with the Treasurer, are deemed to be confidential, except the 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. Officers or agents of the Town of Blooming Grove as may be necessary to enforce collection.
16. No person having any 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 subsection 15.
17. Any person who is subject to the tax imposed by this section who fails to obtain a permit as required by subsection 4 or who fails or refuses to permit the inspection of his state sales tax records by the Treasurer after such inspection of his state sales tax records by the Treasurer after such inspection has been duly requested by the Treasurer, or who fails to file a return as provided in this section, or who violates any other provision of this section, shall be subject to a forfeiture not to exceed Two Hundred Fifty and no/100 Dollars (\$250.00). Each day, or portion thereof, that such violation continues is hereby deemed to constitute a separate offense.

Section B. Separability and Conflict.

1. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions of this ordinance.
2. All ordinances or parts of ordinances which are inconsistent or contrary to this ordinance are repealed.

Section C. Effective Date.

1. This amended Ordinance shall take effect January 1, 2006.
2. The above and foregoing amended Ordinance was duly adopted by the Town Board of the Town of Blooming Grove at a regular meeting held on the 25th day of October, 2005.

Chairman Dwight Johnson

Supervisor Arnold Berg

Supervisor Kathleen Linzmeier

Supervisor Jean Stube

Supervisor David Young

I hereby certify that the foregoing Ordinance amendment regarding Transient Room Tax was published as a Class 2 notice under ch. 985, Wis. Stats., on the 7th and 8th days of October, 2005.

Dated: October 26, 2005

Clerk