

ORDINANCE NO. 30

ROOM TAX ORDINANCE

The Town Board for the Town of Geneva, Walworth County, Wisconsin, does ordain that the Town of Geneva Ordinance No. 30 is hereby repealed and that the following is hereby created.

Section 1. Definitions.

The definitions set forth in § 66.0615(1), Wis. Stats., and as from time-to-time amended are hereby adopted by reference and incorporated into this ordinance as if fully set forth herein. If there is any conflict between definitions provided herein and those found in § 66.0615, Wis. Stats., the meanings and intent contained herein shall take precedence. As used in this ordinance, the following terms shall have the meanings indicated:

- 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, 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, sanatoriums, 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.
- B. "Tourism Promotion and Tourism 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 room tax may be imposed:
 - i. Marketing projects, including advertising media buys, creation and distribution of printed or electronic promotional tourist materials, or efforts to recruit conventions, sporting events, or motorcoach groups.
 - ii. Transient tourist informational services.
 - iii. Tangible municipal development, including but not limited to, a convention center.
- 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.

Section 2. Imposition of Room Tax and Appropriation.

- A. Pursuant to § 66.0615, Wis. Stats., a tax is hereby imposed on the privilege of furnishing, at retail, rooms or lodging to transients by hotelkeepers, 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 §77.52(2)(a) 1, Wis. Stats. The proceeds of such tax collected, shall be apportioned two percent (2%) to the hotel, motel, or other person filing the return and ninety-eight percent (98%) to the Town.

- B. Appropriation. Pursuant to § 66.0615(1m)(d), Wis. Stats., the Town shall appropriate 70% of room tax collected to the Town of Geneva Tourism Commission to be spent on tourism promotion and tourism development.

Section 3. Room Tax Permit.

- A. Any person furnishing rooms or lodging subject to Section 2 shall annually file with the Treasurer an application for a room tax permit for each place of business. Each application for a room tax permit shall be made upon a form prescribed by the Town Board, and shall set forth the name under which the applicant intends to transact business, the location of the place of business, and such other information as the Town Treasurer requires. At the time of making an application, the applicant shall pay the Treasurer the fee as noted in the Town's resolution for the fee schedule.
- B. A separate room tax permit shall be issued by the Treasurer 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.

Section 4. Collection of Tax, Filing of Room Tax Returns.

- A. The collection of the tax imposed by this article shall be administered by the Town Treasurer. The tax hereby imposed is due and payable within thirty (30) days of the end of each calendar quarter. A return upon a form approved by the Town shall be filed with the Treasurer, by those furnishing at retail such rooms or lodging within the Town 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 quarters from such retail furnishing of rooms or lodging, the amount of taxes imposed for such period, and such other information the Treasurer deems reasonably necessary. The correct amount of tax shall accompany each quarterly tax return and be made payable to the Town.
- B. Every person required to file a quarterly return shall also file an annual return on or before January 31st for the preceding 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 Treasurer requires. The Town Treasurer may, for good cause, extend the time for filing any return, but in no event longer than one month from the filing date.

Section 5. Town of Geneva Tourism Commission.

- A. Creation. Pursuant to § 66.0615(1m), Wis. Stats., there is hereby created a Tourism Commission to coordinate tourism promotion and development in the Town.
- B. Composition. The Commission shall consist of no less than four (4) but no more than six (6) members. At least one (1) Commissioner shall represent the Wisconsin hotel and motel industry. Commissioners shall be appointed by the Town Chairperson subject to Town Board approval.
- C. Term. Commissioners shall serve for a one (1)-year term expiring on January 1 at the pleasure of the Town Chairperson. Commissioners may be reappointed.

- D. Officers. The Commission shall elect a Chairperson, Vice Chairperson and Secretary at the first meeting held after January 1 of each year.
- E. Meetings. The Commission shall meet as needed as determined by the Commission Chairperson, but shall hold meetings not less than quarterly.
- F. Powers and Duties:
 - i. The Tourism Commission shall have all of the powers and duties provided under § 66.0615, Wis. Stats., and any other applicable statutes.
 - ii. The Tourism Commission shall use the room tax appropriated to the Commission for tourism promotion and tourism development within the Town of Geneva and contract with an organization to perform the functions of a tourism entity.
 - iii. The Tourism Commission shall report any delinquencies or inaccurate reporting pertaining to room tax collection to the Town.
 - iv. The Commission shall submit a report to the Town Board on or before November 1 of each year itemizing its expenditures and proposing its budget for the following year.

Section 6. Liability for Tax on Sale or Conveyance of Business.

If any person liable for any amount of tax under this Ordinance sells out the business or stock of goods or quits the business, such person's 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 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 from the purchase price as required, that person shall be responsible for any unpaid tax due under this Ordinance.

Section 7. Records and Audits.

- A. 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 as shall enable the Treasurer to ascertain the amount of the tax payable.
- B. Subject to the provisions of § 66.0615, Wis. Stats., the Treasurer may, by office or field 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. The permit of any person who is subject to the tax imposed by this Section who fails or refuses to permit the inspection of records by the Town Treasurer after such inspection has been duly requested by the Town Treasurer may be revoked as provided under Section 8, herein.

Section 8. Remedies and Penalties for Failure to Obtain Required Permits, for Delinquent Filing or Failure to File Returns.

Subject to the provisions of § 66.0615, Wis. Stats., the following Remedies and Penalties shall apply to violations of this Ordinance:

- A. Failure to Obtain Permit.
Any person who violates any provision of this Ordinance shall, upon conviction thereof, forfeit not less than One Hundred (\$100.00) Dollars nor more than Five Hundred (\$500.00) Dollars and the costs of prosecution, per day 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, the Town may obtain an appropriate order for injunctive relief to discontinue violation of this Section.

B. Delinquent Tax Returns.

Returns filed late shall be subject to a Ten (\$10.00) Dollar late filing fee. In addition, the entire tax finally determined shall be subject to a penalty of ten percent (10%) of the tax per annum, exclusive of any interest or other penalties.

C. Failure to File Return, Failure to Pay Tax Due.

If any person fails to file a return as required by this Ordinance, the Treasurer shall make an estimate of the amount of the gross receipts. Such estimate shall be made for the period for which such person failed to make a return and shall be based upon State Sales Tax Records and Memoranda. 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%) per annum from the due date of the return until paid.

D. Interest.

All unpaid taxes under this Ordinance shall bear interest at the rate of ten percent (10%) per annum from the due date of the return until paid.

E. Suspension or Revocation of Permit.

When any person fails to comply with this Ordinance, the Treasurer may, upon ten (10) days notification and after affording such persons the opportunity to show cause why their permit should not be revoked, revoke or suspend any or all of the permits held by such person under this Ordinance and Ordinance 77. The Treasurer shall give to such person written notice of the suspension or revocation of any such permits.

The permit holder or their authorized representative may request a review of such decision by filing a request for review with the Town Treasurer within ten (10) calendar days of mailing the written notice of suspension or revocation. The request shall state the basis for the request and additional information may be presented at that time. The Town Treasurer shall review all requests and within twenty (20) days of the date of receipt of the request shall make a determination in writing which shall be mailed to the permit holder and their authorized representative, if applicable. Such determination shall be a final determination.

The Treasurer shall not issue a new permit after the revocation of a permit until said person complies with the provisions of this Section. The appropriate fee according to the fee schedule shall be imposed for the renewal or issuance of a license which has been previously suspended or revoked.

Section 9. Confidentiality.

A. 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:

- i. The person who filed the return.
- ii. Officers or agents of the Town as may be necessary to administer this Ordinance and/or to enforce collection.

- B. 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 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,

Section 10. Severability.

If any Section, Subsection, Sentence, Clause, or Phrase of this Ordinance is for any reason held to be invalid or unconstitutional by reason of any decision of any court of competent jurisdiction, such decision shall not affect the validity of any other Section, Subsection, Sentence, Clause, or Phrase hereof. The Town Chairman and Town Board of the Town of Geneva hereby declares that it would have passed this Ordinance and each Section, Subsection, Sentence, Clause, Phrase, or Portion thereof irrespective of the fact that any one or more Sections, Subsections, Sentences, Clauses, Phrases, or Portions thereof may be declared invalid or unconstitutional.

Section 11. Effective Date.

This Ordinance shall take effect from and after its adoption by the Town Board and upon posting a publication thereof as provided by the Statutes of the State of Wisconsin. This Ordinance was adopted this 5th day of August, 2024, by a vote of: 5 in favor 0 against 0 abstain.