Passed: 3/9/2020
Posted: 3/13/2020

ORDINANCE NO. 2020-007

ORDINANCE REGARDING IMPOSITION OF A ROOM TAX

The Town Board of the Town of Linn, Walworth County, Wisconsin, does hereby ordain as follows:

1) DEFINITIONS:

(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 buildings or group of buildings in which accommodations are available to the public, except accommodations rented for a continuous period of more than one (1) month and accommodations furnished by any hospital, sanatoriums, or nursing homes or by corporations or associations organized and operated exclusively for religious, charitable, nonprofit, or educational purposes provided that no part of the net earnings of such corporations and association inures to the benefit of any private shareholder or individual.

(b) **SHORT TERM RENTAL** means a building or group of building in which the public may obtain accommodations for a consideration, including, without limitation, single family homes, duplexes, condominium units, inns, motels, tourist homes, apartment hotels, resort lodges, cabins and any other buildings or group of building in which accommodations are available to the public, except accommodations rented for a continuous period of more than one (1) month to a single tenant or group of tenants and accommodations furnished by any hospital, sanatorium, or nursing homes or by corporations of associations organized and operated exclusively for religious, charitable, nonprofit, or educational purposes provided that no part of the next earnings of such corporations and association inures to the benefit of any private shareholder or individual. The use of any building or structure as a Short Term Rental is deemed to be its primary use if such building or structure is used by or made available for use by the public as a Short Term Rental for more than 45 nights in any consecutive 90 day period.

(c) **GROSS RECEIPTS** has the meaning as defined in Section 66.0420(2) (j) 1, Wisconsin Statutes, insofar as applicable.

(d) **TRANSIENT** means any person residing for a continuous period of less than one (1) month in a hotel, motel or other furnished accommodations available to the public.

2) IMPOSITION, IMPLEMENTATION AND ALLOCATION OF ROOM TAX.s Pursuant to Section 66.0615, Wisconsin Statutes, a tax is hereby imposed on the privilege of furnishing, at retail, rooms or lodging to transients by hotelkeepers, motel operations, and other persons furnishing accommodations to the public, irrespective of whether membership is required for the use of accommodations. Such tax shall be at the rate of five (5%) percent of the total room charges from such retail furnishing of rooms or lodging. Such tax shall not be subject to the selective sales tax imposed by Section 77.52(2) (a) (1), Wisconsin Statutes. The proceeds of such tax collected shall be apportioned as follows:

1. Two (2%) percent of the gross tax collected to the hotel, motel, bed and breakfast or other person filing the return; ninety-eight (98%) percent to the Town of Linn. The amount retained by the Town of Linn shall be allocated as follows:

2. Seventy (70%) percent of the tax collected and retained by the Town of Linn shall be allocated to the Walworth County Visitors Bureau.

3. Thirty (30%) percent of the amount collected and retained by the Town of Linn shall be placed into the general operating fund.

3) This section shall be administered by the Town Treasurer. The tax is due and payable on the last day of the month next succeeding the calendar quarter for which imposed. 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. Every person required to file a quarterly return shall also file an annual return on or before January 31 for the preceding calendar year.

4) 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 (1) month from the filing date.

5) Any person furnishing rooms or lodging subject to Section 2 shall annually file with the Treasurer an application for a permit for each place of business. Each application for a permit shall be made upon a form prescribed by the Town Board. At the time of making an application the applicant shall pay the Treasurer a fee of ten ($10.00) dollars for each permit.

6) A separate 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 or entity 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 it is issued. Said permit shall not be issued until the applicant has complied with Subsection 4) and 12) herein.

7) When any person fails to comply with this section, the Treasurer may, upon ten (10) days notification and after affording such person the opportunity to show cause, why his/her permit shall not be revoked; revoke or suspend any or all of the permits held by such person under this ordinance.

8) The Treasurer shall give to such person written notice of the suspension or revocation of such permits. The Treasurer shall not issue a new permit after the revocation of a permit until said person complies with the provision of this section. A fee of two ($2.00) dollars shall be imposed for the renewal or issuance of a permit which has been previously suspended or revoked.

9) If any person liable for any amount of tax under this ordinance sells out his business, stock, goods or quits the business, his successors or assigns shall be responsible for any unpaid tax due under this ordinance.

10) The Treasurer may 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.

11) If any person fails to file a return as required by this ordinance, the Treasurer shall make an estimate of the amount of his/her total room charges 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 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.

12) All unpaid taxes under this ordinance shall bear interest at the rate of twelve percent (12%) per annum from the due date of the return until paid.

13) 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 up to twenty-five percent (25%) 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 ordinance, a penalty of fifty percent (50%) shall be added to the tax required to be paid, exclusive of interest and other penalties.

(a) If any section, subsection, paragraph, 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.

(b) All ordinances or parts of ordinances which are inconsistent or contrary to this ordinance are penalties.

14) Every person required to file a return for the tax imposed by this ordinance shall keep or cause to be kept such records, receipts, invoices and other pertinent papers and shall enable the Treasurer to ascertain the amount of the tax payable.

15) All 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 or their designee;

(b) Officers or agent of the Town as may be necessary to enforce collection, provided, however, this section shall not be construed to preclude an action at law or other remedy to enforce collection.

16) 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 upon 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 persons, except as provided in Subsection 13).

17) Any person who is subject to the tax imposed by this section who fails to obtain a permit as required by Section 14, or who fails or refuses to permit the inspection of his/her records by the Town Treasurer after such inspection has been duly requested by the Town 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 penalty of not less than one hundred ($100.00) dollars nor more than five hundred ($500.00) dollars. Each day, or portion thereof, that such violation continues is hereby deemed to constitute a separate offense.

18) EFFECTIVE DATE. This Ordinance is effective as of 9th day of March, 2020.

Adopted this 9th day of March, 2020.

TOWN OF LINN

James R. Weiss

James Weiss, Chairman

(Seal)

Christine Jones

Timothy John Rasch

Tim Rasch

Roy S. White

Roy White

Alex Palmer

APPROVED:

Rose Miller

Rose Miller, Clerk