

Town of Sugar Creek
Ordinance # 2020-02
ROOM TAX ORDINANCE

It is hereby ordained by the Town Board of the Town of Sugar Creek, Walworth County, Wisconsin, as follows:

Sections:

Section I - Definitions

Section II - Imposition of Tax

Section III - Tourism Entity

Section IV - Collection and Distribution

Section V - Permit-Requirements

Section VI - Permit-Revocation

Section VII - Sale of business

Section VIII - Audit

Section IX - Failure to File

Section X - Interest

Section XI - Penalty assessment

Section XII - Records and taxation

Section XIII - Penalty-Forfeiture

Section I - Definitions.

(a) "Gross receipts" has the meaning as defined in Wisconsin Statutes, Section 77.51(4) (a), (b) and (c) insofar as applicable.

(b) "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 hospital, 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 corporation and associations inures

to the benefit of any private shareholder or individual.

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

(d) "Lodging <Marketplace" means an entity that provides a platform through which an unaffiliated 3rd party offers to rent a short-term rental to an occupant and collects the consideration for the rental from the occupancy.

(e) "Occupant" means a person who rents a short-term rental through a lodging marketplace.

(f) "Owner" means the person who owns the residential dwelling that has been rented.

(g) "Residential dwelling" means any building, structure, or part of the building or structure, that is used or intended to be used as a home, residence, or sleeping place by one person or by 2 or more persons maintaining a common household, to the exclusion of all others.

(h) "Short-term rental" means a residential dwelling that is offered for rent for a fee and for fewer than 29 consecutive days.

Section II - Imposition of Tax.

(a) Pursuant to Section 66.0615, a tax is imposed on the privilege and service of furnishing, at retail, of rooms or lodging to transients by hotelkeepers, motel operators, lodging marketplaces, owners of short-term rentals, 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 furnishings of rooms or lodging. Such tax shall not be subject to selective sales tax imposed by Wisconsin Statutes, Section 77.52(2)(a).

(b) Sales of rooms to the federal government, state of Wisconsin, Wisconsin local governmental units, and other entities holding tax-exempt certificates shall be exempt from imposition of the room tax imposed under this chapter. The exemption shall be granted only if the following conditions have been met for any sale of a room:

1. The retailer shall bill the lodging in the name of the exempt entity; and
2. The retailer must be provided with either:
 - (A) In the case of federal, state of Wisconsin or local governmental units, a tax-exempt status number and a letter of authorization or purchase order from the governmental unit, or
 - (B) In the case of other tax-exempt entities, the entities certificate of exempt status number.

Section III - Tourism Entity. The municipality shall enter into an agreement with one or more tourism entities, as defined by Wis. Stat. 66.0615 (f), who shall be responsible for tourism promotion and tourism development as defined by Wis. Stat. 66.0615 1 (frn). The municipality hereby appoints the Elkhorn Area Chamber of Commerce & Tourism Center, Inc., Elkhorn, Wisconsin, USA, as the tourism entity under the Room Tax Act.

Section IV - Collection and Distribution.

(a) **Collection of Tax.** Collection shall be administered by the treasurer. The tax imposed for each month is due and payable on the last day of the month following the calendar quarter for which tax was imposed. From that tax, five percent (5%) is retained by the lodging collector. A return shall be filed with the treasurer, by those furnishing at retail such rooms and lodging, lodging marketplaces, owners of short-term rentals, and other persons furnishing accommodations that are available to the public, irrespective of whether membership is required for use of the accommodations 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. All such returns shall be signed by the person required to file a return or his duly authorized agent but need not be verified by oath. The 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) **Distribution of Tax.** The room tax remitted shall be allocated to a segregated fund of the municipality. The municipality will retain thirty percent (30%) of the remitted room taxes collected from those furnishing accommodations for use of any civic purpose and will remit seventy percent (70%) remaining room taxes to the Elkhorn Chamber of Commerce, and all seventy percent (70%) of the remitted taxes shall be used for tourism promotion and tourism development per Room Tax Act §66.0615 Wis. Stats.

Section V - Permit-Requirements.

(a) Every person, including the agent for the lodging market place, who furnishes rooms or lodging, and Short-term rentals under Section II shall file with the clerk an application for a permit to operate a hotel or motel, residential dwelling that is used for Short-term rental for each place of business. Every application for a permit shall be made upon a form prescribed by the clerk 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 clerk 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, or agent of the lodging marketplace or Owner of the residential dwelling used for Short-term rentals. At the time of making an application, the applicant shall pay to the clerk a fee of \$250.00.

(b) In order to protect the revenue of the municipality, the clerk may require any person liable for the tax imposed by this chapter to place with him or her, before or after a permit is issued, such security, not in excess of one thousand dollars as the clerk determines, or bond suitable to the city in lieu thereof. If anyone subject to his Ordinance fails or refuses to place such security or bond, the clerk may refuse or revoke such permit. If anyone subject to this Ordinance is delinquent in the payment of the taxes imposed by this section, the clerk may, upon ten (10) days' notice, recover the taxes, interest and penalties from the security or bond placed with the clerk by such taxpayer. No interest shall be paid or allowed by the city to any person for the deposit of such security.

(c) After compliance with subsections (a) and (b) by the applicant, the clerk shall grant and issue to each applicant a separate permit for each place of business within the municipality. 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. At the time of making an application, the applicant shall pay to the clerk the fee of \$250.00.

(d) This permit shall be for a period of one (1) year.

Section VI - Permit-Revocation. Whenever anyone subject to this Ordinance fails to comply with this chapter, the clerk may, upon ten days notification and after affording such person the opportunity to show just cause why his permit should not be revoked, revoke or suspend any or all of the permits held by such person. The clerk shall give to such person written notice of the suspension or revocation of any of his permits. The clerk shall not issue a new permit after the revocation of a permit unless he is satisfied that the former holder of the permit will comply with the provisions of this chapter. A fee as provided in Section V(a) shall be imposed for the renewal or issuance of a permit which has been previously suspended or revoked.

Section VII - Sale of Business. If any person liable for any amount of tax under this chapter sells out his business or stock of goods or quits the business, his successors or assigns shall withhold sufficient money from the purchase price to cover such amount of tax until the former owner produces a receipt from the treasurer showing that it has been paid or a certificate stating that no amount is due. If a person subject to the tax imposed by this chapter fails to withhold such amount of tax from the purchase price as required, he shall become personally liable for payment of the amount required to be withheld by him to the extent of the price of the accommodations.

Section VIII - Audit. The treasurer may, by audit, determine the tax required to be paid to the municipality 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 treasurer's possession, or information such as that which would be gained from income tax returns which shall be furnished upon request of the treasurer. One or more such audit determinations may be made of the amount due for anyone or for more than one period.

Section IX - Failure to File. If any person fails to file a return as required by this chapter, the treasurer shall make an estimate of the amount of the gross receipts under Section II. 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 treasurer's possession of which may come into his possession. On the basis of this estimate, the treasurer shall compute and determine the amount required to be paid to the municipality, adding to the sum thus arrived at a penalty equal to twelve percent (12%) thereof. One or more such determinations may be made for one or more than one period.

Section X - Interest. All unpaid taxes under this chapter shall bear interest at the rate of twelve percent (12%) per annum from the due date 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, in which such 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 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.

Section XI - Penalty Assessment. If due to negligence no return is filed, or a return is filed late, or an incorrect return is filed, the entire tax finally determined shall be subject to a penalty of two hundred fifty dollars (\$250.00), exclusive of 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 chapter, a penalty of fifty percent (50%) shall be added to the tax required to be paid, exclusive of interest and other penalties.

Section XII - Records and Taxation.

(a) Every person liable for the tax imposed by this chapter shall keep or cause to be kept such records, receipts, invoices and other pertinent papers in such form as the treasurer requires.

(b) 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:

- (1) The person who filed the return; and
- (2) Officers, agents, or employees of the Federal Internal Revenue Service or the State Department of Revenue.

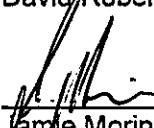
This ordinance is effective on publication or posting. The town clerk shall properly post or publish this ordinance, as required under s. 60.80, Wis. stats.

Adopted this 19th day of January, 20210.

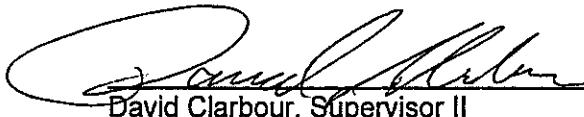
TOWN OF SUGAR CREEK



David Robers, Town Chairman



Jamie Morin, Supervisor I



David Clarbour, Supervisor II

I, Sara Morin, Clerk of the Town of Sugar Creek, Walworth County, Wisconsin, certify that the foregoing is a true, correct and complete copy of an ordinance adopted by the Town Board of the Town of Sugar Creek on January 19th, 2026.

Attest:

Sara Morin
Sara Morin, Town Clerk