

ROOM TAX - ORDINANCE NO. 26.01
Town of Cloverland

26.01 TITLE AND PURPOSE:

The title of this chapter is Chapter 26 - Town of Cloverland Room Tax. The purpose of this ordinance is to impose a tax, for the promotion and development of tourism, on short-term lodging rental.

26.02 AUTHORITY:

The Town of Cloverland has the authority to enact this ordinance under its village powers under §60.22, Wis. Stat. and the specific authority under §66.0615 Wis. Stat.

26.03 DEFINITIONS: In this ordinance,

Gross Receipts means the entire sales price charged to the purchaser, excluding applicable taxes, including all charges applicable to facilitating the sale such as, but not limited to, cleaning costs and the cost of consumable supplies provided at no extra charge, insofar as applicable to receipts from furnishing at retail, rooms or lodging to transients by hotel keepers, motel operators and other owners or lodging marketplaces furnishing lodging available to the public.

Hotel or Motel means a building or group of buildings in which the public may obtain lodging for a consideration including, without limitation, such establishments as inns, motels, tourist homes, tourist houses, rooming houses, summer camps, apartment hotels, resort lodges and cabins and any other building or group of buildings in which lodging is available to the public, including mobile homes as defined in §66.058(1)(d) Wis. Stats. This definition does not include lodging rented for a continuous period of 30 days or more, lodging furnished by any hospital, sanatorium or nursing home, or by a corporation or association organized and operated exclusively for religious, charitable or educational purposes, provided no part of the net earnings of such corporation or association inures to the benefit of any private shareholder or individual.

Marketplace provider means any person who facilitates a retail sale by a seller by listing or advertising for sale by the seller, in any manner, tangible personal property, or items, property, or goods as specified in §77.52(1)(b), (c), or (d) Wis. Stats. or a service specified under §77.52(2)(a) Wis. Stats. and, who directly, through agreement or arrangements with 3rd parties, processes the payment from the purchaser for the retail sale, regardless of whether the person receives compensation or other consideration in exchange for the services provided by the person.

Marketplace seller means a person who sells products through a physical or electronic marketplace operated by a marketplace provider, regardless of whether the seller is required to be registered with the WI Department of Revenue.

Owner means the owner of a short-term rental business subject to the provisions of this chapter.

Person means a natural person, sole proprietorship, partnership, limited liability company, corporation, association, or the owner of a single-owner entity that is disregarded as a separate entity under chapter 71, Wis. Stats.

Room Tax means a tax on the gross receipts derived from furnishing or selling rooms or lodging subject to this chapter.

Rental Property Registration means annual registration with the Town of all short-term rental properties subject to the provisions of this chapter,

Room Tax Return means a form prescribed and provided by the Town Treasurer for computing and submitting monthly or quarterly payment of the room tax. Such room tax return shall report the gross receipts subject to the room tax hereunder, the amount of the room tax due and shall contain certain additional information as the Town Treasurer may require on such form.

Short-term rental means rental of a residential dwelling for fewer than 30 consecutive days.

Transient means any individuals residing for a continuous period of fewer than 30 consecutive days in lodging defined as Hotel or Motel in this chapter.

Town means the Town of Cloverland, Vilas County, WI

Town Board means the Town of Cloverland Board of Supervisors.

Treasurer means the Town of Cloverland Clerk/Treasurer.

Wis. Stats. means the Wisconsin Statutes, including successor provisions to cited statutes.

26.04 ROOM TAX IMPOSED:

- A) Room Tax: Pursuant to §66.75, Wis. Stat., the Town Board has established a tax rate of 4.5% to be imposed on the furnishing or selling rooms of lodging subject to this chapter. The tax rate shall be posted in writing by the Town Clerk in a conspicuous place at the Town Offices. The tax rate assessed may be revised by the Cloverland Town Board following a Public Hearing conducted by the Town Board. In the event the tax is changed, notice of the new tax rate shall be posted by the Town Clerk within 24 hours of the change. The room tax shall not be subject to the selective sales tax imposed by §77.52(2)(a)(I) Wis. Stats. and may not be imposed on sales to the federal government and persons listed under §77.54(9)(a) Wis. Stats,

- B) Package Rates: If lodging is provided as part of a package rate which includes other goods and/or services, such as food, boat and motor, educational instruction , etc., irrespective of whether membership is required for use of the lodging, the room tax shall be applied only to that portion of the package rate representing gross receipts as defined in §26.03 of this chapter. The determination of the portion of the package rate representing gross receipts as defined in §26.03 of this chapter will be made by the Town Clerk/Treasurer upon application by the owner or operator of the rental property. In the event the Town Clerk/Treasurer is unable to determine the portion of the package rate representing the gross receipts as defined in §26.03 of this chapter, he or she shall refer the determination to the Town Board, which shall make the final determination. The Town Board shall make such a determination based on evidence presented to it by the owner or operator of the rental property.
- C) Distribution of Tax: No more than 75 days after March 31, June 30, September 30 and December 31 , the Town Board shall allocate and distribute 70% of the room tax revenues collected in the quarter ending December 31 , March 31 , June 30 and September 30, respectively, to a tourism entity as specified in §66.0615(1)(f) Wis. Stats.

26.05 REQUIREMENTS FOR RENTALS NOT MANAGED BY A MARKETPLACE PROVIDER:

- (A) Annual Rental Property Registration: All short-term rental property within the Town and subject to the provisions of this chapter shall annually be registered by the rental owner with the Town Treasurer in a manner prescribed by the Town Treasurer. The deadline for completing the annual registration shall coincide with the deadline for annually obtaining a WI Lodging License as prescribed in section 72.04(2), Wisconsin Administrative Code. Failure to comply with this provision may result in a penalty as prescribed in §26.07(C) of this chapter.
- (B) Reporting of Room Taxes: Owners shall file a room tax return and tax payments with the Town Treasurer within 30 days of the end of the applicable month or quarter as follows:
- (1) Owners that submit their Wisconsin Sales Tax returns on a monthly basis shall also submit their Room Tax returns to the Town on a monthly basis.
 - (2) Owners that submit their Wisconsin Sales Tax returns on a quarterly or annual basis shall submit their Room Tax returns to the Town either monthly or quarterly, but not annually.
- (C) Timely Filings of Returns: Any return to be filed under the provisions of this chapter that is postmarked by the United States Post Office on or before the date due shall be considered timely filed. If a return is postmarked after the due date, a delinquent filing fee will be imposed in an amount determined by the Cloverland Town Treasurer. Unpaid taxes bear interest of 1 % per month from due date, until first day of month following month of payment,

- (D) Extension of Time to File Returns: The Town Treasure may, for good cause, grant an extension of time to file a room tax return or a room tax annual reconciliation return for a period not exceeding 30 days from the date due.
- (E) Estimate of Time to File Returns: If any owner fails to file a return as required by this chapter within 30 days following the due date, the Town Treasurer shall give such owner written notice of the failure to file. If such owner fails to respond by filing all required returns within 10 days of the date of the notice, the Town Treasurer shall make an estimate of the amount of the gross receipts under this chapter. Such an estimate shall be made for the period for which such owner failed to file a return, based upon the prior year's returns, if available, or upon any information as the Town Treasurer to inspect and audit his or her financial records. Each owner required to pay room tax determined pursuant to this subsection shall also pay interest at the rate of 1% per month on the unpaid balance.
- (F) Record Keeping Requirements: Owners subject to the provisions of this chapter shall keep or cause to be kept accurate records of gross receipts from furnishing or selling short-term lodging available to the public.
- (G) Responsibility for Unpaid Tax: If any owner liable for any amount of tax under this chapter sells his or her business, stock of goods, or quits the business, the original owner and, his or her successors or assigns shall be jointly and severally liable for any unpaid tax due under this chapter.

26.06 REQUIREMENTS FOR RENTALS MANAGED BY A MARKETPLACE PROVIDER:

- (A) Annual Rental Property Registration: All short-term rental property within the Town and subject to the provisions of this chapter shall annually be registered by the rental owner with the Town Treasurer in a manner prescribed by the Town Treasurer. The deadline for completing the annual registration shall coincide with the deadline for annually obtaining a WI Lodging License as prescribed in section 72.04(2), Wisconsin Administrative Code.
- (B) Marketplace providers shall collect the tax imposed by the Town on behalf of the marketplace seller or rental owner and forward it to the Town Treasurer, on a quarterly basis, along with a form prepared by the Department of Revenue, except that a marketplace provider shall forward the tax to the Town more frequently if the marketplace provider and the Town enter into a written agreement providing for more frequent submissions. The marketplace provider shall notify the marketplace seller or rental owner that the marketplace provider has collected and forwarded the required taxes. The Town may not impose and collect a room tax from the marketplace seller or rental owner if the Town collects the room tax as described in this paragraph.

If any lodging marketplace fails to comply with this provision, the Town Clerk/Treasurer shall notify in writing all rental property owners represented by said lodging marketplace:

- (1) That their lodging marketplace is delinquent in filing a tax return.

- (2) That the tax return for their rental property or properties is subject to an interest rate of 1% per month on the unpaid balance.
- (3) That their lodging marketplace may become subject to the enforcement provisions of §26.10 of this chapter.

26.07 ENFORCEMENT:

- (A) Pursuant with §66.0615, Wis. Stats., as a means of enforcing the collection of any room tax imposed, the Town may exchange audit or other information with the Wisconsin Department of Revenue and may do any of the following:
 - (1) If the Town 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 Town may inspect and audit the financial records of any owner or lodging marketplace subject to this chapter to determine whether the correct amount of room tax is assessed and whether any room tax return is correct.
 - (2) Assess a forfeiture not to exceed 5 percent of the room tax due.
 - (3) Determine the room tax due, to the Town's best judgement, if an owner or lodging marketplace required to make a return fails, neglects or refuses to do so for the amount, in the manner and form and within the time prescribed by the Town.
 - (4) Require any owner or lodging marketplace who is subject to this chapter to pay an amount of room tax that the Town determines to be due, plus interest at the rate of 1 percent per month on the unpaid balance. No refund or modification of the payment determined may be granted until the owner or lodging marketplace files a correct room tax return and permits the Town to inspect and audit his or her financial records.
 - (5) Enact a schedule of forfeitures, not to exceed 25 percent of the room tax due for the previous year or \$500.00, whichever is less, to be imposed for failure to pay the appropriate room tax.
- (B) Any delinquent tax return, for which an extension of time to file has not been granted by the Town Clerk/Treasurer, shall be subject to a \$20.00 late filing penalty for the first offence and a \$50.00 late filing penalty for all subsequent offences, exclusive of interest or other penalties.
- (C) Any person who violates any provisions of this chapter other than as described in §26.06(A) may be subject to a forfeiture of \$50.00 plus court costs for the first offense, \$100.00 plus court costs for the second offense, or \$200.00 plus court costs for all subsequent violations.
- (D) Issuance of Citation: The Town Board Chairman or designee shall be authorized to issue a citation pursuant to §778.25 Wis. Stats, for any violation of this chapter.

26.08 CONFIDENTIALITY:

All tax returns, schedules, exhibits, writing or audit reports relating to such returns on file with the Town Treasure are deemed to be confidential, except that the Town Treasurer may divulge their contents to the following and no others:

- (A) The owners or lodging marketplaces who filed the return or their legal representatives.

- (B) The Wisconsin Department of Revenue.
- (C) Owners or lodging marketplaces using the information in the discharge of duties imposed by law or the duties of their office or by order of a court.

26.09 SEVERABILITY:

The provisions of this chapter shall be deemed severable. If any sections subsection, paragraph, subparagraph, sentence, clause, phrase or portion of this chapter is for any reason held to be 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 portion of this chapter.

26.10 STATE LAW APPLIES:

Nothing contained in this chapter shall be deemed to limit or restrict the application of any State law or administrative regulation of any State agency regulating the subject of this chapter.

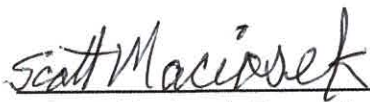
26.11 EFFECTIVE DATE:

This ordinance is effective on publication or posting as required under §60.80, Wis. stats.

Dated this 6th day of July 2022

Date Effective: 07/06/2022

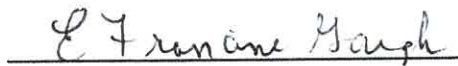
Reviewed and updated with corrections on 5th day of January 2025.




Scott Maciosek, Town Chairman



Tracy Schilling, Town Clerk



Francine Gough, Supervisor #1



Mike Gough, Supervisor #2



Mildred Ritzen, Supervisor #3



Joe Spitz, Supervisor #4