

ORDINANCE 2013 - 12

AN ORDINANCE AMENDING CHAPTER 309 RELATING TO CREATING AND IMPOSING A ROOM TAX IN THE CITY OF RICHLAND CENTER

The Common Council of the City of Richland Center, Wisconsin, does hereby ordain as follows:

SECTION 1:

Chapter 309 of the Code of Ordinances of the City of Richland Center is amended to read as follows:

CHAPTER 309

CREATING AND IMPOSING A ROOM TAX IN THE CITY OF RICHLAND CENTER

309.01 Five Percent (5%) Room Tax Imposed. Pursuant to §66.0615, Wis. Stats., a tax is hereby imposed on the privilege and service of furnishing, at retail, 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 use of the accommodations. In this Subsection, “hotel”, “motel”, and “transient” shall have the meaning set for in §77.52(2)(a)1, Wis. Stats. and “gross receipts” shall have the meaning set forth in §77.51.(4), Wis. Stats., in so far as applicable. The tax shall be at the rate of five percent (5%) of the gross receipts from such retail furnishing of rooms or lodging. The tax shall not be subject to the selective sales tax imposed by §77.52(2), Wis. Stats.

309.02 Application of Proceeds. The proceeds of the tax, when collected, less all collection expenses, shall be assigned to the general fund and disbursed as provided by State law.

309.03 Tax to be Paid and Returns Filed Quarterly. The tax imposed by this chapter shall be paid for each calendar quarter and shall be 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 City 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 the retail furnishing of rooms or lodging, the amount of taxes imposed for such period, and such other information as the City Treasurer deems necessary.

309.04 Annual Return Required. Every person required by sec. 309.03 to file a quarterly return shall file an annual calendar year-return. The annual return shall be filed within thirty (30) days of the close of each calendar or fiscal 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 City Treasurer requires. The annual returns shall be made on forms prescribed by the City Treasurer. All such returns shall be signed by the person required to file a return or his/her duly authorized agent, but need not be verified by oath.

309.05 Extension of Time to File Return on Showing of Good Cause. The City Treasurer may, for good cause, extend the time for filing any return, but in no event longer than one (1) month from the original due date of the return.

309.06 Finance and Budget Committee and City Treasurer to Administer. The provisions of this section shall be administered by the City Treasurer with oversight provided by the City Finance and Budget Committee. The City Council may establish at the recommendation of the Finance and Budget Committee through a separate City Resolution the following programs: (a) Room Tax Sharing Program. A room tax sharing program may include a separate established review panel made up of other governmental agencies and business and citizens of the community. The City Treasurer shall establish such forms and procedures as are reasonably necessary to carry out its intent and purposes.

309.07 Permit Required. Every person furnishing rooms or lodging under sec. 309.01 shall file with the City Treasurer an application for a permit for each place of business. The application shall be made upon a form prescribed by the City Treasurer and shall set forth the name under which the applicant transacts or intends to transact business, the location of the place of business, and such other information as the City 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 the owner .

309.08 City Treasurer to Issue Permit. After compliance with sec. 309.07 and sec. 309.17 by the applicant, the City Treasurer shall grant and issue to each applicant a separate permit for each place of business within the City. Such permit shall not be assignable and shall be 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.

309.05 Appeal of Amount of Room Tax. Any person who shall dispute the amount of tax levied by this ordinance may file a petition with the City Treasurer setting forth the basis for the dispute of the tax. The merits of such dispute shall be determined by the Board of Review. As a condition to filing a petition, the taxes under protest shall first be paid in full. Any such tax wrongfully assessed shall be refunded to the payer.

309.10 Procedure Where Business is Sold. If a person liable for a tax under this section sells the business or terminates the business, the purchaser, successor or assigns of the person so liable shall withhold from the purchase price a sum sufficient to pay any unpaid room taxes accrued prior to the sale or termination until the Seller produces a receipt from the City Treasurer that the tax has been determined and fully paid or a certificate that no tax is due. Any purchaser who fails to withhold the room tax from the purchase price as required herein shall be personally liable for payment of the amount required to be withheld.

309.11 Audits; Penalty for Failure to Allow Inspection.

(1) The City Treasurer may, by office audit, determine the tax required to be paid to the City or the refund due to any person under this subsection. 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 City Treasurer's possession. One or more such office audit determinations may be made by the City Treasurer as deemed necessary.

309.12 Audit.

(1) The City Treasurer may, by field audit, determine the tax required to be paid to the City or the refund due to any person under this section. The determination may be made upon the basis of the facts contained in the return being audited or upon any other information within the City Treasurer's possession. The City Treasurer is authorized to examine 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.

(2) If the City Treasurer 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 City Treasurer may inspect and audit the financial records of any person subject to the room tax pertaining to the furnishing of accommodations to determine whether the correct amount of room tax is assessed and whether any room tax return is correct.

(3) Any person who fails to comply with a request to inspect and audit the financial records pursuant to (2) shall forfeit to the City an amount equal to five per cent (5%) of the room tax as finally determined.

(4) The City Treasurer is authorized to examine and inspect state sales tax records of the Wisconsin Department of Revenue in order to establish or verify the tax liability.

309.13 Failure to File Returns, Determination of Tax Estimate by City Treasurer, Interest.

(1) If any person required to make a return fails to file, neglects or refuses to do so for the amount, in the manner and form and within the time prescribed by the City for filing of the return, the City Treasurer shall determine the tax according to his/her best judgment. Such determinations may be made for one or more periods.

(2) Such determination 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 City Treasurer's possession or which may come into the City Treasurer's possession. On the basis of this estimate, the City Treasurer shall compute and determine the amount required to be paid to the City, adding to the sum interest at the rate of one per cent (1%) per month on the unpaid balance from the date the tax would have been due had a return been timely filed until the tax is paid.

(3) No modification of the payment so determined may be made until the person files a correct room tax return and permits the City to inspect and audit his or her financial records.

309.14 Interest Charged on Unpaid Tax.

(1) All unpaid taxes imposed under this chapter shall bear interest at the rate of one percent (1%) per month from the due date of the tax until the first day of the month following the month in which the tax is paid or deposited with the City Treasurer.

(2) 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.

(3) 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 City 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, no interest shall be paid thereon.

309.15 Delinquent Returns. Late Filing Fee. Delinquent tax returns shall be subject to a Ten

Dollar (\$10.00) late filing fee. The tax imposed by this section shall become delinquent if not paid:

(1) 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.

(2) In the case of no return filed, or a return filed late, by the due date of the return.

309.16 Penalty for Failure to Pay Tax. Any person who fails to pay the room tax when due shall forfeit twenty-five percent (25%) of the room tax determined to be due for the previous year or \$5,000.00, whichever is less plus all applicable costs, fees and surcharges imposed under Ch. 814 Wis. Stats., and in the event such forfeiture, costs, fees and surcharges are not paid, such person, officer, director of such corporation, any partner of such partnership, sole member or managing member of a limited liability company, any trustee of such trust or any officer or principal of any other legal entity may, upon order of the Circuit Court, be subject to any sanctions duly imposed by the Court for such failure to pay. Such forfeiture shall be in addition to all interest imposed by this chapter.

309.17 Records to be Kept. 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 City Treasurer requires.

309.18 Confidentiality of Records; Penalty for Improper Disclosure.

(1) All tax returns, schedules, exhibits, writings, audit reports or other information relating to such returns on file with the City Treasurer shall be confidential, except the City 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 Wisconsin Department of Revenue.
- (c) Officers, agents or employees of the City as may be necessary to enforce the or this chapter, manage collection of the room tax or otherwise use the information in the discharge of duties imposed by law or the duties of their office.
- (d) As directed by an order of a court.

(2) Any publication of statistics related to the room tax shall be classified so as not to disclose the identity of particular returns.

(3) Any person violating sec. 309.18 may be required to forfeit not less than \$100 nor more than \$500.

309.19 Definition. As used in this chapter, the term person shall include a natural person or any officer of a corporation, any partner of a partnership, any sole member or managing member of a limited liability company, any trustee of a trust or any officer or principal of any other legal entity which is subject to the room tax imposed by this chapter.

309.20 Severability. If any Provision, section, subsection, sentence, clause, or phrase of this Ordinance shall for any reason be held to be invalid, illegal, unconstitutional or otherwise not legally enforceable, whether as to any specific property or as to all properties in a class or as to all properties within the City of Richland Center, such holding or decision shall not affect the validity of the remaining portions of this Ordinance, or the applicability of this Ordinance to any property outside of the class to

which it has so been held invalid which can be given effect without the invalid, illegal, unconstitutional provision or application, it being specifically intended that the various provisions of this Ordinance be deemed severable.

SECTION 2:

Any unpaid room tax liabilities arising under Chapter 309 of the Code of Ordinance as it existed prior to the effective date of this ordinance or arising after enactment of this ordinance but prior to the effective date of this ordinance shall not be deemed waived or forgiven by enactment of this ordinance and shall continue to be due and owing to and collectable by the City.


SECTION 3:

This ordinance shall be effective upon the later of its passage and publication or October 1, 2013.

Enacted the 20th day of August, 2012


Paul F. Corcoran, Mayor

ATTEST:


Melinda D. Jones, City Clerk/Treasurer