

SUMMARY OF
ORDINANCE IMPOSING A HOTEL/MOTEL TAX

Who: Each municipality will need to enact an ordinance that amends and restates prior ordinances to carry out the terms agreed to in the Cooperation Agreement.

What: The ordinance imposes the room tax consistent with the Cooperation Agreement.

Where: Each ordinance applies only to the municipality enacting the ordinance. However, the form ordinance used by each municipality will create uniformity.

When: The room tax will be effective January 1, 2016.

Why: The ordinance is required to give legal effect to the terms of the Cooperation Agreement.

Allocation of Room Tax	Before the PAC is paid off	After the PAC is paid off
CVB Room Tax	3%	3%
PAC Room Tax	2%	-0-
Exhibition Center Room Tax	3%	3%
Municipality Room Tax	1%	1%
Tourism Facility Room Tax	1%	3%
Total	10%	10%

**ORDINANCE OF _____ [City]/[Village]/[Town] IMPOSING A
HOTEL/MOTEL TAX ON THE PRIVILEGE OF FURNISHING ROOMS AT RETAIL**

WHEREAS, the [City]/[Village]/[Town] of _____ (“[City]/[Village]/[Town]”) is a duly organized and existing municipality created under the provisions of the laws of the State of Wisconsin; and

WHEREAS, §66.0615 of the Wisconsin Statutes authorizes the governing body of a municipality to adopt an ordinance imposing a tax on the privilege of furnishing, at retail, rooms or lodging to transients by hotelkeepers, motel operators or other persons furnishing accommodations which are available to the public (“Room Tax”); and

WHEREAS, the geographic area encompassing the CITY OF APPLETON, WISCONSIN, a Wisconsin municipal corporation and political subdivision (“Appleton”), the CITY OF KAUKAUNA, WISCONSIN, a Wisconsin municipal corporation and political subdivision (“Kaukauna”), the CITY OF NEENAH, WISCONSIN, a Wisconsin municipal corporation and political subdivision (“City of Neenah”), the VILLAGE OF KIMBERLY, WISCONSIN, a Wisconsin municipal corporation and political subdivision (“Kimberly”), the VILLAGE OF LITTLE CHUTE, WISCONSIN, a Wisconsin municipal corporation and political subdivision (“Little Chute”), the TOWN OF GRAND CHUTE, WISCONSIN, a Wisconsin municipal corporation and political subdivision (“Grand Chute”), the TOWN OF NEENAH, WISCONSIN, a Wisconsin municipal corporation and political subdivision (“Town of Neenah”), the TOWN OF MENASHA, WISCONSIN, a Wisconsin municipal corporation and political subdivision (“Town of Menasha”), the CITY OF MENASHA, WISCONSIN, a Wisconsin municipal corporation and political subdivision (“City of Menasha”), and the VILLAGE OF SHERWOOD, WISCONSIN, a Wisconsin municipal corporation and political subdivision (“Sherwood”), (collectively, “Municipalities”), is hereby confirmed to be a single destination as perceived by the traveling public, and, therefore, a Tourism Zone, as that term is used in §66.0615 of the Wisconsin Statutes (“Room Tax Act”) (which single destination is referred to as the “Fox Cities Tourism Zone”); and

WHEREAS, the [City]/[Village]/[Town] previously enacted an ordinance imposing a Room Tax, the proceeds of which were directed toward (i) payment of debt service on bonds issued by the Redevelopment Authority of the City of Appleton, Wisconsin, a Wisconsin municipal corporation, to partially fund construction of the Fox Cities Performing Arts Center; (ii) promotion of the Fox Cities Tourism Zone by the Fox Cities Convention & Visitors Bureau, Inc., a Wisconsin corporation; and (iii) promotion of the [City]/[Village]/[Town] by the [City]/[Village]/[Town] as a lodging destination; and

WHEREAS, the [City]/[Village]/[Town] now desires to impose an additional Room Tax in the amount of three percent (3%) to be pledged as payment on bonds to be issued as partial funding for the construction of a new Fox Cities Exhibition Center; and

WHEREAS, the [City]/[Village]/[Town] acknowledges that the Room Tax Act imposes certain requirements on the imposition of Room Taxes, including a consideration of the populations of counties in which certain Municipalities are located; and

WHEREAS, the [City]/[Village]/[Town] acknowledges that Appleton is located within the Counties of Outagamie, Calumet and Winnebago within the State of Wisconsin; and

WHEREAS, the Counties of Outagamie, Calumet and Winnebago, each have a population of less than 380,000; and

WHEREAS, neither Outagamie County, nor Calumet County, nor Winnebago County is located adjacent to a county with a population of at least 380,000; and

WHEREAS, the [City]/[Village]/[Town] acknowledges that the Municipalities are working cooperatively together to construct the Fox Cities Exhibition Center; and

WHEREAS, the [City]/[Village]/[Town] previously entered into a Room Tax Commission and Tourism Zone Agreement with the Municipalities which created the Fox Cities Room Tax Commission for the sole purpose of supporting the promotion and development of the Fox Cities Performing Arts Center; and

WHEREAS, the [City]/[Village]/[Town] now desires to authorize an increased role for the Fox Cities Room Tax Commission for the coordination of tourism promotion and tourism development in the Fox Cities Tourism Zone as more fully set forth herein; and

WHEREAS, by the passage of this Ordinance, the [City]/[Village]/[Town] intends to amend and replace its existing ordinance _____ which governs the imposition of Room Taxes in the [City]/[Village]/[Town] in order to accomplish uniformity of Room Taxes imposed across the Municipalities located within the Fox Cities Room Tax Commission pursuant to the requirements of the Room Tax Act; and

WHEREAS, the [City]/[Village]/[Town] finds that the best interests of the [City]/[Village]/[Town] are served by passing this Ordinance.

NOW, THEREFORE, BE IT ORDAINED by the _____ of the [City]/[Village]/[Town] of _____, Wisconsin, as follows:

1. Recitals. The above recitals are incorporated by reference herein and made a part hereof.
2. Definitions. In addition to those terms defined in this Section, the terms used in this Ordinance shall have the definition, if any, ascribed to them in §66.0615 of the Wisconsin Statutes.
 - a. “*Pledge Agreement*” shall mean that Amended and Restated Pledge and Security Agreement dated May 1, 2012 by and between the City of Appleton, Wisconsin;

the City of Kaukauna, Wisconsin; the City of Neenah, Wisconsin; the Village of Kimberly, Wisconsin; the Village of Little Chute, Wisconsin; the Town of Grand Chute, Wisconsin; the Town of Neenah, Wisconsin; the Town of Menasha, Wisconsin; the Fox Cities Area Room Tax Commission and Associated Trust Company.

- b. “ARA” shall mean the Redevelopment Authority of the City of Appleton, Wisconsin, a Wisconsin body politic and corporate.
- c. “CVB” shall mean the Fox Cities Convention & Visitors Bureau, Inc., a Wisconsin corporation.
- d. “*Exhibition Center Bonds*” shall mean bonds issued or to be issued by the ARA as partial funding for the construction of a new Fox Cities Exhibition Center, or any refinance thereof, as well as for any other purpose authorized under that Exhibition Center Cooperation Agreement between the municipalities located within the Fox Cities Tourism Zone, the ARA and the Fox Cities Room Tax Commission, dated as of _____, 2015.
- e. “*Fox Cities Tourism Zone*” shall mean that geographic area encompassing the City of Appleton, Wisconsin; the City of Kaukauna, Wisconsin; the City of Neenah, Wisconsin; the Village of Kimberly, Wisconsin; the Village of Little Chute, Wisconsin; the Town of Grand Chute, Wisconsin; the Town of Neenah, Wisconsin; the Town of Menasha, Wisconsin; the City of Menasha, Wisconsin and the Village of Sherwood, Wisconsin.
- f. “*Fox Cities Room Tax Commission*” shall mean the Room Tax Commission created by the Municipalities within the Fox Cities Tourism Zone through that Amended and Restated Room Tax Commission Agreement dated _____, 2015, in order to coordinate tourism promotion and tourism development within the Fox Cities Tourism Zone using the proceeds of Room Taxes imposed under this Ordinance, and having on its Board certain representatives of the Municipalities and certain representatives of the Wisconsin hotel and motel industry.
- g. “*PAC Bonds*” shall mean those bonds issued by the ARA to partially fund construction of the Fox Cities Performing Arts Center.
- h. “*Room Tax*” shall mean a tax on the privilege of furnishing, at retail, rooms or lodging to transients by hotelkeepers, motel operators or other persons furnishing accommodations which are available to the public, irrespective of whether membership is required for use of the accommodations, pursuant to the Room Tax Act.

- i. “*Room Tax Act*” shall mean §66.0615 of the Wisconsin Statutes, as amended from time to time.
3. Imposition of Room Tax. Pursuant to the Room Tax Act, there is hereby imposed upon the privilege of furnishing, at retail (except sales for resale) rooms or lodging to transients by hotelkeepers, motel operators and other persons furnishing accommodations that are available to the public (collectively, “Operators”), irrespective of whether membership is required for use of the accommodations, within the [City]/[Village]/[Town]. Such Room Tax shall be imposed at the total rate indicated below, which shall be in addition to the PAC Room Tax currently imposed. Operators shall remit all collected Room Tax revenues to the [City]/[Village]/[Town] in accordance with the requirements of this Ordinance and the Room Tax Act. The proceeds shall then be paid to the Fox Cities Room Tax Commission or its designees or assigns, unless otherwise indicated herein, to be used for purposes of coordinating tourism promotion and tourism development within the Fox Cities Tourism Zone. A Room Tax is hereby imposed within the [City]/[Village]/[Town] as follows:
 - a. A Room Tax in the amount of three percent (3%) shall be imposed and allocated toward the support of the CVB, to be used for the promotion of the Fox Cities Tourism Zone as a tourism destination (“CVB Room Tax”), except that:
 - i. The [City]/[Village]/[Town] may retain five percent (5%) of the revenues of this CVB Room Tax for general tourism support and development in the [City]/[Village]/[Town] in accordance with the requirements of the Room Tax Act.
 - b. A Room Tax in the amount of two percent (2%) shall be imposed and allocated toward payment of debt service on the PAC Bonds in accordance with that Cooperation Agreement dated June 1, 2000 to which the [City]/[Village]/[Town] is a party. The rate imposed as set forth in this subsection (c) shall be known as the “PAC Room Tax”. Upon full payment and satisfaction of the PAC Bonds, the PAC Room Tax shall ultimately be reallocated toward the development and support of amateur sports facilities within the Fox Cities Tourism Zone and/or other facilities which are reasonably likely to generate paid overnight stays at more than one hotel or motel establishment within the Fox Cities Tourism Zone as more fully set forth in Section 4 of this Ordinance.
 - c. A Room Tax in the amount of three percent (3%) shall be imposed and allocated toward payment of debt service on the Exhibition Center Bonds in accordance with that Exhibition Center Cooperation Agreement dated _____, 2015 to which the [City]/[Village]/[Town] is a party (“Exhibition Center Room Tax”). The rate established herein shall be known as the “Exhibition Center Room Tax Rate”. The Exhibition Center Room Tax Rate shall sunset and expire upon full payment and satisfaction of the Exhibition Center Bonds at a date to be

determined. The Municipalities shall each provide written notice to Operators upon the full payment and satisfaction of the PAC Bonds.

- d. A Room Tax in the amount of one percent (1%) (“Municipal Room Tax”) shall be retained by [City]/[Village]/[Town] to be used for general tourism support and development in the Fox Cities Tourism Zone in accordance with the requirements of the Room Tax Act.
 - e. A Room Tax in the amount of one percent (1%) shall be imposed and allocated toward the support of amateur sports facilities within the Fox Cities Tourism Zone and/or other facilities which are reasonably likely to generate paid overnight stays at more than one hotel or motel establishment within the Fox Cities Tourism Zone (“Tourism Facilities Room Tax”).
4. Proceeds of PAC Room Tax. Notwithstanding anything in this Ordinance to the contrary, in order to honor existing contractual obligations, the proceeds of the PAC Room Tax shall continue to be directed to the Trustee under the Pledge Agreement until the PAC Bonds have been paid in full. Following full payment and satisfaction of the PAC Bonds, the proceeds generated from the PAC Room Tax for the calendar quarter in which the PAC Bonds were fully paid and satisfied shall be directed toward payment of debt service on the Exhibition Center Bonds, capitalized Interest Payments on the Exhibition Center Bonds or may be deposited into Reserve and Stabilization Funds associated with the issuance of the Exhibition Center Bonds. Commencing on the first day of the next calendar quarter, all proceeds from the PAC Room Tax shall be directed toward the support of amateur sports facilities within the Fox Cities Tourism Zone and/or other facilities which are reasonably likely to generate paid overnight stays at more than one hotel or motel establishment within the Fox Cities Tourism Zone.
5. Priority of Payment. In the event any Operator or Municipality fails to remit the full amounts owed in any quarterly payment (“Deficient Payment”) under this Agreement, the Exhibition Center Cooperation Agreement or the ordinances executed as required thereunder, the parties agree and acknowledge that the Deficient Payment amounts actually received by the Commission shall be applied in the following priority order:
- a. The Deficient Payment amounts received shall first be applied toward the three percent (3%) Room Tax imposed for the support of the CVB;
 - b. The Deficient Payment amounts remaining after payment to the CVB as required in subsection (a) above, shall be applied toward the two percent (2%) Room Tax pledged as collateral for payment of the PAC Bonds;
 - c. The Deficient Payment amounts remaining after payment toward the PAC Bonds as required in subsection (b) above, shall be applied toward the three percent (3%) Room Tax pledged as collateral for payment of the Exhibition Center Bonds; and

- d. The Deficient Payment amounts remaining after payment toward the Exhibition Center Bonds as required in subsection (c) above, shall be applied toward the one percent (1%) Municipal Room Tax; and
 - e. All remaining Deficient Payment amounts shall be applied toward the one percent (1%) Tourism Facilities Room Tax.
6. Tourism Entity. The CVB shall act at the “tourism entity” as that term is defined in the Room Tax Act, for purposes of providing staff, support services and assistance to the Fox Cities Room Tax Commission in developing and implementing programs to promote the Fox Cities Tourism Zone to visitors, as more fully set forth in an agreement between the Fox Cities Room Tax Commission and the CVB.
 7. Collection and Administration of Room Tax. This Ordinance shall be administered by the [City]/[Village]/[Town]. The tax imposed by this Ordinance shall be payable quarterly and shall be due on the last day of the month next succeeding the calendar quarter for which imposed. A return shall be filed with the [City]/[Village]/[Town] by all Operators on or before the same date on which such tax is due and payable. Such return shall show the gross room 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 [City]/[Village]/[Town]deems necessary. Every person required to file such quarterly return shall, with his first return, elect to file an annual calendar year or fiscal year return. Such annual return shall be filed within ninety (90) days of the close of each such calendar or fiscal year. The annual return shall summarize the quarterly returns, reconcile and adjust for errors in the quarterly returns, and shall contain certain such additional information as the [City]/[Village]/[Town]requires. Such annual 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 _____ may, for good cause, extend the time of filing any return, but in no event longer than one (1) month from the filing date.
 8. Permit Required. Every Operator under this Ordinance shall file with the _____ an application for a permit for each place of business that is required to collect Room Tax hereunder. Every application for a permit shall be made upon a form prescribed by the _____ 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 _____ 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. At the time of making an application, the applicant shall pay the _____ an initial fee of _____ dollars (\$____) for each permit. A permit issued hereunder is non-transferable.
 9. Penalty for Failure to Obtain and Maintain a Permit. Any Operator in violation of the terms of this Ordinance by failing to obtain or maintain a permit, when such permit is required, shall be subject to a forfeiture of not less than \$_____ nor more than \$_____ 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, injunctive relief is hereby authorized to discontinue violation of this Ordinance. Any party deemed to have violated any of the provisions of this Ordinance shall be obligated to pay the costs of prosecution, in addition to actual attorney fees expended in the course of said enforcement.

10. Schedule of Forfeiture. Each Operator shall be required to forfeit an amount equal to twenty-five percent (25%) of the Room Tax due from the Operator to the [City]/[Village]/[Town] for the previous year or Five Thousand Dollars (\$5,000), whichever is less, for a failure to pay the Room Tax due hereunder.
11. Confidentiality of Information. The information provided to the [City]/[Village]/[Town] under §66.0615(2) of the Wisconsin Statutes shall remain confidential; provided, however, that the [City]/[Village]/[Town] or any employee thereof may use such information in the discharge of duties imposed by law or of the duties of their office or by order of a court. Persons violating the provisions of this subsection may be required to forfeit not less than \$100 nor more than \$500.
12. Enforcement. The [City]/[Village]/[Town] shall enforce this Ordinance in accordance with the Room Tax Act.
13. Expiration of Exhibition Center Room Tax and PAC Room Tax. The Exhibition Center Room Tax shall expire upon full payment of the Exhibition Center Bonds; provided that Operators may not discontinue collection of the Exhibition Center Room Tax until the passage of an ordinance by the [City]/[Village]/[Town] terminating the Exhibition Center Room Tax.
14. Supersede Conflicting Ordinances; Severability. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are repealed to the extent of such conflict. The invalidity of any section or provision of this Ordinance hereby passed and approved shall not invalidate other sections or provisions thereof.
15. Effective Date. This Ordinance shall take effect on January 1, 2016.

PASSED and APPROVED by the Governing Body of [City]/[Village]/[Town] this _____ day of _____, 2015.

Voting Aye (list names): _____
Voting Nay (list names): _____
Abstaining (list names): _____
Absent (list names): _____

ATTEST:

Municipal Clerk

Published in pamphlet form _____, 2015.