

**WOLF CREEK RESORT AREA
ORDINANCE NO. 2014-1**

**AN ORDINANCE PROVIDING FOR THE ADMINISTRATION OF THE RESORT TAX IN THE
WOLF CREEK RESORT AREA**

**BE IT ORDAINED BY THE GOVERNING BODY OF THE WOLF CREEK RESORT AREA PURSUANT TO THE
AUTHORITY GRANTED UNDER §7-6-1505, MCA, TO ADOPT ORDINANCE NO. 2014- 1 AS FOLLOWS:**

Section 1. Definitions. (1) For purposes of this Ordinance, the following definitions apply, some of which are the same definitions as set forth in §7-6-1501, MCA.

- (a) "Governing body" means the Board of County Commissioners of Lewis and Clark County as described in §7-6-1505(1), MCA.
- (b) "Luxuries" means any gift item, luxury item or other item normally sold to the public or to transient visitors or tourists. The term does not include food purchased unprepared or unserved; medicine, medical supplies and services; appliances; hardware supplies and tools; or any necessities of life. (§7-6-1501(1), MCA.)
- (c) "Medical supplies" means items that are sold to be used for curative, prosthetic or medical maintenance purposes whether or not prescribed by a physician. (§7-6-1501(2), MCA.)
- (d) "Medicine" means substances sold for curative or remedial properties, including both physician prescribed and over-the-counter medications. (§7-6-1501(3), MCA.)
- (e) "Resort Area" means the Wolf Creek Resort Area designated as such by the Department of Commerce on January 16, 2014.

Section 2. Duration and Effective Date of Resort Tax. The duration of the resort tax shall be twenty (20) years beginning in 2015 and terminating in 2035 and shall be in effect from April 1 through November 15 of each year beginning on April 1, 2015.

Section 3. Rate of the Resort Tax. The rate of the resort tax is three percent (3%) on the retail value of all goods and services sold by lodging and food service establishments, establishments that sell alcoholic beverages by the drink, destination recreational facilities and on luxuries sold by other establishments as further clarified and specified in this §§ 5 & 6 of this Ordinance.

Section 4. Imposition of Resort Tax. Pursuant to the election held on September 16, 2014 in Wolf Creek, Lewis and Clark County, Montana, the resort tax was approved by a majority of the qualified electors voting on the question of the imposition of the resort tax.

Section 5. Goods and Services Subject to the Resort Tax. (1) Pursuant to §7-6-1503, MCA, the sale of the following goods and services are subject to the resort tax unless sold for resale:

- (a) All goods and services sold by the following establishments;
 - (i) Hotels, motels, and other lodging establishments;
 - (ii) Restaurants, fast food stores, and other food service establishments;
 - (iii) Bars, taverns, and other public establishments that serve alcoholic beverages by the drink;
 - (iv) Destination recreational facilities.



- (b) All goods and services sold at establishments other than those establishments enumerated in §5(a) above are deemed "luxuries" and subject to the resort tax if not exempt from the resort tax in §6 below.
- 2. The point of sale for purposes of the imposition of the resort tax in the Resort Area is where the goods and services are purchased, reserved, committed or occurring fully or partially.

Section 6. Goods and Services Exempt from the Resort Tax. (1) The following goods and services sold at establishments in the Resort Area other than those establishments enumerated in §5(a) are deemed "necessities of life" and exempt from the resort tax:

- (a) Food purchased unprepared or unserved;
- (b) Medicine, medical supplies and services;
- (c) Appliances;
- (d) Hardware supplies, tools and other construction related supplies;
- (e) Utility and utility services;
- (f) Wholesale merchandise for resale at retail or used in the purchaser's business as supplies;
- (g) Gasoline and other motor vehicle fuel
- (h) Propane and other home fuels;
- (i) Alcoholic beverages sold at agency liquor stores, or by the bottle;
- (j) Automobiles and trucks;
- (k) Labor and parts for automobile and truck repair;
- (l) All non-luxury labor and services, including but not limited to services prescribed by a physician;
- (m) All business and labor costs;
- (n) Lumber;
- (o) Furniture and fixtures;
- (p) Real estate sales;
- (q) All rental agreements when contracted for a period longer than thirty (30) consecutive days;
- (r) Newspapers;
- (s) Office supplies;
- (t) Goods sold at garage sales;
- (u) Services provided by non-profit religious organizations;
- (v) Personal hygiene and related products;
- (w) Industrial, commercial and household strength cleaning materials, including but not limited to
 - (x) soaps, laundry and dishwashing detergents and disinfectants;
 - (y) Postal products and services; and
 - (z) Other necessities of life as determined by the governing body pursuant to §7-6-1505(4), MCA.

Section 7. Reimbursement of Administrative Fee to Establishments Collecting the Resort Tax.

Pursuant to §7-6-1505, MCA, each establishment collecting the resort tax is entitled to withhold the authorized maximum of five percent (5%) of the resort tax collected to defray the establishment's costs for the administration of the tax collection. The administrative fee may be withheld by the establishment at the time of remitting the collected resort taxes to the governing body.

Section 8. Appropriation, Expenditure and Purpose of the Resort Tax.

- (1) The revenue collected from the resort tax shall be appropriated by the governing body and expended as set forth in the "Petition to County Commissioners of Lewis and Clark County to Impose a Resort Tax in the Wolf Creek Resort Area by Placing the Question Before the Qualified Electors of the Resort Area" as follows:
 - (a) The greater of \$50,000.00 or 90% of the total amount of the resort tax revenue collected in each fiscal year for twenty (20) years for the construction, improvement, maintenance and operation of a sewage disposal and treatment system, located in, connecting to and serving the Resort Area; and if less than \$50,000.00 is collected in any fiscal year, then the total amount of resort tax revenue remaining after §7 is satisfied. If the debt service is retired in less than twenty (20) years, the amount necessary shall be appropriated in each fiscal year for the operation and maintenance of the sewage disposal and treatment system.
 - (b) The following three (3) purposes that may be funded in any amount and in any priority if so determined by the governing body after §§7 & 8(1)(a) are satisfied are:
 - (i) Other public services, facilities and projects that provide for the public health, safety and welfare within the Resort Area;
 - (ii) Tourism development for the Resort Area; and
 - (iii) Any other services, facilities or projects in the Resort Area as authorized by law.

Section 9. Collection and Time of Remittance of Resort Taxes – Delinquency.

- (1) Establishments that sell goods and services, and luxuries within the Resort Area must collect the resort tax and remit the resort taxes collected to the governing body.
- (2) The resort taxes collected must be remitted to the governing body or postmarked on or before the last day of each month for the prior month or, if the last day falls on a Saturday, Sunday, or holiday, then on the next business day, to the following address: Lewis and Clark County Treasurer, 316 N. Park Avenue, Helena, Montana 59623.
- (3) Remittance of resort taxes made after the last day of a month for the prior month shall be deemed delinquent and subject to the penalties, interest, late and other fees as authorized by law and as set forth in §10 below.

Section 10. Enforcement-Interest-Late Fee-Remedies

- (1) The governing body shall enforce the collection and remittance of resort taxes.
- (2) Delinquent taxes shall bear interest at the rate of one percent (1%) per calendar month, for the delinquent month (12% per annum). The assessed interest of one percent (1%) per month, shall apply after the last day of the month in which the payment was due, and to each subsequent month, regardless of when the payment is made.
- (3) A one-time late of \$30.00 shall be assessed for each reporting month that is delinquent.
- (4) The following remedies as authorized by §7-6-1505, MCA, are available to the governing body for an establishment's failure to collect, report, or remit resort taxes and for violation of this Ordinance.
 - (a) A criminal penalty not to exceed a fine of \$1000.00 or six (6) months imprisonment or both;

- (b) A civil penalty if the Resort Area prevails in a lawsuit for the collection of resort taxes, not to exceed fifty percent (50%) of the resort taxes found to be due and owing, plus the costs and attorney fees incurred in the enforcement of the reporting, collection and remittance of the resort taxes;
- (c) A lien against the property of the establishment secured by applicable legal procedure.

Section 11. Reporting Coupons for Resort Tax Collected– Confidentiality.

- (1) The governing body shall provide each establishment in the Resort Area responsible for collecting the resort tax with the proper coupons for reporting and accounting for the resort taxes collected.
- (2) The reporting coupons submitted to the governing body by an establishment shall be confidential and not open to public inspection unless so ordered by the governing body pursuant to Article II, §§ 9 and 10 of the Montana Constitution, a Court of competent jurisdiction or upon the filing of an enforcement action in District Court.

Section 12. Audits. Under the direction of the governing body, audits may be conducted of establishment collecting the resort tax. All establishments must cooperate in the conduct of an audit and failure to cooperate with an audit shall constitute a violation of this Ordinance.

Section 13. Maintenance of Records by Establishments. Each establishment required to collect and remit resort taxes to the governing body shall keep and maintain for a period of not less than five (5) years, all records necessary to determine the verity of the taxes collected and remitted and shall make such records available for audit and inspection at all reasonable times. Such records, whether maintained and developed in hard copy, on a computer or on any other electronic device of any kind, include but are not limited to: accounting books, ledgers, registers, original records necessary to document gross receipts of establishment, specific documentation of exempt sales, and copies of state and federal income tax returns.

Section 14. Wolf Creek Resort Area Advisory Council. The governing body of the Resort Area shall appoint a five (5) member “Wolf Creek Advisory Council” within sixty (60) days of the election if a majority of the qualified electors voting approve the imposition of the resort tax in the Resort Area.

Section 15. Savings Clause. If any section, subsection, paragraph, or sentence of this Ordinance is for any reason held to be unconstitutional or in violation of any law, such court decision shall not affect the validity of the remaining portions of this Ordinance or any part thereof.

Section 16. Amendment of Ordinance. Except for §§ 2,3,4,7, & 8 of this Ordinance, this Ordinance may be amended at any time thereafter as may be necessary to effectively administer the resort tax and must include the requirements of §7-6-1505, MCA.

PROVISIONAL PASSAGE: This Ordinance shall become effective only if the question of imposing the resort tax in the Resort Area is approved by a majority of the qualified electors voting on the question on September 16, 2014.

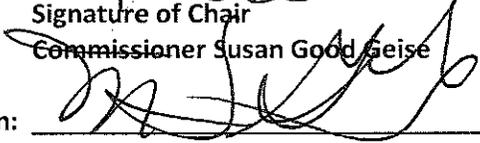
READ AND PROVISIONALLY PASSED AND ADOPTED BY THE COUNTY COMMISSIONERS OF LEWIS AND CLARK COUNTY ON THE FOLLOWING DATES:

1st Reading and Adoption:

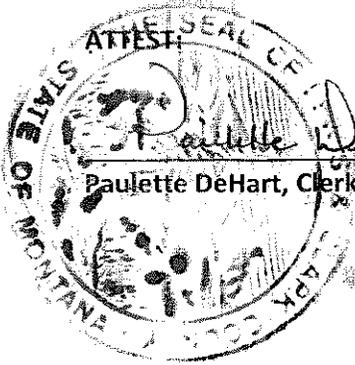


Signature of Chair
Commissioner Susan Good Geise

2nd Reading and Adoption:



Signature of Chair
Commissioner Susan Good Geise



Paulette DeHart, Clerk of the Board