

## **Ordinance on the Tourism Act**

December 10<sup>th</sup> 2014

### **The State Council of the Canton of Valais**

having regard to Article 57(2) of the Cantonal Constitution; having regard to the provisions of the Tourism Act of 9 February 1996; on the proposal of the Department of Economy, Energy and Territory,

*orders:*

### **Chapter 1: General provisions**

#### **Art. 1** *Definitions*

In the context of the Tourism Act, the following definitions apply:

- i. Host: any natural person who spends the night in the Commune, without being domiciled there;
- ii. Occasional Rental: the rental of a dwelling normally used by its owner, when the latter does not occupy it;
- iii. Long-Term Tenant: The tenant whose rental contract duration is equal to or greater than the number of nights retained by the municipality for the fixing of the annual flat-rate tourist tax for the category of accommodation concerned;
- iv. Collection Body: the Commune (municipality) or the entity designated by it to collect tourist taxes;
- v. Host: any natural or legal person who hosts, for remuneration, a taxable host within the meaning of the law.

#### **Art. 2** *Competent Authority*

1. The competent Cantonal Authority is the department in charge of tourism (Department).
2. The Department may delegate its powers to its Departments and call upon the collaboration of other Government Departments.

#### **Art. 3** *Controlling Body*

The State Controlling Body within the meaning of Article 47 of the Tourism Act is the Cantonal Financial Inspectorate.

#### **Art. 4** *Guidelines*

1. To be approved by the Council of State, the regulations on taxes must be accompanied by the policy guidelines on the strategy regarding local tourism.
2. The guidelines must contain, at a minimum, the vision, context, strategic objectives and how the touristic activity is organized.

3. Communes (municipalities) must demonstrate in the guidelines that the local actors involved in tourism have been involved in the development thereof.

#### **Art. 5** *Cantonal Tourism Policy*

The Cantonal Tourism Policy is defined in an evolving document entitled "Valais Tourism Policy". It binds tourist circles and public authorities within the meaning of Article 2 of the Tourism Act.

### **Chapter 2: Tourism Organizations**

#### **Art. 6** *Umbrella Association*

The Umbrella Association of Tourism within the meaning of Article 4 of the Act is the Valais Chamber of Tourism.

#### **Art. 7** *Development Corporation*

To be recognized as a public utility, the Development Corporation must submit to the acceptance of the Cantonal (municipal) Council and to the approval of the Department, statutes that:

- a) allow the performance of the tasks assigned to it by law and delegate the common authority to it;
- b) provide the possibility of membership to persons, groups of persons, public authorities and groups of public authorities with links to local tourism.

#### **Art. 8** *Tourism Companies - Service Contract and Decision of Delegation*

1. The service contract regulating the terms and conditions of collaboration between the Communes and Communal or inter-Communal tourism companies defines at least the services provided as well as their financing, supervision and control.
2. The decision to delegate within the meaning of Articles 6bis and 16ter of the Act is within the competence of the Commune's Council.

#### **Art. 9** *Delegation of the Collection of the Tourist Tax and/or of the Accommodation Tax*

As a result of the delegation of the collection of the Tourist Tax and/or of the Accommodation Tax by the Commune on the basis of Articles 21, paragraph 3ter and 25, paragraph 3ter of the Law, the Communal regulation on the Tourist Tax and/or on the Accommodation Tax must also specify the collection and monitoring procedures thereof.

**Art. 10** *Local Tourism Office*

1. Communes which, instead of a Development Company, wish to set up a local tourism office submit a request to the Department.
2. The local tourism office carries out the tourist tasks delegated to it by the Commune.

**Chapter 3: Finance****Art. 11** *Regulation of the Tourist Tax and/or of the Accommodation Tax*

1. Before being submitted to the Primary Assembly for approval, the regulation on the Tourist Tax and/or on the Accommodation Tax must be submitted in advance to the local tourism stakeholders for consultation.
2. The provisions of the Law on Communes (municipalities) are applicable.

**Art. 12** *Control*

1. The collection agency is authorised to carry out controls on the regularity of the payment of the Tourist Tax and of the Accommodation Tax.
2. The Commune must be able to guarantee and demonstrate to the Cantonal Control Agency that the proceeds of the taxes have been allocated in accordance with the Law, even in the event of delegation of the collection of taxes to the Development Company or to the Communal or Intercommunal tourism company.

**Art. 13** *Public aid*

1. To benefit from loans on favourable terms, projects which require an investment in touristic infrastructure must comply with the conditions for loans for touristic infrastructure projects under the Cantonal Law on regional policy.
2. To benefit from state guarantees, projects which require an investment in touristic infrastructure must be carried out by existing or newly created companies, offering sufficient proof of their ability to meet all their commitments.
3. The approval process regarding applications for guarantees and any related decisions for commitments are delegated to the Centre of Financial Competence which, according to Cantonal economic policy legislation, is responsible for granting financial contributions to companies.
4. The delegation of authority to process guarantee requests or related decisions for commitments is included in the service contract concluded with the Centre of Financial Competence.
5. Decisions to grant guarantees must take into account other Cantonal commitments planned or allocated for the same project in the form of loans or through the Cantonal tourism fund.

## **Chapter 4: Miscellaneous Provisions**

### **Art. 14** *Overnight Stay Statistics*

1. The number of nights recorded is communicated by specifying the country of origin of the guests, indicating the postal code of the place of residence, and distinguishing the following categories of accommodation: a) hotels and spa establishments; b) chalets and holiday apartments; c) campsites; d) collective housing.
2. The host shall inform the Collecting Body each month on the number of actual nights spent by a tenant, for the 10th of the following month. The host of chalets and holiday apartments may, in agreement with either the Development Company, the local tourism office or the Communal or inter-Communal tourism company, communicate the number of nights spent for a longer period, but at least once every six months, on May 10<sup>th</sup> and on November 10<sup>th</sup>.
3. The Development Company, tourism company or local tourist office shall communicate the consolidated figures to the Valais Tourist Observatory by the 20th of the month following their receipt.
4. The Collection Agency shall be authorised to carry out checks on the regularity of the figures communicated.

### **Art. 15** *Industry statistics*

1. The information requested by the Department must be limited to tourism, culture and sport as well as to the infrastructures associated thereto, as well as to institutions and companies related to tourism. Only public data may be requested.
2. The information must be provided within 30 days of the Department's request.

### **Art. 16** *Ex Officio Taxation*

1. An ex officio taxation applies if the taxable person does not comply with the Communal Council's summons within 30 days.
2. The ex officio tax payable must reflect as closely as possible the real situation of the debtor being subjected to the ex officio taxation.

## **Chapter 5: Transitional and Final Provisions**

### **Art. 17** *Transitional provisions*

For Communes that have not yet drawn up a regulation on the Residence Tax and/or on the Accommodation Tax, the old provisions remain applicable.

### **Art. 18** *Repeal*

This Ordinance repeals the General Ordinance on the Tourism Act of 26 June 1996.

**Art. 19** *Entry into force*

This Ordinance shall enter into force on January 1<sup>st</sup> 2015.

Thus adopted by the Conseil d'Etat, in Sion, on December 10<sup>th</sup> 2014.

The President of the Council of State: **Jean-Michel Cina**

State Chancellor: **Philipp Spörri**