

**TOWN OF BAYVIEW
ORDINANCE 01-01
ACCOMMODATIONS TAX
REVISED 02-09**

- 0-0-1 Definitions
- 0-0-2 Accommodations Tax Established
- 0-0-3 Exempt Transactions

SEC. 0-0-1 DEFINITIONS

The following definitions shall be applicable in this Ordinance:

- (a) "Hotel" and "Motel" means a building or group of buildings in which the public may obtain accommodations for a consideration, including, without limitation, such establishments as inns, motels, tourist homes, apartment hotels, resort lodges and cabins and any other buildings in which accommodations are available to the public, including mobile homes, except accommodations rented for a continuous period of more than one (1) month and accommodations furnished by any hospital, sanatorium or nursing home or by corporations and associations organized and operated exclusively for religious, charitable or educational purposes, provided that no part of the net earnings of such corporations and associations inures to the benefit of any private shareholder or individual.
- (b) "Gross Receipts" has the meaning as defined in Sec. 77.51(4) (a), and (b), Wis. Stats. insofar as applicable.
- (c) "Transient" means any person residing for a continuous period of less than one (1) month in a hotel or motel.
- (d) "Exempt Entities" shall be defined as the federal government and persons listed under Sec.77.54 (9) (a), Wis. Stats.

SEC. 0-0-2 ACCOMMODATIONS TAX ESTABLISHED

- (a) **Tax Established.** Pursuant to Sec 66.0615, Wis. Stats. a tax is hereby imposed on the privilege and service of furnishing, at retail, of rooms and 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 the use of accommodations. Such tax shall be at the rate of six and one half percent (6 1/2%) of the gross receipts from such retail furnishing of rooms and lodging. Such tax shall not be subject to the selective sales tax imposed by Sec. 77.52(2) (a) (1), Wis. Stats. The proceeds of such tax collected shall be apportioned thirty percent (30%) to the Town and the remaining seventy percent (70%) to the existing room tax promotional division of the Washburn Chamber of Commerce. This is a promotional organization in the community for advertising and promotion of hospitality and tourist business. Such sum paid to such organization shall not exceed the maximum allowed by statute.
- (b) **Administration.** This Ordinance shall be administered by the Town Treasurer. The tax imposed is due and payable within thirty (30) days of the end of each calendar quarter. A return shall be signed and filed with the Treasurer by those furnishing at retail such rooms and lodging within the Town on or before the same date on which such tax is due and payable upon a form approved by the Town Treasurer.

- (c) **Permit Required.** Every person furnishing rooms or lodging subject to the accommodations tax shall be required to obtain an accommodations tax permit and shall file with the Treasurer an application for a permit for each place of business. Every application for a permit shall be made upon a form prescribed by the Treasurer. At the time of making an application, the applicant shall pay the Treasurer a fee of Five Dollars (\$5.00) for each permit.
- (d) **Permit Issuance.** After compliance with Subsection (c) and Subsection (k)(1) by the applicant, the Treasurer shall grant and issue to each applicant a separate permit for each place of business within the Town. Such permit is not assignable and is 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.
- (e) **Failure to Comply.**
- (1) When any person fails to comply with this Ordinance, the Treasurer may, upon ten (10) days notification and after offering such person the opportunity to show cause why his permit should not be revoked, revoke or suspend any or all of the permits held by such person under this Ordinance.
 - (2) The Treasurer shall give to such person written notice of the suspension or revocation of any of his permits. The Treasurer shall not issue a new permit after revocation or suspension of a permit until said person complies with the provision of this Ordinance. A fee of Five Dollars (\$5.00) shall be imposed for the renewal or issuance of a permit, which has been previously suspended or revoked.
- (f) **Responsibility for Tax Payment.** If any person liable for any amount of tax under this Ordinance sells his business or stock of goods or quits the business, his successors or assigns shall be jointly and severally responsible for any unpaid tax due under this Ordinance.
- (g) **Determination of Tax by Audit.**
- (1) The Treasurer may, by office or field audit, determine the tax required to be paid to the Town or the refund due to any person under this Ordinance. 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 Treasurer's possession.
 - (2) Whenever the 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 Treasurer is authorized to examine and inspect the books, records, memoranda, sales tax returns and property of any person in order to verify the tax liability of that person or of another person. Nothing herein shall prevent the Treasurer from making a determination of tax at any time. In the event any person fails to comply, or hinders in any manner, the request to inspect and audit the person's financial records, such person shall be penalized five percent (5%) of the accommodations tax that the Treasurer determines was due for the period in question.
- (h) **Failure to File Return.** If any person fails to file a return when due as required by this Ordinance, the Treasurer shall make an estimate of the amount of the gross receipts under Subsection (a). Such estimate shall be made for the period for which such person failed to make a return when due as stated in Subsection (g). On the basis of this estimate, the Treasurer shall compute and determine the amount of the tax required to be paid to the Town, plus a penalty equal to ten percent (10%) thereof.

- (i) **Interest on Unpaid Taxes.** All unpaid taxes und this Ordinance shall bear interest at the rate of one percent (1%) per month from the due date of the return until the first day of the month following the month in which the tax is paid.
- (j) **Late Filing Fee and Penalties.** Any delinquent tax returns shall be subject to a Twenty Five Dollar (\$25.00) late filing fee. The tax imposed by this Ordinance shall become delinquent if not paid by the due date of the return. In the event a person fails to pay accommodations tax when due, in addition to interest and any other penalties for late filing or audit, the person shall be subject to and pay a penalty of Twenty-five percent(25%) of the tax in addition to the amount that is due and owing. This penalty shall not exceed One Thousand Dollars (\$1,000.00)
- (k) **Records and Confidentiality.**
- (1) Every person liable for the tax imposed by this Ordinance shall keep or cause to be kept such records, receipts, invoices and other pertinent papers in such form as the Treasurer requires.
 - (2) All tax returns, schedules, exhibits, writings or audit reports relating to such tax returns on file with the Treasurer, are deemed to be confidential, except the Treasurer may divulge their contents to the following, and no others:
 - a. The person who filed the return.
 - b. Officers or agents of the Town as may be necessary to enforce collection.
 - (3) No person having an administrative duty under this Ordinance shall make known in any manner the business affairs, operations or information obtained by an investigation of records of any person on whom a tax is imposed by this Ordinance, or any amount or source of income, profits, losses, expenditures, or any particular thereof, set forth or disclosed in any return, or permit any return or copy thereof to be seen or examined by any person, except as provided herein. The Treasurer may publish statistics classified so as not to disclose the identity of particular returns.
- (l) **Forfeitures.** Any person who is subject to the tax imposed by this Ordinance who fails to obtain a permit, fails to allow the inspection of his/her records by the Treasurer after such inspection has been duly requested by the Treasurer, or who fails to file a return when due under this Ordinance, or who violates any other provisions of this Ordinance, shall be subject to a forfeiture not to exceed Two Hundred Fifty Dollars (\$250.00). Each day, or portion thereof, that such violation continues shall be deemed to constitute a separate offense.
- (m) **Separability and Conflict.** In any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or portion of this Ordinance is for any reason held 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 portions of this Ordinance.
- (n) **References.** Reference to the terms “person”, “anyone”, “others”, or like references shall be deemed to refer to the person, sole proprietorship, company, partnership, Corporation, limited liability company, limited liability partnership, and any other entity subject to the tax imposed by this Ordinance, and also a responsible member, a responsible officer or responsible managing agent of any such entity unless the context clearly indicates otherwise.
- (o) **Effective Date.** This Ordinance shall take effect on April 1, 2009, and all ordinances inconsistent with or contrary hereto are hereby repealed as of that date, excepting nothing in this ordinance shall be interpreted so as to conflict with State laws or orders.

SEC.0-0-3 EXEMPT TRANSACTIONS

- (a) "Exempt Entities", as defined in Section 0-0-1 (d), shall not be charged said accommodations tax provided that the procedure set forth in Section 0-0-3(b) is complied with.
- (b) The following conditions shall occur for a lodging charge to be exempt from the accommodation tax established by this Ordinance:
 - (1) The lodging establishment must issue the billing or invoice for the lodging in the name of the exempt entity: and
 - (2) The lodging establishment must receive from the exempt entity:
 - a. In the case of Federal and Wisconsin state or local governmental units, a purchase order or similar written document (such as a letter of authorization), or
 - b. In the case of a nonprofit, religious, charitable, scientific or educational organization, the organization's certificate of exempt status number.
 - (3) The exemption still applies if the employee of an exempt entity pays the room charge with his or her own funds, as long as the above conditions are met.

The Town Clerk shall properly post or publish this ordinance as required by Sec. 60.80 Wis. Statutes.

Adopted at a Regular Board Meeting held on February 10, 2009.

Donald A. Jenicek
Chairman – Donald A. Jenicek

Robert J. Bodin
Supervisor – Robert Bodin

Alfred J. House
Supervisor – Alfred House

Attested Suzanne Jenicek
Suzanne Jenicek – Clerk