

**TOWN OF BAYFIELD
Bayfield County – Wisconsin**

ORDINANCE 2005-11

Hotel – Motel – Inn Room Taxes

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SECTION 1-1 DEFINITIONS

In this document, the following definitions shall apply:

(a) “Hotel” or “motel” means a building or group of buildings in which the public may obtain accommodations for a consideration, including with out limitation, such establishments as inns, motels, tourist homes, tourist houses or courts, bed and breakfast establishments, lodging houses, rooming houses, summer camps, apartment hotels, resort lodges and cabins and any other buildings or group of buildings in which accommodations are available to the public, except accommodations rented for a continuous period of more than one (1) month and accommodations furnished by any hospital, sanatoriums or nursing homes or by corporations or 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) “Sites” means a campground pad or location for which the public may obtain accommodations for a consideration, including without limitation, such establishments as state and private owned campgrounds, except accommodations rented for a continuous period on more than one (1) month and accommodations furnished by corporations or 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.

(c) “Gross receipts” has the meaning as defined in Sec. 77.51(11)(a), (b), and (c), Wis. Stats., insofar as applicable.

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(d) “Transient” means any person residing for a continuous period of less than one (1) month in a hotel, motel or other furnished accommodations available to the public.

SECTION 1-2 IMPOSITION OF TAX

Pursuant to Section 66.0615, Wisconsin Statutes, a tax is hereby imposed on the privilege and service of furnishing, at retail, of rooms, lodging, or sites 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 the accommodations. Such tax shall be at the rate of six and one-half percent 6 ½% of the gross receipts from such retail furnishing of rooms, lodgings, or sites. Such tax shall not be subject to the selective sales tax imposed by Sec. 77.52 (2) (a) 1, Wisconsin Statutes. A portion of the proceeds of said tax will be shared by the Bayfield Chamber of Commerce for use in advertising and promotion of hospitality and tourist business in the Bayfield area. A separate written agreement, binding for a maximum of two (2) years, will specify the percentage of the accommodation tax to be paid the Chamber of Commerce annually. The terms of this agreement cannot be altered by either party during the specified period it is in force.

SECTION 1-3 COLLECTION OF TAX**(a) Administration by Town Treasurer:**

(1) This tax shall be administered by the Town Treasurer who shall, at Town expense, provide the necessary application and reporting forms at no cost to the taxpayer. The tax imposed is due and payable within thirty (30) days of the end of each calendar quarter. A return shall be filed with the Treasurer, by those furnishing at retail, such rooms, lodging or sites 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. Every person required to file such quarterly returns shall file an annual calendar year return. Such annual return shall be filed within thirty (30) days of the close of each calendar year.

(2) 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 Treasurer requires. The Treasurer may, for good cause, extend the time for filing any return, but in no event longer than one (1) month from the filing date.

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Every person furnishing rooms or lodging under Section 1-2 shall file with the Town Treasurer an application for a permit for each place of business. Each application for permit shall be made upon a form prescribed by the Town Treasurer and shall set forth the name under which the applicant transacts or intends to transact business, the location of his/her place of business and such other information as the Town 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 such seller at the time of making an application, the applicant shall pay to the Town Treasurer a fee of Twenty Five Dollars (\$25.00).

(c) Issuance of Permit

After compliance with Subsection (b) above by the applicant, the Town 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 whose name it is issued and for the transaction of business at the place designated therein.

(d) Failure to Comply.

(1) When any person fails to comply with this Ordinance, the Treasurer may, upon ten (10) days notification and after affording 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/her permits. The Treasurer shall not issue a new permit after the revocation of a permit until said person complies with the provisions in this ordinance. A fee of Twenty Five Dollars (\$25.00) shall be imposed for the renewal or issuance of a permit which has been previously suspended or revoked.

(e) Report Due Upon Sale or Conveyance Of Business.

Notwithstanding the accounting period provided for above, if any person liable for any amount of tax under this Section sells out his/her business or stock of goods or quits the business, his/her successors or assigns shall withhold sufficient funds of the purchase price to pay such amount until the former owner produces a receipt from the Town Treasurer that such tax has been paid for or a certificate stating that no amount is due. If a person subject to the tax imposed by this Section fails to withhold such amount of tax from the sale price and such tax

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remains unpaid, the buyer and seller shall be jointly responsible for the payment of such tax.

(f) Audit of Returns.

The Town Treasurer may, by office audit, or other means if so directed by the Board of Supervisors, determine the tax required to be paid to the Town 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 on the basis of any other information within the Town Treasurer's possession or knowledge. Whenever the Town 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 Town Treasurer or agents appointed by such Treasurer are authorized to examine and inspect the books, records, memorandum and property of any person in order to verify the tax liability of that person or of another person.

(g) Roomage Assessment.

If any person fails to file a return as required by this ordinance, the Town Treasurer shall cause an estimate of the amount of the gross receipts which would have been taxable under this ordinance to be computed. On the basis of this estimate, the Town Treasurer shall compute and determine the amount required to be paid to the Town, adding to the sum thus arrived at a penalty equivalent to ten percent (10%) thereof.

(h) Penalty Provision.

(1) All unpaid taxes under this ordinance shall bear interest at the rate of twelve percent (12%) per annum from the due date of the return until paid.

(2) Delinquent tax returns shall be subject to a Twenty Five dollar (\$25.00) late filing fee. In addition, if no return is filed over ten (10) days after notification to make a payment the entire tax finally determined shall be subject to a penalty of twenty-five (25%) of the tax, exclusive of any interest or other penalties. If a person fails to file a return when due or file a false or fraudulent return with the intent in either case to defeat or evade the tax imposed by this ordinance, a penalty of fifty (50%) shall be added to the tax required to be paid, exclusive of interest and other penalties.

(i) Fraudulent Returns.

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If a person files a false or fraudulent return with the intent in either case to defeat or evade the tax imposed by this Ordinance, a penalty of fifty (50%) shall be added to the tax required to be paid exclusive of interest and other penalties.

SECTION 1-4 SECURITY REQUIRED.

In order to protect the revenue of the Town, the Town Treasurer may require any person liable for the tax imposed by the Section to place with him before or after a permit is issued such security not in excess of Five Thousand Dollars (\$5,000.00) as the Town Treasurer shall determine. If any taxpayer fails or refuses to place security, the Town Treasurer may revoke or refuse to issue such permit. If any taxpayer is delinquent in the payment of the taxes imposed by this Section, the Town Treasurer may, upon ten (10) days notice, recover the taxes, interest and penalties from the security places with the said Treasurer by such taxpayer. No interest shall be paid or allowed by the Town to any persons for the deposit of such security. In the event the payment of the tax shall be delinquent in any given period, the taxpayer shall be required to furnish security and the amount of such delinquency for the succeeding two (2) tax periods. Upon failure to provide such security, the permit provided for in Section 3-4(c) shall be revoked.

SECTION 1-5 RECORD TO BE MAINTAINED.

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 Town Treasurer and this Ordinance shall require. Such records shall be retained and made available for a period of five (5) years from the due date of a filing period.

SECTION 1-6 CONFIDENTIALITY MAINTAINED.

(a) All tax returns, schedules, exhibits, writings or audit reports relating to such returns on file with the Town Treasurer are deemed to be confidential, except the Town Treasurer may divulge their contents to the following and no others:

- (1) The person who filed the return.
- (2) Officers, agents or employees of the Federal Internal Revenue Service or the State Department of Revenue.
- (3) Officers, employees or agents of the Town Auditors.
- (4) Such public officials of the Town of Bayfield when deemed necessary.

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(b) 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 Section or the amount or source of income, profits, losses, expenditures or any particulars thereof, set forth or disclosed in any return or to permit any return or copy thereof to be seen or examined by any person, except as provided above.

SECTION 1-7 PENALTIES.

Any person who is subject to the tax imposed by this Ordinance who fails to obtain a permit as required in Section 1-4(b) or (c) or who fails or refuses to permit the inspection of his records by the Town Treasurer after such inspection has been duly requested by such Treasurer, or who fails to file a return as provided in this Ordinance, or who violates any other provision of this Ordinance, shall be subject to a forfeiture pursuant to the next section. Each day, or portion thereof, that such violation continues is hereby deemed to constitute a separate offense. The total forfeiture imposed shall not exceed fifty percent (50%) of the tax imposed.

SECTION 1-8 GENERAL PENALTY**(a) General Penalty.**

Except where a penalty is provided elsewhere in this ordinance, any person who shall violate any of the provisions of this ordinance shall, upon conviction of such violation, be subject to a penalty, which shall be as follows:

(1) First offense -- Penalty. Any person who shall violate any provision of this ordinance shall, upon conviction thereof, forfeit not less than Twenty-five Dollars (\$25.00) nor more than Five Hundred Dollars (\$500.00), together with the costs of prosecution and, in default of payment of such forfeiture and costs of prosecution, shall be imprisoned in the County Jail until such forfeiture and costs are paid, but not exceeding six (6) months.

(2) Second and Subsequent Offenses -- Penalty. Any person found guilty of violating any part of the ordinance who shall previously been convicted of a violation of the same ordinance within one year shall, upon conviction thereof, forfeit not less than Fifty Dollars (\$50.00) nor more than One Thousand Dollars (\$1,000.00) for each such offense, together with costs of prosecution and, in default of payment of such forfeiture and costs,

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Shall be imprisoned in the County Jail until such forfeiture and costs of prosecution are paid, but not exceeding six (6) months.

(b) Continuous Violations.

Each violation and each day a violation continues or occurs shall constitute a separate offense. Nothing in this ordinance shall preclude the Town from maintaining any appropriate action to prevent or remove a violation of any provision of this ordinance.

(c) Other Remedies.

(1) The Town shall have any and all other remedies afforded by the Wisconsin Statutes in addition to the forfeitures and costs of prosecution above.

(2) Execution against defendant’s property. Whenever any person fails to pay a forfeiture and costs of prosecution upon the order of any court for violation of any ordinance, the court may, in lieu of ordering imprisonment of the defendant, or after the defendant has been released from custody, issue an execution against the property of the defendant for said forfeiture and costs.

SECTION 1-8 PREVIOUS ORDINANCE.

This Ordinance shall supersede Ordinance 93-03 and any other previous ordinances governed by the provisions of this ordinance and shall take effect and be in force after its passage and posting.

Adopted this 16 day of May 2005.

Tom Gordon, Chair

Gerald L. Carlson, Supervisor

James Erickson, Supervisor

Richard C. Compton, Supervisor

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William Ferraro, Supervisor

THIS IS TO CERTIFY THAT the foregoing is a true and correct copy of a resolution duly and legally adopted by the TOWN OF BAYFIELD at a regular meeting held on the 16th day of May, 2005.

David L. Good, Clerk

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