

1 **SECTION 5 – Severability**

2 If a court of competent jurisdiction adjudges any section, clause, provision or portion of this ordinance
3 unconstitutional or invalid, the remainder of this ordinance shall not be affected thereby.

4

5

6

Municipality _____

7

By: _____

8

Chairperson / President

9 Attest:

Date Introduced: _____

10

Date Adopted: _____

11

Publication Date: _____

12

Clerk

Room Tax Ordinance

Sec. 1 Definitions

In this ordinance, the following shall apply:

Commission has the meaning defined in Wisconsin Statutes §66.00615(a). If two or more municipalities in a zone impose a room tax under section (a), the municipalities shall enter into a contract under Wis. Stats. §66.0301 to create a Commission under §66.0301(2). Each municipality in a single zone that imposes a room tax shall levy the same percentage of tax. If the municipalities are unable to agree on the percentage of tax for the zone, the commission shall set the percentage.

Gross receipts has the meaning as defined in Wis. Stats. §76.48(d): A Gross receipts means total revenue received from the retail furnishing of rooms, lodging, or similar accommodations by a hotel or motel as defined herein.

Hotel and motel have the meaning as defined in Wis. Stats. §77.52(2)(a)1. “Hotel and motel” means a building or a group of buildings in which the public may obtain accommodations for a consideration, including, without 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, commercial indoor lodging facilities and any other building or group of building in which accommodations are available to the public, except accommodations rented for a continuous period of more than thirty (30) consecutive days and accommodations furnished by any hospitals, sanitariums 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.

Municipality means the _____, Wisconsin.

Payor means the person or entity who owes the tax imposed by this ordinance.

Room tax means the tax imposed pursuant to this ordinance.

Tourism has the meaning as defined in Wis. Stats. §66.0615(1)(e): Tourism means any travel for recreational, business or educational purposes.

Transient has the meaning as defined in Wis. Stats. §77.52(2)(a)1: Transient means any person residing for a continuous period of less than thirty (30) consecutive days in a hotel, motel, or other furnished accommodations available to the public.

Tourism Entity has the meaning as defined in Wis. Stats. §66.0615. A nonprofit organization that provides staff, development or promotional services for the tourism industry in the municipality, and as one of its primary purposes the generation of paid overnight stays. The tourism entity must have a governing board comprised of over fifty (50%) percent representation from the area’s restaurants, drinking places, gift/souvenir shops, hotels, motels, bed and breakfasts, tourist rooming houses, public golf courses, amusement parks or other tourist attractions; twenty-five (25%) percent or more of the total board must be owner’s or operators of room tax paying lodging establishments.

Tourism promotion and development has the meaning as defined in Wis. Stats. §66.0615(1)(fm): “Tourism promotion and development” means any of the following that are significantly used by transient tourists and reasonably likely to generate paid overnight stays at more than one establishment on which a room tax may be imposed, that are owned by different persons and located within the municipality; or, if the municipality has only one such establishment, reasonably likely to generate paid overnight stays in that establishment:

- 1 1. Marketing projects, including advertising media buys, creation and distribution of printed or
- 2 electronic promotional tourist materials, or efforts to recruit conventions, sporting events, or
- 3 motor coach groups.
- 4 2. Transient tourist informational services.
- 5 3. Tangible municipal development, including a convention center.

6
7 Tourism Zone has the meaning as defined in Wis. Stats. §66.0615: “Tourism Zone” means an area made up of
8 two or more municipalities that, those municipalities agree, is a single destination as perceived by the
9 traveling public.

10 **Sec. 2 Creation of Tourism Zone**

11 Pursuant to Wis. Stats. §66.0615, the _____ will join the Door County Tourism Zone for
12 the purpose of promoting the County as a single destination.

13 **Sec. 3 Imposition of Room Tax**

14 (a) Tax Imposed.

15 Pursuant to Wis. Stats. §66.0615, a tax is hereby imposed on the privilege and services of furnishing,
16 at retail, of rooms or lodging to transients by hotel keepers, motel operators and other persons fur-
17 nishing accommodations that are available to the public, irrespective of whether membership is re-
18 quired for the use of the accommodations. Such tax shall be at the rate of 5.5% percent of the gross re-
19 cepts from such retail furnishing of rooms or lodgings. Such tax shall not be subject to the selective
20 sales tax imposed by Wis. Stats. §77.52 (2)(a)1, and may not be imposed upon sales to the Federal Gov-
21 ernment and persons listed under Wis. Stats. §77.54 (9a).
22

23 (b) Taxation Effective Date.

24 The effective date of the Room Tax shall be _____, _____.
25

26 (c) Room Tax Payment Frequency.

27 Room Tax should be paid by the lodging property on a monthly basis. It should be paid by the end of
28 the month following the month in which it was collected unless the end of the month falls on a Satur-
29 day or Sunday, which would make it due on Monday. The Room Tax is owed to the local municipality
30 which imposed the tax, but the municipality directs that all checks be sent directly to the Commission.
31 If the Room Tax checks for all properties in a municipality are sent directly to the Commission, the
32 Commission will send one check by the fifteenth of each month to the municipality for thirty percent
33 (30%) of all Room Tax collected the previous month along with a report showing the amount of Room
34 Tax collected from each lodging property. In the latter case, the Commission does all the paper work as
35 part of their monitoring.
36

37 (d) Room Tax Responsibility.

38 The correct amount of Room Tax shall accompany each lodging property’s monthly tax return and be
39 made payable to the Door County Tourism Zone Commission. If any person liable for any amount of
40 tax under this agreement sells out their business or otherwise quits the business, their successors or as-
41 signs shall withhold sufficient of the purchase price to cover such amount until the former owner pro-
42 duces a receipt from the Commission that it has been paid or a certificate stating that no amount is due.
43 If any person subject to the tax imposed by this agreement fails to withhold such amount of tax from
44 the purchase price as required, they shall become personally liable for the payment of the amount re-
45 quired to be withheld by them.
46

47 (e) Monthly Room Tax Return.

48 The Monthly Room Tax Return filed with the room tax payment by the lodging property shall contain
49 the following information: Name of the business, physical address, postal address, municipality located
50 within, name of the designated person filling out the return, month and year the return is for, total
51 available rental units during the month (number of rental units in the facility multiplied by the days in
52 the month or days they were open), number of rooms or units rented, total lodging sales for the

1 month, room tax to be paid, (which should equal total lodging sales multiplied by the 5.5% Room Tax),
2 and the signature of the person filling out this return, attesting to the accuracy. This information will
3 allow the Commission to judge the accuracy of the return, and, for the Commission, with all returns in
4 total, to judge the effectiveness of the tourism promotion. The Commission shall establish the form of
5 the monthly tax return as either a paper and/or electronic document.
6

7 (f) Delinquent Room Tax.

8 Delinquent Room Tax returns shall be subject to a twenty-five dollar (\$25) late filing fee. The tax im-
9 posed pursuant to this ordinance shall become delinquent if not paid by the due date of the return. A
10 forfeiture of twenty-five percent (25%) of the room tax due or five thousand dollars (\$5,000.00) whi-
11 chever is less, of the tax imposed, is hereby established and due and owing in the event that the room
12 tax is not paid within thirty (30) days after the due date of the return. To prevent payment omissions,
13 within ten (10) days of a past due Room Tax payment, the Commission, should send a written past due
14 statement to the designated person or agent at the late paying lodging business. In addition to this for-
15 feiture, all unpaid taxes under this ordinance shall bear interest at the rate of twelve percent (12%) per
16 annum from the due date of the return until received and deposited by the Commission. Whenever the
17 Commission has probable cause to believe that the correct amount of room tax has not been assessed
18 or that the tax return is not correct, or that the tax has not been paid, the Commission is authorized to
19 examine and inspect the books, records, memoranda and property of any person in order to verify the
20 tax liability of that person or another person. The Commission shall make an estimate of the amount
21 of tax owed. Based on this estimate, the Commission shall add a penalty of ten percent (10%) thereof.
22 If a person files a false or fraudulent return with the intent of either case to defeat or evade the tax
23 imposed by this ordinance, a penalty of fifty percent (50%) shall be added to the tax required to be paid,
24 exclusive of interest and other penalties. If any past due tax, interest or penalties are due at the begin-
25 ning of a calendar year, a new room tax-lodging permit will not be issued by the Commission unless
26 satisfactory financial arrangements have been made with the Commission to satisfy payment.
27

28 (g) Confidentiality of Reports.

29 All Room Tax returns, schedules, exhibits, writings or audit reports relating to such returns, on file
30 with the Commission and the municipality are deemed confidential pursuant to Wis. Stats. §66.0615(3),
31 except they may divulge their contents to the following, and no others:

- 32 (1) The person who filed the return.
- 33 (2) Officers, employees or agents of the _____ Treasurer and the Commission.
- 34 (3) Other persons for the use in the discharge of duties imposed by law, or in the discharge of the
35 duties of their office (unless otherwise prohibited by law), or by order of a Court.

36
37 (h) Initial Adoption Year Exemptions.

38 The following exemptions shall automatically expire on December 31st of the calendar year of adop-
39 tion. During the period of time from the adoption of the Room Tax ordinance until December 31st of
40 that calendar year, there may be exemptions to the collection of the Room Tax subject to audit. Any
41 person or business otherwise required to file a return and make a payment under this Agreement, will
42 be allowed an exemption from the requirement to collect and pay Room Tax for any signed contract
43 dated prior to the adoption of the Agreement in which the contract guarantees the lodging rates and
44 the applicable taxes. This also applies to any gift certificate purchase before the adoption of this
45 Agreement, which is not for a fixed dollar amount, but, instead, for the amount paid, guarantees a par-
46 ticular lodging rate and the applicable taxes. This exemption does not apply to reservations made be-
47 fore the adoption of this agreement, which are not binding contracts. The Commission shall establish
48 provisions for the proper reporting of these exemptions.

49 **Sec. 4 Lodging Establishments to be Licensed**

- 50 (a) License Required. Any party supplying transient lodging in the _____ shall obtain
51 and maintain a permit from the Commission permitting the rental of accommodations. No accommoda-
52 tions shall be rented or available for rental for a period of less than thirty (30) days by any party not
53 possessing a lodging permit issued by the Commission.

1
2 (b) Permit Application. Any party furnishing lodging accommodations to transient guests in the
3 _____ shall annually file, on or before the end of the year, with the Commission, an appli-
4 cation to operate each place of business subject to this ordinance. There shall be no cost for the filing
5 of the application for the permit. The application form shall include, at minimum, the following infor-
6 mation:

- 7
8 (1) The name of the business under which the person, partnership or corporation transacts business
9 or intends to transact business. (This name shall agree with that used for Sales Tax Permits.)
10 (2) The name of the agent for the business or other person designated as responsible to remit the
11 Room Tax, and means to contact this person, including email address, postal address, telephone
12 number, fax number and cell phone number.
13 (3) The physical and mailing address of the business.
14 (4) Number of rental units at the location for each month of the year during which the business is
15 operating.
16 (5) The signature of the person designated in item b. above.

17
18 (c) Permit Review and Issuance. The Commission may accept the application, review it for accuracy and
19 issue the permit. The permit shall not be assignable. The permit shall only be valid for the person named
20 on the application as being responsible to remit the Room Tax. In cases where that person should
21 change or the ownership should change during the life of the permit, the application and issuance of a
22 new permit shall be necessary.

23
24 (d) Penalty for Failure to Obtain and Maintain a Permit for the Rental of Accommodations. Any party in
25 violation of the terms of this ordinance by failing to obtain or maintain a lodging permit, when such
26 permit is required, shall be subject to a forfeiture of not less than \$20 nor more than \$100 for each vi-
27 olation. Each room or unit separately rented or offered for rent, and each day of such rental or offer for
28 rental of such unit shall be a separate violation. In addition, injunctive relief is hereby authorized to
29 discontinue violation of this ordinance. Any party deemed to have violated any of the provisions of
30 this ordinance shall be obligated to pay the costs of prosecution, in addition to actual attorney fees ex-
31 pended in the course of said enforcement.

32
33 (e) Tourism Zone Commission. Authority is hereby delegated to the Door County Tourism Zone Commis-
34 sion to act as agent of this municipality in the enforcement of this ordinance as amended, for violation
35 of the requirement of obtaining and maintaining a lodging permit when such lodging permit is re-
36 quired. The Door County Tourism Zone Commission shall have and may exercise the full authority
37 which would otherwise be available to this municipality in the enforcement of this ordinance, including
38 the ability to seek enforcement and penalties for failure to comply with the section requiring a lodging
39 permit.

40 **Sec. 5 Creation of a Commission**

41 (a) Commission Purpose. The municipalities shall enter into a contract under Wis. Stats. §66.0615 to
42 create a Commission under the Intergovernmental Cooperation provisions of Wis. Stats. §66.0301(2).
43 The Commission shall contract with a Tourism Entity for the promotion of the destination with a min-
44 imum of 70% of the room taxes collected.

45 (b) Commission Membership. The Commission created by a Tourism Zone Agreement under Wis. Stats.
46 §66.0615 shall consist of the following members:

- 47 (1) Two (2) members from each municipality in which annual tax collections exceed \$300,000.
48 (2) One (1) member from each municipality in which annual tax collections are \$300,000 or less.
49 (3) Two additional members, who represent the Wisconsin hotel and motel industry, shall be ap-
50 pointed to the Commission by the Chairperson of the Commission. Those individuals shall serve
51 for a one-year term at the pleasure of the Chairperson, and may be reappointed. These members
52 shall not be members of the Board of Directors or employees of the Tourism Entity.
53

- 1 (c) Commission Member Appointment Process and Term of Office. Members of the Commission shall be
2 appointed by the principal elected official in the municipality and shall be confirmed by a majority vote
3 of the members of the municipality's governing body who are present when the vote is taken. Com-
4 missioners shall serve a one-year term, at the pleasure of the appointing official and may be reap-
5 pointed. If a member of the Commission resigns or is removed for cause, the municipal body that ap-
6 pointed the member may appoint another person to fulfill the unexpired term. If the subject member
7 was appointed by the Chairperson, they may appoint another person to fill the unexpired term. Mem-
8 bers of the Commission shall receive no pay, but may be reimbursed for their travel expense.
- 9
- 10 (d) Applicability of State Open Meetings Law. While membership on the Commission is provided for each
11 municipality in the Zone Agreement, all membership positions need not be filled if a municipality does
12 not see a need. A member community that does not appoint a representative shall not count towards
13 the determination of a quorum. The Commission shall be subject to the provisions of the Wisconsin
14 Open Meetings and Open Records laws as amended.
- 15
- 16 (e) Role of Commission. The Commission shall perform such tasks as are specified in the Tourism Zone
17 Agreement.

18 **Sec. 6 Distribution of Room Taxes Collected**

19 Upon receipt of the room taxes that are collected for the _____, the Commission shall distri-
20 bute thirty (30%) percent of the room taxes to the _____ for such purposes as the
21 _____ Board of _____ shall determine. The Commission shall distribute sixty-six (66%)
22 percent of the room taxes to the Tourism Entity subject to the provisions of the Intergovernmental Agree-
23 ment and Entity Agreement. The Commission may retain up to four (4.0%) of the room taxes collected for
24 administrative expenses.

25 **Sec. 7 Tourism Entity**

26 The Commission shall contract with a Tourism Entity who shall spend the room taxes on tourism promotion
27 and development. The Tourism Entity shall not use any of the room tax revenue to construct or develop a
28 lodging facility.

29 **Sec. 8 Tracking and Reporting Room Tax Revenue Expenditures**

30 The Tourism Entity shall track the use of Room Tax revenues and expenditures and state its impact on gene-
31 rating paid over night stays in the community. The Tourism Entity shall permit and allow inspections of its
32 records pertaining to the use of the room tax funds upon request of the Tourism Commission at reasonable
33 times. The Tourism Entity shall provide a written report as determined by the Tourism Commission, no less
34 than annually, and such report shall be available to the municipality and public upon request.

35 **Sec. 9 Effective Date**

36 This ordinance shall be effective on its passage and publication with the following condition that at least two
37 (2) of the municipalities listed below adopt the Room Tax and Tourism Zone Agreement in substantially the
38 same form prior to May 1, 2007.

- 39
- 40 Town of Washington
- 41 Town of Liberty Grove
- 42 Town of Baileys Harbor
- 43 Town of Gibraltar
- 44 Town of Egg Harbor
- 45 Village of Egg Harbor
- 46 Village of Ephraim
- 47 City of Sturgeon Bay
- 48
- 49
- 50
- 51

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15

File Name: c:\documents and settings\kathy kirkland\forms and agreements\standard ordinance language\standard ordinance
template 11-25-08.doc
Printed: 11/25/2008 1:47 PM Created: 9/4/2008 11:35 AM Author: robert l. kufrin Revision: 3 Last Saved By: robert l. kufrin