

**TOWN OF LAND O' LAKES**  
**Vilas County**  
**State of Wisconsin**

**Accommodation Tax**

**#2013-03**

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**SECTION 1 – TITLE/PURPOSE**

The title of this ordinance is the Town of Land O' Lakes Accommodation Tax Ordinance. The purpose of this ordinance is to impose a tax on the privilege of furnishing at retail, rooms or lodging to transients by hotelkeepers, motel operators and other persons furnishing accommodations, including private residences that are available to the public. The Town of Land O' Lakes must spend at least 70% of the room tax collected on the promotion and development of tourism, as defined in section 66.0615(e) Wis. Statutes, and that the remaining amount may be devoted to the municipality general fund. The Town of Land O' Lakes has researched the issue of implementing a room tax and has determined that the collection of such a tax would benefit the Town in its efforts to attract over night travelers engaged in business, educational or recreational activities.

**SECTION 2 – AUTHORITY**

The town board of the Town of Land O' Lakes has the specific authority under section 66.0615, Wis. Statutes and general authority under its village powers to adopt this ordinance.

**SECTION 3 – ADOPTION OF ORDINANCE**

The town board of the Town of Land O' Lakes, by this ordinance, adopted with a quorum and by a roll call vote by a majority of the town board present and voting, provides the authority for the town to collect a tax on the privilege of furnishing at retail, rooms or lodging to transients by hotelkeepers, motel operators and other persons furnishing accommodations, including private homes that are available to the public.

## **SECTION 4 – DEFINITIONS**

In this Ordinance, the following shall apply:

(1)"Gross revenues" has the meaning as defined in Wis. Statutes 76.48 (d), insofar as applicable: "Gross receipts" means total revenue received from the retail furnishing of rooms, lodging, or similar accommodations by a hotel or motel as defined herein.

(2)"Hotel or 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, apartments 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 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 share holder or individual.

(3)"Municipality" means the Town of Land O' Lakes, Vilas County, Wisconsin

(4)"Payor" means the person or entity that owes the tax imposed by this ordinance.

(5)"Room tax" means the tax imposed by this ordinance.

(6)"Tourism" means any travel for recreational, business or educational purposes.

(7)"Commission" means an entity created by the Town of Land O' Lakes to coordinate tourism promotion and development. The Town of Land O' Lakes hereby elects to create a Commission, as defined in section 66.0615(1)(a) Wis. Statutes, to coordinate tourism promotion and development for the Town. Membership of the Commission shall include at least two of its members drawn from representatives of the Wisconsin lodging and tourism Industry and shall also be established in accord with section 66.0615(1m)(c)1Wis. Statutes.

(8)"Transient" means any person residing for a continuous period of less than 30 consecutive days in a hotel, motel, or other furnished accommodations, including private residences available to the public.

## **SECTION 5 – IMPOSITION OF TAX**

Pursuant to Wis. Statutes 66.0615, a tax is hereby imposed on the privilege and services of furnishing, at retail, of rooms or lodging to transients by hotel keepers, motel operators and other persons furnishing accommodations, including private residences 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 4.5 percent of the gross receipts from such retail furnishings of rooms or lodgings. [Such tax shall not be subject to the selective sales tax imposed by Wis. Statutes 77.52(2)(a)1, and may not be imposed upon sales to the federal government and persons listed under Wis. Statutes 77.54(9a).

Any person subject to this ordinance is required to obtain a permit issued by the Town annually. The fee will be \$10 and is subject for review annually by the Town Board.

#### **SECTION 6 – DISTRIBUTION OF ROOM TAXES COLLECTED**

Upon receipt of the room taxes that are collected, the municipality shall distribute 70% of accommodation taxes to the Commission and shall retain 30% in the municipality's general fund. All funds are to be solely used for promoting tourism and the administration thereof.

#### **SECTION 7 – TRACKING AND REPORTING ROOM TAX REVENUE EXPENDITURES**

The Commission shall track and measure the impact of all accommodation tax revenue expenditures and shall permit and allow inspections of its records pertaining to the use of the tax funds upon request of the Town, at reasonable times. The Commission shall report at least annually to the Town Board the purposes for which the room tax revenues it received were spent and impact of such expenditures as stated above. No accommodation tax revenue may be used to construct or develop a lodging facility.

#### **SECTION 8 – COLLECTION OF TAX**

The Town Treasurer shall administer the collection of the tax imposed by this article. The tax imposed is due and payable on the last day of the month next succeeding the calendar quarters for which imposed. A return shall be filed with the Town Treasurer, by those furnishing at retail such rooms and lodging, on or before the same date on which the tax is due and payable. Such return shall show the gross receipts of the preceding calendar quarters from such retail furnishings of rooms or lodging, the amount of taxes imposed for such period, and other information as the Town Treasurer deems necessary. Every person required to file such a quarterly return shall file an annual calendar year return. Such annual return shall be filed within 90 days of the close of each such calendar year. The annual return shall summarize the quarterly returns, reconcile and adjust for errors in the quarterly returns, and shall contain such additional information as the Town Treasurer requires. Such annual returns shall be made on forms as prescribed by the Town Treasurer. All such returns shall be signed by the person required to file a return or his/her duly authorized agent, but need not be verified by oath. The Town Treasurer may, for good cause, extend the time for filing any return, but in no event longer than one month from the filing date. The correct amount of tax shall accompany each quarterly tax return and be made payable to the Town. Any unpaid tax imposed by this article may, in addition to other penalties available herein, be deemed to be an assessment on any land owned by the payor inside the legal boundaries of the Town.

#### **SECTION 9 – SALE OR CONVEYANCE OF BUSINESS**

If any person liable for any amount of tax under this section sells out their business or stock of goods or quits the business, their successors or assigns shall withhold a sufficient

amount of the purchase price to cover such amount until the former owner produces a receipt from the Town Treasurer that it has been paid or a certificate stating that no amount is due. If [any] person subject to the tax imposed by this section fails to withhold such amount of tax from the purchase price as required, they shall become personally liable for payment of the amount required to be withheld by them to the extent of the price of the accommodations valued in money.

#### **SECTION 10 – DETERMINATION OF TAX BY AUDIT**

(a) The Town Treasurer may, by office 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 Town Treasurer’s possession. One or more such office audit determinations may be made of the amount due for anyone or for more than one period.

(b) The Town Treasurer may, by field audit, determine the tax required to be paid to the town or the refund due to any person under this ordinance. The determination may be made upon the basis of the facts contained in the return being audited or upon any other information within the Town Treasurer’s possession. Whenever the Town Treasurer has probable cause to believe that the correct amount of accommodation tax has not been assessed or that the tax return is not correct, the Town Treasurer is authorized to examine and inspect the books, records, memoranda, and property of any person in order to verify the tax liability of that person or of another person. Nothing herein shall prevent the Town Treasurer from making a determination of tax at any time.

#### **SECTION 11 – FAILURE TO FILE RETURN**

If any person fails to file a return required by this ordinance, the Town Treasurer shall make an estimate of the amount of the gross receipts. Such estimate shall be made for the period for which such person failed to make a return and shall be based upon any information, which is in the Town Treasurer’s possession or may come into his/her possession. 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 equal to ten percent thereof. One or more such determinations may be made for one, or more than one, period.

#### **SECTION 12 - FORFEITURE RELATING TO RETURNS NOT FILED TIMELY**

A forfeiture of 25 percent of the tax imposed for the previous year or \$1,000.00 whichever is less, is hereby established and is due and owing in the event that the accommodation tax is not paid within 30 days after the due date of the return. In addition to this forfeiture, all unpaid taxes under this section shall bear interest at the rate of 12 percent per annum from the due date of the return until the first day of the month following the month in which the tax is paid or deposited with the Town Treasurer. All refunded taxes shall bear interest at 12 percent per annum from the due date of the return until the first day of the month following the month in which said taxes are refunded. An

extension of time within which to file a return shall not operate to extend the due date of the return for purposes of interest computation. If the Town Treasurer determines that any overpayment of tax has been made intentionally or by reason of carelessness or neglect, or if the tax which was not accompanied by a complete return, it shall not allow any interest thereon.

### **SECTION 13 – DELINQUENT TAX RETURNS**

Delinquent tax returns shall be subject to a \$25.00 late filing fee. The tax imposed by this article shall become delinquent if not paid by the due date of the return.

### **SECTION 14 – FILING OF FRAUDULENT RETURNS**

If a person files a false or fraudulent return with the intent in either case to defeat or evade the tax imposed by this article, a penalty of 50 percent or \$250 whichever is greater shall be added to the tax required to be paid exclusive of interest and other penalties.

### **SECTION 15 – RECORD KEEPING REQUIREMENTS**

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 requires.

### **SECTION 16 – CONFIDENTIALITY OF TAX RETURNS**

All tax returns, schedules, exhibits, writings and audit reports relating to such returns, on file with the Town Treasurer, shall be deemed to be confidential. The Town Treasurer may only divulge the information contained therein to the following persons: the person who filed the return; the officers, employees, or agents of the Town Treasurer; other persons for use in the discharge of their duties as imposed by law or in the discharge of the duties of their office (unless otherwise prohibited by law); or by an order of a court. No person in the administration of this section shall disclose the business affairs, operations or information obtained through an investigation of records from anyone upon whom a tax is imposed by this ordinance. Neither shall the amount or source of income, profits, losses, expenditures nor any part thereof, that is set forth or disclosed in any return be further disclosed. No such administrator shall permit any return or copy thereof to be seen nor examined by any person, except as provided in this section or by any subsequent ordinances or resolutions adopted by the town pertaining to the confidentiality of the information described in this section. Persons that violate this section may be required to forfeit not less than \$100.00 or more than \$500.00 for each such act committed.

### **SECTION 17 – PENALTIES**

Any person who is subject to the tax imposed by this ordinance who fails or refuses to permit the inspection of records by the Town Treasurer after such inspection has been

duly requested by the Town Treasurer, or who fails to file a return as provided in this article or who violates any other provisions of this ordinance, shall be subject to a forfeiture not to exceed \$250.00 for each day, or portion thereof, that such violation continues. Each day is hereby deemed to constitute a separate offense. The total forfeiture imposed shall not exceed 50% of the tax imposed by this ordinance upon said person.

## **SECTION 18 – LAND O’ LAKES ACCOMMODATIONS COMMISSION**

(1) CREATION OF A COMMISSION. There is hereby created a Land O’ Lakes Accommodations Commission to coordinate tourism promotion and development in the Town.

(2) COMPOSITION OF THE COMMISSION. The Commission shall consist of the Town Treasurer, a Chamber of Commerce Board member and 4 other persons, at least two Commissioners shall represent the Wisconsin hotel and motel industry. Commissioners shall be appointed by the Town Chairman and confirmed by the Town Board. The Chamber of Commerce and other organizations engaged in tourism promotion or provide tourist attractions may nominate representatives to serve as members of the Commission.

(3) TERMS OF COMMISSIONERS. Commissioners shall serve for one-year term expiring on September 30 of each year and at the pleasure of the Town Chairman may be reappointed.

(4) OFFICERS. The Commission shall elect a chairperson, vice-president and secretary from among its members at the first meeting of the Commission held after September 30 of each year.

(5) MEETINGS. The Commission shall meet regularly and conduct its proceedings in accordance with Roberts Rules of Proceedings.

(6) DUTIES.

(a) Periodically set the annual amount of the accommodation tax imposed by the Town.

(b) Use the accommodations tax appropriated to the Commission to promote and develop tourism in the Town as outlined in Section 6.

(c) Submit a report to the Town Board on or before November 1 of each year itemizing its expenditures and proposing its budget for next year.

## **SECTION 19 – SEVERABILITY**

Each of the provisions of the ordinance is severable and if any provision is held invalid for any reason, the remaining provisions shall not be affected but shall remain in full force and effect.

**SECTION 20 – EFFECTIVE DATE**

This ordinance shall take effect on January 1, 2014 and all ordinances or parts of ordinances inconsistent with or contrary hereto are hereby repealed, except nothing in this ordinance shall be interpreted so as to conflict with State laws or orders or any of the requirements of any ordinance of the Town of Land O’ Lakes not mentioned or made inapplicable by the express terms of this Ordinance.

The town clerk shall properly post or publish this ordinance as required under s. 60.80, Wis. Statutes.

Adopted this 11th day of September, 2013.

Effective Date: January 1, 2014

/s/Daniel G. Balog, Town Chairman

/s/Samuel Otterpohl, Town Supervisor

/s/Michael Stopczynski, Town Supervisor

Attest: /s/Lynn M Bybee, Town Clerk