

## **Town of Merrimac Room Tax Ordinance Ordinance #1-78**

### **SECTION A. ROOM TAX**

1. Definitions. The definitions of s. 66.0615 (1) and 77.51(1f) Wis. Stats. are adopted and incorporated herein. The meaning of “gross receipts” includes the definition of s. 77.51 (4) (c), Wis. Stats, and bundled transactions as further defined;
  - a. "Hotel" or "Motel" means a building or group of buildings in which the public may obtain accommodations for a consideration, including, without limitation, such establish as inn, motels, tourist homes, tourist houses or courts, lodging houses, rooming houses, summer camps, apartment hotels, resort lodges and cabins and any other building or group of buildings in which accommodations are available to the public, except accommodations rented for a continuous period of more than one month and accommodations furnished by any hospitals, 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, and excepting mobile home parks.
  - b. Gross receipts. Means total revenue received from the retail furnishing of rooms, lodging, or similar accommodations by an operator including all bundled transactions.
  - c. "Transient" means any person residing for a continuous period of less than one month in a hotel, motel or other furnished accommodations available to the public.
  - d. Bundled transaction. A bundled transaction is one in which distinct and other identifiable amenities, services or products are sold for one non-itemized price.
  
2. Pursuant to Wisconsin Statutes 66.0615, a tax is hereby imposed on the privilege and server of a furnishing, at retail, of rooms or 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 the accommodations. Such tax shall be at the rate of 7 percent of the gross receipts from such retail furnishing of the rooms or lodging. Such tax shall not be subject to the selective sales tax imposed by Wisconsin Statutes, Section 77.52 (2) (a) 1.
  - a. The proceeds of such tax, when collected, less all collection expenses,
    1. Shall be applied to General Property Tax Relief.
    2. This section shall be administered by the Treasurer. The tax imposed for the calendar quarter commencing with the month of April, 1978, and for each calendar quarter thereafter is due and payable on the last day of the month next succeeding the calendar quarter for which imposed. A return shall be filed with the Treasurer by those furnishing at retail such rooms and lodging on or before the same date on which such tax is due and payable. Such return shall show the gross receipts of the preceding calendar quarter from such retail furnishing of rooms or lodging, the amount of taxes imposed for such period, and such other information as the Treasurer deems necessary. Every person required to file such quarterly return shall, with his first return, elect to file an annual calendar year or fiscal year return. Such annual return shall be filed

within 30 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 return, and shall contain certain such additional information as the Treasurer requires. Such annual returns shall be made on forms prescribed by the Treasurer. All such returns shall be signed by the person required to file a return or his duly authorized agent, but need not be verified by oath. The treasurer may, for good cause, extend the time for filing any return, but in no event longer than one month from the filing date.

3. Permit

- a. Every person furnishing rooms or lodging in the town of Merrimac 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 the treasurer prescribes and shall set forth the name under which the applicant transacts or intends to transact business, the location of the place of business, and such other information as the treasurer requires. The owner, if a sole proprietor, shall sign the application and if not a sole proprietor, the person authorized to act on behalf of such applicant shall sign. If the applicant is not the owner, the applicant shall include a guaranty signed by the owner assuring payment of any room tax collected by the applicant. In lieu of said guaranty, the applicant may post a bond, in a form and issued by a bonding company acceptable to the town treasurer, in an amount equal to the estimated gross annual room tax to be collected for said property.
4. Upon determination that the application complies with this section, 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 place designated therein. It shall at all times be conspicuously displayed at the place for which issued.
5. BOARD OF HOUSING REVIEW. Any person who shall question the tax herein levied may file a petition setting forth the reason for the challenge of the tax and the merits of such challenge shall be determined by a Board of Housing Tax Review which shall consist of the Town Treasurer and the Town Board. As a condition to such review, payment of the tax challenged shall be required and if the tax has been wrongfully assessed, it shall be returned to the person who has paid such tax under protest.
6. If any person liable for any amount of tax under this section sells out his business or stock of goods or quits the business, his successors or assigns shall withhold sufficient of the purchase price to cover such amount until the former owner produces a receipt from the Treasurer that it has been paid 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 purchase price as required, he shall become personally liable for payment of the amount required to be withheld by him to the extent of the price of the accommodations valued in money.
7. The Treasurer may, by office audit, determine the tax required to be paid to the Town or the refund due to any person under this section. 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. One or more such office audit determinations may be made of the amount due for anyone or for more than one period.

8. The Treasurer may, by field audit, 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 upon any other information in the Treasurer's possession. The Treasurer is authorized to examine and inspect the state sales tax records, and memorandum, of any person in order to verify the tax liability of that person or another person.
9. If any persons fail to file as required by this section, the Treasurer shall make an estimate of the amount of the gross receipts under Subsection 2. Such estimate shall be made for the period in which such person failed to make a return and shall be based on the State Sales Tax records and memoranda as stated in Subsection 9. On the basis of this estimate the Treasurer shall compute and determine the amount required to be paid to the town, adding to the sum this arrived at a penalty equal to 10 percent thereof. One or more such determinations may be made for one or more than one period.
10. All unpaid taxes under this section shall bear interest at the rate of 1 (one) percent per month on the unpaid balance. No refund or modification of the payment determined may be granted until the person files a correct room tax return and permits the municipality to inspect and audit his or her financial returns per Wis. Stat. 66.0615 (2) (a).
11. Delinquent tax returns shall be subject to a \$10.00 late filing fee. The tax imposed by this section shall become delinquent if not paid:
  - a. In the case of a timely filed return, within 30 days after the due date of the return, or within 30 days after the expiration of an extension period if one has been granted.
  - b. In the case of no return filed, or a return is filed late, by the due date of the return.
12. If due to negligence no return is filed, or a return is filed late, the entire tax finally determined shall be subject to a penalty of 10 percent of the tax exclusive of any other interest or other penalties. If a person fails to file a return when due or files a false or fraudulent return with the intent in either case to defeat or evade the tax imposed by this section, a penalty of 10 percent shall be added to the tax required to be paid, exclusive of interest and other penalties.
13. Every person liable for the tax imposed by this section shall keep or cause to be kept such records, receipts, invoices and other pertinent papers in such form as the Treasurer requires.
14. All tax returns, schedules, exhibits, writings or audit reports relating to such 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. A person who filed the return.
  - b. Officers, agents, or employees of the Federal Internal Revenue Service or the State Department of Revenue.
  - c. Officers, or agents of the Town of Merrimac as may be necessary to enforce collection.
15. No person having any administrative duty under this section 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 particular 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 in Subsection 14.

16. Any person who is subject to the tax imposed by this section who fails to obtain a permit as required in Subsection 4 or who fails or refuses to permit the inspection of state sales records by the Treasurer after such inspection has been duly requested by the Treasurer, shall be subject to a forfeiture not to exceed two hundred fifty dollars (\$250). Each day, or portion thereof, that such violation continues is hereby deemed to constitute a separate offense.
17. Any person subject to this ordinance who fails to file a return and pay the tax due, or who violates any other provision of this section, shall be subject to a forfeiture not to exceed 25 percent of the room tax due for the previous year under Subsection 2 or \$5,000, whichever is less.
18. In addition to the penalties provided herein, whenever 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 the Room Tax Permit held by such person. The Treasurer shall give to such person written notice of the suspension or revocation of any of his permits. The treasurer shall reinstate the room tax permit only upon payment in full of the amount due and owing including all penalties and interest.
19. When circumstances warrant, the town board may reinstate a room tax permit upon such terms and conditions it deems appropriate. 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.

## **SECTION B. SEPARABILITY AND CONFLICT**

1. If any section, subsection, paragraph, sub-paragraph, 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.
2. All ordinances or parts of ordinances which are inconsistent or contrary to this ordinance are repealed.
3. This ordinance shall take effect on April 1, 1978 subject to prior passage and publication as provided by law.

Ordinance adopted February 7, 1978. Effective April 1, 1978.

Amended December 3, 1991 to increase the tax rate from 5% to 7%. Effective January 1, 1992.

Amended December 4, 2013 to define Wis. Statute references and increase penalties for non-compliance. Effective January 1, 2014.