

## **ORDINANCE No. 5/17/21(2021)**

### **An Amendment to Ordinance 12/21/20(2020) Establishing an 8% Room Tax for the Town of Farmington**

**Section 1: Purpose:** 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 that are available to the public.

Property owner(s) will fill out and submit an application for a Hotel/Motel Room Tax Permit along with \$25.00 annual permit fee to the Town of Farmington. The Town of Farmington has joined with the City of Waupaca Zone of tourism destination of the Chain O'Lakes areas that has a commission whereby they must spend at least 70% of the room tax collected on the promotion and development of tourism, as defined in Section 66.0615(e) , and that the remaining 30% amount divided by percentage to municipalities within the zone may be devoted to the Town of Farmington general funds. The Town of Farmington has determined that the collection of such a tax would benefit the Town in its efforts to maintain a water patrol presence on the Chain O'Lakes for the health, welfare and safety of its residents and visitors.

**Section 2: Authority:** The town board of the Town of Farmington has the specific authority under s.66.0615 Wis. Stats and general authority under its village powers to adopt this ordinance.

**Section 3: Adoption of Ordinance:** The town board of the Town of Farmington, 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 that are available to the public.

#### **Section 4: Definitions:**

In this section, the following shall apply:

"Commission" means an entity created by one municipality or by 2 or more municipalities in a zone, to coordinate tourism promotion and tourism development for the zone.

"District" has the meaning given in s. 229.41(4m).

"Hotel" has the meaning given in s.77.52(2)(a)1.

"Lodging marketplace" means an entity that provides a platform through which an unaffiliated 3rd party offers to rent a short-term rental to an occupant and collects the consideration for the rental from the occupant.

"Motel" has the meaning given in s.77.52(2)(a)1

"Municipality" means the Town of Farmington

"Occupant" means a person who rents a short-term rental through a lodging marketplace.

"Owner" means the person who owns the residential dwelling that has been rented, and owes the tax imposed by this ordinance.

"Residential dwelling" means any building, structure, or part of the building or structure, that is used or intended to be used as a home, residence, or sleeping place by one person or by 2 or more persons maintaining a common household, to the exclusion of all others.

"Room tax" means the tax imposed by this ordinance.

"Short-term rental" means a residential dwelling that is offered for rent for a fee and for fewer than 29 consecutive days.

"Sponsoring municipality" means a city, village or town that creates a district either separately or in combination with another city, village, town or county.

"Tourism" means travel for recreational, business or educational purposes.

"Tourism promotion and tourism 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 tax be imposed, that are owned by different persons and located within a municipality in which a tax under this section is in effect t, or, if the municipality has only one such establishment, reasonably likely to generate paid overnight stays in that establishment.

"Transient" has the meaning given in s 77.52(2)(a)1. (any person residing for a continuous periods of less than 30 consecutive days in a hotel, motel, or other furnished accommodations available to the public.

"Zone" means an area made up of 2 or more municipalities that, those municipalities agree, is a single destination as perceived by the traveling public. That single destination being the Chain O'Lakes area in Waupaca County

**Section 5: Imposition of Tax:** Pursuant to Wis Stat. 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 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 8 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 WI Stat 77/52(2)(a)1, and may not be imposed upon sales to the federal government and persons listed under WI Stat 77.54(9a).)

**Section 6 - Distribution of Room Tax Collected:** Upon receipt of the room taxes that are collected, the City of Waupaca municipality shall distribute 70% of room taxes to the Commission and shall disburse the remaining 30% on a percentage basis to the other municipality members' general fund.

**Section 7: Tracking and Reporting Room Tax Revenue Expenditures:**

The Tourism Commission shall track and measure the impact of all room tax revenue expenditures and shall permit and allow inspections of its records pertaining to the use of the room tax funds upon request of the municipalities, at reasonable times. No room tax revenue may be used to construct or develop a lodging facility.

**Section 8: Collection of Tax:** The City of Waupaca 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 city 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 proceeding calendar quarters from such retain furnishings of rooms or lodging, the amount of taxes imposed for such period, and other information as the City of Waupaca treasurer deems necessary. Every person required to file such a quarterly return shall, with their first returns, elect to file an annual calendar or fiscal year return. Such annual return shall be filed within 90 days of the close of each such calendar or fiscal 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 city treasurer requires. Such annual returns shall be made on forms as prescribed by the city treasurer. All such annual 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 city 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 city of Waupaca. 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 payer inside the legal boundaries of the municipality.

**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 sufficient of the purchase price to cover such amount until the former owner produces a receipt from the municipal 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 municipal treasurer may, by office audit, determine the tax required to be paid to the municipality 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 municipal 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 municipal treasurer may, by field audit, determine the tax required to be paid to the municipality 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 within the municipal treasurer's possession. Whenever the city 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 city 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 municipal treasurer from making a determination of tax at any time.

**Section 11: Failure to File Return:** If any person fails to file a return by this section, the municipal treasurer shall make an estimate of the amount of the gross receipts. Such estimate shall be made for the period of which such person failed to make a return and shall be based upon any information, which is in the municipal treasurer's possession or may come into his/her possession. On the basis of this estimate, the municipal treasurer shall compute and determine the amount required to be paid to the municipality 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 room 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 municipal 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 municipal 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 shall be added to the tax required to be paid exclusive or interest and other penalties.

**Section 15: Posting of Security as Required by Municipal Treasurer:** In order to protect the revenue of the municipality, the municipal treasurer may require any person liable for the tax imposed by this ordinance to place with him or her such security, not in excess of \$5,000.00 as the municipal treasurer determines. If any tax payer is delinquent in the payment of taxes imposed by this article, the municipal treasurer may, upon 10 days notice, recover the taxes, interest and penalties from the security placed with the municipal treasurer by such taxpayer. No interest shall be paid or allowed by the municipaplity to any person for the deposit of such security.

**Section 16: 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 municipal treasurer requires.

**Section 17: Confidentiality of Tax Returns:** All tax returns, schedules, exhibits, writings and audit reports relating to such returns, on file with the municipal treasurer, shall be deemed to be confidential. The municipal 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 municipal 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 the court. No person in the administration of this ordinance 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 municipality 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 18: 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 municipal treasurer after such inspection has been duly requested by the municipal treasurer, or who fails to file a return as provided in this article, or who fails to pose security requested by the municipal treasurer or who violates any other provisions of this section, 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 five percent of the tax imposed by this ordinance upon said person.

**Section 19: Exemptions:** For the tax year 2020, any person or business otherwise required to file a return and make payment to the municipality under this ordinance will be allowed an exemption from the requirement to collect and pay room tax for any signed contract date prior to adoption of this ordinance in which the contract guarantees the lodging rates. This exemption will expire on January 1, 2021

**Section 20: Severability:** Each of the provisions of the ordinance is severable and if any provisions are held invalid for any reason, the remaining provisions shall not be affected but shall remain in full force and effect.

**Section 21: Effective Date:** This ordinance shall take effect on January 1, 2021 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

Farmington not mentioned or made inapplicable by the express terms of this Ordinance.

Adopted this 15th day of May,, 2021  
Date Published/Posted May 24, 2021

Caroline J. Murphy yes  no   
Chair

Ernest Mehr yes  no   
Supervisor I

Mat J yes  no   
Supervisor II

ATTEST: Danielle Taggart  
Danielle Taggart, Clerk/Treasurer