

Vacation Rental Establishments (Short-Term Rentals)

Ordinance #2021-1

1. On August 17, 2021, the Village Plan Commission held a public hearing on this Ordinance, preceded by public notice and otherwise noticed in accordance with all applicable legal requirements.
2. The Village Plan Commission has considered and recommended approval of this Ordinance.
3. The Village Board finds that amending the Code of Ordinances as set forth in this Ordinance improves the zoning regulations in the Village and promotes the public health, safety and general welfare of the Village.
NOW THEREFORE the Village Board of the Village of Merrimac, Sauk County, Wisconsin adopts the following Ordinance:

*Section 1. Section 185-12 B. (4) is amended to provide as follows:
(4) Bed-and-Breakfast, Hotel/Motels, Short-Term Rental properties (subject to Municipal Room Tax reporting rules).*

*Section 2. Section 185-13 B. (4) is amended to provide as follows:
(4) Bed-and-Breakfast, boardinghouse, or lodging house, Hotel/Motels, Short-Term Rental properties (subject to Municipal Room Tax reporting rules).*

*Section 3. Section 185-14 B. (4) is amended to provide as follows:
(4) Bed-and-Breakfast, Hotel/Motels, Short-Term Rental properties (subject to Municipal Room Tax reporting rules).*

*Section 4. Section 185-15 C.(1) is amended to provide as follows:
(1) Hotel/Motels, Rooming and Boarding Houses, Bed-and-Breakfast, Short-Term Rental properties (subject to Municipal Room Tax reporting rules).*

*Section 5. Section 185-16 C. (8) is amended to provide as follows:
(8) Bed-and-Breakfast, boardinghouse, or lodging house, Hotel/Motels, Short-Term Rental properties (subject to Municipal Room Tax reporting rules).*

*Section 6. Section 185-19 C. (13) is amended to provide as follows:
(13) Bed-and-Breakfast, boardinghouse, or lodging house, Hotel/Motels, Short-Term Rental properties (subject to Municipal Room Tax reporting rules).*

Section 7. This Ordinance shall take effect upon passage and publication pursuant to law.

The Above and foregoing resolution was duly adopted by the Village Board of the Village of Merrimac at its meeting held on September 14, 2021, by a vote of 5 in favor, 0 opposed, and 0 not voting.

Approved:



Phil Budde, Village President



Brian Mooney, Village Clerk

1. Vacation rental establishments may be permitted only by conditional use in the following districts:
 - A.) Residential District (R1, R2, R3)
 - B.) Agricultural District (A1)
 - C.) Business Districts (B1, B2)

2. Conditional Use status shall not be granted to vacation rental establishments unless all of the following conditions are met:
 - A.) The petitioner must provide to the Village Clerk a copy of the State Tourist Rooming House License for the subject property, prior to the Conditional Use order being granted; and evidence of each renewal of such license shall be filed by the Petitioner

- with the Village Clerk, such as evidence that a current license is always on file for the duration of the vacation rental establishment Conditional Use Permit.
- B.) Transfer of a Conditional Use Permit issued in accordance with this section shall not be permitted. Should the subject property be sold or transferred, then the Conditional Use Permit shall become void and a new Conditional Use Permit must be issued for use as a vacation rental establishment to continue. The Village is not obligated or required to issue a Conditional Use Permit to the new property owner.
 - C.) All vacation rental establishments shall be subject to and comply with Wis. Stats. Chapter 254, subchapter VII as required by Wisc. Stats. 254.69 (2), which sections are incorporated herein by reference.
 - D.) All vacation rental establishments shall be subject to and comply with Wisconsin Administrative Code HS 195 which is hereby incorporated herein by reference.
 - E.) A minimum of one off-street parking stall shall be provided for every guest bedroom. All off-street parking shall be established outside of the Village highway right-of-way. All guest parking for vehicles and trailers shall be within a parking space designated on the site plan, on an area paved with concrete or asphalt.
 - F.) Sleeping quarters related to a vacation rental establishment use shall only be located within the principal residential structure on the property. Accessory buildings cannot be used for sleeping quarters without prior Village approval.
 - G.) All refuse containers shall be screened from view and instructions for recycling shall be posted.
 - H.) Property that is used for a vacation rental establishment must have clearly delineated property lines, by approved fences, vegetation or other means to the satisfaction of the Village Plan Commission. Such clear delineation must be maintained for the duration of the Conditional Use Permit to ensure that all users of the property are clearly aware of the boundaries of the property and confine their use to the applicable parcel.
 - I.) The Village Board may revoke the Conditional Use Permit if the property has been declared a public nuisance affecting the peace and safety affecting the public. Public nuisances shall include, but are not limited to all loud and unnecessary noises, including those produced by animals and the unlawful use of fireworks, particularly before 6:00am and after 9:00 pm; unlawful or unauthorized use of any Village highway (road) which causes large crowds to gather or obstructs traffic; illegal or unlawful activity; and failure to remove all snow and ice from sidewalks, parking areas, and driveways.
 - J.) The Village Board shall not renew the Conditional Use Permit if the property owner has failed to remit room taxes. Upon remittance of the delinquent room tax, the conditional Use Permit may be reinstated by the Village Board.
 - K.) Room tax shall be collected by the property owner from the lessee to whom the Agreement has been made. The room tax shall be remitted to the Village Clerk on a

quarterly basis. Should the property owner fail to remit the room tax, the property shall be subject to the forfeiture provisions of Village Ordinances in Article X and the Conditional use Permit shall be automatically revoked. Upon remittance of delinquent room tax, the Conditional Use Permit may be reinstated.

- L.) If the Village finds that any statement made on the Conditional Use Permit, or the renewal application, is incorrect, the Village Board may, at any time, immediately and summarily revoke the Conditional Use Permit.
 - M.) The property owner shall provide a copy of this ordinance along with a current copy of the Conditional Use Permit to any person using the property for vacation rental purposes prior to the commencement of each use.
 - N.) There shall be no outdoor storage of any kind allowed on the subject property, with the exception of trailers, watercraft, snowmobiles, or ATV's on trailers.
 - O.) No recreational vehicle or tent may be used for living or sleeping purposes.
 - P.) The property owner shall post at the main entrance contact information of a local property manager who resides within 25 miles of the property and can be reached twenty-four (24) hours a day, seven (7) days a week. This information shall be on file with the Village Clerk.
 - Q.) The property shall have a minimum 1 night stay duration requirement.
 - R.) A current floor plan for the vacation property shall be provided at a minimum of one-inch equals four feet, and a site plan of the property at a minimum scale of one-inch equals 10 feet, showing on-site parking spaces and trash storage.
 - S.) Proof of valid property and liability insurance for the property.
 - T.) The maximum number of occupants shall not exceed the total number licensed by the State of Wisconsin or two per bedroom plus two additional occupants, whichever is less.
 - U.) No exterior signage or outdoor advertising related to the vacation rental home is permitted, other than the property address.
3. Description: A dwelling unit available for overnight, weekend or weekly stays by paying guests, which may or may not be owner-occupied for parts of the year. These uses are often referred to as vacation rentals/short-term rentals, and include timeshare units. This land use category is distinct from Bed and Breakfast, Commercial Indoor Lodging, and Boarding House land uses.
4. All leases 30 days or less are prohibited unless a Conditional Use Permit has been granted in accordance with Section 2.30 of this ordinance. Leases over 29 days are not subject to the requirements of this Section.

Village of Merrimac Municipal Room Tax Ordinance

Ordinance # 2021-02

1. On August 17, 2021, the Village Plan Commission held a public hearing on this Ordinance, preceded by public notice and otherwise noticed in accordance with all applicable legal requirements.
2. The Village Plan Commission has considered and recommended approval of this Ordinance.
3. The Village Board finds that amending the Code of Ordinances as set forth in this Ordinance improves the zoning regulations in the Village and promotes the public health, safety and general welfare of the Village.

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Approved:



Phil Budde, Village President



Brian Mooney, Village Clerk

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 truncations 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 established 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 not 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 October, 2021, 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 Village 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 Village 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 Village. 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 Village Treasurer and the Village Board of Trustees. 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 Village 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 Village 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 record, and memorandum, of any person in order to verify the tax liability of that person or another person.
9. If any person fails 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 Village, adding to the sum this arrived at 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 for 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 Village 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 (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 Village 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 October 1, 2021 subject to prior passage and publication as provided by law.