

1 **TOWN OF GIBRALTAR ORDINANCE**
2 **ORDINANCE NUMBER 2007-01**
3 **FOR THE COLLECTION OF TAX ON OVERNIGHT LODGING**
4

5 **WHEREAS**, Wisconsin Statutes sec. 66.0615 provides that a municipality may adopt an ordinance im-
6 posing a tax on the privilege of furnishing, at retail, rooms or lodging to transients by hotel keepers, mo-
7 tel operators and other persons furnishing accommodations that are available to the public; and,
8

9 **WHEREAS**, if a tax is imposed under this statute, the municipality must spend at least seventy (70%)
10 percent of the room tax collected on tourism promotion and development, as defined in Wisconsin Stat-
11 utes sec. 66.0615(1) (fm), and that the remaining amount may be spent on municipal purposes; and,
12

13 **WHEREAS**, the Town Board has researched the issue of implementing a room tax and has determined
14 that the collection of such a tax would benefit the Town in its efforts to attract paid overnight lodging at
15 multiple lodging properties for the benefit of the community.
16

17 **WHEREAS**, the Door County Peninsula is promoted as a single destination, inclusive of all municipal-
18 ities in the County, and creation of a Tourism Zone among municipalities furnishing, at retail, rooms or
19 lodging to transients by hotel keepers, motel operators and other persons furnishing accommodations
20 that are available to the public is needed to ensure the continued promotion of Door County as a single
21 destination; and,
22

23 **WHEREAS**, the creation of a Tourism Zone as provided by Wisconsin Statutes sec. 66.0615 requires
24 the creation of a Intergovernmental Cooperation Commission created under Wisconsin Statutes sec.
25 66.0301 to oversee the use of the collected tax on overnight lodging.
26

27 **NOW THEREFORE**, the Town Board of the Town of Gibraltar, Door County, Wisconsin, does hereby
28 enact the following ordinance.
29

30 **Section 1 Definitions**

31 In this ordinance, the following shall apply:
32

33 Commission has the meaning defined in Wisconsin Statutes sec. 66.00615(a). If two or more municipal-
34 ities in a zone impose a room tax under section (a), the municipalities shall enter into a contract
35 under Wisconsin Statutes sec. 66.0301 to create a commission under sec. 66.0301(2). Each mu-
36 nicipality in a single zone that imposes a room tax shall levy the same percentage of tax. If the
37 municipalities are unable to agree on the percentage of tax for the zone, the commission shall set
38 the percentage.
39

40 Gross receipts have the meaning as defined in Wisconsin Statutes sec. 76.48(d). Gross receipts means
41 total revenue received from the retail furnishing of rooms, lodging, or similar accommodations by
42 a hotel or motel as defined herein.
43

44 Hotel and motel have the meaning as defined in Wisconsin Statutes sec. 77.52(2) (a) 1. “Hotel and mo-
45 tel” means a building or a group of buildings in which the public may obtain accommodations for
46 a consideration, including, without limitation, such establishments as inns, motels, tourist homes,
47 tourist houses or courts, bed and breakfast establishments, lodging houses, rooming houses,
48 summer camps, apartment hotels, resort lodges and cabins, commercial indoor lodging facilities
49 and any other building or group of building in which accommodations are available to the pub-

1 lic, except accommodations rented for a continuous period of more than thirty (30) consecutive
2 days and accommodations furnished by any hospitals, sanitariums or nursing homes or by corpo-
3 rations or associations organized and operated exclusively for religious, charitable or educational
4 purposes provided that no part of the net earnings of such corporations and associations inures to
5 the benefit of any private shareholder or individual.
6

7 Municipality means the Town of Gibraltar, Wisconsin.
8

9 Payor means the person or entity who owes the tax imposed by this article.
10

11 Room tax means the tax imposed by this Ordinance.
12

13 Tourism has the meaning as defined in Wisconsin Statutes sec. 66.0615(1) (e). Tourism means any
14 travel for recreational, business or educational purposes.
15

16 Transient has the meaning as defined in Wisconsin Statutes sec. 77.52(2) (a)1. Transient means any
17 person residing for a continuous period of less than thirty (30) consecutive days in a hotel, motel,
18 or other furnished accommodations available to the public.
19

20 Tourism Entity has the meaning as defined in Wisconsin Statutes sec. 66.0615. A nonprofit organiza-
21 tion that provides staff, development or promotional services for the tourism industry in the mu-
22 nicipality, and as one of its primary purposes the generation of paid overnight stays. The tourism
23 entity must have a governing board comprised of over fifty (50%) percent representation from the
24 area's restaurants, drinking places, gift/souvenir shops, hotels, motels, bed and breakfasts, tourist
25 rooming houses, public golf courses, amusement parks or other tourist attractions; twenty-five
26 (25%) percent or more of the total board must be owners or operators of room-tax-paying lodging
27 establishments.
28

29 Tourism promotion and development has the meaning as defined in Wisconsin Statutes sec. 66.0615 (1)
30 (fm). "Tourism promotion and development" means any of the following that are significantly
31 used by transient tourists and reasonably likely to generate paid overnight stays at more than one
32 establishment on which a room tax may be imposed, that are owned by different persons and lo-
33 cated within the municipality; or, if the municipality has only one such establishment, reasonably
34 likely to generate paid overnight stays in that establishment:

- 35 1. Marketing projects, including advertising media buys, creation and distribution of printed
36 or electronic promotional tourist materials, or efforts to recruit conventions, sporting
37 events, or motor coach groups.
- 38 2. Transient tourist informational services.
- 39 3. Tangible municipal development, including a convention center.
40

41 Tourism Zone has the meaning as defined in Wisconsin Statutes sec. 66.0615. "Tourism Zone" means
42 an area made up of two or more municipalities that, those municipalities agree, is a single destina-
43 tion as perceived by the traveling public.
44

45 **Section 2 Creation of Tourism Zone**

46 Pursuant to Wisconsin Statutes sec. 66.0615, the Town of Gibraltar will join the Door County Tourism
47 Zone for the purpose of promoting the County as a single destination.
48
49

1 **Section 3 Imposition of Room Tax**

2 (a) Tax Imposed.

3 Pursuant to Wisconsin Statutes sec. 66.0615, a tax is hereby imposed on the privilege and services
4 of furnishing, at retail, of rooms or lodging to transients by hotel keepers, motel operators and
5 other persons furnishing accommodations that are available to the public, irrespective of whether
6 membership is required for the use of the accommodations. Such tax shall be at the rate of 5.5%
7 percent of the gross receipts from such retail furnishing of rooms or lodgings. Such tax shall not
8 be subject to the selective sales tax imposed by Wisconsin Statutes sec. 77.52 (2) (a) 1, and may
9 not be imposed upon sales to the federal government and persons listed under Wisconsin Statutes
10 sec. 77.54 (9a).

11
12 (b) Taxation Effective Date.

13 The effective date of the Room Tax shall be April 1, 2007.

14
15 (c) Room Tax Payment Frequency.

16 Room Tax shall be paid by the lodging property on a monthly basis. It shall be paid by the end of
17 the month following the month in which it was collected unless the end of the month falls on a
18 Saturday or Sunday, which would make it due on the following Monday.

- 19 1. If the municipality collects the Room Tax directly from each lodging property on a monthly
20 basis, they must then put together a monthly report showing the total amount of Room Tax
21 collected from each property and submit that along with a check for seventy percent (70%)
22 of the total collected to the Commission by the fifteenth of the month following collection
23 or approximately forty-five (45) days after the end of the month from which the Room Tax
24 was collected. The municipality shall also submit copies of each lodging property's Month-
25 ly Room Tax return as specified in Section 3(e).
- 26 2. The Room Tax is owed to the local municipality which imposed the tax, but for conven-
27 ience, the municipality can direct that all checks be sent directly to the Commission. If
28 Room Tax checks from properties in a municipality are sent directly to the Commission, the
29 Commission will send one check by the fifteenth of each month to the municipality for thir-
30 ty percent (30%) of all Room Tax collected the previous month along with a report showing
31 the amount of Room Tax collected from each lodging property. In the latter case, the Com-
32 mission does all the paper work as part of their monitoring.

33
34 (d) Room Tax Responsibility.

35 The correct amount of Room Tax shall accompany each lodging property's monthly tax return
36 and be made payable to the municipality or if the municipality prefers, to the Door County Tour-
37 ism Zone Commission. If any person liable for any amount of tax under this ordinance sells out
38 their business or otherwise quits the business, their successors, or assigns shall withhold sufficient
39 of the purchase price to cover such amount until the former owner produces a receipt from the
40 municipal treasurer that it has been paid or a certificate stating that no amount is due. If any pur-
41 chaser of a property subject to the tax imposed by this agreement fails to withhold such amount of
42 tax from the purchase price as required, any outstanding Room Tax liability shall follow with the
43 property.

44
45 (e) Monthly Room Tax Return.

46 The Monthly Room Tax Return filed by the lodging property with the room tax payment shall
47 contain the following information: name of the business, physical address, postal address, munic-
48 ipality located within, name of the designated person filling out the return, month and year the re-

1 turn is for, total available rental units during the month (number of rental units in the facility mul-
2 tiplied by the days in the month or days they were open), number of rooms or units rented, total
3 lodging sales for the month, room tax to be paid (which should equal total lodging sales multi-
4 plied by the 5.5% Room Tax) and the signature of the person filling out this return, attesting to
5 the accuracy. This information will allow the municipality or Commission to judge the accuracy
6 of the return and for the Commission, with all returns in total, to judge the effectiveness of the
7 tourism promotion. The Commission shall establish the form of the monthly tax return as a paper
8 and/or electronic document.

9
10 (f) Delinquent Room Tax.

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

33
34 (g) Confidentiality of Reports.

35 All Room Tax returns, schedules, exhibits, writings or audit reports relating to such returns, on
36 file with the Commission and the municipality are deemed confidential pursuant to Wisconsin
37 Statutes sec. 66.0615(3) except they may divulge their contents to the following, and no others:

- 38 1. The person who filed the return.
- 39 2. Officers, employees or agents of the municipal treasurer and the Commission.
- 40 3. Other persons for the use in the discharge of duties imposed by law, or in the discharge of
41 the duties of their office (unless otherwise prohibited by law), or by order of a court.

42
43 (h) Exemptions in 2007.

44 The following exemptions shall automatically expire on December 31, 2007. For 2007, there may
45 be exemptions to the collection of the Room Tax subject to audit. Any person or business other-
46 wise required to file a return and make a payment under this Agreement, will be allowed an ex-
47 emption from the requirement to collect and pay Room Tax for any rental agreement or contract
48 dated prior to the adoption of the Agreement in which the contract specifically guarantees the

1 lodging rates and the amount of applicable taxes. This also applies to any gift certificate purchase
2 before the adoption of this Agreement, which is not for a fixed dollar amount, but instead, for the
3 amount paid, guarantees a particular lodging rate and the applicable taxes or a particular amenity.
4 This exemption does not apply to reservations made before the adoption of this agreement, which
5 are not binding contracts. The Commission shall establish provisions for the proper reporting of
6 these exemptions.
7

8 **Section 4 Lodging Establishments to be Licensed**

9 (a) License Required. Any party supplying transient lodging in the Town of Gibraltar shall obtain and
10 maintain a permit from the Town Clerk permitting the rental of accommodations. No accommo-
11 dations shall be rented or available for rental for a period of less than thirty (30) days by any party
12 not possessing a lodging permit issued by the Town.
13

14 (b) Permit Application. Any party furnishing lodging accommodations to transient guests in the Town
15 shall annually file with the Town Clerk, on or before the end of the year, an application to operate
16 each place of business subject to this Ordinance for the following year. In the case of businesses
17 started or transferred during the year, such application shall be filed prior to the commencement
18 of rentals. There shall be no cost for the filing of the application for the permit. The application
19 form shall include, at minimum, the following information:

- 20 1. The name of the business under which the person, partnership or corporation transacts
21 business or intends to transact business. (This name shall agree with that used for Sales Tax
22 Permits.)
- 23 2. The name of the agent for the business or other person designated as responsible to remit
24 the Room Tax, along with the means to contact this person including email address, postal
25 address, telephone number, fax number and cell phone number, as applicable.
- 26 3. The physical and mailing addresses of the business.
- 27 4. Number of rental units at the location for each month of the year during which the business
28 is operating.
- 29 5. The signature of the person designated in item b. above.
30

31 (c) Permit Review and Issuance. The Town Clerk may accept the application, review it for accuracy
32 and issue the permit. A copy of all permits issued should be submitted to the Commission by the
33 Town Clerk before January 31st of the permit year. The permit shall not be assignable. The permit
34 shall only be valid for the person named on the application as being responsible to remit the
35 Room Tax. In cases where that person should change or the ownership should change during the
36 life of the permit, a new application and issuance of a new permit shall be necessary.
37

38 (d) Penalty for Violation. Any party in violation of the terms of this Ordinance shall be subject to a
39 forfeiture of not less than \$20 nor more than \$100 for each violation. Each room or unit separate-
40 ly rented and each day of such rental shall be a separate violation. In addition, the Town may ob-
41 tain injunctive relief to discontinue violation of this Ordinance. Any party deemed to have violat-
42 ed this Ordinance shall be obligated to pay the costs of prosecution, in addition to actual attorney
43 fees expended by the Town.
44

45 **Section 5 Creation of a Commission**

46 (a) Commission Purpose.

47 The municipalities shall enter into a contract under Wisconsin Statutes sec. 66.0615 to create a
48 commission under the Intergovernmental Cooperation provisions of Wisconsin Statutes sec.

1 66.0301(2). The Commission shall contract with a Tourism Entity for the promotion of the desti-
2 nation with a maximum of 70% of the room taxes collected.
3

4 (b) Commission Membership.

5 The Commission created by a Tourism Zone Agreement under Wisconsin Statutes sec. 66.0615
6 shall consist of the following members:

- 7 1. Two (2) members from each municipality in which annual tax collections exceed \$300,000.
- 8 2. One (1) member from each municipality in which annual tax collections are \$300,000 or
9 less.
- 10 3. Two additional members, representing the Wisconsin hotel and motel industry, shall be ap-
11 pointed to the Commission by the chairperson of the Commission, shall serve for a one-
12 year term at the pleasure of the chairperson and may be reappointed. These members shall
13 not be members of the Board of Directors or employees of the Tourism Entity.
14

15 (c) Commission Member Appointment Process and Term of Office.

16 Members of the Commission shall be appointed by the principal elected official in the municipali-
17 ty and shall be confirmed by a majority vote of the members of the municipality's governing body
18 who are present when the vote is taken. Commissioners shall serve a one-year term, at the pleas-
19 ure of the appointing official and may be reappointed. If a member of the Commission resigns or
20 is removed for cause, the municipal body that appointed the member may appoint another person
21 to fulfill the unexpired term. If the subject member was appointed by the chairperson, they may
22 appoint another person to fill the unexpired term. Members of the Commission shall receive no
23 pay, but may be reimbursed for their travel expense.
24

25 (d) Applicability of State Open Meetings Law.

26 While membership on the Commission is provided for each municipality in the zone agreement,
27 all membership positions need not be filled if a municipality does not see a need. A member
28 community that does not appoint a representative shall not count towards the determination of a
29 quorum. The Commission shall be subject to the provisions of the Wisconsin Open Meetings and
30 Open Records laws as amended.
31

32 (e) Role of Commission.

33 The Commission shall perform such tasks as are specified in the Tourism Zone Agreement.
34

35 **Section 6 Distribution of Room Taxes Collected**

36 Upon receipt of the room taxes that are collected, the municipality shall distribute a minimum of seven-
37 ty (70%) percent of the room taxes to the Tourism Zone Commission. The municipality shall retain thir-
38 ty (30%) percent of the room taxes or less for such purposes as the Town Board of Trustees shall deter-
39 mine. All municipalities will still receive their monthly, quarterly and annual reports if Room Tax
40 checks are sent directly to the Commission.
41

42 **Section 7 Tourism Entity**

43 The Commission shall contract with a Tourism Entity who shall spend the room taxes on tourism pro-
44 motion and development. The Tourism Entity shall not use any of the room tax revenue to construct or
45 develop a lodging facility.
46
47

1 **Section 8 Tracking and Reporting Room Tax Revenue Expenditures**

2 The Tourism Entity shall track the use of Room Tax revenues and expenditures and state its impact on
3 generating paid over night stays in the community. The Tourism Entity shall permit and allow inspec-
4 tions of its records pertaining to the use of the room tax funds upon request of the Tourism Commission
5 at reasonable times. The Tourism Entity shall provide a written report as determined by the Tourism
6 Commission, no less than annually, and such report shall be available to the Municipality and public
7 upon request.

8
9 **Section 9 Effective Date**

10 This ordinance shall be effective on its passage and publication with the following condition that at least
11 two (2) of the municipalities listed below adopt the Room Tax and Tourism Zone Agreement in substan-
12 tially the same form prior to April 1, 2007:

- 13 Town of Washington
- 14 Town of Liberty Grove
- 15 Town of Baileys Harbor
- 16 Town of Egg Harbor
- 17 Village of Egg Harbor
- 18 Village of Ephraim
- 19 Village of Sister Bay
- 20 City of Sturgeon Bay.

21
22
23 **Town of Gibraltar**

24
25 By: _____
26 Merrell P. Runquist, Town Chair

By: _____
Richard Skare, Supervisor

27
28
29 By: _____
30 Brian Merkel, Supervisor

By: _____
Myrvin Somerhalder, Supervisor

31
32
33 By: _____
34 James Jauquet, Supervisor

35
36 **Attest:**

37
38
39 _____
40 Sharon Kellner, Clerk

41
42 Date Introduced: February 7, 2007
43 Date Adopted: February 7, 2007
44 Publication Date: _____
45
46