

ROOM TAX ORDINANCE

TOWN OF STRONGS PRAIRIE, WISCONSIN

WHEREAS, the Town of STRONGS PRAIRIE, Adams County, Wisconsin (the "Municipality"), is a municipal corporation organized and existing under and pursuant to the laws of the State of Wisconsin and is authorized by Section 66.06151, Wisconsin Statutes, as mentioned (hereinafter sometimes referred to as the "Act"), to:

1. Enact a tax on the privilege and service of furnishing, at retail, except sales for resale, rooms or lodging to transients by hotelkeepers, motel operators and other persons furnishing accommodations that are available to the public.
2. Form a commission for the purpose of contracting with an organization to provide staff, development and promotional services for the tourism industry in the Municipality.

WHEREAS, the Municipality has experienced significant recent development, namely the development of a substantial residential and recreational facility by Northern Bay, LLC, that offers substantial tourism opportunities and related economic benefits to the Municipality; and

WHEREAS, the Municipality wishes to enact a room tax and establish a tourism commission in order to develop and promote the tourism industry in the Municipality;

NOW, THEREFORE, BE IT RESOLVED THAT THERE IS HEREBY ADOPTED AND ENACTED THE FOLLOWING ORDINANCE, WHICH SHALL BE IDENTIFIED AS STRONG PRAIRIE ORDINANCE NUMBER 2005-03:

(1) Name. This ordinance shall be known as the Room Tax Ordinance, of the Town of Strongs Prairie, Adams County, Wisconsin.

(2) Definitions. As used in this ordinance, the following terms shall have the meanings provided:

- (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 establishments as inns, motels, tourist homes, tourist houses or courts, bed and breakfast establishments, lodging houses, rooming houses, summer camps, apartment hotels, resort lodges and cabins, resort hotels, and any other building or group of buildings in which accommodations are

available to the public, except accommodations, including mobile homes as defined in Sec. 66.0435(1)(d), rented for a continuous period of more than one month and accommodations furnished by any hospital, sanitoriums, 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.

- (b) “Gross receipts” has the meaning as defined in Wisconsin Statutes, Section 77.51(4)(a), (b) and (c) insofar as applicable.
- (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.

(3) Imposition of Tax. Pursuant to Wisconsin Statutes, Section 66.0615, a tax is hereby imposed on the privilege and service of furnishing, at retail, (except sales for resale) rooms or lodging to transients by hotelkeepers, 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 five and one-half percent (5.5%) of the gross receipts from such retail furnishing of rooms or lodgings. Such tax shall not be subject to the selective sales tax imposed by Wis. Stats. Section 77.52(2)(a) 1. and may not be imposed on sales to the federal government and persons listed under Sec. 77.54(9a), Wis. Stats.

(4) Collection of Tax. This section shall be administered by the Town Treasurer. The tax imposed for the initial calendar quarter (from the effective date of this ordinance through the end of that calendar quarter), 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 Town 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 Town 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 ninety (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 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 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.

(5) Permit. Every person furnishing rooms or lodging under Subsection (3) shall file with the Town Treasurer an application for a permit annually for each place of business. Every application for a permit shall be made upon a form prescribed by the Town Treasurer and shall set forth the name under which the applicant transacts or intends to transact business, the location of his place of business, and such other information as the Town Treasurer requires. The application shall be signed by the owner if a sole proprietor and, if not a sole proprietor, by the person authorized to act on behalf of such sellers. At the time of making an application the applicant shall to the Town Treasurer a fee of one hundred dollars (\$100.00) for each permit. Annual renewal shall be completed no later than June 30th.

(6) Issue and Display of Permit. After compliance with Subsection (5) and Subsection (15) by the applicant, the Town 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 person in whose name it is issued and for the transaction of business at the place designated therein. It shall at all times be conspicuously displayed at the place for which issued.

(7) Revocation of Permit. Whenever any person fails to comply with this section the Town 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 any or all of the permits held by such person. The Town Treasurer shall give to such person written notice of the suspension or revocation of any of his permits. The Town Treasurer shall not issue a new permit after the revocation of a permit unless he is satisfied that the former holder of the permit will comply with the provisions of this section. A fee of five hundred dollars (\$500.00) shall be imposed for the renewal or issuance of a permit, which has been previously suspended or revoked.

(8) Successor Liability. 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 Town 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.

(9) Office Audit. 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 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 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.

(10) Field Audit. 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 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 Town Treasurer's possession. Whenever the Town 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 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.

(11) Estimated Assessment. If any person fails to file a return as required by this section, the Town Treasurer shall make an estimate of the amount of the gross receipts under subsection (3). 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 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 per cent (10%) there-of. One or more such determinations may be made for one or more than one period.

(12) Default; Forfeiture. A forfeiture of 25% of the room tax due for the previous year or \$5,000, whichever is less, of the tax imposed, is hereby established and due and owing in the event that the room tax is not paid within 30 days after the due date of return. In addition to this forfeiture, all unpaid taxes under this section shall bear interest at the rate of twelve per cent (12%) 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 twelve per cent (12%) 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 overpaid, was not accompanied by a complete return it shall not allow any interest thereon.

(13) Late Filing; Fee. Delinquent tax returns shall be subject to a twenty-five dollar (\$25) late filing fee. The tax imposed by this section shall become delinquent if not paid by the due date of the return.

(14) False or Fraudulent Return. If a person 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 fifty percent (50%) shall be added to the tax required to be paid, exclusive of interest and other penalties.

(15) Security for Payment. In order to protect the revenue of the Town, the Town Treasurer may require any person liable for the tax imposed by this section to place with him or her, before or after a permit is issued, such security, not in excess of five thousand dollars (\$5,000) as the Town Treasurer determines. If any taxpayer fails or refuses to place such security, the Town Treasurer may refuse or revoke such permit. If any taxpayer is delinquent in the payment of the taxes imposed by this section, the Town Treasurer may, upon ten (10) days notice, recover the taxes, interest and penalties from the security placed with the Town Treasurer by such taxpayer. No interest shall be paid or allowed by the Town to any person for the deposit of such security.

(16) Records. 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 Town Treasurer requires.

(17) Confidentiality of Returns and Records. All tax returns, schedules, exhibits, writings or audit reports relating to such returns, on file with the Town Treasurer are deemed to be confidential, except the Town Treasurer may divulge their contents to the following, and no others:

- (a) The person who filed the return.
- (b) Officers, agents, or employees of the Federal Internal Revenue Service or the State Department of Revenue.
- (c) Such other public officials of the Town of Strongs Prairie, when deemed necessary.

(18) Confidentiality. No person having an 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 (17).

(19) Failure to Obtain Permit. Any person who is subject to the tax imposed by this section who fails to obtain a permit as required in subsection (5), or who fails or refuses to permit the inspection of his 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 section, or who violates any other provisions of this section, 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. The total forfeiture imposed shall not exceed 5% of the tax imposed by this section.

(20) Tourism and Room Tax Commission. There is hereby established the Strongs Prairie Tourism and Room Tax Commission (the "Commission"). The Commission shall have four (4) members who shall be appointed by the Town Chairman and confirmed by a majority of the Town Board members who are present when the vote is taken. One member shall be the Town Chairman or his or her designee; one member shall be the director of public works of the Town or his or her designee; one member shall be a representative of the Wisconsin hotel and motel industry with a presence in the Town; and one member shall be a representative of the community. Members shall serve for a one-year term, at the pleasure of the Town Chairman, and may be re-appointed. The Commission shall meet regularly and, from its members, it shall elect a chairperson, vice chairperson and secretary.

(21) Application of Proceeds of Tax. The proceeds of the tax shall be applied as authorized and required by applicable law. Twenty-eight percent (28%) of the proceeds shall be retained and used by the Town in reimbursement of its costs for establishing and operating the Room Tax program and for its general purposes. The balance shall be applied to the promotion and development of tourism according to an annual budget proposed by the Commission, including the development of a convention center, but not the construction or development of a lodging facility. The Commission may contract with an appropriate organization, including without limitation, a development organization located in the Town having substantial experience in tourism, recreation, and lodging, to provide staff, development and promotional services for the tourism industry in the municipality. No more than two percent (2%) of the proceeds may be used to reimburse the organization providing tourism promotion and development services for its administrative costs and the balance of no less than seventy percent (70%) for other tourism promotion and development. The Commission shall report to the Town annually the purposes for which revenues were spent.

(22) Effective Date. This Ordinance shall become effective upon its publication in the official newspaper in the Town of Strongs Prairie.

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The foregoing ordinance of the Town Board of the Town of STRONGS PRAIRIE, Wisconsin, was adopted, approved, and recorded on June 13, 2005.

Town Chairman

CERTIFICATION BY TREASURER

I, Arlene Sparby, being first duly sworn, do hereby depose and certify that I am the duly elected, qualified, and acting Municipal Treasurer of the Town of STRONGS PRAIRIE, in the County of Adams, State of Wisconsin, and as such I have in my possession, or have access to, the complete corporate records of said Town and of its Town Board; that I have carefully compared the transcript hereto attached with the aforesaid corporate records; that said transcript hereto attached is a true, correct, and complete copy of all the corporate records in relation to the adoption of Ordinance No. 2005-03 entitled:

ROOM TAX ORDINANCE

TOWN OF STRONGS PRAIRIE, WISCONSIN

I do hereby further depose and certify as follows:

1. Said Ordinance was considered for adoption by the Town Board at a meeting held in the Town Hall at 7:00 p.m. on June 13, 2005. Said meeting was a regular meeting of the Town Board and was held in open session in compliance with Subchapter IV of Chapter 19 of the Wisconsin Statutes.

2. Said Ordinance was on the agenda for said meeting, and public notice thereof was given not less than 24 hours prior to the commencement of said meeting in compliance with Section 19.84 of the Wisconsin Statutes, including, without limitation, by

posting on the bulletin board in the Town Hall, by notice to those news media who have filed a written request for notice of meetings, and by notice to the official newspaper of the Town.

3. Said meeting was called to order by Chairman Bennett who chaired the meeting. Upon roll, I noted and recorded that the following Board members were present:

Thomas Pokszyk-Supervisor I
Nancy Wical-Supervisor II

I noted and recorded that a quorum was present. Various matters and business were taken up during the course of the meeting without intervention of any closed session. One of the matters taken up was said Ordinance, which was introduced, and its adoption was moved by Wical and seconded by Pokszyk. Following discussion and after all Board members who desired to do so had expressed their views for or against said resolution, the question was called and, upon roll being called and the continued presence of a quorum being noted, the recorded vote was as follows: Aye: 3 Nay:0
Whereupon the Town Chairman declared said Ordinance adopted, and I so recorded it.

4. Said Ordinance was approved by the Town Chairman on June 13, 2005, and I have so recorded.

IN WITNESS WHEREOF, I have signed my name and affixed the seal of the Town hereto on this 13 day of June 2005.

_____, Town Treasurer

(MUNICIPAL SEAL)