Town of Breed
Short Term Rental Property
Ordinance

Purpose

The purpose of this ordinance is to ensure that the quality and nature of the Short-Term Rentals operating within the Town of Breed (hereinafter the "Town") are adequate for protecting public health, safety, and general welfare and to protect the character and stability of neighborhoods within the Town.

Authority

The Town Board has been authorized to exercise village powers pursuant to §60.10(2)(c) and §60.22(3), Wis. Stat. and in accordance with this village power and §66.1014, the Town Board adopts this ordinance.

Definitions

"Property Owner" means the person who owns the residential dwelling that is being rented.

"Property Manager" means a person who is not the Property Owner and who provides property management services for one or more Short-Term Rentals and who is authorized to function as the agent of the Property Owner for the receipt of service of notices of municipal ordinance violations and for service of process pursuant to 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 or more persons maintaining a common household, to the exclusion of all others.

"Short-Term Rental" means a residential dwelling that is offered for rent for a fee and for fewer than thirty (30) consecutive days.

Short-Term Rental License Application, Issuance, Suspension, Revocation, and Non-Renewal

A) No person or entity may maintain, manage, or operate a Short-Term Rental for more than ten (10) nights each year without possessing a valid Town-issued Short-Term Rental License (hereinafter "License") from the Town Clerk or Designee, issued pursuant to this ordinance.

B) Licenses shall be issued using the following procedures:

1) All applications for a License shall be filed with the Town Clerk or Designee on forms provided. Applications must be filed by the Property Owner. No License shall be issued

unless the complete application form is accompanied by the payment of the required application fee.

2) Each application shall include the following information and documentation:

   i. The name of the Property Owner with mailing address, email address and telephone number.

   ii. The name of the Property Manager (if applicable) with mailing address, email address and telephone number.

   iii. Copy of State of Wisconsin Tourist Rooming House license. Licenses issued by the Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP) expire June 30 of each year.
   License dates extend from July 1 of one year through June 30 of the following year. If a license is granted after April 1 of a license year, that license will extend to June 30 of the following year. For example, if a business is licensed by DATCP on April 1, 2021, then its license will expire June 30, 2022.
   Renewal fees for existing establishments shall be submitted to DATCP before June 30 each year.

   iv. Most recent copy of the lodging inspection report for the property.

   v. Copy of Wisconsin Department of Revenue issued seller's permit.

   vi. Proof of insurance showing commercial liability insurance coverage with a limit of at least $1,000,000.00 per occurrence and in aggregate.

3) The Town Clerk or Designee shall issue a License to all applicants following payment of the required fee, receipt of all information and documentation requested by the application, and Town Board approval of the application.

4) A License shall be effective for up to one year from the date of issuance until the end of year renewal date and may be renewed for additional one-year periods. A renewal application and renewal fee must be filed with the Town at least 45 days prior to License expiration so that the Town Board has adequate time to consider the application. The renewal application shall include any updated information from the filing of the original application. An existing License becomes void and new application is required any time the ownership of a Licensed residential dwelling changes.

5) The Town Board may suspend, revoke, or non-renew a License following a due process hearing if the Town Board determines that the Licensee or Property Manager:

   i. Failed to comply with any of the requirements of this ordinance.

   ii. Violated the local, county or state laws or regulations which, based on the number, frequency and/or severity and their relation to the Short-Term Rental property, its owner(s), tenant(s), occupant(s) or visitor(s), might tend to substantially harm or adversely impact the predominately residential uses and nature of the surrounding neighborhoods.

iii. Has been convicted of engaging in illegal activity while on the Short-Term Rental premises on two (2) or more separate occasions within the past twelve (12) months; or

iv. Has outstanding fees, taxes, or forfeitures owed to the Town.

6) Any resident of or owner of property within the Town may file a written complaint with the Town Clerk alleging one or more of the reasons set forth in this ordinance as grounds for revocation or suspension of a License issued under this chapter. Upon receiving such complaint, the Town Clerk will notify the Property Owner of the short-term rental by mail and place the complaint before the Town Board during a publicly noticed meeting not less than 10 days and not more than 45 days from the date that the complaint was received.

C) A License shall contain the following information and be displayed in accordance with the following rules:

1) Name of the Property Owner and their contact information, including telephone number.

2) Name of the Property Manager and their contact information, including telephone number.

3) The expiration date of the License.

4) The License number.

5) Valid Licenses shall be displayed in the main entrance of the property.

6) A rate card for the Short-Term Rental shall be displayed in the main entrance of the property.

Operation of a Short-Term Rental

Each Short-Term Rental, its Property Owner, and its Licensee shall comply with all the following requirements:

A) If a Residential Dwelling is rented for any period of fewer than thirty (30) consecutive days within a consecutive 365-day period, the total number of days within said consecutive 365-day period that the dwelling may be rented shall not exceed one hundred eighty (180) days.

B) No recreational vehicle, camper, tent, or other temporary lodging arrangement shall be permitted on site during any rental period as a means of providing additional accommodation for guests or other invitees. The Property Owner and/or Property Manager

of the Short-Term Rental may apply for an exception permit on a rental-by-rental basis with the approval of the Town Board.

C) Any outdoor gathering in excess of the number of persons permitted under subparagraph I, below, and any outdoor event where music will be played or performed, and any outdoor event that results in noise in excess of usual levels, and any outdoor event where electronic amplification will be used, that is held at a Short-Term Rental shall last no longer than one day, occurring between the hours of 8:00 am and 10:00 pm. At minimum, a seven consecutive day interval must occur between such outdoor events held at the Short-Term Rental. Any activities occurring at the Short-Term Rental shall comply with this ordinance and all other Town ordinances, County ordinances, and State statutes.

D) The Property Owner and/or Property Manager must provide the Town Clerk or Designee with current contact information and must be available 24 hours a day, 7 days a week by telephone. The Town Clerk or Designee must be notified within 72 hours of any change in contact information.

E) Each Short-Term Rental Property Owner and/or Property Manager shall maintain a register and require all guests to register with their actual names and addresses. The register shall be kept by the Property Owner or Property Manager for at least one year and made available upon the request of the Town Clerk or Town Board. The register shall also include the time period for the Short-Term-Rental, the monetary amount or consideration paid for the Short-Term-Rental. Any contractual documents pertaining to the Short-Term-Rental must be maintained for a period of one year. A Property Owner and Property Manager shall cooperate with law enforcement in the event of an investigation and shall provide copies of any of the forgoing to law enforcement upon request.

F) Each Short-Term Rental shall hold a valid State of Wisconsin Tourist Rooming House License and shall provide proof of such license by attaching a copy to the initial license application and all subsequent renewal applications.

G) Each Property Owner of a short-term rental shall hold and keep current a seller's permit issued by the Wisconsin Department of Revenue, unless all rentals of the property are exempt from such permit requirements per state regulations.

H) All Short-Term Rentals shall be subject to the Town's Accommodations Tax Ordinance.

I) Maximum occupancy for a tourist rooming house, including a Short-Term Rental, served by a Private Onsite Wastewater Treatment System (POWTS) is limited to the number of occupants for which the POWTS was designed, or the occupancy granted by the State tourist rooming house license, whichever is less.

J) Maximum occupancy for a tourist rooming house, including a Short-Term Rental served by a public sewage facility is limited to the number of occupants authorized by the State tourist rooming house license issued by the State of Wisconsin Department of Agriculture,

Trade and Consumer Protection in accordance with Wisconsin Administrative Code ATCP 72.

K) Special Refuse Authorization Cards must be presented to the attendants disposing of garbage and recyclables at the town waste facility. New cards will be issued with renewal permits.

L) Parking on the street in front of and in the immediate vicinity of the Short-Term Rental is prohibited.

Penalties

Any person, partnership, corporation, or other legal entity that fails to comply with the provisions of this ordinance shall, upon conviction, pay a forfeiture of not less than $100 or more than $500, plus the applicable surcharges, assessments, and costs for each violation. Each day a violation exists or continues, constitutes a separate offense under this ordinance. Penalties set forth in this section shall be in addition to all other remedies of injunction, abatement, or costs, whether existing under this ordinance or otherwise.

Fees

Any person applying for an initial Short-Term Rental License or renewing a License pursuant to this chapter shall be subject to the fees as established by the Town Board.

Severability

Should any portion of this ordinance be declared invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of any other provision of this ordinance.

Effective Date and Publication

This ordinance shall become effective upon adoption and publication as required under §60.80 Wis. Stat.

Dated this 12 day of DECEMBER 2023

Motion by PHILLIP CHRISTENSON CHAIRMAN

Seconded by MARK QUANDT SUPERVISOR

Motion Carried

Chairman Phillip Christenson

Supervisor Timothy Mitchell

Supervisor Mark Quandt

Attest; Clerk Kristen Telford

Published JANUARY 15, 2024

TOWN OF BREED
COUNTY OF OCONTO
STATE OF WISCONSIN
ACCOMMODATION TAX ORDINANCE

Whereas Section 66.0615 of Wisconsin Statutes provides for the imposition of a Room Tax; and

Whereas it is deemed to be in the best interest of the Town of Breed to implement a Room Tax for tourism promotion and development in the Town of Breed.

Now, therefore, the Town of Breed Board does hereby enact the following ordinance:

Section 1. – Definitions. In addition to the terms defined in this Section, the terms used in this Ordinance shall have definitions, in any, set forth in the Room Tax Act (as defined below).

(A) "Hotel, Motel and Short-term Rentals" shall mean a building or group of buildings in which the public may obtain accommodations for consideration, including without limitation, such as inns, motels, tourist homes, 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 continuous period of more than 30 days and accommodations furnished by any hospital, sanatorium or nursing home, 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 insures to the benefit of any private shareholder or individual.

(B) "Gross Receipts" shall mean the total revenue received from the retail furnishing of rooms, lodging or similar accommodations by a Hotel, Motel, or Short-term Rental, and defined herein calculated prior to the payment, imposition, or expense of any cost, including but not limited to, rental commissions.

(C) "OCEDC" shall mean the Oconto County Economic Development Corporation, a Wisconsin nonstock corporation, and its successors.

(D) "Oconto County Tourism Zone" shall mean the geographic area encompassing the Towns of Brazeau, Breed, Doty, Lakewood, Mountain, Riverview, and Townsend and that may in the future include any municipality that hereafter becomes a party to the Room Tax Commission and Tourism Zone Agreement.

(E) "Operators" shall mean hotelkeepers, motel operators, lodging marketplaces, owners of short-term rentals, and other persons furnishing accommodations that are available to the public, which are in the Town of Breed to pay Room Tax under this Ordinance.

(F) "Quarterly Payment Date" shall mean each January 30, April 30, July 30, and October 30, each of which is the last day of the month next succeeding the end of a calendar quarter.

(G) "Rental Agents" shall mean any person(s) or business who is not the lodging owner but who is collecting payments for the rental of facilities as described above, for one or more lodging owners or businesses covered under this ordinance.

(H) "Room Tax" shall mean a tax on the privilege of furnishing, at retail, except sales for resales, rooms or lodging to transients by the Operators, pursuant to the Room Tax Act.

(I) "Room Tax Act" shall mean Section 66.0615 of the Wisconsin Statutes, as amended from time to time.
(J) "Room Tax Commission" shall mean the Oconto County Room Tax Commission created by the Municipalities within the Oconto County Tourism Zone pursuant to the Room Tax Commission and Tourism Zone Agreement in order to coordinate tourism promotion and tourism development within the Oconto County Room Tourism Zone.
(K) "Room Tax Commission and Tourism Zone Agreement" shall mean the Room Tax Commission and Tourism Zone Agreement, dated as of January 1, 2024 entered into by and among the Municipalities and the Room Tax Commission, as amended from time to time.
(L) "Room Tax Permit" shall mean a permit issued by the Town of Breed annually to owners of Hotels, Motels, or other as defined in Section 1 of this Ordinance.
(M) "Transient" shall mean any person residing for a continuous period of less than 30 days in a hotel, motel, or other furnished accommodations available to the public.

Section 2. – Imposition of Tax.

(A) Pursuant to §66.0615, Wis. Stats., a tax of five percent (5%) is hereby imposed on the privilege and service of furnishing, at retail, except sales for resale, rooms or lodging to transients by the Operators. Operators shall remit all Room Taxes to the Town Treasurer in accordance with the requirements of this Ordinance and the Room Tax Act. Such Room Tax shall not be subject to the selective sales tax imposed by Wis. Stats., Section 77.52(2)(a)(1), sales to the Federal Government, sales for resale or persons listed under Wis. Stats. 77.54(9a).
(B) The revenue collected from the Room Tax shall be allocated as follows:
    a. Thirty percent (30%) shall remain with the Town of Breed, said funds shall be used as the town sees fit.
    b. Seventy percent (70%) shall be remitted to Tourism Entity (OCEDC), or its successor, to provide staff, support services and assistance for the Oconto County Tourism Zone.

Section 3. – Collection and Administration.

(A) This section shall be administered by the Town Clerk. The tax imposed is due and payable within 30 days of the end of each quarter. A return shall be filed with the Town Clerk by those furnishing at retail such rooms, lodging or sites within the Town on or before the same date on which such tax is due and payable upon a form approved by the Town. Every person required to file such quarterly returns shall file an annual calendar year return. Such annual return shall be filed within 30 days of the close of each calendar year.
(B) The annual return shall summarize the quarterly returns, reconcile, and adjust for errors in the monthly returns and shall contain certain additional information as the Town Clerk requires. The Town Clerk may, for good cause, extend the time for filing any return, but in no event longer than 30 days from the filing date.
(C) Whenever the Town has probable cause to believe that the correct amount of Room Tax has not been assessed or that the return is not correct, the Town shall inspect and audit the financial records of any person subject to the Room Tax to determine whether or not the correct amount of Room Tax is assessed and whether or not any Room Tax return is correct.
(D) Any person who is subject to the tax imposed by this section who fails or refuses to permit the inspection of financial records by the Town Clerk after such inspection has been requested by the Town Clerk shall be subject to a forfeiture not to exceed five percent (5%) of the tax the Town determines to be due.

Section 4. – Tourism Entity. OCEDC shall act as the "Tourism Entity," as that term is defined in the Room Tax Act, for purposes of providing staff, support, and assistance to the Oconto County Room Tax Commission in developing and implementing programs to promote the Oconto County Tourism Zone to visitors, as more fully set forth in an agreement between the Oconto County Room Tax Commission and OCEDC.

Section 5. – Liability for Room Tax on Sale or Transfer of Business. If any Operator sells or transfers all or substantially all of its interest in its hotel, motel or other lodging accommodation, its successors or assigns shall withhold sufficient amounts from the purchase price to pay any amount of Room Tax liability due through the sale or transfer date until the Operator produces a receipt from the Town's Treasurer that its liability has been paid in full or a certificate stating that no Room Tax amount is due. If a successor Operator fails to withhold such amount from the purchase price as required, such successor Operator shall become liable for payment of the Room Tax amount it is required to withhold.

Section 6. – Schedule of Forfeitures. In addition to paying the Room Taxes due hereunder, any Operator that has failed to pay any Room Tax when due shall be required to pay a forfeiture in an amount to 25 percent of the Room Tax due from the Operator to the Town for the previous year, or $5,000.00, whichever is more, for failure to pay the Room Tax due hereunder.

Section 7. – Required 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 Clerk requires.

Section 8. – Confidentiality of Information. To the extent permitted under the law, the information provided to the Town under Wis. Stats. § 66.0615(2) shall remain confidential; provided, however, that the Town or any employee thereof may use such information in the discharge of duties imposed by law or of the duties of their office or by order of a court. Persons violating the provisions of this subsection may be required to forfeit not less than $100.00 nor more than $500.00.

Section 9. – Enforcement. The Town shall enforce this article in accordance with the Room Tax Act and the Town's Short-Term Rental Ordinance.

Section 10. – Severability. The provisions of this Ordinance shall be deemed severable, if any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or portion of this Ordinance is for any reason held to be 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 portion of this Ordinance.

Section 11. Effective Date. This Ordinance shall take effect on January 1, 2024 and as publication as required under § 60.80, Wis. Stats.

Dated this 12 day of DECEMBER 2023

Motion by PHILLIP CHRISTENSON, Seconded by MARK QUANDT

Motion Carried

Chairman Phillip Christenson _____

Supervisor Timothy Mitchell _____

Supervisor Mark Quandt _____

Attest; Clerk Kristen Telford _____

Published JANUARY 15, 2024

TOWN OF BREED
SHORT-TERM RENTAL PERMIT
FEE SCHEDULE RESOLUTION
2024-1

WHEREAS, The Town Board of the Town of Breed has the power to determine the fees for SHORT-TERM RENTAL permits.

WHEREAS The Town of Breed desires to pass the cost of the permit onto the parties applying for the permit.

THE TOWN OF BREED RESOLVES TO adopt the following fees for the SHORT-TERM RENTAL permit.

SHORT-TERM RENTAL INITIAL PERMIT: $25.00

SHORT-TERM RENTAL RENEWAL PERMIT: $15.00

The clerk shall post or publish this resolution as required under s 60.80 Wis Stats

ADOPTED THIS 9TH DAY OF January, 2024 by majority vote of the Town Board.

Phillip Christenson, Chairman

Attest: Kristen Telford, Clerk

PUBLISHED January 15, 2024