ORDINANCE NO. 20-004

AN ORDINANCE MODIFYING AND AMENDING
CHAPTER 11 OF THE MUNICIPAL CODE

The Village Board of the Village of Lake Delton, Sauk County, Wisconsin, do ordain as follows:

SECTION I. Amendments to Chapter 11. Chapter 11 of the Village Municipal Code is hereby modified and amended as set forth below.

SECTION II. Scope. All provisions of Chapter 11 not specifically modified herein shall remain in full force and effect. Any inconsistent or conflicting ordinances shall be void or interpreted so as to be consistent with the intent of this ordinance.

SECTION III. Modification 11.38 Section 11.38 entitled Definitions is modified as follows:

11.37 Definitions.

C. Premises Premises means all buildings and property licensed by the State of Wisconsin under Chapter. 97. Wis. Stats.

11.39 Permit

A. Every person furnishing rooms or lodging in the village of Lake Delton 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, the name of all online marketplaces offering the premises for rental 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.

B. The village Clerk-Treasurer-Coordinator shall review the application and verify the following:

1. The application complies with this chapter
2. The Premises is licensed by the State of Wisconsin.
3. That the premises comply with all federal, state and village laws, regulations and ordinances.
4. That the applicant has paid all fees, personal property taxes, real property taxes, special assessments and charges due and owing to the village by the applicant or any related party.
5. A copy of the applicants BTR-101 Form from the Wisconsin Department of Revenue showing that the applicant has registered as operating in the Village of Lake Delton.
6. The applicant has executed an authorization for the release privileged financial information records to the village.

C. Upon determination that the application complies with this section, the Clerk-Treasurer-Coordinator 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. The permit shall at all times be conspicuously displayed at the premises.

D. The Clerk-Treasurer-Coordinator shall assign a unique Permit Identification Number, distinct from the permit number, for each permit issued. Each permittee shall disclose the permit identification number in all advertising of the premises. The permit identification number shall be confidential and subject to protection under 11.48 Village Municipal Code.

E. The shall be three classes of room Tax permits as follows:

1. Class A permits shall be issued to hotels, motels and resorts.
2. Class B permits shall be issued to Tourist Rooming Houses licensed under Chapter 35.
3. Class C Permits shall be issued to qualified property managers and online marketplaces.

SECTION IV. Repeal and Recreation of Section 11.41 Administration and appeal
Section 11.41 is modified and amended as follows:

11.41 Administration and appeal
A. The Clerk-Treasurer-Coordinator, assistant treasurer or other person authorized by the village board shall administer the room tax.
B. Any person who shall question the tax herein levied may file a petition setting forth the reason for the challenge of the tax. The Clerk-Treasurer-Coordinator shall determine the merits of such challenge. Appeal of the Clerk-Treasurer-Coordinator’s decision shall be to the village board.
C. As a condition of such review, payment of the tax challenged along with all penalties and interest as provided under sec. 11.44 is required upon filing the appeal.
D. Upon a finding of probable cause to believe that the correct amount of room tax has not been assessed or that the tax return is not correct, the Treasurer may inspect and audit the financial records of any person subject to section 11.39 to determine whether the correct amount of room tax is assessed and whether any room tax return is correct.
E. As a means of enforcing the collection of room tax imposed under section 11.39, the Treasurer, or person designated by the village board, may exchange audit and other information with the Department of Revenue.
F. The Clerk-Treasurer-Coordinator shall file all reports on room tax collections as required by the Wisconsin Department of Revenue.
G. The Clerk-Treasurer Coordinator shall report room tax delinquencies to the Finance Committee. The Finance Committee shall review all individual room tax delinquency reports in closed session in accordance with s.19.85(1)(f) Wis. Stats.
SECTION V.  Repeal and Recreation of Section 11.44 Penalties. Section 11.44 is modified and amended as follows:

11.44 Penalties.

A. As a means to enforce collection of the room tax the village adopts the provisions of s. 66.0615(2) Wis. Stats.

B. The tax imposed by this section shall become delinquent if not paid within thirty (30) days after the due date of the return, or within thirty (30) days after the extension period, if one has been granted, expires. In the case of no return filed or a return filed late, by the due date of the return.

C. All unpaid room taxes shall incur a late filing fee of one hundred dollars ($100.00) plus interest at the rate of one percent (1.0%) per month 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 treasurer. An extension of time within which to file a return shall not extend the due date of the return for purposes of interest computation.

D. In addition to any interest or forfeiture that may be assessed under this section, there shall be a forfeiture imposed for failure to pay any tax determined hereunder by its due date. Said forfeiture shall be equal to twenty-five percent (25%) of the amount of room tax due but shall in no case exceed the amount of five thousand dollars ($5,000.00) on taxes paid more than thirty (30) days after the due date, and shall not exceed one hundred dollars ($100.00) for taxes paid within thirty (30) days of the due date.

E. In addition to any other penalty imposed by this ordinance, if the amount of room tax due including any penalties and interest imposed remains unpaid for a period of ninety (90) days, the treasurer shall suspend the room tax permit and notify the taxpayer in writing of the suspension. The treasurer shall reinstate the room tax permit upon payment in full of the amount due and owing. When circumstances warrant, the village board may reinstate a room tax permit upon such terms and conditions it deems appropriate.

F. The penalties set forth herein, may be suspended if the taxpayer enters into a collection agreement with the village and fully complies with its terms and conditions. In the event the taxpayer fails to comply with the agreement, the penalties will be assessed.

G. In accordance with s. 66.0615(2) (b) Wis Stats. any person subject to 11.39 who fails to comply with a request to inspect and audit the person's financial records under section 11.43 shall be subject to forfeiture at the rate of 5% of the tax owed. This forfeiture is in addition to any penalty, interest or forfeiture that may be assessed under this section

SECTION VI. Amendment of Section 11.47, Penalty for operating without a permit.

Section 11.47 is amended as follows:

11.47 Penalty for operating without permit  Any person who is subject to the tax imposed by this Article III who fails to obtain a permit as required in sec. 11.39 shall, in addition to any other penalty, be subject to a forfeiture of not less than $1,000, nor more than $2,000. In addition to any other relief provided by this Article III, the village may apply to a court of competent jurisdiction for an injunction to prohibit the continuation of any violation of this Article III. Such application for
relief may include seeking a temporary restraining order, temporary injunction, and permanent injunction. Each officer of any corporation, or each member of a partnership or limited liability company shall be personally liable for the penalties imposed by this section.

SECTION VII. Creation of Section 11.67 waiver of hearing.

11.67 Section. 70.47(8m) Wis. Stats.is adopted and incorporated herein.

SECTION VIII. Effective date. This ordinance shall be effective upon passage and publication as provided by law.

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John Webb, Village President

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Kay C. Mackesey, Village Clerk

Date Introduced: August 24, 2020
Published before passage: September 3, 2020
Passed: ________________
Published after passage: ________________