Ordinance No. 9-16-683
Monona Common Council

AN ORDINANCE AMENDING CHAPTER 3, SECTION 5 OF THE CODE OF ORDINANCES REGARDING HOTEL-MOTEL TAX

WHEREAS, the City of Monona collects Room Tax revenue pursuant to section 66.0615, Wis. Stats.; and,

WHEREAS, it is the intent of the City of Monona Common Council to coordinate tourism promotion and tourism; and,

WHEREAS, 2015 Wisconsin Act 55 adopted changes to the Room Tax laws, for which the City of Monona's Code of Ordinances must be changed accordingly;

NOW, THEREFORE, the Common Council of the City of Monona, Dane County, Wisconsin, do ordain as follows:

SECTION 1. Section 3-5 of the Code of Ordinances **[*recodification section #chapter 63*]** is hereby amended to read as follows:

Hotel-Motel Room Tax
[Adopted as Title 3, Ch. 5, of the 1994 Code]

§ 3-5-1. Definitions.

In this Chapter, the following definitions shall apply:

BED AND BREAKFAST ESTABLISHMENT. Any place of temporary lodging that provides four (4) or fewer rooms for rent, which is open for rental more than ten (10) nights in a twelve (12) month period, is the owner's personal residence and is occupied by the owner at the time of rental, and in which the only meal served is breakfast.

GROSS RECEIPTS. Total revenue received from the retail furnishing of rooms, lodging, or similar accommodations by a hotel or motel as defined herein.

HOTEL OR MOTEL. 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 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 (1) month and accommodations furnished by any hospital, sanitariums 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.

TRANSIENT. Any person residing for a continuous period of less than one (1) month in a hotel, motel or other furnished accommodations available to the public.

§ 3-5-2. Imposition of tax.

Pursuant to Sec. 66.0615, Wis. Stats., a tax is hereby imposed on the privilege and service of furnishing, at retail, of 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 eight percent (8%) 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 Sec. 77.52(2)(a)1, Wis. Stats.

§ 3-5-3. Collection of tax.

A. Administration by City Treasurer. This tax shall be administered by the City Treasurer who shall, at City expense, provide the necessary application and reporting forms at no cost to the taxpayer.

B. Reporting Periods. The tax imposed for the months of January, February and March, 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 City 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 City 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 certain such additional information as the City Treasurer requires. Such annual returns shall be made on forms as prescribed by the City Treasurer. All such returns shall be signed by the person required to file a return or duly authorized agent, but need not be verified by oath. The City Treasurer may, for good cause, extend the time for filing any return, but in no event longer than one (1) month from the filing date.

C. Sale or Conveyance of Business. If any person liable for any amount of tax under this Chapter sells out his business or stock of goods or quits the business, his successors or assigns shall withhold sufficient portion of the purchase price to cover such amount until the former owner produces a receipt from the City 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 Chapter 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.

D. Determination of Tax by Audit.

(1) The City Treasurer may, by office audit, determine the tax required to be paid to the City or the refund due to any person under this Chapter. 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 City Treasurer's possession. One or more such office audit determination may be made of the amount due for anyone or for more than one period.

(2) The City Treasurer may, by field audit, determine the tax required to be paid to the City or the refund due to any person under this Chapter. The determination may be made upon the basis of the facts contained in the return being audited or upon any other information within the City Treasurer's possession. The City Treasurer is authorized to examine and inspect the books, record, 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 City Treasurer from making a determination of tax at any time.

E. Failure to File Return. If any person fails to file a return as required by this Chapter, the City Treasurer shall make an estimate of the amount of the gross receipts under Subsections (b) and (c). 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 City Treasurer's possession or may come into the Treasurer's possession. On the basis of this estimate, the City Treasurer shall compute and determine the amount required to be paid to the City, adding to the sum thus arrived at a penalty equal to ten percent (10%) thereof. One or more such determinations may be made for one or more than one period.

F. Interest on Unpaid Taxes. All unpaid taxes under this Chapter shall bear interest at the rate of eighteen percent (18%) per year 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 City Treasurer. 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 computations. If the City 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, he shall not allow any interest thereon.

G. Delinquent Returns; Late Fee; Penalty.

(1) Delinquent tax returns shall be subject to a late filing fee, as prescribed in the Fee, Forfeiture and Deposit Schedule. The tax imposed by this Chapter shall become delinquent if not paid:

(a) In the case of a timely filed return, within thirty (30) days after the due date of the return, or within thirty (30) days after the expiration of an extension period if one is granted.

(b) In the case of no return filed or a return filed late, by the due date of the return.

(2) If no return is filed, or a return is filed late, or an incorrect return is filed, the entire tax finally determined shall be subject to a penalty of twenty-five percent (25%) of the tax, exclusive of 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 Chapter, a penalty of fifty percent (50%) of the tax shall be added to the tax required to be paid, exclusive of interest and other penalties.

§ 3-5-4. Records to be maintained.

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 City Treasurer and this Chapter shall require. Such records shall be retained and made available for a period of five (5) years from the due date of a filing period.

§ 3-5-5. Confidentiality maintained.

A. All tax returns, schedules, exhibits, writings or audit reports relating to such returns on file with the City Treasurer are deemed to be confidential, except the City Treasurer may divulge their contents to the following and no others:

(1) The person who filed the return.

(2) Officers, agents or employees of the Federal Internal Revenue Service or the State Department of Revenue.

(3) Officers, employees or agents of the City Auditors.

(4) Such other public officials of the City of Monona when deemed necessary.

B. 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 particulars 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 above.

§ 3-5-6. Distribution of Room Tax Collected.

Upon receipt of the room taxes, the City shall retain for any public purpose determined by the Common Council the greater of either 30% or the maximum amount provided in section 66.0615(1m)(dm), Wis. Stats., and distribute the remainder to the Tourism Commission for tourism promotion and tourism development as defined in section 66.0615(1)(fm), Wis. Stats.

§ 3-5-7. Tracking and Reporting of Room Tax Expenditures.

The Tourism Commission shall account for, and maintain records of, the room tax revenue expenditures. The Tourism Commission shall provide a written report to the City Treasurer no less than annually, in a form and manner determined by the City Treasurer, of all expenditures of at least the minimum as set by 66.0615(4) and the impact of such expenditures on generating paid overnight stays within the City.

§ 3-5-8. Penalties.

Any person who is subject to the tax imposed by this Chapter who violates any provision of this Chapter, shall be subject to a forfeiture pursuant to § 1-4 . Each day, or portion thereof, that such violation continues is hereby deemed to constitute a separate offense.

SECTION 2. This ordinance shall take effect upon passage and publication as provided by law.

Adopted this 3rd day of October, 2016.

BY ORDER OF THE COMMON COUNCIL
CITY OF MONONA, WISCONSIN

Robert E. Miller
Mayor

ATTEST: Joan Andrusz
Joan Andrusz
City Clerk

Approval Recommended By: Finance and Personnel Committee – 9/19/16
Approved As To Form By: William S. Cole, City Attorney - 7/22/16

Council Action:
Date Introduced: 9-19-16
Date Approved: 10-3-16
Date Disapproved: _____