CITY OF STOUGHTON, 207 S. Forrest Street, Stoughton, WI 53589

ORDINANCE OF THE COMMON COUNCIL			
Amending Section 2-585 Hotel/Motel Tax of the City of Stoughton Municipal Code;			
Committee Action:	Finance Committee recommended approval 6-0 on 01/10/2023		
Fiscal Impact:	Potential increase in delinquent penalties (amount unknown) Increased room tax revenue (amount unknown)		
File Number:	O-02-2023	**Date Introduced:**	First reading – January 24, 2023 Second reading – February 14, 2023

WHEREAS, the City of Stoughton has not revised the city ordinance for hotel/motel taxes since its adoption in November 2003; and,

WHEREAS, the Director of Finance/Comptroller suggests the following changes to the ordinance:

1) Update the ordinance language regarding the allocation of room tax revenue to be consistent with current practice,
2) update the ordinance for consistency with hospitality industry practice regarding names on lodging invoices consistent with the USA Patriot Act of 2001,
3) establish that any related forfeitures, interest, and penalties shall be reported within the General Fund,
4) increase the forfeiture for late filing to be calculated on a quarterly basis as opposed to an annual basis due to the fact that these room taxes are collected on a fiduciary basis by the establishment,
5) increase the room tax rate effective 07-01-2022;

NOW THEREFORE BE IT ORDAINED by the Common Council of the City of Stoughton as follows:

Amend Section 2-585 Hotel/Motel Tax of the City of Stoughton Municipal Code as per the attached Exhibit A

This ordinance shall be in full force and effect from and after its date of publication.

Dates

Council Adopted:_____

Mayor Approved: _____ _____
Timothy Swadley, Mayor

Published:_____

Attest:_____ _____
Candee Christen, City Clerk

Exhibit A

Sec. 2-585 Hotel/motel room tax.

(a) *Definitions.* In this section, the following definitions shall apply:

Bed and breakfast establishment. Any place of temporary lodging that provides four or fewer rooms for rent, which is open for rental more than ten nights in a 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. Has the meaning as defined in Wis. Stats. § 77.51(4)(a) insofar as applicable.

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 month 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 inures to the benefit of any private share- holder or individual.

Transient. Any person residing for a continuous period of less than one month in a hotel, motel or other furnished accommodation available to the public.

(b) *Imposition of tax.*

(1) Pursuant to Wis. Stats. § 66.0615, a tax is hereby imposed on the privilege and services of furnishing, at retail, 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. Effective June 1, 2023, such ~~Such~~ tax shall ~~be at~~ increase from the prior rate of six percent to 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 Wis. Stats. 77.52(2)(a)1.

~~Effective January 1, 2004,~~ Ten (10) ~~30~~ percent of such tax shall be appropriated to the City's General Fund for purposes of promoting economic development. Ninety (90) ~~Seventy~~ percent of such tax shall be deposited in the city tourism fund to be used exclusively for the purpose of tourism promotion and development in the City of Stoughton. The City shall use room tax revenue deposited within the City's tourism fund to contract with a tourism entity or tourism entities to provide tourism promotion and development services for the City.

(2) Exemptions. The following room sales are exempt from this tax:

a. Sales to the federal government;

b. Sales to persons listed under Wis. Stats. § 77.54(9a).

(3) Exemption conditions. The following conditions must occur for a sale to be exempt from the room tax:

a. The lodging establishment must issue the billing or invoice for the lodging in the name of the exempt entity and/or the guest's name in compliance of the USA Patriot Act of 2001 (Public Law 107-56 October 26, 2001); and

b. The lodging establishment must receive from the exempt entity:

1. In the case of federal and Wisconsin state or local governmental units, a purchase order or similar written document (such as a letter of authorization), or

2. In the case of nonprofit religious, charitable, scientific or educational organization, the organization's certificate of exempt status number.

c. The exemption still applies if the individual pays with his or her own funds, as long as the above conditions are met.

(c) *Collection of tax.*

(1) *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.

(2) *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 returns shall show the gross receipts of the preceding calendar quarter from such retail furnishing of room 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 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 month from the filing date.

(3) *Sale or conveyance of business.* 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 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 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.

(4) *Determination of tax by audit.*

a. 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 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 city treasurer's possession that meets the criteria set forth in Wis. Stats. § 66.0615(2). One or more such office audit determination may be made of the amount due for any one or for more than one period.

b. 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 section. The determination may be made upon the basis of the facts contained in the return being audited or upon any other information with the city treasurer's possession. The city 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 city treasurer from making a determination of tax at any time.

(5) *Failure to file return.* If any person fails to file a return as required by this section, the city treasurer shall make an estimate of the amount of the gross receipts under subsections (2) and (3). Such estimates 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 thereof. One or more such determinations may be made for one or more than one period. Any penalty assessed shall be placed in the City's General Fund.

(6) *Interest on unpaid taxes.* All unpaid taxes under this section shall bear interest at the rate of 12 percent 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 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. Any interest assessed on unpaid taxes shall be placed in the City's General Fund.

(7) *Delinquent returns and payments: Late fees and penalties.*

a. The tax imposed by this section shall become delinquent if not paid:

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

2. In the case of no return being filed or a return filed late, by the due date of the return.

b. Any person or establishment failing to pay the tax imposed by this section when due shall be subject to a forfeiture not to exceed $5,000 or 25% of the room tax due for the delinquent calendar quarter ~~previous year~~, whichever is less. Any forfeiture assessed on delinquent returns and penalties shall be placed in the City's General Fund.

c. Any person or establishment subject to this section that fails to file a correct return when due shall be subject to a forfeiture of $100.00.

(d) *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 section shall require. Such records shall be retained and made available for a period of five years from the date of a filing period.

(e) *Confidentiality maintained.*

(1) 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:

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. Officers, employees or agents of the city auditors.

d. Such other public officials of the City of Stoughton when deemed necessary to discharge the duties of their office imposed by law or by order of a court.

(2) 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. Any person who violates this subsection shall be subject to a forfeiture of not less than $100.00 nor more than $500.00. Any forfeiture pursuant to this section shall be placed in the City's General Fund.

(f) *Other penalties.* Any person or establishment subject to this section that fails or refuses to permit the inspection of records by the city treasurer after such inspection has been duly required by such treasurer, or that violates any other provision of this section not containing a specific penalty, shall be subject to a forfeiture pursuant to section 1-3. Each day, or portion thereof, that such violation continues is hereby deemed to constitute a separate offense. Any forfeitures pursuant to this section shall be placed in the City's General Fund.

(Ord. No. 0-50-03, § 1, 11-25-2003)

Amended – Ord. No. O-xx-2023, 01-24-2023