

ORDINANCE O-22-15

AN ORDINANCE REPEALING AND RECREATING TITLE 7, CHAPTER 10 OF THE
CODE OF ORDINANCES (HOTEL AND MOTEL ROOM TAX)

Introduced by Mayor Merkes.

The Common Council of the City of Menasha does ordain as follows:

SECTION 1: Repeal and Recreate Title 7, Chapter 10, SEC.7-10-2 of the Code of Ordinances of the City of Menasha, Wisconsin as follows:

Title 7 – Licensing and Regulation

CHAPTER 10

Hotel and Motel Room Tax

...

SEC. 7-10-2 HOTEL AND MOTEL ROOM TAX ESTABLISHED.

See attached

SECTION 2: This ordinance shall become effective upon its passage and publication as provided by law.

Passed and approved this day of , 2015.

Donald Merkes, Mayor

ATTEST:

Deborah A. Galeazzi, City Clerk

AMENDED AND RESTATED ORDINANCE OF THE CITY OF MENASHA IMPOSING A HOTEL/MOTEL TAX ON THE PRIVILEGE OF FURNISHING ROOMS AT RETAIL

WHEREAS, the City of Menasha (“City”) is a duly organized and existing municipality created under the provisions of the laws of the State of Wisconsin; and

WHEREAS, §66.0615 of the Wisconsin Statutes authorizes the governing body of a municipality to adopt an ordinance imposing a tax on the privilege of furnishing, at retail, rooms or lodging to transients by hotelkeepers, motel operators or other persons furnishing accommodations which are available to the public (“Room Tax”); and

WHEREAS, the geographic area encompassing the CITY OF APPLETON, WISCONSIN, a Wisconsin municipal corporation and political subdivision (“Appleton”), the CITY OF KAUKAUNA, WISCONSIN, a Wisconsin municipal corporation and political subdivision (“Kaukauna”), the CITY OF NEENAH, WISCONSIN, a Wisconsin municipal corporation and political subdivision (“City of Neenah”), the VILLAGE OF KIMBERLY, WISCONSIN, a Wisconsin municipal corporation and political subdivision (“Kimberly”), the VILLAGE OF LITTLE CHUTE, WISCONSIN, a Wisconsin municipal corporation and political subdivision (“Little Chute”), the TOWN OF GRAND CHUTE, WISCONSIN, a Wisconsin municipal corporation and political subdivision (“Grand Chute”), the TOWN OF NEENAH, WISCONSIN, a Wisconsin municipal corporation and political subdivision (“Town of Neenah”), the TOWN OF MENASHA, WISCONSIN, a Wisconsin municipal corporation and political subdivision (“Town of Menasha”), the CITY OF MENASHA, WISCONSIN, a Wisconsin municipal corporation and political subdivision (“City of Menasha”), and the VILLAGE OF SHERWOOD, WISCONSIN, a Wisconsin municipal corporation and political subdivision (“Sherwood”), (collectively, “Municipalities”), is hereby confirmed to be a single destination as perceived by the traveling public, and, therefore, a Tourism Zone, as that term is used in §66.0615 of the Wisconsin Statutes (“Room Tax Act”) (which single destination is referred to as the “Fox Cities Tourism Zone”); and

WHEREAS, the City previously enacted an ordinance imposing a Room Tax, the proceeds of which were directed toward (i) payment of debt service on bonds issued by the Redevelopment Authority of the City of Appleton, Wisconsin, a Wisconsin municipal corporation, to partially fund construction of the Fox Cities Performing Arts Center; (ii) promotion of the Fox Cities Tourism Zone by the Fox Cities Convention & Visitors Bureau, Inc., a Wisconsin corporation; and (iii) promotion of the City by the City as a lodging destination; and

WHEREAS, the City now desires to impose an additional Room Tax in the amount of three percent (3%) to be pledged as payment on bonds to be issued as partial funding for the construction of a new Fox Cities Exhibition Center; an additional Room Tax in the amount of one percent (1%) in support of amateur sports facilities within the Fox Cities Tourism Zone and/or other facilities which are reasonably likely to generate paid overnight stays at more than one hotel or motel within the Fox Cities Tourism Zone; and an additional Room Tax in the amount of one percent (1%) to be retained by the City to be used for general tourism support and development in the Fox Cities Tourism Zone; and

WHEREAS, the City acknowledges that the Room Tax Act imposes certain requirements on the imposition of Room Taxes, including a consideration of the populations of counties in which certain Municipalities are located; and

WHEREAS, the Exhibition Center is intended to be constructed within the City of Appleton; and

WHEREAS, the City acknowledges that Appleton is located within the Counties of Outagamie, Calumet and Winnebago within the State of Wisconsin; and

WHEREAS, the Counties of Outagamie, Calumet and Winnebago, each have a population of less than 380,000; and

WHEREAS, neither Outagamie County, nor Calumet County, nor Winnebago County is located adjacent to a county with a population of at least 380,000; and

WHEREAS, the City acknowledges that the Municipalities are working cooperatively together to construct the Fox Cities Exhibition Center; and

WHEREAS, the City previously entered into a Room Tax Commission and Tourism Zone Agreement with the Municipalities which created the Fox Cities Room Tax Commission for the sole purpose of supporting the promotion and development of the Fox Cities Performing Arts Center; and

WHEREAS, the City now desires to authorize an increased role for the Fox Cities Room Tax Commission for the coordination of tourism promotion and tourism development in the Fox Cities Tourism Zone as more fully set forth herein; and

WHEREAS, by the passage of this Ordinance, the City intends to amend and restate those provisions of its ordinances, including but not limited to, Ordinance No. O-20-00, which imposed and/or amended the imposition of Room Taxes in the City, in order to accomplish uniformity of Room Taxes imposed across the Municipalities located within the Fox Cities Tourism Zone pursuant to the requirements of the Room Tax Act; and

WHEREAS, the Common Council finds that the best interests of the City are served by passing this Ordinance.

NOW, THEREFORE, BE IT ORDAINED by the Common Council of the City of Menasha, Wisconsin, as follows:

1. Recitals. The above recitals are incorporated by reference herein and made a part hereof.

2. Amendment and Restatement of Code Section. Chapter 10, Sec. 7-10-1 through 7-10-12 of the Menasha Code of Ordinances are hereby deleted, and Sec. 7-10-1 is restated to read as follows:

SEC. 7-10-1. Hotel and Motel Room Tax.

A. Definitions. In addition to those terms defined in this Section, the terms used in this Ordinance shall have the definition, if any, ascribed to them in §66.0615 of the Wisconsin Statutes.

- 1) “*Pledge Agreement*” shall mean that Amended and Restated Pledge and Security Agreement dated May 1, 2012 by and between the City of Appleton, Wisconsin; the City of Kaukauna, Wisconsin; the City of Neenah, Wisconsin; the Village of Kimberly, Wisconsin; the Village of Little Chute, Wisconsin; the Town of Grand Chute, Wisconsin; the Town of Neenah, Wisconsin; the Town of Menasha, Wisconsin; the Fox Cities Area Room Tax Commission and Associated Trust Company.
- 2) “*ARA*” shall mean the Redevelopment Authority of the City of Appleton, Wisconsin, a Wisconsin body politic and corporate.
- 3) “*CVB*” shall mean the Fox Cities Convention & Visitors Bureau, Inc., a Wisconsin corporation.
- 4) “*Exhibition Center Bonds*” shall mean bonds issued or to be issued by the ARA as partial funding for the construction of a new Fox Cities Exhibition Center, or any refinance thereof, as well as for any other purpose authorized under that Exhibition Center Cooperation Agreement between the Municipalities located within the Fox Cities Tourism Zone, the ARA and the Fox Cities Room Tax Commission, dated as of _____, 2015.
- 5) “*Fox Cities Tourism Zone*” shall mean that geographic area encompassing the City of Appleton, Wisconsin; the City of Kaukauna, Wisconsin; the City of Neenah, Wisconsin; the Village of Kimberly, Wisconsin; the Village of Little Chute, Wisconsin; the Town of Grand Chute, Wisconsin; the Town of Neenah, Wisconsin; the Town of Menasha, Wisconsin; the City of Menasha, Wisconsin and the Village of Sherwood, Wisconsin.
- 6) “*Fox Cities Room Tax Commission*” shall mean the Room Tax Commission created by the Municipalities within the Fox Cities Tourism Zone through that Amended and Restated Room Tax Commission Agreement dated _____, 2015, in order to

coordinate tourism promotion and tourism development within the Fox Cities Tourism Zone using the proceeds of Room Taxes imposed under this Ordinance, and having on its Board certain representatives of the Municipalities and certain representatives of the Wisconsin hotel and motel industry.

- 7) "*PAC Bonds*" shall mean those bonds issued by the ARA to partially fund construction of the Fox Cities Performing Arts Center.
- 8) "*Room Tax*" shall mean a tax on the privilege of furnishing, at retail, rooms or lodging to transients by hotelkeepers, motel operators or other persons furnishing accommodations which are available to the public, irrespective of whether membership is required for use of the accommodations, pursuant to the Room Tax Act.
- 9) "*Room Tax Act*" shall mean §66.0615 of the Wisconsin Statutes, as amended from time to time.

B. Imposition of Room Tax. Pursuant to the Room Tax Act, there is hereby imposed upon the privilege 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 (collectively, "Operators"), irrespective of whether membership is required for use of the accommodations, within the City. Such Room Tax shall be imposed at the total rate of ten percent (10%). Operators shall remit all collected Room Tax revenues to the City Treasurer in accordance with the requirements of this Ordinance and the Room Tax Act. The proceeds shall then be paid to the Fox Cities Room Tax Commission or its designees or assigns, unless otherwise indicated herein, to be used for purposes of coordinating tourism promotion and tourism development within the Fox Cities Tourism Zone. A Room Tax is hereby imposed at the rate of ten percent (10%) within the City to be allocated as follows:

- 1) A Room Tax in the amount of three percent (3%) shall be imposed and allocated toward the support of the CVB, to be used for the promotion of the Fox Cities Tourism Zone as a tourism destination ("CVB Room Tax"), except that:
 - i. The City may retain five percent (5%) of the revenues of this CVB Room Tax for general tourism support and development in the City in accordance with the requirements of the Room Tax Act.

- 2) A Room Tax in the amount of two percent (2%) shall be imposed and allocated toward payment of debt service on the PAC Bonds in accordance with that Cooperation Agreement dated June 1, 2000. The rate imposed as set forth in this subsection (2) shall be known as the "PAC Room Tax". Upon full payment and satisfaction of the PAC Bonds, the PAC Room Tax shall ultimately be reallocated toward the development and support of amateur sports facilities within the Fox Cities Tourism Zone and/or other facilities which are reasonably likely to generate paid overnight stays at more than one hotel or motel establishment within the Fox Cities Tourism Zone as more fully set forth in Section (C) of this Ordinance.
- 3) A Room Tax in the amount of three percent (3%) shall be imposed and allocated toward payment of debt service on the Exhibition Center Bonds in accordance with that Exhibition Center Cooperation Agreement dated _____, 2015 to which the City is a party ("Exhibition Center Room Tax"). The Exhibition Center Room Tax shall sunset and expire upon full payment and satisfaction of the Exhibition Center Bonds at a date to be determined. Upon full satisfaction of the Exhibition Center Bonds, the Room Tax shall be reduced by three percent (3%), with such reduction being deemed to be the share of the Room Tax allocated to the Exhibition Center Room Tax. At the time that the Exhibition Center Bonds are fully satisfied, there may be an excess of Exhibition Center Room Tax proceeds collected above that amount needed to satisfy the Exhibition Center Bonds. In such an event, those excess funds shall be reallocated to the Tourism Development Fund as that term is referenced and defined in the Exhibition Center Cooperation Agreement.
- 4) A Room Tax in the amount of one percent (1%) ("Municipal Room Tax") shall be retained by the City to be used for general tourism support and development in the Fox Cities Tourism Zone in accordance with the requirements of the Room Tax Act.
- 5) A Room Tax in the amount of one percent (1%) shall be imposed and allocated toward the support of amateur sports facilities within the Fox Cities Tourism Zone and/or other facilities which are reasonably likely to generate paid overnight stays at more than one hotel or motel establishment within the Fox Cities Tourism Zone ("Tourism Facilities Room Tax"). The proceeds of the Tourism Facilities Room Tax shall be remitted to CVB to be held and administered under as part of the Tourism Development Fund, as that term is referenced and defined in the Exhibition Center Cooperation Agreement.

- C. Proceeds of PAC Room Tax. Notwithstanding anything in this Ordinance to the contrary, in order to honor existing contractual obligations, the proceeds of the PAC Room Tax shall continue to be directed to the Trustee under the Pledge Agreement until the PAC Bonds have been paid in full. Following full payment and satisfaction of the PAC Bonds, the proceeds generated from the PAC Room Tax for the calendar quarter in which the PAC Bonds were fully paid and satisfied shall be directed toward payment of debt service on the Exhibition Center Bonds, capitalized interest payments on the Exhibition Center Bonds or may be deposited into reserve and stabilization funds associated with the issuance of the Exhibition Center Bonds. Commencing on the first day of the next calendar quarter, all proceeds from the PAC Room Tax shall be directed toward the support of amateur sports facilities within the Fox Cities Tourism Zone and/or other facilities which are reasonably likely to generate paid overnight stays at more than one hotel or motel establishment within the Fox Cities Tourism Zone.
- D. Priority of Payment. In the event any Operator or Municipality fails to remit the full amounts owed in any quarterly payment (“Deficient Payment”) under this Agreement, the Exhibition Center Cooperation Agreement or the ordinances executed as required thereunder, the parties agree and acknowledge that the Deficient Payment amounts actually received by the Commission shall be applied in the following priority order:
- 1) The Deficient Payment amounts received shall first be applied toward the three percent (3%) Room Tax imposed for the support of the CVB; and
 - 2) The Deficient Payment amounts remaining after payment to the CVB as required in subsection (1) above, shall be applied toward the two percent (2%) Room Tax pledged as collateral for payment of the PAC Bonds; and
 - 3) The Deficient Payment amounts remaining after payment toward the PAC Bonds as required in subsection (2) above, shall be applied toward the three percent (3%) Room Tax pledged as collateral for payment of the Exhibition Center Bonds; and
 - 4) The Deficient Payment amounts remaining after payment toward the Exhibition Center Bonds as required in subsection (3) above, shall be applied toward the one percent (1%) Municipal Room Tax; and

- 5) All remaining Deficient Payment amounts shall be applied toward the one percent (1%) Tourism Facilities Room Tax.
- E. Tourism Entity. The CVB shall act as the “tourism entity” as that term is defined in the Room Tax Act, for purposes of providing staff, support services and assistance to the Fox Cities Room Tax Commission in developing and implementing programs to promote the Fox Cities Tourism Zone to visitors, as more fully set forth in an agreement between the Fox Cities Room Tax Commission and the CVB.
- F. Collection and Administration of Room Tax. This Ordinance shall be administered by the City Treasurer. The tax imposed by this Ordinance shall be payable quarterly and shall be due on the last day of the month next succeeding the calendar quarter in which it was imposed. A return shall be filed with the City Treasurer by all Operators on or before the same date on which such tax is due and payable. Such return shall show the gross room 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 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 requires. Such annual 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 City may, for good cause, extend the time of filing any return, but in no event longer than one (1) month from the filing date.
- G. Permit Required. Every Operator under this Ordinance shall file with the City Treasurer an application for a permit for each place of business that is required to collect Room Tax hereunder. Every application for a permit shall be made upon a form prescribed by the City 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 City 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 pay the City an initial fee of twenty dollars (\$20.00) for each permit. A permit issued hereunder is non-transferable.
- H. Penalty for Violations. In addition to the Schedule of Forfeiture set forth in subsection (J) herein, any Operator in violation of the terms of this Ordinance by failing to obtain and maintain a permit, when such permit is

required, shall be subject to a penalty as set forth in Section 1-1-7 of the Menasha Code of Ordinances for each violation. Each room or unit separately rented or offered for rent, and each day of such rental or offer for rental of such unit shall be a separate violation. In addition, injunctive relief is hereby authorized to discontinue any violation of this Ordinance. Any party deemed to have violated any of the provisions of this Ordinance shall be obligated to pay the costs of prosecution, in addition to actual attorney fees expended in the course of said enforcement. The City may revoke or suspend any permit issued hereunder for failure to comply with the provisions hereof.

- I. Liability for Tax on Sale or Transfer of Business. If any Operator liable for any amount of tax under this Ordinance sells or transfers all or substantially all of its interest in the hotel, motel or other accommodation, its successors or assigns shall withhold sufficient amounts from the purchase price to cover the amount of tax liability until the Operator produces a receipt from the City Treasurer that its liability has been paid in full or a certificate stating that no amount is due. If a successor subject to the tax imposed by this Ordinance fails to withhold such amount from the purchase price as required, it shall become personally liable for payment of the amount required to be withheld by it.
 - J. Schedule of Forfeiture. In addition to paying the Room Taxes due hereunder, each Operator shall be required to forfeit an amount equal to twenty-five percent (25%) of the Room Tax due from the Operator to the City for the previous year or Five Thousand Dollars (\$5,000), whichever is less, for a failure to pay the Room Tax due hereunder.
 - K. Confidentiality of Information. To the extent permitted by law, the information provided to the City under §66.0615(2) of the Wisconsin Statutes shall remain confidential; provided, however, that the City 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 nor more than \$500.
 - L. Enforcement. The City shall enforce this Ordinance in accordance with the Room Tax Act.
3. Expiration of Exhibition Center Room Tax. The Exhibition Center Room Tax shall expire upon full payment of the Exhibition Center Bonds; provided that Operators may not discontinue collection of the Exhibition Center Room Tax until the City provides notice that the Room Tax allocated to the Exhibition Center has been terminated by operation of this Ordinance and the Exhibition Center Cooperation Agreement.

4. Supersede Conflicting Ordinances; Severability. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are repealed to the extent of such conflict. The invalidity of any section or provision of this Ordinance hereby passed and approved shall not invalidate other sections or provisions thereof.

5. Effective Date. This Ordinance shall take effect on January 1, 2016.

PASSED and APPROVED by the Governing Body of the City of Menasha, Wisconsin, this _____ day of _____, 2015.

Voting Aye (list names): _____
Voting Nay (list names): _____
Abstaining (list names): _____
Absent (list names): _____

ATTEST:

Municipal Clerk

Published in pamphlet form _____, 2015.

CHAPTER 10

Hotel and Motel Room Tax

SEC. 7-10-1 DEFINITIONS.

The following definitions are applicable in this Chapter:

- (a) **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, hotels, tourist homes, tourist houses or courts, lodging houses, rooming houses, summer camps, apartment hotels, resort lodges, cabins, and any other 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 hospitals, 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 inured to the benefit of any private shareholder or individual.
- (b) **GROSS RECEIPTS.** As defined in Section 77.51(11)(a), (b) and (c), Wis. Stats., insofar as applicable.
- (c) **TRANSIENT.** Any person residing for a continuous period of less than one month in a hotel, motel, or other furnished accommodations available to the public.

SEC. 7-10-2 HOTEL AND MOTEL ROOM TAX ESTABLISHED.

- (a) Pursuant to Section 66.75, Wis. Stats., a tax is hereby imposed on the privilege and service of furnishing, at retail, rooms or lodging to transients by hotel keepers, 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 percent (5%) of the gross receipts from such retail furnishing of rooms or lodging. Two percent of such tax shall be applied exclusively to the Fox Cities Area Room Tax Commission and the Fox Cities Performing Arts Center, Inc., until such time as notification is made by the Fox Cities Area Room Tax Commission and the Fox Cities Performing Arts Center, Inc., that such funds are no longer necessary. Such tax shall not be subject to the selective sale tax imposed by Section 77.52(2), Wis. Stats.
- (b) It is the intent of the City of Menasha to increase the Fox Cities area room tax and to pledge any funds from such increase to the Fox Cities Area Room Tax Commission and the Fox Cities Performing Arts Center for the purposes of the support and construction of a performing arts center.

SEC. 7-10-3 USE OF TAX REVENUE.

The City Treasurer shall direct five percent (5%) of the hotel and motel room taxes collected to the general fund, with the balance of the proceeds directed to the Fox Cities Convention and Tourist Bureau, to be used for the promotion of the Fox Cities as a convention location and tourist area.

SEC. 7-10-4 ADMINISTRATION OF TAX SYSTEM.

- (a) This Chapter shall be administered by the City Treasurer. The tax shall be payable quarterly and shall be due 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 room 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.
- (b) 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 signed by the person required to file a return or his duly authorized agent, but need not be verified by oath. The City Treasurer may, for good cause, extend the time of filing any return, but in no event longer than one month from the filing date.

SEC.7-10-5 PERMIT REQUIRED.

- (a) Every person furnishing rooms or lodging pursuant to Section 7-10-2 shall file with the City Treasurer an application for a permit for each place of business. Every application for a permit shall be made upon a form prescribed by the City Treasurer and shall set forth the name under which the applicant transactor intends to transact business, the location of his place of business, and such other information as the City 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 seller. At the time of making an application the applicant shall pay the City Treasurer an initial fee of Twenty Dollars (\$20.00) for each permit.
- (b) After compliance with Subsection (a) above and Subsection (n) by the applicant, the City Treasurer shall grant and issue to each applicant a separate permit for each place of business within the City. 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.
- (c) When any person fails to comply with this Section, the City 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 City Treasurer shall give to such person written notice of the suspension or revocation of any of his permits. The City 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 Twenty Dollars (\$20.00) shall be imposed for the renewal or issuance of a permit which has been previously suspended or revoked.
- (d)
 - (1) Any establishment required by this section to pay any fee may, in addition to any other penalties, also be required to pay a permit fee equal to twice the amount of the normal fee if the failure is due to a late payment, insufficient funds or account closed checks, or for any other reason the City has not received the property payment.
 - (2) Any establishment required by this section to pay any fee may, in addition to any other penalties, also be required to pay a permit fee equal to twice the amount of the normal fee if such establishment opens for business without paying the required fee.

The Public Health Director, or designee, may also order such establishment to close until the fee is paid.

SEC. 7-10-6 CHANGE OR TERMINATION OF OWNERSHIP.

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 sums 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 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.

SEC. 7-10-7 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 Chapter. This determination may be made upon the basis of the facts contained in the return being audited or on the basis of the other information within the City Treasurer's possession. One or more such office audit determinations 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 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, records, memoranda, and property of any person in order to verify the tax liability of that person or another person. Nothing herein shall prevent the City Treasurer from making a determination of tax at any time.

SEC. 7-10-8 FAILURE TO FILE RETURN; TAX ESTIMATE.

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 Section 7-10-2. Such estimate shall be made for the period from 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 his 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 arrived at a penalty equal to ten percent (10%) thereof. One (1) or more such determinations may be made for one (1) or more than one (1) period.

SEC. 7-10-9 UNPAID TAX; PENALTY.

- (a) All unpaid taxes under this Chapter shall bear interest at the rate of seven percent (7%) 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 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, it shall not allow any interest thereon.

- (b) Delinquent tax returns shall be subject to a Ten Dollar (\$10.00) late filing fee. The tax imposed by this Section shall become delinquent if not paid:
 - (1) 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 has been granted.
 - (2) In the case of no return filed or a return filed late, by the due date of the return.
- (c) If due to negligence 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 any 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 Section, a penalty of fifty percent (50%) shall be added to the tax required to be paid, exclusive of interest and other penalties.

SEC. 7-10-10 SECURITY REQUIREMENTS.

In order to protect the revenue of the City, the City Treasurer may require any person liable for the tax imposed by this Section to place with him, before or after a permit is issued, such security, not in an excess of an amount equal to the maximum possible revenue to be derived from said property per quarter of operation to be determined by the City Treasurer. If any taxpayer fails or refuses to place such security the City Treasurer may refuse or revoke such permit. If any taxpayer is delinquent in the payment of the taxes imposed by this Section, the City Treasurer may, upon ten (10) days notice, recover the taxes, interest and penalties from the security placed with the City Treasurer by such taxpayer. No interest shall be paid or allowed by the City to any person for the deposit of such security.

SEC. 7-10-11 RECORDS.

- (a) Every person liable for the tax imposed by this Chapter shall keep or cause to be kept such records, receipts, invoices and other pertinent information essential to the proper recording and payment of said tax.
- (b) 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 not 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 of Menasha as may be necessary to enforce collection.
- (c) 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 (b).

SEC. 7-10-12 FINANCIAL DISCLOSURE.

At least once each year that this Chapter is in effect, on a date to be determined by the City Comptroller, the Fox Cities Visitor and Convention Bureau, subsidiary of the Fox Cities Chamber of Commerce and Industry, shall submit an audit, with completeness to be determined by the City Comptroller as to revenues and expenditures. In turn the City Comptroller as conveniently after as may be shall submit a report to the Common Council with any recommendations he may have.

