

**Chapter 1
General Provisions**

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Section 1-1. Designation and Citation of Code.

This Code may be known and cited as the “Municipal Code of the City of Tomahawk, Wisconsin.” (Code 1989, § 25.07)

State Law Reference – Authorizing preparation and adoption of a Code of Ordinances, Wisconsin Statute § 66.0103.

Section 1-2. Definitions and Construction of Terms.

The following words, terms and phrases, when used in this Code, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

And/or. The word “and” may be read as “or”, and the word “or” may be read “and” where the sense requires it.

Code. Whenever the term “Code” is used without further qualification, it shall mean the Municipal Code of the City of Tomahawk, Wisconsin, as designated in Section 1-1.

City. The terms “city” and “this city” shall mean the City of Tomahawk, Wisconsin.

Council. The terms “council” and “common council” shall mean the common Council of Columbus, Wisconsin.

County. The term “county” shall mean Lincoln County, Wisconsin.

Delegation of Authority. Whenever a provision appears requiring the head of a department or some other city officer or employee to do some act or perform some duty, it shall be constructed to authorize the head of the department or other officer or employee to designate, delegate and authorize subordinates to perform the required act or perform the duty unless the terms of the provision or section specify otherwise.

Gender. A word importing the masculine gender only shall extend and be applied to females and to firms, partnerships and corporations as well as to males, unless the intention to give a more limited meaning is disclosed by the context.

State Law Reference – Similar Provisions, Wisconsin Statute § 990.001(2).

Joint Authority. Words purporting to give authority to three or more officers or other persons shall be constructed as giving such authority to a majority of such officers or other persons, unless it is otherwise declared.

State Law Reference – Similar Provisions, Wisconsin Statute § 990.001(8)

May. The term “may” shall be constructed as being permissive and discretionary.

Month. The term “month” shall mean a calendar month.

Number. A word importing the singular may extend and be applied to the plural as well as to the singular number and vice versa.

State Law Reference – Similar Provisions, Wisconsin Statute § 990.001(1)

Oath. The term “oath” includes an affirmation in all cases where by law an affirmation may be substituted for an oath. If any oath or affirmation is required to be taken, such oath or affirmation shall be taken before and administered by some officer authorized by the laws of this state to administer oaths, at the place where the same is required to be taken or administered, unless otherwise expressly directed, and, when necessary, duly certified by such officer. If an oath is administered, it shall end with the words “so help me God”. In actions and proceedings in the courts, a person may take an oath or affirmation in communication with the administering officer by telephone or audiovisual means.

State Law Reference – Similar Provisions, Wisconsin Statute § 990.01(24)

Officers and Employees Generally. Whenever any officer or employee is referred to by title such as “city clerk”, such reference shall be constructed as if followed by the words “of Tomahawk, Wisconsin”.

Owner. The term “owner”, applied to a building or land, shall include any part owner, joint owner, tenant in common, tenant in partnership, joint tenant or tenant by the entirety, of the whole or of a part of such building or land.

Person. The term “person” shall extend and be applied to associations, clubs, societies, firms, partnerships and bodies politic and corporate as well as to individuals, and to all entities capable of being sued, unless plainly inapplicable.

Personal Property. The term “personal property” includes every species of property except real property.

Preceding, Following. The terms “preceding” and “following” mean next before and next after, respectively,

Property. The term “property” shall include real and personal property.

Real Property. The term “real property” shall include lands, tenements and hereditaments.

Shall. The term “shall” shall be constructed as being mandatory.

Signature. If the signature of any person is required by law, it shall always be the handwriting of such person or, if the person is unable to write, the person’s mark or the person’s name written by some other person at the person’s request and in the person’s presence.

State Law Reference – Similar Provisions, Wisconsin Statute § 990.001(38).

State. The term “state” shall mean the State of Wisconsin.

Tense. Words used in the past or present tense include the future as well as the past and present.

Wisconsin Statutes, Statute, State Statute. The terms “Wisconsin Statutes”, “statute”, and “state statute” means Wisconsin Statutes, as amended. Any statute adopted by reference includes amendments to such statute.

Year. The word “year” shall mean a calendar year.
(Code 1989, § 25.01)

State Law Reference – Similar Rules of Statutory Construction, Wisconsin Statutes §§ 990.01, 990.02.

Section 1-3. Computation of Time.

- (a) The time within which an act is to be done or proceeding had or taken shall be computed by excluding the first day and including the last; and when any such time is expressed in hours, the whole of Sunday and of any legal holiday, from midnight to midnight, shall be excluded.
- (b) If the last day within which an act is to be done or proceeding had or taken falls on a Sunday or legal holiday, the act may be done or the proceeding had or taken on the next secular day.
- (c) When the last day within which a proceeding is to be had or taken or an act done, which consists of any payment to, the service upon, or the filing with any officer, agent, agency, department or division of the state or of the county, or a city, village, town, school district or other subdivision of the state, of any money, return, statement, report, notice or other document, falls on a Saturday and the duly established official office hours of such officer, agent, agency, department or division to which such payment is to be made or upon which such service is to be made or with which such return, statement, report, notice or other document is required to be filed do not include any office hours on such Saturday, such proceeding may be had or taken or such act may be done on the next succeeding day that is not a Sunday or a legal holiday.
- (d) Regardless of whether the time limited in any ordinance for the taking of any proceeding or the doing of an act is measured from an event or from the date or day on which such event occurs, the day on which such event took place shall be excluded in the computation of such time.
- (e) The expression "legal holiday" as used in this section means any statewide legal holiday provided in Wisconsin Statute § 895.20. When an act is permitted to be done by the use of the postal service, and the last day within the time prescribed by law for performing such act falls on a legal public holiday under federal law, or other holiday designated by the president such that the postal service does not receive registered mail or make regular deliveries on that day, the day shall be considered a legal holiday for purposes of this section.

State Law Reference – Similar Provisions, Wisconsin Statute § 990.001(4)

Section 1-4. Catchlines of Sections and Other Headings.

The Catchlines of the several subsections and sections, and the headings of chapters, articles and divisions of this Code are intended as mere catchwords to indicate the contents of the subsection, section, chapter, article or division, and shall not be deemed or taken to be titles or substantive portions of such subsections, sections, chapters, articles or divisions, not, unless expressly so provided, shall they be so deemed when any of such subsections, sections, chapters, articles or divisions, including the Catchlines or other headings, are amended or reenacted.

Section 1-5. References to Chapters or Sections.

- (a) *Generally.* All references to chapters or sections are to the chapters and sections of this Code unless otherwise specified.
- (b) *Inclusion of Penalty.* Reference to any section of this Code shall be understood to refer to and include the penalty section relating to that section unless otherwise expressly provided.

Section 1-6. References and Editor's Notes.

The references and editor's notes appearing after sections throughout the Code are not intended to have any legal effect, but are merely intended to assist the user of the Code.

Section 1-7. History Notes.

The history notes appearing in parentheses after sections in this Code are not intended to have any legal effect but are merely intended to indicate the source of matter contained in the section.

Section 1-8. Provisions Considered as Continuation of Existing Ordinances.

The provisions appearing in this Code, so far as they are the same as those of the 1989 Code of the City of Tomahawk, Wisconsin, and of ordinances existing at the time of adoption of this Code, shall be considered as a continuation thereof and not as new enactments.

Section 1-9. Clerk to File Documents Incorporated by Reference.

Whenever in this Code any standard, code, rule, regulation or other written or printed matter is adopted by reference, it shall be deemed incorporated in this Code as if fully set forth in this Code; and the clerk shall file, deposit and keep in his or her office a copy of the standard code, rule, regulation or other written or printed matter as adopted. Materials so filed, deposited and kept shall be public records open for examination with proper care by any person during the clerk's office hours, subject to such orders or regulations which the clerk may prescribe for their preservation.

(Code 1989, § 25.03)

Section 1-10. Certain Ordinances not Affected by Code.

Nothing in this Code or the ordinance adopting this Code shall be constructed to repeal or otherwise affect the validity of any of the following when not inconsistent with this Code:

- (1) Any offense or act committed or done, or any penalty or forfeiture incurred, or any contract or right established or accruing before the effective date of this Code;
- (2) Any ordinance promising or guaranteeing the payment of money for the city or authorizing the issuance of any bonds of the city or any evidence of the city's indebtedness;
- (3) Any contract or obligation assumed by the city;
- (4) Any right or franchise granted by the city;
- (5) Any ordinance dedicating, naming, establishing, locating, opening, paving, widening, vacating, etc., any street or public way in the city;
- (6) Any ordinance establishing or prescribing grades, curb lines and sidewalk widths in the public streets and alleys in the city;
- (7) Any ordinance dedicating or accepting any plat or subdivision in the city;
- (8) Any ordinance establishing or amending the zoning map or rezoning property;

- (9) Any ordinance establishing utility rates and charges;
- (10) Any ordinance releasing a person from liability;
- (11) Any ordinance calling an election or prescribing the manner of conducting the election in accordance with state law;
- (12) Any ordinance prescribing any fee or payment of money to the city;
- (13) Any ordinance levying or imposing taxes;
- (14) Any ordinance providing for local improvements and assessing taxes for such improvements;
- (15) The vacation, extension and discontinuance of public streets and alleys;
- (16) Any ordinance fixing salaries of public officials and employees;
- (17) Any ordinance establishing positions or classifying positions of city officers and employees or any personnel regulations;
- (18) Any ordinance annexing territory or excluding territory or any ordinance extending the boundaries of the city;
- (19) Any ordinance regarding the naming and changing of names of public grounds and parks;
- (20) Any ordinance regarding the purchase of land;
- (21) Any ordinance regarding the letting of contracts without bids;
- (22) Any ordinance regarding the release and discharge of claims against the United States government;
- (23) Any ordinance providing for lighting of streets and alleys;
- (24) Any budget or appropriation ordinance;
- (25) Any ordinance providing for lighting of streets and alleys;
- (26) Any ordinance that is special although permanent in effect; and
- (27) Any ordinance containing any administrative provisions.

All such ordinances shall remain in full force and effect and are on file in the city clerk's office.
(Code 1989, § 25.05)

Section 1-11. Effect of Repeal of Ordinances.

- (a) The repeal of an ordinance shall not revive any ordinance in force before or at the time the ordinance repealed took effect.

- (b) The repeal of an ordinance shall not affect any punishment or penalty incurred before the repeal took effect or any suit, prosecution, or proceeding pending at the time of the repeal for an offense committed or cause of action arising under the ordinance repealed.

(Code 1989, § 25.06)

Section 1-12. Conflict of Provisions.

If the provisions of the different chapters of this Code conflict with or contravene each other, the provisions of each chapter shall prevail as to all matters and questions arising out of the subject matter of such chapter.

(Code 1989, § 25.02 (1))

Section 1-13. Code does not Affect Prior Offenses, acts, Penalties or Rights.

Nothing in this Code or the ordinance adopting this Code shall affect any offense or act committed or done or any penalty or forfeiture incurred or any contract or right established or accruing before the effective date of this Code.

Section 1-14. General Penalty.

- (a) Except as otherwise provided, any person who shall violate any of the provisions of this Code shall, upon conviction of such violation, be subject to a penalty, which shall be as follows:

- (1) *First Offense.* Any person who shall violate any provision of this Code shall, upon conviction thereof, forfeit not less than \$20.00 nor more than \$500.00, together with the costs of prosecution, and in default of payment of such forfeiture and costs of prosecution shall be imprisoned in the county jail until such forfeiture and costs are paid, but not exceeding 90 days; provided, however, that imprisonment under this subsection shall be imposed only in accordance with the provisions of Wisconsin Statutes §§ 800.09 and 800.095.

- (2) *Second Offense.* Any person found guilty of violating any ordinance or part of an ordinance of this Code who has previously been convicted of a violation of the same ordinance within one year shall, upon conviction thereof, forfeit not less than \$20.00 nor more than \$1,000.00 for each such offense, together with the costs of prosecution, and in default of payment of such forfeiture and costs shall be imprisoned in the county jail until such forfeiture and costs are paid, but not exceeding 90 days; provided, however, that imprisonment under this subsection shall be imposed only in accordance with the provisions of Wisconsin Statutes §§ 800.09 and 800.095.

- (b) Each violation and each day a violation continues or occurs shall constitute a separate offense. Nothing in this Code shall preclude the city from maintaining any appropriate action to prevent or remove a violation of any provision of this Code.

- (c) Whenever any person fails to pay any forfeiture and costs of prosecution upon the order of any court for violation of any ordinance of the city, the court may, in lieu of ordering imprisonment of the defendant, or after the defendant has been released from custody, issue an execution against the property of the defendant for such forfeiture and costs.

(Code 1989, § 25.04(3); Ordinance Number 1994-1, §§ I, II, 4-19-1994)

Section 1-15. Bond Schedule.

(a) For violations of city ordinances use court bond schedule as follows:

Ordinance Number	Violation	Bond
CHAPTER 6: ALCOHOL BEVERAGES		
6-1	Providing Alcohol to Underage Person	\$250.00
6-3	Public Consumption (Open Intoxicants)	\$50.00
6-4	Underage Person on License Premise	\$50.00
6-31 to 6-49	Licensing Matters	\$50.00
6-45	Violation of Closing Hours	\$70.00 <u>\$200.00</u>
CHAPTER 10: ANIMALS		
10-21	Failure to License Dog/Cat	\$20.00
10-22	No Rabies Vaccine	\$20.00
10-41	Restriction on Animals (Various)	\$20.00
10-41(a)(2)	Keeping Vicious Animal	\$50.00
10-41-(a)(4)	Noisy Animal (Barking)	\$20.00
10-41(b)	Keeping too Many Dog/Cat	\$20.00
10-41(c)	Animal Running at Large	\$20.00
10-41(f)	Animal Trespassing	\$20.00
10-44	Beekeeping without a Permit	\$20.00
10-45	Illegal Feeding of Wild Fowl	\$20.00
10-47	Failure to Quarantine	\$20.00
10-48	Property Damage by Animal	\$20.00
10-49	Failure to Clean Animal Feces	\$20.00
CHAPTER 30: ENVIRONMENT		
30-31	Storage of Junk	\$20.00
Ordinance Number	Violation	Bond
30-32	Unlicensed Vehicle Storage	\$20.00
30-62	Burning without Permit in Violation of Regulation	\$20.00
30-103	Nuisance Affecting Health	\$20.00
30-103(6)	Noxious Weeds/Grass Height	\$20.00
30-104	Nuisance Offending Morals and Decency	\$20.00
30-105	Public Nuisance Affecting Peace and Safety	\$20.00
CHAPTER 34: FIRE PREVENTION & PROTECTION		

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34-36(a)	Failure to Yield Right of Way to Fire Vehicle	\$20.00
34-36(d)	Failure to Assist Firefighter	\$20.00

CHAPTER 62: OFFENSES & MISCELLANEOUS PROVISIONS

62-1	State Offences Adopted	\$50.00
62-1	Littering	\$20.00
62-1	Damage to Property (Less Than \$1,000)	\$60.00
62-1	Harassment	\$100.00
62-31(a)	Disorderly Conduct	\$100.00
62-31(b)	Defecating/Urinating in Public	\$100.00
62-32	Disorderly Conduct with a Motor Vehicle	\$50.00
62-33	Possession of Marijuana	<u>\$100.00</u>
62-34	Public Intoxication	<u>\$100.00</u>
62-35	Social Host	<u>\$250.00</u>
62-51	Sale and Discharge of Fireworks	\$50.00
62-71	Loud and Unnecessary Noise	\$30.00
62-72	Loitering or Prowling	\$50.00 <u>\$100.00</u>
62-73	Trespass on Private Property	\$50.00
62-74	Obstruction of Private Doorways	\$20.00
62-111	Abandoned or Unattended Iceboxes, ect.	\$20.00
62-123	Sport or Exercise Prohibited	\$20.00
62-152	Curfew (17 and Under)	\$30.00
62-171	Truancy (17 and Under)	\$30.00
62-192(1)	Buy/Attempt to Buy Tobacco (17 and Under)	\$20.00

**Ordinance
Number**

Violation

Bond

62-192(2)	Falsely Represent Age to Buy Tobacco (17 and Under)	\$20.00
62-192(3)	Underage Use/Possession of Tobacco (17 and Under)	\$20.00
62-196	Restriction on Sale of Tobacco Products	\$20.00
62-196	Tobacco Compliance Checks	\$20.00
62-211	Illegal Use of Firearms	\$70.00
62-212	Illegal Hunting in City Limits	\$70.00
62-213	Throwing or Shooting Arrows or other Missile Objects	\$30.00
62-217	Smoking in Public Places	\$50.00
62-218	Smoking in Place of Employment	\$50.00
62-219	Smoking in Outdoor Areas	\$50.00

CHAPTER 66: PARK & RECREATIONS

66-61	Violation of Bradley Park Curfew	\$30.00
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CHAPTER 82: STREETS, SIDEWALKS & OTHER PUBLIC PLACES

82-62	Failure to Remove Snow & Ice	\$20.00
82-121	Obstructing/Encroaching on Public Way	\$20.00
82-123	Obstructing Public Ditches	\$20.00
82-157	Injury to Public Tree and Shrubs	\$20.00

CHAPTER 94: TRAFFIC AND VEHICLES

94-216	Operation of Recreational Vehicle on Sidewalks	\$30.00
94-251	Use of Compression Breaks Prohibited	\$30.00
94-281	Obstruction of Roadway by Train	\$1,000.00

(b) For violations of city ordinances not covered in subsection (a) of this section or by other provisions of the Code, the uniform state bond schedule for similar offenses shall govern.

Section 1-16. Execution Against Defendant’s Property.

Whenever any person fails to pay any forfeiture and costs of prosecution upon the order of any court for violation of any ordinance of the city, the court may, in lieu or ordering imprisonment of the defendant, or after the defendant has been released from custody, issue an execution against the property of the defendant for such forfeiture and costs.

(Code 1989, § 25.04(3))

State Law Reference – Bail, Wisconsin Statute § 66.0111; Penalties for Violation of Municipal Ordinances, Wisconsin Statute § 66.0109; Outstanding Unpaid Forfeitures, Wisconsin Statute § 66.0115; Actions for Violation of Municipal Ordinances, Wisconsin Statute § 66.0114; Fines and Costs of Municipal Courts, Wisconsin Statute § 814.65.

Section 1-17. Deposit for Forfeiture in Lieu of Court Appearance.

Any person charged with violation of any provision, section or chapter of this Code for which no other deposit amount is expressly provided may pay a deposit of \$400.00, plus costs, at the police department in lieu of court appearance. Persons wishing to contest such charges may contact the police department to arrange a court appearance date.

State Law References – Citations for Violations, Cash Deposits, Failure to Appear, Wisconsin Statute § 66.0113; Fees in Forfeiture Actions, Wisconsin Statute § 814.63.

Section 1-18. Deposit for Forfeiture in Lieu of Court Appearances for Continuing Violation.

Any person charged with a continuing violation of any provision, section or chapter of this Code, for which each day constitutes a separate offense, and for which no other deposit amount is expressly provided, may pay \$150.00 per day, plus costs, from the date of first violation to and including the date the deposit is made, in lieu of court appearance, at the police department. Persons wishing to contest such charges may contact the police department to arrange a court appearance date.

State Law References – Citations for Violations, Cash Deposits, Failure to Appear, Wisconsin Statute § 66.0113; Fees in Forfeiture Actions, Wisconsin Statute § 814.63

Section 1-19. Continuing Violation.

Unless otherwise provided, each act of violation and every day upon which a violation occurs or continues constitutes a separate offense.

(Code 1989, § 25.04(2))

Section 1-20. Applicability of Enforcement Provisions.

The provisions of Sections 1-14 – 1-19 shall apply to any section of this Code or any code adopted in this Code by reference to which the penalty relates, whether or not such penalty is reenacted in the amendatory ordinances, unless otherwise provided in the amendment.

Section 1-21. Amendments to Code.

- (a) Any additions or amendments to this Code, when passed in such form as to indicate the intention of the common council to make such additions or amendments a part of this Code, are incorporated in this Code, so that a reference to this Code shall be understood as including such additions or amendments. All ordinances passed subsequent to the adoption of this Code that amend, repeal or in any way affect this Code may be numbered in accordance with the numbering system of this Code and printed for inclusion in the Code. When subsequent ordinances repeal any chapter, section or subsection or any portion thereof, such repealed portions may be excluded from this Code by their omission from reprinted pages. The subsequent ordinances as numbered and printed, or omitted in the case of repeal, shall be prima facie evidence of such subsequent ordinances until such time that this Code and subsequent ordinances numbered or omitted are readopted as a new code of ordinances by the common council.
- (b) Amendments to any of the provisions of this Code shall be made by amending such provisions by specific reference to the section number of this Code being amended in the following language: “That section _____ of the Municipal Code of the City of Tomahawk, Wisconsin, is hereby amended to read as follows:...” The new provisions shall then be set out in full as desired.
- (c) If a new section not then existing in the Code is to be added, the following language shall be used: “That the Municipal Code of the City of Tomahawk, Wisconsin, is hereby amended by adding a section to be numbered _____, which section reads as follows:.....” The new section shall then be set out in full as desired.
- (d) All sections, articles, chapters or provisions of this Code desired to be repealed must be specifically repealed by section, article or chapter number, as the case may be.

Section 1-22. Supplementation of Code.

- (a) By contract or by city personnel, supplements to this Code shall be prepared and printed. A supplement to the Code shall include all substantive permanent and general parts of ordinances adopted during the period covered by the supplement and all changes made thereby in the Code. The pages of a supplement shall be so numbered as to fit properly into the Code and will, where necessary, replace pages that have become obsolete or partially obsolete; and the new pages shall

be so prepared that, when they have been inserted, the Code will be current through the date of adoption of the latest ordinance included in the supplement.

- (b) In preparing a supplement to this Code, all portions of the Code that have been repealed shall be excluded from the Code by the omission of such portions from reprinted pages.
- (c) When preparing a supplement to this Code, the codifier (meaning the person authorized to prepare the supplement) may make formal, non-substantive changes in ordinances and parts of ordinances included in the supplement, insofar as it is necessary to do so to embody them into a unified code. For example, the codifier may:
 - (1) Organize the ordinance material into appropriate subdivisions;
 - (2) Provide appropriate catchlines, headings and titles for sections and other subdivisions of the Code printed in the supplement, and make changes in such catchlines, headings and titles;
 - (3) Assign appropriate numbers to sections and other subdivisions to be inserted in the Code and, where necessary to accommodate new material, change existing section or other subdivision numbers;
 - (4) Change the words “this ordinance” or words of the same meaning to “this chapter”, “this article”, “this division”, etc., as the case may be, or to “sections _____ to _____” (inserting section numbers to indicate the sections of the code that embody the substantive sections of the ordinance incorporated into the Code); and
 - (5) Make other non-substantive changes necessary to preserve the original meaning of ordinance sections inserted into the Code, but in no case shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the Code.

State Law Reference – Codification, Wisconsin Statute § 66.0103.

Section 1-23. Severability of Parts of Code.

The sections, paragraphs, sentences, clauses and phrases of this Code are severable; and if any phrase, clause, sentence, paragraph or section of this Code shall be declared unconstitutional by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Code.

(Code 1989, § 25.02(2))

State Law Reference – Severability, Wisconsin Statute § 990.001(11)

Section 1-24. Failure of Officers or Employees to Perform Duties.

The failure of any officer or employee of the city to perform any official duty imposed by this Code shall not subject such officer or employee to the penalty imposed for violation of this Code unless a penalty is specifically provided for such act or omission.

Section 1-25. Responsibility for Acts; Aiding and Abetting.

Every person concerned in the commission of any act prohibited by this Code, whether he or she directly commits the act or prosecutes, counsels, aids or abets in its commission, may be prosecuted and, upon conviction, is punishable as if he or she had directly committed such act.

State Law Reference – Collection of Forfeitures Generally, Wisconsin Statute § 778.10.

Section 1-26. Clerk to File Documents Incorporated by Reference.

Whenever in this Code any standard, code, rule, regulation or other written or printed matter is adopted by reference, it shall be deemed incorporated in this Code as if fully set forth herein and the clerk shall file, deposit and keep in his or her office a copy of the code, standard, rule, regulation or other written or printed matter as adopted. Materials so filed, deposited and kept shall be public records open for examination with proper care by any person during the clerk's office hours, subject to such orders or regulations which the clerk may prescribe for their preservation.

(Code 1989, § 25.03)