

TOMAHAWK MUNICIPAL CODE

Chapter 90

Taxation*

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***Cross References** – 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 saved from repeal, § 1-10(2); any ordinance levying or imposing taxes saved from repeal, § 1-10(13); any ordinance providing for local improvements and assessing taxes for such improvements saved from repeal, § 1-10(14); any budget or appropriation ordinance saved from repeal, § 1-10(24); Administration, Chapter 2; Finance, § 2-251 et seq; Businesses, Chapter 22.

Article I. In General

Sections 90-1 – 90-30. Reserved.

Article II. Board of Review*

Section 90-31. Membership.

The board of review shall consist of the mayor, city clerk, president of the council, chairperson of the finance committee and one alderperson appointed by the mayor subject to confirmation by the common council.

(Code 1989, § 1.04(1))

Sections 90-32 – 90-60. Reserved.

Article III. Room Tax

Section 90-61. Definitions.

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

Gross Receipts has the meaning as defined in Wisconsin Statute § 77.51(4) (a), (b) and (c) insofar as applicable.

Hotel and *Motel* means 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, 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 irrespective of whether membership is required for use of the accommodations, including mobile homes, as defined in Wisconsin Statute § 66.0435(1)(d), 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 inures to the benefit of any private shareholder or individual.

State Law Reference – Similar Provisions, Wisconsin Statute § 77.52(2) (a) 1.

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

Cross Reference – Definitions Generally, § 1-2.

***Cross Reference** – Boards, Commissions and Committees, § 2-191 et seq.

Section 90-62. Imposed.

- (a) Pursuant to Wisconsin Statute § 66.0615, a tax is hereby imposed on the privilege and service of furnishing, at retail, except sales for resale, 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 a rate of four percent of the gross of receipts from such retail furnishing of rooms or lodging. Such tax shall not be subject to the selective sales tax imposed by Wisconsin Statute § 77.52(2) (a) 1 and may not be imposed on sales to the federal government and persons listed under Wisconsin Statute § 77.54(9) (a).
- (b) Monies collected by the tax shall be dispersed as follows: 50 percent for the park and recreation fund and 50 percent to the city chamber of commerce to spend as the chamber board sees fit to promote activity in the city area.
- (c) This section shall be administered by the city clerk-treasurer. The tax imposed for each calendar quarter 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 clerk 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 clerk-treasurer deems necessary. The return shall be accompanied by a copy of the state sales tax return filed by the person filing the room tax return for the same period of time set forth in the room tax return.
- (d) Every person required to file such quarterly return shall, with his or her 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 and shall contain certain such additional information as the city clerk-treasurer requires. Such annual returns shall be made on forms as prescribed by the city clerk-treasurer. All such returns shall be signed by the person required to file a return or his or her duly authorized agent, but need not be verified by oath. The city clerk-treasurer may, for good cause, extend the time for filing any return, but in no event longer than one month from the filing date.

Section 90-63. Permit Required.

Every person furnishing rooms or lodging under Section 90-62 shall file with the city clerk 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 clerk and shall set forth the name under which the applicant transacts business, the location of his or her place of business, and such other information as the city clerk 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 to the city clerk a fee of \$5.00 for each permit.

Section 90-64. Issuance of Permit.

After compliance with Section 90-63 and Section 90-69 by the applicant, the city clerk 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.

Section 90-65. Revocation of Permit.

Whenever any person fails to comply with this article the city clerk may, upon ten days' notification and after affording such person the opportunity to show cause why his or her permit should not be revoked, revoke or suspend any or all of the permits held by such person. The city clerk shall give to such person written notice of the suspension or revocation of any of his or her permits. The city clerk shall not issue a new permit after the revocation of a permit unless he or she is satisfied that the former holder of the permit will comply with the provisions of this article. A fee of \$10.00 shall be imposed for the renewal or issuance of a permit which has been previously suspended or revoked.

Section 90-66. Liability on Sale of Business.

If any person liable for any amount of tax under this article sells out his or her business or stock of goods or quits the business, his or her successors or assigns shall withhold a sufficient portion of the purchase price to cover such amount until the former owner produces a receipt from the city clerk that it has been paid or a certificate stating that no amount is due. If a person subject to the tax imposed by this article fails to withhold such amount of tax from the purchase price as required, he or she shall become personally liable for payment of the amount required to be withheld by him or her to the extent of the price of the accommodations valued in money.

Section 90-67. Audits.

- (a) *Office.* The city clerk may, by office audit, determine the tax required to be paid to the city or the refund due to any person under this article. This determination may be made upon the basis of the facts contained in the return being audited or on the basis of any of the information within the city clerk's possession. One or more such office audit determinations may be made of the amount due for anyone or for more than one period.
- (b) *Field.* The city clerk may, by field audit, determine the tax required to be paid to the city or the refund due to any person under this article. The city clerk 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 in this section shall prevent the city clerk from making a determination of tax at any time.

Section 90-68. Failure to File Return.

- (a) If any person fails to file a return as required by this article, the city clerk shall make an estimate of the amount of the gross receipts under subsection (b) of this section. 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 clerk's possession or may come into his or her possession. On the basis of this estimate the city clerk 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 determinations may be made for one or more than one period.
- (b) All unpaid taxes under this article shall bear interest at the rate of one percent 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 city clerk.

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- (c) Delinquent tax returns shall be subject to a \$10.00 late filing fee. The tax imposed by this article shall become delinquent if not paid:
- (1) In the case of a timely filed return, within 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.
- (d) 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 25 percent or \$5,000, whichever is less, 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 article, a penalty of 50 percent shall be added to the tax required to be paid, exclusive of interest and other penalties.

Section 90-69. Bond.

In order to protect the revenue of the city, the city clerk may require any person liable for the tax imposed by this article to place with him or her, before or after a permit is issued, such security, not in excess of \$5,000 as the city clerk determines. If any taxpayer fails or refuses to place such security, the city clerk may refuse or revoke such permit. If any taxpayer is delinquent in the payment of the taxes imposed by this article, the city clerk may, upon ten days' notice, recover the taxes, interest and penalties from the security placed with the city clerk by such taxpayer. No interest shall be paid or allowed by the city to any person for the deposit of such security.

Section 90-70. Records.

Every person liable for the tax imposed by this article shall keep or cause to be kept such records, receipts, invoices and other pertinent papers in such form as the city clerk requires.

Section 90-71. Returns Confidential.

- (a) All tax returns, schedules, exhibits, writings or audit reports relating to such returns, on file with the city clerk 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 clerk.
 - (4) Such other public officials of the city when deemed necessary.
- (b) No person having administrative duty under this article shall make known in any manner the business affairs, operations or information obtained by a an investigation of records of any person on whom a tax is imposed by this article, or the amount of 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 this section.

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Section 90-72. Penalty.

Any person who is subject to the tax imposed by this article who fails to obtain a permit as required in Section 90-63, or who fails or refuses to permit the inspection of his or her records by the city clerk after such inspection has been duly requested by the city clerk, or who fails to file a return as provided in this article, or who violates any other provision of this article, forfeit not less than \$20.00 nor more than \$500.00 and the costs of prosecutions and in default of payment of such forfeiture, be confined in the county jail until payment of such forfeiture and costs of prosecution, but not exceeding 90 days for each violation. Each day or portion thereof that such violation continues is hereby deemed to constitute a separate offense.
(Ordinance Number 1991-1, § I (3.07), 8-6-1991)