

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.