

Chapter 5

Hotel and Motel Room Tax

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Sec. 7-5-1 Definitions.

The following definitions shall be applicable in this Chapter:

- (a) **Gross Receipts.** Gross receipts shall mean the total revenue from the retail furnishing of rooms, lodging or similar accommodations by a hotel or motel or short-term rental as defined herein.
- (b) **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, 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, except accommodations rented for a continuous period of more than a calendar month or thirty (30) days, whichever is less, 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.
- (c) **Lodging Marketplace.** An entity that provides a platform through which an unaffiliated 3rd party offers to rent a short-term rental to an occupant and collects the consideration for the rental from the occupant.
- (d) **Occupant.** An occupant means a person who rents a short-term rental through a lodging marketplace.
- (e) **Owner.** An owner means the person who owns the residential dwelling that has been rented.
- (f) **Room Tax.** Room tax means the tax imposed by this Ordinance.

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- (g) **Residential Dwelling.** Any building, structure, or part of the building or structure, that is used or intended to be used as a home, residence, or sleeping place by one person or by two (2) or more persons maintaining a common household, to the exclusion of all others.
- (h) **Short-Term Rental.** A residential dwelling that is offered for rent for a fee and for fewer than twenty-nine (29) consecutive days.
- (i) **Transient.** Any person residing for a continuous period of less than one (1) month in a hotel, motel or other furnished accommodations available to the public.

Code in effect 2/12/19

Sec. 7-5-2 Tax Imposed.

Pursuant to Wis. Stat. 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, lodging marketplaces, owners of short-term rentals, and other persons furnishing accommodations that are available to the public, irrespective of whether membership is required for use of the accommodations. Such tax shall be at a rate of eight percent (8.0%) of the gross receipts from such retail furnishing of rooms or lodging. Such tax may not be imposed upon sales to the federal government and persons listed under Wis. Stat. §77.54 (9a).

Code in effect 2/12/19

Sec. 7-5-3 Clerk to Administer.

This Chapter shall be administered by the City Clerk. The tax imposed for each calendar month is due and payable on the last day of the month next succeeding the calendar month for which imposed. A return shall be filed with the City Finance Department 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 month from such retail furnishing of rooms or lodging, the amount of taxes imposed for such period and such other information as the City Finance Department deems necessary. The return shall be accompanied by a copy of the Wisconsin 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. Upon the request of the City's Finance Department, any person required to file such monthly return shall file an annual calendar year return within ninety (90) days of the close of each such calendar year. The annual return shall summarize the monthly returns, reconcile and adjust for errors in the monthly returns and shall contain certain such additional information as the City Finance Department requires. Such annual returns shall be made on forms as prescribed by the City Clerk. All such 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 Finance Director may, for good cause, extend the time for filing any return, but in no event longer than one (1) month from the filing date.

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Sec. 7-5-4 Permit Required.

Every person furnishing rooms or lodging under Section 7-5-2 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 or intends to transact business, the location of their 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 owner(s). At the time of making an application, the applicant shall pay to the City Clerk a fee as set forth on the City of Onalaska Fee Schedule for a one (1) year permit or a two (2) year permit, said fee to be reviewed annually. The permit shall be obtained annually (or every two (2) years if so selected) and be valid for the period of July 1 to June 30 of each year.

Code in effect 2/12/19

Sec. 7-5-5 Issuance.

After compliance with Sections 7-5-4 and 7-5-10 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.

Code in effect 2/12/19

Sec. 7-5-6 Revocation of Permit.

Whenever any person fails to comply with this Chapter, the City Clerk may, upon ten (10) days' notification and after affording such person the opportunity to show cause why their 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 their permit(s). The City Clerk shall not issue a new permit after the revocation of a permit unless the Clerk is satisfied that the former holder of the permit will comply with the provisions of this Chapter. A fee as set forth on the City of Onalaska Fee Schedule shall be imposed for the renewal or issuance of a permit which has been previously suspended or revoked.

Code in effect 2/12/19

Sec. 7-5-7 Liability on Sale of Business.

If any person liable for any amount of tax under this Chapter sells their business or stock of goods or quits the business, their successors or assigns shall withhold an amount of the purchase price sufficient to cover such amount until the former owner produces a receipt from the City Treasurer that room tax has been paid or a certificate stating that no amount is due. If a person subject to the room tax imposed by this Chapter fails to withhold such amount of room tax from the purchase price as required, said person shall become personally liable for payment of the amount required to be withheld by them to the extent of the price of the accommodations valued in money.

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Sec. 7-5-8 Audits.

- (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 any of the information within the City Treasurer's possession. One (1) or more such office audit determinations may be made of the amount due for anyone or for more than one (1) 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 of another person. Nothing herein shall prevent the City Treasurer from making a determination of tax at any time.
- (c) A forfeiture, not to exceed five percent (5%) of the room tax, may be imposed on a person who fails to comply with a request to inspect and audit the person's financial records.

Code in effect 2/12/19

Sec. 7-5-9 Failure to File Return.

- (a) If any person fails to file a return as required by this Chapter, the City Treasurer shall make an estimate of the amount of the gross receipts under Section 7-5-2. 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 Treasurer's possession or may come into the City Clerk's possession. On the basis of this estimate, the City Treasurer shall compute and determine the amount required to be paid to the City. One (1) or more such determinations may be made for one (1) or more than one (1) period.

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Sec. 7-5-10 Delinquent Tax Returns.

- (a) **Late Filing Fee Imposed.** Delinquent tax returns shall be subject to a Fifty Dollar (\$50.00) late filing fee. The tax imposed by this Chapter shall become delinquent if not paid, 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. In the case of no return filed or a return filed late, by the due date of the return.
- (b) **Interest Charged on Delinquent Accounts.** All unpaid taxes under this ordinance shall bear interest at the rate of one percent (1%) 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 Treasurer. An extension of time within which to file a return shall not extend the due date of the return for purposes of interest computation.

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- (c) **Penalty for Non-Payment.** In addition to any interest or forfeiture which may be assessed under this ordinance, there shall be a forfeiture imposed for failure to pay any room tax determined hereunder by its due date. Said forfeiture shall be equal to twenty-five percent (25%) of the room tax due for the previous year or Five Thousand Dollars (\$5,000) whichever is less, of the tax imposed, is hereby established and due and owing in the event that the room tax is not paid within thirty (30) days after the due date of return.
- (d) **Fraudulent Return.** 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 Chapter, a penalty of fifty percent (50%) shall be added to the tax required to be paid, exclusive of interest and other penalties.

Code in effect 2/12/19

Sec. 7-5-11 Bond.

In order to protect the revenue of the City, the City Clerk may require any person liable for the tax imposed by this Chapter to place with him or her, before or after a permit is issued, such security, not in excess of Five Thousand Dollars (\$5,000.00) as the City Clerk determines. If any taxpayer fails or refuses to place such security, the City Clerk may refuse to revoke such permit. If any taxpayer is delinquent in the amount of the taxes imposed by this Chapter, the City Clerk may, upon ten (10) 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.

Code in effect 2/12/19

Sec. 7-5-12 Records.

Every person liable for the tax imposed by this Chapter shall keep or cause to be kept such records, receipts, invoices and other pertinent papers in such form as the City Clerk requires. The information obtained under this ordinance shall remain confidential with the exception that such information shall be available to persons using the information in the discharge of duties imposed by law or of the duties of their office or by order of a court. The City of Onalaska may publish statistics classified so as not to disclose the identity of a particular return. Any person violating this section shall forfeit not less than One Hundred Dollars (\$100), nor more than Five Hundred Dollars (\$500.00).

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Sec. 7-5-13 Penalty.

Any person who is subject to the tax imposed by this Chapter who fails to obtain a permit as required in Section 7-5-4 or who fails or refuses to permit the inspection of his records by the City Treasurer after such inspection has been duly requested by the City Treasurer or who fails to file a return as provided in this Chapter, or who violates any other provision of this Chapter shall, upon conviction thereof and in addition to any other penalty imposed herein, forfeit an amount as prescribed by Section 1-1-7 of this Code of Ordinances and the costs of prosecutions and, in default of payment of such forfeiture, be confined in the La Crosse County Jail until payment of such forfeiture and costs of prosecution, but not exceeding ninety (90) days for each violation. Each day or portion thereof that such violation continues is hereby deemed to constitute a separate offense.

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