

Chapter 40

FINANCE AND TAXATION

[HISTORY: Adopted by the Town Board of the Town of La Pointe as indicated in article histories. Amendments noted where applicable.]

ARTICLE I

Delinquent Taxes, Assessments and Claims

[Adopted 3-13-1990 by Ord. No. 113]

§ 40-1. Effect on licenses.

No license shall be granted for any premises for which taxes (real or personal), assessments, or other claims of the Town are delinquent and unpaid, or to any licensee delinquent in payment of such claims to the Town. In the event of the sale of a premises or transfer of a license during a license year, the Town Board may condition the granting of a license upon payment of real estate or personal property tax prorated to the date of sale. The Town Treasurer shall estimate the tax rate to be used.

ARTICLE II

Penalty on Delinquent Amounts

[Adopted 5-16-1990 by Ord. No. 114]

§ 40-2. Penalty imposed.¹

Pursuant to § 74.47, Wis. Stats., the Town Board of La Pointe does hereby impose a penalty of 0.5% per month or fraction of a month, in addition to the interest under § 74.47(1), Wis. Stats., on any delinquent personal property taxes, special assessments, special charges and special taxes included in the tax roll.

§ 40-3. Applicability.²

The penalty imposed under this article shall apply to any personal property taxes, special assessments, special charges and special taxes that are delinquent.

ARTICLE III

Tax-Exempt Property Registration System

[Adopted 1-14-1992 by Ord. No. 116-92; amended 1-23-1996]

§ 40-4. Purpose.³

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1. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. III).
 2. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. III).
 3. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. III).

This article sets forth procedure concerning administration of the tax-exempt property registration system for reports.

§ 40-5. Taxation district summary report; registration forms. [Amended 12-13-2011 by Ord. No. 2011-02]

By July 1 of each even-numbered year, the Town Clerk must complete and deliver a taxation district summary report to the Wisconsin Department of Revenue. This report should summarize information provided by the tax-exempt property owners, with their report due March 31 each even-numbered year. The Clerk will make a reasonably diligent effort to ensure that all tax-exempt property owners are sent the registration form and have returned the same. When said form has not been received by the Clerk by March 31, said Clerk shall send the property owner(s) a notice, by certified mail, return receipt requested, stating that the property for which the form is required will be appraised at the owner's expense, and a forfeiture imposed, if a completed form is not received by the Clerk within 30 days after the notice is sent. The Clerk is responsible for form distribution and review.

§ 40-6. Administrative fee and late penalty. [Amended 12-13-2011 by Ord. No. 2011-02]

As permitted under state statute, the Town may charge a reasonable annual administrative fee and late penalty for each tax-exempt entity as established by the Town Board and published in the annual schedule of fees.

§ 40-7. Licensing.

Prompt payment of fees shall be a condition of receiving or renewing any license issued by the Town to the tax-exempt property owner, when applicable. Timely submission of the required report is likewise a licensing condition and requires accurate information.

§ 40-8. Violations and penalties. [Amended 12-13-2011 by Ord. No. 2011-02]

Since prompt and timely submission of these reports to the Clerk is essential to the efficient operation of this system and compliance with state standards, a forfeiture of \$20 to \$200 may be imposed by a court for failure to submit the report to the Town Clerk by the deadline set forth in § 40-5 above. Enforcement may be by use of the citation procedure separately adopted by Town ordinance.⁴

ARTICLE IV

Accommodations Tax

[Adopted 12-14-1993 by Ord. No. 93-1214; amended 12-27-2001]

§ 40-9. Definitions. [Amended 12-13-2011 by Ord. No. 2011-02]

As used in this article, the following terms shall have the meanings indicated:

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,

4. Editor's Note: See Ch. 18, Citations.

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, except accommodations, including mobile homes as defined in § 101.91(10), Wis. Stats., manufactured homes as defined in § 101.91(2), Wis. Stats., and recreational vehicles as defined in § 340.01(48r), Wis. Stats., rented for a continuous period of more than one month and accommodations furnished by any hospitals, sanatoriums, 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.

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 for consideration. [Amended 8-26-2014 by Ord. No. 2014-05]

§ 40-10. Tax imposed; distribution. [Amended 8-26-2014 by Ord. No. 2014-05]

Pursuant to § 66.0615, Wis. Stats., a tax is hereby imposed on the privilege and service of furnishing at retail rooms, lodging or sites 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 6.5% of the gross receipts from such retail furnishing of rooms, lodging or sites. Such tax shall not be subject to the selective sales tax imposed by § 77.52(2)(a)1, Wis. Stats. The proceeds of the first 5% of such tax collected shall be apportioned 40% to the Town of La Pointe and the remaining 60% to the Madeline Island Chamber of Commerce, an organization in the community for advertising and promotion of hospitality and tourist business, provided that such sum paid to such organization shall not exceed the maximum allowed by statute. The proceeds of the additional 1.5% shall be apportioned 30% to the Town of La Pointe and the remaining 70% goes directly to a designated fund in the Town of La Pointe for tourism promotion and development. If the Town doesn't expend the funds, any funds remaining will go to the Madeline Island Chamber of Commerce. The 60% of the 5% apportioned to the Madeline Island Chamber of Commerce shall be due and payable to it by the Town of La Pointe within 60 days of the end of each calendar quarter. The remainder of the 70% of the additional 1.5% apportioned to the Madeline Island Chamber of Commerce shall be due and payable to it by the Town of La Pointe within 60 days of the end of each calendar year.

§ 40-11. Administration.

This article shall be administered by the Town Treasurer. The tax imposed is due and payable within 30 days of the end of each calendar quarter. A return shall be filed with the Treasurer by those furnishing at retail such rooms, lodging or sites within the Town on or before the same date on which such taxes due and payable upon a form approved by the Town Treasurer. Every person required to file such quarterly forms shall file an annual calendar year return. Such annual return shall be filed within 30 days of the close of each calendar 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 Treasurer requires. The Treasurer may, for good cause, extend the time for filing any return, but in no event longer than one month from the filing date.

§ 40-12. Permit required. ⁵

Every person furnishing rooms, lodging or sites under § 40-10 shall file with the 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 Treasurer. At the time of making an application, the applicant shall pay the Treasurer a fee established by the Town Board for each permit. After compliance with §§ 40-12 and 40-18 by the applicant, the Treasurer shall grant to each applicant a separate permit for each place of business within the Town. Such permit is not assignable and is valid only for the person in whose name it is granted 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. The permit grantee is responsible for payment of the accommodations tax.

§ 40-13. Revocation or suspension of permit. ⁶

When any person fails to comply with this article, the Treasurer may, upon 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 under this article. The Treasurer shall give to such person written notice of the suspension or revocation of any of his permits. The Treasurer shall not issue a new permit after the revocation of a permit until said person complies with the provision of this article. A fee established by the Town Board shall be imposed for the renewal or issuance of a permit which has been previously suspended or revoked.

§ 40-14. Liability of successors.

If any person liable for any amount of tax under this article sells his business or stock of goods or quits the business, his successors or assigns shall be responsible for any unpaid tax due under this article.

§ 40-15. Determination of tax or refund.

The Treasurer may, by office or field audit, determine the tax required to be paid to the municipality 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 other information within the Treasurer's possession.

§ 40-16. Failure to file return. ⁷

If any person fails to file a return as required by this article, the delinquent return shall be subject to a late filing fee as established by the Town Board and published in the annual schedule of fees. In addition, the Treasurer shall make an estimate of the amount of gross receipts under § 40-10. Such estimate shall be made for the period for which such person failed to file a return. On the basis of this estimate, the Treasurer shall compute and determine the amount to be paid to the Town. In addition the Treasurer shall impose a penalty of 12% per annum on the amount due

5. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. III).

6. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. III).

7. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. III).

from the due date until paid.⁸

§ 40-17. 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 Treasurer requires.

§ 40-18. Confidential information.

All tax returns, schedules, exhibits, writings or audit reports relating to such returns on file with the Treasurer are deemed to be confidential, except that the Treasurer may divulge their contents to the following and no others:

- A. This person who filed the return.
- B. Officers or agents of the Town as may be necessary to enforce collection.

§ 40-19. Violations and penalties.⁹

In addition to any other penalties prescribed in this article, any person who is subject to the tax imposed by this article who fails to obtain a permit as required in § 40-12 or who fails or refuses to permit the inspection of his state sales tax records by the Treasurer, after such an inspection has been duly requested, or who fails to file a return as provided in this article or who violates any other provision of this article shall be subject to a forfeiture not to exceed \$200. Each day or portion of thereof that such violation continues is hereby deemed to constitute a separate offense.

ARTICLE V
Refunds of Tax Payments
[Adopted 10-27-1998 by Ord. No. 98-1027]

§ 40-20. Intent.

It is the declared intent of this article that tax payments made in excess of the tax bill amounts shall be refunded pursuant to the procedures established under this article within 15 business days of the payment. Further, it is the declared intent that this policy shall be in full force and effect upon adoption by the Town Board with the purpose of complying with § 74.03(2), Wis. Stats. (as adopted by 1997 Act 315).

§ 40-21. Authority.

This article is adopted pursuant to the authority granted to town boards under § 60.44(2), Wis. Stats., to adopt an alternative claim procedure for approving financial claims against a town which are in the nature of bills and vouchers.

§ 40-22. Duties of Treasurer.¹⁰

⁸. Editor's Note: Original §§ 10 and 11 of Ord. No. 93-1214, which immediately followed this section, were deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. III).

⁹. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. III).

Pursuant to § 60.34, Wis. Stats., upon receipt of tax payments in excess of the tax bill, the Town Treasurer shall deposit as soon as possible all payments in the name of the Town in public depositories designated by the Town Board. Upon verification by the Town Treasurer that the payment as deposited has cleared and not been returned as insufficient funds, but not later than 10 days after depositing, the Treasurer shall notify the Clerk of any overpayment of tax due, who is entitled to a refund due to excess payment, the date payment was received and that funds have cleared and not been returned as insufficient funds.

§ 40-23. Duties of Clerk.

- A. Upon written notification from the Town Treasurer that a payer has made a tax payment in excess of the tax bill amount, the Town Clerk shall issue the normal voucher or authorization for payment of the refund of the excess amount over the tax bill amount upon finding the following:
- (1) Funds are available to pay the bill, assuming the tax payment has cleared and not been returned as is evidenced by the Treasurer's notice.
 - (2) The Town Board has authorized the refund of excess tax payments as established by the adoption of this article.
 - (3) The refund is due in the amount noticed by the Town Treasurer as a tax payment in excess of the amount of the tax bill.
 - (4) The refund is a valid claim against the Town, being a payment in excess of the tax bill amount.
- B. Further the Town Clerk shall prepare monthly, to be submitted to the Town Board at each monthly Board meeting, a list of claims paid under this procedure, listing the amount of the claims, the date paid, the name of the taxpayer/claimant, and that the payment was a refund for excess tax payment.

§ 40-24. Issuance of refund check.

Upon approval of a voucher by the Town Clerk under the procedures listed in § 40-23 of this article, a refund check payable to the taxpayer/claimant named in the voucher and in the amount approved shall be written by the Town Clerk (or the officer preparing the checks) and countersigned by the Town Clerk, Town Treasurer and Town Chairperson, pursuant to § 66.0607, Wis. Stats., and shall be issued not later than 15 business days from the date the tax payment was received by the Town Treasurer as noticed by the Town Treasurer in § 40-22 of this article.

§ 40-25. Mailing or delivery of refund check.

Upon issuance of the proper countersigned refund check, pursuant to the procedures in this article, the refund check shall be delivered to the taxpayer/claimant or mailed to the last known mailing address of the taxpayer/claimant by the Town Treasurer.

ARTICLE VI
Approval of Bills and Vouchers
[Adopted 11-24-1998 by Ord. No. 98-1124]

§ 40-26. Authority.

This article is adopted pursuant to the authority granted to town boards under § 60.44(2), Wis. Stats., to adopt an alternative claim procedure for approving financial claims against a town which are in the nature of bills and vouchers.

§ 40-27. Required procedures.

- A. Payment may be made from the Town treasury under § 66.0607, Wis. Stats., after the Town Clerk reviews and approves in writing, except in the case of payroll timesheets which are approved in writing by department supervisors, each bill or voucher as a proper charge against the treasury, after having determined that:¹¹
- (1) Funds are available under the Town budget to pay the bill or voucher.
 - (2) The item or service covered by the bill or voucher has been duly authorized.
 - (3) The item or service covered by the bill or voucher has been supplied or rendered in conformity with the authorization.
 - (4) The claim appears to be a valid claim against the Town.
- B. Further the Town Clerk shall prepare monthly, to be submitted to the Town Board at the first regular Town Board meeting, a list of claims paid under this procedure, listing the amount of the claims, the date paid, the name of the claimant, and purpose.

§ 40-28. Issuance of check.

Upon approval of a voucher by the Town Clerk under the procedures listed in § 40-27 of this article, a check payable to the claimant named in the voucher and in the amount approved shall be written by the Town Clerk (or the officer preparing the checks) and countersigned by the Town Clerk, Town Treasurer and Town Chairperson, pursuant to § 66.0607, Wis. Stats.

ARTICLE VII
Special Assessments and Charges
[Adopted at time of adoption of Code (see Ch. 1, General Provisions, Art. III)]

§ 40-29. Authority to levy special assessments.

The Town of La Pointe, by resolution of its Town Board, may levy and collect special assessments upon property in a limited and determinable area for special benefits conferred upon such property by any municipal work or improvement and may provide for the payment of all or any part of the cost of the work or improvement out of the proceeds of the special assessments. The amount assessed against any property for any work or improvement which does not represent an exercise of police power shall not exceed the value of the benefits accruing to the

¹¹. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. III).

property therefrom, and for those representing an exercise of police power, the assessment shall be upon a reasonable basis as determined by the Town Board.

§ 40-30. Resolution and report required.

- A. Prior to making any such special assessments, the Town Board shall declare by preliminary resolution the intention to exercise such powers for a stated municipal purpose. Such resolution shall describe generally the contemplated purpose, the limits of the proposed assessment district, and the number of installments in which the special assessments may be paid or that the number of installments will be determined at the hearing required under § 40-33 of this article. Such resolution may limit the proportion of the cost to be assessed.
- B. The report required by Subsection A shall consist of:
 - (1) Preliminary or final plans and specifications.
 - (2) An estimate of the entire cost of the proposed work or improvement.
 - (3) An estimate as to each parcel of property affected of:
 - (a) The assessment of benefits to be levied.
 - (b) The damages to be awarded for property taken or damaged.
 - (c) The net amount of such benefits over damages or the net amount of such damages over benefits.
- C. A copy of the report when completed shall be filed with the Town Clerk for public inspection.

§ 40-31. Costs that may be paid by special assessment.

The cost of any work or improvement to be paid in whole or in part by special assessment on property may include the direct and indirect cost thereof, the damages occasioned thereby, the interest on bonds or notes issued in anticipation of the collection of the assessments, a reasonable charge for the services of the administrative staff of the Town and the cost of any architectural, engineering and legal services, and any other item of direct or indirect cost which may reasonably be attributed to the proposed work or improvement. The amount to be assessed against all property for any such proposed work or improvement shall be apportioned among the individual parcels in the manner designated by the Town Board.

§ 40-32. Exemptions and deductions.

- A. If any property deemed benefited shall, by reason of any provision of law, be exempt from assessment thereof, such assessment shall be computed and shall be paid by the Town.
- B. A parcel of land against which there has been levied a special assessment for the sanitary sewer or water main laid in one of the streets upon which it abuts shall be entitled to such deduction or exemption as the Town Board determines to be reasonable and just under the circumstances of each case when a special assessment is levied for the sanitary sewer or water main laid in the other street upon which such corner lot abuts. Under any

circumstance, the assessment will not be less than the long way of such lot. The Town Board may allow a similar deduction or exemption from special assessment levied for any other public improvement.

§ 40-33. Notice of proposed or approved project.

On the completion and filing of the report required in § 40-30 of this article, the Town Clerk shall give notice stating the nature of the proposed or approved work or improvement, the general boundary lines of the proposed assessment district, the place and time at which the report may be inspected and the place and time at which all interested persons, their agents or attorneys may appear before the Town Board or committee thereof and be heard concerning the matters contained in the preliminary resolution and report. The notice shall be published as a Class 1 notice, under Ch. 985, Wis. Stats., in the official Town newspaper and a copy of the notice shall be mailed at least 10 days before the hearing or proceeding to every interested person whose post office address is known or can be ascertained with reasonable diligence. The hearing shall commence not less than 10 days and not more than 40 days after publication of said notice.

§ 40-34. Board actions after hearing.

- A. After the hearing, the Town Board may approve, disapprove, modify or re-refer the report to the designated officer or employee with such directions as it deems necessary to change the plans and specifications so as to accomplish a fair and equitable assessment.
- B. If an assessment is made against any property and an award of compensation or damage is made in favor of the property, the Town Board shall assess only the difference between such assessment of benefits and the award of compensation or damage.
- C. If the work or improvement has not been previously authorized or approved, the Town Board shall approve the work or improvement and, by resolution, direct that the same be done and paid for in accordance with the report finally approved.
- D. If the work or improvement has been approved by the Town Board or work commenced or completed prior to the filing of the report or prior to the hearing, then the Town Board shall, by resolution, confirm the report as made or modified and provide for payment in whole or in part by assessment.
- E. The Town Clerk shall publish the final resolution as required in § 40-33 of this article.
- F. After the publication of the final resolution, any work or improvement provided for and not yet authorized shall be deemed fully authorized and all awards of compensation or damage and all assessments made shall be deemed duly and properly made, subject to the right of appeal under § 66.0703(12), Wis. Stats., or any other applicable provision of law.

§ 40-35. Combined assessments.

If more than a single improvement is undertaken, the Town Board may combine the assessments as a single assessment on each property affected, except that the property owner may object to any one or more of said improvements.

§ 40-36. Authority to amend, cancel or confirm assessments.

If, after completion or after the receipt of bids, the actual cost of any work or improvement is found to vary materially from the original estimate, or the assessment is void or invalid for any reason, or if the Town Board determines to reconsider an assessment, it is empowered, after giving notice as required in § 40-33, to amend, cancel or confirm any prior assessment, and notice of this amending, canceling, or confirming shall be given by the Town Clerk as provided in § 40-34.

§ 40-37. Where cost of improvement is less than assessment.

If the cost of the work or improvement is less than the assessment levied, the Town Board, without notice or hearing, shall reduce each assessment proportionately. If the assessment has been paid either in part or in full, the Town shall refund the property owner such overpayment.

§ 40-38. Appeal of assessments.

- A. Appeals of special assessments levied under this article shall be made to the Circuit Court in accordance with § 66.0703(12)(a) Wis. Stats.
- B. Pursuant to § 66.0703(12)(f), Wis. Stats., it shall be a condition to the maintenance of any appeal that any assessment appealed shall be paid when due and payable, and upon default in payment any such appeal shall be dismissed.

§ 40-39. Lien on property.

Pursuant to § 66.0703(13), Wis. Stats., any special assessment levied under this article shall be a lien on the property against which it is levied on behalf of the Town. The Town Board shall provide for the collection of such assessments and may establish penalties for payment after the due date. The Town Board shall provide that all assessments not paid by the date specified shall be extended upon the tax roll as a delinquent tax against the property, and all proceedings in relation to the collection of such delinquent taxes shall apply to such assessments, except as otherwise provided by statute.

§ 40-40. Special charges.

- A. In addition to all other methods provided by law, special charges for current services may be imposed by the Town Board by allocating all or part of the cost of the service to the property served. Such service may include snow and ice removal, weed elimination, street sprinkling, oiling, or tarring, repair of sidewalks or curb and gutter, garbage and refuse disposal, recycling, stormwater management, sewer service, tree care or removal, removal and disposition of dead animals and soil conservation work. The Town Board may determine the manner of providing notice of a special charge. Before a special charge for street tarring or repair of sidewalks, curbs or gutters may be imposed, the Town Board shall conduct a hearing on whether the service in question will be funded in whole or in part by special charge. Notice of the hearing shall be given as provided in § 66.0627(3)(b), Wis. Stats.
- B. Such special charges shall not be payable in installments. If not paid within the period fixed by the Town Board, such delinquent charge shall become a lien as provided in § 40-39 of this article.

C. Section 40-30A of this article shall not be applicable to proceedings under this section.

§ 40-41. General provisions.

- A. If any assessment or charge levied under this article is invalid because such statutes are found to be unconstitutional, the Town Board may thereafter reassess such assessment or charge pursuant to the provisions of any applicable law.
- B. The Town Board may, without notice or hearing, levy and assess all or any part of the cost of any work or improvement upon the property benefited if notice and hearing are waived in writing by property owners affected.
- C. Notwithstanding any other provision of law or this article or other ordinance or resolution, it is specifically intended and provided by this article that the Town may levy special assessments for work or improvement against property benefited either before or after the approval of work plans and specifications, contracting for the work or completing the work or improvement.