

WINNEBAGO TRIBAL CODE
TITLE 10

TITLE 10
GENERAL REVENUE AND TAX CODE
(As amended February 17, 2010)

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TABLE OF REVISIONS

The following table is included in this title as a guide for determining whether each article properly reflects the current version. This table will be updated with the revision of each article.

Through usage and supplementation, pages in bound titles can be inserted and removed when sections are revised on an article-by-article basis. This table should be placed before the Table of Contents in the title.

The "Article" column lists each article, and the "Section" column lists any corresponding sections that have been revised, in sequence. The "Revised Date" column reflects the effective date of the revision (e.g., "6/20/15"). If an article is not listed in the table, it has not been revised since the December 2015 Winnebago Tribal Code update and distribution.

<u>Article</u>	<u>Section</u>	<u>Revised Date</u>
2	202	12/22/15 (effective 1/1/16)
3	301	12/22/15 (effective 1/1/16)
5	500, 501	12/22/15 (effective 1/1/16)
6	600-609	12/22/15 (effective 1/1/16)
7	700-701, 703-708	12/22/15 (effective 1/1/16)
10	301	12/22/15 (effective 1/1/17)

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10-101 Citation. This Article may be cited as the Winnebago Tribal Tax Code. [TCR 05-39]

10-102 Purpose. It being necessary to strengthen the Tribal government by licensing and regulating certain conduct within the Tribal jurisdiction, provide financing for the current expenses of Tribal government and the expansion of Tribal government operations and services, and in order for the Tribe to exercise its confirmed governmental responsibilities efficiently and effectively, the purpose of this Article is to provide the straightforward, fair, and efficient procedures, to provide for the licensing and regulation of certain conduct, and the levy and collection of certain revenue and taxes for the benefit of the Winnebago Tribe. [TCR 05-39]

10-103 Tax Commission. There is hereby created, ordained, and chartered under the authority of the Constitution of the Winnebago Tribe of Nebraska a body to be known as the “WINNEBAGO TAX COMMISSION” which shall be a public agency of the Winnebago Tribe of Nebraska subordinate to the Tribal Council, possessing all the powers, duties, rights and functions hereinafter defined and as are now or as may hereafter be conferred upon the Commission by law. [TCR 05-39]

10-104 Composition of the Tax Commission.

1. The membership of the Winnebago Tax Commission shall consist of the Vice-Chairperson of the Tribal Council who shall serve as the Chairperson of the Commission, the Treasurer of the Tribal Council and three (3) members of the Tribe who shall be appointed by the Tribal Council for a period of three (3) years.

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2. Upon the selection of the initial commission members appointed by the Winnebago Tribal Council, the Tribal Council shall choose, by lot, one commissioner who will serve an initial term of one year, one commissioner who will serve an initial term of two years and one commissioner who will serve an initial term of three years. Thereafter, the term of each appointed commissioner shall be for three years. The terms of the Vice-Chairperson and the Treasurer of the Tribal Council shall expire if such commissioner's term as Vice-Chairperson or Treasurer of the Winnebago Tribal Council expires. Subject to the proviso of the preceding sentence, each director shall hold office until the expiration of the term to which he was elected and until his successor has been selected and qualified. Vacancies on the commission shall be filled by the Winnebago Tribal Council.
3. Members of the Tax Commission shall not have or voluntarily acquire during their three (3) year term any personal interest, as hereinafter defined, whether direct or indirect, in any entity owned or operated by the Winnebago Tribe of Nebraska or any Tribal organization.
4. Personal interest shall mean private ownership of an entity that does business with or is operated by the Winnebago Tribe. Employment by an entity owned by the Winnebago Tribe, its agencies, institutions, or entities or by any other person having such an interest shall not be deemed a personal interest by such employee nor shall it be deemed ownership or control of such entity by the employee. Such an employee may be appointed as a member of the Tax Commission so long as net revenues from the operation of the entity accrue to the Tribe generally. [TCR 05-39]

10-105 Seal. The Winnebago Tax Commission is authorized and directed to acquire and use a seal, which shall be of circular form, with the words "TAX COMMISSION" – "WINNEBAGO TRIBE OF NEBRASKA" around the edge and the word "OFFICIAL SEAL" in the center. The seal shall be used on all original and or certified copies of all licenses, orders, rules, regulations and other "official" documents of the Tax Commission as evidence of their authenticity. The seal shall be secured at all times to prevent unauthorized use. [TCR 05-39]

10-106 General Powers of the Tax Commission. The Tax Commission shall generally be charged with the administration and enforcement of all Tribal tax laws. Incidental to the administration or enforcement of the Tribal tax laws, the Tax Commission shall have the power to:

1. Assess, collect and issue receipts for such taxes as are imposed by ordinance or resolution of the Winnebago Tribal Council and to bring actions on behalf of the Tribe in Tribal Court for the collection of Tribal taxes, penalties and interest, and the enforcement of the Tribal tax laws, all such actions shall be styled: The Winnebago Tribe of Nebraska ex rel. Tax Commission vs. _____;
2. Administer oaths, conduct hearings and by subpoena to compel the attendance of witnesses and the production of any books, records and papers of any taxpayer relating to the enforcement of the Tribal tax laws.
3. Make or cause to be made by its agents or employees an examination or investigation of the place of business, equipment, facilities, tangible personal property and the books, records, vouchers, accounts, documents and financial statements of any taxpayer, upon reasonable notice during normal business hours, at any other time agreed to by said taxpayer or at any time pursuant to a search warrant issued and signed by the Tribal Court.
4. Examine under oath either orally or in writing any taxpayer or any agent, officer or employee of any taxpayer or any other witness in respect to any matter relative to the Tribal tax laws.
5. Exercise all other authority delegated or conferred upon it by law or as may be reasonably necessary in the administration or enforcement of any Tribal tax laws.
6. Either before or after the commencement of an action for the recovery of taxes, penalties and interest due to the Tribe, but prior to final judgment thereon, compromise and settle such claims for an amount less than the total amount due, provided that such compromise and settlement shall

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be approved by the Tax Commission only when, in its judgment such action is in the best interest of the Tribe and provided further that no settlement shall be made unless the delinquent taxpayer pays the principal amount of taxes due to the Tribe. [TCR 05-39]

10-107 Rulemaking Authority.

1. The Tax Commission shall have the authority to prescribe, promulgate and enforce written rules and regulations not inconsistent with this Title to (a) provide for its internal operational procedures; (b) to interpret or apply any Tribal tax laws as may necessary to ascertain or compute the tax owed by any taxpayer; (c) for the filing of any reports or returns required by any Tribal tax laws; (d) as shall be reasonably necessary for the efficient performance of its duties; or (e) as may be required or permitted by law.
2. No rule or regulation of the Tax Commission shall be of any force or effect until and unless a certified copy of said rule or regulation bearing the signatures of at least two (2) members of the Tax Commission and the “official seal” of the Tax Commission shall have been filed for record in the office of the Tribal Council Secretary and the office of the Clerk of the Tribal Court.
3. The Tribal Court shall take judicial notice of all rules and regulations of the Tax Commission promulgated pursuant to this Title. [TCR 05-39]

10-108 Forms. The Tax Commission may prepare and make available to the public such standard forms as are or may be necessary to carry out its function and which are not otherwise provided by this Title. [TCR 05-39]

10-109 Tax Stamps and Licenses.

1. The Tax Commission shall provide for the form, size, color and identifying characteristics of all licenses, permits, tax stamps, tags, receipts or other documents or things evidencing receipt of any license or payment of any tax or fee administered by the Tax Commission or otherwise showing compliance with the tax laws of the Winnebago Tribe of Nebraska.
2. Such stamps or licenses shall contain at least the following information:
 - a. The words: “Winnebago Tribe.”
 - b. The words: “Tax Commission.”
 - c. The monetary amount for which the tax or license was issued.
 - d. Wording which indicates the type of tax imposed.
 - e. If the instrument is a license, permit or receipt, wording indicating the type of license, permit or receipt, its effective dates and the name and address of the taxpayer to whom issued.
3. The Tax Commission shall provide for the manufacture, delivery, storage and safeguarding of such stamps, licenses, permits, tags, receipts or other documents and shall safeguard such instruments against theft, counterfeiting and improper use.
4. When the Tax Commission deems it necessary to do so, it may allow the use of metering devices in lieu of paper stamps under such rules and regulations as it shall prescribe.
5. The Tax Commission may exchange new stamps for damaged, out of date or otherwise unusable stamps under such rules and regulations as the Tax Commission shall prescribe. [TCR 05-39]

10-110 Records.

1. The Tax Commission shall keep and maintain accurate, complete and detailed records that reflect all taxes, penalties and interest levied, due and paid, all licenses issued and each and every official transaction, communication or action of the Commission.

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2. Such records shall be maintained at the office of the Tax Commission and shall not be removed from said office without the written permission of the Tax Commission.
3. Such records shall be subject to audit at any time at the direction of the Tribal Council and shall be audited not less than once each year.
4. Any and all records of the Tax Commission, except the record of an official decision or opinion rendered upon administrative appeal, which relate to the individual business or personal activities of a named particular taxpayer or taxpayers shall not be open to public inspection and shall only be released upon written request of the taxpayer involved, written request of Tribal officials who have a legitimate official need for such records or upon the written order of the Tribal Court.
5. Any record of the Tax Commission which does not relate to the individual business or personal activities of a named particular taxpayer or taxpayers and all decisions or opinions rendered upon an administrative appeal shall be public records of the Tax Commission and shall be available for public inspection during regular business hours. Copies of such records may be obtained by submitting a signed written request and upon payment of such copying costs as may be established by rule of the Tax Commission, provided, that the names and other forms of identification of any taxpayer appearing in such record shall be rendered unreadable prior to issuance of such copy unless the provisions of subsection (d) above would allow release of such information. [TCR 05-39]

10-111 Bookkeeping. There shall be established and kept, within the Finance Department of the Winnebago Tribe and subject to the current Indirect Cost rate, such financial records/books as may be necessary under generally accepted accounting standards to adequately account for all funds and monies received and disbursed by the Tax Commission. Separate accounting books shall be maintained for each type of tax imposed and collected under this Title. [TCR 05-39]

10-112 Collection Account; Deposits.

1. There is hereby authorized to be established an account in a federally insured financial banking institution to be known as the Winnebago Tax Collection Account. Tax funds may be kept in an existing federally insured Tribal account provided separate accounting books, clearly designated as Winnebago Tax Collection Funds, are maintained in accordance with generally accepted accounting standards.
2. Tax revenues shall be kept in an interest bearing account and the funds may be invested and reinvested as may be deemed necessary and approved by the Tribal Council.
3. No monies shall be expended from this fund except upon written resolution of the Tribal Council appropriating a specific amount or source of monies contained therein for the use of a particular department, agency, program or project of the Tribe or in accordance with an approved Tax Commission budget as set forth in Section 10-113. Expenditures from this fund will be made utilizing current procedures established by the Tribal Finance Department.
4. All tax monies, license fees, penalties, interest, service fees/charges or other funds collected by the Tax Commission in the administration and enforcement of the Title shall be clearly identified and submitted to the Tribal Finance Department for deposit in this account for the benefit of the Winnebago Tribe. The receipt for such funds shall be maintained as an original record and attached to or reconciled with any original tax returns or records of receipt of the Tax Commission. [TCR 05-39]

10-113 Tax Commission Employees and Expenses.

1. The Tax Commission may employ such employees and incur such expense as may be necessary and reasonable for the proper discharge of its duties under this Title, subject to the limitations and restrictions herein set out.

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2. The Tax Commission shall, to the maximum extent feasible, utilize regular Tribal staff in exercising the duties and responsibilities set out in this Title. The Tax Commission shall coordinate with and obtain approval from Tribal Administration to delegate to Tribal staff such of its functions as may be necessary to efficiently administer this Title. Any such delegation of functions by the Tax Commission shall be done by rule, provided that the Commission's rulemaking authority may not be delegated.
3. Tribal Administration is authorized and directed to cause such regular staff assistance, as is feasible, to be given to the Tax Commission.
4. The Tax Commission shall prepare and submit to the Tribal Council a proposed line item budget for the next fiscal year no later than the deadline established in each year by the Tribal Council Treasurer for regular Tribal appropriation requests. The total amount dispersed by the Tax Commission in any one fiscal year may not exceed the amount appropriated by the Tribal Council.
5. The fiscal year for operation of the Tax Commission shall begin on October 1 of each year and end on September 30 of the following year.
6. The Tax Commission may require each staff person who shall be required to handle monies, revenue, tax stamps or who shall be responsible therefore to be insured under the Tribal insurance policy, in such amounts as may be fixed by the Tax Commission.
7. The Tribal Council may require each of the Tax Commission members who shall be required to handle monies, revenue or stamps to be insured under the Tribal insurance policy in an amount to be determined by the Tribal Council.
8. The premiums for the insurance required in (6) and (7) of this Section shall be paid from funds authorized in the Tax Commission budget. [TCR 05-39]

10-114 Nepotism.

1. It shall be unlawful for the Tax Commission to employ any person related to any member of the Tax Commission by blood or marriage within the third degree to any office within the Tax Commission or to any position as an outside or independent contractor. This provision shall not prohibit any officer, appointee or employee already in the service of the Tax Commission from continuing or being promoted after the appointment or election of a relative to membership on the Tax Commission as provided by law.
2. The Tribal Council may provide a waiver of this Section by two-thirds (2/3) majority vote in individual cases at the written request of the Tax Commission, if the Tribal Council determines such waiver to be in the best interest of the Tribe. [TCR 05-39]

10-115–119 Reserved. [TCR 05-39]

10-120 Collection of Taxes.

1. All taxes payable under this Article shall be tendered to the Winnebago Tax Commission, who shall promptly issue receipt.
2. The Tax Commission shall establish such rules and procedures as may be necessary to assess taxes, provide notice to taxpayers and collect monies owed. [TCR 05-39]

10-121 Collection of Delinquent Taxes. The Tax Commission is hereby authorized to bring legal action in any appropriate Court as necessary for the collection of any taxes, penalties and interest assessed and unpaid by any taxpayer. Such action shall be civil in nature and all penalties and interest shall be in the form of civil damages for non-payment of taxes. Any and all civil remedies, including but not limited to garnishment, seizure, attachment and execution shall be available for the collection of any monies due the Tribe. The Tax Commission may request the Attorney General of the Tribe to bring any and all

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necessary actions for the collection of any taxes, penalties and interest assessed and unpaid against any taxpayer. [TCR 05-39]

10-122 Other Remedies.

1. In addition to the remedies available for the collection of monies, the Tax Commission is authorized to bring in any appropriate Court an action to enjoin the beginning or operation of any unlicensed business, activity or function where and when Tribal tax law requires a license to be issued for such business, activity or function.
2. In addition to the remedies available for the collection of monies, the Tax Commission is authorized through its members and/or staff, when accompanied by a law enforcement officer and an order issued by the Tax Commission to seize any property declared contraband by any section of this Title or upon which any tax levied is in excess of 60 days past due or delinquent under the same conditions, limitations and exceptions as evidence of crimes may be searched for and seized, provided that within ten (10) working days of such seizure, the Tax Commission shall cause to be filed an action against said property alleging the non-payment of tax or other lawful reason for such seizure and forfeiture. The Court, upon proof, shall order such property forfeited for non-payment of taxes and title/ownership thereto is vested in the Winnebago Tribe, provided that any person claiming ownership, the right of possession or other interest in said property may intervene in said action and raise any defenses they may have. Such persons shall be served with process, if they are known prior to the beginning of the action, provided further, that such persons may redeem said property at any time prior to final judgment of forfeiture by depositing all taxes, penalties and interest assessed or owing with the Court. [TCR 05-39]

10-123 Inventory of Seized Property. Whenever an authorized person pursuant to Section 10-122 of this Title seizes any property, he/she shall inventory and appraise such property and leave a written copy thereof with the person from whom it was seized or, if such person cannot be found, a copy shall be posted at the place from which the property was seized. The original of said inventory shall be retained in the Tax Commission office and a copy provided to the Tribal Attorney General. [TCR 05-39]

10-124 Public Sale of Forfeited Property.

1. Upon a final order of forfeiture entered by the Tribal Court, the Tax Commission shall circulate and post for public inspection an inventory of said property. This posting shall identify the date and time for the sale of said property to the highest bidder.
2. The order of forfeiture tax sale notice shall be posted for a minimum of twenty (20) days prior to the date of sale and the notice shall also be published at least once in the local newspaper.
3. The property shall be sold to the highest bidder at a public auction with the sale to be held at the administrative office building of the Tax Commission.
4. All revenue derived from the sale shall be deposited in the Tax Collection Account.
5. The Tax Commission may conduct sales at such times as it deems sufficient property has accumulated to make such sale beneficial to the Tax Commission and the taxpayer.
6. The seizure and forfeiture of contraband property shall not reduce or eliminate the tax liability of any person from whom such property was seized. The funds derived from the sale of all other property shall be applied to payment of the interest and penalties first, then to the tax due. If the funds derived from the sale do not satisfy the total amount of interest, penalties and tax due, then the taxpayer remains liable for the balance due the Tax Commission. In no circumstance shall the taxpayer receive any excess funds received from the sale after the interest, penalties and tax obligations have been satisfied, and any and all remaining funds shall become the property of the Tribe. [TCR 05-39]

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10-125 Exempt Property. The following property shall be exempt from garnishment, attachment, execution and sale for the payment of taxes, penalties and interest due to the Tribe:

1. Three-fourths (3/4) of the net wages earned per week by the taxpayer.
2. One automobile with the fair market value equity not exceeding five thousand dollars (\$5000.00).
3. Tools, equipment, utensils or books necessary to the conduct of the taxpayer's business or activities, but not including stock or inventory.
4. Actual Trust or Restricted title to any lands held in trust by the United States or subject to restrictions against alienation imposed by the United States, but not including leasehold and other possessor interests in such property.
5. Any dwelling used as the actual residence of the taxpayer including up to five acres of land upon which such dwelling is located whether such dwelling is owned or leased by the taxpayer.
6. Household goods, furniture, wearing apparel and personal effects, but not including televisions, radios, stereo equipment, tape recorders, more than two (2) firearms, works of art and other recreational or luxury items.
7. All domesticated animals.
8. All implements of farming used on the property.
9. All traditional, ceremonial and/or religious items. [TCR 05-39]

10-126–10-150 Reserved. [TCR 05-39]

10-151 Administrative Appeals. Any taxpayer against whom the Tax Commission has assessed taxes, penalties or interest pursuant to the tax law of the Winnebago Tribe of Nebraska or who has paid under written protest any taxes, penalties and interest assessed by the Tax Commission who believes those taxes, penalties and interest to be wrongfully assessed or collected may appeal in writing for a hearing before the full Tax Commission under such rules and regulations as the Tax Commission may prescribe. [TCR 05-39]

10-152 Limitations on Administrative Appeals. Any administrative appeal as provided for in Section 151 of this Title must begin by filing a written request for a hearing with the Tax Commission within sixty (60) days of the assessment or payment of the taxes, penalties or interest in controversy, provided that failure to file an administrative appeal shall not prevent the taxpayer from defending any collection action by the Tax Commission in Tribal Court. [TCR 05-39]

10-153 Exhaustion of Administrative Remedies.

1. All administrative remedies shall be deemed exhausted upon a final decision of the Tax Commission of an appeal pursuant to Section 10-151 of this Title.
2. If the Tax Commission shall fail to schedule and hold a hearing on the merits of the administrative appeal within sixty (60) days after receipt of a written request for a hearing, unless a delay is requested or approved by the taxpayer.
3. If the Tax Commission shall fail to issue a written decision on said appeal within thirty (30) days of the hearing on the merits of the taxpayer's administrative appeal. [TCR 05-39]

10-154 Suits Against the Tax Commission.

1. The Tax Commission, as a governmental agency of the Winnebago Tribe of Nebraska, its Commissioners, and employees, shall be immune from any suit in law or equity while performing their lawful duties within the authority delegated to them.
2. Notwithstanding subsection (1), any taxpayer or other person against whom the Tax Commission has assessed taxes, penalties or interest or who has paid under protest any taxes, penalties or

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interest, may bring an action in Tribal Court after exhaustion of administrative remedies for the purpose of enjoining the Tax Commission from collecting any taxes, penalties or interest assessed or for the recovery of any taxes, penalties or interest paid under written protest which the Tribal Court determines to have been wrongfully assessed or collected. [TCR 05-39]

10-155 Limitations on Suits Against the Tax Commission.

1. Any suit against the Tax Commission authorized by Section 10-154 must be commenced by filing a petition in Tribal Court within thirty (30) days after the days of exhaustion of administrative remedies.
2. In no event shall the Court be authorized to award or order the payment of damages or to fashion any remedy except to enjoin the collection or order the return of the taxes, penalties or interest in controversy unless an additional remedy is specifically provided by this Title.
3. All amounts found to have been wrongfully collected and refundable shall earn simple interest at five percent (5%) per annum until refunded. [TCR 05-39]

10-156 Refunds to Taxpayers. Whenever any taxpayer shall establish in administrative or Court proceedings that they are entitled to a refund of any taxes, penalties or interest previously paid, the Tax Commission shall immediately refund all taxes, penalties and interest specified in the administrative or Court order. [TCR 05-39]

10-157–10-180 Reserved. [TCR 05-39]

10-181 Forgery of Stamps or other tax instruments. Any person or taxpayer who without authorization of the Tax Commission, falsely or fraudulently forges, embezzles, steals, knowingly converts, knowingly misapplies or permits to be applied or counterfeits any stamps, tags, licenses or other instrument evidencing payment of taxes prescribed for use in this Title or who shall use, pass, tender as true or otherwise be in possession of any unauthorized, false, altered, forged, counterfeited or previously used instrument for the purpose of evading the payment of taxes imposed by this Title shall forfeit a civil penalty as provided in Section 10-188 of this Title. Each such counterfeited, embezzled, stolen, converted, misapplied or forged stamp or other instrument shall each constitute a separate violation. [TCR 05-39]

10-182 Offenses. Any person or taxpayer who violates any provision of the Title for the purpose of evading the payment of taxes shall be guilty of an offense punishable by imprisonment for a term not to exceed three (3) months and/or a fine not to exceed Five Hundred (\$500.00) dollars or both such imprisonment and fine for each separate violation. [TCR 05-39]

10-183 General Penalties. Any person or taxpayer who files any false report or return or who fails to file any report or return or who otherwise violates any provisions of this Title for the purpose of evading the payment of taxes imposed by this Title shall forfeit a civil penalty of not more than Five Hundred (\$500.00) dollars for each such violation in addition to any other penalties prescribed by law. [TCR 05-39]

10-184 Referrals for Federal Prosecution. It shall be the duty of all members of the Tax Commission, the Tribal Attorney General and any law enforcement officer upon receiving reliable information that probable cause may exist to believe that any person or taxpayer has violated Section 10-181 of this Title to report the facts to the appropriate Federal officials and to request that a federal investigation be commenced to determine whether 18 U.S.C. Section 1163, Embezzlement and Theft from Indian Tribal Organizations, has been violated. [TCR 05-39]

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10-185 Interest. All taxes, fees, or other charges of the Tax Commission not paid when due shall bear interest at the rate of twelve percent (12%) per annum from the date said taxes or fees became due until the date they are paid in full. [TCR 05-39]

10-186 Commencement of Actions. Filing a written request for refund with the Tax Commission shall commence an action for a refund within the meaning of the civil statute of limitations, if such request is diligently prosecuted under the law. [TCR 05-39]

10-187 Taxes Erroneously paid. Taxes erroneously paid due to mistake of fact or law may be refunded upon application even though no written protest was made at the time of payment. The taxpayer shall file an application for refund with the Tax Commission. The taxpayer may also appeal the determination of the Tax Commission to the Tribal Court. [TCR 05-39]

10-188 Penalties.

1. Any Person who knowingly files any false report or return, or who knowingly fails to file any report or return, or who otherwise knowingly violates any provisions of this Title shall pay a civil penalty of five hundred dollars (\$500) per occurrence.
2. Any person liable for taxes under this Title who shall fail to collect the taxes imposed by this Title shall be liable for the full amount of the taxes owed plus penalties and interest at the statutory rate until paid.
3. Any person liable for taxes under this Title and who willfully fails to collect or remit the taxes imposed by this Article shall be liable for the amount of the taxes plus an additional penalty of one hundred percent of the taxes due plus interest at the statutory rate until paid.
4. If payment of any tax due is not received by the Tax Commission by the last day of the month in which the tax becomes due, there shall be assessed a penalty of five percent (5%) of the amount of the tax; if the tax is not received by the last day of the month next succeeding the month in which the due date falls, there shall be assessed a total penalty of ten percent (10%) of the amount of the tax; and if the tax is not received by the last day of the second month next succeeding the month in which the due date falls on, there shall be assessed a total penalty of twenty percent (20%) of the amount of tax. No penalty so added shall be less than Twenty-Five Dollars (\$25.00). [TCR 05-39, 10-56]

10-189 Records. Every person shall maintain complete and adequate records demonstrating compliance with this Article for not less than two years. [TCR 05-39]

WINNEBAGO TRIBAL CODE
TITLE 10 ARTICLE 2

TITLE 10
ARTICLE 2
SALES TAX

10-200	Definitions.	10-203	Impact of tax.
10-201	Tax on sales of goods.	10-204	Payment of tax.
10-202	Exceptions.	10-205	Permit System.

10-200 Definitions.

1. “Consumer” is defined to mean and include any Person, regardless of race, who consensually purchases, receives or comes into possession of goods from a Retailer located within the exterior boundaries of the Winnebago Reservation.
2. “Goods” is defined to mean and include all tangible personal property of every kind and description. “Goods” shall not include any natural or artificial gas, electricity, water, or any other utility or public service by telephone and telegraph companies or services and rental charges having any connection with the transmission of any messages.
3. “Non-Taxable Retailer” is defined to mean and include small or home-based Retailers with annual sales of less than \$10,000 or with continuous operation of less than seven days in duration, including but not limited to vendors at powwows or similar cultural events, school concession stands, community-based fundraisers, and local food vendors.
4. “Person” is defined to mean and include any natural person, company, Tribally-owned corporation, partnership, corporation, commission, government agency, joint venture, association, trust, or other political or identifiable entity to which this Article can be applied.
5. “Retailer” is defined to mean and include any Person in the ordinary course of business who sells or rents any goods within the exterior boundaries of the Winnebago Reservation to another Person.
6. “Sale” or “sales” or their derivatives is defined to mean and include all sales, barter, trades, exchanges, or other transfers of ownership for value of Goods from a Retailer to any Person no matter how characterized and the rental, leasing, or other transfer of actual or constructive possession and right to use Goods for value received from a Retailer to any Person no matter how characterized. [TCR 05-39]

10-201 Tax on sales of goods. There is hereby levied upon the Sale of Goods within the exterior boundaries of the Winnebago Reservation a tax equal to five percent (5%) of the actual sales price thereof exclusive of any rebate. If a sale is consummated by trade, barter, or exchange for anything other than money, the tax shall be computed at the fair market value of the property sold. [TCR 05-39]

10-202 Exceptions. The tax imposed by Section 10-201 of this Article shall not apply to Sales by Non-Taxable Retailers or to the Sale of gasoline, tobacco, prepackaged foodstuffs, medical supplies, medicines or pharmaceutical products, tickets or admissions to events, entry fees, or Class III games of chance. The tax shall apply to the sale of prepared foods, the rental of hotel rooms, and to the proceeds of all live Class II Bingo activities including the sale of bingo supplies and upon the gaming activity itself. [TCR 05-39, 16-37]

10-203 Impact of tax. The impact of the tax levied imposed by Section 10-201 of this Article is declared to be on the Consumer and shall be added to the purchase price of the goods sold and recovered from the Consumer. [TCR 05-39]

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10-204 Payment of tax. Every Retailer shall submit to the Winnebago Tax Commission twenty days following the end of each month in which the sale of goods occurred a report showing the gross amount of the sale of goods made by said Retailer and the amount of tax collected pursuant to Section 10-201 of this Article. Every Retailer shall remit the taxes collected pursuant to Section 10-201 of this Article at the same time the report is submitted. [TCR 05-39]

10-205 Permit System. The Winnebago Tax Commission is hereby authorized to establish, by rule, a sales tax permit system for all Retailers to aid in enforcement of this Article. [TCR 05-39]

WINNEBAGO TRIBAL CODE
TITLE 10 ARTICLE 3

TITLE 10
ARTICLE 3
GASOLINE TAX

10-300	Definitions.	10-303	Impact of tax.
10-301	Tax on sales of gasoline.	10-304	Collection of tax.
10-302	Exceptions.	10-305	Payment of tax.

10-300 Definitions.

1. “Consumer” is defined to mean and include any Person, regardless of the race of the Person, who consensually purchases, receives or comes into possession of gasoline from a Retailer located within the exterior boundaries of the Winnebago Reservation.
2. “Person” is defined to mean and include any natural person, company, Tribally-owned corporation, partnership, corporation, commission, government agency, joint venture, association, trust, or other political or identifiable entity to which this Article can be applied.
3. “Retailer” is defined to mean and include any Person in the ordinary course of business who sells any gasoline within the exterior boundaries of the Winnebago Reservation to another Person.
4. “Sale” or “Sales” or their derivatives is defined to mean and include all sales, barter, trades, exchanges, or other transfers of ownership for value of gasoline from a Retailer to any Person no matter how characterized and the rental, leasing, or other transfer of actual or constructive possession and right to use gasoline for value received from a Retailer to any Person no matter how characterized.
5. “Tribal Wholesaler” is defined as a Person who in the ordinary course of business sells gasoline to Retailers or Persons intended for the sale or use within the exterior boundaries of the Winnebago Reservation. [TCR 05-39]

10-301 Tax on sales of gasoline. There is hereby levied upon the sale of gasoline by a Tribal Wholesaler for sales within the exterior boundaries of the Winnebago Reservation a tax equal to six (\$0.06) per gallon of gasoline sold exclusive of any rebate. [TCR 05-39, 16-38]

10-302 Exceptions.

1. The tax imposed by Section 10-301 of this Article shall not apply in the applicable jurisdiction if the Winnebago Tribe has entered into an agreement or compact regarding fuel tax with the States of Nebraska or Iowa. Where applicable such agreement or compacts shall super cede Section 10-300, et al., however, the amount of tax, including any consumer rebates, collected and paid under any agreement or compact to the Tribe shall be the amount described in Section 10-301.
2. The tax imposed by Section 10-301 shall not apply to sales to Persons, customers, retailers or other wholesalers who intend to sell the product outside the exterior boundaries of the Winnebago Reservation. [TCR 05-39]

10-303 Impact of tax. The impact of the tax levied imposed by Section 10-301 of this Article is declared to be on the Tribal Wholesaler. [TCR 05-39]

10-304 Collection of tax. The Tribal Wholesaler shall collect the applicable taxes when selling to a Retailer or Persons under this Article or pursuant to any agreement or compact described in Section 10-302. [TCR 05-39]

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TITLE 10 ARTICLE 3

10-305 Payment of tax. Every Tribal Wholesaler shall submit to the Winnebago Tax Commission within twenty days following the end of each month in which the sale of gasoline occurred a report promulgated by the Winnebago Tax Commission for the Winnebago Tribe of Nebraska showing the gross amount of the sale of gasoline made by said Tribal Wholesaler, the gross amount of gasoline subject to Section 10-302 of this Article and the amount of tax collected pursuant to Sections 10-301 and 10-302 of this Article. Every Tribal Wholesaler shall remit the taxes collected pursuant to Section 10-301 of this Article and any compacts or agreements described under Section 10-302 of this Article to the Winnebago Tax Commission at the same time the report is submitted. [TCR 05-39]

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TITLE 10 ARTICLE 4

TITLE 10
ARTICLE 4
CONSTRUCTION TAX

10-400	Definitions.	10-403	Payment Requirements.
10-401	Construction Tax.	10-404	Material Purchase Certificates.
10-402	Subcontractors.	10-405	State and Local Taxation.

10-400 Definitions.

1. "Construction Activities" means the performance of a contract for the construction repair or improvement of property, and includes but is not limited to constructing, building, erecting, repairing, grading, excavating, drilling, exploring, testing or adding to any building, highway, street, sidewalk, bridge, culvert, sewer, irrigation or water system, or any part thereof, power plant, electrical system, air conditioning system, heating system, transmission line, pipeline, tower, excavation, grading, water well, any other improvement or structure or any part thereof when the compensation received exceeds Twenty Five Thousand Dollars (\$25,000.00). Such activities shall not include constructing, repairing or adding to property which retains its identity as personal property.
2. "Person" is defined to mean and include any natural person, company, Tribally-owned corporation, partnership, corporation, commission, government agency, joint venture, association, trust, or other political or identifiable entity to which this Article can be applied.
3. "Prime contractor" means any person who is awarded a contract by a public employer for the physical performance of services within the jurisdiction of the Tribe.
4. "Subcontractor" means a person who has contracted with a prime contractor or with another subcontractor to perform a contract.
5. "Tribe" means the Winnebago Tribe of Nebraska. [TCR 10-55]

10-401 Construction Tax. Upon every person engaging or continuing in the business of contracting or performing a contract for or engaging in any non-residential Commercial for-profit construction activities for a price, commission, fee or wage on land within the jurisdiction of the Tribe, there is hereby levied, assessed and shall be collected a tax equal to three percent (3%) of the total contract price or compensation received, including all charges related to the contract such as change orders, finance charges and late charges, from such construction activities. The tax imposed in this Section is levied upon and shall be paid by the prime contractor. [TCR 10-55]

10-402 Subcontractors. When the work to be performed under any contract is sublet by the prime contractor to different persons, or in separate contracts to the same persons, each such subcontractor performing any part of said work shall be liable for the amount of the tax which accrues on account of the work performed by such person when the tax heretofore imposed has not been paid upon the whole contract by the prime contractor. [TCR 10-55]

10-403 Payment Requirements. Any prime contractor entering into any contract subject to the Construction Tax shall, before beginning the performance of such contract or contracts, either pay the Construction Tax in advance or execute and file with the Tax Commission a good and valid bond from a surety company authorized to do business in any state and approved by the Tax Commission conditioned on and ensuring that all taxes which may accrue to the Tribe will be paid when due. Such bonds shall be either (a) "job bonds" which guarantee payment when due of the aforesaid taxes resulting from performance of a specified job or activity regardless of date of completion; or (b) "blanket bonds" which guarantee payment when due of the aforesaid taxes resulting from performance of all jobs or activities

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taxable under this Section begun during the period specified therein, regardless of date of completion. The payments of the taxes due or the execution and filing of a surety bond shall be a condition precedent to the commencing work on any contract taxed hereunder. Provided, that when any bond is filed in lieu of the prepayment of the tax under this Section, that the tax shall be payable monthly on the amount received during the previous month.

Any person failing either to execute any bond herein provided, or to pay the taxes in advance, before beginning the performance of any contract shall be denied the right to perform such contract until such person complies with such requirements, and the Tax Commission is hereby authorized to proceed either under Article I of the Tax Code or by injunction to prevent any activity in the performance of such contract until either a satisfactory bond is executed and filed, or all taxes are paid in advance, and a temporary injunction enjoining the execution of or commencement of work under such contract shall be granted without notice by any judge authorized by law to grant injunctions. [TCR 10-55]

10-404 Material Purchase Certificates. Any person liable for a tax under this Section may apply for and obtain a material purchase certificate from the Tax Commission which may entitle the holder to purchase materials and services that are to become a component part of the structure to be erected or repaired with no sales or use taxes due. Provided, that the contractor applying for the contractor's material purchase certificate shall furnish the Tax Commission a list of all work sublet to others, indicating the amount of work to be performed, and the names and addresses of each subcontractor. [TCR 10-55]

10-405 State and Local Taxation. The tax imposed under this Title shall be in lieu of all other state or local sales or use taxes. To ensure against state or local taxation, the Tribe may require any person liable for the tax due hereunder to purchase component materials or supplies from or through Tribal suppliers, to be delivered FOB Winnebago Indian Reservation. In all contracts where the Tribe or a Tribal entity is a party, the contract shall include a clause requiring that all materials and supplies be purchased by or through the Tribe or a Tribal entity and delivered FOB Winnebago Indian Reservation. [TCR 10-55]

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TITLE 10 ARTICLE 5

TITLE 10
ARTICLE 5
BINGO TAX
[Repealed January 1, 2016]
[TCR 05-39, 16-39]

WINNEBAGO TRIBAL CODE
TITLE 10 ARTICLE 6

TITLE 10
ARTICLE 6
TOBACCO TAX

10-600	Definitions.	10-605	Wholesale Exceptions.
10-601	Sales of Tribal Cigarettes.	10-606	Impact of Tax.
10-602	Internet Sales of Tribal Cigarettes.	10-607	Tax Collection.
10-603	Other Tribal Tobacco Products.	10-608	Payment of Tax.
10-604	Compact Exceptions.	10-609	Effective Date.

10-600 Definitions. The following words have the meanings given below when used in this Title 10, Article 6.

1. “Cigarette” means any product that contains nicotine, is intended to be burned or heated under ordinary conditions of use, and consists of or contains any roll of tobacco wrapped in paper or in any substance not containing tobacco.
2. “Consumer” is defined to mean and include any Person, regardless of the race of the Person, who consensually purchases, receives or comes into possession of a Tribal Cigarettes or other tribal tobacco products from a Winnebago Retailer or Winnebago Internet Retailer located within the exterior boundaries of the Winnebago Reservation.
3. “Internet Sale” or “Internet Sales” is defined to mean and include all sales, barter, trades, exchanges, or other transfers of ownership for value of Tribal Cigarettes or other tribal tobacco products from an Internet Retailer to any Person or Consumer for shipment to an address outside the exterior boundaries of the Winnebago Reservation. The locus of an Internet Sale occurs within the Winnebago Reservation at the time the transaction is processed.
4. “Internet Tribal Tax Stamp” is defined as an officially approved tax stamp of the Winnebago Tribe that is applied to all tobacco packages intended for sale by a Winnebago Internet Retailer. The Internet Tribal Tax Stamp shall be a distinct color from the Tribal Tax Stamp.
5. “Other Tribal Tobacco Product” means any product made from or containing tobacco that is not a Cigarette and is sold by a Tribal Wholesaler to a Winnebago Retailer or Winnebago Internet Retailer and does not have another government jurisdiction’s tax applied to such product. The definition of Tribal Cigarettes does not include products sold by a Tribal Wholesaler to Persons, customers, retailers or other wholesalers who intend to resell the product outside the exterior boundaries of the Winnebago Reservation.
6. “Person” is defined to mean and include any natural person, company, tribally-owned corporation, partnership, corporation, commission, government agency, joint venture, association, trust, or other political or identifiable entity to which this Article can be applied.
7. “Sale” or “Sales” or their derivatives is defined to mean and include all sales, barter, trades, exchanges, or other transfers of ownership for value of Tribal Cigarettes or Other Tribal Tobacco Products from a Winnebago Retailer to any Consumer or Person no matter how characterized and the rental, leasing, or other transfer of actual or constructive possession and right to use Tribal Cigarettes or Other Tribal Tobacco Products for value received from a Winnebago Retailer to any Person no matter how characterized.
8. “Tribal Tax Stamp” is defined as an officially approved tax stamp of the Winnebago Tribe that is applied to all tobacco packages intended for sale by a Winnebago Retailer.
9. “Tribal Cigarettes” is defined as all cigarettes sold by a Tribal Wholesaler to a Winnebago Retailer or Winnebago Internet Retailer that do not have another government jurisdiction’s tax stamp already affixed to the cigarette package. The definition of Tribal Cigarettes does not include products sold by a Tribal Wholesaler to Persons, customers, retailers or other wholesalers who intend to resell the product outside the exterior boundaries of the Winnebago Reservation.

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10. “Tribal Wholesaler” is defined as a Person who, in the ordinary course of business, sells Tribal Cigarettes or other tobacco products to Winnebago Retailers or Persons intended for the sale or use within the exterior boundaries of the Winnebago Reservation or to Winnebago Internet Retailers intended for shipment to a Person or Consumer at an address outside the exterior boundaries of the Winnebago Reservation.
11. “Winnebago Internet Retailer” is defined to mean and include any Person in the ordinary course of business who sells any Tribal Cigarettes or Other Tribal tobacco Product within the exterior boundaries of the Winnebago Reservation to another Person by shipping to an address outside the exterior boundaries of the Winnebago Reservation.
12. “Winnebago Retailer” is defined to mean and include any Person in the ordinary course of business who sells any Tribal Cigarette or Other Tribal tobacco Product within the exterior boundaries of the Winnebago Reservation to another Person. [TCR 05-39, 16-40]

10-601 Sales of Tribal Cigarettes. There is hereby levied upon the sale of Tribal Cigarettes by a Tribal Wholesaler for Sales within the exterior boundaries of the Winnebago Reservation a tax equal to five cents (\$0.05) per pack of cigarettes sold exclusive of any rebate. Such products are required to have the Tribal Tax Stamp affixed to them. [TCR 05-39, 16-40]

10-602 Internet Sales of Tribal Cigarettes. There is hereby levied upon the sale of Tribal Cigarettes by a Tribal Wholesaler for Internet Sales a tax equal to five cents (\$0.05) per pack of cigarettes sold exclusive of any rebate. Such sales shall include surplus Tribal Cigarette products sold locally by a Winnebago Internet Retailer. Such products are required to have the Internet Tribal Tax Stamp affixed to them. [TCR 05-39, 16-40]

10-603 Other Tribal Tobacco Products. There is hereby levied upon the sale of Other Tribal Tobacco Products a tax equal to 10% of its wholesale price. [TCR 16-40]

10-604 Compact Exceptions. The tax imposed by Section 10-601 of this Article shall not apply in the applicable jurisdiction if the Winnebago Tribe has entered into an agreement or compact regarding tobacco tax with the States of Nebraska or Iowa. Where applicable, such agreement or compacts shall supercede Section 10-600, et al., however, the amount of tax, including any consumer rebates, collected and paid under any agreement or compact to the Tribe shall be the amount described in Section 10-601. [TCR 05-39, 16-40]

10-605 Wholesale Exceptions. The taxes imposed by this Article shall not apply to sales to Persons, customers, retailers or other wholesalers who intend to sell the product outside the exterior boundaries of the Winnebago Reservation. [TCR 05-39, 16-40]

10-606 Impact of Tax. The impact of the taxes levied by this Article is declared to be on the Tribal Wholesaler. [TCR 05-39, 16-40]

10-607 Tax Collection. The Tribal Wholesaler shall collect the applicable taxes when selling to a Winnebago Retailer or Winnebago Internet Retailer or other Persons intending to sell the tobacco products within the exterior boundaries of the Winnebago Reservation. [TCR 05-39, 16-40]

10-608 Payment of Tax. Every Tribal Wholesaler is required to purchase all applicable tax stamps from the Winnebago Tax Commission. The Tax Commission shall sell the applicable tax stamps to the Tribal Wholesaler, Winnebago Retailer, or Winnebago Internet Retailer at the applicable rate described in Sections 10-601 and 10-602 or in compliance with any compact or agreement as described in Section 10-604. [TCR 05-39, 16-40]

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10-609 Effective Date. This Article as amended shall be effective January 1, 2016. [TCR 05-39, 16-40]

WINNEBAGO TRIBAL CODE
TITLE 10 ARTICLE 7

TITLE 10
ARTICLE 7
HOTEL LODGING TAX
(As adopted January 16, 2012)

10-700	Definitions.	10-705	Assessment and Determination of Tax.
10-701	Imposition of Tax and Fee; Exemptions.	10-706	Notices.
10-702	Records.	10-707	Licenses and Registration.
10-703	Returns.	10-708	Interest and Penalties.
10-704	Payment of Tax.		

10-700 Definitions. The following words have the meanings given below when used in this Title 10, Article 7.

1. “Hotel” is defined to mean any building or buildings, trailer or other facility in which the public may, for consideration, obtain sleeping accommodations in which five (5) or more rooms are used for the accommodation of such guests, whether such rooms are in one or several structures. The term shall include hotels, apartment hotels, motels, tourist homes, houses or courts, lodging houses, inns, rooming houses, trailer houses, trailer motels, dormitory space where bed space is rented to individuals or groups, apartments not occupied by “permanent residents,” as that term is hereinafter defined, and all other facilities where rooms or sleeping facilities or space are furnished for a consideration. As defined herein, “hotel” shall not include hospitals, sanitariums or nursing homes.
2. “Occupancy” is defined to mean the use or possession or the right to the use or possession of any room or rooms in a hotel.
3. “Occupant” is defined to mean a person who, for a consideration, uses, possesses or has the right to the use or possession of any room or rooms in a hotel under any lease, concession, permit, right of access, license to use, or other agreement, or otherwise.
4. “Operator” is defined to mean any person operating a hotel, including, but not limited to, the owner, proprietor, lessee, sub-lessee, and mortgagee in possession, licensee, or any other person otherwise operating such hotel.
5. “Permanent resident” is defined to mean any occupant who has or shall have the right of occupancy of any room or rooms in the same hotel for at least thirty (30) consecutive days during the current calendar year or preceding year.
6. “Person” is defined to mean and include any natural individual, company, partnership, firm, joint venture, association, corporation, estate, trust, political entity or other identifiable entity to which this Act can be applied.
7. “Rent” is defined to mean the consideration received for occupancy valued in money, whether received in money or otherwise, including all receipts, cash, credits and property or services of any kind or nature, and also any amount for which credit is allowed by the operator to the occupant, without any deduction therefrom whatsoever.
8. “Return” is defined to mean any return filed or required to be filed as herein provided.
9. “Room” is defined to mean any room or rooms of any kind in any part or portion of a hotel which is available for, let for the use of, or possessed for the purpose of lodging or sleeping. [TCR 12-38, 16-41]

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10-701 Imposition of Tax and Fee; Exemptions.

1. There is hereby levied an excise tax of seven percent (7%) upon the gross proceeds or gross receipts derived from the rent from every occupancy of a room or rooms in a hotel within the Winnebago Tribe's jurisdiction, including hotels owned by the Winnebago Tribe, except that the tax shall not be imposed where the rent is less than Ten Dollars (\$10.00) per day.
2. No tax shall be imposed hereunder upon a permanent resident.
3. No tax shall be imposed hereunder upon the United States insofar as it is immune from taxation, nor on any State, County, or municipality.
4. The tax to be collected shall be stated and charged separately from the rent and shall be shown separately on any record thereof at the time when the occupancy is arranged or contracted and charged for, and upon every evidence of occupancy or any bill, statement or charge made for such occupancy issued or delivered by the operator. The tax shall be paid by the occupant to the operator as trustee for and on account of the Tax Commission, and the operator shall be liable for the collection thereof and for the payment of the tax. The operator and any officer of any corporate operator shall be personally liable for the tax collected or required to be collected under this Title, and the operator shall have the same right in respect to collecting the tax from the occupant or in respect to nonpayment of the tax by the occupant as if the tax were a part of the rent for the occupancy payable at the same time such tax shall become due and owing, including all rights of eviction, dispossession, repossession and enforcement of any innkeeper's lien that the Tax Commission may have in the event of nonpayment of rent by the occupant.
5. Such taxes, penalty and interest due hereunder shall at all times constitute a prior, superior and paramount claim as against the claim of unsecured creditors and may be collected by suit as any other debt.
6. Where the occupant has failed to pay and the operator has failed to collect a tax as imposed by this Article, then, in addition to all other rights, obligations and remedies provided, such tax shall be payable by the occupant directly to the Tax Commission, and it shall be the duty of the occupant to file a return thereof with the Tax Commission and to pay the tax imposed thereon to the Tax Commission within fifteen (15) days after such tax was due.
7. The Tax Commission may, whenever it deems it necessary for the proper enforcement of this Article, provide by regulation that the occupant shall file returns and pay directly to the Tax Commission the tax herein imposed at such times as returns are required to be filed and payment over made by the operator.
8. The tax imposed by this Section shall be paid upon any occupancy on or after the passage of this Article by the Tribal Council, although such occupancy is had pursuant to a contract, lease or other arrangement made prior to such passage. Where rent is paid, charged, billed or falls due on either a weekly or other term basis, the rent so paid, charged, billed or falling due shall be subject to the tax herein imposed to the extent that it covers any portion of the period after passage of this Article, and such payment, bill, charge or rent due shall be apportioned on the basis of the ratio of the number of days falling within such portion to the total number of days covered thereby. Where any tax has been paid hereunder upon any rent which has been ascertained to be worthless (e.g. a dishonored check), the Tax Commission may, by regulation, provide for credit or refund of the amount of such tax upon application as provided herein.
9. For the purpose of the proper administration of this Article, and to prevent evasion of the tax hereby imposed, it shall be presumed that all rentals are subject to the tax until facts to the contrary are established; and the burden of providing that a rent for occupancy is not taxable hereunder shall be upon the operator or the occupant.
10. No operator shall advertise or hold out to the public in any manner, directly or indirectly, that the tax imposed by this Article is not considered as an element in the rent charged to the occupant.
11. In addition to the excise tax imposed by this Section, there is imposed a \$1.50 per night Fire and Rescue fee for each room rented, except that the fee shall not be imposed when the room rental is

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provided by the Operator on a complimentary basis. This Fire and Rescue fee shall be allocated to the Winnebago Volunteer Fire Department. All procedures applicable to the payment of a tax under this Article shall be applicable to the Fire and Rescue fee. [TCR 12-38, 16-41]

10-702 Records. Every operator shall maintain for not less than three (3) years complete and adequate records including records of every occupancy and of all rent paid, charged or due thereon and of the tax payable, collected and paid. [TCR 12-38]

10-703. Returns.

1. Every operator, on or before the fifteenth (15th) day of each quarter, shall file with the Tax Commission a return of occupancy and of rents and of the taxes payable thereon for the preceding quarter. The date of filing shall be the date of delivery to the Tax Commission.
2. The Tax Commission may permit or require returns to be made by shorter or longer periods and upon such dates as the Tax Commission may specify. The form of return shall be prescribed by the Tax Commission and shall contain such information as it may deem necessary for the proper administration of this Article. The Tax Commission may require amended returns to be filed within twenty (20) days after notice, containing the information specified in the notice.
3. If a return required by this Article is not filed or if a return when filed is incorrect or insufficient on its face, the Tax Commission shall take the necessary steps to enforce the filing of a return or an amended return. [TCR 12-38, 16-41]

10-704 Payment of Tax.

1. At the time of filing a return of occupancy and of rents, each operator shall pay to the Tax Commission the taxes imposed upon the rents included in such return, as well as all other moneys collected by the operator acting or purporting to act under the provisions of this Article.
2. All taxes for the period for which a return is required shall be due and payable on or before the date fixed for the filing of the return for such period, without regard to whether a return is filed or whether the return correctly filed shows the amount of rents and the taxes due.
3. If any operator has twice failed to pay taxes on or before the date fixed for payment of such taxes or if any operator refuses to pay the taxes or if the Tax Commission has reasonable grounds for belief that any operator is about to cease business or leave the state or remove or dissipate assets, or if, for any similar reason the Tax Commission deems it necessary to protect revenues due hereunder, the Tax Commission may require an operator to file with the Tax Commission either a performance and payment bond, as detailed herein, or in lieu of this bond, an escrow account or an irrevocable letter of credit as detailed herein. Should the operator not submit either a performance and payment bond, an escrow account or an irrevocable letter of credit within fifteen (15) days of notice to do so, the Tax Commission may conduct a hearing to suspend the operator's license provided for in § 10-707. The performance bond, irrevocable letter of credit or escrow account shall be provided as follows:
 - A. A performance and payment bond in a form acceptable to the Tax Commission naming the operator as obligee thereof, executed by a surety acceptable to the Tax Commission and authorized to do business in the state of Iowa or Nebraska, in a sum equal to the average daily room rental rate within the Winnebago Tribe jurisdiction, to be ascertained by the Tax Commission, times the number of rooms available for rent within the hotel multiplied by a factor of thirty (30), times five percent (5%); or
 - B. An irrevocable letter of credit in a form acceptable to the Tax Commission, executed by the operator and a federally insured financial institution acceptable to the Tax Commission, providing for a sum equal to the average daily room rental rate within the Winnebago Tribe jurisdiction, to be ascertained by the Tax Commission, times the

WINNEBAGO TRIBAL CODE
TITLE 10 ARTICLE 7

number of rooms available for rent within the hotel multiplied by a factor of thirty (30), times five percent (5%); or

- C. An escrow account held by the Tax Commission in a sum equal to the average daily room rental rate within the Winnebago Tribe jurisdiction, to be ascertained by the Tax Commission, times the number of rooms available for rent within the hotel multiplied by a factor of thirty (30), times five percent (5%). [TCR 12-38, 16-41]

10-705 Assessment and Determination of Tax.

1. If a return required by this Article is not filed, or if a return when filed is incorrect or insufficient, the amount of tax due shall be assessed by the Tax Commission from such information as may be obtainable and, if necessary, the tax may be estimated on the basis of external indices, such as number of rooms, location, scale of rents, comparable rents, types of accommodations and services, number of employees, or other factors.
2. Written notice of such assessments shall be given to the person liable for the collection and payment of the tax. Such assessment shall finally and irrevocably fix and determine the tax, unless the person against whom it is assessed, shall apply in writing to the Tax Commission for a hearing in conformance with Article I of the Winnebago Tribal Tax Code, or unless the Tax Commission, at its discretion, shall reassess the same. [TCR 12-38, 16-41]

10-706 Notices. Notices provided for under this Article shall be deemed to have been given when such notices have been delivered personally to the operator or deposited in the United States mail to the last known address of the operator. [TCR 12-38, 16-41]

10-707 Licenses and Registration.

1. Every new operator shall file with the Tax Commission, within three (3) days of engaging in the hotel business, an application for license and registration. Existing operators shall file an application within 3 days of being notified by the Tax Commission of the passage of this Article.
2. The Tax Commission shall, within five (5) days after such registration, issue to each operator a license empowering such operator to collect the tax from the occupant.
3. The license shall be permanently displayed by the operator in such manner that it may be seen by and may come to the notice of all occupants and persons seeking occupancy.
4. Such license shall be non-assignable and nontransferable and shall be surrendered immediately to the Tax Commission upon the cessation of business at the hotel named, or upon its sale or transfer. [TCR 12-38, 16-41]

10-708 Interest and Penalties.

1. Every operator who shall fail to collect the taxes imposed by this Article shall be liable for the full amount of the tax owed plus interest at the statutory rate until paid.
2. Willful failure to collect or pay over the taxes imposed by this Article shall subject the operator to the provisions of Article I of the Winnebago Tribal Tax Code. [TCR 12-38, 16-41]