

## **CHAPTER 115: TAXES**

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### **115.01 LODGING TAX**

An Ordinance Amending City of Lanesboro Ordinance Number 2-24-92, captioned an Ordinance Establishing a Tax Imposed upon Lodging

(a)Purpose. In order to increase commerce and to provide for a vibrant City atmosphere that will attract tourism and convention business to the City, it is essential that the City be marketed and promoted by a local convention and tourist bureau, or entity approved by the City as acting as a local convention and tourism bureau.

(b)Lodging tax establishment. In furtherance of that purpose, and pursuant to Minnesota Statutes § 469.190, a tax of three percent is hereby imposed on the gross receipts generated within the City from the furnishing for consideration of lodging at any establishment that charges a fee, including but not limited to bed and breakfasts, campgrounds or campsites, hotels, motels, rooming houses, tourist courts or resorts, other than the renting or leasing of lodging for a continual period of 30 days or more. The establishment of this lodging tax is hereby applied to the City of Lanesboro and any governmental jurisdiction that has contractual obligations with the City of Lanesboro regarding lodging tax.

(c)Collection. Any person, corporation, partnership or association (operator) that provides lodging to others must collect the tax at the time lodging charges are paid. The amount of tax must be separately stated from the lodging charges and held in trust for the City until remitted to the City.

(d)Payments and returns. The taxes imposed by this section must be paid by the operator to the City monthly, and not later than 20 days after the end of the calendar month in which the taxes were collected. At the time of payment, the operator must submit a return upon forms provided by the City. The return must contain the following minimum information:

- (1)The total amount of rent collected for lodging during the period covered by the return.
- (2)The amount of tax required to be collected and due for the period.
- (3)The signature of the person filing the return or that of his agent duly authorized in writing.
- (4)The period covered by the return.
- (5)The amount of uncollectible rental charges subject to the lodging tax. The operator may offset against the taxes payable with respect to any reporting period, the amount of taxes imposed by this section previously paid as a result of any transaction, the consideration for which became

uncollectible, and exclude from charges subject to the tax, any person whose occupancy is beyond the power of the City to tax by reason of the federal law or international treaty.

The City must, after a return is filed, examine the return and make any examination of the records and accounts of the person making the return deemed necessary for determining its correctness. The tax computed on the basis of the examination is the tax to be paid. If the tax due is found to be greater than that paid, the excess must be paid to the City within ten days after receipt of a notice thereof given either personally or sent by registered mail to the address shown on the return. If the tax paid is greater than the tax found to be due, the excess must be refunded by the City to the person who paid the tax within ten days after determination of the refund.

A. Failure to file a return.

1. If any person required by this section to file a return fails to do so within the time prescribed, or makes willfully or otherwise an incorrect, false or fraudulent return, upon written notice and demand, the person must file a return or a corrected return within ten days of receipt of written notice and must at the same time pay any tax due. If a person fails to file a return or corrected return, the City must make a return or corrected return for the person based upon the knowledge and information and assess a tax on the basis thereof, which tax (less any payments theretofore made on account of the tax for the taxable period covered by the return) must be paid within ten days of the receipt of written notice and demand for payment. Any return or assessment made by the City is prima facie correct and valid, and the burden of proving to the contrary rests with any person in any action or proceeding in respect thereto.
2. Upon a showing of good cause, the City may grant an operator one 30-day extension of time within which to file a return and make payment of taxes as required by this section, provided that interest during the period of extension must be added to the taxes due at the rate of eight percent per annum.

B. Penalties.

1. If any tax imposed by this section is not paid within the time required for payment, or an extension, there must be added a penalty equal to ten percent of the amount remaining unpaid.
2. If any person willfully fails to file any return or make any payment required by this section, or willfully files a false or fraudulent return or willfully attempts in any manner to evade or defeat the tax or payment thereof, there must also be imposed as a penalty an amount equal to 50 percent of any tax (less any amounts paid on the basis of the false or fraudulent return) found due for the period to which the return related. The penalty imposed by this section must be collected as part of the tax and are in addition to any other penalties provided by this section.
3. All payments received will be credited first to penalties, next to interest and then to the tax due.

4. The amount of tax not timely paid, together with any penalty provided by this section, will bear interest at the rate of eight percent per annum from the time the tax should have been paid until payment is made. Any interest and penalty will be added to the tax.
  5. In the event that any tax remains unpaid for 30 days after it is due, in addition to the right to institute legal action to collect the amounts due, the City may certify the tax, together with any penalty, interest and costs, to the county auditor for collection with the real estate taxes.
  6. In the event an operator is in violation of any provisions in this ordinance, may suspend or revoke the operator's lodging permit, to operate a lodging facility in the City of Lanesboro, or within the jurisdictional confines of other governmental entities that have a contractual relationship, with the City of Lanesboro, for collecting and administering their lodging tax revenues. This suspension may be for up to twelve months.
- C. Examine records. Persons acting on behalf of the City and authorized in writing by the City may examine the books, papers and records of any operator in order to verify the accuracy of any return made or, if no return was made, to ascertain the tax as provided in this section. Every such operator must give to the City the means, facilities and opportunity for examinations and investigations as are hereby authorized. The City may request, annually, all operators to provide a copy of their business tax return (page 1 of the Form 1120, 1120S, 1065 or 1040 Schedule C) by June 30th of the following year. The City would then compare the revenue reported on the tax return to the amount of tax submitted for the year to determine if the amount reported is reasonable. Any significant variances would be investigated. The City may select 2 to 5 operators annually for an on-site audit of their occupancy documentation. The City will compare the occupancy statistics multiplied by the room rates to compare to the amount reported. This may be done for two months, and expanded if variances are noted.
- D. Disposition of proceeds. Ninety-five percent of the proceeds must be used to fund a local convention and tourist bureau for the purpose of marketing and promoting the City as a convention and tourist center and for that purpose, the City is authorized to enter into an agreement with the Greater Lanesboro Area Convention and Visitor's Bureau.
- E. Violations. Any person who willfully fails to make a return by this section or who fails to pay the tax after written demand for payment, or who fails to remit the taxes collected or any penalty or interest imposed by this section after written demand for payment, or who refuses to permit the City's authorized agents to examine the books, records and papers under their control, or who willfully makes any incomplete, false or fraudulent return is guilty of a misdemeanor.
- F. Appeals.
1. Any operator aggrieved by any notice, order or determination made by the City under this section, except for the criminal penalties, may file a

petition for review of such notice, order or determination. The petition shall contain the name of petitioner, petitioner's address and the location of the lodging subject to the notice, order or determination. The appeal must be first heard by the City administrator. Appeal may be made to the City council by the aggrieved party filing a written notice of appeal with the City clerk within ten days after the administrator's determination is made to the appellant.

- G. Effective date. This section will be in full force and effect from and after its date of publication and will establish the tax set forth in this section upon gross lodging receipts generated beginning on April 1, 2013 and thereafter, unless revised by action of the City Council.
- H. Annual report. The Convention and Visitors Bureau (CVB) Board must provide the City council an annual final report prior to December 1 of each year. At a minimum, the report must account for income and expenses of the CVB for the year, and propose a budget for the following year.
- I. Retention of Provisions of Ordinance Number 2-24-92.

## **115.02 SALES AND USE TAX**

At the general election held November 2, 2010, the voters of the City of Lanesboro approved the imposition of a one-half percent sales and use tax to pay all or part of the capital costs of improvements to City streets and utility systems and the betterment of City municipal buildings (collectively, the "Improvements"), all as described more fully in the Resolution adopted by the City Council on February 7, 2011.

The Minnesota legislature has, by the laws of Minnesota for 2011, chapter 7, article 4, section 13, authorized the city to impose an additional sales and use tax within the City to provide revenues to pay all or part of the costs of the Improvements. Authorized expenses include, but are not limited to, paying construction and equipment costs related to the Improvements and paying debt service on bonds or other obligations issued by the City to finance the Improvements. The amount of revenue from the tax imposed that may be used to finance the Improvements and any associated bond costs or other obligations is limited to \$800,000. The city approved the act in accordance with applicable law.

### **A. DEFINITIONS:**

The words, terms and phrases used in this chapter shall have the meaning ascribed to them in Minnesota Statutes, Chapter 297A, except where the context clearly indicates otherwise. In addition, the following definitions shall apply:

**ACT** means the laws of Minnesota for 2011, chapter 7, article 4, section 13, or as may be amended.

**CHAPTER** means this chapter in its present form and as subsequently codified in the city code.

**CITY** means the City of Lanesboro.

**COMMISSIONER** means the commissioner of revenue for the state acting under the authority Of an agreement entered into between the city and the state pursuant to the act, or such other person or entity designated to administer and collect the city's sales and use tax.

**DIRECTOR** means the Administrator of the City.

**RETAILER MAINTAINING A PLACE OF BUSINESS IN THE CITY OR ANY LIKE TERM** means any retailer having or maintaining within the City, directly or by a subsidiary or an affiliate, an office, place of distribution, sales or sample room or place, warehouse or other place of business, or having any representative, including an affiliate, agent, sales person, canvasser or solicitor operating in the City under the authority of the retailer or its subsidiary, for any purpose, including the repairing, selling delivering, installation, or soliciting of order of the retailer's goods or services, or the leasing of tangible personal property located in the City, whether the place of business or agent, representative, affiliate, sales person, canvasser, or solicitor, is located in the City permanently or temporarily, or whether or not the retailer or subsidiary is authorized to do business within the City.

**LANESBORO SALES AND USE TAX** means the sales and use tax imposed and collected pursuant to this chapter.

**B. SALES AND USE TAX:**

Except as otherwise provided in this chapter, there is hereby imposed an additional excise tax in the amount of one-half of one percent of the gross receipts from the sales at retail, and the storage, use, distribution or consumption of goods or services which are taxable, pursuant to Minnesota Statutes, Chapter 297A and occur within the City of Lanesboro. The imposition, administration, collection and enforcement of this tax shall be governed by the provisions of Minnesota Statutes, Chapters 297A, 270C, and 289A.

**C. SEPARATE STATEMENT; COLLECTION FROM PURCHASER, ADVERTISING NO TAX, MINIMUM UNIFORM TAX COLLECTION METHODS.**

The Lanesboro sales and use tax shall be stated and charged separately from the sales price or charge for service insofar as practical, and should be a debt from the purchaser to the seller recoverable at law in the same manner as other debts. In computing the tax to be collected as a result of any transaction, any amount of tax less than one-half of one cent may be disregarded and amounts of tax one-half cent or more may be considered an additional cent. If the sales price of any sale at retail is ninety-nine cents or less, no tax shall be collected.

**D. EXEMPTION CERTIFICATES.**

A fully completed exemption certificate taken from a purchaser to the effect that the property purchased is for resale or that the sale is otherwise exempt from the

application of the tax imposed by this chapter will conclusively relieve the retailer from collecting and remitting the tax. A person who has obtained from the Commissioner an exemption certificate pursuant to the Minnesota Statutes, Section 297A may use such exemption certificate for the purposes of the sales tax imposed by the City.

E. PRESUMPTION OF PURPOSE OF SALE.

For the purpose of the proper administration and enforcement of §12.03 of this chapter, it shall be presumed that all retail sales for delivery in the City are for storage, use, or other consumption in the City until the contrary is established.

F. COLLECTION OF SALES AND USE TAX AT TIME OF SALE.

1. Any retailer making deliveries within the City, any retailer maintaining a place of business in the City, or any other retailer otherwise doing business within the City, upon making sales or any items described in §12.03 which are not exempted from the sales tax imposed under that section and which are to be delivered or caused to be delivered within the City to the purchaser, shall at the time of making such sales collect the sales and use tax from the purchaser. The tax collected by such retailer shall be remitted to the Commissioner on behalf of the City.
2. Any retailer required to collect the Lanesboro sales and use tax and remit such tax to the Commissioner pursuant to this section shall register with the Commissioner and provide such other information as the Commissioner may require.

G. AGENT OF RETAILER.

When in the opinion of the Commissioner it is necessary for the efficient administration of the tax, the Commissioner may regard any salesman, representative, trucker, peddler or canvasser as the agent of the dealer, distributor, supervisor, employer or other person under whom such salesman, representative, trucker, peddler or canvasser operated or from whom the tangible property is being sold is obtained, and may regard the dealer, distributor, supervisor, employer or other person as a retailer for the purposes of this chapter.

H. EFFECTIVE DATE, TRANSITIONAL SALES.

Except as otherwise provided herein, the Lanesboro sales and use tax authorized by this chapter shall apply to sales made on or after January 1, 2012 and shall be in addition to all other taxes now in effect. The Lanesboro sales and use tax shall not apply to the following:

1. The gross receipts from the purchase or lease of tangible personal property made under an enforceable contract entered into before January 1, 2012, provided that delivery or possession of items is taken on or before March 1, 2012.
2. The gross receipts from the purchase of taxable services made under an enforceable contract entered into before January 1, 2012 and for which payment was made before January 1, 2012, provided that the services were provided before March 1, 2012.
3. The gross receipts from the purchase of construction materials used to complete a lump sum or fixed price construction contract that was

signed and enforceable before January 1, 2012, and that does not provide for an allocation of future taxes, provided that the construction materials are used exclusively in performing the contract and the materials are delivered before July 1, 2012.

4. The gross receipts from the purchase of utility services if the utility bill includes charges for services furnished before January 1, 2012; however, the Lanesboro sales and use tax shall apply to all utility bills for periods beginning January 1, 2012.

#### I. COLLECTION AND ENFORCEMENT.

The Lanesboro sales and use tax imposed by the City pursuant to this chapter shall be subject to the same interests, penalties, and other rules as are applicable to the State general sales tax imposed by Minnesota Statutes, Chapters 289A and 297A. The Lanesboro sales and use tax imposed by the City pursuant to this chapter may be collected by the State on behalf of the City as provided by an appropriate agreement with the Minnesota Commissioner or Revenue.

#### J. TAX CLEARANCE; ISSUANCE OF LICENSES.

The City may not issue or renew a license for the conduct of trade or business in the City if the Commissioner notifies the City that the applicant for such license owes delinquent Lanesboro sales and use taxes as provided in this chapter, or penalties or interest due on such taxes. For the purposes of this section, the following terms have the following meanings:

1. Lanesboro sales and use taxes include sales and use tax as provided in this chapter including all penalties and interest due on said sales and use taxes.
2. Delinquent taxes do not include a tax liability if:
  - a) in administrative or court action which contests the amount of validity or the liability has been filed or served;
  - b) the appeal period to contest tax liability has not expired; or
  - c) the applicant has entered into a payment agreement and is current with the payments.
3. Applicant means an individual if the license is issued to or in the name of an individual or the corporation, partnership or other entity if the license is issued to or in the name of a corporation, partnership or other entity.
4. A copy of the notice of delinquent taxes given to the City shall also be sent to the applicant's taxpayer. In the case of renewal of a license, if the applicant requests a hearing in writing, within thirty (30) days of the receipt of the notice of delinquent taxes, then a contested case hearing shall be held by the Commissioner under the same procedures as provided in Minnesota Statutes, Section 270C.72 for the State sales and use tax imposed under Minnesota Statutes, Chapter 297A, provided that if a hearing must be held on the State sales and use tax, hearings may be combined.

Section 2. Effective date. The effective date of this ordinance shall be the 12th day of September, 2011.