

CHAPTER 115: TAXES

115.01 Lodging Tax

115.02 Sales and Use

‘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:
 - a. The total amount of rent collected for lodging during the period covered by the return.
 - b. The amount of tax required to be collected and due for the period.
 - c. The signature of the person filing the return or that of his agent duly authorized in writing.
 - d. The period covered by the return.
 - e. 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.

- E. Examination of return, information gathered, adjustments, notices and demands. 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.
- F. Failure to file a return.
 - a. 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 heretofore 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.
 - b. 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.
- G. Penalties.
 - a. 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.
 - b. 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.
 - c. All payments received will be credited first to penalties, next to interest and then to the tax due.

- d. 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.
 - e. 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.
 - f. 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.
- H. 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.
- I. 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.
- J. 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.
- K. Appeals.
 - a. 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.

- L. **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.
- M. **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.

‘ 115.02 LOCAL SALES AND USE TAX

- A. **Section 1. Authority.** Pursuant to the Laws of Minnesota 2011, First Special Session, Chapter 7, Article 4, Section 13, the Minnesota Legislature has authorized the City of Lanesboro to impose a local sales and use tax to provide revenues to pay the costs of collecting and administering the tax to the commissioner of revenue of the state of Minnesota and to finance the capital and administrative costs related to the funding of designated projects as defined in the Laws of Minnesota 2011, First Special Session, Chapter 7, Article 4, Section 13, and approved by the voters at the November 2, 2010 referendum.
- B. **Section 2.**
 - a. **Definitions.** For purposes of this chapter, the following words, terms, and phrases have the meanings given them in this section unless the language or context clearly indicates a different meaning is intended.
 - i. **City.** “City” means the City of Lanesboro, Minnesota.
 - ii. **Commissioner.** “Commissioner” means the commissioner of revenue of the state of Minnesota or a person to whom the commissioner has delegated functions.
 - b. **Designated projects.** “Designated projects” means to improve Municipal buildings, City Streets, and Electric, Water, and Sewer Improvements as authorized by the Minnesota Legislature in the Laws of Minnesota 2011, First Special Session, Chapter 7, Article 4, Section 13, and approved by the voters at the November 2, 2010 referendum.
 - c. **State sales and use tax laws and rules.** “State sales and use tax laws and rules” means those provisions of the state revenue laws applicable to state sales and use tax imposition, administration, collection, and enforcement, including Minnesota Statutes, chapters 270C, 289A, 297A, and Minnesota Rules, chapter 8130, as amended from time to time.
- C. **Section 3. Local sales and use tax imposed; amount of tax; coordination with state sales and use tax laws and rules.** A local sales tax is imposed in the amount of one half

of one percent on the gross receipts from sales at retail sourced within city limits which are taxable under the state sales and use tax laws and rules. A local use tax is imposed in the amount of one half of one percent on the storage, use, distribution or consumption of goods or services sourced within city limits which are taxable under the state sales and use tax laws and rules. All of the provisions of the state sales and use tax laws and rules apply to the local sales and use tax imposed by this chapter. The local sales and use tax imposed by this chapter shall be collected and remitted to the commissioner on any sale or purchase when the state sales tax must be collected and remitted to the commissioner under the state sales and use tax laws and rules and is in addition to the state sales and use tax.

D. Section 4. Effective date of tax; transitional sales. Except as otherwise provided herein, the local sales and use tax imposed by this chapter shall apply to sales and purchases made on or after January 1st, 2012. The local sales and use tax imposed by this chapter shall not apply to:

- a. The gross receipts from retail sales or leases of tangible personal property made pursuant to a bona fide written contract, which unconditionally vests the rights and obligations of the parties thereto, provided that such contract was enforceable prior to January 1st, 2012, and that delivery of the tangible personal property subject thereto is made on or before January 1st, 2012.
- b. The gross receipts from retail sales made pursuant to a bona fide lump sum or fixed price construction contract, which unconditionally vests the rights and obligations of the parties thereto and which does not make provision or allocation of future taxes, provided that such contract was enforceable prior to January 1st, 2012, and that delivery of the tangible personal property used in performing such construction contract is made before September 1st, 2012.
- c. The purchase of taxable services, including utility services, if the billing period includes charges for services furnished before and after January 1st, 2012, but the local sales and use tax imposed by this chapter shall apply on the first billing period not including charges for services furnished before January 1st, 2012.
- d. Lease payments for tangible personal property and motor vehicles that includes a period before and after January 1st, 2012, but the local sales and use tax imposed by this chapter shall apply on a prorated basis to lease payment amounts attributable to that portion of the lease payment period on or after January 1st, 2012 and on the entire lease payment for all lease payment periods thereafter.

E. Section 5. Tax Clearance; Issuance of Licenses.

- a. The city may not issue or renew a license for the conduct of a trade or business within the city if the commissioner notified the licensing division of the city that the applicant owes delinquent city taxes as provided in this chapter, or penalties or interest due on such taxes.
 - i. City taxes include sales and use taxes provided in this article. Penalties and interest are penalties and interest due on taxes included in this definition.

- b. Delinquent taxes does not include a tax liability if: (i) an administrative or court action which contests the amount or validity of the liability has been filed or served, (ii) the appeal period to contest the tax liability has not expired, or (iii) the applicant has entered into a payment agreement and is current with the payments.
- c. Applicant means an individual if the license is issued to or in the name of an individual or the corporation or partnership if the license is issued to or in the name of a corporation or partnership.
 - i. A copy of the notice of delinquent taxes given to the licensing division of the city shall also be sent to the applicant taxpayer. In the case of renewal of a license, if the applicant requests in writing, within 30 days of receipt of the notice of hearing, then, a contested hearing shall be held under the same procedures as provided in Minn. Stat. 270A for the state sales and use tax imposed under Minn. Stat. 297A; provided further that if a hearing must be held on the state sales and use tax, hearings must be combined.

F. Section 6. Deposit of revenues; costs of administration; termination of tax.

- a. All of the revenues, interest, and penalties derived from the local sales and use tax imposed by this chapter collected by the commissioner and remitted to the city shall be deposited by the city finance director in the city treasury and shall be credited to the fund established to pay the costs of collecting the local sales and use tax imposed by this chapter and to finance the capital and administrative costs directly related to completing the designated projects.
- b. The local sales and use tax imposed by this chapter shall terminate at the earlier of: (1) 20 years; or (2) when the City Council determines that \$800,000, plus an amount sufficient to pay the costs related to issuing bonds and interest on the bonds has been received from the local sales and use tax imposed by this chapter to pay for all the capital and administrative costs directly related to completing the designated projects. Any funds remaining after payment of all such costs and retirement or redemption of the bonds shall be placed in the general fund of the city. The local sales and use tax imposed by this chapter may terminate at an earlier time if the City Council so determines by ordinance.

G. Section 7. Agreement with the commissioner. The city may enter into an agreement with the commissioner regarding each party's respective roles and responsibilities related to the imposition, administration, collection, enforcement, and termination of the local sales and use tax imposed by this chapter. Any such agreement shall not abrogate, alter, or otherwise conflict with the state sales and use tax laws and rules, this ordinance, or the Laws of Minnesota 2011, First Special Session, Chapter 7, Article 4, Section 13.

H. Section 8. Summary publication. The following summary is approved by the City Council and shall be published in lieu of publishing the entire ordinance pursuant to Minnesota Statutes section 412.191:

Pursuant to a voter-approved referendum, the city is authorized to and will impose a local sales and use tax of one half of one percent on retail sales made after January 1st, 2012 to be used to fund certain designated projects related to improve Municipal buildings, City Streets, and Electric, Water, and Sewer infrastructure.

- I. **Section 9.** This Ordinance shall be in full force and effect from and after its passage and publication.