

ORDINANCE NO. 165
City of Moose Lake, Minnesota

**AN ORDINANCE IMPOSING A LODGING TAX AND THE
COLLECTION AND DISBURSEMENT OF FUNDS**

Section 1. Definitions

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

Lodger. The person obtaining lodging from an operator.

Lodging. The furnishing for consideration of lodging by a hotel, motel, bed and breakfast or public campground, except where such lodging shall be of a continuous period of 30 days or more to the same lodger(s). The furnishing of rooms owned by religious, educational or non-profit organizations for self-sponsored activities shall not constitute lodging for purposes of this program.

Operator. The person who is the proprietor of the lodging facility, whether in the capacity of owner, lessee, sublessee, licensee or any other capacity.

Person. Any individual, corporation, partnership, association, estate, receiver, trustee, executor, administrator, assignee, syndicate or any other combination of individuals. Whenever the term person is used in any provision of this Ordinance prescribing and imposing a penalty, the term applied to a corporation, association or partnership shall mean the officers or partners thereof, as the case may be.

Rent. The total consideration valued in money charged for the lodging whether paid in money or otherwise, but shall not include any charges for services rendered in connection with furnishing lodging other than the room charge itself.

Section 2. Imposition of tax

Pursuant to M.S. §469.190, as it may be amended from time to time, there is hereby imposed a tax on the rent charged by an operator for providing lodging to any person. The lodging tax program shall commence on January 1, 2020. A tax of 3% of the rent charged shall be imposed on the effective date of this subchapter. The tax collected by the operator shall be satisfied only by payment to the city in the amount levied by this subchapter. In no case shall the tax imposed by this section upon an operator exceed the amount of tax which the operator is authorized and required by this program to collect from the lodger.

Section 3. Exceptions and exemptions

- A. Exceptions. No tax shall be imposed on rent for lodging paid by any officer or employee of a foreign government who is exempt by reason of express provisions of federal law or international law.
- B. Exemption.
 - 1. An exemption shall be granted to any person as to whom or whose occupancy it is beyond the power of the city to tax.
 - 2. No exemption shall be granted except upon a claim therefor made at the time the rent is collected, and such a claim shall be made in writing and under penalty of perjury on forms provided by the city.
 - 3. All such claims shall be forwarded to the city when the returns and collections are submitted as required by this subchapter.

Section 4. Collection by operator

- A. Each operator shall collect the tax imposed by this program at the time the rent is paid. The tax collections shall be deemed to be held in trust by the operator for the city.
- B. The amount of tax shall be separately stated from the rent charged for the lodging, and those persons paying the tax shall receive a receipt of payment from the operator.

Section 5. Payment by operator to city; returns

- A. The taxes imposed by this program shall be paid monthly by the operator to the city not later than 20 days after the end of the month in which the taxes were collected. At the time of payment, the operator shall submit a return upon such forms and containing such information as the city may require. The return shall contain the following minimum information:
 - 1. The total amount of rent collected for lodging during the period covered by the return;
 - 2. The total amount of exceptions and exemptions;
 - 3. The amount of tax required to be collected and due for the period;
 - 4. The signature of the person filing the return or that of his or her agent duly authorized in writing;
 - 5. The period covered by the return; and
 - 6. The amount of uncollectible rental charges subject to the lodging tax.
- B. The operator may offset against the taxes payable with respect to any reporting period the amount of taxes imposed by this program previously paid as a result of any transaction the consideration for which became uncollectible during such reporting period, but only in proportion to the portion of such consideration which became uncollectible.

Section 6. Return examination; adjustments

The city shall, after a return is filed, examine the same and make any investigation or 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 such examination shall be the tax to be

paid. If the tax due is found to be greater than that paid, such excess shall 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 shall be refunded to the person who paid the tax to the city within ten days after determination of such refund or credited against the amount due for the next month.

Section 7. Refunds

Any person may apply to the city for a refund of taxes paid in excess of the amount legally due for that period; provided that, no application for a refund shall be considered unless filed within one year after such tax was paid, or within one year from the filing of the return, whichever period is the longer. The City shall examine the claim and make and file written findings thereon denying or allowing the claim in whole or in part and shall mail a notice thereof by registered mail to such person at the address stated upon the return. If such claim is allowed in whole or in part, the city shall credit the amount of the allowance against any taxes due under this program from the claimant and the balance of said allowance, if any shall be paid by the city to the claimant.

Section 8. Advertising

It shall be unlawful for any operator to advertise or hold out or state to the public or any customer, directly or indirectly, that the tax or any part thereof will be assumed or absorbed by the operator, or that it will not be added to the rent or that, if added, it or any part thereof will be refunded.

Section 9. Delinquent taxes and late or false returns; penalties

A. Delinquent taxes and returns.

1. Returns. If any operator required by this program to file a return shall fail to do so within the time prescribed or shall make, willfully or otherwise, an incorrect, false or fraudulent return, the operator shall, upon written notice and demand, file such return or corrected return within five days of receipt of such written notice and shall at the same time pay any tax due on the basis thereof. If such person shall fail to file such return or corrected return, the city shall make a return or corrected return for such person from such knowledge and information as the city can obtain, 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) shall be paid within five days of the receipt of written notice and demand for such payment. Any such return or assessment made by the city shall be prima facie correct and valid, and such person shall have the burden of establishing its incorrectness or invalidity in any action or proceeding with respect thereto.
2. Taxes. If any portion of a tax imposed by this program, including penalties thereon, is not paid within 30 days after it is required to be paid, the city may institute such legal

action as may be necessary to recover the amount due plus interest, penalties and the cost and disbursements of any action.

3. Extension of time. 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 chapter; provided that, interest during such period of extension shall be added to the taxes due at the rate of 10% per annum.

B. Penalties.

1. Taxes. If any tax imposed by this subchapter is not paid within the time herein specified for payment, or any extension thereof, there shall be added thereto a specific penalty equal to 10% of the amount remaining unpaid.
2. Returns.
 - a. In case of any failure to make and file a return within the time prescribed by this subchapter, unless it is shown that such failure is not due to willful neglect, there shall be added to the tax, in addition to the 10% specific penalty provided in division (B)(1) above, 10% of the amount remaining unpaid if the failure is not for more than 30 days, with an additional 5% for each additional 30 days or fraction thereof during which failure continues, not exceeding 25% in the aggregate. If the penalty as computed does not exceed \$10, a minimum penalty of \$10 shall be assessed. The amount so added to any tax shall be collected at the same time and in the same manner and as a part of the tax unless the tax has been paid before the discovery of the negligence, in which case the amount so added shall be collected in the same manner as the tax.
 - b. If any person willfully files a false or fraudulent return or willfully attempts in any manner to evade or defeat any such tax or payment thereof, there shall be imposed as a penalty an amount equal to 50% of any tax (less amounts paid on the basis of such false or fraudulent return) found due for the period to which such return related. The penalty imposed by this division (B)(2) shall be collected as part of the tax and shall be in addition to any other penalties provided by this chapter.
3. Application of payments received. All payments received shall be credited first to penalties, next to interest, and then to the tax due.

Section 10. Administration of tax

The Clerk-Administrator shall administer and enforce the assessment and collection of the taxes imposed by this subchapter. The Clerk-Administrator shall cause to be prepared blank forms for the returns and other documents required by this chapter and shall distribute the same throughout the city and furnish them upon application; but failure to receive or secure them shall not relieve any person from any obligation required under this subchapter.

Section 11. Records examination

- A. 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 program.
- B. Every such operator is directed and required to give the city the means, facilities and opportunity for such examinations and investigations as are hereby authorized.

Section 12. Proceeds disposition

- 1. Ninety-five percent of the proceeds obtained from the collection of taxes pursuant to this program shall be used in accordance with M.S. § 469.190, as the same may be amended from time to time, to fund a local convention/tourism bureau for the purpose of marketing and promoting the city as a tourist/convention center.
- 2. The city may retain a maximum of 5% for administrative costs.

Section 13. Penalty

- A. Any person who shall willfully fail to make a return required by this ordinance or shall fail to pay such tax after written demand for payment, or who shall fail to remit such taxes collected or any penalty or interest imposed by this ordinance after written demand for such payment, or who shall refuse to permit the city to examine the books, records and paper under its control, or who shall willfully make an incomplete, false or fraudulent return, or who shall fail to collect the tax as required by this ordinance, or who shall violate the advertising restrictions set forth in this ordinance, shall be guilty of a misdemeanor and shall be punished as provided in the City's Fee Schedule.

Theodore Shaw
Mayor

Attest: Tim Peterson
City Administrator

This ordinance was published in the Moose Lake Gazette on October 17, 2019.