

AN ORDINANCE OF THE CITY OF OAK PARK HEIGHTS ENACTED TO ESTABLISH A LOCAL LODGING TAX

THE CITY COUNCIL FOR THE CITY OF OAK PARK HEIGHTS, WASHINGTON COUNTY, MINNESOTA DOES ORDAIN:

1411.010 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.

1411.020 Lodging Tax Establishment.

In furtherance of that purpose, and pursuant to Minnesota Statutes §469.190, a tax of 3% is hereby imposed on the gross receipts generated within the City from the furnishing for consideration of lodging at 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.

- (1) Collection. Any person, business entity, 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.
- (2) Payments and Returns. The taxes imposed by this Ordinance must be paid by the Operator to the City quarterly not later than thirty (30) days after the end of the calendar quarter 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, if any, 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 Ordinance previously paid as a result of any lodging 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.

1411.030 Examination of Return, Adjustments, Notices and Demands.

The City shall, after a return is filed, examine the return and make any examination of the records and accounts of the Operator 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 (10) 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 Operator who paid the tax within ten (10) days after determination of the refund.

1411.040 Failure to File a Return.

Subd. 1. If any Operator required by this Ordinance 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 Operator must file a return or a corrected return within ten (10) days of receipt of written notice and must at the same time pay any tax due together with any administrative and staff expenses incurred by the City in the processing and collection of the late payment. If a person fails to file a return or corrected return, the City may 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 due together with any administrative and staff expenses incurred by the City within ten (10) days of the receipt of written notice and demand for payment. The amounts due shall become a lien on the property of the Operator from where the lodging event(s) took place 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.

Subd. 2. Upon a showing of good cause, the City may grant an Operator one thirty (30) day extension of time within which to file a return and make payment of taxes as required by this Ordinance, provided that interest during the period of extension must be added to the taxes due at the rate of eight (8) percent per annum.

1411.040 Penalties.

Subd. 1. If any tax imposed by this Ordinance is not paid within the time required for payment, or an extension, there shall be added a penalty equal to ten (10) percent of the

amount remaining unpaid plus administrative and City staff time in pursuing and obtaining the collection of the tax.

Subd. 2. If any person willfully fails to file any return or make any payment required by this Ordinance, or willfully files a false or fraudulent return or willfully attempts in any manner to evade or defeat the tax or payment thereof, there shall also be imposed a penalty an amount equal to fifty (50) percent of any tax (less any amounts paid on the basis of the false or fraudulent return due together with any administrative and staff expenses incurred by the City) found due for the period to which the return related. The penalty imposed by this section shall be collected as part of the tax and are in addition to any other penalties provided by this Ordinance. All such amounts shall be liens against the property of the operator and may be collected by the city in the manner prescribed by Minnesota Statute 514.67.

Subd. 3. All payments received will be credited first to penalties, next to interest and then to the tax due.

Subd. 4. The amount of tax not timely paid, together with any penalty provided by this Section, will bear interest at the rate of eight (8) 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.

Subd. 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.

1411.060 Examination of Business Records.

Persons acting on behalf of the City and authorized in writing by the City may periodically 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 Ordinance. Every such Operator shall give to the City the means, facilities and opportunity for examinations and investigations as are hereby authorized.

1411.070 Disposition of Proceeds.

95% 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 Stillwater Area Convention and Visitor's Bureau.

1411.080 Violations.

Any person who willfully fails to make a return by this Ordinance 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 Ordinance 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.

1411.090 Appeal.

Subd. 1. Any Operator aggrieved by any notice, order or determination made by the City under this Ordinance, except for the criminal penalties, must file a petition for review of such notice, order or determination with the City. 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 will be first heard by the City Administrator. Review of the decision of the City Administrator may be requested of the City Council by the aggrieved party filing a written notice of review with the City Clerk within ten (10) days after the Administrator's determination is made to the appellant.