

## *An Ordinance for the Collection and Administration of Local Lodging Tax*

### *The City of Rushford Ordains:*

**Section 1 Definitions:** The following words when used in this Ordinance shall have the meanings ascribed to them in this section when the content clearly indicates or requires a different meaning.

Subd 1.01: "City" means the City of Rushford, Fillmore County, Minnesota.

Subd 1.02: "Lodging Tax Board" means the Southeastern Minnesota Historic Bluff Country Convention and Visitors Bureau as established for the purpose of administering the proceeds of the area-wide local lodging tax for the promotion of tourism in this area.

Subd 1.03: "Lodging" means the consideration of lodging at a hotel, motel, rooming house, tourist court, or resort of other than the rent or leasing thereof for the continuous period of thirty days or more. "Lodging" shall not include the renting or leasing of campgrounds, camper or motor home sites including City of Rushford municipally-owned campgrounds which are eligible for taxation.

Subd 1.04: "Operator" means any person who provides lodging to others.

Subd 1.05: "Person" means any individual, corporation, partnership, association, estate, receiver trustee, syndicate, or any other combination of individuals. Whether the term "person" is used in any provision of the Ordinance prescribing and imposing a penalty, the term as applied to a corporation, association, or partnership, shall mean the officers, directors, shareholders, members or partners thereof as the case may be.

Subd 1.06: "Rent" means the total consideration valued in money charged for lodging whether paid in money or otherwise.

Subd 1.07: "Lodger" means a person obtaining lodging from an operator.

**Section 2 Imposition of the Tax:** There is hereby imposed a tax of Three (3%) percent on the rent charged by an operator for providing lodging to any person after midnight June 1, 1995. The tax shall be stated and charged separately and shall be collected by the operator who furnishes lodging. The tax collected by the operator of the lodge shall be a debt owed by the operator to

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the City of Rushford and shall be extinguished only by payment to the City of Rushford, City Clerk.

**Section 3 Administration of the Tax:**

Subd 3.01 Administration: The City of Rushford shall administer and enforce the assessment and collection of the tax imposed by the Ordinance. The City of Rushford, City Clerk shall prepare blank forms for the returns required by this Ordinance and shall distribute the same throughout the City of Rushford and furnish them on application, but failure to receive or secure them shall not relieve the operator from any obligation to collect and pay the tax imposed to the City of Rushford.

**Section 4 Collections:** Each operator shall collect the tax imposed by this ordinance at the time the rent is paid. 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 and Returns:** The tax imposed by this ordinance shall be paid by the operator to the City of Rushford, City Clerk, not later than 25 days after the end of the quarter in which sales taxes were collected. At the time of payment the operator shall submit a return on forms and containing information as the City of Rushford may require. The return shall contain the following minimum information:

- (1) The total amount of rent for lodging during the period covered by the return, whether collected in cash or charged to the lodger.
- (2) The amount of tax required to be collected and due for the period.
- (3) The signature of the person filing the return.
- (4) The period covered by the return.
- (5) State Sales Tax Report

**Section 6 Exceptions and Exemptions:** An exemptions shall be granted to any person as to whom occupancy it is beyond the power of the City of Rushfod to tax. No exemption shall be granted except upon a claim therefore made at the time of the rent is collected. All such claims shall be forwarded to the City when returns and collections are submitted as required by this Ordinance.

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**Section 7 Examination of Return, Adjustments Notices and Demands:** The City of Rushford shall provide a quarterly report of the amount of the lodging tax collected and shall disperse the net proceeds to the City and the Board. Three quarters of net proceeds shall be paid to the City and one quarter of the net proceeds shall be paid to the Board quarterly. The City of Rushford shall attempt to contact the lodging facility operator once and provide written notice by certified or registered mail, postage prepaid, of the failure to file the return and pay the tax due. If the violation has not been cured within 30 days of the written notice, the City of Rushford shall commence enforcement proceedings.

**Section 8 Refunds:** Any person may apply to the City of Rushford for a refund of tax paid in excess of the amount legally due for that period, provided that no application for refund shall be considered unless filed within one year, after the tax was paid, or within one year from the filing of the return, whichever period is 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 mail to the 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 Ordinance from the claimant and the balance of said allowance, if any, shall be paid by the City to the claimant.

**Section 9 Failure to File a Return:**

Subd 9.01 Failure to File a Return: If any operator required by this Ordinance 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, immediately file the return or corrected return. If the operator does not file a return or amend its return upon request, the City may file a return for the operator from any 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 return) shall be immediately paid upon written notice and demand. Any return or assessment by the City shall be prima facie correct and valid, and the person shall have the burden of establishing its in correctness or invalidity in an action or proceeding in respect thereto.

Subd 9.02: If any portion of a tax imposed by this Ordinance, including penalties thereon, is not paid within 30 days after it is required to be paid, the City shall direct the City Attorney as may be necessary to recover the amount due.

**Section 10 Penalties:**

Subd 10.01: If any tax imposed by this Ordinance is not paid within the time herein

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specified for the payment, or an extension thereof, there shall be added thereto a specific penalty equal to 10 (10%) percent of the amount remaining unpaid.

Subd 10.02: In case of any failure to make and file a return within the time prescribed by this Ordinance, unless it is shown that the failure is not due to willful neglect, there shall be added to the tax in lieu of the 10 (10%) percent specific penalty provided in Subdivision 1 above, 10 (10%) percent if the failure is not for more than 30 days with an additional 5 (5%) percent for each additional 30 days or fraction thereof during which the failure continues, not exceeding 25 (25%) percent aggregate. If the penalty as computed does not exceed \$10.00, a minimum penalty of \$10.00 shall be assessed. The amount so added to any tax shall be collected at the same time and in the same manner as a part of the tax unless the tax has been paid before the discovery of the negligence, in which case the amount as added shall be collected in the same manner as the tax.

Subd 10.03: 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 any tax or payment thereof, there shall also be imposed a penalty an amount equal to 50 (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 the Subdivision shall be collected as part of the tax, and shall be in addition to any other penalties provided by this Ordinance.

Subd 10.04: All payment received shall be credited first to penalties, next to interest and then to the tax due.

Subd 10.05: The amount of tax not timely paid, together with any penalty provided by this Section shall bear interest at the rate of eight (8%) percent per annum from the time the tax should have been paid until paid. Any interest and penalty shall be added to the tax and be collected as part thereof.

Subd 10.06 Violations: Any person who shall refuse to make a return required by this Ordinance; or who shall refuse to pay the tax, or who shall refuse to remit the taxes collected or any penalty or interest imposed by this Ordinance, or shall refuse to permit the City of Rushford, or any duly authorized employee to examine the books, records and papers under the person's control, or who shall willfully make any incomplete, false or fraudulent return, or who shall attempt to do anything whatsoever to avoid a full disclosure of the amount of taxes imposed by this Ordinance, shall be guilty of a misdemeanor.

**Section 11 Examination of Records:** The City of Rushford, or its designated agents authorized

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in writing 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 Ordinance. Every operator is directed and required to give to the City or to its duly authorized agent or employee the means, facilities and opportunity for examination/investigations as are hereby authorized.

**Section 12 Confidential Information:** No officer or employee of the City of Rushford, nor the board shall divulge or otherwise make known in any manner any particulars disclosed in any return required by this Ordinance, or any information concerning the affairs of the person making the return acquired from the person's records, officers, or employees while performing an examination or audit, except in connection with a proceeding involving taxes due under this Ordinance from the person making a return. Nothing herein contained shall be construed to prohibit the City of Rushford or the Board from publishing statistics so classified as not to disclose the identity of particular returns and the contents thereof.

**Section 13 Advertising No Tax:** 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, except that in computing the tax to be collected amounts of the tax less than one-half of one cent may be disregarded and amounts of tax with one-half cent or more may be considered an additional cent.

**Section 14 Use of Proceeds:**

Subd 14.01: All gross proceeds less administrative costs and not less than ninety-five (95%) percent of the gross proceeds obtained from the collection of tax pursuant to this Ordinance shall be used in accordance with Minnesota Statute, Section 469.190, as the same may be amended from time to time to fund marketing and promoting of the area as a tourist destination and shall have complete and independent control over the use of said funds.

Subd 14.02: The Board shall use the money paid to it pursuant to this ordinance to advertise the Southeast Minnesota area. The Board shall submit annual reports to the City in writing concerning its activities which report shall include but not be limited to:

- (a) monthly financial statement
- (b) summary of promotion efforts
- (c) trade shows attended
- (d) telephone contacts received

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(e) future plans of the Board

**Section 15 Reservation of Rights:**

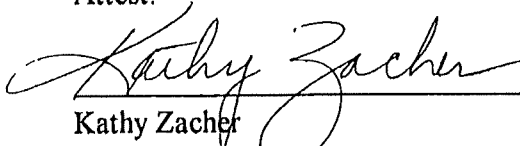
The city reserves the right to amend or terminate this ordinance at any time without prior notice to the Board. If this ordinance is amended or terminated, 30 days notice of such amendment or termination shall be given to the Board prior to the termination or amendment being effective.

Passed and adopted by the City of Rushford this 10<sup>th</sup> day of April, 1995.



Vern Bunke  
Mayor

Attest:

  
Kathy Zacher  
Clerk

**CITY OF RUSHFORD  
LODGING TAX RETURN**

REPORT FOR QUARTER/YEAR \_\_\_\_\_  
STATE SALES TAX ACCOUNT \_\_\_\_\_

NAME OF ESTABLISHMENT \_\_\_\_\_

ADDRESS \_\_\_\_\_

- |   |          |
|---|----------|
| 1. GROSS QUARTERLY RECEIPTS OF RENT COLLECTED FOR LODGING | \$ _____ |
| 2. ADJUSTMENTS  | \$ _____ |
| 3. BALANCE DUE SUBJECT TO TAX                             | \$ _____ |
| 4. TAX DUE, 3% OF LINE 3                                  | \$ _____ |
| 5. PENALTY/INTEREST IF DUE                                | \$ _____ |
| 6. TOTAL AMOUNT DUE                                       | \$ _____ |

**RETURN TO CITY WITH REMITTANCE  
& COPY OF STATE SALES TAX REPORT**

MAKE CHECKS PAYABLE TO AND SEND TO: CITY OF RUSHFORD  
BOX 430  
RUSHFORD, MN 55971

DUE DATE \_\_\_\_\_

I DECLARE AND CERTIFY UNDER PENALTY OF LAW THAT I HAVE EXAMINED THIS STATEMENT AND THAT TO THE BEST OF MY KNOWLEDGE & BELIEF, IT IS TRUE AND CORRECT.

SIGNATURE \_\_\_\_\_

TITLE \_\_\_\_\_ DATE \_\_\_\_\_

**WHEREAS**, the City of Rushford adopted an ordinance April 10, 1995, entitled An Ordinance for the Collection and Administration of Local Lodging Tax, and;

**WHEREAS**, State Statute regulates that a City must designate a local convention or tourism bureau for the purpose of marketing and promoting the City, and;

**WHEREAS**, the City of Rushford has explored options for the administering of the proceeds of the local lodging tax for the promotion of tourism in the area, and;

**WHEREAS**, the Rushford Peterson Valley Chamber of Commerce Board of Directors has agreed to be the "Board" for the purposes of this ordinance. The Chamber's Board of Directors intends to consistently consult the City's lodging establishments on the use of the lodging tax funds it receives. The lodging establishments will have prior written knowledge of, and the opportunity to provide input into how these funds are intended to be used for promotion,

**NOW, THEREFORE**, the following amendments will clarify definitions and procedures for the administration of the local lodging tax:

#### **AMENDMENT TO LOCAL LODGING TAX ORDINANCE**

#### **THE CITY OF RUSHFORD ORDAINS:**

**SECTION 1.** The following sections of City Local Lodging Tax Ordinance dated April 10, 1995 shall be amended as set forth hereinafter:

##### Section 1. Definitions:

Subd. 1.02: "Board" means the Rushford Peterson Valley Chamber of Commerce Board of Directors as established for the purpose of administering the proceeds of the local lodging tax for the promotion of tourism in this area.

Subd. 1.03: "Lodging" means the consideration of lodging at a hotel, motel, rooming house, tourist court, or resort, other than the renting or leasing thereof for the continuous period of thirty days or more. "Lodging" shall not include the renting or leasing of campgrounds, camper or motor home sites, except for City of Rushford municipally-owned campgrounds which are eligible for taxation.

Section 7. Examination of Return, Adjustments Notices and Demands: The City of Rushford shall provide a quarterly report of the amount of lodging tax collected and shall disperse the net proceeds to the City and the Board. Ninety-five percent of the gross proceeds shall be paid to the Board and five percent of the gross proceeds shall be retained by the City quarterly. The City of Rushford shall attempt to contact the lodging facility operator once and provide written notice by certified or registered mail, postage prepaid, of the failure to file the return and pay the tax due. If the violation has not been cured within 30 days of the written notice, the City of Rushford shall commence enforcement proceedings.



Section 14. Use of Proceeds:

Subd. 14.02: The Board shall use the money paid to it pursuant to this ordinance to market and promote the City as a tourist center. The Board shall submit quarterly reports to the City in writing concerning its activities which report shall include but not be limited to:

- a) Financial statement
- b) Summary of promotion efforts
- c) Trade shows attended
- d) Telephone contacts received
- e) Future plans of the Board

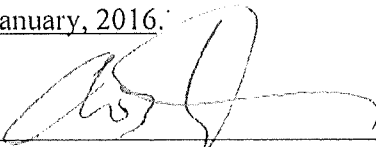
**SECTION 2. SEVERABILITY & SAVINGS CLAUSE.**

If any section or portion of this ordinance shall be found unconstitutional or otherwise invalid or unenforceable by a court of competent jurisdiction, that finding shall not serve as invalidation or affect the validity and enforceability of any other section or portion of this ordinance.

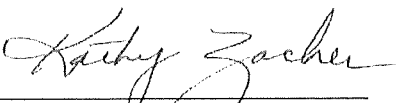
**SECTION 3. EFFECTIVE DATE.**

This ordinance shall be in full force and effect from and after passage and publication, as provided by law.

Adopted by the Rushford City Council this 25<sup>th</sup> day of January, 2016.

  
\_\_\_\_\_  
Mayor Chris Hallum

Attest:

  
\_\_\_\_\_  
Kathy Zacher, City Clerk/Treas.

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