

## **TITLE XI: BUSINESS REGULATIONS**

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**CHAPTER 110: GENERAL BUSINESS LICENSING AND REGULATIONS**

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## ***GENERAL PROVISIONS***

### **§ 110.01 POLICY AND PURPOSE.**

By the enactment of this chapter, the City Council intends to establish to the maximum degree possible a uniform system for the issuance, revocation, suspension and renewal of licenses and permits for all activities for which licenses and permits are required by this code. The Council also intends that fees for licenses and permits required by this code shall be those set by this chapter. (1981 Code, § 800.01)

### **§ 110.02 APPLICATION.**

(A) *General.* Where a provision of this code requiring a license or a permit contains no procedure for issuance, revocation, suspension, renewal or fee, the provisions of this chapter apply.

(B) *Other Provisions.* Where a provision of this code requiring a license or a permit contains procedures for its issuance, revocation, suspension, renewal or fee, such provisions prevail over this chapter.

(C) *Conflicts.* Where a direct conflict exists between a license or permit fee set by any provision of this code and a fee set by this chapter, the fee set by this chapter applies. (1981 Code, § 800.03)

## ***LICENSING PROCEDURES***

### **§ 110.20 LICENSES REQUIRED.**

It is unlawful for any person to engage in any trade, profession, business or privilege in the city for which a license is required by any provision of this code without first obtaining a license from the city in the manner provided in this section. (1981 Code, § 805.01) Penalty, see § 110.99

### **§ 110.21 APPLICATION.**

Application for a license is made to the City Clerk upon forms provided by the city. The applicant shall state the location of the proposed activity and such other facts as are required for or applicable to the granting of the license. (1981 Code, § 805.03)

### **§ 110.22 PAYMENT OF FEE.**

The fees required for a license shall be paid at the office of the City Clerk before the granting of the license. (1981 Code, § 805.05)

**§ 110.23 APPROVAL OR DENIAL OF LICENSES.**

Where the approval of any city officer, state officer or the Council is required prior to the issuance of a license, the approval by the Chief of Police must be presented to the City Clerk before the license is issued by the City Clerk if it appears that the conduct of the activity for which a license is sought will be contrary to the health, safety or welfare of the public or any regulation, law or ordinance applicable to such activity. (1981 Code, § 805.07)

**§ 110.24 LICENSE TERM.**

The term of the license year shall be as stated in this chapter. Where the issuance of licenses for periods of less than one year is permitted, the effective date of the license is the date of issuance. (1981 Code, § 805.09)

**§ 110.25 LICENSE CERTIFICATES.**

License certificates shall show the date of issue, the activity licensed and the term of the license. They shall be signed by the Mayor and City Clerk and be impressed with the city seal. (1981 Code, § 805.11)

**§ 110.26 EXHIBITION OF LICENSE CERTIFICATE.**

A licensee shall carry his or her license certificate upon his or her person at all times when engaged in the activity for which the license was granted. Where the licensed activity is conducted at a fixed place of business or establishment, the certificate shall be exhibited at all times in some conspicuous place on the premises. The licensee shall present the license certificate when applying for a renewal and upon demand of any police officer or authorized representative of the city. (1981 Code, § 805.13)

**§ 110.27 TRANSFER OF LICENSE.**

Unless otherwise provided, no license shall be transferable without the authorization of the Council. (1981 Code, § 805.15)

**§ 110.28 RENEWAL OF LICENSE.**

License renewals are issued in the same manner and subject to the same conditions as original licenses. (1981 Code, § 805.17)

**§ 110.29 REVOCATION; DENIAL; SUSPENSION.**

A license issued or to be issued by the city may be denied, suspended or revoked by the Council for any of the following causes:

- (A) Fraud, misrepresentation or incorrect statements contained in the application for a license or made in carrying on the licensed activity;

(B) Conviction of any crime or misdemeanor pertaining to the license held or applied for;

(C) Conducting such licensed activity in such manner as to constitute a breach of the peace, a menace to the health, safety and welfare of the public or a disturbance of the peace or comfort of the residents of the city, upon recommendation of the city health authorities or other appropriate city official;

(D) Expiration or cancellation of any required bond or insurance or failure to notify the city within a reasonable time of changes in the terms of the insurance or the carriers;

(E) Actions unauthorized or beyond the scope of the license granted;

(F) Violation of any regulation or provision of this code applicable to the activity for which the license has been granted or any regulation or law of the state so applicable;

(G) Failure to continuously comply with all conditions required as precedent to the approval of the license. (1981 Code, § 805.19)

### **§ 110.30 HEARING.**

No license may be suspended or revoked until after a hearing is granted to the licensee. Such hearing is to be held before the City Council upon due notice to the licensee stating the time and place of such hearing, together with a statement of the violation alleged to be the cause for the revocation or suspension of the license. (1981 Code, § 805.21)

### **§110.31 INSPECTIONS.**

The city health authorities and other appropriate city officials may enter upon the premises where any licensed activity is being conducted for the purpose of inspection at any reasonable hour. (1981 Code, § 805.23)

### **§ 110.32 LATE PAYMENT OF LICENSE FEES.**

(A) *No penalty.* No penalty for the late payment of any license shall be incurred by any licensee, provided the owner or his or her agent makes application for the renewal of his or her existing license to the City Clerk and includes therein the payment of the required fee therefore prior to the expiration date of the license.

(B) *Penalty for late payment.* Every person whose licensed trade, business, profession, activity or privilege is licensed by the city, other than one who has been closed down or who has not operated such activity in the city after the expiration of the licensing year, shall pay to the City Clerk the regular license fee and in addition thereto the following penalty for late application for a renewal license.

- (1) One to seven days late: 25% penalty
- (2) Eight to 14 days late: 50% penalty
- (3) After 14 days late the activity for which a license is required shall be suspended on order of the City Clerk and no new license for such activity shall be considered by the Council for 60 days.

(C) *Late payment of the license fee with penalty no bar to prosecution for operating without a license therefore.* The late payment of the license fee along with the penalty set forth herein is no bar to any prosecution by the city for operating any licensed trade, business, profession, activity or privilege within the city without a license therefore. (1981 Code, § 805.25)

### **§ 110.33 DENIAL OF LICENSE IF INDEBTED TO CITY.**

No license shall be issued or renewed if the applicant or an officer or principal owner of the applicant is indebted to the city or any of its subdivisions unless the determination of the indebtedness is before a court for consideration on the merits thereof. (1981 Code, § 805.27)

### **§ 110.34 FEES.**

(1981 Code, § 810.01) (Am. Ord. 365, passed 1-12-2004) (Am. Ord. 499 passed 12-13-2010 repealing Section 110.34). Per Council action, these items were moved to the Annual City Fee Schedule).

## ***LODGING TAX***

### **§ 110.45 DEFINITIONS.**

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

***BUREAU(S).*** The local convention and tourism bureau(s) appointed by the City from time to time by City Council resolution for the use of lodging tax proceeds.

***CALENDAR QUARTER.*** The months of January through March; April through June; July through September; and October through December.

***CITY.*** City of Lake City, Minnesota.

***LODGER.*** The person obtaining lodging from an operator.

***LODGING.*** The furnishing for the consideration of lodging by a hotel, motel, rooming house, tourist court or resort other than the renting or leasing of lodging for a continuous period of 30 days or more. (Ord 459 passed 02-25-08; Ord. 467 passed 04-13-09)

**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 word **PERSON** is used in any provision of this subchapter prescribing and imposing a penalty, the term as 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. (Ord 459 passed 02-25-08) (1981 Code, § 965; Ord. 467 passed 04-13-09)

**TOURISM BUREAU.** Lake City Tourism Bureau, Inc. (Rev. Ord. 467. Passed 12-08-08)

#### **§ 110.46 IMPOSITION OF TAX.**

Pursuant to M.S. § 469.190, as it may be amended from time to time, there is imposed a tax on the rent charged by an operator for providing lodging to any person. The lodging tax program shall commence on April 1, 1997. 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 of 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. (1981 Code, § 965)

#### **§ 110.47 COLLECTION.**

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. 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. (1981 Code, § 965)

#### **§ 110.48 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) *Exemptions.* An exemption shall be granted to any person as to whom or whose occupancy it is beyond the power of the City to tax. 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. All such claims shall be forwarded to the City when the returns and collections are submitted as required by this subchapter. (1981

Code, § 965)

**§ 110.49 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. (1981 Code, § 965) Penalty, see § 110.99

**§ 110.50 PAYMENT AND RETURNS.**

(A) The taxes imposed by this program shall be paid by the operator to the City not later than 30 days after the end of the calendar quarter 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/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;
- (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. (1981 Code, § 965) (Ord. 467, passed 3-23-09)

**§ 110.51 EXAMINATION OF RETURN, ADJUSTMENTS, NOTICES AND DEMANDS.**

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 paid. If the tax due is found to be greater than the tax paid, such additional tax due shall be paid to the City within ten days 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 tax paid 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 calendar quarter. (1981 Code, § 965)

### **§ 110.52 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 the allowance, if any, shall be paid by the City to the claimant. (1981 Code, § 965)

### **§ 110.53 FAILURE TO FILE A RETURN.**

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 payment heretofore made on account of the tax for the taxable period covered by the return) shall be paid within five days of the receipt of a written notice and demand for such payment. Any such return or assessment made by the City shall be prima facie correct and valid, and any such person shall have the burden of establishing its incorrectness or invalidity in any action or proceeding with respect thereto.

(A) 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.

(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 subchapter, provided that interest during such period of extension shall be added to the taxes due at the rate of 10% per annum. (1981 Code, § 965)

### **§ 110.54 ADMINISTRATION OF TAX.**

The City Finance Director shall administer and enforce the assessment and collection of the taxes imposed by this subchapter. The City Finance Director shall cause to be prepared blank forms for the returns and other documents required by this subchapter 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. (1981 Code, § 965)

### **§ 110.55 EXAMINE RECORDS.**

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. Every such operator is directed and required to give the City the means, facilities and opportunity for such examinations and investigations as are authorized. (1981 Code, § 965)

### **§ 110.56 USE OF PROCEEDS.**

(A) 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. The city may retain a maximum of 5% for administrative costs. (Ord. 467, 4-13-09)

(B) The City may appoint one or more Bureaus as recipient(s) of the tax proceeds collected hereunder. (Ord. 467, 4-13-09)

(C) The Bureau shall submit to the city its annual operating budget for the Bureau before the beginning of each calendar year for which the budget is to be effective, for approval of the City Council. The budget shall detail the uses to which the proceeds shall be used consistent with the requirements of this subchapter and policies established by the City Council. The Bureau shall submit to the City a copy of the Bureau's quarterly financial statements, itemized and verified by the chairperson of said Bureau with the right of the City to access the books and records of the said Bureau at any time during normal business hours for purposes of auditing revenue and expenditures. The Bureau shall provide an annual financial audit of the Bureau performed by an independent certified public accounting firm and a copy thereof furnished to the City within 30 days following the completion thereof at no cost to the City. The Bureau agrees to indemnify, defend and hold the City harmless for any claims, demands, actions or causes of action arising out of any act or omission on the part of the Bureau, its agents, service or employees in the performance of or in relation to any work or service performed or furnished by the Bureau. (Ord. 567, adopted 4-13-09)

(D) Violation of this subchapter shall be considered a misdemeanor and punishable by a fine of \$700 or 90 days in jail, or both. (1981 Code, §965) (Rev. Ord 467. Passed 12-08-08)

### **§ 110.98 VIOLATIONS.**

Any person who shall willfully fail to make a return required by this program or shall fail to pay the tax after written demand for payment, who shall fail to remit the taxes collected or any penalty or interest imposed by this subchapter after written demand for such payment, who shall refuse to permit the City to examine the books, records and papers under its control or who shall willfully make an incomplete, false or fraudulent return shall be guilty of a misdemeanor. (1981 Code, §965) Penalty, see § 110.99

**§ 110.99 PENALTY.**

Whoever shall violate any provision of this chapter for which no specific penalty is provided shall be punished as set forth in § 110.99 of this code.

(1) If any tax imposed by § 110.45 *et seq.* 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) In case of any failure to make and file a return within the time prescribed by 110.45 *et seq.* 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), 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 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.

(3) 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 also 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 subdivision shall be collected as part of the tax and shall be in addition to any other penalties provided by this chapter.

(4) All payments received shall be credited first to penalties, next to interest and then to the tax due. (1981 Code, § 965)