506. Lodging Tax

506.01 Definitions. Unless the language or context clearly indicates that a different meaning is intended, the following words, for the purpose of this ordinance, shall have the following meanings and inclusions:

Subd. 1. City. The City of Detroit Lakes, Minnesota, acting by or through its duly authorized representative.

Subd. 2. Lodging. The furnishing for a consideration of lodging at a hotel, motel, rooming house, tourist court, municipal campground, resort or bed and breakfast, other than the renting or leasing of it for a continuous period of 30 days or more. **(Ordinance No. 70, Adopted 10/1/1992)**

Subd. 3. Operator. Any person who has charge, care, or control of a building in the City, or part thereof, in which dwelling units or rooming units are let.

Subd. 4. Person. Includes all firms, partnerships, associations, corporations, and natural persons.

Subd. 5. Rent. The total consideration valued in money charged for 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.

Subd. 6. Lodger. The person obtaining lodging from an operator.

506.02 Imposition of Tax. Pursuant to Minnesota Statutes, Chapter 469.190, there is hereby imposed a tax of three percent (3%) on the rent charged by an operator for providing lodging to any person. The tax shall be stated and charged separately and shall be collected by the operator from the lodger. The tax collected by the operator shall be a debt owed by the operator to the City and shall be extinguished only by payment to the City. 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 ordinance to collect from a lodger. **(Ordinance No. 90, Adopted 6/14/1993)**

506.03 Collections. Each operator shall collect the tax imposed by this section at the time the rent is paid. The tax collection 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.

506.04 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 therefore 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 Chapter.

506.05 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. In computing the tax to be collected, amounts of tax less than one cent shall be considered an additional cent.

506.06 Payments and Returns. The taxes imposed by this ordinance shall be paid by the operator to the City monthly not later than twenty (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 continuing such information as the City may require. The return shall 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 ordinance previously paid as a result of any transaction the consideration for which became uncollectible.

506.07 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 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 (10) days after determination of such refund.

506.08 Refunds. Any person may apply to the City for a refund of taxes paid for a prescribed period in excess of the amount legally due for that period, provided that no application for refund shall be considered unless filed within one (1) year after such tax was paid, or within one (1) year from the filing of the return, whichever period is the longer. The City shall examine the claim and make and file written findings whereon 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 ordinance from the claimant and the balance of said allowance, if any, shall be paid by the City to the claimant.

506.09 Failure to File a Return.

Subd. 1. 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, file such return or corrected return within ten (10) 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 based upon 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 such return) shall be paid within ten (10) 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 the burden of proving to the contrary rests with any person in any action or proceeding in respect thereto.

Subd. 2. If any portion of a tax imposed by this ordinance, including penalties thereon, is not paid within thirty (30) days after it is required to be paid, the City may institute such legal action as may be necessary to cover the amount due plus interest, penalties, the costs and disbursements of any action.

Subd. 3. 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 such period of extension shall be added to the taxes due at the rate of eight (8) percent per annum.

506.10 Penalties.

Subd. 1. If any tax imposed by this ordinance is not paid within the time herein specified for the payment, or an extension thereof, there shall be added thereto a specific penalty equal to ten (10) percent of the amount remaining unpaid.

Subd. 2. In case of any failure to make and file a return within the time prescribed by this ordinance, unless it is shown that such failure is not due to willful neglect, there shall be added to the tax in addition the penalty provided in Subdivision 1 above, a penalty of five (5) percent for each thirty (30) day period or fraction thereof during which such failure continues, not exceeding twenty-five (25) percent in the aggregate. There shall be a minimum penalty assessed of ten (10) dollars if penalties in the aggregate do not exceed that amount. 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.

Subd. 3. If any person willfully fails to file any return or makes 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 such tax or payment thereof, there shall also be imposed as a penalty an amount equal to fifty (50) percent of any tax (less any 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 section shall be collected as part of the tax, and shall be in addition to any other penalties provided by this ordinance.

Subd. 4. All payments received shall be credited first to penalties, next to interest, and then to the tax due.

Subd. 5. 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 such tax should have been paid until payment is made. Any interest and penalty shall be added to the tax and be collected as part thereof.

506.11 Administration of Tax. The City shall administer and enforce the assessment and collection of the taxes imposed by this ordinance. The City shall cause to be prepared blank forms for the returns and other documents required by this ordinance and shall distribute the same throughout the City. Failure to receive or secure such forms and documents shall not relieve any person from any obligation required of him under this ordinance.

506.12 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 ordinance. Every such operator is directed and required to give to the City the means, facilities, and opportunity for such examinations and investigations as are hereby authorized.

506.13 Violations. Any person who shall willfully fail to make a return by this ordinance, or who shall fail to pay the tax after written demand for payment, or who shall fail to remit the 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's authorized agents to examine the books, records, and papers under his control, or who shall willfully make any incomplete, false, or fraudulent return shall be guilty of a misdemeanor.

506.14 Use of Proceeds. Ninety-five (95) percent of the proceeds obtained from the collection of taxes pursuant to this ordinance shall be used in accordance with Minnesota Statutes Section 469.190 as the same may be amended from time to time to fund a Tourism Bureau for the purpose of marketing and promoting Detroit Lakes as a tourist center. The City may use up to five (5) percent of the proceeds obtained hereunder to defray the costs and expenses of collection and administration of such tax. **(Ordinance No. 77, Adopted 6/2/1992)**

506.15 Tourism Bureau.

Subd. 1. Appointment of Members. The Tourism Bureau shall recommend and the Mayor, with approval of the City Council, shall appoint five members to serve on the Tourism Bureau, three of whom shall be representatives of the lodging industry in Detroit Lakes, one of whom shall be a representative of the Detroit Lakes Regional Chamber of Commerce and not a paid employee of said organization and one from the City of Detroit Lakes who will represent the City Council. In the event the City enters into any joint powers agreements with any other political subdivisions for the collection, administration and disposition of a lodging tax imposed by such entities pursuant to Minnesota Statutes 469.190, the political subdivisions party to joint powers agreements with the City of Detroit Lakes, may recommend a sixth individual as their representative. Tourism Bureau members shall be appointed for three year terms. A member of the Tourism Bureau shall not be eligible for re-appointment after having served three consecutive three year terms until after a lapse of one term except that the Council, at its discretion, may appoint one of its alderman to the bureau and such alderman shall be eligible for re-appointment as long as they remain on the Council. All present members of the Tourism Bureau shall continue to serve until their current term or re-appointment expires. First term appointments for lodging industry members shall be as follows: one member shall be appointed for a one year term; one member shall be appointed for a two year term; and one member shall be appointed for a three year term. They shall elect their own chairman and serve without compensation. The Tourism Bureau shall be responsible for marketing and promoting tourism in the City of Detroit Lakes and, in the event, the City associates with a township through a joint powers agreement, tourism in that township. **(Ordinance No. 77, Adopted 6/2/1992)(Ordinance No. 151, Adopted 3/4/1997)**

Subd. 2. Joint Powers Agreements. The City is authorized to enter into joint powers agreements pursuant to Minnesota Statutes 471.59 for the collection, administration, or disposition of the proceeds of any lodging tax imposed by a resolution of a separate political subdivision provided such collection, administration, or disposition does not violate the terms of this ordinance. **(Ordinance No. 77, Adopted 6/2/1992)**

506.16 Appeals.

Subd. 1. Any operator aggrieved by any notice, order, or determination made by the City under this ordinance may file a petition for review of such notice, order, or determination. The petition shall contain the name of petitioner, the petitioner's address, and the location of the lodging subject to the notice, order, or determination.

Subd. 2. The petition for review shall be filed with the City within ten (10) days after the notice, order, or determination for which review is sought has been mailed to or served upon the person requesting review.

Subd. 3. Upon receipt of the petition, the City Administrator shall set a date for a hearing and give the petitioner at least ten (10) days prior written notice of the date, time, and place of the hearing.

Subd. 4. At the hearing, the petitioner shall be given an opportunity to show cause why the notice, order, or determination should be modified or withdrawn.

Subd. 5. The hearing shall be conducted by the City Administrator or his authorized agent, and he shall make written findings of fact and conclusions based upon the applicable section of this ordinance and the evidence presented. The person conducting the hearing may affirm, reverse, or modify the notice, order or determination made by the City.

Subd. 6. Any decision rendered by the City pursuant to this section may be appealed to the City Council. A petitioner seeking to appeal a decision must file a written notice of appeal with the City within ten (10) days after the decision has been mailed to the petitioner. The matter will thereupon be placed on the Council agenda as soon as is practical. The Council shall then review the findings of fact and conclusions to determine whether they were correct. Upon a determination by the Council that the findings and conclusions were incorrect, the Council may modify, reverse, or affirm the decision of the City Administrator or authorized agent under the same standards as set forth in Section 6.

(Ordinance No. 33, Adopted 3/7/1989)