

**CITY OF MARSHALL
ORDINANCE 25-013**

**AN ORDINANCE AMENDING ARTICLE 70-II OF THE MARSHALL CODE OF
ORDINANCES REGARDING IMPOSITION OF LODGING TAX**

The Common Council of the City of Marshall do ordain:

SECTION 1:AMENDMENT “Section 70-21 Definitions” of the Marshall Municipal Code is hereby *amended* as follows:

AMENDMENT

Section 70-21 Definitions

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Accommodations intermediary. "Accommodations intermediary" means any person or entity, other than an accommodations provider, that facilitates the sale of lodging as defined in subdivision 3, and that charges a room charge to a customer. The term "facilitates the sale" includes brokering, coordinating, or in any way arranging for the purchase of or the right to use accommodations by a customer.

Accommodations provider. "Accommodations provider" means any person or entity that furnishes lodging and related services, as defined in this subdivision, to the general public for compensation. The term "furnishes" includes the sale of use or possession, or the sale of the right to use or possess.

Commissioner. "Commissioner" means the commissioner of revenue of the state of Minnesota or a person to whom the commissioner has delegated functions.

City. "City" means the City of Marshall, Minnesota.

Director means the director of finance of the city.

Lodger means the person obtaining lodging from an accommodations provider~~operator~~.

Lodging and related services. "Lodging and related services" means lodging and related services by a hotel, rooming house, resort, campground, vacation rental, motel, or trailer camp, including furnishing the guest of the facility with access to telecommunication services, and the granting of any similar license to use real property in a specific facility, other than the renting or leasing of it for a continuous period of 30 days or more under an enforceable written agreement that may not be terminated without prior notice.

~~Lodging means the furnishing for a consideration of lodging by a hotel, motel, dormitory, roominghouse, bed and breakfast or any other short term rental facility where such lodging is provided for a continuous period of fewer than 30 days to the same lodger. The furnishing of rooms by religious organizations shall not constitute lodging for purposes of this article.~~

Motel means a roadside hotel for motorists.

~~Operator means a person who provides lodging to others or any officer, agent or employee of such person.~~

Rent means 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.

State sales and use tax laws and rules. "State sales and use tax laws and rules" means those provisions of the state revenue laws applicable to state sales and use tax imposition, administration, collection, and enforcement, including Minnesota Statutes, Chapter 270C, 289A, 297A, 469A, and Minnesota Rules, chapter 8130, as amended from time to time.

(Ord. No. 668 2nd series, § 1, 12-18-2012)

Cross reference(s)—Definitions generally, § 1-2.

SECTION 2: AMENDMENT “Section 70-22 Imposition” of the Marshall Municipal Code is hereby *amended* as follows:

AMENDMENT

Section 70-22 Imposition

- (a) ~~There is hereby imposed a tax of four and one-half percent 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 article upon an operator exceed the amount of tax, which the operator is authorized and required by this article to collect from a lodger.~~In accordance with Minnesota Statutes, section 469.190, the City of Marshall, Minnesota is authorized to impose a tax of up to three percent (3) percent on gross receipts from the furnishing for consideration of lodging and lodging related services at a hotel, motel, rooming house, tourist court, or resort, other than the renting or leasing of it for a continuous period of 30 days or more, plus an additional one and a half (1½) percent on those same lodging and lodging related services approved by special legislation.
- (b) The officially recognized local convention or tourism bureau (hereafter referred to as

the "bureau") shall be established to promote convention, visitor, and tourism economic development activities benefitting the city and have all powers, rights, duties, and obligations set forth in Minn. Stat. § 469.190, inclusive, as amended, and other law and to be further set forth by ordinance adopted by the city council except as otherwise limited as follows:

- (1) The bureau's board of directors shall be composed of nine voting members. The voting members shall include: three active lodging operators as they shall appoint; one representative from Southwest Minnesota State University (SMSU) as they shall appoint; one representative from the food and beverage industry as they shall appoint; and four additional representatives, not serving as members of any of the aforementioned organizations or lodging operators with designated appointments, who reside within the incorporated municipal boundaries of the city and are appointed by the mayor and confirmed by the city council. The bureau shall also include one non-voting liaison member who is a member of the city council and is appointed by the mayor and confirmed by the city council.
- (2) Meetings of the bureau shall be public. Written notice of the date, time, place, and agenda of the meeting must be posted at its place of business and at the city officially designated board at least three days before the meeting. In addition to posting notice, the bureau must also provide advance notice to each person who has filed a written request for notice of special meetings with the bureau.
- (3) The bureau shall annually present the city council at a scheduled meeting the final proposed budget prior to adoption.
- (4) The bureau shall complete an audit at their expense for its past fiscal year to be provided and presented to the city after completion.
- (5) The bureau shall annually present to the city council at a scheduled meeting a report illustrating the expenditures and activities of the bureau for the previous fiscal year.
- (6) The city council must authorize the official location of the bureau for purposes of day to day operations by a majority approval following a public hearing at a regularly scheduled meeting.
- (7) The bureau shall govern under formally adopted bylaws and other written policies and procedures as it shall determine necessary and appropriate. Such bylaws and other written policies shall be provided as adopted and amended from time to time to the city clerk.
- (8) The bureau shall make available all bylaws, policies, procedures, financial records, payroll records, documents and other relevant information to the city upon request to ensure appropriate disposition of public tax proceeds.

(c) A local lodging tax is imposed in the amount of four and one-half percent (4½) percent on the gross receipts from sales of lodging and related services, as defined in subsection (a) and (b) of this Ordinance, sourced within City limits which are taxable under the state sales and use tax laws and rules. All of the provisions of the state sales and use tax laws and rules apply to the local sales and use tax imposed by this Ordinance. The local lodging tax imposed by this Ordinance shall be collected and

remitted to the Commissioner by the accommodations provider on any sale when the state sales tax must be collected and remitted to the Commissioner under the state sales and use tax laws and rules and is in addition to the state sales and use tax.

(d) All of the revenues, interest, and penalties derived from the lodging tax imposed by this Ordinance collected by the Commissioner and remitted to the City shall be deposited by the City Finance Director in the City treasury and shall be credited to the fund established to pay the costs of collecting the lodging tax imposed by this Ordinance and to fund a local convention or tourism bureau.

(Ord. No. 668 2nd series, § 1, 12-18-2012; Ord. No. 683 2nd series, 12-10-2013)

Note(s)—Laws of Minnesota 2010 Chapter 389, Article 5, Section 6, as amended, authorized the city to impose a one and one-half percent tax on lodging related services provided within a guest room on hotels, motels and other lodging facilities in the city to assist in funding the new and existing facilities of the Minnesota Emergency Response and Industry Training Center and the new and existing facilities of the Southwest Minnesota Regional Amateur Sports Center. The city approved the Act in accordance with applicable law. This tax is in addition to all other lodging taxes imposed by the city pursuant to Minn. Stat. § 469.190 including additional powers, rights, duties, and obligations provided in section 70-22(b). This portion of the lodging [tax] shall take effect June 1, 2013.

SECTION 3: AMENDMENT “Section 70-26 Payment And Returns” of the Marshall Municipal Code is hereby *amended* as follows:

AMENDMENT

Section 70-26 ~~Payment And Returns~~ Agreement with Commission

The City may enter into an agreement with the Commissioner regarding each party’s respective roles and responsibilities related to the imposition, administration, collection, enforcement, and termination of the lodging tax imposed by this Ordinance. Any such agreement shall not abrogate, alter, or otherwise conflict with the state sales and use tax laws and rules, this Ordinance, or Minnesota Statutes Section 469.190. ~~The taxes imposed by this article shall be paid by the operator to the city monthly not later than 25 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 director 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 an agent duly authorized in writing.~~
- ~~(d) The period covered by the return.~~

~~(c) The amount of uncollectible rent charged 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 article 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.~~

~~(Ord. No. 668 2nd series, § 1, 12-18-2012)~~

SECTION 4: **REPEAL** “Section 70-27 Examination Of Return, Adjustments, Notices And Demands” of the Marshall Municipal Code is hereby *repealed* as follows:

REPEAL

~~Section 70-27 Examination Of Return, Adjustments, Notices And Demands (Repealed)~~

~~The director shall, after a return is filed, examine the return 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 for 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.~~

~~(Ord. No. 668 2nd series, § 1, 12-18-2012)~~

SECTION 5: **REPEAL** “Section 70-28 Refunds” of the Marshall Municipal Code is hereby *repealed* as follows:

REPEAL

~~Section 70-28 Refunds (Repealed)~~

~~Any person may apply to the director 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 year after such tax was paid or within one year from the filing of the return, whichever period is the longer. The director shall examine the claim and make and file written findings thereon denying or allowing the claim in whole or 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 director shall credit the amount of the allowance~~

~~against any taxes due under this article from the claimant and the balance of such allowance, if any, shall be paid by the director to the claimant.~~

~~(Ord. No. 668 2nd series, § 1, 12-18-2012)~~

SECTION 6: **REPEAL** “Section 70-29 Failure To File A Return” of the Marshall Municipal Code is hereby *repealed* as follows:

REPEAL

~~Section 70-29 Failure To File A Return (Repealed)~~

- ~~(a) If any operator required by this article 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 of such return. If such person shall fail to file such return or corrected return, the director shall make a return or corrected return for such person from such knowledge and information as the director 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 five days of the receipt of written notice and demand for such payment. Any such return or assessment made by the director 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 in respect thereto.~~
- ~~(b) If any portion of a tax imposed by this article, including penalties thereon, is not paid within 30 days after it is required to be paid, the city attorney may institute such legal action as may be necessary to recover the amount due, plus interest, penalties and the costs and disbursements of any action.~~
- ~~(c) Upon a showing of good cause, the director may grant an operator one 30-day extension of time within which to file a return and made payment of taxes, as required by this article, provided that interest during such period of extension shall be added to the taxes due at the rate of ten percent per annum.~~

~~(Ord. No. 668 2nd series, § 1, 12-18-2012)~~

SECTION 7: **REPEAL** “Section 70-30 Penalties For Violation Of Article” of the Marshall Municipal Code is hereby *repealed* as follows:

REPEAL

~~Section 70-30 Penalties For Violation Of Article (Repealed)~~

- (a) If any tax imposed by this article is not paid within the time specified in this article for the payment, or an extension of the payment, there shall be added thereto a specific penalty equal to ten percent of the amount remaining unpaid.
- (b) In case of any failure to make and file a return within the time prescribed by this article, unless it is shown that such failure is not due to willful neglect, there shall be added to the tax, in addition to the ten percent specific penalty provided in subsection 70-30(a), ten percent if the failure is for not more than 30 days with an additional five percent for each additional 30 days or fraction thereof during which such failure continues, not exceeding 25 percent in the 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 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.
- (c) If any person willfully fails to file any return or make any payment required by this article, or willfully files a false or fraudulent return or willfully attempts, in any manner, to evade or defeat any such a tax or payment thereof, there shall also be imposed as a penalty an amount equal to 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 article.
- (d) All payments received shall be credited first to penalties, next to interest, and then to the tax due.
- (e) The amount of tax not timely paid, together with any penalty provided by this section, shall bear interest at the rate of eight percent per annum from the time such tax should have been paid until paid. Any interest and penalty shall be added to the tax and be collected as part of such tax.

~~(Ord. No. 668 2nd series, § 1, 12-18-2012)~~

SECTION 8: **REPEAL** “Section 70-31 Administration Of Tax” of the Marshall Municipal Code is hereby *repealed* as follows:

REPEAL

~~Section 70-31 Administration Of Tax (Repealed)~~

~~The director shall administer and enforce the assessment and collection of the taxes imposed by this article. The director shall cause to be prepared blank forms for the returns and other documents required by this article and shall distribute the same throughout the city and furnish them on application but failure to receive or secure them shall not relieve any person from any obligation required of him under this article.~~

~~(Ord. No. 668 2nd series, § 1, 12-18-2012)~~

SECTION 9: **REPEAL** “Section 70-32 Examine Records” of the Marshall Municipal Code is hereby *repealed* as follows:

REPEAL

~~Section 70-32 Examine Records (Repealed)~~

~~The director and those persons acting on behalf of the director authorized in writing by the director 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 article. Every such operator is directed and required to give to the director or to this duly authorized agent or employee the means, facilities and opportunity for such examinations and investigations as are hereby authorized.~~

~~(Ord. No. 668 2nd series, § 1, 12-18-2012)~~

SECTION 10: **REPEAL** “Section 70-33 Violations” of the Marshall Municipal Code is hereby *repealed* as follows:

REPEAL

~~Section 70-33 Violations (Repealed)~~

~~Any person who shall willfully fail to make a return required by this article, 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 article after written demand for such payment or who shall refuse to permit the director or any duly authorized agents or employees 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.~~

~~(Ord. No. 668 2nd series, § 1, 12-18-2012)~~

SECTION 11: **REPEAL** “Section 70-34 Appeals” of the Marshall Municipal Code is hereby *repealed* as follows:

REPEAL

~~Section 70-34 Appeals (Repealed)~~

- (a) Any operator aggrieved by any notice, order or determination made by the director under this article may file a petition for review of such notice, order or determination detailing the operator's reasons for contesting the notice, order or determination. The petition shall contain the name of the petitioner, the petitioner's address and the location of the lodging subject to the order, notice or determination.
- (b) The petition for review shall be filed with the city clerk within ten days after the notice, order or determination for which review is sought has been mailed or served upon the person requesting the review.
- (c) Upon receipt of the petition, the city administrator, or designee, shall set a date for a hearing and give the petitioner at least five days prior written notice of the date, time and place of the hearing.
- (d) At the hearing, the petitioner shall be given an opportunity to show cause why the notice, order or determination should be modified or withdrawn. The petitioner's may be represented by counsel of petitioner's choosing at petitioner's own expense.
- (e) The hearing shall be conducted by the city administrator, or designee, provided only that the person conducting the hearing shall not have participated in the drafting of the order, notice or determination for which review is sought.
- (f) The person conducting the hearing shall make written findings of fact and conclusions based upon the applicable section of this article and the evidence presented. The person conducting the hearing may affirm, reverse or modify the notice, order or determination made by the director.
- (g) Any decision rendered by the city administrator 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 clerk within ten 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 findings and conclusions were incorrect, the council may modify or reverse the decision of the city administrator, or designee, upon the same standards as set forth in subsection (f).

~~(Ord. No. 668 2nd series, § 1, 12-18-2012; Ord. No. 723 2nd Series, § 1, 8-8-2017)~~

SECTION 12: **SEVERABILITY CLAUSE** Every section, provision and part of this ordinance is declared severable from every other section, provision and part thereof. If any section, provision or part of this ordinance is held to be invalid by a court of competent jurisdiction, such judgment shall not invalidate any other section, provision or part of this ordinance.

SECTION 13: **EFFECTIVE DATE** This ordinance will be effective in accordance with the City Charter at the time of publication or summary publication, and the tax imposed hereunder shall commence on the 1st day of April, 2026.

PASSED AND ADOPTED BY THE CITY OF MARSHALL COMMON COUNCIL

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Presiding Officer

Attest

Robert Byrnes, Mayor, City of
Marshall

Steven Anderson, City Clerk, City of
Marshall