

**TOWN OF FAYAL**  
**St. Louis County, Minnesota**

**ORDINANCE NO. 2002-2**

**AN ORDINANCE TO ESTABLISH A TAX IMPOSED UPON LODGING**

**The Board of Supervisors of the Town of Fayal hereby ordains as follows:**

**RECITALS**

1. In accordance with *Minnesota Statutes* Section 469.190, the Minnesota Legislature and the electors of the Town of Fayal at the annual meeting of March 2002, have authorized the Town Board of Fayal Township to impose a tax of up to three percent on the gross receipts from the furnishing for consideration of lodging at a hotel, motel, rooming house, tourist court, or resort, other than the renting or leasing of it for a continuous period of thirty days or more.
2. The Town Board of Fayal Township finds that the imposition of such a tax would provide additional funding for a convention and tourism bureau to promote the Town and general area as a tourist and convention center.

**ARTICLE I DEFINITIONS**

The following words and terms when used in this Ordinance shall have the following meanings unless the context clearly indicates otherwise:

1. **Lodging** - The furnishing for consideration of lodging at a hotel, motel, rooming house, tourist court, or resort, other than the renting or leasing of it for a continuous period of thirty days or more. The furnishing of rooms by religious, educational or non-profit organizations shall not constitute "lodging" for the purposes of this ordinance.
2. **Lodger** - The person, persons, or other entity obtaining lodging from an operator.
3. **Municipality** - The Town of Fayal.
4. **Operator** - A person, persons, or other entity who provide lodging to others.
5. **Person** - The term "person" means any individual, corporation, local government unit, partnership, association, estate, receiver, trustee, executor, administrator, assignee, syndicate, or any other combination of individuals. Whenever the term "person" is used in any provision of this ordinance prescribing and imposing a penalty, the term as applied to a corporation, local government unit, partnership, or association shall mean the officers, or partners thereof as the case may be.
6. **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 or space charge itself.
7. **Tax Administrator** - The Town of Fayal through the office of the Town Clerk/Treasurer, unless another entity is named as tax administrator by specific resolution of the Fayal Town Board.

**ARTICLE II. IMPOSITION OF TAX.**

There is hereby imposed a tax of three per cent (3%) on the rent charged by an operator for providing lodging within the Town of Fayal to any person after 1 July 2002. The tax shall be stated and charged separately and shall be collected from the lodger by the operator. The tax collected by the operator shall be a

debt owed by the operator to the municipality and shall be extinguished only by payment to the municipality. 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.

### **ARTICLE III. COLLECTIONS**

Each operator shall collect the tax imposed by this ordinance at the time the rent is paid. The tax collections shall be deemed to be held in trust by the operator for the municipality. 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.

### **ARTICLE IV. EXEMPTIONS**

An exemption shall be granted to any person as to whom or whose occupancy it is beyond the power of the municipality to tax. No exemption shall be granted except upon a claim therefor made at the time the rent is collected and such claim shall be made in writing and under penalty of perjury on forms provided by the tax administrator. All such claims shall be forwarded to the tax administrator when the returns and collections are submitted as required by this ordinance.

### **ARTICLE V. 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 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.

### **ARTICLE VI. PAYMENT AND RETURNS**

The taxes imposed by this ordinance shall be paid by the operator to the tax administrator monthly not more than 15 days after the end of the month in which the taxes are collected. At the time of payment, the operator shall submit a return upon such forms and containing such information as the tax administrator may require. The return shall contain the following minimum information:

- a. The period covered by the return
- b. The total amount of rent collected for lodging during the period covered by the return
- c. The amount of tax required to be collected and due for the period.
- d. The signature of the person filing the return or that of his agent duly authorized in writing.
- e. The amount of uncollectible rental charges subject to the 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 during such reporting period, but only in proportion to the portion of such consideration which became uncollectible.

### **ARTICLE VII. EXAMINATION OF RETURN, ADJUSTMENTS, NOTICES, AND DEMANDS**

The Tax Administrator 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 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 tax administrator ten days after receipt of a notice thereof 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 Tax Administrator ten days after determination of such refund.

### **ARTICLE VIII. REFUNDS**

Any person may apply to the tax administrator 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 a refund shall be considered unless filed within one year after such tax was paid, or within one year of the filing of the return, whichever period is the longer. The tax administrator 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 tax administrator 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 tax administrator to the claimant.

### **ARTICLE IX FAILURE TO FILE A RETURN.**

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 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 a corrected return, the tax administrator shall make a return or corrected return, for such person from such knowledge and information as the tax administrator 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 upon within five days of the receipt of written notice and demand for such payment. Any such return or assessment made by the tax administrator shall be prima facie correct and valid, and such person shall have the burden of establishing its correctness or invalidity in any action or proceeding in respect thereto.
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 Prosecuting Attorney for the municipality 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.
3. Upon showing of good cause, the tax administrator 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 10 percent per annum.

### **ARTICLE X PENALTIES.**

1. If any tax imposed by this ordinance is not paid within the time herein specified for the payment, or any extension thereof, there shall be added thereto a specific penalty equal to 10 percent of the amount remaining unpaid.
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 to the 10 percent specific penalty provided in Subd. 1 above, 10 percent if the failure is for not more than 30 days with an additional five percent for each 30 days or fraction thereof during which such failure continues, not exceeding 25 percent in aggregate. If the penalty as computed does not exceed \$ 10.00, a minimum penalty of \$ 10.00 will be assessed. The amount so added to any tax shall be collected at the same time and 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.
3. 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 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 ordinance 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.

5. The amount of tax not timely paid, together with any penalty provided by this section, shall bear interest at the maximum rate per annum as prescribed by Mn. Stat. Sec. 270.75 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 thereof.

### **ARTICLE XI ADMINISTRATION OF TAX.**

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

### **ARTICLE XII EXAMINE RECORDS**

The tax administrator and those persons acting on behalf of the tax administrator authorized in writing by the tax administrator of the municipality 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 said person authorized to examine the books, papers and records, the means, facilities and opportunity for examinations and investigations as are hereby authorized.

### **ARTICLE XIII VIOLATIONS**

Any person who shall willfully fail to make a return required 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 tax administrator or any duly authorized agents or employees to examine the books, records, and papers under his or her control, or who shall willfully make any incomplete, false, or fraudulent return shall be guilty of a misdemeanor.

### **ARTICLE XIV USE OF PROCEEDS**

Five percent of the proceeds obtained from the collection of taxes pursuant to this ordinance shall be paid to the tax administrator for the costs of collection. Ninety-five 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 Subd. 3, as may be amended from time to time, to fund a local convention or tourism bureau for the purpose of marketing and promoting the Town as a tourist or convention center. A local convention or tourism bureau, such as the Iron Trail Convention & Visitors Bureau, will be selected by specific resolution of the Fayal Town Board to be the recipient of these funds.

### **ARTICLE XV APPEALS**

1. Any operator aggrieved by any notice, order, or determination made by the tax administrator under this ordinance 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 petitioner's name, the petitioner's address, and the location of the lodging subject to the notice, order, or determination.
2. The petition shall be filed with the tax administrator 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.

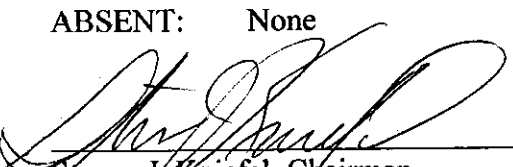
3. Upon receipt of the petition the tax administrator shall set a date and time for a meeting with the petitioner and shall give the petitioner at least five days prior written notice of the date, time, and place of the meeting.
4. At the meeting, the petitioner shall be given an opportunity to show cause why the notice, order, or determination should be modified or withdrawn. If the meeting does not result in the matter being resolved to the satisfaction of the petitioner, the petitioner may appeal to the Fayal Town Board.
5. A petitioner seeking to appeal a decision to the Fayal Town Board must file a written notice of appeal with the Town Board, in care of the Town Clerk, within ten days after the tax administrator's decision following the Subd. 4 meeting has been mailed to the petitioner. The matter will thereupon be placed on the Town Board agenda as soon as it is practical. At least five days prior to the hearing before the Town Board, the tax administrator shall prepare and serve on the petitioner a Memorandum of Proposed Findings of Fact and Conclusions of Law. A copy of the Memorandum shall be presented to the Town Board at the time of the appeal hearing. The Town Board shall then review the proposed Findings of Fact and Conclusions of Law to determine if they are correct. Upon determination by the Town Board that the Findings and Conclusions are incorrect, the Town Board may modify, reverse or affirm the decision of the tax administrator based upon an application of the sections of this ordinance and the evidence presented

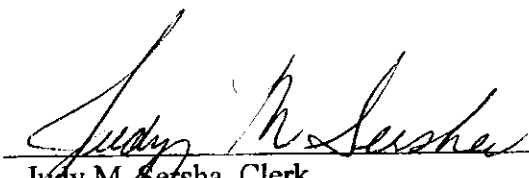
### ARTICLE XVI EFFECTUATION

This Ordinance shall take effect and be in force from and after its passage and publication, but no earlier than 1 July 2002.

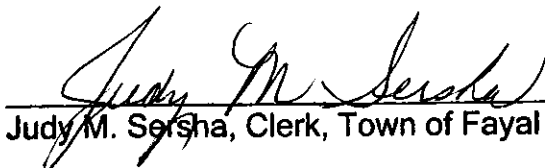
Adoption of the foregoing Ordinance was moved by Supervisor Ojanpa seconded by Supervisor Erjavec and it was adopted this 21<sup>st</sup> day of May, 2002 on the following vote:

AYES: Beldo, Ojanpa, Erjavec  
 NAYS: Kniefel, Tammaro  
 ABSENT: None

  
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 Steven J. Kniefel, Chairman  
 TOWN OF FAYAL, MINNESOTA

  
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 Judy M. Sersha, Clerk  
 TOWN OF FAYAL, MINNESOTA

Ordinance 2002-2 was published according to law on 5-31-2002

  
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 Judy M. Sersha, Clerk, Town of Fayal

Affidavit of Publication

STATE OF MINNESOTA)

)ss

COUNTY OF ST. LOUIS)

Eileen Rioux, being duly sworn, on oath says that he/she is the publisher or authorized agent and employee of the publisher of the newspaper known as Mesabi Daily News, and has full knowledge of the facts which are stated below:

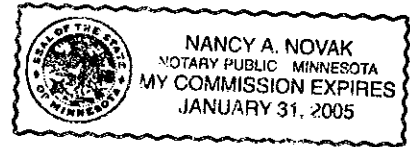
(A) The newspaper has complied with all of the requirements constituting qualification as a qualified newspaper, as provided by Minnesota Statute 331A.02, 331A.07, and other applicable laws, as amended.

(B) The printed Town of Fayal - Ordinance #2002-2 which is attached was cut from the columns of said newspaper, and was printed and published one time; it was published on Friday, the 31st day of May, 2002; and printed below is a copy of the lower case alphabet from A to Z, both inclusive, which is hereby acknowledged as being the size and kind of type used in the composition and publication of the notice.

\*abcdefghijklmnopqrstuvwxyz

BY: Eileen Rioux

Nancy A. Novak
Subscribed and sworn to before me on this 31st day of May, 2002.
Notary Public



\*Alphabet should be in the same size and kind of type as the notice.

RATE INFORMATION

- (1) Lowest classified rate paid by commercial users for comparable space
(2) Maximum rate allowed by law for the above matter
(3) Rate actually charged for the above matter

TOWN OF FAYAL
St. Louis County, Minnesota
ORDINANCE NO. 2002-2
AN ORDINANCE TO ESTABLISH A TAX IMPOSED UPON LODGING
This summary has been prepared for purposes of publication. The complete text of Ordinance 2002-2 is on file in the office of the Town of Fayal Clerk/Treasurer
The Board of Supervisors of the Town of Fayal hereby ordains as follows:
RECITALS
1. In accordance with Minnesota Statutes Section 469.190, the Minnesota Legislature and the electors of the Town of Fayal at the annual meeting of March 2002, have authorized the Town Board of Fayal Township to impose a tax of up to three percent on the gross receipts from the furnishing for consideration of lodging at a hotel, motel, rooming house, tourist court, or resort, other than the renting or leasing of it for a continuous period of thirty days or more.
2. The Town Board of Fayal Township finds that the imposition of such a tax would provide additional funding for a convention and tourism bureau

7. Tax Administrator-The Town of Fayal through the office of the Town Clerk/Treasurer, unless another entity is named as tax administrator by specific resolution of the Fayal Town Board.
ARTICLE II. IMPOSITION OF TAX
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ARTICLE III. COLLECTIONS
Each operator shall collect tax imposed by this ordinance the time the rent is paid. The collections shall be deemed held in trust by the operator for the municipality.
ARTICLE IV. EXEMPTIONS
An exemption shall be granted to any person as to whom or whose occupancy it is beyond the power of the municipality to tax.
ARTICLE V. ADVERTISING NO TAX
It shall be unlawful for any operator to state to the public that the tax will be assumed by the operator to be collected, amounts of tax less than one cent shall be considered an additional cent.
ARTICLE VI. PAYMENT AND RETURNS
The taxes imposed by this ordinance shall be paid by the operator to the tax administrator monthly.
ARTICLE VII. EXAMINATION OF RETURN, ADJUSTMENTS, NOTICES, AND DEMANDS
The Tax Administrator shall, after a return in filed, examine the return and make any investigation or examination of the records and accounts of the person making the return deemed necessary.

the purposes of this ordinance shall not constitute lodging for or non-profit organizations or rooms by religious, educational or more. The furnishing of it for a continuous period of thirty days or more shall be deemed lodging at a hotel, tourist court, or resort, other than the renting or leasing of it for a continuous period of thirty days or more.
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