

# CITY OF PLYMOUTH

## ORDINANCE No. 2024-13

### ORDINANCE AMENDING PLYMOUTH CITY CODE FOR CHAPTER IV CONCERNING HOSPITALITY ACCOMMODATIONS AND SECTION 1185 CONCERNING LODGING TAX

THE CITY OF PLYMOUTH, MINNESOTA ORDAINS:

**SECTION 1.** Section 435.07 of the Plymouth City Code is amended, with existing text, ~~deleted-text~~, and new text as follows:

435.07. - Definitions.

*Annual Calls for Service.* The aggregate total of all calls for service to a hospitality accommodation property in a calendar year divided by the total number of lodging units in the hospitality accommodation as determined by the City.

*Call for Service.* Any verified report made to the City of criminal activity, violation of the City Code, or general call for service, from or concerning a hospitality accommodation property, requiring a police response, in connection with an incident occurring at that property, except medicals, domestics, proactive policing measures, and calls originating from the owner or other employee of the hospitality accommodation property unless they knew or reasonably should have known that such an incident would occur based upon prior experience with the person or group and with that knowledge they nevertheless allowed the person or group to return to the hospitality accommodation property.

*Hospitality Accommodation Property.* Any land containing a facility for hospitality accommodations including any lodging unit, associated parking areas, recreation areas, loading areas, rooms not utilized for overnight accommodations such as banquet rooms, meeting rooms, business centers, pool areas, workout rooms or other amenities located on the same parcel of property.

*Hospitality Accommodations.* Any facility offering the furnishing for a consideration of lodging and related services by a hotel, rooming house, resort, campground, 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. such as a hotel, motel, resort, corporate lodging, or any other accommodation offering six or more lodging units to guests, but For the purposes of this section, Hospitality Accommodation does not include short-term rentals as defined in City Code Section 411.05, subd. 1, not including jails, hospitals, care facilities, senior living centers, residential treatment facilities, prisons, detention homes, and similar facilities.

*Level I Hospitality Accommodation.* Any hospitality accommodation who when checked, has no more than three violations of the Minimum Hospitality Accommodation Standards (Section 435.21) in the preceding calendar year or whose annual calls for service are less than 0.50 calls per lodging unit.

*Level II Hospitality Accommodation.* Any hospitality accommodation who when checked, does not comply with the Minimum Hospitality Accommodation Standards (Section 435.21) four times in the

preceding calendar year or whose annual calls for service are at least 0.50 calls per lodging unit, but less than 0.75 calls per lodging unit.

*Level III Hospitality Accommodation. Hospitality Accommodation.* Any hospitality accommodation who when checked, does not comply with the Minimum Hospitality Accommodation Standards (Section 435.21) five times in the preceding calendar year or whose annual calls for service are at least 0.75 calls per lodging unit or greater.

*Lodging Unit.* One self-contained unit within a hospitality accommodation designated by number, letter, or some other method of identification that is designed or used for overnight accommodations.

*Property Safety Inspection.* An inspection of all hospitality accommodation properties conducted by the City.

**SECTION 2.** Section 435.13 of the Plymouth City Code is amended, with existing text, ~~deleted-text~~, and new text as follows:

435.13. - Property Safety Inspection.

The City hereby reserves the right to~~shall~~ conduct property safety inspections in accordance with the provisions of this Section.

- A. The City may conduct~~shall make~~ annual safety inspections to determine the condition of hospitality accommodations for the purpose of enforcing the property maintenance code and the standards stipulated in this Section. The City may enter, examine, and survey at all reasonable times all hospitality accommodation lodging units, common areas, and operational areas. Safety inspections of the lodging units will only occur after obtaining consent from the occupants of the lodging units. In the event that an occupant does not consent to entry by the City, and if there is probable cause to believe that an inspection is warranted, then application may be made to the court for an administrative or other search warrant for the purpose of inspecting the lodging unit and premises.
- B. Property safety inspections shall include the following:
  - 1. The determination of which lodging units and how many to be inspected will be made by the City to ensure that all lodging units will be inspected periodically.
  - 2. All common and operational areas of a hospitality accommodation shall be inspected as part of each property safety inspection.
  - 3. City staff will inspect the items listed on the hospitality accommodations property safety inspection checklist.
- C. All corrective action stipulated as part of the property safety inspection shall be completed in the timeframe stipulated in the corrective order issued by the City. The City shall conduct a reinspection of the hospitality accommodation to confirm compliance. Failure to correct any of the violations noted in the correction order within the established timeframe may result in the suspension, revocation, or non-renewal of the hospitality accommodation business license.

**SECTION 3.** Section 1185.01 of the Plymouth City Code is amended, with existing text, ~~deleted-text~~, and new text as follows:

1185.01. - Lodging Tax.

A. *Imposition of Tax.* There is hereby imposed a tax of three percent on the gross receipts from the furnishing for consideration of lodging.

~~B. *Collection.* Each operator shall collect the tax imposed by this Section at the time rent is paid. The tax collections shall 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.~~

~~C. *Payment and Returns.* The taxes imposed by this Section shall be paid by the operator to the City not later than 25 calendar 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 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 amount of tax required to be collected and due for the period.~~
- ~~3. The signature of the person filing the return or that of his agent duly authorized in writing.~~
- ~~4. The period covered by the return.~~
- ~~5. The amount of uncollectible rental charges subject to the lodging tax.~~

~~—The operator may take a credit against taxes payable the amount of taxes previously paid for rent that was not actually collected.~~

~~D. *Examination of Returns, Adjustments, Notices, Demands and Audit.* After a return is filed, the City shall examine it and make any investigation or examination of the records and accounts of the person making the return deemed necessary for determining its correctness including a formal audit. 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 calendar 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 calendar days after determination of such refund.~~

~~E. *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 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 Section from the claimant and the balance of the allowance, if any, shall be paid by the City to the claimant.~~

~~F. *Failure to File a Return.* If any operator required by this Section 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 calendar 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 payments theretofore made on account of the tax for the taxable period covered by such return) shall be paid within five calendar 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 such person shall have the burden of establishing its incorrectness or invalidity in any action or proceeding in respect thereto. If any portion of a tax imposed by this Section is not paid within 30 calendar 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, and costs and disbursements. 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 Section provided that interest during such period of extension shall be added to the taxes due at the rate of one and one-half percent per month.~~

~~G. *Interest.* The amount of tax not timely paid shall bear interest at the rate of one and one-half percent per month from the time such tax should have been paid until paid. Any interest shall be added to the tax and be collected as part thereof.~~

~~H. *Violations.* Any person who shall willfully fail to make a return required by this Section; or who shall fail to pay the tax after written demand for payment, or who shall fail to remit the taxes collected or any interest imposed by this Section after written demand for such payment or who shall refuse to permit the City 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.~~

B. *Definitions.* The following words, terms and phrases have the meanings given them in this Section unless the language or context clearly indicates a different meaning is intended. Minnesota Statutes Section 270C.171 is incorporated for definitions in this Section. In any potential conflict between the State and this Section, the State shall take precedence.

1. "Commissioner" means the Commissioner of Revenue of the State of Minnesota or a person to whom the commissioner has delegated functions.
2. "City" means the City of Plymouth, Minnesota.
3. "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 and including accommodations intermediary services provided in connection with other services provided under this clause.
  - a. "Accommodations intermediary" means any person or entity, other than an accommodations provider, that facilitates the sale of lodging and related services as defined in B.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. The term "room charge" means the total sales price paid by the customer for the lodging and related services.
  - b. "Accommodations provider" means any person or entity that furnishes lodging and related services, as defined in B.3., 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.

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

C. Local lodging tax imposed; amount of tax; coordination with state sales and use tax laws and rules. A local lodging tax is imposed in the amount of three percent on the gross receipts from sales of lodging, as defined in B.3. of this Section, 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 lodging tax imposed by this Section. The local lodging tax imposed by this Section shall be collected and remitted to the Commissioner by the accommodations intermediary and 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 in the same manner, and is in addition to the state sales and use tax.

D. Advertising no tax. It shall be unlawful for any accommodations intermediary or accommodations provider 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 accommodations intermediary or accommodations provider, or that it will not be added to the rent or that, if added, it or any part thereof will be refunded.

I.E. Use of Proceeds. Ninety-five percent of the proceeds obtained from the collection of taxes pursuant to this Section shall be used in accordance with two-thirds of the revenues from this special tax will be used for capital improvements to public recreational facilities and the remaining one-third will be used to fund a local convention and tourism bureau.

F. Agreement with the Commissioner. 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 Section. Any such agreement shall not abrogate, alter, or otherwise conflict with the State Sales and Use Tax Laws and Rules, this Section, or Minnesota Statutes Section 469.190.

G. Violations. Any establishment in violation of this Section may have their hospitality license or short-term rental license revoked.

J. Appeals. Any operator aggrieved by any notice, order or determination made by the City under this Section 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. The petition for review shall be filed with the City Clerk within ten calendar days after the notice, order or determination for which review is sought has been mailed or served upon the person requesting review. Upon receipt of the petition the City Manager, or the manager's designee, shall set a date for a hearing and give the petitioner at least five calendar days' prior-written notice of the date, time and place of the hearing. 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 may be represented by counsel of petitioner's choosing at petitioner's own expense. The hearing shall be conducted by the City Manager or the manager's 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. The person conducting the hearing shall make written findings of fact and conclusions based upon the applicable sections of this Section and the evidence presented. The person conducting the hearing may affirm, reverse or modify the notice, order or determination made by the City. Any decision rendered by the City Manager or the Manager's designee, pursuant to this subdivision 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 calendar 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 Manager or his designee upon the same standards as set forth in this subdivision.~~

**SECTION 4.** This ordinance shall become effective July 1, 2024 upon transition of lodging tax collection to the State of Minnesota.

ADOPTED by the City Council this 23rd day of April, 2024.

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Jeffry Wosje, Mayor

ATTEST:

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Jodi Gallup, City Clerk