

FILED
WASCO COUNTY

2010 SEP -1 P 1:41

KAREN LEBRETON COATS
COUNTY CLERK

IN THE BOARD OF COUNTY COMMISSIONERS
OF THE STATE OF OREGON

IN AND FOR THE COUNTY OF WASCO

IN THE MATTER OF ESTABLISHING AN)	
ORDINANCE LEVYING AN ONE (1))	
PERCENT TRANSIENT LODGING TAX;)	ORDINANCE
PROVIDING FOR THE ADMINISTRATION)	#10-005
AND COLLECTION OF THE TAX; AND)	
PROVIDING PENALTIES.)	

THE PEOPLE OF THE COUNTY OF WASCO COUNTY, OREGON,
ORDAINS AS FOLLOWS:

SECTION 1. TITLE.

This Ordinance shall be known as the Transient Lodging Tax
Ordinance of Wasco County, Oregon.

SECTION 2. DEFINITIONS.

Except where the context otherwise requires, the definitions given in
this section govern the construction of this Ordinance.

- (1) "Accrual accounting" means a system of accounting which the
operator enters the rent due from a transient on his records
when the rent is earned, whether or not it is paid.

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- (2) "Cash accounting" means a system of accounting in which the operator does not enter the rent due from a transient on his records until the rent is paid.
- (3) "Board" means the Board of County Commissioners of Wasco County, Oregon.
- (4) "Hotel" means any structure or portion of any structure which is occupied, intended for transient occupancy, or designed for transient occupancy for 30 days or less, for dwelling, lodging, or sleeping purposes. "Hotel" includes any hotel, inn, motel, studio hotel, bed and breakfast, resort, lodge, guest ranch, cabin, RV sites in RV parks or campgrounds, and tent sites and yurts in private and public campgrounds.
- (5) "Occupancy" means the use or possession, or the right to use or possession of any room or rooms in a hotel, and recreational vehicle park for lodging or sleeping purposes.
- (6) "Operator" means the person who is proprietor of a hotel in any capacity. Where the operator performs his character other than an employee, the managing agent functions through a managing agent of any type or character other than an employee, the managing agent shall also be deemed an operator for the purposes of this Ordinance and shall have the same duties and liabilities as his principal. Compliance with the

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provisions of this Ordinance by either the principal or the managing agent shall be considered to be compliance by both.

(7) "Person" means any individual, partnership, corporation, or association, or other legal entity.

(8) "Rent" means the consideration charged, whether or not received by the operator, for the occupancy of space in a hotel valued in money, goods, labor, credits, property or other consideration valued in money, without any deduction.

(9) "Rent package plan" means the consideration charged for both food and rent where a single rate is made for the total of both. The amount applicable to rent for determination of transient lodging tax under this Ordinance shall be the same charge made for rent when not a part of a package plan.

(10) "Tax administrator" means the Treasurer of Wasco County, or his designee.

(11) "Tax" means either the tax payable by the transient or the aggregate amount of taxes due from an operator during the period for which he is required to report his collections.

(12) "Transient" means any individual who exercises occupancy or is entitled to occupancy in a hotel for a period of 30 consecutive calendar days, or less, counting portions of calendar days as full days. The day a transient checks out of the hotel shall not be included in determining the 30-day period if the transient is

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not charged rent for that day by the operator. Any such individual so occupying space in a hotel shall be deemed to be a transient until the period of 30 days has expired, unless there is an agreement in writing between the operator and the occupant providing for a longer period of occupancy.

SECTION 3. TAX IMPOSED.

For the privilege of occupancy in any hotel, on and after the effective date of this Ordinance, each transient shall pay a tax in the amount of one percent (1%) of the rent charged by the operator. One percent (1%) of the Transient Lodging Tax collected shall be allocated for the retirement of the bond indebtedness at the Columbia Gorge Discovery Center, which Wasco County is responsible to pay. Upon retirement of the debt or upon receipt of adequate revenue to retire the debt, whichever comes first, the Transient Lodging Tax Ordinance shall become null and void. If alternate funding is identified, the Board of County Commissioners may declare the Ordinance null and void at any time prior to the retirement of the full debt. The tax constitutes a debt owed by the transient to the County which is extinguished only by payment to the operator or to the County. The transient shall pay the tax to the operator of the hotel at the time the rent is paid. The operator shall enter the tax on his records when rent is collected, if the operator keeps his records on the cash accounting basis, and when earned, if the operator keeps his records on the accrual accounting basis. If rent is paid in installments, a proportionate share of the tax shall be paid by the transient to

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1 the operator with each installment. If for any reason the tax due is not paid to
2 the operator of the hotel, the tax administrator may require that such tax shall
3 be paid directly to the County. In all cases, the rent paid or charged for
4 occupancy shall exclude the sale of any goods, services and commodities,
5 other than the furnishing of rooms, accommodations, and parking space in
6 recreational vehicle parks or campgrounds.
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8 SECTION 4. COLLECTION OF TAX BY OPERATOR; RULES FOR
9 COLLECTION.

- 10 (1) Every operator renting rooms in this County, the occupancy of
11 which is not exempted under the terms of this Ordinance, shall
12 collect a tax from the occupant. The tax collected or accrued
13 by the operator constitutes a debt owed by the operator to the
14 County.
15
16 (2) In all cases of credit or deferred payment of rent, the payment
17 of tax to the operator may be deferred until the rent is paid, and
18 the operator shall not be liable for the tax until credits are paid
19 or deferred payments are made.
20
21 (3) Under the supervision of the County Administrative Officer,
22 the tax administrator shall enforce the provision of this
23 Ordinance and shall have the power to adopt rules and
24 regulations not inconsistent with this Ordinance as may be
25 necessary to aid in the enforcement.

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SECTION 5. OPERATOR'S DUTIES.

Each operator shall collect the tax imposed by this Ordinance at the same time as the rent is collected from every transient. The amount of tax shall be separately stated upon the operator's records and any receipt rendered by the operator. No operator shall advertise that the tax or any part of the tax will be assumed or absorbed by the operator, or that it will not be added to the rent, or that, when added, any part will be refunded, except in the manner provided by this Ordinance.

SECTION 6. EXEMPTIONS.

No tax imposed under this Ordinance shall be imposed upon:

- (1) Any occupant for more than 30 successive calendar days.
- (2) Any person who pays for lodging on a monthly basis, irrespective of the number of days in such month.
- (3) Any occupant whose rent is of a value less than \$2.00 per day.
- (4) Any person who rents a private home, vacation cabin or like facility from any owner who rents the facility incidentally to his own use thereof.
- (5) Any occupant whose rent is paid for a hospital room or to a medical clinic, convalescent home or home for aged people.
- (6) An employee of the federal government, while on federal business, whose room is procured and paid for directly by the federal government, through a purchase order or other form of procurement and with a government check. If the federal

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employee pays for a room personally, the employee is not exempt and the tax must be paid, even if the employee is in Wasco County on federal business.

- (7) Non-profit or charitable organizations which provide a voucher for temporary housing assistance.

SECTION 7. REGISTRATION OF OPERATOR; FORM AND CONTENTS; EXECUTION; CERTIFICATION OF AUTHORITY.

Every person engaging or about to engage in business as an operator of a hotel in this County shall register with the tax administrator on a form provided by him. Operators engaged in business at the time this Ordinance is adopted must register not later than 20 calendar days after passage of this Ordinance. Operators starting business after this Ordinance is adopted must register within 20 calendar days after commencing business. The privilege of registration after the date of imposition of such tax shall not relieve any person from the obligation of payment or collection of the tax, regardless of registration. The registration shall set forth the name under which an operator transacts or intends to transact business, the location of his place or places of business and such other information to facilitate the collection of the tax as the tax administrator may require. The registration shall be signed by the operator. The tax administrator shall, within 20 days after registration, issue without charge a certificate of authority to each registrant to collect the tax from the occupant, together with a duplicate thereof for each additional place of business for each registrant. Certificates shall be non-assignable

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1 and nontransferable and shall be surrendered immediately to the tax
2 administrator upon the cessation of business at the location named or upon
3 its sale or transfer. Each certificate and duplicate shall state the place of
4 business to which it is applicable and shall be prominently displayed so as
5 readily to be seen and come to the notice of all occupants and person
6 seeking occupancy.
7

8 Said certificate shall, among other things, state the following:

- 9 (1) The name of the operator.
- 10 (2) The address of the hotel.
- 11 (3) The date upon which the certificate was issued.
- 12 (4) "This transient occupancy registration certificate signifies that
13 the person named on the face hereof has fulfilled the
14 requirements of the Transient Lodging Tax Ordinance of
15 Wasco County, Oregon, by registration with the tax
16 administrator for the purpose of collecting from transients the
17 lodging tax imposed by said County and remitting said tax to
18 the tax administrator. This certificate does not authorize any
19 person to conduct any unlawful business or to conduct any
20 lawful business in an unlawful manner, or to operate a hotel
21 without strictly complying with all local applicable laws,
22 including but not limited to those requiring a permit from any
23 board, commission, department or office of the County or
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Incorporated Cities. This certificate does not constitute a permit.”

SECTION 8. DUE DATE; RETURNS AND PAYMENTS.

- (1) The tax imposed by this Ordinance shall be paid by the transient to the operator at the time that rent is paid. All amounts of such taxes collected by any operator are due and payable to the tax administrator on a quarterly basis on the fifteenth day of the month following the end of the quarter for the preceding quarter; and are delinquent on the last day of the month in which they are due. The exception to this requirement is for operators of privately owned camping or recreational vehicle spaces. The taxes collected by these operators are due and payable to the tax administrator as required by ORS 320.347.
- (2) On or before the fifteenth day of the month following each quarter of collection by an operator, he shall file a return for the preceding quarter’s tax collections with the tax administrator. The return shall be filed in such form as the tax administrator may prescribe.
- (3) Returns shall show the amount of tax collected or otherwise due for the period for which the return is filed, the total rentals upon which tax was collected or otherwise due, gross receipts of operator amounts, and the amount of rents exempt, if any.

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(4) The person required to file the return shall deliver the return, together with payment of the amount of the tax due, to the tax administrator at his office, either by personal delivery or by mail. If the return is mailed, the postmark shall be considered the date of deliver.

(5) For good cause, the tax administrator may extend the time for filing any return or making payment of any tax, for a period not to exceed one (1) month. No further extension shall be granted, except by the Board of County Commissioners. Any operator to whom an extension is granted shall pay interest at the rate of one (1) percent per month on the amount of tax due without proration for a fraction of a month. If a return is not filed, and the tax and interest due is not paid by the end of the extension of time granted, then the interest shall become a part of the tax for computation of penalties described elsewhere in this Ordinance.

(6) The tax administrator, if he deems it necessary in order to insure payment or facilitate collection by the County of the amount of taxes in any individual case, may require the filing of returns and the payment of the taxes owed on a periodic basis other than the quarterly basis provided for in this Ordinance.

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SECTION 9. PENALTIES AND INTEREST.

- (1) Original delinquency. Any operator who has not been granted an extension of time for delivery of return and payment of tax due, and who fails to remit any tax imposed by this Ordinance prior to delinquency, shall pay a penalty of ten (10) percent of the amount of the tax due in addition to the amount of the tax.
- (2) Continued delinquency. Any operator who has not been granted an extension of time for delivery of return and payment of tax due, and who has failed to pay any delinquent remittance on or before a period of 30 days following the date on which the remittance first became delinquent, shall pay a second delinquency penalty of fifteen (15) percent of the amount of the tax due, plus the amount of the tax and the ten (10) percent penalty first imposed.
- (3) Fraud. If the tax administrator determines that the nonpayment of any remittance due under this Ordinance is due to fraud or intent to evade the provisions thereof, a penalty of twenty-five (25) percent of the amount of the tax shall be added thereto in addition to the penalties stated in (Subsections (1) and (2) of this Section).
- (4) Interest. In addition to the penalties imposed, any operator who fails to remit any tax imposed by this Ordinance shall pay interest at the rate of one (1) percent per month or fraction

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