

RECORDED

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Doc# 2017010018

IN THE BOARD OF COUNTY COMMISSIONERS

FOR CLATSOP COUNTY, OREGON

ORDINANCE)	AN ORDINANCE AMENDING
NO. 2017-01)	CLATSOP COUNTY CODE §3.16
)	(ORDINANCE 90-7) TO ADDRESS
)	PAYMENT OF TRANSIENT ROOM TAX
)	BY INTERMEDIARIES

The Board of Commissioners of Clatsop County ordains as follows:

SECTION 1. SHORT TITLE

This ordinance shall be entitled and shall be known as the "Ordinance Amending Clatsop County Code §3.16 (Ordinance 90-7) to address payment of transient room tax by intermediaries".

SECTION 2. PURPOSE

The purpose of this ordinance is to address tax payment by transient lodging intermediaries and vacation rental management companies, and update definitions, exemptions and the lien foreclosure process.

SECTION 3. CONFORMANCE OF STATE LAW

This ordinance shall not substitute for nor eliminate the necessity for conformity with any and all laws or rules of the State of Oregon, or its agencies, or any ordinance, rule, or regulation of Clatsop County.

SECTION 4. INCONSISTENT PROVISIONS

This ordinance shall supersede, control and repeal any inconsistent provision of any County ordinance as amended or any other regulations made by Clatsop County.

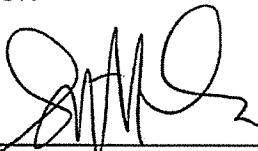
SECTION 5. SEVERABILITY

If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by a Court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions of this ordinance.

SECTION 6. ADOPTION CLAUSE

The Board of Commissioners hereby amends Clatsop County Code §3.16 (Ordinance 90-7) to read as set forth in Exhibit A.

BOARD OF COUNTY COMMISSIONERS FOR
CLATSOP COUNTY, OREGON

By 

Scott Lee, Chairperson

By 

Recording Secretary

First Reading: 1-11-17
Second Reading: 1-25-17
Effective Date: 2-25-17

EXHIBIT A
Chapter 3.16

TRANSIENT ROOM TAX

Sections:

- 3.16.010 Definitions.**
- 3.16.020 Tax imposed.**
- 3.16.030 Collection of tax by Transient Lodging Tax Collector**
- 3.16.040 Transient Lodging Tax Collector's duties.**
- 3.16.050 Exemptions.**
- 3.16.060 Registration of Transient Lodging Tax Collector—Certification of authority.**
- 3.16.070 Due date—Returns and payments.**
- 3.16.080 Tax deficiency determination.**
- 3.16.090 Fraud—Refusal to collect—Evasion.**
- 3.16.100 Transient Lodging Tax Collector delay.**
- 3.16.110 Redeterminations.**
- 3.16.120 Security for collection of tax.**
- 3.16.130 Records maintained by Transient Lodging Tax Collector—Administrator examination.**
- 3.16.140 confidential character of information—Disclosure prohibited.**
- 3.16.150 Appeal to Board of County Commissioners.**
- 3.16.160 Refunds by County to Transient Lodging Tax Collector.**
- 3.16.170 Refunds by County to transient.**
- 3.16.180 Refunds by Transient Lodging Tax Collector to tenant.**
- 3.16.190 Distribution of tax proceeds.**
- 3.16.200 Tax penalties and interest.**
- 3.16.210 Liens.**
- 3.16.215 Violations-Penalties.**
- 3.16.220 Attorney fees and costs.**

3.16.010 Definitions.

For the purposes of this chapter except where the context requires otherwise:

"Accrual accounting" means an accounting method whereby the Transient Lodging Tax Collector enters the rent due from the transient on the records when the rent is earned, whether or not it is paid.

"Board" means the Board of County Commissioners of Clatsop County, Oregon.

"Cash accounting" means an accounting method whereby the Transient Lodging Tax Collector does not enter the rent due from the transient on the records until rent is paid.

"Occupancy" means the use or possession, or the right to the use or possession for lodging or sleeping purposes of any room, rooms, or space in a Transient Lodging as defined herein.

"Persons" means any individual, firm, partnership, joint venture, association, social club, fraternal organization, fraternity, sorority, public or private dormitory, joint stock company, corporation,

estate, trust, business trust, receiver, trustee, syndicate or any other group or combination acting as a unit.

“Rent” means the total retail price, including all charges other than taxes, paid by a person for occupancy of the transient lodging. The total retail price paid by a person for occupancy of transient lodging that is part of a travel package may be determined by reasonable and verifiable standards from books and records kept in the ordinary course of the transient lodging tax collectors business. The total retail price includes consideration given in goods, labor, credits, or property.

“Tax” means either the tax payable by the transient or the aggregate amount of taxes due from a Transient Lodging Tax Collector during the period for which the Transient Lodging Tax Collector is required to report collections.

“Tax Administrator” means the County Assessor.

“Transient” means any individual who exercises occupancy or is entitled to occupancy in a Transient Lodging 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 Transient Lodging shall not be included in determining the 30-day period if the transient is not charged rent for that day by the Transient Lodging Tax Collector. Any such individual so occupying space in a Transient Lodging shall be considered to be a transient until the period of 30 days has expired unless there is an agreement in writing between the Transient Lodging Tax Collector and the occupant providing for a longer period of occupancy, or the tenancy actually extends more than 30 consecutive days. In determining whether a person is a transient, uninterrupted periods of time extending both prior and subsequent to January 1, 1991, may be considered. A person who pays for lodging on a monthly basis, irrespective of the number of days in any month, shall not be considered a transient.

“Transient lodging” means: (a) Hotel, motel and inn dwelling units that are used for temporary overnight human occupancy; (b) Spaces used for parking recreational vehicles or erecting tents during periods of human occupancy; or (c) Houses, cabins, condominiums, apartment units or other dwelling units, or portions of any of these dwelling units, that are used for temporary human occupancy.

“Transient lodging intermediary” means a person other than a transient lodging provider that facilitates the retail sale of transient lodging and charges for occupancy of the transient lodging.

“Transient lodging provider” means a person that furnishes transient lodging. Where the transient lodging provider performs functions through a managing agent of any type or character other than an employee, the managing agent shall also be considered an operator for the purposes of this chapter and shall have the same duties and liabilities as the principal. Compliance with the provisions of this chapter by either the principal or the managing agent shall be considered to be compliance by both.

“Transient Lodging Tax Collector” means a transient lodging provider or a transient lodging intermediary.

“Unincorporated areas of Clatsop County” means all territory outside of the corporate limits of any city or town. (Ord. 2017-01 §6; Ord. 90-7 § 2)

3.16.020 Tax imposed. For the privilege of occupancy in any hotel in the unincorporated areas of Clatsop County, Oregon, on or after January 1, 1991, each transient shall pay a tax

in the amount of nine and one-half percent of the rent charged by the Transient Lodging Tax Collector. The tax constitutes a debt owed by the transient to the County which is extinguished only by payment by the Transient Lodging Tax Collector to the County. The transient shall pay the tax to the Transient Lodging Tax Collector of the hotel at the time the rent is paid. The Transient Lodging Tax Collector shall enter the tax on his or her records when rent is collected if the Transient Lodging Tax Collector keeps records on the cash accounting basis, and when earned if the Transient Lodging Tax Collector keeps 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 the Transient Lodging Tax Collector with each installment. In all cases, the rent paid or charged for occupancy shall exclude the sale of any goods, services and commodities, other than the furnishings of the rooms, accommodations and space occupancy in mobile home parks or trailer parks. (Ord. 14-04 § 6; Ord. 90-7 § 3)

3.16.030 Collection of tax by Transient Lodging Tax Collector

- (A) A tax shall be collected by the Transient Lodging Tax Collector that receives the consideration rendered for occupancy of the transient lodging. The tax collected or accrued by the Transient Lodging Tax Collector constitutes a debt owing by the Transient Lodging Tax Collector to the County.
- (B) In all cases of credit or deferred payment of rent, the payment of tax to the Transient Lodging Tax Collector may be deferred until the rent is paid, and the Transient Lodging Tax Collector shall not be liable for the tax until credits are paid or deferred payments are made. Adjustments may be made for uncollectables.
- (C) The Tax Administrator shall enforce the provisions of this chapter. The Board of County Commissioners shall have the power to adopt rules not inconsistent with this chapter as may be necessary to aid in enforcement.
- (D) For rent collected on portions of a dollar, fractions of a penny of tax shall not be remitted.
- (E) Beginning on October 1, 1991, the Transient Lodging Tax Collector may withhold not more than five percent of the tax collected to cover the cost of the Transient Lodging Tax Collector of collecting and remitting the tax. (Ord. 2017-01 §6; Ord. 91-14 § 2; Ord. 90-7 § 4)

3.16.040 Transient Lodging Tax Collector's duties.

Each Transient Lodging Tax Collector shall collect the tax imposed by this chapter at the same time the rent is collected from each transient. The amount of tax shall be separately stated upon the Transient Lodging Tax Collector's records and any receipt rendered by the Transient Lodging Tax Collector. No Transient Lodging Tax Collector of a Transient Lodging shall advertise that the tax or any part of the tax will be assumed or absorbed by the Transient Lodging Tax Collector, 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 chapter. (Ord. 90-7 § 5)

3.16.050 Exemptions.

The following are exempt from the state transient lodging tax:

- (A) Any occupant for more than 30 successive calendar days;

- (B) Any person who pays for lodging on a monthly basis, irrespective of the number of days in any month;
- (C) Any occupant whose rent is of a value of less than two dollars per day; or
- (D) Any occupant of a facility operated completely by a public benefit corporation as defined in ORS 65.001; or
- (E) Any occupant of a hospital, nursing home, convalescent home, home for the aged or public institution owned and operated by a unit of government; or
- (F) Any occupant of a facility providing treatment for drug or alcohol abuse or providing mental health treatment. (Ord. 2017-01 §6; Ord. 04-02)

3.16.060 Registration of Transient Lodging Tax Collector—Certification of authority.

- (A) Every person engaging or about to engage in business as an Transient Lodging Tax Collector of a Transient Lodging in Clatsop County shall register with the Tax Administrator on a form provided by the Administrator. Transient Lodging Tax Collectors engaged in business on December 2, 1990, must register not later than December 17, 1990. Transient Lodging Tax Collectors starting business after December 2, 1990, must register within 15 calendar days after commencing business.
- (B) The privilege of registration after the date of imposition of the transient room tax ordinance shall not relieve any person from the obligation of payment or collection of tax regardless of registration.
- (C) Registration shall set forth the name under which a Transient Lodging Tax Collector transacts or intends to transact business, the location of his or her place or places of business and such other information as the Tax Administrator may require to facilitate the collection of the tax. The registration shall be signed by the Transient Lodging Tax Collector.
- (D) The Tax Administrator shall, within ten days after registration, issue without charge a certificate of authority to each registrant to collect the tax from the occupant, with a duplicate for each additional place of business of each registrant.
- (E) Certificates shall be non-assignable and non-transferable and shall be surrendered immediately to the Tax Administrator upon the cessation of business at the location named or upon its sale or transfer.
- (F) Each certificate and duplicate shall state the place of business to which it is applicable and shall be prominently displayed there so as to be seen and come to the notice readily of all occupants and persons seeking occupancy.
- (G) The certificate shall, among other things, state the following:
 1. The name of the Transient Lodging Tax Collector;
 2. The address of the Transient Lodging;
 3. The date upon which the certificate was issued; and
 4. "This TRANSIENT OCCUPANCY REGISTRATION CERTIFICATE signifies that the person named on the face hereof has fulfilled the requirements of the TRANSIENT ROOM TAX ORDINANCE OF CLATSOP COUNTY, OREGON, by registration with the Tax Administrator for the purpose of collecting from transients the lodging tax imposed

by said County and remitting said tax to the Tax Administrator. This certificate does not authorize any person to conduct any unlawful business or to conduct any lawful business in an unlawful manner, or to operate a Transient Lodging without strictly complying with all applicable local laws, including but not limited to those requiring a permit from any board, commission, department or office of Clatsop County. This certificate does not constitute a permit." (Ord. 90-7 § 7)

3.16.070 Due date—Returns and payments.

- (A) The tax imposed by this chapter shall be paid by the transient to the Transient Lodging Tax Collector at the time that rent is paid. All taxes collected by any Transient Lodging Tax Collector are due and payable to the Tax Administrator on a quarterly basis on the 15th day of the following month for the preceding three months, and are delinquent on the last day of the month in which they are due. The Tax Administrator shall notify each Transient Lodging Tax Collector of the due and delinquent dates for the Transient Lodging Tax Collector's return. The initial return under this chapter may be for less than the three months preceding the due date; thereafter, returns shall be made for the applicable quarterly period.
- (B) On or before the 15th day of the month following each quarter of collection, a return for the preceding quarter's tax shall be filed with the Tax Administrator. The return shall be filed in such form as the Tax Administrator may prescribe by every Transient Lodging Tax Collector liable for payment of the tax.
- (C) Returns shall show the amount of tax collected or otherwise due for the related period. The Tax Administrator may require returns to show the total rentals upon which tax was collected or otherwise due, the gross receipts of the Transient Lodging Tax Collector for the period, an explanation in detail of any discrepancy between those amounts, and the amount of rents exempted by this chapter, if any.
- (D) The person required to file the return shall deliver the return, together with the remittance of the amount of the tax due, to the Tax Administrator at his or her office, either by personal delivery or by mail. If the return is mailed, the postmark shall be considered the date of delivery for determining delinquencies.
- (E) For good cause, the Tax Administrator may extend, for a period not to exceed one month, the time for making any return or payment of tax. Any Transient Lodging Tax Collector to whom an extension is granted shall pay interest at the rate of one and one-half 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 granted, the interest shall become a part of the tax for computation of penalties described in Section 3.16.200.
- (F) If the Tax Administrator considers it necessary in order to insure payment or facilitate collection by the County of the amount of taxes in any individual case, he or she may require returns and payment of the amount of taxes for other than quarterly periods. (Ord. 90-7 § 8)

3.16.080 Tax deficiency determination.

- (A) If the Tax Administrator determines that the returns are incorrect, he or she may compute and determine the amount required to be paid upon the basis of the facts contained in the return or returns, or upon the basis of any information within, or that may come into, his or her possession. One or more deficiency determinations may be made of the amount due for

one, or more than one, period, and the amount so determined shall be due and payable immediately upon service of notice, after which the amount determined is delinquent. Penalties on deficiencies shall be applied under Section 3.16.200.

- (B) In making a determination the Tax Administrator may off-set overpayments, if any, which may have been previously made for a period or periods, against any underpayment for a subsequent period or periods, or against penalties and interest on the underpayments. The interest on underpayments shall be computed under Section 3.16.200.
- (C) The Tax Administrator shall give to the Transient Lodging Tax Collector or occupant a written notice of his or her determination. The notice may be served personally or by mail. If by mail, the notice shall be addressed to the Transient Lodging Tax Collector at his or her address as it appears on the records of the Tax Administrator. In case of service by mail or any notice required by this chapter the service is complete at the time of deposit in the United States post office.
- (D) Except in the case of fraud or intent to evade this chapter or authorized rules, every deficiency determination shall be made and notice thereof mailed within three years after the last day of the month following the close of the quarterly period for which the amount is proposed to be determined or within three years after the return is filed whichever period expires later.
- (E) Any determination shall become due and payable immediately upon receipt of notice and shall become final within fifteen days after the Tax Administrator has given notice; provided, however, the Transient Lodging Tax Collector may petition for redemption and refund if the petition is filed before the determination becomes final.
- (F) The Tax Administrator may change a fee for the administrative cost of making the determination in such amount as is set by Order of the Board of County Commissioners. (Ord. 2017-01 §6; Ord. 90-7 § 9)

3.16.090 Fraud—Refusal to collect—Evasion.

If any Transient Lodging Tax Collector shall fail or refuse to collect the tax or make, within the time provided in this chapter, any report and remittance of the tax or any portion thereof required by this chapter, or makes a fraudulent return or otherwise wilfully attempts to evade this chapter, the Tax Administrator shall proceed in such a manner as he or she considers best to obtain facts and information on which to base an estimate of the tax due. As soon as the Tax Administrator has determined the tax due that is imposed by this chapter from any Transient Lodging Tax Collector who has failed or refused to collect it and to report and remit the tax, he or she shall proceed to determine and assess against the Transient Lodging Tax Collector the tax, interest and penalties provided by this chapter. If that determination is made, the Tax Administrator shall give notice in the manner provided in Section 3.16.080 of the amount assessed. The determination and notice shall be made and mailed within three years after discovery by the Tax Administrator of any fraud, intent to evade or failure or refusal to collect the tax, or failure to file a return. Any determination shall become due and payable immediately upon receipt of notice and shall become final within fifteen days after the Tax Administrator has given notice; provided, however, the Transient Lodging Tax Collector may petition for redemption and refund if the petition is filed before the determination becomes final. (Ord. 90-7 § 10)

3.16.100 Transient Lodging Tax Collector delay.

If the Tax Administrator believes that the collections of any tax acquired to be collected and paid to the County will be jeopardized by delay or if any determination will be jeopardized by delay, he or she shall determine the amount of tax required to be collected, noting the fact upon the determination. The amount so determined shall be immediately due and payable, and the Transient Lodging Tax Collector shall immediately pay the determination to the Tax Administrator after service of notice thereof; provided, however, the Transient Lodging Tax Collector may petition, after payment has been made, for redemption and refund of the determination, if the petition is filed within fifteen days from the date of service of notice by the Tax Administrator. (Ord. 2017-01 §6; Ord. 90-7 § 11)

3.16.110 Redeterminations.

- (A) Any person against whom a determination is made under Section 3.16.080 or any person directly interested may petition for a redetermination and redemption and refund within the time required in Section 3.16.080. If a petition for redetermination and refund is not filed within that time, the determination becomes final at the expiration of the allowable time.
- (B) If a petition for redetermination and refund is filed within the allowable period the Tax Administrator shall reconsider the determination and, if the person has so requested in his or her petition, shall grant the person an oral hearing and shall give him or her fifteen days notice of the time and place of the hearing. The Tax Administrator may continue the hearing from time to time as may be necessary.
- (C) The Tax Administrator may decrease or increase the amount of the determination as a result of the hearing and if an increase is determined the increase shall be payable immediately after the hearing.
- (D) The order or decision of the Tax Administrator upon a petition for redetermination and refund becomes final fifteen days after service upon the petitioner of notice, unless appeal of the order or decision is filed with the Board of County Commissioners within the fifteen days after service of notice.
- (E) No petition for redetermination of redemption and refund or appeal therefrom shall be effective for any purpose unless the Transient Lodging Tax Collector has first complied with the payment provision of this chapter. (Ord. 2017-01 §6; Ord. 90-7 § 12)

3.16.120 Security for collection of tax.

- (A) The Tax Administrator, whenever he or she considers it necessary to insure compliance with this chapter, may require any Transient Lodging Tax Collector to deposit with him or her such security in the form of cash, bond or other security as the Tax Administrator may determine. The amount of the security shall be fixed by the Tax Administrator, but shall not be greater than twice the Transient Lodging Tax Collector's estimated average quarterly liability for the period for which he or she files returns, determined in such manner as the Tax Administrator considers proper, or \$5,000.00, whichever is less. The amount of the security may be increased or decreased by the Tax Administrator subject to the limitations of this subsection.
- (B) At any time within three years after any tax required to be collected becomes due and payable or at any time within three years after any determination becomes final, the Tax Administrator may bring an action in the courts of this state, or any other state, or of the

United States in the name of the County to collect the amount delinquent together with penalties and interest or foreclose any lien on real property imposed pursuant to this Ordinance. (Ord. 90-7 § 13)

3.16.130 Records maintained by Transient Lodging Tax Collector—Administrator examination.

- (A) Every Transient Lodging Tax Collector shall keep guest records of room sales on accounting books and records of the room sales. All records shall be retained by the Transient Lodging Tax Collector for a period of three years and six months after they come into being.
- (B) The Tax Administrator, or any person authorized in writing by him or her, may examine, during normal working hours, the books, papers and accounting records relating to room sales of any Transient Lodging Tax Collector, after notification to the Transient Lodging Tax Collector liable for the tax, and may investigate the business of the Transient Lodging Tax Collector in order to verify the accuracy of any return made, or if no return is made by the Transient Lodging Tax Collector, to ascertain and determine the amount required to be paid. (Ord. 90-7 § 14)

3.16.140 Confidential character of information—Disclosure prohibited.

- (A) It shall be unlawful for the Tax Administrator or any person having an administrative or clerical duty under the provisions of this chapter to make known in any manner whatsoever the business affairs, operations or information obtained by an investigation of records and equipment of any person required to obtain a transient occupancy registration certificate or pay a transient occupancy tax, or any other person visited or examined in the discharge of official duty, or the amount or source of income, profits, losses, expenditures or any particular thereof, set forth in any statement or application, or to permit any statement or application or copy of either or any book containing any abstract or particulars thereof to be seen or examined by any person.
- (B) Nothing in subsection A of this section shall be construed to prevent:
 - 1. The disclosure to, or examination of records and equipment to another Clatsop County official, employee or agent for collection of taxes for the sole purpose of administering or enforcing any provisions of this chapter including the collection of taxes.
 - 2. The disclosure, after the filing of written request to that effect, to the taxpayer him or herself, receivers, trustees, executors, administrators, assignees and guarantors, if directly interested in information as to any paid tax, any unpaid tax or amount of tax required to be collected, or interest, or penalties; provided, however, that the County Counsel approves each disclosure and that the Tax Administrator may refuse to make any disclosures when, in his or her opinion, the public interest would suffer thereby.
 - 3. The disclosure of the names and addresses of any persons to whom transient occupancy registration certificates have been issued.
 - 4. The disclosure of general statistics regarding taxes collected or business done in the County.
 - 5. Any information regarding a delinquency required to be disclosed by ORS 192.502(18). (Ord. 90-7 § 15)

3.16.150 Appeal to Board of County Commissioners.

Any person aggrieved by any decision of the Tax Administrator may appeal to the Board of County Commissioners by filing a notice of appeal with the Tax Administrator within fifteen days of the serving or mailing of the notice of a decision made by the Tax Administrator. The Tax Administrator shall fix a time and place for hearing the appeal as prescribed by the Board of County Commissioners and shall give the appellant fifteen days written notice of the time and place of hearing. (Ord. 90-7 § 16)

3.16.160 Refunds by County to Transient Lodging Tax Collector.

Whenever the amount of any tax, penalty or interest has been paid more than once or has been erroneously or illegally collected or received by the Tax Administrator under this chapter, it may be refunded; provided a verified claim in writing, stating the specific reason upon which the claim is founded, is filed with the Tax Administrator within three years from the date of payment. The claim shall be made on forms provided by the Tax Administrator. If the claim is approved by the Tax Administrator, the excess amount collected or paid may be refunded or may be credited on any amounts then due and payable from the Transient Lodging Tax Collector from whom it was collected or by whom paid and the balance may be refunded to the Transient Lodging Tax Collector, his or her administrator, executors or assignees. (Ord. 90-7 § 17)

3.16.170 Refunds by County to transient.

Whenever the tax required by this chapter has been collected by the Transient Lodging Tax Collector and deposited by the Transient Lodging Tax Collector with the Tax Administrator, and it is later determined that the tax was erroneously or illegally collected or received by the Tax Administrator, it may be refunded to the transient, provided a verified claim in writing, stating the specific reason on which the claim is founded, is filed with the Tax Administrator within three years from the date of payment. (Ord. 90-7 § 18)

3.16.180 Refunds by Transient Lodging Tax Collector to tenant.

Whenever the tax required by this chapter has been collected by the Transient Lodging Tax Collector and it is later determined that the tenant occupies the Transient Lodging for a period exceeding 30 days without interruption, the Transient Lodging Tax Collector shall refund to the tenant the amount previously collected by the Transient Lodging Tax Collector from that tenant as a transient. The Transient Lodging Tax Collector shall account for the collection and refund to the Tax Administrator. If the Transient Lodging Tax Collector has remitted the tax prior to refund or credit to the tenant, he or she shall be entitled to a corresponding refund under Section 3.16.160. (Ord. 90-7 § 19)

3.16.190 Distribution of tax proceeds.

The Tax Administrator shall:

- (A) Deposit 73.68% of the revenues collected to the credit of the Clatsop County general fund;
- (B) Deposit 7.90% of the revenues collected to the credit of a separate account in the general fund to be disbursed at the direction of the Board of Commissioners for the purpose of making

public road and drainage improvements, primarily within the Arch Cape Rural Community boundary;

(C) Deposit 18.42% of the revenues collected to the credit of a separate account to be disbursed at the direction of the Board of Commissioners for the purpose of tourism promotion and tourism related activities, as defined in ORS 320.300. (Ord. 14-04 § 6; Ord. 90-7 § 20)

3.16.200 Tax penalties and interest.

- (A) Any Transient Lodging Tax Collector who has not been granted an extension of time for remittance of tax due and who fails to remit any tax imposed by this chapter prior to delinquency shall pay a penalty of ten percent of the amount of the tax due in addition to the amount of the tax.
- (B) Any Transient Lodging Tax Collector who has not been granted an extension of time for remittance of tax due and who 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 15% of the amount of the tax in addition to the ten percent penalty first imposed.
- (C) If the Tax Administrator determines that the nonpayment of any remittance due under this chapter is due to fraud or intent to evade its provisions, a penalty of 25% of the amount of the tax shall be added to the penalties stated in subsections A and B of this section.
- (D) In addition to the penalties imposed, any Transient Lodging Tax Collector who fails to remit any tax imposed by this chapter shall pay interest at the rate of one and one-half percent per month or fraction thereof without proration for portions of a month, on the amount of the tax due, exclusive of penalties, from the date on which the remittance first became delinquent until paid.
- (E) Every penalty imposed and such interest as accrues under the provisions of this section shall be merged with and become a part of the tax required to be paid.
- (F) Any Transient Lodging Tax Collector who fails to remit the tax levied within the time required by this chapter shall pay the penalties; provided, however, the Transient Lodging Tax Collector may petition the Board for waiver and refund of the penalty or any portion thereof, and the Board may, if a good and sufficient reason is shown, waive and direct a refund of the penalty or any portion thereof. (Ord. 90-7 § 21)

3.16.210 Liens.

- (A) The tax imposed by this chapter together with the interest and penalties herein provided, which may be incurred when same became delinquent as set forth in this chapter, shall be and, until paid, remain a lien against both the transient lodging premises and any and all real and personal property in Clatsop County belonging to Transient Lodging Tax Collector, and may be foreclosed upon and sold as necessary to discharge said lien. Notice of lien may be issued by the Tax Administrator or his/her deputy whenever the Transient Lodging Tax Collector is in default in the payment of said tax, interest and penalty and shall be recorded with the County Clerk and a copy sent to the delinquent Transient Lodging Tax Collector and legal owner of the transient lodging premise. The personal property subject to such lien seized by any deputy or employee of the Tax Administrator may be sold at public auction

after ten days' notice, which shall mean one publication in a newspaper of general circulation published within Clatsop County.

- (B) The Tax Administrator may bring an action for foreclosure pursuant to ORS Chapter 88, of a real property lien at any time within three years after any tax required to be collected becomes due and payable or at any time within three years after any determination becomes final;
- (C) Any liens for taxes as shown on the records of the proper County official shall, upon the payment of all taxes, penalties and interest thereon, be released by the Tax Administrator when the full amount determined to be due has been paid to the County and the Transient Lodging Tax Collector or person making such payment shall receive a receipt therefor stating that the full amount of taxes, penalties and interest thereon have been paid and that the lien is thereby released and the record of lien is satisfied. (Ord. 2017-01 §6; Ord. 90-7 § 22)

3.16.215 Violations—Penalties.

- (A) It is unlawful for any Transient Lodging Tax Collector or other person so required to fail or refuse to register as required herein. It is unlawful for a Transient Lodging Tax Collector to fail to furnish any return required to be made, in a full and complete manner, to fail or refuse to furnish a supplemental return or other data required by the director or to render a false or fraudulent report, or to otherwise violate the provisions of this chapter.
- (B) Any person violating any of the provisions of this chapter shall be guilty of a Class B Violation as provided for in Chapter 1.11 of the Clatsop County Code. Each transient lodging transaction for which tax, penalty or interest otherwise due is not paid shall be deemed a separate violation.
- (C) In addition to and not in lieu of a code violation proceeding, the county may enforce compliance with this ordinance by lien foreclosure, filing an action for an injunction, seeking appointment of a receiver or any other relief provided by law.
- (D) Nothing herein restricts the authority of the Tax Administrator to refer a matter to the appropriate law enforcement agency for criminal prosecution if the director concludes that criminal fraud or other crime has been committed. (Ord. 2017-01 §6)

3.16.220 Attorney fees and costs.

In any action to enforce the provisions of this chapter or to collect any tax, penalty or interest or to foreclose any lien the County shall be entitled to collect its attorney fees and costs, including but not limited to litigation reports, accountant fees, witness fees, filing fees, service fees, publication fees and mailing expenses, from the Transient Lodging Tax Collector. Such fees and expenses shall be a lien against the real and personal property of the Transient Lodging Tax Collector as provided in Section 3.16.210. (Ord. 90-7 § 24)