



CITY OF CENTRAL POINT

Oregon

Council Study Session Agenda Monday, September 21, 2020

I. Call to Order

II. Discussion Items

1. Transient Lodging Tax Collection - Intermediaries (Weber)
2. Vacation Rentals by Owner (VRBO)/Airbnb in Central Point (Humphrey)

III. Adjournment

Mayor
Hank Williams

Ward I
Neil Olsen

Ward II
Kelley Johnson

Ward III
Melody Thueson

Ward IV
Taneea Browning

At Large
Rob Hernandez

At Large
Michael Parsons

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City of Central Point Staff Report to Council

ISSUE SUMMARY

TO:	City Council	DEPARTMENT:	Finance
FROM:	Steven Weber,		
MEETING DATE:	September 21, 2020		
SUBJECT:	Transient Lodging Tax Collection - Intermediaries		
ACTION REQUIRED:	Information/Direction	RECOMMENDATION:	Not Applicable

BACKGROUND INFORMATION:

At the February 11, 2016 City Council meeting, Ordinance No. 2025 was adopted which updated language in the Central Point Municipal Code section 3.24 – Transient Lodging Tax which made changes to the areas of definitions, collection of tax, liens, refunds, disposition of tax, and appeals. The main function of the changes were to recognize online lodging intermediaries (Expedia, Travelocity, Hotwire, etc.) that facilitate reservations at lodging facilities. Since the ordinance changes, most intermediaries, generally those booking traditional hotel rooms have been collecting and remitting the City’s lodging tax; others, generally those booking non-traditional lodging such as vacation homes or rooms, have not.

In the 2018 session, the Oregon Legislature modified the language in the State’s Lodging Tax Law (HB4120) which clarified the definition of a lodging intermediary to include those (Airbnb, VRBO, etc.) that book non-traditional lodging.

Staff is seeking direction from City Council to make modifications to the municipal code with regard to lodging intermediaries, and such entities’ duty to collect and remit lodging taxes.

FINANCIAL ANALYSIS:

Not known at this time. In looking on sites such as VRBO and Airbnb, there were a handful of non-traditional lodging listed within City limits.

LEGAL ANALYSIS:

N/A

COUNCIL GOALS/STRATEGIC PLAN ANALYSIS:

N/A

STAFF RECOMMENDATION:

N/A

RECOMMENDED MOTION:

N/A

ATTACHMENTS:

1. CentralPoint Muni Code 3.24 - Transient Lodging Tax
2. HB4120

**Chapter 3.24
TRANSIENT LODGING TAX**

Sections:

[3.24.010 Definitions.](#)

[3.24.020 Tax imposed.](#)

[3.24.030 Collection of tax by operator.](#)

[3.24.040 Operator's duties.](#)

[3.24.050 Exemptions.](#)

[3.24.060 Registration certificate of authority.](#)

[3.24.070 Collections, returns and payments.](#)

[3.24.080 Penalties and interest.](#)

[3.24.090 Fraud, evasion, and operator delay.](#)

[3.24.130 Security for collection of tax.](#)

[3.24.140 Liens.](#)

[3.24.150 Refunds issued by city.](#)

[3.24.170 Refunds by operator to transient.](#)

[3.24.180 Records.](#)

[3.24.190 Confidentiality.](#)

[3.24.200 Disposition of transient room tax.](#)

[3.24.210 Appeals.](#)

[3.24.220 Violations.](#)

[3.24.230 Severability.](#)

3.24.010 Definitions.

For purposes of this chapter, the following definitions apply:

“Accrual accounting” means a system of accounting in which the operator enters the rent due from a transient into the record when the rent is earned, whether or not it is paid.

“Bed and breakfast” means a single-family dwelling, or part thereof, other than a motel, hotel or multiple-family dwelling, where traveler’s accommodations and breakfast are provided for a fee on a daily or weekly room rental basis.

“Cash accounting” means a system of accounting in which the operator does not enter the rent due from a transient into the record until the rent is paid.

“City” means the city of Central Point, Oregon.

“Council” means the city council of Central Point, Oregon.

“Director” means the finance director of the city of Central Point.

“Hotel” means any structure, or any portion of any structure, which is occupied or intended or designed for transient occupancy for thirty days or less for dwelling, lodging, or sleeping purposes, and includes any hotel, inn, tourist home or house, motel, studio hotel, lodging house, rooming house, apartment house, public or private dormitory, fraternity, sorority, public or private club, and also means space or portion thereof so occupied, provided such occupancy is for less than a thirty-day period.

“Manager” means the city manager of the city of Central Point, Oregon.

“Occupancy” means use or possession of or the right to the use or possession for lodging or sleeping purposes of transient lodging space.

“Operator” means a person that furnishes transient lodging facility in any capacity. When an operator’s functions are performed through a managing agent or transient lodging intermediary agent of a type other than an employee, the agent shall also be considered an operator for purposes of this chapter and shall have the same duties and liabilities as the principal. Compliance by either the operator or the agent shall be considered compliance by both. “Operator” herein shall also include a transient lodging tax collector as defined by state law.

“Person” means an 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 another group or combination acting as a unit.

“Rent” means the total retail price, including all charges other than taxes, rendered for the sale, service or furnishing of transient lodging whether or not received by the operator, for the occupancy of transient lodging

space valued in money, goods, labor, credits, property, or other considerations valued in money, without any deduction.

“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 room tax under this chapter shall be the same charge made for rent when consideration is not a part of a package plan. This concept is intended to follow State of Oregon Administrative Rule (OAR 150-320-305) regarding services included in the fee for purposes of determining the total retail price.

“Tax” means either the tax payable by the transient or the aggregate amount of taxes due from an operator or transient lodging intermediary during the period for which all are required to report collections.

“Transient” means an individual who occupies or is entitled to occupy space in a transient lodging facility for a period of thirty consecutive days or less, counting portions of days as full days. The day a transient checks out of a hotel shall not be included in determining the thirty-day period if the transient is not charged rent for that day. A person occupying space in a transient lodging facility shall be considered a transient until a period of thirty days has expired unless there is an agreement in writing between the operator and the occupant providing for a longer period of occupancy or the tenant actually extends occupancy more than thirty consecutive days. A person who pays for lodging on a monthly basis, regardless of the number of days in the month, shall not be considered a transient.

“Transient lodging” means: hotel, motel and inn dwelling units that are used for temporary overnight human occupancy; spaces used for parking recreational vehicles or erecting tents during periods of human occupancy; 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 the occupancy of transient lodging. (Ord. 2025 §1(part), 2016; Ord. 1996 §1(part), 2014; Ord. 1969 §1(part), 2013; Ord. 1707 §1(part), 1994).

3.24.020 Tax imposed.

For the privilege of occupancy in any transient lodging, a tax of nine percent is imposed on any consideration rendered for the sale, service or furnishing of transient lodging.

The tax must be computed on 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 operator’s business. The tax shall be collected by the operator that receives the consideration rendered for occupancy of the transient lodging. The tax imposed by this chapter is in addition to and not in lieu of any state transient lodging tax. The tax constitutes a debt owed by the transient to the city,

and the debt is extinguished only when the tax is remitted by the operator to the city. The transient shall pay the tax to the operator at the time rent is paid. The operator shall enter the tax into the record when rent is collected if the operator keeps records on the cash accounting basis and when earned if the operator keeps records on the accrual accounting basis. If the rent is paid in installments, a proportionate share of the tax shall be paid by the transient to the operator with each installment. The unpaid tax is due upon the transient's ceasing to occupy space in the transient lodging. (Ord. 2025 §1(part), 2016; Ord. 1996 §1(part), 2014; Ord. 1859 §1, 2005; Ord. 1707 §1(part), 1994).

3.24.030 Collection of tax by operator.

Every operator renting rooms in this city shall collect a tax from the occupant, the occupancy of which is not exempted under the terms of this chapter.

In cases of credit or deferred payment of rent, the payment of tax to the operator may be deferred until the rent is paid, and the operator shall not be liable for the tax until rent is paid or deferred payments are made.

The finance director shall enforce provisions of this chapter and shall have the power to adopt rules and regulations not inconsistent with this chapter as may be necessary to aid in the enforcement.

The rate imposed shall be rounded to the nearest whole cent. (Ord. 2025 §1(part), 2016; Ord. 1996 §1(part), 2014; Ord. 1707 §1(part), 1994).

3.24.040 Operator's duties.

Every operator shall collect the tax imposed by this chapter at the same time the rent is collected from the transient. The amount of tax shall be stated separately in the operator's records and on the receipt given by the operator. An operator shall not advertise that the tax will not be added to the rent, that a portion of it will be assumed or absorbed by the operator, or that a portion will be refunded, except in the manner provided in this chapter. (Ord. 2025 §1(part), 2016; Ord. 1996 §1(part), 2014; Ord. 1707 §1(part), 1994).

3.24.050 Exemptions.

The tax shall not be imposed on:

Transient lodging in a hospital, health care facility, long term care facility or any other residential facility that is licensed, registered or certified by the Department of Human Services or the Oregon Health Authority;

A dwelling unit in a facility providing treatment for drug or alcohol abuse or providing mental health treatment;

Transient lodging in a private residence that is used by members of the general public for temporary human occupancy for fewer than thirty days per year;

Transient lodging which is funded through a contract with a government agency for the purpose to provide emergency or temporary shelter; other than this temporary emergency exception, the taxes herein apply to state

and local government workers;

Transient lodging at a nonprofit youth or church camp, nonprofit conference center or other nonprofit facility;

Transient lodging that is leased or otherwise occupied by the same person for a consecutive period of thirty days or more during the year. The requirements of this subsection are satisfied even if the physical dwelling unit changes during the consecutive period if all dwelling units occupied are within the same facility, and the person paying consideration for the transient lodging is the same person throughout the consecutive period;

Any federal government employee traveling on official government business, who presents an official government exemption certificate or official travel authorization. (Ord. 2025 §1(part), 2016; Ord. 1996 §1(part), 2014; Ord. 1707 §1(part), 1994).

3.24.060 Registration certificate of authority.

Each operator of a transient lodging facility within the city shall register said business with the finance director on a form provided by the director, within fifteen 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 collection or payment of tax regardless of registration.

The registration form shall set forth the name in which an operator transacts or intends to transact business, the location of the place or places of business and such other information to facilitate the collection of the tax as the director may require. The registration shall be signed by the operator.

The director shall, within ten 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 of each registrant. Certificates shall be nonassignable and nontransferable and shall be surrendered immediately to the director upon the cessation of business at the location named or upon its sale or transfer.

Each certificate of authority shall state the place of business to which it applies, shall be prominently displayed therein so as to be seen and be readily apparent to all transients seeking occupancy. Failure to register does not relieve the operator from collecting the tax or a person from paying the tax. The certificate of authority shall set forth:

- A. The name of the operator;
- B. The address of the transient lodging facility;
- C. The date the certificate was issued;
- D. The following statement:

This transient occupancy registration certificate signifies that the person named on the certificate has fulfilled the requirements of the transient lodging tax ordinance of the City of Central Point by registration with the Finance Director for the purpose of collecting the room tax imposed by said City and remitting the tax to the Finance Director. 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 facility without strictly complying with all local applicable laws, including but not limited to those requiring a permit from any board, commission, department or office of the City of Central Point. This certificate does not constitute a permit.

(Ord. 2025 §1(part), 2016; Ord. 1996 §1(part), 2014; Ord. 1707 §1(part), 1994).

3.24.070 Collections, returns and payments.

Every operator shall, on or before the fifteenth day of the month following the end of each calendar quarter (in the months of April, July, October and January), file a return with the finance director, on forms provided by the city, specifying the total rent subject to this chapter and the amount of tax collected under this chapter. A return shall not be considered filed until it is actually received by the finance director, in said office either by personal delivery, by mail, or by any commercially reasonable means, including but not limited to electronic or telephonic transfer, or private delivery service. For purposes of determining delinquencies, the date of delivery is the later of receipt of the return or receipt of the tax by the finance director. If the return is mailed, the postmark date from the United States Postal Service shall be considered the date of delivery for determining delinquencies. Private delivery services shipping date may be treated as an equivalent to the U.S. Postal Service for purposes of the postmark rule. If the return is delivered in person, it must be received on or before the due date during posted business hours. The initial return may be for less than the three months preceding the due date. The business quarters are:

First quarter: January, February, March;

Second quarter: April, May, June;

Third quarter: July, August, September;

Fourth quarter: October, November, December.

Returns shall show the amount of tax collected or due for the related period. The director may require returns to show the total rentals on which the tax was collected or is due, gross receipts of the operator for the period, a detailed explanation of any discrepancy between the amounts, and the amount of rentals exempt.

At the time the return is filed, the full amount of the tax collected shall be remitted to the director.

Nondesignated payments shall be applied in the order of the oldest liability first, with the payment credited first toward any accrued penalty, then to interest, then to the underlying tax until the payment is exhausted. Crediting

of a payment toward a specific reporting period will be first applied against any accrued penalty, then to interest, then to the underlying tax. If the finance director, in their sole discretion, determines that an alternative order of payment application would be in the best interest of the city in a particular tax or factual situation, they may direct such a change. The director may establish shorter reporting periods for any operator if deemed necessary in order to ensure collection of the tax. The director also may require additional information in the return relevant to payment of the liability. When a shorter return period is required, penalties and interest shall be computed according to the shorter return period. Returns and payments are due immediately upon cessation of business for any reason. All taxes collected by operators pursuant to this chapter shall be held in trust for the account of the city until payment is made to the finance director. A separate trust bank account is not required in order to comply with this provision.

For good cause, the finance director may extend the time for filing a return or paying the tax for a period not to exceed three months. Further extension may be granted only by the approval of the city manager. An operator to whom an extension is granted shall pay interest at the rate of one percent per month on the amount of tax due, without proration for a fraction of a month. If a return is not filed and if the tax and interest due are not paid by the end of the extension granted, the interest shall become a part of the tax for computation of penalties prescribed in Section [3.24.080](#).

Collection fee: Every operator required to remit the tax imposed in this chapter shall be entitled to retain five percent of all taxes due to defray the costs of bookkeeping and remittance.

Every operator must keep and preserve in an accounting format established by the finance director records of all sales made by the facility and such other books or accounts as may be required by the director. Every operator must keep and preserve for a period of three years and six months all such books, invoices and other records. The director shall have the right to inspect all such records at all reasonable times.

The finance director may require returns and payment of the taxes for other than monthly/quarterly periods in individual cases to ensure payment or to facilitate collection by the city. (Ord. 2025 §1(part), 2016; Ord. 1996 §1(part), 2014; Ord. 1707 §1(part), 1994).

3.24.080 Penalties and interest.

Original Delinquency. Any operator 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.

Continued Delinquency. Any operator who fails to remit any delinquent remittance on or before a period of thirty-one days following the date on which the remittance first became delinquent shall pay a second delinquency penalty of fifteen percent of the amount of the tax in addition to the ten percent penalty first imposed.

Fraud. If the Finance Director determines that the nonpayment of any remittance due under this chapter is due to

fraud or intent to evade the provisions thereof, a penalty of twenty-five percent of the amount of the tax shall be added thereto in addition to the penalties assessed under this chapter.

Interest. In addition to the penalties imposed, any operator who fails to remit any tax imposed by this chapter shall pay interest at the rate of one percent per month or fraction thereof without proration for portions of a month, on the amount of the tax, exclusive of penalties, from the date on which the remittance first became delinquent until paid.

Penalties with Tax. Every penalty imposed and such interest as accrues under the provisions of this chapter shall become a part of the tax required to be paid.

Petition for Waiver. Any operator who fails to remit the tax within the required time may petition the city manager for waiver and refund of the penalty or a portion of it. The manager may, if good cause is shown, direct a refund of the penalty or a portion of it. At the city manager's discretion, a petition for waiver may be forwarded and addressed by a hearing before the city council. Any such hearing will be conducted under the procedures described in Section [3.24.210](#). (Ord. 2025 §1(part), 2016; Ord. 1996 §1(part), 2014; Ord. 1707 §1(part), 1994).

3.24.090 Fraud, evasion, and operator delay.

If the finance director determines that a return is incorrect, that required reports or returns have not been filed, that a report is fraudulent, or that an operator has otherwise failed to comply with the terms of this chapter, the director shall proceed in such manner as deemed best to obtain facts and information on which to base the estimate of tax due. As soon as the director shall procure such facts and information as are able to be obtained, upon which to base the assessment of any tax imposed by this chapter and payable by any operator, the director shall proceed to determine and assess against such operator the tax, interest and penalties provided for within this chapter.

In case such determination is made, the finance director shall give a written notice of the amount so assessed by having it served personally or by depositing it in the United States mail, postage prepaid, addressed to the operator so assessed at the last known place of address. Any deficiency is due and payable ten days after the director serves its written notice. The operator may appeal such determination as provided in Section [3.24.210](#) within ten days of service of the deficiency notice. If no appeal is filed, the director's determination is final and the amount thereby is immediately due and payable and shall become final within ten days after the notice has been given.

Except as provided herein, every deficiency determination shall be made and notice mailed within three years after a return was originally filed or subsequently amended, whichever period expires later. In the case of the filing of a false or fraudulent return with the intent to evade this chapter, a failure to file a required return, or willful refusal to collect and remit the tax, a deficiency determination may be made or a proceeding for the collection of such deficiency may be commenced at any time. (Ord. 2025 §1(part), 2016; Ord. 1996 §1(part), 2014; Ord. 1707 §1(part), 1994).

3.24.130 Security for collection of tax.

If the finance director believes that the collection of any tax or any amount of tax required to be collected and paid to the city will be jeopardized by delay, the director may make a determination of the tax required to be collected, and may require an operator to deposit security in the form of cash, bond or other security. The amount of security shall be fixed by the director and shall not be greater than twice the operator's estimated average quarterly liability for the period for which the operator files returns. The operator has the right to appeal to the city manager any decision of the finance director made under this provision.

Within three years after the tax becomes payable or within three years after a determination becomes final, the director may bring an action in the name of the city in the courts of this or another state of the United States to collect the amount delinquent and penalties and interest. (Ord. 2025 §1(part), 2016; Ord. 1996 §1(part), 2014; Ord. 1707 §1(part), 1994).

3.24.140 Liens.

Notice of lien may be issued by the finance director whenever the operator is in default of the payment of said tax and subsequent penalties and fees.

After a determination of taxes owing has become final, such taxes, together with all applicable interest and penalties, advertising costs and filing fees, shall become a lien on all tangible personal property used in the transient lodging facility of the operator.

The finance director shall cause the lien to be recorded in the city and/or county lien docket and it shall remain a lien from the date of its recording and superior to all subsequent recorded liens on all tangible personal property used in the transient lodging of the operator, and may be foreclosed upon and sold as provided by law as may be necessary to discharge said lien. (Ord. 2025 §1(part), 2016; Ord. 1996 §1(part), 2014; Ord. 1707 §1(part), 1994).

3.24.150 Refunds issued by city.

Operator refunds: Whenever the amount of any tax, interest or penalty has been paid more than once, or has been erroneously or illegally collected or received by the city under this chapter, it may be refunded, provided a verified claim in writing therefor, stating the specific reasons upon which the claim is founded, is filed with the finance director within three years from the date of payment. If the claim is approved by the director, the excess amount collected or paid may be refunded or taken as credit on any amounts due and payable from the operator or their administrators, executors or assignees.

Transient refunds: Whenever tax required by this chapter has been collected by the operator and deposited with the finance director and later is determined to erroneously collected, it may be refunded by the finance director/city to the transient, provided a verified claim in writing, stating the specific reason for the claim, is filed with the director within three years from the date of payment. (Ord. 2025 §1(part), 2016; Ord. 1996 §1(part), 2014; Ord. 1707 §1(part), 1994).

3.24.170 Refunds by operator to transient.

If tax has been collected by the operator and it is later determined that the transient occupied the hotel for a period exceeding thirty days without interruption, the operator shall refund the tax to the transient. The operator shall account for the collection and refund to the finance director/city on the city's tax report form. If the operator has remitted the tax prior to refund or credit to the transient, the operator shall be entitled to a corresponding refund, which shall be also be reported on the city's tax report form. (Ord. 2025 §1(part), 2016; Ord. 1996 §1(part), 2014; Ord. 1707 §1(part), 1994).

3.24.180 Records.

Records required: It shall be the duty of every operator to keep and preserve guest records, accounting books, records of the room sales and income tax returns for a period of three years and six months after they come into being as may be necessary to determine the amount of such tax as the operator may have been liable for the collection of and payment to the city. The operator shall maintain guest records of room rents, accounting books and records of income. The operators must, at a minimum, include a daily room rental register, a room billing/revenue daily journal, a cash receipt and deposit journal, and a cash disbursements journal/check register for all authorized deductions. These records and books shall reconcile to the transient room tax reports and be auditable. They shall also reconcile to the operator's income tax reports. If the director finds the books and records of the operator are deficient in that they do not provide adequate support for transient room tax reports filed, or the operator's accounting system is unauditible, it shall be the responsibility of the operator to improve their accounting system to the satisfaction of the finance director.

Examination of records: The finance director or any person authorized in writing by the director may examine the books, papers and accounting records relating to room sales of any operator during normal business hours. The examination of records is for the purpose of verifying the accuracy of any return made, or if no return is made, to ascertain and determine the amount required to be paid. Notification shall be given to the operator liable for the tax at least two weeks prior to the examination of records, and the director may request certified copies of annual tax returns covering the operator. (Ord. 2025 §1(part), 2016; Ord. 1996 §1(part), 2014; Ord. 1707 §1(part), 1994).

3.24.190 Confidentiality.

The finance director or a person having an administrative or clerical duty under the provisions of this chapter shall not make known in any manner the business affairs, operations or information obtained by an investigation of records and equipment of a person required to file a return or pay a transient occupancy tax or a person visited or examined in the discharge of official duty; or the amount or source of income, profits, losses or expenditures contained in a statement or application; or permit a statement or application, or a copy of either, or a book containing an abstract or particulars to be seen or examined by any person.

However, nothing in this section shall be construed as to prevent the disclosure to, or the examination of records and equipment for the collection of taxes or the purpose of administering or enforcing any provisions of this

chapter, the collecting of taxes imposed, the names and addresses to whom transient occupancy registration certificates have been issued, the general statistics regarding taxes collected or transient business transacted within the city of Central Point. (Ord. 2025 §1(part), 2016; Ord. 1996 §1(part), 2014; Ord. 1707 §1(part), 1994).

3.24.200 Disposition of transient room tax.

All revenues received by the city from the tax shall be deposited in the general fund. Twenty-five percent of the balance of the proceeds shall be used directly or indirectly for the purpose of promoting recreational, cultural, convention and tourist related activities and services for the city of Central Point. (Ord. 2025 §1(part), 2016; Ord. 1996 §1(part), 2014; Ord. 1707 §1(part), 1994).

3.24.210 Appeals.

Any operator aggrieved by any decision of the finance director with respect to the amount of such tax, interest and penalties, if any, may appeal to the city manager. If the operator is still aggrieved by the city manager's decision following an appeal resulting from the finance director's ruling on an issue, may, by filing a notice of appeal with the city manager within ten days of mailing of the notice of a decision, request a hearing with the city council on the matter. The city manager shall fix a time and place for hearing the appeal, as prescribed by the city council, and shall give the appellant not less than ten days' written notice of the time and place of the hearing of said appealed matter. The parties shall be entitled to appear personally and by counsel to present such facts, evidence and arguments as may tend to support the respective positions on appeal.

Action by the city council on appeals shall be by motion, passed by a majority of the members present at the meeting where the appeal is considered. (Ord. 2025 §1(part), 2016; Ord. 1996 §1(part), 2014; Ord. 1969 §1(part), 2013; Ord. 1707 §1(part), 1994).

3.24.220 Violations.

It is unlawful for any operator or any other person so required to fail or refuse to register or furnish any return required to be made, or fail or refuse to furnish a supplemental return or other data required by the finance director or to render a false or fraudulent report, with intent to defeat or evade the determination of any amount due required by this chapter.

Violation of any provision of this chapter of this code shall be punishable by the general penalty. Every day in which the violation is caused or permitted to exist constitutes a separate infraction, and the punishment therefor shall be in addition to any other penalty, interest, sum or charge imposed by this code or this chapter. Delinquent taxes and fees, penalty and interest imposed by this chapter and this code may be collected in a civil action.

The remedies provided by this section are not exclusive and shall not prevent the city from exercising any other remedy available under the law, nor shall the provisions of this chapter prohibit or restrict the city or other appropriate prosecutor from pursuing criminal charges under state law or city ordinance. (Ord. 2025 §1(part), 2016; Ord. 1996 §1(part), 2014; Ord. 1707 §1(part), 1994).

3.24.230 Severability.

If any part of this chapter is for any reason held to be unconstitutional (or otherwise invalid), such decision shall not affect the validity of the remaining portions of this chapter or any part thereof. (Ord. 2025 §1(part), 2016).

Enrolled House Bill 4120

Sponsored by Representative MARSH; Representatives ESQUIVEL, GOMBERG, KENY-GUYER, NOSSE, Senators DEBOER, JOHNSON (Presession filed.)

CHAPTER

AN ACT

Relating to transient lodging taxes; creating new provisions; amending ORS 320.300, 320.305, 320.325 and 320.350; and prescribing an effective date.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 320.300 is amended to read:
320.300. As used in ORS 320.300 to 320.350:

(1) "Collection reimbursement charge" means the amount a transient lodging tax collector may retain as reimbursement for the costs incurred by the transient lodging tax collector in collecting and reporting a transient lodging tax and in maintaining transient lodging tax records.

(2) "Conference center" means a facility that:

(a) Is owned or partially owned by a unit of local government, a governmental agency or a nonprofit organization; and

(b) Meets the current membership criteria of the International Association of Conference Centers.

(3) "Convention center" means a new or improved facility that:

(a) Is capable of attracting and accommodating conventions and trade shows from international, national and regional markets requiring exhibition space, ballroom space, meeting rooms and any other associated space, including without limitation banquet facilities, loading areas and lobby and registration areas;

(b) Has a total meeting room and ballroom space between one-third and one-half of the total size of the center's exhibition space;

(c) Generates a majority of its business income from tourists;

(d) Has a room-block relationship with the local lodging industry; and

(e) Is owned by a unit of local government, a governmental agency or a nonprofit organization.

(4) "Local transient lodging tax" means a tax imposed by a unit of local government on the sale, service or furnishing of transient lodging.

(5) "State transient lodging tax" means the tax imposed under ORS 320.305.

(6) "Tourism" means economic activity resulting from tourists.

(7) "Tourism promotion" means any of the following activities:

(a) Advertising, publicizing or distributing information for the purpose of attracting and welcoming tourists;

(b) Conducting strategic planning and research necessary to stimulate future tourism development;

(c) Operating tourism promotion agencies; and

- (d) Marketing special events and festivals designed to attract tourists.
- (8) "Tourism promotion agency" includes:
- (a) An incorporated nonprofit organization or governmental unit that is responsible for the tourism promotion of a destination on a year-round basis.
- (b) A nonprofit entity that manages tourism-related economic development plans, programs and projects.
- (c) A regional or statewide association that represents entities that rely on tourism-related business for more than 50 percent of their total income.
- (9) "Tourism-related facility" means:
- (a) A conference center, convention center or visitor information center; and
- (b) Other improved real property that has a useful life of 10 or more years and has a substantial purpose of supporting tourism or accommodating tourist activities.
- (10) "Tourist" means a person who, for business, pleasure, recreation or participation in events related to the arts, heritage or culture, travels from the community in which that person is a resident to a different community that is separate, distinct from and unrelated to the person's community of residence, and that trip:
- (a) Requires the person to travel more than 50 miles from the community of residence; or
- (b) Includes an overnight stay.
- (11) "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.
- (12) "Transient lodging intermediary" means a person other than a transient lodging provider that facilitates the retail sale of transient lodging and:
- (a) Charges for occupancy of the transient lodging[.];
- (b) **Collects the consideration charged for occupancy of the transient lodging; or**
- (c) **Receives a fee or commission and requires the transient lodging provider to use a specified third-party entity to collect the consideration charged for occupancy of the transient lodging.**
- (13) "Transient lodging provider" means a person that furnishes transient lodging.
- (14) "Transient lodging tax collector" means a transient lodging provider or a transient lodging intermediary.
- (15) "Unit of local government" has the meaning given that term in ORS 190.003.
- (16) "Visitor information center" means a building, or a portion of a building, the main purpose of which is to distribute or disseminate information to tourists.

SECTION 2. ORS 320.325 is amended to read:

320.325. (1) Every transient lodging tax collector is deemed to hold the amount of state transient lodging taxes collected in trust for the State of Oregon and for payment to the Department of Revenue in the manner and at the time provided under ORS 320.315.

(2) At any time **that** the transient lodging tax collector fails to remit any amount of state transient lodging taxes deemed to be held in trust for the State of Oregon, the department may enforce collection by the issuance of a distraint warrant for the collection of the delinquent amount and all penalties, interest and collection charges accrued on the delinquent amount. The warrant shall be issued, docketed and proceeded upon in the same manner and shall have the same force and effect as warrants for the collection of delinquent income taxes.

(3) **Notwithstanding ORS 320.305, if the transient lodging is owned by more than one person, each and every owner may be held jointly and severally liable for any tax imposed under ORS 320.305 with respect to a transient lodging transaction.**

SECTION 3. ORS 320.350 is amended to read:

320.350. (1) A unit of local government that did not impose a local transient lodging tax on July 1, 2003, may not impose a local transient lodging tax on or after July 2, 2003, unless the imposition of the local transient lodging tax was approved on or before July 1, 2003.

(2) A unit of local government that imposed a local transient lodging tax on July 1, 2003, may not increase the rate of the local transient lodging tax on or after July 2, 2003, to a rate that is greater than the rate in effect on July 1, 2003, unless the increase was approved on or before July 1, 2003.

(3) A unit of local government that imposed a local transient lodging tax on July 1, 2003, may not decrease the percentage of total local transient lodging tax revenues that are actually expended to fund tourism promotion or tourism-related facilities on or after July 2, 2003. A unit of local government that agreed, on or before July 1, 2003, to increase the percentage of total local transient lodging tax revenues that are to be expended to fund tourism promotion or tourism-related facilities, must increase the percentage as agreed.

(4) Notwithstanding subsections (1) and (2) of this section, a unit of local government that is financing debt with local transient lodging tax revenues on November 26, 2003, must continue to finance the debt until the retirement of the debt, including any refinancing of that debt. If the tax is not otherwise permitted under subsection (1) or (2) of this section, at the time of the debt retirement:

(a) The local transient lodging tax revenue that financed the debt shall be used as provided in subsection (5) of this section; or

(b) The unit of local government shall thereafter eliminate the new tax or increase in tax otherwise described in subsection (1) or (2) of this section.

(5) Subsections (1) and (2) of this section do not apply to a new or increased local transient lodging tax if all of the net revenue from the new or increased tax, following reductions attributed to collection reimbursement charges, is used consistently with subsection (6) of this section to:

(a) Fund tourism promotion or tourism-related facilities;

(b) Fund city or county services; or

(c) Finance or refinance the debt of tourism-related facilities and pay reasonable administrative costs incurred in financing or refinancing that debt, provided that:

(A) The net revenue may be used for administrative costs only if the unit of local government provides a collection reimbursement charge; and

(B) Upon retirement of the debt, the unit of local government reduces the tax by the amount by which the tax was increased to finance or refinance the debt.

(6) At least 70 percent of net revenue from a new or increased local transient lodging tax shall be used for the purposes described in subsection (5)(a) or (c) of this section. No more than 30 percent of net revenue from a new or increased local transient lodging tax may be used for the purpose described in subsection (5)(b) of this section.

[(7)(a)(A) A local transient lodging tax must be computed on the total retail price, including all charges other than taxes, paid by a person for occupancy of the transient lodging.]

[(B) 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 collector's business.]

[(b) The tax shall be collected by the transient lodging tax collector that receives the consideration rendered for occupancy of the transient lodging.]

SECTION 4. Sections 5 and 6 of this 2018 Act are added to and made a part of ORS 320.300 to 320.350.

SECTION 5. (1) A local transient lodging tax must be computed on the total retail price, including all charges other than taxes, paid by a person for occupancy of the transient lodging.

(2) 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 collector's business.

SECTION 6. (1) The transient lodging provider or transient lodging intermediary that collects the consideration charged for occupancy of transient lodging, or a transient lodging intermediary described in ORS 320.300 (12)(c), as applicable, is responsible for collecting any local transient lodging tax and shall file a return of the tax with the unit of local government that imposes the tax, or with any tax administrator identified by the unit of local government, reporting the amount of tax due during the reporting period to which the return relates.

(2) Returns shall be filed on or before the deadline fixed by the unit of local government for filing of returns and shall be made under penalties for false swearing.

(3) When a return is required under this section, the transient lodging tax collector required to file the return shall remit the taxes due to the unit of local government at the time fixed for filing of returns.

(4) This section applies to a transient lodging tax collector unless a charter provision or ordinance or resolution of the unit of local government, or an agreement entered into between the transient lodging tax collector and the unit of local government, provides otherwise.

SECTION 7. ORS 320.305 is amended to read:

320.305. (1)(a) A tax of 1.8 percent is imposed on any consideration [*rendered*] **charged** for the sale, service or furnishing of transient lodging.

(b)(A) The tax must be computed on the total retail price, including all charges other than taxes, paid by a person for occupancy of the transient lodging.

(B) 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 collector's business.

(c) The tax shall be collected by the transient lodging [*tax collector that receives*] **provider or transient lodging intermediary that collects** the consideration [*rendered*] **charged** for occupancy of the transient lodging, **or a transient lodging intermediary described in ORS 320.300 (12)(c), as applicable.**

(d) The tax imposed by this subsection is in addition to and not in lieu of any local transient lodging tax.

(2) The transient lodging tax collector may withhold a collection reimbursement charge of five percent of the amount collected under subsection (1) of this section.

SECTION 8. ORS 320.305, as amended by section 3, chapter 102, Oregon Laws 2016, is amended to read:

320.305. (1)(a) A tax of 1.5 percent is imposed on any consideration [*rendered*] **charged** for the sale, service or furnishing of transient lodging.

(b)(A) The tax must be computed on the total retail price, including all charges other than taxes, paid by a person for occupancy of the transient lodging.

(B) 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 collector's business.

(c) The tax shall be collected by the transient lodging [*tax collector that receives*] **provider or transient lodging intermediary that collects** the consideration [*rendered*] **charged** for occupancy of the transient lodging, **or a transient lodging intermediary described in ORS 320.300 (12)(c), as applicable.**

(d) The tax imposed by this subsection is in addition to and not in lieu of any local transient lodging tax.

(2) The transient lodging tax collector may withhold a collection reimbursement charge of five percent of the amount collected under subsection (1) of this section.

SECTION 9. This 2018 Act takes effect on the later of the 91st day after the date on which the 2018 regular session of the Seventy-ninth Legislative Assembly adjourns sine die or July 1, 2018.

Passed by House February 22, 2018

.....
Timothy G. Sekerak, Chief Clerk of House

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Tina Kotek, Speaker of House

Passed by Senate March 1, 2018

.....
Peter Courtney, President of Senate

Received by Governor:

.....M,....., 2018

Approved:

.....M,....., 2018

.....
Kate Brown, Governor

Filed in Office of Secretary of State:

.....M,....., 2018

.....
Dennis Richardson, Secretary of State

Attachment: HB4120 (1317 : Transient Lodging Tax Collection - Intermediaries)

The question of whether VRBOs should be allowed in other zoning districts, more specifically residential districts may be determined by answering the last question ... *does the City really have a problem?* After conducting a Google search of both VRBOs and people who've listed rental units on Airbnb, staff discovered only five (5) in the City limits (a rough map will be provided at the study session). One of these units is a house that has been listed for sale and another is currently listed as inactive.

Conversations with the City Attorney have revolved around whether to prohibit VRBO use in some zoning districts, to restrict the use through zoning amendments and to keep track of vacation rentals (existing or proposed). Given the limited number of existing units in Central Point, one solution might be to simply require a business license in order to register and operate a vacation rental. This is what the City does for home occupations and can be an effective way to manage this situation in general.

Conversations with the Finance Department have revolved around collecting a bed tax for vacation rentals the same way the City does with local motels. If the VRBO is registered via a business license this would allow the City to pursue more accurate tax collection.

Direction

City management will be prepared to elaborate on the questions that have been raised and to pursue direction from the City Council once this subject is discussed.