

ORDINANCE NO. 2114

**AN ORDINANCE AMENDING CPMC CHAPTER 3.24 INCREASING TAX IMPOSED,
ESTABLISHING JOINT AND SEVERAL LIABILITY FOR LODGING TAX COLLECTORS, AND
UPDATING RIGHTS AND REMEDIES**

FINDINGS:

- A. Pursuant to CPMC, Chapter 1.01.040, the City Council, may from time to time make revisions to its municipal code which shall become part of the overall document and citation.
- B. CPMC Chapter 3.24 created and implemented a local transient lodging tax in accordance with ORS 320.300 to 320.350.
- C. Transient lodging includes hotel, motel, inn, condominium, house, cabin, apartment, public or private dormitory, fraternity, sorority, public or private club, space in a mobile home or trailer park, RV park spaces and tent camping locations, or similar structures or dwelling units that are used for temporary overnight human occupancy; or portions of any of these dwelling units, that are used for temporary human occupancy.
- D. The current transient lodging tax is nine percent (9%).
- E. The city of Central Point desires to increase the transient lodging tax by two percent (2%) to a total of eleven percent (11%).
- F. Pursuant to ORS 320.350(5)-(6), at least 70% of the revenue from the increased portion of the tax shall be used for tourism promotion, tourism-related facilities or to finance or refinance the debt of tourism-related facilities and reasonable administrative costs, if allowed by state law.
- G. The intended purpose of 70% of the 2% increase will be used to enhance tourism in accordance with ORS 320.300 to 320.350, specifically tourists staying overnight in city limits or traveling distances greater than 50 miles to the City of Central Point.
- H. Words ~~lined through~~ are to be deleted and words **in bold** are added.

THE PEOPLE OF THE CITY OF CENTRAL POINT DO ORDAIN AS FOLLOWS:

Sections:

3.24.010 Definitions.

3.24.020 Tax imposed.

3.24.030 Collection of tax by lodging tax collector--Rules for collection.

3.24.040 Lodging tax collector's duties.

3.24.045 Liability for Tax

- 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 Deficiency Determination - Fraud, evasion, and lodging tax collector delay.
- 3.24.100 Redeterminations.
- 3.24.130 Security for collection of tax.
- 3.24.140 Liens.
- 3.24.150 Refunds issued by city.
- 3.24.170 Refunds by lodging tax collector to occupant.
- 3.24.180 Records.
- 3.24.190 Confidentiality--Disclosure unlawful.
- 3.24.200 Disposition of transient room tax.
- 3.24.210 Appeals.
- 3.24.215 Appeals to council.
- 3.24.220 Violations.
- 3.24.230 Severability.

SECTION 1. Central Point Municipal Code 3.24.010 is amended in part to read:

For purposes of this chapter, the following definitions apply:

“Transient lodging facility” or “lodging facility” means any structure, or any portion of any structure, which is occupied or intended or designed for short-term occupancy for dwelling, lodging or sleeping purposes and includes any hotel, motel, inn, condominium, house, cabin, apartment, public or private dormitory, fraternity, sorority, public or private club, space in a mobile home or trailer park, **spaces used for overnight parking of recreational vehicles or placement of tents** camping locations, or similar structures or spaces or portions thereof so occupied; provided such occupancy is for less than a thirty-day period.

SECTION 2. Central Point Municipal Code 3.24.020 is amended in part to read:

3.24.020 Tax imposed.

Effective July 1, 2024, for For the privilege of occupancy in any transient lodging, each occupant shall pay a tax of ~~nine~~ **eleven** percent of 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 lodging tax collector’s business. 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 occupant to the city, which is extinguished only by payment to the lodging tax collector. The occupant shall pay the tax to the lodging tax collector at the time rent is paid. The

lodging tax collector shall enter the tax into the record when rent is collected if the lodging tax collector keeps records on the cash accounting basis and when earned if the lodging tax collector 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 occupant to the lodging tax collector with each installment. The unpaid tax is due upon the occupant's ceasing to occupy space in the transient lodging. (Ord. 2070 §1, 2020; Ord. 2025 §1(part), 2016; Ord. 1996 §1(part), 2014; Ord. 1859 §1, 2005; Ord. 1707 §1(part), 1994).

SECTION 3. Central Point Municipal Code Chapter 3.24 is amended to add section 3.24.045 Liability for Tax:

3.24.045 Liability for Tax

Transient lodging providers who receive any portion of the rent for transient lodging and transient lodging intermediaries that provide booking service are both transient lodging tax collectors and are jointly and severally liable for the tax.

SECTION 4. Central Point Municipal Code Chapter 3.24 is amended in its entirety to read:

3.24.090 Deficiency Determination - Fraud, evasion, and lodging tax collector delay.

~~A. Deficiency Determination. If the director determines that the returns are incorrect, she or he 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 her or his possession or that may come into her or his 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, as provided in this chapter; after which, the amount determined is delinquent. Penalties on deficiencies shall be applied as set forth in Section 3.24.080.~~

~~1. In making a determination, the director may offset 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 in the manner set forth in Section 3.24.080.~~

~~2. The director shall give to the lodging tax collector a written notice of her or his determination. The notice may be served personally or by mail; if by mail, the notice shall be addressed to the lodging tax collector at her or his address as it appears in the records of the director. In case of service by mail of any notice required by this chapter, the service is complete at the time of deposit in the United States post office.~~

~~3. Except in the case of fraud, intent to evade the provisions of this chapter or authorized rules and regulations, 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 monthly period for which the amount is proposed to be determined, or within three years after the return is filed, whichever period expires the later.

4. Any determination shall become due and payable immediately upon receipt of notice, and shall become final within ten days after the director has given notice thereof; provided, however, the lodging tax collector may petition redemption and refund if the petition is filed before the determination becomes final, as provided in this chapter.

~~B. Fraud--Refusal to Collect--Evasion.~~ If any lodging tax collector shall fail or refuse to collect said tax or to make, within the time provided in this chapter, any report and remittance of said tax or any portion of the tax required by this chapter, or makes a fraudulent return or otherwise willfully attempts to evade the provisions of this chapter, the director shall proceed in such manner as she or he may deem best to obtain facts and information on which to base an estimate of the tax due.

1. As soon as the director has determined the tax due that is imposed by this chapter, from any lodging tax collector who has failed or refused to collect the same and to report and remit said tax, she or he shall proceed to determine and assess against such lodging tax collector the tax, interest, and penalties provided in this chapter. In case such determination is made, the director shall give a notice in the manner aforesaid of the amount so assessed. Such determination and notice shall be made and mailed within three years after discovery by the director of any fraud, intent to evade or failure or refusal to collect said tax, or failure to file return.

2. Any determination shall become due and payable immediately upon receipt of notice and shall become final within ten days after the director has given notice thereof; provided, however, the lodging tax collector may petition redemption and refund, if the petition is filed before the determination becomes final, as provided in this chapter.

~~C. Lodging Tax Collector Delay.~~ If the 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, or if any determination will be jeopardized by delay, the director shall thereupon make a determination of the tax or amount of tax required to be collected, noting the fact upon the determination.

1. The amount so determined, as provided in this chapter, shall be immediately due and payable; and the lodging tax collector shall immediately pay same determination to the director after service of notice thereof. Provided, however, the lodging tax collector may petition, after payment has been made, for redemption and refund of such determination, if the petition is filed within ten days from the date of service of notice by the director. (Ord. 2070 §1, 2020; Ord. 2025 §1(part), 2016; Ord. 1996 §1(part), 2014; Ord. 1707 §1(part), 1994).

A. Deficiency Determination. The director may review tax returns and adjust the amount due based on the information in the return, on information obtained during a review or audit of records, or on the basis of other evidence. In the event of a deficiency, the director shall provide notice of the deficiency to the transient lodging tax collector, who shall remit deficiencies within 10 business days of the deficiency notice. Notice may be by personal delivery or certified or registered mail.

(1) In reviewing and adjusting tax returns, the director shall offset any amount received in excess of the remittances due against any shortages in remittances.

(2) Except in the case of fraud or intent to evade the lodging tax, notice of deficiency determinations shall be issued within three years of the period for which the deficiency determination is made.

(3) The time to remit deficient payment amounts under this section shall be extended if the lodging tax collector timely requests a redetermination.

B. Fraud - Refusal to Collect - Evasion. If any lodging tax collector fails to collect, report or remit the tax as required, submits a fraudulent return, or otherwise violates or attempts to violate this chapter, the director shall estimate the tax due, and calculate the amount owing from the lodging tax collector for tax remittance, interest and penalties and provide notice to the lodging tax collector of the assessment. The determination and notice shall be made and mailed within three years of the discovery by the director of the violation. The determination is due and payable upon receipt of notice and shall become final 10 business days after the date notice was delivered if no petition for redetermination is filed.

SECTION 5. Central Point Municipal Code 3.24.100 is amended in its entirety to read:

3.24.100 Redeterminations.

~~A. Any person against whom a determination is made under Section 3.24.090, or any person directly interested, may petition for a redetermination and redemption and refund within the time required in Section 3.24.090. If a petition for redetermination and refund is not filed within the time required in Section 3.24.090, 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 director shall reconsider the determination; and, if the person has so requested in her or his petition, shall grant the person an oral hearing and shall give her or him ten days' notice of the time and place of the hearing. The director may continue the hearing from time to time as may be necessary.~~

~~C. The director may decrease or increase the amount of the determination as a result of the hearing; and, if an increase is determined, such increase shall be payable immediately after the hearing.~~

~~D. The order or decision of the director upon a petition for redetermination of redemption and refund becomes final ten days after service upon the petitioner of notice thereof, unless appeal of such order or decision is filed with the City Manager within the ten days after service of such notice.~~

~~E. No petition for redetermination of redemption and refund or appeal therefrom shall be effective for any purpose unless the lodging tax collector has first complied with the payment provisions of this chapter. (Ord. 2070 §1, 2020).~~

A. Any person affected by a deficiency determination may file a petition for redetermination with the director within 10 business days of service of notice of the tax deficiency. A determination becomes final if a petition for redetermination is not timely filed.

B. If a petition for redetermination is filed within the allowable period, the director shall reconsider the determination and grant an oral hearing if requested. The petitioner shall be allowed at least 15 business days to prepare for the hearing.

C. After considering the petition and all available information, the director shall issue a redetermination decision and mail the decision to the petitioner. During the redetermination process, the director may agree to a compromise of the amount due if there is a good faith dispute over the amount owing.

D. The decision of the director on redetermination becomes final and payment is due 10 business days after the decision is mailed unless the petitioner files an appeal to the city council within that time. The appeal shall be filed with the director. The city council's decision shall be final when reduced to writing and mailed to the petitioner and all amounts due must be paid within 10 business days of mailing of the city council decision.

SECTION 6. Central Point Municipal Code 3.24.130 is amended in part to read:

3.24.130 Security and Collections 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 a lodging tax collector 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 lodging tax collector's estimated average quarterly liability for the period for which the lodging tax collector files returns. The lodging tax collector has the right to appeal to the city manager any decision of the finance director made under this provision as provided in Section 3.24.210.

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 **and reasonable attorney fees incurred in any legal action brought to collect on the amount owed to the city under this chapter.** (Ord. 2070 §1, 2020; Ord. 2025 §1(part), 2016; Ord. 1996 §1(part), 2014; Ord. 1707 §1(part), 1994).

SECTION 7. Central Point Municipal Code 3.24.190 is amended in part to read:

3.24.190 Confidentiality--Disclosure unlawful.

A. It shall be unlawful for the director or any person having an administrative or clerical duty under the provisions of this chapter to make known in any manner whatever the business affairs, operations, or information obtained by an investigation of records and equipment of any person required to obtain a lodging tax certificate of authority or pay a lodging 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; provided, that nothing in this section shall be construed to prevent:

1. The disclosure to, or the examination of, records and equipment by another city official, employee, or agent for collection of taxes for the sole purpose of administering or enforcing any provisions of this chapter; or collecting taxes imposed under this chapter.
2. The disclosure, after the filing of a written request to that effect, to the taxpayer herself or himself, receivers, trustees, executors, administrators, assignees, and guarantors, if directly interested, of information as to any paid tax, any unpaid tax or amount of tax required to be collected, or interest and penalties; further provided, however, that the city attorney approves each such disclosure, and that the director may refuse to make any disclosure referred to in this subsection when, in her or his opinion, the public interest would suffer thereby.
3. The disclosure of the names and addresses of any persons to whom lodging tax registration certificates have been issued.
4. The disclosure of general statistics regarding taxes collected or business done in the city.

5. Disclosures required by ORS Chapter 192.

6. Disclosures required by ORS Chapter 297. (Ord. 2070 §1, 2020; Ord. 2025 §1(part), 2016; Ord. 1996 §1(part), 2014; Ord. 1707 §1(part), 1994).

SECTION 8. Central Point Municipal Code 3.24.200 is amended in part to read:

3.24.200 Disposition of transient room tax.

A. All revenues received by the city from the tax shall be deposited in the general fund.

B. Twenty-five percent of the **revenue from the first nine percent** ~~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. **Seventy-five percent of the revenue of the tax rate of nine percent shall be used for city services. Seventy percent of the revenue generated by the remaining two percent of the tax shall be used for any tourism purpose consistent with state law. Thirty percent of the revenue generated by the remaining two percent shall be used by the city for funding city services.** (Ord. 2070 §1, 2020; Ord. 2025 §1(part), 2016; Ord. 1996 §1(part), 2014; Ord. 1707 §1(part), 1994).

SECTION 9. Central Point Municipal Code Chapter 3.24 is amended in part to repeal section 3.24.210-Appeals in its entirety.


SECTION 10. Central Point Municipal Code Section 3.24.215 is amended in part to read:

Any person aggrieved by any decision of the city manager may appeal to council of the city by filing a notice of appeal with the director within ten **business** days of the serving or mailing of the notice of the decision given by the city manager. The director shall transmit said notice of appeal, together with the file of said appealed matter, to council, who shall fix a time and place for hearing such appeal from the decision of the city manager. Council shall give the appellant not less than ten **business** days' written notice of the time and place of hearing of said appealed matter. Action by council on appeals shall be decided by a majority of the members of council present at the meeting where such appeal is considered. (Ord. 2070 §1, 2020).

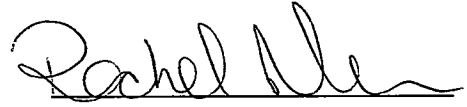
SECTION 11. Codification. Provisions of this Ordinance shall be incorporated in the City Code and the word "ordinance" may be changed to "code", "article", "section", "chapter" or another word, and the sections of this Ordinance may be renumbered, or re-lettered, provided however that any Whereas clauses and boilerplate provisions (i.e. Recitals A-C) need not be codified and the City Recorder is authorized to correct any cross-references and any typographical errors.

SECTION 12. Effective Date. The Central Point City Charter states that an ordinance enacted by the Council shall take effect on the thirtieth day after its enactment. The effective date of this ordinance will be the thirtieth day after the second reading.

PASSED by the Council and signed by me in authentication of its passage this 25 day of April 2024.


Mayor Hank Williams

ATTEST:


City Recorder