
COUNCIL ORDINANCE NO. 20673

**AN ORDINANCE AMENDING TRANSIENT LODGING TAX CODE PROVISIONS
IN CHAPTER 3 OF THE EUGENE CODE, 1971, TO ENABLE TAX
COLLECTION BY THE OREGON DEPARTMENT OF REVENUE ON THE
CITY'S BEHALF AND PROVIDING FOR AN EFFECTIVE DATE.**

ADOPTED: July 25, 2022

SIGNED: July 26, 2022

PASSED: 7:1

REJECTED:

OPPOSED: Keating

ABSENT:

EFFECTIVE: October 1, 2022



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THE CITY OF EUGENE DOES ORDAIN AS FOLLOWS:

Section 1. Section 3.770 of the Eugene Code, 1971, is amended to provide as follows:

3.770 Transient Lodging Tax – Definitions.

Except where the context otherwise requires, the definitions given in this section govern the construction of sections 3.770 to 3.800 of this Code.

- (a) Transient Lodging Provider means a person that furnishes transient lodging.
- (b) Transient Lodging Intermediary means a person other than a transient lodging provider that facilitates the retail sale of transient lodging and:
 - (1) Charges for occupancy of the transient lodging;
 - (2) Collects the consideration charged for occupancy of the transient lodging; or
 - (3) 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.
- (c) Transient Lodging Tax Collector means a transient lodging provider or transient lodging intermediary.
- (d) Occupancy means the right to use or possession of any space in transient lodging for dwelling, lodging or sleeping purposes for less than 30 days.
- (e) Occupant means any individual who exercises occupancy or is entitled to occupancy in transient lodging for a period of 30 consecutive calendar days or less, counting portions of calendar days as full days.
- (f) Person means any individual, firm partnership, joint venture, limited liability company, corporation, limited liability partnership, association, host, social club, fraternal organization, fraternity, sorority, public or private dormitory, joint stock company, estate, trust, business trust, receiver, trustee, syndicate, or any other group or combination acting as a unit.
- (g) Rent means the consideration paid or payable by an occupant for the occupancy of space in transient lodging valued in money, goods, labor, credits, property, or other consideration. If a separate fee is charged for services, goods or commodities and the fee is optional, that fee is not included in rent.

- (h) Short-Term Rental means a house, duplex, multi-plex, apartment, condominium, houseboat, trailer or other residential dwelling unit where a person rents a guest bedroom or the entire residential dwelling unit for transient lodging occupancy. Generally, a short-term rental is zoned residential or has a building occupancy that only allows for residential use.
- (i) Short-Term Rental Hosting Platform means a business or other person that facilitates the retail sale of transient lodging by connecting occupants with transient lodging providers, either online or in any other manner. Short-term rental hosting platforms are transient lodging intermediaries.
- (j) Tax administrator means the finance director of the City of Eugene or its designee, which may include the Oregon Department of Revenue. If the city utilizes the Oregon Department of Revenue as its tax administrator, it will comply with ORS 305.620 in that it will follow the rules adopted by the Department of Revenue regarding the administration, collection, enforcement and distribution of transient lodging taxes.
- (k) Transient Lodging or Transient Lodging Facilities means:
 - (1) Hotel, motel, and inn dwelling units that are used for temporary overnight human occupancy;
 - (2) Spaces used for overnight parking of recreational vehicles or placement of tents during periods of human occupancy; or
 - (3) Houses, cabins, condominiums, apartment units or other dwelling units, or portions of any of these dwelling units that are used for temporary human occupancy.
- (l) TLT or tax means the transient lodging tax.

Section 2. Section 3.772 of the Eugene Code, 1971, is amended to provide as follows:

3.772 Transient Lodging Tax – Tax Imposed.

- (1) Effective October 1, 2022, each occupant shall pay a TLT in the amount of four and one-half percent (4.5%) of the rent. The occupant shall pay the TLT with the rent to the transient lodging tax collector. TLT amounts shall be rounded down to the nearest cent. The transient lodging tax collector shall maintain records of all rent charged and TLT payments received. If rent is paid in installments, a proportionate share of the TLT shall be paid by the occupant to the transient lodging tax collector with each installment unless the occupant pays the entire amount with the first payment.
- (2) Bills, receipts or invoices provided to occupants shall list the TLT separately and must accurately state the amount of tax. All amounts listed as TLT on invoices, bills or receipts must be reported as TLT and, after collection, must be turned over to the city, provided that the transient lodging tax collector may withhold five percent (5%) of the net tax due as an administrative charge for the transient lodging tax collector’s expense in collection and remittance of the tax.

Section 3. Section 3.774 of the Eugene Code, 1971, is amended to provide as follows:

3.774 Transient Lodging Tax – Collection of Tax by Transient Lodging Tax Collector.

- (1) Every transient lodging tax collector shall collect the TLT at the time rent is paid, unless an exemption applies. If payment is by credit card, for purposes of this section, payment is made at the time credit card information is provided to the transient lodging tax collector, not when the transient lodging tax collector ultimately receives credit for the transaction. While holding the payment in trust for the city, a transient lodging tax collector may commingle the tax proceeds with the transient lodging tax collector's funds, but the transient lodging tax collector is not the owner of tax proceeds, except that, when a return is filed, the transient lodging tax collector becomes the owner of the administrative fee authorized to be retained. Transient lodging tax collectors may choose to file returns and remit payment based on amounts accrued but not yet collected. The transient lodging tax collector is liable for any TLT that should have been collected from the occupant, except in cases of nonpayment of rent by the occupant.
- (2) Upon request of the city, transient lodging tax collectors must provide all physical addresses of transient lodging facilities within the city limits and the related contact information, including the name and mailing address, of the general manager, agent, owner, host or other responsible person for the location.

Section 4. A new section 3.775 is added to the Eugene Code, 1971, to provide as follows:

3.775 Transient Lodging Tax – Short-Term Rental Hosting Platform Fees.

A hosting platform for short-term rentals may collect a fee for booking services in connection with short-term rentals only when those short-term rentals are lawfully registered as operators with the city and possess a certificate of authority at the time the short-term rental is occupied.

Section 5. Section 3.776 of the Eugene Code, 1971, is amended to provide as follows:

3.776 Transient Lodging Tax – 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 6. Section 3.778 of the Eugene Code, 1971, is amended to provide as follows:

3.778 Transient Lodging Tax – Exemptions.

No TLT may be imposed upon:

- (a) A dwelling unit in a hospital, health care facility, long-term care facility or any other residential facility that is licensed, registered or certified by the Oregon Department of Human Services or the Oregon Health Authority;
- (b) A dwelling unit in a facility providing treatment for drug or alcohol abuse or providing mental health treatment;
- (c) A dwelling unit that is used by members of the general public for temporary human occupancy for fewer than 30 days per year;
- (d) A dwelling unit, the consideration for which is funded by a government agency directly or through a voucher, and the purpose of which is to provide emergency or temporary shelter;
- (e) A dwelling unit at a nonprofit youth or church camp, nonprofit conference center or other nonprofit facility;
- (f) A dwelling unit that is leased or otherwise occupied by the same person for a consecutive period of 30 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:
 - 1. All dwelling units occupied are within the same facility; and
 - 2. The person paying consideration for the transient lodging is the same person throughout the consecutive period.
- (g) A dwelling unit is leased on a monthly basis, irrespective of the number of days in the month; or
- (h) A dwelling unit whose rent is of a value less than \$2.00 per day.

Section 7. Section 3.780 of the Eugene Code, 1971, is amended to provide as follows:

3.780 Transient Lodging Tax – Registration of Transient Lodging Provider; Form and Contents; Execution; Certification of Authority.

- (1) Every person engaging or about to engage in business as a transient lodging provider shall provide a complete registration form to the tax administrator within 15 calendar days after commencing business. The registration form shall require the transient lodging provider to provide the name of the business, any separate business addresses, and other information as the tax administrator may require to implement this Chapter. Transient lodging providers who own or operate transient lodging facilities in Eugene shall provide the address of the lodging facility. The registration form shall be signed by the transient lodging provider. The tax administrator shall, within 15 days after the registration, issue without charge a certificate of authority to collect the TLT. The transient lodging provider's obligation to collect the TLT is imposed once rent for transient lodging is paid, even if the registration form has not been filed or if the certificate has not been issued. If the rent transaction is facilitated online, the certificate of authority must be able to be viewed by the occupant by clicking on a link to the certificate of authority at a reasonable place during the payment transaction.

- (2) Certificates shall be non-assignable and non-transferable and shall be surrendered to the tax administrator when the business is sold or transferred or when a transient lodging provider ceases to operate at the location specified in the registration form. Each certificate issued to a transient lodging provider for a specific lodging facility shall be prominently displayed at the lodging facility and include:
- (a) The name of the transient lodging provider;
 - (b) The address of the transient lodging facility;
 - (c) The date the certificate was issued; and
 - (d) The certificate number as assigned by the tax administrator.

Section 8. Section 3.782 of the Eugene Code, 1971, is amended to provide as follows:

3.782 Transient Lodging Tax – Remittances and Returns.

- (1) Transient lodging tax collectors must submit a completed tax return form to the tax administrator on or before the last day of the month following the end of each calendar quarter, reporting the amount of tax due during the quarter and accompanied by remittance of all tax collected, less the optional withholding of the administration fee. The return shall be filed in such form as the tax administrator may prescribe. The tax administrator if they deem it necessary in order to insure payment or facilitate collection by the City of the amount of taxes in any individual case, may require returns and payment of the amount of taxes on other than monthly periods.
- (2) The transient lodging tax collector is entitled to the administration fee. If a transient lodging facility has multiple owners, they are not entitled to retain additional fees.
- (3) Remittances are delinquent if not made by the last day of the month in which they are due.
- (4) Returns shall show the gross rents collected, taxable rents, the total amount of TLT collected and the amount of the administrative fee retained by the transient lodging tax collector. Returns shall also show the exempt and excluded rents and the basis for exemptions and exclusions.
- (5) The person required to file the return shall deliver the return, together with payments of the amount of the tax due, with the tax administrator, to the appropriate office, either by personal delivery, by mail, or by electronic tax return filed through a reporting and payment portal furnished by the tax administrator, or its designee. If the return is mailed, the postmark shall be considered the date of delivery.
- (6) The tax administrator may extend the time for making any return or remittance of the tax by up to 30 days. No further extension may be granted, except by the city manager or city manager designee. Any transient lodging collector to whom an extension is granted shall pay interest at the rate of one percent (1%) per month on the amount of remittance due without proration for a fraction of a month. If a return is not filed, and the remittance and interest due is not paid by the end of the extension granted, then the interest shall become a part of the tax for computation of penalties.

Section 9. Section 3.784 of the Eugene Code, 1971, is amended to provide as follows:

3.784 Transient Room Tax – Penalties and Interest.

- (1) Interest shall be added to the overall tax amount due at the same rate established under ORS 305.220 for each month, or fraction of a month, from the time the return to the tax administrator was originally required to be filed to the time of payment.
- (2) If a transient lodging tax collector fails to file a return or pay the tax as required, a penalty shall be imposed in the same manner and amount provided under ORS 314.400.
- (3) Every penalty imposed, and any interest that accrues, becomes a part of the financial obligation required to be paid and remitted to the tax administrator.
- (4) The tax administrator shall deposit all taxes, interest, and penalties collected under this section to the credit of the fund receiving lodging tax revenues.

Section 10: Section 3.786 of the Eugene Code, 1971, is amended to provide as follows:

3.786 Transient Lodging Tax – Deficiency Determination; Fraud, Evasion, Local Tax Trustee Delay.

- (1) Deficiency Determination. The tax administrator 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 tax administrator 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.
 - (a) In reviewing and adjusting tax returns, the tax administrator shall offset any amount received in excess of the remittances due against any shortages in remittances.
 - (b) Except in the case of fraud or intent to evade the TLT, notice of deficiency determinations shall be issued within three years of the period for which the deficiency determination is made.
 - (c) The time to remit deficient payment amounts under this section shall be extended if the local tax trustee timely requests a redetermination.
- (2) Fraud – Refusal to Collect – Evasion. If any transient 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 tax administrator shall estimate the tax due, and calculate the amount owing from the transient lodging tax collector for tax remittance, interest and penalties and provide notice to the transient lodging tax collector of the assessment. The determination and notice shall be made and mailed within three years after discovery by the tax administrator of the violation. The determination is due and payable upon receipt of the notice and shall become final within 10 days after date notice was delivered if no petition for redetermination is filed.

Section 11. Section 3.788 of the Eugene Code, 1971, is amended to provide as follows:

3.788 Transient Lodging Tax – Redeterminations.

- (1) Any person affected by a deficiency determination may file a petition for redetermination with the tax administrator 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.
- (2) If a petition for redetermination is filed within the allowable time period, the tax administrator shall reconsider the determination, and grant an oral hearing if requested. The petitioner shall be allowed at least 20 business days to prepare for the hearing.
- (3) After considering the petition and all available information, the tax administrator shall issue a redetermination decision and mail the decision to the petitioner. During the redetermination process, the tax administrator may agree to a compromise of the amount due if there is a good faith dispute over the amount owing.
- (4) The decision of the tax administrator 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 manager or the city manager's designee within that time. The appeal shall be filed with the tax administrator. The decision of the city manager or the city manager's designee 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 decision.

Section 12. Section 3.790 of the Eugene Code, 1971, is amended to provide as follows:

3.790 Transient Lodging Tax –Collections.

- (1) The city may bring legal action to collect on any amounts owed to the city under this chapter within three years after remittance is due to the city or within three years after any determination becomes final.
- (2) The city is entitled to collect reasonable attorneys' fee in any legal action brought to collect on amount owed to the city under this chapter.

Section 13. Section 3.792 of the Eugene Code, 1971, is amended to provide as follows:

3.792 Transient Lodging Tax – Liens.

The city may record a lien in the city's lien docket against any real property owned by a transient lodging provider who receives any portion of the rent from a transient lodging facility located within the city as to any delinquent remittances by the transient lodging provider.

Section 14. Section 3.794 of the Eugene Code, 1971, is amended to provide as follows:

3.794 Transient Room Tax – Refunds.

- (1) Refunds by City to Transient Lodging Tax Collector. If the transient lodging tax collector remits more tax, penalty or interest than is due, the transient lodging tax collector may file a claim in writing stating the facts relating to the claim, within three years from the date of remittance. If the claim is approved by the tax administrator, the excess amount shall be either refunded or credited on any amount due from the transient lodging tax collector.
- (2) Refunds by City to Occupant. A transient lodging tax collector may file a claim for refund by filing a claim in writing within three years of payment providing the facts relating to the claim for refund. If the tax administrator determines that the tax was collected and remitted to the city and the occupant was not required to pay the tax or overpaid, the city shall issue a refund to the occupant.
- (3) Refunds by Transient Lodging Tax Collector to Occupant. If an occupant has paid tax to a transient lodging tax collector but stays a total of 30 or more consecutive days in the same transient lodging facility, the transient lodging tax collector shall refund to the occupant any tax collected for any portion of the continuous stay. 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 the refund or credit to the occupant, the transient lodging tax collector shall be entitled to a corresponding refund or offset if the claim for refund is filed within three years from the date of collection.
- (4) Burden of Proof. The person claiming the refund shall have the burden of proving the facts that establish the basis for the refund.

Section 15. Section 3.798 of the Eugene Code, 1971, is amended to provide as follows:

3.798 Transient Lodging Tax – Administration.

- (1) Records Required from Local Tax Trustee. Every local tax trustee shall keep records of each transaction involving rent and/or collection of TLT. All records shall be retained for at least three years and six months.
- (2) Examination of Records – Investigations. The tax administrator or agent may examine all records of a local tax trustee relating to receipt of rent and TLT and remittance of tax during normal business hours and may obtain copies of the records to audit returns.
- (3) Authority of Tax Administrator. The tax administrator shall have the power to enforce this chapter, conduct audits, and to adopt rules, regulations and forms consistent with this chapter. Rules and regulations of general application shall be mailed to all registered transient lodging providers. The tax administrator may also issue written interpretations on request of a transient lodging tax collector. As to the transient lodging tax collector to whom the interpretation is issued, the city will act consistently with the interpretation until it is withdrawn, and the city shall provide 30 days' written notice of withdrawal of an interpretation.

- (4) Confidential Character of Information Obtained – Disclosure Unlawful. The city shall maintain the confidentiality of information provided by transient lodging tax collector. Nothing in this subsection shall be construed to prevent:
- (a) The disclosure to, or the examination of records and equipment by another City of Eugene official, employee, or agent for collection of taxes for the purpose of administering or enforcing any provisions of this chapter or collecting city business license fee.
 - (b) Disclosure of information to the transient lodging tax collector and the transient lodging tax collector's agents.
 - (c) The disclosure of the names and addresses of any persons to whom certificates of authority have been issued.
 - (d) The disclosure of general statistics regarding taxes collected or business done in the city.
 - (e) Disclosures required by ORS Chapter 192.
 - (f) Disclosures required by ORS Chapter 297.

Section 16. Section 3.800 of the Eugene Code, 1971, is amended to provide as follows:

3.800 Transient Lodging Tax – Appeals to City.

Any person aggrieved by any decision of the tax administrator may appeal to the city manager or the city manager's designee by filing written appeal with the tax administrator within 10 business days of the serving or mailing of the decision being appealed. The city manager shall schedule the hearing and provide the appellant notice of the hearing at least 10 business days before the hearing. The city manager or the city manager's designee may agree to a compromise of the amount of tax remittance if there is a good faith dispute over the amount owing. Any person may appeal the issuance of a rule or regulation issued by the tax administrator to the city manager or the city manager's designee by filing a written appeal within 10 business days of the mailing of the notice of the regulation.

Section 17. Sections 3.796, 3.802, and 3.804 of the Eugene Code, 1971, are deleted in their entirety.

Section 18. Section 2.170 of the Eugene Code, 1971, is amended to provide as follows:

2.170 Transient Room Tax – Expenditure.

Net proceeds from the transient lodging tax may be expended only for the acquisition, construction, operation, and maintenance of recreational, cultural, convention and tourist related facilities and for recreational, cultural, convention and tourist related services.

Section 19. Subsection (2) of Section 3.350 of the Eugene Code, 1971, is amended to provide as follows:

3.350 Short-Term Rental.

(2) *Transient Lodging Tax.* Transient lodging tax shall be collected and remitted to the city for each short-term rental, in coordination with transient lodging intermediary if utilized, as set forth in EC 3.770 through EC 3.800.

Section 20. The definition of "Person" in subsection (1) of Section 3.810 of the Eugene Code, 1971, is amended to provide as follows:

3.810 Patron User Fee.

(1) For purposes of sections 3.810 and 3.812, the following words and phrases mean:

Person. As defined in subsection (f) of section 3.770 of this chapter.

Section 21. Section 3.997 of the Eugene Code, 1971, is amended to provide as follows:

3.997 Transient Lodging Tax – Penalties.

Any person willfully violating any provision of sections 3.772 to 3.800 of this Code shall be guilty of a misdemeanor and be punishable therefor by a fine of not more than \$500.00 or by imprisonment for not more than six months or by both such fine and imprisonment.

Section 22. The City Recorder, at the request of, or with the consent of the City Attorney, is authorized to administratively correct any reference errors contained herein, or in other provisions of the Eugene Code, 1971, to the provisions added, amended or repealed herein.

Section 23. Notwithstanding the effective date of ordinances as provided in the Eugene Charter of 2002, this ordinance shall become effective on October 1, 2022, or 30 days from the date of passage by the Eugene City Council and approval by the Mayor, whichever is later.

Passed by the City Council this

25th day of July, 2022



City Recorder

Approved by the Mayor this

26 day of July, 2022



Mayor