

NOTICE FOR *THE EUGENE REGISTER-GUARD*

On Monday, July 18, 2022, at 5:30 p.m., the Eugene City Council will conduct a public hearing on the following ordinance:

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.

As our state and community recover from the COVID-19 pandemic, this public hearing will be held in-person and remotely using virtual meeting technology. Information about online or other options for participation will be available by 5 p.m. on July 15, 2022, at <https://www.eugene-or.gov/3360/Webcasts-and-Meeting-Materials>. Written testimony may be sent to mayorcouncilandcitymanager@eugene-or.gov or to Eugene City Manager's Office, 101 West 10th Avenue, Suite 203, Eugene, OR 97401. Written testimony must be received by Monday, July 18, 2022, at 5 p.m.

This ordinance is posted on the City of Eugene website at <http://www.eugene-or.gov> and is also available by calling the City Manager's Office at 541-682-5010.

Notice posted on Friday July 1, 2022.

ORDINANCE NO. _____

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.

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 ~~Room~~ Lodging Tax – Definitions.

Except where the context otherwise requires, the definitions given in this section govern the construction of sections 3.770 to ~~3.804~~3.800 of this Code.

~~(a) Hotel means any structure or portion of any structure which is occupied or intended or designed for transient occupancy for 30 days or less for dwelling, lodging, or sleeping purposes, and includes any hotel, inn, tourist home or house, motel, studio hotel, bachelor hotel, lodging house, rooming house, apartment house, public or private dormitory, fraternity, sorority, public or private club, space in a mobile home or trailer park, or similar structure or portion thereof so occupied, provided the occupancy is for less than a 30-day period.~~

~~(b) Council means the city council of the City of Eugene, Oregon.~~

(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.

~~(e) Occupancy means the use or possession, or the right to use or possession, for lodging or sleeping purposes, of any space in transient lodging for dwelling, lodging or sleeping purposes for less than 30 days room in a hotel, or space in a mobile home or trailer park or portion thereof.~~

~~(d) Operator means the person who is proprietor of a hotel in any capacity and, where the operator performs the operator's functions through a managing agent other than an~~

~~employee, the managing agent who shall have the same duties and liabilities as the managing agent's principal. Compliance with the provisions of sections 3.772 to 3.804 of this Code by either the principal or the managing agent shall be considered to be compliance by both.~~

(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.

~~(e)~~ 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, ~~corporation,~~ estate, trust, business trust, receiver, trustee, syndicate, or any other group or combination acting as a unit.

~~(f) Cash accounting means a system of accounting in which the operator does not enter on the operator's records the rent due from a transient until the rent is paid.~~

~~(g) Accrual accounting means a system of accounting in which the operator enters on the operator's records the rent due from a transient when the rent is earned, whether or not it is paid.~~

~~(h)~~ Rent means the consideration paid or payable charged, whether or not received by the operator or an occupant, for the occupancy of space in transient lodging a hotel whether or not valued in money, goods, labor, credits, property, or other consideration ~~valued in money, without any deduction.~~ If a separate fee is charged for services, goods or commodities and the fee is optional, that fee is not included in rent.

~~(i) 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 the transient room tax under section 3.772 of this Code shall be the same charge made for rent when not a part of a package plan.~~

(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.

~~Transient means any individual who exercises occupancy or is entitled to occupancy in a hotel for a period of less than 30 consecutive calendar days, counting portions of calendar days as full days. The day a transient checks out of the hotel shall not be included in determining the 30-day period if the transient is not charged rent for that day by the operator. Any individual so occupying space in a hotel shall be deemed to be a transient until the period of 30 days has expired, unless there is an agreement in writing between the operator and the occupant providing for a longer period of occupancy. A person who pays for lodging on a monthly basis, irrespective of the number of days in the month, shall not be deemed a transient.~~

(l) TLT or tax means the transient lodging tax.

~~Tax means either the tax payable by the transient, or the aggregate amount of taxes due from an operator during the period for which the operator is required to report the operator's collections.~~

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

3.772 Transient ~~Room~~Lodging Tax – ~~Levy~~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.

~~For the privilege of occupancy in any hotel each transient shall pay a tax of four and one-half percent (4.5%) of the rent charged by the operator for the occupancy. The tax shall constitute a debt owed by the transient to the city and be extinguished only by payment to the operator or the city. The transient shall pay the tax to the operator of the hotel at the time the rent is paid. The operator shall enter the tax on the operator's records when the rent is collected, if the operator keeps the operator's records on the cash accounting basis, and when earned, if the~~

~~operator keeps the operator's 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. If for any reason the tax due is not paid to the operator of the hotel, the tax administrator may require that the tax be paid directly to the city. In all cases the rent paid or charged for occupancy shall exclude amounts received for the sale of goods, services or commodities, other than the furnishing of rooms, accommodations, and parking space in mobile home parks or trailer parks.~~

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

3.774 Transient ~~Room~~ 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.

~~(1) Every operator renting a room in this city, the occupancy of which is not exempted under the terms of section 3.778 of this Code, shall collect a tax from the occupant of the room. The tax collected or accrued by the operator constitutes a debt owing by the operator to the city.~~

~~(2) In all cases of credit or deferred payment of rent, the payment of the tax to the operator may be deferred until the rent is paid, and the operator shall not be liable for the tax until the credit is paid or the deferred payment is made.~~

~~(3) The tax administrator shall enforce sections 3.772 to 3.804 of this Code and may adopt rules and regulations consistent with those sections and necessary to aid in the enforcement.~~

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 ~~Room~~Lodging Tax – ~~Operator’s Duties~~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.

~~Each operator shall collect the tax imposed by section 3.772 of this Code on a transient at the same time as the operator collects rent from the transient. The amount of the tax shall be separately stated upon the operator’s records and on any receipt for the rent rendered by the operator to the transient. No operator shall advertise that the tax or any part of the tax will be assumed or absorbed by the operator, or that it will not be added to the rent, or that, when added, any part will be refunded.~~

Section 6. Section 3.778 of the Eugene Code, 1971, is amended to provide as follows:

3.778 Transient ~~Room~~Lodging Tax – Exemptions.

No ~~tax~~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.

~~(a) Any occupant for more than 30 successive calendar days;~~

~~(b) Any person who pays for lodging on a monthly basis, irrespective of the number of days in the month;~~

~~(c) Any occupant whose rent is of a value less than \$2.00 per day;~~

~~(d) Any person who rents all or a portion of a private home, vacation cabin or like facility from any owner who rents out the facility incidentally to the owner's own use thereof, and who does not rent out the facility on a regular or continuous basis.~~

~~(e) Any occupant whose rent is paid for a hospital room or to a medical clinic, convalescent home, or home for aged people.~~

~~(f) Any occupant whose rent is paid by a local agency, either directly or through a voucher, in response to a local disaster or declared emergency.~~

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

3.780 Transient ~~Room~~ 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 an transient lodging provider operator of a hotel in this city shall provide a complete register-registration form to with the tax administrator ~~on a form provided by the tax administrator~~ within 15 calendar days after commencing the business. ~~Nonregistration under this section shall not relieve any person from the obligation to pay the tax.~~ The registration form shall require the transient lodging provider to provide ~~set forth~~ the name of the business, any separate business addresses, and other information under which the operator transacts or intends to transact business, ~~the location of the operator's place or places of business, and such other information to facilitate the collection of the tax~~ as the tax administrator may requires 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 operator. The tax administrator shall, within 40-15 days after the registration, issue without charge a certificate of authority to ~~the registrant to collect the tax-TLT~~ from the occupants of the hotel, together with a duplicate thereof for each

~~additional place of business of the registrant.~~ 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) Such a certificate~~ shall be non-assignable and non-transferable and shall be surrendered immediately to the tax administrator upon the cessation of when the business is sold or transferred or when a transient lodging provider ceases to operate at the location named specified in the registration form. on the certificates or upon sale or transfer of the business. Each ~~such~~ certificate issued to a transient lodging provider for a specific lodging facility and duplicate thereof shall state the place of business to which it is applicable and shall be prominently displayed at the lodging facility and include: so as to come to the notice readily of all occupants and persons seeking occupancy therein. The certificate shall, among other things state the following:

- (a) The name of the ~~operator~~ transient lodging provider;
- (b) The address of the ~~hotel~~ transient lodging facility;
- (c) The date ~~when~~ the certificate is was issued; and
- (d) The certificate number as assigned by the tax administrator. "This Transient Occupancy Registration Certificate signifies that the person named on the face hereof has fulfilled the requirements of the transient room tax ordinance of the City of Eugene by registration with the tax administrator for the purpose of collecting from transients the city's room tax and remitting the tax to the tax administrator. This certificate does not authorize any person to conduct any unlawful business or to conduct any lawful business in an unlawful manner, or to operate a hotel 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. This certificate does not constitute a permit."

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

3.782 Transient ~~Room~~ 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.

~~The tax imposed by section of this Code shall be paid by the transient to the operator when the transient pays rent to the operator. All such taxes collected by any operator are due and payable to the tax administrator on the fifteenth day of the month for the preceding month and are delinquent on the last day of the month in which they are due.~~

- (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.
~~On or before the fifteenth day of the month following each month of collection by an operator, he or she shall file a return for that month's tax collections with the tax administrator. The return shall be filed in such form as the tax administrator prescribes.~~
- (3) Remittances are delinquent if not made by the last day of the month in which they are due.
- (34) ~~A r~~Returns shall show the gross rents ~~amount of tax~~ collected, taxable rents, ~~or otherwise due for the period for which the return is filed. T~~he total amount of TLT rentals upon which the tax is 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.
~~or otherwise due, gross receipts of the operator for the period, and an explanation in detail of any discrepancy between such amounts, and the amount of rents exempt, if any.~~
- (45) The person required to file the return shall deliver the return, together with ~~the~~ remittance payments of the amount of the tax due, with the tax administrator, to the appropriate ~~at the tax administrator's office,~~ either by personal delivery, or 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.
- (56) ~~For good cause, t~~he tax administrator may extend the time for ~~not to exceed one month the time for~~ making any return or payment 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 ~~operator~~ 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 tax due remittance due, without proration for a fraction of a month. If a return is not filed, and the tax 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 ~~prescribed in section 3.784 of this Code.~~
- (6) ~~The tax administrator, if he or she deems 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 for other than monthly periods.~~

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.

~~(1) 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 section 3.772 of this Code prior to delinquency shall pay a penalty of ten percent (10%) of the amount of the tax due in addition to the amount of the tax.~~

~~(2) Any operator who has not been granted an extension of time for remittance of tax due, and who fails to pay any delinquent remittance on or before a period of 30 days following the date on which the remittance first becomes delinquent shall pay a second delinquency penalty of fifteen percent (15%) of the amount of the tax due plus the amount of the tax and the ten percent (10%) penalty first imposed.~~

~~(3) If the tax administrator determines that the nonpayment of any remittance due under section 3.772 of this Code is due to fraud or intent to evade the provisions thereof, a penalty of twenty five percent (25%) of the amount of the tax shall be added thereto in addition to the penalties stated in subsections (1) and (2) of this section.~~

~~(4) In addition to the penalties imposed, any operator who fails to remit any tax imposed by section 3.772 of this Code shall pay interest at the rate of one half of one percent per month or fractions thereof, without proration for portions of a month, on the amount of the tax due, exclusive of penalties, from the date on which the remittance first becomes delinquent, until paid.~~

~~(5) Every penalty imposed and such interest as accrues under the provisions of this section shall be merged with, and become a part of, the tax required to be paid.~~

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

**3.786 Transient ~~Room Lodging Tax – Deficiencies~~Deficiency Determination;
Fraud, Evasion, Local Tax Trustee Delay.**

(1) Deficiency Determination. ~~If~~The tax administrator may review determines that a 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. ~~required by section 3.782 of this Code is incorrect, the tax administrator 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 the tax administrator's possession. One or more deficiency determinations may be made of the amount due for one or more periods, and the amount so determined shall be due and payable immediately upon service of notice as herein provided, after which the amount determined shall be delinquent. Penalties on deficiencies shall be applied as set forth in section 3.784 of this Code.~~

(a) In reviewing and adjusting tax returns, making a deficiency determination the tax administrator ~~shall~~ may offset any amount received in excess of the remittances due

~~overpayments, if any, which may have been previously made against any [shortages in remittances](#), underpayment for a subsequent period or periods, or against penalties, and interest, on the underpayment. The interest on underpayment shall be computed in the manner set forth in section 3.784.~~

~~(b) The tax administrator shall give to the operator or occupant a written notice of the tax administrator's determination. The notice may be served personally or by mail; if by mail, the notice shall be addressed to the operator at the operator's address as it appears in the records of the tax administrator. In case of service by mail of any notice required by this section, the service shall be complete at the time of deposit in the United States Post Office.~~

~~(cb) Except in the case of fraud or intent to evade [the TLT, LTL](#), sections 3.772 to 3.804 of this Code or rules and regulations pursuant to it, [notice of every deficiency determinations](#) shall be [issued](#) made and notice thereof mailed within three years [of the after the last day of the month following the close of the monthly period for which the deficiency determination is made](#) is proposed to be determined or within three years after the return is filed, whichever period expires the later.~~

~~[\(c\) The time to remit deficient payment amounts under this section shall be extended if the local tax trustee timely requests a redetermination.](#)~~

~~(d) Any deficiency determination shall become due and payable immediately upon receipt of notice by the operator and shall become final within ten days after the tax administrator gives notice thereof, but the operator may petition for redemption and refund if the petition is filed before the determination becomes final.~~

(2) ~~[Fraud – Refusal to Collect – Evasion](#). If any [transient lodging tax collector operator](#) fails or refuses to collect, [report ore remit](#) the tax or to make, within the time [as](#) required by section 3.782 of this Code, any report and remittance of the tax or any portion thereof required by section 3.722 of this Code, or makes [submits](#) a fraudulent return, or otherwise [violates or willfully attempts to violate this chapter](#) evade section 3.772 of this Code, 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.](#) ~~proceed in such manner as the tax administrator deems best to obtain facts and information on which to base an estimate of the tax due. As soon as the tax administrator determines the tax due from any operator who has failed or refused to collect the same and to report and remit said tax, the tax administrator shall proceed to determine and assess against the operator the tax, interest, and penalties provided for by sections 3.772 and 3.784 of this Code. In case such a determination is made, the tax administrator shall give a notice, in the manner prescribed by section 3.786(1) of the amount so assessed.~~ The determination and notice shall be made and mailed within three years after discovery by the tax administrator of ~~any fraud, intent to evade, or failure or refusal to collect the tax, or failure to file a required return~~ [the violation](#). [The Any deficiency determination is shall become due and payable immediately upon receipt of the notice and shall become final within 10 days after date notice was delivered if no petition for redetermination is filed.](#) ~~the tax administrator gives notice thereof. The operator may, however, petition for redemption and refund if the petition is filed before the determination becomes final as provided in subsection (1) of this section.~~~~

~~(3) If the tax administrator believes that the collection of any tax or any amount of tax required to be collected and paid to the city by section 3.772 of this Code is jeopardized by delay, or if any deficiency determination made under this section is jeopardized by delay, the tax administrator shall thereupon make a determination of the tax or amount of tax required to be collected, noting the fact upon the determination. The amount so determined as provided in this section shall be immediately due and payable, and the operator shall immediately pay the determined amount to the tax administrator after service of notice thereof. The operator may petition, however, after payment is made, for redemption and refund of the determination, if the petition is filed within 10 days from the date of service of notice by the tax administrator.~~

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

3.788 Transient ~~Room~~ Lodging Tax – Redeterminations.

- ~~(1) Any person affected by ~~against whom~~ a deficiency determination ~~may file a~~ is made under section 3.786 of this Code or any person directly interested in the determination may petition for ~~a~~ redetermination with the tax administrator and redemption and refund, within 10 business days of service of notice of the tax deficiency. ~~the time required in section 3.786 of this Code. If a petition for redetermination and refund is not filed within the time required in section 3.786, the~~ A ~~determination becomes~~ shall become ~~final~~ if a petition for redetermination is not timely filed. ~~at the expiration of the allowable time.~~~~
- (2) If a petition for redetermination ~~and refund~~ is filed within the allowable time period, the tax administrator shall reconsider the determination, and, ~~if the person has so requested in the person's petition, shall~~ grant ~~the person~~ an oral hearing if requested. ~~The petitioner and shall be allowed at least give the person 10~~ 20 business days to prepare for the hearing ~~notice of the time and place of the hearing. The tax administrator may continue the hearing from time to time as necessary.~~
- (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. ~~The tax administrator may decrease or increase the amount of the determination as a result of the hearing, and if an increase is determined, the increase shall be payable immediately after the hearing.~~
- (4) The ~~order or~~ decision of the tax administrator ~~upon a petition for on~~ redetermination ~~and redemption and refund shall~~ become ~~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. ~~service upon the petitioner of notice thereof, unless appeal of such order or decision is filed with the city manager within the 10 days after service of such notice.~~ 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.
- ~~(5) No petition for redetermination and redemption and refund or appeal therefrom shall be effective for any purpose unless the operator first complies with the payment provisions hereof.~~

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

3.790 Transient ~~Room~~ Lodging Tax – Security for Collections.

- (1) ~~The tax administrator, whenever he or she deems it necessary to insure compliance with sections 3.770 to 3.788 of this Code, may require any operator subject to the transient room tax to deposit with the tax administrator such security in the form of cash, bond, or other assets as the tax administrator determines. The amount of the security shall be fixed by the tax administrator but shall not be greater than twice the operator's estimated average monthly liability for the period for which the operator files returns, determined in such manner as the tax administrator deems proper, or five thousand dollars (\$5,000), whichever amount is the lesser. The amount of the security may be increased or decreased by the tax administrator subject to the limitations herein provided.~~
- (2) ~~At any time within three years after any tax or any amount of tax required to be collected becomes due and payable, or at any time within three years after any determination by the tax administrator under sections 3.772 to 3.804 of this Code becomes final, the tax administrator~~ The city may bring legal an action in the courts of this state, or any other state, or of the United States, in the name of the city, to collect the amount delinquent, together with penalties and interest 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 ~~Room~~ 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.

~~The tax imposed by section 3.772 of this Code, together with the interest and penalties provided by section 3.784 and the filing fees paid to the Department of Records of Lane County, Oregon, and advertising costs which may be incurred when the tax becomes delinquent under section 3.782 shall be, and until paid remain, a lien from the date of its recording with the Department of Records of Lane County, Oregon, and superior to all subsequent recorded liens on all tangible personal property used in the hotel of an operator within Eugene and may be foreclosed on and sold as necessary to discharge the lien, if the lien has been so recorded. Notice of lien may be issued by the tax administrator whenever the operator is in default in the payment of the tax, interest and penalty, and shall be recorded with the Department of Records and a copy sent to the delinquent operator. The personal property subject to the lien and seized by any deputy of the tax administrator may be sold by the tax administrator at public auction after 10 days' notice thereof published in a newspaper in the city.~~

~~Any such lien as shown on the records of the Department of Records shall, upon the payment of the taxes, penalty and interest for which the lien has been imposed, be released by the tax~~

~~administrator when their full amount has been paid to the city. The operator or person making the payment shall receive a receipt therefor stating that the full amount of the taxes, penalties, and interest have been paid and that the lien is thereby released and the record of lien satisfied.~~

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.

~~Whenever the amount of any tax imposed under section 3.784 has been paid more than once or has been erroneously or illegally collected or received by the tax administrator, it may be refunded, provided a verified claim in writing therefor, stating the specific reason upon which the claim is founded, is filed with the tax administrator within three years from the date of payment. The claim shall be made on forms provided by the tax administrator. If the tax administrator approves the claim, the excess amount collected or paid may be refunded or may be credited on any amounts then due and payable from the operator from whom it was collected or by whom paid, and the balance may be refunded to the operator, or the operator's administrators, executors or assignees. All refunds shall be charged to the fund receiving room tax revenues.~~

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

3.798 Transient ~~Room~~ Lodging Tax – Administration.

~~(1) The tax administrator shall deposit all money collected pursuant to section 3.772 to 3.792 of this code to the credit of the fund receiving room tax revenues.~~

~~(21) Records Required from Local Tax Trustee. Every local tax trustee operator shall keep guest records of each transaction involving rent and/or collection of TLT of room rentals and accounting books and records of the rentals. All these records the operator shall be retained for at least three years and six months ~~after they come into being.~~~~

~~(32) Examination of Records – Investigations. The tax administrator or agent or any person authorized in writing by the tax administrator 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 ~~the books, papers, and accounting records relating to room rentals of any operator liable for the tax, after notification to the operator and may investigate the business of the operator in order to verify the accuracy of any return made, or if no return is made by the operator, to ascertain and determine the amount required to be paid by the operator.~~~~

(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:
~~Neither the tax administrator nor any person having an administrative or clerical duty under sections 3.776 to 3.804 of this Code may 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 transient occupancy registration certificate, or pay a transient room 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 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. Nothing in this subsection shall prevent, however:~~

(a) The disclosure to, or the examination of records and equipment by another City of Eugene official, employee, or ~~tax-collecting agent~~ for collection of taxes for the sole purpose of administering or enforcing any provisions of this chapter or collecting city business license fee ~~the tax.~~

~~(b) The disclosure, after the filing of a written request to that effect, to the taxpayer or the taxpayer's receivers, trustees, executors, administrators, assignees, and guarantors, if directly interested, of information as to any such tax paid, any such tax unpaid or the amount of any such tax required to be collected, together with interest and penalties thereon provided the city attorney approves each such disclosure. The tax administrator may refuse to make any such disclosures referred to in this paragraph when in the tax administrator's opinion the public interest would suffer thereby.~~

(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 ~~transient occupancy registration~~ 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 ~~Room-Lodging~~ Tax – Appeals to City-Manager.

Any person aggrieved by any decision of the tax administrator may appeal to the city manager or the city manager's designee by filing ~~a notice of written~~ appeal with the tax administrator within 10 business days of the serving or mailing ~~of the notice~~ 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. ~~The tax administrator shall fix a time and place for hearing the appeal and shall give the appellant 10 days' written notice of the time and place of the hearing.~~

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

~~**3.796 Transient Room Tax – Collection Fee.**~~

~~Every operator liable for the collection and remittance of the tax imposed by section 3.772 of this Code may withhold five per cent (5%) of the net tax due to cover the operator's expense in the collection and remittance of the tax.~~

~~**3.802 Transient Room Tax – Appeal to Council.**~~

~~Any person aggrieved by any decision of the city manager under section 3.800 of this Code may appeal to the council by filing a notice of appeal with the tax administrator within 10 days of the serving or the mailing of the notice of the decision given by the city manager. The tax administrator shall transmit the notice together with the file of the appealed matter, to the council, who shall fix a time and place for hearing the appeal. The council shall give the appellant not less than 10 days written notice of the time and place of hearing of the appeal.~~

~~3.804~~ Transient Room Tax – Violations.

~~No operator or other person required to do so may fail or refuse to register as required by section 3.780 of this Code or to furnish any return required to be made under section 3.782 or to furnish a supplemental return or other data required by the tax administrator. No person may render a false or fraudulent return under section 3.782. No person required to make, render, sign, or verify any report regarding the transient room tax may make any false or fraudulent report.~~

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 ~~room~~ 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 ~~Room-Lodging~~ Tax.* Transient ~~room~~ 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 ~~3.804~~ 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 (e) 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 ~~Room-Lodging~~ Tax – Penalties.

Any person willfully violating any provision of sections 3.772 to ~~3.804~~ 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

___ day of _____, 2022

City Recorder

Approved by the Mayor this

___ day of _____, 2022

Mayor