

ORDINANCE NO. 2025

AN ORDINANCE AMENDING CHAPTER 3.24 TRANSIENT LODGING TAX
OF THE CENTRAL POINT MUNICIPAL CODE

Recitals:

- A. The addition of online travel agencies purchasing blocks of hotel rooms for resale has prompted an examination and update of the Transient Room Tax in the City of Central Point.
- B. Our current ordinance compliments the state rules, making it easier for the hotel operators in reporting and disbursing taxes that are collected.
- C. Staff would like to update and expand descriptions and clarify words.
- D. Recommended changes are relevant to definitions, collection of tax, liens, refunds, disposition of tax, and appeals.

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

Section 1. Chapter 3.24 Transient Lodging Tax is here by amended to read as follows:

Chapter 3.24
TRANSIENT LODGING TAX

Sections:

- 3.24.010 Definitions.
- 3.24.020 Tax imposed.
- 3.24.030 ~~Rules for collection~~ **Collection of tax by operator.**
- 3.24.040 Operator's duties.
- 3.24.050 Exemptions.
- 3.24.060 ~~Operator's registration~~ Registration form and certificate-certificate of authority.**
- 3.24.070 Collections, returns and payments.
- 3.24.080 ~~Delinquency penalties~~ Penalties and interest.**
- 3.24.090 ~~Deficiency determinations~~ Fraud, evasion and operator delay**
- 3.24.130 ~~Security for collection~~ Collection of tax.**
- 3.24.140 Liens.
- 3.24.150 Refunds issued by city.
- 3.24.170 Refunds by operator to transient.
- 3.24.180 ~~Records. required from operators~~ Examination.**

- 3.24.190 Confidentiality.
- 3.24.200 Disposition ~~and use~~ of transient room tax funds.
- 3.24.210 Appeals. ~~to the city council.~~
- 3.24.220 Violations.
- 3.24.230 ~~Actions to collect~~ **Severability.**

3.24.010 Definitions.

For purposes of this chapter, the following definitions apply:

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

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

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

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

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

“Director” means the Finance Director of the City of Central Point.

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

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

“Occupancy” means use or possession of, or the right to **the use or possession for lodging or sleeping purposes of transient lodging space**, ~~a room or rooms or any portion thereof for transient lodgings.~~

“Operator” means a person ~~who is the proprietor of that transient~~ **furnishes transient lodging facility in any capacity.** When an operator’s functions are performed through a managing agent **or transient lodging intermediary agent** of a type other than an employee, the ~~managing agent~~ **agent** shall also be considered an operator. ~~For operator for purposes of this chapter,~~ **ordinance and shall have the same duties and liabilities**

as the principal. Compliance by either the operator or the ~~managing-agent~~ shall be considered compliance by both. **Operator herein shall also include a Transient Lodging Tax Collector as defined by state law.**

“Person” means an individual, firm, partnership, joint venture, association, social club, fraternal organization, fraternity, sorority, public or private dormitory, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate, or another group or combination acting as a unit.

“Rent” means the total retail price, including all charges other than taxes, **rendered for the sale, service or furnishing of transient lodging whether or not received by the operator, for the occupancy of transient lodging space valued in money, goods, labor, credits, property, or other considerations valued in money, without any deduction.** ~~paid by a person for occupancy of the transient lodging.~~

“**Rent package plan**” means the consideration charged for both food and rent where a single rate is made for the total of both. ~~The total retail price paid by a person for occupancy of transient lodging that is part of a travel package may be determined by reasonable and verifiable standards from books and records kept in the ordinary course of the transient lodging operator’s business. Where the consideration charge includes both food and rent in a single rate, the amount applicable to rent for determination of transient room tax under this chapter~~ **ordinance** shall be the same charge made for rent of the identical room when **consideration** it is not a part of a package plan. **This concept is intended to follow State of Oregon Administrative Rule (OAR #150-320-305) regarding services included in the fee for purposes of determining the total retail price.**

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

~~“Director” means the city of Central Point city manager, or his designee.~~ **(moved to above alpha order)**

“Transient” means an individual who occupies or is entitled to occupy space in a transient lodging facility for a period of thirty consecutive days or less, counting portions of days as full days. The day a transient checks out of a hotel shall not be included in determining the thirty-day period if the transient is not charged rent for that day. A person occupying space in a transient lodging facility shall be considered a transient

until a period of thirty days has expired unless there is an agreement in writing between the operator and the occupant providing for a longer period of occupancy or the tenant actually extends occupancy more than thirty consecutive days. A person who pays for lodging on a monthly basis, regardless of the number of days in the month, shall not be considered a transient.

~~“Transient lodging” means hotel, bed and breakfast, or any part thereof, which is used or designed for occupancy by transients for dwelling, lodging or sleeping purposes and which is rented or intended for rent on a daily or weekly basis, or any period of thirty days or less, to transients for a charge or fee paid or to be paid for rental or use of facilities.~~

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

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

3.24.020 Tax imposed.

For the privilege of occupancy in any transient lodging, a tax of nine percent (9%) is imposed on any consideration rendered for the sale, service or furnishing of transient lodging.

~~For the privilege of occupancy in any transient lodging facility, a transient shall pay a tax in the amount of nine percent of the rent charged for the privilege of occupancy in a transient lodging facility in the city.~~ **The tax must be computed on the total retail price, including all charges other than taxes, paid by a person for occupancy of the transient lodging. The total retail price paid by a person for occupancy of transient lodging that is part of a travel package may be determined by reasonable and verifiable standards from books and records kept in the ordinary course of the operator’s business. The tax shall be collected by the operator that receives the consideration rendered for occupancy of the transient lodging. The tax imposed by this ordinance is in addition to and not in lieu of any state transient lodging tax. The tax constitutes a debt owed by the transient to the city, and the debt is extinguished only when the tax is remitted by the operator to the city. The transient shall pay the tax to the operator at the time rent is paid. The operator shall**

enter the tax into the record when rent is collected if the operator keeps records on the cash accounting and when earned if the operator keeps records on the accrual accounting basis. If the rent is paid in installments, a proportionate share of the tax shall be paid by the transient to the operator with each installment. The unpaid tax is due upon the transient's ceasing to occupy space in the transient lodging. ~~In all cases, rent paid or charged for occupancy shall exclude the sale of goods, services or commodities.~~

3.24.030 ~~Rules for collection of tax by operator.~~ Collection of tax by operator.

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

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

~~B. The director Finance Director shall enforce this chapter and may adopt rules and regulations provisions of this ordinance and shall have the power to adopt rules and regulations not inconsistent with this ordinance as may be necessary to aid in the for enforcement.~~

~~C. The rent collected on portions of a dollar, fractions of a penny of tax, shall not be remitted rate imposed shall be rounded to the nearest whole cent.-~~

3.24.040 Operator's duties.

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

3.24.050 Exemptions.

The tax shall not be imposed on:

~~A. An occupant staying for more than thirty consecutive days, or a person paying for lodging on a monthly basis regardless of the number of days in the month; Transient lodging in a hospital, health care facility, long term care facility or any other residential facility that is licensed, registered or certified by the Department of Human Services or the Oregon Health Authority;~~

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

~~B. Transient lodging in a private residence that is used by members of the general public for temporary human occupancy for fewer than 30 days per year;~~

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

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

Transient lodging that is leased or otherwise occupied by the same person for a consecutive period of 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 all dwelling units occupied are within the same facility, and the person paying consideration for the transient lodging is the same person throughout the consecutive period.

~~A person who rents a private home, vacation cabin or similar facility from an owner who personally rents the facility incidentally to the owner's personal use, except a bed and breakfast;~~

~~C. Any occupant whose rent is paid for a hospital room or to a medical clinic, convalescent home, or home for aged people, or to a public institution owned and operated by a unit of the government;~~

~~D. Any room donated to a nonprofit organization claiming exemption under IRS Code 501;~~

~~E. Any home occasionally exchanged with a home outside the city without payment of rent;~~

~~F. Any person housed through an emergency shelter or disaster program where the rent is paid with government assistance funds;~~

~~G. Any federal government employee traveling on official government business, who presents an official government exemption certificate or official travel authorization.~~

~~3.24.060 Operator's registration—Registration form and certificate—Certificate of authority.~~ 

A. Each operator of a transient lodging facility within the city shall register said business with the ~~director~~**Finance Director**, on a form provided by the ~~director~~**Director**, within fifteen **calendar** days after commencing business. **The privilege of registration after the date of imposition of such tax shall not relieve any person from the obligation of collection or payment of tax regardless of registration.**

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

~~C.~~ The ~~director~~**Director** shall, within ten days after registration, issue without charge a **“Certificate of authority—Authority”** to each registrant to collect the tax from the occupant, together with a duplicate thereof for each additional place of business of each registrant. Certificates shall be nonassignable and nontransferable and shall be surrendered immediately to the director upon the cessation of business at the location named or upon its sale or transfer.

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

1. The name of the operator;
2. The address of the transient lodging facility;
3. The date the certificate was issued;
4. The following statement: “This transient occupancy registration certificate signifies that the person named on the certificate has fulfilled the requirements of the transient lodging tax ordinance of the ~~city~~**City** of Central Point by ~~registering~~**registration** with the ~~director~~**Finance Director** for the purpose of collecting the room tax imposed by ~~the said Ceity of Central Point~~ and remitting the tax to the **Finance D**irector. This certificate does not authorize any person to conduct any unlawful business or to conduct any lawful business in an unlawful manner, or to operate a transient lodging facility without strictly complying with all local applicable laws, including but not limited to those requiring a permit from any board, commission, department or office of the ~~city~~**City** of Central Point. This certificate does not constitute a permit.”

3.24.070 Collections, returns and payments.

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

First quarter: January, February, March

Second quarter: April, May, June

Third quarter: July, August, September

Fourth quarter: October, November, December

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

~~C.~~ At the time the return is filed, the full amount of the tax collected shall be remitted to the ~~director~~**Director**. ~~Payments received by the director for application against existing liabilities will be credited toward the period designated by the taxpayer under conditions that are not prejudicial to the interest of the city. A condition considered prejudicial is the imminent expiration of the statute of limitations for a period or periods.~~

~~D.~~ Nondesignated payments shall be applied in the order of the oldest liability first, with the payment credited first toward any accrued penalty, then to interest, then to the underlying tax until the payment is exhausted. Crediting of a payment toward a specific reporting period will be first applied against any accrued penalty, then to interest, then to

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

~~E.~~ For good cause, the **Finance Director** may extend the time for filing a return or paying the tax for **a period not to exceed three months.** ~~more than one month.~~ Further extension may be granted only by the ~~city council~~**approval of the City Manager**. An operator to whom an extension is granted shall pay interest at the rate of one percent per month on the amount of tax due, without proration for a fraction of a month. If a return is not filed and if the tax and interest due are not paid by the end of the extension granted, the interest shall become a part of the tax for computation of penalties prescribed in Section 3.24.080.

~~F.~~ **Collection fee:** Every operator required to remit the tax imposed in this chapter shall be entitled to retain five percent **(5%)** of all taxes due to defray the costs of bookkeeping and remittance.

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

H. The ~~director~~**Finance Director** may require returns and payment of the taxes for other than monthly/quarterly periods in individual cases to ensure payment or to facilitate collection by the ~~city~~**City**.

3.24.080 Delinquency penalties. Penalties and interest.

A. Original Delinquency. Any operator who **has not been granted an extension of time for remittance of tax due and who** fails to remit any ~~portion of any tax~~ imposed by this ~~chapter ordinance~~ **prior to delinquency** ~~within the time required~~ shall pay a penalty of ten percent **(10%)** of the amount of the tax **due in addition to the amount of the tax.**

B. Continued Delinquency. Any operator who fails to remit any delinquent remittance on or before a period of thirty-one days following the date on which the remittance first became delinquent shall pay a second delinquency penalty of fifteen percent **(15%)** of the amount of the tax in addition to the **ten percent (10%)** ~~amount of the tax and the~~ penalty first imposed.

C. Fraud. If the **Finance D**irector determines that the nonpayment of any remittance due under this ~~chapter ordinance~~ 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 A and B of this section.~~**assessed under this ordinance.**

D. Interest. In addition to the penalties imposed, any operator who fails to remit any tax imposed by this ~~chapter ordinance~~ shall pay interest at the rate of one percent per month **(1%)** or fraction thereof **without proration for portions of a month**, on the amount of the tax, exclusive of penalties, from the date on which the remittance first became delinquent until paid.

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

F. Petition for Waiver. Any operator who fails to remit the tax within the required time may petition the ~~city~~ **City Manager** ~~council~~ for waiver and refund of the penalty or a portion of it. The ~~council~~ **Manager** may, if good cause is shown, direct a refund of the penalty or a portion of it. **At the City Manager's discretion, a petition for waiver may be forwarded and addressed by a hearing before the City Council.** Any such hearing will be conducted under the procedures described in Section 3.24.210 **of this ordinance.**

3.24.090 Deficiency determinations Fraud, Evasion, and Operator delay.

A. If the **Finance D**irector determines that a return is incorrect, that required reports or returns have not been filed, that a report is fraudulent, or that an operator has otherwise failed to comply with the terms of this chapter, the ~~director~~ **Director** shall proceed in

such manner as deemed best to obtain facts and information on which to base the estimate of tax due. As soon as the ~~director~~**Director** shall procure such facts and information as is able to be obtained, upon which to base the assessment of any tax imposed by this chapter and payable by any operator, the ~~director~~**Director** shall proceed to determine and assess against such operator the tax, interest and penalties provided for ~~by this within this chapter~~**ordinance**.

B. In case such determination is made, the **Finance D**irector shall give a written notice of the amount so assessed by having it served personally or by depositing it in the United States mail, postage prepaid, addressed to the operator so assessed at the last known place of address. Any deficiency is due and payable ten days after the ~~director~~**Director** serves its written notice. The operator may appeal such determination as provided in Section 3.24.210 within ten days of service of the deficiency notice. If no appeal is filed, the ~~director's~~**Director's** determination is final and the amount thereby is immediately due and payable **and shall become final within 10 days after the notice has been given.-**

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

3.24.130 Security for collection of tax.

A. ~~If t~~**The director**~~Finance Director believes that the collection of any tax or any amount of tax required to be collected and paid to the City will be jeopardized by delay, the Director may make a determination of the tax required to be collected, and may require an operator to deposit security in the form of cash, bond or other security. The amount of security shall be fixed by the director~~**Director** and shall not be greater than twice the operator's estimated average quarterly liability for the period for which the operator files returns. ~~or five thousand dollars, whichever amount is less. The Operator has the right to appeal to the City Manager any decision of the Finance Director made under this provision.~~

B. Within three years after the tax becomes payable or within three years after a determination becomes final, the ~~director~~**Director** may bring an action in the name of

~~the city~~**City** in the courts of this ~~state~~, or another state or of the United States to collect the amount delinquent and penalties and interest.

3.24.140 Liens.

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

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

The ~~director~~**Finance Director** shall cause the lien to be recorded in the ~~city's~~**City and/or County** lien docket and it shall remain a lien from the date of its recording and superior to all subsequent recorded liens on all tangible personal property used in the Transient Lodging of the operator, and the ~~lien may thereafter be foreclosed in the same manner as in the case of liens for local improvements, as set forth in ORS 223.505 to 223.505~~ **upon sold as provided by law as may be necessary to discharge said lien.**

3.24.150 Refunds issued by city.

Operator refunds: ~~A. Whenever the amount of any tax, interest or penalty has been overpaid or paid more than once, or has been erroneously or illegally collected or received by the city~~**City** under this ~~chapter~~**ordinance**, it may be refunded, ~~as provided in subsections B and C of this section,~~ provided a **verified** claim in writing therefor, stating ~~under penalty of perjury the specific grounds~~ **reasons** upon which the claim is founded, is filed with the ~~director~~**Finance Director** within three years ~~of~~**from** the date of payment. ~~The claim must be on forms furnished by the director.~~ **If the claim is approved by the Director, the excess amount collected or paid may be refunded or taken as credit on any amounts due and payable from the operator or their administrators, executors or assignees.**

~~B. An operator may claim a refund, or take as credit against taxes collected and remitted, the amount overpaid, paid more than once or erroneously or illegally collected or received when it is established in a manner prescribed by the director that the person from whom the tax has been collected was not a transient; provided, however, that neither a refund nor a credit shall be allowed unless the amount of the tax so collected has either been refunded to the transient or credited to rent subsequently payable by the transient to the operator.~~

~~C. Transient refunds: Whenever tax required by this ordinance has been collected by the operator and deposited with the Finance Director and later is determined to erroneously collected, it may be refunded by the Finance Director/City to the transient, provided a verified claim in writing, stating the specific reason for the claim, is filed with the Director within three years from the date of payment. A transient may obtain a refund of taxes overpaid or paid more than once, or erroneously or illegally collected or received by the city, by filing a claim in the manner provided in subsection A of this section, but only when the tax was paid by the transient directly to the director, or when the transient having paid the tax to the operator, established to the satisfaction of the director that the transient has been unable to obtain a refund from the operator who collected the tax.~~

~~D. No refund shall be paid under the provisions of this section unless the claimant establishes that right hereto by written records showing entitlement thereto.~~

3.24.170 Refunds by operator to transient.

If the tax has been collected by the operator and it is later determined that the transient occupied the hotel for a period exceeding thirty days without interruption, the operator shall refund the tax to the transient. The operator shall account for the collection and refund to the ~~director~~**Finance Director/City on the City's tax report form**. If the operator has remitted the tax prior to refund or credit to the transient, the operator shall be entitled to a corresponding refund, **which shall be also be reported on the City's tax report form**.

3.24.180 Records. ~~required from operators~~ Examination.

~~A. It shall be the duty of every operator liable for the collection and payment to the city of any tax imposed by this chapter to keep and preserve, for a period of three years and six months, all records, books, reports, income tax reports and other matters required by this chapter as may be necessary to determine the amount of such tax as the operator may have been liable for the collection of and payment to the city, which records the director shall have the right to inspect at all reasonable times as set forth below. Every operator shall maintain guest records of room rents, accounting books and records of income. The operators must, at a minimum, include a daily room rental register, a room billing/revenue daily journal, a cash receipt and deposit journal, and a cash disbursements journal/check register for all authorized deductions. These records and books shall reconcile to the transient room tax reports and be auditable. They shall also reconcile to the operator's income tax reports. If the director finds the books and records of the operator are deficient in that they do not provide adequate support for~~

~~transient room tax reports filed, or the operator's accounting system is inauditable, it shall be the responsibility of the operator to improve their accounting system to the satisfaction of the director.~~

~~B. During normal business hours and after notifying the operator, the director, or an authorized representative, may examine books, papers and accounting records, including the operator's federal and state income tax returns, to verify the accuracy of a return or, if no return is made, to determine the amount to be paid. (Ord. 1996 §1(part), 2014; Ord. 1707 §1(part), 1994).~~

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

Examination of records: The Finance Director or any person authorized in writing by the Director may examine the books, papers and accounting records relating to room sales of any operator during normal business hours. The examination of records is for the purpose of verifying the accuracy of any return made, or if no return is made, to ascertain and determine the amount required to be paid. Notification shall be given to the operator liable for the tax at least two weeks prior to the examination of records, and the Director may request certified copies of annual tax returns covering the operator.

3.24.190 Confidentiality.

The **Finance Director** or a person having an administrative or clerical duty under the provisions of this chapter shall not make known in any manner the business affairs, operations or information obtained by an investigation of records and equipment of a person required to file a return or pay a transient occupancy tax or a person visited or examined in the discharge of official duty; or the amount or source of income, profits, losses or expenditures contained in a statement or application; or permit a statement or application, or a copy of either, or a book containing an abstract or particulars to be seen or examined by any person. However, nothing in this section shall be construed to prevent:

However, nothing in this subsection shall be construed as to prevent the disclosure to, or the examination of records and equipment for the collection of taxes or the purpose of administering or enforcing any provisions of this ordinance, the collecting of taxes imposed, the names and addresses to whom Transient Occupancy Registration Certificates have been issued, the general statistics regarding taxes collected or transient business transacted within the City of Central Point,

~~A. Disclosure to or examination of records and equipment by a city official, employee or agent for collecting taxes for the purpose of administering or enforcing the provisions or collecting the taxes imposed by this chapter;~~

~~B. Disclosure, after filing a written request, to the taxpayer, receivers, trustees, executors, administrators, assignees and guarantors, if directly interested, of information concerning tax paid, unpaid tax, amount of tax required to be collected, or interest and penalties. However, the city attorney shall approve each disclosure, and the director may refuse to make a disclosure referred to in this subsection when, in the director's opinion, the public interest would suffer;~~

~~C. Disclosure of names and addresses of persons making returns;~~

~~D. Disclosure of general statistics regarding taxes collected or business done in the city;~~

~~E. Presentation of evidence to the court, or other tribunal having jurisdiction in the prosecution of any criminal or civil claim for amount due the city under this chapter;~~

~~F. The disclosure of information when such disclosure of conditionally exempt information is ordered under public records law procedures; or~~

~~G. The disclosure of records related to a business's failure to report and remit the tax when the report or tax is in arrears for over six months or the tax arrearage exceeds five thousand dollars. The city council expressly finds and determines that the public interest~~

~~in disclosure of such records clearly outweighs the interest in confidentiality under ORS 192.501(5).~~

3.24.200 Disposition and use of transient room tax. funds.

All revenues received by the ~~city~~ **City** from the tax shall be deposited in the general fund. **Twenty five percent of the balance of the proceeds shall be used directly or indirectly for the purpose of promoting, recreational, cultural, convention and tourist related activities and services for the city of Central Point.**

3.24.210 Appeals. to the city council.

A. Any operator aggrieved by any decision of the ~~Finance D~~irector with respect to the amount of such tax, interest and penalties, if any, may appeal to the ~~city council~~ **City Manager**. **If the operator is still aggrieved by the City Manager's decision following an appeal resulting from the Finance Director's ruling on an issue, may, by filing a notice of appeal with the director **City Manager** within ~~fifteen~~ **ten (10)** days of mailing of the notice of a decision, **request a hearing with the City Council on the matter**. The ~~city~~ **City manager** ~~Manager~~ shall fix a time and place for hearing the appeal, as prescribed by the ~~city~~ **City council** ~~Council~~, and shall give the appellant ~~fifteen~~ **not less than ten (10)** days written notice of the time and place of the hearing ~~before the city council of said appealed matter. The parties shall be entitled to appear personally and by counsel to present such facts, evidence and arguments as may tend to support the respective positions on appeal.~~**

~~B. The appellant shall pay a nonrefundable appeal fee to facilitate the appeal. Appeal fees shall be set at one hundred fifty dollars for each decision appealed, and may be adjusted by resolution of the city council.~~

~~C. The parties shall be entitled to appear personally and by counsel and to present such facts, evidence and arguments as may tend to support the respective positions on appeal.~~

~~D. The city council shall afford the parties an opportunity to be heard at an appeal hearing after reasonable notice. The city council shall take such action upon the appeal as it sees fit. The city council shall at a minimum:~~

- ~~1. At the commencement of the hearing, explain the relevant issues involved in the hearing, applicable procedures and the burden of proof.~~
- ~~2. At the commencement of the hearing, place on the record the substance of any written or oral ex parte communications concerning any relevant and material fact in~~

~~issue at the hearing which was made outside the official proceedings during the pendency of the proceeding. The parties shall be notified of the substance of the communication and the right to rebut the communication. Notwithstanding the above, the parties are prohibited from engaging in ex parte communications with the members of the city council.~~

~~3. Testimony shall be taken upon oath or affirmation of the witnesses.~~

~~4. The city council shall ensure that the record developed at the hearing shows a full and fair inquiry into the relevant and material facts for consideration for the issues properly before the hearings officer.~~

~~5. Written testimony may be submitted under penalty of false swearing for entry into the record. All written evidence shall be filed with the city recorder no less than five working days before the date of the hearing.~~

~~6. The city council shall hear and consider any records and evidence presented bearing upon the director's determination of amount due, and make findings affirming, reversing or modifying the determination.~~

~~7. Informal disposition may be made of any case by stipulation, agreed settlement, consent order or default.~~

~~E. The action of the director shall be stayed pending the outcome of an appeal properly filed pursuant to this section.~~

~~F. Failure to strictly comply with the applicable appeal requirements, including but not limited to the required elements for the written notice of appeal, time for filing of the notice of appeal, and payment of the applicable appeal fee, shall constitute jurisdictional defects resulting in the summary dismissal of the appeal.~~

~~G. The findings of the city council shall be final and conclusive, and shall be served upon the appellant in the manner prescribed above for service of notice of hearing. Any amount found to be due shall be immediately due and payable upon the service of notice.~~

Action by the City Council on appeals shall be by motion, passed by a majority of the members present at the meeting where the appeal is considered..

3.24.220 Violations.

~~A. It is unlawful for any operator or any other person so required to fail or refuse to **register or** furnish any return required to be made, or fail or refuse to furnish the a~~

supplementary return or other data required by the Finance Director or to enter a false or fraudulent report, with intent to defeat or evade the determination of any amount due required by this chapter.

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

~~C.~~ The remedies provided by this section are not exclusive and shall not prevent the ~~city~~ **City** from exercising any other remedy available under the law, nor shall the provisions of this chapter prohibit or restrict the ~~city~~ **City** or other appropriate prosecutor from pursuing criminal charges under state law or city ordinance.

~~3.24.230 Actions to collect.~~

~~Any tax required to be paid by any transient under the provisions of this chapter shall be deemed a debt owed by the transient to the city. Any such tax collected by an operator which has not been paid to the city shall be deemed a debt owed by the operator to the city. Any person owing money to the city under the provisions of this chapter shall be liable to an action brought in the name of the city of Central Point for the recovery of such amount. In lieu of filing an action for the recovery, the city, when taxes due are more than thirty days delinquent, can submit any outstanding tax to a collection agency. So long as the city has complied with the provisions set forth in ORS607.105, in the event the city turns over a delinquent tax account to a collection agency, it may add to the amount owing an amount equal to the collection agency fees, not to exceed the greater of fifty dollars or fifty percent of the outstanding tax, penalties and interest owing. (Ord. 1996 §1(part), 2014).~~

3.24.230 Severability.

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

Section 2. 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 other word, and the sections of this Ordinance may be renumbered, or re-lettered, provided however that any Whereas clauses and boilerplate provisions need not be

codified and the City Recorder is authorized to correct any cross references and any typographical errors.

Section 3. 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 _____ day of _____, 2016.

Mayor Hank Williams

ATTEST:

City Recorder

codified and the City Recorder is authorized to correct any cross references and any typographical errors.

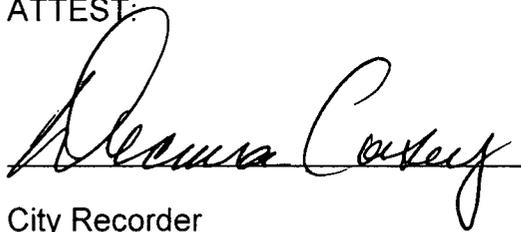
Section 3. Effective Date. The Central Point City Charter states that an ordinance enacted by the council shall take effect on the thirtieth day after its enactment. The effective date of this ordinance will be the thirtieth day after the second reading.

Passed by the Council and signed by me in authentication of its passage this 11th day of February, 2016.



Mayor Hank Williams

ATTEST:



City Recorder