

ORDINANCE NO. 2070

AN ORDINANCE AMENDING IN PART CENTRAL POINT MUNICIPAL CODE CHAPTER 3.24 AND ADDING REDETERMINATION AND APPEAL PROVISIONS REGARDING TRANSIENT LODGING TAX

RECITALS:

- A. Pursuant to CPMC, Chapter 1.01.040, the City Council, may from time to time make revisions to its municipal code which shall become part of the overall document and citation.
- B. Upon review, the staff and city attorney for the City of Central Point determined that amendment to Chapter 3.24 Transient Lodging Tax is advisable to mirror the provisions of HB 4120 (2018) with regard to transient lodging intermediaries and to resolve challenges to collection of such tax by transient lodging intermediaries.
- C. Words ~~lined through~~ are to be deleted and words **in bold** are added.

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

SECTION 1. Chapter 3.24 is amended in part as set forth below and incorporated herein by reference.

**Chapter 3.24
TRANSIENT LODGING TAX**

Sections:

- 3.24.010 **Definitions.**
- 3.24.020 **Tax imposed.**
- 3.24.030 **Collection of tax by ~~operator~~ lodging tax collector; rules for collection.**
- 3.24.040 **~~Operator~~Lodging tax collector's duties.**
- 3.24.050 **Exemptions.**
- 3.24.060 **Registration certificate of authority.**
- 3.24.070 **Collections, returns and payments.**
- 3.24.080 **Penalties and interest.**
- 3.24.090 **Fraud, evasion, and ~~operator~~ lodging tax collector delay.**
- 3.24.100 **Redeterminations.**
- 3.24.130 **Security for collection of tax.**
- 3.24.140 **Liens.**
- 3.24.150 **Refunds issued by city.**
- 3.24.170 **Refunds by ~~operator~~ lodging tax collector to **transient** occupant.**
- 3.24.180 **Records.**
- 3.24.190 **Confidentiality; disclosure unlawful.**
- 3.24.200 **Disposition of transient room tax.**
- 3.24.210 **Appeals.**
- 3.24.215 **Appeals to council.**

- 3.24.220 Violations.
- 3.24.230 Severability.

3.24.010 Definitions.

For purposes of this chapter, the following definitions apply:

“Accrual accounting” means a system of accounting in which the ~~operator~~ **lodging tax collector** 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~~ **lodging tax collector** does not enter the rent due from an **occupant transient** into the record until the rent is paid.

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

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

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

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

“Lodging Tax” means the tax assessed by the City of Central Point on occupants in lodging facilities.

“Lodging tax collector” means a **transient** lodging provider or a **transient** lodging intermediary.

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

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

“Occupant” 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 an occupant checks out of a lodging facility shall not be included in determining the thirty-day period if the occupant is not charged rent for that day by the lodging tax collector. Any person occupying space in a lodging facility shall be considered an occupant until a period of thirty days has expired, unless there is an agreement in writing between the lodging tax collector and the occupant providing for a longer period of occupancy or the person 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 an occupant.

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

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

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

“Rent package plan” means the consideration charged for both food and rent where a single rate is made for the total of both. The amount applicable to rent for determination of transient room **lodging** tax under this chapter shall be the same charge made for rent when consideration is not a part of a package plan. This concept is intended to follow State of Oregon Administrative Rule (OAR 150-320-305) regarding services included in the fee for purposes of determining the total retail price.

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

“Transient Lodging Facility or Lodging Facility” means any structure, or any portion of any structure, which is occupied or intended or designed for short-term occupancy for dwelling, lodging or sleeping purposes and includes any hotel, motel, inn, condominium, house, cabin, apartment, public or private dormitory, fraternity, sorority, public or private club, space in a mobile home or trailer park, tent camping locations, or similar structures or spaces or portions thereof so occupied; provided such occupancy is for less than a 30-day period.

“Transient Lodging Intermediary or Lodging Intermediary” means a person other than a lodging provider that facilitates the retail sale of lodging and: (1) Charges for occupancy of the lodging facility; (2) Collects the consideration charged for occupancy of the lodging; or (3) Receives a fee or commission and requires the lodging provider to use a specified third party entity to collect the consideration charged for occupancy of the lodging.

“Transient Lodging Provider or Lodging Provider” means a person that furnishes transient lodging.

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

~~tenant actually extends occupancy more than thirty consecutive days. A person who pays for lodging on a monthly basis, regardless of the number of days in the month, shall not be considered a transient.~~

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

~~“Transient lodging intermediary” means a person other than a transient lodging provider that facilitates the retail sale of transient lodging and charges for the occupancy of transient lodging.~~

3.24.020 Tax imposed.

For the privilege of occupancy in any transient lodging, **each occupant shall pay** a tax of nine percent **of the total retail price, including all charges other than taxes, paid by a person for occupancy of the transient lodging.** ~~is imposed on any consideration rendered for the sale, service or furnishing of transient lodging.~~

~~The tax must be computed on the total retail price, including all charges other than taxes, paid by a person for occupancy of the transient lodging. The total retail price paid by a person for occupancy of transient lodging that is part of a travel package may be determined by reasonable and verifiable standards from books and records kept in the ordinary course of the operator’s business. The tax shall be collected by the operator that receives the consideration rendered for occupancy of the transient lodging. The tax imposed by this chapter is in addition to and not in lieu of any state transient lodging tax. The tax constitutes a debt owed by the transient occupant to the city, which is extinguished only by payment to the lodging tax collector and the debt is extinguished only when the tax is remitted by the operator to the city. The occupant transient shall pay the tax to the operator lodging tax collector at the time rent is paid. The lodging tax collector operator shall enter the tax into the record when rent is collected if the operator lodging tax collector keeps records on the cash accounting basis and when earned if the operator lodging tax collector keeps records on the accrual accounting basis. If the rent is paid in installments, a proportionate share of the tax shall be paid by the transient occupant to the operator lodging tax collector with each installment. The unpaid tax is due upon the transient’s occupant’s ceasing to occupy space in the transient lodging.~~

3.24.030 Collection of tax by operator lodging tax collector; rules for collection.

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

The lodging provider or a lodging intermediary as described in CPMC 3.24.010, that collects the consideration charged for occupancy of a lodging facility, as applicable, is responsible for collecting any lodging tax and shall file a return of the tax with the City of Central Point Finance Department, or with any director identified by the City, reporting the amount of tax due during the reporting period to which the return relates.

~~In cases of credit or deferred payment of rent, the payment of tax to the operator lodging tax collector may be deferred until the rent is paid, and the operator lodging tax collector shall not be~~

liable for the tax until rent is paid or deferred payments are made. **Adjustments may be made for uncollectible rents and lodging taxes.**

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

The rate imposed shall be rounded to the nearest whole cent.

3.24.040 Operator Lodging tax collector's duties.

Every operator lodging tax collector shall collect the tax imposed by this chapter at the same time the rent is collected from the occupant transient. The amount of tax shall be stated separately in the operator's lodging tax collector's records and on the receipt given by the lodging tax collector. ~~operator. An operator~~ **A lodging tax collector** 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 lodging tax collector operator, or that a portion will be refunded, except in the manner provided in this chapter.

3.24.050 Exemptions.

The tax shall not be imposed on:

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

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

Transient lodging in a private residence that is used by members of the general public for temporary human occupancy for fewer than thirty days per year. **The exemption granted under this subsection does not apply to a dwelling unit that is rented out as a transient lodging using a platform of any kind provided by a lodging intermediary;**

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

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

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

Any occupant for more than 30 consecutive calendar days (a person who pays for lodging on a monthly basis, irrespective of the number of days in such month, shall not be deemed an occupant for purposes of the lodging tax) where the rent is paid by the same person

throughout the consecutive period, and all dwelling units occupied are within the same facility;

Any federal government employee traveling on official government business, who presents an official government exemption certificate or official travel authorization (i.e. **Red Cross**); and/or

Any person who has diplomatic immunity.

No exemption shall be granted except upon a claim therefor made at the time the rent is collected, and under penalty of perjury, upon a form presented by the director.

3.24.060 Registration certificate of authority.

~~Each operator of a transient lodging facility~~ **Every person engaging or about to engage in the business of transient lodging** within the city shall register said business with the finance director on a form provided by the director, within fifteen calendar days after commencing business. Lodging tax collectors engaged in business at the time the ordinance codified in this Chapter is adopted must register not later than 30 calendar days after passage hereof. The privilege of registration after the date of imposition of such tax shall not relieve any person from the obligation of collection or payment of tax regardless of registration.

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

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

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

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

This ~~transient occupancy~~ **lodging tax collector** registration certificate signifies that the person named on the certificate has fulfilled the requirements of the transient lodging tax ordinance of the City of Central Point by registration with the Finance Director for the purpose of collecting the ~~room~~ **lodging** tax imposed by said City and remitting the tax to the Finance Director. This certificate does not authorize any person to conduct any unlawful business or to conduct any

lawful business in an unlawful manner, or to operate a transient lodging facility without strictly complying with all local applicable laws, including but not limited to those requiring a permit from any board, commission, department or office of the City of Central Point. This certificate does not constitute a permit.

3.24.070 Collections, returns and payments.

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

First quarter: January, February, March;

Second quarter: April, May, June;

Third quarter: July, August, September;

Fourth quarter: October, November, December.

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

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

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

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

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

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

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

3.24.080 Penalties and interest.

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

B. Continued Delinquency. Any ~~operator~~ **lodging tax collector who has not been granted an extension of time for remittances of tax due and** who fails to remit any delinquent remittance on or before a period of thirty-one days following the date on which the remittance first became delinquent shall pay a second delinquency penalty of fifteen percent of the amount of the tax in addition to the ten percent penalty first imposed.

C. Fraud. If the Finance director determines that the nonpayment of any remittance due under this chapter is due to fraud or intent to evade the provisions thereof, a penalty of twenty-five percent of the amount of the tax shall be added thereto in addition to the penalties assessed under this chapter **3.24.080(A) and (B).**

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

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

F. Petition for Waiver. Any ~~operator~~ **lodging tax collector** who fails to remit the tax within the required time may petition the city manager for waiver and refund of the penalty or a portion of it. The manager may, if good cause is shown, direct a refund of the penalty or a portion of it. ~~At the city~~

manager's discretion, a petition for waiver may be forwarded and addressed by a hearing before the city council. Any such hearing will be conducted under the procedures described in Section 3.24.210

3.24.090 Fraud, evasion, and operator lodging tax collector delay.

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

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

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

A. Deficiency determination. If the director determines that the returns are incorrect, she or he may compute and determine the amount required to be paid upon the basis of the facts contained in the return or returns, or upon the basis of any information within her or his possession or that may come into her or his possession. One or more deficiency determinations may be made of the amount due for one, or more than one period; and the amount so determined shall be due and payable immediately upon service of notice, as provided in this chapter; after which, the amount determined is delinquent. Penalties on deficiencies shall be applied as set forth in Section 3.24.080.

1. In making a determination, the director may offset overpayments, if any, which may have been previously made for a period or periods, against any underpayment for a subsequent period or periods, or against penalties and interest on the underpayments. The interest on underpayments shall be computed in the manner set forth in Section 3.24.080.

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

3. Except in the case of fraud, intent to evade the provisions of this chapter or authorized rules and regulations, every deficiency determination shall be made and notice thereof mailed within three years after the last day of the month following the close of the

monthly period for which the amount is proposed to be determined, or within three years after the return is filed, whichever period expires the later.

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

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

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

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

C. Lodging tax collector delay. If the director believes that the collection of any tax or any amount of tax required to be collected and paid to the city will be jeopardized by delay, or if any determination will be jeopardized by delay, the director shall thereupon make a determination of the tax or amount of tax required to be collected, noting the fact upon the determination.

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

3.24.100 Redeterminations.

A. Any person against whom a determination is made under Section 3.24.090, or any person directly interested, may petition for a redetermination and redemption and refund within the time required in Section 3.24.090 of this chapter. If a petition for redetermination and refund is not filed within the time required in Section 3.24.090, the determination becomes final at the expiration of the allowable time.

B. If a petition for redetermination and refund is filed within the allowable period, the director shall reconsider the determination; and, if the person has so requested in her or his petition, shall grant the person an oral hearing and shall give her or him ten days' notice of the time and place of the hearing. The director may continue the hearing from time to time as may be necessary.

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

D. The order or decision of the director upon a petition for redetermination of redemption and refund becomes final ten days after service upon the petitioner of notice thereof, unless appeal of such order or decision is filed with the City Manager within the 10 days after service of such notice.

E. No petition for redetermination of redemption and refund or appeal therefrom shall be effective for any purpose unless the lodging tax collector has first complied with the payment provisions of this chapter.

3.24.130 Security for collection of tax.

If the finance director believes that the collection of any tax or any amount of tax required to be collected and paid to the city will be jeopardized by delay, the director may make a determination of the tax required to be collected, and may require an operator **lodging tax collector** to deposit security in the form of cash, bond or other security. The amount of security shall be fixed by the director and shall not be greater than twice the operator's **lodging tax collector's** estimated average quarterly liability for the period for which the operator **lodging tax collector** files returns. The operator **lodging tax collector** has the right to appeal to the city manager any decision of the finance director made under this provision **as provided in Section 3.24.210.**

Within three years after the tax becomes payable or within three years after a determination becomes final, the director may bring an action in the name of the city in the courts of this or another state of the United States to collect the amount delinquent and penalties and interest.

3.24.140 Liens.

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

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

~~The finance director shall cause the lien to be recorded in the city and/or county lien docket and it shall remain a lien from the date of its recording and superior to all subsequent recorded liens on all tangible personal property used in the transient lodging of the operator, and may be foreclosed upon and sold as provided by law as may be necessary to discharge said lien.~~

A. The tax imposed by this chapter, together with the interest and penalties provided in this chapter, shall be and until paid remain a lien from the date of its docketing with the city recorder of the city against all real property occupied by the lodging facility. This lien shall have priority over all other liens and encumbrances of any character. The lien may be foreclosed on and the property sold as may be necessary to discharge the lien in the manner specified in ORS 223.505 through 223.595.

B. The tax imposed by this chapter, together with the interest and penalties provided in this Chapter, shall be and until paid remain a lien from the date of its docketing with the city

manager of the city against all property of the lodging tax collector intermediary as authorized by local, state or federal law. This lien shall have priority over all other liens and encumbrances of any character. The lien may be foreclosed on as provided by local, state or federal law.

C. Any lien for a delinquent lodging tax may be released by the director when the full amount determined to be due has been paid to the city; and the lodging tax collector or person making such payment shall receive a receipt therefor, stating that the full amount of taxes, penalties, and interest thereon have been paid and that the lien is thereby released and the record of the lien is satisfied.

3.24.150 Refunds issued by city.

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

~~Transient~~ Occupant refunds: Whenever tax required by this chapter has been collected by the ~~operator~~ **lodging tax collector** and deposited with the finance director and later is determined to be erroneously collected, it may be refunded by the finance director/city to the ~~transient~~ **occupant** 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.

3.24.170 Refunds by ~~operator~~ lodging tax collector to ~~transient~~ occupant.

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

3.24.180 Records.

Records required: It shall be the duty of every ~~operator~~ **lodging tax collector** 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~~ **lodging tax collector** may have been liable for the collection of and payment to the city. The ~~operator~~ **lodging tax collector** shall maintain guest records of room rents, accounting books and records of income. The ~~operators~~ **lodging tax collector** 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~~**lodging tax collector's** income tax reports. If the director finds the books and records of the ~~operator~~**lodging tax collector** are deficient in that they do not provide adequate support for transient room tax reports filed, or the ~~operator's~~**lodging tax collector's** accounting system is unauditible, it shall be the responsibility of the ~~operator~~**lodging tax collector** 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~~**lodging tax collector** 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~~**lodging tax collector** 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~~**lodging tax collector**.

3.24.190 Confidentiality – Disclosure Unlawful.

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

~~However, nothing in this section shall be construed as to prevent the disclosure to, or the examination of records and equipment for the collection of taxes or the purpose of administering or enforcing any provisions of this chapter, the collecting of taxes imposed, the names and addresses to whom transient occupancy registration certificates have been issued, the general statistics regarding taxes collected or transient business transacted within the city of Central Point.~~

A. It shall be unlawful for the director or any person having an administrative or clerical duty under the provisions of this chapter to make known in any manner whatever the business affairs, operations, or information obtained by an investigation of records and equipment of any person required to obtain a lodging tax certificate of authority or pay a lodging tax, or any other person visited or examined in the discharge of official duty; or the amount or source of income, profits, losses, expenditures, or any particular thereof, set forth in any statement or application; or to permit any statement or application, or copy of either, or any book containing any abstract or particulars thereof to be seen or examined by any person. Provided, that nothing in this subsection shall be construed to prevent:

1. The disclosure to, or the examination of, records and equipment by another city official, employee, or agent for collection of taxes for the sole purpose of administering or enforcing any provisions of this chapter; or collecting taxes imposed under this chapter.

2. The disclosure, after the filing of a written request to that effect, to the taxpayer herself or himself, receivers, trustees, executors, administrators, assignees, and guarantors, if directly interested, of information as to any paid tax, any unpaid tax or amount of tax required to be collected, or interest and penalties; further provided, however, that the city attorney approves each such disclosure, and that the director may refuse to make any disclosure referred to in this paragraph when, in her or his opinion, the public interest would suffer thereby.

3. The disclosure of the names and addresses of any persons to whom lodging tax registration certificates have been issued.

4. The disclosure of general statistics regarding taxes collected or business done in the city.

3.24.200 Disposition of transient room tax.

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

3.24.210 Appeals.

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

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

A. Any person aggrieved by any decision of the director may appeal to the city manager by filing a notice of appeal with the director within ten days of the serving or mailing of the notice of a decision given by the director. The director shall fix a time and place for hearing such appeal, and shall give the appellant ten days' written notice of the time and place of hearing.

B. The city manager shall have the power, and it shall be her or his duty:

1. To hear and determine appeals of orders or decisions of the director made upon petitions for redetermination of tax. The city manager may affirm, modify or reverse such orders or decisions, or dismiss the appeals therefrom, as may be just, and shall prescribe such forms, rules and regulations relating to appeals as she or he may deem necessary. In the review of the director's decision or order the city Manager may take such evidence and make such investigation as she or he may deem necessary. She or he shall give notice of her or his determination in the manner prescribed for service of notice of a director's decision, and shall file a copy of each such determination with the director with certification thereon of the date of service thereof. Such determination shall become final ten days thereafter, and shall thereupon become due and payable, subject to interest and penalties, and enforceable by the director in like manner as an order or decision of the director.

2. To approve, modify or disapprove all forms, rules and regulations prescribed by the director in the administration and enforcement hereof; and such forms, rules and regulations shall be subject to and become effective only on such approval.

3. To hear and determine in such manner as shall be just, any protest, which may be made by any person who may be interested, to any form, rule or regulation approved or prescribed by the city manager.

4. To grant for good cause, applications for extensions of time in excess of one month for making any return or payment of tax, and to prescribe rules therefor.

5. To make such investigations as she or he deems advisable regarding the imposition and administration of the lodging tax and report the findings to council. To act in an advisory capacity to council on matters pertaining to the lodging tax and enforcement problems, and recommend to council the adoption, amendment or repeal of legislation pertaining thereto.

3.24.215 Appeals to Council.

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

3.24.220 Violations.

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

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

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

3.24.230 Severability.

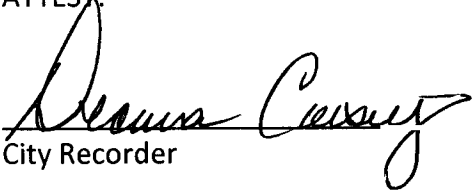
If any part of this chapter is for any reason held to be unconstitutional (or otherwise invalid), such decision shall not affect the validity of the remaining portions of this chapter or any part thereof.

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 another word, and the sections of this Ordinance may be renumbered, or re-lettered, provided however that any Whereas clauses and boilerplate provisions (i.e. Recitals A-C) need not be codified and the City Recorder is authorized to correct any cross-references and any typographical errors.

SECTION 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 19th day of ~~October~~ November 2020.


Mayor Hank Williams

ATTEST:

City Recorder