

IN THE BOARD OF COUNTY COMMISSIONERS  
FOR WASHINGTON COUNTY, OREGON

ORDINANCE No. 861

**An Ordinance Amending Chapter 3.08 of the  
Washington County Code Relating to Transient  
Lodging Tax**

The Board of County Commissioners of Washington County, Oregon, ("Board") ordains as follows:

SECTION 1. FINDINGS:

A. The Board finds that Washington County originally enacted a transient lodging tax in 1972 through Ordinance 110 and that ordinance has been amended a multiple times since its enactment.

B. The Board finds the transient lodging tax has been codified in WCC Chapter 3.08.

C. The Board finds that some changes to WCC Chapter 3.08 are needed to further define collection processes for transient lodging taxes.

D. The Board finds that these amendments to WCC Chapter 3.08 are administrative and do not affect the rate or distribution of the tax and thus may be adopted by the Board of Commissioners.

////

////

////

////

1     SECTION 2.

2             The attached Exhibit A is hereby adopted and incorporated herein for adoption, which will  
3     amend Chapter 3.08 ("Transient Lodging Tax") to Title 3, Revenue and Finance, of the Washington  
4     County Code. New material is underlined; deleted material is strikethrough.

5     SECTION 3.

6             A.     Nothing herein is intended, nor shall it be construed, as amending, replacing or  
7     otherwise being in conflict with any other ordinances of Washington County unless expressly so  
8     stated.

9             B.     If any section, clause, phrase, or word of this Ordinance, including the exhibit, shall  
10    for any reason be held invalid, unconstitutional, or unenforceable by a body of competent  
11    jurisdiction, the remainder of this Ordinance or its application and all portions not so stricken  
12    shall not be affected thereby and shall remain in full force and effect.

13            C.     The Office of County Counsel is authorized to codify this Ordinance and to make  
14    any technical changes, not affecting its substance, as are reasonably necessary to accomplish  
15    codification.

16            ////

17            ////

18            ////

19            ////

20            ////

21            ////

22            ////

1 SECTION 4.

2 This Ordinance shall take effect thirty (30) days after adoption.

3 ENACTED this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, being the \_\_\_\_\_ reading and  
4 \_\_\_\_\_ public hearing before the Board of County Commissioners of Washington County,  
5 Oregon.

6  
7 BOARD OF COUNTY COMMISSIONERS  
8 FOR WASHINGTON COUNTY, OREGON

9 \_\_\_\_\_  
10 CHAIR

11 \_\_\_\_\_  
12 RECORDING SECRETARY

13 READING

13 PUBLIC HEARING

14 First \_\_\_\_\_  
15 Second \_\_\_\_\_  
16 Third \_\_\_\_\_  
17 Fourth \_\_\_\_\_  
18 Fifth \_\_\_\_\_

14 First \_\_\_\_\_  
15 Second \_\_\_\_\_  
16 Third \_\_\_\_\_  
17 Fourth \_\_\_\_\_  
18 Fifth \_\_\_\_\_

19 VOTE: *Aye:* \_\_\_\_\_

19 *Nay:* \_\_\_\_\_

20 Recording Secretary: \_\_\_\_\_ Date: \_\_\_\_\_



## EXHIBIT A

### Chapter 3.08 - TRANSIENT LODGING TAX

#### 3.08.010 - Short title.

This chapter shall be known as the "transient lodging tax ordinance of Washington County" and may be so pleaded and shall be referred to herein as "this chapter."

#### 3.08.020 - Definitions.

For the purpose of this chapter, words in the present tense include the future, the singular includes the plural, and the plural includes the singular, the word "shall" is mandatory and not directory, and the term "this chapter" shall be deemed to include all amendments hereinafter made to this chapter. As used in this chapter, unless the context requires otherwise, the following words and their derivations shall mean:

- A. "Accrual accounting" means that an entry is made by the operator on lodging facility records for rent due from a transient when the rent is earned, whether or not the rent is paid.
- B. "Board" means the board of county commissioners for the county.
- C. "Cash accounting" means that the operator makes no entry on transient lodging facility records for rent due from a transient until the rent is paid.
- D. "Director" means the Chief Financial Officer ~~director of the department of support services for the county or the director's designee.~~
- E. "Intermediary" means a person other than an operator that facilitates the rental of transient lodging.
- F. "Occupancy" means the use or possession, or the right to the use or possession for lodging or sleeping, or any other purposes, of any room or rooms in transient lodging or a portion thereof.
- G. "Operator" means the person who is proprietor of transient lodging in any capacity. If the operator performs this function through a managing agent of any type or character other than a mere employee, the managing agent shall also be deemed an "operator" for the purposes of this chapter and shall have the same duties and liabilities as the principal. Compliance with, or violation of, the provisions of the chapter by either the principal or the managing agent shall be considered to be compliance, or a violation, by both.
- H. "Person" means any 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 any legal entity whatsoever. However, for the purpose of determining whether a person meets the exemption described in 3.08.030(A), "Person" means a member of the general public.
- I. "Rent" means the consideration charged, whether or not received by the operator, for the occupancy of space in transient lodging in money, goods, labor, credits, property, or other consideration valued in money, with no deduction there from. Rent includes, but is not limited to, pet fees, resort fees, fees for extra beds or any other consideration required for the occupancy of the space in transient lodging.
- J. "Rent package plan", means the consideration charged for both food and rent if a single rate is made for the total of both. The amount applicable to rent, for determination of the transient lodging tax under this chapter, shall be the same charge made for rent when consideration is not a part of a package plan.
- K. "Tax" means either the tax imposed by this chapter and payable by the transient, or the aggregate amount of taxes due from an operator during the period for which the operator is required to report collections, as applicable.

- L. "Tax Collector" means an operator or intermediary.
- M. "Transient" means any person who exercises occupancy or is entitled to occupancy in transient lodging ~~for a period of thirty consecutive calendar days or less in any period, counting portions of calendar days as full days. The day a transient checks out of the transient lodging shall not be included in determining the thirty-day period if the transient is not charged rent for that day by the operator.~~ Any such person so occupying space in transient lodging shall be deemed to be a transient until the period of thirty days has expired unless there is an landlord/tenant agreement in writing between the operator and the transient that is regulated by Oregon Landlord/Tenant law (ORS Chapter 90) providing for a longer period of occupancy.
- N. "Transient lodging" means hotel, motel and inn dwelling units or any other housing, including but not limited to, a private home, cabin, vacation rental or like facilities located inside Washington County that are designated by the operator or intermediary designed for temporary overnight human occupancy, and includes spaces designed for parking recreational vehicles during periods of human occupancy of those vehicles.

Additional definitions are set forth in Section 3.08.175.

### **3.08.030 - Exemptions.**

The transient lodging tax shall not be imposed on:

- A. ~~Any person for that portion of the occupancy that is more than thirty consecutive calendar days~~ Any occupancy by the same person under the same reservation in the same room (unless otherwise moved to another room as deemed necessary by management), after thirty consecutive days, however the first thirty consecutive days is taxed regardless of the length of the stay;
- B. Any transient whose rent is valued at less than two dollars per day;
- C. Rent paid for a hospital room or to a medical clinic, convalescent home, assisted living facility, hospice, group home for aged or disabled persons, or similar facility; or
- D. Occupancy by an employee of the federal or state government on official business provided the employee seeking the exemption provides reasonable documentation to the operator.
- E. Occupancy by juveniles at a non-profit youth camp.

### **3.08.040 - Rules and regulations promulgation.**

The board may promulgate rules and regulations necessary for the administration and enforcement of this chapter. Unless the context requires otherwise, references to this chapter herein shall include any adopted rules and regulations.

### **3.08.045 - Notice and delivery.**

Whenever this chapter permits or requires notice to be given, it shall be done by personal delivery or deposit in the U.S. mail with first class postage prepaid. Notice shall be deemed to be received on the date of personal service or deposit in the U.S. mail.

### **3.08.050 - Administration—Director responsibility.**

The director, subject to board oversight, shall be responsible for the administration and enforcement of this chapter.

### **3.08.060 - Authority.**

To carry out the duties imposed by this chapter, the director shall have the authority to do the following acts, the enumeration of which shall not be deemed to be exhaustive: interpret the terms of this ordinance, create forms, adopt procedures for proper administration, administer oaths, audit records,

certify to all official acts, schedule board meetings or other hearings to determine compliance with the chapter or the rules and regulations adopted pursuant thereto, require the production of documents at public hearings, and seek judicial assistance in obtaining records and testimony.

### **3.08.070 - Audit.**

At the discretion of the director, an audit of the records may be performed on any transient lodging or tax collector within the jurisdiction of this chapter. The director may contract for audits. The tax collector shall comply with all requests by the director, or the director's contractor, in a timely fashion. Failure to comply with the requests of the director, or the director's contractor in the performance of an audit shall be a violation of this chapter. Audit findings that determine that the previous returns were incorrect are a deficiency determination under Section 3.08.330 if the director determines that the tax collector is required to pay additional amounts because of underpayment as set forth in Sections 3.08.260 through 3.08.310. Penalties and interest shall begin to accrue on any deficiency fifteen business days after the written deficiency notice is mailed to the tax collector by the director. Pursuant to Section 3.08.280, the director may also add an enhanced penalty of twenty-five percent of the amount of the underpayment of tax if the director determines that the nonpayment is due to fraud or intent to evade payment under this chapter. Any objection or challenge to audit findings by the tax collector shall be via petition as required for a re-determination pursuant to Section 3.08.360 within the ten business day timeline prescribed in that section. Pursuant to Section 3.08.360, payment in full of all disputed taxes, penalties and interest determined by the director to be due is a prerequisite to filing a petition for re-determination and refund.

### **3.08.080 - Rate—Payment method.**

For the privilege of occupancy in transient lodging within Washington County, on and after the effective date of this ordinance, each transient shall pay a tax in the amount of nine percent of the rent, or, if a rent package plan is used, that portion attributable to rent, charged by the operator. The tax constitutes a debt owed by the transient to the county that is extinguished only by payment to the tax collector or to the county. The transient shall pay the tax to the tax collector lodging at the time the rent is paid. The tax collector shall enter the tax on the tax collector's records when rent is collected if the operator keeps records on the cash-accounting basis or, if the operator keeps records on the accrual accounting basis, when earned. If rent is paid in installments, the transient shall pay a proportionate share of the tax to the tax collector with each installment. If, for any reason, the tax due is not paid to the tax collector, the director may require that such tax shall be paid directly to the county. In all cases, the rent paid or charged for occupancy, shall exclude the sale of any goods, services and commodities, other than the furnishing of rooms, accommodations, and lodging in transient lodging.

### **3.08.090 - Collection—Rules.**

- A. Every operator or intermediary of transient lodging in this county, the occupancy of which is not exempt under the terms of this chapter, shall collect a tax of nine percent from the occupant. The tax collected or accrued by the tax collector, or which should have been charged by the tax collector, constitutes a debt owing by the tax collector to the county.
- B. In all cases of credit or deferred payment of rent, the payment of tax to the tax collector may be deferred until the rent is paid if the tax collector utilizes cash accounting procedures, and the tax collector shall not be liable for the tax until credits are paid or deferred payments are made. This shall not excuse the tax collector from liability for any failure to collect the tax.

### **3.08.100 - Special fund—Deposit.**

The director shall deposit all money collected pursuant to this chapter to the credit of the transient lodging tax fund, which fund may be transferred, on a quarterly monthly basis, to the general fund.

### **3.08.110 - Records required.**

Every operator and intermediary shall keep guest records of room rentals and accounting books and records of the room rentals. The operator and intermediary shall retain all records for a period of three years.

### **3.08.120 - Records—Examination.**

The director or the director's contractor, may examine, during normal business hours, the books, papers, and accounting records relating to room rentals of any tax collector after notification to the tax collector and may investigate the business of the tax collector to verify the accuracy of any return made, or if no return is made by the tax collector, to ascertain and determine the amount required to be paid.

### **3.08.130 - Records—Confidentiality.**

Records, reports or returns submitted to the director shall be exempt from disclosure to the extent provided for by state statute.

### **3.08.140 - Operator collection fee.**

Five percent of the tax due may be retained by the tax collector as a collection reimbursement charge to defray the costs of collecting and reporting the tax and of maintaining records. The board may increase this amount by resolution and order as it deems reasonable and necessary.

### **3.08.170 - Tax sharing agreement.**

- A. If a city, located in whole or in part within the county, requests to participate in the distribution of transient lodging tax proceeds, the board shall enter into an agreement with the city to distribute the tax receipts allocable for transient lodging within such city in the manner provided by subsection B of this section.
- B. From the net revenue the county received from transient lodging in the city, after any collection reimbursement charge retained by the tax collector, the board shall allocate the county tax provided for herein, minus the county's cost in administering this chapter as follows:
  - 1. One-ninth to be dedicated to the Washington County Fair for the promotion of tourism and maintenance and operation of the fairgrounds;
  - 2. Three-ninths dedicated to the promotion of tourism or on tourism-related facilities by the county or its designee which must be expended only as provided in 3.08.175 B.
  - 3. Fifty percent of the remaining amount after deduction for the foregoing to the city within thirty days of receipt of the taxes by the director.
  - 4. The remaining balance retained by the county for expenditure for any public purpose.
- C. If a city has a city transient lodging tax, the county may collect the city tax pursuant to this agreement and distribute the proceeds, less county reasonable costs, to city.

### **3.08.175 - Distribution of proceeds.**

- A. From the net revenue received from transient lodging outside a city after any collection reimbursement charge retained by the tax collector, the board shall distribute the tax provided for herein, minus the county's cost in administering this chapter, as follows:
  - 1. One-ninth to be dedicated to the Washington County Fair for the promotion of tourism and maintenance and operation of the fairgrounds;
  - 2. Three-ninths dedicated to the promotion of tourism or on tourism-related facilities by the county or its designee which, must be expended only as provided in 3.08.175 B.

3. The remaining balance retained by the county for expenditure for any public purpose.
- B. For purposes of this section, two-thirds of the amount under Section 3.08.170 B. 2., and 3.08.175 A. 2 (two-ninths of the tax) shall be spent only to fund tourism promotion or on tourism-related facilities in accordance with the following definitions:
  1. "Conference center" means a new or improved facility that:
    - (a) Is owned or partially owned by a unit of local government, a governmental agency or a nonprofit organization; and
    - (b) Meets the current membership criteria of the International Association of Conference Centers.
  2. "Convention center" means a new or improved facility that:
    - (a) Is capable of attracting and accommodating conventions and trade shows from international, national and regional markets requiring exhibition space, ballroom space, meeting rooms and any other associated space, including but not limited to banquet facilities, loading areas and lobby and registration areas;
    - (b) Has a total meeting room and ballroom space between one-third and one-half of the total size of the center's exhibition space;
    - (c) Generates a majority of its business income from tourists;
    - (d) Has a room-block relationship with the local lodging industry; and
    - (e) Is owned by a unit of local government, a governmental agency or a nonprofit organization.
  3. "Tourism" means economic activity relating to tourism
  4. "Tourism promotion" means any of the following activities:
    - (a) Advertising, publicizing or distributing information for the purpose of attracting and welcoming tourists;
    - (b) Conducting strategic planning and research necessary to stimulate future tourism development;
    - (c) Operating tourism promotion agencies; and
    - (d) Marketing special events and festivals designed to attract tourists.
  5. "Tourism promotion agency" includes
    - (a) An incorporated nonprofit organization or governmental unit that is responsible for the tourism promotion of a destination on a year-round basis.
    - (b) A nonprofit entity that manages tourism-related economic development plans, programs and projects.
    - (c) A regional or statewide association that represents entities that rely on tourism-related business for more than 50 percent of their total income.
  6. "Tourism related facility" means:
    - (a) A conference center, convention center or visitor information center; and
    - (b) Other improved real property that has a useful life of 10 or more years and has a substantial purpose of supporting tourism or accommodating tourist activities.
  7. "Tourist" means a person who, for business, pleasure, recreation or participation in events related to the arts, heritage or culture, travels from the community in which that person is a resident to a different community that is separate, distinct from and unrelated to the person's community of residence, and that trip:

- (a) Requires the person to travel more than 50 miles from the community of residence; or
  - (b) Includes an overnight stay.
8. "Visitor information center" means a building, or a portion of a building, the main purpose of which is to distribute or disseminate information to tourists.

**3.08.180 - Expenditure of revenues dedicated to tourism.**

The board shall allocate net revenues dedicated to the promotion of tourism or on tourism related facilities as the board determines is in the public interest, including but not limited to:

- 1. Direct expenditure by the county in accordance with the county's normal and customary budget process;
- 2. Enter into contracts for goods, services, or facilities
- 3. Award grants to qualifying entities on such terms as the board deems appropriate;
- 4. Designate as appropriate recipients one or more tourism promotion agencies on such terms and conditions at the board deems appropriate;
- 5. Establish or designate by resolution and order a tourism commission or one or more similar entities with such powers and responsibilities as the board may delegate for the allocation, expenditure and use of such funds.

**3.08.185 - Tax collector—Duty.**

Each tax collector shall collect the tax at the same time as the rent is collected from the transient. The amount of tax shall be separately stated on the tax collector's records and any receipt rendered by the tax collector. No tax collector shall advertise that the tax or any part of the tax will be assumed or absorbed by the tax collector, or that it will not be added to the rent, or that, when added, any part will be refunded, except in the manner provided by this chapter.

**3.08.190 - Operator—Registration.**

- A. Every person engaging or about to engage in business as an operator or intermediary of transient lodging in this county shall register with the county ~~on a form provided by the director~~. Operators or intermediaries starting business after the effective date of this chapter shall register within fifteen calendar days after commencing business. The privilege of registration after the date of imposition of such tax shall not relieve any transient from the obligation of payment or collection of tax regardless of registration. Registration shall set forth the name under which an operator or intermediary 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 operator or intermediary shall sign the registration. 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 non-assignable 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. For operators, each certificate and duplicate shall state the place of business to which it is applicable and shall be prominently displayed therein so as to be seen and readily come to the notice of all occupants and persons seeking occupancy.
- B. Said certificate shall, among other things, state the following:
  - 1. The name of the operator or intermediary;
  - 2. The address of the transient lodging for operators;
  - 3. The date upon which the certificate was issued;

4. The following words:

This Transient Occupancy Registration Certificate signifies that the person named has fulfilled the requirements of the Transient Lodging Tax Ordinance of Washington County by registration with Washington County, for the purpose of collecting from transients, the lodging tax imposed by Washington County and remitting said tax to the county.

This certificate does not authorize any person to conduct any business in an unlawful manner, or to operate transient lodging without strictly complying with all local applicable laws including, but not limited to, those requiring a permit from Washington County, any city or the State of Oregon. This certificate does not constitute a permit.

**3.08.200 - Payments—When due.**

The tax shall be paid by the transient to the tax collector at the time that rent is paid. All amounts of such taxes collected by any tax collector are due and payable to the director on a monthly basis and received on or before the ~~tenth~~ fifteenth day of the month for the preceding month.

**3.08.210 - Return—Filing.**

On or before the ~~tenth~~ fifteenth day of the month following each month of collection, a return for the preceding month's tax collections shall be filed by the tax collector with the director. The return shall be filed in such form as the director may prescribe.

**3.08.220 - Return—Information required.**

The returns shall show the amount of tax collected or otherwise due for the period covered by the return. The director may require returns to show the total rentals upon which tax was collected or otherwise due, gross receipts of operator for such period and an explanation in detail of any discrepancy between such amounts, the amount of rents exempt, if any, and such other information as may otherwise be necessary for the administration of this chapter.

**3.08.230 - Return—Delivery.**

The tax collector shall deliver the return, together with the amount of the tax due, to the director's office.

**3.08.240 - Extensions.**

For good cause, the director may extend, for a time not to exceed one month, the time for making any return or payment of tax. Any tax collector granted an extension shall pay interest at the rate of one percent per month on the amount of tax due with proration for a fraction of a month. If a return is not filed, and the tax and interest due is not paid by the end of the extension, then the interest shall become a part of the tax for computation of penalties described elsewhere in this chapter.

**3.08.250 - Payment schedule changes.**

The director may require returns and payment of the amount of taxes for other than monthly periods if the director deems it necessary to ensure payment or facilitate collection of taxes in an individual case.

**3.08.260 - Original delinquency-First Penalty.**

Any tax collector not 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.

**3.08.270 - Continued delinquency-Second Penalty.**

Any tax collector not granted an extension of time for remittance of tax due, and who failed to pay any delinquent remittance on or before the period of thirty 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 due plus the amount of the tax in addition to and the ten percent penalty imposed by Section 3.08.260.

### **3.08.280 - Fraud-Enhanced Penalty.**

If the director determines that the nonpayment is due to fraud or intent to evade the provisions of this chapter or any rules or regulations adopted hereunder, a penalty of twenty-five percent of the amount of the tax shall be added thereto in addition to the penalties stated in Sections 3.08.260 and 3.08.270.

### **3.08.290 - Delinquency—Interest.**

In addition to the penalties imposed, any 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 due, exclusive of penalties, from the date on which the remittance first becomes delinquent until paid.

### **3.08.300 — Penalties and interest merge with tax.**

Every penalty imposed and such interest as accrues under the provisions of Sections 3.08.260 through 3.08.290 and 3.08.310 shall be merged with and become a part of the tax herein required to be paid.

### **3.08.305 - Lien**

Any tax collected by the operator but not remitted to the director in the time required under this chapter shall constitute a lien on the transient lodging. The director may record a lien in the county lien record against the transient lodging and any real property owned by the operator or intermediary as to any delinquent remittances by the operator or intermediary.

### **3.08.310 - Petition for waiver.**

Within ten business days of notice thereof, a tax collector may petition the director for waiver and refund of the penalty or any portion thereof and the director may, if a good and sufficient reason is shown, waive and direct a refund of the penalty or any portion thereof.

### **3.08.330 - Deficiency determination.**

If the director determines that the returns are incorrect, the director may compute and determine the amount required to be paid upon the basis of the facts contained in the returns or any other information including an audit performed pursuant to Section 3.08.070. 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 after which the amount determined is delinquent.~~ Penalties on deficiencies shall be applied as set forth in Sections 3.08.260 through 3.08.310 of this chapter.

- A. In making a deficiency determination the director may offset overpayments, if any, 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 Sections 3.08.260 through 3.08.310 of this chapter.
- B. The director shall give to the tax collector or occupant, a written notice of the determination.
- C. Except in the case of fraud or willful intent to evade this chapter or the rules and regulations adopted pursuant thereto, 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 of which the amount is proposed to be determined or within three years after the return is filed, whichever period is later.

- D. Any determination shall become due and payable within fifteen business days immediately upon receipt mailing of notice and shall become final within ten business days after the director has given notice thereof; provided, however, the tax collector may petition for re-determination and refund as provided in Section 3.08.360.

### **3.08.340 - Evasion—Determination—Assessment.**

If any tax collector fails or refuses to collect the tax or to make, within the time provided in this chapter, any report and remittance of the tax or any portion thereof, or makes a fraudulent return or otherwise willfully attempts to evade this chapter, the director shall proceed in such manner as the director deems best to obtain facts and information on which to base an estimate of the tax due. As soon as the director has determined the tax due, the director shall proceed to determine and assess against such tax collector the tax, interest and penalties provided for by this chapter. The director shall give a notice of the amount so assessed 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. The amount assessed 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 tax collector may petition for re-determination and refund as herein provided in 3.08.360.

### **3.08.350 - Tax collector delay.**

If the director believes that the collection of any amount of tax required to be collected and paid to the county or if any determination will be jeopardized by delay, the director shall determine the amount of tax required to be collected. The amount so determined shall be immediately due and payable, and the tax collector shall immediately pay the amounts so determined to the director after service of notice thereof; provided, however, the tax collector may petition, after payment has been made, for re-determination and refund.

### **3.08.360 - Re-determination—Petition.**

Any tax collector against whom a determination is made under Sections 3.08.330 through 3.08.350 or any person directly interested may petition for a re-determination and refund of any disputed amount within ten days of the date of notice of the deficiency determination. Payment in full of all taxes, penalties and interest determined by the director to be due is a prerequisite to filing a petition for re-determination and refund. Filing a petition for re-determination and refund is a prerequisite to seeking judicial review and the determination shall be final if no petition is filed within the time specified herein.

### **3.08.370 - Re-determination—Hearing.**

If a petition for re-determination and refund is filed within the allowable period, the director shall reconsider the determination, and, if the petition requests, shall grant the person an oral hearing with ten days' notice of the time and place. The director may continue the hearing from time to time as may be necessary.

### **3.08.380 - Re-determination—Amount.**

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 due on notice of the decision.

### **3.08.410 - Security—Deposit—Amount.**

The director may require any tax collector to deposit with the director such security, in cash, bond, or other form, as the director determines necessary to ensure compliance with this chapter. The amount of the security shall be fixed by the director but shall not be greater than five times the tax collector's

estimated average monthly tax liability for the period for which the tax collector files returns, determined in such manner as the director deems proper, or five thousand dollars, whichever amount is greater. The amount of the security may be increased or decreased by the director subject to the limitations herein.

**3.08.420 - Security—Action to collect.**

At any time within three years after any tax or any amount of tax required to be collected becomes due and payable, or at any time within three years after any determination becomes final whichever is later, the director may bring an action in the courts of this state, or any other state or of the United States in the name of the county to collect the amount delinquent, together with penalties and interest. In any action to collect this tax, interest or penalties, the prevailing party shall be entitled to its reasonable attorney fees incurred at trial and on appeal.

**3.08.430 - Refund—Tax collector.**

If a tax collector ~~or transient~~ concludes that the tax collector ~~or transient~~ has inadvertently or otherwise paid more tax than properly is due, the tax collector ~~or transient~~ may make a claim in writing therefore, stating the specific reason upon which the claim is founded. The claim shall be filed with the director within one year from the date of payment. ~~The claim shall be made on forms provided by the director.~~ If the claim is approved by the director, the excess amount collected or paid shall be refunded or credited on any amounts then due and payable from the tax collector from whom it is collected or by whom paid and the balance may be refunded to the tax collector. This provision is not applicable to any amount determined by the director to be due pursuant to the determination provisions of Sections 3.08.330 through 3.08.350.

**3.08.440 - Refund—Transient.**

Any refund due a tax collector ~~or transient~~ shall be paid within fourteen business days of the date the director concludes that the refund is due.

**3.08.445 - Compromise of tax.**

The director may, after consultation with counsel for the county, adjust or enter into a settlement as regards any amount believed to be due if, as a result of a bankruptcy filing, foreclosure, bona fide legal or factual dispute or similar circumstance it is in the best interest of the county.

**3.08.460 - Review.**

Review of any action of the director taken pursuant to this chapter, or the rules and regulations adopted pursuant thereto, shall be taken solely and exclusively by writ of review in the manner set forth in ORS 34.010 to 34.100.

**3.08.470 - Conformity with law.**

This chapter shall be construed and implemented so as to conform with, and shall not be in any way a substitute for, nor eliminate in any way the necessity for conformity with, any and all laws of the state of Oregon, nor ordinances of the county, nor any rules or regulations adopted pursuant to such statutes or regulations.

**3.08.480 - Violations—Penalties.**

- A. It is unlawful for any operator or other person so required to fail or refuse to register as required herein. It is unlawful for a tax collector to fail to furnish any return required to be made, in a full and complete manner, to fail or refuse to furnish a supplemental return or other data required by the director or to render a false or fraudulent report, or to otherwise violate the provisions of this chapter.

- B. Any person violating any of the provisions of this chapter shall be guilty of a civil infraction as provided for in Chapter 1.12 of the Washington County Code. Each transient lodging transaction for which tax, penalty or interest otherwise due is not paid shall be deemed a separate civil infraction.
- C. In addition to and not in lieu of a civil infraction proceeding, the county may enforce compliance with this ordinance by filing an action for an injunction, appointment of a receiver or any other relief provided by law.
- D. Nothing herein restricts the authority of the director to refer a matter to the appropriate law enforcement agency for criminal prosecution if the director concludes that criminal fraud or other crime has been committed.

