

# CLACKAMAS COUNTY BOARD OF COUNTY COMMISSIONERS

## Policy Session Worksheet

**Presentation Date:** March 14, 2017

**Approx Start Time:** 11:00 am

**Approx Length:** 60 Min

**Presentation Title:** Updates to County Code

**Department:** County Counsel

**Presenter:** Stephen Madkour

**Other Invitees:** Danielle Cowan, Tourism; Rick Gruen, Parks; and County Clerk Sherry Hall

### **WHAT ACTION ARE YOU REQUESTING FROM THE BOARD?**

Approval to move proposed County Code amendments to Chapter 3.01 Elections, Chapter 6.06 Park Rules, and 8.02 Transient Room Tax forward to the BCC's Business Meeting for first reading and public hearing.

### **EXECUTIVE SUMMARY:**

Pursuant to County Code Chapter 1.01.100, the County Counsel is responsible for maintaining and updating the Code. A Code Update Committee periodically meets to consider Code changes that are either proposed by staff, citizens, or identified by members of County Counsel as necessary or appropriate.

The proposed amendments concern Chapter 3.01 Elections, Chapter 6.06 Park Rules, and Chapter 8.02 Transient Room Tax of the County Code. The proposed amendments provide updates to both sections of the Code. New language is underlined, and deleted language has a strike.

The amendments to Chapter 3.01 Elections propose striking the entire chapter pertaining to initiative and referenda because they are covered by state law. Chapters 3.02 (Special Districts), and 3.03 (Urban Renewal) remain. Chapters 3.04 concerning boundary changes and 3.05 regarding the Justice of the Peace and although not underlined are entirely new proposals.

The amendments to Chapter 6.06 add some process improvements, and add language prohibiting drones and nudity in county parks.

The amendment to Chapter 8.02 include some minor housekeeping types of changes, but the primary purpose was to amend the code to capture taxes from short-term rentals, such as Airbnb, VRBO, Home Away and the number of other rental intermediaries.

### **FINANCIAL IMPLICATIONS (current year and ongoing):**

None.

### **STRATEGIC PLAN ALIGNMENT:**

These changes align with the Performance Clackamas goals of Building Trust Through Good Government by improving the applicability, accuracy and effectiveness of the County's governing ordinances.

**LEGAL/POLICY REQUIREMENTS:**

The proposed code amendments will require the adoption of an ordinance which requires two readings and a public hearing.

**PUBLIC/GOVERNMENTAL PARTICIPATION:**

PGA is involved in the process.

**OPTIONS:**

1. Direct staff to bring forward the proposed code amendment proposals to the next available business meeting for public hearing and consideration.
2. Direct certain changes be made in the proposed amendments, and then have such modified proposals brought forward at the next available business meeting for public hearing and consideration.
3. Decline to bring the proposed amendments forward for public hearing.

**RECOMMENDATION:**

Option #1, bringing forward the proposed code amendment proposals to the next available business meeting for public hearing and consideration.

**ATTACHMENTS:**

Chapter 3.01 Elections  
Chapter 6.06 Park Rules  
Chapter 8.02 Transient Room Tax

**SUBMITTED BY:**

Division Director/Head Approval \_\_\_\_\_  
Department Director/Head Approval \_\_\_\_\_  
County Administrator Approval \_\_\_\_\_



For information on this issue or copies of attachments, please contact Mandy Gordon @ 503-655-8619

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## Chapter 3.01

### ~~3.01 STATE VOTERS PAMPHLET FOR INITIATIVE AND REFERENDUM MEASURES~~

#### ~~3.01.010 Purpose~~

~~The purpose of this chapter is to comply with the provisions of ORS 251.285. This statute provides for publication in the State Voters' Pamphlet of county measures submitted to county voters and for like publication of ballot titles for, explanatory statements of, and arguments for and against, those measures.~~

~~[Codified by Ord. 05-2000, 7/13/00]~~

#### ~~3.01.020 Appointment of Committee to Prepare Explanatory Statement~~

~~When an initiative or referendum measure is filed with the County Clerk by the people in accordance with the law of the State, a five-member committee to prepare an explanatory statement shall be appointed in the following manner:~~

- ~~A. Two members of the committee shall be appointed by the chief petitioners;~~
- ~~B. The County Clerk shall appoint two members. If a political action committee has been formed opposing the measure, the Clerk shall appoint individuals from that committee;~~
- ~~C. These four members shall be appointed no later than the 100th day prior to the election; and~~
- ~~D. A fifth member shall be appointed by the four members previously appointed; if the fifth member has not been chosen by the 95th day prior to the election, the County Clerk shall appoint the fifth member.~~
- ~~E. County Counsel shall also prepare an explanatory statement to be used in the event the committee does not prepare one.~~

~~When the Board of County Commissioners refers a measure to the voters, County Counsel shall prepare the explanatory statement.~~

~~[Codified by Ord. 05-2000, 7/13/00]~~

#### ~~3.01.030 Preparation of Explanatory Statements~~

~~The explanatory statement shall be an impartial, simple and understandable statement of not more than 500 words explaining the measure and its effect. The statement shall be filed with the County Clerk not later than the 85th day prior to the election.~~

~~[Codified by Ord. 05-2000, 7/13/00]~~

#### ~~3.01.040 Review of Ballot Titles and Explanatory Statements~~

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- A. — If any person is dissatisfied with the ballot title on the grounds that the title is not a concise and impartial statement of the purpose of the measure, that person may, within 7 business days after the ballot title is filed with the County Clerk, petition the Circuit Court of Clackamas County to review the ballot title. Attached to the petition shall be a copy of the measure, the challenged ballot title and a statement why the title is not a concise and impartial statement of the purpose of the measure.
- B. — If any person is dissatisfied with the explanatory statement on the grounds that the statement is not an impartial, simple and understandable statement explaining the measure and its effect, that person may, within five days after the filing deadline for the statement, petition the Circuit Court of Clackamas County seeking a different statement and stating the reasons why the statement filed is insufficient or unclear. Attached to the petition shall be a copy of the measure and the challenged explanatory statement.
- C. — The Court may solicit additional written information pertinent to the measure, the ballot title or the explanatory statement and shall afford the petitioner access to the information. The Court may hear oral argument about the title and/or statement. The Court shall adjudicate the petition in an expeditious manner to insure the orderly and timely circulation of the petition or conduct of the election at which the measure is to be submitted to the voters.
- D. — If the Court finds that the ballot title is a concise and impartial statement of the purpose of the measure, the Court shall certify the title. If the Court finds to the contrary, it shall prepare another ballot title that is a concise and impartial statement of the purpose of the measure.
- E. — If the Court finds that the explanatory statement is an impartial, simple and understandable statement explaining the measure and its effect, the Court shall certify the statement. If the Court finds to the contrary, it shall prepare another explanatory statement of the measure that is an impartial, simple and understandable statement explaining the measure and its effect.
- F. — The Circuit Court of Clackamas County shall be the first and final review of these matters.

[Codified by Ord. 05-2000, 7/13/00]

### **3.01.050 — Submission of Ballot Title and Explanatory Statement to the Secretary of State**

When filing the measure with the Secretary of State for inclusion in the State Voters' Pamphlet, the County Clerk shall also file the ballot title prepared for the measure, or if that title has been subjected to judicial review, the ballot title certified by the Court. The County Clerk shall likewise file the explanatory statement prepared for the measure, or if that statement has been subjected to judicial review, the explanatory statement certified by the Court. Filing of the ballot title and explanatory statement with the Secretary of State shall be no later than the 70th day before the election.

[Codified by Ord. 05-2000, 7/13/00]

### **3.01.060 — Arguments Regarding Measures**

~~The County Clerk shall accept from any person or group of persons argument(s) supporting or opposing the measure, provided:~~

~~A. — The argument is typed, consists only of words and numbers, and does not exceed 325 words;~~

~~B. — The argument is filed with the County Clerk not later than the 80th day before the election;~~

~~C. — The person or group, when filing the argument, either:~~

~~1. — Pays the County \$300 to apply to the cost of the printing, or~~

~~1. — Files with the County Clerk a petition signed by 1000 voters in the County, or 10% of the electors in the County, whichever is less; and~~

~~The argument is accompanied by the name and address of the person responsible for the content of the argument, the name and address of the organization the person represents, if any, and whether the argument supports or opposes the measure.~~

~~The County Clerk shall file the arguments, together with measure and the explanatory statement, with the Secretary of State not later than the 70<sup>th</sup> day before the election. [Codified by Ord. 05-2000, 7/13/00]~~

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## **Chapter 3.04**

# **3.04 NOTIFICATION OF BOUNDARY CHANGES TO THE COUNTY CLERK/ELECTIONS**

### **3.04.010 Purpose**

The purpose of this section is to clarify the application of Oregon State Law concerning changes in the boundaries of cities, special districts and other units of local governments for which the County Clerk conducts elections.

### **3.04.020 Notification of Boundary Change to the County Clerk**

If the boundary of a city, a special district or a unit of local government is changed, the city governing body immediately shall send a certified copy of the ordinance, order, resolution or other action changing the boundary to the county clerk of each county in which the city is located. The order, resolution or other action shall be accompanied by a legal description of the revised boundary, a list of the affected tax lots and a map showing the boundary in the area of the change with territory added indicated by shading and territory removed shown by cross hatching. Dwellings shall be indicated when present and street addresses associated with occupied parcels shall be provided cross indexed to the tax lot numbers of the affected tax lots. The notice shall specify the effective date of the boundary change as a specific calendar date.

### **3.04.030 Time for Providing Notice**

The notice required above shall be provided within ten days of the adoption of the ordinance, order, resolution or other action. Cities shall specify the effect of ORS 222.040 in writing and shall document any claimed exception to its application.

### **3.04.040 Exclusive Process for Notification of Boundary Changes**

The Notice Procedure described above shall be the exclusive procedure for notification of boundary changes for the purposes of elections. The duty to provide the notification required is not a delegable duty and may not be transferred to or vested in another governmental body. See ORS 246.245 and ORS 255.045.

## **Chapter 3.05**

### **3.05 SPECIAL QUALIFICATION TO FILE FOR ELECTION TO AND TO HOLD THE OFFICE OF JUSTICE OF THE PEACE IN CLACKAMAS COUNTY**

#### **3.05.010 Purpose**

The purpose of this section is to codify the election of Clackamas County to require any person who wishes to run for the office of Justice of the Peace or to hold that office to be a member in good standing of the Oregon State Bar licensed to practice law in the State of Oregon. ORS 51.020(2). It is the judgment of the County that the complexity of modern civil and criminal law makes formal legal training a mandatory qualification to serve in the office of Justice of the Peace.

#### **3.05.020 Additional Qualifications for the Office of Justice of the Peace**

A candidate for the Office of Justice of the Peace shall be a member in good standing of the Oregon State Bar at the time of filing for the office and continuously thereafter. A person not so qualified is ineligible to be a candidate for the office. A person whose qualification lapses or who is no longer a member in good standing of the Oregon State Bar is ineligible for election.

#### **3.05.030 Justice of the Peace to a Member of the Oregon State Bar**

A person holding office as a Justice of the Peace in Clackamas County must continuously be a member of the Oregon State Bar during the term of office. Loss of membership, lapse of membership or suspension of membership shall cause the office to be forfeit and to be vacant. The filing of a complaint with the Oregon State Bar, the pendency of disciplinary action, the conduct of an investigation or the issuing of a reprimand to the incumbent by the Bar shall not forfeit the office.

#### **3.05.040 Other Qualifications**

Other qualifications for the Office of Justice of the Peace shall be as set out in the statutes governing the office.

## Chapter 6.06

### 6.06 PARK RULES

#### 6.06.010 Policy and Purpose

The purpose of this chapter is to protect County parks, forest and recreational areas, protect the health, safety and welfare of the public using such areas, and insure the best use of and benefits from such areas. The numbering system for this chapter is necessarily *unique* because of the requirements of the County and State criminal justice systems.

[Codified by Ord. 05-2000, 7/13/00; renumbered from 6.06.02 by Ord. 04-2013, 8/22/13]

#### 6.06.020 Definitions

- A. APPROVED CAMPING SHELTER means ground tents, motorhomes, travel trailers, vans and camper units designed specifically for overnight, outdoor camping, such as Class A, B or C vehicles, towables, and truck campers.
- B. BOARD means the Board of County Commissioners of Clackamas County.
- C. DIVISION means the Clackamas County Parks Division of the Business and Community Services Department and its employees.
- D. ANIMAL, as per ORS 167.310, means any non-human mammal, bird, reptile, amphibian or fish. LIVESTOCK, as per ORS 609.125 means any ratites (large flightless birds), psittacines (parrot & macaw type birds), horses, mules, jackasses, cattle, lamas, alpacas, sheep, goats, swine, domesticated fowl and any fur bearing animal bred and maintained commercially or otherwise, within pens, cages and hutches.
- E. PARK AREA means any County park, forest or recreational area under the jurisdiction of the board, but not any residence located thereon.
- F. PARKS EMPLOYEE means the individual in charge of and/or responsible for a County park area.
- G. PARKS DIRECTOR AND/OR THEIR DESIGNATE means the person designated by the Board or the Department to administer the County's programs and policies for County parks, forests, and recreation areas.
- H. PEACE OFFICER means a Sheriff, deputy sheriff, constable, marshal, municipal police officer, Oregon State Police officer, and such other persons as may be designated by law.
- I. PROHIBITED ARTICLES means fireworks, weapons, glass and alcoholic beverages under this Chapter.
- J. RESERVATION includes, but is not limited to, calling or conveying in writing (fax, email, US mail) in advance to obtain a campsite or day-use area.
- K. Other terms shall be defined as set forth in the Oregon Vehicle Code, ORS Chapter 801, unless specifically provided otherwise in this Chapter.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 06-2007, 6/28/07; Renumbered from 6.06.03 and amended by Ord 04-2013, 8/22/13; Amended by Ord. 01-2016, 3/24/16]



**6.06.030 Opening, Closing, Entry Into Parks**

- A. The Division is hereby authorized to close to the public use of any County Park area or portion thereof, restrict the times when any County park area shall be open to such use, and limit or prohibit a recreation use whenever such action is necessary to protect the health or safety of the public, or the safety of the park area or its facilities. Cause for park area closure or limitation, or prohibition, on park area or recreational use includes, but is not limited to: Fire hazard, dangerous weather, water conditions, sanitary protection of the watershed, park area construction or repairs, conservation of fish and wildlife, excessive traffic; unsafe or overcrowded shoreline, ramp, parking or road conditions; the prevention of damage to the park or any of its facilities; or any dangerous, unsafe or unhealthful conditions.
- B. Any County employee designated by the Director of Business and Community Services Department or any peace officer may request, as a condition of the license or permit to enter the County's park areas, that persons entering or about to enter allow inspections of all backpacks, briefcases, suitcases, athletic bags, packages, duffle bags, coolers, ice chests, picnic baskets, and other containers capable of concealing prohibited articles:
1. Inspections under this section may occur anywhere on park property. Persons possessing containers subject to inspection shall be informed that they are free to decline the inspection and then must immediately leave the park area.
  2. If a person already inside the park area possesses a prohibited article, that person shall be considered to have violated the license to enter and use the park area. The person's license is automatically revoked and the person shall be requested to leave immediately.
  3. Any person in violation of park rules is subject to citation and immediate trespass.
- C. The County shall display signs at entrances to the park area that generally identify prohibited articles and provide notification of the request for inspection. The signs shall generally describe prohibited articles, explain the potential request for inspection and the right-to-decline options. Similar explanations may be printed on parking receipts and where available may be displayed at ticket windows on County property where parking passes or admissions are regularly sold.
- D. No person shall enter or use any County park area or any of its facilities without first paying the required fee, if any, unless such entry or use is otherwise authorized by a valid existing permit in the name of said person.

Any permit for entry or receipt for the use of any County park shall be displayed in a way that makes it easily visible from outside the vehicle. Failure to display a permit or receipt in a visible manner ~~is will be deemed~~ a violation of this section requiring payment.

- E. Any County employee designated by the Director of Business and Community Services Department or any peace officer may revoke any permit that has been issued erroneously or where there is reasonable cause to believe the permit holder or any person in his or her custody, control, or family, has violated any of the provisions of these rules or any State, County or federal law. Any person whose permit has been revoked and all other persons in his or her custody, control, and family shall immediately leave the park area.
- F. Any person who violates any of these Park Rules, or who violates any state statute (including the vehicle chapter), County ordinance or code while in a County park, may be ordered to leave the park area.

- G. No person who has been ordered to leave a County Park area shall remain therein or return thereto.
- H. The Division may refuse to admit into a park area any person who has been previously ordered to leave a County park.
- I. The daily opening and closing times for each Clackamas County Park, including but not limited to, ~~(Barlow Wayside, Barton, Boones Ferry Marina, Boring Station, Carver, Eagle Fern, Feyrer, Hebb, Knights Bridge, Madrone Wall, Metzler, Ed Latourette, Feldheimer Boat Ramp, Oak Grove Boat Ramp, Wagon Wheel, and Wilhoit Springs)~~, shall be established by the Parks Director and/or their designate and posted at the entrance to the park.
- J. Except for authorized overnight camping in accordance with these rules, no person, other than peace officers or authorized County personnel, shall enter or remain in any park area after the daily closing time and before the daily opening time.
- K. User fees for campsites are due and shall be paid each day. The fee covers use of facilities and services until the vacating time of 1:00 p.m. the following day.
- L. The person registering for the campsite is responsible for all persons using the campsite adhering to all park area rules, but this shall not provide a defense to any person who actually causes, or participates in causing, a violation of said rules.
- M. Campers must maintain campsites in a clean, sanitary, and safe manner.
- N. Unless otherwise posted at the entrance to the park campground, campsites may be occupied only as assigned by a reservation or at the campground registration area.
- O. No more than two (2) vehicles are allowed in a single campsite. The first vehicle is included in the campsite fee. All excess vehicles will be charged an additional fee and may need to be parked in designated overflow parking.
- P. In order to avoid unnecessary congestion of campground roadways and overloading of campground water and sanitation facilities, a park employee may prohibit entry of non-camper vehicles into the campground area. The park employee may issue temporary entry permits to non-camper vehicles when, in their opinion, such entry will not unnecessarily disrupt the operation, safety, and sanitation facilities of the campground.
- Q. Campsites may be accommodated with any approved ~~camping~~ shelter except those areas that have specific designated usage, i.e., RV only, ground tent only.
- R. Individual campsites are designed to serve one family unit. The following capacities shall apply:
  1. Not more than two (2) tents OR one (1) recreation vehicle and one (1) tent per campsite.
  2. A maximum occupancy of 8 persons per site.
  3. No person under the age of 18 shall camp overnight unless accompanied by an adult.
  4. ADA accessible campsites are designed for campers with mobility challenges. Campers with DMV placards or license plates are given priority in these sites. Unless otherwise noted below persons registering for, or occupying, accessible campsite(s) must clearly display an appropriate placard or plate during their stay.  
*Note: Large group reservations of all campsites in a campground loop or park are exempt from this rule.*
- S. Parks with accessible campsites for Persons with Disabilities shall:

1. Hold all reserved site(s) for the date(s) of reservation unless notified by the Parks Office to release the site;
2. Hold unreserved accessible sites site(s) for qualified drop-in campers until 7:00 p.m. daily;
3. Release unreserved accessible site(s) for first come, first served use after 7:00 p.m. for one (1) night only stay if no qualified users have registered.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 06-2007, 6/28/07; Renumbered from 6.06.03 and amended by Ord. 04-2013, 8/22/13; Amended by Ord. 05-2015, 5/14/15; Amended by Ord. 01-2016, 3/24/16]

#### 6.06.040 Reservations And Check In/Out Times

- A. ~~A.~~ Online reservations for camp sites, sheltered and non-sheltered and picnic areas must be made a minimum of 3 days in advance. Payment for reservations of picnic areas and campsites are due in full at the time of booking unless booking ten (10) or more campsites. Reservations for ten (10) or more campsites must be made through the Parks Administration Office and requires a deposit of the reservation fee and first night's rental fee due within fourteen (14) days) of the booking. The rRemaining balance is due thirty (30) days prior to the arrival date. The Parks Division reserves the right to cancel any reservation of ten (10) or more campsites, without notification, that if the deposit has not been paid as per policy contract.
1. Reservations made in the Parks Administration Office or at a County Park facility must be paid for in cash, credit card or certified business check. No personal checks will be accepted.
- B. Cancellations and refunds:
1. For campsites (full hook-up, partial hook-up, primitive) and bunkhouse:
    - a. If cancellation is made four (4) or more days in advance of the arrival date, a refund will be issued by the Parks Division less the reservation fee and a cancellation fee.
    - b. If cancellation is made within three (3) days of the arrival date, a partial refund will be issued by the Parks Division less the reservation fee, a cancellation fee and the first night's camping fee.
  2. For sheltered and non-sheltered picnic areas:
    - a. If cancellation is made fifteen (15) days or more in advance of the reserved use date, a refund will be issued less the reservation fee and a cancellation fee.
    - b. If cancellation is made within fourteen (14) days of the reserved use date, no refunds will issued.
  3. Reservation and transaction fees are non-refundable. ~~must be made at least two (2) weeks prior to the reserved date in order for the site costs to be refunded (reservation fees are non-refundable).~~
- C. Changes to overnight camping reservations and day use reservations, such as a reduction in the number of campsites, or a change in the location or date, can be made at any time, but a change fee is required and will be charged at the time of the change request. Cancellations or reductions in number of reserved campsites must be made at least two (2) weeks prior to the reserved date in order for the site costs to be refunded (reservation fees are non-refundable).

- D. Check-in time for all overnight camping sites is established at 3:00 p.m. and check-out time is established at 1:00 p.m. the following day. Campsites not vacated by 1:00 p.m. shall be subject to charge of fees for an additional night, if the campsite is available and not reserved for that time period.
- E. If a campsite has been reserved for use by another party for that night, and the campsite has not been vacated by the non-reserved party by check-out time:
1. The non-reserved party shall vacate the site immediately or be subject to eviction;
  2. The non-reserved party shall be subject to exclusion from Clackamas County parks pursuant to this chapter;
  3. Any vehicle occupying the campsite after check-out time other than a vehicle of the reserved party is parked in violation of this chapter, and may be immediately towed away without prior notice at the owner's expense under the provisions of the Clackamas County Vehicle Parking and Towing Chapter; and
  4. Park employees may remove any personal property remaining on the campsite other than property of the reserved party.
- F. Individual campers or small groups reserving ADA accessible sites must provide documentation upon making the reservation or the reservation may be forfeited. *Note: Large group reservations of all campsites in a campground loop or park are excluded from this rule.*

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 06-2007, 6/28/07; Renumbered from 6.06.14; amended by Ord. 04-2013, 8/22/13; amended by Ord. 02-2014, 5/22/14; Amended by Ord. 01-2016, 3/24/16]

#### 6.06.050 Violations

- A. No person shall park a vehicle on any Clackamas County park property before the posted opening time or after the posted closing time. Vehicles parked in violation of this section shall be towed or booted in accordance with the Clackamas County Parking and Towing Chapter.
- B. No person shall expose his or her genitalia or -breasts, or be completely nude (full nudity) while in a public place or place visible from a public place, if the public place is open or available to persons of the opposite sex or children.
- C. No person shall, while in, or in view of, a public place, perform an act of sexual intercourse or deviate sexual intercourse, as defined in the Oregon Revised Statutes (ORS Chapter 163).
- D. No person shall have in his or her possession any glass beverage container without first obtaining a permit from the County Parks Department -Permits will be issued upon payment for use of designated campsites and group picnic areas. Permits for possession of glass beverage containers will not be issued for day-use areas.
- E. Fires-
1. Fires in park areas shall be confined to:
    - a. Fire rings, fire pits, or fireplaces provided for such purposes;

- b. Portable stoves in established campsites and picnic areas where fires are permitted.
  - 2. No person shall leave any fire unattended, and every fire user shall extinguish the fire before leaving the park area.
  - 3. No person shall build, light or maintain any fire so as to constitute a hazard to any pile of wood, grass, tree, underbrush, or other flammable material.
  - 4. No person shall move a park fire ring, fire pit, or fireplace from its designed location in any day use area or campground.
- F. Fireworks, ~~and~~ Weapons ~~and~~ Drones
  - 1. No person shall hunt, pursue, trap, kill, injure, or molest any bird or animal in any park area.
  - 2. No person shall discharge in any park area any firearm, pellet gun, bow and arrow, slingshot, paintball gun, or other weapon capable of injuring any person, bird, or animal.
  - 3. No person shall possess in any park area any loaded firearm, loaded pellet gun, paintball gun, bow and arrow, slingshot, or other weapon capable of injuring any person, bird or animal; provided however that the prohibition of loaded firearms does not apply to or affect:
    - a. a law enforcement officer in the performance of official duty,
    - b. a member of the military in the performance of official duty,
    - c. a person licensed to carry a concealed handgun, or
    - d. a person authorized to possess a loaded firearm while in a public building under ORS 166.370.
  - 4. No person shall possess or use fireworks or other explosives in any park area, except as designated, without the written permission from the Parks Director and/or their designate.
  - 5. No person shall operate an unmanned aerial vehicle, such as a drone, in any County Park areas or allow an unmanned aerial vehicle to fly in County Park areas or airspace.
- G. Alcoholic Beverages
  - 1. No person shall possess alcoholic beverages in any county park without first obtaining a permit from the County Parks Department. Permits will be issued upon payment for use of designated campsites and group picnic areas. Permits for possession of alcohol will not be issued for day-use areas. Persons requesting an alcohol permit when reserving a group picnic area must also deposit with a park employee a refundable security deposit in an amount set by resolution of the Board of County Commissioners. The purpose of the deposit is to guarantee that litter from consumption of alcoholic beverages is not left in the park area, to defray damage costs, if any, and to designate the person responsible. Upon leaving the park area, the depositor may ask the park employee to check his or her area and refund the deposit. If, in the opinion of the park employee, the area used is not in an orderly, clean and/or undamaged condition, the deposit shall be forfeited to defray cleanup or restoration expenses.
  - 2. Subsection 1 of this section permits possession of alcoholic beverages in reserved campsites and group areas, but not in day-use areas. Violations shall be treated as

a rule violation, and any person authorized to enforce park rules is authorized to confiscate and destroy any alcohol and its container.

#### H. Park Property & Property Destruction

1. No person shall mutilate, deface, damage, or remove any table, bench, building, sign, marker, monument, fence, barrier, fountain, faucet, traffic recorder, or other structure or facility of any kind in any park area.
2. No person shall dig up, deface, or remove any dirt, stones, rock or other substance whatever, make any excavation, quarry any stone, lay or set off any blast, roll any stones or other objects, or cause or assist in doing any of said things, in any park area.
3. No person shall erect temporary signs, markers, or inscriptions of any type in any park area, without the written permission from the Parks Director and/or their designate or designate.
4. No person shall set up or use a public address system in any park area without the written permission from the Parks Director and/or their designate.
5. No person shall wash any clothing or other materials, or clean any fish, in a lake, stream, river, or pond, in any park area.
6. No person shall use abusive or threatening language or gestures, create any public disturbances, or engage in riotous behavior, in any park area.
7. No person shall operate or use any noise-producing machine, vehicle, device, or instrument in any park area in a manner that is disturbing to other park area visitors.
8. No person shall pick, cut, mutilate, or remove any flowers, shrubs, foliage, trees, or plant life or products of any type in any park area.

#### I. Concessions and Solicitations

1. No person shall operate a concession, either fixed or mobile, in any park area without the written permission from the Parks Director and/or their designate.
2. No person shall solicit, sell or offer for sale, peddle, hawk, or vend any goods, wares, merchandise, food, liquids, or services in any park area without the written permission of the Parks Director and/or their designate.
3. No person shall advertise any goods or services in any park area without the written permission from the Parks Director and/or their designate.
4. No person shall distribute any circulars, notices, leaflets, pamphlets, or written or printed material of any kind in any park area by leaving or placing the material on a person's vehicle or property without the written permission from the Parks Director and/or their designate

#### J. Animals

1. No person shall ride, drive, lead, or keep livestock or animals, other than cats and dogs, in any park area not designated for their use (e.g., equestrian trails/facilities) without the written permission from the Parks Director and/or their designate.
2. No dog or cat shall be brought into or kept in a park area unless confined or controlled on a maximum 6-foot long leash. A County Parks employee may undertake, or require the person keeping the animal to take any measures, including removal of the animal from the park area, deemed necessary to prevent

interference by the animal with the safety, comfort, and well-being of park area users, and the appearance or sanitary condition of the park area. No animals, other than service dogs for the disabled, shall be allowed in any park area building.

3. No person shall allow any animal in his or her custody or control to annoy, molest, attack, or injure any person or animal in the park area.
4. No person shall tie up any animal in his or her custody or control and leave such animal unattended.
5. All animal fecal matter shall be put in a bag or container and left in a designated waste receptacle.
6. No person shall have or allow more than two (2) domestic pets or other animals in any campsite.

#### K. Motor Vehicles

1. No person shall operate any vehicle in any park area in violation of the Oregon State Vehicle Code, County ordinance, code or other laws.
2. No person shall operate any motor vehicle in any park area at a speed in excess of 10 miles per hour, unless otherwise designated. In addition, no person shall operate any motor vehicle in any park area at a speed greater than is reasonable and prudent, having due regard to all of the following:
  - a. The traffic;
  - b. The surface and width of the highway;
  - c. The hazard at intersections;
  - d. Weather;
  - e. Visibility; and
  - f. Any other conditions then existing.
3. No person shall park a vehicle:
  - a. In violation of any "No Parking" signs or markings authorized by the Parks Director and/or their designate;
  - b. In any location within a park, other than officially designated parking lots and parking spaces;
  - c. On grass, dirt, or landscaped areas that have not been graveled and designated for parking;
  - d. Beyond the edges of curbing or parking lots; or
  - e. In any designated staging area or timed parking area for longer than the maximum time limit stated on the posted sign.
4. No vehicle shall be parked in an emergency access area or travel lane of any park. Any vehicle parked in an emergency access area or travel lane of any park will be towed under the provisions of the Clackamas County Parking and Towing Chapter.
5. No person shall operate a motor vehicle on any park trail, or on any area within a park, which is not paved or graveled unless specifically marked as an area for motor vehicles.
6. No person shall operate any Off Highway Vehicle (OHV), All Terrain Vehicle (ATV) or any other vehicle not legal for street riding in any park area not designated for their use without the written permission from the Parks Director and/or their designate.

## L. Waste Disposal

1. All bottles, cans, ashes, waste, paper, garbage, sewage, and other rubbish or refuse shall be left only in receptacles designated for that purpose.
2. No person shall bring into a park area any trash, refuse, garbage, litter, waste material, or vehicles for the purpose of disposing them there.
3. No person shall use kitchen or toilet facilities in a camping vehicle in the park unless the person makes provision for holding sewage and other waste materials in watertight and sanitary containers. Such containers shall not be emptied in the park except at an officially designated dump station.

## M. Camping Rules

1. No person may camp overnight in a park area other than in an officially designated and numbered overnight camping space.
2. No person may camp in any one park area for more than ~~fourteen (14)~~~~ten (10)~~ days in one ~~eighteen (18)~~ 14-day period of time. No person may camp for more than ~~twenty-eight (28)~~ 20 days total in the County Parks system as a whole, in any one camping season from May 1 to ~~November~~~~September~~ 30, without the written permission from the Parks Director and/or their designate.
3. Campers are required to maintain reasonable quiet between the hours of 10:00 p.m. and 7:00 a.m. and to respect the rights of other campers to peace and quiet during these hours.
4. No person shall camp overnight without an approved camping shelter.
5. No person shall wash a vehicle or trailer in any campsite.
6. No swimming pools of any size shall be filled with water in the campground without the written permission of the Parks Director and/or their designate.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 06-2007, 6/28/07; Amended by Ord. 04-2013, 8/22/13]

### 6.06.060 Enforcement and Penalties

- A. Any County employee designated by the Director of the Business and Community Services Department, and any peace officer may enforce these park rules, order any person violating these rules to leave the park areas, and issue citations for violations of these rules. ~~e.~~ Except that only a person expressly authorized under the Clackamas County Parking and Towing Chapter may enforce the towing or ~~booting~~ ~~beating~~ provision of that chapter. Caretakers and Camp hosts who are appointed by the County may notify persons of the requirements of these rules, seek voluntary compliance, and order any person violating the rules to leave the park areas.
- B. Violation of any of the foregoing rules is subject to citation and punishable by a fine as set forth below.
- C. Form of citation:
  1. Description of the specific violation alleged;
  2. The date, time, and location of its occurrence;
  3. The maximum amount of the fine for the violation alleged;



4. A statement that the fine must be paid or a hearing requested within 20 days, and that upon failure to do so within 20 days opportunity for a hearing is forfeited and the fine doubles;
  5. A form for either admitting the violation alleged and paying the fine, or denying the violation alleged, paying the equivalent bail, and requesting a hearing;
  6. The address to which the form should be sent;
  7. The telephone number of the person or facility which may be contacted for information;
  8. The name and address of the violator, or in the case of a parking violation where the operator of the vehicle is not present, the license plate and vehicle number of the vehicle (if visible); and
- D. Upon receiving a citation under this chapter, the cited person may:
1. Within 20 days, deliver to the Sheriff's Office the form provided with the citation, admitting the violation(s), forfeiting and paying the amount of the fine(s) indicated on the citation by credit card; forfeiture may be made by mail but must be actually received by the Sheriff within 20 days from the date of the citation; or
  2. Within 20 days, deliver to the Sheriff's Office the form provided with the citation, denying all or part of the violation(s), and posting bail by paying a refundable deposit equivalent to the amount of fine(s) indicated on the citation by credit card; response may be made by mail, but must be actually received by the Sheriff within 20 days from the date of the citation.  
No cash or personal checks will be accepted.  
Upon receipt of a denial, the Sheriff's Office shall inform the Hearings Officer. The Hearings Officer shall set a hearing within 30 days of the Sheriff's Office receipt of the denial and bail, and shall mail notice to the cited person and the issuer of the citation of the hearing date, time and place within 15 days of the Sheriff's Office receipt of the denial of bail.
  3. Failure to perform any part of either subsection 1 or 2, including failure to respond within 20 days, shall be presumed an admission of the violation(s) cited, and the fine(s) shall be doubled.
- E. Hearing Process.
- The hearing shall afford a reasonable opportunity for the person(s) requesting it to present evidence that the citation was invalid or unjustified.
1. The Hearings Officer may administer oaths and take the testimony of witnesses. The Hearings Officer may issue subpoenas in accordance with Oregon Rules of Civil Procedure 55, provided that subpoena requests be received in writing no later than 5 days before the scheduled hearing. If the person charged with the violation(s) requests a subpoena, the person shall pay a deposit for each witness in an amount set by resolution of the Board of County Commissioners. Witnesses appearing by subpoena shall be allowed the same fees and mileage as allowed in civil cases in circuit court, to be paid by the person requesting the subpoena.
  2. A person who receives a citation may be represented by an attorney or other person at any hearing, provided that in the case of representation by an attorney, the person gives written notice to the Hearings Officer two days prior to the hearing so that the County may, at its discretion, arrange for representation by an

attorney on its behalf.

3. If the Hearings Officer, after due consideration, determines that the violation(s) alleged has been established, then the Hearings Officer shall issue a decision that the citation is valid and make brief findings of fact, and shall order the person cited to pay the appropriate fine to the County general fund. The decision and order may be oral and issued at the conclusion of the hearing, but in all cases must be recorded in the record of the hearing. The Hearings Officer will also determine the amount of witness fees to be paid out of any deposit, or refunded.
4. The decision of the Hearings Officer is final.

[Codified by Ord. 05-2000, 7/13/00; Renumbered from 6.06.15 and amended by Ord. 04-2013, 8/22/13; amended by Ord. 02-2014, 5/22/14]

**6.06.04.01**[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 05-2003, 3/13/03; Amended by Ord. 03-2010, 2/25/10; Repealed by Ord. 04-2013, 8/22/13]

**6.06.07.01**[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 05-2003, 3/13/03; Amended by Ord. 03-2010, 2/25/10; Repealed by Ord. 04-2013, 8/22/13]

**6.06.07.02** [Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 05-2003, 3/13/03; Deleted by Ord. 03-2010, 2/25/10]

**6.06.070      Vehicle Towed**

A vehicle registered to a person who has failed to respond or pay fines as required by this chapter to three or more vehicle parking citations, may be towed from any park area or booted, without prior notice, in accordance with the Clackamas County Parking and Towing Chapter, and held until the amounts owing have been paid.

[Codified by Ord. 05-2000, 7/13/00; Renumbered from 6.06.11 by Ord. 04-2013, 8/22/13]

**6.06.080      Fines**

All fines shall be set by ordinance of the Board of County Commissioners.

[Added by Ord. 5-2003, 3-13-03; Renumbered from 6.06.17 and amended by Ord. 04-2013, 8/22/13]

## Chapter 8.02

### 8.02 TRANSIENT ~~ROOM~~ LODGING TAX

#### 8.02.010 Definitions

Except where the context otherwise requires, the definitions given in this section govern the construction of this chapter.

- A. ACCRUAL ACCOUNTING means the operator or intermediary enters the rent due from a transient on ~~the his~~ records when the rent is earned, whether or not it is paid.
- B. BOARD means the Clackamas County Board of Commissioners.
- C. CASH ACCOUNTING means the operator or intermediary does not enters the rent due from a transient on ~~its the his~~ records when until the rent is paid.
- ~~D.~~ COUNTY means Clackamas County.
- ~~D.E.~~ INTERMEDIARY means a person or entity other than an operator that facilitates the rental of transient lodging.
- ~~E.F.~~ HOTELTRANSIENT LODGING means any structure, or any portion of any structure, which is occupied or intended or designed for transient occupancy, for temporary overnight human occupancy, thirty (30) days or less, for dwelling, lodging, or sleeping purposes. This includes, but is not limited to, any hotel, motel, inn, bed and breakfast, space in mobile home or trailer parks, tourist home, private home, vacation home, condominium, hostel, studio hotel, lodging house, rooming house, apartment house, public or private dormitory, fraternity, sorority, public or private club, or similar structure or portions thereof so occupied.
- ~~F.G.~~ OCCUPANCY means the use or possession, or the right to the use or possession, for lodging or sleeping purposes, of any room or rooms in transient lodging, a hotel, or space in a mobile home, or trailer park, or portion thereof.
- ~~G.H.~~ OPERATOR means the person who is proprietor of the transient lodging hotel in any capacity. Where the operator performs ~~its his~~ functions through a managing agent or intermediary of any type or character other than an 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 his principal. Compliance with the provisions of this chapter, by either the principal or the managing agent or intermediary, shall be considered to be compliance by both.
- ~~H.I.~~ PERSON means any individual, firm, partnership, limited liability company, 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 other group or combination acting as a unit.
- ~~I.J.~~ RENT means the consideration charged, whether or not received by the operator or intermediary, for the occupancy of space in transient lodging, a hotel, valued in money, goods, labor, credits, property, or any other consideration valued in money, without any deduction; but does not include the sale of any goods,

services, and commodities, other than the furnishing of transient lodging room accommodations and parking space in mobile home parks or trailer parks.

J.K. 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 tax under this chapter shall be the same charge made for rent when consideration is not a part of a package plan.

L. TAX ADMINISTRATOR means the official appointed by the Board of County Commissioners to carry out provisions of this chapter.

K.M. TAX COLLECTOR means an operator or intermediary.

L.N. TAX means either the tax payable by the transient or the aggregate amount of taxes due from an operator or intermediary during the period for which the operator or intermediary is required to report the his collections.

M.O. TRANSIENT means any person who exercises occupancy, or is entitled to occupancy, in a transient lodging hotel overnight for a period of up to thirty (30) consecutive calendar days, or less, counting portions of calendar days as full days. The day a transient checks out of the transient lodging hotel shall not be included in determining the thirty (30) day period if the transient is not charged rent for that day by the operator or intermediary. Any such person so occupying space in transient lodging a hotel shall be deemed to be a transient until the period of thirty (30) days has expired, unless there is an agreement in writing between the operator or intermediary and the occupant providing for a longer period of occupancy, or the tenancy actually extends more than thirty (30) consecutive days. In determining whether a person is a transient, uninterrupted periods of time extending both prior and subsequent to the effective date of this chapter, may be considered. A person who pays for lodging on a monthly basis, irrespective of the number of days in such month, shall not be deemed a transient.

[Codified by Ord. 05-2000, 7/13/00]

To carry out the duties imposed by this chapter, the Tax Administrator authority 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 any rules and regulations adopted pursuant thereto, require the production of documents at public hearings, and seek judicial assistance in obtaining records and testimony.

#### **8.02.020 Tax Imposed**

For the privilege of occupancy in any transient lodging hotel, on and after the effective date of this chapter, each transient shall pay a tax in the amount of six percent (6%) of the rent charged by the operator or intermediary. The tax constitutes a debt owed by the transient to the County, which is extinguished only by payment to the operator or intermediary. The transient shall pay the tax to the operator or intermediary of the transient lodging hotel at the time the rent is paid. The operator or intermediary shall enter the tax on the his records when rent is collected if the operator or intermediary keeps the his records on the cash accounting basis, and when earned if the operator or intermediary keeps the his records on the accrual accounting basis. If rent is paid in installments, the

transient shall pay a proportionate share of the tax to the operator or intermediary with each installment.

[Codified by Ord. 05-2000, 7/13/00]

#### **8.02.030 Where Tax is Imposed**

The tax imposed by this chapter shall apply to all transient lodging hotels located within Clackamas County.

[Codified by Ord. 05-2000, 7/13/00]

#### **8.02.040 Collections of ~~Tax~~ by Operator, Rules Tax, Rules for Collection**

- A. Every operator or intermediary renting transient lodging rooms in this County, the occupancy of which is not exempted under the terms of this chapter, shall collect a tax from the occupant. The tax collected or accrued by the operator or intermediary constitutes a debt owed by the operator or intermediary to the County that is extinguished only by payment to the County.
- B. In all cases of credit or deferred payment of rent, the payment of tax to the operator or intermediary may be deferred until the rent is paid, and the operator or intermediary shall not be liable for the tax until credits are paid or deferred payments are made.
- C. For rent collected on portions of a dollar, the first one cent (\$.01) of tax shall be collected on five cents (\$.05) through twenty-one cents (\$.21) inclusive; and the second one cent (\$.01) of tax on twenty-two cents (\$.22) through thirty-eight cents (\$.38); the third one cent (\$.01) of tax on thirty-nine cents (\$.39) through fifty-five cents (\$.55); the fourth one cent (\$.01) of tax on fifty-six cents (\$.56) through seventy-two cents (\$.72); the fifth one cent (\$.01) of tax on seventy-three cents (\$.73) through eighty-nine cents (\$.89); and the sixth one cent (\$.01) of tax on ninety cents (\$.90) through the next one dollar and four cents (\$1.04) of rent.

[Codified by Ord. 05-2000, 7/13/00]

#### **8.02.050 Tax Collector's Operator's Duties**

Each operator or intermediary shall collect the tax imposed by this chapter at the same time as the rent is collected from every transient. The amount of tax shall be separately stated upon the operator or intermediary's records and any receipt rendered by the operator or intermediary. No operator or intermediary of a hotel shall advertise that the tax, or any part of the tax, will be assumed or absorbed by the operator or intermediary, 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.

[Codified by Ord. 05-2000, 7/13/00]

#### **8.02.060 Exemptions**

No tax imposed under this chapter shall be imposed upon:

- A. Any person who pays for lodging for more than thirty (30) successive 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 a transient);

- B. Any person whose rent is of a value less than \$15.01 per day;
- ~~C. Any person who rents a private home, vacation cabin, or like facility from any owner who personally rents such facilities incidentally to his own use thereof;~~
- ~~D.C.~~ Any occupant whose rent is paid for a hospital room or to a licensed medical clinic, licensed convalescent home or a home for aged people; or
- ~~E.D.~~ Employees, officials or agents of the U. S. Government occupying a transient lodging hotel in the course of official business, provided the person seeking the exemption provides reasonable documentation to the operator or intermediary.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 03-2005, 5-26-05; Amended by Ord. 02-2010, 2/25/10]

#### **8.02.070 Registration of Operator or Intermediary, Form and Contents, Execution, Certification of Authority**

Every person engaging or about to engage in, business as an operator or intermediary of transient lodging a hotel in this County shall register with the County on the Tax Administrator's on a form, provided by him or her. Operators or Intermediaries engaged in business at the time this chapter is adopted, must not register later than thirty (30) calendar days after passage of this chapter. Operators or Intermediaries starting business after this chapter is adopted must register within fifteen (15) 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 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 his~~ place or places of business and such other information to facilitate the collection of the tax as the Tax Administrator may require. The operator or intermediary shall sign the registration. The Tax Administrator shall, within ten (10) days after registration, issue without charge from the occupant, a Certificate of Authority to the registrant to collect the tax, from the occupant of the transient lodging hotel, together with a duplicate thereof, for each additional place of business for each registrant. Certificates shall be non-assignable and nontransferable and shall be surrendered immediately to the Tax Administrator upon the cessation of business at the location named or upon its sale or transfer. 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 come to the notice readily of all occupants and persons seeking occupancy.

Said certificate shall, among other things, state the following:

- A. The name of the operator or intermediary;
- B. The address of the transient lodging or intermediary hotel;
- C. The date upon which the certificate was issued; and,
- D. "This Transient Occupancy Registration Certificate signifies that the person named on the face hereof has fulfilled the requirements of the Transient Lodging Room Tax Chapter of the Clackamas County Code by registration with the Tax Administrator for the purpose of collecting from transients the lodging room tax

imposed by the County and remitting the tax to the Tax Administrator.”  
 [Codified by Ord. 05-2000, 7/13/00]

#### 8.02.080 Due Date, Returns, and Payments

- A. The transient shall pay the tax imposed by this chapter to the operator or intermediary at the time that rent is paid. All amounts of such taxes collected by any operator or intermediary are due and payable to the Tax Administrator on a monthly basis on the fifteenth (15th) day of the month for the preceding month. ~~and are delinquent on the last day of the month in which they are due.~~
- B. On or before the fifteenth (15th) day of the month following each month of collection a return for the preceding month's tax collections shall be filed by the operator or intermediary with the Tax Administrator. The return shall be filed in such form as the Tax Administrator may prescribe by every operator or intermediary liable for payment of tax.  
 Returns shall show the amount of tax collected or otherwise due for the related period. The Tax Administrator may require returns to show the total rentals upon which tax was collected or otherwise due, gross receipts of the operator or intermediary for such period, and an explanation in detail of any discrepancy between such amounts, and the amount of rents exempt, if any.
- C. The operator or intermediary person that required to file ing the return ~~should deliver~~must deliver the return together with the remittance of the amount of the tax due to the Tax Administrator at his office either by personal delivery or by mail, or other methods approved by the Tax Administrator. If the return is mailed, the postmark shall be considered the date of delivery for determining delinquencies.
- D. For good cause, the Tax Administrator may extend for up to one (1) month the time for making any return or payment of tax. No further extension shall be granted, except by the Board. Any operator or intermediary to whom an extension is granted shall pay interest at the rate of one percent (1%) per month, on the amount of tax due without 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 granted, then the interest shall become a part of the tax for computation of penalties described ~~elsewhere~~ in 8.02.090 of this chapter.
- E. ~~If the operator or intermediary has complied with the terms of this chapter and particularly the provisions of this section relating to prompt payment of taxes due and payable to the Tax Administrator, the operator or intermediary shall be permitted to deduct as collection expense five percent (5%) of the amount of the taxes collected, as shown by the return mentioned in paragraph C of this section. Five percent (5%) of the tax due may be retained by the operator or intermediary as a collection reimbursement charge to defray the costs of collecting and reporting the tax and of maintaining records.~~

[Codified by Ord. 05-2000, 7/13/00]

#### 8.02.090 Penalties and Interest

- A. Original Delinquency: Any operator or intermediary 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 (10 %) of the amount of the tax due in addition to ~~of~~ the amount of the tax.
- B. Continued Delinquency: Any operator or intermediary who has not been granted an extension of time for remittance of the tax due, and who failed to pay any delinquent remittance on or before a period of thirty (30) 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 due, plus the amount of the tax due, and the ten percent (10%) penalty first imposed.
- C. Fraud: If the Tax Administrator 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 (25%) of the amount of the tax due shall be added thereto, in addition to the penalties stated in paragraphs (A1) and (B2) of this section.
- D. Interest: In addition to the penalties imposed, any operator or intermediary who fails to remit any tax imposed by this chapter shall pay interest at the rate of ~~one-half of~~ one percent (1.5%) 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 became delinquent until paid.
- E. Penalties merged with tax: Every penalty imposed and such interest as accrues under the provisions of this chapter, shall be merged with and become a part of the tax herein required to be paid.
- F. Petition for waiver: Any operator or intermediary who fails to remit the tax levied within the time stated, shall pay the penalties stated. However, the operator or intermediary may petition the Board for waiver and refund of the penalty or any portion thereof, and the Board may if a good and sufficient reason is shown, waive and direct a refund of the penalty or any portion thereof.

[Codified by Ord. 05-2000, 7/13/00]

#### **8.02.100 Deficiency Determinations, Fraud, Evasion, ~~Operator~~ Tax Collector Delay**

- A. Deficiency determination: If the Tax Administrator determines that the returns are incorrect, he or she 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 his or her 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 herein provided, after which the amount determined is delinquent. Penalties on deficiencies shall be applied as set forth in 8.02.090.
  - 1. In making a Determination, the Tax Administrator 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 8.02.090.
2. The Tax Administrator shall give to the operator, ~~intermediary~~ ~~or intermediary or~~ occupant a written notice of his determination. The notice may be served personally or by certified mail. In the case of service by mail of any notice required by this chapter, the service is complete upon receipt by the operator ~~or intermediary~~ ~~or intermediary or~~ ~~the his~~ agent or employee, or if refused, the date of its refusal as shown by the United States Postal Department return receipt.
  3. Except in the case of fraud or intent to evade this chapter or authorized rules and regulations, every deficiency determination shall be made and notice thereof mailed within three (3) 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 (10) days after the Tax Administrator has given notice thereof. However, the operator ~~or intermediary~~ may petition for redemption and refund if the petition is filed before the determination becomes final as herein provided.
- B. Fraud, Refusal to Collect, Evasion. If any operator ~~or intermediary shall fail~~ ~~s~~ or ~~refuses~~ to collect said tax or to make within the time provided in this chapter any report and remittance of said tax or any portion thereof required by this chapter, or makes a fraudulent return or otherwise willfully attempts to evade this chapter, the Tax Administrator shall proceed in such manner as he/she ~~may deem~~ ~~sm~~ best to obtain facts and information on which to base an estimate of the tax due. As soon as the Tax Administrator has determined the tax due that is imposed by this chapter from any operator ~~or intermediary~~ who has failed or refused to collect the ~~tax same~~ and/or to report and remit said tax, ~~the Tax Administrator he/she shall proceed to~~ determine and assess against such operator ~~or intermediary~~ the tax, interest, and penalties provided for by this chapter. ~~In case such determination is made, †The Tax Administrator shall give a notice in the manner aforesaid~~ of the amount so assessed. Such determination and notice shall be made and mailed within three (3) years after discovery by the Tax Administrator of any fraud, intent to evade, or failure, or refusal to collect said tax or failure to file return. Any determination shall become due and payable immediately upon receipt of ~~the~~ notice and shall become final within ten (10) days after the Tax Administrator has given notice thereof. However, the operator ~~or intermediary~~ may petition for redemption and refund if the petition is filed before the determination becomes final as herein provided.
- C. Operator ~~or intermediary Delay~~ ~~Intermediary Delay~~. If the Tax Administrator believes that the collection of any tax or any amount of tax required to be collected and paid to the County, will be jeopardized by delay or if any determination will be jeopardized by delay, s/he shall thereupon make a determination of the tax or amount of tax ~~required to be collected~~ ~~collected~~ ~~noting~~, ~~noting~~ the fact upon the determination. The amount so determined ~~as herein provided~~ shall be immediately due and payable, and the operator ~~or intermediary~~

shall immediately pay ~~thesame~~ determination to the Tax Administrator after service of notice ~~isthereof~~ provided. However, the operator or intermediary may petition after payment has been made for redemption and refund of such determination, if the petition is filed within ten (10) days from the date of the service of notice by the Tax Administrator.

[Codified by Ord. 05-2000, 7/13/00]

#### 8.02.110 Re-determinations

- A. Any operator or intermediary against whom a determination is made under Section 8.02.100 ~~or any person directly interested~~ may petition for a re-determination and redemption and refund within the time required in 8.02.100, ~~hereof~~. If a petition for re-determination and refund is not filed within the time required in 8.02.100, the determination becomes final at the expiration of the allowable time.
- B. If a petition for re-determination and refund is filed within the allowable period, the Tax Administrator shall reconsider the determination, and if requested the person has so requested in thehis petition, shall grant ~~the person~~ an oral hearing, and shall ~~give him ten~~ give ten (10) days notice of the time and place of the hearing. The Tax Administrator may continue the hearing ~~from time to time~~ as may be necessary and reasonable.
- C. The Tax Administrator 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 Tax Administrator upon a petition for re-determination of redemption and refund becomes final ten (10) days after service upon the petitioner of notice thereof, unless appeal of such order or a decision is filed with the Board within ten (10) days after service of such notice.
- E. No petition for re-determination of redemption and refund or appeal ~~there from~~ shall be effective for any purpose unless the operator or intermediary has first complied with the payment provisions ~~hereof~~.

[Codified by Ord. 05-2000, 7/13/00]

#### 8.02.120 Security, Collection of Tax

- A. The Tax Administrator, after delinquency and when he or she deems it necessary to insure compliance with this chapter, may require any operator or intermediary subject thereto to deposit with him/her such security in the form of cash, bond, or other security as the Tax Administrator may determine. The amount of the security shall be fixed by the Tax Administrator but shall not be greater than twice the operator or intermediary's estimated average monthly liability for the period for which returns are filed, he files returns, determined in such manner as the Tax Administrator deems proper, or Five Thousand Dollars (\$5,000), whichever amount is the lesser. The amount of the security may be increased or decreased by the Tax Administrator subject to the limitations herein provided.
- B. At any time within three (3) years after any tax or any amount of tax required to

be collected becomes due and payable or at any time within three (3) years after any determination becomes final, the Tax Administrator may bring an action in the courts of this State, or any State, or of the United States, in the name of the County to collect the amount delinquent together with penalties and interest, and the County's reasonable attorney's fees and costs for bringing the enforcement action incurred -at trial and/or on appeal.

[Codified by Ord. 05-2000, 7/13/00]

### 8.02.130 Lien

- A. Any The tax collected by the operator or intermediary but not remitted to the Tax Administrator in the time required imposed by this chapter together with the interest and penalties herein provided and the filing fees paid to the Clerk of Clackamas County, Oregon, and advertising costs which may be incurred when same becomes delinquent as set forth in this chapter, shall constitute a lien on the transient lodging. The Tax Administrator 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. shall be and until paid remain a lien from the date of its recording with the Clerk of Clackamas County, Oregon, and superior to all subsequent recorded liens on all tangible personal property used in the hotel of an operator, which may be foreclosed on and sold as may be necessary to discharge said lien if the lien has been recorded. Notice of lien may be issued by the Tax Administrator or his or her deputy whenever the operator is in default in the payment of said tax, interest, and penalty and shall be recorded and a copy sent by certified mail to the delinquent operator. The personal property subject to such lien may be seized by any authorized deputy or employee of the Tax Administrator and may be sold at public auction after twenty (20) days notice of sale given by two publications in a newspaper of general circulation in the County. The notices required hereunder shall be published not less than seven (7) days apart. Such seizure and sale shall be in addition to any other process to secure payment of the delinquent tax allowed by law. The lien is in addition to any other process to secure payment allowed by law.
- B. Any lien for taxes shall upon the payment of all taxes, penalties, and interest thereon be released by the Tax Administrator, and the operator, ~~or intermediary or person or person~~ making such payment shall receive a ~~receipt therefore stating receipt stating~~ that the full amount of taxes, penalties, and interest thereon have been paid and that the lien is thereby released.

[Codified by Ord. 05-2000, 7/13/00]

### 8.02.140 Refunds

- A. Operators' refunds. Whenever the amount of any tax, penalty, or interest has been paid more than once or has been erroneously or illegally collected or received by the Tax Administrator under this chapter, it may be refunded provided a verified claim in writing therefore stating the specific reason upon which the claim is

founded is filed with the Tax Administrator within three (3) years from the date of payment. The claim shall be made on forms provided by the Tax Administrator. If the claim is approved by the Tax Administrator, the excess amount collected or paid may be refunded or may be credited on any amounts then due and payable from the operator or intermediary from whom it was collected or by whom paid, and the balance may be refunded to each such operator or intermediary, ~~the his~~ administrators, executors or assignees.

- B. Transient Refunds. Whenever the tax required by this chapter has been collected by the operator or intermediary and deposited by the ~~same operator~~ with the Tax Administrator and it is later determined that the tax was erroneously or illegally collected or received by the Tax Administrator, it may be refunded by the Tax Administrator ~~to the transient~~ provided a verified claim in writing ~~therefore stating~~; the specific reason on which the claim is founded, is filed with the Tax Administrator within three (3) years from the date of payment.

[Codified by Ord. 05-2000, 7/13/00]

### 8.02.150 Administration

- A. Transient Room Tax Fund. The Tax Administrator shall place all monies received pursuant to this order in the Transient Room Tax Fund.
- B. ~~Records. Required from Operators. Every~~ Records. Every operator and intermediary shall keep guest records of room sales and accounting books and records of room sales. The operator or intermediary shall retain all records for a period of three (3) years and six (6) months after they come into being.
- C. Examination of Records, Investigations. -At the discretion of the Tax Administrator, an audit of the books, papers, and accounting records may be performed on any transient lodging or tax collector within the jurisdiction of this chapter. The tax collector shall comply with all requests by the Tax Administrator or his delegee, in a timely fashion. Failure to comply with the requests of the Tax Administrator or his delegee shall be a violation of this Chapter subject to penalty.
- ~~C.D.~~ For the purpose of enforcing 8.02.100 of this chapter, if the Tax Administrator has reason to believe that the returns are incorrect or that fraud, refusal to remit, evasion or operator delay has occurred as set forth in 8.02.100 of this chapter, then the Tax Administrator or any person authorized in writing by him or her may examine during normal business hours the books, papers, and accounting records relating to room sales of any operator after notification to the operator liable for the tax and The Tax Administrator or his delegee shall, if he/she deems it necessary, may investigate the business of the operator or intermediary in order to verify the accuracy of any return made, or if no return is made by the operator or intermediary, to ascertain and determine the amount required to be paid.
- ~~D.E.~~ Confidential Character of Information Obtained, Disclosure Unlawful. Records, reports or returns submitted to the Tax Authority shall be exempt from disclosure to the extent provided for by state statute. It shall be unlawful for the Tax Administrator 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 Transient Occupancy Registration Certificate or pay a transient occupancy tax, or any other person visited or examined in the discharge of official duty, or the amount of 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. Nothing in this subsection shall be construed to prevent:

1. The disclosure to or the examination of records and equipment by another county 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 hereunder;
2. ~~The disclosure after the filing of a written request to that effect to the taxpayer himself receivers, trustees, executors, administrators' assignees, and guarantors if directly interested of information as to any paid tax, and unpaid tax or amount of tax required to be collected, or interest, and penalties; further provided, however, that the Clackamas County Counsel approves each such disclosure, and that the Tax Administrator may refuse to make any disclosure referred to in this paragraph when in his/her opinion the public interest would suffer thereby;~~
- 3.2. The disclosure of the names and addresses of any persons to whom Transient Occupancy Registration Certificates have been issued; or
- 4.3. The disclosure of general statistics regarding taxes collected or business done in the County.

[Codified by Ord. 05-2000, 7/13/00]

#### **8.02.160 Tax Revenue Sharing**

- A. Commencing with tax revenues collected January 1, 1993, the total net transient room tax receipts after operator collection expense of 5% and County administrative costs, not to exceed 2%, have been deducted, shall be distributed by the Tax Administrator as follows:
  1. Between January 1, 1993, and June 30, 1993, an amount sufficient to bring proceeds up to a base support amount of \$250,000 per year shall be paid in equal quarterly installments to the Clackamas County Fair; this amount shall be adjusted annually to allow for inflation by an amount to be determined by the Tourism Development Council (TDC); these funds shall be used by the Fair for construction, operations and maintenance, in accordance with its annual budget approved by the Board; and,
  2. The balance placed with the County Treasurer for deposit until transferred to the TDC monthly to pay expenditures authorized as provided below.
- B. There is hereby created the Clackamas County Tourism Development Council, consisting of nine (9) members to be appointed by the Board of County Commissioners. The TDC is to oversee the development and promotion of tourism and conventions in Clackamas County.
- C. The TDC is to develop, adopt and implement, subject to Board of County Commissioners' approval, a Tourism Development and Promotion Master Plan.

The Master Plan shall address at least the following elements: tourism promotion, tourism development, conventions, visitor information services, special events and festivals, and the County Fair. The Master Plan may be revised from time to time, subject to Board of County Commissioners' approval. Prior to adoption of the Master Plan, the TDC may adopt, subject to Board of County Commissioners' approval, an Interim Plan.

- D. The funds described in subsection 8.02.160 A 2 above shall be allocated to projects and programs by the TDC in accordance with the Tourism Development and Promotion Master Plan, except that revenues collected prior to final Board of County Commissioners' approval of a Master Plan may be expended pursuant to an interim Plan, if adopted.

[Codified by Ord. 05-2000, 7/13/00]

#### **8.02.170 Appeals to the Board**

Any person aggrieved by any provisions of the Tax Administrator may appeal to the Board by filing a notice of appeal with the Tax Administrator within ten (10) days of the Administrator's decision. The Tax Administrator shall transmit said notice of appeal, together with the file of said appealed matter to the Board, who shall fix a time and place for hearing of the such appeal. The Board shall give the appellant not less than ten (10) days written notice of the time and place of hearing of the said appealed matter.

[Codified by Ord. 05-2000, 7/13/00]

#### **8.02.180 Violations**

It is ~~unlawful and a violation of this chapter unlawful~~ for any operator, ~~intermediary~~ ~~or intermediary or~~ other person so required, to fail or refuse to register as required herein. ~~It is unlawful and a violation of this chapter for a tax collector~~, ~~or to fail to~~ furnish any return required to be made, or fail or refuse to furnish a supplemental return or other data required by the Tax Administrator, or to render a false or fraudulent return. No person required to make, render, sign, or verify any report shall make any false or fraudulent report, ~~with intent to defeat or evade the determination of any amount due, required by this chapter~~. Any person **willfully** violating any of the provisions of this chapter shall be subject to a fine in an amount set by resolution of the Board of County Commissioners.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 5-2003, 3/13/03]

