

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON**

ORDINANCE NO. 2013

Amending Multnomah County Code Chapter 11 – Revenue and Taxation

(Language stricken is deleted; double-underlined language is new.)

The Multnomah County Board of Commissioners Finds:

1. In January, 2001 the Board entered into a Visitor Facilities Intergovernmental Agreement (VFIGA) with the City of Portland and Metro for the purpose of supporting regional visitor facilities and visitor industry development -in the Portland-Multnomah County area. The Board adopted Ordinance 957, amending Chapter 11, to implement the terms of that IGA.
2. The VFIGA created the Visitor Facilities Trust Account (VFTA) that is supported by a 2.5% surcharge on the Motor Vehicle Rental Tax and a 2.5% surcharge on the Transient Lodging Tax. Since inception of the agreement these tax surcharges have produced over \$133 million that has been used to support efforts to bring visitors and conventions to the region.
3. A number of changes have occurred, or are proposed to occur, to business operations and debt obligations, resulting in changes to financing opportunities and efficiencies, revised programmatic services, and modified roles and responsibilities of the parties to the VFIGA.
4. In recognition of these changes, the parties entered into negotiations in early 2013 to revise and amend the VFIGA. In September, 2013 the Board ratified an amended and restated VFIGA with the City of Portland and Metro to provide additional support to complement programs, investments and contributions made by the three jurisdictions for the health of our communities and in support of visitor development.
5. Amendments to Multnomah County Code, Chapter 11, are necessary to fully implement the terms of the amended and restated VFIGA.

Multnomah County Ordains as Follows:

Section 1. MCC § 11.300 is amended as follows:

§ 11.300 – DEFINITIONS.

For the purpose of this subchapter, the following definitions apply unless the context requires a different meaning.

CAR SHARING ORGANIZATION. A profit or non-profit organization with membership requirements that provides the use of motor vehicles exclusively to its members for a fee.

COMMERCIAL ESTABLISHMENT. Any person or other entity, any part of whose business consists of providing the use of motor vehicles for a rental fee.

DIRECTOR. The Finance Director Chief Financial Officer of the county.

DOING BUSINESS IN THE COUNTY. Any of the following conduct by a commercial establishment whose business address is within or outside the county:

(1) Delivery of a rented vehicle to a location within the county for use by a person with the county; or

(2) Presenting for execution within the county by any person a car rental agreement.

EXEMPTION AREA. Multnomah, Washington and Clackamas Counties.

MOTOR VEHICLE. Without limitation, auto-mobiles, trucks having manufacturer's gross vehicle weight not exceeding 24,000 pounds, motor homes, motorcycles, pickup campers and any motorized passenger vehicles designed to carry fewer than ten persons, which are capable of being used on the highways of the state.

~~**REGIONAL CHILDREN'S CAMPUS (RCC) BONDS AND PARITY OBLIGATIONS.** (a) Motor Vehicle Rental Tax Revenue Bonds, Series 2000A and 2000B dated November 1, 2000, (b) any obligations issued to refund obligations described in clause (a) of this definition.~~

RENTAL FEE. The gross fee and charges, whatever the basis of their calculation, paid to a commercial establishment by any person for the rental of a motor vehicle.

RENTAL or RENTING. Obtaining in the county the use of a motor vehicle from a commercial establishment in the county for a rental fee, and includes all services, supplies and commodities furnished by the commercial establishment in connection with providing the use of the vehicle, but does not include leasing or other transactions where title of a motor vehicle is permanently or temporarily transferred from the commercial establishment to any other person or entity.

~~**YEAR ONE.** Fiscal Year 2000-2001.~~

§ 11.301 IMPOSITION OF TAX.

(A) A tax is imposed on every person renting a motor vehicle from a commercial establishment doing business in the county, if the rental is for a period of 30 days or less. A rental must have a duration of 30 days or less if the actual possession or use by the person renting the vehicle terminates not later than the end of a 30-day period or if any contract governing the rental has a duration of 30 day or less.

(B) The base rate of the tax imposed by subsection (A) is equal to 14.5% of the rental fee charged by the commercial establishment for the rental.

(C) The surcharge rate of the tax imposed by subsection (A) is equal to 2.5% of the rental fee charged by the commercial establishment for the rental. ~~This 2.5% surcharge will terminate if the 2.5% transient lodging tax imposed by § 11.401(E) is terminated before the issuance of the bonds defined in § 11.400. This surcharge shall remain in force as long as the bonds described in § 11.402 (B) (1) are outstanding.~~

(D) If, with respect to any rental fee, the tax imposed under this section does not equal an amount calculable to a whole cent, the commercial establishment must charge a tax equal to the next highest whole cent. However, the amount remitted to the Director by the commercial establishment for each quarter must equal 17% of the total rental fees collected by the commercial establishment during the quarter.
Penalty, see § 11.399

11.304 – Use of Taxes.

(A) The 14.5% base taxes collected under this subchapter are general fund revenues of the county, except that the portion of taxes attributable to gasoline sales are subject to the limitations on use prescribed by the constitution and laws of the state.

~~(B)—All 2.5% surcharge taxes collected under this subchapter will be deposited in the Visitors Facilities Trust Account (VFTA) created by 11.401(E) and allocated as provided by 11.401(E)(4) 11.402(B). The Board is authorized under Home Rule authority to enter an intergovernmental agreement with the City of Portland to pledge the County to maintain this surcharge to pay the bonds and other obligations identified in 11.401(E)(4) 11.402(B). Such pledge is binding under ORS 288.594 from April 1, 2000 as long as the 11.401(E) 11.402(B) bonds are outstanding.~~

Section 2. MCC § 11.400 is amended as follows:

11.400 – Definitions.

For the purpose of this subchapter, the following definitions apply unless the context requires a different meaning.

ACCRUAL ACCOUNTING. An accounting method where the operator enters the rent due from a transient on the records when the rent is earned, whether or not it is paid.

~~**ADMINISTRATIVE FEE.** The County Trust Account Fee that is the Indirect Flow Through Rate that is published annually in the County Indirect Cost Rates and Countywide Cost Allocation Plan and charged to internal accounts.~~

~~**BONDS.** Collectively, the Convention Center Completion Bonds, the Civic Stadium Bonds and the Portland Center for Performing Arts (PCPA) Bonds.~~

CASH ACCOUNTING. An accounting method where the operator does not enter the rent due from a transient on the records until rent is paid.

~~**CIVIC STADIUM BONDS.** Bonds or other obligations issued by the City of Portland (City) to fund Civic Stadium improvements in an amount not to exceed \$35,000,000 and any bonds issued to refund those bonds.~~

~~**CONVENTION CENTER COMPLETION BONDS.** Bonds or other obligations issued by the City to fund the Convention Center Completion Project in an amount not to exceed \$100,000,000 and any bonds issued to refund those bonds.~~

~~**CONVENTION CENTER COMPLETION PROJECT.** The expansion of the Oregon Convention Center (OCC) facilities to include approximately 105,000 square feet of exhibit space, a 35,000 square foot ballroom, a total of 40 meeting rooms, 35,000 square feet of lobby space, a 825 space parking garage and 10 loading docks.~~

CPI. The annual average percent change in the Portland-Salem, OR-WA CPI-U as issued by the U.S. Department of Labor, Bureau of Labor Statistics for the most recent 12-month calendar year period, or a comparable measure of price change if this index is not available.

CULTURAL TOURISM. A program or programs to attract visitors to the Portland area to attend cultural and recreational events and exhibits.

EXCISE TAX FUND. *The fund created by MCC § 11.401 (D) to receive and disburse funds as allocated in MCC § 11.402 (A).*

~~**FACILITIES.** The Oregon Convention Center, the Portland Center for the Performing Arts, the Exposition Center, and neighborhood arts programs.~~

HOTEL. Any structure, or any portion of any structure that is occupied or intended or designed for transient occupancy for 30 days or less for dwelling, lodging, or sleeping purposes, and includes any hotel, inn, tourist home or house, motel, studio hotel, lodginghouse, rooming house, apartment house, public or private dormitory, fraternity, sorority, public or private club, and also includes space in mobile home or trailer parks, or similar structure or space if occupancy is for less than a 30-day period.

NEIGHBORHOOD ARTS. Arts programs aimed at increased community and educational exposure to arts and involvement in artistic endeavors to enhance the quality of life in the region thus increasing tourism and increasing support for cultural programs.

~~**NET REVENUES.** The collections (including delinquent interest and penalties) from the 2.5% surcharge transient lodging tax (MCC § 11.401(E)), the collections (including delinquent interest and penalties) from the 2.5% surcharge vehicle rental tax (MCC § 11.301(C)), and earnings on amounts in the Visitors Fund Trust Account, less the Administrative Fee. Net revenues does not include any amounts required to pay refunds of surcharge taxes, interest, or other charges required by state law, debt service on the Regional Children's Campus Bonds and Parity Obligations.~~

OCCUPANCY. The use or possession, or the right to use or possess for lodging or sleeping purposes any room or rooms in a hotel, or space in a mobile home or trailer park or portion thereof.

~~**OPERATING EXPENSES.** The total cost of all labor, benefits, overhead, maintenance, materials and services incurred by the operator or operators of the facilities in encouraging attendance, administering, and operating events held in the facilities and in obtaining events to be held there or as part of the neighborhood arts programs.~~

~~**OPERATOR.** The person who is proprietor of the hotel in any capacity. Where the operator performs functions through a managing agent of any type or character other than an employee, the managing agent will also be considered an operator for the purposes of this subchapter and will have the same duties and liabilities as the principal. Compliance with the provisions of this subchapter by either the principal or the managing agent is compliance by both. Operator means either one of the following: a) TRANSIENT LODGING INTERMEDIARY. A person other than a transient lodging provider that facilitates the retail sale of transient lodging and charges for occupancy of the transient lodging. Or, b) TRANSIENT LODGING PROVIDER. A person that furnishes transient lodging.~~

~~**PCPA BONDS.** Bonds or other obligations issued by the City to fund capital improvements to the PCPA in an amount not to exceed \$2,100,000, and any bonds issued to refund those bonds.~~

RENT. The consideration charged, whether or not received by the operator, for the occupancy of space in a hotel, valued in money, goods, labor, credits, property or other consideration valued in money, without any deduction:

Rent does not include the sale or purchase of any goods, services or commodities other than the furnishing of rooms, accommodations and space occupancy in mobile home parks or trailer parks.

If a single rate is charged by the operator for a package plan to include both food and rent, the tax imposed by this chapter shall be based on the charge for rent when not part of a package plan.

~~**RENT PACKAGE PLAN.** 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 subchapter is the same charge made for rent when not a part of a package plan.~~

TAX. Either the tax payable by the transient or the aggregate amount of taxes due from an operator during the period for which the operator is required to report collections.

TAX ADMINISTRATOR. The Finance Director Chief Financial Officer of the County.

TRANSIENT. Any individual who exercises occupancy or is entitled to occupancy in a hotel for a period of 30 consecutive calendar days or less, counting portions of calendar days as full days. The day a transient checks out of the hotel will not be included in determining the

30-day period if the transient is not charged rent for that day by the operator. Any such individual occupying space in a hotel will be considered to be a transient until the period of 30 days has expired unless there is an agreement in writing between the operator and the occupant providing for a longer period of occupancy, or the tenancy actually extends more than 30 consecutive days. A person who pays for lodging on a monthly basis, irrespective of the number of days in any month, is not considered transient.

VISITOR FACILITIES INTERGOVERNMENTAL AGREEMENT. That intergovernmental agreement entered into by and between Multnomah County, the City of Portland, and Metro for the purpose of supporting regional visitor facilities and visitor industry development in the Portland-Multnomah County area.

VISITOR FACILITIES TRUST ACCOUNT (VFTA). The excise tax account created by MCC § 11.401(E) to receive and disburse Net Revenues as provided in the Visitor Facilities Intergovernmental Agreement.

Section 3. MCC § 11.401 is amended as follows:

§ 11.401 – TAX IMPOSED.

(A) For the privilege of occupancy in any hotel in the county, each transient shall pay a tax of 11.5% of the rent charged by the operator.

(1) The tax constitutes a debt owed by the transient to the county that is extinguished only by payment by the operator to the county. The transient ~~will~~ shall pay the tax to the operator ~~of the hotel~~ at the time the rent is paid.

(2) The operator will record the tax when rent is collected if the operator keeps records on the cash accounting basis, and when earned if the operator keeps records on the accrual accounting basis. If rent is paid in installments, the transient will pay a proportionate share of the tax to the operator with each installment. ~~In all cases the rent paid or charged for occupancy will exclude the sale of any goods, services and commodities, other than the furnishing of rooms, accommodations and space occupancy in mobile home parks or trailer parks. After deductions for administration costs and any refunds or credits authorized by this subchapter the proceeds of the tax will be allocated as provided for in subsections (A), (B), (C), (D) and (E) of this section.~~

(3) ~~After deductions for administration costs and any refunds or credits authorized by this subchapter the proceeds of the tax will be allocated as provided for in subsections (B), (C), (D) and (E) of this section.~~

(B) The base rate of the tax imposed by subsection (A) is equal to 5%. It will be allocated to the county general fund, and is available for general fund expenditures.

(C) A surcharge ~~rate~~ of the tax imposed by subsection (A) is equal to 1% and will be used exclusively for contracting with private organizations for the promotion, solicitation, procurement and service of county convention business and tourism.

(D) A surcharge ~~rate~~ of the tax imposed by subsection (A) is equal to 3% and will be allocated to the Excise Tax Fund and dedicated to the expenditures specified in subsection 11.402 (A).

~~(1) Before paying the tax imposed by subsection (D), as required by § 11.407, the operator may deduct an amount equal to 5% of that portion of the tax that is allocated to the Excise Tax Fund. This 5% may be retained by the operator as reimbursement for the operator's expenses in collecting the tax.~~

~~(2) The county will pay from the proceeds of the tax that is allocated to the Excise Tax Fund:~~

~~(a) To Metro, for the operation of the Oregon Convention Center, \$3,800,000 in fiscal year 1997-98 and, in each fiscal year thereafter, that amount plus annual percentage increases equal to the greater of the change in the CPI or the overall change in the proceeds of the tax. If the overall increase in the proceeds of the tax in any given year exceeds 7%, any additional funds beyond the 7% increase will be allocated as specified in subsection (e) of subsection (D). Metro may also utilize the proceeds to pay debt service on Bonds issued for the purpose of making capital improvements to the Oregon Convention Center.~~

~~(b) To the government entity responsible for the operation of the Portland Center for the Performing Arts, \$1,200,000 in fiscal year 1997-98 and, in each fiscal year thereafter, that amount plus annual percentage increases equal to the lesser of the change in the CPI or the overall change in the proceeds of the tax.~~

~~(c) To the government entity responsible for operating the Portland Center for the Performing Arts for a program or programs for cultural tourism, to be administered through a contract with the Portland Oregon Visitor's Association, and in collaboration with the Regional Arts and Culture Council, \$200,000 in fiscal year 1997-98 and, in each fiscal year thereafter, that amount plus annual percentage increases equal to the lesser of the change in the CPI or the overall change in the proceeds of the tax;~~

~~(d) To the Regional Arts and Culture Council, any remaining balance up to \$200,000 of the proceeds of the tax after the payments in subsections (a) through (c) are made, to be allocated as follows:~~

~~1. \$100,000 for neighborhood arts;~~

~~2. \$100,000 to broaden participation in and visitors to the region's cultural and artistic assets by residents of outlying areas of the greater Portland metropolitan region.~~

~~(e) To Metro for any remaining balance of the proceeds from the tax after the payments in subsections (a) through (c) are made will be allocated towards replacement, renewal, expansion, and other capital needs of the facilities managed by Metro, on an as-needed basis to be determined by Metro.~~

~~_____ (3) Earnings on proceeds allocated to the Excise Tax Fund will be credited to the Excise Tax Fund.~~

~~_____ (4) The amounts specified in subsection (2) above are subject to review by the Board every five years.~~

~~_____ (5) The tax imposed by subsection (D) is separate and independent of the tax imposed by subsection (C). Nothing in this subsection (D) modifies the 1% tax provided for by subsection (C).~~

(E) A surcharge ~~rate~~ of the tax imposed by subsection (A) is equal to 2.5% and will be allocated to the VFTA that is separate from the Excise Tax Fund, and dedicated to the expenditures specified in subsection 11.402(B). This 2.5% surcharge will terminate if the 2.5% motor vehicle rental tax surcharge imposed by § 11.301(C) is terminated before issuance of the Bonds. This surcharge shall remain in force as long as the bonds described in subsection 11.402 (B) (2) and (3) are outstanding.

~~(1) Before paying the tax imposed by subsection (E) as required by § 11.407, the operator may deduct an amount equal to 5% of the portion of the tax allocated to VFTA. This 5% may be retained by the operator as reimbursement for expenses for collecting the tax.~~

~~(2) The tax imposed by subsection (E) is separate and independent of the tax imposed by subsections (C) and (D). Nothing in this subsection modifies the taxes imposed by subsections (C) and (D).~~

~~_____ (3) In addition to imposing a tax, this subsection (E) specifically authorizes the Board under Home Rule authority to enter into an intergovernmental agreement with the City, pledging the County to maintain the tax surcharge to pay the Bonds and other obligations of this subsection (E). Any pledge of tax revenues in such an intergovernmental agreement is binding under ORS 288.594 from April 1, 2000, and as long as the Bonds set out in subsection (E) are outstanding.~~

~~_____ (4) Taxes imposed by subsection (E) will be allocated in the following order of priority:~~

~~_____ (a) First, to the City in the amount required to pay debt service on the Convention Center Completion Bonds;~~

~~_____ (b) Second, to the City in the amount required to pay debt service on the PCPA Bonds;~~

~~_____ (c) Third, to the City in the amount, if any, required to pay the remaining debt service on Civic Stadium Bonds after application of Civic Stadium Revenues;~~

~~_____ (d) Fourth, to Metro in the amount, if any, required to pay reasonable operating, capital repair and maintenance cost of the OCC in excess of revenues collected by the OCC and the tax received by Metro from subsection (D);~~

~~_____ (e) Fifth, to Metro for Convention Center Marketing, \$250,000 in Year One, \$350,000 in the second year, increased for each fiscal year thereafter by the CPI.~~

~~_____ (f) Sixth, to Tri-County Metropolitan Transportation District (Tri-Met), \$300,000 in the fiscal year 2000-01, increased each subsequent fiscal year by the CPI, for costs of extending the fareless square to the Lloyd Center Max station;~~

~~_____ (g) Seventh, to the Visitor Development Fund (VDF), \$250,000 in the fiscal year 2000-01, \$500,000 in fiscal year 2001-02, increased each subsequent fiscal year by the CPI, to attract visitors to the county and City that maximize hotel occupancy and vehicle rentals;~~

~~_____ (h) Eighth, to Metro for the operator of the PCPA, \$250,000 in Year One, \$500,000 in the second year, increased each year thereafter by the CPI, for costs of PCPA operations;~~

~~_____ (i) Ninth, to Metro to pay OCC operating deficits in excess of \$8,840,000 that accumulate during the first six fiscal years (2000-01 through 2005-06) after the effective date of the tax imposed by subsection (E);~~

~~_____ (j) Tenth, to a revenue stabilization subaccount sufficient to pay subsection (a) through (i) disbursements, and that may be used to redeem or defease Convention Center Completion Bonds and PCPA Bonds.~~

~~_____ (k) Eleventh, any subsection (E) taxes remaining after the (a) through (i) payments including subaccounts may be spent according to budgets proposed by the Visitor Development Board.~~

Section 4. MCC § 11.402 is amended as follows:

§ 11.402 DISTRIBUTION OF EXCISE TAX FUND AND VISTOR FACILITES TRUST ACCOUNT.

(A) The 3% surcharge tax imposed by Section 11.401(D) and allocated to the Excise Tax Fund shall be collected and distributed annually as follows:

(1) Before paying the tax surcharge imposed by subsection (D), as required by § 11.407, the operator may deduct an amount equal to 5% of that portion of the tax that is allocated to the Excise Tax Fund. This 5% may be retained by the operator as reimbursement for the operator's expenses in collecting the tax.

(2) The county will pay from the proceeds of the tax surcharge that is allocated to the Excise Tax Fund as set forth in paragraphs (a) through (e) below, -to support bond repayment as specified in (B)(2) of this section, which taxes will be deposited into the visitor facilities trust account VFTA:

(a) To Metro, for the operation of the Oregon Convention Center, \$3,800,000 in fiscal year 1997-98 and, in each fiscal year thereafter, that amount

plus annual percentage increases equal to the greater of the change in the CPI or the overall change in the proceeds of the tax. If the overall increase in the proceeds of the tax in any given year exceeds 7%, any additional funds beyond the 7% increase will be allocated as specified in subsection (e) of subsection (D2). Metro may also utilize the proceeds to pay debt service on Bonds issued for the purpose of making capital improvements to the Oregon Convention Center.

(b) To the government entity responsible for the operation of the Portland Center for the Performing Arts, \$1,200,000 in fiscal year 1997-98 and, in each fiscal year thereafter, that amount plus annual percentage increases equal to the lesser of the change in the CPI or the overall change in the proceeds of the tax.

(c) To the government entity responsible for operating the Portland Center for the Performing Arts for a program or programs for cultural tourism, to be administered through a contract with the Portland Oregon Visitor's Association, and in collaboration with the Regional Arts and Culture Council, \$200,000 in fiscal year 1997-98 and, in each fiscal year thereafter, that amount plus annual percentage increases equal to the lesser of the change in the CPI or the overall change in the proceeds of the tax;

(d) To the Regional Arts and Culture Council, any remaining balance up to \$200,000 of the proceeds of the tax after the payments in subsections (a) through (c) are made, to be allocated as follows:

1. \$100,000 for neighborhood arts;

2. \$100,000 to broaden participation in and visitors to the region's cultural and artistic assets by residents of outlying areas of the greater Portland metropolitan region.

(e) To Metro for any remaining balance of the proceeds from the tax after the payments in subsections (a) through (e) are made will be allocated towards replacement, renewal, expansion, and other capital needs of the facilities managed by Metro, on an as-needed basis to be determined by Metro.

(3) Earnings on proceeds allocated to the Excise Tax Fund will be credited to the Excise Tax Fund.

(4) The amounts specified in subsection (2) above are subject to review by the Board every five years.

(B) The 2.5% surcharge tax imposed described by section 11.401(E) and allocated to the VFTA shall be collected and distributed annually for the benefit of the City of Portland, the owners of the Bonds, Metro, the County, and The Visitor Development Fund, Inc., according to the terms of the Visitor Facilities Intergovernmental Agreement between the City, County and Metro. Said distribution shall be made in the following order of priority in amounts specified in the Visitor Facilities Intergovernmental Agreement:

(1) Before paying the tax imposed by subsection (E) as required by § 11.407, the operator may deduct an amount equal to 5% of the portion of the tax allocated to VFTA. This 5% may be retained by the operator as reimbursement for expenses for collecting the tax.

(2) To the City of Portland for payment of debt service on bonds issued for the Oregon Convention Center, Portland's Centers for the Arts, and Civic Stadium (now known as Jeld-Wen Field).

(3) To Metro for payment of debt service on the Oregon Convention Center Hotel Project Bonds;

(4) For support of Operations, Programs, Services, Capital Improvements and Marketing related to:

- (i) Oregon Convention Center,
- (ii) County Visitor Facilities,
- (iii) Enhanced Oregon Convention Center Marketing,
- (iv) Convention Visitor Public Transit Passes,
- (v) Visitor Development Fund, Inc.,
- (vi) Portland's Center for the Arts, and
- (vii) Rose Quarter Facilities and City Tourism Support;

(5) The Restricted Reserve and Bond Redemption Reserve.

Section 5. MCC § 11.403 is amended as follows:

§ 11.403 COLLECTION OF TAX BY OPERATOR.

(A) Every operator renting rooms or space for lodging or sleeping purposes in this county, the occupancy of which is not exempted under the terms of this subchapter, must collect a tax from the occupant. ~~The tax collected or accrued by the operator constitutes a debt owing by the operator to the county.~~

(B) Each operator must collect the tax imposed by this subchapter at the same time the rent is collected from each transient. The amount of tax must be separately stated upon the operator's records and any receipt rendered by the operator. No operator of a hotel will advertise that the tax or any part of the tax will be assumed or absorbed by the operator, or that it will not be added to the rent, or that, when added, any part will be refunded, except as provided by this subchapter. In all cases of credit or deferred payment of rent, the payment of tax to the operator may be deferred until the rent is paid, and the operator will not be liable for the tax until credits are paid or deferred payments are made. Adjustments may be made for uncollectable taxes.

~~(C) The tax administrator will enforce provisions of this subchapter and has the power to adopt rules consistent with this subchapter that aid enforcement. The tax collected or~~

accrued by the operator constitutes a debt owing by the operator to the county, payable as specified in 11.407 of this Chapter.

~~(D) For rent collected on portions of a dollar, fractions of a penny of tax will not be remitted. In all cases of credit or deferred payment of rent, the payment of tax to the operator may be deferred until the rent is paid, and the operator will not be liable for the tax until credits are paid or deferred payments are made. Adjustments may be made for uncollectable taxes.~~

~~(E) For rent collected on portions of a dollar, fractions of a penny of tax will not be remitted.~~

Section 6. MCC § 11.404 is amended as follows:

§ 11.404 TAX ADMINISTRATOR'S DUTIES. ~~OPERATOR'S DUTIES.~~

~~Each operator must collect the tax imposed by this subchapter at the same time the rent is collected from each transient. The amount of tax must be separately stated upon the operator's records and any receipt rendered by the operator. No operator of a hotel will advertise that the tax or any part of the tax will be assumed or absorbed by the operator, or that it will not be added to the rent, or that, when added, any part will be refunded, except as provided by this subchapter. The Tax Administrator shall adopt Administrative Rules for the purpose of carrying out the provisions of this subchapter.~~

Section 7. MCC § 11.405 is amended as follows:

§ 11.405 – EXEMPTIONS.

No tax imposed by this subchapter will be collected from:

- (A) Any occupant for more than 30 successive calendar days;
- (B) Any person who pays for lodging on a monthly basis, irrespective of the number of days in any month;
- (C) Any occupant whose rent is of a value less than \$2 per day;
- (D) Any person who rents a private home, vacation cabin or similar facility from any owner who rents the facility incidentally to the owner's own use of it;
- (E) Any federal government employee renting a room for official governmental business; or
- (F) Any persons renting and occupying a space in a recreational vehicle park or campground.

(G) Any person housed through an emergency shelter or disaster program where the rent is paid with government assistance;

(H) Any person in a hospital room, medical or mental health facility, convalescent home, home for aged people, or a government owned and operated public institution.

Section 8. MCC § 11.406 is amended as follows:

§ 11.406 – REGISTRATION OF OPERATOR; CERTIFICATION OF AUTHORITY.

(A) Every person engaging or about to engage in business as an operator of a hotel in the county must register with the tax administrator on a form provided by the administrator. Operators starting businesses must register within 15 calendar days after commencing business.

(B) The privilege of registration after the date of imposition of the transient lodgings tax will not relieve any person from the obligation of payment or collection of tax regardless of registration.

~~(C) Registration must set forth the name under which an operator transacts or intends to transact business, the location of place or places of business and such other information as the tax administrator may require to facilitate the collection of the tax. The operator must sign the registration.~~

(DC) The tax administrator will, within ten days after registration, issue without charge a certificate of authority to each registrant to collect the tax from the occupant, with a duplicate for each additional place of business of each registrant.

(ED) Certificates are not assignable or transferable and must be surrendered immediately to the tax administrator upon the cessation of business at the location named or upon its sale or transfer.

~~(F) Each certificate and duplicate will state the place of business to which it is applicable and must be prominently displayed to be seen and come to the notice readily of all occupants and persons seeking occupancy.~~

~~(G) The certificate will, among other things, state the following:~~

~~(1) The name of the operator;~~

~~(2) The address of the hotel;~~

~~(3) The date upon which the certificate was issued; and~~

~~(4) A notice reading as follows:~~

~~This Transient Occupancy Registration Certificate signifies that the person named has fulfilled the requirements of the Transient Lodgings Tax Ordinance of Multnomah County, Oregon, by the registration with the tax administrator to collect from transients the county lodgings tax. This certificate does not authorize any person to conduct any business or operate a hotel without strictly complying with all applicable laws, including those requiring any other county permit. This certificate is not a permit.~~

Section 9. MCC § 11.407 is amended as follows:

§ 11.407 – DUE DATE; RETURNS AND PAYMENTS.

(A) ~~The transient must pay the tax imposed by this subchapter to the operator at the time that the rent is paid. All taxes collected by any operator are due and payable to the tax administrator on a quarterly basis on the fifteenth day of the following month for the preceding three months, and are delinquent on the last day of the month in which they are due. If the last day falls on a holiday or weekend, amounts are delinquent on the first business day that follows. The tax administrator has authority to classify or district the operators for determination of applicable tax periods, and will notify each operator of the due and delinquent dates for the operator's returns. The initial return under this subchapter may be for less than the three months preceding the due date. Thereafter, returns must be made for the applicable quarterly period.~~

(B) ~~On or before the fifteenth day of the month following each quarter of collection, a return for the preceding quarter's tax collections must be filed with the tax administrator. The return must be filed in filed by every operator liable for payment of tax in such form and in such manner as the tax administrator may prescribe by Administrative Rule. by every operator liable for payment of tax.~~

~~(C) Returns must show the amount of tax collected or otherwise due for the period. The tax administrator may require returns to show the total rentals upon which tax was collected or otherwise due, the gross receipts of the operator for the period, and an explanation of any discrepancy between those amounts and the rents exempt, if any.~~

~~(D) The person required to file the return must deliver the return, together with the remittance of the amount of the tax due, to the tax administrator, either by personal delivery or by mail. If the return is mailed, the postmark will be considered the date of delivery for determining delinquencies.~~

(EC) ~~For good cause, the tax administrator may extend for up to one month the time for making any return or payment of tax. No further extension will be granted. Any operator to whom an extension is granted must pay interest at the rate of 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, the interest will become part of the tax for computation of penalties described in § 11.420.~~

(D) An operator to whom an extension is granted must pay interest at the rate of 1.25% 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, the interest will become part of the tax for computation of penalties described in § 11.420.

~~(F) — If the tax administrator considers it necessary to insure payment or facilitate collection by the county of the amount of taxes in any individual case, the tax administrator may require returns and payment of the amount of taxes for other than quarterly periods.~~

Section 10. MCC § 11.408 is amended as follows:

§ 11.408 – TAX DEFICIENCY DETERMINATION.

(A) The tax administrator may compute and determine the amount required to be paid upon the facts contained in the return, or other information. One or more deficiency determinations may be made of the amount due for one, or more than one period. Once deficiency determination is made, the amount of the deficiency is due and payable ten days after service of deficiency notice. ~~The amount so determined is due and payable immediately upon service of notice, after which the amount determined is delinquent.~~ Penalties on deficiencies will be applied under § 11.420.

(B) In making a determination, the tax administrator may offset overpayments for previous periods, against any underpayment for subsequent periods, or against penalties and interest on the underpayments. The interest on underpayments will be computed under § 11.420.

~~(C) — The tax administrator will give to the operator or occupant a written notice. The notice may be served personally or by mail. If by mail, the notice will be addressed to the operator as it appears on the records of the tax administrator. In case of service by mail of any notice required by this subchapter, the service is complete at the time of deposit in the United States post office.~~

~~(D) — Except in the case of fraud or intent to evade this subchapter or applicable rules, every deficiency determination will be made and notice mailed within three years after the last day of the month following the close of the quarterly period for which the amount is proposed to be determined, or within three years after the return is filed, whichever period expires later.~~

~~(E) — Any determination will become due and payable immediately upon receipt of notice and becomes final within ten days after the tax administrator has given notice. The operator may petition for redetermination if the petition is filed before the determination becomes final.~~

Section 11. MCC § 11.410 is amended as follows:

§ 11.410 – OPERATOR DELAY.

~~If the tax administrator believes that the collection of any tax required to be collected and paid to the county will be jeopardized by delay, or if any determination will be jeopardized by delay, the tax administrator may determine the amount of tax required to be collected. The amount so determined will be immediately due and payable, and the operator must~~

~~immediately pay the determination to the tax administrator after service of notice. The operator may petition, after payment has been made, for redemption and refund of the determination, if the petition is filed within ten days from the date of service of notice by the tax administrator.~~

Section 12. MCC § 11.411 is amended as follows:

§ 11.411 – REDETERMINATION.

(A) Any operator or person against whom a determination is made under §§ 11.408 through 11.410~~409~~ or any operator or person directly interested may petition for a redetermination within the time required in §§ 11.408 through 11.410~~409~~. If a petition for redetermination is not filed within that time, the determination becomes final at the expiration of the allowable time.

(B) If a petition for redetermination is filed within the allowable period, the tax administrator will reconsider the determination, and, if the petition requests, grant an oral hearing and give ten 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.

(C) The tax administrator may decrease or increase the amount of the determination based upon information obtained in the hearing. ~~because of the hearing and if~~ an increase is determined the increase will be payable immediately after the hearing with the following quarter's payment.

(D) The order or decision of the tax administrator upon a petition for redetermination becomes final ten days after service upon the petitioner of notice, unless appeal of the order or decision is filed with the tax administrator within the ten days after service of notice.

(E) No petition for redetermination or other appeal shall be accepted and no petition or appeal is effective for any purpose unless the operator has first complied with the payment provisions hereof and has paid in full the amount determined to be due by the decision appealed from.

Section 13. MCC § 11.415 is amended as follows:

§ 11.415 – APPEAL.

(A) Any person, operator or transient may appeal any decision of the tax administrator by filing a notice of appeal with the tax administrator within ten days of the service of the notice of the decision given by the tax administrator. Service shall be considered complete within three days of the date the notice of decision is placed in the US Mail. The amount payable referenced on the notice of decision given by the tax administrator must be paid in full before appeal can be filed.

(B) All appeals will be heard by the Business License Appeals Board or Hearings Officer of the City of Portland as determined by City of Portland Code. The tax administrator will transmit the notice of appeal, together with the file of the appealed matter to the Business License Appeals Board within ten business days of receipt of the notice of appeal. The tax

administrator will provide the appellant with a copy of the transmittal to the Business License Appeals Board which will include a description– of the appeal process and the rights of the appellant in the appeal process.

(C) The decision by the Business License Appeal Board or Hearings Officer shall be the final administrative remedy of the appellant.

Section 14. MCC § 11.420 is amended as follows:

§ 11.420 – DELINQUENCY AND INTEREST.

(A) Any operator who has not been granted an extension of time for remittance of tax due and who fails to remit any tax imposed by this subchapter prior to delinquency must pay a penalty of 10% of the amount of the tax due in addition to the amount of the tax.

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

(C) If the tax administrator determines that the nonpayment of any remittance due under this subchapter is due to fraud or intent to evade, a penalty of 25% of the amount of the tax will be added to the penalties stated in divisions (A) and (B) of this section.

(D) In addition to the penalties imposed, any operator who fails to remit any tax imposed by this subchapter must pay interest at the rate of 1.0% 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 the remittance first became delinquent until paid. Interest shall be compounded monthly.

(E) Every penalty imposed and interest under this section is merged with and becomes part of the tax required to be paid.

(F) Any operator who fails to remit the tax levied within the time required by this subchapter must pay the penalties. However, the operator may petition the tax administrator for waiver and refund of the penalty or any portion thereof and the tax administrator may, if a good and sufficient reason is shown, waive and direct a refund of the penalty or any portion thereof.

Section 15. MCC § 11.499 is amended as follows:

§ 11.499 – PENALTY.

(A) A violation of this subchapter includes but is not limited to:

1. Failure to register a hotel as required by Section 11.406;

2. Failure to file a Transient Lodging Tax payment and report, including any penalties and interested, within 60 days of the due date specified in Section 11.407(A);

3. Failure to furnish a Return as required by Section 11.407(B);

4. Filing a false or fraudulent report or return with intent to defeat or evade the determination or any amount due under this chapter;

5. Failure to collect a tax or failure to maintain a separate account for the transient lodging tax collected as required by Section 11.403.

(B) Any operator or other person who commits a violation of this subchapter fails to register as required by this subchapter, or who fails to furnish any return, supplemental return or other data required by this subchapter or by the tax administrator, or, with intent to defeat or evade the determination or any amount due under this subchapter, makes, renders, signs or verifies any false or fraudulent report, commits an offense that is a violation of this subchapter punishable by fine in an amount to be fixed by the court Administrator, not exceeding \$500 for each separate offense.

FIRST READING: December 5, 2013

SECOND READING AND ADOPTION: December 12, 2013

**BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON**

Marissa Madrigal, Acting Chair

REVIEWED:
JENNY M. MADKOUR, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By_____

SUBMITTED BY: Jacqueline A. Weber, Deputy County Attorney