

BEFORE THE BOARD OF COUNTY COMMISSIONERS

FOR MULTNOMAH COUNTY, OREGON

**ORDINANCE NO. 941**

Amending MCC 11.400-11.499, increasing the Transient Lodging Tax for Visitor Facilities

**The Multnomah County Board of Commissioners Finds:**

- a. Ordinance 56 effective July 15, 1972 imposes a 5% transient lodging tax and allocates all revenues to the County general fund.
- b. The voters adopted Ordinance 171 effective January 1, 1979 that imposes a 1% surcharge tax dedicated to promote county convention business and tourism.
- c. Ordinance 488 effective April 1, 1986 raises the transient lodging tax to 8% from the original 5%. It imposes an additional 3% tax allocated to a Convention and Trade Show Center Special Fund, and authorizes uses for the fund.
- d. Ordinance 501 also effective April 1, 1986 defined "lead agency" as the governmental unit with authority to seek voter approval of general obligation bonds that formally declared its intent to build and operate a convention center. It authorized the lead agency to make expenditures from the fund only for construction and operation of the center.
- e. Under a June 24, 1986 intergovernmental agreement between the County and Metro, Metro became the lead agency under the County code. The County agreed to pay to Metro the 3% lodging tax revenues, and Metro agreed to spend them for the purposes listed in the County transient lodging tax code.
- f. Ordinance 569 effective February 28, 1988 amended the code to permit the lead agency to spend \$70,000 from the fund for the 1988 International Association of Chiefs of Police Convention.
- g. Ordinance 593 effective October 29, 1988 amended the code to add two exemptions from the tax and other technical changes.
- h. Ordinance 790 effective July 16, 1994 amended the code to authorize fund expenditures of \$600,000 per year for three years for operation of the Portland Center for the Performing Arts, and \$100,000 per year for three years for the Metropolitan Arts Commission. It also changed the definition of lead agency to Metro.
- i. Ordinance 811 effective January 26, 1995 amended the code to substitute the Regional Arts and Culture Council for the Metropolitan Arts Commission.

- j. Ordinance 845 adopted March 14, 1996 amended the code to permit Metro to spend \$9,000,000 for construction of a new exhibit hall at the Portland Exposition Center.
- k. Ordinance 870 adopted January 2, 1997 amended the code to rename the fund the Transient Lodging Tax Fund. It defines "facilities" to include the Portland Center for the Performing Art, the Exposition Center, the Civic Stadium and neighborhood arts programs as well as the Oregon Convention Center. It deleted the term "lead agency." Beginning fiscal year 1997-98, it authorizes yearly payments of \$3,800,000 to the Oregon Convention Center, \$1,200,000 to the Portland Center for the Performing Arts, and \$200,000 for cultural tourism. The payments increase for inflation. Also authorized is a yearly payment of up to \$200,000 to the Regional Arts and Culture Council. The ordinance provides for review of those amounts by the Board every five years.
- l. Ordinance 893 adopted December 18, 1997 amended the code to impose an additional 0.5% transient lodging tax to be allocated to an Oregon Convention Center Completion Fund. This tax did not take effect because in November 1998 voters did not approve general obligation bonds to finance completion of the center.
- m. The County has approved a September 14, 1999 Memorandum of Understanding relating to the expansion of the Oregon Convention Center, improvements to the Portland Center for the Performing Arts and Civic Stadium, and enhancements to the county visitor industry. The County has agreed to amend its code to impose a 2.5% surcharge transient lodging tax and a 2.5% surcharge motor vehicle rental tax to fund these activities.

**Multnomah County Ordains as follows:**

**Section 1.** MCC §§ 11.402 and 11.421 are repealed and MCC §§ 11.400-11.499 are amended to read as follows:

***TRANSIENT LODGINGS TAX***

**§ 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 \$33,000,000 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 115,000 square feet of exhibit space, a 35,000 square foot ballroom, 40 meeting rooms, 35,000 square feet of lobby space, a 1,350 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.

**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.*

**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.

**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 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 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.

**VISITORS 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.*

**§ 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. 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 pay the tax to the operator of the hotel at the time the rent is paid. 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.

(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.

(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 (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.

(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. This 2.5% surcharge will terminate if the 2.5% motor vehicle rental tax surcharge imposed by MCC 11.301(C) is terminated before issuance of the Bonds.***

***(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 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;*

*(f) Sixth, 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;*

*(g) Seventh, to Metro for the operator of the PCPA, \$500,000 each fiscal year, increased by the CPI, for costs of PCPA operations;*

*(h) Eighth, 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);*

*(i) Ninth, to a revenue stabilization subaccount sufficient to pay subsection (a) through (h) disbursements for at least one fiscal year, and that may be used to redeem or defease Convention Center Completion Bonds and PCPA Bonds.*

*(j) Tenth, any subsection (E) taxes remaining after the (a) through (h) payments including subaccounts may be spent according to budgets proposed by the Visitor Development Board.*

**§ 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) 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.

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

**§ 11.404      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.

**§ 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.



**§ 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.

(D) 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.

(E) 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.

**§ 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. 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 such form as the tax administrator may prescribe 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.

(E) 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.

(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.

**§ 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. 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.

#### **§ 11.409      Fraud; Refusal To Collect; Evasion.**

If any operator fails or refuses to collect the tax or to make within the time provided in this subchapter any report and remittance of the tax required by this subchapter, or makes a fraudulent return or otherwise willfully attempts to evade this subchapter, the tax administrator will obtain facts and information for an estimate of the tax due. The tax administrator will determine and assess against the operator the tax, interest and penalties provided by this subchapter. The tax administrator will give a notice as provided in § 11.408 of the amount assessed. The determination and notice will be made and mailed within three years after discovery by the tax administrator of any fraud, intent to evade or failure or refusal to collect the tax, or failure to file a return. Any determination becomes 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 redemption and refund if the petition is filed before the determination becomes final.

#### **§ 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.

**§ 11.411      Redeterminations.**

(A) Any person against whom a determination is made under §§ 11.408 through 11.410 or any person directly interested may petition for a redetermination within the time required in §§ 11.408 through 11.410. 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 because of the hearing and if an increase is determined the increase will be payable immediately after the hearing.

(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 appeal will be effective for any purpose unless the operator has first complied with the payment provisions of this subchapter.

**§ 11.412      Security For Collection Of Tax.**

(A) The tax administrator may require any operator to deposit security in the form of cash, bond or other security as the tax administrator may determine. The amount of the security will be fixed by the tax administrator but will not be greater than twice the operator's estimated average quarterly liability for the period, determined as the tax administrator considers proper, or \$5,000, whichever is less. The amount of the security may be increased or decreased by the tax administrator subject to the limitations of this subsection.

(B) At any time within three years after any tax required to be collected becomes due and payable or at any time within three years after any determination becomes final, the tax administrator may bring an action in the courts of this state, or any other state, or of the United States in the name of the county to collect the amount delinquent together with penalties and interest.

**§ 11.413      Records Maintained By Operator; Administrator Examination.**

(A) Every operator must keep guest records of room sales and accounting books and records of the room sales. The operator must retain all records for a period of three years and six months after they are created.

(B) The tax administrator 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. The tax administrator may investigate the business of the operator in order to verify the accuracy of any return made, or if the operator makes no return, to ascertain and determine the amount required to be paid.

**§ 11.414      Confidential Character Of Information; Disclosure Prohibited.**

It is unlawful for the tax administrator or any person having an administrative or clerical duty under this subchapter to make known in any manner 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 the amount or source of income, profits, losses, expenditures or to permit any statement, application, or other private record to be seen or examined by any person. Nothing in this section will prevent:

(A) The disclosure to, or the examination of records and equipment to another county official, employee or agent for collection of taxes for the purpose of administering or enforcing this subchapter, including the collection of taxes.

(B) The disclosure, after the filing of a written request to that effect, to the taxpayer, receivers, trustees, executors, administrators, assignees and guarantors, if directly interested, of information as to any paid tax, any unpaid tax or amount of tax required to be collected, or interest, and penalties. The District Attorney must approve each disclosure and the tax administrator may refuse to make any disclosure when the public interest would suffer.

(C) The disclosure of the names and addresses of any persons to whom transient occupancy registration certificates have been issued.

(D) The disclosure of general statistics regarding taxes collected or business activity.

**§ 11.415 Appeals To Board.**

Any person aggrieved by any decision of the tax administrator may appeal to the Board by filing a notice of appeal with the tax administrator within ten days of the serving or the mailing of the notice of the decision given by the tax administrator. The tax administrator will transmit the notice of appeal, together with the file of the appealed matter to the Chair, who will fix a time and place for hearing the appeal from the decision. The Chair will give the appellant not less than ten days' prior written notice of the time and place of hearing on the appealed matter.

**§ 11.416 Refunds By County To Operator.**

When any tax, penalty or interest is erroneously paid, it may be refunded. A verified claim in writing, stating the specific reason for the claim must be filed with the tax administrator within three years from the date of payment. The claim must be made on forms provided by the tax administrator. If the tax administrator approves the claim, the excess amount collected or paid may be refunded or may be credited on any amounts then due from the operator and the balance may be refunded to the operator.

**§ 11.417 Refunds By County To Transient.**

When the tax required by this subchapter is collected by the operator and deposited with the tax administrator and is later determined erroneously paid, it may be refunded by the tax administrator to the transient. A verified claim in writing, stating the specific reason for the claim must be filed with the tax administrator within three years from the date of payment.

**§ 11.418 Refunds By Operator To Tenant.**

When the tax required by this subchapter is collected by the operator and it is later determined that the tenant occupies the hotel for a period exceeding 30 days without interruption, the operator must refund to the tenant the tax collected. . The operator must account for the collection and refund to the tax administrator. If the operator remits the tax before refund or credit to the tenant, the operator is entitled to a corresponding refund under § 11.416.

**§ 11.419 Credit Against City Tax.**

(A) Any person subject to the payment or collection of the 11.401(B) 5% base tax and the 11.401(C) 1% surcharge is entitled to a credit against the payment of the tax in the amount due any city within the county for a transient lodgings tax for the same occupancy.

(B) No person subject to the surcharge taxes imposed by 11.401(D) and 11.401(E) is entitled to a credit against the payment of those taxes. The 3% surcharge imposed by 11.401(D) and the 2.5% surcharge imposed by 11.401(E) are due and payable in accordance with this subchapter regardless of the amount due any city within the county for a transient lodging tax for the same occupancy made taxable under this subchapter.

**§ 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 0.5% 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 the remittance first became delinquent until paid.

(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.

**§ 11.499      Penalty.**

Any operator or other person who 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, not exceeding \$500.

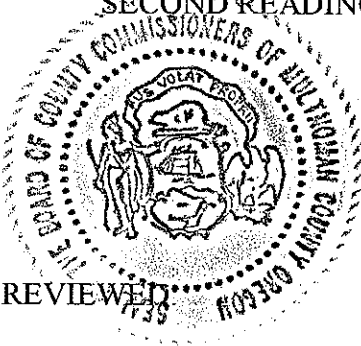
**Section 2.**      This ordinance is effective on April 1, 2000.

FIRST READING:

February 3, 2000

SECOND READING AND ADOPTION:

February 17, 2000



REVIEWED

Thomas Sponsler, County Counsel  
For Multnomah County, Oregon

Thomas Sponsler  
Thomas Sponsler

BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

Beverly Stein  
Beverly Stein, Chair