

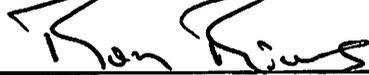
BEFORE THE BOARD OF COMMISSIONERS  
HOOD RIVER COUNTY, OREGON

IN THE MATTER OF REPEAL AND )  
REPLACEMENT OF ORDINANCE )  
NO. 330 TRANSIENT ROOM TAX )      ORDINANCE NO. 348

IT IS HEREBY ORDAINED that Hood River County Ordinance NO. 330, 2016,  
Transient Room Tax is REPEALED and REPLACED as set forth in the attached exhibit and  
adopted as Chapter 3.04 of the Hood River County Code.

ADOPTED this 19<sup>th</sup> day of June, 2017.

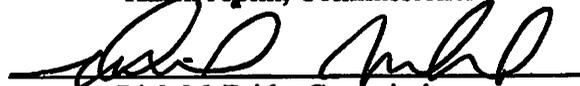
HOOD RIVER COUNTY  
BOARD OF COMMISSIONERS



Ron Rivers, Chair



Karen Joplin, Commissioner



Rich McBride, Commissioner



Robert Benton, Commissioner

Les Perkins, Commissioner

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# HOOD RIVER COUNTY REVISED CODE

## TITLE 3

### \*SECTION 3.04 ADDRESSING TRANSIENT ROOM TAX\*

#### **CHAPTER 3.04      TRANSIENT ROOM TAX**

SECTIONS:

3.04.005	SHORT TIDE.
3.04.015	DEFINITIONS.
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3.04.035	EXEMPTIONS.
3.04.045	APPLICATION WITHIN INCORPORATED CITIES.
3.04.055	REGISTRATION.
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3.04.205	REFUND.
3.04.215	TRANSIENT REVIEW OF TAX.
3.04.225	ADMINISTRATION.
3.04.235	TAX REVENUE SHARING.
3.04.245	FAILURE TO COMPLY WITH ROOM TAX REGULATIONS.

**3.04.005 SHORT TITLE.**

This chapter shall be known as the "Hood River County Room Tax Code."

**3.04.015 DEFINITIONS.**

The following definitions shall apply to this chapter:

- (1) "Accommodate" or "provide accommodations" means to provide transient lodging.
- (2) "Board" means the Hood River County Board of Commissioners.
- (3) "County" means Hood River County.
- (4) "Finance Officer" means the Hood River County Director of Budget and Finance, or an agent operating on the Director's behalf.
- (5) "Transient Lodging," except as provided in subsection (c), means:
  - (a) Hotel, motel, lodge, hostel, bed and breakfast, inn or other dwelling units that are used for temporary overnight human occupancy; and
  - (b) Houses, cabins, condominiums, apartment units or other dwelling units, or portions of any of these dwelling units, that are used for temporary human occupancy.
  - (c) "Transient lodging" does not apply to facilities for temporary human occupancy:
    - (i) Located on public land; and
    - (ii) Operated by a local, state or federal government agency.
- (6) "Occupancy" or "occupy" means the use, possession, or right to use transient lodging.
- (7) "Operator" means an individual who is an owner, partner, general manager or similar executive of transient lodging, possessing actual authority to conduct the transient lodging's business.
- (8) "Owner" means any individual, partnership, association, limited liability company, corporation, trust or other legal entity capable of ownership, possessing an ownership interest in transient lodging doing business in Hood River County.
- (9) "Rent" means the value of any consideration promised or exchanged for accommodation in or occupancy of transient lodging.
- (10) "Room and Board" means the consideration charged for food and accommodations under a single combined rate.

- (11) "Room tax" or "tax" means that tax required to be paid by transients, collected by operators and remitted to the County in accordance with this chapter.
- (12) "Transient" means any person who occupies transient lodging for a period of thirty consecutive days or less. Such persons shall be deemed "transients" unless and until thirty days has passed or they have executed a written agreement to occupy the room or space for more than thirty days.

**3.04.025 TAX IMPOSED.**

- (1) All transients shall pay a room tax of an amount equal to eight percent (8%) of any rent paid or due;
- (2) All transients shall pay the room tax to the operator at the time that rent is paid;
- (3) The room tax is debt owed by the transient to Hood River County and is extinguished only upon payment in full.
- (4) Once collected from a transient, the room tax is the exclusive property of Hood River County.

**3.04.035 EXEMPTIONS.**

The Room Tax shall not be levied upon:

- A. Any person who occupies transient lodging for more than thirty successive days;
- B. Any person whose rent is valued at less than eight dollars per day;
- C. Any person who occupies a hospital room, medical clinic, convalescent home or retirement home;
- D. Any person who occupies a domestic violence shelter or young women's shelter.
- E. Any person who occupies transient lodging that is:
  - (a) Located on publicly-owned property; and
  - (b) Operated by a local, state or federal government agency.

**3.04.045 APPLICATION WITHIN INCORPORATED CITIES.**

The room tax shall apply to all transient lodging within Hood River County, including transient lodging within incorporated cities, unless the incorporated city imposes a room tax equal to or greater than five percent of the rent charged.

**3.04.055 REGISTRATION.**

- (1) All transient lodging must be registered with the Finance Officer; newly-opened transient lodging must be registered within ten business days of initial operation.
- (2) Registration forms shall require the following information:
  - (a) The name of the transient lodging or, if none, the owner's name;
  - (b) The physical and mailing address of the transient lodging;
  - (c) The name, title and business address, and business phone number of an individual to be designated by owner of the transient lodging or as the operator of that transient lodging under HRCC 3.04.075;
  - (d) The names and complete addresses of all parties holding an ownership interest in the transient lodging, including but not limited to corporations, partners, partnerships, parent companies, and franchisors.

**3.04.065 CERTIFICATES.**

- (1) Upon registration, the Finance Officer shall issue a certificate to the transient lodging operator, which states the following:
  - (a) The name of the transient lodging;
  - (b) The name of the operator;
  - (c) The physical and mailing addresses of the transient lodging;
  - (d) The date of issuance;
  - (e) A declaration, which reads:

*"This document certifies that the operator named above is authorized and required by Hood River County Code 3.04.005-275 to collect from the customers of this transient lodging a room tax of 8%, and to faithfully remit these taxes to the County."*

- (2) Certificates may further contain any relevant information deemed appropriate by the Finance Officer or the Board
- (3) Certificates may not be assigned or transferred; all certificates shall be surrendered to the Finance Officer upon the sale, transfer or cessation of the business.
- (4) Certificates shall be prominently displayed at each transient lodging premises in a manner that provides notice to all occupants or potential occupants.

**3.04.075 DESIGNATION OF OPERATOR.**

- (1) The owner of any transient lodging shall designate to the Finance Officer one individual as that transient lodging's operator for the purposes of this chapter.
- (2) Operators must be an owner, partner, general manager or similar executive with actual authority to conduct the transient lodging's business.

**3.04.085 OPERATOR'S DUTIES.**

- (1) Operators are authorized and required to collect and remit room taxes under this chapter.
- (2) Operators shall collect the room tax from the transient at the time the rent is paid.
- (3) Operators shall record each collection of room taxes at the time the collection is made; the records shall document separately the amount of rent paid and the amount of taxes collected.
- (4) Except as set forth in subsection (a), operators shall remit all transient room taxed collected to the Finance Officer in accordance with this chapter.
  - (a) Upon filing a return, an operator may declare and withhold five percent (5%) of the net taxed imposed under this chapter as reimbursement for the operator's costs to collect, report and maintain records regarding transient room taxes.
- (5) Operators shall provide written notice to the Finance Officer upon the sale, transfer or cessation of Operator's transient lodging business and surrender its certificate in accordance with HRCC 3.04.065(b).

**3.04.095 MAINTENANCE OF RECORDS.**

- (1) Operators shall keep complete records and accountings of all sales and the occupancy of the transient lodging facility. Operators are required to retain records under this section for a period of four years.
- (2) The Finance Officer may examine all records, logs, books and ledgers relating to room sales and occupancy, provided:
  - (a) The Finance Officer provides notice to the operator, and
  - (b) The examination takes place during normal business hours.

**3.4.105 DUE DATE: RETURNS AND REMITTANCE.**

- (1) Room taxes collected by the operator shall be remitted to the Finance Officer quarterly and are due and payable and as follows:
  - (a) Taxes collected from January 1 to March 31 shall be delivered to the County on or before April 30;
  - (b) Taxes collected April 1 to June 30 shall be delivered to the County on or before July 31;
  - (c) Taxes collected July 1 to September 30 shall be delivered to the County on or before October 31; and
  - (d) Taxes collected October 1 to December 31 shall be delivered to the County on or before January 31.
- (2) Operators shall submit a return for each quarter, as prescribed by the Finance Officer, to be filed at the same time as the remittance. Operators are required to submit quarterly returns even if no taxes were collected during the applicable period.
- (3) Returns shall state the amount of tax collected or due and all other relevant information reasonably required by the Finance Officer, including but not limited to, the operator's gross receipts, the total rent paid, and claimed exemptions.
- (4) Operators shall submit the return and the collected room tax to the Finance Officer such that actual receipt occurs on or before the deadlines stated in 3.04.105 above. If the due date falls on a weekend or holiday, the return and collected room tax must be delivered to the Budget & Finance office such that actual receipt occurs on or before the last business day of the month in which the return and remittance are due.

Operators may deliver returns and collected taxes to the Finance Officer by:

- (a) U.S. Mail; or
  - (b) Physical delivery to the County Budget and Finance office, including shipment through a third-party delivery service.
- (5) Delivery of returns and remittances under this section shall not be complete until the County receives physical possession. Shipping information, including postmarks, shall not be considered in determining the timeliness of a submission.

**3.04.115 EXTENSIONS.**

- (1) Upon a showing of good cause, the Finance Officer may extend the deadline for delivering returns or collected room taxes for a period of up to 30 days. No further extension shall be granted, except by the Board of Commissioners.

- (2) Operators granted an extension under sub-section (1) shall pay interest on the amount of taxes due, at a rate of one percent (1%) per month until paid.
- (3) Taxes and interest not paid within the extension granted shall be considered a "tax" for the purpose calculating penalties under this chapter.

**3.04.125 OWNERS AND OPERATORS LIABLE.**

Owners and operators shall be individually, jointly and severally liable for all room tax collected and not remitted in strict accordance with this chapter.

**3.04.135 OFFER TO PAY TAX PROHIBITED.**

No owner or operator shall pay, credit or reimburse any portion of a transient's room tax nor offer to do so.

**3.04.145 PENALTIES AND INTEREST.**

- (1) The civil penalty for failure to remit room taxes shall be imposed as follows:
  - (a) Remittances less than 30 days overdue shall be subject to a civil penalty in an amount equal to ten percent (10%) of the subject remittance.
  - (b) Remittances 30 days or more overdue shall be subject to a civil penalty in an amount equal to twenty-five percent (15%) of the subject remittance.
- (2) The civil penalty for the fraudulent failure to remit room taxes shall be subject to a civil penalty in an amount equal to fifty percent (50%) of the amount withheld.
- (3) In addition to any penalty imposed under sub-section (1), any overdue remittances shall be subject to interest at one percent (1%) per month.
- (4) Penalties and interest imposed on delinquent taxes under this chapter shall be deemed taxes for the purposes of enforcement and collections.
- (5) An operator found in violation of this section may petition the Board to waive or reduce the amount of the resulting penalty.
  - (a) The Board shall not waive or reduce a penalty imposed under this section except upon a finding of good and sufficient cause.

**3.04.155 FINANCE OFFICER DUTIES.**

- (1) The Finance Officer shall:
  - (a) Review each return and remittance submitted by an operator;

- (b) Request and collect any further information necessary to ensure compliance with this chapter.
- (2) The Finance Officer may bring administrative or legal actions to collect unpaid remittances, taxes, penalties or interest provided such action is initiated within three (3) years of the subject payment becoming overdue.
- (3) The Finance Officer shall investigate all claims of overpayment, improper interest or penalties and notify the claimant, by mail, of the Finance Officer's determination.
- (4) The Finance Officer may place, release and enforce liens in accordance with Oregon Law and the provisions of this chapter.

**3.04.165 DEFICIENT REMITTANCES.**

- (1) The Finance Officer shall promptly notify an operator of any deficient remittance.
- (2) Notice under this section may be first class mail to the operator's registered address, or by other means reasonably calculated to provide actual notice.
- (3) Any operator who is provided notice of a deficiency under this section shall respond to the Finance Officer within ten (10) days of receipt of such notice, and
  - (a) Pay the deficient amount;
  - (b) Provide additional facts or information supporting the amount remitted; or
  - (c) Request a review under HRCC 3.04.175.
- (4) If delinquent, a deficient remittance may be subject to penalties and interest under HRCRC 3.04.145.
- (5) A notice of deficiency under this section shall be initiated within three (3) years of the deficient payment.

**3.04.175 REVIEW OF DEFICIENCIES.**

- (1) Upon a request for review under HRCRC 3.04.165(3)(c), the Finance Officer shall:
  - (a) Schedule a hearing before the Board of Commissioners.
  - (b) Provide the Board and the operator with written notice of the date, time and location of the hearing.
  - (c) Provide all parties with at least ten (10) days' notice prior to the hearing.
- (2) The Finance Officer and operator may each submit relevant evidence regarding the collection and remission of the room tax.

- (3) The Board shall determine:
  - (a) If a deficiency exists, and if so
  - (b) The amount of that deficiency; and
  - (c) The amount of any applicable penalties or interest.
- (4) The Board's decision shall become final fifteen days after the date it is issued. Any amount ordered by the Board to be paid by operator shall be due at that time.

**3.04.185 SECURITY FOR COLLECTION OF TAX.**

- (1) An Operator who has been more than 30 days overdue in remitting collections two or more times within a two-year period shall be required to post and maintain a security deposit with the Hood River County Office of Budget and Finance under the following terms:
  - (a) The security deposit shall be in the form of cash, bond, or other surety;
  - (b) The security deposit shall be equal to the operator's average quarterly collections or \$5,000, whichever is least.

**3.04.195 COLLECTION OF TAX; LIEN.**

- (1) Any tax, deficiency, interest, penalty, fees and costs imposed pursuant to this chapter shall be, and until paid remain, a lien upon the title to any interest in real property occupied by the Operator, from the date of its docketing and recording with the County Clerk.
- (2) Notice of lien may be issued by the Finance Officer, or a deputy of the Finance Officer, based on any default in the payment of tax, interest, penalties, fees or costs.
- (3) The County shall record each lien in the deed records of Hood River County and provide the operator with a true copy of the recorded lien.
- (4) A lien issued pursuant to this Chapter may be foreclosed on and the property sold as may be necessary to discharge the lien in the manner specified in ORS 223.505 through 223.595.
- (5) Any lien for a delinquent transient room tax shall be released by the Finance Officer when the full amount due has been paid to the County. In such even the Finance Officer shall further provide the Operator with:
  - (a) A receipt, stating the amount of the taxes, penalties, and interest paid; and
  - (b) Notice that the lien has been satisfied and released.

- (6) The provisions of this section are in addition to any other remedy authorized by law for collection of taxes, penalties and interests.

**3.04.205 REFUNDS.**

Any over-payment of remittances, taxes, penalties, or interest, discovered and reported within three years of the over-payment, shall be refunded to the current operator, unless the operator has requested in writing that overpayments be credited toward amounts then owing or to the next quarterly remittance.

**3.04.215 TRANSIENT REVIEW OF TAX.**

- (1) Transients may petition the Finance Officer to review of taxes collected by an operator.
- (2) Finance Officer shall reimburse the transient for any amount of taxes collected erroneously.

**3.04.225 ADMINISTRATION.**

- (1) The County shall establish and maintain a "Transient Room Tax Fund."
- (2) The Finance Officer shall place all funds received under this chapter into the Room Tax Fund.

**3.04.235 TAX REVENUE SHARING.**

- (1) The total gross amount of room tax collected by the Finance Officer each quarter, not including interest and penalties, shall be distributed quarterly as follows:
  - (a) Ten percent (10%) to Hood River County for the costs of administration;
  - (b) Ninety percent (90%) to fund tourism promotion or tourism-related facilities in Hood River County.
- (2) Interest, penalties, fees and costs collected under this chapter shall be distributed to Hood River County.

**3.04.245 FAILURE TO COMPLY WITH ROOM TAX REGULATIONS.**

- (1) A person commits the violation of "Failure to Comply with Room Tax Regulations," if that person, being an owner or operator as defined by this chapter, knowingly, willfully or intentionally:
  - (a) Fails to collect the room tax as required by this chapter;
  - (b) Fails to remit room taxes as required by this chapter;
  - (c) Files a fraudulent return or otherwise attempts to evade payment of the room tax;
  - (d) Fails to register as required under this chapter.

- (2) Failure to Comply with Room Tax Regulations shall be a Category I County Violation.
- (3) Violations of this Chapter shall be prosecuted in accordance with HRCC Chapter 1.08.
- (4) The County may adopt and amend civil penalties for violations of this Chapter in accordance with HRCC 1.08.175.
- (5) Civil penalties imposed under this chapter are non-exclusive remedies and shall not preclude criminal prosecution for theft, fraud, conversion or other criminal acts committed in the course of executing the provisions of this chapter.