

IN THE BOARD OF COUNTY COMMISSIONERS  
IN AND FOR THE COUNTY OF CURRY, OREGON

In the Matter of an Amendment )  
to Ordinance 19-02 of the Curry )  
County Code )

ORDINANCE NO. 19-13

The Board of Commissioners for the County of Curry ordains as follows:

**SECTION 1: TITLE**

This Ordinance shall be known as Ordinance 19-13, an Ordinance amending the Curry County Code with respect to the implementation of the transient lodging tax.

**SECTION 2: ADOPTION**

Exhibit "A", attached hereto and incorporated by reference, is adopted as an amendment to the County Code.

**SECTION 3: SEVERANCE CLAUSE**


If any section, subsection, provision, clause or paragraph of this Ordinance shall be adjudged or declared by any court of competent jurisdiction to be unconstitutional or invalid, such judgement shall not affect the validity of the remaining portions of the Ordinance; and it is hereby expressly declared that every other section, subsection, provision clause or paragraph of this Ordinance enacted, irrespective of the enactment or validity of the portion thereof declared to be unconstitutional or invalid, is valid.

**SECTION 4: EMERGENCY CLAUSE**

The Board of Commissioners for the County of Curry deems this Ordinance necessary for the immediate preservation and protection of the public peace, health, safety and general welfare for Curry County and declares an emergency exists, and this Ordinance shall be effective upon adoption.

**DATED** this 20<sup>th</sup> day of November, 2019.

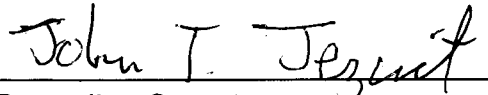
**BOARD OF CURRY COUNTY COMMISSIONERS**

  
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Christopher S. Paasch, Chair

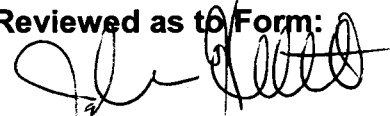
 11.25.19  
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Court Boice, Vice Chair

  
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Sue Gold, Commissioner

**Attest:**

  
\_\_\_\_\_  
Recording Secretary

**Reviewed as to Form:**

  
\_\_\_\_\_  
John Huttli  
Curry County Counsel

First Reading:   NA    
Second Reading:   NA    
Emergency Adoption:   November 20, 1019    
Effective Date:   November 20, 2019

**Exhibit "A"**  
**ARTICLE EIGHT**

**DIVISION TWO- IMPLEMENTATION OF TRANSIENT LODGING TAX**

Section 8.02.010 Title

This ordinance shall be known as the Curry County TLT Implementing Ordinance, and as Ordinance No. 19-02.

Section 8.02.020 Definitions

Except where the context otherwise requires, the definitions established in Curry County Ordinance No. 19-01 and Ordinance No. 19-02 and given in this section govern the construction of this ordinance.

- (1) "Board" means the Board of County Commissioners.
- (2) "County" means Curry County, Oregon.
- (3) "Occupancy" means the right to the use or possession of any space in transient lodging for dwelling, lodging or sleeping purposes for less than 30 days.
- (4) "Occupant" means any individual who exercises occupancy or is entitled to occupancy in transient lodging for a period of 30 consecutive calendar days or less, counting portions of calendar days as full days.
- (5) "Person" means any individual, firm, partnership, joint venture, limited liability company, corporation, limited liability partnership, association, host, social club, fraternal organization, fraternity, sorority, public or private dormitory, joint stock company, estate, trust, business trust, receiver, trustee, syndicate, or any other group or combination acting as a unit.
- (6) "Rent" means the consideration paid or payable by an occupant for the occupancy of space in transient lodging valued in money, goods, labor, credits, property, or other consideration. If a separate fee is charged for services, goods or commodities and the fee is optional, that fee is not included in rent.
- (7) "Short-Term Rental" means a house, duplex, multi-plex, apartment, condominium, houseboat, trailer or other residential dwelling unit where a person rents a guest bedroom or the entire residential dwelling unit for transient lodging occupancy. Generally, a short-term rental is zoned residential or has a building occupancy that only allows for residential use.
- (8) "Short-Term Rental Hosting Platform" means a business or other person that facilitates the retail sale of transient lodging by connecting occupants with transient lodging providers, either online or in any other manner. Short-term rental hosting platforms are transient lodging intermediaries.

- (9) "Tax" means either the tax payable by the transient, or the aggregate amount of taxes due from a transient lodging tax collector during the period for which he is required to report his collections.
- (10) "Tax Administrator" means the Curry County Board of Commissioners, or its designee.
- (11) "TLT or tax" means the transient lodging tax.
- (12) "Transient" means any individual who exercises occupancy or is entitled to occupancy in a transient lodging for a period of less than thirty consecutive days, counting portions of calendar days as full days. The day the transient checks out of the transient lodging shall not be included in determining the thirty day period if the transient is not charged rent for that day by the transient lodging tax collector. Any such person so occupying space in a transient lodging shall be deemed to be a transient until the period of twenty-nine days has expired unless there is an agreement in writing between the transient lodging tax collector and the occupant providing for a longer period of occupancy, or the tenancy actually extends more than twenty-nine consecutive days. In determining whether a person is a transient, uninterrupted periods of occupancy extending both prior and subsequent to the effective date of this Ordinance may be considered. A person who pays for lodging on a monthly basis, irrespective of the number of days in such month, shall not be deemed a transient.
- (13) "Transient Lodging or Transient Lodging Facilities" means:
- (a) Hotel, motel, and inn dwelling units that are used for temporary overnight human occupancy;
  - (b) Spaces used for overnight parking of recreational vehicles or placement of tents during periods of human occupancy; or
  - (c) Houses, cabins, condominiums, apartment units or other dwelling units, or portions of any of these dwelling units that are used for temporary human occupancy.
- (14) "Transient Lodging Intermediary" means a person other than a transient lodging provider that facilitates the retail sale of transient lodging and:
- (a) Charges for occupancy of the transient lodging;
  - (b) Collects the consideration charged for occupancy of the transient lodging; or,
  - (c) Receives a fee or commission and requires the transient lodging provider to use a specified third-party entity to collect the consideration charged for occupancy of the transient lodging.
- (15) "Transient Lodging Provider" means a person that furnishes transient lodging.
- (16) "Transient Lodging Tax Collector" means a transient lodging provider or

transient lodging intermediary.

- (17) "Transient Lodging Tax Review Committee" means a committee composed of an accountant, an attorney, a transient lodging tax collector, and two other persons appointed by the Board and may be owners or operators of transient lodging.

Section 8.02.030 Tax Collection

For the privilege of occupancy in any transient lodging after the effective date of this ordinance, each transient shall pay a tax in the amount required by Curry County Ordinance No. 19-01. The tax constitutes a debt owed by the transient to the County, which is extinguished only by payment by the transient lodging tax collector to the County. The transient shall pay the tax to the transient lodging tax collector of the transient lodging at the time the rent is paid. The transient lodging tax collector shall enter the tax on his/her records when rent is collected if the transient lodging tax collector keeps his records on the cash accounting basis and when earned if the transient lodging tax collector keeps his/her records on the accrual accounting basis. If rent is paid in installments, a proportionate share of the tax shall be paid by the transient to the transient lodging tax collector with each installment.

Section 8.02.040 Collection of Tax by Transient Lodging Tax Collector; Rules for Collection

- (1) Every transient lodging tax collector shall collect the TLT at the time rent is paid, unless an exemption applies. If payment is by credit card, for purposes of this section, payment is made at the time credit card information is provided to the transient lodging tax collector, not when the transient lodging tax collector ultimately receives credit for the transaction. While holding the payment in trust for the county, a transient lodging tax collector may commingle the tax proceeds with the transient lodging tax collector's funds, but the transient lodging tax collector is not the owner of tax proceeds, except that, when a return is filed, the transient lodging tax collector becomes the owner of the administrative fee authorized to be retained. Transient lodging tax collectors may choose to file returns and remit payment based on amounts accrued but not yet collected. The transient lodging tax collector is liable for any TLT that should have been collected from the occupant, except in cases of nonpayment of rent by the occupant.
- (2) Upon request of the county, transient lodging tax collectors must provide all physical addresses of transient lodging facilities within the county and the related contact information, including the name and mailing address, of the general manager, agent, owner, host or other responsible person for the location.
- (3) The Tax Administrator shall enforce the provisions of this Ordinance.
- (4) For rent collected on portions of a dollar, fractions of a penny shall not be

remitted.

Section 8.02.041 Short Term Rental Hosting Platform Fees

A hosting platform for short-term rentals may collect a fee for booking services in connection with short-term rentals only when those short-term rentals are lawfully registered as operators with the county and possess a certificate of authority at the time the short-term rental is occupied.

Section 8.02.042 Liability for Tax

Transient lodging providers who receive any portion of the rent for transient lodging and transient lodging intermediaries that provide booking service are both transient lodging tax collectors and are jointly and severally liable for the tax.

Section 8.02.043 Exemptions

No TLT shall be imposed upon:

- (1) A dwelling unit in a hospital, health care facility, long-term care facility or any other residential facility that is licensed, registered or certified by the Oregon Department of Human Services or the Oregon Health Authority;
- (2) A dwelling unit in a facility providing treatment for drug or alcohol abuse or providing mental health treatment;
- (3) A dwelling unit that is used by members of the general public for temporary human occupancy for fewer than 30 days per year;
- (4) A dwelling unit, the consideration for which is funded through a contract with a government agency and the purpose of which is to provide emergency or temporary shelter;
- (5) A dwelling unit at a nonprofit youth or church camp, nonprofit conference center or other nonprofit facility; or
- (6) A dwelling unit that is leased or otherwise occupied by the same person for a consecutive period of 30 days or more during the year. The requirements of this subsection are satisfied even if the physical dwelling unit changes during the consecutive period, if: (1) All dwelling units occupied are within the same facility; and (2) The person paying consideration for the transient lodging is the same person throughout the consecutive period.

Section 8.02.050 Transient Lodging Tax Collector's Duties

Each transient lodging tax collector shall collect the tax imposed by this Ordinance at the same time as the rent is collected from every transient. The amount of tax shall be

separately stated upon the transient lodging tax collector's records, and any receipt rendered by the transient lodging tax collector. No transient lodging tax collector of a transient lodging shall advertise that the tax or any part of the tax will be assumed or absorbed by the transient lodging tax collector, or that it will not be added to the rent, or that, when added, any part will be refunded, except in the manner provided by this Ordinance.

Section 8.02.060 Payment of Tax

When a return is required under this Ordinance, the transient lodging tax collector required to make the return shall remit the tax due to the Tax Administrator at the time fixed for filing the return.

Section 8.02.070 Amounts Held in Trust

Every transient lodging tax collector required to collect the tax imposed by Ordinance 19-01 shall be deemed to hold the amount collected in trust for Curry County and for payment to the Tax Administrator in the manner and at the time provided herein.

Section 8.02.080 Registration of Transient Lodging Provider: Form and Contents: Execution: Certificate of Authority

(1) Every person engaging or about to engage in business as a provider of transient lodging in the county shall register with the Tax Administrator within 15 days after commencing business. The privilege of registration after the date of imposition of such tax shall not relieve any person from the obligation of payment or collection of tax regardless of registration. Registration shall be on a form provided by the Tax Administrator and shall set forth the name under which the provider transacts or intends to transact business, the location of his/her place or places of business and such other information to facilitate collection of the tax as the Tax Administrator may require. The registration shall be signed by the provider. The Tax Administrator shall, within 10 days after registration, issue without charge a certificate of authority to each registrant to collect the tax from the occupant, together with a duplicate thereof for each additional place of business of each registrant. Certificates shall be non-assignable and nontransferable and shall be surrendered immediately to the Tax Administrator upon the cessation of business at the location named or upon its sale or transfer. Each certificate and duplicate shall state the place of business to which it is applicable and shall be prominently displayed therein so as to be seen and come to the notice readily of all occupants and persons seeking occupancy. The certificate shall include the following:

- (A) The name of the provider;
- (B) The address of the transient lodging facility; and
- (C) The date upon which the certificate was issued;
- (D) The certificate number as assigned by the tax administrator.

(2) "This Transient Occupancy Registration Certificate" signifies that the person named on the face hereof has fulfilled the

requirements of the Transient Lodging Tax Regulations, by registration with the Tax Administrator for the purpose of collection from transients the lodging tax imposed by said County and remitting said tax to the Tax Administrator. This certificate does not authorize any person to conduct any unlawful business or to conduct any lawful business in an unlawful manner, or to operate a transient lodging without strictly complying with all local applicable laws, including, but not limited to those requiring a permit from any board, commission, department, or office of the County. This certificate does not constitute a permit."

Section 8.02.090 Due Date and Form of Returns

- (1) Every transient lodging tax collector is responsible for collecting the tax imposed under Ordinance 19-01, and shall file a return with the Tax Administrator, on or before the last day of the month following the end of each calendar quarter, reporting the amount of tax due during the quarter. The Board or its designee shall prescribe the form of the return required by this section, and the Board shall adopt rules by ordinance regarding the preparation and filing of the return and the payment of the tax, including rules requiring that returns be made under penalties for false swearing.
- (2) A transient lodging tax collector that rents privately owned camping or recreational vehicle spaces shall not be required to file a return or pay the tax collected until the amount of money held equals or exceeds \$100.
- (3) Once the amount held by a transient lodging tax collector described in subsection (2) equals or exceeds \$100, or by December 31 of each year if the \$100 threshold is not met, the transient lodging tax collector shall remit the tax collected at the next following reporting period as determined in subsection (1) above.
- (4) The tax imposed by this Ordinance shall be paid by the transient to the transient lodging tax collector at the time rent is paid. All amounts of such taxes collected by any transient lodging tax collector are due and payable to the Tax Administrator on a quarterly basis on the last day of the following month for the preceding three months; and, are delinquent on the first day following the month in which they are due. The Tax Administrator has authority to classify or district the transient lodging tax collector for determination of applicable tax periods, and shall notify each transient lodging tax collector of the due and delinquent dates for the transient lodging tax collector's returns. The initial return under this Ordinance may be for less than the three months preceding the due date; thereafter returns shall be made for the applicable quarterly period.
- (5) On or before the last day of the month following each quarter of collection, a return for the preceding quarter's tax collections shall be filed with the Tax Administrator. The return shall be filed in such form as the Tax Administrator may prescribe by every transient lodging tax collector liable for payment of



tax. A return must be filed with the Tax Administrator even if no taxes have been collected.

- (6) Returns shall show the amount of tax collected or otherwise due for the related period. The Tax Administrator may require returns to show the total rentals upon which tax was collected or otherwise due, the number of rooms or spaces available during that period, gross receipts of the transient lodging tax collector for such period, and an explanation in detail of any discrepancy between such amounts and the amount of rents exempt, if any.
- (7) The person required to file the return shall deliver the return, together with the remittance of the amount of the tax due, to the Tax Administrator's office, either by personal delivery or by mail. If the return is mailed, the postmark shall be considered the date of delivery for determining delinquencies.
- (8) For good cause, the Tax Administrator may extend for not to exceed one month the time for making any return or payment of tax. No further extension shall be granted except by the Transient Lodging Tax Review Committee. Any transient lodging tax collector to whom an extension is granted shall pay interest at the rate of one percent (1%) per month on the amount of tax due. If a return is not filed, and the tax and interest due is not paid by the end of the extension granted, then the interest shall become a part of the tax for computation of penalties described elsewhere in this Ordinance.

#### Section 8.02.100 Records and Statements

Every transient lodging tax collector shall keep records, render statements and comply with rules adopted by the Board with respect to the tax imposed by Ordinance 19-01. The records and statements required by this section must be sufficient to show whether there is a tax liability imposed therein.

#### Section 8.02.110 Penalties and Interest

- (1) **Penalty-Original Delinquency.** Any transient lodging tax collector who has not been granted an extension of time for remittance of tax due and who fails to remit any tax imposed by this Ordinance prior to delinquency shall pay the greater of ten percent (10%) of the amount of the tax due or \$100 in addition to the amount of the tax.
- (2) **Penalty-Continued Delinquency.** Any transient lodging tax collector who has not been granted an extension of time for remittance of tax due, and who failed to pay a delinquent remittance on or before a period of thirty days following the date on which the remittance first became delinquent shall pay a second delinquency penalty of fifteen percent (15%) of the amount of the tax due plus the tax and the ten percent (10%) penalty first imposed.
- (3) **Penalty-Fraud.** If the Tax Administrator determines that the nonpayment of any remittance due under this Ordinance is due to fraud or intent to evade the

provisions thereof, a penalty of twenty-five percent (25%) of the amount of the tax shall be added thereto in addition to the penalties stated in subsections (1) and (2) of this Section.

- (4) Interest. In addition to the penalties imposed, any transient lodging tax collector who fails to remit any tax imposed by this Ordinance shall pay interest at the rate of one percent (1%) per month or fraction thereof without proration for portions of a month, on the amount of the tax due, exclusive of penalties, from the date on which the remittance first became delinquent until paid.
- (5) Penalties and Interest Merged With Tax. Every penalty imposed and such interest as accrues under the provisions of this Section shall be merged with and become a part of the tax herein required to be paid.
- (6) Petition for Waiver. Any transient lodging tax collector who fails to remit the tax herein levied within the time herein stated shall pay the penalties herein stated; provided however, the transient lodging tax collector may petition the Transient Lodging Tax Review Committee for waiver and refund of the penalty or any portion thereof and the Transient Lodging Tax Review Committee may, if a good and sufficient reason is shown, waive and direct a refund of the penalty or any portion thereof.

Section 8.02.120 Deficiency Determinations; Evasion; Transient Lodging Tax Collector Delay

- (1) Deficiency Determinations. If the Tax Administrator determines that the returns are incorrect, the amount required may be computed and determined upon the basis of the facts contained in the return or returns or upon the basis of any information in the possession of the Tax Administrator, or that may come into his possession. One or more deficiency determinations may be made of the amount due for one, or more than one, period, and the amount so determined shall be due and payable immediately upon service of notice as herein provided after which the amount determined is delinquent. Penalties on deficiencies shall be applied as set forth in Section 8.02.080.
  - (A) In making a determination, the Tax Administrator may offset overpayments, if any, which may have been previously made for a period or periods, against any underpayment for a subsequent period or periods, or against penalties and interest on the underpayments. The interest on underpayments shall be computed in the manner set forth in Section 8.02.080.
  - (B) The Tax Administrator shall give to the transient lodging tax collector or occupant a written notice of the determination. The notice may be served personally or by mail. If by mail, the notice shall be addressed to the transient lodging tax collector at the address as it appears on the records of the Tax Administrator. In case of service by mail of any notice required by this Ordinance, it shall be served by mailing such notice by

- certified mail, postage prepaid, return receipt requested.
- (C) Except in the case of fraud or intent to evade this Ordinance or authorized rules or regulations, every deficiency determination shall be made and notice thereof mailed within three years after the last day of the month following the close of the quarterly period for which the amount is proposed to be determined, or within three years after the return is filed, whichever period expires the later.
- (D) Any determination shall become due and payable immediately upon receipt of notice and shall become final within twenty days after the Tax Administrator has given notice thereof; provided, however, the transient lodging tax collector may petition for a redemption and refund if petition is filed before the determination becomes final as herein provided.
- (2) **Fraud; Refusal to Collect; Evasion.** If any transient lodging tax collector shall fail or refuse to collect the tax or to make, within the time provided in this Ordinance, any report or remittance of the tax or any portion thereof required by this Ordinance, or makes a fraudulent return or otherwise willfully attempts to evade this Ordinance, the Tax Administrator shall proceed in such manner deemed best to obtain the facts and information on which to base an estimate of the tax due. As soon as the Tax Administrator has determined the tax due that is imposed by this Ordinance from any transient lodging tax collector that has failed or refused to collect the same and to report and remit the tax, the Tax Administrator shall proceed to determine and assess against such transient lodging tax collector the tax, interest and penalties provided by this Ordinance. When determination is made, notice shall be given as provided in subsection (1) (B) of this section of the amount so assessed. Such determination and notice shall be made and mailed within three years of the discovery of any fraud, intent to evade, or failure or refusal to collect the tax or failure to file a return. Any determination shall become due and payable upon receipt of notice and shall become final within twenty days after the Tax Administrator has given notice thereof; provided, however, the transient lodging tax collector may petition for a redemption or refund if the petition is filed before the determination becomes final as herein provided.
- (3) **Delay.** If the Tax Administrator believes that the collection of any tax or any amount 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 shall thereupon make a determination of the tax or amount of tax required to be collected, noting the fact upon the determination. The amount so determined as herein provided shall be immediately due and payable and the transient lodging tax collector may petition, after payment has been made, for a redemption and refund of such determination, if a petition is filed within twenty days from the date of service of notice by the Tax Administrator.

Section 8.02.130 Redeterminations

- (1) Any person against whom a determination is made under Section 8.02.090, or any person directly interested may petition for a redetermination and

redemption and refund within the time required in Section 8.02.090. If a petition for redetermination and refund is not filed within the time required in Section 8.02.090, the determination becomes final at the expiration of the allowable time.

- (2) If a petition for redetermination and refund is filed within the allowable period, the Tax Administrator shall reconsider the determination, and, if the person has so requested in his/her petition, shall grant the person a public hearing and shall give him/her twenty days' notice of the time and place of hearing. The Tax Administrator may continue the hearing from time to time as may be necessary.
- (3) The Tax Administrator may decrease or increase the amount of the determination as a result of the hearing and if an increase is determined each increase shall be payable immediately after the hearing.
- (4) The order or decision of the Tax Administrator upon a petition for redetermination of a redemption and refund becomes final twenty days after service upon the petitioner of notice thereof, unless appeal of such order or decision is filed with the Transient Lodging Tax Review Committee within twenty days after the service of such notice.
- (5) No petition for redetermination of redemption and refund or appeal therefrom shall be effective for any purpose unless the transient lodging tax collector has first complied with the payment provisions of this Ordinance.

Section 8.02.140. Security for Collection of Tax

- (1) To ensure compliance with this Ordinance, the Tax Administrator may require transient lodging tax collector to deposit with the County security in a form and amount determined by the Tax Administrator. The amount of security shall not be greater than twice the transient lodging tax collector's estimated quarterly liability for the period for which he/she files returns, or five thousand dollars (\$5,000.00) whichever amount is lesser. The amount of security may be increased or decreased by the Tax Administrator subject to limitations herein provided.
- (2) At any time within three years after any tax, or any amount of tax required to be collected, becomes due and payable, or at any time within three years after a determination becomes final, the Tax Administrator may bring an action in the courts of this state, any other state, or of the United States in the name of the County to collect the amount delinquent plus penalties and interest, reasonable attorneys' fees determined by the court, and court costs.

Section 8.02.120 Lien

- (1) The tax imposed by this Ordinance together with the interest and penalties, reasonable attorneys' fees, filing fees, and advertising costs shall be and, until

paid, remain a lien from the date of its recording with the county clerk, and superior to all subsequent recorded liens on all tangible personal property used in the transient lodging of a transient lodging tax collector within the county, and may be foreclosed on and sold as may be necessary to discharge said lien. Upon the recording of the lien with the county clerk, notice of the lien shall be issued by the Tax Administrator whenever the transient lodging tax collector is in default in the payment of the tax, interest, and/or penalty. A copy of the notice shall be sent by certified mail to the transient lodging tax collector. The Tax Administrator may send notice of the lien to condominium owners affected by the lien. The personal property subject to a lien seized by any deputy or employee of the Tax Administrator may be sold at public auction after 10 days' notice by one publication in a newspaper of general circulation published in the county. Any lien for taxes shown on the records of the proper County official shall, upon payment of all taxes, penalties, and interest thereon, be released by the Tax Administrator when the full amount determined to be due has been paid to the County and the transient lodging tax collector or person making such payment shall have a receipt stating thereon that the full amount of taxes, penalties, and interest have been paid and that the lien is hereby released and the record of lien is satisfied.

- (2) The lien or liens created by this section attach to all tangible personal property referenced herein. The lien or liens created shall also attach to the proceeds of the sale of tangible personal property subject to the lien or liens if:
  - (A) Subsequent to the recording of the lien or liens, tangible personal property, or any part thereof, is sold or delivered to an agent, broker, cooperative agency, or other person to be sold or otherwise disposed of; and
  - (B) The purchaser, agent, broker, cooperative agency, or other person has actual or constructive notice of the filing of the lien or liens, and the proceeds that were received or will be received from the sale or other disposal of the tangible personal property have not been delivered to the owner of the tangible personal property.
  
- (3) When a lien created by this section attaches to the proceeds of a sale of tangible personal property under subsection (2)(A) and (B) of this section, a purchaser, agent, broker, cooperative agency, or other person shall not deliver the proceeds or that portion of the proceeds equal to the amount of the lien claim to the owner until:
  - (A) A time specified by Section 8.02.110(2) of this Ordinance during which a suit to foreclose the lien must be commenced elapses;
  - (B) A court orders delivery of the proceeds; or
  - (C) The Tax Administrator issues a receipt stating that the full amount of taxes, interest, penalties, and costs thereon have been paid and that the lien is released and the record of lien is satisfied.
  
- (4) Any person to whom a notice of lien has been given as provided by this section, who dismantles, removes from the county, misdelivers, or conceals tangible personal property or the proceeds of the sale of tangible personal

property upon which there is a valid lien without the written consent of the lien claimant shall be liable to the lien claimant for damages proximately resulting therefrom which sum may be recovered according to the provisions of Section 8.02.110 (2) of this Ordinance.

Section 8.02.150 Refunds

- (1) Refunds by County to the Transient Lodging Tax Collector. Whenever he amount of any tax, penalty or interest has been paid more than once or has been erroneously or illegally collected or received by the Tax Administrator under this Ordinance, it may be refunded, provided a verified claim in writing, stating the specific reason upon which the claim is founded, is filed with the Tax Administrator within three years from the date of payment. The claim shall be made on forms provided by the Tax Administrator. If the claim is approved by the Tax Administrator, the excess amount collected or paid may be refunded or may be credited on any amount then due and payable from the transient lodging tax collector from whom it was collected or by whom paid and the balance may be refunded to such transient lodging tax collector, his/her administrators, executors, or assigns.
- (2) Refunds by County to Transient. Whenever the tax required by this Ordinance has been collected by a transient lodging tax collector, and deposited by the transient lodging tax collector with the Tax Administrator, and it is later determined that the tax was erroneously paid or illegally collected or received by the Tax Administrator, it may be refunded by the Tax Administrator to the transient, provided a verified claim in writing, stating the specific reason on which the claim is founded, is filed with the Tax Administrator within three years from the date of payment.
- (3) Refunds by Transient Lodging Tax Collector to Tenant. Whenever the tax required by this Ordinance has been collected by the transient lodging tax collector and it is later determined that the tenant occupies the transient lodging for a period exceeding twenty-nine days without interruption, the transient lodging tax collector shall refund to such tenant the tax previously collected by the transient lodging tax collector from the tenant as a transient. The transient lodging tax collector shall account for such collection and refund to the Tax Administrator. If the transient lodging tax collector has remitted the tax prior to the refund or credit to the tenant, he/she shall be entitled to a corresponding refund under this section.

Section 8.02.160 Administration

- (1) Records Required From Transient Lodging Tax Collector. Every transient lodging tax collector shall keep guest records of transient lodging sales and accounting books and records of transient lodging sales. All records shall be retained by the transient lodging tax collector for a period of three years and six months after they come into being.

- (2) Examination of Records; Investigations. The Tax Administrator, or any person authorized in writing by the Tax Administrator, may examine during business hours the books, papers, and accounting records relating to transient lodging sales of any transient lodging tax collector, after notification to the transient lodging tax collector liable for the tax, and may investigate the business of the transient lodging tax collector in order to verify the accuracy of any return made, or if no return is made by the transient lodging tax collector, to ascertain and determine the amount required to be paid.
  
- (3) Confidential Character of Information Obtained; Disclosure Unlawful. It shall be unlawful for the Tax Administrator or any person having an administrative or clerical duty under the provisions of this Ordinance to make known in any manner whatever the business affairs, operations, or information obtained by an investigation of records and equipment of any person required to obtain a Transient Occupancy Registration Certificate, or pay a transient lodging tax, or any other person visited or examined in the discharge of official duty, or the amount or source of income, profits, losses, expenditures, or any particular thereof, set forth in any statement, or to permit any statement or application, or copy thereof, or any book containing an abstract or particulars thereof to be seen or examined by any person; provided, that nothing in this subsection shall be construed to prevent:
  - (A) The disclosure or examination of records and equipment by another County official, employee, or agent for collection of taxes for the sole purpose of administering or enforcing any provisions of this Ordinance, or collection of taxes;
  - (B) The disclosure, after the filing of a written request to that effect, to the taxpayer himself/herself, receivers, trustees, executors, administrators, assigns 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; further provided, however, that the County attorney approves each such disclosure and that the Tax Administrator may refuse to make any disclosure referred to under this paragraph when in his opinion the public interest would suffer thereby;
  - (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 done in the county.
  - (E) Disclosure consistent with ORS 192.502(18).

Section 8.02.170 Allocation of Funds

The allocation, use and disbursement of TLT funds shall be consistent with ORS 320.300 to 320.350, Curry County Ordinance No. 19-01, Curry County Ordinance No. 19-02 and any amendments thereto.

- (1) The portion of monies contained in the Transient Lodging Tax Fund that are dedicated by Curry County Ordinance No. 19-01 for tourism promotion and

tourism-related facilities (hereinafter "TLT Funds"), shall be distributed and administered in accordance with this Section:

- (A) First, subject to BOC approval, half shall be allocated to the County Fair Fund, Event Center Account;
- (B) The remainder shall be administered by a Tourism Promotions Committee, appointed by the Board.
- (C) The County Tourism Promotions Committee shall:
  - (i) Consist of two members appointed from south Curry County, two members from central Curry County, two members from north Curry County, as defined by the district boundaries of the three Curry County School Districts, and one member at large. Members shall be composed of individuals who represents a tourism-based business or a promotions based business, the at-large member shall be a community representative. The Committee shall not be comprised of more than three individuals from a similar business industry.
  - (ii) Annually conduct a county-wide needs assessment of tourism-related facilities within unincorporated areas.
  - (iii) Develop and amend as necessary county-wide/regional strategies for tourism promotion.
  - (iv) In the first year the Committee will prepare and present to the Board for its approval, a written report with findings on its needs assessment for Tourism Related Facilities; county-wide/regional strategies for tourism promotion; and its proposed budget for administration and overhead for the Committee.
  - (v) In subsequent years the Committee will prepare and present to the Board for approval, an annual report that contains, in addition to the matters described in subsection (2)(D) of this section, the details concerning the allocations, amounts and uses of TLT funds during the prior year, an accounting of the Committee's expenditures of TLT funds for administration and overhead and the unexpended balance of TLT funds in the possession of the Committee.
  - (vi) The Committee shall work in partnership with other government entities and organizations who participate in tourism promotion to solicit input, expertise, and resources.
- (D) The purpose of the committee described in subsection (2)(A) of this section is to advise the County on: the policies for the uses of TLT funds; the strategies for tourism promotions and the needs assessment for



tourism-related facilities.

- (E) Following receipt of a written report described in subsection (2)(D) or (2)(E) of this section, the Board will conduct a public presentation concerning the report, the proposed percentage allocations for TLT funds, the proposed strategies for tourism promotion and the Committee's performance.
  - (F) The Board will annually retain the TLT funds for Tourism Promotion and Tourism Related Facilities until it has approved the performance of the Committee and the Committee's written report for that year, or the created written report for that year. Once such approval has been given, the retained TLT funds will be released to the Committee with the balance due for that year to be released by the County Treasurer before the end of each calendar quarter for the amounts collected in the prior calendar quarter.
  - (G) In allocating TLT funds for Tourism Promotion, the Committee shall give preference to collaborative proposals that are consistent with the approved strategies and involve broad participation within the hospitality and tourism industry or other promotional proposals that embrace county wide themes.
  - (H) The Board may provide for limits on the amount of TLT Funds that the Committee may retain for the overhead, administration and amounts of unallocated TLT funds without coming back to the Board for approval to exceed those limits.
  - (I) Other than in subsection (1)(A) above, the Board shall not require specific allocations or create earmarks of tourism related TLT revenues; however, the purpose of creating the Tourism Promotions Committee is to have representation from all areas of the County with the goal that TLT tourism-related revenues be distributed fairly among the County's regions.
- (2) For General County Services
- (A) Not to exceed 5% of non-tourism TLT revenues may be spent on administration;
  - (B) Balance of non-tourism TLT revenues to fund Curry County Sheriff Patrol Deputies.

Section 8.02.180 Transient Lodging Tax Review Committee

The Board is authorized to create a Transient Lodging Tax Review Committee composed of an attorney, who may be county legal counsel; an accountant; a transient lodging tax

collector; and two lay members. The Committee shall select from its members a chairman who shall serve at its pleasure. Three members of the Committee shall constitute a quorum. The Committee shall keep a record of its transactions. The Committee shall be deemed to be in the office of the Tax Administrator and shall keep its files in that office. The members of the Committee shall not, at any time, receive any compensation as such members or acting members for their services on the Committee. The Committee shall be appointed by the Board and shall serve 4-year terms, except that, the accountant, the attorney, and the transient lodging tax collector appointed to the first Committee shall serve three-year terms only.

Section 8.02.190 Duties and Powers of Transient Lodging Tax Review Committee

The Committee shall have power and its duty shall be:

- (1) To hear and determine appeals of orders or decisions of the Tax Administrator made upon petitions for redetermination of tax. The Committee may affirm, modify or reverse such orders or decisions, or dismiss the appeals, as may be just, and shall prescribe such forms, rules and regulations relating to appeals as may be deemed necessary. In review of the Tax Administrator decision or order, the Committee may take such evidence and make such investigation as is deemed necessary. It shall give notice of its determinations in the manner set forth in Section 8.02.090(1)(B) and shall file a copy of such determination with the Tax Administrator with certification thereon of the date of service thereof. Such determination shall become final twenty days thereafter and shall thereupon become due and payable, subject to interest and penalties and enforceable by the Tax Administrator in a like manner as an order or decision of the Tax Administrator.
- (2) To approve, modify or disapprove all forms and policies, prescribed by the Tax Administrator in the administration and enforcement of this Ordinance.
- (3) To hear and determine in such manner as shall be just, any protest which may be made by any person who may be interested, to any form or policy approved or prescribed by the Committee.
- (4) To grant for good cause, applications for extensions of time in excess of one month, for making any return or payment of tax, and to prescribe rules therefor.
- (5) To make such investigations as are deemed advisable regarding the imposition and administration of the transient lodging tax and report the findings to the Board; to act in an advisory capacity to the Board on matters pertaining to the transient lodging tax and enforcement problems and to recommend to the Board the adoption, amendment, or repeal of regulations pertaining thereto.

Section 8.02.200 Appeal to Transient Lodging Tax Review Committee

Any person aggrieved by any decision of the Tax Administrator may appeal to the Transient Lodging Tax Review Committee by filing notice of appeal with the Tax Administrator within twenty days of the serving or mailing of the tax notice or a decision given by the Tax Administrator. The Tax Administrator shall fix a time and place for hearing such appeal and shall give the appellant not less than twenty days written notice of the time and place of hearing.

Section 8.02.210 Appeal to Board of Commissioners

Any person aggrieved by any decision of the Transient Lodging Tax Review Committee may appeal to the Board by filing notice of appeal with the Tax Administrator within twenty days of the serving or mailing of the notice of the decision given by the Transient Lodging Tax Review Committee. The Tax Administrator shall transmit said notice of appeal together with the file of said appealed matter to the Board, who shall fix a time and place for hearing such appeal from the decision of the Transient Lodging Tax Review Committee. The Board shall give the appellant not less than twenty days written notice of the time and place of hearing of said appealed matter. Action by the Board on appeals shall be decided by a majority of the members present at the meeting where such appeal is considered.

Section 8.02.220 Violations

It is unlawful for any transient lodging tax collector or other person so required, to fail or refuse to register, furnish any required return, furnish a supplemental return, or other data required by the Tax Administrator, or to render a false or fraudulent return. No person required to make, render, sign, or verify any report shall make any false or fraudulent report, with intent to defeat or evade the determination of any amount due under this Ordinance.

Section 8.02.230. Penalties

Violation of any of the provisions of this Ordinance shall be a Class A violation, with a maximum penalty of \$2,000 in fines. Penalties may be enforced in accordance with Article Ten of the Curry County Code.

Section 8.02.240 Effective Date

This ordinance shall become effective at 12:01 a.m. on the 1st day of September, 2019, if Ordinance No. 19-01 is approved by voters at the May 2019 election.