

BEFORE THE BOARD OF COUNTY COMMISSIONERS

FOR TILLAMOOK COUNTY, OREGON

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409  
JUL 29 2018  
TASSI O'NEIL  
COUNTY CLERK

In the Matter of an Ordinance Implementing )  
The Tillamook County Transient Lodging Tax )  
(TLT) Ordinance #74; Providing Administrative )  
Procedures for Collection, Refunds and ) ORDINANCE # 75  
Enforcement; Establishing Penalties; Creating )  
A Transient Lodging Tax Review Committee; )  
And Providing for the Allocation of the Funds )  
Dedicated to Tourism Promotion and Tourism- )  
Related Facilities )

The Board of Commissioners for Tillamook County ORDAINS as follows:

Section 1. Title

This ordinance shall be known as the Tillamook County TLT Implementing Ordinance.

Section 2. Definitions

Except where the context otherwise requires, the definitions established in Tillamook County Ordinance #74 and given in this section govern the construction of this ordinance.

- (a) "Board" means the Board of County Commissioners.
- (b) "County" means Tillamook County, Oregon.
- (c) "Occupancy" means the use or possession, or the right to the use or possession for lodging or sleeping purposes of any transient lodging.
- (d) "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.
- (e) "Tax Administrator" means the Tillamook County Board of Commissioners, or its designee.
- (f) "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.

- (g) "Transient Lodging Tax Review Committee" means the Board of County Commissioners, or, if it so selects, a committee composed of an accountant, an attorney, and three other persons appointed by the Board and may be owners or operators of transient lodging.

### Section 3. 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 Tillamook County Ordinance #74. 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 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 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 4. Collection of Tax by Transient Lodging Tax Collector; Rules for Collection

- (a) Every transient lodging tax collector renting transient lodging in this county, the occupancy of which is not exempted under the terms of this ordinance or Ordinance #74, shall collect a tax from the occupant. The tax collected or accrued by the transient lodging tax collector constitutes a debt owing by the transient lodging tax collector to the county.
- (b) In all cases of credit or deferred payment of rent, the payment of tax to the transient lodging tax collector may be deferred until the rent is paid and the transient lodging tax collector shall not be liable for the tax until credits are paid and deferred payments are made. Adjustments may be made for uncollectables.
- (c) The Tax Administrator shall enforce the provisions of this ordinance.

- (d) For rent collected on portions of a dollar, fractions of a penny shall not be remitted.

Section 5. 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 6. Registration of Transient Lodging Provider; Form and Contents; Execution; Certificate of Authority

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 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 non-transferable 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;
- (c) The date upon which the certificate was issued; and
- (d) "This Transient Occupancy Registration Certificate signifies that the person named on the face hereof has fulfilled the requirements of the Transient Lodging 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 7. Due Date; Returns and Payments

- (a) 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.
- (b) 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.
- (c) 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.
- (d) 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.
- (e) 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. Penalties and Interest

- (a) **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.
- (b) **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.
- (c) **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 (a) and (b) of this Section.
- (d) **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 prorations for portions of a month, on the amount of the tax due, exclusive of penalties, from the date on which the remittance first become delinquent until paid.
- (e) **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.
- (f) **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 9. Deficiency Determinations; Evasion; Transient Lodging Tax Collector Delay

- (a) 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 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.
- (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.
- (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.
- (b) 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 (a) (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.

- (c) 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 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 10. Redeterminations

- (a) Any person against whom a determination is made under Section 9, or any person directly interested may petition for a redetermination and redemption and refund within the time required in Section 9. If a petition for redetermination and refund is not filed within the time required in Section 9, the determination becomes final at the expiration of the allowable time.
- (b) 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 petition, shall grant the person a public hearing and shall give him 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.
- (c) The Tax Administrator may decrease or increase the amount of the determination as a result of the hearing and if an increase is determined each increase shall be payable immediately after the hearing.

- (d) 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.
- (e) 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 11. Security for Collection of Tax

- (a) To ensure compliance with this Ordinance, the Tax Administrator may require a 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 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.
- (b) 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 12. Lien

- (a) 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 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.

- (b) 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.
- (c) When a lien created by this section attaches to the proceeds of a sale of tangible personal property under subsection (b)(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 11(b) 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.
- (d) 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 11 (b) of this Ordinance.

### Section 13. Refunds

- (a) Refunds by County to the Transient Lodging Tax Collector. Whenever the amount of any tax, penalty or interest has been paid more than once or has been erroneously or illegally collected or received by the Tax Administrator under this 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 administrators, executors, or assigns.
- (b) 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 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.
- (c) 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 shall be entitled to a corresponding refund under this section.

### Section 14. Administration

- (a) 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.
- (b) 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.

- (c) 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, 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.

#### Section 15. Allocation of Funds for Tourism Promotion and Tourism Related Facilities

The portion of monies contained in the Transient Lodging Tax Fund that are dedicated by Tillamook County Ordinance #74 for tourism promotion and tourism-related facilities (hereinafter "TLT Funds"), shall be distributed and administered in accordance with this Section:

- (a) The Board may contract with the Tillamook County Economic Development Council or a Tourism-Promotion Agency (hereinafter "Contracting Entity") to allocate and distribute TLT Funds.
- (b) Following the execution of a contract described in subsection (a) of this section, a Contracting Entity shall:
  - (1) Annually conduct a county-wide needs assessment of tourism related facilities within incorporated cities and unincorporated areas.
  - (2) Develop and amend as necessary county-wide/regional strategies for tourism promotion.
  - (3) At least twice annually convene a committee comprised of transient lodging providers, citizens, local government representatives, members of tourism promotion agencies and, if desired, independent consultants from the tourism promotion industry. The specific make-up and terms of the committee members will be determined in the contract with the Contracting Entity.
  - (4) In the first year of a contract, 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; its recommendation on the proposed percentage allocations for Tourism Promotion and Tourism Related Facilities with each of the latter expressed as a percentage range with both a minimum and maximum; and its proposed budget for administration and overhead for the Contracting Entity.
  - (5) In subsequent years the Contracting Entity will prepare and present to the Board for approval, an annual report that contains, in addition to the matters described in subsection 15(b)(4) of this section, the details concerning the allocations, amounts and uses of TLT funds during the prior year, an accounting of the Contracting Entity's expenditures of TLT funds for administration and overhead and the unexpended balance of TLT funds in the possession of the Contracting Entity.
- (c) The purpose of the committee described in subsection (b)(3) of this section is to advise the Contracting Entity on: the policies for the uses of TLT funds; the strategies for tourism promotions and the needs assessment for tourism related facilities.
- (d) Following receipt of a written report described in subsection (b)(4) or (b)(5) of this section, the Board will conduct a public hearing concerning the report, the proposed percentage allocations for TLT funds, the proposed strategies for tourism promotion and the Contracting Entity's performance under the contract.

- (e) The Board will annually retain the TLT funds for Tourism Promotion and Tourism Related Facilities until it has approved the performance of the Contracting Entity under the contract and the Contracting Entity's written report for that year. Once such approval has been given, the retained TLT funds will be released to the Contracting Entity 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.
- (f) The allocation, use and disbursement of TLT funds shall be consistent with ORS 320.300 to 320.350, Tillamook County Ordinance #74, Tillamook County Ordinance #75 and any amendments thereto.
- (g) In allocating TLT funds for Tourism Promotion, the Contracting Entity 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) By way of the contract described in subsection (a) of this Section, the Board may provide for limits on the amount of TLT Funds that the Contracting Entity 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) The Board shall not require specific allocations or create earmarks as part of the contract described in subsection (a) of this Section.

#### Section 16. 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. If a committee is not created, the Board shall perform all duties and have all powers given to the Committee by this Ordinance. 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 17. Duties and Powers of Transient Lodging Tax Review Committee

The Committee shall have power and its duty shall be:

- (a) 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 9(a)(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.
- (b) To approve, modify or disapprove all forms and policies, prescribed by the Tax Administrator in the administration and enforcement of this ordinance.
- (c) 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.
- (d) 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.
- (e) 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 18. 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 19. 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 20. Severability

If any section, subsection, paragraph, sentence, clause or phrase of this ordinance, or any part thereof, is for any reason held to be unconstitutional or otherwise invalid such decision shall not affect the validity of the remaining portions of this ordinance or any part thereof. The Board hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional or otherwise invalid.

Section 21. 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 22. 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.

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Section 23. Effective Date

This ordinance shall become effective at 12:01 a.m. on the 1<sup>st</sup> day of January, 2014, if Ordinance #74 is approved by voters at the November 2013 election.

Date of First Reading: 6-26-13

Date of Second Reading: 7-10-13

ADOPTED this 17<sup>th</sup> day of July, 2013.

BOARD OF COUNTY COMMISSIONERS  
FOR TILLAMOOK COUNTY, OREGON

Mark Labhart  
Mark Labhart, Chair

Aye    Nay    Abstain/Absent

✓    \_\_\_\_\_    1

Bill Baertlein  
Bill Baertlein, Vice Chair

✓    \_\_\_\_\_    1

Tim Josi  
Tim Josi, Commissioner

✓    \_\_\_\_\_    1

ATTEST:    Tassi O'Neil,  
                  County clerk

APPROVED AS TO FORM:

BY: Susan L. Beecraft  
                  Special Deputy

William K. Sargent  
William K. Sargent, County Counsel

