

MEMORANDUM

TO: Mayor and City Council

FROM: Roberta Likens, Finance Director

SUBJECT: SECOND VOTE FOR ORDINANCE NO. 3163 AMENDING TITLE 5, BUSINESS LICENSES AND REGULATIONS, CHAPTER 5.32, TRANSIENT ROOM TAX

DATE: September 21, 2022

Background

At the previous City Council meeting the Council held the first vote on Ordinance No. 3163 Amending Title 5, Business Licenses and Regulations, Chapter 5.32, Transient Room Tax.

Effective October 1, 2022, the City of Eugene has opted to use the Oregon Department of Revenue to collect the transient lodging taxes for them, and will no longer contract with various agencies, including the City of Cottage Grove, to provide collection services. Ordinance No. 3163 will align the City's existing room tax procedures with the administrative requirements of the Oregon Department of Revenue, allowing them to collect the transient lodging taxes for the City once an intergovernmental agreement is made for the collection of the taxes. The agreement cannot be finalized until after the ordinance is adopted. The model intergovernmental agreement is attached for your review and will be drawn specific to the City of Cottage Grove.

The cost for the collection services is estimated to be approximately \$197 per month, with tax turn over occurring in the months of April, July, October, and January of each year. Previously they were collected and paid to the City on a monthly basis.

It is important to note that the proposed amendments do not create a new tax or change the City's existing room tax rate applicable to transient rentals within the City of Cottage Grove. The term transient room tax is being updated to transient lodging tax as used in ORS Chapter 320. The ordinance repeals Title 5, Chapter 5.32, and replaces it in full, attached to the ordinance as Exhibit A.

Recommendation

It is recommended that the City Council hold the second vote on Ordinance No. 3163 Amending Title 5, Business Licenses and Regulations, Chapter 5.32, Transient Room Tax and authorize the City Manager to enter into an intergovernmental agreement with the State of Oregon, Department of Revenue, for collection of the transient lodging taxes, beginning October 1, 2022.

Cost

No Cost


Richard Meyers, City Manager


Roberta Likens, Finance Director

ORDINANCE NO. 3163

AN ORDINANCE AMENDING TITLE 5, BUSINESS LICENSES AND REGULATIONS,
CHAPTER 5.32, TRANSIENT ROOM TAX

WHEREAS, the City of Cottage Grove (City) has had a transient room tax since 1989;
and

WHEREAS, the City's four percent tax rate has been in place since prior to December
31, 2001; and

WHEREAS, for many years, the City has contracted with the City of Eugene to collect
the City's transient room tax. In addition to working with Cottage Grove, the City of Eugene
administers the room taxes for Lane County, Springfield and Florence; and

WHEREAS, in 2017, the Oregon Legislature amended ORS 305.620 to allow the Oregon
Department of Revenue to collect local transient room taxes on behalf of counties and cities.
Under the 2017 amendment, the Department of Revenue is permitted to collect local taxes if the
local government and the Department of Revenue enter into an intergovernmental agreement and
the Department of Revenue recoups its administrative costs; and

WHEREAS, since the 2017 statutory change, the Department of Revenue and the League
of Oregon Cities have worked together to develop a model ordinance for jurisdictions to use to
align the state and local administrative tax procedures so that there could be consistent
application for the Department of Revenue to perform tax collection duties. In order to have the
Department of Revenue administer a local jurisdiction's room tax, the local jurisdiction needs to
update its local regulations and enter into an intergovernmental agreement with Department of
Revenue for collection and administration. Under such an arrangement, the Department of
Revenue will undertake all aspects of administering the local room tax, including auditing and
enforcement duties; and

WHEREAS, coinciding with the start of the next fiscal year in July, the City of Eugene
will be moving its own tax administration to the Department of Revenue and will no longer offer
tax administration services; and

WHEREAS, under the present circumstances, it is in the interests of the City to have the
Department of Revenue administer the City's room tax. The City will work with the Department
of Revenue to enter into an intergovernmental agreement to transition the City's lodging tax
administration from the City of Eugene to the Department of Revenue effective October 1, 2022;
and

WHEREAS, this Code amendment is intended to align the City's existing room tax
procedures with the administrative requirements of the Department of Revenue. The
amendments do not create a new tax or change the City's existing room tax rate applicable to
transient rentals within the City. Adopting the model ordinance serves to update the City's tax
provisions, while maintaining the City's existing tax rate and tax revenue allocation formula; and

WHEREAS, the Code amendment updates the name of the tax from the “transient room tax” to the “transient lodging tax.” This change updates the name of the tax to the identifier used by many other jurisdictions and as used in ORS Chapter 320; and

WHEREAS, the City will maintain the tax revenue allocation formula that has been in place since before April 10, 1989.

Based on these findings of fact,

THE CITY OF COTTAGE GROVE ORDAINS AS FOLLOWS:

Section 1. The Cottage Grove Municipal Code, Title 5, Chapter 5.32 is hereby repealed and replaced, in full, to read as shown in Exhibit A.

PASSED BY THE COUNCIL AND APPROVED BY THE MAYOR THIS ___ DAY
OF _____, 2022.

Jeffery D. Gowing, Mayor

Dated: _____

ATTEST:

Richard Meyers, City Manager

Dated: _____

TRANSIENT LODGING TAX COLLECTION INTERGOVERNMENTAL AGREEMENT

This Transient Lodging Tax Agreement (“Agreement”) is entered into between the State of Oregon, acting by and through its Department of Revenue (the “Department”) and the City of Cottage Grove (“City”), under the authority of ORS 305.620.

In consideration of the conditions and promises hereinafter contained, it is mutually agreed by the parties that the Department shall supervise and administer, according to the terms and conditions set forth in this Agreement, the Local Tax on transient lodging by transient lodging providers authorized under ORS 320.365 and approved by the voters of City.

(1) Definitions. As used in this Agreement the following terms have the meanings ascribed to them:

(a) “Confidential Information” means the information on Local Tax returns administered pursuant to ORS 305.620, any information in the reports required under Sections 8 and 9 of this Agreement from which information about a particular Local Taxpayer is discernable from the report due to a small number of Local Taxpayers in City or similar factors, and any other information exchanged between the Department and City related to this Agreement, which is confidential under ORS 314.835.

(b) “Fees” means collectively the Administrative Services Fee, Business Fee and any additional fees described in Section 5 of this Agreement.

(c) “Local Government” means a city or county that has entered into a form of this agreement with the Department under the authority of ORS 305.620 for the Department to collect Local Taxes authorized under ORS 320.365.

(d) “Local Tax” or “Local Taxes” means the Local Transient Lodging Tax imposed by City, together with any additional interest or penalties provided for by state statute or the Department’s rules; it does not include any additional penalties or fees that City may assess against its Local Taxpayers.

(e) “Local Taxpayer” means a Transient Lodging Provider, or a Transient Lodging Intermediary, with a lodging facility located in the taxing jurisdiction of City.

(f) “Ordinance” means the ordinance imposing a Local Tax adopted by the governing body of the City that is attached hereto as **Exhibit B** and by this reference incorporated herein.

(g) “Taxpayer” means a Transient Lodging Provider or Transient Lodging Intermediary with a lodging facility located in a taxing jurisdiction which has opted to have the Department of Revenue administer their local transient lodging tax program throughout Oregon.

(h) “Transient Lodging” has the meaning given in ORS 320.300(11)

(i) “Transient Lodging Intermediary” has the meaning given in ORS 320.300(12)

(j) “Transient Lodging Provider” has the meaning given in ORS 320.300(13).

(2) **General Administration.** The Department shall be responsible for all aspects of Local Tax administration, including, but not limited to, adopting administrative rules; auditing returns; assessing deficiencies and collecting the Local Tax and penalties and interest under applicable statutes, including but not limited to ORS 305.265, ORS 305.220, and ORS 314.400; making refunds; holding conferences with Local Taxpayers; handling appeals to the Oregon Tax Court; issuing warrants for the collection of unpaid taxes; determining the minimum amount of Local Tax economically collectible; and taking any other action necessary to administer and collect the Local Taxes. The Department has adopted rules related to the taxation of Transient Lodging under ORS chapter 320. City understands and agrees that such rules will be applied in administering the Local Tax.

(3) **Level of Service.** In performing its duties, the Department may in its sole discretion determine what action shall be taken to enforce provisions of the law and to collect the Local Tax. In exercising its discretion, the Department shall provide a level of services that are comparable to the level of services it provides in the administration of the State of Oregon transient lodging tax laws and the collection of such taxes owed to the State of Oregon. If the Department deems it necessary to vary substantially from this standard, the Department shall first notify City of the need and obtain City's consent. The Department shall provide all forms necessary for implementation of the Local Tax, including forms for transient lodging tax returns, exemptions and refunds.

(4) **Transfer of Taxes to City.** Beginning at the end of the first full quarter after execution of this Agreement, the Department shall remit to City the amount of Local Taxes collected in the preceding quarter less amounts withheld to pay the Department's Fees and other costs as described in this Agreement within 60 days of the return due date for the quarter. The Department shall notify City if, because of inability to move funds electronically or otherwise through the banking system, a force majeure event described in Section 26 of this Agreement or other exigent circumstance, the Department is unable to transfer the Local Tax collected to City as provided in this Section. In that event, the Department shall provide an estimate, if possible, of when it expects to be able to transfer the Local Taxes collected to City. The Department may enter into an agreement with another state government agency to fulfill the requirements of this Section 4, provided that said government agency can comply with the requirements of this section.

(5) **Fees.** In order to recover its costs to collect and transfer the Local Tax as provided in this Agreement the Department shall be paid the following three fees:

(a) "Administrative Services Fee": Pays for the establishment and maintenance of financial systems needed to administer and distribute Local Taxes. The fee shall be calculated annually as a percentage of the equivalent of 60 hours of work conducted for the Department of Revenue by the Department of Administrative Services, divided among the Local Governments in proportion to the number of Taxpayers in each Local Government. This fee shall be charged only if the Department of Administrative Services provides transfer services as described in section (4).

(b) "Business Fee": Pays for the Local Tax administration activities set forth in this Agreement. The fee shall be calculated as a percentage of the Department's Business Division annual expenses for the administration of all lodging taxes, with the total fee increasing in direct proportion to the number of Local Taxpayers. The total amount per Local Taxpayer billed to City under the Business Fee shall not exceed 0.035 percent of the Department's Business Division expenses for the administration of all lodging taxes;

FOR EXAMPLE, in a hypothetical with the following assumptions:

1,000 Taxpayers

50 Local Taxpayers in the City of Mainville

2 Local Taxpayers in the City of Middletown

Business Division's Lodging Tax Expenses: \$500,000 per year

Hourly DAS rate: \$99/hour

The fees would be calculated as follows:

Administrative Services Fee = $(\$99/\text{hour} * 60 \text{ hours}) / 1,000 \text{ Taxpayers} = \5.94
per Local Taxpayer per year

Business Fee = $\$500,000 \text{ in lodging tax expenses per year} * 0.035\% = \175 per
Local Taxpayer per year

City of Mainville: $(\$5.94 \text{ Administrative Services Fee} + \$175 \text{ Business Fee}) * 50$
Local Taxpayers = \$9,047.00 in fees

City of Middletown: $(\$5.76 \text{ Administrative Services Fee} + \$175 \text{ Business Fee}) *$
2 Local Taxpayers = \$361.52 in fees

(c) In addition to the Fees described above, the Department may withhold or otherwise recover from City the Department's costs for additional services not described in this Agreement related to the Local Tax; such additional costs may include, without limitation, requests for audits from City that exceed the scope of the Department's normal audit procedures, requests for research or advice from the Department or the Oregon Department of Justice attorneys, or specially appointed counsel, regarding the Local Tax.

(d) If the Department determines that its costs cannot be covered by the maximum fees outlined in this Section 5, the Department will notify City of the amount by which the Department has determined the Fees must increase. If the Department and City do not agree upon a Fee increase and related amendment to this Agreement, then this Agreement may be terminated by either party in accordance with Section 16 of this Agreement.

(e) The Department may recover its costs to administer the Local Tax, per ORS 305.620(5). The above formula is intended to produce the Department's best estimate of its costs to administer the Local Tax.

(6) **Withholding for Fees and Rebate.** The Department may withhold from the Local Taxes collected and each transfer to City an amount equal to four percent (4%) of the Local Taxes collected. In the first quarter of each calendar year, the Department will reconcile the amounts withheld in the previous year with the total Fees assessed and provide a reconciliation in the Department's annual report described in Section 9 of this Agreement. If the amount withheld in a calendar year exceeds the amount of the Department's Fees, the Department will rebate the balance of the Local Taxes withheld to City by the end of the first quarter following the year of withholding. If the amount withheld does not cover the Department's Fees for the preceding year, the amount of the shortfall will be withheld from subsequent transfers of Local Taxes collected until the Department's Fees are fully paid, or in its discretion the Department may invoice City for the unpaid amount of the Department's Fees.

(7) **Recovery of Overpayments.** If the amount of Local Taxes paid to City under this Agreement exceeds the amount to which City is entitled, the Department may, after notifying City in writing, withhold from later payments due City under this Agreement such amounts, over such periods of time, as are necessary to recover the amount of the overpayment.

(8) **Department Quarterly Reports.** Beginning with the first full calendar quarter after the execution of this Agreement and continuing each calendar quarter thereafter, within sixty (60) days after the due date for quarterly Local Tax returns, the Department shall provide City with a report indicating the amount of Local Taxes collected, the Department's Fees incurred, the amount withheld under Section 6 of this Agreement and the cumulative amount of delinquent Local Taxes for each lodging provider in City's jurisdiction. The information in this report must be treated as potentially revealing Confidential Information and shall be protected as described in Section 15. City shall adopt procedures to prevent Confidential Information from being disclosed, except as consistent with this Agreement. The Department and City may disclose any non-confidential information from a report when required to do so by law, including the Oregon Public Records Law, ORS 192.311 to 192.478.

(9) **Department Annual Reports.** In the first calendar quarter of each year, the Department shall provide a written annual report of the preceding calendar year to City showing the total amount of Local Taxes collected, refunds paid, the expenses of administering and collecting the Local Tax, and other pertinent information. The report shall show the total amount withheld by the Department under Section 6 of this Agreement and shall show the Department's Fees, charged by category. In the report, the Department shall also make recommendations concerning changes in Local Tax Ordinances, procedures, policies, Local Tax administration and related matters, as the Department deems necessary and appropriate. The information in this report must be treated as potentially Confidential Information and shall be protected as described in Section 15. City shall adopt procedures to prevent Confidential Information from being disclosed, except as consistent with this Agreement. The Department and City may disclose any non-confidential information in the report when required to do so by law, including the Oregon Public Records Law, ORS 192.311 to 192.478.

(10) **City Reports.** Within sixty (60) days of the effective date of this Agreement, City shall provide the Department with a list of zip code areas that are within its jurisdiction for

purposes of imposing the Local Tax. City shall review all reports and reconciliations provided to it by the Department and shall promptly notify the Department of any perceived errors or omissions in such reports.

(11) Records Maintenance and Access. Each party shall maintain its records relevant to this Agreement, the Local Taxes and Local Taxpayers for the period of time specified and in the manner required under the document retention and archiving requirements applicable to it that are established under ORS 192.005 to 192.170. Upon written request, each party may examine the records of the other party at a time and location that is convenient and without extra cost to the holder to the records; provided, however, any requests for records made in connection with litigation or other efforts to collect the Local Tax shall be immediately provided in the time and manner requested.

(12) Ordinance and Notification of Changes. Contemporaneous with the execution of this Agreement, City shall provide a copy of the Ordinance to Department for incorporation into this Agreement as Exhibit B. In order to insure consistency in administration of the Local Tax, each party shall notify the other of any change in applicable law, including changes to the Ordinance and any state or local regulations or rulings interpreting the Local Tax or the Ordinance, any changes in rates or changes in the City's boundary at least ninety (90) days prior to the effective change, unless it is not legally possible to provide ninety (90) days' notice or both parties mutually agree to effect such changes in less than ninety (90) days. Each party shall notify the other of any change in administration of the Local Tax under this Agreement. The parties shall cooperate in amending the Ordinance or in seeking any amendments to ORS 320.365 or ORS 305.620 they deem necessary.

(13) Information. The parties will cooperate in the exchange of information and making public announcements to facilitate effective administration of the Local Tax and maintain consistency in public announcements and information. Policy announcements, announcement of changes to the Ordinance, and all public relations related to the Local Tax will be handled by City. The Department shall promptly notify City of any issue arising in the administration of the Local Tax that would require any legislative change or affect City's policy, including any policy that relates to the amount of Local Tax collected. Nothing in this section shall prohibit the Department from conducting its own outreach activities to increase awareness and knowledge of Local Tax obligations.

(14) Limits and Conditions. To the extent limited by applicable provisions of Article XI of the Oregon Constitution or other governing law, and within the limits of the Oregon Tort Claims Act applicable respectively to the Department and City, each party shall indemnify the other for damage to life or property arising from their respective duties and obligations under this Agreement, provided neither party shall be required to indemnify the other for any such liability arising out of a party's own negligent or wrongful acts.

(15) Confidentiality.

(a) Confidential Information may be disclosed to City by the Department, at the discretion of the Department, only for purposes of carrying out the administration of the Local

Tax. Requests for Confidential Information may be made by City by giving not less than ten (10) days' notice to the Department, stating the information desired, the purposes of the request, and the use to be made of such information. If the compilation of the requested information is not reasonably feasible, the Department shall so advise City and may decline to provide the requested information.

(b) ORS 314.840(3) requires that employees and representatives of City who receive Confidential Information must be advised in writing of the provisions of ORS 314.835 and 314.991(3), relating to the penalties for unlawful disclosure. Prior to being given access to Confidential Information, all City employees involved in the performance of this Agreement must review the DOR Secrecy Clause and sign the DOR Secrecy Laws Certificate (substantially in the form of **Exhibit A**, attached hereto and by this reference incorporated herein) certifying the employee understands the confidentiality laws and the penalties for violating them. Annually thereafter, (on or before a date specified by the Department), or upon request by the Department, such City employees must review and sign the latest versions of the Secrecy Clause and the Secrecy Laws Certificate. All signed Secrecy Laws Certificates must be immediately emailed to the designated Department Authorized Representative (indicated below). When the employee terminates employment with City, City will forward the certificate to the Department's Authorized Representative indicating the employee is no longer employed by City. A listing of every person employed by City that is authorized to request and receive Confidential Information identified in this Agreement must be sent by City to the following designated representative:

Andrew Trolan

Title: Transient Lodging Tax Program Manager

Contact Email: Andrew.Trolan@Oregon.Gov

(c) Upon request and pursuant to the instructions of the Department, City shall return or destroy all copies of Confidential Information provided by the Department to City, and City shall certify in writing the return or destruction of all such Confidential Information.

(d) The administrative rules implementing ORS 314.835 and ORS 314.840 as amended from time to time during the term of this Agreement, shall apply to Confidential Information under this Agreement.

(e) City shall comply with the requirements of ORS 646A.600 to 646A.628 in the event of a breach of security or disclosure of confidential information.

(16) Term. The term of this Agreement shall be from the date it is executed by all parties and until it is terminated by operation of law or by either party, at its discretion upon at least ninety (90) days prior written notice. Prior to the termination date specified in written notice provided under this section or Section 17 below, City and the Department will continue to perform their respective duties and obligations of under this Agreement. After the termination date, the Department will cease all collection and other activities under this Agreement, unless prior to the termination date the Department and City agree in writing that the Department may continue actions that are pending before the Oregon Tax Court or the Oregon Supreme Court, or

are being collected after judgment or stipulation. In addition, after the termination date the Department will continue to remit to City any Local Taxes received by the Department, after deduction of the Department's actual costs, until all matters pending on the date of termination have been resolved or collected. The Department shall administer the Local Tax for City beginning with the calendar quarter commencing after this Agreement is executed. However, if this Agreement is fully executed on or before the 15th day of the calendar quarter, the Department shall begin administering the Local Tax for the quarter in which this Agreement is executed.

(17) Default and Remedies. A party shall be in default under this Agreement if it fails to perform any of its duties and obligations under this Agreement, and fails to cure such nonperformance within ninety (90) days after the other party provides written notice specifying the nature of the nonperformance. If the nonperforming party does not cure its nonperformance, or provide a satisfactory explanation to the other party of its performance under this Agreement, the other party may terminate this Agreement immediately or at a later date specified in written notice provided to the nonperforming party. In addition to termination of this Agreement, in the event of default by a nonperforming party, the other party may pursue any remedies available in law or equity, including an action for specific performance.

(18) Notices. All notices, documents, and information shall be sent as follows:

City of Cottage Grove
400 East Main Street
Cottage Grove, OR 97424

Oregon Department of Revenue
Transient Lodging Tax
Salem, OR 97309

(19) Amendments. The provisions of this Agreement shall not be waived, altered, modified, supplemented, or amended, in any manner whatsoever, except by written instrument signed by both parties.

(20) Successors and Assigns. This Agreement shall be binding and inure to the benefit of the parties, their assigns, and successors.

(21) Severability. If any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

(22) Representations. Each party represents to the other that the making and performance of this Agreement: (a) have been duly authorized by its governing body or official, (b) does not and will not violate any provision of any applicable law, rule, regulation, or order of any court, regulatory commission, board or other administrative agency or any provision of any applicable local charter or other organizational document, and (c) do not and will not result in the breach of, or constitute a default or require any consent under any other agreement or instrument to which the party is bound.

(23) Governing Law, Consent to Jurisdiction. This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively "Claim") between the

Department and City regarding the enforcement or interpretation of this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Marion County for the State of Oregon. The parties understand and agree that any action brought to determine the amount of Local Tax owed by a Local Taxpayer, whether brought solely by the Department or in conjunction with City shall be brought solely in the Oregon Tax Court.

(24) Nonappropriation. The obligation of each party to perform its duties under this Agreement is conditioned upon the party receiving funding, appropriations, limitation, allotment, or other expenditure authority sufficient to allow the party, in the exercise of its reasonable administrative discretion, to meet its obligations under this Agreement. Nothing in this Agreement may be construed as permitting any violation of Article XI, sections 7 or 10 of the Oregon Constitution or any other law limiting the activities, liabilities or monetary obligations of each party.

(25) Survival. All rights and obligations of the parties under this Agreement will cease upon termination of the Agreement, other than the rights and obligations arising under Sections 14, 16 and 17, and those rights and obligations that by their express terms survive termination of this Agreement; provided, however, that termination of this Agreement will not prejudice any rights or obligations accruing to a party prior to termination.

(26) Force Majeure. Neither party is responsible for any failure to perform or any delay in performance of an obligation under this Agreement caused by fire, civil unrest, labor unrest, natural causes, or war, which is beyond that party's reasonable control. Each party shall, however, make all reasonable efforts to remove or eliminate such cause of failure to perform or delay in performance and shall, upon the cessation of the cause, diligently pursue performance of its obligation under this Agreement.

(27) Counterparts. This Agreement may be executed in counterparts, all of which when taken together shall constitute one agreement, notwithstanding that all parties are not signatories to the same counterpart. Each copy of this Agreement so executed constitutes an original.

(28) Merger. This Agreement and any exhibits constitute the entire agreement between the parties on the subject matter hereof. There are no understandings, agreements or presentations, oral or written, not specified herein regarding this Agreement.

Each party represents that this Agreement, when fully executed and delivered will constitute a legal, valid and binding obligation of the party in accordance with its terms, and that the person signing below is the authorized representative of the party with full power and authority to bind his/her principal to this Agreement.

Oregon Department of Revenue	City:
Name/Title:	Name/Title:
Signature:	Signature:
Date signed:	Date signed:

EXHIBIT A

DOR

SECURITY CLAUSE

and

SECURITY LAWS CERTIFICATE

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SECURITY CLAUSE

Taxpayer information is confidential and protected by Oregon law. Only authorized persons may have access to taxpayer information, or to secure buildings where taxpayer information is handled. Oregon law requires that you sign a Secrecy Certificate before being allowed access to this confidential information or secure areas. By signing the certificate, you certify that you understand the confidentiality laws and the penalties for violating them.

This applies to everyone with access to taxpayer information, including:

- Department of Revenue employees
- Employees of other government agencies
- Vendors and contractors
- Business partners

Penalties for unauthorized disclosure of state tax information

- **Income tax***—Class C felony; up to \$125,000 fine; up to five years imprisonment; dismissal from state employment; no public office for five years. [ORS 314.991(2)]
 - **Inheritance tax**—Class C felony; up to \$125,000 fine; up to five years imprisonment; dismissal from state employment; no public office for five years. [ORS 118.990(3)]
 - **Industrial property tax**—Up to \$10,000 fine; up to one year imprisonment. [ORS 308.990(5)]
 - **Timber tax**—Up to \$5,000 fine; dismissal from state employment. (ORS 321.686)
 - **Employment Department**—May result in dismissal from state employment, or other discipline. [ORS 657.665(6)]
- * These provisions also apply to transient lodging tax (ORS 320.330), cigarette tax (ORS 323.403), tobacco products tax (ORS 323.595), emergency communications tax (ORS 403.230), oil and gas production tax (ORS 324.170), hazardous substances tax (ORS 453.410), and petroleum products tax (ORS 465.124).

Penalties for unauthorized disclosure of federal tax information

- **IRC Sect. 7213**—Felony; up to \$5,000 fine; imprisonment of up to five years; cost of prosecution, damages**.
 - **IRC Sect. 7213A**—Up to \$1,000 fine; imprisonment of up to one year; cost of prosecution, damages**.
- ** Damages may include \$1,000 per act, actual damages, punitive damages, cost of legal action, attorney fees. See Section 7431.

Instructions

Please read the following laws. They explain the types of information that are confidential. If you have questions during your employment or performance of duties, ask your supervisor or a Disclosure officer before accessing or disclosing information.

After reading this information, fill out the last page and return it to the Department of Revenue. Keep the other pages for your records.

Oregon Income Tax Laws

ORS 314.835

(1) Except as otherwise specifically provided in rules adopted under ORS 305.193 or in other law, it shall be unlawful for the Department of Revenue or any officer or employee of the department to divulge or make known in any manner the amount of income, expense, deduction, exclusion or credit or any particulars set forth or disclosed in any report or return required in the administration of ORS 310.630 to 310.706, required in the administration of any local tax pursuant to ORS 305.620, or required under a law imposing a tax upon or measured by net income. It shall be unlawful for any person or entity to whom information is disclosed or given by the department pursuant to ORS 314.840 (2) or any other provision of state law to divulge or use such information for any purpose other than that specified in the provisions of law authorizing the use or disclosure. No subpoena or judicial order shall be issued compelling the department or any of its officers or employees, or any person who has acquired information pursuant to ORS 314.840 (2) or any other provision of state law to divulge or make known the amount of income, expense, deduction, exclusion or credit or any particulars set forth or disclosed in any report or return except where the taxpayer's liability for income tax is to be adjudicated by the court from which such process issues.

(2) As used in this section:

(a) "Officer," "employee" or "person" includes an authorized representative of the officer, employee or person, or any former officer, employee or person, or an authorized representative of such former officer, employee or person.

(b) "Particulars" includes, but is not limited to, a taxpayer's name, address, telephone number, Social Security number, employer identification number or other taxpayer identification number and the amount of refund claimed by or granted to a taxpayer.

ORS 314.991

(2) Violation of ORS 314.835 is a Class C felony. If the offender is an officer or employee of the state the offender shall be dismissed from office and shall be incapable of holding any public office in this state for a period of five years thereafter.

Applicability to other tax programs

The above provisions of ORS 314, concerning the confidentiality of returns and penalties, also apply to:

• Transient lodging tax	ORS 320.330
• Cigarette tax	ORS 323.403
• Tobacco products tax	ORS 323.595
• Emergency communications tax	ORS 403.230
• Oil and gas production tax	ORS 324.170
• Hazardous substances tax	ORS 453.410
• Petroleum products tax	ORS 465.124

Oregon Inheritance Tax Laws

ORS 118.525

(1) It shall be unlawful for the Department of Revenue or any of its officers or employees to divulge or make known in any manner any particulars disclosed in any return or supporting data required under this chapter. Except for executors or beneficiaries and their authorized representatives, it shall be unlawful for any person or entity who has acquired information pursuant to subsections (3) and (4) of this section to divulge or make known such information for any purpose other than that specified in the provisions of law authorizing the use or disclosure. No subpoena or judicial order shall be issued compelling the department, or its officers or employees, or persons described in subsections (3) and (4) of this section, to divulge or make known any particulars disclosed in any such return or supporting data except where the liability for inheritance taxes is to be adjudicated by the Oregon Tax Court. Nothing in this section shall prohibit the publication of statistics so classified as to prevent the identification of particulars in any return or supporting data covered by this section.

(2) As used in this section:

(a) "Officer," "employee" or "person" includes an authorized representative of the officer, employee or person, or former officer, employee or person, or an authorized representative of such former officer, employee or person.

(b) "Particulars" includes, but is not limited to, a taxpayer's name, address, telephone number, Social Security number and the amount of refund claimed by or granted to a taxpayer.

ORS 118.990

(3) Violation of ORS 118.525 is a Class C felony. If the offender is an officer or employee of the state the offender shall be dismissed from office and shall be incapable of holding any public office in this state for a period of five years thereafter.

Oregon Property Tax Laws

ORS 308.290

(11)(a) All returns filed under the provisions of this section and ORS 308.525 and 308.810 are confidential records of the Department of Revenue or the county assessor's office in which the returns are filed or of the office to which the returns are forwarded under paragraph (b) of this subsection.

ORS 308.413

(1) Any information furnished to the county assessor or to the Department of Revenue under ORS 308.411 which is obtained upon the condition that it be kept confidential shall be confidential records of the office in which the information is kept, except as follows:

(a) All information furnished to the county assessor shall be available to the department and all information furnished to the department shall be available to the county assessor.

(b) All information furnished to the county assessor or department shall be available to any reviewing authority in any subsequent appeal.

(c) The department may publish statistics based on the information furnished if the statistics are so classified as to prevent the identification of the particular industrial plant.

(2) The Department of Revenue shall make rules governing the confidentiality of information under this section.

(3) Each officer or employee of the Department of Revenue or the office of the county assessor to whom disclosure or access of the information made confidential under subsection (1) of this section is given, prior to beginning employment or the performance of duties involving such disclosure, shall be advised in writing of the provisions of this section and ORS 308.990 (5) relating to penalties for the violation of this section, and shall as a condition of employment or performance of duties execute a certificate for the department or the assessor in a form prescribed by the department, stating in substance that the person has read this section and ORS 308.990 (5), that these sections have been explained to the person and that the person is aware of the penalties for violation of this section.

ORS 308.990

(5) Subject to ORS 153.022, any willful violation of ORS 308.413 or of any rules adopted under ORS 308.413 is punishable, upon conviction, by a fine not exceeding \$10,000, or by imprisonment in the county jail for not more than one year, or by both.

Forestland Tax Laws

ORS 321.682

(1) Except as otherwise specifically provided by law, it shall be unlawful for the Department of Revenue or any officer or employee of the department to divulge or make known in any manner the amount of the tax or any particulars set forth or disclosed in any report or return required to be filed under ORS 321.045 or 321.741 or any appraisal data collected to make determinations of specially assessed value of forestland pursuant to ORS 321.201 to 321.222. It shall be unlawful for any person or entity to whom information is disclosed or given by the department pursuant to ORS 321.684 (2) or any other provision of state law to divulge or use such information for any purpose other than that specified in the provisions of law authorizing the use or disclosure. No subpoena

or judicial order shall be issued compelling the department or any of its officers or employees, or any person who has acquired information pursuant to ORS 321.684 (2) or any other provision of state law, to divulge or make known the amount of tax or any particulars set forth or disclosed in any report or return except where the taxpayer's liability for timber tax is to be adjudicated by the court from which such process issues.

(2) As used in this section, "officer," "employee" or "person" includes an authorized representative of the officer, employee or person, or any former officer, employee or person, or an authorized representative of such former officer, employee or person.

ORS 321.686

Violation of ORS 321.682 is subject to a fine not exceeding \$5,000 or, if committed by an officer or employee of the state, dismissal or removal from office or employment, or both fine and dismissal or removal from office or employment.

Oregon Employment Department Laws

ORS 657.665

(4)The Employment Department may: ... (i) Disclose information to the Department of Revenue for the purpose of performing its duties under ORS 293.250 or under the revenue and tax laws of this state. The information disclosed may include the names and addresses of employers and employees and payroll data of employers and employees. The information disclosed is confidential and may not be disclosed by the Department of Revenue in any manner that would identify an employing unit or employee except to the extent necessary to carry out the department's duties under ORS 293.250 or in auditing or reviewing any report or return required or permitted to be filed under the revenue and tax laws administered by the department. The Department of Revenue may not disclose any information received to any private collection agency or for any other purpose. If the information disclosed under this paragraph is not prepared for the use of the Employment Department, the costs of disclosing the information shall be paid by the Department of Revenue.

(6) Any person or any officer or employee of an entity to whom information is disclosed by the Employment Department under this section who divulges or uses the information for any purpose other than that specified in the provision of law or agreement authorizing the use or disclosure may be disqualified from performing any service under contract or disqualified from holding any appointment or employment with the state agency that engaged or employed that person, officer or employee. The Employment Department may immediately cancel or modify any information sharing agreement with an entity when a person or an officer or employee of that entity discloses confidential information, other than as specified in law or agreement.



SECRECY LAWS CERTIFICATE

Required by ORS 314.840(3), ORS 118.525(6),
ORS 308.413(3), ORS 321.684

I have read the laws prohibiting disclosure of confidential information for the tax programs below.
The laws have been explained to me.
I have been furnished with a copy of the laws.
I understand Oregon's disclosure laws and the penalties for violating them.

Income tax	ORS 314.835; ORS 314.991(2)
Inheritance tax	ORS 118.525(1); ORS 118.990(3)
Industrial property tax	ORS 308.290(11); ORS 308.413; ORS 308.990(5)
Forestland tax	ORS 321.682; ORS 321.686
Employment Department tax	ORS 657.665(4)(i) and (6)
Transient lodging tax	ORS 320.330
Cigarette tax	ORS 323.403
Tobacco products tax	ORS 323.595
Emergency communications tax	ORS 403.230
Oil and gas production tax	ORS 324.170
Hazardous substances tax	ORS 453.410
Petroleum products tax	ORS 465.124
Federal tax laws	IRC Sections 7213, 7213A, 7431

VENDORS, CONTRACTORS, BUSINESS PARTNERS	
PRINT your full name	Business telephone number
Print full name of business or organization for which you are acting in an official capacity	
Address of business or organization	SSN (Collection agency employees only)
What is the nature of your business?	Duration of contract or visit
Revenue contact	Area where you'll be working
Signature	Date
X	

REVENUE EMPLOYEES	
PRINT your full name	Date
Signature	
X	

AGENCY USE	
<input type="checkbox"/> In Compliance	<input type="checkbox"/> Not in Compliance

EXHIBIT B

ORDINANCE NO. 2635

AN ORDINANCE ADOPTING A TRANSIENT ROOM TAX AND ADDING
CHAPTER 5.32 TO THE MUNICIPAL CODE OF THE CITY OF
COTTAGE GROVE AND DECLARING AN EMERGENCY

THE CITY OF COTTAGE GROVE ORDAINS AS FOLLOWS:

Section 1. Purpose. The purpose of this ordinance is to adopt a transient room tax within the City of Cottage Grove.

Section 2. Enactment. There shall be added to Chapter 5, BUSINESS LICENSES AND REGULATIONS, COTTAGE GROVE MUNICIPAL CODE, a new Chapter 5.32 Sections numbered 5.32.010 through 5.32.200, and reading as follows:

See attached Chapter 5.32, Transient Room Tax, attached hereto and by this reference incorporated herein as if set out in full.

Section 3. Emergency Clause. It is hereby found and determined that matters pertaining to the transient room tax are matters affecting the welfare of the City of Cottage Grove and that an emergency is therefore found to exist, and that this ordinance shall therefore take effect immediately upon its passage by the Council and approval by the Mayor.

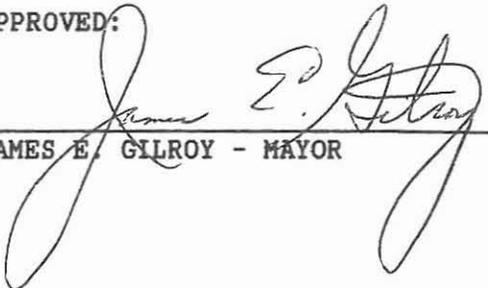
Passed by the Council and approved by the Mayor this 13th
day of March, 1989.

ATTEST:



JOAN HOEHN - CITY RECORDER

APPROVED:



JAMES E. GILROY - MAYOR

Chapter 5.32

TRANSIENT ROOM TAX

5.32.010 Definitions. The following words and phrases as used in this Section shall have the following meanings:

A. Hotel means any structure or portion of any structure which is occupied or intended or designed for transient occupancy for 30 days or less for dwelling, lodging, or sleeping purposes, and includes any hotel, inn, tourist home or house, motel, studio hotel, bachelor hotel, lodging house, rooming house, apartment house, public or private dormitory, fraternity, sorority, public or private club, space in a mobile home or trailer park, or similar structure or portion thereof so occupied, provided the occupancy is for less than a 30 day period. Specifically exempt from this tax are "Bed and Breakfast" hotels with five rental rooms or less and mobile home parks which have five or less transient spaces.

B. Council means the Common Council of the City of Cottage Grove, Oregon.

C. Occupancy means the use or possession, or the right to use or possession, for lodging or sleeping purposes, of any room in a hotel, or space in a mobile home or trailer park or portion thereof.

D. Operator means the person who is proprietor of a hotel in any capacity and, where the operator performs his/her functions through a managing agent other than an employee, the managing agent who shall have the same duties and liabilities as his principal. Compliance with the provisions of this Section by either the principal or the managing agent shall be considered to be compliance by both.

E. Person means any individual, firm, partnership, joint venture, association, social club, fraternal organization, fraternity, sorority, public or private dormitory, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate, or any other group or combination acting as a unit.

F. Cash accounting means a system of accounting in which the operator does not enter on his records the rent due from a transient until the rent is paid.

G. Accrual accounting means a system of accounting in which the operator enters on his records the rent due from a transient when the rent is earned, whether or not it is paid.

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

I. Rent package plan means the consideration charged for both food and rent where a single rate is made for the total of both. The amount applicable to rent for determination of the transient room tax under Section 5.32.020 of this Code shall be the same charge made for rent when not a part of a package plan.

J. Tax administrator means the General Service Administrator of the City of Cottage Grove.

K. Transient means any individual who exercises occupancy or is entitled to occupancy in a hotel for a period of less than 30 consecutive calendar days, counting portions of calendar days as full days. The day a transient checks out of the hotel shall not be included in determining the 30-day period of the transient is not charged rent for that day by the operator. Any individual so occupying space in a hotel shall be deemed to be a transient until the period of 30 days has expired, unless there is an agreement in writing between the operator and the occupant providing for a longer period of occupancy. A person who pays for lodging on a monthly basis, irrespective of the number of days in the month, shall not be deemed a transient.

L. Tax means either the tax payable by the transient, or the aggregate amount of taxes due from an operator during the period for which he is required to report his collections.

5.32.020. Levy. For the privilege of occupancy in any hotel each transient shall pay a tax of three percent of the rent charged by the operator for the occupancy. The tax shall constitute a debt owed by the transient to the city and be extinguished only by payment to the operator of the city. The transient shall pay the tax to the operator of the hotel at the time the rent is paid. The operator shall enter the tax on his records when the rent is collected, if the operator keeps his records on the cash accounting basis, and when earned, if the operator keeps his records on the accrual accounting basis. If the rent is paid in installments, a proportionate share of the tax shall be paid by the transient to the operator with each installment. If for any reason the tax due is not paid to the operator of the hotel, the tax administrator may require that the tax be paid directly to the city. In all cases the rent paid or charged for occupancy shall exclude amounts received for the sale of goods, service or commodities, other than the furnishing of rooms, accommodations, and parking space in mobile home parks or trailer parks.

5.32.030. Collection.

A. Every operator renting a room in this city, the occupancy of which is not exempted under the terms of Sections 5.32.010(A) or 5.32.050 of this Code shall collect a tax from the occupant of the room. The tax collected or accrued by the operator constitutes a debt owing by the operator to the city.

B. In all cases of credit or deferred payment of rent, the payment of the tax to the operator may be deferred until the rent is paid, and the operator shall not be liable for the tax until the credit is paid or the deferred payment is made.

C. The tax administrator shall enforce Sections 5.32.030(A) and 5.32.030(B) of this Code and may adopt rules and regulations consistent with those sections and necessary to aid in the enforcement.

D. For rent collected on portions of a dollar the first one cent (\$.01) of tax shall be collected on thirty-four cents (\$.34) inclusive; the second one cent (\$.01) of tax shall be collected on thirty-five cents (\$.35) through sixty-six cents (\$.66), inclusive; and the third one cent (\$.01) of tax shall be collected on sixty-seven cents (\$.67) through one dollar (\$1.00).

5.32.040 Operator's Duties. Each operator shall collect the tax imposed by Sections 5.32.020 and 5.32.030 of this Code on a transient at the same time as he collects rent from the transient. The amount of the tax shall be separately stated upon the operator's records and on any receipt for the rent rendered by the operator to the transient. No operator shall advertise that the tax or any part of the tax will be assumed or absorbed by the operator, or that it will not be added to the rent, or that, when added, any part will be refunded.

5.32.050 Exemptions. No tax may be imposed upon:

- (a) Any occupant for more than 30 successive calendar days;
- (b) Any person who pays for lodging on a monthly basis, irrespective of the number of days in the month;
- (c) Any occupant whose rent is of a value less than \$2.00 per day.
- (d) Any person who rents a private home, vacation, cabin, or like facility from any owner who rents the facility incidentally to his own use thereof;
- (e) Any occupant whose rent is paid for a hospital room or to a medical clinic, convalescent home, or home for aged people.

5.32.060 Registration. Every person engaging in business as an operator of a hotel in this city shall register with the tax administrator on a form provided by him within 15 calendar days after commencing the business. Nonregistration under this section shall not relieve any person from the obligation to pay the tax. The registration shall set forth the name under which the operator transacts or intends to transact business, the location of his place or places of business, and such other information to facilitate the collection of the tax as the tax administrator requires. The registration shall be signed by the operator. The tax administrator shall, within 10 days after the registration, issue without charge a certificate of authority to the registrant to collect the tax from the occupants of the hotel, together with a duplicate thereof for each additional place of business of the registrant. Such a certificate shall be nonassignable and nontransferrable and shall be surrendered immediately to the tax administrator upon the cessation of business at the location named on the certificates or upon sale or transfer of the business. Each such certificate and duplicate thereof shall state the place of business to which it is applicable and shall be prominently displayed so as to come to the notice readily of all occupants and persons seeking occupancy therein.

The certificate shall, among other things state the following:

- (a) The name of the operator;
- (b) The address of the hotel;
- (c) The date when the certificate is issued;
- (d) "This Transient Occupancy Registration Certificate signifies

that the person named on the face hereof has fulfilled the requirements of the transient room tax ordinance of the City of Cottage Grove by registration with the tax administrator for the purpose of collecting from transients the city's room tax and remitting the 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 hotel 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 city. This certificate does not constitute a permit."

5.32.070 Returns.

A. The tax imposed by Sections 5.32.020 and 5.32.030 of this Code shall be paid by the transient to the operator when the transient pays rent to the operator. All such taxes collected by any operator are due and payable to the tax administrator on the fifteenth day of the month for the preceding month and are delinquent on the last day of the month in which they are due.

B. On or before the fifteenth day of the month following each month of collection by an operator, he shall file a return for that month's tax collections with the tax administrator. The return shall be filed in such form as the tax administrator prescribes.

C. A return shall show the amount of tax collected or otherwise due for the period for which the return is filed. The total rentals upon which the tax is collected or otherwise due, gross receipts of the operator for the 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, with the tax administrator at his office either by personal delivery or by mail. If the return is mailed, the postmark shall be considered the date of delivery.

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 may be granted, except by the city manager. Any operator to whom an extension is granted shall pay interest at the rate of one point five percent (1.5%) per month on the amount of tax due, without proration for a fraction of a month. If a return is not filed, and the tax and interest due is not paid by the end of the extension granted, then the interest shall become a part of the tax for computation of penalties prescribed in Section 5.32.080(C) of this Code.

F. The tax administrator, if he deems it necessary in order to insure payment or facilitate collection by the city of the amount of taxes in any individual case, may require returns and payment of the amount of taxes for other than monthly periods.

5.32.080 Penalties and Interest.

A. Any operator who has not been granted an extension of time for remittance of tax due and who fails to remit any tax imposed by Section 5.32.070(A) of this Code prior to delinquency shall pay a penalty of ten percent (10%) of the amount of the tax due in addition to the amount of the tax.

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

C. If the tax administrator determines that the nonpayment of any remittance due under Section 5.32.070 of this Code 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. In addition to the penalties imposed, any operator who fails to remit any tax imposed by Section 5.32.070 of this Code shall pay interest at the rate of one half of one percent 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 becomes delinquent, until paid.

E. 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 required to be paid.

5.32.090 Deficiencies, Fraud, Evasion, Delay.

A. If the tax administrator determines that a tax return required by Section 5.32.070 of this Code is incorrect, he may compute and determine the amount required to be paid, upon the basis of the facts contained in the return or returns or upon the basis of any information within his possession. One or more deficiency determinations may be made of the amount due for one or more periods, and the amount so determined shall be due and payable immediately upon service of notice as herein provided, after which the amount determined shall be delinquent. Penalties on deficiencies shall be applied as set forth in Section 5.32.080 of this Code.

(a) In making a deficiency determination the tax administrator may offset overpayments, if any, which may have been previously made 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 5.32.080 of this Code.

(b) The tax administrator shall give to the operator or occupant a written notice of his determination. The notice may be served personally or by mail; if by mail, the notice shall be addressed to the operator at his address as it appears in the records of the tax administrator. In case of service by mail of any notice required by this section, the service shall be complete at the time of deposit in the United States Post Office.

(c) Except in the case of fraud or intent to evade Sections 5.32.020 to 5.32.070 of this Code or rules and regulations pursuant to it, 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 monthly period for which the deficiency is proposed to be determined or within three years after the return is filed, whichever period expires the later.

(d) Any deficiency determination shall become due and payable immediately upon receipt of notice by the operator and shall become final within ten days after the tax administrator gives notice thereof, but the operator may petition for redemption and refund if the petition is filed before the determination becomes final.

B. If any operator fails or refuses to collect the tax or to make, within the time required by Sections 5.32.020 and 5.32.030 of this Code, any report and remittance of the tax or any portion thereof required by Section 5.32.070 of this Code, or makes a fraudulent return or otherwise wilfully attempts to evade Sections 5.32.020 and 5.32.030 of this Code, the tax administrator shall proceed in such manner as he deems best to obtain facts and information on which to base an estimate of the tax due. As soon as the tax administrator determines the tax due from any operator who has failed or refused to collect the same and to report and remit said tax, he shall proceed to determine and assess against the operator the tax, interest, and penalties provided for by Sections 5.32.020 and 5.32.080 of this Code. In case such a determination is made, the tax administrator shall give a notice, in the manner prescribed by Section 5.32.090 of the amount so assessed. The determination and notice shall be made and mailed within three years after discovery by the tax administrator of any fraud, intent to evade, or failure or refusal to collect the tax, or failure to file a required return. Any deficiency determination shall become due and payable immediately upon receipt of the notice and shall become final within 10 days after the tax administrator gives notice thereof. The operator may, however, petition for redemption and refund if the petition is filed before the determination becomes final as provided in subsection (A) of this section.

C. If the tax administrator believes that the collection of any tax or any amount of tax required to be collected and paid to the city by Section 5.32.020 of this Code is jeopardized by delay, or if any deficiency determination made under this section is jeopardized by delay, he 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 provided in this section shall be immediately due and payable, and the operator shall immediately pay the determined amount to the tax administrator after service of notice thereof. The operator may petition, however, after payment is made, for redemption and refund of the determination, if the petition is filed within 10 days from the date of service of notice by the tax administrator.

5.32.100 Redeterminations.

A. Any person against whom a determination is made under Section 5.32.090 of this Code or any person directly interested in the determination may petition for a redetermination and redemption and refund, within the time required in Section 5.32.090 of this Code. If a petition for redetermination and refund is not filed within the time required in Section 5.32.090, the determination shall become final at the expiration of the allowable time.

B. If a petition for redetermination and refund is filed within the allowable time period, the tax administrator shall reconsider the determination, and, if the person has so requested in his petition, shall grant the person an oral hearing and shall give him 10 days notice of the time and place of the hearing. The tax administrator may continue the hearing from time to time as 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, the increase shall be payable immediately after the hearing.

D. The order or decision of the tax administrator upon a petition for redetermination and redemption and refund shall become final 10 days after service upon the petitioner of notice thereof, unless appeal of such order or decision is filed with the city manager within the 10 days after service of such notice.

E. No petition for redetermination and redemption and refund or appeal therefrom shall be effective for any purpose unless the operator first complies with the payment provisions hereof.

5.32.110 Security for Collection.

A. The tax administrator, whenever he deems it necessary to insure compliance with Sections 5.32.020 to 5.32.100 of this Code may require any operator subject to the transient room tax to deposit with him such security in the form of cash, bond, or other assets as the tax administrator determines. The amount of the security shall be fixed by the tax administrator but shall not be greater than twice the operator's estimated average monthly liability for the period for which he files returns, determined in such manner as the tax administrator deems proper, or five thousand dollars (\$5,000), whichever amount is the lesser. The amount of the security may be increased or decreased by the tax administrator subject to the 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 any determination by the tax administrator under Sections 5.32.020 to 5.32.190 of this Code becomes final, the tax administrator may bring an action in the courts of this state, or any other state, or of the United States, in the name of the city, to collect the amount delinquent, together with penalties and interest.

5.32.120 Lien. The tax imposed by Section 5.32.020 of this Code, together with the interest and penalties provided by Section 5.32.080 the filing fees paid to the Department of Records of Lane County, Oregon and advertising costs which may be incurred when the tax becomes delinquent under Section 5.32.070 shall be, and until paid remain, a lien from the date of its recording with the Department of Records of Lane County, Oregon, and superior to all subsequent recorded liens on all tangible personal property used in the hotel of an operator within Cottage Grove and may be foreclosed on and sold as necessary to discharge the lien, if the lien has been so recorded. Notice of lien may be issued by the tax administrator whenever the operator is in default in the payment of the tax, interest and penalty, and shall be recorded with the Department of Records and a copy sent to the delinquent operator. The personal property subject to the lien and seized by any deputy of the tax administrator may be sold by the tax administrator at public auction after 10 days notice thereof published in a newspaper in the city.

Any such lien as shown on the records of the Department of Records shall, upon the payment of the taxes, penalty and interest for which the lien has been imposed, be released by the tax administrator when their full amount has been paid to the city. The operator or person making the payment shall receive a receipt therefor stating that the full amount of the taxes, penalties, and interest have been paid and that the lien is thereby released and the record of lien satisfied.

5.32.130 Refunds. Whenever the amount of any tax imposed under this code has been paid more than once or has been erroneously or illegally collected or received by the tax administrator, it may be refunded, provided a verified claim in writing therefor, 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 him. If he approves the claim, the excess amount collected or paid may be refunded or may be credited on any amounts then due and payable from the operator from whom it was collected or by whom paid, and the balance may be refunded to him or his administrators, executors or assignees. All refunds shall be charged to the transient room tax fund.

5.32.140 Collection Fee. Every operator liable for the collection and remittance of the tax imposed by Section 5.32.020 of this Code may withhold five percent (5%) of the net tax due to cover his expense in the collection and remittance of the tax.

5.32.150 Administration.

A. The tax administrator shall deposit all money collected pursuant to Sections 5.32.020 to 5.32.120 of this Code to the credit of the transient room tax fund.

B. Every operator shall keep guest records of room rentals and accounting books and records of the rentals. All these records he shall retain for three years and six months after they come into being.

C. The tax administrator or any person authorized in writing by him may examine during normal business hours the books, papers, and accounting records relating to room rentals of any operator liable for the tax, after notification to him and may investigate the business of the operator in order to verify the accuracy of any return made, or if no return is made by the operator, to ascertain and determine the amount required to be paid by him.

D. Neither the tax administrator nor any person having an administrative or clerical duty under Sections 5.32.030 to 5.32.190 of this Code may 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 room 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 application, or permit any statement or application, or copy of either, or any book containing any abstract or particulars thereof, to be seen or examined by any person. Nothing in this subsection shall prevent however:

(a) The disclosure to, or the examination of records and equipment by another City of Cottage Grove employee, tax-collecting agent for the sole purpose of administering or collecting the tax.

(b) The disclosure, after the filing of a written request to that effect, to the taxpayer himself or his receivers, trustees, executors, administrators, assignees, and guarantors, if directly interested, of information as to any such tax paid, any such tax unpaid or the amount of any such tax required to be collected, together with interest and penalties thereon provided the city attorney approves each such disclosure. The tax administrator may

refuse to make any such disclosure referred to in 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 city.

5.32.160 Appeal to City Manager. Any person aggrieved by any decision of the tax administrator may appeal to the city manager by filing a notice of appeal with the tax administrator within 10 days of the serving or mailing of the notice of the decision. The tax administrator shall fix a time and place for hearing the appeal and shall give the appellant 10 days' written notice of the time and place of the hearing.

5.32.170 Transient Room Tax - Appeal to Council. Any person aggrieved by any decision of the city manager under Section 5.32.160 of this Code may appeal to the council by filing a notice of appeal with the tax administrator within 10 days of the serving or the mailing of the notice of the decision given by the city manager. The tax administrator shall transmit the notice together with the file of the appealed matter, to the council, who shall fix a time and place for hearing the appeal. The council shall give the appellant not less than 10 days written notice of the time and place of hearing the appeal.

5.32.180 Violations. No operator or other person required to do so may fail to refuse to register as required by Section 5.32.060 of this Code or to furnish any return required to be made under Section 5.32.070 or to furnish a supplemental return or other data required by the tax administrator. No person may render a false or fraudulent return under Section 5.32.070. No person required to make, render, sign, or verify any report regarding the transient room tax may make any false or fraudulent report.

5.32.190 Penalties. Any person wilfully violating any provision of Sections 5.32.020 to 5.32.180 of this Code shall be guilty of a misdemeanor and be punishable therefor by a fine of not more than \$500.00 or by imprisonment for not more than six months or by both such fine and imprisonment.

5.32.200 The City Manager may delegate the responsibility for the administration and collection of the transient room tax as set forth in this Code to the Director of Finance, City of Eugene.