

TITLE 7

BUSINESS LICENSING & REGULATION

CHAPTER 770

LINN COUNTY TRANSIENT LODGING TAX CODE

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I. GENERAL PROVISIONS

770.010 Title

This Chapter, LCC 770.010 to LCC 770.920, shall be known and may be cited as the "Linn County Transient Lodging Tax Code" or simply as the "Transient Lodging Tax Code" or the "TLT Code."

[Adopted 2018-197 eff 10/01/2018]

770.020 Purpose

The purpose of this Chapter is to institute a Transient Lodging Tax in Linn County in order to fund Tourism-Related Facilities and Tourism Promotion activities.

[Adopted 2018-197 eff 10/01/2018]

770.030 Use of TLT Funds

The County shall distribute the revenue received from the Transient Lodging Tax, minus any cost to the County in administering this Chapter, as follows:

(A) All tax revenue received from Operators located in zip codes 97321 and 97322 shall be disbursed directly to the Linn County Fair & Expo Center. These funds shall be used by the Fair & Expo Center in accordance with its annual budget approved by the Board.

(B) The balance remaining shall be disbursed to Linn County Parks & Recreation to fund Tourism Promotion and Tourism-Related Facilities.

[Adopted 2018-197 eff 10/01/2018]

770.040 Operator Records

(A) Every Operator shall keep records of each transaction involving Rent and/or collection of TLT. All records shall be retained for at least three (3) years and six (6) months.

(B) The Tax Administrator or agent may examine all records of an Operator relating to receipt of Rent and TLT and remittance of the Tax during normal business hours and may obtain copies of the records to audit returns.

[Adopted 2018-197 eff 10/01/2018]

770.050 Authority of Tax Administrator

The Tax Administrator shall have the power to enforce this Chapter, conduct audits, and to adopt rules, regulations, and forms consistent with this Chapter. Rules and regulations of general application shall be mailed, or otherwise provided, to all registered Operators.

[Adopted 2018-197 eff 10/01/2018]

770.060 Definitions

As used in this Chapter, the following definitions apply:

(A) **“Board”** means the Linn County Board of Commissioners.

(B) **“Certificate of Authority”** means the authorizing document issued by the Tax Administrator to a Provider or Intermediary that signifies that they are registered as an Operator in Linn County.

(C) **“County”** means Linn County.

(D) **“Intermediary”** means a Person, other than a Provider, that facilitates the retail sale of Transient Lodging and:

(1) Charges for the Occupancy of the Transient Lodging;

(2) Collects the Rent from the Occupant; or

(3) Receives a fee or commission and requires the Provider to use an Application Programming Interface, or an otherwise specified third-party entity, to collect the Rent.

(E) **“Occupancy”** means the right to the use or possession of any space in Transient Lodging for dwelling, lodging, or sleeping purposes for less than 30 days.

(F) **“Occupant”** means any individual who exercises Occupancy or is entitled to Occupancy in Transient Lodging for a period of 30 consecutive calendar days or less, counting portions of calendar days as full days.

(G) **“Operator”** means a Provider or Intermediary that has registered with the Tax Administrator and has received a Certificate of Authority.

(H) **“Person”** means any individual, firm, partnership, joint venture, limited liability company, corporation, limited liability partnership, association, host, social club, fraternal organization, fraternity, sorority, public or private dormitory, joint stock company, estate, trust, business trust, receiver, trustee, syndicate, or any other group or combination acting as a unit.

(I) **“Provider”** means a Person that furnishes Transient Lodging for Occupancy to the general public for compensation.

(J) **“Rent”** means the consideration paid or payable by an Occupant for the occupancy of space in Transient Lodging valued in money, goods, labor, credits, property, or other consideration. If a separate fee is charged for services, goods, or commodities, and the fee is optional, that fee is not included in Rent.

(K) **“Tax Administrator”** means the individual or agency appointed by the Board to collect and administer the tax on behalf of the County.

(L) **“Tax Return Form”** or **“Return”** means the form authorized by the Tax Administrator as the official form to be submitted by Occupants in accordance with this Chapter.

(M) **“Tourism Promotion”** means:

- (1) Advertising, publicizing or distributing information for the purpose of attracting and welcoming tourists;
- (2) Conducting strategic planning and research necessary to stimulate future tourism development;
- (3) Operating tourism promotion agencies; and
- (4) Marketing special events and festivals designed to attract tourists.

(N) **“Tourism-Related Facilities”** means:

- (1) A conference center, convention center, or visitor information center; or
- (2) Other improved real property that has a useful life of ten (10) or more years and has a substantial purpose of supporting tourism or accommodating tourist activities.

(O) **“Transient Lodging”** or **“Transient Lodging Facilities”** means:

- (1) Hotel, motel, or inn dwelling units that are used for Occupancy by the general public; or
- (2) Spaces used for overnight parking of recreational vehicles or placement of tents during periods of Occupancy by the general public.
- (3) Houses, duplexes, multiplexes, cabins, condominiums, apartment units, houseboats, trailers, or other dwelling units, or portions of any of these dwelling units that are used for Occupancy by the general public.

(P) **“TLT”** or **“Transient Lodging Tax”** or **“tax”** means the Linn County Transient Lodging Tax authorized herein.

[Adopted 2018-197 eff 10/01/2018]

II. TAX IMPOSED

770.100 Rate of Tax

Each Operator shall pay a TLT in the amount of three percent (3%) of the Rent. The Occupant shall pay the TLT with the Rent to the Operator. TLT amounts shall be rounded down to the nearest cent. The Tax Administrator shall maintain records of all Rent charged and TLT payments received. If Rent is paid in installments, a proportionate share of the TLT shall be paid by the Operator to the Tax Administrator with each installment unless the Operator pays the entire amount with the first payment.

[Adopted 2018-197 eff 10/01/2018]

770.110 Five Percent Allotment for Operator Expense

Every Operator liable for collection and remittance of the tax imposed by this Chapter may withhold five percent (5%) of the net tax collected to cover the Operator’s expense in collection and remittance of the tax.

[Adopted 2018-197 eff 10/01/2018]

770.120 Rate Required on Invoice or Receipts

Bills, receipts, or invoices provided to Occupants shall specifically list the TLT and must accurately state the amount of the tax. All amounts listed as TLT on invoices, bills, or receipts must be reported as TLT and, after collection, must be turned over to the County, less the five percent (5%) allotment for Operator’s expense.

[Adopted 2018-197 eff 10/01/2018]

III. TAX COLLECTION

770.200 Collection of Tax by Operator

All Operators not otherwise exempted under the terms of this Chapter shall collect a tax from any Occupants of Transient Lodging Facilities located in Linn County. The tax collected or accrued by the Operator constitutes a debt owing by the Operator to the County.

[Adopted 2018-197 eff 10/01/2018]

770.210 Deferment of Tax Until Rent is Paid

In all cases of credit or deferred payment of Rent, the payment of tax to the Operator may be deferred until the Rent is paid, and the Operator shall not be liable for the tax until credits are paid or deferred payments are made.

[Adopted 2018-197 eff 10/01/2018]

770.220 Tax Administrator's Authority to Enforce

The Tax Administrator shall enforce the provisions of this Chapter and shall have the power to adopt rules, regulations, processes, and procedures not inconsistent with this Chapter as may be necessary to aid in the enforcement.

[Adopted 2018-197 eff 10/01/2018]

IV. REGISTRATION AND CERTIFICATE OF AUTHORITY

770.300 Registration of Operator

Every Person engaging in, or about to engage in, business as a Provider or Intermediary of Transient Lodging located in Linn County shall provide a completed registration form to the Tax Administrator within fifteen (15) calendar days after commencing business. The registration form shall require the Provider or Intermediary to provide the name of the business, any separate business address, the address of the Transient Lodging Facility, and other information as the Tax Administrator may require to implement this

Chapter. The registration form shall be signed by the Provider or Intermediary.

[Adopted 2018-197 eff 10/01/2018]

770.310 Certificate of Authority

The Tax Administrator shall, within ten (10) days after registration, issue without charge a Certificate of Authority to each registrant to collect the tax from the Occupant, together with a duplicate thereof for each additional place of business of each registrant. Certificates shall be non-assignable and nontransferable and shall be surrendered immediately to the Tax Administrator when the business is sold or transferred or when the Transient Lodging Facility ceases to operate at the location specified in the registration form.

[Adopted 2018-197 eff 10/01/2018]

770.320 Certificate of Authority Requirements

Each Certificate of Authority shall be prominently displayed at the Transient Lodging Facility so as to be seen and readily noticeable by all Occupants and persons seeking Occupancy. The certificate shall include the following:

- (A) The name of the Operator;
- (B) The address of the Transient Lodging Facility;
- (C) The date upon which the certificate was issued;
- (D) The certificate number as assigned by the Tax Administrator; and

(E) "This Transient Occupancy Registration Certificate signifies that the person named on the face hereof has fulfilled the requirements of the Transient Room Tax Regulations of Chapter 770 of the Linn County Code, by registration with the Linn County Tax Collector for the purpose of collection from transients the lodging tax imposed by said county and remitting said tax to the Linn County Tax Collector. 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, or other

nonexempt dwelling unit, 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."

[Adopted 2018-197 eff 10/01/2018]

V. EXEMPTIONS

770.400 Certain Dwelling Units Exempt from Tax

No tax shall be imposed upon:

(A) A dwelling unit in a hospital, health care facility, long-term care facility or any other residential facility that is licensed, registered or certified by the Oregon Department of Human Services or the Oregon Health Authority;

(B) A dwelling unit in a facility providing treatment for drug or alcohol abuse or providing mental health treatment;

(C) A dwelling unit, the consideration for which is funded through a contract with a government agency and the purpose of which is to provide emergency or temporary shelter;

(D) A dwelling unit at a nonprofit youth or church camp, nonprofit conference center, or other nonprofit facility; or

(E) A dwelling unit that is leased or otherwise occupied by the same person for a consecutive period of 30 days or more during the year. The requirements of this subsection are satisfied even if the physical dwelling unit changes during the consecutive period, if:

(1) All dwelling units occupied are within the same facility; and

(2) The person paying consideration for the Transient Lodging is the same person throughout the consecutive period.

[Adopted 2018-197 eff 10/01/2018]

VI. REMITTANCES, RETURNS, AND DELIVERY

770.500 Remittance; Tax Return Required

(A) Operators shall submit a completed Tax Return Form to the Tax Administrator accompanied by remittance of all tax collected for that quarter, less an administration fee in accordance with LCC 770.110. Returns shall show the gross Rents collected, taxable Rents, the total amount of TLT collected, and the amount of the administrative fee retained. Returns shall also show the exempted and excluded Rents and the basis for exemptions and exclusions.

(B) The initial Return may be completed for less than the three months preceding the due date; thereafter, however, Returns shall be made for the applicable quarterly period.

[Adopted 2018-197 eff 10/01/2018]

770.510 Due Date; Date of Delivery; Extensions

(A) All taxes collected by an Operator under this Chapter are payable to the Tax Administrator on a quarterly basis and shall be due on the 15th day of January, April, July, and October of each year. The taxes collected are considered delinquent on the last day of the month in which they are due.

(B) Returns and remittances may be submitted in person or by mail. If the Return and remittance is mailed, the postmark shall be considered the date of delivery.

(C) The Tax Administrator has authority to classify or district the Operators for determination of applicable tax periods and shall notify each Operator of the due and delinquent dates for the Operator's Returns.

(D) The Tax Administrator may extend the time for making any Return or remittance of the tax by up to 30 days. No further extension shall be granted, except as authorized by the Board.

[Adopted 2018-197 eff 10/01/2018]

VII. FINANCIAL PENALTIES & INTEREST

770.600 Penalties Imposed for Failure to File

(A) Any Operator who has not been granted an extension of time for remittance of tax due, and who fails to pay a delinquent remittance on or before a period of thirty (30) days following the date on which the remittance first became delinquent, shall pay ten percent (10%) of the amount of the tax due in addition to the amount of the tax.

(B) If the Tax Administrator determines that the nonpayment of any remittance due under this Chapter is due to fraud or intent to evade the provisions thereof, a penalty of fifteen percent (15%) of the amount of the tax shall be added thereto, in addition to the penalties stated in subsection (A) of this section.

[Adopted 2018-197 eff 10/01/2018]

770.610 Interest to Be Paid for Late Remittance

In addition to the penalties imposed, any Operator who has not been granted an extension of time for remittance of tax due, and who fails to remit any tax imposed by this Chapter, shall pay interest at the rate of one percent (1%) per month on the amount of the tax due, exclusive of penalties, from the date on which the remittance first became delinquent until paid.

[Adopted 2018-197 eff 10/01/2018]

770.620 Penalties and Interest to Accrue; Appeal to Board

(A) Every penalty imposed, and any interest that accrues, becomes a part of the financial obligation required to be paid and remitted to Tax Administrator.

(B) Any Operator who fails to remit the tax herein levied within the time herein stated shall pay the penalties herein stated; provided, however, the Operator may petition the Board for waiver and refund of the penalty, or any portion thereof, and the Board may, if a good and sufficient reason

is shown, waive and direct a refund of the penalty, or any portion thereof.

[Adopted 2018-197 eff 10/01/2018]

VIII. DEFICIENCIES, REDETERMINATIONS, & REFUNDS

770.700 Deficiency Determination

(A) If the Tax Administrator determines that the Returns are incorrect, the amount required may be computed and determined upon the basis of the facts contained in the Return or Returns or upon the basis of any information in the possession of the Tax Administrator. 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 LCC 770.700 - 770.720.

(B) In reviewing and adjusting Returns, the Tax Administrator shall offset any amount received in excess of the remittances due against any shortages in remittances. The interest on under payments shall be computed in the manner set forth in LCC 770.710.

(C) Except in the case of fraud or intent to evade the TLT, notice of deficiency determinations shall be issued within three (3) years of the period for which the deficiency determination is made.

(D) The time to remit deficient payment amounts under this section shall be extended if the Tax Administrator timely requests a redetermination.

[Adopted 2018-197 eff 10/01/2018]

770.710 Redeterminations

(A) Any Person affected by a determination made under this Chapter may file a petition for redetermination with the Tax Administrator

within ten (10) business days of service of notice of the tax deficiency. A determination becomes final if a petition for redetermination is not timely filed.

(B) If a petition for redetermination is filed within the allowable period, the Tax Administrator shall reconsider the determination and grant an oral hearing if requested. The petitioner shall be allowed at least twenty (20) business days to prepare for the hearing.

(C) After considering the petition and all available information, the Tax Administrator shall issue a redetermination decision and mail the decision to the petitioner. During the redetermination process, the Tax Administrator may agree to a compromise of the amount due if there is a good faith dispute over the amount owing.

(D) The decision of the Tax Administrator on redetermination becomes final and payment is due ten (10) business days after the decision is mailed unless the petitioner files an appeal to the Board within that time. The appeal shall also be filed with the Tax Administrator. The Board's decision shall be final when reduced to writing and mailed to the petitioner, and all amounts due must be paid within ten (10) business days of mailing of the Board's decision.

[Adopted 2018-197 eff 10/01/2018]

770.730 Refunds

(A) An Operator may file a claim for refund by filing a claim in writing within three (3) years of payment providing the facts relating to the claim for refund. If the Tax Administrator determines that the tax was collected and remitted to the County and the Occupant was not required to pay the tax or overpaid, the County shall issue a refund.

(B) The Person claiming the refund shall have the burden of proving the facts that establish the basis for the refund.

[Adopted 2018-197 eff 10/01/2018]

IX. FRAUD; REFUSAL TO COLLECT; EVASION

770.800 Fraud; Refusal to Collect; Evasion

If any Operator fails to collect, report, or remit the tax as required, submits a fraudulent Return, or otherwise violates or attempts to violate this Chapter, the Tax Administrator shall estimate the tax due, and calculate the amount owing from the local tax trustee for tax remittance, interest and penalties and provide notice to the local tax trustee of the assessment. The determination and notice shall be made and mailed within three (3) years of the discovery by the Tax Administrator of the violation. The determination is due and payable upon receipt of notice and shall become final ten (10) business days after the date notice was delivered if no petition for redetermination is filed.

[Adopted 2018-197 eff 10/01/2018]

X. RIGHT TO COLLECT & VIOLATION PROVISION

770.900 Legal Right to Collect

(A) The County may bring legal action to collect on any amounts owed to the County under this Chapter within three (3) years after remittance is due to the County or within three (3) years after any determination becomes final.

(B) The County is entitled to collect reasonable attorneys' fee in any legal action brought to collect on amount owed to the County under this Chapter.

(C) The County may seek a judgement lien, or any other lien authorized by law, against any real property owned by the Operator as to any delinquent remittances owed by the Operator.

[Adopted 2018-197 eff 10/01/2018]

770.910 Provider and Intermediary Jointly Liable for Tax

A Provider and an Intermediary may be held jointly and severally liable for the tax, including

any and all penalties and interest provided for in this Chapter.

[Adopted 2018-197 eff 10/01/2018]

770.920 Punishable Violation

Violation of the provisions of this Chapter may also be punished in accordance with the provisions of LCC Chapter 240 (Linn County Enforcement Code). Violation of this Chapter is a Class “A” violation.

[Adopted 2018-197 eff 10/01/2018]

Statutory References and Authorities:

ORS 320.300 to 320.302; ORS 320.345 to 320.350; ORS 312.010 et seq.; ORS 18.150 et seq.; LCC 240.010 to 240.999.

Legislative History:

Adopted 2018-197 eff 10/01/2018
