

## **Chapter 4.08. TRANSIENT LODGING TAX**

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#### **4.08.010 Short Title**

DCC 4.08 shall be known as the Deschutes County Transient Lodging Tax ordinance.  
(Ord. 2005-012 §1, 2005; Ord. 203-3 §1, 1975)

#### **4.08.015 Notices**

All notices required or permitted to be given under DCC 4.08 may be served personally, by email or by first class mail, postage prepaid, to the recipient of the notice. If notice is mailed to an Operator, it will be addressed to the Operator at the Operator's address as the address appears in the record of the Tax Administrator. Operator is required to provide Tax Administrator with Operator's current address and to provide Tax Administrator with any change of Operator's address. If notice is personally served, it is deemed served at the time of delivery. If notice is served by mail or email, it is deemed served three (3) days after the date the notice is deposited for mailing with the United States Postal Service or the date the email is sent.  
(Ord. 2005-012 §1, 2005).

#### **4.08.020 Definitions**

For the purposes of DCC 4.08, unless otherwise apparent from the context, certain words and phrases used in DCC 4.08 are defined as set forth in DCC 4.08.025- through DCC 4.08.088.  
(Ord. 2005-012 §1, 2005; Ord. 2001-016 §2, 2001; Ord. 95-029 §1, 1995; Ord. 203-3 §2, 1975)

#### **4.08.025 Definition; Accrual Accounting**

"Accrual accounting" means the Operator enters the Rent due from an Occupant on their records when Rent is earned whether or not it is paid.  
(Ord. 2005-012 §1, 2005; Ord. 2003-3 §2, 1975)

#### **4.08.030 Definition; Board**

"Board" means the Deschutes County Board of County Commissioners.  
(Ord. 2005-012 §1, 2005; Ord. 203-3 §2, 1975)

#### **4.08.035 Definition; Cash Accounting**

"Cash accounting" means the Operator does not enter the Rent due from an Occupant on their records until Rent is paid.  
(Ord. 2005-012 §1, 2005; Ord. 203-3 §2, 1975)

#### **4.08.040 Definition; County**

"County" means Deschutes County and is limited to the unincorporated area of the County.  
(Ord. 203-3 §2, 1975)

#### **4.08.042 Definition; Destination Resort**

"Destination Resort" means any Transient Lodging Facility which includes on the site of the Transient Lodging Facility, three or more of the following outdoor recreation facilities that are available to Transient Lodging Occupants with or without additional charge: Bike paths, walking trails, running trails or horse trails at least two miles in length, horseback riding facilities, one or more golf courses, tennis courts, skating facilities and one or more swimming pools.  
(Ord. 2005-012 §1, 2005)

#### **4.08.050 Definition; Occupancy and Occupying**

"Occupancy" and "Occupying" means the right to the use or possession of any space in Transient Lodging for dwelling, lodging or sleeping purposes for less than 30 consecutive calendar days, counting portions of calendar days as full days.

(Ord. 2005-012 §1, 2005; Ord. 203-3 §2, 1975)

#### **4.08.052 Definition; Occupant**

"Occupant" means any individual, except the owner of a Transient Lodging Facility, who exercises Occupancy or is entitled to Occupancy in Transient Lodging for a period of less than 30 consecutive calendar days, counting portions of calendar days as full days. The day an Occupant checks out of Transient Lodging Facility shall not be included in determining the 30-day period if the Occupant is not charged Rent for that day by the Operator. Any such individual so occupying space in Transient Lodging shall be deemed to be an Occupant 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. An owner of Transient Lodging, or a Person who pays for lodging on a monthly basis, regardless of the number of days in such month, shall not be deemed an Occupant for purposes of the Deschutes County Transient Lodging Tax Ordinance.

(Ord. 2005-012 §1, 2005; Ord. 203-3 §2, 1975)

#### **4.08.055 Definition; Operator**

"Operator" means a Transient Lodging Provider or Transient Lodging Intermediary. Both the Transient Lodging Provider and the Transient Lodging Intermediary shall at all times remain jointly and severally obligated with respect to the duties and obligations of the Operator pursuant to the provisions of DCC 4.08. [Compliance with the provisions of DCC 4.08 by either the Transient Lodging Provider or the Transient Lodging Intermediary shall be considered to be in compliance by both.]

(Ord. 2020-005 §1, 2020; Ord. 2005-012 §1, 2005; Ord. 203-3 §2, 1975)

#### **4.08.060 Definition; Person**

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

(Ord. 2020-005 §1, 2020; Ord. 203-3 §2, 1975)

#### **4.08.062 Definition; Recreation Fee**

"Recreation Fee" means a fee charged, assessed, or allocated by a Transient Lodging Facility to an Occupant or Occupants for use of Destination Resort recreation facilities, whether the Transient Lodging Facility charging the Recreation Fee is a Destination Resort or has a contract or agreement with a Destination Resort for use by the Transient Lodging Facility's guests of the recreation facilities of the Destination Resort. (Ord. No. 2005-012 §1, 2005)

#### **4.08.065 Definition; Rent**

"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. If the fee is not optional, then it shall be included in the Rent. Except as otherwise provided in this section, Rent includes all fees, charges and assessments (including but not limited to, nightly rate, Short-Term Rental Hosting Platform Fees, cleaning or housekeeping fees, or pet fees, cancellation fees, non-refundable deposits, or recreation fees) charged, assessed or allocated by Operator for the Occupancy of space in Transient Lodging, the payment for which is not optional to the Person occupying space in the Transient Lodging Facility. Rent does not include:

- A. Any taxes, fees, or assessments levied by any other governmental entity;
- B. The sale of any goods, services, or commodities, which are separate and independent from occupancy of a room or space in Transient Lodging Facility;
- C. Any fees, charges or assessments, other than the furnishing of a room or accommodations in Transient Lodging Facility or a parking space in a mobile home, recreational vehicle, or trailer park, the payment for which is optional to the Person occupying the room or rooms in Transient Lodging Facility or parking in a space in a mobile home, recreational vehicle, or trailer park.

(Ord. 2005-012 §1, 2005; Ord. 203-3 §2, 1975)

#### **4.08.070 Definition; Rent Package Plan**

“Rent Package Plan” means the full consideration charged, whether or not received by the Operator, for Rent plus food and/or activities where a single rate is charged for the combination of Rent, food and/or activities. For purposes of determining Deschutes County Transient Room Tax for a Rent Package Plan, the Operator may exclude from Rent an amount allocated by Operator as the Operator’s reasonable cost of providing the food, activity, or activities as part of the Rent Package Plan.

(Ord. 2005-012 §1, 2005; Ord. 2003-003 §2, 1975)

#### **4.08.071 Definition; Short-Term Rental**

“Short-Term Rental” means a Transient Lodging Facility for Occupancy. Generally, a short-term rental is zoned residential or has a building occupancy that only allows for residential use. A short-term rental is not allowed in Forest Use Zones or Exclusive Farm Use Zones. Structures or other accommodations utilized as a Short-Term Rental must be lawfully established as a dwelling. Structures, temporary or permanent, other than the primary dwelling on the property, including but not limited to, garage conversions, recreational vehicles, tents, teepees, yurts, tiny homes, accessory dwelling units (ADUs), and similar structures or shelters, are generally not allowed.

#### **4.08.072 Definition; Short-Term Rental Hosting Platform**

“Short-Term Rental Housing Platform” means a business or other Person that facilitates the retail sale of Transient Lodging by connecting Occupants with Transient Lodging Providers, either online or in any other manner. Short-Term Rental Hosting Platforms are Transient Lodging Intermediaries.

#### **4.08.073 Definition; Short-Term Rental Hosting Platform Fees**

A hosting platform for Short-Term Rentals (Transient Lodging Intermediaries) may collect a fee for booking services in connection with Short-Term Rentals only when those Short-Term Rentals are lawfully registered as providers with the County and possess a County Certificate of Authority at the time the Short-Term Rental is occupied. The Hosting Platform Fees are to be included as Rent when calculating the Transient Lodging Tax.

#### **4.08.074 Definition; Site**

“Site” means an individual Transient Lodging Facility, as defined in DCC 4.08, for which there is a separate real property tax account or accounts. An individual site may include more than one unit of separate rentable accommodations.

(Ord. 2005-012 §1, 2005; Ord. 97-073 §2, 1997)

#### **4.08.075 Definition; Tax**

"Tax" means either the tax payable by the Occupant, or the aggregate amount of taxes due from an Operator from any source and calculated based upon the fees and charges included in Rent whether collected directly by the Operator or collected through or transmitted by a Transient Lodging Intermediary, during the period for which the Operator is required to report collections for the Operator's Transient Lodging.

(Ord. 2020-005 §1, 2020; Ord. 2005-012 §1, 2005; Ord. 203-3 §2, 1975)

**4.08.080 Definition; Tax Administrator**

"Tax Administrator" means the Chief Financial Officer of Deschutes County, or its designee.  
(Ord. 97-013 §1, 1997; Ord. 203-3 §2, 1975)

**4.08.086 Definition; Transient Lodging or Transient Lodging Facilities**

Transient Lodging or Transient Lodging Facilities means a) Hotel, motel, and inn dwelling units that are used for temporary overnight human occupancy; b) Spaces used for overnight parking of recreational vehicles or placement of tents during periods of human occupancy; or c) Houses, cabins, condominiums, apartment units or other dwelling units, or portions of any of these dwelling units that are used for temporary human occupancy.

(Ord. 2005-012 §1, 2005; Ord. 93-049 §1, 1993; Ord. 203-3 §2, 1975)

**4.08.087 Definition; Transient Lodging Provider**

"Transient Lodging Provider" means a Person that provides Transient Lodging.

**4.08.088 Definition; Transient Lodging Intermediary**

"Transient Lodging Intermediary" means a Person other than a Transient Lodging Provider that facilitates the retail sale of Transient Lodging and:

- a. Charges for Occupancy of the Transient Lodging;
- b. Collects the consideration charged for Occupancy of the Transient Lodging; or
- c. Receives a fee or commission and requires the Transient Lodging Provider to use a specified third-party entity to collect the consideration charged for Occupancy of the Transient Lodging.

**4.08.090 Tax Imposed**

For the privilege of Occupancy in any Transient Lodging Facility, on and after the effective date of July 1, 2014, as codified in DCC 4.08, each Occupant shall pay a Tax in the amount of eight percent (8%) of the Rent for Occupancy of space in a Transient Lodging Facility. The Tax constitutes a debt owed by the Occupant to the County, which is extinguished only by payment to the Operator as agent for the County. The Occupant shall pay the Tax to the Operator of the Transient Lodging Facility at the time the Rent is paid. The Operator shall enter the Tax on Operator's records when Rent is collected if the Operator keeps records on the Cash accounting basis and when earned if the Operator keeps records on the Accrual accounting basis. If Rent is paid in installments, a proportionate share of the Tax shall be paid by the Occupant to the Operator with each installment. If, for any reason, the Tax due is not paid to the Operator of the Transient Lodging Facility, the Tax Administrator may nevertheless require that such Tax shall be paid by the Operator directly to the County.  
(Ord. 2020-005 §1, 2020; Ord. 2014-023 §1, 2014, Ord. 2005-012 §1, 2005; Ord. 95 029 §1, 1995; Res. 87 053 adopted by the people 11/3/87; Ord. passed 3/11/80: Ord. 203 3 §3, 1975)

**4.08.100 Applicability**

The Tax imposed by this ordinance shall apply only to those Transient Lodging Facilities located within the unincorporated area of the County.

(Ord. 2005-012 §1, 2005; Ord. 95-029 §1, 1995; Ord. 203-3 §4, 1975)

**4.08.110 Operator; Collection Amount**

- A. Every Operator renting rooms in the County, the Occupancy of which is not exempted under the terms of DCC 4.08, shall collect a Tax from the Occupant occupying the room. The Tax collected or accrued by the Operator constitutes property of the County in the possession of the Operator, held in trust by such Operator until conveyed to the County in accordance with the provisions of DCC 4.08.

- B. In all cases of credit or deferred payment of Rent by the Occupant, 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.
  - C. While holding the payment in trust for the County, an Operator may commingle the tax proceeds with the Operator's funds, but the Operator is not the owner of tax proceeds, except that, when a return is filed, the Operator becomes the owner of the collection reimbursement charge authorized to be retained.
- (Ord. 2020-005 §1, 2020; Ord. 2005-012 §1, 2005; Ord. 97-073 §1, 1997; Ord. 95-029 §1, 1995; Ord. 203-3 §5, 1975)

#### **4.08.120 Operator; Collection Procedure; Operator Fee**

- A. Each Operator shall collect the Tax imposed by DCC 4.08 at the same time as the Rent is collected from every Occupant.
  - B. The amount charged by an Operator for Deschutes County Transient Lodging Tax shall be separately stated on all records of Operator and on all bills, invoices, and receipts rendered by Operator and shall be specifically identified on all Operator records, bills, invoices and receipts as "Deschutes County Lodging Tax." The amounts listed by an Operator on the Operator's records, bills, invoices and receipts as "Deschutes County Lodging Tax" must accurately state the amount of Tax and shall not include any other taxes, fees, charges or assessments.
  - C. No Operator of a Transient Lodging Facility 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, except in the manner provided by DCC 4.08.
  - D. The Operator may retain, as a collection reimbursement fee, up to five percent (5%) of all Deschutes County Transient Lodging Tax revenues collected by Operator.
- (Ord. 2005-012 §1, 2005; Ord. 95-029 §1, 1995; Ord. 203-3 §6, 1975)

#### **4.08.125 Personal Liability**

Each Person who uses, expends, diverts any Tax held in trust, or withholds or authorizes or directs such use, expenditure, diversion, or withholding, shall be personally liable to the County for all Taxes so used, expended, diverted, or withheld, plus all penalties and interest accrued or imposed as a result of such action.

(Ord. 2005-012 §1, 2005; Ord. 97-073 §2, 1997)

#### **4.08.127 Penalties; Noncompliance with Advertising Requirements**

It is a violation for any Operator who places or causes to appear through any medium an advertisement soliciting reservations or Rental availability for any location if such advertisement does not include the certificate of authority number as prescribed in DCC 4.08.140. No Operator shall fail or refuse to furnish information related to the advertising of any location upon request of the Tax Administrator. Violation of any provisions of DCC 4.08.127 is a Class A Violation.

(Ord. 2005-012 §1, 2005; Ord. 97-073 §2, 1997)

#### **4.08.130 Exemptions**

No Tax imposed under DCC 4.08 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:
    - a. All dwelling units occupied are within the same facility; and
    - b. The Person paying consideration for the transient lodging is the same Person throughout the consecutive period.
  - F. The United States Government when a federal employee is on federal government business and the lodging for the employee is directly paid for by the government or employee with a government-issued check, credit card, purchase order or other form of procurement document.
  - G. Any Federally Chartered organization when an organization employee is on organization business and the lodging for the employee is directly paid for by the organization or employee with an organization-issued check, credit card, purchase order or other form of procurement document.
- (Ord. 2005-012 §1, 2005; Ord. 95-029 §1, 1995; Ord. 93-049 adopted by the people 11/9/93; Ord. 93-020 §1, 1993; Ord. 203-3 §7, 1975)

#### **4.08.140 Operator-Registration; Form and Contents; Execution; Certificate of Authority**

- A. Every property owner engaging or about to engage in business as a Transient Lodging Provider in the County shall provide a completed registration form for a Certificate of Authority to the Tax Administrator within 15 calendar days after commencing business. The privilege of registration after the date of imposition of such Tax shall not relieve any Person from the obligation of payment or collection of Tax regardless of registration. The Transient Lodging Provider's obligation to collect the transient lodging tax is imposed once Rent for the Transient Lodging is paid, even if the registration form has not been filed or if the Certificate of Authority has not been issued.
- B. When registering, registrants will be required to pay an administrative fee for the initial registration, in accordance with the County Fee Schedule. The registrant shall provide the Tax Administrator with the following information: (1) Property owner as listed in the Deschutes County property tax records, (2) the name under which an Operator transacts or intends to transact business; (3) the mailing address of their place or places of business; (4) physical address of the Short-Term Rental; (5) email address; (6) phone number; (7) name and contact information of property manager or agent, (8) any such other information to facilitate the collection of the Tax as the Tax Administrator may require. The registration form shall provide for submission of the information required by DCC 4.08.140, shall set forth in full the requirements imposed by DCC 4.08 regulating an Operator's advertisement of Transient Lodging accommodations, and shall be signed by the Operator. Upon request of the Tax Administrator, at the time of registration or at any other time, an Operator shall provide the address of each Transient Lodging Facility, which is subject to DCC 4.08, and the related contact information, including the name and mailing address, of the general manager, agent, owner, host or other responsible Person for the location.
- C. Upon approval, the Tax Administrator shall, within ten (10) business days after registration, issue a Certificate of Authority to collect the Tax. Certificates shall be non-assignable and nontransferable. The Operator shall notify the Tax Administrator upon the cessation of business at the location named or upon its sale or transfer. Each Certificate shall state the place of business to which it is applicable and shall be prominently displayed therein so as to be seen and come to the notice readily of all Occupants and Persons seeking Occupancy. The Certificate of Authority must be renewed annually. Property owners will be required to pay an administrative fee for the certificate renewal, in accordance with the County Fee Schedule.
- D. The Certificate shall, among other things, state the following:
  - 1. The name of the property owner;
  - 2. The name of the Operator, if different from property owner;
  - 3. The physical address of the Transient Lodging Facility;
  - 4. The date upon which the certificate was issued and expires;
  - 5. The Deschutes County Certificate of Authority (DCCA) number, as assigned by the Tax Administrator; and

6. This Certificate of Authority signifies that the Person named on the face hereof has fulfilled the requirements of the Transient Lodging Tax Ordinance of the County of Deschutes by registration with the Tax Administrator for the purpose of collecting from Occupants the Lodging Tax imposed by said County and remitting said Tax to the Tax Administrator.
- E. Failure to register for a Certificate of Authority, failure to complete the registration renewal, or operating a short-term rental without a current Certificate of Authority shall be deemed a Class A Violation. (Ord. 2020-005 §1, 2020; Ord. 2005-012 §1, 2005; Ord. 97-073 §1, 1997; Ord. 95-029 §1, 1995; Ord. 203-3 §8, 1975)

#### **4.08.145 Operator; Advertising of Transient Lodging Rentals; Identification Required**

Every Operator, in placing advertisements soliciting business for any location represented, operated or marketed by that Operator, must include the Certificate of Authority (DCCA) number. Any property not displaying the DCCA number in an advertisement shall be deemed a Class A Violation. For purposes of DCC 4.08, advertisement includes any print, electronic, or audio media, including, but not limited to, advertisements appearing in newspapers, magazines, newsletters, flyers, internet sites, or any other advertising medium, regardless of origin, distribution method, or distribution location of such medium. Such identification shall appear as “DCCA #” followed by the Certificate number assigned by the Tax Administrator for that location, shall appear in a readable size and font, if applicable, and shall be placed in such location that it is readily noticed as a part of the advertisement. This advertising requirement does not apply to Operators whose Certificate of Authority is assigned to only one physical location, and that location provides six or more rooms or individual units available for Transient Occupancy. If the Rent transaction is facilitated online, the Certificate of Authority number (DCCA #) must be visible to the Occupant in the advertisement. (Ord. 2020-005 §1, 2020; Ord. 2005-012 §1, 2005; Ord. 97-073 §2, 1997)

#### **4.08.150 Returns and Payments; Date Due**

- A. The Tax imposed by DCC 4.08 shall be paid by the Occupant to the Operator at the time that Rent is paid. All amounts of such Taxes collected by an Operator, or for which the Tax is otherwise owed by Operator to County, are due and payable to the Tax Administrator on a monthly basis when the estimated amount of average tax is more than fifty dollars (\$50) a month. When the estimated monthly amount of average tax due and payable to the Tax Administrator is fifty dollars (\$50) or less, the Operator has the option of paying on a quarterly basis. Monthly or quarterly reporting is required regardless if Tax is owed. For monthly filers, reports are due no later than the 15<sup>th</sup> day of the following month. For quarterly filers, reports are due no later than the 15<sup>th</sup> day of the month following the end of each calendar quarter (April 15<sup>th</sup>, July 15<sup>th</sup>, October 15<sup>th</sup>, January 15<sup>th</sup>). Taxes are delinquent if not paid to the Tax Administrator by the last day of the month in which such Taxes are due and payable to the Tax Administrator.
- B. On or before the 15th day of the month following each month or quarter (as set forth in 4.08.150(A)) of collection, every Operator liable for payment of Tax shall file a return or returns for the preceding month's or quarter's Tax collections with the Tax Administrator. The return or returns shall be filed online or in such format or on such forms as the Tax Administrator may prescribe. For private owners using a Transient Lodging Intermediary that collects and remits the Transient Lodging Tax to the Tax Administrator on behalf of the private owner, a quarterly report is required to be submitted by the private owner including data as described in 4.08.150 (C), as well as listing the Transient Lodging Intermediary Rents as a deduction.
- C. Returns shall show the amount of Tax collected or otherwise due for the related period by site. The Tax Administrator may require returns to show any or all of the following:
1. The sites for which Rental income was collected during the month, listed by address and the number of separately rentable units per site;
  2. Gross receipts of Operator for such period;
  3. The total Rentals upon which Tax was collected or otherwise due;
  4. An explanation in detail of any discrepancy between such amounts; and
  5. Any new units added from the previous months or any units deleted from the previous months; and



6. The amount of Rents exempt, if any.
- D. Annually in September, the Transient Lodging Intermediary shall submit to the Tax Administrator at the office of the Tax Administrator, by electronic submission, a complete address-specific list with Tax amounts of all properties submitted in previous tax reports for Transient Lodging from July 1 – June 30 of the past fiscal year.
- E. The Person required to file the return shall deliver the return, together with payment of the amount of the Tax due, to the Tax Administrator, at the office of the Tax Administrator, through the County's reporting and payment portal furnished by the Tax Administrator, or its designee, by personal delivery or by mail. If the return is mailed, the postmark shall be considered the date of delivery for determining delinquencies.
- F. For good cause, the Tax Administrator may extend the time for making any return or payment of Tax for a period not to exceed 30 days. No further extension shall be granted, except by the Board. Any Operator to whom an extension is granted shall pay interest at the rate of one percent (1%) 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 described elsewhere in DCC 4.08.
- G. Failure to complete and submit the required monthly or quarterly reporting form(s) is a Class A Violation. (Ord. 2020-005 §1, 2020; Ord. 2005-042, §1, 2005; Ord. 2005-012 §1, 2005; Ord. 97-073 §1, 1997; Ord. 95-029 §1, 1995; Ord. 203-3 §9, 1975)

#### **4.08.160 Penalties and Interest; Delinquency**

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 DCC 4.08 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.

(Ord. 2005-012 §1, 2005; Ord. 95-029 §1, 1995; Ord. 203-3 §10(1), 1975)

#### **4.08.170 Penalties and Interest; Continued Delinquency**

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 thirty (30) days following the date on which the remittance first became delinquent shall pay a second delinquency penalty of fifteen percent (15%) of the amount of the Tax due plus the amount of the Tax and the ten percent (10%) penalty first imposed.

(Ord. 2005-012 §1, 2005; Ord. 95-029 §1, 1995; Ord. 203-3 §10(2), 1975)

#### **4.08.180 Penalties and Interest; Fraud**

If the Tax Administrator determines by clear and convincing evidence that the nonpayment of any remittance due under DCC 4.08 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 DCC 4.08.160 and DCC 4.08.170.

(Ord. 2020-005 §1, 2020; Ord. 2005-012 §1, 2005; Ord. 95-029 §1, 1995; Ord. 203-3 §10(3), 1975)

#### **4.08.190 Penalties and Interest; Assessment of Interest**

In addition to the penalties imposed, any Operator who fails to remit the Tax imposed by DCC 4.08 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 became delinquent until paid.

(Ord. 2005-012 §1, 2005; Ord. 95-029 §1, 1995; Ord. 203-3 §10(4), 1975)

#### **4.08.200 Penalties and Interest; Penalties Merged with Tax**

Every penalty imposed and such interest as accrues under the provisions of DCC 4.08.200 shall be merged with and become a part of the Tax required to be paid pursuant to DCC 4.08.

(Ord. 2005-012 §1, 2005; Ord. 95-029 §1, 1995; Ord. 203-3 §10(5), 1975)

#### **4.08.210 Penalties and Interest; Petition for Waiver**

Any Operator who fails to remit the Tax levied in DCC 4.08 within the time stated in DCC 4.08 shall pay the penalties stated in DCC 4.08; provided, however, the Operator may petition for waiver or refund of any penalty, or any portion thereof. If the total penalty due does not exceed \$10,000, any petition for waiver or refund of penalties shall be directed to and determined by the Tax Administrator. If the total penalty due exceeds \$10,000, any petition for waiver or refund of penalties shall be directed to and determined by the Board. Upon receipt of a petition for waiver or refund of penalties as set forth herein, the Tax Administrator or Board may, if a good and sufficient reason is shown, waive or direct a refund of the penalty or any portion thereof.

(Ord. 2005-012 §1, 2005; Ord. 2002-022 §1, 2002; Ord. 95-029 §1, 1995; Ord. 203-3 §10(6), 1975)

#### **4.08.220 Deficiency Determination**

If the Tax Administrator determines that any return is incorrect, the Tax Administrator may compute and determine the amount required to be paid upon the basis of the facts contained in the return or upon the basis of any information within the possession of or available to the Tax Administrator. One or more deficiency determinations may be made on 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 provided in DCC 4.08 after which the amount determined is delinquent. Penalties on deficiencies shall be applied as set forth in DCC 4.08.160 through DCC 4.08.210.

- A. In making a determination, the Tax Administrator may offset overpayments if any, which may have been previously made for a period or periods, against any underpayment for a subsequent period or periods, or against penalties and interest on the underpayments. The interest on underpayments shall be computed in the manner set forth in DCC 4.08.160 through DCC 4.08.210.
- B. The Tax Administrator shall give to the Operator a written notice of the determination made by the Tax Administrator. The notice may be served personally or by mail; if by mail, the notice shall be addressed to the Operator at the Operator's address as it appears in the records of the Tax Administrator. In case of service by mail of any notice required by DCC 4.08 the service is complete at the time of deposit in the United States Post Office.
- C. Except in the case of fraud or intent to evade DCC 4.08 or authorized rules and regulations, every deficiency determination shall be made and notice thereof mailed within three years after the last day of the month following the close of the month for which the amount is proposed to be determined or within three years after the return is filed, whichever period expires later.
- D. Any determination shall become due and payable immediately upon receipt of notice and shall become final within ten (10) days after the Tax Administrator has given notice thereof; provided, however, the Operator may petition for redemption and refund if the petition is filed before the determination becomes final as provided for in DCC 4.08.

(Ord. 2020-005 §1, 2020; Ord. 2005-012 §1, 2005; Ord. 95-029 §1, 1995; Ord. 203-3 §11(1), 1975)

#### **4.08.230 Fraud; Refusal to Collect; Evasion**

If any Operator shall fail or refuse to collect the correct Lodging Tax set forth in DCC 4.08 or to make, within the time provided in DCC 4.08 any report and remittance of such Tax or any portion thereof required by DCC 4.08, or makes a fraudulent return or otherwise willfully attempts to evade DCC 4.08, the Tax Administrator shall proceed in such manner as the Tax Administrator may deem best to obtain facts and information on which to base an estimate of the Tax due. As soon as the Tax Administrator has determined the Tax due that is imposed by DCC 4.08 from any Operator who has failed or refused to collect the same and to report and remit such Tax, the Tax Administrator shall proceed to determine and assess against such Operator the Tax, interest and penalties provided for by DCC 4.08. In case such determination is made, the Tax Administrator shall give a notice in the manner aforesaid of the amount so assessed. Such 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 such Tax, or failure to file return. Any amount of Tax, interest, and penalties, which the Tax Administrator determines are owed, shall become due and payable immediately upon service of notice by the Tax Administrator of the amount of deficiency. The determination shall become final within ten (10) days after service of notice of the amount owed. The Operator may petition for redemption and refund if the petition is filed with the Tax Administrator before the determination becomes final as provided in this section. The failure or refusal of an Operator to collect or remit any Tax or Taxes required under DCC 4.08 is a Class A Violation.

(Ord. 2005-012 §1, 2005; Ord. 95-029 §1, 1995; Ord. 203-3 §11(2), 1975)

#### **4.08.240 Operator Delay**

If the Tax Administrator believes that the collection of any Tax or any amount of Tax required to be collected and paid to the County will be jeopardized by delay, or if any determination will be jeopardized by delay, the Tax Administrator shall make a determination of the Tax or amount of Tax required to be collected, noting the determination. The amount so determined as provided in DCC 4.08 shall be immediately due and payable, and the Operator shall immediately pay same determination to the Tax Administrator after service of notice thereof; the Operator may file a petition, after payment has been made, for redemption and refund of all or a portion of any amount paid if the petition is filed within ten (10) days from the date of service of notice by the Tax Administrator.

(Ord. 2005-012 §1, 2005; Ord. 95-029 §1, 1995; Ord. 203-3 §11(3), 1975)

#### **4.08.250 Redeterminations**

- A. Any Person against whom a determination is made under DCC 4.08.220, 4.08.230 and 4.08.240 or any Person directly interested may petition for a redetermination and redemption and refund within the time required in DCC 4.08.220, 4.08.230 and 4.08.240. If a petition for redetermination and refund is not filed within the time required in DCC 4.08.220, 4.08.230 and 4.08.240, the determination becomes final at the expiration of the time allowed to submit a petition.
- B. If a petition for redetermination and refund is filed within the allowable period, the Tax Administrator shall reconsider the determination, and if the Person has so requested in the petition, shall grant the Person an oral hearing and shall give the Person twenty (20) days written notice of the time and place of the hearing. The Tax Administrator may continue the hearing from time to time as may be necessary.
- C. The Tax Administrator may decrease or increase the amount of the determination as a result of the hearing and considering all information and, if an increase is determined, such increase shall be payable within 48 hours after the hearing.
- D. The decision of the Tax Administrator upon a petition for redetermination of redemption and refund becomes final ten (10) days after service upon the petitioner of notice thereof, unless appeal of such order or a decision is filed with the Board within ten (10) days after service of such notice.
- E. No petition for redetermination of redemption and refund or appeal therefrom shall be effective for any purpose unless the Operator has first complied with the payment provisions of DCC 4.08.

(Ord. 2020-005 §1, 2020; Ord. 2005-012 §1, 2005; Ord. 95-029 §1, 1995; Ord. 203-3 §12, 1975)

#### **4.08.260 Security for Collection of Tax**

- A. The Tax Administrator, after delinquency and when the Tax Administrator, in the Tax Administrator's sole discretion, deems it necessary to ensure compliance with DCC 4.08, may require any Operator to deposit with the Tax Administrator such security in the form of cash, bond or other security as the Tax Administrator deems appropriate. 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 the Operator files returns, determined in such manner as the Tax Administrator deems proper, or \$10,000, whichever amount is less. The amount of the security may be increased or decreased by the Tax Administrator subject to the limitations provided in DCC 4.08.

- 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 becomes final, the Tax Administrator may bring an action in any court of the State of Oregon, or of the United States, in the name of the County to collect the amount delinquent together with penalties and interest.

(Ord. 2020-005 §1, 2020; Ord. 2005-012 §1, 2005; Ord. 95-029 §1, 1995; Ord. 203-3 §13, 1975)

#### **4.08.270 Lien**

- A. The Tax imposed by DCC 4.08 together with the interest and penalties provided in DCC 4.08 and the filing fees paid to the County Clerk and advertising costs which may be incurred when the same becomes delinquent as set forth in DCC 4.08 shall be and, until paid, remain a lien from the date of the recording with the County Clerk a Notice of Lien, which shall be superior to all subsequent recorded liens on all tangible Personal property used in the Transient Lodging of an Operator or where applicable, all business property of the Operator, and may be foreclosed on and sold as may be necessary to discharge such lien, if the lien has been recorded. Notice of Lien may be issued by the Tax Administrator, or a deputy of the Tax Administrator, whenever the Operator is in default in the payment of such Tax, interest, and penalty and shall be recorded, and a copy sent to the delinquent Operator. The Personal property subject to such lien seized by any deputy or employee of the Tax Administrator may be sold by the department seizing the same at public auction after ten (10) days' notice, which shall mean one publication in a newspaper of general circulation within the County.
- B. Any lien for Taxes as shown on the records of the proper County official shall, upon the payment of all Taxes, penalties and interest thereon, be released by the Tax Administrator when the full amount determined to be due has been paid to the County and the Operator or Person making such payment shall receive a receipt therefore stating that the full amount of Taxes, penalties and interest thereon have been paid and that the lien is thereby released and the record of lien is satisfied.

(Ord. 2020-005 §1, 2020; Ord. 2005-012 §1, 2005; Ord. 95-029 §1, 1995; Ord. 203-3 §14, 1975)

#### **4.08.280 Refunds**

- A. Operator's Refunds. Whenever the amount of any Tax, penalty or interest has been paid more than once or has been erroneously or illegally collected or received by the Tax Administrator under DCC 4.08, such amount may be refunded, provided a verified claim in writing therefore, stating the specific reason upon which the claim is founded, is filed with the Tax Administrator within three years from the date of payment. The claim shall be made on forms provided by the Tax Administrator. If the claim is approved by the Tax Administrator, the excess amount collected or paid may be refunded or may be credited against 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 the Operator or the Operator's administrator, executor or assignee.
- B. Occupant Refunds. Whenever the Tax required by DCC 4.08 has been collected by the Operator, and deposited by the Operator with the Tax Administrator, and it is later determined that the Tax was erroneously or illegally collected or received by the Tax Administrator, it may be refunded by the Tax Administrator to the Occupant, provided a verified claim in writing therefore, stating the specific reason on which the claim is founded, is filed with the Tax Administrator within three years from the date of payment.
- C. Refunds by Operator to Occupant. If an Occupant has paid Tax to an Operator but stays a total of 30 or more consecutive days in the same Transient Lodging Facility, the Operator shall refund to the Occupant any tax collected for any portion of the continuous stay. The Operator shall account for the collection and refund to the Tax Administrator. If the Operator has remitted the tax prior to the refund or credit to the Occupant, the Operator shall be entitled to a corresponding refund or offset if the claim for refund is filed within three years from the date of collection.
- D. Burden of Proof. The Person claiming the refund shall have the burden of proving the facts that establish the basis for the refund.

(Ord. 2005-012 §1, 2005; Ord. 95-029 §1, 1995; Ord. 203-3 §15, 1975)

#### **4.08.290 Transient Lodging Tax Fund**

The Tax Administrator shall place all moneys received pursuant to DCC 4.08 in the Transient Lodging Tax Fund.

(Ord. 2005-012 §1, 2005; Ord. 95-029 §1, 1995; Ord. 203-3 §16(1), 1975)

#### **4.08.300 Recordkeeping**

Every Operator shall, on a current and ongoing basis, keep guest records, accounting books, records of room sales, records of Lodging Tax collected and remitted to the County, and a record of all Operator fees retained by Operator pursuant to DCC 4.08.120.D. All records shall be retained by the Operator for a minimum period of three years and six months after the record is created. (Ord. 2005-012 §1, 2005; Ord. 95-029 §1, 1995; Ord. 203-3 §16(2), 1975)

#### **4.08.310 Examination of Records**

The Tax Administrator, or any Person authorized in writing by the Tax Administrator, may examine, during regular business hours, the books, papers and accounting records relating to room sales of any Operator after notification to the Operator liable for the Tax 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.

(Ord. 2005-012 §1, 2005; Ord. 95-029 §1, 1995; Ord. 203-3 §16(3), 1975)

#### **4.08.320 Administration; Confidentiality**

It is unlawful for the Tax Administrator, or any Person having an administrative or clerical duty under the provisions of DCC 4.08, to make known in any manner whatever the business affairs, operations or information obtained by an investigation of records and equipment of any Person required to obtain a Transient Occupancy Registration Certificate or pay a Transient Occupancy Tax, or any other Person visited or examined in the discharge of official duty, or the amount of source of income, profits, losses, expenditures or any particular thereof, set forth in any statement or application, or to 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; provided, that nothing in DCC 4.08.320 shall be construed to prevent:

- A. The disclosure to, or the examination of records and equipment by another County official, employee or agent for collection of Taxes for the sole purpose of administering or enforcing any provision of DCC 4.08; or collecting Taxes imposed under DCC 4.08.
- B. The disclosure after the filing of a written request to that effect, to the Taxpayer themselves, receivers, trustees, executors, administrators, assignees and guarantors, if directly interested, of information as to any paid Tax, any unpaid Tax or amount of Tax required to be collected or interest and penalties; provided further, that County Legal Counsel approves each such disclosure and that the Tax Administrator may refuse to make any disclosure referred to in DCC 4.08.320 when in the opinion of the Tax Administrator, the public interest would suffer thereby.
- C. The disclosure of the names and addresses of any Persons to whom Transient Occupancy Registration Certificates have been issued.
- D. The disclosure of general statistics regarding Taxes collected or business done in the County.
- E. Disclosures required by ORS Chapter 192.
- F. Disclosures required by ORS Chapter 297.

(Ord. 2005-012 §1, 2005; Ord. 95-029 §1, 1995; Ord. 203-3 §16(4), 1975)

#### **4.08.330 Appeals**

Any Person aggrieved by any provisions of the Tax Administrator may appeal to the Board by filing a notice of appeal with the Tax Administrator within twenty (20) days of the Tax Administrator's decision. The Tax

Administrator shall transmit such notice of appeal, together with the file of such appealed matter to the Board who shall fix a time and place for hearing such appeal. The Board shall give the appellant not less than ten (10) days written notice of the time and place of hearing of such appealed matter.  
(Ord. 2005-012 §1, 2005; Ord. 95-029 §1, 1995; Ord. 203-3 §17, 1975)

#### **4.08.340 Unlawful Acts; Penalty**

It is a violation for any Operator, or other Person so required, to fail or refuse to register as required in DCC 4.08, to fail or refuse to furnish any return required to be made, to fail or refuse to furnish a supplemental return or other data records or information required by the Tax Administrator, to fail or refuse to submit to an audit by or on behalf of the Tax Administrator or to render a false or fraudulent return. No Person required to make, render, sign or verify any report shall make any false or fraudulent report, with intent to defeat or evade the determination of any amount due required by DCC 4.08. Violation of any provision of DCC Chapter 4.08 is a Class A Violation.

(Ord. 2005-012 §1, 2005; Ord. 95-029 §1, 1995; Ord. 83-013 §1, 1983; Ord. 203-3 §19, 1975)