

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR TILLAMOOK COUNTY, OREGON

In the Matter of an Ordinance Imposing)	
A 10% Transient Lodging Tax (TLT))	
Within Tillamook County; Providing for)	
Up to a 9% TLT Credit within Cities;)	ORDINANCE #74
Creating a Promotion and Tourism)	Amendment #2
Fund; Providing for Collection and)	
Enforcement; and Establishing)	
Penalties)	

The Board of Commissioners for Tillamook County ORDAINS as follows:

Section 1. Title

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

Section 2. Definitions

Except where the context otherwise requires, the definitions given in this section govern the construction of this ordinance.

- (a) "Board" means the Board of County Commissioners of Tillamook County.
- (b) "Collection reimbursement charge" means the amount a transient lodging tax collector may retain as reimbursement for the costs incurred by the transient lodging tax collector in collecting and reporting a transient lodging tax and in maintaining transient lodging tax records.
- (c) "Conference center" means a facility that:
 - (A) Is owned or partially owned by a unit of local government, a governmental agency or a nonprofit organization; and
 - (B) Meets the current membership criteria of the International Association of Conference Centers.
- (d) "Convention center" means a new or improved facility that:
 - (A) Is capable of attracting and accommodating conventions and tradeshow from international, national and regional markets requiring exhibition space, ballroom space, meeting rooms and any other associated space, including without limitation banquet facilities, loading areas and lobby and registration areas;

(B) Has a total meeting room and ballroom space between one-third and one-half of the total size of the center's exhibition space;

(C) Generates a majority of its business income from tourists;

(D) Has a room-block relationship with the local lodging industry; and

(E) Is owned by a unit of local government, a governmental agency or a nonprofit organization.

(e) "County transient lodging tax" means the tax imposed under this ordinance.

(f) "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, or other organization or entity.

(g) "Tax Administrator" means the Board of County Commissioners of Tillamook County, or the person it so designates.

(h) "Tourism" means economic activity resulting from tourists.

(i) "Tourism promotion" means any of the following activities:

(A) Advertising, publicizing or distributing information for the purpose of attracting and welcoming tourists;

(B) Conducting strategic planning and research necessary to stimulate future tourism development;

(C) Operating tourism promotion agencies; and

(D) Marketing special events and festivals designed to attract tourists.

(j) "Tourism promotion agency" includes:

(A) An incorporated nonprofit organization or governmental unit that is responsible for the tourism promotion of a destination on a year-round basis.

(B) A nonprofit entity that manages tourism-related economic development plans, programs and projects.

(C) A regional or statewide association that represents entities that rely on tourism-related business for more than 50 percent of their total income.

(k) "Tourism-related facility" means:

(A) A conference center, convention center or visitor information center; and

(B) 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.

(l) "Tourist" means a person who, for business, pleasure, recreation or participation in events related to the arts, heritage or culture, travels from the community in which that person is a resident to a different community that is separate, distinct from and unrelated to the person's community of residence, and that trip:

(A) Requires the person to travel more than fifty (50) miles from the community of residence; or

(B) Includes an overnight stay.

(m) "Transient lodging" means:

(A) Hotel, motel and inn dwelling units that are used for temporary overnight human occupancy;

(B) Spaces used for parking recreational vehicles or erecting 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.

(n) "Transient lodging intermediary" means a person or business, other than a transient lodging provider, that facilitates the retail sale of transient lodging and:

(A) Charges for occupancy of the transient lodging; or

(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.

(o) "Transient lodging provider" means a person that furnishes transient lodging, whether in the capacity of owner, managing agent, lessee, sub-lessee, mortgagee in possession, licensee, concessionaire, or any other capacity.

(p) "Transient lodging tax collector" means a transient lodging provider or a transient lodging intermediary.

(q) "Visitor information center" means a building, or a portion of a building, the main purpose of which is to distribute or disseminate information to tourists.

Section 3. Implementing Ordinance Authorization

The Board may by separate ordinance promulgate additional definitions, rules and regulations necessary or convenient for the administration, collection, refund, and enforcement of this ordinance.

Section 4. Imposition of Tax; Rate of Tax; Credit; Transient Lodging Tax Collector Reimbursement; Applicability

(a) A tax of ten percent (10%) is imposed on any rent or consideration rendered for the sale, service or furnishing of transient lodging.

(A) The tax must be computed on the total retail price, including all charges other than taxes, paid by a person for occupancy of the transient lodging.

(B) The total retail price paid by a person for occupancy of transient lodging that is part of a travel package may be determined by reasonable and verifiable standards from books and records kept in the ordinary course of the transient lodging tax collector's business.

(C) The tax shall be collected by the transient lodging tax collector that receives the rent or consideration rendered for occupancy of the transient lodging.

(b) Any person subject to the payment or collection of the transient lodging tax shall be entitled to credit against the payment of such tax the amount due any incorporated city or town within Tillamook County for a transient lodging tax for the same occupancy taxable hereunder but not to exceed nine percent (9%) of the rent upon which the tax is paid.

(c) The transient lodging tax collector may withhold a collection reimbursement charge of five percent (5%) of the amount collected under subsection (a) of this section.

(d) The tax imposed by this ordinance shall apply to all transient lodging in Tillamook County including transient lodging within incorporated cities.

(e) The tax imposed by this ordinance does not repeal or supersede any transient lodging tax enacted by a city.

Section 5. Exemptions

The following are exempt from the county transient lodging tax:

(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 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 that is used by members of the general public for a temporary human occupancy for fewer than thirty (30) days per year (rentals listed by transient lodging intermediaries are not eligible for this exemption);

(d) 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;

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

(f) A dwelling unit that is leased or otherwise occupied by the same person for a consecutive period of thirty (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.

Section 6. Records and Statements

Every transient lodging tax collector shall keep records, render statements and comply with rules adopted by the Board with respect to the tax imposed by Section 4 of this ordinance. The records and statements required by this section must be sufficient to show whether there is a tax liability under Section 4.

Section 7. Due Date and Form of Returns

(a) Every transient lodging tax collector is responsible for collecting the tax imposed under Section 4 of this ordinance and shall file a return with the Tax Administrator, on or before the last day of the month following the end of each calendar quarter, reporting the amount of tax due during the quarter. The Board or its designee shall prescribe the form of the return required by this section, and the Board shall adopt rules by ordinance regarding the preparation and filing of the return and the payment of the tax, including rules requiring that returns be made under penalties for false swearing.

(b) Transient lodging tax collectors shall not be required to file a return or pay the tax collected until the amount of money held equals or exceeds one hundred dollars (\$100). Once the amount held equals or exceeds one hundred dollars (\$100), or by December 31 of each year if the one hundred dollar (\$100) threshold is not met, the transient lodging tax collector shall remit the tax collected at the next following reporting period as determined in subsection (a) above.

(c) No penalty or interest will be assessed against any transient lodging tax collector that withholds payment pursuant to subsection (b) above.

Section 8. Payment of Tax

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

Section 9. Amounts Held in Trust

Every transient lodging tax collector required to collect the tax imposed by Section 4 of this ordinance shall be deemed to hold the amount collected in trust for Tillamook County and for payment to the Tax Administrator in the manner and at the time provided by Section 8.

Section 10. Enforcement

At any time the transient lodging tax collector required to collect the tax fails to remit any amount deemed to be held in trust for the County of Tillamook, the county may enforce collection by rules and regulations enacted under the Implementing Ordinance described in Section 3 of this ordinance.

Section 11. Distribution of Monies Received

All monies received by the Tax Administrator pursuant to this ordinance, and interest thereon, shall be paid to the County Treasurer to be held in a designated fund to be known as the Transient Lodging Tax Fund and distributed as directed by the Board in a manner consistent with Section 12.

Section 12. Use of Revenue

(a) Seventy percent (70%) of the net revenue generated from the tax imposed by this ordinance shall be used in the manner determined by the Board to:

(A) Fund tourism promotion or tourism-related facilities;

(B) Finance or refinance the debt of tourism-related facilities and pay reasonable administrative costs incurred in financing.

(b) The balance of the net revenue shall be used first to reimburse the Tillamook County General Fund for its costs and expenses incurred in the collection, enforcement and administration of the transient lodging tax; and thereafter the remaining balance is to be deposited in the Tillamook County Road fund to be used for the maintenance of county roads, subject to the following:

(A) For maintenance on county roads, including county roads within cities, work will be accomplished on a priority basis as determined by the County Public Works Director, after receiving input from the County Road Advisory Committee and the Board.

Section 13. Severability

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

Section 14. Penalties

Violation of any of the provisions of this Ordinance shall be a Class A violation, with a maximum penalty of two thousand dollars (\$2,000) in fines.

Section 15. Effective Date

This ordinance amendment shall take effect on the ninetieth (90th) day after the date of its adoption.

Date of First Reading: February 5, 2020.

Date of Second Reading: February 19, 2020.

DATED this 19th day of February, 2020.

BOARD OF COUNTY COMMISSIONERS
FOR TILLAMOOK COUNTY, OREGON

	Aye	Nay	Abstain/Absent
<u>Bill Baertlein</u> Bill Baertlein, Chair	✓	—	—
<u>Mary Faith Bell</u> Mary Faith Bell, Vice Chair	✓	—	—
<u>David Yamamoto</u> David Yamamoto, Commissioner	✓	—	—

ATTEST: Tassi O'Neil, County Clerk

APPROVED AS TO FORM:

By [Signature]
Special Deputy

[Signature]
Joel W. Stevens, County Counsel

