

TITLE XI: BUSINESS REGULATIONS

Chapter

- 110. PEDDLERS AND SOLICITORS**
- 111. ENTERTAINMENT**
- 112. HOTEL, MOTEL AND TRANSIENT FACILITIES TAX**

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CHAPTER 110: PEDDLERS AND SOLICITORS

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• 110.01 DEFINITIONS.

For the purpose of this chapter the following definitions shall apply, unless the context clearly indicates or requires a different meaning.

NONPROFIT ORGANIZATIONS. Any corporation, association, society or other organization which is organized or associated together on a nonprofit basis and the purpose of such organization or association in its operations is conducted without the intent to produce profit in money and an officer of such organization or association shall have been approved by the City Recorder.

PEDDLER. Includes any person, traveling by any means from place to place, house to house or street to street offering or exposing goods, wares, merchandise or services for sale, or making sales and delivering articles to purchasers. This term shall not be interpreted to include those persons calling upon business firms, either in delivery of goods or soliciting orders for merchandise, goods or services which are regularly handled or used by the business firms in their regular course of business.

SOLICITOR. Includes any person traveling by any means from place to place, house to house or street to street taking or attempting to take orders for sale of goods, wares, merchandise or services for future delivery or to be furnished in the future, regardless of the method of payments. This term shall not be interpreted to include those persons calling upon business firms, either in delivery of goods or

soliciting orders for merchandise, goods or services which are regularly handled or used by said business firms in their regular course of business.

(^78 Code, ' 3-1-1)

' 110.02 APPLICATION OF CHAPTER; PROHIBITED ACTIVITIES.

(A) This chapter shall not be interpreted to apply to milk, groceries or other merchandise deliveries or services ordered by a resident or sold by an area merchant and delivered to the purchaser as a service. (^78 Code, ' 3-1-1)

(B) Hawking or otherwise displaying goods on the public streets in the city by public outcry is hereby specifically prohibited. (^78 Code, ' 3-1-8) (Ord. 8-A, passed 8-3-60)
Penalty, see ' 10.99

' 110.03 LICENSE REQUIRED; FEES.

(A) It shall be unlawful for any person to engage in the business as a peddler or solicitor, as defined in ' 110.01 herein, within the corporate limits of the city, without first obtaining a license as herein provided.

(B) Except as herein specifically exempted for payment of fees, all persons applying for a license shall pay fees as established by resolution of the City Council. Fees apply for one solicitor from each firm making application, with the fee for each additional solicitor in excess of one employed by any firm to be set at one-half of the rates. The City Recorder may waive the payment of the license fee for any applicant who is an honorably discharged disabled veteran and a resident of this state, upon presentation of such applicant's certificate of honorable discharge from the service.

(C) No license fee shall be required of one selling products of the farm or orchard actually produced by the seller, a newspaper carrier soliciting subscriptions; a nonprofit organization making application on behalf of its members.

(D) All licenses shall run from the date of issuance, and shall not be issued for a partial period of time.

(^78 Code, ' 3-1-2) (Am. Ord. passed 1-1-96)

' 110.04 APPLICATION FOR LICENSE.

A licensee, under this chapter, must file with the City Recorder a sworn application, in writing, on a form to be furnished by the City Recorder, which shall give the following information:

(A) The name and description of the applicant or if made on behalf of a nonprofit organization, the name and address of an officer whose residence shall be in the city.

(B) A brief description of the nature of business and the goods or services to be sold. In the case of products of farms or orchards, a statement whether the produce to be sold is grown by the applicant.

(C) Address, both permanent and local, if any.

(D) If the applicant is employed, the name and address of the employer, together with credentials establishing an exact relation, except in the case of a nonprofit organization, a photograph of the applicant shall be furnished if so required by the City Recorder.

(^78 Code, ' 3-1-3)

' 110.05 INVESTIGATION AND ISSUANCE.

(A) Upon receipt of an application, the same shall be referred to the Chief of Police who shall cause an investigation of the applicant's business and moral character to be made as shall be deemed necessary.

(B) The Chief of Police shall, within five days from the date of the application, endorse the application as Satisfactory or Unsatisfactory and, if the same shall be endorsed Unsatisfactory, the reason for such endorsement shall be set forth thereon. If the application is not returned by the City Recorder within five days, it shall be presumed that the endorsement shall be satisfactory.

(C) Where the application is endorsed Satisfactory, or five days shall have elapsed without the return of the application by the Chief of Police, the City Recorder shall then issue a license card addressed to the applicant for the carrying on of the business applied for. Such license shall contain the signature and seal of the issuing officer and shall show the name, address and kind of goods to be sold or services rendered thereunder; the date of issuance and the expiration date of the license. The City Recorder shall keep a permanent record of all licenses for a period of two years from the date of issuance.

(D) If the application is returned from the Chief of Police endorsed Unsatisfactory, the City Recorder shall notify the applicant that his application has been disapproved and the reasons therefor.

(^78 Code, ' 3-1-4)

' 110.06 TRANSFER OF LICENSE PROHIBITED.

No license shall be used at any time by any person other than the one to whom it is issued.

(^78 Code, ' 3-1-5) Penalty, see ' 10.99

' 110.07 EXHIBITION OF LICENSE.

Peddlers and solicitors are required to exhibit their license cards at the request of any citizen to whom they are endeavoring to make sales or to solicit business.

(78 Code, ' 3-1-6) Penalty, see ' 10.99

• 110.08 REVOCATION OF LICENSE.

(A) Licenses may be revoked by the City Recorder, after notice of hearing for any of the following causes:

(1) Fraud and misrepresentation or false statement contained in an application for license.

(2) Fraud and misrepresentation or false statement made in the course of carrying on the business as peddler or solicitor.

(3) Any violation of this chapter.

(4) Conviction of any crime or misdemeanor involving moral turpitude.

(5) Conducting any business of peddling or soliciting in an unlawful manner or in such a manner as to constitute a breach of the peace or constitute a menace to the health, safety or general welfare of the public.

(B) Notice of hearing for revocation of a license shall be given in writing setting forth the grounds of the complaint and the time and place for the hearing. Such notice shall be mailed, postage prepaid, to the licensee at his last known address at least five days prior to the date set for the hearing.

(^78 Code, ' 3-1-10)

• 110.09 NUISANCE ACTIONS.

(A) The practice of going in and upon private residences in the city by solicitors, peddlers, hawkers, itinerant merchants and transient vendors of merchandise, books or periodicals, not having been requested or invited so to do by the owner or occupant of the private residence, for the purpose of soliciting orders for the sale of goods, wares, merchandise, books or periodicals and/or for the purpose of disposing of and/or peddling or hawking the same, is hereby declared to be a nuisance and punishable as a nuisance.

(B) The Chief of Police and/or any of the police officers of the city are hereby required and directed to suppress the same and to abate any such nuisance as described in division (A) of this section.

(^78 Code, ' 3-1-9) (Ord. 1-A, passed 2-4-59)

• 110.10 ENFORCEMENT DUTIES OF POLICE.

It shall be the duty of any police officer of the city to require any person seen peddling or soliciting and who is not known by such officer to be duly licensed to produce his license card and to enforce the

provisions of this chapter against any person found to be violating the same.
(78 Code, ' 3-1-7)

' 110.11 APPEAL.

Any person aggrieved by the action of the Chief of Police or the City Recorder in denial or revocation of his license shall have the right of appeal to the City Council. Such appeal shall be taken by filing with the Council within 15 days after notice of the action complained of has been mailed to such person's last known address, a written statement setting forth fully the grounds for the appeal. The Council shall set a time and place for the hearing of such appeal and notice of such hearing shall be given to the appellant in the same manner as notice of revocation. The decision and order of the Council on such appeal shall be final and conclusive.

(^78 Code, ' 3-1-11)

CHAPTER 111: ENTERTAINMENT

Section

Social Games and Bingo

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- 111.02 Gambling prohibited
- 111.03 Social games authorized
- 111.04 Permit required for social games
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SOCIAL GAMES AND BINGO

111.01 DEFINITIONS.

For the purpose of this subchapter the following definitions shall apply, unless the context clearly indicates or requires a different meaning.

CHARITABLE, FRATERNAL OR RELIGIOUS ORGANIZATION. Any person or organization organized and existing for charitable, benevolent, eleemosynary, humane, patriotic, religious, philanthropic, recreational, social, educational, civic, fraternal or other nonprofit purposes, and who is also exempt from payment of federal income taxes because of its charitable, fraternal or religious purposes.

GAMBLING. Any contest, game, gaming scheme, gaming device, or machine played for anything of value in which the outcome depends in a material degree upon an element of chance, notwithstanding that skill of contestants may also be a factor therein. Gambling does not include:

- (1) Social games; or
- (2) Bingo.

SOCIAL GAMES.

(1) A game other than a lottery between players in a private home where no house player, house bank, or house odds exist, and there is no house income from the operation of the social game, and

(2) Games other than a lottery, between players in a private business, private club, or place of public accommodation where no house player, house bank, or house odds exist, and there is no house income from the operation of the social game.

(^78 Code, ' 3-4-1)

' 111.02 GAMBLING PROHIBITED.

No person shall participate in, operate or assist in operating any gambling game or activity.
(^78 Code, ' 3-4-2) Penalty, see ' 10.99

' 111.03 SOCIAL GAMES AUTHORIZED.

A social game between players in a private business, private club or place of public accommodation is authorized where:

(A) No house player, house bank or house odds exist;

(B) There is no house income from the operation of the social game. House income is defined to include any income from acts which would constitute the promotion of gambling under O.R.S. 167.117; (social games were not excluded from the definition of gambling);

(C) The game cannot be easily seen from a street or sidewalk;

(D) Persons under 18 years of age are not permitted in the room or enclosure where the social game takes place;

(E) A valid permit issued pursuant to this subchapter is displayed in the room or enclosure where the social game takes place;

(F) The room or enclosure where the social game takes place is open to free and immediate access to any police officer or interested party. Doors leading into the social game room must remain unlocked during all hours of operation. Operations are to cease at 2:00 a.m.

(^78 Code, ' 3-4-3)

111.04 PERMIT REQUIRED FOR SOCIAL GAMES.

The owner or operator of any private business, private club or place of public accommodation where a social game, as defined in 111.20 of this subchapter, takes place shall obtain and keep on display in the premises a social game permit. The annual fee for a social game permit is \$100. A social game permit is not subject to transfer or assignment and it is not valid at any location other than the premises described in the permit.

(A) Each permit shall be dated as of the first day of the month in which it was issued and shall expire one year from that date.

(B) Application for permit shall be made to the City Recorder. It shall be acted upon by the Council, after all fees and written application have been received.

(C) After acceptance of the application, the Council shall instruct the City Recorder to issue the permit.

(78 Code, 3-4-4)

111.05 BINGO AUTHORIZED.

A bingo game between players in a charitable, fraternal or religious organization is authorized where:

(A) No person other than the organization or a player profits in any manner from the operation of the game.

(B) The organization has notified the Corporation Commissioner of its proposed operation.

(C) The organization has provided the Corporation Commissioner with a certified copy of its exemption from federal income taxes as a charitable, fraternal, or religious organization.

(78 Code, 3-4-5) (Ord. 10-B, passed 9-7-77)

111.06 APPEAL.

In the event an applicant for a license under this subchapter is denied such license by the City Council, the applicant or license holder shall have the right of appeal. The written notice of appeal to the Council shall be filed with the City Recorder within 15 days after the denial of the license. The Council shall hear and make a determination in regard to the appeal at its next regular meeting held not less than ten days after the filing of the notice of appeal. The decision of the Council on such appeal shall be final and conclusive.

(78 Code, 3-4-6)

CHAPTER 112: HOTEL, MOTEL AND TRANSIENT FACILITIES TAX

Section

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▪ **112.01 DEFINITIONS.**

For purposes of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ACCRUAL ACCOUNTING. The operator enters the rent due from a transient on his records when the rent is earned, whether or not it is paid.

CASH ACCOUNTING. The operator does not enter the rent due from a transient on his records until rent is paid.

CITY RECORDER. The City Recorder of the City of Condon, or duly appointed deputy.

COUNCIL. The City Council of the City of Condon, Oregon.

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HOTEL. Any structure, or any portion of any structure, which is occupied or intended or designed for transient occupancy for 45 days or less for dwelling, lodging, or sleeping purposes, and includes but is not limited to any hotel, inn, tourist home or house, bed and breakfast, motel, studio hotel, bachelor hotel, lodging house, rooming house, public or private dormitory, public or private club or fraternal organization, and space in RV parks or similar structure or space or portions thereof so occupied.

OCCUPANCY. The use or possession, or the right to the use or possession for lodging or sleeping purposes of any room or rooms in a hotel, or space in a mobile home park, trailer park or RV park or portion thereof.

OPERATOR. The person who is proprietor of the hotel in any capacity. Where the operator performs his functions through a managing agent of any type or character other than an employee, the managing agent shall also be deemed an operator for the purposes of this chapter and shall have the same duties and liabilities as his principal. Compliance with the provisions of this chapter by either the principal or the managing agent shall be considered to be compliance by both.

PERSON. Any individual, firm, partnership, limited liability company, joint venture, association, social club, fraternal organization, fraternity, sorority, public or private dormitory, joint stock company, corporation, estate, trust.

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

RENT PACKAGE PLAN. 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 transient room tax under this chapter shall be the same charge made for rent when not a part of a package plan, or if not available, then 60% of the total package.

TAX. 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.

TRANSIENT. Any individual who exercises occupancy or is entitled to occupancy in a hotel for a period of 45 consecutive calendar days or less, counting portions of calendar days as full days. The day a transient checks out of the hotel shall not be included in determining the 45-day period if the transient is not charged rent for that day by the operator. Any such individual so occupying space in a hotel shall be deemed to be a transient until the period of 45 days has expired.

(Ord. 04-03, passed 4-7-04)

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▪ **112.02 TAX IMPOSED.**

For the privilege of occupancy in any hotel in the city, from and after the effective date of this chapter, each transient shall pay a tax in the amount of 5% of the rent charged by the operator. The tax constitutes a debt owed by the transient to the city, which is extinguished only by payment by the operator to 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 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 rent is paid in installments, a proportionate share of the tax shall be paid by the transient to the operator with each installment. In all cases, the rent paid or charged for occupancy shall exclude the sale of any goods, services and commodities, other than the furnishing of rooms, accommodations, and space occupancy in mobile home parks or trailer parks.

(Ord. 04-03, passed 4-7-04)

▪ **112.03 LIMITATION ON CITY USES OF FUND.**

(A) A minimum of 70% of net revenue received by the city from the local lodging tax shall be used for the purpose of funding tourism promotion or tourism-related facilities.

(B) No more than 30% of net revenues from the local lodging tax may be used to fund city services or finance or refinance debt of tourism-related facilities or administrative costs incurred in such financing or refinancing.

(Ord. 04-03, passed 4-7-04)

▪ **112.04 COLLECTION OF TAX BY OPERATOR.**

(A) Every operator renting rooms or space for lodging or sleeping purposes in the city, the occupancy of which is not exempted under the terms of this chapter, shall collect a tax from the occupant. 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 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. Adjustments may be made for uncollectibles.

(C) The City Recorder shall enforce provisions of this chapter and shall have the power to adopt rules and regulations, not inconsistent with this chapter, as may be necessary to aid in the enforcement.

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

(E) Pursuant to O.R.S. Chapter 818, the operator shall be allowed to retain a collection reimbursement charge of 5% of all collected local lodging tax revenues. This collection reimbursement charge retained by the operator shall apply to all collected local lodging tax revenues, including revenues collected for the State of Oregon as a transient lodging tax.

(Ord. 04-03, passed 4-7-04)

▪ **112.05 RESPONSIBILITY OF HOTEL OPERATOR.**

Each operator shall collect the tax imposed by this chapter at the same time as the rent is collected from every transient. The amount of tax shall be separately stated upon the operator's records and any receipt rendered by the operator. No operator of a hotel 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 this chapter.

(Ord. 04-03, passed 4-7-04)

▪ **112.06 EXEMPTIONS.**

No tax imposed under this chapter shall be imposed upon:

(A) Any occupant for more than 45 successive calendar days;

(B) Any occupant whose rent is of a value less than \$2.00 per day.

(C) Any person who rents a private home, vacation cabin, or like facility from any owner who rents such facilities incidentally to his own use thereof.

(Ord. 04-03, passed 4-7-04)

▪ **112.07 REGISTRATION OF OPERATOR; FORM AND CERTIFICATION.**

Every person engaging or about to engage in business as an operator of a hotel in the city shall register with the City Recorder on a form provided by the City Recorder. Operators engaged in business at the time this chapter is adopted must register not later than 20 calendar days after passage of this chapter. Operators starting business after this chapter is adopted must register 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.

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Registration shall set forth the name under which an operator transacts or intends to transact business, the location of his or her place or places of business and such other information to facilitate the collection of the tax as the City Recorder may require. The registration shall be signed by the operator. The City Recorder shall, within ten 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 nonassignable and nontransferable and shall be surrendered immediately to the City Recorder upon the cessation of business at the location named or upon its sale or transfer. Each certificate and duplicate shall state the place of business to which it is applicable and shall be prominently displayed therein so as to be seen and readily come to the notice of all occupants and persons seeking occupancy. Said certificate shall, among other things, state the following:

- (A) The name of the operator;
- (B) The address of the hotel;
- (C) The date upon which the certificate was issued;
- (D) The following statement:

^This TRANSIENT OCCUPANCY REGISTRATION CERTIFICATE signifies that the person named on the face hereof has fulfilled the requirements of the TRANSIENT LODGINGS TAX ORDINANCE OF THE CITY OF CONDON, OREGON, by registration with the City Recorder for the purpose of collecting from transients the lodgings tax imposed by said City and remitting said tax to the City Recorder. 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.@

(Ord. 04-03, passed 4-7-04)

• 112.08 DUE DATE; RETURNS AND PAYMENT.

(A) The tax imposed by this chapter shall be paid by the transient to the operator at the time that rent is paid. All amounts of such taxes collected by any operator are due and payable to the City Recorder on a quarterly basis on the 15th day of the following month for the preceding three months, and are delinquent on the last day of the month in which they are due. The City Recorder has authority to classify the operators for determination of applicable tax periods, and shall notify each operator of the

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due and delinquent dates for the operator's returns. The initial return under this chapter may be for less than the three months preceding the due date; thereafter, returns shall be made for the applicable quarterly period.

(B) On or before the 15th day of the month following each quarter of collection, a return for the preceding quarter's tax collections shall be filed with the City Recorder. The return shall be filed, in such form as the City Recorder may prescribe, by every operator liable for payment of tax.

(C) Returns shall show the amount of tax collected or otherwise due for the related period. The City Recorder may require returns to show the total rentals upon which tax was collected or otherwise due, gross receipts of operator for such period, and an explanation in detail of any discrepancy between such amounts, and the amount of rents exempt, if any.

(D) The person required to file the return shall deliver the return, together with the remittance of the amount of the tax due, to the City Recorder at the City Recorder's office, either by personal delivery or by mail. If the return is mailed, the postmark shall be considered the date of delivery for determining delinquencies.

(E) For good cause, the City Recorder may extend, for not to exceed one month, the time for making any return or payment of tax. No further extension shall be granted, except by the City Council. Any operator to whom an extension is granted shall pay interest at the rate of 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 this chapter.

(F) The City Recorder may require returns and payment of the amount of taxes for other than quarterly periods, if the City Recorder deems it necessary in order to insure payment or facilitate collection by the city of the amount of taxes in any individual case.

(Ord. 04-03, passed 4-7-04)

▪ **112.09 PENALTIES AND INTEREST.**

(A) *Original 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 this chapter prior to delinquency shall pay a penalty of 10% of the amount of the tax due in addition to the amount of tax.

(B) *Continued delinquency.* Any operator who has not been granted an extension of time for remittance of tax due, and who failed to pay any delinquent remittance on or before a period of 30 days

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following the date on which the remittance first became delinquent shall pay a second delinquency penalty of 15% of the amount of the tax due plus the amount of the tax and the 10% penalty first imposed.

(C) *Fraud.* If the City Recorder 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 25% of the amount of the tax shall be added thereto in addition to the penalties stated in divisions (A) and (B) above.

(D) *Interest.* In addition to the penalties imposed, any operator who fails to remit any tax imposed by this chapter 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.

(E) *Penalties merged with tax.* Every penalty imposed and such interest as accrues under the provisions of this section shall be merged with and become a part of the tax herein required to be paid.

(F) *Petition for waiver.* Any 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 City Council for waiver and refund of the penalty or any portion thereof and the City Council may, if a good and sufficient reason is shown, waive and direct a refund of the penalty or any portion thereof.

(Ord. 04-03, passed 4-7-04)

' 112.10 DEFICIENCY DETERMINATIONS; FRAUD; EVASION; OPERATOR DELAY.

(A) *Deficiency determinations.* If the City Recorder determines that the returns are incorrect, the City Recorder 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 the City Recorder's possession or that may come into the City Recorder's possession. One or more deficiency determinations may be made of the amount due for one, or more than one, period, and the amount 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 ' 112.08.

(1) In making a determination the City Recorder may offset overpayments, if any, which may have been previously made for a period or periods, against any under payments for a subsequent period or periods, or against penalties and interest on the under payments. The interest on under payments shall be computed in the manner set forth in ' 112.08.

(2) The City Recorder shall give to the operator or occupant a written notice of the City Recorder's determination. The notice may be served personally or by mail. If by mail, the notice shall

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be addressed to the operator at his address as it appears on the records of the City Recorder. In case of service by mail or any notice required by this chapter, the service is complete at the time of deposit in the United States Post Office.

(3) Except in the case of fraud or intent to evade this chapter 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 quarterly period for which the amount proposed to be determined or within three years after the return is filed, whichever period expires the later.

(4) Any determination shall become due and payable immediately upon receipt of notice and shall become final within ten days after the City Recorder has given notice thereof; provided, however, that the operator may petition redemption and refund if the petition is filed before the determination becomes final as herein provided.

(B) *Fraud; refusal to collect; evasion.* If any operator shall fail or refuse to collect said tax or to make, within the time provided in this chapter, any report and remittance of said tax, or any portion thereof, required by this chapter, or make a fraudulent return or otherwise wilfully attempt to evade this chapter, the City Recorder shall proceed in such manner as the City Recorder may deem best to obtain facts and information on which to base an estimate of the tax due. As soon as the City Recorder has determined the tax due that is imposed by this chapter from any operator who has failed or refused to collect the same and to report and remit said tax, the City Recorder shall proceed to determine and assess against such operator the tax, interest and penalties provided for by this chapter. In case such determination is made, the City Recorder 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 City Recorder of any fraud, intent to evade or failure or refusal to collect said tax, or failure to file return. Any determination shall become due and payable immediately upon receipt of notice and shall become final within ten days after the City Recorder has given notice thereof; provided, however, that the operator may petition for redemption and refund if the petition is filed before the determination becomes final as herein provided.

(C) *Operator delay.* If the City Recorder believes that the collection of any tax or any amount of tax required to be collected and paid to the city will be jeopardized by delay, or if any determination will be jeopardized by delay, the City Recorder shall thereupon make a determination of the tax or amount of tax required to be collected, noting the fact upon the determination. The amount so determined as herein provided shall be immediately due and payable, and the operator shall immediately pay such determination to the City Recorder after service of notice thereof; provided, however, that the operator may petition, after payment has been made, for redemption and refund of such determination, if the petition is filed within ten days from the date of service of notice by the City Recorder.

(Ord. 04-03, passed 4-7-04)

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112.11 REDETERMINATIONS.

(A) Any person against whom a determination is made under 112.09, or any person directly interested, may petition for a redetermination and redemption and refund within the time required in 112.09. If a petition for redetermination and refund is not filed within the time required in 112.09, the determination becomes final at the expiration of the allowable time.

(B) If a petition for redetermination and refund is filed within the allowable period, the City Recorder 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 ten days notice of the time and place of the hearing. The City Recorder may continue the hearing from time to time as may be necessary.

(C) The City Recorder may decrease or increase the amount of the determination as a result of the hearing and if an increase is determined such increase shall be payable immediately after the hearing.

(D) The order or decision of the City Recorder upon a petition for the redetermination of redemption and refund becomes final ten days after service upon the petitioner of notice thereof, unless appeal of such order or decision is filed with the City Council within ten 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 hereof.

(Ord. 04-03, passed 4-7-04)

112.12 SECURITY FOR COLLECTION OF TAX.

(A) The City Recorder, whenever the City Recorder deems it necessary to insure compliance with this chapter, may require any operator subject thereto to deposit with the City Recorder such security in the form of cash, bond, or other security as the City Recorder may determine. The amount of the security shall be fixed by the City Recorder but shall not be greater than twice the operator's estimated average quarterly liability for the period for which he files returns, determined in such manner as the City Recorder deems proper, or \$5,000, whichever amount is lesser. The amount of the security may be increased or decreased by the City Recorder 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 becomes final, the City Recorder 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 of Condon to collect the amount delinquent together with penalties and interest.

(Ord. 04-03, passed 4-7-04)

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112.13 REFUNDS.

(A) *Refunds by the city to operator.* Whenever the amount of tax, penalty, or interest has been paid more than once or has been erroneously or illegally collected or received by the City Recorder under this chapter, 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 City Recorder within three years from the date of payment. The claim shall be made on forms provided by the City Recorder. If the claim is approved by the City Recorder, 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 such operator, his administrators, executors or assigns.

(B) *Refunds by city to transient.* Whenever the tax required by this chapter has been collected by the operator, and deposited by the operator with the City Recorder, and it is later determined that the tax was erroneously or illegally collected or received by the City Recorder, it may be refunded by the City Recorder to the transient, provided a verified claim in writing therefor, stating the specific reason on which the claim is founded, is filed with the City Recorder within three years from the date of payment.

(C) *Refunds by operator to tenant.* Whenever the tax required by this chapter has been collected by the operator and it is later determined that the tenant occupies the hotel for a period exceeding 45 days without interruption, the operator shall refund to such tenant the tax previously collected by the operator from that tenant as a transient. The operator shall account for such collection and refund by the City Recorder. If the operator has remitted the tax prior to refund or credit to the tenant, he shall be entitled to a corresponding refund under this section.

(Ord. 04-03, passed 4-7-04)

112.14 ADMINISTRATION.

(A) *Records required from operators, etc.; form.* Every operator shall keep guest records of room sales and accounting books and records of the room sales. All records shall be retained by the operator for a period of three years and six months after they come into being.

(B) *Examination of records; investigations.* The City Recorder, or any person authorized in writing by the City Recorder, may examine, during normal 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.

(C) *Confidential character of information obtained; disclosure unlawful.* It shall be unlawful for the

City Recorder, or any person having an administrative or clerical duty under the provisions of this

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chapter, 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 or 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 this subsection shall be construed to prevent:

(1) The disclosure to, or the examination of records and equipment to another city official, employee or agent for collection of taxes for the sole purpose of administering or enforcing any provisions of this chapter, or collecting taxes imposed hereunder.

(2) The disclosure, after the filing of a written request to that effect, to the taxpayer himself, 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; further provided, however, that the City Attorney approves each such disclosure and that the City Recorder may refuse to make any disclosure referred to in this paragraph when in his opinion the public interest would suffer thereby.

(3) The disclosure of the names and addresses of any persons to whom transient occupancy registration certificates have been issued.

(4) The disclosure of general statistics regarding taxes collected or business done in the city.
(Ord. 04-03, passed 4-7-04)

112.15 APPEALS FROM CITY RECORDER DETERMINATION.

(A) The City Council is hereby designated as a committee to hear and determine appeals of orders or decisions of the City Recorder made upon petitions for redetermination of tax or other pertinent matters for which the City Recorder is herein designated or directed to perform. The City Council, in such capacity, shall act as a committee to hear and determine such appeals and may affirm, modify or reverse such orders or decisions or dismiss the appeals therefrom, as may be just, and shall prescribe such forms, rules and regulations relating to appeals as it may deem necessary. In the review of the City Recorder's decision or order, the Council committee may take such evidence and make such investigation as it may deem necessary. It shall give notice of its determinations in the manner prescribed for service of notice of the City Recorder's decision and shall file a copy of each such determination with the City Recorder with certification thereon of the date of service thereof. Such determinations shall become final ten days thereafter and shall thereupon become due and payable, subject to interest and penalties, and enforceable by

the City Recorder in like manner as an order or decision of the City Recorder.

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(B) The City Council, sitting as a committee as hereinabove provided, shall have the authority:

(1) To approve, modify, or disapprove all forms, rules and regulations prescribed by the City Recorder in the administration and enforcement of this chapter.

(2) To hear and determine in such manner as shall be just, any protest which may be made by any person who may be interested, to any form, rule or regulation.

(3) To grant for good cause, applications for extensions of time in excess of one month, for making any return or payment of tax and to prescribe rules therefor.

(4) To make such investigations as it deems advisable regarding the imposition and administration of the transient lodgings tax and to propose the adoption, amendment or repeal of legislation pertaining thereto. With respect to this function, the City Council may appoint a separate committee not composed of Council members to advise and report such finding and recommendations to the Council.

(Ord. 04-03, passed 4-7-04)

112.16 APPEAL TO CITY COUNCIL.

Any person aggrieved by any decision of the City Recorder may appeal to the City Council by filing a notice of appeal with the City Recorder within ten days of the serving or mailing of the notice of a decision given by the City Recorder. The City Recorder shall fix a time and place for hearing such appeal as prescribed by the City Council in its rules and regulations and shall give the appellant ten days' written notice of the time and place of hearing.

(Ord. 04-03, passed 4-7-04)

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