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The City of Salem ordains as follows:

37.020. Definitions. ~~As used in this chapter, Except where~~ unless the context otherwise requires, as used in this Chapter, the following words and phrases mean:

(b) “Booking agent” means any person that provides a means through which a host or other operator may offer transient lodging for occupancy, usually, though not necessarily, via an online platform that allows a host or other operator to advertise transient lodging through a website and that provides a way for potential users to arrange transient lodging occupancy and payment, regardless of whether the transient pays rent directly to the host or to the booking agent. Booking agents include, but are not limited to:

(5) Any person who directly or indirectly accepts, receives or facilitates payment, whether or not the person is the ultimate recipient of the payment, including through Application Programming Interfaces (APIs) or other computerized devices where third-party providers receive information about a transaction and collect funds for the transient lodging occupancy from a transient.

COUNCIL OF THE CITY OF SALEM, OREGON

1 the operator's records until rent is paid.

2 (d) "Host" means the owner or person who resides at the short-term rental or has been
3 designated by the owner or resident of the short-term rental and who rents out the short-
4 term rental for transient lodging occupancy directly or through the use of a booking
5 agent.

6 (e) "Hosting Platform" means a person that participates in the transient lodging business
7 by collecting or receiving a fee for any booking services through which a host may offer
8 transient lodging for occupancy, usually, though not necessarily, via a website that allows
9 a host to advertise transient lodging through a website provided by the hosting platform
10 and that provides a means for the hosting platform to conduct a transaction in which
11 prospective occupants arrange transient lodging and payment, whether the occupant pays
12 rent directly to the host or to the hosting platform.

13 ~~(a) "Hotel" means any structure, or any portion of any structure, which is occupied or~~
14 ~~intended or designed for transient occupancy for less than 30 days, for dwelling, lodging,~~
15 ~~or sleeping purposes, and includes any hotel, inn, motel, studio hotel, bachelor hotel,~~
16 ~~accessory short term rental, short term rental, lodging house, rooming house, apartment~~
17 ~~house, public or private dormitory, fraternity, sorority, public or private club, space in~~
18 ~~mobile home or trailer parks, or similar structure or portions thereof so occupied,~~
19 ~~provided such occupancy is for less than 30 days.~~

20 ~~(f)(b)~~ (f) "Occupancy" means the use or possession, or the right to the use or possession, for
21 lodging or sleeping purposes of any room or rooms in transient lodging a hotel, or space
22 in a mobile home or trailer park or portion thereof.

23 ~~(g)(e)~~ (g) "Operator" means:

24 (1) Any the person who is a proprietor of transient lodging the hotel in any
25 capacity; or

26 (2) Any person who provides transient lodging for occupancy to the public for
27 compensation. The provision of transient lodging can be done through
28 employees, contractors, agents, or any other person allowed to process
29 reservations and accept payment for the transient lodging on behalf of the
30 transient lodging provider; or

(3) Any person who facilitates the reservation of transient lodging and collects

1 payment for the transient lodging reservation; or

2 (4) A host as defined in this Chapter; or

3 (5) A hosting platform as defined in this Chapter; or

4 (6) A booking agent as defined in this Chapter; or

5 (7) A transient lodging intermediary as defined in ORS 320.300.

6 ~~Where the operator functions through a managing agent of any type or character~~
7 ~~other than an employee, the managing agent shall also be deemed an operator for the~~
8 ~~purposes of this ordinance and shall have the same duties and liabilities as the operator.~~
9 ~~Compliance with the provisions of this ordinance by either the operator or the managing~~
10 ~~agent shall be considered to be compliance by both.~~

11 ~~(h)(d)~~ "Person" means any individual, firm, partnership, limited liability partnership,
12 limited liability company, joint venture, association, social club, fraternal organization,
13 fraternity, sorority, public or private dormitory, joint stock company, corporation, estate,
14 trust, business trust, receiver, trustee, syndicate, or any other entity in law or fact group or
15 combination acting as a unit.

16 ~~(e) "Cash accounting" means the operator does not enter the rent due from a transient on~~
17 ~~the operator's records until rent is paid.~~

18 ~~(f) "Accrual accounting" means the operator enters the rent due from a transient on the~~
19 ~~operator's records when the rent is earned whether or not it is paid.~~

20 ~~(i)(g)~~ "Rent" means the full consideration charged paid or payable by a transient for the
21 right to occupy transient lodging, whether or not received by the operator, for the
22 occupancy of space in a hotel valued in money, goods, labor, gift cards, credits, property,
23 or other consideration of value valued in money, without any deduction.

24 ~~(j)(h)~~ "Rent package plan" means the consideration paid or payable charged for both
25 food and rent where a single rate is made for the total of both. The amount applicable to
26 rent for determination of transient ~~room~~ lodging tax under this Chapter ordinance shall be
27 the same charge made for rent of identical transient lodging when ~~consideration~~ it is not a
28 part of a package plan.

29 ~~(k)~~ "Tax" means either the tax payable by the transient, or the aggregate amount of taxes
30 due from an operator during the period for which the operator is required to report the
operator's collections.

1 ~~(l)(i)~~ "Transient" means any individual who exercises occupancy or is entitled to
2 occupancy in transient lodging ~~a hotel~~ for a period of ~~less than~~ thirty (30) consecutive
3 calendar days or less, counting portions of calendar days as full days. The day a transient
4 checks out of the transient lodging ~~hotel~~ shall not be included in determining the
5 occupancy period if the transient is not charged rent for that day by the operator. Any
6 such individual so occupying space in transient lodging ~~a hotel~~ shall be deemed to be a
7 transient until a period of thirty (30)~~29~~ days has expired unless there is an agreement in
8 writing between the operator and the occupant providing for a longer period of
9 occupancy and the occupancy actually extends for more than thirty (30) consecutive
10 calendar days. ~~In determining whether a person is a transient, uninterrupted periods of~~
11 ~~time extending both prior and subsequent to the effective date of this ordinance may be~~
12 ~~considered.~~ A person who pays for lodging on a monthly basis, irrespective of the
13 number of days in such month, shall not be deemed a transient.

14 (m) "Transient lodging" or "transient lodging facility" means any structure or premises,
15 or any portion of a structure or premises, which is used, occupied, intended, or designed
16 for transient occupancy for thirty (30) days or less for dwelling, lodging, or sleeping
17 purposes, and includes, but is not limited to, any hotel, motel, inn, studio hotel, boutique
18 hotel, bed and breakfast, tourist home, vacation home, single family dwelling, duplex,
19 condominium, cabin, accessory short-term rental, short-term rental, manufactured
20 dwelling, lodging house, rooming house, apartment house, public or private dormitory,
21 hostel, fraternity, sorority, public or private club, corporate housing, houseboat, space in a
22 mobile home park, space in a trailer park, space in a campground, or similar premises or
23 portions thereof so occupied, provided such occupancy is for a period of thirty (30) days
24 or less.

25 ~~(j) "Tax" means either the tax payable by the transient, or the aggregate amount of taxes~~
26 ~~due from an operator during the period for which the operator is required to report his~~
27 ~~collections.~~

28 **Section 2.** SRC 37.030 is amended to read as follows:

29 **37.030. Tax Imposed.** For the privilege of occupancy in any transient lodging ~~hotel, on and~~
30 ~~after July 1, 1999~~ each transient shall pay a tax in the amount of nine percent (9%) of the rent
charged by the operator. The transient shall pay the tax to the operator of the transient lodging

1 ~~hotel~~ at the time the rent is paid. The operator shall enter the tax on the operator's records when
2 rent is collected if the operator keeps records on the cash accounting basis and when earned if the
3 operator keeps records on the accrual accounting basis. If rent is paid in installments, a
4 proportionate share of the tax shall be paid by the transient to the operator with each installment.
5 The tax constitutes a debt owed by the transient to the City of Salem and is extinguished only by
6 payment of the tax to the City. ~~If, for any reason, the tax due is not paid to the operator of the~~
7 ~~hotel, the director of finance may require that such tax shall be paid by the transient directly to~~
8 ~~the city.~~ In all cases, the rent paid or charged for occupancy, may ~~shall~~ exclude the sale of any
9 goods, services, or ~~and~~ commodities, other than those charges associated with the furnishing of
10 rooms, accommodations, and ~~parking~~ space in mobile home parks or trailer parks.

11 **Section 3.** SRC 37.040 is amended to read as follows:

12 **37.040. Collection of Tax by Operator; ~~Rules for Collection.~~**

13 (a) Every operator ~~renting rooms in this city, the occupancy of which is not exempted~~
14 ~~under the terms of this ordinance,~~ shall collect a tax from the ~~occupant~~ transient, unless
15 specifically exempted under the terms of this Chapter.

16 (b) In ~~all~~ cases of ~~credit or~~ deferred payment of rent, the payment of tax to the operator
17 may be deferred until the rent is paid, and the operator shall not be liable for the tax until
18 ~~credits are paid or the~~ deferred payments are made.

19 ~~(c) The director of finance shall enforce provisions of this ordinance and shall have the~~
20 ~~power to adopt rules and regulations not inconsistent with this ordinance as may be~~
21 ~~necessary to aid in the enforcement.~~

22 **Section 4.** SRC 37.050 is amended to read as follows:

23 **37.050. Operator's Duties.** Each operator shall collect the tax imposed by this Chapter
24 ~~ordinance~~ at the same time as the rent is collected from every transient. The amount of tax shall
25 be separately stated upon the operator's records, and any receipt rendered by the operator. No
26 operator ~~of a hotel~~ shall advertise that the tax or any part of the tax will be assumed or absorbed
27 by the operator, or that it will not be added to the rent, or that, when added, any part of the tax
28 will be refunded, except in the manner provided by this Chapter ~~ordinance~~. The operator shall
29 pay the tax to the City ~~this city as imposed by this ordinance~~ as provided in ~~by~~ SRC 37.080.

30 **Section 5.** SRC Chapter 37.060 is amended to read as follows:

37.060. Exemptions. No tax imposed under this Chapter shall be imposed upon:

1 (a) Any occupant for more than thirty (30) ~~29~~ consecutive calendar days (a person who
2 pays for lodging on a monthly basis, irrespective of the number of days in such month,
3 shall not be deemed a transient);

4 ~~(b) Any occupant whose rent is of a value less than \$2 per day;~~

5 ~~(b)(e)~~ Any occupant whose rent is paid for a hospital room or to a health care facility,
6 medical clinic, long-term care facility, or any other residential facility that is licensed,
7 registered, or certified by the Oregon Department of Human Services or the Oregon
8 Health Authority convalescent home, or home for aged people.

9 ~~(c)(d)~~ An employee of the federal government or an instrumentality of the federal
10 government traveling on official business provided documentation of official travel
11 authorization is presented to the operator;

12 ~~(d)(e)~~ A foreign diplomat upon presentation of a valid diplomatic tax exemption card; or

13 ~~(e)(f)~~ Any person housed through an emergency shelter or disaster program where the
14 rent is paid with government assistance funds.

15 **Section 6.** SRC 37.070 is amended to read as follows:

16 **37.070. Registration of Operator; Form and Contents; Execution; Certification of**

17 **Authority.** Every person engaging or about to engage in business as an operator ~~of a hotel~~ in
18 this City ~~city~~ shall register with the City director of finance on a form provided by the City
19 ~~director.~~ Operators starting business shall engaged in business at the time this ordinance is
20 ~~adopted must register not later than 30 calendar days after said adoption. Operators starting~~
21 ~~business after this ordinance is adopted must~~ register within fifteen (15) calendar days after
22 commencing business. ~~The privilege of registration after the date of imposition of such tax~~ The
23 failure to register with the City shall not relieve any person from the obligation of payment or of
24 collection of tax regardless of registration. The registration form shall require the operator to
25 provide the name of the business, any separate business address, Registration shall set forth the
26 name under which an operator transacts or intends to transact business, the location of the place
27 or places of business and such other information to facilitate the collection of the tax as the City
28 director of finance may require. Operators who own transient lodging in the City shall provide
29 the address of the transient lodging. The registration form shall be signed by the operator. The
30 director of City's finance officer shall, within ten (10) business days after registration, issue
without charge a certificate of authority to each registrant to collect the tax imposed by this

Chapter. ~~from the occupant, together with a duplicate thereof for each additional place of business of each registrant.~~ Certificates of authority shall be nonassignable and nontransferable and shall be surrendered immediately to the ~~director of finance officer~~ upon the cessation of when the business is sold or transferred or when the transient lodging ceases to operate at the location specified on the registration form. ~~at the location named or upon its sale or transfer.~~ Each certificate issued to an operator for a specific transient lodging facility shall be prominently displayed at the transient lodging facility and shall include: ~~duplicate 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.~~

~~Said certificate shall, among other things, state the following:~~

- (1) The name of the operator;
- (2) The address of the applicable transient lodging facility ~~hotel~~;
- (3) The date upon which the certificate was issued;
- (4) The following statement: "This Transient Occupancy Registration Certificate signifies that the person named ~~on the face hereof~~ has fulfilled the requirements of the Transient Occupancy Tax Ordinance of the City of Salem by registration with the City ~~director of finance~~ for the purpose of collecting from transients the room tax imposed by the City of Salem ~~said city and remitting said tax to the director of finance.~~ 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 transient lodging ~~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 of Salem. This certificate does not constitute a permit."

If the certificate of authority is issued to a booking agent, hosting platform, or other online operator, the certificate must be able to be viewed by clicking on a link to the certificate during any payment transaction.

Section 7. SRC 37.080 is amended to read as follows:

37.080. Due Date; Returns and Payments.

- (a) The tax imposed by this Chapter ordinance 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 ~~shall be paid~~ to the City ~~director of finance~~ on a monthly basis on or

1 before the ~~last 15th~~ day of the month, immediately following, ~~for the preceding~~ the month
2 during which the tax was paid by the transient. If the last day of the month falls on a
3 Saturday, a Sunday, or a legal holiday as defined by ORS 187.010, amounts are
4 delinquent on the first business day that follows; ~~and are delinquent on the 20th day of~~
5 ~~the month in which they are due.~~

6 (b) On or before the ~~last 15th~~ day of the month following each month of collection, a
7 return for the preceding month's tax collections shall be filed with the ~~director of finance~~
8 officer. The return shall be filed in such form as the ~~director of finance~~ officer may
9 prescribe by every operator liable for payment of tax.

10 (c) Returns shall show the amount of tax collected or otherwise due for the related
11 period. The ~~director of finance~~ officer may require returns to show the total rentals upon
12 which tax was collected or otherwise due, gross receipts of operator for such period, and
13 an explanation in detail of any discrepancy between such amounts, and the amount of
14 rents exempt, if any.

15 (d) The person required to file the return shall deliver the return, together with the
16 remittance of the amount of the tax due, to the City at the City's Budget and Finance
17 Division office ~~director of finance at the office of the director~~ either by personal delivery
18 or by mail. ~~If the return is mailed, the postmark shall be considered the date of delivery~~
19 ~~for determining delinquencies.~~ A return must be received in the City's Budget and
20 Finance Division office by 5:00 on the due date, or it will be considered delinquent.

21 (e) For good cause, the ~~director of finance~~ officer may extend, for not to exceed one
22 month, the time for making any return or payment of tax. No further extension shall be
23 granted, except by the City Council ~~council~~. Any operator to whom an extension is
24 granted shall pay interest at the rate of ~~+~~ one percent (1%) per month on the amount of
25 tax due without proration for a fraction of a month. If a return is not filed, and the tax
26 and interest due is not paid by the end of the extension granted, then the interest shall
27 become a part of the tax for computation of penalties described elsewhere in this Chapter
28 ordinance.

29 (f) If the ~~director of finance~~ officer deems it necessary in order to ensure payment or
30 facilitate collection by the City ~~city~~ of the amount of taxes in any individual case, the
finance officer ~~director~~ may require returns and payment of the amount of taxes for other

1 than monthly periods.

2 **Section 8.** SRC 37.090 is amended to read as follows:

3 **37.090. Penalties and Interest.**

4 (a) Original delinquency. Any operator who has not been granted an extension of time
5 for remittance of tax due and who fails to remit any tax imposed by this Chapter
6 ~~ordinance~~ prior to delinquency shall pay a delinquency penalty of ~~40~~ ten percent (10%) of
7 the amount of the tax due in addition to the amount of the tax.

8 (b) Continued delinquency. Any operator who has not been granted an extension of time
9 for remittance of tax due, and who failed to pay any delinquent remittance on or before a
10 period of thirty (30) days following the date on which the remittance first became
11 delinquent shall pay a second delinquency penalty of ~~45~~ twenty-five percent (25%) of the
12 amount of the tax due plus the amount of the tax and the ~~40~~ ten percent (10%) penalty
13 first imposed.

14 ~~(c) Fraud. If the director of finance determines that the nonpayment of any remittance~~
15 ~~due under this ordinance is due to fraud or intent to evade the provisions thereof, a~~
16 ~~penalty of 25 percent of the amount of the tax shall be added thereto in addition to the~~
17 ~~penalties stated in paragraphs (a) and (b) of this section.~~

18 ~~(c)(d)~~ Interest. In addition to the penalties imposed, any operator who fails to remit any
19 tax imposed by this Chapter ordinance shall pay interest at the rate of ~~one-half of one~~
20 percent (1%) per month or fraction thereof without proration for portions of a month, on
21 the amount of the tax due, exclusive of penalties, from the date on which the remittance
22 first became delinquent until paid in full.

23 ~~(d)(e)~~ Penalties merged with tax. Every penalty imposed and such interest as accrues
24 under the provisions of this section shall be merged with and become a part of the tax
25 herein required to be paid.

26 ~~(e)(f)~~ Petition for waiver. Any operator who fails to remit the tax herein levied within
27 the time(s) ~~herein~~ stated shall pay the penalties herein stated, provided, however, the
28 operator may petition the ~~director of finance~~ officer for a waiver and refund of the
29 penalty or any portion thereof.

30 **Section 9.** SRC 37.100 is amended to read as follows:

37.100. Deficiency Determinations; Failure to Collect, Fraud, Evasion, Operator Delay.

1 (a) Deficiency determination. The finance officer may review tax returns and adjust the
2 amount of tax due based on the information in the return, on information obtained during
3 a review or audit of any records, or on the basis of other relevant evidence. In the event
4 that a deficiency is determined, the finance officer shall provide notice of the deficiency
5 to the operator. Notice of the deficiency may be made by personal delivery or certified
6 United States mail with a return receipt requested. The operator shall remit the amount of
7 the deficiency within ten (10) business days of receipt of the notice. ~~If the director of~~
8 ~~finance determines that a return is the returns are incorrect, the director may compute~~
9 ~~and determine the amount required to be paid upon the basis of the facts contained in the~~
10 ~~return or returns or upon the basis of any information that may come into the possession~~
11 ~~of the director. One or more deficiency determinations may be made of the amount due~~
12 ~~for one, or more than one period, and the amount so determined shall be due and payable~~
13 ~~immediately upon service of notice as herein provided after which the amount determined~~
14 ~~is delinquent.~~ Penalties on deficiencies shall be applied as set forth in SRC 37.090.

15 (1) In reviewing and adjusting any tax return, ~~making a determination~~ the director
16 ~~of~~ finance officer may offset overpayments, if any, which may have been
17 previously made for a period or periods, against any underpayment for a
18 subsequent period or periods, or against penalties; and interest, on the
19 underpayments. ~~The interest on underpayments shall be computed in the manner~~
20 ~~set forth in SRC 37.090.~~

21 ~~(2) The director of finance shall give to the operator or occupant a written notice~~
22 ~~of the determination. The notice may be served personally or by mail; if by mail,~~
23 ~~the notice shall be addressed to the operator at the address of the operator as it~~
24 ~~appears in the records of the director of finance. In case of service by mail of any~~
25 ~~notice required by this ordinance, the service is complete at the time of deposit in~~
26 ~~the mail.~~

27 ~~(2)(3)~~ Except in the case of fraud; or intent to evade the tax authorized under this
28 Chapter this ordinance or authorized rules and regulations, every deficiency
29 determination shall be made and notice thereof issued ~~mailed~~ within three (3)
30 years of the period for which the deficiency determination is made ~~after the last~~
~~day of the month following the close of the monthly period for which the amount~~

1 is proposed to be determined or within three years after the return is filed,
2 whichever period expires the later.

3 ~~(3)~~(4) Any determination shall become due and payable immediately upon
4 receipt of notice and shall become final ~~within ten~~ (10) business days after the
5 ~~director of finance~~ officer has given notice thereof, provided, however, the
6 operator may petition for a redetermination ~~redemption and refund~~ if the petition
7 is filed before the deficiency determination becomes final ~~as herein provided~~.

8 The time to remit deficient payment amounts under this section shall be extended
9 if the operator timely files a petition for redetermination.

10 (b) ~~Fraud, refusal~~ Failure to collect, fraud, evasion. If any operator ~~shall fail or refuse~~
11 fails to collect, report, or remit the said tax as required; ~~or to make, within the time~~
12 ~~provided in this ordinance, any report and remittance of said tax or any portion thereof~~
13 ~~required by this ordinance, or makes~~ submits a fraudulent return; ~~or otherwise willfully~~
14 ~~attempts violates or attempts to violate to evade this Chapter, ordinance,~~ the director of
15 finance officer shall ~~proceed in such manner as the director may deem best to obtain facts~~
16 ~~and information on which to base an estimate of the tax due~~ and shall calculate the
17 amount owing from the operator for the tax and for any interest and penalties, and shall
18 provide written notice to the operator of the assessment. The determination and notice
19 shall be made and mailed to the operator within three (3) years of the discovery by the
20 finance officer of the violation. The determination is due and payable upon receipt of the
21 notice and shall become final ten (10) business days after the notice is delivered if no
22 petition for redetermination is filed. As soon as the director of finance has determined the
23 tax due that is imposed by this ordinance from any operator who has failed or refused to
24 collect the same and to report and remit said tax, the director shall proceed to determine
25 and assess against such operator the tax, interest, and penalties, provided for by this
26 ordinance. In case such determination is made, the director of finance shall give a notice
27 in the manner aforesaid of the amount so assessed. Such determination and notice shall
28 be made and mailed within three years after discovery by the director of finance of any
29 fraud, intent to evade or failure or refusal to collect said tax or failure to file return. Any
30 determination shall become due and payable immediately upon receipt of notice and shall
become final within ten days after the director of finance 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 herein provided.

~~(e) Operator delay. If the director of finance 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 director 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 same determination to the director of finance after service of notice thereof, provided, however, 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 director of finance.~~

Section 10. SRC 37.110 is amended to read as follows:

37.110. Redeterminations.

(a) Any ~~operator person~~ against whom a deficiency determination is made ~~under SRC 37.100~~, or any person directly ~~interested~~ affected by a deficiency determination, may file a petition for a redetermination with the finance officer and redemption and refund within ten (10) business days of receipt of the notice of the determination. the time required in SRC 37.100. If a petition for redetermination ~~and refund~~ is not filed within ten (10) business days of receipt of the notice the time required therein, the determination shall become ~~becomes~~ final ~~at the expiration of the allowable time.~~

(b) If a petition for redetermination ~~and refund~~ is filed within the allowable period, the ~~director of finance officer~~ shall reconsider the determination, and, if the ~~petitioner person~~ has so requested in his the petition, shall grant the ~~petitioner person~~ an oral hearing. The finance officer and shall set a time, date, and place for the hearing. The date shall be set not less than give the person ten (10) business days nor more than thirty (30) business days after the date the petition is filed notice of the time and place of the hearing. The ~~director of finance officer~~ may continue the hearing with the consent of all parties or for good cause shown from time to time as may be necessary.

(c) After considering the petition and all available information, The director of the finance officer shall issue a written redetermination decision and mail a copy of the

1 decision to the petitioner. During the redetermination process, the finance officer may
2 agree to a compromise of the amount of tax determined to be due if there is a good faith
3 dispute over the amount owing ~~may decrease or increase the amount of the determination~~
4 ~~as a result of the hearing, and if an increase is determined, such increase shall be payable~~
5 ~~immediately after the hearing.~~

6 (d) The order or decision of the ~~director of finance officer, upon a petition for~~
7 ~~redetermination of redemption and refund,~~ becomes final and payment is due ten (10)
8 business days after service of the order or decision upon the petitioner ~~of notice thereof,~~
9 unless an appeal of such order or decision is filed with the City's hearings officer council
10 within the ten (10) business days after service of such order or decision ~~notice.~~

11 ~~(e) No petition for redetermination of redemption and refund or appeal therefrom shall~~
12 ~~be effective for any purpose unless the operator has first complied with the payment~~
13 ~~provisions hereof.~~

14 **Section 11.** SRC 37.120 is amended to read as follows:

15 **37.120. Security for Collection of Tax.**

16 (a) Whenever the ~~director of finance officer~~ deems it necessary to insure compliance
17 with this Chapter ordinance, the finance officer ~~director~~ may require any operator ~~subject~~
18 ~~thereto~~ to deposit such security in the form of cash, bond, or other security as the ~~director~~
19 ~~of finance officer~~ may determine. The amount of the security shall be fixed by the
20 ~~director of finance officer~~ but shall not be greater than twice the operator's estimated
21 average monthly liability for the period for which the operator files returns, determined in
22 such manner as the ~~director of finance officer~~ deems proper, or \$7,500 (seven thousand
23 five hundred dollars) ~~\$5,000~~, whichever amount is the lesser. The amount of the security
24 may be increased or decreased by the ~~director of finance officer~~ subject to the limitations
25 herein provided.

26 (b) At any time within three (3) years after any tax or any amount of tax required to be
27 collected becomes due and payable or at any time within three (3) years after any
28 determination becomes final, the City Attorney ~~director of finance~~ may bring an action in
29 the courts of this state, or any other state, or of the United States in the name of the City
30 of Salem to collect the amount delinquent together with penalties and interest.

Section 12. SRC 37.140 is amended to read as follows:

1 **37.140. Refunds.**

2 ~~(a) Operators refunds~~ Refunds by the City to the Operator. If the operator remits more
3 tax, penalty, or interest than is due, the operator may file a claim in writing stating the
4 facts relating to the claim, within three (3) years from the date of remittance. ~~Whenever~~
5 ~~the amount of any tax, penalty, or interest has been paid more than once or has been~~
6 ~~erroneously or illegally collected or received by the director of finance under this~~
7 ~~ordinance, it may be refunded, provided a verified claim in writing therefor, stating the~~
8 ~~specific reason upon which the claim is founded, is filed with the director of finance~~
9 ~~within three years from the date of payment. The claim shall be made on forms provided~~
10 ~~by the director of finance.~~ If the claim is approved by the director of finance officer, the
11 excess amount collected or paid shall either may be refunded or may be credited on any
12 amounts then due and payable from the operator from whom it was collected or by whom
13 paid and the balance may be refunded to such operator, or administrators, executors, or
14 assignees of the operator. All refunds shall be charged to the Cultural and Tourism Fund.

15 ~~(b) Transient refunds~~ Refunds by the City to the Transient. An operator or a transient
16 may claim a refund of tax paid by filing a claim in writing within three (3) years of
17 payment providing the facts relating to the claim for a refund. If the finance officer
18 determines that the tax was collected and remitted to the City and the transient was not
19 required to pay the tax or overpaid the tax, the City shall issue a refund to the transient or
20 to the party who paid the tax if different from the transient. ~~Whenever the tax required by~~
21 ~~this ordinance has been collected by the operator, and deposited by the operator with the~~
22 ~~director of finance, and it is later determined that the tax was erroneously or illegally~~
23 ~~collected or received by the director of finance, it may be refunded by the director to the~~
24 ~~transient, provided a verified claim in writing therefor, stating the specific reason on~~
25 ~~which the claim is founded, is filed with said director of finance within three years from~~
26 ~~the date of payment.~~ All refunds shall be charged to the Cultural and Tourism Fund.

27 (c) Burden of proof. The person claiming the refund shall have the burden of proving
28 the facts that establish the basis for the refund.

29 **Section 13.** SRC 37.150 is amended to read as follows:
30

1 **37.150. Operator's Administrative Collection Fee.** Every operator liable for the collection and
2 remittance of the tax imposed by this ~~Chapter ordinance~~ may withhold five 5 percent (5%) of the
3 net tax due to cover the operator's expense in the collection and remittance of said tax.

4 **Section 14.** SRC 37.160 is amended to read as follows:

5 **37.160. Administration.**

6 (a) Special revenue fund. The ~~director of finance~~ officer shall deposit all money
7 collected pursuant to this ~~Chapter ordinance~~ to the credit of the Cultural and Tourism
8 Fund. The ~~director of finance~~ officer shall report ~~annually~~ the status of the Cultural and
9 Tourism Fund this account on as of June 30 of each year no later than December 31 of
10 that same year.

11 (b) Records required from operators, ~~etc.; form.~~ Every operator shall keep guest
12 appropriate records, including but not limited to registration forms, accounting and bank
13 records, supporting documentation for all claimed exemptions, and any other
14 documentation necessary to support the tax returns filed or required to be filed pursuant
15 to this Chapter of room sales and accounting books and records of the room sales. All
16 records shall be retained by the operator for a period of three (3) years and six (6) months
17 after the filing of the associated tax return, amended return, or payment of the tax,
18 whichever is later they come into being.

19 (c) Examination of records; investigations. The ~~director of finance~~ officer or any person
20 authorized in writing by the finance officer ~~director~~ may examine, during normal
21 business hours, the registration forms, accounting and bank records, supporting
22 documentation for all claimed exemptions, and any other documentation ~~books, papers,~~
23 ~~and accounting records~~ relating to the tax returns filed or required to be filed pursuant to
24 this Chapter room sales of any operator after notification to the operator liable for the tax.
25 The finance officer or the finance officer's designee and may investigate the business of
26 the operator in order to verify the accuracy of any return made, or if no return is made by
27 the operator, to ascertain and determine the amount of tax required to be paid. To assist
28 in this process, the ~~director of finance~~ officer or the finance officer's designee may
29 request certified copies of annual federal and state income tax returns covering the
30 operator.

(d) Confidential financial information ~~character of information obtained; disclosure~~

1 ~~unlawful. Except as otherwise required by law, it shall be unlawful for the director of~~
2 ~~finance officer or any elected official, employee, or agent of the City of Salem to release,~~
3 ~~divulge, or make known in any manner any financial information submitted or disclosed~~
4 ~~to the City under the provisions of the Chapter. person having an administrative or~~
5 ~~clerical duty under the provisions of this ordinance to make known in any manner~~
6 ~~whatever the business affairs, operations, or information obtained by an investigation of~~
7 ~~records and equipment of any person required to obtain a Transient Occupancy~~
8 ~~Registration Certificate, or pay a transient occupancy tax, or any other person visited or~~
9 ~~examined in the discharge of official duty, or the amount or source of income, profits,~~
10 ~~losses, expenditures, or any particular thereof, set forth in any statement or application, or~~
11 ~~to permit any statement or application, or copy of either, or any book containing any~~
12 ~~abstract or particulars thereof to be seen or examined by any person, provided that~~
13 ~~nothing~~ Nothing in this subsection shall be construed to prohibit prevent:

14 (1) The disclosure to, or the examination of records and equipment by, another
15 City of Salem official, employee, or agent ~~for collection of taxes~~ for the sole
16 purpose of administering or enforcing any of the provisions of this Chapter
17 ~~ordinance~~; or collecting taxes imposed hereunder.

18 (2) The disclosure, after the filing of a written request to that effect, to the
19 taxpayer or receivers, trustees, executors, administrators, assignees, or guarantors
20 of the taxpayer, if directly interested, of information as to any paid tax, any
21 unpaid tax or amount of tax required to be collected, or interest; and penalties;
22 further provided, however, that the City Attorney shall approve ~~city attorney~~
23 ~~approves~~ each such disclosure and that the ~~director of finance officer~~ may
24 refuse to make any disclosure referred to in this subsection ~~paragraph~~ when in the
25 opinion of the finance officer ~~director~~ the public interest would suffer thereby;

26 (3) The disclosure of the names and addresses of any persons to whom Transient
27 Occupancy Registration Certificates have been issued.

28 (4) The disclosure of general statistics regarding taxes collected or business done
29 in the City ~~city~~.

30 (5) The disclosure required by ORS 192.502 of information on taxes delinquent
over sixty (60) days.

1 **Section 15.** SRC 37.165 is amended to read as follows:

2 **37.165. Distribution of Moneys from Cultural and Tourism Fund.**

3 (a) Consistent with Section 56 of the 1996 Salem Charter, the finance officer ~~Director~~
4 shall distribute moneys from the Cultural and Tourism Fund for;

5 (1) Enhancement and beautification of vehicular and pedestrian entrance ways to
6 the City ~~city~~;

7 (2) Urban beautification generally;

8 (3) Improvements to or operation of major tourist attraction or cultural facilities,
9 and;

10 (4) Activities performed directly by the City or through contracts which promote
11 use of Salem for conventions, conferences, seminars, or for general tourism.

12 (b) Twenty-five percent (25%) of each fiscal year's Transient Lodging Tax net receipts
13 shall be allocated to the City's Destination Tourism Marketing Organization. In the event
14 the City does not have a current contract with a Destination Tourism Marketing
15 Organization at the time due for a disbursement under this section, the funds shall be
16 allocated to uses consistent with subsection (a)(4) of this section.

17 **Section 16.** SRC 37.170 is amended to read as follows:

18 **~~37.170. Appeals to Council.~~** Any person aggrieved by any order or decision of the ~~director of~~
19 finance officer may appeal the order or decision to the City's hearings officer as set forth in SRC
20 20J.220. The hearing on the appeal shall follow the contested case procedures as set forth in
21 SRC Chapter 20J. Failure of any person to appeal the order or decision of the finance officer in
22 the manner provided in SRC 20J.220 shall constitute a waiver of all right to administrative or
23 judicial review of the order or decision. ~~council by filing a notice of appeal with the director of~~
24 ~~finance within ten days of the serving or the mailing of the notice of the decision given by the~~
25 ~~director of finance. The director of finance shall transmit said notice of appeal, together with the~~
26 ~~file of said appealed matter to the council who shall fix a time and place for hearing such appeal~~
27 ~~from the decision of the director of finance. The council shall give the appellant not less than~~
28 ~~ten days written notice of the time and place of hearing of said appealed matter. Action by the~~
29 ~~council on appeals shall be by resolution.~~

30 **Section 17.** SRC 37.190 is amended to read as follows:

37.190. Violations and Penalties.

1 (a) Violations. It ~~is shall~~ be unlawful for any operator or other person so required to fail
2 or refuse to register as required herein, or to furnish any return required to be made, or to
3 fail to pay the tax collected, or fail or refuse to furnish a supplemental return or other data
4 required by the ~~director of finance~~ officer or to render a false or fraudulent return. No
5 person required to make, render, sign, or verify any report shall make any false or
6 fraudulent report, with intent to defeat or evade the determination of any amount due as
7 required by this Chapter ordinance. A violation of this subsection is an infraction.

8 (b) Notwithstanding subsection (a) above, paragraph (a) of this section, the City
9 Attorney city attorney, in addition to other remedies permitted by law, may commence
10 and prosecute to final determination in any court of competent jurisdiction an action at
11 law to collect the tax imposed.

12 (c) Civil Penalty. In addition to, but not in lieu of, any other remedy provided by law, a
13 civil penalty as provided in SRC Chapter 20J, not to exceed \$2,000 per violation, may be
14 imposed on any person who fails to comply with any of the requirements of this Chapter.
15 Each day that a violation continues shall constitute a separate violation.

16 (d) Civil Penalty Against Agents. Any person who acts as the agent of, or otherwise
17 assists, a person who engages in an activity which would be subject to a civil penalty,
18 shall likewise be subject to a civil penalty.

19 **Section 18.** SRC 37.200 is hereby repealed:

20 ~~**37.200. Penalties.** Any person willfully violating any of the provisions of this ordinance shall be~~
21 ~~punished therefore, as provided in SRC 1.070.~~

22 **Section 19.** New SRC 37.025 is hereby added to and made a part of Salem Revised Code
23 Chapter 37:

24 **37.025. Administration; Rulemaking.** The City's finance officer shall administer and enforce
25 the provisions of this Chapter, have the authority to render written and oral interpretations, have
26 the authority to conduct audits, and have the authority to adopt administrative rules that are
27 consistent with, and otherwise implement, the terms of this Chapter.

28 **Section 20.** New SRC 37.185 is hereby added to and made a part of Salem Revised Code
29 Chapter 37:
30

1 **37.185. Liens.** The City may record a lien in the City's lien docket against any real property
2 owned by any operator who receives any portion of the rent for transient lodging located within
3 the City as to any delinquent remittances by the operator.

4 **Section 21. Codification.** In preparing this ordinance for publication and distribution, the City
5 Recorder shall not alter the sense, meaning, effect, or substance of this ordinance, but within
6 such limitations may:

- 7 (a) Renumber sections and parts of sections of the ordinance;
- 8 (b) Rearrange sections;
- 9 (c) Change reference numbers to agree with renumbered chapters, sections or other parts;
- 10 (d) Delete references to repealed sections;
- 11 (e) Substitute the proper subsection, section or chapter, or other division numbers;
- 12 (f) Change capitalization and spelling for the purpose of uniformity;
- 13 (g) Add headings for purposes of grouping like sections together for ease of reference;
- 14 and
- 15 (h) Correct manifest clerical, grammatical or typographical errors.

16 **Section 22. Severability.** Each section of this ordinance, and any part thereof, is severable, and
17 if any part of this ordinance is held invalid by a court of competent jurisdiction, the remainder of
18 this ordinance shall remain in full force and effect.

19 **Section 23. Emergency Clause.** This act being necessary for the immediate preservation of the
20 public peace, health and safety, an emergency is declared to exist, and this ordinance shall be in
21 full force and effect from and after the date of its passage.

22 PASSED by the City Council this _____ day of _____, 2017.

23 ATTEST:

24
25
26 City Recorder

27 Approved by City Attorney: _____

28
29
30 Checked by: T. Turley