

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE ADDING CHAPTER \_\_\_\_\_ (JOHN DAY TRANSIENT LODGING TAX)  
TO THE JOHN DAY CITY CODE**

The City of John Day ordains as follows:

**1. Short Title.** This section to section 29 shall be known and may be cited as the “John Day Lodging Tax Ordinance” and may be referred herein as “this chapter.”

**2. Purpose and Intent.**

**A.** The purpose and intent of this chapter is to impose a tax on transient occupants of transient lodging in the City of John Day, Oregon (the “City”), the proceeds of which will be used as provided in section 25 (Use of Tax Revenue).

**B.** The local transient lodging tax imposed by this chapter [replaces in its entirety] [is in addition to and not in lieu of] the Grant County transient lodging tax collected within the corporate limits of the City.

**C.** The local transient lodging tax imposed by this chapter is in addition to and not in lieu of any State of Oregon transient lodging tax.

**3. Definitions.** As used in this chapter:

**A.** “Accrual accounting” means a system of accounting in which a transient lodging tax collector records the rent due from a transient when the rent is earned, whether or not it is paid.

**B.** “Cash accounting” means a system of accounting in which a transient lodging tax collector does not record the rent due from a transient until the rent is paid.

**C.** “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, maintaining records, and otherwise complying with this chapter.

**D.** “Conference center” means a facility that:

1. Is owned or partially owned by a unit of local government, a governmental agency or a nonprofit organization; and

2. Meets the current membership criteria of the International Association of Conference Centers.

**E.** “Convention center” means a new or improved facility that:

1. Is capable of attracting and accommodating conventions and trade shows 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;

2. Has a total meeting room and ballroom space between one-third and one-half of the total size of the center's exhibition space;
3. Generates a majority of its business income from tourists;
4. Has a room-block relationship with the local lodging industry; and
5. Is owned by a unit of local government, a governmental agency or a nonprofit organization.

**F.** "Occupancy" means the use or possession, or the right to use or possess, for lodging or sleeping purposes, any room or rooms in a transient lodging facility.

**G.** "Rent" means any consideration rendered for the sale, service or furnishing of transient lodging.

**H.** "Tax Administrator" means the City's **Finance Director**, or the **Finance Director's** designee.

**I.** "Tourism" means economic activity resulting from tourists.

**J.** "Tourism promotion" means any of the following activities:

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

**K.** "Tourism-related facility" means:

1. A conference center, convention center or visitor information center; and
2. Other improved real property that has a useful life of 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:

1. Requires the person to travel more than 50 miles from the community of residence; or
2. Includes an overnight stay.

**M.** “Transient” means any person (including, but not limited to, a tourist) who exercises occupancy or is entitled to occupancy in transient lodging for a period of less than 30 consecutive calendar days, counting portions of calendar days as full days. The day an individual checks out of the transient lodging is not included in determining the 30-day period if the individual is not charged rent for that day. Any such individual so occupying or entitled to occupy space in a transient lodging facility shall be deemed a transient for purposes of this chapter until the period of 29 days has expired, unless there is an agreement in writing between the transient lodging tax collector and the transient providing for a longer period of occupancy. In determining whether a person is a transient, uninterrupted periods of time extending both prior and subsequent to the effective date of the ordinance codified in this chapter may be considered. An individual who pays for lodging on a monthly basis, irrespective of the number of days in such month, shall not be deemed a “transient.”

**N.** “Transient lodging” or “transient lodging facility” means:

1. Hotel, motel and inn dwelling units that are used for temporary overnight human occupancy;
2. Spaces used for parking recreational vehicles or erecting tents during periods of human occupancy; or
3. Houses, cabins, condominiums, apartment units or other dwelling units, or portions of any of these dwelling units, used for temporary human occupancy.

**O.** “Transient lodging intermediary” means a person other than a transient lodging provider that facilitates the retail sale of transient lodging and:

1. Charges for occupancy of the transient lodging;
2. Collects the consideration charged for occupancy of the transient lodging; or
3. 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.

**P.** “Transient lodging provider” means a person who furnishes transient lodging, and includes a person who operates a transient lodging facility, whether in the capacity of owner, managing agent, lessee, sublessee, mortgagee in possession, licensee, concessionaire, or any other capacity.

**Q.** “Transient lodging tax collector” means a transient lodging provider or a transient lodging intermediary.

**R.** “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.

**4. Rate and Computation of Tax; Total Retail Price; Collector Reimbursement.**

**A.** For the privilege of occupancy in any transient lodging facility within the corporate limits of the City on or after **August 31, 2020**, each transient shall pay a tax of  percent of the rent.

1. 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.

2. 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.

3. The tax shall be collected by the transient lodging tax collector that collects the consideration charged for occupancy of the transient lodging or that receives a fee or commission and requires the transient lodging provider to use a specified third-party entity to collect the consideration charged for occupancy of the transient lodging.

4. **The tax imposed by this subsection replaces the Grant County transient lodging tax previously collected within the corporate limits of the City.**

**B.** The transient lodging tax collector may withhold a collection reimbursement charge of five percent of the amount collected under subsection A of this section.

**C.** The City Council may adjust by resolution the collection reimbursement charge provided in subsection B of this section, provided the amount is not less than five percent of the amount collected under subsection A of this section.

**5. Travel Packages; Services Included in the Fee for Lodging.**

**A.** If a separate fee is charged for a service and the service is optional, that fee is not subject to the tax imposed by this chapter.

**B.** If a separate fee is charged for a service and the service is not optional, or if the value of a service is included in the normal lodging rate, the amount allocated to the service is subject to the tax imposed by this chapter.

**C.** If the transient lodging provider offers a lodging package that includes something that is not associated with the actual lodging or is provided by a third party, only the regular lodging rate that would have been charged absent the package item is subject to the tax imposed by this chapter.

**D.** Any allocation made for the City's local transient lodging tax should be consistent with the allocation for the State of Oregon transient lodging tax.

**6. Tax Exemptions.**

**A.** The following are exempt from the tax imposed under this chapter:

1. 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;

2. A dwelling unit in a facility providing treatment for drug or alcohol abuse or providing mental health treatment;

3. A dwelling unit that is used by members of the general public for temporary human occupancy for fewer than 30 days per year;

4. 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;

5. A dwelling unit at a charitable nonprofit youth or church camp, charitable nonprofit conference center or other charitable nonprofit facility;

6. A dwelling unit that is leased or otherwise occupied by the same person for a consecutive period of 30 days or more during the year. For purposes of this subsection, a dwelling unit leased for a consecutive period of 30 days or more during the year by one person but occupied by one or more other persons for a consecutive period of less than 30 days is not exempt from the tax imposed under this chapter during each person's occupancy that is for a consecutive period of less than 30 days. 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.

**7. Collection of Tax.**

**A.** The tax constitutes a debt owed by the transient to the City that is extinguished only by payment to the transient lodging tax collector or to the City.

**B.** The transient shall pay the tax to the transient lodging tax collector at the time the rent is paid.

**C.** The amount of tax shall be separately stated upon the transient lodging tax collector's business records, including lodging receipts provided to transients.

**D.** The transient lodging tax collector shall enter the tax on the transient lodging tax collector's records when rent is collected if the transient lodging tax collector keeps records on the cash accounting basis or, if the transient lodging tax collector keeps records on the accrual accounting basis, when rent is earned. If rent is paid in installments, the transient shall pay a proportionate share of the tax to the transient lodging tax collector with each installment.

**E.** The tax collected or accrued by the transient lodging tax collector, or which should have been charged by the transient lodging tax collector, constitutes a debt owing by the transient lodging tax collector to the City.

**F.** In all cases of credit or deferred payment of rent for transient lodging, the payment of tax to the transient lodging tax collector may be deferred until the rent is paid. A transient lodging tax collector is not liable for the tax until credits are paid or deferred payments are made. The deferral allowed by this subsection does not excuse a transient lodging tax collector from liability for any failure to collect the tax due.

**G.** A transient lodging tax collector shall not collect, report or remit amounts of the tax imposed by this chapter in amounts smaller than one cent. Fractions of cents calculated as an amount of tax that is collectable, reportable or remittable may be ignored.

**H.** If, for any reason, the tax due is not paid by the transient to the transient lodging tax collector, the Tax Administrator may require that such tax be paid by the transient directly to the City.

**8. Rules and Regulations.**

**A.** The Tax Administrator shall administer and enforce provisions of this chapter and has the power to adopt rules and regulations not inconsistent with this chapter as may be necessary to aid in the administration and enforcement of this chapter.

**B.** Prior to the adoption of rules and regulations, the Tax Administrator shall give public notice of its intent to adopt rules and regulations, provide copies of the proposed rules and regulations to interested parties, and conduct a public hearing on the proposed rules and regulations. Public notice shall be given when rules and regulations have been finally adopted. Copies of current rules and regulations shall be made available to the public upon request.

**C.** Unless the context requires otherwise, references to “this chapter” herein includes any rules and regulations duly adopted by the Tax Administrator.

**9. Records and Statements.**

**A.** The transient lodging tax collector shall keep records, render statements and comply with rules adopted by the Tax Administrator with respect to the tax imposed by this chapter. The records and statements required by this section must be sufficient to show whether there is a tax liability under this chapter. The transient lodging tax collector shall retain all records for a period of at least three years and six months from the end of the month in which the record was originally created.

**B.** The Tax Administrator may examine, during normal business hours, the books, papers and accounting records of any transient lodging tax collector after notification to the transient lodging tax collector liable for the tax and may investigate the business of the transient lodging tax collector to verify the accuracy of any return made, or if no return is made by the transient lodging tax collector, to ascertain and determine the amount required to be paid.

**C.** Records, reports or returns submitted to the Tax Administrator are exempt from disclosure to the full extent provided for by State statute. Nothing in this subsection is to be construed to prohibit:

1. The disclosure to, or the examination of, financial records by City officials, employees or agents for the purpose of administering or enforcing the terms of this chapter, or collecting taxes imposed under the terms of this chapter, **or collecting City business license fees;**

2. The disclosure to the taxpayer or the taxpayer's authorized representative of financial information, including amounts of transient lodgings taxes, penalties, or interest, after filing of a written request by the taxpayer or the taxpayer's authorized representative and approval of the request by the Tax Administrator;

3. The disclosure of the names and addresses of any persons to whom a transient occupancy registration certificate has been issued;

4. The disclosure of general statistics in a form that prevents the identification of financial information regarding any particular taxpayer's return or application; or

5. The disclosure of financial information to the City Attorney or other legal representatives of the City, to the extent the Tax Administrator deems disclosure or access necessary for the performance of the duties of advising or representing the City.

**10. Audit.**

**A.** The Tax Administrator may audit the transient lodging records of a transient lodging tax collector subject to this chapter. The transient lodging tax collector shall comply with all requests by the Tax Administrator in a timely manner.

**B.** A person who fails to comply in a timely manner with a request of the Tax Administrator relating to or arising out of an audit under this section commits a violation of this chapter.

**11. Special Fund Deposit.** The Tax Administrator shall deposit all money collected pursuant to this chapter into a special revenue fund designated by the City Council to be allocated for expenditures pursuant to Oregon Local Budget Law.

**12. Registration of Transient Lodging Tax Collector.**

**A.** Every person engaging or about to engage in business as a transient lodging tax collector for a transient lodging facility in the City shall register with the City on **a form provided by the Tax Administrator.** A transient lodging tax collector engaged in business at the time the ordinance codified in this chapter is adopted must register not later than 30 calendar days after the effective date of the ordinance codified in this chapter. A transient lodging tax collector starting business after the ordinance codified in 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 does not relieve any person from the obligation of payment or collection of tax regardless of registration.

**B.** The registration form may request, and any person registering with the City shall provide, the name under which the transient lodging tax collector transacts or intends to transact business, the location of the place or places of business and such other information to facilitate the collection of the tax as the Tax Administrator may require. The transient lodging tax collector shall sign the registration.

**C.** Within 10 days after the submittal of a completed registration form, the Tax Administrator shall issue at no charge a certificate of authority to each registrant to collect the tax imposed by this chapter, together with a duplicate thereof for each additional place of business of each registrant. Certificates are non-assignable and non-transferable and shall be surrendered immediately to the Tax Administrator 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 come to the notice readily of all occupants and persons seeking occupancy.

**D.** The certificate of authority described in this section shall, among other things, state the following:

1. The name of the transient lodging tax collector;
2. The address of the transient lodging;
3. The date upon which the certificate was issued; and
4. The following:

“This transient occupancy registration certificate signifies that the person named on the face hereof has fulfilled the requirements of the Transient Lodging Tax Ordinance of John Day, Oregon, by registration with the tax administrator for the purposes of collection from transients the lodging tax imposed by the City of John Day and remitting said tax to the tax administrator. 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 transient lodging without strictly complying with all of the local applicable laws, including but not limited to those requiring a permit from any board, commission, department or office of the City of John Day. This certificate does not constitute a permit.”

**13. Due Date, Returns, Payments and Collection Charges.**

**A.** The taxes imposed by this chapter and collected by a transient lodging tax collector, less the collection reimbursement charge allowed under section 4.B. above, are due and payable to the Tax Administrator on a monthly basis on the 10<sup>th</sup> day of the month for the preceding month. All taxes not remitted on the last day of the month in which they are due are delinquent.

**B.** On or before the 15<sup>th</sup> day of the month following each month of collection, a return for the preceding month’s tax collections shall be filed with the Tax Administrator. The returns shall be filed in such form as the Tax Administrator may prescribe.

**C.** The returns shall show the amount of tax collected or otherwise due for the period covered by the return. The Tax Administrator may require returns to show the total rentals upon which

tax was collected or otherwise due, gross receipts of the transient lodging tax collector for such period and an explanation in detail of any discrepancy between such amounts, the amount of rents exempt, if any, and such other information as may otherwise be necessary for the administration of this chapter.

**D.** The transient lodging tax collector shall deliver the return, together with the tax due, to the Tax Administrator at the Tax Administrator's office either by personal delivery or mail. If the return is mailed, the postmark shall be considered the date of delivery. The Tax Administrator may provide in writing for other methods of delivery besides personal delivery or mail.

**E.** For good cause shown, the Tax Administrator may extend, for a period not to exceed one month, the time for making any return or payment of tax. Any transient lodging tax collector granted an extension shall pay interest at the rate of one percent 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 are not paid by the end of the extension, then the interest shall become a part of the tax for computation of penalties under this chapter.

**14. Payment Schedule Changes.** The Tax Administrator may require a transient lodging tax collector to file returns and to remit taxes on other than a monthly basis if, in the exercise of the reasonable discretion of the Tax Administrator, the change in payment schedule is needed to ensure payment or to facilitate collection of taxes in an individual case. Any change in schedule under this section shall be stated in writing delivered to the transient lodging tax collector at least 20 days in advance of the schedule change.

**15. Penalties and Interest; Lien.**

**A.** A transient lodging tax collector who fails to remit the full amount of the tax imposed and due by this chapter prior to delinquency shall pay a late payment penalty of 10 percent of the amount of the portion of the tax that is unpaid as of the delinquency date, which penalty is owed in addition to the amount of the tax due.

**B.** If the transient lodging tax collector does not pay the delinquent amount of tax due and the 10 percent late payment penalty within 30 days following the delinquency date, the transient lodging tax collector shall pay a second late payment penalty of 15 percent of the portion of the tax that remains unpaid as of the date that is 30 days following the delinquency date, which penalty is owed in addition to the remaining unpaid amount of the tax and first late payment penalty.

**C.** If the Tax Administrator determines that the nonpayment is on account of fraud or intent to evade the provisions of this chapter or any rules or regulations adopted pursuant to this chapter, a penalty of 25 percent of the amount of the tax due shall be added thereto in addition to the penalties stated in subsections A and B of this section.

**D.** In addition to the penalties imposed, a transient lodging tax collector who fails to remit a tax imposed by this chapter shall pay interest at the rate of one percent per month or a 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.** Every penalty imposed and such interest as accrues under the provisions of this section shall be merged and become a part of the tax herein required to be paid.

F. Within 10 days of notice of the imposition of a late payment penalty, a transient lodging tax collector may petition the Tax Administrator for waiver or refund of any penalty or portion thereof. The Tax Administrator may, if a good and sufficient reason is shown that such failure is not due to willful neglect, waive or refund the penalty in full or in part.

G. The City may record a lien in the City's lien docket against any real property owned by the transient lodging tax collector in the City as to any delinquent remittances by the transient lodging tax collector.

**16. Deficiency Determination.**

A. If the Tax Administrator determines that a transient lodging tax collector's return or remittance of tax is missing, incomplete or otherwise incorrect, the Tax Administrator may compute and determine the amount of tax due based upon the facts contained in the transient lodging tax collector's return, if any, or any other source of information. Any deficiency in the payment of tax due is due and payable immediately upon delivery of a notice of the deficiency from the Tax Administrator to the transient lodging tax collector, at which time the deficiency amount owed is also delinquent. The Tax Administrator will apply any penalty and interest relating to the deficiency amount owed as set forth in this chapter.

B. In making a deficiency determination, the Tax Administrator may offset any overpayment the transient lodging tax collector has against any deficiency, penalty or interest the transient lodging tax collector owes.

C. The Tax Administrator shall deliver the transient lodging tax collector a written notice of any deficiency determination.

D. Except in the case of fraud or willful intent to evade this chapter or the rules and regulations adopted pursuant to this chapter, every deficiency determination shall be made and notice of the deficiency determination delivered to the transient lodging tax collector within three years after the last day of the month following the end of the month for which the amount is proposed to be determined or within three years after the return is filed, whichever period is later. In the case of fraud or willful intent to evade this chapter or the rules and regulations adopted pursuant to this chapter, every deficiency determination shall be made and notice of the deficiency determination delivered to the transient lodging tax collector within 10 years after the last day of the month following the close of the monthly period for which the amount is proposed to be determined or within 10 years after the return is filed, whichever period is later.

E. A transient lodging tax collector who receives a notice of deficiency determination from the Tax Administrator may petition for redetermination and refund of any overpayment. The petition must be made in writing and delivered to the Tax Administrator within 10 days of the transient lodging tax collector's receipt of the notice of a deficiency determination. If a timely petition for redetermination is not received by the Tax Administrator, the deficiency determination is final. If a timely petition for redetermination is received by the Tax Administrator, a redetermination will occur as provided in section 17 (Redetermination; Petition).

**17. Redetermination; Petition.**

**A.** Any person affected by a determination under section 16 (Deficiency Determination) may file a petition for redetermination with the Tax Administrator within 10 days of delivery of notice of the tax deficiency determination. Payment in full of all taxes, penalties and interest determined by the Tax Administrator to be due is a prerequisite to filing a petition for redetermination and refund. Filing a petition for redetermination and refund is a prerequisite to seeking judicial review and the determination shall be final if no petition is timely filed.

**B.** If a petition for redetermination and refund is filed within the allowable period, the Tax Administrator shall reconsider the determination, and, if the petition requests, shall grant the petitioner an oral hearing and shall provide at least 10 days' notice of the time and place of the hearing, unless the Tax Administrator and petitioner agree otherwise. The Tax Administrator may continue the hearing from time to time as may be necessary.

**C.** The Tax Administrator may decrease or increase the amount of the original determination as a result of the hearing. If the Tax Administrator increases the amount of the original determination, such increase is due upon delivery of a written notice of the increase to the petitioner.

**D.** After considering the petition and all available information, the Tax Administrator shall issue a redetermination decision and mail the decision to the petitioner.

**18. Security for Collection of Tax.** To ensure compliance with this chapter, the Tax Administrator may require any transient lodging tax collector to deposit security in the form of cash, bond or other security acceptable to the Tax Administrator. The amount of the security shall be fixed by the Tax Administrator but shall not be greater than five times the transient lodging tax collector's estimated average monthly tax liability for the period for which the transient lodging tax collector files returns, determined in such manner as the Tax Administrator deems proper, or \$5,000, whichever is less. The amount of the security may be increased or decreased by the Tax Administrator subject to the limitations of this section.

**19. Collection.** Except in the case of fraud or willful intent to evade this chapter or the rules and regulations adopted pursuant to this chapter, the City may bring legal action to collect any amounts owed to the City under this chapter 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, whichever is later. In the case of fraud or willful intent to evade this chapter or the rules and regulations adopted pursuant to this chapter, the City may bring legal action to collect any amounts owed to the City under this chapter within 10 years after any tax or any amount of tax required to be collected becomes due and payable, or at any time within 10 years after any determination becomes final, whichever is later.

**20. Refunds to Transient Lodging Tax Collector.** If a transient lodging tax collector concludes that the transient lodging tax collector has paid more tax, penalty or interest than is due, the transient lodging tax collector may file a claim in writing stating the facts upon which the claim is founded. The claim shall be filed with the Tax Administrator within one year from the date of payment. If the claim is approved by the Tax Administrator, the excess amount paid shall be credited against any amounts then due and payable from the transient lodging tax collector and the balance refunded to the transient lodging tax collector within 14 business days of the date the Tax Administrator concludes that the refund is due. The transient lodging tax collector has the burden of proving the facts that establish the basis for a refund.

This section is not applicable to any amount determined by the Tax Administrator to be due pursuant to the determination section 16 (Deficiency Determination).

**21. Refunds to Transient.** If a transient concludes that he or she paid more tax than is due, the transient may file a claim in writing stating the facts upon which the claim is founded. The claim shall be filed with the Tax Administrator within one year from the date of payment. If the claim is approved by the Tax Administrator, the excess amount collected shall be refunded to the transient within 14 business days of the date the Tax Administrator concludes that the refund is due. The transient has the burden of proving the facts that establish the basis for a refund.

**22. Compromise of Tax.** The Tax Administrator may, after consultation with the City Attorney, adjust or enter into a settlement as regards any amount believed to be due if, as a result of a bankruptcy filing, foreclosure, bona fide legal or factual dispute or similar circumstance, it is in the best interest of the City.

**23. Review.** A determination made by the Tax Administrator pursuant to this chapter, or the rules and regulations adopted pursuant thereto, is a quasi-judicial decision and is not appealable to Council. Appeals from any determination made by the Tax Administrator are solely and exclusively by writ of review to the Circuit Court of Grant County, as provided in ORS 34.010 to 34.102.

**24. Alternative Remittance of Receipts from Tax on Camping and Recreational Vehicle Spaces.**

**A.** A transient lodging tax collector who collects tax on rental of privately owned camping or recreational vehicle spaces may hold the tax collected until the amount of money held equals or exceeds \$100.00, regardless of the schedule established by the City for payment of the tax.

**B.** Once the amount held by a transient lodging tax collector equals or exceeds \$100.00, or by December 31<sup>st</sup> of each year if the \$100.00 threshold is not met, the transient lodging tax collector shall remit the tax collected at the next following reporting period established by the City for payment of the tax.

**C.** No penalty or interest shall be assessed against a transient lodging tax collector who withholds payments pursuant to this section.

**25. Use of Tax Revenue.**

**A.** All of the net revenue from the tax, following reductions attributed to collection reimbursement charges, must be used consistently with subsection B of this section to:

1. Fund tourism promotion or tourism-related facilities;
2. Fund City services; or
3. Finance or refinance the debt of tourism-related facilities and pay reasonable administrative costs incurred in financing or refinancing that debt; provided, that:

**a.** The net revenue may be used for administrative costs only if the City provides a collection reimbursement charge; and

b. Upon retirement of the debt, the City reduces the tax by the amount by which the tax was increased to finance or refinance the debt.

**B.** At least 70 percent of net revenue from this tax shall be used for the purposes described in subsection (A)(1) or (3) of this section. No more than 30 percent of net revenue from this tax may be used for the purpose described in subsection (A)(2) of this section.

**26. Conformity with Law.** This chapter shall be construed and implemented so as to conform with, and shall not be in any way a substitute for, or eliminate in any way the necessity for conformity with any and all laws of the State of Oregon, or ordinances of the City, or any rules or regulations adopted pursuant to such statutes or regulations.

**27. Severability.** The sections and subsections of this chapter are severable. If any part of this chapter is held unconstitutional or otherwise invalid, the remaining parts shall remain in force unless:

**A.** The remaining parts are so essentially and inseparably connected with and dependent upon the unconstitutional or invalid part that it is apparent that the remaining parts would not have been enacted without the unconstitutional or invalid part; or

**B.** The remaining parts, standing alone, are incomplete and incapable of being executed according to the legislative intent.

**28. Violations – Penalties.**

**A.** A person who violates a provision of this chapter commits a class C violation subject to a \$500.00 fine as specified in ORS 153.018.

**B.** Each transient lodging transaction for which tax, penalty or interest otherwise due is not paid shall be deemed a separate civil violation.

**C.** Each day a person fails to register as a transient lodging tax collector shall be deemed a separate civil violation.

**D.** A finding that a person has committed a civil violation of this chapter shall not act to relieve the person from the provisions of this chapter.

**E.** If a court finds that a transient lodging tax collector collected the tax imposed by this chapter and intentionally failed to remit the tax proceeds to the City when required by this chapter, the amount of penalty may be increased up to 10 times the normal penalty imposed for a class C violation. All amounts listed as room tax in bills or invoices issued by the transient lodging tax collector shall be considered tax collected by the transient lodging tax collector, unless the transient lodging tax collector received no payment on the bill or invoice.

**29. Remedies Cumulative.** Any fines pursuant to this chapter are in addition to, and not in lieu of, any other civil, criminal or administrative penalty, sanction, or remedy otherwise authorized by law.