

TITLE 3  
CHAPTER 7

**TRANSIENT ROOM TAX**

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**3-7-1: DEFINITIONS:** In this Chapter, the following mean:

- ACCRUAL** A system of accounting in which the rent due from a transient is entered on the records of the operator when the rent is earned, whether or not it is paid.
- CASH** A system of accounting in which the rent due from a transient is not entered on the records by the operator until the rent is paid.
- COUNCIL** The City Council of the City of Florence
- HOTEL** A structure, or portion of a structure, which is occupied or intended or designed for transient occupancy for a period of 30 days or less for dwelling, lodging, or sleeping purposes, and includes a hotel, inn, tourist home or house, motel, studio hotel, bachelor hotel, lodging house, rooming house, apartment house, public or private dormitory, fraternity, sorority, public or private club, or similar structures or portions thereof so occupied for less than a 30 day period.
- The use or possession, or the right to use or possess a room in a hotel or similar structure or portion thereof, for lodging or sleeping purposes.
- OPERATOR** The person who is the proprietor of a hotel in any capacity and, where the operator performs those functions through a managing agent other than an employee, the managing agent shall have the same duties and liabilities as the principal. Compliance with the provisions of this Chapter by either the principal or the managing agent shall constitute compliance by both.
- PERSON** An individual, firm, partnership, joint venture, association, social club or private dormitory, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate, or any other group or combination acting as a unit.
- The consideration charged for the occupancy of space in a hotel whether valued in money, goods, labor, credits, property, or other consideration, valued in money without any deduction, and whether received by the operator or not.

RENT PACKAGE PLAN	The consideration charged for both food and rent with a single rate that includes the total of both. The applicable amount for determination of the transient room tax under this Chapter shall be the same amount charged for rent when not a part of a package plan.
RECREATIONAL VEHICLE PARK (RV)	A development which is occupied or intended or designed for transient occupancy for thirty (30) days or less, on which travel trailers, pickup campers, tent trailers, tents, self-propelled motorized vehicles are parked or set up, the purpose of such development being to provide to the public a temporary location for dwelling, lodging or sleeping purposes whiles traveling, vacationing or recreating, but excluding recreational vehicle parks operated by federal government.
TAX	The tax payable by the transient, or the aggregate amount of taxes due from an operator during the period for which the operator is required to report collections.
TAX ADMINISTRATOR	The City Recorder of the City of Florence.
TRANSIENT	An individual who exercises occupancy, or is entitled to occupancy in a hotel or RV park for a period of less than 30 consecutive calendar days, counting portions of calendar days as full days. In determining the 30-day period, the day a transient checks out of the hotel shall not be included, if the transient is not charged rent for that day. Unless there is a written agreement between the operator and the transient providing for a longer period of occupancy, an individual so occupying space in a hotel or RV park shall be deemed a transient until a period of 30 consecutive calendar days has expired. A person who pays for lodging on a monthly basis, without regard to the number of days in the month, shall not be deemed a transient. (Ord.726, 9-25-84) (Ord. No. 11, Series 2008)

**3-7-2: LEVY:** Each transient shall pay a tax of four percent (4%) of the rent charged by the operator for the privilege of occupancy in a hotel or RV park. The tax constitutes a debt owed by the transient to the City and is extinguished only by payment to the operator or the City. The transient shall pay the tax to the operator of the hotel or RV park at the time the rent is paid, which shall be entered on the operator's records when the rent is collected, if the operator maintains records on the accrual basis. If the rent is paid in installments, a proportionate share of the tax shall be paid by the transient to the operator with each installment. If for any reason the tax due is not paid to the operator of the hotel or RV park, the Tax Administrator may require that the tax be paid directly to the City. For purposes of determining the tax due, the rent paid or charged for occupancy shall exclude amounts charged or received by the operator for the sale of goods, services, or commodities, incidental to the room, or accommodation. (Ord. 19 Series 1985) (Ord.10, Series 2008)

**3-7-3: COLLECTION:**

- A. Each operator renting a room in this city, the occupancy of which is not exempted under Section 3-7-5 of this Chapter, shall collect a tax from the occupant of the room. The tax collected or accrued by the operator constitutes a debt owing by the operator to the City. For rent collected on portions of a dollar, the first once cent (0.02) of tax shall be collected on twenty-five cents (0.25) through forty-nine cents (0.49), inclusive; the second one cent (0.01) of tax shall be collected on fifty cents (0.50) through seventy-four cents (0.74) inclusive; the third one cent (0.01) of tax shall be collected on seventy-five cents (0.75) to one dollar (\$1.00) inclusive.
- B. If payment of rent is deferred or credit is extended, payment of the tax to the operator may be deferred until the rent is actually paid. The operator shall not be liable for the tax until the deferred payment or credit is paid.
- C. The Tax Administrator may adopt rules and regulations consistent with the provisions of this Chapter as are deemed necessary to assist in the enforcement thereof.

**3-7-4: OPERATOR'S DUTIES:** The tax imposed by this Chapter shall be collected by the operator at the same time as the rent is collected from the transient. The amount thereof shall be separately stated upon

the operator's records and on any rental receipt delivered to the transient by the operator. No operator shall advertise that the tax or any part thereof will be assumed or absorbed by the operator, that it will not be added to the rent, or that, when added, any part will be refunded. (Ord. 726, 9-25-84)

**3-7-5: EXEMPTION:** The tax imposed by this Chapter shall not be imposed upon or collected from:

- A. A person who occupies premises subject to the tax for a period of more than 30 consecutive calendar days;
- B. A person who pays for lodging rents a private home, vacation cabin, or like facility on a monthly basis, irrespective of the number of days in the month; (Ord 10, Series 2008)
- C. A person whose rent is of a value of less than \$2.00 per day;
- D. An occupant paying rent for a hospital room to a medical clinic, convalescent home, or home for aged persons. (Ord. 726, 9-25-84)
- E. A person occupying space in a mobile home park. (Ord No. 3, Series 1985) (Ord. 11, Series 2008)

**3-7-6: REGISTRATION:**

- A. Every person engaging in the business of an operator of a hotel or RV park in this City shall, within 15 calendar days after commencing the business, complete, sign, and file with the Tax Administrator the registration form provided by the Tax Administrator. Failure to so register shall not relieve an operator from the obligation to pay the tax imposed by this Chapter and shall constitute a separate violation hereof.
- B. The registration form shall contain:
  - 1. The name under which the operator transacts or intends to transact business;
  - 2. The location of the place or places of business; and,
  - 3. Such other information as may be necessary to facilitate collection of the tax.
- C. Within 10 days after receipt of the registration form, the Tax Administrator shall issue a certificate of authority to the registrant to collect the tax from occupants of the hotel or accommodation, with a duplicate thereof for each additional place of business of the registrant. Each certificate and duplicate thereof shall state, but not be limited to:
  - 1. The name of the operator;
  - 2. The place of business to which it is applicable, and the address thereof;
  - 3. The date when the certificate is issued; and
  - 4. A statement that "This transient occupancy registration certificate signifies that the person named on the face hereof has fulfilled the requirements of the transient room tax provisions of the City of Florence by registration with the Tax Administrator for the purpose of collection from transients the city's room tax and remitting the 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 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.", and shall be prominently displayed so as to be readily visible to all occupants and persons seeking occupancy therein. (Ord. 726, 9-25-84)

**3-7-7: RETURNS:**

- A. All taxes collected by an operator are due and payable on the fifteenth day of the month for the preceding month, and are delinquent on the last day of the month in which they are due.

- B. On or before the fifteenth day of the month following each month of collection, the operator shall file a return for that month's tax collections with the Tax Administrator in such form as prescribed by the Tax Administrator.
- C. The return shall show the amount of tax collected or otherwise due for the period for which the return is filed; the total rentals upon which the tax is collected or otherwise due; gross receipts of the operator for the period; the amount of any exempt rents; and a detailed explanation of any discrepancy in the amounts.
- D. The return, together with payment of the amount of tax due, shall be filed with 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 for determining whether it is timely filed.
- E. The Tax Administrator may, for good cause, extend the time for making any return or paying any tax for a period not to exceed one month. No further extension may be granted except by the City Manager. An operator to whom an extension is granted shall pay interest at the rate of one percent (1%) per month on the amount of tax due, without proration for a fraction of a month. If the return is not filed and the tax and interest due is not paid by the end of the extension period, then the interest shall become a part of the tax for purposes of computation of the penalties prescribed in Section 3-7-8 of this Chapter.
- F. The Tax Administrator may require returns and payment of taxes for other than monthly periods of he deems it necessary in individual cases in order to insure payment or to facilitate collection by the City of the amount of taxes. (Ord. 726, 9-25-84)

**3-7-8: PENALTIES AND INTEREST:**

- A. An operator who has not been granted an extension of time for remittance of the tax due who fails to remit the tax imposed by Section 3-7-2 of this Chapter prior to delinquency, shall, in addition to the amount of the tax, pay a penalty of ten percent (10%) of the amount of the tax due.
- B. An operator who fails to pay any delinquent remittance within a period of 30 days following the date on which the remittance first becomes delinquent, and who has not previously been granted an extension of time for remittance of the tax, in addition to the amount of the tax and the ten percent (10%) penalty first imposed under paragraph A above, shall pay a second delinquency penalty of fifteen percent (15%) of the amount of the tax due.
- C. If the Tax Administrator determines that the nonpayment of any tax due under Section 3-7-2 of this Chapter is due to fraud or an intent to evade the provisions thereof, in addition to the penalties stated in paragraphs A and B above, a penalty of twenty-five percent (25%) of the amount of tax shall be added thereto.
- D. In addition to any penalties imposed, an operator who failed to remit any tax imposed by Section 3-7-2 of this Chapter shall pay interest on the amount of the tax due, exclusive of penalties, at the rate of one half of one percent per month or fraction thereof, without proration for portions of a month, from the date on which the remittance first becomes delinquent until paid in full.
- E. 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 required to be paid. (Ord. 726, 9- 25-84)

**3-7-9: DEFICIENCIES, FRAUD, EVASION, DELAY:**

- A. If the Tax Administrator determines that a return required by this Chapter is incorrect, the Tax Administrator may compute and determine the amount required to be paid upon the basis of the facts contained in the return or returns or upon the basis of any other information in the Tax Administrator's possession. One or more deficiency determinations may be made of the amount due for one or more periods, and the amount so determined shall be immediately due and payable upon service of notice as herein provided, and shall be subject to penalties for deficiencies as set forth in Section 3-7-8 of this Chapter. In making a deficiency determination, the Tax Administrator:

1. May offset overpayments, if any, which may have been previously made against any underpayment for a subsequent period or periods, or against penalties and interest, on the underpayments. The interest on underpayments shall be computed as set forth in Section 3-7-8 of this Chapter.
  2. Shall give a written notice of the determination to the operator or occupant, either personally or by mail. If by mail, the notice shall be addressed to the operator's address as it appears in the records of the Tax Administrator, and shall be deemed given on the date of deposit in the United States Post Office, postage prepaid.
- B. Except in the case of fraud or intent to evade the provisions of this Chapter, or the rules and regulations promulgated pursuant hereto, a deficiency determination shall be made and notice thereof mailed within three years after the last day of the month following the close of the monthly period for which the deficiency is proposed to be determined, or within three years after the return is filed, whichever period expires the later.
- C. A deficiency determination shall become due and payable immediately upon receipt of the notice by the operator, and shall become final at the expiration of ten days from the date of the notice, unless the operator has petitioned for redemption and refund within the ten-day period.
- D. If an operator fails or refuses to collect the tax or to make any report required by this Chapter within the time or times required herein, or to remit the tax or any portion thereof required to be remitted, or makes a fraudulent return, or in any other manner willfully attempts to evade the provisions of this Chapter, the Tax Administrator shall proceed to obtain facts and information on which to base an estimate of the tax due, and shall thereafter determine and assess against the operator the tax, interest, and penalties provided for by Sections 3-7-2 and 3-7-8 of this Chapter. In the event such a determination is made, the Tax Administrator shall give notice in the manner prescribed in Section 3-7-9 of this Chapter of the amount so assessed. The determination and notice shall be made and mailed within three years after discovery by the Tax Administrator of any fraud, intent to evade, failure or refusal to collect the tax, or failure to file a required return. Any deficiency determination shall become due and payable immediately upon receipt of the notice, and shall become final within 10 days after the date thereof. The operator may, however, petition for redemption and refund prior to the date the determination becomes final.
- E. If the Tax Administrator believes that either the collection of any tax or any amount of tax required to be collected and paid to the City by Section 3-7-2 of this Chapter, or any deficiency determination made under this Section is jeopardized by delay, the Tax Administrator shall make a determination of the tax or amount of tax required to be collected, noting that fact upon the determination. The amount so determined under this Section shall be immediately due and payable by the operator after service of notice thereof. The operator may, however, after payment of the amount determined, petition for redemption and refund of the determination, or a portion thereof, providing the petition is filed within 10 days from the date of service of the Tax Administrator's notice. (Ord. 726, 9-25-84)

### **3-7-10: REDETERMINATIONS:**

- A. Any person against whom a determination is made under Section 3-7-9 of this Chapter, or any person directly interested in the determination, may petition for a redetermination and redemption and refund within the time provided in that Section.  
If a petition for redetermination and refund is not filed within the time required, the determination shall become final.
- B. If a petition for redetermination and refund is timely filed, and if so requested in the petition, the Tax Administrator shall grant an oral hearing on reconsideration of the determination, and provide 10 days written notice to the petitioner of the time and place of the hearing. The Tax Administrator may continue the hearing from time to time as may be necessary.
- C. As a result of the hearing, the Tax Administrator may decrease or increase the amount of the determination, and if an increase is determined, the amount thereof shall be payable immediately upon the conclusion of the hearing.

- D. The Tax Administrator's order or decision upon the petition for redetermination and redemption and refund shall become final 10 days after the service thereof upon the petitioner, unless prior to the expiration of the 10 day period an appeal from the order or decision is filed with the City Manager by the petitioner.
- E. No petition for redetermination and redemption and refund, nor an appeal there from shall be heard or considered unless the operator first complies with the payment provisions of this Section. (Ord. 726, 9-25-84)

**3-7-11: SECURITY FOR COLLECTION:**

- A. If considered necessary in order to assure compliance with the provisions of this Chapter, an operator subject to the transient room tax may be required to deposit with the Tax Administrator such security in the form of cash, bond, or other assets as the Tax Administrator may require. The amount of the security shall be fixed and determined by the Tax Administrator in such manner as deemed appropriate, but shall not be greater than twice the operator's estimated average monthly liability for the period for which returns are filed, or five thousand dollars (\$5,000), whichever amount is the lesser. Subject to the limitations herein provided, the amount of the security may be increased or decreased by the Tax Administrator.
- 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 by the Tax Administrator under the provisions of this Chapter becomes final, the Tax Administrator may bring an action in the courts of the State, or any other state, or of the United States, in the name of the City, to collect the amount of delinquent tax, together with penalties and interest. (Ord. 726, 9-25-84)

**3-7-12 LIEN:**

- A. The tax imposed by Section 3-7-2 of this Chapter, together with the interest and penalties provided for in Section 3-7- 8 of this Chapter, the filing fees paid to the Department of Records of Lane County, Oregon, and advertising costs which may be incurred when the tax becomes delinquent under Section 3-7-7 of this Chapter shall be, and until paid remain, a lien from the date of its recording with the Department of Records of Lane County, Oregon, superior to all subsequent recorder liens on all tangible personal property used in the hotel of an operator within Florence, and when so recorded, may be foreclosed on and sold as necessary to discharge the lien. Notice of lien may be issued by the Tax Administrator whenever the operator is in default in the payment of the tax, interest and penalty, and shall be recorded with the Department of Records of Lane County, Oregon, with a copy sent to the delinquent operator. The personal property subject to the lien and seized by any deputy of the Tax Administrator may be sold by the Tax Administrator at public auction after 10 days' notice thereof published in a newspaper in the City.
- B. Any such lien shall, upon the payment in full to the City of the taxes, penalty and interest for which the lien has been imposed, be released by the Tax Administrator. The operator or person making the payment shall receive a receipt therefore stating that the full amount of the taxes, penalties, and interest have been paid and that the lien is thereby released and the record of lien satisfied. (Ord. 726, 9-25-84)

**3-7-13: REFUNDS:** In the event a tax imposed under Section 3-7- 8 of this Chapter has been paid more than once, or has been erroneously or illegally collected or received by the Tax Administrator, it may be refunded, providing a written verified claim therefore on a form provided by the Tax Administrator, is filed with the Tax Administrator within three years from the date of payment, which states the specific reason upon which the claim is founded. If the claim is approved, the excess amount collected or paid may be refunded or may be credited to any amounts then due and payable from the operator from whom it was originally collected or by whom it was originally paid, and the balance may be refunded. All refunds shall be charged to the Transient Room Tax Fund. (Ord. 726, 9-25-84)

**3-7-14: COLLECTION FEE:** An operator liable for the collection and remittance of the tax imposed by Section 3-7-2 of this Chapter may withhold 5 percent (5%) of the net tax due to cover the operator's expense in the collection and remittance of the tax. (Ord. 726, 9-25-84)

**3-7-15: ADMINISTRATION:**

- A. All monies collected pursuant to the provisions of this Chapter shall be deposited to the credit of the Transient Room Tax Fund.
- B. Each operator shall maintain guest records of room rentals and accounting books and records of the rentals, which shall be retained for a period of three years and six months after they first come into existence.
- C. After notification to the operator, the Tax Administrator, or any person authorized in writing by the Tax Administrator may during the operator's normal business hours examine the books, papers, and accounting records relating to room rentals of any 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.
- D. Neither the Tax Administrator nor any person having an administrative or clerical duty under the provisions of this Chapter may 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 room 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 particulars thereof, set forth in any statement or application, or 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. Nothing in this subsection shall, however, prevent:
  - 1. The disclosure to, or the examination of records and equipment by another City official, employee, or tax- collecting agent for the sole purpose of administering or collecting the tax;
  - 2. The disclosure, after the filing of a written request therefore, to the taxpayer himself or his receivers, trustees, executors, administrators, assignees, and guarantors, if directly interested, of information as to any such tax paid, any such tax unpaid, or the amount of any such tax required to be collected, together with interest and penalties thereon, provided the City Attorney approves each such disclosure. The Tax Administrator may refuse to make the disclosures referred to in this paragraph when in the opinion of the Tax Administrator the public interest would suffer thereby.
  - 3. The disclosure of the names and addresses of any person to whom transient occupancy registration certificates have been issued; and
- 4. The disclosure of general statistics regarding taxes collected or business one in the City. (Ord. 726, 9-25-84)

**3-7-16: APPEAL TO CITY MANAGER:** Any person aggrieved by a decision of the Tax Administrator may appeal the decision to the City Manager by filing a notice of appeal with the Tax Administrator within 10 days of the serving or mailing of the notice of the decision. The Tax Administrator shall fix a time and place for hearing the appeal and shall give the appellant 10 days' written notice of the time and place of the hearing. (Ord. 726, 9-25-84)

**3-7-17: APPEAL TO THE COUNCIL:** Any person aggrieved by a decision of the City Manager under Section 3-7-16 of this Chapter may appeal the decision to the Council by filing a written notice of appeal with the Tax Administrator within 10 days of the serving or mailing of the City Manager's decision. The Tax Administrator shall transmit the notice, together with the file of the appealed matter to the Council, which shall fix a time and place for hearing the appeal. The Council shall give the appellant not less than 10 days' written notice of the time and place of the hearing of the appeal. (Ord. 726, 9-25-84)

**3-7-18: GIFTS AND CONTRIBUTIONS:** The Tax Administrator may, on behalf of the City, accept gifts or contributions from an operator outside the City limits who would be subject to the tax imposed by Section 3-7-2 of this Chapter of located within the City, and any amounts so received shall be deposited to the credit of the Transient Room Tax Fund. (Ord. 726, 9-25-84)

**3-7-19: VIOLATIONS:** No operator, or other person subject to the provisions of this Chapter shall:

1. Fail or refuse to register as required by Section 3-7-6 of this Chapter;
2. Fail or refuse to furnish any return required to be made under Section 3-7-7 of this Chapter or to furnish a supplemental return or other data required by the Tax Administrator;
3. Render a false or fraudulent return under Section 3-7-7 of this Chapter; or
4. Render, sign or verify any false or fraudulent report regarding the transient room tax. (Ord. 726, 9-25-84)

**3-7-20: PENALTIES:** Any person willfully violating any provision of this Chapter shall be guilty of a misdemeanor, and upon conviction thereof be punishable therefore by a fine of not more than \$500 or by imprisonment for not more than six months, or by both such fine and imprisonment. (Ord. 726, 9-25-84)

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Ord. 10, Series 2008  
Ord. 11, Series 2008