



ORDINANCE NO. 5942

AN ORDINANCE AMENDING ALBANY MUNICIPAL CODE (AMC) SECTION 3.14.020 THROUGH 3.14.050, TRANSIENT ROOM TAX, BY REMOVING CERTAIN EXEMPTIONS

WHEREAS, small establishments and vacation rentals were previously exempted from City of Albany transient lodging tax; and

WHEREAS, the number of these types of establishments has grown significantly since the last ordinance was passed; and

WHEREAS, the Transient Lodging Tax Advisory Committee, staff, and regional partners recommend this change.

NOW, THEREFORE, THE PEOPLE OF THE CITY OF ALBANY DO ORDAIN AS FOLLOWS:

Section 1: Amending AMC Chapters 3.14.020 through 3.14.050, Transient Room Tax, to remove certain exemptions including but not limited to small establishments, private homes, and vacation cabins as outlined in Exhibit A.

Section 2: The text of Title 3.14, Chapters 3.14.020 through 3.14.050 of the Albany Municipal Code is hereby amended as shown in Exhibit A of this ordinance.

Passed by the Council: May 27, 2020

Approved by the Mayor: May 27, 2020

Effective Date: June 26, 2020


Mayor

ATTEST:


City Clerk



EXHIBIT A

3.14 Transient Room Tax

3.14.010 Title.

The ordinance codified in this chapter shall be known as the “Transient Room Tax Ordinance” of the City. (Ord. 4080 § 1, 1977).

3.14.020 Definitions.

Except where the context otherwise requires, the definitions given in this section govern the construction of the chapter:

(1) “Accrual accounting” means the operator enters the rent due from a transient on his/her records when the rent is earned whether or not it is paid.

(2) “Cash accounting” means the operator does not enter the rent due from a transient on his/her records until rent is paid.

(3) “City Council” means the City Council of the City of Albany, Oregon.

(4) “Hotel” means any structure, or any portion of any structure, which is occupied or intended or designed for transient occupancy for 30 days or less for dwelling, lodging or sleeping purposes, and includes any hotel, inn, tourist home or house, **bed and breakfast**, motel, studio hotel, bachelor hotel, lodginghouse, roominghouse, apartment house, **vacation rental**, public or private club, space in mobile home or trailer parks, or similar structure or portions thereof so occupied, provided such occupancy is for less than a 30-day period.

(5) “Occupancy” means the use or possession or the right to the use or possession for lodging or sleeping purposes of any room or rooms in a hotel or space in a mobile home or trailer park or portion thereof.

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

(7) “Person” means any individual, firm, partnership, joint venture, association, social club, fraternal organization, fraternity, sorority, public or private dormitory, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate or any other group or combination acting as a unit.

(8) “Rent” means the consideration charged, whether or not received by the operator, for the occupancy of space in a hotel valued in money, goods, labor, credits, property or other consideration valued in money less discounts for seniors, AAA, Good Sam Club, etc.

(9) “Rent package plan” means the consideration charged for both food and rent where a single rate is made for the total of both. The amount applicable to rent for determination of transient room tax under this chapter shall be the same charge made for rent when consideration is not a part of a package plan.

(10) “Tax” means either the tax payable by the transient or the aggregate amount of taxes due from an operator during the period for which he/she is required to report his/her collections.

(11) “Tax Administrator” means the Finance Director of the City.

(12) “Transient” means any individual who exercises occupancy or is entitled to occupancy in a hotel for a period of 30 consecutive calendar days or less, counting portions of calendar days as full days. The day a transient checks out of the hotel shall not be included in determining the 30-day period if the transient is not charged rent for that day by the operator. Any such individual so occupying space in a hotel shall be deemed to be a transient until the period of 30 days has expired, unless there is an agreement in writing between the operator and the occupant providing for a longer period of occupancy. Any individual so occupying space in a hotel for consecutive days beyond the 30-day period shall no longer be deemed to be a transient. 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. A person who pays for lodging on a monthly basis, irrespective of the number of days in such month, shall not be deemed a transient. (Ord. 5692 § 1, 2008; Ord. 5013 § 1, 1992; Ord. 4851 § 1, 1989; Ord. 4080 § 2, 1977).

3.14.025 Small establishments exempted.

~~The definition of hotel or motel as set forth in AMC [3.14.020](#) shall not apply to any structure or collection of units at one location when the total number of units is less than six or when the assessed value of the improvements on the real property is less than \$100,000. In order for this exclusion to apply, it shall be necessary for the owner to make application to the Tax Administrator for the exclusion of being exempt from the provisions of AMC [3.14.040](#). (Ord. 4851 § 1, 1989; Ord. 4421 § 1, 1981).~~

3.14.030 Administration of funds.

Repealed by Ord. 5275. (Ord. 5121 § 1, 1994; Ord. 4080 § 16(a), 1977).

3.14.040 Imposition.

For the privilege of occupancy in any hotel, on and after July 1, 1999, each transient shall pay a tax in the amount of nine percent of the rent charged by the operator. The tax constitutes a debt owed by the transient to the City, which is extinguished only by payment to the operator or to the City. The transient shall pay the tax to the operator of the hotel at the time the rent is paid. The operator shall enter the tax on his/her records when rent is collected, if the operator keeps his/her records on the cash accounting basis, and when earned if the operator keeps his/her records on the accrual accounting basis. If rent is paid in installments, a proportionate share of the tax shall be paid by the transient or the operator with each installment. If for any reason the tax due is not paid to the operator of the hotel, the Tax Administrator may require that such tax be paid directly to the City. In all cases, the rent paid or charged for occupancy shall exclude the sale of any goods, services and commodities, other than the furnishing of rooms, accommodations, and parking space in mobile home parks or trailer parks. (Ord. 5400 § 1, 1999; Ord. 5121 § 2, 1994; Ord. 5013 § 1, 1992; Ord. 4693 § 1, 1985; Ord. 4080 § 3, 1977).

3.14.050 Exemptions.

No tax imposed under this chapter shall be imposed upon:

- (1) Any occupant for more than 30 successive calendar days. A person who pays for lodging on a monthly basis, irrespective of the number of days in such month, shall not be deemed a transient;
- ~~(2) Any occupant whose rent is of a value less than \$2.00 per day;~~
- ~~(3) Any person who rents a private home, vacation cabin or like facility from any owner who rents such facilities incidentally to his/her own use thereof;~~
- (4) Any occupant whose rent is paid for a hospital room or to a medical clinic, convalescent home or home for aged people.
- (5) Any occupant who is a federal employee traveling on federal business.
- (6) Any occupant whose rent is being paid by the Red Cross or other relief organization for temporary emergency housing. (Ord. 5692 § 1, 2008; Ord. 4080 § 6, 1977).