

This is a codified version of the City of Gold Beach **Transient Lodging Tax Code** adopted as Ordinance No. 680 & No. 681

The recitals sections for Ordinance No. 680 (adopted March 2022) & No. 681 (adopted June 2022) are contained at the end of the document

ORDINANCE NO. 680 EXHIBIT A and including ORDINANCE NO. 681 amendments

REFORMATTED AND CODIFIED TRANSIENT LODGING TAX CODE SECTION 4.2 OF THE GOLD BEACH BUSINESS CODE ADOPTED AS ORDINANCE NO. 680 INCORPORATING REPEALED AND REPLACED SECTIONS OF ORDINANCE NO. 675 AS APPROVED BY THE CITY COUNCIL OF GOLD BEACH OREGON

SECTION 4.2 GOLD BEACH BUSINESS CODE
Transient Lodging Tax Code

4.200 Title.

This portion of the Gold Beach Code shall be known as the Transient Lodging Tax Code of the City of Gold Beach.

4.205 DEFINITIONS

OCCUPANCY means the right to the use or possession of any space in transient lodging for dwelling, lodging, or sleeping purposes for less than 30 days.

OCCUPANT means any individual who exercises occupancy or is entitled to occupancy in transient lodging for a period of 30 consecutive calendar days or less, counting portions of calendar days as full days.

PERSON means any individual, firm, partnership, joint venture, limited liability company, corporation, limited liability partnership, association, host, social club, fraternal organization, fraternity, sorority, public or private dormitory, joint stock company, estate, trust, business trust, receiver, trustee, syndicate, or any other group or combination acting as a unit.

RENT means the consideration paid or payable by an occupant for the occupancy of space in transient lodging valued in money, goods, labor, credits, property, or other consideration. If a separate fee is charged for services, goods or commodities and the fee is optional, that fee is not included in rent.

SHORT-TERM RENTAL means a house, duplex, condominium, houseboat, trailer or other residential dwelling unit where a person rents a guest bedroom or the entire residential dwelling

unit for transient lodging occupancy. Generally, a short-term rental is zoned residential or has a building occupancy that only allows for residential use.

SHORT-TERM RENTAL HOUSING PLATFORM means a business or other person that facilitates the retail sale of transient lodging by connecting occupants with transient lodging providers, either online or in any other manner. Short-term rental hosting platforms are transient lodging intermediaries.

TAX ADMINISTRATOR means the City Administrator of the City of Gold Beach, or its designee, which may include the Oregon Department of Revenue. If the city utilizes the Oregon Department of Revenue as its tax administrator, it will comply with ORS 305.620 in that it will follow the rules adopted by the Department of Revenue regarding the administration, collection, enforcement and distribution of transient lodging taxes.

TLT OR TAX means the transient lodging tax.

TRANSIENT LODGING OR TRANSIENT LODGING FACILITIES means:

- (1) Hotel, motel, and inn dwelling units that are used for temporary overnight human occupancy;
- (2) RV sites or spaces within RV parks and/or campgrounds, tent sites and yurts in private and public campgrounds used for temporary overnight periods of human occupancy; or
- (3) Houses, cabins, condominiums, or other dwelling units, or portions of any of these dwelling units that are used for temporary human occupancy.
- (4) To protect and preserve needed local housing units, multifamily dwelling units such as apartment units or similar non one & two-family dwelling units are specifically excluded as transient lodging or transient lodging facilities.

TRANSIENT LODGING INTERMEDIARY means a person other than a transient lodging provider that facilitates the retail sale of transient lodging and:

- a. Charges for occupancy of the transient lodging; or
- b. Collects the consideration charged for occupancy of the transient lodging; or
- c. 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.

TRANSIENT LODGING PROVIDER means a person that furnishes transient lodging.

TRANSIENT LODGING TAX COLLECTOR means a transient lodging provider or transient lodging intermediary.

4.210 TAX IMPOSED (Amended by Ordinance No. 681)

A. Each occupant shall pay a TLT in the amount of ~~seven percent (7%)~~ **NINE PERCENT (9%) of the rent**. The occupant shall pay the TLT with the rent to the transient lodging tax collector. TLT amounts shall be rounded down to the nearest cent. The transient lodging tax collector shall maintain records of all rent charged and TLT payments received. If rent is paid in installments, a proportionate share of the TLT shall be paid by the occupant to the transient lodging tax collector with each installment unless the occupant pays the entire amount with the first payment.

B. Bills, receipts or invoices provided to occupants shall list the TLT separately and must accurately state the amount of tax. All amounts listed as TLT on invoices, bills or receipts must be reported as TLT and, after collection, must be turned over to the city, less the five percent (5%) administrative charge.

4.215 COLLECTION OF TAX BY TRANSIENT LODGING TAX COLLECTOR

A. Every transient lodging tax collector shall collect the TLT at the time rent is paid, unless an exemption applies. If payment is by credit card, for purposes of this section, payment is made at the time credit card information is provided to the transient lodging tax collector, not when the transient lodging tax collector ultimately receives credit for the transaction. While holding the payment in trust for the city, a transient lodging tax collector may commingle the tax proceeds with the transient lodging tax collector's funds, but the transient lodging tax collector is not the owner of tax proceeds, except that, when a return is filed, the transient lodging tax collector becomes the owner of the administrative fee authorized to be retained. Transient lodging tax collectors may choose to file returns and remit payment based on amounts accrued but not yet collected. The transient lodging tax collector is liable for any TLT that should have been collected from the occupant, except in cases of nonpayment of rent by the occupant.

B. Upon request of the city, transient lodging tax collectors must provide all physical addresses of transient lodging facilities within the city limits and the related contact information, including the name and mailing address, of the general manager, agent, owner, host or other responsible person for the location.

4.220 SHORT-TERM RENTAL HOSTING PLATFORM FEES

A hosting platform for short-term rentals may collect a fee for booking services in connection with short-term rentals only when those short-term rentals are lawfully registered as operators with the city and possess a certificate of authority at the time the short-term rental is occupied.

4.225 LIABILITY FOR TAX

Transient lodging providers who receive any portion of the rent for transient lodging and transient lodging intermediaries that provide booking service are both transient lodging tax collectors and are jointly and severally liable for the tax.

4.230 EXEMPTIONS

No TLT shall be imposed upon:

- A. 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 Oregon Department of Human Services or the Oregon Health Authority;*
- B. A dwelling unit in a facility providing treatment for drug or alcohol abuse or providing mental health treatment;*
- C. A dwelling unit that is used by members of the general public for temporary human occupancy for fewer than 30 days per year;*
- D. 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;*
- E. A dwelling unit at a nonprofit youth or church camp, nonprofit conference center or other nonprofit facility; or*
- F. 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. The requirements of this subsection are satisfied even if the physical dwelling unit changes during the consecutive period, if:
 - (1) All dwelling units occupied are within the same facility; and*
 - (2) The person paying consideration for the transient lodging is the same person throughout the consecutive period.**

4.235 REGISTRATION OF TRANSIENT LODGING PROVIDER – FORM AND CONTENTS – EXECUTION – CERTIFICATION OF AUTHORITY

- A. Prior to commencement of business, all Transient Lodging Providers, Transient Lodging Intermediaries, and Transient Lodging Tax Collectors are required to comply with the provisions of the Business License Code, Section 4.1 of the Gold Beach City Business Code.*
- B. Every person engaging or about to engage in business as a transient lodging provider shall provide a completed registration form to the tax administrator within 15 calendar days after demonstrating compliance with the Business License Code. The registration form shall*

require the transient lodging provider to provide the name of the business, any separate business addresses, and other information as the tax administrator may require to implement this Chapter. Transient lodging providers who own or operate transient lodging facilities in Gold Beach shall provide the address of the lodging facility. The registration form shall be signed by the transient lodging provider. The tax administrator shall, within 15 days after registration, issue without charge a certificate of authority to collect the TLT. The transient lodging provider's obligation to collect the TLT is imposed once rent for transient lodging is paid, even if the registration form has not been filed or if the certificate has not been issued. If the rent transaction is facilitated online, the certificate of authority must be able to be viewed by the occupant by clicking on a link to the certificate of authority at a reasonable place during the payment transaction.

- C. Certificates shall be non-assignable and non-transferable and shall be surrendered to the tax administrator when the business is sold or transferred or when a transient lodging facility ceases to operate at the location specified in the registration form. Each certificate issued to a transient lodging provider for a specific lodging facility shall be prominently displayed at the lodging facility and include:*
- (1) The name of the transient lodging provider;*
 - (2) The address of the transient lodging facility;*
 - (3) The date the certificate was issued; and*
 - (4) The certificate number as assigned by the tax administrator.*

4.240 REMITTANCES AND RETURNS

- A. Transient lodging tax collectors must submit a completed tax return form to the tax administrator on or before the last day of the month following the end of each calendar quarter, reporting the amount of tax due during the quarter and accompanied by remittance of all tax collected, less a five percent (5%) administration fee. The return shall be filed in such form as the tax administrator may prescribe. The tax administrator if they deem it necessary in order to ensure payment or facilitate collection by the City of the amount of taxes in any individual case, may require returns and payment of the amount of taxes on other than monthly periods.*
- B. The transient lodging tax collector is entitled to the administration fee. If a transient lodging facility has multiple owners, they are not entitled to retain additional fees.*
- C. Remittances are delinquent if not made by the last day of the month in which they are due.*

- D. *Returns shall show the gross rents collected, taxable rents, the total amount of TLT collected and the amount of the administrative fee retained by the transient lodging tax collector. Returns shall also show the exempt and excluded rents and the basis for exemptions and exclusions.*
- E. *The person required to file the return shall deliver the return, together with payment of the amount of the tax due, to the tax administrator, to the appropriate office, either by personal delivery, by mail, or by electronic tax return filed through a reporting and payment portal furnished by the tax administrator, or its designee. If the return is mailed, the postmark shall be considered the date of delivery.*
- F. *The tax administrator may extend the time for making any return or remittance of the tax by up to 30 days. No further extension shall be granted, except by the city council. Any transient lodging tax collector to whom an extension is granted shall pay interest at the rate of ten percent (10%) per month on the amount of the remittance due without proration for a fraction of a month. If a return is not filed, and the remittance and interest due is not paid by the end of the extension granted, then the interest shall become a part of the tax for computation of penalties.*

4.245 PENALTIES AND INTEREST

- A. *Interest shall be added to the overall tax amount due at the same rate established under ORS 305.220 for each month, or fraction of a month, from the time the return to the tax administrator was originally required to be filed to the time of payment.*
- B. *If a transient lodging tax collector fails to file a return or pay the tax as required, a penalty shall be imposed in the same manner and amount provided under ORS 314.400.*
- C. *Every penalty imposed, and any interest that accrues, becomes a part of the financial obligation required to be paid and remitted to the tax administrator.*
- D. *Taxes, interest, and penalties paid to the tax administrator under this section shall be distributed as other revenue under Section 4.280.*

4.250 DEFICIENCY DETERMINATION – FRAUD, EVASION, LOCAL TAX TRUSTEE DELAY

- A. **Deficiency Determination.** The tax administrator may review tax returns and adjust the amount due based on the information in the return, on information obtained during a review or audit of records, or on the basis of other evidence. In the event of a deficiency, the tax administrator shall provide notice of the deficiency to the transient lodging tax

collector, who shall remit deficiencies within 10 business days of the deficiency notice. Notice may be by personal delivery or certified or registered mail.

- (1) In reviewing and adjusting tax returns, the tax administrator shall offset any amount received in excess of remittances due against any shortages in remittances.
 - (2) Except in the case of fraud or intent to evade the TLT, notice of deficiency determinations shall be issued within three years of the period for which the deficiency determination is made.
 - (3) The time to remit deficient payment amounts under this section shall be extended if the local tax trustee timely requests a redetermination.
- B. Fraud – Refusal to Collect – Evasion. If any transient lodging tax collector fails to collect, report or remit the tax as required, submits a fraudulent return, or otherwise violates or attempts to violate this chapter, the tax administrator shall estimate the tax due, and calculate the amount owing from the transient lodging tax collector for tax remittance, interest and penalties and provide notice to the transient lodging tax collector of the assessment. The determination and notice shall be made and mailed within three years of the discovery by the tax administrator of the violation. The determination is due and payable upon receipt of notice and shall become final 10 business days after the date notice was delivered if no petition for redetermination is filed.

4.255 REDETERMINATIONS

- A. Any person affected by a deficiency determination may file a petition for redetermination with the tax administrator within 10 business days of service of notice of the tax deficiency. A determination becomes final if a petition for redetermination is not timely filed.
- B. If a petition for redetermination is filed within the allowable period, the tax administrator shall reconsider the determination and grant an oral hearing if requested. The petitioner shall be allowed at least 20 business days to prepare for the hearing.
- C. After considering the petition and all available information, the tax administrator shall issue a redetermination decision and mail the decision to the petitioner. During the redetermination process, the tax administrator may agree to a compromise of the amount due if there is a good faith dispute over the amount owing.
- D. The decision of the tax administrator on redetermination becomes final and payment is due 10 business days after the decision is mailed unless the petitioner files an appeal to the city council within that time. The appeal shall be filed with the tax administrator. The city council's decision shall be final when reduced to writing and mailed to the petitioner and all amounts due must be paid within 10 business days of mailing of the city council decision.

4.260 COLLECTIONS

- A. The city may bring legal action to collect on any amounts owed to the city under this chapter within three years after remittance is due to the city or within three years after any determination becomes final.
- B. The city is entitled to collect reasonable attorney fees in any legal action brought to collect on amount owed to the city under this chapter.

4.265 LIENS

The city may record a lien in the city's lien docket against any real property owned by a transient lodging provider who receives any portion of the rent from a transient lodging facility located within the city as to any delinquent remittances by the transient lodging provider.

4.270 REFUNDS

- A. Refunds by City to Transient Lodging Tax Collector. If the transient lodging tax collector remits more tax, penalty or interest than is due, the transient lodging tax collector may file a claim in writing stating the facts relating to the claim, within three years from the date of remittance. If the claim is approved by the tax administrator, the excess amount shall be either refunded or credited on any amount due from the transient lodging tax collector.
- B. Refunds by City to Occupant. A transient lodging tax collector may file a claim for refund by filing a claim in writing within three years of payment providing the facts relating to the claim for refund. If the tax administrator determines that the tax was collected and remitted to the city and the occupant was not required to pay the tax or overpaid, the city shall issue a refund to the occupant.
- C. Refunds by Transient Lodging Tax Collector to Occupant. If an occupant has paid tax to a transient lodging tax collector but stays a total of 30 or more consecutive days in the same transient lodging facility, the transient lodging tax collector shall refund to the occupant any tax collected for any portion of the continuous stay. The transient lodging tax collector shall account for the collection and refund to the tax administrator. If the transient lodging tax collector has remitted the tax prior to the refund or credit to the occupant, the transient lodging tax collector shall be entitled to a corresponding refund or offset if the claim for refund is filed within three years from the date of collection.
- D. Burden of Proof. The person claiming the refund shall have the burden of proving the facts that establish the basis for the refund.

4.280 ADMINISTRATION

A. **Use of TLT Funds.**

The revenue disbursement formula net ~~7% tax~~ 9% TAX collected is as follows:

The revenue disbursement formula net ~~7% tax~~ 9% TAX collected is as follows:

7% TAX 9% TAX COLLECTED	OPERATOR	PROMOTIONS FUND	GENERAL FUND	EVENT CENTER BUILDING MTC FUND	TOTAL
Original 6%	5%	75%	20%	0%	100%
2016 1%	5%	0%	0%	95%	100%
2022 2%	5%	PROMO FUND DESTINATION DEVELOPMENT/ TOURISM FACILITIES/ TOURISM RECREATIONAL 75%	20%	0%	100%

- B. Records Required from Local Tax Trustee. Every local tax trustee shall keep records of each transaction involving rent and/or collection of TLT. All records shall be retained for at least three years and six months.
- C. Examination of Records – Investigations. The tax administrator or agent may examine all records of a local tax trustee relating to receipt of rent and TLT and remittance of tax during normal business hours and may obtain copies of the records to audit returns.
- D. Authority of Tax Administrator. The tax administrator shall have the power to enforce this chapter, conduct audits, and to adopt rules, regulations and forms consistent with this chapter. Rules and regulations of general application shall be mailed to all registered transient lodging providers. The tax administrator may also issue written interpretations on request of a transient lodging tax collector. As to the transient lodging tax collector to whom the interpretation is issued, the City will act consistently with the interpretation until it is withdrawn, and the city shall provide 30 days’ written notice of withdrawal of an interpretation.
- E. Confidential Character of Information Obtained – Disclosure Unlawful. The city shall maintain the confidentiality of information provided by transient lodging tax collector. Nothing in this subsection shall be construed to prevent:
 - (1) The disclosure to, or the examination of records and equipment by, another city official, employee or agent for collection of taxes for the purpose of administering or enforcing any provisions of this chapter or collecting city business license fees.
 - (2) Disclosure of information to the transient lodging tax collector and the transient lodging tax collector’s agents.

- (3) The disclosure of the names and addresses of any persons to whom certificates of authority have been issued.
- (4) The disclosure of general statistics regarding taxes collected or business done in the City.
- (5) Disclosures required by ORS Chapter 192.
- (6) Disclosures required by ORS Chapter 297.

4.285 APPEALS TO CITY COUNCIL

Any person aggrieved by any decision of the tax administrator may appeal to the city council by filing a written appeal with the tax administrator within 10 business days of the serving or mailing of the decision being appealed. The city manager shall schedule the hearing on a city council agenda and provide the appellant notice of the hearing at least 10 business days before the hearing. The city council may agree to a compromise of the amount of tax remittance if there is a good faith dispute over the amount owing. Any person may appeal the issuance of a rule or regulation issued by the tax administrator to the city council by filing a written appeal within 10 business days of the mailing of the notice of the regulation.

4.290 PENALTY

A violation of this chapter is a Class A civil infraction. Each day that a violation remains uncured is a separate infraction.

The recitals sections for Ordinance Nos. 680 & 681 are reprinted below

ORDINANCE NO. 681

AN ORDINANCE AMENDING ORDINANCE NO. 643 THE GOLD BEACH BUSINESS CODE AND AMENDING SECTIONS OF ORDINANCE NO. 680 THE TRANSIENT LODGING TAX CODE-SECTION 4.2 OF THE GOLD BEACH BUSINESS CODE

WHEREAS, The City initially adopted a local lodging tax in 1982; and

WHEREAS, The City uses the local lodging taxes received to promote local tourism, encourage visitors to recreate and stay in Gold Beach and central Curry County, support local events and tourist related activities, facilities, and other similar local tourist related promotional activities, and to operate the Gold Beach Visitor Center; and

WHEREAS, The Council voted to increase the City's lodging tax from 6% to 7% in 2016 to specifically assist with building maintenance at the Event Center on the Beach/Curry County Fairgrounds, which is a tourism related facility located within the Gold Beach City limits; and

WHEREAS, The City Council, during the FY2022-2023 budget hearings discussed increasing the local lodging tax specifically to fund destination development, improving and creating tourism related facilities, and improving and creating tourism recreational opportunities to bolster and improve our local tourism economy. The Budget Committee voted to approve a 2% increase in the local lodging tax to fund these tourism related economic development activities.

NOW THEREFORE, BASED ON THE FOREGOING, THE CITY OF GOLD BEACH ORDAINS AS FOLLOWS:

1. Section 4.210 (A) of the Gold Beach Business Code is amended to read, in full, as follows:

4.210 TAX IMPOSED

A. Each occupant shall pay a TLT in the amount of ~~seven percent (7%)~~ **NINE PERCENT (9%) of the rent**. The occupant shall pay the TLT with the rent to the transient lodging tax collector. TLT amounts shall be rounded down to the nearest cent. The transient lodging tax collector shall maintain records of all rent charged and TLT payments received. If rent is paid in installments, a proportionate share of the TLT shall be paid by the occupant to the transient lodging tax collector with each installment unless the occupant pays the entire amount with the first payment.

2. Section 4.280 (A) of the Gold Beach Business Code is amended to read, in full, as follows:

4.280 ADMINISTRATION

A. Use of TLT Funds.

The revenue disbursement formula net ~~7% tax~~ 9% TAX collected is as follows:

The revenue disbursement formula net ~~7% tax~~ 9% TAX collected is as follows:

7% TAX 9% TAX COLLECTED	OPERATOR	PROMOTIONS FUND	GENERAL FUND	EVENT CENTER BUILDING MTC FUND	TOTAL
Original 6%	5%	75%	20%	0%	100%
2016 1%	5%	0%	0%	95%	100%
2022 2%	5%	<u>PROMO FUND</u> DESTINATION DEVELOPMENT/ TOURISM FACILITIES/ TOURISM RECREATIONAL 75%	20%	0%	100%

3. The amendments above are made part of the Gold Beach Business Code. The City Administrator shall renumber, format, and make edits necessary to codify the amendments into the Code.
4. This ordinance shall not affect the rights and duties that matured, penalties that were incurred and proceedings that were begun before the effective date of this ordinance.

Passed and Adopted by the City Council of the City of Gold Beach, Oregon, State of Oregon, on this 6th day of June, 2022.

Recital section of ORDINANCE NO. 680

AN ORDINANCE AMENDING ORDINANCE NO. 643 THE GOLD BEACH BUSINESS CODE AND REPLACING SECTION 4.2 OF THE GOLD BEACH BUSINESS CODE TO UPDATE TRANSIENT LODGING TAX PROCEDURES AND REPEALING AND REPLACING ORDINANCE NO. 675

WHEREAS, in 2017, the Legislature amended ORS 305.620 to allow the Oregon Department of Revenue to collect local transient lodging taxes on behalf of cities; and

WHEREAS, to use the Department of Revenue for lodging tax collections, the City’s collection and accounting practices must be coordinated with collection and accounting procedures used by the Department of Revenue and must also comply with ORS 305.620; and

WHEREAS, to allow the City of Gold Beach to pursue potentially using the Department of Revenue to collect the City’s local lodging tax, the City must make selective updates to Section 4.2 of the Gold Beach Business Code to align its local procedures with that of the State; and

(NOTE: For brevity, items 1-7 are the codified changes for Sections 4.205-4.245 as contained in EXHIBIT A below)

8. The amendments above are made part of the Gold Beach Business Code. The City Administrator shall renumber, format, and make edits necessary to codify the amendments into the Code. A reformatted copy of the full Transient Lodging Code Section 4.2 is attached to this Ordinance as EXHIBIT A and hereby incorporated by reference.
9. This ordinance shall not affect the rights and duties that matured, penalties that were incurred and proceedings that were begun before the effective date of this ordinance.

Passed and Adopted by the City Council of the City of Gold Beach, Oregon, State of Oregon, on this 7th day of March, 2022.