



City of Yamhill
A small taste of Oregon

Planning Commission Packet

10-16-2023

STAFF MEMORANDUM

TO: Yamhill Planning Commission

FROM: Walt Wendolowski, Consulting City Planner

SUBJECT: Fats, Oil and Grease Regulations

DATE: October 9, 2023

I. BACKGROUND

At the September meeting, the Planning Commission established work priorities for the coming fiscal year. One such item was regulations regarding Fats, Oils and Grease (FOG). Attached to this memorandum (Exhibit “A”) is a draft ordinance regulating FOG.

In requesting information on the Oregon Planner’s Network for possible FOG regulations, the City of Milwaukie code was mentioned by several people. That code is found in Exhibit “A”, modified for Yamhill, and reviewed in the following sections.

- A. **3.66.010. Purpose.** This is the introductory provision. The regulations maintain the public health and welfare and ensure maintenance and operations of the sewerage treatment facility.
- B. **3.66.020. Applicability.** The regulations apply to all food service facilities.
- C. **3.66.030. Definitions.** This section established the definitions. Specifically note “food service facility.
- D. **3.66.040. Grease Interceptor/Trap Required.** Unless otherwise exempted, grease interceptors or traps are required on all food service facilities. They are required in new facilities and the installation and operation must comply with Building regulations. Existing systems may be maintained provided they operate properly. However, they must be replaced if they are undersized, do not operate properly or kitchen modifications are planned.

Businesses that do not have a grease trap may continue operation, provided they obtain an exemption. This exemption is limited to food service facilities that contribute little or no FOG to the system. One example may be a sandwich shop.
- E. **3.66.050. Maintenance of Grease Interceptor/Trap Required.** The mechanisms must be maintained with a routine maintenance schedule and with records on inspection dates.
- F. **3.66.060. Disposal of Wastes From Interceptors and Traps.** Waste disposal must conform to DEQ regulations and is limited to specific waste sites.

- G. **3.66.070. Collection, Storage, and Disposal of Waste Grease and Solids.** Waste grease should be collected and stored and disposed of through a waste grease service company.
- H. **3.66.080. Clean-up of Spilled Grease and Oil.** Spills must be cleaned up and disposed of properly. If the City must complete the clean-up, they may assess recovery fees.
- I. **3.66.090 Use of Chemicals and Other Additives.** Chemicals or other additives cannot be added to the interceptor/traps.
- J. **3.66.100. Right of Access.** The City has the right to inspect facilities and may collect samples.
- K. **3.66.110. Enforcement.** This Section covers the enforcement procedures including civil penalties. Owners may also be required to install systems if necessary.
- L. **3.66.120. Best Management Practices.** This is an advisory Section, identifying best practices information.

II. SUMMARY COMMENTS

As we previously discussed, these are public works regulations and not related to planning (Municipal Code Titles 10 and 11). Jason Wofford reviewed and supported the material. Currently, the only action by the Commission is to suggest/recommend the Council consider the language.

As a suggestion, it may be appropriate for the City to consider some type of grant program to assist affected business facing required facility improvements.

CITY OF YAMHILL

CHAPTER 3.66 FAT, OIL, AND GREASE CONTROL

3.66.010. Purpose

In order to provide for the public health and welfare, to ensure the adequate maintenance and operability of the wastewater collection and treatment infrastructure, and to comply with the laws and regulations of the State of Oregon, and the United States, it is necessary to set uniform requirements for all users of the City's sanitary sewer system to include, but not limited to, the following:

- A. To establish the appropriate authority for the City to condition or deny discharges to the City sewer system;
- B. To prevent the introduction of excessive amounts of grease into the City sewer system;
- C. To prevent the clogging or blocking of the City sewer lines due to grease buildup that cause backup and flooding of streets, residences, and commercial buildings;
- D. To implement a set of procedures to recover the costs incurred when grease blockages require the City to engage in cleaning and maintenance of sewer lines and the disposal of grease blockages;
- E. To implement a procedure to recover costs from the parties responsible for contributing waste products to the City system for the cost of any liability incurred by the City for damage caused by grease blockages resulting in the flooding of streets, residences, or commercial buildings;
- F. To establish enforcement procedures for violations of any part or requirement of this section; and
- G. To establish the authority for the City to carry out routine and nonroutine monitoring (sampling and inspections) of the grease traps of any food service facility either in the City or outside, that contributes waste products that enter the City system.

3.66.020. Applicability.

The terms and conditions of this section shall apply to all food service facilities.

3.66.030. Definitions.

The following terms and definitions shall apply:

City. The City of Yamhill Oregon, employees of the City, or an authorized agent of the City.

Discharger. The food service facility discharging gray water to the City sewer system.

FOG best management practices. Practices undertaken at food service facilities have proven effective to minimize the adverse impacts of the discharge of fats, oil, and grease into the municipal wastewater systems and the environment.

Food service facility or facility. Any business which prepares and/or packages food or beverages for sale or consumption, on or offsite, with the exception of private residences. Food service facilities shall include, but are not limited to, food preparation facilities, food courts, food manufacturers with an average daily discharge volume of up to twenty-five thousand (25,000) gallons per day, food packagers, restaurants, cafeterias, grocery stores, convenience stores, coffee shops, bakeries, lounges, hospitals, hotels, nursing homes, churches, schools, and all other food service facilities not listed, herein.

Garbage disposal. A device which shreds or grinds up waste materials into smaller portions for discharge into the City's sanitary sewer system.

Gray water. All of the liquid contained in a grease interceptor that lies below the floating grease layer and above the food solids layer.

Grease. A material either liquid or solid, composed primarily of fat, oil, and grease from animal or vegetable sources. The terms "fats, oils, and grease (FOG)," "oil and grease," or "oil and grease substances" shall all be included within this definition.

Grease interceptor or interceptor. A device located underground and outside of the food service facility designed to collect, contain, or remove food wastes and FOG from the waste stream while allowing the balance of the liquid wastes (gray water) to discharge to the wastewater collection system by gravity. Interceptors shall have at least one (1) inspection hatch on the top surface to facilitate inspection, cleaning, and maintenance.

Grease trap or trap. A device located in a food service facility or under a sink designed to collect, contain, or remove food wastes and FOG from the waste stream while allowing the balance of the liquid waste (gray water) to discharge to the wastewater collection system by gravity. Traps shall have a removable lid on the top surface to facilitate inspection, cleaning, and maintenance.

Grease trap service company. A person or company who provides maintenance services for grease traps and interceptors. Maintenance services include cleaning, minor repairs, FOG, and solids removal from the interceptor, and transport of the removed material to an appropriate recycling or disposal facility.

Waste grease. Fats, oils, and grease that can be collected following use and prior to discharge to the sewer or interceptor. Waste grease is collected from pans, deep fat fryers, and cooking grills.

3.66.040. Grease Interceptor/Trap Required

A. General Requirements

Except as provided otherwise in this subsection, grease interceptors and/or traps shall be provided by the food service facility owner to prevent FOG from entering the sanitary sewer system. The owner shall provide documentation and/or calculations on all sizing and model selections to Yamhill County Building Department for approval prior to installation. The grease interceptor or trap shall be easily and safely accessible for cleaning and inspection. All prospective grease interceptor or trap users must provide manufacturer's capacity data and an

estimate of the product rate at the facility that is within the capacity of the grease interceptor or trap to be approved by the Yamhill County Building Department.

B. Existing Facilities

For the purposes of sizing and installation of grease interceptors/traps, all food service facilities existing within the City's sewer system service area, whether within, or without, the City limits, prior to the effective date of the ordinance codified in this section shall be allowed to operate and maintain existing grease interceptors/traps provided their grease interceptors or grease traps are maintained in efficient operating conditions.

Except as provided otherwise in this subsection, on or after the effective date of the ordinance codified in this section, the City shall require an existing food service facility to install, operate, and maintain a new grease interceptor or trap that complies with the requirements of this section or to modify, repair, or replace any noncompliant interceptor or trap within ninety (90) days of written notification by the City when any one (1) or more of the following conditions exist:

1. The facility does not have a grease interceptor or trap;
2. The facility has an undersized, nonrepairable, or defective grease interceptor or trap;
3. Remodeling of the food preparation or kitchen waste plumbing system is performed which requires a building permit to be issued by the City; or
4. The existing facility does not have plumbing connections to a grease interceptor or trap in compliance with the requirements of this section, or current building codes.

C. New Facilities or New Interceptor Installations

Grease interceptors or traps shall be located in the food service facility's lateral sewer line between all fixtures which may introduce grease into the sewer system and the connection to the City's wastewater collections system. Garbage disposals, dishwashers, and restrooms shall not be plumbed to the grease interceptor. Automatic hood washers, floor drains in food preparation and storage areas shall be plumbed to the grease interceptor. Sanitary facilities (restrooms) shall not be plumbed to the grease interceptor under any circumstance.

D. Pre-existing Operations.

A food service facility operating prior to the effective date of the ordinance codified in this section may apply for an exception to the requirement that it install a grease interceptor or grease trap under the following conditions:

1. That application be made in writing to the City requesting an exemption;
2. That an exemption be granted only for a food service facility that produces a minimal amount of FOG;
3. That the determination that a minimal amount of FOG is being produced shall be based on a comparison of the food service facility's production of FOG as compared to all food service facilities subject to the provision of this section. In determining the production of FOG relative to other food service providers, inferences may be drawn from a comparison of the total amount

of discharge to the wastewater system, the volume of products likely to produce a heavier concentration of FOG, and the active employment of practices that remove FOG prior to its discharge to a grease trap or grease interceptor;

4. That the burden of proof is on the food service facility's owner/operator;
5. That the intention of this exception is to provide relief only to those whose production and discharge of FOG would not constitute more than a minor contribution to the system;
6. That the food service facility's owner/operator consents to an annual review and inspection at which it shall be determined whether the food service facility has implemented changes that increase its production of FOG; and
7. That the exception may be unilaterally revoked pursuant to any requirement of the State of Oregon, or the United States whose effect is to require a grease trap or grease interceptor.

3.66.050. Maintenance of Grease Interceptor/Trap Required

A. Maintenance

All grease interceptors and grease traps shall be continuously maintained in satisfactory and effective operational condition by the discharger at the discharger's expense. Typically maintenance consists of the removal of floatable solids and settleable solids collected in the grease interceptor/trap; and the cleaning of the walls and piping.

B. Routine Maintenance Schedules

The discharger is responsible for establishing a routine maintenance schedule that includes the routine removal of floatable and settleable solids and cleaning of the interceptors/traps. The maintenance frequency should be such that the interceptor/trap does not allow fats, oils, grease, and food solids to leave the interceptor and enter the City sewer collection system. The amount of time between pumping and cleaning services is dependent on the volume of wastes discharged, the volume of the interceptor/trap, and the physical integrity of the interceptor/trap structures and piping. It is the discharger's responsibility that the interceptors/traps are routinely inspected and repaired as needed.

C. Record Keeping Requirements

The discharger is responsible for maintaining appropriate maintenance records that document the routine pumping, cleaning, and repairs made to interceptors and traps. Where the discharger hires a grease trap service company to clean the interceptor/trap and remove and dispose of the accumulated grease and solids, a copy of the pumping manifest or billing must be retained with the maintenance records. Where the discharger does not hire a grease trap service company the discharger shall maintain a receipt for proper disposal of the accumulated FOG and solids. All maintenance records should include at a minimum the following information:

1. Name of facility;
2. Date service performed;

3. Total volume of the interceptor/trap;
4. Total volume of material removed from the interceptor/trap;
5. List of all deficiencies identified from an inspection of the empty interceptor/trap;
6. Name and address of the grease trap service company;
7. Name and address of final disposal site;
8. Signature of the grease trap service company employee performing the work, if applicable;
9. Signature of the discharger's employee observing and accepting the services;
10. Receipt for payment for proper disposal of FOG and solids, if such services are not provided by a grease trap service company.

D. Record Retention

All grease interceptor/trap maintenance records shall be retained for a period of no less than three (3) years. These records shall be retained at the food service facility and shall be made available for inspection by the City.

3.66.060. Disposal of Wastes From Interceptors and Traps

Storage, handling, transportation, and disposal of all wastes from interceptors/traps shall be performed in accordance with applicable federal, State, and local regulations that pertain to the type and/or class of waste. Materials removed from waste interceptors/traps must be disposed of at State of Oregon Department of Environmental Quality (DEQ) designated locations for those specific type wastes. Materials removed from waste interceptors/traps shall not be discharged to the City sanitary sewers or storm drains.

3.66.070. Collection, Storage, and Disposal of Waste Grease and Solids

Dischargers are encouraged to collect excess oil and grease from deep fat fryers, pots, and pans prior to washing. This waste grease and oil should be collected and stored in appropriate containers that are appropriately labeled. The collected waste grease and oil should be collected by a waste grease service company for disposal. In no case shall the discharger dispose of deep fat fryer oils and other collected waste greases and oils by discharge to the grease interceptor/trap or to the City sewer system.

3.66.080. Clean-up of Spilled Grease and Oil

The discharger shall clean up all spilled grease and oil using appropriate tools including a mop and bucket. Bucket contents may be discharged to the grease interceptor/trap, and solid greases and oils that can be manually picked up should be held in the waste grease collection containers for final disposal. In no instance shall spilled grease and oils be washed to the stormwater drains. If the City is required to clean up a grease and oil spill generated by a discharger, the City is authorized to assess cost recovery fees to the discharger for all reasonable documented costs associated with the clean-up.

3.66.090 Use of Chemicals and Other Additives

The use of chemicals, emulsifying agents, enzymes, microorganisms, and/or other additives that are added to the grease interceptors/traps to reduce or eliminate the

pumping and cleaning of the interceptor/trap is prohibited. Dischargers currently using a chemical or other additive must halt such use immediately on the effective date of the ordinance codified in this section or be subject to citation and fine under subsection 3.66.110 of this Chapter.

3.66.100. Right of Access

The City, employees of the City, or authorized agents of the City, have the authority to enter the property of the discharger to conduct inspections of the entire facility, including the interceptors, traps, cooking and storage areas, restrooms, offices, service areas, and other areas of the facility. The City is also authorized to collect samples of any waste stream, including the discharge from the facility and the interceptors and traps. The City may obtain search warrants for inspection and sampling purposes. Failure to grant access may result in the suspension of sewer and water services provided by the City.

3.66.110. Enforcement

A person failing to comply with the provisions of this section is subject to the short form uniform citation and complaint method and enforcement procedures within Chapter 1.08 of this code. In addition to these enforcement actions the City is authorized to take the following actions to achieve compliance to this section:

A. **Mandatory Interceptor/Trap Service**

The City may issue an order requiring the discharger to conduct interceptor/trap maintenance services within a mandatory time period. The cost of the services shall be the direct responsibility of the discharger.

B. **Mandatory Interceptor/Trap Service Schedule**

The City may impose a mandatory pumping and cleaning schedule to assure the proper maintenance of an interceptor not properly maintained by the discharger. The cost of the services shall be the direct responsibility of the discharger. Mandatory service schedules may cover a time period of up to three (3) years.

C. **Cost Recovery**

The City may assess the discharger the amount of those expenditures made by the City to clean up or prevent sewer blockages and overflows caused by the discharge from that discharger. The City may also recover costs associated with any testing performed for reasons associated with violations or repeat offenders.

D. **Civil Penalties**

A person found to have committed a violation of this title shall be assessed a penalty of not more than five hundred dollars (\$500.00) per day per violation, for violations of this section.

E. **Emergency Suspensions**

The City may immediately suspend a discharge and/ or water services, after informal notice to the discharger, whenever such suspension is necessary to stop an actual or threatened discharge which reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of persons.

3.66.120. Best Management Practices

The application of best management practices that have been developed to minimize the adverse impacts of fats, oil, and grease discharge is encouraged for all food service facilities and businesses in the City. The City suggests that food service facilities become familiar with and implement those practices published in Chapter 3 of the Oregon Association of Clean Water Agencies publication, “Fats, Oil and Grease Best Management Practices Manual.”

STAFF MEMORANDUM

TO: Yamhill Planning Commission

FROM: Walt Wendolowski, Consulting City Planner

SUBJECT: Short-Term Rental Regulations

DATE: October 9, 2023

I. BACKGROUND

At the September meeting, the Planning Commission established work priorities for the coming fiscal year. One item was the creation of short-term rental requirements for the City. Working with the Carlton regulations was previously suggested. A revised document for Yamhill is attached and briefly reviewed below:

8.16.010 Definitions. Applicable definitions are found in this Section. Note the provisions are limited to transient lodging (hotel, motel, short-term, etc.) and do not apply to housing rentals.

8.16.020 Tax imposed. The transient rental tax is 7%. The occupant shall pay the TLT with the rent to the transient lodging tax collector. The transient lodging tax collector shall maintain records of all rent charged and TLT payments received.

8.16.030 Collection of tax by transient lodging tax collector. The transient lodging tax collector shall collect the TLT at the time rent is paid and holds the monies in trust for the City. 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. Note – the transient tax collector can also be the operator of the short-term rental.

8.16.040 Short-term rental hosting platform fees. For a hosting platform for short-term rentals (e.g., Air BnB) to collect a booking fee, the rental must be registered with the City.

8.16.050 Liability for tax. Whether locally operating or through a booking firm, They are both transient lodging tax collectors and liable for the tax.

8.16.060 Exemptions. Shelters, clinics, hospitals, long-term care facilities, non-profit camps facilities, and apartment/housing rentals are exempt from the regulations.

8.16.070 Registration of transient lodging provider, form and contents, execution, certification of authority. Registration is required and must be renewed annually. The registration certificate cannot be transferred and must be surrendered if the business is sold or closes.

8.16.080 Remittances and returns. This Section outlines the administrative provisions. Applicable forms must be submitted monthly and provide information required by the City. Payment must accompany the submittals.

8.16.090 Penalties and interest. This Section covers the penalties and interest that may accrue if required tax fees are not paid.

8.16.100 Deficiency determination, fraud, evasion, local tax trustee delay. This Section notes forms and payments submitted may be audited. This may involve a refund or the need for additional payment. This Section also addresses fraud and potential liabilities.

8.16.110 Redeterminations. This Section effectively allows an audit to be challenged (redetermination).

8.16.120 Collections. The City may bring legal action for collections, including attorney fees.

8.16.130 Liens. *The* City also has the authority to lean property for non-payment.

8.16.140 Refunds. Operators may request a refund for overpayment. This may include granting credit.

8.16.150 Administration. This is a critical Section: 70% of the revenue must be used for tourism promotion, while 30% may be used for City services (general fund). Records must be kept and may be audited.

8.16.160 Appeals to city council. A tax administrator's decision may be appealed to the City Council. Appeal provisions are found here.

8.16.170 Penalty. Penalty provisions are found here.

II. SUMMARY COMMENTS

It is interesting to note there are no separation requirements, i.e., distance between short-term rentals. This may not be an issue, but something to consider. What you want to avoid is allowing the concentration of short-term rentals which may affect a neighborhood's quality of life.

As we discussed, these are administrative or finance regulations and not related to planning (Municipal Code Titles 10 and 11). This, above all, is a tax generating program and it is suggested the City works out the administrative procedures before considering adoption, or work with Carlton to review how their program is operated.

Chapter 8.16 TRANSIENT LODGING TAX

8.16.010 Definitions.

The following definitions apply in this chapter.

Occupancy. The right to the use or possession of any space in transient lodging for dwelling, lodging, or sleeping purposes for less than thirty (30) days.

Occupant. Any individual who exercises occupancy or is entitled to occupancy in transient lodging for a period of thirty (30) consecutive calendar days or less, counting portions of calendar days as full days.

Person. 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. 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. A house, duplex, multi-plex, apartment, 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 hosting platform. 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. The tax administrator of the City of Yamhill, or 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.

Transient lodging or transient lodging facilities. Includes the following:

- (1) Hotel, motel, and inn dwelling units that are used for temporary overnight human occupancy;
- (2) Spaces used for overnight parking of recreational vehicles or placement of 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 that are used for temporary human occupancy.

TLT. Transient lodging tax.

Transient lodging provider. A person that furnishes transient lodging.

Transient lodging intermediary. 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.

Transient lodging tax collector. A transient lodging provider or transient lodging intermediary.

8.16.020 Tax imposed.

- A. Effective July 1, 2024, each occupant shall pay a TLT in the amount of seven percent 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 administrative charge.

8.16.030 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.

8.16.040 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.

8.16.050 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.

8.16.060 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 thirty (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 thirty (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.

8.16.070 Registration of transient lodging provider, form and contents, execution, certification of authority.

- A. 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 fifteen (15) calendar days after commencing business. 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 City of Yamhill shall provide the address of the lodging facility. The registration form shall be signed by the transient lodging provider. The tax administrator shall, within fifteen (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.
- B. 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.

8.16.080 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 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 insure 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 thirty (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 five percent 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.

8.16.090 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.

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- 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 to the city's transient lodging tax fund.

8.16.100 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 ten (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 the 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 ten (10) business days after the date notice was delivered if no petition for redetermination is filed.

8.16.110 Redeterminations.

- A. Any person affected by a deficiency determination may file a petition for redetermination with the tax administrator within ten (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 twenty (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 ten (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 ten (10) business days of mailing of the city council decision.

8.16.120 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 attorneys' fee in any legal action brought to collect the amount owed to the city under this chapter.

8.16.130 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.

8.16.140 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 thirty (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.

8.16.150 Administration.

- A. Use of TLT Funds. Seventy percent of the revenue from the tax rate of seven percent shall be used for tourism promotion and tourism-related facilities. Thirty (30) percent of the revenue of the seven percent shall be used for city services.
- 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 thirty (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.

8.16.160 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 ten (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 ten (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 ten (10) business days of the mailing of the notice of the regulation.

8.16.170 Penalty.

A violation of this chapter shall upon conviction thereof be punished by a fine of not more than three hundred (\$300.00). Such fine for conviction shall be in addition to any and all administrative penalties assessed under YMC Chapter 8.16.090. Each day that a violation remains uncured is a separate infraction.