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OCT 02 2012

ORDINANCE NO. 2012-04

BRENDA REBEY, COUNTY CLERK

AN ORDINANCE AMENDING AND RESTATING ORDINANCE NO. Z26018-Z26026, AN
ORDINANCE PROVIDING FOR THE ADMINISTRATION, COLLECTION, AND
APPROPRIATION OF TRANSIENT ROOM TAXES

WHEREAS, Grant County electors established an ordinance providing for a transient room tax by initiative petition at the election on May 15, 1990 (the "Original Ordinance"); and

WHEREAS, subsequent to the passage of the initiative petition, Grant County ratified and ordained the Original Ordinance; and

WHEREAS, Grant County amended the Original Ordinance to make certain administrative changes on or about June 10, 1992; and

WHEREAS, by initiative petition Grant County electors amended the Original Ordinance, as amended, at the election of November 2, 2004, with an effective date of December 1, 2004; and

WHEREAS, Grant County ratified and ordained the Original Ordinance, as amended by the electors by initiative petition on November 2, 2004, on or about December 29, 2004; and

WHEREAS, Grant County has determined it necessary or appropriate to make certain clerical and administrative modifications to the Original Ordinance, as amended, in order to, among other things, reflect (a) changes in Oregon law concerning the imposition and collection of transient room taxes, and (b) Grant County's past and current practices and policies concerning the imposition and collection of transient room taxes; and

WHEREAS, by the adoption of this Ordinance No.2012-04 (this "Ordinance"), Grant County hereby amends and restates the Original Ordinance, as amended, in its entirety by the adoption of this Ordinance.

NOW, THEREFORE, Grant County hereby ordains as follows:

SECTION 1. DEFINITIONS.

For purposes of this Ordinance, the following terms have the following meanings, whether or not such terms are capitalized:

"Accrual Accounting" means a system of accounting in which the operator enters the rent due from a transient into the record when the tax is earned, whether or not it is paid.

"Cash Accounting" means a system of accounting in which the operator does not enter the rent due from a transient into the record until the rent is paid.

"County" means Grant County, Oregon, a political subdivision of the State of Oregon.

"County Court" means the county's governing body.

"Hotel" means any structure or space, or any portion of any structure or space, which is occupied or intended or designed for transient occupancy for 30 days or less for dwelling, lodging, or sleeping purposes, and includes, without limitation, any hotel, inn, tourist home or house, motel, studio motel, bachelor hotel, lodging house, rooming house, apartment house, public or private dormitory, fraternity, sorority, public or private club, or space in a recreational vehicle park, mobile home park, or campground, or a portion thereof so occupied, provided such occupancy is for less than a 30-day period.

"Occupancy" means the use or possession of, or the right to use or possess, for lodging or sleeping purposes, any room(s) or space in a hotel, including, without limitation, any space in a recreational vehicle park, mobile home park, or campground, or portion thereof.

"Operator" means a person who is the proprietor of a hotel in any capacity. Where the operator performs his or 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 purposes of this Ordinance and shall have the same duties and liabilities as his or her principal. Compliance with the provisions of this Ordinance by either the principal or managing agent shall be considered compliance by both.

"Person" means an individual, limited liability company, 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 another group or combination acting as a unit.

"Rent" means the consideration charged, whether or not received by the operator, for the occupancy of a room or space in a hotel, valued in U.S. Dollars, goods, labor, credits, property, and/or other consideration valued in U.S. Dollars, without any deduction.

"Tax" means either (i) the amount payable by the transient under Section 2, below, or (ii) the aggregate amount due from an operator under this Ordinance during the period for which the operator is required to report collections.

"Tax Administrator" means the Grant County Tax Collector or its designee or appointee.

"Tourism" means economic activity resulting from tourists.

"Tourism Promotion" means any of the following activities: (i) advertising, publicizing, or distributing information for the purpose of attracting and welcoming tourists; (ii) conducting strategic planning and research necessary to stimulate future tourism development; (iii) operating tourism promotion agencies; and (iv) marketing special events and festivals designed to attract tourists.

"Tourism Promotion Agency" includes the following: (i) an incorporated nonprofit organization or governmental unit that is responsible for tourism promotion of a destination on a year-round basis; (ii) a nonprofit entity that manages tourism-related economic development plans, programs and projects; and (iii) a regional or statewide association that represents entities that rely on tourism-related business for more than fifty percent (50%) of their total income.

"Tourism-related Facility" means a conference center, convention center or visitor information center and other improved real property that has a useful life of 10 or more years and has a substantial purpose of supporting tourism or accommodating tourism activities.

"Tourist" means a person who, for business, pleasure, recreation, or participation in events related to the arts, heritage or culture, travels from the community in which that person is a resident to a different community that is separate, distinct from and unrelated to the person's community of residence, and that trip (i) requires the person to travel more than 50 miles from the community of residence, or (ii) includes an overnight stay.

"Transient" means an individual who occupies or has the right to occupy space in a hotel for a period of 30 consecutive calendar days or less, counting portions of days as full days. The day an individual checks out of the hotel shall not be included in determining the 30-day period if the individual is not charged rent for that day. An individual occupying space in a hotel shall be considered a transient until a 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, or the occupancy actually extends more than 30 consecutive days. A person who pays for lodging on a monthly basis, regardless of the number of days in the month, shall not be considered a transient, unless the person's occupancy is actually less than 30 consecutive days and there is no written agreement.

SECTION 2. TAX IMPOSED.

For the privilege of occupancy in any hotel, each transient shall pay a tax in the amount of eight percent (8%) of the rent charged by the operator. The tax constitutes a debt owed by the transient to the county and the debt is extinguished only when the tax is paid to the operator as agent for the county. The transient shall pay the tax to the operator at the time the rent is paid. The operator shall enter the tax into the record when rent is collected, if the operator keeps records on the cash accounting basis, or when earned if the operator keeps records on the accrual accounting 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, the tax administrator may require that such tax be paid directly to the tax administrator. In all cases, rent paid or charged for occupancy shall exclude the sale of goods, services, and commodities.

SECTION 3. RULES FOR COLLECTION OF TAX BY OPERATOR.

- (1) Every operator renting rooms or space for lodging or sleeping purposes, the occupancy of which is not exempt under the terms of this Ordinance, shall collect the tax imposed under Section 2, above, from the transient. The tax collected or accrued constitutes a debt owed by the operator to the county.
- (2) In cases of credit or deferred payment of rent, the payment of tax to the operator may be deferred until the rent is paid, and the operator shall not be liable for the tax until credits are paid or deferred payments are made. Adjustments may be made for uncollectible accounts.
- (3) The tax administrator shall enforce this Ordinance and may adopt rules and regulations necessary or appropriate for enforcement. Prior to the adoption of any rules and regulations, the tax administrator shall give public notice of its intent to do so, provide copies of the proposed rules and regulations to operators certified pursuant to this Ordinance, and conduct a public hearing on the proposed rules and regulations. Public notice shall be given when rules and regulations have been finally adopted. The tax administrator shall provide copies of the current rules and regulations to any person

promptly upon request. It shall be a violation of this Ordinance to violate any rules and/or regulations duly adopted by the tax administrator under this Section 3(3).

SECTION 4. OPERATOR'S DUTIES.

An operator shall collect the tax imposed under Section 2, above, simultaneously with the collection of rent from every transient. The amount of the tax shall be stated separately in the operator's records, invoices, and receipts given to each transient. The tax shall be identified on the operator's records, invoices, and receipts given to each transient as the "Grant County Room Tax." The amounts listed by an operator on the operator's records, invoices, and receipts as "Grant County Room Tax" shall not include any other taxes, fees, charges, or assessments. No operator shall advertise that the tax or any portion thereof will be assumed or absorbed by the operator, or that it will not be added to the rent, or that, when added, any part will be refunded, except in the manner provided in this Ordinance.

SECTION 5. EXEMPTIONS.

The tax imposed under this Ordinance shall not be imposed upon the following:

- (1) Any occupant for more than 30 successive calendar days.
- (2) A room or space, the rent for which is less than \$10.00 per day, with the exception of space in a recreational vehicle park, mobile home park or campground.
- (3) A person who rents a private home, vacation cabin, or similar facility from an owner who rents such facilities incidental to his own use thereof.
- (4) Any occupant in a hospital room, medical or mental health facility, convalescent home, or home for aged people, or a government owned and operated public institution.
- (5) Any person housed through an emergency shelter or disaster program for which the cost, or a portion thereof, is paid with government funds.
- (6) A dwelling unit in a facility providing treatment for drug or alcohol abuse or providing mental health treatment.
- (7) A dwelling unit at a nonprofit youth or church camp, nonprofit conference center, or other nonprofit facility.

SECTION 6. REGISTRATION BY OPERATOR.

- (1) Every person engaging in or about to engage in business as an operator in the county shall register with the tax administrator on a form provided by the tax administrator. Operators starting business must register within 15 calendar days of commencing business. Operators operating multiple hotels within the county must separately register each hotel.
- (2) The registration form shall require the following: (i) the name under which the operator transacts or intends to transact business; (ii) the mailing address of the hotel; (iii) the

physical address of the hotel; (iv) any other information necessary to facilitate the collection of the tax imposed under this Ordinance, as required by the tax administrator; and (v) the operator's signature. Upon request by the tax administrator, at the time of registration or any other time, an operator shall provide the address of each site operated by the operator which is subject to this Ordinance.

- (3) Failure of an operator to register pursuant to this Section 6 shall not relieve the operator of its obligation under this Ordinance to collect the tax imposed. Failure of an operator to register will not relieve any transient occupying a room or space from such operator from the obligation to pay the tax imposed.
- (4) The failure or refusal of an operator to register pursuant to this Section 6 is punishable by a fine not to exceed \$100.00 per day, per hotel in addition to the interest and penalties set forth herein.

SECTION 7. CERTIFICATE OF AUTHORITY.

- (1) The tax administrator shall issue a certificate of authority to the operator within 10 days after the tax administrator's receipt of the operator's properly completed registration form.
- (2) Certificates are non-assignable and non-transferable and shall be surrendered immediately to the tax administrator upon cessation of business at the address identified on the registration form or upon the sale by the operator of more than fifty percent (50%) of the value of the business assets of, or its ownership interest in, the certified hotel.
- (3) Each certificate shall state the following: (i) the name of the registered operator; (ii) the mailing address of the hotel; (iii) the physical address of the hotel; (iv) the date the certificate was issued; and (v) the following statement: "This Transient Occupancy Registration Certificate certifies that the person named hereon has fulfilled the requirements of the Grant County Transient Room Tax Ordinance by registering with the tax administrator for purposes of collecting the transient room tax imposed by the ordinance and remitting said tax to the tax administrator."

SECTION 8. COLLECTIONS, RETURNS, AND PAYMENTS.

- (1) The tax imposed by this Ordinance shall be paid by the transient to the operator at the time rent is paid. Except as expressly set forth in this Ordinance, each operator shall remit the entire amount of the tax collected to the tax administrator on a quarterly basis within 15 days after the last day of each calendar quarter. Unremitted amounts owed to the tax administrator shall be deemed delinquent on the last day of the month immediately following the calendar quarter. If the last day of the month falls on a federal holiday or weekend, amounts shall be deemed delinquent on the first business day immediately following the federal holiday or weekend. The initial return may be for less than the full calendar quarter preceding the due date; thereafter, returns shall be made for the applicable calendar quarter. The calendar quarters are:

- A. 1st Quarter: January, February, March. Tax Due: April 15;
 - B. 2nd Quarter: April, May, June. Tax Due: July 15;
 - C. 3rd Quarter: July, August, September. Tax Due: October 15;
 - D. 4th Quarter: October, November, December. Tax Due: January 15.
- (2) On or before the 15th day of the month immediately following each calendar quarter of collection, a return for the immediately preceding calendar quarter's tax collections shall be filed with the tax administrator. The return shall be filed in such form as the tax administrator may prescribe.
 - (3) Returns shall show the amount of tax collected or otherwise due for the subject calendar quarter. The tax administrator may require returns to show the total rents on which the tax was collected or is due for the subject quarter, the gross receipts of an operator for that quarter, and a detailed explanation of any discrepancy between those amounts. The tax administrator may also require returns to show the total amount of rents exempt under Section 5, above, during the subject quarter, if any.
 - (4) The operator may withhold five percent (5%) of the tax collected pursuant to Section 2, above, to cover the expense of collecting and remitting the tax.
 - (5) The operator shall deliver the return, together with the tax due, to the tax administrator's office, either by personal delivery or by mail. If the return is mailed, the postmark date shall be considered the date of delivery for determining delinquencies.
 - (6) For good cause, the tax administrator may extend the time for filing a return or remitting the tax without interest or penalty.
 - (7) The tax administrator may require returns and payment of taxes for other than quarterly periods in individual cases to ensure payment or to facilitate collection by the county.
 - (8) Except as otherwise provided under applicable law, the tax returns identified in this Section 8 shall remain confidential and shall not be open to the public.

SECTION 9. PENALTIES AND INTEREST.

- (1) An operator who fails to remit the tax due prior to the delinquent date or, when applicable, on or before the last day of the Section 8(6) extension period, shall pay, in addition to the remittable tax due, a penalty equal to ten percent (10%) of the remittable tax due.
- (2) An operator who fails to remit the tax due on or before the 30th calendar day after the delinquent date or, when applicable, on or before the 15th calendar day after the last day of the Section 8(6) extension period, shall pay, in addition to both (i) the remittable tax due, and (ii) the penalty imposed under Section 9(1), above, a penalty equal to fifteen percent (15%) of the remittable tax due. The penalty imposed under Section 9(1), above,

shall be added to the amount of remittable tax due for purposes of calculating the penalty amount under this Section 9(2).

- (3) If the tax administrator determines that, in failing to remit the tax due, the operator acted fraudulently or with the intent to evade its obligations under this Ordinance, the operator shall pay, in addition to (i) the remittable tax due and, as applicable, (ii) the penalty imposed under Section 9(1), above, and (iii) the penalty imposed under Section 9(2), above, a penalty equal to twenty-five percent (25%) of the remittable tax due. The penalties imposed under Sections 9(1) and 9(2), above, shall be added to the amount of remittable tax due for purposes of calculating the penalty amount under this Section 9(3).
- (4) In addition to the penalties imposed, beginning on the day immediately following the delinquent date or, when applicable, on the day immediately following the Section 8(6) extension period, interest shall accrue at the rate of one percent (1%) per month, without pro-rations for portions of a month, on the unremitted tax due. The penalties imposed under Sections 9(1), 9(2), and 9(3), above, shall not be added to the amount of remittable tax due for purposes of interest accrual under this Section 9(4). Notwithstanding the immediately preceding sentence, every penalty imposed and such interest accrued under this Ordinance shall be merged with and become part of the tax required to be paid under this Ordinance.
- (5) Within 10 days after full payment by the operator of the penalties assessed under this Section 9, the operator may petition the tax administrator for waiver and refund of said penalties, or any portion thereof, and the tax administrator may, if good and sufficient reason is shown, waive and direct a refund of the penalties or a portion thereof.

SECTION 10. DEFICIENCY DETERMINATIONS.

- (1) If the tax administrator determines that a return is incorrect, it may compute and determine the deficient amount on the basis of the facts contained in the return or on the basis of any other information.
- (2) A deficiency determination may be made with respect to tax due for one or more quarterly periods. The deficient amount shall be due and payable immediately upon service of notice as provided in Section 11, below, after which the deficient amount shall be deemed delinquent. With respect to deficient amounts, penalties and interest shall be calculated as set forth in Section 9, above.
- (3) Following a deficiency determination, the tax administrator may offset overpayments against deficiencies for subsequent periods or against penalties and interest imposed on the deficiencies.

SECTION 11. NOTICE OF DETERMINATION.

- (1) The tax administrator shall give the operator written notice of a deficiency determination. The notice may be served personally or by mail. The tax administrator shall provide the operator, along with the notice, a re-determination and refund petition form prepared by the tax administrator.

- (2) Except when it is determined that the operator acted fraudulently or with the intent to evade its obligations under this Ordinance, a deficiency determination shall be made, and notice thereof served, within three years after the most recent to occur of the following: (i) the last day of the calendar month immediately following the calendar quarter during which the deficiency occurred; or (ii) the date the return to which the deficiency relates was filed.

SECTION 12. RE-DETERMINATION PETITION.

A deficiency shall be deemed final on the expiration of the 10th calendar day after service of written notice pursuant to Section 11, above. Prior to the date on which the deficiency determination is deemed final, the operator against whom the deficiency determination was made may file a petition for re-determination and refund with the tax administrator by sending to the tax administrator (i) payment in full of the deficiency amount, and (ii) the completed re-determination and refund form provided by the tax administrator with the notice of the deficiency.

SECTION 13. RE-DETERMINATION.

- (1) If (i) the delinquent amount is timely paid, and (ii) the petition for re-determination and refund is timely filed, the tax administrator shall reconsider the deficiency determination and, if requested by the petitioner in its petition, shall hold a hearing and shall provide the petitioner 10 days' prior written notice of the hearing date, time, and location. The notice shall be served pursuant to Section 11, above. The tax administrator may continue the hearing from time to time as necessary or appropriate.
- (2) The tax administrator shall render its final decision as to the deficiency amount in writing, and shall provide petitioner a copy thereof within 30 days of the most recent to occur of the following: (i) date of the petition; or (ii) completion of the hearing.
- (3) The tax administrator may increase or decrease the amount of the deficiency as a result of its reconsideration. If the tax administrator determines that the deficiency should be increased, this amount shall be due and payable upon receipt by the petitioner of the tax administrator's written decision. Penalties shall be assessed and interest shall accrue thereon pursuant to Section 9, above.
- (4) The decision of the tax administrator on a petition for re-determination becomes final 20 days after receipt of the written decision by the petitioner, unless the petitioner files an appeal with the county court within the 20-day period.
- (5) No petition for re-determination and refund or appeal therefrom shall be effective for any purpose unless the petitioner has paid the delinquent amount pursuant to Section 12, above.

SECTION 14. FRAUD; REFUSAL TO COLLECT; EVASION.

- (1) If the tax administrator discovers that an operator acted fraudulently with respect to its collection and remittance of the tax imposed under this Ordinance, or that it otherwise intentionally evaded its obligations under this Ordinance, the tax administrator shall estimate the amount of remittable tax due and shall calculate the amount of penalties and

interest attributable thereto pursuant to Section 9, above. In estimating the amount of remittable tax due, the tax administrator shall employ its best efforts to obtain all relevant facts and other information necessary including, by way of example only, the hotel's historic occupancy rates, comparable hotels' occupancy rates, guest folios and room rates. The tax administrator may seek to collect the estimated deficient amount by serving notice on the operator pursuant to Section 11, above. The notice shall include the amount of remittable tax, penalties, and interest estimated to be due and a demand therefore.

- (2) The tax administrator's deficiency estimate shall be payable by the operator immediately upon service of the notice and shall be deemed final on the expiration of the 10th calendar day after service of the notice. The operator may challenge the tax administrator's demand by following the procedures set forth in Sections 12 and 13, above.

SECTION 15. SECURITY FOR COLLECTION OF TAX.

- (1) The tax administrator, whenever it deems necessary to insure compliance with this Ordinance, may require any operator to deposit with the tax administrator security in the form of cash, bond, or other security as the tax administrator may determine. The amount of security shall be fixed by the tax administrator but shall not exceed the lesser of (i) two hundred percent (200%) of the operator's estimated average tax liability for a single calendar quarter, or (ii) Five Thousand Dollars (\$5,000.00). The amount of the security may be increased or decreased by the tax administrator from time to time subject to the limitations herein provided.
- (2) Within three years after the tax becomes delinquent or within three years after a determination by the tax administrator becomes final, the tax administrator or the county may bring an action in the Oregon courts, another state court, or the United States to collect the delinquent amount and the tax administrator's costs.

SECTION 16. LIENS.

- (1) The remittable tax, penalties, interest, filing fees, attorney fees, advertising costs, and all other fees and costs incurred by the tax administrator due to an operator's noncompliance with this Ordinance (collectively, "costs") shall be a lien from the date of its recording with the county clerk until the costs have been paid in full. The lien shall be superior to all subsequently recorded liens on the real property located at the physical address of the subject hotel and on all tangible personal property of the operator at that location. The tax administrator or county may foreclose and the necessary property may be sold to discharge the lien. The tax administrator or county shall proceed in the most expeditious manner to collect the unremitted tax, penalties, and interest.
- (2) Notice of the lien shall be issued by the tax administrator within 10 days after the lien is recorded. A copy of the notice shall be sent by certified mail to the operator.
- (3) Personal property subject to the lien may be sold at public auction after 10 days' notice published in a newspaper of general circulation in the county.

- (4) A lien for the costs shall be released when the full amount has been paid to the tax administrator. Upon payment in full, the operator or person making the payment shall receive a receipt stating that the full amount of the costs has been paid, that the lien is released, and that the record of the lien is satisfied.

SECTION 17. REFUNDS TO OPERATOR.

When any tax, penalties, or interest imposed under this ordinance has been paid more than once or has been erroneously or illegally remitted to or received by the tax administrator, it may be refunded if a written verified claim stating under penalty of perjury the specific grounds upon which the claim is founded is filed within three years from the date of payment and such claim is approved by the tax administrator. The claim shall be submitted on forms provided by the tax administrator. If the claim is approved, the excess amount may be refunded to the operator or it may be credited to an amount payable by the operator and any balance refunded.

SECTION 18. REFUNDS BY TAX ADMINISTRATOR TO TRANSIENT.

A transient may obtain a refund of taxes overpaid or paid more than once, or erroneously or illegally collected or received by the tax administrator, by filing a claim in writing therefor, stating under penalty of perjury the specific grounds upon which the claim is founded, but only when the tax was paid by the transient directly to the tax administrator or when the transient having paid the tax to the operator establishes to the satisfaction of the tax administrator that the transient has been unable to obtain a refund from the operator who collected the tax. Any claim for refund under this Section 18 must be approved by the tax administrator.

SECTION 19. RECORDS REQUIRED FROM OPERATORS.

Every operator shall keep guest records and accounting books and records of room and space rentals for a period of three years and six months.

SECTION 20. EXAMINATION OF RECORDS.

During normal business hours and after 72-hours' prior notice to the operator, the tax administrator may examine books, papers, and accounting records related to room and space rentals to verify the accuracy of a return or, if no return is made, to determine the amount to be paid. If an operator refuses or otherwise fails to comply with this Section 20, the tax administrator shall be entitled to injunctive relief.

SECTION 21. CONFIDENTIALITY.

Except as otherwise required by law, it shall be unlawful for the county, the tax administrator, or any officer, employee, or agent thereof, to divulge, release or make known in any manner any financial information submitted or disclosed to the county or the tax administrator under this Ordinance. Nothing in this Section 21 shall prohibit:

- (1) The disclosure of the names and addresses of any operator;
- (2) The disclosure of general statistics in a form which would prevent the identification of financial information regarding an individual operator; or

- (3) Presentation of evidence to the county court or other tribunal having jurisdiction in the prosecution of a claim by the tax administrator or an appeal of a determination by the tax administrator for an amount due to the county under this Ordinance.

SECTION 22. DISPOSITION AND USE OF TRANSIENT ROOM TAX REVENUES.

- (1) The purpose of this tax is to raise revenues to be used for tourism promotion and tourism-related facilities in the county.
- (2) All taxes remitted to the tax administrator shall be placed in a separate account maintained by the tax administrator and entitled "Transient Room Tax Fund." For purposes of this Section 22(2), "taxes remitted" shall include all penalties and interest received by the tax administrator pursuant to Section 9, above.
- (3) The entire balance of the Transient Room Tax Fund shall be disbursed on each of February 15, May 15, August 15 and November 15 as follows:
- A. Five percent (5%) to the tax administrator for its cost in administering this Ordinance; and
 - B. Ninety-Five percent (95%) to the chamber to carry out the purpose of this Ordinance as set forth in Section 22(1), above.
- (4) The chamber itself may utilize up to seventy-five percent (75%) of the monies received under Section 22(3)B. in furtherance of the purpose of this Ordinance as set forth in Section 22(1), above.
- (5) The chamber must make available at least twenty-five percent (25%) of the monies received under Section 22(3)B. for distribution in the form of grants to persons within the county to implement their own projects and ideas in furtherance of the purpose of this Ordinance as set forth in Section 22(1), above. The chamber shall advertise the grant within the county and develop and publish a grant application to be completed by interested persons.
- (6) The chamber shall establish and publish a procedure for regular, public consideration of grant applications. The procedure adopted and any subsequent changes shall be subject to prior approval by the county.
- (7) The chamber shall cooperate with the county court and shall make its records available to the county court and be subject to audit by county auditors as part of the annual general county audit required by law, as detailed in the transient room tax services agreement, if applicable.
- (8) Subject to applicable law, any attorney and/or audit fees incurred by the tax administrator to enforce the terms of this Ordinance will be paid from the monies allocated to the chamber under Section 22(3)B., above; provided, however, this Section 22(8) does not

operate to prohibit the tax administrator from pursuing the collection of attorney and/or audit fees from the operator in noncompliance or any other responsible party.

SECTION 23. SEVERABILITY AND INTERPRETATION.

- (1) If all or any portion of this Ordinance is for any reason held to be invalid or unenforceable by any court of competent jurisdiction, or superseded by any county, Oregon, or federal legislation, rules, regulations, and/or decisions, the remainder of this Ordinance will not be affected but will be deemed as a separate, distinct, and independent provision, and such holding will not affect the validity of the remaining portions hereof, and each remaining provision of this Ordinance will be valid and enforceable to the fullest extent permitted by law. If any laws preempt a provision or limit the enforceability of a provision of this Ordinance, then the provision will be read to be preempted to the extent and the time required by law.
- (2) All pronouns contained herein and any variations thereof will be deemed to refer to the masculine, feminine, or neutral, singular or plural, as the identity of the parties may require. The singular includes the plural and the plural includes the singular. The word "or" is not exclusive. The words "include," "includes," and "including" are not limiting. The titles, captions, or headings of the sections herein are inserted for convenience of reference only and are not intended to be a part of or to affect the meaning or interpretation of this Ordinance.
- (3) This Ordinance may be corrected by order of the county to cure editorial, typographical, and/or clerical errors.

SECTION 24. REVIEW AND NOTICES.

- (1) This Ordinance shall be reviewed in October of each year by a special committee appointed by the county and approved by the chamber. This committee shall consist of five members and shall include, but is not limited to, representatives from the chamber, operators, and the county. The review committee shall make recommendations to the county and chamber as to the effectiveness of this Ordinance and shall present amendments thereto.
- (2) All notices required or permitted to be given under this Ordinance may be served personally or by first class mail, postage prepaid, certified, return receipt requested. If notice is mailed to an operator, the notice will be addressed to the operator at the operator's address as the address appears in the record of the tax administrator. Each operator is required to provide the tax administrator with the operator's current address and to provide the tax administrator with any change of the operator's address. A notice will be considered delivered (a) upon actual receipt if delivered personally or by a nationally recognized overnight delivery service (with confirmation of delivery), or (b) at the end of the third business day after the date of deposit in the United States mail, postage pre-paid, certified, return receipt requested.

SECTION 25. SHORT TITLE.

This Ordinance shall be known as the "Grant County Transient Room Tax Ordinance."

SECTION 26. EFFECTIVE DATE AND EMERGENCY CLAUSE.

- (1) This Ordinance repeals, amends, restates, and supersedes the Original Ordinance in its entirety; provided, however, the county's adoption of this Ordinance will have no effect on any enforcement or other action currently being undertaken by the county. Notwithstanding anything contained in this Ordinance to the contrary, the adoption of this Ordinance will not relieve any operator or any other party of its obligations under the Original Ordinance and/or this Ordinance.
- (2) The county finds that passage of this Ordinance is necessary for the immediate preservation of the peace, health and safety of the county's citizens. The county further finds that a delay of thirty (30) days prior to the effective date of this Ordinance may result in acts, omissions, and/or conditions detrimental to the public welfare. Therefore, an emergency is declared to exist and this Ordinance will be in full force and effect upon its passage.

Dated this 26th day of September, 2012.

Mark R Webb
Mark R. Webb, County Judge

Scott W. Myers
Scott W. Myers, County Commissioner

declined
Boyd Britton, County Commissioner