

Title 3 REVENUE AND FINANCE

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Chapter 3.04 FORECLOSURES

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3.04.010 Procedure generally.

In addition to the method now provided by the city of Toledo for the sale of real property for delinquent liens or assessments, real property may be sold as provided in this chapter for any assessment, lien or installment thereof at any time after one year from the date of such lien, assessment or installment shall become due and payable in the event the same has been bonded; otherwise at any time after sixty (60) days from the time the same shall have been entered in the lien docket.

(Ord. 832 § 1, 1966)

3.04.020 Delinquent liens or assessments—List.

If any installment on any lien that may have been bonded as provided by law by the ordinances or Charter of the city of Toledo is delinquent for a period of one year from the time the same becomes due and payable, or at any time after sixty (60) days from the time the same becomes due and payable in the event any such lien or assessment has not been bonded the city recorder of the city of Toledo may thereafter prepare a list in tabulated form made up from the docket of city liens, describing each lien, assessment or installment due on any bonded lien which is so delinquent, the name of the person to whom assessed and a particular description of the property, the amount of the lien or assessment or the amount of the installment due on any bonded liens and of any other facts necessary.

(Ord. 832 § 2, 1966)

3.04.030 Delinquent liens or assessments—Collection—Sale of property.

- A. The city recorder shall thereupon proceed to collect the unpaid liens or assessments named in such list by advertising and selling such lots or tracts in the manner now provided by law for the sale of real property on execution, except as herein otherwise provided, and except that sale may be made at such place within the corporate limits of such city as may be designated in the notice of such sale. Each piece or tract of land shall be sold separately and for a sum equal to but not exceeding the unpaid lien or assessment thereon and the interest, penalty and cost of advertising and sale; and, where there shall be more than one bid, the land shall be sold to the bidder first offering to take the same for the amount accrued thereon. No levy upon such lots or parcels of land shall be required except that a notice shall be posted four consecutive weeks before said sale upon each lot or parcel assessed to an unknown owner. In such sale the city may include any number of lots or parcels of land upon which it has delinquent assessments and/or liens though the same have been levied under the same or a different ordinance or ordinances. Any number of different assessments and/or liens may be foreclosed upon the same lot, block or parcel of land in one proceeding.
- B. In the event there shall be more than one delinquent assessment and/or lien upon any lot or parcel of land, the various amounts thereof including accrued interest penalties and costs shall be added together and the total amount thereof shall be deemed to be the amount of the assessments and/or liens for which said property is to be sold.

(Ord. 832 § 3, 1966)

3.04.040 Records—Receipt.

The city recorder shall enter into columns provided for that purpose in the list prepared by him the date of sale, the name of the purchaser and the amount bid for each parcel of property sold, and shall give a receipt to each person paying any lien or assessment on the delinquent list prior to the sale thereof and such receipt must state separately the lien or assessment, interest and costs collected and a duplicate of said receipt shall be kept on file by the city recorder.

(Ord. 832 § 4, 1966)

3.04.050 Lawful money.

Real property when sold for or to satisfy a delinquent assessment and/or lien must be sold for lawful money of the United States except as herein stated; provided, that in the event no bid is received for the sale of the property, then in such case the city shall be authorized to purchase said property by bidding therefor the amount of the lien or liens and the cost of advertising and sale; and the same may be struck off and sold to said city without the actual payment of any money therefor; and anyone applying or seeking to redeem property so sold, as provided in this chapter, must pay or offer to pay the sum necessary in such lawful money and not otherwise.

(Ord. 832 § 5, 1966)

3.04.060 Certificate of sale.

The city recorder shall immediately after having sold any real property upon such list make and deliver to the purchaser a certificate of sale of the property so sold setting forth therein the object for which the sale was made, a description of the property sold, a statement of the amount it sold for, the lien or assessment for which the property was sold, the name of the purchaser and that the sale was made subject to redemption within one year from the date of the certificate and then deliver such certificate to the purchaser.

(Ord. 832 § 6, 1966)

3.04.070 Transfer or assignment— Unsold property.

- A. Upon a sale being made, the city recorder shall thereupon make proper entries thereof in the docket of city liens. Thereafter, no transfer or assignment or any certificate of purchase of real property sold under the provisions of this chapter shall be deemed valid unless an entry of such transfer or assignment shall have been noted by the city recorder in said docket.
- B. In case any property shall remain unsold upon such sale, the same may again at the discretion of the recorder be offered for sale in like manner but not sooner than three months after the expiration of any sale, except that, in the matter of an assessment for the opening, widening, laying out or establishing of a street, proceedings for such sale may be taken immediately.

(Ord. 832 § 7, 1966)

3.04.080 Redemption of property.

- A. The owner, or his legal representatives, or his successor in interest, or any person having a lien by judgment, decree or mortgage, or owner of a tax lien on any property so sold may redeem the same upon the conditions provided as follows:
- B. Redemption of any real property sold for a delinquent assessment or lien under the provisions of this chapter may be made by paying to the city recorder at any time within one year from the date of the certificate of sale the purchase price and ten (10) percent thereof as penalty, and interest on the purchase price at the rate of ten (10) percent per year, from the date of such certificate. Where redemption shall be made by the holder of a tax lien he shall have the right to have such redemption noted upon the record of his lien in like manner and with like effect as hereinafter prescribed; provided, however, that if redemption be made within three months from the date of sale, the penalty to be paid shall be five percent. Such redemption shall discharge the property so sold from the effect of such sale and, if made by a lien creditor, the amount paid for the redemption shall thereafter be deemed a part of his judgment, decree, mortgage or tax lien, as the case may be, and shall bear like interest and may be enforced and collected as a part thereof.

(Ord. 832 § 8, 1966)

3.04.090 Deed of conveyance.

After the expiration of one year from the date of such certificate, if no redemption shall have been made, the city recorder shall execute to the purchaser, his heirs or assigns a deed of conveyance containing a description of the property sold, the date of the sale, a statement of the amount bid of the lien or assessment for which the said property was sold, that the assessment or lien was unpaid at the time of the sale, and that no redemption has been made.

(Ord. 832 § 9, 1966)

Chapter 3.08 TRANSIENT ROOM TAX

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3.08.010 Definition.

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

"Accrual accounting" means the operator enters rent due from a transient on his records when the rent is earned, whether or not it is paid.

"Cash accounting" means the operator does not enter the rent due from a transient on his records until rent is paid.

"City council" means the city council of the city of Toledo, Oregon.

"Hotel" means any structure, or any portion of any structure which is occupied or intended or designed for transient occupancy for thirty (30) days or less for dwelling, lodging or sleeping purposes, and includes any hotel, motel, inn, condominium, tourist home or house, studio hotel, bachelor hotel, lodging house, rooming house, apartment house, public or private dormitory, fraternity, sorority, public or private club, and also means space in mobile home, manufacture home, trailer or recreational vehicle parks, or similar structure or space or portions thereof so occupied, provided such occupancy is for less than a thirty (30) day period.

"Monthly rental plan" means any rental arrangement whereby the operator of a hotel, shall not advertise, offer, rent or permit the occupancy of such hotel, nor any part or portion thereof, or any adjacent hotel which is part of the same business entity or displaying the same business name, except on a monthly basis, that is, all of the occupants of the premises shall have at least a tenancy from month to month as that term is defined in ORS 91.070.

"Occupancy" means the use or possession, or the right to the use or possession for lodging or sleeping purposes of any room or rooms in a hotel, or space in a mobile home or trailer park or portion thereof.

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

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

"Rent" means the consideration charged, whether or not received by the operator, for the occupancy of space in a hotel, valued in money, goods, labor, credits, property or other consideration valued in money, without any deduction, but shall not include charges to a condominium unit owner which are solely for cleaning or maintenance of such unit or personal use or occupancy by such owner, so long as the charges are made in connection therewith for space occupancy.

"Rent package plan" means the consideration charged for both food and rent for transient lodging where a single combined charge is made for both food and lodging, or where food and lodging are offered as a package, whether offered by an establishment of the type commonly known as a "bed and breakfast," offered by a conventional hotel facility in conjunction with a restaurant, or otherwise. The entire amount charged for the "rent package plan" shall be allocated to rent for the purposes of this chapter, and subject to room tax hereunder, unless the lodging which is offered as a part of the rent package plan is also offered and available independently of any food or meal and the charge for each is separately stated, in which case the amount allocated to rent, and subject to tax hereunder, shall be the charge which would be made for the lodging if purchased separately from any food or meals.

"Tax" means either the tax payable by the transient or the aggregate amount of taxes due from an operator during the period for which he is required to report his collections.

"Tax administrator" means the city treasurer of the city of Toledo, Oregon.

"Transient" means any individual who exercised occupancy or is entitled to occupancy in a hotel for a period of thirty (30) consecutive calendar days or less, counting portions of calendar days as full days. The day a transient checks out of the hotel shall not be included in determining the thirty (30) day period if the transient is not charged rent for that day by the operator. Any individual so occupying space in a hotel shall be deemed to be a transient until the period of thirty (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 tenancy actually extends more than thirty (30) consecutive days. In determining whether a person is a transient, uninterrupted periods of time extending both prior and subsequent to the effective date of the ordinance codified in this chapter may be considered. A person who pays for lodging on a monthly basis, irrespective of the number of days in such month, shall not be deemed a transient; but an individual who exercises occupancy or is entitled to occupancy for a period of thirty (30) calendar days or less shall be deemed a transient notwithstanding that another person not exercising or entitled to exercise occupancy pays or is responsible for paying rent monthly or for a period of more than thirty (30) days.

"Transient lodgings tax review committee" means a committee composed of an accountant, an attorney and three other persons appointed by the mayor and approved by the council of the city of Toledo and may be owners or operators of a "hotel" as defined in this chapter.

(Ord. 1314 § 1, 2006)

3.08.020 Tax imposed.

For the privilege of occupancy in any hotel, on or after January 1, 2007, each transient shall pay a tax in the amount of seven percent of the rent charged by the operator. The tax constitutes a debt owed by the transient to the city which is extinguished only by payment by the operator to the city. The transient shall pay the tax to the operator of the hotel, and the operator shall collect the tax at the time the rent is paid. The operator shall enter the tax on the hotel records when rent is collected, if the operator keeps such records on the cash accounting basis, and shall enter the tax on such records when earned, if the

operator keeps such records on the accrual accounting basis. If rent is paid in installments, a proportionate share of the tax shall be paid by the transient to the operator with each installment. In all cases, the rent paid or charged for occupancy shall exclude the sale of any goods, services and commodities, other than the furnishing of rooms, accommodations, and space occupancy.

(Ord. 1314 § 2, 2006)

3.08.030 Collection of tax by operator—Rules for collection.

- A. Every operator renting rooms or space for lodging or sleeping purposes in this city, the occupancy of which is not exempted under the terms of this chapter, shall collect a tax from the occupancy. The tax collected or accrued by the operator constitutes a debt owing by the operator to the city.
- B. In all 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 uncollectibles.
- C. The tax administrator shall enforce provisions of this chapter and shall have the power to adopt rules and regulations not inconsistent with this chapter as may be necessary to aid in the enforcement.
- D. For rent collected on portions of a dollar, fractions of a penny of tax shall not be remitted.
- E. In instances where credit is extended to the transient for charges for the rental of the unit through the use of a credit card or other similar transaction whereby the amount paid to the operator is discounted by contract between the operator and the issuer of the credit card, the amount of such discount shall be excluded from the definition of "rent" and no tax shall be imposed on the amount so discounted.

(Ord. 1314 § 3, 2006)

3.08.040 Operator's duties.

Each operator shall collect the tax imposed by this chapter at the same time as the rent is collected from every transient. The amount of tax shall be separately stated upon the operator's records, and any receipt rendered by the operator. No operator of a hotel shall advertise that the tax or any part of the tax 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 by this chapter.

Every "operator" liable for collection and remittance of a transient room tax, or any other transient room tax hereinafter provided for, may withhold five percent of the net tax herein collected, to cover the operator's expense in collection and remittance of said tax.

(Ord. 1314 § 4, 2006)

3.08.050 Exemption.

No tax imposed under this chapter shall be imposed upon:

- A. Any person who occupies the same room or rooms for more than thirty (30) successive calendar days with respect to any rent imposed for the part of such occupancy commencing after the first thirty (30) days of such successive occupancy;
- B. Any occupant whose rent is of a value less than two dollars (\$2.00) per day;
- C. Any person who rents a private home, vacation cabin or like facility from any owner who directly (without the use of a rental manager or agent) rents such facilities incidental to such owner's personal use thereof, if such owner files with the tax administrator an affidavit to the effect that such owner's personal occupancy is not less than twenty (20) days each year, or in excess of ten (10) percent of the days such unit is rented, whichever is greater;

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- D. Any occupancy of a room in a hospital, medical clinic, convalescent home or home for the aged;
- E. The United States of America, a body politic and sovereign. This exemption shall likewise apply with respect to any agency or instrumentality of the United States of America which is entitled to exemption under the provisions of the Federal Constitution. However, such exemption shall apply only in those instances in which the United States Government or an agency or instrumentality thereof shall enter into an agreement for the rental of such lodgings and shall pay the cost thereof directly to the hotel or other entity providing such lodgings. No exemption is created hereunder merely because the transient occupant of any such room shall be an employee, or on the business, of the United States of America or an agency or instrumentality thereof, or because such party shall be entitled to reimbursement for such cost;
- F. The operator of any hotel which does not permit occupancy except on a monthly rental plan shall be exempt from collecting tax from occupants renting only on a monthly basis, and, so long as there is no tax required to be collected, shall be exempt, upon the filing of an affidavit as described hereinbelow, from registration and from filing a return for tax collection;
- G. The affidavit required for the exemption for the above, shall be subscribed upon oath and under penalties of perjury, before a notary public or other person authorized to administer oaths. Such affidavit shall state the following:
 - 1. The name of the operator,
 - 2. The name and address of the hotel,
 - 3. The name and address of the owner of the hotel, and if not an individual, the nature of the entity,
 - 4. The facts upon which the operator relies for exemption,
 - 5. That the operator understands his obligations to collect the tax and make returns thereof if at any time thereafter such hotel or any portion thereof shall be occupied or made available for occupancy on any basis other than a monthly rental plan as defined above, and further, in such event, to forthwith register pursuant to the provisions of [Section 3.08.060](#)
- H. Any operator of a hotel which has been granted exemption under this chapter which shall no longer be eligible for such an exemption shall, forthwith upon becoming ineligible for such exemption, commence to collect such tax as shall be due and shall further, within ten (10) days of becoming ineligible, notify the city of Toledo that such hotel is no longer eligible for such exemption, and shall register in accordance with this chapter. Any operator of any hotel for which such exemption has previously been obtained and which has become ineligible for such exemption who shall fail to so notify the city of Toledo of the hotel's ineligibility for continuation of such exemption within ten (10) days shall be guilty of a misdemeanor and may be punishable therefore by a fine of not more than five hundred dollars (\$500.00) per day of noncompliance.

(Ord. 1314 § 5, 2006)

3.08.060 Registration of operator—Form and contents—Execution—Certification of authority.

Every person engaging or about to engage in business as an operator of a hotel in this city shall register with the tax administrator on a form provided by him. Operators engaged in business at the time this chapter is adopted must register not later than thirty (30) calendar days after passage date of this chapter. Operators starting business after this chapter is adopted must register within fifteen (15) days after commencing business. The privilege of registration after the date of imposition of such tax shall not relieve any person from the obligation of payment or collection of tax regardless of registration. Registration sets for the name under which the operator transacts or intends to transact business, the location of his place or places of business and such other information to facilitate collection of the tax as the tax administrator may require. The registration shall be signed by the operator. The tax administrator shall, within ten (10) days after registration, issue without charge a certificate of authority to each

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registrant to collect the tax from the occupant, together with a duplicate thereof for each additional place of business of each registrant. Certificates shall be nonassignable and nontransferable and shall be surrendered immediately to the tax administrator upon the cessation of business at the location named or upon its sale or transfer. Each certificate and duplicate shall state the place of business to which it is applicable and shall be prominently displayed therein so as to be seen and come to the notice readily of all occupants and persons seeking occupancy.

Said certificates shall, among other things, state the following:

- A. The name of the operator;
- B. The address of the hotel;
- C. The date upon which the certificate was issued;
- D. "This Transient Occupancy Registration Certificate signifies that the person named on the face hereof has fulfilled the requirements of the Transient Lodging Tax Ordinance of the City of Toledo by registration with the tax administrator for the purpose of collecting from transients the lodging tax imposed by said city and remitting said tax to the tax administrator. This certificate does not authorize any person to conduct any unlawful business or to conduct any lawful business in an unlawful manner, or to operate a hotel without strictly complying with all local applicable laws, including but not limited to those requiring a permit from any board, commission, department or office of the City of Toledo. This certificate does not constitute a permit."

(Ord. 1314 § 6, 2006)

3.08.070 Due date—Returns and payments.

- A. The tax imposed by this chapter shall be paid by the transient to the operator at the time that rent is paid. All amounts of such taxes collected by any operator are due and payable to the tax administrator on a monthly basis on the fifteenth day of the following month for the preceding month; and are delinquent on the last day of the month in which they are due. The tax administrator has authority to classify and/or district the operators for determination of applicable tax periods, and shall notify each operator of the due and delinquent dates for the operator's returns.
- B. On or before the fifteenth day of the month following each month of collection, a return for the preceding month's tax collections shall be filed with the tax administrator. The return shall be filed in such form as the tax administrator may prescribe by every operator liable for payment of tax.
- C. Returns shall show the amount of tax collected or otherwise due for the related period. The tax administrator may require returns to show the total rentals upon which tax was collected or otherwise due, gross receipts of operator for such period and an explanation in detail of any discrepancy between such amount, and the amount of rents exempt, if any.
- D. The person required to file the return shall deliver the return, together with the remittance of the amount of the tax due, to the tax administrator at his office, either by personal delivery or by mail. If the return is mailed, the postmark shall be considered the date of delivery for determining delinquencies.
- E. For good cause, the tax administrator may extend for not to exceed one month, a time for making any return or payment of tax. No further extension shall be granted, except by the transient lodgings tax review committee. Any operator to whom an extension is granted shall pay interest at the rate of one-half of one percent per month on the amount of tax due without proration for a fraction of a month. If a return is not filed, and the tax 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 described elsewhere in this chapter.

(Ord. 1314 § 7, 2006)

3.08.080 Penalties and interest.

- A. Original Delinquency. Any operator who has not been granted an extension of time for remittance of tax due and who fails to remit any tax imposed by this chapter prior to delinquency shall pay ten (10) percent of the amount of the tax due in addition to the amount of the tax.
- B. Continued Delinquency. Any operator who has not been granted an extension of time for remittance of tax due, and who failed to pay any delinquent remittance on or before a period of thirty (30) days following the date on which the remittance first became delinquent shall pay a second delinquency penalty of fifteen (15) percent of the amount of the tax due plus the amount of the tax and the ten (10) percent penalty first imposed.
- C. Fraud. If the tax administrator determines that the nonpayment of any remittance due under this chapter is due to fraud or intent to evade the provisions thereof, a penalty of twenty-five (25) percent of the amount of the tax shall be added thereto in addition to the penalties stated in subsections A and B of this section.
- D. Interest. In addition to the penalties imposed, any operator who fails to remit any tax imposed by this chapter shall pay interest at the rate of one percent per month or fraction thereof without proration for portions of a month, on the amount of the tax due, exclusive of penalties, from the date on which the remittance first became delinquent until paid.
- E. Penalties Merged with Tax. Every penalty imposed and such interest as accrues under the provisions of this section shall be merged with and become a part of the tax herein inquired to be paid.
- F. Petition for Waiver. Any operator who fails to remit the tax herein levied within the time herein stated shall pay the penalties herein stated; provided, however, the operator may petition the transient lodgings tax review committee for waiver and refund of the penalty or any portion thereof and the transient lodgings tax review committee may, if a good and sufficient reason is shown, waive and direct a refund of the penalty of any portion thereof.

(Ord. 1314 § 8, 2006)

3.08.090 Deficiency determinations—Evasion, operator delay.

- A. Deficiency Determinations. If the tax administrator determines that the returns are incorrect, he may compute and determine the amount required to be paid upon the basis of the facts contained in the return or returns, or upon the basis of any information within his possession or that may come into his possession. One or more deficiency determinations may be made of the amount due for one or more than one period, and the amount so determined shall be due and payable immediately upon service of notice as herein provided after which the amount determined is delinquent. Penalties on deficiencies shall be applied as set forth in [Section 3.08.080](#)
 - 1. In making a determination, the tax administrator may offset overpayments, if any, which may have been previously made for a period or periods, or against penalties and interest on the underpayments. The interest on underpayments shall be computed in the manner set forth in [Section 3.08.080](#)
 - 2. The tax administrator shall give to the operator or occupant a written notice of his determination. The notice may be served personally or by mail. If by mail, the notice shall be addressed to the operator at his address as it appears on the records of the tax administrator. In case of service by mail of any notice required by this chapter, it shall be served by mailing such notice by certified mail, postage prepaid, return receipt requested.
 - 3. Except in the case of fraud or intent to evade this chapter or authorized rules and regulations, every deficiency determination shall be made and notice thereof mailed within three years after the last day of the month following the close of the monthly period for which the amount is

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proposed to be determined or within three years after the return is filed, whichever period expires later.

4. Any determination shall become due and payable immediately upon receipt of notice and shall become final within twenty (20) days after the tax administrator has given notice thereof; provided, however, the operator may petition redemption and refund if the petition is filed before the determination becomes final as herein provided.
- B. **Fraud, Refusal to Collect, Evasion.** If any operator shall fail or refuse to collect said tax or to make within the time provided in this chapter any report or remittance of said tax or any portion thereof required by this chapter, or makes a fraudulent return or otherwise willfully attempts to evade this chapter, the tax administrator shall proceed in such a manner as he may deem best to obtain the facts and information on which to base an estimate of tax due. As soon as the tax administrator has determined the tax due that is imposed by this chapter from any operator who has failed or refused to collect the same and to report and remit said tax, he shall proceed to determine and assess against such operator the tax, interest and penalties provided for by this chapter. In case such determination is made, the tax administrator shall give a notice in the manner aforesaid of the amount so assessed. Such determination and notice shall be made and mailed within three years of the discovery by the tax administrator of any fraud, intent to evade or failure or refusal to collect said tax, or failure to file return. Any determination shall become due and payable upon receipt of notice and shall become final within twenty (20) days after the tax administrator has given notice thereof, provided, however, the operator may petition for redemption or refund if the petition is filed before the determination becomes final as herein provided.
- c. **Operator Delay.** If the tax administrator believes that the collection of any tax or any amount of tax required to be collected and paid to the city will be jeopardized by delay, or if any determination will be jeopardized by delay, he shall thereupon make a determination of the tax or amount required to be collected noting the fact upon the determination. The amount so determined as herein provided shall be immediately due and payable, and the operator shall immediately pay such determination to the tax administrator after service of notice thereof; provided, however, the operator may petition, after payment has been made, for redemption and refund of such determination, if the petition is filed within twenty (20) days from the date of service of notice by the tax administrator.

(Ord. 1314 § 9, 2006)

3.08.100 Redeterminations.

- A. Any person against whom a determination is made under [Section 3.08.090](#) or any person directly interested may petition for a redetermination and redemption and refund within the time required in [Section 3.08.090](#). If a petition for redetermination and refund is not filed within the time required in [Section 3.08.090](#), the determination becomes final at the expiration of the allowable time.
- B. If a petition for determination and refund is filed within the allowable period, the tax administrator shall reconsider the determination, and if the person has so requested in his petition, shall grant the person an oral hearing and shall give him twenty (20) days notice of the time and place of the hearing. The tax administrator may continue the hearing from time to time as may be necessary.
- C. The tax administrator may decrease or increase the amount of the determination as a result of the hearing and if an increase is determined such increase shall be payable immediately after the hearing.
- D. The order or decision of the tax administrator upon a petition for redetermination or redemption and refund becomes final twenty (20) days after service upon the petitioner of notice thereof, unless appeal of such order or decision is filed with the transient lodgings tax review committee within the twenty (20) days after the service of such notice.
- E. No petition for redetermination of redemption and refund or appeal therefrom shall be effective for any purpose unless the operator has first complied with the payment provisions hereof.

(Ord. 1314 § 10, 2006)

3.08.110 Security for collection of tax.

- A. The tax administrator, whenever he deems it necessary to insure the compliance with this chapter, may require the operator subject thereto to deposit with him such security in the form of cash, bond or other security as the tax administrator may determine. The amount of the security shall be fixed by the tax administrator but shall not be greater than twice the operator's estimated average monthly liability for the period for which he files returns, determined in such a manner as the tax administrator deems proper, or five thousand dollars (\$5,000.00), whichever amount is less. The amount of security may be increased or decreased by the tax administrator subject to limitations herein provided. The operator has a right to appeal to the transient lodgings tax review committee any decision of the tax administrator made pursuant to this section. The operator's right to appeal is pursuant to [Section 3.08.160](#) herein.
- B. At any time within three years after any tax or any amount of tax required to be collected becomes due and payable or at any time within three years after any determination becomes final, the tax administrator may bring any action in the courts of this state, or any other state, or of the United States in the name of the city to collect the amount delinquent together with penalties and interest.

(Ord. 1314 § 11, 2006)

3.08.120 Lien.

As a privilege for conducting a business providing transient lodging within the city of Toledo and to secure payment of the tax collected by the operator to the city of Toledo, the operator, by the act of filing a registration to engage in business as an operator of a hotel in the city of Toledo does thereby irrevocably grant to the city of Toledo a security interest in all tangible personal property of the operator, which security interest shall be effective at the time when the tax imposed by this chapter, together with the interest and penalties herein provided and the filing fees paid to the county clerk of Lincoln County, Oregon and the advertising costs which may be incurred, becomes delinquent as set forth in this chapter. Upon delinquency as a result of the operator's failure to pay over to the city of Toledo the tax imposed under this chapter, the city may foreclose its security interest in the operator's tangible personal property in such a manner as provided by ORS Chapter 79. The operator further, upon the filing of a registration to conduct a business engaged as a hotel in the city of Toledo grants a special power of attorney-in-fact to the city manager for purposes of executing a financing statement to give evidence of the granted security interest at the time of delinquency and authorizes the city manager to execute the UCC financing statement on behalf of the debtor, listing as collateral all tangible personal property of the operator and to file said financing statement with the Oregon Secretary of State and with the Lincoln County clerk, if appropriate.

The administrator shall give notice to the operator of the delinquency, the effective date of the security interest against all tangible personal property of the operator, and the date of recordation of the UCC financing statement if filed, or if not, the city's intent to file a UCC financing statement.

(Ord. 1314 § 12, 2006)

3.08.130 Refunds.

- A. Refunds by the City to the Operator. Whenever the amount of any tax, penalty or interest has been paid more than once or has been erroneously or illegally collected or received by the tax administrator under this chapter, it may be refunded, provided a verified claim in writing therefore, stating the specific reason upon which the claim is founded, is filed with the tax administrator within three years from the date of payment. The claim shall be made on forms provided by the tax administrator. If the claim is approved by the tax administrator, the excess amount collected or paid may be refunded or may be credited on any amount then due and payable from the operator from

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whom it was collected or by whom paid and the balance may be refunded to such operator, his administrators, executors, or assignees.

- B. Refunds by City to Transient. Whenever the tax required by this chapter has been collected by an operator, and deposited by the operator with the tax administrator, and if later is determined that the tax was erroneously or illegally collected or received by the tax administrator, it may be refunded by the tax administrator to the transient, provided a verified claim in writing therefore, stating the specific reason on which the claim is founded, is filed with the tax administrator within three years from the date of payment.
- C. Refunds by Operator to Tenant. Whenever the tax required by this chapter has been collected by the operator and it is later determined that the tenant occupies the hotel for a period exceeding thirty (30) days without interruption, the operator shall refund to such tenant the tax previously collected by the operator from that tenant as a transient. The operator shall account for such collection and refund to the tax administrator. If the operator has remitted the tax prior to the refund or credit to the tenant, he shall be entitled to a corresponding refund under this section.

(Ord. 1314 § 13, 2006)

3.08.140 Administration.

- A. The terms, provisions and requirements of this chapter as amended, are deemed severable, and if any such term, provision or requirement shall be found void or unenforceable, each and every other term, provision and requirement of this chapter and of any amendments thereto, shall nonetheless remain in full force and effect. In the event any court of competent jurisdiction shall determine that the increase in tax rate as hereinabove provided may not lawfully be imposed, or may not be made effective on the day and year above set forth, it is the intent hereof that such tax shall become effective the earliest date that such tax may lawfully be imposed.
- B. Records Required from Operators, Etc.—Form. Every operator shall keep guest records of room sales and accounting books and records of the room sales. All records shall be retained by the operator for a period of three years and six months after they come into being.
- C. Examination of Records—Investigations. The tax administrator, or any person authorized in writing by him, may examine during normal business hours the books, papers and accounting records relating to room sales of any operator liable for the tax, and may investigate the business of the operator in order to verify the accuracy of any return made, or if no return is made by the operator, to ascertain and determine the amount required to be paid.
- D. Confidential Character of Information Obtained—Disclosure Unlawful. It is unlawful for the tax administrator or any person having an administrative or clerical duty under the provisions of this chapter to make known in any manner whatever the business affairs, operations, or information obtained by an investigation of records and equipment of any person required to obtain transient occupancy registration certificate or pay a transient occupancy tax, or the person visited or examined in the discharge of official duty, or the amount or source of income, profits, losses, expenditures, or any particular thereof, set forth in any statement or application, or to permit any statement or application, or copy of either, or any book containing any abstract or particulars thereof to be seen or examined by any person; provided that nothing in this section shall be construed to prevent:
 - 1. The disclosure to, or the examination of records and equipment by another city of Toledo official, employee or agent for collection of taxes for the sole purpose of administering or enforcing any provisions of this chapter, or collecting taxes imposed hereunder, or collecting city business license fees.
 - 2. The disclosure, after the filing of a written request to that effect, to the taxpayer himself, receivers, trustees, executors, administrators, assignees, and guarantors, if directly interested, of information as to any paid tax, any unpaid tax or amount of tax required to be collected, or interest and penalties; further provided, however, that the city attorney approves each such

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disclosure and that the tax administrator may refuse to make any disclosure referred to in this subsection when in his opinion the public interest would suffer thereby.

3. The disclosure of the names and addresses of any persons to whom transient occupancy registration certificates have been issued.
4. The disclosure of general statistics regarding taxes collected or business done in the city.

(Ord. 1314 § 14, 2006)

3.08.150 Transient lodgings tax review committee—Appeal rules, procedure.

A transient lodging tax review committee is created to be composed of an attorney, who may be a city employee, an accountant, an operator, as herein defined, and two lay members. The committee shall select from its members a chair who shall serve at its pleasure. Three members of the committee shall constitute a quorum. The committee shall keep a record of its transactions. The committee shall be deemed to be in the office of the tax administrator and shall keep its files in his office. The members of the committee shall not, at any time, receive any compensation as such members or acting members for their services on the committee. The committee shall be appointed by the mayor and shall serve four-year terms, except the accountant, the attorney and the operator appointed to the first committee after the adoption of the ordinance codified in this chapter shall serve three-year terms. Thereafter, all terms shall be four years. The committee shall have power and it shall be its duty:

- A. To hear and determine appeals of orders or decisions of the tax administrator made upon petitions for redetermination of tax. The committee may affirm, modify, or reverse such orders or decisions or dismiss the appeals therefrom, as may be just, and shall prescribe such forms, rules and regulations relating to appeals as it may deem necessary. In the review of the tax administrator decision or order, the committee may take such evidence and make such investigation as it may deem necessary. It shall give notice of its determinations in the manner prescribed for service of notice of a tax administrator's decision and shall file a copy of each such determination with the tax administrator with certification thereon of the date of service thereof. Such determination shall become final twenty (20) days thereafter and shall thereupon become due and payable, subject to interest penalties, and enforceable by the tax administrator in like manner as an order or decision of the tax administrator.
- B. To approve, modify or disapprove all forms, rules and regulations prescribed by the tax administrator in the administration and enforcement of this chapter and such forms, rules and regulations adopted or promulgated after June 1, 1976.
- C. To hear and determine in such manner as shall be just, any protest which may be made by any person who may be interested, to any form, rule, or regulation approved or prescribed by the committee.
- D. To grant for good cause, applications for extensions of time in excess of one month, for making any return or payment of tax, and to prescribe rules therefore.
- E. To make such investigations as it deems advisable regarding the imposition and administration of the transient lodging tax and report its findings to the city council; to act in an advisory capacity to the legislative body on matters pertaining to the transient lodgings tax and enforcement problems and to recommend to the council the adoption, amendment or repeal of legislation pertaining thereto.

(Ord. 1314 § 15, 2006)

3.08.160 Appeal to transient lodgings tax review committee.

Any person aggrieved by any decision of the tax administrator may appeal to the transient lodgings tax review committee by filing notice of appeal with the tax administrator within twenty (20) days of the serving or mailing of the tax notice of a decision given by the tax administrator. The tax administrator shall

fix a time and place for hearing such appeal as prescribed by the transient lodgings tax review committee in its rules and regulations and shall give the appellant twenty (20) days written notice of the time and place of hearing.

(Ord. 1314 § 16, 2006)

3.08.170 Appeals to city council.

Any person aggrieved by any decision of the transient lodgings tax review committee may appeal to the city council by filing notice of appeal with the tax administrator within twenty (20) days of the serving or the mailing of the notice of the decision given by the transient lodgings tax review committee. The tax administrator shall transmit said notice of appeal together with the file of said appealed matter to the council, who shall fix a time and place for hearing such appeal from the decision of the transient lodgings tax review committee. The council shall give the appellant not less than twenty (20) days' written notice of the time and place of hearing of said appealed matter. Action by the council on appeals shall be decided by a majority of the members of the council present at the meeting where such appeal is considered.

(Ord. 1314 § 17, 2006)

3.08.180 Severability.

If any section, subsection, paragraph, sentence, clause or phrase of this chapter, or any part thereof, is for any reason held to be unconstitutional (or otherwise invalid), such decision shall not affect the validity of the remaining portions of this chapter or any part thereof. The legislative body declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional (or otherwise invalid).

(Ord. 1314 § 18, 2006)

3.08.190 Violations.

It is unlawful for any operator or other person so required to fail or refuse to register as required herein, or to furnish any return required to be made, or fail or refuse to furnish a supplemental return or other data required by the tax administrator or to render a false or fraudulent return. No person required to make, render, sign or verify any report shall make any false or fraudulent report, with intent to defeat or evade the determination of any amount due required by this chapter.

(Ord. 1314 § 19, 2006)

3.08.200 Penalty.

Except as hereafter provided, a violation hereof shall be punishable as an infraction, with a fine not to exceed five hundred dollars (\$500.00). If a person has committed more than two violations of the same or similar nature within the preceding twenty-four (24) months, then a violation hereof shall be a misdemeanor, with a fine not to exceed one thousand dollars (\$1,000.00). A violation shall be deemed to occur on the date of the occurrence of the act constituting the violation, and not on the date the court shall find defendant guilty of such violation.

Each day during which a violation shall continue shall constitute a separate offense. Violation of more than one provision hereof shall constitute a separate offense with respect to each provision so violated.

(Ord. 1314 § 20, 2006)

3.08.210 Effective date.

This chapter shall become effective at 12:01 a.m. on the 1st day of January, 2007.

(Ord. 1314 § 21, 2006)

Chapter 3.12 DISPOSAL OF CITY-OWNED SURPLUS REAL PROPERTY

Sections:

[3.12.010 Definitions.](#)

[3.12.020 Qualification—Classification.](#)

[3.12.030 Real property disposal—Scope.](#)

[3.12.040 Inventory of real property.](#)

[3.12.050 Disposal of substandard undeveloped property.](#)

[3.12.060 Disposal of standard undeveloped property and developed property.](#)

[3.12.070 Disposal to other public entities.](#)

[3.12.080 Lease of surplus real property.](#)

3.12.010 Definitions.

For purposes of this chapter, the following definitions apply:

- A. "Disposal" or "dispose" means the sale, lease, exchange or donation of real property.
- B. "Lease" means a tenancy in real property granting the right of possession for a specified term for consideration. "Lease" does not include a permit, license or franchise to use any city-owned or controlled real property or public way.
- C. "Real property" means any interest in real property owned by the city within or without the geographic limits of the city.

(Ord. No. 1342, § 2, 11-2-2011)

3.12.020 Qualification—Classification.

Real property qualifying for the procedure established in this chapter is classified as follows:

- A. Substandard Undeveloped Property. Parcels with no structures thereon which are not of minimum buildable size for the zone in which located, and parcels that do not meet the city's existing development code;
- B. Standard Undeveloped Property. Parcels with no structures thereon which are of minimum or greater buildable size for the zone in which located;
- C. Developed Property. Parcels of any size with structures thereon;
- D. Special-case Property. Parcels that, notwithstanding subsections A, B and C of this section, were acquired by the city for capital improvement as defined by this code and were purchased subject to an agreement for the manner in which any surplus would be disposed.

(Ord. No. 1342, § 3, 11-2-2011)

3.12.030 Real property disposal—Scope.

Real property owned by the city shall be disposed of as provided in this chapter unless another procedure is specified in this code or approved by council. Before disposing of any real property under this chapter, the city shall find either that the property is not needed for public use or that the public interest may be furthered by disposal of such real property. In determining whether to dispose of real property, the city in its discretion may consider whether to establish certain requirements as conditions of the transaction, such as requiring that the property be developed to a certain standard by a specified date, that the property not be placed in tax-exempt status for a specified length of time, and other conditions the city may deem appropriate. Nothing in this chapter shall require additional procedures or limit the authority of the city manager to issue any permits or licenses authorized by this code.

(Ord. No. 1342, § 4, 11-2-2011)

3.12.040 Inventory of real property.

- A. The city manager shall establish and maintain an inventory of all real property and improvements titled in the name of the city and all real property and improvements to which the city has an equitable or fee simple title. The inventory shall include properties acquired through tax sales, grants, purchases, eminent domain, or by operation of law, including property transferred to the city from other governmental agencies. The inventory shall also include the classification of each property as determined by the city manager. Properties used for public rights-of-way shall be inventoried separately.
- B. The city manager shall present the inventory to the city council no later than the first day of October each year. Only those properties which are contained within the inventory shall be permitted to be proposed for lease, sale, or disposal. Revisions to the inventory or classifications shall be submitted as necessary.

(Ord. No. 1342, § 5, 11-2-2011)

3.12.050 Disposal of substandard undeveloped property.

- A. Whenever a particular parcel or parcels is proposed for sale by the city, or purchase inquiry is made, and the property is classified as substandard undeveloped property, the matter shall be set on the regular council agenda, but no public hearing is required. Except as otherwise provided in this section, notice of the agenda item shall be given to all property owners within two hundred fifty (250) feet of the parcel's boundary line and to any parties who have inquired about the purchase. If the city has issued a request for bids seeking purchasers of the property and provided the request for bids to property owners within two hundred fifty (250) feet of the parcel's boundary line and to those who have inquired about purchasing the property, notice need only be provided to those who have submitted a bid proposal. After discussion of the agenda item, the council shall determine whether it will offer the property for sale.
- B. If the city council decides to sell the property, it will direct the city manager or designee to take further action to sell the property. The city council may authorize the city manager or designee to publicize as appropriate, determine the existence of interested prospective purchasers, and negotiate for the sale of the property. Nothing in this section shall preclude the city manager or designee from taking preliminary actions, including publicizing a possible sale, determining the existence of interested prospective purchasers, and issuing a request for bids prior to the city council's decision, so long as the city does not enter into a binding agreement without city council authorization.
- C. The city council shall have the final authority to approve or disapprove the final terms of the sale. The city council may pre-approve terms and the agreement form at the meeting at which it determines to sell the property. If the city council does not pre-approve terms and the agreement form at its initial

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meeting or if alternate terms or agreement form are proposed, the city council shall at a later regularly scheduled council meeting consider approval of the terms and agreement form.

(Ord. No. 1342, § 6, 11-2-2011)

3.12.060 Disposal of standard undeveloped property and developed property.

- A. Whenever a particular parcel or parcels is proposed for sale by the city or a purchase inquiry is made and the property is classified as standard undeveloped property or developed property, the matter shall be set for a hearing before the council.
- B. Notice of said hearing shall be published not less than once a week in a newspaper of general circulation in the city for two successive weeks prior to the hearing, and shall describe the property proposed for sale.
- C. Prior to the sale of a parcel under this section, an appraisal of the property shall be conducted. At the discretion of the council, such an appraisal may be ordered prior to or after the hearing. The appraisal may be made available to the public at the hearing at the discretion of the council.
- D. Public testimony shall be solicited at the hearing to determine if a sale of any parcel is in the public interest, and the property is not needed for public use.
- E. After the hearing, the council shall determine whether it will offer the property for sale and what the minimum acceptable terms shall be.
- F. If an offer to sell is authorized by the council, the council shall decide whether to sell the property to the highest bidder at a public sale, by sealed bid, or directly to the purchase inquirer on terms established by the council. A notice advertising the public sale or soliciting sealed bids shall be published at least once in a newspaper of general circulation in the city be made a least two weeks prior to the sale or bid deadline date. The notice shall describe the property to be sold, the minimum acceptable terms of sale, and if applicable, the person designated to receive bids, the last date bids will be received, and the date, time and place that bids will be opened.
- G. If one or more bids are received at or above the minimum acceptable terms, the highest bid shall be accepted and the city manager or designee shall complete the sale.
- H. If no acceptable bids are received on a particular parcel: (1) the council may alter or keep the same minimum terms as established under subsection E of this section and direct staff to hold another sale, or (2) the council may alter or keep the same minimum terms established under subsection E of this section and list the property for six months with a local real estate broker on a multiple listing basis. A listing may be renewed for an additional one six-month period.
- I. After expiration of the period set out in subsection H of this section, the property shall be removed from the market. Any decision to sell a piece of property once it has been removed from the market shall require that the entire procedure set forth in this chapter be repeated. The council may, however, decide whether or not an additional appraisal is necessary.

(Ord. No. 1342, § 7, 11-2-2011)

3.12.070 Disposal to other public entities.

When disposing of real property to the federal or state government or any of their agencies or political subdivisions, the council may act without complying with the provisions of [Section 3.12.050](#) and [3.12.060](#) when the disposal is for a specific public use.

(Ord. No. 1342, § 8, 11-2-2011)

3.12.080 Lease of surplus real property.

When real property is determined by the city manager to be suitable for tenant occupancy and that occupancy is consistent with the public purpose for which it was acquired or not be needed for the public purpose for which it was acquired for up to five years, the city manager may lease all or any part of it to another for a term not to exceed five years at fair market rent. If a potential tenant who desires to lease real property from the city is tax-exempt nonprofit, the city manager shall have the discretion to lease the real property for rent that is less than fair market value. The city manager may require additional lease terms and conditions consistent with the public health, safety and welfare.

(Ord. No. 1342, § 9, 11-2-2011)