

A BILL FOR AN ORDINANCE AMENDING ) Ordinance Bill No. 35  
SECTIONS OF CHAPTER 3.12, TRANSIENT ROOM ) for 2002  
ROOM TAX, OF THE LEBANON MUNICIPAL CODE ) Bill Number 2322

THE PEOPLE OF THE CITY OF LEBANON ORDAIN AS FOLLOWS:

**Section 1.** Section 3.12.020 (M) of the Lebanon Municipal Code is amended to read as follows:

"Transient" means any individual who exercises occupancy or is entitled to occupancy in a hotel for a period of 30 consecutive calendar days or less, counting portions of calendar days as full days. The day a transient checks out of the hotel shall not be included in determining the 30-day period, if the transient is not charged rent for that day by the operator. Any such individual so occupying space in a hotel shall be deemed to be a transient until the period of 30 days has expired, unless there is an agreement in writing between the operator and the occupant providing for a longer period of occupancy. 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.

**Section 2.** Section 3.12.030 of the Lebanon Municipal Code is amended to read as follows:

3.12.030 Tax imposed.

A transient shall pay a tax in the amount of 6% of the total rent charged by the operator, exclusive of this tax, for the privilege of occupancy in a hotel in the city or occupancy of a space in a recreational park. Hereafter, unless otherwise specified, references to "hotel" and "rooms" includes "recreation parks" and "spaces," respectively. The tax constitutes a debt owed by the transient to the city, and the debt is extinguished only when the tax is remitted by the operator to the city. The transient shall pay the tax to the operator at the time 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 and 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. In all cases, rent paid or charged for occupancy shall include the sale of goods, services or commodities.

**Section 3.** Section 3.12.040 of the Lebanon Municipal Code is amended to read as follows:

3.12.040 Operator's registration form.

A. Every operator renting rooms or spaces in the city shall register with the tax administrator, on a form provided by the administrator, within 30 days after beginning business, or before September 1, 2002, whichever date shall occur later. The fee for registration shall be as set by City Council Resolution.

B. The registration shall include the following information:

1. The name under which the operator transacts or intends to transact business;

2. The location of the hotel;
3. Any other information the tax administrator may require to facilitate the collection of the tax;
4. The signature of the operator.

C. Failure to register does not relieve the operator from collecting the tax nor does it relieve a person from paying the tax imposed herein.

D. Failure to register shall be punishable in accordance with Section 3.12.230.

**Section 4.** Section 3.12.050 of the Lebanon Municipal Code is hereby repealed.

**Section 5.** Section 3.12.150 is hereby amended to read as follows:

**3.12.150 Liens.**

A. The tax, interest, penalty and filing fees paid to the tax administrator and any advertising costs incurred when the tax becomes delinquent shall be a lien from the date of its recording with the county clerk until the tax is paid. The tax, penalty and interest owed to the city shall continue to accrue until such time as the lien is satisfied. The lien shall be superior to all subsequently recorded liens on all tangible personal property in the operator's hotel. The lien may be foreclosed and the necessary property may be sold to discharge the lien, as provided by law.

B. Notice of the lien shall be issued by the tax administrator when the operator has defaulted in payment of the tax, interest and penalty. A copy of the notice shall be sent by certified mail to the operator.

C. Personal property subject to the lien may be foreclosed in the same manner as a nonpossessory chattel lien as set forth in ORS Chapter 87.

D. A lien for the tax, interest and penalty shall be immediately released by the tax administrator when the full amount has been paid to the city. The operator or person making the payment shall receive a receipt stating that the full amount of the tax, interest and penalty has been paid, that the lien is released and the record of the lien is satisfied.

E. Lien on Real Property. The tax imposed by this chapter together with the the interest, administrative costs, attorney fees and penalties herein provided and the filing fees paid to the clerk of Linn County, Oregon and advertising costs which may be incurred when same becomes delinquent as determined by the Tax Administrator and as set forth in this chapter shall become a lien on real property thirty days after notification of payment due. The lien hereby created may be foreclosed in any manner provided by law.

F. Attorney Fees. In the event of litigation, the prevailing party shall be entitled to recover reasonable attorney fees and other costs and disbursements provided by law.

**Section 6.** Section 3.12.190 of the Lebanon Municipal Code is amended to read as follows:

**3.12.190 Records required from operators.**

A. Every operator shall keep guest records, accounting books and records of room rentals for a period of three years and six months. Such records shall be sufficient to allow performance of a compliance review by the Tax Administrator to verify accuracy.

B. Failure to Maintain Adequate Records. Any operator who fails to maintain records adequate to allow performance of a compliance review, or who refuses to make said records available to the Tax Administrator in accordance with Section 3.12.200 shall pay a penalty, in an amount as determined by City Council Resolution, per room or space for each day the records are found to be inadequate or are not made available to the Tax Administrator. Said penalty, if not paid, shall be subject to the provisions of Section 3.12.150 of this Chapter.

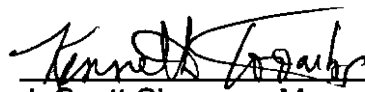
**Section 7.** Section 3.12.200 of the Lebanon Municipal Code is amended to read as follows:

**3.12.200 Examination of records.**

During normal business hours and after seventy-two-hour notice to the operator, the tax administrator, or the administrator's designee, may examine books, papers and accounting records related to room rentals to verify the accuracy of a return or, if no return is made, to determine the amount to be paid. In the event the operator refuses to turn over such records, then the tax administrator may seek injunctive relief in an appropriate court of competent jurisdiction or impose the fine authorized in Section 3.12.190, or both.

**Section 8.** The provisions of this ordinance shall become effective thirty days after its passage by the City Council.

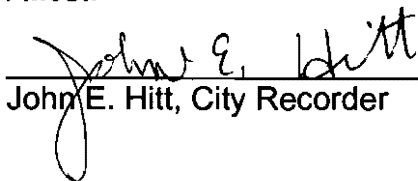
Passed by the City Council by a vote of 5 yes and 0 no, this 14 day of August, 2002.



J. Scott Simpson, Mayor

Kenneth Toombs, Council President

Attest:

  
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John E. Hitt, City Recorder