

City of St. Helens  
**ORDINANCE NO. 3225**

AN ORDINANCE AMENDING ST. HELENS MUNICIPAL CODE  
CHAPTER 3.20 REGARDING TRANSIENT ROOM FEES

**WHEREAS**, St. Helens Municipal Code Chapter 3.20 governs transient lodging taxes and fees;  
and

**WHEREAS**, there have been changes in state laws regarding additional taxes and fees assessed after 2003 under ORS Chapter 320; and

**WHEREAS**, additional taxes and fees assessed after July 1, 2003 must be utilized pursuant to the limitations of ORS Chapter 320; and

**WHEREAS**, the St. Helens' economy has benefited from tourism and promotion; and

**WHEREAS**, the St. Helens' economy will benefit from additional tourism funds to allocate; and

**WHEREAS**, Travel Oregon has estimated that every dollar spent on advertising generates \$237 in visitor spending.

**NOW, THEREFORE, THE CITY OF ST. HELENS ORDAINS AS FOLLOWS:**

**Section 1.** Recitations. The above recitations are true and correct and are incorporated herein by this reference.

**Section 2.** SHMC 3.20 is amended as set forth in Exhibit A to this Ordinance (additional language is underlined and deleted text is shown as ~~strikethrough~~).

**Section 3.** This Ordinance shall be effective 30 days after its passage.

Read the first time:            March 7, 2018  
Read the second time:        March 21, 2018

**APPROVED AND ADOPTED** by the City Council this 21st day of March, 2018, by the following vote:

Ayes:     Locke, Carlson, Conn, Morten, Scholl

Nays:     None

  
\_\_\_\_\_  
Rick Scholl, Mayor

ATTEST:

  
\_\_\_\_\_  
Kathy Payne, City Recorder

Chapter 3.20  
TRANSIENT ROOM FEE

Sections:

- 3.20.010 Title.
- 3.20.020 Definitions.
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**3.20.010 Title.**

This chapter shall be known as the “transient room fee ordinance.” (Ord. 2843 § 1, 2001)

**3.20.020 Definitions.**

As used in this chapter the following terms and definitions shall apply unless the context requires otherwise:

“Accrual accounting” means a system whereby the Operator enters the Rent due from a transient on the records when the rent is earned whether or not it is paid.

“Administrator” means the person designated as such by the city.

“Booking Agent” means any person that provides a means through which a host may offer a Hotel for transient lodging occupancy. This service is usually, though not necessarily, provided through an online platform and generally allows a host to advertise the Hotel through a website provided by the Booking Agent’s hosting platform and provides a means for potential users to arrange transient lodging occupancy and payment, whether the transient pays rent directly to the host or to the Booking Agent. Booking Agent’s include, but are not limited to:

1. Online travel booking sites that are involved in the process of listing and booking Hotel occupancy and handling any aspect of the resulting financial transaction; or

2. Online travel booking sites for Transient lodging Occupancy where advertisements of Hotels are displayed; or

3. A hosting or other online site that provides a means through which an Operator, Host or Booking Agent may offer a Hotel for transient lodging occupancy; or

4. Any Person who directly or indirectly accepts, receives or facilitates payment, whether or not they are the ultimate recipient of the payment, including through Application Programming Interfaces (APIs) or other computerized devices where third party providers receive information about a transaction and collect funds for Transient lodging Occupancy from a Transient.

“Cash accounting” means a system whereby the operator does not enter the rent due from a transient on the records until rent is paid.

“City” means the city of St. Helens, Oregon, a municipal corporation.

“Fee” means either the fee payable by the transient, or the aggregate amount of fees due from an operator during the period for which collections must be reported. “Fee” includes the fees imposed by SHMC 3.20.030.

“Host” means the owner or individual who resides at a Short-Term Rental or has been designated by the owner or resident of the Short-Term Rental and who rents out the Short-Term Rental for transient lodging occupancy either directly or through the use of a Booking Agent.

“Hotel” means any structure, or any portion of any structure, which is occupied or intended or designed, in whole or in part, for transient occupancy for 30 consecutive calendar days or less, for dwelling, lodging, or sleeping purposes. “Hotel” includes any hotel, inn, tourist home or tourist house, motel, studio hotel, bachelor hotel, boutique hotel, lodging house, rooming house, Short-Term Rental, vacation home or vacation cabin, multi-dwelling structure, accessory dwelling unit, hostel, corporate housing or executive housing space or facility, public or private dormitory, fraternity, sorority, public or private

club, bed and breakfast, or similar structure or portions thereof so occupied, provided such occupancy is for 30 consecutive calendar days or less. Hotel specifically includes a structure or a portion of a structure that is rented out for Transient Occupancy in addition to being used by the owner as a personal residence or for other uses. All Hotels must comply with all local codes applicable to their location and use, including but not limited to zoning and building codes.

“Occupancy” means the use or possession, or the right to use or possession for lodging or sleeping purposes, of any room, or rooms in, or space all or a portion in of a hotel.

“Operator” means:

1. Any person who provides a hotel or any room or rooms for occupancy for periods of thirty (30) days or less to the general public for compensation. Furnishing accommodations can be done via employees, contractors, agents or any other person the hotel consents to allow to process reservations and accept payments from the transient on behalf of the hotel; or the person who is the proprietor of the hotel in any capacity. Where the operator performs 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 or her principal. Compliance with the provisions of this chapter by either the principal or the managing agent shall be considered to be compliance by both.
2. Any person that facilitates the reservation of an accommodation and collects the payment for the room reservation from the transient; or
3. Any Transient Lodging Provider, Transient Lodging Intermediary, or Transient Lodging Tax Collector as defined in ORS 320.300; or
4. A Booking Agent as defined in this chapter.

There may be more than one operator for a hotel and each operator is independently responsible for compliance with this chapter though the fee will only be collected once. Operators include, but are not limited to, the hotel owner and/or management, online travel companies, Booking Agents or other online travel facilitators, travel agents or companies, contracted management companies or any other person that secures the right to occupy a room on behalf of the transient and receives payment from the transient for that right whether or not the operator is the ultimate recipient of the payment.

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

“Rent” means the full consideration charged to the Transient, 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. Rent is considered to be the total amount represented to the Transient by an Operator as the consideration charged for the Occupancy, including any accommodation fees, commissions or similar amounts paid to or withheld by a person that

facilitates the reservation of a room. “Rent” excludes, however, the sale of any goods, services and commodities, other than the furnishing of rooms or room or space in a hotel.

“Rent package plan” means a plan where a single rate or charge is made for the total of food and rent. The amount applicable to rent for determination of a transient room fee under this chapter shall be the same charge made for rent when consideration is not a part of a package plan.

“Room” means each portion of a Hotel that may be rented or is intended to be rented to a separate transient lodger or lodging party, other than rooms containing no sleeping accommodations and intended to be used for purposes other than sleeping and living accommodations, such as meetings, recreation, education, business or other purposes. In rooms with multiple beds where each bed may be rented or is intended to be rented to a separate transient lodger such as bunk or dormitory style rooms, each bed is counted as a room.

“Short-Term Rental” means a house, duplex, multi-plex, apartment, condominium, houseboat, trailer or other residential dwelling where a Person rents Rooms for Transient lodging Occupancy. Generally, a Short-Term Rental is zoned residential or has building occupancy that only allows for residential use.

“Tourism” means the business of attracting and providing services and accommodations to those persons who are traveling for recreational or cultural purposes.

“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 months, shall not be deemed a transient. (Ord. 3046 § 8, 2007; Ord. 2843 § 2, 2001)

### **3.20.030 Imposition of fee.**

(1) Transient Room Fee. For the privilege of occupancy in any hotel, on and after the effective date of the ordinance codified in this chapter, each transient shall pay a fee in the amount of ~~seven~~ ten percent (10/100<sup>th</sup>) of the rent charged by the operator.

(2) Payment of Fee by ~~Transient~~ transient.

(a) The Fees imposed pursuant to this chapter constitute a debt owed by the transient to the city, which is extinguished only by payment to the operator or to the city.

(b) The transient shall pay the fees to the operator of the hotel at the time the rent is paid.

(c) If rent is paid in installments, the transient shall pay a proportionate share of the fee to the operator with each installment.

(d) If for any reason the fees due are not paid to the operator of the hotel, the administrator may require that the transient pay such fee(s) directly to the city.

(3) Payment of Fee by Operator. The fee collected or accrued by the operator constitutes a debt owing by the operator to the city. (Ord. 2843 § 3, 2001)

### **3.20.040 Exemptions.**

No fee imposed under this chapter shall be imposed upon:

(1) Time Period. Any occupant who pays for lodging on a monthly basis, irrespective of the number of days in such months;

(2) Minimum Rent. Any occupant whose rent or cash equivalent thereof is less than \$5.00 per day;

~~(3) Private Facilities. Any person who rents a private home, vacation cabin, or like facility from any owner who rents such facilities in addition to such owner's use thereof;~~

(43) Care Facilities. Any occupant whose rent is paid for a room or living space in a hospital, medical or mental health clinic, foster home, rehabilitation center, convalescent home, nursing home, or assisted living facility. (Ord. 3054 § 1, 2007; Ord. 2843 § 4, 2001)

(4) Government or Public Institutions. Any occupant in a government owned and operated public institution.

(5) Emergency Shelter. Any person housed through an emergency shelter or disaster program where the rent is paid with government assistance funds.

(6) Federal Government Employee. Any Federal Government employee traveling on official government business, who presents an official Government Exemption Certificate or official travel authorization. An exemption may also be granted for direct bills to a Federal Government department, agency or instrumentality. An exemption may not be granted for rents paid by contractors of the Federal Government, even if the occupancy was for a Federal Government employee on official business, and notwithstanding the fact that such rent may be reimbursed by the Federal Government or paid under the contract with the Federal Government.

### **3.20.050 Disposition of revenue, adjustment.**

(1) Adjustment of Fees. Any adjustment of fees, penalties or interest that is necessary to correct a mistake or error in collection or distribution may be made by the administrator at a subsequent collection or disbursement or by the procedure set forth in SHMC 3.20.160. (Ord. 2843 § 5, 2001)

### **3.20.060 Collection and use of revenues.**

(1) The transient room fee shall be ten percent (10/100<sup>th</sup>) of the Rent charged by the Operator. This amount must be remitted to the city as outlined in SHMC 3.20.090, except that the operator may retain ~~one~~ five percent (1/20<sup>th</sup>) of the total fee collected ~~seven percent fee to defray administration of the fee.~~ This (1/20<sup>th</sup>) of the total fee collected is intended to help the operator defray the costs associated with the administration of the fee. Records must adequately show that the retained portion is accurate.

(2) The remaining funds will be allocated as follows:

Ninety-one percent (91/100<sup>th</sup>) ~~six percent~~ of the remaining funds shall be placed in a reserve account in the St. Helens visitors and tourism bureau fund, which shall be called the transient room fee reserve account. Moneys collected may be invested to earn the highest amount of interest legally and reasonably possible from the moneys placed in the account. Moneys in this account can only be used to promote tourism in the city of St. Helens. No administrative fee shall be charged to this account by the city.

Nine percent (9/100<sup>th</sup>) will be placed in the city's general fund, to help defray administrative costs associated with the tourism bureau, and tourism bureau fund.

(3) *Repealed by Ord. 3046.*

~~(4) It is the intent of this chapter that the moneys collected during the year shall be used, in part, to pay the debt service on a convention center owned and operated by the city. Such convention center and associated land and other improvements would be financed through a low interest loan from the state of Oregon or other appropriate funding source. In addition, the moneys collected would be used to pay for a tourism director who would be hired by the city, either as an employee or through other contractual arrangements, to oversee the operation of the convention center and pay for the maintenance, operation, and upkeep of a convention center. (Ord. 3186 § 2, 2015; Ord. 3046 § 8, 2007; Ord. 2843 § 6, 2001)~~

### **3.20.070 Administration of chapter.**

(1) Appoint Administrator. The city council appoints the city finance director or, in that person's absence, the city administrator, to administer the provisions of this chapter and may delegate to any person the powers, rights, duties, and authority with respect to collections, refunding, and administration of fees imposed under SHMC [3.20.030](#).

(2) Examination of Records, Investigations. The administrator or any person so authorized in writing by the city council may examine, during normal business hours, the books, papers, and accounting records relating to room rents of any operator after 24 hours' written notification to the 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. (Ord. 2843 § 7, 2001)

### **3.20.080 Registration of operator – Form and contents – Execution – Certification of authority.**

(1) Registration Required. Every person engaging in, or about to engage in, business as an operator of a hotel in the city limits shall register with the administrator on a form provided by the administrator. The failure to register does not relieve any person from the obligation of payment or collection of the fee.

(2) Period for Registration.

(a) Operators commencing business after the ordinance codified in this chapter is adopted must register within 15 calendar days after commencing business.

(b) The privilege of registering after the date of commencing business shall not relieve any person from the obligation of payment or collection of the transient room fee from the date of commencing business regardless of the date of registration.

(3) Information Required. The operator shall set forth on the registration form the name under which he or she transacts or intends to transact business, any affiliated companies or brands that are associated with the registration, the location of the place or places of business, and such other information to facilitate the collection of the fee as the administrator may require. The operator shall sign the registration.

(4) Fire/Safety/Health Inspection.

(a) At the time of initial application for registration of a Short-Term Rental, the applicant must schedule an inspection with the Building Official or designee, and pay an initial inspection fee of \$125.00. The purpose of this inspection is to assure conformance of the Short-Term Rental with the State of Oregon Residential Specialty Code, the Uniform Housing Code and the Uniform Fire Code regulations related to potential safety issues and to establish maximum occupancy, including but not limited to an approved means of egress from every bedroom. The applicant is responsible for obtaining septic approval from DEQ and providing said documentation to the City. Applicants must correct any identified deficiencies within 180 days before a certificate will be issued. A follow-up inspection is included in the initial fee. Any further inspections will cost \$50.00 each.

(b) Every year, the City will conduct a re-inspection of Short-Term Rentals. A re-inspection fee of \$50.00 will be charged. Failure to correct any identified deficiencies within thirty (30) days of the Building Inspector's notification of required alterations may result in the revocation of the certificate.

(4)(5) Certification. The administrator shall use his or her best efforts to issue, within 10 days of receiving the registration form, a certificate of transient occupancy registration to the registrant to collect the fee from the occupant, together with a duplicate thereof for each additional place of business of each registrant.

(5)(6) Contents of Certificate. At a minimum, the certificate shall state the following information:

(a) The name of the operator;

(b) The address of the hotel;



(c) The date upon which the certificate was issued;

(d) The following statement:

This Transient Occupancy Registration Certificate signifies that the person named on the face hereof has fulfilled the requirements of the City of St. Helens Transient Room Fee Ordinance by registration with the Administrator for the purpose of collecting from transients the room fee imposed by the City of St. Helens and remitting said fee to the Administrator. This certificate does not authorize any person to conduct any unlawful business or to conduct any lawful business or to conduct any lawful business in an unlawful manner, or to operate a hotel without strictly complying with all local applicable laws. This certificate does not constitute a permit.

(6)(7) Display and Transfer of Certificate.

(a) Each certificate and duplicate shall be prominently displayed in the hotel to which it is applicable so as to be seen and come to the notice readily of all occupants and persons seeking occupancy.

(b) No operator may assign or transfer the hotel's certificate, but shall surrender it immediately to the administrator upon the cessation of business at the named location or upon its sale or transfer. (Ord. 3054 § 2, 2007; Ord. 2843 § 8, 2001)

### **3.20.090 Collection of fee by operator.**

(1) Operator to Collect Fee From Transient. Unless otherwise exempted by this chapter, every operator shall collect the fee from the transient at the time the transient pays the rent.

(2) Incremental Fee Schedule. For rent collected on portions of a dollar, the fee shall be collected according to the schedule below:

<b>Amount of Incremental Rent</b>	<b>Amount of Incremental Fee</b>
\$0.05 through \$0.14	\$0.01
\$0.15 through \$0.29	<del>\$0.02</del> <u>0.03</u>
\$0.30 through \$0.44	<del>\$0.03</del> <u>0.04</u>
\$0.45 through \$0.59	<del>\$0.04</del> <u>0.06</u>
\$0.60 through \$0.74	<del>\$0.05</del> <u>0.07</u>
\$0.75 through \$0.89	<del>\$0.06</del> <u>0.09</u>

<b>Amount of Incremental Rent</b>	<b>Amount of Incremental Fee</b>
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\$0.90 through \$1.00	<del>\$0.07</del> <u>0.10</u>
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(3) Waiving Fee Prohibited. Operators may not advertise or allow that any part of the fee will be assumed or absorbed by the operator, or that it will not be added to the rent or, if added, that any part of it will be refunded, except in the manner provided by this chapter. (Ord. 2843 § 9, 2001)

### **3.20.100 Monthly reporting and payment – Extension.**

(1) Report and Payment. On or before the fifteenth day of the month following each calendar month, every operator shall report the rents paid to the operator during the preceding month and pay the amount of fees due on forms prescribed by the administrator.

(2) Returns to Be Signed. Returns shall be signed by the operator required to file the return or by his or her authorized agent.

(3) Information Required. Returns required under this section shall contain such information as the administrator deems necessary for the proper administration of this chapter.

(4) Remittance. The operator liable for filing the return required under this section shall deliver the return together with the fee due to the city of St. Helens. Delivery must be in person or by first class mail.

(5) Other Reporting and Payment Periods. For the purpose of the administration, payment, or collection of the fees imposed under this chapter, the administrator may, upon written request, permit or require returns or fee payments on other than a monthly basis; however, no operator may change the reporting system required under this section without the prior written authorization of the administrator.

(6) Extension.

(a) The administrator may, upon written request received on or before the due date of the return or fee, for good cause satisfactory to the administrator, extend the time for filing the return or paying the fee for a period not to exceed 30 days.

(b) Any operator to whom an extension is granted and who pays the fee within the period for which the extension is granted shall pay, in addition to the fee, simple interest at the rate of 10 percent per annum from the date on which the fee would otherwise have been due.

(7) No Exceptions. A report and a fee return are required for each reporting period even though there may be no rents due or payable to the hotel of the operator during the preceding month, nor any fees due.

(8) Failure to File Reports. If an operator fails to make a report of the information required by this section within the time and manner prescribed, the administrator may examine the books, records, and files of the operator to determine the fee due on the rents, as provided by this chapter.

(9) Special Determination and Collection – Operator Delay.

(a) The administrator may make a special determination of the fee amount and may make that amount due and payable immediately; provided, that:

(i) The administrator reasonably believes that delay may jeopardize either the collection of any amount of any fee, or the determination of that fee amount; and

(ii) The purpose of the collection is noted on the special determination.

(b) The administrator shall serve notice of the special determination to the operator in person or, if by first class mail, at the operator's last known address as shown on the administrator's records.

(c) The operator shall pay the determined amount to the administrator immediately upon receiving notice of the special determination.

(d) After making the required payment, but within 14 days of receiving notice of the special determination, the operator may appeal the decision by filing a petition for redetermination with the administrator, pursuant to SHMC [3.20.160](#). (Ord. 2843 § 10, 2001)

### **3.20.110 Operator required to keep records.**

(1) Separate Accounting. Every operator shall state the fee imposed under this chapter separately on room receipts and shall account for such fees separately in the hotel's records.

(2) Recordkeeping. Every operator liable for the reporting or payment of the fee imposed under this chapter shall keep such records, receipts, and other pertinent documents in such form as the administrator may require.

(3) Three-Year Minimum – Exception. Every operator shall keep such records for not less than three years, unless the administrator issues written authorization to destroy them sooner. (Ord. 2843 § 11, 2001)

### **3.20.120 Records exempt from disclosure.**

(1) Policy. Pursuant to ORS [192.502](#)(16) and except as provided by subsection (2) of this section, no city of St. Helens employee or agent, and no employee or agent of cities participating by ordinance or resolution under this chapter, may disclose the records, reports, and returns required by this chapter to be submitted to or inspected by the city to allow it to determine the amount of any transient fee payable or the amount of such fees paid, to the extent that such information is in a form that would permit identification of the individual concern or enterprise.

(2) Authorized Use.

(a) Nothing in this section shall limit the use which the city may make of such information for regulatory purposes, or the admissibility of such information in any enforcement proceedings.

(b) In the event that the payment or delivery of fees imposed under this chapter is delinquent by more than 60 days, the city shall disclose, upon the request of any person, the following information:

(i) The identity of the individual concern or enterprise that is delinquent more than 60 days in the payment or delivery of the fees;

(ii) The period for which the fees are delinquent; and

(iii) The actual or estimated amount of the delinquency. (Ord. 2843 § 12, 2001)

**3.20.130 Refunds.**

(1) Operator's Fee Refunds. Whenever an operator has paid the amount of any fee, penalty, or interest more than once, or the administrator has erroneously or illegally collected or received it under this chapter, it may be refunded; provided, that the operator first files a petition for redetermination and refund with the administrator, pursuant to SHMC [3.20.160](#). In addition to any other requirements imposed by this chapter, the petitioner shall state the specific reason upon which the claim is founded and file the petition within three years from the date of overpayment. All refunds shall be charged to the transient room fee reserve account.

(2) Transient Fee Refunds. Whenever the fee required by this chapter has been collected by the operator, and deposited by the operator with the administrator, and it is later determined that the fee was erroneously or illegally collected or received by the administrator, it may be refunded by the administrator to the transient; provided, that the transient, or the administrator or other person acting in the transient's behalf first files a petition for redetermination and refund with the administrator, pursuant to SHMC [3.20.160](#). In addition to any other requirements imposed by this chapter, the petitioner shall state the specific reason upon which the claim is founded and file the petition within three years from the date of the overpayment. All refunds shall be charged to the transient room fee reserve account. (Ord. 2843 § 13, 2001)

**3.20.140 Delinquency.**

Unless an operator obtains an extension pursuant to SHMC [3.20.100](#)(6), the operator becomes delinquent with respect to this chapter any time the operator fails:

(1) Improper Reporting. To submit his or her reports completely and accurately, on time or as otherwise required by this chapter; or

(2) Improper Payment. To remit his or her fee payment fully, on time, or as otherwise required by this chapter. (Ord. 2843 § 14, 2001)

### **3.20.150 Sanctions.**

An operator who is delinquent may be subject to one or more of the following sanctions:

(1) Inadequate or Untimely Reporting. If an operator is delinquent in submitting reports, the administrator may take one or both of the following measures:

(a) Examine the operator's books, records, and files in order to compute the fee due on the rents, as provided for by this chapter.

(b) Assess the fee at no more than twice the amount estimated to be due and add a penalty of 10 percent of the amount of the fee assessed. This penalty shall be in addition to all other penalties. The additional fee and 10 percent penalty provided for in this subsection may be assessed if the operator in question has failed to report or make payments within the previous 12-month reporting period.

(c) The Administrator may also impose a civil penalty of up to \$500 for each violation of this chapter.

(2) Inadequate or Late Payments. If an operator is delinquent in making fee payments:

(a) The administrator may assess interest payments on the outstanding fee accounts at a rate of 10 percent per annum from the date due until the date of payment.

(b) These fees shall operate as a first lien and privilege on the hotel and its personal property, which lien and privilege shall follow the hotel into the hands of these persons whether in good or bad faith, and the city of St. Helens may place a lien upon the property.

(3) Notice and Payment. Once the administrator determines that an operator is delinquent and is subject to the sanction or sanctions imposed by subsections (1) and (2) of this section, the administrator shall give that operator a written notice of the delinquency.

(a) The notice may be served personally or by mail, and if by mail, the notice shall be sent by certified mail and addressed to the operator at the last known address as it appears in the records of the administrator. In case of service by mail of any notice required by this chapter, the service is complete when the city administrator, or his authorized agent or designee, signs a certificate of mailing, or three days after the mailing if mailed to an address within the state.

(b) Except in the case of fraud, or intent to evade the provisions of this chapter, 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 proposed to be determined or within three years after the return is filed, whichever period expires later.

(c) The amount stated in the determination shall become due and payable immediately upon receipt of notice. Such determination shall become final unless the operator files a petition for redetermination pursuant to SHMC 3.20.160.

(4) Court Action to Collect Delinquent Amounts. At any time within three years after any fee or any amount of fee required to be collected becomes due and payable or at any time within three years after any determination becomes final, the administrator may bring an 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. In the case of the filing of a false or fraudulent return with the intent to evade this chapter, or willful refusal to collect and remit the fee, a deficiency determination may be commenced, at any time and is not subject to the three year limitation. (Ord. 3054 § 3, 2007; Ord. 2843 § 15, 2001)

(5) Attorney Fees. Should the city prevail in any legal proceedings in any state or federal court to collect the taxes, penalties and interest assessed in accordance with this chapter, the City shall be entitled to its reasonable costs and attorney fees.

### **3.20.160 Petition for redetermination.**

(1) Petition for Redetermination. Any operator who receives a notice of determination or delinquency may petition the administrator for redetermination. The petitioner may request an oral hearing on the matter by stating this request on the petition.

(2) Requirements for Filing. The petition for redetermination allowed under this section must be received by the administrator no more than 14 days after the administrator serves the notice of delinquency or determination. It must be on a form supplied by the administrator or it must state substantially the same information. However, no petition for redetermination shall be effective for any purpose unless the operator has first paid any and all fees and interest due and payable on the account.

(3) Hearing. In the event of an oral hearing, the administrator shall give the petitioner a 10-day written notice of the time and place of the hearing. The administrator may continue the hearing from time to time, as may be necessary.

(4) Redetermination. After reconsidering his or her determination, the administrator shall prepare a decision in writing and shall serve notice of this decision to the petitioner by first class mail. Service shall be complete when the city administrator, or his authorized agent or designee, signs a certificate of mailing, or three days after the mailing if mailed to an address within the state.

(5) Amount of Fee Determination Subject to Change. As a result of the redetermination, the administrator may increase or decrease the amount of the delinquency of determination. If an increase is established, it shall be due and payable immediately after the decision is made. If a decrease is established, the administrator shall refund the amount or credit it to the operator, or the hotel's assignees or executors.

(6) Redetermination is Final – Appeal. The decision of the administrator upon a petition for redetermination becomes final, unless within 14 days following the service of such notice the petitioner files an appeal of the redetermination with the city council pursuant to SHMC 3.20.170. (Ord. 3054 § 4, 2007; Ord. 2843 § 16, 2001)

### **3.20.170 Appeals to city council.**

A petitioner affected by the redetermination of the administrator may appeal to the city council by filing a notice of appeal with the administrator within 14 days of the service of the redetermination. The administrator shall transmit the notice of appeal, together with the file of the appealed matter, to the city council which shall fix a time and place for hearing such appeal. The city council shall give the appellant not less than 14 days' written notice of the time and place of hearing. The city council shall consider the matter de novo and may approve, revise, or remand the administrator's redetermination. The city council's decision shall be by written order and shall be subject to writ of review proceedings pursuant to ORS 34.010 et seq. (Ord. 2843 § 17, 2001)

### **3.20.180 Amendments.**

Amendments to this chapter shall only be made by a four-fifths majority vote of the city council. (Ord. 2843 § 18, 2001)