

ORDINANCE NO. 10-04

AN ORDINANCE AMENDING SECTIONS 1, 6, 7, 8, 10, 11, 15, 18, AND 21 OF ORDINANCE 87-5 AND DELETING SECTIONS 16 AND 17 OF MANZANITA ORDINANCE 87-5 RELATING TO TRANSIENT LODGING TAX AND ADMINISTRATIVE PROCEDURES FOR COLLECTION OF SAME

THE CITY OF MANZANITA DOES ORDAIN AS FOLLOWS:

Section 1. Section 1 of Manzanita Ordinance 87-5 is hereby amended to delete definition (m) and to read as follows:

“Section 1. Definitions. Except where the context otherwise requires, the definitions given in this section govern the construction of this ordinance.

(a) through (l) *(No change)*

~~(m) “Transient Lodgings Tax Review Committee”. A committee composed of an attorney, an operator and 3 laymen appointed by the Mayor and approved by the Council of the City of Manzanita.”~~

Section 2. Section 6 of Manzanita Ordinance 87-5 is hereby amended to read as follows:

“Section 6. Registration of Operator: Form and Contents; Execution; Certification of Authority.

Every person engaging in 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 ordinance is adopted must register not later than thirty calendar days after passage of this ordinance. Operators starting business after this ordinance is adopted, must register within fifteen 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 forth 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 the collection of the tax as the tax administrator may require. The registration shall be signed by the operator. The tax administrator shall, within ten days after registration, issue without charge, a certificate of authority to each registrant to collect the tax from the occupant, together with a duplicate thereof for each additional place of business or each registrant. certificates shall be non-assignable and non-transferable 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 so as to be seen and come to the notice readily of all occupants and persons seeking occupancy.

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

- (1) The name of the operator
- (2) The address of the hotel
- (3) The date upon which the certificate was issued
- (4) "This Transient Occupancy Registration Certificate signifies that the person named on the face hereof has fulfilled the requirements of the City of Manzanita 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 an unlawful 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 Manzanita. This certificate does not constitute a permit".

Section 3. Section 7 of Manzanita Ordinance 87-5 is hereby amended to read as follows:

“Section 7. Due Date; Returns and Payments.

(a) *(no change)*

(b) On or before the fifteenth day of the month following each quarter of collection a return

for the preceding quarter's tax collections shall be filed with the tax administrator. The return shall be filed in such form as the tax administrator may prescribe by every operator liable for payment of tax. A return must be filed with the tax administrator even if no taxes have been collected.

(c) *(no change)*

(d) *(no change)*

(e) For good cause, the tax administrator may extend for not to exceed, one month, the time for making any return or payment of tax. No further extension shall be granted, except by the City Council. 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 pro-ration 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 ordinance.

(f) *(no change)*”

Section 4. Section 8 of Manzanita Ordinance 87-5 is hereby amended to read as follows:

“Section 8. 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 file a return and remit any tax imposed by this ordinance prior to delinquency shall pay the greater of ten percent of the amount of tax due or \$100.00 in addition to the amount of the tax.

(b) *(no change)*

(c) *(no change)*

(d) *(no change)*

(e) *(no change)*

(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 City Council for waiver and refund of the penalty or any portion thereof and the City Council may, if a good and sufficient reason is shown, waive and direct a refund of the penalty or any portion thereof.”

Section 5. Section 10 of Manzanita Ordinance 87-5 is hereby amended to read as follows:

“Section 10. Redeterminations .

(a) *(no change)*

(b) *(no change)*

(c) *(no change)*

(d) The order or decision of the tax administrator upon a petition for redetermination and refund becomes final 20 days after service upon the petitioner of notice thereof, unless appeal of such order or decision is filed with the City Council within 20 days after the service of such notice.

(e) *(no change)*”

Section 6. Section 11 of Manzanita Ordinance 87-5 is hereby amended to read as follows:

“Section 11. Security for Collection of Tax.

(a) The tax administrator, whenever he deems it necessary to ensure the compliance with this ordinance, 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 quarterly liability for the period for which he files returns, determined in such a manner as the tax administrator deems proper, or ten thousand dollars, whichever amount is lesser. 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 City Council any decision of the tax administrator made pursuant to this section.

(b) *(no change)*”

Section 7. Section 15 of Manzanita Ordinance 87-5 is hereby amended to read as follows:

“Section 15. Administration.

- (a) Special fund. The tax administrator shall deposit all money collected pursuant to this ordinance to the credit of the General Fund.
- (b) *(no change)*
- (c) *(no change)*
- (d) *(no change)*
- (e) *(no change)*”

Section 8. Section 16 and Section 17 of Manzanita Ordinance 87-5 are hereby deleted.

Section 9. Section 18 of Manzanita Ordinance 87-5 is hereby amended to read as follows:

“Section 18. Appeals to City Council. Any person aggrieved by any decision of the tax administrator may appeal to the City Council by filing notice of appeal with the tax administrator within twenty days of the serving or mailing of the notice of the decision of the tax administrator. 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 tax administrator.

The Council shall give the appellant not less than twenty 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.”

Section 10. Section 21 of Manzanita Ordinance 87-5 is hereby amended to read as follows:

“Section 21. Penalties. Any person willfully violating any of the provisions of this ordinance shall be guilty of a misdemeanor and may be punishable, therefore, by a fine of not more than Five Hundred Dollars (\$500.00).”

PASSED FIRST READING by the Council this 7th day of April, 2010.

PASSED SECOND READING by the Council this 5th day of May, 2010.

APPROVED by the Mayor this 5th day of May, 2010.

Garry R. Bullard, Mayor

ATTEST:

Jerald P. Taylor, City Manager/Recorder