

ORDINANCE NS - 2426

AN ORDINANCE AMENDING THE BEND CODE 12.05.080 REGARDING ADMINISTRATION OF ROOM TAX REVENUES

Findings:

- A. The City of Bend has imposed a local room tax on hotel and motel-type stays since at least 1987.
- B. In 2001, the City increased the room tax rate from 7% to 9%.
- C. In 2003, the state Legislature adopted HB 2267, which established a state transient lodging tax and placed some restrictions on local lodging taxes, including the City of Bend's room tax. Among other things, the bill provided that as of July 2, 2003, at least 70% of any new or increased local lodging taxes must be directed to tourism promotion or tourism-related facilities. The bill did not restrict the remaining 30% of any new or increased local lodging taxes.
- D. In the November 2013 general election, City voters approved Measure 9-94, an increase in the City's room tax rate from 9% to 10.4%. Of the new 1.4% rate increment, state law requires 70% be allocated to tourism promotion or tourism related facilities. The remaining 30%, while not restricted by state law, is devoted to police and fire services under the terms of the measure approved by the voters.
- E. In 2017, amidst rising demands for services and competing demands on its limited resources, the City adopted Ordinance NS-2291, which reduced the percentage of total room tax revenue allocated to tourism from 35.4% to 31.2%. The ordinance and the reduced expenditure to tourism was supported by the City's reading of HB 2267, including the bill's legislative history and legislative testimony from various stakeholders involved in crafting the bill. The lodging industry challenged the ordinance, contending that it conflicted with HB 2267. The litigation concluded in August 2021 when the Oregon Court of Appeals found the City's ordinance to be in conflict with ORS 320.350, the codification of HB 2267.
- F. Unrelated to the litigation over Ordinance NS-2291, in May 2021 the City adopted an ordinance amending Chapter 12.05 of the Bend Municipal Code to bring it into alignment with state law by allowing restricted tourism revenues to be spent on tourism related facilities, as well as tourism promotion.
- G. The Council desires to adopt this ordinance to provide that the City of Bend must allocate no less than 35.4% of its total room tax revenues to tourism, consistent with the Court of Appeals decision.

Based on these findings, the City of Bend ordains as follows:

Section 1. Bend Code 12.05.080 is amended to read as shown in Exhibit A.


Section 2. All other provisions of the Bend Code remain unchanged and in full effect.

First reading: November 3, 2021

Second reading and adoption by roll call vote: November 17, 2021

YES: Mayor Pro Tem Gena Goodman-Campbell NO:

Councilor Barb Campbell
Councilor Melanie Kebler
Councilor Anthony Broadman
Councilor Megan Perkins
Councilor Rita Schenkelberg

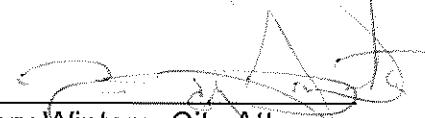


Gena Goodman-Campbell, Mayor Pro-Tem

ATTEST:



Robyn Christie, City Recorder



Mary Winters, City Attorney

EXHIBIT A**12.05.080 Administration.**

A. Use of Room Tax Funds. ~~Thirty-one and one-fifth~~35.4 percent of total room tax revenues will be used for tourism promotion and/or tourism-related facilities. The City may enter into contracts with any entity for expenditure or distribution of revenues for tourism promotion and/or tourism-related facilities.

~~Thirty~~30 percent of room tax revenues received by the City based on any increment of tax between a ~~nine~~9 percent tax rate and a 10.4 percent tax rate shall be used for police and fire services.

B. Records Required from Operators. Every operator shall keep records of each transaction involving rent and/or collection of tax. All records shall be retained for at least three years and six months.

C. Examination of Records – Investigations. The Tax Administrator or agent may examine all records of an operator relating to receipt of rent and tax and remittance of tax during normal business hours and may obtain copies of the records to audit returns.

D. Confidential Character of Information Obtained – Disclosure Unlawful. The City shall maintain the confidentiality of information provided by operators. Nothing in this subsection shall be construed to prevent:

1. The disclosure to, or the examination of records and equipment by, another City official, employee or agent for collection of taxes for the purpose of administering or enforcing any provisions of this chapter or collecting City business license fees.
2. Disclosure of information to the operator and the operator's agents.
3. The disclosure of the names and addresses of any persons to whom certificates of authority have been issued.
4. The disclosure of general statistics regarding taxes collected or business done in the City.
5. Disclosures required by ORS Chapter 192. [Ord. NS-2410, 2021; Ord. NS-2291, 2017; Ord. NS-2218, 2014; Ord. NS-2163, 2011]