

APR 14 1983

IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

County Clerk
For Lane County, Oregon
BY *Patricia Hittell*
ORDINANCE NO. 5-83 (DEPUTY)

IN THE MATTER OF AMENDING CHAPTERS 3 AND 4 OF LANE CODE TO ESTABLISH A FIVE PERCENT CAR RENTAL TAX AND A REGISTRATION REQUIREMENT AND SETTING AN EFFECTIVE DATE AND SUNSET PROVISION

The Board of County Commissioners of Lane County ordains as follows:

Chapters 3 and 4 of Lane Code are hereby amended by removing and substituting the following pages:

REMOVE THESE PAGES

3.710(5) - 3.720
(a total of one page)

4.995(1) - 4.995(2)
(a total of one page)

INSERT THESE PAGES

3.710(5) - 3.800, i.e. 3-12
(a total of one page)

4.200 - 4.210(2) to
4.995(1) - 4.997(2), i.e.
4-14 to 4-23
(a total of 11 pages)

Said pages are attached hereto and incorporated herein by reference. The purpose of this amendment is to establish a five percent Car Rental Tax which shall be dedicated for certain park purposes and to establish a registration requirement.

This ordinance shall be effective July 15, 1983. All amendments to LC Chapter 4 contained in this Ordinance No. 5-83 are repealed effective July 1, 1984, provided, however, that all provisions relating to procedures, rights and liabilities shall continue in full force and effect with respect to any taxes due on all rental fees collected during the effective period until said taxes are paid.

Enacted this 13th day of April 1983.

Arnold H. Rust, Jr.
Chairman, Lane County Board of Commissioners

Debbie Mabe
Recording Secretary for this Meeting of the Board

In the Matter of Amending Chapters 3 and 4 of Lane Code to Establish a Five Percent Car Rental Tax and a Registration Requirement and Setting an Effective Date and Sunset Provision

APPROVED AS TO FORM
DATE 4-4-83
Jesse G. Webb
CLERK OF COUNTY

3.710(5)

Lane Code

3.800

(5) The applicant shall make a statement in addition to the application declaring that the deceptive-advance-reduction method of attracting purchasers will not be used or advertised, as follows:

(a) The applicant, as an inducement to the securing of the license, does pledge and obligate himself or herself, or the corporation, firm association or individuals represented by the applicant, to refrain from marking up, quoting or advertising merchandise at a price above the average or ordinary retail market price of the articles, or at any time marking down, quoting or advertising the price on the articles in comparison with the marked up, quoted or advertised prices or with any prices except the customary usual prices at which the articles are usually offered for sale.

3.715 Auctions. Special sales may be conducted by auction, provided only goods listed in the inventory are sold thereby.

3.720 Exceptions. A special sales permit shall not be required for the operation of food service booths, musical concerts, sporting events, craft fairs, flea markets, and other similar types of sales.

CAR RENTAL REGISTRATION CERTIFICATE

3.800 Car Rental Registration Certificate. See LC 4.260.

4.200

Lane Code

4.210(2)

LANE COUNTY CAR RENTAL TAX

4.200 Title. This subchapter may be referred to as the Lane County Car Rental Tax.

4.205 Definitions. In addition to the general definitions included in LC 1.010, the following definitions shall apply, unless the context requires otherwise:

Commercial Establishment. Any person or other entity, any part of whose business consists of providing the use of motor vehicles for a rental fee.

County Finance Officer. The person designated by the Board of County Commissioners to perform the functions of the County Finance Officer.

Motor Vehicle. Includes, without limitation, all automobiles; pickup campers; and any motorized passenger vehicles designed to carry less than 10 persons which are capable of being used on the highways of Oregon.

Operator. Any person operating a commercial establishment.

Person. A natural person, sole proprietorship, partnership, joint venture, association, corporation, estate, trust or any other entity in the name of which a motor vehicle is rented under this subchapter.

Rental or Renting. Obtaining in Lane County the use of a motor vehicle from a commercial establishment in Lane County for a rental fee, and includes all services, supplies and commodities furnished by the commercial establishment in connection with providing the use of the vehicle, but does not include leasing or other transactions where title of a motor vehicle is permanently or temporarily transferred from the commercial establishment to any other person or entity.

Rental Fee. The gross fee, whatever the basis of its calculation, paid to a commercial establishment by any person for the rental of a motor vehicle.

4.210 Imposition of Tax.

(1) A tax is hereby imposed on every person renting a motor vehicle from a commercial establishment in Lane County if the rental is for a period of 30 days or less. A rental shall have a duration of 30 days or less if the actual possession or use by the person renting the vehicle terminates not later than the end of a 30-day period or if any contract governing the rental has a duration of 30 days or less.

(2) The rate of the tax imposed by LC 4.210(1) above shall be equal to five percent of the gross rental fee charged by the commercial establishment for the rental.

4.210(3)

Lane Code

4.215(7)

(3) If, with respect to any rental fee, the tax imposed under this section does not equal an amount calculable to a whole cent, the commercial establishment shall charge a tax equal to the next highest whole cent, provided, however, that the amount remitted to the County Finance Officer by the commercial establishment for each quarter shall be equal only to five percent of the total rental fees collected by the commercial establishment during the quarter.

4.215 Collection of Tax; Remittance; Tax as Debt; Records.

(1) The tax imposed by LC 4.210 above shall be collected by the commercial establishment at the time it collects a rental fee.

(2) Every commercial establishment liable for the collection and remittance of the tax imposed by this subchapter may withhold five percent of the net tax due to cover the establishment's expenses in the collection and remittance of the tax.

(3) On or before the 30th day of January, April, July and October, each commercial establishment shall remit to the County Finance Officer all taxes collected during the preceding calendar quarter, less expenses under LC 4.215(2) above. The remittance is delinquent on the 10th day after due. The remittance shall be accompanied by a report showing:

(a) The amount of the gross rental fees collected by the commercial establishment during the preceding quarter.

(b) The amount, if any, of those rental fees which is attributable to and identified on the records or billings of the commercial establishment as being for gasoline sales.

(c) The amount retained by the commercial establishment for expenses under LC 4.215(2) above.

(d) Such further information as the County Finance Officer may direct.

(4) In the case of motor vehicle rentals which originate in Lane County but for which the rental fee is collected at some other location, the commercial establishment which provided the vehicle in the County shall be responsible for remittance of the tax, based on the total rental fee, wherever collected.

(5) The amount of tax required to be collected under LC 4.210 above shall be a debt owed by the commercial establishment to the County until remitted under this section.

(6) All commercial establishments shall maintain accurate records of rental fees assessed and of taxes collected, and the records shall be subject to review, inspection and audit by the County Finance Officer, or his or her designee, at all reasonable times.

(7) It shall be unlawful for the County Finance Officer, or any person having an administrative or clerical duty under the provisions of this subchapter 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 a Car Rental Registration Certificate, or pay a car rental tax, or any other

4.215(7)

Lane Code

4.220(2)

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 subsection shall be construed to prevent:

(a) The disclosure to, or the examination of records and equipment by another Lane County official, employee, or agent for collection of taxes for the sole purpose of administering or enforcing any provisions of this subchapter; or enforcing any provisions of this subchapter; or collecting taxes imposed hereunder.

(b) The disclosure after the filing of a written request to that effect, to the taxpayer himself or herself, 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 County Counsel approves each such disclosure and that the County Finance Officer may refuse to make any disclosure referred to in this paragraph when in his or her opinion the public interest would suffer thereby.

(c) The disclosure of the names and addresses of any persons to whom Car Rental Registration Certificates have been issued.

(d) The disclosure of general statistics regarding taxes collected or business done in the County

(e) Necessary disclosures in connection with appeals or forced collections as provided in this subchapter.

4.220 Extensions, Penalties and Interest.

(1) Extension. For good cause, the County Finance Officer may extend for not to exceed one month the time for making any return or payment of tax. No further extension shall be granted. Any operator or commercial establishment to whom an extension is granted shall pay interest at the rate 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 subchapter.

(2) Other Payment Periods. The County Finance Officer, if he or she deems it necessary in order to insure payment or facilitate collection by the County of the amount of taxes in any individual case, may require returns and payment of the amount of taxes for other than quarterly periods.

4.220(3)

Lane Code

4.225(1)

(3) Original Delinquency. Any operator or commercial establishment who has not been granted an extension of time for remittance of tax due and who fails to remit any tax imposed by this subchapter prior to delinquency shall pay a penalty of 10% of the amount of the tax due in addition to the amount of the tax.

(4) Continued Delinquency. Any operator or commercial establishment 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 30 days following the date on which the remittance first became delinquent shall pay a second delinquency penalty of 15% of the amount of the tax due plus the amount of tax and the 10% penalty first imposed.

(5) Fraud. If the County Finance Officer determines that the nonpayment of any remittance due under this subchapter is due to fraud or intent to evade the provisions thereof, a penalty of 25% of the amount of the tax shall be added thereto in addition to the penalties stated in LM 4.220(3) and (4) above.

(6) Interest. In addition to the penalties imposed, any operator or commercial establishment who fails to remit any tax imposed by this subchapter shall pay interest at the rate of one half 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.

(7) 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 required to be paid.

(8) Petition for Waiver. Any operator or commercial establishment who fails to remit the tax herein levied within the time herein stated, shall pay the penalties herein stated provided, however, the operator or commercial establishment may petition the County Finance Officer for waiver and refund of the penalty or any portion thereof and the County Finance Officer may, if a good and sufficient reason is shown, waive and direct a refund of the penalty or any portion thereof.

4.225 Deficiency Determinations; Fraud, Evasion, Operator Delay.

(1) Deficiency Determination. If the County Finance Officer determines that the returns are incorrect, he or she 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 or her 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 LC 4.220 above.

(a) In making a determination the County Finance Officer may offset overpayments, if any, which may have been previously made for a period or periods, against any underpayment for a subsequent period or periods, or against penalties, and interest, on the underpayments. The interest on underpayments shall be computed in the manner set forth in LC 4.220 above.

4.225(1)

Lane Code

4.225(2)

(b) The County Finance Officer shall give to the operator a written notice of the determination. The notice may be served personally or by mail; if by mail, the notice shall be addressed to the operator at the address as it appears in the records of the County Finance Officer. In case of service by mail or any notice required by this subchapter the service is complete at the time of deposit in the United States Post Office.

(c) Except in the case of fraud or intent to evade the provisions of this subchapter 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 quarterly period for which the amount is proposed to be determined or within three years after the return is filed, whichever period expires the later.

(d) Any determination shall become due and payable immediately upon receipt of notice and shall become final within 10 days after the County Finance Officer 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.

(2) 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 subchapter any report and remittance of said tax or any portion thereof required by this subchapter, or makes a fraudulent return or otherwise wilfully attempts to evade this subchapter, the County Finance Officer shall proceed in such manner as he or she may deem best to obtain facts and information on which to base an estimate of the tax due. As soon as the County Finance Officer has determined the tax due that is imposed by this subchapter from any operator who has failed or refused to collect the same and to report and remit said tax, he or she shall proceed to determine and assess against such operator the tax, interest and penalties, provided for by this subchapter. In case such determination is made, the County Finance Officer 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 after discovery by the County Finance Officer 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 immediately upon receipt of notice and shall become final within 10 days after the County Finance Officer 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.

4.225(3)

4.235(1)

(3) Operator Delay. If the County Finance Officer believes that the collection of any tax or any amount of tax required to be collected and paid to the County will be jeopardized by delay, or if any determination will be jeopardized by delay, he or she shall thereupon make a determination of the tax or amount of tax 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 the determined amount to the County Finance Officer 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 10 days from the date of service of notice by the County Finance Officer.

4.230 Redeterminations.

(1) Any person against whom a determination is made under LC 4.225 above or any person directly interested may petition for a redetermination and redemption and refund within the time required in LC 4.225 above. If a petition for redetermination and refund is not filed within the time required in LC 4.225 above, the determination becomes final at the expiration of the allowable time.

(2) If a petition for redetermination and refund is filed within the allowable period, the County Finance Officer shall reconsider the determination, and, if the person has so requested in his or her petition, shall grant the person an oral hearing and shall give him or her 10 days notice of the time and place of the hearing. The County Finance Officer may continue the hearing from time to time as may be necessary.

(3) The County Finance Officer 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.

(4) The order or decision of the County Finance Officer upon a petition for redetermination of redemption and refund becomes final 10 days after service upon the petitioner of notice thereof, unless appeal of such order or decision is filed with the County Finance Officer within the 10 days after service of such notice.

(5) No petition for redetermination of redemption and refund or appeal shall be effective for any purpose unless the operator has first complied with the payment provisions hereof.

4.235 Security for Collection of Tax.

(1) The County Finance Officer whenever he or she deems it necessary to ensure compliance with this subchapter, may require any operator subject thereto to deposit with him or her such security in the form of cash, bond, or other security as the County Finance Officer may determine. The amount of the security shall be fixed by the County Finance Officer, but shall not be greater than twice the operator's estimated average quarterly liability for the period for which he or she files returns, determined in such manner as the County Finance Officer deems proper, or \$5,000, whichever amount is the lesser. The amount of the security may be increased or decreased by the County Finance Officer subject to the limitations herein provided.

4.235(2)

4.245

(2) 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 County Finance Officer may bring an action in the courts of this State, or any other state, or of the United States in the name of the County to collect the amount delinquent, together with penalties and interest.

4.240 Lien. The tax imposed by this subchapter, together with the interest and penalties herein provided, the filing fees paid to the County Clerk of Lane County, Oregon, and advertising costs, which may be incurred when same become delinquent as set forth in this subchapter, shall be and, until paid, remain a lien from the date of its recording with the County Clerk of Lane County, Oregon, and superior to all subsequent recorded liens on all tangible personal property used in the commercial establishment of an operator within the County and may be foreclosed on and sold as may be necessary to discharge said lien as recorded with the County Clerk of Lane County, Oregon. Notice of lien may be issued by the County Finance Officer or his or her deputy whenever the operator is in default in the payment of said tax, interest and penalty and shall be recorded with the County Clerk of Lane County, Oregon and a copy sent to the delinquent operator. The personal property subject to such lien seized by any deputy or employee of the County Finance Officer may be sold by the Department seizing the same at public auction after 10 days notice which shall mean one publication in a newspaper of general circulation published within the County.

Any lien for taxes as shown on the records of the proper County official shall, upon the payment of all taxes, penalties, and interest thereon, be released by the County Finance Officer when the full amount determined to be due has been paid to the County and the operator or person making such payment shall receive a receipt therefor stating that the full amount of taxes, penalties and interest thereon have been paid and that the lien is thereby released and the record of lien is satisfied.

4.245 Refunds. 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 County Finance Officer under this subchapter, it may be refunded, provided a verified claim in writing therefor, stating the specific reason upon which the claim is founded, is filed with the County Finance Officer within three years from the date of payment. The claim shall be made on forms provided by the County Finance Officer. If the claim is approved by the County Finance Officer, the excess amount collected or paid may be refunded or may be credited on any amounts then due and payable from the operator from whom it was collected or by whom paid and the balance may be refunded to such operator, his or her administrators, executors or assignees. All refunds shall be charged to the dedicated funds set forth in LC 4.250 below.

4.250

Lane Code

4.260(4)

4.250 Use of Tax by County. The taxes collected under this subchapter are dedicated and shall be used exclusively for Lane County park operations, acquisition, construction and maintenance, except that the portion of taxes attributable to gasoline sales shall be subject to the limitations on use prescribed by the Constitution and laws of Oregon.

4.255 Exemption. The tax imposed by this subchapter shall not be applicable to a rental fee which Oregon or federal law exempts from the tax.

4.260 Registration Required Form and Contents; Execution; Certification of Authority. Every person engaging or about to engage in business as an operator of a commercial establishment shall register with the County Finance Officer on a form provided. Persons operating commercial establishments at the time this subchapter is adopted must register not later than 30 calendar days after the effective date of this subchapter. Persons starting commercial establishments after this subchapter is adopted must register within 15 calendar 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 shall set forth the name under which an operator transacts or intends to transact business, the location of the place or places of business and such other information to facilitate the collection of the tax as the County Finance Officer may require. The registration shall be signed by the operator. The County Finance Officer shall, within 10 days after registration, issue without charge a certificate of authority to each registrant to collect the tax, 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 County Finance Officer 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 persons seeking to do business therein. Said certificate shall, among other things, state the following:

- (1) The name of the operator;
- (2) The address of the commercial establishment;
- (3) The date upon which the certificate was issued;
- (4) "This Car Rental Registration Certificate signi-

fies that the person named on the face hereof has fulfilled the requirements of the Lane County Car Rental Tax by registration with the County Finance Officer for the purpose of collecting the car rental tax imposed by Lane County and remitting said tax to the County Finance Officer. 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 commercial establishment without strictly complying with all local applicable laws. This certificate does not constitute a permit."

4.265

Lane Code

4.275

4.265 County Finance Officer Rules. The County Finance Officer is hereby authorized to establish such rules and procedures for the implementation and enforcement of this subchapter, consistent with its provisions, as the County Finance Officer considers necessary and appropriate.

4.270 Appeals to County Finance Officer. Any person aggrieved by any decision of the County Finance Officer may appeal to the County Administrator by filing a notice of appeal with the County Finance Officer within 10 days of the serving or the mailing of the notice of the decision given by the County Finance Officer. The County Finance Officer shall transmit said notice of appeal, together with the file of said appealed matter to the County Administrator who shall fix a time and place for hearing such appeal from the decision of the County Finance Officer. The County Administrator shall give the appellant not less than 10 days written notice of the time and place of hearing of said appealed matter.

4.275 Operative Date. The tax imposed by this subchapter shall apply to all rental fees collected on or after July 15, 1983 through June 30, 1984. The ordinance enacting this subchapter is repealed effective July 1, 1984, provided, however, that all provisions relating to procedures, rights and liabilities shall continue in full force and effect with respect to any taxes due on all rental fees collected during the effective period until said taxes are paid. If a general sales tax is enacted for the State of Oregon, the Board of County Commissioners will review at that time the percentage of the tax and the continuance of the tax.

4.995(1)

Lane Code

4.997(2)

PENALTY4.995 Penalties - Lane County Transient Room Tax.

(1) It is unlawful for any operator or other person so required by LC 4.100 to 4.195 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 subchapter.

(2) Any person wilfully violating any of the provisions of LC 4.110, 4.115, 4.120, 4.130, 4.135, 4.145, 4.155, 4.170 and 4.175 shall be guilty of a misdemeanor and shall be punishable therefor by a fine of not more than \$500 or by imprisonment in the County Jail for a period of not more than six months or by both such fine and imprisonment.

4.997 Penalties - Lane County Car Rental Tax.

(1) It is unlawful for any operator or other person so required by LC 4.200-4.275 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 County Finance Officer 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 subchapter.

(2) Any person who wilfully violates any provision of LC 4.200-4.275 or 4.997 shall, upon conviction, be subject to a fine of not more than \$500, imprisonment in the County Jail for not more than six months, or both.