

City of Rockaway Beach City Council Meeting Agenda



Date: Wednesday, November 10, 2021
Time: 6:00 P.M.
Location: Rockaway Beach City Hall, 276 HWY 101 -Civic Facility or by Zoom:

<https://us06web.zoom.us/j/86219593031?pwd=alQ0VnRtWGJpc3NGZEVkNzI0Z3I3UT09>

Meeting ID: 862 1959 3031

Passcode: 019813

One tap mobile

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CALL TO ORDER – Sue Wilson, Mayor

PLEDGE OF ALLEGIANCE

ROLL CALL

Mayor: Sue Wilson

Councilors: Penny Cheek, Mary McGinnis,
Terry Walhood, Tom Martine, Kristine Hayes

CONSENT AGENDA

1. Approval of Minutes: October 13, 2021
 - a. October 2021 Check Register

CITIZEN INPUT ON NON-AGENDA ITEMS

PRESENTATIONS, GUESTS & ANNOUNCEMENTS

STAFF REPORTS

1) Sheriff's Office 2) Fire Chief 3) Public Works 4) City Manager

OLD BUSINESS

PUBLIC HEARING ON ORDINANCE NO. 21-441 AN ORDINANCE AMENDING THE ROCKAWAY BEACH CODE OF ORDINANCES CHAPTER 34 RELATING TO TRANSIENT LODGING TAXATION

1ST READING BY TITLE ONLY OF ORDINANCE NO. 21-441 AN ORDINANCE AMENDING THE ROCKAWAY BEACH CODE OF ORDINANCES CHAPTER 34 RELATING TO TRANSIENT LODGING TAXATION

This is the first of two Readings to adopt the Ordinance No. 21-441.

**SECOND READING BY TITLE ONLY OF ORDINANCE NO. 21-441 AN
ORDINANCE AMENDING THE ROCKAWAY BEACH CODE OF ORDINANCES
CHAPTER 34 RELATING TO TRANSIENT LODGING TAXATION**

This is the second Reading of Ordinance No. 21-441.

ADOPTION AND APPROVAL OF ORDINANCE NO. 21-441

With the second reading now complete, Ordinance No. 21-441 is ready for adoption.

**APPROVAL OF TRANSIENT LODGING TAX COLLECTION
INTERGOVERNMENTAL AGREEMENT**

The Department of Revenue shall supervise and administer, according to the terms and conditions set forth in this agreement, the local tax on transient lodging by transient lodging providers within the City of Rockaway Beach.

**ADOPTION OF RESOLUTION 21-972 A RESOLUTION TO HONOR THE
MEMORY AND CONTRIBUTIONS OF TERRI MICHEL, A VOLUNTEER,
RESIDENT AND EMPLOYEE OF THE CITY OF ROCKAWAY BEACH, TO
THIS COMMUNITY AND DEDICATING THE OLD GROWTH CEDAR
BOARDWALK TO HER MEMORY**

Proposed language for the dedication plaque can be found in your council packets.

NEW BUSINESS

**PRELIMINARY DISCUSSION ON GOAL SETTING FOR THE 2022/23
BUDGET YEAR**

City Manager seeks input from the governing body regarding goals and projects for the upcoming budget year. This input will be used to draft a list for further discussion at next month's regular City Council meeting.

COUNCIL CONCERNS

MAYOR'S REPORT

ADJOURNMENT

City of Rockaway Beach City Council Meeting Minutes



Date: Wednesday, October 13, 2021
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Location: Rockaway Beach City Hall, 276 HWY 101 -Civic Facility

CALL TO ORDER – Sue Wilson, Mayor

PLEDGE OF ALLEGIANCE

ROLL CALL

Mayor - Sue Wilson: Present
Position #3 - Kristine Hayes: Absent
Position #4 - Terry Walhood: Present
Position #1 - Mary McGinnis: Present
Position #5 - Penelope Cheek: Present
Position #2 - Tom Martine: Present

CONSENT AGENDA

Walhood made a motion, seconded by Martine to approve the August 11, 2021 workshop minutes, August 11th, 2021 minutes, September 8th, 2021 minutes, August 2021 check register and the September 2021 check register; motion carried.

Position #4 - Terry Walhood: Motion
Position #2 - Tom Martine: 2nd
Position #3 - Kristine Hayes: Absent
Position #4 - Terry Walhood: Approve
Position #1 - Mary McGinnis: Approve
Position #5 - Penelope Cheek: Approve
Position #2 - Tom Martine: Approve

CITIZEN INPUT ON NON-AGENDA ITEMS

Jerry and Ron from the Rockaway lions spoke to the council to propose that the Weenie Wagon is placed at the Wayside for the upcoming weekend of October 22nd and 23rd.

Walhood made a motion, seconded by Cheek to add the October 22nd and 23rd dates to the Rockaway Lions application; motion carried.

Position #4 - Terry Walhood: Motion
Position #5 - Penelope Cheek: 2nd
Position #3 - Kristine Hayes: Absent
Position #4 - Terry Walhood: Approve
Position #1 - Mary McGinnis: Approve
Position #5 - Penelope Cheek: Approve
Position #2 - Tom Martine: Approve

PRESENTATIONS, GUESTS & ANNOUNCEMENTS

STAFF REPORTS

Undersheriff, Matt Kelly stated the sheriff's department has stayed busy over the last month. Kelly said the Sheriff's department held interviews on Friday to hire more deputies for Rockaway Beach. Kelly mentioned you may see the deputies wearing an undershirt that is Pink or Purple during the month of October for Breast Cancer awareness and Domestic violence awareness.

Fire Chief, Todd Hesse stated the first person in the EMT class has passed the National Written Exam. Hesse said last month the department did pump tests and the 1993 pumper tender passed with no issues but, the new pumper is having some issues with pumping. Hesse mentioned the Fire Department will begin recruiting for an additional staff member. Martine stated he has been very impressed with the new CPR machine the department purchased.

Public Works, Rob Morris Director updated the council on the main pump station project. Morris stated he would be leaving the city at the end of October and thanked the Council for all their support. Morris also thanked City Manager Shepard for his role and giving him everything he needed to succeed and couldn't ask for a better Public Works Department to work with. Morris introduced Lead Plant Operator Dan Emerson, who will be stepping into the lead role for the department during recruitment for the next City Engineer. Emerson introduced himself to the council. Emerson stated the department has been doing several planned repairs and improvements to the water distribution system. Emerson said the department was successful in hauling the accumulated biosolids from the drying bed at the wastewater plant to an approved receiving site for proper disposal. Wilson asked where the city was with respect to the Crescent Lake outfall, Emerson said it depends on the tide and if the department can get equipment to clear the logs out, but as of right now it is in good shape.

City Manager, Luke Shepard thanked Morris for all his work and stated he has left the Public Works Department in a better place than he found it. Shepard stated that while the City looks for a new Public Works Director/ City Engineer, Dan Emerson will be stepping in to supervise the department's daily operations. He explained that Emerson currently runs the City's water and wastewater treatment operations and has been with the City for almost 14 years. Shepard said he had no doubt that Emerson is up to the task. Shepard explained that the owner of the Reimers lot had recently passed away. The City currently leases this lot as a "pocket park" in the downtown area, but the lot will soon be up for sale. He added that the City may begin removing some items from the lot. Shepard said that work to overhaul the City's website will begin soon. He added that the new website will be look and feel more modern, be compatible with mobile devices, and include an interactive calendar. Shepard mentioned the city is closer to receiving new entrance and wayfinding signs, as the signs have been designed and are now out for pricing. Shepard finished by thanking Fire Chief Hesse and all the awesome volunteer Firefighters and EMTs for getting Rockaway through the busiest year he has ever seen.

OLD BUSINESS

CONTINUED DISCUSSION ON JULY 4th HOLIDAY WEEKEND

Wilson read the following: At the Work Session held on August 11, City discussed the ever-increasing number of visitors to Rockaway; and that Rockaway Beach can no longer meet the staff, resource and emergency service demands now required to safely host a parade. Feasible alternatives were discussed, including July 4th and shoulder season events, including improvements to the Wiener Dog International Races. City Manager will further summarize the work session in more detail and continue the discussion.

Shepard stated that he hoped he and City staff had made it clear that the increase in the amount of visitors since 2019 has been much larger than most people realize and that it is just no longer possible to safely hold the parade. Shepard said the purpose of the August workshop was to discuss alternatives that would keep the spirit of the holiday alive. Shepard mentioned he met with Eli Newell and his crew who put on the Wiener Dog Races. They are very interested in improving their event. Shepard stated they discussed six different areas to help improve the event. Cheek stated she thinks it is a great idea and liked the discussion about having the parade on the high school track. Wilson agreed and thought the City should move forward. Martine stated he has an idea to place garbage cans up and down the beach, Shepard said he would investigate.

DISCUSSION OF INTERGOVERNMENTAL AGREEMENT (IGA) WITH THE DEPARTMENT OF REVENUE

The state of Oregon is now authorized to collect Transient Lodging Tax on behalf of local governments. An IGA is one of the requirements to participation in this program. City Manager to review this IGA and other program requirements with City Council.

Shepard went over the IGA and the draft ordinance with the City Council. He explained that the City is moving to join a program to allow the Department of Revenue to collect transient room tax on rentals within the City of Rockaway Beach. He mentioned that this topic has been discussed at various City Council meeting throughout the year as more program details became available, that final documents were now drafted, and that the next step in the process is for the council to adopt the drafted Transient Room Tax Ordinance and approve the IGA. These documents will be on the agenda at the City Council meeting. Walhood stated she went to a meeting and the county TLT taxes have increased in just the first quarter by one hundred and fifty percent. Walhood said it's a good idea. Martine said it will probably pay for itself.

NEW BUSINESS

APPOINTMENT TO FILL VACANCY ON THE PLANNING COMMISSION

Wilson read the following: The city received applications for the position #4 vacancy. Planning Commission position #4 is vacant due to Commissioner McGinnis' appointment

to the City Council on August 11th. A vacancy in the Council shall be filled by appointment by a majority of the Council. In this matter the mayor is not considered to have a vote. Applications received for the open position have been included in your Council Packets for review.

Walhood made a motion, seconded by McGinnis to move that the Rockaway Beach City Council appoint Sandra Johnson to position 4 of the Rockaway Beach Planning Commission; motion carried.

[Position #4 - Terry Walhood: Motion](#)

[Position #1 - Mary McGinnis: 2nd](#)

[Position #3 - Kristine Hayes: Absent](#)

[Position #4 - Terry Walhood: Approve](#)

[Position #1 - Mary McGinnis: Approve](#)

[Position #5 - Penelope Cheek: Approve](#)

[Position #2 - Tom Martine: Approve](#)

Cheek hoped to see the other applicant apply again in the future, McGinnis agreed.

DISCUSSION ON ACTION TO ACKNOWLEDGE THE DEDICATION AND ACCOMPLISHMENTS OF TERRI MICHEL

Longtime employee and former City Manager Terri Michel passed away on September 3rd. She dedicated 22 years of her life in service to the City of Rockaway Beach. The City wishes to take action to acknowledge her service and accomplishments.

Shepard stated the City will host a celebration of life; the date has not yet been decided. Shepard said the Boardwalk was very special to Michel and suggested the City install a plaque near the tree along the Boardwalk, renaming or dedicating the Boardwalk to her memory. McGinnis said she would like to dedicate something to her. Mayor and Council asked for more time. Shepard asked that the City Councilors contact him with their ideas and that he would incorporate them into a finalized proposal for the next City Council meeting.

COUNCIL CONCERNS

McGinnis thanked Rob Morris for all his work and welcomed Sandra Johnson to the Planning Commission. Walhood thanked Morris and thanked the Undersheriff for supporting Domestic Violence awareness. Martine thanked the Sheriff's department for their presents in the Lake Lytle area.

MAYOR'S REPORT

Wilson thanked Morris for his dedication to the city and wished him the best. Wilson stated she believes purchasing the Reimers lot would be beneficial to the city.

ADJOURNMENT

Meeting adjourned at 6:55pm

MINUTES APPROVED THIS 10th
DAY OF NOVEMBER 2021

Mayor, Sue Wilson

City Manager, Luke Shepard



TILLAMOOK COUNTY SHERIFF'S OFFICE

CONSERVATORS OF THE PEACE

Sheriff Joshua Brown

Rockaway Beach Patrol

Month of October

In the month of October the Tillamook County Sheriff's Office Deputies responded to 144 calls within Rockaway Beach. Those calls included some of the following: 5 assist calls, 20 traffic stops, 10 welfare checks, 6 disturbances, and 5 ordinance violations.

On October 30th Deputy Ethan Ault took a call regarding a break in to a vehicle that occurred in the parking lot at Saint Mary's by the Sea. The victims were not from the area and drove to Rockaway Beach to watch the sunset. While they were on the beach someone broke into their vehicle and stole a purse. Deputy Ault was able to use the cameras at the church to determine a suspect vehicle. He was able to track down the vehicle and contact one of the suspects. In the end, Deputy Ault was able to locate the victim's purse and return it to her.

On October 23rd, Tillamook County Sheriff's Office hosted a job fair at Tillamook Fairgrounds. We offered the high school equivalency test and a physical fitness test. Applicants must complete and pass these tests before they be considered for interviews. We are hopeful that we will find quality men and woman to join Tillamook County Sheriff's Office.

In October, we sent one of our newest deputies to the Oregon Police Academy (DPSST). He will spend a little over four months at the academy. He will spend that time being trained in the basics in law enforcement. They will cover criminal law, civil law, traffic stops, defensive tactics, personal mental and physical health and much more. We look forward to getting him back. After he returns, he will go through an intensive field training program. We are hopeful that he will be on his own by the beginning to middle of next summer.

Undersheriff Matt Kelly

Rockaway Beach Fire Rescue
276 Hwy 101 S
PO Box 5
Rockaway Beach OR 97136
503-374-1752



Date November 1, 2021

Honorable Mayor, City Council and City Manager of Rockaway Beach

Fire Department Council Report:

The following is a summary of the activities and operations of the Rockaway Beach Fire and Rescue Department for the month of October 2021.

The Department responded or participated in 60 events during the month of October, the breakdown is listed below.

911 calls for Service: 39	Trainings: 6	Non-Emergent: 15
33- Medical	Chimney Fires	4- Beach Safety
1- Fire Alarm	Communications	2- Public Assist
2- Structure Fire	ICS	0- Lift Assist
2- Water Rescue	SCBA	3- Burn Complaints
1- MVA		4- Radio call-ins
0- Outside Fire		2- Special Assignments
0-Vehicle Fire		

Training update- The Department hosted a Firefighter Instructor 1 class. 6 Students from Tillamook County attended the 2-day class. Our department had 2 participants who successfully completed the class and are now DPSST Fire Instructors. We have also had 3 of our EMT students attempt the NAEMT national exam and all 3 have passed and are now Oregon Certified EMT's. Weekly trainings have focused on Operations, including Chimney Fires, Incident Command structure, PPE\SCBA cleaning and the importance of clear communications on the Fire ground. As winter approaches, we will focus on classroom projects, move our drone program forward and improve our water rescue capabilities. A second EMT class is being discussed to begin in January. Winter classes in Wildland firefighting are also being discussed.

October was testing month for our SCBA's. As they are reaching the end of there service life a large number had issues passing the annual test. We were unsuccessful in a regional grant to replace the SCBA's in 2021 and will reapply in 2022. The current set of SCBA's which have a service life of 15 years are set to expire in 2023. I will continue to explore funding options and keep the council informed.

Beach Safety continues to be a huge priority of the department. The focus continues to be on education and safety. During the month of October crews were on the beach 4 separate times and spent a total of 9 volunteer hours on the Beach. I have included the Year to date data in this report:

	October	YTD
Fire safety\Educational Moments-	2	172
Rip Current Safety Messages\Out of Water-	4\7 persons	301\915
Stickers to kids-	2	475
Educational signs reset-	1	37
Education Signs Replaced-	0	12
Fires extinguished-	1	226

Since the burn ban has been lifted the Department has seen a decrease in burning complaints. Compliance with burn permits is high and our citizens have been doing a good job following open burning requirements.

I have begun the process of recruitment for a position of a full-time Firefighter\EMT. I will keep the council informed of the progress.

Overall, my mission and goals have not changed. I continue to take care of the immediate safety of my crew and public needs as my highest priorities. If you have any questions, concerns or thoughts please let me know.

Respectfully submitted,

Todd Hesse
Fire Chief
Rockaway Beach Fire Rescue

City of Rockaway Beach, Oregon
276 S. Highway 101, PO Box 5
Rockaway Beach, OR 97136
(503) 374-1752 FAX (503)374-0601



November 3, 2021

Dear Mayor and City Council Members,

For those who don't know me my name is Dan Emerson. I will be filling in while the City recruits for the next Public Works Director/City engineer. As such, my duties are to manage and direct the Public Works crew and ensure the health and safety of the community as it relates to the public services we provide.

During the month of October, the Public Works Department worked hard to maintain essential services to all residents during local power outages by mobilizing emergency generators and actively managing our sewer and water systems to ensure continued service. Public Works crews continued to address drainage issues throughout town, by proactively clearing ditches, culverts, and creek outfalls in anticipation of wet weather and king tides forecasted for this coming month.

As you may have notice, the southern "welcome to Rockaway" sign was damaged by the recent windstorm. Our Public Works Department removed the damaged sign and made repairs.

Tillamook County awarded funding for the City's Wayfinding Plan in their 2021/2022 Budget. These new signs have already been designed, and bids for fabrication are being accepted now.

Work on the main pump station at south 3rd and Anchor Streets is moving forward pumps are installed in the new wet well and are being tested.

Work to renew the City's NPDES wastewater permit has commenced. The permit period is for 5 years and expires in October 2022.

As the City's previous utility worker, wastewater, and water plant operator I bring a knowledge and the skillset to deal with Public Works emergencies. My goal for the department over the next two months is to continue the tradition of building community trust and getting the most out of the resources the Department has.

Thank you for giving me the opportunity to serve the community.

Sincerely,

Dan Emerson
Public Works Lead Worker
City of Rockaway Beach
503-374-1752

**CITY OF ROCKAWAY BEACH
ORDINANCE NO. 21 - 441**

**AN ORDINANCE AMENDING THE ROCKAWAY BEACH CODE OF ORDINANCES
CHAPTER 34 RELATING TO TRANSIENT LODGING TAXATION.**

RECITALS / FINDINGS:

1. The Rockaway Beach transient lodging tax was first adopted January 9, 1980. The tax is a tax imposed by the City on the sale, service or furnishing of transient lodging.
2. Transient lodging includes hotel, motel and inn dwelling units that are used for temporary overnight human occupancy; spaces used for parking recreational vehicles or erecting tents during periods of human occupancy; or houses, cabins, condominiums, apartment units or other dwelling units, or portions of any of these dwelling units, that are used for temporary human occupancy.
3. Pursuant to a recent change in state law, ORS Chapter 320 now allows the City to work with the Oregon Department of Revenue to administer the collection of the City's transient lodging tax. In order to have this option, some amendments are needed to update certain procedures in the City's transient lodging tax code. The League of Oregon Cities worked with the Department of Revenue to produce a model tax ordinance that meets the requirements of the Department of Revenue. Adopting the model ordinance serves to update the City's tax provisions, while maintaining the City's existing tax rate and tax revenue allocation formula.
4. This ordinance does not amend the City's transient lodging tax rate or amend the tax revenue allocation formula. The City will maintain the tax revenue allocation formula that has been in place since before July 1, 2003, with only the revenue from subsequent increases subject to ORS 320.350(5)-(6).

NOW THEREFORE, THE CITY OF ROCKAWAY BEACH, OREGON, ORDAINS AS FOLLOWS:

Section 1. City of Rockaway Beach Code of Ordinances Sections 34.01 through 34.18 and 34.99 are hereby amended, in total, to provide as follows:

34.01 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

Occupancy means the right to the use or possession of any space in transient lodging for dwelling, lodging or sleeping purposes for less than 30 days.

Occupant means any individual who exercises occupancy or is entitled to occupancy in transient lodging for a period of 30 consecutive calendar days or less, counting portions of calendar days as full days.

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

Rent means the consideration paid or payable by an occupant for the occupancy of space in transient lodging valued in money, goods, labor, credits, property, or other consideration. If a separate fee is charged for services, goods or commodities and the fee is optional, that fee is not included in rent.

Short-Term Rental means a house, duplex, multi-plex, apartment, condominium, houseboat, trailer or other residential dwelling unit where a person rents a guest bedroom or the entire residential dwelling unit for transient lodging occupancy. Generally, a short-term rental is zoned residential or has a building occupancy that only allows for residential use.

Short-Term Rental Hosting Platform means a business or other person that facilitates the retail sale of transient lodging by connecting occupants with transient lodging providers, either online or in any other manner. Short-term rental hosting platforms are transient lodging intermediaries.

Tax or **TLT** means the transient lodging tax.

Tax Administrator means the City Manager of the City of Rockaway Beach, or its designee, which may include the Oregon Department of Revenue. If the city utilizes the Oregon Department of Revenue as its tax administrator, it will comply with ORS 305.620 in that it will follow the rules adopted by the Department of Revenue regarding the administration, collection, enforcement and distribution of transient lodging taxes.

Transient Lodging or **Transient Lodging Facilities** means:

- (A) Hotel, motel, and inn dwelling units that are used for temporary overnight human occupancy;
- (B) Spaces used for overnight parking of recreational vehicles or placement of tents during periods of human occupancy; or
- (C) Houses, cabins, condominiums, apartment units or other dwelling units, or portions of any of these dwelling units that are used for temporary human occupancy.

Transient Lodging Intermediary means a person other than a transient lodging provider that facilitates the retail sale of transient lodging and:

- (A) Charges for occupancy of the transient lodging;
- (B) Collects the consideration charged for occupancy of the transient lodging; or

(C) Receives a fee or commission and requires the transient lodging provider to use a specified third-party entity to collect the consideration charged for occupancy of the transient lodging.

Transient Lodging Provider means a person that furnishes transient lodging.

Transient Lodging Tax Collector means a transient lodging provider or transient lodging intermediary.

34.02 TAX IMPOSED.

(A) Each occupant shall pay a TLT in the amount of ten percent (10%) of the rent. The occupant shall pay the TLT with the rent to the transient lodging tax collector. TLT amounts shall be rounded down to the nearest cent. The transient lodging tax collector shall maintain records of all rent charged and TLT payments received. If rent is paid in installments, a proportionate share of the TLT shall be paid by the occupant to the transient lodging tax collector with each installment unless the occupant pays the entire amount with the first payment.

(B) Bills, receipts or invoices provided to occupants shall list the TLT separately and must accurately state the amount of tax. All amounts listed as TLT on invoices, bills or receipts must be reported as TLT and, after collection, must be turned over to the city, less the five percent (5%) administrative charge.

34.03 COLLECTION OF TAX BY TRANSIENT LODGING TAX COLLECTOR.

(A) Every transient lodging tax collector shall collect the TLT at the time rent is paid, unless an exemption applies. If payment is by credit card, for purposes of this section, payment is made at the time credit card information is provided to the transient lodging tax collector, not when the transient lodging tax collector ultimately receives credit for the transaction. While holding the payment in trust for the city, a transient lodging tax collector may commingle the tax proceeds with the transient lodging tax collector's funds, but the transient lodging tax collector is not the owner of tax proceeds, except that, when a return is filed, the transient lodging tax collector becomes the owner of the administrative fee authorized to be retained. Transient lodging tax collectors may choose to file returns and remit payment based on amounts accrued but not yet collected. The transient lodging tax collector is liable for any TLT that should have been collected from the occupant, except in cases of nonpayment of rent by the occupant.

(B) Upon request of the city, transient lodging tax collectors must provide all physical addresses of transient lodging facilities within the city limits and the related contact information, including the name and mailing address, of the general manager, agent, owner, host or other responsible person for the location.

34.04 SHORT-TERM RENTAL HOSTING PLATFORM FEES.

A hosting platform for short-term rentals may collect a fee for booking services in connection with short-term rentals only when those short-term rentals are lawfully registered as operators with the city and possess a certificate of authority at the time the short-term rental is occupied.

34.05 LIABILITY FOR TAX.

Transient lodging providers who receive any portion of the rent for transient lodging and transient lodging intermediaries that provide booking service are both transient lodging tax collectors and are jointly and severally liable for the tax.

34.06 EXEMPTIONS.

No TLT shall be imposed upon:

(A) A dwelling unit in a hospital, health care facility, long-term care facility or any other residential facility that is licensed, registered or certified by the Oregon Department of Human Services or the Oregon Health Authority;

(B) A dwelling unit in a facility providing treatment for drug or alcohol abuse or providing mental health treatment;

(C) A dwelling unit that is used by members of the general public for temporary human occupancy for fewer than 30 days per year;

(D) A dwelling unit, the consideration for which is funded through a contract with a government agency and the purpose of which is to provide emergency or temporary shelter;

(E) A dwelling unit at a nonprofit youth or church camp, nonprofit conference center or other nonprofit facility; or

(F) A dwelling unit that is leased or otherwise occupied by the same person for a consecutive period of 30 days or more during the year. The requirements of this subsection are satisfied even if the physical dwelling unit changes during the consecutive period, if:

(1) All dwelling units occupied are within the same facility; and

(2) The person paying consideration for the transient lodging is the same person throughout the consecutive period.

34.07 REGISTRATION OF TRANSIENT LODGING PROVIDER – FORM AND CONTENTS – EXECUTION – CERTIFICATION OF AUTHORITY.

(A) Every person engaging or about to engage in business as a transient lodging provider shall

provide a completed registration form to the tax administrator within 15 calendar days after commencing business. The registration form shall require the transient lodging provider to provide the name of the business, any separate business addresses, and other information as the tax administrator may require to implement this Chapter. Transient lodging providers who own or operate transient lodging facilities in Rockaway Beach shall provide the address of the lodging facility. The registration form shall be signed by the transient lodging provider. The tax administrator shall, within 15 days after registration, issue without charge a certificate of authority to collect the TLT. The transient lodging provider's obligation to collect the TLT is imposed once rent for transient lodging is paid, even if the registration form has not been filed or if the certificate has not been issued. If the rent transaction is facilitated online, the certificate of authority must be able to be viewed by the occupant by clicking on a link to the certificate of authority at a reasonable place during the payment transaction.

(B) Certificates shall be non-assignable and non-transferable and shall be surrendered to the tax administrator when the business is sold or transferred or when a transient lodging facility ceases to operate at the location specified in the registration form. Each certificate issued to a transient lodging provider for a specific lodging facility shall be prominently displayed at the lodging facility and include:

- (1) The name of the transient lodging provider;
- (2) The address of the transient lodging facility;
- (3) The date the certificate was issued; and
- (4) The certificate number as assigned by the tax administrator.

34.08 REMITTANCES AND RETURNS.

(A) Transient lodging tax collectors must submit a completed tax return form to the tax administrator on or before the last day of the month following the end of each calendar quarter, reporting the amount of tax due during the quarter and accompanied by remittance of all tax collected, less a five percent administration fee. The return shall be filed in such form as the tax administrator may prescribe. The tax administrator if they deem it necessary in order to ensure payment or facilitate collection by the City of the amount of taxes in any individual case, may require returns and payment of the amount of taxes on other than monthly periods.

(B) The transient lodging tax collector is entitled to the administration fee. If a transient lodging facility has multiple owners, they are not entitled to retain additional fees.

(C) Remittances are delinquent if not made by the last day of the month in which they are due.

(D) Returns shall show the gross rents collected, taxable rents, the total amount of TLT collected

and the amount of the administrative fee retained by the transient lodging tax collector. Returns shall also show the exempt and excluded rents and the basis for exemptions and exclusions.

(E) The person required to file the return shall deliver the return, together with payment of the amount of the tax due, to the tax administrator, to the appropriate office, either by personal delivery, by mail, or by electronic tax return filed through a reporting and payment portal furnished by the tax administrator, or its designee. If the return is mailed, the postmark shall be considered the date of delivery.

(F) The tax administrator may extend the time for making any return or remittance of the tax by up to 30 days. No further extension shall be granted, except by the city council. Any transient lodging tax collector to whom an extension is granted shall pay interest at the rate of 1.5% per month on the amount of the remittance due without proration for a fraction of a month. If a return is not filed, and the remittance 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.

34.09 PENALTIES AND INTEREST.

(A) Interest shall be added to the overall tax amount due at the same rate established under ORS 305.220 for each month, or fraction of a month, from the time the return to the tax administrator was originally required to be filed to the time of payment.

(B) If a transient lodging tax collector fails to file a return or pay the tax as required, a penalty shall be imposed in the same manner and amount provided under ORS 314.400.

(C) Every penalty imposed, and any interest that accrues, becomes a part of the financial obligation required to be paid and remitted to the tax administrator.

(D) Taxes, interest, and penalties paid to the tax administrator under this section shall be distributed to the city's transient room tax fund.

34.10 DEFICIENCY DETERMINATION – FRAUD, EVASION, LOCAL TAX TRUSTEE DELAY.

(A) Deficiency Determination. The tax administrator may review tax returns and adjust the amount due based on the information in the return, on information obtained during a review or audit of records, or on the basis of other evidence. In the event of a deficiency, the tax administrator shall provide notice of the deficiency to the transient lodging tax collector, who shall remit deficiencies within 10 business days of the deficiency notice. Notice may be by personal delivery or certified or registered mail.

(1) In reviewing and adjusting tax returns, the tax administrator shall offset any amount received in excess of the remittances due against any shortages in remittances.

(2) Except in the case of fraud or intent to evade the TLT, notice of deficiency determinations shall be issued within three years of the period for which the deficiency determination is made.

(3) The time to remit deficient payment amounts under this section shall be extended if the local tax trustee timely requests a redetermination.

(B) Fraud – Refusal to Collect – Evasion. If any transient lodging tax collector fails to collect, report or remit the tax as required, submits a fraudulent return, or otherwise violates or attempts to violate this chapter, the tax administrator shall estimate the tax due, and calculate the amount owing from the transient lodging tax collector for tax remittance, interest and penalties and provide notice to the transient lodging tax collector of the assessment. The determination and notice shall be made and mailed within three years of the discovery by the tax administrator of the violation. The determination is due and payable upon receipt of notice and shall become final 10 business days after the date notice was delivered if no petition for redetermination is filed.

34.11 REDETERMINATIONS.

(A) Any person affected by a deficiency determination may file a petition for redetermination with the tax administrator within 10 business days of service of notice of the tax deficiency. A determination becomes final if a petition for redetermination is not timely filed.

(B) If a petition for redetermination is filed within the allowable period, the tax administrator shall reconsider the determination and grant an oral hearing if requested. The petitioner shall be allowed at least 20 business days to prepare for the hearing.

(C) After considering the petition and all available information, the tax administrator shall issue a redetermination decision and mail the decision to the petitioner. During the redetermination process, the tax administrator may agree to a compromise of the amount due if there is a good faith dispute over the amount owing.

(D) The decision of the tax administrator on redetermination becomes final and payment is due 10 business days after the decision is mailed unless the petitioner files an appeal to the city council within that time. The appeal shall be filed with the tax administrator. The city council's decision shall be final when reduced to writing and mailed to the petitioner and all amounts due must be paid within 10 business days of mailing of the city council decision.

34.12 COLLECTIONS.

(A) The city and the Oregon Department of Revenue, if the Department of Revenue is the tax administrator, may bring legal action to collect on any amounts owed to the city under this chapter within three years after remittance is due to the city or within three years after any determination becomes final.

(B) The city is entitled to collect reasonable attorneys' fee in any legal action brought to collect on amount owed to the city under this chapter.

34.13 LIENS.

The city may record a lien in the city's lien docket, or in the appropriate records of the Tillamook County Clerk, against any real property owned by a transient lodging provider who receives any portion of the rent from a transient lodging facility located within the city as to any delinquent remittances by the transient lodging provider.

34.14 REFUNDS.

(A) Refunds by City to Transient Lodging Tax Collector. If the transient lodging tax collector remits more tax, penalty or interest than is due, the transient lodging tax collector may file a claim in writing stating the facts relating to the claim, within three years from the date of remittance. If the claim is approved by the tax administrator, the excess amount shall be either refunded or credited on any amount due from the transient lodging tax collector.

(B) Refunds by City to Occupant. A transient lodging tax collector may file a claim for refund by filing a claim in writing within three years of payment providing the facts relating to the claim for refund. If the tax administrator determines that the tax was collected and remitted to the city and the occupant was not required to pay the tax or overpaid, the city shall issue a refund to the occupant.

(C) Refunds by Transient Lodging Tax Collector to Occupant. If an occupant has paid tax to a transient lodging tax collector but stays a total of 30 or more consecutive days in the same transient lodging facility, the transient lodging tax collector shall refund to the occupant any tax collected for any portion of the continuous stay. The transient lodging tax collector shall account for the collection and refund to the tax administrator. If the transient lodging tax collector has remitted the tax prior to the refund or credit to the occupant, the transient lodging tax collector shall be entitled to a corresponding refund or offset if the claim for refund is filed within three years from the date of collection.

(D) Burden of Proof. The person claiming the refund shall have the burden of proving the facts that establish the basis for the refund.

34.15 ADMINISTRATION.

(A) Use of TLT Funds. The revenue collected from the first 5% of the tax pursuant to this subchapter shall be allocated by the City Council to any one or more of the following during any one fiscal year, as follows: fire and rescue equipment, police services and equipment, promotion and tourism, street and parking improvements, parks and recreation services and equipment, land

acquisition and capital improvements, city beautification and urban renewal, provided, however, that no more than 40% of the total funds shall be allocated to any one category during one fiscal year. The revenue collected from the next 2% of the tax pursuant to this subchapter shall be allocated in its entirety to media advertising to promote tourism, economic development and a positive business environment in Rockaway Beach. The revenue collected from the 3% balance of the tax pursuant to this subchapter shall be allocated, following reductions attributed to collection reimbursement charges, consistent with ORS 320.350.

(B) Records Required from Local Tax Trustee. Every local tax trustee shall keep records of each transaction involving rent and/or collection of TLT. 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 a local tax trustee relating to receipt of rent and TLT and remittance of tax during normal business hours and may obtain copies of the records to audit returns.

(D) Authority of Tax Administrator. The tax administrator shall have the power to enforce this chapter, conduct audits, and to adopt rules, regulations and forms consistent with this chapter. Rules and regulations of general application shall be mailed to all registered transient lodging providers. The tax administrator may also issue written interpretations on request of a transient lodging tax collector. As to the transient lodging tax collector to whom the interpretation is issued, the City will act consistently with the interpretation until it is withdrawn, and the city shall provide 30 days' written notice of withdrawal of an interpretation.

(E) Confidential Character of Information Obtained – Disclosure Unlawful. The city shall maintain the confidentiality of information provided by transient lodging tax collector. 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 transient lodging tax collector and the transient lodging tax collector'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.

(6) Disclosures required by ORS Chapter 297.

34.16 APPEALS TO CITY COUNCIL.

If the Oregon Department of Revenue is the tax administrator, all appeals shall be filed in the Oregon Tax Court. See ORS 305.620(6). In all other cases, any person aggrieved by any decision of the tax administrator may appeal to the city council by filing a written appeal with the tax administrator within 10 business days of the serving or mailing of the decision being appealed. The tax administrator shall schedule the hearing on a city council agenda and provide the appellant notice of the hearing at least 10 business days before the hearing. The city council may agree to a compromise of the amount of tax remittance if there is a good faith dispute over the amount owing. Any person may appeal the issuance of a rule or regulation issued by the tax administrator to the city council by filing a written appeal within 10 business days of the mailing of the notice of the regulation.

34.99 PENALTY.

Unless otherwise specified, a violation of this chapter is a Class A civil infraction. Each day that a violation remains uncured is a separate infraction.

Section 2. Savings. Should any clause or section of this ordinance, amendment or Code be declared by a court to be void or voidable, the remainder of this ordinance, amendment and Code shall remain in full force and effect.

Section 3. Effective Date. This ordinance shall be effective thirty days after its adoption.

PASSED 1st reading by the Rockaway Beach City Council this 10 day of November 2021.

PASSED 2nd reading by the Rockaway Beach City Council this 10 day of November 2021.

ADOPTED and APPROVED by the Rockaway Beach City Council this 10 day of November 2021.

Susan Wilson, Mayor

Adoption Roll Call Vote:

City Council:	(Aye / Nay)
Mary McGinnis	___ / ___
Tom Martine	___ / ___
Kristine Hayes	___ / ___
Terry Walhood	___ / ___

TRANSIENT LODGING TAX COLLECTION INTERGOVERNMENTAL AGREEMENT

This Transient Lodging Tax Agreement (“Agreement”) is entered into between the State of Oregon, acting by and through its Department of Revenue (the “Department”) and the City of Rockaway Beach (“City”), under the authority of ORS 305.620.

In consideration of the conditions and promises hereinafter contained, it is mutually agreed by the parties that the Department shall supervise and administer, according to the terms and conditions set forth in this Agreement, the Local Tax on transient lodging by transient lodging providers authorized under ORS 320.365 and approved by the voters of City.

(1) Definitions. As used in this Agreement the following terms have the meanings ascribed to them:

(a) “Confidential Information” means the information on Local Tax returns administered pursuant to ORS 305.620, any information in the reports required under Sections 8 and 9 of this Agreement from which information about a particular Local Taxpayer is discernable from the report due to a small number of Local Taxpayers in City or similar factors, and any other information exchanged between the Department and City related to this Agreement, which is confidential under ORS 314.835.

(b) “Fees” means collectively the Administrative Services Fee, Business Fee and any additional fees described in Section 5 of this Agreement.

(c) “Local Government” means a city or county that has entered into a form of this agreement with the Department under the authority of ORS 305.620 for the Department to collect Local Taxes authorized under ORS 320.365.

(d) “Local Tax” or “Local Taxes” means the Local Transient Lodging Tax imposed by City, together with any additional interest or penalties provided for by state statute or the Department’s rules; it does not include any additional penalties or fees that City may assess against its Local Taxpayers.

(e) “Local Taxpayer” means a Transient Lodging Provider, or a Transient Lodging Intermediary, with a lodging facility located in the taxing jurisdiction of City.

(f) “Ordinance” means the ordinance imposing a Local Tax adopted by the governing body of the City that is attached hereto as **Exhibit B** and by this reference incorporated herein.

(g) “Taxpayer” means a Transient Lodging Provider or Transient Lodging Intermediary with a lodging facility located in a taxing jurisdiction which has opted to have the Department of Revenue administer their local transient lodging tax program throughout Oregon.

(h) “Transient Lodging” has the meaning given in ORS 320.300(11)

(i) “Transient Lodging Intermediary” has the meaning given in ORS 320.300(12)

(j) “Transient Lodging Provider” has the meaning given in ORS 320.300(13).

(2) General Administration. The Department shall be responsible for all aspects of Local Tax administration, including, but not limited to, adopting administrative rules; auditing returns; assessing deficiencies and collecting the Local Tax and penalties and interest under applicable statutes, including but not limited to ORS 305.265, ORS 305.220, and ORS 314.400; making refunds; holding conferences with Local Taxpayers; handling appeals to the Oregon Tax Court; issuing warrants for the collection of unpaid taxes; determining the minimum amount of Local Tax economically collectible; and taking any other action necessary to administer and collect the Local Taxes. The Department has adopted rules related to the taxation of Transient Lodging under ORS chapter 320. City understands and agrees that such rules will be applied in administering the Local Tax.

(3) Level of Service. In performing its duties, the Department may in its sole discretion determine what action shall be taken to enforce provisions of the law and to collect the Local Tax. In exercising its discretion, the Department shall provide a level of services that are comparable to the level of services it provides in the administration of the State of Oregon transient lodging tax laws and the collection of such taxes owed to the State of Oregon. If the Department deems it necessary to vary substantially from this standard, the Department shall first notify City of the need and obtain City's consent. The Department shall provide all forms necessary for implementation of the Local Tax, including forms for transient lodging tax returns, exemptions and refunds.

(4) Transfer of Taxes to City. Beginning at the end of the first full quarter after execution of this Agreement, the Department shall remit to City the amount of Local Taxes collected in the preceding quarter less amounts withheld to pay the Department's Fees and other costs as described in this Agreement within 60 days of the return due date for the quarter. The Department shall notify City if, because of inability to move funds electronically or otherwise through the banking system, a force majeure event described in Section 26 of this Agreement or other exigent circumstance, the Department is unable to transfer the Local Tax collected to City as provided in this Section. In that event, the Department shall provide an estimate, if possible, of when it expects to be able to transfer the Local Taxes collected to City. The Department may enter into an agreement with another state government agency to fulfill the requirements of this Section 4, provided that said government agency can comply with the requirements of this section.

(5) Fees. In order to recover its costs to collect and transfer the Local Tax as provided in this Agreement the Department shall be paid the following three fees:

(a) "Administrative Services Fee": Pays for the establishment and maintenance of financial systems needed to administer and distribute Local Taxes. The fee shall be calculated annually as a percentage of the equivalent of 60 hours of work conducted for the Department of Revenue by the Department of Administrative Services, divided among the Local Governments in proportion to the number of Taxpayers in each Local Government. This fee shall be charged

only if the Department of Administrative Services provides transfer services as described in section (4).

(b) "Business Fee": Pays for the Local Tax administration activities set forth in this Agreement. The fee shall be calculated as a percentage of the Department's Business Division annual expenses for the administration of all lodging taxes, with the total fee increasing in direct proportion to the number of Local Taxpayers. The total amount per Local Taxpayer billed to City under the Business Fee shall not exceed 0.035 percent of the Department's Business Division expenses for the administration of all lodging taxes;

FOR EXAMPLE, in a hypothetical with the following assumptions:

1,000 Taxpayers

50 Local Taxpayers in the City of Mainville

2 Local Taxpayers in the City of Middletown

Business Division's Lodging Tax Expenses: \$500,000 per year

Hourly DAS rate: \$99/hour

The fees would be calculated as follows:

Administrative Services Fee = $(\$99/\text{hour} * 60 \text{ hours}) / 1,000 \text{ Taxpayers} = \5.94
per Local Taxpayer per year

Business Fee = $\$500,000 \text{ in lodging tax expenses per year} * 0.035\% = \175 per
Local Taxpayer per year

City of Mainville: $(\$5.94 \text{ Administrative Services Fee} + \$175 \text{ Business Fee}) * 50$
Local Taxpayers = \$9,047.00 in fees

City of Middletown: $(\$5.76 \text{ Administrative Services Fee} + \$175 \text{ Business Fee}) * 2$
Local Taxpayers = \$361.52 in fees

(c) In addition to the Fees described above, the Department may withhold or otherwise recover from City the Department's costs for additional services not described in this Agreement related to the Local Tax; such additional costs may include, without limitation, requests for audits from City that exceed the scope of the Department's normal audit procedures, requests for research or advice from the Department or the Oregon Department of Justice attorneys, or specially appointed counsel, regarding the Local Tax.

(d) If the Department determines that its costs cannot be covered by the maximum fees outlined in this Section 5, the Department will notify City of the amount by which the Department has determined the Fees must increase. If the Department and City do not agree upon a Fee increase and related amendment to this Agreement, then this Agreement may be terminated by either party in accordance with Section 16 of this Agreement.

(e) The Department may recover its costs to administer the Local Tax, per ORS 305.620(5). The above formula is intended to produce the Department's best estimate of its costs to administer the Local Tax.

(6) Withholding for Fees and Rebate. The Department may withhold from the Local Taxes collected and each transfer to City an amount equal to four percent (4%) of the Local Taxes collected. In the first quarter of each calendar year, the Department will reconcile the amounts withheld in the previous year with the total Fees assessed and provide a reconciliation in the Department's annual report described in Section 9 of this Agreement. If the amount withheld in a calendar year exceeds the amount of the Department's Fees, the Department will rebate the balance of the Local Taxes withheld to City by the end of the first quarter following the year of withholding. If the amount withheld does not cover the Department's Fees for the preceding year, the amount of the shortfall will be withheld from subsequent transfers of Local Taxes collected until the Department's Fees are fully paid, or in its discretion the Department may invoice City for the unpaid amount of the Department's Fees.

(7) Recovery of Overpayments. If the amount of Local Taxes paid to City under this Agreement exceeds the amount to which City is entitled, the Department may, after notifying City in writing, withhold from later payments due City under this Agreement such amounts, over such periods of time, as are necessary to recover the amount of the overpayment.

(8) Department Quarterly Reports. Beginning with the first full calendar quarter after the execution of this Agreement and continuing each calendar quarter thereafter, within sixty (60) days after the due date for quarterly Local Tax returns, the Department shall provide City with a report indicating the amount of Local Taxes collected, the Department's Fees incurred, the amount withheld under Section 6 of this Agreement and the cumulative amount of delinquent Local Taxes for each lodging provider in City's jurisdiction. The information in this report must be treated as potentially revealing Confidential Information and shall be protected as described in Section 15. City shall adopt procedures to prevent Confidential Information from being disclosed, except as consistent with this Agreement. The Department and City may disclose any non-confidential information from a report when required to do so by law, including the Oregon Public Records Law, ORS 192.311 to 192.478.

(9) Department Annual Reports. In the first calendar quarter of each year, the Department shall provide a written annual report of the preceding calendar year to City showing the total amount of Local Taxes collected, refunds paid, the expenses of administering and collecting the Local Tax, and other pertinent information. The report shall show the total amount withheld by the Department under Section 6 of this Agreement and shall show the Department's Fees, charged by category. In the report, the Department shall also make recommendations concerning changes in Local Tax Ordinances, procedures, policies, Local Tax administration and related matters, as the Department deems necessary and appropriate. The information in this report must be treated as potentially Confidential Information and shall be protected as described in Section 15. City shall adopt procedures to prevent Confidential Information from being disclosed, except as consistent with this Agreement. The Department and City may disclose any

non-confidential information in the report when required to do so by law, including the Oregon Public Records Law, ORS 192.311 to 192.478.

(10) City Reports. Within sixty (60) days of the effective date of this Agreement, City shall provide the Department with a list of zip code areas that are within its jurisdiction for purposes of imposing the Local Tax. City shall review all reports and reconciliations provided to it by the Department and shall promptly notify the Department of any perceived errors or omissions in such reports.

(11) Records Maintenance and Access. Each party shall maintain its records relevant to this Agreement, the Local Taxes and Local Taxpayers for the period of time specified and in the manner required under the document retention and archiving requirements applicable to it that are established under ORS 192.005 to 192.170. Upon written request, each party may examine the records of the other party at a time and location that is convenient and without extra cost to the holder to the records; provided, however, any requests for records made in connection with litigation or other efforts to collect the Local Tax shall be immediately provided in the time and manner requested.

(12) Ordinance and Notification of Changes. Contemporaneous with the execution of this Agreement, City shall provide a copy of the Ordinance to Department for incorporation into this Agreement as Exhibit B. In order to insure consistency in administration of the Local Tax, each party shall notify the other of any change in applicable law, including changes to the Ordinance and any state or local regulations or rulings interpreting the Local Tax or the Ordinance, any changes in rates or changes in the City's boundary at least ninety (90) days prior to the effective change, unless it is not legally possible to provide ninety (90) days' notice or both parties mutually agree to effect such changes in less than ninety (90) days. Each party shall notify the other of any change in administration of the Local Tax under this Agreement. The parties shall cooperate in amending the Ordinance or in seeking any amendments to ORS 320.365 or ORS 305.620 they deem necessary.

(13) Information. The parties will cooperate in the exchange of information and making public announcements to facilitate effective administration of the Local Tax and maintain consistency in public announcements and information. Policy announcements, announcement of changes to the Ordinance, and all public relations related to the Local Tax will be handled by City. The Department shall promptly notify City of any issue arising in the administration of the Local Tax that would require any legislative change or affect City's policy, including any policy that relates to the amount of Local Tax collected. Nothing in this section shall prohibit the Department from conducting its own outreach activities to increase awareness and knowledge of Local Tax obligations.

(14) Limits and Conditions. To the extent limited by applicable provisions of Article XI of the Oregon Constitution or other governing law, and within the limits of the Oregon Tort Claims Act applicable respectively to the Department and City, each party shall indemnify the other for damage to life or property arising from their respective duties and obligations under this

Agreement, provided neither party shall be required to indemnify the other for any such liability arising out of a party's own negligent or wrongful acts.

(15) Confidentiality.

(a) Confidential Information may be disclosed to City by the Department, at the discretion of the Department, only for purposes of carrying out the administration of the Local Tax . Requests for Confidential Information may be made by City by giving not less than ten (10) days' notice to the Department, stating the information desired, the purposes of the request, and the use to be made of such information. If the compilation of the requested information is not reasonably feasible, the Department shall so advise City and may decline to provide the requested information.

(b) ORS 314.840(3) requires that employees and representatives of City who receive Confidential Information must be advised in writing of the provisions of ORS 314.835 and 314.991(3), relating to the penalties for unlawful disclosure. Prior to being given access to Confidential Information, all City employees involved in the performance of this Agreement must review the DOR Secrecy Clause and sign the DOR Secrecy Laws Certificate (substantially in the form of Exhibit A, attached hereto and by this reference incorporated herein) certifying the employee understands the confidentiality laws and the penalties for violating them. Annually thereafter, (on or before a date specified by the Department), or upon request by the Department, such City employees must review and sign the latest versions of the Secrecy Clause and the Secrecy Laws Certificate. All signed Secrecy Laws Certificates must be immediately emailed to the designated Department Authorized Representative (indicated below). When the employee terminates employment with City, City will forward the certificate to the Department's Authorized Representative indicating the employee is no longer employed by City. A listing of every person employed by City that is authorized to request and receive Confidential Information identified in this Agreement must be sent by City to the following designated representative:

Andrew Trolan

Title: Transient Lodging Tax Program Manager

Contact Email: Andrew.Trolan@Oregon.Gov

(c) Upon request and pursuant to the instructions of the Department, City shall return or destroy all copies of Confidential Information provided by the Department to City, and City shall certify in writing the return or destruction of all such Confidential Information.

(d) The administrative rules implementing ORS 314.835 and ORS 314.840 as amended from time to time during the term of this Agreement, shall apply to Confidential Information under this Agreement.

(e) City shall comply with the requirements of ORS 646A.600 to 646A.628 in the event of a breach of security or disclosure of confidential information.

(16) Term. The term of this Agreement shall be from the date it is executed by all parties and until it is terminated by operation of law or by either party, at its discretion upon at

least ninety (90) days prior written notice. Prior to the termination date specified in written notice provided under this section or Section 17 below, City and the Department will continue to perform their respective duties and obligations of under this Agreement. After the termination date, the Department will cease all collection and other activities under this Agreement, unless prior to the termination date the Department and City agree in writing that the Department may continue actions that are pending before the Oregon Tax Court or the Oregon Supreme Court, or are being collected after judgment or stipulation. In addition, after the termination date the Department will continue to remit to City any Local Taxes received by the Department, after deduction of the Department's actual costs, until all matters pending on the date of termination have been resolved or collected. The Department shall administer the Local Tax for City beginning with the calendar quarter commencing after this Agreement is executed, However, if this Agreement is fully executed on or before the 15th day of the calendar quarter, the Department shall begin administering the Local Tax for the quarter in which this Agreement is executed.

(17) Default and Remedies. A party shall be in default under this Agreement if it fails to perform any of its duties and obligations under this Agreement, and fails to cure such nonperformance within ninety (90) days after the other party provides written notice specifying the nature of the nonperformance. If the nonperforming party does not cure its nonperformance, or provide a satisfactory explanation to the other party of its performance under this Agreement, the other party may terminate this Agreement immediately or at a later date specified in written notice provided to the nonperforming party. In addition to termination of this Agreement, in the event of default by a nonperforming party, the other party may pursue any remedies available in law or equity, including an action for specific performance.

(18) Notices. All notices, documents, and information shall be sent as follows:

City of Rockaway Beach
PO BOX 5
Rockaway Beach, OR 97131

Oregon Department of Revenue
Transient Lodging Tax
Salem, OR 97309

(19) Amendments. The provisions of this Agreement shall not be waived, altered, modified, supplemented, or amended, in any manner whatsoever, except by written instrument signed by both parties.

(20) Successors and Assigns. This Agreement shall be binding and inure to the benefit of the parties, their assigns, and successors.

(21) Severability. If any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

(22) Representations. Each party represents to the other that the making and performance of this Agreement: (a) have been duly authorized by its governing body or official, (b) does not and will not violate any provision of any applicable law, rule, regulation, or order of any court, regulatory commission, board or other administrative agency or any provision of any

applicable local charter or other organizational document, and (c) do not and will not result in the breach of, or constitute a default or require any consent under any other agreement or instrument to which the party is bound.

(23) Governing Law, Consent to Jurisdiction. This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively "Claim") between the Department and City regarding the enforcement or interpretation of this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Marion County for the State of Oregon. The parties understand and agree that any action brought to determine the amount of Local Tax owed by a Local Taxpayer, whether brought solely by the Department or in conjunction with City shall be brought solely in the Oregon Tax Court.

(24) Nonappropriation. The obligation of each party to perform its duties under this Agreement is conditioned upon the party receiving funding, appropriations, limitation, allotment, or other expenditure authority sufficient to allow the party, in the exercise of its reasonable administrative discretion, to meet its obligations under this Agreement. Nothing in this Agreement may be construed as permitting any violation of Article XI, sections 7 or 10 of the Oregon Constitution or any other law limiting the activities, liabilities or monetary obligations of each party.

(25) Survival. All rights and obligations of the parties under this Agreement will cease upon termination of the Agreement, other than the rights and obligations arising under Sections 14, 16 and 17, and those rights and obligations that by their express terms survive termination of this Agreement; provided, however, that termination of this Agreement will not prejudice any rights or obligations accruing to a party prior to termination.

(26) Force Majeure. Neither party is responsible for any failure to perform or any delay in performance of an obligation under this Agreement caused by fire, civil unrest, labor unrest, natural causes, or war, which is beyond that party's reasonable control. Each party shall, however, make all reasonable efforts to remove or eliminate such cause of failure to perform or delay in performance and shall, upon the cessation of the cause, diligently pursue performance of its obligation under this Agreement.

(27) Counterparts. This Agreement may be executed in counterparts, all of which when taken together shall constitute one agreement, notwithstanding that all parties are not signatories to the same counterpart. Each copy of this Agreement so executed constitutes an original.

(28) Merger. This Agreement and any exhibits constitute the entire agreement between the parties on the subject matter hereof. There are no understandings, agreements or presentations, oral or written, not specified herein regarding this Agreement.

Each party represents that this Agreement, when fully executed and delivered will constitute a legal, valid and binding obligation of the party in accordance with its terms, and that the person signing below is the authorized representative of the party with full power and authority to bind his/her principal to this Agreement.

Oregon Department of Revenue

Name/Title:

Signature:

Date signed:

City:

Name/Title:

Signature:

Date signed:

EXHIBIT A

DOR

SECURITY CLAUSE

and

SECURITY LAWS CERTIFICATE

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SECURITY CLAUSE

Taxpayer information is confidential and protected by Oregon law. Only authorized persons may have access to taxpayer information, or to secure buildings where taxpayer information is handled. Oregon law requires that you sign a Secrecy Certificate before being allowed access to this confidential information or secure areas. By signing the certificate, you certify that you understand the confidentiality laws and the penalties for violating them.

This applies to everyone with access to taxpayer information, including:

- Department of Revenue employees
- Employees of other government agencies
- Vendors and contractors
- Business partners

Penalties for unauthorized disclosure of state tax information

- **Income tax***—Class C felony; up to \$125,000 fine; up to five years imprisonment; dismissal from state employment; no public office for five years. [ORS 314.991(2)]
- **Inheritance tax**—Class C felony; up to \$125,000 fine; up to five years imprisonment; dismissal from state employment; no public office for five years. [ORS 118.990(3)]
- **Industrial property tax**—Up to \$10,000 fine; up to one year imprisonment. [ORS 308.990(5)]
- **Timber tax**—Up to \$5,000 fine; dismissal from state employment. (ORS 321.686)
- **Employment Department**—May result in dismissal from state employment, or other discipline. [ORS 657.665(6)]

* *These provisions also apply to transient lodging tax (ORS 320.330), cigarette tax (ORS 323.403), tobacco products tax (ORS 323.595), emergency communications tax (ORS 403.230), oil and gas production tax (ORS 324.170), hazardous substances tax (ORS 453.410), and petroleum products tax (ORS 465.124).*

Penalties for unauthorized disclosure of federal tax information

- **IRC Sect. 7213**—Felony; up to \$5,000 fine; imprisonment of up to five years; cost of prosecution, damages**.
- **IRC Sect. 7213A**—Up to \$1,000 fine; imprisonment of up to one year; cost of prosecution, damages**.

** *Damages may include \$1,000 per act, actual damages, punitive damages, cost of legal action, attorney fees. See Section 7431.*

Instructions

Please read the following laws. They explain the types of information that are confidential. If you have questions during your employment or performance of duties, ask your supervisor or a Disclosure officer before accessing or disclosing information.

After reading this information, fill out the last page and return it to the Department of Revenue. Keep the other pages for your records.

Oregon Income Tax Laws

ORS 314.835

(1) Except as otherwise specifically provided in rules adopted under ORS 305.193 or in other law, it shall be unlawful for the Department of Revenue or any officer or employee of the department to divulge or make known in any manner the amount of income, expense, deduction, exclusion or credit or any particulars set forth or disclosed in any report or return required in the administration of ORS 310.630 to 310.706, required in the administration of any local tax pursuant to ORS 305.620, or required under a law imposing a tax upon or measured by net income. It shall be unlawful for any person or entity to whom information is disclosed or given by the department pursuant to ORS 314.840 (2) or any other provision of state law to divulge or use such information for any purpose other than that specified in the provisions of law authorizing the use or disclosure. No subpoena or judicial order shall be issued compelling the department or any of its officers or employees, or any person who has acquired information pursuant to ORS 314.840 (2) or any other provision of state law to divulge or make known the amount of income, expense, deduction, exclusion or credit or any particulars set forth or disclosed in any report or return except where the taxpayer's liability for income tax is to be adjudicated by the court from which such process issues.

(2) As used in this section:

(a) "Officer," "employee" or "person" includes an authorized representative of the officer, employee or person, or any former officer, employee or person, or an authorized representative of such former officer, employee or person.

(b) "Particulars" includes, but is not limited to, a taxpayer's name, address, telephone number, Social Security number, employer identification number or other taxpayer identification number and the amount of refund claimed by or granted to a taxpayer.

ORS 314.991

(2) Violation of ORS 314.835 is a Class C felony. If the offender is an officer or employee of the state the offender shall be dismissed from office and shall be incapable of holding any public office in this state for a period of five years thereafter.

Applicability to other tax programs

The above provisions of ORS 314, concerning the confidentiality of returns and penalties, also apply to:

• Transient lodging tax	ORS 320.330
• Cigarette tax	ORS 323.403
• Tobacco products tax	ORS 323.595
• Emergency communications tax	ORS 403.230
• Oil and gas production tax	ORS 324.170
• Hazardous substances tax	ORS 453.410
• Petroleum products tax	ORS 465.124

Oregon Inheritance Tax Laws

ORS 118.525

(1) It shall be unlawful for the Department of Revenue or any of its officers or employees to divulge or make known in any manner any particulars disclosed in any return or supporting data required under this chapter. Except for executors or beneficiaries and their authorized representatives, it shall be unlawful for any person or entity who has acquired information pursuant to subsections (3) and (4) of this section to divulge or make known such information for any purpose other than that specified in the provisions of law authorizing the use or disclosure. No subpoena or judicial order shall be issued compelling the department, or its officers or employees, or persons described in subsections (3) and (4) of this section, to divulge or make known any particulars disclosed in any such return or supporting data except where the liability for inheritance taxes is to be adjudicated by the Oregon Tax Court. Nothing in this section shall prohibit the publication of statistics so classified as to prevent the identification of particulars in any return or supporting data covered by this section.

(2) As used in this section:

(a) "Officer," "employee" or "person" includes an authorized representative of the officer, employee or person, or former officer, employee or person, or an authorized representative of such former officer, employee or person.

(b) "Particulars" includes, but is not limited to, a taxpayer's name, address, telephone number, Social Security number and the amount of refund claimed by or granted to a taxpayer.

ORS 118.990

(3) Violation of ORS 118.525 is a Class C felony. If the offender is an officer or employee of the state the offender shall be dismissed from office and shall be incapable of holding any public office in this state for a period of five years thereafter.

Oregon Property Tax Laws

ORS 308.290

(11)(a) All returns filed under the provisions of this section and ORS 308.525 and 308.810 are confidential records of the Department of Revenue or the county assessor's office in which the returns are filed or of the office to which the returns are forwarded under paragraph (b) of this subsection.

ORS 308.413

(1) Any information furnished to the county assessor or to the Department of Revenue under ORS 308.411 which is obtained upon the condition that it be kept confidential shall be confidential records of the office in which the information is kept, except as follows:

(a) All information furnished to the county assessor shall be available to the department and all information furnished to the department shall be available to the county assessor.

(b) All information furnished to the county assessor or department shall be available to any reviewing authority in any subsequent appeal.

(c) The department may publish statistics based on the information furnished if the statistics are so classified as to prevent the identification of the particular industrial plant.

(2) The Department of Revenue shall make rules governing the confidentiality of information under this section.

(3) Each officer or employee of the Department of Revenue or the office of the county assessor to whom disclosure or access of the information made confidential under subsection (1) of this section is given, prior to beginning employment or the performance of duties involving such disclosure, shall be advised in writing of the provisions of this section and ORS 308.990 (5) relating to penalties for the violation of this section, and shall as a condition of employment or performance of duties execute a certificate for the department or the assessor in a form prescribed by the department, stating in substance that the person has read this section and ORS 308.990 (5), that these sections have been explained to the person and that the person is aware of the penalties for violation of this section.

ORS 308.990

(5) Subject to ORS 153.022, any willful violation of ORS 308.413 or of any rules adopted under ORS 308.413 is punishable, upon conviction, by a fine not exceeding \$10,000, or by imprisonment in the county jail for not more than one year, or by both.

Forestland Tax Laws

ORS 321.682

(1) Except as otherwise specifically provided by law, it shall be unlawful for the Department of Revenue or any officer or employee of the department to divulge or make known in any manner the amount of the tax or any particulars set forth or disclosed in any report or return required to be filed under ORS 321.045 or 321.741 or any appraisal data collected to make determinations of specially assessed value of forestland pursuant to ORS 321.201 to 321.222. It shall be unlawful for any person or entity to whom information is disclosed or given by the department pursuant to ORS 321.684 (2) or any other provision of state law to divulge or use such information for any purpose other than that specified in the provisions of law authorizing the use or disclosure. No subpoena

or judicial order shall be issued compelling the department or any of its officers or employees, or any person who has acquired information pursuant to ORS 321.684 (2) or any other provision of state law, to divulge or make known the amount of tax or any particulars set forth or disclosed in any report or return except where the taxpayer's liability for timber tax is to be adjudicated by the court from which such process issues.

(2) As used in this section, "officer," "employee" or "person" includes an authorized representative of the officer, employee or person, or any former officer, employee or person, or an authorized representative of such former officer, employee or person.

ORS 321.686

Violation of ORS 321.682 is subject to a fine not exceeding \$5,000 or, if committed by an officer or employee of the state, dismissal or removal from office or employment, or both fine and dismissal or removal from office or employment.

Oregon Employment Department Laws

ORS 657.665

(4)The Employment Department may: ... (i) Disclose information to the Department of Revenue for the purpose of performing its duties under ORS 293.250 or under the revenue and tax laws of this state. The information disclosed may include the names and addresses of employers and employees and payroll data of employers and employees. The information disclosed is confidential and may not be disclosed by the Department of Revenue in any manner that would identify an employing unit or employee except to the extent necessary to carry out the department's duties under ORS 293.250 or in auditing or reviewing any report or return required or permitted to be filed under the revenue and tax laws administered by the department. The Department of Revenue may not disclose any information received to any private collection agency or for any other purpose. If the information disclosed under this paragraph is not prepared for the use of the Employment Department, the costs of disclosing the information shall be paid by the Department of Revenue.

(6) Any person or any officer or employee of an entity to whom information is disclosed by the Employment Department under this section who divulges or uses the information for any purpose other than that specified in the provision of law or agreement authorizing the use or disclosure may be disqualified from performing any service under contract or disqualified from holding any appointment or employment with the state agency that engaged or employed that person, officer or employee. The Employment Department may immediately cancel or modify any information sharing agreement with an entity when a person or an officer or employee of that entity discloses confidential information, other than as specified in law or agreement.



SECRECY LAWS CERTIFICATE

Required by ORS 314.840(3), ORS 118.525(6),
ORS 308.413(3), ORS 321.684

I have read the laws prohibiting disclosure of confidential information for the tax programs below.
The laws have been explained to me.
I have been furnished with a copy of the laws.
I understand Oregon's disclosure laws and the penalties for violating them.

Income tax	ORS 314.835; ORS 314.991(2)
Inheritance tax	ORS 118.525(1); ORS 118.990(3)
Industrial property tax	ORS 308.290(11); ORS 308.413; ORS 308.990(5)
Forestland tax	ORS 321.682; ORS 321.686
Employment Department tax	ORS 657.665(4)(i) and (6)
Transient lodging tax	ORS 320.330
Cigarette tax	ORS 323.403
Tobacco products tax	ORS 323.595
Emergency communications tax	ORS 403.230
Oil and gas production tax	ORS 324.170
Hazardous substances tax	ORS 453.410
Petroleum products tax	ORS 465.124
Federal tax laws	IRC Sections 7213, 7213A, 7431

VENDORS, CONTRACTORS, BUSINESS PARTNERS	
PRINT your full name	Business telephone number
Print full name of business or organization for which you are acting in an official capacity	
Address of business or organization	SSN (Collection agency employees only)
What is the nature of your business?	Duration of contract or visit
Revenue contact	Area where you'll be working
Signature X	Date

REVENUE EMPLOYEES	
PRINT your full name	Date
Signature X	

AGENCY USE	
<input type="checkbox"/> In Compliance	<input type="checkbox"/> Not in Compliance

RESOLUTION NO. 21-972

A RESOLUTION TO HONOR THE MEMORY AND CONTRIBUTIONS OF TERRI MICHEL, A VOLUNTEER, RESIDENT AND EMPLOYEE OF THE CITY OF ROCKAWAY BEACH, TO THIS COMMUNITY AND DEDICATING THE OLD GROWTH CEDAR BOARDWALK TO HER MEMORY

WHEREAS, the recent passing of Terri Michel, after a protracted illness during which she continued to work to better this community; and

WHEREAS, the residents of the City of Rockaway Beach, Oregon, have greatly benefited from the efforts of Terri Michel over more than two decades of service; and

WHEREAS, Terri Michel was well-known, well respected and much loved for her intense dedication to the volunteer activities in which she was involved, and her non-wavering focus on making those projects and events the very best; and

WHEREAS, Terri Michel worked alongside the staff, volunteers and City Council and dealt with many difficult issues affecting the residents and visitors of Rockaway Beach; and

WHEREAS, Terri Michel was for many years the driving force that brought about positive change that benefited the citizens of Rockaway Beach and countless visitors to this this City;

NOW, THEREFORE, THE CITY OF ROCKAWAY BEACH RESOLVES that the City Council of the City of Rockaway Beach hereby adopts this Resolution to honor the memory and service of Terri Michel and hereby dedicates the Old Growth Cedar Boardwalk to her memory.

IT IS FURTHER RESOLVED that staff are directed to install a memorial plaque acknowledging her service and commitment to the citizens of Rockaway Beach.

Passed and Adopted this 10th day of November, 2021 by the City Council of the City of Rockaway Beach, Oregon.

APPROVED

ATTEST

Susan Wilson, Mayor

Luke Shepard, City Manager

