

IN THE COUNTY BOARD OF COMMISSIONERS  
OF THE STATE OF OREGON FOR THE COUNTY OF BAKER

IN THE MATTER OF

AN ORDINANCE PROVIDING FOR A )  
TRANSIENT LODGING TAX IN BAKER )  
COUNTY, CREATING A TRANSIENT )     ORDINANCE NO. 2006-01  
LODGING TAX COMMITTEE, AND )  
ESTABLISHING ADMINISTRATIVE )  
PROCEDURES FOR COLLECTION )

WHEREAS, there is a current Intergovernmental Agreement (IGA) between Baker County and the incorporated cities in Baker County which establishes the methodology for collection and administration of a transient lodging tax; and

WHEREAS, Baker County and the incorporated cities in Baker County have agreed that certain changes should be made to the collection and administration of the tax whereby Baker County will from here forward assess, collect, and administer a county-wide transient lodging tax;

Baker County ordains as follows:

**SECTION 1. Definitions.** For purposes of this ordinance, the following shall mean:

- a). Baker County Board of Commissioners ("Commission"): The elected board of Baker County, Oregon.
- b). Collection Reimbursement Charge (CRC): The amount a Transient lodging establishment may retain as reimbursement for the costs incurred by the establishment in collecting and reporting a (local) transient lodging tax and in maintaining (local) transient lodging records.
- c). Conference Center: A facility that is owned or partially owned by a unit of local government, a governmental agency or a nonprofit organization and one which meets the criteria as specifically described in ORS 305, such as Convention Center.
- d). Economic Development Council (EDC): A five-member group appointed by the BCBC and the City of Baker City, City Council to oversee economic, community, and tourism development in Baker County, and charged with initiating and implementing a countywide Economic Development Strategic Plan (EDSP); and creating and managing all policies and contractual agreements pertaining to the expected outcomes from the EDSP.
- e). Local Transient Lodging Tax: The tax imposed by Baker County on the sale, service or furnishing of transient lodging.

f). Local Transient Lodging Tax Administrator ("Administrator"): The individual and/or department within Baker County assigned by the BCBC as the Administrator of Transient Lodging Tax collections, dissemination, and process accountability.

g). Occupancy: Use or possession of, or the right to use or possess a room in a hotel or a space in a recreation park for lodging or sleeping.

h). Person: An individual, firm, partnership, joint venture, association, social club, fraternal organization, fraternity, sorority, public or private dormitory, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate, or another group or combination acting as a unit.

i). Rent: The consideration rendered by a transient lodging establishment operator to a tourist for the sale, service, and furnishing of transient lodging.

j). Tourism: Economic activity resulting from tourists.

k). Tourism Promotion: Any of the following: advertising, publicizing or distributing information for purposes of attracting and welcoming tourists; conducting strategic planning and research necessary to stimulate future tourism development; operating tourism promotion agencies; and marketing special events and festivals designed to attract tourists.

l). Tourism Promotion Agency: Either of the following: 1) An incorporated nonprofit organization or governmental unit that is responsible for the tourism promotion of a destination on a year-round basis, and 2) A nonprofit entity that manages tourism-related economic development plans, programs and projects.

m). Tourism Related Facility: A conference center, convention center, or visitor information center as defined in ORS 305.824 and other improved real property that has a useful life of 10 or more years and has a substantial purpose of supporting tourism or accommodating tourist activities.

n). Tourist: A person who, for business, pleasure, recreation or participation in events related to the arts, heritage or culture, travels from the community in which that person is a resident to a different community that is separate, distinct from and unrelated to the person's community of residence, and that trip: 1) requires the person to travel more than 50 miles from the community of residence, or 2) Includes an overnight stay.

o). Transient: A tourist.

p). Transient Lodging: A hotel, motel and inn dwelling units that are designed for temporary overnight human occupancy, and includes spaces designed for parking recreational vehicles during periods of human occupancy of those vehicles.

q). Transient Lodging Tax Committee ("Committee"): A five-member committee appointed by the Commission to recommend, among other duties, the expenditure of 70% of the revenue generated by the Local Transient Lodging Tax and to hear appeals.

r). Transient Lodging Establishment: An establishment providing transient lodging.

s). Transient Lodging Tax Operator ("Operator"): A person who is the proprietor of a transient lodging establishment in any capacity. When an operator's functions are performed through a managing agent of a type other than an employee, the managing agent shall also be considered an operator. For purposes of this ordinance, compliance by either the operator or the managing agent shall be considered both.

t). Transient Lodging Provider: Any agency, business or organization providing services or taking action in support of tourists and transient lodging activities.

u). Unit of Local Government: Has the meaning as described in ORS 190.003.

v). Visitor Information Center: A building, or a portion of a building, the main purpose of which is to distribute or disseminate information to tourists.

## **SECTION 2. Tax Imposed.**

a). A Transient Lodging Tax is hereby imposed effective upon passage by the Baker County Board of Commissioners ("Commission") of this ordinance and shall be imposed in the unincorporated areas of Baker County ("County") and within the local jurisdictions of each incorporated city as directed by an intergovernmental agreement (IGA) between County and the cities in Baker County either individually or collectively.

b). Effective July 1, 2006, a transient shall pay a tax in the amount of 7% of the rent charged for the privilege of occupancy in a transient lodging establishment in Baker County or occupancy of a space. On January 1, 2008, the rate of the tax Baker County will assess will be a composite average of rates to the nearest percent from the following locations: Malheur, Grant, Wallowa, Union and Umatilla Counties. The Committee will be charged with calculating the regional average in September of each year and the Administrator will notify the lodging establishment operators, by October 10<sup>th</sup> of that year, what the tax rate for the next calendar year will be.

c). Any additional increases of the tax rate must first be approved by the Committee and then adopted by the Commission.

## **SECTION 3. Rules for Collection of Tax by Transient Lodging Tax Establishment Operator.**

a). Every Operator shall collect a tax from the transient. The tax collected or accrued constitutes a debt owed by the Operator to the County. The Operator shall clearly show the actual tax due, both by amount and percentage, on all bills or receipts given or shown to the transient. Failure to accurately represent the true tax shall be a violation of this ordinance and be subject to the penalties set forth in Section 27 herein.

b). In the cases of credit or deferred payment of rent, the payment of tax to the Operator may be deferred until the rent is paid, and the Operator shall not be liable for the tax until credits are paid or deferred payments are made. Adjustments may be made for uncollectible accounts.

c). The Administrator shall enforce this ordinance and may adopt rules and regulations necessary for enforcement.

#### **SECTION 4. Transient Lodging Establishment Operator's Duties.**

a). An Operator shall collect the tax when the rent is collected from the transient. The amount of tax shall be stated separately in the operator's records and on receipt given to the transient by the Operator.

b). The Operator shall enter the tax into the record when rent is collected. If the rent is paid in installments, a proportionate share of the tax shall be paid by the transient to the Operator with each installment. In all cases, rent paid or charged for occupancy shall exclude the sale of goods, services or commodities.

c). An Operator shall not advertise that the tax will not be added to the rent, that a portion of it will be assumed or absorbed by the Operator, or that a portion will be refunded, except in the manner provided by this ordinance.

#### **SECTION 5. Exemptions.**

The tax shall not be imposed on:

- a). An occupant staying for more than thirty (30) consecutive days;
- b). An occupant whose rent is less than ten dollars (\$10.00) per day, with the exception of spaces rented in a recreation park;
- c). A person who rents a private home, vacation cabin, similar facility, or camping space, from an owner who personally rents the facility incidentally to the owner's personal use.

#### **SECTION 6. Transient Lodging Establishment Operator Registration Form.**

a). An Operator shall register with the Administrator, on a form provided by the Administrator, within fifteen (15) days after beginning business or within thirty (30) calendar days after passage of this ordinance.

b). The registration shall include:

- 1). The name under which the Operator transacts or intends to transact business;
- 2). The location of the transient lodging establishment;
- 3). Any other information the Administrator may require to facilitate collection of the tax; and
- 4). The signature of the Operator.

c). Failure to register does not alleviate the operator from collecting the tax or a transient from paying the tax.

### **SECTION 7. Certificate of Authority.**

a). The Administrator shall issue a Certificate of Authority to the registrant within ten (10) days after registration.

b). Certificates are non-assignable and non-transferable and shall be surrendered immediately to the Administrator on cessation of business at the location named or when the business is sold or transferred. However, in the event the business is transferred to a partnership or corporation wherein the proprietor still retains a majority interest, then the Operator is only required to register the new name and other required information with the Administrator.

c). Each certificate shall state the place of business to which it applies and shall be prominently displayed therein.

d). The certificate shall state:

1). The name of the Operator;

2). The address of the transient lodging establishment;

3). The date when the certificate was issued; and

4). "This Transient Occupancy Registration Certificate signifies that the person named on the certificate has fulfilled the requirements of the Transient Lodging Tax Ordinance of Baker County by registering with the Administrator for the purpose of collecting the room tax imposed by Baker County and remitting the tax to the Administrator."

### **SECTION 8. Collection, Returns, and Payments.**

a). The taxes collected by an operator are payable to the Administrator on a quarterly basis on the fifteenth (15<sup>th</sup>) day of the following month for the preceding three (3) months, and are delinquent on the last day of the month in which they are due. The initial local transient lodging tax return ("Return") may be for less than the three (3) months preceding the due date. The quarters are:

First Quarter -	January, February, March
Second Quarter -	April, May, June
Third Quarter -	July, August, September
Fourth Quarter -	October, November, December

b). A Return showing tax collections for the preceding quarter shall be filed with the Administrator on a form prescribed by the Administrator before the sixteenth (16<sup>th</sup>) day of the month following each collection quarter.

c). The Operator may withhold five percent (5%) of the tax collected for the purpose of reimbursing the operator for the cost of tax collection, record-keeping, and reporting, otherwise known as a Collection Reimbursement Charge (CRC).

d). Returns shall show the amount of tax collected and due for the related period. The Administrator at its discretion may require returns to show the total rentals on which the tax was collected and due, a detailed explanation of any discrepancy between the amounts, and the amount of rentals exempt (if any).

e). The Operator shall deliver the return and the tax due to the Administrator. If the Return is mailed, the postmark shall be considered the date of delivery in the case of determining delinquencies.

f). For good cause, as determined by the Administrator, the Administrator may extend the time for filing a Return or paying the tax for not more than one month. Further extension may be granted only by the Committee. An Operator to whom an extension is granted shall pay interest at the rate of one-and-one-half percent (1.5%) per month on the amount of tax due, without prorating for a fraction of a month. If a Return is not filed and if the tax and interest due are not paid by the end of the extension granted, the interest shall become a part of the tax for computation of penalties prescribed in Section 9.

g). The Administrator may require returns and payment of the taxes for other than quarterly periods in individual cases to ensure payment or to facilitate collection by the County upon good cause and approval by the Committee.

#### **SECTION 9. Delinquency Penalties.**

a). An Operator who has not been granted an extension of time for remittance of tax due and who fails to remit the tax prior to delinquency shall pay a penalty of ten percent (10%) of the tax due in addition to the tax.

b). An Operator who has not been granted an extension of time for remittance of tax due and who fails to pay a delinquent remittance before the expiration of thirty-one (31) days following the date on which the remittance became delinquent shall pay a second delinquency penalty of fifteen percent (15%) of the tax due, the amount of the tax, and the ten percent (10%) penalty first imposed.

c). If the Committee determines that nonpayment of a remittance is due to fraud or intent to evade the tax, a penalty of twenty-five percent (25%) of the tax shall be added to the penalties set out in Sections 9(a) and 9(b) above.

d). In addition to the penalties imposed by this section, an Operator who fails to remit the required tax shall pay interest at the rate of one-and-one-half percent (1.5%) per month, without prorating for portions of a month, on the tax due, exclusive of penalties, from the date on which the tax first became delinquent until paid.

e). Each penalty imposed and the interest accrued under provisions of this section shall be merged with and become part of the tax required to be paid.

f). An Operator who fails to remit the tax within the required time may petition the Committee for waiver and refund of the penalty or a portion of it. The Committee may, if good cause be shown, direct a refund of the penalty or a portion of it.

If any such refund shall exceed one hundred dollars (\$100.00), the action of the Committee must be confirmed by the Commission before it shall be final.

#### **SECTION 10. Deficiency Determinations.**

a). The Administrator shall review returns filed in accordance with this ordinance. In doing so, the Administrator shall have the power to determine if the returns are incorrect and the amount required to be paid on the basis of the facts contained in the return or on the basis of any other information.

b). A deficiency determination may be made on the amount due for one or more than one period. The determined amount shall be payable immediately on service of notice, after which the determined amount is delinquent. Penalties on deficiencies shall be applied as provided in Section 9.

#### **SECTION 11. Notice of Deficiency Determination.**

a). The Administrator shall give the Operator a written notice of the determination either personally or by mail. If the notice is mailed it shall be done by certified mail, return receipt requested and addressed to the Operator at the address that appears on the records of the Administrator, and service is complete when the notice is received by the Operator.

b). Except in the case of fraud or intent to evade the tax, a deficiency determination shall be made and notice mailed within three (3) years after the last day of the month following the close of the quarterly period for which the determination has been made or within three (3) years after the return is filed, whichever is later.

#### **SECTION 12. Redetermination Petition.**

A determination becomes payable immediately on receipt of notice and becomes final within ten (10) days after the operator has received notice. However, the operator may petition for redetermination and refund by filing a petition before the determination becomes final as set forth herein.

#### **SECTION 13. Redetermination.**

a). An Operator against whom a determination is made under Section 10, or a person directly interested, may petition the Committee for redetermination, redemption and refund within the time required in Section 12 on a form provided by the Administrator. If a petition for redetermination and refund is not filed within the time required, the determination is final on expiration of the allowable time.

b). If a petition for redetermination and refund is filed within the allowable period, the Committee shall reconsider the determination and, if the Operator requested a hearing in the petition, shall grant the hearing and give the operator fifteen (15) days

notice of the time and place of the hearing. The Administrator may continue the hearing if necessary.

c). The Committee may change the amount of the determination as a result of the hearing. If an increase is determined, the increase is payable immediately after the hearing.

d). The decision of the Committee on a petition for redetermination becomes final twenty (20) days after service of notice on the petitioner unless appeal of the decision is filed by the operator with the Commission within twenty (20) days after notice is served as per Section 14 herein.

#### **SECTION 14. Appeals to the Board of Commissioners.**

A person aggrieved by a decision of the Committee may appeal to the Commission on the form prescribed by the Administrator within twenty (20) days of service or mailing by certified or registered mail a copy of the decision. The Commission shall consider the matter at its next regular meeting but may adjourn the matter for a maximum period of one (1) month from the date of that meeting in order to fully investigate the facts. The Commission shall render its decision in writing and no other appeals shall be heard. If not paid within thirty (30) days after the decision is made, collection procedures may begin. The lien mentioned herein becomes effective upon the initial determination.

#### **SECTION 15. Fraud; Refusal to Collect; Evasion.**

a). If an Operator fails or refuses to collect the tax, make the report, or remit the tax, or if an operator makes a fraudulent return or otherwise willfully attempts to evade the tax payment, the Administrator shall obtain facts and information on which to base an estimate of the tax due. After determining the tax due and the interest and penalties, the Administrator shall give notice of the total amount due.

b). Determination and notice shall be made and mailed by certified mail return receipt required within three (3) years after discovery of fraud, intent to evade, failure or refusal to collect the taxes, or failure to file a return. The determination becomes payable immediately on receipt of notice and becomes final ten (10) days after the Operator has received notice.

c). The Operator may petition for redemption and refund if the petition is filed before the determination becomes final as set out herein.

#### **SECTION 16. Security for Collection of Tax.**

a). The Committee may require an Operator to deposit security in the form of cash, bond, or other security in the event an Operator is found to be delinquent in his taxes pursuant to any portion of this ordinance. However, this section shall not apply if the Operator has filed a form of petition affecting payment or any amount of tax due.

The amount of security shall be fixed by the Committee and shall be not greater than twice the operator's estimated average quarterly liability for the period for which the Operator files returns or five thousand dollars (\$5,000.00), whichever is less.



b). Within three (3) years after the tax becomes payable or within three (3) years after a determination becomes final, the Administrator may bring an action in the name of the County in the courts of the State of Oregon, another state, or the United States to collect the amount delinquent and penalties and interest.

#### **SECTION 17. Liens.**

a). The tax, interest, penalty, and filing fees paid to the Administrator and any advertising costs incurred when the tax becomes delinquent shall be a lien from the date of its recording with the Administrator until the tax is paid. The lien shall be superior to all subsequently recorded liens on all tangible personal property in the operator's transient lodging establishment. The lien may be foreclosed and the necessary property may be sold to discharge the lien.

b). Notice of the lien shall be issued by the Administrator when the Operator has defaulted in payment of the tax, interest, and penalty. A copy of the notice shall be sent by certified mail to the Operator.

c). Personal property subject to the lien may be foreclosed in the same manner as a non-possessory chattel lien as set forth in ORS Chapter 87.

d). A lien for the tax, interest and penalty shall be immediately released by the Administrator when the full amount has been paid to the County. The Operator or person making the payment shall receive a receipt stating that the full amount of the tax, interest and penalty has been paid, that the lien is released and that the record of the lien is satisfied.

#### **SECTION 18. Refunds by County to Operator.**

When the tax, penalty, or interest has been paid more than once or has been erroneously or illegally collected or received by the Administrator, it may be refunded if a written claim stating the specific reason for the claim is filed within three (3) years from the date of payment. The claim shall be submitted on forms provided by the Administrator. If the claim is approved by the Committee the excess amount may be refunded to the Operator or it may be credited to an amount then due and payable by the Operator at the option of the Committee and any balance refunded.

#### **SECTION 19. Refunds by County to Transient.**

If the tax has been collected by the Operator and deposited with the Administrator and it is later determined that the tax was erroneously or illegally collected or received by the Administrator, it may be refunded to the transient if a written verified claim by the transient stating the specific reason for the claim is filed with the Administrator within three (3) years from the date of payment. Notice of the refund available shall be mailed to the transient at the address the Operator has on file or that is known to the Operator.

The County shall give the transient thirty (30) days from the date of mailing in which to file a verified claim for refund. In the event a claim is not made within the thirty (30) day period or in the event the County is unable to locate the transient, said amount shall be deposited into the transient lodging tax fund. The County is authorized

to pay any refund to an employer of the transient employee or to the transient's agent or successor upon filing the verified claim as herein set forth.

#### **SECTION 20. Refunds by Operator to Transient.**

If the tax has been collected by the Operator and it is later determined that the transient occupied the transient lodging tax establishment for a period exceeding thirty (30) days without interruption, the operator shall refund the tax to the transient. The Operator shall account for the collection and refund to the Administrator. If the Operator has remitted the tax prior to refund or credit to the transient, the Operator shall be entitled to a corresponding refund.

#### **SECTION 21. Records Required from Operators.**

Every Operator shall keep guest records, accounting books, and records of room rentals for a period of three (3) years and six (6) months.

#### **SECTION 22. Examination of Records.**

During normal business hours and after seventy-two (72) hour notice to the Operator, the Administrator or designated appointee of the Committee may examine books, papers, and accounting records related to room rentals and to verify the accuracy of a return or, if no return is made, to determine the amount to be paid. In the event the Operator refuses to turn over the requested books, papers, and accounting records, the Administrator or Committee appointee shall be entitled to injunctive relief.

#### **SECTION 23. Confidentiality.**

a). The Administrator or a person having an administrative or clerical duty under the provisions of this ordinance shall not make known in any manner the business affairs, operations, or information obtained by an investigation of records and equipment of a person required to file a return or pay a Transient Lodging Tax or a person visited or examined in the discharge of official duty; or the amount or source of income, profits, losses or expenditures contained in a statement or application; or permit a statement or application, or a copy of either, or a book containing an abstract or particulars to be seen or examined by any person.

b). However, nothing in this section shall be construed to prevent:

1). Disclosure to or examination of records and equipment by a County official, employee or agent for collecting taxes for the purpose of administering or enforcing the provisions or collecting the taxes imposed by this ordinance.

2). Disclosure, after filing a written request, to the taxpayer, receivers, trustees, executors, administrators, assignees, and guarantors, if directly interested, of information concerning tax paid, unpaid tax, amount of tax required to be collected, or interest and penalties.

However, the County Counsel or County contracted legal representative shall approve each disclosure, and the Administrator may refuse to make a disclosure referred to in this subsection when, in the Administrator's opinion, the public interest would suffer.

3). Disclosure of names and addresses of persons making returns.

4). Disclosure of general statistics regarding taxes collected or business done in the County.

#### **SECTION 24. Transient Lodging Tax Committee.**

a). There shall be appointed by the Commission, a five member committee known as the Transient Lodging Tax Committee (Committee). The Committee shall be composed of one (1) transient lodging establishment or other tourism related business operator within Baker City, one (1) official from the City of Baker City, approved by the Baker City Council and three (3) at large representatives. Initially, appointed members shall serve staggered terms as established by a draw (1 – one year term, 2 – two year terms and 2 – three year terms). All subsequent terms shall be for three (3) years. Any Committee member's term may be ended by resignation or by removal for good cause by the Commission. In no case shall a Committee member serve more than 2 –three year consecutive terms. The criteria for the makeup of the Committee should include the following criteria in order of priority:

1. Ability to make decisions on what is best for Baker County marketing and promotional endeavors.
2. Experience on policy boards or commissions.
3. Knowledge of Baker County attractions and events.
4. Geographic and demographic diversity within Baker County.
5. Familiarization with Baker County Marketing and Development Plan.

The Committee shall serve as an unbiased policy board that in addition to duties outlined in the remainder of this ordinance, shall meet in open session to give a forum to all interested citizens, events and lodging association and/or entities in establishing the Baker County Marketing and Development Plan. The Committee will then submit the proposed Baker County Marketing and Development Plan to the Commission for formal and final adoption.

b). The Committee shall appoint one (1) member to act as chair and one (1) member to act as secretary who shall keep accurate minutes of all discussion and decisions made. The Committee shall have the duty of preparing a budget annually and submitting it to the Commission for adoption. Such budget shall incorporate the following expenditure categories: 1) Visitor Information Center, 2) Audit, and 3) Promotion. No more than \$ 2,000.00 of promotion category dollars shall be set aside for purposes of executing the annual audit as described in d) 5). After the budget is adopted by the Commission, the Committee through Baker County staff shall make arrangements as described herein for the disbursement of transient lodging taxes in accordance with the adopted budget and agreed upon performance related contracts, and to utilize the monies in accordance with the purpose of this ordinance.

c). Committee members shall at no time serve in any official capacity with any contracted firm, provider, or agency acting on behalf of the Committee either by contract or in volunteer service. All members of the Committee shall adhere to the government official ethics law as described in ORS Chapter 244.

d). Additionally, the Committee shall:

- 1). Hear and determine appeals of orders or decisions of the Administrator and prescribe forms, rules and regulations relating to conducting such appeals as described herein. The Committee may affirm, modify, or reverse a decision or dismiss an appeal. In reviewing a decision of the Administrator, the Committee may take evidence and direct an investigation to assist in review and determination. It shall give notice of its determination in the manner prescribed for serving notice of the Administrator's decision and shall file a certified copy of each determination with the Administrator. A determination becomes final after twenty (20) days and becomes due, subject to interest and penalties and enforceable by the Administrator in the same manner as an order or decision of the Administrator.
- 2). Approve, modify, or disapprove all forms, rules, and regulations prescribed by the Administrator if the forms, rules, and regulations are challenged in the administration and enforcement of this ordinance.
- 3). Hear and determine protests made to a form, rule, or regulation approved or prescribed by the Administrator.
- 4). Prescribe rules for extensions and, for good cause, grant extensions of time in excess of one (1) month for filing a return or paying the tax.
- 5). Annually contract and/or oversee a formal audit of 20% of Baker County transient lodging establishments, from time to time enact investigations regarding imposition and administration of the tax, and report such findings to the Commission. In the event such annual audit or investigation outcome reveals impropriety on behalf of a transient lodging establishment, the Commission may redirect the Committee to immediately proceed with actions described in Sections 15 through 17 and Section 27 herein, or direct County Counsel to investigate the findings of the Committee.
- 6). Develop and oversee the execution of a Baker County Tourism Marketing and Development Plan as part of the Baker County Economic Development Strategic Plan, and make quarterly reports to the EDC on actions and tourism plan progress.
- 7). Act in an advisory capacity to the Commission on matters pertaining to the tax and enforcement problems; and recommend to the Commission the adoption, amendment, or repeal of legislation pertaining to the tax.

8). Any other duties as otherwise set out herein.

e). The Committee may, from time to time, determine that contracted professional consultation may be necessary to perform a variety of tasks such as conducting an annual audit, updating the Tourism Marketing and Development Plan, assisting with tourism marketing and promotion, or other endeavor the TRTC may determine appropriate. In such case, any Request for Proposals, Request for Qualification, or resulting contracts shall be adopted by the Commission prior to enactment.

f). In the event that this ordinance is amended to change the requisite qualifications for members, sitting members of the Committee who do not then qualify for membership because of such amendment shall have a period of one-hundred (100) days in which to qualify. If any member does not so qualify within said one-hundred (100) day period, then that member shall be removed from the Committee.

g). Any member of the Committee who habitually fails to attend Committee meetings over a period of 9 months may be removed from the Committee by the Commission. Such action shall be considered "good cause". The member shall be replaced at the next regularly scheduled meeting of the Commission.

#### **SECTION 25. Disposition and Use of Transient Lodging Tax Funds.**

a). Effective with enactment of this ordinance and thereafter, all revenues received from the tax shall be deposited by the Administrator into three distinct funds as follows: 1) Administrative Support Fund, for purposes of reimbursing Baker County for costs associated with administering the Local Transient Lodging Tax, 2) Economic Development Fund, for purposes of funding Baker County economic development plans, programs and activities and to be allocated to and managed by the EDC upon adoption of an annual budget by the Commission, and 3) Tourism Promotion Fund, for purposes of funding tourism promotion or tourism-related facilities. Should the tax rate be increased to finance or refinance the debt of tourism-related facilities and to pay reasonable administrative costs incurred in financing or refinancing that debt, then upon retirement of the debt, the rate shall be reduced by the amount it was increased to finance or refinance debt.

b). Local Transient Room Tax revenues (after CRC) shall be distributed as follows:

1). Administrative Support Fund: Five percent (5%).

2). Economic Development Fund: Twenty-five percent (25%).

3). Tourism Promotion Fund: Seventy percent (70%).

c.) Upon adoption by the Commission of the annual budget and performance related contracts prepared by the Committee, and at the discretion the Commission, the Committee shall be allotted four (4) equal quarterly installments based upon the adopted budget, or otherwise, the Committee shall annually be awarded the Tourism Promotion Funds as such funds are received.

**SECTION 26. Severability.**

The sections of this ordinance are severable. The invalidity of a section shall not affect the validity of the remaining sections.

**SECTION 27. Penalties.**

a). Any person who violates any provision of this ordinance shall, upon conviction, be punished by a fine not to exceed one-thousand dollars (\$1,000.00) or by imprisonment for not more than thirty (30) days or by both such fine and imprisonment.

b). In addition to such fine, imprisonment, or both, Baker County shall by means of cooperative agreement with the incorporated cities of Baker County notify the City/cities that such violation has been certified and that violator has been formally notified by 30 days written notice to violator, at which time the City/Cities shall discontinue water service to the premises as used or designed for transient occupancy.

**SECTION 28. Emergency Clause.**

This Ordinance, being necessary for the health, welfare, and safety of the citizens of Baker County, shall take effect immediately upon passage.

Adopted by the Baker County Board of Commissioners this 3<sup>rd</sup> day of May, 2006.

**BAKER COUNTY BOARD OF COMMISSIONERS:**

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