

LODGINGTAX EXAMPLES

Austin

TITLE 11. TAXATION.

CHAPTER 11-2. HOTEL OCCUPANCY TAX.

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ARTICLE 1. GENERAL PROVISIONS.

§ 11-2-1 DEFINITIONS.

In this chapter:

(1) CONSIDERATION means the cost of a hotel room only if the room is ordinarily used for sleeping, and does not include the cost of any food served or personal services rendered to the room or a person in the room unless related to the cleaning and readying of the room for occupancy.

(2) DEPARTMENT means the Financial and Administrative Services Department.

(3) HOTEL means a building in which members of the public may obtain sleeping accommodations for consideration. The term includes a hotel, motel, tourist home, tourist house, tourist court, lodging house, inn, rooming house, or other building where a room is furnished for a consideration, but does not include a hospital, sanitarium, or nursing home.

Source: 1992 Code Section 5-3-1; Ord. 031204-10; Ord. 031211-11.

§ 11-2-2 TAX LEVIED; EXCEPTIONS.

(A) A tax of seven percent of the consideration paid for a hotel room is levied on a person who, under a lease, concession, permit, right of access, license, contract, or agreement, pays the consideration for the use or possession or for the right to the use or possession of a hotel room that costs two dollars or more each day and is ordinarily used for sleeping.

(B) This chapter does not impose a tax on:

(1) a person who has the right to use or possess a hotel room for at least 30 consecutive days, so long as there is no interruption of payment for the period; or

(2) the United States, a governmental entity of the United States, or an officer or employee of the United States.

(C) Except as otherwise provided in Section 156.103 (*Exception-State and Federal Government*) of the Texas Tax Code, the State of Texas, or an agency, institution, board, or commission of the State of Texas other than an institution of higher education, as that term is defined by Section 61.003 (*Definitions*) of the Texas Education Code, shall pay the tax imposed by this chapter and is entitled to a refund of the amount of tax paid.

(D) A person entitled to a refund of tax paid under this section shall make an application for a refund according to the rules prescribed by the department in the form prescribed by the department.

Source: 1992 Code Section 5-3-1 and 5-3-2; Ord. 031204-10; Ord. 031211-11.

§ 11-2-3 COLLECTION OF TAX GENERALLY.

(A) A person who owns, operates, manages, or controls a hotel or collects payment for the use or possession or for the right to the use or possession of a hotel room shall collect the tax levied by this chapter for the City.

(B) A person who collects the tax shall deposit the tax proceeds into in a separate liability account and may not use the tax proceeds for any purpose other than payment to the City.

Source: 1992 Code Sections 5-3-2(A) and 5-3-4(B); Ord. 031204-10; Ord. 031211-11.

§ 11-2-4 QUARTERLY REPORTS; PAYMENTS.

(A) A quarterly period under this section is based on the City's fiscal year, with the first quarter beginning on October 1 and ending on December 31.

(B) On or before the last day of the month following each quarterly period, a person required to collect the tax imposed under this chapter shall:

(1) file a written report with the department for that quarterly period, with a copy of the report for state hotel occupancy taxes required by Section 156.151 (*Report and Payment*) of the Texas Tax Code for the same quarterly period; and

(2) pay the tax due for the quarter.

(C) A report under this section shall be in the form prescribed by the department and shall include:

(1) the total consideration paid for rooms subject to the tax in the preceding quarter;

(2) the total amount of tax collected; and

(3) the total amount of tax exemptions granted.

(D) If requested by the department, a person responsible for collecting the tax shall provide the department with:

(1) the names, addresses, and identification relied upon to grant an exemption from the tax; and

(2) any other information the department may reasonably require.

(E) The department may request, and a person required to collect the tax shall provide within a reasonable time, additional documentation verifying the information contained in the report to the City.

Source: 1992 Code Section 5-3-1 and 5-3-4(A); Ord. 031204-10; Ord. 031211-11.

§ 11-2-5 COLLECTION PROCEDURE ON PURCHASE OF A HOTEL.

(A) If a hotel owner sells a hotel, the purchaser or his assignee shall withhold an amount of the purchase price sufficient to pay the amount of tax due until the seller provides:

(1) a receipt issued by the department showing that the amount of tax due has been paid; or

(2) a certificate issued by the department showing that no tax is due.

(B) A purchaser of a hotel who fails to withhold the amount of the purchase price as required by this section is liable for the unpaid tax required to be withheld to the extent of the value of the purchase price.

(C) The purchaser of a hotel may file a written request with the department for the issuance of a certificate stating that no tax is due or for a statement of the amount required to be paid before a certificate may be issued. The department shall issue the certificate or statement not later than the 60th day after the date that the department receives the request.

(D) If the department fails to issue the certificate or statement within the period provided by Subsection (C), the purchaser is released from the obligation to withhold the amount of tax from the purchase price or pay the amount of tax due.

Source: 1992 Code Section 5-3-3(B); Ord. 031204-10; Ord. 031211-11.

§ 11-2-6 RULES; ACCESS TO RECORDS.

(A) The department may promulgate rules to effectively collect the tax imposed by this chapter.

(B) Upon reasonable notice, a person responsible for collecting the tax shall give the department access to the records necessary to determine the accuracy of a report filed or the amount of tax due under this chapter.

Source: 1992 Code Section 5-3-5; Ord. 031204-10; Ord. 031211-11.

§ 11-2-7 ALLOCATION AND USE OF HOTEL OCCUPANCY TAX REVENUE.

(A) This section does not apply to taxes collected under Article 2 (*Venue Projects*).

(B) The revenue derived from the tax authorized by this chapter may be used only as provided by Section 351.101 (*Use of Tax Revenue*) of the Texas Tax Code to promote tourism and the convention and hotel industry as follows:

(1) 64-2/7 percent of the funds collected is allocated to the Convention Center Capital Improvement Project Fund and may be used for:

(a) the construction, improvement, enlarging, equipping, repairing, operation, and maintenance of convention center facilities as defined in Section 351.001 (*Definitions*) of the Texas Tax Code; and

(b) the City's provision of facilities, personnel, and materials for the registration of convention delegates or registrants;

(2) 20-5/7 percent of the funds collected is allocated to the Tourism/Promotion Fund and may be used for:

(a) advertising and conducting solicitations and promotional programs to attract tourists and convention delegates or registrants to the City or its vicinity; and

(b) for historical restoration and preservation projects or activities, or advertising and conducting solicitations and promotional programs to encourage tourists and convention delegates to visit preserved historic sites or museums located at or in the immediate vicinity of convention center facilities or elsewhere in the City or its vicinity; and

(3) 15 percent of the funds collected is allocated to the Cultural Arts Fund and may be used for the encouragement, promotion, improvement, and application of the arts, including instrumental and vocal music, dance, drama, folk art, creative writing, architecture, design and allied fields, painting, sculpture, photography, graphic and craft arts, motion pictures, radio, television, tape and sound recording, and other arts related to the presentation, performance, execution, and exhibition of a major art form.

(C) Revenue derived from the tax shall only be expended to directly enhance and promote tourism and the City's convention and hotel industry. Tax revenue may not be used as general revenue for general governmental operations of the City.

Source: 1992 Code Section 5-3-6; Ord. 031204-10; Ord. 031211-11.

ARTICLE 2. VENUE PROJECTS.

§ 11-2-11 ADDITIONAL HOTEL TAX.

(A) In addition to the tax levied under Section 11-2-2 (*Tax Levied, Exceptions*), a tax in the amount of two percent of the consideration paid for a hotel room is levied.

(B) This tax supports the Convention Center/Waller Creek Venue Project approved by the voters at the May 2, 1998 election as authorized under Chapter 334 (*Sports and Community Venues*), Subchapter H (*Hotel Occupancy Taxes*) of the Texas Local Government Code.

(C) Articles 1 (*General Provisions*) and 3 (*Violations*) of this chapter apply to this article except to the extent of a conflict.

Source: 1992 Code Sections 5-3-11 and 5-3-12; Ord. 031204-10; Ord. 031211-11.

§ 11-2-12 COLLECTION OF TAX.

(A) A person required to collect a tax under Article 1 (*General Provisions*) shall also collect the tax imposed by this article.

(B) Each bill or other receipt for a hotel charge that is subject to the tax imposed under this article must conspicuously include the following statement:

“The City of Austin requires an additional tax of two percent be imposed on each hotel charge for the purpose of financing a venue project.”

Source: 1992 Code Section 5-3-13; Ord. 031204-10; Ord. 031211-11.

§ 11-2-13 QUARTERLY REPORTS.

A person required to collect a tax under this article shall include in the quarterly reports required under Section 11-2-4 (*Quarterly Reports; Payments*) the following additional information:

- (1) the amount of the tax collected under this article; and
- (2) other information as required by the department.

Source: 1992 Code Section 5-3-14; Ord. 031204-10; Ord. 031211-11.

§ 11-2-14 VENUE PROJECT FUND.

(A) The department shall establish and maintain a separate Venue Project Fund. The department shall maintain records to account for the receipt and disbursement of:

- (1) proceeds of the taxes collected under this article;

(2) revenue from the sale of bonds or other obligations related to the Convention Center/Waller Creek Venue Project; and

(3) other money required by law to be deposited in the Venue Project Fund.

(B) The money in the Venue Project Fund shall be maintained in a depository bank of the City.

Source: 1992 Code Section 5-3-15; Ord. 031204-10; Ord. 031211-11.

§ 11-2-15 USE OF REVENUE.

(A) The funds deposited in the Venue Project Fund may only be used for the following purposes:

(1) to reimburse or pay the costs of planning, acquiring, establishing, developing, constructing, or renovating the Convention Center/Waller Creek Project;

(2) to pay the principal, interest, reserves, and other cost relating to bonds or other obligations issued by the City for the Convention Center/Waller Creek Project, or bonds issued to refund the obligations; or

(3) to pay the costs of operating or maintaining the project.

(B) The collection of the tax shall be discontinued when the bonds or other obligations described in this section are paid in full, unless the tax is continued in accordance with state law.

Source: 1992 Code Section 5-3-16; Ord. 031204-10; Ord. 031211-11.

ARTICLE 3. VIOLATIONS.

§ 11-2-21 PENALTIES; INTEREST.

(A) In addition to the tax imposed under this chapter, a person shall pay a penalty of five percent of the tax due if the person:

(1) fails to file a report on or before the due date;

(2) fails to pay the tax imposed on or before the due date; or

(3) files a report containing false information.

(B) A person who fails to pay any amount of the tax and penalty due under Subsection (A) on or before the 60th day after the tax is due shall pay an additional five percent penalty on the unpaid tax. A delinquency penalty shall not be less than one dollar.

(C) Beginning on the 61st day after the due date, delinquent taxes shall draw interest at a rate of 10 percent per annum.

Source: 1992 Code Section 5-3-20(A); Ord. 031204-10; Ord. 031211-11.

§ 11-2-22 OFFENSES.

(A) A person commits an offense if the person violates or fails to perform an act required by this chapter, or files a report containing false information. Each instance of a violation of this chapter is a separate offense, and each day that a person remains in violation constitutes a separate offense.

(B) An offense under this chapter is a Class C misdemeanor, punishable as provided in Section 1-1-99 (*Offenses; General Penalty*).

Source: 1992 Code Section 5-3-20(B); Ord. 031204-10; Ord. 031211-11.

§ 11-2-23 ADDITIONAL ENFORCEMENT AUTHORITY.

The City may take the following actions against a person who has failed to file a required report, failed to collect the tax imposed, failed to pay the taxes over to the City when due, or filed a false report:

(1) bring suit to collect the unpaid tax or to enjoin the person from operating a hotel in the city until the tax is paid or the report filed, as applicable, as provided by the court's order; and

(2) any other remedy provided under state law.

Source: 1992 Code Section 5-3-20(C) and 5-3-21; Ord. 031204-10; Ord. 031211-11.

Boulder, CO

TITLE 3 REVENUE AND TAXATION

Chapter 3 Public Accommodations Tax¹

¹Adopted by Ordinance No. 4610; derived from Ordinance No. 3660.

3-3-1 Legislative Intent.

The city council intends that every person who, for consideration, leases or rents any hotel room, motel room, or other accommodation located in the city for lodging purposes shall pay and every person who furnishes for lease or rental any such accommodation shall collect the tax imposed by this chapter.

Ordinance No. 5882 (1997).

3-3-2 Imposition and Rate of Tax.

On and after January 1, 1985, there is and shall be paid and collected an excise tax of five and one half percent on the price paid for the leasing or rental of any hotel room, motel room, or other public accommodation² located in the city for lodging purposes.

²Defined in Section 3-1-1, "Definitions," B.R.C. 1981.

Ordinance Nos. 4865 (1984); 5882 (1997).

3-3-3 Liability for Tax.

(a)No lessee or renter of a hotel room, motel room, or other accommodation located in the city and used for lodging purposes shall fail to pay, and no lessor or renter of such accommodation shall fail to collect the tax levied by this chapter.

(b)The burden of proving that any transaction is not subject to the tax imposed by this chapter is upon the person upon whom the duty to collect the tax is imposed.

Ordinance No. 5882 (1997).

3-3-4 Taxes Collected Are Held in Trust.

All sums of money paid by a person who leases or rents any hotel room, motel room, or other accommodation as the public accommodations tax imposed by this chapter are public monies that are the property of the city. The person required to collect and remit the public accommodations tax shall hold such monies in trust for the sole use and benefit of the city until paying them to the city manager.

3-3-5 Definition.

As used in this chapter, "lodging purposes" means any use of a hotel room, motel room or other accommodation other than for meeting or eating.

Ordinance No. 5882 (1997).

3-3-6 Exempt Transactions.

The following entities and transactions are exempt from the duty to pay tax under this chapter but not the duty to collect and remit the tax levied hereby:

(a)The United States Government, the State of Colorado, its departments and institutions, and the political subdivisions thereof including the city, when acting in their governmental capacities and performing governmental functions and activities, and when the government's obligation is paid for directly to the licensee by a purchase card or a draft or warrant drawn on the government's account; and

(b) Religious, charitable, and quasi-governmental organizations but only in the conduct of their regular religious, charitable, and quasi-governmental capacities, only if each such organization has obtained an exempt organization license under Section 3-2-12, "Exempt Institution License," B.R.C. 1981, and furnishes the exempt tax license to the person who rents or leases public accommodation to the organization, and only if the organization's obligations have been paid for directly by it to the public accommodations tax licensee without reimbursement therefor.

Ordinance Nos. 5882 (1997); 6090 (1999).

3-3-7 Licensing and Reporting Procedure.

(a) Every person with a duty to collect the tax imposed in this chapter shall obtain a license to collect the tax and shall report such taxes collected on forms prescribed by the city manager and remit said taxes to the city on or before the twentieth day of the month for the preceding month or months under report.

(b) The city manager shall issue a public accommodations tax license to persons who pay the fee prescribed by Section 4-20-38, "Tax License Fees," B.R.C. 1981, and complete an application therefor stating the name and address of the person and the business and such other information as the manager may require. The license shall be numbered, show the name, residence, place, and character of the business of the licensee, and be conspicuously posted in the place of business for which it is issued. No public accommodations tax license is transferable. The manager shall not issue a public accommodations tax license until the Zoning Administrator has verified that the location of the business complies with the provisions of Title 9, "Land Use Regulation," B.R.C. 1981. The license is effective until December 31 of the year of issue, unless sooner revoked.

(c) The license is valid so long as the business remains in continuous operation or the license is canceled by the licensee or revoked by the city.

(d) Whenever a business entity that is required to be licensed under this chapter is sold, purchased, or transferred, so that the ownership interest of the purchaser or seller changes in any respect, the purchaser shall obtain a new public accommodations tax license.

(e) The license may be revoked as provided in Section 3-2-13, "Revocation of License," B.R.C. 1981.

Ordinance Nos. 4803 (1984); 5599 (1993); 5882 (1997).

3-3-8 Maintenance and Preservation of Tax Returns, Reports, and Records.

(a)The city manager may require any person to make such return, render such statement, or keep and furnish such records as the manager may deem sufficient and reasonable to demonstrate whether or not the person is liable under this chapter for payment or collection of the tax imposed hereby.

(b)Any person required to make a return or file a report under this chapter shall preserve those reports as provided in Section 3-2-18, "Taxpayer Duty to Keep Records and Make Reports," B.R.C. 1981.

(c)The city manager shall maintain all reports and returns of taxes required under the chapter as provided in Section 3-2-20, "Preservation of Tax Returns and Reports," B.R.C. 1981.

Ordinance No. 5882 (1997).

3-3-9 Interest and Penalties for Failure to File Tax Return or Pay Tax.

(a)Penalties for failure of a person to collect the accommodations tax or to make a return and remit the correct amount of tax required by this chapter and procedures for enforcing such penalties are those prescribed in Section 3-2-22, "Penalties for Failure to File Tax Return or Pay Tax (Applies to Entire Title)," B.R.C. 1981.

(b)Interest on overpayments and refunds is that prescribed in Section 3-2-24, "Interest on Overpayments and Refunds (Applies to Entire Title)," B.R.C. 1981.

Ordinance No. 5882 (1997).

3-3-10 Refunds.

Refunds of taxes paid under this chapter are those prescribed in Section 3-2-23, "Refunds (Applies to Entire Title)," B.R.C. 1981.

3-3-11 Hearings and Appeals.

Repealed.

Ordinance Nos. 5052 (1987); 5882 (1997).

3-3-12 Enforcement of Tax Liability.

(a)The public accommodations tax imposed by this chapter, together with all interest and penalties pertaining thereto, is a first and prior lien on tangible personal property in which the person responsible to collect and remit the tax has an ownership interest, subject only to valid mortgages or other liens of record at the time of and prior to the recording of a notice of lien, as provided in Subsection 3-2-27(c), B.R.C. 1981.

(b)The provisions of Sections 3-2-27, "Tax Constitutes Lien," 3-2-29, "Sale of Business Subject to Lien," 3-2-30, "Certificate of Discharge of Lien," 3-2-31, "Jeopardy Assessment," 3-2-32, "Enforcing the Collection of Taxes Due (Applies to Entire Title)," 3-2-33, "Recovery of Unpaid Tax by Action at Law," 3-2-34, "City may be a Party Defendant," 3-2-35, "Injunctive Relief," 3-2-36, "Obligations of Fiduciaries and Others," 3-2-37, "Violations of Tax Chapter," and 3-2-38, "Limitations," B.R.C. 1981, govern the authority of the city manager to collect the taxes, penalties and interest imposed by this chapter.

Ordinance No. 5882 (1997).

3-3-13 Duties and Powers of City Manager.

The city manager is authorized to administer the provisions of this chapter and has all other duties and powers prescribed in Section 3-2-17, "Duties and Powers of City Manager," B.R.C. 1981.

Ordinance No. 5882 (1997).

3-3-14 City Employee Conflicts of Interest Prohibited.

No deputy, agent, clerk, or other officer or employee of the city engaged in any activity governed by this chapter shall engage in the business or profession of tax accounting or accept employment with or without compensation from any person holding a public accommodations tax license from the city for the purpose, directly or indirectly, of preparing tax returns or reports required by the city, the State of Colorado, its political subdivisions, any other state, or the United States, or accept any employment for the purpose of advising, preparing materials or data, or auditing books or records to be used in an effort to defeat or cancel any tax or part thereof that has been assessed by the city, the State of Colorado, its political subdivisions, any other state, its political subdivisions, or the United States.

Ordinance No. 5882 (1997).

Chico, CA

Chapter 3.52

TRANSIENT OCCUPANCY TAX¹⁰

Section:

3.52.010 Short title.

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3.52.040 Occupancy defined.

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- 3.52.200 Actions by city to collect tax.**
- 3.52.210 Violation of provisions a misdemeanor - Penalties.**
- 3.52.220 Disposition of tax revenues.**
- 3.52.010 Short title.**

This chapter shall be known as, and for all purposes may be referred to as, the Uniform

Transient Occupancy Tax Law of the City of Chico.

(Prior code §25.75 (Ord. 849 §1 (part)))

3.52.020 Definitions generally.

Except where the context otherwise requires, the definitions given in Sections 3.52.030 to

3.52.070 govern the construction of this chapter.

(Prior code §25.76 (Ord. 849 §I (part)))

3.52.030 Hotel defined.

Hotel means any structure, or any portion of any structure, which is occupied, or intended

or designed for occupancy, by transients for dwelling, lodging or sleeping purposes, and

includes, but is not limited to, any hotel, inn, tourist home or house, motel, studio hotel, bachelor

hotel, lodging house, rooming house, apartment house, dormitory, public or private club, mobilehome or house trailer, at a fixed location, or other similar structure or portion thereof.

(Prior code §25.76-2 (Ord. 849 §I (part)))

3.52.040 Occupancy defined.

Occupancy means the use or possession, or the right to the use or possession, of any room

or rooms or portion thereof, in any hotel for dwelling, lodging or sleeping purposes.

(Prior code §25.76-3 (Ord. 849 §1 (part)))

3.52.050 Transient defined.

Transient means any person who exercises occupancy, or is entitled to occupancy by

reason of concession, permit, right of access, license or other agreement, for less than thirtyone

consecutive calendar days. In determining whether a person is a transient,

uninterrupted periods of time extending both prior and subsequent to the effective date of this chapter may be considered. Any person occupying space in a hotel shall be deemed a transient until a period of thirty-one days has expired, except in a hotel qualifying as exempt under the provisions of Section 3.52.090.

(Prior code §25.76-4 (Ord. 849 §1 (part)))

3.52.060 Rent defined.

Rent means the consideration charged, whether or not received, for the occupancy of space in a hotel valued in money, whether to be received in money, goods, labor or otherwise, including all receipts, cash, credits, and property and services of any kind or nature, without any deduction therefrom whatsoever; provided, however, that "rent" shall not include lodging furnished in kind to an employee by an employer solely for the convenience of the employer.

(Prior code §25.76-5 (Ord. 849 §1 (part)))

3.52.070 Operator defined.

Operator means the person who is proprietor of the hotel, whether in the capacity of owner, lessee, sublessee, mortgagee in possession, licensee, or any other capacity. When the operator performs operator's functions through a managing agent of any type or character other than an employee, the managing agent shall also be deemed an operator for the purpose of this chapter and shall have the same duties and liabilities as managing agent's principal. Compliance with the provisions of this chapter by either the principal or the managing agent shall, however, be considered to be compliance by both.

(Prior code §25.76-6 (Ord. 849 §1 (part)), Ord. 2268)

3.52.080 Imposition - Amount - Where payable.

For the privilege of occupancy in any hotel, each transient is subject to and shall pay a tax in the amount of 10 percent of the rent charged by the operator. Such tax constitutes a debt owed by the transient to the city which is extinguished only by payment to the operator or to the city. The transient shall pay the tax to the operator of the hotel at the time the rent is paid. If the rent is paid in installments, a proportionate share of the tax shall be paid with each installment.

The unpaid tax shall be due upon the transient's ceasing to occupy space in the hotel. If for any reason the tax due is not paid to the operator of the hotel, the finance director

may require that such tax be paid directly to the finance director.
(Prior code §25.77 (Ord. 849 §1 (part), Ord. 906 §1, Ord. 1268 §1, Ord. 1737 §1), Ord. 1985 §1)

3.52.090 Persons deemed exempt from tax.

A. No tax shall be imposed upon any person as to whom, or any occupancy as to which it is beyond the power of the city to impose the tax herein provided.

B. No tax shall be imposed upon the occupants of a hotel, nor shall the provisions of this chapter apply to the owner or operator of a hotel that has had issued to it a "Nontransient Occupancy Registration Certificate" by the finance director, as authorized by this chapter.

(Prior code §25.78 (Ord. 849 §1 (part), Ord. 2113 §1))

3.52.100 Collection - Advertising that tax payment not required prohibited.

Each operator shall collect the tax imposed by this chapter to the same extent and at the same time as the rent is collected from every transient. The amount of tax shall be separately stated from the amount of the rent charged, and each transient shall receive a receipt for payment from the operator. No operator of a hotel shall advertise or state in any manner, whether directly or indirectly, that the tax or any part thereof will be assumed or absorbed by the operator, or that it will not be added to the rent, or that, if added, any part will be refunded, except in the manner hereinafter provided.

(Prior code §25.79 (Ord. 849 §1 (part), Ord. 1972 §1)

3.52.110 Registration certificate - Generally.

Within thirty days after the effective date of this chapter, or within thirty days after commencing business, whichever is later, the operator of any hotel shall register that fact with the finance director upon forms provided, setting out all information required thereon to enable the finance director to determine as to whether said operator is operating a transient or nontransient business. If required information is or has been furnished by the operator at the time of application for a business license, the finance director need not require any additional form or certificate by the operator.

(Prior code §25.80 (Ord. 849 §1 (part), Ord. 2113 §1))

3.52.120 Registration certificate - Transient.

When the information furnished to the finance director as required by Section 3.52.110, establishes that the operator of the hotel is in the business of renting to

transients, the finance director shall issue to the operator a Transient Occupancy Registration Certificate. Such certificate shall be in the form of a stamped impression placed upon the operator's business license certificate by the finance director containing the words Transient Occupancy Registration Certificate with such additional legend in words and/or numerals as the finance director shall determine necessary to give appropriate notice to hotel guests that the licensee has complied with the registration requirements of this chapter.

(Prior code §25.80-1 (Ord. 849 §1 (part), Ord. 2113 §1))

3.52.130 Registration certificate - Nontransient.

When the information furnished to the finance director as required by Section 3.52.110,

establishes that the operator of the hotel is in the business of renting to nontransients, the finance

director shall issue to the operator a Nontransient Occupancy Registration Certificate. Such

certificate shall be in the form of a stamped impression placed upon the operator's business

license certificate by the finance director containing the words Nontransient Occupancy

Registration Certificate with such additional legend in words and/or numerals as the finance director shall determine necessary to give appropriate notice to hotel guests that the licensee

has complied with the registration requirements of this chapter.

(Prior code §25.80-2 (Ord. 849 §1 (part), Ord. 2113 §1))

3.52.140 Reports and remittances.

Each transient operator shall, on or before the last day of each month, make a return to the

finance director, on forms provided by the finance director, of the total rents charged and the

amount of tax due for transient occupancies for the preceding month. At the time the return is

filed, the full amount of the tax due shall be remitted to the finance director.

Returns and

payments are due immediately upon cessation of business for any reasons.

All taxes due by

operators pursuant to this chapter shall be held in trust for the account of the city until payment

thereof is made to the finance director.

(Prior code §25.81 (Ord. 849 §1 (part), Ord. 1972 §2, Ord. 2113 §1), Ord. 2268)

3.52.150 Penalties for failure to remit tax when due.

A. For a failure to pay the tax when due, the finance director shall add a penalty of ten percent

of that tax on the last day of each month after the due date thereof; provided that the

amount of such penalty to be added shall not exceed fifty percent of the amount of the tax due.

B. In addition to the penalties imposed pursuant to subsection A of this section, any operator who fails to remit any tax imposed by this chapter shall pay interest at the rate of one percent per month, or fraction thereof, on the amount of the tax, exclusive of penalties, from the date on which the remittance first became delinquent until paid. (Prior code §25.82 (Ord. 849 §1 (part), Ord. 1511, Ord. 1924 §3, Ord. 2113 §1, Ord. 2151 §5))

3.52.160 Failure of operator to collect and report tax - Determination of tax by tax

administrator - Notice and hearing.

A. If any operator shall fail or refuse to collect such tax, and to make, within the time provided in this chapter, any report and remittance of said tax or any portion thereof required by this chapter, the finance director shall proceed in such manner as the finance director may deem best to obtain facts and information on which to base an estimate of the tax due. As soon as the finance director shall procure such facts and information able to be obtained upon which to base the assessment of any tax imposed by this chapter and payable by any operator who has failed or refused to collect the same and to make such report and remittance, the finance director shall proceed to determine and assess against such operator the tax, interest, and penalties provided for by this chapter.

B. In case such determination is made, the finance director shall give a notice of the amount assessed by serving it personally or by depositing it in the United States mail, postage prepaid, addressed to the operator so assessed at the operator's last known place of address. Such operator may, within 10 days after the serving or mailing of such notice, make application in writing to the city manager for a hearing on the amount assessed.

1. If application by the operator for a hearing is not made within the time prescribed, the tax, interest, and penalties, if any, determined by the finance director shall become final and conclusive, and immediately due and payable.

2. If such application is made, the city manager shall give not less than five days' written notice in the manner prescribed herein to the operator to show cause at a

time and place fixed in such notice why such amount specified therein should not be fixed for such tax, interest, and penalties.

a. At such hearing, the operator may appear and offer evidence why such specified tax, interest, and penalties should not be so fixed.

b. After such hearing, the city manager shall determine the proper tax to be remitted and shall thereafter give written notice to the person in the manner prescribed herein, of such determination and the amount of such tax, interest, and penalties.

c. The amount determined to be due shall be payable after 15 days, unless an appeal is taken as provided in this chapter.

(Prior code §25.83 (Ord. 849 §1 (part), Ord. 2113 §1), Ord. 2268)

3.52.170 Appeal.

Any operator aggrieved by any decision of the finance director or the city manager with respect to the amount of such tax, interest, and penalties, if any, may appeal to the council by filing a notice of appeal with the city clerk within 15 days of the serving or mailing of the determination of tax due. The council shall fix a time and place for hearing such appeal, and the city clerk shall give notice in writing to such operator at operator's last known place of address.

The findings of the council shall be final and conclusive, and shall be served upon the appellant in the manner prescribed above for service of notice of hearing. Any amount found to be due shall immediately be due and payable upon the service of notice.

(Prior code §25.84 (Ord. 849 §1 (part), Ord. 2113 §1), Ord. 2268)

3.52.180 Records to be kept for a period of three years.

It shall be the duty of every operator liable for the collection and payment to the city of any tax imposed by this chapter to keep and preserve for a period of three years, all records as may be necessary to determine the amount of such tax as the operator may have been liable for the collection of and payment to the city, which records the finance director shall have the right to inspect at all reasonable times.

(Prior code §25.85 (Ord. 849 §1 (part), Ord. 2113 §1), Ord. 2268)

3.52.190 Refunds.

A. Whenever the amount of any tax, interest or penalty has been overpaid or paid more than once, or has been erroneously or illegally collected or received by the city under this chapter, it may be refunded as provided in subparagraphs B and C of this

section; provided
a claim in writing therefor, stating under penalty of perjury the specific grounds upon which
the claim is founded, is filed with the finance director within three years of the date of

payment. The claim shall be on forms furnished by the finance director.

B. An operator may claim a refund or, at the option of the city, take as credit against taxes to

be collected and remitted, the amount overpaid, paid more than once, or erroneously or
illegally collected or received, when it is established in a manner prescribed by the finance

director that the person from whom the tax has been collected was not a transient;

provided, however, that neither a refund nor a credit shall be allowed unless the amount of

the tax so collected has either been refunded to the transient or credited to rent

subsequently payable by the transient to the operator.

C. A transient may obtain a refund of taxes overpaid, or paid more than once, or erroneously

or illegally collected or received by the city by filing a claim in the manner provided in

subparagraph A of this section, but only when the tax was paid directly by the transient to

the finance director, or when the transient, having paid the tax to the operator, establishes to

the satisfaction of the finance director that the transient has been unable to obtain a refund

from the operator who collected the tax.

D. No refund shall be paid under the provisions of this section unless the claimant establishes a

right thereto by written records showing entitlement thereto.

(Prior code §25.86 (Ord. 849 §1 (part), Ord. 2113 §1), Ord. 2268)

3.52.200 Actions by city to collect tax.

Any tax required to be paid by any transient under the provisions of this chapter shall be

deemed a debt owed by the operator to the city. Any person owing money to the city under the

provisions of this chapter shall be liable to an action brought in the name of the city, in any court

of competent jurisdiction within the county, or within the county of residence of such person, at

the option of the finance director, for the recovery of such amount.

(Prior code §25.86-1 (Ord. 849 §1 (part), Ord. 2113 §1))

3.52.210 Violation of provisions a misdemeanor - Penalties.

Any person violating any of the provisions of this chapter shall be guilty of a misdemeanor

and shall be punishable therefor by a fine of not more than five hundred dollars, or by

imprisonment for a period of not more than six months, or by both such fine and imprisonment.
Any operator or other person who fails or refuses to register as required herein, or to furnish any return required to be made, or who fails or refuses to furnish a supplemental return or other data required by the finance director, or who renders a false or fraudulent return or claim, is guilty of a misdemeanor, and is punishable as aforesaid. Any person required to make, render, sign or verify any report or claim who makes any false or fraudulent report or claim with intent to defeat or evade the determination or any amount due required by this chapter to be made, is guilty of a misdemeanor and is punishable as aforesaid.
(Prior code §25.87 (Ord. 849 §1 (part), Ord. 2113 §1))

3.52.220 Disposition of tax revenues.

All revenues derived from the taxes imposed by this chapter shall be deposited in the city's general fund and thereafter appropriated by the city council for any municipal purpose; provided, however, that the city council shall, in each fiscal year, endeavor to appropriate 40% of such revenues for the promotion of tourism, economic development, the support of a community center, community art projects, and for any other similar community projects or programs.
(Ord. 1737 §2, Ord. 1985 §2)

King County, WA

Chapter 4.42

USE OF THE HOTEL-MOTEL TAX

Sections:

- 4.42.010 Findings.
- 4.42.020 Definitions.
- 4.42.025 Hotel-motel revenue allocations for cultural programs.
- 4.42.090 Hotel-Motel Special Support Program.
- 4.42.110 Compliance.
- 4.42.122 Refinancing of Kingdome Debt.

4.42.010 Findings.

A. Under RCW 67.28.180(3)(a), excess proceeds from the hotel-motel tax levied annually in King County shall only be used according to the formula set forth therein for the support of the arts, the performing arts, art museums, heritage museums and cultural museums of King County, and the support of

stadium capital improvements, open space acquisition, youth sports activities and tourism promotion, in a manner reflecting that order of priority.

B. To implement and administer the cultural programs described in this chapter and K.C.C. chapter 2.48, King County established the cultural development authority of King County, as provided in K.C.C. chapter 2.49. (Ord. 14482 § 64, 2002; Ord. 11242 § 1, 1994; Ord. 10189 § 1, 1991; Ord. 9279 § 1, 1989).

4.42.020 Definitions. Words in this chapter have their ordinary and usual meanings except those

defined in this section, which have, in addition, the following meanings. If there is conflict, the specific definitions in this section shall presumptively, but not conclusively, prevail.

A. "Charter" means the articles of organization of the cultural development authority adopted by the county and all amendments thereto.

B. "Cultural development authority" or "authority" means the cultural development authority of King County established under K.C.C. chapter 2.49.

C. "Cultural education" means the sequential and comprehensive study of the elements of the various arts and heritage forms and how to use them creatively including instruction in skills, critical assessment, the history of the arts and heritage forms and aesthetic judgment.

D. "Cultural education program" means the cultural program described in K.C.C. chapter 2.48

supported by the arts and cultural development fund.

E. "Cultural facilities" includes buildings and structures that are used primarily for the performance, exhibition or benefit of arts and heritage activities, including but not limited to performing arts, visual arts, heritage and cultural endeavors.

F. "Cultural facilities program" means the King County cultural program described in K.C.C. chapter 2.48 supported by the arts and cultural development fund.

G. "Cultural programs" means the programs for cultural education, cultural facilities, special projects and sustained support.

H. "Cultural resources" means community and regional programs and projects relating to:

performing, visual, literary and other arts; public and civic art; heritage; museum and archival collections;

historic preservation; cultural education; and cultural organizations, institutions and attractions.

I. "Culture" means the arts and heritage disciplines, which include, but are not limited to, dance, drama and theatre, music, visual arts, literary arts, media arts, performing arts, traditional and folk arts,

ethnic arts and history, heritage and historic preservation.

J. "Fixed assets" means tangible objects such as machinery or equipment intended to be held for ten years or more that will benefit cultural institutions.

K. "Heritage" means King County's history, ethnic history, indigenous and traditional culture, folklore and historic and archaeological resources and those projects and programs initiated by the authority to preserve King County's heritage and to support community and regional heritage organizations and public agencies in such efforts.

L. "Special project program" means the King County cultural program described in K.C.C. chapter 2.48 supported by the arts and cultural development fund.

M. "Sustained support program for arts" means the King County cultural program described in K.C.C. chapter 2.48 supported by the arts and cultural development fund.

N. "Sustained support program for heritage" means the King County cultural program described in K.C.C. chapter 2.48 supported by the arts and cultural development fund. (Ord. 14482 § 65, 2002: Ord. 14440 § 2, 2002: Ord. 11242 § 2, 1994: Ord. 10189 § 2, 1991: Ord. 9279 § 2, 1989).

4.42.025 Hotel-motel revenue allocations for cultural programs.

A. Hotel-motel revenues deposited in The King County arts and cultural development fund, created under K.C.C. 4.08.190, shall be administered by the cultural development authority.

B. Hotel-motel revenues deposited in the King County arts and cultural development fund shall be used to support the cultural programs described in K.C.C. chapter 2.48: cultural facilities; cultural education; special projects; and sustained support. The hotel-motel revenues in the fund shall also support related administration of those programs by the cultural development authority.

C. Through December 31, 2012, at least forty percent of the hotel-motel revenues appropriated to the arts and cultural development fund and transferred to the cultural development authority shall be deposited in an account and used to establish cultural endowment. Principle and interest shall be managed by the cultural development authority in accordance with RCW 67.28.180(3)(a).

D. After allocating the hotel-motel portion of the arts and cultural development fund to administer cultural programs and to build the cultural endowment, the cultural development authority shall divide the hotel-motel revenues in the arts and cultural development fund between arts programs and heritage

programs, but at least twenty percent of the revenue shall be allocated to heritage programs.

E. Beginning January 1, 2002, using revenues generated in 2001, outstanding debt service

obligations shall be financed from hotel-motel revenues in the arts and cultural development fund. The

obligations incurred before December 31, 2002, shall be managed by the department of executive

services and paid by the cultural development authority.

F. After deducting the amount necessary to meet debt service obligations, the cultural

development authority shall allocate hotel-motel revenues intended to support arts programs from the arts

and cultural development fund as follows:

1. For cultural facilities and sustained support, eighty percent of remaining arts program

revenues, but sustained support shall receive at least thirty percent of the eighty percent; and

2. For special projects and cultural education, twenty percent of remaining arts program

revenues, but special projects shall receive at least thirty-four percent of the twenty percent.

G. After deducting the amount necessary to meet debt service allocations, the cultural

development authority shall allocate hotel-motel revenues intended to support heritage programs from the

arts and cultural development fund as follows:

1. For cultural facilities and sustained support, seventy percent of remaining heritage program

revenues, but sustained support shall receive at least twenty percent of the seventy percent;

2. For special projects, thirty percent of remaining heritage program revenues, and

H. Hotel-motel revenues from the arts and cultural development fund shall not be used to

support services and programs to be provided by the King County landmarks commission for land use

regulation and archaeological resource management purposes as described in K.C.C. chapter 20.62.

(14917 § 1, 2004: Ord. 14482 § 43, 2002: Ord. 14440 § 3, 2002).

Miami, FL

ARTICLE V. TOURIST DEVELOPMENT ROOM TAX*

***Editor's note:** Ord. No. 78-62, §§ 1, 2, 3(C), (D), 4, 5, 7, 8, and 11, adopted Oct. 4, 1978, and approved at referendum on Nov. 7, 1978, did not expressly

amend the Code; hence, inclusion herein as Art. V of Ch. 29, §§ 29-51--29-56, is at the discretion of the editor.

Cross references: Metropolitan Dade County Tourist Development Council, § 2-248 et seq.

State law references: Tourist development tax, F.S. § 125.0104.

Sec. 29-51. Levy and imposition.

(a) There shall be levied and imposed throughout the incorporated and unincorporated areas of Dade County, Florida, except within the municipal limits of Miami Beach, Bal Harbour and Surfside: (1) a tourist development room tax; (2) a professional sports franchise facility tax; and (3) a homeless and spouse abuse tax. The tourist development room tax shall be imposed at a rate of two (2) percent, and the professional sports franchise facility tax shall be imposed at a rate of one (1) percent, of each whole and major fraction of each dollar of the total rental charged every person who rents, leases or lets for consideration any living quarters or accommodations in any hotel, apartment hotel, motel, resort motel, apartment, apartment motel, rooming house, mobile home park, recreational vehicle park, or condominium for a term of six (6) months or less. When receipt of consideration is by way of property other than money, the tax shall be levied and imposed on the fair market value of such nonmonetary considerations. An oral lease, payable weekly, monthly or otherwise, shall not be subject to the tax where the tenant occupies a residential unit located in a facility in which the residential units are leased primarily as permanent residences. Living quarters or accommodations which are exempt according to the provisions of Chapter 212, Florida Statutes, shall also not be subject to the tax.

(b) There shall also be levied and imposed throughout the incorporated and unincorporated areas of Dade County, Florida, except within the municipal limits of those municipalities presently imposing a municipal resort tax pursuant to Chapter 67-930, Florida Statutes, a tourist development surtax at a rate of two (2) percent of each whole and major fraction of each dollar of the total amount charged every person for the purchase of food, beverages or alcoholic beverages in any hotel or motel. When receipt of consideration is by way of property other than money, the tax shall be levied and imposed on the fair market value of such nonmonetary consideration.

(c) In addition to the tourism development room tax, the professional sports franchise facility tax and the tourism development surtax, there shall be levied and imposed throughout the incorporated and unincorporated areas of Dade County, except within the municipal limits of those municipalities presently imposing a municipal resort tax pursuant to Chapter 67-930, Florida Statutes, a homeless and spouse abuse tax. The homeless and spouse abuse tax shall be imposed at the rate of one (1) percent on each whole and major fraction of each dollar charged every person for the purchase of food, beverages or alcoholic beverages in establishments that are licensed by the State of Florida to sell alcoholic beverages for consumption on the premises, except hotels and motels. The tax shall not apply to: (1) any item sold by the package for off premises consumption; (2) sales of food, beverages or alcoholic beverages in establishments licensed by the state to sell alcoholic beverages for consumption on the premises which during the previous calendar year, calculated from July 1 until the following June 30, had gross annual revenues of four hundred thousand dollars (\$400,000.00) or less; (3) food, beverage and alcoholic beverage sales in any veterans, fraternal, or other chartered or incorporated club licensed under Section 565.02(4), Florida Statutes; and (4) all sales or transactions which are exempt from the state sales tax.

(d) The tourist development room tax, the professional sports franchise facility tax, the tourist development surtax, and the homeless and spouse abuse tax shall be in addition to any other tax imposed pursuant to Chapter 212, Florida Statutes, and in addition to all other taxes, fees and the considerations for the rental or lease of living quarters or accommodations as described in Section 29-51(a), or for the purchase of food, beverages and alcoholic beverages from the establishments described in Section 29-51(b).

(e) The tourist development room tax and the professional sports franchise facility tax shall be charged by the person receiving the consideration for the lease or rental, and it shall be collected from the lessee, tenant or customer at the time of payment of the consideration for such lease or rental. The tourist development surtax and the homeless and spouse abuse tax shall be charged by the person receiving the consideration for the food, beverages or alcoholic beverages, and it shall be collected at the time of payment for such food, beverage or alcoholic beverage.

(Ord. No. 78-62, § 1, 10-4-78; Ord. No. 84-88, § 1, 11-6-84; Ord. No. 90-33, § 1, 4-3-90; Ord. No. 90-116, § 1, 10-16-90; Ord. No. 93-75, § 1, 7-27-93)

Sec. 29-51.1. Remittance and administration.

The person receiving the consideration for rentals, leases, food, beverages or alcoholic beverages taxable under this article shall receive, account for, and remit the tax to the Dade County Tax Collector in accordance with the following procedure:

(a) The taxes levied hereunder shall be due and payable monthly on the first day of each month, and for the purpose of ascertaining the amount of tax payable under this article, it shall be the duty of all lessors to make a return, on or before the twentieth day of the month, to the County Tax Collector, upon forms prepared and furnished by the County, showing all rentals during the preceding calendar month; however, the County may authorize a quarterly return and payment when the tax remitted by the lessor for the preceding quarter did not exceed twenty-five dollars (\$25.00). The County or its designated agent shall accept returns if postmarked on or before the twentieth day of the month; if the twentieth day falls on a Saturday, Sunday, or federal or State legal holiday, returns shall be accepted if postmarked on the next succeeding work day. Each lessor shall file a return for each tax period even though no tax is due for such period.

(b) The same duties, privileges, enforcement procedures and penalties imposed by Chapter 212, Florida Statutes, upon dealers in tangible property respecting the remission and collection of tax, the making of returns, the keeping of books, records and accounts, and compliance with the rules of the Florida Department of Revenue in the administration of said chapter, to the extent that such provisions of said Florida Statutes and Department of Revenue regulations are not in conflict with the provisions of this article, shall apply to and be binding upon all persons and entities who are subject to the provisions of this article.

(c) (1) Every lessor upon whose premises the tourist development room tax and the professional sports franchise facility tax are levied and every person selling food, beverages or alcoholic beverages taxable under this article shall have the duty to maintain adequate records to show gross collections from all such taxable transactions and the amount of tax due and paid hereunder. It shall be their duty, moreover, to keep and preserve, for a period of three (3) years, all invoices and other records of leases, rentals and sales of food, beverages and alcoholic beverages under this article, and all such books, invoices, and other records shall be open to examination at all reasonable hours to the County or its designated agent.

(2) For the purpose of this subsection, if a lessor or other person collecting the taxes under this article does not have adequate records of his rentals or sales of food, beverages and alcoholic beverages, the County or its designated agent, may, upon the basis of test or sampling of the lessor's or person's available records or other information relating to the rentals or sales made by such lessor or person, for a representative period, determine the proportion that taxable transactions bear to total transactions. This subsection does not affect the duty of any lessor or person to collect, or the liability of any tenant or purchaser to pay, any tax imposed by or pursuant to this article.

(3) If the records of a lessor or other person collecting the taxes under this article are adequate but voluminous in nature and substance, the County or its designated agent may statistically sample such records and project the audit findings derived therefrom over the entire audit period to determine the proportion that taxable transaction amounts bear to total transaction amounts, provided, the lessor or other person and the County have entered into an agreement which provided for the use of statistical sampling and projections and the means and methods to be used. The agreement shall be binding on the lessor or person and the County.

(d) (1) The County is authorized to audit or inspect the records and accounts of such lessors and persons and correct by credit any overpayment of tax; and, in the event of a deficiency, an assessment shall be made and collected. No administrative finding of fact is necessary prior to the assessment of any tax deficiency.

(2) In the event any lessor or person charged herein fails or refuses to make his records available for inspection so that no audit or examination has been made of the books and records of such lessor or person, fails or refuses to register as a lessor or other person collecting the taxes under this article, or fails to make a report and pay the taxes as provided by this article, or makes a grossly incorrect report, or makes a report that is false or fraudulent, then, in such event, it shall be the duty of the County to make an assessment from an estimate based upon the best information then available to it for the taxable period of retail sales of such lessor or other person collecting the taxes, the gross proceeds from rentals or sales of food, beverages and alcoholic beverages, together with interest plus penalty, if such have accrued, as the case may be. Then the County shall proceed to collect such taxes, interest, and penalty on the basis of such assessment, which shall be considered prima facie correct; and the burden to show the contrary shall rest upon the lessor or other person collecting the taxes.

(Ord. No. 78-62, § 2, 10-4-78; Ord. No. 87-81, § 1, 11-17-87; Ord. No. 90-33, § 2, 4-3-90; Ord. No. 90-116, § 2, 10-16-90)

Sec. 29-51.2. Tax Collector's powers and duties.

The Tax Collector shall maintain accurate books, records and accounts reflecting the collection, administration and disbursement of the taxes levied and imposed under this article. The Tax Collector shall prescribe and publish such forms as may be necessary to effectuate the local collection of the tourist development room tax, the professional sports franchise facility tax, the tourist development surtax and the homeless and spouse abuse tax. For the purpose of collecting the tourist development room tax, the professional sports franchise facility tax, the tourist development surtax and the homeless

and spouse abuse tax, the Tax Collector shall have the same duties and powers as those vested in the Florida Department of Revenue under Chapter 212, Florida Statutes.

(Ord. No. 87-81, § 2, 11-17-87; Ord. No. 90-83, § 3, 4-3-90; Ord. No. 90-116, § 3, 10-16-90; Ord. No. 93-75, § 2, 7-27-93)

Sec. 29-51.3. Costs of administration.

The Tax Collector may retain a portion of the taxes collected for costs of administration in an amount not to exceed three (3) percent of collections.

(Ord. No. 87-81, § 3, 11-17-87; Ord. No. 90-33, § 4, 4-3-90)

Sec. 29-51.4. Dealer's credit.

The same duties and privileges imposed upon dealers by Chapter 212, Florida Statutes, apply under this article. To compensate dealers for keeping of prescribed records and the proper accounting and remitting of taxes by them, dealers shall be allowed three (3) percent of the first one thousand dollars (\$1,000.00) of the amount of taxes due and accounted for and remitted to the Tax Collector and one percent of all amounts in excess of one thousand dollars (\$1,000.00) on each tax return to the Tax Collector. The collection allowance may not be granted nor may any deduction be permitted, if the tax is delinquent at the time of payment. The Tax Collector may reduce the collection allowance by ten (10) percent or fifty dollars (\$50.00), whichever is less, if taxpayer files an incomplete return.

(Ord. No. 87-81, § 4, 11-17-87; Ord. No. 90-33, § 5, 4-3-90)

Sec. 29-51.5. Procedures for confidentiality.

All information contained in returns, reports, accounts, or declarations received from dealers, and from the Department of Revenue, including investigative reports and information, is confidential except for official purposes and subject to the provisions of Section 213.053, Florida Statutes. Dade County and its officers and employees having access to information regarding the tourist development room tax, the professional sports franchise facility tax, the tourist development surtax or the homeless tax shall accord such information, documents, names, and addresses, the same confidentiality as required by said statute. All Dade County officers and employees having access shall be made aware of those requirements and the penalties for their violation.

(Ord. No. 87-81, § 5, 11-17-87; Ord. No. 90-33, § 6, 4-3-90; Ord. No. 90-116, § 4, 10-16-90; Ord. No. 93-75, § 3, 7-27-93)

Sec. 29-52. Reserved.

Sec. 29-53. Enforcement of collections.

(a) *Failure to charge and collect tax.* Any person who is taxable hereunder who fails or refuses to charge and collect from the person paying any rental or lease or purchasing any food, beverage or alcoholic beverage the taxes herein provided, either by himself or through his agents or employees, shall be, in addition to being personally liable for the payment of the tax, guilty of a violation of the second degree, punishable as provided in Section 775.082, Section 775.083 or Section 775.084, Florida Statutes. Each occasion upon which such person fails to charge and collect the taxes herein provided shall constitute a separate offense.

(b) *Advertisement or holding out to public that tax not required to be paid by renter or lessee, etc.* No person shall advertise or hold out to the public in any manner, directly or indirectly, that he will absorb all or any part of the taxes herein provided, or that he will relieve the person paying for a rental, lease, food, beverage or alcoholic beverage of the payment of all or any part of the tax, or that the tax will not be added to the rental or lease consideration or the consideration of food, beverage or alcoholic beverage, or when added, that it or any part thereof will be refunded or refused, either directly or indirectly, by any method whatsoever. Any person who willfully violates any provision of this subsection shall be guilty of a violation of the second degree, punishable as provided in Section 775.082, Section 775.083 or Section 775.084, Florida Statutes.

(c) *Lien status of levy.* The tourist development room tax and the professional sports franchise facility tax hereby levied shall constitute a lien on the property of the lessee, customer, or tenant in the same manner as, and shall be collectible as are, liens authorized and imposed by Sections 713.67, 713.68 and 713.69, Florida Statutes.

(Ord. No. 78-62, § 5, 10-4-78; Ord. No. 90-33, § 7, 4-3-90; Ord. No. 90-116, § 5, 10-16-90)

Sec. 29-54. Disposition of revenues; review of expenditures.

(a) *Tourist development room tax.*

(1) Collections received by the Tax Collector from the tourist development room tax, less costs of administration, are to be deposited in the "Dade County Tourist Development Trust Fund," herewith established, and used in accordance with the Dade County Tourist Development Plan, which provides for the allocation of funds as follows:

1. To fund the Greater Miami Convention and Visitors Bureau (sixty (60) percent less the following amounts, the allocation of which shall be made by the Board of County Commissioners after receipt of the recommendations of the Dade County Tourist Development Council: (i) \$550,000.00 in 1993-94; (ii) \$575,000.00 in 1994-95; and (iii) \$600,000.00 in 1995-96 and each year thereafter.) Funds allocated pursuant to the recommendations of the Tourist Development Council shall be for the tourism purposes described in the following subparagraph 2.

2. To promote Dade County tourism by sponsoring tourist-oriented culture, cultural and special events such as visual and performing arts including theater, concerts, recitals, opera, dance, art, exhibitions, festivals and other tourist-related activities. (Twenty (20) percent). In determining expenditures from the twenty (20) percent portion of this allocation the County Commission may consider the recommendations of the Dade County Cultural Affairs Council.

3. To the City of Miami to be used to modernize and improve the present Orange Bowl Football Stadium including chairback seats, additional food and beverage concessions, additional and improved parking facilities and restrooms and construction, for staff and marketing services to promote tourism and the Knight Center; and to fund tourist-oriented events. (Twenty (20) percent).

4. To use as a secondary pledge to pay debt service on bonds issued to finance the construction, reconstruction, or renovation of professional sports franchise facilities (the "Professional Sports Franchise Facilities Tax Revenue Bonds"), if and only to the extent that the primary pledge of revenues are not sufficient to pay amounts due on said Professional Sports Franchise Facilities Tax Revenue Bonds.

(2) The duties of the Tourist Development Council shall be described in the enabling act [Section 125.0104, Florida Statutes] and in Ordinance No. 78-28 [Sections 2-248 through 2-253.1] passed by the Board of County Commissioners on April 4, 1978. The Council shall also, from time to time, make recommendations to the Board of County Commissioners for the effective operation of the special projects or uses of the tourist development

room tax revenue and may perform such other duties or functions as may be prescribed by ordinance or resolution.

(3) The Tourist Development Council shall continuously review expenditures of revenues from the Tourist Development Trust Fund and shall receive at least quarterly expenditure reports from the Board of County Commissioners or the Clerk of the Board of County Commissioners. Expenditures which the Council believes to be unauthorized shall be reported to the Board of County Commissioners and the Florida Department of Revenue. The County Commissioners and the Florida Department of Revenue shall review the Council's findings and take appropriate administrative or judicial action to ensure compliance with this article and the provisions of Section 125.0104, Florida Statutes.

(b) *Professional sports franchise facility tax.* Collections received by the Tax Collector from the professional sports franchise facility tax, less costs of administration, shall be used to pay debt service on bonds issued to finance the construction, reconstruction, or renovation of a professional sports franchise facility.

(c) *Tourist development surtax.* Collections received by the Tax Collector from the tourist development surtax, less costs of administration, are to be deposited to the Dade County Tourist Development Surtax Trust Fund, herewith established, and disbursed in the following manner:

(1) The proceeds of the tourist development surtax shall be allocated to the Countywide Convention and Visitors Bureau which, by interlocal agreement and contract with the County, has been given primary responsibility for promoting the County and its constituent cities as a destination site for conventions, trade shows, and pleasure travel.

(a) All tax proceeds allocated to the Convention and Visitors Bureau shall be used only for the following purposes:

(i) To promote and advertise tourism in the State of Florida and nationally and internationally; and

(ii) To fund convention bureaus, tourist bureaus, tourist information centers and news bureaus, either as County agencies or by contract with the Chambers of Commerce or similar associations in the County.

(b) The County shall regulate by separate agreement with the Convention and Visitors Bureau the manner in which the tax proceeds shall be distributed to the Convention and Visitors Bureau, the specific purposes for which the proceeds shall be expended, and the manner in which the County shall review the administration of tax proceeds by the Convention and Visitors Bureau.

(2) In the event the County is no longer a party to an interlocal agreement and contract with a Countywide Convention and Visitors Bureau, the County shall allocate directly the proceeds of the tax for the purposes described in subsection (b)(1)(a)(i) and (ii).

(d) *Homeless and spouse abuse tax.*

(1) The County adopts as its controlling policy and plan for addressing the needs of persons who have become or are about to become homeless, the Dade County Community Homeless Plan prepared by the Dade County Task Force on the Homeless, attached as exhibit A. This plan shall govern the expenditure of that portion of the homeless and spouse abuse tax dedicated to assisting the homeless.

(2) All funds collected by the Tax Collector from the homeless tax shall be placed into the Homeless Tax Trust Fund and used in the following manner:

a. For the first twelve (12) months funds placed into the Homeless Tax Trust Fund shall be used by the County to assist persons who have become or are about to become homeless only in accordance with the Dade County Community Homeless Plan.

b. Thereafter not less than fifteen (15) percent of the funds generated by the homeless and spouse abuse tax shall be made available for the construction and operation of a spouse abuse emergency treatment and shelter facility.

(3) During the existence of the homeless and spouse abuse tax, Dade County shall continue to contribute each year at least eighty-five (85) percent of the average annual aggregate general fund expenditures devoted to operating homeless shelter services in the two (2) fiscal years preceding the effective date of this Ordinance No. 93-75.

(Ord. No. 78-62, § 3(C), (D), 10-4-78; Ord. No. 90-33, § 8, 4-3-90; Ord. No. 90-116, § 6, 10-16-90; Ord. No. 92-138, § 1, 11-5-92; Ord. No. 93-75, § 4, 7-27-93; Ord. No. 94-02, § 1, 1-18-94)

Sec. 29-55. Modification of Tourist Development Plan.

The Tourist Development Plan adopted under the provisions of this article may not be substantially amended except by ordinance enacted by an affirmative vote of a majority plus one additional vote of the Board of County Commissioners, pursuant to the enabling act.

(Ord. No. 78-62, §§ 4, 7, 10-4-78)

Sec. 29-56. Powers, duties and responsibilities not specifically conferred.

Any powers, duties or responsibilities not specifically conferred on the Tourist Development Council or the Dade County Board of County Commissioners by this article but authorized to be conferred by the State enabling act, as amended from time to time, shall be deemed to be conferred by this article upon the Tourist Development Council or the Board of County Commissioners, as the case may be.

(Ord. No. 78-62, § 8, 10-4-78)

Sec. 29-57. Effective date.

That part of this article pertaining to the tourist development room tax shall become effective the first day of the month following its being approved at referendum.

(Ord. No. 78-62, § 11, 10-4-78; Ord. No. 90-33, § 9, 4-3-90)

Secs. 29-58, 29-59. Reserved.

Orlando, FL

ARTICLE IV. TOURIST DEVELOPMENT AND TOURIST IMPACT TAXES*

***State law references:** Tourist development tax, F.S. § 125.0104; tourist impact tax, F.S. § 125.0108.

Sec. 25-136. Levy; exemptions; additional to other taxes, fees, etc.

(a) There is hereby levied and imposed and set a tourist development tax throughout the county at a rate of two (2) percent of each dollar and major fraction of each dollar of the total consideration charged every person who rents, leases or lets for consideration any living quarters or accommodations in any hotel, apartment hotel, motel, resort motel, apartment, apartment motel, roominghouse, mobile home park, recreational vehicle park, or condominium for a term of six (6) months or less, unless such person rents, leases, or lets for consideration any living quarters or accommodations which are exempt according to the provisions of F.S. ch. 212. When receipt of consideration is by way of property other than money, the tax shall be levied and imposed on the fair market value of such nonmonetary considerations.

(b) The tourist development tax shall be in addition to any other tax imposed pursuant to F.S. ch. 212 and in addition to all other taxes and fees and the consideration for the rental or lease.

(c) Pursuant to F.S. § 125.0104(3)(d), there is hereby levied, imposed and set an additional one (1) percent of each dollar above the tax rate set under subsection (a) of this section.

(d) Pursuant to F.S. § 125.0104(3)(n), there is hereby levied, imposed and set an additional one (1) percent of each dollar above the tax rate set under subsections (a), (b) and (c) of this section.

(Code 1965, § 33-101; Ord. No. 78-7, § 1(a), (b), 3-16-78; Ord. No. 85-30, § 2(a), (b), 11-11-85; Ord. No. 86-13, § 1, 5-27-86; Ord. No. 89-14, § 1, 8-21-89)

Sec. 25-136.1. Additional rate of tax; collection and use of additional revenue, etc.

(a) Pursuant to F.S. § 125.0104(3)(l), there is hereby levied, imposed and set an additional one (1) percent of each dollar above the tax rate set under subsections 25-136(a), (b), (c), and (d) of this article.

(b) All revenues attributable to the increase in the tax rate under subsection (a) shall be collected and accounted for in accordance with sections 25-137 and 25-138, except that upon receipt the Orange County Comptroller shall

deposit such revenues in an account within the tourist development trust fund that is separate and apart from all other accounts within the trust fund and shall take such actions as are necessary or desirable from time to time to ensure, for accounting purposes, that such revenues are not commingled with the revenues attributable to the tax rates imposed under section 25-136 of this article.

(c) The tax revenues attributable to the increase in the tax rate under subsection (a) shall be expended only for the purposes allowed by law, including but not limited to the payment of debt service on bonds issued to finance the construction, reconstruction, or renovation of a major league baseball stadium. Furthermore, the provisions of sections 25-139, 25-140, and 25-141 of this article do not apply to the tax revenues attributable to the increase in the tax rate under subsection (a).

(d) This section shall automatically expire and be of no further force and effect (i) upon payment of all debt service on all bonds heretofore and hereafter issued to finance the construction, reconstruction, or renovation of any professional sports franchise facilities and (ii) at such time as there otherwise remains in the county no lawful purpose for the expenditure of the tax revenues attributable to the increase in the tax rate under subsection (a). Provided, however, it is the intention of the board of county commissioners that, after the defeasance of all bonds issued to finance sport facilities to which the tax revenues attributable to the tax rate set under subsections 25-136(a)--(d) of this article have been pledged, then, subject to the rights of the owners of any tourist development tax revenue bonds issued or to be issued by the county:

(1) In the event the tax revenues attributable to the tax rate set under subsections 25-136(a)--(d) of this article are sufficient to pay the costs of all expenses authorized in section 25-140 of this article with only the portion of the proceeds attributable to the additional tax rate set under subsection (a) that would have been received at an additional tax rate of only one-half of one (1/2) percent, then subsection (a) should be amended, to the extent permitted by law, to reduce the additional tax rate set thereunder to a rate of one-half of one percent; and

(2) In the event the tax revenues attributable to the tax rate set under subsections 25-136(a)--(d) of this article are sufficient to pay the costs of all expenses authorized in section 25-140 of this article without the use of any of the proceeds attributable to the additional tax rate set under subsection (a), as amended, then this section should be repealed.

(Ord. No. 94-25, § 1, 12-13-94; Ord. No. 98-24, § 4, 10-6-98)

Sec. 25-137. Collection, remittance; records to be kept; payment to county; rules.

- (a) The tourist development tax shall be charged by the person receiving the consideration for the lease or rental, and it shall be collected from the lessee, tenant, or customer at the time of payment of the consideration for such lease or rental.
- (b) The person receiving the consideration for such rental or lease (hereinafter referred to as the "dealer") for any period subsequent to December 31, 1991, shall receive, account for and remit the tax to the county comptroller ("comptroller").
- (c) Initial collection of the tax shall continue to be made in the same manner as the tax imposed under F.S. ch. 212, pt. I.
- (d) The comptroller shall be responsible for the collection of the tax from the dealer and administration of the tax. The comptroller shall keep appropriate records of such remittances.
- (e) The same duties and privileges imposed by F.S. ch. 212 upon dealers in tangible property, respecting the collection and remission of tax, the making of returns, the keeping of books, records and accounts, shall apply to and be binding upon all persons who are subject to the provisions of this section; provided, however, that the comptroller may authorize a quarterly return and payment when the tax remitted by the person receiving the consideration for such rental or lease for the preceding quarter did not exceed twenty-five dollars (\$25.00).
- (f) The comptroller shall promulgate such rules and prescribe and publish such forms as may be necessary to effectuate the purposes of this article.
- (g) The comptroller shall perform the enforcement and audit functions associated with the collection and remission of this tax including, without limitation, the following:
 - (1) For the purpose of enforcing the collection of the tax levied by this article, the comptroller is hereby specifically authorized and empowered to examine at all reasonable hours the books, records and other documents of all dealers or other persons charged with the duty to collect, report or pay a tax under this article, in order to determine whether they are collecting the tax or otherwise complying with this article. In the event such dealer refuses to

permit such examination of its books, records or other documents by the comptroller as aforesaid, he is guilty of a violation of this section, punishable as provided in F.S. § 125.69. The comptroller shall have the right to proceed in circuit court to enforce its rights against the offender, as granted by this section, in order to require an examination of the books and records of such dealer.

(2) Each dealer shall secure, maintain and keep for a period of three (3) years a complete record of rooms or other lodging leased or rented by such dealer, together with gross receipts from such sales, leases and other pertinent records and papers as may be required by the comptroller for the reasonable administration of this article; and all such records which are located or maintained in this county shall be open for examination by the comptroller at all reasonable hours at such dealer's place of business located in the county. Any dealer which maintains such books and records at a point outside this county must make such books and records available upon reasonable notice for examination by the comptroller at a place of business within the county, and if the comptroller determines that examination of such records is necessary or appropriate to the performance of the comptroller's duties hereunder, then all travel and maintenance expenses necessarily incurred in making such examination shall be paid by the dealer. The comptroller or authorized representative shall have the right, power and authority to make such transcripts or copies of such records and papers thereof during such times as they may desire. Any dealer subject to the provisions of this article who violates these provisions is guilty of a violation of this section, punishable as provided in F.S. § 125.69.

(3) In addition to any other powers hereunder, the comptroller is empowered, when any tax becomes delinquent or is otherwise in jeopardy under this article, to issue a warrant for the full amount of the tax due or estimated to be due, with the interest, penalties and cost of collection, directed to all and singular the sheriffs of the state, and shall record the warrant in the public records of the county, and thereupon the amount of the warrant shall become a lien on any real or personal property of the dealer in the same manner as a recorded judgment. The comptroller may issue a tax execution to enforce the collection of taxes imposed by this article and deliver it to the sheriff. The sheriff shall thereupon proceed in the same manner as prescribed by law for executions and shall be entitled to the same fees for his services in executing the warrant to be collected. The comptroller may also have a writ of garnishment issued to subject any indebtedness due to the delinquent dealer by a third person in any goods, money, chattels or effects of the delinquent dealer in the hands, possession or control of the third person in the manner provided by law for the payment of the tax due. Upon payment of the execution, warrant, judgment or garnishment, the comptroller shall satisfy the lien of record within thirty (30) days.

(h) Tax revenues collected hereunder may be used only in accordance with the provisions of F.S. § 125.0104. All taxes collected under this article shall be deposited by the comptroller in the county tourist development trust fund.

(i) A portion of the tax collected shall be paid to the comptroller for costs of administration, but such portion shall not exceed three (3) percent of collections.

(j) The taxes imposed by this article shall become county funds at the moment of collection and shall for each month be due to the comptroller on the first day of the succeeding month and be delinquent on the twenty-first day of such month.

(k) The comptroller assumes all responsibility for auditing the records and accounts of dealers and assessing, collecting and enforcing payment of delinquent tourist development taxes. The comptroller adopts any and all powers and authority granted to the state in F.S. § 125.0104 and ch. 212 and as further incorporated therein to determine the amount of the tax, penalties and interest to be paid by each dealer and to enforce payment of such tax, penalties and interest by, but not limited to, distress warrants, writ of garnishments and criminal penalties as provided in F.S. ch. 212.

(l) Any dealer who fails or refuses to charge and collect the tax from the person paying any rental or lease, either by himself or through his agents or employees, is, in addition to being personally liable for the payment of the tax, guilty of a misdemeanor of the first degree, punishable as provided in F.S. §§ 775.082 and 775.083.

(m) No person shall advertise or hold out to the public in any manner, directly or indirectly, that he will absorb all or any part of the tax, that he will relieve the person paying the rental of the payment of all or any portion of the tax, or that the tax will not be added to the rental or lease consideration or, when added, that it or any part thereof will be refunded or refused, either directly or indirectly, by any method whatsoever. Any person who willfully violates any provision of this subsection is guilty of a misdemeanor of the first degree, punishable as provided in F.S. §§ 775.082 or 775.083.

(n) As compensation for the keeping of prescribed records and the proper accounting and remitting of taxes, a dealer shall be allowed a dealer's credit in accordance with the provisions of F.S. § 212.12(1).

(Code 1965, § 33-102; Ord. No. 78-7, § 1(c)--(h), 3-16-78; Ord. No. 85-30, § 2(c)--(h), 11-11-85; Ord. No. 86-27, § 1, 10-27-86; Ord. No. 91-22, § 1, 10-15-91)

Sec. 25-138. Levy to constitute lien.

The tax hereby levied shall constitute a lien on the property of the lessee, customer, or tenant in the same manner as, and shall be collectible as are, liens authorized and imposed in F.S. §§ 713.67, 713.68 and 713.69.

(Code 1965, § 33-105; Ord. No. 78-7, § 10, 3-16-78)

Sec. 25-139. Expenses of operation, maintenance and promotion.

(a) The board of county commissioners hereby determines that the expenses of operation, maintenance and promotion of the convention center to be acquired pursuant to the tourist development plan established by section 25-140 shall be divided into two (2) categories: "priority expenses of operation, maintenance and promotion" and "other expenses of operation, maintenance and promotion." "Priority expenses of operation, maintenance and promotion" include only such items as are absolutely necessary to keep the convention center operating free of liens, to satisfy judgments against the county payable from the operating revenues, tourist development tax proceeds or other moneys earmarked for the convention center, or to pay promotional expenses essential to attract conventions and other users of the convention center. "Other expenses of operation, maintenance and promotion" shall include all other expenses reasonably incurred or to be incurred in connection with the operation, maintenance and promotion of the convention center, including repairs and renewals (other than capital improvements) necessary to keep such convention center in efficient operating condition and effectively promoting the use of the convention center in order to attract conventions and other gatherings thereto, the costs of audits, paying agents and trustee's fees, the payment of premiums for insurance and generally all expenses exclusive of interest on bonds and depreciation which under generally accepted municipal accounting practices are properly allocable to operation, maintenance and promotion.

(b) Based upon the experience of the county in the operation, maintenance and promotion of the convention center and upon a recent report of Laventhal and Horvath, a copy of which has been presented to the board of county commissioners, it is hereby determined that the priority expenses of operation, maintenance and promotion of the convention center will not in any fiscal year exceed the gross operating revenues of the convention center by more than the higher of:

- (1) Four hundred thousand dollars (\$400,000.00); or
- (2) One and seventy-four hundredths (1.74) percent of the proceeds derived from the tax imposed by section 25-136 and received by the county during the preceding fiscal year.

Therefore, it is determined that whenever all other sources of revenue are inadequate to pay priority expenses of operation, maintenance and promotion, such amount should be reserved from the proceeds of the tourist development tax for the priority expenses of operation, maintenance and promotion of the convention center throughout each phase of construction and operation thereof. If the convention center is expanded after January 1, 1986, such four hundred thousand dollars (\$400,000.00) and such one and seventy-four hundredths (1.74) percent may be adjusted to an amount and a rate determined by the board of county commissioners to reflect the correct anticipated priority expense of operation, maintenance and promotion of the expanded convention center prior to the issuance of any bonds or other obligations to pay for such expansion.

(Code 1965, § 33-105.1; Ord. No. 86-13, § 2, 5-27-86; Ord. No. 95-24, § 6, 8-29-95)

Sec. 25-140. Tourist development plan.

The tax revenues received pursuant to section 25-136 shall be used to fund the county tourist development plan, which is hereby adopted as follows:

TOURIST DEVELOPMENT PLAN

Under the provisions of the Local Option Tourist Development Act, a two (2) percent tourist development tax was and has been levied throughout Orange County beginning May 1, 1978. The anticipated net revenue for the twelve-month period from May 1, 1978, through April 30, 1979, was two million four hundred forty-seven thousand dollars (\$2,447,000.00). The anticipated net revenue for the twelve-month period from May 1, 1979, through April 30, 1980, was two million six hundred thirty-nine thousand dollars (\$2,639,000.00). Orange County issued bonds, that are secured and will be liquidated by revenue from the tax, the proceeds of which were used for the construction of publicly owned facilities to be known as the "Orange County Convention Center."

As required by the local option tourist development act, the following is a list, in order of priority, of the proposed uses of the funds initially and currently available from the tourist development tax levied under section 25-136, including the approximate cost or expense allocation for each specific project or special use:

(1) *Initial priority.* The initial priority for the use of the revenues derived from the tourist development tax is as follows:

a. Payment of priority expenses of operations, maintenance and promotion of the convention center in each fiscal year in an amount up to four hundred thousand dollars (\$400,000.00) or, if higher, one and seventy-four hundredths (1.74) percent of the proceeds of the tourist development tax received by or on behalf of the county during the preceding fiscal year, such amount having been found by the board of county commissioners to be sufficient, together with available gross operating revenues of the convention center, so that no funding from other sources will be required. From time to time, the four hundred thousand dollars (\$400,000.00) and the one and seventy-four hundredths (1.74) percent may be adjusted to an amount and a rate determined by the board of county commissioners to reflect the correct anticipated priority expenses of operation, maintenance and promotion of the expanded convention center prior to the issuance of any bonds or other obligations to pay for such expansion. The convention center will be constructed and expanded in phases as funds become available from the tourist development tax or from the proceeds of revenue bonds issued in anticipation thereof.

b. Construction and expansion of a convention center of approximately seven hundred seventy-one thousand (771,000) square feet plus appurtenant facilities and improvements, designed to accommodate large conventions and multi-purpose community activities, and designed to be expanded in the future. The first part of the initial phase of construction consisted of approximately one hundred fifty thousand (150,000) square feet of exhibit space plus appurtenant facilities and improvements, and cost approximately fifty-five million dollars (\$55,000,000.00), plus interest. Subsequent construction in Phase II increased the convention center to approximately three hundred fifty thousand (350,000) square feet of exhibit space, at a cost of approximately seventy-six million dollars (\$76,000,000.00).

c. Payment of other operation, maintenance and promotion expenses of the convention center, up to three million dollars (\$3,000,000.00) annually.

(2) *Second priority.* The second priority of the plan was the construction of the Orlando Arena. Of the total cost of the arena, approximately fifty million

dollars (\$50,000,000.00) was paid from tourist development tax revenues or bonds secured thereby.

(3) *Third priority.* For the third priority of the plan, tourist development tax revenues shall be used for construction and expansion of the convention center ultimately to a size of approximately three million (3,000,000) square feet plus appurtenant structures, facilities and improvements designed to accommodate large conventions and multi-purpose community activities, as set forth in the following phases of construction:

a. Phase IIa consisted of approximately ninety thousand (90,000) gross square footage of concourse space connecting the front portion of the Phase II lobby with Phase I. Phase IIa included a concourse and registration area, enclosure of the Vietnam memorial courtyard, increased the number of available restrooms, expansion of the covered passenger arrival area, creation of a new box office area, and added additional office space. Most of the items included in Phase IIa were originally identified in the master plan study of June 1984.

b. Phases III and IV of construction consisted of an expansion which included approximately seven hundred fifty thousand (750,000) square feet of exhibit space for the convention center plus additional square footage for appurtenant facilities which included meeting rooms, registration areas, concourse space, food preparation and serving areas, work and storage areas, plus facilities for parking. At completion of Phases III and IV, the convention center consists of approximately one million, one hundred thousand (1,100,000) square feet of exhibit space plus appurtenant facilities and improvements.

c. Phase V of construction consists of an expansion to include land acquisition and design, permitting and construction of approximately one million (1,000,000) square feet of additional exhibit space for the convention center and additional square footage for appurtenant facilities to include meeting rooms and registration areas, plus facilities for parking and public infrastructure to support the expansion. Phase V shall also include provision, through construction or acquisition by purchase or lease-purchase or otherwise, for adequate transportation facilities and improvements to support the convention center and activities at the convention center, including but not limited to the acquisition of land and improvements for parking, access roads or other transportation related purposes. Upon completion of Phase V, the convention center will consist of approximately two million, one hundred thousand (2,100,000) square feet of exhibit space plus appurtenant facilities and improvements.

d. Phase VI of construction consists of an expansion to include land acquisition and design, permitting and construction of approximately one million (1,000,000) square feet of additional exhibit space for the convention center and additional square footage for appurtenant facilities to include meeting rooms and registration areas, plus facilities for parking and public infrastructure to support the expansion. Phase VI shall also include provision, through construction or acquisition by purchase or lease-purchase or otherwise, for adequate transportation facilities and improvements to support the convention center and activities at the convention center, including but not limited to the acquisition of land and improvements for parking, access roads or other transportation related purposes. Upon completion of Phase VI, the convention center will consist of approximately three million, one hundred thousand (3,100,000) square feet of exhibit space plus appurtenant facilities and improvements.

e. The county may elect to incur eighteen million dollars (\$18,000,000.00) in expenses for transportation improvements and related renovations for Phases I through IV, and may elect to incur fifty-three million dollars (\$53,000,000.00) (in 1997 dollars) for capital expenditures, to be paid as debt or service contract payments, to provide convention center patrons with transportation services between the convention center and its parking facilities.

(4) *Fourth priority.* The fourth priority of the plan is to provide additional funding for the payment of other expenses of operation, maintenance and promotion of the convention center in an amount equal to six million dollars (\$6,000,000.00) for fiscal year 2002/[20]03 and in an amount equal to seven million dollars (\$7,000,000.00) for each year thereafter.

(5) *Fifth priority.* The fifth priority of the plan is to provide to the Orlando/Orange County Convention and Visitors Bureau, Inc. (a) an amount of funds each year for bureau operations and marketing activities equal to the revenues attributable to the tax at a rate of one-fourth (1/4) of one (1) percent, plus (b) an additional seven hundred fifty thousand dollars (\$750,000.00), plus (c) for each of the fiscal years 1998/[19]99 through 2002/[20]03, additional funding in an amount not less than two million dollars (\$2,000,000.00) and not more than four million dollars (\$4,000,000.00) per fiscal year, plus (d) a one-time expenditure during fiscal year 2001/[20]02 in the amount of one million dollars (\$1,000,000.00) to be used by the bureau for marketing activities for the purpose of promoting vehicular tourist travel to the Orange County area, plus (e) for fiscal year 2003/[20]04 only, additional funding in an amount equal to two million dollars (\$2,000,000.00) in accordance with the terms and limitations of the 1996 Tourism Promotion Agreement, as amended, between the county and the visitors bureau, plus (f) an additional one-time amount of up to two million dollars (\$2,000,000.00) to be paid, subject to the same terms and limitations described in clause (e) above, after the final collections for July 2004 are known and as soon as

practical after the July 2004 TDT collections are received, if, and to the extent that the ten month aggregate tourist development tax collections have exceeded eighty-five million, three hundred thousand dollars (\$85,300,000) which represents the anticipated tourist development tax budget for the ten month period beginning October 2003 through July 2004. This additional amount will be paid only if the visitors bureau shall have presented to the board, and the board shall have approved, a plan for private sector tourism-related businesses to contribute matching funds for such additional payment.

(6) *Sixth priority.* In order to provide for the expansion of the Citrus Bowl, tourist development tax revenues were and are pledged to service the debt on bonds up to thirty-eight million dollars (\$38,000,000.00), subject to the City of Orlando making certain other improvements to the Citrus Bowl and providing additional security for convention center debt from available city revenues, and providing the name of the Citrus Bowl stadium is hereafter known and has been officially designated as the "Florida Citrus Bowl-Orange County/Orlando Stadium." In order to provide for the further renovation of the Citrus Bowl, tourist development tax revenues may be expended, or otherwise may be pledged to service debt to be issued for such purposes, in an aggregate amount (or, if debt is issued, in an aggregate principal amount) up to nine million dollars (\$9,000,000.00).

(7) *Seventh priority.* The seventh funding priority of the plan is for additional funding for the Orlando/Orange County Convention & Visitors Bureau to reach a goal of two and one-half million dollars (\$2,500,000.00) per year (in addition to the funding under the fifth priority) in an amount equivalent to the tax revenues attributable to a tax rate of one-fourth (1/4) of one (1) percent. Together, the fifth and seventh priorities provide an amount equivalent to the tax revenues attributable to a tax rate of one-half (1/2) of one (1) percent, plus seven hundred fifty thousand dollars (\$750,000.00) per year to the Orlando/Orange County Convention & Visitors Bureau, plus, for each of the fiscal years 1998/99 through 2002/03, additional funding in an amount not less than two million dollars (\$2,000,000.00) and not more than four million dollars (\$4,000,000.00) per fiscal year.

(8) *Eighth priority.* The eighth priority is to provide additional funding each year to the Orlando/Orange County Convention & Visitors Bureau for its operations and marketing activities in an amount equal to three million three hundred thousand dollars (\$3,300,000.00), subject to any reductions necessitated by the funding under the ninth priority, below.

(9) *Ninth priority.* The ninth priority is to promote and advertise tourism in the state and nationally and internationally by providing the following guarantees or other contractual assurances of funding:

a. To Florida Citrus Sports Events, Inc. ("FCSE"), in each fiscal year through and including fiscal year 1996-1997, an assurance of funding for the operation and promotion of the 1996 Olympic Games; and

b. To Florida Citrus Sports Association, Inc. (FCSA), in each fiscal year through and including fiscal year 2000--2001, an assurance of funding for the operation and promotion of the annual Citrus Bowl Game.

The aggregate amount of tourist development tax revenues to be expended for the foregoing shall not exceed one million dollars (\$1,000,000.00) in any fiscal year. To the extent in any year that such funding is provided to either FCSE or FCSA, or both, the funding provided to the Orlando/Orange County Convention & Visitors Bureau under the eighth priority shall be reduced by a like amount in the same or subsequent year, as may be provided by agreements, guarantees, or other instruments entered into by the county from time to time with the Orlando/Orange County Convention & Visitors Bureau, FCSE, and FCSA.

(10) *Tenth priority.* In order to (a) promote the Orange County Convention Center, the Florida Citrus Bowl-Orange County/Orlando Stadium and the other publicly-owned sports stadiums, sports arenas, coliseums or auditoriums within Orange County, (b) promote tourism in Orange County, and (c) encourage and promote the selection of the Orlando area as a venue for international, national, regional and local sports events, tourist development tax revenues shall be used to fund the Orlando Area Sports Commission, Inc. Such funding to the Orlando Area Sports Commission, Inc. shall be payable as follows:

TABLE INSET:

10/01/92 to 9/30/93
\$ 75,000.00

10/01/93 to 9/30/94
75,000.00

10/01/94 to 12/31/94
18,750.00

1/01/95 to 9/30/95
84,375.00

10/01/95 to 9/30/96
112,500.00

10/01/96 to 9/30/97
112,500.00

10/01/97 to 9/30/98
112,500.00

10/01/98 to 9/30/99
112,500.00

10/01/99 to 9/30/00
112,500.00

10/01/00 to 9/30/01
135,000.00

Beginning in Fiscal Year 2001-2002, and continuing through Fiscal Year 2005-2006, funding to the Orlando Area Sports Commission, Inc. may be granted each year in the amount of \$135,000.00 with adjustments to such amount equal to the annual cumulative percentage increases, if any, in the revenues from the tax levied under section 25-136, all as may be specified by contract between the County and the Sports Commission.

(11) *Eleventh priority.* The eleventh priority of the plan is to provide funding to United **Arts** of Central Florida in the following amounts, which shall be allocated in their entirety to the science museum known as the Orlando Science Center to provide funding for its operation and maintenance:

TABLE INSET:

10/1/99 to 9/30/00
\$ 300,000.00

10/1/00 to 9/30/01
300,000.00

(12) *Twelfth Priority.* The twelfth funding priority of the plan is to provide fifty thousand dollars (\$50,000.00) to Bethune-Cookman College for promotion of tourism through the staging of the 1999 Florida Classic Football game; fifty thousand dollars (\$50,000.00) to Florida A&M University for staging of the 2000 Florida Classic Football game and seventy-five thousand dollars (\$75,000.00) to Bethune-Cookman College for promotion of tourism through the staging of the 2001 Florida Classic Football game; seventy-five thousand dollars (\$75,000.00) to Florida A&M University for promotion of tourism through the staging of the 2002 Florida Classic Football game. Beginning with the 2003 Florida Classic, and continuing through the 2005 Florida Classic, funding for the promotion of tourism through the staging of the Florida Classic may be granted each year in the amount of seventy five thousand dollars (\$75,000.00) with the recipient of such funding to alternate each year between Bethune-Cookman College and Florida A & M University, commencing with Bethune-Cookman College for the 2003 Florida Classic.

(13) *Thirteenth priority.* The thirteenth priority of the plan is to provide funding each year, beginning in fiscal year 2001--2002, in an amount equal to three (3) percent of tourist development tax revenues collected for such year under sections 25-136(a) through 25-136(d) to the extent permitted by F.S. § 125.0104, for: 1) **arts** and cultural activities, venues, services and events when one (1) of the main purposes of such activities, venues, services and events is to attract tourists; and 2) the acquisition, construction, extension, enlargement, remodeling, repair, improvement, maintenance, operation or promotion of auditoriums or museums to be used primarily for **arts** and culture. The expenditure of all revenues apportioned to this priority shall be governed by a resolution to be adopted by the board of county commissioners that will, at a minimum, provide or set forth the following:

a. The establishment of an advisory council to be named the "**arts** and cultural affairs advisory council" (or otherwise as the board may determine in the resolution);

b. A direction to the council to study the potential uses of the revenues apportioned hereunder, to review requests for funding from the revenues apportioned hereunder, and to make recommendations each year to the board of county commissioners with respect to budgeting the revenues apportioned hereunder; and

c. Such other procedures, requirements, restrictions, and directions as the board may determine to be necessary or useful to the lawful and prudent use of the revenues apportioned hereunder.

(14) *Fourteenth priority.* The fourteenth priority of the plan is to provide funding in fiscal year 2001--2002 in the amount of seventy-five thousand dollars (\$75,000.00) to the Association to Preserve the Eatonville Community, Inc. to be utilized as part of Challenge Grant No. 02-3005 to support the project entitled "Florida Black **Arts** Trail."

(15) *Amendments to plan.* The above and foregoing tourist development plan may not be amended except by ordinance enacted by an affirmative vote of a majority plus one (1) additional member of the board of county commissioners.

(Code 1965, § 33-106; Ord. No. 78-7, § 2, 3-16-78; Ord. No. 79-6, § 3, 5-22-79; Ord. No. 82-26, § 1, 11-1-82; Ord. No. 85-30, § 3, 11-11-85; Ord. No. 86-13, § 3, 5-27-86; Ord. No. 86-27, § 4, 10-27-86; Ord. No. 88-15, § 1, 11-7-88; Ord. No. 92-31, § 1, 10-20-92; Ord. No. 94-08, § 1, 4-12-94; Ord. No. 95-24, § 2, 8-29-95; Ord. No. 96-19, § 1, 7-23-96; Ord. No. 98-24, §§ 1--3, 10-6-98; Ord. No. 99-18, §§ 1--4, 10-19-99; Ord. No. 2001-10, §§ 1, 2, 5-15-01; Ord. No. 2001-15, § 1, 7-10-01; Ord. No. 2001-16, § 1, 8-21-01; Ord. No. 2001-18, § 1--3, 11-6-01; Ord. No. 2002-18, § 1, 11-5-02; Ord. No. 2003-14, § 1, 9-23-03)

Sec. 25-141. Revenue bonds--Issuance; pledge of tourist development tax, revenues as security.

The county may cause to be issued revenue bonds for the purposes set forth in the tourist development plan, as it may be amended from time to time, pursuant to F.S. § 125.0104. The tourist development tax may be pledged to secure and liquidate these revenue bonds.

(Code 1965, § 33-107; Ord. No. 78-7, § 3, 3-16-78; Ord. No. 95-24, § 3, 8-29-95)

Sec. 25-142. Same--Ad valorem taxes, general revenues not to be pledged.

The full faith and credit of the county shall not be pledged in connection with any bond or bonds issued pursuant to this article, or in connection with any construction, operation, or promotion costs of the center, or implementation of the tourist development plan. Any bond or bonds issued pursuant to this article shall not be general obligation bonds, nor shall any ad valorem taxes or general revenues of the county be pledged or used to secure or liquidate such bonds. After the effective date of this article [May 1, 1978], no ad valorem taxes or general revenues of the county shall be pledged or expended for or

in connection with any construction, operation, or promotion costs of the center, or implementation of the tourist development plan. For purposes of this section, general revenues of the county shall be defined as including, but not limited to: cigarette taxes, occupational license taxes, gasoline taxes, and similar taxes, federal revenue sharing funds, and all types of revenue received by the county other than revenue provided for in section 25-140. The provisions of this section shall not in any way be amended, abrogated, altered or limited unless it be done by an amending ordinance lawfully enacted by the county and approved in a referendum election by a majority of the electors of the county voting in such election. The effective date of such an amending ordinance shall be specified in the amending ordinance and shall be no sooner than the first day of the month following the referendum.

(Code 1965, § 33-108; Ord. No. 78-7, § 4, 3-16-78)

Sec. 25-143. Same--Pledge of additional revenues.

Nothing in this article shall be construed as a limitation on the ability of the county to receive, expend or pledge additional revenue relating to the income, operation, construction, or promotion of the center for purposes relating to implementation of the tourist development plan and this article. For purposes of this section, additional revenue shall be defined as including, but not limited to: parking and concession revenue derived from the center; operational income revenue derived from the center; federal, state, municipal or other grants designated to assist in the construction, operation, or promotion of the center, or implementation of the tourist development plan and revenue from contractual agreements with landowners either donating land for the center or owning land in the vicinity of the center to be constructed under the tourist development plan. The county shall have the right to issue revenue bonds pledging any or all of such additional revenue to be used for any purpose set forth in the tourist development plan.

(Code 1965, § 33-109; Ord. No. 78-7, § 5, 3-16-78)

Sec. 25-144. Expiration of tax upon retirement of revenue bonds.

This article levying and imposing the tourist development tax shall automatically expire upon the retirement of all tourist development tax bonds as provided in F.S. § 125.0104, as amended; however, the county may enact an ordinance pursuant to the provisions of F.S. § 125.0104, as amended, reimposing a tourist development tax upon or following the expiration of this article.

(Code 1965, § 33-110; Ord. No. 78-7, § 3, 3-16-78; Ord. No. 86-27, § 5, 10-27-86)

Sec. 25-145. Tourist development council.

(a) *Established; composition; terms.* There is hereby established, pursuant to the provisions of F.S. § 125.0104, as amended, an advisory council to be known as the "Orange County Tourist Development Council." The council shall be composed of nine (9) members who shall be appointed by the board of county commissioners, and the board shall comply with the requirements of F.S. § 125.0104 with respect to the composition of the council, eligibility for appointment thereto, designation of a chairman and terms of office.

(b) *Meetings; general duties and functions.* The council hereby established shall meet at least once each quarter and, from time to time, shall make recommendations to the board of county commissioners for the effective operation of the special projects or uses of the tourist development tax revenue raised by the tax hereby levied and may perform such other duties or functions as hereinafter may be prescribed by ordinance or resolution.

(c) *Review of expenditures; reports.* The council shall continuously review expenditures of revenues raised by the tax hereby levied, and shall receive, at least quarterly, expenditure reports from the board of county commissioners or its designee and shall report to the board of county commissioners all expenditures of such revenue believed to be unauthorized by the provisions of this article. The board of county commissioners, upon receiving notification of expenditures believed to be authorized by the council, shall review the council's findings and take such administrative or judicial action as it seems fit to ensure compliance with this article and the provisions of Laws of Fla. ch. 77-209 and F.S. § 215.0104 as amended.

(Code 1965, § 33-111; Ord. No. 78-7, § 7, 3-16-78; Ord. No. 86-27, § 6, 10-27-86; Ord. No. 2001-16, § 2, 8-21-01)

Cross references: Boards, commissions, authorities, etc., § 2-135 et seq.

Sec. 25-146. Petition for repeal of article provisions.

Upon petition of fifteen (15) percent, or more, of the electors of the county, the board of county commissioners shall cause an election to be held for the repeal of the provisions of this article and the tourist development tax levied, subject only to any outstanding revenue bonds for which the tax has been pledged.

(Code 1965, § 33-113; Ord. No. 78-7, § 11, 3-16-78)

Secs. 25-147--25-160. Reserved.

ARTICLE III. TOURIST DEVELOPMENT TAX*

***Editor's note:** Ord. No. 95-30, §§ 1--7, adopted August 15, 1995, amended the Code by repealing former Art. III, §§ 17-111--17-113, and added a new Art. III, §§ 17-111--17-116. Former Art. III pertained to similar subject matter and derived from the following ordinances:

TABLE INSET:

Ord. No.	Date
Ord. No.	Date
82-15	7- 6-82
	91-23
	5-21-91
85-6	3-12-85
	91-45
	11-19-91
87-25	9-29-87
	92-9
	4-21
88-43	12-20-88
	92-36
	11-17-92
89-9	6-20-89

93-29
10-19-93

90-24
7-24-90
93-30
10-19-93

91-3
1-22-91
95-12
4-18-95

State law references: Taxation to be as authorized by general law, Fla. Const. art. VII, § 1(a); Local Option Tourist Development Act, F.S. § 125.0104.

Palm Beach County, FL

Sec. 17-111. Title.

This article shall be known as and may be cited as the "Tourist Development Ordinance of Palm Beach County".

(Ord. No. 95-30, § 1, 8-15-95)

Sec. 17-112. Intent and purpose.

The foregoing recitals are hereby affirmed, ratified and adopted as if set forth fully herein. The board of county commissioners (hereinafter the "board") desires to ensure the advancement, promotion, generation, development, and growth of tourism; the enhancement of the tourist industry; and the attraction of tourists and conventioners from within the State of Florida, across the nation, and throughout the world to Palm Beach County. This is accomplished through the tourist development plan set forth herein which identifies specific projects/special uses of tourist development tax revenue in accordance with Florida Statutes, § 125.0104(5).

(Ord. No. 95-30, § 2, 8-15-95)

Sec. 17-113. Levy of tourist development tax.

(a) The levy and imposition of the tourist development tax (hereinafter the "tax") throughout Palm Beach County, Florida, is hereby reestablished and reenacted herein at a rate of one (1) percent which commenced on the first day of the month following approval of the referendum held September 7, 1982; which increased to two (2) percent on January 1, 1984; to three (3) percent on February 1, 1989; and to four (4) percent on January 1, 1994, of each whole and major fraction of each dollar of the total rental charged every person who rents, leases, or lets for consideration any living quarters or accommodations in any hotel, apartment hotel, motel, resort motel, apartment, apartment motel, roominghouse, mobile home park, recreational vehicle park, or condominium for a term of six (6) months or less, unless such person rents, leases, or lets for consideration any living quarters or accommodations which are exempt according to the provisions of Chapter 212, Florida Statutes. When receipt of consideration is by way of property other than money, the tax shall be levied and imposed on the fair market value of such nonmonetary consideration.

(b) The tax shall be in addition to any other tax imposed pursuant to Florida Statutes, Chapter 212, and in addition to all other taxes and fees and the consideration for the rental or lease.

(c) The tax shall be charged by the person receiving the consideration for the lease or rental, and it shall be collected from the lessee, tenant, or customer at the time of payment of the consideration for such lease or rental.

(Ord. No. 95-30, § 3, 8-15-95)

Sec. 17-114. Collection of tourist development tax.

(a) *Initial collection.* The initial collection of the tax shall continue to be made in the same manner as the tax imposed under Part I of, Florida Statutes, Chapter 212.

(b) *Collection and administration of tax.* The person receiving the lease or rental consideration (also referred to herein as the "dealer") for any period subsequent to December 31, 1992, shall receive, account for, and remit the tax to the tax collector (hereinafter the "tax collector"), who shall be responsible for the collection of the tax from the dealer and the administration of the tax. The term "tax collector", for the purposes of this article, shall include any person in the office of the tax collector designated to carry out the duties and responsibilities prescribed herein. The tax collector shall keep appropriate records, books, and accounts of said remittances.

(c) *Duties and privileges of dealers.* The same duties and privileges imposed by Florida Statutes, Chapter 212, upon dealers in tangible property, respecting the collection and remission of the tax, the making of returns, the keeping of books, records, and accounts, and the payment of a dealer's credit as required under Florida Statutes, Chapter 212, Part 1, shall apply to and be binding upon all persons who are subject to the provisions of this article; however, the tax collector may authorize a quarterly return and payment when the tax remitted by the dealer for the preceding quarter did not exceed twenty-five dollars (\$25.00).

(d) *Remittance of tax.* All taxes collected under this article shall be remitted to the tax collector, who shall collect and administer the tax according to the provisions of Florida Statutes, Chapter 212, Part 1, and shall have the same powers, duties, and responsibilities as the State of Florida Department of Revenue under Florida Statutes, Chapter 212, Part 1.

(e) *Promulgation of rules and forms.* The tax collector shall promulgate such rules, and prescribe and publish such forms as may be necessary to effectuate the purposes of this article.

(f) *Enforcement and audit functions.* The tax collector shall perform the enforcement and audit functions associated with the collection and remission of the tax, including, without limitation, the following:

(1) *Examination of books and records.* For the purpose of enforcing the collection of the tax levied by this article, the tax collector is hereby specifically authorized and empowered to examine at all reasonable hours the books, records, and other documents of all dealers or other persons charged with the duty to report or pay a tax under this article, in order to determine whether they are collecting the tax or otherwise complying with this article. In the event said dealer or person refuses to permit such examination of its books, records, or other documents by the tax collector as aforesaid, such dealer or person is guilty of a violation of this article and shall be subject to the penalties provided for in, Florida Statutes § 125.69. The tax collector shall have the right to proceed in circuit court to seek a mandatory injunction or other appropriate remedy to enforce its rights against the offender, as granted by this section, to require an examination of the books and records of such dealer.

(2) *Dealer to maintain books and records.* Each dealer shall secure, maintain, and keep for a period of three (3) years a complete record of rooms or other lodging, leased or rented by said dealer, together with gross receipts from such sales, and other pertinent records and papers as may be required by the tax collector for the reasonable administration of this article; and all such records which are located or maintained in the county shall be open for

inspection by the tax collector at all reasonable hours at such dealer's place of business located in the county. Any dealer who maintains such books and records at a point outside the county must make such books and records available for inspection by the tax collector in the county. Any dealer subject to the provisions of this article who violates these provisions is guilty of a violation of this article, punishable as provided in, Florida Statutes, § 125.69.

(3) *Notification of audit.* The tax collector shall send written notification, at least sixty (60) days prior to the date an auditor is scheduled to begin an audit, informing the taxpayer of the audit. The tax collector is not required to give sixty (60) days prior notification of a forthcoming audit in any instance in which the taxpayer requests an emergency audit.

a. Such written notification shall contain:

1. The approximate date on which the auditor is scheduled to begin the audit.
 2. A reminder that all of the records, receipts, invoices, exemption certificates, and related documentation of the taxpayer must be made available to the auditor.
 3. Any other request or suggestions the tax collector may deem necessary.
- b. Only records, receipts, invoices, exemption certificates, and related documentation which are available to the auditor when such audit begins shall be deemed acceptable for the purposes of conducting such audit.

(g) *Responsibility for auditing, assessing, collecting, and enforcing payment.* The county, through the tax collector, assumes all responsibility for auditing the records and accounts of dealers and assessing, collecting, and enforcing payment of delinquent taxes. The county adopts and delegates to the tax collector any and all powers and authority granted to the State of Florida Department of Revenue in Florida Statutes, § 125.0104 and Part I of Chapter 212, and as further incorporated therein, to determine the amount of the tax, penalties, and interest to be paid by each dealer and to enforce payment of such tax, penalties, and interest.

(h) *Failure to charge and collect tax.* Any dealer, either by himself or through his or her agents or employees, who fails or refuses to charge and collect the taxes herein provided is personally liable for the payment of the tax and is punishable as provided by law.

(i) *Absorption and relief of tax prohibited.* No person shall advertise or hold out to the public in any manner, directly or indirectly, that he or she will absorb all or any part of the tax; that he or she will relieve the person paying the rental of the payment of all or any part of the tax; or that the tax will not be added to the rental or lease consideration or, when added, that it or any part thereof will be refunded or refused, either directly or indirectly, by any method whatsoever. Any person who willfully violates this provision is punishable as provided by law.

(j) *Tax constitutes lien on property.* The tax levied pursuant to this article shall constitute a lien on the property of the lessee, customer, or tenant in the same manner as, and shall be collectible as are, liens authorized and imposed in Florida Statutes, §§ 713.67, 713.68, and 713.69.

(k) *Use of tax revenues.* Tax revenues collected hereunder may be used only in accordance with the provisions of Florida Statutes, § 125.0104.

(l) *Taxes are county funds.* All taxes imposed by this article shall become county funds at the moment of collection and shall for each month be due to the tax collector on the first day of the succeeding month and be delinquent on the twenty-first day of such month. All returns postmarked after the twentieth day of such month are delinquent.

(m) *Remittance of taxes collected and interest thereon to clerk.* All taxes collected hereunder, less the costs of administration on the collections received, shall be remitted monthly to the clerk of the board and placed in the "Palm Beach County Tourist Development Trust Fund". Interest on the collections received by the tax collector shall be remitted to the clerk of the board quarterly and placed in the "Palm Beach County Tourist Development Trust Fund".

(n) *Costs of administration.* A portion of the tax collected may be retained by the tax collector for the costs of administration, but such portion shall not exceed two (2) percent of collections. The percentage of tax revenues retained by the tax collector for the costs of administration will be accounted for by the tax collector in the same manner in which other fees and commissions paid to the tax collector by the board are accounted. The excess fees will be distributed to the board in accordance with Florida Statutes, § 218.36.

(Ord. No. 95-30, § 4, 8-15-95)

Sec. 17-115. Tourist development council.

(a) *Establishment; membership.* There is hereby established, pursuant to the provisions of Florida Statutes, § 125.0104, an advisory council to be known as the "Palm Beach County Tourist Development Council", hereinafter referred to as the "council". The council shall be composed of nine (9) members. One (1) member of the council shall be the chair of the board or any other member the board, as designated by the chair, who shall also serve as chair of the council. The remaining eight (8) members of the council shall be appointed by the board and shall have the following representative classifications:

(1) Two (2) members who are elected municipal officials, one (1) of whom shall be from the most populous municipality in the county.

(2) Three (3) members who are owners or operators of motels, hotels, recreational vehicle parks, or other tourist accommodations in the county and subject to the tax.

(3) Three (3) members who are involved in the tourist industry and who have demonstrated an interest in tourist development, but who are not owners or operators of motels, hotels, recreational vehicle parks, or other tourist accommodations in the county and subject to the tax.

(b) *Terms and conditions of membership.* All members of the council shall be electors of the county at the time of appointment and while serving on the council. The members of the council shall serve for staggered terms of four (4) years. There shall be no limit on the number of terms an individual may serve. Those members of the council appointed by the board of county commissioners in its resolution dated March 3, 1981, establishing the initial council, shall continue to serve in such capacities for the terms set forth therein. Members of the council may be reappointed, provided they continue to meet the qualifications of membership, and may be removed with or without cause in the same manner as is presently set forth by resolution for the appointment of such members. A vacancy on the council not occurring by expiration of terms shall be filled by the board for the unexpired term in the same manner as is presently set forth by resolution for appointments to the council.

(c) *Removal for lack of attendance.* Members of the council shall be automatically removed for lack of attendance. Lack of attendance means failure to attend three (3) consecutive meetings or failure to attend at least two-thirds of the regularly scheduled meetings during a calendar year. Participation for less than three-fourths of a meeting shall be the same as a

failure to attend a meeting. Absences shall be entered into the minutes at the next regularly scheduled meeting of the council. Members removed under this paragraph shall not continue to serve until a new appointment is made and removal shall create a vacancy.

(d) *Notice of meetings.* Reasonable public notice of all council meetings shall be provided and all such meetings shall be open to the public at all times.

(e) *Compliance with code of ethics.* Council members shall be governed by the applicable provisions of the Palm Beach County Code of Ethics set forth in Resolution No. 94-693 and any amendments thereto.

(f) *Annual report.* The council shall submit an annual report to the board pursuant to policies and procedures adopted by the board.

(g) *Quorum.* A quorum must be present for the conduct of all council meetings. A majority of the members appointed shall constitute a quorum. All meetings shall be governed by Robert's Rules of Order.

(h) *Recommendations to board.* The council shall, from time to time, make recommendations to the board for the effective operation of the special projects or for uses of the tax revenue and perform such other duties as may be prescribed by ordinance or resolution of the board. Prior to making recommendations to the board as indicated above, the council shall review each proposal for expenditure of funds and determine that such expenditures comply with the plan set forth in section 17-116 herein.

(i) *Review of expenditures.* The council shall continuously review all expenditures of revenues from the Tourist Development Trust Fund and shall receive, at least quarterly, expenditure reports from the board or its designee. Expenditures which the council believes to be unauthorized by the provisions of this article shall be reported to the board and the State Department of Revenue. The board, upon receiving notification of expenditures believed to be unauthorized by the council, shall review the council's findings and take such administrative or judicial action as it sees fit to ensure compliance with this article and the provisions of Florida Statutes, § 124.0104.

(Ord. No. 95-30, § 6, 8-15-95; Ord. No. 03-001, § 1, 1-7-03)

Sec. 17-116. Tourist development plan.

The tax revenues received pursuant to this article shall be used to fund the Palm Beach County Tourist Development Plan which is hereby adopted as follows:

PALM BEACH COUNTY TOURIST DEVELOPMENT PLAN

(a) *Purpose.* Pursuant to the provisions of the Local Option Tourist Development Act, this tourist development plan (hereinafter the "plan") establishes the uses of the tax revenue by specific project or special use as authorized in Florida Statutes, § 125.0104(5). The plan also includes the expense allocation by percentage for each specific project or special use.

(b) *Use and allocation of initial three (3) percent tax.* The following categories of use of the initial three (3) percent tax are hereby set forth together with the percentage of the total amount of yearly revenue to be expended for, or credited to, each category, subject to the provisions of subsection (c) of this section 17-116, commencing October 1, 2004:

Percentage

(1) *Category A:* Promote and advertise county tourism in the state and nationally and internationally, including the provision of a convention and visitors bureau and tourist information center . . . 52.47%

(2) *Category B:* Provide for cultural and fine and non-fine **arts** entertainment, festivals, programs, and activities which directly promote county tourism . . . 22.51%

(3) *Category C:* Provide for beach improvement, maintenance, renourishment, restoration, and erosion control with an emphasis on dune restoration where possible . . . 14.1%

(4) *Category D:* Provide for film and television marketing and development activities which directly promote county tourism . . . 3.92%

(5) *Category E:* Provide for special major projects and events which directly further, advance, improve, and generate county tourism: To be selected and funded pursuant to paragraph (c) of this section.

(6) *Category F:* Provide for the operation and maintenance of a convention center. To be funded pursuant to subsection (c) of this section.

(7) *Category G:* Attract, stimulate, market, and execute sports events and activities in order to promote the county nationally and internationally as a sports destination, including the financing of the construction of Blum Stadium, a sports stadium, all which directly promote county tourism . . . 7%

(c) (1) *Reserve for convention center operations and maintenance and special major projects and events.* Notwithstanding the percentages allocating the initial three (3) percent of the bed tax revenues to the various categories of uses as set forth above in subsection (b), each year two hundred fifty thousand dollars (\$250,000.00) of the initial three (3) percent of bed tax revenues shall be transferred into an account which shall be reserved for the operation and maintenance costs of a convention center (Category F) and one hundred thousand dollars (\$100,000.00) of the initial three (3) percent of the bed tax revenues shall be transferred into an account (Category E) which shall be reserved for special major projects and events which may arise from time to time offering the county the opportunity to further, advance, improve, promote, and generate county tourism. The TCD shall review such projects to ensure that the expenditure of such funds is authorized under Florida Statutes, § 125.0104(5), and is consistent with the plan. The Category E reserve account shall not exceed one million dollars (\$1,000,000.00). In the event the account balance does exceed one million dollars (\$1,000,000.00), the excess revenues shall revert to Categories A, B, C, D, and G in the percentages allocated in subsection (b).

(d) *Use of additional one (1) percent tax.* The additional one (1) percent tax effective January 1, 1994, shall be used to pay:

(1) The debt service on bonds issued to finance the construction, reconstruction, or renovation of professional sports franchise facilities and to pay the planning and design costs of said facilities incurred prior to the issuance of such bonds.

(2) The debt service on bonds issued to finance the construction, reconstruction, or renovation of a convention center, and to pay the planning and design costs incurred prior to the issuance of such bonds.

(3) The operation and maintenance costs of a convention center for a period of ten (10) years.

A tourist development plan for professional sports franchise facilities and/or a convention center must be approved by resolution of the board for the purpose of advancing, promoting, and furthering county tourism. The facilities and/or convention center identified in the plan(s) to benefit from the levy of the additional one (1) percent tax may be amended by resolution of the board. This additional levy shall automatically expire upon the retirement of all bonds issued to pay the debt service for the financing of a professional sports franchise facilities and/or the convention center.

(e) *Tourist information center.* A portion of the revenues allocated to Categories A, B, D, and G under subparagraph (b) of this section shall be used to fund the construction and operation of a tourist information center as established and approved through the annual budget.

(f) *Retirement of debt for construction of Blum Stadium.* The provision of Category G of paragraph B of this section authorizing the use of revenues to finance the construction of a sports stadium shall sunset upon the retirement of all debt incurred to finance the construction of Blum Stadium.

(g) *Administrative expenses.* There shall be an annual amount established for administrative expenses which shall not exceed nine (9) percent of the total Tourist Development Trust Fund budget. Administrative expenses shall include administrative staff salaries, benefits, administrative travel, indirect costs, and all costs of furnishing and operating administrative offices whether paid directly or by reimbursement, except that funds for contractual services from the administrative budget may be expended upon the express approval of the council.

(h) *Annual review of plan.* The council and the board shall annually review the plan. On or before September 1 of each year, the council shall forward to the board its recommendation for revisions, if any, to the plan. The board shall review the plan to determine the most effective use of the revenues derived from the tax.

(i) *Amendment of plan.* Except as provided in Florida Statutes, § 125.0104, Florida Statutes, to the contrary, the above tourist development plan may not be substantially amended except by ordinance enacted by an affirmative vote of a majority plus one (1) additional member of the board of county commissioners.

(Ord. No. 95-30, § 7, 8-15-95; Ord. No. 97-3, §§ 1, 2, 1-14-97; Ord. No. 98-52, §§ I-III, 10-20-98; Ord. No. 00-011, § I, 2-15-00; Ord. No. 02-014, §§ I, II, 4-16-02; Ord. No. 04-007, §§ 1, 2, 3-30-04)

Secs. 17-117--17-125. Reserved.

Portland, OR

§ 11.400* TRANSIENT LODGINGS TAX

§ 11.400- Definitions.

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

ACCRUAL ACCOUNTING. An accounting method where the operator enters the rent due from a transient on the records when the rent is earned, whether or not it is paid.

ADMINISTRATIVE FEE. The County Trust Account Fee that is the Indirect Flow-Through Rate that is published annually in the County Indirect Cost Rates and Countywide Cost Allocation Plan and charged to internal accounts.

BONDS. Collectively, the Convention Center Completion Bonds, the Civic Stadium Bonds and the Portland Center for Performing Arts (PCPA) Bonds.

CASH ACCOUNTING. An accounting method where the operator does not enter the rent due from a transient on the records until rent is paid.

CIVIC STADIUM BONDS. Bonds or other obligations issued by the City of Portland (City) to fund Civic Stadium improvements in an amount not to exceed \$35,000,000 and any bonds issued to refund those bonds.

CONVENTION CENTER COMPLETION BONDS. Bonds or other obligations issued by the City to fund the Convention Center Completion Project in an amount not to exceed \$100,000,000 and any bonds issued to refund those bonds.

CONVENTION CENTER COMPLETION PROJECT. The expansion of the Oregon Convention Center (OCC) facilities to include approximately 105,000 square feet of exhibit space, a 35,000 square foot ballroom, a total of 40 meeting rooms, 35,000 square feet of lobby space, a 825 space parking garage and 10 loading docks.

CPI. The annual average percent change in the Portland Salem OR-WA CPI-U as issued by the U.S. Department of Labor, Bureau of Labor

Statistics for the most recent 12-month calendar year period, or a comparable measure of price change if this index is not available.

CULTURAL TOURISM. A program or programs to attract visitors to the Portland area to attend cultural and recreational events and exhibits.

FACILITIES. The Oregon Convention Center, the Portland Center for the Performing Arts, the Exposition Center, and neighborhood arts programs.

HOTEL. Any structure, or any portion of any structure that is occupied or intended or designed for transient occupancy for 30 days or less for dwelling, lodging, or sleeping purposes, and includes any hotel, inn, tourist home or house, motel, studio hotel, lodginghouse, rooming house, apartment house, public or private dormitory, fraternity, sorority, public or private club, and also includes space in mobile home or trailer parks, or similar structure or space if occupancy is for less than a 30-day period.

NEIGHBORHOOD ARTS. Arts programs aimed at increased community and educational exposure to arts and involvement in artistic endeavors to enhance the quality of life in the region thus increasing tourism and increasing support for cultural programs.

NET REVENUES. The collections (including delinquent interest and penalties) from the 2.5% surcharge transient lodging tax (MCC § 11.401(E)), the collections (including delinquent interest and penalties) from the 2.5% surcharge vehicle rental tax (MCC § 11.301(C)), and earnings on amounts in the Visitors Fund Trust Account, less the Administrative Fee. Net revenues does not include any amounts required to pay refunds of surcharge taxes, interest, or other charges required by state law, debt service on the Regional Children's Campus Bonds and Parity Obligations.

OCCUPANCY. The use or possession, or the right to use or possess for lodging or sleeping purposes any room or rooms in a hotel, or space in a mobile home or trailer park or portion thereof.

OPERATING EXPENSES. The total cost of all labor, benefits, overhead, maintenance, materials and services incurred by the operator or operators of the facilities in encouraging attendance, administering, and operating events held in the facilities and in obtaining events to be held there or as part of the neighborhood arts programs.

OPERATOR. The person who is proprietor of the hotel in any capacity. Where the operator performs functions through a managing agent of any type or character other than an employee, the managing agent will also be considered an operator for the purposes of this subchapter and will have the same duties and liabilities as the principal. Compliance with the provisions of this subchapter by either the principal or the managing agent is compliance by both.

PCPA BONDS. Bonds or other obligations issued by the City to fund capital improvements to the PCPA in an amount not to exceed \$2,100,000, and any bonds issued to refund those bonds.

RENT. The consideration charged, whether or not received by the operator, for the occupancy of space in a hotel, valued in money, goods, labor, credits, property or other consideration valued in money, without any deduction.

RENT PACKAGE PLAN. The consideration charged for both food and rent where a single rate is made for the total of both. The amount applicable to rent for determination of transient room tax under this subchapter is the same charge made for rent when not a part of a package plan.

TAX. Either the tax payable by the transient or the aggregate amount of taxes due from an operator during the period for which the operator is required to report collections.

TAX ADMINISTRATOR. The Finance Director of the county.

TRANSIENT. Any individual who exercises occupancy or is entitled to occupancy in a hotel for a period of 30 consecutive calendar days or less, counting portions of calendar days as full days. The day a transient checks out of the hotel will not be included in determining the 30-day period if the transient is not charged rent for that day by the operator. Any such individual occupying space in a hotel will be considered to be a transient until the period of 30 days has expired unless there is an agreement in writing between the operator and the occupant providing for a longer period of occupancy, or the tenancy actually extends more than 30 consecutive days. A person who pays for lodging on a monthly basis, irrespective of the number of days in any month, is not considered transient.

VISITORS FACILITIES TRUST ACCOUNT (VFTA). The excise tax account created by MCC § 11.401(E) to receive and disburse Net Revenues as provided in the Visitor Facilities Intergovernmental Agreement. (Ord. 957, Amended, 01/25/2001; Ord. 941, Amended, 02/17/2000; '90 Code, § 5.50.010, 07/01/1998; Ord. 790, passed, 06/16/1994; Ord. 593, passed, 09/29/1988; Ord. 56, passed, 06/29/1972)

§ 11.401 Tax Imposed.

(A) For the privilege of occupancy in any hotel in the county, each transient shall pay a tax of 11.5% of the rent charged by the operator. The tax constitutes a debt owed by the transient to the county that is extinguished only by payment by the operator to the county. The transient will pay the tax to the operator of the hotel at the time the rent is paid. The operator will record the tax when rent is collected if the operator keeps records on the cash accounting basis, and when earned if the operator keeps records on the

accrual accounting basis. If rent is paid in installments, the transient will pay a proportionate share of the tax to the operator with each installment. In all cases the rent paid or charged for occupancy will exclude the sale of any goods, services and commodities, other than the furnishing of rooms, accommodations and space occupancy in mobile home parks or trailer parks. After deductions for administration costs and any refunds or credits authorized by this subchapter the proceeds of the tax will be allocated as provided for in subsections (A), (B), (C), (D) and (E) of this section.

(B) The base rate of the tax imposed by subsection (A) is equal to 5%. It will be allocated to the county general fund, and is available for general fund expenditures.

(C) A surcharge rate of the tax imposed by subsection (A) is equal to 1% and will be used exclusively for contracting with private organizations for the promotion, solicitation, procurement and service of county convention business and tourism.

(D) A surcharge rate of the tax imposed by subsection (A) is equal to 3% and will be allocated to the Excise Tax Fund.

(1) Before paying the tax imposed by subsection (D), as required by § 11.407, the operator may deduct an amount equal to 5% of that portion of the tax that is allocated to the Excise Tax Fund. This 5% may be retained by the operator as reimbursement for the operator's expenses in collecting the tax.

(2) The county will pay from the proceeds of the tax that is allocated to the Excise Tax Fund:

(a) To Metro, for the operation of the Oregon Convention Center, \$3,800,000 in fiscal year 1997-98 and, in each fiscal year thereafter, that amount plus annual percentage increases equal to the greater of the change in the CPI or the overall change in the proceeds of the tax. If the overall increase in the proceeds of the tax in any given year exceeds 7%, any additional funds beyond the 7% increase will be allocated as specified in subsection (e) of subsection (D). Metro may also utilize the proceeds to pay debt service on Bonds issued for the purpose of making capital improvements to the Oregon Convention Center.

(b) To the government entity responsible for the operation of the Portland Center for the Performing Arts, \$1,200,000 in fiscal year 1997-98 and, in each fiscal year thereafter, that amount plus annual percentage increases equal to the lesser of the change in the CPI or the overall change in the proceeds of the tax.

(c) To the government entity responsible for operating the Portland Center for the Performing Arts for a program or programs for cultural tourism, to be administered through a contract with the Portland Oregon Visitor's Association, and in collaboration with the Regional

Arts and Culture Council, \$200,000 in fiscal year 1997-98 and, in each fiscal year thereafter, that amount plus annual percentage increases equal to the lesser of the change in the CPI or the overall change in the proceeds of the tax;

(d) To the Regional Arts and Culture Council, any remaining balance up to \$200,000 of the proceeds of the tax after the payments in subsections (a) through (c) are made, to be allocated as follows:

1. \$100,000 for neighborhood arts;
2. \$100,000 to broaden participation in and visitors to the region's cultural and artistic assets by residents of outlying areas of the greater Portland metropolitan region.

(e) To Metro for any remaining balance of the proceeds from the tax after the payments in subsections (a) through (e) are made will be allocated towards replacement, renewal, expansion, and other capital needs of the facilities managed by Metro, on an as-needed basis to be determined by Metro.

(3) Earnings on proceeds allocated to the Excise Tax Fund will be credited to the Excise Tax Fund.

(4) The amounts specified in subsection (2) above are subject to review by the Board every five years.

(5) The tax imposed by subsection (D) is separate and independent of the tax imposed by subsection (C). Nothing in this subsection (D) modifies the 1% tax provided for by subsection (C).

(E) A surcharge rate of the tax imposed by subsection (A) is equal to 2.5% and will be allocated to the VFTA that is separate from the Excise Tax Fund. This 2.5% surcharge will terminate if the 2.5% motor vehicle rental tax surcharge imposed by § 11.301(C) is terminated before issuance of the Bonds.

(1) Before paying the tax imposed by subsection (E) as required by § 11.407, the operator may deduct an amount equal to 5% of the portion of the tax allocated to VFTA. This 5% may be retained by the operator as reimbursement for expenses for collecting the tax.

(2) The tax imposed by subsection (E) is separate and independent of the tax imposed by subsections (C) and (D). Nothing in this subsection modifies the taxes imposed by subsections (C) and (D).

(3) In addition to imposing a tax, this subsection (E) specifically authorizes the Board under Home Rule authority to enter into an intergovernmental agreement with the City, pledging the County to maintain the tax surcharge to pay the Bonds and other obligations of this subsection

(E). Any pledge of tax revenues in such an intergovernmental agreement is binding under ORS 288.594 from April 1, 2000, and as long as the Bonds set out in subsection (E) are outstanding.

(4) Taxes imposed by subsection (E) will be allocated in the following order of priority:

(a) First, to the City in the amount required to pay debt service on the Convention Center Completion Bonds;

(b) Second, to the City in the amount required to pay debt service on the PCPA Bonds;

(c) Third, to the City in the amount, if any, required to pay the remaining debt service on Civic Stadium Bonds after application of Civic Stadium Revenues;

(d) Fourth, to Metro in the amount, if any, required to pay reasonable operating, capital repair and maintenance cost of the OCC in excess of revenues collected by the OCC and the tax received by Metro from subsection (D);

(e) Fifth, to Metro for Convention Center Marketing, \$250,000 in Year One, \$350,000 in the second year, increased for each fiscal year thereafter by the CPI.

(f) Sixth, to Tri-County Metropolitan Transportation District (Tri-Met), \$300,000 in the fiscal year 2000-01, increased each subsequent fiscal year by the CPI, for costs of extending the fareless square to the Lloyd Center Max station;

(g) Seventh, to the Visitor Development Fund (VDF), \$250,000 in the fiscal year 2000-01, \$500,000 in fiscal year 2001-02, increased each subsequent fiscal year by the CPI, to attract visitors to the county and City that maximize hotel occupancy and vehicle rentals;

(h) Eighth, to Metro for the operator of the PCPA, \$250,000 in Year One, \$500,000 in the second year, increased each year thereafter by the CPI, for costs of PCPA operations;

(a) (i) Ninth, to Metro to pay OCC operating deficits in excess of \$8,840,000 that accumulate during the first six fiscal years (2000-01 through 2005-06) after the effective date of the tax imposed by subsection (E);

(j) Tenth, to a revenue stabilization subaccount sufficient to pay subsection (a) through (i) disbursements, and that may be used to redeem or defease Convention Center Completion Bonds and PCPA Bonds.

(k) Eleventh, any subsection (E) taxes remaining after the (a) through (i) payments including subaccounts may be spent according to budgets proposed by the Visitor Development Board. (Ord. 957, Amended, 01/25/2001; Ord. 941, Amended, 02/17/2000; ' 90 Code, § 5.50.050, 07/01/1998; Ord. 845, passed, 03/14/1996; Ord. 870, passed, 01/09/1996; Ord. 811, passed, 02/26/1995; Ord. 790, passed, 06/16/1994; Ord. 569, passed, 01/28/1988; Ord. 501, passed, 02/20/1986; Ord. 488, passed, 12/19/1985; Ord. 56, passed, 06/29/1972)

§ 11.403 Collection Of Tax By Operator.

(A) Every operator renting rooms or space for lodging or sleeping purposes in this county, the occupancy of which is not exempted under the terms of this subchapter, must collect a tax from the occupant. The tax collected or accrued by the operator constitutes a debt owing by the operator to the county.

(B) In all 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 will not be liable for the tax until credits are paid or deferred payments are made. Adjustments may be made for uncollectable taxes.

(C) The tax administrator will enforce provisions of this subchapter and has the power to adopt rules consistent with this subchapter that aid enforcement.

(D) For rent collected on portions of a dollar, fractions of a penny of tax will not be remitted.

Penalty, see § 11.499

(Ord. 941, Amended, 02/17/2000; ' 90 Code, § 5.50.075, 07/01/1998; Ord. 56, passed, 06/29/1972)

§ 11.404 Operator's Duties.

Each operator must collect the tax imposed by this subchapter at the same time the rent is collected from each transient. The amount of tax must be separately stated upon the operator's records and any receipt rendered by the operator. No operator of a hotel will advertise that the tax or any part of the tax will be assumed or absorbed by the operator, or that it will not be added to the rent, or that, when added, any part will be refunded, except as provided by this subchapter.

Penalty, see § 11.499

(Ord. 941, Amended, 02/17/2000; ' 90 Code, § 5.50.100, 07/01/1998; Ord. 56, passed, 06/29/1972)

§ 11.405 Exemptions.

No tax imposed by this subchapter will be collected from:

- (A) Any occupant for more than 30 successive calendar days;
 - (B) Any person who pays for lodging on a monthly basis, irrespective of the number of days in any month;
 - (C) Any occupant whose rent is of a value less than \$2 per day;
 - (D) Any person who rents a private home, vacation cabin or similar facility from any owner who rents the facility incidentally to the owner's own use of it;
 - (E) Any federal government employee renting a room for official governmental business; or
 - (F) Any persons renting and occupying a space in a recreational vehicle park or campground.
- (Ord. 941, Amended, 02/17/2000; ' 90 Code, § 5.50.125, 07/01/1998; Ord. 593, passed, 09/29/1988; Ord. 56, passed, 06/29/1972)

§ 11.406 Registration Of Operator; Certification Of Authority.

(A) Every person engaging or about to engage in business as an operator of a hotel in the county must register with the tax administrator on a form provided by the administrator. Operators starting businesses must register within 15 calendar days after commencing business.

(B) The privilege of registration after the date of imposition of the transient lodgings tax will not relieve any person from the obligation of payment or collection of tax regardless of registration.

(C) Registration must set forth the name under which an operator transacts or intends to transact business, the location of place or places of business and such other information as the tax administrator may require to facilitate the collection of the tax. The operator must sign the registration.

(D) The tax administrator will, within ten days after registration, issue without charge a certificate of authority to each registrant to collect the tax from the occupant, with a duplicate for each additional place of business of each registrant.

(E) Certificates are not assignable or transferable and must be surrendered immediately to the tax administrator upon the cessation of business at the location named or upon its sale or transfer.

(F) Each certificate and duplicate will state the place of business to which it is applicable and must be prominently displayed to be seen and come to the notice readily of all occupants and persons seeking occupancy.

(G) The certificate will, among other things, state the following:

- (1) The name of the operator;
- (2) The address of the hotel;
- (3) The date upon which the certificate was issued; and
- (4) A notice reading as follows:

This Transient Occupancy Registration Certificate signifies that the person named has fulfilled the requirements of the Transient Lodgings Tax Ordinance of Multnomah County, Oregon, by the registration with the tax administrator to collect from transients the county lodgings tax. This certificate does not authorize any person to conduct any business or operate a hotel without strictly complying with all applicable laws, including those requiring any other county permit. This certificate is not a permit. (Ord. 941, Amended, 02/17/2000; '90 Code, § 5.50.150, 07/01/1998; Ord. 56, passed, 06/29/1972)

§ 11.407 Due Date; Returns And Payments.

(A) The transient must pay the tax imposed by this subchapter to the operator at the time that the rent is paid. All taxes collected by any operator are due and payable to the tax administrator on a quarterly basis on the fifteenth day of the following month for the preceding three months, and are delinquent on the last day of the month in which they are due. The tax administrator has authority to classify or district the operators for determination of applicable tax periods, and will notify each operator of the due and delinquent dates for the operator's returns. The initial return under this subchapter may be for less than the three months preceding the due date. Thereafter, returns must be made for the applicable quarterly period.

(B) On or before the fifteenth day of the month following each quarter of collection, a return for the preceding quarter's tax collections must be filed with the tax administrator. The return must be filed in such form as the tax administrator may prescribe by every operator liable for payment of tax.

(C) Returns must show the amount of tax collected or otherwise due for the period. The tax administrator may require returns to show the total

rentals upon which tax was collected or otherwise due, the gross receipts of the operator for the period, and an explanation of any discrepancy between those amounts and the rents exempt, if any.

(D) The person required to file the return must deliver the return, together with the remittance of the amount of the tax due, to the tax administrator, either by personal delivery or by mail. If the return is mailed, the postmark will be considered the date of delivery for determining delinquencies.

(E) For good cause, the tax administrator may extend for up to one month the time for making any return or payment of tax. No further extension will be granted. Any operator to whom an extension is granted must pay interest at the rate of 1% per month on the amount of tax due without proration for a fraction of a month. If a return is not filed and the tax and interest due is not paid by the end of the extension granted, the interest will become part of the tax for computation of penalties described in § 11.420.

(F) If the tax administrator considers it necessary to insure payment or facilitate collection by the county of the amount of taxes in any individual case, the tax administrator may require returns and payment of the amount of taxes for other than quarterly periods.

Penalty, see § 11.499

(Ord. 941, Amended, 02/17/2000; ' 90 Code, § 5.50.175, 07/01/1998; Ord. 593, passed, 09/29/1988; Ord. 56, passed, 06/29/1972)

§ 11.408 Tax Deficiency Determination.

(A) The tax administrator may compute and determine the amount required to be paid upon the facts contained in the return, or other information. One or more deficiency determinations may be made of the amount due for one, or more than one period. The amount so determined is due and payable immediately upon service of notice, after which the amount determined is delinquent. Penalties on deficiencies will be applied under § 11.420.

(B) In making a determination, the tax administrator may offset overpayments for previous periods, against any underpayment for subsequent periods, or against penalties and interest on the underpayments. The interest on underpayments will be computed under § 11.420.

(C) The tax administrator will give to the operator or occupant a written notice. The notice may be served personally or by mail. If by mail, the notice will be addressed to the operator as it appears on the records of the tax administrator. In case of service by mail of any notice required by this

subchapter, the service is complete at the time of deposit in the United States post office.

(D) Except in the case of fraud or intent to evade this subchapter or applicable rules, every deficiency determination will be made and notice mailed within three years after the last day of the month following the close of the quarterly period for which the amount is proposed to be determined, or within three years after the return is filed, whichever period expires later.

(E) Any determination will become due and payable immediately upon receipt of notice and becomes final within ten days after the tax administrator has given notice. The operator may petition for redetermination if the petition is filed before the determination becomes final.

Penalty, see § 11.499

(Ord. 941, Amended, 02/17/2000; ' 90 Code, § 5.50.200, 07/01/1998; Ord. 56, passed, 06/29/1972)

§ 11.409 Fraud; Refusal To Collect; Evasion.

If any operator fails or refuses to collect the tax or to make within the time provided in this subchapter any report and remittance of the tax required by this subchapter, or makes a fraudulent return or otherwise willfully attempts to evade this subchapter, the tax administrator will obtain facts and information for an estimate of the tax due. The tax administrator will determine and assess against the operator the tax, interest and penalties provided by this subchapter. The tax administrator will give a notice as provided in § 11.408 of the amount assessed. The determination and notice will be made and mailed within three years after discovery by the tax administrator of any fraud, intent to evade or failure or refusal to collect the tax, or failure to file a return. Any determination becomes due and payable immediately upon receipt of notice and becomes final within ten days after the tax administrator has given notice. The operator may petition for redemption and refund if the petition is filed before the determination becomes final.

Penalty, see § 11.499

(Ord. 941, Amended, 02/17/2000; ' 90 Code, § 5.50.225, 07/01/1998; Ord. 56, passed, 06/29/1972)

§ 11.410 Operator Delay.

If the tax administrator believes that the collection of any tax required to be collected and paid to the county will be jeopardized by delay, or if any determination will be jeopardized by delay, the tax administrator may determine the amount of tax required to be collected. The amount so determined will be immediately due and payable, and the operator must

immediately pay the determination to the tax administrator after service of notice. The operator may petition, after payment has been made, for redemption and refund of the determination, if the petition is filed within ten days from the date of service of notice by the tax administrator.

Penalty, see § 11.499

(Ord. 941, Amended, 02/17/2000; ' 90 Code, § 5.50.250, 07/01/1998; Ord. 56, passed, 06/29/1972)

§ 11.411 Redeterminations.

(A) Any person against whom a determination is made under §§ 11.408 through 11.410 or any person directly interested may petition for a redetermination within the time required in §§ 11.408 through 11.410. If a petition for redetermination is not filed within that time, the determination becomes final at the expiration of the allowable time.

(B) If a petition for redetermination is filed within the allowable period, the tax administrator will reconsider the determination, and, if the petition requests, grant an oral hearing and give ten days' notice of the time and place of the hearing. The tax administrator may continue the hearing from time to time as may be necessary.

(C) The tax administrator may decrease or increase the amount of the determination because of the hearing and if an increase is determined the increase will be payable immediately after the hearing.

(D) The order or decision of the tax administrator upon a petition for redetermination becomes final ten days after service upon the petitioner of notice, unless appeal of the order or decision is filed with the tax administrator within the ten days after service of notice.

(E) No petition for redetermination or appeal will be effective for any purpose unless the operator has first complied with the payment provisions of this subchapter.

Penalty, see § 11.499

(Ord. 941, Amended, 02/17/2000; ' 90 Code, § 5.50.275, 07/01/1998; Ord. 790, passed, 06/16/1994; Ord. 56, passed, 06/29/1972)

§ 11.412 Security For Collection Of Tax.

(A) The tax administrator may require any operator to deposit security in the form of cash, bond or other security as the tax administrator may determine. The amount of the security will be fixed by the tax administrator but will not be greater than twice the operator's estimated

average quarterly liability for the period, determined as the tax administrator considers proper, or \$5,000, whichever is less. The amount of the security may be increased or decreased by the tax administrator subject to the limitations of this subsection.

(B) At any time within three years after any tax required to be collected becomes due and payable or at any time within three years after any determination becomes final, the tax administrator may bring an action in the courts of this state, or any other state, or of the United States in the name of the county to collect the amount delinquent together with penalties and interest.

(Ord. 941, Amended, 02/17/2000; ' 90 Code, § 5.50.300, 07/01/1998; Ord. 56, passed, 06/29/1972)

§ 11.413 Records Maintained By Operator; Administrator Examination.

(A) Every operator must keep guest records of room sales and accounting books and records of the room sales. The operator must retain all records for a period of three years and six months after they are created.

(B) The tax administrator may examine during normal business hours the books, papers and accounting records relating to room sales of any operator, after notification to the operator liable for the tax. The tax administrator may investigate the business of the operator in order to verify the accuracy of any return made, or if the operator makes no return, to ascertain and determine the amount required to be paid.

Penalty, see § 11.499

(Ord. 941, Amended, 02/17/2000; ' 90 Code, § 5.50.325, 07/01/1998; Ord. 56, passed, 06/29/1972)

§ 11.414 Confidential Character Of Information; Disclosure Prohibited.

It is unlawful for the tax administrator or any person having an administrative or clerical duty under this subchapter to make known in any manner the business affairs, operations or information obtained by an investigation of records and equipment of any person required to obtain a transient occupancy registration certificate or pay a transient occupancy tax, or the amount or source of income, profits, losses, expenditures or to permit any statement, application, or other private record to be seen or examined by any person. Nothing in this section will prevent:

(A) The disclosure to, or the examination of records and equipment to another county official, employee or agent for collection of taxes

for the purpose of administering or enforcing this subchapter, including the collection of taxes.

(B) The disclosure, after the filing of a written request to that effect, to the taxpayer, receivers, trustees, executors, administrators, assignees and guarantors, if directly interested, of information as to any paid tax, any unpaid tax or amount of tax required to be collected, or interest, and penalties. The District Attorney must approve each disclosure and the tax administrator may refuse to make any disclosure when the public interest would suffer.

(C) The disclosure of the names and addresses of any persons to whom transient occupancy registration certificates have been issued.

(D) The disclosure of general statistics regarding taxes collected or business activity.

Penalty, see § 11.499

(Ord. 941, Amended, 02/17/2000; ' 90 Code, § 5.50.350, 07/01/1998; Ord. 56, passed, 06/29/1972)

§ 11.415 Appeals To Board.

Any person aggrieved by any decision of the tax administrator may appeal to the Board by filing a notice of appeal with the tax administrator within ten days of the serving or the mailing of the notice of the decision given by the tax administrator. The tax administrator will transmit the notice of appeal, together with the file of the appealed matter to the Chair, who will fix a time and place for hearing the appeal from the decision. The Chair will give the appellant not less than ten days' prior written notice of the time and place of hearing on the appealed matter.

(Ord. 941, Amended, 02/17/2000; ' 90 Code, § 5.50.475, 07/01/1998; Ord. 790, passed, 06/16/1994; Ord. 593, passed, 09/29/1988; Ord. 56, passed, 06/29/1972)

§ 11.416 Refunds By County To Operator.

When any tax, penalty or interest is erroneously paid, it may be refunded. A verified claim in writing, stating the specific reason for the claim must be filed with the tax administrator within three years from the date of payment. The claim must be made on forms provided by the tax administrator. If the tax administrator approves the claim, the excess amount collected or paid may be refunded or may be credited on any amounts then due from the operator and the balance may be refunded to the operator.

(Ord. 941, Amended, 02/17/2000; ' 90 Code, § 5.50.500, 07/01/1998; Ord. 56, passed, 06/29/1972)

§ 11.417 Refunds By County To Transient.

When the tax required by this subchapter is collected by the operator and deposited with the tax administrator and is later determined erroneously paid, it may be refunded by the tax administrator to the transient. A verified claim in writing, stating the specific reason for the claim must be filed with the tax administrator within three years from the date of payment.

(Ord. 941, Amended, 02/17/2000; ' 90 Code, § 5.50.525, 07/01/1998; Ord. 56, passed, 06/29/1972)

§ 11.418 Refunds By Operator To Tenant.

When the tax required by this subchapter is collected by the operator and it is later determined that the tenant occupies the hotel for a period exceeding 30 days without interruption, the operator must refund to the tenant the tax collected. . The operator must account for the collection and refund to the tax administrator. If the operator remits the tax before refund or credit to the tenant, the operator is entitled to a corresponding refund under § 11.416.

(Ord. 941, Amended, 02/17/2000; ' 90 Code, § 5.50.550, 07/01/1998; Ord. 56, passed, 06/29/1972)

§ 11.419 Credit Against City Tax.

(A) Any person subject to the payment or collection of the 11.401(B) 5% base tax and the 11.401(C) 1% surcharge is entitled to a credit against the payment of the tax in the amount due any city within the county for a transient lodgings tax for the same occupancy.

(B) No person subject to the surcharge taxes imposed by 11.401(D) and 11.401(E) is entitled to a credit against the payment of those taxes. The 3% surcharge imposed by 11.401(D) and the 2.5% surcharge imposed by 11.401(E) are due and payable in accordance with this subchapter regardless of the amount due any city within the county for a transient lodging tax for the same occupancy made taxable under this subchapter.

(Ord. 941, Amended, 02/17/2000; ' 90 Code, § 5.50.575, 07/01/1998; Ord. 56, passed, 06/29/1972)

§ 11.420 Delinquency And Interest.

(A) Any operator who has not been granted an extension of time for remittance of tax due and who fails to remit any tax imposed by this

subchapter prior to delinquency must pay a penalty of 10% of the amount of the tax due in addition to the amount of the tax.

(B) Any operator who has not been granted an extension of time for remittance of tax due and who fails to pay any delinquent remittance on or before a period of 30 days following the date on which the remittance first became delinquent must pay a second delinquency penalty of 15% of the amount of the tax due plus the amount of the tax and the 10% penalty first imposed.

(C) If the tax administrator determines that the nonpayment of any remittance due under this subchapter is due to fraud or intent to evade, a penalty of 25% of the amount of the tax will be added to the penalties stated in divisions (A) and (B) of this section.

(D) In addition to the penalties imposed, any operator who fails to remit any tax imposed by this subchapter must pay interest at the rate of 0.5% per month or fraction thereof without proration for portions of a month, on the amount of the tax due, exclusive of penalties, from the date the remittance first became delinquent until paid.

(E) Every penalty imposed and interest under this section is merged with and becomes part of the tax required to be paid.

(F) Any operator who fails to remit the tax levied within the time required by this subchapter must pay the penalties. However, the operator may petition the tax administrator for waiver and refund of the penalty or any portion thereof and the tax administrator may, if a good and sufficient reason is shown, waive and direct a refund of the penalty or any portion thereof.

Penalty, see § 11.499

(Ord. 941, Amended, 02/17/2000; ' 90 Code, § 5.50.900, 07/01/1998; Ord. 790, passed, 06/16/1994; Ord. 593, passed, 09/29/1988; Ord. 56, passed, 06/29/1972)

§ 11.499 Penalty.

Any operator or other person who fails to register as required by this subchapter, or who fails to furnish any return, supplemental return or other data required by this subchapter or by the tax administrator, or, with intent to defeat or evade the determination or any amount due under this subchapter, makes, renders, signs or verifies any false or fraudulent report, commits an offense that is a violation of this subchapter punishable by fine in an amount to be fixed by the court, not exceeding \$500.

(Ord. 941, Amended, 02/17/2000; ' 90 Code, § 5.50.990, 07/01/1998; Ord. 56, passed, 06/29/1972)

San Francisco

ARTICLE 7 TAX ON TRANSIENT OCCUPANCY OF HOTEL ROOMS

ARTICLE 7

TAX ON TRANSIENT OCCUPANCY OF HOTEL ROOMS

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SEC. 501. ADDITIONAL DEFINITIONS.

When used in this Article the following terms shall mean or include:

(a) "Operator." Any person operating a hotel in the City and County of San Francisco, including, but not limited to, the owner or proprietor of such premises, lessee, sublessee, mortgagee in possession, licensee or any other person otherwise operating such hotel.

(b) "Occupant." A person who, for a consideration, uses, possesses, or has the right to use or possess any room in a hotel under any lease, concession, permit, right of access, license to use or other agreement, or otherwise.

(c) "Occupancy." The use or possession, or the right to the use or possession of any room or apartment in a hotel or the right to the use or possession of the furnishings or to the services and accommodations accompanying the use and possession of the room.

(d) "Hotel." Any structure, or any portion of a structure, including any lodginghouse, roominghouse, dormitory, Turkish bath, bachelor hotel, studio hotel, motel, auto court, inn, public club, or private club, containing guest rooms and which is occupied, or is intended or designated for occupation, by guests, whether rent is paid in money, goods, labor, or otherwise. It does not include any jail, hospital, asylum, sanitarium, orphanage, prison, detention, or other building in which human beings are housed and detained under legal restraint.

(e) "Guest Room." A room occupied, or intended, arranged, or designed for occupation, by one or more occupants. Every 100 square feet of superficial floor area in a dormitory is a guest room.

(f) "Rent." The consideration received for occupancy valued in money, whether received in money or otherwise, including all receipts, cash, credits, and property or services of any kind or nature, and also the amount for which credit is allowed by the operator to the occupant, without any deduction therefrom whatsoever.

(g) "Permanent Resident." Any occupant as of a given date who has or shall have occupied, or has or shall have the right of occupancy, of any guest room in a hotel for at least 30 consecutive days next preceding such date. (Added by Ord. 87-61, App. 4/26/61; amended by Ord. 231-91, App. 6/12/91; Ord. 19-98, App. 1/16/98)

SEC. 502. IMPOSITION AND RATE OF TAX.

There shall be paid a tax of eight percentum on the rent for every occupancy of a guest room in a hotel in the City and County. (Amended by Ord. 251-78, App. 6/1/78; Ord. 19-98, App. 1/16/98)

SEC. 502.5. IMPOSITION OF SURCHARGE.

There shall be an additional tax of 1.75 percent on the rent for every occupancy of the guest rooms in a hotel in the City and County of San Francisco between July 1, 1980 and August 14, 1993 and an additional tax of 2.75 percent on the rent for every occupancy on and after August 15, 1993.

When rent is paid, charged, billed or falls due on either a weekly, monthly or other term basis, the rent so paid, charged, billed or falling due shall be subject to the tax of eight percent herein imposed to the extent that it covers any portion of the period prior to July 1, 1980, and to the tax of eight percent herein plus the 1.75 percent surcharge imposed to the extent that it covers any portion of the period between July 1, 1980 and August 14, 1993, and the 2.75 percent surcharge imposed to the extent that it covers any portion of the period on and after August 15, 1993, and such payment, charge, bill or rent due shall be apportioned on the basis of the ratio of the number of days falling within the periods prior to July 1, 1980, between July 1, 1980 and August 14, 1993, and on and after August 15, 1993 to the total number of days covered thereby. Where any tax has been paid hereunder upon any rent without any right of occupancy therefor, the Tax Collector may by regulation provide for credit or refund of the amount of such tax upon application therefor as provided in this Code.

The surcharge tax so collected shall be deposited in the General Fund subject to appropriation pursuant to the budget and fiscal provisions of the Charter.

By adopting this ordinance the People of the City and County of San Francisco do not intend to limit or in anyway curtail any powers the Board of Supervisors may exercise as to the subject matter of this ordinance, including, but not limited to, raising the rate of taxation or surcharge, lowering the rate of taxation or surcharge, eliminating the tax or surcharge, or creating or defining new categories of taxpayers under this ordinance. (Added by 6/3/80; portions of this Section require ballot measure to amend; amended by Ord. 244-93, App. 8/10/93; Ord. 19-98, App. 1/16/98)

SEC. 502.6. IMPOSITION OF A 1.25 PERCENT SURCHARGE.

(a) There shall be an additional tax of 1.25 percent on the rent for every occupancy of the guest rooms in the hotel in the City and County of San Francisco on and after January 1, 1987.

(b) When rent is paid, charged, billed or falls due on either weekly, monthly or other term basis, the rent so paid, charged, billed or falling due shall be subject to the tax of 9.75 percentum herein imposed to the extent that it covers any portion of the period prior to January 1, 1987, and to the tax of 9.75 percent herein plus the amount of surcharge imposed to the extent that it covers any portion of the period on and after January 1, 1987 and such payment, charge, bill or rent due shall be apportioned on the basis of the ratio of the number of days falling within said periods to the total number of days covered thereby. Where any tax has been paid hereunder upon any rent without any right of occupancy therefor the Tax Collector may by regulation provide for credit or refund of the amount of such tax upon application therefor as provided in this Code.

(c) The surcharge tax so collected shall be deposited in the General Fund subject to appropriation pursuant to the budget and fiscal provisions of the Charter. (Added by Ord. 468-86, App. 12/5/86; amended by Ord. 19-98, App. 1/16/98)

SEC. 502.6-1. IMPOSITION OF A CUMULATIVE SURCHARGE.

(a) **Replacement of Section 502.5 and Section 502.6.** Commencing on August 1, 1996, Section 502.5 and Section 502.6 are hereby suspended and replaced in their entirety by this new Section 502.6-1. The purpose of this new Section is to combine the surcharges levied by Sections 502.5 and 502.6 and to increase the total surcharge levied by the City and County by two percent. In the event any portion of the transient occupancy tax levied by the City pursuant to Section 502.6-1 hereof is found to be invalid, illegal or unconstitutional, the suspension of Sections 502.5 and 502.6 shall be rescinded by operation of law and the taxes and surcharges levied under such Sections shall be deemed to have been in full force and effect during the period the City collected the taxes under the authority of this Section.

(b) **Imposition of Surcharge.** Effective August 1, 1996, there shall be a surcharge of six percent, in addition to the eight percent tax specified in Section 502, on the rent for every occupancy of the guest room in a hotel in the City and County of San Francisco. The surcharge so collected shall be deposited in the General Fund subject to appropriation pursuant to the budget and fiscal provisions of the Charter.

(c) **Prorata Allocation of Surcharge.** When rent is paid, charged, billed or falls due on either a weekly, monthly or other term basis, the rent so paid, charged, billed or falling due shall be subject to a surcharge of four percent to the extent that it covers any portion of the period prior to August 1, 1996, and a six percent surcharge to the extent that it covers any portion of the period on or after August 1, 1996, and such payment, charge, bill or rent due shall be apportioned on the basis of the ratio of the number of days falling within said periods to the total number of days covered by such payment. Where any surcharge has been paid hereunder upon any rent without any right of occupancy therefor, the Tax Collector may by regulation provide for credit or

refund of the amount of such tax upon application therefor as provided in this Code.

(d) **Suspension of Surcharge Pursuant to Section 502.7.** The provisions of this Section 502.6-1 shall be subject to Section 502.7, including the temporary suspension provided therein. (Added by Ord. 290-96, App. 7/12/96; amended by Ord. 19-98, App. 1/16/98)

SEC. 502.6-2. CONTINUATION OF TWO PERCENT HOTEL TAX SURCHARGE.

The City and County of San Francisco is hereby authorized to continue to levy and collect a two percent hotel tax surcharge imposed by Section 502.6-1. All monies derived from the collection of such two percent hotel tax surcharge shall be deposited in the General Fund of the City and County of San Francisco and, subject to the budgetary and fiscal provisions of the Charter, may be expended for any lawful City and County of San Francisco purposes. (Added by Proposition H, 11/3/98)

SEC. 502.7. TEMPORARY SUSPENSION OF TAX AND SURCHARGES FOR OCCUPANCIES IN HOTELS IN CERTAIN REDEVELOPMENT PROJECT AREAS.

(a) **Suspension.** Commencing on October 1, 1994, the provisions of Sections 502, 502.5 and 502.6 hereof shall be temporarily suspended and inapplicable to the occupancy of any guest room in any hotel located within the boundaries of the following San Francisco Redevelopment Agency Project Areas:

(1) Yerba Buena Center Project Area, as described in the Redevelopment Plan adopted by the Board of Supervisors on April 25, 1966, as amended on July 26, 1971, October 9, 1973, September 13, 1976, August 8, 1977, August 13, 1979, November 2, 1981 and December 1, 1986;

(2) Embarcadero-Lower Market (Golden Gateway) Project Area, as described in the Redevelopment Plan adopted by the Board of Supervisors on May 25, 1959, as amended on July 31, 1961, July 13, 1964, November 23, 1964, May 15, 1967, July 22, 1968, November 29, 1976 and December 1, 1986;

(3) Western Addition Project Area A-1, as described in the Redevelopment Plan adopted by the Board of Supervisors on May 28, 1956, as amended on January 30, 1961, July 31, 1961, January 14, 1963, February 25, 1963, July 3, 1964, October 26, 1981 and May 3, 1985;

(4) Western Addition Project Area A-2, as described in the Redevelopment Plan adopted by the Board of Supervisors on October 13, 1964, as amended on August 3, 1970, June 6, 1976, December 15, 1986, November 9, 1987 and August 10, 1992;

(5) South of Market Earthquake Recovery Redevelopment Plan (South of Market Project Area), as described in the Redevelopment Plan adopted by the Board of Supervisors on June 11, 1990; and

(6) Chinese Cultural and Trade Center Redevelopment Project Area, as described in the Redevelopment Plan adopted by the Board of Supervisors on November 8, 1965.

Each of the foregoing project areas shall hereinafter be individually referred to as a "SFRA Project Area."

(b) **Duration.** The foregoing suspension of Sections 502, 502.5 and 502.6 shall continue and remain in effect so long as Section 502.8 remains in effect. Immediately upon Section 502.8 no longer being effective, Sections 502, 502.5 and 502.6 shall again apply to all the SFRA Project Areas. In the event any portion of the transient occupancy tax levied by the City pursuant to Section 502.8 hereof is found to be invalid, illegal or unconstitutional, the suspension of Sections 502, 502.5 and 502.6 shall be rescinded by operation of law and the taxes and surcharges levied under such Sections shall be deemed to have been in full force and effect during the period the City collected the transient occupancy tax found to be invalid, illegal or unconstitutional. (Added by Ord. 246-94, App. 6/30/94)

SEC. 502.8. IMPOSITION AND RATE OF TAX IN CERTAIN REDEVELOPMENT PROJECT AREAS - TRANSIENT OCCUPANCY TAX - SAN FRANCISCO REDEVELOPMENT AGENCY.

(a) **Imposition and Rate of Tax.** Pursuant to Section 7280 of the California Revenue and Taxation Code, the City hereby imposes a tax of 12 percent on the rent for every occupancy of a guest room in any hotel located within the boundaries of a SFRA Project Area. The foregoing tax shall be effective on October 1, 1994. The tax so collected shall be deposited in the General Fund subject to appropriation pursuant to the budget and fiscal provisions of the Charter. The tax shall be subject to all the provisions of this Article and shall be administered accordingly by the Tax Collector.

(b) **Apportionment of Tax.** When rent is paid, charged, billed or falls due on either a weekly, monthly or other term basis, the rent so paid, charged, billed or falling due shall be subject to the tax of 12 percent herein imposed to the extent that it covers any portion of the period after October 1, 1994, and such payment, charge, bill or amount due shall be apportioned on the basis of the ratio of the number of days falling after October 1, 1994, to the total number of days covered thereby. Where any tax has been paid hereunder upon any rent without any right of occupancy therefor the Tax Collector may by regulation provide for credit or refund of the amount of such tax upon application therefor as provided in this Code.

(c) **Credit for Taxes Paid to San Francisco Redevelopment Agency.** In the event a transient occupancy tax is levied by the San Francisco Redevelopment Agency on the rent for the occupancy of a guest room in a

hotel located within a SFRA Project Area, a credit in the amount set forth in Subsection (d) below shall be applied against the amounts otherwise due and payable to the City under Section 502.8(a). The foregoing credit is only applicable to a transient occupancy tax levied by the San Francisco Redevelopment Agency pursuant to the California Revenue and Taxation Code Section 7280.5 for the purpose of paying debt service (as defined below) on bonded indebtedness issued by the San Francisco Redevelopment Agency (the "agency bonds") for redevelopment purposes.

(d) **Amount of Credit.** The aggregate amount of the credit for each fiscal year shall not exceed the debt service on the agency bonds due and payable for that fiscal year. "Debt service" means (i) all payments of principal of and interest on the agency bonds, (ii) any required payment made by the Agency to a bond reserve account established under the agency bond indenture for the exclusive benefit of the agency bonds and (iii) any fee charged by the Tax Collector or the Controller pursuant to Subsection (e) below.

(e) **Administration of Agency Tax.** The Tax Collector and the Controller are hereby authorized to enter into a tax administration agreement with the San Francisco Redevelopment Agency to administer any transient occupancy tax levied by the San Francisco Redevelopment Agency, including collection of taxes and assessment of penalties and interest and any other tax collection functions associated with such levy. Monies collected on behalf of the San Francisco Redevelopment Agency shall be transmitted to the San Francisco Redevelopment Agency for use in accordance with the requirements of the agency bonds and the tax administration agreement. The Tax Collector and the Controller may charge the San Francisco Redevelopment Agency a reasonable fee to compensate for its actual costs of collection and administration services.

(f) **Limitations on Effectiveness.** Section 502.8 shall be of no further force or effect on December 31, 2027 or, in the event of a default on the agency bonds, on the date that such bonds are discharged. (Added by Ord. 227-94, App. 6/9/94; amended by Ord. 19-98, App. 1/16/98)

SEC. 502.8-1. IMPOSITION OF ADDITIONAL SURCHARGE IN CERTAIN REDEVELOPMENT PROJECT AREAS.

(a) **Imposition of Surcharge.** Effective August 1, 1996, there shall be a surcharge of two percent, in addition to the 12 percent tax specified in Section 502.8, on the rent for every occupancy of the guest rooms in a hotel located within the boundaries of a SFRA Project Area (as such area is defined in Section 502.7). The surcharge so collected shall be deposited in the General Fund subject to appropriation pursuant to the budget and fiscal provisions of the Charter.

(b) **Prorata Allocation of Tax and Surcharge.** When rent is paid, charged, billed or falls due on either a weekly, monthly or other term basis, the rent so paid, charged, billed or falling due shall be subject to a tax of 12

percent to the extent that it covers any portion of the period prior to August 1, 1996, and to the tax of 12 percent plus the two percent surcharge herein imposed to the extent that it covers any portion of the period on or after August 1, 1996, and such payment, charge, bill or rent due shall be apportioned on the basis of the ratio of the number of days falling within said periods to the total number of days covered by such payment. Where any surcharge has been paid hereunder upon any rent without any right of occupancy therefor, the Tax Collector may by regulation provide for credit or refund of the amount of such tax upon application therefor as provided in this Code.

(c) **No Credit for Transient Occupancy Taxes Paid to the San Francisco Redevelopment Agency.** The credit in Section 502.8(c) for a transient occupancy tax levied by and paid to the San Francisco Redevelopment Agency shall not be applicable to the surcharge levied pursuant to this Section.

(d) **Limitations of Effectiveness.** Section 502.8-1 shall be of no further force or effect on and after December 31, 2027 or, in the event of a default on the agency bonds (as defined in Section 502.8 above), on the date that such bonds are discharged. (Added by Ord. 290-96, App. 7/12/96; amended by Ord. 19-98, App. 1/16/98)

SEC. 503. OCCUPANT TO PAY TAX TO OPERATOR.

Unless prohibited by the laws of the United States or the State of California, or exempted by the provisions of this Article, every occupant occupying a guest room in a hotel in this City and County shall be required to pay the tax imposed herein to the operator along with the rent for the occupancy. This obligation is not satisfied until the tax has been paid to this City and County, except that a receipt indicating payment of the rent from an operator maintaining a place of business in this City and County or from an operator who is authorized by the Tax Collector to collect the tax shall be sufficient to relieve the occupant from further liability for the tax to which the receipt refers. (Amended by Ord. 395-84, App. 9/20/84)

SEC. 504. COLLECTION OF TAX BY OPERATOR; RECEIPT TO OCCUPANT; RULES FOR COLLECTION SCHEDULES.

Every operator maintaining a place of business in this City and County as provided in Section 503 herein, and renting guest rooms in this City and County to an occupant, not exempted under Section 506 of this Article shall, at the time of collecting the rent from the occupant, also collect the tax from the occupant and on demand shall give to the occupant a receipt therefor. In all cases in which the tax is not collected by the operator, as aforesaid, the operator shall be liable to the Tax Collector of the City and County for the amount of the tax due on the amount of taxable rent collected from the occupant under the provisions of this Article, the same as though the tax were paid by the occupant. In all cases of transactions upon credit or deferred payment, the payment of tax to the Tax Collector may be deferred in

accordance therewith, and the operator shall be liable therefor at the time and to the extent that such credits are paid or deferred payments are made in accordance with the rate of tax owing on the amount thereof.

The Tax Collector shall have the power to adopt rules and regulations prescribing methods and schedules for the collection and payment of the tax and such methods and schedules shall eliminate fractions of one cent.
(Amended by Ord. 395-84, App. 9/20/84)

SEC. 505. UNLAWFUL ADVERTISING REGARDING TAX.

It is unlawful for any operator to advertise or hold out or state to the public or to any guest, directly or indirectly, that the tax or any part thereof will be assumed or absorbed by the operator or that it will not be added to the rental of the guest room, or that, if added, it or any part thereof will be refunded.
(Added by Ord.87-61, App. 4/26/61)

SEC. 506. ADDITIONAL EXEMPTIONS.

No tax shall be imposed hereunder:

(a) Upon a permanent resident;

(b) Upon a corporation or association having a formally recognized exemption from income taxation pursuant to Section 501(c) or 501(d) or 401(a) of Title 26 of the United States Code as qualified by Sections 502, 503, 504 and 508 of Title 26 of the United States Code;

(c) Where the rent is less than at the rate of \$30 a day or \$100 per week. For multiple-occupancy guest rooms where the hotel determines who will share the rooms, the exemption shall be based on the rent charged per person. (Amended by Ord. 395-84, App. 9/20/84; Ord. 368-86 §1, App. 8/29/86; Ord. 19-98, App. 1/16/98; Ord. 113-98, App. 4/2/98; Ord. 291-00, File No. 001676, App. 12/22/2000)

SEC. 515.01. HOTEL TAX ALLOCATIONS.

(a) All monies collected pursuant to the tax imposed by Section 502 of this Article ("Hotel Tax Revenues") shall be allocated for the purposes specified in Subsection (b) in the amounts prescribed in Subsection (c), subject to the adjustments and limitations prescribed in Subsection (d). Any unexpended balances remaining in Allocations Number 1, 2, 3, 4, 5, 9 and 10 at the close of any fiscal year shall be deemed to be provided for a specific purpose within the meaning of Section 9.113 of the Charter and shall be carried forward and accumulated in said allocations for the purposes prescribed in Subsection (b). After the specific purpose allocations and accumulations required by this Section, all remaining revenues shall be transferred to the General Fund, of which an amount not to exceed two tenths of one percent (0.2%) shall be appropriated to the Tax Collector for the administration of the provisions of this Article.

(b) The monies allocated pursuant to this Section shall be appropriated to the following departments and used solely for the following purposes:

(1) Allocation Number 1 (Convention Facilities): To the City Administrator for Base Rental and Additional Rental as provided for and defined in the Project Lease, as amended, between the City and the San Francisco Redevelopment Agency, for the acquisition, construction and financing of a convention center within the Yerba Buena Center Redevelopment Project Area, and for all expenses reasonably related to operation, maintenance and improvement of the Moscone Convention Center, Brooks Hall and Civic Auditorium.

(2) Allocation Number 2 (Convention and Visitors Bureau): To the City Administrator to contract with the San Francisco Convention and Visitors Bureau, pursuant to the authority granted by Section 3.104 of the San Francisco Charter, to pay administrative and operating expenses of the Convention and Visitors Bureau.

(3) Allocation Number 3 (Low-Income Housing in the Yerba Buena Center Redevelopment Project Area): To the Mayor to facilitate the construction of low-income housing in the Project Area and on certain parcels adjacent thereto, including, as may be necessary, payments for architecture, engineering, maintenance and operation, construction, financing and rent supplements for low-income households. Expenditures from Allocation Number 3 shall be made according to the following priorities:

(A) The Mayor shall allocate and set aside Hotel Tax Revenues from Allocation Number 3 the amount required for transfer to the rent supplement program established by Chapter 24A of the Administrative Code under the jurisdiction of the Mayor for rent supplements for low-income households and administration costs not to exceed eight percent (8%) of the total sum allocated for rent supplements.

(B) The funds next available in excess of the amount required for the purposes described in (A) above shall be used exclusively to facilitate development of low-cost housing in the Project Area and on certain parcels adjacent thereto, including, but not limited to, expenses pertaining to the preparation of architectural and engineering programs, plans, specifications, estimates, land acquisition and expenses incurred by the City.

(C) The funds next available in excess of the amount required for the purposes described in (A) and (B) above shall be used exclusively to finance the construction of low-cost housing in the Project Area and on certain parcels adjacent thereto, including lease rental payment in support of Redevelopment Agency bonds in the maximum principal amount feasible pursuant to the Controller's estimate of future monies to be allocated pursuant to Allocation Number 3, or, alternatively, mortgage payments for other financing used to facilitate the construction of housing; and also including costs of maintenance,

operation, furniture and equipment relative to said housing and the administration thereof.

(D) The funds next available in excess of the amount required for the purposes described in (A), (B) and (C) above shall be used to provide the funds necessary to reduce rentals to 100 percent of the units of housing constructed in the Project Area and on certain parcels adjacent thereto to rent-level categories equivalent to those then in effect in public housing in the City.

(E) The funds next available in excess of the amount required for the purposes described in (A), (B), (C) and (D) above shall be retained in a maintenance, operation, furniture and equipment reserve fund to insure the maintenance and operation of the housing constructed in the Project Area and on certain parcels adjacent thereto.

(F) Funds next available in excess of the amount required for the purposes described in (A), (B), (C), (D) and (E) above shall be applied to construct or rehabilitate low-income rental housing for the elderly and handicapped in San Francisco which meet all of the following criteria:

(i) One hundred percent of the units are rental, excepting staff-occupied units, which are affordable to low-income elderly or handicapped residents and will remain so for 40 years;

(ii) The project is developed and controlled during that period by a nonprofit corporation, not excluding partnership ownership where the nonprofit corporation is the managing general partner;

(iii) Additional project funding includes funding from sources other than City and County of San Francisco.

(G) The funds next available in excess of the amount required for the purposes described in (A), (B), (C), (D), (E) and (F) above may be applied, at the sole option of the City, to the early retirement of bonds or other evidence of indebtedness used to finance low-cost housing in the Project Area or certain parcels adjacent thereto; or may be applied to pay for bridges, ramps, concourse and landscaping to further enhance the convention center in the Project Area.

(H) Notwithstanding any other provisions of Allocation 3, to the extent that the City becomes obligated to make lease rental payments to the Redevelopment Agency in support of Redevelopment Agency low-income housing lease revenue bonds or a series of such bonds, the obligation of the City to make the appropriate allocations pursuant to Allocation 3 shall be deemed proportionately discharged. In the event that such bonds are paid and discharged prior to maturity, the foregoing obligation to make such appropriations and allocations shall be deemed to be proportionately discharged.

(I) In the event that other public and private funds in the future become available to construct or otherwise subsidize the low-income housing and related expenses hereinabove referred to, the Redevelopment Agency or the City may use such funds in lieu of the proceeds of the sale of the Redevelopment Agency low-income housing lease revenue bonds hereinabove described, and, to the extent that such funds become available and are utilized, the obligations of the Redevelopment Agency and the City to finance the low-income housing hereinabove described shall be deemed to be proportionately discharged.

(J) Once each year, as soon as practicable after June 30th, the Mayor shall ascertain the amount of money appropriated pursuant to this Allocation 3 which has not been expended or reserved for a specific use as provided herein and shall, following a period of public comment, prepare a report setting forth a program for expenditure of such money.

(4) Allocation Number 4 (War Memorial): To the War Memorial Department to be used to defray the cost of maintaining, operating and caring for the War Memorial buildings and grounds as described in Section 27.3 of the San Francisco Administrative Code.

(5) Allocation Number 5 (Candlestick Point): To the Recreation and Park Department for Base Rental and Additional Rental as provided in the 1977 Amended Park Lease between the City and County of San Francisco and San Francisco Stadium, Inc. for the improvement and expansion of the Recreation Center located at Candlestick Point.

(6) Allocation Number 6 (Publicity/Advertising; Recurring Events): To the City Administrator for publicity and advertising purposes pursuant to the provisions of Section 3.104 of the Charter for cultural and promotional organizations and annual or regularly recurring parades, celebrations and street fairs, and to evaluate and review cultural, artistic or advertising programs funded pursuant to this Allocation Number 6 or Allocation Number 7.

(7) Allocation Number 7 (Publicity/Advertising; Nonrecurring Events): To the City Administrator to be used for publicity and advertising purposes pursuant to the provisions of Section 3.104 of the Charter for nonrecurring parades, celebrations and street fairs and for unforeseen special contingencies.

(8) Allocation Number 8 (Cultural Equity Endowment Fund): To the Arts Commission for cultural equity initiatives, commissions to individual creative artists in all disciplines, project grants to small and midsize arts organizations, and artspace initiatives or facilities acquisition programs.

(9) Allocation Number 9 (Asian Art Museum): To the Asian Art Museum of San Francisco for the operation and maintenance of the Museum.

(10) Allocation Number 10 (Fine Arts Museums): To the Fine Arts Museums of San Francisco for the operation and maintenance of the Museums.

(11) Allocation Number 11 (Cultural Centers): To the Arts Commission to support the operation, maintenance and programming of the City-owned community cultural centers to assure that these cultural centers remain open and accessible and remain vital contributors to the cultural life of the City.

(12) Allocation Number 12 (Protocol): To the Mayor to support the Mayor's Office of Protocol in their efforts to promote the City by hosting international visitors and delegations and by organizing events, trade missions, and other activities that promote San Francisco. This allocation shall expire at the end of fiscal year 1997-98 and shall not extend beyond that fiscal year.

(c) Each allocation for a purpose described in Subsection (b) shall be in the amount prescribed in the table below, subject to the adjustments and limitations prescribed in Subsection (d).

Allocation No.

1997-98

1998-99

1999-2000

1. Convention Facilities
\$31,983,619

2. Convention and Visitors Bureau
\$5,941,893
\$7,000,000

3. Low-Income Housing: Yerba Buena Redevelopment Area
\$4,810,360

4. War Memorial
\$7,473,309

5. Candlestick Point
\$4,770,360

6. Publicity/Advertising: Recurring Events (including Cultural Centers)
\$12,450,411

7. Publicity/Advertising: Nonrecurring Events
\$191,427

8. Cultural Equity Endowment Fund
\$1,722,843

9. Asian Art Museum
\$1,565,873

10. Fine Arts Museums
\$3,947,224

11. Cultural Centers
\$600,000
\$900,000
\$1,800,000

12. Protocol
\$1,500,000
\$0
\$0

(d) Adjustments to and Limitations on Allocation Amounts.
Notwithstanding the provisions of Subsection (c), the allocation amounts shall be subject to the following adjustments and limitations:

(1) Annual Adjustment: Prior to the calculation of any other adjustment prescribed in this Subsection (d), each amount prescribed in Subsection (c) shall be adjusted annually, commencing in fiscal year 1998-99, by the percentage increase or decrease in actual hotel tax revenues compared with the prior fiscal year; provided, however, that the amount of the annual adjustment pursuant to this Subparagraph (1) shall not exceed 10 percent.

(2) Limitation on Allocation Number 3 (Low-Income Housing in Yerba Buena Redevelopment Area): Unexpended monies appropriated pursuant to priority (E) of Allocation Number 3 shall be retained in a reserve fund which shall be allowed to accumulate in the maximum annual amount of \$100,000 up to a maximum total amount of \$1,000,000.

(3) Limitation on Allocation Number 6 (Publicity/Advertising; Recurring Events): Of the amount allocated for publicity and advertising for recurring events, \$650,000 in 1997-1998; \$800,000 in 1998-1999 and \$400,000 in 1999-2000, thereafter adjusted by the annual adjustment provided in Subparagraph (1) of this paragraph, shall be allocated to the Arts Commission to support the City-owned community cultural centers.

(4) Adjustment to Allocation Number 6 (Publicity/Advertising; Recurring Events) and Allocation Number 11 (Cultural Centers): In fiscal year 1998-99 and thereafter, no amount allocated to support the City- owned community cultural centers shall be released to a cultural center unless:

(A) The Arts Commission has received and approved an annual report from the cultural center demonstrating that the cultural center has had an active community support board dedicated to community outreach, fundraising, and advocacy on behalf of the cultural center in the prior fiscal year. For purposes of this Section, an "active community support board" shall mean a board that has convened on at least six occasions during the year.

(B) The Arts Commission has received and approved an annual report from the cultural center demonstrating that the cultural center has, in the prior fiscal year, met the cultural center's revenue target from sources other than hotel tax revenues. For purposes of this Section, a cultural center's revenue target shall be at least 20 percent of the cultural center's total revenues, including hotel tax revenues, in fiscal year 1996-97 inflated annually by a rate of three percent or by the rate of growth in the cultural center's hotel tax revenues, whichever is lower. If the cultural center has not met its revenue target, the amount released to the cultural center shall be reduced in the following year by an amount equivalent to the difference between the revenue target and actual revenues collected from sources other than hotel tax revenues. All revenue calculations required to effectuate this limitation shall be certified by the Controller during the City's annual budget process.

(C) The Controller has performed a financial review of the cultural center within the previous four years. An initial financial review shall be performed for each cultural center by the end of fiscal year 1998-99. (Added by Ord. 300-97, App. 7/25/97; amended by Ord. 301-97, App. 7/25/97; Ord. 302-97, App. 7/25/97; Ord. 360-97, App. 9/5/97; Ord. 2-98, App. 1/16/98; Ord. 254-98, App. 7/31/98; Ord. 183-01, File No. 011174, App. 8/17/2001)

SEC. 515.2. CALCULATION OF PERCENTAGE ALLOCATIONS UNDER SECTION 515.

(a) Notwithstanding anything to the contrary in Section 515 of this Article, any and all percentage allocations set forth in Section 515 hereof shall be based on the sum of the monies for deposit to the Hotel Room Tax Fund plus the SFRA percentage (as defined hereinafter) of the total transient occupancy tax revenues actually received from the SFRA Project Areas regardless of whether such revenues are received by the City or the San Francisco Redevelopment Agency. The SFRA percentage shall equal the quotient of eight percent divided by the tax rate imposed by the City pursuant to Section 502.8 hereof.

(b) Notwithstanding Section 515(1) of this Article, the total amount to be allocated under Section 515(1) for each fiscal year shall be reduced by the amount of principal and interest (exclusive of any bond reserve payments)

due and payable for that fiscal year on any outstanding agency bonds, as defined in Section 502.8(c) hereof.

(c) Section 515.2 shall remain in effect so long as Section 502.8 of this Article remains in effect. (Added by Ord. 227-94, App. 6/9/94)

San Jose, CA

Title 4 REVENUE, FINANCE AND BUSINESS TAXES 1

Chapter 4.72 TRANSIENT OCCUPANCY TAX 12

Chapter 4.72 TRANSIENT OCCUPANCY TAX 12

Sections:

- 4.72.010** Chapter title and purpose.
- 4.72.020** Definitions.
- 4.72.030** Exemptions.
- 4.72.040** Imposition - Amount - Payment.
- 4.72.050** Collection - Operator's duties.
- 4.72.060** Use of tax revenue - Deposit in special fund.
- 4.72.065** Use of tax revenue - Deposit in special fund.
- 4.72.070** Hotel registration requirements.
- 4.72.080** Reporting and remitting.
- 4.72.090** Recordkeeping requirements.
- 4.72.100** Penalties and interest.
- 4.72.110** Failure to collect and report tax - Amount estimated by director of finance - Procedures.
- 4.72.120** Appeal - City council authority.
- 4.72.130** Refunds.

4.72.140 Tax deemed debt to city - Actions to collect.

4.72.150 Operative date of chapter.

4.72.160 Violations deemed misdemeanors.

4.72.010 Chapter title and purpose.

A. This chapter shall be known as the “Transient Occupancy Tax Ordinance of the City of San José.”

B. The tax imposed under this chapter is solely for the purpose of raising revenue. This chapter is not enacted for regulatory purposes.

(Prior code § 13000; Ord. 20553.)

4.72.020 Definitions.

For the purpose of this chapter, the following words have the meanings set forth in this section:

A. “City” means the city of San José.

B. “Director of finance” means the director of finance of the city.

C. “Hotel” means any structure situated in the city, including, but not limited to, any hotel, inn, tourist home or house, motel, studio hotel, bachelor hotel, guesthouse, bed and breakfast inn, apartment house, dormitory, public or private club, mobilehome or house trailer at a fixed location, or other similar structure or portion thereof situated in the city, which is occupied or intended or designed for occupancy by transients for dwelling, lodging or sleeping purposes.

D. “Occupancy means the use or possession or the right to the use or possession of any room or rooms, or portion thereof, in any hotel for dwelling, lodging or sleeping purposes.

E. “Operator” means the person who is proprietor of the hotel, whether in the capacity of owner, lessee, sublessee, mortgagee in possession, licensee, or any other capacity. Where the operator performs his functions through a managing agent of any type or character other than an employee, the managing agent shall also be deemed an operator for the purposes of this chapter, and shall have the same duties and liabilities as his principal. Compliance with the provisions of this chapter by either the principal or the managing agent shall, however, be considered to be compliance by both.

F. “Person” means any individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company,

corporation, estate, trust, business trust, receiver, trustee, syndicate, or any other group or combination acting as a unit.

G. "Rent" means the consideration charged for the occupancy of space in a hotel valued in money, whether to be received in money, goods, property, labor, service, or otherwise.

H. "Transient" means a person who exercises occupancy or is entitled to occupancy by reason of concession, permit, right of access, license, or other agreement for a period of thirty consecutive calendar days or less, counting portions of calendar days as full days.

(Prior code § 13001; Ords. 22227, 22631.)

4.72.030 Exemptions.

A. No tax shall be imposed upon:

1. Any federal or state officer or employee when on official business;
2. Any officer or employee of a foreign government who is exempt by reason of express provision of federal law or international treaty.

B. No exemption shall be granted except upon a claim therefor made at the time rent is collected, and under penalty of perjury, upon a form prescribed by the director of finance.

(Prior code § 13003.)

4.72.040 Imposition - Amount - Payment.

For the privilege of occupancy in any hotel, each transient is subject to and shall pay a tax in the amount of six percent of the rent charged by the operator. Said tax constitutes a debt owed by the transient to the city which is extinguished only by payment to the operator or to the city. The transient shall pay the tax to the operator of the hotel at the time the rent is paid. If the rent is paid in installments, a proportionate share of the tax shall be paid with each installment. The unpaid tax shall be due upon the transient's ceasing occupancy in the hotel. If for any reason the tax due is not paid to the operator of the hotel, the director of finance may require that such tax shall be paid directly to the director of finance.

(Prior code § 13002.)

4.72.050 Collection - Operator's duties.

Each operator shall collect the tax imposed by this chapter to the same extent and at the same time as the rent is collected from every transient. The amount of tax shall be separately stated from the amount of the rent charged. No operator of a hotel shall advertise or state in any manner, whether directly

or indirectly, that the tax or any part thereof will be assumed or absorbed by the operator, or that it will not be added to the rent, or that, if added, any part will be refunded except in the manner hereinafter provided.

(Prior code § 13004.)

4.72.060 Use of tax revenue - Deposit in special fund.

A. All of the taxes collected under this chapter shall, subject to the provisions hereinafter set forth, be expended for the following:

1. Funding of a convention and visitors bureau for the city of San José, including a rental subsidy of city facilities for convention purposes.

2. Funding of the cultural grant program and fine arts division programs, including:

a. Funding of cultural grants, including the San José Symphony and the San José Museum of Art, and a rental subsidy for cultural use of city facilities; and

b. Funding the expenses of the fine arts division of the convention and cultural department, including but not limited to personal, nonpersonal, and equipment expenses, fringe benefits, and overhead.

3. Funding of the city's operating subsidy to the convention and cultural facilities of the city of San José.

B. The amount of moneys currently allocated to activities described in subparagraphs A1 and 2 shall serve as the base year funding for purposes of calculating the amounts set forth in this paragraph. In subsequent fiscal years, beginning in 1981-82, the amount of tax receipts used to fund the activities described in subparagraphs A1 and 2 herein, shall be the base-year funding plus fifty percent of the dollar increase in tax receipts over the base-year tax receipts, with a limit of twelve percent per annum increase over the funding of any previous year. Available funds shall be apportioned between the activities described in subparagraphs A1 and 2 according to the annual decision of the city council. The remaining fifty percent plus any additional amount above the twelve percent limitation shall be used for the funding of the activity described in subparagraph A3. In the event of a decrease of revenues, the decrease will be apportioned on the same 50-50 basis, fifty percent to the activities described in subparagraphs A1 and 2 in a proportion to be decided by the city council, and fifty percent to be the activities described in subparagraph A3. In the event of a decrease of revenues, the decrease will be apportioned on the same 50-50 basis, fifty percent to the activities described in subparagraphs A1 and 2 in a proportion to be decided by the city council, and fifty percent to be the activities described in subparagraph A3.

C. All the taxes collected under this chapter shall be placed in the transient occupancy tax special fund established by Part 34 of Chapter 4.80 of the San

José Municipal Code, and used for the purposes and in the manner set forth in this section. The director of finance shall establish and keep such accounts as may be necessary to account for said taxes.

(Ords. 20553, 21015.)

4.72.065 Use of tax revenue - Deposit in special fund.

A. Notwithstanding Section 4.72.060, commencing July 1, 1990, the city council shall expend monies as hereinafter provided.

B. All of the taxes collected under this chapter shall, subject to the provisions hereinafter set forth, be expended for the following:

1. Funding of a convention and visitors bureau for the city of San José, including a rental subsidy of city facilities for convention purposes.

2. Funding of the cultural grant program and fine arts divisions programs, including:

a. Funding of cultural grants, including the San José Symphony and the San José Museum of Art, and a rental subsidy for cultural use of city facilities; and

b. Funding the expenses of the fine arts division of the convention and cultural department, including but not limited to personal, nonpersonal, and equipment expenses, fringe benefits, and overhead.

3. Funding of the city's operating subsidy to the convention and cultural facilities of the city of San José.

C. The amount of moneys currently allocated to activities described in Subparagraphs B.1. and 2. shall serve as the base year funding for purposes of calculating the amounts set forth in this paragraph. In subsequent fiscal years, beginning in 1981-82, the amount of tax receipts used to fund the activities described in Subparagraphs B.1. and 2. herein, shall be the base year funding plus fifty percent of the dollar increase in tax receipts over the base-year tax receipts. Available funds shall be apportioned between the activities described in Subparagraphs B.1. and 2. according to the annual decision of the city council. The remaining fifty percent shall be used for the funding of the activity described in Paragraph B.3. In the event of a decrease of revenues, the decrease will be apportioned on the same 50-50 basis, fifty percent to the activities described in Subparagraphs B.1. and 2. in a proportion to be decided by the city council, and fifty percent to be the activities described in Subparagraph B.3.

D. All the taxes collected under this chapter shall be placed in the transient occupancy tax special fund established by Part 34 of Chapter 4.80 of the San José Municipal Code, and used for the purposes and in the manner set forth

in this section. The director of finance shall establish and keep such accounts as may be necessary to account for said taxes.

(Ord. 23481.)

4.72.070 Hotel registration requirements.

Within thirty days after the operative date of this chapter, or within thirty days after commencing business, whichever is later, each operator of any hotel renting occupancy to transients shall register said hotel with the director of finance and obtain from him a occupancy registration certificate be at all times posted in a conspicuous on the premises. Said certificate shall, other things, state the following:

- A. The name of the operator;
- B. The address of the hotel;
- C. The date upon which the certificate was issued;
- D. "This`Transient Occupancy Registration Certificate' signifies that the person named on the face hereof has fulfilled the requirements of the Transient Occupancy Tax Ordinance of the City of San José by registering with the Director of Finance for the purpose of collecting from transients the Transient Occupancy Tax and remitting said tax to the Director of Finance. This certificate does not authorize any person to conduct any unlawful business or to conduct any lawful business in any unlawful manner, nor to operate a hotel without strictly complying with all local applicable laws, including but not limited to those requiring a permit for any board, commission, department or office of this city. This certificate does not constitute a permit."

(Prior code § 13005.)

4.72.080 Reporting and remitting.

A. Each operator shall, on or before the last day of each calendar month, prepare a tax return to the director of finance of the total rents charged and received and the amount of tax collected for transient occupancies for the preceding calendar month. At the time the tax return is filed, the full amount of tax collected for the preceding month shall be remitted to the director of finance.

B. Operators whose annual tax debt to the city under this chapter is less than one hundred thousand dollars may elect to pay the taxes due under this chapter on a quarterly basis. These eligible operators shall, on or before the last day of the month following each calendar quarter, prepare a tax return to the director of finance of the total rents charged and received and the amount of tax collected for transient occupancies. At the time the tax return is filed, the full amount of the tax shall be remitted to the director of finance.

- C. Those eligible operators who choose to pay on a quarterly basis must state their intention by completing the necessary form provided by the director.
- D. All tax returns shall be completed on forms provided by the director.
- E. For purposes of this chapter, all payments made to each operator by credit card shall be deemed received and collected on the date that the credit card is presented as payment for transient occupancies.
- F. Tax returns and payments are due immediately upon cessation of business for any reason.

(Prior code § 13006; Ord. 24665.)

4.72.090 Recordkeeping requirements.

It shall be the duty of every operator liable for the collection and payment to the city of any tax imposed by this chapter to keep, and preserve for a period of three years, all records as may be deemed necessary by the city to determine the amount of such tax as he may have been liable for the collection of and payment of to the city, which records the city shall have the right to inspect at all reasonable times.

(Prior code § 13010.)

4.72.100 Penalties and interest.

A. Any operator who fails to remit within the time required by this chapter any tax collected by the operator shall pay a first penalty of ten percent (10%) of the amount of the delinquent tax in addition to the amount of the delinquent tax.

B. Any operator who fails to remit any tax collected pursuant to this chapter on or before thirty (30) days after its due date shall pay a second penalty of ten percent (10%) of the amount of the delinquent tax in addition to the amount of the delinquent tax and the first penalty.

C. If the director of finance determines that the failure to remit any tax on or before the due date set forth in this chapter is because of an intentional, material misrepresentation or omission, or fraud by the operator, the director shall impose an additional penalty in the amount of twenty-five percent (25%) of the delinquent tax.

D. Any operator who fails to remit on or before the due date any tax collected by the operator pursuant to this chapter shall pay interest on the delinquent tax and on any assessed penalty or penalties as set forth in Chapter 1.17 of Title 1.

(Prior code § 13007; Ord. 26171.)

4.72.110 Failure to collect and report tax - Amount estimated by director of finance - Procedures.

If any operator fails or refuses to collect said tax and to make any report and remittance of said tax or any portion thereof as required by this chapter, the director of finance shall proceed in such manner as he may deem best to obtain facts and information on which to base his estimate of the tax due. As soon as the director of finance shall procure such facts and information as he is able to obtain upon which to base the assessment of any tax required to be remitted under this chapter by any operator who has failed or refused to collect the same and to make such report and remittance, he shall proceed to determine and assess against such operator the tax, interest and penalties provided for by this chapter. In case such determination is made, the director of finance shall give a notice of the amount so assessed by serving it personally or by depositing it in the United States mail, postage prepaid, addressed to the operator so assessed at his last known place of address. Such operator may, within ten days after the serving or mailing of such notice, make application in writing to the director of finance for a hearing on the amount assessed. If application by the operator for a hearing is not made within the time prescribed, the tax, interest and penalties, if any, determined by the director of finance shall become final and conclusive and immediately due and payable. If such application is made, the director of finance shall give not less than five days' written notice in the manner prescribed herein to the operator to show cause at a time and place fixed in said notice why said amount specified therein should not be fixed for such tax, interest and penalties. At such hearing, the operator may appear and offer evidence why such specified tax, interest and penalties should not be so fixed. After such hearing the director of finance shall determine the proper tax to be remitted and paid, and shall thereafter give written notice to the person in the manner prescribed herein of such determination and the amount of such tax, interest and penalties. The amount determined to be due shall be payable after fifteen days unless an appeal is taken as provided in Section 4.72.120.

(Prior code § 13008.)

4.72.120 Appeal - City council authority.

Any operator aggrieved by any decision of the director of finance with respect to the amount of such tax, interest and penalties, if any, may appeal to the city council by filing a notice of appeal with the city clerk within fifteen days of the serving or mailing of the determination of tax due. The city council shall fix a time and place for hearing such appeal, and the city clerk shall give notice in writing to such operator at his last known place of address. The findings of the city council shall be final and conclusive, and shall be served upon the appellant in the manner prescribed above for service of notice of bearing. Any amount found to be due shall be immediately due and payable upon the service of notice.

(Prior code § 13009.)

4.72.130 Refunds.

A. Whenever the amount of any tax, interest or penalty has been overpaid or paid more than once or has been erroneously or illegally collected or received by the city under this chapter, it may be refunded as provided in subsections B and C of this section provided a claim in writing therefor, stating under penalty of perjury the Specific grounds upon which the claim is founded, is filed with the director of finance within three years of the date of payment. The claim shall be on forms furnished by the director of finance.

B. An operator may claim a refund or take as credit against taxes collected and remitted the amount overpaid, paid more than once, or erroneously or illegally collected or received when it is established in a manner prescribed by the director of finance that the person from whom the tax has been collected was not a transient; provided, however, that neither a refund nor a credit shall be allowed unless the amount of the tax so collected has either been refunded to the transient or credited to rent subsequently payable by the transient to the operator.

C. A transient may obtain a refund of taxes overpaid or paid more than once or erroneously or illegally collected or received by the city by filing a claim in the manner provided in subsection A of this section, but only when the tax was paid by the transient directly to the director of finance, or when the transient having paid the tax to the operator, establishes to the satisfaction of the director of finance that the transient has been unable to obtain a refund from the operator who collected the tax.

D. No refund shall be paid under the provisions of this section unless the claimant establishes his right thereto by written records showing entitlement thereto.

(Prior code § 13011.)

4.72.140 Tax deemed debt to city - Actions to collect.

Any tax required to be paid by any transient under the provisions of this chapter shall be deemed a debt owed by the transient to the city. Any amount of money owed to the city by an operator pursuant to this chapter which has not been paid to the city shall be deemed a debt owed by the operator to the city. Any person owing money to the city under the provisions of this chapter shall be liable to an action brought in the name of the city of San José for the recovery of such amount.

(Prior code § 13012.)

4.72.150 Operative date of chapter.

The provisions of this chapter shall become operative forthwith on the first day of the calendar month immediately succeeding the effective date of the ordinance which enacted, adopted and added this chapter to the San José Municipal Code.

(Prior code § 13015.)

4.72.160 Violations deemed misdemeanors.

A. Any person violating any of the provisions of this chapter shall be guilty of a misdemeanor and shall be punishable therefor by a fine of not more than five hundred dollars or by imprisonment in the county jail for a period of not more than six months or by both such fine and imprisonment.

B. Any person who fails or refuses to register as required in this chapter, or to furnish any return required to be made, or who fails or refuses to furnish a supplemental return or other data required by the director of finance, or who renders a false or fraudulent return or claim, is guilty of a misdemeanor, and is punishable as aforesaid. Any person required to make, render, sign or verify any report or claim who makes any false or fraudulent report or claim with intent to defeat or evade the determination of any amount due under this chapter is guilty of a misdemeanor and is punishable as aforesaid.

(Prior code § 1.3013.)

Endnotes

12 . For statutory provisions authorizing cities to levy a transient occupancy tax, see Rev. and Tax. Code § 7281.

St. Louis, MO

502.180 Convention and Tourism Tax--Levied. --Under and by authority of House Bill No. 218, 78th General Assembly of the State of Missouri, there is hereby imposed and levied within the boundaries of St. Louis County, Missouri, a convention and tourism tax of three (3) percent on the amount of sales or charges for all rooms paid by the transient guests of hotels and motels situated within St. Louis County, Missouri.

(O. No. 7584, 9-22-75)

502.181 Definitions. --The following terms wherever used or referred to in Sections 502.180 through 502.185 shall have these respective meanings unless a different meaning clearly appears in the context:

(1) *Hotel* or *motel* shall mean any structure or building which contains rooms furnished for the accommodation or lodging of guests with or without meals being so provided, and kept, used, maintained, advertised or held out to the public as a place where sleeping accommodations are furnished for pay or compensation to transient guests.

(2) *Transient guests* means person or persons who occupy room or rooms in a hotel or a motel for thirty-one (31) days or less during any calendar quarter.

(3) *Director* means the Licensing Director of St. Louis County, Missouri.

(O. No. 7584, 9-22-75)

502.182 Persons Liable. --The person, firm or corporation, subject to the tax imposed by Section 502.180, shall collect the tax from the transient guests; and each such transient guest shall pay the amount of such tax to the person, firm or corporation directed to collect the tax imposed herein.

(O. No. 7584, 9-22-75)

502.183 Returns--Power of Director. --1. Every person, firm or corporation engaged in the business of operating a hotel or motel shall, on forms designed and furnished by the Director, make and file a verified quarterly return with the Director on or before the twentieth day following each calendar quarterly period of three (3) months and with the return shall remit the tax or the quarter covered by the return. Where the aggregate amount of the tax levied by Section 502.180 is less than forty-five dollars (\$45.00) during any calendar quarterly period, the Director, upon written request of the person, firm or corporation doing business as a hotel or motel, shall permit such person, firm, or corporation to file a return for a calendar year, which such return shall be filed on or before January 20 next following, together with the tax for the year covered by the return. Any payment of taxes which is not made at the time herein specified shall be subjected to interest at the rate of two (2) percent for each month delinquent in addition to any other penalty provided by law. The person, firm or corporation engaged in the business of operating a hotel or motel may deduct and retain an amount equal to two (2) percent of the taxes collected within each calendar quarterly period.

2. For the purpose of verifying the accuracy and truthfulness included with any return the Director shall have the right at all reasonable times, during regular business hours, to audit or examine the records of any person, firm or corporation subject to the tax levy herein for the purpose of determining the truthfulness and accuracy of the return made by such person, firm or corporation.

3. The Director shall prescribe all rules and regulations for the enforcement of Sections 502.180 through 502.185.

(O. No. 9956, 10-27-80)

502.184 Convention and Tourism Fund Established. --There is hereby established on the books of the Treasurer of St. Louis County a trust fund to be known as the "Convention and Tourism Fund" which shall consist of such amounts as may be deposited in it pursuant to the provisions of Sections 502.180 through 502.185. The funds deposited in said convention and tourism fund shall be expended for the following purposes:

- (1) To adopt plans, policies and programs for convention and tourist business.

- (2) To work with agencies, bureaus, boards and associations to promote conventions and tourist business; and to contract with any public or private agency, individual partnership, association or corporation for the furnishing of services and supplies for such promotion.

- (3) To contract with any public or private agency, individual, partnership, association or corporation for the furnishings of services and supplies for such promotion.

(O. No. 7584, § 7, 9-22-75)

502.185 Violation and Penalties. --Any person, firm or corporation subject to the provisions of Sections 502.180 through 502.185 who fails to file a return or pay the tax or files a false or fraudulent return as required by Sections 502.180 through 502.185 or within the time required to Sections 502.180 through 502.185 shall upon conviction be fined not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00).

(O. No. 7584, 9-22-75)