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CHAPTER 11.02: HOTELS AND MOTELS

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GENERAL PROVISIONS

§ 11.02.005 REGISTER REQUIRED; REGULATIONS.

The following regulations shall be applicable to hotels, and similar accommodations:

A. *Register required.* Every person conducting any lodging house, rooming house, hotel, motel, auto court, trailer court or park, or other similar place, shall at all times keep and maintain therein a register wherein all guests, roomers, or lodgers shall inscribe their names and legal residence address. Guests arriving by motor vehicle at any motel, auto court or trailer court shall also enter the license number of such vehicle on said register.

B. *Entries in register.* The proprietor shall enter in register the time of day, day of month and year when each guest registered, as well as the room number assigned to or occupied by such guest.

C. *Register to be kept where guests first received.* Register shall be kept in the office, lobby or other room or place where guests are ordinarily first received.

D. *Register inspection.* Register shall be at all times open to the inspection of any lodgers, roomers or guests, and of the Chief of Police or Police Officer of the City.

('65 Code, § 18-1 A. - D.)

§ 11.02.010 FALSIFYING REGISTER PROHIBITED.

No person shall register at any hotel, motel, auto court, trailer court, rooming house, lodging house or other similar places in the City offering lodging accommodations to the public, under an assumed name or any other name than that by which he is commonly known.

('65 Code, § 23-28) (Ord. No. CS-2 § 11)

§ 11.02.015 SCHEDULE OF RATES TO BE POSTED.

A schedule of rates charged for accommodations shall be posted in the office or lobby of every motel, hotel, inn, auto court, lodging house, or rooming house, as well as in every room of said motel, inn, or other place wherein lodging or accommodations are offered for rent to the public. Such schedule shall set forth the rate per day, week, and month and every person paying said rate shall be entitled to accommodations for the full

length of time covered by said payment, unless he voluntarily relinquishes the same, or forfeits his rights thereto by improper conduct. It shall be unlawful to charge a higher or different rate than is shown on the posted schedule.

('65 Code, § 18-1 E.)

§ 11.02.020 REFUSING ACCOMMODATIONS PROHIBITED.

Accommodations, when available, may not be refused to any persons who tender the posted rate therefor, unless it is reasonable to believe that their presence would be detrimental to the peace, comfort, health, or safety of other tenants or lodgers.

('65 Code, § 18-2)

§ 11.02.025 POLICE MAY INSPECT PREMISES.

A copy of this Chapter of the Code shall be posted in the office or lobby of every hotel, motel, or other similar place, and in every room therein offered for rent, for the information of the guests, and the Chief of Police or Police Officers shall be permitted at all reasonable times to inspect said premises for the purpose of enforcing the provisions of this Chapter.

('65 Code, § 18-3) (Ord. No. CS-2, Chapter IV)

TRANSIENT OCCUPANCY TAX

§ 11.02.100 DEFINITIONS.

Except where the context otherwise requires, the definitions given in this Section shall govern the construction of this ordinance:

HOTEL. 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 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.

OCCUPANCY. 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.

OPERATOR. 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 Subchapter and shall have the same duties and liabilities as his

principal. Compliance with the provisions of this Subchapter by either the principal or the managing agent shall, however, be considered to be compliance by both.

PERSON. 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.

RENT. 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.

TAX ADMINISTRATOR. The City Treasurer, who is to be charged with the administration of the tax.

TRANSIENT. Any 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 (30) consecutive calendar days or less, counting portions of calendar days as full days. Any such person so occupying space in a hotel shall be deemed to be a transient until the period of thirty (30) days has expired unless there is an agreement in writing between the operator and the occupant providing for a longer period of occupancy. In determining whether a person is a transient, uninterrupted periods of time extending both prior and subsequent to the effective date of this ordinance may be considered.

('65 Code, § 18-4) (Ord. No. CS-498 § 2)

Cross-reference:

Taxation, see Ch. 3.08

§ 11.02.105 TAX IMPOSED.

For the privilege of occupancy in any hotel, each transient is subject to and shall pay a tax in the amount of fourteen percent (14%) 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, or if any amount paid is less than the full amount of the rent and tax accrued to the time of payment, a proportionate share of the tax shall be deemed to have been paid with each such payment or installment. The unpaid tax shall be due upon the transient's ceasing to occupy space in the hotel. If for any reason the tax is not paid to the operator of the hotel, the City Treasurer may require that such tax shall be paid directly to the City.

('65 Code, § 18-5) (Ord. No. CS-498 § 3; Ord. No. CS-591 § 1; Ord. No. CS-695 § 1; Ord. No. CS-828 § 1; Ord. No. CS-928 § 1; Ord. No. 83-022 § 1; Ord. No. 87-018 § 1; Ord. No. 88-015, § 1; Ord. No. 89-021 § 1; Ord. No. 2012-003 § 1)

§ 11.02.110 EXEMPTIONS.

A. No tax shall be imposed upon:

1. 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;

2. Any federal or State of California officer or employee when on official business;

3. Any officer or employee of a foreign government who is exempt by reason of express provisions 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 Tax Administrator.

('65 Code, § 18-6) (Ord. No. CS-489 § 4)

§ 11.02.115 OPERATOR TO COLLECT TAX; PROCEDURES.

Each operator shall collect the tax imposed by this Subchapter 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.

('65 Code, § 18-7) (Ord. No. CS-498 § 5)

§ 11.02.120 REGISTRATION REQUIREMENTS; CERTIFICATE REQUIRED.

Within thirty (30) days after commencing business, each operator of any hotel renting occupancy to transients shall register said hotel with the Tax Administrator and obtain from said Administrator a “Transient Occupancy Registration Certificate” to be at all times posted in a conspicuous place on the premises. Said certificate shall, among 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 Uniform Transient Occupancy Tax Ordinance by registering with the Tax Administrator for the purpose of collecting from transients the Transient Occupancy Tax and remitting said tax to the Tax Administrator. This certificate does not authorize any person to conduct any unlawful business or to conduct any lawful business in an unlawful manner, nor to operate a hotel without strictly complying with all local applicable laws, including but not limited to those requiring a permit from any board, commission, department or office of this City. This certificate does not constitute a permit.”

('65 Code, § 18-8) (Ord. No. CS-498 § 6)

§ 11.02.125 REPORTING AND REMITTING.

Each operator shall, on or before the last day of the month following the close of each calendar quarter, or at the close of any shorter reporting period which may be established by the Tax Administrator, make a return to the Tax Administrator, on forms provided by him, of the total rents charged and received and the amount of tax collected for transient occupancies. At the time the return is filed, the full amount of the tax collected shall be remitted to the Tax Administrator. The Tax Administrator may establish shorter reporting periods for any certificate holder if he deems it necessary in order to insure collection of the tax and he may require further information in the return. Returns and payments are due immediately upon cessation of business for any reason. All taxes collected by operators pursuant to this ordinance shall be held in trust for the account of the City until payment thereof is made to the Tax Administrator.

('65 Code, § 18-9) (Ord. No. CS-498 § 7)

§ 11.02.130 PENALTIES AND INTEREST.

A. *Original delinquency.* Any operator who fails to remit any tax imposed by this Subchapter within the time required shall pay a penalty of 10% of the amount of the tax in addition to the amount of the tax.

B. *Continued delinquency.* Any operator who fails to remit any delinquent remittance on or before a period of thirty (30) days following the date on which the remittance first became delinquent shall pay a second delinquency penalty of 10% of the amount of tax in addition to the amount of the tax and the 10% penalty first imposed.

C. *Fraud.* If the Tax Administrator determines that the non-payment of any remittance due under this ordinance is due to fraud, a penalty of 25% of the amount of the tax shall be added thereto in addition to the penalties stated in Subsections A. and B. of this section.

D. *Interest.* In addition to the penalties imposed, any operator who fails to remit any tax imposed by this Subchapter shall pay interest at the rate of one-half of 1% 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.

E. *Penalties merged with tax.* Every penalty imposed and such interest as accrues under the provisions of this section shall become a part of the tax herein required to be paid.

('65 Code, § 18-10) (Ord. No. CS-498 § 8)

§ 11.02.135 OPERATOR'S FAILURE TO COLLECT AND REPORT TAX; ADMINISTRATIVE PROCEDURES.

If any operator shall fail or refuse to collect said tax and to make, within the time provided in this Subchapter, any report and remittance of said tax or any portion thereof required by this Subchapter, the Tax Administrator 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 Tax Administrator shall procure such facts and information as he is able to obtain upon which to base the assessment of any tax imposed by this Subchapter and payable 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 Subchapter. In case such determination is made, the Tax Administrator 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 (10) days after the serving or mailing of such notice make application in writing to the Tax Administrator 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 Tax Administrator shall become final and conclusive and immediately due and payable. If such application is made, the Tax Administrator shall give not less than five (5) 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 Tax Administrator 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. The amount determined to be due shall be payable after fifteen (15) days unless an appeal is taken as provided in § 18-12.

('65 Code, § 18-11) (Ord. No. CS-498 § 9)

§ 11.02.140 APPEAL.

Any operator aggrieved by any decision of the Tax Administrator 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 fifteen (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 his 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 be immediately due and payable upon the service of notice.

('65 Code, § 18-12) (Ord. No. CS-498 § 10)

§ 11.02.145 DUTY TO KEEP RECORDS.

It shall be the duty of every operator liable for the collection and payment to the City of any tax imposed by this Subchapter to keep and preserve, for a period of three (3) years, all records as may be necessary to determine the amount of such tax as he may have been liable for the collection of and payment to the City, which records the Tax Administrator shall have the right to inspect at all reasonable times.

('65 Code, § 18-13) (Ord. No. CS-498 § 11)

§ 11.02.150 REFUNDS.

A. Whenever the amount of any tax, interest or penalty has been overpaid or paid more than once or has been erroneously or is illegally collected or received by the City under this Subchapter 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 Tax Administrator within three years of the date of payment. The claim shall be on forms furnished by the Tax Administrator.

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 Tax Administrator 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 Tax Administrator, or when the transient having paid the tax to the operator, establishes to the satisfaction of the Tax Administrator, 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.

('65 Code, § 18-14) (Ord. No. CS-498 § 12)

§ 11.02.155 ACTIONS TO COLLECT.

Any tax required to be paid by any transient under the provisions of this Subchapter shall be deemed a debt owed by the transient to the City. Any such tax collected by an operator 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 Subchapter shall be liable to an action brought in the name of the City of Culver City for the recovery of such amount.

('65 Code, § 18-15) (Ord. No. CS-498 § 13)

§ 11.02.160 VIOLATIONS; MISDEMEANORS.

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 Tax Administrator, or who renders a false or fraudulent return or claim, is guilty of a misdemeanor. 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 required by this Subchapter to be made, is guilty of a misdemeanor, which is punishable as provided in § 1.01.040 of this Code.

('65 Code, § 18-16) (Ord. No. CS-498 § 14)