Chapter 3.24 TRANSIENT OCCUPANCY TAX

3.24.010 Short title.

The short title of this chapter shall be the "transient occupancy tax ordinance." (Prior code § 29.13-1)

3.24.020 Definitions.

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

(1) "Hotel" means any structure, which is occupied or intended or designed for use or occupancy by transients, including but not limited to dwelling, lodging or sleeping purposes, and includes any hotel, inn, tourist home or house, motel, studio hotel, bachelor hotel, lodginghouse, roominghouse, apartment house, time-share project or facility, dormitory, public or private club, mobile home or house trailer at a fixed location, or recreational vehicle space, or other similar structure or portion thereof, duplex, triplex or single-family dwelling units, except any private dwelling house or other individually owned single-family dwelling unit rented only occasionally (infrequently) and incidentally to the normal occupancy by the owner or his family; provided, that the burden of establishing that the housing or facility is not a hotel as defined herein shall be upon the owner or operator thereof, who shall file with the tax administrator such information as the tax administrator may require, to establish and maintain such status.

(2) "Occupancy" means the use or possession, or the right or entitlement to the use or possession, of any hotel, room, rooms or any portion thereof, or recreational vehicle space offered for rent or used or occupied for dwelling, lodging or sleeping purposes, regardless of the

purpose for which such rooms or spaces are rented or provided.

(3) "Operator" means the person who is proprietor of the hotel, whether in the capacity of owner, lessee, sublessee, mortgagee in possession, licensee, time-share project or facility manager or operator, or any other capacity. Where the operator performs his or her or its functions through a managing agent of any type or character, the managing agent shall also be deemed an operator for the purpose of this chapter, and shall have jointly and severally the same duties and liabilities as the principal. Compliance with the provisions of this chapter by either the principal or the managing agency shall, however, be considered to be compliance by both.

(4) "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.

(5) "Rent" means the amount of the consideration charged or chargeable to the tenant or person entitled to occupancy, for the occupancy of space, valued in money whether received in money, goods, labor or otherwise, including the full value of receipts, cash, credits, property or services of any kind or nature, without any deduction whatsoever. "Rent" may have been, or may be, payable or paid prior to or following (in whole or in part) the occupancy to which it is attributable, and may have been paid in whole or in part in advance on a long-term basis, such as in a time-share project or similar arrangement. It is not the intent of this subsection to make the operator liable for the tax on uncollected rent. However, uncollected rent must be reported.

(6) "Tax administrator" means the city manager or his or her designated agent.

(7) "Time-share occupancy" means occupancy related to the situation wherein a purchased receives the right or entitlement in perpetuity, for life, or for a term of years or other extended term, to the recurrent, exclusive use or occupancy of a lot, parcel, unit, room(s), hotel or portion thereof, or segment of real property, annually or on some other seasonable or periodic basis, for a period of time that has been or will be allotted from the use or occupancy periods into which the time-share project which is involved has been divided. The said right or entitlement to occupancy may attach in advance to a specific lot, parcel, unit, room(s), or portion of a hotel, or segment of real property, or may involve designation or selection of the same at a future time or times.

(8) "Transient" means any person who exercises occupancy or is entitled to occupancy by reason of concession, permit, right of access, license, time-share arrangement or ownership or agreement, or other agreement of whatever nature, for a period of twenty-eight consecutive calendar days or less, counting portions of calendar days as full days. Any person so occupying space in a hotel shall be deemed to be a transient if his actual total period of occupancy does not exceed twenty-eight days. Unless days of occupancy or entitlement to occupancy by one person are consecutive without any break, then prior or subsequent periods of such occupancy or entitlement to occupancy shall not be counted when determining whether a period exceeds the stated twenty-eight calendar days.

(9) "Group meeting hotel" means a hotel meeting the following criteria:

(A) A minimum of one hundred twenty-five rooms;

(B) Meeting space for one hundred twenty-five people; and

(C) Has personnel specifically employed, other than the general manager or director, whose primary job responsibility is group sales; provided that where a hotel has petitioned the council for a review of its group hotel status, the tax administrator may modify that status as follows: (i) A hotel not meeting the criteria specified above may be subject to the tax provided in Section 3.24.037 if the hotel is found to receive group sales from the tourist group promotion activities of the city or the promotional agencies supported by the city, or (ii) a hotel which prima facie meets the criteria above as a group hotel may be excluded if the hotel is found not to receive group sales from the tourist group promotion activities of the city or the promotional agencies supported by the city.

(Ord. 1779 § 5, 2010; Ord. 1419 § 2, 1992; Ord. 1386 § 2, 1991; Ord. 1198 § 1, 1983; Ord. 1131 § 1, 1981: prior code § 29.13-2)

3.24.030 Tax imposed on hotel guests—Use of proceeds.

(a) For the privilege of occupancy in any hotel, each transient is subject to, and shall pay a tax in the amount of eleven and one-half percent of the rent charged by the operator or otherwise payable by the transient. Insofar as the transient is concerned, 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.

(b) For purposes of this section, the rent deemed payable on account of time-share occupancy by a transient shall be the rental value of the unit or room(s) which accommodated such occupancy, which rental value shall be computed by determining the pro rata share of the total purchase price of the time-share right or entitlement (whether or not involving an estate or any ownership in real property), which share is allocable to the period of transient occupancy currently involved, and adding thereto the total applicable operating costs including, but not limited to, the applicable real and personal property taxes, plus the total amount of any and all fees, assessments, charges and expenses (not including the previously referred to taxes) charged by the operator as attributable to the time-share occupancy of the transient by whatever name such fees, assessments, charges or expenses may be denominated, whether "occupying fee," "maintenance or operations charge," "per diem fee," "management fee" or like name or otherwise. In making the computation referred to above of the pro rata share of the total purchase price, in any case wherein the time-share right or entitlement is in perpetuity or for life or otherwise not for a definite or ascertainable term, such pro ration shall be made upon an assumed term of forty years.

(c) The tax imposed and collected by this section shall be allocated and paid into the following funds as provided herein:

(1) Seven percent shall be paid into the community promotion fund and used in accordance with Section 3.24.310.

(2) Four and one-half percent shall be paid into the general fund of the city.

(Ord. 1640 § 2, 2003)

3.24.035 Tax imposed on Group Meeting Hotel Guests—Use of proceeds.

(a) Notwithstanding Section 3.24.030, for the privilege of occupancy in any group meeting hotel as defined in 3.24.020, each transient is subject to, and shall pay a tax in the amount of thirteen and one-half percent of the rent charged by the operator or otherwise payable by the transient. Insofar as the transient is concerned, 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.

(b) The additional tax imposed by this section shall be administered and collected in the same manner, and is subject to all of the same definitions, exemptions, rules and regulations as the tax imposed by Section 3.24.030.

(c) The tax imposed and collected by this section shall be allocated and paid into the following funds as provided herein:

(1) Seven percent shall be paid into the community promotion fund and used in accordance with Section 3.24.310.

(2) Six and one-half percent shall be paid into the general fund of the city.

(Ord. 1640 § 3, 2003)

3.24.038 Credit for payments of tax imposed by community redevelopment agency.

(a) Pursuant to Section 7280.5 of the California Revenue and Taxation Code, a community redevelopment agency is authorized to levy a transient occupancy tax for its purposes if such transient occupancy taxes are by ordinance credited against the city's transient occupancy taxes. Any person subject to the transient occupancy tax under this section is entitled to credit the amount of transient occupancy taxes due to the community redevelopment agency of the city pursuant to Revenue and Taxation Code Section 7280.5 against the payment of taxes otherwise due under this chapter. Upon the effective date of an ordinance passed by the community redevelopment agency of the city, the amount of any tax due pursuant to said ordinance by any transient occupying a hotel subject to such ordinance, and collected and remitted to the community redevelopment agency of the city, levying a transient occupancy tax pursuant to Part 1.7 of Division 2 of the Revenue and Taxation Code, shall be credited against any transient occupancy tax otherwise due by the transient under Sections 3.24.030, 3.24.035 and 3.24.036.

(b) In the event that the community redevelopment agency of the city adopts an ordinance pursuant to Revenue and Taxation Code Section 7280.5 imposing a transient occupancy tax, such ordinance shall be codified in the Palm Springs Municipal Code as Section 3.24.039, to provide ready access to such ordinance for all persons reviewing this chapter of the Palm Springs Municipal Code. (Ord. 1438 § 1, 1993)

3.24.039 Tax imposed—Community redevelopment agency.

(a) There is imposed by the community redevelopment agency of the city of Palm Springs upon those hotels identified in subsection (c) of this section, a transient occupancy tax in the amount of ten and eight-tenths percent of the rent charged by the operator. The tax imposed by this section shall be administered and collected in the same manner, and is subject to all the same definitions, exemptions, rules and regulations as the taxes imposed by Section 3.24.030, except the tax imposed by this section shall be paid into the general fund of the community redevelopment agency of the city of Palm Springs, to be applied for any and all purposes permitted under the community redevelopment law and this section, and the provisions of Section 3.24.310 shall not apply to the tax

imposed by this section.

(b) In addition to all other administrative mechanisms provided for in this chapter, the community redevelopment agency of the city of Palm Springs may enter into an agreement with any operator subject to the tax imposed under this section for collection and administration of the tax so imposed.

(c) The hotels subject to the tax imposed by this section are the following:

(1) The Spa Hotel.

(2) Canyon Park Resort and Spa, but only if the community redevelopment agency enters into a disposition and development agreement or owner participation agreement relating to development to occur under the Canyon Park Resort and Spa specific plan and such hotel is actually constructed and operated.

(3) Any other hotel made subject to the provisions herein by ordinance or resolution of the community redevelopment agency.

(d) Proceeds from the taxes imposed hereunder may be used for the payment of principal and interest on any bond, may be used to pay any obligation of the community redevelopment agency under any owner participation agreement or other agreement, including any owner participation agreement or other agreement with the owner, or successors in interest of any owner, of any interest in real property located in a project area, or of the hotels listed in subsection (c) of this section, may be the subject of collateral for any pledge, may be the subject of any covenant, may be applied to any special fund, may be the subject of any pledge of revenues, may be the subject of any contractual obligation or may be applied to any other redevelopment purpose as may be authorized or permitted under the community redevelopment law.

(e) No tax imposed by this section shall be effective unless the tax so imposed may be credited against the amount of transient occupancy taxes otherwise imposed by the city of Palm Springs. (Ord. CRA-001 § 1, 1993)

3.24.040 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 officer or employee of a foreign government who is exempt by reason of express provision of federal law or international treaty.

(b) No exemptions shall be granted except upon a claim therefor made at the time the rent is collected and under penalty of perjury upon a form prescribed by the tax administrator. (Prior code § 29.13-4)

3.24.050 Operator's duties.

Each operator shall collect the tax imposed by this chapter to the same extent and at the time as the rent is collected from every transient. The amount of the 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 § 29.13-5)

3.24.060 Registration.

(a) Every person desiring to engage in or conduct business as operator of a hotel renting to transients within the city shall file with the tax administrator an application for a transient occupancy registration permit for each place of business. Every application for such a permit shall be made upon a form prescribed by the tax administrator and shall set forth the name under which the applicant transacts or intends to transact business, the location of his place of business and such other information as the tax administrator may require. The application shall be signed by the owner if a natural person, by a member or partner, if association or partnership, by an executive officer or some person specifically authorized by the corporation to sign the application in the case of a corporation. The transient occupancy registration permit must be in effect at all times while the business is in

operation and shall be at all times posted in a conspicuous place on the premises. Said permit shall, among other things, state the following:

(1) Name of hotel;

(2) Name of operator;

(3) Hotel address;

(4) The date upon which the permit was issued;

(5) "This Transient Occupancy Registration Permit signifies that the person named on the face hereof has fulfilled the requirements of the Transient Occupancy Tax Chapter 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 Permit does not authorize any person to conduct any unlawful business in an unlawful manner, nor operate a hotel without strictly complying with all applicable laws, including but not limited to those requiring a permit from any board, commission, department or office of this City. This Permit does not apply in lieu of such other permits which are otherwise required."

(b) At the time of making an application for a registration permit, the applicant shall pay a registration fee of twenty-five dollars for each permit issued. (Ord. 1386 § 3, 1991; prior code § 29.13-6)

3.24.070 Returns and remittances.

The tax imposed under Section 3.24.030 is:

(1) Due to the tax administrator at the time it is collected by the operator; and

(2) Becomes delinquent and subject to penalties if not received by the tax administrator on or before the last working day of the month following the close of each calendar month.

(Prior code § 29.13-7 (A))

3.24.080 Reporting and remitting.

Each operator shall, on or before the last working day of the month following the close of each calendar month, file a return with the tax administrator on forms provided by him, of the total rents charged or chargeable as provided in Section 3.24.030, whether or not received, including any rentals charged for occupancies exempt under the provisions of Sections 3.24.020(7) and 3.24.040 and the amount of tax collected for transient occupancies. Each such return shall contain a declaration under penalty of perjury, executed by the operator or his authorized agent, that to the best of the signator's knowledge, the statements in the return are true, correct and complete. Amounts claimed on the return as exempt from the tax pursuant to Sections 3.24.020(7), 3.24.040 and 3.24.150 shall be fully itemized and explained on the return or supporting schedule. In determining the amount of "taxable receipts" on the tax return, "rent" as defined in Section 3.24.020(5), may not be reduced by any business expenses including but not limited to the amount of service charges deducted by credit card companies or commissions paid to travel agencies. At the time the return is filed, the tax fixed at the prevailing transient occupancy tax rate for the amount of rentals charged or chargeable, which are not exempt from tax under Sections 3.24.020(7), 3.24.040 and 3.24.150 shall be remitted to the tax administrator. The tax administrator may establish other reporting periods, and may require a cash deposit or bond or a separate trust fund bank account for any permit holder if he deems it necessary in order to insure collection of the tax, and he may require further information in the return. All taxes collected by operators pursuant to this chapter shall be held in trust for the account of the city until remittance thereof is made to the tax administrator. (Prior code § 29.13-7 (B))

3.24.090 Cessation of business.

Each operator shall notify the tax administrator, ten days prior to the sale or cessation of business for any reason, and returns and remittances are due immediately upon the sale or cessation of business. (Prior code § 29.13-7 (C))

3.24.100 Delinquency.

Any operator who fails to remit any tax to the city or any amount of tax required to be collected and remitted to the city, including amounts based on determination made by the tax administrator under Section 3.24.120, within the time required, shall pay a penalty of the greater of fifty dollars or ten percent of the tax or amount of the tax in addition to the tax or amount of taxes, plus interest at the rate of one percent per month, or fraction thereof, from the date on which the tax or the amount of tax required to be collected becomes delinquent until the date of remittance or payment. Any operator who fails to pay any penalty imposed under this section within ten days after receipt of notice thereof shall pay interest thereon at the rate of one percent per month, or fraction thereof from the date on which the penalty becomes due and payable to the city until the date of payment. (Ord. 1386 § 4, 1991; Ord. 1273 § 1, 1986; prior code § 29.13—8 (A))

3.24.110 Fraud.

If the tax administrator determines that the failure to make any remittance or payment due under this chapter is due to fraud, a penalty of one hundred percent of the amount of the tax and penalties, shall be added thereto in addition to the penalties stated in Section 3.24.100. (Prior code § 29.13-8 (B))

3.24.120 Failure to collect and report tax—Determination of tax by tax administrator.

If any operator fails or refuses to collect said 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 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 procures such facts and information as he is able to obtain upon which to base the assessment of any tax imposed by this chapter 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 chapter. 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 address. Such operator may within ten 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 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 the 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 3.24.130. (Prior code § 29.13-9)

3.24.140 Records.

It shall be the duty of every operator liable for the collection and remittance to the city of any tax imposed by this chapter to keep and preserve, in the city, for a period of four years, records in such form as the tax administrator may require to determine the amount of such tax. Such records shall include, but are not limited to, guest registration cards or folios which show the guest name and address, dates of occupancy, breakdown of total charges per night and number of guests; a cash receipts journal; and bank statements to which hotel revenue can be traced. Additional documentation related to the hotel operation may be required by the tax administrator.

Such records shall be made available to the tax administrator at all reasonable times to conduct audits for verification of the transient occupancy tax liability. The tax administrator shall have the right to inspect such records at all reasonable times and may subpoena the records of any operator who refuses to make them available for examination. If the above records are not provided by the hotel operator, or are deemed incomplete or unacceptable by the tax administrator, a determination of the taxes, penalties and interest due will be made by

the tax administrator in the manner specified in Section 3.24.120. (Ord. 1779 § 6, 2010; Ord. 1485 § 1, 1994: prior code § 29.13-11)

3.24.150 Refunds.

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, a claim for refund may be filed pursuant to the city's claims for money or damages procedures in Sections 3.16.015 and 3.16.016. (Ord. 1617 § 3, 2002: prior code § 29.13-12)

3.24.160 Revocation of permit.

Whenever any operator fails to comply with any provision of this chapter relating to occupancy tax or any rule or regulation of the tax administrator relating to occupancy tax prescribed and adopted under this chapter, the tax administrator upon hearing, after giving the operator ten days' notice in writing specifying the time and place of hearing and requiring him to show cause why his permit or permits should not be revoked may suspend or revoke any one or more of the permits held by the operator. The tax administrator shall give to the operator written notice of the suspension or revocation of any of his permits. The notices herein required may be served personally or by mail in the manner prescribed for service of notice of a deficiency determination. The tax administrator shall not issue a new permit after the revocation of a permit unless he is satisfied that the former holder of the permit will comply with the provisions of this chapter relating to the occupancy tax and regulations of the tax administrator. (Prior code § 29.13-13 (A))

3.24.170 Closure of hotel without permit.

During any period of time during which a permit has not been issued, or is suspended, revoked or otherwise not validly in effect, the tax administrator may require that the hotel be closed. (Prior code § 29.13-13 (B))

3.24.180 Recording certificate—Lien.

If any amount required to be remitted or paid to the city under this chapter is not remitted or paid when due, the tax administrator may, within four years after the amount is due file for record in the office of the Riverside County recorder a certificate, specifying the amount of tax, penalties and interest due, the name and address as it appears on the records of the tax administrator of the operator liable for the same and the fact that the tax administrator has complied with all provisions of this chapter in the determination of the amount required to be remitted and paid. From the time of the filing for record, the amount required to be remitted together with penalties and interest constitutes a lien upon all real property in the county owned by the operator or afterwards and before the lien expires acquired by him. The lien has the force, effect and priority of a judgment lien and shall continue for ten years from the time of filing of the certificate unless sooner released or otherwise discharged. (Ord. 1779 § 6, 2010; prior code § 29.13-13 (C))

3.24.190 Priority and lien of tax.

(a) The amounts required to be remitted and/or paid by any operator under this chapter with penalties and interest shall be satisfied first in any of the following cases:

(1) Whenever the person is insolvent;

(2) Whenever the person makes a voluntary assignment of his assets;

(3) Whenever the estate of the person in the hands of executors, administrators, or heirs is insufficient to pay all the debts due from the deceased;

(4) Whenever the estate and effects of an absconding, concealed or absent person required to pay any amount under this chapter are levied upon by process law. This chapter does not give the city a preference over any recorded lien which attached prior to the date when the amounts required to be paid became a lien.

(b) The preference given to the city by this section shall be subordinate to the preferences given to claims for personal services by Sections 1204 and 1206 of the Code of Civil Procedure. (Prior code § 29.13-13 (D))

3.24.200 Warrant for collection of tax.

At any time within four years after any operator is delinquent in the remittance or payment of any amount herein required to be remitted or paid or within four years after the last recording of a certificate under Section 3.24.180, the tax administrator may issue a warrant for the enforcement of any liens and for the collection of any amount required to be paid to the city under this chapter. The warrant shall be directed to any sheriff, marshal, or constable and shall have the same effect as a writ of execution. The warrant shall be levied and sale made pursuant to it in the same manner with the same effect as a levy of and a sale pursuant to a writ of execution. The tax administrator may pay or advance to the sheriff, marshal, or constable the same fees, commissions and expenses for his services as are provided by law for similar services pursuant to a writ of execution. The tax administrator, and not the court, shall approve the fees for publication in a newspaper. (Ord. 1779 § 6, 2010; prior code § 29.13-13 (E))

3.24.210 Seizure and sale.

At any time within four years after any operator is delinquent in the remittance or payment of any amount, the tax administrator may forthwith collect the amount in the following manner. The tax administrator shall seize any property, real or personal, of the operator and sell the property, or a sufficient part of it, at public auction to pay the amount due together with any penalties and interest imposed for the delinquency and any costs incurred on account of the seizure and sale. Any seizure made to collect occupancy taxes due shall be only of property of the operator not exempt from execution under the provisions of the Code of Civil Procedure. (Ord. 1779 § 6, 2010; prior code § 29.13-13 (F))

3.24.220 Liability of successor—Withholding by purchaser.

If any operator liable for any amount under this chapter sells or quits the business and ceases as operator of the hotel, whether or not the cessation of business is voluntary or involuntary, the former operator's successor or assign, including any purchaser at a foreclosure sale, shall withhold sufficient of the purchase price to cover any outstanding amount owed pursuant to this chapter until the former owner or operator produces a receipt from the tax administrator showing that all outstanding amounts have been paid, or a certificate stating that no amount is due. (Ord. 1437 § 1, 1993: prior code § 29.13-13 (G))

3.24.225 Determination of successor's liability by tax administrator—Withholding by purchaser, escrow company or bankruptcy trustee.

Upon the cessation of business by hotel operator, the tax administrator shall estimate the potential transient occupancy tax, penalties and interest to be due, and such total amount due shall be withheld from the purchaser, escrow company, or bankruptcy trustee from the purchase price of the hotel, and remitted to the city of Palm Springs immediately upon the close of escrow or completion of sale. (Ord. 1485 § 1, 1994)

3.24.230 Liability of purchaser—Release.

Prior to the close of any sale or transfer referenced in Section 3.24.220, all outstanding amounts due to the city pursuant to this chapter shall be paid and if unpaid, the successor or assign shall become personally liable for the payment. Within sixty days after receiving a written request from the purchaser for a certificate, or within sixty days from the date the former owner's records are made available for audit, whichever period expires later, but in any event not later than ninety days after receiving the request, the tax administrator shall either issue the certificate or mail notice to the purchaser at his address as it appears on the records of the tax administrator of the amount that must be paid as a condition of issuing the certificate. Failure of the tax administrator to mail the notice will release the purchaser from any further obligation to withhold the purchase price or to pay outstanding amounts due prior to the sale as above provided. The time within which the obligation of the successor may be enforced shall start to run at the time the operator sells his or her business or at the time that the determination

against the operator becomes final, whichever event occurs later. (Ord. 1437 § 1, 1993: prior code § 29.13-13 (H))

3.24.240 Responsibility for payment.

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 such tax collected by an operator which has not been remitted to the city is a fiduciary obligation of the operator to the city and collectible in the same manner as a debt. 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 Palm Springs for the recovery of such amount. (Prior code § 29.13-13 (I))

3.24.250 Withhold notice.

If any person or operator is delinquent in the remittance or payment of the amount required to be remitted or paid by him or in the event a determination has been made against him for the remittance of tax and payment of the penalty, the city may, within four years after the tax obligation became due, give notice thereof personally or by registered mail to all persons, including the state or any political subdivision thereof, having in their possession or under their control any credits or other personal property belonging to the taxpayer. After receiving the withholding notice, the person so notified shall make no disposition of the taxpayer's credits, other personal property or debts until the city consents to a transfer or disposition or until sixty days elapse after the receipt of the notice, whichever expires earlier. All persons, upon receipt of said notice, shall advise the city immediately of all such credits, other personal property or debts in their possession, under their control or owing by them. If such notice seeks to prevent the transfer or other disposition of a deposit in a bank or other credits or personal property in the possession or under the control of the bank, to be effective the notice shall be delivered or mailed to the branch or office of such bank at which such deposit is carried or at which such credits or personal property is held. If any person so notified makes transfer or disposition of the property or debts required to be held hereunder during the effective period of the notice to withhold, he or she shall be liable to the city to the extent of the value of the release up to the amount of the indebtedness owed by the taxpayer to the city. (Ord. 1779 § 6, 2010; prior code § 29.13-13 (J))

3.24.260 Violations—Misdemeanor.

(a) Any operator or other person who knowingly or wilfully fails or refuses to remit room tax collections to the tax administrator prior to the time of delinquency as specified in Sections 3.24.070 through 3.24.090 is guilty of a misdemeanor.

(b) Any person knowingly violating any of the provisions of this chapter shall be guilty of a misdemeanor.

(c) Any operator or other person who wilfully 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 wilfully makes any false or fraudulent report or claim with intent to defeat or evade the determination of any amount due required by this chapter to be made, is guilty of a misdemeanor. (Prior code § 29.13-14)

3.24.270 Extension of time.

The tax administrator, for good cause, may extend for not to exceed one month the time for making any return or paying any amount required to be paid under this chapter. The extension may be granted at any time, provided a request therefor is filed with the tax administrator within or prior to the period for which the extension may be granted. Any person to whom an extension is granted shall pay, in addition to the tax, interest at the rate of one percent per month or fraction thereof, from the date on which the tax would have been due without the extension until the date of payment. (Prior code § 29.13-15)

3.24.280 Divulging of information forbidden.

It is unlawful for any person having an administrative duty under this chapter to make known in any manner whatever the business affairs, operations, or information obtained by an investigation of the records of any operator or any other person visited or examined in the discharge of official duty, or the amount or source of income, profits, losses, expenditures, or any particular thereof, set forth or disclosed in any return, or to knowingly permit any return or copy thereof any abstract or particulars thereof to be seen or examined by any person. Successors, receivers, trustees, executors, administrators, assignees and guarantors, if directly interested, may be given information as to the items included in the amounts of any unpaid tax or amounts of tax, penalties and interest required to be collected. (Prior code § 29.13-16)

3.24.290 Agreement with county.

The city is empowered to enter into a joint powers agreement with other cities and the county of Riverside, and if such agreement or agreements can be made wherein central collection for the county of Riverside is provided, then it shall be done upon approval by the city council. (Prior code § 29.13-18)

3.24.292 Agreement with owner for payment in lieu of transient occupancy tax for condominium-hotels.

In the case of a condominium-hotel as defined in Ordinance 1521, in lieu of collecting, reporting and remitting the taxes provided for under this chapter, the operator may make an in-lieu payment to the tax administrator of an amount as agreed to with the city and in accordance with the provisions of this section as follows:

(1) The payment shall be in an amount agreed to by the operator and city council and shall be set forth in a declaration of covenants, conditions and restrictions (the "declaration"), recorded against and binding on the owner and successors in interest in the property and enforceable by the city.

(2) The payment shall be made monthly in accordance with a formula including factors for tax rate and other increases.

(3) In addition to the enforcement mechanisms contained within this chapter, the city shall have those remedies set forth in the declaration.

(4) The payment shall be in accordance with such other provisions of the declaration as the city attorney may prescribe and other applicable ordinances of the city.

The city shall have the right to reinstate the application of the transient occupancy tax against the property in accordance with all provisions of this chapter by adopting by a four-fifths vote and recording in the records of the county recorder a resolution rescinding the provisions of the declaration, and thereafter the in-lieu payment formula will be deemed null and void, and the provisions of this chapter shall apply.

This section is enacted pursuant to the authority of Sections 906 and 907 of the Palm Springs Charter authorizing the city to prescribe by ordinance procedures for the assessment levy and collection of taxes, assessments, and fees. This section is enacted due to the difficulty of establishing and collecting transient occupancy taxes in accordance with existing procedures for condominium-hotels. (Ord. 1532 § 1, 1996)

3.24.295 Agreement with Indian tribes.

The city is empowered to enter into an agreement with the Agua Caliente Band of Cahuilla Indians, whereby a portion of the transient occupancy taxes collected from transients whose taxable occupancy occurs in a hotel owned and operated by such tribe, will be rebated to the tribe to facilitate development or rehabilitation of such hotels. Such agreements may include the community redevelopment agency as a party if the community redevelopment agency adopts an ordinance pursuant to Revenue and Taxation Code Section 7280.5. (Ord. 1438 § 2, 1993)

3.24.300 Expenses paid from gross receipts.

The expense for staff and collection of the tax herein provided shall be paid from the gross receipts. (Prior

code § 29.13-19)

3.24.310 Use of proceeds.

The net proceeds from the tax imposed herein shall be placed in a special fund to be known as the community promotion fund, and may be used for advertising, publicity, promotion, capital projects, debt retirement, and operating expenses normally payable out of the library fund and parks and recreation fund, of the city. (Ord. 1024 § 1, 1976)

3.24.315 Hotel operations incentive program.

In the event of any conflict between the provisions of Sections 3.24.030, 3.24.035, and 3.24.310 of this code and Section 5.26.060 of this code, the provisions of Section 5.26.060 shall control. (Ord. 1730 § 1, 2008)

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