

## **Article 4.04 FISCAL PROVISIONS GENERALLY**

### **4.04.010 Expenditure of Collier-Burns funds.**

All money received under the Collier-Burns Act\* by the county shall be expended on all roads within the county and there shall be no apportionment of such funds to any supervisorial district or road district. (Prior code § 2.10)

\* See Streets and Highways Code Section 2000 et seq.

### **4.04.020 Capital outlay fund.**

There is created and established a capital outlay fund; and annually a tax in an amount fixed by the board of supervisors shall be added to such fund. (Prior code § 2.15)

### **4.04.030 Lost warrants—Issuance of duplicates.**

A. A duplicate county warrant in replacement of a lost or destroyed unpaid warrant may be issued by following the procedure prescribed by Government Code Section 29850 et seq.

B. A warrant shall be considered lost if it has been mailed and has not been received by the addressee within seven days after the date of mailing. (Prior code § 2.40)

### **4.04.040 Four-week accounting periods.**

The county's accounting cycle shall consist of thirteen (13) four-week periods. The first period shall start July 1st of each fiscal year. (Prior code § 2.44)

### **4.04.050 Acceptance of negotiable paper.**

A. All county officers, department heads, judicial districts and employees are authorized to accept negotiable paper in payment for any tax, license, permit, fee, or fine, or in payment of any other obligation owing the county of Placer or in payment of any bail deposit or any trust deposit.

B. For the purpose of subsection A of this section, "negotiable paper" means personal checks, cashier's checks, money orders, bank drafts, and any other instrument which may be transferred by endorsement and delivered within the ordinary course of business activity.

C. In order to be acceptable, the designated payee on all negotiable paper shall be the county office, department, district, fund, judicial, district, or other appropriate agency (i.e., Placer County tax collector, Placer County recorder, Placer County clerk). The name of the office holder shall not appear on such negotiable paper either with, or without, his or her official Title.

D. Subsection C of this section shall not apply to any payment received in response to an official billing done prior to the effective date of these provisions, and negotiable paper properly made out in response to such prior billing instructions shall be honored. No billing done after the effective date of these provisions shall contain instructions contrary to the provisions of subsection C of this section.

E. Notwithstanding the foregoing provisions of subsection C of this section, no office, department, district, fund, judicial district, or other agency shall refuse to accept negotiable paper solely on the ground that the payee contains the name of the officeholder either with or without his or her official title. (Prior code § 2.45)

### **4.04.060 Deposit of moneys into the county treasury.**

A. All moneys received by county offices, departments, judicial districts and employees shall be deposited daily intact in the Placer County treasury.

B. Notwithstanding subsection A of this section, if any county office, department, judicial district, or employee is unable to comply with the above due to geographic location, hardship, small amounts of revenue, or any other reason, said office, department, judicial district or employee shall request permission from the auditor/ controller to establish less than daily deposits, not to exceed one week, or any other alternate procedure for the daily deposit of moneys into a trust account with a commercial bank or other depository.

"Small amounts of revenue" shall be defined as revenues not exceeding one hundred dollars (\$100.00) in restrictively endorsed negotiable paper, currency and coins. However, the amount of currency and coins shall not exceed twenty-five dollars (\$25.00).

The board of supervisors shall, by resolution, promulgate such other procedures and establish such special accounts and funds as may be necessary to carry out the purposes of this section. (Prior code § 2.46)

### **4.04.070 Refund of overpayments.**

Except as provided by the Revenue and Taxation Code, whenever any person pays to any county department, pursuant to law, an amount covering taxes, penalties, interest, license or other fees, and it is subsequently determined by the county department responsible for the collection thereof that such amount includes an overpayment of ten dollars (\$10.00) or less, of the amount due the county pursuant to the assessment, levy, or charge to which the payment is applicable, the amount of such overpayment shall be transferred to the county general fund and shall not be refunded to the payor. (Prior code § 2.48)

### **4.04.080 Depositing fees in treasury and property tax reduction.**

The district attorney-public administrator, sheriff and the treasurer-tax collector, and their respective deputies, shall pay into the county treasury all fees and commissions received by them or allowed them under any state or federal law in the performance of their official duties, other than their official salary. (Ord. 5006-B (part), 1999: prior code § 2.220)

### **4.04.090 Compensation for burial of indigent persons.**

When any undertaker necessarily attends to the preparation for and burial of any indigent in this county for which county of Placer is legally liable, such undertaker shall receive compensation for all services so rendered, and supplies so furnished, in the sum to be agreed upon in writing between the undertaker and the county of Placer that is reasonable and necessary, including a reasonable additional compensation when it is necessary to re-open and re-close a grave for such indigent. (Prior code § 2.250)

### **4.04.100 Reassessment of property damaged by misfortune or calamity.**

The board of supervisors hereby adopts by ordinance those provisions contained in Revenue and Taxation Code Section 170, as it exists presently and as it may be amended in the future. It is specified that the assessor may initiate the reassessment where the assessor determines that within the preceding twelve (12) months taxable property located in the county was damaged or destroyed. This Section is applicable to all those misfortunes and calamities specified in the statute, including but not limited to those described in Revenue and Taxation Code Sections 170 (1), (2), and (3). This section shall remain in effect until repealed. (Ord. 5208-B, 2002: Prior code § 2.1516)

# Article 4.16 UNIFORM TRANSIENT OCCUPANCY TAX

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## 4.16.010 Short title.

This article shall be known as the "uniform transient occupancy tax ordinance of the county of Placer." (Ord. 5006-B (part), 1999: prior code § 21.1)

## 4.16.020 Definitions.

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

"Hotel" means any structure or any portion of any structure which is occupied, 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, mobile home or house trailer at a fixed location or other similar structure or portion thereof.

"Hotel" does not mean any of the following: Any hospital, sanitarium, medical clinic, convalescent home, rest home, home for the aged people, foster home or other similar facility operated for the care or treatment of human beings; any asylum, jail, prison, orphanage or other facility in which human beings are detained and housed under legal restraint; any housing owned or controlled by an educational institution and used exclusively to house students, faculty or other employees and any fraternity or sorority house or similar facility occupied exclusively by students and employees of such educational institution and officially recognized or approved by it; any housing operated or used exclusively for religious, charitable or educational purposes by an organization having qualifications for exemption from property taxes under state or federal law; and housing owned by a governmental agency and used to house its employees or for governmental purposes; any camp as defined in the State Labor Code or other housing furnished by an employer exclusively for employees.

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

"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 or her 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 article and shall have the same duties and liabilities as his or her principal. Compliance with the provisions of this article by either the principal or the managing agent shall, however, be considered to be compliance by both.

“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.

“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, property and services of any kind or nature without any deduction therefrom whatsoever. Rent does not include any additional items included in a special package rate, such as ski passes, or other recreational or other activity or additional services, as long as the operator separately states the rent and tax from other amounts on all receipts and books, of record. If additional benefits or services are not stated separately as indicated above, the entire amount shall be presumed to be rent.

“Tax administrator” means the division manager of the Placer County revenue services division.

“Tourist home or house” means a house or condominium unit which is, or within which rooms are, available for rent to transients.

“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 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 presumed to be a transient until the period of thirty (30) days has expired.

To avoid being presumed to be a transient during any thirty (30) consecutive day period, the person exercising occupancy rights must, prior to occupancy, enter into a written agreement with the operator. The written agreement shall obligate the person to pay market rate for the occupancy for a period of at least thirty-one (31) consecutive days. If the written agreement requirements are satisfied, the person exercising said occupancy rights shall not be considered a transient under this article and, therefore, shall not be subject to the tax imposed pursuant to Section 4.16.030 of this article. In the absence of said written agreement prior to the commencement of occupancy, the person shall be presumed a transient and subject to the transient occupancy tax until the qualifying period (thirty (30) consecutive days) for nontransient status has been satisfied. On the thirty-first consecutive day, and on each consecutive day thereafter, the transient occupancy tax shall not apply. (Ord. 5466-B § 1, 2007; Ord. 5006-B (part), 1999: prior code § 21.2)

#### **4.16.030 Imposition—Amount—Where payable.**

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A. For the privilege of occupancy in any hotel in the “Western Slope Transient Occupancy Tax Area,” each transient is subject to and shall pay a tax in the amount of eight percent of the rent charged by the operator.

B. Effective October 1, 2002 and sunsetting September 30, 2012, for the privilege of occupancy in any hotel located in that portion of Placer County legally described in subsection D of this section as the “North Lake Tahoe Transient Occupancy Tax Area,” each transient is subject to

and shall pay a tax in the amount of ten (10) percent of the rent charged by the operator. The two percent increase incorporated herein is a general tax.

C. Such tax constitutes a debt owed by the transient to the county, which is extinguished only by payment to the operator or to the county. 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 tax administrator may require that such tax shall be paid directly to the tax administrator.

D. The legal description of the "North Lake Tahoe Transient Occupancy Tax Area" is as follows:

Beginning at the southwest corner of Section 30, T14N, R16E, M.D.B.&M. being a point on the Placer-El Dorado County line, and running thence north along section lines to the northwest corner of Section 6, T15N, R16E, M.D.B.&M., being a point on the south line of Section 36, T16N, R15E; thence east along the south line of said Section 36 to the southeast corner thereof; thence north along section lines to the quarter-section corner on the east line of Section 25 of the last mentioned township and range; thence westerly along the east-west centerlines (the half section lines) of Sections 25, 26 and 27 of the last mentioned township and range 2-3/4 miles more or less to an intersection with a branch of the North Fork of the American River located in said Section 27; thence northwesterly and westerly along said branch and said river, 9-1/2 miles more or less to the north-south centerline of Section 20, Township 16 North, Range 14 East M.D.B.&M.; thence north along the north-south centerline of Sections 20, 17, 8, and 5 of said township and range and along the north-south centerline of Sections 32 and 29 Township 17 North Range 14 East, M.D.B.&M. to the north line of Placer County; thence easterly along the north line of Placer County to the northeast corner of said county, a point on the east line of the state of California; thence south along the east line of the state of California; and the east line of Placer County to the southeast corner of said county; thence west and south along the south line of Placer County to the point of beginning.

E. The legal description of the "Western Slope Transient Occupancy Tax Area" is as follows:

All that portion of the unincorporated area of the county of Placer, state of California that lies West of the following described line:

Beginning at the southwest corner of Section 30, T14N, R16E, M.D.B.&M. being a point on the Placer-El Dorado County line, and running thence north along section lines to the northwest corner of Section 6, T15N, R16E, M.D.B.&M., being a point on the south line of Section 36, T16N, R15E; thence east along the south line of said Section 36 to the southeast corner thereof; thence north along section lines to the quarter-section corner on the east line of Section 25 of the last mentioned township and range; thence westerly along the east-west centerlines (the half section lines) of Sections 25, 26 and 27 of the last mentioned township and range 2 3/4 miles more or less to an intersection with a branch of the North Fork of the American River located in said Section 27; thence northwesterly and westerly along said branch and said river, 9 1/2 miles more or less to the north-south centerline of Section 20, Township 16 North, Range 14 East M.D.B.&M.; thence north along the north-south centerline of Sections 20, 17, 8, and 5 of said township and range and

along the north-south centerline of Sections 32 and 29 Township 17 North Range 14 East, M.D.B.&M. to the north line of Placer County. (Ord. 5212-B, 2002; Ord. 5006-B (part), 1999: prior code § 21.3)

#### **4.16.040 Exemptions from tax.**

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A. Upon completion of an exemption claim form pursuant to subsection B of this section, no tax shall be imposed upon 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 under this section unless a claim for exemption, in the form prescribed by the tax administrator, is executed by the transient under penalty of perjury and filed with the operator at the time agreement for occupancy is entered into. (Ord. 5006-B (part), 1999: prior code § 21.4)

#### **4.16.050 Collection—Advertising that payment of tax not required prohibited.**

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Each operator shall collect the tax imposed by this article 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. (Ord. 5006-B (part), 1999: prior code § 21.5)

#### **4.16.060 Transient occupancy registration certificate.**

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A. Within sixty (60) days after the effective date of the ordinance codified in this article or within thirty (30) days after commencing business, whichever is later, each operator of any hotel renting occupancy to transients shall register such hotel with the tax administrator and obtain from him or her a "transient occupancy registration certificate" to be at all times posted in a conspicuous place on the premises. Such certificate shall, 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.

4. "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 County. This certificate does not constitute a permit.”

B. Certificate Nontransferable. The transient occupancy registration certificate shall be nontransferable and shall become null and void and shall be returned to the tax administrator for cancellation whenever an operator to whom a certificate has been issued ceases to act in the capacity of an operator. Any succeeding operator shall apply for, and obtain, a separate transient occupancy registration certificate as provided in this section. (Ord. 5006-B (part), 1999: prior code § 21.6)

#### **4.16.070 Reports and remittances.**

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A. Each operator and transient occupancy registration certificate holder 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. Such return shall show whether or not any rents were charged, and if so, the total thereof 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 along with copies of claims of exemptions for that time period. The tax administrator may establish shorter reporting periods for any certificate holder if he or she deems it necessary in order to insure collection of the tax, and may require further information in the return. Any operator may choose to make a return and remit the full amount of the tax collected to the tax administrator monthly, but in no case less than quarterly as specified above. Returns and payments are due immediately upon cessation of business for any reason. All taxes collected by operators pursuant to this article shall be held in trust for the account of the county until payment thereof is made to the tax administrator.

B. Any operator that collects transient occupancy taxes in excess of four hundred thousand dollars (\$400,000.00) in a given fiscal year shall make remittances on a monthly basis in the succeeding fiscal year. Said remittances shall be due on or before the last day of the month following the last day of the proceeding month.

C. For the purposes of this section, “on or before” shall be interpreted as (1) hand delivery; or (2) postal delivery of a properly stamped and addressed envelope containing the return and full amount of the tax to the United States Postal Services. Delivery to the Postal Service must be verified by the cancellation by the Postal Service showing a postmark date no later than midnight on the day the tax is due. If the due date of the tax falls on a Sunday the tax due date shall be the next business day (excluding federal holidays.) Private postal meter strips and dates shall not be considered evidence of delivery to the United States Postal Service. (Ord. 5466-B § 2, 2007; Ord. 5046-B, 2000: Ord. 5006-B (part), 1999: prior code § 21.7)

#### **4.16.080 Remitting and reporting requirements upon cessation of operations.**

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A. An operator who intends to transfer, sell or terminate its hotel operations shall notify the tax administrator in writing of such sale, transfer or termination and the name and address of the purchaser or transferee at least thirty (30) days in advance of the date of transfer, sale or

termination, unless the decision to sell, transfer or terminate was made within less than a thirty (30) day period.

B. Each operator upon cessation of operations for any reason shall, on or before the same day of the next month following the cessation of operations or on the last day of that month if no corresponding day exists, file a return with the tax administrator on approved forms of the total taxable rents charged, the amount of tax collected for the reporting period, remittances made, if any, and the balance of the tax due. At the time the return is filed, the full amount of the balance of the tax due, if any, shall be remitted to the tax administrator. Returns filed and tax remitted and actually received by the tax administrator on or before the same day of the next month following the cessation of business or on the last day of that month if no corresponding calendar day exists shall be deemed timely filed and remitted; otherwise, the taxes are delinquent and subject to the penalties imposed by this article. (Ord. 5006-B (part), 1999: prior code § 21.8)

#### **4.16.090 Penalties for failure to remit tax when due.**

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A. Original Delinquency. Any operator who fails to remit any tax imposed by this article within the time required shall pay a penalty of ten (10) percent of the amount of the tax in addition to the amount of 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 becomes delinquent shall pay a second delinquency penalty of ten (10) percent of the amount of the tax in addition to the amount of the tax and the ten (10) percent penalty first imposed.

C. Fraud. If the tax administrator determines that payment of any remittance is fraudulent, a penalty of twenty-five (25) percent of the amount of the tax shall be added 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 article shall pay interest at the rate of one and one-half 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.

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. (Ord 5006-B (part), 1999: prior code § 21.9)

#### **4.16.100 Determination of tax by tax administrator upon failure of operator to collect and report tax—Notice and hearing.**

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A. If any operator fails or refuses to collect the tax or any portion thereof required by this article, and within the required time, report and remit as required by this article, the tax administrator shall proceed in such manner as he or she may deem best to obtain facts and information on which to base his or her estimate of the tax due. The tax administrator shall, based on the facts and information obtained, proceed to determine and assess against such operator the tax, interest and penalties provided for by this article. 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, return receipt requested, addressed to the operator at his or her last-known address.

B. For purposes of determining the liability of any operator failing or refusing to file a return, there shall be a rebuttable presumption that liability is the same as in the maximum liability quarter for the previous fiscal year.

C. In the event records are not produced upon request, or such records are not reasonably auditable, tax, interest and penalties will be levied upon the average room rate and occupancies for similar properties within the same area during the audit period. Further, and without limitation, any operator and/or owner who does not produce records following written notice as set forth herein shall pay, in addition to any tax, interest, or penalties due, the sum of one hundred dollars (\$100.00) per day for each day the records are not produced. (Ord. 5466-B § 3, 2007; Ord. 5006-B (part), 1999: prior code § 21.10)

#### **4.16.110 Waivers—Appeal process.**

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A. Waiver of Interest and/or Penalties not to Exceed Five Thousand Dollars (\$5,000.00).

1. An operator may request a waiver of interest and/or penalties as provided for in Sections 4.16.080(A), (B), and (D) and Section 4.16.090(A) by submitting a request for waiver in writing to the county executive officer within seven working days after the operator is notified of the interest and penalty assessment.

2. The county executive officer or his or her designee shall issue a written decision within ten (10) working days after receipt of the request. Upon receipt of the application for waiver, the county executive officer or his or her designee may, for good cause, waive the interest and penalties in an amount not to exceed five thousand dollars (\$5,000.00). The amount determined to be due shall be immediately due and payable unless an appeal is taken as provided in Section 4.16.100(C).

B. Appeal of Determination of Tax by Tax Administrator.

1. An operator may, within seven working days after the serving or mailing of the notice of assessment of taxes, penalties, and interest provided for under Section 4.16.090(A), make application in writing to the director of administrative services for a hearing on the amount assessed. If application for a hearing is not made within the time prescribed, the tax, interest and penalties, as determined by the tax administrator shall become final and conclusive and immediately due and payable.

2. If such application is made, the director of administrative services or his or her designee shall give no less than ten (10) working days' written notice of the time and place for the hearing.

3. At such hearing, the operator may appear and offer evidence as to why the tax, interest and/or penalties should not be so assessed. After such hearing, the director of administrative services or his or her designee shall determine the proper amount to be remitted and shall thereafter give written notice by certified mail, within ten (10) working days of hearing,



to the operator of such determination. The amount determined to be due shall be payable after fifteen (15) days unless an appeal is taken as provided in subsection C of this section.

C. Appeal of Decision of the Director of Administrative Services.

1. Any operator aggrieved by any decision of the director of administrative services with respect to the amount of such tax, interest and/or penalties, as assessed under the provisions of Section 4.16.080 or 4.16.090, may appeal to the board of supervisors by filing a written notice of appeal with the clerk of the board of supervisors within ten (10) working days of the mailing of the determination by the director of administrative services.

2. If an appeal is filed, the clerk of the board of supervisors shall schedule a hearing on the appeal before the board of supervisors at a regularly scheduled meeting of the board within thirty (30) days from the date of receipt of the appeal.

3. Once the clerk of the board has scheduled the appeal hearing, written notification thereof shall be given to the appellant by certified mail.

4. At the hearing, the appellant shall have the right to testify, to be represented by counsel, to present witnesses on his or her own behalf, to cross-examine all other witnesses and to present oral and written documents and evidence on the issues.

5. Within thirty (30) days of the conclusion of the hearing, the board of supervisors shall make findings and issue a decision concerning the appeal. Any amount determined to be due shall be due and payable immediately upon the decision of the board. (Ord. 5207-B, 2002; Ord. 5006-B (part), 1999: prior code § 21.11)

#### **4.16.120 Duty to keep records—Right of inspection.**

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A. It shall be the duty of each operator and transient occupancy tax registration certificate holder to keep and preserve for a period of three years all records as may be necessary to determine the amount of such tax as he or she may have been liable to collect and pay to the county.

B. The tax administrator or his or her designee, shall have the right at all times reasonable to inspect all books and records of the operator relating to the operation of the hotel, including, but not limited to, the following:

1. General ledgers or financial statements.

2. Subsidiary ledgers and records.

3. Original documents and records including, but not limited to:

a. Daily record of room occupancies.

b. A written record of each occupancy charge for which an exemption is claimed, including the name of the person occupying the room, dates of occupancy and reason(s) for and documentation in support of claims for exemption.

C. All tax returns and information furnished by any operator or transient occupancy tax registration certificate holder pursuant to this article shall be confidential and shall not be open to public inspection nor the specific contents thereof disclosed by any officer or employee except as necessary in the performances of official duty pursuant to this article, or in the course of any proceedings, hearings, and litigation involving the existence or amount of tax liability of such operator, or with the written consent of the operator, or an authorized representative. (Ord. 5006-B (part), 1999: prior code § 21.12)

#### **4.16.130 Refunds.**

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A. Whenever the amount of any tax, interest or penalty has been overpaid under this article, it may be refunded as provided in subsections B and C of this section; provided a written claim, 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 any amount overpaid 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 that the amount of tax so collected has either been refunded to the transient or credited to the rent subsequently payable by the transient to the operator.

C. A transient may obtain a refund of taxes overpaid 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 transient shall be entitled to a refund from any operator of any transient occupancy tax paid to the operator on the grounds that such transient did not take occupancy of the room unless he or she files a written request with such operator stating his or her full name, address, telephone number, date of request, date tax paid to operator, room number for which such tax was paid, and that he or she did not occupy such room. (Ord. 5006-B (part), 1999: prior code § 21.13)

#### **4.16.140 Tax deemed debt to the county—Action by county to collect tax.**

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Any tax required to be paid by any transient under the provisions of this article shall be deemed a debt owed by the transient to the county. Any such tax collected by an operator which has not been paid to the county shall be deemed a debt owed by the operator to the county. Any person owing money to the county under the provisions of this article shall be liable to an action brought in the name of the county for the recovery of such amount. (Ord. 5006-B (part), 1999; prior code § 21.14)

#### **4.16.150 Violations.**

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Any violation of the provisions of this article shall be punishable as provided by Article 1.24 of this code, or as required by Penal Code Section 424. (Ord. 5006-B (part), 1999: prior code § 21.15)

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