

ORDINANCE NO. 717

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CATHEDRAL CITY AMENDING SECTION 3.24 OF THE CATHEDRAL CITY MUNICIPAL CODE RELATING TO VACATION RENTAL UNITS AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Cathedral City desires to amend the Municipal Code to appropriately regulate the short term rental of dwelling units in accordance with the existing provisions of the adopted Transient Occupancy Tax Ordinance, and to correct minor inconsistencies in Chapter 3.24 of the Cathedral City Municipal Code; and

WHEREAS, the City Council finds that the proposed amendments are consistent with and enhance the existing Chapter 3.24, Transient Occupancy Tax provisions of the Cathedral City Municipal Code; and

WHEREAS, the City Council finds the regulation of vacation rental units is in the best interest of the public health, safety and general welfare;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CATHEDRAL CITY DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1 REPEAL

The entirety of Chapter 3.24 of the Cathedral City Municipal Code, otherwise known as the Transient Occupancy Taxes, is hereby repealed and replaced with the contents of Section 2 below.

SECTION 2 REPLACE

Chapter 3.24 of the Cathedral City Municipal Code is hereby amended as provided hereinafter in this Section 2.

Chapter 3.24 TRANSIENT OCCUPANCY TAX

3.24.005 Short Title.

The short title of this Chapter shall be "transient occupancy taxes." (Ord. 574 § 5 (part), 2003)

3.24.010 Definitions.

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

“Hotel” means any facility or structure, or any portion of any facility or structure, which is occupied or intended or designed for use or occupancy by transients for purposes which include, but are not limited to, 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, timeshare project or facility, dormitory, public or private club, mobile home or house trailer at a fixed location, or other similar structure or portion thereof, and shall further include any space, lot, area, or site in any trailer court, campsite, park, or lot where a trailer, recreational vehicle, mobile home, motor home or similar conveyance, is occupied, or intended or designated for occupancy by transients for dwelling, lodging, or sleeping purposes, except any private dwelling house or other individually owned single-family dwelling house unit rented only occasionally (infrequently) and incidentally to the normal occupancy by the owner or his or her family; provided that the burden of establishing that the housing unit or facility is not a hotel as defined in this subsection shall be upon the owner or operator thereof, who shall file with the tax administrator such information as the tax administrator may reasonably require, to establish and maintain such status.

“Occupancy” means the use or possession, or the right or entitlement to the use or possession, of any room, rooms or any portion thereof, in any hotel offered for rent to be used or occupied for dwelling, lodging or sleeping purposes, regardless of the purpose for which the rooms are rented or provided.

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

“Person” shall mean 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.

“Qualifying Rental Agreement” shall mean a written contract signed by both the landlord and tenant, legally enforceable by either party. The qualifying rental agreement shall provide for the right to occupy a specified number of rooms in a hotel for a period of not less than thirty-one consecutive days. “Qualifying rental agreement” expressly excludes:

A. Any agreement, regardless of the rental term, which is terminated for any reason, by either party, or by mutual consent, prior to the thirty-first consecutive day of occupancy; or

- B. Any agreement which would be unlawful or constitute a violation of law.

“Rent” shall mean 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.

“Successor to operator” shall mean any person who acquires the right to operate a hotel from a predecessor operator, directly or indirectly, by whatever means, including purchase, foreclosure, operation of lease, or other means. A transfer of ownership or management interest in a hotel wherein the facility continues to operate as such, either continuously or for business interruption not exceeding thirty days, shall constitute a succession for purposes of this definition.

“Tax” shall mean transient occupancy taxes due under this Chapter.

“Tax administrator” shall mean the city manager or his designated agent, whether city employee or county officer or employee.

“Transient” shall mean 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 consecutive calendar days or less, counting portions of calendar days as full days; provided, however, any such person so occupying space in a hotel shall be deemed to be a transient until the period of thirty consecutive calendar days has expired, unless there is a qualifying Rental agreement in writing between the operator and the occupant providing for a longer period of occupancy. In the event of the existence of a qualifying rental agreement between the operator and any person for the occupancy of space of a hotel, which agreement permits such person to sublet such space to third persons either with or without the prior consent of the operator, then “transient” shall also mean such person to whom such space is sublet for dwelling, lodging, or sleeping purposes. (Ord. 574 § 5 (part), 2003)

3.24.011 Vacation Rental Units.

A. Purpose. The purpose of this Section is to establish regulations for the use of privately owned residential dwellings as vacation rentals to ensure the collection and payment of applicable transient occupancy taxes and minimize the negative secondary effects of such use on surrounding residential neighborhoods. This Section is not intended to modify the definitions included in Section 3.24.010, but rather to specifically regulate a defined subset of units included in the definition of “Hotel.” Further, this Section does not provide any owner of residential property with the right or privilege to violate any private conditions, covenants and restrictions applicable to the owner’s property that may prohibit the use of such owner’s residential property for short term rental purposes as discussed in this Section.

B. Definitions. For purposes of Section 3.24.011 only, the following words and phrases shall have the following meanings:

“Applicable laws, rules and regulations” means any laws, rules, regulations and codes (whether local, state or federal) pertaining to the use and occupancy of a privately owned dwelling unit as a vacation rental.

“Applicant” means the owner of the vacation rental unit or the owner’s authorized agent or representative.

“City manager” means that person acting in the capacity of the city manager of the city of Cathedral City or designee.

“Local contact person” means the person designated by the owner or the owner’s authorized agent or representative who shall be available twenty-four hours per day, seven days per week for the purpose of: (1) responding within forty-five minutes to complaints regarding the condition, operation, or conduct of occupants of the vacation rental unit; and (2) taking remedial action to resolve any such complaints.

“Owner” means the person(s) or entity(ies) that hold(s) legal and/or equitable title to the subject vacation rental.

“Property” means a residential legal lot of record on which a vacation rental unit is located.

“Responsible person” means an occupant of a vacation rental unit who is at least twenty-one years of age and who is legally responsible for ensuring that all occupants of the vacation rental unit and/or their guests comply with all applicable laws, rules and regulations pertaining to the use and occupancy of the subject vacation rental unit.

“Transient” means any person who seeks to rent or who does rent a privately owned residential unit for a period of thirty consecutive calendar days or less.

“Vacation Rental Unit Permit” means a permit that allows the use of a privately owned residential dwelling as a vacation rental unit pursuant to the provisions of this Section, and incorporates by consolidation the transient occupancy registration permit required by Section 3.24.015 of this Chapter.

“Vacation rental unit” means a privately owned residential dwelling (not a hotel, motel or timeshare), including without limitation, a single-family detached or multiple-family attached unit, lodging or rooming house, dormitory, apartment house, condominium, cooperative apartment, duplex, mobile home or house trailer at a fixed location, or other similar structure or portion thereof, and shall further include any space, lot, area, or site in any trailer court, campsite, park, or lot where a trailer, recreational vehicle, mobile home, motor home or any other conveyance, or any portion of such dwellings, rented for occupancy for dwelling, lodging, or sleeping purposes for a period of thirty consecutive calendar days or less, counting portions of calendar days as full days. The term “vacation rental unit” shall not include any private dwelling house or other individually owned single-family dwelling house unit rented only

occasionally (infrequently) and incidentally to the normal occupancy by the owner or his or her family; provided that the owner has filed adequate information with the tax administrator establishing and maintaining that such private dwelling house or other individually owned single-family dwelling house unit is exempt from the provisions of this Chapter relating to transient occupancy tax by reason of such occasional, infrequent and incidental rental.

C. Authorized Agents or Representatives. An owner may authorize an agent or a representative to comply with the requirements of this Section on behalf of the owner. However, the owner shall not be relieved from any personal responsibility for noncompliance with any applicable law, rule or regulation pertaining to the use and occupancy of the subject vacation rental unit, regardless of whether such noncompliance was committed by the owner's authorized agent or representative or the occupants of the owner's vacation rental unit or their guests.

D. Vacation Rental Unit Permit Required; Application and Fee.

1. The owner or the owner's authorized agent or representative is required to obtain a vacation rental unit permit from the city, pursuant to the provisions of this Section, before renting any vacation rental unit to any transient for a period of thirty consecutive calendar days or less. Such vacation rental unit permit must be renewed annually to remain valid.

2. The owner or the owner's authorized agent or representative must submit the following information on a vacation rental unit permit application form provided by the city:

- a. The name, address, and telephone number of the owner of the subject vacation rental unit;
- b. The name, address, and telephone number of the owner's authorized agent or representative, if any;
- c. The name, address, and twenty-four hour telephone number of the local contact person;
- d. The address of the proposed vacation rental unit;
- e. The number of bedrooms and the applicable overnight and daytime occupancy limit of the proposed vacation rental unit;
- f. Such other information as the city manager or designee deems reasonably necessary to administer this Chapter.

3. The vacation rental unit permit application shall be accompanied by an application fee of sixty (60) dollars that will be used to process the application and enroll the vacation rental unit. In addition to the vacation rental unit permit application fee, the owner of the unit must obtain a valid business license in accordance with the provisions of Chapter 3.28 of the Cathedral City Municipal Code. Furthermore, any rental agency or service engaged in advertising or renting vacation rental units shall maintain a current business license in accordance with the provisions of Chapter 3.28 of the Cathedral City Municipal Code.

4. A vacation rental unit permit application may be denied if the applicant has had a prior vacation rental unit permit for the same unit revoked within the past twelve calendar months.

5. Within fourteen days of a change of property ownership, change of owner's agent or representative, or any other change in material facts pertaining to the information contained in the vacation rental unit permit application, the owner or owner's authorized agent or representative shall submit an application and requisite application fee for a new vacation rental unit permit, which must be obtained prior to continuing to rent the subject unit as a vacation rental.

E. Standard Operational Requirements and Conditions.

1. The owner and/or owner's authorized agent or representative shall use reasonably prudent business practices to ensure the vacation rental unit is used in a manner that complies with all applicable laws, rules and regulations pertaining to the use and occupancy of the subject vacation rental unit, and shall further use reasonably prudent business practices to ensure the occupants and/or guests of the vacation rental unit do not create unreasonable noise or disturbances, engage in disorderly conduct, or violate any applicable law, rule or regulation pertaining to the use and occupancy of the subject vacation rental unit.

2. Upon notification that the responsible person and/or any occupant and/or guest of the vacation rental unit has created unreasonable noise or disturbances, engaged in disorderly conduct, or committed violations of any applicable law, rule or regulation pertaining to the use and occupancy of the subject vacation unit, the owner, the owner's authorized agent or representative and/or the owner's designated local contact person shall promptly respond in a timely and appropriate manner to immediately halt or prevent a recurrence of such conduct by the responsible person and/or any occupants and/or guests. Failure of the owner, the owner's authorized agent or representative and/or the owner's designated local contact person to respond to calls or complaints regarding the condition, operation, or conduct of occupants and/or guests of the vacation rental in a timely and appropriate manner shall be subject to all administrative, legal and equitable remedies available to the city. The owner, the owner's authorized agent or representative and/or the owner's designated local contact person shall report to the city manager, or designee, the name, violation, date, and time of disturbance of each person involved in three or more disorderly conduct activities, disturbances or other violations of any applicable law, rule or regulation pertaining to the use and occupancy of the subject vacation unit.

3. The number of occupants allowed to occupy any given vacation rental unit shall be limited as follows:

Number of Bedrooms	Total of Overnight* Occupants	Total Daytime** Occupants (Including Number of Overnight Occupants)
0 – Studio	2	8
1	2	8
2	4	8
3	6	12
4	8	16
5	10	18
6	12	18
7	14	18

* Overnight (10:01 p.m. – 6:59 a.m.)

**Daytime (7:00 a.m. – 10:00 p.m.)

4. While a vacation rental unit is rented, the owner, the owner’s authorized agent or representative and/or the owner’s designated local contact person shall be available twenty-four hours per day, seven days per week for the purpose of responding within forty-five minutes to complaints regarding the condition, operation, or conduct of occupants of the vacation rental unit or their guests.

5. In accordance with Section 11.96.030 of the Cathedral City Municipal Code, no radio receiver, musical instrument, phonograph, compact disk player, loudspeaker, karaoke machine, sound amplifier, or any machine, device or equipment that produces or reproduces any sound shall be used outside or be audible from the outside of any vacation rental unit between 10:00 p.m. and 8:00 a.m.

6. Prior to permitting occupancy of a vacation rental unit by a transient, the owner or the owner’s authorized agent or representative shall: (1) obtain the name, address, and a copy of a valid government identification of the responsible person; (2) provide information about the vacation rental regulations; and (3) require such responsible person to execute a formal acknowledgement that he or she is legally responsible for compliance by all occupants of the vacation rental unit and their guests with all applicable laws, rules and regulations pertaining to the use and occupancy of the vacation rental unit. This information shall be maintained by the owner or the owner’s authorized agent or representative for a period of three years and be made readily available upon request of any officer of the city responsible for the enforcement of any provision of the Municipal Code or any other applicable law, rule or regulation pertaining to the use and occupancy of the vacation rental unit.

7. Trash and refuse shall not be left stored within public view, except in proper containers for the purpose of collection by the city’s authorized waste hauler on scheduled trash collection days. The owner, the owner’s authorized agent or representative shall use reasonably prudent business practices to ensure compliance with all the provisions of Chapter 6.04 (Refuse Disposal).

8. The owner, the owner's authorized agent or representative and/or the owner's designated local contact person shall post a copy of the vacation rental unit permit and a copy of the applicable regulations in a conspicuous place within the vacation rental unit. Further, the owner and/or the owner's authorized agent or representative shall include the current vacation rental unit permit number on or in any advertisement appearing in any newspaper, magazine, brochure, television trade paper, Internet website, etc., that promotes the availability or existence of a vacation rental unit in a place or location deemed acceptable by the city manager or designee. In the instance of audio-only advertising of the same, the vacation rental unit permit number shall be read as part of the advertising.

9. Unless otherwise provided in this Section, the owner of a vacation rental unit and/or the owner's authorized agent or representative shall be subject to and shall comply with all provisions of this Chapter 3.24 concerning transient occupancy taxes, including, but not limited to, submission of a monthly or alternative return in accordance with Section 3.24.045 of this Chapter, which shall be filed monthly even if the vacation rental unit was not rented during each such month.

F. Additional or Modified Operational Requirements and Conditions.

1. The city manager, or designee, shall have the authority to impose additional conditions on the use of any given vacation rental unit to ensure that any potential secondary effects unique to the subject vacation rental unit are avoided or adequately mitigated.

2. The standard conditions set forth herein may be modified by the city manager, or designee, upon request of the owner or the owner's authorized agent or representative based on site-specific circumstances for the purpose of allowing reasonable accommodation of a vacation rental. All requests must be in writing and shall identify how the strict application of the standard conditions creates an unreasonable hardship to a property such that, if the requirement is not modified, reasonable use of the property for a vacation rental would not be allowed. Any hardships identified must relate to physical constraints to the subject site and shall not be self-induced or economic. Any modifications of the standard conditions shall not further exacerbate an already existing problem.

G. Violations, Notices, Remedies and Penalties.

1. Imposition of Additional Conditions; Suspension and Revocation.

a. A violation of any provision of this Section by any of the occupants, responsible party, owner(s) or the owner's authorized agent or representative shall authorize the city manager, or designee, to impose additional conditions on the use of any given vacation rental unit to ensure that any potential additional violations are avoided.

b. A violation of any provision of this Section by any of the occupants, responsible party, owner(s) or the owner's authorized agent or representative shall constitute grounds for modification, suspension and/or revocation of the vacation rental unit permit and/or any

affiliated licenses or permits pursuant to the provisions set forth in Chapter 13.150. The City may issue a notice of violation to any occupant, responsible party, owner(s) or the owner's authorized agent or representative, pursuant to Chapter 13.55, if there is any violation of this Section committed, caused or maintained by the any of the above parties.

2. Public Nuisance. It shall be a public nuisance for any person to commit, cause or maintain a violation of this Section, which shall be subject to the provisions of Chapter 13.90.

3.24.015 Registration.

A. Prior to the commencement of business, every person engaging in or conducting business as an operator of a hotel renting to transients within the city shall file with the tax administrator an application for a transient occupancy registration permit (the "permit") for each place of business. Every application for a permit shall be made upon a form prescribed by the tax administrator.

B. At the time of making an application for a permit, the applicant shall pay a registration fee equal to an amount established by a resolution of the City Council.

C. The permit shall, among other things, state the following:

1. The name of the operator;

2. The hotel address;

3. The date upon which the permit was issued;

4. The following statement: "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 any 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." (Ord. 574 § 5 (part), 2003)

3.24.020 Permit required.

No hotel subject to the provisions of this Chapter shall operate without a valid transient occupancy tax permit. (Ord. 574 § 5 (part), 2003)

3.24.025 Current information.

During the effective duration of the transient occupancy registration permit, the operator shall promptly update, correct or supplement the information contained in his or her application on file with the city when necessary to keep the information contained therein current and accurate. (Ord. 574 § 5 (part), 2003)

3.24.027 Operator not relieved from other permit regulations.

Operators required to obtain a transient occupancy registration permit under this Chapter shall not be relieved from obtaining any other permits for the privilege of carrying on any similar or related activity required under any other regulation of the city and shall remain subject to the regulatory provisions of all Chapters of the municipal code. (Ord. 574 § 5 (part), 2003)

3.24.030 Tax imposed.

Tax Imposed (Effective 1/01/07). For the privilege of occupancy in any hotel, each transient is subject to, and shall pay a tax in the amount of twelve percent of the rent charged by the operator. Such tax shall constitute a debt owed by the transient to the city, which debt shall be extinguished only by payment to the operator or the city. The transient shall pay the tax to the operator of the hotel at the time the rent is paid. If the rent is paid in installments, a proportionate share of the tax shall be paid with each installment. The unpaid tax shall be due upon the transient's ceasing to occupy space in the hotel. If for any reason the tax due is not paid to the operator of the hotel, the tax administrator may require that such tax shall be paid directly to the city. (Ord. 598 § 1, 2004: Ord. 574 § 3, 2003)

3.24.035 Exemptions.

- A. No tax shall be imposed upon:
1. The occupancy of a timeshare estate exempt from such tax as provided under Section 7280 of the California Revenue and Taxation Code;
 2. The occupancy by right of a membership camping contract exempt from such tax as provided under Section 7280 of the California Revenue and Taxation Code;
 3. The occupancy of facilities operated by a local governmental entity as provided under Section 7280 of the California Revenue and Taxation Code;
 4. The occupancy of any space in a campsite or campground located in the state park system as provided under Section 7282 of the California Revenue and Taxation Code; or
 5. The occupancy by a transient exempt from payment of transient occupancy tax by treaty or federal or state law; or

6. The occupancy by any federal or state of California officer or employee, including employees of federal credit unions, who provide sufficient proof that they are acting on official business; or

7. The occupancy by any other person as to which it is beyond the power of the city to impose the tax provided under this Chapter.

B. Any exemption under this Section shall require an exemption claim, on a form designated by the tax administrator, signed by the operator under penalty of perjury and filed with the city. (Ord. 574 § 5 (part), 2003)

3.24.040 Operator duties and accounting requirements.

A. Each operator shall collect the tax imposed by this Chapter to the same extent and at the same time as the rent is collected from every transient.

B. If an operator collects the rent but fails to collect the tax imposed by this Chapter for any reason, the operator shall be required to pay the tax.

C. The amount of the tax charged to each transient shall be separately stated from the amount of the rent charged and each transient shall receive a receipt for payment from the operator. A duplicate of the receipt given to each transient shall be kept by the operator for a period of three years from the date of issuance.

D. 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 provided in this Chapter.

E. Each operator shall account separately for, and maintain separate monthly summary totals for taxable and nontaxable rents and for taxes collected.

F. Each operator shall maintain its financial and accounting records in accordance with established accounting practices acceptable to the tax administrator. Records of collection and remittance of the tax shall be maintained by the operator and made available to the tax administrator upon request for a period of three years. (Ord. 574 § 5 (part), 2003)

3.24.045 Reporting and remitting.

A. Each operator shall, on or before the last day of the month following the close of each calendar month or such different reporting period as may be established by the tax administrator, file a return with the tax administrator, on forms provided by the tax administrator, of the total rents charged or chargeable under this Chapter, the amount of tax collected for transient occupancy and such other information as the tax administrator shall

reasonably require. Rent claimed on the return as exempt from the tax under Section 3.20.035 shall be fully itemized and explained on the return or supporting schedule.

B. In determining the amount of "taxable receipts" on the tax return, "Rent" as defined in Section 3.24.010, shall 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.

C. The return shall be filed whether or not rents have been charged or taxes have been collected during the month.

D. 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.

E. The same basis for accounting used by an operator for keeping books and records shall be used for reporting and remitting under this Chapter.

F. At the time the return is filed, the full amount of the tax collected shall be remitted to the tax administrator.

G. All taxes collected by an operator pursuant to this Chapter shall be separately held in trust for the account of the city until payment thereof is made to the tax administrator.

H. The tax administrator may establish either shorter or longer reporting periods if the tax administrator deems it necessary or desirable in order to insure collection of the tax or to increase the efficiency of administration.

I. Returns and accrued tax payments are due immediately upon cessation of business for any reason and subject to the requirements of Section 3.24.060.

J. Returns and taxes not received by the tax administrator on or before the due date as provided in this Section are delinquent and subject to the penalties imposed under Section 3.24.065 and Section 3.24.070.

K. Returns filed and taxes remitted by mail shall be deemed timely filed only if the envelope or similar container enclosing the returns and taxes is addressed to the tax administrator, has sufficient postage, and bears a United States postmark or a postage meter imprint prior to midnight on the last day for reporting and remitting without penalty. If the envelope or other container bears a postage meter imprint as well as a United States Post Office cancellation mark, the latter shall govern in determining whether the filing and remittance are timely. (Ord. 574 § 5 (part), 2003)

3.24.048 Extension for reporting and remitting.

The tax administrator, for good cause, may extend the deadline for the making of any return or paying of any amount required to be paid under this Chapter, provided a request therefor is filed with the tax administrator. The extension may not exceed thirty days. Any operator to whom an extension is granted shall pay, in addition to the tax, interest at the rate of one-half 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. (Ord. 574 § 5 (part), 2003)

3.24.050. Return not conclusive.

No return filed pursuant to this Chapter shall be conclusive upon the city or upon any officer thereof as to the matters therein set forth, and the same shall not prejudice the right of the city to recover any tax that may be ascertained to be due from such operator in addition to the tax amount shown by such report should it be found to be incorrect. (Ord. 574 § 5 (part), 2003)

3.24.055. Accuracy of report subject to audit—Right to inspect records.

The accuracy of any report filed pursuant to this Chapter shall be subject to audit and verification by the tax administrator who is hereby authorized and empowered to inspect and audit the records and reports of any operator that pertain to the collection and remittance of the tax imposed by this Chapter at all reasonable times at a location within the city and to subpoena the records of any operator who refuses to make such records available for examination. (Ord. 574 § 5 (part), 2003)

3.24.060 Remitting and reporting requirements upon cessation of business.

A. An operator who is transferring, selling or terminating operations of its hotel shall notify the tax administrator in writing of such sale, transfer or termination and, in the case of a sale or transfer, the name and address of the successor to operator. Notification of transfer, sale or termination of the hotel shall be provided at least thirty days in advance of the date of said transfer, sale or termination, unless the decision to sell, transfer or terminate was made within less than a thirty day period prior to the transfer, sale or termination, in which case the operator shall then immediately notify the tax administrator.

B. The operator shall, at the same time, notify the successor to operator of its responsibility for remitting unpaid collected taxes as set forth in Section 3.24.045 and further certify in writing to the tax administrator that the successor to operator was notified of the requirements of this Chapter regarding its responsibility for unpaid collected taxes.

C. An operator who is ceasing hotel operations shall make a return to the tax administrator at least ten days in advance of the cessation, unless the decision to cease hotel operations was made within less than a ten day period in which case the operator shall then immediately make the return to the tax administrator. The return shall be made on approved forms available from the tax administrator and shall reflect 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. 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. After filing the final return and remitting the balance due, the operator shall make the hotel's records of account available for a closeout audit by the tax administrator or duly authorized city employee. Returns filed and taxes remitted and actually received by the tax administrator on or before ten days prior to the cessation of business shall be deemed timely filed and remitted; otherwise, the taxes are delinquent and subject to the penalties imposed under Section 3.24.065 and Section 3.24.070.

D. An operator who is transferring or selling a hotel and who is liable for any tax and/or penalties under this Chapter has a duty to report the amount of the tax and/or penalties to the successor to operator. The successor to operator shall then have a duty to withhold a sufficient portion of the purchase price to equal the amount of such tax and/or penalty until the operator produces a receipt from the tax administrator stating that the tax and/or penalty has been paid or a "tax clearance certificate" from the tax administrator stating that no tax or penalty is due. If the operator does not present a receipt or tax clearance certificate prior to the date such successor commences to conduct business, the successor to operator shall deposit the amount withheld with the tax administrator pending settlement of operator's account.

E. If the successor to operator fails to withhold a portion of the purchase price as required under this Chapter, it shall be liable to the city for the payment of the amount required to be withheld. Within ten days of receiving a written request from a successor to operator for a tax clearance certificate stating that no tax or penalty is due, the tax administrator shall either issue the certificate or mail notice to the successor to operator at its address as it appears on the records of the tax administrator of the estimated amount of the tax and penalty that must be paid as a condition of issuing the certificate. (Ord. 574 § 5 (part), 2003)

3.24.065 Penalty for delinquency.

Any operator who fails to remit any tax imposed by this Chapter within the time required, including amounts determined due by the tax administrator under Section 3.24.080, shall pay a penalty of ten percent of the amount of the tax. In addition, interest shall accrue on both the unpaid tax and penalty at the rate of one-half percent per month, or fraction thereof, from the date on which the tax becomes delinquent until the date of remittance to the city. In the event operator pays the tax, but fails to pay any interest or penalties, interest shall accrue upon the amount of the unpaid interest and penalty until the date of remittance to the city. (Ord. 574 § 5 (part), 2003)

3.24.070 False and fraudulent reports—Penalties for fraud.

A. It shall be unlawful for any operator or person to willfully make, render, sign or verify any false or fraudulent report required by this Chapter with intent to defeat or evade the determination of any amount required to be paid by this Chapter.

B. 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 3.24.065. (Ord. 574 § 5 (part), 2003)

3.24.080 Failure to collect or report tax—Notice of assessment and/or jeopardy determination.

A. If any operator shall fail or refuse to collect the tax or to file any report or remit any taxes or any portion thereof as and when required under this Chapter or if such operator fails to maintain complete and accurate records as required under Section 3.24.045, the tax administrator shall proceed to assess the applicable taxes and penalties provided for by this Chapter against the operator as set forth in subsection (B) below.

B. Upon an operator's failure or refusal to make or file a timely complete and accurate return or remittance of tax due under this Chapter, the tax administrator shall proceed in such a manner as he or she shall deem necessary to obtain facts and information upon which to base an assessment of tax due. Upon such determination, the tax administrator shall proceed to assess the tax, penalties and interest due by the operator and shall deliver a written notice of assessment to the operator as provided in subsection (E).

C. No determination of taxes, penalties and interest due by an operator under Section 3.24.080 (B) shall be conclusive upon the city or prejudice the right of the city to collect additional amounts due. In the event the tax administrator determines taxes, penalties and interest assessed against an operator were less than those amounts actually owed, the tax administrator shall be entitled to collect the additional taxes, penalties and interest due by the operator upon written demand as provided in subsection (E). Penalties and interest shall accrue on such amounts as of the original delinquency date.

D. Upon an operator's violation of this Chapter as provided in subsection (A) above and in addition to the notice of assessment as provided in subsection (B), to ensure the collection and remittance of taxes due the city, the tax administrator may require an operator to provide weekly or daily reports and tax remittance to the city pursuant to a written jeopardy determination as provided in subsection (E). The tax administrator shall cancel the requirements imposed under the jeopardy determination upon the operator's compliance with all reporting requirements imposed by the tax administrator and remittance of all delinquent amounts due to the city under this Chapter.

E. The tax administrator shall deliver the notice of assessment or notice of a jeopardy determination to the operator or deposit the same in the United States mail, postage prepaid, addressed to the operator at the operator's place of business identified in the transient occupancy registration permit. (Ord. 574 § 5 (part), 2003)

3.24.090 Administrative remedies and appeals.

A. Any operator in receipt of a notice of assessment or jeopardy determination authorized pursuant to this Chapter may appeal to a hearing officer by filing a notice of appeal with the city manager or his or her designee within fifteen days after service of a notice of assessment or jeopardy determination.

B. All appeals filed pursuant to this Section shall be conducted by a hearing officer pursuant to the procedures set forth at Chapter 13.150 of the city of Cathedral City Municipal Code. In the case of a notice of assessment, if application by the operator for a hearing is not made within the time prescribed, the amount determined due under the notice of assessment shall become final and conclusive and immediately due and payable. In the case of a jeopardy determination, if application for a hearing is not made within the time prescribed, no further consideration of the conditions imposed by the tax administrator shall be considered until the operator complies with all reporting requirements imposed by the tax administrator and remits all amounts due under this Chapter. The hearing officer's decision shall be final and conclusive. (Ord. 574 § 5 (part), 2003)

3.24.100 Refunds.

A. Whenever the amount of any tax or penalty has been overpaid, paid more than once or has been erroneously or illegally collected or erroneously received by the city under this Chapter, the overpayment may be refunded as provided in subsections B and C of this Section, provided a claim in writing under penalty of perjury stating 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 available from the tax administrator.

B. An operator may claim a refund or take as a 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 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. An operator who has remitted an amount in excess of the amount required to be paid by this Chapter may receive a credit to the extent of the excess. If the excess is discovered as a result of an audit by the city, no claim need be filed by the operator. Such credit, if approved by the tax administrator shall be applied to any deficiency found or any further tax payments due under the rules prescribed by the tax administrator.

E. No refund shall be paid under the provisions of this Section unless the claimant establishes his or her right thereto by written records. (Ord. 574 § 5 (part), 2003)

3.24.110 Actions to collect taxes.

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 and payable through the operator. Any person owing money to the city under the provisions of the Chapter shall be liable to an action brought in the name of the city of Cathedral City for the recovery of such amount. Upon the concurrence of the city manager and the city attorney, the tax administrator is authorized to compromise the collection of the amount or establish a schedule of payment for any tax due, or to discontinue the collection of any claim if it appears that further proceedings would be without merit. (Ord. 574 § 5 (part), 2003)

3.24.120 Divulging of information prohibited.

A. No person having an administrative duty under this Chapter shall 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 or any abstract or particulars thereof to be seen or examined by any person, except upon order of a court of competent jurisdiction or to an officer or agent of the United States, the state of California, the county of Riverside or the city of Cathedral City for official use only.

B. 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.

C. This Section shall not apply to disclosures made in connection with any hearing, appeal, or any civil action or proceeding relating to the determination or recovery of the tax. (Ord. 574 § 5 (part), 2003)

3.24.150 Agreement with county.

The city is empowered to enter into a joint powers agreement with other cities and the county of Riverside and if the agreement or agreements can be made wherein central collection for the county is provided, then it shall be done upon approval by the city council. (Ord. 574 § 5 (part), 2003)

3.24.160 Infraction violation.

Except for the failure of an operator to remit tax to the tax administrator collected under this Chapter which is punishable as a felony pursuant to Penal Code Sections 424 and

425, a violation of Sections 3.24.011, 3.24.015, 3.24.020, 3.24.025, 3.24.030, 3.24.040, 3.24.045, 3.24.055, 3.24.060, 3.24.070 and 3.24.120 of this Chapter by any person responsible for committing, causing or maintaining such violation shall constitute an infraction violation which shall be subject to the provisions set forth in Chapter 13.65 of Title 13 of the city of Cathedral City Municipal Code, including but not limited to the imposition of any and all criminal penalties set forth therein. (Ord. 574 § 5 (part), 2003)

3.24.170 Civil fines.

Any person convicted of an infraction shall, for each separate violation of this Chapter, be subject to: (a) a fine in an amount not to exceed two hundred fifty dollars for a first conviction of an offense; (b) a fine in an amount not to exceed five hundred dollars for a second conviction of the same offense within a twelve-month period of the date of the first offense; and (c) a fine in an amount not to exceed seven hundred fifty dollars for the third conviction of the same offense within a twelve-month period of the date of the first offense. The fine for a fourth and subsequent convictions of the same offense within a twelve-month period of the date of the first offense shall be one thousand dollars. (Ord. 574 § 5 (part), 2003)

3.24.180 Administrative citation.

In lieu of issuing an infraction citation, the city may issue an administrative citation, pursuant to Chapter 13.58 of Title 13 of the city of Cathedral City Municipal Code, to any person responsible for committing, causing or maintaining a violation of Sections 3.24.011, 3.24.015, 3.24.020, 3.24.025, 3.24.030, 3.24.040, 3.24.045, 3.24.055, 3.24.060, 3.24.070 and 3.24.120 of this Chapter. Nothing in this Section shall preclude the city from also issuing an infraction citation upon the occurrence of the same offense on a separate day. (Ord. 574 § 5 (part), 2003)

3.24.190 Administrative fine.

Any person issued an administrative citation for violating Sections 3.24.011, 3.24.015, 3.24.020, 3.24.025, 3.24.030, 3.24.040, 3.24.045, 3.24.055, 3.24.060, 3.24.070 and 3.24.120 of this Chapter shall for each separate violation be subject to: (a) an administrative fine in an amount not to exceed one hundred dollars for the first citation; (b) an administrative fine in an amount not to exceed two hundred fifty dollars for a second citation issued for the same offense within a twelve-month period of the date of the first offense; and (c) a fine in an amount not to exceed five hundred dollars for a third and any subsequent citation issued for the same offense within a twelve-month period of the date of the first offense. (Ord. 574 § 5 (part), 2003)

3.24.195 Public nuisance.

Any violation of Sections 3.24.011, 3.24.015, 3.24.020, 3.24.025, 3.24.030, 3.24.040, 3.24.045, 3.24.055, 3.24.060, 3.24.070 and 3.24.120 of this Chapter by the holder of a transient occupancy registration permit or any business license validly issued pursuant to this or any other Chapter of the Municipal Code shall constitute a public nuisance under Chapter 13.80 of

the Municipal Code and may be subject to abatement as provided under Chapter 13.90 of the Municipal Code. (Ord. 574 § 5 (part), 2003)

3.24.200 Additional remedies.

A. Any violation of Sections 3.24.011, 3.24.015, 3.24.020, 3.24.025, 3.24.030, 3.24.040, 3.24.045, 3.24.055, 3.24.060, 3.24.070 and 3.24.120 of this Chapter by the holder of a transient occupancy registration permit or any business license validly issued pursuant to this or any other Chapter of the Municipal Code shall constitute grounds for modification, suspension and/or revocation of said permit and/or license pursuant to the provisions set forth in Chapter 13.150 of Title 13 of the city of Cathedral City Municipal Code.

B. During any period of time during which a transient occupancy registration permit has not been issued or is otherwise not validly in effect, or is suspended or revoked pursuant to Chapter 13.150 of Title 13, the tax administrator may require that the business to which a transient occupancy registration permit is applicable be closed.

C. Nothing in this Chapter shall preclude the city from pursuing other remedies provided by Chapter 13.140 of Title 13 of the city of Cathedral City Municipal Code, including, but not limited to, denial or revocation of certificates of occupancy, issuance of stop work orders and injunctive relief. (Ord. 574 § 5 (part), 2003)

Section 3 EFFECTIVE DATE

This Ordinance shall take effect thirty (30) days after its second reading and adoption by the City Council.

Section 4 POSTING

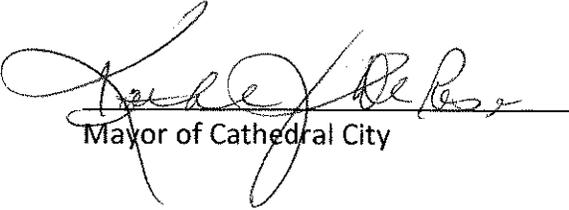
The City Clerk shall, within fifteen (15) days after passage of this Ordinance, cause it to be posted in at least three (3) designated public places; shall certify to the adoption and posting of this Ordinance; and shall cause this Ordinance and its certification, together with proof of posting, to be entered in the Book of Ordinances of this City.

Section 5

CERTIFICATION

The foregoing Ordinance was approved and adopted at a meeting of the City Council held on the 12 day of December, 2012, by the following vote:

Ayes: 5 De ROSA, VASQUEZ, HENRY, Pettis, Toles
Noes: 0
Abstain: 0
Absent: 0



Mayor of Cathedral City

ATTEST:



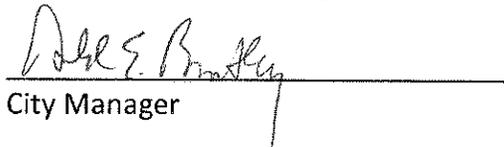
City Clerk

APPROVED AS TO FORM:



City Attorney

APPROVED AS TO CONTENT:



City Manager