CITY OF IRVINE

TRANSIENT OCCUPANCY TAX MANUAL



City of Irvine

Transient Occupancy Tax Manual

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TRANSIENT OCCUPANCY TAX

GENERAL INFORMATION

Transient Occupancy Tax Rate:	8% of gross rent
Irvine Hotel Improvement District Assessment:	2% of gross rent
Remittance Due Dates:	Monthly, by the last day of the subsequent month
Delinquency Penalty and Interest:	1-30 days delinquent, penalty = 10% of tax due + interest on original tax at prime + 2% annum 31+ days, penalty = additional 10% of tax due + interest on original tax at prime + 2% per annum

Remittance Address:
City of Irvine
Attn: Fiscal Services
P.O. Box 19575
Irvine, CA 92623-9575

ACH deposits are encouraged and help avoid late fees.

EFT form and instructions are included in this manual and on the City's website.

REV 02/18

CITY OF IRVINE
P.O. BOX 19575
IRVINE, CA 92623-9575
Phone: (949) 724-6255
Fax: (949) 724-6030

INSTRUCTIONS FOR REGISTERING A HOTEL

Within 30 days of opening a hotel in Irvine, each hotel operator must notify the Director of Administrative Services that a hotel is in operation, and request a Transient Occupancy Registration Certificate. The hotel operator should advise the City in writing of the hotel's name, address, phone number and contact person. Fiscal Services staff will verify that a valid business license has been issued and issue the Certificate.

The hotel operator must post the Certificate in a conspicuous place at all times.

Registration is required only one time for each hotel. If the Certificate becomes damaged or lost, contact the City at the phone number above for a replacement.

ADMINISTRATIVE SERVICES
Treasury Services

TRANSIENT OCCUPANCY REGISTRATION CERTIFICATE

ESTABLISHMENT NAME			PHONE
ADDRESS	CITY	STATE	ZIP

This Transient Occupancy Registration Certificate signifies that the establishment named on the face hereof has fulfilled the requirements of the Uniform Transient Occupancy Tax Ordinance, as modified by City of Irvine Municipal Code, Chapter 4 § 2-9-405, by registering with the Director of Administrative Services of the City of Irvine for the purpose of collecting from transients the Transient Occupancy Tax and remitting said tax to the Director of Administrative Services. 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 the City of Irvine. This Certificate does not constitute a permit.

This Transient Occupancy Registration Certificate must be posted in a CONSPICUOUS place on the hotel premises at all times.

CERTIFICATE NUMBER

REVIEWED BY

DIRECTOR OF ADMINISTRATIVE SERVICES

DATE

HOTEL OPERATOR SIGNATURE

NAME

FULL TITLE

FORM 22-65 REV 02/24

CITY OF IRVINE
P.O. BOX 19575
IRVINE, CA 92623-9575
Phone: (949) 724-6055
Fax: (949) 724-6030

INSTRUCTIONS FOR COMPLETING A TRANSIENT OCCUPANCY TAX RETURN

A Uniform Transient Occupancy Tax Return must be completed on a monthly basis and forwarded to the City of Irvine along with the proper remittance. The Return and remittance must be ***received*** by the last day of the subsequent month. **Postmarks will not be accepted.** If the return is filed after the proper due date, the appropriate penalties and interest must be remitted with the return. The following is a line by line explanation of the information required to be included on the return:

Line#	Title	Description
1	Gross Rental Receipts	The total consideration charged for the privilege of occupying a room. No deductions are allowed from this amount.
2	Long-Term Residents	The sum of the gross rents that are attributable to occupancies in excess of thirty (30) consecutive days or pursuant to a written contract. The first 30 days are not exempt and should not be included here.
3	Government Employees	The sum of the gross rents that are attributable to federal, state or foreign government employees on official business and supported by an "Exemption Certificate for Governmental Agencies".
4	Total Deductions	The sum of Lines 2 and 3.
5	Taxable Rents	Line 1 minus Line 4.
6	Transient Occupancy Tax	The product of 8% multiplied by Line 5.
7	Irvine Hotel Improvement District Assessment	The product of 2% multiplied by Line 5.
8	Penalty on Late Payment	Original delinquency (1-30 days): 10% of the original tax. (10% multiplied by Line 6) Continued delinquency (31 + days): an additional 10% of the original tax.
9	Interest on Late Payment	Prime Rate + 2% calculated with the following formula: ((P + 2%) * Line 6/365) * days delinquent The Prime Rate can be found at the Federal Reserve Bank's website: http://www.federalreserve.gov/releases/h15/data.htm
10	Total Tax, Penalties and Interest	Sum of Lines 6, 7, 8 and 9.

REV 02/18

ADMINISTRATIVE SERVICES
Treasury Services

UNIFORM TRANSIENT OCCUPANCY TAX/ HOTEL IMPROVEMENT DISTRICT RETURN

ESTABLISHMENT NAME			CUSTOMER ID*
ADDRESS			REPORTING PERIOD
			TO
CITY	STATE	ZIP	CERTIFICATE NUMBER

1.	GROSS RENTAL RECEIPTS		
2.	PERMANENT RESIDENTS[1]		
3.	GOVERNMENT EMPLOYEES[2]		
4.	TOTAL DEDUCTIONS		$0.00
5.	TAXABLE RENTS		$0.00
6.	TRANSIENT OCCUPANCY TAX - 8%		$0.00
7.	IRVINE HOTEL IMPROVEMENT DISTRICT ASSESSMENT - 2%		$0.00
8.	PENALTY ON LATE PAYMENT[3]		
9.	INTEREST ON LATE PAYMENT[3]		
10.	**TOTAL TAX, PENALTIES, AND INTEREST**		$0.00

* Use Customer ID provided by the City.

[1] Applies to continuous occupancies beyond 30 days or occupancies pursuant to a written contract. The first 30 days of an extended stay are not exempt from taxes. A copy of all extended stay contracts must be on file with the City.

[2] Government exemptions must be supported by and be in compliance with an Exemption Certificate for Governmental Agencies.

[3] Payments are due on the last day of the subsequent month. See separate instructions for penalty and interest calculations on late payments.

I declare under penalty of perjury, that to the best of my knowledge and belief, the statements herein are true and correct and in conformance with City of Irvine Municipal Code §§ 2-9-401 through 2-9-417 and City Council Resolution No. 02-152.

SIGNATURE _____ DATE _____

NAME _____ TITLE _____

PHONE NUMBER _____ EMAIL ADDRESS _____

FORM 22-41 REV 02/24

ADMINISTRATIVE SERVICES
Treasury Services

ELECTRONIC FUNDS TRANSFER FORM

Please reference the information below when making an electronic payment to the City of Irvine.

BANK NAME AND ADDRESS:

Bank of America
Roland Patrick Kamachi
150 N Hacienda Blvd. Suite 200
City of Industry, CA 91744

PHONE:

(626) 844-8640

ROUTING NUMBERS:

To avoid transfer delays, use the correct routing number for the transaction you are making.

WIRE transfers only: 026009593
ACH credits only: 121000358

BANK ACCOUNT NUMBER:

14330-00006

ACCOUNT NAME:

City of Irvine, General Account

DESCRIPTION OF PAYMENT:

You must reference an invoice or customer number, or provide a detailed description of your payment.

Please email payment notification to COITreasury@cityofirvine.org on or before the payment date. All inquiries may be directed to this email address as well.

ADMINISTRATIVE SERVICES
Treasury Services

UNIFORM TRANSIENT OCCUPANCY TAX/ HOTEL IMPROVEMENT DISTRICT REFUND CLAIM

ESTABLISHMENT NAME			
ADDRESS	CITY	STATE	ZIP

ORIGINAL REPORTING PERIOD (Where refund is being requested): _____ TO _____

	TRANSIENT OCCUPANCY TAX	HOTEL IMPROVEMENT DISTRICT	TOTAL
1. AMOUNT OF TAXES/ASSESSMENT ORIGINALLY PAID			$0.00
2. REFUND CLAIMS*			$0.00
3. REVISED TAX/ASSESSMENT	$0.00	$0.00	$0.00

All refund claims must be supported by a signed, written explanation of the claim, documentation verifying the reason and right to the amounts requested and an amended Transient Occupancy Tax Return.

*A refund or credit will be allowed under the following specific circumstances:

- Overpayment
- Duplicate payment
- Erroneously or illegally collected tax/assessment

No refund or credit will be given unless the amount of tax/assessments has been refunded to the transient or credited to rent subsequently payable by the transient to operator.

I declare under penalty of perjury, that to the best of my knowledge and belief, the statements herein are true and correct and in conformance with City of Irvine Municipal Code § 2-9-716 and City Council Resolution No. 02-152.

SIGNATURE _____ DATE _____

NAME _____ TITLE _____

FORM 22-64 REV 02/24

ADMINISTRATIVE SERVICES
Treasury Services

TRANSIENT OCCUPANCY TAX EXEMPTION CERTIFICATE

FOR GOVERNMENT OFFICERS/EMPLOYEES

INSTRUCTIONS

As provided in Section 2-9-403 subsection parts 2 and 3 of the Irvine Municipal Code, **Federal or California State** officers/employees shall be exempt from Irvine's Transient Occupancy Tax ***when they are conducting official business.*** The following form assists the hotel operator in validating each exemption claimed under this section. An exemption certificate signed by the guest is required to support all such exemptions claimed on the monthly Transient Occupancy Tax return, and will be examined in the course of periodic reviews conducted by an independent accounting firm.

The official or employee (guest) should complete their name, agency, and location of home office, dates of occupancy, and room number. The official or employee must sign the exemption certificate stating that they are on official business of the qualified agency and therefore entitled to the exemption.

The guest shall provide one of the following documents as conclusive evidence of occupancy for official business:

- Travel order from the agency
- Government warrant for occupancy
- Government credit card for occupancy

The hotel operator shall complete the date, hotel name, and hotel address, document proof of official business, and sign the bottom of the form.

ADMINISTRATIVE SERVICES
Treasury Services

TRANSIENT OCCUPANCY TAX EXEMPTION CERTIFICATE

FOR GOVERNMENT OFFICERS/EMPLOYEES

DATE: _____

TO: DIRECTOR OF ADMINISTRATIVE SERVICES
CITY OF IRVINE

FROM: _____
ESTABLISHMENT NAME

_____
ADDRESS

I declare under penalty of perjury, that I, the undersigned, am a **FEDERAL OR CALIFORNIA STATE** government official or employee; that the charges for the occupancy at the above establishment on the dates set forth below are incurred in the performance of my official duties as an official or employee of such agency.

OCCUPANT NAME	DATES OF OCCUPANCY	ROOM#
	TO	
GOVERNMENTAL AGENCY	LOCATION OF HOME OFFICE	

_____
SIGNATURE

Hotel operator should ONLY accept this certificate when accompanied by one of the following: a travel order from their government employer, a government warrant, or a government credit card issued by their employer to pay for the occupancy. The Hotel operator is responsible for verifying the occupancy documentation for official business. A separate exemption certificate is required for each occupancy and for each governmental official or employee.

TO BE COMPLETED BY HOTEL OPERATOR/STAFF:

BY SIGNING BELOW, HOTEL STAFF HAS VERIFIED THE VALIDITY OF THE OCCUPANCY FOR OFFICIAL BUSINESS USING ONE OF THE FOLLOWING (Check one): ☐ TRAVEL ORDER ☐ GOVERNMENT WARRANT ☐ GOVERNMENT CREDIT CARD

VERIFIED AND RECEIVED BY:

_____ _____
SIGNATURE OF HOTEL STAFF DATE

_____
PRINT HOTEL STAFF NAME

HOTEL EXTENDED STAY CONTRACT TRANSMITTAL FORM

INSTRUCTIONS

Extended stay contracts, as described in Section 2-9-401 of the Irvine Municipal Code, refers to a contractual agreement in which a fixed number of rooms are occupied on a continuous basis in excess of 30 days. Provided that the actual number of rooms occupied varies by less than 20 percent of the contractual number, the gross rents received from such occupancies are not taxable. No occupant shall be exempt from the tax for the initial 30 days of occupancy.

Each hotel operator must complete a "City of Irvine Hotel Extended Stay Contract Transmittal Form" to establish whether any such contracts exist. The Transmittal Form must be completed upon inception of the establishment, the commencement of a new contract, or the termination of an existing contract.

If a hotel has extended stay contracts, then each contract must be listed on the Transmittal Form, and a copy of each contract must be submitted to the City of Irvine. If there are no such contracts, respond "NO" to that question on the form. The form should be signed, dated, and returned to the City. Please submit your completed form by mail, fax, or email:

MAIL: City of Irvine
Attn: Finance/Treasury
P.O. Box 19575
Irvine, CA 92623-9575

FAX: Finance/Treasury
949-724-6030

EMAIL: COITreasury@cityofirvine.org

ADMINISTRATIVE SERVICES
Treasury Services

HOTEL EXTENDED STAY CONTRACT TRANSMITTAL FORM

ESTABLISHMENT NAME	TRANSIENT OCCUPANCY CERTIFICATE NUMBER		
ADDRESS	CITY	STATE	ZIP

Does your establishment have any extended stay contractual arrangements with businesses that are relevant to City of Irvine Municipal Code Section 2-9-401? ☐ YES ☐ NO If YES, list businesses below and attach copies of contracts.

ESTABLISHMENT NAME (Attach additional pages if necessary)
1.
2.
3.
4.
5.
6.
7.
8.
9.
10.

I declare under penalty of perjury that to the best of my knowledge and belief, the statements made herein are true and correct.

SIGNATURE _____ DATE _____

TITLE _____

Submit your completed form by mail, fax, or email:

MAIL: City of Irvine
Attn: Finance/Treasury
P.O. Box 19575
Irvine, CA 92623-9575

FAX: Finance/Treasury
949-724-6030

EMAIL: COITreasury@cityofirvine.org

CITY OF IRVINE
TRANSIENT OCCUPANCY TAX
BULLETIN

Bulletin # 11

Date: November 3, 2026

SUBJECT: Taxable/Nontaxable Charges

This Bulletin is intended to clarify the treatment of various charges with respect to the City's Transient Occupancy Tax and Hotel Improvement District. Rent charges for occupying a room for short term lodging purpose are generally taxable. Optional resort fees and other discretionary charges that are not integral to "occupancy", as defined under Irvine Municipal Code section 2-9-401, are generally not taxable; Other mandatory fees are subject to tax since these are inherently tied to the occupancy. Please refer to attachment for details.

Below are common practices and procedure the City of Irvine uses as guidelines for imposing Transient Occupancy Tax (TOT) and Irvine Hotel Improvement District (IHID).

Revenue	*Subject to Transient Occupancy Tax/IHID*	*Comments*
Advanced Deposits (Refundable)	No	
Athletic Facility Revenue	No	
Attrition Fees	Yes	Bulletin # 4
Cancellation Fees	Yes	Bulletin # 5
Child Care Charges	No	
Cleaning Charges	No	
Complimentary Rooms	Yes	Tax on amount paid per Muni Code Sec 2-9-401
Damages/Replacement Fees	No	
Drying Cleaning Commissions	No	
Early Departure Fees	Yes	
Energy Surcharge	Yes	Bulletin # 1
Extra person fee	Yes	
Fax/Copier/Telephone Revenue	No	
Food and Beverage Revenue	No	
Forfeited Deposits	Yes	
Garage Parking	Yes	Bulletin # 11
In-room Movie Revenue	No	
Internet Charges	No	
Late Checkout Fees	Yes	
Laundry Revenue	No	
Local Phone Revenue	No	
Lock-out Fees	No	
Meeting Room/Club Room/Banquet Room	No	
NSF - Returned Check charges	No	
No Show Revenue	Yes	
Non-refundable Deposits	Yes	
Pantry Revenue	No	
Pay Per View Revenue	No	
Pet Cleaning Fees	Yes	Bulletin # 6
Pet Charges	Yes	Bulletin # 6
Public/Meeting Rooms	No	
Refrigerator Charges	No	
Resort Fees (Mandatory)	Yes	
Resort Fees (Optional)	No	
Reward Points	Yes	Tax on reimbursement amount
Rollaway Beds	Yes	
Room Packages	Yes	Tax only portion applicable to room
Safe Charges	No	
Self Parking	Yes	Bulletin # 11
Smoking Fees	No	
Valet Parking	Yes	Bulletin # 11
Vending Commissions	No	
Video Game Rental	No	
Upgrade charges	Yes	

CITY OF IRVINE
TRANSIENT OCCUPANCY TAX
BULLETIN

Bulletin # 10

DATE: April 30, 2010

SUBJECT: Insurance Companies

This Bulletin is intended to clarify the treatment of Insurance Company employees. Section 2-9-403 of the Irvine Municipal Code exempts "Any Federal or State officer or employee when on official business." This definition includes employees of Insurance Company employees when staying in Irvine on official business, and applies to the Transient Occupancy Tax and Irvine Hotel Improvement District.

In order to qualify for the exemption of Insurance Company, the employee must complete an "Exemption Certificate for Governmental Agencies". Both the employee and the hotel operator must comply with the terms stated on the Certificate.

CITY OF IRVINE
TRANSIENT OCCUPANCY TAX BULLETIN

Bulletin # 9

DATE: November 7, 2007

SUBJECT: American Red Cross

As a result of the recent wildfires, the American Red Cross booked hotel rooms in Irvine. Please be advised that the American Red Cross is considered an instrumentality of the United States government. As such, the organization is exempt from the City of Irvine's Transient Occupancy Tax in accordance with section 2-9-403(A)(2) of the City's Municipal Code.

CITY OF IRVINE
TRANSIENT OCCUPANCY TAX BULLETIN

Bulletin # 8

DATE: December 8, 2006

SUBJECT: Federal Credit Union Employees

This Bulletin is intended to clarify the treatment of Federal Credit Union employees. Section 2-9-403 of the Irvine Municipal Code exempts "Any federal or State officer or employee when on official business." This definition includes employees of ***Federal*** Credit Union employees when staying in Irvine on official business, and applies to the Transient Occupancy Tax and Irvine Hotel Improvement District. Non-federal Credit Union employees are not exempt from the Transient Occupancy Tax nor the Irvine Hotel Improvement District Assessment.

In order to qualify for the exemption the Federal Credit Union employee must complete an "Exemption Certificate for Governmental Agencies". Both the employee and the hotel operator must comply with the terms stated on the Certificate.

CITY OF IRVINE
TRANSIENT OCCUPANCY TAX BULLETIN

Bulletin # 7

DATE: April 26, 2005

SUBJECT: MISCELLANEOUS REVISIONS

Effective January 1, 2005, the State of California's Revenue and Taxation Code relating to Transient Occupancy Taxes was amended as a result of Assembly Bill 1916, Chapter 936. On April 12, 2005, the City Council of the City of Irvine adopted Ordinance No. 05-07. The changes made as a result of the City's Ordinance adopt the new provisions of the state law. The following table identifies the changes in the City's Municipal Code, which go into effect on May 13, 2005:

TOPIC	PRIOR RULES	NEW RULES
GOVERNMENT EMPLOYEE EXEMPTION REQUIREMENTS	The City administratively requires documentation of government exemptions such as identification card, travel orders, or payment by government warrant or credit card.	Requires two components for exemption: 1) Photo identification and proof of governmental employment as an employee or officer 2) Travel orders from the government, a government warrant issued to pay for the occupancy, or a government credit card issued by the employer to pay for the occupancy.
RECORD RETENTION	Operators are required to keep all pertinent records for a period of three years.	Operators are required to keep all pertinent records for a period of four years.
TAX CLEARANCE CERTIFICATE	The City is required to issue a tax clearance certificate or notification of tax due to the selling and successor operators of a hotel within 30 days of a written request.	Allows 90 days for the issuance of a certificate or the request for review of records. Allows an additional 90 days to conduct an audit of the records and 30 days to make a determination of insufficient records.

CITY OF IRVINE
TRANSIENT OCCUPANCY TAX BULLETIN

Bulletin # 6

Date: September 27, 2004

SUBJECT: PET CHARGES

This Bulletin is intended to clarify the treatment of Pet Charges with respect to the City's Transient Occupancy Tax and Hotel Improvement District. Pet Charges are considered charges for the right to the use of a room for lodging purposes, and therefore are taxable. During recent reviews of hotel records, it has come to the City's attention that these charges may go by other names, such as "Pet Cleaning Charges".

If the charges relate to the occupancy of the room by the pet, whether for lodging or for room cleaning fees, then the revenue is taxable. If the hotel offers services for the pet, such as grooming, walking, etc., those revenues would not be subject to the tax.

CITY OF IRVINE
TRANSIENT OCCUPANCY TAX BULLETIN

Bulletin # 5

DATE: June 28, 2004

SUBJECT: CANCELLATION FEES

This Bulletin is intended to clarify the treatment of Cancellation Fees with respect to the City's Transient Occupancy Tax. Cancellation fees , or "no-show" fees, are charges assessed when a party fails to keep a reservation. The fee may be the entire room rent, a portion thereof, or a flat fee. Whichever method is used, the entire amount of the fee is subject to the City's Transient Occupancy Tax and the Hotel Improvement District Assessment.

With respect to Group Contracts, cancellation fees may be charged on the individual room rentals, conference facilities, food and beverage minimums, etc. The portion of the cancellation fee that is attributable to the rental of the individual rooms is subject to the City's Transient Occupancy Tax and Hotel Improvement District Assessment.

CITY OF IRVINE
TRANSIENT OCCUPANCY TAX BULLETIN

Bulletin # 4

DATE: June 1, 2004

SUBJECT: ATTRITION FEES

This Bulletin is intended to clarify the treatment of Attrition Fees with respect to the City's Transient Occupancy Tax. Attrition Fees are charges imposed on a group for whose invitees a hotel has agreed to hold out a specific number of rooms, if the invitees fail to use the minimum number of rooms specified by the contract.

It has been determined that, consistent with the City's Municipal Code, Attrition Fees are payments for the right to the use of a room and are therefore subject to both the City's 8% Transient Occupancy Tax and the 2% Hotel Improvement District Assessment.

CITY OF IRVINE
TRANSIENT OCCUPANCY TAX BULLETIN

Bulletin # 3

DATE: March 22, 2004

SUBJECT: TRUST ACCOUNTS

The Irvine Municipal Code states that all taxes collected by operators be held in trust for the account of the City of until payment thereof is made to the Manager of Fiscal Services. This has been interpreted to mean that transient occupancy taxes collected by hotels must be held in a separate bank account for the benefit of the City of Irvine. The City realizes the impracticality of this requirement and has sought to clarify the intent of this passage and make its administration easier.

The phrase "held in trust" will no longer be interpreted to mean held in a separate bank account. Rather, the purpose of the language is only to clarify that the funds from the tax are the property of the City and are held by the hotels for the benefit of the City. It is still required that transient occupancy taxes be segregated in your accounting records. In the future, there will no longer be a finding on the periodic reviews performed by independent auditors for this situation.

CITY OF IRVINE
TRANSIENT OCCUPANCY TAX
BULLETIN

Bulletin # 2

Date: November 20, 2002

SUBJECT: IRVINE HOTEL IMPROVEMENT DISTRICT

On November 12, 2002, the City of Irvine approved the establishment of an Irvine Hotel Improvement District (IHID) with Resolution 02-152. The IHID is subject to the provisions of Ordinance 02-08, Business Improvement Districts, adopted June 11th, 2002, and any future revisions. The IHID becomes effective with room rentals on **JANUARY 1, 2003.** Any contract commitments made prior to November 12, 2002 are exempt from the assessment.

In summary, the IHID is a two percent (2%) assessment on room rentals. The revenue derived from this assessment will be used to fund programs designed to promote tourism, attract and retain businesses within the City, and to furnish cultural programs in public places in Irvine. The IHID will be subject to the same exemptions, remittance requirements and reporting guidelines, including independent reviews or audits, as the City's Transient Occupancy Tax (TOT).

The IHID may be remitted to the City, either separately or on a check combined with the TOT.

CITY OF IRVINE
TRANSIENT OCCUPANCY TAX
BULLETIN

Bulletin # 1

DATE: June 3, 2002

SUBJECT: ENERGY SURCHARGE

It has come to the City's attention that some hotel operators have begun adding an "Energy Surcharge" to the cost of room rentals. This began to appear during the energy crisis during 2001.

The City has researched this subject and determined that an Energy Surcharge is subject to the City's Transient Occupancy Tax.

CITY OF IRVINE
P.O. BOX 19575
IRVINE, CA 92623-9575
Phone: (949) 724-6055
Fax: (949) 724-6030

LIMITED PROCEDURES REVIEW

The City contracts with an independent audit firm to perform a limited procedures review of the Transient Occupancy Tax Returns filed by each hotel. The purpose of the review is to ensure the accuracy of the City's tax receipts. Each hotel is reviewed every three years. Prior to the review, the audit firm will notify the hotel operator of the forthcoming process and coordinate a schedule.

CHAPTER 4. - TRANSIENT OCCUPANCY

Sec. 2-9-401. - Definitions.

The definitions given in this section govern the construction of this chapter. The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

Hotel: Any structure, or any portion of any structure, which is occupied or intended or designed for occupancy by transients for dwelling, lodging, or sleeping purposes, and includes any hotel, inn, tourist home or house, motel, studio hotel, bachelor hotel, lodging house, rooming house, apartment house, dormitory, public or private club, 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 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; and 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 any organization having qualifications for exemption from property taxes under the laws of the State; any housing owned by a governmental agency and used to house its employees or for governmental purposes; any camp as defined in the Labor Code or other housing furnished by an employer exclusively for employees; any private dwelling house or other individually-owned single-family dwelling unit rented only occasionally and incidentally to the normal occupancy by the owner or his or her family; provided that the burden of establishing that the housing or facility is not a hotel as defined herein shall be upon the operator thereof, who shall file with the tax collector such information as the tax collector may require to establish and maintain such status.

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

Operator: The person who is proprietor of the hotel, whether in the capacity of owner, lessee, sublessee, mortgagee, in possession, licensee, or any other capacity. Where the operator performs his or her functions through a managing agent of any type or character other than an employee, the managing

agency shall also be deemed an operator for the purposes of this chapter and shall have the same duties and liabilities as his or her 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.

Rent: The consideration charged, for the occupancy of space in a hotel valued in money, whether to be received in money, goods, labor or otherwise. The rent will be determined based upon the consideration charged, inclusive of receipts, cash, credits, property and services of any kind or nature, without any deduction therefrom whatsoever. Rooms provided at a reduced rent or on a free ("complimentary") basis to employees shall be taxed based upon the amount the employee is charged for the room.

Transient: Any person who exercises occupancy or is entitled to occupancy by reason of concession, permit, right of access, license or other agreement for a period of 30 consecutive calendar days or less, counting portions of calendar days as full days. A transient may be exempt from the transient occupancy tax ("tax") for stays exceeding 30 days if the operator provides the City with a copy of written agreements between the operator and the transient documenting the periods of occupancy exceeding 30 days. No occupant shall be exempt from the tax for the initial 30 days of his or her stay. Occupancies which exceed one year in length must be reported to the City and identified as being exempt (beyond the initial 30 days) from the tax. In determining whether a person is a transient, uninterrupted periods of time extending both prior and subsequent to the effective date of this chapter may be considered. When a written contractual agreement between an operator and an occupant provides that a set number of rooms shall be occupied on a continuous basis, and the actual number of rooms so occupied varies by less than 20 percent of the agreed-upon number, then the occupants shall not be deemed "transient" and subjected to an additional transient occupancy tax by virtue of the variance.

(Code 1976, § II.L-501; Ord. No. 8, § 2, 1-5-72; Ord. No. 87-6, § 1, 4-28-87; Ord. No. 91-21, 12-17-91)

Sec. 2-9-402. - Tax imposed.

For the privilege of occupancy in any hotel, each transient is subject to and shall pay a tax in the amount of eight percent of the rent charged by the operator, effective July 1, 1983. Said tax constitutes a debt owed by the transient to the City which is extinguished only by payment to the operator or to the City. The transient shall pay the tax to the operator of the hotel at the time the rent is paid. If the rent is paid in installments, a proportionate share of the tax shall be paid with each installment. The unpaid tax shall be due upon the transient's ceasing to occupy space in the hotel. If for any reason the tax due is not paid to the operator of the hotel, the Director of Administrative Services may require that such tax shall be paid directly to the Director of Administrative Services.

(Code 1976, § II.L-502; Ord. No. 8, § 3, 1-5-72; Ord. No. 82-18, § 1, 12-14-82; Ord. No. 83-6, § 1, 6-28-83; Ord. No. 84-7, § 1, 1-24-84)

Sec. 2-9-403. - Exemptions.

A. No tax shall be imposed under the provisions of this chapter upon:
    1. Any person as to whom, or any occupancy as to which, it is beyond the power of the City to impose the tax herein provided;
    2. Any federal or State officer or employee when on official business;
    3. Any officer or employee of a foreign government who is exempt by reason of express provision of federal law or international treaty;
    4. Complimentary rooms wherein there is no compensation paid to the hotel in conjunction with the occupancy.

B. No exemption shall be granted except upon a claim therefor made at the time rent is collected and under penalty of perjury upon a form prescribed by the Director of Administrative Services. Said form shall contain a requirement that any person claiming an exemption under Subsection A, Part 2 or 3 of this section provide, to the property owner, proof of his or her governmental employment as an employee or officer, and one of the following, as conclusive evidence that his or her occupancy is for the official business of his or her employer:
    1. Travel orders from his or her government employer.
    2. A government warrant issued by his or her employer to pay for the occupancy.
    3. A government credit card issued by his or her employer to pay for the occupancy.

C. There shall be a rebuttable presumption that a property owner is not liable for the tax imposed pursuant to this chapter with respect to any government employee or officer described in Subsection A, Part 2 or 3 above, for whom the property owner retains a signed and dated copy of the form described above.

(Code 1976, § II.L-503; Ord. No. 8, § 4, 1-5-72; Ord. No. 91-21, 12-17-91; Ord. No. 05-07, § 1, 4-12-05)

Sec. 2-9-404. - Operator's duties.

Each operator shall collect the tax imposed by this chapter to the same extent and at the same time as the rent is collected from every transient. The amount of tax shall be separately stated from the amount of the rent charged, 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.

(Code 1976, § II.L-504; Ord. No. 8, § 5, 1-5-72)

Sec. 2-9-405. - Registration.

Within 30 days after commencing business, each operator of any hotel renting occupancy to transients shall register said hotel with the Director of Administrative Services and obtain from him or her a "transient occupancy registration certificate" to be at all times posted in a conspicuous place on the premises. Said certificate shall, among other things, state the following:

A. The name of the operator;

B. The address of the hotel;

C. The date upon which the certificate was issued;

D. "This Transient Occupancy Registration Certificate signifies that the person named on the face hereof has fulfilled the requirements of the Uniform Transient Occupancy Tax Ordinance by registering with the Director of Administrative Services for the purpose of collecting from transients the Transient Occupancy Tax and remitting said tax to the Director of Administrative Services. This certificate does not authorize any person to conduct any unlawful business or to conduct any lawful business in an unlawful manner, nor to operate a hotel without strictly complying with all local applicable laws, including, but not limited to, those requiring a permit from any board, commission, department or office of this City. This certificate does not constitute a permit."

(Code 1976, § II.L-505; Ord. No. 8, § 6, 1-5-7)

Sec. 2-9-406. - Reserved.

Sec. 2-9-407. - Reporting and remitting.

A. *Generally.* Each operator shall, on or before the last day of the month following the close of each calendar month, or at the close of a shorter reporting period which may be established by the Director of Administrative Services, make a return to the Director of Administrative Services, on forms provided by the Director of Administrative Services, of the total rents charged and received and the amount of tax collected for transient occupancies. At the time the return is filed, the full amount of the tax collected shall be remitted to the Director of Administrative Services. The Director of Administrative Services may establish shorter reporting periods for any certificate holder if the Director of Administrative Services deems it necessary in order to ensure collection of the tax, and the Director of Administrative Services

may require further information in the return. All taxes collected by operators pursuant to this chapter shall be segregated in the operator's accounting records until payment thereof is made to the Director of Administrative Services.

B. *Reporting and remitting requirements upon cessation of business.* Any operator who transfers, sells or terminates its business shall give written notice to the Director of Administrative Services of the date of transfer, sale or termination and the name and address of the transferee or purchaser, if any, at least 30 days prior to the date of transfer, sale or termination or, if the decision to transfer, sell or terminate the business was made less than 30 days prior to the date of transfer, sale, or termination, then the operator shall give such written notice to the Director of Administrative Services immediately. The operator shall, at the same time, notify the transferee or purchaser, if any, of the responsibility of such transferee or purchaser for any unpaid collected taxes or penalties as set forth in Section 2-9-416, and shall further certify in writing to the Director of Administrative Services that such transferee or purchaser was notified of the requirements of this chapter regarding such transferee or purchaser's responsibility for unpaid collected taxes and penalties. Upon cessation of business, for any reason whatsoever, an operator shall immediately submit to the Director of Administrative Services all returns and payments due to the City. The liability of a transferee or purchased for transient occupancy taxes collected by the transferring or selling operator and any penalties owed by such operator shall be as set forth in section 2-9-416.

(Code 1976, § II.L-506; Ord. No. 8, § 7, 1-5-72; Ord. No. 91-12, § 1, 6-25-91; Ord. No. 96-15, § 2(II.L-506), 10-8-96)

Sec. 2-9-408. - Penalties and interest.

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

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

C. *Fraud.* If the Director of Administrative Services determines that the nonpayment of any remittance due under this chapter is due to fraud, a penalty of 25 percent of the amount of the tax shall be added thereto in addition to the penalties stated in Subparagraphs A and B of this section.

D.

PDI interest. In addition to the penalties imposed, any operator who fails to remit any tax imposed by this chapter shall pay interest at a rate equal to the prime rate plus two percent per annum 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.

(Code 1976, § II.L-507; Ord. No. 8, § 8, 1-5-72; Ord. No. 87-6, § 1, 4-28-87)

Sec. 2-9-409. - Failure to collect, report tax; determination of tax by Director of Administrative Services.

If any operator shall fail or refuse 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 Director of Administrative Services 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. As soon as the Director of Administrative Services shall procure such facts and information as he or she is able to obtain upon which to base the assessment of any tax imposed by this chapter and payable by any operator who has failed or refused to collect the same and to make such report and remittance, he or she shall proceed to determine and assess against such operator the tax, interest and penalties provided for by this chapter. In case such determination is made, the Director of Administrative Services 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 or her last known place of address. Such operator may within 10 days after the serving or mailing of such notice make application in writing to the Director of Administrative Services for a hearing on the amount assessed. If application by the operator for a hearing is not made within the time prescribed, the tax, interest and penalties, if any, determined by the Director of Administrative Services shall become final and conclusive and immediately due and payable. If such application is made, the Director of Administrative Services 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 finance office shall determine the proper tax to be remitted and shall thereafter give written notice to the person in the manner prescribed herein of such determination and the amount of such tax, interest and penalties. The amount determined to be due shall be payable after 15 days unless an appeal is taken.

(Code 1976, § II.L-508; Ord. No. 8, § 9, 1-5-72)

Sec. 2-9-410. - Appeal.

Any operator aggrieved by any decision of the Director of Administrative Services with respect to the amount of such tax, interest and penalties, if any, may appeal to the Council by filing a notice of appeal with the City Clerk within 15 days of the serving or mailing of the determination of tax due. The Council shall fix a time and place for hearing such appeal, and the City Clerk shall give notice in writing to such operator at his or her last known place of address. The findings of the Council shall be final and conclusive and shall be served upon the appellant in the manner prescribed above for service of notice of hearing. Any amount found to be due shall be immediately due and payable upon the service of notice.

(Code 1976, § II.L-509; Ord. No. 8, § 10, 1-5-72)

Sec. 2-9-411. - Records.

It shall be the duty of every operator liable for the collection and payment of any tax imposed by this chapter to keep and preserve for a period of four years all records as may be necessary to determine the amount of such tax as he or she may have been liable for the collection of and payment to the City, which records the Director of Administrative Services shall have the right to inspect at all reasonable times. This section shall not be construed to limit the ability of the City to institute an action to collect unpaid occupancy taxes more than four years after the date on which such taxes were due where permissible under State law.

(Code 1976, § II.L-510; Ord. No. 8, § 11, 1-5-72; Ord. No. 05-07, § 2, 4-12-05)

Sec. 2-9-412. - Reserved.

Sec. 2-9-413. - Refunds.

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

B. An operator may claim a refund or take as credit against taxes collected and remitted the amount overpaid, paid more than once or erroneously or illegally collected or received when it is established in a manner prescribed by the Director of Administrative Services that the person from whom the tax has been collected was not a transient; provided, however, that

neither a refund nor a credit shall be allowed unless the amount of the tax so collected has either been refunded to the transient or credited to rent subsequently payable by the transient to the operator.

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

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

(Code 1976, § II.L-511; Ord. No. 8, § 12, 1-5-72)

Sec. 2-9-414. - Actions to collect taxes and enforcement of liens.

A. *Actions to collect.* Any tax required to be paid by any transient under the provisions of this chapter shall be deemed a debt owed by the transient to the City. Any such tax collected by an operator which has not been paid to the City shall be deemed funds held in trust for the account of the City and shall constitute a debt owed by the operator to the City. Any person owing money to the City under the provisions of this chapter shall be liable to an action brought in the name of the City for the recovery of such amount.

B. *Recording of a certificate of lien.* If any amount required to be paid to the City under this chapter is not paid when due, the Director of Administrative Services may record in the Office(s) of the County Recorder(s) of such counties as the Director of Administrative Services may deem appropriate, a certificate which specifies the amount of tax and penalties due, the name and address of the operator liable for the same, a statement that the Director of Administrative Services has complied with all provisions of this chapter in determination of the amount required to be paid and a legal description of the real property owned by the operator. Upon recordation of the certificate, the amount required to be paid, together with penalties, shall constitute a lien upon all real property owned or thereafter acquired by the operator. The lien shall have the force, effect and priority of a tax lien and shall continue in effect for 10 years from the recording of the certificate unless sooner released or otherwise discharged.

C. *Warrant for collection of tax.* At any time after a certificate of lien is recorded under Subsection B above, the Director of Administrative Services may issue a warrant directed to any sheriff or marshal for the enforcement of the lien and the collection of any tax and penalties required to be paid to the City under this chapter. The warrant shall have the same effect as a writ of execution, and be executed in the same manner and with the same effect as

a levy and sale pursuant to a writ of execution. The Director of Administrative Services may pay or advance to the sheriff or marshal such fees, commissions and expenses for services as are provided by law for similar services pursuant to a writ of execution.

D. *Seizure and sale.* In lieu of issuing a warrant under Subsection C above, at any time after an assessment is issued or a certificate of lien is recorded under Subsection B above, the Director of Administrative Services may collect the delinquent amount by seizing or causing to be seized any property, real or personal, of the operator and selling any noncash or nonnegotiable property at a public auction to pay the amount of tax due, together with any penalties and any costs incurred on account of the seizure and sale. Any seizure made to collect taxes due shall only be of property of the operator not exempt from execution under the provisions of the Civil Procedure Code.

(Code 1976, § II.L-512; Ord. No. 8, § 13, 1-5-72; Ord. No. 96-15, § 3(II.L-512), 10-8-96)

Sec. 2-9-415. - Violations.

A. Any person violating any of the provisions of this chapter shall be guilty of a misdemeanor and shall be punished as provided in Title 4, Division 13.

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

(Code 1976, § II.L-513; Ord. No. 8, § 14, 1-5-72)

Sec. 2-9-416. - Duty and liability of successor of operator.

A. *Duty of successor of operator.* If an operator who is liable for any tax or penalties under this chapter sells or otherwise disposes of the operator's hotel, then the successor of such operator shall give written notice to the Director of Administrative Services of the date of sale at least 30 days prior to the date of sale or, if the agreement to sell or otherwise dispose of the hotel was made less than 30 days prior to the actual sale, then the successor shall give such written notice to the Director of Administrative Services immediately. The successor shall withhold from the selling operator, for the account of the City, sufficient funds in the escrow account to satisfy the transient tax liability. The successor and/or the selling operator may request a tax clearance certificate from the City as set forth in Section 2-9-417. If the selling operator fails to present a transient occupancy tax clearance certificate showing that no tax or

penalty is due from the operator through the date of sale to the operator's successor within 30 days after such successor commences operation of the hotel, then the successor shall immediately deposit the amount withheld from the purchase price with the Director of Administrative Services pending settlement of the account of the selling operator.

B. *Liability of successor for failure to withhold.* If a successor fails to obtain a tax clearance certificate, or obtains a tax clearance certificate that indicates that tax is due and fails to withhold, for the benefit of the City, sufficient funds in the escrow account to satisfy the transient occupancy tax liability, then the successor shall be held liable for the amount of the tax due and owing on the property.

C. *Appeal by selling operator.* Any selling operator from whom a successor has withheld and paid to the City a portion of the purchase price, pursuant to Subsection A above, may challenge the determination of the Director of Administrative Services with respect to the amount of taxes or penalties owed by such selling operator by filing a notice of appeal with the City Clerk within 10 days of the date of mailing of the determination notice by the Director of Administrative Services. Following receipt of a timely notice of appeal, the provisions of Section 2-9-410 with respect to hearings shall apply.

(Ord. No. 96-15, § 1(II.L-514), 10-8-96; Ord. No. 05-07, § 3, 4-12-05)

Sec. 2-9-417. - Issuance of occupancy tax clearance certificates.

A. *Request for transient occupancy tax clearance certificate.* A purchaser, transferee, or other person or entity attempting to obtain ownership of a property, the owner of which is required to collect the tax imposed pursuant to this chapter, and/or the selling operator of the property may request the City to issue a tax clearance certificate. Within 90 days of receiving such a request, the City shall do either of the following:

1. Issue the tax clearance certificate.
2. Request the current owner of the property to make available that owner's transient occupancy tax records for the purpose of conducting an audit regarding transient occupancy taxes that may be due and owing from the owner of the property.

B. If an audit is conducted pursuant to this section, it must be completed on or before 90 days after the date that the current or former owner's records are made available to the City. Within 30 days after completing the audit the City must either:

1. Issue a tax clearance certificate; or
2. If, after completing the audit, the City makes a determination that the current owner's records are insufficient to make a determination of whether transient occupancy taxes may be due and owing, notify the person or other entity that made the request that it will

not issue a tax clearance certificate due to the insufficiency of the prior owner's records.

C. For a tax clearance certificate issued under this section all of the following apply:

1. The certificate shall state the amount of tax due and owing for the subject property, if any;
2. The certificate shall state the period of time of which it is valid;
3. The purchaser, transferee, or other person or entity who obtains ownership of the property may rely upon the tax clearance certificate as conclusive evidence of the tax liability associated with the property as of the date specified on the certificate.

(Ord. No. 05-07, § 4, 4-12-05)

CHAPTER 7.5. - BUSINESS IMPROVEMENT DISTRICTS

Sec. 2-7-750. - Findings and purpose.

(a) The assessments levied under this section are for the purpose of providing improvements and promoting activities that benefit individual businesses, and may also benefit directly or indirectly the property within the area designated for assessments. The assessments levied under this section are not taxes for the general benefit of the City, but are assessments for the improvements and activities which confer special benefits upon the businesses for which the improvements and activities are provided.

(b) The purpose of this section is to authorize the City to levy assessments on business within specified areas of the City and to provide a uniform procedure to levy assessments for improvements and activities of businesses located and operating within such areas. This section is also intended to provide a method for financing public programs to attract tourist visits to areas of the City where tourism is economically important and desired.

(Ord. No. 02-08, § 1, 6-11-02)

Sec. 2-7-751. - Definitions.

(a) *Advisory board* means the advisory board appointed by the City Council pursuant to Section 2-7-760.

(b) *Assessment* means a levy for the purpose of acquiring, constructing, installing, or maintaining improvements and promoting activities that will benefit the businesses located and operating within a specified area.

(c) *Business* means all types of businesses and includes financial institutions and professions.

(d) *Improvement* means the acquisition, construction, installation or maintenance of any tangible property with an estimated useful life of five years or more including, but limited to, the following:

1. Parking facilities.
2. Benches.
3. Trash receptacles.
4. Street lighting.
5. Decorations.
6. Parks.
7. Fountains.

8. Parking structures.

(e) *Activities* means, but is not limited to, all of the following:

1. Promotion of public events which benefit businesses in the area and which take place on or in public places.
2. Furnishing of music or other cultural programs in any public place in the City.
3. Promotion of tourism within the City.
4. Activities which benefit businesses located and operating within a specified area of the City, including marketing, economic development, business retention and business recruitment.

(Ord. No. 02-08, § 1, 6-11-02)

Sec. 2-7-752. - Resolution of intention to establish a business improvement area.

Proceedings to establish a business improvement area shall be instituted by the adoption by the City Council of a resolution of intention to establish the business improvement area. The resolution of intention shall do all the following:

(a) State that a business improvement area is proposed to be established pursuant to this section and describe the boundaries of the territory proposed to be included in the business improvement area and the boundaries of each separate benefit zone, if any, to be established within the area. The boundaries of the area may be described by reference to a map on file in the Office of the City Clerk, showing the proposed business improvement area.

(b) State the name of the proposed business improvement area.

(c) State the type or types of improvements and activities proposed to be funded or acquired by the levy of assessments on businesses in the area.

(d) State the type or types of businesses subject to the assessment.

(e) State that, except where funds are otherwise available, an assessment will be levied annually to pay for all improvements and activities within the business improvement area.

(f) State the proposed method and basis for levying the assessment in sufficient detail to allow each business owner to estimate the amount of the assessment to be levied against his or her business.

(g) State the term, if any, for the levy of the assessment.

(h) Fix a time and place for a public hearing on the establishment of the business improvement area and the levy of assessments, which shall be held not less than 20 nor more than 40 days after the adoption of the resolution of intention.

(i) State whether or not the City's costs and expenses in auditing and administering the assessment and improvements and activities will be funded from the assessment.

(j) State that at the hearing the testimony of all interested persons for or against the establishment of the business improvement area, the extent of the area, the type or types of businesses subject to the assessment, the basis and term of the assessment, or the furnishing of specified types of improvements or activities, will be heard. The notice shall also describe, in summary, the effect of protests made by business owners against the establishment of the business improvement area, the extent of the area, the type or types of businesses subject to the assessment, the basis and term of the assessment, and the furnishing of a specified type of improvement or activity, as provided in Section 2-7-754.

(Ord. No. 02-08, § 1, 6-11-02)

Sec. 2-7-753. - Notice of public hearing.

Notice of a public hearing to establish a business improvement area shall be given by both of the following:

(a) Mailing of a complete copy of the resolution of intention by first class mail to each affected business owner in the proposed business improvement area within seven days of the City Council's adoption of the resolution of intention.

(b) Posting of the resolution of intention at the City Hall.

(Ord. No. 02-08, § 1, 6-11-02)

Sec. 2-7-754. - Hearing and protests on establishment of business improvement area and levy of assessments.

(a) At the public hearing, the City Council shall hear and consider all protests against the establishment of the business improvement area, the extent of the business improvement area, the type or types of businesses on which the assessment may be imposed, or the furnishing of specified types of improvements or activities within the business improvement area. A protest may be made orally or in writing by any interested person. Any protest pertaining to the regularity or sufficiency of the proceedings shall be in writing and shall clearly set forth the regularity or defect to which the objection is made.

(b) Every written protest shall be filed with the City Clerk at or before the time fixed for the public hearing. The City Council may waive any regularity in the form or content of any written protest, and, at the public hearing, the City Council may correct minor defects in the proceedings. A written protest may be withdrawn in writing at any time before the conclusion of the public hearing.

(c)

Each written protest shall contain a description of the business in which the person subscribing the protest is interested that is sufficient to identify the business and, if a person subscribing is not shown on the official records of the City as the owner of the business, the protest shall contain or be accompanied by written evidence that the person subscribing is the owner of the business. A written protest which does not comply with this section shall not be counted in determining a majority protest.

(Ord. No. 02-08, § 1, 6-11-02)

Sec. 2-7-755. - Majority protest and termination of proceedings to establish a business improvement area.

If written protests are received and not withdrawn from the owners of affected businesses in the proposed business improvement area that will pay 50 percent or more of the assessments proposed to be levied, the City Council shall terminate the proceedings for the establishment of the proposed business improvement area and the levy and imposition of the proposed assessment.

(Ord. No. 02-08, § 1, 6-11-02)

Sec. 2-7-756. - Adoption, revision, change, reduction or modification of assessments, improvements and activities.

(a) At the conclusion of the public hearing to establish the area, the City Council may adopt, revise, change, reduce or modify the proposed assessment of the type or types of improvements and activities to be funded with the revenues from the assessments.

(b) At the public hearing, the City Council may only make changes in, to or from the boundaries of the proposed business improvement area that will exclude territory which the City Council finds will not benefit from the proposed improvements or activities. Proposed assessments may only be revised by reducing any or all of them, or by reducing the term during which the assessment will be imposed.

(c) The City Council shall not change the boundaries of the proposed business improvement area to include any territory that will not, in its judgment, benefit by the improvement or activity. Any addition of territory to the proposed boundaries of the area may be made only by notice to the owners of the businesses proposed to be added to the area, and upon a public hearing on the addition of the territory, as set forth in this chapter.

(d) The City Council shall not change the type of activities or improvements to be funded, or the amount of the assessment to be expended on any activity or improvement, unless:

(1) A majority of the owners of the businesses in the area subject to the assessment consent to such change; or

(2) The City adopts a new resolution of intention pursuant to section 2-7-752, and notices a new public hearing pursuant to section 2-7-753.

(Ord. No. 02-08, § 1, 6-11-02)

Sec. 2-7-757. - Resolution establishing business improvement area and levying assessment.

Upon the close of a public hearing, and if written protest are not received from the owners of businesses in the proposed area that will pay 50 percent or more of the assessments proposed to be levied, the City Council may establish the business improvement area and levy the assessment. The resolution establishing the business improvement area and levying assessment shall contain all of the following:

(a) The name, date of adoption and title of the resolution of intention.

(b) The time and place where the public hearing was held concerning the establishment of the business improvement area and the levy of the assessment.

(c) The determination regarding any protest received at the public hearing.

(d) The description of the boundaries of the business improvement area and of each separate benefit zone, if any, established within the business improvement area.

(e) A statement that a business improvement area has been established, and the name of the area.

(f) A description of the type or types of businesses subject to the levy to be assessed by the resolution.

(g) A statement that the affected business in the business improvement area established by the resolution shall be subject to any amendments.

(h) A description of the method and basis of levying the assessment, with the breakdown by classification of business if a classification is used.

(i) A statement that the City Council has determined to levy and collect assessment within the business improvement area, the basis for the assessment, and the term, if any, of such assessment.

(j) A description of the improvements and activities authorized to be funded within the business improvement area.

(k) A statement that the improvement and activities to be provided in the business improvement area are to be funded by the levy of the assessments.

(l) If the City's costs and expenses in auditing and administering the assessment and improvements and activities will be funded from the assessment, a statement so declaring.

(m) A finding that the businesses and the property within the business improvement area will be benefitted by the improvements and activities funded by the assessments levied.

(n) A statement of the time and manner of collecting the assessments.

(Ord. No. 02-08, § 1, 6-11-02)

Sec. 2-7-758. - Establishment of benefit zones for assessments.

The City Council may establish one or more separate benefit zones within the business improvement area, based upon the degree of benefit derived from the improvements or activities to be provided within the benefit zone, and the City Council may impose a different assessment within each benefit zone.

(Ord. No. 02-08, § 1, 6-11-02)

Sec. 2-7-759. - Procedures relating to benefit zones.

All provisions of this chapter applicable to the establishment, modification or disestablishment of a business improvement area shall apply to the establishment, modification or disestablishment of benefit zones. The City Council shall, to establish, modify or disestablish a benefit zone, follow the procedure to establish, modify or disestablish a business improvement area.

(Ord. No. 02-08, § 1, 6-11-02)

Sec. 2-7-760. - Business improvement area advisory board.

The City Council may appoint an advisory board which shall review the City's annual budget for the business improvement area, review the audit of revenues and expenses of the business improvement area, assist in the preparation of an annual report to the City Council regarding the activities within the business improvement area, and recommend to the City Council the use of the assessment revenues. The City Council may limit membership of the advisory board to persons or businesses paying the assessments for the business improvement area. The City Council may appoint the advisory board prior to the adoption of the resolution of intention to create the business improvement area, so that the advisory board may recommend the provisions of the resolution of intention.

(Ord. No. 02-08, § 1, 6-11-02)

Sec. 2-7-761. - Annual budget.

Prior to each fiscal year during which an assessment is levied within a business improvement area, the City Council shall adopt a budget reflecting the anticipated revenues and proposed expenditures of assessment revenue, and such other funds as the City Council may determine appropriate, within the business improvement area during the succeeding fiscal year. Prior to the adoption of the budget by the City Council, the draft budget may be referred to the advisory board of the business improvement area for its review and recommendations, if such an advisory board is established.

(Ord. No. 02-08, § 1, 6-11-02)

Sec. 2-7-762. - Audit of business improvement area activities.

The City shall annually cause to be conducted an audit of the financial affairs and activities within a business improvement area. The audit shall be filed with the City Council, and a copy shall be provided to the advisory board for its review and comment, if such an advisory board is established.

(Ord. No. 02-08, § 1, 6-11-02)

Sec. 2-7-763. - Annual report.

(a) The City shall cause to be prepared a report for each fiscal year for which assessments are levied and collected to pay the costs of improvements and activities described in the report. If the City establishes an advisory board of the business improvement area, the City may delegate to the advisory board the preparation of the annual report, or alternatively provide a draft of the annual report to the advisory board for its review and comments. The report may propose changes, including, but not limited to, the boundaries of the business improvement area or any benefit zones within the area, the basis and method of levying assessments, and any changes in the classifications of businesses, if a classification is used.

(b) The report shall be filed with the City Council and shall refer to the business improvement area by name, specify the fiscal year to which the report applies, and contain such other information as the advisory board deems appropriate.

(Ord. No. 02-08, § 1, 6-11-02)

Sec. 2-7-764. - Basis of assessment and classification of businesses in business improvement area.

The assessments levied on businesses pursuant to this chapter shall be levied on the basis of the estimated benefit to the businesses and property within the business improvement area. The City Council may classify businesses for purpose of determining the benefit to a business of the improvements and activities provided pursuant to this chapter. Assessment revenues may only be expended on improvements and activities authorized by this Code and designated by the City Council in the resolution adopted pursuant to Section 2-7-757.

(Ord. No. 02-08, § 1, 6-11-02)

Sec. 2-7-765. - Time limits for challenging the establishment of a business improvement area or the levy of assessments.

The establishment of a business improvement area, the extent of the area, the type or types of businesses subject to the levy of the assessments, the types of improvements or activities in the business improvement area to be funded by the assessments, and/or the validity, method of calculating or terms of an assessment levied under the chapter shall not be contested in any action or proceeding unless the action or proceeding is commenced and the City served within 30 calendar days for the adoption of the resolution establishing the business improvement area and levying the assessment pursuant to Section 2-7-757.

(Ord. No. 02-08, § 1, 6-11-02)

Sec. 2-7-766. - Disestablishment of business improvement area and termination of assessments.

(a) In December of each year following the first full fiscal year in which an assessment is levied, the businesses in a business improvement area subject to the assessment may, by written notice to the City Council, petition for the disestablishment of the business area and the termination of the assessment. The written petition shall not be effective unless petitions are received from the owners of business in the business improvement area paying 50 percent or more of the assessments levied within the area.

(b) If petitions are received during the month of December in any fiscal year following the first fiscal year in which the assessment is levied, from the owners of businesses in the business improvement area paying 50 percent or more of the assessments levied as of the date of the petition, the City Council shall, within 30 days of receipt of such petition, take action to disestablish the business improvement area and terminate the assessments, effective on June 30 of that fiscal year.

(Ord. No. 02-08, § 1, 6-11-02)

CITY COUNCIL RESOLUTION NO. 02-152

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF IRVINE ESTABLISHING THE IRVINE HOTEL IMPROVEMENT DISTRICT AND LEVYING AN ASSESSMENT

WHEREAS, at its October 8, 2002 meeting, the City Council of the City of Irvine adopted Resolution 02-139, A RESOLUTION OF INTENT OF THE CITY COUNCIL OF THE CITY OF IRVINE TO ESTABLISH A BUSINESS IMPROVEMENT AREA; and

WHEREAS, the City Council of the City of Irvine held a public hearing on November 12, 2002 at 4:00 p.m. in the City Council Chambers of Irvine City Hall, One Civic Center Plaza, Irvine, California; and

WHEREAS, at that public hearing the City Council did not receive written protests from affected businesses that would, in total, represent in excess of fifty percent of the total assessment to be levied; and

WHEREAS, the City Council of the City of Irvine affirms that it is in the public interest to promote, maintain and enhance the economic strength and physical maintenance of the business districts within the City in order to create and conserve jobs, attract new businesses, and prevent erosion of the City's business districts;

NOW, THEREFORE, the City Council of the City of Irvine HEREBY DOES RESOLVE AS FOLLOWS:

Section 1. Pursuant to Section 2-7-752 of the Irvine Municipal Code, the City establishes a business improvement area that shares the same boundaries as the legal boundaries of the City of Irvine, and such business improvement area shall have no separate benefit zones.

Section 2. That a business improvement area has been established and shall be named the "Irvine Hotel Improvement District."

Section 3. The activities in Section 6 of this Resolution shall be funded by the levy of an assessment upon all hotels within the City. The City shall assess a two percent (2%) room rental assessment for all hotel room rentals in Irvine. The assessment will be collected by all Irvine hotels and remitted to the City at the same time and in the same manner as the City's Transient Occupancy Tax. Included with the remittance will be an itemization of the total amount of Transient Occupancy Tax and the corresponding percent, and the total room rental assessment and the corresponding percent.

Section 4. To reduce administrative costs to the hotels, hotels may, but shall not be required to, combine the Irvine Hotel Improvement District assessment and Transient Occupancy Tax into a single room charge, so long as the single room charge equals the aggregate of the adopted rates for Transient Occupancy Tax and the Irvine Hotel Improvement District assessment. The City will segregate all funds received by the City as the payment of the Irvine Hotel Improvement District assessment, and credit the revenue to an account created for that purpose. All contract commitments made by a hotel prior to this resolution shall be exempt from the assessment. The definition of "Hotel" will be as defined in Section 2-9-401 of the Irvine Municipal Code.

Section 5. All hotels in the Irvine Hotel Improvement District will be subject to any amendments to this resolution.

Section 6. The types of improvements and activities to be funded by the levy of assessments on businesses within the Irvine Hotel Improvement District will be programs designed to promote tourism within the City; attract, recruit and retain businesses in the City; and to furnish cultural programs in public places in Irvine.

Section 7. The City will fund the programs described in Section 6 above by distributing the Irvine Hotel Improvement District assessment revenue as follows: 1.5% to fund the Irvine Chamber of Commerce's Destination Irvine program to attract and recruit business and tourism to Irvine, and .5% to fund City of Irvine cultural programs, for a total assessment of two percent (2%). Except where funds are otherwise available, the assessment will fund all activities, as specified in Section 6 above, in the Irvine Hotel Improvement District.

Section 8. The City finds that the businesses and property within the Irvine Hotel Improvement District will be benefited by those activities funded by the assessment.

Section 9. The City's costs and expenses in auditing and administering the assessment and programs will not be funded from the assessment.

Section 10. The Irvine Hotel Improvement District assessment is to commence on January 1, 2003, and shall continue in effect until disestablishment of the Irvine Hotel Improvement District as provided for in Chapter 7.5, Section 2-7-766, of the Irvine Municipal Code.

Section 11. The City will create a joint committee entitled, "City of Irvine Hotel Improvement District Operating Committee," composed of four representatives for the Irvine Chamber of Commerce Hospitality Committee, four representatives for the City of Irvine, and a Chairperson appointed by the City of Irvine to identify cultural and signature events within the Irvine Hotel Improvement District.

Section 12. No later than July of each year, the City will provide to the Chamber of Commerce and the Chamber of Commerce will provide to the City a report detailing the proposed use of funds for the next fiscal year.

Section 13. No later than August 15 of each year, the Chamber of Commerce will provide to the City, in a form required by the City, a report detailing the assessments received and program expenditures for tourism and economic development for the past fiscal year. Within 30 days after conclusion of its annual audit, the Chamber of Commerce will submit to the City a copy of its audited financial statements from the funds appropriated to the Chamber of Commerce for Destination Irvine or any other program operated with such funds.

PASSED AND ADOPTED by the City Council of the City of Irvine at a regular meeting held on the 12th day of November, 2002.

MAYOR OF THE CITY OF IRVINE

ATTEST:

CITY CLERK OF THE CITY OF IRVINE

STATE OF CALIFORNIA)
COUNTY OF ORANGE) SS
CITY OF IRVINE)

I JERI L. STATELY, City Clerk of the City of Irvine, HEREBY DO CERTIFY that the foregoing resolution was duly adopted at a regular meeting of the City Council of the City of Irvine, held on the 12th day of November, 2002.

AYES:	5	COUNCILMEMBERS:	Krom, Mears, Smith, Ward and Agran
NOES:	0	COUNCILMEMBERS:	None
ABSENT:	0	COUNCILMEMBERS:	

CITY CLERK OF THE CITY OF IRVINE