

**CITY OF BENICIA**

**SHORT-TERM RENTAL**

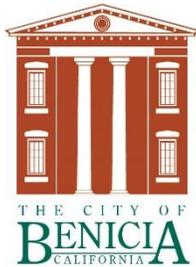
**AND**

**TRANSIENT OCCUPANCY TAX**

**MANUAL**

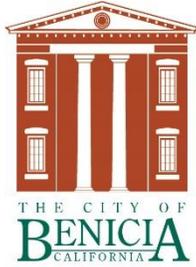


**CITY OF BENICIA**  
**SHORT-TERM RENTAL**  
**AND**  
**TRANSIENT OCCUPANCY TAX MANUAL**



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## INSTRUCTIONS FOR REGISTERING A RESIDENTIAL SHORT-TERM RENTAL

If you are renting your home for periods of less than thirty (30) days, you are considered a Short-Term Rental (STR) and are subject to paying Transient Occupancy Tax (TOT) per the Benicia Municipal Code. In addition, the Municipal Code requires that all short-term rentals\* must obtain and maintain a Transient Occupancy Tax (TOT) Registration Certificate and a Business License. This process requires that you obtain a Use Permit or the lesser Zoning Permit. Instructions may be found below. All lodging properties, including hotels, motels, inns, and residential short-term rentals, are subject to these Benicia Municipal Code (BMC) requirements.

Within 30 days of receiving this notification, or prior to opening or establishing a residential short-term rental in the City of Benicia, each operator must complete the following steps:

1. **Apply for a Use Permit or Zoning Permit.** A Use Permit or the lesser Zoning Permit is required for all residences that are rented for less than thirty (30) days. Fill out the Transient Occupancy Tax Registration Form in this packet and turn it in to the Community Development Department at City Hall, 250 East L Street (lower-level), Monday-Friday, between the hours of 8:30 a.m.–12 p.m. and 1-5 p.m. (Counter Hours are 8:30-9:30 a.m. and 1-2 p.m. or by appointment.) Information about Use Permits can be found on the City’s Community Development website at [www.ci.benicia.ca.us](http://www.ci.benicia.ca.us) [Planning Information Handouts](#) or may be obtained in person. Use Permit fees may vary but typically this type of Minor Use Permit requires a one-time fee of \$2,000 in addition to a Fire Inspection fee of \$100. Please note that a Use Permit requires a public hearing and a public hearing notice that is sent to neighbors within a 500-ft. radius from the property. Additional information is available in the Use Permit Application Checklist and the Mailing Notice Requirements in the following pages. You may call the Community Development Department at 707.746.4280 if you have questions about permitting and which applies to your residence.
2. **Obtain a Business License.** A Business License must be obtained online at <https://www.ci.benicia.ca.us/businesslicenses>. Short-Term Rentals owners should apply under the Short-Term Rental category. The first year, the fee will be approximately \$83. Each year thereafter, the fee will be based on gross receipts (x 0.00065). The business license tax is a minimum of \$65 and a maximum of \$587. The personal tax is \$9.75 per

full-time equivalent employee or owner. Proprietors should also expect to pay approximately \$18 in additional City and State fees. Business License renewals are due April 1 of each year.

3. **Obtain a Transient Occupancy Tax (TOT) Registration Certificate.** All short-term rental owners/operators must obtain a Transient Occupancy Registration Certificate. There is **no fee** for the certificate. Once staff has confirmed that a Transient Occupancy Tax Registration Form has been submitted, a Use Permit or Zoning Permit has been granted, a Business License obtained, and Transient Occupancy Tax is being paid, the TOT Registration Certificate will be issued by the Finance Director. The certificate should be displayed in a prominent place. The certificate will have a unique identifying number that should be used/referenced in all correspondence.

Transient Occupancy Tax is due quarterly. More details are available in the following sections of this manual.

\*A short-term rental may be classified as **hosted** (owner/manager resides and sleeps on-site during rentals) or **non-hosted** (owner/manager does not reside and sleep on-site during rental).





# Community Development Department

## Planning Division

Project Address:

Date:

Planner:  
accepting application

For Applicant's Use	For Staff Use	<b>Use Permit Application Checklist</b>  Please note: Your project planner may require additional information depending on the specifics of your project.	Use Permit Type			
			Temp	Day care	Staff	PC
			Requirement			
		<b>Application Form</b>	Yes			
		<b>Project Summary Sheet</b>	No	Yes		
		<b>Environmental Checklist</b>	Depending on Project			
		<b>Mailing Labels</b>	No	Yes (See <u>Mailing Notice</u> handout)		
		<b>Filing fee</b> • Write amount here: \$	Yes (see <u>Fee Schedule</u> )			
<b>For the following items, see <u>Submittal Standards</u> sheet</b>						
		<b>Written Statement</b>	Yes			
		<b>Site Plan</b>	6 sets			
		<b>Elevations and Architectural Plans</b> <b>Parking and Circulation Plan</b> <b>Landscaping Plan</b> <b>Lighting Plan</b> <b>Floor Plan</b> (Plans may be combined with the site plan or may be provided on separate sheets)	6 sets, if required (Depending upon project)			
		<b>Photographs</b> (1 set printed and 1 set electronic)	Yes	No	Yes	
		<b>Additional documents and materials, as needed</b> • Architectural historian's report • Historic photographs and/or maps • Title report • Traffic report • Stormwater Control Plan	Depending upon project			
		<b>Additional Plans Required Subsequent to Initial Submittal</b>  <b>Plans – If revised, but needs further staff review:</b>	6 sets			

For Applicant's Use	For Staff Use	<b>Use Permit Application Checklist</b> Please note: Your project planner may require additional information depending on the specifics of your project.	Use Permit Type			
			Temp	Day care	Staff	PC
			Requirement			
		Plans – Ready for Commission review:	1 full-size set, folded* 18 sets 11"x17"  *additional full-size sets may be required, depending upon project			



# Community Development Department Planning Division

## MAILING NOTICE REQUIREMENTS

The City of Benicia requires that all applications involving a public hearing shall include a list of the current owners of property within 500 feet of the project site. The list must include the property owners' names, addresses, and Assessor's Parcel Number. Preparation, verification, and submission of the property owner's list is your responsibility as the applicant. The list may be certified by a title insurance company as being from the most recent County tax roll, or you may prepare the list yourself. If you prepare the list and we find an error, the list will be returned to you for correction. Incorrect lists will be cause for finding your application incomplete.

Following are the requirements for mailing lists. Your application cannot be deemed complete without the mailing list, labels, and base map. Incomplete applications are not processed until they are deemed complete.

1. **Labels:** The property owners' names and address shall be provided on self-adhesive mailing labels, such as Avery label sheets. Lists typed on plain paper cannot be accepted. In the list, also include the name(s) and address(es) of the applicant and owner(s) of the subject parcel. You must submit **3** sets of labels.
2. **Assessor's Roll and Base Map(s):** Submit base maps at the same scale used by the Assessor's Office, and include a copy of the Assessment Roll. On the base map, the subject property must be outlined in red and noted as the subject parcel(s). An additional red line must be drawn at a 500 -foot radius from the subject parcel(s). The figure below shows how the maps should be prepared. Note that the 500 -foot radius must be measured from each corner of a parcel.





## GENERAL INFORMATION

**TRANSIENT OCCUPANCY TAX RATE:** 9% of Gross Rent (See Section 5 for Common TOT Fees)

**REMITTANCE DUE DATES:**  
First Quarter (January–March) **April 30**  
Second Quarter (April–June) **July 31**  
Third Quarter (July–September) **October 31**  
Fourth Quarter (October–December) **January 31**

**DELINQUENCY PENALTY:** For failure to pay before the remittance due date, the lodging provider is subject to a penalty and interest on the tax due. The first penalty is 10% of the tax due, which occurs if the City receives the payment after the above due date. A second penalty of 10% (10% of the tax due), in addition to the first penalty, occurs if the City does not receive payment by 30 days after the first payment became delinquent.  
Fraud: If it is determined that non-payment is due to fraud, an additional 25% of the tax due will be assessed in addition to above penalties.

**INTEREST:** .5% per month or fraction thereof on the amount of tax owed, exclusive of penalties.

**REMITTANCE ADDRESS:** City of Benicia  
Finance Department  
250 East L Street  
Benicia, CA 94510



## INSTRUCTIONS FOR COMPLETING A TRANSIENT OCCUPANCY TAX REMITTANCE FORM

Transient Occupancy Tax payments are due quarterly for each individual property or listing and are payable to the City of Benicia Finance Department at 250 East L Street by the last day of the month following the close of each quarter.

**QUARTER ENDING:**

March 31  
June 30  
September 30  
December 31

**TOT PAYMENT DUE:**

April 30  
July 31  
October 31  
January 31

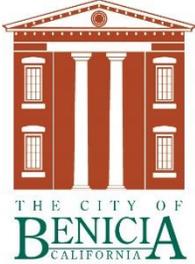
A copy of the quarterly Transient Occupancy Tax remittance form is to be submitted with payment. It is included in this packet (Section 3A) and is available on the City's website: [www.ci.benicia.ca.us/TOT](http://www.ci.benicia.ca.us/TOT).

Pursuant to the Benicia Municipal Code, the City of Benicia Finance Director is the tax administrator and has the authority to change the reporting and payment schedule.

At the time the quarterly tax payment is filed, the full amount of the tax is due. If you cease operating as a hotel, motel, inn or residential short-term rental, the outstanding transient occupancy tax is immediately due and payable.

Also included in this packet is a detailed explanation of common guest fees subject to payment of the Transient Occupancy Tax (Section 5), as well as an explanation of exemptions and the exemption form (Section 4).

Please note that failure to submit the required form and remit full payment will be subject to penalty and interest charges pursuant to Benicia Municipal Code Section 3.24.110 (Section 1).



# CITY OF BENICIA

## TRANSIENT OCCUPANCY TAX

### QUARTERLY REMITTANCE REPORT

TRANSIENT OCCUPANCY TAX COLLECTED FOR THE  
\_\_\_\_\_ QUARTER OF 20\_\_\_\_\_

**LODGING NAME:**  
**ADDRESS:**

**WHOLE HOUSE OR**  
**ROOM DESCRIPTION:**

MONTH	ROOM REVENUE	9% TAX
<b>TOTALS</b>		

Due on for before the last day of the month following the close of each calendar quarter (March 31, June 30, September 30, December 31) even if there was no rental occupancy.

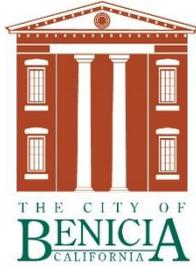
**Due: April 30 + July 31 + October 31 + January 31**

Submit this report, exemption forms, and payment to:

City of Benicia  
Finance Department  
250 East L Street  
Benicia, CA 94510

By my signature, I attest that the above is true and correct:

\_\_\_\_\_  
Name:  
Date:



## INSTRUCTIONS FOR COMPLETING A TRANSIENT OCCUPANCY TAX EXEMPTION FORM

A Transient Occupancy Tax Exemption Form must be completed for each night Transient Occupancy Tax (TOT) is not collected from a guest staying in at a hotel, motel, inn or short-term rental. A copy of all exemption forms must be included with the quarterly Transient Occupancy Tax Remittance Form and payment as a way to reconcile tax payment with the number of stays. Records shall be kept for a period of three (3) years and are subject to inspection by the City of Benicia Finance Director.

To qualify for the exemption, the guest must be **BOTH** an employee or officer of one of the exempted agencies<sup>1</sup> **AND** be on official government business.

Do not accept the claim unless the hotel guest provides you with at least one of the following:

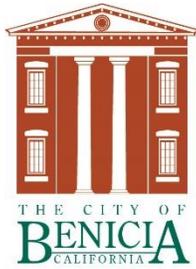
- Copy of official travel orders indicating the issuing governmental agency and the person's full name.
- Copy of a letter on the official letterhead of an exempt governmental agency requesting exemption and listing the employee's name and stating that the stay is for official government business. The dates of occupancy must also be included.
- A copy of the warrant or check from the government employer to pay for the occupancy.
- A receipt from the use of a government credit card issued by the employer to pay for the occupancy.

An exemption must be claimed/requested at the time of payment (or before), under penalty of perjury, by filling out the City of Benicia Transient Occupancy Tax Exemption Form. Pursuant the Benicia Municipal Code Section 3.24.040, below are the only exemptions permitted:

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<sup>1</sup> Types of **Federal Government Employers** include Federal; Military, FEMA, CIA, FBI, HUD, Red Cross, Federal Credit Union, Federal Financing Bank, Federal Home Loan Banks, Federal Home Loan Mortgage Corporation, Federal Land Bank Association, Federal National Mortgage Association, Federal Reserve Bank, National Mortgage Association, National Parks Foundation, etc. Types of **State Government Employers** include State Senate, State Assembly, Attorney General's Office, the executive branch of State government, state regulatory agencies, boards or commissions; the University of California, the California State University system; etc. Types of **Local Government Employers** include Cities, Counties, Special Districts, etc.

1. Any person as to whom, or any occupancy as to which, it is beyond to power of the City of Benicia to impose a Transient Occupancy Tax;
2. Any federal or state officer or employee on official business (including active-duty military);
3. Any officer or employee of a foreign government who is exempt by reason of express provision of federal law or international treaty.
4. 30 Day Rule:
  - a. Guests must pay Transient Occupancy Tax through the 29 days of a single stay, unless they have an agreement or reservation to stay more than 29 days at the time of check-in.
  - b. If they have an agreement to stay for more than 29 days, they need not pay the TOT unless they end their stay before the 30<sup>th</sup> day, at which point they owe TOT for the entire stay.
  - c. If a guest(s) stays without a prior 30-day agreement and then stays continuously for more than 29 days, they owe the TOT for the first 29 days of their stay.



**CITY OF BENICIA**  
**TRANSIENT OCCUPANCY TAX**  
**EXEMPTION FORM\***  
**Benicia Municipal Code Section 3.24.040**  
**California Revenue and Taxation Code §7280**

**HOTELIER:**

\_\_\_\_\_  
Hotel Name Hotel Address & Room #

Date of Occupancy \_\_\_\_\_ to \_\_\_\_\_ Total Rent Paid \$ \_\_\_\_\_

**ROOM(S) RENTED BY (check one):**

U.S. Government     State of \_\_\_\_\_     Foreign Government     30+ days Stay

**HOTEL GUEST:**

\_\_\_\_\_  
Name of Person Claiming Exemption Government Agency (if applicable)

\_\_\_\_\_  
Agency Department Area Code and Phone Number

\_\_\_\_\_  
Government Agency Street Address City, State, ZIP

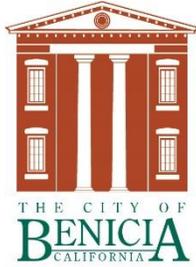
I certify that the occupancy of the room noted above has been (or will be) furnished for my exclusive use, and that I am an employee or officer of the federal, state, or local government agency named above, and that my occupancy is for official government business, or that my stay was more than 30 consecutive days and exempt from the tax.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on \_\_\_\_\_ at Benicia, California.  
Date

\_\_\_\_\_  
Signature of hotel guest claiming exemption Title

\*A copy of this form shall be submitted by Hotelier with each Quarterly TOT Remittance Form.



## COMMON GUEST FEES SUBJECT TO TRANSIENT OCCUPANCY TAX

### **NO-SHOW FEES:**

A No-Show Fee is charged when the potential guest breaches the contract they entered into when the reservation was made. By giving the lodging provider their credit card number, they are authorizing them to charge one nights rent (or however many nights were agreed) as liquidated damages for a breach of the contract. And if the potential guest is charged “rent” then they must also be charged Transient Occupancy Tax (TOT).

### **ATTRITION / CANCELLATION FEES FOR GROUP BOOKINGS:**

Same as No-Show Fees except that whereas these fees relate to an individual guest, Attrition Fees relate to an organization that has booked a series of “sleeping” rooms, meeting rooms and food beverage. The contract generally specifies that an “Attrition Fee” will be charged for any breach with specific liquidated damages. The ratio of sleeping accommodations to total services provided would be the percentage applied to the stated Attrition Fee which would be subject to TOT.

### **LATE CHECK-OUT FEES:**

A fee charged to a guest who requests to stay later than the stated check-out time. The Fee directly relates to sleeping accommodations and is therefore considered rent and is subject to TOT.

### **EXTRA PERSON CHARGES:**

Room rates are generally quoted for double occupancy and any guests exceeding that stated number would be subject to this extra charge. This charge directly relates to sleeping accommodations and is therefore considered rent and is subject to TOT.

### **RESORT FEES:**

These fees are an additional charge to guests that cover such things as Wi-Fi, use of swimming pool, gym or any other guest service. If the fee is Non-Optional (if you don’t pay, you don’t get to stay), then it is just another name for rent. And if it is rent, then it is subject to TOT.

**CLEANING FEES:**

(These fees relate only to units rented by rental agencies) These Non-Optional fees are charged to guests for cleaning the rented sleeping accommodations (single family houses, condominiums or townhouses) owned by individuals. They are sometimes included in the quoted rental rate and would be subjected to TOT. If, however these fees are listed separately they are still considered Non-Optional rent charges that are subject to TOT.

**SURCHARGES:**

A surcharge would be a charge in addition to the usual rental payment and would include such items as an energy surcharge or an in-room safe charge. If these fees are Non-Optional, they are considered rent by another name, but still rent and therefore are subject to TOT.

**ROLL-AWAY BED CHARGE:**

These charges are directly related to sleeping accommodations and are therefore deemed consideration paid for the privilege of occupancy and therefore are subject to TOT.

**PET FEES:**

These Fees are considered as a Non-Optional charge for the guest that agrees to pay this extra charge to have their pet stay in the room. If the guest does not agree to pay the extra charge, then they are not allowed to occupy the room – with their pet. And since Non-Optional charges are considered another name for rent, they are subject to TOT.

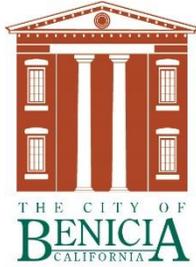
Common guest fees subject to TOT can be categorized as follows:

**DIRECTLY RELATED TO SLEEPING ACCOMMODATIONS**

No-Show Fees  
Attrition/Cancellation Fees  
Late Check-Out Fees  
Extra Person charge  
Roll-Away Bed Charge

**NON-OPTIONAL CHARGES (MANDATORY):**

Resort Fees  
Cleaning Fees  
Surcharges  
Pet Fees



## FREQUENTLY ASKED QUESTIONS

**Q: WHAT IS TRANSIENT OCCUPANCY TAX OR TOT?**

**A:** TOT is an acronym for Transient Occupancy Tax or hotel tax. The City of Benicia's TOT rate is 9% of applicable taxable transactions (gross receipts). Remittance of this tax is due quarterly within 30 days of the close of the previous quarter.

**Q: HOW DO I OBTAIN THE QUARTERLY TOT FORMS?**

**A:** The TOT Registration, Remittance and Exemption forms are included in this packet and are available online at [www.ci.benicia.ca.us/TOT](http://www.ci.benicia.ca.us/TOT).

**Q: DO I NEED TO SUBMIT A TOT REMITTANCE FORM IF I DID NOT HAVE ANY RENTAL RECEIPTS FOR THE QUARTER?**

**A:** Yes, a Remittance form must be submitted within 30 days of the end of each quarter regardless of the number of rentals:

Quarter ending **March 31** is due on or before April 30; quarter ending **June 30** is due on or before July 31; quarter ending **September 30** is due on or before October 31; and quarter ending **December 31** is due on or before January 31.

If you are no longer operating as a hotel, motel, inn or residential short-term rental, you are required to notify the City of Benicia in writing addressed to the Community Development Department at 250 East L Street, Benicia CA 94510.

**Q: HOW CAN I OBTAIN TOT FINANCIAL INFORMATION FOR THE CITY OF BENICIA?**

**A:** The City of Benicia only provides TOT information on a city-wide, aggregate basis. Please contact the City of Benicia Finance Department at the above address or call 707.746.4225.

**Q: IS A BUSINESS LICENSE REQUIRED?**

**A:** Yes. See Section 1, Instructions for Registering.

**Q: IS A USE PERMIT REQUIRED?**

**A:** Yes. See Section 1, Instructions for Registering.



## Short-term Rental Host safety tips:

- Apply for the appropriate permit and license as required. More information can be found at [www.ci.benicia.ca.us/str](http://www.ci.benicia.ca.us/str).
- Always receive payment and communicate through a trusted website (e.g. AirBnB, VRBO, etc.).
- Read profiles, verify phone numbers, connected social networks and references on your potential guests.
- Get insurance in the event of third-party claim of bodily injury or property damage related to a rental stay.
- Set requirements and security deposit.
- Install OUTDOOR cameras that face all doors, driveway or backyard. You won't be invading your guests' privacy but you will have a record of anyone coming and going from your home.
- Have a keypad door lock. Physical keys might get lost by guests, or worse, open the possibility of anyone making copies. You can always change the code to a keyless entry after each guest.
- Trust your instinct. If it doesn't seem right, move on to the next potential guest.



## Chapter 3.24

### TRANSIENT OCCUPANCY TAX<sup>1</sup>

#### Sections:

- [3.24.010](#) Title.
- [3.24.020](#) Definitions.
- [3.24.030](#) Imposition.
- [3.24.040](#) Exemptions.
- [3.24.050](#) Operator's duties.
- [3.24.060](#) Registration.
- [3.24.070](#) Recordkeeping.
- [3.24.080](#) Remittance.
- [3.24.090](#) Refunds.
- [3.24.100](#) Remittance failure – Procedure.
- [3.24.110](#) Remittance failure – Penalties and interest.
- [3.24.120](#) Appeal.
- [3.24.130](#) Actions to collect.
- [3.24.140](#) Violation.

#### **3.24.010 Title.**

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This chapter may be known as the “uniform transient occupancy tax ordinance of the city of Benicia.” (Prior code § 11-501).

#### **3.24.020 Definitions.**

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

- A. “Hotel” means 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, lodginghouse, roominghouse, apartment house, dormitory, public or private club, mobile home or house trailer at a fixed location, or other similar structure or portion thereof.
- B. “Occupancy” means 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.
- C. “Operator” means the person who is proprietor of the hotel, whether in the capacity of owner, lessee, sublessee, mortgagee in possession, licensee, or any other capacity. Where the operator performs his 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.
- D. “Person” means any individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate, or any other group or combination acting as a unit.
- E. “Rent” means the consideration charged, whether or not received, for the occupancy of space in a hotel

valued in money, whether to be received in cash, credits and property and services of any kind or nature, without any deduction therefrom whatsoever.

F. "Tax administrator" means the city administrator.

G. "Transient" means any person who exercises occupancy or is entitled to occupancy by reason of concession, permit, right of access, license or other agreement for a period of 29 consecutive calendar days or less, counting portions of calendar days as full days. Any such person so occupying space in a hotel shall be deemed to be a transient until the period of 29 days has expired unless there is an agreement in writing between the operator and the occupant providing for a longer period of occupancy. In determining whether a person is a transient, uninterrupted periods of time extending both prior to and subsequent to the effective date of this chapter may be considered. (Prior code § 11-502).

### **3.24.030 Imposition.**

---

For the privilege of occupancy in any hotel/motel, each transient is subject to and shall pay a tax in the amount of nine percent of the rent charged by the operator. This 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/motel 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/motel. If, for any reason, the tax is not paid to the operator of the hotel/motel, the tax administrator may require that such tax shall be paid directly to the tax administrator. (Ord. 93-13 N.S. § 1, 1993; Ord. 75-2 N.S. § 1, 1975; prior code § 11-503).

### **3.24.040 Exemptions.**

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A. No tax shall be imposed upon:

1. Any person as to whom, or any occupancy as to which, it is beyond the power of the city to impose the tax herein provided;
2. Any federal or state 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.

B. No exemption shall be granted except upon a claim therefor made at the time rent is collected and under penalty of perjury upon a form prescribed by the tax administrator. (Prior code § 11-504).

### **3.24.050 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. (Prior code § 11-505).

### **3.24.060 Registration.**

---

Within 30 days after the effective date of this chapter, or within 30 days after commencing business, whichever is later, each operator of any hotel renting occupancy to transients shall register the hotel with the

tax administrator and obtain from him a "Transient Occupancy Registration Certificate" to be at all times posted in a conspicuous place on the premises. The 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. The following:

This Transient Occupancy Registration Certificate signifies that the person named on the face hereof has fulfilled the requirements of the Uniform Transient Occupancy Tax Ordinance by registering with the tax administrator for the purpose of collecting from transients the transient occupancy tax and remitting the tax to the tax administrator. This certificate does not authorize a person to conduct unlawful business or to conduct 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.

(Prior code § 11-506).

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### **3.24.070 Recordkeeping.**

Every operator liable for the collection and payment to the city of any tax imposed by this chapter shall keep and preserve, for a period of three years, all records as may be necessary to determine the amount of such tax as he may have been liable for the collection of and payment to the city, which records the tax administrator shall have the right to inspect at all reasonable times. (Prior code § 11-511).

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### **3.24.080 Remittance.**

Each operator shall, on or before the last day of the month following the close of each calendar quarter, or at the close of any shorter reporting period which may be established by the tax administrator, make a return to the tax administrator, on forms provided by him, of the total rents charged and received and the amount of tax collected for transient occupancies. At the time the return is filed, the full amount of the tax collected shall be remitted to the tax administrator. The tax administrator may establish shorter reporting periods for any certificate holder if he deems it necessary in order to ensure collection of the tax and he may require further information in the return. Returns and payments are due immediately upon cessation of business for any reason. All taxes collected by operators pursuant to this chapter shall be held in trust for the account of the city until payment thereof is made to the tax administrator. (Prior code § 11-507).

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### **3.24.090 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 subsections (B) and (C) of this section, provided a claim in writing therefor, stating under penalty of perjury the specific grounds upon which the claim is founded, is filed with the tax administrator within three years of the date of payment. The claim shall be on forms furnished by the tax administrator.

B. An operator may claim a refund or take as credit against taxes collected and remitted the amount overpaid, paid more than once or erroneously or illegally collected or received when it is established in a manner prescribed by the tax administrator that the person from whom the tax has been collected was not a transient; provided, however, that neither a refund nor a credit shall be allowed unless the amount of the tax so collected

has either been refunded to the transient or credited to rent subsequently payable by the transient to the operator.

C. A transient may obtain a refund of taxes overpaid or paid more than once or erroneously or illegally collected or received by the city by filing a claim in the manner provided in subsection (A) of this section, but only when the tax was paid by the transient directly to the tax administrator, or when the transient having paid the tax to the operator, establishes to the satisfaction of the tax administrator that the transient had 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 established his right thereto by written records showing entitlement thereto. (Prior code § 11-512).

### **3.24.100 Remittance failure – Procedure.**

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If any operator fails or refuses to collect said tax and to make, within the time provided in this chapter, any report and remittance of said tax or any portion thereof required by this chapter, the tax administrator shall proceed in such manner as he may deem best to obtain facts and information on which to base his estimate of the tax due. As soon as the tax administrator procures such facts and information as he is able to obtain upon which to base the assessment of any tax imposed by this chapter and payable by any operator who has failed or refused to collect the same and to make such report and remittance, he shall proceed to determine and assess against such operator the tax, interest and penalties provided for by this chapter. In case such determination is made, the tax administrator shall give a notice of the amount so assessed by serving it personally or by depositing it in the United States mail, postage prepaid, addressed to the operator so assessed at his last known place of address. Such operator may within 10 days after the serving or mailing of such notice make application in writing to the tax administrator for a hearing on the amount assessed. If application by the operator for a hearing is not made within the time prescribed, the tax, interest and penalties, if any, determined by the tax administrator shall become final and conclusive and immediately due and payable. If such application is made, the tax administrator shall give not less than five 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 specific tax, interest and penalties should not be fixed. After such hearing, the tax administrator shall determine the proper tax to be remitted and shall thereafter give written notice to the person in the manner prescribed herein of such determination and the amount of such tax, interest and penalties. The amount determined to be due shall be payable after 15 days unless an appeal is taken as provided in BMC [3.24.120](#). (Prior code § 11-509).

### **3.24.110 Remittance failure – Penalties and interest.**

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A. Original Delinquency. An 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. An operator who fails to remit a delinquent remittance on or before a period of 30 days following the date on which the remittance first becomes 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 tax administrator 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 subsections (A) and (B) of this section.

D. Interest. In addition to the penalties imposed, any operator who fails to remit any tax imposed by this chapter shall pay interest at the rate of one-half of one percent per month or fraction thereof on the amount of the tax, exclusive of penalties, from the date on which the remittance first became delinquent until paid.

E. Penalties Merged with Tax. Every penalty imposed and such interest as accrues under the provisions of this section shall become a part of the tax required to be paid. (Prior code § 11-508).

### **3.24.120 Appeal.**

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An operator aggrieved by any decision of the tax administrator with respect to the amount of such tax, interest and penalties, if any, may appeal to the council in accordance with Chapter [1.44](#) BMC. Any amount found to be due shall be immediately due and payable upon the service of notice. (Ord. 07-28 § 1; prior code § 11-510).

### **3.24.130 Actions to collect.**

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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 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. (Prior code § 11-513).

### **3.24.140 Violation.**

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It is a violation of this code to:

A. Fail or refuse to register as required in this chapter, or to furnish a return required to be made or fail or refuse to furnish a supplemental return or other data required by the tax administrator; or

B. Render a false or fraudulent return claim; or

C. Make, render, sign or verify any report or claim or make any false or fraudulent report of claim with intent to defeat or evade the determination of any amount due required by this chapter to be made. (Ord. 03-9 § 4; prior code § 11-514).

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<sup>1</sup> For statutory provisions authorizing local taxes on transient occupancies, see Revenue and Taxation Code §§ [7280](#) and [7281](#).

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**The Benicia Municipal Code is current through Ordinance 17-15, passed December 19, 2017.**

Disclaimer: The City Clerk's Office has the official version of the Benicia Municipal Code. Users should contact the City Clerk's Office for ordinances passed subsequent to the ordinance cited above.

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