

# 3. REVENUE AND FINANCE

## Title 3

### REVENUE AND FINANCE

#### Chapters:

- 3.04 Transfer of Tax Assessment and Collection Duties to County
- 3.08 Claims Against the City
- 3.12 Sales and Use Tax
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## Chapter 3.04

### TRANSFER OF TAX ASSESSMENT AND COLLECTION DUTIES TO COUNTY

#### Sections:

- 3.04.010 Definitions.
- 3.04.020 Transfer of duties.
- 3.04.030 Abolition of offices of city assessor and city tax collector.
- 3.04.040 Filing of certified copy.

#### 3.04.010 Definitions.

The following words and expressions when used in this chapter shall for the purpose of this chapter have the meanings respectively ascribed to them as follows:

“City” means the city of Amador City, a municipal corporation, situated in the county of Amador, state of California.

“County” means the county of Amador, a political subdivision of the state of California. (Ord. 42 § 1, 1968)

#### 3.04.020 Transfer of duties.

The assessment and tax collection duties, and the collection of assessments levied for municipal improvements, now performed by the assessor and the tax collector of the city, are transferred to the assessor and the tax collector of the county effective January 1, 1969. (Ord. 42 § 2, 1968)

#### 3.04.030 Abolition of offices of city assessor and city tax collector.

The offices of city assessor and city tax collector are abolished as of the close of business December 31, 1968, and thereafter all duties performed by the city assessor other than the assessing of property in the city, and all duties performed by the city tax collector other than the collection of ad valorem taxes on property and the collection of assessments for municipal improvements are transferred to and may be performed by the city clerk. (Ord. 42 § 3, 1968)

#### 3.04.040 Filing of certified copy.

The city clerk shall cause a certified copy of this chapter to be filed with the auditor of the county and the State Board of Equalization before January 1, 1969. (Ord. 42 § 4, 1968)

## Chapter 3.08

### CLAIMS AGAINST THE CITY

#### Sections:

- 3.08.010 Purpose and authority.**
- 3.08.020 Local claims procedures established.**

#### **3.08.010 Purpose and authority.**

The purpose of this chapter is to establish local claims procedures as authorized by Government Code Section 935 to govern money claims brought against the city that are exempt from state law claims procedures under the Tort Claims Act. (Ord. 127 § 1, 1997)

#### **3.08.020 Local claims procedures established.**

Pursuant to Government Code Section 935, the city establishes the following claims procedures to apply to those claims against the city that are exempt from the Tort Claims Act under Government Code Section 905:

A. All claims for money damages against the city that are exempt from the Tort Claims Act under Government Code Section 905, and that are not governed by any other statute or regulation expressly relating to such claim, shall be presented to the city within the time limitations and in the manner set forth in Government Code Sections 910 through 915.2.

B. When a claim required by this chapter to be presented within a period of less than one year after the accrual of the cause of action is not presented within the required time, an application for leave to file a late claim may be made and processed in accordance with Government Code Sections 911.4(b), 911.6 to 912.2, and 946.6. A late claim also shall be subject to Government Code Section 946.4. (See Gov. Code Section 935(e).)

C. Claims shall be subject to the provisions of Government Code Section 945.4 relating to the prohibition of lawsuits until the presentation of and action on a claim. No lawsuit for money or damages may be brought against the city on a cause of action for which a claim is required to be presented in accordance with this chapter until a written claim therefore has been presented to the city and has been acted upon by the city council, or has been deemed to have been rejected by the city council, in accordance with the procedures at Government Code Sections 910 through 915. (See Gov. Code Section 935(b).)

D. Any lawsuit brought against the city on a claim

subject to this chapter shall be subject to the provisions of Government Code Sections 945.6 (lawsuit filing limitations) and 946 (lawsuit barred after claim allowed in full or part). Any lawsuit against the city on a claim subject to this chapter must be commenced within the time limitations of Government Code Section 945.6. (See Gov. Code Section 935(b).)(Ord. 127 § 2 1997)

## Chapter 3.12

### SALES AND USE TAX

#### Sections:

- 3.12.010 Short title.**
- 3.12.020 Rate.**
- 3.12.030 Operative date.**
- 3.12.040 Purpose.**
- 3.12.050 Contract with state.**
- 3.12.060 Sales tax.**
- 3.12.070 Place of sale.**
- 3.12.080 Use tax.**
- 3.12.090 Adoption of provisions of state law.**
- 3.12.100 Limitation on adoption of state law.**
- 3.12.110 Permit not required.**
- 3.12.120 Exclusions and exemptions.**
- 3.12.130 Amendments.**
- 3.12.140 Enjoining collection forbidden.**
- 3.12.150 Violations—Penalties.**

#### **3.12.010 Short title.**

This chapter shall be known as the “Uniform Local Sales and Use Tax Ordinance.” (Ord. 58 § 1, 1983)

#### **3.12.020 Rate.**

The rate of sales tax and use tax imposed by this chapter shall be one percent. (Ord. 58 § 2, 1983)

#### **3.12.030 Operative date.**

This chapter shall be operative on January 1, 1984. (Ord. 58 § 3, 1983)

#### **3.12.040 Purpose.**

The city council declares that this chapter is adopted to achieve the following, among other, purposes, and directs that the provisions hereof be interpreted in order to accomplish those purposes:

A. To adopt a sales and use tax ordinance which complies with the requirements and limitations contained in Part 1.5 of Division 2 of the Revenue and Taxation Code;

B. To adopt a sales and use tax ordinance which incorporates provisions identical to those of the Sales and Use Tax Law of the state of California insofar as those provisions are not inconsistent with the requirements and limitations contained in Part 1.5 of Division 2 of the Revenue And Taxation Code;

C. To adopt a sales and use tax ordinance which imposes a tax and provides a measure therefor that can be administered and collected by the State Board of Equalization in a manner that adapts itself as fully as practicable to, and requires the least possible deviation from the existing statutory and administrative procedures followed by the State Board of Equalization in administering and collecting the California State Sales and Use Taxes;

D. To adopt a sales and use tax ordinance which can be administered in a manner that will, to the degree possible consistent with the provisions of Part 1.5 of Division 2 of the Revenue and Taxation Code, minimize the cost of collecting city sales and use taxes and at the same time minimize the burden of record keeping upon persons subject to taxation under the provisions of this chapter. (Ord. 58 § 4, 1983)

#### **3.12.050 Contract with state.**

Prior to the operative date this city shall contract with the State Board of Equalization to perform all functions, incident to the administration and operation of this sales and use tax ordinance; provided, that if this city shall not have contracted with the State Board of Equalization prior to the operative date, it shall nevertheless so contract and in such a case the operative date shall be the first day of the first calendar quarter following the execution of such a contract rather than the first day of the first calendar quarter following the adoption of the ordinance codified in this chapter. (Ord. 58 § 5, 1983)

#### **3.12.060 Sales tax.**

For the privilege of selling tangible personal property at retail a tax is imposed upon all retailers in the city at the rate stated in Section 3.12.020 of the gross receipts of the retailer from the sale of all tangible personal property sold at retail in this city on and after the operative date. (Ord. 58 § 6, 1983)

#### **3.12.070 Place of sale.**

For the purposes of this chapter, all retail sales are consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or his or her agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination. The gross receipts from such sales shall include delivery charges, when such charges are subject to the state sales and use tax, regardless of the place to which delivery is made. In the event a retailer has no permanent place of business in the state or has more than one place of business, the place or places at which the retail sales are consummated shall be determined

under rules and regulations to be prescribed and adopted by the State Board of Equalization. (Ord. 58 § 7, 1983)

**3.12.080 Use tax.**

An excise tax is imposed on the storage, use or other consumption in this city of tangible personal property purchased from any retailer on and after the operative date for storage, use or other consumption in this city at the rate stated in Section 3.12.020 of the sales price of the property. The sales price shall include delivery charges when such charges are subject to state sales or use tax regardless of the place to which delivery is made. (Ord. 58 § 8, 1983)

**3.12.090 Adoption of provisions of state law.**

Except as otherwise provided in this chapter and except insofar as they are inconsistent with the provisions of Part 1.5 of Division 2 of the Revenue and Taxation Code, all of the provisions of Part 1 of Division 2 of the Revenue and Taxation Code are adopted and made a part of this chapter as though fully set forth herein. (Ord. 58 § 9, 1983)

**3.12.100 Limitation on adoption of state law.**

In adopting the provisions of Part 1 of Division 2 of the Revenue and Taxation Code, wherever the state of California is named or referred to as the taxing agency, the name of this city shall be substituted therefor. The substitution, however, shall not be made when the word "state" is used as part of the title of the State Controller, the State Treasurer, the State Board of Control, the State Board of Equalization, the State Treasury, or the Constitution of the State of California; the substitution shall not be made when the result of that substitution would require action to be taken by or against the city, or any agency thereof rather than by or against the State Board of Equalization, in performing the functions incident to the administration or operation of this chapter; the substitution shall not be made in those sections, including, but not necessarily limited to, sections referring to the exterior boundaries of the state of California, where the result of the substitution would be to provide an exemption from this tax with respect to certain sales, storage, use, or other consumption of tangible personal property which would not otherwise be exempt from this tax while such sales, storage, use, or other consumption remain subject to tax by the state under the provisions of Part 1 of Division 2 of the Revenue and Taxation Code, or to impose this tax with respect to certain sales, storage, use, or other consumption of tangible personal property which would

not be subject to tax by the state under the provisions of that code; the substitution shall not be made in Sections 6701,6702 (except in the last sentence thereof), 6711, 6715, 6737,6797 or 6828 of the Revenue and Taxation Code; and the substitution shall not be made for the word "state" hi the phrase "retailer engaged in business in this state" in Section 6203 or in the definition of that phrase in Section 6203. (Ord. 58 § 10, 1983)

**3.12.110 Permit not required.**

If a seller's permit has been issued to a retailer under Section 6067 of the Revenue and Taxation Code, an additional seller's permit shall not be required by this chapter. (Ord. 58 §11,1983)

**3.12.120 Exclusions and exemptions.**

A. The amount subject to tax shall not include any sales or use tax imposed by the state of California upon a retailer or consumer.

B. The storage, use, or other consumption of tangible personal property, the gross receipts from the sale of which have been subject to tax under a sales and use tax ordinance enacted in accordance with Part 1.5 of Division 2 of the Revenue and Taxation Code by any city and county, county, or city in this state shall be exempt from the tax due under this chapter.

C. There are exempted from the computation of the amount of the sales tax the gross receipts from the sale of tangible personal property to operators of aircraft to be used or consumed principally outside the city in which the sale is made and directly and exclusively in the use of such aircraft and common carriers of persons or property under the authority of the laws of this state, the United States, or any foreign government

D. In addition to the exemptions provided in Sections 6366 and 6366.1 of the Revenue and Taxation Code the storage, use, or other consumption of tangible personal property purchased by operators of aircraft and used or consumed by such operators directly and exclusively in the use of such aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity issued pursuant to the laws of this state, the United States, or any foreign government is exempted from the use tax. (Ord. 58 § 12, 1983)

**3.12.130 Amendments.**

All subsequent amendments of the Revenue and Taxation Code which relate to the sales and use tax and which are not inconsistent with Part 1.5 of Division 2 of the Revenue and Taxation Code shall automatically become a part of this chapter. (Ord. 58 § 16, 1983)

**3.12.440 Enjoining collection forbidden.**

No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action or proceeding in any court against the state or this city, or against any officer of the state or this city, to prevent or enjoin the collection under this chapter, or Part 1.5 of Division 2 of the Revenue and Taxation Code, of any tax or any amount of tax required to be collected. (Ord. 58 § 17,1983)

**3.12.150 Violations—Penalties.**

Any person violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine of not more than five hundred dollars (\$500.00) or by imprisonment for a period of not more than six months, or by both such fine and imprisonment. (Ord. 58 § 18, 1983)

## Chapter 3.16

### TRANSIENT OCCUPANCY TAX

#### Sections:

<b>3.16.010</b>	<b>Short title.</b>
<b>3.16.020</b>	<b>Definitions.</b>
<b>3.16.030</b>	<b>Tax imposed.</b>
<b>3.16.040</b>	<b>Exemptions.</b>
<b>3.16.050</b>	<b>Operator's duties.</b>
<b>3.16.060</b>	<b>Registrations.</b>
<b>3.16.070</b>	<b>Reporting and remitting.</b>
<b>3.16.080</b>	<b>Penalties and interest.</b>
<b>3.16.090</b>	<b>Failure to collect and report tax— Determination of tax by city clerk.</b>
<b>3.16.100</b>	<b>Appeals.</b>
<b>3.16.110</b>	<b>Records.</b>
<b>3.16.120</b>	<b>Refunds.</b>
<b>3.16.130</b>	<b>Actions to collect transient occupancy tax a debt.</b>
<b>3.16.140</b>	<b>Lien.</b>
<b>3.16.150</b>	<b>Use of revenues.</b>
<b>3.16.160</b>	<b>Violations—Infraction.</b>

#### **3.16.010 Short title.**

This chapter shall be known as the “Uniform Transient Occupancy Tax of the City of Amador City.” This chapter may also be known as the “transient occupancy tax.” (Ord. 140 § 1, 2000)

#### **3.16.020 Definitions.**

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

“City clerk” means the city clerk of the city of Amador City.

“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, lodging house, public or private club, or other similar structure or portion thereof.

“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 or dwelling, for lodging or sleeping purposes.

“Operator” means the person who is proprietor of the hotel whether in the capacity of owner, lessee, sublessee, mortgagee in possession, licensee, or any other capacity. Where the operator performs his or her functions through a managing agent of any type or character other than an employee, the managing agent shall also be deemed an operator for the purposes of this 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.

“Person” means any individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate or any other group or combination acting as a unit.

“Rent” means the consideration charged, whether or not received, for the occupancy of space in a hotel valued in money, whether to be received in money, goods, labor or otherwise including receipts, cash, credits and property and services of any kind or nature, without any deduction therefrom whatsoever.

“Transient” means any individual who exercises occupancy or is entitled to occupancy by reason or concession, permit, right of access, license or other agreement for a period of thirty (30) consecutive calendar days or less, counting portions of calendar days as full days. Any such individual so occupying space in a hotel shall be deemed to be a transient until the period of thirty (30) days has expired unless there is an agreement in writing between the operator and the individual providing for a longer period of occupancy. In determining whether an individual is a transient, uninterrupted periods of time extending both prior and subsequent to the effective date of the ordinance codified in this chapter may be considered. For the purposes of this chapter, an individual is deemed to be a physical person only as opposed to a legal person or organization. (Ord. 140 § 2, 2000)

#### **3.16.030 Tax imposed.**

For the privilege of occupancy in any hotel, each transient is subject to and shall pay a tax in an amount equal to the prevailing state of California sales tax rate but shall not be less than the sum of the amount of seven and one-quarter 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 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 city clerk may require that such tax shall be paid directly to the city of Amador City. (Ord. 140 § 3, 2000)

### **3.16.040 Exemptions.**

A. No tax shall be imposed upon: 1.

Any transient as to whom, or any occupancy as to which it is beyond the power of the city to impose the tax here provided; or

2. Any officer or employee of a foreign or domestic government or domestic corporation that is exempt by reason of express provision of federal law or international treaty, provided billing is made directly to and payment is received from the governmental agency qualifying for this exemption. 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 city clerk.

B. Whenever an operator charges a transient rent, and such charges prove to be uncollectible, those amounts are not subject to the tax. However, if these amounts are subsequently collected, the amount of tax shall be included in the amount paid to the city when filing the next return.

C. If any operator shall fail or refuse to collect the tax and to make, within the time provided in this chapter, any report and remittance of the tax or any portion thereof required by this chapter, the city clerk 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 city clerk has procured 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 by this chapter. In case such determination is made, the city clerk 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.

D. Such operator may within twenty (20) calendar days after the serving or mailing of such notice, make application in writing to city clerk for a hearing on 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 city clerk shall become final and conclusive and immediately due and payable. If such application is made the city clerk shall give not less than ten (10) calendar days written notice in the manner prescribed herein to the operator to show cause at a time and place fixed in the 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 city clerk 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 twenty (20) calendar days unless an appeal is taken as provided in Section 3.16.100. (Ord. 140 § 4, 2000)

### **3.16.050 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. (Ord. 140 § 5, 2000)

### **3.16.060 Registrations.**

Within thirty (30) days after the effective date of the ordinance codified in this chapter as to the hotel operators commencing business after the effective date of said ordinance, each operator of any hotel renting occupancy to transients shall register said hotel with the city clerk and obtain from him or her/her a "transient occupancy registration certificate" to be at all times posed 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. "This Transient Occupancy Registration Certificate signifies that the person named on the face hereof has fulfilled

the requirements of the Uniform Transient Tax Ordinance by registering with the city clerk for the purpose of collecting from transients the Transient Occupancy Tax and remitting said tax to the city clerk. 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.” (Ord. 140 § 6, 2000)

### **3.16.070 Reporting and remitting.**

A. Each operator who received over one hundred thousand dollars (\$100,000.00) in gross receipts during the previous calendar year shall on or before the tenth day following each month make a return to the city clerk on forms provided of the total rents charged and submit the amount of tax collected for transient occupancies.

B. Each operator who received between five thousand dollars (\$5,000.00) and ninety- nine thousand nine hundred ninety-nine dollars (\$99,999.00) in gross receipts during the previous calendar year shall on or before the last day of the month following the close of each calendar quarter make a return to the city clerk on the forms provided of the total rents charged and submit the amount of tax collected for transient occupancies.

C. Each operator who received under five thousand dollars (\$5,000.00) in gross receipts during the previous calendar year shall, on or before January 31st of each year, make a re turn to the city clerk on forms provided of the total rents collected and its amount of tax collected for transient occupancies for the preceding year. (Ord. 140 § 7, 2000)

### **3.16.080 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 twenty-five (25) percent of the amount of the tax in addition to the amount of the tax.

B. Fraud. If the city clerk determines that the nonpayment of any remittance due upon this chapter is due to fraud, a penalty of fifty (50) percent of the amount of the tax shall be added thereto in addition to the penalties stated in subsection A of this section.

C. 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 percent per month or fraction thereof on the amount of the tax, inclusive of penalties, from the date on which the remittance first became delinquent until paid.

D. Penalties Merged With Tax. Every penalty imposed and such interest as accrues under the provisions of this section shall become a part of the tax herein required to be paid. (Ord. 140 § 8, 2000)

### **3.16.090 Failure to collect and report tax Determination of tax by city clerk.**

A. If any operator shall fail or refuse to collect the tax and to make, within the time provided in this chapter, any report and remittance of the tax or any portion thereof required by this chapter, the city clerk 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 city clerk has procured 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 city clerk 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 ten (10) days after the serving or mailing of such notice, make application in writing to the city clerk 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 city clerk shall become final and conclusive and immediately due and payable. If such application is made the city clerk shall give not less than five days written notice in the manner prescribed herein to the operator to show cause at the 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 city clerk 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 fifteen (15) days unless an appeal is taken as provided in Section 3.16.100.

B. Security for Collection of Tax. When ever any operator has failed to report or remit the transient occupancy tax as required by Section 3.16.070 of this chapter, and such failure results hi a continued delinquency as defined under Section 3.16.080(B), the city clerk may require such operator to deposit with him or her forthwith such security in the form of cash, bond, or other security as the city clerk may determine.

The amount of the security shall be fixed by the city clerk, but for the reporting period applicable to the operator. The estimated average liability shall be determined in the same manner as required under subsection A of this section.

C. Withdrawals From Security Deposit. Whenever any operator fails to remit any delinquent remittance due under this chapter on or before the period designated in subsection A of this section, the city clerk may notify the operator that the amount due and owing to the city from the operator for the tax, interest and penalty as imposed by this chapter, or any portion of them, shall be transferred for use as provided under Section 3.16.150 of this chapter.

The city clerk may notify the operator that he or she is required to redeposit forthwith the amount deducted from the deposit. (Ord. 140 § 9, 2000)

### **3.16.100 Appeals.**

A. Any person or operator whose rights or interests have been directly and adversely affected by a transient occupancy tax ruling or finding of fact made by the city clerk under the authority of this chapter may appeal therefrom in writing to the city council within twenty (20) calendar days from the date of notification of such ruling or finding. The city council in individual cases may, in its exercise of reasonable discretion in administering the provision of this chapter, enlarge the twenty (20) calendar day period in which to file an appeal.

B. The city council shall give notice in writing to the aggrieved party following his or her timely request for an appeal setting forth the time and place of the hearing of the appeal. The notice of hearing of the appeal shall be directed to the address set forth on the appeal by the aggrieved party.

C. Notice of appeal by the aggrieved party shall set forth thereon the date of the hearing of the appeal. The aggrieved individual shall be allowed an opportunity to personally appear before the city council to personally present his or her or her opposition to the findings of the city clerk.

D. The hearing of the appeal shall be held at the time of the regularly scheduled meeting of the city council. The city council upon completion of the hearing shall make findings of fact in support of its decision on appeal and provide a copy of said findings of fact to the aggrieved individual.

E. The city council shall exercise its reasonable discretion in administering the provisions of this chapter in rendering a decision on appealed rulings and findings.

F. Any tax, penalty, or interest found to be owing is due and payable at the time the city council decision thereon becomes final.

G. Composition. The city council shall consist of a quorum of the members of the city council of the city of Amador and such body shall hear and determine appeals of orders or decisions of the city clerk

H. Extension of Time for Filing and Payment. On written application showing good cause, the board of review or its chairperson may, with or without hearing, by written order filed with the city clerk, extend for more than twenty (20) calendar days the time period in this chapter for filing of any transient occupancy tax return or making any payment. For the period of such extension the penalty in regard thereto shall be waived.

I. Exhaustion of Remedies. Any person whose case may be resolved by employing the administrative remedies provided by this section must exhaust those remedies before filing suit for refund, rebate, exemption cancellation, amendment, adjustment, or modification of tax, interest or penalty.

J. Review of Transient Occupancy Tax Ruling. The city council on motion of any of its council persons shall hold a hearing to ascertain its position regarding any transient occupancy tax ruling. The board may affirm, modify, or reverse such ruling as necessary or advisable to effectuate the purposes of this chapter. The city council's decision on such ruling shall have only prospective effect. (Ord. 140§ 10,2000)

### **3.16.110 Records.**

It shall be the duty of every operator liable for the collection and payment to the city of any tax imposed by this chapter to keep and preserve, for a period of three years, all records as may be necessary to determine the amount of such tax as he or she may have been liable for the collection of and payment to the city, which records the city clerk shall have the right to inspect at all reasonable times. (Ord. 140 § 11,2000)

**3.16.120 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 city clerk within three years of the date of payment. The claim shall be on forms furnished by the city clerk.

B. An operator may claim a refund or take as credit against taxes collected and remitted the amount overpaid, or erroneously or illegally collected or received; 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 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 city clerk that the transient cannot obtain a refund from the operator who collected the tax and remitted it to the city.

D. No refund shall be paid under the provisions of this section unless the claimant establishes to the satisfaction of the city clerk his or her right thereto by written records showing entitlement thereto. (Ord. 140 § 12, 2000)

**3.16.130 Actions to collect transient occupancy tax a debt.**

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 provisions of this chapter shall be liable to an action brought in the name of the city of Amador City for this recovery of such amount.

An action to collect the transient occupancy tax must be commenced within three years of the date the transient occupancy tax becomes delinquent. An action to collect the penalty for nonpayment of the transient occupancy tax must be commenced within three years of the date the penalty accrues.

The amount of transient occupancy tax, penalty and interest imposed under the provisions of this chapter is assessed against the business property on which the tax is imposed in those instances where the owner/operator of the business property are one and the same. If the taxes are not paid when due, such tax, penalty and interest shall constitute a special assessment against such business property and shall be a lien on the property for the amount thereof, which lien shall continue until the amount thereof including all penalties and interest are paid, or until it is discharged of record. (Ord. 140 § 13,2000)

**3.16.140 Lien.**

A. Notice of Hearing on Lien. The city clerk shall file with the city council a written notice of those persons against whose property the city will file liens. Upon receipt of such notice the city council shall forthwith, by resolution, fix a time and place for a public hearing on such notice.

The city clerk shall cause a copy of such notice to be served upon the owner of the business/business property not less than ten (10) days prior to the time fixed for such hearing. Mailing a copy of such notice to the owner of the business/business property at the address listed in the most recent property ownership records provided to the city by the county assessor as of the date that the city clerk causes notice to be mailed shall comprise proper service. Service shall be deemed complete at the time of deposit in the United States mail.

B. Collection of Delinquent Taxes by Special Tax Roll Assessment. With the confirmation of the report by the city council, the delinquent transient tax charges contained therein which remain unpaid by the owner/ operator of the business/ business property shall constitute a special assessment against such business property and shall be collected at such time as is established by the county assessor for inclusion in the next property tax assessment.

The city clerk shall turn over to the county assessor for inclusion in the next property tax assessment the total sum of unpaid delinquent transient occupancy tax charges consisting of the delinquent occupancy taxes, penalties, interest at the rate often (10) percent per annum from the date of recordation to the date of lien, an administrative charge of fifty dollars (\$50.00) and a release of lien filing fee in amount equal to the amount charged by the Amador County recorder’s office.

Thereafter, the assessment may be collected at the same time and in the same manner as ordinary municipal taxes are collected, and shall be subject to the same penalties and the

same procedure of sale as provided for delinquent ordinary municipal taxes. The assessment liens shall be subordinate to liens except for those of state, county and municipal taxes with which it shall be upon parity. The lien shall continue until the assessment and all interest and charges due and payable thereon are paid. All laws applicable to the levy, collection and enforcement of municipal taxes shall be applicable to such special assessments.

C. Recordation of Lien for Delinquent Charges. Upon confirmation of the report of delinquent transient occupancy tax charges by the city council, a lien on the real property for delinquent transient occupancy tax charges which were assessed will be recorded with the recorder of the county of Amador. (Ord. 140 § 14,2000)

**3.16.150 Use of revenues.**

All revenues collected pursuant to this chapter shall be placed in the general fund and shall be available for appropriation to any legitimate municipal purpose. (Ord. 140 § 15, 2000)

**3.16.160 Violations—Infraction.**

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 city clerk, or who renders a false or fraudulent return or claim, is guilty of an infraction and is punishable as provided by law. Any person required to make, render, sign or verify any report or claim who makes any false or fraudulent report or claim with the intent to defeat or evade the determination of any amount due required by this chapter to be made, is guilty of an infraction and is punishable as aforesaid. (Ord. 140 § 16, 2000)

**Chapter 3.20**

**SPECIAL GAS TAX STREET  
IMPROVEMENT FUND**

**Sections:**

- 3.20.010 Created.**
- 3.20.020 Use of funds.**

**3.20.010 Created.**

To comply with the provision of Article 5 of Chapter 1 of Division I of the Streets and Highways Code, with particular reference to the amendments made therein by Chapter 642, Statutes of 1935, there is created in the city treasury a special fund to be known as the "Special Gas Tax Street Improvement Fund." (Ord. 25 § 1, 1936)

**3.20.020 Use of funds.**

A. All moneys received by the city from the state of California under the provisions of the Streets and Highways Code for the acquisition of real property or interests therein for, or the construction, maintenance or improvement of streets or highways other than state highways shall be paid into the fund.

B. All moneys in the fund shall be expended exclusively for the purposes authorized by, and subject to all of the provisions of Article 5, Chapter 1, Division I of the Streets and Highways Code. (Ord. 25 §§ 2, 3, 1936)