

## ARTICLE 3-40 Lodging Tax

### *Division 1 General Provisions*

#### **Sec. 3-40-10. Legislative intent and purpose.**

It is the legislative intent of the City Council that every person who purchases short-term lodging in the City is exercising a taxable privilege and every person who furnishes lodging shall collect the tax imposed by this Article. The City Council declares that the purpose of the levy of the tax imposed by this Article is for the raising of funds to promote economic development, tourism, conventions and related activities within the City by marketing the City and sponsoring community events, in support of these purposes.

#### **Sec. 3-40-20. Definitions.**

The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

*City Manager* means the City Manager of the City of Brighton.

*Finance Director* means the Director of the Finance Department of the City of Brighton.

*Gross taxable sales* means the total amount received in money, credits, property or other valuable consideration from sales and purchases of lodging that shall be subject to the tax imposed by this Article.

*Lodging accommodation* means the leasing, rental or furnishing of any room or other accommodation in any hotel, apartment-hotel, motel, guesthouse, trailer court, guest ranch, mobile home, automobile camp or any such similar place that furnishes rooms or accommodations under any concession, permit, right of access, license to use or agreement to any person who, for a consideration, uses, possesses or has the right to use or possess such room or other accommodation for a total continuous duration of less than thirty (30) days.

*Lodging customer* means any person who, through a taxable lodging transaction, acquires lodging accommodation from a lodging provider.

*Lodging price* means the gross taxable sales price paid, exclusive of other taxes paid or value given by the customer for the provision of lodging accommodation.

*Lodging provider* means any person furnishing lodging accommodation or such provider's authorized agent.

*Lodging tax* means an excise tax payable by the purchaser of lodging accommodation or the aggregate amount of taxes due from a lodging provider during the period for which such person is required to report the collections of lodging tax as herein specified.

*Lodging transaction* means the furnishing of a lodging accommodation to any person who, for consideration, uses, possesses or has the right to use or possess any room or rooms in any hotel, apartment-hotel, motel, guesthouse, guest ranch, mobile home, automobile camp, trailer court or park under any concession permit, right of access, license to use or other agreement, or otherwise.

*Person* means an individual, partnership, society, club, association, joint stock company, corporation, estate, receiver, trustee, assignee, referee or any other person acting in a fiduciary or representative

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capacity, whether appointed by a court or otherwise, and any other group or combination of individuals acting as a unit, including the United States, the State and any political subdivision thereof.

*Purchase or sale* means the acquisition for a price by any person of the taxable services of lodging within the City.

*Purchaser* means any person to whom the taxable service of lodging has been rendered.

*Tax* means either the tax payable by the purchaser or the aggregate amount of taxes due from a vendor during the period for which the vendor is required to report collections under this Article.

*Taxpayer* means any person obligated to account to the Finance Director for taxes collected or to be collected under the provisions of this Article.

*Vendor* means a person making sales to a purchaser in the City of the taxable service of lodging.

### **Sec. 3-40-30. Imposition of tax.**

On and after 12:00 a.m., January 1, 2012, there is levied and shall be paid and collected an excise tax of three percent (3%) on the lodging price paid for any lodging accommodation or transaction provided in the City. This tax shall be in addition to the sales and use tax as established pursuant to Articles 3-28 and 3-32 of this Chapter. It shall be a violation of this Code for any lodging customer provided lodging accommodations in the City to fail to pay, or for any lodging provider of such lodging accommodations to fail to collect, the tax levied pursuant to this Article.

### **Sec. 3-40-40. Exemptions.**

The following lodging transactions are exempt from taxation under this Article:

- (1) All lodging services provided to the United States government; to the State, its departments or institutions and political subdivisions in their governmental capacities only, including the City and any department thereof;
- (2) All lodging services provided to religious and charitable nonprofit corporations and associations, provided that the corporation or association holds a tax-exempt status under Internal Revenue Code Section 501(c), but only in the conduct of their religious and charitable functions and activities;
- (3) All lodging services provided to persons which the City is prohibited from taxing under the United States Constitution or laws of the United States or under state law; and
- (4) All sales and purchases by any purchaser or vendor where the purchaser is a permanent resident who has entered into a written agreement with a lodging provider for the occupancy or use for lodging for a period of at least thirty (30) consecutive days during the calendar year.

### **Sec. 3-40-50. Use of tax.**

- (a) The lodging tax shall be used by the City in accordance with the allocation limitations set forth in Subsection (b) hereof for the purpose of supporting economic development endeavors, special events, cultural arts facilities, advertising and marketing, and promoting tourism and other activities that utilize and require public accommodations with the City.
- (b) The revenue, interest and investment income from the lodging tax, less applicable administrative expenses incurred by the City for the administration thereof, shall be placed and maintained in a Lodging Tax Fund, allocations therefrom shall be used for the purposes set forth in Subsection (a) hereof, and the allocations

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from the Lodging Tax Fund shall be made by the City Council solely for those purposes in the budget adopted by the City.

- (c) Lodging Tax funds shall be allocated each year in the following percentages: Fifty percent (50%) to the Brighton Economic Development Corporation and Fifty percent (50%) to the City of Brighton Communications and Engagement Department only be used for the purpose of supporting economic development, especially any events or activities that promote tourism or market the City of Brighton, and to support special events and cultural arts facilities and activities. Each of the direct recipients of Lodging Tax funds are authorized to create a grant process to further distribute funds to community organizations that meet the purposes set forth for Lodging Tax funds.

(Ord. 2121 §1, 2011)

### **Sec. 3-40-60. Collection of tax.**

- (a) Every lodging provider and vendor making sales to a lodging customer or purchaser in the City that are taxable under the provisions of this Article is required to collect the tax imposed by Section 3-40-30 above from the lodging customer or purchaser at the time of making such sales.
- (b) The tax to be collected as provided in Subsection (a) of this Section shall be stated and charged separately from the sale price on any record thereof at the time when the sale is made or at the time when evidence of the sale is issued or employed by the lodging provider or vendor; provided, however, that when added, such tax shall constitute a part of such sale price or charge and shall be a debt from the purchaser to the lodging provider or vendor until paid and shall be recoverable at law in the same manner as other debts. The tax shall be paid by the lodging customer or purchaser to the lodging provider or vendor, who shall act as trustee for and on account of the City, and the vendor shall be liable for the collection thereof and on account of the City.
- (c) Taxes paid on the amount of gross taxable sales that are represented by accounts that are found to be worthless and are actually and properly charged off as bad debts for the purpose of the income tax imposed by the laws of the State may be credited upon a subsequent payment of the tax as herein provided. Should, however, any such amounts be thereafter collected by the vendor, the tax shall be paid to the City upon the amount so collected.

(Ord. 2121 §1, 2011)

### **Sec. 3-40-70. Lodging provider or vendor responsible for payment of tax.**

- (a) Every lodging provider or vendor shall be entitled as collecting agent of the City to withhold a vendor's fee, in the amount provided in Section 3-28-70 of this Chapter, to cover the lodging provider's or vendor's expense in the collection and remittance of the tax.
- (b) Every lodging provider or vendor shall, before February 20, 2012, and before the twentieth day of each month thereafter, make a return to the Finance Director for the preceding calendar month, commencing with the month of January 2012, and remit to the Finance Director the total amount due to the City. The returns of the lodging provider or vendor as required hereunder shall be made in such manner and upon such forms as the Finance Director may prescribe.
- (c) The Finance Director may, by rule, permit a lodging provider to make returns and pay taxes on a monthly, quarterly or annual basis.

(Ord. 2121 §1, 2011; Ord. 2325 , §16, 2020; Ord. 2350 §12, 2021)

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**Sec. 3-40-80. Applicability of other provisions.**

The procedures established in Articles 3-28 and 3-32 of this Chapter, relating to the collection of sales and use tax, including any provisions for penalty, shall be applicable to the lodging tax unless such provisions conflict with the provisions of this Article.

**Sec. 3-40-90. Duty to keep books and records; audit.**

- (a) It shall be the duty of every person subject to the provisions of this Article to keep and preserve suitable records of all sums of money paid for lodging in order to determine the amount of lodging tax that is due and owing to the City by any person subject to the provisions of this Article.
- (b) The Finance Director may make, permit or cause to be made the examination, inspection or audit of books, invoices, accounts and other records so kept or maintained by any person subject to the provisions of this Article.

(Ord. 2121 §1, 2011)

**Sec. 3-40-100. Unlawful assumption of tax.**

It shall be unlawful for any person subject to the provisions of this Article to advertise, hold out or state to the public or any person, directly or indirectly, that the lodging tax or any part thereof imposed by this Article will be assumed or absorbed by such person, that it will not be added to the price charged for lodging, or, if added, that it or any part thereof will be refunded.

**Sec. 3-40-110. Interest on deficiency.**

Any interest on deficiency, including computation, penalty or jeopardy enforcement, shall be enforced in the amount prescribed in Section 3-28-95 through and including Section 3-28-130 of this Chapter.

**Sec. 3-40-120. Disputes; refunds.**

Any dispute or claim for refund arising under any provision of this Article shall be resolved in a manner prescribed in Section 3-28-105 of this Chapter.

**Sec. 3-40-130. Tax information to be confidential.**

Subject to any limitation of a judicial order, the Finance Director or any other officer or employee of the City shall not divulge any information regarding any lodging tax report or return filed with the City as required by any provision of this Article.

**Sec. 3-40-140. Administrative hearings.**

Any person subject to the provisions of this Article may request a hearing on the imposition of the lodging tax after receiving a notice of final determination, assessment, demand for payment or denial of claim for refund as set forth in Section 3-28-110 of this Chapter.

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**Sec. 3-40-150. Enforcement of tax liability.**

The lodging tax imposed pursuant to this Article, together with all interest and penalties pertaining thereto, shall be a first and prior lien on tangible personal property in which the person responsible to collect and remit the lodging tax has an ownership interest, subject only to a perfected security interest. The Finance Director may also treat lodging taxes and penalties or interest due thereon and then paid as a debt due to the City from any person subject to the provisions of this Article, which shall be recoverable by the City in an action at law.

**Sec. 3-40-160. Administration of lodging tax.**

The Finance Department shall administer the provisions of this Article. The City Manager may promulgate rules or regulations to aid in the enforcement and administration of this Article pursuant to the provisions of Section 3-28-90 of this Chapter.

**Sec. 3-40-180. Severability.**

If a court of competent jurisdiction adjudges any provision of this Article or application thereof to any person or circumstance invalid, such invalidity shall not affect the remaining provisions of this Article that can be effective without the invalid provision, and to this end this Article is declared to be severable.

**Sec. 3-40-190. Effective date.**

The provisions of this Article shall be effective on January 1, 2012.