

Title 3

REVENUE AND FINANCE

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- 3.04.010 Creation.
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3.04.010 Creation. To comply with the provisions of Article 5 of Chapter 1 of Division I of the Streets and Highways Code, with particular reference to the amendments made thereto 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. 149 §1, 1936)

3.04.020 Source of moneys. All moneys received by the city from the state of California under the provisions of the Streets and Highways Code for acquisition, maintenance or improvement of streets or highways other than State Highways shall be paid into this fund. (Ord. 149 §2, 1936)

3.04.030 Expenditures of moneys. All moneys in this 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. 149 §3 1936)

* For statutory provisions regarding Highway Users Tax Fund, see Str. & Highways Code §2100 et seq.; for the provisions requiring cities to establish a special gas tax street improvement fund to be eligible to receive money from the Highway Users Tax Fund, see Str. & Highways Code §2113.

CHAPTER 3.08

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- 3.08.360 Cooperative purchasing programs.
- 3.08.370 Credit card purchases.
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* For statutory provisions on city purchases of supplies and equipment, see Gov. Code Section 54201 et seq.

3.08.010 Adoption of purchasing system. In order to establish efficient procedures for the purchase of supplies and equipment at the lowest possible cost commensurate with quality needs, to exercise positive financial control over purchases, to clearly define authority for the purchasing function and to assure the quality of purchases, a purchasing system is adopted. (Ord. 615 §1 (part), 2000)

3.08.020 Scope of chapter. The procedures established by this chapter shall apply only to the purchase of supplies, equipment and services, and shall not apply to public projects as defined in Section 20161 of the California Public Contracts Code. (Ord. 615 §1 (part), 2000)

3.08.030 Centralized purchasing division. There is created a centralized purchasing division in which is vested authority for the purchase of supplies and equipment. (Ord. 615 §1 (part), 2000)

3.08.035 Eco-Procurement Policy. All City Departments shall use recycled products whenever possible. Special emphasis shall be placed on the purchase of products manufactured with post-consumer recycled materials. (Ord. 649 2005)

3.08.040 Purchasing agent. There is created the position of purchasing agent, who may also be known as the purchasing officer, and shall be appointed by the city manager. The purchasing agent shall be the head and have general supervision of the purchasing division. The duties of purchasing agent may be combined with those of any other office or position. The purchasing agent shall have the authority to:

A. Purchase or contract for supplies and equipment required by any using agency in accordance with purchasing procedures prescribed by this chapter, such administrative regulations as the purchasing agent shall adopt for the internal management and operation of the purchasing division and such other rules and regulations as shall be prescribed by the city council or the city manager;

B. Negotiate and recommend execution of contracts for the purchase of supplies and equipment;

C. Act to procure for the city the needed quality in supplies and equipment at least expense to the city;

D. Discourage uniform bidding and endeavor to obtain as full and open competition as possible on all purchases;

E. Prepare and recommend to the city council rules governing the purchase of supplies and equipment for the city;

F. Prepare and recommend revisions and amendments to the purchasing rules;

G. Keep informed of current developments in the field of purchasing, prices, market conditions and new products;

H. Prescribe and maintain such forms as are reasonably necessary for the operation of this chapter and other rules and regulations;

I. Supervise the inspection of all supplies and equipment purchased to insure conformance with specifications.

J. Recommend the transfer of surplus or unused supplies and equipment between departments as needed;

K. Maintain an approved vendors list, vendors' catalog file and records needed for the efficient operation of the purchasing division. {Ord. 615 §1 (part), 2000}

- (1) Promote the use of recycled products by publicizing its eco-procurement policy whenever practicable.

3.08.050 Purchasing regulations. The purchasing agent shall be responsible for determining that the regulations and procedures in Sections 3.08.060 through 3.08.120 are carried out. (Ord. 615 §1 (part), 2000)

3.08.060 Exemptions from centralized purchasing. The city manager may authorize, in writing, any department to purchase specified supplies, services and equipment independent of the purchasing agent, but such purchases shall be made in conformity with the procedures established by this chapter and shall require further periodic reports from the department on the purchases made under such written authorization. (Ord. 615 §1 (part), 2000)

3.08.070 Estimates of requirements. All departments shall file detailed estimates of their requirements in supplies, services and equipment in such manner, at such time, and for such future periods as the purchasing agent shall prescribe. (Ord. 615 §1 (part), 2000)

3.08.080 Requisitions. Departments shall submit requests for supplies, services and equipment purchases of one thousand dollars and over to the purchasing agent by standard requisition form, or by other means as may be established by the purchasing rules and regulations. (Ord. 615 §1 (part), 2000)

3.08.090 Purchase orders. Purchases of supplies, services and equipment costing one thousand dollars and over shall be made only by purchase orders. Except as otherwise provided herein, no purchase order shall be issued unless the prior approval of the purchasing agent or his designated representative has been obtained. Open purchase orders may be issued with vendors who are expected to provide products or services on an on-going basis throughout the year. (Ord. 615 §1 (part), 2000)

3.08.100 Encumbrance of funds. Except in cases of emergency, the purchasing agent shall not issue any purchase order for supplies or equipment unless there exists an unencumbered appropriation in the fund account against which such purchase is to be charged. (Ord. 615 §1 (part), 2000)

3.08.110 Inspection and testing. The purchasing agent shall, with discretion, inspect supplies and equipment delivered to determine their conformance with the specifications set forth in the order. The purchasing agent shall have authority to require chemical and physical tests of samples submitted with bids and samples of deliveries, which are necessary to determine their quality and conformance with specification. (Ord. 615 §1 (part), 2000)

3.08.120 Bidding. Purchases of supplies and equipment shall be by bid procedures pursuant to Sections 3.08.130 through 3.08.280. Bidding may be dispensed under conditions stated in Section 3.08.290. (Ord. 615 §1, 2000)

3.08.130 Formal(sealed)bid procedures. Except as otherwise provided herein, purchases of supplies and equipment of an estimated value greater than twenty thousand dollars shall be awarded to the lowest responsible bidder pursuant to the formal bid procedure hereinafter prescribed. (Ord. 615 §1 (part), 2000)

3.08.140 Notice inviting formal bids. Notices inviting formal bids shall include a general description of the article or service desired, shall state where bid documents and specifications may be secured and shall state the time and place for opening bids. (Ord. 615 §1 (part), 2000)

3.08.150 Published notice for formal bids. Notices inviting formal bids shall be published at least ten days prior to the date of opening the bids. Notices shall be published at least once for all projects in a newspaper of general circulation in the city. (Ord. 615 §1 (part), 2000)

3.08.160 Approved vendors list. The purchasing agent shall also solicit formal sealed bids from responsible suppliers whose names are on the approved vendors list, or who have made written request that their names be added thereto. (Ord. 615 §1 (part), 2000)

3.08.170 Bulletin board notice. The purchasing agent shall advertise the pending formal purchases by posting a notice on the public bulletin board at the city offices. (Ord. 615 §1 (part), 2000)

3.08.180 Bidder's security. Where deemed necessary by the purchasing agent, formal bids shall be accompanied by security, either cash, cashier's check, certified check or surety bond, in a sum equal to ten percent of the total aggregate of the bid, and shall be designated in the notice inviting bids. Bidders shall be entitled to return of bid security; provided, however, that a successful bidder shall forfeit the bid security upon refusal or failure to execute the contract within ten days after the notice of award of contract has been mailed, unless the city is solely responsible for the delay in executing the contract. The city council may, on refusal or failure of the successful bidder to execute the contract, award it to the next lower responsible bidder who is willing to execute the contract, or may reject all bids and readvertise. (Ord. 615 §1 (part), 2000)

3.08.190 Other formal bond requirements. A faithful performance bond and labor and material bond shall be required for all public projects, unless waived by the city council, in an amount reasonably necessary to protect the best interests of the city. In addition, the city council shall have authority to require a faithful performance bond or other bonds before entering into a contract other than a public project contract. If bonds are required, the form and amount thereof shall be designated in the notice inviting bids. (Ord. 615 §1 (part), 2000)

3.08.200 Prebid conference. When deemed necessary by the purchasing agent or his designated representative, prospective bidders shall be required to attend a prebid meeting at which the bid package will be reviewed in order to avoid misconceptions and ambiguities. A written addendum shall follow the meeting to address changes, if any, to the bid document. (Ord. 615 §1 (part), 2000)

3.08.210 Formal bid opening procedure. Sealed bids shall be submitted to the purchasing agent and shall be identified as "bids" on the envelope. The purchasing officer, or designee, shall publicly open all bids at the time and place stated in the public notices. A tabulation of all bids received shall be available for public inspection in the purchasing office during regular business hours for a period of not less than thirty calendar days after the bid opening. (Ord. 615 §1 (part), 2000)

3.08.220 Rejection of formal bids. In its discretion, the city council may reject any and all bids presented and may cause readvertising for bids pursuant to the procedure hereinabove prescribed. However, when all bids exceed the authorized budgeted amount, the city manager may authorize rejection of all bids and authorize rebidding based upon the procedure hereinabove prescribed. However, when all bids exceed the

authorized budgeted amount, the City Manager may authorize rejection of all bids and authorize rebidding based upon the original specifications or as they may be modified, in accordance with procedures prescribed herein. (Ord. 615 §1 (part), 2000)

3.08.230 Award of Formal Bid Contracts. Except as otherwise provided herein, formal bid contracts shall be awarded by the City Council to the lowest responsible bidder. The determination of "lowest responsible bidder" shall be at the discretion of the City Council pursuant to findings and recommendations presented by the purchasing agent at the time of award of contract. Ord. 615 §1 (part), 2000)

3.08.240 Tie Formal Bids. If two or more formal bids received are for the same total amount or unit price, quality and service being equal, and if the public interest will not permit the delay of readvertising for bids, the City Council may in its discretion accept the one it chooses or accept the lowest bid made by and after negotiation with the tie bidders at the time of the bid opening or award of contract. Ord. 615 §1 (part), 2000)

3.08.250 No Formal Bids. When no formal bids or no responsive bids are received, the purchasing officer is authorized to negotiate for written proposals, and make recommendation to the City Manager and the award, if any, shall be made in accordance with applicable provisions prescribed herein. A responsive bid is defined as a bid which conforms in all material respects to the terms and conditions, the specifications and other requirements of the invitation for bid/request for proposal. Ord. 615 §1 (part), 2000)

3.08.254 Determination of Irresponsible Bidder. A bidder may be found to be irresponsible, and his bid may be rejected upon determination that any or all of the following circumstances exist:

- (a) That a bid submitted by a bidder did not strictly conform to the required bid specifications; provided, that the City Council or bid coordinator shall have the authority to waive nonsubstantial deviations from such specifications.
- (b) That a bidder has demonstrated, through documented past performance in the industry or through prior dealings with the City, that he is unable to satisfactorily meet the responsibilities required of a successful low bidder.
- (c) That a bidder's product has been demonstrated, through documented past performance in the industry or through prior use by the City, to be incapable of satisfactorily meeting the accepted demands to be placed upon such product.

Determination of irresponsibility of a bidder shall be made by the City Council in any formal bid process requiring City Council award of contract.

In any informal bid process where it appears irresponsibility of the bidder may be present, the purchasing agent shall, in consultation with the City Attorney, review the bidder's qualifications and the reason or reasons for which they believe the bidder should be deemed irresponsible. In any case where the bidder is so deemed irresponsible, the bidder shall be disqualified from consideration on the subject bid, and the purchasing agent shall, on the next available City Council agenda, request that the Council make a formal determination as to the bidder's irresponsibility. In the event the City Council finds a bidder to be irresponsible, the bidder shall be excluded from future City bidding procedures until such time as the bidder has obtained consent from the City Council to resume his active status to bid.

Requests for reinstatement for active bidder status may be made no sooner than one year following the determination that a bidder has been irresponsible. All such request shall be made directly to the City Council, and shall be granted only upon a determination by the City Council that the bidder's status should be reinstated for future bids. (Ord. 615 §1 (part), 2000)

3.08.255 Protest Procedure. After the award of any bid, anyone who submitted a bid who wishes to challenge the bid procedure, the bids, or the award of the bid shall file a written protest within ten (10) days of the award of the bid with the City Attorney, stating the reasons for the challenge. The City Attorney shall review the protest and provide the protestor with a written reply regarding the protest. Following the City Attorney's decision, the protestor shall have ten (10) days to file an appeal with the City Manager or City Council (the one with authority to award the bid). The appropriate authority shall review the protest and provide the protestor with a written reply regarding the protest. Failure to file a timely initial written protest or appeal waives any such challenge to the bid procedure, the bids or the award of the bid. (Ord. 615 §1 (part), 2000)

3.08.260 Open Market or Informal Bid Procedure. Purchases of supplies and equipment of an estimated value in the amount of Twenty Thousand Dollars (\$20,000.00) or less may be made by the purchasing agent in the open market pursuant to the procedure prescribed in Sections 3.08.260 through 3.08.280 and without observing the procedure prescribed in Section 3.08.130 through 3.08.240; provided, however, all bidding may be dispensed with for purchases of supplies and equipment having a total estimated value of less than Two Thousand Five Hundred Dollars (\$2,500.00). (Ord. 615 §1 (part), 2000)

3.08.270 Minimum Number of Informal Bids. Open market purchases shall, wherever possible, be based on at least three informal bids, and shall be awarded to the bidder offering the most advantageous bid to the City after consideration of price, quality, durability, servicing, delivery time, standardization, and other factors.

3.08.275 Preference for Recycled Content. The purchasing agent shall aggressively pursue the acquisition of recycled material products whenever possible without incurring unreasonable additional costs. The purchasing agent shall provide a ten percent (10%) price preference to the suppliers of recycled paper or other recycled products over the lowest bid or price quoted by suppliers offering unrecycled paper or other products. (Ord. 649, 2005)

3.08.280 Notice Inviting Informal Bids. The purchasing agent shall solicit informal bids by written requests to prospective vendors, or by telephone, or by public notice posted on a public bulletin board at the City offices. (Ord. 615 §1 (part), 2000)

3.08.290 Record of Informal Bids. The purchasing agent shall keep a written record of all open market purchases and informal bids for a period of two years. This record, while so kept, shall be open to public inspection. (Ord. 615 §1 (part), 2000)

3.08.300 Exceptions to Competitive Bidding Requirement. Exceptions to Competitive Bidding Requirement. Notwithstanding any provision of this chapter to the contrary, the competitive bidding procedures and requirements may be dispensed with in any of the following instances:

(a) When the estimated amount involved is less than Two Thousand Five Hundred (\$2,500.00) Dollars;

(b) When the commodity and/or service can be obtained from only one responsible source;

(c) The City Manager may authorize the purchase of materials, supplies, equipment and services where an emergency is deemed to exist and it is determined that service involving the public health, safety or welfare would be interrupted if the normal procedure were followed. All emergency purchases which would otherwise require formal bidding procedures made pursuant to this Section shall be submitted to the City Council for ratification at the next regular Council meeting after the purchase is authorized;

(d) Contracts for personal services, for professional and consultant services, and for other, non-public projects and contractual services may be executed without observing the bidding procedures provided herein. The

City Manager is authorized to enter into such contracts where the amount of the contract does not exceed Twenty Thousand (\$20,000.00) Dollars; provided there exists an unencumbered appropriation in the fund account against which such expense is to be charged. Where the amount of the contract exceeds Twenty Thousand (\$20,000.00) Dollars the contract shall be approved by the City Council;

(e) Any agreement involving acquisition of supplies, equipment or service entered into with another governmental entity. (Ord. 615 §1 (part), 2000)

3.08.310 Regulations Regarding Selection of Contract Services. The City Council may, by resolution, prescribe procedures, rules and regulations governing the solicitation, selection and award of proposals or bids for the furnishing of personal services or professional or consulting services or for other contractual services, the contract for which may be awarded without observing the bidding procedures provided for in this chapter. Such procedures, rules and regulations shall have as one purpose the obtaining of contractual services of the highest quality together with cost-effectiveness. (Ord. 615 §1 (part), 2000)

3.08.320 Surplus Supplies and Equipment. All using departments shall submit to the purchasing agent, at such times and in such forms as prescribed, reports showing all supplies and equipment which are no longer used or which have become obsolete and worn out. (Ord. 615 §1 (part), 2000)

3.08.330 Surplus Supplies - Trade-ins. The purchasing agent shall have authority to exchange for or trade-in for supplies and equipment all supplies and equipment which cannot be used by any department or which have become unsuitable. (Ord. 615 §1 (part), 2000)

3.08.340 Surplus Supplies - Sale. The purchasing agent shall have authority, subject to approval of the City Manager, to dispose of surplus supplies or equipment by auction or by sale or otherwise after receiving bids or proposals which provide the maximum return to the City. City employees or officers may participate in the purchase of surplus supplies and/or equipment on the same basis as other members of the general public; provided, however, there is no direct bid involvement or conflict of any kind. (Ord. 615 §1 (part), 2000)

3.08.350 Conveying Surplus Personal Property to Charitable, Nonprofit Organizations. Notwithstanding the other provisions of this article, the City Council may convey to charitable, nonprofit organizations surplus personal property as it is determined by the City Council that the use to which the personal property will be put will be for the benefit of the general welfare of the community in matters such as recreation, education, aid to the destitute, City beautification, or any other activity in which the City government may legitimately participate.

The organization accepting such personal property shall sign a statement that accepts such property on the condition that it will be used for the purpose designated by the City Council; that it shall not be used for any other purpose without permission of the City Council; and that if such property is ever diverted to other than a charitable use, the City may reclaim such property. (Ord. 615 §1 (part), 2000)

3.08.360 Cooperative Purchasing Programs. Purchases of supplies, materials, equipment or services and sales of surplus property made under a cooperative purchasing program, utilizing purchasing agreements maintained by the state, county or other public agencies are exempt from the requirements of this chapter. To the extent possible, cooperative purchases will be competitively awarded, and documentation as to the advantage of the cooperative purchase will be retained. (Ord. 615 §1 (part), 2000)

3.08.370 Credit Card Purchases. Purchases with credit cards shall be for gasoline, telephone, travel expenses, and for supplies that will not be billed by a vendor. These purchases, except for telephone, shall be submitted to the purchasing agent for prior approval. The operational policy, as established in the Purchasing Rules and Regulations, for the use of all credit cards shall be utilized. (Ord. 615 §1 (part), 2000)

3.08.380 Bid Computation - Local Bids. The bid of any bidder from within the City shall be computed by subtracting from his bid that amount of sales tax that would be received by the City if the bid were awarded to such local bidder. As a condition precedent to the deduction of such tax from a local bid, a local bidder must, upon submission of his bid, provide the amount of tax to be rebated to the City, which figure shall be subject to confirmation and correction by the purchasing agent. (Ord. 615 §1 (part), 2000)

Chapter 3.12TRANSFER OF TAX FUNCTIONS*Sections:

- 3.12.010 Definitions.
 3.12.020 Transfer of duties.
 3.12.030 Filing of certified copy.

3.12.010 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:

A. "City" means city of Jackson, a municipal corporation, situated in the county of Amador, state of California.

B. "County" means the county of Amador, a political subdivision of the state of California. (Ord. 234 §1, 1960).

3.12.020 Transfer of duties. The assessment and tax collection duties, and the collection of assessments levied for municipal improvements, now performed by the city assessor and city tax collector, are transferred to the county assessor and county tax collector for the purpose of assessment and collection of and for ad valorem property taxes that become a lien after December 1, 1960; and the collection of assessments for municipal improvements becoming due and payable on and after July 1, 1961. (Ord. 234 §2, 1960).

3.12.030 Filing of certified copy. The city clerk shall cause a certified copy of the ordinance in this chapter to be filed with the county auditor on or before the first Monday of February, 1961 and immediately thereafter shall notify the State Board of Equalization. (Ord. 234 §3, 1960).

* For statutory provisions requiring the transfer of the functions of the tax assessor and collector from the city to the county, see Gov. Code §51501; for the provisions regarding transfer of city tax functions generally, see Gov. Code §51500 et seq.

Chapter 3.16DOCUMENTARY STAMP TAX*Sections:

- 3.16.010 Title.
- 3.16.020 Rate.
- 3.16.030 Payment.
- 3.16.040 Instrument to secure debt.
- 3.16.050 Government agency.
- 3.16.060 Receivership.
- 3.16.070 Securities and Exchange Commission.
- 3.16.080 Partnership.
- 3.16.090 Administration.
- 3.16.100 Claims for refund.
- 3.16.110 Operative date.
- 3.16.120 Copies to be filed.

3.16.010 Title. The ordinance codified in this chapter shall be known as the "real property transfer tax ordinance of the city of Jackson." It is adopted pursuant to the authority contained in the Revenue and Taxation Code §11901 et seq. of the state of California. (Ord. 279 §1, 1967).

3.16.020 Rate. There is imposed on each deed, instrument or writing by which any lands, tenements, or other realty sold within the city shall be granted, assigned, transferred or otherwise conveyed to, or vested in, the purchaser or purchasers, or any other person or persons, by his or their direction, when the consideration or value of the interest or property conveyed (exclusive of the value of any lien or encumbrances remaining thereon at the time of sale) exceeds one hundred dollars, a tax at the rate of twenty-seven and one-half cents for each five hundred dollars or fractional part thereof. (Ord. 279 §2, 1967).

3.16.030 Payment. Any tax imposed pursuant to Section 3.16.020 shall be paid by any person who makes, signs or issues any document or instrument subject to the tax, or for whose use or benefit the same is made, signed or issued. (Ord. 279 §3, 1967).

3.16.040 Instrument to secure debt. Any tax imposed pursuant to this chapter shall not apply to any instrument in writing given to secure a debt. (Ord. 279 §4, 1967).

* For statutory provisions authorizing cities to impose a documentary stamp tax, see Rev. & Tax. Code §11901 et seq.

3.16.050 Government agency. The United States or any agency or instrumentality thereof, any state or territory, or political subdivision thereof, or the District of Columbia shall not be liable for any tax imposed pursuant to this chapter with respect to any deed, instrument, or writing to which it is a party, but the tax may be collected by assessment from any other party liable therefor. (Ord. 279 §5, 1967).

3.16.060 Receivership. Any tax imposed pursuant to this chapter shall not apply to the making, delivering or filing of conveyances to make effective any plan of reorganization or adjustment:

A. Confirmed under the Federal Bankruptcy Act, as amended;

B. Approved in an equity receivership proceeding in a court involving a railroad corporation, as defined in subdivision (a) of Section 205 of Title 11 of the United States Code, as amended;

C. Approved in an equity receivership proceeding in a court involving a corporation, as defined in subdivision (3) of Section 506 of Title 11 of the United States Code, as amended; or

D. Whereby a mere change in identity, form or place of organization is effected.

Subdivisions (A) to (B), inclusive, of this section shall only apply if the making, delivery or filing of instruments of transfer or conveyances occurs within five years from the date of such confirmation, approval or change. (Ord. 279 §6, 1967).

3.16.070 Securities and Exchange Commission. Any tax imposed pursuant to this chapter shall not apply to the making or delivery of conveyances to make effective any order of the Securities and Exchange Commission, as defined in subdivision (a) of Section 1083 of the Internal Revenue Code of 1954; but only if:

A. The order of the Securities and Exchange Commission in obedience to which such conveyance is made recites that such conveyance is necessary or appropriate to effectuate the provisions of Section 79k of Title 15 of the United States Code, relating to the Public Utility Holding Company Act of 1935;

B. Such order specifies the property which is ordered to be conveyed;

C. Such conveyance is made in obedience to such order. (Ord. 279 §7, 1967).

3.16.080 Partnership. A. In the case of realty held by a partnership, no levy shall be imposed pursuant to this chapter by reason of any transfer of an interest in a partnership or otherwise, if:

1. Such partnership (or another partnership) is considered a continuing partnership within the meaning of Section 708 of the Internal Revenue Code of 1954; and

2. Such continuing partnership continues to hold the realty concerned.

B. If there is a termination of any partnership within the meaning of Section 708 of the Internal Revenue Code of 1954, for purposes of this chapter, such partnership shall be treated as having executed an instrument whereby there was conveyed, for fair market value (exclusive of the value of any lien or encumbrance remaining thereon), all realty held by such partnership at the time of such termination.

C. Not more than one tax shall be imposed pursuant to this chapter by reason of a termination described in subsection B. and any transfer pursuant thereto, with respect to the realty held by such partnership at the time of such termination. (Ord. 279 §8, 1967).

3.16.090 Administration. The county recorder shall administer this chapter in conformity with the provisions of the Revenue and Taxation Code §11901 et seq. and the provisions of any county ordinance adopted pursuant thereto. (Ord. 279 §9, 1967).

3.16.100 Claims for refund. Claims for refund of taxes imposed pursuant to this chapter shall be governed by the provisions of Chapter 5 (commencing with Section 5096) of Part 9 of Division 1 of the Revenue and Taxation Code of the state of California. (Ord. 279 §10, 1967).

3.16.110 Operative date. This chapter becomes operative upon the operative date of any ordinance adopted by the county of Amador, pursuant to the Revenue and Taxation Code §11901 et seq. or January 1, 1968, whichever is the later. (Ord. 279 §11, 1967).

3.16.120 Copies to be filed. Upon its adoption the city clerk shall file two copies of the ordinance codified in this chapter with the county recorder of Amador County. (Ord. 279 §12, 1967).

Chapter 3.20SALES AND USE TAX*Sections:

- 3.20.010 Short title.
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- 3.20.040 Purpose.
- 3.20.050 Contract with state.
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- 3.20.130 Exclusions and exemptions.
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clusions and exemptions.
- 3.20.150 Amendments to state law.
- 3.20.160 Enjoining collection forbidden.
- 3.20.170 Penalties.

3.20.010 Short title. This chapter shall be known as the "uniform local sales and use tax ordinance." (Ord. 349 §1, 1973).

3.20.020 Rate. The rate of sales tax and use tax imposed by this chapter shall be one percent. (Ord. 350 §1, 1973: Ord. 349 §2, 1973).

3.20.030 Operative date. This chapter shall be operative on January 1, 1974.

A. Section 3.20.120 shall be operative January 1, 1984.

B. Section 3.20.130 shall be operative on the operative date of any act of the Legislature of the state which amends Section 7202 of the Revenue and Taxation Code or which repeals and reenacts Section 7202 of the Revenue and Taxation Code to provide an exemption from city sales and use taxes for operators or waterborne vessels in the same, or substantially the same, language as that existing in subdivisions (i)(7) and (i)(8) of Section 7202 as those subdivisions read on October 1, 1983. (Ord. 481 §3, 1983: Ord. 349 §3, 1973).

* For statutory provisions regarding the Uniform Local Sales and Use Tax, see Rev. & Tax. Code §7200 et seq.; for provisions authorizing cities to impose a sales and use tax, see Gov. Code §37101.

3.20.040 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 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. 349 §4, 1973).

3.20.050 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 chapter; provided, that if this city has not 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. 349 §5, 1973).

3.20.060 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 3.20.020 of this chapter 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. 349 §6, 1973).

3.20.070 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 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. 349 §7, 1973).

3.20.080 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 the city at the rate stated in Section 3.20.020 of this chapter 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. 349 §8, 1973).

3.20.090 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. 349 §9, 1973).

3.20.100 Limitations 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" in the phrase "retailer engaged in business in this State" in Section 6203 or in the definition of that phrase in Section 6203. (Ord. 349 §1(part), 1973).

3.20.110 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. 349 §11, 1973).

3.20.120 Exclusions and exemptions. A. The amount subject to tax shall not include any sales or use tax imposed by the state 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 as 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. 481 §1, 1983: Ord. 349 §12, 1973).

3.20.130 Exclusions and exemptions. A. The amount subject to tax shall not include any sales or use tax imposed by the state 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 waterborne vessels to be used or consumed principally outside the city in which the sale is made and directly and exclusively in the carriage of persons or property in such vessels for commercial purposes.

D. The storage, use or other consumption of tangible personal property purchased by operators of waterborne vessels and used or consumed by such operators directly and exclusively in the carriage of persons or property of such vessels for commercial purposes is exempted from the use tax.

E. 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 as common carriers of persons or property under the authority of the laws of this state, the United States or any foreign government.

F. 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. 481 §2, 1983: Ord. 349 §13, 1973).

3.20.140 Application of provisions relating to exclusions and exemptions. Section 3.20.130 of this chapter shall be operative as long as Section 7202 of the Revenue and Taxation Code provides for an exemption from city sales and use taxes for operators of waterborne vessels as existing in subdivisions (a)(9)(g) and (a)(9)(h) of Section 7202 as these subdivisions read on October 1, 1986. Section 3.20.130 shall become operative effective as the operative date of any act of the Legislature of the state which amends Section 7202 of the Revenue and Taxation Code or which repeals and reenacts Section 7202 of the Revenue and Taxation Code to eliminate an exemption from city sales and use taxes for operators of waterborne vessels as described above in this section. (Ord. 513 §1, 1987: Ord. 349 §14, 1973).

3.20.150 Amendments to state law. 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. 349 §15, 1973).

3.20.160 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. 349 §16, 1973).

3.20.170 Penalties. Any person violating any of the provisions of this chapter is guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than five hundred dollars or by imprisonment for a period of not more than six months, or by both such fine and imprisonment. (Ord. 349 §17, 1973).

Chapter 3.24

TRANSIENT OCCUPANCY TAX

Sections:

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3.24.250	Withhold notice
3.24.260	Violations – Misdemeanor
3.24.270	Extension of time
3.24.280	Divulging of information forbidden

3.24.010 Short title. The short title of this chapter shall be the "transient occupancy ordinance." (.Ord. 531 §2 (part), 1990)

3.24.020 Definitions. Except where the context otherwise requires, the definitions given in this section shall 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 use or occupancy by transients, including but not limited to dwelling, lodging or sleeping purposes, and includes any hotel, inn, tourist home or house, motel, studio hotel, bachelor hotel, lodging house, rooming house, apartment house, time-share project or facility, dormitory, public or private club, mobile home, motor home recreation vehicle, house trailer or other similar structure or portion thereof, any duplex, triplex, or single family dwelling units, except, any private dwelling or other dwelling unit or portion thereof rented only very infrequently and incidental to the normal occupancy by the owner or his family. The authority to establish that housing or facility as a hotel as defined in this subsection shall vest solely with the tax administrator, and the owner or operator thereof shall file with the tax administrator such information as the tax administrator may require to determine and maintain such status.

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

C. "Operator" means the person who is proprietor of the hotel whether in the capacity of owner, lessee, sublessee, mortgagee in possession, licensee, time-share project or facility manager or operator, or in any other capacity. Where the operator performs his or its functions through a managing agent of any type or character, the managing agent shall also be deemed an operator for the purpose of this chapter, and shall have jointly and severally the same duties and liabilities as the 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, church, joint venture, association, social club, fraternal organization, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate, school or any other group or organization 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 money, goods, labor or otherwise, including all receipts, cash, credits and property and services of any kind or nature, without any deduction therefrom whatsoever.

F. "Tax administrator" means the city manager or his designated agent.
"Time-share occupancy" means occupancy related to the situation wherein a purchaser receives the right or entitlement in perpetuity, for life, or for a term of years or other extended term, to the recurrent, exclusive use or occupancy of a lot, parcel, unit, room(s), hotel or portion thereof, or segment of real property, annually or on some other seasonal or periodic basis, for a period of time that has been or will be allotted from the use or occupancy periods into which the time-share project which is involved has been divided.

The right or entitlement to occupancy may attach in advance to a specific lot, parcel, unit, room(s), or portion of a hotel, or segment of real property, or may involve designation or selection of the same at a future time or times.

G. "Transient" means any person who exercises occupancy or is entitled to occupancy by reason of concession, permit, right of access, license, time-share arrangement or ownership or agreement, or other agreement of whatever nature, for a period of thirty consecutive calendar days or less, counting portions of calendar days as full days. Any person continuously occupying the same space in a hotel, as defined above, shall be deemed to be a transient if his actual total period of uninterrupted occupancy does not exceed thirty days. Unless days of occupancy or entitlement to occupancy by one person are consecutive without any break, then prior or subsequent periods of such occupancy or entitlement to occupancy shall not be counted when determining whether a period exceeds the stated thirty calendar days. (Ord. 531 §2(part), 1990)

3.24.030 Tax imposed. Effective January 1, 2003, for the privilege of occupancy in any hotel, each transient is subject to, and shall pay a tax in the amount of, ten percent of the rent charged by the operator. Said tax constitutes a debt owed by the transient to the city for which the operator is the collecting agent, which is extinguished only by payment to the operator of the city. The transient shall pay the tax to the operator of the transient lodging facility at the time the rent is paid. If for any reason the tax due is not paid to the operator of the lodging facility, it must be paid directly to the city. The rent deemed payable on the account of time-share or similar interval or fractional ownership occupancy by a transient shall be established by resolution of the city council in a manner consistent with the provisions of California Revenue and Taxation Code Section 7280(b) or any successor section thereto. (Ord. 632 §1, 2002; Ord. 550 §1, 1992; Ord. 531 §2(part), 1990)

3.24.040 Exemptions. A. No tax shall be imposed upon 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.

B. Charges incurred by a person in the performance of official duties as an employee of local State, Federal and foreign governmental entities shall be exempt from the tax herein provided if an exemption certificate is submitted and payment is made either: (1) directly to the hotel for rentals by the governmental entity; or (2) by government-sponsored corporate charge card. As an alternative to (1) or (2), the exemption certificate may be submitted with official government travel papers.

C. No exemption shall be imposed on the owner of a timeshare estate occupying a room or rooms in a timeshare project, as defined in 3.24.020 (G).

D. The tax will be imposed on persons occupying space in a hotel until the period of thirty (30) consecutive calendar days has expired unless there is an agreement in writing

between the operator and the occupant for a period longer than thirty consecutive calendar days of occupancy. Absent an agreement, anyone occupying space for more than thirty (30) consecutive days will be exempt from the tax after the first thirty (30) consecutive days, the first thirty days (30) are subject to tax.

E. No exemption shall be granted except upon a claim therefore made at the time rent is collected and under penalty of perjury upon a form prescribed by the Tax Collector. All exemptions should be reported and remitted as outlined in 3.24.080. All claims for exemption forms and rental agreements shall be kept and preserved for three years as outlined in 3.24.140. (Ord. 531 §2(part), 1990).

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 the tax shall be separately stated from the amount of the rent charged. 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 be refunded except in the manner provided in this chapter. (Ord. 531 §2(part), 1990)

3.24.060 Registration. A. Every person desiring to engage in or conduct business as operator of a hotel renting to transients within the city shall file with the tax administrator an application for a transient occupancy registration permit for each place of business. Every application for such a permit shall be made upon a form prescribed by the tax administrator and shall set forth the name under which the applicant transacts or intends to transact business, the location of his place of business and such other information as the tax administrator may require. The application shall be signed by the owner if a natural person, by a member or partner, if an association or partnership, by an executive officer or some person specifically authorized by the corporation to sign the application in the case of a corporation, and all such signatures shall be confirmed by the attestation of a notary public. The transient occupancy registration permit- must be in effect at all times while business is in operation and shall be at all times posted in a conspicuous place on the premises. The permit shall, among other things, state the following:

1. Name of hotel;
2. Name of operator;
3. Hotel address;
4. The date upon which the permit was issued;
5. "This Transient Occupancy Registration Permit signifies that the person named on the face hereof has fulfilled the requirements of the Transient Occupancy Tax Chapter by registering with the Tax Administrator for the purpose of collecting from transients the Transient Occupancy Tax and remitting said tax to the Tax Administrator. This Permit does not authorize any person to conduct any unlawful business in any unlawful manner, nor operate a hotel without strictly complying with all applicable laws, including but not

limited to those requiring a permit from any board, commission, department or office of this City. This Permit does not apply in lieu of such other permits which are otherwise required."

B. At the time of filing an application for a registration permit, the applicant shall pay a registration fee for each permit issued. (Ord. 531 §2 (part), 1990).

13.24.070 Returns and remittances. The tax imposed under Section 3.24.030 is:

A. Due to the tax administrator at the time it is collected by the operator; and

B. Becomes delinquent and subject to penalties if not post marked or received by the tax administrator on or before the last working day of the month following the close of each calendar quarter. (Ord. 531 §2 (part), 1990).

3.24.080 Reporting and remitting. Commencing on or before the last working day of the month following the close of each calendar quarter throughout the fiscal year, commencing each July 1st, each operator shall file a return with the tax administrator on the forms provided by him, of the total rents charged or chargeable as provided in Section 3.24.030, whether or not received, including any rentals charged for occupancies exempt under the provisions of Sections 3.24.020 (G) and 3.24.040 and, all such amount of tax collected for transient occupancies. The assessor-collector may establish shorter reporting periods for any certificate holder if he or she deems it necessary in order to insure collection of the tax and he or she 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 assessor-collector. Each such return shall contain a declaration under penalty of perjury, executed by the operator or his authorized agent, that to the best of the signator's knowledge, the statements in the return are true, correct and complete. Amounts claimed on the return as exempt from the tax pursuant to Sections 3.24.020(G), 3.24.040 and 3.24.150 shall be fully itemized and explained on the return or supporting schedule. In determining the amount of "tax- able receipts" on the tax return, "rent" as defined in Section 3.24.020(E), may not be reduced by any business expenses including but not limited to the amount of service charges deducted by credit card companies or commissions paid to travel agencies. At the time the return is filed, the tax fixed at the prevailing transient occupancy tax rate for the amount of rentals charged or chargeable, which are not exempt from the tax pursuant to this chapter shall be remitted to the tax administrator. The tax administrator may establish other reporting periods and may require a cash deposit or bond or a separate trust fund bank account for any permit holder if he deems it necessary in order to insure collection of the tax and he may require further information in the return. All taxes collected by operators pursuant to this chapter shall be held in trust for the account of the city until remittance thereof is made to the tax administrator. (Ord. 531 §2 (part), 1990)

3.24.090 Cessation of business. Each operator shall notify the tax administrator no less than fifteen days prior to the sale or cessation of business for any reason, and, returns and remittances are due immediately upon the sale or cessation of business. (Ord. 531 §2 (part), 1990)

3.24.100 Delinquency. Any operator who fails to remit any required tax to the City by the due date stated on the remittance shall be come delinquent on the next day and must include a penalty of ten percent (10%) of the tax with payment. Any operator who fails to pay any penalty imposed under this section by the tenth day after the due date on the remittance shall pay interest at the rate of two percent (2%) per month, or fraction thereof from the date on which the penalty becomes due and payable to the City until the date of the payment. (Ord.531 §2 (part), 1990)

3.24.110 Fraud. If the tax administrator determines that the failure to make any remittance or payment due under this chapter is due to fraud, a penalty of one hundred per- cent of the amount of the tax and penalties shall be added thereto in addition to the penalties stated in Section 3.24.100. (Ord. 531 §2 (part), 1990)

3.24.120 Failure to collect and report tax - Determination of tax by tax administrator. If any operator fails or refuses to collect the tax and to make, within the time pro- vided in this chapter, any report and remittance of the tax or any portion thereof required by this chapter, the tax ad-ministrator 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 payable by any operator who has failed or refused to collect the tax and make such report and remittance, he shall proceed to determine and assess against the operator the tax, interest and penalties provided for by this chapter. When 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 address. The operator may within ten days after serving or mailing of the 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 the application is made, the tax administrator shall give not less than five days' written notice in the manner prescribed in this section to the operator to show cause at a time and place fixed in the notice why the amount specified therein should not be fixed for the tax, interest and penalties. At the hearing, the operator may appear and offer evidence why the specified tax, interest and penalties should not be so fixed. After the 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 in this section of the determination and the amount of the tax, interest and penalties. The amount determined to be due shall be payable after fifteen days unless an appeal is taken as provided in Section 3.24.130. (Ord.531 §2 (part), 1990)

3.24.130 Appeal. Any operator aggrieved by any decision of the tax administrator pursuant to a hearing in accord with the provisions of Section 3.24.120, with respect to the amount of any tax, interest and penalties, if any, may appeal to the city council by filing a notice of appeal with the city clerk within fifteen days of service of the assessment or determination of tax and penalties, if any due. The city council shall fix a time and place for hearing the appeal, and the city clerk shall give notice in writing to the operator at his last known address. The findings of the city council shall be final and conclusive and shall be served upon the appellant in the manner prescribed in this chapter for service of notice of hearing. Any amount found to be due shall be immediately due and payable upon the service of the notice. (Ord.531 §2 (part),1990)

3.24.140 Records. It shall be the duty of every operator liable for the collection and remittance to the city of any tax imposed by this chapter to keep and preserve, in the city, for a period of three years, records in such form as the tax administrator may require to determine the amount of the tax. The tax administrator shall have the right to inspect such records at all reasonable times and may subpoena the records of any operator who refuses to make them available for examination. The tax administrator shall have the authority to require such records be implemented through mandatory use of a mechanical or electronic cash register which will print a daily statement of income and a monthly total of income. (Ord.531 §2 (part),1990)

3.24.150 Refunds. A. Whenever the amount of any tax, interest or penalty has been overpaid or paid more than once or has been erroneously 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 claims shall be in such form determined 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 collected or paid more than once 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 person or credited to rent subsequently payable by the person to the operator.

C. A transient may obtain a refund of taxes overpaid or paid more than once 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 has been unable to obtain a refund from the operator who collected the tax.

D. No refund shall be paid under the provisions of this section unless the claimant establishes his right thereto by written records. (Ord. 531 §2 (part), 1990)

3.24.160 Revocation of permit. Whenever any operator fails to comply with any provision of this chapter relating to occupancy tax or any rule or regulation of the tax administrator relating to occupancy tax prescribed and adopted under this chapter, the tax administrator upon hearing, after giving the operator ten days' notice in writing specifying the time and place of hearing and requiring him to show cause why his permit or permits should not be revoked, may suspend or revoke any one or more of the permits held by the operator. The tax administrator shall give to the operator written notice of the suspension or revocation of any of his permits. The notices required in this section may be served personally or by mail in the manner prescribed for service of notice of a deficiency determination. The tax administrator shall not issue a new permit after the revocation of a permit unless he is satisfied that the former holder of the permit has complied and will comply with the provisions of this chapter relating to the occupancy tax and regulations of the tax administrator. (Ord. 531 §2 (part) 1990)

3.24.170 Closure of hotel without permit. During any period of time during which a permit has not been issued, or is suspended, revoked or otherwise not validly in effect, the tax administrator may require that the hotel be closed. (Ord. 531 §2 (part), 1990)

3.24.180 Recording certificate--Lien. If any amount required to be remitted or paid to the city under this chapter is not remitted or paid when due, the tax administrator may, within three years after the amount is due, file for record in the office of the county recorder a certificate specifying the amount of tax, penalties and interest due, the name and address as it appears on the records of the tax administrator of the operator liable for the same and the fact that the tax administrator has complied with all provisions of this chapter in the determination of the amount required to be remitted and paid. From the time of the filing for record, the amount required to be remitted together with penalties and interest constitutes a lien upon all real property in the county owned by the operator or afterwards and before the lien expires acquired by him. The lien has the force, effect and priority of a judgment lien and shall continue for ten years from the time of filing of the certificate unless sooner released or otherwise discharged. (Ord. 531 §2 (part), 1990)

3.24.190 Priorit and lien of tax. A. The amounts required to be remitted and or paid by any operator under this chapter with penalties and interest shall be satisfied first in any of the following cases:

1. Whenever the person is insolvent;
2. Whenever the person makes a voluntary assignment of his assets;
3. Whenever the estate of the person in the hands of executors, administrators, or heirs is insufficient to pay all debts due from the deceased;
4. Whenever the estate and effects of an absconding, concealed or absent person required to pay any amount under this chapter are levied upon by process law.

This chapter does not give the city a preference over any recorded lien which attached prior to the date when the amounts required to be paid became a lien.

B. The preference given to the city by this section shall be subordinate to the preferences given to claims for personal services by Sections 1204 and 1206 of the Code of Civil Procedure. (Ord. 531 §2 (part), 1990)

3.24.200 Warrant for collection of tax. At any time within three years after any operator is delinquent in the remittance or payment of any amount required in this chapter to be remitted or paid within three years after the last recording of a certificate under Section 3.24.160, the tax administrator may issue a warrant for the enforcement of any liens and for the collection of any amount required to be paid to the city under this chapter. The warrant shall be directed to any sheriff, marshal, or constable and shall have the same effect as a writ of execution. The warrant shall be levied and sale made pursuant to it in the same manner with the same effect as a writ of execution. The tax administrator may pay or advance to the sheriff, marshal, or constable the same fees, commissions and expenses for his services as are provided by law for similar services pursuant to a writ of execution. The tax administrator, and not the court, shall approve the fees for publication in a newspaper. (Ord. 531 §2 (part), 1990)

3.24.210 Seizure and sale. At any time within three years after any operator is delinquent in the remittance or payment of any amount, the tax administrator may forthwith collect the amount in the following manner. The tax administrator shall seize any property, real or personal, of the operator and sell the property, or a sufficient part of it, at public auction to pay the amount due together with any penalties and interest imposed for the delinquency and any costs incurred on account of the seizure and sale. Any seizure made to collect occupancy taxes due shall be only of property of the operator not exempt from the execution under the provisions of the Code of Civil Procedure. (Ord. 531 §2 (part), 1990)

3.24.220 Successor's liability--Withholding by purchaser. If any operator liable for any amount under this chapter sells out his business or quits the business, his successor assigns shall withhold sufficient of the purchase price to cover such amount until the former owner produces a receipt from the tax administrator showing that it has been paid or a certificate stating that no amount is due. (Ord. 531 §2 (part), 1990)

3.24.230 Liability of purchaser—Release. If the purchaser of a hotel fails to withhold purchase price as required, he shall become personally liable for the payment of the amount required to be withheld by him to the extent of the purchase price, valued in money. Within sixty days from the date of the former owner's records are made available for audit, whichever period expires the later, but in any event not later than ninety days after the receiving the request, the tax administrator shall either issue the certificate or mail notice to the purchaser at his address as it appears on the records of the tax administrator of the amount that must be paid as a condition of issuing the certificate. Failure of the tax administrator to mail the notice will release the purchaser

from any further obligation to withhold purchase price as provided in this section. The time within which the obligation of the successor may be enforced shall start to run at the time the operator sells his business or at the time that the determination against the operator becomes final, whichever occurs later. (Ord. 531 §2 (part), 1990)

3.24.240 Responsibility for payments. Any tax required to be paid by any transient under the provisions of this chapter shall be deemed a debt owed to the city by the operator. Any such tax collected by an operator which has not been remitted to the city is a fiduciary obligation of the operator to the city and collectible in the same manner as a debt. 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. (Ord. 531 §2 (part), 1990)

3.24.250 Withhold notice. If any person or operator is delinquent in the remittance or payment of the amount required to be remitted or paid by him or in the event a determination has been made against him for the remittance of tax and payment of the penalty, the city may, within three years after the tax obligation became due, give notice thereof personally or by registered mail to all persons, including the state or any political subdivision thereof, having in their possession or under their control any credits or other personal property belonging to the taxpayer. After receiving the withholding notice, the person so notified shall make no disposition of the taxpayer's credits, other personal property or debts until the city consents to a transfer or disposition or until sixty days elapse after the receipt of the notice, whichever expires earlier. All persons, upon receipt of the notice shall advise the city immediately of all such credits, other personal property or debts in their possession, under their control or owing by them. If the notice seeks to prevent the transfer or other disposition of a deposit in a bank or other credits or personal property in the possession or under the control of the bank, to be effective the notice shall be delivered or mailed to the branch or office of the bank at which the deposit is carried or at which the credits or personal property is held. If any person so notified makes transfer or disposition of the property or debts required to be held under this section during the effective period of the notice to withhold, he shall be liable to the city to the extent of the value of the release up to the amount of the indebtedness owned by the taxpayer to the city. (Ord. 531 §2 (part), 1990)

3.24.260 Violations--Misdemeanor. A. Except for failure of an operator to pay to the tax administrator taxes collected under this chapter which is punishable as a felony pursuant to Section 424 of the Penal Code, every violation of this chapter is a misdemeanor and punishable by a fine not exceeding five hundred dollars or imprisonment in the county jail for not more than six months or by both such fine and imprisonment.

B. If the offense is not otherwise punishable as mentioned in subsection (A) of this section, any person willfully failing to comply with, or knowingly violating, any of the provisions of this chapter shall be guilty of a misdemeanor.

C. Any operator or other person who willfully fails or refuses to register as required in this chapter, 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 tax administrator, or who renders a false or fraudulent return or claim is guilty of a misdemeanor. Any person required to make, render, sign or verify and report or claim who willfully makes any false or fraudulent report or claim with intent to defeat or evade the determination of any amount due required by this chapter to be made, is guilty of a misdemeanor. (Ord. 531 §2 (part), 1990)

3.24.270 Extension of time. The tax administrator, for good cause, may extend for not to exceed one month the time for making any return or paying any amount required to be paid under this chapter. The extension may be granted at any time, provided a request therefor is filed with the tax administrator within or prior to the period for which the extension may be granted. Any person to whom an extension is granted shall pay, in addition to the tax, interest at the rate of two percent per month or fraction thereof, from the date on which the tax would have been due without the extension until the date of payment. (Ord.531 §2 (part), 1990)

3.24.280 Divulging of information forbidden. It is unlawful for any person having an administrative duty under this chapter to make known in any manner whatever the business affairs, operations, or information obtained by the investigation of the records of any operator or any other person visited or examined in the discharge of official duty, or the amount or source of income, profits, losses, expenditures, or any particular thereof, set forth or disclosed in any return, or to knowingly permit any return or copy thereof or any abstract or particulars thereof to be seen or examined by any person. Successors, receivers, trustees, executors, administrators, assignees and guarantors, if directly interested, may be given information as to the items included in the amounts of any unpaid tax or amounts of tax, penalties and interest required to be collected. (Ord.531 §2 (part),1990)

Chapter 3.28INDUSTRIAL DEVELOPMENT AUTHORITYSections:

- 3.28.010 Purpose.
- 3.28.020 Findings and declarations.
- 3.28.030 Organization.

3.28.010 Purpose. The California Industrial Development Financing Act, Title 10, section 91500, Government Code, has established an industrial development authority for the achievement of specified public purposes. The public purposes are to increase opportunities for useful employment and to contribute to private economic development. The need for the establishment of an industrial development authority to achieve such purposes is based upon finding that the private industry requires new and alternative methods of capital finance for the acquisition, construction, and rehabilitation of facilities. (Ord. 468 §1(A), 1982).

3.28.020 Findings and declarations. There is a need in the city for the acquisition, construction or rehabilitation of facilities for use in industry, which will increase employment opportunities and contribute to economic development; and further, the alternative method of capital finance that an industrial development authority can provide will aid in satisfying that need. (Ord. 468 §1(B), 1982).

3.28.030 Organization. There is established in the city an industrial development authority, hereby declared and organized, which shall function under the name industrial development authority of the city, and which is authorized to transact business and exercise all of the powers and other authority conferred upon industrial development authorities by the Act. The authority shall have the power to accept and act upon all applications from companies for financing by the issuance of bonds, and to execute any contracts or agreements with companies respecting a project, the agreement form to include leases, installment sales, loans, or guarantees. (Ord. 468 §1(C), 1982).