

Title 3

REVENUE AND FINANCE

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Chapter 3.04

FISCAL YEAR

(RESERVED)

Chapter 3.08

TRANSFER OF TAX FUNCTIONS¹

Sections:

- 3.08.010 Transfer of duties.
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- 3.08.030 Filing of certified copy.

3.08.010 Transfer of duties.

The assessment and tax collection duties, and the collection of assessments levied for municipal improvements, now performed by the assessor and the tax collector of the city, are transferred to the assessor and tax collector of the county for the purpose of assessment and collection of, and for, ad valorem property taxes that become a lien after the adoption of the ordinance codified in this chapter, and the collection of assessments for municipal improvements becoming due and payable on or after July 1, 1967. (Ord. 369 § 2, 1967.)

3.08.020 Offices of city assessor and city tax collector abolished—Duties of city clerk.

The offices of city assessor and city tax collector are abolished as of the first day of July, 1967, and thereafter all duties performed by the city assessor other than the assessing of property in the city, and all duties performed by the city tax collector other than the collection of ad valorem taxes on property that become a lien after the adoption of the ordinance codified in this chapter and the collection of assessments for

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municipal improvements becoming due and payable on and after July 1, 1967, are transferred to and are to be performed by the city clerk. (Ord. 369 § 3, 1967.)

3.08.030 Filing of certified copy.

The city clerk shall cause a certified copy of the ordinance codified in this chapter to be filed with the county auditor, tax collector and treasurer, on or before the first Monday of February, 1967, and immediately thereafter shall notify the State Board of Equalization. (Ord. 369 § 4, 1967.)

Chapter 3.12

REAL PROPERTY TRANSFER TAX²

Sections:

- 3.12.010 Short title.
- 3.12.020 Tax imposed.
- 3.12.030 Who must pay tax.
- 3.12.040 Exceptions—Instrument to secure debt.
- 3.12.050 Exceptions—Government agencies.
- 3.12.060 Exceptions—Conveyances—Reorganization and adjustment.
- 3.12.070 Exceptions—Conveyances—Securities and Exchange Commission.
- 3.12.080 Exceptions—Transfer of realty held in partnership.
- 3.12.090 Administration.
- 3.12.100 Refund claims.

3.12.010 Short title.

This chapter shall be known as the "Real Property Transfer Tax Ordinance of the City of Sonora." It is adopted pursuant to the authority contained in Part 6.7, commencing with Section 11901, of Division 2 of the Revenue and Taxation Code of the state. (Ord. 382 § 1, 1967.)

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3.12.020 Tax imposed.

There is imposed on each deed, instrument or writing by which any lands, tenements, or other realty sold within the city is granted, assigned, transferred or otherwise conveyed to, or vested in, the purchaser or purchasers, or in any other person or persons, by his or their direction, when the consideration or value of the interest conveyed (exclusive of the value of any lien or encumbrance 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. 382 § 2, 1967.)

3.12.030 Who must pay tax.

Any tax imposed pursuant to Section 3.12.020 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. 382 § 3, 1967.)

3.12.040 Exceptions—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. 382 § 4, 1967.)

3.12.050 Exceptions—Government agencies.

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. 382 § 5, 1967.)

3.12.060 Exceptions—Conveyances—Reorganization and adjustment.

A. Any tax imposed pursuant to this chapter shall not apply to the making, delivering or filing of conveyances to make

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effective any plan of reorganization or adjustment:

1. Confirmed under the Federal Bankruptcy Act, as amended;
 2. Approved in an equity receivership proceeding in a court involving a railroad corporation, as defined in subdivision (m) of Section 205 of Title 11 of the United States Code, as amended;
 3. 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
 4. Whereby a mere change in identity, form or place of organization is effected.
- B. Subsection A of this section shall only apply if the making, delivery or filing of instruments of transfer or conveyance occurs within five years from the date of such confirmation, approval or change.

(Ord. 382 § 6, 1967.)

3.12.070 Exceptions—Conveyances—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 79(k) 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. 382 § 7, 1967.)

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- 3.12.080 Exceptions—Transfer of realty held in partnership.**
- A. In the case of any 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 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. 382 § 8, 1967.)

3.12.090 Administration.

The county recorder shall administer this chapter in conformity with the provisions of Part 6.7 of Division 2, of the Revenue and Taxation Code, and the provisions of any county ordinance adopted pursuant thereto. (Ord. 382 § 9, 1967.)

3.12.100 Refund claims.

Claims for refund of taxes imposed pursuant to this chapter shall be governed by the provisions of Chapter 5, commencing with Section 5096, or Part 9 of Division 1 of the Revenue and Taxation Code of the state. (Ord. 382 § 10, 1967.)

SALES AND USE TAX

Chapter 3.16

SALES AND USE TAX³

Sections:

3.16.010	Title.
3.16.020	Rate.
3.16.030	Operative date.
3.16.040	Purpose.
3.16.050	Contract with state.
3.16.060	Sales tax imposed.
3.16.070	Place of sale.
3.16.080	Use tax imposed.
3.16.090	State provisions adopted.
3.16.100	Limitations on adoption of state provisions.
3.16.110	Permit not required.
3.16.120	Exclusions and exemptions.
3.16.130	Amendments.
3.16.140	Enjoining collection prohibited.
3.16.150	Violation—Penalty.
3.16.160	Severability.
3.16.170	Effective date.

3.16.010 Title.

This chapter shall be known as the "Uniform Local Sales and Use Tax Ordinance." (Ord. 500 § 1, 1976.)

3.16.020 Rate.

The rate of sales tax and use tax imposed by this chapter shall be as follows:

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Effective Date	City Percent	County Percent
January 1, 1993	0.94	0.06
January 1, 1994	0.93	0.07
January 1, 1995	0.93	0.07
January 1, 1996	0.92	0.08
January 1, 1997	0.91	0.09
January 1, 1998	0.90	0.10
January 1, 1999	0.89	0.11
January 1, 2000	0.88	0.12
January 1, 2001	0.87	0.13

(Ord. 679 § 1, 1992: Ord. 633 § 1, 1987: Ord. 541 § 1, 1980:
Ord. 530 § 1, 1979: Ord. 522 § 1, 1978: Ord. 509 § 1, 1977: Ord.
500 § 2, 1976.)

3.16.030 Operative date.

This chapter shall be operative on August 17, 1976. (Ord. 500
§ 3, 1976.)

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3.16.040 Purpose.

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

- A. To adopt a sales and use tax ordinance which complies with the requirements and limitations contained in Part 1.5 of Division 2 of the Revenue and Taxation Code;
- B. To adopt a sales and use tax ordinance which incorporates provisions identical to those of the Sales and Use Tax Law of the state of California insofar as those provisions are not inconsistent with the requirements and limitations contained in Part 1.5 of Division 2 of the Revenue and Taxation Code;
- C. To adopt a sales and use tax ordinance which imposes a tax and provides a measure therefor that can be administered and collected by the State Board of Equalization in a manner that adapts itself as fully as practicable to, and requires the least possible deviation from the existing statutory and administrative procedures followed by the State Board of Equalization in administering and collecting the California State Sales and Use Taxes;
- D. To adopt a sales and use tax ordinance which can be administered in a manner that will, to the degree possible consistent with the provisions of Part 1.5 of Division 2 of the Revenue and Taxation Code, minimize the cost of collecting city sales and use taxes and at the same time minimize the burden of recordkeeping upon persons subject to taxation under the provisions of this chapter.

(Ord. 500 § 4, 1976.)

3.16.050 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 shall not have contracted with the State Board of Equalization prior to the operative date, it shall nevertheless so contract and in such a case the operative date shall be the first day of the first calendar quarter

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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. 500 § 5, 1976.)

3.16.060 Sales tax imposed.

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 3.16.020 of the gross receipts of the retailer from the sale of all tangible personal property sold at retail in this city on and after the operative date. (Ord. 500 § 6, 1976.)

3.16.070 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. 500 § 7, 1976.)

3.16.080 Use tax imposed.

An excise tax is imposed on the storage, use or other consumption in this city of tangible personal property purchased from any retailer on and after the operative date for storage, use or other consumption in this city at the rate stated in Section 3.16.020 of the sales price of the property. The sales price shall include delivery charges when such charges are subject to state sales or use tax regardless of the place to which delivery is made. (Ord. 500 § 8, 1976.)

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3.16.090 State provisions adopted.

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. 500 § 9, 1976.)

3.16.100 Limitations on adoption of state provisions.

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 said 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

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6203 or in the definition of that phrase in Section 6203. (Ord. 500 § 10, 1976.)

3.16.110 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. 500 § 11, 1976.)

3.16.120 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. 589 § 1, 1983; Ord. 500 § 12, 1976.)

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3.16.130 Amendments.

All subsequent amendments of the Revenue and Taxation Code which relate to the sales and use tax and which are not inconsistent with Part 1.5 of Division 2 of the Revenue and Taxation Code shall automatically become a part of this chapter. (Ord. 500 § 13, 1976.)

3.16.140 Enjoining collection prohibited.

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. 500 § 14, 1976.)

3.16.150 Violation—Penalty.

Any person violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine of not more than five hundred dollars or by imprisonment for a period of not more than six months, or by both such fine and imprisonment. (Ord. 500 § 15, 1976.)

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3.16.160 Severability.

If any provision of the ordinance codified in this chapter or the application thereof to any person or circumstance is held invalid, the remainder of the ordinance codified in this chapter and the application of such provision to other persons or circumstances shall not be affected thereby. (Ord. 500 § 16, 1976.)

3.16.170 Effective date.

The ordinance codified in this chapter relates to taxes for the usual and current expenses of the city and shall take effect immediately. (Ord. 500 § 17, 1976.)

Chapter 3.20

TRANSIENT OCCUPANCY TAX⁴

Sections:

- 3.20.010 Short title.**
- 3.20.020 Definitions.**
- 3.20.030 Amount of tax.**
- 3.20.040 Tax applies to mobile homes outside mobile home park.**
- 3.20.050 Exemptions.**
- 3.20.060 Operator's duties.**
- 3.20.070 Hotel registration.**
- 3.20.080 Reporting and remitting.**
- 3.20.090 Penalties and interest.**
- 3.20.100 Determination of delinquent tax by tax administrator.**
- 3.20.110 Appeal to city council.**
- 3.20.120 Records.**
- 3.20.130 Refunds and credit—Procedure.**

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- 3.20.140** **Actions to collect.**
- 3.20.150** **Violation—Penalty.**
- 3.20.160** **Effective date.**

TRANSIENT OCCUPANCY TAX

3.20.010 Short title.

This chapter shall be known as the "Uniform Transient Occupancy Tax Ordinance of the City of Sonora." (Ord. 340 § 1, 1964.)

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3.20.020 Definitions.

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

A. "Hotel" means any structure, or any portion of any structure, which is occupied or intended or designed for occupancy by transients for dwelling, lodging, or sleeping purposes, and includes any hotel, inn, tourist home or house, motel, studio hotel, bachelor hotel, lodginghouse, roominghouse, apartment house, dormitory, public or private club, mobile home or house trailer, at a fixed location, or other similar structure or portion thereof.

"Hotel" does not mean any of the following: any hospital, sanitarium, medical clinic, convalescent home, rest home, home for aged people, foster home, or other similar facility operated for the care or treatment of human beings; any asylum, jail, prison, orphanage or other facility in which human beings are detained and housed under legal restraint; any housing owned or controlled by an educational institution and used exclusively to house students, faculty or other employees, and any fraternity or sorority house or similar facility occupied exclusively by students and employees of such educational institution, and officially recognized or approved by it; any housing owned by a governmental agency and used for governmental purposes; any camp as defined in the Labor Code or other housing furnished by an employer, exclusively for employees; any housing occupied by persons under the age of eighteen years which is owned or controlled by an organization having qualifications for exemption from property taxes under the laws of California and which is operated or used exclusively for religious, charitable, or educational purposes; provided, that the burden of establishing that the housing or facility is not a hotel as defined in this section shall be upon the operator thereof, who shall file with the tax administrator such information as the tax administrator requires to establish and maintain such status.

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

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- C. "Operator" means the person who is proprietor of the hotel, whether in the capacity of owner, lessee, sublessee, mortgagee in possession, licensee, or any other capacity. Where the operator performs his functions through a managing agent of any type or character other than an employee, the managing agent shall also be deemed an operator for the purposes of this chapter, and shall have the same duties and liabilities as his principal. Compliance with the provisions of this chapter by either the principal or the managing agent shall, however, be considered to be compliance by both.
- D. "Person" means any individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate, or any other group or combination acting as a unit.
- E. "Rent" means the consideration charged, whether or not received, for the occupancy of space in a hotel, valued in money, whether to be received in 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 chief of police of the city, who is the tax collector of the city.
- G. "Transient" means any person who exercises occupancy, or is entitled to occupancy by reason of concession, permit, right of access, license, or other agreement, for a period of thirty consecutive calendar days, or less, counting portions of calendar days as full days. Any such person so occupying space in a hotel shall be deemed to be a transient until the period of thirty days has expired, unless there is an agreement, in writing between the operator and the occupant providing for a longer period of occupancy. In determining whether a person is a transient, uninterrupted periods of time extending both prior and subsequent to the effective date of the ordinance codified in this chapter may be considered.

(Ord. 378 § 1, 1967; Ord. 340 § 2, 1964.)

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3.20.030 Amount of tax.

For the privilege of occupancy in any hotel or other lodging within the City of Sonora, each transient is subject to and shall pay a tax in the amount of ten percent of the rent charged by the operator. The tax constitutes a debt owed by the transient to the city which is extinguished only by payment to the operator or to the city. The transient shall pay the tax to the operator of the hotel or other lodging at the time the rent is paid. If the rent is paid in installments, a proportionate share of the tax shall be paid with each installment. The unpaid tax shall be due upon the transient's ceasing to occupy space in the hotel or other lodging. If for any reason the tax due is not paid to the operator of the hotel or other lodging the tax administrator may require that such tax shall be paid directly to the tax administrator. (Ord. 579, 1983; Ord. 451 § 1, 1973; Ord. 378 § 2, 1967; Ord. 340 § 3, 1964.) (Ord. 790, § 1, 6-8-2010)

Editor's note—Ord. No. 790, § 1, adopted June 8, 2010, amended § 3.20.030 and in so doing changed the title of said section from "Tax imposed" to "Amount of tax," as set out herein.

3.20.040 Tax applies to mobile homes outside mobile home park.

The tax imposed in Section 3.20.030 applies to privilege of renting a mobile home, as defined in Section 18008 of the California Health and Safety Code, which is located outside a mobile home park for occupancy on a transient basis, unless such occupancy is for any period of more than thirty days. This section does not apply when the tenant of such mobile home is an employee or the owner or operator of the mobile home. (Ord. 451 § 2, 1973; Ord. 340 § 3A, 1964.)

3.20.050 Exemptions.

- A. No tax shall be imposed upon any officer or employee of a foreign government who is exempt by reason of express provision of any law or international treaty of the United States of America.

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B. No exemption as provided in this section shall be granted, except on a claim made therefor at the time rent is collected, and under penalty of perjury, upon a form prescribed by the tax administrator.

(Ord. 348 § 1, 1965; Ord. 340 § 4, 1964.)

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3.20.060 Operator's duties.

Each operator shall collect the tax imposed by this chapter at the same extent, and at the same time, as the rent is collected from every transient. The amount of tax shall be separately stated from the amount of the rent charged, and each transient shall receive a receipt for payment from the operator. No operator of a hotel shall advertise or state in any manner, whether directly or indirectly, that the tax or any part thereof will be assumed or absorbed by the operator, or that it will not be added to the rent, or that, if added, any part will be refunded, except in the manner hereinafter provided. (Ord. 340 § 5, 1964.)

3.20.070 Hotel registration.

Within thirty days after the effective date of the ordinance codified in this chapter, or within thirty days after commencing business, whichever is later, each operator of any hotel renting occupancy to transients shall register said hotel with the tax administrator and obtain from him a "Transient Occupancy Registration Certificate" to be at all times posted in a conspicuous place on the premises. Said certificate shall, among other things, state the following:

- A. The name of the operator;
- B. The address of the hotel;
- C. The date upon which the certificate was issued;
- D. "This 'Transient Occupancy Registration Certificate' signifies that the person named on the face hereof has fulfilled the requirements of the Uniform Transient Occupancy Tax Ordinance by registering with the Tax Administrator for the purpose of collecting from transients the Transient Occupancy Tax, and remitting said tax to the Tax Administrator. This certificate does not authorize any person to conduct any unlawful business or to conduct any lawful business in an unlawful manner, nor to operate a hotel without strictly complying with all local applicable laws, including, but not limited to, those requiring a permit from any board, commission, department, or office of this city. This certificate does not constitute a permit."

(Ord. 340 § 6, 1964.)

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3.20.080 Reporting and remitting.

Each operator shall, on or before the last day of the month following the close of each calendar quarter, or at the close of any shorter reporting period which may be established by the tax administrator, make a return to the tax administrator, on forms provided by him, of the total rents charged and received, and the amount of tax collected for the transient occupancies. At the time the return is filed, the full amount of the tax collected shall be remitted to the tax administrator. The tax administrator may establish shorter reporting periods for any certificate holder if he deems it necessary in order to insure collection of the tax, and he may require further information in the return. Returns and payments are due immediately upon cessation of business for any reason. All taxes collected by operators pursuant to this chapter shall be held in trust for the account of the city until payment thereof is made to the tax administrator. (Ord. 340 § 7, 1964.)

3.20.090 Penalties and interest.

- A. Original Delinquency. Any operator who fails to remit any tax imposed by this chapter within the time required shall pay a penalty of ten percent of the amount of the tax in addition to the amount of the tax.
- B. Continued Delinquency. Any operator who fails to remit any delinquent remittance on or before a period of thirty days following the date on which the remittance first became delinquent shall pay a second delinquency penalty of ten percent of the amount of the tax in addition to the amount of the tax and the ten percent penalty first imposed.
- C. Fraud. If the tax administrator determines that the nonpayment of any remittance due under this chapter is due to fraud, a penalty of twenty-five percent of the amount of the tax shall be added thereto in addition to the penalties stated in subsections A and B of this section.
- D. Interest. In addition to the penalties imposed, any operator who fails to remit any tax imposed by this chapter shall pay interest at the rate of one-half of one percent per month, or fraction thereof, on the amount of the tax, exclusive of

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penalties, from the date on which the remittance first became delinquent until paid.

- E. Penalties Merged With Tax. Every penalty imposed, and such interest as accrues under the provisions of this section, shall become a part of the tax required in this section to be paid.

(Ord. 340 § 8, 1964.)

3.20.100 Determination of delinquent tax by tax administrator.

If any operator fails or refuses to collect said tax, and to make, within the time provided by this chapter, any report and remittance of said tax, or any portion thereof, required by this chapter, the tax administrator shall proceed in such manner as he may deem best to obtain facts and information on which to base his estimate of the tax due. As soon as the tax administrator procures such facts and information as he is able to obtain upon which to base the assessment of any tax imposed by this chapter and payable by any operator who has failed or refused to collect the same and to make such report and remittance, the tax administrator shall proceed to determine and assess against such operator the tax, interest, and penalties provided for by this chapter. In case such determination is made, the tax administrator shall give a notice of the amount so assessed by serving it personally or by depositing it in the United States mail, postage prepaid, addressed to the operator so assessed at his last known place of address. Such operator may, within ten days after the serving or mailing of such notice, make application, in writing to the tax administrator for a hearing on the amount assessed. If application by the operator for a hearing is not made within the time prescribed, the tax, interest, and penalties, if any, determined by the tax administrator, shall become final and conclusive, and immediately due and payable. If such application is made, the tax administrator shall give not less than five days' written notice in the manner prescribed in this section to the operator to show cause, at a time and place fixed in said notice, why said amount specified therein should not be fixed for such tax, interest, and penalties. At such hearing, the operator may appear and offer evidence why such specified tax,

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interest, and penalties should not be so fixed. After such hearing, the tax administrator shall determine the proper tax to be remitted and shall thereafter give written notice to the person in the manner prescribed in this section of such determination and the amount of such tax, interest, and penalties. The amount determined to be due shall be payable within fifteen days, unless an appeal is taken as provided in Section 3.20.110. (Ord. 340 § 9, 1964.)

3.20.110 Appeal to city council.

Any operator aggrieved by any decision of the tax administrator with respect to the amount of such tax, interest, and penalties, if any, may appeal to the city council by filing a notice of appeal with the city clerk within fifteen days of the serving or mailing of the determination of the tax due. The council shall fix a time and place for hearing such appeal, and the city clerk shall give notice, in writing, to such operator at his last known place of address. The findings of the council shall be final and conclusive, and shall be served upon the appellant in the manner prescribed 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 notice. (Ord. 340 § 10, 1964.)

3.20.120 Records.

It shall be the duty of every operator liable for the collection and payment to the city of any tax imposed by this chapter to keep and preserve, for a period of three years, all records as may be necessary to determine the amount of such tax as he may have been liable for the collection of and payment to the city, which records the tax administrator shall have the right to inspect at all reasonable times. (Ord. 340 § 11, 1964.)

3.20.130 Refunds and credit—Procedure.

A. Whenever the amount of any tax, interest, or penalty has been overpaid or paid more than once, or has been erroneously or illegally collected or received by the city

TRANSIENT OCCUPANCY TAX

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

- B. An operator may claim a refund or take as credit against taxes collected and remitted the amount overpaid, paid more than once, or erroneously or illegally collected or received, when it is established, in a manner prescribed by the tax administrator, that the person from whom the tax has been collected was not a transient; provided, however, that neither a refund nor a credit shall be allowed unless the amount of the tax so collected has either been refunded to the transient or credited to rent subsequently payable by the transient to the operator.
- C. A transient may obtain a refund of taxes overpaid, or paid more than once, or erroneously or illegally collected or received by the city by filing a claim in the manner provided in subsection A of this section, but only when the tax was paid by the transient directly to the tax administrator, or when the transient, having paid the tax to the operator, establishes to the satisfaction of the tax administrator that the transient 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 showing entitlement thereto.

(Ord. 340 § 12, 1964.)

3.20.140 Actions to collect.

Any tax required to be paid by any transient under the provisions of this chapter shall be deemed a debt owed by the transient to the city. Any such tax collected by an operator which has not been paid to the city shall be deemed a debt owed by the operator to the city. Any person owing money to the city under the provisions of this chapter shall be liable to an action brought in the name of the city of Sonora for the

SPECIAL GAS TAX STREET IMPROVEMENT FUND

recovery of such amount. (Ord. 340 § 13, 1964.)

3.20.150 Violation—Penalty.

Any person violating any of the provisions of this chapter is guilty of a misdemeanor and is punishable therefor as provided in Section 1.08.010. Any operator or other person who fails or refuses to register as required in this chapter, or to furnish any return required to be made, or 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, and is punishable as provided in Section 1.08.010. Any person required to make, render, sign, or verify any report or claim, who makes any false or fraudulent report or claim with intent to defeat or evade the determination of any amount due required by this chapter to be made, is guilty of a misdemeanor and is punishable as aforesaid. (Ord. 340 § 15, 1964.)

3.20.160 Effective date.

The tax imposed by the ordinance codified in this chapter shall become operative and be imposed August 1, 1964, and shall not apply prior to said date. (Ord. 340 § 16, 1964.)

Chapter 3.24

SPECIAL GAS TAX STREET IMPROVEMENT FUND⁵

Sections:

- 3.24.010 Created.
- 3.24.020 Moneys—Source.
- 3.24.030 Moneys—Use.

3.24.010 Created.

To comply with the provisions of Article 5 of Chapter 1 of

CLAIMS AGAINST THE CITY

Division 1 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. 147 § 1, 1935.)

3.24.020 Moneys — Source.

All moneys received by the city from the state under the provisions of the Streets and Highways Code for the acquisition of real property or interest therein for, or the construction, maintenance or improvement of, streets or highways, other than state highways, shall be paid into the special gas tax street improvement fund. (Ord. 147 § 2, 1935.)

3.24.030 Moneys — Use.

All moneys in the special gas tax street improvement fund shall be expended exclusively for the purposes authorized by, and subject to all of the provisions of Article 5, Chapter 1, Division 1 of the Streets and Highways Code. (Ord. 147 § 3, 1935.)

Chapter 3.28

CLAIMS AGAINST THE CITY⁶

Sections:

- 3.28.010** Claims against the city.
- 3.28.020** Claims procedures for damages or money not otherwise governed by state or local law.

3.28.010 Claims against the city.

- A. Any person or persons, firm or corporation having any claim or demand against the city is required to present the said claim, in writing, upon a blank or blanks to be furnished by the city clerk,

CLAIMS AGAINST THE CITY

which said claim shall be itemized and duly verified by, or on behalf of, the person presenting the same, by the oath of the said claimant or someone in his behalf and shall be presented and filed with the city clerk within thirty days after the same become due.

- B. If such claim is not presented in the same manner specified in subsection A within thirty days from the time the same becomes due, the same shall not be allowed and no warrant shall be drawn for the payment thereof and the same shall not thereafter be a legal charge against the city, but shall be forever barred by limitation of time.
- C. Action on claims against the city, which have been rejected by the city council, must be commenced within six months after the first rejection thereof by the city council.

(Ord. 73, 1918.)

3.28.020 Claims procedures for damages or money not otherwise governed by state or local law.

Notwithstanding the exemptions set forth in Section 905 of the Government Code of the state of California, all claims against the city for damages or money, when a procedure for processing such claims is not otherwise provided by state or local laws, shall be presented within the time limitations and in the manner prescribed by Section 910 through 915.2 of the Government Code. Such claims shall further be subject to the provisions of Section 945 through 946.6 of the Government Code relating to the prohibition of suits in the absence of the presentation of claims and action thereon by the council. (Ord. 689, 1994.)

PER DIEM WAGES ON PUBLIC WORKS

Chapter 3.32

PER DIEM WAGES ON PUBLIC WORKS⁷

Sections:

3.32.010 Overtime rates.

3.32.010 Overtime rates.

One and one-half times the regular hourly rates shall be paid for overtime for all work performed outside the regular working hours between the hours of eight a.m. and five p.m., Mondays through Fridays. Saturdays, Sundays and holidays shall be paid for at the rate of one and one-half times the regular hourly rates. (Ord. 197 § 3, 1947: Ord. 146 § 1, 1935.)

PARKING AND BUSINESS IMPROVEMENT AREA

Chapter 3.36

PARKING AND BUSINESS IMPROVEMENT AREA

Sections:

- 3.36.010** Authority.
- 3.36.020** Establishment—Purpose.
- 3.36.040** Definitions.
- 3.36.050** Area boundaries and benefit zones.
- 3.36.070** Charges.
- 3.36.080** Accountability of charges.
- 3.36.090** Assessments.
- 3.36.100** Amendment and modification procedures.
- 3.36.110** Hardship or inequity.
- 3.36.120** Collection and basis of charges and assessments.
- 3.36.130** Exemption of new businesses.
- 3.36.140** Credit for paid in-lieu fees.

3.36.010 Authority.

The proceedings in this chapter are taken pursuant to the authority of the "Parking and Business Improvement Area Act of 1979," being Section 36500 et seq. of the Streets and Highways Code of the state. (Ord. 577 § 2, 1983.)

3.36.020 Establishment—Purpose.

There is created and established a parking and business improvement area designated as "Parking and Business Improvement Area of the City of Sonora," for the purpose of financing, maintenance, property acquisition and construction of public parking, and for the improvement of the business district. Revenues produced by the parking and business improvement area shall be used for programs which benefit the business district, maintenance, and improve-

PARKING AND BUSINESS IMPROVEMENT AREA

ment of existing parking facilities, and land acquisition and construction of new parking facilities, within the city. (Ord. 577 § 5, 1983.)

PARKING AND BUSINESS IMPROVEMENT AREA

3.36.040 Definitions.

- A. "Area" or "parking and business improvement area," as used in this chapter, means all commercially used property, including offices, which are located in the city.
- B. "Assessment" means a levy for the purpose of obtaining funds to construct physical improvements which will benefit a parking and business improvement area.
- C. "Benefit zone" means a described portion of the area receiving different benefits of the parking and business improvement area with respect to the other portions of the area.
- D. "Business" means all types of businesses, including professions, which conduct business within the city limits.
- E. "Charge" means a levy for the purpose of providing services and for programs which will benefit a parking and business improvement area.
- F. "Employee", as used in this chapter, means any person who is issued a W2 (Wage and Tax Statement); by a California Board of Equalization license holder who is doing business in the city limits of Sonora. If an individual holds their own California Board of Equalization license, they shall not be considered an employee of any other license holder.
- G. "Reportable employee" means the number of employees who are given a W2, not the equivalent number of full-time employees.
- H. "Nonprimary" means a business license holder who conducts business under the same roof as other businesses, but is not responsible for reporting a benefit zone charge as defined in Section 3.36.120(E).
- I. "Primary" means the business license holder who conducts business under the same roof as other businesses, and is responsible for reporting the benefit zone charge for all business located under the same roof, as defined in Section 3.36.120(E).

(Ord. 660 (part), 1990; Ord. 603 § 1, 1985; Ord. 577 § 6, 1983.)

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used in this chapter, means all commercially used property, including offices, which are located in the city.

- B. "Assessment" means a levy for the purpose of obtaining funds to construct physical improvements which will benefit a parking and business improvement area.
- C. "Benefit zone" means a described portion of the area receiving different benefits of the parking and business improvement area with respect to the other portions of the area.
- D. "Business" means all types of business, including

PARKING AND BUSINESS IMPROVEMENT AREA

3.36.050 Area boundaries and benefit zones.

The exterior boundaries of said parking and business improvement area of the city shall be the boundary of the city of Sonora, as it now exists, or as it may be amended in the future by annexation or detachment. Within the area are established two benefit zones described as follows:

- A. Benefit Zone A. Downtown city of Sonora area as defined in Attachment A to the ordinance codified in this chapter.
- B. Benefit Zone B. All area within the city limits of Sonora, not included in Benefit Zone A. Zone B shall also include those businesses whose principal place of business is located outside the city limits, but who are doing business within the city limits.

(Ord. 660 (part), 1990: Ord. 577 § 7, 1983.)

3.36.070 Charges.

Unless otherwise modified under the procedures of this chapter, charges for general improvement of business activities and for maintenance and improvement of parking facilities to each business shall be as follows:

ZONE A

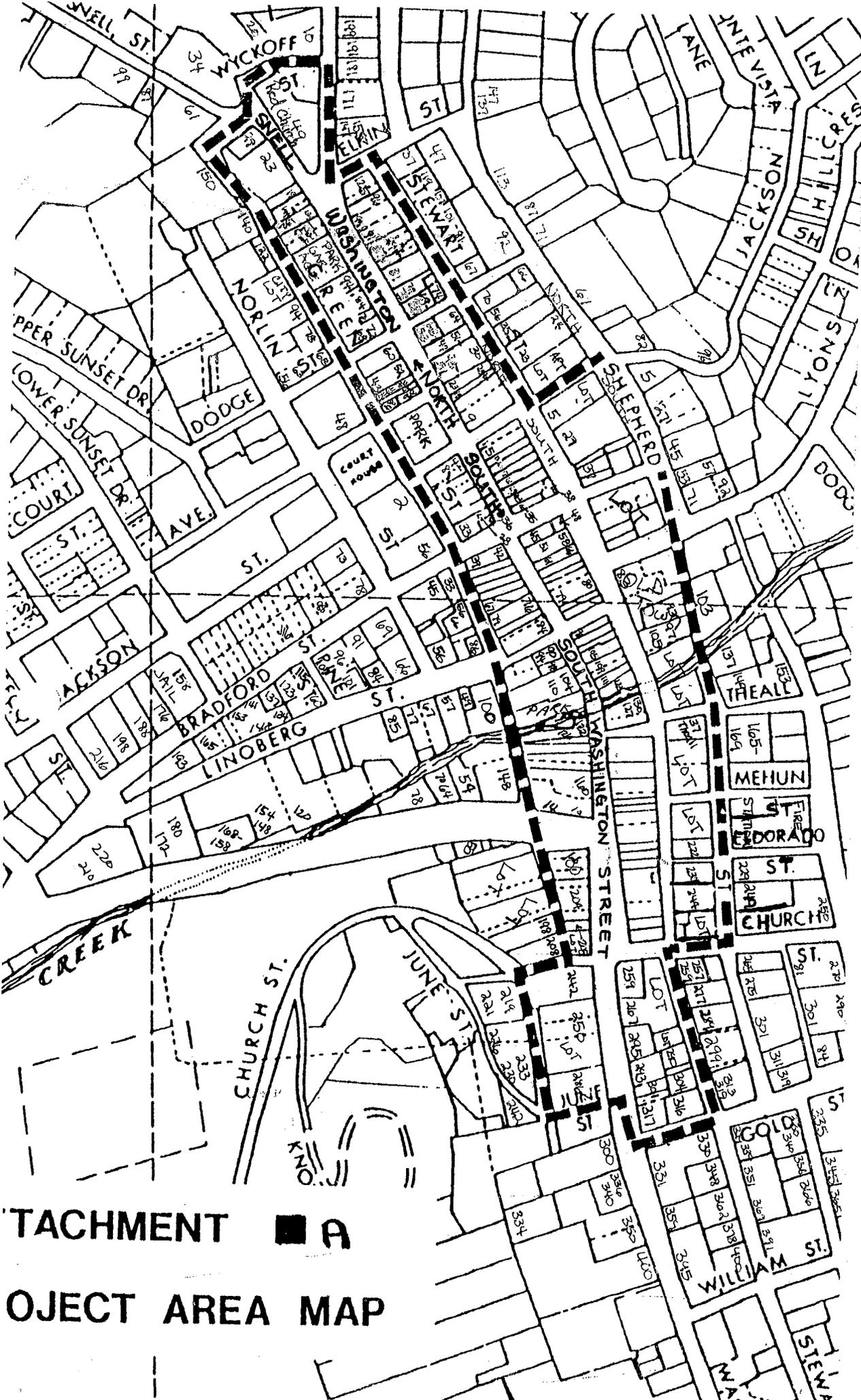
1. Annual Charge

1 - 3 Employees, including owner	\$ 75.00
4 - 12 Employees, including owner	125.00
13 - 20 Employees, including owner	200.00
21 - 35 Employees, including owner	250.00
36+ Employees, including owner	300.00

2. Quarterly Charge

1 - 3 Employees, including owner	\$ 25.00
4 - 12 Employees, including owner	35.00
13 - 20 Employees, including owner	55.00
21 - 35 Employees, including owner	70.00
36+ Employees, including owner	85.00

The charge for number of employees shall only be applied to those employees working within the city limits.



ATTACHMENT A
PROJECT AREA MAP

PARKING AND BUSINESS IMPROVEMENT AREA

it can be shown that adequate parking is provided and that the business or property involved would receive little or no benefit from the parking and business improvement area.
(Ord. 577 § 7, 1983.)

3.36.060 Applicability and findings of benefit.

The provisions of this chapter shall apply to all businesses maintaining a place of business within the parking and business improvement area.

It is found that Benefit Zone 1 and Benefit Zone 2 businesses will benefit from the provisions and maintenance of public off-street parking to varying degrees. Whereas, it is also found that Benefit Zone 3 businesses, due to their geographical location and provision for private off-street parking, receive little or not benefit from the activities of the parking and business improvement area.

Assessments to businesses within each benefit zone will be established in proportion to the anticipated benefit derived from the parking and business improvement area. When new public off-street parking facilities are provided and assessment areas approved, in accordance with the provisions of this chapter, only those businesses within the benefit zone in which the new parking is provided, and businesses within six hundred lineal feet (walking distance) of the new parking shall be assessed. Assessments, when made, shall be in multiples equal to the monthly charges imposed upon a particular business, the total of which shall be equal to the proportionate share of the entire assessment made. (Ord. 577 § 8, 1983.)

3.36.070 Charges.

Unless otherwise modified under the procedures of this chapter, charges for general improvement of business activities and for maintenance and improvement of parking facilities to each business shall be as follows:

A. Benefit Zone 1.

1. Businesses located within three hundred feet of city off-street parking: one hundred dollars plus ten dollars per employee per year;

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ZONE B

- | | |
|---------------------|----------|
| 1. Annual Charge | \$ 25.00 |
| 2. Quarterly Charge | 10.00 |

(Ord. 660 (part), 1990; Ord. 577 § 9, 1983.)

3.36.080 Accountability of charges.

Each benefit zone shall be accounted for separately. Revenues in excess of expenditures for maintaining off-street public parking, administration or programs which benefit the particular zone shall be accrued in a parking and business improvement fund for each benefit zone. These funds may be used at the discretion of the city for capital improvements to parking and other programs which benefit the particular zone.

When boundaries for zones are modified by the city or new zones are created, reasonable transfers of accounts may be made between the affected zones. (Ord. 577 § 10, 1983.)

3.36.090 Assessments.

Assessments to businesses may be established for each benefit zone, after public hearing, for the purpose of acquisition of land and construction of off-street parking facilities and other capital programs which benefit the particular zone under

PARKING AND BUSINESS IMPROVEMENT AREA

the procedures for amendment and modification of the ordinance codified in this chapter, as specified in this chapter. (Ord. 577 § 11, 1983.)

3.36.100 Amendment and modification procedures.

- A. Subject to State Statutes. The provisions of this chapter shall be subject to any amendments of Section 36500 et seq. of the Streets and Highways Code.
- B. Establishment or Modification of Benefit Zones – Establishment of Assessments. The city council, upon recommendation of the board of directors, may establish new benefit zones or make modifications to benefit zones, except changes in boundaries, and establish new assessments under the procedures for establishment of a parking and business improvement area. A resolution of intention pursuant to Section 36521 of the Streets and Highway Code shall be adopted, published and mailed to each affected business as required by Section 36552 of said Code. A public hearing shall be held and proceedings shall terminate if a written protest is made by a majority of the affected businesses. If there is not a written protest by a majority, and if the city council, after hearing, decides to establish or modify a benefit zone or establish a new assessment, it shall do so by ordinance pursuant to Section 36525 of the Streets and Highway Code.
- C. Modification of Boundaries, Assessments or Charges – Changes in the Uses to Which the Revenue shall be put – Disestablishment of an Area or Benefit Zone. The city council, upon recommendation of the board of directors, may make modifications to boundaries, assessments or charges, or the uses to which the revenue shall be put, or disestablish an area or benefit zone by adopting a resolution of intention specifying the proposed modification, time, place and date of public hearing at least fifteen days prior to said hearing. The resolution shall be duly noticed as required by law. If the city council, after hearing, decides to make such modification, it shall do so by ordinance.

(Ord. 577 § 12, 1983.)

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3.36.110 Hardship or inequity.

In the event that the imposition of charges or assessments would create a hardship or inequity for a particular business, the city council may, upon appeal, reduce the basis of charges or assessments if it finds that all of the following conditions are present:

- A. The business license holder or applicant for a business license can show that the charge or assessment is economically disproportionate to the net income of the business or the parking demand of the business.
- B. That the reduction of the basis of assessment or charges will not impair the ability of the area or benefit zone to meet the obligation of a contract to construct, operate or maintain physical improvements, or set a precedent leading to such impairment.

Applications for appeal of charges or assessments shall be set forth in writing by the applicant stating the specific reduction request and specifics concerning the application. Such appeals shall be set for public hearing before the city council and publicly noticed at least ten days prior to the hearing. Charges for appeals shall be as applicable to zoning appeals. (Ord. 577 § 13, 1983.)

3.36.120 Collection and basis of charges and assessments.

- A. Charges and assessments are payable with the business license fees. Where business license fees are paid quarterly, then charges and/or assessments shall be prorated and due quarterly. Charges and assessments shall be due the same as the business license fee. In addition to the interest and penalty charged for any late payment of business license fees, there shall be a one percent per month interest charge on any outstanding charge or assessment.
- B. Each business license record shall contain the basis of charges and assessments, i.e., the number of employees subject to assessment. The business license applicant, upon renewal and/or application for a new license, shall provide this information. The basis of charges and/or assessments may be adjusted upon renewal of the business license.

PARKING AND BUSINESS IMPROVEMENT AREA

Where a question arises as to the number of employees subject to assessment, employee records shall be submitted to the board of directors for review. The city clerk shall determine the basis of charges and/or assessment, subject to appeal to the city council under the procedures of Section 3.36.110.

- C. Unless otherwise indicated by this chapter, each business shall be subject to a charge based upon its actual number of reported employees: those individuals to whom they issue a W2.
- D. Individual businesses with separate business entrances and sharing common facilities such as hallways and bathrooms shall be subject to charges as separate businesses. For assessment purposes, the basis of assessment shall be in multiples thereof.
- E. Multiple businesses occupying the same premises with a common building ownership or lease agreement, or common business ownership or management, shall be subject to the benefit zone charge as one business. Each multiple business and its employees, including owner, shall be included in the benefit zone charge section of the business license tax and benefit zone charge calculation schedule submitted with the primary business license holder. The primary business license holder shall be responsible to the city for the benefit zone charges due for said business location.

Nonprimary businesses shall indicate on the business license tax and benefit zone charge calculation schedule that they are not the primary business license holder and are not subject to an individual benefit zone charge, that they and their employees are included in the benefit zone charge section reported by the primary business license holder. Nonprimary businesses shall indicate which business is the primary business license holder. (Nonprimary businesses are still subject to the city business license ordinance.)
- F. Proration of charges and assessments under Ordinance No. 577, will be as follows: If a person(s) starts a business during the first half of the calendar year, (January 1st through June 30th), said business will be charged for a full

PARKING AND BUSINESS IMPROVEMENT AREA

calendar year. If the person(s) starts a business during the second half of the calendar year, (July 1st through December 31st), said business will be charged for half a calendar year.

- G. 1. No refund of an overpayment of charges and assessments imposed by this chapter shall be allowed in whole or in part unless a claim for a refund is filed with the collector within a period of one year from the last day of the calendar month following the period for which the overpayment was made, and all such claims for refund of the amount of overpayment must be filed with the collector on forms furnished by him/her and in the manner prescribed by him/her. Overpayments of less than twenty dollars shall not be refunded.
2. Charges and assessments are due in advance, no refunds will be made for any unexpired portion of a charge or assessment.

(Ord. 660 (part), 1990; Ord. 658 (part), 1990; Ord. 577 § 14, 1983.)

3.36.130 Exemption of new businesses.

- A. There shall be no exemption for new businesses.
- B. The exemption of this section shall be inapplicable to changes in name or character of an existing business, or for relocation of an existing business between the various benefit zones.

(Ord. 658 (part), 1990; Ord. 577 § 15, 1983.)

3.36.140 Credit for paid in-lieu fees.

- A. Where in-lieu fees have been, or are being paid pursuant to Section 17.42.080, the business, or businesses occupying

SONORA CITY TRANSACTIONS AND USE TAX

- the premises, for which in-lieu fees are paid, shall receive credit for assessments for each space paid for a period of five years from the date which in-lieu fees were first due and payable. The credit shall be made to assessments as if the number of spaces paid had been maintained for the five-year period. Upon termination of the five-year period, no further credit shall be given.
- B. Credit for in-lieu fees shall run with the business where the business has paid the in-lieu fees, or with the premises where the property owner has paid the in-lieu fees.
- C. All future in-lieu fees paid to the city shall be deposited into a parking and business improvement fund for the benefit zone in which they have originated.
- (Ord 577 § 16, 1983)

Chapter 3.38

SONORA CITY TRANSACTIONS AND USE TAX

Sections:

3.38.010	Title.
3.38.020	Operative date.
3.38.030	Purpose.
3.38.040	Expenditure plan.
3.38.050	Contract with state.
3.38.060	Transactions tax rate.
3.38.070	Place of sale.
3.38.080	Use tax rate.
3.38.090	Adoption of provisions of state law.
3.38.100	Limitations on adoption of state law and collection of use taxes.
3.38.110	Permit not required.
3.38.120	Exemptions and exclusions.

SONORA CITY TRANSACTIONS AND USE TAX

- 3.38.130 Amendments.**
- 3.38.140 Enjoining collection forbidden.**
- 3.38.150 Severability.**

3.38.010 Title.

This chapter shall be known as the "City of Sonora Transactions and Use Tax Ordinance." The city of Sonora hereinafter shall be called "city." The ordinance codified in this chapter shall be applicable in the incorporated territory of the city. (Ord. 762 § 1, 2004.)

3.38.020 Operative date.

"Operative date" means the first day of the first calendar quarter commencing more than one hundred ten days after the adoption of the ordinance codified in this chapter, the date of such adoption being as set forth in Section 16 of Ordinance 762. (Ord. 762 § 2, 2004.)

3.38.030 Purpose.

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 impose a retail transactions and use tax in accordance with the provisions of Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code and Section 7285.91 of Part 1.7 of Division 2 which authorizes the city to adopt this tax ordinance which shall be operative if a two-thirds majority of the electors voting on the measure vote to approve the imposition of the tax at an election called for that purpose.
- B. To adopt a retail transactions and use tax ordinance that incorporates provisions identical to those of the Sales and Use Tax Law of the state of California insofar as those provisions are

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not inconsistent with the requirements and limitations contained in Part 1.6 of Division 2 of the Revenue and Taxation Code.

- C. To adopt a retail transactions and use tax ordinance that 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 retail transactions and use tax ordinance that can be administered in a manner that will be, to the greatest degree possible, consistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, minimize the cost of collecting the transactions 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. 762 § 2, 2004.)

3.38.040 Expenditure plan.

Proceeds of the special tax will be spent on one or more of the activities in this plan. The expenditure plan provides for preserving police, fire and public works services, upgrading and expanding services, facilities, personnel, equipment and educational and training opportunities. After the reimbursement of the county of Tuolumne for the cost of the election and for the fee charged by the State Board of Equalization for preparing to administer the tax pursuant to Section 3.38.050 of this chapter, the specific projects for which the revenues from the transactions and use tax will be expended are as follows:

- A. Police Department.
 - 1. Provide salary and benefit enhancements that will make and keep the city competitive with surrounding law enforcement agencies;

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2. Hire additional law enforcement personnel to expand service levels related to increase demands;
 3. Update safety equipment and supplies;
 4. Provide personnel with additional funding for education and training enhancement opportunities;
 5. Replace older mileage police department vehicles;
 6. Complete the in-car computer plan and provide for computer enhancement upgrades;
 7. Expand the current building and parking or relocate the police department to an adequate space which will provide for future growth;
 8. Hire additional non-safety part-time and/or full-time positions to support the demands on animal control, clerk/dispatch, parking enforcement and community services.
- B. Fire Department.
1. Provide salary and benefit enhancements that will make and keep the city competitive with surrounding fire department agencies;
 2. Hire additional fire personnel to expand department service levels related to increased demands;
 3. Upgrade the current part-time office assistant to a full-time position;
 4. Develop a paid-call firefighter program;
 5. Raise the scholarship firefighter stipend amount;
 6. Fund a fire hazard reduction/green waste removal program for the purpose of reducing fire hazards;
 7. Provide additional funding for education and training;
 8. Update safety equipment and supplies.
- C. Public Works.
1. Hire additional personnel to expand service levels related to increased demands;
 2. Provide additional funding for equipment and facility enhancements;

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3. Provide funding for infrastructure improvements to street, sidewalks and storm drains.

(Ord. 762 § 4, 2004.)

3.38.050 Contract with state.

Prior to the operative date, the city shall contract with the State Board of Equalization to perform all functions incident to the administration and operation of this transactions and use tax chapter; provided that if the city shall not have contracted with the State Board of Equalization prior to the operative date, it shall nevertheless so contract and in such a case the operative date shall be the first day of the first calendar quarter following the execution of such a contract. (Ord. 762 § 5, 2004.)

3.38.060 Transactions tax rate.

For the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all retailers in the incorporated and unincorporated territory of the city at the rate of one half of one percent of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in said territory on and after the operative date of the ordinance codified in this chapter. (Ord. 762 § 6, 2004.)

3.38.070 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

SONORA CITY TRANSACTIONS AND USE TAX

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. 762 § 7, 2004.)

3.38.080 Use tax rate.

An excise tax is hereby imposed on the storage, use or other consumption in the city of tangible personal property purchased from any retailer on and after the operative date of the ordinance codified in this chapter for storage, use or other consumption in said territory at the rate of one half of one percent 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. 762 § 8, 2004.)

3.38.090 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 1.6 of Division 2 of the Revenue and Taxation Code, all of the provisions of Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code are hereby adopted and made a part of this chapter as though fully set forth herein. (Ord. 762 § 9, 2004.)

3.38.100 Limitations on adoption of state law and collection of use taxes.

In adopting the provisions of Part 1 of Division 2 of the Revenue and Taxation Code:

- A. Wherever the state of California is named or referred to as the taxing agency, the name of this city shall be substituted therefor. However, the substitution shall not be made when:
 1. The word "State" is used as a part of the of the State Controller, State Treasurer, State Board of Control, State Board

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- of Equalization, State Treasury, or the Constitution of the State of California;
2. The result of that substitution would require action to be taken by or against this city or any agency, officer, or employee thereof rather than by or against the State Board of Equalization, in performing the functions incident to the administration or operation of this chapter.
 3. 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:
 - a. 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;
 - b. 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 provision of that code.
 4. In Sections 6701 , 6702 (except in the last sentence thereof), 6711 , 6715, 6737, 6797 or 6828 of the Revenue and Taxation Code.
- B. The word “city” shall be substituted for the word “state” in the phrase “retailer engaged in business in this state” in Section 6203 and in the definition of that phrase in Section 6203.
(Ord. 762 § 10, 2004.)

3.38.110 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 transactor’s permit shall not be required by this chapter. (Ord. 762 § 11, 2004.)

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3.38.120 Exemptions and exclusions.

- A. There shall be excluded from the measure of the transactions tax and the use tax the amount of any sales tax or use tax imposed by the state of California or by any city, city and county, or county pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law or the amount of any state-administered transactions or use tax.
- B. There are exempted from the computation of the amount of transactions tax the gross receipts from:
 - 1. Sales of tangible personal property, other than fuel or petroleum products, to operators of aircraft to be used or consumed principally outside the county 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.
 - 2. Sales of property to be used outside the city which is shipped to a point outside the city, pursuant to the contract of sale, by delivery to such point by the retailer or his agent, or by delivery by the retailer to a carrier for shipment to a consignee at such point. For the purposes of this paragraph, delivery to a point outside the city shall be satisfied:
 - a. With respect to vehicles (other than commercial vehicles) subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, and undocumented vessels registered under Chapter 2 of Division 3.5 (commencing with Section 9840) of the Vehicle Code by registration to an out-of-city address and by a declaration under penalty of perjury, signed by the

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buyer, stating that such address is, in fact, his or her principal place of residence; and

- b. With respect to commercial vehicles, by registration to a place of business out-of city and declaration under penalty of perjury, signed by the buyer, that the vehicle will be operated from that address.
 3. The sale of tangible personal property if the seller is obligated to furnish the property for a fixed price pursuant to a contract entered into prior to the operative date of the ordinance codified in this chapter.
 4. A lease of tangible personal property which is a continuing sale of such property, for any period of time for which the lessor is obligated to lease the property for an amount fixed by the lease prior to the operative date of the ordinance codified in this chapter.
 5. For the purposes of subsections (B)(3) and (4) of this section, the sale or lease of tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.
- C. There are exempted from the use tax imposed by this chapter, the storage, use or other consumption in this city of tangible personal property:
1. The gross receipts from the sale of which have been subject to a transactions tax under any state-administered transactions and use tax ordinance.
 2. Other than the fuel or petroleum products 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. This exemption is in addition to

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the exemptions provided in Sections 6366 and 6366.1 of the Revenue and Taxation Code of the state of California.

3. If the purchaser is obligated to purchase the property for a fixed price pursuant to a contract entered into prior to the operative date of the ordinance codified in this chapter.
4. If the possession of, or the exercise of any right or power over, the tangible personal property arises under a lease which is a continuing purchase of such property for any period of time for which the lessee is obligated to lease the property for an amount fixed by a lease prior to the operative date of this chapter.
5. For the purposes of subsections (C)(3) and (4) of this section, storage, use, or other consumption, or possession of or exercise of any right or power over, tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.
6. Except as provided in subparagraph (C)(7) of this section, a retailer engaged in business in the city shall not be required to collect use tax from the purchaser of tangible personal property, unless the retailer ships or delivers the property into the city or participates within the city in making the sale of the property, including, but not limited to, soliciting or receiving the order, either directly or indirectly, at a place of business of the retailer in the city or through any representative, agent, canvasser, solicitor, subsidiary, or person in the city under the authority of the retailer.
7. "A retailer engaged in business in the city" shall also include any retailer of any of the following: vehicles subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public

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Utilities Code, or undocumented vessels registered under Chapter 2 of Division 3.5 (commencing with Section 9840) of the Vehicle Code. That retailer shall be required to collect use tax from any purchaser who registers or licenses the vehicle, vessel, or aircraft at an address in the city.

- D. Any person subject to use tax under this chapter may credit against that tax any transactions tax or reimbursement for transactions tax paid to a district imposing, or retailer liable for a transactions tax pursuant to Part 1.6 of Division 2 of the Revenue and Taxation Code with respect to the sale to the person of the property the storage, use or other consumption of which is subject to the use tax.

(Ord. 762 § 12, 2004.)

3.38.130 Amendments.

All amendments subsequent to the effective date of the ordinance codified in this chapter to Part 1 of Division 2 of the Revenue and Taxation Code relating to sales and use taxes and which are not inconsistent with Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, and all amendments to Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, shall automatically become a part of this chapter, provided however, that no such amendment shall operate so as to affect the rate of tax imposed by this chapter. (Ord. 762 § 13, 2004.)

3.38.140 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 the city, or against any officer of the state or the city, to prevent enjoin the collection under this chapter, or Part 1.6 of Division 2 of the Revenue and Taxation Code, of any tax or any amount of tax required to be collected. (Ord. 762 § 14, 2004.)

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3.38.150 Severability.

If any provision of the ordinance codified in this chapter or the application thereof to any person or circumstance is held invalid, the remainder of the chapter and the application of such provision to other persons or circumstances shall not be affected thereby. (Ord. 762 § 15, 2004.)

Chapter 3.40

TUOLUMNE COUNTY TRAFFIC AUTHORITY
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Sections:

3.40.010	Title.
3.40.020	Operative date.
3.40.030	Purpose.
3.40.040	Contract with state.
3.40.050	Transactions tax and rate of one percent.
3.40.060	Place of sale.
3.40.070	Use tax and rate of one percent.
3.40.080	Adoption of provisions of state law.
3.40.090	Limitations on adoption of state law and collection of use taxes.
3.40.100	Permit not required.
3.40.110	Exemptions and exclusions.
3.40.120	Amendments.
3.40.130	Enjoining collection forbidden.
3.40.140	Severability.

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3.40.010 Title.

This chapter shall be known as the Tuolumne County Traffic Authority Transactions and Use Tax Ordinance. Such traffic authority shall be referred to herein as "District". (Ord. 624 § 1, 1986.)

3.40.020 Operative date.

"Operative date" means [pursuant to Public Utilities Code Section 150204] the first day of the first calendar quarter commencing more than one hundred twenty days after adoption of the ordinance codified in this chapter, the effective date of such adoption being as set forth in Section 15 of Ordinance 624. (Ord. 624 § 2, 1986.)

3.40.030 Purpose.

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 impose a retail transactions and use tax in accordance with the provisions of Part 1.6 (commencing with Revenue and Taxation Code Section 7251) of Division 2 of the Revenue and Taxation Code and Public Utilities Code Section 150000, et. seq., which directs the city council to adopt the tax ordinance for voter approval exercising the taxing power granted to the Tuolumne County Traffic Authority in Public Utilities Code Sections 150201 and 150206, on behalf of said authority;
- B. To adopt a retail transactions 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 1.6 of Division 2 of the Revenue and Taxation Code;
- C. To adopt a retail transactions 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,

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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 retail transactions and use tax ordinance which can be administered in a manner that will, to the degree possible consistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, minimize the cost of collecting the transactions 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;
- E. To improve, expand and construct those certain streets and highways shown on the city expenditure plan as adopted on July 21, 1986, in accordance with the provisions of Public Utilities Code Sections 150202 and 150205;
- F. To permit the traffic authority to issue bonds payable solely from the proceeds of this tax;
- G. To set a maximum term of fifteen years during which time this tax shall be imposed pursuant to the authority specified in Public Utilities Codes Sections 150201 and 150202.

(Ord. 624 § 3, 1986.)

3.40.040 Contract with state.

Prior to the operative date of the ordinance codified in this chapter, this district shall contract with the state board of equalization to perform all functions incident to the administration and operation of this transactions and use tax chapter; provided, that if this district shall not have contracted with the state board of equalization prior to the operative date of the ordinance codified in this chapter, 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. (Ord. 624 § 4, 1986.)

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3.40.050 Transactions tax and rate of one percent.

For the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all retailers in this district at the rate of one percent of the gross receipts of any retailer from the sale of all tangible personal property sold at a retail in this district on and after the operative date of the ordinance codified in this chapter. (Ord. 624 § 5, 1986.)

3.40.060 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. 624 § 6, 1986.)

3.40.070 Use tax and rate of one percent.

An excise tax is hereby imposed on the storage, use or other consumption in this district of tangible personal property purchased from any retailer on and after the operative date for storage, use or other consumption in this district at the rate of one percent 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. 624 § 7, 1986.)

3.40.080 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 1.6

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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. 624 § 8, 1986.)

3.40.090 Limitations on adoption of state law and collection of use taxes.

In adopting the provisions of Part 1 of Division 2 of the Revenue and Taxation Code, wherever the state is named or referred to as the taxing agency, the name of this district 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, state treasurer, state board of control, state board of equalization, state treasury, or the constitution of the state; the substitution shall not be made when the result of that substitution would require action to be taken by or against this district or any agency, officer, or employee 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, 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 said 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. The name of this district shall be substituted for the word "state" in the phrase "retailer engaged in business in this state" in Section 6203 and in the definition of that phrase in Section 6203. A retailer engaged in business in the district shall not be

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required to collect use tax from the purchaser of tangible personal property unless the retailer ships or delivers the property into the district or participates within the district in making the sale of the property, including, but not limited to soliciting or receiving the order, either directly or indirectly, at a place of business of the retailer in the district or through any representative, agent, canvasser, solicitor, subsidiary or person in the district under authority of the retailer. (Ord. 624 § 9, 1986.)

3.40.100 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 transactor's permit shall not be required by this chapter. (Ord. 624 § 10, 1986.)

3.40.110 Exemptions and exclusions.

- A. There shall be excluded from the measure the transactions tax and the use tax the amount of any sales tax or use tax imposed by the state or by any city, city and county pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law or the amount of any state-administered transactions or use tax.
- B. There are exempted from the computation of the amount of transactions tax gross receipts from:
 1. Sales of tangible personal property to operators of waterborne vessels to be used or consumed principally outside the county in which the sale is made and directly and exclusively in the carriage of persons or property in such vessels for commercial purposes;
 2. Sales of tangible personal property to operators of aircraft to be used or consumed principally outside the county 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;

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3. Sales of property to be used outside the district which is shipped to a point outside the district, pursuant to the contract of sale, by delivery to such point by the retailer or his agent, or by delivery by the retailer to a carrier for shipment to a consignee at such point. For the purposes of this paragraph, delivery to a point outside the district shall be satisfied:
 - a. With respect to vehicles (other than commercial vehicles) subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, and undocumented vessel registered under Article 2 (commencing with Section 680) of Chapter 5 of Division 3 of the Harbors and Navigation Code by registration to an out-of-District address and by a declaration under penalty of perjury, signed by the buyer, stating that such address is, in fact, his principal place of residence,
 - b. With respect to commercial vehicles by registration to a place of business out-of-district, and a declaration under penalty of perjury, signed by the buyer, that the vehicle will be operated from that address:
4. The sale of tangible personal property if the seller is obligated to furnish the property for a fixed price pursuant to a contract entered into prior to the operative date of the ordinance codified in this chapter:
5. A lease of tangible personal property which is a continuing sale of such property for any period of time for which the lessor is obligated to lease the property for an amount fixed by the lease prior to the operative date of the ordinance codified in this chapter:
6. For the purposes of subsections 4 and 5, the sale or lease of tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.

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- C. There is exempted from the use tax imposed by this chapter the storage, use or other consumption in this district of tangible personal property:
1. The gross receipts from the sale of which have been subject to a transactions tax under any state-administered transactions and use taxes ordinance;
 2. Purchased by operators of waterborne vessels and used or consumed by such operators directly and exclusively in the carriage of persons or property in such vessels for commercial purposes;
 3. 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. This exemption is in addition to the exemptions provided in Sections 6366 and 6366.1 of the Revenue and Taxation Code of the state;
 4. If the purchaser is obligated to purchase the property for a fixed price pursuant to a contract entered into prior to the operative date of the ordinance codified in this chapter;
 5. Or the possession of, or the exercise of any right or power over, tangible personal property under a lease which is a continuing purchase of such property for any period of time for which the lessee is obligated to lease the property for an amount fixed by a lease prior to the operative date of the ordinance codified in this chapter;
 6. For the purposes of subsections 4 and 5, storage, use, or other consumption, or possession, or exercise of any right or power over, tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.

(Ord. 624 § 11, 1986.)

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3.40.120 Amendments.

All amendments, subsequent to the effective date of the ordinance codified in this chapter, to Part 1 of Division 2 of the Revenue and Taxation Code relating to sales and use taxes and which are not inconsistent with Part 1.6 of Division 2 of the Revenue and Taxation Code shall automatically become a part of this chapter; provided, however, that no such amendment shall operate so as to affect the rate of tax imposed by this chapter. (Ord. 624 § 12, 1986.)

3.40.130 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 district, or against any officer of the state or this district, to prevent or enjoin the collection under this chapter, or Part 1.6 of Division 2 of the Revenue and Taxation Code, of any tax or any amount of tax required to be collected. (Ord. 624 § 13, 1986.)

3.40.140 Severability.

If any provision of this chapter or the application thereof to any person or circumstance is held invalid, the remainder of the chapter and the application of such provision to other persons or circumstances shall not be affected thereby. (Ord. 624 § 14, 1986.)

TRAFFIC IMPACT MITIGATION FEES

Chapter 3.50

TRAFFIC IMPACT MITIGATION FEES

Sections:

3.50.010	Purpose.
3.50.020	Definitions.
3.50.030	Establishment of fees.
3.50.040	Expenditure and reimbursement of fees.
3.50.050	Fee payment.
3.50.060	Fee waiver.

3.50.010 Purpose.

The city council finds:

- A. New development creates a cumulative impact on traffic circulation causing the need for improvement of existing facilities and construction of new facilities to mitigate the impacts;
- B. Adequate funding to accommodate this need for traffic facilities is not available;
- C. A traffic impact mitigation fee is necessary to finance these additional public necessities by requiring development to pay its fair share, to implement the city general plan, and to ensure that adequate traffic facilities are available to protect the public health, safety and welfare.

(Ord. 669 § 1 (part), 1991.)

3.50.020 Definitions.

Words when used in this chapter, and in resolutions adopted under its authority, shall have the following meanings:

- A. "Development project" means any project undertaken for the purpose of development. "Development project" includes a project involving the issuance of a permit for construction or reconstruction, but not a permit to operate. In addition, a "development project" will be further understood to not require the extraction of traffic mitigation fees at the time of the issuance

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of a building permit, upon the planning and building department's determination that the project does not have additional traffic generating potential.

- B. "Fee" means a monetary exaction, other than a tax or special assessment, which is charged to an applicant in connection with approval of a development project for the purpose of defraying all or a portion of the cost of traffic facilities related to the development project, fees collected in connection with a development agreement adopted pursuant to Title 7, Chapter 4, Article 2.5, (commencing with Section 65864) of the Government Code, or fees imposed pursuant to a reimbursement agreement with the applicant to pay for traffic facilities that exceed the need attributable and reasonably related to the development project.
- C. "Applicant" means an owner, lessee of record, or an agent authorized in writing.
- D. "Traffic facilities" means traffic circulation improvements. (Ord. 669 § 1 (part), 1991.)

3.50.030 Establishment of fees.

There is established a fee to be imposed on each development project approved by the city. The city council by resolution shall:

- A. Establish the amount of the fee to be imposed on each type of development project;
- B. Identify the purpose of the fee;
- C. Identify the specific use to which the fee is to be put;
- D. Determine how there is a reasonable relationship between the fee's use and the type of development project on which the fee is imposed.
- E. Determine how there is a reasonable relationship between the need for the traffic facility and the impacts caused by the type of development project on which the fee is imposed; and
- F. Determine how there is a reasonable relationship between the amount of the fee and the cost of the traffic facility or portion

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of the traffic facility attributable to the development on which the fee is imposed.

(Ord. 669 § 1 (part), 1991.)

3.50.040 Expenditure and reimbursement of fees.

- A. Fees subject to this chapter, shall be deposited, invested, accounted for and expended pursuant to California Government Code Section 66006. The fees shall be held in separate public facility accounts by the county finance director to be expended for the purpose for which they were collected. The finance director shall allocate fee interest accrued to the accounts for which the original fee was imposed.
- B. The finance director shall report to the city council once each fiscal year on any portion of a fee remaining unexpended or uncommitted in an account five or more years after deposit and identify the purpose for which the fee was collected. The council shall make findings once each fiscal year with respect to any fees reported on to identify the purpose to which the fee is to be put and to demonstrate a reasonable relationship between the fee and the purpose for which it was charged.
- C. The city council shall order a refund of unexpended or uncommitted fees for which a need cannot be demonstrated, along with accrued interest, to the then current record owner(s) of lots or units of the development project(s) on a prorated basis. The finance director may refund these fees by direct payment or by off-setting other obligations owed to the city by the then current record owner(s) of the development project(s).
- D. If the administrative costs of refunding unexpended or uncommitted fees revenues exceed the amount to be refunded, the city council, after a public hearing for which notice has been published pursuant to Government Code Section 6061 and posted in three prominent places within the area of the affected development project, may determine that the fee revenues shall be allocated for some other purpose for which the fees are collected

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subject to this chapter that serve the project on which the fee was originally imposed.

(Ord. 669 § 1 (part), 1991.)

3.50.050 Fee payment.

- A. Except as provided herein, prior to issuance of a certificate of occupancy or date of a final inspection, whichever occurs first, the applicant for a development project shall pay to the city building department the fee amount adopted by council resolution. No blue tag for permanent electrical service may be issued by the city building department on a development project until the fees, as provided herein, that are required at the time of final inspection and/or certificate of occupancy, have been paid.
- B. When application is made for the following development projects, the fee shall be paid as provided herein:
 1. Low or Moderate Income Households. The fee shall be waived in total for individual residences or residential developments financed under any federal, state or local program which is designated for persons and families of low, moderate or lower income households and which has been approved by the city or financed without government assistance and constructed by, or for, persons and families meeting the qualifications under the government programs. For the purpose of the fee waived, the community development director is authorized to approve government financing programs for the city and to determine whether an applicant satisfies the applicable qualifications under alternative financing. Prior to issuance of a building permit for the subject residential development, the applicant shall provide proof to the city building department that the housing units will be constructed by, or sold, or rented to persons or families of eligible households. The proof shall be in a form prescribed by the building department.
 2. All Other Residential Development. The fee for residential development, other than as included in subsection (B)(1) of this section, shall be paid prior to issuance of a blue tag for

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electrical service or at the time escrow closes if an escrow account has been established for the subject property prior to issuance of a building permit. Prior to the issuance of a building permit for the subject residential development, the applicant shall provide proof to the city building department that an escrow account has been established. The proof shall be in a form prescribed by the building department. The building department shall, prior to issuance of a building permit: (1) submit a demand for payment to the title company at which the escrow account is held for payment of the fee in its entirety at close of escrow and (2) require the property owner to execute a contract to pay the fee within the time specified herein. These contracts shall be lien contracts as provided for by, and shall contain the provisions set forth in Government Code Section 66007. The community development director is authorized to enter into and record these contracts on behalf of the city. Upon satisfaction of the contract, the community development director is authorized to execute a release of lien.

- C. Notwithstanding subsections A and B of this section, the city council may require the payment of those fees or charges at an earlier time (e.g. prior to issuance of a building permit) if (1) the city council determines that the fees or charges will be collected for traffic facilities for which an account has been established and funds appropriated and for which the city council has adopted a proposed construction schedule or plan prior to final inspection or issuance of the certificate of occupancy, or (2) the fees or charges are to reimburse the city for expenditures previously made.
- D. The fee amount shall be determined by the fee schedule in effect on the date a vesting tentative map or vesting parcel map is approved, or the date a building permit is issued, whichever occurs first.
- E. When application is made for a new building permit following the expiration of a previously issued building permit for which

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fees were paid, an additional fee payment shall be required only if the fee schedule has been increased during the interim.

- F. In the event that subsequent development occurs with respect to property for which fees have been paid, additional fees shall be required only for additional development that was not included in computing the prior fee.
- G. When a fee is paid for a development project and that project is subsequently reduced so that it is entitled to a lower fee, the city building department shall recompute the fee and the county auditor shall issue a partial refund of the fee based on the recomputation.
- H. When a fee is paid for a development project and the project is subsequently abandoned without any further action beyond the obtaining of a building permit, the county auditor shall refund the fee paid, less any administrative portion of the fee, upon written confirmation from the building department that the building permit has been canceled.
- I. No fee shall be due for the reconstruction of any residential, commercial or industrial development project that was damaged or destroyed as a result of a natural disaster, as declared by the city council or governor. Any reconstruction or portion thereof, which substantially increases the size of the damaged or destroyed property shall be deemed to be new construction and shall be subject to the applicable fee.

(Ord. 687 § 1, 1993; Ord. 669 § 1 (part), 1991.)

3.50.060 Fee waiver.

The city council may waive all or part of the traffic impact mitigation fee as provided for by resolution. (Ord. 687 § 2, 1993.)

Chapter 3.60

PURCHASING

Sections:

- 3.60.010 Purpose.**
- 3.60.020 Definitions.**
- 3.60.030 Authority of the city administrator.**
- 3.60.040 Authority of the city council.**
- 3.60.050 Professional services.**
- 3.60.060 Competitive bidding preference.**
- 3.60.070 Informal bid procedure.**
- 3.60.080 Formal contract procedure.**
- 3.60.090 Determining the lowest responsible bidder.**
- 3.60.100 Negotiated purchases and contracts.**
- 3.60.110 Exemption from formal contract procedure.**
- 3.60.120 Sole source procurement.**
- 3.60.130 Change orders.**
- 3.60.140 Splitting orders to avoid competitive bidding prohibited.**
- 3.60.150 Cooperative purchasing agreement with other agencies.**
- 3.60.160 Null and void.**

3.60.010 Purpose.

The purpose of this chapter is to establish procedures for the purchase of supplies, equipment and services.

It is the policy of the city of Sonora to obtain supplies, equipment and services at the lowest possible cost commensurate with quality needed, to exercise positive financial control over purchases and contracts, and to clearly define authority for the purchasing and contracting function. (Ord. 703 § 1 (part), 1995.)

3.60.020 Definitions.

As used in this chapter, the following words and phrases have the meanings ascribed to them in this section.

A. "Contract" means a written agreement between the city and a vendor, including a purchase order issued to a vendor. It is a binding agreement based upon mutual assent of the parties, made for a lawful purpose, between competent parties, in the form required by law and generally supported by consideration.

B. "Formal bid" or "offer" means a bid which must be submitted in a sealed, marked envelope and in conformance with a prescribed format, to be opened at a specific time.

C. "Informal bid" means an unsealed competitive offer conveyed by letter, telephone facsimile/telegram, or other means and under conditions different from those required of formal bidding.

D. "Local business enterprise" means a business entity with fixed offices or distribution points located within the boundaries of the city, listed in the business license tax files with a city business address and designating, if appropriate, for sales tax purposes, the city as a point of sale for retail transactions.

E. "Professional services" means accounting, appraisal, architectural, auditing, engineering, environment, land surveying, construction, management, legal, financial planning, medical or planning services or any service with similarly professional, scientific, expert or highly technical skill.

F. "Purchaser" means a city staff member primarily responsible for purchasing any given supplies, equipment or services, with dollar limits as defined in Administrative Policy No. 33.

G. "Services contract" means (1) a contract directly engaging the time and effort of a contractor whose primary purpose is to perform identifiable tasks rather than to furnish an end item of supply, or (2) the rental of equipment, machinery and other personal property. A service contract may be either a nonpersonal or a personal contract. It can also cover services performed by either professional or nonprofessional personnel, whether on an individual or organizational basis.

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H. "Sole source procurement" means an award for a commodity or service to the only known capable supplier, occasioned by the unique nature of the requirements, the supplier or market conditions.

I. "Supplies" means all supplies, materials and equipment. (Ord. 703 § 1 (part), 1995.)

3.60.030 Authority of the city administrator.

Subject to the availability of funds and the procedures set forth in this chapter, the city administrator is authorized to bind the city, by written contract or purchase order, involving an expenditure not to exceed ten thousand dollars or the purchase of supplies, professional or contractual services in any one transaction, without advertising or previous specific action by the city council, to be furnished to the city for which funds have been budgeted and appropriated therefor. (Ord. 703 § 1 (part), 1995.)

3.60.040 Authority of the city council.

Unless otherwise provided herein all contracts for supplies involving an expenditure of more than ten thousand dollars and for professional or contractual services of more than ten thousand dollars shall be awarded by the city council. No contract shall be binding or have any force or effect until signed by the city administrator.

Specific supply purchases or specific remodeling of city buildings included in the city council approved fiscal budget and over ten thousand dollars and one cent need not be approved again by the city council. (Ord. 703 § 1 (part), 1995.)

3.60.050 Professional services.

The city shall not be restricted to engaging in a competitive bidding procedure when seeking to retain specially trained persons or firms to provide services in connection with financial, economic, accounting, engineering, administrative, or other matters involving specialized expertise or unique skills. In securing professional

services, the city shall utilize a request for proposal (RFP) procedure, the method and details of which may be set forth by administrative policy adopted by the city. Award of a contract shall be on the basis of demonstrated competence and on professional qualifications and timeliness necessary for the satisfactory performance of the services required. (Ord. 703 § 1 (part), 1995.)

3.60.060 Competitive bidding preference.

All purchases of and contracts for supplies, materials, equipment and services shall be based, wherever possible, on competitive bids. However, all bidding may be dispensed with as follows: for emergency purchases, where the goods or services can be obtained from only one source, or as designated by Administrative Policy No. 33. (Ord. 703 § 1 (part), 1995.)

3.60.070 Informal bid procedure.

For purchases involving over one thousand dollars but not greater than ten thousand dollars, purchaser shall make a reasonable effort to obtain competitive bids, the number determined by Administrative Policy No. 33, without the necessity of advertising, but with solicitation by letter, telephone or otherwise. Purchase shall then be made from the lowest possible bidder. In the event competitive bids are not obtained, purchaser shall document the reason(s). (Ord. 703 § 1 (part), 1995.)

3.60.080 Formal contract procedure.

Formal written contracts shall be used for all purchases of supplies or services or combination thereof, in excess of ten thousand dollars. The city attorney will approve the form and legality of all formal written contracts before execution thereof. (Ord. 703 § 1 (part), 1995.)

3.60.090 Determining the lowest responsible bidder.

In determining the responsible bidder, the following shall be considered, in addition to price:

- A. The quality of supplies offered;
- B. The ability, capacity and skill of the bidder to perform the contract or provide the supplies or services required;
- C. Whether the bidder can perform the contract or provide the supplies or services promptly, or within the time specified, without delay or interference;
- D. The sufficiency of the bidder's financial resources and the effect thereof on his/her ability to perform the contract or provide the supplies or services;
- E. The character, integrity, reputation, judgment, experience and efficiency of the bidder;
- F. The quality of the bidder's performance on previous orders or contracts with the town;
- G. Litigation involving the bidder on previous orders or contracts with the city;
- H. The previous and existing compliance by the bidder with laws and ordinances relating to the subject of the purchase or contract;
- I. The ability of the bidder to provide future maintenance and service where such maintenance and service is desirable; and
- J. Payment of local sales or use taxes that will accrue to the city. (Ord. 703 § 1 (part), 1995.)

3.60.100 Negotiated purchases and contracts.

Notwithstanding anything in this chapter to the contrary, the city administrator or his/her designee may authorize the purchase of technical or specialized supplies or equipment by competitive negotiation when:

- A. The supplies, equipment or services are such that suitable technical performance specifications are not readily available;
- B. The city is not able to develop descriptive specifications;

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C. The quality of the supplies and equipment cannot be accurately determined by reference to their specifications alone; and

D. Such a method of purchase would be more advantageous to the city. (Ord. 703 § 1 (part), 1995.)

3.60.110 Exemption from formal contract procedure.

Purchases of goods or services which can be obtained from only one source may be made without advertising and after approval by the city council. The city council may authorize purchase of supplies, equipment and services without complying with the above procedures when in the opinion of the council, compliance with the procedures is not in the best interest of the city. The city administrator may authorize emergency purchases of supplies, equipment or services. Emergency purchases are those required to prevent the immediate interruption or cessation of necessary city services or to safeguard life, property or the public health and welfare. (Ord. 703 § 1 (part), 1995.)

3.60.120 Sole source procurement.

In those cases where the procurement of any product or service is obtainable, only from a single or sole source, the purchaser, upon approval of the city council or city administrator (depending on contract price), shall negotiate, with the purveyor of such product or service, fair and equitable terms. Purchases from regulated public utilities may be made pursuant to applicable tariff without regard to this chapter. (Ord. 703 § 1 (part), 1995.)

3.60.130 Change orders.

The purchaser may approve any changes within an approved contingency. Any change orders to purchases for which there is no contingency, or for purchases where the approved contingency will be exceeded, must be approved by the city administrator. Any time an appropriation limit will be exceeded for any given purchase, city

council approval is required to approve an additional appropriation. (Ord. 703 § 1 (part), 1995.)

3.60.140 Splitting orders to avoid competitive bidding prohibited.

It is unlawful to split or separate into smaller orders the purchase of supplies, materials, equipment or services for the purpose of evading the competitive bidding provisions of this chapter. (Ord. 703 § 1 (part), 1995.)

3.60.150 Cooperative purchasing agreement with other agencies.

Nothing contained in this chapter shall prohibit the participation by the city in any voluntary cooperative purchasing agreement or program entered into between the city and the state, county or other municipalities or agencies. City staff is empowered and authorized to act under the provisions of this chapter to procure for the city supplies and equipment in conjunction with such voluntary cooperative purchasing agreements or programs which may be available and advantageous to the city. All formal contract and bidding procedures to be followed in such cases shall be those specifically enumerated in the voluntary cooperative purchasing agreement or program. (Ord. 703 § 1 (part), 1995.)

3.60.160 Null and void.

Any purchase or contract made contrary to the provisions of this chapter shall be null and void. (Ord. 703 § 1 (part), 1995.)

TITLE 3 FOOTNOTES

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1. For statutory provisions requiring the transfer of city functions of assessment and tax collection to the county, see Gov. Code § 51500 et seq.
2. For statutory provisions authorizing cities to impose a tax on transfers of real property, see Rev. and Tax Code § 11901 et seq.
3. For statutory provisions authorizing cities to levy sales and use taxes, see Gov. Code § 37101; for statutory provisions on uniform local sales and use taxes, see Rev. and Tax Code § 7200 et seq.
4. For statutory provisions authorizing local taxes on transient occupancies, see Rev. and Tax Code §§ 7280 and 7281.
5. For statutory provisions on special gas tax street improvement funds, see Str. and Hwys. Code §§ 186.3 et seq. and 2106 et seq.
6. For statutory provisions concerning claims against public entities, see Gov. Code § 900 et seq.
7. For statutory provisions concerning public works, see Labor Code § 1720 et seq.; for provisions on wages to be paid on public works projects, see Labor Code § 1770 et seq.