

**TITLE 3: REVENUE AND FINANCE**

Chapter

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## CHAPTER 3.01: INVESTMENT OF MONEYS AND FUNDS

### Section

- 3.01.010 Investment of City moneys and deposit of securities.
- 3.01.020 Authorized investments.
- 3.01.030 Sales of securities.
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#### **3.01.010 Investment of City moneys and deposit of securities.**

Pursuant to, and in accordance with, and to the extent allowed by, Sections 53607 and 53608 of the Government Code, the authority to invest and reinvest moneys of the City, to sell or exchange securities, and to deposit them and provide for their safekeeping, is delegated to the city Manager/Treasurer.  
(3-12/90 ' 3.08.010)

#### **3.01.020 Authorized investments.**

Pursuant to the delegation of authority in Section 3.01.010, the City Manager/Treasurer is authorized to purchase, at their original sale or after they have been issued, securities which are permissible investments under any provision of State law relating to the investing of general City funds, including but not limited to Sections 53601, 53635 and 53735.5 of the Government Code, as said sections now read or may hereafter be amended, from moneys in his custody which are not required for the immediate necessities of the City and as he may deem wise and expedient, and to sell or exchange for other eligible securities and reinvest the proceeds of the securities so purchased.  
(3-12/90 ' 3.08.020)

#### **3.01.030 Sales of securities.**

From time to time the City Manager/Treasurer shall sell the securities in which City moneys have been invested pursuant to this Chapter, so that the proceeds may, as appropriate, be applied to the purchase for which the original purchase money may have been designated or placed in the City treasury.  
(3-12/90 ' 3.08.030)

#### **3.01.040 City bonds.**

Bonds issued by the City and purchased pursuant to this Chapter may be cancelled either in satisfaction of sinking fund obligations or otherwise if proper and appropriate; provided, however, that said bonds may be held uncanceled and while so held may be resold.  
(3-12/90 ' 3.08.040)

#### **3.01.050 Reports.**

The City Manager/Treasurer shall make a monthly report to the City Council of all investments made pursuant to the authority delegated in this Chapter. (3-12/90 ' 3.08.050)

#### **3.01.060 Deposits of Securities.**

Pursuant to the delegation of authority in Section 3.01.010, the City Manager/Treasurer is authorized to deposit for safekeeping, the securities in which City moneys have been invested pursuant to this Chapter, in any institution or depository authorized by the terms of any State law, including but not limited to Section 53608 of the Government Code as it now reads or may hereafter be amended. In accordance with said Section,

the City Manager/Treasurer shall take from such institution or depository a receipt for the securities so deposited and shall not be responsible for such securities delivered to and receipted for by such institution or depository until they are withdrawn therefrom by the City Manager/Treasurer.

(3-12/90 ' 3.08.060)

**3.01.070 Trust fund administration.**

Any departmental trust fund established by the City Council pursuant to Section 36523 of the Government Code shall be administered by the City Manager/Treasurer in accordance with Sections 36523 and 36524 of the Government Code and any other applicable provisions of law.

(3-12/90 ' 3.08.070)

## **CHAPTER 3.04: COLLECTION OF DEBTS TO THE CITY**

### Section

- 3.04.010 Collection of debts to the City.
- 3.04.020 Returned checks.

#### **3.04.010 Collection of debts to the City.**

The amount of any fee, assessment, service charge, utility charge, license, or tax of any nature whatsoever imposed by this Code or by any other resolution, ordinance, rule, regulation or in any other fashion by the City of Canyon Lake shall be deemed a civil debt owing to the City. An action may be commenced in the name of the City in any court of competent jurisdiction for the collection of the amount of any such delinquent or unpaid fee, assessment, service charge, utility charge, license, or tax, together with any penalties applicable thereto as prescribed by this Code or any other enactment. Such action may also be commenced for the collection of any other amount or debt determined to be due the City on account to any contractual obligation or on account of any tortious act or conduct by any person. The remedy prescribed by this Section shall be cumulative, and the use of an action to collect such an amount as a debt by civil action shall not bar the use of any other remedy provided by this Code or by law for the purpose of enforcing the provisions thereof.

(3-12/90 ' 3.10.010)

#### **3.04.020 Returned checks.**

The City may charge for returned checks as authorized by law and set by City Council Resolution.

(12/92-' 3.04.020)



## CHAPTER 3.08: PURCHASES

### Section

- 3.08.010 Adoption of purchasing system.
- 3.08.020 Centralized purchasing division.
- 3.08.030 Purchasing agent.
- 3.08.040 Purchasing regulations.
- 3.08.050 Exemptions from centralized purchasing.
- 3.08.060 Estimates of requirements.
- 3.08.070 Requisitions.
- 3.08.080 Purchase orders.
- 3.08.090 Encumbrance of funds.
- 3.08.100 Inspection and testing.
- 3.08.110 Bidding.
- 3.08.120 Formal (sealed) bid procedures.
- 3.08.130 Notice inviting formal bids.
- 3.08.140 Published notice for formal bids.
- 3.08.150 Approved vendors list.
- 3.08.160 Bulletin board notice.
- 3.08.170 Bidder=s security.
- 3.08.175 Other formal bond requirements.
- 3.08.180 Formal bid opening procedure.
- 3.08.190 Rejection of formal bids.
- 3.08.200 Award of formal bid contracts.
- 3.08.210 Tie formal bids.
- 3.08.215 No formal bids.
- 3.08.230 Published notice for formal bids.
- 3.08.240 List of qualified contractors--Maintenance and use of.
- 3.08.250 Informal contract projects identified --Bids invited.
- 3.08.260 Award of contract--Procedure.
- 3.08.270 Exceptions to competitive bidding requirement.
- 3.08.280 Regulation re selection of contract services.
- 3.08.300 Surplus supplies and equipment.
- 3.08.310 Surplus supplies--Trade ins.
- 3.08.320 Surplus supplies--Sale.

### **3.08.010 Adoption of purchasing system.**

In order to establish efficient procedures for the purchase of supplies and equipment at the lowest possible cost commensurate with quality needed, to exercise positive financial control over purchases, to clearly define authority for the purchasing function and to assure the quality of purchases, a purchasing system is adopted.

(3-12/90 ' 3.12.010)

### **3.08.020 Centralized purchasing division.**

There is created a centralized purchasing division in which is vested authority for the purchase of supplies and equipment.

(3-12/90 ' 3.12.020)

### **3.08.030 Purchasing agent.**

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

(a) Purchase or contract for supplies and equipment required by any using agency in accordance with purchasing procedures prescribed in this Chapter, such administrative regulations as the purchasing agent shall adopt for the internal management and operation of the purchasing division, and such other rules and regulations as shall be prescribed by the City Council or the City Manager;

(b) Negotiate and recommend execution of contracts for the purchase of supplies and equipment;

(c) Act to procure for the City the needed quality in supplies and equipment at least expense to the City;

(d) Discourage uniform bidding and endeavor to obtain as full and open competition as possible on all purchases;

(e) Prepare and recommend to the City Council rules governing the purchase of supplies and equipment for the City;

(f) Prepare and recommend revisions and amendments to the purchasing rules;

(g) Keep informed of current developments in the field of purchasing, prices, market conditions and new products;

(h) Prescribe and maintain such forms as are reasonably necessary for the operation of this Chapter and other rules and regulations;

(i) Supervise the inspection of all supplies and equipment purchased to insure conformance with specifications;

(j) Recommend the transfer of surplus or unused supplies and equipment between departments as needed;

(k) Maintain an approved vendors list, vendors' catalogue file and records needed for the efficient operation of the purchasing division.

(3-12/90 ' 3.12.030)

### **3.08.040 Purchasing regulations.**

The purchasing agent shall be responsible for determining that the regulations and procedures in Sections 3.08.050 through 3.08.110 are carried out.

(3-12/90 ' 3.12.040)

### **3.08.050 Exemptions from centralized purchasing.**

The City Manager may authorize, in writing, any department to purchase specified supplies and equipment independently of the purchasing division; but he shall require that such purchases shall be made in conformity with the procedures established by this Chapter and shall further require periodic reports from the department on the purchases made under such written authorization.

(3-12/90 ' 3.12.050)

### **3.08.060 Estimates of requirements.**

All using departments shall file detailed estimates of their requirements in supplies and equipment in such manner, at such time, and for such future periods as the purchasing agent shall prescribe.

(3-12/90 ' 3.12.060)

### **3.08.070 Requisitions.**

Using departments shall submit requests for supplies and equipment to the purchasing agent by standard requisition forms, or by other means as may be established by the purchasing rules and regulations.

(3-12/90 ' 3.12.070)

### **3.08.080 Purchase orders.**

Purchases of supplies and equipment shall be made only by purchase orders. Except as otherwise provided herein, no purchase order shall be issued unless the prior approval of the purchasing agent or his designated representative has been obtained.

(3-12/90 ' 3.12.080)

### **3.08.090 Encumbrance of funds.**

Except in cases of emergency, the purchasing agent shall not issue any purchase order for supplies or equipment unless there exists an unencumbered appropriation in the fund account against which said purchase is to be charged.

(3-12/90 ' 3.12.090)

**3.08.100 Inspection and testing.**

The purchasing agent shall, in his discretion, inspect supplies and equipment delivered to determine their conformance with the specifications set forth in the order. The purchasing agent shall have authority to require chemical and physical tests of samples submitted with bids and samples of deliveries which are necessary to determine their quality and conformance with specifications.

(3-12/90 ' 3.12.100)

**3.08.110 Bidding.**

Purchases of supplies, equipment and nonprofessional services shall be by the following bid procedures:

(a) The authority to award informal contracts and to act as the purchasing agent in utilizing the formal bid procedure is delegated to the City Manager and the City Engineer.

(b) Purchase of supplies and equipment of \$100 or less may be made with petty cash without a purchase order as long as the receipt is provided to the City Manager.

(c) Public projects or purchases of supplies, equipment or nonprofessional services under \$30,000 may be performed without competitive bids by the City=s employees, by negotiated contract or by purchase order.

(d) Purchase of supplies and equipment of \$30,000 or more, and less than \$125,000 must be approved by the City Council after receipt of three informal written bids.

(e) Purchase of supplies and equipment of \$125,000 or more require a formal bid procedure and City Council approval.

(3-12/90 ' 3.12.1100) (Am. Ord. 77, passed 4-5-2000; Am. Ord. 106, passed 5-14-2008; Am. Ord. 137, passed 10-5-2011)

**3.08.120 Formal (sealed) bid procedures.**

Except as otherwise provided herein, public projects, as defined in Section 37901 of the California Government Code, and purchases of supplies and equipment of an estimated value greater than \$125,000 shall be awarded to the lowest responsible bidder pursuant to the formal bid procedure as hereinafter prescribed.

(3-12/90 ' 3.12.120) (Am. Ord. 77, passed 4-5-2000; Am. Ord. 106, passed 5-14-2008)

**3.08.130 Notice inviting formal bids.**

Notices inviting formal bids shall include a general description of the article or service desired, shall state where bid documents and specifications may be secured, and the time and place for opening bids.

(3-12/90 ' 3.12.130)

**3.08.140 Published notice for formal bids.**

Notices inviting formal bids shall be published at least 14 calendar days prior to opening the bids. In addition, the notice shall be sent to the vendors listed in Section 3.08.150 at least 30 calendar days before bid opening.

(3-12/90 ' 3.12.140) (Am. Ord. 77, passed 4-5-2000)

**3.08.150 Approved vendors list.**

The purchasing agent shall also solicit formal sealed bids from responsible suppliers whose names are on the approved vendors list, or who have made written request that their names be added thereto.

(3-12/90 ' 3.12.150)

**3.08.160 Bulletin board notice.**

The purchasing agent shall advertise the pending formal purchases by posting a notice on the public bulletin board at the City offices.

(312/90 ' 3.12.160)

**3.08.170 Bidder's security.**

When a public project is involved, and in other cases when deemed necessary by the purchasing agent, formal bids shall be accompanied by security, either cash, cashier's check, certified check or surety bond, in a sum equal to 10% of the total aggregate of the bid, and shall be designated in the notice inviting bids. Bidders shall be entitled to return of bid security; provided, however, that a successful bidder shall forfeit his bid security upon his refusal or failure to execute the contract within ten days after the notice of award of contract has been mailed, unless the City is solely responsible for the delay in executing the contract. The City Council may, on refusal or failure of the of the successful bidder to execute the contract, award it to the next lowest responsible bidder who is willing to execute the contract, or may reject all bids and readvertise.

(3-12/90 ' 3.12.170)

**3.08.175 Other formal bond requirements.**

A faithful performance bond and labor and material bond shall be required for all public projects, unless waived by the City Council, in an amount reasonably necessary to protect the best interests of the City. In addition, the City Council shall have authority to require a faithful performance bond or other bonds before entering into a contract other than a public project contract. If bonds are required, the form and amount thereof shall be designated in the notice inviting bids.

(3-12/90 ' 3.12.175)

**3.08.180 Formal bid opening procedure.**

Sealed bids shall be submitted to the purchasing agent and shall be identified as Abids@ on the envelope. The purchasing officer, or designee, shall publicly open all bids at the time and place stated in the public notices. A tabulation of all bids received shall be available for public inspection in the purchasing office during regular business hours for a period of not less than thirty calendar days after the bid opening.

(3-12/90 ' 3.12.180)

**3.08.190 Rejection of formal bids.**

In its discretion, the City Council may reject any and all bids presented and may cause readvertising for bids pursuant to the procedure hereinabove prescribed. However, when all bids exceed the authorized budgeted amount, the City Manager may authorize rejection of all bids and authorize rebidding based upon the original specifications or as they may be modified, in accordance with procedures prescribed herein.

(3-12/90 ' 3.12.190)

**3.08.200 Award of formal bid contracts.**

Except as otherwise provided herein, formal bid contracts shall be awarded by the City Council to the lowest responsible bidder. The determination of "lowest responsible bidder" shall be at the discretion of the City Council pursuant to findings and recommendations presented by the purchasing agent at the time of award of contract.

(3-12/90 ' 3.12.200)

**3.08.210 Tie formal bids.**

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

(3-12/90 ' 3.12.210)

**3.08.215 No formal bids.**

When no formal bids or no responsive bids are received, the purchasing officer is authorized to negotiate for written proposals, and his recommendation shall be presented to the City Manager and award, if any, shall be made in accordance with applicable provisions prescribed herein.

(3-12/90 ' 3.12.215)

**3.08.230 Plans, specifications and working details-- Authority of City Director of Public Works.**

The City Council hereby delegates to the City Manager or City Engineer authority to prepare and adopt plans, specifications and working details for all informal contracts, and directs the City Manager or the City Director of Public Works to develop plans, specifications and working details necessary to enable a qualified contractor to perform the work required for each informal contract awarded.

(3-12/90 ' 3.12.230) (Am. Ord. 77, passed 4-5-2000)

**3.08.240 List of qualified contractors-- Maintenance and use of.**

(a) The City Manager or City Engineer shall develop a list of qualified contractors eligible to submit bids on informal contracts awarded by the City. In developing the list, they shall obtain from the Contractor's State License Board, and from construction trade associations in the County, names and addresses of qualified contractors located in the County.

(b) The list shall be organized in accordance with the license classifications of the Contractor's State License Board.

(c) The City Manager or City Engineer shall publish annually, in all those construction trade journals identified by the Contractor's State License Board in accordance with Public Contract Code Section 22036, notice that the City has elected to become subject to the Uniform Public Construction Cost Accounting procedures, that it maintains a list of contractors qualified to submit bids on informal contracts, and of the City office to contract for all information necessary for a qualified contractor to be included on the list.

(d) Any licensed California contractor may upon request be added to the list at any time.

(e) The City Manager or City Engineer shall develop and provide to contractors applying for

inclusion on the list a simplified form requesting the applicant's name, address and California contractor's license number and classification.

(3-12/90 ' 3.12.240) (Am. Ord. 77, passed 4-5-2000)

**3.08.250 Informal contract projects identified-- Bids invited.**

(a) The City Manager or City Engineer shall identify all City public works projects in excess of the monetary limits imposed by law for work performed on projects with the City's own forces and less than the amount which requires performance by contracts awarded after formal bidding, and shall accomplish such identified projects by informal contract.

(b) Projects shall not be split to avoid any of the bidding requirements contained in the Uniform Public Construction Cost Accounting Act, Public Contract Code Sections 22000 *et seq.*

(c) The City Manager or City Engineer shall mail notices inviting informal bids to all contractors on the list of qualified contractors on the list of qualified contractors, for the category of work bid and/or all construction trade journals specified in Section 3.08.240.

(d) They shall complete the mailing of notices inviting informal bids, as required by this Section, not less than ten calendar days before bids are due.

(e) The notice inviting informal bids shall describe the project in general terms, how to obtain more detailed information about the project, and state the time and place for the submission of bids.

(3-12/90 ' 3.12.250) (Am. Ord. 77, passed 4-5-2000)

**3.08.260 Award of contract - Procedure.**

At the time provided in the notice inviting informal bids, the City Manager or City Engineer shall open all bids timely received and shall award a contract to the lowest responsible bidder. If two or more bids are the same and lowest, the Council may choose

either. If no bids are received, they may solicit informal bids again, or perform the work by City Forces, or negotiate a contract as he/she determines to be in the best interests of the City. If all bids are in excess of the limit set forth in Public Contract Code Section 22032, as it may be amended from time to time by the California Legislature, the City Council, by 4/5ths vote, may adopt a resolution awarding the contract, at the amount permitted in Public Contract Code Section 22034(f), as it may be amended from time to time by the California Legislature, to the lowest responsible bidder if it determines that to be reasonable.

(3-12/90 ' 3.12.260) (Am. Ord. 77, passed 4-5-2000; Am. Ord. 106, passed 5-14-2008)

### **3.08.270 Exceptions to competitive bidding requirement.**

Notwithstanding any provision of this Chapter to the contrary, the competitive bidding procedures and requirements may be dispensed with in any of the following instances:

(a) When the commodity can be obtained from only one vendor;

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

(c) The City Council may authorize the execution of contracts for personal services, for professional and consultant services, and for other, nonpublic projects and for contractual services without observing the bidding procedures provided herein where the amount of the contract exceeds the value of ten thousand dollars (\$10,000.00);

(d) The City Manager is authorized to enter into contracts for personal services, for professional and consulting services and for other contractual services without observing the bidding procedure provided herein where the amount of the contract does not exceed the amount of ten thousand dollars (\$10,000.00); provided there exists an unencumbered appropriation in the fund account against which said expense is to be charged;

(e) The City may obtain the goods or commodity from a vendor selected in a competitive bidding procedure at least equivalent to that required by this Chapter at the same price as the entity which conducted the bidding;

(f) When the City Council finds that adherence to the procedures in this Chapter would be inefficient, impractical and unnecessary; and

(g) The City Council may authorize the execution of a lease or leases for office space for the City government without observing the bidding procedures provided herein irrespective of the term of the lease or leases or the amount of rent and other charges to be paid by the City under the lease or leases. (3-12/90 ' 3.12.270) (Am. Ord. 77, passed 4-5-2000)

### **3.08.280 Regulation re selection of contract services.**

The City Council shall by resolution prescribe procedures, rules and regulations governing the solicitation, selection and award of proposals or bids for the furnishing of personal services or professional or consulting services or for other contractual services, the contracts for which may be awarded without observing the bidding procedures provided for in this Chapter. Such procedures, rules and regulations shall have as one purpose the obtaining of contractual services of the highest quality together with cost-effectiveness.

(3-12/90 ' 3.12.280)

**3.08.300 Surplus supplies and equipment.**

All using departments shall submit to the purchasing agent, at such times and in such forms as he shall prescribe, reports showing all supplies and equipment which are no longer used or which have become obsolete and worn out.

(3-12/90 ' 3.12.300)

**3.08.310 Surplus supplies--Trade ins.**

The purchasing agent shall have authority to exchange for or trade in on new supplies and equipment all supplies and equipment which cannot be used by any department or which have become unsuitable for City use.

(3-12/90 ' 3.12.310)

**3.08.320 Surplus supplies--Sale.**

The purchasing agent shall also have authority, subject to approval of the City Manager, to dispose of surplus supplies or equipment by auction or by sale or otherwise after receiving bids or proposals which, in his judgment, provide the maximum return to the City.

(3-12/90 ' 3.12.320)



## CHAPTER 3.12: DEMANDS AND CLAIMS

### Section

- 3.12.010 Claims for money or damages.
- 3.12.020 Auditing prerequisite to payment.
- 3.12.030 Forms--Blanks for demands.
- 3.12.040 Departmental approval of claims.
- 3.12.050 Approval by City Manager.
- 3.12.055 Approval of claims under Section 57384 of the Government Code.
- 3.12.060 Prepayment of demands.
- 3.12.070 Register of demands.
- 3.12.080 City Council approval.
- 3.12.090 Record of approved demands.

### **3.12.010 Claims for money or damages.**

As a prerequisite to bringing suit thereon against the City or any officer, department, commission or board of the City, any claim for money or damages (including claims which would otherwise be excepted by Section 905 of the Government Code of California) which is not governed by any other statutes or regulations expressly relating thereto, shall be presented and acted upon in accordance with Title 1, Division 3.6, Part 3, Chapter 1 (commencing with Section 900) and Chapter 2 (commencing with Section 910), of the Government Code of California. This Section shall relate only to the bringing of suit upon any claim, and shall not be deemed to apply to the authority of the City Manager, the City Council, and other officers to process and pay, in the ordinary course of business, the just obligations of the City, such as routine salaries and wages, principal and interest on bonds, payments of purchases, and other like expenditures for which there is an express budget appropriation, and in connection with which there is no dispute as to the obligation and amount being payable. Pursuant to Government Code Section 935.4, the City Manager may allow, compromise, settle or deny a claim against the City in an amount not to exceed

\$2,500 subject to ratification of the City Council. Upon his written order, the Manager/Treasurer shall issue a warrant to settle or pay a claim in that amount, but not to exceed that amount.  
(3-12/90 ' 3.16.010)

### **3.12.020 Auditing prerequisite to payment.**

No payment shall be made from the City treasury or out of the funds of the City unless the demand which is to be paid is duly audited as prescribed herein or by other provisions of law.  
(3-12/90 ' 3.16.020)

### **3.12.030 Forms--Blanks for demands.**

Claims against the City shall be paid on demands on the treasury as herein provided on forms to be prescribed by the City Manager.  
(3-12/90 ' 3.16.030)

### **3.12.040 Departmental approval of claims.**

Except for tort claims, every claim and demand received against the City shall be first presented to and approved in writing by the receiving department or office, which shall certify to the actual delivery or rendition of the supplies, materials, property or service for which payment is claimed; that the quality and prices correspond with the original specifications and contracts, if any, upon which the claim is based; that the demand in all other respects is proper and valid, and which shall further indicate the budgetary account to which said demand is to be charged.  
(3-12/90 ' 3.16.040)

**3.12.050 Approval by City Manager.**

Each demand approved by the receiving department or office shall be presented to the City Manager, who shall satisfy himself whether:

(a) The claim is legally due and owing by the City;

(b) There are budgeted or otherwise appropriated funds available to pay said claim;

(c) The claim conforms to a valid requisition or order;

(d) The prices and computations shown on the claim are verified; and

(e) The claim contains the approval of other departments and officials as required.

(3-12/90 ' 3.16.050)

**3.12.055 Approval of claims under Section 57384 of the Government Code.**

Claims submitted by the County of Riverside under Section 57384 of the Government Code for services furnished during the remainder of fiscal year 1990-91 shall be paid only in accordance with the provisions of said Section. Such claims shall be in compliance with all provisions of Section 57384 of the Government Code and shall be accompanied by itemized statements regarding the actual delivery of the supplies, materials, property or service for which payment is claimed, including any and all indirect charges constituting a portion of said claim. (3-12/90 ' 3.16.055)

**3.12.060 Prepayment of demands.**

(a) Prepayment of demands prior to audit by the Finance Committee and the City Council may be made by the City Manager in conformity with the authority provided by Section 37208 of the Government Code of the State.

(b) Whenever the City Manager determines that a refund is due of fees, taxes or other receipts collected in error or in advance of being earned, or of money the refund of which is otherwise due pursuant to specific provisions of this Code or of any other ordinance of this City, then any such refund shall be deemed as conforming to the currently approved budget, and may be prepaid in the same fashion as other demands encompassed within the terms of Subsection (a) of this Section.

(3-12/90 ' 3.16.060)

**3.12.070 Register of demands.**

Following audit of demands, the City Manager shall prepare, or cause to be prepared, a register of audited demands showing the claimant's name, amount of demand, the warrant number and date thereof, and transmit said register to the City Manager for his review and presentation to the Finance Committee and the City Council, with his approval or other report.

(3-12/90 ' 3.16.070)

**3.12.080 City Council approval.**

The register of demands shall be presented to the City Council at the next regular meeting thereof. The City Council may by resolution approve, conditionally or partially approve or reject such register of demands and in connection therewith consider the recommendations of the Finance Committee and the City Manager.

(3-12/90 ' 3.16.080)

**3.12.090 Record of approved demands.**

Following approval of the register of demands by the City Council, the chairperson of the Finance Committee and the City Manager shall endorse the resolution approving the register of audited demands to signify there was proper processing of demands therein before the City Council took action.

(3-12/90 ' 3.16.090)

## CHAPTER 3.16: SPECIAL GAS TAX STREET IMPROVEMENT FUND

### Section

- 3.16.010 Created.
- 3.16.020 Moneys included.
- 3.16.030 Expenditures.

#### **3.16.010 Created.**

To comply with the provisions of Section 2113 of the Streets and Highways Code of California and to avail the City of its benefits of Sections 2106 and 2107 of said Code, there is hereby created in the City treasury a special fund to be known as the "Special Gas Tax Street Improvement Fund."

(3-12/90 ' 3.18.010)

#### **3.16.020 Moneys included.**

All moneys received by the City from the State of California under the provisions of the Streets and Highways Code for the acquisition of real property or interests therein, or for engineering, or for the construction, maintenance and improvement of streets or highways by the City shall be paid into said fund.

(3-12/90 ' 3.18.020)

#### **3.16.030 Expenditures.**

All moneys in said fund shall be expended exclusively for the purposes authorized by and subject to the provisions of the Streets and Highways Code of California.

(3-12/90 ' 3.18.030)



## **CHAPTER 3.20: TRANSFER TAX FUNCTIONS**

### Section

3.20.010 Assessment and collection of City taxes by County.

### **3.20.010 Assessment and collection of City taxes by County.**

Pursuant to, and in compliance with Section 51501 of the Government Code of the State of California, the assessment and tax collection duties which otherwise might be performed by a City assessor and tax collector are transferred to the Assessor and Tax Collector of the County of Riverside.

(3-12/90 ' 3.20.010)



## CHAPTER 3.24: REAL PROPERTY DOCUMENTARY TRANSFER TAX

### Section

- 3.24.010 Short title--Adoption.
- 3.24.020 Imposition--Rates.
- 3.24.030 Payment.
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### **3.24.010 Short title--Adoption.**

This Chapter shall be known as the “real property documentary transfer tax regulations of the City.” 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.

(3-12/90 ' 3.22.010)

### **3.24.020 Imposition--Rates.**

There is imposed on each deed, instrument or writing by which any lands, tenements, or other realty sold within the City shall be granted, assigned, transferred or otherwise conveyed to, or vested in, the purchaser or purchasers, or any other person or persons, by his or their direction, when the

consideration or value of the interest or property conveyed (exclusive of the value of any lien or encumbrances remaining thereon at the time of sale) exceeds \$100, a tax at the rate of twenty-seven and one-half cents (0.27) for each \$500 or fractional part thereof.

(3-12/90 ' 3.22.020)

### **3.24.030 Payment.**

Any tax imposed pursuant to Section 3.22.020 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.

(3-12/90 ' 3.22.030)

### **3.24.040 Tax inapplicable to instruments in writing to secure debts.**

Any tax imposed pursuant to this Chapter shall not apply to any instrument in writing given to secure a debt.

(3-12/90 ' 3.22.040)

### **3.24.050 Government and its agencies not liable.**

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.

(3-12/90 ' 3.22.050)

**3.24.060 Tax inapplicable to conveyances to make effective plan of reorganization or adjustment.**

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

(a) Confirmed under the Federal Bankruptcy Act, as amended;

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

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

(d) Whereby a mere change in identity, form or place or organization is effected.

Subdivisions (a) to (b), inclusive, of this Section shall only apply if the making, delivery or filing of instruments of transfer or conveyances occurs within five years from the date of such confirmation, approval or change.

(3-12/90 ' 3.22.060)

**3.24.070 Tax inapplicable to make effective order of 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. (3-12/90 ' 3.22.070)

**3.24.080 Partnerships.**

(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 fair market value (exclusive of the value of any lien of encumbrances 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 subdivision (b), and any transfer pursuant thereto, with respect to the realty held by such partnership at the time of such termination.

(3-12/90 ' 3.22.080)

**3.24.090 Tax roll parcel number requirements.**

Each deed, instrument or writing by which lands, tenements, or other realty is sold, granted, assigned, transferred, or otherwise conveyed shall have noted upon it the tax roll parcel number. The number will be used only for administrative and procedural purposes and will not be proof of title and in the event of any conflicts, the stated legal description noted upon the

document shall govern. The validity of such a document shall not be affected by the fact that such parcel number is erroneous or omitted, and there shall be no liability attaching to any person for an error in such number or for omission of such number. The Recorder shall not accept any deed, instrument or conveyance for recording unless the tax roll parcel number has been noted upon it. A parcel which has been created by the division of an existing parcel and which at the time of recording has no separate parcel number shall have noted upon it the words "portion of" and the parcel number of the parcel from which it was created.

(3-12/90 ' 3.22.090)

made in designating the location of the lands, tenements or other realty described in a document subject to the tax imposed by this Chapter.

(3-12/90 ' 3.22.120)

**3.24.100 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 Riverside County Code, Ordinance No. 516, as amended.

(3-12/90 ' 3.22.100)

**3.24.110 Claims for refund.**

Claims for refund of taxes imposed pursuant to this Chapter shall be governed by the provisions of Chapter 5 (commencing with Section 5096) of Part 9 of Division 1 of the Revenue and Taxation Code of the State of California.

(3-12/90 ' 3.22.110)

**3.24.120 Penalty.**

Any person or persons who makes, signs, issues or accepts or causes to be made, signed, issued or accepted and who submits or causes to be submitted for recordation any deed, instrument or writing subject to the tax imposed by this Chapter and makes any material misrepresentation of fact for the purpose of avoiding all or any part of the tax imposed by this Chapter shall be guilty of a misdemeanor. No person or persons shall be liable civilly or criminally for any unintentional error



## CHAPTER 3.26: UTILITY USERS' TAX

### Section

- |          |                                                                 |                                                                                                                                                                                                                                                                                         |
|----------|-----------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 3.26.010 | Title and purpose.                                              | (a) The City of Canyon Lake must maintain its status as a viable, independent City to protect the interests of its constituents and maintain local authority and control over land use issues;                                                                                          |
| 3.26.020 | Definitions.                                                    |                                                                                                                                                                                                                                                                                         |
| 3.26.030 | Exemptions.                                                     |                                                                                                                                                                                                                                                                                         |
| 3.26.040 | Telecommunications users' tax.                                  |                                                                                                                                                                                                                                                                                         |
| 3.26.050 | Video users' tax.                                               |                                                                                                                                                                                                                                                                                         |
| 3.26.060 | Gas users' tax.                                                 | (b) Unless the City continues its status as an independent, self-governing City, the residents could lose local authority over land use issues and the residents do not wish to cede these important policy decisions to County officials who may not be as familiar with these issues; |
| 3.26.070 | Electricity users' tax.                                         |                                                                                                                                                                                                                                                                                         |
| 3.26.080 | Solid waste collection and disposal users' tax.                 |                                                                                                                                                                                                                                                                                         |
| 3.26.090 | Water users' tax.                                               |                                                                                                                                                                                                                                                                                         |
| 3.26.100 | Sewer users' tax.                                               |                                                                                                                                                                                                                                                                                         |
| 3.26.110 | Bundling taxable items with non-taxable items.                  |                                                                                                                                                                                                                                                                                         |
| 3.26.120 | Duty to collectBProcedures.                                     | (c) Residents prefer that the Canyon Lake Fire Station remain open with some level of service;                                                                                                                                                                                          |
| 3.26.130 | Collection penaltiesBService suppliers.                         |                                                                                                                                                                                                                                                                                         |
| 3.26.140 | Actions to collect.                                             | (d) The City of Canyon Lake wishes to maintain services the community has identified as priorities, including effective 911 services, maintaining sheriff deputy staffing levels, and keeping Railroad Canyon Road in good condition;                                                   |
| 3.26.150 | Deficiency determination and assessmentBTax application errors. |                                                                                                                                                                                                                                                                                         |
| 3.26.160 | Administrative remedyBNon-paying service users.                 |                                                                                                                                                                                                                                                                                         |
| 3.26.170 | Additional powers and duties of the Tax Administrator.          | (e) The City requires locally-controlled funds for local needsCthe funds generated by the Temporary Canyon Lake 911 Emergency Response, Local Control/Fiscal Accountability Measure cannot be seized by Sacramento politicians and can be only spent on our community's needs; and      |
| 3.26.180 | Records.                                                        |                                                                                                                                                                                                                                                                                         |
| 3.26.190 | Refunds.                                                        |                                                                                                                                                                                                                                                                                         |
| 3.26.200 | Appeals.                                                        |                                                                                                                                                                                                                                                                                         |
| 3.26.210 | Notice of changes to chapter.                                   |                                                                                                                                                                                                                                                                                         |
| 3.26.220 | Effect of State and Federal referenceBAuthorization.            | (f) The proposed utility user tax will include published independent annual audits, no tax increase without voter approval, and expires in six years unless extended by voters.<br>(Ord. 156, passed 11-4-2014)                                                                         |
| 3.26.230 | Independent audit.                                              |                                                                                                                                                                                                                                                                                         |
| 3.26.240 | Effective date.                                                 |                                                                                                                                                                                                                                                                                         |
| 3.26.250 | Remedies cumulative.                                            |                                                                                                                                                                                                                                                                                         |

### 3.26.010 Title and purpose.

This chapter shall be known as the "Canyon Lake Utility Users' Tax." The purpose of this chapter is as follows:

### 3.26.020 Definitions.

The following words and phrases whenever used in this chapter shall be construed as defined in this section.

## Canyon Lake - Revenue and Finance

(a) "800 service" means a telecommunications service that allows a caller to dial a toll-free number without incurring a charge for the call. The service is typically marketed under the name "800," "855," "866," "877" or "888" toll-free calling, and any subsequent numbers designated by the Federal Communications Commission.

(b) "900 service" means an inbound toll telecommunications service purchased by a subscriber that allows the subscriber's customers to call in to the subscriber's prerecorded announcement or live service. "900 service" does not include the charge for: collection services provided by the seller of the telecommunications services to the subscriber, or service or product sold by the subscriber to the subscriber's customer. The service is typically marketed under the name "900" service, and any subsequent numbers designated by the Federal Communications Commission.

(c) "Ancillary telecommunication services" mean services that are associated with or incidental to the provision, use or enjoyment of telecommunications services, including but not limited to the following services:

(1) "Conference bridging service" which means an ancillary service that links two or more participants of an audio or video conference call and may include the provision of a telephone number. Conference bridging service does not include the telecommunications services used to reach the conference bridge.

(2) "Detailed telecommunications billing service" which means an ancillary service of separately stating information pertaining to individual calls on a customer's billing statement.

(3) "Directory assistance" which means an ancillary service of providing telephone number information, and/or address information.

(4) "Vertical service" which means an ancillary service that is offered in connection with one or more telecommunications services, which offers advanced calling features that allow customers to

identify callers and to manage multiple calls and call connections, including conference bridging services.

(5) "Voice mail service" which means an ancillary service that enables the customer to store, send or receive recorded messages. Voice mail service does not include any vertical services that the customer may be required to have in order to utilize the voice mail service.

(d) "Ancillary video services" mean services that are associated with or incidental to the provision or delivery of video services, including but not limited to electronic program guide services, search functions, recording services, or other interactive services or communications that are associated with or incidental to the provision, use or enjoyment of video services.

(e) "Billing address" means the mailing address of the service user where the service supplier submits invoices or bills for payment by the customer.

(f) "City" means the City of Canyon Lake.

(g) "Cogenerator" means any person employing cogeneration (as defined in Section 218.5 of the California Public Utilities Code) for producing power for the generation of electricity for sale to others from a qualified cogeneration facility (as defined in the Federal Public Utility Regulatory Policies Act of 1978 and regulations thereunder). As used herein, "cogenerator" does not mean a person employing clean energy cogeneration only for personal use.

(h) "Days" as used here means calendar days.

(i) "Electrical corporation" means any organization, municipality or agency engaged in the selling or supplying of electrical power to a service user.

(j) "Electricity service provider" means any entity or person that provides electricity service to a service user within the City.

(k) "Exempt wholesale generator" has the meaning and usage as set forth in the Federal Power Act (15 U.S.C. Section 79z-5a) and the regulations

established therewith as those may be amended from time to time.

(l) "Gas" means natural or manufactured gas or any alternate hydrocarbon fuel that may be substituted therefore.

(m) "Gas service provider" means any entity or person that provides gas to a service user within the City.

(n) "Mobile telecommunications service" means the meaning and usage as set forth in the Mobile Telecommunications Sourcing Act (4 U.S.C. Section 124) and the regulations established therewith, as those may be amended from time to time.

(o) "Month" means a calendar month.

(p) "Non-utility service supplier" means the following:

(1) A service supplier, other than a provider of electric distribution services to all or a significant portion of the City that generates electricity for sale to others, including, but not limited to, any publicly-owned electric utility, investor-owned utility, co-generator, exempt wholesale generator, municipal utility district, Federal power marketing agency, electric rural cooperative, or other supplier or seller of electricity.

(2) An electric service provider (ESP), electricity broker, marketer, aggregator, pool, operator, or other electricity supplier other than a provider of electric distribution services to all or a significant portion of the City that sells or supplies electricity or supplemental services to electricity users within the City.

(3) A gas service supplier, aggregator, marketer or broker, other than a provider of gas distribution services to all or a significant portion of the City that sells or supplies gas or supplemental services to gas users within the City.

(q) "Paging service" means a telecommunications service that provides transmission of

coded radio signals for the purpose of activating specific pagers; such transmissions may include messages and/or sounds.

(r) "Person" means, without limitation, any natural individual, firm, trust, common law trust, estate, partnership of any kind, association, syndicate, club, joint stock company, joint venture, limited liability company, corporation (including foreign, domestic, and non-profit), municipal district or municipal corporation (other than the City) cooperative, receiver, trustee, guardian, or other representative appointed by order of any court.

(s) "Place of primary use" generally means the street address where the customer's use of a taxable service primarily occurs, which may be the residential street address, the primary business street address of the customer, or the service address as defined below.

(t) "Post-paid telecommunication service" means the telecommunication service obtained by making a payment on a telecommunication-by-telecommunication basis either through the use of a payment mechanism such as a bank card, travel card, credit card, or debit card, or by charge made to a service number which is not associated with the origination or termination of the telecommunication service.

(u) "Prepaid telecommunication service" means the right to access telecommunication services, which must be paid for in advance and which enables the origination of telecommunications using an access number or authorization code, whether manually or electronically dialed, and that is sold in predetermined units or dollars of which the number declines with use in a known amount.

(v) "Private telecommunication service" means a telecommunication service that entitles the customer to exclusive or priority use of a telecommunications channel or group of channels between or among termination points, regardless of the manner in which such channel or channels are connected, and includes switching capacity, extension lines, stations, and any other associated services that are provided in connection with the use of such channel or channels.

A

telecommunications channel is a physical or virtual path of telecommunications over which signals are transmitted between or among customer channel termination points (i.e., the location where the customer either inputs or receives the telecommunications).

(w) "Refuse" is a comprehensive term meaning any putrescible and non-putrescible solid waste, except sewage, whether combustible or noncombustible and includes garbage and rubbish as well as otherwise recyclable materials placed for collection by the refuse collector. "Garbage" as used in this chapter includes all waste accumulations of animal, fruit, vegetable or other matter that attends or results from the preparation, use, cooking, processing, dealing in or storage of food, meat, fish, fowl, fruits or vegetables, including the same or parts thereof. "Rubbish" as used in this chapter includes all waste matter other than garbage, soil, or rock material.

(x) "Refuse collector" means the City's authorized agent for such collection.

(y) "Service address" means any of the following:

(1) The location of the service user's equipment from which the taxable service originates or terminates, regardless of where the service is billed or paid.

(2) If the location of the service user's equipment from which the taxable service originates or terminates is unknown (e.g., mobile telecommunications service or VoIP service), the service address means the location of the service user's place of primary use.

(3) For prepaid telecommunication service, "service address" means the location associated with the service number.

(4) For refuse collection and disposal, "service address" means the location of the service user's place of primary use.

(z) "Service supplier" means any entity or person, that provides telecommunication, video, gas,

electrical, water, sewer or refuse collection and disposal service to a user of such service within the City.

(aa) "Service user" means a person required to pay a tax imposed under the provisions of this chapter.

(bb) "Sewer service" means any entity or person, public or private, that provides sewer service to a service user within the City.

(cc) "Tax Administrator" means the City Manager or his or her designee.

(dd) "Telecommunication services" means the transmission, conveyance, or routing of voice, data, audio, video, or any other information or signals to a point, or between or among points, whatever the technology used, and including broadband services (e.g., T-1, digital subscriber line (EDSL) fiber optic, coaxial cable, and wireless broadband, including Wi-Fi, WiMAX, and Wireless MESH) to the extent Federal and/or State law permits taxation of such broadband services, now or in the future. The term "telecommunications services" includes such transmission, conveyance, or routing in which computer processing applications are used to act on the form, code or protocol of the content for purposes of transmission, conveyance or routing without regard to whether such services are referred to as Voice over Internet Protocol (VoIP) services or are classified by the Federal Communications Commission as enhanced or value added, and includes video and/or data services that are functionally integrated with telecommunication services. Telecommunications services include, but are not limited to, the following services, regardless of the manner or basis on which such services are calculated or billed: Ancillary telecommunication services; mobile telecommunications service; prepaid telecommunication service; post-paid telecommunication service; private telecommunication service; paging service; 800 service (or any other toll-free numbers designated by the Federal Communications Commission); 900 service (or any other similar numbers designated by the Federal Communications Commission for services whereby subscribers call in to pre-recorded or live service).

(ee) "Video programming" means those programming services commonly provided to subscribers by a "video service supplier" including but not limited to basic services, premium services, audio services, video games, pay-per-view services, video on demand, origination programming, or any other similar services, regardless of the content of such video programming, or the technology used to deliver such services, and regardless of the manner or basis on which such services are calculated or billed.

(ff) "Video services" mean video programming and any and all services related to the providing, recording, delivering, use or enjoyment of video programming (including origination programming and programming using Internet Protocol, e.g., IP-TV and IP-Video) using one or more channels by a "video service supplier," regardless of the technology used to deliver, store or provide such services, and regardless of the manner or basis on which such services are calculated or billed, and includes ancillary video services, data services, telecommunication services, or interactive communication services that are functionally integrated with video services.

(gg) "Video service supplier" means any person or service that provides or sells one or more channels of video programming, or provides or sells the capability to receive one or more channels of video programming, including any telecommunications that are ancillary, necessary or common to the provision, use or enjoyment of the video programming, to or from a business or residential address in the City, where some fee is paid, whether directly or included in dues or rental charges for that service, whether or not public rights-of-way are utilized in the delivery of the video programming or telecommunications. A "video service supplier" includes, but is not limited to, multi-channel video programming distributors (as defined in 47 U.S.C.A. Section 522(13); open video systems (OVS) suppliers; and suppliers of cable television; master antenna television; satellite master antenna television; multichannel multipoint distribution services (MMDS); video services using Internet Protocol (e.g., IP-TV and IP-Video, which provide, among other things, broadcasting and video on demand), direct broadcast satellite to the extent Federal law permits taxation of its video services, now or in the future; and other suppliers

of video services (including two-way communications), whatever their technology.

(hh) "VoIP (Voice over Internet Protocol)" means the digital process of making and receiving real-time voice transmissions over any Internet Protocol network.

(ii) "Water service" means any entity or person, public or private, that provides sewer and related wastewater disposal service to a service user within the City.

(Ord. 156, passed 11-4-2014)

### **3.26.030 Exemptions.**

(a) *Consistency with State and Federal law.* Nothing in this chapter shall be construed as imposing a tax upon any person or service when the imposition of such tax upon such person or service would be in violation of a Federal or State statute, the Constitution of the United States or the Constitution of the State of California. Any service user who has been exempted under this subsection shall comply with the notification requirements of subsection (k) of this section if any change in fact or circumstance disqualifies the individual from receiving this exemption.

(b) *The City.* Nothing in this chapter shall be construed as imposing a tax upon the City.

(c) *Exemption application.* Any service user that is exempt pursuant to subsection (a) of this section from any tax imposed by this chapter shall file an application with the Tax Administrator for an exemption; provided, however, this requirement shall not apply to a service user that is a State or Federal agency. Said application shall be made upon a form approved by the Tax Administrator and shall state those facts, declared under penalty of perjury, which qualify the applicant for an exemption, and shall include the names of all service suppliers serving that service user.

(d) *Application processing.* The application shall be approved or denied by the Tax Administrator within 75 days of receipt.

(e) *Notice to service supplier.* If the application is approved, the Tax Administrator shall promptly notify the service user's service suppliers stating the name of the service user, the address to which such exempt service is being supplied, the account number, if any, and such other information as may be necessary for the service supplier to remove the exempt service user from its tax billing procedure.

(f) *Discontinuance of tax.* Upon receipt of the notice of service user exemption, the service supplier shall within 60 days discontinue billing the service user for taxes imposed by this chapter.

(g) *Duration of exemption.* All exemptions under this section shall continue and be renewed automatically by the Tax Administrator for as long as the requisite facts supporting the initial qualification for exemption shall continue. The exemption shall automatically terminate with any change in service address or residence of the exempt individual. The individual may apply for a new exemption with each change of service address or residence. The Tax Administrator shall have the power and right to demand evidence of continued eligibility. Failure to provide such evidence as is within the control of a service user to provide may be the basis for immediate discontinuance of the service user's eligibility for exemption under this section.

(h) *Denial/Appeal.* If the Tax Administrator determines that an application for exemption is faulty, that the applicant has failed to truthfully set forth facts, or that the facts do not support the application for exemption, the application shall be denied in writing to the applicant. The applicant shall thereafter have a right to file an amended application, or to appeal the Tax Administrator's decision to the City Council within a ten-day period after the mailing date of the Tax Administrator's notification.

(i) *Duty to disclose disqualification/Investigation.* Any service user who has been exempted under this section shall notify the City within ten days of any change in facts or circumstance that might disqualify the person from receiving such exemption. Any service supplier that determines by any means that a new or nonexempt service user is receiving service

through a meter or connection exempt by virtue of an exemption issued to a previous user or exempt user of the same meter or connection, shall immediately notify the Tax Administrator of such fact and the Tax Administrator shall conduct an investigation to ascertain whether or not the provisions of this section have been complied with, and when appropriate, order the service supplier to commence collecting the tax from the nonexempt service user.

(j) *Penalty.* It shall be a misdemeanor for any person to knowingly receive the benefit of the exemption provided by this section when the basis for such exemption does not exist or ceases to exist.

(k) *Exemption list.* Upon request of the Tax Administrator, a service supplier, or its billing agent, shall provide a list of the names and addresses of those service users that, according to its billing records, are deemed exempt from the taxes imposed by this chapter.

(Ord. 156, passed 11-4-2014)

### **3.26.040 Telecommunications users' tax.**

(a) *Establishment of telecommunications users' tax.* There is hereby imposed a tax upon every person in the City using telecommunication services. The tax imposed by this section shall be at the rate of 3.95% of the charges made for such services and shall be collected from the service user by the telecommunication services supplier or its billing agent. There is a rebuttable presumption that telecommunication services, which are billed to a billing or service address in the City, are used, in whole or in part, within the City's boundaries, and such services are subject to taxation under this chapter. If the billing address of the service user is different from the service address, the service address of the service user shall be used for purposes of imposing the tax. As used in this section, the term *Acharges@* shall include the value of any other services, credits, property of every kind or nature, or other consideration provided by the service user in exchange for the telecommunication services.

(b) *Substantial nexus and minimum contacts.* For purposes of imposing a tax or establishing a duty to

collect and remit a tax under this section, "substantial nexus" and "minimum contacts" shall be construed broadly in favor of the imposition, collection and/or remittance of the tax to the fullest extent permitted by State and Federal law, and as it may change from time to time by judicial interpretation or by statutory enactment.

(c) *Sourcing rules.* Mobile telecommunications service shall be sourced in accordance with the sourcing rules set forth in the Mobile Telecommunications Sourcing Act (4 U.S.C. Section 124). The Tax Administrator may issue and disseminate to telecommunication service suppliers that are subject to the tax collection requirements of this chapter, sourcing rules for the taxation of other telecommunication services, including but not limited to post-paid telecommunication services, prepaid telecommunication services, and private telecommunication services, provided that such rules are based upon custom and common practice that further administrative efficiency and minimize multi-jurisdictional taxation.

(d) *Authority for administrative rulings.* The Tax Administrator may, from time to time, issue and disseminate to telecommunication service suppliers that are subject to the tax collection requirements of this section an administrative ruling identifying those communication services that are subject to the tax of subsection (a) above. This administrative ruling shall be consistent with legal nexus rules, regulations, and laws pertaining to telecommunication services. To the extent that the Tax Administrator determines that the tax imposed under this section shall not be collected in full for any period of time, such a determination falls within the Tax Administrator's discretion to settle disputes. The Tax Administrator's exercise of forbearance under this subsection does not constitute a change in taxing methodology for purposes of Government Code Section 53750, and the City does not waive or abrogate its ability to impose the telecommunication users' tax in full.

(e) *Specific inclusions in telecommunication services.* As used in this section, the term "telecommunication services" shall include, but are not limited to, charges for the following: connection,

reconnection, termination, movement, or change of telecommunication services; late payment fees; detailed billing; central office and custom calling features (including but not limited to call waiting, call forwarding, caller identification and three-way calling); voice mail and other messaging services; directory assistance; access and line charges; universal service charges; regulatory, administrative and other cost recovery charges; local number portability charges; and text and instant messaging.

(f) *Specific exclusions from telecommunication services.* As used in this section, the term "telecommunication services" shall not include digital downloads that are not ancillary telecommunication services, such as music, ringtones, games, and similar digital products. Telecommunication services shall not include telecommunication services that are dedicated to or used exclusively for internet access.

(g) *Exemptions.* The following shall be exempt from the tax imposed by this section:

(1) State and local governments. Charges for services or facilities furnished to the government of any state, or any political subdivision thereof, or the District of Columbia.

(2) Installation. The installation of any instrument, wire, pole, switchboard, apparatus or equipment as is properly attributable to such installation.

(h) *Multi-jurisdictional taxation.* To prevent actual multi-jurisdictional taxation of telecommunication services subject to tax under this section, any service user, upon proof to the Tax Administrator that the service user has previously paid the same tax in another state or local jurisdiction on such telecommunication services, shall be allowed a credit against the tax imposed to the extent of the amount of such tax legally imposed in such other state or local jurisdiction; provided, however, the amount of credit shall not exceed the tax owed to the City under this section.

(i) *Collection of telecommunication users' tax.* The telecommunication users' tax imposed by this

section shall be collected from the service user by the service supplier. The amount of tax collected in one month shall be remitted to the Tax Administrator, and must be received by the Tax Administrator on or before the twentieth day of the following month. (Ord. 156, passed 11-4-2014)

### 3.26.050 Video users' tax.

(a) *Establishment of video users' tax.* There is hereby imposed a tax upon every person in the City using video services. The tax imposed by this section shall be at the rate of 3.95% of the charges made for such services and shall be collected from the service user by the video service supplier or its billing agent. There is a rebuttable presumption that video services that are billed to a billing or service address in the City are used, in whole or in part, within the City's boundaries, and such services are subject to taxation under this chapter. If the billing address of the service user is different from the service address, the service address of the service user shall be used for purposes of imposing the tax.

(b) *Video charges.* As used in this section, the term "charges" shall include, but is not limited to, charges for the following:

(1) Regulatory fees and surcharges, franchise fees, and access fees (e.g., "PEG" fees), whether designated on the customer's bill or not.

(2) Initial installation of equipment necessary for provision and receipt of video services.

(3) Late fees, collection fees, bad debt recoveries, and return check fees.

(4) Activation fees, reactivation fees, and reconnection fees.

(5) Video programming and video services.

(6) Ancillary video services (e.g., electronic program guide services, recording functions, search functions, or other interactive services or communications that are ancillary, necessary or common to the use or enjoyment of video services).

(7) Equipment leases (e.g., remote, recording or search devices, converters, remote devices).

(8) Service calls, service protection plans, name changes, changes of services, and special services.

(9) The leasing of channel access (e.g., home shopping) to the extent that the service user is subject to an additional direct or indirect charge for programming or communications over the leased channel; provided that, in the absence of evidence of direct payment by the service user, the indirect payment of the service user(s), which is subject to the utility users tax, shall be deemed to be the lease payment to the video service supplier by the party leasing the channel access.

(c) *Charges further defined.* As used in this section, the term "charges" shall include the value of any other services, credits, property of every kind or nature, or other consideration provided by the service user in exchange for the video services.

(d) *Survey of video service suppliers* Authority for administrative rulings. The Tax Administrator shall, from time to time, survey the video service suppliers in the City to identify the various components of the video service that are being offered to customers within the City, and the charges therefor. The Tax Administrator may, thereafter, issue and disseminate to such video service suppliers an administrative ruling identifying those components: (1) that are necessary or common to the receipt, use and enjoyment of video services; or (2) which currently are, or historically have been, included in a bundled rate for video service by a local distribution company. Charges for such components shall be subject to the tax of subsection (a) above.

(e) *Collection of video users' tax.* The tax imposed by this section shall be collected from the service user by the video service supplier, its billing agent, or a reseller of such services. In the case of video service, the service user shall be deemed to be the purchaser of the bulk video service (e.g., an apartment owner), unless such service is resold to individual users, in which case the service user shall be the

ultimate purchaser of the video service. The amount of tax collected in one month shall be remitted to the Tax Administrator, and must be received by the Tax Administrator on or before the twentieth day of the following month.

(Ord. 156, passed 11-4-2014)

### 3.26.060 Gas users' tax.

(a) *Establishment of gas users' tax.* There is hereby imposed a tax upon every person in the City using gas that is delivered through a pipeline distribution system. The tax imposed by this section shall be at the rate of 3.95% of the charges made for such gas, including all services related to the storage, transportation and delivery of such gas.

(b) *Gas charges.* As used in this section, the term "charges" shall include, but is not limited to, the following charges:

(1) The commodity charges for purchased gas, or the cost of gas owned by the service user (including the actual costs attributed to drilling, production, lifting, storage, gathering, trunk-line, pipeline, and other operating costs associated with the production and delivery of such gas), which is delivered through a gas pipeline distribution.

(2) Gas transportation charges (including interstate charges to the extent not included in commodity charges).

(3) Storage charges; provided, however, that the service supplier shall not be required to apply the tax to any charges for gas storage services when the service supplier cannot, as a practical matter, determine the jurisdiction where such stored gas is ultimately used.

(4) Capacity or demand charges, late charges, service establishment or reestablishment charges, transition charges, customer charges, minimum charges, annual and monthly charges, and any other charges, which are necessary or common to the receipt, use and enjoyment of gas service.

(5) Charges, fees, or surcharges for gas services or programs, which are mandated by the California Public Utilities Commission or the Federal Energy Regulatory Commission, whether or not such charges, fees, or surcharges appear on a bundled or line item basis on the customer billing,

(c) *Gas charges further defined.* As used in this section, the term "charges" shall include the value of any other services, credits, property of every kind or nature, or other consideration provided by the service user in exchange for the gas or services related to the delivery of such gas.

(d) *Exclusions.* There shall be excluded from the base on which the tax imposed in this section is computed:

(1) Charges made for gas that is to be resold and delivered through a pipeline distribution system or by mobile vehicle transport.

(2) Charges made for gas sold for use in the generation of electrical energy by an electric corporation, by a public utility or governmental agency, or by an exempt wholesale generator.

(3) Charges made by a gas public utility for gas used and consumed in the conduct of the business of gas public utilities.

(4) Charges made for gas used in the propulsion of a motor vehicle, as defined in the California Vehicle Code, utilizing natural gas and other natural gas clean-air technologies.

(5) Charges made for gas used by a non-utility service supplier to generate electricity for its own use or for sale to others provided the electricity so generated is subject to the electricity users' tax in accordance with Section 3.26.070.

(6) Propane purchased by a user for personal or household use.

(e) *Survey of gas service suppliers; authority for administrative rulings.* The Tax Administrator shall,

from time to time, survey the gas service suppliers in the City to identify the various unbundled billing components of the gas retail service that are being offered to customers within the City, and the charges therefore, including those items that are mandated by State or Federal regulatory agencies as a condition of providing such gas service. The Tax Administrator may, thereafter, issue and disseminate to such gas service suppliers an administrative ruling identifying those components and items that are: (1) necessary or common to the receipt, use and enjoyment of gas service; or (2) currently, or historically have been, included in a single or bundled rate for gas service by a local distribution company to a class of retail customers. Unbundled charges for such components and items shall be subject to the tax of subsection (a) above.

(f) *Collection of gas users' tax.* Taxes on charges for gas imposed by this section shall be collected from the service user by the gas service supplier or its billing agent. The amount of tax collected in one month shall be remitted to the Tax Administrator, and must be received by the Tax Administrator, on or before the twentieth day of the following month; or, at the option of the person required to collect and/or remit the tax, such person shall remit an estimated amount of tax measured by the tax billed in the previous month or upon the payment pattern of the service user, which must be received by the Tax Administrator on or before the twentieth day of the following month.

(Ord. 156, passed 11-4-2014)

### **3.26.070 Electricity users' tax.**

(a) *Establishment of electricity users' tax.* There is hereby imposed a tax upon every person in the City using electricity. The tax imposed by this section shall be at the rate of 3.95% of the charges made for such electricity, and for any supplemental services or other associated activities directly related to and/or necessary for the provision of electricity to the service users that are provided by a service supplier or non-utility service supplier to a service user.

(b) *Electricity charges.* As used in this section, the term "charges" shall include, but is not limited to, the following charges:

(1) Energy charges.

(2) Distribution or transmission charges.

(3) Metering charges.

(4) Stand-by, reserves, firming, ramping, voltage support, regulation, emergency or other similar minimum charges for services.

(5) Customer charges, service establishment or reestablishment charges, demand charges, fuel or other cost adjustments, power exchange charges, independent system operator charges, stranded investment or competitive transition charges, trust transfer amounts, bond financing charges, franchise fees, franchise surcharges, which are necessary or common to the receipt, use and enjoyment of electric service.

(6) Charges, fees, or surcharges for electric services or programs, which are mandated by the California Public Utilities Commission or the Federal Energy Regulatory Commission, whether or not such charges, fees, or surcharges appear on a bundled or line item basis on the customer billing.

(c) *Electricity charges further defined.* As used in this section, the term "charges" shall include the value of any other services, credits, property of every kind or nature, or other consideration provided by the service user in exchange for the electricity or services related to the provision of such electricity.

(d) *Using electricity further defined.* As used in this section, the term "using electricity" shall not be construed to mean the storage of electrical energy by a person in a battery that said person owns or possesses for use in an automobile or other machinery or device apart from the premises upon which the electricity was received; provided, however, the term shall include the receiving of such electricity for the purpose of using it

in the charging of batteries; nor shall the term include the mere receiving of such electricity by an electrical corporation or governmental agency at a point within the City for resale.

(e) *Survey of electricity service suppliers Authority for administrative rulings.* The Tax Administrator shall, from time to time, survey the electric service suppliers in the City to identify the various unbundled billing components of the electric retail service that are being offered to customers within the City, and the charges therefore, including those items that are mandated by State or Federal regulatory agencies as a condition of providing such electric service. The Tax Administrator may, thereafter, issue and disseminate to such electric service suppliers an administrative ruling identifying those components and items that are: (1) necessary or common to the receipt, use and enjoyment of electric service; or (2) currently, or historically have been, included in a single or bundled rate for electric service by a local distribution company to a class of retail customers. Unbundled charges for such components and items shall be subject to the tax of subsection (a) above.

(f) *Collection of electricity users' tax.* The tax on electricity that is provided by a non-utility service supplier not subject to the jurisdiction of this section shall be collected and remitted in the manner set forth in this chapter, including but not limited to, Sections 3.26.120 et seq. All other taxes on charges for electricity imposed by this section shall be collected from the service user by the electric service supplier or its billing agent. The amount of tax collected in one month shall be remitted to the Tax Administrator, and must be received by the Tax Administrator, on or before the twentieth day of the following month; or, at the option of the person required to collect and/or remit the tax, such person shall remit an estimated amount of tax measured by the tax billed in the previous month or upon the payment pattern of the service user, which must be received by the Tax Administrator on or before the twentieth day of the following month.

(g) *Tax on co-generated electricity.* Notwithstanding and in addition to the provisions of this section, and except as set out here or otherwise provided by State or Federal law, there is hereby

imposed a tax upon every person using cogenerated electricity in the City to the extent such cogenerated electricity is not clean energy generated only for personal use or included within electricity provide by the service provider. The tax imposed by this section shall be at the rate of 3.95% of the actual charges made for such service and shall be collected from the service user by the co-generator/non-utility supplier. In addition to the tax provided in this section, the service user shall pay a tax on all charges for supplemental services as described in subsections (b) and (c) of this section.

(1) *Metering system.* The co-generator shall install and maintain an appropriate metering system that will enable compliance with this section.

(2) *Collection of tax.* The amount of tax collected in one month shall be remitted to the Tax Administrator, and must be received by the Tax Administrator, on or before the twentieth day of the following month; or, at the option of the person required to collect and/or remit the tax, such person shall remit an estimated amount of tax measured by the tax billed in the previous month or upon the payment pattern of the service user, which must be received by the Tax Administrator on or before the twentieth day of the following month. The tax on cogenerated electricity provided by a non-utility supplier not under the jurisdiction of this chapter shall be collected and remitted in the manner set forth herein.

(Ord. 156, passed 11-4-2014)

### **3.26.080 Solid waste collection and disposal users' tax.**

(a) *Establishment of solid waste users' tax.* There is hereby imposed a tax upon every person in the City using refuse collection and disposal services provided by the refuse collector. The tax imposed by this section shall be at the rate of 3.95% of the total fee imposed for the collection and disposal of refuse (including any franchise fee component) and shall be in addition to and not a replacement of said fee.

(b) *Rulings.* The Tax Administrator shall, from time to time, survey all refuse collectors in the City to

identify the various billing components of the refuse collection and disposal service that is being offered to customers within the City, and the charges therefore, including those items that are mandated by State or Federal regulatory agencies. The Tax Administrator may, thereafter, issue and disseminate to service suppliers an administrative ruling identifying those components and items that are necessary or common to the receipt, use and enjoyment of refuse collection and disposal service. Charges for such components and items shall be subject to the tax of subsection (a) above.

(c) *Collection of tax.* The tax upon every person in the City using refuse collection and disposal services provided by any refuse collector, may be collected and remitted in addition to and in the same manner as the City's franchise fee for the collection and disposal of refuse entered into pursuant to a franchise agreement authorized by Chapter 6.01 of this Code or in another manner determined by the Tax Administrator.

(Ord. 156, passed 11-4-2014)

### **3.26.090 Water users' tax.**

(a) There is imposed a tax upon every person using water in the city which is transported and delivered through a pipeline distribution system. The tax imposed by this section shall be at the rate of 3.95% of the charges made for such water.

(b) As used in this section, the term "charges" shall apply to all services, components and items that are: (1) necessary for or common to the receipt, use or enjoyment of water service; or (2) currently are or historically have been included in a single or bundled rate for water service by a local distribution company to a class of retail customers. The term "charges" shall include, but is not limited to, the following charges:

- (1) Water commodity charges (potable and non-potable);
- (2) Distribution or transmission charges;
- (3) Metering charges;

(4) Customer charges, late charges, service establishment or reestablishment charges, bond financing payments, franchise fees, franchise surcharges, annual and monthly charges, and other charges, fees and surcharges which are necessary for or common to the receipt, use or enjoyment of water service; and

(5) Charges, fees, or surcharges for water services or programs, which are mandated by a water district or a State or Federal agency, whether or not such charges, fees, or surcharges appear on a bundled or line item basis on the customer billing.

(6) Recycled water charges.

(c) As used in this section, the term "charges" shall include the value of any other services, credits, property of every kind or nature, or other consideration provided by the service user in exchange for the water services.

(d) The Tax Administrator, from time to time, may survey the water service suppliers in the City to identify the various unbundled billing components of water retail service that they commonly provide to residential and commercial/industrial customers in the City, and the charges therefor, including those items that are mandated by a water district or a State or Federal agency as a condition of providing such water service. The Tax Administrator, thereafter, may issue and disseminate to such water service suppliers an administrative ruling identifying those components and items which are: (1) necessary for or common to the receipt, use or enjoyment of water service; or (2) currently are or historically have been included in a single or bundled rate for water service by a local distribution company to a class of retail customers. Charges for such components and items shall be subject to the tax of subsection (a) of this section.

(e) There shall be excluded from the base on which the tax imposed in this section is computed charges made for wholesale water which is to be resold and delivered through a pipeline distribution system; and charges made by a public water district for water which it uses for the conduct of its business.

(f) The tax on water service imposed by this section shall be collected from the service user by the water service supplier or its billing agent. The amount of tax collected in one month shall be remitted to the Tax Administrator, and must be received by the Tax Administrator, on or before the twentieth day of the following month; or, at the option of the person required to collect and/or remit the tax, such person shall remit an estimated amount of tax measured by the tax billed in the previous month or upon the payment pattern of the service user, which must be received by the Tax Administrator on or before the twentieth day of the following month.

(Ord. 156, passed 11-4-2014)

### **3.26.100 Sewer users' tax.**

(a) There is hereby imposed a tax upon every person in the City using sewer services within the City. The tax imposed by this section shall be at the rate of 3.95% of the charges made for such sewer service. The tax shall be paid by the person using such sewer service.

(b) As used in this section, the term "charges" shall apply to all services, components and items that are: (1) necessary for or common to the receipt, use or enjoyment of sewer service; or (2) currently are or historically have been included in a single or bundled rate for sewer service to retail customers. The term "charges" shall include, but is not limited to, the following charges:

(1) Customer charges, late charges, service establishment or reestablishment charges, annual and monthly charges, bond financing payments and other charges, fees and surcharges which are necessary for or common to the receipt, use or enjoyment of sewer service; and

(2) Charges, fees, or surcharges for sewer services or programs, which are mandated by the City, a State, or Federal agency, whether or not such charges, fees, or surcharges appear on a bundled or line item basis on the customer billing.

(c) The tax on sewer service imposed by this section shall be collected from the service user by the sewer service supplier or its billing agent. The amount of tax collected in one month shall be remitted to the Tax Administrator, and must be received by the Tax Administrator, on or before the twentieth day of the following month; or, at the option of the person required to collect and/or remit the tax, such person shall remit an estimated amount of tax measured by the tax billed in the previous month or upon the payment pattern of the service user, which must be received by the Tax Administrator on or before the twentieth day of the following month.

(Ord. 156, passed 11-4-2014)

### **3.26.110 Bundling taxable items with non-taxable items.**

If any nontaxable charges are combined with and not separately stated from taxable service charges on the customer bill or invoice of a service supplier, the combined charge is subject to tax unless the service supplier identifies, by reasonable and verifiable standards, the portions of the combined charge that are nontaxable and taxable through the service supplier's books and records kept in the regular course of business, and in accordance with generally accepted accounting principles, and not created and maintained for tax purposes. The service supplier has the burden of proving the proper apportionment of taxable and non-taxable charges. If the service supplier offers a combination of taxable and non-taxable services, and the charges are separately stated, then for taxation purposes, the values assigned the taxable and non-taxable services shall be based on its books and records kept in the regular course of business and in accordance with generally accepted accounting principles, and not created and maintained for tax purposes. The service supplier has the burden of proving the proper valuation of the taxable and non-taxable services.

(Ord. 156, passed 11-4-2014)

**3.26.120 Duty to collectBProcedures.**

(a) *Manner of collection by service suppliers.* The duty of service suppliers to collect and remit the taxes imposed by the provisions of this chapter shall be performed as follows:

(1) The tax shall be collected by service suppliers insofar as practicable at the same time as, and along with, the collection of the charges made in accordance with the regular billing practice of the service supplier. Where the amount paid by a service user to a service supplier is less than the full amount of the charge and tax which was accrued for the billing period, a proportionate share of both the charge and the tax shall be deemed to have been paid. In those cases where a service user has notified the service supplier of refusal to pay the tax imposed on said charges, Section 3.26.160 shall apply.

(2) The duty of a service supplier to collect the tax from a service user shall commence with the beginning of the first regular billing period applicable to the service user where all charges normally included in such regular billing are subject to the provisions of this chapter. Where a service user receives more than one billing, one or more being for different periods than another, the duty to collect shall arise separately for each billing period.

(b) *Filing return and payment.* Each person required by this chapter to remit a tax shall file a return to the Tax Administrator, on forms approved by the Tax Administrator, on or before the due date. The full amount of the tax collected shall be included with the return and filed with the Tax Administrator. The Tax Administrator is authorized to require such additional information as he or she deems necessary to determine if the tax is being levied, collected, and remitted in accordance with this chapter. Returns are due immediately upon cessation of business for any reason. Pursuant to Revenue and Tax Code Section 7284.6, the Tax Administrator, and its agents, shall maintain such filing returns as confidential information that is exempt from the disclosure provisions of the Public Records Act.  
(Ord. 156, passed 11-4-2014)

**3.26.130 Collection penaltiesBService suppliers.**

(a) *Due date for taxesCDelinquencies.* Taxes collected from a service user are delinquent if not received by the Tax Administrator on or before the due date. Should the due date occur on a weekend or legal holiday, the return must be received by the Tax Administrator on the first regular working day following the weekend or legal holiday. A direct deposit, including electronic fund transfers and other similar methods of electronically exchanging monies between financial accounts, made by a service supplier in satisfaction of its obligations under this subsection shall be considered timely if the transfer is initiated on or before the due date, and the transfer settles into the City's account on the following business day.

(b) *Failure to collect or remit.* If the person required to collect and/or remit a tax imposed pursuant to this chapter fails to collect the tax (by failing to properly assess the tax on one or more services or charges on the customer's billing) or fails to remit the tax collected on or before the due date, the Tax Administrator shall attach a penalty for such delinquencies or deficiencies at the rate of 15% of the total tax that is delinquent or deficient in the remittance, and shall charge simple interest at the rate of 9% per year, or any fraction thereof, on the amount of the tax, exclusive of penalties, from the date on which the remittance first became delinquent, until paid.

(c) *Penalties for fraud or gross negligence in reporting or remitting.* The Tax Administrator shall have the power to impose additional penalties upon persons required to collect and remit taxes pursuant to the provisions of this chapter for fraud or gross negligence in reporting or remitting at the additional rate of 15% of the amount of the tax collected and/or required to be remitted, or as recomputed by the Tax Administrator.

(d) *Penalties due as tax.* For collection purposes only, every penalty imposed and such interest that is accrued under the provisions of this section shall become a part of the tax herein required to be paid.

(e) *Authority to modify due dates.* Notwithstanding the foregoing, the Tax Administrator may, in his or her discretion, modify the due dates of this chapter to be consistent with any uniform standards or procedures that are mutually agreed upon by other public agencies imposing a utility user's tax, or otherwise legally established, to create a central payment location or mechanism.  
(Ord. 156, passed 11-4-2014)

### 3.26.140 Actions to collect.

Any tax required to be paid by a service user under the provisions of this chapter shall be deemed a debt owed by the service user to the City. Any such tax collected from a service user which has not been remitted to the Tax Administrator shall be deemed a debt owed to the City by the person required to collect and remit and shall no longer be a debt of the service user. Any person owing money to the City under the provisions of this chapter shall be liable in an action brought in the name of the City for the recovery of such amount, including penalties and interest as provided for in this chapter, along with any collection costs incurred by the City as a result of the person's noncompliance with this chapter, including, but not limited to, reasonable attorneys' fees. Any tax required to be collected by a service supplier or owed by a service user is an unsecured priority excise tax obligation under 11 U.S.C.A. Section 507(a)(8)(C).  
(Ord. 156, passed 11-4-2014)

### 3.26.150 Deficiency determination and assessment Tax application errors.

(a) *Tax deficiency determinations.* The Tax Administrator shall make a deficiency determination if he or she determines that any service user or service supplier required to pay or collect taxes pursuant to the provisions of this chapter has failed to pay, collect, and/or remit the proper amount of tax by improperly applying or by failing to apply the tax to one or more taxable services or charges. Nothing herein shall require that the Tax Administrator institute proceedings under this section if, in the opinion of the Tax Administrator, the cost of collection or enforcement likely outweighs the tax benefit.

(b) *Notice of deficiency.* The Tax Administrator shall mail a notice of such deficiency determination to the person or entity allegedly owing the tax, which notice shall refer briefly to the amount of the taxes owed, plus simple interest at the rate of 9% per year, or any fraction thereof, on the amount of the tax from the date on which the tax should have been received by the City. Within 14 days after the date of service of such notice, the person or entity allegedly owing the tax may request in writing to the Tax Administrator a hearing on the matter.

(c) *Hearing on deficiency.* If the person or entity allegedly owing the tax fails to request a hearing within the prescribed time period, the amount of the deficiency determination shall become a final assessment, and shall immediately be due and owing to the City. If such person or entity requests a hearing, the Tax Administrator shall cause the matter to be set for hearing, which shall be scheduled within 30 days after receipt of the written request for hearing. Notice of the time and place of the hearing shall be mailed by the Tax Administrator to such person at least ten days prior to the hearing, and, if the Tax Administrator desires said person to produce specific records at such hearing, such notice may designate the records requested to be produced.

(d) *Determination after hearing.* At the time fixed for the hearing, the Tax Administrator shall hear all relevant testimony and evidence, including that of any other interested parties. At the discretion of the Tax Administrator, the hearing may be continued from time to time for the purpose of allowing the presentation of additional evidence. Within a reasonable time following the conclusion of the hearing, the Tax Administrator shall issue a final assessment (or non-assessment), thereafter, by confirming, modifying or rejecting the original deficiency determination, and shall mail a copy of such final assessment to person or entity owing the tax. The decision of the Tax Administrator may be appealed pursuant to Section 3.26.200 and such an appeal and a final decision thereon is a prerequisite to a suit thereon.

(e) *Delinquencies.* Payment of the final assessment shall become delinquent if not received by the Tax Administrator on or before the thirtieth day following the date of receipt of the notice of final

assessment. The penalty for delinquency shall be 15% on the total amount of the assessment, along with simple interest at the rate of 9% per year, or any fraction thereof, on the amount of the tax, exclusive of penalties, from the date of delinquency, until paid. The applicable statute of limitations regarding a claim by the City seeking payment of a tax assessed under this chapter shall commence from the date of delinquency as provided in this subsection.

(f) *Notice of delinquency.* All notices under this section may be sent by regular mail, first class, postage prepaid, and shall be deemed received on the third calendar day following the date of mailing, as established by a proof of mailing.  
(Ord. 156, passed 11-4-2014)

### **3.26.160 Administrative remedy** ~~B~~ **Non-paying service users.**

(a) *Administrative remedies for the obligation to collect tax.* Whenever the Tax Administrator determines that a service user has deliberately withheld the amount of the tax owed by the service user from the amounts remitted to a person required to collect the tax, or whenever the Tax Administrator deems it in the best interest of the City, he or she may relieve such person of the obligation to collect the taxes due under this chapter from certain named service users for specific billing periods. To the extent the service user has failed to pay the amount of tax owed for a period of two or more billing periods, the service supplier may be so relieved of the obligation to collect taxes due. The service supplier shall provide the City with the names and addresses of such service users and the amounts of taxes owed under the provisions of this chapter. Nothing herein shall require that the Tax Administrator institute proceedings under this section if, in the opinion of the Tax Administrator, the cost of collection or enforcement likely outweighs the tax benefit.

(b) *Delinquency penalty.* In addition to the tax owed, the service user shall pay all penalties and interest due under Section 3.26.130(b) as well as the delinquency penalty set out in Section 3.26.130(c), on the amount of the tax, from the due date, until paid, as well as any and all costs of collection.

(c) *Notice to non-paying service user.* The Tax Administrator shall notify the non-paying service user that the Tax Administrator has assumed the responsibility to collect the taxes due for the stated periods and demand payment of such taxes, including penalties and interest. The notice shall be served on the service user by personal delivery or by deposit of the notice in the United States mail, first class, postage prepaid, addressed to the service user at the address to which billing was made by the person required to collect the tax; should the service user have a change of address, notice shall be sent to his or her last known address.

(d) *Additional penalties.* If the service user fails to remit the tax to the Tax Administrator within 30 days from the date of the service of the notice upon him or her, the Tax Administrator may impose an additional penalty of 15% of the amount of the total tax that is owed.  
(Ord. 156, passed 11-4-2014)

### **3.26.170 Additional powers and duties of the Tax Administrator.**

(a) *Enforcement by Tax Administrator.* The Tax Administrator shall have the power and duty, and is hereby directed, to enforce each and all of the provisions of this chapter.

(b) *Administrative regulations regarding payment.* The Tax Administrator may adopt administrative rules and regulations consistent with provisions of this chapter for the purpose of interpreting, clarifying, carrying out and enforcing the payment, collection and remittance of the taxes herein imposed. The administrative ruling shall not impose a new tax, revise an existing tax methodology as stated in this section, or increase an existing tax, except as allowed by California Government Code Section 53750. A copy of such administrative rules and regulations shall be on file in the Tax Administrator's office. To the extent that the Tax Administrator determines that the tax imposed under this chapter shall not be collected in full for any period of time from any particular service supplier or service user, that determination shall be considered an exercise of the

Tax Administrator's discretion to settle disputes and shall not constitute a change in taxing methodology for purposes of Government Code Section 53750 or otherwise. The Tax Administrator is not authorized to amend the City's methodology for purposes of Government Code Section 53750 and the City does not waive or abrogate its ability to impose any tax established by this chapter in full as a result of promulgating administrative rulings or entering into agreements.

(c) *Administrative agreements regarding billing procedures.* Upon a proper showing of good cause, the Tax Administrator may make administrative agreements, with appropriate conditions, to vary from the strict requirements of this chapter and thereby: (1) conform to the billing procedures of a particular service supplier so long as said agreements result in the collection of the tax in conformance with the general purpose and scope of this chapter; or (2) to avoid a hardship where the administrative costs of collection and remittance greatly outweigh the tax benefit. A copy of each such agreement shall be on file in the Tax Administrator's office, and are voidable by the Tax Administrator or the City Council at any time.

(d) *Compliance audits.* The Tax Administrator may conduct an audit, to ensure proper compliance with the requirements of this chapter, of any person required to collect and/or remit a tax pursuant to this chapter. The Tax Administrator shall notify said person of the initiation of an audit in writing. In the absence of fraud or other intentional misconduct, the audit period of review shall not exceed a period of three years next preceding the date of receipt of the written notice by said person from the Tax Administrator. Upon completion of the audit, the Tax Administrator may make a deficiency determination pursuant to Section 3.26.150(a) for all taxes (and applicable penalties and interest) owed and not paid, as evidenced by information provided by such person to the Tax Administrator. If said person is unable or unwilling to provide sufficient records to enable the Tax Administrator to verify compliance with this chapter, the Tax Administrator is authorized to make a reasonable estimate of the deficiency. Said reasonable estimate shall be entitled to a rebuttable presumption of correctness.

(e) *Extension of time.* Upon receipt of a written request of a taxpayer, and for good cause, the Tax Administrator may extend the time for filing any statement required pursuant to this chapter for a period of not to exceed 45 days, provided that the time for filing the required statement has not already passed when the request is received. No penalty for delinquent payment shall accrue by reason of such extension. Interest shall accrue during said extension at the rate of 9% per year, prorated for any portion thereof.

(f) *Eligibility for exemption.* The Tax Administrator shall determine the eligibility of any person who asserts a right to exemption from, or a refund of, the tax imposed by this chapter.

(g) *Waiver of penalties and interest.* Notwithstanding any provision in this chapter to the contrary, the Tax Administrator may waive any penalty or interest imposed upon a person required to collect and/or remit for failure to collect the tax imposed by this chapter if the non-collection occurred in good faith. In determining whether the non-collection was in good faith, the Tax Administrator shall take into consideration industry practice or other precedence.  
(Ord. 156, passed 11-4-2014)

### **3.26.180 Records.**

(a) *Retention of necessary tax records.* It shall be the duty of every person required to collect and/or remit to the City any tax imposed by this chapter to keep and preserve, for a period of at least three years, all records as may be necessary to determine the amount of such tax as he/she may have been liable for the collection of and remittance to the Tax Administrator, which records the Tax Administrator shall have the right to inspect at a reasonable time.

(b) *Administrative subpoenas.* The City may issue an administrative subpoena to compel a person to deliver to the Tax Administrator copies of all records deemed necessary by the Tax Administrator to establish compliance with this chapter, including the delivery of records in a common electronic format on readily available media if such records are kept electronically by the person in the usual and ordinary

course of business. As an alternative to delivering the subpoenaed records to the Tax Administrator on or before the due date provided in the administrative subpoena, such person may provide access to such records outside the City on or before the due date, provided that such person shall reimburse the City for all reasonable travel expenses incurred by the City to inspect those records, including travel, lodging, meals, and other similar expenses, but excluding the normal salary or hourly wages of those persons designated by the City to conduct the inspection.

(c) *Non-disclosure agreements.* The Tax Administrator is authorized to execute a non-disclosure agreement approved by the City Attorney to protect the confidentiality of customer information pursuant to California Revenue and Tax Code Sections 7284.6 and 7284.7.

(d) *Use of billing agents.* If a service supplier uses a billing agent or billing aggregator to bill, collect, and/or remit the tax, the service supplier shall: (1) provide to the Tax Administrator the name, address and telephone number of each billing agent and billing aggregator currently authorized by the service supplier to bill, collect, and/or remit the tax to the City; and (2) upon request of the Tax Administrator, deliver, or effect the delivery of, any information or records in the possession of such billing agent or billing aggregator that, in the opinion of the Tax Administrator, is necessary to verify the proper application, calculation, collection and/or remittance of such tax to the City.

(e) *Access to necessary records.* If any person subject to record-keeping under this section unreasonably denies the Tax Administrator access to such records, or fails to produce the information requested in an administrative subpoena within the time specified, then the Tax Administrator may impose a penalty of \$500 on such person for each day following: (1) the initial date that the person refuses to provide such access; or (2) the due date for production of records as set forth in the administrative subpoena. This penalty shall be in addition to any other penalty imposed under this chapter.

(Ord. 156, passed 11-4-2014)

### 3.26.190 Refunds.

Whenever the amount of any tax has been overpaid or paid more than once or has been erroneously or illegally collected or received by the Tax Administrator under this chapter from a person or service supplier, it may be refunded as provided in this section as follows:

(a) *Refund application.* Any individual entitled to be exempt from the taxes imposed by this chapter, who paid more than \$3 in such taxes, may, during the 12-month period following such payment, apply for a refund thereof on forms provided by the Tax Administrator. Refund applications shall contain a declaration of those facts, under oath, which qualify the applicant for a refund, and shall be accompanied by the customer's bills showing the amount of such taxes billed by the service supplier during the preceding calendar year. Refund claims may be filed by an individual who used the services and paid the taxes prescribed by this chapter either directly or indirectly to the service user rather than the service supplier. In the event the applicant has lost or destroyed any relevant billings or statements showing the amount of tax paid, or if the applicant indirectly paid such taxes in conjunction with the occupation of premises without receiving a specific billing therefor from the service user, the maximum refund shall be \$25, or \$2 for each full month of services received by the applicant, whichever is less.

(b) *Written claim for refund.* No refund shall be paid under the provisions of this section unless the claimant or his or her guardian, conservator, executor, or administrator has submitted a written claim to the Tax Administrator within one year of the overpayment or erroneous or illegal collection of said tax. To be timely, such claim must clearly establish claimant's right to the refund by written records showing entitlement thereto. Nothing herein shall permit the filing of a claim on behalf of a class or group of taxpayers unless each member of the class has submitted a written claim under penalty of perjury as provided by this subsection or as otherwise allowed by law.

(c) *Compliance with claims act.* The filing of a written claim pursuant to Government Code Section 935 is a prerequisite to any suit thereon. Any action brought against the City pursuant to this section shall be subject to the provisions of Government Code Sections 945.6 and 946. The City Manager or City Council shall act upon the refund claim within the time period set forth in Government Code Sections 912.4 et seq. If the City Manager or City Council fails or refuses to act on a refund claim within the time prescribed by Government Section 912.4, the claim shall be deemed to have been rejected by the City Council on the last day of the period within which the City Council was required to act upon the claim as provided in Government Code Section 912.4. The Tax Administrator shall give notice of the action in a form which substantially complies with that set forth in Government Code Section 913.

(d) *Refunds to service suppliers.* The Tax Administrator may, at his or her discretion, give written permission to a service supplier, who has collected and remitted any amount of tax in excess of the amount of tax imposed by this chapter, to claim credit for such overpayment against the amount of tax which is due the City upon a subsequent monthly return to the Tax Administrator, provided that: (1) such credit is claimed in a return dated no later than one year from the date of overpayment or erroneous collection of said tax; (2) the Tax Administrator is satisfied that the underlying basis and amount of such credit has been reasonably established; and (3) in the case of an overpayment by a service user to the service supplier that has been remitted to the City, the Tax Administrator has received proof, to his or her satisfaction, that the overpayment has been refunded by the service supplier to the service user in an amount equal to the requested credit.

(e) *Overpayments as credits.* Notwithstanding subsections (a) through (c) above, a service supplier shall be entitled to take any overpayment as a credit against an underpayment whenever such overpayment has been received by the City within the three years next preceding a deficiency determination or assessment by the Tax Administrator in connection with an audit instituted by the Tax Administrator pursuant to Section 3.26.170(d). A service supplier

shall not be entitled to such credit unless it clearly establishes the right to the credit by written records showing entitlement thereto. Under no circumstances shall an overpayment taken as a credit against an underpayment pursuant to this subsection qualify a service supplier for a refund to which it would not otherwise be entitled under the one-year written claim requirement of this section.

(Ord. 156, passed 11-4-2014)

### **3.26.200 Appeals.**

(a) *Administrative appeals.* The provisions of this section apply to any decision (other than a decision related to an exemption determination pursuant to Section 3.26.030 or a decision relating to a refund pursuant to Section 3.26.190). Any person otherwise aggrieved by any decision, deficiency determination, assessment, or administrative ruling of the Tax Administrator, shall be required to comply with the appeals procedure of this section. Compliance with this section shall be a prerequisite to a suit thereon. (See Government Code Section 935(b).) Nothing herein shall permit the filing of a claim or action on behalf of a class or group of taxpayers except as otherwise provided by law.

(b) *Appeal of Tax Administrator's decision.* If any person is aggrieved by any such decision, deficiency determination, assessment, or administrative ruling of the Tax Administrator, he or she may appeal by filing a notice of appeal with the City Clerk within 14 days of the date of the decision, deficiency determination, assessment, or administrative ruling of the Tax Administrator which aggrieved said person.

(c) *Scheduling of administrative appeal hearing.* The matter shall be scheduled for hearing before an independent hearing officer selected by the City Manager, no more than 30 days from the receipt of the appeal. The appellant shall be served with notice of the time and place of the hearing, as well as any relevant materials, at least five calendar days prior to the hearing. The hearing may be continued from time to time upon mutual consent. At the time of the hearing, the appealing party, the Tax Administrator, and any other interested person may present such relevant

evidence as he or she may have relating to the determination from which the appeal is taken.

(d) *Notice of decision.* Based upon the submission of such evidence and the review of the City's files, the hearing officer shall issue a written notice and order upholding, modifying or reversing the determination from which the appeal is taken. The notice shall be given within 14 days after the conclusion of the hearing and shall state the reasons for the decision. The notice shall specify that the decision is final and that any petition for judicial review shall be filed within 90 days from the date of the decision in accordance with Code of Civil Procedure Section 1094.6.

(e) *Manner of notice.* All notices under this section may be sent by regular first class mail, postage prepaid, and shall be deemed received on the third calendar day following the date of mailing, as established by a proof of mailing.  
(Ord. 156, passed 11-4-2014)

### **3.26.210 Notice of changes to chapter.**

If a tax under this chapter is added, repealed, increased, reduced, or the tax base is changed, the Tax Administrator shall follow the notice requirements of California Public Utilities Code Section 799 for notification to service providers.  
(Ord. 156, passed 11-4-2014)

### **3.26.220 Effect of State and Federal referenceBAuthorization.**

(a) Unless specifically provided otherwise, any reference to a State or Federal statute in this chapter shall mean such statute as it may be amended from time to time, provided that such reference to a statute herein shall not include any subsequent amendment thereto, or to any subsequent change of interpretation thereto by a State or Federal agency or court of law with the duty to interpret such law, to the extent that such amendment or change of interpretation would require voter approval under California law, or to the extent that such change would result in a tax decrease (as a result

of excluding all or a part of a communication service, or charge therefore, from taxation). Only to the extent voter approval would otherwise be required or a tax decrease would result, the prior version of the statute (or interpretation) shall remain applicable; for any application or situation that would not require voter approval or result in a decrease of a tax, provisions of the amended statute (or new interpretation) shall be applicable to the maximum possible extent.

(b) To the extent that the City's authorization to collect or impose any tax imposed under this chapter is expanded or limited as a result of changes in State or Federal law, no amendment or modification of this chapter shall be required to conform the tax to those changes, and the tax shall be imposed and collected to the full extent of the authorization up to the full amount of the tax imposed under this chapter.  
(Ord. 156, passed 11-4-2014)

### **3.26.230 Independent audit.**

The City shall annually verify that the taxes owed under this chapter have been properly applied, exempted, collected, and remitted in accordance with this chapter, and properly expended according to applicable law. The annual verification shall be performed by a qualified, independent third party, and the review shall employ reasonable, cost-effective steps to assure compliance, including the use of sampling audits.  
(Ord. 156, passed 11-4-2014)

### **3.26.240 Effective date.**

Service providers shall begin to collect the tax imposed by this chapter as soon as feasible after the effective date of the ordinance codified in this chapter, but in no event later than January 1, 2015.  
(Ord. 156, passed 11-4-2014)

### **3.26.250 Remedies cumulative.**

All remedies and penalties prescribed by this chapter or which are available under any other

provision of law or equity, including but not limited to the City's Municipal Code, the California False Claims Act (Government Code Section 12650 et seq.) and the California Unfair Practices Act (Business and Professions Code Section 17070 et seq.), are cumulative. The use of one or more remedies by the City shall not bar the use of any other remedy for the purpose of enforcing the provisions of this chapter. (Ord. 156, passed 11-4-2014)



## CHAPTER 3.28: TRANSIENT OCCUPANCY TAX

### Section

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### **3.28.010 Short title.**

The short title of this Chapter shall be "transient occupancy tax."  
(3-12/90 ' 3.24.010)

### **3.28.020 Definitions.**

The following words and phrases shall, for the purposes of this Chapter, be defined as follows, unless it is clearly apparent from the context that another meaning is intended.

(a) "Hotel" means any structure, or any portion of any structure, which is occupied or intended or designed for use or occupancy by transients, including but not limited to dwelling, lodging or sleeping purposes, and includes any hotel, inn, tourist home or house, motel, public campsite or recreational vehicle site, studio hotel, bachelor hotel, lodging house, rooming house, apartment house, time-share project or facility offered for public use, dormitory, public or private club, mobile home or house trailer at a fixed location, or other similar structure or portion thereof, duplex, triplex, singlefamily dwelling units except any private dwelling house or other individually owned single-family dwelling house unit rented only occasionally (infrequently) and incidentally to the normal occupancy by the owner or his family; provided that the burden of establishing that the housing or facility is a hotel as defined herein shall be upon the owner or operator thereof who shall file with the Tax Administrator such information as the Tax Administrator may require, to establish and maintain such status.

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

(c) "Operator" means the person who is proprietor of the hotel whether in the capacity of

owner, lessee, sub-lessee, mortgagee in possession, licensee, or in any other capacity. Where the operator performs his or its functions through a managing agent of any type or character, the managing agent shall also be deemed an operator for the purpose of this Chapter, and shall have jointly and severally the same duties and liabilities as the principal. Compliance with the provisions of this Chapter by either the principal or the managing agent shall, however, be considered to be compliance by both.

(d) "Person" means any individual, firm, partnership, 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 amount of the consideration charged or chargeable to the tenant or person entitled to occupancy, for the occupancy of space, valued in money whether received in money, goods, labor or otherwise, including the full value of receipts, cash, credits, property or services of any kind or nature, without any deduction whatsoever. A Rent@ may have been, or may be in part, payable or paid prior to or following (in whole or in part) the occupancy to which it is attributable, and may have been paid in whole or in part in advance on a long-term basis, such as in a time-share project or similar arrangement. It is not the intent of this Subsection to make the operator liable for the tax on uncollected rent. However, uncollected rent must be reported.

(f) "Tax Administrator" means the City Manager or his designated agent, whether a City employee or County officer or employee.

(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 of whatever nature, for a period of 30 consecutive calendar days or less, counting portions of calendar days as full days. Any person so occupying space in a hotel shall be deemed to be a transient if his actual total period of occupancy does not exceed 30 days, unless there is a written agreement between the operator and occupant providing for a longer period of

occupancy. Unless days of occupancy or entitlement to occupancy by one person are consecutive without any break, then prior or subsequent periods of such occupancy or entitlement to occupancy shall not be counted when determining whether a period exceeds the stated 30 calendar days. (3-12/90 ' 3.24.020)

### **3.28.030 Tax imposed.**

For the privilege of occupancy in any hotel, each transient is subject to, and shall pay a tax in the amount of 10% of the rent charged by the operator or otherwise payable by the transient. Insofar as the transient is concerned, said tax constitutes a debt owed by the transient to the operator or to the City. If the rent is paid in installments, a proportionate share of the tax shall be paid with each installment. The unpaid tax shall be due upon the transient=s ceasing to occupy space in the hotel. If the tax is not paid to the hotel operator, the Tax Administrator may require payment directly to him.

(3-12/90 ' 3.24.030)

### **3.28.040 Exemptions.**

No tax shall be imposed upon any officer or employee of a foreign government who is exempt by reason of express provision of federal law or international treaty. No exemptions shall be granted except upon written claim therefor made under penalty of perjury at the time the rent is paid, upon a form prescribed by the Tax Administrator. Federal, State and local officers and employees are not exempt.

(3-12/90 ' 3.24.040)

### **3.28.050 Operator's duties.**

Each operator shall collect the tax imposed by this Chapter to the same extent and at the same time as the rent is collected from every transient. The amount of the tax shall be separately stated from the amount of the rent charged, and each transient shall receive a receipt of 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.

(3-12/90 ' 3.24.050)

**3.28.060 Registration.**

(a) Within 30 days after commencing business or by January 1, 1991, every person desiring to engage in or conduct business as operator of a hotel renting to transients within the City shall file with the Tax Administrator an application for a transient occupancy registration permit for each place of business. Every application for such a permit shall be made upon a form prescribed by the Tax Administrator and shall set forth the name under which the applicant transacts or intends to transact business, the location of his place of business and such other information as the Tax Administrator may require. The application shall be signed by the owner if a natural person, if a member or partner, if an association or partnership, by an executive officer or some person specifically authorized by the corporation to sign the application in the case of a corporation. The transient occupancy registration permit must be in effect at all times while the business is in operation and shall be at all times posted in a conspicuous place on the premises. Said permit shall, among other things, state the following:

- (1) Name of hotel;
- (2) Name of operator;
- (3) Hotel address;
- (4) The date upon which the permit was issued; and

(5) "This Transient Occupancy Registration Permit signifies that the person named on the face hereof has fulfilled the requirements of the Transient Occupancy Tax Chapter by registering with the Tax Administrator for the purpose of collecting from transients the Transient Occupancy Tax and remitting said tax to the Tax Administrator. This Permit does not

authorize any person to conduct any unlawful business in an unlawful manner, nor operate a hotel without strictly complying with all applicable laws, including but not limited to those requiring a permit from any board, commission, department or office of this City. This Permit does not apply in lieu of such other permits which are otherwise required."

(b) At the time of making an application for a registration permit, the applicant shall pay a registration fee in an amount determined by the Council for each permit issued.

(3-12/90 ' 3.24.060)

**3.28.070 Returns and remittances.**

The tax imposed under Section 3.28.030 is:

(a) Due to the Tax Administrator at the time it is collected by the operator; and

(b) Becomes delinquent and subject to penalties if not received by the Tax Administrator on or before the last working day of the month following the close of each calendar month.

(3-12/90 ' 3.24.070)

**3.28.080 Reporting and remitting.**

Each operator shall, on or before the last working day of the month following the close of each calendar month, file a return with the Tax Administrator on the forms provided by him, of the total rents charged or chargeable as provided in Section 3.28.030, whether or not received, including any rentals charged for occupancies exempt under the provisions of Section 3.28.040 and the amount of tax collected for transient occupancies. Each such return shall contain a declaration under penalty of perjury, executed by the operator or his authorized agent, that to the best of the signator's knowledge, the statements in the return are true, correct and complete. Amounts claimed on the return as exempt from the tax pursuant to Sections 3.28.040 and 3.28.150 shall be fully itemized and explained on the return or supporting schedule. In determining the amount of "taxable receipts" on the tax

return, "rent" as defined in Section 3.28.020(5), may not be reduced by any business expenses including but not limited to the amount of service charges deducted by credit card companies or commissions paid to travel agencies. At the time the return is filed, the tax fixed at the prevailing transient occupancy tax rate for the amount of rentals charged or chargeable, which are not exempt from tax under Section 3.28.040 shall be remitted to the Tax Administrator. The Tax Administrator may establish other reporting periods and may require a cash deposit or bond or a separate trust fund bank account for any permit holder if he deems it necessary in order to insure collection of the tax and he may require further information in the return. All taxes collected by operators pursuant to this Chapter shall be held in trust for the account of the City until remittance thereof is made to the Tax Administrator.

(3-12/90 ' 3.24.080)

### **3.28.090 Cessation of business.**

Each operator shall notify the Tax Administrator, ten days prior to the sale or cessation of business for any reason and returns and remittances are due immediately upon the sale or cessation of business.

(3-12/90 ' 3.24.090)

### **3.28.100 Delinquency.**

Any operator who fails to remit any tax to the City or any amount of tax required to be collected and remitted to the City including amounts based on determination made by the Tax Administrator under Section 3.28.120, within the time required, shall pay a penalty of 10% of the amount of the tax in addition to the amount of tax, plus interest at the rate of 0.5% per month, or fraction thereof, from the date on which the tax or the amount of tax required to be collected becomes delinquent until the date of remittance or payment. Any operator who fails to pay any penalty imposed under this Section within ten days after receipt of notice thereof shall pay interest thereon at the rate of 0.5% per month, or fraction thereof from the date on which the penalty

becomes due and payable to the City until the date of payment.

(3-12/90 ' 3.24.100)

### **3.28.110 Fraud.**

If the Tax Administrator determines that the failure to make any remittance or payment due under this Chapter is due to fraud, a penalty of 100% of the amount of the tax and penalties shall be added thereto in addition to the penalties stated in Section 3.28.100.

(3-12/90 ' 3.24.110)

### **3.28.120 Failure to collect and report tax- -Determination of Tax Administrator.**

If any operator fails or refuses to collect said tax and to make, within the time provided in this Chapter, any report and remittance of said tax or any portion thereof required by this Chapter, the Tax Administrator shall proceed in such manner as he may deem best to obtain facts and information on which to base his estimate on 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 the Chapter payable by any operator who has failed or refused to collect the same and make such report and remittance, he shall proceed to determine and assess against such operator the tax, interest and penalties provided for by this Chapter. In case such determination is made, the Tax Administrator shall give a notice of the amount so assessed by serving it personally or by depositing it in the United States mail, postage prepared, addressed to the operator so assessed at his last known 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 herein to the operator

to show cause at a time and place fixed in said notice why said amount specified therein should not be fixed for such tax, interest and penalties. At such hearing, the operator may appear and offer evidence why such specified tax, 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 herein of the 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 3.28.130.

(3-12/90 ' 3.24.120)

**3.28.130 Appeal.**

Any operator aggrieved by any decision of the Tax Administrator with respect to the amount of any tax, interest and penalties, if any, may appeal to the City Council by filing a notice of appeal with the City Clerk within 15 days of serving of the assessment or determination of tax and penalties, if any, due. The City Council shall fix a time and place for hearing the appeal, and the City Clerk shall give notice in writing to the operator at his last known address. The findings of the City Council shall be final and conclusive and shall be served upon the appellant in the manner prescribed above for service of notice of hearing. Any amount found to be due shall be immediately due and payable upon the service of notice.

(3-12/90 ' 3.24.130)

**3.28.140 Records.**

It shall be the duty of every operator liable for the collection and remittance to the City of any tax imposed by this Chapter to keep and preserve, in the City, for a period of three years, records in such form as the Tax Administrator may require to determine the amount of such tax. The Tax Administrator shall have the right to inspect such records at all reasonable times and may subpoena the records of any operator who refuses to make them available for examination.

(3-12/90 ' 3.24.140)

**3.28.150 Refunds.**

(a) Whenever the amount of any tax, interest or penalty has been overpaid or paid more than once or has been erroneously or illegally collected or received by the City under this Chapter, it may be refunded as provided in Subsections (b) and (c) of this Section, provided a claim in writing therefor, stating under penalty of perjury the specific grounds upon which the claim is founded, is filed with the Tax Administrator within three years of the date of payment. The claims 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 person or credited to rent subsequently payable by the person to the operator.

(c) A transient may obtain a refund of taxes overpaid or paid more than once erroneously or illegally collected or received by the City by filing a claim in the manner provided in Subsection (a) of this Section, but only when the tax was paid by the transient directly to the Tax Administrator, or when the transient having paid the tax to the operator, establishes to the satisfaction of the Tax Administrator that the transient has been unable to obtain a refund from the operator who collected the tax.

(d) No refund shall be paid under the provisions of this Section unless the claimant establishes his right thereto by written records.

(3-12/90 ' 3.24.150)

**3.28.160 Revocation of permit.**

Whenever any operator fails to comply with any provision of this Chapter relating to occupancy tax or any rule or regulation of the Tax Administrator relating to occupancy tax prescribed and adopted under this

Chapter, the Tax Administrator upon hearing, after giving the operator ten days' notice in writing specifying the time and place of hearing and requiring him to show cause why his permit or permits should not be revoked, may suspend or revoke any one or more of the permits held by the operator. The Tax Administrator shall give to the operator written notice of the suspension or revocation of any of his permits. The notices herein required may be served personally or by mail in the manner prescribed for service of notice of a deficiency determination. The Tax Administrator shall not issue a new permit after the revocation of a permit unless he is satisfied that the former holder of the permit will comply with the provisions of this Chapter relating to the occupancy tax and regulations of the Tax Administrator. (3-12/90 ' 3.24.160)

### **3.28.170 Closure of hotel without permit.**

During any period of time during which a permit has not been issued, or is suspended, revoked or otherwise not validly in effect, the Tax Administrator may require that the hotel be closed. (3-12/90 ' 3.24.170)

### **3.28.180 Recording certificate--Lien.**

If any amount required to be remitted or paid to the City under this Chapter is not remitted or paid when due, the Tax Administrator may, within three years after the amount is due, file for record in the office of the County of Riverside Recorder a certificate specifying the amount of tax, penalties and interest due, the name and address as it appears on the records of the Tax Administrator of the operator liable for the same, and the fact that the Tax Administrator has complied with all provisions of this Chapter in the determination of the amount required to be remitted and paid. From the time of the filing for record, the amount required to be remitted together with penalties and interest shall constitute a lien upon all real property in the County owned by the operator or afterwards and before the lien expires acquired by him. The lien has the force, effect and priority of a judgment lien and shall continue for

ten years from the time of filing of the certificate unless sooner released or otherwise discharged. (3-12/90 ' 3.24.180)

### **3.28.190 Priority and lien of tax.**

(a) The amounts required to be remitted and/or paid by any operator under this Chapter with penalties and interest shall be satisfied first in any of the following cases:

- (1) Whenever the person is insolvent;
- (2) Whenever the person makes a voluntary assignment of his assets;
- (3) Whenever the estate of the person in the hands of executors, administrators, or heirs is insufficient to pay all the debts due from the deceased;
- (4) Whenever the estate and effects of an absconding, concealed or absent person required to pay any amount under this Chapter are levied upon by process law. This Chapter does not give the City a preference over any recorded lien which attached prior to the date when the amounts required to be paid became a lien.

(b) The preference given to the City by this Section shall be subordinate to the preferences given to claims for personal services by Sections 1204 and 1206 of the Code of Civil Procedure. (3-12/90 ' 3.24.190)

### **3.28.200 Warrant for collection of tax.**

At any time within three years after any operator is delinquent in the remittance or payment of any amount herein required to be remitted or paid or within three years after the last recording of a certificate under Section 3.28.160, the Tax Administrator may issue a warrant for the enforcement of any liens and for the collection of any amount required to be paid to the City under this Chapter. The warrant shall be directed to any sheriff, marshal, or constable and shall have the

same effect as a writ of execution. The warrant shall be levied and sale made pursuant to it in the same manner with the same effect as a levy of and a sale pursuant to a writ of execution. The Tax Administrator may pay or advance to the sheriff, marshal, or constable the same fees, commissions and expenses for his services as are provided by law for similar services pursuant to a writ of execution. The Tax Administrator, and not the court, shall approve the fees for publication in a newspaper.

(3-12/90 ' 3.24.200)

**3.28.210 Seizure and sale.**

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

(3-12/90 ' 3.24.210)

**3.28.220 Successor’s liability--Withholding by purchase.**

If any operator liable for any amount under this Chapter sells out his business or quits the business, his successor or assigns shall withhold sufficient of the purchase price to cover such amount until the former owner produces a receipt from the Tax Administrator showing that it has been paid or a certificate stating that no amount is due.

(3-12/90 ' 3.24.220)

**3.28.230 Liability of purchaser--Release.**

If the purchaser of a hotel fails to withhold purchase price as required, he shall become personally

liable for the payment of the amount required to be withheld by him to the extent of the purchase price, valued in money. Within 60 days after receiving a written request from the purchaser for a certificate, or within 60 days from the date the former owner's records are made available for audit, whichever period expires the later, but in any event not later than 90 days after receiving the request, the Tax Administrator shall either issue the certificate or mail notice to the purchaser at his address as it appears on the records of the Tax Administrator of the amount that must be paid as a condition of issuing the certificate. Failure of the Tax Administrator to mail the notice will release the purchaser from any further obligation to withhold purchase price as above provided. The time within which the obligation of the successor may be enforced shall start to run at the time the operator sells his business or at the time that the determination against the operator becomes final, whichever event occurs the later.

(3-12/90 ' 3.24.230)

**3.28.240 Responsibility for payment.**

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 remitted to the City is a fiduciary obligation of the operator to the City and collectible in the same manner as a debt. Any person owing money to the City under the provisions of this Chapter shall be liable to an action brought in the name of the City of Canyon Lake for the recovery of such amount.

(3-12/90 ' 3.24.240)

**3.28.250 Withhold notice.**

If any person or operator is delinquent in the remittance or payment of the amount required to be remitted or paid by him or in the event a determination has been made against him for the remittance of tax and payment of the penalty, the City may, within three years after the tax obligation became due, give notice thereof personally or by registered mail to all persons, including the State or any political subdivision thereof,

having in their possession or under their control any credits or other personal property belonging to the taxpayer. After receiving the withholding notice, the person so notified shall make no disposition of the taxpayer's credits, other personal property or debts until the City consents to a transfer or disposition or until 60 days elapse after the receipt of the notice, whichever expires earlier. All persons, upon receipt of said notice, shall advise the City immediately of all such credits, other personal property or debts in their possession, under their control or owing by them. If such notice seeks to prevent the transfer or other disposition of a deposit in a bank or other credits or personal property in the possession or under the control of the bank, to be effective the notice shall be delivered or mailed to the branch or office of such bank at which such deposit is carried or at which such credits or personal property is held. If any person so notified makes transfer or disposition of the property or debts required to be held hereunder during the effective period of the notice to withhold, he shall be liable to the City to the extent of the value of the release up to the amount of the indebtedness owed by the taxpayer to the City.  
(3-12/90 ' 3.24.250)

### **3.28.260 Violations--Misdemeanor.**

(a) Except for failure of an operator to pay to the Tax Administrator taxes collected under this Chapter which is punishable as a felony pursuant to Section 424 of the Penal Code, every violation of this Chapter is a misdemeanor and punishable by a fine not exceeding \$500 or imprisonment in the County jail for not more than six months or by both such fine and imprisonment.

(b) If such offense is not otherwise punishable as mentioned in (a) above, any person willfully failing to comply with, or knowingly violating, any of the provisions of this Chapter shall be guilty of a misdemeanor.

(c) Any operator or other person who willfully fails or refuses to register as required herein, or to furnish any return required to be made, or who fails or refuses to furnish a supplemental return or other data required by the Tax Administrator, or who renders a

false or fraudulent return or claim is guilty of a misdemeanor. Any person required to make, render, sign or verify any report or claim who willfully makes any false or fraudulent report or claim with intent to defeat or evade the determination of any amount due required by this Chapter to be made, is guilty of a misdemeanor.  
(3-12/90 ' 3.24.260)

### **3.28.270 Extension of time.**

The Tax Administrator, for good cause, may extend for not to exceed one month the time for making any return or paying any amount required to be paid under this Chapter. The extension may be granted at any time, provided a request therefore is filed with the Tax Administrator within or prior to the period for which the extension may be granted. Any person to whom an extension is granted shall pay, in addition to the tax, interest at the rate of one percent per month or fraction thereof, from the date on which the tax would have been due without the extension until the date of payment.  
(3-12/90 ' 3.24.270)

### **3.28.280 Divulging of information forbidden.**

It is unlawful for any person having an administrative duty under this Chapter to make known in any manner whatever the business affairs, operations, or information obtained by an investigation of the records of any operator or any other person visited or examined in the discharge of official duty, or the amount or source of income, profits, losses, expenditures, or any particular thereof, set forth or disclosed in any return, or to knowingly permit any return or copy thereof or any abstract or particulars thereof to be seen or examined by any person. Successors, receivers, trustees, executors, administrators, assignees and guarantors, if directly interested, may be given information as to the items included in the amounts of any unpaid tax or amounts of tax, penalties and interest required to be collected.  
(3-12/90 ' 3.24.280)

**3.28.290 Agreement with County.**

The City is empowered to enter into a joint powers agreement with other cities and the County of Riverside, and if such agreement or agreements can be made wherein central collection for the County of Riverside is provided, then it shall be done upon approval by the City Council.

(3-12/90 ' 3.24.290)



## CHAPTER 3.32: SETTING FEES FOR EXCESSIVE FALSE ALARM RESPONSES

### Section

- 3.32.010 False alarm prevention.
- 3.32.020 Reinstatement of police response.
- 3.32.030 Appeal.

(f) Public schools, as well as all City, county, state and federal facilities, are exempt from the provisions of this Section.  
(14-8/91 ' 3.03.01)

#### **3.32.010 False alarm prevention.**

Whenever the City receives an excessive number of false alarms from any one source, a service fee shall be assessed.

(a) "False alarm" as defined herein shall mean an alarm set off by human negligence, including but not limited to an alarm in a structure or vehicle.

(b) The first through fourth false alarm in any consecutive 365-day period shall not be considered excessive and no service fee shall be assessed.

(c) Upon receipt of the fifth and any subsequent false alarm within any 365-day period, the alarm owner or lessee shall pay a service fee. Such service fee shall be set by resolution of the City Council.

(d) Upon receipt of the eighth false alarm within the 365-day period mentioned above, in addition to the service fee, the alarm system may be considered a public nuisance and the alarm owner notified that police response to further activations of that system will be discontinued for a period of 30 days for each successive false alarm received. The City Manager or his designee shall provide a copy of such notice to the Police Chief as instructions regarding responses.

(e) Failure to pay an assessed service fee within 30 days of the billing date shall result in the automatic cessation of police response to further activations of said alarm system until such fee is paid.

#### **3.32.020 Reinstatement of police response.**

In those cases where police response is to be discontinued as set forth in Section 3.32.010 of this Chapter, a written notice of such action shall be mailed via registered mail to the alarm owner or lessee at least 15 days prior to the actual cutoff. The alarm owner or lessee may, within ten days after such notice is mailed, request a meeting with the City Manager or his designee to present material to rebut the basis of the discontinuance. Based on the information presented, the City Manager or his designee may determine that either police response to the alarm system should continue to be denied, be reinstated or direct other corrective measures be implemented. At the conclusion of the meeting, the City Manager or his designee shall verbally advise the alarm owner or lessee of his decision in the matter and provide via registered mail a written response within five working days thereafter.

(14-8/91 ' 3.03.02)

#### **3.32.030 Appeal.**

Any alarm system owner or lessee who has received a notice from the City that police response will not be reinstated as provided by Section 3.32.020 of this Chapter may appeal said determination to the City Council. Said appeal shall be made to the City Clerk in writing within 15 days after receipt of the notice of determination from the City Manager or his designee and shall state the basis for the appeal.

The City Clerk shall set the matter for an informal hearing before the City Council as soon as is practicable and shall give the appealing party advance notice of the time and place of such hearing. At the hearing, the appealing party and any other interested party shall have a reasonable opportunity to be heard. In all such cases the burden of proof to show that the action of the City Manager or his designee was arbitrary shall be upon the appealing party. The determination of the City Council shall be final and conclusive.

(14-8/91 ' 3.03.03)

## **CHAPTER 3.36: GRADING AND PLANNING FEES**

### Section

- 3.36.010 Fees set by City Council.
- 3.36.020 Repeal.

#### **3.36.010 Fees set by City Council.**

Any fees heretofore set by Riverside County Ordinance 671.4, which contains provisions for fees for grading plan reviews and permits, as well as development and planning processing fees, adopted by the City of Canyon Lake Ordinance No. 25, may be set by resolution of the City Council. The City Council by resolution may establish any other fees and charges as authorized by law.

(35-3/93 Section 2)

#### **3.36.020 Repeal.**

Riverside County Ordinance 671.4, adopted by the City of Canyon Lake in its Ordinance No. 25, is repealed. All other provisions of said Ordinance No. 25 shall remain in full force and effect until otherwise revised, repealed, or superseded.

(35-3/93 Section 1(C))



## CHAPTER 3.37: SPECIAL POLICE AND PUBLIC SAFETY SERVICES

### Section

- 3.37.010 Notice of personal liability for cost of special security assignment.
- 3.37.020 Fees and costs for special security assignments.
- 3.37.030 Responsible party.
- 3.37.040 Reserved.
- 3.37.050 Determination of costs.
- 3.37.060 Debt of city.
- 3.37.070 Appeal.

#### **3.37.010 Notice of personal liability for cost of special security assignment.**

(a) When any loud or unruly assemblage occurs or is held (whether in a residential area or not), and the city's law enforcement agency is required to respond to the scene (whether or not in response to citizen complaints), and the senior police officer at the scene determines that there is a threat to the public peace, health, safety or general welfare, or that a public nuisance is occurring then that senior officer shall notify the owner of the premises or the person in charge of the premises or responsible for the assemblage (or if that person is a minor, the parents and guardians of that person) that that person (hereafter the "responsible party") will be held personally liable for the costs of providing police personnel on special security assignment over and above the normal services provided by the police department to those premises.

(b) Said person or persons shall be given a first warning, in the form of oral notification by police officer that the first police response or other public safety services shall be deemed to be the normal police and other public safety services provided.

(c) The police or other public safety personnel utilized after the first warning to control the threat to

the public peace, health, safety or general welfare shall be deemed to be on special security assignment over and above the normal services provided. (Ord. 67, passed 2-3-1999)

#### **3.37.020 Fees and costs for social security assignments.**

The costs of the special security assignment described in this Chapter shall include personnel and equipment costs expended during the second and any subsequent returns to the premises. In addition, such costs may include damages to city property and/or injuries to city personnel. (Ord. 67, passed 2-3-1999)

#### **3.37.030 Responsible party.**

The responsible party shall be billed the amount of such costs to reimburse the city for special security services. (Ord. 67, passed 2-3-1999)

#### **3.37.040 [left blank intentionally]** (Ord. 67, passed 2-3-1999)

#### **3.37.050 Determination of costs.**

Upon written notification from the law enforcement agency of the necessity of providing said extraordinary law enforcement services and an itemized cost of providing said services including salaries of police officers, cost of vehicles, and other costs including administrative costs, the City Manager, or his/her designee, shall determine within five

working days thereafter the actual cost of said extraordinary services.

The City Manager upon determining the actual cost, shall cause the amount of said cost to be billed to the person named by the law enforcement agency in the notice and at the address contained therein setting forth the date and time of the incident, and the services performed, and the costs thereof, and such other information as may be required. The amount of such cost shall be deemed a debt to the city of the person or persons receiving said services and to whom billed. Any person owing money shall be liable in any action brought in the name of the city for recovery of such amounts, including reasonable attorney's fees.  
(Ord. 67, passed 2-3-1999)

### **3.37.070 Appeal.**

Any individual named by the decision of the City Manager as being liable to the city for the cost of the extraordinary law enforcement services may, within seven days of the receipt of said written bill request a review of the matter before the City Manager, or his/her designee, who shall, along with a representative of the law enforcement agency, review the necessity of the services and the cost thereof with the individual appealing the determination of said costs. The City Manager may in his discretion determine that the person requesting the review was or was not the appropriate party to have billed, and the cost of said charges should be reduced or terminated based upon reasonable evidence warranting the same. Any individual aggrieved by the decision of the City Manager, or his/her designee, may appeal that decision in writing to the City Council by written notice filed with the city clerk within seven days of the decision of the City Manager or his/her designee. Unless appealed within the time set out, the decision of the City Manager is final. In the event of non-payment, the City Attorney is authorized and directed to bring, or cause to be brought, all necessary legal actions to collect the costs of said services.  
(Ord. 67, passed 2-3-1999)