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## **CHAPTER 3-1 CAPITAL OUTLAY FUND**

### **Section 3-1.01. Established: Authority.**

Pursuant to the authority granted by that certain act of the Legislature of the State entitled "An Act to Provide for the Levy and Collection of Taxes and Assessments for the Purpose of Creating a Fund for Capital Outlays by Cities and Counties or Districts" (Cal. Stats. 1937, Chapter 717, Page 1995 D. A. 8496-A), a fund is created to provide for capital outlays for public improvements, such fund to be known and designated as the "capital outlays fund." (Prior Code § 2-92)

### **Section 3-1.02. Administration.**

In all manners and things, the capital outlay fund shall be administered in accordance with the act of the Legislature of the State referred to in Section 3-1.01, and all provisions and requirements of such act shall be adhered to and complied with. (Prior Code § 2-93)

## CHAPTER 3-2 SPECIAL GAS TAX STREET IMPROVEMENT FUND

### **Section 3-2.01. Established.**

To comply with the provisions of Article 5 of Chapter 1 of Division 1 of the Streets and Highways Code, with particular reference to the amendments made thereto by Chapter 642, Statutes of 1935, there is created in the City treasury a special fund to be known as the "special gas tax street improvement fund." (Prior Code § 2-94)

### **Section 3-2.02. Deposits.**

All money received by the City from the State under the provisions of the Streets and Highways Code for the acquisition of real property or interests therein for, or the construction, maintenance or improvement of streets or highways, other than State highways, shall be paid into the special gas tax street improvement fund. (Prior Code § 2-95)

### **Section 3-2.03. Expenditures.**

All money in the special gas tax street improvement fund shall be expended exclusively for the purposes authorized by, and subject to all of the provisions of Article 5, Chapter 1, Division 1 and Chapter 3, Division 3 of the Streets and Highways Code, as it exists as of the adoption of the ordinance from which this section derives, and as thereafter amended. (Prior Code § 2-96)

\* Editor's Note: Section 3-2.03 was amended by request of the City Attorney.

## **CHAPTER 3-3 HOME FINANCING PROGRAM**

### **Section 3-3.01. Adoption: Authority: Intent.**

The City adopts a home financing program (the "program") pursuant to Part 5 of Division 31 of the Health and Safety Code of the State (the "Act") for the purpose of increasing the housing supply in the City and in the county and determines to issue revenue bonds pursuant to the Act to provide funds for the program. (Prior Code § 10-1)

### **Section 3-3.02. Findings.**

The City finds and declares that:

- (a) A substantial housing need exists in the City and in the county.
- (b) Adoption of the program pursuant to the Act for persons and families within income limits established by the Act will serve the public purpose of encouraging the construction, purchase and rehabilitation of homes affordable by such persons and families.
- (c) Such encouragement of housing and construction rehabilitation will increase the housing supply in the City and in the county. (Prior Code § 10-2)

### **Section 3-3.03. Jurisdiction.**

The City shall operate the program within the geographical boundaries of the City, within the geographical boundaries of any other city in the county which agrees to participate in the program, and within the unincorporated territory of the county if the county agrees to participate in the program. (Prior Code § 10-3)

### **Section 3-3.04. Compliance with general plans.**

The program shall comply with the land use element and housing element of the general plan of the City, of any other participating city, or of the county, if it participates in the program. (Prior Code § 10-4)

### **Section 3-3.05. Cooperative agreement.**

The form of cooperative agreement (the "agreement"), submitted to the meeting at which the ordinance from which this section derives was adopted, is approved, and the proper officers\* of the City are authorized and directed to execute and deliver the agreement, for and in the name and on behalf of the City, with other participating cities in the county, and with the county, in substantially the same form submitted to the meeting, and to approve any additions to or changes in the form which they deem necessary or advisable, their approval of such additions or changes to be conclusively evidenced by their execution of the agreement as so added to or changed. (Prior Code § 10-5)

\* Editor's Note: See City Clerk's file No. A-358. Mayor and City Clerk are "proper officers."

### **Section 3-3.06. Authorization of officers.**

The proper officers of the City are further authorized and directed to perform any acts and enter into and execute any additional agreements or other documents that they may deem necessary or appropriate to implement the program. (Prior Code § 10-6)

## CHAPTER 3-4 PURCHASING SYSTEM

Sections 3-4.01. through 3-4.09. were repealed by Ordinance 2007-02.

### Article I. General Provisions

#### Section 3-4.10. Purpose of Provisions.

A purchasing system for the City of Santa Maria is adopted to establish efficient procedures for securing supplies, services, specified construction and operations work, and equipment at the lowest possible cost commensurate with quality requirements; to exercise positive financial control over purchases; to clearly define authority and accountability for the purchasing function; to minimize the written documentation, administrative actions and expense of processing purchase transactions; and to assure the quality of purchases made on behalf of the City. (Ord. 2007-02, eff. 4/19/07)

#### Section 3-4.11. Purchasing Authority Designated – Powers and Duties.

The City Manager, or his or her designated representative, shall be the Purchasing Authority. The Purchasing Authority function shall include the following powers and duties:

- (a) To develop and prescribe, for the departments, such administrative policies, forms and files as may be reasonably necessary for the internal management and operations of these purchasing procedures;
- (b) To negotiate, purchase, and contract for supplies, services, specified construction and operations work, and equipment in accordance with purchasing procedures prescribed by this chapter, and such other rules and regulations as shall be prescribed by the City Council;
- (c) To act to procure the needed quality in supplies, services, and equipment at minimum expense; and
- (d) Endeavor to obtain as full and open competition as possible on all purchases. (Ord. 2007-02, eff. 4/19/07)

#### Section 3-4.12. Purchasing Guidelines.

In addition to the provisions of this chapter, the City Manager shall prepare and implement a guideline of purchasing policies and procedures. Said procedures may be amended, as needed, by the City Manager to address operational issues as they arise. (Ord. 2007-02, eff. 4/19/07)

#### Section 3-4.13. Bidding Procedures.

The purchase of supplies, services, equipment, as well as operations and construction projects whose cost does not exceed the limit for informal bidding referenced in Chapter 8-16 of this Code, shall be by bid procedures set forth in this Chapter. Such procedures may be dispensed with, at the discretion and judgment of the Purchasing Authority as to the best interests of the City, as follows:

- (a) When the amount to be expended is less than the minimum bid requirement stated in the Purchasing Guidelines;
- (b) When an emergency requires an order be placed with the most expedient available source of supply;
- (c) When the item(s) may be obtained from only one vendor or supplier;
- (d) When uniform specifications or standards have been established for the item(s);
- (e) When the purchase may be made cooperatively with one, or more, other units of government;
- (f) When it is reasonably necessary for the preservation or protection of public peace, health, safety, or welfare of persons or property; or
- (g) When the City's need is of an indeterminate nature and a request for proposal will result in a favorable and efficient comparison of supplies, equipment, and/or services, or
- (h) When the terms of law require use of another procurement procedure. (Ord. 2007-02, eff. 4/19/07)

#### Section 3-4.14. Consultant Contract Authority.

The restrictions and provisions of this chapter shall not apply to contracts involving the acquisition of professional or specialized services such as, but not limited to, architects, attorneys, engineers, and other specialized consultants. Selection for such services will be made by an evaluation of proposals solicited from capable professionals, when the cost of the work to be performed falls within the "formal process" range specified in the Purchasing Guidelines. This section shall not prohibit the Purchasing Authority from requiring proposals for work with an estimated cost of less than the Purchasing Guidelines specified amount if, in the discretion of the Purchasing Authority, selection based upon the evaluation of proposals would better service the interest of the City. (Ord. 2007-02, eff. 4/19/07)

**Section 3-4.15. Determination of Lowest Responsible Bidder.**

In addition to the bid or quotation price, the criteria for determining the lowest responsible bid or quotation, shall include, but not be limited to, the following:

- (a) The character, integrity, reputation, judgment, experience, and efficiency of the bidder, which may include an analysis of previous work performed for the City;
- (b) The ability of the bidder to perform the contract, or provide the supplies, equipment or services required, within the time specified, without delay or interference;
- (c) The ability of the bidder to provide future maintenance, repair parts, and replacement of purchased equipment or supplies;
- (d) Compliance by the bidder with federal acts, executive orders and state statutes governing nondiscrimination in employment; and

The results of any evaluation relating to performance and price, such as testing, lifecycle costing, and analysis of service, maintenance and technical data. (Ord. 2007-02, eff. 4/19/07)

**Article II. Open Market Purchase Procedure**

**Section 3-4.20. Purchase Authorization.**

The purchase of supplies, services, equipment, as well as operations and construction projects having an estimated value falling within the “open market” range specified in the Purchasing Guidelines, may be made by the Purchasing Authority without observing the formal contract procedures set out in Article III of this chapter. (Ord. 2007-02, eff. 4/19/07)

**Section 3-4.21. Solicitation of Quotations.**

The Purchasing Authority shall solicit, either by verbal or written request, quotations from prospective sellers, vendors, suppliers or contractors. (Ord. 2007-02, eff. 4/19/07)

**Section 3-4.22. Retention of Quotations.**

Written quotations and notes of oral quotations shall be submitted to the Purchasing Authority for safekeeping. The written quotations and notes of oral quotations shall be retained as provided in the City of Santa Maria Document Retention Schedule. (Ord. 2007-02, eff. 4/19/07)

**Section 3-4.23. Required Number of Quotations.**

Open market purchases shall be based, whenever reasonably possible, on at least three quotations. (Ord. 2007-02, eff. 4/19/07)

**Section 3-4.24. Rejections of Quotations.**

The Purchasing Authority may reject:

- (a) Any quotations which fail to meet the specific purchase requirements in any respect; or
- (b) All quotations, for any reason whatsoever, and may invite new quotations.

Nothing in this section is intended to grant the Purchasing Authority the ability to arbitrarily accept a quotation which substantially deviates from the quotation solicitation, or to reject any quotation for arbitrary reasons. (Ord. 2007-02, eff. 4/19/07)

**Section 3-4.25. Award of Purchase Orders.**

(a) The Purchasing Authority in its discretion may negotiate terms for a purchase order when two or more, lowest reasonable quotations are tied and the public interest will not permit the delay of soliciting new quotations.

(b) The sellers, vendors, suppliers, and contractors who maintain places of business located within the limit of the City shall be given preference if quality, price, service, and all other relevant factors are equal; or

(c) If no quotations that conform to the solicitation are received, the purchasing authority may make the required purchase without further notice. (Ord. 2007-02, eff. 4/19/07)

### **Article III. Formal Contract Procedure**

#### **Section 3-4.30. Purchase Requirements.**

The purchases and contracts for supplies, services, equipment, and construction projects, except as otherwise provided in this chapter, which are equal to or in excess of “formal bidding” requirement amount specified in the Purchasing Guidelines, shall be by written contract with the lowest responsible bidder pursuant to the procedures prescribed in the article. (Ord. 2007-02, eff. 4/19/07)

#### **Section 3-4.31. Notice Inviting Bids.**

A notice inviting bids shall be issued, shall include a general description of the articles or services to be purchased, shall state the location where bid forms and specifications may be secured, shall state the time and place of the opening of the bids, and;

(a) The notices inviting bids shall be published at least ten (10) days before the date of opening of bids. Notices shall be published at least once in a newspaper of general circulation, printed, and published in the City of Santa Maria;

(b) The Purchasing Authority shall also solicit sealed bids from all responsible prospective bidders. (Ord. 2007-02, eff. 4/19/07)

#### **Section 3-4.32. Bidders’ Security Requirements.**

Bidders’ security may be required when deemed necessary by the Purchasing Authority. Bidders shall be entitled to a return of the bid security. However, a successful bidder shall forfeit the bid security upon refusal or failure to execute a contract within fifteen days after notice of award of that contract, unless the City is responsible for the delay. The contract may be awarded to the next lowest responsible bidder upon the refusal or failure of the successful bidder to execute the contract within the time herein prescribed. (Ord. 2007-02, eff. 4/19/07)

#### **Section 3-4.33. Bid Opening and Retention.**

Sealed bids shall be opened in public at the time and place stated in the notice inviting bids. A tabulation of all bids received shall be made available for public inspection until the award of a contract. All bids shall be retained on file for the period specified in the City of Santa Maria Document Retention Schedule. (Ord. 2007-02, eff. 4/19/07)

#### **Section 3-4.34. Rejection of Bids.**

The Purchasing Authority may reject:

- (a) Any bid that fails to meet the bidding requirements in any respect; or
- (b) All bids, for any reason, and may readvertise for new bids or abandon the purchase.

Nothing in this section is intended to grant the Purchasing Authority the ability to arbitrarily accept a bid which substantially deviates from the bid solicitation, or to reject any bid for arbitrary reasons. (Ord. 2007-02, eff. 4/19/07)

#### **Section 3-4.35. No Bids Received.**

If no bids are received, the purchase may be made through negotiated contract or other process as outlines in the Purchasing Guidelines. (Ord. 2007-02, eff. 4/19/07)

#### **Section 3-4.36. Award of Contract.**

A contract will be awarded by the Purchasing Authority to the lowest responsible bidder, except as follows:

The Purchasing Authority in its discretion may negotiate terms for an award when two or more, lowest reasonable bids are tied and the public interest will not permit the delay of readvertising for bids. (Ord. 2007-02, eff. 4/19/07)

#### **Section 3-4.37. Bond Requirements of Successful Bidder.**

The Purchasing Authority may require as a condition of executing a contract on behalf of the City, a performance bond or a labor and material bond, or both, in such amounts as the purchasing authority shall determine appropriate to protect the best interest of the City. The form and amounts of such bond(s) shall be described in the notice inviting bids. (Ord. 2007-02, eff. 4/19/07)

## **Article IV. Payment Procedure**

### **Section 3-4.40. Requirements for Payment.**

All purchases exceeding the minimum dollar limit, as specified by the Purchasing Guidelines, shall be made by requisition, or other prescribed document, signed by the Purchasing Authority and paid by warrant signed by the City Treasurer. Payment will only be made upon the satisfaction of the Administrative Services Director that:

- (a) Sufficient budget has been appropriated for the purchase;
- (b) The expenditure is in accordance with budget authority; and
- (c) The proposed expenditure is legal. (Ord. 2007-02, eff. 4/19/07)

### **Section 3-4.41. Warrant Preparation Requirements.**

The Department of Administrative Services shall prepare a warrant after receiving properly completed accounting documents as prescribed by the Administrative Services Director and the Purchasing Authority. Such accounting documents include, but are not limited to: purchase authorization, valid accounting numbers, purchase orders when applicable, receiving reports, and vendor invoices. (Ord. 2007-02, eff. 4/19/07)

### **Section 3-4.42. Payment Date.**

The Administrative Services Director shall determine and assign the dates of warrant preparation, the frequency of which shall be no less than twice each month. (Ord. 2007-02, eff. 4/19/07)

### **Section 3-4.43. Warrant Signature.**

The City Treasurer's signature shall appear on each warrant, which shall be honored if sufficient monies are available in the City's account. (Ord. 2007-02, eff. 4/19/07)

## CHAPTER 3-5 TRANSFER OF ASSESSMENT AND TAX-COLLECTION DUTIES

### **Section 3-5.01. County officers designated: Authority.**

(a) The duties of assessing property and collecting taxes provided by law to be performed by the Assessor and the Tax Collector of the City shall be performed by the Assessor and Tax Collector of the county.

(b) This section was passed and adopted pursuant to the provisions of an act of the State entitled, "An Act to provide for the levy and collection of taxes by and for the use of municipal corporations and cities incorporated under the laws of the State of California, except municipal corporations of the first class, and to provide for the consolidation and abolition of certain municipal officers, and to provide that their duties may be performed by certain officers of the County, and fixing the compensation to be allowed for such County officers for services so rendered to such municipal corporations." (California Statutes 1895, page 219, and amendments thereto). (Prior Code § 24-1)

## CHAPTER 3-6 REAL PROPERTY TRANSFER TAX

### **Section 3-6.01. Title of ordinance: Authority.**

The ordinance codified in this chapter shall be known as the "Real Property Transfer Tax Ordinance of the City of Santa Maria." 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. (Prior Code § 24-24)

### **Section 3-6.02. Imposed: Rate.**

There is imposed on each deed, instrument or writing by which any lands, tenements or other realty sold within the City are granted, assigned, transferred or otherwise conveyed to, or vested in, the purchaser or purchasers, or any other person or persons, by his or their direction, when the consideration or value of the interest or property conveyed (exclusive of the value of any lien or encumbrances remaining thereon at the time of sale) exceeds one hundred dollars (\$100.00), a tax at the rate of twenty-seven and one-half cents (\$.275) for each five hundred dollars (\$500.00) or fractional part thereof. (Prior Code § 24-25)

### **Section 3-6.03. Who shall pay.**

Any tax imposed pursuant to Section 3-6.02. 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. (Prior Code § 24-26)

### **Section 3-6.04. Exemptions: Instruments to secure debt.**

Any tax imposed by this chapter shall not apply to any instrument in writing given to secure a debt. (Prior Code § 24-27)

### **Section 3-6.05. Exemptions: Political subdivisions.**

Any deed, instrument or writing to which the United States or any agency or instrumentality thereof, any state or territory, or political subdivision thereof, is a party, shall be exempt from any tax imposed pursuant to this chapter when the exempt agency is acquiring title. (Prior Code § 24-28)

### **Section 3-6.06. Exemptions: Reorganizations.**

(a) Any tax imposed pursuant to this chapter shall not apply to the making, delivery or filing of conveyances to make effective any plan of reorganization or adjustment:

- (1) Confirmed under the Federal Bankruptcy Act, as amended;
- (2) Approved in an equity receivership proceeding in a court involving a railroad corporation, as defined in subdivision (m) of Section 205 of Title 11 of the United States Code, as amended;
- (3) Approved in an equity receivership proceeding in a court involving a corporation, as defined in subdivision (3) of Section 506 of Title 11 of the United States Code, as amended; or
- (4) Whereby a mere change in identity, form or place of organization is effected.

(b) Subdivisions (1) to (4), inclusive, of subsection (a) of this section, shall only apply if the making, delivery or filing of instruments of transfer or conveyances occurs within five (5) years from the date of such confirmation, approval or change. (Prior Code § 24-29)

### **Section 3-6.07. Exemptions: SEC orders.**

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

- (a) The order of the Securities and Exchange Commission in obedience to which such conveyance is made recites that such conveyance is necessary or appropriate to effectuate the provisions of Section 79k of Title 15 of the United States Code, relating to the Public Utility Holding Company Act of 1935;
- (b) Such order specifies the property which is ordered to be conveyed; and
- (c) Such conveyance is made in obedience to such order. (Prior Code § 24-30)

### **Section 3-6.08. Exemptions: Partnership transfers.**

(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 interest in a partnership or otherwise, if:

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

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

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

(c) Not more than one tax shall be imposed pursuant to this chapter by reason of a termination described in subsection (b) of this section, and any transfer pursuant thereto, with respect to the realty held by such partnership at the time of such termination. (Prior Code § 24-31)

**Section 3-6.09. Exemptions: Instruments in lieu of foreclosure.**

Any tax imposed pursuant to this chapter shall not apply with respect to any deed, instrument or writing to a beneficiary or mortgagee, which is taken from the mortgagor or trustor as a result of or in lieu of foreclosure; provided, that such tax shall apply to the extent that the consideration exceeds the unpaid debt, including accrued interest and cost of foreclosure. Consideration, unpaid debt, amount and identification of grantee as beneficiary or mortgagee shall be noted on the deed, instrument or writing or stated in an affidavit or declaration under penalty of perjury for tax purposes.

\* Editor's Note: Section 3-6.09 was added by request of the City Attorney.

**Section 3-6.10. Exemptions: Marriage dissolutions and separations.\***

(a) Any tax imposed pursuant to this chapter shall not apply with respect to any deed, instrument or other writing which purports to transfer, divide or allocate community, quasi-community or quasi-marital property assets between spouses for the purpose of effecting a division of community, quasi-community or quasi-marital property which is required by a judgment decreeing a dissolution of the marriage or legal separation, by a judgment of nullity, or by any other judgment or order rendered pursuant to Part 5 (commencing with Section 4000) of Division 4 of the Civil Code, or by a written agreement between the spouses, executed in contemplation of any such judgment or order, whether or not the written agreement is incorporated as part of any of those judgments or orders.

(b) In order to qualify for the exemption provided in subsection (a), the deed, instrument or other writing shall include a written recital, signed by either spouse, stating that the deed, instrument or other writing is entitled to the exemption.

\* Editor's Note: Section 3-6.10 was added by request of the City Attorney.

**Section 3-6.11. Administration by county.**

The County Recorder shall administer this chapter in conformity with the provisions of Part 6.7 of Division 2 of the Revenue and Taxation Code and the provisions of any county ordinance adopted pursuant thereto. (Prior Code § 24-32)

**Section 3-6.12. Refund claims.**

Claims for refund of taxes imposed pursuant to this chapter shall be governed by the provisions of Chapter 5 (commencing with Section 5096) of Part 9 of Division 1 of the Revenue and Taxation Code of the State. (Prior Code § 24-33)

## **CHAPTER 3-7 RESIDENTIAL DEVELOPMENT TAX**

### **Section 3-7.01. Purpose.**

The Council declares that the tax required to be paid by this chapter is assessed pursuant to the taxing power of the City and solely for the purpose of producing revenue. The continuing increase and the development of dwelling units and mobile homes on spaces in the City, with the attendant increase in the population to be served by the City's parks, has created an urgent need for the acquisition, improvement and expansion of public parks, playgrounds and recreation facilities thereon, to serve the increasing population of the City, and the means of providing additional revenue with which to finance such parks, playgrounds and recreation facilities. (Prior Code § 24-40)

### **Section 3-7.02. Imposed.**

A tax is imposed in the amounts set forth in this chapter, and shall be applicable to every dwelling unit and mobile home space for which a building permit is issued, or precise development plan approved, after the effective date of the ordinance from which this section derives. The tax shall be known as the residential development tax. (Prior Code § 24-41)

### **Section 3-7.03. Amount.**

Every person constructing any dwelling unit or any mobile home space shall pay to the City a residential development tax in the amount set out in the Schedule of Fees and Charges appended to this Code; provided further, that the amount shall be amended annually by resolution of the Council on or prior to the tenth day of January on the basis of a factor recommended by the Director of Recreation and Parks and the Director of Public Works, which factor shall be based upon the Engineering News-Record Construction Cost Index published by McGraw-Hill Publishing Company. (Prior Code § 24-42)

### **Section 3-7.04. Payment.**

The tax imposed by this chapter shall be due and payable upon issuance of a building permit for the construction of any dwelling unit or upon the issuance of any permit whatever for a mobile home park, including the expansion or modification of a mobile home park which will result in more total mobile home spaces. The term "construction of any dwelling unit" as used in this section shall include the renovation, replacement, reconstruction or expansion of any building or spaces therein for dwelling unit purposes to the extent that the project will result in the establishment of dwelling units in or added to such a building which had not theretofore been regularly used for permanent dwelling unit spaces, including but not necessarily limited to the conversion of hotel, motel or other units for that purpose. For all dwelling units, the tax shall be in addition to the fee required to be paid for the building permit, and no building permit shall be issued until the tax is paid. For all mobile home spaces, the tax shall be in addition to all inspection fees required to be paid in the construction of a mobile home park and no permit of any kind, including but not necessarily limited to construction permits, electrical permits or plumbing permits, shall be granted for any mobile home park until the tax is paid for all mobile home spaces. Such tax shall be refunded only if the permit issued has expired and no construction has been commenced. In the event that a refund is made, there shall be withheld therefrom by the City the sum of twenty-five dollars (\$25.00) for the cost of processing the permit, inspection to confirm non-use thereof and of processing the refund. (Prior Code § 24-43)

### **Section 3-7.05. Credit for dedicated land: Qualification.**

In consideration of lands dedicated to the City in fee simple for park and recreation purposes as an integral part of a given subdivision, project or development, a credit against the residential development tax may be applied, as set forth in this chapter. Lands for which such credit is given must be suitable, in the opinion of the Director of Recreation and Parks, in location, size, shape, access, topography, environmental characteristics and development potential for use as functional recreational units, play lots, neighborhood service, including but not limited to tot lots, play lots, playgrounds, neighborhood parks and recreational units within community or district parks. Principal consideration shall be given to lands which offer a variety of recreational potential for all age groups, recreational opportunities within walking distance from residents' homes, possibility for expansion or connection with school grounds, or coordination with all other public land within the park system. (Prior Code § 24-44)

### **Section 3-7.06. Credit for dedicated land: Amount.**

Public interest, convenience, health, welfare and safety require that five (5) acres of land for each one thousand (1,000) residents be devoted to parks and recreation purposes. The credit against the residential development tax for

such dedicated land, and the fees or credits allowed in lieu of the same, pursuant to subdivision requirements, shall be in the amount of eighty dollars (\$80.00) per dwelling unit. (Prior Code § 24-45)

**Section 3-7.07. Credit for dedicated land: Determination: Notice.**

The credit allowable under Section 3-7.06 shall be determined by the City prior to approval of the final subdivision map or precise development plans of any residential or mobile home park development within the scope of this chapter. The developer shall be notified in writing of the amount of allowable credit, a copy of which notice shall be retained on file in the Building Division of the Community Development Department and the Department of Recreation and Parks. The credit shall be subtracted from the amount of tax due and required under this chapter. (Prior Code § 24-47)

**Section 3-7.08. Credit for private open space.**

Credit for private open space not exceeding forty dollars (\$40.00) per dwelling unit may be allowed a developer in the event of a development which has not dedicated land or paid fees or obtained credits in lieu of dedication of land in the course of subdivision, provided the private open space meets all the criteria of Section 11-12.206 of the Santa Maria City Code. (Prior Code § 24-46)

**Section 3-7.09. Deposit and use of receipts.**

All of the sums collected pursuant to this chapter shall be deposited in the Parks Development Fund and shall be used solely for the acquisition, improvement and expansion of public park, playground or recreation facilities thereon. (Prior Code § 24-48)

## CHAPTER 3-8 SALES AND USE TAXES

### **Section 3-8.01. Title of ordinance.**

The ordinance codified in this chapter shall be known as the "Uniform Local Sales and Use Tax Ordinance." (Prior Code § 24-2)

### **Section 3-8.02. Rate.**

The rate of sales tax and use tax imposed by this chapter shall be one percent (1%). (Prior Code § 24-3)

### **Section 3-8.03. Operative date.**

The provisions codified in this chapter shall be operative on January 1, 1974. (Prior Code § 24-4)

### **Section 3-8.04. Purpose.**

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

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

(b) To adopt a sales and use tax ordinance which incorporates provisions identical to those of the sales and use tax law of the State insofar as those provisions are not inconsistent with the requirements and limitations contained in Part 1.5 of Division 2 of the Revenue and Taxation Code;

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

(d) To adopt a sales and use tax ordinance which can be administered in a manner that will, to the degree possible consistent with the provisions of Part 1.5 of Division 2 of the Revenue and Taxation Code, minimize the cost of collecting City sales and use taxes and at the same time minimize the burden of record keeping upon persons subject to taxation under the provisions of this chapter. (Prior Code § 24-5)

### **Section 3-8.05. Contract with State.**

Prior to the operative date this City shall contract with the State Board of Equalization to perform all functions incident to the administration and operation of the sales and use tax ordinance codified in this chapter; provided, that if this City has not contracted with the State Board of Equalization prior to the operative date, it shall nevertheless so contract and in such a case the operative date shall be the first day of the first calendar quarter following execution of such a contract. (Prior Code § 24-6)

### **Section 3-8.06. Sales tax imposed.**

For the privilege of selling tangible personal property at retail a tax is imposed upon all retailers in the City at the rate stated in Section 3-8.02 of the gross receipts of the retailer from the sale of all tangible personal property sold at retail in this City on and after the operative date. (Prior Code § 24-7)

### **Section 3-8.07. Place of sale.**

For the purposes of this chapter, all retail sales are consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or his agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination. The gross receipts from such sales shall include delivery charges, when such charges are subject to the State sales and use tax, regardless of the place to which delivery is made. In the event a retailer has no permanent place of business in the State or has more than one place of business, the place or places at which the retail sales are consummated shall be determined under rules and regulations to be prescribed and adopted by the State Board of Equalization. (Prior Code § 24-8)

### **Section 3-8.08. Use tax imposed.**

An excise tax is imposed on the storage, use or other consumption in this City of tangible personal property purchased from any retailer on and after the operative date for storage, use or other consumption in this City at the rate stated in Section 3-8.02 of the sales price of the property. The sales price shall include delivery charges when such delivery charges are subject to State sales or use tax regardless of the place to which delivery is made. (Prior Code § 24-9)

**Section 3-8.09. Statutory provisions: Adoption.**

Except as otherwise provided in this chapter and except insofar as they are inconsistent with the provisions of Part 1.5 of Division 2 of the Revenue and Taxation Code, all of the provisions of Part 1 of Division 2 of the Revenue and Taxation Code are adopted and made a part of this chapter as though fully set forth in this chapter. (Prior Code § 24-9.1)

**Section 3-8.10. Statutory provisions: Limitations.**

In adopting the provisions of Part 1 of Division 2 of the Revenue and Taxation Code, wherever the State is named or referred to as the taxing agency, the name of this City shall be substituted therefor. The substitution, however, shall not be made when the word "state" is used as part of the title of the State Controller, the State Treasurer, the State Board of Control, the State Board of Equalization, the State Treasury or the Constitution of the State; the substitution shall not be made when the result of that substitution would require action to be taken by or against the City, or any agency thereof, rather than by or against the State Board of Equalization, in performing the functions incident to the administration or operation of this chapter; the substitution shall not be made in those sections, including but not necessarily limited to sections referring to the exterior boundaries of the State, where the result of the substitution would be to provide an exemption from this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not otherwise be exempt from this tax while such sales, storage, use or other consumption remain subject to tax by the State under the provisions of Part 1 of Division 2 of the Revenue and Taxation Code, or to impose this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not be subject to tax by the State under the provisions of that Code; the substitution shall not be made in Sections 6701, 6702 (except in the last sentence thereof), 6711, 6715, 6737, 6797 or 6828 of the Revenue and Taxation Code; and the substitution shall not be made for the word "state" in the phrase "retailer engaged in business in this state" in Section 6203 or in the definition of that phrase in Section 6203. (Prior Code § 24-9.2)

**Section 3-8.11. Statutory provisions: Amendments.**

All amendments of the Revenue and Taxation Code subsequent to the adoption of the provisions codified in this chapter which relate to the sales and use tax and which are not inconsistent with Part 1.5 of Division 2 of the Revenue and Taxation Code shall automatically become a part of this chapter. (Prior Code § 24-9.7)

**Section 3-8.12. Additional seller's permit not required.**

If a seller's permit has been issued to a retailer under Section 6067 of the Revenue and Taxation Code, an additional seller's permit shall not be required by this chapter. (Prior Code § 24-9.3)

**Section 3-8.13. Exemptions: Sales and use tax already paid.**

(a) The amount subject to tax shall not include any sales or use tax imposed by the State upon a retailer or consumer.

(b) The storage, use or other consumption of tangible personal property, the gross receipts from the sale of which have been subject to tax under a sales and use tax ordinance enacted in accordance with Part 1.5 of Division 2 of the Revenue and Taxation Code by any City and County, County or City in the State shall be exempt from the tax due under this chapter. (Ord. 83-1069 § 1 (part), eff. 12/20/83: prior Code § 24-9.5 (a), (b))

**Section 3-8.14. Exemptions conditioned on legislative action.**

(a) The amount subject to tax shall not include any sales or use tax imposed by the State upon a retailer or consumer.

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

(c) There are exempted from the computation of the amount of the sales tax the gross receipts from the sale of tangible personal property to operators of waterborne vessels to be used or consumed principally outside the City in which the sale is made and directly and exclusively in the carriage of persons or property in such vessels for commercial purposes.

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

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

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

(g) This section shall be operative on the operative date of any act of the Legislature of the State which amends Section 7202 of the Revenue and Taxation Code or which repeals and reenacts Section 7202 of the Revenue and Taxation Code to provide an exemption from City sales and use taxes for operators of waterborne vessels in the same, or substantially the same, language as that existing in subdivisions (i)(7) and (i)(8) of Section 7202 as those subdivisions read on October 1, 1983. (Ord. 83-1069 §§ 2, 5, eff. 12/20/83)

**Section 3-8.15. Exemptions: Aircraft.**

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

(b) In addition to the exemptions provided in Sections 6366 and 6366.1 of the Revenue and Taxation Code the storage, use or other consumption of tangible personal property purchased by operators of aircraft and used or consumed by such operators directly and exclusively in the use of such aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity issued pursuant to the laws of this State, the United States or any foreign government is exempted from the use tax. (Ord. 83-1069 § 1 (part), eff. 12/20/83; prior Code § 24-9.5 (e), (f))

**Section 3-8.16. Enjoining collection.**

No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action or proceeding in any court against the State or this City, or against any officer of the State or this City, to prevent or enjoin the collection under this chapter, or Part 1.5 of Division 2 of the Revenue and Taxation Code, of any tax or any amount of tax required to be collected. (Prior Code § 24-9.8)

**Section 3-8.17. Violation: Misdemeanor.**

Any person violating any of the provisions of this chapter is guilty of a misdemeanor, and upon conviction thereof shall be punishable as provided in Chapter 1-6. (Prior Code § 24-9.9)

## CHAPTER 3-9 TRANSIENT OCCUPANCY TAX

### Section 3-9.01. Short title.

This chapter shall be known as the Uniform Transient Occupancy Tax Regulations of the City. (Prior Code § 24-10)

### Section 3-9.02. Definitions.

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

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

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

(c) "Operator" means the person who is proprietor of the hotel, whether in the capacity of owner, lessee, sublessee, mortgagee in possession, licensee or any other capacity. Where the operator performs his functions through a managing agent of any type or character other than an employee, the managing agent shall also be deemed an operator for the purposes of this chapter and shall have the same duties and liabilities as his principal. Compliance with the provisions of this chapter by either the principal or the managing agent shall, however, be considered to be compliance by both.

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

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

(f) "Tax Administrator" means the Director of Administrator Services of the City.

(g) "Transient" means any person who exercises occupancy or is entitled to occupancy by reason of concession, permit, right of access, license or other agreement for a period of thirty (30) consecutive calendar days or less, counting portions of calendar days as full days. Any such person so occupying space in a hotel is a transient until the period of thirty (30) days has expired unless there is an agreement in writing between the operator and the occupant providing for a longer period of occupancy. In determining whether a person is a transient, uninterrupted periods of time extending both prior and subsequent to the effective date of the ordinance codified in this chapter may be considered. (Prior Code § 24-11)

### Section 3-9.03. Imposed: Rate.

For the privilege of occupancy in any hotel, each transient is subject to and shall pay a tax in the amount of ten percent (10%) of the rent charged by the operator. The tax constitutes a debt owed by the transient to the City which is extinguished only by payment to the operator or to the City. The transient shall pay the tax to the operator of the hotel at the time the rent is paid. If the rent is paid in installments, a proportionate share of the tax shall be paid with each installment. The unpaid tax shall be due upon the transient's ceasing to occupy space in the hotel. If for any reason the tax due is not paid to the operator of the hotel, the Tax Administrator may require that such tax shall be paid directly to the Tax Administrator. (Ord. 91-27 § 1, eff. 12/5/91: prior Code § 24-12)

### Section 3-9.04. Allocation of revenue.

(a) The two percent (2%), reflecting the 1992 increase in this rate, shall be collected commencing on January 1, 1992, and be placed in the City's general fund to be used for general municipal purposes.

(b) From the remaining revenues collected by the City under this chapter, a sum equal to ten percent (10%) of the revenues shall be placed in the City's general fund for the purpose of paying the costs of city administration of the uniform transient occupancy tax. The revenues collected by the City pursuant to this subsection, and remaining after payment of city costs incurred in the administration thereof (10%), shall be used and allocated in the following manner:

(1) Seventy percent (70%) shall be allocated to and placed in the City's general fund to be used for general municipal purposes.

(2) Twenty percent (20%) shall be allocated and paid to the Santa Maria Valley Chamber of Commerce and Visitors and Convention Bureau, a division of the Santa Maria Valley Chamber of Commerce, which funds shall be expended by that organization solely to advertise, exploit and make known to the public the resources of the City for the purpose of inducing immigration to and increasing the trade, commerce and industrial growth of the City, and to advertise or exhibit for those purposes the agricultural, horticultural, mineral, industrial, commercial, climatic, educational, recreational, historical and cultural resources and advantages of the City.

(3) Eight and one-half percent (8 1/2%) shall be allocated and paid toward economic development services, which funds shall be used solely to promote, advertise and conduct organizational activities designed to attract new industry to the City and its environs.

(4) \$15,000 shall be allocated and paid to the Santa Maria Valley Historical Society, which funds shall be used solely for the operation and maintenance of the Santa Maria Valley Historical Museum for the purpose of promoting the historical and cultural resources of the City. (Prior Code § 24-12.1; Ord. 91-27 § 2, eff. 12/5/91; Ord. 2004-22, eff. 2/4/2005; Ord. 2010-04, eff. 8/19/10)

#### **Section 3-9.05. Exemptions.**

(a) No tax shall be imposed upon:

(1) Any person as to whom, or any occupancy as to which, it is beyond the power of the City to impose the tax provided for in this chapter; or

(2) Any officer or employee of a foreign government who is exempt by reason of express provision of Federal Law or International Treaty.

(3) Any person(s) who is allowed the right of occupancy by the operator of a hotel without rent.

(b) No exemption shall be granted except upon a claim therefor made under penalty of perjury at the time rent is collected upon a form prescribed by the Tax Administrator. (Ord. 2010-03, eff. 5/20/10; Prior Code § 24-13)

#### **Section 3-9.06. Collection by operators.**

Each operator shall collect the tax imposed by this chapter to the same extent and at the same time as the rent is collected from every transient. The amount of tax shall be separately stated from the amount of the rent charged, and each transient shall receive a receipt for payment from the operator. No operator of a hotel shall advertise or state in any manner, whether directly or indirectly, that the tax or any part thereof will be assumed or absorbed by the operator, or that it will not be added to the rent, or that, if added, any part will be refunded except in the manner provided in this chapter. (Prior Code § 24-14)

#### **Section 3-9.07. Registration of operators.**

Within thirty (30) days after the effective date of the provisions codified in this chapter, or within thirty (30) days after commencing business, whichever is later, each operator of any hotel renting occupancy to transients shall register the hotel with the Tax Administrator and obtain from him a "transient occupancy registration certificate" to be at all times posted in a conspicuous place on the premises. The certificate shall, among other things, state the following:

(a) The name of the operator;

(b) The address of the hotel;

(c) The date upon which the certificate was issued; and

(d) The following:

This transient occupancy registration certificate signifies that the person named on the face hereof has fulfilled the requirements of the uniform transient occupancy tax chapter by registering with the Tax Administrator for the purpose of collecting from transients the transient occupancy tax and remitting the tax to the Tax Administrator. This certificate does not authorize any person to conduct any unlawful business or to conduct any lawful business in an unlawful manner, nor to operate a hotel without strictly complying with all local applicable laws, including but not limited to those requiring a permit from any board, commission, department or office of this City. This certificate does not constitute a permit. (Prior Code § 24-15)

#### **Section 3-9.08. Reporting and remitting.**

Each operator shall, on or before the last day of the month following the close of each calendar quarter, or at the close of any shorter reporting period which may be established by the Tax Administrator, make a return to the Tax Administrator, on forms provided by him, of the total rents charged and received and the amount of tax collected for transient occupancies. At the time the return is filed, the full amount of the tax collected shall be remitted to the Tax Administrator. The Tax Administrator may establish shorter reporting periods for any certificate holder if he deems

it necessary in order to ensure collection of the tax and he may require further information in the return. Returns and payments are due immediately upon cessation of business for any reason. All taxes collected by operators pursuant to this chapter shall be held in trust for the account of the City until payment thereof is made to the Tax Administrator. (Prior Code § 24-16)

**Section 3-9.09. Delinquency: Penalties and interest.**

(a) Original Delinquency. Any operator who fails to remit any tax imposed by this chapter within the time required shall pay a penalty of ten percent (10%) of the amount of the tax in addition to the amount of the tax.

(b) Continued Delinquency. Any operator who fails to remit any delinquent remittance on or before a period of thirty (30) days following the date on which the remittance first became delinquent shall pay a second delinquency penalty of ten percent (10%) of the amount of the tax in addition to the amount of the tax and the ten percent (10%) penalty first imposed.

(c) Fraud. If the Tax Administrator determines that the nonpayment of any remittance due under this chapter is due to fraud, a penalty of twenty-five percent (25%) of the amount of the tax shall be added thereto in addition to the penalties stated in subsections (a) and (b) of this section.

(d) Interest. In addition to the penalties imposed, any operator who fails to remit any tax imposed by this chapter shall pay interest at the rate of one-half of one percent (1/2%) per month or fraction thereof on the amount of the tax, exclusive of penalties, from the date on which the remittance first became delinquent until paid.

(e) Penalties Merged With Tax. Every penalty imposed and such interest as accrues under the provisions of this section shall become a part of the tax required to be paid in this chapter. (Prior Code § 24-17)

**Section 3-9.10. Failure to collect and remit: Assessment.**

(a) If any operator fails or refuses to collect the tax and to make, within the time provided in this chapter, any report or remittance of the tax or any portion thereof required by this chapter, the Tax Administrator shall proceed in such manner as he may deem best to obtain facts and information on which to base his estimate of the tax due.

(b) As soon as the Tax Administrator procures such facts and information as he is able to obtain upon which to base the assessment of any tax imposed by this chapter and payable by any operator who has failed or refused to collect the same and to make such report and remittance, he shall proceed to determine and assess against such operator the tax, interest and penalties provided for by this chapter.

(c) The Tax Administrator shall have full authority to enter upon the premises of the operator where the business records of the hotel are maintained during normal business hours, and shall have the right and authority to require the records to be made available to him for examination and to examine the same in order to obtain the information required by the Tax Administrator in order to make the determination provided for in subsection (b) of this section and to ensure compliance with the requirements of this chapter.

(d) In case the determination provided for in subsection (b) of this section is made, the Tax Administrator shall give notice of the amount so assessed by serving it personally or by depositing it in the United States mail, postage prepaid, addressed to the operator so assessed at his last known place of address. Such operator may within ten (10) days after the serving or mailing of such notice make application in writing to the Tax Administrator for a hearing on the amount so 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.

(e) If the application for hearing provided for in subsection (d) of this section is made, the Tax Administrator shall give not less than five (5) days' written notice in the manner prescribed in this section to the operator to show cause at a time and place fixed in the notice why the amount specified therein should not be fixed for 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 in this section of such determination and the amount of such tax, interest and penalties. The amount determined to be due shall be payable after fifteen (15) days unless an appeal is taken as provided in Section 3-9.11. (Prior Code § 24-18)

**Section 3-9.11. Appeals.**

Any operator aggrieved by any decision of the Tax Administrator with respect to the amount of such tax, interest and penalties, if any, may appeal to the Council by filing a notice of the determination of tax due. The Council shall fix a time and place for hearing such appeal, and the City Clerk shall give notice in writing to such operator at his last known place of address. The findings of the Council shall be final and conclusive and shall be

served upon the appellant in the manner prescribed in Section 3-9.10 for service of notice of hearing. Any amount found to be due shall be immediately due and payable upon the service of the notice. (Prior Code § 24-19)

**Section 3-9.12. Records of operators.**

It shall be the duty of every operator liable for the collection and payment to the City of any tax imposed by this chapter to keep and preserve, for a period of three (3) years, all records as may be necessary to determine the amount of such tax as he may have been liable for the collection of and payment to the City, which records the Tax Administrator shall have the right to inspect at all reasonable times. (Prior Code § 24-20)

**Section 3-9.13. Refunds and credits.**

(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 (3) years of the date of payment. The claim shall be on forms furnished by the Tax Administrator.

(b) An operator may claim a refund or take as credit against taxes collected and remitted the amount overpaid, paid more than once or erroneously or illegally collected or received when it is established in a manner prescribed by the Tax Administrator that the person from whom the tax has been collected was not a transient; provided, however, that neither a refund nor a credit shall be allowed unless the amount of the tax so collected has either been refunded to the transient or credited to rent subsequently payable by the transient to the operator.

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

(d) No refund shall be paid under the provisions of this section unless the claimant establishes his right thereto by written records showing entitlement thereto. (Prior Code § 24-21)

**Section 3-9.14. Collection actions.**

Any tax required to be paid by any transient under the provisions of this chapter shall be deemed a debt owed by the transient to the City. Any such tax collected by an operator which has not been paid to the City is a debt owed by the operator to the City. Any person owing money to the City under the provisions of this chapter is liable to an action brought in the name of the City for the recovery of such amount. (Prior Code § 24-22)

**Section 3-9.15. Violations: Misdemeanors.**

(a) Any person violating any of the provisions of this chapter is guilty of a misdemeanor and shall be punishable as provided in Chapter 1-6.

(b) Any operator or other person who fails or refuses to register as required in this chapter, or to furnish any return required to be made, or 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, and is punishable as provided in Chapter 1-6. Any person required to make, render, sign or verify any report or claim who makes any false or fraudulent report or claim with intent to defeat or evade the determination of any amount due required by this chapter to be made, is guilty of a misdemeanor and is punishable as provided in Chapter 1-6. (Prior Code § 24-23)

## CHAPTER 3-10 UNCLAIMED PROPERTY

### **Section 3-10.01. Duty of Police Department.**

It shall be the duty of the Police Department to preserve and store all property coming into its possession in the normal course of its duties.

(a) Evidence: Property of evidential value in a case for which an arrest or crime report has been made or property which is, or may be, of evidential value, but has not been connected with any specific arrest or crime report at the time the property is booked.

(b) Found: Property which has been found by a private person or officer and is not of evidential value.

(c) Prisoner's property: Property in possession of an arrestee, not of evidential value. (Prior Code § 28-1)

### **Section 3-10.02. Evidence.**

All property coming into the possession of the Police Department as evidence in a criminal case shall be returned to the owner upon final disposition of the criminal matter. If the owner cannot be identified after reasonable efforts have been made to make such identification, the property shall be deemed unclaimed. Evidentiary property which has been deemed unclaimed shall not be disposed of until after all the provisions outlined in Section 1411 of the California Penal Code have been met. (Prior Code § 28-2 (part))

### **Section 3-10.03. Found property.**

Reasonable effort shall be made to ascertain ownership of personal property and its return. All such property shall be held by the Police Department for a minimum period of ninety (90) days. That property which has been held the minimum period as specified in this section, and ownership has not been established, shall be deemed unclaimed. (Ord. 85-1105 § 1, eff. 9/17/85: prior Code § 28-2 (part))

### **Section 3-10.04. Prisoner's property.**

This property shall be held until the subject has been released, or has been sentenced to jail, prison or hospital. When subject has been sentenced to other than a local jail, this property will then be sent to that jail, prison or hospital. If the owner has been released without formal sentencing, the property may be claimed by him immediately. If the property is not claimed, reasonable effort shall be made to effect its return. If unable to locate the owner, the property shall be held the minimum of four (4) months and deemed unclaimed. (Prior Code § 28-2 (part))

### **Section 3-10.05. Claiming found property.**

(a) The finder may claim the found property, if the value of the property is fifty dollars (\$50.00) or more, under the following provisions:

(1) No owner appears and proves ownership within ninety (90) days.

(2) Finder shall place a notice of item(s) found, at least once, in a newspaper of general publication, at the end of the initial ninety (90) day period.

(3) If, after seven (7) days following the publication of the notice and no owner responds and proves ownership, the title of the property shall rest with the finder.

(4) To show proof of publication, the finder shall produce a receipt of publication to the person in charge of property after seven (7) days following the publication.

(5) If the owner appears and produces proof of ownership after the item(s) have been published in a newspaper, the owner shall reimburse the finder the cost of publication.

(b) If the reported value of the found property is less than fifty dollars (\$50.00) and no owner appears and proves ownership of the property within ninety (90) days, the title shall rest in the person who found the property without publication in a newspaper.

(c) No property may be claimed, pursuant to this section, if the property was found in the course of employment by an employee of any public agency, in which case the property shall be sold at public auction. (Prior Code § 28-3 (part), (a--e))

### **Section 3-10.06. Transfer to Director of Administrative Services: Sale.**

(a) All property to be sold shall be transferred to the Director of Administrative Services for public sale. Any property that has been transferred shall not be redeemable by the owner or other persons entitled to possession. If the Director of Administrative Services determines that any such property transferred for sale is needed for public use, such property may be retained and need not be sold.

(b) Any unclaimed property which apparently has no intrinsic value, at the discretion of the Property Officer, may be destroyed.

(c) Prior to the releasing of such property to the Director of Administrative Services, the Police Department shall publish a list of such property to be transferred for public auction. The list shall be published at least five (5) days prior to the time affixed for transfer in a newspaper of general circulation published in the county.

(d) Pursuant to the authority of Welfare and Institutions Code Section 217, any bicycles or toys, or both, in the possession of the Police Department which have been unclaimed for a period of at least sixty (60) days may, at the discretion of the Chief of Police, instead of being sold at public auction to the highest bidder, be turned over to the Probation Officer, to the Welfare Department of the county, or to any charitable or nonprofit organization which is authorized under its articles of incorporation to participate in a program or activity designed to prevent juvenile delinquency and which is exempt from income taxation under Federal or State law, or both, for use in any program or activity designed to prevent juvenile delinquency. (Ord. 88-16 § 1, eff. 10/20/88; prior Code § 28-3 (part))

**Section 3-10.07. City employees and agents eligible to purchase surplus and unclaimed property.**

Any officer, deputy, agent, employee or agent of an employee of the City may be a purchaser at any public auction or sale when such public auction or sale is conducted by a private auctioneer for the City. (Ord. 91-30, eff. 1/16/92; prior Code § 28-4)

**Section 3-10.08. Records.**

It shall be the duty of the Police Department to keep full, detailed and accurate accounts and records containing a description of all property coming into its possession and showing the disposition thereof. (Prior Code § 28-5)

**Section 3-10.09. Authority.**

The ordinance codified in this chapter is passed and adopted pursuant to and in accordance with Sections 1407 and 1418 of the Penal Code and Sections 2080 through 2080.9 of the Civil Code of the State. (Prior Code § 28-6)

## **CHAPTER 3-11 ABANDONMENT OR RELEASE OF REAL PROPERTY INTERESTS**

### **Section 3-11.01. Applicability.**

All applications requesting the abandonment or release of interests in real property held by the City shall be requested in conformity with the procedure and subject to the requirements set forth in this chapter; provided, however, that the provisions of this chapter shall not apply to the abandonment or release of interest in real property held by the City, which is incidental to an exchange of property, subdivision or similar agreement, nor to the abandonment or release of interest in real property initiated and recommended to the City Council by the City staff through the City Manager, which abandonment or release is found by the City Council to be primarily for the benefit of or primarily in the interest of the City. (Prior Code § 2-101)

### **Section 3-11.02. Filing application.**

All such applications shall consist of an original and five (5) copies, addressed to the City Council, and filed with the City Clerk. (Prior Code § 2-102)

### **Section 3-11.03. Abandonment fee.**

All such applications shall be accompanied by a fee to be known and referred to as an abandonment fee, in the amount set out in the Schedule of Fees and Charges within this Code. (Prior Code § 2-103)

### **Section 3-11.04. Legal description and map.**

The applicant shall append to the application under this chapter, prior to filing, a full legal description of the parcel of property involved, together with a sketch or map which is sufficiently accurate to show the location of the parcel involved with relation to adjoining properties, including existing public and private easements of all kinds. (Prior Code § 2-104)

### **Section 3-11.05. Title report.**

The application under this chapter must be accompanied by a current title report covering the parcel of property involved. (Prior Code § 2-105)

### **Section 3-11.06. Additional application information.**

Upon request by the City Clerk or any City officer, the applicant shall furnish such data as may be deemed necessary by such officer in the processing of the application. (Prior Code § 2-106)

### **Section 3-11.07. Administrative processing.**

No application under this chapter shall be placed on the agenda of the City Council until the application has been considered by all of the City departments concerned and approved in writing as to form and completeness by the City Attorney and the City Manager respectively. (Prior Code § 2-107)