

**Title 3**

**REVENUE AND FINANCE**

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## Chapter 3.04

### UNIFORM LOCAL SALES AND USE TAX<sup>1</sup>

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- 3.04.150 Amendments.
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**3.04.010 Short title.**

This chapter shall be known as the uniform local sales and use tax ordinance. [Ord. 667 C.S. § 1, 1973.]

**3.04.020 Rate.**

The rate of sales tax and use tax imposed by this chapter is 0.975 percent. [Ord. 667 C.S. § 2, 1973.]

**3.04.030 Operative date.**

This chapter shall be operative on January 1, 1974. [Ord. 667 C.S. § 3, 1973.]

**3.04.040 Purpose.**

The city council declares that this chapter is adopted to achieve the following, among other,

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1. For statutory provisions regarding the "Bradley-Burns Uniform Local Sales and Use Tax Law," see Revenue and Taxation Code § 7200 et seq.; for the provisions regarding state sales and use taxes, see Revenue and Taxation Code § 6001 et seq.

Prior legislation: 1937 Code sections 206.1 through 206.15.

purposes, and directs that the provisions hereof be interpreted in order to accomplish those purposes:

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

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

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

D. To adopt a sales and use tax ordinance which can be administered in a manner that will, to the degree possible consistent with the provisions of Part 1.5 of Division 2 of the Revenue and Taxation Code, minimize the cost of collecting city sales and use taxes and at the same time minimize the burden of record keeping upon persons subject to taxation under the provisions of this chapter. [Ord. 667 C.S. § 4, 1973.]

**3.04.050 Contract with state.**

Prior to the operative date, this city shall contract with the State Board of Equalization to perform all functions incident to the administration and operation of this sales and use tax chapter; provided, that if this city shall not have contracted with the State Board of Equalization prior to the operative date, it shall nevertheless so contract and in such a case the operative date shall be the first day of the first calendar quarter following the execution of such a contract rather than the first day of the first calendar quarter following the adoption of this chapter. [Ord. 667 C.S. § 5, 1973.]

**3.04.060 Sales tax.**

For the privilege of selling tangible personal property at retail a tax is imposed upon all retailers in the city at the rate stated in PMC 3.04.020 of the gross receipts of the retailer from the sale of all tan-

gible personal property sold at retail in this city on and after the operative date. [Ord. 667 C.S. § 6, 1973.]

### **3.04.070 Place of sale.**

For the purposes of this chapter, all retail sales are consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or his agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination. The gross receipts from such sales shall include delivery charges, when such charges are subject to the state sales and use tax, regardless of the place to which delivery is made. In the event a retailer has no permanent place of business in the state or has more than one place of business, the place or places at which the retail sales are consummated shall be determined under rules and regulations to be prescribed and adopted by the State Board of Equalization. [Ord. 667 C.S. § 7, 1973.]

### **3.04.080 Use tax.**

An excise tax is imposed on the storage, use or other consumption in this city of tangible personal property purchased from any retailer on and after the operative date for storage, use or other consumption in this city at the rate stated in PMC 3.04.020 of the sales price of the property. The sales price shall include delivery charges when such charges are subject to state sales or use tax regardless of the place to which delivery is made. [Ord. 667 C.S. § 8, 1973.]

### **3.04.090 Adoption of provisions of state law.**

Except as otherwise provided in this chapter, and except insofar as they are inconsistent with the provisions of Part 1.5 of Division 2 of the Revenue and Taxation Code, all of the provisions of Part 1 of Division 2 of the Revenue and Taxation Code are adopted and made a part of this chapter as though fully set forth herein. [Ord. 667 C.S. § 9, 1973.]

### **3.04.100 Limitations on adoption of state law.**

In adopting the provisions of Part 1 of Division 2 of the Revenue and Taxation Code, wherever the state of California is named or referred to as the taxing agency, the name of this city shall be substi-

tuted therefor. The substitution, however, shall not be made when the word "state" is used as part of the title of the State Controller, the State Treasurer, the State Board of Control, the State Board of Equalization, the State Treasury, or the Constitution of the State of California; the substitution shall not be made when the result of that substitution would require action to be taken by or against the city, or any agency thereof rather than by or against the State Board of Equalization, in performing the functions incident to the administration or operation of this chapter; the substitution shall not be made in those sections, including, but not necessarily limited to, sections referring to the exterior boundaries of the state of California, where the result of the substitution would be to provide an exemption from this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not otherwise be exempt from this tax while such sales, storage, use or other consumption remain subject to tax by the state under the provisions of Part 1 of Division 2 of the Revenue and Taxation Code, or to impose this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not be subject to tax by the state under the said provisions of that code; the substitution shall not be made in Section 6701, 6702 (except in the last sentence thereof), 6711, 6715, 6737, 6797 or 6828 of the Revenue and Taxation Code; and the substitution shall not be made for the word "state" in the phrase "retailer engaged in business in this State" in Section 6203 or in the definition of that phrase in Section 6203. [Ord. 667 C.S. § 10, 1973.]

### **3.04.110 Permit not required.**

If a seller's permit has been issued to a retailer under Section 6067 of the Revenue and Taxation Code, an additional seller's permit shall not be required by this chapter. [Ord. 667 C.S. § 11, 1973.]

### **3.04.120 Exclusions and exemptions.**

A. The amount subject to tax shall not include any sales or use tax imposed by the state of California upon a retailer or consumer.

B. The storage, use, or other consumption of tangible personal property, the gross receipts from the sale of which have been subject to tax under a sales and use tax ordinance enacted in accordance

with Part 1.5 of Division 2 of the Revenue and Taxation Code by any city and county, county, or city, in this state shall be exempt from the tax due under this chapter.

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

D. In addition to the exemptions provided in Sections 6366 and 6366.1 of the Revenue and Taxation Code the storage, use, or other consumption of tangible personal property purchased by operators of aircraft and used or consumed by such operators directly and exclusively in the use of such aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity issued pursuant to the laws of this state, the United States, or any foreign government is exempted from the use tax. [Ord. 845 § 1, 1983; Ord. 667 C.S. § 12, 1973.]

### **3.04.130 Exclusions and exemptions.**

A. The amount subject to tax shall not include any sales or use tax imposed by the state of California upon a retailer or consumer.

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

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

D. The storage, use, or other consumption of tangible personal property purchased by operators of waterborne vessels and used or consumed by such operators directly and exclusively in the car-

riage 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 and 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. 845 § 2, 1983; Ord. 667 C.S. § 13, 1973.]

### **3.04.140 Applicability of provisions relating to exclusions and exemptions.**

A. PMC 3.04.120 shall be operative January 1, 1984.

B. PMC 3.04.130 shall be operative on the operative date of any act of the Legislature of the State of California 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. 845 §§ 3, 4, 1983; Ord. 667 C.S. § 14, 1973.]

### **3.04.150 Amendments.**

All subsequent amendments of the Revenue and Taxation Code which relate to the sales and use tax and which are not inconsistent with Part 1.5 of Division 2 of the Revenue and Taxation Code shall automatically become a part of this chapter. [Ord. 667 C.S. § 15, 1973.]

**3.04.160 Enjoining collection forbidden.**

No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action or proceeding in any court against the state or this city, or against any officer of the state or this city, to prevent or enjoin the collection under this chapter, or Part 1.5 of Division 2 of the Revenue and Taxation Code, of any tax or any amount of tax required to be collected. [Ord. 667 C.S. § 16, 1973.]

**3.04.170 Penalties.**

Any person violating any of the provisions of this chapter is guilty of a misdemeanor, and upon conviction thereof is punishable by a fine of not more than \$500.00 or by imprisonment for a period of not more than six months, or by both such fine and imprisonment. [Ord. 667 C.S. § 17, 1973.]

**Chapter 3.12**

**TRANSIENT OCCUPANCY TAX<sup>1</sup>**

Sections:

- 3.12.010 Title.
- 3.12.020 Definitions.
- 3.12.030 Imposition and rate.
- 3.12.040 Exemptions.
- 3.12.050 Operator’s duties.
- 3.12.060 Hotel registration.
- 3.12.070 Reporting and remitting.
- 3.12.080 Original delinquency.
- 3.12.090 Continued delinquency.
- 3.12.100 Fraud.
- 3.12.110 Interest.
- 3.12.120 Penalties merged with tax.
- 3.12.130 Collection and report failure –  
Determination of tax by tax administrator.
- 3.12.140 Appeal.
- 3.12.150 Records.
- 3.12.160 Refunds.
- 3.12.170 Actions to collect.

**3.12.010 Title.**

This chapter shall be known as the uniform transient occupancy tax ordinance of the city. [1937 Code § 170.]

**3.12.020 Definitions.**

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

A. “Hotel” means any structure, or any portion of any structure, which is occupied or intended or designed for occupancy by transients for dwelling, lodging or sleeping purposes, and includes any hotel, inn, tourist home or house, motel, studio hotel, bachelor hotel, 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

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1. For statutory provisions authorizing a city to tax transient occupants, see Government Code § 51030.

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 tax and license collector of the city.

G. "Transient" means any person who exercises occupancy or is entitled to occupancy by reason of concession, permit, right of access, license or other agreement for a period of 30 consecutive calendar days or less, counting portions of calendar days as full days. Any such person so occupying space in a hotel shall be deemed to be a transient until the period of 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. [1937 Code § 170.1.]

### **3.12.030 Imposition and rate.**

For the privilege of occupancy in any hotel, each transient is subject to and shall pay a tax in an amount of not more than 12 percent of the rate charged by the operator, with the exact amount to

be established by resolution of the city council. The amount of tax shall not be less than 10 percent of the rate 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 by the transient or the operator. [Ord. 11-1353 § 1, 2011; Ord. 869 § 1, 1985; 1937 Code § 170.2.]

### **3.12.040 Exemptions.**

No tax shall be imposed upon any person as to whom, or any occupancy as to which, it is beyond the power of the city to impose the tax herein provided. [Ord. 11-1353 § 2, 2011; 1937 Code § 170.3.]

### **3.12.050 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 tax shall be separately stated from the amount of the rent charged, and each transient shall receive a receipt for payment from the operator. No operator of a hotel shall advertise or state in any manner, whether directly or indirectly, that the tax or any part thereof will be assumed or absorbed by the operator, or that it will not be added to the rent, or that, if added, any part will be refunded except in the manner hereinafter provided. [1937 Code § 170.4.]

### **3.12.060 Hotel registration.**

Within 30 days after the effective date of the ordinance codified in this chapter or within 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;
- D. "This Transient Occupancy Registration Certificate signifies that the person named on the face hereof has fulfilled the requirements of the Uniform Transient Occupancy Tax Ordinance by registering with the Tax Administrator for the purpose of collecting from transients the Transient Occupancy Tax and remitting said tax to the Tax Administrator. This certificate does not authorize any person to conduct any unlawful business or to conduct any lawful business in an unlawful manner, nor to operate a hotel without strictly complying with all local applicable laws, including but not limited to those requiring a permit from any board, commission, department or office of this city. This certificate does not constitute a permit." [1937 Code § 170.5.]

### **3.12.070 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. [1937 Code § 170.6.]

### **3.12.080 Original delinquency.**

Any operator who fails to remit any tax imposed by this chapter within the time required shall pay a penalty of 10 percent of the amount of the tax in addition to the amount of the tax. [1937 Code § 170.7(a).]

### **3.12.090 Continued delinquency.**

Any operator who fails to remit any delinquent remittance on or before a period of 30 days following the date on which the remittance first became delinquent shall pay a second delinquency penalty of 10 percent of the amount of the tax in addition to the amount of the tax and the 10 percent penalty first imposed. [1937 Code § 170.7(b).]

### **3.12.100 Fraud.**

If the tax administrator determines that the non-payment of any remittance due under this chapter is due to fraud, a penalty of 25 percent of the amount of the tax shall be added thereto in addition to the penalties stated in PMC 3.12.080 and 3.12.090. [1937 Code § 170.7(c).]

### **3.12.110 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 percent 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. [Ord. 878 § 1, 1985; 1937 Code § 170.7(d).]

### **3.12.120 Penalties merged with tax.**

Every penalty imposed and such interest as accrues under the provisions of PMC 3.12.080 through 3.12.110 shall become a part of the tax required in this chapter to be paid. [1937 Code § 170.7(e).]

### **3.12.130 Collection and report failure – Determination of tax by tax administrator.**

If any operator fails or refuses to collect the tax and to make, within the time provided in this chapter, any report and remittance of the tax or any portion thereof required by this chapter, the tax administrator shall proceed in such a manner as he may deem best to obtain facts and information on which to base his estimate of the tax due. As soon as the tax administrator procures such facts and information as he is able to obtain upon which to base the assessment of any tax imposed by this

chapter and payable by any operator who has failed or refused to collect the same and to make such report and remittance, 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 prepaid, addressed to the operator so assessed at his last known place of address. Such operator may within 10 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 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 herein of such determination and the amount of such tax, interest and penalties. The amount determined to be due shall be payable after 15 days unless an appeal is taken as provided in PMC 3.12.140. [1937 Code § 170.8.]

#### **3.12.140 Appeal.**

Any operator aggrieved by any decision of the tax administrator with respect to the amount of such tax, interest and penalties, if any, may appeal to the city council by filing a notice of appeal with the city clerk within 15 days of the serving or mailing 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 above for service of notice of hearing. Any amount found to be due shall be

immediately due and payable upon the service of notice. [1937 Code § 170.9.]

#### **3.12.150 Records.**

It shall be the duty of every operator liable for the collection and payment to the city of any tax imposed by this chapter to keep and preserve, for a period of three years, all records as may be necessary to determine the amount of such tax as he may have been liable for the collection of and payment to the city, which records the tax administrator shall have the right to inspect at all reasonable times. [1937 Code § 170.10.]

#### **3.12.160 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 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. [1937 Code § 170.11.]

**3.12.170 Actions to collect.**

Any tax required to be paid by any transient under the provisions of this chapter shall be deemed a debt owed by the transient to the city. Any such tax collected by an operator which has not been paid to the city shall be deemed a debt owed by the operator to the city. Any person owing money to the city under the provisions of this chapter shall be liable to an action brought in the name of the city for the recovery of such amount. [1937 Code § 170.12.]

**Chapter 3.16**

**REAL PROPERTY TRANSFER TAX<sup>1</sup>**

Sections:

- 3.16.010 Short title.
- 3.16.020 Imposition – Rate.
- 3.16.030 Payment liability.
- 3.16.040 Exemption – Debt instrument.
- 3.16.050 Exemption – Governmental bodies.
- 3.16.060 Exemption – Bankruptcy and receivership.
- 3.16.070 Exemption – Securities and Exchange Commission orders.
- 3.16.080 Exemption – Partnerships.
- 3.16.090 Administration.
- 3.16.100 Refunds.

**3.16.010 Short title.**

This chapter shall be known as the “real property transfer tax chapter.” 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. [1937 Code § 162.]

**3.16.020 Imposition – Rate.**

There is imposed on each deed, instrument or writing by which any lands, tenements or other realty sold within the city is granted, assigned, transferred or otherwise conveyed to, or vested in, the purchaser or purchasers, or 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 \$100.00, a tax at the rate of \$0.275 for each \$500.00 or fractional part thereof. [1937 Code § 162.1.]

**3.16.030 Payment liability.**

Any tax imposed pursuant to PMC 3.16.020 shall be paid by any person who makes, signs or issues any document or instrument subject to the

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1. For statutory provisions authorizing cities to impose a documentary stamp tax on the sale of real property within the city limits, see Revenue and Taxation Code § 11901 et seq.

tax, or for whose use or benefit the same is made, signed or issued. [1937 Code § 162.2.]

**3.16.040 Exemption – Debt instrument.**

Any tax imposed pursuant to PMC 3.16.020 shall not apply to any instrument in writing given to secure a debt. [1937 Code § 162.3.]

**3.16.050 Exemption – Governmental bodies.**

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 PMC 3.16.020 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. [1937 Code § 162.4.]

**3.16.060 Exemption – Bankruptcy and receivership.**

Any tax imposed pursuant to PMC 3.16.020 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 of organization is effected.

Subsections (A) to (D), 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. [1937 Code § 162.5.]

**3.16.070 Exemption – Securities and Exchange Commission orders.**

Any tax imposed pursuant to PMC 3.16.020 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; and

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

C. Such conveyance is made in obedience to such order. [1937 Code § 162.6.]

**3.16.080 Exemption – 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 or encumbrance remaining thereon), all realty held by such partnership at the time of such termination. [1937 Code § 162.7.]

**3.16.090 Administration.**

The county recorder shall administer this chapter in conformity with the provisions of Part 6.7 of Division 2 of the Revenue and Taxation Code and the provisions of any county ordinance adopted pursuant thereto. [1937 Code § 162.8.]

**3.16.100 Refunds.**

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. [1937 Code § 162.9.]

**Chapter 3.20****GASOLINE TAX FUND<sup>1</sup>**

## Sections:

- 3.20.010 Creation.  
 3.20.020 Moneys – Source.  
 3.20.030 Expenditures.

**3.20.010 Creation.**

To comply with the provisions of Section 2113 of the Streets and Highways Code of the state, there is created in the city treasury a special fund to be known as the “special gas tax street improvement fund.” [1937 Code § 632.]

**3.20.020 Moneys – Source.**

All moneys received by the city from the state under the provisions of the Streets and Highways Code for the acquisition of real property or interests therein, or for the construction, maintenance and improvement of streets or highways other than state highways, shall be paid into the fund created by PMC 3.20.010. [1937 Code § 633.]

**3.20.030 Expenditures.**

All moneys in the fund created by PMC 3.20.010 shall be expended exclusively for the purposes authorized by and subject to all of the provisions of Article 5, Chapter 1, Division I of the Streets and Highways Code. [1937 Code § 634.]

**Chapter 3.24****CLAIMS AGAINST THE CITY<sup>2</sup>**

## Sections:

- 3.24.010 Form.  
 3.24.020 Claim presentation and requirements.  
 3.24.030 Further claim presentation procedures.

**3.24.010 Form.**

All claims or demands of every kind or nature against the city shall be made in writing and shall be itemized, giving names, dates, particular services rendered or work done, supplies or materials furnished and all other details necessary for a full consideration of the merit and legality of each such demand or claim. All such claims or demands shall be filed with the city manager and presented to the city council. All demands, other than for salaries or for services or materials arising from written contract or claims for money damages, must be approved by the city manager. [Ord. 1077 § 1, 1994; 1937 Code § 77.]

**3.24.020 Claim presentation and requirements.**

No suit for damages or money shall be brought against the city or any entity formed or controlled by the city (collectively “city”) or against any city officer, agent, employee, board member or commission member until a claim for such damages or money has been served upon such officer, agent, employee, board member or commission member by filing with the city clerk. All such claims must be presented within the time limits and in the manner prescribed by Sections 910 through 915.2 of the Government Code. Such claims are further subject to the provisions of Section 945.4 of the Government Code relating to the prohibition of suits in the absence of the presentation of claims and action by the city council. [Ord. 1077 § 1, 1994; 1937 Code § 78.]

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1. For statutory provisions regarding disbursement of funds to cities who have established a special gas tax street improvement fund, see Streets and Highways Code § 2113.

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2. For statutory provisions regarding claims against public entities, see Government Code § 900 et seq., § 37201 et seq. and § 53910 et seq.

### **3.24.030 Further claim presentation procedures.**

The following claims or actions are required to be presented under the provisions of this chapter, notwithstanding the exemptions set forth in Section 905 of the Government Code:

A. Claims under the Revenue and Taxation Code or other statute prescribing procedures for the refund, rebate, exemption, cancellation, amendment, modification or adjustment of any tax, assessment, fee or charge or any portion thereof, or of any penalties, costs or charges related thereto. (Government Code Section 905(a));

B. Claims which relate to a special assessment constituting a specific lien against the property assessed and which are payable from the proceeds of such an assessment, by offset of a claim for damages against it or by delivery of any warrant or bonds representing it. (Government Code Section 905(h));

C. Claims by the state or by a state department or agency or by another local public entity. (Government Code Section 905(i));

D. Claims for the recovery of penalties or forfeitures made pursuant to Article 1 (commencing with Section 1720) of Chapter 1 of Part 7 of Division 2 of the Labor Code. (Government Code Section 905(k));

E. Claims governed by the Pedestrian Mall Law of 1960, Part 1 (commencing with Section 11000) of Division 13 of the Streets and Highways Code. (Government Code Section 905(l)). [Ord. 1077 § 1, 1994.]

## **Chapter 3.30**

### **FEE AND SERVICE CHARGE REVENUE/COST COMPARISON SYSTEM<sup>1</sup>**

Sections:

- 3.30.010 Purpose.  
3.30.020 Adoption or modification of new or existing fees and charges.

#### **3.30.010 Purpose.**

The purpose of this chapter is to enable the city, consistent with Article XIII of the California Constitution, to establish various fees for services rendered; provided, that those fees do not exceed the reasonable cost of providing the service for which the fees are charged. [Ord. 04-1234 § 2, 2004; Ord. 1041 § 1, 1992.]

#### **3.30.020 Adoption or modification of new or existing fees and charges.**

A. The council may, from time to time, by resolution, adopt or modify one or more new or existing fees by which the city may recover the cost of part or all of services provided.

B. Such fees may include, but are not limited to, the following:

1. Planning services;
2. Building services including inspection permits and records;
3. Mobile home park conversion;
4. Use permit, vacancies, zoning and subdivision map;
5. Development projects;
6. Public safety services;
7. Recreation services;
8. Utility and enterprise services;
9. Maintenance;
10. Finance;
11. Such other fees as authorized to collect pursuant to applicable law.

C. The council shall comply with law in adopting any resolutions pursuant to this section, including where applicable, the noticing of hearings related to such fees.

D. Annually, or as part of the annual budget process, the city manager or designee thereof shall

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1. Prior legislation: Ord. 972.

prepare a report for the council as to the adequacy of the city's fee schedule, and including any recommendations for adjustments thereto. [Ord. 04-1234 §§ 3, 4, 2004.]

## Chapter 3.32

### DELTA VIEW GOLF COURSE FEES

#### Sections:

- 3.32.010 Findings and purpose.
- 3.32.020 Establishment of fees.
- 3.32.030 Review and setting of fees.

#### **3.32.010 Findings and purpose.**

The city owns the Delta View golf course ("the golf course"). The city has invested municipal resources in order to improve the golf course and ensure that it meets high standards and serves the community. The golf course is an asset to the residents of Pittsburg, and continued upkeep and investments are necessary to maintain the golf course to advance the public health, safety and general welfare of the community. [Ord. 10-1325 § 1, 2010; Ord. 1078 § 1, 1994.]

#### **3.32.020 Establishment of fees.**

Fees shall be charged at the golf course for various activities and services. Those fees may vary depending on the user, including, for example, variances in fees for residents and nonresidents of Pittsburg, which recognizes the golf course's principal role in serving residents of Pittsburg, but also its role in providing competitively priced facilities for nonresidents. Fees may also vary for members of golf clubs, country clubs or public organizations that may have agreements with the city and/or the golf club operator. [Ord. 10-1325 § 1, 2010; Ord. 1078 § 1, 1994.]

#### **3.32.030 Review and setting of fees.**

A. If the case where the city operates and manages the golf course, such golf course fees shall be set and amended by resolution of the city council.

B. If the golf course is operated by a private golf course operator, such fees shall be set and adopted in a manner consistent with the golf course management agreement between the operator and the city of Pittsburg. [Ord. 10-1325 § 1, 2010; Ord. 1078 § 1, 1994.]