



## **Article 3 Taxes and Licenses**

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## **Chapter 3.1 Introduction to Article 3**

### **3.1.10 Purpose of this Article**

The purpose of this Article is to outline procedures with respect to the taxes, licenses, and fees of the City of La Habra Heights and in the regulation of certain types of businesses.



## **Chapter 3.2 Uniform Local Sales and Use Tax Ordinance**

### **3.2.10 Short Title**

This Chapter shall be known as the Uniform Local Sales and Use Tax Ordinance.

### **3.2.20 Rate**

The rate of sales tax and use tax imposed by this Chapter shall be one (1%) percent.

### **3.2.30 Operative Date**

This Chapter became operative on December 4, 1978.

### **3.2.40 Purpose**

The City Council hereby declares that this Chapter is adopted to achieve the following, among other purposes, and directs that the provisions hereof be interpreted to accomplish those purposes:

- A. To adopt a sales and use tax ordinance which complies with the requirements and limitations contained in Part 1.5 of Division 2 of the Revenue and Taxation Code;
- B. To adopt a sales and use tax ordinance which incorporates provisions identical to those of the Sales and Use Tax Law of the State of California insofar as those provisions are not inconsistent with the requirements and limitations contained in Part 1.5 of Division 2 of the Revenue and Taxation Code;
- C. To adopt a sales and use tax ordinance which imposes a tax and provides a measure therefore 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, be 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.

### **3.2.50 Contract with State**

The 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.

### **3.2.60 Sales Tax**

For the privilege of selling tangible personal property at retail a tax is hereby imposed upon all retailers in the City at the rate stated in Section 3.2.20 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.



### **3.2.70 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.

### **3.2.80 Use Tax**

An excise tax is hereby 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 3.2.20 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.

### **3.2.90 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 hereby adopted and made a part of this Chapter as though fully set forth herein.

### **3.2.100 Limitations on Adoption of State Law**

In adopting the provisions of Part 1 of Division 2 of the Revenue and Taxation Code, whenever the State of California is named or referred to as the taxing agency, the name of this City shall be substituted therefore. 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 taxes, storage, use or other consumption remain subject to tax by the State under the provisions of Part 1 of Division 2 of the Revenue and Taxation Code, or to impose this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not be subject to tax by the State under the said provisions of that Code; the substitution shall not be made in Sections 6701, 6702 (except in the last sentence thereof), 6711, 6715, 6737, 6797 or 6828 of the Revenue and Taxation Code; and the substitution shall not be made for the word "State" in the phrase "retailer engaged in business in this State" in Section 6203 or in the definition of that phrase in Section 6203.

### **3.2.110 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.



### **3.2.120 Exclusions and Exemptions**

The following exclusions and/or exemptions are applicable.

- 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 carriage of persons or property in 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.

### **3.2.130 Amendments**

All subsequent amendments of the Revenue and Taxation Code which relate to the sales and use tax and which are not inconsistent with Part 1.5 of Division 2 of the Revenue and Taxation Code shall automatically become a part of this Chapter.

### **3.2.140 Enjoining Collection Forbidden**

No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action or proceeding in any court against the State or 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.

### **3.2.150 Severability**

If any provision of this Chapter or the application thereof to any person or circumstance is held invalid, the remainder of the Chapter and the application of such provision to other persons or circumstances shall not be affected thereby.



## **Chapter 3.3 Uniform Real Property Transfer Tax**

### **3.3.10 Short Title**

This Chapter shall be known as the Uniform Real Property Transfer Tax Ordinance of the City of La Habra Heights. 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 of California.

### **3.3.20 Imposition of Tax**

There is hereby imposed on each deed, instrument or writing by which any lands, tenements, or other realty sold within the City of La Habra Heights shall be granted, assigned, transferred or otherwise conveyed to, or vested in the purchaser or purchasers, or any other person or persons, by his or their direction, when the consideration or value of the interest or property conveyed (exclusive of the value of any lien or encumbrances remaining thereon at the time of sale) exceeds one hundred (\$100.00) dollars, a tax at the rate of twenty-seven and one-half (\$0.275) cents for each five hundred (\$500.00) dollars or fractional part thereof.

### **3.3.30 Payment**

Any tax imposed pursuant to Section 3.3.20 shall be paid by any person who makes, signs or issues any document or instrument subject to the tax, or for whose use or benefit the same is made, signed or issued.

### **3.3.40 Exemption; Security**

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

### **3.3.50 Exemption; Governmental Agencies**

The United States or any agency or instrumentality thereof, any state or territory, or political subdivision thereof, or the District of Columbia shall not be liable for any tax imposed pursuant to this Chapter with respect to any deed, instrument, or writing to which it is a party, and when it is acquiring title, but the tax may be collected by assessment from any other part liable therefore.

### **3.3.60 Exemption; Miscellaneous Proceedings**

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

- A. Confirmed under the Federal Bankruptcy Act, as amended;
- B. Approved in an equity receivership proceeding in a court involving a railroad corporation, as defined in subdivision (m) of Section 205 of Title 11 of the United States Code, as amended;
- 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 (5) years from the date of such confirmation, approval or change.



### **3.3.70 Exemption; Securities and Exchange Commission**

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

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

### **3.3.80 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 any other 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 (A)(2) of this section, and any transfer pursuant thereto, with respect to the realty held by such partnership at the time of such termination.

### **3.3.90 Administration by County Recorder**

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.

### **3.3.100 Claims for Refund**

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



## Chapter 3.4 Fire Tax

### 3.4.10 Purpose of this Chapter

The purpose of this Chapter is to provide for the establishment and implementation of a Fire Tax for the City of La Habra Heights.

### 3.4.20 Imposition of Fire Tax

Except as otherwise provided in this Chapter, a special tax to fund fire prevention and protection services and life safety services is hereby imposed on every parcel of land in the City of La Habra Heights. The tax shall be imposed in each fiscal year in amounts deemed necessary by the City to furnish or cause to be furnished adequate fire prevention, fire protection, and life safety services, including paramedic services and emergency medical response services, in the City, but in no event shall the tax exceed the maximum amounts permitted by this Chapter. The tax imposed by this Chapter shall be a tax upon each parcel of property, and the tax shall not be measured by the value of the property.

### 3.4.30 Maximum Tax Amounts

The maximum amount of the tax imposed on each parcel pursuant to this Chapter shall be determined as follows:

- A. **Acreage Charge:** Sixty-two dollars and twenty cents (\$62.20) on each parcel, other than a parcel maintained and irrigated for golf course use, for each acre or part thereof up to and including the tenth acre; plus thirty-two dollars and ten cents (\$32.10) for each acre or part thereof in excess of ten acres, up to and including the twentieth acre; plus sixteen dollars and two cents (\$16.02) for each acre or part thereof in excess of twenty acres. For each parcel maintained and irrigated for golf course use the charge shall be twelve dollars and eighty-seven cents (\$12.87) for each acre or part thereof.
- B. **Residential Structure Charge:** In addition to the acreage charge described above, for each parcel improved with one (1) or more residential structures, if the total habitable area is up to and including seven thousand square feet (7,000 square feet), a charge of three-hundred seventy-five dollars and sixty-one cents (\$375.61) is hereby imposed; if the total habitable area is more than seven thousand square feet (7,000 sq ft.), a charge of six hundred six dollars and fifteen cents (\$606.15) is hereby imposed.
- C. **Commercial and Institutional Structure Charge:** In addition to the acreage and residential structure charges described above, fifteen cents (\$0.15) per square foot of enclosed habitable area for parcels improved with one (1) or more commercial structures; and one-thousand three hundred thirty-eight dollars and nineteen cents (\$1,338.19) is hereby imposed on each parcel improved with one (1) or more institutional structures.
- D. **Fuel Storage Facility Charge:** In addition to the acreage, residential structure and commercial and institutional structure charges described above, two-thousand six-hundred seventy-six dollars and forty-one cents (\$2,676.41) is hereby imposed on each parcel improved with a fuel storage facility, pump station, natural gas underground storage facility or compressor station.

### 3.4.40 Exemptions

- A. The following parcels shall be exempt from the tax imposed by this chapter:
  1. Parcels owned by Federal or State governmental agencies;



2. Parcels owned by local governmental agencies;
  3. Parcels exempt from taxation by the City pursuant to the laws or constitutions of the United States and the State of California.
- B. Any person claiming an exemption from the tax imposed by this Chapter shall file a verified statement of exemption on a form prescribed by the City Manager prior to June 30th of the first fiscal year for which the exemption is sought.

**3.4.50 Administrative Determinations; Appeal Procedures**

- A. The records of the Los Angeles County Assessor as of March 1st of each year shall determine the use and improvement of each parcel for the calculation of the tax applicable to that parcel in the following fiscal year. As used in this Chapter, "parcel" shall mean each contiguous unit of improved or unimproved real property held in separate ownership, including but not limited to, any single-family residence, or any other unit of real property subject to the Subdivision Map Act, Government Code Section 66410 et seq.
- B. The City Manager shall administer this Chapter. Appeals of any determination of the City Manager shall be submitted in writing to the City Clerk not later than July 1st of the fiscal year for which the tax is imposed. The City Council shall consider the appeal and issue a decision to the appellant in writing.

**3.4.60 Special Fund; Use of Tax Proceeds; Accountability Measures**

- A. The proceeds of the tax imposed by this Chapter shall be placed in a special fund to be used to provide or cause to be provided fire protection, fire prevention, and life safety services, including, but not limited to, paramedic services and emergency medical response services. The costs of providing fire protection, fire prevention, and life safety services shall include, but not be limited to, salaries and benefits of personnel providing these services, costs associated with the acquisition, maintenance, or construction of equipment, facilities and supplies used for the provision of such services, administrative costs of the fire protection, fire prevention and life safety services program, and the cost of any other expenditure necessary or useful to the provision of these services. Proceeds shall be used for no purposes other than this purpose.
- B. The City Manager shall annually prepare the report required by Section 50075.3 of the California Government Code with respect to the proceeds of the tax.

**3.4.70 Annual Determination of Tax Amounts; Inflation Adjustments**

The annual Special Fire Tax adjustments for inflation shall be determined through the following procedures:

- A. The City Council shall annually act by resolution to determine the amount of revenue necessary to provide adequate fire protection and prevention services to the City and to establish tax amounts sufficient to generate that revenue. However, the City Council may not impose tax amounts in excess of those provided by Section 3.4.30 of this chapter, adjusted for inflation as provided in subsection B of this section, without the approval of two-thirds (2/3) of the voters of the City voting on the question.
- B. The maximum tax amounts specified by Section 3.4.30 of this chapter shall be increased by the lesser of (i) three (3%) percent or (ii) the percentage by which the Consumer Price Index for All Urban Consumers in the Los Angeles-Anaheim-Riverside area published by the Bureau of Labor Statistics of the U.S. Department of Labor, or any successor to that index, increases in the twelve (12) months prior to March of the year in which the adjustment is made. The City Manager shall



annually recalculate the maximum tax amounts pursuant to this subsection B and shall give notice of that determination in the manner required by law for notice of ordinances of the City.

### **3.4.80 Collection with Property Taxes**

The special tax imposed by this chapter shall be due in the same manner, on the same dates, and subject to the same penalties and interest as established by law for other charges and taxes fixed and collected by the County of Los Angeles on behalf of the City of La Habra Heights. The special tax imposed by this chapter, together with all penalties and interest thereon, shall constitute a lien upon the parcel upon which it is levied until it has been paid, and shall constitute a personal obligation of the owners of the parcel on the date the tax is due.



## **Chapter 3.5 Home Occupation Business License**

### **3.5.10 Purpose of this Chapter**

The purpose of this Chapter is to establish requirements for home occupation business licenses.

### **3.5.20 Definition of Home Occupation**

Home occupation shall mean any non-horticultural activity regularly carried out for gain by a resident and conducted as a secondary use at the resident's dwelling. Home occupation includes any such activity regardless of whether the primary operations of the home occupation occur at the resident's dwelling or elsewhere.

### **3.5.30 Fee**

Every person engaged in a home occupation within the City limits shall obtain and pay a license fee in an amount established by resolution of the City Council. The City shall not issue a business license until the home occupation is reviewed and approved by the Community Development Director. After initial issuance, home occupation business licenses shall be renewed annually and shall require an annual renewal fee in an amount established by resolution of the City Council.

### **3.5.40 Requirements for Issuance of a Home Occupation Permit**

Home occupations permitted by the provisions of the Zoning regulations (Article 7) cannot be conducted without first obtaining a Home Occupation business license that complies with the following regulations:

- A. There shall be only limited stock-in-trade associated with the home occupation, provided that keeping of such stock does not conflict with the other provisions of this Code, and provided such stock does not hinder the parking of vehicles in a garage.
- B. A home occupation shall be conducted in a dwelling and shall be clearly incidental to the use of the structure as a dwelling.
- C. There shall be no external alteration of a dwelling in which a home occupation is conducted, and the existence of a home occupation shall not be apparent beyond the boundaries of the site, except for a nameplate in accord with the provisions of Article 7.
- D. No one other than a resident of the dwelling shall be employed in the conduct of a home occupation.
- E. No motor or mechanical equipment shall be permitted other than normally incidental to the use of the structure as a dwelling.
- F. A home occupation shall not create any radio or television interference or create noise audible beyond the boundaries of the site.
- G. No smoke, odor, liquid or solid waste shall be emitted.
- H. No vehicles or trailers, including pick-up trucks and vans, or construction or other equipment, except those normally incidental to residential use, shall be kept on the site.
- I. A home occupation shall not create pedestrian, automobile, or truck traffic significantly in excess of the normal amount in the district.



**3.5.50 Revocation**

Any Home Occupation permit issued pursuant to this Chapter may be revoked by the City Council upon its finding, after a public hearing that the permittee has failed, neglected or refused to perform, comply with and abide by any of the conditions and provisions of this Chapter.



## Chapter 3.6 Regulation of Certain Businesses

### 3.6.10 Purpose of this Chapter

The purpose of this Chapter is to establish procedures governing the regulation of certain businesses in the City of La Habra Heights.

### 3.6.20 Adoption of License Ordinance

Title 7, Business Licenses, of the Los Angeles County Code as amended and in effect on June 30, 2006, is hereby adopted by reference as the License Ordinance of the City of La Habra Heights. A certified copy of Title 7 of the Los Angeles County Code has been deposited in the office of the City Clerk of the City of La Habra Heights, and shall be at all times maintained by the Clerk for use and examination by the public.

### 3.6.30 Amendments

Notwithstanding the provisions of Section 3.6.20, Title 7 is hereby amended by deleting Chapter 7.24, Charitable Solicitations. The License Ordinance of the City of La Habra Heights shall include the supplemental matters set forth in the remaining sections of this Chapter.

### 3.6.40 Contractors

The following requirements are applicable to contractors that conduct business in the City of La Habra Heights.

- A. **Definition.** Contractor means any person except a licensed architect or a registered civil engineer acting solely in his professional capacity who in any capacity other than as the employee of another with wages or salary as his sole compensation undertakes to or offers to undertake or purports to have the capacity to undertake to or submit a bid to or does himself or by or through others does construct, alter, repair, add to, subtract from, improve, move, wreck or demolish any building, highway, road, railroad, excavation or other structure, project, development, improvement or any part thereof, including the erection of scaffolding or other structures or work in connection therewith. Contractor shall include subcontractor or specialty contractor but shall not include an owner-builder or anyone who merely furnishes materials or supplies without fabricating them into or consuming them in the performance of the work of the contractor or owner-builder.
- B. **License Required.** Every contractor as defined in Section 7.29.010 engaged in the contracting business within the city limits of the City of La Habra Heights shall first obtain and pay for a contractor's license as required by the Municipal Code of the City of La Habra Heights.
- C. **Fee.** The license fee required to be paid to perform, carry on, conduct or engage in any contracting activity shall be established by resolution of the City Council and every general and engineering contractor and owner-builder shall:
  1. Require all subcontractors for the performance of any work on each project in the City under his control or direction, whether the subcontract is written or oral, to have a business license as herein provided for the year or years in which the subcontractor's work is to be done at the time such subcontract is made and before permitting such subcontractor to begin or perform services on any such project of said general or engineering contractor or owner-builder. The failure of such general or engineering contractor or owner-builder to comply with the foregoing provisions of this subsection shall render such general or engineering contractor or owner-builder liable to the City for



an additional license fee equal to the amount of such subcontractor's unpaid license fee plus any penalties for delinquencies accruing thereon pursuant to Title 7 of the Los Angeles County Code.

2. Furnish the City with a list of all subcontractors to do work on any project of such general or engineering contractor in the City upon forms furnished by the City.
- D. **Posting.** Each contractor and subcontractor shall post on the site of work or construction a copy of their current business license.

### **3.6.50 Vehicles**

Every person required to have a business license under this ordinance and who regularly uses a vehicle or vehicles in the conduct of their work or business shall obtain from the City a sticker that shall be placed on such vehicle or vehicles identifying the vehicle as belonging to a person with a current business license. Such stickers shall be obtained from the City of La Habra Heights for a fee established by resolution of the City Council.

### **3.6.60 Resource Extraction Businesses**

This Section applies to those entities engaged in resource extraction in the City of La Habra Heights. The following applies to the determination and application of fees.

- A. **Terms Specific to this Section.** The following terms and definitions are specific to this section:
1. "Resource extraction business" means a business that operates one or more oil or gas wells located in all or in part within the City of La Habra Heights.
  2. "Oil or gas well" includes any structure or means of extracting oil, gas, or other hydrocarbons from the earth.
  3. "Oil" includes any liquid or semisolid containing hydrocarbons; "gas" includes any gaseous substance containing hydrocarbons.
  4. A "barrel of oil" shall consist of forty-two U.S. gallons of crude petroleum or hydrocarbon substances corrected for temperature variations in accordance with methods generally accepted in the petroleum industry. "Petroleum or hydrocarbon substances" means crude oil remaining after the removal of water or other impurities by preliminary processing in the vicinity of the well site preparatory to shipment.
  5. A "cubic foot of gas" shall consist of one cubic foot of shipped gas corrected for temperature variations in accordance with methods generally accepted in the natural gas industry. "Shipped gas" means gas remaining after the removal of water vapor or other impurities by preliminary processing in the vicinity of the well site preparatory to shipment.
- B. **Fees.** Every person engaged in a resource extraction business shall obtain a business license and pay an annual business license fee in the sum of (1) a wellhead fee for each well owned or operated by that person including idle wells, (2) a per barrel fee for each barrel of oil produced by that person, (3) a per cubic foot fee for each cubic foot of gas produced by that person, and (4) a per cubic foot fee for each cubic foot of gas extracted from a storage facility by that person. The wellhead, per barrel, and per cubic foot fees shall be due in the following amounts:
1. Wellhead Fee: \$500.00 per well, active or idle.
  2. Per Barrel Fee: Per Cubic Foot Fee: \$0.25 per barrel of oil produced.



3. Per Cubic Foot fee: \$0.05 per 1,000 cubic feet of gas produced.
  4. Per Cubic Foot Fee: \$0.03 per 1,000 cubic feet of gas re-extracted from a storage facility.
- C. **Annual and Quarterly Fee Payments.** The wellhead fee shall be due and payable annually under the La Habra Heights Municipal Code. The per-barrel and per cubic foot fees shall be due and payable as follows:
1. Per barrel and per cubic foot fees shall be paid to the City no later than 30 days after March 31, June 30, September 30, and December 31 of each year with respect to production during the three months prior to those dates. Returns submitted less than three months from the effective date of the ordinance that adopts this section, however, need only be made with respect to production after the effective date of that ordinance.
  2. Each person required to have a license under this Part shall keep full, true, and accurate records as to the amounts of oil and gas produced and shipped or sold. Those records shall be maintained for at least three (3) years and shall be made available, together with any shipping documents or sales invoices, for inspection by the City at any reasonable time.
  3. Each person required to have a license under this Part shall file with the City, along with each quarterly payment of per barrel and per cubic foot fees, a written return setting forth the number of wells in operation during any part of that quarter and the number of barrels of oil or cubic feet of gas produced by each well during the quarter for which the return is filed. Each such person shall pay the per barrel and per cubic foot fees calculated by applying the current rates to the production reported on the return. Each return shall be signed under penalty of perjury by one with authority to legally bind the business. No return shall be conclusive against the City as to the information set forth therein, nor shall the filing of a return preclude the City from collecting by appropriate action any additional fee that is determined to be due and payable.
- D. **Failure to Remit.** Any person who fails to remit any fee due under this Chapter within the time required shall pay a penalty of ten percent per month or fraction thereof of the amount of the fee due, exclusive of penalties, in addition to the amount of the fee. If the City determines that nonpayment of any remittance due under this Chapter is due to fraud, a penalty of twenty-five percent of the amount of the fee shall be added thereto in addition to the other penalties stated in this section. In addition to other penalties imposed, any person who fails to remit any fee due under this Chapter shall pay interest at the rate of one-half of one percent per month or fraction thereof on the amount of the fee due, exclusive of penalties, from the date on which the remittance first became delinquent until paid. Every penalty imposed and such interest as accrues under the provisions of this section shall become a part of the fee required to be paid.
- E. **Determination of Fee by City.** If any person fails or refuses to make, within the time provided in this Part, any report and remittance of the fee or any portion thereof required by this Part, the City shall proceed in any reasonable manner to obtain facts and information on which to base an estimate of the fee due. As soon as the City procures such facts and information as are available and determines an estimate of fee due, the City shall assess against the person the fee, interest and penalties provided for by this Part. The City Clerk shall give notice of the assessment by personal service to the person or the person's representative, or by depositing it in the United States mail, postage pre-paid, addressed to the person's last known address. Within ten days after the service or mailing of such notice, the person may make written application to the City Clerk for a hearing. If application by the person for a hearing is not made within the time prescribed, the fee, interest and penalties, if any, assessed shall become immediately due and payable. If such application is timely made, the City Clerk shall give not less than five days' written notice to the person, in the manner prescribed in this section for the notice of the amount



assessed, of the time and place fixed for a hearing. At such hearing, the person may appear and offer evidence why such specified fee, interest and penalties should not be assessed. After such hearing, the City Manager shall determine the fee to be remitted and shall give written notice to the person in the manner prescribed in this section of such determination and the amount of such fee, interest and penalties so due. The amount due shall thereupon be immediately due and payable.

- F. **Appeal.** Any person aggrieved by any decision of the City Manager at or following a hearing with respect to the amount of fee, interest, and penalties due, may file a notice of appeal with the City Clerk within fifteen days after the serving or mailing of notice of the City's determination. The City Clerk shall set a time and place for hearing such appeal, and shall give written notice of the time and place of such hearing to the person at the person's last known address. The findings of the City Council shall be final and conclusive and notice thereof shall be served upon the appellant in the manner prescribed in Section 7.29.240 for service of notice of assessment. Any amount found to be due, together with interest at the rate prescribed in Section 7.29.230 from the date such fee accrued and any penalty imposed, shall be immediately due and payable upon the service of notice.
- G. **Additional Powers and Duties of the City Manager.** The City Manager shall have the power to adopt rules and regulations not inconsistent with the provisions of this Chapter for the purpose of carrying out and enforcing the payment, collection and remittance of the fees herein imposed. A copy of such rules and regulations shall be maintained on file in the office of the City Manager. The City Manager may enter into administrative agreements to vary the strict requirements of this Part so that collection of any tax imposed hereby may be made in conformance with the collection procedures of a particular resource extraction business so long as said agreements result in collection of the tax in conformance with the general purpose and scope of this Part. A copy of each such agreement shall be maintained on file in the office of the City Manager.
- H. **Application of Part.** In the manner and upon the terms and conditions set forth in this Part, it shall be lawful for any person to drill a well for and to produce oil, gas or other hydrocarbon substances and to conduct any other lawful operations, including the installation and maintenance of any derrick, drilling and producing equipment and appurtenance structures or machinery proposed or intended to be used for or in connection with the drilling for or production of oil and gas on any land within the City which is zoned to permit such operations, and on any other land where such operations may be authorized pursuant to the provisions of the zoning ordinance of the City; provided, that all of such operations shall conform with the provisions of this Part.
- I. **Administration and Enforcement of Part.** It shall be the duty of the City Manager, or his/her designee to administer and enforce the provisions of this Part.
- J. **Permits Required.** It shall be unlawful for any person to construct, commence to construct or maintain or use within the City any derrick or other structure, equipment or machinery proposed or intended to be used or used for or in connection with the drilling for or production of oil, gas or other hydrocarbon substances without first obtaining a written permit therefore, to be issued by the Fire Chief in accordance with the terms of this Part. The re-drilling of an existing well shall be subject to the permit requirements of this section.
- K. **Not Required for Servicing.** No permit shall be required for well servicing.
- L. **Permit Coverage.** The following permit coverage requirements are applicable.
1. **Fire Permit Coverage:** Each Fire Permit evidencing the inspection of any well shall require payment of fees sufficient to cover the costs of bi-annual inspection of all structures, tanks, equipment and facilities necessary or convenient for the temporary field storage, separating, gauging, handling and shipping of oil, gas and other



substances produced from or injected into any well; the inspection of all temporary structures, steel derrick or portable mast, tanks, equipment and facilities necessary or convenient for such operation.

2. **Drilling Permit Coverage:** Each permit authorizing the drilling of any well shall also authorize the installation and use of all temporary structures, steel derrick or portable mast, tanks, equipment and facilities necessary or convenient for such operation, except as otherwise noted in the permit or as otherwise provided by this Code.
  3. **Operation and Maintenance Permit Coverage:** Each permit authorizing the operation and maintenance of any oil well shall also authorize the installation and use of all structures, tanks, equipment and facilities necessary or convenient for the temporary field storage, separating, gauging, handling and shipping of oil, gas and other substances produced from or injected into any well customarily used in connection with such operation, except as otherwise noted in the permit or as otherwise provided by this Code.
- M. **Resource Extraction Business Regulations.** Any person desiring any permit required by this Part shall file a written application therefore with the Fire Chief on forms furnished for that purpose which shall contain and be accompanied by the name or number and location of the proposed or existing well as such well may be identified and described in notices filed with the division of oil and gas. Each well shall be identified on a site map or parcel map depicting the location of the well and all other structures on the property. Under the Zoning Ordinance of the City of La Habra Heights the drilling or re-drilling of a well requires a conditional use permit. Application for the conditional use permit shall be filed with the department of planning and development within five days of filing for a drilling permit.
- N. **Bond to Accompany Application.** Except as provided elsewhere in this Part, every application for a permit required by this Part, for which a bond is not on file, shall be accompanied by a faithful performance bond in a form approved by the City Attorney in the sum of fifty thousand dollars for each well. Such bond shall be conditioned that the principal named in the bond shall faithfully comply with all of the provisions of this Part. The bond shall secure the City against all costs, charges and expenses incurred by it by reason of the failure of the permittee to comply fully with the provisions of this Part. The bond shall include a provision that the City be given written notice not less than sixty days prior to the cancellation or reduction in the coverage of the bond.
- O. **Blanket Bond.** In lieu for filing the bond as required by this Chapter for each well, a blanket bond in the amount of five hundred thousand dollars to cover all operations under this Part of a single permittee may be filed. Riders to such blanket bond may be filed with the City identifying each well to be covered by such blanket bond.
- P. **Bond to Be Kept in Full Force and Effect.** Each bond filed pursuant to this Chapter shall be kept and maintained in full force and effect until terminated or superseded as provided in this Part.
- Q. **Termination of Liability Under Bond.** The applicant, as principal, and the surety under any bond filed pursuant to this Chapter may have such bond terminated and canceled if and when the applicant or the assignee of any permit granted pursuant to the Part shall furnish a new bond therefore. Any bond or rider thereto shall be terminated and canceled upon the final and permanent cessation or abandonment of all operations in connection with any wells for which such bond or rider thereto was given, in compliance with the applicable provisions of this Part.
- R. **Permit Issuance.** The application for an oil well permit submitted pursuant to this Chapter shall be approved and the permit granted by the Fire Chief within five working days after the granting of the conditional use permit and after receipt of such application which conforms with the



provisions and requirements of this Part. No permit shall be issued which would conflict with any provision of the zoning ordinance or any other provision of this Code.

- S. **Drilling Permit.** A fee in an amount established by City Council resolution shall accompany each application for a permit to cover the drilling of a new well and the re-drilling of an existing well to recomplete it at a different level or zone than the existing well hole.
- T. **Permit Valid for One Fiscal Year.** Each oil well permit shall be valid only for the fiscal year for which issued.
- U. **Permit Renewal Required Each Year.** Each permit issued pursuant to this Chapter shall be renewed at the beginning of the fiscal year following the year in which it was granted or renewed, unless such well has been abandoned prior thereto. At least 15 days prior to the end of each fiscal year, the owner of any existing well not abandoned shall make application for a permit covering the operation and maintenance thereof.
- V. **Change of Ownership, Transfer of Permit.** In the event of any change of ownership of any oil or gas well after a permit has been granted to cover the drilling thereof or to cover the operation and maintenance of an existing well, the permit, and all the rights and obligation pertaining thereto may be assigned and transferred to such new owners, as provided in this Chapter.
- W. **Notice to Fire Chief, New Bond Required.** The permittee shall notify the Fire Chief in writing of the sale, assignment, transfer, conveyance or exchange of any well within thirty days after such sale, assignment, transfer, conveyance or exchange, and the new owner thereof shall succeed to all the rights and obligations of the permittee under the permit applicable to such well upon the filing by the new owner of a faithful performance bond, as provided in this Part, to cover future operation and maintenance of such well. The notice shall contain the following:
  - 1. The name and address of the person to whom such well is sold, assigned, transferred, conveyed or exchanged.
  - 2. The name and location of the well.
  - 3. The date of sale, assignment, transfer, conveyance, or the date when possession was relinquished by the former permittee.
- X. **Revocation - Grounds Generally.** Any permit issued pursuant to this Part may be revoked by the City Council upon its finding, after a public hearing as provided in this Chapter, that the permittee has failed, neglected or refused to perform, comply with and abide by any of the conditions and provisions of this Part.
- Y. **Notice of Intention; Remedy of Noncompliance Required.** Proceedings before the City Council for the revocation of any permit issued pursuant to this Section may be instituted by the Fire Chief, who shall cause to be posted in a conspicuous place on the premises covered by the permit, readable from the ground level, a notice entitled "Notice of intention to revoke permit," and who shall cause a copy thereof to be mailed, postage prepaid, to the permittee, or his designated agent, at his last known address and a copy to be filed with the City Council. Such notice shall set forth the date of the posting, in accordance with this section, and the reasons and grounds upon which such revocation will be based and shall require the permittee within fifteen days after the date of posting specified therein to cure and remedy any default, noncompliance with, or violation of any condition of the permit or of this Part or to show cause before the City Council why such permit should not be revoked.
- Z. **Extension of Time for Compliance.** Upon application therefore by a permittee under this Part, the City Council may, at its discretion, extend the time for curing and remedying any claimed default, noncompliance or violation by the permittee, but no such extension of time shall be for a



longer period than a total of sixty days from the service upon the permittee of notice of intention to revoke the permit pursuant to this Chapter.

- AA. **Request for Hearing; Failure to Request.** At any time prior to the expiration of the fifteen days allowed for remedying any noncompliance with the permit or with this Part, or any extension thereof, the permittee may file with the City Council a written appeal, as provided in this Chapter, from the order, requirement, decision or determination of the Fire Chief as set forth in the notice given pursuant to this Chapter and request a hearing thereon by the City Council. Failure to file a demand for such hearing within the allowed period of time, or any extension thereof, shall be deemed to be an admission on the part of the permittee that valid grounds exist for the revocation of the permit, unless the permittee shall have commenced within that time a diligent and bona fide effort to cure and remedy any default, noncompliance or violation for which such notice was issued.
- BB. **Hearing Allowed.** If a hearing before the City Council is timely requested pursuant to this Chapter the permit shall not be modified or revoked unless and until so ordered by the Council after the completion of such hearing.



## **Chapter 3.7 Special Gas Tax Street Improvement Fund**

### **3.7.10 Purpose of this Chapter**

The purpose of this Chapter is to provide for the establishment and implementation of a Special Gas Tax Street Improvement Fund for the City of La Habra Heights.

### **3.7.20 Special Gas Tax Street Improvement Fund**

- A. To comply with the provisions of Section 2113 of the Streets and Highways Code, and to avail itself of the benefits of Sections 2106 and 2107 thereof, there is hereby created in the City Treasury a special fund to be known as the "Special Gas Tax Street Improvement Fund."
- B. All moneys received by the City from the State of California under the provisions of the Streets and Highways Code for the acquisition of real property or interests therein, or for engineering, or for the construction, maintenance or improvement of streets or highways by the City shall be paid into said fund.
- C. All moneys in said fund shall be expended exclusively for the purposes authorized by, and subject to, the provisions of the Streets and Highways Code.



## **Chapter 3.8 Air Quality Improvement Fund**

### **3.8.10 Purpose of this Chapter**

The purpose of this Chapter is to establish procedures governing the Air Quality Improvement Fund.

### **3.8.20 Definitions**

For the purposes of this section, the following definitions shall apply:

- A. Mobile Source Air Pollution Reduction Program shall mean any program or project implemented by the City to reduce air pollution emitted from motor vehicles pursuant to the California Clean Air Act of 1988 or the Air Quality Management Plan for the South Coast Air Quality Management District prepared and adopted in accordance with the provisions of Health and Safety Code Sections 40460 through 40470.
- B. Fee Administrator shall mean the City Manager of the City of La Habra Heights.

### **3.8.30 Establishment of Fund**

The Fee Administrator shall establish a separate interest-bearing trust fund account with a financial institution authorized to accept deposits of City funds. This account shall be known as the Air Quality Improvement Trust Fund. All interest earned by the account shall be credited to this account. All funds received by City pursuant to Health and Safety Code Sections 44243 and 44244, along with any other funds designated by the City Council, shall be deposited in this account and shall be used for the sole purpose of financing mobile source air pollution reduction programs. The Fee Administrator shall be responsible for depositing funds in the Air Quality Improvement Trust Fund.

### **3.8.40 Audits**

The City hereby consents to audits, at least once every two (2) years, of all programs and projects funded by vehicle registration fees provided by Health and Safety Code Section 44243, provided that such audit shall be conducted by an independent auditor selected by the South Coast Air Quality Management District. Audit costs shall be funded as provided in Health and Safety Code Section 44244.1.