

## CHAPTER 21

## TAXATION

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#### Article I. In General.

21-1 Abolition of offices of city assessor and city tax collector. The offices of city assessor and city tax collector are hereby abolished as of the close of business on June 30, 1969, and thereafter all duties performed by the city assessor other than the assessing of property in the city, and all duties performed by the city tax collector other than the collection of ad valorem taxes on property and the collection of assessments for municipal improvements are hereby transferred to are to be performed by the city clerk. In addition, the city clerk shall retain as a duty of his office, the collection of delinquent ad valorem taxes on property and of delinquent assessments for municipal improvements, to the extent that such delinquencies occur prior to the effective date of this section. (Ord. 419)

21-2 Transfer of assessment and collection duties to county. The assessment and tax collection duties, and the collection of assessments levied for municipal improvements, now performed by the assessor and the tax collector of the city, shall be, and are hereby transferred to the assessor and the tax collector of the county. Such transfer shall be effective July 1, 1969, and shall relate to the tax assessment and the collection cycle commencing January 1, 1969. (Ord. 419)

## Article II. Sales and Use Tax

(For state law as to sales and use taxes, see Rev. & Tax. C., Sec. 6001 et seq. As to authority of city to adopt uniform sales and use taxes, see Rev. & Tax. C., Sec. 7201)

21-3 Purpose of article. The City Council hereby declares that this article is adopted to achieve the following, among other purposes, and directs that the provisions hereof be interpreted in order to accomplish those purposes:

a) To adopt sales and use tax regulations which comply with the requirements and limitations contained in part 1.5, division 2 of the Revenue and Taxation code of the state.

b) To adopt sales and use tax regulations which incorporate 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, division 2 of the Revenue and Taxation Code.

c) To adopt sales and use tax regulations which impose a one percent tax and provide a measure therefore that can be administered and collected by the state board of equalization in a manner that adapts itself as fully as practical 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 state sales and use taxes.

d) To adopt sales and use tax regulations which can be administered in a manner that will, to the degree possible consistent with the provisions of part 1.5, 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 article. (Ord., 354, 377 & 400)

21-4 Operative date; contract with State Board of Equalization. This article shall become operative on July 1, 1957, and prior thereto the city shall contract with the State Board of Equalization to perform all functions incident to the administration and operation of the sales and use tax regulations; provided, that if the city shall not have contracted with the State Board of Equalization, as above set forth, prior to July 1, 1957, this article shall not be operative until the first day of the first calendar quarter following the execution of such a contract by the city and by the State Board of Equalization; provided further, that this article shall not become operative prior to the operative date of the uniform local sales and use tax regulation of the county. (Ord. 354)

21-5 Sales Tax generally.

a) For the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all retailer in the City at the rate of one percent (1%) of the gross receipts of the retailer from the sale of all tangible personal property sold at retail in the City on and after July 1, 1982. (Ord. 500)

b) For the purposes of this article 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 at which the retail sales are consummated shall be determined under the rules and regulations to be prescribed and adopted by the Board of Equalization. (Ord. 500)

c)

1) Wherever, and to the extent that, in Part 1, Division 2 of the Revenue and Taxation Code the state is named or referred to as the taxing agency, the City shall be substituted therefore. Nothing in this subdivision shall be deemed to require the substitution of the name of the City for the word "state" when that word is used as part of the title of the State Controller, the State Treasurer, the State Board of Control the State Board of Equalization, or the name of the State Treasury, or of the Constitution of the State; nor shall the name of the City be substituted for that of the state in any section when the result of the 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 function incident to the administration or operation of this article; and neither shall the substitution be deemed to have been made in those sections, including, but not necessarily limited to, sections referring to the exterior boundaries of the state, where the result of the substitution would be to provide an exemption from this tax with respect to certain gross receipts which would not otherwise

be exempt from this tax while those gross receipts remain subject to tax by the state under the provisions of Part 1, Division 2 of the Revenue and Taxation Code; nor to impose this tax with respect to certain gross receipts which would not be subject to tax by the state under the provisions of that code; and, in addition, the name of the City shall not be substituted for that of the state in Sections 6701, 6702 (except in the last sentence thereof), 6711, 6715, 6737, 6797 and 6828 of the Revenue and Taxation Code as adopted. (Ord. 500)

2) If a seller's permit has been issued to a retailer under Section 6067 of the Revenue and Taxation Code, an addition seller's permit shall not be required by reason of this section. (Ord. 500)

d) There shall be excluded from the gross receipts by which the tax is measured:

1) The amount of any sales or use tax imposed by the State of California upon a retailer or consumer. (Ord. 513)

2) 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. (Ord. 513)

3) 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. (Ord. 500 & 513)

#### 21-6 Use tax generally.

a) An excise tax is hereby imposed on the storage, use or other consumption in the city of tangible personal property purchased from any retailer on or after the operative date of this article for storage, use or other consumption in the city at the rate of one percent of the sales price of the property. The sales price shall include delivery charges when such charges are subject to state sales or use tax regardless of the place to which delivery is made. (Ord. 354, 377 & 400)

b)

1) Except as hereinafter provided, and except insofar as they are inconsistent with the provisions of part 1.5, division 2 of the Revenue and Taxation Code, all of the provisions of part 1, division 2 of such Code, as amended and in force and effect on July 1, 1957, applicable to use taxes are hereby adopted and made part of this section as though fully set forth herein.

2) Wherever, and to the extent that, in Part 1, Division 2 of the Revenue and Taxation Code the state is named or referred to as the taxing agency, the name of this City shall be substituted therefore. Nothing in this subdivision shall be deemed to require the substitution of the name of the City for the word "state" when that word is used as part of the title of the State Controller, the State Treasurer, the State Board of Control, the State Board of Equalization, or the name of the State Treasury, or of the Constitution of the State; nor shall the name of the City be substituted for that of the state in any section when the result of the 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 article; and neither shall the substitution be deemed to have been made in those sections, including, but not necessarily limited to, sections referring to the exterior boundaries of the state, where the result of the substitution would provide an exemption from this tax with respect to certain storage, use or other consumption of tangible personal property which would not otherwise be exempt from this tax while such storage, use or other consumption remains subject to tax by the state under the provisions of Part 1, Division 2 of the Revenue and Taxation Code; or to impose this tax with respect to certain storage, use or other consumption of tangible personal property which would not be subject to tax by the state under the provisions of that code; and, in addition, the name of the City shall not be substituted for that of the state in Sections 6701, 6702 (except in the last sentence thereof), 6711, 6715, 6737, 6797 and 6828 of the Revenue and Taxation Code as adopted, and the name of the city shall not be substituted for the word "state" in the phrase "retailer engaged in business in this state" in section 6203 nor in the definition of that phrase in section 6203. (Ord. 354, 377, 400)

c) There shall be exempt from the tax due under this Section:

1) The amount of any sales or use tax imposed by the State of California upon a retailer or consumer (Ord. 513)

2) The storage, use or other consumption of tangible personal property, the gross receipts from the sale of which has been subject to sales 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. (Ord. 513)

3) 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. (Ord. 513)

4) 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 the 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. (Ord. 513)

21-7 Amendments. All amendments of the Revenue and Taxation Code enacted subsequent to the effective date of this article which relate to the sales and use tax and which are not inconsistent with part 1.5, division 2 of the Revenue and Taxation Code shall automatically become a part of this article. (Ord. 354)

21-7.1 Applicability of provisions relating to exclusions and exemptions.

a) Section 21-5 (e), 21-6©, and 21-6(d) shall become operative on January 1<sup>st</sup> of the year following the year in which the state board of equalization adopts an assessment ratio for state assessed property which is identical to the ratio which is required for local assessments by section 401 of the Revenue and Taxation Code, at which time sections 21-5(d) and 21-6© shall become operative. (Ord. 436)

b) In the event that sections 21-5(e) and 21-6(d) become operative and the state board of equalization subsequently adopts an assessment ratio for state assessed property which is higher than the ratio which is required for local assessments by section 4-1 of the Revenue and Taxation Code, section 21-5(e) and 21-6© shall become operative on the first day of the month following the month in which the board again adopts an assessment ratio for state assessed property which is identical to the ration required for local assessments by section 401 of the Revenue and Taxation Code, at which time sections 21-5(e) and 21-6(d) shall again become operative and sections 21-5(d) and 21-6© shall become inoperative. (Ord. 436)

[ORDINANCE NO. 513: Sections 3 & 4 of this Ordinance (amending Sec. 21-5 (d) and 21-6 ©, shall be operative on the operative date of any act of the Legislature of the State of California which amends or 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 of the Revenue and Taxation Code as those subdivisions read on October 1, 1983) (Ord. 513)

21-8 Collection not to be enjoined. 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 article of part 1.5, division 2 of the Revenue and Taxation Code, of any tax or any amount of tax required to be collected.. (Ord. 354)

Article III. Documentary Stamp Tax

(For state law as to documentary stamp tax, see Rev. & Tax C., Sec 11901 et seq.)

21-9 Levied; amount. There is hereby imposed on each deed, instrument or writing by which any lands, tenements or other realty sold within the city shall be granted, assigned,

transferred or otherwise conveyed to, or vested in, the purchaser or any other person by his direction, when the consideration or value of the interest of property conveyed (exclusive of the value of any lien or encumbrances remaining thereon at the time of sale) exceeds one hundred dollars, a tax at the rate of twenty-seven and one-half cents for each five hundred dollars or fractional part thereof. (Ord. 414)

(For state law authorizing city to levy documentary stamp tax, see Rev. & Tax C., Sec 11911)

21-10 Persons liable for payment of tax. Any tax imposed pursuant to Section 21-9 shall be paid by any person who makes, signs or issues any document or instrument subject to the tax, or for whose use or benefit the same is made, signed or issued. (Ord. 414)

21-11 Exemptions – Instruments securing debts. Any tax imposed pursuant to this article shall not apply to any instrument in writing given to secure a debt. (Ord. 414)

21-12 Same – Governments. The United States or any agency or instrumentality, any state or territory, or political subdivision or the District of Columbia shall not be liable for any tax imposed pursuant to this article with respect to any deed, instrument or writing to which it is a part, but the tax may be collected by assessment from any other party liable therefore. (Ord. 414)

21-13 Same – Conveyances to make effective certain reorganizations or adjustments. Any tax imposed pursuant to this article 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) Approval 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.
- d) Whereby a mere change in identity, form or place of organization is effected.

Subdivisions (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. (Ord. 414)

21-14 Same – Certain conveyances to effectuate orders of Securities and Exchange Commission. Any tax imposed pursuant to this article 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 specified the property which is ordered to be conveyed.

c) Such conveyance is made in obedience to such order. (Ord. 414)

21-15 Same – Certain transfers of interest by partnerships.

a) In the case of any realty held by a partnership, no levy shall be imposed pursuant to this article by reason of any transfer of an interest in a partnership or otherwise.

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

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

b) If there is termination of any partnership within the meaning of section 708 of the Internal Revenue code of 1954, for purposes of this article, 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 left remaining thereon), all realty held by such partnership at the time of such termination.

c) No more than one tax shall be imposed pursuant to this article by reason of a termination described in subsection (b) of this section, and any transfer pursuant thereto, with respect to the realty held by such partnership at the time of such termination. (Ord. 414)

21-16 County recorder to administer article. The county recorder shall administer this article in conformity with the provisions of part 6.7 of division 2 of the Revenue and Taxation Code and the provisions of any county ordinance adopted pursuant thereto. (Ord. 414)

21-17 Claims for refunds. Claims for refund of taxes imposed pursuant to this article shall be governed by the provisions of chapter 5 (commencing with section 5096) of part 9, division 1 of the Revenue and Taxation Code of the state. (Ord. 414)

Article IV. Transient Occupancy Tax

(For state law authorizing city to levy tax on occupancy of hotels, see Gov. C. Sec. 51030)

21-18 Definitions. For the purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Hotel. 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.

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

Operator. 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 any employee, the managing agent shall also be deemed an operator for the purposes of this article and shall have the same duties and liabilities as his principal. Compliance with the provisions of this article by either the principal or the managing agent shall, however, be considered to be compliance by both.

Rent. 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.

Tax administrator. The City Clerk.

Transient. Any person who exercises occupancy or is entitled to occupancy by reason of concession, permit, right of access, license or other agreement for a period of thirty consecutive calendar days or less, counting portions of calendar days as full days. Any such person so occupying space in a hotel shall be deemed to be a transient until the period of thirty days has expired unless there is an agreement in writing between the operator and the occupant providing for a longer period of occupancy. In determining whether a person is a transient, uninterrupted periods of time extending both prior and subsequent to the effective date of this article may be considered. (Ord. 393)

21-19 Tax levied; payment of tax by transient. For the privilege of occupancy in any hotel, each transient is subject to and shall pay a tax in an amount as may be set from time to time by resolution of the City Council on the rent charged by the operator. Such tax constitutes a debt owned by the transient to the City which is extinguished only by

payment to the operator or to the city. The transient shall pay tax to the operator of the hotel at the time the rent is paid. If the rent is paid in installments, a proportionate share of the tax shall be paid with each installment. The unpaid tax shall be due upon the transient's ceasing to occupy space in the hotel. If for any reason the tax due is not paid to the operator of the hotel, the tax administrator may require that such tax shall be paid directly to the tax administrator. (Ord. 486)

21-20 Exemptions from impositions. No tax shall be imposed upon:

a) 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.

b) Any officer or employee of a foreign government who is exempt by reason of express provision of federal law or international treaty.

No exemption shall be granted except upon a claim therefore made at the time rent is collected and under penalty of perjury upon a form prescribed by the tax administrator. (Ord. 393 & 396)

21-21 Collection by operator; advertisements that tax not to be collected, etc., prohibited. Each operator shall collect the tax imposed by this article 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. (Ord. 393)

21-22 Registration of hotel; registration certificate. Within thirty days after the effective date of this article, or within thirty 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 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 collection 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 any unlawful manner, nor to operate a hotel without strictly complying with all local applicable laws, including but not limited to those requiring a permit from any board, commission, department or office of this city. This certificate does not constitute a permit. (Ord. 393)

21-23 Reporting and remitting of collections. Each operator shall, in or before the first 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, or 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 period for any certificate holder if he deems it necessary in order to insure collection of the tax and he may require further information in the return. Returns and payments are due immediately upon cessation of business for any reason. All taxes collected by operators pursuant to this article shall be held in trust for the account of the city until payment thereof is made to the tax administrator. (Ord. 393)

21-24 Penalties and interest.

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

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

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

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

e) Penalties merged with tax. Every penalty imposed and such interest as accrues under the provisions of this section shall become a part of the tax herein required to be paid. (Ord. 393)

21-25 Failure to collect and report tax; determination of tax by tax administrator. If any operator shall fail or refuse to collect the tax and to make, within the time provided in this article any report and remittance of such tax or any portion thereof required by this

article, the tax administrator shall proceed in such manner as he may deem best to obtain facts and information on which to base his estimate of the tax due. As soon as the tax administrator shall procure such facts and information as he is able to obtain upon which to base the assessment of any tax imposed by this article and payable by any operator who has failed or refused to collect the same and to make such report the tax, interest and penalties provided for by this article. In case such determination is made, the tax administrator shall give a notice of the amount so assessed by serving it personally or by depositing it in the United States mail, postage prepaid, addressed to the operator so assessed at his last known place of address. Such operator may within ten days after the serving or mailing of such notice make application in writing to the tax administrator for a hearing on the amount assessed. If application by the operator for a hearing is not made within the time prescribed, the tax, interest and penalties, if any, determined by the tax administrator shall become final and conclusive and immediately due and payable. If such application is made, the tax administrator shall give not less than five days written notice in the manner prescribed herein to the operator to show cause at a time and place fixed in said notice why said amount specified therein should not be fixed for such tax, interest and penalties. At such hearing, the operator may appear and offer evidence why such specified tax, interest and penalties should not be so fixed. After such hearing the tax administrator shall determine the proper tax to be remitted and shall thereafter give written notice to the person in the manner prescribed herein of such determination and the amount of such tax, interest and penalties. The amount determined to be due shall be payable after fifteen days unless an appeal is taken as provided in section 21-26. (Ord. 393)

21-26 Appeals. Any operator aggrieved by any decision of the tax administrator with respect to the amount of such tax, interest and penalties, if any, may appeal to the council by filing a notice of appeal with the city clerk within fifteen 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 applicant 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. (Ord. 393)

21-27 Records. It shall be the duty of every operator liable for the collection any payment to the city of any tax imposed by this article 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 any payment to the city, which records the tax administrator shall have the right to inspect at all reasonable times. (Ord. 393)

21-28 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 article it may be refunded as provided in subsections (b) and (c) of this section; provided,, that a claim in writing therefore, 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, 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 refunds shall be paid under the provisions of this section unless the claimant establishes his right thereto by written records showing entitlement thereto.

(Ord. 393)

21-29 Actions to collect. Any tax required to be paid by any transient under the provisions of this article 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 owned by the operator to the city. Any person owing money to the city under the provisions of this article shall be liable to an action brought in the name of the city for the recovery of such amount.

(Ord. 393)

21-30 Refusal to register, furnish return, etc; false reports or claims. Any operator or other person who fails or refuses to register as required in this article, or to furnish any return required to be made, or who fails or refuses to furnish a supplemental return or other data required by the tax administrator, or who renders a false or fraudulent return or claim, is guilty of a misdemeanor, and is punishable as provided in this code. Any person required to make, render, sign or verify any report or claim who makes any false or fraudulent report or claim with intent to defeat or evade the determination of any amount due required by this article to be made, is guilty of a misdemeanor and is punishable as provided in this Code.

(Ord. 393)

### Article V. Community Facilities Districts

21-31.1 District Established. By passage of this ordinance, this City Council hereby establishes a Community Facilities District entitled “City of Imperial Community Facilities district 2004-1 (Victoria Ranch)” to acquire and/or construct the Facilities, and authorizes and levies special taxes within the District pursuant to California Government Code Sections 53328 and 53340, at the rates and in accordance with the method of apportionment set forth in Exhibit B (the “Rate and Method of Apportionment”). The special taxes are hereby levied commencing in fiscal year 2004-2005, or the first fiscal year following the issuance of Bonds in an amount not to exceed \$25,000,000 by the District, whichever last occurs, and in each fiscal year thereafter until payment in full of any bonds of the City issued for the District (the “Bonds”), and payment of all costs of administering the District.

21-31.2 Financial Director Duty. The Finance Director of the City is hereby authorized and directed each fiscal year to determine the specified tax rate and amount to be levied for the next ensuing fiscal year for each parcel of real property within the District, in the manner and as provided in the Rate and Method of Apportionment.

21-31.3 Exempt Properties. Properties or entities of the state, federal or local governments shall be exempt from any levy of the special taxes, to the extent set forth in the Rate and Method of Apportionment. In no event shall the special taxes be levied on any parcel within the District in excess of the maximum tax specified in the Rate and Method of Apportionment.

21-31.4 Use of Funds. All of the collections of the special tax shall be used as provided for in the Act, the Rate and Method of Apportionment, and in the Ordinance of Formation including, but not limited to, the payment of principal and interest on the Bonds, the replenishment of the reserve fund for the Bonds, the payment of the costs of the Facilities, the payment of the costs of the City in administering the District and the costs of collecting and administering the special tax.

21-31.5 Collection of Tax. The special taxes shall be collected from time to time as necessary to meet the financial obligations of the District on the secured real property tax roll in the same manner as ordinary ad valorem taxes are collected. The Finance Director of the City is hereby authorized and directed to provide all necessary information to the auditory/tax collector of the County of Imperial and to otherwise take all actions necessary in order to effect proper billing and collection of the special tax, so that the special tax shall be levied and collected in sufficient amounts and at the times necessary to satisfy the financial obligations of the District in each fiscal year until these Bonds are paid in full and provision has been made for payment of all of the administrative costs of the District.

Notwithstanding the foregoing, the Finance Director of the City may collect one or more installments of the special taxes by means of direct billing by the City of the property owners within the District, if, in the judgment of the Finance Director, such

means of collection will reduce the administrative burden on the City in administering the District or is otherwise appropriate in the circumstances. In such event, the special taxes shall become delinquent if not paid when due as set forth in and, such respective billing to the property owners.

Whether the special taxes are levied in the manner provided in the first or the second preceding paragraph, the special taxes shall have the same lien priority, and be subject to these same penalties and same procedure and sale in cases of delinquency as provided for ad valorem taxes. In addition, the provisions of Section 53356.1 of the Act shall apply to delinquent special tax payments.

21-31.6        Appropriations Limit. In accordance with Section 53325.7 of the Act, the annual appropriations limit, as defined by subdivision (b) of Section 8 of Article XIII B of the California Constitution, of the District is hereby established at \$1,000,000.

21-31.7        Partial Invalidity. If for any reason any portion of this Ordinance is found to be invalid, or if the special tax is found inapplicable to any particular parcel within the District, by a Court of competent jurisdiction, the balance of this resolution and the application of the special tax to the remaining parcels within the District shall not be affected. (Ord. 685)

21-32.1        District Established. By passage of this ordinance, this City Council hereby establishes a Community Facilities District entitled “City of Imperial community Facilities District 2004-3 (Bratton Development)” to acquire and/or construct the Facilities, and authorizes and levies special taxes within the District pursuant to California Government Code Section 53328 and 53340, at the rates and in accordance with the method of apportionment set forth in Exhibit B (the “Rate and Method Apportionment”). The special taxes are hereby levied commencing in fiscal year 2004-2005, or the first fiscal year following the issuance of Bonds in an amount not to exceed \$10,000,000 by the District, whichever last occurs, and in each fiscal year thereafter until payment in full of any bonds of the City issued for the District (the “Bonds”), and payment of all costs of administering the District.

21-32.2        Financial Director Duty. The Finance Director of the City is hereby authorized and directed each fiscal year to determine the specified tax rate and amount to be levied for the next ensuing fiscal year for each parcel of real property within the District, in the manner and as provided in the Rate and Method of Apportionment.

21-32.3        Exempt Properties. Properties or entities of the state, federal or local governments shall be exempt from any levy of the special taxes, to the extent set forth in the Rate and Method of Apportionment. In no event shall the special taxes be levied on any parcel within the District in excess of the maximum tax specified in the Rate and Method of Apportionment.

21-32.4        Use of Funds. All of the collections of the special tax shall be used as provided for in the Act, the Rate and Method of Apportionment, and in the Ordinance of



Formation including, but not limited to, the payment of principal and interest on the Bonds, the replenishment of the reserve fund for the Bonds, the payment of the costs of the Facilities, the payment of the costs of the City in administering the District and the costs of collecting and administering the special tax.

21-32.5 Collection of Tax. The special taxes shall be collected from time to time as necessary to meet the financial obligations of the District on the secured real property tax roll in the same manner as ordinary ad valorem taxes are collected. The Finance Director of the City is hereby authorized and directed to provide all necessary information to the auditor/tax collector of the County of Imperial and to otherwise take all actions necessary in order to effect proper billing and collection of the special tax, so that the special tax shall be levied and collected in sufficient amounts and at the times necessary to satisfy the financial obligations of the District in each fiscal year until these Bonds are paid in full and provision has been made for payment of all of the administrative costs of the District.

Notwithstanding the foregoing, the Finance Director of the City may collect one or more installments of the special taxes by means of direct billing by the City of the property owners within the District, if, in the judgment of the Finance Director, such means of collection will reduce the administrative burden on the City in administering the District or is otherwise appropriate in the circumstances. In such event, the special taxes shall become delinquent if not paid when due as set forth in and, such respective billing to the property owners.

Whether the special taxes are levied in the manner provided in the first or the second preceding paragraph, the special taxes shall have the same lien priority, and be subject to these same penalties and the same procedure and sale in cases of delinquency as provided for ad valorem taxes. In addition, the provisions of Section 53356.1 of the Act shall apply to delinquent special tax payments.

21-32.6 Appropriations Limit. In accordance with Section 53325.7 of the Act, the annual appropriations limit, as defined by subdivision (b) of Section 8 of Article XIII B of the California Constitution, of the District is hereby established at \$1,000,000.

21-32.7 Partial Invalidity. If for any reason any portion of this ordinance is found to be invalid, or if the special tax is found inapplicable to any particular parcel within the District, by the Court of competent jurisdiction, the balance of this resolution and the application of the special tax to the remaining parcels within the District shall not be affected. (Ord. 692)

21-33.1 District Established. By the passage of this Ordinance, this City Council hereby establishes a Community Facilities District entitled "City of Imperial Community Facilities District 2004-2 (Mayfield) to acquire and/or construct the Facilities, and authorizes and levies special taxes within the District pursuant to California Government Code Section 53328 and 53340, at the rates and in accordance with the method of apportionment set forth in Exhibit B (the "Rate and Method of Apportionment"). The

special taxes are hereby levied commencing in fiscal year 2004-2005, or the first fiscal year following the issuance of Bonds in an amount not to exceed \$10,000,000 by the District, whichever last occurs, and in each fiscal year thereafter until payment in full of any bonds of the City issued for the District (the “Bonds”), and payment of all costs of administering the District.

21-33.2 Financial Director Duty. The Finance Director of the City is hereby authorized and directed each fiscal year to determine the specific tax rate and amount to be levied for the next ensuing fiscal year for each parcel of real property within the District, in the manner and as provided in the Rate and Method of Apportionment.

21-33.3 Exempt Properties. Properties or entities of the State, federal or local governments shall be exempt from any levy of the special taxes, to the extent set forth in the Rate and Method of Apportionment. In no event shall the special taxes be levied on any parcel within the District in excess of the maximum tax specified in the Rate and Method of Apportionment.

21-33.4 Use of Funds. All of the collection of the special tax shall be used as provided for in the Act, the Rate and Method of Apportionment, and in the Ordinance of Formation including, but not limited to, the payment of principal and interest on the Bonds, the replenishment of the reserve fund for the Bonds, the payment of the costs of the Facilities the payment of the costs of the City in administering the District and the costs of collecting and administering the special tax.

21-33.5 Collection of Tax. The special taxes shall be collected from time to time as necessary to meet the financial obligations of the District on the secured real property tax roll in the same manner as ordinary ad valorem taxes are collected. The Finance Director of the City is hereby authorized and directed to provide all necessary information to the auditor/tax collector of the County of Imperial and to otherwise take all actions necessary in order to effect property billing and collection of the special tax, so that the special tax shall be levied and collected in sufficient amounts and at the times necessary to satisfy the financial obligations of the District in each fiscal year until these Bonds are paid in full and provisions has been made for payment of all of the administrative costs of the District.

Notwithstanding the foregoing, the Finance Director of the City may collect one or more installments of the special taxes by means of direct billing by the City of the property owners within the District, if, in the judgment of the Finance Director, such means of collection will reduce the administrative burden on the City in administering the District or is otherwise appropriate in the circumstances. In such event, the special taxes shall become delinquent if not paid when due as set forth in and, such respective billing to the property owners.

Whether the special taxes are levied in the manner provided in the first or the second preceding paragraph, the special taxes shall have the same lien priority, and be subject to these same penalties and the same procedure and sale in cases of delinquency

as provided for ad valorem taxes. In addition, the provisions of Section 53356.1 of the Act shall apply to delinquent special tax payments.

21-33.6 Appropriations Limit. In accordance with Section 53325.7 of the Act, the annual appropriations limit, as defined by subdivision (b) of Section 8 of Article XIII B of the California Constitution of the District is hereby established at \$5,000,000.

21-33.7 Partial Invalidity. If for any reason any portion of this ordinance is found to be invalid, or if the special tax is found inapplicable to any particular parcel within the District, by a court of competent jurisdiction, the balance of this resolution and the application of the special tax to the remaining parcels within the District shall not be affected. (Ord. 700)

21-34.1 District Established. By the passage of this ordinance, this City Council hereby establishes a Community Facilities District entitled "City of Imperial Community Facilities District No. 2006-1 (Monterrey Park)" to acquire and/or construct the Facilities, and authorizes and levies special taxes within the District pursuant to California Government Code Section 53328 and 53340, at the rates and in accordance with the method of apportionment set forth in Exhibit B (the "Rate and Method of Apportionment"). The special taxes are hereby levied commencing in fiscal year 2006-2007, or the first fiscal year following the issuance of Bonds in an amount not to exceed \$23,000,000 by the District, whichever last occurs, and in each fiscal year thereafter until payment in full of any bonds of the City issued for the District (the "Bonds"), and payment of all costs of administering the District.

21-34.2 Notice of Special Tax Lien. Except when funds are otherwise available, upon recordation of a notice of special tax lien pursuant to the Streets and Highways Code Section 3114.5, a special tax sufficient to pay for all facilities and services, secured by the recordation of a continuing lien against all not exempt real property in the District shall be levied annually, as set forth in Exhibit B. This lien shall continue in full force and effect until the special tax obligation is prepaid and permanently satisfied and the lien cancelled in accordance with the law or until collection of the tax by the legislative body of the City ceases. Exhibits A, B, and C, attached hereto, contain those matters required by Government Code Section 53321, and are incorporated hereat.

21-34.3 Financial Director Duty. The Finance Director of the City, located at 420 South Imperial Avenue, Imperial, California, (760) 355-4373 is hereby authorized and directed each fiscal year to determine the specific tax rate and amount to be levied for the next ensuing fiscal year for each parcel of real property within the District, in the manner and as provided in the Rate and Method of Apportionment.

21-34.4 Exempt Properties. Properties or entities of the State, federal or local governments shall be exempt from any levy or the special taxes, to the extent set forth in the Rate and Method of Apportionment. In no event shall the special taxes be levied on any parcel within the District in excess of the maximum tax specified in the Rate and method of Apportionment.

21-34.5 Use of Funds. All of the collections of the special tax shall be used as provided for in the Act, the Rate and Method of Apportionment, and in the Ordinance of Formation including, but not limited to, the payment of principal and interest on the Bonds, the replenishment of the reserve fund for the Bonds, the payment of the costs of the Facilities the payment of the costs of the City in administering the District and the costs of collection and administering the special tax.

21-34.6 Collection of Tax. The special taxes shall be collected from time to time as necessary to meet the financial obligations of the District on the secured real property tax roll in the same manner as ordinary ad valorem taxes are collected. The Finance Director of the City is hereby authorized and directed to provide all necessary information to the auditor/tax collector of the County of Imperial and to otherwise take all actions necessary in order to effect proper billing and collection of the special tax, so that the special tax shall be levied and collected in sufficient amounts and at the times necessary to satisfy the financial obligations of the District in each fiscal year until these Bonds are paid in full and provision has been made for payment of all of the administrative costs of the District.

Notwithstanding the foregoing, the Finance Director of the City may collect one or more installments of the special taxes by means of direct billing by the City of the property owners within the District, if, in the judgment of the Finance Director, such means of collection will reduce the administrative burden on the City in administering the District or is otherwise appropriate in the circumstances. In such event, the special taxes shall become delinquent if not paid when due as set forth in such respective billing to the property owners.

Whether the special taxes are levied in the manner provided in the first or the second preceding paragraph, the special taxes shall have the same lien priority, and be subject to these same penalties and the same procedure and sale in cases of delinquency as provided for ad valorem taxes. In addition, the provisions of Section 53356.1 of the Act shall apply to delinquent special tax payments.

21-34.7 Appropriations Limit. In accordance with Section 53325.7 of the Act, the annual appropriations limit, as defined by subdivision (b) of Section 8 of Article XIII B of the California Constitution, of the District is hereby established at \$1,000,000.

21-34.8 Partial Invalidity. The City Council hereby determines that all proceeds were valid and in conformity with the requirements of Title 5, Division 2, Part 1, Chapter 2.5 of the California Government Code. If for any reason any portion of this ordinance found to be invalid, or if the special tax is found inapplicable to any particular parcel within the District, by a Court of competent jurisdiction, the balance of this resolution and the application of the special tax to the remaining parcels within the District shall not be affected. (Ord. 716)

21-35.1 District Established. By the passage of this ordinance, this City Council hereby establishes a Community Facilities District entitled “City of Imperial Community Facilities District No. 2006-2 (Savanna Ranch)” to acquire and/or construct the Facilities, and authorizes and levies special taxes within the District pursuant to California Government Code Section 53328 and 53340, at the rates and in accordance with the method of apportionment set forth in Exhibit B (the “Rate and Method of Apportionment”). The special taxes are hereby levied commencing in fiscal year 2006-2007, or the first fiscal year following the issuance of Bonds in an amount not to exceed \$6,000,000 by the District, whichever last occurs, and in each fiscal year thereafter until payment in full of any bonds of the City issued for the District (the “Bonds”), and payment of all costs of administering the District.

21-35.2 Notice of Special Tax Lien. Except when funds are otherwise available, upon recordation of a notice of special tax lien pursuant to the Streets and Highways Code Section 3114.5, a special tax sufficient to pay for all facilities and services, secured by the recordation of a continuing lien against all not exempt real property in the District shall be levied annually, as set forth in Exhibit B. This lien shall continue in full force and effect until the special tax obligation is prepaid and permanently satisfied and the lien cancelled in accordance with the law or until collection of the tax by the legislative body of the City ceases. Exhibits A, B and C, attached hereto, contain those matters required by Government Code Section 53321, and are incorporated hereat.

21-35.3 Financial Director Duty. The Finance Director of the City, located at 420 South Imperial Avenue, Imperial, California, (760) 355-4373 is hereby authorized and directed each fiscal year to determine the specific tax rate and amount to be levied for the next ensuing fiscal year for each parcel of real property within the District, in the manner and as provided in the Rate and Method of Apportionment.

21-35.4 Exempt Properties. Properties or entities of the State, federal or local governments shall be exempt from any levy of the special taxes, to the extent set forth in the Rate and Method of Apportionment. In no event shall the special taxes be levied on any parcel within the District in excess of the maximum tax specified in the Rate and Method of Apportionment.

21-35.5. Use of Funds. All of the collections of the special tax shall be used as provided for in the Act, the Rate and Method of Apportionment, and in the Ordinance of Formation including, but not limited to, the payment of principal and interest on the Bonds, the replenishment of the reserve fund for the Bonds, the payment of the costs of the Facilities the payment of the costs of the City in administering the District and the costs of collecting and administering the special tax.

21-35.6 Collection of Tax. The special taxes shall be collected from time to time as necessary to meet the financial obligations of the District on the secured real property tax roll in the same manner as ordinary ad valorem taxes are collected. The Finance Director of the City is hereby authorized and directed to provide all necessary information to the auditor/tax collector of the County of Imperial and to otherwise take

all actions necessary in order to effect proper billing and collection of the special tax, so that the special tax shall be levied and collected in sufficient amounts and at the times necessary to satisfy the financial obligations of the District in each fiscal year until there Bonds are paid in full and provision has been made for payment of all of the administrative costs of the District.

Notwithstanding the foregoing, the Finance Director of the City may collect one or more installments of the special taxes by means of direct billing by the City of the property owners within the District, if, in the judgment of the Finance Director, such means of collection will reduce the administrative burden on the City in administering the District or is otherwise appropriate in the circumstances. In such event, the special taxes shall become delinquent if not paid when due as set forth in such respective billing to the property owners.

Whether the special taxes are levied in the manner provided in the first or the second preceding paragraph, the special taxes shall have the same lien priority, and be subject to these same penalties and the same procedure and sale in cases of delinquency as provided for ad valorem taxes. In addition, the provisions of Section 53356.1 of the Act shall apply to delinquent special tax payments.

21-35.7        Appropriations Limit. In accordance with Section 53325.7 of the Act, the annual appropriations limit, as defined by subdivision (b) of Section 8 of Article XIII B of the California Constitution, of the District is hereby established at \$1,000,000.

21-35.8        Partial Invalidity. The City Council hereby determines that all proceedings were valid and in conformity with the requirements of Title 5, Division 2, Part 1, Chapter 2.5 of the California Government Code. If for any reason any portion of this ordinance is found to be invalid, or if the special tax is found inapplicable to any particular parcel within the District, by a Court of competent jurisdiction, the balance of this resolution and the application of the special tax to the remaining parcels within the District shall not be affected. (Ord. 717)