

City of Garden Grove
INTER-DEPARTMENT MEMORANDUM

To: Matthew J. Fertal	From: John D.R. Clark
Dept: City Manager	Dept: Office of the City Clerk
Subj: REVISION OF MUNICIPAL CODE: TITLE 3	Date: December 13, 2011

OBJECTIVE:

To secure City Council approval of an ordinance revising Title 3 of the Municipal Code, pursuant to staff's omnibus revision of the code.

BACKGROUND:

As indicated in the City Council Study Session on August 23rd, 2011, staff from the City Clerk's Office and the City Attorney's Office are reviewing and revising the entire Municipal Code, a task last done in 1969. In the intervening 42 years, a great many statutory and organizational references have become out-of-date. Additionally, there are some instances when operational processes have changed, or where greater efficiency and efficacy would suggest process changes.

DISCUSSION: TITLE 3

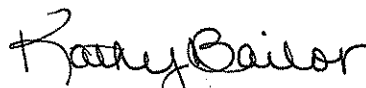
Title 3 is "revenue and taxation" part of the Municipal Code. It contains chapters on the City Treasurer, the Sales and Use Tax, Transient Occupancy Tax, Real Property Transfer Tax, Sale of Abandoned Property, Gas Tax, and user fees for code enforcement, special events, and General Plan. Overall, the recommended revisions to Title 3 are only clean-up changes.

FINANCIAL IMPACT:

None.

RECOMMENDED ACTIONS:

- Conduct the public hearing; and
- Introduce and conduct the first reading of the attached Ordinance amending Title 3 of the Garden Grove Municipal Code.


 KATHY BAILOR, CMC
 City Clerk


 JOHN D.R. CLARK
 Director/City Treasurer

Attachment: Proposed ordinance
 "Redline" version of Title 3

Approved for Agenda Listing


 Matthew Fertal
 City Manager

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GARDEN GROVE AMENDING TITLE 3 OF THE GARDEN GROVE MUNICIPAL CODE TO REMOVE OBSOLETE REFERENCES, TO CONFORM REFERENCES TO CURRENT CITY ORGANIZATION AND PRACTICES, TO MAKE CONSISTENT WITH RECENT CHANGES IN STATE AND FEDERAL LAWS, AND TO MAKE OTHER NON-SUBSTANTIVE CHANGES

City Attorney's Summary

This Ordinance amends Title 3 of the Garden Grove Municipal Code to remove obsolete references, to conform references to current City organization and practices, to make consistent with recent changes in state and federal laws, and to make other non-substantive changes.

THE CITY COUNCIL OF THE CITY OF GARDEN GROVE HEREBY FINDS AND DETERMINES AS FOLLOWS:

WHEREAS, the City of Garden Grove proposes amendments to Title 3 of the Garden Grove Municipal Code to remove obsolete references, to conform references to current city organization and practices, to make consistent with recent changes in state and federal law, and to make other non-substantive changes;

WHEREAS, pursuant to a legal notice, a Public Hearing was scheduled on December 13, 2011, conducted by the City Council and all interested persons were given an opportunity to be heard; and

WHEREAS, the City Council gave due and careful consideration to the matter.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF GARDEN GROVE DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Code Amendment. Title 3 of the Garden Grove Municipal Code is hereby amended as shown in Exhibit "A" (new text in color/underline; deleted text in color/strikeout).

Section 2. Severability. If any section, subsection, subdivision, sentence, clause, phrase, word, or portion of this Ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance and each section, subsection, subdivision, sentence, clause, phrase, word, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, words or portions thereof be declared invalid or unconstitutional.

Section 3. The Mayor shall sign and the City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same, or the summary thereof, to be published and posted pursuant to the provisions of law and this Ordinance shall take effect thirty (30) days after adoption.

EXHIBIT "A"

TITLE 3 OF THE GARDEN GROVE MUNICIPAL CODE

ATTACHED ON FOLLOWING PAGES

TITLE 3: REVENUE AND FINANCE*

* For provisions relating to ~~fiscal administration~~Fiscal Administration, see Chapter 2.20.

CHAPTER 04: CITY TREASURER

SECTION 3.04.010: Duties

The City Treasurer and the office thereof shall be responsible for carrying out all the duties required by state law except as otherwise delegated by City ~~ordinance~~Ordinance.

(Ordinance 1779 § 1 (part), 1981).

SECTION 3.04.020: Outstanding Warrants

All warrants outstanding after six (6) months may automatically be cancelled upon the request of the City Treasurer. This ~~section~~Section is in no way intended to relieve the City of the responsibility for payments required by law.

(Ordinance 1779 § 1 (part), 1981).

CHAPTER 08: SALES AND USE TAX*

* For statutory provisions authorizing a sales and use tax, see Gov. ~~C.A.~~ernment Code § 37101; for provisions relating to a Uniform Sales and Use Tax, see Revenue and Tax ~~C.A.~~Taxation Code § 7200 et seq.

SECTION 3.08.010: Short Title

This ~~chapter~~Chapter shall be known as the Uniform Local Sales and Use Tax ~~Ordinance of the City.~~ Ordinance.

(Prior Code § 6100).

SECTION 3.08.020: Purpose

This ~~chapter~~Chapter is adopted to achieve the following, among other purposes, and the provisions hereof shall be interpreted in order to accomplish those purposes:

- a. (1) To adopt a sales and use tax ~~which~~that complies with the requirements and limitations contained in Part 1.5 of Division 2 of the Revenue and Taxation Code of the state;
- b. (2) To adopt a sales and use tax ~~which~~that incorporates provisions identical to those of the Sales and Use Tax Law of the state, insofar as those provisions are not inconsistent with the requirements and limitations contained in Part 1.5 of Division 2 of the Revenue and Taxation Code;
- c. (3) To adopt a sales and use tax ~~which~~that imposes a one percent (1%) tax and provides a measure ~~therefor~~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;

e.

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

(Ordinance 546 § 1, 1961; Prior Code § 6101).

SECTION 3.08.030: Operative Date - Contract with State

The Uniform Sales and Use Tax shall become operative July 1, 1956, and prior thereto 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; provided, that, if the City has not contracted with the Board of Equalization, as above set forth, prior to July 1, 1956, the Sales and Use Tax 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 the Sales and Use Tax shall not become operative prior to the operative date of the uniform local sales and use tax ordinance of the county.

(Prior Code § 6102).

SECTION 3.08.040: Sales Tax

For the privilege of selling tangible personal property at retail, a tax is imposed upon all retailers at the rate of one percent (1%) of the gross receipts of the retailers from the sale of all tangible personal property sold at retail in the City on and after July 1, 1956.

(Prior Code § 6103).

SECTION 3.08.050: Consummation of Retail Sales

For the purposes of this chapterChapter, 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 Board of Equalization.

(Ordinance 546 § 2, 1961; Prior Code § 6104).

SECTION 3.08.060: Adoption of State Amendments

Except as hereinafter provided, 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 said Code, as amended and in force and effect on July 1, 1956, applicable to sales taxes, are adopted and made a part of

this section-Section as though fully set forth herein.
(Prior Code § 6105).

SECTION 3.08.070: City and State Sales Tax Responsibilities

Wherever, and to the extent that, in Part 1 of Division 2 of the Revenue and Taxation Code, the state is named or referred to as the taxing agency, the City shall be substituted therefor-e. Nothing in this section-Section 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 stateState; nor shall the name of the City be substituted for that of the state-State in any section-Section 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 chapterChapter; and neither shall the substitution be deemed to have been made in those sectionsSections, including, but not necessarily limited to, sections-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-that 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 of Division 2 of the Revenue and Taxation Code; nor to impose this tax with respect to certain gross receipts which-that would not be subject to tax by the state under said provisions of that codeCode; 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.

(Prior Code § 6106).

SECTION 3.08.080: State Seller's Permit

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 reason of this section-Section.

(Ordinance 1357 § 1, 1973; Prior Code § 6107).

SECTION 3.08.091: Sales Tax Gross Receipt Exclusions.* *

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

a.

- (1) The amount of any sales or use tax imposed by the state upon a retailer or consumer;

b.

- (2) The gross receipts from sales of tangible personal property to operators of waterborne vessels to be used or consumed personally 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;

c.

- (3) The gross receipts from the sale of tangible personal property to operators of aircraft to be used or consumed principally outside the city

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.

(Ordinance 1851 § 2, 1984; Ordinance 1842 § 5, 1983).

* This ~~section~~Section shall be operative on the operative date of any act of the Legislature of the ~~state~~State of California which that 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.

SECTION 3.08.100: Use Tax

An excise tax is imposed on the storage, use, or other consumption in the city of tangible personal property purchased from any retailer on or after July 1, 1956, for storage, use, or other consumption in the ~~City~~city at the rate of one percent (1%) 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.

(Prior Code § 6109).

SECTION 3.08.110: Adoption of State Use Tax Amendments

Except as hereinafter provided, 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 said ~~code~~Code, as amended and in force and effect on July 1, 1956, applicable to use taxes, are adopted and made a part of this ~~section~~Section as though fully set forth herein.

(Prior Code § 6110).

SECTION 3.08.120: City and State Use Tax Responsibilities

Wherever, and to the extent that, in Part 1 of Division 2 of the Revenue and Taxation Code the state is named or referred to as the taxing agency, the name of the City shall be substituted therefor. Nothing in this ~~section~~Section 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~~State, nor shall the name of the City be substituted for that of the state in any ~~section~~Section 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~~Chapter; and neither shall the substitution be deemed to have been made in those ~~sections~~Sections, including but not necessarily limited to, ~~sections~~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 storage, use or other consumption of tangible personal property which that 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 of 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 that would not be subject to tax by the state under said provisions of that ~~code~~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 cityCity 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. (Ordinance 546 § 1, 1961: Prior Code § 6111).

SECTION 3.08.131: Use Tax Exemptions.*

There shall be exempted from the tax due under this section:Section:

~~a.~~

(1) The amount of any sales or use tax imposed by the state upon a retailer or consumer;

~~b.~~

(2) The storage, use, or other consumption of tangible personal property, the gross receipts from the sale of which have been subject to sales tax under a salesSales or use tax ordinanceUse Tax Ordinance enacted in accordance with Part 1.5 of Division 2 of the Revenue and Taxation Code by any other city and county, county, or city in this state;

~~c.~~

(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;

~~d.~~

(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 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.

(Ordinance 1851 § 3, 1984; Ordinance 1842 § 6, 1983; Ordinance 1357 § 3, 1973).

* This section-Section shall be operative on the operative date of any act of the Legislature of the stateState of California which-that 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.

SECTION 3.08.140: Amendments

All amendments of the Revenue and Taxation Code enacted subsequent to July 1, 1956, whichthat 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.Chapter. (Prior Code § 6113).

SECTION 3.08.150: 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~~City, or against any officer of the state or this ~~city~~City, to prevent or enjoin the collection under this ~~chapter~~Chapter, or Part 1.5 of Division 2 of the Revenue and Taxation Code, of any tax or any amount of tax required to be collected. (Prior Code § 6114).

CHAPTER 12: HOTEL VISITORS TAX

SECTION 3.12.010: Title -- ~~Hotel visitors tax~~Visitors Tax

- (A) Revenue and Taxation Code Section 7280 et seq. authorizes local government to levy a tax on the privilege of occupying rooms in hotels, inns, tourist homes, or other forms of lodging for periods of less than thirty (30) days, subject to the provisions of the California Constitution.
- (B) The ~~city council~~City Council has established such an occupancy tax as provided for in this ~~chapter~~Chapter and said tax shall be known as the "~~hotel visitors tax~~"Hotel Visitors Tax." Wherever this ~~chapter~~Chapter refers to this tax levy as a transient occupancy tax, or by any other name, the tax shall be and is hereby designated as the ~~city's "hotel visitors tax."~~City's "Hotel Visitors Tax." (Ordinance 2533 § 1(2), 2000÷; Ordinance 753 (part), 1964÷; Prior Code § 6400).

SECTION 3.12.020: Definitions

Except where the context otherwise requires, the following definitions govern the interpretation and construction of this ~~chapter~~Chapter:

- (1) "Hotel" means any structure, or any portion of any structure, ~~which~~that 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.
- (2) "Occupancy" means the use or possession, or the right to the use or possession of any room or rooms or portion thereof, in any hotel for dwelling, lodging, or sleeping purposes.
- (3) "Operator" means the person who is proprietor of the hotel, whether in the capacity of owner, lessee, sublessee, mortgagee in possession, licensee, or any other capacity. Where the ~~operator~~Operator performs his functions through a managing agent of any type or character other than an employee, the managing agent shall also be deemed an ~~operator~~Operator for the purposes of this ~~chapter~~Chapter and shall have the same duties and liabilities as his principal. Compliance with the provisions of this ~~chapter~~Chapter by either the principal or the managing agent shall, however, be considered to be compliance by both.

- (4) "Person" means any individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate, or any other group or combination acting as a unit.
 - (5) "Qualifying Rental Agreement" means a written leasehold agreement signed by both the operator and transient obligating the transient to pay rent for the use and possession of a room or space in a hotel for a period of not less than thirty-one (31) consecutive days. The Qualifying Rental Agreement shall be legally enforceable by both the operator and the transient and it shall include in the terms both the right to occupy and the obligation to pay for a room or rooms for thirty-one (31) days or more. The Qualifying Rental Agreement expressly excludes:
 - (a) Any agreement, regardless of the rental term, which is terminated for any reason, by either party, or by mutual consent, prior to the thirty-first (31st) consecutive day of the occupancy; or
 - (b) Any agreement that would be unlawful or constitute a violation of law.
 - (6) "Recreational vehicle space" means any space set aside in a recreational vehicle park which that is intended or designed for the occupancy of a recreational vehicle which that is used as a dwelling, lodge or sleeping purposes by transients.
 - (7) "Rent" means the consideration charged, whether or not received, for the occupancy of space in a hotel valued in money, whether to be received in money, goods, labor, or otherwise, including all receipts, cash, credits, and property and services of any kind or nature, without any deduction therefrom whatsoever.
 - (8) "Transient" means any person who exercises occupancy or is entitled to occupancy by reason of concession, permit, right of access, license, or other agreement for a period of ~~thirty~~thirty (30) consecutive calendar days or less, counting portions of calendar days as full days. Any such person so occupying space in a hotel shall be deemed to be a transient until the period of thirty (30) days has expired unless there is an ~~agreement~~a Qualifying Rental Agreement in writing between the operator and the occupant providing for a longer period of occupancy. In determining whether a person is a transient, uninterrupted periods of time extending both prior and subsequent to the effective date of the ~~ordinance~~Ordinance codified herein may be considered.
- (Ordinance 1896 § 1, 1985; Ordinance 1299 § 1, 1972; Ordinance 821 § 1, 1965; Ordinance 753 (part), 1964; Prior Code § 6401).

SECTION 3.12.030: Tax imposedImposed

a-(A) For the privilege of occupancy in any hotel or other transient lodgings as

defined in this chapterChapter, each transient is subject to and shall pay a tax in the amount of thirteen percent (13%) of the rent charged by the operator. The tax constitutes a debt owed by the transient and/or owner to the cityCity whichCity that is extinguished only by payment to the operator or to the cityCity. The tax shall be paid 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 be paid directly to the City.

b-(B) Except as otherwise provided in this chapterChapter, all provisions relating to hotels shall be applicable to recreational vehicle spaces.

(Ordinance 2230 § 1, 1992; Ordinance 2183 § 1, 1991; Ordinance 1896 § 2, 1985; Ordinance 1895 § 1, 1985; Ordinance 1451 § 1, 1975; Ordinance 1064 § 3, 1969; Ordinance 753 (part), 1964; Prior Code § 6402).

* Tax increased by general-electionGeneral Election of November 5, 2002.

SECTION 3.12.040: Exemptions

(A) No tax shall be imposed upon:

- (1-) Any person as to whom, or any occupancy as to which, it is beyond the power of the cityCity to impose the tax herein provided;. Employees of the Federal Government and Federal Credit Unions are exempt from Hotel Visitors Tax for dates they are on official business for their employer.
- (2-) Any officer or employee of a foreign government who is exempt by reason of express provision of federal law or international treaty.
- (3) A person occupying a hotel pursuant to a Qualifying Rental Agreement entered into prior to the first (1st) day of occupancy.

(B) No exemption shall be granted except upon a claim therefortherefore made at the time rent is collected and under penalty of perjury upon a form prescribed by the tax-administrator.Tax Administrator. It is the responsibility of the person claiming an exemption to provide necessary proof of exemption. All forms executed by persons claiming an exemption shall be retained by the Operator for the period specified in Section 3.12.150.

(Ordinance 838 § 1, 1965; Ordinance 753 (part), 1964; Prior Code § 6403).

SECTION 3.12.050: Operator's dutiesDuties

Each operator shall collect the tax imposed by this chapterChapter 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.
(Ordinance 753 (part), 1964; Prior Code § 6404).

SECTION 3.12.060: Registration

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

- (1-) The name of the operator;
- (2-) The address of the hotel;
- (3-) The date upon which the certificate was issued;
- (4-) "This Transient Occupancy Registration Certificate signifies that the person named on the face hereof has fulfilled the requirements of the Uniform Transient Occupancy Tax Ordinance by registering with the Tax Administrator for the purpose of collecting from transients the Transient Occupancy Tax and remitting said tax to the Tax Administrator. This certificate does not authorize any person to conduct any unlawful business or to conduct any lawful business in an unlawful manner, nor to operate a hotel without strictly complying with all local applicable laws, including but not limited to those requiring a permit from any board, commission, department, or office of this City. This certificate does not constitute a permit."

(Ordinance 753 (part), 1964; Prior Code § 6405).

SECTION 3.12.070: Reporting and remitting

- (A) Each operator shall, on or before the fifteenth day of the month, make a return to the ~~tax administrator~~ Tax Administrator, on forms provided by ~~him~~ the Tax Administrator, of the total rents charged and received and the amount of tax collected for transient occupancies for the prior calendar month, except as herein provided. At the time the return is filed, the full amount of the tax collected shall be remitted to the ~~tax administrator~~ Tax Administrator. Returns and payments are due immediately upon cessation of business for any reason. All taxes collected by operators pursuant to this ~~chapter~~ Chapter shall be held in trust for the account of the ~~city~~ City until payment thereof is made to the ~~tax administrator~~ Tax Administrator. Any operator who has not collected a tax for transient occupancies for the prior ninety (90) days shall be excused from reporting and remitting until the operator has had transient occupancies, and then the operator shall report as required herein.
- (B) The filing of a return shall not preclude the City from collecting by appropriate action any tax actually due and payable pursuant to the

Chapter or taking any other action to enforce the provisions of the Chapter. Each return shall be subject to audit and verification by the Finance Director or authorized agents of the City, who are authorized to examine, audit, and inspect such books and records of any operator as may be necessary in their judgment to verify or ascertain the amount of tax due.

(Ordinance 826 § 1, 1965; Ordinance 753 (part), 1964; Prior Code § 6406).

SECTION 3.12.080: Penalty -- Original delinquency

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

(Ordinance 753 (part), 1964; Prior Code § 6407(a)).

SECTION 3.12.090: Penalty -- Continued delinquency

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

(Ordinance 753 (part), 1964; Prior Code § 6407(b)).

SECTION 3.12.100: Penalty -- Fraud

If the tax administrator If the Tax Administrator determines that the nonpayment of any remittance due under this chapter is due to fraud, a penalty of twenty-five percent (25%) of the amount of the tax shall be added thereto in addition to the penalties stated in Sections 3.12.080 and 3.12.090.

(Ordinance 753 (part), 1964; Prior Code § 6407(c)).

SECTION 3.12.110: Penalty -- Interest

In addition to the penalties imposed, any operator who fails to remit any tax imposed by this chapter shall pay interest at the rate of one-half of one percent 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.

(Ordinance 753 (part), 1964; Prior Code § 6407(d)).

SECTION 3.12.120: Penalties merged

Every penalty imposed and such interest as accrues under the provisions of Sections 3.12.080 through 3.12.110 shall become a part of the tax herein required to be paid.

(Ordinance 753 (part), 1964; Prior Code § 6407(e)).

SECTION 3.12.130: Failure to collect and report tax - Determination of tax by tax administrator

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

~~tax administrator~~Tax Administrator procures such facts and information as he is able to obtain upon which to base the assessment of any tax imposed by this ~~chapter~~Chapter and payable by any operator who has failed or refused to collect the same and to make such report and remittance, he shall proceed to determine and assess against such operator the tax, interest, and penalties provided for by this ~~chapter~~Chapter. In case such determination is made, the ~~tax administrator~~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 (10) days after the serving or mailing of such notice make application in writing to the ~~tax administrator~~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~~Tax Administrator shall become final and conclusive and immediately due and payable. If such application is made, the ~~tax administrator~~Tax Administrator shall give not less than five (5) 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~~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 (15) days unless an appeal is taken as provided in Section 3.12.140. (Ordinance 753 (part), 1964; Prior Code § 6408).

SECTION 3.12.140: Appeal

Any operator aggrieved by any decision of the ~~tax administrator~~Tax Administrator with respect to the amount of such tax, interest, and penalties, if any, may appeal to the ~~council~~City Council by filing a ~~notice~~Notice of ~~appeal~~Appeal with the ~~city clerk~~City Clerk within fifteen (15) days of the serving or mailing of the determination of tax due. The ~~council~~City Council shall fix a time and place for hearing such appeal, and the ~~city clerk~~City Clerk shall give notice in writing to such operator at his last known place of address. The findings of the ~~council~~City Council shall be final and conclusive and shall be served upon the appellant in the manner prescribed above for service of notice of hearing. Any amount found to be due, shall be immediately due and payable upon the service of notice. (Ordinance 753 (part), 1964; Prior Code § 6409).

SECTION 3.12.145: Enjoining Collection ~~Prohibited~~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 City or an officer thereof, to prevent or enjoin the collection of taxes sought to be collected pursuant to this Chapter, and payment of all tax, interest, and penalties shall be required as a condition precedent to seeking judicial review of any tax liability. (Ordinance 2756 § 1, 2009).

SECTION 3.12.150: Records

It shall be the duty of every operator liable for the collection and payment to the ~~city~~City of any tax imposed by this ~~chapter~~Chapter to keep and preserve, for a period of three (3) years, all records as may be necessary to determine the amount of such tax as he may have been liable for the collection of and payment to the ~~city~~City, which records the ~~tax administrator~~Tax Administrator shall have the right to inspect at all reasonable times.
(Ordinance 753 (part), 1964; Prior Code § 6410).

SECTION 3.12.160: Refunds

~~a-~~(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~~City under this ~~chapter~~Chapter, it may be refunded as provided in ~~subsections (b) and (c)~~Subsections (B) and (C) of this ~~section~~Section; provided 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~~Tax Administrator within three (3) years of the date of payment. The claim shall be on forms furnished by the ~~tax administrator~~Tax Administrator.

~~b-~~(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~~Tax Administrator that the person from whom the tax has been collected was not a transient; provided, however, that neither a refund nor a credit shall be allowed unless the amount of the tax so collected has either been refunded to the transient or credited to rent subsequently payable by the transient to the operator.

~~c-~~(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~~City by filing a claim in the manner provided in ~~subsection (a) of this section~~Subsection (A) of this Section, but only when the tax was paid by the transient directly to the ~~tax administrator~~Tax Administrator, or when the transient having paid the tax to the operator, establishes to the satisfaction of the ~~tax administrator~~Tax Administrator that the transient has been unable to obtain a refund from the operator who collected the tax.

~~d-~~(D) No refund shall be paid under the provisions of this ~~section~~Section unless the claimant establishes his or her right thereto by written records showing entitlement thereto.

(Ordinance 753 (part), 1964; Prior Code § 6411).

SECTION 3.12.170: Actions to ~~collect~~Collect

Any tax required to be paid by any transient under the provisions of this ~~chapter~~Chapter shall be deemed a debt owed by the transient to the ~~city~~City. Any such tax collected by an operator ~~which~~that has not been paid to the ~~city~~City shall be deemed a debt owed by the operator to the ~~city~~City. Any person owing money to the ~~city~~City under the provisions of this ~~chapter~~Chapter shall be liable to an

action brought in the name of the cityCity for the recovery of such amount.
(Ordinance 753 (part), 1964; Prior Code § 6412).

SECTION 3.12.180: Violation -- Penalty

- (A) Any person violating any of the provisions of this chapterChapter shall be guilty of a misdemeanor and shall be punishable as provided in Section 1.04.010.
- (B) Any operator or other person who fails or refuses to register as required herein, or to furnish any return required to be made, or who fails or refuses to furnish a supplemental return or other data required by the tax administratorTax Administrator, or who renders a false or fraudulent return or claim, is guilty of a misdemeanor, and is punishable as provided in Section 1.04.010.
- (C) 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 ordinanceOrdinance to be made, is guilty of a misdemeanor and is punishable as provided in Section 1.04.010.

(Ordinance 753 (part), 1964; Prior Code § 6413).

CHAPTER 16: REAL PROPERTY TRANSFER TAX*

*For statutory provisions authorizing the levy of a real property transfer tax, see Revenue and Tax C.A. § 1190Taxation Code § 11901 et seq.

SECTION 3.16.010: Title

This chapterChapter shall be known as the "real property transfer tax ordinance of the cityReal Property Transfer Tax Ordinance of the City of Garden Grove." 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.
(Ordinance 977 § 1 (part), 1967; Prior Code § 6600).

SECTION 3.16.020: Imposed

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 purchasers, or any other person or persons, by his or their direction, when the consideration or value of the interest or property conveyed (exclusive of the value of any lien or encumbrances remaining thereon at the time of sale) exceeds one hundred dollars (\$100), a tax at the rate of twenty-seven and one-half cents (\$.275) for each five hundred dollars (\$500) or fractional part thereof.
(Ordinance 977 § 1 (part), 1967; Prior Code § 6601).

SECTION 3.16.030: Payment

Any tax imposed pursuant to Section 3.16.010 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.

(Ordinance 977 § 1 (part), 1967; Prior Code § 6602).

SECTION 3.16.040: Exemptions

~~a.~~(A) Any tax imposed pursuant to this ~~chapter~~Chapter shall not apply to any instrument in writing given to secure a debt.

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

~~c.~~(C) Any tax imposed pursuant to this ~~chapter~~Chapter shall not apply to the making, delivering, or filing of conveyances to make effective any plan of reorganization or adjustment:

- (1) Confined under the Federal Bankruptcy Act, as amended;
- (2) Approved in an equity receivership proceeding in a court involving a railroad corporation, as defined in ~~subdivision (m) of~~Chapter 1, Section 205101 of Title 11 of the United States Code, as amended;
- (3) Approved in an equity receivership proceeding in a court involving a corporation, as defined in ~~subdivision (3) of~~Chapter 1, Section 506101 of Title 11 of the United States Code, as amended; or
- (4) Whereby a mere change in identity, form, or place of organization is effected. Subdivisions (1) to (4), inclusive, of this ~~subsection~~Subsection 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.

~~d.~~(D) Any tax imposed pursuant to this ~~chapter~~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~~Subdivision (a) of Section 1083 of the Internal Revenue Code of 1954, but only if:

- (1) 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;
- (2) Such order specifies the property ~~which~~that is ordered to be conveyed; and
- (3) Such conveyance is made in obedience to such order.

~~e.~~ (E) 1.)

~~(1-)~~ In the case of any realty held by a partnership, no levy shall be imposed pursuant to this ~~chapter~~Chapter by reason of any transfer of an interest in a partnership or otherwise, if:

- (a) Such partnership (or another partnership) is considered a continuing partnership within the meaning of Section 708 of the Internal Revenue Code of 1954; and
 - (b) Such continuing partnership continues to hold the realty concerned;
- ~~(2-)~~ 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~~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; and
- ~~(3-)~~ Not more than one tax shall be imposed pursuant to this ~~chapter~~Chapter by reason of a termination described in ~~subdivision~~Subdivision (2) of this ~~subsection~~Subsection, and any transfer pursuant thereto, with respect to the realty held by such partnership at the time of such termination.

(Ordinance 1085 § 1, 1969; Ordinance 977 § 1 (part), 1967; Prior Code § 6603).

SECTION 3.16.050: Administration

~~The county recorder~~The County Recorder shall administer this ~~chapter~~Chapter in conformity with the provisions of ~~part~~Part 6.7 of Division 2 of the Revenue and Taxation Code and the provisions of any ~~county ordinance~~County Ordinance adopted pursuant thereto.

(Ord 977 § 1 (part), 1967; Prior Code § 6604).

SECTION 3.16.060: Claims for refund

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

(Ordinance 977 § 1 (part), 1967; Prior Code § 6605).

SECTION 3.16.070: Operative date

This ~~chapter~~Chapter shall become operative upon the operative date of any ~~ordinance~~Ordinance adopted by the ~~county~~County of Orange, pursuant to ~~part~~Part 6.7 (commencing with Section 11901) of Division 2 of the Revenue and Taxation Code of the state, or upon the effective date of the ~~ordinance~~Ordinance codified herein, whichever is the later.

(Ordinance 977 § 1 (part), 1967; Prior Code § 6606).

CHAPTER 20: TAX PROCEDURE

SECTION 3.20.010: Assessing and collecting

The duties of assessing property and collecting taxes, provided by law to be performed by the assessor and tax collector of the city, Assessor and Tax Collector of the City shall be performed by the county assessor and the county tax collector of the county County Assessor and the County Tax Collector of the County of Orange, state State of California, in accordance with the provisions of Sections 51500 to 51519, inclusive, of the Government Code of the state, for the fiscal year 1957-1958, and for each succeeding year until this chapter Chapter is revoked. (Prior Code § 2700).

CHAPTER 24: SALE OF ABANDONED PROPERTY*

*For provisions relating to abandoned vehicles see Chapter 8.28.

SECTION 3.24.010: Required - Duty of chiefChief of policePolice

It shall be the duty of the chiefChief of policePolice to offer for sale annually or semiannually at a public sale all salable property abandoned or property otherwise coming into the possession of the chiefChief of policePolice, except property the disposition of which, is governed by Sections 1407 to 1411 of the Penal Code of the state.

(Prior Code § 2620).

SECTION 3.24.020: Holding period

All property governed by this chapter Chapter shall be held by the chiefChief of policePolice for a period of at least six (6) months before being offered for sale.

(Prior Code § 2621).

SECTION 3.24.030: Notice of public sale

Notice of said public sale shall be by publication in a newspaper of general circulation printed and published in the city City five (5) days prior to said sale.

(Prior Code § 2622).

SECTION 3.24.040: Public auction

The sale of the property covered by this chapter Chapter shall be by public auction and shall be sold to the highest bidder.

(Prior Code § 2623).

SECTION 3.24.050: Disposition of receipts

All money derived by the chiefChief of policePolice from the sale shall be deposited by the chiefChief of policePolice in the general revenue fund General Revenue Fund.

(Prior Code § 2624).

CHAPTER 28: GAS TAX STREET IMPROVEMENT FUND

SECTION 3.28.010: Created

Pursuant to the provisions of Section 2113 of the Streets and Highways Code, there is hereby created in the city treasury City Treasury a special fund to be known as the "special gas tax street improvement fund Special Gas Tax Street Improvement Fund."

(Prior Code § 2500).

SECTION 3.28.020: Receipts

All money received by the ~~city~~City from the ~~state~~State under the provisions of the Streets and Highways Code for the acquisition of real property or interests therein ~~for~~, or the construction, maintenance, or improvements of streets or highways other than state highways, shall be paid into said fund.
(Prior Code § 2500.1).

SECTION 3.28.030: Expenditures

All moneys in said fund shall be expended exclusively for the purposes authorized by, and subject to the provisions of Sections 2107, 2107.1, 2107.2, 2107.4, 2111, 2112, 2113, 2113.5, 2114, 2114.5, 2115 and 2116 of the Streets and Highways Code.
(Prior Code § 2500.2).

CHAPTER 32: FEES*

* Prior Ordinance history: Ordinance Nos. 1215, 1216, 1442, 1444, and 1655.

SECTION 3.32.010: Fees to be set by ~~resolution~~Resolution

Fees related to mailings of ~~city council planning commission~~the City Council and Planning Commission agendas, fingerprinting services, and business licenses, and the use of community recreation buildings of the City, shall be established by ~~city council resolution~~City Council Resolution.
(Ordinance 2290 § 1 (2), 1994).

CHAPTER 40: CODE ENFORCEMENT FEES

SECTION 3.40.010: Fees imposed

There is imposed upon each person who receives a notice of violation, notice and order, or letter of correction of any provision or ~~ordinance~~Ordinance codified in this ~~code~~Code, adopted building codes, or state law, a reinspection fee, in such amounts as set forth from time to time by ~~resolution by the city council, which~~City Council Resolution, that may be assessed for each inspection or reinspection conducted when the particular violation for which an inspection or reinspection is scheduled is not fully abated or corrected as directed by, and within the time and manner specified in, the notice or letter. The fee shall not apply to the original inspection to document the violations and shall not apply to the first scheduled compliance inspection made after the issuance of a notice or letter, whether or not the correction has been made. If a notice or letter has been previously issued for the same violation and the property has been in compliance with the law for less than six (6) months, then the violation shall be deemed a continuation of the original case and all inspections or reinspection, including the first inspection for the repeated offense, shall be charged a reinspection fee. This fee is intended to compensate for administrative costs for unnecessary inspections, and not for enforcement of the law. Any reinspection fees imposed shall be separate and apart from any fines or penalties imposed for violation of the law, or costs incurred by the ~~city~~City for the abatement of a public nuisance.
(Ordinance 2187 § 1, 1991).

CHAPTER 44: SPECIAL EVENT PERMIT FEES

SECTION 3.44.010: ~~Special event permit fees~~Event Permit Fees

There shall be a fee imposed for the issuance of special event permits as established by ~~city council resolution~~City Council Resolution. (Ordinance 2290 § 1 (3), 1994; Ordinance 2186 § 1, 1991).

CHAPTER 48: GENERAL PLAN AND CULTURAL ARTS FEE

SECTION 3.48.010: Fee imposed

There is imposed a fee for the issuance of a ~~building permit~~Building Permit and for assessed building evaluation, to be specifically allocated for updating the general ~~plan~~General Plan and for cultural arts, in such amounts as set forth from time to time by the ~~city council by resolution~~City Council Resolution. (Ordinance 2185 § 1, 1991).