

Title 3
REVENUE AND FINANCE

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Chapter 3.00
PURCHASING SUPPLIES AND PERSONAL PROPERTY

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- 3.00.010 Purpose and Policy.
- 3.00.020 Purchasing Officer-Office Created.
- 3.00.030 Purchasing Officer-Duties.
- 3.00.040 Competitive Negotiation-When Required
- 3.00.050 Competitive Negotiation Procedures.
- 3.00.060 Exemptions to Competitive Negotiations.

3.00.010 Purpose and Policy. In order to establish efficient procedures for the purchase of supplies and equipment at the lowest possible cost and to assure the quality of purchases, a purchasing system is hereby adopted. (Ord. No. 815, § I, 11-20-01)

3.00.020 Purchasing Officer-Office Created. There is created the position of Purchasing Officer. The duties of this Officer shall be administered by the City Manager or such person as he or she may designate. (Ord. No. 815, § I, 11-20-01)

3.00.030 Purchasing Officer-Duties. The duties of the Purchasing Officer shall be to purchase or contract for supplies, equipment and personal property pursuant to such administrative regulations as the Purchasing Officer may adopt, and such other rules and regulations as may be prescribed by the City Manager and approved by the City Council. The duties of the Purchasing Officer shall also include the disposition of surplus real and personal property, as provided in Chapter 3.03 of this Code. (Ord. No. 815, § I, 11-20-01)

3.00.040 **Competitive Negotiation-When Required.** Purchasing supplies, equipment and personal property shall be by competitive negotiation except as provided in Section 3.00.050. (Ord. No. 815, § I, 11-20-01)

3.00.050 **Competitive Negotiation Procedures.** Purchases subject to the competitive negotiation requirement shall be made by the Purchasing Officer as follows:

A. Request for Proposal: A request for proposal shall be prepared and shall identify all significant evaluation factors, including price or costs when required, and their relative importance.

B. Solicitation for Proposals: Proposals shall be solicited from an adequate number of qualified sources to permit reasonable competition consistent with the nature and requirements of the procurement. The request for proposals should be publicized and reasonable requests by other sources to compete should be honored to the maximum extent practicable.

C. Evaluation: The Purchasing Officer shall provide mechanisms for technical evaluation of the proposals received and determinations of responsible offerors, for the purpose of written or oral discussions and selection for contract award.

D. Award: Award may be made to the responsible offeror whose proposal will be most advantageous to the City, price and other factors considered. Unsuccessful offerors should be notified promptly. (Ord. No. 815, § 1,11-20-01)

3.00.060 **Exemptions to Competitive Negotiation.** Competitive negotiation for the purchase of supplies, equipment and personal property shall not be required in the following circumstances:

A. In the case of an emergency.

B. When the amount involved is less than ten thousand dollars (\$10,000.00).

C. When the item can be obtained from only one vendor. (Ord. No. 815, § 1, 11-20-01)

Chapter 3.01
PROCUREMENT OF PROFESSIONAL SERVICES

Sections:

- 3.01.010 Purpose and Policy.
- 3.01.020 Procurement Officer-Office Created.
- 3.01.030 Procurement Officer-Duties.
- 3.01.040 Competitive Procurement Procedures.
- 3.01.050 Exemptions to Competitive Procurement Procedures.
- 3.01.060 Award of Contract.
- 3.01.070 Term of Professional Services.
- 3.01.080 City Council Discretion.
- 3.01.090 Contracts Under Ten Thousand Dollars (\$10,000.00).

3.01.010 Purpose and Policy. It shall be the policy of the City that the procurement of professional services, including engineering, architectural, landscape architectural, environmental, land surveying, or construction project management services shall be on the basis of demonstrated competence and on the professional qualifications necessary for the satisfactory performance of the services required, and on the fairness and reasonableness of the costs of services to the City, but shall not be awarded solely on the basis of cost. (Ord. 1060, July 21, 2015)

3.01.020 Procurement Officer-Office Created. There is created the position of Procurement Officer. The duties of this Officer shall be administered by the City Manager or such person as he or she may designate. (Ord. 1060, July 21, 2015)

3.01.030 Procurement Officer-Duties. The duties of the Procurement Officer shall be:

A. The promulgation of administrative regulations and the adoption of such other rules and regulations as may be prescribed by the City Manager and approved by the City Council. Such regulations shall specifically prohibit practices which might result in unlawful activity including, but not limited to, rebates, kickbacks, or other unlawful consideration, and shall specifically prohibit City employees from participating in the selection process when those employees have a relationship with a person or business entity seeking a contract under this Section which would subject those employees to the prohibitions of the conflict of interest laws.

B. The negotiation and recommendation of execution of contracts for professional services.
(Ord. 1060, July 21, 2015)

3.01.040 Competitive Procurement Procedures. The Procurement Officer shall comply with the following procedure for the procurement of professional services:

A. Request for Proposal: Prepare a request for proposal and submit the request for proposal to the City Council for approval. The request for proposal shall identify all significant evaluation factors, including price or costs when required, and their relative importance.

B. Solicitation of Proposal: The request for proposals shall be publicized and disclosed publically on the City website. Any properly qualified firm or professional shall be permitted to timely submit a responsive proposal for consideration.

C. Evaluation: The Procurement Officer shall develop mechanisms for the technical evaluation of proposals received, and shall conduct discussions with the proposers regarding anticipated concepts and the relative utility of alternative methods of approach for furnishing the required services.

D. Compilation: The Procurement Officer shall compile the proposals for consideration by the City Council.
(Ord. 1060, July 21, 2015)

3.01.050 Exemptions to Competitive Procurement Procedure. Upon obtaining approval from the City Council, the Procurement Officer may engage services of a professional firm or individual without complying with the Competitive Procurement Procedures in the following circumstances:

- A. The services are available only from a single source; or
- B. Public exigency or emergency will not permit delay; or
- C. State or federal grant or loan requirements authorize noncompetitive procurement of such services; or
- D. After solicitation of a number of sources, competition is deemed inadequate.

In circumstances of public exigency or emergency where prior approval of the City Council cannot be reasonably obtained, the City Manager may engage services of a professional firm or individual. The professional services contract shall be submitted to the City Council at the next regularly scheduled City Council meeting. (Ord. 1060, July 21, 2015)

3.01.060 Award of Contract. City Council approval is required for all contracts for professional services when the cost of the services is ten thousand dollars (\$10,000.00) or more. The contract shall clearly state the names of the professionals that will provide services under the contract, along with their hourly rate. The contract shall also state a “not to exceed” sum. The professional shall not exceed the “not to exceed” sum without the City Council’s prior approval. (Ord. 1060, July 21, 2015)

3.01.070 Term of Professional Services. The term of any professional services contract awarded shall not exceed one (1) year. Contracts shall be submitted to the City Council annually for approval, renewal, termination, non-renewal or extension. Professional services contracts shall not contain “evergreen” type clauses that allow for automatic renewal without City Council approval. (Ord. 1060, July 21, 2015)

3.01.080. City Council Discretion. The award of a contract for professional services shall be within the City Council’s discretion. The City Council may, in its discretion, modify or extend a request for proposal for professional services. The City Council reserves the right to reject any and all proposals. (Ord. 1060, July 21, 2015)

3.01.090 Contracts Under Ten Thousand Dollars (\$10,000.00). Professional services contracts under ten thousand dollars (\$10,000.00) may be awarded by the Procurement Officer without City Council approval. Professional services contracts shall not be divided into smaller contracts or subcontracts to avoid the competitive procedures set forth in Sections 3.01.040 and 3.01.060. (Ord. 1060, July 21, 2015)

Chapter 3.02 **PUBLIC WORKS CONTRACTS**

Sections:

- 3.02.010 Purpose and Policy.
- 3.02.020 Contracting Officer-Office Created.
- 3.02.030 Contracting Officer- Duties.
- 3.02.040 Definition of "Public Project".
- 3.02.050 Competitive Bidding-When Required.
- 3.02.060 Exemptions to Competitive Bidding.
- 3.02.070 Competitive Bidding Procedures.
- 3.02.080 Competitive Negotiation Procedures: Maintenance or Repair of Streets or Sewers.
- 3.02.090 Exemptions to Competitive Negotiation Procedures: Maintenance or Repair of Streets or Sewers.

3.02.010 Purpose and Policy. In order to establish efficient procedures for the construction of public works at the lowest possible cost consistent with the highest standards of quality, a public works contracting system is hereby adopted. (Ord. No. 815, § 1, 11-20-01)

3.02.020 Contracting Officer-Office Created. There is created the position of Contracting Officer. The duties of this Officer shall be administered by the City Manager or such person as he or she may designate. (Ord. No. 815, § I, 11-20-01)

3.02.030 Contracting Officer-Duties. The duties of the Contracting Officer shall be to contract for the construction of public works pursuant to such administrative regulations as the Contracting Officer may adopt, and such other rules and regulations as may be prescribed by the City Manager and approved by the City Council.(Ord. No. 815, § 1, 11-20-01)

3.02.040 Definition of "Public Project". "Public project" is defined for bidding purposes as:

- A. The erection, improvement, painting or repair of public buildings and works;
- B. Street or sewer work, except maintenance or repair; and
- C. Furnishing supplies or materials for any such project, including maintenance or repair of streets or sewers. (Ord. No. 815, § 1, 11-20-01)

3.02.050 Competitive Bidding-When Required. Public works projects over five thousand dollars (\$5,000.00) shall be implemented by competitive bidding. A project may not be split into smaller portions to avoid the competitive bidding requirement. (Ord. No. 815, § I, 11-20-01)

3.02.060 Exemptions to Competitive Bidding. Public works contracts may be awarded without competitive bidding in the following circumstances:

- A. When the amount involved is five thousand dollars (\$5,000.00) or less;
- B. The services sought are available only from a single source;
- C. An emergency exists, as determined the City Council by a four-fifths vote; or
- D. If the Contracting Officer determines, on the basis of reasonable evidence, that competitive bidding would be impossible and unnecessary, and that it is in the public interest to implement the project as a "design-build" project. (Ord. No. 815, § I, 11-20-01)

3.02.070 Competitive Bidding Procedures. The Contracting Officer shall comply with the following procedures for the procurement of public works contracts:

A. Notice Inviting Bids: The notice inviting bids shall set a date for the opening of bids. The timing, content and method of publishing the notice are set forth in the California Public Contract Code, at Sections 20160 et seq. and 4104.5, and Government Code, Section 53068.

B. Additive and Deductive Bids: The Contracting Officer is authorized to include in the notice inviting bids provisions for items that can be added or deducted from the scope of work, as authorized by Public Contract Code, Section 20103.8.

C. Bid Addenda: If the Contracting Officer issues a bid addendum that results in a "material change" to the notice inviting bids, the date and time for submitting the bids shall be extended by no less than seventy-two (72) hours.

D. Presentation of Bid and Security: All bids shall be sealed and accompanied by a security of at least ten percent (10%) of the bid amount to guarantee the bid. The Contracting Officer shall not consider a bid from a bidder who fails to provide the required security.

E. Evaluation: The invitation for bids shall be written so that there is clear method to compare bids and determine which bid is the lowest monetary bid.

F. Award: The contract shall be awarded to the lowest responsible bidder. The process for selecting the lowest responsible bidder includes a determination of (1) which bidder is the lowest "monetary bidder", (2) whether or not the lowest monetary bidder submitted a "responsible bid", and (3) whether or not the lowest monetary bidder is responsible. If the lowest monetary bidder is responsible and submits a responsive bid, the contract shall be awarded to the lowest monetary bidder even if another bidder is "more responsible".

G. Contracting Officer's Authority to Award: The Contracting Officer is authorized to enter into public works contracts in an amount not to exceed ten thousand dollars (\$10,000.00) without the prior approval of the City Council. The Contracting Officer is authorized to enter into contract change orders without the prior approval of the City Council as follows:

(1) For contracts of fifty thousand dollars (\$50,000.00) or less, a change or cumulative change shall not exceed the total of five thousand dollars (\$5,000.00);

(2) For contracts of more than fifty thousand dollars (\$50,000.00) but less than two hundred fifty thousand dollars (\$250,000.00), a change or cumulative changes shall not exceed a total of ten percent (10%) of the original contract amount; and

(3) For contracts of two hundred fifty thousand dollars (\$250,000.00) or more, a change order or cumulative change orders shall not exceed twenty-five thousand (\$25,000.00) plus two percent (2%) of the original contract in excess of two hundred fifty thousand (\$250,000.00).

In no case shall an individual change or cumulative changes cause the total contract amount to exceed the budget amount approved by the City Council.

H. Bid Protests:

(1) Responsibility: If the Contracting Officer intends to reject a bid based on "non-responsibility", prior to award of the contract the Contracting Officer shall give notice to the bidder of any evidence reflecting upon his responsibility, afford him an opportunity to rebut such adverse evidence, and permit him to present evidence that he is qualified to perform the contract.

(2) Responsiveness: If the Contracting Officer determines that a bidder is nonresponsive, the bidder is entitled to notice of that fact and is entitled to submit materials, in a manner defined by the Contracting Officer, concerning the issue of responsiveness. The Contracting Officer is not required to conduct a hearing and need not produce findings.

(1.) Bid Rejection: The City Council, may, in its discretion, reject all bids without having to give a reason. If no bids are received the City Council may then dispense with competitive bidding. If all bids are rejected the City Council may, on four-fifths vote, find that the project can be performed more economically by day labor or through open market purchases of materials and supplies, and dispense with further public bidding; provided, however, that the work shall be performed in accordance with the same plans and specifications.

(1.) Mistakes:

(1) Changing the Bid: Once a bid is open, the bidder may not thereafter change the bid. Clerical errors in listing subcontractors may be corrected if the procedures of Public Contract Code, Section 4107.5 are followed.

(2) Consent to Withdraw: In the case of bid mistakes, the City Council may consent to a withdrawal of the bid if the bidder establishes that the requirements of California Public Contract Code, Section 5103 have been satisfied.

(3) Prohibition to Further Bidding: A bidder who claims mistake or forfeits its bid security shall not be permitted to participate in further bidding on the same project. (Ord. No. 815, § I, 11-2Q-01)

3.02.080 Competitive Negotiation Procedures: Maintenance or Repair of Streets or Sewers. The Contracting Officer is authorized to contract, in an amount not to exceed ten thousand dollars (\$10,000.00), for work, labor and services (but not including supplies or materials) needed to maintain or repair streets or sewers, in accordance with the following procedures:

A. Request for Proposal: A request for proposal shall be prepared that identifies all significant evaluation factors, including price or costs when required, and their relative importance.

B. Solicitation of Proposal: Proposals shall be solicited from an adequate number of qualified sources to permit reasonable competition consistent with the nature and requirements of the procurement. The request for proposals should be publicized and reasonable requests by other sources to compete should be honored to the maximum extent practicable.

C. Evaluation: The Contracting Officer shall develop mechanisms for the evaluation of the proposals received, and shall conduct discussions with the proposers regarding anticipated concepts and the relative utility of alternative methods of approach for furnishing the required work, labor and services.

D. Award: The Contracting Officer shall selected, in order of preference and based upon criteria developed under Paragraph C above, the responsible offeror whose proposal will be most advantageous to the City, price and other factors considered. Unsuccessful offerors should be notified promptly.

For contracts of more than ten thousand dollars (\$10,000.00), the Contracting Officer shall obtain the prior approval of the City Council. (Ord. No. 815, § 1, 11-20-01)

3.02.090 Exemptions to Competitive Negotiation Procedures: Maintenance or Repair of Streets or Sewers. The Contracting Officer is authorized to engage the services of a firm or individual without complying with the Competitive Negotiation Procedures for maintenance or repair of streets or sewers in the following circumstances:

A. The services are available only from a single source; or

B. Public exigency or emergency will not permit a delay; or

C. State or federal grant or loan requirements authorize noncompetitive procurement of such services; or

D. After solicitation of a number of sources, competition is determined inadequate. (Ord. No. 815, § 1, 11-20-01)

Chapter 3.03
DISPOSAL OF SURPLUS PERSONAL AND REAL PROPERTY

Sections:

- 3.03.010 Disposal of Personal Property.
 3.03.020 Disposal of Real Property.
 3.03.030 Surplus Property and Low and Moderate-Income Housing.
 3.03.040 Disposition of Property for Park, Enterprise Zone or School Purposes.
 3.03.050 Optional Procedure for Disposition of Real Property.
 3.03.060 Restrictions Applicable to Disposition of Real Property.
 3.03.070 Restrictions Applicable to the Disposal of Both Real and Personal Property.

3.03.010 Disposal of Personal Property. The duties of the Purchasing Officer shall include the disposition of personal property in any lawful manner provided that the disposition is for the common benefit of the City's citizens. A formal declaration that the property is surplus shall not be required. (Ord. No. 815, § I, 11-20-01)

3.03.020 Disposal of Real Property. The duties of the Purchasing Officer shall include the disposition of real property in any lawful manner provided that the sale is for the common benefit of the City's citizens. The City Planning Commission shall prepare a report that indicates that disposition of the property conforms with the General Plan. A formal declaration that the property is surplus shall not be required. (Ord. No. 815, § 1, 11-20-01)

3.03.030 Surplus Property and Low and Moderate-Income Housing. Prior to the disposition of surplus real property, the Purchasing Officer shall comply with the following procedure:

A. Inventory: On or before December 31, of each year the Purchasing Officer shall prepare an inventory of property which is in excess of the City's foreseeable needs, and shall provide a copy of the inventory to any person who so requests, pursuant to Government Code, Section 50569.

B. Notice to Housing Providers: Before disposing of surplus real property, the Purchasing Officer shall send a written offer of surplus property for low-income housing to any city or county in which the property is located for the purpose of developing low or moderate-income housing, pursuant to California Government Code, Section 54222(a). The offer shall also be sent to any "housing sponsor", as defined by California Health and Safety Code, Section 50074, who requests it.

C. Sale and Reverter: The Purchasing Officer may sell the property to any housing corporation, limited dividend corporation, or non-profit corporation for development for housing for persons of low or moderate-income. The deed conveying title shall include a clause reverting the property to the City if the property is no longer owned by a majority of the non-profit or limited dividend sponsors, pursuant to California Government Code, Section 50570. (Ord. No. 815, § 1, 11-20-01)

3.03.040 Disposition of Property for Park, Enterprise Zone or School Purposes. Offers to sell or lease surplus property for park and recreation or open-space purposes shall be sent to the park or recreation department of any city or county in which the property is located, the regional park authority, or the California Resources Agency. Offers to sell for enterprise zone purposes shall be sent to non-profit Neighborhood Enterprise Association Corporations. Offers to sell for school purposes shall be sent to the public school districts within which the property is located. Failure to comply with these provisions shall not invalidate the transfer or conveyance of the real property. (Ord. No. 815, § 1, 11-20-01)

3.03.050 Optional Procedure for Disposition of Real Property. Pursuant to California Government Code, Sections 37420-37430, the Purchasing Officer is authorized to utilize the following optional procedure for the disposition of real property:

A. Preparation of Resolution of Intent: The Purchasing Officer shall prepare a resolution of intention, which shall fix the time for a public hearing, provide for published notice, fix the time final action will be taken, and contain an accurate description of the property.

B. Publication: The Purchasing Officer shall publish the resolution at least once in a daily newspaper and post it at least ten (10) days in three (3) conspicuous places on the subject property.

C. Overriding Protests: A four-fifths vote of the City Council is needed to override any protests to the proposed disposition. (Ord. No. 815, § I, 11-20-01)

3.03.060 Restrictions Applicable to Disposition of Real Property. Property which is dedicated pursuant to the Subdivision Map Act shall be conveyed back to the original sub-divider if not used for the purpose originally dedicated. (Ord. No. 815, § I, 11-20-01)

3.03.070 Restrictions Applicable to the Disposal of Both Real and Personal Property.

A. Government Grant Funds: Property purchased with federal or state grant money shall be disposed of pursuant to the conditions of the grant.

B. Redevelopment Agency Property: Shall be disposed of through a public bidding process or after a public hearing therefore. Property may be sold for less than fair market value to fulfill the purposes of a redevelopment plan. If the property was acquired with tax increment funds, the lease or sale of such property shall be approved by resolution of the City Council.

C. Donations: The Contracting Officer is authorized to donate surplus property provided such donation satisfies a public purpose as may be reasonably determined by the purchasing officer.

D. Conflicts of Interest: City officers and employees who participate in any part of the process to dispose of surplus property is prohibited from acquiring such property.

Chapter 3.08
COLLECTION OF MONEYS

Sections:

- 3.08.010 Presentation to Clerk-Order to deposit with treasurer.
 3.08.020 Action by clerk-Entry on books.
 3.08.030 License moneys-Procedures.
 3.08.040 Itemized report to the city council.

3.08.010 Presentation to clerk-order to deposit with treasurer. All moneys collected by the city chief of police, or by any other officer of the city, shall be, by the officer collecting the same, first presented to the clerk of the city, who shall issue to the officer collecting the same an order directing the officer to deposit the money with the treasurer of the city, and the money shall thereupon be deposited with the treasurer, and the officer depositing the same shall take the Treasurer's receipt therefore in duplicate, one copy of which receipt shall be filed forthwith with the City Clerk. (Ord. 35 11, 1913)

3.08.020 Action by clerk--Entry on books. The Clerk of the City shall upon issuing his order for the depositing of such money with the City Treasurer, enter on his books an account, charging the Treasurer with the amount so ordered to be paid to him. (Ord. 35 §2, 1913)

3.08.030 License moneys--Procedures. All license moneys not paid to the City Clerk at the beginning of each and every month or on the day when such license moneys are due, if they are payable daily, shall be collected by the Chief of Police and the City Clerk shall deliver to the Chief of Police the license for such uncollected moneys and shall charge the Chief of Police with all licenses so delivered to him, and upon the return of the moneys collected for such licenses the City Clerk when he issues to the Chief of Police his orders to deposit the moneys, with the City Treasurer, shall also enter a credit upon his books crediting the Chief of Police with the moneys so collected. (Ord. 35 §3, 1913)

3.08.040 Itemized report to the City Council. Each officer of the City who shall have collected or received any moneys during anyone month shall, at the first meeting of the City Council during the succeeding month, make an itemized report to the City Council of the City, showing the amount of moneys, from whom collected, and for what purpose collected or under the provisions of what ordinance collected, which accounts shall be, after approval by the Council, filed with the City Clerk and become a part of the records of the City. (Ord. 35 §4, 1913)

Chapter 3.12
PAYMENT OF CLAIMS AGAINST THE CITY

Sections:

- 3.12.010 Filed with City Clerk--Presentation to and payment by City Council.
 3.12.020 Duty of and procedure taken by City Clerk for presentation.

3.12.010 Filing claims with the City Clerk and presentation to and payment by the City Council.

A. All claims or demands against the City shall be verified and presented to the City Clerk within the time limits set forth in Government Code Section 911.2. All claims presented to the City Clerk shall meet any and all requirements for claims as set forth in Chapters 1 and 2 of Part 3 of Division 3.6 commencing with section 900) of the Government Code and other State law specifically applicable to the claim presented. All claims for damages shall be governed by all applicable limitations contained therein.

B. If the claim or demand so presented shall be allowed by the City Council, and ordered paid, the City Manager shall draw a warrant for the amount allowed in such claim, which warrant shall be countersigned by those authorized to sign warrants by resolution of the City Council and shall specify for what purpose the warrant is issued.

C. Pursuant to authority granted under Government Code Section 935, claims otherwise exempted from presentation requirements under Government Code Section 905 shall be presented to the City Clerk for allowance or rejection by the City Council in accordance with the procedures and limitations set forth in this Section. (Ord. 691 §2, 1990; Ord. 36 §2, 1913)

3.12.020 Duty of and procedure taken by City Clerk for presentation. It shall be the duty of the Clerk of the City to prepare and present to the City Council, at the regular meeting of the Council, nearest the date upon which the same shall become due, a statement of all salaries and moneys due from the City, under the terms of any written contract, together with the amount of the available money in the treasury to the credit of the salary or other fund, upon which the warrant must be drawn, and in case of money due on a City Council approving such contract, and no other or further act thereon shall be necessary; if the statement shows sufficient available funds in the treasury, legally applicable to the payment of the same, and in case of the written contract, that the conditions under which the money would become due have been met, the Chairman shall cause a warrant to be drawn thereon, in the same manner as provided in this chapter in the payment of other claims and demands. (Ord. 36 §3, 1913)

Chapter 3.16
ASSESSMENT AND COLLECTION OF PROPERTY TAX

Sections:

- 3.16.010 Duties of assessing and collecting performed by County Assessor.
3.16.020 Filing of ordinance--Collection of taxes.

3.16.010 Duties of assessing and collecting performed by County Assessor.

The duties of assessing property and collecting taxes provided by law to be performed by the County Assessor and the County Tax Collector of this City, shall be performed by the County Assessor and the County Tax Collector, as provided in Section One, Chapter 254 of the laws of 1913. (Ord. 44 § 1, 1914)

3.16.020 Filing of ordinance--Collection of taxes.

A certified copy of the ordinance codified in this chapter shall be filed with the auditor of the county, on or before the first Monday in February, 1914, and thereafter all assessments made by the county assessor, as the same may be equalized or corrected by the board of supervisors or the State Board of Equalization, shall be used as a basis for the levy of the taxes of the city, and the taxes shall be collected by the assessor and tax collector at the same time and in the same manner county taxes are collected, until the city shall by ordinance elect not to have such duties performed by the assessor and tax collector for any longer time. (Ord. 44 §2, 1914)

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Chapter 3.20
REAL PROPERTY TRANSFER TAX

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3.20.010	Title.
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3.20.050	Parties not liable--Exception.
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3.20.070	Non-applicability--Certain conveyances to make effective any order of the Securities and Exchange Commission
3.20.080	Realty partnership cases where levy not imposed.
3.20.090	Administration of chapter.
3.20.100	Claims for refund of taxes.

3.20.010 **Title.** This chapter shall be known as the "real property transfer tax ordinance of the city of Beaumont." 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. (Ord. 383 § 1, 1967)

3.20.020 **Imposition.** There is 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, a tax at the rate of twenty-seven and one-half cents for each five hundred dollars or fractional part thereof. (Ord. 383 § 2, 1967)

3.20.030 **Payment.** Any tax imposed pursuant to Section 3.20.020 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. 383 § 3, 1967)

3.20.040 **Non-applicability--Instruments in writing to secure debt.** Any tax imposed pursuant to this chapter shall not apply to any instrument in writing given to secure a debt. (Ord. 383 § 4, 1967)

3.20.050 **Parties not liable--Exception.** The United States or any agency or instrumentality thereof, any state or territory, or political subdivision thereof, or the District of Columbia shall not be liable for any tax imposed pursuant to this chapter with respect to any deed, instrument, or writing to which it is a party, but the tax may be collected by assessment from any other party liable therefor, except as provided in Section 11,922 of the Revenue and Taxation Code of the state. (Ord. 570 §5, 1983; Ord. 383 S5, 1967)

3.20.060 Non-applicability—Certain conveyances to make effective plan of reorganization or adjustment.

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

1. Confirmed under the Federal Bankruptcy Act, as amended;
2. Approved in an equity receivership proceeding in a court involving a railroad corporation, as defined in subdivision (m) of Section 205 of Title 11 of the United States Code, as amended;
3. Approved in an equity receivership proceeding in a court involving a corporation, as defined in subdivision (3) of Section 506 of Title 11 of the United States Code, as amended; or
4. Whereby a mere change in identity, form or place of organization is effected;
5. Instruments taken in lieu of foreclosure as provided for in Section 11,926 of the Revenue and Taxation Code and Section 11,927 of the Revenue and Taxation Code which provides for marital property.

B. Subdivisions 1 through 4, inclusive, of subsection A of this section shall 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. (Ord. 570 §6, 1983; Ord. 383 §6, 1967)

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

- A. The order of the Securities and Exchange Commission in obedience to which such conveyance is made recites that such conveyance is necessary or appropriate to effectuate the provisions of Section 79k of Title 15 of the United States Code, relating to the Public Utility Holding Company Act of 1935;
- B. Such order specifies the property which is ordered to be conveyed;
- C. Such conveyance is made in obedience to such order. (Ord. 383 §7, 1967)

3.20.080 **Realty partnership cases where levy not imposed.**

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

1. Such partnership, or another partnership, is considered a continuing partnership within the meaning of Section 708 of the Internal Revenue Code of 1954;
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 the purpose of this Chapter, such partnership shall be treated as having executed an instrument whereby there was conveyed, for fair market value, exclusive of the value of any lien or encumbrance remaining thereon, all realty held by such partnership at the time of such termination.

C. Not more than one tax shall be imposed pursuant to this Chapter by reason of a termination described in subsection B of this section, and any transfer pursuant thereto, with respect to the realty held by such partnership at the time of such termination. (Ord. 383 §8, 1967)

3.20.090 **Administration of Chapter.** The county recorder shall administer this Chapter in conformity with the provisions of Part 6.7 of Division 2 of the Revenue and Taxation Code and the provisions of any county ordinance adopted pursuant thereto. (Ord. 383 §9, 1967)

3.20.100 **Claims for refund of taxes.** Claims for refund of taxes imposed pursuant to this chapter shall be governed by the provisions of Chapter 5, commencing with Section 5096, of Part 9 of Division 1 of the Revenue and Taxation Code of the state. (Ord. 383 §10, 1967)

(Continue on next page)

Chapter 3.22
ROAD AND BRIDGE FACILITY FEE PROGRAM

Sections:

3.22.010	Purpose.
3.22.020	Terms and Definitions.
3.22.030	Adoption of the Facility Fee.
3.22.040	Applicability.
3.22.050	Amount of the Fee.
3.22.060	Payment of the Fee.
3.22.070	Credits and Reimbursements.
3.22.080	Exemptions.
3.22.090	Use of Funds.
3.22.100	Refunds.
3.22.110	Appeals.
3.22.120	Expiration of the Fee.
3.22.130	Supplementary Fee.
3.22.140	Severability.

3.22.010 Purpose. The City Council finds that the cumulative impact of all new development permitted under the General Plan will result in traffic volumes exceeding the capacity of the local roadway network as it presently exists causing unacceptable decreases in transportation service levels. To prevent these undesirable consequences, improvements to the local roadway network must be provided at a rate which will accommodate the expected growth in the City. The City Council acknowledges that the demand for transportation facilities varies by types of development. The Road and Bridge Facility Fee apportions the cost of the necessary improvements among the different types of new development according to the reasonably estimated demand that each type of development places upon transportation facilities. (Ord. No. 837, § 4, 2-18-03)

3.22.020 Terms and Definitions. For the purposes of this Chapter, the following terms shall have the meanings indicated in this section:

"Public Facilities" means those certain public facilities identified in that certain "City of Beaumont Road and Bridge Benefit Mitigation Fee Facility Fee Study" dated February 4, 2003, as it may hereafter be amended, which are necessary to protect the public health, safety and welfare as may be determined by the City Council from time to time and which are not otherwise provided by, or required of new development within the City. Public Facilities shall also include architectural, administrative, engineering, legal, planning, environmental, plan check, inspection, surveying, construction management and other services required in connection with the implementation of this Chapter and the construction of the Public Facilities.

"Developer" means an individual or entity submitting an application for a building permit or other entitlement for development.

"Facility Fee" means the Road and Bridge Facility Fee developed pursuant to the "City of Beaumont Road and Bridge Benefit Mitigation Fee Facility Fee Study" dated February 4, 2003, as it may hereafter be amended, and adopted, from time to time, by resolution of the City Council pursuant to Section 3.22.030.

"Development" means:

1. A new residential unit, including conversion of an existing unit to more than one residential unit.

2. New commercial, office, and industrial development.

"Fee Schedule" means the list of Facility Fees adopted by resolution of the City Council pursuant to Section 3.22.040 of this Chapter. (Ord. No. 837, § 4, 2-18-03)

3.22.030 **Adoption of the Facility Fee.** There is hereby adopted the "City of Beaumont Road and Bridge Facility Fee" to be levied and collected as provided in this Chapter. The amount of the Facility Fee shall be established, from time-to-time, by resolution of the City Council. (Ord. No. 837, § 4, 2-18-03)

3.22.040 **Applicability.** Except as otherwise expressly provided in this Chapter, the Facility Fee is payable with respect to each development within the City for which a building permit is issued. (Ord. No. 837, § 4, 2-18-03)

3.22.050 **Amount of the Fee.**

A. The amount of the Facility Fee shall be calculated by the Building Department prior to issuance of the building permit, based upon the then-current fee schedule adopted by resolution of the City Council pursuant to this Chapter.

B. In the event a developer does not agree with the calculation of the Facility Fee by the Building Department, he or she may within five (5) business days of the date of the calculation of the fee appeal the calculation of the fee to the Planning Director.

C. The developer shall be notified in writing of the Planning Director's determination. Such determination shall be made within thirty (30) days of the Planning Director's receipt of the appeal. The developer may provide additional information to assist the Planning Director in making the determination. The developer may appeal the determination of the Planning Director to the City Council in accordance with the provisions of Section 3.22.110 of this Chapter. (Ord. No. 837, § 4, 2-18-03)

3.22.060 **Payment of the Fee.**

A. The full amount of the Fee shall be paid at the time of issuance of the building permit.

B. No City official may issue a building permit, certificate of occupancy, or certify a final inspection for a development until the Fee required by this Chapter is paid.

C. The City shall not accept prepayments of the Facility Fee unless prepayment is authorized in a development or other agreement or is otherwise approved by the City Council. (Ord. No. 837, § 4, 2-18-03)

3.22.070 Credits and Reimbursements. If the developer desires to construct a Public Facility, the developer and the City Council may enter into an agreement regarding a credit or reimbursement of Facility Fees due or paid. (Ord. No. 837, § 4, 2-18-03)

3.22.080 Exemptions. Unless a development or other agreement provides otherwise, the following projects shall be exempt, in whole or in part, from the Facility Fee otherwise required by this Chapter:

A. Low income residential housing.

B. The rehabilitation and/or reconstruction of any legal residential dwelling unit and/or the replacement of an existing dwelling unit.

C. The rehabilitation and/or reconstruction of any non-residential structure where there is no net increase in square footage. Any increase in square footage shall pay the then-current Facility Fee. (Ord. No. 837, § 4, 2-18-03)

3.22.090 Use of Funds. The fees collected pursuant to this Chapter shall, except for temporary investments or capital expenditures, shall be placed in the Road and Bridge Facility Fee Fund and managed to avoid commingling of the fees with operating revenues or other funds of the City, and shall be used solely for the purpose of designing, acquiring and constructing the Public Facilities identified in the Fee Study or other facility adopted as equal in the Capital Improvement Plan. Any interest income earned on the Fund shall only be expended for the purposes set forth in this Chapter. (Ord. No. 837, § 4, 2-18-03)

3.22.100 Refunds. Refunds may be made where:

A. Development has ceased, the building permit has expired and no extensions have been granted, or if granted, the extension(s) has expired; as to a development for which the Facility Fee required under this Chapter has been collected; provided that the claim for such a refund is filed no later than sixty (60) days after the expiration date of the building permit or any extension thereof as may have been approved by the City; or

B. A refund is specifically authorized by resolution of the City Council adopted pursuant to Government Code section 66001 (d). Such amounts shall be refunded by the City to the then-current record owners of the development on a prorated basis. The City may effect such refund by direct payment, or by providing credit towards future Facility Fees, or by any other means consistent with the intent of Government Code section 66001. (Ord. No. 837, § 4, 2-18-03)

3.22.110 Appeals. A developer may appeal to the City Council any determination made pursuant to this Chapter. All appeals shall be in a form prescribed by the Planning Director and shall be filed within fifteen (15) days of the date of determination. Any appeal not filed within such period shall be deemed waived. The City Council shall set the matter for hearing within forty-five (45) days of the date of receipt by the City Clerk of the notice of the appeal. (Ord. No. 837, § 4, 2-18-03)

3.22.120 **Expiration of the Fee.** The Facility Fee shall expire when the Public Facilities are completed and all debt service related to such public improvements are paid and satisfied. (Ord. No. 837, § 4, 2-18-03)

3.22.130 **Supplementary Fee.** It is the intent of the City Council that the Facility Fee shall be supplementary to the fees, dedications and conditions imposed upon development pursuant to the provisions of the Subdivision Map Act, the California Environmental Quality Act, and other state laws and City ordinances, policies or conditions which may authorize the imposition of fees, dedications or conditions thereon. (Ord. No. 837, § 4, 2-18-03)

3.22.140 **Severability.** If any sentence, clause, section or part of this Chapter. or any fee imposed upon any person or entity is found to be unconstitutional, illegal, or invalid, such unconstitutionality, illegality or invalidity shall affect only such sentence, clause, section or part of this Chapter, and shall not affect or impair any of the remaining provisions, sentences, clauses, sections or other parts of this Chapter, or its effect on other persons or entities. It is declared to be the intention of the City Council that this Chapter would have been adopted had such unconstitutional, illegal, or invalid sentence, clause, section or part of this Chapter had not been included herein; or had such person or entity been expressly exempted from the application of this Chapter. To this end, the provisions of this Chapter are severable. (Ord. No. 837, § 4, 2-18 03)

Chapter 3.24 **SALES AND USE TAX**

Sections:

3.24.010	Title.
3.24.020	Purpose.
3.24.030	Operative date-Contract with state.
3.24.040	Sales tax.
3.24.050	Use tax.
3.24.060	Amendments.
3.24.065	Credit against taxes due and payable to Redevelopment Agency.
3.24.070	Enjoining collection forbidden.
3.24.080	Violation-Penalty.

3.24.010 **Title.** The chapter shall be known as the "uniform local sales and use tax ordinance of the City of Beaumont." (Ord. 288, § 1, 1957)

3.24.020 **Purpose.** The City Council declares that the ordinance codified in this chapter 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 a sales and use tax ordinance which complies with the requirements and limitations contained in Part 1.5 of Division 2 of the Revenue and Taxation Code of the state;

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

C. To adopt a sales and use tax ordinance which imposes a nine-tenths of one percent tax and provides a measure therefore that can be administered and collected by the State Board of Equalization in a manner that adapts itself as fully as 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 California State Sales and Use Taxes;

D. To adopt a sales and use tax ordinance which can be , administered in a manner that will, to the degree possible consistent with the provisions of Part 1.5 of Division 2 of said Revenue and Taxation Code, minimize the cost of collecting city sales and use taxes and at the same time minimize the burden of recordkeeping upon persons subject to taxation under the provisions of this chapter. (Ord. 336 §i~ 1961; Ord. 288 § 2, 1957)

3.24.030 **Operative date--Contract with state.** The ordinance codified in this chapter 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 this sales and use tax ordinance; provided, that if the city shall not have contracted with the State Board of Equalization, as above set forth, prior to July 1, 1957, the ordinance codified in this chapter 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 ordinance codified in this chapter shall not become operative prior to the operative date of the uniform Local Sales and Use Tax Ordinance of the county. (Ord. 288 §3, 1957)

3.24.040 **Sales tax.** A. 1. For the privilege of selling tangible personal property at retail a tax *is* imposed upon all retailers in the city at the following fractions of one percent of the gross receipts of the retailer from the sale of all tangible personal property sold at retail in the city on and after the operative dates of this subsection at the rates shown in the following schedule:

<u>Sales Tax Rate</u> (fraction of 1%)	<u>Operative Date</u>
0.91	October 1, 1971
0.92	July 1, 1972
0.93	July 1, 1973
0.94	July 1, 1974
0.95	July 1, 1975
0.96	July 1, 1976
0.97	July 1, 1977
0.98	July 1, 1978
0.99	July 1, 1979
1. 00	July 1, 1980

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

B. 1. Except as provided in this chapter, and except insofar as they are inconsistent with the provisions of Part 1.5 of Division 2 of said 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 the operative date of the ordinance codified in this chapter, applicable to sales taxes are adopted and made a part of this section as though fully set forth in this chapter.

2. Wherever, and to the extent that, in Part 1 of Division 2 of said 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 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 of Division 2 of the said Revenue and Taxation Code; nor to impose this tax by the state under the said 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 said Revenue and Taxation Code as adopted.

3. If a seller's permit has been issued to a retailer under Section 6067 of said Revenue and Taxation Code, an additional seller's permit shall not be required by reason of this section.

4. There shall be excluded from the gross receipts by which the tax is measured:
- a. The amount of any sales or use tax imposed by the state upon a retailer or consumer;
 - b. 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 the state, the United States, or any foreign government. (Ord. 589 SI, 1984; Ord. 563 S3 (part), 1983; Ord. 449 SSI, 2, 1973; Ord. 433 SI;. 1971;Ord. 336 SS2--4, 1961; Ord. 288 SS4, 1957)

3.24.050 Use tax. A. An excise tax is imposed on the storage, use or other consumption in the city of tangible personal property purchased from any retailer at the following fractions of one percent of the sales price of the property on and after the operative dates of this section at the rates shown *in* the following schedule. 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.

<u>Use Tax Rate</u> (fraction of 1%)	<u>Operative Date</u>
0.91	October 1, 1971
0.92	July 1, 1972
0.93	July 1, 1973
0.94	July 1, 1974
0.95	July 1, 1975
0.96	July 1, 1976
0.97	July 1, 1977
0.98	July 1, 1978
0.99	July 1, 1979
1.00	July 1, 1980

B. 1. Except as provided *in* this chapter, and except insofar as they are inconsistent with the provisions of Part 1.5 of Division 2 of the said Revenue and Taxation Code, all of the provisions of Part I of Division 2 of the said Code, as amended *in* force and effect on the operative date of the ordinance codified in this chapter, applicable to use taxes are adopted and made a part of this section as though fully set forth in this chapter. - ..

2. Wherever, and to the extent that, in Part 1 of *Division 2* of the said Revenue and Taxation Code the state is named or referred to as the taxing' agency, the name of 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 the 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 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; 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 storage, use or consumption of other 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 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 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.

3. There shall be exempt from the tax due under this section:

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

b. The storage, use or other consumption of tangible personal property, the gross receipts from the sale of which have been subject to 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.

c. 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.

(Ord. 589 § 2; Ord. 563 § 3 (part), 1983; Ord. 449 § 3, 1973; Ord. 433 § 2, 1971; Ord. 336 § 5, 6, 1961; Ord. 288 § 5, 1957)

3.24.060 **Amendments.** All amendments of the said Revenue and Taxation Code enacted subsequent to the effective date of the ordinance codified in this chapter which relate to the sale and use tax and which are not inconsistent with Part 1.5 of Division 2 of the said Revenue and Taxation Code shall automatically become a part of this chapter. (Ord. 288 § 6, 1957)

3.24.065 **Credit against taxes due and payable to redevelopment agency.** In the event that the Redevelopment Agency of the City of Beaumont adopts an ordinance pursuant to the provisions of Section 7202.6 of the Revenue and Taxation Code of California which provides for the levying of a sales and use tax within a project area of the Redevelopment Agency of the City, and retailer or other person required to pay a sales or use tax pursuant to provisions of this Ordinance in the amount of sale and/or use taxes payable to the Redevelopment Agency of the City under such ordinance adopted pursuant to the provisions of said Section 7202.6. In the event the Redevelopment Agency of the City issues obligation secured in whole or in part by taxes levied pursuant to the provisions of Section 7202.6 of the Revenues and Taxation Codes of California, the City shall not revoke this credit in whole or in part nor shall it reduce its sales and use tax rate. (Ord. 742 § 2, 1993, Ord. 781, § 2, 1998)

3.24.070 **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 of this city, or against any officer of the state or this city, to present or enjoin the collection under this chapter, or part 1.5 of Division 2 of the Revenue and Taxation Code, of any tax or any amount of tax required to be collected. (Ord. 288 § 7, 1957)

3.24.080 **Violation-Penalty.** Any person violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine of not more than six months in the city jail, or by both such fine and imprisonment. (Ord.288 § 9, 1957)

Chapter 3.26
SAN TIMOTEO SEWER FACILITY FEE

Sections:

3.26.010	Purpose.
3.26.020	Terms and Definitions.
3.26.030	Applicability.
3.26.040	Adoption of the San Timoteo Sewer Facility Fee.
3.26.050	Amount of Fee.
3.26.060	Payment of Fee.
3.26.070	Credits and Reimbursements
3.26.080	Exemptions.
3.26.090	Use of Funds.
3.26.100	Refunds.
3.26.110	Appeals.
3.26.120	Expiration of Fee.
3.26.130	Supplementary Provisions.
3.26.140	Severability.

3.26.010 Purpose. The City Council finds that the cumulative impact of all new development permitted under the General Plan will result in unacceptable decreases in sewer facility service levels. To prevent these undesirable consequences, sewer facilities must be provided at a rate which will accommodate the expected growth in the City. The City Council acknowledges that the demand for sewer facilities varies by types of development. The proposed Facility Fee apportions the cost of the necessary improvements among the different types of new development according to the reasonably estimated demand that each type of development places upon sewer facilities. (Ord. 849, § I, 10-21-03)

3.26.020 Terms and Definitions. For the purposes of this Chapter, the following terms shall have the meanings indicated in this section:

"San Timoteo Sewer Facility Fee Area" is that area described within the San Timoteo Sewer Facility Fee Study (Fee Study) dated October 7, 2003.

"San Timoteo Sewer Facility Fee (Facility Fee)" is that fee for sewer facilities to be imposed on new development within the San Timoteo Sewer Facility Fee Area pursuant to this Chapter.

"Sewer Facilities" means those certain sewer facilities identified in the Fee Study which are necessary to protect the public health, safety and welfare as may be determined by the City Council from time to time which are not otherwise provided by, or required of development within the City pursuant to the General Plan, the Master Sewer Plan and the Beaumont Municipal Code. Sewer Facilities shall also include architectural, administrative, engineering, legal, planning, environmental, plan check, inspection, surveying, construction management and other services required in connection with the implementation of this Chapter and the construction of the foregoing improvements as part of the City of Beaumont Comprehensive Public Facilities Financing Program.

"Developer" means an individual or entity submitting an application for a building permit or other entitlement for development.

“Development” means:

1. New residential unit, including conversion of an existing unit to more than one (1) residential unit.
2. New commercial, office, and industrial development.
3. Additions greater than seven hundred fifty (750) gross square feet to existing commercial, office and industrial developments.

"Service Area" means the area which benefits from the Sewer Facilities.

"Fee Schedule" means the list of Facility Fees adopted by resolution of the City Council pursuant to Section 3.26.040 of this Chapter. (Ord. 849, § I, 10-21-03)

3.26.030 **Adoption of the San Timoteo Sewer Facility Fee.** There is hereby adopted the San Timoteo Sewer Facility Fee and the various service area components thereof to be levied and collected as provided in this Chapter. (Ord. 849, § I, 10-21-03)

3.26.040 **Applicability.** Except as otherwise expressly provided in this Chapter, the Facility Fee required under this Chapter is payable with respect to each development within the City for which a building permit is issued on or after the effective date as adopted in the Fee Schedule. (Ord. 849, § I, 10-21-03)

3.26.050 **Amount of Fee.**

A. The amount of the Facility Fee shall be calculated by the Building Department prior to issuance of the building permit, based upon the then current Fee Schedule adopted by resolution of the City Council pursuant to this Chapter.

B. In the event a developer does not agree with the calculation of the Facility Fee by the Building Department, he or she may within five (5) business days of the date of the calculation of the fee appeal the calculation of the fee to the Planning Director.

C. The developer shall be notified in writing of the Planning Director's determination. Such determination shall be made within thirty (30) days of the Planning Director's receipt of the appeal. The developer may provide additional information to assist the Planning Director in making the determination. The developer may appeal the determination of the Planning Director to the City Council in accordance with the provisions of Section 3.26.110 of this Chapter.

D. The amount of the Facility Fee shall be subject to adjustment from time to time by the City Council. (Ord. 849, § I, 10-21-03)

3.26.060 **Payment of Fee.**

A. The full amount of the Facility Fee shall be paid at the time of issuance of the building permit.

B. No City official may issue a building permit, certificate of occupancy, or certify a final inspection for a development until the Facility Fee with respect to such development required by this Chapter is paid in accordance with this section.

C. The City shall not accept prepayments of the Facility Fee, unless prepayment is authorized in a development or other agreement or otherwise is approved by the City Council.

3.26.070 **Credits and Reimbursements.** If the developer desires to construct a Public Facility, the developer and the City Council may enter into an agreement regarding a credit or reimbursement of Facility Fees due or paid. (Ord. 849, § I, 10-21-03)

3.26.080 **Exemptions.** Unless a development or other agreement provides otherwise, the following projects shall be exempt, in whole or in part, from the Facility Fee otherwise required by this Chapter:

A. Residential development consisting of the repair or replacement, on a one-to-one basis.

B. Commercial or industrial development consisting of the repair or replacement of structures, provided, that such repair or replacement does not result in any conversion or change in land use, or any enlargement of gross floor area beyond that of the previous structure more than seven hundred fifty (750) square feet. In the event a commercial or industrial use expands more than seven hundred fifty (750) square feet, the Facility Fee shall be calculated based on the percentage of square feet of expanded floor area of the total multiplied by the total development acreage in accordance with the Fee Schedule. (Ord. 849, § I, 10-21-03)

3.26.090 **Use of Funds.** The fees collected pursuant to this Chapter shall, except for temporary investments or capital expenditures, shall be placed in the San Timoteo Sewer Facility Fee Fund and managed to avoid commingling of the fees with operating revenues or other funds of the City, and shall be used solely for the purpose of designing, acquiring and constructing the sewer facilities identified in the Fee Study or other facility adopted as equal in the Capital Improvement Plan. Any interest income earned on the fund shall only be expended for the purposes set forth in this Chapter. (Ord. 849, § 1, 10-21-03)

3.26.100 **Refunds.** Refunds may be made where:

A. Development has ceased, the building permit has expired and no extensions have been granted, or if granted, the extension(s) has expired; as to a development for which the Facility Fee required under this Chapter has been collected; provided that the claim for such a refund is filed no later than sixty (60) days after the expiration date of the building permit, or any extension thereof as may have been approved by the City, as the case may be; or

B. A refund is specifically authorized by resolution of the City Council adopted pursuant to Government Code section 66001 (d). Such amounts shall be refunded by the City to the then-current record owners of the development on a prorated basis. The City may affect such refunding by direct payment, or by providing credit towards future Facility Fees, or by any other means consistent with the intent of Government Code section 66001. (Ord. 849, § 1, 10-21-03)

3.26.110 Appeals. A developer may appeal to the City Council any determination made pursuant to this Chapter. All appeals shall be in a form prescribed by the Planning Director and shall be filed within fifteen (15) days of the date of determination. Any appeal not filed within such period shall be deemed waived. The City Council shall set the matter for hearing within forty-five (45) days of the date of receipt by the City Clerk of the notice of the appeal. (Ord. 849, § 1, 10-21-03)

3.26.120 Expiration of Fee. The San Timoteo Sewer Facility Fee shall expire when the Sewer facilities are completed and all debt service related to such public improvements are paid and satisfied. (Ord. 849, § 1, 10-21-03)

3.26.130 Supplementary Fee. It is the intent of the City Council that the San Timoteo Sewer Facility Fee shall be supplementary to the fees, dedications and conditions imposed upon development pursuant to the provisions of the Subdivision Map Act, California Environmental Quality Act, and other state laws and City ordinances, policies or conditions which may authorize the imposition of fees, dedications or conditions thereon. (Ord. 849, § 1, 10-21-03)

3.26.140 Severability. The provisions of this Chapter shall not apply to any person, association, corporation or to any property as to whom or which it is beyond the power of the City to impose the fee provided in this Chapter. If any sentence, clause, section or part of this Chapter, or any fee imposed upon any person or entity is found to be unconstitutional, illegal, or invalid, such unconstitutionality, illegality or invalidity shall affect only such sentence, clause, section or part of this Chapter, and shall not affect or impair any of the remaining provisions, sentences, clauses, sections or other parts of this Chapter, or its effect on other persons or entities. It is declared to be the intention of the City Council that this Chapter would have been adopted had such unconstitutional, illegal, or invalid sentence, clause, section or part of this Chapter had not been included herein; or had such person or entity been expressly exempted from the application of this Chapter. To this end, the provisions of this Chapter are severable. (Ord. 849, § 1, 10-21-03)

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Chapter 3.28
TRANSIENT OCCUPANCY TAX

Sections:

3.28.010	Title.
3.28.020	Definitions.
3.28.030	Tax imposed.
3.28.040	Exemptions.
3.28.050	Operator's duties.
3.28.060	Registration.
3.28.070	Reporting and remitting
3.28.080	Penalties and interest.
3.28.090	Failure to collect and report tax—Determination of tax by tax administrator.
3.28.100	Appeal..
3.28.110	Records.
3.28.120	Refunds.
3.28.130	Actions to collect.
3.28.140	Allocations.
3.28.150	Violation--Penalty.

3.28.010 **Title.** This chapter shall be known as the "transient occupancy tax ordinance of the city of Beaumont." (Ord. 387 §1, 1968)

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

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

B. "Occupancy" means the use or possession, or the right to the use or possession of any room or rooms or portions thereof, in any hotel for dwelling, lodging or housing purposes.

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

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

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

F. "Tax administrator" means the treasurer of the city, or such other person as the city council may from time to time designate.

G. "Transient" means any person who exercises occupancy or is entitled to occupancy by reason of concession, permit, right of access, license or other agreement for a period of thirty 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 the ordinance codified in this chapter may be considered. (Ord. 387 §2, 1968)

3.28.030 **Tax imposed.** For the privilege of occupancy in any hotel, each transient is subject to and shall pay a tax in the amount of ten (10) percent of the rent charged by the operator. The tax constitutes a debt owed by the transient to the city which is extinguished only by payment to the operator or to the city. The transient shall pay 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 operator shall nevertheless be civilly liable for the payment of such tax to the city. (Ord. 754 §1, 1995)

3.28.040 **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 city to impose the tax provided in this chapter;
2. Any federal or political subdivision of the state, officer or employee when on official business;
3. Any officer or employee of a foreign government who is exempt by reason of express provision of federal law or international treaty.

B. 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. 387 §4, 1968)

3.28.050 **Operator's duties.** Each operator shall collect the tax imposed by this chapter to the same extent and at the same time as the rent imposed is collected from every transient. The amount of tax shall be separately stated from the amount of the rent charged, and each transient shall receive a receipt for payment from the operator. No operator of a hotel shall advertise or state in any manner, whether directly or indirectly, that the tax or any part thereof will be assumed or absorbed by the operator, or that it will not be added to the rent, or that, if added, any part will be refunded except in the manner provided in this chapter. (Ord. 387 § 5, 1968)

3.28.060 Registration.

A. Within thirty days after the effective date of the ordinance codified in this chapter, or within thirty days after commencing business, whichever is the 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.

B. The 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 Transient Occupancy Tax Ordinance by registering with the Tax Administrator for the purposes 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. (Ord. 387 §6, 1968)

3.28.070 Reporting and remitting. Each operator shall, on or before the last day of the month following the close of each calendar quarter, make a return to the tax administrator, on forms provided by him, of the total rents charged and received and the amount of tax collected from transient occupancies. At the time the return is filed, the full amount of the tax collected shall be remitted to the tax administrator. The tax administrator may establish shorter reporting periods for any certificate holder if he deems it necessary in order to 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 chapter shall be held in trust for the account of the city until payment thereof is made to the tax administrator. (Ord. 387 §7, 1968)

3.28.080 Penalties and interest.

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

B. Continued Delinquency. Any operator who fails to remit any delinquent tax on or before a period of thirty days following the date on which the tax 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 tax due under this chapter 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 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 tax first became delinquent until paid. (Ord. 387 §8, 1968)

3.28.090 **Failure to collect and report tax—Determination of tax by tax administrator.**

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

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

C. 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 address.

D. 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.

E. 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.

F. If such application is made, the tax administrator shall give not less than five days' written notice in the manner prescribed in this chapter to the operator to show cause at a time and place fixed in the notice why the amount specified therein should not be fixed for such tax, interest and penalties.

G. At such hearing, the operator may appear and offer evidence why such specified tax, interest and penalties should not be so fixed.

H. After such hearing, the tax administrator shall determine the proper tax to be remitted and shall thereafter give written notice to the person in the manner prescribed in this chapter of such determination and the amount of such tax, interest and penalties.

I. The amount determined to be due shall be payable after fifteen days unless an appeal is taken as provided in Section 3.28.100. (Ord. 387 §9, 1968)

3.28.100 **Appeal.** Any operator aggrieved by any decision of the tax administrator with respect to the amount of such tax, interest and penalties, if any, may appeal to the city council by filing a notice of appeal with the city clerk within fifteen days of the serving or mailing of the determination of tax due. The city 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 address. The findings of the 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. (Ord. 387 §10, 1968)

3.28.110 **Records.** It shall be the duty of every operator liable for the collection and payment to the city of any tax imposed by this chapter to keep and preserve, for a period of three years, all records that may be necessary to determine the amount of such tax that he may have been liable for the collection of and payment to the city which records the tax administrator shall have the right to inspect and audit at all reasonable times. (Ord. 387 §11, 1968)

3.28.120 Refunds.

A. Whenever the amount of any tax, interest or penalty has been overpaid or paid more than once or has been erroneously or illegally collected or received by the city under this chapter it may be refunded as provided in subsections Band C of this 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 within one year of the date of payment. The claim shall be on forms furnished by the tax administrator.

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

C. A transient may obtain a refund of taxes overpaid or paid more than once or erroneously or illegally collected or received by the city by filing a claim in the manner provided in subsection A of this section, but only when the tax was paid by the transient directly to the tax administrator, or when the transient having paid the tax to the operator, establishes to the satisfaction of the tax administrator, that the transient has been unable to obtain a refund from the operator who collected such excess, erroneous, or illegal tax.

D. No refund shall be paid under the provisions of this section unless the claimant establishes his right thereto by written records showing entitlement thereto. (Ord. 387 §512, 1968)

3.28.130 Actions to collect. Any tax required to be paid by any transient under the provisions of this chapter shall be deemed a debt owed by the operator to the city. Any such tax collected by an operator which has not been paid to the city shall be deemed a debt owed by the operator to the city. Any person owing money to the city under the provisions of this chapter shall be civil liable to the city for the recovery of such amount. (Ord. 387 §513, 1968)

3.28.140 Allocation. Funds received from the transient occupancy tax shall be allocated to a community promotion fund, established by the city council, and such funds shall be earmarked for community and tourist promotion, or the administration thereof. (Ord. 387, §515, 1968)

3.28.150 Violation--Penalty.

A. Any person violating any of the provisions of this chapter shall be guilty of a misdemeanor and shall be punishable therefore by a fine of not more than five hundred dollars or by imprisonment in the county jail for a period of not more than six months or by both such fine and imprisonment.

B. Any operator or other person who fails or refuses to register as required in this chapter, or to furnish any return required to be made, or who fails or refuses to furnish a supplemental return or other data required by the tax administrator, or who renders a false or fraudulent return or claim, is guilty of a misdemeanor, and is punishable as aforesaid. Any person required to make, render, sign or verify any report or claim who does so with intent to defeat or evade the determination of any amount due required by this chapter to be made, is guilty of a misdemeanor and is punishable as aforesaid. (Ord. 387 §14, 1968)

Chapter 3.32
FIXING FEES, CHARGES AND TAXES

Sections:

- 3.32.010 Generally.
 3.32.020 Flexible procedures.
 3.32.030 Fixed by resolutions.
 3.32.040 Payment of fees required.
 3.32.050 Violation--Penalty.

3.32.010 **Generally.** Licenses and permits are issued by, and certain services are provided by the city, for which fees, charges and taxes are imposed and required to be paid, for the purpose of raising revenue, providing police regulation and protecting the public health, safety and welfare. (Ord. 360, 1965)

3.32.020 **Flexible procedures.** The convenience of the public is best served by providing for flexible procedures whereby the amounts of such fees, charges and taxes may be established. (Ord. 360 §2, 1965)

3.32.030 **Fixed by resolutions.** All such fees, charges and taxes shall be fixed, regulated and determined by appropriate resolutions duly adopted by the city council. (Ord. 360 §3, 1965) ,

3.32.040 **Payment of fees required.** All such fees, charges and taxes are required to be paid to the city as a condition precedent to engaging in the regulated activities on which the fees, charges and taxes are imposed and for which licenses and permits are issued. (Ord. 360 §4, 1965)

3.32.050 **Violation-Penalty.** Any person, firm or corporation violating any of the provisions of this chapter shall be guilty of a misdemeanor and upon conviction thereof, shall be punishable by a fine of not more than five hundred dollars (\$500.00) or by imprisonment in the city jail for a period of not more than six (6) months, or by both such fine and imprisonment. (Ord. 360, § 5, 1965)

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Chapter 3.34
REGIONAL PARK, MULTIPURPOSE TRAIL AND OPEN SPACE FACILITY FEE

Sections:

3.34.010	Purpose.
3.34.020	Terms and Definitions.
3.34.030	Adoption of the Facility Fee.
3.34.040	Applicability.
3.34.050	Amount of the Fee.
3.34.060	Payment of the Fee.
3.34.070	Credits and Reimbursements.
3.34.080	Exemptions.
3.34.090	Use of Funds.
3.34.100	Refunds.
3.34.110	Appeals.
3.34.120	Expiration of the Fee.
3.34.130	Supplementary Fee.
3.34.140	Severability.

3.34.010 Purpose. The residents of the City of Beaumont are presently served by two (2) regional parks, Noble Creek Park and the City of Beaumont Sports Park. Both parks are presently operating at capacity serving existing residents. The City Council has been advised that the cumulative impact of all new development permitted under the General Plan will exceed the capacity of the two (2) regional parks. In order to meet the increased demand, facilities at the two (2) parks must be upgraded and expanded, and two (2) new regional parks are needed on the east and south sides of the City, connected to existing and future open space by a system of multipurpose trails. (Ord. No. 886, § I, 9-20-05)

3.34.020 Terms and Definitions. For the purposes of this Chapter, the following term shall have the meanings indicated in this section:

"Developer" means an individual or entity submitting an application for a building permit or other entitlement for development.

"Development" means:

1. A new residential unit, including conversion of an existing unit to more than one (1) residential unit.

"Facility Fee" means the Regional Park, Multipurpose Trail and Open Space Facility Fee developed pursuant to the "City of Beaumont Regional Park, Multipurpose Trail and Open Space Facility Fee Study" dated September 6, 2005, as it may hereafter be amended, and adopted, from time to time, by resolution of the City Council pursuant to Section 3.34.030.

"Fee Schedule" means the list of Facility Fees adopted by resolution of the City Council pursuant to Section 3.34.040 of this Chapter.

"Public Facilities" means those certain park, trail and open space facilities identified in that certain "City of Beaumont Regional Park, Multipurpose Trail and Open Space Facility Fee Study" dated September 6, 2005, as it may hereafter be amended, which are necessary to protect the public health, safety and welfare as may be determined by the City Council from time to time and which are not otherwise provided by, or required of new development within the City. Public Facilities shall also include architectural, administrative, engineering, legal, planning, environmental, plan check, inspection, surveying, construction management and other services required in connection with the implementation of this Chapter and the construction of the Public Facilities. (Ord. No. 886, § I, 9-20-05)

3.34.030 **Adoption of the Facility Fee.** There is hereby adopted the "City of Beaumont Regional Park, Multipurpose Trail and Open Space Facility Fee" to be levied and collected as provided in this Chapter. The amount of the Facility Fee shall be established, from time-to-time, by resolution of the City Council. (Ord. No. 886, § I, 9-20-05)

3.34.040 **Applicability.** Except as otherwise expressly provided in this Chapter, the Facility Fee is payable with respect to each development within the City for which a building permit is issued. (Ord. No. 886, § I, 9-20-05)

3.34.050 **Amount of the Fee.**

A. The amount of the Facility Fee shall be calculated by the Building Department prior to issuance of the building permit, based upon the then-current fee schedule adopted by resolution of the City Council pursuant to this Chapter.

B. In the event a developer does not agree with the calculation of the Facility Fee by the Building Department, he or she may within five (5) business days of the date of the calculation of the fee appeal the calculation of the fee to the Planning Director.

C. The developer shall be notified in writing of the Planning Director's determination. Such determination shall be made within thirty (30) days of the Planning Director's receipt of the appeal. The developer may provide additional information to assist the Planning Director in making the determination. The developer may appeal the determination of the Planning Director to the City Council in accordance with the provisions of Section 3.34.110 of this Chapter. (Ord. No. 886, § I, 9-20-05)

3.34.060 **Payment of the Fee.**

A. The full amount of the Fee shall be paid at the time of issuance of the building permit.

B. No City official may issue a building permit, certificate of occupancy, or certify a final inspection for a development until the Fee required by this Chapter is paid.

C. The City shall not accept prepayments of the Facility Fee unless prepayment is authorized in a development or other agreement or is otherwise approved by the City Council. (Ord. No. 886, § I, 9-20-05)

3.34.070 Credits and Reimbursements. If the developer desires to construct a Public Facility, the developer and the City Council may enter into an agreement regarding a credit or reimbursement of Facility Fees due or paid. (Ord. No. 886, § 1, 9-20-05)

3.34.080 Exemptions. Unless a development or other agreement provides otherwise, the following projects shall be exempt, in whole or in part, from the Facility Fee otherwise required by this Chapter:

A. Low income residential housing.

B. The rehabilitation and/or reconstruction of any legal residential dwelling unit and/or the replacement of an existing dwelling unit.

3.34.090 Use of Funds. The fees collected pursuant to this Chapter shall, except for temporary investments or capital expenditures, be placed in the Regional Park, Multipurpose Trail and Open Space Facility Fee Fund and managed to avoid commingling of the fees with operating revenues or other funds of the City, and shall be used solely for the purpose of designing, acquiring and constructing the Public Facilities identified in the Fee Study or other facility adopted as equal in the Capital Improvement Plan. Any interest income earned on the Fund shall only be expended for the purposes set forth in this Chapter. (Ord. No. 886, § 1, 9-20-05)

3.34.100 Refunds. Refunds may be made where:

A. Development has ceased, the building permit has expired and no extensions have been granted, or if granted, the extension(s) has expired; as to a development for which the Facility Fee required under this Chapter has been collected; provided that the claim for such a refund is filed no later than sixty (60) days after the expiration date of the building permit or any extension thereof as may have been approved by the City; or

B. A refund is specifically authorized by resolution of the City Council adopted pursuant to Government Code section 66001 (d). Such amounts shall be refunded by the City to the then-current record owners of the development on a prorated basis. The City may affect such refund by direct payment, or by providing credit towards future Facility Fees, or by any other means consistent with the intent of Government Code section 66001. (Ord. No. 886, § 1, 9-20-05)

3.34.110 Appeals. A developer may appeal to the City Council any determination made pursuant to this Chapter. All appeals shall be in a form prescribed by the Planning Director and shall be filed within fifteen (15) days of the date of determination. Any appeal not filed within such period shall be deemed waived. The City Council shall set the matter for hearing within forty-five (45) days of the date of receipt by the City Clerk of the notice of the appeal. (Ord. No. 886, § 1, 9-20-05)

3.34.120 Expiration of the Fee. The Facility Fee shall expire when the Public Facilities are completed and all debt service related to such public improvements are paid and satisfied. (Ord. No. 886, § 1, 9-20-05)

3.34.130 **Supplementary Fee.** It is the intent of the City Council that the Facility Fee shall be supplementary to the fees, dedications and conditions imposed upon development pursuant to the provisions of the Subdivision Map Act, the California Environmental Quality Act, and other state laws and City ordinances, policies or conditions which may authorize the imposition of fees, dedications or conditions thereon. (Ord. No. 886, § 1,9-20-05)

3.34.140 **Severability.** If any sentence, clause, section or part of this Chapter, or any fee imposed upon any person or entity is found to be unconditional, illegal, or invalid, such unconstitutionality, illegality or invalidity shall affect only such sentence, clause, section or part of this Chapter, and shall not affect or impair any of the remaining provisions, sentences, clauses, sections or other parts of this Chapter, or its effect on other persons or entities. It is declared to be the intention of the City Council that this Chapter would have been adopted had such unconstitutional, illegal, or invalid sentence, clause, section or part of this Chapter had not been included herein; or had such person or entity been expressly exempted from the application of this Chapter. To this end, the provisions of this Chapter are severable. (Ord. No. 886, § 1, 9-20 05)

Chapter 3.36 **EMERGENCY PREPAREDNESS FACILITIES FEES**

Sections:

3.36.010	Purpose.
3.36.020	Terms and Definitions
3.36.030	Applicability.
3.36.040	Amount of Fee.
3.36.050	Payment of Fee.
3.36.060	Credits.
3.36.070	Exemptions.
3.36.080	Use of Funds.
3.36.090	Refunds.
3.36.100	Appeals.
3.36.110	Expiration of Fee.
3.36.120	Supplementary Provisions.
3.36.130	Severability.

3.36.010 **Purpose.** City Council finds that the cumulative impact of all new development under the General Plan will result in population growth that will overwhelm the City's ability to temporarily care for and shelter victims of disasters and other emergencies. To prevent these undesirable consequences, Emergency Preparedness Centers must be provided at a rate which will accommodate the expected growth in the City. The City Council acknowledges that the demand for such Centers is shared by new development as well as by existing development. The proposed Facilities Fee apportions the cost of the necessary public improvements among the different categories of new and existing users according to the reasonably estimated demand that each group of users places upon such facilities. (Ord. No. 814, § 2, 9-18-01)

3.36.020 **Terms and Definitions.** For the purposes of this Chapter, the following terms shall have the means indicated in this Section: "Emergency Preparedness Centers" means those improvements necessary to provide those facilities identified in the City of Beaumont General Plan, the City's Multi-hazard Functional Plan and the Emergency Preparedness Facilities Fee Study dated January 26, 2001, and other improvements in connection therewith, as may be determined by the City Council from time to time, which are not otherwise provided by, or required of, development within the City pursuant to BMC Title 17 (Zoning), Title 16 (Subdivisions), and Title 15 (Building and Construction). Emergency Preparedness Centers shall also include architectural, administrative, engineering, legal, planning, environmental and other services required in connection with the implementation of this Chapter and the construction of the foregoing improvements.

"Developer" means an individual or entity submitting an application for a building permit or other entitlement for development.

"Development" means:

- I. New residential unit, including conversion of existing unit to >I unit.
2. New commercial, office, and industrial development.
3. Additions to existing commercial, office and industrial development greater than two hundred (200) gross square feet.

"Future growth" means the total amount of potential new development in the City permitted under the General Plan. Future growth is expressed in terms of gross square footage for industrial and commercial development, and in terms of the number of dwelling units for residential development. (Ord. No. 814, § 2, 9-18-01)

3.36.030 **Applicability.** Except as otherwise expressly provided in this Chapter, the facilities fee required under this Chapter is payable with respect to each development within the City for which a building permit or other entitlement for development is issued on or after the effective date of the fee as adopted in the Master Fee Schedule. (Ord. No. 814, § 2,9-18-01)

3.36.040 **Amount of Fee.**

A. The amount of the fee shall be determined by the Building Department prior to issuance of the building permit, based upon the Master Fee Schedule.

B. In the event a developer is not satisfied with the calculation of the fee by the Building Department, s/he may request that the type of land use and the amount of the facilities fee required of the development be determined by the Planning Director.

C. The developer shall be notified in writing of the Planning Director's determination about the type of land use and the public facilities fee applicable to the development. Such determination shall be made within thirty (30) days of the Planning Director's receipt of the report and any other additional materials reasonably requested to assist in making the determination. The developer may appeal the determination of the Planning Director to the City Council in accordance with the provisions of Section 3.36.100 of this Chapter.

D. The amount of the fee shall be subject to an annual inflation adjustment on January 1 of each year based upon the Engineering News Record Construction Cost Index for the Los Angeles Area.

E. The amount of the fee shall be reviewed at least every four (4) years. (Ord. No. 814, § 2, 9-18-01)

3.36.050 **Payment of Fee.**

A. The full amount of the fee shall be paid at the time of issuance of the building permit.

B. No City official may issue a building permit, certificate of occupancy, or certify a final inspection, as the case may be, for a development until the facilities fee with respect to such development required by this Chapter is paid in accordance with this Section.

C. The City shall not accept prepayment of the facilities fee, unless prepayment is authorized in a development or other agreement. (Ord. No. 814, § 2, 9-18-01)

3.36.060 **Credits.** If the developer desires to construct an Emergency Preparedness Center, the developer and the City may enter into an agreement regarding the credit against facilities fees due. (Ord. No. 814, § 2, 9-18-01)

3.36.070 **Exemptions.** Unless a development or other agreement provides otherwise, the following projects shall be exempt, in whole or in part, from the facilities fee otherwise required by this Chapter:

A. Residential development consisting of the repair or replacement, on a one-to-one basis.

B. Commercial or industrial development consisting of the repair or replacement of structures, provided, that such repair or replacement does not result in any conversion or change in land use, or any enlargement of gross floor area beyond that of the previous structure. (Ord. No. 814, § 2, 9-18-01)

3.36.080 **Use of Funds.** The fees paid pursuant to this Chapter shall, except for temporary investments, be placed in a separate fund in a manner to avoid commingling of the fees with other revenues or funds of the City, and shall be used solely for the purpose of acquiring and constructing the facilities identified by the City Council in the Master Plan or facilities included in the City's capital improvement plan. Any interest income earned on the fund shall also be deposited therein and shall only be expended for the purposes set forth in this Section. (Ord. No. 814, § 2, 9-18-01)

3.36.090 **Refunds.** Refunds may be made where:

A. Development has ceased, the building permit has expired and no extensions have been granted, or if granted, the extension(s) has expired; as to a development for which the fee required under this Chapter has been collected; provided that the claim for such refund is filed no later than six (6) months after the expiration date of the building permit, or any extension thereof as may have been approved by the City, as the case may be; or

B. A refund is specifically authorized by resolution of the City Council adopted pursuant to Government Code Section 66001(d). Such amounts shall be refunded by the City to the then-current record owners of the development on a prorated basis. The City may affect such refunding by direct payment, or by providing credit towards future facilities fees, or by any other means consistent with the intent of Government Code Section 66001. (Ord. No. 814, § 2, 9-18-01)

3.36.100 **Appeals.** A developer may appeal to the City Council any determination made pursuant to this Chapter. All appeals shall be in a form prescribed by the Planning Director and shall be filed within fifteen (15) days of the date of mailing to the developer any written notice of the applicable determination. Any appeal not filed within such period shall be deemed waived. The City Council shall set the matter for hearing within forty-five (45) days of the date of receipt by the City Clerk of the notice of the appeal. (Ord. No. 814, § 2, 9-18-01)

3.36.110 **Expiration of Fee.** The fees required by this Chapter shall expire when the facilities are completed and all debt service related to such public improvements are paid and satisfied. (Ord. No. 814, § 2,9-18-01)

3.36.120 **Supplementary Provisions.** It is the intent of the City Council that the fees required by this Chapter shall be supplementary to the fees, dedications or conditions imposed upon development pursuant to the provisions of the Subdivision Map Act, California Environmental Quality Act; and other state laws and City ordinances, policies or conditions which may authorize the imposition of fees, dedications or conditions thereon. (Ord. No. 814, § 2, 9-18-01)

3.36.130 **Severability.** The provisions of this Chapter shall not apply to any person, association, corporation or to any property as to whom or which it is beyond the power of the City to impose the fee provided in this Chapter. If any sentence, clause, section or part of this Chapter, or any fee imposed upon any person or entity is found to be unconstitutional, illegal, or invalid, such unconstitutionality, illegality or invalidity shall affect only such sentence, clause, section or part of this Chapter, and shall not affect or impair any of the remaining provisions, sentences, clauses, sections or other parts of this Chapter, or its effect on other persons or entities. It is declared to be the intention of the City Council that this Chapter would have been adopted had such unconstitutional, illegal, or invalid sentence, clause, section or part of this Chapter had not been included herein; or had such person or entity been expressly exempted from the application of this Chapter. To this end, the provisions of this Chapter are severable. (Ord. No. 814, § 2, 9-18-01)

CHAPTER 3.38**EXHAUSTION OF REMEDIES WITH
RESPECT TO CLAIMS AGAINST THE CITY**

Sections:

- 3.38.010 Exhaustion of Remedies
3.38.020 Statement of Purpose
3.38.030 Severability

3.38.010 Exhaustion of Remedies Before seeking judicial relief with respect to a dispute regarding a tax, fee or other charge imposed by the City, an aggrieved taxpayer, fee payer or other person must exhaust administrative remedies by: (i) exhausting any administrative remedies specified by any other provision of this Code or other applicable law, (ii) paying the full amount owed, including applicable penalties and interest, **and** (iii) presenting a claim for refund under Chapter 1.20 of this Code. (Ord. 968, 4.20.10)

3.38.020 Statement of Purpose This Chapter is intended to apply the requirements of Article XIII, Section 32 of the California Constitution to disputes involving taxes and fees imposed by the City. These requirements include the “pay first, litigate later” rule that requires those who dispute their taxes to pay them before suing for a refund. In the absence of such a rule, any taxpayer could impose significant hardship on the City and undermined its ability to predict its revenues and manage its resources for the benefit of the public it serves. The lack of such a rule would give unwarranted hold-up leverage to every taxpayer, no matter how unfounded his or her refund claim might be. (Ord. 968, 4.20.10)

3.38.030 Severability Should any provision of this Chapter, or its application to any person or circumstance be determined by a Court of competent jurisdiction to be unlawful, unenforceable or otherwise void, that determination shall have no effect on any other provision of this Chapter or the application of this Chapter to any other person or circumstance and, to that end, the provisions are severable.” (Ord. 968, 4.20.10)