

Table of Contents

CHAPTER 3.08 TOWN FUNDS	5
3.08.010 Investment of Town Monies and Deposit of Securities	5
3.08.020 Authorized Investments	5
3.08.030 Sales of Securities.....	5
3.08.040 Town Bonds	5
3.08.050 Reports.....	5
3.08.060 Deposits of Securities	5
3.08.070 Trust Fund Administration.....	5
CHAPTER 3.10 COLLECTION OF DEBTS TO THE TOWN.....	6
3.10.010 Collection of Debts to the Town	6
3.10.020 Town Employees Subpoenaed As Witnesses	6
CHAPTER 3.12 PURCHASES	7
3.12.010 Purpose of Purchasing System.....	7
3.12.020 Scope of Chapter.....	7
3.12.030 Purchasing Agent.....	7
3.12.040 Purchasing Regulations	7
3.12.050 Purchasing Authority.....	8
3.12.060 Department Purchasing.....	8
3.12.090 Purchase Orders	8
3.12.100 Blanket Purchase Orders – Cumulative Purchases.....	8
3.12.120 Bidding	8
3.12.130 Formal and Informal Bid Amounts	9
3.12.140 Notice Inviting Formal Bids	9
3.12.150 Notice for Formal Bids	9
3.12.160 (Reserved).....	9
3.12.170 (Reserved).....	9
3.12.180 Bidder's Security.....	9
3.12.190 Other Formal Bond Requirements.....	10
3.12.200 Formal Bid Opening Procedure.....	10
3.12.210 Rejection of Formal Bids	10
3.12.220 Award of Formal Bid Contracts	10
3.12.230 Tie Formal Bids.....	10
3.12.240 No Formal Bids	10
3.12.245 Protest Procedure	10
3.12.250 Record of Formal Bids.....	11
3.12.255 Informal Bid Procedure.....	11
3.12.260 Rejection of Informal Bids	12
3.12.270 Notice Inviting Informal Bids	12
3.12.280 Record of Informal Bids.....	12
3.12.285 Award of Purchase Orders and Contracts.....	12

3.12.290	Exceptions to Competitive Bidding Requirement.....	12
3.12.300	Local Bidder Preferences.....	12
3.12.310	Surplus Supplies and Equipment.....	13
3.12.320	Surplus Supplies -- Trade-ins.....	13
3.12.330	Surplus Supplies -- Sale.....	13
3.12.340	Conveying Surplus Personal Property to Charitable, Nonprofit Organizations and Local Government Organizations.....	13
3.12.350	Purchasing Card Purchases.....	13
3.12.360	Rule for Non procurement, suspension and debarment from Federal Contracts ..	14
3.12.370	Requirements by Other Governmental Agencies and Granting Authorities.....	14
3.12.380	Green Procurement Policy.....	14
CHAPTER 3.13	PUBLIC WORKS PROJECTS.....	15
3.13.010	Prevailing Wages.....	15
3.13.010.2	Other Claims.....	15
CHAPTER 3.16	DEMANDS AND CLAIMS	16
3.16.010	Claims for Money or Damages.....	16
3.16.010.1	Tort Claims	16
3.16.010.2	Other Claims	16
3.16.020	Auditing Prerequisite to Payment	17
3.16.030	Forms -- Blanks for Demands	17
3.16.040	Departmental Approval of Claims.....	17
3.16.050	Approval by Town Manager.....	17
3.16.060	Prepayment of Demands	17
3.16.070	Register of Demands	18
3.16.080	Town Council Approval.....	18
3.16.090	Record of Approved Demands.....	18
CHAPTER 3.18	SPECIAL GAS TAX STREET IMPROVEMENT FUND	19
3.18.010	Created	19
3.18.020	Monies Included	19
3.18.030	Expenditures	19
CHAPTER 3.20	TRANSFER OF TAX FUNCTIONS.....	19
3.20.010	Assessment and Collection of Town Taxes by County.....	19
CHAPTER 3.22	REAL PROPERTY DOCUMENTARY TRANSFER TAX	19
3.22.010	Short Title - Adoption.....	19
3.22.020	Imposition -- Rates.....	19
3.22.030	Payment.....	20
3.22.040	Tax Inapplicable to Instruments in Writing to Secure Debts.....	20
3.22.050	Government and its Agencies Not Liable	20
3.22.060	Tax Inapplicable to Conveyances to Make Effective Plan of Reorganization or Adjustment.....	20
3.22.070	Tax Inapplicable to Make Effective Order of Securities & Exchange Commission	20
3.22.080	Partnerships	20

3.22.090	Administration	21
3.22.100	Claims for Refund.....	21
CHAPTER 3.24	TRANSIENT OCCUPANCY TAX	21
3.24.010	Short Title	21
3.24.020	Definitions.....	21
3.24.030	Rate	22
3.24.040	Exemptions.....	22
3.24.050	Collection of Tax.....	23
3.24.060	Registration	23
3.24.070	Reporting and Remitting.....	24
3.24.080	Penalties and Interest	24
3.24.090	Failure to Collect and Report.....	25
3.24.100	Appeal	27
3.24.110	Records.....	28
3.24.120	Refunds.....	28
3.24.130	Actions to Collect.....	28
3.24.140	Violations	29
3.24.150	Condition Precedent to Judicial Review of Tax Liability	29
CHAPTER 3.26	SALES AND USE TAX.....	30
3.26.010	Short Title	30
3.26.020	Rate	30
3.26.030	Operative Date.....	30
3.26.040	Purpose.....	30
3.26.050	Contract with State.....	30
3.26.060	Sales Tax.....	30
3.26.070	Place of Sale	31
3.26.080	Use Tax.....	31
3.26.090	Adoption of Provisions of State Law.....	31
3.26.100	Limitations on Adoptions of State Law	31
3.26.110	Permit Not Required	32
3.26.120	Exclusions and Exemptions.....	32
3.26.130	Amendments	32
3.26.140	Enjoining Collection Forbidden	32
3.26.150	Penalties	32
3.26.160	Severability.....	33
3.26.170	Effective Date.....	33
3.26.180	Existing Sales and Use Tax Ordinances Suspended	33
CHAPTER 3.32	FEE & SERVICE CHARGE REVENUE/COST COMPARISON SYSTEM....	33
3.32.010	Findings and Intent.....	33
3.32.020	Delegation of Authority and Direction to Manager	34
3.32.030	Costs Reasonably Borne Defined.....	34
3.32.040	Schedule of Fees and Service Charges	35
3.32.050	Statutory Public Meeting	36

3.32.060	Provision of Data	36
3.32.070	Appeal to Town Council	36
CHAPTER 3.33	MITIGATION FEE PROGRAM	36
3.33.010	Facilities Mitigation Fee Program	36
3.33.020	Traffic Mitigation Fee Program	37
CHAPTER 3.36	HISTORIC PROPERTY PRESERVATION (MILLS ACT) CONTRACTS	38
3.36.010	Purpose	38
3.36.020	Definitions	38
3.36.030	Mandatory Provisions of Historic Property Preservation Contracts.....	39
3.36.040	Procedures for Application and Approval of Historic Property Preservation Contracts	39
CHAPTER 3.38	Optional Procedures for Formation of Community Facilities District.....	40
3.38.010	Short Title	40
3.38.020	Purpose and Intent.....	40
3.38.030	Definitions	40
3.38.040	Incorporation of Mello-Roos Community Facilities Act of 1982 and Other Law	41
3.38.050	Authorized Expenditures	42
3.38.060	Written Protests	43
3.38.070	Special Tax Election; Voter Qualifications; Ballots	43
3.38.080	Collection of Delinquent Special Taxes on Secured Property Tax Roll.....	43
3.38.090	Compliance with Chapter	43
3.38.100	Conflict of Law	44

CHAPTER 3.08 TOWN FUNDS

3.08.010 Investment of Town Monies and Deposit of Securities

Pursuant to, in accordance with, and to the extent allowed by Sections 53607 and 53608 of the Government Code, the authority to invest and reinvest moneys of the Town, to sell or exchange securities, and to deposit them and provide for their safekeeping, is delegated to the Town Treasurer.

3.08.020 Authorized Investments

Pursuant to the delegation of authority in Section 3.08.010, the Town Treasurer is authorized to purchase, at their original sale or after they have been issued, securities which are permissible investments under any provision of State law relating to the investing of general Town funds, including but not limited to Sections 53601 and 53635 of the Government Code, as such sections now read or may hereafter be amended, from moneys which are not required for the immediate necessities of the Town and as may be deemed wise and expedient, and to sell or exchange for other eligible securities and reinvest the proceeds of the securities so purchased.

3.08.030 Sales of Securities

From time to time the Town Treasurer shall sell the securities in which Town moneys have been invested pursuant to this chapter, so that the proceeds may, as appropriate, be applied to the purchase for which the original purchase money may have been designated or placed in the Town treasury.

3.08.040 Town Bonds

Bonds issued by the Town and purchased pursuant to this chapter may be canceled either in satisfaction of sinking fund obligations or otherwise if proper or appropriate; provided, however, that such bonds may be held uncanceled and while so held may be resold.

3.08.050 Reports

The Town Treasurer shall make a monthly report to the Town Council of all investments made pursuant to the authority delegated in this chapter.

3.08.060 Deposits of Securities

Pursuant to the delegation of authority in Section 3.08.010, the Town Treasurer is authorized to deposit for safekeeping, the securities in which Town moneys have been invested pursuant to this chapter, in any institution or depository authorized by the terms of any State law, including but not limited to Section 53608 of the Government Code as it now reads or may hereafter be amended. In accordance with such section, the Town Treasurer shall take from such institution or depository a receipt for the securities so deposited and shall not be responsible for such securities delivered to and receipted for by such institution or depository until they are withdrawn there from by the Town Treasurer.

3.08.070 Trust Fund Administration

Any departmental trust fund established by the Town Council pursuant to Section 36523 of the Government Code shall be administered by the Town Treasurer in accordance with Section 36523 of the Government Code and any other applicable provisions of law.

(ORD 93-15 06-03-93; 93-19 07-01-93)

CHAPTER 3.10 COLLECTION OF DEBTS TO THE TOWN

3.10.010 Collection of Debts to the Town

The amount of any fee, service charge, utility charge, license, or tax of any nature whatsoever imposed by this Code or by any other resolution, ordinance, rule, regulation or in any other fashion by the Town shall be deemed a civil debt owing to the Town. An action may be commenced in the name of the Town in any court of competent jurisdiction for the collection of the amount of any such delinquent or unpaid fee, service charge, utility charge, license, or tax, together with any penalties applicable thereto as prescribed by this Code or any other enactment. Such action may also be commenced for the collection of any other amount or debt determined to be due the Town on account of any contractual obligation or on account of any tortuous act or conduct by any person. The remedy prescribed by this section shall be cumulative, and the use of a civil action to collect such an amount as a debt shall not bar the use of any other remedy provided by this Code or by law for the purpose of enforcing the provisions thereof.

(ORD 93-15 06-03-93; 93-19 07-01-93)

3.10.020 Town Employees Subpoenaed As Witnesses

- Reimbursement of the Full Cost Required

Any Town employee who is obliged by a subpoena to attend a civil action or proceeding as a witness in any such action or proceeding to which the Town is not a party shall receive the salary or other compensation to which he or she is normally entitled from the Town during the time he or she prepares to testify, travels to testify, or is required to remain at the action or proceeding for purposes of testimony, including any reasonably necessary expenses.

The party at whose request the subpoena is issued shall reimburse the Town in full for the costs incurred as set forth above, plus reasonable administrative overhead for each day the employee is required to remain in attendance pursuant to the subpoena. Prior to the subpoena being honored the party shall deposit the Town's reasonable estimate of the full cost for each day the employee is expected to remain in attendance pursuant to the subpoena.

If the actual expenses are less than the estimate the excess amount tendered shall be refunded to the party. If the amount is greater than the estimate the party shall pay the Town all monies due. Any unpaid sums shall become a debt owed to the Town as set forth in Section 3.10.010.

(ORD 2004-07, 10-06-04)

CHAPTER 3.12 PURCHASES

3.12.010 Purpose of Purchasing System

The purpose of the Purchasing System is to establish efficient procedures for the purchase of services, supplies and equipment at the lowest possible cost commensurate with quality needs, to exercise positive financial control over purchases, to clearly define authority for the purchasing function, and to assure the quality of purchases.

3.12.020 Scope of Chapter

The procedures established by this chapter shall apply to the purchase of supplies, equipment and services, and to public projects involving construction. To the extent any discrepancy or inconsistency exists between any provision of this chapter and a provision of the California Public Contract Code, the provision of this chapter shall control, pursuant to Section 200 of the Town's charter.

3.12.030 Purchasing Agent

The position of Administrative Services Director (ASD) shall have general supervision and final responsibility of the purchasing system. The ASD shall have the authority to:

1. Establish Purchasing Rules and Regulations for the internal management and operation of the purchasing system and such other rules and regulations as shall be prescribed by the Town Manager;
2. Recommend execution of contracts for the purchase of supplies and equipment;
3. Ensure the needed quality in supplies and equipment are purchased at the least expense to the Town;
4. Discourage uniform bidding and endeavor to obtain as full and open competition as possible on all purchases;
5. Prepare and recommend to the Town Council ordinances governing the purchase of supplies and equipment for the Town;
6. Prepare and recommend revisions and amendments to the purchasing rules;
7. Keep informed of current developments in the field of purchasing, prices, market conditions and new products;
8. Prescribe and maintain such forms as are reasonably necessary for the operation of this chapter and other rules and regulations;
9. Ensure the proper inspection of all supplies and equipment purchased and that they are in conformance with specifications;
10. Recommend the transfer of surplus or unused supplies and equipment between departments as needed;
11. Maintain a list of vendors and records needed for the efficient operation of the purchasing division.

3.12.040 Purchasing Regulations

The ASD shall be responsible for determining that the regulations and procedures in Municipal Code Chapter 3.12 are properly enforced.

3.12.050 Purchasing Authority

The Town Manager is authorized to execute any such personal, professional or consulting service or other contractual services and to authorize the purchase of any supplies or equipment in an amount up to: (i) \$50,000 per vendor, per Town fiscal year, for each Town division; (ii) \$100,000 for a public project, routine operating supplies, capital projects that are included in the Fleet Replacement Program, and software maintenance upgrade costs which are available from only one existing vendor, as defined in the Purchasing Rules and Regulations, provided such contract was included in the Town's approved annual budget; or (iii) such other amount specified by Town Council resolution, provided that all such contracts are consistent with the Town's adopted budget. All other such contracts shall be approved by the Town Council; giving the Town Manager authority to sign the contract. The Town Manager shall provide authority to Department Heads, as "department purchasing agents" to make purchases through their staff according to this ordinance and the Purchasing Rules and Regulations. See Purchasing Rules and Regulations for other signatory authority.

3.12.060 Department Purchasing

The Town Manager may authorize any department to purchase specified supplies and equipment. Such purchases shall be made in conformity with the procedures established by this chapter and shall be consistent with the Town's adopted budget.

3.12.090 Purchase Orders

Purchases of supplies and equipment shall be made by purchase orders when the cost of such supplies and equipment is less than the amount requiring Town Council approval. This cost will include shipping, but will not include sales taxes. Except as otherwise provided herein, no purchase order shall be issued to a vendor unless the prior approval of the purchase order has been obtained. See 3.12.285 for requirements of purchase orders.

3.12.100 Blanket Purchase Orders – Cumulative Purchases

Where individual purchases to a vendor may or may not require a purchase order, but where cumulative purchases in a fiscal year by a single Town division (i.e. those operations overseen by a single Town employee designated as a division manager) from a vendor are in excess of \$5,000, or a different amount specified for purchase order or approval by Town Council resolution, and a contract and/or other authority has not been approved by Town Council:

- (a) A blanket purchase order is authorized.
- (b) If the estimated cumulative purchases are more than the amount requiring Council approval the Town Council must approve in advance a "not to exceed" amount for a blanket purchase order.

3.12.120 Bidding

Purchases of supplies and equipment shall follow the requirements of the Purchasing Rules and Regulations Bidding for public projects, as defined in Public Contract Code Section 20161, shall be bid according to the requirements of state law, except as set forth herein. Bidding may be dispensed with only under conditions stated in Section 3.12.290.

3.12.130 Formal and Informal Bid Amounts

Except in emergencies, "public projects" (as defined in the Purchasing Rules and Regulations) valued at more than \$15,000 and not more than \$100,000 shall be contracted for using the informal bidding procedure set forth herein and in the Purchasing Rules and Regulations. Public projects valued at more than \$100,000 shall be contracted for using the formal bidding procedure set forth herein and in the Purchasing Rules and Regulations. Public projects valued at not more than \$15,000, and public projects of any amount in case of emergency (as defined in the Purchasing Rules and Regulations), shall be awarded using the designated source procedure set forth in the Purchasing Rules and Regulations. For other types of contracts, the contract amount above which formal bids are required is specified in the Town's Purchasing Rules and Regulations. Bidding for public projects is regulated by Section 20160-20175.2 of the California Public Contract Code unless otherwise ordered by Town Council. Purchases of supplies and equipment of an estimated value less than the amount specified by Town Council resolution for formal bids may be made on the open market using the informal bidding procedures set forth below in 3.12.255.

3.12.140 Notice Inviting Formal Bids

Notices inviting formal bids shall include, but not limited to, the following:

- (a) A general description of the item(s) or service(s) to be purchased, or the public work to be constructed or improved;
- (b) The location where bid blanks and specifications may be secured;
- (c) The time and place assigned for the opening of sealed bids;
- (d) The type and character of bidder's security required, if any; and
- (e) The location and deadline for submission of bids.
- (f) Any other information that may be helpful in choosing the contractor most suited for the supplies, services or equipment.

3.12.150 Notice for Formal Bids

Notices inviting formal bids shall be published at least ten days prior to the date of opening the bids. Notices shall be published at least once for non-public projects and at least twice, not less than five days apart, for public works projects on the Town's website, in a local newspaper and/or other appropriate publications.

3.12.160 (Reserved)

3.12.170 (Reserved)

3.12.180 Bidder's Security

Where deemed necessary by the ASD, formal bids shall be accompanied by security, either cash, cashier's check, certified check or surety bond, in a sum equal to ten percent of the total aggregate of the bid. The bid security requirement, if applicable, shall be designated in the notice inviting bids. Bidders shall be entitled to return of bid security; provided, however, that a successful bidder shall forfeit the bid security upon refusal or failure to execute the contract within ten days after the notice of award of contract has been mailed, unless the Town is solely responsible for the delay in executing the contract. The Town Council may, on refusal or failure of the successful bidder to execute the contract, award it to the next lowest responsible bidder who is willing to execute the contract, or may reject all bids and re-advertise.

3.12.190 Other Formal Bond Requirements

A faithful performance bond and labor and material bond shall be required for all public projects, unless waived by the Town Council, in an amount reasonably necessary to protect the best interests of the Town. In addition, the Town shall have authority to require a faithful performance bond or other bonds before entering into a contract other than a public project contract. If bonds are required, the form and amount thereof shall be designated in the notice inviting bids.

3.12.200 Formal Bid Opening Procedure

Sealed bids shall be submitted to the Town Clerk's office and shall be identified with the published title of the request for proposal on the envelope. All sealed bids shall remain secured until bid opening. The Town Clerk, or department designee, shall publicly open all bids at the time and place stated in the public notices. A tabulation of all bids received shall be available for public inspection in the Town Clerk's office during regular business hours for a period of not less than 30 calendar days after the bid opening.

3.12.210 Rejection of Formal Bids

In its discretion, the Town Council may reject any and all bids presented and may cause re-advertising for bids pursuant to the procedure herein prescribed. However, when all bids exceed the authorized budgeted amount, the Town Manager may authorize rejection of all bids and authorize re-bidding based upon the original specifications or as they may be modified, in accordance with procedures prescribed herein.

3.12.220 Award of Formal Bid Contracts

Except as otherwise provided herein, formal bid contracts shall be awarded by the Town Council to the lowest responsible bidder. The determination of "lowest responsible bidder" shall be at the discretion of the Town Council pursuant to findings and recommendations presented by the department head overseeing the contract at the time of award of contract.

3.12.230 Tie Formal Bids

If two or more formal bids received are for the same total amount or unit price, quality and service being equal, and if the public interest will not permit the delay of re-advertising for bids, the Town Council may in its discretion accept the one it chooses or accept the lowest bid made by and after negotiation with the tie bidders at the time of the bid opening or award of contract.

3.12.240 No Formal Bids

When no formal bids or no responsive bids are received, the department head is authorized to negotiate for written proposals, and make recommendation to the Town Manager and the award, if any, shall be made in accordance with applicable provisions prescribed herein. A responsive bid is defined as a bid which conforms in all material respects to the terms and conditions, the specifications and other requirements of the invitation for bid/request for proposal.

3.12.245 Protest Procedure

Under the provisions of this Chapter, only a person or entity who or which submitted a bid in compliance with this Chapter in the same proceeding will have standing to challenge the award of bid or the procedures used in bid evaluation. Any such challenge must be filed with the Town Clerk within five business days of the bid opening, and shall include all factual information used as the basis of the challenge. The department head overseeing the contract shall review the

challenge and provide a written recommendation regarding its validity to the authority awarding the bid. If the authority awarding the bid is the Town Council, the Council's decision regarding the award is final and there is no further Town administrative appeal process.

If the authority awarding the bid is not the Town Council, the award may be appealed to the Town Council. The challenger must file the appeal with the Town Clerk within five business days of the award in the form required by the Town Clerk. The Town may require the appeal to be accompanied by an appeal fee deposit equal to the estimated costs of processing the appeal.

The appellant shall additionally execute an agreement holding harmless, indemnifying, and defending the Town, its officials, agents, and employees from any and all liabilities and costs arising from a granting of the appeal, including but not limited to the Town's reasonable attorney fees and costs in defending litigation seeking to reverse decisions of the Town with regard to the appeal and any increase in project costs which result from the proceeding. The Town may, at its discretion, require security in the form of bonds, letters of credit, or cash from the appellant to insure performance of the agreement.

The appellant and awarded bidder shall be provided with written notice of a hearing on the appeal before the awarding authority. The hearing shall be conducted under rules adopted by the awarding authority for that purpose. The awarding authority shall issue a final decision in writing within ten days after the conclusion of the hearing.

Failure to file a timely appeal under the conditions specified herein, or otherwise comply with the provisions of this section, shall constitute a waiver of the right to challenge the bid award.

3.12.250 Record of Formal Bids

The Town Clerk shall keep and maintain all formal bids, together with the bidder's list for the contract for which bids were submitted. These records shall be maintained in accordance with the Town's adopted record retention schedule, and shall be open to public inspection while they are maintained.

3.12.255 Informal Bid Procedure

Purchases of supplies and equipment of an estimated value in the amount specified by Town Council resolution for contract awards on the open market, or less, may be made in the open market pursuant to the procedures set forth below.

- (a) Purchases shall, wherever possible, be based on at least three informal bids.
- (b) Shall include consideration of the Town's local business preference to local businesses as stated in section 3.12.295 herein.
- (c) Shall comply with the Town's Green Procurement and Sustainable Practices Policy as stated in section 3.12.380 herein, and
- (d) A contract shall be awarded to the bidder offering the most advantageous bid to the Town after consideration of price, quality, durability, servicing, delivery time, standardization, and other factors as listed in section 3.12.285 herein.
- (e) A purchase order shall be submitted for approval of bid to the ASD as required in the Purchasing Rules and Regulations, unless a contract is executed.
- (f) Purchases of motor vehicle fuel for use in Town vehicles may be completed using the informal bid procedures and shall not require a purchase order.

3.12.260 Rejection of Informal Bids

Informal bids which fail to meet the specific purchase requirements in any respect may be rejected; or all informal bids may be rejected for any reason whatsoever, and new bids may be invited.

3.12.270 Notice Inviting Informal Bids

The department purchasing agent shall solicit informal bids by written requests to prospective vendors, by email, or by public notice posted on the Town website.

3.12.280 Record of Informal Bids

The Administrative Services Department shall keep and maintain all informal bids and their associated documents for anything other than public projects. These records shall be maintained in accordance with the Town's adopted record retention schedule, and shall be open to public inspection while they are maintained. Public project informal bids shall be maintained by the Town Clerk's department.

3.12.285 Award of Purchase Orders and Contracts

- (a) Authorized Amount: If two or more informal bids are received for the same total amount or unit price, quality and service being equal, the department purchasing agent may accept the lower bid obtained through negotiation with the persons submitting the tie bids.
- (b) If no informal bids are received subsequent to solicitation of such, the department purchasing agent may make the required purchase without further notice.

3.12.290 Exceptions to Competitive Bidding Requirement

Notwithstanding any provision of this chapter to the contrary, the competitive bidding provisions of this code may be dispensed with under circumstances set forth in the Purchasing Rules and Regulations.

3.12.300 Local Bidder Preferences

Except as set forth herein, all Town contracts, for supplies, equipment, services, professional services, and construction or maintenance, qualified local contractors, vendors, and bidders shall receive in the evaluation of bids and proposals a local preference, the details of which shall be set forth in a resolution adopted by the Town Council. The local preference shall not apply to any of the following:

- a. Bids/contracts to the extent which application of the provisions of this section would be prohibited by State or Federal law or regulation.
- b. Situations in which an emergency is found to exist and documented by the awarding authority which precludes use of the customary local business preference policy.
- c. Where, for reasons other than price or the amount of a bid or estimate, the Town determines that a bid is unresponsive and/or, that the person, entity or business seeking the Town award is unqualified and/or is not responsible.
- d. Contracts with any single or sole source supplier for supplies, materials, equipment or other personal property.
- e. Supplies, materials or equipment which can be obtained at a favorable price as a result of other governmental purchasing programs.

- f. Contracts for professional and consultant services.
- g. Fuel purchases.

3.12.310 Surplus Supplies and Equipment

All departments with fixed asset inventories shall review their inventory list and submit to the Administrative Services Department, at such times and in such forms as prescribed, reports showing all supplies and equipment which are no longer used or which have become obsolete and worn out.

3.12.320 Surplus Supplies -- Trade-ins

The ASD shall have authority to exchange for or trade in on new supplies and equipment all supplies and equipment which cannot be used by any department or which have become unsuitable.

3.12.330 Surplus Supplies -- Sale

The ASD shall have authority, subject to approval of the Town Manager, to dispose of surplus supplies or equipment by auction or by sale or otherwise after receiving bids or proposals which provide the maximum return to the Town. Town employees or officers may participate in the purchase of surplus supplies and/or equipment on the same basis as other members of the general public; provided, however, there is no direct bid involvement or conflict of any kind.

3.12.340 Conveying Surplus Personal Property to Charitable, Nonprofit Organizations and Local Government Organizations

Notwithstanding the other provisions of this article, the Town Council may convey to charitable, nonprofit organizations and local government organizations surplus property as it is determined by the Town Council that the use to which the personal property will be for the benefit of the general welfare of the community in matters such as recreation, education, aid to the destitute, town beautification, or any other activity in which the Town government may legitimately participate. The Town Council authorizes the Town Manager to convey to charitable, nonprofit organizations and local government organizations surplus property where the value of an individual item is \$5,000 or less and which meets the aforementioned criteria relative to community benefit.

The organization accepting such personal property shall sign a statement that accepts such property on the condition that it will be used for the purpose designated by the Town; that it shall not be used for any other purpose without the permission of the Town; and that if such property is ever diverted to other than a charitable use, the Town may reclaim such property.

3.12.350 Purchasing Card Purchases

Purchasing cards shall be used for gasoline purchases, travel expenses, and training seminars, and may be used for other purchases as set forth in the Purchasing Rules and Regulations. All purchasing card purchases shall be made by personnel authorized to use the purchasing card to make purchases within the department approved budget, and all other requirements of the Purchasing Rules and Regulations pertaining to purchasing cards shall be complied with.

3.12.360 Rule for Non procurement, suspension and debarment from Federal Contracts

Prior to contracting for services on projects utilizing federal funds the non-procurement, suspension and debarment list provided by the Federal Government according to 31 U.S.C. 6101, note, E.O. 12549, E.O. 12689, 48 CFR 9.404, Rule for Non procurement suspension and debarment shall be reviewed to verify the contractor is not included in the list.

3.12.370 Requirements by Other Governmental Agencies and Granting Authorities

Prior to contracting for services or purchasing equipment and material which is to be funded by grant or other governmental authority the rules required under the funding agreement will be reviewed and followed to ensure proper compliance with requirements such as federal prevailing wages.

3.12.380 Green Procurement Policy

- (a) It is the intent of the Town Council, based on the adoption of the Green Procurement and Sustainable Practices Policy adopted January 13, 2009, that the Town of Truckee take a leadership role not only in recycling its waste products but also in the purchase of recycled products for use in the delivery of town services. It is the purpose of this section to provide direction in the procurement and use of recycled products unless such products do not perform satisfactorily and/or are unreasonably expensive and/or conflicts with an existing Town policy. For the purpose of this section, recycled materials are defined as any materials (e.g., glass, paper, plastic, etc.) that are separated by type, reprocessed by industrial methods, and used as raw materials for the manufacture of new.
- (b) It is the policy of the Town of Truckee to purchase and use recycled products whenever possible to the extent that such use does not negatively impact health, safety, or operational efficiency and to encourage the purchase of products which can be recycled or reused. The priority for purchasing recycled content products shall be as follows:
 - i. The highest percentage of recycled content of post-consumer recovered material available in the marketplace; and
 - ii. The highest percentage of “pre-consumer recovered material,” available in the marketplace.
- (c) The town will purchase and use environmentally preferable product categories as designated in the Green Procurement and Sustainable Practices Policy IV A. Procurement Practices.

(ORD 2011-01 5-19-2011; 2017-04 6-13-2017)

CHAPTER 3.13 PUBLIC WORKS PROJECTS

3.13.010 Prevailing Wages

As authorized by Town Charter Section 200, the Town of Truckee hereby exercises the right granted by the voters to establish a mechanism for determining wages to be paid on locally funded public works projects. The Public Works Director is hereby directed to establish wages for all projects of municipal concern in accordance with Council Resolution 95-25 as it may be amended from time to time.

3.13.010.2 Other Claims

- (a) Authority. This ordinance is enacted pursuant to Section 935 of the California Government Code.
- (b) Claims Required. All claims against the Town for money or damages not otherwise governed by the Government Claims Act, California Government Code Sections 900 et seq., or another state law (hereinafter in this ordinance, "claims") shall be presented within the time, and in the manner, prescribed by Part 3 of Division 3.6 of Title 1 of the California Government Code (commencing with Section 900 thereof) for the claims to which that Part applies by its own terms, as those provisions now exist or shall hereafter be amended, and as further provided by this ordinance.
- (c) Form of Claim. All claims shall be made in writing and verified by the claimant or by his or her guardian, conservator, executor or administrator. In addition, all claims shall contain the information required by California Government Code Section 910. The foregoing reference to Government Code Section 910 shall not be construed to authorize a class claim, and no claim may be filed on behalf of a class of persons unless verified by every member of that class.
- (d) Claim Prerequisite to Suit. In accordance with California Government Code Sections 935(b) and 945.6, all claims shall be presented as provided in this section and acted upon by the Town prior to the filing of any action on such claims and no such action may be maintained by a person who has not complied with the requirements of subdivisions (b) and (c) of this section.
- (e) Suit. Any action brought against the Town upon any claim or demand shall conform to the requirements of Sections 940-949 of the California Government Code. Any action brought against any employee of the Town shall conform with the requirements of Section 950-951 of the California Government Code.

(ORD 2011-08, 10-20-2011; 2017-04, 06-18-2017)

CHAPTER 3.16 DEMANDS AND CLAIMS

3.16.010 Claims for Money or Damages

As a prerequisite to bringing suit thereon against the Town or any officer, employee, department, commission or board of the Town, any claim for money or damages, including claims which would otherwise be excepted by Section 905 of the Government Code of California, which is not governed by any other statutes or regulations expressly relating thereto, shall be presented and acted upon in accordance with Title 1, Division 3.6, Part 3, Chapter 1 (commencing with Section 900) and Chapter 2 (commencing with Section 910), of the Government Code of California. This section shall relate only to the bringing of suit upon any claim, and shall not be deemed to apply to the authority of the Director of Finance and general services, the Town Council, and other officers to process and pay, in the ordinary course of business, the just obligations of the Town, such as routine salaries and wages, principal and interest on bonds, payments for purchases, and other like expenditures for which there is an express budget appropriation, and in connection with which there is no dispute as to the obligation and amount being payable.

3.16.010.1 Tort Claims

- (a) All tort claims filed against the Town of Truckee shall be acted upon within forty-five (45) days of receipt. Each claim will be submitted to the Town Attorney and the Town Manager for review with a specified date for follow-up which will allow sufficient time for it to be acted upon within the forty-five (45) days period.
- (b) For tort claims of less than \$10,000, the investigation will be conducted by Town staff. The affected department will provide any necessary reports and its recommendation as to the claim disposition. That information will then be reviewed to determine if the claim should be settled or denied.
- (c) For all other tort claims, the investigation will be conducted by the Town's claims administration firm. A preliminary report will be issued to the Town with a recommendation as to acceptance, rejection or compromise of the claim. Upon its review, the Town will determine if the claim should be settled or denied.
- (d) For tort claims of less than \$10,000, the Town Manager has settlement/denial authority with the concurrence of the Town Attorney. Claims of \$10,000 or more must be reviewed by the Town Council and recommended for settlement or denial.

3.16.010.2 Other Claims

- (a) Authority. This ordinance is enacted pursuant to Section 935 of the California Government Code.
- (b) Claims Required. All claims against the Town for money or damages not otherwise governed by the Government Claims Act, California Government Code Sections 900 et seq., or another state law (hereinafter in this ordinance, "claims") shall be presented within the time, and in the manner, prescribed by Part 3 of Division 3.6 of Title 1 of the California Government Code (commencing with Section 900 thereof) for the claims to which that Part applies by its own terms, as those provisions now exist or shall hereafter be amended, and as further provided by this ordinance.
- (c) Form of Claim. All claims shall be made in writing and verified by the claimant or by his or her guardian, conservator, executor or administrator. In addition, all claims shall contain the information required by California Government Code Section 910. The

foregoing reference to Government Code Section 910 shall not be construed to authorize a class claim, and no claim may be filed on behalf of a class of persons unless verified by every member of that class.

- (d) Claim Prerequisite to Suit. In accordance with California Government Code Sections 935(b) and 945.6, all claims shall be presented as provided in this section and acted upon by the Town prior to the filing of any action on such claims and no such action may be maintained by a person who has not complied with the requirements of subdivisions (b) and (c) of this section.
- (e) Suit. Any action brought against the Town upon any claim or demand shall conform to the requirements of Sections 940-949 of the California Government Code. Any action brought against any employee of the Town shall conform with the requirements of Section 950-951 of the California Government Code.”

(ORD 2003-04, 08-21-04; 2011-08 10-20-2011)

3.16.020 Auditing Prerequisite to Payment

No payment shall be made from the Town treasury or out of the funds of the Town unless the demand which is to be paid is duly audited as prescribed herein or by other provisions of law.

3.16.030 Forms -- Blanks for Demands

Claims against the Town shall be paid on demands on the treasury as herein provided on forms to be prescribed by the Town Manager.

3.16.040 Departmental Approval of Claims

Except for tort claims, every claim and demand received against the Town shall be first presented to and approved in writing by the receiving department or office, which shall certify to the actual delivery or rendition of the supplies, materials, property or service for which payment is claimed; that the quality and prices correspond with the original specifications and contracts, if any, upon which the claim is based; that the demand in all other respect is proper and valid, and which shall further indicate the budgetary account to which said demand is to be charged.

3.16.050 Approval by Town Manager

Each demand approved by the receiving department or office shall be presented to the Town Manager, who shall be satisfied whether:

- (a) The claim is legally due and owing by the Town;
- (b) There are budgeted or otherwise appropriated funds available to pay said claim;
- (c) The claim conforms to a valid requisition or order;
- (d) The prices and computations shown on the claim are verified;
- (e) The claim contains the approval of other departments and officials as required.

3.16.060 Prepayment of Demands

- (a) Prepayment of demands prior to audit by the Town Council may be made by the Town Manager in conformance with the authority provided by Section 37208 of the Government Code of the State.
- (b) Whenever the Town Manager determines that a refund is due of fees, taxes or other receipts collected in error or in advance of being earned, or of money the refund of which is otherwise due pursuant to specific provisions of this Code or of any other ordinance of this Town, then any such refund shall be deemed as conforming to the currently approved

budget, and may be prepaid in the same fashion as other demands encompassed within the terms of subsection (a) of this Section.

3.16.070 Register of Demands

Following audit of demands, the Town Manager shall prepare a register of audited demands showing the claimant's name, amount of demand, the warrant number and date thereof, and transmit such register to the Town Council, with approval or other report.

3.16.080 Town Council Approval

The register of demands shall be presented to the Town Council at the next meeting thereof. The Town Council may by resolution approve, conditionally or partially approve or reject such register of demands and in connection therewith consider the recommendations of the Town Manager.

3.16.090 Record of Approved Demands

Following approval of the register of demands by the Town Council, the Mayor and the Town Manager shall endorse the register of audited demands to signify there was proper processing of demands therein before the Town Council took action.

(ORD 93-15 06-03-93; 93-19 07-01-93)

CHAPTER 3.18 SPECIAL GAS TAX STREET IMPROVEMENT FUND

3.18.010 Created

To comply with the provisions of Section 2113 of the Streets and Highways Code of California and to avail the Town of the benefits of Sections 2106 and 2107 of such Code, there is hereby created in the Town treasury a special fund to be known as the "Special Gas Tax Street Improvement Fund."

3.18.020 Monies Included

All monies received by the Town from the State of California under the provisions of the Streets and Highways Code for the acquisition of real property or interests therein, for engineering, or for the construction, maintenance and improvement of streets or highways by the Town shall be paid into such fund.

3.18.030 Expenditures

All monies in such fund shall be expended exclusively for the purposes authorized by and subject to the provisions of the Streets and Highways Code of California.

(ORD 93-15 06-03-93; 93-19 07-01-93)

CHAPTER 3.20 TRANSFER OF TAX FUNCTIONS

3.20.010 Assessment and Collection of Town Taxes by County.

Pursuant to, and in compliance with Section 51501 of the Government Code of the State of California, the assessment and tax collection duties which otherwise might be performed by a Town assessor and tax collector are transferred to the Assessor and Tax Collector of the County of Nevada.

(ORD 93-15 06-03-93; 93-19 07-01-93)

CHAPTER 3.22 REAL PROPERTY DOCUMENTARY TRANSFER TAX

3.22.010 Short Title - Adoption

This chapter shall be known as the "Real Property Transfer Tax Ordinance of the Town." 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.

3.22.020 Imposition -- Rates

There is imposed on each deed, instrument or writing by which any lands, tenements, or other realty sold within the Town shall be granted, assigned, transferred or otherwise conveyed to, or vested in, the purchaser or purchasers, or any other person or persons by direction of such purchaser or purchasers, when the consideration or value of the interest or property conveyed (exclusive of the value of any lien or encumbrances remaining thereon at the time of sale) exceeds One Hundred Dollars (\$100.00), a tax at the rate of twenty-seven and one-half cents (\$.27 ½) each Five Hundred Dollars (\$500.00) of consideration or value or fractional part thereof.

3.22.030 Payment

Any tax imposed pursuant to Section 3.22.020 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.

3.22.040 Tax Inapplicable to Instruments in Writing to Secure Debts

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

3.22.050 Government and its Agencies Not Liable

The United States or any agency or instrumentality thereof, any State or territory, or any 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 therefore.

3.22.060 Tax Inapplicable to Conveyances to Make Effective Plan of Reorganization or Adjustment

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

- (a) Confirmed under the Federal Bankruptcy Act, as amended;
- (b) Approved in an equity receivership proceeding in a court involving a railroad corporation, as defined in Title 11 of the United States Code, as amended; or
- (c) Approved in an equity receivership proceeding in a court involving a corporation as defined in Title 11 of the United States Code, as amended; or
- (d) Whereby a mere change in identity, form or place of organization is affected.

Subdivision (a) to (d), inclusive, of this Section shall apply only if the making, delivery or filing of instruments of transfer or conveyances occurs within five years from the date of such confirmation, approval or change.

3.22.070 Tax Inapplicable to Make Effective Order of Securities & 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.

3.22.080 Partnerships

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

- a. Such partnership (or another partnership) is considered a continuing partnership with the meaning of Section 708 of the Internal Revenue Code; and
 - b. Such continuing partnership continues to hold the realty concerned.
- (b) If there is a termination of any partnership within the meaning of Section 708 of the Internal Revenue Code of 1954, for purposes of this chapter, such partnership shall be treated as having executed an instrument whereby there was conveyed, for fair market value (exclusive of the value of any lien of encumbrances 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 subdivision (b), and any transfer pursuant thereto with respect to the realty held by such partnership at the time of the termination.

3.22.090 Administration

The County Recorder shall administer this chapter in conformity with the provisions of 6.7 of Division 2 of the Revenue and Taxation Code and provision of any County ordinance adopted pursuant thereto.

3.22.100 Claims for Refund

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

(ORD 93-15 06-03-93; 93-19 07-01-93)

CHAPTER 3.24 TRANSIENT OCCUPANCY TAX

3.24.010 Short Title

This chapter shall be known as the "Uniform Transient Occupancy Tax of the Town of Truckee".

3.24.020 Definitions

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

- (a) "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.
- (b) "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, but is not limited to, any hotel, inn, vacation home or house, motel, studio hotel, bachelor hotel, lodging house, rooming house, apartment house, campground, recreational vehicle park, dormitory, public or private club, mobile home or house trailer at a fixed location, or other similar structure or portion thereof, duplex, triplex, single-family dwelling units except any timeshare as set out in Revenue and Taxation Code Section 7280; provided that the burden of establishing that the facility is not a hotel shall be on the owner or operator thereof.
- (c) "Occupancy" means the use or possession or the right to the use or possession of any hotel room or rooms or portion thereof, offered for rent for dwelling, lodging or sleeping purposes.

- (d) “Transient” means any person who occupies or is entitled to occupy by reason of concession, permit, right of access, license or other agreement for a period of thirty consecutive calendar nights or less, counting portions of calendar days as full nights. Any such person so occupying space in a hotel is a transient until the period of thirty nights 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, an uninterrupted period of time extending both prior and subsequent to the effective date of this Chapter may be considered. Transient shall not include the owner or guest of an owner of a timeshare unit (as defined in Business and Professions Code Section 11003.5 or a membership camping contract (as defined in Civil Code Section 1812.300)
- (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 of nature, without any deduction therefrom whatsoever except such deductions as the tax administrator may authorize from time to time where monies received by the operator do not represent income taxable by the Town, and provided that rebates of credit card processing costs provided by a credit card processor to the operator shall not constitute rent for purposes of this chapter.
- (f) “Operator” means the person who is proprietor of the hotel, whether in capacity of owner, lessee, sub lessee, mortgagee in possession, licensee, or any other capacity. Where the operator performs functions through a managing agent of any type or character other than an employee, the managing agent is an operator for the purposes of this Chapter and has the same duties and liabilities as the principal. Compliance with the provisions of this Chapter by either the principal or the managing agent is, however, considered to be compliance by both. Where multiple hotels are operated by a managing agent only one certificate shall be required, which certificate will cover all hotels operated by the managing agent.
- (g) “Tax Administrator” means the Town Manager or his/her designee.

3.24.030 Rate

For the privilege of occupancy in any hotel between January 1, 2021, and December 31, 2040, each transient is subject to and shall pay a tax in the amount of twelve percent (12%) of the rent charged by the operator. For the privilege of occupancy in any hotel prior to January 1, 2021, or on or after January 1, 2041, each transient is subject to and shall pay a tax in the amount of ten percent (10%) of the rent charged by the operator. This tax constitutes a debt owed by the transient to the Town which is extinguished only by payment to the operator of the hotel at the time the rent is paid. The unpaid tax is due upon the transient's ceasing to occupy space in the hotel. If, for any reason, the tax due is not paid to the operator of the hotel, the tax administrator may require that such tax be paid directly to the tax administrator.

3.24.040 Exemptions

No tax shall be imposed upon:

- (a) Any officer or employee of a foreign government who is exempt by reason of express provision of federal law or international treaty.
- (b) Any federal officer or employee when an official business.

No exemption shall be granted except a claim therefore made at the time the rent is collected, upon a form prescribed by the tax administrator.

3.24.050 Collection of Tax

Every operator of a hotel in the Town for stays of less than thirty-one (31) continuous nights shall collect the tax on the amount of rent from the occupant. This tax shall be collected on the rent charged for night one (1) through night thirty (30) of any stay unless the occupant warrants in writing before or at the inception of stay that such stay shall exceed thirty (30) continuous nights. The lodging provider shall provide a receipt to each occupant, which receipt shall reflect both the amount of rent and the amounts of this and any other tax applicable. This tax shall be due from the occupant, and shall be collected by the lodging provide at the same time that the rent is collected. The lodging provider shall be liable for any amount of tax that he fails to collect appropriately; and must remit to the Town any amount of tax collected. No operator shall in any way advertise or state that the tax or any portion thereof will be absorbed by the operator, will be included in the rent, or refunded except as provided herein.

3.24.060 Registration

Prior to commencing business, each operator of any hotel renting to transients must register the hotel with the tax administrator and obtain a "Transient Occupancy Registration Certificate" to be posted at all times in a conspicuous place on the premises. No new transient occupancy registration certificate shall be issued after November 14, 2023 for: (i) any mobile home, manufactured home, recreational vehicle, or tiny home (as defined in Section 18.220.020 of this code) that is not fixed to a permanent foundation but rather is attached to a chassis; and/or (ii) any mobile home, manufactured home, recreational vehicle, tiny home (as defined in Section 18.220.020 of this code) or dwelling of any kind that is located in: (a) a mobile home park as defined in California Health & Safety Code Section 18862.29 as it may be amended; (b) recreational vehicle park as defined in California Health & Safety Code Section 18862.39 as it may be amended and/or Sections 18.58.150(A)(2) and/or 18.220.020 of this code; and/or (iii) a special occupancy park as defined in California Health & Safety Code Section 18862.43 as it may be amended. For purposes of this chapter, posting an advertisement for the transient rental of a hotel shall constitute commencement of business, as shall any other action indicating that business has been commenced. The Certificate shall state, among other things, the following:

- (a) The name of the operator, and owner if different;
- (b) The address of the hotel;
- (c) The date upon which the Certificate was issued;
- (d) "This Transient Occupancy Registration Certificate signifies that the person named on the face hereof has fulfilled the requirements of the Uniform Transient Occupancy Tax by registering with the tax administrator for the purpose of collecting from transients the Transient Occupancy Tax and remitting the 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 applicable laws, including but not limited to those requiring a permit from any board, commission, department of office of this Town."

Registration street address, assessor parcel number and owner name shall be a matter of public record. The Town Clerk shall, upon the request of any person, provide a list of the registration

street address, assessor parcel number, and owner name for all registered operations within the Town. No person may act as an operator and rent a hotel on a transient basis without a Transient Occupancy Registration Certificate for that hotel. No person shall advertise a hotel for rent on a transient basis without including the number of the Transient Occupancy Registration Certificate in the advertisement.

3.24.070 Reporting and Remitting

Each operator shall file a return quarterly, on or before the first day of the following month that is not a Saturday, Sunday, or legal holiday. The date of filing shall be determined by the postmark on a mailed return, and by the date it was received by the Town's electronic return filing system if filed in that manner. Any tax not immediately remitted shall be delinquent and subject to the penalties and interest provisions set forth below. The tax administrator may establish shorter reporting periods or extend the time for filing of a return for a period not to exceed thirty (30) days for any certificate holder if it is deemed necessary in order to ensure collection of the tax and further information may be required 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 are held in trust for the account of the Town until payment thereof is made to the tax administrator.

Whenever the amount of any tax, penalty or interest has been paid more than once, or has been erroneously or illegally collected or received by the Town, it may be refunded by the tax administrator. If the operator or person determines that tax has been overpaid or paid more than once, which fact has not been determined by the tax administrator such person shall have one (1) year from the date of payment to file a claim in writing stating the specific ground upon which the claim is founded. The tax administrator shall approve or disapprove the claim, and notify the claimant of its action. However, in no instance, may a notice of deficiency determination be disputed until it has been collected and a claim for refund duly submitted.

Tax returns filed with the Town pursuant to this chapter, and all information contained therein regarding amounts of gross receipts, adjustments, credits, over collections, penalties, and interest shall be and remain confidential. Provided, however, that this section shall not apply to any disclosures made in conjunction with any action or proceeding of any kind relating to determination or collection of tax owed or any prosecution for violation of this chapter or any related civil or criminal action. Nor shall this section apply where disclosure is required by a court order or other legal process involving the enforcement of state or federal law. This section shall not prohibit the disclosure of statistical or cumulative information when the information provided does not disclose or identify the individual taxpayer.

3.24.080 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 (10%) percent of the amount of the tax in addition to the amount of the tax.
- (b) Continued Delinquency. For each subsequent thirty day period following the date on which an operator's remittance first becomes delinquent the operator shall pay a delinquency penalty of ten (10%) percent of the amount of the tax in addition to the amount of the tax and the ten (10%) percent penalty first imposed, up to a maximum of fifty (50%) percent.

- (c) Fraud. If the tax administrator determines that the nonpayment of any remittance due under this chapter is due to fraud, a penalty of twenty-five (25%) percent of the amount of the tax shall be added thereto in addition to the penalties stated in subsections (a) and (b).
- (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 and a half (1 1/2%) percent per month or fraction thereof on the amount of the tax, exclusive of penalties, from the date on which the remittance first became delinquent until paid.
- (e) Penalties Merged with Tax. Every penalty imposed and such interest as accrues under the provisions of this section shall become a part of the tax herein required to be paid.
- (f) An operator may request a waiver of penalties and/or interest by submitting a late fee waiver application to the Tax Administrator. The Tax Administrator shall have the authority to approve the request to waive any portion of penalties and/or interest for good cause. Good cause includes, but is not limited to, the following: natural disaster, death, serious illness of the operator, or system issues that delayed a timely filing/payment. In certain cases, good cause may apply to a filing accuracy mistake if additional facts and circumstances show that the operator tried to comply with their obligations under this chapter. If approved by the Tax Administrator, as a condition of the waiver of any penalty and/or interest the operator shall be required to sign an agreement which states that, should the transient occupancy registration certificate holder ever again be delinquent, or should the property ever be listed as available for short-term rent without a valid transient occupancy registration certificate, the waived penalties and/or interest may be fully assessed, plus Town Attorney's fees and costs of collection.

3.24.090 Failure to Collect and Report

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 may be deemed best to obtain facts and information on which to base the estimate of the tax due. As soon as the tax administrator procures such facts and information as may be available 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, the tax administrator shall proceed to determine and assess against such operator the tax, interest and penalties provided for by this chapter. In case such determination is made, the tax administrator shall give a notice of the amount so assessed by serving it personally or by depositing it in the United States mail, postage prepaid, addressed to the operator so assessed at his last known place of business. Such operator may within ten days after the serving or mailing of such notice make application in writing to the tax administrator for a hearing on the amount assessed. If application by the operator for a hearing is not made within the time prescribed, the tax, interest and penalties, if any, determined by the tax administrator shall become final and conclusive and immediately due and payable. If such application is made, the tax administrator shall give not less than five days' written notice in the manner prescribed herein to the operator to show cause at a time and place fixed in the notice why the amount specified therein should not be fixed for such tax, interest and penalties. At such hearing, the operator may appear and offer evidence why such specified tax, interest and penalties should not be so fixed.

After such hearing the tax administrator shall determine the proper tax to be remitted and thereafter give written notice to the person in the manner prescribed herein of such determination and the amount of such tax, interest and penalties. The amount determined to be due shall be payable after fifteen days unless an appeal is taken as provided in Section 3.24.100.

- (a) If any person is delinquent in the payment of the amount required to be paid or in the event a determination has been made that an amount due remains unpaid, the tax administrator may, not later than three years after the payment became delinquent, give notice thereof by certified mail to all persons in the county having in their possession or under their control any credits or other personal property belonging to the delinquent, or owing any debts to the delinquent. After receiving the notice the persons so notified shall neither transfer nor make any other disposition of the credits, other personal property or debts in their possession or under their control at the time they receive the notice until the tax administrator consents to a transfer or disposition or until 20 days elapse after the receipt of the notice. All persons so notified shall within five days after the receipt of the notice advise the tax administrator of all such credits, other personal property or debts in their possession, under their control or owing by them.
- (b) At any time within three years after any tax or any amount of tax required to be collected becomes due and payable or at any time within three years after any determination becomes final, the tax administrator may bring an action in the courts of this state or any other state or of the United States in the name of the Town to collect the amount delinquent together with penalties and interest.
- (c) If any owner and/or operator of any business or the real property upon which such business is operated, sells, transfers, assigns, leased or otherwise quits the business, and any person who takes ownership or operation of the business and/or real property upon which such business is operated shall, in escrow, or otherwise pay such amount in full. The amount to be paid shall be determined by an audit for the last fiscal year of the property being transferred conducted by the Town, less any security deposit, held by the Town. No escrow shall be allowed to close concerning any property subject to this chapter unless sufficient funds are retained in escrow to cover any delinquency and paid over to the Town from the escrow upon demand; All sums deemed due the Town at the completion of the audit shall be paid to the Town by the escrow holder upon written demand of the tax administrator. If any such owner or operator of the business and/or the real property upon which the business is operated, or any escrow holder, fails to pay, withhold, or ensure the withholding of the required sum, such person shall be liable for all monies due the Town. No Town permit or entitlement of any type shall be issued to the successor, owner or operator of any transient lodging facility if transient occupancy taxes remain unpaid.
- (d) Notice shall be recorded with the Nevada County recorder's office on every transient lodging facility within the Town of Truckee. The following notice shall appear with regard to such properties: Pursuant to the Truckee Municipal Code, if any owner or operator liable to the Town for any amount of transient occupancy tax sells, transfers or assigns the property, the purchasers or successors of such person shall, in escrow, hold sufficient funds to pay such amount in full. The amount shall be determined by audit as described in the Code. If any person fails to pay or withhold the required sum, or allows escrow to close without satisfaction in cash of the amount owed to the Town, such person shall be personally liable.

- (e) If any amount of transient occupancy tax required to be paid to the Town under this section is not remitted or paid when due, the tax administrator or his/her designee may, within three years after the amount is due, file for record in the office of the Nevada County Recorder a certificate specifying the amount of tax, penalties and interest due, the name and address as it appears on the records of the tax administrator of the owner and/or operator liable for that amount, and the fact that the tax administrator has complied with all provisions of this section in the determination of the amount required to be paid to the Town. From the date of the filing for record, the amount required to be remitted together with penalties and interest, constitutes a lien upon all real property in the county owned by the operator and/or owner, and any real property acquired by him/her at any subsequent date but before the lien expires. The lien has the force, effect and priority of a judgment lien and shall continue for 10 years from the time of filing of the certificate unless sooner released or otherwise directed.

If the tax administrator is not satisfied with the return or returns of the tax or the amount of the tax required to be paid to the Town by and any operator he may compute and determine the amount required to be paid upon the basis of any information within his possession or that may come into his possession. One (1) or more deficiency determinations may be made of the amount due for one (1) or more monthly periods. Penalty and interest shall be assessed upon the amount of any determination. The tax administrator shall give to the operator written notice of his determination. The notice may be served personally, by mail, or by electronic mail if sent to a registered operator; if by mail, such service shall be addressed to the operator at address as it appears in the records of the Town. Service by mail is complete when delivered by certified mail with a receipt signed by the addressee, or when made by statutory overnight delivery. Except in cases of failure to make a return or of fraud, every notice of deficiency determination shall be mailed within three (3) years after the twentieth (20th) day of the calendar month following the monthly period for which the amount is proposed to be determined, or within three (3) years after the return is filed, whichever period should last expire. If any operator fails to make a return, the tax administrator shall make an estimate of the amount of the gross receipts of the operator. The estimate shall be made for the period or periods in respect to which the operator failed to make the return and shall be based upon any information which is or may come into the possession of the tax administrator. Penalty and interest shall be assessed upon the amount of any determination, as provided herein. No deficiency determination may be contested until it shall first be paid, and a claim for refund filed with the tax administrator. Matters in extenuation or mitigation of the deficiency determination must be submitted in writing at the time the claim for refund is filed.

3.24.100 Appeal

Any operator aggrieved by a decision of the tax administrator with respect to the amount of such tax, interest and penalties, if any, may appeal to the Town Council by filing a notice of appeal with the Town Clerk within fifteen days of the serving or mailing of the determination of tax due. The Town Clerk shall fix a time and place for hearing such appeal and shall give notice in writing to such operator at the last known place of business. The findings of the Town Council are 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 is immediately due and payable upon the service of notice.

3.24.110 Records

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

3.24.120 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 Town under this chapter it may be refunded as provided in subsections (b) and (c) 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 is 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 Town by filing a claim in the manner provided in subsection (a), but only when the tax was paid by the transient directly to the tax administrator, or when the transient, having paid the tax to the operator, establishes to the satisfaction of the tax administrator that the transient has been unable to obtain a refund from the operator who collected the tax.
- (d) No refund shall be paid under the provisions of this section unless the claimant establishes a right thereto by written records showing entitlement thereto.

3.24.130 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 transient to the Town. Any such tax collected by an operator which has not been paid to the Town shall be deemed a debt owed by the operator to the Town. Any person owing money to the Town under the provisions of this chapter is liable to an action brought in the name of the Town for the recovery of such amount.

Charge for Audits and Collection of Attorney's Fees. All transient occupancy collections by an operator shall be subject to audit by the Tax Administrator or the Administrators designee, under conditions determined by the Tax Administrator. A reasonable per hour fee equal to the Town's costs for the audit of transient occupancy tax accounts shall be charged to the owner and/or operator of the transient lodging facility where unpaid taxes are discovered as a result of the audit. If the Town is the prevailing party in litigation filed to collect taxes, penalties, and/or interest due under this chapter, the Town shall be entitled to recover reasonable attorney's fees and costs engendered by said litigation from the owner and/or operator of the transient lodging facility. The Town Attorney shall be authorized, as set forth in Government Code Section 37104 et seq. to issue subpoenas which require the production of records for audit purposes.

3.24.140 Violations

Any person who violates any provision of this chapter shall be guilty of an infraction, punishable by fine as determined by the Court. 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, may be subject to administrative citations as set forth in Chapter 1.03 or be punishable per offense by a fine set forth in the Town of Truckee fee schedule. Adjudication of any such violation shall occur using the administrative hearing process established by the Town for Town code violations. In addition, if a violation is found to have taken place the hearing officer may also require payment of the Town's reasonable costs of processing and collection. Any violation of any provision of this chapter which occurs on more than one day shall constitute a separate violation for each day or portion thereof during which such violation occurs. In addition to the foregoing remedies, the Town may deny, suspend, or revoke a transient occupancy registration certificate for any of the following reasons:

1. The transient occupancy registration certificate application is incomplete;
2. The transient occupancy registration certificate contains a false or misleading statement or omission of a material fact;
3. The hotel or operator is currently in violation of, or has been found to be in violation of, any local, state or federal laws, statutes, ordinances, rules, regulations, or public health orders pertaining to the operation of a hotel;
4. The operator is delinquent on any payment to the Town of any fees, penalties, taxes, or any other monies related to the short-term rental including, but not limited to, transient occupancy taxes;
5. A transient occupancy registration certificate application may be denied due to prior revocation or suspension of a transient occupancy registration certificate;
6. Any required application fee or renewal fee, or penalty imposed for a violation of this chapter, has not been paid. Notwithstanding the foregoing, payment of a penalty shall not be required if an appeal thereof has been timely submitted and the finding of the hearing officer or body regarding the appeal has not yet been served upon the appellant.

3.24.150 Condition Precedent to Judicial Review of Tax Liability

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 Town or an officer thereof, to prevent or enjoin the collection of taxes sought to be collected pursuant to this chapter and payment of all tax, interest and penalties shall be required as a condition precedent to seeking judicial review of any tax liability.

(ORD 93-15 06-03-93; 93-19 07-01-93; 93-07 03-23-93; 2004-08 10-21-04; 2009-01 10-01-09; 2023-12 11-28-2023; 2024-08 12-10-2024)

CHAPTER 3.26 SALES AND USE TAX

3.26.010 Short Title

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

3.26.020 Rate

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

3.26.030 Operative Date

This chapter shall be operative on April 1, 1993.

3.26.040 Purpose

The Town Council hereby declares that 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 which complies with the requirements and limitations contained in Part 1.5 of Division 2 of the Revenue and Taxation Code;
- (b) To adopt a sales and use tax which incorporates provisions identical to those of the Sales and Use Tax Law of the State of California insofar as those provisions are not inconsistent with the requirements and limitations contained in Part 1.5 of Division 2 of the Revenue and Taxation Code;
- (c) To adopt a sales and use tax which imposes a tax and provides a measure therefore that can be administered and collected by the State Board of Equalization in a manner that adapts itself as fully as practicable to, and requires the least possible deviation from the existing statutory and administrative procedures followed by the State Board of Equalization in administering and collecting the California State Sales and Use Taxes;
- (d) To adopt a sales and use tax which can be administered in a manner that will, to the degree possible consistent with the provisions of Part 1.5 of Division 2 of the Revenue and Taxation Code, minimize the cost of collecting Town sales and use taxes and at the same time minimize the burden of record keeping upon persons subject to taxation under the provisions of this chapter.

3.26.050 Contract with State

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

3.26.060 Sales Tax

For the privilege of selling tangible personal property at retail a tax is hereby imposed upon all retailers in the Town at the rate stated in Section 3.26.020 of the gross receipts of the retailer from the sale of all tangible personal property sold at retail in this Town on and after the operative date.

3.26.070 Place of Sale

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

3.26.080 Use Tax

An excise tax is hereby imposed on the storage, use or other consumption in this Town of tangible personal property purchased from any retailer on and after the operative date for storage, use or other consumption in this Town at the rate state in Section 3.26.020 of the sales price of the property. The sales price shall include delivery charges when such charges are subject to State sales or use tax regardless of the place to which delivery is made.

3.26.090 Adoption of Provisions of State Law

Except as otherwise provided in this chapter and except insofar as they are inconsistent with the provisions of Part 1.5 of Division 2 of the Revenue and Taxation Code, all of the provisions of Part 1 of Division 2 of the Revenue and Taxation Code are hereby adopted and made a part of this chapter as though fully set forth herein.

3.26.100 Limitations on Adoptions of State Law

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

3.26.110 Permit Not Required

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

3.26.120 Exclusions and Exemptions

- (a) The amount subject to tax shall not include any sales or use tax imposed by the State of California upon a retailer or consumer.
- (b) The storage, use, or other consumption of tangible personal property, the gross receipts from the sale of which have been subject to tax under a sales and use tax ordinance enacted in accordance with Part 1.5 of Division 2 of the Revenue and Taxation Code by any city and county, county, town or city in this State shall be exempt from the tax due under this chapter.
- (c) There are exempted from the computation of the amount of the sales tax the gross receipts from the sale of tangible personal property to operators of aircraft to be used or consumed principally outside the Town in which the sale is made and directly and exclusively in the use of such aircraft as common carriers of persons or property under the authority of the laws of this State, the United States or any foreign government.
- (d) In addition to the exemptions provided in Sections 6366 and 6366.1 of the Revenue and Taxation Code the storage, use, or other consumption of tangible personal property purchased by operators of aircraft and used or consumed by such operators directly and exclusively in the use of such aircraft as common carriers or persons or property for hire or compensation under a certificate of public convenience and necessity issued pursuant to the laws of this State, the United States, or any foreign government is exempted from the use tax.

3.26.130 Amendments

All subsequent amendments of Part 1 of Division 2 of the Revenue and Taxation Code which are not inconsistent with Part 1.5 of Division 2 of the Revenue and Taxation Code shall automatically become part of this chapter. This chapter also shall be deemed to adopt by reference the provisions of Sections 7202 to 7203, inclusive, of the Revenue and Taxation Code, as now in effect or as later amended, which are required to be included in this chapter.

3.26.140 Enjoining Collection Forbidden

No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action or proceeding in any court against the State or this Town, or against any officer of the State or this Town, to prevent or enjoin the collection under this chapter, or Part 1.5 of Division 2 of the Revenue and Taxation Code, of any tax or any amount of tax required to be collected.

3.26.150 Penalties

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 \$500.00 or by imprisonment for a period of not more than six months, or by both such fine and imprisonment.

3.26.160 Severability

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

3.26.170 Effective Date

This chapter relates to taxes for the usual and current expenses of the Town and shall take effect on March 23, 1993.

3.26.180 Existing Sales and Use Tax Ordinances Suspended

At the time this chapter goes into operation, the provisions of Ordinance 5, adopted March 23, 1993, shall be suspended and shall not again be of any force and effect until and unless for any reason the State Board of Equalization ceases to perform the functions incident to the administration and operation of the sales and use tax hereby imposed; provided, however, if for any reason it is determined that the Town is without power to adopt this chapter, or that the State Board of Equalization is without power to perform the functions incident to the administration and operation of the taxes imposed by this chapter, the provisions of Ordinance 5 shall not be deemed to have been suspended but shall be deemed to have been in full force and effect at the rate of one percent continuously from and after its effective date of March 23, 1993. Upon the ceasing of the State Board of Equalization to perform the functions incident to the administration and operation of the taxes imposed by this chapter the provisions of Ordinance 5 shall again be in full force and effect at the rate of one percent. Nothing in this chapter shall be construed as relieving any person of the obligation to pay to the Town any sales or use tax accrued and owing by reason of the provisions of Ordinance 5 in force and effect March 23, 1993."

(ORD 93-5 06-03-93; 93-19 07-01-93)

CHAPTER 3.32 FEE & SERVICE CHARGE REVENUE/COST COMPARISON SYSTEM

SECTIONS

- 3.32.010 Findings and Intent
- 3.32.020 Delegation of Authority and Direction to Manager
- 3.32.030 Costs Reasonably Borne Defined
- 3.32.040 Schedule of Fees and Service Charges
- 3.32.050 Public Meeting
- 3.32.060 Provision of Data
- 3.32.070 Appeal to Town Council

3.32.010 Findings and Intent

- (a) Pursuant to Article XIII B of the California Constitution, it is the intent of the Town Council to require the ascertainment and recovery of costs reasonably borne from fees, charges and regulatory license fees levied therefore in providing the regulation, products or services hereinafter enumerated in the Chapter.
- (b) The fee and service charge revenue/cost comparison system set forth in this Chapter provides a mechanism for ensuring that fees adopted by the Town for services

rendered do not exceed the reasonable estimated cost for providing the services for which the fees are charged.

- (c) The adoption of this Chapter is exempt from the California Environmental Quality Act (Public Resources Code Sections 21080 et seq.), because it approves and sets forth a procedure for determining fees for the purpose of meeting the operating expenses of Town department, as set forth in Public Resources Code Section 21080 (b) (8) (1).

3.32.020 Delegation of Authority and Direction to Manager

- (a) The Town Manager is hereby delegated the authority and directed to provide documents to the Town Council to implement its herein enumerated policy to adjust fees and charges to recover the percentage of costs reasonably borne as established hereby, in providing the regulation, product or service enumerated in this Chapter in the percentage of costs reasonably borne and on the schedule of rate review and revision as hereinafter established in this Chapter.
- (b) The Town Manager is hereby delegated authority to issue Executive Orders defining terms, setting out administrative, fee collection, and financial procedures, definitions, and establishing effective dates of all fees set by the Town Council by resolution. All Executive Orders shall be originated and signed by the affected department head, shall be signed by the Finance Director certifying that the financial requirements of this Chapter are complied with, and shall be signed by the Town Manager connoting the effective date of the Executive Order and new or revised rate structure, procedure or definition.
- (c) "Costs reasonably borne" shall be as defined in Section 3.32.030. In adjusting fees and charges, the Town Manager shall act in an administrative and ministerial capacity, and shall consider only the standards and criteria established by this Chapter, and the procedures set hereby and by applicable State law. All Executive Orders issued hereunder shall comply in all respects with this Chapter, and the several schedules of fees and rates as set by the Town Council by resolution.

3.32.030 Costs Reasonably Borne Defined

"Costs reasonably borne," as used and ordered to be applied in this Chapter are to consist of the following elements:

- (a) All applicable direct costs including, but not limited to salaries, wages, overtime, employee fringe benefits, services and supplies, maintenance and operation expenses, contracted services, special supplies, and any other direct expense incurred.
- (b) All applicable indirect costs including, but not restricted to, building maintenance and operations, equipment maintenance and operations, communications expenses, computer costs, printing and reproduction, vehicle expenses, insurance, debt service, and like expenses when distributed on an accounted and documented rational proration system.
- (c) Fixed asset recovery expenses, consisting of depreciation of fixed assets, and additional fixed asset expense recovery charges calculated on the current estimated cost of replacement, divided by the approximate life expectancy of the fixed asset. A further additional charge to make up the difference between book value depreciation

- not previously recovered and reserved in cash and the full cost of replacement, also shall be calculated and considered a cost so as to recover such un-recovered costs between book value and cost of replacement over the remaining life of the asset.
- (d) General overhead, expressed as a percentage, distributing and charging the expenses of the Town Council, Town Attorney, Town Manager, Town Clerk, Finance Department, Personnel Office, and all other staff and support service provided to the entire Town organization. Overhead shall be prorated between tax-financed services and fee-financed services on the basis of said percentage so that each of taxes and fees and charges shall proportionately defray such overhead costs.
 - (e) Departmental overhead, expressed as a percentage, distributing and charging the cost of each department head and his or her supporting expenses as enumerated in subsections a, b, c, and f of this Section.
 - (f) Debt service costs, consisting of repayment of principal, payment of interest, and trustee fees and administrative expenses for all applicable bond, certificate, or securities issues or loans of whatever nature or kind. Any required coverage factors or required or established reserves beyond basic debt service costs also shall be considered a cost if required by covenant within any securities ordinance, resolution, indenture or general law applicable to the Town.

3.32.040 Schedule of Fees and Service Charges

- (a) The Town Manager, Finance Director and each Town department head, under the direction of the Town Manager, shall review annually the fees and service charge list, and provide an adjustment fee or charge schedule to the Town Council for its consideration, so as to recover 100% of the cost of reasonably borne necessary to provide the cited regulation, products or services unless specifically adjusted by Council. Penalties listed on the fee schedule are set by council and do not relate to a cost of service.
- (b) Deleted.
- (c) The services as listed in the Fee Schedule adopted by Council resolution shall be as defined in the most currently adopted Cost of Services Fee Study for the Town of Truckee.
- (d) All fees and charges set pursuant to this Chapter and Section shall take effect ten (10) days after the Town Manager determines that all provisions of this Chapter have been complied with and no written appeal has been filed.
- (e) The schedule of frequency of rate adjustments may be varied by the Town Manager to adjust revenues sufficient to meet debt service coverage requirements, of any bond, certificate, or ordinance, resolution; indenture, contract, or action under which securities have been issued by the Town which contain any coverage factor requirement.
- (f) The Town Manager may vary the review schedule listed in the Section if, in the judgment of the Town Manager and a directly affected and requesting department head, a gross inequity would be perpetuated by not revising the rate schedule. Any such rate revision which deviates from the review schedule is set herein shall be reported to the Town Council at its next succeeding meeting.

(ORD 2007-01 07-19-07)

3.32.050 Statutory Public Meeting

Pursuant to California Government Code Section 66016 and 66018, the Town Clerk shall cause notice to be provided as set out in Government Code Section 6062a, and the Town Council periodically, at least annually, shall receive at a regularly scheduled meeting oral and written presentations concerning fees and charges proposed to be increased or added. Such notice, oral and written presentation, and public meeting shall be provided prior to the Town Council taking any action on any new or increased fees or charges. At least one such public hearing shall be held annually, in conjunction with the Town annual budget process and hearing per the requirements of Government Code Section 66018.

3.32.060 Provision of Data

Pursuant to the California Government Code, at least ten (10) days prior to the required public hearing set out herein, the Town Manager shall make available to the public appropriate data indicating the cost, or estimated cost required to support the fees and charges for which changes are proposed to be made or fees or charges imposed. The Town Manager also shall provide a summary of the present fee and charge schedules and those proposed at such annual public hearing. A general explanation of such changes also shall be published per the requirements of Government Code Section 6062a and 66016.

3.32.070 Appeal to Town Council

- (a) Any person who feels that any fee or charge determined and set is in excess of the percentage of costs reasonably borne to be recovered as set out in this Chapter, or that such fee or charge has been reviewed prior to or has not been reviewed within the review schedule as set out herein, may appeal in writing to the Town Council.
- (b) No fee or charge for which an appeal has been filed shall take effect until heard by the Town Council. Such appeal shall be placed on the agenda of the next ensuing Council meeting after receipt of such appeal, and heard at the next ensuing Council meeting. Such appealed fee or charge shall take effect immediately upon hearing by the Town Council unless ordered otherwise by the Town Council by ordinance amending this Chapter.

(ORD 98-04 08-06-98)

CHAPTER 3.33 MITIGATION FEE PROGRAM

3.33.010 Facilities Mitigation Fee Program

Non-traffic facility development impact fees are imposed in connection with the issuance of all building permits, for development within the Town to pay for certain public facilities and improvements necessitated by new development, as set forth in the Mitigation Fee Report adopted by the Town Council, as it may be amended, updated, or superseded from time to time. The Mitigation Fee Report contains a capital improvement program and analyzed the impacts of contemplated future land development on the existing public facilities in the Town, the need for new public facilities, the improvements required by new development, and the relationship between new development, the needed facilities, and the estimated cost of those facilities.

Until such time as the Town Council by resolution adopts a different schedule of non-traffic facility development impact fees, the fees identified in the Mitigation Fee Report dated January 2005 shall be applicable to all building permits. The Town Council shall, by resolution, set forth the

specific amount of each fee, the date the fee goes into effect, describe the benefit and impact area on which the development fee is imposed, list the specific public improvements to be financed, describe the estimated cost of these facilities, describe the reasonable relationship between this fee and the various types of new developments, and set forth time for payment. As described in the fee resolution, these development fees shall be paid by each developer prior to issuance of a building permit. Pursuant to Government Code Section 66006, on an annual basis, the Town Council shall review this fee to determine whether the fee amounts are reasonably related to the impacts of developments and whether the described public facilities are still needed. The Town Council shall, by resolution, establish detailed rules for the administration of the non-traffic development impact fee program. The Town Council may, by resolution, adopt inflationary adjustments to the development impact fees at any time based upon the Engineering News Construction Index, new information on project costs, or new information associated with uses of land development.

(ORD 2005-04 03-17-2005; 2016-03 02-23-2016)

3.33.020 Traffic Mitigation Fee Program

A traffic impact fee is imposed in connection with the issuance of all building permits, for development within the Town to pay for designated traffic capacity and safety improvements necessitated by new development, as set forth in the Truckee Area AB 1600 Traffic Impact Fee Study adopted by the Town Council, hereinafter referred to as “the Traffic Fee Report”, as it may be amended, updated, or superseded from time to time. The Traffic Fee Report analyzed the impacts of contemplated future land development on the existing transportation facilities in the Town, the need for new public facilities, the improvements required by new development, and the relationship between new development, the needed facilities, and the estimated cost of those facilities. The Traffic Fee Report will be updated and adopted by the Town Council as necessary to adequately reflect future land use development projections and transportation improvements. The current adopted version of the Traffic Fee Report is on file in the Office of the Town Clerk.

At any time following the establishment of fees by the ordinance amending this chapter, the Town Council may, by resolution, set forth the specific amount of the fee, the date the fee goes into effect, describe the benefit and impact area on which the development fee is imposed, list the specific public improvements to be financed, describe the estimated cost of these facilities, describe the reasonable relationship between this fee and the various types of new developments, and set forth time for payment. As described in the fee resolution, this development fee shall be paid by each developer prior to issuance of a building permit. Pursuant to Government Code Section 66006, on an annual basis, the Town Council shall review this fee to determine whether the fee amounts are reasonably related to the impacts of developments and whether the described public facilities are still needed. The Town Council shall, by resolution, establish detailed rules for the administration of the traffic fee impact program. The Town Council may, by resolution, adopt inflationary adjustments to the traffic impact fee at any time based upon the Engineering News Construction Index, new information on project costs, new information on cross-jurisdictional impact fee funding, or new information associated with uses of land development.

(ORD 99-05 07-01-1999; 2007-03 05-05-2007; 2016-03 02-23-2016)

CHAPTER 3.36 HISTORIC PROPERTY PRESERVATION (MILLS ACT) CONTRACTS

3.36.010 Purpose

The purpose of this Chapter is to implement the California Mills Act, pursuant to California Government Code Section 50280 et seq., permitting the approval of historic property preservation contracts by establishing uniform procedures for the owners of qualified historic properties within the Town of Truckee to enter into contracts with the Town.

The Town Council finds and determines that entering into historic property preservation contracts will provide a financial incentive for owners of designated historic resources to maintain, preserve, renovate, restore, and rehabilitate their properties. The Council further finds that such preservation, restoration, and rehabilitation will assist in maintaining the Town's existing housing and support the goals and objectives of the Historic Resources Element of the Downtown Specific Plan.

3.36.020 Definitions

For the purposes of this Chapter, the following terms and phrases shall have the meaning ascribed to them in this Section:

Historic Property Preservation Contract. A contract between an owner(s) of a qualified historical property and the Town of Truckee, meeting all requirements of California Government Code Section 50280 et seq. and this Chapter.

Maintain. The act or process of keeping the building or structure in good working condition by initiating preventive maintenance prior to noticeable deterioration or by repairing features as soon as deterioration becomes apparent, using procedures that retain the original character and finish of the features.

Preserve. The act or process of applying measures to sustain the existing form, integrity and material of a building or structure.

Qualified historical property. A privately owned property which is not exempt from property taxation and which includes an historic resource designated as Category A (Essential), Category B (Contributing), or Category C (Supporting) in the Truckee Historic Resources and Architectural Inventory, adopted by Council Resolution No. 2003-18 as amended.

Rehabilitate. The act or process of returning a property to a state that makes a contemporary use possible while still preserving those portions or features of the property which are significant to its historical, architectural and cultural values.

Renovate. The act or process of improving the building or structure by repair.

3.36.030 Mandatory Provisions of Historic Property Preservation

Contracts

The mandatory provisions of a historic property preservation contract shall include, but not be limited to, the following:

- (a) The property shall be a qualified historical property as defined in Section 3.36.020.
- (b) The term of the contract shall be 10 years.
- (c) The initial term of the contract shall be automatically renewed as prescribed in Section 50282(a) of the California Government Code.

- (d) The owner shall preserve, maintain and, when necessary, renovate or rehabilitate the property to protect and preserve the historically significant and character-defining features and characteristics of the property and to ensure that the property retains its historic resource category rating. Any such work to the property shall conform to the rules and regulations of the Office of Historic Preservation of the Department of Parks and Recreation, the United States Secretary of the Interior's Standards for Rehabilitation, the State Historical Building Code, and the Town Municipal Code. The Town may require specific actions or work of the owner as a condition of approval of the contract.
- (e) The owner agrees to permit, by prior appointment, periodic examination of the interior and exterior of the premises by the County Assessor, the California Department of Parks and Recreation – Office of Historic Preservation, the State Board of Equalization, and the Town, with proper notice and as may be necessary to verify the owner's compliance with the contract, and to provide any information requested to ensure compliance with the contract.
- (f) The benefits and burdens of the contracts shall be binding upon, and inure to the benefit of, all successors in interest of the owner. Successors in interest shall have the same rights and obligations under the contract as the original owner who entered into the contract.
- (g) The procedure for notice of non-renewal by the owner or the Town shall be as prescribed in Section 50282(a), (b), and (c) of the California Government Code.
- (h) The procedure for cancellation by the Town shall be as prescribed in Sections 50284, 50285, and 50286 of the California Government Code.

3.36.040 Procedures for Application and Approval of Historic Property Preservation Contracts

- (a) An owner of a qualified historical property may file an application for a historic property preservation contract with the Town. The application shall include a complete legal description of the property and any information required by the Community Development Director.
- (b) There shall be no application fee for the filing and processing of an application. In addition, the Town shall pay all fees for recordation of the contract in the Nevada County Office of the Recorder.
- (c) In order for a contract to be recorded in the Nevada County Office of the Recorder by December 31st and for the enforceable restrictions of the contract to become effective for the next tax year, a complete application shall be submitted to the Community Development Department by no later than September 1st.

- (d) The Community Development Department shall review the application for completion and compliance with the provisions of this Chapter and Sections 50280 et seq. of the Government Code and forward a recommendation to the Council.
- (e) If the application complies with the provisions of this Chapter and Sections 50280 et seq. of the Government Code, the Council may approve the application, with or without conditions, and authorize the preparation and execution of a historic property preservation contract. Any such action is at the discretion of the Council, and the Council is not obligated to approve an application even if such application complies with the provisions of this Chapter.
- (f) If the application is approved, the application must be signed and executed by the owner and submitted to the Community Development Department by December 1st. A contract not signed and executed by December 1st of a given year shall be carried over for execution and recording in the following year.
- (g) Upon receipt of a signed and executed contract on or before December 1st, the Town Clerk shall cause a copy of the executed contract to be recorded in the Nevada County Office of the Recorder on or before December 31st. The Town Clerk shall also provide written notice of the contract to the Office of Historic Preservation within six months of the Town entering into the contract.

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CHAPTER 3.38 Optional Procedures for Formation of Community Facilities District

3.38.010 Short Title

This chapter may be known as the "Alternative Community Facilities District Procedural Ordinance."

3.38.020 Purpose and Intent

The purpose and intent of this chapter is to establish a procedure for financing certain public facilities and/or the maintenance of such facilities through the establishment of one or more community facilities districts and the levy and collection of special taxes within such districts. Proceedings for the formation and administration of community facilities districts may be conducted pursuant to this chapter whether or not provided in any state law. Notwithstanding the foregoing, nothing in this chapter shall be deemed to preclude or prohibit the Town of Truckee from conducting such proceedings pursuant to the procedures set forth in state law. The resolution of intention adopted by the Town in any proceedings under any state law may provide that such state law is supplemented by this chapter. This chapter shall be liberally construed to give effect to its purposes.

3.38.030 Definitions

The following definitions shall apply to terms appearing in this chapter:

Act means the Mello-Roos Community Facilities Act of 1982, Government Code section 53311 *et seq.*, as it may be amended from time to time.

Landowner or property owner shall mean the owner of a parcel of real property that is included within the district, but shall not include the owner of any real property that is subject to the California State Board of Equalization's state-assessed properties program, including but not limited to real property owned by a railroad.

Possessory interest shall mean a ground lease and ownership of a building or other improvements upon a parcel, but shall not include a leasehold or sublease interest in such building or improvements.

3.38.040 Incorporation of Mello-Roos Community Facilities Act of 1982 and Other Law

- (a) Except as otherwise provided in this chapter, the Act and those other provisions of California law referred to in the Act, as they may be amended, are incorporated into and made a part of this chapter.
- (b) Except as otherwise provided in this chapter, the method and manner of making improvements or maintenance thereof and for levying and collecting special taxes shall be as provided in the Act. To the extent a conflict exists between this chapter and the Act or other provisions of California law referred to in the Act, the provisions of this chapter shall control.
- (c) Notwithstanding subsection (a) of this section, the provisions of sections 55312.7, 55312.8, 53313.6, 53313.7, 53313.9, 53325.6, 53329, and 53329.5 of the Act are not incorporated into this chapter and shall have no application to proceedings conducted pursuant to this chapter.
- (d) For purposes of this chapter, the words "not to exceed three consecutive years" are deleted from section 53314.3 of the Act.
- (e) For purposes of this chapter, the words "not exceeding five years" and "within five years after such disbursement" are deleted from section 53314.5 of the Act.
- (f) Section 53324 is incorporated into this chapter, provided that for purposes of this chapter it shall be amended to read as follows:
 - (a) If the owners of land or possessory interests in the territory proposed to be included in the district and not exempt from the special tax, and comprising a majority of the aggregate proposed financial obligation within the district, file written protests against the establishment of the district, and protests are not withdrawn so as to reduce the value of the protests to less than a majority, no further proceedings to create the specified community facilities district or to authorize the specified special tax shall be taken for a period of one year from the date of the decision of the legislative body.
If the majority protests of the landowners are only against the furnishing of a specified type or types of facilities or services within the district, or against levying a specified special tax, those types of facilities or services or the specified special tax shall be eliminated from the resolution of formation.
 - (b) This section does not apply to the formation of a district pursuant to Section 53328.1.
- (g) Section 55326 is incorporated into this chapter, provided that: (i) the text "at least 90 days, but not more than 180 days" in subsection (a) thereof shall be replaced with "at least 45 days, but not more than 180 days" for purposes of this chapter; and (ii) for purposes of this chapter subsection (b) shall be amended to read as follows:
 - (b) The vote shall be by the landowners and possessory interest holders of the proposed district. Ballots shall be executed by an owner of a parcel or possessory interest, or by a representative of an owner or possessory interest lawfully appointed to represent the owner for purposes of the election. Each person casting a ballot assigned to a parcel of property or possessory interest who is not

the owner of that property or possessory interest must present written evidence to the local agency of that person's authority to act for the owner for the election before casting the ballot. If more than one of the record owners of an identified parcel or possessory interest submits or wishes to submit a ballot, the votes attributable to the parcel or possessory interest shall be allocated to ballots for each owner in proportion to their respective record ownership interest, rounded to the nearest one-tenth of a vote, or, if the ownership interests are not shown on the record, as established to the satisfaction of the local agency, the votes attributable to the parcel or possessory interest shall be allocated according to the ownership interests shown by documentation submitted by those record owners. If no document is submitted, the votes shall be allocated equally among the parcel or possessory interest's owners requesting ballots. If the appointment of the representative to cast the ballot was made as part of the transaction by which the current owners acquired the property or possessory interest, or if the appointment appoints a former owner, or anyone affiliated in any way with a former owner of the property, the written appointment must be signed by all of the owners, and include a statement signed by all of the owners substantially in the form contained in Section 53341.5.

- (h) Section 55328 is incorporated into this chapter, provided that for purposes of this chapter it shall be amended to read as follows: "After the canvass of returns of any election pursuant to Section 53326, the legislative body may, pursuant to Section 53340, levy any special tax as specified in the resolution of formation adopted pursuant to subdivision (a) of Section 53325.1 within the territory of the district if two-thirds of the votes cast upon the question of levying the tax are in favor of levying that tax, provided votes shall be allocated to each landowner or owner of a possessory interest on the basis of one vote for each dollar of special tax that would be the obligation of that parcel or interest for the first year of collection of the special tax if the proposed special tax were approved."
- (i) Section 53328.3 is incorporated into this chapter, provided that for purposes of this chapter it shall be amended to read as follows: "Upon a determination by the legislative body that the requisite two-thirds of votes (as calculated pursuant to Section 53328) cast in an election held pursuant to Section 53326 are in favor of levying the special tax, the clerk of the legislative body shall, within 15 days of a landowner election or within 90 days of a registered voter election, record the notice of special tax lien provided for in Section 3114.5 of the Streets and Highways Code, whereupon the lien of the special tax shall attach as provided in Section 3115.5 of the Streets and Highways Code. The notice of special tax lien shall be recorded in the office of the county recorder in each county that any portion of the district is located."
- (j) Section 3114.5 of the Streets & Highways Code is incorporated into this chapter, provided that for purposes of this chapter the second sentence thereof shall be amended to read as follows: "The county recorder shall index the notice of special tax liens to the names of the property owners and possessory interest owners within the community facilities district and shown in the notice, as grantors."
- (k) For purposes of this chapter, property that is subject to the California State Board of Equalization's state-assessed properties program, including but not limited to real property owned by a railroad, shall be exempt from taxation through a community facilities district, provided that a possessory interest in such exempt property shall not be exempt.

3.38.050 Authorized Expenditures

- (a) Proceeds of a special tax imposed pursuant to this chapter may be used for any purpose permitted under the Act, including but not limited to financing the acquisition, construction, reconstruction, replacement, rehabilitation, upgrade and maintenance of any street frontage, streetscape, and/or landscape improvements and facilities.

- (b) Revenues from any special tax imposed pursuant to this chapter may be spent on lease payments, administrative costs of a community facilities district, direct costs of acquisition, planning, engineering, design, site preparation and construction of improvements and facilities listed in subsection (a), and all incidental and administrative costs authorized by the Act.

3.38.060 Written Protests

All protest procedures set forth in the Act shall apply to this chapter, except that registered voters as such shall have no protest rights under any circumstances. Protests by landowners and holders of possessory interests shall be weighted as described in Section 3.38.040(h).

3.38.070 Special Tax Election; Voter Qualifications; Ballots

All election procedures set forth in the Act shall apply to this chapter, with the following exceptions:

- (a) The qualified electors in all cases shall be the landowners and owners of possessory interests, rather than registered voters as such.
- (b) In lieu of any other method for allocating votes, votes shall be allocated to each landowner or possessory interest owner on the basis of one vote for each dollar of special tax that would be the obligation of that parcel or interest for the first year of collection of the special tax if the proposed special tax were approved. The Town Council's determination of the number of votes to be allocated to each property or possessory interest shall be final.
- (c) The landowners and possessory interest owners entitled to vote shall be those of record at the close of the public hearing referred to in section 53321(e) of the Act, unless the Town Clerk determines that there has been a change in ownership subsequent to the hearing and prior to the election. In that event the Town Clerk shall prepare and deliver a ballot for the new landowner or possessory interest owner, provided that the request for such ballot has been made no later than 24 hours prior to the deadline for returning ballots, and further provided that the Town Clerk may waive this deadline if deemed feasible. In the event a ballot is provided to a new landowner or possessory interest owner, the Town Clerk shall cause the canvass of the election to include the new ballot rather than the ballot prepared for the former landowner or possessory interest owner.

3.38.080 Collection of Delinquent Special Taxes on Secured Property Tax Roll

Any special taxes delinquent as of July 1 of any fiscal year, together with any penalties and interest accrued as of that date, may, at the option of the Town Council, be placed on the secured property tax roll for the parcel incurring the special tax obligation, where it shall be collected in the same manner as ordinary ad valorem property taxes are collected and shall be subject to the same penalties and the same procedure, sale, and lien priority in case of delinquency as is provided for ad valorem taxes. Any such delinquent special taxes, penalties, and interest accruing against a possessory interest may be placed upon either the secured or unsecured property tax roll as determined by Nevada County pursuant to Revenue & Taxation Code Section 107, billed directly by the Town, or collected in any manner allowed by law, and shall be subject to the same penalties and procedures as delinquencies on the secured property tax roll to the extent feasible.

3.38.090 Compliance with Chapter

Any proceedings taken or special tax levied pursuant to this chapter shall not be held invalid for failure to comply with the provisions of this chapter provided such failure is not unconstitutional or otherwise beyond the Town's authority to deem not to invalidate the action in question.

3.38.100 Conflict of Law

In the event of any conflict between the Act and this chapter or other provisions of the Truckee Municipal Code, this chapter and the Municipal Code shall govern.

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