

Title 3

REVENUE AND FINANCE

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Chapter 01

TRANSFER OF TAX FUNCTIONS

Sections:

3.01.010 Transfer of Duties

3.01.010 Transfer of Duties.

The assessment and tax collection duties, and the collection of assessments levied for Municipal improvements, now performed by the assessor and the tax collector of the City, are transferred to the assessor and the tax collector of the County for the purpose of assessment and collection of and for ad valorem property taxes that become a lien after the adoption of this Chapter, and the collection of assessments for Municipal improvements becoming due and payable on and after July 1, 1962.

Chapter 02

FISCAL ADMINISTRATION

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3.02.010 **Definitions.**

For the purposes of this chapter, the following words and phrases shall have the following meanings:

“Audited claim” shall mean a claim that has been reviewed and approved by either the Finance Director, when authorized to do so by law or ordinance, or by the City Council in all other cases, for payment from a fund of the City as being in all respects a valid and legally enforceable obligation of the City payable from that fund.

“Check” shall have the same meaning to that term as is given in the Commercial Code.

“City Treasury” shall mean and include all of the funds of the City which have been deposited with the City Treasurer or in accounts in a legal depository selected by the City Treasurer for such deposit, together with all other funds of the City which have been lawfully deposited in a legal depository for the benefit of the City in accordance with the requirements of law.

“Claim” shall mean a demand for payment of money from the funds of the City, but shall exclude any claims for money or damages which must be presented to the City in accordance with the provisions of Government Code, Part 3, Division 3.6, Title 1, Chapter 1 (commencing with Government Code section 900) or Chapter 2 (commencing with Government Code section 910).

“Legal depository” shall have the same meaning as is given to the term “depository” as defined in Government Code section 53630(c).

“Warrant” shall mean a written instrument executed by an officer or officers of the City as required by law or ordinance addressed to the City Treasurer and directing him or her to pay from moneys deposited in the City Treasury a claim against the City or the purpose stated in that instrument and from such fund in the City Treasury which is described in said instrument.

3.02.020 Purpose of Chapter.

The purpose of this Chapter is to provide guidance to, and procedures to be followed by, officers and employees of the City relating to the collection, deposit, investment, and expenditure of funds paid to or received by the City. The provisions of this Chapter are intended to complement the various provisions of the Government Code which govern such matters and are not intended to conflict with those provisions.

3.02.030 Collection and Deposit of City Funds.

A. The Finance Director of the City shall have primary responsibility for the collection of all funds paid to or received by the City from any source except in those instances in which by statute, by ordinance or by contract approved by the City Council the responsibility for the collection of specific funds has been vested in another officer or employee of the City.

B. All City funds collected by the Finance Director, or the officer of the City charged by law or ordinance with the responsibility for collecting same, shall be delivered or deposited as follows:

1. All funds paid to or received by the City, the deposit of which by the City is governed by contract approved by the City Council or by statute or regulation, shall be deposited in accordance with the provisions of the contract approved by the City Council or in accordance with any applicable statute or regulation which governs the deposit of such funds.

2. Those funds specifically paid to the City Treasurer by reason of statute or ordinance shall be delivered to the City Treasurer for deposit. At the option of the officer of the City collecting said funds, instead of physically delivering said funds to the City Treasurer for deposit by him or her, said funds may be deposited in an account established by the Finance Director or City Treasurer for such deposits.

3. All other funds shall be deposited in an account established by the Finance Director or the City Treasurer for such deposits in accordance with any applicable statute or regulation which governs the deposit of such funds and need not be physically delivered to the Finance Director or City Treasurer prior to deposit.

4. Each City account shall be established as an interest-bearing account in a legal depository selected in accordance with the requirements set forth in this chapter and applicable law. Officers and employees of the City making deposits in such account shall advise the Finance Director or City Treasurer of both the making of each such deposit and the fund of the City to which the deposit shall be credited.

5. The City Council, the City Treasurer, and the Finance Director may agree to jointly use the services of a single-story depository for the deposit of funds. In the absence of such agreement, the City Treasurer has the statutory authority to select the depository or depositories for the funds coming into possession of the City Treasurer.

C. The City Treasurer is not authorized to perform any duty related to the collection of City taxes

or license fees.

3.02.040 Investment of City Funds in City Treasury.

A. City funds which have been deposited as provided in 3.02.030 may be invested in accordance with the requirements of law and any investment policy statement approved by the City Council as follows:

1. All funds paid to or received by the City, the deposit of which by the City is governed by contract approved by the City Council or by statute or regulation, shall be invested in accordance with the provisions of the contract approved by the City Council or in accordance with any applicable statute or regulation which governs the investment of such funds. The City Council shall be responsible for the investment of such funds.

2. All other funds are subject to investment by the City Council under the provisions of Government Code section 53601 to the extent that such funds constitute money in a sinking fund or are determined by the City Council to be idle or surplus money not required for the immediate needs of the City. The City Council may, by resolution, establish criteria to be used in determining which deposited funds are subject to investment by the City as moneys in a sinking fund or as idle or surplus money not required for the immediate needs of the City. The City Treasurer shall have no authority to invest said deposited funds unless the City Council has, by resolution, delegated its authority to invest such funds to the City Treasurer in accordance with the requirements of Government Code section 53607.

B. The Finance Director shall prepare and submit to the City Manager and the City Council the quarterly report(s) on deposited and invested funds of the City that are required by Government Code section 53646(b).

C. The City Treasurer and the Finance Director may, by prior agreement, jointly prepare and submit to the City Manager and City Council monthly reports required to be prepared by the City Treasurer under the provisions of Government Code section 41004. In the absence of such agreement, the City Treasurer shall prepare such monthly reports on the funds which remain subject to control of the City Treasurer, if any. The City Treasurer shall be entitled only to the financial information necessary for the purposes of preparing the monthly report, subject to prior approval by the City Manager or Finance Director. The City Treasurer may only utilize City staff to prepare a monthly report as provided in 3.02.070. Nothing in this section shall prohibit the Finance Director from preparing and submitting a similar monthly report to the City Manager and City Council.

D. The City Council may, by resolution, establish an investment oversight committee to advise the City Council on investment matters. The Finance Director and the City Manager shall be members of such committee together with such other members as may be provided for in said resolution, appointed by the Mayor and confirmed by the City Council.

3.02.050 Accounting and Auditing.

A. The Finance Director shall have the primary responsibility to provide accounting and internal auditing services in reference to all funds of the City which have been deposited or invested

pursuant to this chapter.

B. All claims against the funds of the City, including payroll claims, shall be audited by the Finance Director and may be approved by the Finance Director if they conform to a budget approved by ordinance or resolution of the City Council and funds are available in the City Treasury for payment of said claims. All other claims shall be audited and approved by the City Council prior to payment. Claims subject to audit and approval by the Finance Director need not be audited by the City Council prior to payment but may be presented to the City Council for review following payment. All claims audited and approved by the Finance Director may thereafter be ratified and approved by the City Council in connection with the City Council's acceptance and approval of an audited comprehensive annual financial report for the City.

C. The Finance Director may prescribe written procedures to be followed by all officers and employees of the City who collect or receive funds payable to the City to ensure the safekeeping and deposit of said funds by appropriate officers of the City in accordance with the laws of the State of California and the applicable ordinances and resolutions of the City. Officers and employees of the City who collect or receive said funds payable to the City shall comply with said written procedures and shall make the deposits of said funds at the intervals and in the manner provided for in said written procedures. The accounts of officers or employees making deposits in the City Treasury shall be settled as provided in said written procedures, but not less frequently than on the first Monday of each month.

3.02.060 Drawing Checks Upon the City Treasury.

A. When funds are available for the payment of claims, the audit and approval of said claims by either the Finance Director, when authorized in 3.02.050, or by City Council in all other cases, shall, without issuance of a warrant, be authority to the legal depository holding the funds in the City Treasury to pay the audited claims by check or electronic transfer as authorized by Government Code section 53912. Registers and transfers maintained by the Finance Director pertaining to said checks and electronic transfers shall contain substantially the same information as required by law or ordinance to be maintained in connection with the use of warrants for payment of claims. Such required information shall consist of the purpose or purposes for which the check is drawn or for which electronic transfer is made, the identity of the fund or funds from which the payment is to be made and the identity of the officers of the City who authorized the drawing of the check or the making of the electronic transfer. All funds held in the City Treasury shall be subject to being drawn upon by check or electronic transfer, subject to such limitations upon the use of said checks and electronic transfers as may be required by the legal depository holding said funds and also subject to such further limitations as may be required by law or ordinance.

B. Funds held in the City Treasury may be transferred between interest-bearing and non-interest-bearing accounts for use of paying audited claims by checks drawn as provided in this section. Funds in the City Treasury may also be drawn upon by check or electronic transfer as provided in this section for the purchase of investments for idle and surplus funds of the City as authorized by 3.02.040.

C. All manually prepared checks drawn upon funds in the City Treasury shall be executed by the

Mayor and the Finance Director as the City's legally designated persons. All machine prepared checks drawn upon funds in the City Treasury either may be manually executed as provided above or may be executed by use of facsimile signatures in accordance with the procedures provided for in Government Code section 5500 et seq.

3.02.070 City Treasurer Utilization of Staff.

In executing and performing the duties and powers conferred upon the City Treasurer by this chapter, the City Treasurer shall deal with the administrative services of the City only through the City Manager, except for the purpose of inquiry, and the City Treasurer shall not give orders to any subordinates of the City Manager. Notwithstanding the foregoing, the City Treasurer may provide assistance in an advisory capacity to any department heads, so long as such assistance does not conflict with the administrative duties of the City Manager.

3.02.080 City Treasurer Duties, Responsibilities, and Powers.

The City Treasurer shall have no duty, responsibility, or power beyond those explicitly enumerated in this code. Notwithstanding the foregoing, the City Treasurer shall not be precluded from performing those duties mandated by State law.

3.02.090 Persons Designated; Bond Required.

Any two (2) of the following persons are authorized, on behalf of the City of Ceres, to draw and execute any and all warrants, checks, or other orders for the payment or disbursement of money or funds belonging to the City of Ceres, provided that at least one of such persons has executed an official bond to the City for faithful performance as required by Government Code section 37203:

- The Mayor of the City of Ceres;
- The Vice Mayor of the City of Ceres;
- The City Treasurer of the City of Ceres;
- The Director of Finance of the City of Ceres.

Chapter 03

CERES PUBLIC SAFETY TRANSACTIONS AND USE TAX

Sections:

- 3.03.010 Title.**
- 3.03.020 Operative Date.**
- 3.03.030 Purpose.**
- 3.03.040 Contract with State.**
- 3.03.050 Transactions Tax Rate.**
- 3.03.060 Place of Sale.**
- 3.03.070 Use Tax Rate.**
- 3.03.080 Adoption of Provisions of State Law.**
- 3.03.090 Limitations on Adoption of State Law and Collection of Use Taxes.**
- 3.03.100 Permit Not Required.**
- 3.03.110 Exemptions and Exclusions.**
- 3.03.120 Amendments.**
- 3.03.130 Enjoining Collection Forbidden.**
- 3.03.140 Severability.**
- 3.03.150 Use of Tax Proceeds and Expenditure Plan.**
- 3.03.160 Establishment of Citizens' Oversight Committee.**

3.03.010 Title.

This Chapter shall be known as the “Ceres Police, Fire, 9-1-1 Emergency Response Transactions and Use Tax Ordinance”. This Chapter shall be applicable in the incorporated territory of the City.

3.03.020 Operative Date.

The operative date is the first day of the first calendar quarter commencing more than one hundred ten (110) days after the initial adoption of this Chapter. The tax imposed pursuant to this Chapter went into effect beginning April 1, 2008.

3.03.030 Purpose.

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 impose a retail transactions and use tax in accordance with the provisions of Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code and Section 7285.91 of Part 1.7 of Division 2 which authorizes the City to adopt this tax ordinance. This tax ordinance is operative, as two-thirds of the electors voting on the measure have approved the imposition of the tax at the November 6, 2007, election.

B. To adopt a retail transactions and use tax ordinance that 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 1.6 of Division 2 of the Revenue and Taxation Code.

C. To adopt a retail transactions and use tax ordinance that 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 retail transactions and use tax ordinance that can be administered in a manner that will be, to the greatest degree possible, consistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, minimize the cost of collecting the transactions 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.

3.03.040 Contract with State.

Prior to the operative date, the City shall contract with the State Board of Equalization to perform all functions incident to the administration and operation of this transactions and use tax ordinance; provided, that if the City 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.

3.03.050 Transactions Tax Rate.

For the privilege of selling tangible personal property at retail, a tax is imposed upon all retailers in the incorporated territory of the City at the rate of 0.50% of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in said territory on and after the operative date of this Chapter. Such tax shall be in addition to any other transactions tax imposed by this Code or applicable State law.

3.03.060 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 or her 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.

3.03.070 Use Tax Rate.

An excise tax is imposed on the storage, use or other consumption in the City of tangible personal property purchased from any retailer on and after the operative date of the ordinance codified in this Chapter for storage, use or other consumption in said territory at the rate of 0.50% 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.

Such tax shall be in addition to any other use tax imposed by this Code or applicable State law.

3.03.080 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 1.6 of Division 2 of the Revenue and Taxation Code, all of the provisions of Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code are adopted and made a part of this Chapter as though fully set forth herein.

3.03.090 Limitations on Adoption of State Law and Collection of Use Taxes.

In adopting the provisions of Part 1 of Division 2 of the Revenue and Taxation Code:

A. Wherever the State of California is named or referred to as the taxing agency, the name of this City shall be substituted therefor. However, the substitution shall not be made when:

1. The word "State" is used as a part of the title of the State Controller, State Treasurer, State Board of Control, State Board of Equalization, State Treasury, or the Constitution of the State of California;
2. The result of that substitution would require action to be taken by or against this City or any agency, officer, or employee thereof rather than by or against the State Board of Equalization, in performing the functions incident to the administration or operation of this Chapter.
3. 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:
 - a. Provide an exemption from this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not otherwise be exempt from this tax while such 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
 - b. 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 provision of that code.
4. In Revenue and Taxation Code sections 6701, 6702 (except in the last sentence thereof), 6711, 6715, 6737, 6797 or 6828.

B. The word "City" shall be substituted for the word "State" in the phrase "retailer engaged in business in this State" in Section 6203 and in the definition of that phrase in Section 6203.

3.03.100 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 transactor's permit shall not be required by this Chapter.

3.03.110 Exemptions and Exclusions.

A. There shall be excluded from the measure of the transactions tax and the use tax the amount of any sales tax or use tax imposed by the State of California or by any city, city and county, or county pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law or the amount of any state-administered transactions or use tax.

B. There are exempted from the computation of the amount of transactions tax the gross receipts from:

1. Sales of tangible personal property, other than fuel or petroleum products, to operators of aircraft to be used or consumed principally outside the county 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.

2. Sales of property to be used outside the City which is shipped to a point outside the City, pursuant to the contract of sale, by delivery to such point by the retailer or his or her agent, or by delivery by the retailer to a carrier for shipment to a consignee at such point. For the purposes of this subsection, delivery to a point outside the City shall be satisfied:

a. With respect to vehicles (other than commercial vehicles) subject to registration a.

a. a. With respect to vehicles (other than commercial vehicles) subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, and undocumented vessels registered under Division 3.5 (commencing with Section 9840) of the Vehicle Code by registration to an out-of-City address and by a declaration under penalty of perjury, signed by the buyer, stating that such address is, in fact, his or her principal place of residence; and

b. With respect to commercial vehicles, by registration to a place of business out-of-City and declaration under penalty of perjury, signed by the buyer, that the vehicle will be operated from that address.

3. The sale of tangible personal property if the seller is obligated to furnish the property for a fixed price pursuant to a contract entered into prior to the operative date of the ordinance codified in this Chapter.

4. A lease of tangible personal property which is a continuing sale of such property, for any period of time for which the lessor is obligated to lease the property for an amount fixed by the lease prior to the operative date of the ordinance codified in this Chapter.

5. For the purposes of subsections (B)(3) and (B)(4) of this Section, the sale or lease of tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.

C. There are exempted from the use tax imposed by this Chapter, the storage, use or other

consumption in this City of tangible personal property:

1. The gross receipts from the sale of which have been subject to a transactions tax under any State-administered transactions and use tax ordinance.
 2. Other than fuel or petroleum products purchased by operators of aircraft and used or consumed by such operators directly and exclusively in the use of such aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity issued pursuant to the laws of this State, the United States, or any foreign government. This exemption is in addition to the exemptions provided in Sections 6366 and 6366.1 of the Revenue and Taxation Code of the State of California.
 3. If the purchaser is obligated to purchase the property for a fixed price pursuant to a contract entered into prior to the operative date of the ordinance codified in this Chapter.
 4. If the possession of, or the exercise of any right or power over, the tangible personal property arises under a lease which is a continuing purchase of such property for any period of time for which the lessee is obligated to lease the property for an amount fixed by a lease prior to the operative date of the ordinance codified in this Chapter.
 5. For the purposes of subsections (C)(3) and (C)(4) of this Section, storage, use, or other consumption, or possession of, or exercise of any right or power over, tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.
 6. Except as provided in subsection (C)(7) of this Section, a retailer engaged in business in the City shall not be required to collect use tax from the purchaser of tangible personal property, unless the retailer ships or delivers the property into the City or participates within the City in making the sale of the property, including, but not limited to, soliciting or receiving the order, either directly or indirectly, at a place of business of the retailer in the City or through any representative, agent, canvasser, solicitor, subsidiary, or person in the City under the authority of the retailer.
 7. "A retailer engaged in business in the City" shall also include any retailer of any of the following: vehicles subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, or undocumented vessels registered under Division 3.5 (commencing with Section 9840) of the Vehicle Code. That retailer shall be required to collect use tax from any purchaser who registers or licenses the vehicle, vessel, or aircraft at an address in the City.
- D. Any person subject to use tax under this Chapter may credit against that tax any transactions tax or reimbursement for transactions tax paid to a district imposing, or retailer liable for a transactions tax pursuant to Part 1.6 of Division 2 of the Revenue and Taxation Code with respect to the sale to the person of the property the storage, use or other consumption of which is

subject to the use tax.

3.03.120 Amendments.

A. All amendments subsequent to the effective date of the ordinance codified in Chapter to Part 1 of Division 2 of the Revenue and Taxation Code relating to sales and use taxes and which are not inconsistent with Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, and all amendments to Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, shall automatically become a part of this Chapter, provided however, that no such amendment shall operate so as to affect the rate of tax imposed by this Chapter unless any increase in the rate of this tax is first approved by two-thirds of the voters of the City of Ceres voting on such question.

B. Pursuant to Elections Code Section 9217 or any successor statute, the City Council of the City of Ceres may amend or repeal this Chapter and any of its exhibits, but not increase or extend the rate of tax imposed herein, without a vote of the people.

3.03.130 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 the City, or against any officer of the State or the City, to prevent or enjoin the collection under this Chapter, or Part 1.6 of Division 2 of the Revenue and Taxation Code, of any tax or any amount of tax required to be collected.

3.03.140 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.

3.03.150 Use of Tax Proceeds and Expenditure Plan.

All proceeds of the tax levied and imposed hereunder shall be accounted for and paid into a special fund or account designated for use by the City of Ceres only for the Public Safety Services set forth in the Public Safety Expenditure Plan for the administration and expenditure of the tax proceeds, attached to the ordinance codified in this Chapter as Exhibit "1." The Public Safety Expenditure Plan may be amended from time to time by a majority vote of the City Council, so long as the funds are utilized for public safety, police and fire protection services. For the purposes of this Chapter, "Public Safety Services" means (a) obtaining, furnishing, operating, and/or maintaining police protection equipment or apparatus, paying the salaries and benefits of police protection personnel, and such other police protection service expenses as are deemed necessary by the City Council for the benefit of the residents of the City; (b) obtaining, furnishing, operating, and/or maintaining fire protection equipment or apparatus, paying the salaries and benefits of fire protection personnel, and such other fire protection service expenses, as are deemed necessary by the City Council for the benefit of the residents of the City. No revenues collected pursuant to the tax levied may be spent on department administrators' salaries, General Fund operating expenses in effect at the time this Chapter becomes effective, or projects not a part of the Public Safety Expenditure Plan. It is the intent of the people that revenues collected hereunder shall supplement, rather than supplant, existing City expenditures for public safety.

3.03.160 Establishment of Citizens' Oversight Committee.

A. *Committee Established:* There is established in the City of Ceres a Citizen's Oversight Committee to monitor the expenditures of revenue collected pursuant to this Chapter only and report to the people and the City Council.

B. *Selection of Members:* Members of the Citizens' Oversight Committee shall be appointed by the City Council. The Committee shall consist of five (5) members. The Citizens' Oversight Committee members shall not be current City of Ceres employees, officials, contractors or vendors of the City. Past employees, officials or vendors shall be eligible to serve on the Committee, provided that there are no conflicts of interest as determined by the City Attorney.

1. Of the members of the Committee first appointed, three (3) shall be appointed for terms of two (2) years and two (2) for terms of three (3) years. Their successors shall be appointed for terms of three (3) years. No member may serve more than two (2) consecutive three (3) year terms.

2. The City Council shall solicit Citizens' Oversight Committee members through an open application process or other process as determined by the City Council. Any Ceres resident is eligible to apply for Committee membership, subject to the appointment categories specified above. All applications will be reviewed by the City Council, which will have the authority to make all final decisions on Committee representation, subject to these guidelines.

C. The Citizens' Oversight Committee shall review expenditures of revenue collected pursuant to this Chapter only to determine whether such funds are expended for the purposes specified in the then-current Public Safety Expenditure Plan and issuing reports on their findings to the City Council and public at least annually. Committee members may also review the annual financial or performance audits performed by an independent auditor selected by the City Council. The Committee shall confine its oversight specifically to revenues generated under this Chapter. Revenue generated through other sources shall be outside the jurisdiction of the Public Safety Citizens' Oversight Committee.

1. In order to preserve the integrity and independence of the oversight process, Committee members will not play a formal role in contracting, project management, or any other aspect of the Public Safety Measure funding.

2. The Committee is not charged with decision-making on spending priorities, schedules, project details, funding source decisions (e.g., leveraged funds, developer fees, etc.), financing plans, or tax rate assumptions. The Committee shall serve in an advisory-only role to the City Council. The Committee shall have no jurisdiction other than that delegated to it by the people pursuant to this Chapter.

3. The City of Ceres City Manager or his or her designee shall provide any reasonable administrative or technical assistance required by the Committee to fulfill its responsibilities or publicize its findings.

D. The Citizens' Oversight Committee shall meet semi-annually (or as otherwise provided for in approved or amended by-laws) with specific meeting dates to be determined by Committee members. Citizens' Oversight Committee meetings are subject to the Brown Act. Meetings must be noticed and open to the public. Committee minutes and reports are a matter of public record and must be posted on a web site provided by the City. Additional meetings may be scheduled by the Committee as necessary. All Committee members shall attend a training and orientation session prior to the first regular Committee meeting.

1. Committee members are expected to attend all regular meetings. Failure to attend two (2) consecutive meetings may result in removal from the Committee at the discretion of the City Council.

E. The Citizens' Oversight Committee will select members to serve as Chair and Vice Chair of the Committee. A City staff person will be appointed by the City Manager or his or her designee to serve as Secretary. The Secretary will be responsible for preparing, posting and distributing agendas and taking minutes at each meeting. Approved minutes shall be made available to the public. Committee decisions, positions, findings and procedures shall require a simple majority vote of those Members in attendance. The quorum requirement for any meeting shall be a minimum of three (3) members.

F. Committee members may be removed from the Committee only by the City Council for repeated absence (see subsection D above), for malfeasance, for failing to meet the qualifications set forth in this Section or for inability or unwillingness to fulfill the duties of a Member. In the event of removal, resignation, or death, the City Council shall appoint a person to fill the vacant seat.

G. With the exception of those items specifically addressed in these Guiding Principles, the Committee may draft and adopt its own standard procedures and by-laws by majority vote. All Citizens' Oversight Committee procedures and by-laws remain subject to review and approval by the City Council. Citizen's Oversight Committee reports are subject to review and approval of the City Council for the sole purpose of confirming that the report has been prepared in compliance with the provisions of this Chapter.

Chapter 04

GAS TAX STREET IMPROVEMENT FUND

Sections:

3.04.010 **Creation.**

3.04.020 **Use of Moneys.**

3.04.010 **Creation.**

There is created in the City treasury a special fund to be known as the special gas tax street improvement fund.

3.04.020 **Use of Moneys.**

All moneys received from the State of California under provisions of Article 5, Chapter 1, Division 1 of Streets and Highways Code shall be paid into such fund and shall be expended exclusively for purposes set forth in said article.

Chapter 05

SALES AND USE TAX

Sections:

- 3.05.010 Short Title.**
- 3.05.020 Purpose.**
- 3.05.030 Operative Date; Contract with State.**
- 3.05.040 Sales Tax.**
- 3.05.050 Use Tax.**
- 3.05.060 Amendments.**
- 3.05.070 Enjoining Collection Forbidden.**
- 3.05.080 Application of Provisions Relating to Exclusions and Exemptions.**

3.05.010 Short Title.

This Chapter shall be known as the Uniform Local Sales and Use Tax ordinance of the City of Ceres.

3.05.020 Purpose.

The City Council declares that the ordinance adopted herein is adopted to achieve the following, among others, purposes, and directs that the provisions hereof be interpreted in order to accomplish those purposes:

A. To adopt a sales and use tax chapter which complies with the requirements and limitations contained in Part 1.5, Division 2 of the Revenue and Taxation Code of the State of California;

B. To adopt a sales and use tax chapter 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, Division 2 of the Revenue and Taxation Code;

C. To adopt a sales and use tax chapter which imposes a one percent (1%) tax and provides a measure therefor that can be administered and collected by the State Board of Equalization in a manner that adapts itself as fully as practical to, and requires the least possible deviation from, the existing statutory and administrative procedures followed by the State Board of Equalization in administering and collecting the California State sales and use taxes;

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

3.05.030 Operative Date; Contract with State.

This Chapter shall become operative on April 1, 1957, and prior thereto this City shall contract with the State Board of Equalization to perform all functions incident to the administration and operation of this sales and use tax chapter; provided, that if this City shall not have contracted with the State Board of Equalization, as above set forth, prior to April 1, 1957, this Chapter shall not be operative until the first day of the first calendar quarter following the execution of such a contract by the City and by the State Board of Equalization, and provided further that this Chapter shall not become operative prior to the operative date of the uniform local sales and use tax ordinance of Stanislaus County.

3.05.040 Sales Tax.

A. 1. For the privilege of selling tangible personal property at retail a tax is imposed upon all retailers in the City at the rate of .950 percent of the gross receipts of the retailer from the sale of all tangible personal property sold at retail in the City.

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

B. 1. Except as hereinafter provided, and except insofar as they are inconsistent with the provisions of Part 1.5, Division 2 of the Revenue and Taxation Code, all of the provisions of Part 1.5, Division 2 of that code, as amended and in force and effect on April 1, 1957, applicable to sales taxes are adopted and made a part of this Section as though fully set forth herein.

2. Wherever, and to the extent that, in Part 1.5, Division 2 of the Revenue and Taxation Code the State of California is named or referred to as the taxing agency, the City shall be substituted therefor. Nothing in this subdivision shall be deemed to require the substitution of the name of the City for the word "State" when that word is used as part of the title of the State Controller, the State Treasurer, the State Board of Control, the State Board of Equalization, or the name of the State Treasury, or of the Constitution of the State of California; nor shall the name of the City be substituted for that of the State in any section when the result of that substitution would require action to be taken by or against the City or any agency thereof, rather than by or against the State Board of Equalization, in performing the functions incident to the administration or operation of this Chapter; and neither shall the substitution be deemed to have been made to 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 gross receipts which would not otherwise be exempt from this tax while those gross receipts remain subject to tax by the State under the provisions of Part 1.5, Division 2 of the Revenue and Taxation Code; nor to impose this tax with respect to certain gross receipts

which would not be subject to tax by the State under the provisions of that Code; and, in addition, the name of the City shall not be substituted for that of the State in Revenue and Taxation Code sections 6701, 6702 (except in the last sentence thereof), 6711, 6715, 6737, 6797, and 6828, as adopted.

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

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

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

b. The gross receipts from the sale of tangible personal property to operators of aircraft to be used or consumed principally outside the City in which the sale is made and directly and exclusively in the use of such aircraft as common carriers of persons or property under the authority of the laws of this State, the United States, or any foreign government; and

c. The gross receipts from the sale of tangible personal property to operators of waterborne vessels to be used or consumed principally outside the City in which the sale is made and directly and exclusively in the carriage of persons or property in such vessel for commercial purposes.

3.05.050 Use Tax.

A. An excise tax is imposed on the storage, use or other consumption in the City of tangible personal property purchased from any retailer for storage, use or other consumption in the City at the rate of .950 percent of the sales price of the property.

B. 1. Except as hereinafter provided, and except insofar as they are inconsistent with the provisions of Part 1.5, Division 2 of the Revenue and Taxation Code, all of the provisions of Part 1, Division 2 of the code, as amended and in force and effect on April 1, 1957, applicable to use taxes are adopted and made a part of this Section as though fully set forth herein.

2. Wherever, and to the extent that, in Part 1, Division 2 of the Revenue and Taxation Code the State of California is named or referred to as the taxing agency, the name of this City shall be substituted therefor. Nothing in this subdivision shall be deemed to require the substitution of the name of this City for the word "State" when that word is used as part of the title of the State Controller, the State Treasurer, the State Board of Control, the State Board of Equalization, or the name of the State Treasury, or of the Constitution of the State of California; nor shall the name of the City be substituted for that of the State in any section when the result of that substitution would require action to be taken by or against the City or any agency thereof rather than by or against the State Board of Equalization, in performing the functions incident to the administration or operation of this Chapter; and neither shall the substitution be deemed to have been made in those sections, including but not necessarily

limited to sections referring to the exterior boundaries of the State of California, where the result of the substitution would be to provide an exemption from this tax with respect to certain storage, use or other consumption of tangible personal property which would not otherwise be exempt from this tax while such storage, use or other consumption remains subject to tax by the State under the provisions of Part 1, Division 2 of the Revenue and Taxation Code, or to impose this tax with respect to certain storage, use or other consumption of tangible personal property which would not be subject to tax by the State under the provisions of that Code; and in addition, the name of the City shall not be substituted for that of the State in Revenue and Taxation Code sections 6701, 6702 (except in the last sentence thereof), 6711, 6715, 6737, 6797, and 6828, as adopted, and the name of the City shall not be substituted for the word "State" in the phrase "retailer engaged in business in this State" in Revenue and Taxation Code section 6203 nor in the definition of that phrase in Revenue and Taxation Code section 6203.

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

a. The amount of any sales or use tax imposed by the State 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 has been subject to sales tax under a sales and use tax ordinance enacted in accordance with Part 1.5, Division 2 of the Revenue and Taxation Code by any city and county, county or city in this State;

c. In addition to the exemptions provided in Revenue and Taxation Code sections 6366 and 6366.1, the storage, use, or other consumption of tangible personal property purchased by operators of aircraft and used or consumed by such operators directly and exclusively in the use of such aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity issued pursuant to the laws of this State, the United States, or any foreign government; and

d. The storage, use or other consumption of tangible personal property purchased by operators of waterborne vessels and used or consumed by such operators directly and exclusively in the carriage of persons or property in such vessels for commercial purposes.

3.05.060 Amendments.

All amendments of Part 1, Division 2 of the Revenue and Taxation Code enacted subsequent to March 20, 1957, which relate to the sales and use tax and which are not inconsistent with Part 1.5, Division 2 of the Revenue and Taxation Code, shall automatically become a part of this Chapter.

3.05.070 Enjoining Collection Forbidden.

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

3.05.080 Application of Provisions Relating to Exclusions and Exemptions.

Sections 3.20.040(B)(4)(c) and 3.20.050B(3)(d) of this Chapter shall become operative on the operative date of any act of the Legislature of the state which amends or repeals and reenacts Revenue and Taxation Code section 7202 to provide an exemption from city sales and use taxes for operators of waterborne vessels in the same, or substantially the same, language as that existing in Revenue and Taxation Code sections 7202(i)(7) and (i)(8) as those subdivisions read on October 1, 1983.

Chapter 06

TRANSIENT OCCUPANCY TAX

Sections:

- 3.06.010 Title.**
- 3.06.020 Definitions.**
- 3.06.030 Tax Imposed.**
- 3.06.040 Exemptions.**
- 3.06.050 Operator's Duties.**
- 3.06.060 Registration Required.**
- 3.06.070 Reporting; Remitting.**
- 3.06.080 Delinquency; Penalties.**
- 3.06.090 Failure to Collect and Report.**
- 3.06.100 Appeal Procedure.**
- 3.06.110 Preservation of Records.**
- 3.06.120 Refund Provisions.**
- 3.06.130 Actions to Collect.**
- 3.06.140 Violations.**
- 3.06.150 Disposition of Proceeds.**

3.06.010 Title.

This tax shall be known as the "Uniform Transient Occupancy Tax of the City of Ceres."

3.06.020 Definitions.

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

A. "Hotel" means any structure or any portion of any structure which is occupied or intended or designated for occupancy by transients for dwelling, lodging, or sleeping purposes, including any hotel, inn, tourist home or house, motel, studio hotel, dormitory, public or private club, mobile home or house trailer at a fixed site or other similar structure or portion thereof.

B. "Occupancy" means the use or possession or the right to the use or possession of any room or rooms or portion thereof in any Hotel for dwelling, lodging or sleeping purposes. Occupancy shall also include the use of parking facilities, including valet services, for hotel guests including: (1) charges to hotel guests for parking located on the hotel premises regardless of how charged, and (2) charges to hotel guests for parking located off the hotel premises where such charge is added to the room bill and paid to the hotel operator.

C. "Operator" means the person who is proprietor of the hotel, whether in the capacity of owner, lessee, sublessee, mortgagee in possession, licensee, or any other capacity. Where the operator performs his functions through a managing agent of any type or character other than an employee, the managing agent shall also be deemed an operator for the purposes of this Chapter

and shall have the same duties and liabilities as his principal. Compliance with the provisions of this Chapter by either the principal or the managing agent shall, however, be considered to be compliance by both.

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

E. "Tax administrator" means the Finance Director.

F. "Transient" means any person who exercises occupancy or is entitled to occupancy by reason of concession, permit, right of access, license or other agreement for a period of thirty (30) consecutive calendar days or less, counting portions of calendar days as full days. Any such person so occupying space in a hotel shall be deemed to be a transient until the period of thirty (30) days has expired unless there is an agreement in writing between the operator and the occupant providing for a longer period of occupancy. In determining whether a person is a transient, uninterrupted periods of time extending both prior and subsequent to the effective date of this tax may be considered.

3.06.030 Tax Imposed.

For the privilege of occupancy in any hotel, each transient is subject to and shall pay a tax in the amount of ten percent (10%) of the rent charged by the operator. This tax constitutes a debt owed by the transient to the City which is extinguished only by payment to the operator or to the City. The transient shall pay the tax to the operator of the hotel at the time the rent is paid. If the rent is paid in installments, a proportionate share of the tax shall be paid with each installment. The unpaid tax shall be due upon the transient's ceasing to occupy space in the hotel. If for any reason the tax due is not paid to the operator of the hotel, the Tax Administrator may require that such tax shall be paid directly to the Tax Administrator.

3.06.040 Exemptions.

A. No tax shall be imposed upon:

1. Any person as to whom, or any occupancy as to which, it is beyond the power of the City to impose the tax herein provided;
2. Any Federal or State of California officer or employee when on official business;
3. Any officer or employee of a foreign government who is exempt by reason of express provision of Federal law or international treaty;
4. Any charitable institution, organization, or association organized and conducted for charitable purposes only. The exemption shall not apply to promoters employed by charitable organizations;
5. Any soldier, sailor or marine of the United States who is currently on active duty or has

received an honorable discharge or a release from active duty under honorable conditions from such service; any spouse or widow of any such soldier, sailor or marine;

6. Any natural person or group of persons under the age of eighteen (18) years who are bona fide residents of the City and have been so domiciled for at least thirty (30) calendar days prior to filing a claim for exemption; or

7. Any person conducting or staging any concert, exhibition, lecture, dance, amusement or entertainment where the receipts, if any are derived therefrom, are to be used solely for charitable or benevolent purposes and not for private gain or for the private gain of any person in whole or in part.

B. No exemption shall be granted except upon a claim therefor made at the time rent is collected and under penalty of perjury upon a form prescribed by the Tax Administrator.

3.06.050 Operator's Duties.

Each operator shall collect the tax imposed by this Chapter to the same extent and at the same time as the rent is collected from every transient. The amount of tax shall be separately stated from the amount of the rent charged, and each transient shall receive a receipt for payment from the operator. No operator of a hotel shall advertise or state in any manner, whether directly or indirectly, that the tax or any part thereof will be assumed or absorbed by the operator, or that it will not be added to the rent, or that, if added, any part will be refunded except in the manner provided in Section 3.24.120.

3.06.060 Registration Required.

Within thirty (30) days after the effective date of this tax, or within thirty (30) days after commencing business, whichever is later, each operator of any hotel renting occupancy to transients shall register the hotel with the tax administrator and obtain from him a transient occupancy registration certificate to be at all times posted in a conspicuous place on the premises. The certificate shall, among other things, state the following:

A. The name of the operator;

B. The address of 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 this tax to the Tax Administrator. This certificate does not authorize any person to conduct any unlawful business or to conduct any lawful business in an unlawful manner, nor to operate a hotel without strictly complying with all local applicable laws, including but not limited to those requiring a permit from any lawful business in an unlawful manner, nor to operate a hotel without strictly complying with all local applicable laws, including but not limited to those requiring a permit from any board, commission, department or office of this

City. This certificate does not constitute a permit.

3.06.070 Reporting; Remitting.

Each operator shall, on or before the last day of the month following the close of each calendar quarter, or at the close of any shorter reporting period which may be established by the Tax Administrator, make a return to the Tax Administrator, on forms provided by him, of the total rents charged and received and the amount of tax collected for transient occupancies. At the time the return is filed, the full amount of the tax collected shall be remitted to the Tax Administrator. The Tax Administrator may establish shorter reporting periods for any certificate holder if he deems it necessary in order to insure collection of the tax and he may require further information in the return. Returns and payments are due immediately upon cessation of business for any reason. All taxes collected by operators pursuant to this Chapter shall be held in trust for the account of the City until payment thereof is made to the Tax Administrator.

3.06.080 Delinquency; Penalties.

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

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

C. If the Tax Administrator determines that the nonpayment of any remittance due under this Chapter is due to fraud, a penalty of twenty five percent (25%) of the amount of the tax shall be added thereto in addition to the penalties stated in subsections A and B.

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

E. 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.

3.06.090 Failure to Collect and Report.

A. If any operator shall fail or refuse to collect the tax and to make, within the time provided for in this Chapter, any report and remittance of the tax or any portion thereof required by this Chapter, the Tax Administrator shall proceed in such manner as he may deem best to obtain fact and information on which to base his estimate of the tax due. As soon as the Tax Administrator shall procure such facts and information as he is able to obtain upon which to base the assessment of any tax imposed by this Chapter and payable by any operator who has failed or refused to collect it and to make such report and remittance, he shall proceed to determine and assess against such operator the tax, interest and penalties provided for by this Chapter.

B. In case such determination is made, the Tax Administrator shall give a notice of the amount so assessed by serving it personally or by depositing it in the United States mail, postage prepaid, addressed to the operator so assessed at his last known address. Such operator may within ten (10) days after the serving or mailing of such notice make application in writing to the Tax Administrator for a hearing on the amount assessed.

C. 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 (5) 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.

D. At such hearing, the operator may appear and offer evidence why such specified tax, interest and penalties should not be so fixed. After such hearing the Tax Administrator shall determine the proper tax to be remitted and shall thereafter give written notice to the person in the manner prescribed herein of such determination and the amount of such tax, interest and penalties. The amount determined to be due shall be payable after fifteen (15) days unless an appeal is taken as provided in Section 3.24.100.

3.06.100 Appeal Procedure.

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

3.06.110 Preservation of Records.

It shall be the duty of every operator liable for the collection and payment to the City of any tax imposed by this Chapter to keep and preserve, for a period of three (3) years, all records as may be necessary to determine the amount of such tax as he may have been liable for the collection of and payment to the City, which records the Tax Administrator shall have the right to inspect at all reasonable times.

3.06.120 Refund Provisions.

A. Whenever the amount of any tax, interest or penalty has been overpaid or paid more than once or has been erroneously or illegally collected or received by the City under this Chapter, it may be refunded as provided in subsections B and C, provided a claim in writing therefor, stating under penalty of perjury the specific grounds upon which the claim is founded, is filed with the Tax Administrator within three (3) years of the date of payment. The claim shall be on forms furnished by the Tax Administrator.

B. An operator may claim a refund or take as credit against taxes collected and remitted the

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

C. A transient may obtain a refund of taxes overpaid or paid more than once or erroneously or illegally collected or received by the City by filing a claim in the manner provided in subsection A if 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 his right thereto by written records showing entitlement thereto.

3.06.130 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 City. Any such tax collected by an operator which has not been paid to the City shall be deemed a debt owed by the operator to the City. Any person, including an operator, owing money to the City under the provisions of this Chapter shall be liable to an action brought in the name of the City for the recovery of such amount.

3.06.140 Violations.

A. It is unlawful for any operator or other person to:

1. Fail or refuse to register as required herein;
2. Fail or refuse to furnish any return required to be made;
3. Fail or refuse to furnish a supplemental return or other data required by the Tax Administrator;
4. Render a false or fraudulent return or claim; or
5. Make, render, sign or verify any report or claim to make any false or fraudulent report or claim with intent to defeat or evade the determination of any amount due required by this Chapter to be made.

B. Any person violating any of the provisions of this Chapter shall be guilty of an infraction.

C. Any person willfully violating any of the provisions of this Chapter shall be guilty of a misdemeanor.

3.06.150 Disposition of Proceeds.

All moneys received by the City under or pursuant to the provisions of this Chapter shall be deposited and paid into the general fund of the City.

Chapter 07

REAL PROPERTY TRANSFER TAX

Sections:

- 3.07.010 Title.**
- 3.07.020 Amount.**
- 3.07.030 Responsibility for Payment.**
- 3.07.040 Not Applicable to Written Instrument Securing Debt.**
- 3.07.050 Government Agency Not Liable.**
- 3.07.060 Exemptions.**
- 3.07.070 Securities and Exchange Commission; Exemption.**
- 3.07.080 Partnership; Exemption.**
- 3.07.090 Marital Property; Exemption.**
- 3.07.100 Reconveyance to Exempt Agency; Exemption.**
- 3.07.110 Reconveyance to Nonprofit; Exemption.**
- 3.07.120 Intervivos Gift; Exemption.**
- 3.07.130 Administration.**
- 3.07.140 Refund Provisions.**

3.07.010 Title.

This Chapter shall be known as the "Real Property Transfer Tax Ordinance of the City of Ceres." It is adopted pursuant to the authority contained in Part 6.7 (commencing with section 11901), Division 2 of the Revenue and Taxation Code of the State of California. Except as hereinafter provided, and except insofar as they are inconsistent with the provisions of Part 6.7, Division 2 of the Revenue and Taxation Code, all of the provisions of Part 6.7, Division 2 of that code, as amended and in force and effect on January 1, 1968, applicable to sales taxes are adopted and made a part of this Section as though fully set forth herein.

3.07.020 Amount.

There is imposed on each deed, instrument or writing by which any lands, tenements, or other realty sold within the City shall be granted, assigned, transferred or otherwise conveyed to, or vested in, the purchaser or purchasers, or any other person or persons, by his or their direction, when the consideration or value of the interest or property conveyed (exclusive of the value of any lien or encumbrances remaining thereon at the time of sale) exceeds one hundred dollars (\$100.00), a tax at the rate of twenty seven and one-half cents (\$.275) for each five hundred dollars (\$500.00) or fractional part thereof.

3.07.030 Responsibility for Payment.

Any tax imposed pursuant to Section 3.28.020 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.

3.07.040 Not Applicable to Written Instrument Securing Debt.

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

3.07.050 Government Agency Not Liable.

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

3.07.060 Exemptions.

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 Code, as amended;

B. Approved in an equity receivership proceeding in a court involving a railroad corporation, as defined in Section 101 of Title 11 of the United States Code, as amended;

C. Approved in an equity receivership proceeding in a court involving a corporation, as defined in Section 101 of Title 11 of the United States Code, as amended; or

D. Whereby a mere change in identity, form or place or organization is affected.

Subsections A to D, inclusive, shall only apply if the making, delivery, or filing of instruments of transfer or conveyances occurs within five (5) years from the date of such confirmation, approval or change.

3.07.070 Securities and Exchange Commission; Exemption.

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.

3.07.080 Partnership; Exemption.

A. In the case of any realty held by a partnership or other entity treated as a partnership for federal income tax purposes, no levy shall be imposed pursuant to this Chapter by reason of any transfer of an interest in a partnership or other entity or otherwise, if: both of the following occur

1. The partnership or other entity treated as a partnership considered a continuing partnership within the meaning of section 708 of the Internal Revenue Code of 1986; and
2. The continuing partnership or other entity treated as a partnership continues to hold the realty concerned.

B. If there is a termination of any partnership or other entity treated as a partnership for federal income tax purposes, within the meaning of section 708 of the Internal Revenue Code of 1986, for purposes of this Chapter, the partnership or other entity shall be treated as having executed an instrument whereby there was conveyed, for fair market value (exclusive of the value of any lien or encumbrance remaining thereof), all realty held by the partnership or other entity at the time of termination.

C. Not more than one tax shall be imposed pursuant to this Chapter by reason of a termination described in subsection B, and any transfer pursuant thereto, with respect to the realty held by the partnership or other entity treated as a partnership at the time of termination.

D. No levy shall be imposed pursuant to this part by reason of any transfer between an individual or individuals and a legal entity or between legal entities that results solely in a change in the method of holding title to the realty and in which proportional ownership interests in the realty, whether represented by stock, membership interest, partnership interest, cotenancy interest, or otherwise, directly or indirectly, remain the same immediately after the transfer

3.07.090 Marital Property; Exemption.

A. Any tax imposed pursuant to this part shall not apply with respect to any deed, instrument, or other writing which purports to transfer, divide, or allocate community, quasi-community, or quasi-marital property assets between spouses for the purpose of effecting a division of community, quasi-community, or quasi-marital property which is required by a judgment decreeing a dissolution of the marriage or legal separation, by a judgment of nullity, or by any other judgment or order rendered pursuant to the Family Code, or by a written agreement between the spouses, executed in contemplation of any such judgment or order, whether or not the written agreement is incorporated as part of any of those judgments or orders.

B. In order to qualify for the exemption provided in subdivision (a), the deed, instrument, or other writing shall include a written recital, signed by either spouse, stating that the deed, instrument, or other writing is entitled to the exemption.

3.07.100 Reconveyance to Exempt Agency; Exemption.

Any tax imposed pursuant to this Chapter shall not apply with respect to any deed, instrument, or other writing by which realty is conveyed by the State of California, any political subdivision thereof, or agency or instrumentality of either thereof, pursuant to an agreement whereby the purchaser agrees to immediately reconvey the realty to the exempt agency.

3.07.110 Reconveyance to Nonprofit; Exemption.

Any tax imposed pursuant to this Chapter shall not apply with respect to any deed, instrument, or other writing by which the State of California, any political subdivision thereof, or agency or

instrumentality of either thereof, conveys to a nonprofit corporation realty the acquisition, construction, or improvement of which was financed or refinanced by obligations issued by the nonprofit corporation on behalf of a governmental unit, within the meaning of Section 1.103-1 (b) of Title 26 of the Code of Federal Regulations.

3.07.120 Intervivos Gift; Exemption.

Any tax imposed pursuant to this part shall not apply to any deed, instrument, or other writing which purports to grant, assign, transfer, convey, divide, allocate, or vest lands, tenements, or realty, or any interest therein, if by reason of such inter vivos gift or by reason of the death of any person, such lands, tenements, realty, or interests therein are transferred outright to, or in trust for the benefit of, any person or entity.

3.07.130 Administration.

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

3.07.140 Refund Provisions.

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

Chapter 08

CERES DOWNTOWN REVITALIZATION AREA

Sections:

- 3.08.010 Downtown Revitalization Area Established.**
- 3.08.020 Boundaries.**
- 3.08.030 Use of Revenue.**
- 3.08.040 Assessments Levied.**
- 3.08.050 Application of State Law.**
- 3.08.060 Effect of Assessments.**
- 3.08.070 Expenditure of Funds.**

3.08.010 Downtown Revitalization Area Established.

The City Council of the City does hereby establish a downtown parking and business improvement area pursuant to the provisions of the Parking and Business Improvement Area Law of 1979, which area shall be designated as the "Ceres Downtown Revitalization Area."

3.08.020 Boundaries.

The boundaries of the "Ceres Downtown Revitalization Area" shall include all that area bounded by Sixth Street on the east, El Camino on the southwest, and Magnolia on the north to depth of one hundred fifty feet (150') of the north of the center line of Magnolia, all as shown on the map attached to Ordinance 88-708 as Exhibit A, the legal description of which is as follows:

All that certain real property situated in a portion of the Southeast $\frac{1}{4}$ of Section 14, Township 4 South, Range 9 East, Mount Diablo Base and Meridian, City of Ceres, County of Stanislaus, State of California described as follows:

BEGINNING at the Northwest corner of Lot 13, Block 22, of the CITY OF CERES, as shown on the map filed in Volume II of Maps, at Page 1, Stanislaus County Records; thence Northerly along the prolongation of the West line of said Lot 13, a distance of 15' \pm to the true point of beginning; thence Easterly along a line which is 150' North of the parallel to the centerline of Magnolia Street a distance of 1995' \pm to the centerline of Sixth Street; thence South along the centerline of Sixth Street a distance of 1840' \pm to the centerline intersection of Park Street; thence West along the centerline of Park Street and its prolongation a distance of 500' \pm to a point on the Southerly prolongation of the Westerly right of way line of El Camino Avenue; thence Northwesterly along the Westerly right of way line of El Camino Avenue and its prolongation a distance of 2220' \pm to a point on the Southerly prolongation of the West property line of said Lot 13; thence North along the West line of said Lot 13 and its prolongation a distance of 210' \pm to the true point of beginning.

3.08.030 Use of Revenue.

Some of the proposed uses to which revenues generated from the area shall be put are as follows:

- A. Replacement of selected curb, gutter and sidewalks;
- B. Landscaping and beautification of the area, including installation of planters, benches,

landscaped islands, irrigation, lighting and other related improvements;

C. Installation of colored crosswalks at selected intersections;

D. Reconstruction of alleys within the area and onsite paving behind businesses to provide additional parking;

E. Provisions of street fixtures and furniture to the downtown area, landscaping and irrigation to the downtown area, installation of colored sidewalks in the downtown area;

F. Provisions of low interest loans and/or grants to merchants to complete facade improvements and provide additional off-street parking; and

G. Other projects, programs and/or improvements, the purpose of which is to contribute to the revitalization of downtown Ceres.

3.08.040 Assessments Levied.

The system of assessments or charges which will be used and the businesses upon which the levy will be made is as follows:

A. Assessments and charges will be made only against businesses located within the area. The aggregate or combined receipts shall be used for all businesses owned by the same party or parties that are located at the same address.

B. All assessments will be made on a quarterly basis and will be due at the end of each quarter.

C. All businesses within the area whose gross receipts are fifty thousand dollars (\$50,000.00) or less for any quarter shall be assessed thirty dollars (\$30.00) per quarter.

D. All businesses within the area whose gross receipts are greater than fifty thousand dollars (\$50,000.00) but less than two hundred thousand dollars (\$200,000.00) for any quarter shall be assessed seventy-five dollars (\$75.00) per quarter.

E. All businesses within the area whose gross receipts are two hundred thousand dollars (\$200,000.00) or more for any quarter shall be assessed seventy-five dollars (\$75.00) per quarter plus one mil (.001) on all gross receipts exceeding two hundred thousand dollars (\$200,000.00), computed on a quarterly basis.

F. Banks and savings and loan institutions within the area shall be assessed a flat fee of five hundred dollars (\$500.00) annually.

G. Gasoline service stations with gross receipts from the sale of gasoline which exceed eight hundred thousand dollars (\$800,000.00) or more per year shall be assessed a flat fee of five hundred dollars (\$500.00) per year plus seventy-five dollars (\$75.00) per quarter.

H. Gasoline service stations with gross receipts from the sale of gasoline of less than eight

hundred thousand dollars (\$800,000.00) per year shall be assessed in accordance with the provisions of C, D, and E as set forth herein.

3.08.050 Application of State Law.

All businesses lying within the area established by this Chapter shall be subject to any amendments to Part 6 of the Streets and Highways Code of the State of California (section 36500 through 36551).

3.08.060 Effect of Assessments.

The assessments made against businesses lying within the area shall commence and be effective beginning January 1, 1989.

3.08.070 Expenditure of Funds.

The City Manager shall have sole discretion to expend the revenues derived from the assessments or charges imposed and collected pursuant to this Chapter for those activities, projects, and programs identified in the annual report approved by the City Council. The City Council may, by resolution, establish and create an advisory board or commission to make recommendations as to the expenditure of such funds, and the City Council may limit the membership of such advisory board to persons or entities paying the assessments or charges pursuant to this Chapter.

Chapter 09

UTILITY USERS' EXCISE TAX

Sections:

- 3.09.010 Title.**
- 3.09.020 Definitions.**
- 3.09.030 Purpose.**
- 3.09.040 Exemptions.**
- 3.09.050 Telephone Users' Tax.**
- 3.09.060 Electricity Users' Tax.**
- 3.09.070 Gas Users' Tax.**
- 3.09.080 Cable Television Users' Tax.**
- 3.09.090 Tax Rate.**
- 3.09.100 Remittance of Tax and Penalties.**
- 3.09.110 Actions to Collect.**
- 3.09.120 Duty to Collect; Procedures.**
- 3.09.130 Additional Powers and Duties of the Tax Administrator.**
- 3.09.140 Assessment; Administrative Remedy.**
- 3.09.150 Records.**
- 3.09.160 Refunds.**
- 3.09.170 Limitation of Action.**
- 3.09.180 Termination or Suspension of Tax.**
- 3.09.190 Operative Date.**

3.09.010 Title.

This Chapter shall be known as the “Utility Users’ Excise Tax” of the City of Ceres.

3.09.020 Definitions.

Except where the context otherwise requires, the definitions set forth in this Section govern the construction of this Chapter.

A. “Gas” includes natural gas and any other gas used for light, heat and power.

B. “Month” means a calendar month.

C. “Nonutility supplier” means a service supplier, other than an electrical corporation serving within the City, which generates electrical energy in capacities of at least one hundred (100) kilowatts monthly for its own use or for sale to others.

D. “Person” means any domestic or foreign corporation, firm, association, syndicate, joint stock company, partnership of any kind, joint venture, club, Massachusetts business or common law trust, society, or individual.

E. "Service supplier" means any entity required to collect or self-impose and remit a tax as imposed by this Chapter.

F. "Service user" means a person required to pay a tax imposed by this Chapter.

G. "Tax administrator" means the City Manager of the City or designee.

H. "Telephone corporation," "electrical corporation," "gas corporation," "water corporation," and "cable television corporation," shall have the same meanings as defined in Public Utilities Code sections 234, 218, 222, 241, and 215.5 (as said Sections existed on April 1, 1991), except that "water corporation" shall also be construed to include any municipality or governmental agency engaged in the selling or supplying of water to a service user, and "electrical corporation" shall also be construed to include any municipality or person engaged in the selling or supplying of electrical power to a service user.

3.09.030 Purpose.

This Chapter is adopted pursuant to the provisions of Government Code section 37100.5 and other applicable laws for the purpose of providing general Municipal revenues to be used for general Municipal purposes. Revenues from the tax imposed by this Chapter shall be placed in the City's General Fund.

3.09.040 Exemptions.

A. Nothing in this Chapter shall be construed as imposing a tax upon any person when imposition of such tax upon that person would be in violation of the Constitution of the United States or the Constitution of the State of California.

B. Households that do not exceed the very low income limits for Stanislaus County as set forth in the most recent edition of the Section 6932 Income Limits issued annually by the U.S. Department of Housing and Urban Development shall be exempt from the payment of the taxes imposed by this Chapter.

3.09.050 Telephone Users' Tax.

A. There is imposed a tax on the amounts paid for any intrastate, interstate, and international telephone communications services, including any teletypewriter or facsimile exchange services, by every person in the City using such services, other than a telephone corporation. The tax imposed by this Section shall be at the rate specified by resolution of the City Council as provided for in Section 3.40.100 of this Chapter on the charges made for such services and shall be paid by the person paying for such services. This tax is intended to and does apply to all charges billed to a telephone account having a situs in the City, irrespective of whether a particular communication service originates and/or terminates within the City.

B. As used in this Section, the term "charges" shall not include charges for services paid for by inserting coins in coin-operated telephones except where such coin-operated service is furnished for a guaranteed amount, the amounts paid under such guarantee plus any fixed monthly or other period charge shall be included in the base for computing the amount of tax due; nor shall the

term "charges" include charges for any type of service or equipment furnished by a service supplier which is subject to public utility regulations during any period in which the same or similar services or equipment are also available for sale or lease from persons other than a service supplier subject to public utility regulation.

C. The term "telephone communication services" refers to that service which provides access to a telephone system and the privilege of telephone quality communication with substantially all persons having telephone stations which are part of such telephone system. The words "telephone communication services" do not include land mobile service or maritime mobile services as defined in Section 2.1. of Title 47 of the Code of Federal Regulations, as said Sections existed on January 1, 1983.

D. The tax imposed by this Section shall be billed and collected from the service users by the person providing the telephone communications services, or the persons receiving payment for such services. The amount of the tax collected in one month shall be remitted to the tax administrator on or before the last day of the following month; or, at the option of the person required to collect and remit the tax, an estimated amount of tax collected which shall be measured by the tax billed in the previous month, shall be remitted to the tax administrator on or before the last day of each month. If estimated tax payments are remitted to the tax administrator, the person required to collect and remit the tax shall reconcile the difference between the amount of the tax actually due and the amount of the estimated tax paid to the tax administrator every third month after the date that the tax is first imposed. Any additional tax due to the City shall immediately be paid to the tax administrator. The amount of any overpaid tax may be deducted from the next payment due to the City. In the event of a tax overpayment, documentation establishing such overpayment shall be provided to the City along with the tax payment for the month in which the overpayment is claimed.

E. Notwithstanding the provisions of subsection A of this Section, the tax imposed under this Section shall not be imposed upon any person for using the following intrastate, interstate, or international telephone communications services:

1. Service paid for by inserting coins in coin-operated telephones available with respect to local telephone service, or with respect to toll telephone service, except that where such coin-operated telephone service is furnished for a guaranteed amount, the amounts paid under such guarantee plus any fixed monthly or other periodic charge shall be subject to the tax.
2. Except with respect to local telephone service, services used in collection of news for the public press, or a news ticker service furnishing a general news service similar to that of the public press, or radio broadcasting, or in the dissemination of news through the public press, or a news ticker service furnishing a general news service similar to that of the public press, or by means of radio broadcasting, if the charge for such service is billed in writing to such person.
3. Services furnished to an international organization, or to the American National Red Cross.

4. Any toll telephone service which originates within a combat zone and is from a member of the Armed Forces of the United States performing service in such combat zone; provided a certificate, setting forth such facts as the secretary may by regulations prescribe, is furnished to the person receiving such payment.

5. Any toll telephone service which entitles the subscriber, upon payment of a periodic charge (determined as a flat amount or upon the basis of total elapsed transmission time), to the privilege of an unlimited number of telephonic communications to or from all or a substantial portion of the persons having telephone or radio telephone stations in a specified area which is outside the local telephone system area in which the station provided with this service is located, that is for use by a common carrier, telephone or telegraph company, or radio broadcasting station or network in the conduct of its business as such.

6. The installation of any instrument, wire, pole, switchboard, apparatus, or equipment as is properly attributable to such installation.

7. Amounts paid by a nonprofit hospital for services furnished to such organization.

8. Services or facilities furnished to the government of any State, or any political subdivision thereof, or the District of Columbia.

9. Services or facilities paid for by a nonprofit educational organization and furnished to such organization. For purposes of this subsection, the term NONPROFIT ORGANIZATION means an educational organization described in Section 170(b)(1)(A)(ii) of the Internal Revenue Code which is exempt from income tax under Section 501(a) of the same code. The term also includes a school operated as an activity of an organization described in Section 501(c)(3) of the Internal Revenue Code which is exempt from income tax under Section 501(a) of the same code, if such school normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on.

F. Upon proof by any taxpayer of payment of a tax in another state on the same interstate telephone communication services taxed and paid for pursuant to this Section, that taxpayer shall be eligible for a tax credit in the amount previously paid to the other jurisdiction.

3.09.060 Electricity Users' Tax.

A. There is imposed a tax upon every person in the City using electrical energy in the City, other than an electrical corporation or a gas corporation. The tax imposed by this Section shall be at the rate specified by resolution of the City Council as provided for in Section 3.40.100 of this Chapter on the charges made for such energy by an electrical corporation franchised to serve the City and shall be billed to and paid by the person using the energy. The tax applicable to electrical energy provided by a nonutility supplier shall be based on the specified tax rate and the sale price of that electrical energy if there is an arms-length transaction for the sale of the electrical energy between the nonutility supplier and the service user. If there is not an arms-length sale from a nonutility supplier, the tax shall be determined by applying the tax rate to the

equivalent charges the service user would have incurred if the energy used had been provided by the electrical corporation franchised to serve the City. Nonutility suppliers shall install, maintain and use an appropriate utility-type metering system which shall verify compliance with this Section. "Charges," as used in this Section, shall include charges made for: 1) metered energy; and 2) minimum charges for service, including customer charges, service charges, demand charges, standby charges and all other annual and monthly charges, fuel or other cost adjustments, authorized by the California Public Utilities Commission or the Federal Energy Regulatory Commission.

B. As used in this Section, the term "using electrical energy" shall not be construed to mean the storage of such energy by a person in a battery owned or possessed by that person for use in an automobile or other machinery device apart from the premises upon which the energy was received, provided, however, that the term shall include the receiving of such energy for the purpose of using it in the charging of batteries; nor shall the term include the mere receiving of such energy by an electrical public utility or governmental agency at a point within the City for resale; nor shall the term include the use of such energy in the production of water by a public utility or a governmental agency.

C. The tax imposed by this Section shall be billed and collected from the service user by the service supplier or nonutility supplier. The tax imposed by this Section on use supplied by self-generation or cogeneration or from a nonutility supplier not subject to the jurisdiction of this Chapter, shall be collected and remitted to the tax administrator in the manner set forth below. The amount of tax collected by a service supplier or a nonutility supplier in one month shall be remitted by U.S. mail to the tax administrator, postmarked on or before the last day of the following month; or, at the option of the person required to collect and remit the tax, an estimated amount of tax, measured by the tax billed in the previous month, shall be remitted by U.S. mail, to the tax administrator, postmarked on or before the last day of each month. If estimated tax payments are remitted to the tax administrator, the person required to collect and remit the tax shall reconcile the difference between the amount of the tax actually due and the amount of the estimated tax paid to the tax administrator every third month after the date that the tax is first imposed. Any additional tax due to the City shall immediately be paid to the tax administrator. The amount of any overpaid tax may be deducted from the next tax payment due to the City. In the event of a tax overpayment, documentation establishing such overpayment shall be provided to the City along with the tax payment for the month in which the overpayment is claimed.

D. Notwithstanding any other provision of this Chapter, a service user receiving electricity directly from a nonutility supplier, or a nonutility supplier not under the jurisdiction of this Chapter, or otherwise not having the full tax due, billed and collected by the service supplier, shall report said fact to the tax administrator within thirty (30) days of said use; and shall remit directly to the tax administrator the amount of said tax due.

E. The tax administrator may require from said service user the filing of tax returns or other satisfactory evidence documenting the sale price, or fair market value in the absence of a sales price, and quantity of electricity used.

3.09.070 Gas Users' Tax.

A. There is imposed a tax upon every person in the City, other than a gas corporation or an electrical corporation, using, in the City, gas which is delivered through mains or pipes or by motor vehicle or by rail. The tax imposed by this Section shall be at the rate specified by resolution of the City Council as provided for in Section 3.40.100 of this Chapter on the charges made for such gas and shall be paid by the person paying for such gas. The tax applicable to gas or gas transportation provided by nonutility suppliers shall be based on the sale price of the gas or gas transportation if that is derived from an arms-length transaction between a nonaffiliated nonutility supplier and the service user. If there is not an arms-length transaction, the tax shall be determined by applying the tax rate to the equivalent charges the service user would have incurred if the gas or gas transportation had been provided by the gas corporation franchised to serve the City. "Charges," as used in this Section, shall include:

1. Those billed for gas which is delivered through mains or pipes or by motor vehicle or by rail;
2. Gas transportation charges; and
3. Demand charges, service charges, customer charges, minimum charges, annual and monthly charges, and any other charge authorized by the California Public Utilities Commission or the Federal Energy Regulatory Commission.

B. The tax imposed by this Section is not applicable to:

1. Charges made for gas which is to be resold and delivered through mains and pipes or by motor vehicle or by rail;
2. Charges made for gas sold by a public utility or governmental agency for use in the generation of electrical energy or for the production or distribution of water;
3. Charges made by a gas public utility for gas used and consumed in the course of its public utility business; and
4. Charges made for gas used in the propulsion of a motor vehicle, as authorized in the Vehicle Code of the State.

C. The tax imposed in this Section shall be billed and collected from the service user by the person selling or transporting the gas. A person selling only transportation services to a user for delivery of gas through mains or pipes or by motor vehicle or by rail shall collect the tax from the service user based on the transportation charges. The amount of tax collected by the person selling or transporting the gas shall be remitted by U.S. mail to the tax administrator, postmarked on or before the last day of the following month; or, at the option of the person required to collect and remit the tax, an estimated amount of tax, measured by the tax billed in the previous month, shall be remitted by U.S. mail, to the tax administrator, postmarked on or before the last day of each month. If estimated tax payments are remitted to the tax administrator, the person required to collect and remit the tax shall reconcile the difference between the amount of the tax

actually due and the amount of the estimated tax paid to the tax administrator every third month after the date that the tax is first imposed. Any additional tax due to the City shall immediately be paid to the tax administrator. The amount of any overpaid tax may be deducted from the next tax payment due to the City. In the event of a tax overpayment, documentation establishing such overpayment shall be provided to the City along with the tax payment for the month in which the overpayment is claimed.

D. Notwithstanding any other provision of this Chapter, a service user receiving gas directly from a nonutility supplier, or a nonutility supplier not under the jurisdiction of this Chapter, or otherwise not having the full tax due, billed and collected by the service supplier, shall report said fact to the tax administrator within thirty (30) days of said use; and shall remit directly to the tax administrator the amount of said tax due.

E. The tax administrator may require from said service user the filing of tax returns or other satisfactory evidence documenting the sale price, or fair market value in the absence of a sales price, and quantity of gas used.

(Ord. 92-798, 1992)

3.09.080 Cable Television Users' Tax.

A. There is imposed a tax upon every person in the City using cable television service in the City. The tax imposed by this Section shall be at the rate specified by resolution of the City Council as provided for in Section 3.40.100 of this Chapter on the gross charges made for such service and shall be paid by the person paying for such service.

B. The tax imposed by this Section shall be billed and collected from the service user by the person providing such cable television service. The amount of tax collected shall be remitted by U.S. mail to the tax administrator, postmarked on or before the last day of the following month; or, at the option of the person required to collect and remit the tax, an estimated amount of tax measured by the tax billed in the previous month, shall be remitted by U.S. mail, to the tax administrator, postmarked on or before the last day of each month. If estimated tax payments are remitted to the tax administrator, the person required to collect and remit the tax shall reconcile the difference between the amount of tax actually due and the amount of estimated tax paid to the tax administrator every third month after the date that the tax is first imposed. Any additional tax due to the City shall immediately be paid to the tax administrator. The amount of any overpaid tax may be deducted from the next tax payment due to the City. In the event of a tax overpayment, documentation establishing such overpayment shall be provided to the City along with tax payment for the month in which the overpayment is claimed.

3.09.090 Tax Rate.

The taxes authorized by this Chapter shall be set by resolution of the City Council following a public hearing held for that purpose. From the effective date of this Ordinance and until August 1, 1998, the tax rate shall not exceed five percent (5%) of the charges for utility services as defined in this Chapter. After August 1, 1998, the tax rate shall not exceed three percent (3%) of the charges for such utility services.

3.09.100 Remittance of Tax and Penalties.

A. Taxes collected from a service user which are not remitted to the tax administrator on or before the due dates provided in this Chapter are delinquent. Should the due date occur on a weekend or legal holiday, the return may be postmarked on the first regular working day following a Saturday, Sunday, or legal holiday.

B. Penalties for delinquency in remittance of any tax collected or any deficiency determination shall attach and be paid by the person required to collect and remit the tax at the rate of fifteen percent (15%) of the total tax collected or imposed herein.

C. Every penalty imposed under the provisions of this Chapter shall become part of the tax required to be remitted.

3.09.110 Actions to Collect.

Any tax required to be paid by a service user under the provisions of this Chapter shall be deemed a debt owed by the service user to the City. Any tax collected from a service user by a service supplier or nonutility supplier which has not been paid to the tax administrator shall be deemed a debt owed to the City by the person required to collect and remit. Any person owing money to the City under the provisions of this Chapter shall be liable to the City for the amounts owed, including penalties, as well as for the costs and expenses incurred by the City, including collection fees, attorney fees and court costs, resulting from the failure to pay said amounts.

3.09.120 Duty to Collect; Procedures.

The duty to collect and remit the taxes imposed by this Chapter shall be performed as follows:

A. Notwithstanding any other provision of this Chapter, the tax shall be collected at the same time as, and along with, the charges made in accordance with the regular billing practice of the service supplier. Where the amount paid by a service user to a service supplier is less than the full amount of the charge and tax which accrued for the billing period, a proportionate share of both the charge and the tax shall be deemed to have been paid except in those cases where a service user pays the full amount of the charges but notifies the service supplier of his/her refusal to pay the tax imposed on said charges. The tax administrator shall have the power to make an assessment for delinquent taxes as provided for in Section 3.40.150 of this Chapter thereby relieving the service supplier from the obligation to collect these delinquent taxes.

B. The duty to collect the tax from a service user shall commence with the beginning of the first regular billing period applicable to that person which starts on or after the operative date of the ordinance codified in this Chapter and the resolution of the City Council establishing the applicable tax rate. Where a person receives more than one billing, one or more being for different periods than another, the duty to collect shall arise separately for each billing period.

3.09.130 Additional Powers and Duties of the Tax Administrator.

A. The tax administrator has the power and duty to enforce each and all of the provisions of this Chapter.

B. The tax administrator has the power to adopt rules and regulations not inconsistent with the provisions of this Chapter for the purpose of carrying out and enforcing the payment, collection,

and remittance of the taxes herein imposed.

C. The tax administrator may make administrative agreements to vary the strict requirements of this Chapter so that collection of any tax imposed herein may be made in conformance with the billing procedures of a particular service supplier so long as said agreements result in collection of the tax in conformance with the general purpose and scope of this Chapter.

3.09.140 Assessment; Administrative Remedy.

A. The tax administrator may make an assessment for taxes not remitted by a person required to remit such taxes.

B. The service supplier shall provide the City with the names and addresses of the service users neglecting to pay the tax imposed under the provisions of this Chapter, and the amounts of any delinquent taxes due and owing to the City.

C. Whenever the tax administrator determines that a service user has failed to pay the tax due and owing under this Chapter, and the tax administrator deems it in the best interests of the City, the service supplier or nonutility supplier may be relieved of the obligation to collect taxes due under this Chapter for the specified billing periods in which the taxes are delinquent.

D. The tax administrator shall notify the service user that the tax administrator has assumed responsibility to collect the delinquent taxes due for the stated periods and demand payment of such taxes. The notice shall be served on the service user personally or by deposit of the notice in the United States mail, postage prepaid, addressed to the service user at the address to which billing was made by the person required to collect the tax. If the service user fails to remit the tax to the tax administrator within fifteen (15) days from the date of the mailing or personal service of the notice, a penalty of fifteen percent (15%) of the amount of the tax set forth in the notice shall be imposed. The penalty shall become a part of the tax herein required to be paid. In the event the City commences a collection action as provided for in Section 3.40.120 of this Chapter, the service user shall also be responsible for the payment of the City's collection fees, attorney fees and court costs.

3.09.150 Records.

It shall be the duty of every person required to collect and remit to the City any tax imposed by this Chapter to keep and preserve, for a period of three (3) years, all records as may be necessary to determine the amount of such tax such person may have been liable for according to this Chapter. The Tax Administrator shall have the right to inspect these records at all reasonable times.

3.09.160 Refunds.

A. Whenever the amount of any tax has been overpaid or paid more than once or has been erroneously or illegally collected or received by the tax administrator, it may be refunded as provided in this Section.

B. Notwithstanding the provisions of subsection A of this Section, a service supplier may claim a refund; or take as a credit against taxes remitted, the amount overpaid, paid more than once, or

erroneously or illegally collected or received, when it is established that the service user from whom the tax has been collected did not owe the tax; provided, however, that neither a refund nor a credit shall be allowed unless the amount of the tax so collected has either been refunded to the service user or credited to charges subsequently payable by the service user to the person required to collect and remit. A service supplier that has collected and paid to the tax administrator any amount of tax in excess of the amount of tax imposed by this Chapter and actually due from a service user, may refund such amount to the service user and claim credit for such overpayment against the amount of tax which is due upon any other monthly returns, provided such credit is claimed in a return dated no later than three (3) years from the date of overpayment.

C. No refund shall be paid under the provisions of this Section unless the claimant establishes the right thereto by written records showing entitlement thereto.

D. Notwithstanding other provisions of this Section, whenever a service supplier, pursuant to an order of the California Public Utilities Commission or a court of competent jurisdiction, makes a refund to service users of charges for past utility services, the taxes paid pursuant to this Chapter on the amount of such refunded charges shall also be refunded to service users, and the service supplier shall be entitled to claim a credit for such refunded taxes against the amount of tax which is due upon the next monthly returns. In the event the ordinance codified in this Chapter is repealed, the amounts of any refundable taxes will be borne by the City.

E. A service supplier may refund the taxes collected from the service user as required by this Section in accordance with this Section or by the service supplier's customary practice.

3.09.170 Limitation of Action.

The validity of this Chapter or of any tax levied pursuant to this Chapter shall not be contested in any action or proceeding or defense unless such action or proceeding or defense shall have been brought or raised in a court of competent jurisdiction within sixty (60) days from the date of the adoption of the ordinance codified in this Chapter. Unless an action or proceeding is commenced or such defense raised within said period, this Chapter and any tax levied pursuant to this Chapter shall be held valid and, in every respect, legal and incontestable.

3.09.180 Termination or Suspension of Tax.

The service supplier shall, upon notification, terminate or suspend any utility users' excise tax commencing with the first full billing period which occurs after the effective date of such action by the City Council.

3.09.190 Operative Date.

This Ordinance became operative on January 1, 1993.

Chapter 10

FEE AND SERVICE CHARGE REVENUE/COST COMPARISON SYSTEM

Sections:

3.10.010 Findings and Intent.

3.10.020 Delegation of Authority and Direction to Manager.

3.10.030 "Costs Reasonably Borne" Defined.

3.10.040 Determination of the Percentage of Costs Reasonably Borne to Be Recovered and Establishment of Specific Fees.

3.10.010 Findings and Intent.

A. Pursuant to article XIII B of the California Constitution, it is the intent of the City Council to require the ascertainment and recovery of costs reasonably borne from fees, charges and regulatory license fees levied therefor in providing the regulation, products or services hereinafter enumerated in this 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 City 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 21000 et seq.), because it approves and sets forth a procedure for determining fees for the purpose of meeting the operating expenses of City departments, as set forth in Public Resources Code section 21080 (b)(8)(1).

3.10.020 Delegation of Authority and Direction to Manager.

The City Manager is hereby delegated the authority and directed to provide documents to the City 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.

3.10.030 "Costs Reasonably Borne" Defined.

"Costs reasonably borne," as used and ordered to be applied in this Chapter are to consist of, but are not limited to, 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 expense, 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 unrecovered 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 City Council, City Attorney, City Manager, City Clerk, City Treasurer, Economic Development, Finance Department, Personnel Office, and City Promotion, and all other staff and support service provided to the entire City 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 City.

3.10.040 Determination of the Percentage of Costs Reasonably Borne to Be Recovered and Establishment of Specific Fees.

A. That certain document entitled "Cost Control System for the City of Ceres," dated March 1992, as produced by Management Services Institute, Inc., of Anaheim, California, is on file in the office of the City Clerk of the City of Ceres, and all updates and revisions to said document, are incorporated herein by reference.

B. The City Council shall review on an annual basis, or more frequently should it determine that such review is necessary, the service categories listed in the "Cost Control System for the City of Ceres," dated March 1992, together with all updates and revisions to said document, for the purpose of determining, for each such service category, the percentage of costs reasonably borne to be recovered by the City for the provision of each such service, and the specific dollar amount of the fee to be charged for each such service.

C. Following such review by the City Council and the holding of a public hearing as provided by state law, the City Council shall pass its resolution determining the percentage of costs reasonably borne to be recovered by the City and the specific dollar amount of the fee to be charged for each service category.

Chapter 11

NEW RESIDENTIAL DEVELOPMENT SERVICE OPERATIONS FEE

Sections:

3.11.010 Findings and Intent.

3.11.020 Implementation of Residential Service Operations Fees.

3.11.010 Findings and Intent.

A. The goals and policies of the Ceres General Plan include City policies 1.B.1 and 1.B.5 stating that new growth within the City should maintain a positive fiscal balance for the City and mitigate one hundred (100) percent of any operating deficit for the cost of the services and facilities necessary to support such growth.

B. The City Council is concerned that new residential development within the City does not generate sufficient revenue to fully pay the cost of providing the City services necessitated by such development. To more accurately identify and quantify the projected service cost of new residential development and its impact upon the City's budget, the City Council engaged the professional services of Economic and Planning Systems Inc. (E.P.S.) for the purpose of preparing a citywide fiscal impact analysis to summarize and analyze the annual operating costs and revenue related to new residential development occurring in the City through the year 2015.

C. The final report and analysis of E.P.S. has been completed, and their report entitled, "Ceres Citywide Fiscal Impact Analysis," dated July 14, 2000, (the report) is on file in the office of the City Clerk. The said report is approved, adopted and incorporated into this chapter by reference as though fully set forth herein, including all conclusions and supportive findings.

D. The report establishes that City operations and maintenance General Fund expenses to serve new residential development will exceed General Fund revenue generated from new development through the year 2015 based on the provision of current levels of municipal services, thereby creating a shortfall in revenue to provide City services. In addition, the City has determined to increase municipal service levels for certain City services. As a result of the existing shortfall in revenue, and the projected increased service levels, a total shortfall between the cost of services and the revenue generated by new residential development to fund such services in the approximate sum of six hundred fifteen dollars (\$615.00) per residential unit will exist, all of which is more fully explained in the reports from the Director of Planning and Community Development dated November 22, 1999 and January 18, 2000, which are on file in the office of the City Clerk and incorporated herein by this reference.

E. It is the intent and purpose of the City Council of the City of Ceres that new residential development within the City must pay for the cost of providing services to such development so that existing development will not be subject to a reduced level of service, the financial resources of the City will not be unduly burdened, and the City may continue to maintain orderly residential growth which guarantees the maintenance of essential City services to all citizens.

F. To accomplish the City's intent and purpose, and in order to promote and provide for the general health and welfare of its citizens, the City Council finds that it is necessary to impose an annual service operations fee upon new residential development in an amount determined by the City Council and consistent with the "Ceres Citywide Fiscal Impact Analysis" dated July 14, 2000, or any future update or replacement of that analysis.

3.11.020 Implementation of Residential Service Operations Fees.

A. In order to mitigate the negative impact of the cost of providing services to new residential development, each new subdivision, parcel map, or other discretionary approval for the development of real property for residential use shall be required, as a condition of development, to participate in the establishment of a community facilities district for the purpose of imposing a residential service operations fee, or if such district has been previously established, to annex the proposed residential project to the existing district.

B. The community facilities district shall be established, or properties shall be annexed to an existing district, pursuant to the provisions of Government Code sections 53318, et seq. The precise amount of the annual residential services operations fee to be levied against those properties included within the district shall be determined at the time of the initial formation of the district and in accordance with the statutes and laws applicable to the levying of such fees.
(Ord. 2000-893 § 1 (part), 2000)

Chapter 12

BUSINESS LICENSE TAX

Sections:

- 3.12.010** **Definitions.**
- 3.12.020** **Purpose.**
- 3.12.030** **Imposition of Tax.**
- 3.12.040** **Branch Establishments.**
- 3.12.050** **Constitutional Apportionment.**
- 3.12.060** **Exemptions.**
- 3.12.070** **Exclusions.**
- 3.12.080** **Application.**
- 3.12.090** **Statements and Records.**
- 3.12.100** **Failure to File; Hearing.**
- 3.12.110** **Additional Power of Collector.**
- 3.12.120** **Payment Provisions.**
- 3.12.130** **Delinquency; Penalty; Reissuance.**
- 3.12.140** **Refunds.**
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- 3.12.160** **Contractors.**
- 3.12.170** **Outside Contractors.**
- 3.12.180** **Professions and Services.**
- 3.12.190** **Wholesalers.**
- 3.12.200** **Miscellaneous Services or Trades; Flat Rate Schedule.**
- 3.12.210** **Rental or Lease of Property Fee Schedule.**
- 3.12.220** **Amusements.**
- 3.12.230** **Delivery by Vehicle.**
- 3.12.240** **Businesses Outside City.**
- 3.12.250** **Making of Rules and Regulations.**
- 3.12.260** **Enforcement.**
- 3.12.270** **Tax or Penalty a Debt.**
- 3.12.280** **Remedies Cumulative.**
- 3.12.290** **Effect on Other Licensing Laws.**
- 3.12.300** **Business License Taxes Set by Resolution of City Council.**

3.12.010 **Definitions.**

For the purposes of this Title, the following terms shall have the following meanings:

“Business” means professions, trades, and occupations, and all and every kind of calling, whether or not carried on for profit.

“Collector” means the City Tax Collector, Finance Director, other City officer, and their designees, charged with the administration of this Title.

“Gross receipts” means the total of amounts actually received or receivable from sales and the

total amounts actually received or receivable for the performance of any act or service, of whatever nature it may be, for which a charge is made or credit allowed, whether or not such act or service, of whatever nature it may be, for which a charge is made or credit allowed, whether or not such act or service is done as a part of or in connection with the sale of materials, goods, wares, or merchandise. Included in "gross receipts" shall be all receipts, cash, credits, and property of any kind or nature, without any deduction therefrom on account of the cost of the property sold, the cost of materials used, labor, or service costs, interest paid or payable, or losses or other expenses whatsoever. Excluded from "gross receipts" shall be the following:

1. Cash discounts allowed and taken on sales;
2. Credit allowed on property accepted as part of the purchase price and which property may later be sold;
3. Any tax required by law to be included in or added to the purchase price and collected from the consumer or purchaser;
4. Such part of the sale price of property returned by purchasers upon rescission of the contract of sale as is refunded either in cash or by credit;
5. Amounts collected for others where the business is acting as an agent or trustee to the extent that such amounts are paid to those for whom collected, provided the agent or trustee has furnished the collector with the names and addresses of the others and the amounts paid to them;
6. That portion of the receipts of a general contractor which represent payments to subcontractors, provided the general contractor furnishes the collector with the names and addresses of the subcontractors and the amounts paid to each subcontractor, and further provided that such subcontractors secure a license under this Chapter and pay the business license taxes which represent payments received from the general contractor;
7. Receipts of refundable deposits, except that refundable deposits forfeited and taken into income of the business shall not be excluded;
8. As to a real estate agent or broker, the sales price of real estate sold for the account of others except that portion which represents commission or other income to the agent or broker;
9. As to a retail gasoline dealer, a portion of his receipts from the sale of motor vehicle fuels equal to the motor vehicle fuel license tax imposed by and previously paid under the provisions of part 2 of division 2 of the Revenue and Taxation Code of the State of California;
10. As to a retail gasoline dealer, the special motor fuel tax imposed by section 4041 of title 26 of the United States Code if paid by the dealer or collected by him from the consumer or purchaser;

11. That portion of gross receipts which represent business conducted in another jurisdiction and which portion of gross receipts has been taxed by that jurisdiction, provided the business submits proof satisfactory to the collector of such taxation and the payment thereof.

“Person” means any individual, trust, firm, joint stock company, corporation, partnership, association, city, county, district, state, local agency, or state department, and includes all domestic and foreign corporations, associations, syndicates, joint stock corporations, partnerships of every kind, clubs, societies, and individuals transacting and carrying on any business in the City other than as an employee.

“Sale” includes the transfer, in any manner or by any means whatsoever, of title to property for a consideration; the serving, supplying, or furnishing for a consideration of any property; and a transaction whereby the possession of property is transferred and the seller retains the title as security for the payment of the price shall likewise be deemed a sale. The foregoing definitions shall not be deemed to exclude any transaction which is or which, in effect, results in a sale within the contemplation of law.

“Sworn statement” means an affidavit sworn to before a person authorized to take oaths, or a declaration or certification made under penalty of perjury.

3.12.020 Purpose.

This Article is enacted solely to raise revenues for municipal purposes and is not intended for regulation.

3.12.030 Imposition of Tax.

Every person who engages in business with the City shall pay a business license tax at the rate set, from time to time, by resolution of the City Council.

3.12.040 Branch Establishments.

Any person conducting two (2) or more types of businesses at the same location and under the same management, but which businesses use a single set or integrated set of books and records, may, at his or her option, pay only one tax calculated on all gross receipts of the businesses under the schedule that applies to the type of business of such person which requires the highest percentage payment on such gross receipts as set pursuant to Section 5.04.400.

3.12.050 Constitutional Apportionment.

A. None of the license taxes provided for by this Chapter shall be so applied as to occasion an undue burden upon interstate commerce or be violative of the equal protection and due process clauses of the Constitutions of the United States and the State of California.

B. In any case where a license tax is believed by a licensee or applicant for a license to place an undue burden upon interstate commerce or be violative of such constitutional clauses, he may apply to the collector for an adjustment of the tax.

1. Such application may be made before, at, or within six (6) months after payment of the

prescribed license tax.

2. The applicant shall, by sworn statement and supporting testimony, show this method of business and the gross volume or estimated gross volume of business and such other information as the collector may deem necessary to determine the extent, if any, of such undue burden or violation.

3. The collector shall investigate and, after having first obtained the written approval of the City Attorney, fix as the license tax for the applicant in a reasonable and nondiscriminatory amount. In the alternative, if the license tax has already been paid, the collector shall order a refund of the amount over and above the license tax so fixed.

4. In fixing the license tax to be charged, the collector shall have the power to base the license tax upon a percentage of gross receipts or any other measure which will assure that the license tax assessed shall be uniform with that assessed on businesses of like nature, so long as the amount assessed does not exceed the license tax as prescribed by this Chapter.

5. Should the collector determine the gross receipts measure of license tax to be the proper basis, he may require the applicant to submit, either at the time of termination of applicant's business in the City, or at the end of each three (3) month period, a sworn statement of the gross receipts and pay the amount of license tax therefor, provided that no additional license tax during any one calendar year shall be required after the licensee shall have paid an amount equal to the annual license tax as prescribed in this Chapter.

3.12.060 Exemptions.

A. The following are exempted from the payment of a license tax under this Chapter:

1. Any person transacting and carrying on any business exempt by virtue of the Constitution or applicable statutes of the United States or of the State of California from the payment of such taxes as are herein prescribed;

2. Any public utility or franchisee possessing a franchise granted by the City, and making an annual payment under the franchise;

3. Any charitable institution, organization, or association organized and conducted for charitable purposes only. This exemption shall not apply to promoters employed by charitable organizations.

4. Any soldier, sailor, or marine of the United States who is currently on active duty or has received an honorable discharge or a release from active duty under honorable conditions from such service. Spouses or widows of such soldiers, sailors, or marines shall also be exempt;

5. Any natural person or group of persons under the age of eighteen (18) years who are bona fide residents of the City and have been so domiciled for at least thirty (30) calendar days prior to filing a claim for exemption;

6. Any person conducting or staging any concert, exhibition, lecture, dance, amusement or entertainment where the receipts, if any are derived therefrom, are to be used solely for charitable or benevolent purposes and not for private gain or for the private gain of any person in whole or in part;

7. Any religious, fraternal, educational, military, state, county or municipal organization or association conducting any business which is open to members thereof only and not open to the public; and

8. Any religious, fraternal, educational, military, state, county or municipal organization or association conducting or staging any amusement or entertainment, concert, exhibition, lecture, dance or athletic event, when the receipts derived are to be wholly for the benefit of such organization and not in the whole or any part for private gain of any person.

B. Any person claiming an exemption pursuant to this Section shall file a sworn statement with the collector stating the facts upon which exemption is claimed, and in the absence of such statement substantiating the claim, such person shall be liable for the payment of the taxes imposed by this Chapter.

C. The collector shall, upon a proper showing contained in the sworn statement, issue a license to such person claiming exemption under this Section without payment to the City of the license tax required by this Chapter.

D. The collector, after giving notice and a reasonable opportunity for hearing to a licensee, may revoke any license granted pursuant to the provisions of this Section upon information that the licensee is not entitled to the exemption as provided herein. In cases of revocation, the procedure and right of appeal shall be provided as in [business permit appeal procedure].

3.12.070 Exclusions.

Except as may be otherwise specifically provided in this chapter, the terms hereof shall not be deemed or construed to apply to any of the following:

A. Banks, to the extent that a City may not levy a license tax upon them under the provisions of Article XIII, Section 27 of the California Constitution.

B. Insurance companies and associations, to the extent that a City may not levy a license tax upon them under the provisions of Article XIII, Section 28 of the California Constitution.

C. Financial corporations and banks, to the extent the City may not levy a license tax upon them under Revenue and Taxation Code section 23182.

D. Any person whom the City is not authorized to license under any law or Constitution of the United States or the State. The Collector may require the filing of a verified statement from any person claiming to be excluded by the provisions of this section, which statement shall set forth all facts upon which the exclusion is claimed.

3.12.080 Application.

A. If the amount of the license tax to be paid by the applicant is measured by gross receipts, the applicant shall estimate the gross receipts accepted by the collector as reasonable, which will then be used in determining the amount of license tax to be paid by the applicant.

B. The amount of the license tax so determined shall be tentative only, and such person shall, within thirty (30) days after the expiration of the period for which the license was issued, furnish the Collector with a sworn statement, upon a form furnished by the Collector, showing the gross receipts during the period of the license.

C. The license tax for such period shall be finally ascertained and paid in the manner provided by this Chapter for the ascertaining and paying of renewal license taxes for other businesses, after deducting from the payment found to be due, the amount paid at the time such first license was issued.

3.12.090 Statements and Records.

No statements shall be conclusive as to the matters set forth therein, nor shall the filing of the same preclude the City from collecting by appropriate action such sum as is actually due and payable hereunder. Such statement and each of the several items contained therein shall be subject to audit and verification by the Collector, his or her deputies, or authorized employees of the City, who are authorized to examine, audit, and inspect such books and records of any licensee or applicant for license as may be necessary in their judgment to verify or ascertain the amount of license fee due.

3.12.100 Failure to File; Hearing.

A. If any person fails to file any required statement within the time prescribed, or if after demand therefor made by the collector, he fails to file a corrected statement, or if any person subject to the tax imposed by this Chapter fails to apply for a license, the Collector may determine the amount of license tax due from such person by means of such information as he or she may be able to obtain.

B. If the Collector is not satisfied with the information supplied in statements or applications filed, he or she may determine the amount of any license tax due by means of any information he may be able to obtain.

C. If such a determination is made, the collector shall give a notice of the amount so assessed by serving it personally or by depositing it in the United States Post Office at Ceres, California, postage prepaid, addressed to the person so assessed at his last known address. Such person may, within fifteen (15) days after the mailing or serving of such notice, make application in writing to the collector for a hearing on the amount of the license tax. If such application is made, the collector shall cause the matter to be set for hearing within fifteen (15) days before the City Council. The collector shall give at least ten (10) days' notice to such person of the time and place of hearing in the manner prescribed above for serving notices of assessment. The Council shall consider all evidence produced, and shall make findings thereon, which shall be final. Notice of such findings shall be served upon the applicant in the manner prescribed above for

serving notices of assessment.

3.12.110 Additional Power of Collector.

In addition to all other power conferred upon him, the Collector shall have the power, for good cause shown, to extend the time for filing any required sworn statement or application for a period not exceeding thirty (30) days, and in such case to waive any penalty that would otherwise have accrued, except that six percent (6%) simple interest shall be added to any tax determined to be payable.

3.12.120 Payment Provisions.

A. Unless otherwise specifically provided, all annual registration taxes, under the provisions of this Chapter, shall be due and payable in advance on April 1 of each year.

B. A licensee paying a tax covering a new operation commencing in the first quarter of a licensing year shall pay the entire license tax; in the second quarter of a licensing year shall pay seventy-five percent (75%) of the license tax; in the third quarter of a licensing year shall pay fifty percent (50%) of the license tax; and in the fourth quarter of the licensing year shall pay twenty-five percent (25%) of the license tax.

C. The monthly business license tax imposed by Sections 5.04.230 through 5.04.270 of this Chapter shall be computed by excluding the credits applicable as listed in subsections 5.04.010(C)(4) through (11) of this Chapter, but the fee must not be lower than the minimum license tax as set pursuant to Section 5.04.400 of this Chapter.

3.12.130 Delinquency; Penalty; Reissuance.

A. Business licenses shall be delinquent thirty-five (35) days from the date when due. For failure to pay a license tax when due, the collector shall add a penalty of ten percent (10%) of the license tax on the last day of each month after the due date thereof, providing that the amount of such penalty to be added shall in no event exceed thirty percent (30%) of the amount of the license tax due.

B. No license or sticker, tag, plate, or symbol shall be issued, nor one which has been suspended or revoked shall be reinstated or reissued, to any person who, at the time of applying therefor, is indebted to the City for any delinquent license taxes, unless such person, with the consent of the collector, enters into a written agreement with the City, through the collector, to pay such delinquent taxes, plus ten percent (10%) annual interest upon the unpaid balance, in monthly installments, or oftener, extending over a period of not to exceed one year.

C. If any person has failed to apply for and secure a valid license to operate a business, the business license tax due shall be that amount due and payable from the first date on which the person was engaged in business in the City together with applicable penalties.

D. Should court action be required to collect any business tax or penalties, any additional penalty shall be charged equal to costs of suit, including attorney's fees. The penalties shall be added to the tax and they shall become due and payable and collected along with the delinquent tax.

E. In any agreement so entered into, such person shall acknowledge the obligation owed to the City and agree that, in the event of failure to make timely payment of any installment, the whole amount unpaid shall become immediately due and payable and that his current license shall be revocable by the collector upon thirty (30) days' notice. In the event legal action is brought by the City to enforce collection of any amount included in the agreement, such person shall pay all costs of suit incurred by the City or its assignee, including reasonable attorney fees. The execution of such an agreement shall not prevent the prior accrual of penalties on unpaid balances at the rate provided hereinabove, but no penalties shall accrue on account of taxes included in the agreement, after the execution of the agreement, and the payment of the first installment and during such time as such person shall not be in breach of the agreement.

3.12.140 Refunds.

No refund of an overpayment of taxes imposed by this Chapter shall be allowed in whole or in part unless a claim for refund is filed with the collector within a period of three (3) years from the last day of the calendar month following the period for which the overpayment was made, and all such claims for refund of the amount of the overpayment must be filed with the collector on forms furnished by him and in the manner prescribed by him. Upon the filing of such a claim and when he determines that an overpayment has been made, the collector may refund the amount overpaid.

3.12.150 Retail Merchants and Miscellaneous Businesses.

Every person conducting, carrying on or managing a retail business from a fixed place of business within the City shall:

- A. Pay an annual registration tax, as set pursuant to Section 5.04.400; and
- B. Pay a business license tax as set pursuant to Section 5.04.400 on each dollar of monthly gross receipts, computed quarterly, and payable quarterly, on forms provided by the Collector.

3.12.160 Contractors.

Every person conducting, carrying on or engaging in business as a contractor from a fixed place of business in the City shall pay an annual registration tax as set pursuant to Section 5.04.400 and, in addition thereto, shall pay a business license tax as set pursuant to Section 5.04.400 on each dollar of monthly gross receipts resulting from the operation of said business, computed quarterly and payable quarterly. Any contractor who sells merchandise or wares in connection with the business shall include these receipts when computing the tax. For the purpose of this Chapter, a contractor is defined as any person who contracts for a project with another person; who is licensed by the State of California as a contractor, architect or registered civil engineer acting solely in his professional capacity; or who, in any capacity other than an employee of another with wages as the sole compensation, undertakes to or offers to undertake to or submits a bid to, or does himself or by or through others construct, alter, repair, add to, subtract from, improve, move, wreck or demolish any building, highway, road, railroad, excavation, or other structure, project, development or improvement, or do any part thereof, including the erection of scaffolding, or other structures or works in connection therewith.

3.12.170 Outside Contractors.

Every person, not having a fixed place of business within the City, who engages in business as a contractor within the City shall pay an annual business registration tax as set pursuant to Section

5.04.400 and, in addition thereto, shall pay a business license tax as set pursuant to Section 5.04.400 on each dollar of monthly gross receipts resulting from the business done within the City, computed quarterly and payable quarterly on forms provided by the collector.

3.12.180 Professions and Services.

Every person conducting, carrying on or managing any profession, occupation, service or trade from a fixed place of business within the City, which business is not otherwise specifically licensed by this Chapter, shall pay an annual registration tax as set pursuant to Section 5.04.400 and, in addition thereto, shall pay a business license tax as set pursuant to Section 5.04.400 on each dollar of the monthly gross receipts resulting from the operation of said business, computed quarterly and payable quarterly, with the exception of those businesses or similar businesses listed in Section 5.04.270.

3.12.190 Wholesalers.

Every person carrying on, conducting or managing a wholesale business from a fixed place of business within the City shall pay an annual registration tax as set pursuant to Section 5.04.400 and, in addition thereto, shall pay a business license tax as set pursuant to Section 5.04.400 on each dollar of the monthly gross receipts.

3.12.200 Miscellaneous Services or Trades; Flat Rate Schedule.

Every person conducting, carrying on or managing any of the following businesses or businesses similar in nature within the City shall pay a business license tax as set pursuant to Section 5.04.400 unless otherwise designated by the collector:

- A. Auctioneer, Itinerant;
- B. Ambulance operator;
- C. Fireworks booths;
- D. Christmas trees seller;
- E. Billboard operator;
- F. Sno-Cone, ice cream or food by vehicle operator;
- G. Trimming/yard/trash hauling servicers;
- H. Day nursery operator;
- I. Fortunetelling.

3.12.210 Rental or Lease of Property Fee Schedule.

Every person whether residing within the City, or outside the City, who is engaged in the business of renting or leasing any building, structure, or real property within the City to other persons for compensation shall pay a business license tax as set pursuant to Section 5.04.400. It

is the intention of the City Council pursuant to the provisions of this Section to impose a business license tax upon those persons who rent or lease single-family residential units (including mobilehome park or trailer court units or space rental), multiple-family residential units (including hotels, motels, boarding houses, apartment houses, duplexes, triplexes or fourplexes), commercial buildings, and industrial buildings.

3.12.220 Amusements.

Every person who, in the City, engages in the business of conducting, carrying on, exhibiting, or maintaining any of the hereinafter listed amusements, games or entertainments shall pay a quarterly or daily license tax as set pursuant to Section 5.04.400:

A. Carnival;

B. Circus;

C. Traveling side show;

D. Public dance, where admission is charged;

E. Moving picture or theatrical show, at a fixed place within the City;

F. Moving picture or theatrical show, other than those having a fixed place in the City;

G. Merry-go-rounds, ferris wheels, and other mechanical riding devices, when not operated as a part of a carnival or circus.

3.12.230 Delivery by Vehicle.

Every person not having a fixed place of business within the City, and not being herein otherwise licensed or classified, who delivers goods, wares, or merchandise of any kind by vehicle or who provides any service by the use of vehicles in the City, shall pay a quarterly license tax as set pursuant to Section 5.04.400; provided, that in the case of businesses also soliciting door-to-door, the rates in Section 5.04.310 shall also apply; provided, that any such person may elect to pay a license tax under the appropriate classification of Section 5.04.230, measured by gross receipts from business done within the City and further provided that any such person who makes deliveries of goods, wares, or merchandise of any kind to only one place of business within the City shall pay a license tax as set pursuant to Section 5.04.400.

3.12.240 Businesses Outside City.

Every person not having a fixed place of business within the City who engages in business within the City and is not subject to the provisions of Section 5.04.320 shall pay a license tax at the same rate prescribed herein for persons engaged in the same type of business from and having a fixed place of business within the City.

3.12.250 Making of Rules and Regulations.

The collector may make rules and regulations not inconsistent with the provisions of this Chapter as may be necessary or desirable to aid in the enforcement of the provisions of this Chapter.

3.12.260 Enforcement.

A. The Collector is directed to enforce each and all of the provisions of this Chapter.

B. The Chief of Police shall render such assistance in the enforcement hereof as may from time to time be required, by the Collector or the City Council.

C. The Collector, in the exercise of the duties imposed upon him under this Title and acting through his deputies or duly authorized assistants, shall examine or cause to be examined all places of business in the City to ascertain whether the provisions of this Chapter have been complied with.

D. The Collector and each and all of his or her assistants and any police officer shall have the power and authority (upon obtaining an inspection warrant) to enter free of charge, and at any reasonable time, any place of business required to be licensed by this Title, and demand an exhibition of its license. Any person having such license theretofore issued, in his possession or under his control, who willfully fails to exhibit it on demand, shall be guilty of a misdemeanor. It shall be the duty of the Collector and each of his assistants to cause a complaint to be filed against any and all persons found to be violating any of these provisions.

E. Any person violating any of the provisions of this Chapter or knowingly or intentionally misrepresenting to any officer or employee of this City any material fact in procuring the license or permit or in failing to procure said license or permit after due notification, as provided for shall be deemed guilty of a misdemeanor.

3.12.270 Tax or Penalty a Debt.

The amount of any license tax and penalty imposed by the provisions of this Chapter shall be deemed a debt to the City. An action may be commenced in the name of the City in any court of competent jurisdiction, for the amount of any delinquent license tax and penalties.

3.12.280 Remedies Cumulative.

All remedies prescribed hereunder shall be cumulative and the use of one or more remedies by the City shall not bar the use of any other remedy for the purpose of enforcing the provisions hereof.

3.12.290 Effect on Other Licensing Laws.

A. Persons required to pay a license tax for transacting and carrying on any business under this Chapter shall not be relieved from the payment of any license tax for the privilege of doing such business required under any other ordinance of the City, and shall remain subject to the regulatory provisions of other ordinances.

B. Neither the adoption of this Chapter nor its superseding of any portion of any other City ordinance shall in any manner be construed to affect prosecution for violation of any other ordinance committed prior to January 1, 2019, nor be construed as a waiver of any license or any penal provision applicable to any such violation, nor be construed to affect the validity of any bond or cash deposit required by any ordinance to be posted, filed, or deposited, and all rights

and obligations thereunto appertaining shall continue in full force and effect.

C. Where a license for revenue purposes has been issued to any person by the City prior to January 1, 2019, the tax paid for the business for which the license has been issued, and the term of such license has not expired, then the license tax prescribed for said business by this Chapter shall not be payable until the expiration of the term of such unexpired license.

3.12.300 Business License Taxes Set by Resolution of City Council.

All business license taxes authorized by the provisions of this Chapter shall be set and established or modified from time to time by resolution of the City Council. The resolution shall identify the specific category of business or type of fee authorized by this Chapter, state the amount of the tax rate applicable to each such category, and state the effective date of such tax rates.

Prior to passing any such resolution establishing or modifying any tax rate pursuant to this Section, the City Council shall hold at least one public hearing. Notice of said public hearing shall be published one time in the Ceres Courier, the official newspaper of the City, at least ten (10) days prior to the public hearing.

Chapter 13

PUBLIC FACILITIES FEES

Sections:

- 3.13.010 Purpose, Findings, And Declaration of Intent.**
- 3.13.020 Administration of Public Facility Fees.**
- 3.13.030 Authority for Adoption.**
- 3.13.040 Definitions.**
- 3.13.050 Fee Payment.**
- 3.13.060 Public Facilities Fee Account.**
- 3.13.070 Natural Disaster Fee Exemption.**
- 3.13.080 Environmental Exemption.**
- 3.13.090 Public Facility Fee Program.**
- 3.13.100 Adoption of Fees Enacted by Resolution.**
- 3.13.110 Other Rules.**

3.13.010 Purpose, Findings, And Declaration of Intent.

A. In order to implement the goals and objectives of the Ceres General Plan and to mitigate impacts caused by new development within the City, public facilities fees are necessary. The fees are needed to finance public facilities and to assure that new developments pay their fair share for these improvements.

B. Title 7, chapter 5, section 66000 et seq. of the California Government Code provides that public facilities fees may be enacted and imposed on development projects. The City Council finds and determines that:

1. New development projects cause the need for construction, expansion or improvement of public facilities within the City.
2. Funds for construction, expansion or improvement of public facilities are not available to accommodate needs caused by development projects which results in inadequate public facilities within the City.

C. The City Council finds that the public health, safety, peace, morals, convenience, comfort, prosperity and general welfare will be promoted by the adoption of public facilities fees for construction, expansion or improvement of public facilities.

D. Failure to enact public facilities fees will subject City residents to conditions detrimental to their health and/or safety.

3.13.020 Administration of Public Facility Fees.

The public facility fees enacted pursuant to this Chapter are to be administered in accordance with California Government Code section 66000 et seq. and such administrative procedures which may be adopted or revised by resolution of the City Council.

3.13.030 Authority for Adoption.

This Chapter is adopted under the authority of title 7, chapter 5 of the California Government Code section 66000 et seq.

3.13.040 Definitions

Words when used in this Chapter, and in resolutions adopted thereto, shall have the following meanings:

A. Administrative Procedures: The latest revision of the City of Ceres Public Facility Fee Administrative Procedures adopted by resolution of the City Council.

B. City: The City of Ceres, a general law city organized and existing under the Constitution and laws of the State of California.

C. City Council: The City Council of the City of Ceres.

D. Development Project: Any project undertaken for the purpose of development. "Development project" includes a project involving the issuance of a permit for construction or reconstruction, but not a permit to operate.

E. Fee: A monetary exaction, other than a tax or special assessment, which is charged by a local agency to the applicant in connection with approval of a development project for the purpose of defraying all or a portion of the cost of public facilities related to the development project.

F. Public Facility: Includes public improvements, public services and community amenities.

3.13.050 Fee Payment.

Fee payment shall be in accordance with the administrative procedures or as provided herein.

A. Prior to the issuance of any building permit, the applicant shall pay to the City the fees adopted by resolution.

B. The fee shall be determined by the fee schedule in effect on the date the building permit application is submitted and deemed complete by City staff.

C. When application is made for a new building permit following the expiration of a previously issued building permit for which fees were paid, the fee payment shall not be required, unless the fee schedule has been amended during the interim, in this event the appropriate increase or decrease shall be imposed.

D. In the event that subsequent development occurs with respect to property for which fees have

been paid, additional fees shall be required only for additional square footage of development that was not included in computing the prior fee.

E. When a fee is paid for a development project and that project is subsequently reduced so that it is entitled to a lower fee, the City shall issue a partial refund of the fee.

F. When the fee is paid for a development project and the project is subsequently abandoned without any further action beyond the obtaining of a building permit, the payor shall be entitled to a refund of the fee paid, less the administrative portion of the fee.

G. If a building permit is required to allow a building to be modified to a use having higher public facility fees in accordance with this Chapter, the fee to be charged shall be the difference between the existing fee and the higher fee. If there is an addition to the building, the full rate for the use shall be used for the additional square footage.

3.13.060 Public Facilities Fee Account.

Fees paid under this Chapter shall be held in separate public facility accounts to be expended for the purpose for which they were collected. The City shall retain fee interest accrued and allocate it to the accounts for which the original fee was imposed.

3.13.070 Natural Disaster Fee Exemption.

No fee shall be applied by the City to the reconstruction of any residential, commercial or industrial development project that is damaged or destroyed as a result of a natural disaster and/or fire.

3.13.080 Environmental Exemption.

Pursuant to title 14 Code of Regulations sections 15061 and 15273(4), this Chapter is exempt from the California Environmental Quality Act.

3.13.090 Public Facility Fee Program.

A. The City has adopted a Public Facility Fee Program which indicates the approximate location, size, time of availability and estimates of costs for public facilities or improvements to be financed with public facility fees.

B. The public facility fees schedule adopted by the City Council shall be annually reviewed by the City Council for consistency with the Public Facility Fee Program.

3.13.100 Adoption of Fees Enacted by Resolution.

The adoption of public facility fees is a legislative act and shall be enacted by resolution after a noticed public hearing before the City Council.

3.13.110 Other Rules.

A. Construction: This Chapter and any subsequent amendment to the public facilities fee program shall be read together. With respect to any public facility fee enacted by resolution under this Chapter, any provision of such a public facility fee which is in conflict with this Chapter shall be void.

B. Severability Clause: Should any provision of this Chapter or a subsequent amendment to the public facilities fee program be held by a court of competent jurisdiction to be either invalid, void or unenforceable, the remaining provisions of this Chapter and the public facilities fee program shall remain in full force and effect.

C. Fee Adjustment Or Waiver: A developer of any project subject to the fee described in this Chapter may apply to the City Council for reduction or adjustment of that fee, or a waiver of that fee, based upon the absence of any reasonable relationship or nexus between the impacts of the development and either the amount of the fee charged or the type of facilities to be financed. The application shall be made in writing and filed with the City Clerk not later than: 1) ten (10) days prior to the public hearing on the development permit application for the project, or 2) if no development permit is required, at the time of the filing of the request for a building permit. The application shall state in detail the factual basis for the claim of waiver reduction, or adjustment. The City Council shall consider the application at a public hearing held within sixty (60) days after the filing of the fee adjustment application. The Department of Public Works shall prepare a staff report and recommendation for the City Council's consideration. The decision of the City Council shall be final. If a reduction, adjustment, or waiver is granted, any change in use within the project shall invalidate the waiver, adjustment or reduction of the fee.