

Town of Yountville

Municipal Code

2005

A Codification of the General Ordinances

Of the

Town of Yountville, California

PREFACE

The Yountville Municipal Code, originally published in 1988, has been kept current by regular supplementation. During original codification, the ordinances were compiled, edited and indexed by the editorial staff of Book Publishing Company. Since 2000, Town staff has compiled the ordinances.

The Code is organized by subject matter under an expandable three-factor decimal numbering system, which is designed to facilitate supplementation without disturbing the numbering of existing provisions. Each section number designates, in sequence, the numbers of the title, chapter, and section. Thus, Section 5.12.050 is Section .050, located in Chapter 5.12 of Title 5. In most instances, sections are numbered by tens (.010, .020, .030, etc.), leaving nine vacant positions between original sections to accommodate future provisions. Similarly, chapters and titles are numbered to provide for internal expansion.

In parentheses following each section is a legislative history identifying the specific sources for the provisions of that section. A subject matter index, with complete cross-referencing, locates specific code provisions by individual section numbers.

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TITLE 1

GENERAL PROVISIONS

Chapters:

- [1.01 Code Adoption](#)
- [1.04 General Provisions](#)
- [1.08 Corporate Name and Logo](#)
- [1.12 Notice Procedures](#)
- 1.16 Reserved
- [1.20 General Penalty](#)
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- [1.28 Code Enforcement and Nuisance Abatement](#)
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Chapter 1.01

CODE ADOPTION

Sections:

- [1.01.010 Adoption and Title.](#)
- [1.01.020 Reference applies to all amendments.](#)
- [1.01.030 Reference to specific ordinances.](#)
- [1.01.040 Effect of revisions.](#)
- [1.01.050 Severability.](#)
- [1.01.060 Reference to other laws.](#)

1.01.010 Adoption and Title.

This Code is hereby adopted, which shall be known as the "Yountville Municipal Code."
(Ord. 182, 1987; Ord. 294-99)

1.01.020 Reference applies to all amendments.

Whenever a reference is made to any portion of this Code, or to any ordinance of the Town, the reference shall also apply to all amendments and additions made. (Ord. 182, 1987; Ord. 294-99)

1.01.030 Reference to specific ordinances.

The provisions of this Code shall not in any manner affect matters of record which refer to, or are otherwise connected with ordinances which are specifically designated by number or otherwise and which are included within this Code. All such references shall be construed to apply to the corresponding provisions contained within this Code. (Ord. 182, 1987; Ord. 294-99)

1.01.040 Effect of revisions.

The repeal or amendment of any Town ordinance or section of this Code shall not affect the rights, duties or obligations imposed under such ordinances or sections prior to the effective date of any such revision. (Ord. 182, 1987; Ord. 94-99)

1.01.050 Severability.

If any section, subsection, sentence, clause or phrase of this Code is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Code. The Council hereby declares that it would have passed this Code, and each section, subsection, sentence, clause and phrase of this Code, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases may be declared invalid or unconstitutional. (Ord. 182, 1987; Ord. 294-99)

1.01.060 Reference to other laws.

All references to specific titles, chapters, or sections of any federal, State or County laws shall be construed to refer to such laws as they may be amended from time to time. (Ord. 294-99)

Chapter 1.04

GENERAL PROVISIONS

Sections:

- [1.04.010 Definitions.](#)
- [1.04.020 Title of office.](#)
- [1.04.030 Interpretation of language.](#)
- [1.04.040 Grammatical interpretation.](#)
- [1.04.050 Title, chapter and section headings.](#)
- [1.04.060 Acts by agent.](#)
- [1.04.070 Prohibited acts -- aiding and abetting.](#)
- [1.04.080 Computation of time.](#)
- [1.04.090 No imposition of mandatory duty.](#)

1.04.010 Definitions.

For the purposes of this Code, certain words and phrases shall be construed as defined in this section, unless it is apparent from the context a different meaning is intended or unless a different meaning is specifically defined and more particularly directed to the use of such words or phrases:

"Council" means the Town Council of the Town of Yountville, California.

"County" means the County of Napa, California.

"Day" means a calendar day.

"Fiscal year" shall mean the period commencing on the first day of July and ending on the thirtieth day of June of the next succeeding year.

"Law" denotes applicable federal law, the Constitution and statutes of the state of California, the ordinances and resolutions of the Town, and, when appropriate, any and all rules and regulations which may be promulgated under such laws.

"May" is permissive.

"Month" means a calendar month.

"Must" and "shall" are each mandatory.

"Oath" means affirmation.

"Officer" means any elected or appointed officer.

"Owner" applied to a building or land, includes any part owner, joint owner, tenant in common, joint tenant, and tenant by the entirety of the whole or a part of such building or land.

"Person" includes a natural person, joint venture, joint stock company, partnership, association, club, company, limited liability company, corporation, business, trust, organization, or the manager, member, agent, servant, officer or employee of any of them.

"Personal property" includes every species of property, except real property, as defined in this chapter.

"Property" includes real and personal property.

"Real property" includes lands, tenements and hereditaments.

"Sidewalk" means that portion of a street between the curblines and the adjacent property line intended for the use of pedestrians.

"State" means the state of California.

"Street" includes all streets, highways, avenues, lanes, alleys, courts, places, squares, curbs, or other public ways in the Town which have been or may hereafter be dedicated and open to public use, or such other public property so designated in any law of the State.

"Tenant" and "occupant," applied to a building or land, include any person who occupies the whole or a part of such building or land, whether alone or with others.

"Town" means the Town of Yountville, California, or the area within the territorial limits of the Town of Yountville, California, and such territory outside of the Town over which the Town has jurisdiction or control by virtue of any constitutional or statutory provision.

"Written" includes printed, typewritten, mimeographed, multigraphed, or otherwise reproduced in permanent visible form.

"Year" means a calendar year. (Ord. 183, 1987; Ord. 294-99)

1.04.020 Title of office.

Use of the title of any officer, employee, department, board or commission means that officer, employee, department, board or commission of the Town. (Ord. 183, 1987; Ord. 294-99)

1.04.030 Interpretation of language.

All words and phrases shall be construed according to the common and approved usage of the language, but technical words and phrases which may have acquired a special meaning in the law shall be construed and understood according to such special meaning. (Ord. 183, 1987; Ord. 294-99)

1.04.040 Grammatical interpretation.

The following grammatical rules shall apply to this Code and all ordinances of the Town, unless it is apparent from the context that a different construction is intended:

- A. Gender. Each gender includes the masculine, feminine and neuter genders.
- B. Singular and Plural. The singular number includes the plural, and the plural includes the singular.
- C. Tenses. Words used in the present tense include the past and future tenses and vice versa, unless manifestly inapplicable. (Ord. 183, 1987; Ord. 294-99)

1.04.050 Title, chapter and section headings.

The title, chapter and section headings contained in this Code shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning or intent of the provisions of this Code. (Ord. 294-99)

1.04.060 Acts by agent.

Whenever a power is granted to, or a duty is imposed upon a Town officer or employee, the power may be exercised, or the duty may be performed, by a person duly authorized by law or ordinance, unless this Code expressly provides otherwise. (Ord. 183, 1987; Ord. 294-99)

1.04.070 Prohibited acts -- aiding and abetting.

Any act or omission made unlawful by this Code includes causing, allowing, permitting, aiding, abetting, suffering, or concealing the fact of such act or omission. (Ord. 183, 1987; Ord. 294-99)

1.04.080 Computation of time.

Except when otherwise provided, the time within which an act is required to be done shall be computed by excluding the first day and including the last day except that the last day shall be excluded if it is a Sunday or holiday. (Ord. 183, 1987; Ord. 294-99)

1.04.090 No imposition of mandatory duty.

This Code shall not be construed to impose on the Town, its officers, employees or agents any greater liability than that required by law. The use of the word "shall" in any provision of this Code is not intended to impose upon the Town, its officers, employees or agents, a mandatory duty or care towards persons or property with the Town so as to provide a basis of civil liability for damages. This Code specifically preserves all immunities provided under the law to a public entity, its officers, employees and agents. (Ord. 294-99)

Chapter 1.08

CORPORATE NAME & LOGO

Sections:

[1.08.010](#) [Change of corporate designation.](#)

[1.08.020](#) [Town logo provision.](#)

1.08.010 **Change of corporate designation.**

Pursuant to Government Code section 34511, the word "City" shall be eliminated from the corporate name and the word "Town" substituted in its place. The corporate name shall be "Town of Yountville." (Ord. 133, 1980; Ord. 294-99)

1.08.020 **Town logo provision.**

No person, other than the Town, may in any way use the Town's logo without prior approval of the Council. (Ord. 215, 1990; Ord. 294-99)

Chapter 1.12

NOTICE PROCEDURES

Sections:

[1.12.010 Manner of serving notice.](#)

[1.12.020 Proof of notice.](#)

1.12.010 Manner of serving notice.

Whenever a notice is required to be given under this Code, unless otherwise provided, such notice may be given by personal delivery to the person to be notified or by deposit in the United States mail in a sealed envelope (or on a postcard), postage prepaid, addressed to the person to be notified, at the person's last known business or residence address as the same appears in the public records of the Town or other records pertaining to the matter to which such notice is directed. Service of mail shall be deemed to have been completed at the time of deposit in the U.S. Mail. (Ord. 294-99)

1.12.020 Proof of notice.

Proof of giving any notice may be made by the certificate of any officer or employee of the Town or by affidavit of any person over the age of 18 years, which shows service in conformity with this Code, or other provisions of law applicable to the subject matter concerned. (Ord. 294-99)

Chapter 1.16
(Reserved)

Chapter 1.20

GENERAL PENALTY

Sections:

- [1.20.010 General penalty.](#)
- [1.20.020 Violations a public nuisance.](#)
- [1.20.030 Recovery by Town of attorney's fees.](#)
- [1.20.040 Bail schedule.](#)
- [1.20.050 County Jail designated.](#)

1.20.010 General Penalty.

A. Any person who violates any of the provisions of this Code or fails to comply with any ordinances of the Town shall be guilty of an infraction, unless the violation is made a misdemeanor by ordinance or by state law.

B. Except in cases where a different punishment is prescribed, any person convicted of a misdemeanor for violation of any provision of this Code or an ordinance of the Town may be punished by a fine of not more than \$1,000, or by imprisonment not to exceed 6 months, or both.

C. Any person convicted of an infraction for violation of any provision of this Code or any ordinance of the Town is punishable by a fine of (1) up to \$100 for a first violation; (2) up to \$200 for a second violation of the same provision within one year; (3) up to \$500 for each additional violation of the same provision within one year.

D. A person is guilty of a separate offense for each day during any portion of which any violation of any provision of this Code is committed, continued or permitted by such person. (Ord. 184, 1987; Ord. 294-99)

1.20.020 Violations a public nuisance.

In addition to the penalties provided in this Code, any condition caused or permitted to exist in violation of any of the provisions of this Code or an ordinance of the Town shall be deemed a public nuisance and may be abated as such in accordance with applicable law. (Ord. 255-95; Ord. 294-99)

1.20.030 Recovery by Town of attorney's fees.

The Town may in its discretion commence legal actions and/or equitable proceedings in a court of competent jurisdiction to collect and recover any unpaid and delinquent taxes, fees, charges and/or assessments, as well as applicable penalties and interest, imposed under any provision of this Code. In any such judicial action or proceeding in which the Town prevails or

succeeds in whole or in part in the collection of any such tax, assessment, charge or fee, the Town shall also be entitled to recover its attorney's fees and costs in addition to any taxes, fees, charges, assessments, penalties and interest. These remedies shall be cumulative and shall not preclude the Town from any other remedy or relief to which it otherwise would be entitled under law or equity. (Ord. 255-95; Ord. 294-99)

1.20.040 Bail schedule.

The schedule of bail for misdemeanor and infraction offenses shall be established by ordinance and kept on file in the office of the Town Clerk. (Ord. 148, 1982; Ord. 294-99)

1.20.050 County Jail designated.

Pursuant to Government Code section 36903, the County Jail shall be the place of imprisonment for each applicable violation of this Code. (Ord. 4, 1965; Ord. 294-99)

Chapter 1.24

ENFORCEMENT PROCEDURES

Sections:

- [1.24.010 Town officials--Authorization to make arrests and issue citations.](#)
- [1.24.020 Citation procedure.](#)
- [1.24.030 Violation of promise to appear in court.](#)
- [1.24.040 Warrant for arrest upon failure to appear.](#)

1.24.010 Town officials - Authorization to make arrests and issue citations.

The Town Planner, Town Engineer, the Fire Chief or fire prevention officer, or any officer or employee of the County whose duty is pursuant to an agreement between the Town and the County to enforce any ordinance of the Town, or the duly appointed agents of such persons, or any person designated by the Town Administrator as an enforcement officer of the Town, may make arrests and issue citations whenever he or she has reasonable cause to believe that the person to be arrested has committed an infraction or misdemeanor in his or her presence which is a violation of this Code or an ordinance of the Town which the officer or employee has the duty to enforce. (Ord. 255-95; Ord. 294-99)

1.24.020 Citation procedure.

If any person is arrested for a violation of this Code or an ordinance of the Town and such person is not immediately taken before a magistrate, the arresting officer shall prepare, in duplicate, a written notice to appear in court, containing the name and address of such person, the offense charged and the time and place where and when such person shall appear in court as prescribed by California Penal Code, Chapter 5C, commencing with section 853.5. (Ord. 255-95; Ord. 294-99)

1.24.030 Violation of promise to appear in court.

Any person willfully violating his or her written promise to appear in court is guilty of a misdemeanor regardless of the disposition of the charge upon which he or she was originally arrested. (Ord. 255-95; Ord. 294-99)

1.24.040 Warrant for arrest upon failure to appear.

When a person signs a written promise to appear at the time and place specified in the written promise to appear and has not posted bail as provided in Penal Code section 853.6, the magistrate shall issue and have delivered for execution a warrant for his or her arrest within 20 days after such person's failure to appear as promised. If such person promises to appear before

an officer authorized to accept bail other than a magistrate and fails to do so on or before the date which he or she promised to appear, then a warrant shall issue within 20 days after delivery of such written promise to appear by the officers to a magistrate having jurisdiction over the offense. (Ord. 255-95; Ord. 294-99)

Chapter 1.28

CODE ENFORCEMENT AND NUISANCE ABATEMENT

Sections:

- [1.28.010 Purpose.](#)
- [1.28.020 Public nuisances included.](#)
- [1.28.030 Right of entry for enforcement officers.](#)
- [1.28.040 Notice of nuisance.](#)
- [1.28.050 Abatement by civil action.](#)
- [1.28.060 Abatement by administrative proceedings.](#)
- [1.28.070 Notice to abate.](#)
- [1.28.080 Form of notice.](#)
- [1.28.090 Abatement of nuisance prior to scheduled hearing.](#)
- [1.28.100 Manner of conducting hearing.](#)
- [1.28.110 Appeal to Town Council.](#)
- [1.28.120 Resolution of Town Council and order to abate nuisance.](#)
- [1.28.130 Summary abatement of immediate dangers.](#)
- [1.28.140 Cost of abatement.](#)
- [1.28.150 Expenses as a special assessment against the property.](#)
- [1.28.160 Notice of special assessment.](#)
- [1.28.170 Recovery of police response costs.](#)
- [1.28.180 Civil penalties.](#)
- [1.28.190 Limitation on filing judicial action.](#)

1.28.010 Purpose.

A. Pursuant to Government Code sections 38771 and following, the Town Council establishes the following procedure for the purpose of enforcement of this Code and the abatement of public nuisances. (Ord. 294-99)

B. For the purposes of this chapter, "enforcement officer" means and includes the following and their designated agent(s), if any:

1. Town Administrator;
2. Town Planner;
3. Town Engineer;
4. Fire Chief;
5. Any officer or employee of the County whose duty is to enforce any ordinance of the Town. (Ord. 255-95; Ord. 294-99)

1.28.020 Public nuisances included.

The provisions of this chapter shall be applicable to any nuisance defined as a nuisance by any Town ordinance, section of this Code, resolution of the Council, or statute of the State. The procedure set forth in this chapter is nonexclusive and is in addition to the procedure for abatement which is conferred upon the Town by Civil Code section 3494, Code of Civil Procedure section 731, Government Code section 38771 and following, or other law. (Ord. 255-95; Ord. 294-99)

1.28.030 Right of entry for enforcement officers.

A. Whenever an enforcement officer has reason to believe that a nuisance exists or that an inspection is necessary to enforce any provision of this Code, the officer may enter the premises at any reasonable time to perform the inspection or any other duty imposed by this chapter.

B. The enforcement officer shall present proper identification, state the purpose of the visit and request permission of the owner or responsible person to enter the premises. If entry is refused, the enforcement officer shall have recourse to every remedy provided by law to secure entry.

C. When the enforcement officer has first obtained a proper inspection warrant or other remedy provided by law to secure entry, no owner or responsible person shall fail or neglect, after proper request is made as provided in this chapter to promptly permit entry by the enforcement officer for the purpose of inspection and examination pursuant to this Code. (Ord. 255-95; Ord. 294-99)

1.28.040 Notice of nuisance.

A. Upon the determination by an enforcement officer that a public nuisance exists, a notice of nuisance shall be prepared, with copies of the notice served by personal service or certified mail upon the owner of the property or any person responsible for the property ("responsible person") upon which the nuisance exists.

B. The notice of nuisance shall contain the following:

1. The street address, assessor's parcel number, or other description sufficient to identify the property affected;

2. A description of the condition causing the nuisance. Where the enforcement officer has determined that the condition causing the nuisance can be corrected or abated by repair or corrective action, the notice shall state the repairs or corrective actions that will be required;

3. An order to complete abatement of the nuisance within a specified time;

4. A statement that if the nuisance is not abated within the time specified, a hearing will be held to consider whether to order abatement of the nuisance by the owner or responsible person, and/or the Town, and to consider levying a special assessment pursuant to Government Code section 38773.5 to recover the cost of such abatement. (Ord. 255-95; Ord. 294-99)

1.28.050 Abatement by civil action.

A civil action may be brought in the name of the people of the State to abate a public nuisance as defined by this section, by the Town Attorney, or by the district attorney or county counsel. Each of these officers shall have concurrent right to bring such action for a public nuisance within the Town. The Town Attorney shall bring such action when directed to do so by the Council. (Ord. 255-95; Ord. 294-99)

1.28.060 Abatement by administrative proceedings.

Upon discovery of any public nuisance as defined by this Code and after providing notice of the nuisance pursuant to Section 1.28.040, the Town Administrator, or the Administrator's designee, shall notify the owner and any responsible person that the nuisance shall be abated by the Town at such person's expense unless they appear at the stated time and place to show cause why there should be no abatement. (Ord. 255-95; Ord. 294-99)

1.28.070 Notice to abate.

A. Written notice of appearance before the designated Town officer(s) shall be given to the property owner or responsible person at least 15 days prior to the date set for hearing.

B. A copy of the notice shall be conspicuously posted in front of the property on which the nuisance exists or in any other location of the property wherein it will be most likely to give notice to the owner or responsible person, at least 15 days prior to the hearing date.

C. The notice shall inform the owner or responsible person that the nuisance shall be abated by the Town at such person's expense unless they appear at the stated time and place to show cause why there should be no abatement. (Ord. 255-95; Ord 294-99))

1.28.080 Form of notice.

The notice to appear or abate shall be substantially in the following form:

NOTICE TO APPEAR OR ABATE PUBLIC NUISANCE

YOU ARE HEREBY NOTIFIED as the owner, agent, lessee or other person occupying or having control of the premises at (address), that pursuant to Section _____ of the Yountville Municipal Code, the undersigned has determined that there exists upon the above referenced

premises a public nuisance (specific description of condition constituting nuisance). A copy of Section _____ is attached.

YOU ARE HEREBY REQUIRED to abate this condition to the satisfaction of the undersigned with- in days of this notice or to appear at the Town Hall at 6550 Yount Street, Yountville, California, at _____ (time) to show cause, if any exists, why the condition or use should not be abated by the Town and the expenses thereof, including, but not limited to, the costs of administration, Code enforcement, civil penalties, attorney fees, and/or abatement by the Town charged to you as a personal obligation and/or made a lien upon the property.

Abatement is to be accomplished in the following manner:

(Description of what needs to be done to remedy situation.)

(Name of Town Officer)

By: _____

(Ord. 255-95; Ord. 294-99)

1.28.090 Abatement of nuisance prior to scheduled hearing.

Any owner or responsible person may, at their own expense and prior to the scheduled hearing, abate the declared nuisance in accordance with the provisions of the notice sent by the Town officer, provided that all necessary permits are first obtained. If the Town officer determines that the nuisance has been abated, the proceedings under this chapter shall be terminated, except that the owner or responsible person shall be liable for any costs, including incidental expenses and attorney's fees, incurred by the Town for administration, Code enforcement, and/or abatement by the Town, until the date of termination of proceedings under this chapter. (Ord. 255-95; Ord. 294-99)

1.28.100 Manner of conducting hearing.

A. **Hearing Officer.** The Town Administrator shall act as the hearing officer. The Town Administrator may delegate this authority to such Town officers and employees, as the Administrator deems appropriate.

B. **Hearing.** At the time and place designated in the notice, the hearing officer shall hear and consider all relevant evidence, including, but not limited to, applicable staff reports, oral, physical and documentary evidence regarding the alleged nuisance and proposed method of abatement. The hearing may be continued from time to time.

C. **Burden of Proof.** The Town officer shall bear the burden of proving by a preponderance of the evidence that a public nuisance exists.

D. **Oath or Affirmation.** All oral evidence or testimony shall be taken only on oath or affirmation. The Town Clerk may administer the oath. In a case where many witnesses are

expected to testify, the hearing officer or the Town Clerk has the discretion to have all prospective witnesses rise and be sworn at the same time at the outset of the hearing.

The oath or affirmation may be administered as follows:

"You do solemnly swear (or affirm) that the evidence you shall give in this matter, pending before this body, shall be the truth, the whole truth, and nothing but the truth, so help you God."

The person who swears or affirms shall express consent when addressed in this manner.

E. **Evidence.** The hearing shall not be conducted according to the formal rules of evidence. Any relevant evidence shall be admitted if it is the type of evidence on which reasonable persons are accustomed to relying on in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper admission of such evidence over objection in civil actions in courts of competent jurisdiction in this state. Irrelevant or unduly repetitious evidence shall be excluded.

F. **Representation.** The owner or any responsible person may be represented by anyone of their choice or may represent them-selves.

G. **Hearsay Evidence.** Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence, and shall be given such weight, if any, as deemed reasonable under the circumstances by the hearing officer.

H. **Rights of Parties.** The parties in the hearing shall have the following rights:

1. To call and examine witnesses on any matter relevant to the issues of the hearing;
2. To cross-examine opposing witnesses on any matter relevant to the issues of the hearing;
3. To impeach any witness regardless of which party first called such witness to testify;
4. To rebut evidence against such parties;
5. To request the hearing officer to take official notice of any fact which would be subject to judicial notice by the courts of this State;
6. To introduce exhibits.

I. **Decision.** Within 10 days after the conclusion of the hearing, the hearing officer shall issue a written decision and where applicable, an order of abatement. This decision shall set forth the factual findings made by the hearing officer, a conclusion as to whether a public nuisance exists, and the manner and time of the abatement. The order shall include reference to

the right to appeal set forth in Section 1.28.110. If the hearing officer determines that a nuisance exists which is likely to recur after abatement, the owner may be directed to take adequate precautions for a period of time not to exceed one year so that the nuisance will not recur. Copies of the decision shall be sent to the owner, responsible person and the enforcement officer and the Town Clerk. (Ord. 255-95; Ord. 294-99)

1.28.110 Appeal to Town Council.

A. The property owner or other responsible person or any aggrieved Town resident may appeal the decision of the hearing officer to the Council within 10 days of the date of the decision by submitting an appeal in writing to the Town Clerk. The appeal shall state with reasonable particularity the grounds for the appeal.

B. Appeals shall be scheduled for the earliest regular meeting of the Council, but not later than 35 days after the date of filing an appeal, consistent with the preparation procedures and schedule of the Council.

C. In the event of an appeal, the Council shall follow the hearing procedure provided in Section 1.28.100. Notice of the hearing shall be provided in accordance with the procedure provided in Section 1.28.070(A). (Ord. 255-95; Ord. 294-99)

1.28.120 Resolution of Town Council and order to abate nuisance.

At the conclusion of the appeal hearing before the Council, the Council shall issue a written decision and where applicable, adopt a resolution ordering the abatement of the nuisance. The resolution shall set forth the factual findings made by the Council and the manner and timing of the abatement. The decision of the Council shall be final. (Ord. 255-95; Ord. 294-99)

1.28.130 Summary abatement of immediate dangers.

A. Whenever any condition on or use of property causes or constitutes or reasonably appears to cause or constitute an imminent or immediate danger to the health or safety of the public, the condition or use may be summarily abated by the Town without notice or hearing. Reasonable attempts to contact the owner by phone or in person shall be made.

B. When summary abatement is necessary, it shall be ordered only by the Town Administrator or the Administrator's designee.

C. Summary abatement shall be limited to those actions necessary to eliminate an immediate threat to the public health and safety.

D. Notice of the summary abatement shall be provided to the owner or other responsible parties in the manner set forth in Section 1.28.040 as soon as practical.

E. The costs and expenses of a summary abatement shall be made a lien on the property and shall be collected pursuant to the procedure provided in Section 1.28.140. (Ord. 255-95; Ord. 294-99)

1.28.140 Cost of abatement.

A. The enforcement officer shall keep an itemized statement of costs ("statement of costs") incurred by the Town in inspecting and abating a public nuisance and/or the costs to the Town in causing the owner or responsible person to abate the nuisance. The costs, including, but not limited to, the incidental expenses of abating the nuisance or causing the owner or responsible person to abate the nuisance, shall be billed to the owner or responsible person and shall become due and payable 30 days after notice. The term "incidental expenses," shall include, but not be limited to, personnel costs, both direct and indirect, for administration and Code enforcement including attorney fees; costs incurred in inspecting the property; costs incurred in documenting the nuisance; the actual expenses and costs of the Town for preparation of notices, documentation, inspection; and the cost of printing and mailing the notices and documents. Once the abatement is completed, either by the Town or the owner or responsible person, the enforcement officer shall provide a copy of the statement to the owner of the property in question, to any responsible person and to the Town Administrator. The owner of the property shall be liable and responsible for, and required to pay, all such costs.

B. The owner or responsible person may request a hearing pursuant to Section 1.28.100 before the Council to contest the statement of costs. The request for a hearing shall be made within 10 days of receipt of the statement by the Town Clerk or the right to a hearing shall be deemed waived.

C. The Council shall review the statement of costs and any information presented by the owner or responsible person. The Council's decision shall be mailed to the owner and all responsible persons. The decision of the Council shall be final. (Ord. 255-95; Ord. 294-99)

1.28.150 Expenses as a special assessment against the Property.

If the property owner does not pay the expense of abating the nuisance within 30 days after receipt of the statement of costs pursuant to Section 1.28.140(A), or, if requested, after any decision on appeal to the Council pursuant to Section 1.28.140(B) which confirms in whole or in part the costs of abatement, the costs shall become a special assessment against the real property upon which the nuisance was abated. The assessment shall continue until it is paid together with interest at the rate of 12% a year computed from the date of confirmation of the statement until payment. The assessment shall be collected at the same time and in the same, manner as ordinary municipal taxes are collected, and shall be subject to the same procedure and sale in case of delinquency as provided for ordinary municipal taxes. All acts applicable to levy, collection and enforcement of municipal taxes apply to this special assessment. (Ord. 255-95; Ord. 294-99)

1.28.160 Notice of special assessment.

The Town shall file in the office of the County Recorder a certificate substantially in the following form:

NOTICE OF SPECIAL ASSESSMENT

Under the authority of Government Code Section 38773.5 and Chapter 1.28 of the Yountville Municipal Code, the Town did on (date) _____, abate a nuisance upon the real property hereafter described and then on (date) _____--
_ did assess the costs and incidental expenses of the abatement upon the real property and/or the costs of causing the owner or responsible person to abate the nuisance. The Town of Yountville claims a special assessment on the real property for the expense of doing the work in the amount of \$_____. This amount is a special assessment against the real property until it is paid, with interest at the rate of 12% a year from (date of statement of costs) _____, and discharged of record. The assessment shall be collected at the same time and in the same manner as ordinary municipal taxes are collected, and shall be subject to the same procedure and sale in case of delinquency as provided for ordinary municipal taxes. All acts applicable to levy, collection, and enforcement of municipal taxes apply to this special assessment. The real property referred to above, and upon which the special assessment is claimed is that certain parcel of land situated within the Town of Yountville, County of Napa, State of California, more particularly described as follows:

Dated: _____, (Year) _____

By: _____

(Ord. 255-95; Ord. 294-99)

1.28.170 Recovery of police response costs.

In addition to any costs and expenses which may be assessed for and/or as a result of an abatement of a nuisance under this chapter, any person whose violation of or failure to comply with any requirement(s) of this chapter results in the police department being called to and/or visiting that person's property or vicinity on two or more occasions within any 30 day period shall be liable and responsible for, and required to reimburse the Town for, all costs and expenses incurred by the Town in connection with those police service calls. Such costs and expenses shall be assessed pursuant to the procedures set forth in Sections 1.28.140, 1.28.150 and 1.28.160 of this chapter. (Ord. 255-95; Ord. 294-99)

1.28.180 Civil penalties.

A. In addition to any other costs and expenses assessed pursuant to this chapter, any person who, within the time period stated in the notice to abate pursuant to Section 1.28.040, or any order or decision pursuant to Section 1.28.090 or Section 1.28.120, whichever is later, fails or refuses to abate any nuisance or violation of any requirement of this chapter shall be required to pay civil penalties as follows:

1. For each violation which the person does not correct as directed by the Town within the time given in the written notice by the Town, the penalty shall be \$500.

2. For each violation which results in the police department being called to the owner's property or vicinity on two or more occasions within any 30 day period, the penalty shall be \$500 for the second police response and shall be \$1,000 for any additional response.

B. All penalties imposed pursuant to this section shall be assessed and recovered pursuant to the procedures set forth in Sections 1.28.140, 1.28.150, and 1.28.160 of this chapter.

C. If the imposition of civil penalties under this section is appealed pursuant to Section 1.28.110, the Council may, in its discretion, reduce or excuse any penalty based on findings concerning any of the following factors: (1) the nature, circumstances, extent and gravity of the violation; (2) the extent to which the violation was willful and/or intentional; and (3) whether and to what extent the violation can and will be promptly corrected and/or abated, and all Town costs and expenses incurred in abating the violation reimbursed. (Ord. 255-95; Ord. 294-99)

1.28.190 Limitation on filing judicial action.

Any court action or proceeding to review or challenge the Council's decision and order as reflected in its resolution shall be barred unless it is commenced within 30 days of the date of service of the resolution, and the resolution shall contain a statement so advising the appellant(s) of this time limit on seeking judicial review. Judicial review shall be pursuant to code of Civil Procedure section 1094.5 or 1094.6. If the judicial review is pursuant to section 1094.6, the statute of limitations of that code section shall apply. No action or proceeding to review or challenge an abatement order or decision shall be permitted unless each ground or basis for such action or proceeding first has been asserted to the Town Administrator and Council pursuant to this chapter. (Ord. 255-95; Ord. 294-99)

Chapter 1.30

APPEALS

Sections:

[1.30.010 Appeals](#)

1.30.010 Appeals.

Whenever this Code provides for an appeal, unless otherwise provided, the following procedures shall apply:

A. **Deadline.** If the deadline for the prescribed appeal time is on a weekend or a Town holiday, the deadline is extended to the next business day of the Town.

B. **Notice Requirements.** The notice of appeal shall be in writing, set forth all grounds for the appeal, and be signed by the applicant. The notice of appeal shall be accompanied by the applicable non-refundable fee, as set by resolution of the Council.

C. **Timing.** An appeal to the Council may be made by filing a notice of appeal with the Town Clerk within 10 days of the action or decision from which appeal is made, unless another time is specifically provided in this Code.

D. **Notice by Clerk.** Upon receipt of the notice and fee, the Town Clerk shall set the matter of the appeal on the Council's agenda no sooner than 10 days after the day of filing the notice of appeal and payment of fee and no later than the fourth regular Council meeting following the date on which the appeal was filed.

E. **Council Action.** At the hearing, the Council shall consider all questions raised by such appeal. The findings of the Council shall be final and conclusive and shall be served on the appellant in the manner prescribed in this Code for service of notice of hearing.

F. **Amounts Owed.** Any amount found to be due to the Town shall be immediately due and payable upon the service of notice of the findings of the Council. (Ord. 294-99)

TITLE 2

COUNCIL, ADMINISTRATION AND PERSONNEL

Chapters:

2.04	Mayor and Council
2.08	Town Manager
2.12	Town officers and employees generally
2.16	Bonds
2.20	Town Attorney
2.24	Town Clerk
2.28	Finance Director/Treasurer
2.32	Fire Chief
2.36	Police Chief
2.40	Town Planner
2.44	Director of Public Works
2.48	Town Engineer
2.52	Emergency organizations

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Chapter 2.04

MAYOR AND COUNCIL

Sections:

2.04.010	Mayor and Council--Legislative officers
2.04.020	Mayor--Term
2.04.030	Mayor--Vacancy in office
2.04.040	Vice-Mayor--Appointment--Term
2.04.050	Duties
2.04.060	Councilmember--Terms
2.04.070	Municipal elections
2.04.080	Vacancies
2.04.090	Compensation
2.04.100	Regular meetings
2.04.110	Adjourned meetings
2.04.120	Special meetings

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2.04.010 Mayor and Councilmembers--Legislative officers.

The legislative officers of the Town shall consist of the Mayor and 4 members of the Council. (Ord. 294-99)

2.04.020 Mayor--Term.

The office of Mayor shall be an elective office. The Mayor shall be elected for a term of 2 years. The person elected as Mayor shall hold office from the date of the installation of officers following adoption by the Council of the official canvass of the election and until a successor is elected and qualified. (Ord 87, 1974; Ord. 186, 1987; Ord. 294-99)

2.04.030 Mayor--Vacancy in office.

In the case of a vacancy in the office of the Mayor for any reason, the Council shall fill the vacancy by appointment. If the Council fails to fill the vacancy within 30 days, it shall call an election to be held on the next established election date not less than 114 days from the call of the election. A person appointed or elected to fill the vacancy shall hold office for the unexpired term of the former incumbent. (Ord 87, 1974; Ord. 186, 1987; Ord. 294-99)

2.04.040 Vice-Mayor--Appointment--Term.

The office of Vice-Mayor shall be an appointed office. The Vice-Mayor shall be selected from amongst the members of the Council and shall be appointed by a majority vote of the Council as soon as is practical following a regular Town election or the creation of a vacancy in the office of Vice-Mayor for any reason. The Vice-Mayor shall serve a 2-year term. In the case of an appointment to fill a vacancy in office, the term shall be for the remainder of the unexpired term of the former incumbent. (Ord. 248-94; Ord. 294-99)

2.04.050 Duties.

The Vice-Mayor shall have all the powers and duties of the Mayor should the Mayor be absent or unable to perform any of those duties for any reason. (Ord. 248-94; Ord. 294-99)

2.04.060 Councilmember--Term.

Members of the Council shall be elected for terms of 4 years. They shall hold office from the date of the installation of officers following adoption by the Council of the official canvass of the election and until their successors are elected and qualified. (Ord 87, 1974; Ord. 186, 1987; Ord. 294-99)

2.04.070 Municipal elections.

The general municipal election for the Town shall be held on the first Tuesday after the first Monday in November of even-numbered year beginning November 2006. (Ord. 253-94; Ord. 294-99; Ord. 340-04)

2.04.080 Vacancies.

Vacancies in the Council shall be filled in accordance with Government Code section 36512. (Ord. 159, 1983; Ord. 294-99).

2.04.090 Compensation.

A. Each member of the Council shall receive a salary of Four Hundred and Five Dollars (\$405) per month.

B. The salary established in this section is in addition to Councilmember reimbursement for actual and necessary expenses incurred in the performance of official duties.

C. The Council may increase by ordinance the salary established in this section in accordance with state law, provided that the amount of such increase may not exceed an amount equal to 5% for each calendar year from the operative date of the last adjustment. (Ord. 165, 1984; 268-96; Ord. 294-99; Ord. 347-04)

2.04.100 Regular meetings.

A. The place of regular meetings of the Council shall be at the Town Hall, 6550 Yount Street, Yountville, California.

B. The days and time of regular Council meetings shall be established by resolution. (Ord. 176, 1982; Ord. 294-99)

2.04.110 Adjourned meetings.

Regular or adjourned regular meetings may be continued to such time and place as the Council may determine. (Ord. 294-99)

2.04.120 Special meetings.

Special meetings of the Council may be called and held in the manner provided by Government Code section 54956. (Ord. 294-99)

Chapter 2.08

TOWN MANAGER

Sections:

2.08.010	Office established
2.08.020	Residence
2.08.030	Administrative responsibilities
2.08.040	Administrative relations
2.08.050	Removal procedure
2.08.060	Agreements on employment
2.08.070	Acting Town Manager
2.08.080	References to Town Administrator

2.08.010 Office established.

There is established the office of Town Manager. The Town Manager shall be appointed by the Council on the basis of administrative and executive abilities and serve at the pleasure of the Council. (Ord. 158, 1983; Ord. 294-99; Ord. 351-05)

2.08.020 Residence.

Residence in the Town shall not be required as a condition of the appointment of the Town Manager. (Ord. 158, 1983; Ord. 294-99; Ord. 351-05)

2.08.030 Administrative responsibilities.

The Town Administrator shall be the administrative head of the government of the Town under the direction and control of the Council.

A. **Authority.** The Town Manager shall be the administrative head of the government of the Town, under the direction and control of the Council. The Town Manager shall be responsible for the efficient administration of all the affairs of the Town, which affairs are under his or her control. The Town Manager shall appoint competent, qualified officers and employees to the administrative service (which term is inclusive of all positions excepting the Town Attorney, Chief of Police, and Fire Chief) and to dismiss, suspend and discipline such officers and employees in accordance with such policies as may from time to time be set forth by the Council; to transfer employees from one department to another consistent with the policies of the Council; to recommend to the Council such reorganization of officers, departments or divisions as may be indicated in the interests of the efficient, effective and economical conduct of the Town's business, and to effect such reorganization when authorized by appropriate ordinance, resolution or motion of the Council; provided, however, the Town Manager's appointment of the Town Engineer, Planning Director, Director of Public Works, Community Services Director, Finance Director/Treasurer and other department head positions hereafter created shall be subject to ratification by the Town Council at its next regular meeting,

and no person filling such positions shall be dismissed without the Town Manager giving prior notice to the Town Council.

B. **Law enforcement.** The Town Manager shall enforce all laws and ordinances of the Town and see that all franchises, contracts, permits, and privileges granted by the Council are faithfully observed.

C. **Ordinances.** The Town Manager shall recommend to the Council for adoption such ordinances and resolutions as the Town Manager deems necessary.

D. **Attendance at Council meetings.** The Town Manager shall attend all Council meetings unless excused by the Mayor.

E. **Financial reports.** The Town Manager shall keep the Council fully advised as to the financial condition and needs of the Town.

F. **Budget.** The Town Manager shall prepare and submit the proposed annual budget to the Council for its approval.

G. **Expenditure control and purchasing.** No expenditures shall be submitted or recommended to the Council except on approval of the Town Manager in accordance with the Town's purchasing ordinance.

H. **Investigations.** The Town Manager shall investigate into the affairs of the Town and its departments or divisions, and any contracts or obligations of the Town. Further, the Town Manager shall investigate all complaints concerning the administration of the Town government and in regard to the service maintained by public utilities in the Town.

I. **Public buildings.** The Town Manager shall exercise general supervision over all public buildings, public parks, and all other public property which are under the control and jurisdiction of the Town.

J. **Additional duties.** The Town Manager shall perform such other duties and exercise such other powers as may be delegated to the Town Manager from time to time by ordinance or resolution or other official action of the Council.

K. **Personnel Director.** Until a separate position is created and an appointment is made, the Town Manager shall perform all duties that would otherwise be performed by a Personnel Director.

L. **Director of Public Works.** Until a separate position is created and an appointment is made, the Town Manager shall perform all duties that would otherwise be performed by a Director of Public Works

M. **Town Clerk.** The Town Manager shall perform all duties that would otherwise be performed by Town Clerk in his or her absence. (Ord. 158, 1983; Ord. 294-99; Ord. 331-03; Ord. 351-05)

2.08.040 Administrative relations.

A. The Council and its members shall deal with the administrative services of the Town through the Town Manager, except for the purpose of inquiry to other departments for informational background. Any department head under the supervision of the Town Manager will receive Council direction regarding his department from the Town Manager. The Town Manager will receive his or her direction and instructions from the Council as a body. An individual Councilperson does not have the authority to order or instruct the Town Manager without prior approval of the Council. The Town Manager shall not establish general policy which is the province of the Council to determine, nor shall he or she commit or bind the Council, or any member thereof, to any action, plan or program requiring official Council action. It is not intended by the provisions of this Chapter to grant any authority to, or impose any duty upon, the Town Manager, which is now, or hereafter may be vested in or imposed by general State law on any other Town commission, department, officer or employee.

B. All subordinate departments shall report to and assist the Town Manager in administering the affairs of the Town efficiently, economically and harmoniously.

C. The Town Manager may attend any and all meetings of any commissions, boards, or committees created by the Council, upon the Town Manager's own volition or upon direction of the Council. At such meetings which the Town Manager attends, the Town Manager shall be heard by such commissions, boards, or committees as to all matters upon which the Town Manager wishes to address the members, and the Town Manager may inform those members as to the status of any matter being considered by the Council. The Town Manager shall cooperate to the fullest extent with the members of all commissions, boards, or committees appointed by the Council. (Ord. 158, 1983; Ord. 294-99; Ord. 351-05)

2.08.050 Removal Procedure.

The removal of the Town Manager shall be only by a vote of at least three (3) members of the Council at a regular meeting or special meeting of the Council called for such purpose. In case of his or her intended removal by the Council, the Town Manager shall be furnished with a written notice stating the Council's intention to remove him or her at least thirty (30) days before the effective date of the removal, unless extraordinary circumstances obtain, in which case the Council may dispense with any written notice.

After furnishing the Town Manager with a written notice of intended removal, the Council may suspend the Town Manager from duty, but compensation shall continue until removal by action of the Council unless the cause of suspension is an act of moral turpitude.

In removing the Town Manager, the Council may use its uncontrolled discretion. The removal action shall be final and need not depend upon any showing of cause whatsoever.

The Town Manager shall not be removed from office during or within a period of ninety (90) days next succeeding any general municipal election held in the Town at which election a member of the Council is elected, unless the cause of removal is an act of moral turpitude. The purpose of this provision is to allow any newly-elected member of the Council or a reorganized Council to observe the actions and ability of the Town Manager in the performance of the powers and duties of his office. After the expiration of such ninety (90) day period, the provisions of this section on the removal of the Town Manager shall be applicable. (Ord. 158, 1983; Ord. 294-99; Ord. 351-05)

2.08.060 Agreements on employment.

Nothing in this chapter shall be construed as a limitation of the power or authority of the Council to enter into any supplemental agreement with the Town Manager delineating additional terms and conditions of employment not inconsistent with any provisions of this chapter. (Ord. 158, 1983; Ord. 294-99; Ord. 351-05)

2.08.070 Acting Town Manager.

The Town Manager shall have the power to designate a qualified Town officer or employee to exercise the powers and perform the duties of Town Manager during any temporary absence or disability. Written notice of the designated acting Town Manager shall be filed with the Town Clerk. If the Town Manager is absent or disabled for more than 30 days, the Council may appoint an acting Town Manager. (Ord. 294-99; Ord. 351-05)

2.08.080 References to Town Administrator.

All references in this Municipal Code to Town Administrator shall be deemed to refer to Town Manager. (Ord. 351-05)

Chapter 2.12

TOWN OFFICERS AND EMPLOYEES GENERALLY

Sections:

- 2.12.010 Appointed officers
- 2.12.020 Compensation
- 2.12.030 Oath of office
- 2.12.040 Participation in State Retirement System

2.12.010 Appointed officers.

In addition to the Town Manager, the other appointed officers of the Town shall include the Town Attorney, Town Clerk, Town Engineer, Finance Director/Treasurer, Fire Chief, Town Planner, Police Chief, and Public Works Director. The Council may, by ordinance or resolution, create new offices or deputies or assistants to these officers. (Ord. 294-99)

2.12.020 Compensation.

The Council shall establish by resolution the compensation for all appointed officers, deputies, or employees. (Ord. 294-99)

2.12.030 Oath of office.

A. Before any appointed or elected officer receives payment for the performance of the duties of his or her office, each officer must take and file with the Town Clerk the oath of office prescribed by Government Code section 36507.

B. The oath of office may be taken before any officer authorized to administer oaths. It must be certified by such officer and filed in the office of the Town Clerk. (Ord. 294-99)

2.12.040 Participation in State Retirement System.

Officers and employees of the Town may participate in the State Public Employees Retirement System as authorized by contract between the Town and the Board of Administration of the California State Employees Retirement System. (Ord. 32, 1966; Ord. 208, 1989; Ord 230-92; Ord. 237-93, Ord. 292-99; Ord. 294-99)

Chapter 2.16

BONDS

Sections:

- 2.16.010 Bonds
- 2.16.020 Bonds--Approved
- 2.16.030 Bonds--Filing

2.16.010 Bonds.

A. The Town Clerk and Town Finance Director/Treasurer shall, before entering upon the duties of their respective offices, each execute a bond to the Town. The penal sum of the bond shall be fixed by the Council by resolution after the Town Attorney has examined the bond and found that it meets with the requirements of law. (Ord. 8, 1965; Ord. 294-99)

B. The Town Manager (and any acting Town Manager) shall furnish a bond in such a sum as may be fixed by Council resolution, which shall be conditioned upon the faithful performance of the duties imposed upon the Town Manager (and any acting Town Manager) as herein prescribed in this Code. Any premium for such bond shall be a proper charge against the Town. (Ord. 158, 1983; Ord. 294-99)

2.16.020 Bonds--Approved.

The Council shall have the power by resolution to require bonds of any other officer or employee of the Town. The Council shall approve all bonds and fix their penal amount by resolution. (Ord. 294-99)

2.16.030 Bonds--Filing

When approved, the Town Clerk's bond shall be filed with the Town Manager. All other bonds shall be filed with the Town Clerk. (Ord. 294-99)

Chapter 2.20
TOWN ATTORNEY

Sections:

- [2.20.010 Office](#)
- [2.20.020 Duties](#)
- [2.20.030 Special counsel](#)

2.20.010 Office.

There is established the office of Town Attorney. The Council shall appoint the Town Attorney, who may appoint deputies or assistants as deemed advisable. (Ord. 294-99)

2.20.020 Duties.

The Town Attorney shall perform such duties as may be prescribed by the Council. (Ord. 294-99)

2.20.030 Special Counsel.

In addition to the Town Attorney, the Council may appoint special counsel to represent the Town at a rate of compensation to be fixed by the Council. Special counsel shall perform such duties as may be prescribed by the Council. (Ord. 294-99)

Chapter 2.24

TOWN CLERK

Sections:

- 2.24.010 Office
- 2.24.020 Duties at Council meetings
- 2.24.030 Records and files to be kept
- 2.24.040 Duty to cause publication
- 2.24.050 Duty to post notices
- 2.24.060 Sealing, authentication of documents
- 2.24.070 Upkeep of Code
- 2.24.080 Deputy Town Clerk

2.24.010 Office.

There is established the office of Town Clerk. The Town Clerk shall be in the competitive service of the Town subject to all the rules and policies as established by the Council, including the Personnel Rules and Memorandum of Understanding between the Town and the Yountville Employees Association. (Ord. 294-99; Ord. 331-03)

2.24.020 Duties at Council meetings.

The Town Clerk shall attend all meetings of the Council. The Town Clerk shall keep a full, true, and correct record of all proceedings of the Council. (Ord. 294-99)

2.24.030 Records and files to be kept.

The Town Clerk shall keep the following records and files:

- A. A copy of every Town ordinance in a book marked "Ordinances."
- B. A file of all official bonds.
- C. A record or file of all books, reports, and documents which may be required by law or this Code to be recorded or filed. (Ord. 294-99)

2.24.040 Duty to cause publication.

The Town Clerk shall cause to be published in a newspaper of general circulation within the Town, all ordinances and all notices and other writings required to be published by law, this Code, or ordered published by the Council. (Ord. 294-99)

2.24.050 Duty to post notices.

The Town Clerk shall post all notices required to be posted by law, this Code or ordered published by the Council, unless it is specifically otherwise provided that it shall be the duty of another officer to post such notices. (Ord. 294-99)

2.24.060 Sealing, authentication of documents.

The Town Clerk shall keep the seal of the Town and authenticate his or her signature and seal all ordinances, and when directed to do so by law or this Code or the Town Manager, the Clerk shall authenticate bonds, contracts, and any other documents. (Ord. 294-99)

2.24.070 Upkeep of Code.

The Town Clerk shall keep this Code up to date. More specifically, the Town Clerk shall:

- A. List chronologically all ordinances of the Town, specifying the subject matter of each.
- B. At least semiannually, cause all amendments to this Code to be printed in loose-leaf form and insert such amendments and remove replaced and amended portions of this Code from all copies and portion of copies in use by Town officials, and shall have enough amendments printed to make a supply available to members of the public who desire to purchase them. (Ord. 294-99)

2.24.080 Deputy Town Clerk.

The Town Clerk shall appoint deputies only with the prior approval of the Town Manager. Any such deputy shall hold office at the pleasure of the Town Manager and receive such compensation as is provided by the Town Council. (Ord. 294-99; Ord. 331-03)

Chapter 2.28

FINANCE DIRECTOR/TREASURER

Sections:

- 2.28.010 Office
- 2.28.020 Power and Duties
- 2.28.030 Monthly statement to Town Administrator and Council
- 2.28.040 Withholding payment when money owed Town

2.28.010 Office.

There is established the office of Finance Director/Treasurer. The Finance Director/Treasurer shall be appointed by the Town Manager and serve at the pleasure of the Town Manager. (Ord. 160, 1983; Ord. 256-95, Ord. 291-99; Ord. 294-99; Ord. 351-05)

2.28.020 Power and Duties.

In addition to the duties prescribed in this Code, the Finance Director/Treasurer shall have the duties prescribed in Government Code sections 37201 through 37210, including any amendments thereto.

The powers and duties of the Finance Director/Treasurer shall be as follows:

- A. To maintain records readily reflecting the financial condition of the Town.
- B. To cause the Town's annual financial report required by Government Code section 53891 to be prepared and a summary to be published in accordance with Government Code sections 40804 and 40805.
- C. To countersign all Town warrants or checks, or to authorize signature by a deputy.
- D. To audit all demands against the Town for money or damages.
- E. To certify or approve payrolls or attendance records of Town officers and employees.
- F. To disburse funds of the Town treasury on checks which have been allowed either by the Council, law, or Town officers authorized to allow the same.
- G. To issue checks on the treasury for all debts and demands against the Town when the amounts are fixed by law, for interest and redemption of bonds issued by the Town, upon surrender and cancellation of such bonds or interest coupons, for salaries of officers and employees of the Town who are legally entitled to such salaries, and for all other demands

authorized by law. Salary checks are to be drawn on the dates specified by the Town and at least twice monthly.

H. To be responsible for the internal audit function of the Town and designated agencies.

I. To collect all money due the Town unless in any given case the duty of collection is by this Code given to another officer.

J. To be responsible for the investment of Town funds in accordance with this Code and applicable state statutes.

K. To keep such accounts, receipts, and records, as shall be prescribed by the Town Administrator.

L. To be responsible for the safekeeping of money received by the Town.

M. To make such recommendations to the Council regarding Town finances as the Finance Director/Treasurer may deem advisable.

N. To exercise general supervision over the Town's finances.

O. To possess such other powers and to perform such additional duties as are or may be prescribed by ordinance. (Ord. 160, 1983; Ord. 256-95; Ord. 291-99; Ord. 294-99)

2.28.030 Monthly statement to Town Manager and Council.

The Finance Director/Treasurer shall deliver to the Town Manager and to the Council at a regularly scheduled Council meeting, a budget report showing the budget status at the end of the preceding month. (Ord. 294-99)

2.28.040 Withholding payment when money owed Town.

The Finance Director/Treasurer shall allow no payment:

A. Without first deducting any indebtedness due from the claimant to the Town, if notice of the indebtedness has been received.

B. In favor of any officers, employee, or individual having custody of any funds or collections for the Town, who is delinquent in making a required accounting. (Ord. 294-99)

Chapter 2.32

FIRE CHIEF

Sections:

[2.32.010](#) [Office](#)

[2.32.020](#) [Duties](#)

2.32.010 Office.

There is established the office of Fire Chief. The Fire Chief shall be appointed by the Council pursuant to a contract with the County for the services of personnel from the Napa County Fire Department and California Department of Forestry and Fire Protection. (Ord. 294-99)

2.32.020 Duties.

A. The Fire Chief shall be responsible for the maintenance and operation of all firefighting equipment and the conduct of all personnel carrying out their duties of preventing and fighting fire in the Town, as set forth in the contract referenced in Section 2.32.10 of this Chapter.

B. The Fire Chief shall serve as the Town's Fire Marshall. Acting as Fire Marshall, the Fire Chief shall administer the uniform fire code inspection program according to the provisions of the contract between the Town and Napa County and any contract between Napa County and California Department of Forestry and Fire Protection. The uniform fire code inspection program shall be administered in conjunction with Napa County's adoption of uniform fire code. The Fire Chief shall have power to inspect all premises within the Town at any and all reasonable times for the purpose of determining if any State laws, provisions of this code or any ordinances of the Town, or any regulations of the Council are being violated, or any conditions exist, which, in the Fire Chief's judgment, create fire hazards.

C. The Fire Chief shall ensure that fire prevention services are provided to the town according to the contract between the Town and Napa County. The fire prevention services to be provided to the town include, but are not limited to, fire hydrant maintenance and public education programs.

D. The Fire Chief shall be responsible for ensuring the additional services that are to be provided to the Town under the contract between the Town and Napa County are provided in a timely manner and managed efficiently. The services to be provided to the Town include, but are not limited to, a Hazardous Materials Response Team with equipment, a Technical Rescue Team, a Fire Investigation Services, and Emergency Dispatch Services. (Ord. 294-99)

Chapter 2.36
POLICE CHIEF

Sections:

[2.36.010](#) [Office](#)
[2.36.020](#) [Duties](#)

2.36.010 **Office.**

There is established the office of Police Chief. The Police Chief shall be appointed by the Council pursuant to a contract with the County for the services of personnel from the Napa County Sheriff's Department. (Ord. 294-99)

2.36.020 **Duties.**

- A. The Police Chief and members of the police department shall be responsible for the enforcement of all laws within the Town, and all ordinances of the Town unless such power or duty is specifically given to another officer or department.
- B. The Police Chief shall act as department head for the Town.
- C. The Police Chief shall, with the approval of Council, designate such personnel as necessary to assist in discharging the duties of this office.
- D. The Police Chief shall attend all staff meetings and all Council meetings.
- E. The Police Chief shall serve as the Sheriff's representative during critical incidents.
- F. The Police Chief shall serve plan and direct the Sheriff's personnel during community events.
- G. The Police Chief shall supervise those deputies working in the Town.
- H. The Police Chief shall prepare quarterly repots and present them to the Council.
- I. The Police Chief shall provide advice to the Council on matters relating to law enforcement.
- J. The Police Chief shall perform other duties as the Town may require. (Ord. 294-99)

Chapter 2.40
TOWN PLANNER

Sections:

2.40.010 Office
2.40.020 Duties

2.40.010 Office.

There is established the office of Town Planner. The Town Planner shall be appointed by the Town Manager and serve at the pleasure of the Town Manager. (Ord. 294-99; Ord. 351-05)

2.40.020 Duties.

A. The Town Planner shall serve as staff to the Town Manager, Town Council, and other Town committees.

B. The Town Planner shall make recommendations to the Council for the periodic revision and continuing effectuation of the Town's General Plan, zoning ordinance, and California Environmental Quality Act guidelines.

C. The Town Planner shall ensure that development proposals conform to the Town's General Plan, any other planning documents or policies of the Town, and any applicable environmental statutes. The Town Planner shall report on the relation of the General Plan and other applicable plans or ordinances to any development proposal submitted to the Town.

D. The Town Planner shall make recommendations on the preliminary maps of all subdivisions submitted to the Town and shall make recommendations on the subdivision of any land in the Town and in the unincorporated area surrounding the Town limits as provided for by State law, in coordination with the Town Engineer.

E. The Town Planner shall prepare studies relating to environmental, social, or economic data as he or she deems necessary or as directed by the Council or Town Administrator, and shall report the findings and conclusions to the Council when requested.

F. The Town Planner shall interpret planning documents and planning related ordinances and shall advise interested citizens. The Town Planner shall assist property owners and builders in meeting the Town's planning requirements.

G. The Town Planner shall review all engineering projects for conformance with the Town's General Plan and zoning ordinance and shall coordinate engineering plans with the Town Engineer. (Ord. 294-99; Ord. 351-05)

Chapter 2.44

DIRECTOR OF PUBLIC WORKS

Sections:

2.44.010 Office
2.44.020 Duties

2.44.010 Office

There is established the office of the Director of Public Works. The Director of Public Works shall be appointed by the Town Manager and shall serve at the pleasure of the Town Manager. (Ord. 294-99; Ord. 351-05)

2.44.020 Duties

The duties of the Director of Public Works shall be as follows:

A. The Director of Public Works shall be responsible for the planning, design, construction, maintenance, repair and improvement of all the Town's public works. "Public works" includes, without limitation, all parts of the Town's water system, sewage system, drainage structures, streets and sidewalks, all land, buildings, and other improvements owned by the Town and all equipment used by the Town in repair, maintenance, and construction of public works.

B. The Director of Public Works shall prepare the capital improvement program and shall review capital project budget requests.

C. The Director of Public Works shall maintain all public structures owned or operated by the Town, and shall establish and manage a maintenance program, including janitorial and security services, for the upkeep of all public structures owned or operated by the Town.

D. The Director of Public Works shall coordinate the needs of the Town departments in their requests for motorized equipment, actively supervise a preventative maintenance program for city owned motorized equipment, keep the operating records of all motorized equipment used or operated by the Town, and monitor the use of pool cars.

E. The Director of Public Works shall direct and supervise the work of the Town Engineer.

F. The Director of Public Works shall carry out any other duties outlined in a contract for employment or job description issued by the Town or directed by the Council. (Ord. 294-99)

Chapter 2.48

TOWN ENGINEER

Sections:

2.48.010 Office

2.48.010 Office.

A. The Town Engineer shall have the duty to plan, organize, supervise and perform engineering work for the Town's public works; to supervise the repair, maintenance and construction of public works; to supervise building inspection; and to assist in the enforcement of existing zoning ordinances. "Public works" includes, without limitation, all parts of the Town's water system, sewage system, drainage structures, streets and sidewalks, all land, buildings and other improvements owned by the Town and all equipment used by the Town in repair, maintenance and construction of public works.

B. The Town Engineer's duties shall also include designing streets, sidewalks, sewer systems, drainage structures and other public works; surveying and drafting; field inspections; compiling estimates; preparing contracts and specifications; supervising the bidding procedure and the submission of bonds for all public works projects; evaluating the need for and planning and scheduling long-range public works programs; recommending design, material and processes proposed to be used by the Town for public works; and maintaining records, maps and files of the Town relating to public works.

C. The Town Engineer shall be responsible for the levying and collections of assessments upon property for doing all such work or carrying out all or any of such purposes and for the issuance of bonds to represent such assessments, and perform all duties in relation to such assessments.

D. The Town Engineer shall attend meetings of the Council as needed, and present to the Council regular and special oral and written reports requested by the Council or necessary to inform the Council of matters under the Engineer's duties.

E. The Town Engineer shall, under the direction of the Director of Public Works, oversee and control all of the work and labor done on streets of this Town and see that such work is in conformity with applicable law. The Town Engineer shall see that all laws and regulations relating to the construction, maintenance, and conditions of streets in the Town are enforced and shall report all defective conditions and damages to the Town Manager immediately. (Ord. 294-99)

Chapter 2.52

EMERGENCY ORGANIZATIONS

Sections:

2.52.010	Purpose
2.52.020	Emergency defined
2.52.030	Disaster Council--Membership
2.52.040	Disaster Council--Powers and duties
2.52.050	Administration of Emergency Services
2.52.060	Duties of Director of Emergency Services
2.52.070	Designation of successors
2.52.080	Emergency plan
2.52.090	Emergency organization
2.52.100	Expenditures
2.52.110	Violation--Penalty

2.52.010 Purpose.

The declared purposes of this chapter are to provide for the preparation and carrying out of plans for the protection of persons and property within the Town in the event of an emergency; the direction of the emergency organization; and the coordination of the emergency functions of the Town with all other public agencies, corporations, organizations and affected private persons. (Ord. 225, 1991; Ord. 294-99)

2.52.020 Emergency defined.

As used in this chapter, "emergency" means the actual or threatened existence of conditions of disaster or of extreme peril to the safety of persons and property within the Town caused by such conditions as air pollution, fire, flood, storm, epidemic, riot or earthquake, or other conditions, including conditions resulting from a labor controversy, which conditions are or are likely to be beyond the control of the services, personnel, equipment and facilities of the Town, requiring the combined forces of other political subdivisions to combat. (Ord. 225, 1991; Ord. 294-99)

2.52.030 Disaster Council--Membership.

The Town Disaster Council is created and shall consist of the members of the Town Council and the Director of Emergency Services. The Mayor shall be the chair of the Council, and the Vice-mayor shall be the vice-chair of the Council. (Ord. 225, 1991; Ord. 294-99; Ord. 328-03)

2.52.040 Powers and duties--Meetings.

A. It shall be the duty of the Disaster Council to develop and recommend for adoption by the Council, emergency and mutual aid plans and agreements and such ordinances

and resolutions and rules and regulations as are necessary to implement such plans and agreements.

B. The Disaster Council shall meet upon call of the Mayor, or, in the Mayor's absence from the Town or inability to call such meeting, upon call of the Town Administrator. (Ord. 225, 1991; Ord. 294-99)

2.52.050 Administration of Emergency Services.

There is created the office of Director of Emergency Services. The Town Administrator shall be the Director of Emergency Services. (Ord. 225, 1991; Ord. 294-99)

2.52.060 Duties of Director of Emergency Services.

The Director is empowered to:

A. Request the Council to proclaim the existence or threatened existence of a "local emergency" if the Council is in session, or to issue such proclamation if the Council is not in session. Whenever a local emergency is proclaimed by the Director, the Council shall take action to ratify the proclamation within 7 days thereafter or the proclamation shall have no further force or effect.

B. Request the Governor to proclaim a "state of emergency" when, in the opinion of the Director, the locally available resources are inadequate to cope with the emergency.

C. Control and direct the emergency organization of the Town for the accomplishment of the purposes of this chapter.

D. Direct the coordination of the services and the staff of the emergency organization of the Town and resolve any questions of authority and responsibility that may arise.

E. Represent the Town in all dealings with public or private agencies on matters pertaining to emergencies as defined in this chapter.

F. In the event of the proclamation of a "local emergency", the proclamation of a "state of emergency" by the Governor or Director of the State Office of Emergency Services, or the existence of a "state of war emergency," the Director is empowered to:

1. Make and issue rules and regulations on matters reasonably related to the protection of life and property as affected by such emergency. Such rules and regulations must be confirmed at the earliest practicable time by the Town Council.

2. Obtain vital supplies, equipment and other such properties found lacking and needed for the protection of life and property and to bind the Town for the fair value of such items and, if required immediately, to commandeer the same for public use.

3. Require emergency services of any Town officer or employee and, in the event of the proclamation of a "state of emergency" in Napa County, or the existence of a "state of war emergency," to command the aid of as many citizens of this community as the Director deems necessary. All such persons shall be entitled to all privileges, benefits and immunities as are provided by State law for registered disaster service workers.

4. Requisition necessary personnel or material of any Town department or agency.

5. Execute all ordinary powers as Town Administrator; all of the special powers conferred by this chapter or by resolution or emergency plan adopted pursuant to this chapter; all powers conferred by any statute, by any agreement approved by the Council, and by any other lawful authority.
(Ord. 225, 1991; Ord. 294-99)

2.52.070 Designation of successors.

A. The Director of Emergency Services shall designate the order of succession to that office in accordance with the emergency services plan adopted by the Council to take effect in the event the Director is unavailable to attend meetings and otherwise perform the Director's duties during an emergency.

B. Such order of succession shall be approved by the Town Council.

C. Successors shall, under the supervision of the Director, and with the assistance of Emergency Service Chiefs, develop emergency plans and manage the emergency programs of the Town; and shall have such other powers and duties as may be assigned by the Director. (Ord. 225, 1991; Ord. 294-99)

2.52.080 Emergency plan.

A. The Disaster Council shall be responsible for the development of the Town emergency plan, which plan shall provide for the effective mobilization of all of the resources of this Town, both public and private, to meet any condition constituting a local emergency, state of emergency, or state of war emergency; and shall provide for the organization, powers and duties, services, and staff of the emergency organization.

B. The Town emergency plan shall be adopted by the Town Council by resolution.
(Ord. 225, 1991; Ord. 294-99)

2.52.090 Emergency organization.

All officers and employees of the Town, together with those volunteer forces enrolled to aid them during an emergency, and all groups, organizations and persons who may by agreement or operation of law, including persons impressed into service under the provisions of Section 2.44.060(F)(3), be charged with duties incident to the protection of life and property in the Town

during such emergency, shall constitute the emergency organization of the Town. (Ord. 225, 1991; Ord. 294-99)

2.52.100 Expenditures.

Any expenditures made in connection with emergency activities, including mutual aid activities, shall be deemed conclusively to be for the direct protection and benefit of the inhabitants and property of the Town. (Ord. 225, 1991; Ord. 294-99)

2.52.110 Violation--Penalty.

It is a misdemeanor, punishable as provided by law, for any person during an emergency to:

A. Willfully obstruct, hinder or delay any member of the emergency organization in the enforcement of any lawful rule or regulation issued pursuant to this chapter, or in the performance of any duty imposed upon that person by virtue of this chapter.

B. Do any act forbidden by any lawful rule or regulation issued pursuant to this chapter, if such act is of such a nature as to give or be likely to give assistance to the enemy or to imperil the lives or property of inhabitants of the Town, or to prevent, hinder or delay the defense or protection of the Town.

C. Wear, carry or display, without authority, any means of identification specified by the emergency agency of the State. (Ord. 225, 1991; Ord. 294-99)

TITLE 3

REVENUE AND FINANCE

Chapters:

- [3.08 Transfer of Tax Collection Duties](#)
- [3.12 Sales and Use Tax](#)
- [3.16 Transient Occupancy Tax](#)
- [3.20 Real Property Documentary Transfer Tax](#)
- [3.24 Special Gas Tax Street Improvement Fund](#)
- [3.28 Public Works Bidding Procedures](#)
- 3.32 Purchase of Supplies, Equipment and Services and Procedures for Public Works Projects
- [3.36 Damages Claims Against The Town](#)

Chapter 3.08

TRANSFER OF TAX COLLECTION DUTIES

Sections:

- [3.08.010 Property tax assessment and collection](#)

3.08.010 Property tax assessment and collection.

Property taxes levied by the Town may be assessed and collected by the County if an agreement between the Council and the Board of Supervisors of the County so provides. Compensation to the County for this service shall be as provided in such an agreement, but in no event shall exceed the sums permitted under State law. (Ord 9, 1965; Ord 269-99)

Chapter 3.12

SALES AND USE TAX

Sections:

- [3.12.010 Purpose.](#)
- [3.12.020 Adoption of provisions of State law.](#)
- [3.12.030 Limitations on adoption of State law.](#)
- [3.12.040 Contract with State](#)
- [3.12.050 Rate](#)
- [3.12.060 Sales tax.](#)
- [3.12.070 Place of sale.](#)
- [3.12.080 Use tax.](#)
- [3.12.090 Permit not required.](#)
- [3.12.100 Exclusions.](#)
- [3.12.110 Enjoining collection forbidden.](#)
- [3.12.120 Violation--Misdemeanor.](#)

3.12.010 Purpose.

The Council declares that this chapter is adopted to achieve the following, among other, purposes, and directs that the provisions of this chapter be interpreted in order to accomplish those purposes:

A. To adopt a sales and use tax chapter that complies with the requirements and limitations contained in Revenue and Taxation Code sections 7200 and following ("the Uniform Sales and Use Tax Law").

B. To adopt a sales and use tax chapter that incorporates provisions identical to those of Revenue and Taxation Code sections 6001 and following ("the Sales and Use Tax Law") insofar as those provisions are not inconsistent with the requirements and limitations contained in the Uniform Sales and Use Tax Law.

C. To adopt a sales and use tax chapter that imposes a tax and provides a measure of tax 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 State sales and use taxes.

D. To adopt a sales and use tax chapter that can be administered in a manner that will, to the degree possible consistent with the provisions of the Uniform Sales and Use Tax Law, minimize the cost of collecting Town sales and use taxes and at the same time minimize the burden of recordkeeping upon persons subject to taxation under the provisions of this chapter. (Ord. 3, 1965; Ord. 269-99)

3.12.020 Adoption of provisions of State law.

Except as otherwise provided in this chapter and except insofar as they are inconsistent with the provisions of the Uniform Sales and Use Tax Law, all of the provisions of Part 1 of Division 2, of the Revenue and Taxation Code ("the Sales and Use Tax Law," Sections 6001 and following) are adopted and made a part of this chapter as though fully set forth in this Code. (Ord. 3, 1965; Ord. 269-99)

3.12.030 Limitations on adoption of State law.

A. In adopting the provisions of the Sales and Use Tax Law, wherever the State is named or referred to as the taxing agency, the name of this Town shall be substituted in its place.

B. The substitution, however, shall not be made in the following instances:

1. When the word "State" is used as part of the title of the State Controller, the State Treasurer, the State Board of Control, the State Board of Equalization, the State Treasury, or the Constitution of the State of California.

2. When the result of that substitution would require action to be taken by or against the Town or any agency the Town 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, where the result of the substitution would be to provide an exemption from this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not otherwise be exempt from this tax while such sales, storage, use or other consumption remain subject to tax by the State under the provisions of the Sales and Use Tax Law, or to impose this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not be subject to tax by the State under the provisions of that code; the substitution shall not be made in Revenue and Taxation Code sections 6701, 6702 (except in the last sentence of that section), 6711, 6715, 6737, 6797 or 6828;

4. In the phrase "retailer engaged in business in this State" in Revenue and Taxation Code section 6203. (Ord. 3, 1965; Ord. 269-99)

3.12.040 Contract with State.

The Town shall contract with the State Board of Equalization to perform all functions incident to the administration and operation of this Chapter. (Ord. 3, 1965; Ord. 269-99)

3.12.050 Rate.

The rate of sales tax and use tax imposed by this Chapter is .95 of 1%. Commencing July 1, 2000, the rate shall be 1%. (Ord. 3, 1965; Ord. 219, 1990; Ord. 296-99; Ord. 298-00)

3.12.060 Sales tax.

For the privilege of selling tangible personal property at retail a tax is imposed upon all retailers in the Town at the rate stated in Section 3.12.050 of the gross receipts of the retailer from the sale of all tangible personal property sold at retail in this Town on and after the operative date. (Ord. 3, 1965; Ord. 269-99)

3.12.070 Place of sale.

A. 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 the retailer's agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination.

B. 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.

C. 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 of business 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. (Ord. 3, 1965; Ord. 269-99)

3.12.080 Use tax.

An excise tax is imposed on the storage, use or other consumption in this Town of tangible personal property purchased from any retailer on and after the operative date for storage, use or other consumption in this Town at the rate stated in Section 3.12.050 of the sales price of the property. The sales price shall include delivery charges when such charges are subject to State sales or use tax regardless of the place to which delivery is made. (Ord. 3, 1965; Ord. 269-99)

3.12.090 Permit not required.

If a seller's permit has been issued to a retailer under Revenue and Taxation Code section 6067, this chapter shall not require an additional seller's permit. (Ord. 3, 1965; Ord. 85, 1974; Ord. 269-99)

3.12.100 Exclusions.

The following shall be excluded from the measure of the tax:

- A. The amount of any sales or use tax imposed by the State upon a retailer or consumer.
- B. The storage, use, or other consumption of tangible personal property, the gross receipts from the sale of which have been subject to sales tax under a sales and use tax ordinance enacted in accordance with State law by any city and county, county, or city, in this State.
- C. The gross receipts from the sale of tangible personal property to operators of waterborne vessels to be used or consumed principally outside the Town and directly and exclusively in the carriage of persons or property in such vessels for commercial purposes.
- 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.
- E. The gross receipts from the sale of tangible personal property to operators of aircraft to be used or consumed principally outside the Town 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.
- F. 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 the State, the United States, or any foreign government. (Ord 3, 1965; Ord. 188, 1987; Ord. 269-99)

3.12.110 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 Town, or against any officer of the State or the Town, to prevent or enjoin the collection under this chapter, or the Uniform Sales and Use Tax Law of any tax or any amount of tax required to be collected. (Ord. 3, 1965; Ord. 269-99)

3.12.120 Violation--Misdemeanor

Any person violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor. (Ord. 3, 1965; Ord. 269-99)

Chapter 3.16

TRANSIENT OCCUPANCY TAX

Sections:

- [3.16.010 Title.](#)
- [3.16.020 Definitions.](#)
- [3.16.030 Tax imposed.](#)
- [3.16.040 Exemptions.](#)
- [3.16.050 Operator's duties.](#)
- [3.16.060 Registration of hotels.](#)
- [3.16.070 Reporting and remitting of tax.](#)
- [3.16.080 Penalties and interest.](#)
- [3.16.090 Failure to collect and report tax -- Determination of tax by Finance Director/Treasurer.](#)
- [3.16.100 Appeal.](#)
- [3.16.110 Records.](#)
- [3.16.120 Refunds.](#)
- [3.16.130 Duty of successor of operator.](#)
- [3.16.140 Liability of successor for failure to withhold--notice of amount due.](#)
- [3.16.150 Actions to collect.](#)
- [3.16.160 Violation--Misdemeanor.](#)

3.16.010 Title.

The ordinance codified in this chapter shall be known as the "Transient Occupancy Tax Ordinance." (Ord. 112, 1978; Ord. 269-99)

3.16.020 Definitions.

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

"Hotel" shall mean any structure or any portion of any structure which is occupied or intended or designed for occupancy by transients for dwelling, lodging or sleeping purposes, and includes any hotel, inn, bed-and-breakfast, tourist home or house, motel, studio hotel, bachelor hotel, lodging-house, rooming house, apartment house, public or private dormitory, and public or private club, and public or private campground. A mobile home shall be included only if it is located outside a mobile home park and is occupied by one not an employee of the owner or operator of the mobile home park. Occupancy of a timeshare unit shall be included unless occupancy is by an owner of or the guest of an owner of a timeshare estate in a room or rooms in a timeshare project.

"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.

"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 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 the 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.

"Rent" means the consideration charged, whether or not received, for the occupancy of space in a hotel valued in money, including forfeited deposits or reservation charges, and redemption of gift certificates, 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.

"Transient" means any individual who exercises occupancy or is entitled to occupancy by reason of concession, permit, right of access, license or other agreement for a period of 30 consecutive days or less, counting portions of calendar days as full days. Any such individual so occupying space in a hotel shall be deemed to be a transient until the period of 30 days has expired unless there is an agreement in writing between the operator and the occupant providing for a longer period of occupancy. (Ord. 112, 1978; Ord. 269-99)

3.16.030 Tax imposed.

A. For the privilege of occupancy in any hotel, each transient is subject to and shall pay a tax in the amount of 12% of the rent charged by the operator. The tax constitutes a debt owed by the transient to the Town that is extinguished only by payment to the operator or to the Town. (12% rate effective January 1, 2004; 10% rate applicable prior to January 1, 2004, pursuant to Ord. 330-03)

B. 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.

C. If for any reason the tax due is not paid to the operator of the hotel, the Finance Director/Treasurer may require that such tax shall be paid directly to the Finance Director/Treasurer. (Ord. 112, 1978; Ord. 156, 1983; Ord. 269-99; Ord. 330-03 adopted by voters on March 4, 2003 general election)

3.16.040 Exemptions.

No tax shall be imposed upon:

A. Any person as defined in Section 1.04.010 of Title 1 of the code, as to whom, or any occupancy as to which, it is beyond the power of the Town to impose the tax provided in this chapter, and only when in the performance of official duties.

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

C. No exemption shall be granted except upon a claim made at the time rent is collected and under penalty of perjury upon a form prescribed by the Finance Director/Treasurer. It is incumbent for the transient to provide the necessary proof of exemption. Exemption requires payment of rents to be made directly by other than the occupant of the hotel. Governments and governmental agencies are generally not exempt from taxation. A copy of eligible exemption claims shall be submitted monthly at the same time as the required tax return reporting. (Ord. 112, 1978; Ord. 269-99)

3.16.050 Operator's duties.

A. 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.

B. 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.

C. No operator of a hotel shall advertise or state in any manner, whether directly or indirectly, that the tax or any part of the tax 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 3.16.120. (Ord. 112, 1978; Ord 269-99)

3.16.060 Registration of hotels.

A. Within 30 days after commencing business, each operator of any hotel renting occupancy to transients shall register the hotel with the Finance Director/Treasurer and obtain a "Transient Occupancy Registration Certificate" to be at all times posted in a conspicuous place on the premises.

B. The certificate shall, among other things, state the following:

1. The name of the operator.
2. The address of the hotel.
3. The date upon which the certificate was issued.

4. "This Transient Occupancy Registration Certificate signifies that the person named on the certificate has fulfilled the requirements of the Town of Yountville's Transient Occupancy Tax Chapter by registering with the Finance Director/Treasurer for the purpose of collecting from transients the Transient Occupancy Tax and remitting the tax to the Finance Director/Treasurer. This certificate does not authorize any person to conduct any unlawful business or to conduct any lawful business in an unlawful manner, nor to operate a hotel without strictly complying with all applicable local laws, including but not limited to those

requiring a permit from any board, commission, department or office of this Town. This certificate does not constitute a permit." (Ord. 112, 1978; Ord. 269-99)

3.16.070 Reporting and remitting of tax.

A. 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 Finance Director/Treasurer, make a return to the Finance Director/Treasurer, on forms provided by the Finance Director/Treasurer, of the total rents charged and received and the amount of tax collected for transient occupancies. If the last day of the month following the close of the reporting period falls on a weekend or a holiday, the tax is due the next working day. Payments postmarked by the due date will be accepted. If an operator fails to comply with this section, the operator's payment will be considered delinquent under section 3.16.080 and the penalty provisions of section 3.16.080 will apply.

B. At the time the return is filed, the full amount of the tax collected shall be remitted to the Finance Director/Treasurer.

C. The Finance Director/Treasurer may establish shorter reporting periods for any certificate holder if the Finance Director/Treasurer deems it necessary in order to insure collection of the tax and Finance Director/Treasurer may require further information in the return.

D. Returns and payments are due immediately upon cessation of business for any reason.

E. All taxes collected by operators pursuant to this chapter shall be held in trust for the account of the Town until payment of the tax is made to the Finance Director/Treasurer. (Ord. 112, 1978; Ord. 269-99)

3.16.080 Penalties and interest.

A. **Original delinquency.** Any operator who fails to remit any tax imposed by this chapter within the time required by section 3.16.070 shall pay a penalty of 10% of the amount of the tax in addition to the amount of the tax.

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

C. **Penalty.** Any operator who fails to provide any required report when due shall pay a penalty of \$50 for each month the report is delinquent.

D. **Fraud.** If the Finance Director/Treasurer determines that the nonpayment of any remittance due under this chapter is due to fraud, a penalty of 25% of the amount of the tax shall be added thereto in addition to the penalties stated in subsections A and B of this section. Because the refusal to pay over public money received under a duty to pay it is a felony under State law (Penal Code section 424), the Finance Director/Treasurer may notify the district attorney of any operator withholding remittance over three months.

E. **Interest.** In addition to the penalties imposed, any operator who fails to remit any tax imposed by this chapter shall pay interest at the rate of 1% 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.

F. **Penalties merged with tax.** Every penalty imposed and such interest as accrues under the provisions of this section shall become a part of the tax required in this chapter to be paid. (Ord. 112, 1978; Ord. 269-99)

3.16.090 Failure to collect and report tax--Determination of tax by Finance Director/Treasurer.

A. If any operator fails or refuses to collect the tax and to make, within the time provided in this chapter, any report and remittance of the tax or any portion of the tax required by this chapter, the Finance Director/Treasurer shall proceed to obtain facts and information on which to base an estimate of the tax due.

B. As soon as the Finance Director/Treasurer procures such information as may be obtained upon which to base the assessment of any tax imposed by this chapter and payable by any operator who has failed or refused to collect the same and to make such report and remittance, the Finance Director/Treasurer shall proceed to determine and assess against such operator the tax, interest and penalties provided for by this chapter.

C. If a determination under subsection B is made, the Finance Director/Treasurer 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 the operator's last known place of address.

D. Such operator may within 10 days after the serving or mailing of such notice make application in writing to the Finance Director/Treasurer for a hearing on the amount assessed. If application by the operator for a hearing is not made within the time prescribed, the tax, interest and penalties, if any, determined by the Finance Director/Treasurer shall become final and conclusive and immediately due and payable.

E. If such application is made, the Finance Director/Treasurer shall give not less than 5 days' written notice to the operator to show cause at a time and place fixed in the notice why the amount specified in the notice should not be fixed for such tax, interest and penalties.

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

G. After the hearing, the Finance Director/Treasurer shall determine the proper tax to be remitted and shall thereafter give written notice to the person of such determination and the amount of tax, interest and penalties.

H. The amount determined to be due shall be payable after 15 days unless an appeal is taken. (Ord. 112, 1978; Ord. 269-99)

3.16.100 Appeal.

An operator may appeal the decision of the Finance Director/Treasurer to the Council pursuant to the procedure set forth in Chapter 1.30. (Ord. 112, 1978; Ord. 269-99)

3.16.110 Records.

A. It shall be the duty of every operator liable for the collection and payment to the Town of any tax imposed by this chapter to keep for a period of 3 years all records necessary to determine the amount of tax the operator is liable for collection of and payment to the Town. The Finance Director/Treasurer shall have the right to inspect such records at any reasonable time.

B. Records shall be sufficient to assure that all occupancies have been reported by such means as a sign-in guest ledger, cash register and prenumbered registration forms. Records shall be sufficient to assure that rents are properly recorded. If the records are deemed to be inadequate by the Finance Director/Treasurer or the Town auditor, the operator shall have 60 days to install adequate recordkeeping procedures.

C. In the event records or recordkeeping procedures are not improved sufficiently to be audited successfully, the operator shall be liable to the Town for the cost of all subsequent audits of the hotel by the Town or its representatives until the records and recordkeeping are sufficient to be audited in accordance with generally accepted auditing practices. (Ord. 112, 1978; Ord. 269-99)

3.16.120 Refunds.

A. Whenever the amount of any tax, interest or penalty has been overpaid or paid more than once or has been erroneously or illegally collected or received by the Town under this chapter it may be refunded as provided in subsections B and C provided a claim in writing, stating under penalty of perjury the specific grounds upon which the claim is founded, is filed with the Finance Director/Treasurer within one year of the date of payment. The claim shall be on forms furnished by the Finance Director/Treasurer.

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 Finance Director/Treasurer that the person from whom the tax has been collected was not a transient. However, 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 Town by filing a claim in the manner provided in subsection A of this section, but only when the tax was paid by the transient directly to the Finance Director/Treasurer or when the transient having paid the tax to the operator establishes to the satisfaction of the Finance Director/Treasurer that the transient has been unable to obtain a refund from the operator who collected the tax.

D. No refund shall be paid under the provisions of this section unless the claimant establishes a right to a refund by written records. (Ord. 112, 1978; Ord. 269-99)

3.16.130 Duty of successor of operator.

If an operator who is liable for any tax or penalties under this chapter sells or otherwise disposes of the operator's business, the operator's successor shall notify the Finance Director/Treasurer of the date of sale at least 30 days before the date of sale. If the decision to sell was made less than 30 days prior to the actual sale, then the operator shall notify the Finance Director/Treasurer immediately of the sale. The operator shall withhold a sufficient portion of the purchase price to equal the amount of any such tax or penalty until the selling operator produces a receipt from the Finance Director/Treasurer showing that the tax or penalty has been paid or a tax clearance certificate from the Finance Director/Treasurer stating that no tax or penalty is due. If the seller does not present a receipt or tax clearance certificate within 30 days after such successor commences to conduct business, the successor shall deposit the withheld amount with the Finance Director/Treasurer pending settlement of the account of the seller. (Ord. 269-99)

3.16.140 Liability of successor for failure to withhold-- notice of amount due.

If the successor to the business fails to withhold a portion of the purchase price as required, it shall be liable to the Town for the payment of the amount required to be withheld. Within 30 days after receiving a written request from the successor for a tax clearance certificate stating that no tax or penalty is due, the Finance Director/Treasurer shall either issue the certificate or mail notice to the successor at its address as it appears on the records of the Finance Director/Treasurer of the estimated amount of the tax and penalty that must be paid as a condition of issuing the certificate. (Ord. 269-99)

3.16.150 Actions to collect.

A. Any tax required to be paid by any transient under the provisions of this chapter shall be deemed a debt owed by the transient to the Town.

B. Any such tax collected by an operator that has not been paid to the Town shall be deemed a debt owed by the operator to the Town.

C. Any person owing money to the Town under the provisions of this chapter shall be liable in an action brought in the name of the Town for the recovery of such amount. (Ord. 112, 1978; Ord. 269-99)

3.16.160 Violation--Misdemeanor.

Any person violating any of the provisions of this chapter shall be guilty of a misdemeanor. (Ord. 112, 1978; Ord. 269-99)

Chapter 3.20

REAL PROPERTY DOCUMENTARY TRANSFER TAX

Sections:

- [3.20.010 Title.](#)
- [3.20.020 Tax imposed.](#)
- [3.20.030 Persons liable for payment.](#)
- [3.20.040 Exceptions and exemptions.](#)
- [3.20.050 Administration.](#)
- [3.20.060 Refund claims.](#)

3.20.010 Title.

The ordinance codified in this chapter shall be known as the "Real Property Transfer Tax Ordinance." (Ord. 41, 1967; Ord. 269-99)

3.20.020 Tax Imposed.

Pursuant to the authority contained in Part 6.7 of Division 2, of the Revenue and Taxation Code, beginning with section 11901, there is imposed on each deed, instrument or writing by which land, tenement, or other realty sold within the Town is transferred or conveyed to the purchaser or any other person, when the consideration or value of the interest conveyed (exclusive of the value of an encumbrance remaining at the time of sale) exceeds \$100, a tax at the rate of \$1.10 for each \$1000 or fractional part thereof. (Ord. 41, 1967; Ord. 269-99)

3.20.030 Persons liable for payment.

The tax imposed under Section 3.20.020 shall be paid by the person who makes, signs or issues any instrument subject to the tax, or for whose use or benefit the same is made, signed or issued. (Ord. 41, 1967; Ord. 269-99)

3.20.040 Exceptions and exemptions.

The tax imposed by this chapter shall not apply to the following:

- A. **Instrument to secure debt.** Any instrument in writing given to secure a debt.
- B. **United States agencies.** Any deed, instrument or writing to which the United States or any agency or instrumentality thereof, any state or territory, or political subdivision thereof, is a party when the exempt agency is acquiring title.

C. **Tax foreclosures.** Any deed, instrument, or writing to a beneficiary or mortgagee, which is taken from the mortgagor, or trustor as a result of or in lieu of foreclosure; provided, that such tax shall apply to the extent that the consideration exceeds the unpaid debt, including accrued interest and cost of foreclosure.

D. **Division of community property.** 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.

In order to qualify for the exemption provided in this subsection, 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.

E. **Reorganization or adjustment.** A conveyance to make effective a plan of reorganization or adjustment:

1. Confirmed under the Federal Bankruptcy Act.
2. Approved in an equity receivership proceeding in a court involving a railroad corporation, as defined in subdivision (m) of Section 205 of Title 11 of the United States Code.
3. Approved in an equity receivership proceeding in a court involving a corporation, as defined in subdivision (3) of Section 506 of Title 11 of the United States Code.
4. Where a mere change in identity, form or place of organization is effected.
5. Subdivisions (1) to (4) of this subsection shall apply only if the filing of instrument of transfer or conveyance occurs within 5 years from the date of confirmation, approval or change.

F. **Orders of Securities and Exchange Commission.** The making of conveyances to make effective an order of the Securities and Exchange Commission, as defined in subdivision (a) of Section 1083 of the Internal Revenue Code of 1954, if:

1. The order of the Securities and Exchange Commission recites that the conveyance is necessary or appropriate to carry out Section 79k of Title 15 of the United States Code, relating to the Public Utility Holding Company Act of 1935.
2. The order specifies the property ordered to be conveyed.

G. Realty held by partnership.

1. In the case of any realty held by a partnership, no levy is imposed by reason of any transfer of an interest in a partnership if:

a. The partnership is a continuing partnership within the meaning of Section 708 of the Internal Revenue Code; and

b. The continuing partnership continues to hold the realty concerned.

2. If there is a termination of a partnership within the meaning of Section 708 of the Internal Revenue Code for purposes of this chapter, the partnership shall be treated as having executed an instrument whereby there was conveyed, for fair market value (exclusive of the value of an encumbrance remaining) all realty held by the partnership at the time of the termination.

3. With respect to the realty held by such partnership at the time of termination, not more than one tax may be imposed by reason of a termination described in subdivision (2), and any transfer pursuant to it. (Ord. 41, 1967; Ord. 269-99)

3.20.050 Administration.

The County Recorder shall administer this chapter in conformity with Part 6.7 of Division 2 of the Revenue and Taxation Code and any County ordinance adopted pursuant to it. (Ord. 41, 1967; Ord. 269-99)

3.20.060 Refund claims.

A claim for refund of taxes imposed pursuant to this chapter is governed by Chapter 5 of Part 9 of Division 1 of the Revenue and Taxation Code, beginning with section 5096. (Ord. 41, 1967; Ord. 269-99)

Chapter 3.24

SPECIAL GAS TAX STREET IMPROVEMENT FUND

Sections:

3.24.010 Fund created.

3.24.020 State moneys to be paid into fund.

3.24.030 Expenditure of funds.

3.24.010 **Fund created.**

To comply with the provisions of Article 5 of Chapter 1 of Division 1 of the Streets and Highways Code, and particularly section 198, there is created in the Town Treasury a special fund to be known as the "Special Gas Tax Street Improvement Fund." (Ord. 5, 1965; Ord. 269-99)

3.24.020 **State moneys to be paid into fund.**

All moneys received by the Town from the State under the provisions of the Streets and Highways Code for the acquisition of real property for, or the construction, maintenance or improvement of streets or highways other than State highways shall be paid into this fund. (Ord. 5, 1965; Ord. 269-99)

3.24.030 **Expenditure of funds.**

All moneys in the Special Gas Tax Street Improvement Fund shall be expended exclusively for the purposes authorized by, and subject to all of the provisions of Article 5, Chapter 1, Division 1 of the Streets and Highways Code. (Ord. 5, 1965; Ord. 269-99)

Chapter 3.28

[Repealed and Reserved]
(Ord. 348-04)

Chapter 3.32

PURCHASE OF SUPPLIES, EQUIPMENT AND SERVICES AND PROCEDURES FOR PUBLIC WORKS PROJECTS

Sections:

ARTICLE I. GENERAL PROVISIONS

- 3.32.010 Purpose and objectives
- 3.32.020 Definitions
- 3.32.030 Staging prohibited
- 3.32.040 Appeals

ARTICLE II. SUPPLIES, GENERAL SERVICES AND EQUIPMENT

- 3.32.100 Purchasing officer: powers and duties
- 3.32.110 Requisitions
- 3.32.120 Purchase orders
- 3.32.130 Contracts
- 3.32.140 Encumbrance of funds
- 3.32.150 Bidding procedures for various purchase amounts
- 3.32.160 Departmental purchases
- 3.32.170 Informal bid procedure
- 3.32.180 Formal bid procedure
- 3.32.190 Special equipment/supplies; sole source purchases; and bid exceptions
- 3.32.200 Cooperative purchasing with other agencies
- 3.32.210 Recycled supply products specification
- 3.32.220 Emergencies
- 3.32.230 Surplus supplies and equipment
- 3.32.240 Inspection and tests
- 3.32.250 Personal purchases not authorized

ARTICLE III. PUBLIC WORKS PROJECTS

- 3.32.300 Uniform Construction Cost Accounting Procedures
- 3.32.310 Bidding procedures for various project amounts
- 3.32.320 Negotiate contract or purchase order procedures
- 3.32.330 Informal bidding procedures
- 3.32.340 Formal bidding procedures
- 3.32.350 Bonds
- 3.32.360 No bids received
- 3.32.370 Tie bids
- 3.32.380 Rejection of bids
- 3.32.390 Emergencies
- 3.32.400 Prevailing wages required
- 3.32.410 Pre-qualification of bidders

ARTICLE IV. PROFESSIONAL OR SPECIAL SERVICES

- 3.32.500 Award of professional or special service contracts based upon competence
- 3.32.510 Requests for Proposals/Qualifications
- 3.32.520 Contracting Authority

ARTICLE I. GENERAL PROVISIONS

3.32.010 Purpose and objectives.

The purpose of this chapter is to establish an efficient procedure for the purchase of supplies, equipment, and services, and to establish a procedure for performing or contracting for the construction of public works consistent with state law. These procedures are intended to allow the Town to obtain the best professional services, to acquire quality supplies, general services and equipment, to construct public works at the lowest possible cost commensurate with quality needed, and to exercise positive financial control over purchases and also to define authority for the purchasing function. (Ord. 348-04)

3.32.020 Definitions.

As used in this chapter:

“Contractor list” means a list of responsible prospective vendors capable of providing the items being bid upon.

“Emergency” means a sudden, unexpected occurrence that poses a clear and eminent danger, requiring immediate action to prevent or mitigate the loss or impairment of life, health, property, or essential public services.

“Equipment” means furnishings, machinery, vehicles, rolling stock, and other personal property used in the Town’s business.

“General Services” means services such as janitorial, uniform cleaning, maintenance work and other services which do not require any unique skill, special background or training. Obtaining such services at the lowest cost is the single most important factor in selection, as opposed to personal performance.

“Maintenance” work means:

- (1) Routine, recurring, and usual work for the cleaning, preservation or protection of any publicly owned or publicly operated facility for its intended purposes.
- (2) Minor repainting.
- (3) Resurfacing of streets and highways at less than one inch.

(4) Landscape maintenance, including mowing, watering, trimming, pruning, planting, replacement of plants, and servicing of irrigation and sprinkler systems.

(5) Work performed to keep, operate, and maintain publicly owned water or waste disposal systems including, but not limited to, dams and reservoirs.

“Professional or special services” means any work performed by an attorney, doctor, architect, engineer, land surveyor, construction manager, appraiser, expert, accounting firm, planning, consultant or those services such as computer services and other services which require special performance criteria, specific experience, training, personal judgment, quality of work or factors other than simply obtaining the service at the lowest cost to the Town.

“Public works” means a type of public construction project subject to the regulation of the State Public Contract Code, such as:

(1) The erection, construction of, alteration, major painting, repair, or demolition of public buildings, streets, walkways, water and sewer facilities, drainage facilities, or other public facilities, whether owned, leased, or operated by the Town.

(2) Furnishing supplies or materials for any of the above works or projects.

(3) Public works does not include maintenance work as defined in this section.

“Purchase” means the renting, leasing, purchasing, licensing, or a trade of equipment or supplies.

“Purchasing officer” shall be the Town Administrator or his or her designated representative.

“Special equipment/supplies” means unique supplies, machinery, computers, or other equipment which are not generally and regularly ordered in bulk by the Town and which must perform complex tasks, or integrate efficiently with existing equipment or supplies.

“Supplies” mean office supplies, janitorial supplies, materials, goods, tools, or other commodities used in the general conduct of the Town’s business excepting supplies for a public work which is regulated under the Public Contracts Code Sections 20160, et. seq.

“Uniform construction cost accounting procedures” means those procedures and rules established by the State Uniform Construction Cost Accounting Commission pursuant to the Public Contracts Code Sections 22010, et seq. (Ord. 348-04)

3.32.030 Staging prohibited.

Purchases and public works contracts shall not be knowingly staged or separated into smaller units or segments solely for the purpose of evading the competitive formal or informal bidding requirements of this chapter. (Ord. 348-04)

3.32.040 Appeals.

Any dispute, contention, or disagreement relative to interpretation, application or enforcement of this chapter shall be submitted to the Town Council for determination in accordance with the appeal provisions of Chapter 1.30 of this Code. (Ord. 348-04)

ARTICLE II. SUPPLIES, GENERAL SERVICES AND EQUIPMENT

3.32.100 Purchasing officer: powers and duties.

The Town Manager is designated as the purchasing officer. The purchasing officer may delegate all or a portion of the purchasing duties to any Town officer or employee. The purchasing officer or designee shall have the authority to:

- A. Purchase needed Town supplies, general services, equipment and special equipment/supplies which are not included within the construction contract or proposed specifications for a construction contract of a public work being administered by any other Town department;
- B. Investigate, keep knowledgeable about, negotiate, and recommend on the execution of contracts or the purchasing of supplies, general services, and equipment pursuant to the procedures of this chapter and such administrative rules and regulations as prescribed by the Town;
- C. To keep informed of current developments concerning purchasing, prices, market conditions, and new products;
- D. To prescribe and maintain such forms as necessary for the proper operation of this purchasing system;
- E. To supervise the inspection of all supplies, general services, and equipment purchased under this chapter in order to assure conformance with Town specifications;
- F. To supervise the transfer of surplus and unused supplies and equipment or sale or disposal of such;
- G. To maintain up-to-date contractor list, vendors' catalogs, files and such other records as needed to perform these duties;
- H. To ensure that purchasing specifications are open and non-restrictive to encourage full competition; and
- I. To perform such other tasks as may be necessary for the proper conduct of purchasing of supplies, general services, and equipment. (Ord. 348-04)

3.32.110 Requisitions.

Except as authorized under Section 3.32.160, any department requesting supplies, general services, equipment, or special equipment/supplies shall submit to the department head a

requisition on the purchasing officer's approved form prior to initiating any procurement. (Ord. 348-04)

3.32.120 Purchase orders.

Except for departmental purchases as authorized in Section 3.32.160, purchases of supplies, general services, special equipment/supplies and equipment not covered within a construction contract or public work specification, may be made only by purchase orders issued by the purchasing officer and any other contractual document he or she determines is necessary. (Ord. 348-04)

3.32.130 Contracting authority.

The Town Manager may approve purchases of supplies, general services, special equipment/supplies and equipment not covered within a construction contract or public work specification up to and including \$25,000. The Town Council shall approve such purchases greater than \$25,000. (Ord. 348-04)

3.32.140 Encumbrance of funds.

Except in case of an emergency or where specific authority is first obtained from the Town Council or the Town Manager, the purchasing officer shall not issue any purchase order for purchasing of supplies, general services or equipment unless there exists an unencumbered appropriation in the fund account against which the purchase is to be charged. (Ord. 348-04)

3.32.150 Bidding procedures for various purchase amounts.

Except as authorized in Sections 3.32.190 and 3.32.200, or in the case of emergencies as described in Section 3.32.220, the purchase of supplies, general services, equipment and special equipment/supplies, no included in a construction contract or bid specification for a public work, shall be made as follows:

A. A purchase of \$1,000 or less may be made by departmental purchase in accordance with Section 3.32.160.

B. A purchase greater than \$1,000 to \$25,000 may be made by an informal bid procedure in accordance with Section 3.32.170.

C. A purchase of more than \$25,000 shall be made by formal bid procedure in accordance with Section 3.32.180. (Ord. 348-04)

3.32.160 Departmental purchases.

A department may purchase specified and limited supplies, equipment, special equipment/supplies and general services independently of the purchasing officer of a value not to exceed \$1,000, provided such department keeps a record of such purchases and exercises reasonable prudence in seeking price quotes and purchasing such items. All such purchases shall be made with funds in an unencumbered appropriation. (Ord. 348-04)

3.32.170 Informal bid procedure.

The purchase of supplies, equipment, special equipment/supplies and general services with the estimated value greater than \$1,000 but not exceeding \$25,000 shall be made by a purchase order as required by this article, which at the department head's discretion, based upon a small amount, urgent need and timeliness, may be let without the formal bidding procedures described in Section 3.32.180. In such case, the following procedures shall be followed:

A. **Solicitation of bids.** If it is determined that the request is of a sufficient size and time allows, the purchasing officer or designee, before issuing the purchase order to a specific contractor/vendor, shall attempt to obtain at least three bids or price quotes, and the purchasing officer or designee may negotiate to obtain the lowest possible contract amount from any vendor contacted who can provide supplies, general services, or equipment within the time constraints of the department's request. The purchasing officer or designee may solicit or determine bids of prospective vendors by written request, telephone, or may base award recommendations upon current catalogs or advertisements. For purchases from \$1,000 to \$10,000, bids or price quotes may be oral provided a written record is maintained; for purchases greater than \$10,000 to \$25,000, bids or price quotes shall be written.

B. **Maintenance of records.** After placing the order, a written record of the contract, bids, quotes or advertisements used or received shall be open public records and maintained by the purchasing officer or the department for a period of two years.

C. **Award.** The purchasing officer or designee shall award the purchase contract to the lowest responsive and responsible bidder, vendor or offerer whose quote, bid, or proposal fulfills the purpose intended, provided the amount is within the unencumbered appropriation for that item, or reject such bids or proposals, or negotiate further for more acceptable terms to the Town. (Ord. 348-04)

3.32.180 Formal bid procedure.

For supplies, equipment, special equipment/supplies and general services with an estimated value in excess of \$25,000, purchases shall be made in accordance with the following formal written bid procedures:

A. **Published notices.** A notice inviting bids shall be published at least 10 calendar days before the date of the opening of bids. The notice shall be published at least once in a newspaper of general circulation in the Town, and also in appropriate trade publications, if any, circulated within the general area. Such other notice as the purchasing officer or designee deems appropriate shall be made.

B. **Notices inviting bids.** Notices inviting bids shall include a general description of the goods, articles, services or equipment to be purchases, any required bidder's security or performance bonds, state wehre bid blanks and specifications may be secured and the time and place for the opening of bids.

C. **Contractor list.** The purchasing officer or designee shall maintain a list of responsible contractors for various categories of supplies, equipment, and general services. A

solicitation for a bid shall be sent to all responsible prospective contractors or suppliers whose names are on the contractor list for the category of equipment, supplies or general services subject to the bid request.

D. **Bidder's security/failure to sign contract.** If the Town requires a bidder's bond or other form of security, the bidder's security shall be prescribed in the notice inviting bids in an amount equal to 10 percent of the amount bid. Bidder's security shall be either a cash deposit with the Town, a cashier's or certified check, payable to the Town, or a bidder's bond. Unsuccessful bidders shall be entitled to the return of bid security within 60 days of the date of the award. However, the lowest responsive and responsible bidder shall forfeit all or part of its bid security, as may be determined by the Town Council, upon the bidder's refusal or failure to execute the contract within 10 days after the date of the award of the contract. On the refusal or failure of the lowest responsive and responsible bidder to execute the contract, the Council may award the contract to the next lowest responsible bidder.

E. **Bid opening procedure.** Sealed bids shall be submitted to the Town Clerk's Office and shall be identified as to bidder, project, and "Bid" on the envelope. Bids shall be opened by Town staff in public at the time and place stated in the notice inviting bids. A written record and tabulation shall be made at that time of all bids received, and shall be open for public inspection during regular business hours for a period of two years after the bid opening.

F. **Bid evaluation procedures.** All bids shall be analyzed by the purchasing officer or designee and the responsible department for compliance with bid specifications. The purchasing officer or designee shall prepare a recommendation to the department for award or rejection; the department shall then prepare a recommendation for award or rejection to the Town Council.

G. **Rejection of bids.** If the Town Council determines that bids are excessively high or that specifications were unclear, or if no bids are received, the Council may reject all bids presented and use whatever method it deems appropriate, such as rebid, abandon acquisition, or negotiate a contract.

H. **Award of contracts.** Contracts shall be awarded by the Council to the lowest responsive and responsible bidder whose bid fulfills the purpose intended according to criteria designated in the solicitation, provided the award amount is within the unencumbered appropriation for that item. The Council may waive any minor bid irregularities.

I. **Tie bids.** If two or more bids received are for the same total amount or unit price, quality and service being equal, and if the public interest will not permit the delay of re-advertising for bids, the Council may accept either bid or accept the lowest bid made by negotiation with the tied bidders.

J. **Performance bonds.** The Town may require a performance bond in such amount as it shall find reasonably necessary to protect the public interest. If the Town requires a performance bond, the form and amount of the bond shall be described in the notice inviting bids. (Ord. 348-04)

3.32.190 Special equipment/supplies; sole source purchases; and bid exceptions.

A. **Special Equipment/Supplies.** In purchasing any special equipment or supplies needed to be compatible with existing equipment, or to perform complex or unique functions, the purchasing officer may:

1. Limit bidding to a specific product type, or a brand name product; or
2. Utilize a request for proposal approach where warranties, servicing obligations, and product performance will be evaluated in addition to the price of the product, and the award of the contract is made by the Council to the proposal it deems is in the best public interest.

B. Sole Source Purchases. Commodities or services that can be obtained from only one vendor or one distributor authorized to sell in this area, are exempt from the competitive bidding requirements in Section 3.32.150 and are deemed sole source purchases. Sole source purchases may include proprietary items sold direct from the manufacturer. All sole source purchases shall be supported by written documentation indicating the facts and nature supporting the determination of a sole source, signed by the appropriate department head and forwarded to the purchasing officer. Approval of any sole source acquisition shall be obtained from the Town Council for an award of a contract or purchase order of \$25,000 or more.

C. Bid exceptions. The competitive bid process is not applicable to certain purchases. The following are exempt from bid processes of this chapter:

1. Departmental purchases, as defined in Section 3.32.160
2. Subscriptions
3. Trade circulars or books
4. Newspaper Advertisements and Notices
5. Utility Payments
6. Land

(Ord. 348-04)

3.32.200 Cooperative purchasing with other agencies.

The bidding requirements of Section 3.32.150 shall not apply to the purchasing of any equipment or supplies which the purchasing officer decides to obtain through a cooperative competitive bidding procedure prepared by and processed through another public, local, state, or federal governmental agency. If it is determined to be in the best interest of the Town, the purchasing officer is authorized to "piggy-back" onto or join into an existing written purchase contract, which contract was obtained within the last 12 months through a competitive bidding process prepared by and awarded by another public, local, state or federal government agency. However, the Town Council's consent shall be required prior to and for the joining of a "piggy-back" purchase or cooperative purchase for a purchase of \$25,000 or more. (Ord. 348-04)

3.32.210 Recycled supply products specification.

If in procuring supplies a recycled product can achieve the necessary Town performance standard, and if such recycled product is readily available, specifications should, if economically feasible, require products made with recycled materials be bid. If the department head determines that (1) a recycled product lacks performance capabilities or needed quality levels, or (2) a sufficient amount of such recycled or reusable product is not currently available in the market, then a reduced percentage can be required, or the supply specification can be limited to non-recycled or virgin materials. When recycled products are required, reasonable efforts shall be made to label the products as containing recycled materials. As used in this section, recycled products does not mean used products, but is limited to new products made with materials which have been recycled. (Ord. 348-04)

3.32.220 Emergencies.

Bidding procedures may be dispensed with in the case of an emergency. The Town Council delegates to the Town Manager the authority to declare a public emergency subject to confirmation by the Town Council at its next meeting for any purchase of \$25,000 or more. (Ord. 348-04)

3.32.230 Surplus supplies and equipment.

All departments shall submit to the purchasing officer, at such times and in such forms as he or she may prescribe, reports showing all supplies and equipment which are no longer used or which have become obsolete or worn out. The purchasing officer may direct that the designated supplies or equipment be:

- A. Transferred to another Town department or agency; or
- B. Exchanged or traded in on new supplies and equipment; or
- C. Disposed of in some other suitable manner, which may include sale at auction or deposit at a landfill. (Ord. 348-04)

3.32.240 Inspection and tests.

The purchasing officer or designee or department requesting the item shall inspect all deliveries of supplies and equipment to assure conformance with the contract or order specifications. The purchasing officer or designee, at his or her discretion, may require such reasonable chemical and physical tests of samples of supplies and equipment as he or she deems necessary to determine the quality in conformance with those specifications. (Ord. 348-04)

3.32.250 Personal purchases not authorized.

No goods or services for personal use or pleasure may be purchased with Town funds. The Town reserves the right to charge back the responsible party for all costs determined to be personally motivated. (Ord. 348-04)

ARTICLE III. PUBLIC WORKS PROJECTS

- 3.32.300 Uniform Construction Cost Accounting Procedures
- 3.32.310 Bidding procedures for various project amounts
- 3.32.320 Negotiate contract or purchase order procedures
- 3.32.330 Informal bidding procedures
- 3.32.340 Formal bidding procedures
- 3.32.350 Bonds
- 3.32.360 No bids received
- 3.32.370 Tie bids
- 3.32.380 Rejection of bids
- 3.32.390 Emergencies
- 3.32.400 Prevailing wages required
- 3.32.410 Pre-qualification of bidders

- 3.32.300 Uniform Construction Cost Accounting Procedures.**

The Town Council has elected to become subject to the California Uniform Public Construction Cost Accounting Act (Public Contracts Code sections 22000 and following) and to provide procedures as established by the California Uniform Construction Cost Accounting Commission. (Ord. 348-04)

3.32.310 Bidding procedures for various project amounts.

- A. A public work project of \$25,000 or less may be performed by Town force account, by negotiated contract, or by purchase order.
- B. A public work project greater than \$25,000 and less than or equal to \$100,000 may be let to contract by informal bid procedures.
- C. A public work project of more than \$100,000 shall, except as otherwise provided in this chapter, be let to contract by formal bidding procedure.
- D. The described project costs limits of subsections A through C shall be increased automatically as authorized pursuant to the adjustments made by the California Uniform Construction Cost Accounting Commission under Public Contracts Code Section 22020. (Ord. 348-04)

3.32.320 Negotiate contract or purchase order procedures.

For those projects qualifying under subsection A of Section 3.32.310, the applicable department head shall obtain a cost estimate from the project engineer or architect prior to issuing a purchase order or negotiating a contract with a responsible contractor. For any Town force account work, the department head shall first comply with the guidelines established by the California Uniform Construction Cost Accounting Commission in determining the cost of the public work. The Town Manager shall have the authority to award and to execute any contract for the public work qualifying under subsection A of Section 3.32.310. (Ord. 348-04)

3.32.330 Informal bidding procedures.

For those projects which qualify under subsection B of Section 3.32.310 for informal bidding, the following procedures shall be used:

A. **Maintenance of Contractor list.** In November of each year, the Town Engineer shall mail a written notice to all construction trade journals designated by the California Uniform Construction Cost Accounting Commission inviting all licensed contractors to submit the names of their firms to the Town for inclusion on the list of qualified contractors for the following calendar year according to category. The notice shall require that the contractor provide the name and address to which a notice to contractors or proposal should be mailed, a telephone number at which the contractor maybe reached, the type or category of work in which the contractor is interested and currently licensed to do, together with the class of the contractor's license or licenses held and the contractor's license number or numbers. The Town Engineer may create a new contractor's list starting January 1st of each year which shall include, at a minimum, all contractors who submitted one or more valid bids to the Town during the preceding calendar year and all contractors who have properly provided the Town Engineer with the information required to be added to the list. A contractor may be added to the list at any time by providing the required information.

B. **Notice.** The Town Engineer shall prepare a notice inviting bids.

1. Contents of Notice. The notice inviting bids shall include a general description of the services and/or articles to be purchased, where bid blanks and specifications may be obtained, the time and place for bid openings, and whether bid deposit or bond and faithful performance bond will be required.

2. Mailing of Notice. Unless the product or service is proprietary, all contractors on the Town's list for the category of work being bid shall be mailed a notice inviting informal bids, or an announcement/advertisement shall be placed in all construction trade journals, or both such mailing and advertising. The trade journals shall be those identified by the California Uniform Construction Cost Accounting Commission as appropriate for this area, in accordance with California Public Contract Code Section 22036.

3. 10 day notice. All mailing of notices to contractors and construction trade journals pursuant to subdivision 2 shall be completed not less than 10 calendar days before bids are due.

4. Proprietary Products or Services. If the product or service is proprietary in nature such that it can be obtained only from a certain contractor or contractors, the notice inviting bids may be sent exclusively to such contractor or contractors.

5. Other Notice. In addition to notice required by this section, the Town may give other notice as it deems proper.

C. **Award.** The Town Council shall award the contract to the lowest responsive and responsible bidder whose bid or proposal fulfills the purpose intended according to criteria designated in the solicitation. The Council may waive any minor bid irregularities.

D. **Bids in excess of statutory amount.** If all bids received are in excess of \$100,000, or in the amount as automatically increased pursuant to subsection D of Section 3.32.310, the Town Council may by passage of a resolution by a four-fifth (4/5) vote award the contract up to \$110,000, or 110% of the increased amount, to the lowest responsible bidder if it determines the cost estimate of the Town was reasonable. (Ord. 348-04)

3.32.340 Formal bidding procedures.

For those projects which qualify under subsection C of Section 3.32.310 for formal bidding, the following procedures shall be used:

A. **Adoption of plans.** Prior to soliciting bids, the Town Council shall approve and adopt the plans, specifications and working details, and authorize the bid request for all public work projects in excess of \$100,000 or in the amount as automatically increased pursuant to subsection D of Section 3.32.310.

B. **Notice.** The Town Clerk shall prepare a notice inviting bids.

1. Contents of Notice. The notice inviting bids shall state the time and place for the receiving and opening of sealed bids and distinctly describe the project.

2. Publication of Notice. The notice shall be published at least once 14 calendar days before the date of opening the bids in a newspaper of general circulation which is circulated within the jurisdiction of the Town.

3. Mailing of Notice. The notice inviting formal bids shall also be mailed to all

construction trade journals specified by the California Uniform Construction Cost Accounting Commission as appropriate for the area. The notice shall be mailed at least 30 calendar days before the date of opening the bids.

4. Other Notice. In addition to notice required by this section, the Town may give other notice as it deems proper.

C. **Bid Opening Procedure.** Sealed bids shall be submitted to the Town Clerk's Office and shall be identified as to bidder, project, and "Bid" on the envelope. Bids shall be opened by the Town Clerk's staff in public at the time and place stated in the notice inviting bids. A written record and tabulation shall be made at that time of all bids received, and shall be open for public inspection during regular business hours for a period of two years after the bid opening. The Town Engineer Director shall make an analysis of the bids for compliance with bid specifications and thereafter make a recommendation for award or rejection.

D. **Award.** Contracts shall be awarded by the Council to the lowest responsive and responsible bidder whose bid fulfills the purpose intended, according to criteria designated in the solicitation. The Council may waive minor bid irregularities. (Ord. 348-04)

3.32.350 Bonds.

A. The Town shall require performance, bid and/or labor and materials bonds from an acceptable surety in such amounts as it finds reasonably necessary to protect the public interest. If the Town requires a bond, the form and amount of the bond shall be described in the notice inviting bids.

B. Unsuccessful bidders shall be entitled to the return of bid security within 60 days of the date of the award. However, the lowest responsive and responsible bidder shall forfeit all or part of its bid security, as may be determined by the Council, upon the bidder's refusal or failure to execute the contract within 10 days after the date of the award of the contract or such longer period as permitted by the Town. On the refusal or failure of the lowest responsive and responsible bidder to execute the contract, the Council may award the contract to the next lowest responsible bidder. (Ord. 348-04)

3.32.360 No Bids Received.

If no bids are received through the formal or informal procedure, the project may be performed by Town employees by force account or by negotiated contract without further complying with this article. (Ord. 348-04)

3.32.370 Tie Bids.

If two or more bids received are for the same total amount or unit price, quality and service being equal, and if the public interest will not permit the delay of readvertising for bids, the Council may accept either bid. (Ord. 348-04)

3.32.380 Rejection of bids.

In its discretion, the Council may reject any bids presented. If after the first invitation of

bids all bids are rejected, the Town shall state the reasons for the rejection and after reevaluating its cost estimates of the project, the Town shall have the option for any of the following:

- A. Abandoning the project; or
- B. Readvertising for bids in the manner described in this article;
- C. By passage of a resolution by a four-fifths (4/5) vote of the Council declaring that the project can be performed more economically by Town employees, may have the project done by force account without further complying with this article. (Ord. 348-04)

3.32.390 Emergencies.

- A. In cases of emergency as defined in this article, the Town, pursuant to a four-fifths (4/5) vote of the Council may proceed at once to replace or repair any public facility, taken any directly related and immediate action required by that emergency, and procure the necessary equipment, services, and supplies for those purposes, without adopting plans, specifications, working details, or giving notice for bids to provide contracts. The work may be done by Town employee, day labor, contractors, and/or other public agencies.
- B. The Town Manager may order any action under this section subject to the provisions of California Public Contract Code Section 22050. (Ord. 348-04)

3.32.400 Prevailing wages required.

Public work contracts are subject to prevailing wage requirements as set forth in Labor Code Sections 1720 and following, as they may be amended from time to time. (Ord. 348-04)

3.32.410 Pre-qualification of bidders.

Prospective bidders on a public works project may be required to be pre-qualified in accordance with procedures approved by the Council, subject to the provisions of California Public Contract Code Section 20101. (Ord. 348-04)

ARTICLE IV. PROFESSIONAL OR SPECIAL SERVICES

- 3.32.500 Award of professional and special service contracts based upon competence
- 3.32.510 Requests for proposals/qualifications
- 3.32.520 Contracting authority

3.32.500 Award of professional and special service contracts based upon competence

In contracting for those professional and special services as defined in section 3.32.020, such contracts should only be awarded to firms or persons who have demonstrated an adequate level of experience, competence, staffing and other professional qualifications necessary for more than a satisfactory performance of the services required. Once the department requesting the service has determined a firm has an adequate level of competence, the cost of the service may be considered. However, the lowest cost may not be the sale factor in deciding which firm or whom shall be awarded the contract. It may be in the Town's best interest to award the contract to a higher priced contractor based on the scope of services available, unique skills, staffing levels, timing, prior experience, past working relationship and other factors required by the department or proposed by that contractor. The information needed for determining that level of competence, other qualifications and the procedure for selecting such services shall be determined by each Town department responsible for recommending the professional or special service contract. (Ord. 348-04)

3.32.510 Requests for Proposals/Qualifications.

The acquiring of professional or special services shall be procured through negotiated contract and may include requests for proposals/ qualifications. Contracting for professional or special services is decentralized and shall be the responsibility of the department head requesting the service. (Ord. 348-04)

3.32.520 Contracting Authority.

The Town Manager may approve professional service contracts up to and including \$25,000. The Town Council shall approve professional or special service contracts greater than \$25,000. (Ord. 348-04)

Chapter 3.36

DAMAGES CLAIMS AGAINST THE TOWN

Sections:

[3.36.010 Definitions.](#)

[3.36.020 Filing of claims.](#)

[3.36.030 Insurance authorized.](#)

3.36.010 Claims for damages--Definitions.

As used in this chapter, the phrase "public property" includes any vehicle, implement or machinery owned by the Town or operated by or under the direction or authority or at the request of any public officer of the Town. The phrase "public officer" includes any deputy, assistant, agent or employee of the Town acting within the scope of his or her office, agency or employment. (Ord. 269-99)

3.36.020 Filing of claims.

Whenever it is claimed that any person has been injured or any property damaged as a result of the dangerous or defective condition of any public street, highway, building, park, grounds, works, or property of the Town or the negligence or carelessness of any public officer, or a claim or demand is made against the Town by any person claiming injury to persons or property damage for any cause or reason, either in or outside of the Town, a verified claim for damages shall be presented in writing and filed with the Town Clerk, within the time specified by the Government Code. Such claim shall conform as to content to the requirements of the Government Code. The Town may prepare a claim form that complies with the Government Code's requirements, and a claim may be presented on such form. (Ord. 269-99)

3.36.030 Insurance authorized.

The Town may insure its officers against any liability other than a liability which may not be insured against under the provisions of the Workers' Compensation and Insurance Law (Labor Code sections 3201 and following) for injuries or damages resulting from the dangerous or defective conditions of public streets, highways, buildings, parks, grounds, works and property, and due to their alleged negligence or carelessness as specified in this chapter, either by self-insurance or in any insurance company authorized to transact the business of such insurance in the State. The premium for such insurance shall be a proper charge against the public treasury of the Town. (Ord. 269-99)

TITLE 4
(Reserved)

TITLE 5

BUSINESS TAXES, LICENSES AND REGULATIONS

Chapters:

- [5.04 Business Licenses Generally](#)
- [5.08 Bingo](#)
- [5.12 Cable Television](#)
- [5.20 Peddlers and Solicitors](#)
- [5.28 Garage, Yard, Estate and Rummage Sales](#)

Chapter 5.04

BUSINESS LICENSES GENERALLY

Sections:

ARTICLE I. GENERAL PROVISIONS

- [5.04.010 Purpose](#)
- [5.04.020 Definitions](#)
- [5.04.030 Requirements not exclusive](#)
- [5.04.040 Applicability](#)

ARTICLE II. ADMINISTRATION

- [5.04.050 Duties of Tax Collector](#)
- [5.04.060 Additional administrative powers of Tax Collector](#)
- [5.04.070 Administrative rules and regulations](#)
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ARTICLE III. LICENSE REQUIREMENTS AND EXEMPTIONS

- [5.04.100 License required](#)
- [5.04.110 Separate license required for each place of business](#)
- [5.04.120 Application for exemption--Revocation](#)
- [5.04.130 Constitutional apportionment](#)
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ARTICLE IV. APPLICATION AND ISSUANCE

- 5.04.160 License--Application
- 5.04.170 License--Contents
- 5.04.180 License--Filing of incorrect information

ARTICLE V. LICENSE TAX

- 5.04.190 Rates--Classifications of businesses
- 5.04.200 Mechanical amusement devices or musical devices
- 5.04.210 Other businesses
- 5.04.220 Separate and outside businesses

ARTICLE VI. LICENSE TERMS AND CONDITIONS

- 5.04.230 Time and manner of payment
- 5.04.240 License not transferable--Tax not refundable
- 5.04.250 Change of business location
- 5.04.260 Duplicate licenses
- 5.04.270 Display of licenses

ARTICLE VII. ENFORCEMENT AND PENALTIES

- 5.04.280 General enforcement procedures
- 5.04.290 Revocation and suspension--Grounds
- 5.04.300 Revocation and suspension--Procedures
- 5.04.310 Penalty for violation
- 5.04.320 Penalty for failure to exhibit license on demand
- 5.04.330 Penalty for failure to pay tax when due
- 5.04.340 License tax a debt
- 5.04.350 License does not permit business otherwise prohibited

ARTICLE I. GENERAL PROVISIONS

5.04.010 Purpose.

This chapter is enacted primarily to raise revenue for municipal purposes, and is not intended for regulation, except as provided for in specific sections. (Ord. 15, 1965: Ord. 269-99)

5.04.020 Definitions.

In this chapter, unless the context otherwise requires:

"Business" means and includes a profession, trade and occupation and every kind of calling, whether or not carried on for profit.

"Tax Collector" means the Finance Director/Treasurer. (Ord. 15, 1965: Ord. 269-99)

5.04.030 Requirements not exclusive.

Each person required to pay a license tax for transacting and carrying on a business under this chapter is not relieved from the payment of a license tax for the privilege of doing that business required under any other ordinance of the Town. (Ord. 15, 1965: Ord. 269-99)

5.04.040 Applicability.

This chapter shall not be construed to require any person to obtain a license prior to doing business within the Town or to pay the taxes required by this chapter, if such requirement conflicts with the Constitution of the United States or State, or any applicable statutes. (Ord. 15, 1965: Ord. 269-99)

ARTICLE II. ADMINISTRATION

5.04.050 Duties of Tax Collector.

The Tax Collector shall administer and enforce this chapter. (Ord. 15, 1965: Ord. 269-99)

5.04.060 Additional administrative powers of Tax Collector.

The Tax Collector may:

- A. Extend the time for filing information required for a period of not more than 30 days;
- B. Compromise disputed claims as to license tax;
- C. Adopt forms and prescribe information to be given in the forms. (Ord. 15, 1965: Ord. 269-99)

5.04.070 Administrative rules and regulations.

The Council may by resolution adopt administrative rules and regulations necessary to carry out this chapter. (Ord. 15, 1965: Ord. 269-99)

5.04.080 Confidentiality of information.

A. Information furnished to the Tax Collector under the provisions of this chapter shall be confidential. It is unlawful for the Tax Collector or any other person to disclose, permit the inspection of, or to permit the copying of any other statement or record furnished by any person under the requirements of this chapter or any abstract of such records made by the Tax Collector. It is not unlawful, however, to release the identity, business address, and telephone number of persons taxed or licensed under this chapter, the date on which any such license was issued or tax paid, the number assigned by the Tax Collector to any such license, the classification of such license or tax and the type of business or occupation licensed or taxed.

B. Nothing in this section shall be construed to prevent:

1. The disclosure to, or the examination of records and equipment by, another Town official, employee, or agent for collection of taxes for the sole purpose of administering or enforcing any provisions of this chapter, or collecting taxes imposed under this chapter.

2. The disclosure of information and results of examination of records of particular taxpayers, or relating to the particular taxpayers, to a court of law in a proceeding brought to determine the existence or amount of any license tax liability of the particular taxpayer to the Town, or to a court of law in any proceeding where such disclosure has been ordered by the court.

3. The disclosure, after the filing of a written request to that effect, to the taxpayer, or to the taxpayer's successors, receivers, trustees, executors, administrators and assigns, if directly interested, of information as to the items included in the measure of any paid tax, any unpaid tax or amounts of tax required to be collected, interest and penalties; however, the Town Attorney shall approve each such disclosure referred to in this subdivision, which approval may be withheld if the Town Attorney believes that the public interest would suffer.

4. The disclosure, at a public meeting or otherwise, of such information as may be necessary to permit the Council to act on any matter concerning a particular taxpayer under this chapter.

5. The disclosure of general statistics regarding taxes collected or business done in the Town.

6. The disclosure to State agencies of information as required by State law. (Ord. 15, 1965: Ord. 269-99)

5.04.090 Appeals.

A person aggrieved by a decision of the Tax Collector or of another officer of the Town made under this chapter may appeal the decision to the Council pursuant to Chapter 1.30 of this code. (Ord. 15, 1965: Ord. 269-99)

ARTICLE III. LICENSE REQUIREMENTS AND EXEMPTIONS

5.04.100 License required.

It is unlawful for a person to transact and carry on a business, trade, profession, calling or occupation in the Town without a license from the Town or without complying with this chapter. The Town may not issue a license to a person to engage in a business when this chapter or any other ordinance of the Town requires that a person obtain a permit as a prerequisite to engaging in a business, until such permit is obtained first. A business license issued to a person who has not first obtained a permit in accordance with law is void. (Ord. 15, 1965: Ord. 269-99)

5.04.110 Separate license required for each place of business.

A separate license must be obtained for each branch establishment or separate place of business in which a business is carried on. A warehouse or distributing plant used in connection with and incidental to a business licensed under this chapter is not a separate place of business or branch establishment within the meaning of this section. (Ord. 15, 1965: Ord. 269-99)

5.04.120 Application for exemption--Revocation.

A. This chapter does not apply to a person carrying on a business which is exempt because of the Constitution of the United States or a statute of the State from the payment of a business license tax.

B. A person claiming an exemption from this chapter shall file a verified statement with the Tax Collector stating the facts upon which the exemption is claimed. Upon a proper showing contained in the verified statement, the Tax Collector shall issue a license to the applicant claiming the exemption without payment of the license tax.

C. The Tax Collector may, after giving notice and a reasonable opportunity for hearing to a licensee, revoke the license granted under this section upon information that the licensee is not entitled to the exemption claimed. (Ord. 15, 1965: Ord. 269-99)

5.04.130 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 to be violative of the equal protection and due process clauses of the constitutions of the United States and the State.

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

1. Such application may be made before, at, or within six months after payment of the prescribed license tax.

2. Any such application shall be accompanied by a sworn statement or statements stating with particularity the burden or violation alleged.

3. Upon such application, the collector shall conduct an investigation and, after first having obtained the written approval of the Town Attorney, shall fix as the license tax for the applicant an amount that is reasonable and nondiscriminatory, or if the license tax has already been paid, 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 any 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 prescribed by this chapter. (Ord. 15, 1965: Ord. 269-99)

5.04.140 Charitable, nonprofit organizations and activities--Exemption.

The following organizations and activities are exempt from payment of the license tax:

A. Business conducted at a charitable or nonprofit institution or organization for a charitable purpose or from which no profit is earned. For the purpose of this chapter, charitable organizations are generally those which do not utilize more than 25 percent of their receipts for administrative or collection purposes.

B. The conduct of entertainment, concert, exhibition or lecture on scientific, historical, literary, religious or moral subjects, whenever the receipts are for a religious, educational or charitable purpose.

C. The conduct of entertainment, dance, concert, exhibition or lecture by a religious, charitable, fraternal, educational, amateur theatrical group, military, state, county or municipal organization or association, whenever the receipts are for the purpose and objects for which the organization or association is formed, and from which profit is not derived, directly or indirectly, by any individual. However, nothing in this section shall be deemed to exempt any such organization or association from complying with any of the provisions of this chapter requiring a license from the Town to conduct, manage or carry on any profession, trade, calling or occupation. (Ord. 15, 1965: Ord. 269-99)

5.04.150 Exemption from tax does not exempt requirement for license.

The exemptions from payment of license tax granted by Sections 5.04.120 and 5.04.130 of this chapter do not exempt the person conducting the business from complying with the license regulations of this chapter. (Ord. 15, 1965: Ord. 269-99)

ARTICLE IV. APPLICATION AND ISSUANCE

5.04.160 License--Application.

A person required to have a license under this chapter shall file a sworn statement with the Tax Collector upon a form prescribed by the Tax Collector. (Ord. 15, 1965: Ord. 269-99)

5.04.170 License--Contents.

The application shall contain:

- A. The exact nature or kind of business for which the license is requested.
- B. The place where such business is to be carried on, and if the business is not carried on at any permanent place, the places of residence of the owners of the business.
- C. If the application is for a person doing business under a fictitious name, the application shall set forth the names and places of residence of those owning the business.
- D. If the application is for a corporation, limited liability company, partnership or similar form of entity, the application shall set forth the names and places of residence of the officers, managers, or partners of the entity.
- E. Such other information as the Tax Collector prescribes. (Ord. 15, 1965: Ord. 269-99)

5.04.180 License--Filing of incorrect information.

- A. If a person fails to file a required statement, or, if after demand by the Tax Collector, a person fails to file a corrected statement, the Tax Collector may determine the amount of license tax due, using the information the collector is able to obtain.
- B. When the Tax Collector makes the determination, notice of the amount shall be given to the person at such person's last known address. Within 15 days after notice is served or mailed, the person may appeal the decision to the Town Council pursuant to chapter 1.30. (Ord. 15, 1965: Ord. 269-99)

ARTICLE V. LICENSE TAX

5.04.190 Rates--Classifications of businesses.

Every person who transacts and carries on a business enumerated in this section shall pay an annual license tax as follows:

Business Annual License Tax

Retail sale of goods, wares or merchandise: stationary or established customer routes. Representatives of a firm with an established route shall pay the fee	\$ 20.00
Wholesaling of goods, wares or merchandise	20.00
Wholesaling of goods, wares or merchandise with no fixed place of business within the Town	20.00
Manufacturing, fabricating or processing	20.00
Sales of services at retail	20.00
General, electrical, plumbing contractor or other contractor not specified with a fixed place of business within the Town	20.00
General, electrical, plumbing contractor or other contractor not specified with no fixed place of business within the Town	20.00
Private practice of a profession	20.00
Peddlers and solicitors	100.00
Restaurants	20.00
Bar or tavern	20.00
Real estate broker	20.00

Apartments of three or more units	20.00
Laundry or dry cleaner	20.00
Mobilehome parks (Ord. 15, 1965; Ord. 80, 1973; Ord. 269-99)	20.00

5.04.200 Mechanical amusement devices or musical devices.

A. Every person (1) who permits a mechanical amusement device or a musical device to be played or operated in his or her place of business or place under his or her control, or (2) who installs or (3) maintains a mechanical amusement device or musical device in a place where it can be played or operated by persons in or about the place, or in whose place of business a mechanical amusement device is placed for the use, patronage or recreation of the public or persons in or about the place, shall pay an annual license tax of \$20 for each device.

B. As used in subsection (A) "mechanical amusement device" means a machine or device, which, upon the insertion of a coin, plug or token, operates or may be operated for use as a game, contest or amusement.

C. As used in subsection (A) "musical device" means a jukebox or other machine or device, which, upon the insertion of a coin, plug or token, operates or may be operated to supply music or sound. (Ord. 15, 1965; Ord. 80, 1973; Ord. 269-99)

5.04.210 Other businesses.

For carrying on a trade, occupation, calling or business not otherwise specified, the annual license tax is \$20. (Ord. 15, 1965; Ord. 80, 1973; Ord. 269-99)

5.04.220 Separate and outside businesses.

A. If a person conducts more than one business at the same location, each business is subject to a license tax.

B. Every person who does not have a fixed place of business within the Town who engages in business within the Town shall pay a license tax in the same amount as that prescribed for a person engaging in a similar business who has a fixed place of business within the Town, unless a different tax is expressly called for in this chapter. (Ord. 15, 1965; Ord. 80, 1973; Ord. 269-99)

ARTICLE VI. LICENSE TERMS AND CONDITIONS

5.04.230 Time and manner of payment.

Each annual license tax is due and payable in advance on July 1st of each year. The annual license tax for a period of less than one year shall be prorated as follows:

- A. For a period of 9 months or more, 100% of the annual tax;
- B. For a period of more than 6 months and less than 9 months, 75% of the annual tax;
- C. For a period of more than three months and less than 6 months, 50% of the annual tax;
- D. For a period of more than 1 month and less than 3 months, 25% of the annual tax. (Ord. 15, 1965; Ord. 80, 1973; Ord. 269-99)

5.04.240 License not transferable--Tax not refundable.

A license issued under this chapter is not transferable, except as to location as provided in Section 5.04.270. Furthermore, any license tax paid is not refundable. (Ord. 15, 1965; Ord. 80, 1973; Ord. 269-99)

5.04.250 Change of business location.

If a licensee holds a license for the transaction of business at a specified location, and the licensee changes the place of business, the license may apply to the Tax Collector for the transfer of the license to the new place of business. The fee for the transfer is \$5 dollars. (Ord. 15, 1965; Ord. 80, 1973; Ord. 269-99)

5.04.260 Duplicate licenses.

If a license is lost or destroyed, the Tax Collector may issue a duplicate license, upon application by the licensee. The fee for a duplicate license is \$5. (Ord. 15, 1965; Ord. 80, 1973; Ord. 269-99)

5.04.270 Display of licenses.

Each license shall be displayed in the following manner:

- A. A license for carrying on business at a fixed place of business shall be posted in a conspicuous place upon the premises where the business is carried on.
- B. A license for carrying on business which has no fixed place of business shall be kept upon the person at all times while carrying on business.