

Title 3 - REVENUE AND FINANCE

Chapters:

Chapter 3.04 - PREFERENCE FOR LOCAL VENDORS IN CONTRACTING FOR EQUIPMENT, MATERIALS, SUPPLIES AND SERVICES ALLOWED

Sections:

3.04.010 - Findings and purpose.

Local businesses that provide equipment, materials, supplies and services within the City of Colfax are at a competitive disadvantage because doing business within the city is more expensive than doing business in a more urban environment. The lack of demand for equipment, materials and supplies from city-based businesses inhibits the availability of volume discounts and generally results in higher costs and, therefore, higher bids from local businesses who respond to requests for proposals for equipment, materials, supplies and services. The purpose of this chapter is to create a circumstance in which every local provider, as defined, will be able to effectively compete when responding to solicitations for proposals for equipment, materials, supplies and services and when otherwise contracting with the city.

(Ord. No. 510, 3-10-2010)

3.04.020 - Definitions.

Unless the particular provisions or the context otherwise requires, the definitions contained in this section shall govern the construction, meaning, and application of words and phrases used in this chapter.

"Bidder" shall mean any person, including any corporation, partnership, limited liability company or similar business entity, that submits a response to a competitive invitation by the city for the purchase of equipment, materials, supplies or services.

"Bid" or "bids" shall include any competitive or other bid or proposal submitted at the invitation of the city for the purchase of equipment, materials, supplies or services.

"City" shall mean and refer to the City of Colfax.

"Eligible local provider" shall mean and refer to a local provider who is an otherwise responsible bidder and otherwise responsive to the city's invitation for bids or to the city's request for the provision of equipment, materials, supplies or services.

"Local provider" shall mean and refer to a supplier or provider of equipment, materials, supplies or services that meets all of the following criteria:

- A. Has an established place of business within the city;
- B. Has a current city business license;
- C. Has paid all currently due business license fees and taxes; and
- D. Began doing business within the city at least one year prior to the city's inviting bids or quotations for the respective purchase.

"Responsible" shall mean a bidder's quality, fitness, and capacity to perform or otherwise meet the particular requirements of the contract, purchase order or request for quotations.

"Responsive" means a bidder's compliance with the instructions and requirements established by the city and set forth in the contract, purchase order or request for quotations.

(Ord. No. 510, 3-10-2010)

3.04.030 - Preference for local providers.

The provisions of this chapter and the local preference established pursuant to this chapter shall be applicable to the following types of purchases or contracts let in excess of five thousand dollars (\$5,000.00) and pursuant to either a formal or an informal bid:

- A. Purchases, orders or contracts for the purchase of supplies, materials and equipment; and
- B. Purchases or contracts for nonprofessional services.

(Ord. No. 510, 3-10-2010)

3.04.040 - Exceptions to preference for local providers.

The provisions of this chapter and the local preference established pursuant to this chapter shall not be applicable to the following types of purchases or contracts:

- A. Purchases or contracts for professional services;
- B. Public works activities performed by city employees or agents;
- C. Emergency purchases;
- D. Direct or sole purchases made by the city; and
- E. Purchases or contracts where legal constraints on the expenditure of funds prohibit the application of the local preference or those contracts funded by the federal or state government, including federal or state loan or grant funding, when such funding would be jeopardized by application of the local preference.

(Ord. No. 510, 3-10-2010)

3.04.050 - Reduction of bid by eligible local provider.

- A. In contracting for equipment, materials, supplies or services as specifically set forth in this chapter, the city shall grant preference to a local provider who submits a bid within ten (10) percent of the lowest responsible bidder and who is otherwise responsive and responsible to the invitation for bids. The preference shall allow the local provider the opportunity to reduce its bid by an amount up to ten (10) percent if the otherwise lowest responsive, responsible bid is submitted by other than an eligible local provider. In the event an eligible local provider reduces its bid pursuant to this section and results in that bidder having submitted a bid equal to or less than the amount of the lowest responsive, responsible bid, the eligible local provider shall be deemed to have provided the lowest responsive, responsible bid and shall be awarded the contract.
- B. The preference and opportunity to reduce the amount of the bid shall be provided first to the lowest eligible local provider and, if not accepted by such eligible local provider within five business days of the opening of the bids, then to each successive eligible local provider within ten (10) percent of the lowest responsive, responsible bid, in ascending order of the amount of the bids.
- C. The local provider shall certify under penalty of perjury, as a part of its bid and in a form and manner as required by the city, that the bidder qualifies as a local provider. The preference established in this chapter shall be waived if the certification does not appear on the respective bid.
- D. The application of a local preference as set forth in this chapter shall not exempt any eligible local provider to which a contract is let or awarded from having to pay all applicable federal, state or local sales tax or other taxes.

(Ord. No. 510, 3-10-2010)

3.04.060 - Penalty.

Any otherwise eligible local provider that submits false information to the city in an attempt to qualify for the bid reduction allowed pursuant to section 3.04.050 shall be prohibited from contracting with the city for a period of one year. This penalty shall be in addition to any other penalty or punishment allowed by law.

(Ord. No. 510, 3-10-2010)

3.04.070 - Procurement policy.

The city manager, or the city manager's designee, shall draft a procurement policy to implement the intent of this chapter and establish procurement guidelines for the city. Upon approval thereof by the city council, the rules and regulations contained in the procurement policy shall have the same force and effect as this chapter. All provisions of the procurement policy shall be subject to modification by resolution of the city council.

(Ord. No. 510, 3-10-2010)

Chapter 3.08 - TRANSFER OF CITY FUNCTIONS TO COUNTY

Sections:

3.08.010 - Authority.

The provisions of this chapter are enacted under the authority of and by virtue of the provisions of Sections 51500 through 51521 of the Government Code of the state.

(Prior code § 3-3.201)

3.08.020 - Transfer of assessment and collection to county.

The assessment and tax collection duties performed by the city clerk as ex officio city assessor and by the city tax collector are transferred to the county assessor and the county tax collector, respectively.

(Prior code § 3-3.202)

3.08.030 - Withdrawal of funds from county.

Money shall be drawn from the funds of the city in the hands of the county treasurer at such times and in such manner as shall be agreed upon by the city treasurer and the county treasurer so as to provide for the delivery of such city funds in the possession of the county treasurer to the city treasurer as soon after their collection and segregation and the deduction of the compensation due the county for the performance of the duties set forth in this chapter, as shall be possible, consistent with the approved financial practices of the county.

(Prior code § 3-3.203)

3.08.040 - Copies of provisions—Filing with county and state.

Certified copies of the provisions of this chapter shall be filed with the county auditor, county assessor, county tax collector and the Board of Equalization of the state.

(Prior code § 3-3.204)

3.08.050 - Transfer of certain collections to county.

A.

Purpose and Authority.

1.

The purpose of this section is to transfer to the county of Placer for collection the county tax rolls certain charges which have been imposed pursuant to Chapters 8.20, 13.08 and 13.16 and Titles 1, 5 and 17 of this code by the city, for sewer, garbage, code enforcement and public nuisance abatement assessments related to real property.

2.

The county has required as a condition of the collection of such charges that the city warrants the legality of such charges and defend and indemnify the county from any challenge to the legality thereof.

B.

Findings. The city council finds and determines as follows:

1.

The auditor/controller of Placer County may enact for collection on the county tax rolls those taxes, assessments, fees and/or charges, assessed by a municipality on real property within the municipality's jurisdiction.

2.

The city warrants and represents that the taxes, assessments, fees and/or charges imposed by the city and being requested to be collected by Placer County comply with all requirements of state law, including but not limited to, Articles XIII C and XIII D of the California Constitution (Proposition 218).

3.

The city releases and discharges the county and its officers, agents and employees from any and all claims, demands, liabilities, costs and expenses, damages, causes of action and judgments in any manner arising out of the collection by the county of any taxes, assessments, fees and/or charges on behalf of the city.

4.

The city agrees to and shall defend, indemnify and hold harmless the county, its officers, agents and employees (the "indemnified parties") from any and all claims, demands, liabilities, costs and expenses, damages, causes of action and judgments in any manner arising out of the collection by the county of any of the city's taxes, assessments, fees and/or charges requested to be collected by the county for the city or in any manner arising out of city's establishment and imposition of such taxes, assessments, fees and/or charges. The city agrees that, in the event a judgment is entered in a court of law against any of the indemnified parties as a result of the collection of one of the city's taxes, assessments, fees and/or charges, the county may offset the amount of the judgment from any other moneys collected by the county on behalf of the city, including property tax.

5.

The city agrees that its officers, agents and employees will cooperate with the county in answering questions referred to the city by the county from any person concerning the city's taxes, assessment, fees and/or charges and that the city will not refer such persons to county officers and employees for response.

6.

Collection of Delinquent Account. The city shall be assisted by the county in the collection of unpaid bills for service provided pursuant to this section in the following manner:

a.

On July 1st of each year, the city shall provide the county with a listing of all uncollected accounts more than sixty (60) days delinquent. Such listing shall be in a form approved by the county. Upon submittal of this listing such delinquent account shall be returned to a zero balance and payment by customers shall be applied to future services.

b.

By December 1st of the same year, the county shall reimburse the city for all delinquent accounts submitted under subsection (B)(6)(a) of this section which can be independently identified by the county as valid claims against the property owners. Reimbursement to the city shall be made at one hundred (100) percent of the amount billed to the customer, with no interest or penalty.

c.

The county shall seek to directly recover from delinquent property owners the actual cost of reimbursement plus a penalty, in an amount determined by the board of supervisors, to recover administrative costs.

(Ord. 453 §§ 1, 2, 1998)

Chapter 3.12 - DOCUMENTARY TRANSFER TAX

Sections:

3.12.010 - Title—Authority.

This chapter shall be known as the "documentary transfer tax law of the city." It is adopted pursuant to the authority set forth in Part 6.7 (commencing with Section 11901) of Division 2 of the Revenue and Taxation Code of the state.

(Prior code § 3-3.101)

3.12.020 - Imposed—Rate.

There is imposed a tax on each deed, instrument or writing by which any lands, tenements or other realty sold within the city shall be granted, assigned, transferred or otherwise conveyed to or vested in, the purchaser or any other person, by his or her direction, upon the value and in the amounts specified by subsection (b) of Section 11911 of the Revenue and Taxation Code of the state.

(Prior code § 3-3.102)

3.12.030 - Payment.

The tax imposed by the provisions of Section 3.12.020 of this chapter shall be paid by those persons specified in Section 11912 of the Revenue and Taxation Code of the state.

(Prior code § 3-3.103)

3.12.040 - Exemptions.

The tax imposed by the provisions of Section 3.12.020 of this chapter shall not apply to those entities or under those conditions specified in Sections 11921 through 11925 of the Revenue and Taxation Code of the state.

(Prior code § 3-3.104)

3.12.050 - Administration.

The county recorder shall administer the provisions of this chapter in conformity with the provisions of Section 11933 of the Revenue and Taxation Code of the state. Money received by the county through the county recorder shall be allocated by the county auditor pursuant to the provisions of Section 11931 of said code. The provisions of this chapter shall be deemed to be in conformity with Part 6.7 of Division 2 of said code.

(Prior code § 3-3.105)

3.12.060 - Refunds—Claims.

Claims for the refund of the taxes imposed by the provisions of this chapter shall be governed by the provisions of Section 11934 of the Revenue and Taxation Code of the state.

(Prior code § 3-3.106)

Chapter 3.16 - SALES AND USE TAX

Sections:

3.16.010 - Title.

This chapter shall be known as the "uniform local sales and use tax law of the city."

(Prior code § 3-3.401)

3.16.020 - Rate.

The rate of the sales tax and use tax imposed by the provisions of this chapter shall be one percent.

(Prior code § 3-3.402)

3.16.030 - Operative date.

The provisions of this chapter shall be operative on January 1, 1974.

(Prior code § 3-3.403)

3.16.040 - Purpose.

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

A.

To adopt a sales and use tax law which complies with the requirements and limitations set forth in Part 1.5 of Division 2 of the Revenue and Taxation Code of the state;

B.

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

C.

To adopt a sales and use tax law which imposes a tax and provides a measure therefor that can be administered and collected by the State Board of Equalization in a manner that adapts itself as fully as practicable to and requires the least possible deviation from, the existing statutory and administrative procedures followed by the State Board of Equalization in administering and collecting the sales and use taxes of the state; and

D.

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

(Prior code § 3-3.404)

3.16.050 - Contract with State Board of Equalization.

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

(Prior code § 3-3.405)

3.16.060 - Sales taxes imposed.

For the privilege of selling tangible personal property at retail, a tax is imposed upon all retailers in the city, at the rate set forth in Section 3.16.020 of this chapter, of the gross receipts of the retailer from the sale of all tangible personal property sold at retail in the city on and after the operative date of this chapter.

(Prior code § 3-3.406)

3.16.070 - Sales taxes—Place of sale defined.

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

(Prior code § 3-3.407)

3.16.080 - Use taxes imposed.

An excise tax is imposed on the storage, use or other consumption in the city of tangible personal property purchased from any retailer on and after the operative date of this chapter for storage, use or other consumption in the city, at the rate set forth in Section 3.16.020 of this chapter, of the sales price of the property. The sales price shall include delivery charges when such charges are subject to state sales or use tax, regardless of the place to which delivery is made.

(Prior code § 3-3.408)

3.16.090 - Adoption of state law provisions.

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

(Prior code § 3-3.409)

3.16.100 - Adoption of state law provisions—Limitations.

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

(Prior code § 3-3.410)

3.16.110 - Sellers' permits.

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

(Prior code § 3-3.411)

3.16.120 - State law provisions—Amendments.

All subsequent amendments of the Revenue and Taxation Code of the state, which amendments relate to the sales and use tax and which are not inconsistent with the provisions of Part 1.5 of Division 2 of said code, shall automatically become a part of this chapter.

(Prior code § 3-3.415)

3.16.130 - Collection—Enjoining.

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

(Prior code § 3-3.416)

Chapter 3.20 - TRANSIENT OCCUPANCY TAX

Sections:

3.20.010 - Definitions.

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

"Hotel" means any space or structure or any portion of any space or structure, which is occupied or intended or designed for occupancy by transients for dwelling, lodging or sleeping purposes and includes any hotel, inn, tourist home or house, motel, studio hotel, bachelor hotel, lodginghouse, roominghouse, apartment house, breakfast house, dormitory, public or private club, mobilehome or houstrailer at a fixed location, mobilehome or houstrailer or recreational vehicle park or other similar space or structure or portion thereof.

"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 his or her 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 purpose of this chapter and shall have the same duties and liabilities as his or her 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, 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 person who exercises occupancy or is entitled to occupancy by reason of concession, permit, right of access, license or other agreement for a period of thirty (30) consecutive calendar days or less, counting portions of calendar days as full days. Any such person so occupying space in a hotel shall be deemed to be a transient until the period of thirty (30) days has expired unless there is an agreement in writing between the operator and the occupant providing for a longer period of occupancy.

In determining whether a person is a transient, uninterrupted period of time extending both prior and subsequent to the effective date of this chapter may be considered.

(Prior code § 3-6.02)

3.20.020 - Transient occupancy tax—Amount—Where payable.

A.

For the privilege of occupancy in any hotel, each transient is subject to and shall pay a tax in the amount of eight percent of the rent charged by the operator. The tax constitutes a debt owed by the transient to the city, which is extinguished only by payment to the operator or to the city.

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 city council may require that such tax be paid directly to the city clerk.

(Prior code § 3-6.03)

3.20.030 - Transient occupancy tax—Persons exempt.

No tax shall be imposed upon:

A.

Any person as to whom or any occupancy as to which, it is beyond the power of the city to impose the tax herein provided;

B.

Any federal or state officer or employee when on official business; and

C.

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

D.

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

(Prior code § 3-6.04)

3.20.040 - Transient occupancy tax—Collection.

Each operator shall collect the tax imposed by this chapter to the same extent and at the same time as the rent is collected from every transient. The amount of tax shall be separately stated from the amount of the rent charged and each transient shall receive a receipt for payment, when requested, from the operator.

(Prior code § 3-6.05)

3.20.050 - Transient occupancy registration certificate.

A.

Within thirty (30) days after the effective date of this chapter or within thirty (30) days after commencing business, whichever is later, each operator of any hotel renting occupancy to transients shall register such hotel with the city clerk and obtain from him or her a transient occupancy registration certificate to be at all times posted in a conspicuous place on the premises.

B.

Such certificate shall, among other things, state the following:

1.

The name of the operator;

2.

The address of the hotel;

3.

The date upon which the certificate was issued;

4.

"This Transient Occupancy Registration Certificate signifies that the person named on the face hereof has fulfilled the requirements of the Uniform Transient Occupancy Tax ordinance by registering with the City Clerk of the City of Colfax for the purpose of collecting from transients the Transient Occupancy Tax and remitting said tax to the City Clerk. This certificate does not authorize any person to conduct any unlawful business or to conduct any lawful business in an unlawful manner, nor to operate a hotel without strictly complying with all local applicable laws, including, but not limited to, those requiring a permit from any board, commission, department or office of this city. This certificate does not constitute a permit."

(Prior code § 3-6.06)

3.20.060 - Reports and remittances.

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 city council, make a return to the city clerk on forms provided by him or her of the total rents charged and received and the amount of tax collected for transient occupancies. At the time the return is filed, the full amount or the tax collected shall be remitted to the city clerk. The city council, by resolution, may establish shorter reporting periods for any certificate holder if it deems it necessary in order to insure collection of the tax and it may require further information in the return. Returns and payments are due immediately upon cessation of business for any reason. All taxes collected by operators pursuant to this chapter shall be held in trust for the account of the city until payment thereof is made to the city clerk.

(Prior code § 3-6.07)

3.20.070 - Failure to remit tax—Penalties.

A.

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

B.

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

C.

Fraud. If the city council determines that the nonpayment of any remittance due under this chapter is due to fraud, a penalty of twenty-five (25) percent of the amount of the tax shall be added thereto in addition to the penalties stated in subsections A and B of this section.

D.

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

E.

Penalties Merged With Tax. Every penalty imposed and such interest as accrues under the provisions of this section shall become a part of the tax herein required to be paid.

(Prior code § 3-6.08)

3.20.080 - Operator failure to collect and report tax—Determination of tax—Notice—Hearing.

If any operator shall fail or refuse to collect such tax or to make, within the time provided in this chapter, any report and remittance of such tax or any portion thereof required by this chapter, the city clerk shall proceed in such manner as he or she may deem best to obtain facts and information on which to base his or her estimate of the tax due. As soon as the city clerk shall procure such facts and information as he or she is able to obtain upon which to base the assessment of any tax imposed by this chapter and payable by any operator who has failed or refused to collect the same and to make such report and remittance, he or she shall proceed to determine and assess against such operator the tax, finance charge and penalties provided for by this chapter. In case such determination is made, the city clerk shall give a notice of the amount so assessed by serving it personally or by depositing it in the United States mail, postage prepaid, addressed to the operator so assessed at his or her last known place of address. Such operator may within ten (10) days after the serving or mailing of such notice make application in writing to the city clerk for a hearing on the amount assessed. If application by the operator for a hearing is not made within the time prescribed, the tax, finance charge and penalties, if any, determined by the city clerk shall become final and conclusive and immediately due and payable. If such application is made, the city clerk shall give not less than five days' written notice in the manner prescribed herein to the operator to show cause at a time and place fixed in such notice why such amount specified therein should not be fixed for such tax, finance charge and penalties. At such hearing, the operator may appear and offer evidence why such specified tax, finance charge and penalties should not be so fixed. After such hearing the city clerk shall determine the proper tax to be remitted and shall thereafter give written notice to the person in the manner prescribed herein of such determination and the amount of such tax, finance charge and penalties. The amount determined to be due shall be payable after fifteen (15) days unless an appeal is taken as provided in Section 3.20.090 of this chapter.

(Prior code § 3-6.09)

3.20.090 - Appeal.

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

(Prior code § 3-6.10)

3.20.100 - Records kept for three years.

It shall be the duty of every operator liable for the collection and payment to the city of any tax imposed by this chapter to

keep and preserve, for a period of three years, all records as may be necessary to determine the amount of such tax as he or she may have been liable for the collection of and payment to the city, which records the city clerk shall have the right to inspect at all reasonable times.

(Prior code § 3-6.11)

3.20.110 - Refunds.

A.

Whenever the amount of any tax, finance charge or penalty has been overpaid or paid more than once or has been erroneously or illegally collected or received by the city under this chapter, it may be refunded as provided in subsections B and C of this section; provided, a claim in writing therefor, stating under penalty of perjury the specific grounds upon which the claim is founded, is filed with the city clerk within three years of the date of payment. The claim shall be on forms furnished by the city clerk.

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 city clerk that the person from whom the tax has been collected was not a transient, was exempt from payment under Section 3.20.030 of this chapter or otherwise or erroneously paid the tax; provided, however, that neither a refund nor a credit shall be allowed unless the amount of the tax so collected has either been refunded to the person by whom it was paid or credited to rent subsequently payable by the person to the operator.

C.

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

D.

No refund shall be paid under the provisions of this section unless the claimant establishes his or her right thereto by written records showing entitlement thereto.

(Prior code § 3-6.12)

3.20.120 - Action by city to collect tax.

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

(Prior code § 3-6.13)

Chapter 3.24 - RESIDENTIAL CONSTRUCTION TAX

Sections:

3.24.010 - Revenue measure.

The council declares that the fees required to be paid pursuant to the provisions of this chapter are assessed pursuant to the taxing powers of the city and solely for the purpose of producing revenue.

(Prior code § 3-3.301)

3.24.020 - Purpose.

A.

The continued increase in the development of dwelling units in the city, with the attendant increase in the population of the city, has created an urgent need for the planning, acquisition, improvement and expansion of public parks, playgrounds and recreation facilities to serve the increasing population of the city and the means of providing additional revenues with which to finance such public facilities.

B.

The city further declares that the continued increase in the development of dwelling units in the city has created an increased need for additional firefighting and fire prevention vehicles, equipment, supplies and inventory to serve the increased population of the city and the means of providing additional revenues with which to finance the acquisition of the same.

(Prior code § 3-3.302)

3.24.030 - Definitions.

For the purposes of this chapter, unless otherwise apparent from the context, certain words and phrases used in this chapter are defined as follows:

"Addition" means any form of construction designed to create a new portion or part to an already existing structure, including the structures defined in this section.

"Bedroom" means any room containing a closet of a size sufficient to hold clothing, excluding therefrom one living room per dwelling with an entry closet.

"Dwelling, multiple" and "multiple dwelling" mean a building of permanent character, placed in a permanent location, which building is planned, designed or used for residential purposes for five or more families living independently of each other in independent dwelling units.

"Dwelling, one-family" and "one-family dwelling" mean a detached building of permanent character, placed in a permanent location, which building is planned, designed or used as a residence for one family only living independently of other families or persons.

"Dwelling, two-family, three-family, four-family" and "two-family dwelling," "three-family dwelling" and "four-family dwelling" mean a building of permanent character, placed in a permanent location where a building is planned, designed or used for residential purposes for two, three or four families living independently of each other in independent dwelling units.

"Family" means one or more persons occupying a premises and living as a single housekeeping unit as distinguished from a group occupying a hotel, club or fraternity or sorority house.

"Mobilehome" means a vehicle, other than a motor vehicle, designed or used for residential purposes for carrying persons and property on its own structure and for being drawn by a motor vehicle.

"Mobilehome lot" means any area or portion of a mobilehome park designated, designed or used for the occupancy of one mobilehome on a temporary, semi-permanent or permanent basis.

"Mobilehome park" means any area or tract of land containing one or more mobilehome lots.

"Other construction" means any building, structure or construction of any type not falling within the definition of a dwelling, either one-family, two-family, three-family, four-family or multiple or mobilehome.

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

"Residential dwelling unit" means a building or a portion of a building, planned, designed or used as a residence for one family only, living independently of other families or persons and having its own bathroom and housekeeping facilities included in such unit (for example, a one-family dwelling, each unit of a two-family, three-family or four-family dwelling, each unit of a multiple dwelling and each apartment in an apartment house).

(Prior code § 3-3.303)

3.24.040 - Imposed—Rates.

A residential construction tax is imposed on the privilege of constructing any mobilehome lot or residential dwelling unit in the city. Every person to whom a permit is issued to construct any residential dwelling unit or to construct and install electrical and plumbing equipment to service a mobilehome lot in a mobilehome park and every person who seeks a building permit for any other construction or addition thereto, including additions to residential or multiple dwellings or mobilehomes, shall pay such tax to the city at the following rates:

- A. The sum of one percent of all building permit valuations for each one-family dwelling constructed;
- B. The sum of one percent of all building permit valuations for each residential dwelling unit constructed in a two-family, three-family or four-family dwelling;
- C. The sum of one percent of all building permit valuations for each residential dwelling unit containing three or more bedrooms constructed in a multiple dwelling;
- D. The sum of one percent of all building permit valuations for each residential dwelling unit containing less than three bedrooms constructed in a multiple dwelling;
- E. The sum of five hundred dollars (\$500.00) for each mobilehome, modular home or prefabricated home permanently placed in the city; and
- F. The sum of one percent of all building permit valuations for any other construction or addition.

(Prior code § 3-3.304)

3.24.050 - Payment.

The taxes set forth in Section 3.24.040 of this chapter shall be due and payable at the time the building permit or a permit to construct and install electrical and plumbing equipment to service a mobilehome lot in a mobilehome park is issued. Such taxes

shall be paid to the building inspector or his or her authorized agent at the office of the building department of the city.

(Prior code § 3-3.305)

3.24.060 - Residential construction tax fund.

All of the taxes collected pursuant to the provisions of this chapter shall be placed into a special fund which is created and established for such purpose and which shall be known as the residential construction tax fund.

(Prior code § 3-3.306)

3.24.070 - Use.

Taxes collected pursuant to the provisions of this chapter shall be used and expended to the extent of one-half of all taxes collected for the acquisition, improvement and expansion of the public park, playground and recreational facilities of the city or in accordance with applicable laws for the installation and development of playground and recreational facilities having immediate public street access owned by elementary and high school districts and devoted to public school purposes. It shall be the policy of the city to expend such taxes in accordance with the parks and recreational element of the general plan of the city. The remaining one-half of all taxes collected pursuant to the provisions of this chapter shall be expended for the acquisition of additional firefighting and fire prevention vehicles, equipment, supplies and inventory and to provide for the replacement of the same as deemed necessary by the council.

(Prior code § 3-3.307)

3.24.080 - Land dedication in lieu of taxes.

At the option of the landowner and the city, land which is found by the planning commission and the council to be designated for park and recreation uses in the park and recreation element of the general plan of the city may be dedicated to the city for park purposes in lieu of the payment of all or a portion of the taxes required by this chapter otherwise due. The amount of land to be dedicated and the amount of credit to be given, if any, shall be at the sole discretion of the council.

(Prior code § 3-3.308)

Chapter 3.28 - ANNEXATION FEES

Sections:

3.28.010 - Annexation fees.

The following fees shall be charged for processing annexations of inhabited or uninhabited territory to the city:

A. Annexation and pre-zoning	Actual city costs (minimum \$1,445.00 deposit)
B. LAFCO	As specified
C. Environmental review	
1. Environmental questionnaire	\$150.00
2. Environmental impact report	\$750.00 + actual consultant costs
D. General plan amendment/zoning	\$500.00 for 4 or less parcels: additional \$125.00 per parcel over 4
E. Police and fire impact	
1. Uninhabited acreage	\$550.00
2. Inhabited acreage	\$1,100.00
F. Wastewater system impact	Sewer impact fees shall be assessed pursuant to Section 13.08.090 of this code for wastewater system impact at the time of connection to the city's sewerage system

(Ord. 475 § 2(a), 2002; Ord. 427 § 5, 1994; prior code § 3-4.01)

Chapter 3.32 - LANDFILL EQUITY BUY-IN FEES

Sections:

3.32.010 - Purpose.

The purpose of this chapter is to assess a development impact mitigation fee on all new land development projects within the city which will reimburse the city for the expense of purchasing future solid waste disposal capacity at the Western Regional Landfill in order to serve new development.

(Prior code § 3-7.01)

3.32.020 - Definitions.

For the purposes of this chapter, unless otherwise apparent from the context, certain words and phrases used in this chapter

are defined as follows:

"Commercial facility" means any structure, premises or facility used for manufacturing, processing or similar industrial uses and shall include all uses permitted only within an industrial zone pursuant to the provisions of Title 17 of this code, except residential and commercial uses.

"Dwelling unit" means a single unit providing complete and independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation and shall include a mobilehome.

"New land development projects" means all projects for which a land development permit is required to construct previously nonexisting residential, commercial or industrial facilities. Land development permits include minor and major subdivisions and site plan and architectural review approvals. Projects consisting of remodeling, rehabilitation, reconstruction or expansion of accessory uses shall be excluded.

"Residential facility" means any dwelling unit or combination of dwelling units, whether located in a single-family structure, multi-family structure, apartment, condominium or other combination of multiple dwelling units, except hotels and motels.

(Prior code § 3-7.02)

3.32.030 - Fee schedule.

A one-time fee shall be collected at the time of building permit issuance, as determined by the building official, according to the following schedule:

A.

Residential facility: each equivalent dwelling unit = forty-seven dollars (\$47.00).

B.

Commercial and industrial facilities: two thousand (2,000) SF or less gross floor space = forty-seven dollars (\$47.00).
Over two hundred (200) SF of gross floor space = forty-seven dollars (\$47.00) for each two thousand (2,000) SF or proportion thereof to the nearest one hundred (100) SF.

(Prior code § 3-7.03)

Chapter 3.36 - RECREATIONAL FACILITY FEES

Sections:

3.36.010 - Purpose.

The purpose of this chapter is to impose user fees for the use of recreational facilities owned, operated or controlled by the city.

(Ord. 388 § 1 (part), 1992: prior code § 3-8.01)

3.36.020 - Fee schedule.

The city council shall adopt, by resolution, a user fee schedule for use of city-owned, operated or controlled recreational facilities.

(Ord. 388 § 1 (part), 1992: prior code § 3-8.02)

Chapter 3.40 - FINANCING OF INTERIM SCHOOL FACILITIES

Sections:

3.40.010 - Purpose.

The purpose of this chapter is to provide methods for financing interim classroom and related facilities for elementary and high schools where it has been determined that conditions of overcrowding exist so that the impact of new residential developments on the schools will be mitigated.

(Prior code § 3-5.01)

3.40.020 - Definitions.

For the purposes of this chapter, unless otherwise apparent from the context, certain words and phrases used in this chapter are defined as follows:

"Classroom and related facilities" means capital improvements as defined in the Education Code of the state.

"Conditions of overcrowding" means that the total enrollment of an attendance area, including the enrollment from proposed developments, exceeds the capacity of such attendance area as determined by the governing body of the district.

"Reasonable methods for mitigating conditions of overcrowding" means and includes, but is not limited to, agreements between a subdivider and the effected school district whereby temporary-use buildings will be leased to the school district or

temporary-use buildings owned by the school district will be used.

"Residential development" means a project containing residential dwellings, including mobilehomes, of one or more units or a subdivision of land for the purpose of constructing one or more residential dwelling units.

"Yield rate" means the average number of students per residential unit within the several school districts as determined by demographic studies conducted by the school districts. A yield rate shall be provided by the school districts for each of the following classifications of residential units:

1. Single-family residences;
2. Duplexes;
3. Apartment buildings (per apartment); and
4. Mobilehomes.

For the purposes of this section, condominium or townhouse units shall be classified as apartment units.

(Prior code § 3-5.02)

3.40.030 - School district findings.

A.

Notices of Findings. The governing body of a school district which operates an elementary or high school shall notify the city if the governing body makes a finding supported by clear and convincing evidence that:

1. Conditions of overcrowding exist in one or more attendance areas within the district serving the city, which conditions will impair the normal functioning of educational programs. The reason for such conditions existing shall be stated; and
2. All reasonable methods of mitigating conditions of overcrowding have been evaluated and no feasible method for reducing such conditions exist.

B.

Mitigation Measures. The notice of findings sent to the city shall specify the mitigation measures considered by the school district. Mitigation measures to be considered by the school district shall include, but not be limited to, the following:

1. School bond elections;
2. Double sessions;
3. Adjustment of interior and exterior school attendance boundaries; and
4. Bussing of students to other schools within the district.

With respect to each such mitigation measure considered, the district's findings shall state in detail how such mitigation measure was evaluated, why it is not feasible to utilize such mitigation measure and why such mitigation measure, if used, would not serve to remove overcrowding as an impairment to the normal functioning of educational programs.

C.

Effects of Council Concurrence. If the council concurs in the findings of the school district, the provisions of this chapter shall be applicable to actions taken on residential developments in the affected attendance areas of the city by the planning commission and the city.

(Prior code § 3-5.03)

3.40.040 - Application of mitigation measures—Exceptions.

Within the attendance area where it has been determined pursuant to Section 3.40.030 of this chapter that conditions of overcrowding exist, no rezoning of property to a residential use, application for a discretionary permit for residential use or tentative major or minor subdivision map shall be approved within such area without the dedication of land or the payment of fees as required by Section 3.40.050 of this chapter, unless the city finds specific overriding fiscal, economic, social or environmental factors which, in the judgment of the council, would benefit the city, thereby justifying the approval of a residential development.

(Prior code § 3-5.04)

3.40.050 - Residential developments—Approval—Requirements.

A.

For the purpose of establishing an interim method of providing classroom facilities where overcrowding conditions exist as determined necessary pursuant to Section 3.40.030 of this chapter, an applicant or subdivider shall be required to dedicate land, pay fees in lieu thereof or a combination of both as a condition of approval of a residential development provided the applicable general plan provides for the location of schools and the council finds that the facilities to be constructed from such fees or the land to be dedicated or both, is consistent with the general plan.

B.

A fee shall be paid for each unit of a residential development approved within an overcrowded attendance area. Such fee shall be determined in the following manner: the cost per square foot of one portable classroom, multiplied by the number of square feet required for each student (fifty (50) square feet for kindergarten through eighth grades and fifty-five (55) square feet for grades nine through twelve (12)), multiplied by the yield rate for the attendance area, shall equal the fee to be paid for each unit. This formula may be shown as follows:

Cost of one portable classroom X 50 (K-8) X yield fee per square feet in classroom 55 (9-12) rate = unit

C.

At the beginning of each fiscal year, estimates shall be obtained for the price of a portable classroom for the upcoming school year and, if necessary, adjustments shall be made in the formula to reflect such change in price. Whenever a school district determines, as a result of a demographic study or update of a demographic study, that there has been a change in the yield rates within the district, the district shall immediately notify the city of such change and thereafter the formula for the district shall be adjusted to reflect such change.

D.

In subdivisions containing fifty (50) parcels or less, only the payment of fees shall be required. In larger subdivisions the school district shall be consulted to determine whether a dedication of land should be required, taking into consideration whether the location and amount of land to be made available could be effectively utilized by the school district.

E.

If a dedication of land is required, the amount of fees to be paid under this section shall be reduced by an amount equal to the fair market value of the land dedicated. Such value shall be the value of the land with subdivision improvements and shall be determined by an appraisal by the city assessor. The balance of fees due, if any, shall be divided equally among all the units of the development.

F.

The land or fees or both, transferred to a school district shall be used only for the purpose of providing interim elementary or high school classroom and related facilities.

G.

If the payment of fees is required, such payment shall be made at the time the building permit is issued.

(Prior code § 3-5.05)

3.40.060 - School district schedules of plans.

Following the decision by the city to require the dedication of land or the payment of fees or both, the governing body of the school district shall submit a schedule specifying how it will use the land or fees or both, to solve the conditions of overcrowding. The schedule shall include the school sites to be used, the classroom facilities to be made available and the terms when such facilities will be available. In the event the governing body of the school district cannot meet the schedule, it shall submit modifications to the city and the reasons for the modifications.

(Prior code § 3-5.06)

3.40.070 - School district reports.

Any school district receiving funds pursuant to this chapter shall maintain a separate account for any fees paid and shall file a report with the city on the balance in the account at the end of the previous fiscal year and the facilities leased, purchased or constructed during the previous fiscal year. In addition, the report shall specify which attendance areas will continue to be overcrowded when the fall term begins and where conditions of overcrowding will no longer exist. Such report shall be filed by August 1st of each year and shall be filed more frequently at the request of the city. Whenever a school district determines that conditions of overcrowding no longer exist in an attendance area, the school district shall immediately notify the city of such determination. Thereafter, the city shall cease levying any fee or requiring any dedication of land pursuant to this chapter within such attendance area. Any remaining funds held by the school district as a result of fees imposed under this chapter shall be deposited in the building fund of the school district.

(Prior code § 3-5.07)

3.40.080 - Discretionary approval of council.

Notwithstanding any other provision of this chapter, the council may approve a residential development without compliance with this chapter if, in its judgment, there are specific overriding fiscal, economic, social or environmental factors associated with the development which would benefit the city and justify such approval.

(Prior code § 3-5.08)

Chapter 3.44 - FAIR SHARE PAYMENTS FOR IMPROVEMENTS

Sections:

3.44.010 - Findings.

The city council finds establishment of a fair share payment for infrastructure improvements and street extension of Whitcomb Avenue consistent with the following goals of the Colfax General Plan 2020:

A.

2.6.2A. Develop criteria for utility extension that includes economic feasibility, environmental sensitivity and enforcement of the general plan land use diagram.

B.

2.2.6D. Require new development to pay a pro-rate share of city infrastructure development/maintenance.

(Ord. 466 § 1, 2000)

3.44.020 - Fair share payment —Whitcomb Avenue Industrial Park.

Each owner of real property to benefit at the time of development of the real property from off-site infrastructure improvements and street extension financed in whole or in part by the city and other agencies shall pay to the city their pro rate or fair share, reimbursement amount for the improvements. Effected parcels are shown on Exhibit A attached to the ordinance codified in this chapter and listed as primary benefiting parcels or other benefiting parcels. The maximum reimbursement payment shall be based on that owner's percentage of the determined design and construction costs of the off-site improvements, not to exceed four hundred sixty-two thousand five hundred dollars (\$462,500.00). Fair share payments shall be activated by granting of a discretionary permit(s) for property development pursuant to this code. The fair share shall be pursuant to the negotiated amount and established payment schedule with individual property owners as a condition of project approval. There shall be no interest charged for the cost of off-site improvements, until issuance of construction permits. Off-site improvements include, but are not limited to, sanitary sewer lines, water lines, drainage, electrical and communications; and street extension improvements consisting of pavement, curbs and gutters.

(Ord. 466 § 2, 2000)

3.44.030 - First source hiring agreement.

In the event the property development will result in the creation of jobs, within one year following the completion of the infrastructure improvements the property owner, at the time of payment of the fair share fees, shall execute a first source hiring agreement, giving preference to hiring Colfax residents for the jobs created, with fifty-one (51) percent or more of the jobs to be filled by low to moderate income persons.

(Ord. 466 § 3, 2000)

3.44.040 - Notice.

The ordinance codified in this chapter shall be recorded as notice to owners of record of primary benefiting parcels and other benefiting parcels as shown on Exhibit A attached to the ordinance codified in this chapter.

(Ord. 466 § 4, 2000)

Chapter 3.48 - SPECIAL GAS TAX STREET IMPROVEMENT FUND

Sections:

3.48.010 - Created.

To comply with the provisions of Section 2113 of the Streets and Highways Code of the state, there is created in the city treasury a special fund to be known as the "special gas tax street improvement fund."

(Prior code § 3-2.101)

3.48.020 - Deposits.

All moneys received by the city from the state pursuant to the provisions of the Streets and Highways Code of the state for the acquisition of real property or interests therein or for the construction, maintenance or improvement of streets or highways, other than state highways, shall be paid into the special gas tax street improvement fund.

(Prior code § 3-2.102)

3.48.030 - Expenditures.

All moneys in the special gas tax street improvement fund shall be expended exclusively for the purposes authorized by and subject to, the provisions of Sections 2107 through 2110 of Chapter 3 of Division 3 of the Streets and Highways Code of the state.

(Prior code § 3-2.103)

Chapter 3.52 - UNCLAIMED PROPERTY

Sections:

3.52.010 - Sale of unclaimed property—When authorized.

The chief of police is authorized and empowered to sell at public auction or private sale by sealed bid, to the highest bidder for cash or to transfer such property to the city manager for sale to the public at public auction or private sale by sealed bid, any article of personal property in his or her possession unclaimed for a period of three months.

(Prior code § 2-8.01)

3.52.020 - Sale of unclaimed property—Notice of sale by chief of police.

In the event the chief of police elects to sell such property, he or she shall give notice of the date of sale or the time and place where sealed bids will be opened, at least fourteen (14) days before the time fixed therefor by publication once in a newspaper of general circulation published in the county and by posting such notice at City Hall.

(Prior code § 2-8.02)

3.52.030 - Sale of unclaimed property—Notice of sale by city manager.

In the event the chief of police elects to transfer such property to the city manager for sale, the city manager shall give notice of the time and place of sale in the same manner as provided in Section 3.52.020 of this chapter. (Amended during 2004 codification; prior code § 2-8.03)

3.52.040 - City employees ineligible.

No employee of the city or an employee's immediate family may bid on or receive any unclaimed property.

(Prior code § 2-8.04)

3.52.050 - Procedure of sale.

The chief of police or the city manager shall adopt such procedures for conduct of the sale as are reasonable.

(Prior code § 2-8.05)

3.52.060 - Firearms or weapons.

Firearms and weapons will not be sold by sealed bid. Firearms and weapons may be sold to a licensed firearms dealer, retained by the police department or destroyed, in the exercise of the discretion of the chief of police.

(Prior code § 2-8.06)

3.52.070 - Disposal of valueless property.

The chief of police shall have the discretion to discard or donate items of little or no value, such as used clothing and personal care items. Such items may be donated to service organizations or churches.

(Prior code § 2-8.07)

3.52.080 - Sale of unclaimed property—Proceeds to city treasurer—Credit to general fund.

The net proceeds from any such sale shall be paid to the city treasurer and credited by the city treasurer to the general fund.

(Prior code § 2-8.08)

3.52.090 - Conversion to public use—When authorized.

If unclaimed property which has been transferred to the city manager is determined by the city manager to be needed for a public use, such property may be converted to such public use by the city.

(Prior code § 2-8.09)

Chapter 3.56 - MITIGATION IMPACT FEES

Sections:

3.56.010 - Findings.

The city council of the city of Colfax does hereby find and declare as follows:

A.

The state of California, through the enactment of Government Code Section 66000 et seq. has, conferred upon local government units authority to adopt fees imposed on a specific project in connection with approval of a development project for the purpose of defraying all or a portion of the cost of public facilities related to the development project.

B.

The imposition of mitigation impact fees is one of the preferred methods of ensuring that development bears a proportionate share of the cost of public facilities and service improvements necessary to accommodate such development. This must be done in order to promote and protect the public health, safety, and welfare.

- C. This chapter recognizes that all new development within the city will result in additional growth and that such growth will place additional burdens on various city facilities, infrastructure, and services. This chapter further recognizes the types of land development that will generate impacts necessitating the acquisition of land and construction of public facilities and expansion of services and infrastructure in order to meet and accommodate them.
- D. All land uses within the city should bear a proportionate financial burden in the construction and improvement of public facilities and services necessary to serve them.
- E. The mitigation impact fees established by this chapter are based upon the costs that are generated through the need for new facilities and other capital acquisition costs required, incrementally, by new development within the city of Colfax.
- F. The fees established by this chapter do not exceed the reasonable cost of providing public facilities occasioned by development projects within the city of Colfax.
- G. The fees established by this chapter relate rationally to the reasonable cost of providing public facilities occasioned by development projects within the city of Colfax.
- H. The fees established by this chapter are consistent with the goals and objectives of the city's General Plan and are designed to mitigate the impacts caused by new development throughout the city. Mitigation impact fees are necessary in order to finance the required facilities and service improvements and to pay for new development's fair share of their construction costs.

(Ord. 488 § 1 (part), 2007)

3.56.020 - Definitions.

For purposes of this chapter, the following terms, phrases, words and their derivations shall have the meanings respectively ascribed to them by this section:

- A. "Development Project" means any project undertaken for the purpose of development. "Development Project" shall include a project involving the issuance of a building permit for construction or major reconstruction or remodeling for single and multi-family residential units, commercial, or industrial buildings. The term "Development Project" shall also include permits for erection of manufactured housing or structures, and structures moved into the city.
- B. "Fee" means a monetary exaction, other than a tax or special assessment, which is charged by the city of Colfax to an applicant in connection with approval of a development project for the purpose of defraying all or a portion of the cost of public facilities related to the development project, but does not include fees specified in Section 66477 of the California Government Code, fees for processing applications for governmental regulatory actions or approvals, or fees collected under development agreements adopted pursuant to Title 7, Chapter 4, Article 2.5 (commencing with Section 65864) of the California Government Code.
- C. "Public Facilities" includes public improvements, public services, and community amenities.

(Ord. 488 § 1 (part), 2007)

3.56.030 - Establishment of fees.

The following mitigation impact fees are hereby established and imposed on the issuance of all building permits for development within the city of Colfax to finance the cost of the following categories of public facilities and improvements required by new development.

- A. Roads. A mitigation impact fee is hereby established for roads.
- B. Drainage. A mitigation impact fee is hereby established for drainage.
- C. Drainage with E-W Culverts. A mitigation impact fee is hereby established for drainage with e-w culverts.
- D. Trails. A mitigation impact fee is hereby established for trails.
- E. Parks and Recreation. A mitigation impact fee is hereby established for parks and recreation.
- F. City Buildings. A mitigation impact fee is hereby established for city buildings.
- G. City Vehicles. A mitigation impact fee is hereby established for city vehicles.

H.

Downtown Parking. A mitigation impact fee is hereby established for downtown parking.

For each mitigation impact fee hereby established, the city council shall, by resolution: establish the specific amount of the fee; identify the purpose of the fee; identify the specific use to which the fee is to be put; determine how there is a reasonable relationship between the fee's use and the type of development project on which the fee is imposed; determine how there is a reasonable relationship between the need for the public facility and the impacts caused by the type of development project on which the fee is imposed; and determine how there is a reasonable relationship between the amount of the fee and the cost of the public facility or portion of the public facility attributable to the development project for which the fee is imposed.

(Ord. 488 § 1 (part), 2007)

3.56.040 - Imposition of mitigation impact fee.

A.

Any person who, after the effective date of the ordinance codified in this chapter, seeks to develop land within the city by applying for a building permit, is hereby required to pay the appropriate mitigation impact fees established pursuant to Section 3.56.030 as the same may be applicable, in the manner, amount and for the purposes therein referenced.

B.

No permits or extension of permits for the activities referenced in subsection A shall be granted unless and until the appropriate mitigation impact fees hereby required have been paid to the city.

(Ord. 488 § 1 (part), 2007)

3.56.050 - Creation of special funds.

Each fee collected pursuant to this chapter shall be deposited in a special fund created to hold the revenue generated by each such fee. Monies within each such fund may be expended only by appropriation by the city council for specific projects that are of the same category as that for which the money was collected. In this regard, the following special funds are hereby created and established for the purpose indicated:

A.

A Roads Fund is hereby established. The Roads Fund is a fund for payment of the actual or estimated costs of constructing and improving roads and appropriate study and planning costs.

B.

A Drainage Fund is hereby established. The Drainage Fund is a fund for payment of the actual or estimated costs of constructing and improving drainage facilities and appropriate study and planning costs.

C.

A Drainage c. with E-W Culverts Fund is hereby established. The Drainage c. E-W Culverts Fund is a fund for payment of the actual or estimated costs of constructing and improving drainage facilities in that area of the city requiring the construction/upgrade of an east west culvert including appropriate study and planning costs.

D.

A Trails Fund is hereby established. The Trails Fund is a fund for payment of the actual and estimated costs of constructing and improving trails within the city, including any required acquisition of land and appropriate study and planning costs.

E.

A Parks and Recreation Fund is hereby established. The Parks and Recreation Fund is a fund for payment of the actual and estimated costs of acquiring equipment, and constructing and improving the park and recreation facilities within the city, including any required acquisition of land, as well as grading, irrigation and turfing costs associated herein.

F.

A city Buildings Fund is hereby established. The city Buildings Fund is a fund for payment of the actual and estimated costs of constructing and/or improving city buildings within the city, including any required acquisition of land and appropriate study and planning costs.

G.

A city Vehicles Fund is hereby established. The city Vehicles Fund is a fund for payment of the actual and estimated costs of city equipment.

H.

A Downtown Parking Fund is hereby established. The Downtown Parking Fund is a fund for payment of the actual and estimated costs of providing municipal parking including the acquisition of land, actual and estimated costs of constructing improvements including appropriate study and planning costs, grading and paving costs.

(Ord. 488 § 1 (part), 2007)

3.56.060 - Expenditure and reimbursement of fees.

A.

Fees subject to this chapter shall be deposited, invested, accounted for and expended pursuant to California Government Code Section 66006. The fees shall be held in separate public facility funds to be expended for the purpose for which they were collected. Any interest income earned by moneys in the capital facilities fund shall also be deposited in that fund and shall be expended only for the purpose for which the fee was originally collected.

B.

For the fifth fiscal year following the first deposit into the account or fund, and every five years thereafter, the city council shall make findings with respect to that portion of the account or fund remaining unexpended, pursuant to California Government Code Section 66001.

The city council shall order a refund of unexpended or uncommitted fees for which a need cannot be demonstrated, along with accrued interest, to the then current owner(s) of lots or units of the development project(s) on a prorated basis. The finance director may refund these fees by direct payment or by offsetting other obligations owed to the city by the then-current record owner(s) of the development project(s).

(Ord. 488 § 1 (part), 2007)

3.56.070 - Fee payment.

The fees established pursuant to this chapter shall be paid for the property on which a development project is proposed at the time of the issuance of any required building permit, except as otherwise provided below. Provided, however, that fees imposed on residential development shall be collected in accordance with the provisions of California Government Code Section 66007, as the same presently exists or may hereafter be amended from time to time.

All fees collected shall be promptly transferred or deposited into the appropriate funds referenced in Section 3.56.050.

(Ord. 488 § 1 (part), 2007)

3.56.080 - Use of funds.

A.

Funds collected from mitigation impact fees shall be used for the purpose of: 1) paying the cost of development and administration of the impact fee program, 2) paying the actual or estimated costs of construction and/or improving the public facilities within the city to which said specific fee or fees relate, including any required acquisition of land or rights-of-way therefore; 3) reimbursing the city for the development's share of those public facilities already constructed by the city or to reimburse the city for costs advanced, including without limitation, administrative costs incurred with respect to a specific public facility project; or 4) reimbursing other developers who have constructed public facilities described in the resolution adopted pursuant to Section 3.56.030, where those facilities were beyond that needed to mitigate the impact of said developer's project or projects.

B.

In the event that bonds or similar debt instruments are issued for advanced provision of public facilities for which mitigation impact fees may be expended, impact fees may be used to pay debt service on such bonds or similar debt instruments to the extent that the facilities provided are of the type to which the fees involved relate.

C.

Funds may be used to provide refunds as described in Section 3.56.090.

(Ord. 488 § 1 (part), 2007)

3.56.090 - Refund of fees paid.

If a building permit expires without commencement of construction, then the fee payer shall be entitled to a refund, without interest, of the impact fee paid as a condition for its issuance, except that the city shall retain one percent of the fee to offset a portion of the costs of collection and refund. The fee payer must submit an application for such a refund to the city clerk within thirty (30) calendar days of the expiration of the permit. Failure to timely submit the required application for refund shall constitute a waiver of any right to the refund.

(Ord. 488 § 1 (part), 2007)

3.56.100 - Exemptions.

No fee shall be due for the reconstruction of any existing residential, commercial, or industrial development project that is damaged or destroyed as a result of a natural disaster, as declared by the Governor of the state of California, a local emergency declared by the city council or from fire, flood or other private calamity. Any reconstruction, or portion thereof, which is not substantially equivalent to the damaged or destroyed property shall be deemed to be new construction and shall be subject to the applicable fee.

Any claim of exemption with respect to any one or more of the fees referenced in Section 3.56.030 must be made no later than the time of application for a building permit.

(Ord. 488 § 1 (part), 2007)

3.56.110 - Developer construction of facilities.

A.

In-Lieu Fee Credits for Construction of Improvements.

1.

A developer that has been required by the city to construct any facilities or improvements (or a portion thereof) described in the resolution adopted pursuant to Section 3.56.030 as a condition of approval of a development permit

may request an in-lieu credit of the specific mitigation impact fee(s) involved for the same development. Upon request, an in-lieu credit of fees shall be granted for facilities or improvements that mitigate all or a portion of the need therefore that is attributable to and reasonably related to the given development.

2.

Only costs proportional to the amount of the improvement or facility that mitigates the need therefore attributable to and reasonably related to the given development shall be eligible for in-lieu credit, and then only against the specific relevant fee(s) involved to which the facility or improvement relates.

3.

Fees required under this chapter shall be reduced by the actual construction costs of the facilities or improvements that relate to said fees, as demonstrated by the applicant and reviewed and approved by the city. If the cost of the facilities or improvements is greater than the required relevant fees, this chapter does not create an obligation on the city to pay the applicant the excess amount.

4.

An amount of in-lieu credit that is greater than the specific fee(s) required under this chapter may be reserved and credited toward the fee of any subsequent phases of the same development, if determined appropriate by the city. The city may set a time limit for reservation of the credit.

5.

Credits shall be calculated by the city in accordance with the fee schedule set forth in the resolution to be adopted pursuant to Section 3.56.030.

B.

Developer Construction of Facilities Exceeding Needs Related to Development Project. Whenever an applicant is required, as a condition of approval of a development permit, to construct any facility or improvement (or a portion thereof) described in the resolution adopted pursuant to Section 3.56.030 which facility or improvement is determined by the city to exceed the need therefore attributable to and reasonably related to the given development project, a reimbursement agreement with the applicant and a credit against the specific relevant fee which would otherwise be charged pursuant to this chapter on the development project, shall be offered. The credit shall be applied with respect to that portion of the improvement or facility that is attributable to and reasonably related to the need therefore caused by the development. The amount to be reimbursed shall be that portion of the cost of the improvement or facility that exceeds the need therefore attributable to and reasonably related to the given development. The reimbursement agreement shall contain terms and conditions mutually agreeable to the developer and the city, and shall be approved by the city attorney.

C.

Site Related Improvements. Credit shall not be given for site-related improvements, including, but not limited to, traffic signals, right-of-way dedications, or providing paved access to the property, which are specifically required by the project in order to serve it and do not constitute facilities or improvements specified in the resolution referenced in Section 3.56.030 hereof.

D.

Determination of Credit. The developer seeking credit and/or reimbursement for construction of improvements or facilities, or dedication of land or rights-of-way, shall submit such documentation, including without limitation, engineering drawings, specifications, and construction cost estimates, and utilize such methods as may be appropriate and acceptable to the city to support the request for credit or reimbursement. The city shall determine the credit for construction of improvements or facilities based upon either these cost estimates or upon alternative engineering criteria and construction cost estimates if he determines that such estimates submitted by the developer are either unreliable or inaccurate. The city shall determine whether facilities or improvements are eligible for credit or reimbursement.

E.

Time for Making Claim for Credit. Any claim for credit must be made no later than the application for a building permit. Any claim not so made shall be deemed waived.

F.

Transferability of Credit—Council Approval. Credits shall not be transferable from one project or development to another without the approval of the city council.

G.

Appeal of Determination of City. Determinations made by the city pursuant to the provisions of this section may be appealed to the city council by filing a written appeal (setting forth in detail the factual basis therefore) with the city clerk, together with a fee established by resolution of the city council, within ten (10) calendar days of the determination of the city. The appeal shall be considered by the city council at a public hearing to be held, noticed and conducted within sixty (60) days after the filing of the appeal. The decision of the city council on the appeal shall be final.

(Ord. 488 § 1 (part), 2007)

3.56.120 - Review.

A.

Except for the first year this chapter is in effect, no later than one hundred and eighty (180) days following the end of each fiscal year, the finance director shall prepare a report for the city council identifying the balance of fees in the various funds established pursuant to Section 3.56.050, the facilities constructed, and the facilities to be constructed.

B.

At a noticed public hearing, the city council shall review the report and the mitigation impact fees to determine whether the fee amounts continue to be reasonably related to the impact of development and whether the described public facilities are still needed. The council may revise the mitigation impact fees to include additional projects not previously foreseen as being

needed.

C.

The report prepared by the finance director and its review by the city council, as well as any findings thereon, shall be subject to the provisions of California Government Code Section 66001(d), to the extent applicable (which shall be controlling in the event of any conflict).

(Ord. 488 § 1 (part), 2007)

3.56.130 - Controlling state law.

The provisions of this chapter and any resolution adopted pursuant hereto, shall at all times be subject and subordinate to the provisions of Chapter 5 (commencing with Section 66000), Division 1, of Title 7 of the California Government Code, as the same presently exist or may hereafter be amended from time to time, to the extent the same are applicable. In the event of any conflict between the provisions of this chapter and said state law, the latter shall control.

(Ord. 488 § 1 (part), 2007)