

TITLE 3

REVENUE AND FINANCE

Chapters:

- 3.04 Sales Tax**
- 3.08 Use Tax**
- 3.12 Hotel Tax**
- 3.16 Natural Gas and Use Tax**
- 3.18 Utilities Tax**
- 3.24 Reserve Fund Policy**

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CHAPTER 3.04

SALES TAX

Sections:

- 3.04.010 Citation and codification.**
- 3.04.020 Definitions.**
- 3.04.030 Tax collector defined.**
- 3.04.040 Classification of taxpayers.**
- 3.04.050 Subsisting state permits.**
- 3.04.060 Effective date.**
- 3.04.070 Purpose of revenues.**
- 3.04.080 Tax rate--Sales subject to tax.**
- 3.04.090 Exemptions.**
- 3.04.100 Other exempt transfers.**
- 3.04.110 Tax due when--Returns--Records.**
- 3.04.120 Payment of tax.**
- 3.04.130 Tax constitutes debt.**
- 3.04.140 Vendor's duty to collect tax--Penalties.**
- 3.04.150 Returns and remittances--Discounts.**
- 3.04.160 Interest and penalties--Delinquency.**
- 3.04.170 Waiver of interest and penalties.**
- 3.04.180 Erroneous payments--Claim for refund.**
- 3.04.190 Fraudulent returns.**
- 3.04.200 Records confidential.**
- 3.04.210 Amendments.**
- 3.04.220 Provisions cumulative.**

Section 3.04.010 Citation and codification.

This chapter shall be known and may be cited as "City of Sand Springs Special Sales Tax Ordinance" of 1993. (Prior code § 7-101)

Section 3.04.020 Definitions.

The definitions of words, terms and phrases contained in Section 1352 of the Oklahoma Sales Tax Code, are hereby adopted by reference and made a part of this chapter. (Prior code § 7-102)

Section 3.04.030 Tax Collector defined.

"Tax Collector," as used in this chapter, means the department of the city government or the official agency of the state duly designated according to law or contract authorized by law to administer the collection of the tax levied in this chapter. (Prior code § 7-103)

Section 3.04.040 Classification of taxpayers.

For the purpose of this chapter the classification of taxpayers hereunder shall be as prescribed by state law for purposes of the Oklahoma Sales Tax Code. (Prior code § 7-104)

Section 3.04.050 Subsisting state permits.

All valid and subsisting permits to do business by the Oklahoma Tax Commission pursuant to the Oklahoma Sales Tax Code are, for the purpose of this chapter, hereby ratified, confirmed, and adopted in lieu of any requirement for an additional City permit for the same purpose. (Prior code § 7-105)

Section 3.04.060 Effective date.

A. This chapter became effective after approval of a majority of the registered voters of the City voting on the ordinance in the manner prescribed by Section 16-112 of Title 11 of the Oklahoma Statutes.

B. Ordinance 827 shall become and be effective on June 1, 1993, subject to approval of a majority of the registered voters of the City of Sand Springs, State of Oklahoma, voting on the same in the manner provided by law; provided that this ordinance shall be automatically repealed in its entirety on the date upon which the final payment of principal of the General Obligation Street Improvement Bonds of the City approved at an election held on May 11, 1993, is made to bondholders, and shall be of no further force and effect from and after that date. However, such automatic repeal shall not be construed so as to prevent any future ordinance of a similar nature from being submitted to a vote of the qualified electors of the City of Sand Springs either before or after such date of repeal. (Prior code § 7-106)

Section 3.04.070 Purpose of revenues.

A. It is the purpose of the first one-cent (\$0.01) sales tax to provide revenues for the support of the functions of the municipal government of the City.

B. It is hereby declared to be the purpose of the second one-cent tax (\$0.01) to provide revenues for the payment of sinking fund requirements of the City of Sand Springs Sewer Bonds of 1971 and payment of twenty-five thousand dollars (\$25,000.00) annually to the park and recreation program of the City. To that end from the first revenues derived herefrom, there shall be paid into the Sinking Fund for the City of Sand Springs Sewer Bonds of 1971 each month, a sum equal to one-twelfth (1/12th) of the annual Sinking Fund requirements for the bonds, sufficient to prevent the Sinking Fund from beginning a levy upon the taxable property within the City. Further, from the revenues derived herefrom, if sufficient funds remain after payment to the Sinking Fund of the City of Sand Springs Sewer Bonds of 1971 as first required hereunder, there shall be annually set over for park and recreation purposes the sum of twenty-five thousand dollars (\$25,000.00). Further, any and all revenues derived hereunder remaining may be expended by the governing body of the City for any purpose for which funds may be lawfully expended as authorized by the statutes of the state.

C. It hereby is determined to be in the best interest of the City and its citizens that all of the proceeds derived from the levy of the third one percent (1%) sales tax (pursuant to Ordinance 456) approved by the electors as aforesaid be appropriated to the trustees of the authority to enable the trustees to proceed with the construction and equipping of the utility system improvements aforesaid. There hereby is appropriated the proceeds to be derived from the one percent (1%) sales tax levied and collected by the City pursuant to Ordinance 456 to the trustees of the authority. Such proceeds so appropriated shall be utilized solely and only in the payment of the costs of operation and maintenance of and making capital improvements to the utility systems owned by the City and leased to the authority and for debt service on indebtedness incurred by the authority for such purposes. The Mayor, City Clerk, and City Treasurer are hereby authorized and directed, after having deposited the proceeds of the aforesaid one percent (1%) sales tax monthly, as received, in the general fund of the City to forthwith pay the necessary sum calculated at the rate aforesaid, to the trustees of the authority. A certified copy of this ordinance shall be delivered to each of the officials and shall constitute their continuing authority to make such monthly deposits and payments hereinabove directed.

D. It is hereby declared to be the purpose of Ordinance 827, levying a one-half percent (1/2%) tax, to provide revenues to be placed in a separate, special fund to be used to make capital improvements to the roads, streets and bridges of the City of Sand Springs, Oklahoma, including, but not limited to, the payment of principal of and interest on the General Obligation Street Improvement Bonds of the City approved at an election held on May 11, 1993, in accordance with the terms thereof. (Prior code § 7-107)

Section 3.04.080 Tax rate--Sales subject to tax.

There is hereby levied an excise tax of three and one-half percent (3-1/2%) upon the gross proceeds or gross receipts derived from all sales taxable under the Oklahoma Sales Tax Code including but not exclusive of the following:

1. Tangible personal property;
2. Natural or artificial gas, electricity, ice, steam, or any other utility or public service, except water and those specifically exempt under Section 1357 of the Oklahoma Sales Tax Code;
3. Transportation for hire of persons by common carriers, including railroads, both steam and electric, motor transportation companies, taxicab companies, pullman car companies, airlines and all other means of transportation for hire;
4. Service by telephone and telegraph companies to subscribers or users, including transmission of messages, whether local or long distance. This shall include all services and rental charges having any connection with transmission of any message;
5. Printing or printed matter of all types, kinds, and characters and the service of printing or over printing;
6. Service of furnishing rooms by hotels, apartment hotels, public rooming houses, and public lodging houses or tourist camps;
7. Service of furnishing storage or parking privileges by auto hotels and parking lots;

8. Food, confections and all drinks sold or dispensed by hotels, restaurants, or other dispensers, and sold for immediate consumption upon the premises or delivered or carried away from the premises for consumption elsewhere;

9. Advertising of all kinds, types and character, including any and all devices used for advertising purposes and the servicing of any advertising devices, except those specifically exempt by this chapter;

10. Dues or fees to clubs, and the sale of tickets or admission to places of amusement, to athletic, entertainment, recreational events, or dues or fees for the privilege of having access to or the use of amusement, entertainment, athletic or recreational facilities, including free or complimentary passes, tickets, dues or fees are hereby declared to have a value equivalent to the sale price of tickets, passes, admissions, fees or dues of like kind or character, except as provided in this chapter;

11. For the purpose of this chapter, sales of service and tangible personal property made for the purpose of developing real estate even though such real estate is intended for resale as real property are hereby declared to be sales to consumers or users. Sales of service and tangible personal property, including materials, supplies and equipment made to contractors who use same in the performance of any contract, are hereby declared to be sales to consumers or users and not sales for resale. Sales of tangible personal property to peddlers, solicitors and other salesmen who do not have established places of business shall be deemed to be sales to consumers or users and therefore, taxable;

12. Computer hardware, software, coding sheets, cards or magnetic tapes on which prewritten programs have been coded, punched or otherwise recorded; and

13. Flowers, plants, shrubs, trees and other floral items, whether or not produced by a vendor, sold by persons engaged in florist or nursery business in this state, including all orders taken by an Oklahoma business for delivery in another state. (Prior code § 7-108)

Section 3.04.090 Exemptions.

There is hereby specifically exempted from the tax levied by this chapter the gross receipts or gross proceeds exempted from the Oklahoma Sales Tax Code including, but not exclusive of, and derived from the:

1. Sales of medicines or drugs prescribed for the treatment of human beings by a person licensed to prescribe the medicines or drugs. This exemption shall not apply to proprietary or patent medicines as defined by Section 353.1 of Title 59 of the Oklahoma Statutes;

2. Sales of raw products from the farm, orchard or garden, where such sale is made by the producer of such raw products directly to the consumer or user; gross receipts or gross proceeds derived from the sale of livestock, poultry, poultry products, and dairy products by the producers; exemptions granted by this subsection shall not apply when such articles are sold, even though by the producer thereof, at or from an "established business place" not on a farm; neither shall this exemption apply unless the articles are produced or grown within the state of Oklahoma. The provisions of this subsection are intended to exempt the sale by livestock producers of livestock sold at special livestock sales.

The provisions of this subsection are intended to exempt the sale of dairy products when sold by a dairyman or farmer who owns all of the cows from which the dairy products he or she sells are produced. The provisions of this subsection shall not be construed to exempt sales by florists, nurserymen and chicken hatcheries;

3. Dues paid to fraternal, religious, civic, charitable or educational societies or organizations by regular members thereof, provided, such societies or organizations operate under what is commonly termed the lodge plan or system, and provided such societies or organizations do not operate for profit which inures to the benefit of any individual member or members thereof to the exclusion of other members;

4. Sale of tangible personal property or services to or by churches, except where such organizations may be engaged in business for profit or savings, competing with other persons engaged in the same or similar business;

5. Gross receipts and gross proceeds derived from the transportation of school children to and from schools and high schools in motor and other vehicles;

6. Transportation of persons where the fare of each person does not exceed one dollar (\$1.00), or local transportation of persons within the corporate limits of cities and towns except by taxicabs;

7. Sale of food in public, common, high school or college cafeterias and lunchrooms operated primarily for teachers and pupils, not operated primarily for the public and not operated for profit;

8. Carrier sales made directly to consumers or users of newspapers or any other periodicals where any individual transaction does not exceed seventy-five cents (\$0.75). A carrier is a person who regularly delivers newspapers or periodicals to subscribers on an assigned route;

9. Sales to the United States Government, State of Oklahoma, or any of its political subdivisions;

10. Sale of gasoline or motor fuel on which the Motor Fuel Tax, Gasoline Excise Tax or Special Fuels Tax has been paid to the State of Oklahoma;

11. Sale of crude petroleum or natural or casinghead gas and other products subject to gross production tax under the provisions of the laws of this state. This exemption shall not apply when such products are sold to a consumer or user for consumption or use, except when used for injection into the earth for the purpose of promoting or facilitating the production of oil or gas;

12. Sale of motor vehicles, attached optional equipment and accessories, on which the Oklahoma Motor Vehicle Excise Tax has been paid;

13. Sales by county, district and state fairs;

14. Sale of advertising space in newspapers and periodicals and billboard advertising service;

15. Sales for resale to persons regularly engaged in the business of reselling the articles purchased, whether within or without the state, provided that such sales to residents of this state are made to persons to whom sales tax permits have been issued by the Oklahoma Tax Commission as provided by law. This exemption shall not apply to the sales of articles made to persons holding permits when such persons purchase items for

their use and when they are not regularly engaged in the business of reselling; neither shall this exemption apply to sales of tangible personal property to peddlers, solicitors and other salesmen who do not have sales tax permits or established places of business;

16. Goods, wares, merchandise, and property sold for use in manufacturing, compounding, processing, assembling or preparing for sale shall be classified as having been sold for the purpose of resale or the subject matter of resale only in the event:

a. Such goods, wares, merchandise, or property are purchased for the purpose of being manufactured into a finished article and if it becomes a recognizable, integral part of the manufactured, compounded, processed, assembled or prepared products; or

b. If it is consumed in the process of manufacturing, compounding, processing, assembling or preparing products for resale;

17. Sale of machinery and equipment purchased and used by persons establishing new manufacturing or processing plants in Oklahoma, and machinery and equipment purchased and used by persons in the operation of manufacturing plants already established in Oklahoma, provided, this exemption shall not apply unless such machinery and equipment is incorporated into, and is directly used in, the process of manufacturing property subject to taxation hereunder. The term "manufacturing plants" shall mean those establishments primarily engaged in manufacturing or processing operations, and generally recognized as such;

18. Sale of tangible personal property manufactured in Oklahoma when sold by the manufacturer to a person who transports it to another state for immediate and exclusive use in some other state;

19. Sale of an interest in tangible personal property to a partner or other person who after such sale owns joint interest in such tangible personal property where the Oklahoma State or Use Tax has previously been paid on such tangible personal property;

20. Sales of containers shall be exempt when sold to a person regularly engaged in the business or reselling empty or filled containers, or when he or she purchases such containers for the purpose of packaging raw products of farm, garden or orchard, for resale to the consumer or processor, provided, this exemption shall not apply to the sale of containers used more than once and which are ordinarily known as returnable containers unless a tax under this chapter is collected and paid to the tax collector with respect to each and every transfer by such person of title or possession of such returnable container if made to any consumer or user within this state; nor shall it apply to the sale of labels or other materials delivered along with items sold but which are not necessary or absolutely essential to the sale of the sold merchandise;

21. Sales of baby chicks, turkey poults and starter pullets, used in commercial production of chickens, turkeys and eggs, provided the purchaser certifies in writing on the copy of the invoice or sales ticket to be retained by the seller that the pullets will be used primarily for egg production;

22. Sales of tangible personal property or services to council organizations or similar state supervisory organizations of the Boy Scouts of America, Girl Scouts of USA, and the Camp Fire Girls shall be exempt from sales tax;

23. The proceeds from any amount separately stated on the ticket of admission for the repayment of money borrowed by an accredited state supported college or university for the purpose of constructing or enlarging any entertainment facility as prescribed by the Oklahoma Sales Tax Code;

24. In addition to all other exemptions allowed by this chapter, the sales of agricultural fertilizer to persons regularly engaged for profit in the business of farming or ranching which are exempt from state sales taxes under provisions of Section 1358 of the Oklahoma Sales Tax Code shall likewise be exempt from the sales tax herein levied;

25. In addition to other exemptions allowed by this chapter, the sales of farm machinery to be used directly on a farm or ranch in the production, cultivating, planting, sowing, harvesting, processing, spraying, preservation or irrigation of any livestock, poultry, agricultural or dairy products produced from such lands which are exempt from state sales tax under provisions of Sections 1358(E) of the Oklahoma Sales Tax Code shall be likewise exempt from the sales tax herein levied. Each purchaser of farm machinery must certify, in writing, on the copy of the invoice or sales ticket retained by the seller that he or she is engaged in farming or ranching and that the farm machinery will be used in farming or ranching; and

26. In addition to the other exemptions allowed by this chapter, the sales and purchases of feed, subject to the conditions and limitations set forth in Section 1358(4) of the Oklahoma Sales Tax code which are exempt from the state sales tax under such statute, shall also be exempt from the sales tax levied herein. (Prior code § 7-109)

Section 3.04.100 Other exempt transfers.

Also there is specifically exempted from the tax levied the transfer of tangible personal property exempted from the Oklahoma Sales Tax Code inclusive, but not exclusive, of the following:

A. From one corporation to another corporation pursuant to reorganization. As used in this subsection the term "reorganization" means:

1. A statutory merger or consolidation, or
2. The acquisition by a corporation of substantially all of the properties of another corporation when the consideration is solely all or a part of the voting stock of the acquiring corporation, or of its parent or subsidiary corporation.

B. In connection with the winding up, dissolution or liquidation of a corporation only when there is distribution in kind to the shareholders of the property of such corporation;

C. To a corporation for the purpose of organization of such corporation where the former owners of the property transferred are, immediately after the transfer, in control of the corporation and the stock or securities received by each is substantially in proportion to his or her interest in the property prior to the transfer;

D. To a partnership in the organization or such partnership if the former owners of the property transferred are, immediately after the transfer, members of such partnerships and the interest in the partnership received by each is substantially in proportion to his interest in the property prior to the transfer; or

E. From a partnership to the members thereof when made in kind in the dissolution of such partnership. (Prior code § 7-110)

Section 3.04.110 Tax due when--Returns--Records.

The tax levied hereunder shall be due and payable at the time and in the manner and form prescribed for payment of the state sales tax under the Oklahoma Sales Tax Code. (Prior code § 7-111)

Section 3.04.120 Payment of tax.

The tax herein levied shall be paid to the tax collector at the time and in the form and manner provided for payment of state sales tax under the Oklahoma Sales Tax Code. (Prior code § 7-112)

Section 3.04.130 Tax constitutes debt.

The taxes, penalty, and interest due under this chapter shall at all times constitute a prior, superior, and paramount claim as against the claims of unsecured creditors, and may be collected by suit as any other debt. (Prior code § 7-113)

Section 3.04.140 Vendor's duty to collect tax--Penalties.

A. The tax levied hereunder shall be paid by the consumer or user to the vendor. It shall be the duty of each and every vendor in this City to collect from the consumer or user the full amount of the tax levied by this chapter, or an amount equal as nearly as possible or practicable to the average equivalent thereof.

B. Vendors shall add the tax imposed hereunder, or the average equivalent thereof, to the sales price or charge, and when added such tax shall constitute a part of such price or charge, shall be a debt from the consumer or user to vendor until paid, and shall be recoverable at law in the same manner as other debts.

C. A vendor, as defined hereunder, who willfully or intentionally fails, neglects, or refuses to collect the full amount of the tax levied by this chapter, or willfully or intentionally fails, neglects, or refuses to comply with the provisions or remits or rebates to a consumer or user, either directly or indirectly, and by whatsoever means, all or any part of the tax herein levied, or makes in any form of advertising, verbally or otherwise, any statement which infers that he or she is absorbing the tax, or paying the tax for the consumer or user by an adjustment of prices or at a price including the tax, or in any manner whatsoever, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined as provided in Section 1.20.010 of this code. Sales by vending machines may be made at a stated price which includes state and any municipal sales tax. (Prior code § 7-114)

Section 3.04.150 Returns and remittances--Discounts.

Returns and remittances of the tax herein levied and collected shall be made to the tax collector at the time and in the manner, form and amount as prescribed for returns and remittances required by the State Sales Tax Code; and remittances of tax collected hereunder and shall be subject to the same discount as may be allowed by the code for collection of state sales taxes. (Prior code § 7-115)

Section 3.04.160 Interest and penalties--Delinquency.

Section 217 of Title 68 of the Oklahoma Statutes is hereby adopted and made a part of this chapter, and interest and penalties at the rates and in amounts as therein specified are hereby levied and shall be applicable in cases of delinquency in reporting and paying the tax levied by this chapter. The failure or refusal of any taxpayer to make and transmit the reports and remittances of tax in the time and manner required by this chapter shall cause such tax to be delinquent. In addition, if the delinquency continues for a period of five days, the taxpayer shall forfeit his or her claim to any discount allowed under this chapter. (Prior code § 7-116)

Section 3.04.170 Waiver of interest and penalties.

The interest or penalty or any portion thereof accruing by reason of a taxpayer's failure to pay the tax herein levied may be waived or remitted in the same manner as provided for the waiver or remittance as applied in administration of the state sales tax provided in Section 220 of the Oklahoma Sales Tax Code and to accomplish the purposes of this section, the applicable provisions of Section 220 are hereby adopted by reference and made a part of this chapter. (Prior code § 7-117)

Section 3.04.180 Erroneous payments--Claim for refund.

Refund of erroneous payment of the sales tax herein levied may be made to any taxpayer making such erroneous payment in the same manner and procedures, and under the same limitations of time, as provided for administration of the state sales tax as set forth in Section 227 of the Oklahoma Sales Tax Code and to accomplish the purpose of this section, the applicable provisions of Section 227 are hereby adopted by reference and made a part of this chapter. (Prior code § 7-118)

Section 3.04.190 Fraudulent returns.

In addition to all civil penalties provided by this chapter, the willful failure or refusal of any taxpayer to make reports and remittances as herein required, or the making of any false and fraudulent report for the purpose of avoiding or escaping payment of any tax or portion thereof rightfully due under this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be subject to a fine as provided in Section 1.20.010 of this code. (Prior code § 7-119)

Section 3.04.200 Records confidential.

The confidential and privileged nature of the records and files concerning the administration of the sales tax is legislatively recognized and declared, and to protect the same the provisions of the Section 205 of the Oklahoma Sales Tax Code and each subsection thereof, is hereby adopted by reference and made fully effective and applicable to administration of the sales tax as if herein set forth in full. (Prior code § 7-120)

Section 3.04.210 Amendments.

The people of the City, by their approval of the sales tax ordinance hereby authorize the Mayor and City Clerk of the City of Sand Springs, by ordinances duly enacted, to make such administrative and technical changes or additions in the method and manner of administration and enforcing this chapter as may be necessary or proper for efficiency and fairness. Neither the rate of the tax herein provided nor the use to which the revenue is put shall be changed without approval of the qualified electors of the City voting at an election held for such purposes as provided by law. (Prior code § 7-121)

Section 3.04.220 Provisions cumulative.

The provisions of this chapter shall be cumulative and in addition to any or all other taxing provisions of City's ordinances. (Prior code § 7-122)

CHAPTER 3.08

USE TAX

Sections:

- 3.08.010 Citation and codification.**
- 3.08.020 Definitions.**
- 3.08.030 Excise tax on storage, use or other consumption of intangible, personal property levied.**
- 3.08.040 Purpose of revenues.**
- 3.08.050 Exemptions.**
- 3.08.060 Time when due--Returns--Payment.**
- 3.08.070 Tax constitutes debt.**
- 3.08.080 Collection of tax by retailer or vendor.**
- 3.08.090 Collection of tax by retailer or vendor not maintaining a place of business within state or both within and without state--Permits.**
- 3.08.100 Revoking permits.**
- 3.08.110 Remunerative deductions allowed vendors or retailers of other states.**
- 3.08.120 Interest and penalties--Delinquency.**
- 3.08.130 Waiver of interest and penalties.**
- 3.08.140 Erroneous payments--Claim for refund.**
- 3.08.150 Fraudulent returns.**
- 3.08.160 Records confidential.**
- 3.08.170 Classification of taxpayers.**
- 3.08.180 Subsisting state permits.**
- 3.08.190 Provisions cumulative.**

Section 3.08.010 Citation and codification.

This chapter shall be known and may be cited as "City of Sand Springs Use Tax".
(Prior code § 7-201)

Section 3.08.020 Definitions.

The definitions of words, terms and phrases contained in the Oklahoma Use Tax Code, Section 1401 of Title 68 of the Oklahoma Statutes, are hereby adopted by reference and made a part of this chapter. In addition thereto, the following words and terms shall be defined as follows:

"Tax Collector" means the department of the city government or the official agency of the state, duly designated according to law or contract authorized by law, to administer the collection of the tax herein levied.

"Transaction" means sale. (Prior code § 7-202)

Section 3.08.030 Excise tax on storage, use or other consumption of intangible, personal property levied.

There is hereby levied and there shall be paid by every person storing, using or otherwise consuming within the City tangible, personal property purchased or brought into this City, an excise tax on the storage, use or other consuming within the City of such property at the same rate as being levied pursuant to the City's sales tax as provided in Section 3.04.010 et seq., or any amendment thereto on the purchase price of such property. Such tax shall be paid by every person storing, using or otherwise consuming, within the City, tangible, personal property purchased or brought into the City. The additional tax levied hereunder shall be paid at the time of importation or storage of the property within the City and shall be assessed to only property purchased outside Oklahoma; provided, that the tax levied herein shall not be levied against tangible, personal property intended solely for use outside the City, but which is stored in the City pending shipment outside the City or which is temporarily retained in the City for the purpose of fabrication, repair, testing, alteration, maintenance, or other service. Any person liable for payment of the tax authorized herein, may deduct from such tax any local or municipal sales tax previously paid on such goods or services; provided, that the amount deducted shall not exceed the amount that would have been due if the taxes imposed by the City had been levied on the sale of such goods or services. (Prior code § 7-203)

Section 3.08.040 Purpose of revenues.

It is hereby declared to be the purpose of this chapter to provide revenues for the support of the functions of the municipal government of the City, and any and all revenues derived hereunder may be expended by the governing body of the City for any purpose for which funds may be lawfully expended as authorized. (Prior code § 7-204)

Section 3.08.050 Exemptions.

The provisions of this chapter shall not apply:

A. In respect to the use of an article of tangible, personal property brought into the City by a nonresident individual visiting in this City for his or her personal use or enjoyment while within the City;

B. In respect to the use of tangible, personal property purchased for resale before being used;

C. In respect to the use of any article of tangible, personal property on which a tax, equal to or in excess of that levied by both the Oklahoma Use Tax Code and the City of Sand Springs Use Tax, has been paid by the person using such tangible, personal property in the City, whether such tax was levied under the laws of Oklahoma or some other state or municipality of the United States. If any article of tangible, personal property has already been subjected to a tax by Oklahoma or any other state or municipality in respect to its sale or use, in an amount less than the tax imposed by both the Oklahoma Use Tax Code and City of Sand Springs Use Tax, the provision of this chapter shall also apply to it by a rate measured by the difference only between the rate provided by both the Oklahoma Use Tax Code and the City of Sand Springs Use Tax, and the rate by which the previous tax upon

the sale or use was computed. Provided, that no credit shall be given for taxes paid in another state or municipality, if that state or municipality does not grant like credit for taxes paid in Oklahoma and the City;

D. In respect to the use of machinery and equipment purchased and used by persons establishing new manufacturing or processing plants in the City, and machinery and equipment purchased and used by persons to the operation of manufacturing plants already established in the City. This exemption shall not apply unless such machinery and equipment is incorporated into, and is directly used in, the process of manufacturing property subject to taxation under the sales tax code of the City. The term "manufacturing plants" means those establishments primarily engaged in manufacturing or processing operations, and generally recognized as such;

E. In respect to the use of tangible, personal property now specifically exempted from taxation under the sales tax code of the City;

F. In respect to the use of any article of tangible, personal property brought into the City by an individual with intent to become a resident of this City where such personal property is for such individual's personal use or enjoyment;

G. In respect to the use of any article of tangible, personal property used or to be used by commercial airlines or railroads; or

H. In respect to livestock purchased outside Oklahoma and brought into this City for feeding or breeding purposes, and which is later resold. (Prior code § 7-205)

Section 3.08.060 Time when due--Returns--Payment.

The tax levied by this chapter is due and payable at the time and in the manner and form prescribed for payment of the State Use Tax under the Use Tax Code of the State of Oklahoma. (Prior code § 7-206)

Section 3.08.070 Tax constitutes debt.

Such taxes, penalty and interest due hereunder shall at all times constitute a prior, superior, and paramount claim as against the claims of unsecured creditors, and may be collected by suit as any other debt. (Prior code § 7-207)

Section 3.08.080 Collection of tax by retailer or vendor.

Every retailer or vendor maintaining places of business both within and without the state, and making sales of tangible, personal property from a place of business outside this state for use in this City shall at the time of making such sales collect the use tax levied by this chapter from the purchaser and give to the purchaser a receipt therefor in the manner and form prescribed by the Tax Commission, if the Tax Commission shall, by regulation, require such receipt. Each retailer or vendor shall list with the Tax Commission the name and address of all his or her agents operating in this City and location of any and all distribution or sales houses or offices or other places of business in the City. (Prior code § 7-208)

Section 3.08.090 Collection of tax by retailer or vendor not maintaining a place of business within state or both within and without state--Permits.

The Tax Commission may, in its discretion, upon application, authorize the collection of the tax herein levied by any retailer or vendor not maintaining a place of business within this state but who makes sales of tangible, personal property for use in this City and by the out-of-state place of business of any retailer or vendor maintaining places of business both within and without this state and making sales of tangible, personal property such out-of-state place of business for use in this City. Such retailer or vendor may be issued, without charge, a permit to collect such taxes by the Tax Commission in such manner and subject to such regulations and agreements as it shall prescribe. When so authorized, it shall be the duty of such retailer or vendor to collect the tax upon all tangible, personal property sold to his or her knowledge for use within this City. Such authority and permit may be cancelled when at any time the Tax Commission considers that such tax can more effectively be collected from the person using such property in this City. Provided, however, that in all instances where such sales are made or completed by delivery to the purchaser within this City by the retailer or vendor in such retailer's or vendor's vehicle, whether owned or leased (not by common carrier), such sales or transactions shall continue to be subject to applicable City sales tax at the point of delivery and the tax shall be collected and reported under taxpayer's sales tax permit number accordingly. (Prior code § 7-209)

Section 3.08.100 Revoking permits.

Whenever any retailer or vendor not maintaining a place of business in this state, or both within and without this state, and authorized to collect the tax herein levied, fails to comply with any of the provisions of this chapter of the Oklahoma Use Tax Code or any orders, rules or regulations of the Tax Commission, the Tax Commission may, upon notice and hearing as provided for in Section 1408 of Title 68 of the Oklahoma Statutes, by order revoke the use tax permit, if any, issued to such retailer or vendor, and if any such retailer or vendor is a corporation authorized to do business in this state may, after notice and hearing above provided, cancel the corporation's license to do business in this state and shall issue a new license only when such corporation has complied with the obligations under this chapter, the Oklahoma Use Tax Code, or any orders, rules or regulations of the Tax Commission. (Prior code § 7-210)

Section 3.08.110 Remunerative deductions allowed vendors or retailers of other states.

Returns and remittances of the tax herein levied and collected shall be made to the Tax Commission at the time and in the manner, form and amount as prescribed for returns and remittances required by the Oklahoma Use Tax Code; and remittances of tax collected hereunder shall be subject to the same discount as may be allowed by the code for the collection of state use taxes. (Prior code § 7-211)

Section 3.08.120 Interest and penalties--Delinquency.

Section 217 of Title 68 of the Oklahoma Statutes is hereby adopted and made a part of this chapter, and interest and penalties at the rates and in the amounts as herein specified are hereby levied and shall be applicable in cases of delinquency in reporting and paying the tax levied by this chapter. Provided, that the failure or refusal of any retailer or vendor to make and transmit the reports and remittances of tax in the time and manner required by this chapter shall cause such tax to be delinquent. In addition, if such delinquency continues for a period of five days, the retailer or vendor shall forfeit his or her claim to any discount allowed under this chapter. (Prior code § 7-212)

Section 3.08.130 Waiver of interest and penalties.

The interest or penalty or any portion thereof accruing by reason of a retailer's or vendor's failure to pay the City tax herein levied may be waived or remitted in the same manner as provided for the waiver or remittance as applied in administration of the State Use Tax provided in Section 220 of Title 68 of the Oklahoma Statutes, and to accomplish the purposes of this section the applicable provisions of Section 220 are hereby adopted by reference and made a part of this chapter. (Prior code § 7-213)

Section 3.08.140 Erroneous payments--Claim for refund.

Refund of erroneous payment of the City use tax herein levied may be made to any taxpayer making such erroneous payment in the same manner and procedure, and under the same limitations of time, as provided for administration of the State Use Tax as set forth in Section 227 of Title 68 of the Oklahoma Statutes, and to accomplish the purpose of this section, the applicable provisions of Section 227 are hereby adopted by reference and made a part of this chapter. (Prior code § 7-214)

Section 3.08.150 Fraudulent returns.

In addition to all civil penalties provided by this chapter, the willful failure or refusal of any taxpayer to make reports and remittances herein required, or the making of any false and fraudulent report for the purpose of avoiding or escaping payment of any tax or portion thereof rightfully due under this chapter shall be an offense, and upon conviction thereof the offending taxpayer shall be punished as provided in Section 1.20.010 of this code. Each day of noncompliance with this chapter shall constitute a separate offense. (Prior code § 7-215)

Section 3.08.160 Records confidential.

The confidential and privileged nature of the records and files concerning the administration of the City use tax is legislatively recognized and declared, and to protect the same the provisions of Section 205 of Title 68 of the Oklahoma Statutes, of the State Use Tax Code, and each subsection thereof, is hereby adopted by reference and made fully effective and applicable to administration of the City use tax as is herein set forth in full. (Prior code § 7-216)

Section 3.08.170 Classification of taxpayers.

For the purpose of this chapter, the classification of taxpayers hereunder shall be as prescribed by state law for purposes of the Oklahoma Use Tax Code. (Prior code § 7-217)

Section 3.08.180 Subsisting state permits.

All valid and subsisting permits to do business issued by the Tax Commission pursuant to the Oklahoma Use Tax Code are for the purpose of this chapter hereby ratified, confirmed; and adopted in lieu of any requirement for an additional City permit for the same purpose. (Prior code § 7-218)

Section 3.08.190 Provisions cumulative.

The provisions hereof shall be cumulative, and in addition to any and all other taxing provisions of the City ordinances. (Prior code § 7-219)

CHAPTER 3.12

HOTEL TAX

Sections:

- 3.12.010** **Definitions.**
- 3.12.020** **Tax rate.**
- 3.12.030** **Exemptions.**
- 3.12.040** **Tax to be separately designated on bills.**
- 3.12.050** **Operator duties.**
- 3.12.060** **Bond required.**
- 3.12.070** **Assessment and determination of tax.**
- 3.12.080** **Refunds.**
- 3.12.090** **Notices.**
- 3.12.100** **Remedies exclusive.**
- 3.12.110** **General powers of the City Manager.**
- 3.12.120** **Certificates of registration.**
- 3.12.130** **Use of funds.**
- 3.12.140** **Records confidential.**
- 3.12.150** **Criminal penalties.**
- 3.12.160** **Civil remedies.**

Section 3.12.010 **Definitions.**

As used in this ordinance:

"Hotel" means any building or buildings, structures, trailer, or other facility in which the public may, for consideration, obtain sleeping accommodation, and in which five or more rooms are used for the accommodation of such occupant whether such rooms are in one or several structure. The term shall include hotels, apartmental hotels, motels, tourist courts, lodging houses, inns, rooming houses, dormitory space where bed space is rented to individuals or groups, apartments not occupied by "permanent residents," and all other facilities where rooms or sleeping facilities or space are furnished for a consideration. The term shall not include hospitals, sanitariums, or nursing homes.

"Occupancy" means the use of possession, or the right to the use or possession of any room or rooms in a hotel, or the right to the use or possession of the furnishings or the services and accommodations accompanying the use and possession of the room or rooms.

"Occupant" means the person, who for a consideration, uses, possesses, or has the right to the use or possession of any room or rooms in a hotel under any lease, concession, permit, right of access, license to use, or other agreement.

"Operator" means any person operating a hotel within the City, included, but not limited to, the owner, proprietor, manager, lessee, sublessee, mortgagee in possession, licensee, or any other person otherwise operating such hotel.

"Permanent Resident" means any occupant who has or shall have the right of occupancy of any room or rooms in a hotel for at least ninety (90) consecutive days during the current calendar year or preceding year.

"Place of Assembly" means a room or space which is capable of being occupied by seventy-five (75) or more persons and which is used for educational or amusement purposes and shall include: dance halls; cabarets; night clubs; restaurants; any room or space for public or private banquets, feasts, socials, card parties, or weddings; lodge and meeting halls or rooms; skating rinks; gymnasiums; swimming pools; billiard, bowling, and table tennis rooms; halls; rooms used for public or private catering purposes; funeral parlors; markets; recreational rooms; concert halls; broadcasting studios; and all other places of similar use and occupancy.

"Rent" means the consideration received for occupancy valued in money, whether received in money or otherwise, including all receipts, cash credits, and property or services of any kind or nature, and also any amount for which credit is allowed by the operator to the occupant, without any deduction therefrom whatsoever.

"Return" means any report filed or required to be filed as herein provided.

"Room" means any room or suite of rooms of any kind in any part or portion of a hotel which is available for or let out for use or possessed for any purpose other than as a "place of assembly."

"Tax" means the tax levied pursuant to the ordinance codified in this chapter. (Prior code § 7-301; Ord. 859, § 1 (part), eff. 12/05/1994)

Section 3.12.020 Tax rate.

There is hereby levied an excise tax of seven percent upon the gross receipts or gross receipts derived from all rent for every occupancy of a room or rooms in a hotel in this City, except that the tax shall not be imposed where the rent is less than the rate of five dollars (\$5.00) per day. (Prior code § 7-302; 859, § 1 (part), eff. 12/05/1994; 1221, amended by Recodification, 12/03/2012; 1226, amended 01/01/2013.)

Section 3.12.030 Exemptions.

A. Occupancy. The following shall be exempt from the tax levied in the ordinance codified in this chapter:

1. Permanent residents;
2. The United State Government or any agency or division thereof;
3. The State of Oklahoma or any political subdivision thereof.

B. Certificate of Exemption Required. Anyone claiming to be exempt from the tax must obtain a certification from the City Manager that the person, organization, association, or corporation with which the occupant affiliated is exempt from the tax. Prior to issuing such a certificate, the City Manager shall require a certification from the said organization, association, or corporation that the occupant is its agent, representative, or employee and that his or her occupancy of the room is required in connection with the affairs of said exempt organization, association, or corporation. (Prior code § 7-303; Ord. 859, § 1 (part), eff. 12/05/1994)

Section 3.12.040 Tax to be separately designated on bills.

The operator shall separately designate, charge and show the tax on all bills, statements, receipts, or any other evidence of charge or payment of rent for occupancy issued or delivered by the operator. In the absence of a certificate of exemption as specified above, it shall be presumed that the rent on all occupancies is taxable, and the burden of proof shall be on the operator. (Prior code § 7-304; 859, § 1 (part), eff. 12/05/1994)

Section 3.12.050 Operator duties.

A. Operator Responsible for Collections. The operator shall be responsible for the collection of the tax from the occupant and shall be liable to the City for the tax which shall be held in trust by the operator until paid to the City. The operator shall join the City as a party to any action brought by the operator to enforce collection of the tax.

B. Records to be kept. Every operator shall keep records of every occupancy and of all rent paid, charged, or due thereon and of the tax payable thereon in such form as the City Manager may by regulation require. Such records shall be available for inspection and examination at any time upon demand by the City Manager, or a duly authorized agent or employee of the City, and shall be preserved for a period of three (3) years.

C. Returns.

1. Every operator shall file with the City Manager a report of occupancy and of rents, and of the taxes payable thereon for the period ending on the last day of each month following the effective date of the ordinance codified in this chapter. Such return shall be filed within the first fifteen (15) days after the end of each such month.

2. Each operator shall further file with the City Manager a copy of their completed Oklahoma state sales tax form within ten (10) days after June 30, September 30, December 31, and March 31, of each year following the effective date of the ordinance codified in this chapter.

3. The form of return shall be prescribed by the City Manager and shall contain such information as may be deemed necessary for the proper administration of the ordinance codified in this chapter. The City Manager may require amended returns to be filed within twenty (20) days after notice and to contain the information specified in the notice.

D. Payment of Tax. At the time of filing a return of occupancy and of rents, each operator shall pay to the City Treasurer the taxes imposed by the ordinance upon the rents included in such return. All taxes not paid with a timely return shall be delinquent. All the taxes for the period for which a return is required to be filed shall be due from the operator and payable to the City Treasurer on or before the date fixed for the filing of the return for such period without regard to whether a return is filed or whether the return which is filed correctly shows the amount of rents and the taxes due thereon.

E. Interest. If any tax levied by the ordinance codified in this chapter becomes delinquent, the person responsible and liable for such tax shall pay interest on such unpaid tax at the rate of one and one-half percent (1.5%) per month on the unpaid balance from the date of delinquency. (Prior code § 7-305; 859, § 1 (part), eff. 12/05/1994)

Section 3.12.060 Bond required.

Where the City Manager believes that any operator is about to cease business, leave the state, or remove or dissipate assets, or for any other similar reason the City Manager deems it necessary in order to protect revenues under the ordinance codified in this chapter may require such operator to file with the City a bond issued by a surety company authorized to transact business in the state in such amount as the City Manager may fix to secure the payment of any tax or penalties and interest due, or which may become due from such operator. In the event that the City Manager determines that an operator is to file such bond, the City Manager shall give notice to such operator specifying the amount of security required. The operator shall file such security as a performance bond or irrevocable letter of credit within five (5) days after the filing of such notice unless within such five (5) days the operator shall request in writing a hearing before the City Council, at which time the necessary propriety and amount of the bond shall be determined by the City Council. Such determination shall be final and shall be complied with within fifteen (15) days thereafter. In lieu of such bond, a cash or securities escrow, in an amount and under terms approved by the City Manager, may be deposited with the City Manager, who may at any time after five (5) days notice to the depositor, apply them to any tax and/or any penalties due and for that purpose the securities may be sold at private or public sale. (Prior code § 7-306; 859, § 1 (part), amended 12/05/1994)

Section 3.12.070 Assessment and determination of tax.

If a return required by the ordinance codified in this chapter is not filed, or if a return when filed is incorrect or insufficient, the amount of tax due shall be assessed by the City Manager from such information as may be obtainable and, if necessary, the tax may be estimated on the basis of external indices, such as number of rooms, location, scale of rents, comparable rents, types of accommodations and services, number of employees, or other factors. Written notice of such assessments shall be given to the person liable for the collection and payment of the tax. Such assessment shall finally and irrevocably fix and determine the tax, (A) unless the person against whom it is assessed, shall apply in writing to the City Council within ninety (90) days after the City gives notice of such assessment, for a hearing; or (b) unless the City Manager decides to reassess the same. After such hearing, the City Council shall give written notice of its determination to the person against whom the tax is assessed and such determination shall be final. (Prior code § 7-307; 859, § 1 (part), amended 12/05/1994)

Section 3.12.080 Refunds.

A. Procedure. The City Manager shall direct the refund or credit of any tax erroneously, illegally, or unconstitutionally collected if written application to the City Manager for such refund is made within two (2) years from the date of payment thereof. For like causes, and in the same period, a refund may be so made upon the initiative of the City Manager, subject to existing limits on the authority of the City Manager as to amount. The City Manager, in lieu of any refund required to be made, may allow credit thereof on payments due from the applicant. Whenever a refund is made, the reasons therefor shall be stated in

writing. Such application may be made by the person who has collected and paid such tax to the City Treasurer; however, no refund of money shall be made to the operator until the operator has repaid to the occupant the amount for which the application for refund is made.

B. Determination and Hearing. Upon application for a refund the City Manager may receive evidence with respect thereto, and make such investigation as is deemed necessary. After making a determination as to the refund, the City Manager shall give written notice thereof to the applicant. Such determination shall be final unless the applicant, within ninety (90) days after such notice shall apply in writing to the City Council for a hearing. After such hearing the City Council shall give written notice of its decision to the applicant. (Prior code § 7-308; 859, § 1 (part), amended 12/05/1994)

Section 3.12.090 Notices.

Notices provided for under this chapter shall be deemed to have been given when such notice has been delivered personally to the operator or deposited in the United States mail, postage prepaid, to the last known address of the operator. In the absence of written evidence received by the City to the contrary, the last known address shall be presumed to be the address shown on the certificate of registration as required by 3.12.120. (Prior code § 7-309; 859, § 1 (part), amended 12/05/1994)

Section 3.12.100 Remedies exclusive.

The remedies provided in this chapter shall be the exclusive remedies available to any person for the review of tax liability imposed by this chapter. (Prior code § 7-310; 859, § 1 (part), amended 12/05/1994)

Section 3.12.110 General powers of the City Manager.

In addition to all other powers granted to the City Manager, the manager is hereby authorized:

A. To make, adopt, and amend rules and regulations appropriate to the execution of this chapter and for the purposes hereof;

B. To extend for cause shown the time for filing any return for a period not exceeding sixty (60) days; and for cause shown to waive, remit, or reduce penalties or interest;

C. To delegate functions hereunder to authorized designees for the City;

D. To assess, reassess, determine, revise, and readjust the amount of taxes, but not the tax rate, imposed by this chapter;

E. To prescribe methods for determining the taxable and nontaxable rents;

F. To administer oaths and take affidavits concerning any matter or proceeding under this chapter;

G. To subpoena and require the attendance of witnesses and the production of books, papers, and documents to secure information pertinent to the performance and the enforcement of this chapter and to examine them in relation thereto. (Prior code § 7-311; 859, § 1 (part), amended 12/05/1994)

Section 3.12.120 Certificates of registration.

Every operator shall file with the City Manager a certificate of registration in a form prescribed by the City Manager within ten (10) days after the effective date of the ordinance, or in the case of operators commencing business or opening new hotels after such effective date, within three (3) days after such commencement or opening. The City Manager shall, within five days (5) after such registration, issue, without charge, to each operator a certificate of authority empowering such operator to collect the tax from the occupant and duplicates thereof for each additional hotel. Each certificate or duplicate shall state the hotel to which it is applicable. Such certificate of authority shall be permanently displayed by the operator in such manner that it may be seen and will come to the notice of all occupants and persons seeking occupancy. Such certificates shall be nonassignable, nontransferable, and shall be surrendered immediately to the City Manager upon the cessation of business at the hotel named, or upon its sale or transfer. (Prior code § 7-312; 859, § 1 (part), amended 12/05/1994)

Section 3.12.130 Use of funds.

A. All taxes collected pursuant to this chapter shall be set aside and used exclusively to encourage, promote, and foster economic development, cultural enhancement, and tourism in Sand Springs, Oklahoma, and the cost of enforcing this chapter.

B. The City of Sand Springs, Oklahoma, is authorized to retain from the initial proceeds of the hotel tax an amount equal to the costs of the election concerning the ordinance codified in this chapter and borne by the City.

C. In order to remunerate an operator for keeping tax records, filing reports, and remitting the tax when due, a discount not to exceed one percent (1%) of the current taxes due may be allowed to the operator by agreement. No discount shall be allowed for the payment of delinquent taxes. (Prior code § 7-313; 859, § 1 (part), amended 12/05/1994)

Section 3.12.140 Records confidential.

The confidential and privileged nature of the records file concerning the administration of the hotel tax is legislatively recognized and declared and, in order to protect the same, the provisions of 68 O.S. (1991), Section 205 of the State Sales Tax Code, and each subsection thereof and all amendments thereto, are hereby adopted by reference and made fully effective and applicable to the administration of the Sand Springs, Oklahoma, hotel tax as if here set forth. (Prior code § 7-314; 859, § 1 (part), amended 12/05/1994)

Section 3.12.150 Criminal penalties.

A. The willful intent or refusal of any taxpayer to make reports and remittances therein required, or the making of any false and fraudulent report for the purpose of avoiding or escaping payment of any tax or portion thereof rightfully due under this chapter shall be deemed an offense and punishable as provided under the provisions of Section 1.20.010 of the Code of Ordinances of the City of Sand Springs, Oklahoma.

B. The failure by an operator, (1) to file a security bond as required; or (2) to register or to display the certificate of registration, or (3) to separately state the tax on the bill or to collect such tax from the occupant shall be deemed an offense and punishable as provided under the provisions of Section 1.20.010 of the Code of Ordinances of the City of Sand Springs, Oklahoma. (Prior code § 7-315; 859, § 1 (part), amended 12/05/1994)

Section 3.12.160 Civil remedies.

A. Whenever any operator, occupant, or other person shall fail to collect and/or pay over any tax, or to owe any tax, penalty, or interest imposed by this chapter as herein provided, the Mayor may authorize the director of finance to file notice of liens on behalf of the City against the real estate upon which the hotel is located and/or against all franchises, property, and rights to property, whether real or personal, then belonging to or thereafter acquired by the person owing the tax pursuant to Title 68 O.S. 1981, Section 2701 and Section 2704.

B. The liens shall, upon proper filing, attach to the real estate and/or personal property then owned or thereafter acquired by the debtor, whether such property is used by the debtor in the operation of business or is under the authority of an assignee, trustee, or receiver for the benefit of creditors, from the date such taxes are due and payable as allowed by Title 68 O.S. 1981, Section 2704.

C. The City Manager shall notify the person owing the tax by personal service or by certified mail that the City of Sand Springs, Oklahoma, will file such liens if any delinquent lodging taxes, interest and/or penalties are not paid within fifteen (15) days of receiving such notice.

D. The City Manager may also authorize the City Attorney to institute an action in personam and in rem to enforce payment and collect any delinquent lodging taxes, penalties, and/or interest. (Prior code § 7-316; 859, § 1 (part), amended 12/05/1994)

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CHAPTER 3.16

NATURAL GAS AND USE TAX

Sections:

- 3.16.010** **Definitions.**
- 3.16.020** **Permit required.**
- 3.16.030** **Fee.**
- 3.16.040** **Permit requirements.**
- 3.16.050** **Revocations and penalties.**

Section 3.16.010 **Definitions.**

"City" means the City of Sand Springs, Oklahoma, a municipal corporation.

"Consumer" means any individual person, corporation, company, partnership, firm, unincorporated association, trust, or public corporation, who uses or consumes natural gas in the city.

"Permit" means the rights, license, and privileges granted by the City of Sand Springs to a consumer to use the public ways for transportation and receiving natural gas through a pipeline system not owned by permittee.

"Permittee" means a consumer granted a permit under the ordinance codified in this chapter.

"Pipeline System" means a system of works, pipes, pipelines, apparatus, machinery, structures, appliances, and appurtenances reasonably necessary for the transportation, distribution, or sale of natural gas.

"Public Ways" means any street, alley, avenue, boulevard, lane, park, parkway, sidewalk, driveway, utility easement, right-of-way, and any other public ways, places, areas, or grounds within the corporate limits of the City of Sand Springs as now constituted or may be added hereafter. (935, amended 06/14/1999)

Section 3.16.020 **Permit required.**

No consumer shall transport and receive or deliver gas within the City pursuant to any arrangement of any pipeline system installed in the public ways, unless the consumer shall hold a valid permit from the City. Such permit shall be issued for the purpose of granting the permittee authority to use the public ways. (935, amended 06/14/1999)

Section 3.16.030 **Fee.**

In consideration of the issuance of a permit by the City, a permittee shall pay to the city a monthly fee as follows:

A. An amount equal to three percent (3%) of the purchase price of natural gas transported and delivered or received within the City pursuant to any arrangement with any pipeline system installed in the public ways;

B. for all permittees not otherwise exempt from the payment of municipal sales taxes, a use tax in an amount equal to three and one half percent (3.5%) of the purchase price of the gas transported and delivered or received within the City pursuant to any arrangement with any pipeline system installed in the public ways. (935, amended 06/14/1999)

Section 3.16.040 Permit requirements.

Any permit issued shall contain the following material terms:

A. The permittee shall report to the City on a monthly basis the information set forth on the public ways use permit return, a copy thereof being attached to the ordinance codified in this chapter, made a part of such ordinance, marked as Exhibit A, and pay the fee set forth in Section 3.16.030 to the city on a monthly basis as directed by the City;

B. The permittee shall subordinate its arrangement to the right of the City to construct, operate, and maintain facilities in the public ways;

C. The permittee shall grant to the City the right to audit at reasonable times the books and records of the permittee to verify the correct payment of the fee set forth in Section 3.16.030;

D. The permittee shall assume conjointly with the franchise holder the indemnification terms of the franchise insofar as the terms apply to any arrangement with any franchise holders with any pipeline system installed in the public ways. (935, amended 06/14/1999)

Section 3.16.050 Revocations and penalties.

A. A permit shall be revocable by the City Council at any time upon a ten (10) day prior written notice to permittees.

B. Any violation of this chapter shall be an offense. Any consumer or permittee adjudged guilty of violation of this chapter shall be punished by a fine of two hundred dollars (\$200.00), plus costs, for each offense; and each day of a continuing violation shall be deemed a separate offense. (935, amended 06/14/1999)

CHAPTER 3.18

UTILITIES TAX

Sections:

- 3.18.010** Fee levied; application
- 3.18.020** Tax is in lieu of other taxes
- 3.18.030** Tax to be paid quarterly and placed in general revenue fund
- 3.18.040** Failure to pay; action for collection
- 3.18.050** Tax lien
- 3.18.060** Permit granted to gas companies in lieu of franchise

Section 3.18.010 Fee Levied; application

There is hereby levied and assessed an annual tax of two percent (2%) upon the gross receipts from residential and commercial sales of gas in the City. Such tax shall apply to all persons, firms, associations or corporations engaged in the business of furnishing power, light, heat, gas, electricity or water within the City limits, except that it shall not apply to any person, firm, association, or corporation operating under a valid franchise from the City nor apply to utilities furnished by the City. (1272, eff. 07/27/2015)

Section 3.18.020 Tax is in lieu of other taxes

The tax levied by this chapter shall be in lieu of any other franchise, license, occupation, or excise tax levied by the City. (1272, eff. 07/27/2015)

Section 3.18.030 Tax to be paid quarterly and placed in general revenue fund

The tax levied under this chapter shall be payable quarterly and placed in the general revenue fund of the City. (1272, eff. 07/27/2015)

Section 3.18.040 Failure to pay; action for collection

Any person failing or refusing to pay the tax levied by this chapter shall be regarded as a trespasser and may be ousted from the City. In addition thereto, an action may be maintained against such person for the amount of the tax and all expenses of collecting same, including reasonable attorney(s) fees. (1272, eff. 07/27/2015)

Section 3.18.050 Tax Lien

The tax imposed by this chapter shall constitute a first and prior lien on all the assets located within the City of any person engaged in the business of selling power, light, heat, gas, electricity, or water within the City and subject to such tax. (1272, eff. 07/27/2015)

Section 3.18.060 Permit granted to gas companies in lieu of franchise

Any persons, firms, associations, or corporations engaged in the business of furnishing gas within the City limits, not operating under a valid franchise from the City, and upon whom the tax provided under Title 3.18.010 of this code is imposed, is hereby granted a revocable permit by the City for so long as this chapter remains in effect and the taxes

are paid in accordance with the terms of this chapter to acquire, construct, erect, install, extend, repair, remove, relocate, replace, operate, and maintain a system of works, pipes, pipelines, apparatus, structures, and appurtenances in, across, upon, and under the streets, alleys, avenues, boulevards, lanes, parks, parkways, sidewalks, parkings, driveways, right-of-way, utility easements, and other public ways, places, areas, and grounds, all being sometimes referred to herein as "streets, alleys, avenues, and other public ways, places, and grounds," in the City as now constituted, and as may be added to hereafter, for the purpose of transporting, distributing, and selling gas for domestic, commercial, and industrial uses, and for any and all other purposes for which gas, during the period of this revocable permit may be used, together with the right to enter upon the streets, alleys, avenues, and other public ways, places, and grounds of the City for the purpose of constructing, erecting, installing, extending, relocating, operating, maintaining, removing, and repairing the works, pipes, pipelines, and all necessary apparatus, machinery, structures, and appurtenances. (1272, eff. 07/27/2015)

CHAPTER 3.24

RESERVE FUND POLICY

Sections:

- 3.24.010 General Policy.**
- 3.24.020 Contents of Reserve Fund.**
- 3.24.030 Budget Requirements.**
(Added by 1233, adopted 08/27/2012)

Section 3.24.010 General Policy.

The City shall maintain a fund reserve, as set forth herein, with a goal of no less than 15% of annual budgeted normal reoccurring revenues, and does establish a goal of obtaining a 30% reserve as funds become available. (Added by 1233, adopted 08/27/2012; 1234, amended 01/14/2013.)

Section 3.24.020 Contents of Reserve Fund.

The reserve amount shall consist of:

- a. An emergency reserve within the general fund in which the use of the funds shall be restricted for emergency and unexpected needs of the City, such as uses for natural disasters and one-time non-occurring emergencies that disrupt the cash receipts of the City. Expenditures for emergency situations that threaten the life, health, or public safety for which no existing appropriation exist, shall be eligible. The budget shall reflect a provision for an emergency reserve for this purpose and shall have a goal of 15% of the operating revenues. (Added 1233, adopted 08/27/2012; 1234, amended 01/14/2013.)
- b. A stabilization reserve within the budget, in which there is a goal of an appropriation of 15% of the annual budgeted normal reoccurring revenues, said reserve to only be used (1) in those instances in which there has been a significant economic downturn causing actual normal reoccurring revenues to decline more than 5% within the applicable fund over a one (1) year time period; or (2) short term emergency capital purchases that cannot be funded through the operating budget, as determined by Council. (Added by 1233, adopted 08/27/2012; 1234, amended 01/14/2013.)
- c. All undesignated fund balance in excess of \$500,000.00 shall be directed to either the stabilization reserve or emergency reserve. (Added by 1233, adopted 08/27/2012)
- d. Once the emergency reserve and stabilization reserve are fully funded, all undesignated fund balances in excess of \$500,000 shall be first applied to reduce all utility transfers to the general fund. (Added by 1233, adopted 08/27/2012)
- e. Council recognizes that the City is not capable of immediately fully funding the above accounts, and directs the City Manager, as a part of the budget process, to advise the Council of the status of the funding level of each of the reserves established herein. (Added by 1233, adopted 08/27/2012)

Section 3.24.030 Budget Requirements.

The City Manager is directed to prepare and submit budgets and budget amendments consistent with the policy established by the Council, unless good cause is shown. (Added by 1233, adopted 08/27/2012)