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BILL NO. _____

SUMMARY – An ordinance to amend Title 4 of the Clark County Code to increase and add additional taxes on certain fuels.

ORDINANCE NO. _____
(of Clark County, Nevada)

AN ORDINANCE RELATING TO COUNTY TAXES ON VEHICLE FUELS; AMENDING TITLE 4 OF THE CLARK COUNTY CODE (REVENUE AND TAXATION) TO IMPOSE THE ADDITIONAL TAXES ON VEHICLE FUELS AND INCREASES IN TAXES ON VEHICLE FUELS AUTHORIZED BY ASSEMBLY BILL 413 OF THE 2013 REGULAR SESSION OF THE NEVADA LEGISLATURE PROVIDING OTHER DETAILS IN CONNECTION THEREWITH; AND PROVIDING OTHER MATTERS PROPERLY RELATING THERETO.

THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF CLARK, IN THE STATE OF NEVADA, DO ORDAIN:

Section 1. Title 4 of the Clark County Code is hereby amended by adding thereto a new Chapter 4.07 to read as follows:

Chapter 4.07 SUPPLEMENTAL FUEL TAX

GENERAL PROVISIONS; IMPOSITION OF TAXES

4.07.003 Findings

1. During the 2013 regular session of the Nevada Legislature (the “Legislature”), the Legislature approved Assembly Bill 413 (the “Act”) which allows the County to impose additional county taxes on motor vehicle fuel and special fuels.
2. Insufficient funds are now available for highway and street construction in Clark County, resulting in dangers to the safety, health and welfare of the general public of Clark County.
3. In order to provide substantial additional funds for highway and street construction, it is necessary for the Board to amend Title 4 of the Clark County Code (the “Code”) to impose the taxes authorized by the Act.
4. Imposition of the taxes authorized by the Act and the resulting substantial increase in funding of additional highway and street construction is necessary

and desirable in order to provide for and protect the safety, health and welfare of the general public of Clark County.

4.07.005 Short title, authority to enact, restrictions on repeal.

1. Sections 4.07.003 through 4.07.620 shall be known as and may be referred to as the Supplemental Fuel Tax Ordinance.

2. The Supplemental Fuel Tax Ordinance is enacted pursuant to the authorization contained in Assembly Bill 413 of the 2013 regular session of the Nevada Legislature, (the "Act") and Chapter 373 of NRS, as amended by the Act.

3. The Supplemental Fuel Tax Ordinance shall not be repealed until all obligations to which the revenues from it have been pledged pursuant to chapter 373 of NRS have been discharged in full.

4.07.010 Definitions. As used in the Supplemental Fuel Tax Ordinance, unless the context otherwise requires, the terms defined in Chapter 4.04 of the Code, as heretofore and hereafter amended pursuant to Section 4.04.450 or otherwise and subsections 1 through 21, inclusive, of this Section have the meaning ascribed to them in that Chapter and those subsections.

1. "Adjusted average highway and street construction inflation index" means:

(a) For fiscal year 2013-2014, the percentage obtained by adding the average highway and street construction inflation index for that fiscal year to:

(1) If the average highway and street construction inflation index for the preceding fiscal year is greater than the applicable percentage, the remainder obtained by subtracting the applicable percentage from the average highway and street construction inflation index for the preceding fiscal year; or

(2) If the average highway and street construction inflation index for the preceding fiscal year is less than or equal to the applicable percentage, zero; and

(b) For each fiscal year following fiscal year 2013-2014, the percentage obtained by adding the average highway and street construction inflation index for that fiscal year to:

(1) If the adjusted average highway and street construction inflation index for the preceding fiscal year is greater than the applicable percentage, the remainder obtained by subtracting the applicable percentage from the adjusted average highway and street construction inflation index for the preceding fiscal year; or

(2) If the adjusted average highway and street construction inflation index for the preceding fiscal year is less than or equal to the applicable percentage, zero.

2. "Applicable Percentage" means (a) 7.8 percent, the maximum permitted by the Act, for every computation of an increase in the amount of fuel taxes due

under this Chapter except the computations applicable to the increases in fuel taxes to take effect on July 1, 2015 and July 1, 2016, and

(b) For the increases in fuel taxes to take effect on July 1, 2015 and July 1, 2016, 7.8% per annum, unless on either of those dates the cumulative percentage increase in a fuel tax under this Chapter from the date of enactment of this Chapter until that date would exceed 19.2%, in which case the applicable percentage for the increase to take effect on that date will be the percentage that would result in a cumulative percentage increase in each fuel tax under this chapter from the date of enactment of this Chapter until that date equal to 19.2%.

3. “Average highway and street construction inflation index” for a fiscal year means the average percentage increase in the highway and street construction inflation index for the 10 calendar years preceding the beginning of that fiscal year. If the average percentage change in the highway and street construction inflation index for the 10 calendar years preceding the beginning of that fiscal year is less than zero, the “average highway and street construction inflation index” for that fiscal year shall be zero.

4. “Biodiesel” means a fuel composed of mono-alkyl esters of long-chain fatty acids or any other fuel sold or labeled as biodiesel which is suitable for use as a fuel in a motor vehicle.

5. “Biodiesel blend” means a blend of biodiesel and a petroleum-based product suitable for use as a fuel in a motor vehicle.

6. “Dyed special fuel” means special fuel which, in accordance with subsection 1 of NRS 366.203, must be dyed before it is removed for distribution from the rack.

7. “Emulsion of water-phased hydrocarbon fuel” means a mixture of any hydrocarbon and water if the water is at least 20 percent by volume of the total mixture.

8. “Highway and street construction inflation index” means:

(a) The Producer Price Index for Highway and Street Construction until that index ceased to be published; and

(b) The Producer Price Index for Other Nonresidential Construction thereafter or, if that index ceases to be published by the United States Department of Labor, the published index that most closely measures inflation in the costs of highway and street construction, as determined by the commission.

9. “Highway under construction or reconstruction” means all portions of a highway which are in any part constructed or maintained through the use of public funds, whether or not open to the use of the public.

10. “Retail station” means any fixed facility or location that:

(a) Operates in the retail business of selling or handling fuel; or

(b) Dispenses fuel from a stationary pump or metered tank for which the access to the fuel is not controlled.

11. “Special fuel” means any combustible gas or liquid used for the generation of power for the propulsion of motor vehicles, including, without limitation, biodiesel, biodiesel blend and an emulsion of water-phased hydrocarbon fuel. The term does not include motor vehicle fuel as defined in NRS Chapter 365.

12. “Special fuel dealer” means a person who sells compressed natural gas or liquefied petroleum gas and delivers any part thereof into the tank for the supply of fuel of a motor vehicle that is not owned or controlled by that person.

13. “Special fuel exporter” means a person, other than a special fuel supplier, who receives special fuel in this State and sells or distributes it outside this State.

14. “Special fuel manufacturer” means a person who manufactures, blends, produces, refines, prepares, distills or compounds only special fuel containing biodiesel or biodiesel blend in this State for his or her personal use in this State or for sale or delivery in or outside of this State.

15. (a) “Special fuel supplier” means a person who:

(1) Imports or acquires immediately upon importation into this State special fuel from within or without a state, territory or possession of the United States or the District of Columbia into a terminal located in this State;

(2) Produces, manufactures or refines special fuel in this State; or

(3) Otherwise acquires for distribution in this State special fuel with respect to which there has been no previous taxable sale or use.

(b) The term does not include a special fuel manufacturer.

16. “Special fuel transporter” means a person, except a special fuel supplier or special fuel exporter licensed pursuant to NRS Chapter 366, who transports special fuel in interstate commerce by pipeline, rail or truck to or from any point within this State, or solely within this State.

17. “Special fuel user” means any person who consumes in this State special fuel for the propulsion of motor vehicles owned or controlled by that person upon the highways of this State, including highways under construction or reconstruction.

18. “Special mobile equipment” means every motor vehicle not designed or used primarily for the transportation of persons or property, and only incidentally operated or moved upon a highway. The term includes scoopmobiles, forklifts, ditch-digging apparatus, well-boring apparatus and road construction and maintenance machinery, such as asphalt graders, bituminous mixers, bucket loaders, tractors other than truck tractors; leveling graders, finishing machines, motor graders, road rollers, scarifiers, earth-moving carryalls and scrapers, power shovels and draglines, and earth-moving equipment.

(a) “Special mobile equipment” does not include house trailers, dump trucks, truck-mounted transit mixers, concrete pumpers, cranes or drill rigs with

highway-rated tires or other vehicles designed for the transportation of persons or property to which machinery has been attached.

(b) The Director of the Department may make the final determination as to whether a vehicle not specifically enumerated in this subsection falls within this definition.

19. “Storage tank” means any container designed to transport or store fuel, including, without limitation, a fuel tank on a motor vehicle that is used to supply fuel for the propulsion of the motor vehicle.

20. “Supplier” means a person who:

(a) Imports or acquires immediately upon importation into this State motor vehicle fuel, except aviation fuel, from within or without a state, territory or possession of the United States or the District of Columbia into a terminal located in this State;

(b) Otherwise acquires for distribution in this State motor vehicle fuel, except aviation fuel, with respect to which there has been no previous taxable sale or use; or

(c) Produces, manufactures or refines motor vehicle fuel, except aviation fuel, in this State.

21. For the purposes of the taxes authorized in Sections 4.07.080 through 4.07.140, inclusive, of the Supplemental Fuel Tax Ordinance and of Sections 4.07.250 to 4.07.600 inclusive, of the Supplemental Fuel Tax Ordinance, the following terms shall have the meanings specified below:

(a) “Highway” means every way or place of whatever nature open to the use of the public for purposes of traffic, including highways under construction.

(b) “Highway” does not include any way constructed by private individuals for the use of a private enterprise, although such way may be used occasionally by persons other than the individuals constructing such way or who use the way in furtherance of a private enterprise, if no public funds are currently used in the maintenance of such way in any amount whatsoever.

(c) “Motor vehicle” means and includes every self-propelled vehicle operated upon a highway.

(d) “Rack” means a deck, platform or open bay which consists of a series of metered pipes and hoses for delivering special fuel from a refinery or terminal into a motor vehicle, rail car or vessel.

(e) “Retailer” means any person, other than a dealer or supplier, who is engaged in the business of selling or handling any special fuel at a retail station and who delivers or

authorizes the delivery of fuel into the fuel supply tank of a motor vehicle that is not owned by that person.

(f) "Terminal" means a facility for the storage of special fuel which is supplied by a motor vehicle, pipeline or vessel and from which special fuel is removed for distribution at a rack.

(g) "Use" means the consumption by a special fuel user of special fuels in propulsion of a motor vehicle on the highways of this State.

4.07.020 Imposition, rate, annual increase, allocation, disbursement and use of tax.

1. In addition to any other taxes imposed pursuant to this Title, each supplier shall, not later than the last day of each calendar month, pay an excise tax on each gallon of motor vehicle fuel, except aviation fuel, sold in this County in an amount equal to the product obtained by multiplying 3.6 cents per gallon by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for fiscal year 2013-2014.

2. The tax imposed pursuant to subsection 1 shall be increased annually on the first day of each fiscal year following the fiscal year in which that tax becomes effective, in the amount determined by adding 3.6 cents per gallon to the amount of the tax imposed pursuant to this Section during the immediately preceding fiscal year, then multiplying that sum by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the increase becomes effective.

3. The allocation, disbursement and use in this County of the proceeds of the tax imposed by this Section shall be in the same proportions and manner as the allocation, disbursement and use in this County of the proceeds of the tax imposed pursuant to NRS 365.180.

4.07.030 Imposition, rate, annual increase, allocation, disbursement and use of tax.

1. In addition to any other taxes imposed pursuant to this Title, each supplier shall, not later than the last day of each calendar month, pay an excise tax on each gallon of motor vehicle fuel, except aviation fuel, sold in this County in an amount equal to the product obtained by multiplying 1.75 cents per gallon by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for fiscal year 2013-2014.

2. The tax imposed pursuant to subsection 1 shall be increased annually on the first day of each fiscal year following the fiscal year in which that tax becomes effective, in the amount determined by adding 1.75 cents per gallon to the amount of the tax imposed pursuant to this Section during the immediately preceding fiscal year, then multiplying that sum by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the increase becomes effective.

3. The allocation, disbursement and use in this County of the proceeds of the tax imposed by this Section shall be in the same proportions and manner

as the allocation, disbursement and use in this County of the proceeds of the tax imposed pursuant to NRS 365.190.

4.07.040 Imposition, rate, annual increase, allocation, disbursement and use of tax.

1. In addition to any other taxes imposed pursuant to this Title, each supplier shall, not later than the last day of each calendar month, pay an excise tax on each gallon of motor vehicle fuel, except aviation fuel, sold in this County in an amount equal to the product obtained by multiplying 1 cent per gallon by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for fiscal year 2013-2014.

2. The tax imposed pursuant to subsection 1 shall be increased annually on the first day of each fiscal year following the fiscal year in which that tax becomes effective, in the amount determined by adding 1 cent per gallon to the amount of the tax imposed pursuant to this Section during the immediately preceding fiscal year, then multiplying that sum by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the increase becomes effective.

3. The allocation, disbursement and use in this County of the proceeds of the tax imposed by this Section shall be in the same proportions and manner as the allocation, disbursement and use in this County of the proceeds of the tax imposed pursuant to NRS 365.192.

4.07.050 Imposition, rate, annual increase, allocation, disbursement and use of tax.

1. In addition to any other taxes imposed pursuant to this Title, each supplier shall, not later than the last day of each calendar month, pay an excise tax on each gallon of motor vehicle fuel, except aviation fuel, sold in this County in an amount equal to the product obtained by multiplying 9 cents per gallon by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for fiscal year 2013-2014.

2. The tax imposed pursuant to subsection 1 shall be increased annually on the first day of each fiscal year following the fiscal year in which that tax becomes effective, in the amount determined by adding 9 cents per gallon to the amount of the tax imposed pursuant to this Section during the immediately preceding fiscal year, then multiplying that sum by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the increase becomes effective.

3. The allocation, disbursement and use in this County of the proceeds of the tax imposed by this Section, except as otherwise required by subsection 6 of NRS 373.140, shall be in the same proportions and manner as the allocation, disbursement and use in this County of the proceeds of the tax imposed pursuant to NRS 373.030.

4.07.060 Imposition, rate, annual increase, allocation, disbursement and use of tax.

1. In addition to any other taxes imposed pursuant to this Title, each supplier shall, not later than the last day of each calendar month, pay an excise tax on each gallon of motor vehicle fuel, except aviation fuel, sold in this County in an amount equal to the product obtained by multiplying 18.455 cents per gallon by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for fiscal year 2013-2014.

2. The tax imposed pursuant to subsection 1 shall be increased annually on the first day of each fiscal year following the fiscal year in which that tax becomes effective, in the amount determined by adding 18.455 cents per gallon to the amount of the tax imposed pursuant to this Section during the immediately preceding fiscal year, then multiplying that sum by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the increase becomes effective.

3. The allocation, disbursement and use in this County of the proceeds of the tax imposed by this Section, except as otherwise required by subsection 6 of NRS 373.140, shall be in the same proportions and manner as the allocation, disbursement and use in this County of the proceeds of the tax imposed pursuant to NRS 373.030.

4.07.070 Imposition, rate, annual increase, allocation, disbursement and use of tax.

1. In addition to any other taxes imposed pursuant to this Title, each supplier shall, not later than the last day of each calendar month, pay an excise tax on each gallon of motor vehicle fuel, except aviation fuel, sold in this County in an amount equal to the product obtained by multiplying 18.4 cents per gallon by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for fiscal year 2013-2014.

2. The tax imposed pursuant to subsection 1 shall be increased annually on the first day of each fiscal year following the fiscal year in which that tax becomes effective, in the amount determined by adding 18.4 cents per gallon to the amount of the tax imposed pursuant to this Section during the immediately preceding fiscal year, then multiplying that sum by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the increase becomes effective.

3. The allocation, disbursement and use in this County of the proceeds of the tax imposed by this Section, except as otherwise required by subsection 6 of NRS 373.140, shall be in the same proportions and manner as the allocation, disbursement and use in this County of the proceeds of the tax imposed pursuant to NRS 373.030.

4.07.080 Imposition, rate, annual increase, allocation, disbursement and use of tax.

1. In addition to any other taxes imposed pursuant to this Title, each person responsible for payment to the State of a tax on any special fuel under Chapter 366 of NRS shall, not later than the last day of each calendar month, pay an excise tax on each gallon of special fuel that consists of an emulsion of water-phased hydrocarbon fuel

sold in this County in an amount equal to the product obtained by multiplying 19 cents per gallon by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for fiscal year 2013-2014.

2. The tax imposed pursuant to subsection 1 shall be increased annually on the first day of each fiscal year following the fiscal year in which that tax becomes effective, in the amount determined by adding 19 cents per gallon to the amount of the tax imposed pursuant to this Section during the immediately preceding fiscal year, then multiplying that sum by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the increase becomes effective.

3. The allocation, disbursement and use in this County of the proceeds of the tax imposed by this Section, except as otherwise required by subsection 6 of NRS 373.140 and subsection 3 of Section 4.07.620, shall be in the same proportions and manner as the allocation, disbursement and use in this County of the proceeds of the tax imposed pursuant to NRS 373.030.

4.07.090 Imposition, rate, annual increase, allocation, disbursement and use of tax.

1. In addition to any other taxes imposed pursuant to this Title, each person responsible for payment to the State of a tax on any special fuel under Chapter 366 of NRS shall, not later than the last day of each calendar month, pay an excise tax on each gallon of special fuel that consists of liquefied petroleum gas sold in this County in an amount equal to the product obtained by multiplying 22 cents per gallon by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for fiscal year 2013-2014.

2. The tax imposed pursuant to subsection 1 shall be increased annually on the first day of each fiscal year following the fiscal year in which that tax becomes effective, in the amount determined by adding 22 cents per gallon to the amount of the tax imposed pursuant to this Section during the immediately preceding fiscal year, then multiplying that sum by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the increase becomes effective.

3. The allocation, disbursement and use in this County of the proceeds of the tax imposed by this Section, except as otherwise required by subsection 6 of NRS 373.140 and subsection 3 of Section 4.07.620 shall be in the same proportions and manner as the allocation, disbursement and use in this County of the proceeds of the tax imposed pursuant to NRS 373.030.

4.07.100 Imposition, rate, annual increase, allocation, disbursement and use of tax.

1. In addition to any other taxes imposed pursuant to this Title, each person responsible for payment to the State of a tax on any special fuel under Chapter 366 of NRS shall, not later than the last day of each calendar month, pay an excise tax on each gallon of special fuel that consists of compressed natural gas sold in this County in an amount equal to the product obtained by multiplying 21 cents per gallon by the lesser

of the applicable percentage or the adjusted average highway and street construction inflation index for fiscal year 2013-2014.

2. The tax imposed pursuant to subsection 1 shall be increased annually on the first day of each fiscal year following the fiscal year in which that tax becomes effective, in the amount determined by adding 21 cents per gallon to the amount of the tax imposed pursuant to this Section during the immediately preceding fiscal year, then multiplying that sum by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the increase becomes effective.

3. The allocation, disbursement and use in this County of the proceeds of the tax imposed by this Section, except as otherwise required by subsection 6 of NRS 373.140 and subsection 3 of Section 4.07.620 shall be in the same proportions and manner as the allocation, disbursement and use in this County of the proceeds of the tax imposed pursuant to NRS 373.030.

4.07.110 Imposition, rate, annual increase, allocation, disbursement and use of tax.

1. In addition to any other taxes imposed pursuant to this Title, each person responsible for payment to the State of a tax on any special fuel under Chapter 366 of NRS shall, not later than the last day of each calendar month, pay an excise tax on each gallon of special fuel sold in this County, other than any special fuel described in Section 4.07.080, 4.07.090 or 4.07.100, in an amount equal to the product obtained by multiplying 27.75 cents per gallon by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for fiscal year 2013-2014.

2. The tax imposed pursuant to subsection 1 shall be increased annually on the first day of each fiscal year following the fiscal year in which that tax becomes effective, in the amount determined by adding 27.75 cents per gallon to the amount of the tax imposed pursuant to this Section during the immediately preceding fiscal year, then multiplying that sum by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the increase becomes effective.

3. The allocation, disbursement and use in this County of the proceeds of the tax imposed by this Section, except as otherwise required by subsection 6 of NRS 373.140 and subsection 3 of Section 4.07.620 shall be in the same proportions and manner as the allocation, disbursement and use in this County of the proceeds of the tax imposed pursuant to NRS 373.030.

4.07.120 Imposition, rate, annual increase, allocation, disbursement and use of tax.

1. In addition to any other taxes imposed pursuant to this Title, each person responsible for payment to the State of a tax on any special fuel under Chapter 366 of NRS shall, not later than the last day of each calendar month, pay an excise tax on each gallon of special fuel that consists of liquefied petroleum gas sold in this County in an amount equal to the product obtained by multiplying 18.3 cents per gallon by the

lesser of the applicable percentage or the adjusted average highway and street construction inflation index for fiscal year 2013-2014.

2. The tax imposed pursuant to subsection 1 shall be increased annually on the first day of each fiscal year following the fiscal year in which that tax becomes effective, in the amount determined by adding 18.3 cents per gallon to the amount of the tax imposed pursuant to this Section during the immediately preceding fiscal year, then multiplying that sum by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the increase becomes effective.

3. The allocation, disbursement and use in this County of the proceeds of the tax imposed by this Section, except as otherwise required by subsection 6 of NRS 373.140 and subsection 3 of Section 4.07.620 shall be in the same proportions and manner as the allocation, disbursement and use in this County of the proceeds of the tax imposed pursuant to NRS 373.030.

4.07.130 Imposition, rate, annual increase, allocation, disbursement and use of tax.

1. In addition to any other taxes imposed pursuant to this Title, each person responsible for payment to the State of a tax on any special fuel under Chapter 366 of NRS shall, not later than the last day of each calendar month, pay an excise tax on each gallon of special fuel that consists of compressed natural gas sold in this County in an amount equal to the product obtained by multiplying 18.3 cents per gallon by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for fiscal year 2013-2014.

2. The tax imposed pursuant to subsection 1 shall be increased annually on the first day of each fiscal year following the fiscal year in which that tax becomes effective, in the amount determined by adding 18.3 cents per gallon to the amount of the tax imposed pursuant to this Section during the immediately preceding fiscal year, then multiplying that sum by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the increase becomes effective.

3. The allocation, disbursement and use in this County of the proceeds of the tax imposed by this Section, except as otherwise required by subsection 6 of NRS 373.140 and subsection 3 of Section 4.07.620 shall be in the same proportions and manner as the allocation, disbursement and use in this County of the proceeds of the tax imposed pursuant to NRS 373.030.

4.07.140 Imposition, rate, annual increase, allocation, disbursement and use of tax.

1. In addition to any other taxes imposed pursuant to this Title, each person responsible for payment to the State of a tax on any special fuel under Chapter 366 of NRS shall, not later than the last day of each calendar month, pay an excise tax on each gallon of special fuel sold in this County, other than any special fuel described in Section 4.07.120 or 4.07.130, which is taxed by the Federal Government at a rate per gallon or gallon equivalent of 24.4 cents or more, in an amount equal to the product obtained by multiplying 24.4 cents per gallon by the lesser of the applicable percentage

or the adjusted average highway and street construction inflation index for fiscal year 2013-2014.

2. The tax imposed pursuant to subsection 1 shall be increased annually on the first day of each fiscal year following the fiscal year in which that tax becomes effective, in the amount determined by adding 24.4 cents per gallon to the amount of the tax imposed pursuant to this Section during the immediately preceding fiscal year, then multiplying that sum by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the increase becomes effective.

3. The allocation, disbursement and use in this County of the proceeds of the tax imposed by this Section, except as otherwise required by subsection 6 of NRS 373.140 and subsection 3 of Section 4.07.620 shall be in the same proportions and manner as the allocation, disbursement and use in this County of the proceeds of the tax imposed pursuant to NRS 373.030.

4.07.150 Administration, Exemptions, Bonds, Collection, Credits, and related matters.

1. The provisions of Sections 4.07.010 and 4.07.160 through 4.07.240, inclusive, apply to all taxes levied to the Supplemental Fuel Tax Ordinance.

2. The provisions of 4.04.150 through 4.04.450 as hereto or hereafter amended pursuant to Section 4.04.450 or otherwise apply to the taxes imposed by Sections 4.07.020 through 4.07.070, inclusive, of the Supplemental Fuel Tax Ordinance, but do not apply to the taxes levied by Sections 4.07.080 through 4.07.140, inclusive, of the Supplemental Fuel Tax Ordinance.

3. The provisions of Sections 4.07.250 through 4.07.620, inclusive, of the Supplemental Fuel Tax Ordinance apply to the taxes imposed by Sections 4.07.080 through 4.07.140, inclusive, of the Supplemental Fuel Tax Ordinance, but do not apply to the taxes levied by Sections 4.07.020 through 4.07.070, inclusive, of the Supplemental Fuel Tax Ordinance.

4. Notwithstanding anything contained in the preceding subsections of this Section and in Section 4.04.430, as provided in NRS 373.080, in the case of the taxes imposed by Sections 4.07.020 through 4.07.140, inclusive, of the Supplemental Fuel Tax the amount charged to the County by the Department for its services as specified in Chapter 373 of NRS and this Title of the Code shall not exceed 1 percent of the tax collected by the Department on behalf of the County.

PROVISIONS APPLICABLE TO ALL TAXES IMPOSED BY THE SUPPLEMENTAL FUEL TAX ORDINANCE

4.07.160 No penalties or interest within initial 6 months. No penalties and/or interest shall be imposed for the failure to make any payments of any tax imposed by Sections 4.07.020 through 4.07.140, inclusive, which become due within the initial 6 months after January 1, 2014, the effective date of the Supplemental Fuel Tax Ordinance.

4.07.170 Review by Commission. The Commission shall:

1. Review, at a public meeting conducted after the provision of public notice and before the effective date of each annual increase imposed by Sections 4.07.020 through 4.07.140, inclusive:

(a) The amount of that increase and the accuracy of its calculation;

(b) The amounts of any annual increases imposed by the Supplemental Fuel Tax Ordinance in previous years and the revenue collected pursuant to those increases;

(c) Any improvements to the regional system of transportation resulting from revenue collected pursuant to any annual increases imposed by the Supplemental Fuel Tax Ordinance in previous years; and

(d) Any other information relevant to the effect of the annual increases on the public; and

2. Submit to the Board any information the Commission receives suggesting that the annual increase should be adjusted.

4.07.180 Addition to other Taxes. Each tax imposed pursuant to Sections 4.07.020 through 4.07.140, inclusive, is in addition to any other motor vehicle fuel taxes and special fuel taxes imposed pursuant to the provisions of this Title and of NRS Chapter 365, 366, 373 and 590.

4.07.190. Limitations on Increases.

1. For the period beginning on January 1, 2014, and ending on December 31, 2016, no further action by the board is necessary to effectuate the annual increases in the taxes imposed by the ordinance.

2. For the period beginning on January 1, 2017:

(a) The board shall not impose any additional annual increases in the taxes authorized by Section 4.07.060 and Sections 4.07.080 through 4.07.110 after November 8, 2016, but any annual increases in the taxes authorized by Section 4.07.060 and Sections 4.07.080 through 4.07.110, inclusive, imposed on or before November 8, 2016, are not affected, amended, reduced or eliminated and must be continued for any period during which bonds are outstanding that are secured by the taxes authorized by Section 4.07.060 and Sections 4.07.080 through 4.07.110.

(b) The annual increases in the taxes authorized by Sections 4.07.020 through 4.07.050 inclusive, 4.07.070, 4.07.120, 4.07.130, and 4.07.140 may not be effectuated unless a question is placed on the ballot at the general election on November 8, 2016, which asks the voters in the county whether to authorize the board to impose, for the period beginning on January 1, 2017, the increases authorized by Sections 4.07.020 through 4.07.050 inclusive, 4.07.070, 4.07.120, 4.07.130, and 4.07.140 imposed and the question is approved by a majority of the registered voters voting on the question. If the question is approved by a majority of such voters, no further action by the board is

necessary to effectuate the annual increases in the taxes authorized by Sections 4.07.020 through 4.07.050, inclusive, 4.07.070, 4.07.120, 4.07.130, and 4.07.140. If the question is not approved by a majority of such voters, the board shall not impose any additional annual increases in the taxes authorized by Sections 4.07.020 through 4.07.050, inclusive, 4.07.070, 4.07.120, 4.07.130, and 4.07.140 after November 8, 2016, but any annual increases in such taxes imposed on or before November 8, 2016, are not affected, amended, reduced or eliminated and must be continued for any period during which bonds are outstanding that are secured by such taxes.

4.07.200 Contract with the Department. Before the effective date of the Supplemental Fuel Tax Ordinance, the County shall contract with the Department to perform all functions incident to the administration and operation of the Supplemental Fuel Tax Ordinance, including the calculation of each annual increase in the taxes imposed by Sections 4.07.020 through 4.07.140 of the Supplemental Fuel Tax Ordinance. To assist the Department in that calculation, under the contract described in the preceding sentence or a separate contract between the Commission and the Department, the Commission shall agree to provide annually its calculation of each annual increase in the taxes imposed by Sections 4.07.020 through 4.07.140 of the Supplemental Fuel Tax Ordinance to the Department in a timely fashion.

4.07.210 Administration and enforcement by Department. The Department, upon execution of the contract specified in Section 4.07.200 of the Supplemental Fuel Tax Ordinance, is empowered to administer and enforce all of the provisions of the Supplemental Fuel Tax Ordinance pertaining to the collection of all taxes provided for therein.

4.07.220 Rules, regulations of department. The Department has power to make all necessary rules and regulations and prescribe all necessary forms or other requirements for the purpose of making the administration of the Supplemental Fuel Tax Ordinance effective.

4.07.230 Audit, examination and inquiry.

1. The Department, for and on behalf of this County, has power, by itself or by its duly authorized agents, to make any audit, examination or inquiry of and concerning the records, stocks, facilities, equipment and transactions of suppliers, retailers of petroleum products and carriers thereof, and such other investigations as it may deem necessary in carrying out the provisions of the Supplemental Fuel Tax Ordinance. The power granted by this Section includes, without limitation, all powers provided in NRS 365.130 and NRS 366.150.

2. If any investigation discloses that any report or any payment has been incorrect, the Department may make such changes in subsequent reports and payments as may be necessary to correct the error so disclosed.

4.07.240 Enforcement by sheriffs, peace officers. County sheriffs and all other peace officers and traffic officers of this State shall, without further compensation, assist in the enforcement of the Supplemental Fuel Tax Ordinance, and they shall make arrests for this purpose when requested by the Department or its duly authorized agents.

PROVISIONS APPLICABLE TO SPECIAL FUEL
TAXES IMPOSED BY THE SUPPLEMENTAL
FUEL TAX ORDINANCE

4.07.250 Public and confidential records.

1. All records of mileage operated, origin and destination points within this State, equipment operated in this State, gallons or cubic feet consumed, and tax paid must at all reasonable times be open to the public.

2. All supporting schedules, invoices and other pertinent papers relative to the business affairs and operations of any special fuel supplier, special fuel dealer, special fuel exporter, special fuel transporter, special fuel user or special fuel manufacturer and any information obtained by an investigation of the records and equipment of any special fuel supplier, special fuel dealer, special fuel exporter, special fuel transporter, special fuel user or special fuel manufacturer, shall be deemed confidential and must not be revealed to any person except as necessary to administer the Supplemental Fuel Tax Ordinance or as otherwise provided by NRS 239.0115 or by any other law.

4.07.260 Exemption from NRS 366.175. The County fuel taxes imposed pursuant to this Title are not subject to the provisions of NRS 366.175 or any agreement made pursuant thereto, except for those provisions of NRS 366.175 and any agreement made pursuant thereto which relate to auditing. The administration, collection and distribution of any county fuel taxes imposed pursuant to this Title do not affect, and are not affected by, the administration, collection and distribution of any fuel taxes under any agreement made pursuant to NRS 366.175.

4.07.270 Factor for conversion of volumetric measurement. For the purpose of taxing the sale or use of compressed natural gas or liquefied petroleum gas, 125 cubic feet of natural gas or liquefied petroleum gas shall be deemed to equal 1 gallon of special fuel.

4.07.280 Prohibited importation, sale, distribution, use or storage of special fuel which is not dyed; exceptions.

1. Except as otherwise provided in subsection 2, a person shall not import, sell, distribute, use or store special fuel in this County to which dye has not been added pursuant to the laws of the State of Nevada or the United States or for which the tax imposed pursuant to the Supplemental Fuel Tax Ordinance has not been paid.

2. A special fuel supplier or special fuel dealer may import or store special fuel which has not been dyed and for which the tax imposed pursuant to the Supplemental Fuel Tax Ordinance has not been paid.

4.07.290 Certain Exceptions.

1. Sections 4.07.080 through 4.07.140, inclusive, do not apply to any sales or uses described in NRS 366.200, except as provided in subsection 2.

2. Sections 4.07.080 through 4.07.140, inclusive, apply to any sales or uses described in subsection 1 of NRS 366.200 of any special fuel to which dye has not been added pursuant to federal law or the law of this State, of a type which is lawfully sold in this State both:

(a) As special fuel to which dye has been added pursuant to such law; and

(b) As special fuel to which dye has not been added pursuant to such law.

There shall be no refunds of any tax paid on any taxable sales or uses described in this subsection.

4.07.300 Addition of dye to certain exempt special fuel; operation or maintenance on highway of vehicle containing dyed special fuel.

1. Special fuel, other than compressed natural gas, liquefied petroleum gas or kerosene, must be dyed before it is removed for distribution from a rack. The dye added to the exempt special fuel must be of the color and concentration required by the regulations adopted by the Secretary of the Treasury pursuant to 26 U.S.C. § 4082.

2. Except as otherwise provided in subsections 3 and 4, a person shall not operate or maintain on any highway in this State a motor vehicle which contains dyed special fuel in the fuel tank of that vehicle. A person who operates or maintains a motor vehicle in violation of this subsection and the registered owner of the motor vehicle are jointly and severally liable for any taxes, penalties and interest payable to the Department.

3. A person who, pursuant to the provisions of the Supplemental Fuel Tax Ordinance is exempt from the special fuel tax imposed by the Supplemental Fuel Tax Ordinance may operate or maintain a motor vehicle on a highway in this State which contains dyed special fuel in the fuel tank of that vehicle.

4. A person may operate or maintain on a highway in this State any special mobile equipment that is incidentally operated or moved upon a highway or farm equipment which contains dyed special fuel in the fuel tank of the special mobile equipment or farm equipment. As used in this subsection:

(a) “Farm equipment” means any self-propelled machinery or motor vehicle that is designed solely for tilling soil or for cultivating, harvesting or transporting crops or other agricultural products and which is not required to be registered with the Department. The term includes a tractor, baler or swather, any implement used to retrieve hay, or any special mobile equipment that is used for farming purposes. The term does not include a truck-tractor or any other vehicle primarily used for hauling loads long distances over a public highway.

(b) “Highway” does not include a controlled-access highway as defined in NRS 484A.060.

(c) “Truck-tractor” has the meaning ascribed to it in NRS 482.130.

(d) “Vehicle” has the meaning ascribed to it in NRS 482.135.

5. There is a rebuttable presumption that all special fuel which is not dyed special fuel and which is sold or distributed in this State is for the purpose of propelling a motor vehicle.

4.07.310 Special fuel dealer not to collect tax on certain exempt sales. A special fuel dealer shall not collect the tax on special fuel from a purchaser who is exempt from the tax on special fuel pursuant to the Supplemental Fuel Tax Ordinance.

4.07.320 Collection of tax on special fuel which is not dyed; purchase of special fuel by special fuel supplier or special fuel exporter; records of certain sales; refunds.

1. Except as otherwise provided in subsection 2 below, each special fuel supplier who sells or distributes special fuel to which dye has not been added shall, at the time the special fuel is purchased, collect the tax imposed pursuant to the Supplemental Fuel Tax Ordinance.

2. A special fuel supplier shall not collect the special fuel tax imposed pursuant to the Supplemental Fuel Tax Ordinance if the purchaser of the special fuel is:

(a) A special fuel supplier;

(b) A special fuel exporter; or

(c) A special fuel dealer.

3. A special fuel supplier or special fuel exporter shall not purchase special fuel on which the special fuel tax imposed pursuant to the Supplemental Fuel Tax Ordinance has been paid, except that a newly licensed special fuel supplier or special fuel exporter may purchase such fuel during its first month of operation.

4. A special fuel supplier who sells special fuel to any other special fuel supplier, special fuel dealer or special fuel exporter shall keep such records of the transaction as the Department may require. Pursuant to NRS 366.207, the Department shall adopt regulations setting forth:

(a) The records which must be kept by the special fuel supplier pursuant to this subsection; and

(b) The period for which those records must be kept by the special fuel supplier.

5. If, within a period of 6 months, a person purchases 200 gallons or more of special fuel in this State which is used for a purpose that is exempt from the

payment of the tax on special fuel pursuant to the Supplemental Fuel Tax Ordinance, that person may apply to the Department for a refund in the manner prescribed in subsection 6 of Section 4.07.470 hereof. No refund shall be allowed, however, in the circumstances described in Subsection 2 of Section 4.07.290 of the Supplemental Fuel Tax Ordinance.

6. Any person who resells, for a taxable purpose, special fuel that was exempt from the special fuel tax imposed by the Supplemental Fuel Tax Ordinance and to which dye has not been added shall collect the tax and remit it to the Department.

4.07.330 Tax in lieu of tax imposed by Sections 4.07.020 through 4.07.070. The tax on special fuel imposed by Sections 4.07.080 through 4.07.140, inclusive, shall be in lieu of the tax imposed pursuant to Sections 4.07.020 through 4.07.070, inclusive, of the Supplemental Fuel Tax Ordinance in connection with special fuel.

4.07.340 No additional licenses required. The Supplemental Fuel Tax Ordinance does not require any licenses in addition to those otherwise required by NRS Chapter 366.

4.07.350 Due date of tax; when payment by mail is deemed received.

1. Except as otherwise provided in the Supplemental Fuel Tax Ordinance and NRS Chapter 366, the excise tax imposed by the Supplemental Fuel Tax Ordinance with respect to the use or sale of special fuel during any calendar quarter is due on or before the last day of the first month following the quarterly period to which it relates.

2. If the due date falls on a Saturday, Sunday or legal holiday, the next business day is the final due date.

3. Payment shall be deemed received on the date shown by the cancellation mark stamped by the United States Postal Service or the postal service of any other country upon an envelope containing payment properly addressed to the Department.

4. A special fuel supplier shall pay the tax on special fuel imposed by the Supplemental Fuel Tax Ordinance at the time he or she files his tax return pursuant to NRS 366.383.

5. A special fuel dealer or special fuel manufacturer shall pay the tax on special fuel imposed by the Supplemental Fuel Tax Ordinance at the time he or she files a tax return pursuant to NRS 366.386.

4.07.360 When tax becomes delinquent; deposit of proceeds from penalty.

1. If the amount of any excise tax for any reporting period is not paid to the State on or before the date due, the payment becomes delinquent at the close of business on that day.

2. The proceeds from any penalty levied for the delinquent payment of an excise tax must be deposited with the State Treasurer to the credit of the State Highway Fund.

4.07.370 Special fuel users: Quarterly returns and payments.

1. On or before the last day of January, April, July and October in each year, each special fuel user registered under the Interstate Highway User Fee Apportionment Act shall file with the Department a quarterly tax return for the preceding

quarter, regardless of the amount of excise tax due, on a form prescribed by the Department. The special fuel user shall include with the tax return payment of any excise tax due. If the due date falls on a Saturday, Sunday or legal holiday, the next business day is the final due date.

2. The return must show such information as the Department may reasonably require for the proper administration and enforcement of NRS Chapter 366 and the Supplemental Fuel Tax Ordinance.

4.07.380 Special fuel suppliers: Monthly returns and payments.

1. Each special fuel supplier shall, not later than the last day of each month:

(a) Submit to the Department a tax return which sets forth:

(1) The number of gallons of special fuel the special fuel supplier received during the previous month;

(2) The number of gallons of special fuel the special fuel supplier sold, distributed or used in this State during the previous month; and

(3) The number of gallons of special fuel the special fuel supplier sold, distributed or used in this State in which dye was added during the previous month.

(b) Pay to the Department the tax imposed pursuant to the Supplemental Fuel Tax Ordinance on all special fuel sold, distributed or used during the previous month for which dye was not added in the manner prescribed in NRS Chapter 366 and the Supplemental Fuel Tax Ordinance.

2. Pursuant to NRS 366.383, the Department may, by regulation, establish a procedure requiring special fuel suppliers to submit tax returns required by this Section electronically.

4.07.390 Special fuel dealers and special fuel manufacturers: Periodic returns and payments; reporting periods.

1. On or before the last day of the month following each reporting period, a special fuel dealer or special fuel manufacturer shall file with the Department a tax return for the preceding reporting period, regardless of the amount of tax collected, on a form prescribed by the Department.

2. The tax return must:

(a) Include information required by the Department for the administration and enforcement of NRS Chapter 366 and the Supplemental Fuel Tax Ordinance; and

(b) Be accompanied by a remittance, payable to the Department, for the amount of the tax due.

3. Except as otherwise provided in this subsection, the reporting period for a special fuel dealer or special fuel manufacturer is a calendar month. Pursuant to NRS 366.386, upon application by a special fuel dealer or a special fuel manufacturer,

the Department may assign to the special fuel dealer or special fuel manufacturer for a specific calendar year:

(a) A reporting period consisting of that entire calendar year if the Department estimates, based upon the tax returns filed by the special fuel dealer or special fuel manufacturer for the preceding calendar year, that the special fuel dealer or special fuel manufacturer will sell not more than 200 gallons of special fuel in this State each calendar month of that reporting period.

(b) Two reporting periods consisting of 6 consecutive calendar months, commencing on the first day of January and July, respectively, if the Department estimates, based upon the tax returns filed by the special fuel dealer or special fuel manufacturer for the preceding calendar year, that the special fuel dealer or special fuel manufacturer will sell more than 200 gallons but not more than 500 gallons of special fuel in this State each calendar month during those reporting periods.

(c) Four reporting periods consisting of 3 consecutive months, commencing on the first day of January, April, July and October, respectively, if the Department estimates, based upon the tax returns filed by the special fuel dealer or special fuel manufacturer for the preceding calendar year, that the special fuel dealer or special fuel manufacturer will sell more than 500 gallons but less than 5,000 gallons of special fuel in this State each calendar month during those reporting periods.

4.07.400 Special fuel exporters: Monthly statements. Each special fuel exporter shall, not later than the last day of each month, submit to the Department a written statement which sets forth:

1. The number of gallons of special fuel the special fuel exporter received during the previous month;
2. The number of gallons of special fuel the special fuel exporter or distributed outside this State;
3. The name and mailing address of each person to whom the special fuel exporter sold or distributed special fuel outside this State; and
4. The number of gallons of special fuel the special fuel exporter sold or distributed to each person to whom he or she sold or distributed special fuel outside this State.

4.07.410 Unlicensed persons who collect tax; Monthly returns and payments. Every person not licensed pursuant to NRS Chapter 366 who collects an excise tax shall, not later than the last day of each calendar month, file with the Department a tax return upon which is reported all such taxes collected during the preceding calendar month and, in accordance with the provisions of Section 4.07.370, pay the tax to the Department.

4.07.420 Retention of percentage of tax for certain costs.

1. Pursuant to NRS 366.390, except as otherwise provided in subsection 2, the Department shall allow each special fuel supplier to retain an amount equal to 2 percent of the amount of the tax collected by the special fuel supplier to cover

the supplier's costs of collection of the tax and of compliance with the Supplemental Fuel Tax Ordinance, and the supplier's handling losses occasioned by evaporation, spillage or other similar causes.

2. A special fuel supplier who fails to submit a tax return when due pursuant to the Supplemental Fuel Tax Ordinance or fails to pay the tax on special fuel when due pursuant to the Supplemental Fuel Tax Ordinance is not entitled to retain any of the amount authorized pursuant to subsection 1 for any month for which a tax return is not filed when due or a payment is not made when due.

4.07.430 Payment of delinquent filing fees, penalties and interest; when return, statement or payment is considered delinquent.

1. Any special fuel user who fails to file a tax return or pay any excise tax by the date due shall pay, in addition to any tax that may be due, a penalty of 10 percent of the amount of tax owed, plus interest on the amount of any tax that may be due at a rate established by the Department in accordance with the provisions of a cooperative agreement entered into pursuant to NRS 366.175, from the date the tax was due until the date of payment.

2. A tax return, statement or payment is considered delinquent if it is not received by the Department on or before the date the tax return, statement or payment is due, as prescribed by the provisions of the Supplemental Fuel Tax Ordinance.

3. A tax return, statement or payment shall be deemed received on the date shown by the cancellation mark stamped by the United States Postal Service or the postal service of any country upon an envelope containing the tax return, statement or payment.

4.07.440 Payment of tax; computation of tax by special fuel user or special fuel manufacturer; maintenance of separate account; liability of retailer when taxes not paid.

1. The tax on special fuel pursuant to the Supplemental Fuel Tax Ordinance must be paid by special fuel suppliers, special fuel dealers, special fuel users and special fuel manufacturers. A special fuel supplier or special fuel dealer shall pay to the Department the excise tax he or she collects from purchasers of special fuel with the return filed pursuant to Sections 4.07.380 or 4.07.390, respectively. The tax paid by a special fuel user must be computed by multiplying the tax rate per gallon provided in the Supplemental Fuel Tax Ordinance by the amount that the number of gallons of special fuel consumed by the special fuel user in the propulsion of motor vehicles on the highways of this State exceeds the number of gallons of special fuel purchases by the special fuel user. The tax paid by a special fuel manufacturer must be computed by multiplying the tax rate per gallon provided in the Supplemental Fuel Tax Ordinance by the number of gallons of special fuel that the special fuel manufacturer places into or sells for placement into the supply tank of a motor vehicle in the County.

2. Pursuant to NRS 366.540, if the Department determines that a special fuel supplier or special fuel dealer, or any unlicensed person who collects an excise tax, has failed to submit a tax return when due pursuant to the Supplemental Fuel Tax Ordinance or failed to pay the tax when due pursuant to the Supplemental Fuel Tax Ordinance, the Department may order the special fuel supplier, special fuel dealer or

unlicensed person to hold the amount of all taxes collected pursuant to the Supplemental Fuel Tax Ordinance in a separate account in trust for this County. The special fuel supplier, special fuel dealer or unlicensed person shall comply with the order immediately upon receiving notification of the order from the Department.

3. A retailer who receives or sells special fuel for which the taxes imposed pursuant to the Supplemental Fuel Tax Ordinance have not been paid is liable for the taxes and any applicable penalty or interest if the retailer knew or should have known that the applicable taxes on the special fuel had not been paid.

4.07.450 Operator presumed to be owner of vehicle; joint and several liability of lessor and lessee.

1. The operator of a motor vehicle which comes within the provisions of the Supplemental Fuel Tax Ordinance is presumed to be the owner of such vehicle.

2. The lessee and lessor of a motor vehicle which comes within the provisions of the Supplemental Fuel Tax Ordinance are jointly and severally liable for any taxes, penalties or interest payable to the Department.

4.07.460 Liability of responsible person for willful failure to collect or pay tax or willful attempt to evade payment of tax.

1. A responsible person who willfully fails to collect or pay to the Department the tax on special fuel imposed by the Supplemental Fuel Tax Ordinance or who willfully attempts to evade the payment of the tax on special fuel is jointly and severally liable with the special fuel dealer or special fuel supplier for the tax owed, plus interest and all applicable penalties. The responsible person shall pay the tax upon notice from the Department that it is due.

2. As used in this section, "responsible person" includes:

(a) An officer or employee of a corporation; and

(b) A member or employee of a partnership or limited-liability company,

whose job or duty it is to collect, account for or pay to the Department the tax imposed by the Supplemental Fuel Tax Ordinance.

4.07.470 Requirements for refund or credit; examination of records of claimant.

1. If illegally or through error the Department collects or receives any excise tax, penalty or interest imposed pursuant to the Supplemental Fuel Tax Ordinance, the excise tax, penalty or interest must be refunded to the person who paid the tax, penalty or interest. A written application for a refund, including, without limitation, a request for a refund that is submitted on an amended tax return, stating the specific grounds therefor, must be made within 12 months after the date of payment, whether or not the excise tax, penalty or interest was paid voluntarily or under protest.

2. Refunds must be made to a successor, assignee, estate or heir of the person if written application is made within the time limit.

3. Any amount determined to be refundable by the Department must be refunded or credited to any amounts then due from the special fuel supplier or special fuel dealer.

4. All amounts refunded pursuant to the provisions of the Supplemental Fuel Tax Ordinance must be paid from moneys that would be distributed to the County by the Department under the Supplemental Fuel Tax Ordinance.

5. A licensed special fuel user operating interstate or off road, or both, who can prove to the satisfaction of the Department that his or her special fuel purchases in Nevada exceed his use of the special fuel over the highways of this State for a certain quarter must apply credit to any excise taxes, penalties or interest required by the Supplemental Fuel Tax Ordinance or fees, taxes, penalties or interest applicable pursuant to Chapter 371, 482 or 706 of NRS and any balance may be refunded or credited to succeeding reports.

6. A person who wishes to apply for a refund of the tax on special fuel paid by that person pursuant to subsection 5 of Section 4.07.320 must:

(a) Submit an application for the refund on a form prescribed by the Department; and

(b) Establish to the satisfaction of the Department that within a period of 6 months the person purchased not less than 200 gallons of special fuel in this State which was used for a purpose that is exempt from the tax on special fuel pursuant to the Supplemental Fuel Tax Ordinance.

Pursuant to NRS 366.650, the Department shall refund to an applicant who complies with the provisions of this subsection a refund in an amount equal to the tax paid by the applicant less the percentage allowed the special fuel supplier pursuant to Section 4.07.420. No refund shall be allowed, however, in the circumstances described in Subsection 2 of Section 4.07.290 of the Supplemental Fuel Tax Ordinance.

7. To establish the validity of any claim for a refund, the Department may, upon demand, examine the books and records of the claimant. The failure of the claimant to accede to such a demand constitutes a waiver of all rights to the refund claimed on account of the transactions questioned.

8. No refund of special fuel taxes may be made for off-highway use of special fuel consumed in watercraft in this State for recreational purposes.

4.07.480 Prohibition against issuance of injunction or other process to prevent collection of tax; action against State Treasurer after payment under protest.

1. No injunction, writ of mandate or other legal or equitable process may issue in any suit, action or proceeding in any court against this State or any officer thereof to prevent or enjoin the collection pursuant to the Supplemental Fuel Tax Ordinance of any excise tax or other amount required to be collected.

2. After payment of any such excise tax or other amount under protest, verified and setting forth the grounds of objection to the legality thereof, filed with the Department at the time of payment of the tax or other amount protested, the special fuel supplier, special fuel dealer or special fuel user making the payment may

bring an action against the State Treasurer in the District Court in and for Carson City for the recovery of the amount so paid under protest.

4.07.490 Action to recover amount paid: Time to sue; waiver of right; consideration of grounds of illegality.

1. No action authorized by subsection 2 of Section 4.07.480 may be instituted more than 90 days after payment under protest has been made. Failure to bring suit within the 90 days shall constitute a waiver of any and all demands against the Department on account of alleged overpayments.

2. No grounds of illegality shall be considered by the court other than those set forth in the protest filed at the time of such payment.

4.07.500 Judgment for plaintiff: Disposition of amount; interest.

1. If judgment is rendered for the plaintiff, the amount of the judgment shall first be credited on any excise tax or other amount due from the plaintiff under the Supplemental Fuel Tax Ordinance, and the balance of the judgment shall be refunded to the plaintiff.

2. In any judgment, interest shall be allowed at the rate of 6 percent per annum upon the amount found to have been collected illegally from the date of payment of such amount to the date of allowance of credit on account of such judgment or to a date preceding the date of the refund warrant by not more than 30 days, such date to be determined by the Department.

4.07.510 Records, receipts, invoices and other papers regarding special fuel: Maintenance and availability; violation of provisions.

1. Every special fuel supplier, special fuel dealer, special fuel exporter, special fuel transporter, special fuel user, special fuel manufacturer and retailer, and every other person transporting or storing special fuel in this State shall keep such records, receipts, invoices and other pertinent papers with respect thereto as the Department requires.

2. The records, receipts, invoices and other pertinent papers described in subsection 1 must be preserved for 4 years after the date on which the record, receipt, invoice or other pertinent paper was created or generated.

3. The records, receipts, invoices and other pertinent papers must be available at all times during business hours to the Department or its authorized agents.

4. In addition to any other penalty that may be imposed, any violation of the provisions of this Section constitutes grounds for the Department to deny any future application for a license pursuant to the Supplemental Fuel Tax Ordinance that is submitted by a person who is determined to be responsible for the violation.

4.07.520 Records of retailers: Maintenance, contents and inspection.

1. Every retailer shall maintain and keep within the State for a period of 4 years a true record of special fuel received, the price thereof and the name of the person who supplied the special fuel, together with delivery tickets, invoices and such other records as the Department may require.

2. Such records are subject to inspection by the Department or their authorized agents at all times during business hours.

4.07.530 Records of shipments: Preparation, contents and use.

1. Each special fuel supplier or special fuel manufacturer shall prepare and provide a record of shipment to each person who purchases more than 25 gallons of special fuel and transports the special fuel from the place of purchase. The record of shipment must include the:

- (a) Place where the special fuel was purchased;
- (b) Place to which the purchaser declares the special fuel will be transported;
- (c) Number of gallons of special fuel transported;
- (d) Color and concentration of the dye added to the special fuel, if any; and

(e) Name and address of the purchaser of the special fuel.
2. Each person who transports special fuel in this State shall:

(a) Keep the record of shipment required by subsection 1 in the vehicle in which the special fuel is transported until the special fuel is delivered to the purchaser; and

(b) Upon request from a peace officer, allow the peace officer to inspect the record of shipment.

4.07.540 Monthly reports of deliveries by special fuel transporters.

1. Every special fuel transporter, except a wholesale distributor transporting the products of a special fuel supplier licensed pursuant to Chapter 366 of NRS, who transports special fuel in interstate commerce to or from any point within this State, or solely within this State, shall report all of those deliveries to the Department.

2. A report must be made for each calendar month and must be filed not later than the last day of each month for the deliveries made during the preceding month. The report must show:

(a) The name and address of every consignor and consignee and of every person other than the designated consignee to whom delivery has actually been made;

(b) The date of each delivery;

(c) The number of gallons of special fuel delivered for each delivery; and

(d) Such other information as the Department may require.

4.07.550 False or fraudulent reports: Penalty. Any person required to make, render, sign or verify any report who makes any false or fraudulent report with intent to defeat or evade the assessment required by law to be made shall be guilty of a gross misdemeanor.

4.07.560 Sealing of special fuel pump or metered pipes and hoses of rack: Conditions; Notice.

1. Pursuant to NRS 366.715, the Department may seal a special fuel pump of a retailer or special fuel dealer, or the metered pipes and hoses of a rack of a special fuel dealer or special fuel supplier, if the retailer, special fuel dealer or special fuel supplier:

(a) Becomes delinquent in payment of any amount due pursuant to the provisions of the Supplemental Fuel Tax Ordinance;

(b) Operates without the license required by the provisions of NRS Chapter 366; or

(c) Operates without the bond or cash deposit required by the provisions of the Supplemental Fuel Tax Ordinance or NRS Chapter 366.

2. A special fuel pump of a retailer or special fuel dealer, or the metered pipes and hoses of the rack of a special fuel dealer or special fuel supplier, may be sealed until all required reports are filed, the tax, penalties and interest are paid in full, the required license is obtained and the bond or cash deposit is provided.

3. Pursuant to NRS 366.715, before sealing a fuel pump or the metered pipes and hoses of a rack, the Department must send a notice by registered or certified mail to the retailer, special fuel dealer or special fuel supplier at his or her last known address ordering him or her to appear before the Department at a time not less than 10 days after the mailing of the notice and show cause why the fuel pump or the metered pipes and hoses of the rack should not be sealed.

4.07.570 Sale or distribution of special fuel in this State by special fuel exporter: Prohibition; penalty; payment of tax. A special fuel exporter shall not sell or distribute special fuel in this State. A special fuel exporter who violates the provisions of this Section:

1. Is guilty of a misdemeanor; and

2. Shall, within the period prescribed in Section 4.07.350, pay to the Department the tax imposed pursuant to the Supplemental Fuel Tax Ordinance on all special fuel sold or distributed in this State.

4.07.580 Unlawful acts; penalty.

1. Any person who:

(a) Fails or refuses to pay the tax imposed by the Supplemental Fuel Tax Ordinance;

(b) Engages in business in this State as a special fuel manufacturer, special fuel user, special fuel exporter, special fuel dealer or special fuel supplier, or acts in this State as a special fuel transporter, without being the holder of a license pursuant to Chapter 366 of NRS to engage in that business or to act in that capacity;

(c) Fails to make any of the reports required by the Supplemental Fuel Tax Ordinance;

(d) Makes any false statement in any application, report or statement required by the Supplemental Fuel Tax Ordinance;

(e) Refuses to permit the Department or any authorized agent to examine records as provided by the Supplemental Fuel Tax Ordinance;

(f) Fails to keep proper records of quantities of special fuel received, produced, refined, manufactured, compounded, used or delivered in this State as required by the Supplemental Fuel Tax Ordinance;

(g) Makes any false statement in connection with an application for the refund of any money or taxes provided in the Supplemental Fuel Tax Ordinance;

(h) Violates the provisions of NRS 366.265;

(i) Fails or refuses to stop his or her motor vehicle for an inspection to determine if all excise taxes due pursuant to the provisions of the Supplemental Fuel Tax Ordinance are being properly reported and paid; or

(j) Refuses to allow the Department or an authorized agent to inspect a motor vehicle to determine whether all excise taxes due pursuant to the provisions of the Supplemental Fuel Tax Ordinance are being properly reported and paid,

is guilty of a misdemeanor.

2. Each day or part thereof during which any person engages in business as a special fuel manufacturer, special fuel dealer, special fuel supplier or special fuel exporter or acts as a special fuel transporter without being the holder of a license pursuant to Chapter 366 of NRS authorizing him to engage in that business or to act in that capacity constitutes a separate offense within the meaning of this Section.

4.07.590 Penalty for other violations. Any violation of the provisions of the Supplemental Fuel Tax Ordinance except as otherwise provided, is a misdemeanor and is punishable as such.

4.07.600 Sale or distribution of dyed special fuel: Prerequisites; administrative fine for violation.

1. A retailer or any other person who sells or distributes dyed special fuel shall not sell or distribute the dyed special fuel unless the retailer or person controls the access to the dyed special fuel.

2. A retailer or other person may sell or distribute the dyed special fuel only to a purchaser who has been approved to purchase the dyed special fuel from the retailer or other person. To be approved to purchase dyed special fuel from a retailer or other person, a purchaser must provide to the retailer or other person a written statement of acknowledgement and intended use on a form provided by the Department and completed by the purchaser that includes:

(a) The full name and address of the purchaser;

(b) A description of the manner in which the purchaser intends to use the dyed special fuel;

(c) An attestation indicating that the purchaser:

(1) Will only use the dyed special fuel for a purpose that is not taxable pursuant to the Supplemental Fuel Tax Ordinance; and

(2) Is aware of the penalties set forth in NRS 366.735, a copy of which must be included on the statement; and

(d) The signature of the purchaser.

3. A retailer or other person who sells or distributes dyed special fuel shall keep on file a completed statement of acknowledgment and intended use for each person approved to purchase dyed special fuel from the retailer or other person.

4. In addition to any action that may be taken pursuant to Chapter 360A of NRS, the Department may impose on a retailer or any other person who violates the provisions of subsection 1 an administrative fine of not more than \$10,000 for each violation.

4.07.610 Amendments to NRS Chapter 366. All amendments to NRS Chapter 366 effective subsequent to the date of enactment of the Supplemental Fuel Tax Ordinance, including, without limitation, the amendments made by Chapter 366, Statutes of Nevada, 2013, to the extent not inconsistent with Chapter 373 of NRS, shall automatically become a part of the portions of the Supplemental Fuel Tax Ordinance dealing with taxes on special fuels.

4.07.620 Distribution and use of proceeds.

1. All special fuel taxes collected by the Department pursuant to the Supplemental Fuel Tax Ordinance shall be transmitted once each month to this County, and the Department shall, in accordance with the terms of the contract made pursuant to Section 4.07.200, charge the County for the Department's services specified in the Supplemental Fuel Tax Ordinance, such amount as will reimburse the Department for the cost to it of rendering the services, subject to the limitation of subsection 4 of Section 4.07.150 of the Supplemental Fuel Tax Ordinance.

2. All net proceeds of the special fuel taxes imposed by the Supplemental Fuel Tax Ordinance received by this County from the Department shall be

deposited by the County Treasurer in a fund to be known as the regional street and highway fund in this County treasury, and disbursed only in accordance with the provisions of NRS Chapter 373 and Sections 4.07.080 to 4.07.140.

3. Not more than 20% of the taxes on special fuel authorized by this ordinance may be used to provide reimbursement according to regulations adopted by the Department in accordance with section 1.7 or 1.8 of the Act or both of such sections.

Section 2. Pursuant to NRS 373.075 and Section 4.07.200 of the Supplemental Fuel Tax Ordinance, the County shall amend the contract made under subsection 4 of NRS 373.070 between the County and the State of Nevada acting by and through the Department of Motor Vehicles before the effective date of the Supplemental Fuel Tax Ordinance to administer the taxes imposed by the Supplemental Fuel Tax Ordinance.

Section 3. The officers of the County be, and they hereby are, authorized and directed to take all action necessary or appropriate to effectuate the provisions of the Supplemental Fuel Tax Ordinance.

Section 4. If any section of this ordinance or portion thereof is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such holding shall not invalidate the remaining parts of this ordinance.

Section 5. All ordinances, parts of ordinances, chapters, sections, subsections, clauses, phrases or sentences contained in the Clark County Code and in other Clark County ordinances and resolutions, in conflict herewith, are hereby repealed. This repealer shall not be construed to revive any ordinance or resolution, or part thereof, heretofore repealed.

Section 6. All action taken by the officers of the County in connection with and otherwise concerning the subject of the Supplemental Fuel Tax Ordinance and accomplishing the purposes of, and enacting, the Supplemental Fuel Tax Ordinance, are hereby ratified, approved and confirmed, including, without limitation, all action taken under NRS 237.030 through 237.150 relating to business impacts and business impact statements.

Section 7. This ordinance shall take effect and be in force from and after January 1, 2014, which is after its passage and the publication thereof by title only, together with the names of the County Commissioners voting for or against its passage, in a newspaper published in and having a general circulation in Clark County, Nevada, at least once a week for a period of two (2) weeks.

PROPOSED on the ____ day of _____, 2013

PROPOSED BY: COMMISSIONER _____

PASSED on the ____ day of _____, 2013

AYES: _____

NAYS: _____

ABSENT: _____

ABSTAINING: _____

BOARD OF COUNTY COMMISSIONERS

CLARK COUNTY, NEVADA

BY:

STEVEN SISOLAK, Chairman

ATTEST:

DIANA ALBA, County Clerk

This ordinance shall be in force and effect from and after the 1st day of January,
2014.