

LINDON CITY CODE

TITLE 3

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Chapter 3.04

SALES AND USE TAX

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Section 3.04.010 Short title.

This chapter shall be known as the Tax Ordinance of the Lindon City. (Ord. 176.)

Section 3.04.020 Purpose.

The 48th Session of the Utah State Legislature has authorized the counties and municipalities of the State of Utah to enact sales and use tax ordinances imposing a 1% tax. It is the purpose of the ordinance codified in this chapter to conform the sales and use tax of the municipality to the requirements of the Sales and Use Tax Act, Chapter 12 of Title 59, U.C.A., 1953, as currently amended. (Ord. 176, 1990.)

Section 3.04.030 Sales and Use Tax.

1. Beginning the effective date of the ordinance codified in this chapter, there is levied and there shall be collected and paid a tax upon every retail sale of tangible personal property, services and meals made within the municipality at the rate of 1%.
2. An excise tax is hereby imposed on the storage, use or other consumption in this municipality of tangible personal property from any retailer on or after the operative date of the ordinance codified in this chapter at the rate of one percent of the sales price of the property.
3. For the purpose of this chapter all retail sales shall be presumed to have been consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or his agent to an out-of-state destination or to a common carrier for delivery to an out- of-state destination. In the event a retailer has no permanent place of business in the State of Utah, or has more than one place of business, the place or places at which the retail sales are consummated shall be as determined under the rules and regulations prescribed by and adopted by the State Tax Commission. Public utilities as defined by Title 54, U.C.A., 1953, shall not be obligated to determine the place or places within any county or municipality where public utilities services are rendered, but the place of sale or the sales tax revenue arising from such service allocable to the city shall be as determined by the State Tax Commission pursuant to an appropriate formula and other rules and regulations to be prescribed and adopted by it
4. Except as hereinafter provided, and except insofar as they are inconsistent with the provisions of the Sales Tax Act, all of the provisions of Chapter 12, Title 59, U.C.A., 1953, as amended, and in force and effect on the effective date of the ordinance codified in this chapter, insofar as they are related to sales taxes, excepting §59-12-101 and §59-12-119 thereof, are hereby adopted and made a part of the ordinance codified in this chapter as though fully set forth herein.
5. Wherever, and to the extent that in Chapter 12 of Title 59, U.C.A., 1953, the State of Utah is named or referred to as the taxing agency, the name of this municipality shall be substituted therefore. Nothing in subparagraph (b) shall be deemed to require substitution of the name of the municipality for the word "State" when that word is used as part of the title

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of the State Tax Commission, or of the Constitution of the State of Utah, nor shall the name of the municipality be substituted for that of the State in any section when the result of the substitution would require action to be taken by or against the municipality or any agency thereof, rather than by or against the State Tax Commission in performing the functions incident to the administration or operation of the ordinance codified in this chapter.

6. If an annual license has been issued to a retailer under Section § 59-12-106 of the U.C.A., 1953, an additional license shall not be required by reason of this section.
7. There shall be excluded from the purchase price paid or charged by which the tax is measured:
 - a. The amount of any sales or use tax imposed by the State of Utah upon a retailer or consumer;
 - b. The gross receipts from the sale of or the cost of storage, use or other consumption of tangible personal property upon which a sales or use tax has become due by reason of the sale transaction to any other municipality and any county in the State of Utah, under the sales or use tax ordinance enacted by that county or municipality in accordance with the Sales and Use Tax Act.

Section 3.04.040 Contract with State Tax Commission.

Heretofore, this municipality has entered into an agreement with the State Tax Commission to perform all functions incident to the administration or operation of the sales and use tax ordinance of the municipality. That contract is confirmed and the mayor is authorized to enter into such supplementary agreement with the State Tax Commission as may be necessary to the continued administration and operation of the local sales and use tax ordinance of the municipality as enacted by the ordinance codified in this chapter. (Ord. no. 176, 1990.)

Section 3.04.050 Penalties and Interest.

1. Penalties and interest equal to those authorized by U.C.A. Sections 59-1-104 and 59-1-402 shall be imposed on any person who:
 - a. is required to pay the tax under this Chapter: and
 - b. does not remit the tax to the collecting agent within the time prescribed by law.
2. Any person violating any of the provisions of this chapter shall be deemed guilty of a Class B Misdemeanor. (Ord. no. 176 §2, 1990.)
3. Each day a violation of this Chapter continues shall constitute a separate offense. (Ord. 2010-6, amended 9/22/10)

Section 3.04.060 Attorney Fees and cost of collection.

Unless otherwise altered or limited by state law, every person, entity, or company obligated to pay the tax imposed by this Chapter shall be required to pay all costs of collection of the tax imposed herein, including reasonable attorney's fees, court costs, and all other costs incident to the collection of the tax as are incurred by Lindon City in enforcing any of the provisions of this Chapter. (Ord. 2010-6, amended 9/22/10)

Chapter 3.05

PARKS, ARTS, RECREATION AND CULTURE TAX

Sections:

- 3.05.010 Short Title
3.05.020 Statutory Authority

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- 3.05.030 Purpose
- 3.05.040 Imposition of Tax and Amount
- 3.05.050 Use of Revenues
- 3.05.060 Collection and Duration
- 3.05.070 Distribution of Revenues
- 3.05.080 Effective Date

Section 3.05.010 Short Title.

This Chapter shall be known as the Parks, Arts, Recreation and Culture Tax (PARC Tax) Ordinance.

Section 3.05.020 Statutory Authority.

The authority for imposing the PARC tax is derived from Title 59, Chapter 12, Section 1401 et. seq., U.C.A.

Section 3.05.030 Purpose.

The purpose of this Chapter is to enact and levy a Parks, Arts, Recreation and Culture Tax (known as the PARC Tax) to be used to finance cultural and recreational facilities and associated ongoing operations, and to finance ongoing operations of cultural organizations within Lindon City.

Section 3.05.040 Imposition of Tax and Amount.

1. There is levied for collection a local sales and use tax in the amount of one-tenth of one percent (0.1%) on the transactions within Lindon City as described in Subsection 59-12-103(1) of the U.C.A., except such transactions that are exempt from sales and use tax under §59-12-104 of the U.C.A.
2. Pursuant to U.C.A. §59-12-1402(l)(c) and (e) of the U.C.A., the PARC Tax shall not be imposed on amounts paid for food or food ingredients, unless the food or food ingredients are sold as part of a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients.

Section 3.05.050 Use of Revenues.

Revenues received from local sales and use taxes levied pursuant to this Chapter shall be used solely for the purpose of financing cultural and recreational facilities and associated ongoing operations, and for financing ongoing operations of cultural organizations within Lindon City.

Section 3.05.060 Collection and Duration.

Taxes enacted under this Chapter shall be:

1. Collected, and enforced in accordance with the same procedures used to administer, collect, and enforce taxes under U.C.A., Title 59, Part 1(Tax Collection) and Part 2 (Local Sales and Use Tax Act); and
2. Levied for a period of ten years, and may be reauthorized pursuant to the procedures set for in §59-12-1401 et seq. of the U.C.A.

Section 3.05.070 Distribution of Revenues.

1. The distribution and use of revenues and the determination of eligible operating expenses shall be made by the Lindon City Council. The City Council may adopt supplementary policies and procedures to regulate the distribution of PARC Tax revenues.

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2. The determination of uses of revenue and of eligible operating expenses shall be made in accordance with the provision of this Chapter and with the requirements of § 59-12-1401 et seq. of the U.C.A.

Section 3.05.080 Effective Date.

The enactment of the PARC Tax Ordinance is December 3, 2013 and the effective date of the tax is April 1, 2014. The tax shall take effect pursuant to the requirements and procedures set forth in §59-12-1402 of the U.C.A.

Chapter 3.06

TRANSIENT ROOM TAX

Sections:

3.06.010	Purpose
3.06.020	Definitions
3.06.030	Transient room tax
3.06.040	Exemption from the transient room tax
3.06.050	Collection of transient room tax - Contract with the State Tax Commission
3.06.060	Penalties and interest
3.06.070	Attorney Fees and cost of collection

Section 3.06.010 Purpose.

It is the intent of Lindon City to adopt a transient room tax pursuant to and in accordance with U.C.A. Section 59-12-301, et seq. (Ord. 99-15, Add, 10/04/2000)

Section 3.06.020 Definitions.

For purposes of this chapter, the following definitions shall apply to terms used herein:

1. "Public accommodation" means a place providing temporary sleeping accommodations to the public and includes:
 - a. a motel;
 - b. a hotel;
 - c. a motor court;
 - d. an inn;
 - e. a bed and breakfast establishment;
 - f. a condominium; and
 - g. a resort home.
2. "Rents" include:
 - a) rents (any compensation received in exchange for providing the public accommodation); and
 - b) timeshare condo fees or dues.
3. "Transient" means a person who occupies a public accommodation for 30 consecutive days or less. (Ord. 99-15, Add, 10/04/2000)

Section 3.06.030 Transient room tax.

There is hereby levied a transient room tax equal to one percent (1%) of the rents charged to transients occupying public accommodations within Lindon City. This tax shall be known as the transient room tax.

1. Subject to the limitations of U.C.A. Section 59-12-352(1), Lindon City may increase or decrease the tax at any time by adopting an ordinance to the effect.

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2. Revenues generated by the tax shall be used for general fund purposes.
(Ord. 99-15, Add, 10/04/2000)

Section 3.06.040 Exemption from the transient room tax.

Pursuant to U.C.A. Section 59-12-352(1)(b), the transient room tax shall be imposed on rents relating to the Olympic Winter Games of 2002 paid to or by an organization exempt from federal income taxation under Section 501 (c)(3), Internal Revenue Code, unless the rents are,

1. Paid for in full by the Salt Lake Organizing Committee for the Olympic Winter Games of 2002;
2. Exclusively used by:
 - a. an officer, a trustee, or an employee of the Salt Lake Organizing Committee for the Olympic Winter Games of 2002, or
 - b. a volunteer supervised by the Salt Lake Organizing Committee for the Olympic Winter Games of 2002; and
3. For which the Salt Lake Organizing Committee for the Olympic Winter Games of 2002 does not receive reimbursement. (Ord. 99-15, Add, 10/04/2000)

Section 3.06.050 Collection of transient room tax - Contract with the State Tax Commission.

1. The tax shall be levied at the same time and collected in the same manner as provided in U.C.A. Section 59-12-201, et seq., otherwise known as the Local Sales and Use Tax Act.
2. Within 30 days of the effective date of this chapter, Lindon City shall contract with the State Tax Commission for that agency to perform all functions incident to the administration and collection of the tax. The City Council is hereby authorized to enter into such agreements with the State Tax Commission as may be necessary for the continued administration and operation of the transient room tax ordinance enacted by this chapter.
3. Lindon City shall:
 - a. authorize the State Tax Commission to collect the tax on the first day of a calendar quarter; and
 - b. notify the State Tax Commission at least thirty (30) days before the day on which the Commission is required to collect the tax.
(Ord. 99-15, Add, 10/04/2000)

Section 3.06.060 Penalties and interest

1. Penalties and interest equal to those authorized by U.C.A. Sections 59-1-401 and 59-1-402 shall be imposed on any person who:
 - a. is required to pay the tax under this Chapter; and
 - b. does not remit the tax to the collecting agent within the time prescribed by law.
2. Any person violating any of the provisions of this Chapter shall be deemed guilty of a Class B Misdemeanor.
3. Each day a violation of this Chapter continues shall constitute a separate offense.
(Ord. 99-15, Add, 10/04/2000)

Section 3.06.070 Attorney; fees and cost of collection.

Unless otherwise altered or limited by state law, every person, entity, or company obligated to pay the tax imposed by this Chapter shall be required to apply all costs of collection of the tax imposed herein, including reasonable attorney's fees, court costs, and all other costs

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incident to the collection of the tax as are incurred by Lindon City in enforcing any of the provisions of this Chapter. (Ord. 2010-6, amended 9/22/10)

Chapter 3.07

DISPOSAL OF PARCELS OF REAL PROPERTY

- Sections:
- 3.07.010 Notice Required
- 3.07.020 Public Comment
- 3.07.030 Definitions

Section 3.07.010 Notice Required.

If the property that is declared surplus pursuant to section 3.07.030 is a significant parcel of real property, then the city shall provide reasonable notice, as defined below, of the proposed disposition, at least 14 days before the proposed disposition, to provide the public an opportunity for comment on the proposed disposition.

Section 3.07.020 Public Comment.

If the City received public comment on the proposed disposition, the city recorder shall forward copies of such public comment to the city council. Thereafter, the city council may rescind its declaration of surplus property, direct the mayor to proceed with the sale, or impose such additional terms and conditions as the city council may adopt. If the city does not receive public comment on the proposed disposition, the mayor may proceed with the sale after satisfying all of the other terms and conditions applicable to the disposition.

Section 3.07.030 Definitions.

For purposes of this section, “disposition” shall mean to transfer control of city-owned property to another by any means including, but not limited to, sale, lease, or other type of conveyance of such property.

- a. For purposes of this section, a “reasonable notice” shall mean posting notice of the proposed disposition in at least three public places within the city and publishing notice of the proposed disposition in a newspaper of general circulation in the city.
- b. For purposes of this section, a “significant parcel of real property” shall mean a parcel of real property owned by the city with a reasonable value equal to or greater than \$100,000 or reasonable yearly rental value equal to or greater than \$15,000. (Ord. no. 2005-2, Adoption, 1/04/2005)

Chapter 3.08

SALE OF PROPERTY TO COLLECT ASSESSMENTS

- Sections:
- 3.08.010 Method of sale.
- 3.08.020 Cumulative remedies.

Section 3.08.010 Method of sale.

When any action is taken to collect assessments under the special improvement districts heretofore and hereafter enacted by the city, the method of sale of property subject to a lien for the assessment, shall be, at the election and sole discretion of the city, by the method provided by state law for the sale of property for delinquent general property taxes, or, by the method provided by state law for action to foreclose mortgage liens, or by the method provided by

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state law for foreclosure of trust deeds, or by any other method authorized by law. If at the sale no person or entity shall bid and pay the city the amount due on the assessment, plus interest and cost, the property shall be deemed sold to the city for the amount due on the assessment, plus interest and costs. (Ord. no. 176, Ord. no. 100 §1, 1983, amended 1990.)

Section 3.08.020 Cumulative remedies.

The remedies provided herein shall be deemed and construed to be cumulative and the use of any one method or means of collection or enforcement shall not deprive the city of the use of any other method or means. (Ord. 100 §2, 1983, amended 1990, Ord. no.176.)

Chapter 3.09

MUNICIPAL ENERGY SALES AND USE TAX

Sections:

- 3.09.010 Purpose
- 3.09.020 Definitions
- 3.09.030 Municipal energy sales and use tax
- 3.09.040 Exemptions from the municipal energy sales and use tax
- 3.09.050 No effect upon existing franchise agreements--Credit for franchise fees
- 3.09.060 Tax collection contract with State Tax Commission
- 3.09.070 Incorporation of Part 1, Chapter 12, Title 59, U.C.A., including amendments
- 3.09.080 No additional license to collect the municipal energy sales and use tax required--
No additional license or reporting requirements
- 3.09.090 Penalties and interest
- 3.09.100 Attorney fees and cost of collection

Section 3.09.010 Purpose.

It is the intent of Lindon City to adopt the Municipal Energy Sales and Use Tax, pursuant to, and in accordance with, U.C.A.§10-1-301, *et. seq.*. The Municipal Energy Sales and Use Tax."

Section 3.09.020 Definitions.

1. Consumer means a person who acquires taxable energy for any use that is subject to the Municipal Energy Sales and Use Tax.
2. Contractual Franchise Fee means:
 - a. a fee;
 - i. provided for in a franchise agreement, and agreement; or
 - ii that is consideration for the franchise agreement; or
 - b. a fee similar to subsection (2)(a); or
 - c. any combination of subsections (2)(a) or (2)(b).
3.
 - a. "Delivered Value" means the fair market value of the taxable energy delivered for sale or use in the municipality and includes:
 - i. the value of the energy itself; and
 - ii. any transportation, freight, customer demand charges, service charges, or other costs typically incurred in providing taxable energy in usable form to each class of customer in the municipality,
 - b. Delivered Value does not include the amount of a tax paid under Part 1 or Part 2

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of Chapter 12, Title 59 of the U.C.A.

4. "Energy Supplier" means a person supplying taxable energy, except for persons supplying a minimum amount of taxable energy, if such persons are excluded by rule promulgated by the State Tax Commission.
5. "Franchise Agreement" means a franchise or an ordinance, contract, or agreement granting a franchise.
6. "Franchise Tax" means:
 - a. a franchise tax
 - b. a tax similar to a franchise tax;
 - c. any combination of subsections (a)(b).
7. "Person" includes any individual, firm, partnership, joint venture, association, corporation, estate, trust, business trust, receiver, syndicate, this state, or any group or combination acting as a unit.
8. "Sale" means any transfer of title, exchange, or barter, conditional or otherwise, in any manner, of taxable energy for a consideration. It includes:
 - a. installment and credit sales;
 - b. any closed transaction constituting a sale;
 - c. any transaction under which right to acquire, use or consume taxable energy is granted under a lease or contract and the transfer would be taxable if an outright sale were made.
9. "Storage" means any keeping or retention of taxable energy in Lindon City for any purpose except sale in the regular course of business.
 - a. "Use" means the exercise of any right of power over taxable energy incident to the ownership or the leasing of the taxable energy.
 - b. "Use" does not include the sale, display, demonstration, or trial of the taxable energy in the regular course of business and held for resale.
10. "Taxable Energy" means gas and electricity.

Section 3.09.030 Municipal Energy Sales and Use Tax.

There is hereby levied, subject to the provisions of this chapter, a tax on every sale or use of taxable energy within Lindon City equaling four and one-half percent (4.5%) of the delivered value of the taxable energy to the consumer. This tax shall be known as the Municipal Energy Sales and Use Tax.

1. The tax shall be calculated on the delivered value of the taxable energy to the consumer.
2. The tax shall be in addition to any sales or use tax on taxable energy imposed by Lindon City authorized by Title 59, Chapter 12, Part 2 of the U.C.A., The Local Sales and Use Tax Act.
3. Lindon City may increase the tax at any time up to the maximum allowed by state law by adopting an ordinance. (Ord. no. 2003-12, Amended, 07/15/2003; Ord. No. 97-5, adopted 6-17-97, effective date, 6-30-97.)

Section 3.09.040 Exemptions from the municipal energy sales and use tax.

1. No exemptions are granted from the Municipal Energy Sales and Use Tax except as expressly provided in U.C.A.10-1-305(2)(b); notwithstanding an exemption granted by 59-1-104 of the U.C.A.

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2. The following are exempt from the Municipal Energy Sales and Use Tax, pursuant to U.C.A. §10-1-305(2)(b):
 - a. Sales and use of aviation fuel, motor fuel, and special fuels subject to taxation under Title 59, Chapter 13 of the U.C.A.;
 - b. Sales and use of taxable energy that is exempt from taxation under federal law, the United States Constitution, or the Utah Constitution
 - c. Sales and use of taxable energy purchased or stored for resale,
 - d. Sales or use of taxable energy to a person, if the primary use of the taxable energy is for use in compounding or producing taxable energy or a fuel subject to taxation under Title 59, Chapter 13 of the U.C.A.;
 - e. Taxable energy brought into the state by a nonresident for the nonresident's own personal use or enjoyment while within the state, except taxable energy purchased for the use in the state by a nonresident living or working in the state at the time of purchase;
 - f. The sale or use of taxable energy for any purpose other than as a fuel or energy; and
 - g. The sale of taxable energy for use outside the boundaries of Lindon City.
3. The sale, storage, use, or other consumption of taxable energy is exempt from the Municipal Energy Sales and Use Tax levied by this chapter, provided:
 - a. The delivered value of the taxable energy has been subject to a municipal energy sales or use tax levied by another municipality within the state authorized by Title 59, Chapter 12, Part 3, U.C.A.; and
 - b. Lindon City is paid the difference between the tax paid to the other municipality and the tax that would otherwise be due under this chapter, if the tax due under this chapter exceeds the tax paid to the other municipality. (Ord. No. 97-5, adopted 6-17-97, effective date, 6-30-97.)

Section 3.09.050 No effect upon existing franchise agreements--Credit for franchise fees.

1. This chapter shall not alter any existing franchise agreements between Lindon City and energy suppliers.
2. There is a credit against the tax due from any consumer in the amount of a contractual franchise fee paid if:
 - a. the energy supplier pays the contractual franchise fee to Lindon City pursuant to a franchise agreement in effect on July 1, 1997;
 - b. the contractual franchise fee is passed through by the energy supplier to a consumer as a separately itemized charge; and
 - c. the energy supplier has accepted the franchise. (Ord. No. 97-5, adopted 6-17-97, effective date, 6-30-97.)

Section 3.09.060 Tax collection contract with State Tax Commission.

1. On or before the effective date of this chapter, Lindon City shall contract with the State Tax Commission to perform all functions incident to the administration and collection of the Municipal Energy Sales and Use Tax, in accordance with this chapter. The mayor, with the advice and consent of the city council is hereby authorized to enter into agreements with the State Tax Commission that may be necessary to the continued

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administration and operation of the Municipal Energy Sales and Use Tax ordinance enacted by this chapter.

2. An energy supplier shall pay the Municipal Energy Sales and Use Tax revenues collected from consumers directly to Lindon City monthly if:
 - a. Lindon City is the energy supplier; or
 - b. the energy supplier estimates that the municipal energy sales and use tax collected annually from its Utah consumers equals \$1,000,000 or more, and
 - c. the energy supplier collects the Municipal Energy Sales and Use Tax.
3. An energy supplier paying the Municipal Energy Sales and Use Tax directly to Lindon City may deduct any contractual franchise fees collected by the energy supplier qualifying as a credit and remit the net tax less any amount the energy supplier retains as authorized by §10-1-307(4), UCA. (Ord. No. 97-5, adopted 6-17-97, effective date, 6-30-97.)

Section 3.09.070 Incorporation of Part 1, Chapter 12, Title 59, U.C.A., including amendments.

1. Except as herein provided, and except insofar as they are inconsistent with the provisions of Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act, as well as this chapter, all of the provisions of Part 1, Chapter 12, Title 59, U.C.A., 1953, as amended, and in force and effect on the effective date of this Chapter, insofar as they relate to sales and use taxes, excepting §59-12-101 and 59-12-119 thereof, and excepting for the amount of the sales and use taxes levied therein, are hereby adopted and made a part of this chapter as if fully set forth herein.
2. Wherever, and to the extent that in Part 1, Chapter 12, Title 59, U.C.A., 1953, as amended, the State of Utah is named or referred to as the "taxing agency," the name of Lindon City shall be substituted, insofar as is necessary for the purposes of that part, as well as Part 3, Chapter 1, Title 10, U.C.A., 1953, as amended. Nothing in this subparagraph (2) shall be deemed to require substitution of the name Lindon City for the word "state" when that word is used as part of the title of the State Tax Commission, or of the Constitution of Utah, nor shall the name of Lindon City be substituted for that of the state in any section when the result of such a substitution would require action to be taken by or against Lindon City or any agency thereof, rather than by or against the State Tax Commission in performing the functions incident to the administration or operation of this chapter.
3. Any amendments made to Part 1, Chapter 12, Title 59, U.C.A., 1953 as amended, which purposes would be applicable to Lindon City for the purposes of carrying out this chapter are hereby incorporated herein by reference and shall be effective upon the date that they are effective as a Utah statute. (Ord. No. 97-5, adopted 6-17-97, effective date, 6-30-97.)

Section 3.09.080 No additional license to collect the municipal energy sales and use tax required--No additional license or reporting requirements.

1. There is hereby levied upon the business of every person or company engaged within Lindon City, Utah, in the business of supplying for sale, municipal or public telephone exchange services, sewer, culinary or secondary water, electricity, or natural gas utility service, an annual franchise tax equal to four and one-half percent (4.5%) of the gross revenue attributable to the sale and use of the services by such entity delivered within

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the corporate limits of Lindon City, the tax being in addition to any franchise fee.

2. Remittance date. Within thirty (30) days after the end of each month in a calendar year, any public or municipal utility taxed hereunder shall file with the Lindon City Treasurer, a report of its gross revenue derived from the sale and use of public or municipal utility service in Lindon City together with the computation of the tax levied hereunder against the utility. Coincidental with the filing of such report, the utility shall pay to the Lindon City Treasurer the amount of the tax due for the month which is the subject of the report.

(Ord. no. 2003-12, Amended, 7/15/2003; Ord. no. 2000-16, Amended, 12/18/2000; Ord. No. 10-95, replacing chapter is required, provided the energy supplier collecting the tax has a license issued under §59-12-106, U.C.A. (Ord. No. 97-5, adopted 6-17-97, effective date, 6-30-97.

Section 3.09.090 Penalties and interest

1. Penalties and interest equal to those authorized by U.C.A. Sections 59-1-401 and 59-1-402 shall be imposed on any person who:
 - a. is required to pay the tax under this Chapter; and
 - b. does not remit the tax to the collecting agent within the time prescribed by law.
2. Any person violating any of the provisions of this Chapter shall be deemed guilty of a Class B Misdemeanor.
3. Each day a violation of this Chapter continues shall constitute a separate offense.
(Ord. 2010-6, amended 9/22/10) (Ord. 99-15, Add, 10/04/2000)

Section 3.09.100 Attorney fees and cost of collection

Unless otherwise altered or limited by state law, every person, entity or company obligated to pay the tax imposed by this Chapter shall be required to apply all costs of collection of the tax imposed herein, including reasonable attorney's fees, court costs, and all other costs incident to the collection of the tax as are incurred by Lindon City in enforcing any of the provisions of this Chapter. (Ord. 2010-6, amended 9/22/10).

Chapter 3.10

UTILITY FRANCHISE TAX

Sections:

- 3.10.010 Municipal and public utilities
- 3.10.020 Businesses in competition with municipal or public utilities
- 3.10.030 Definitions
- 3.10.040 Yearly review
- 3.10.050 Constitutionality
- 3.10.060 Attorney fees and cost of collection
- 3.10.070 Penalty and interest

Section 3.10.010 Municipal and public utilities.

1. There is hereby levied upon the business of every person or company engaged within Lindon City, Utah, in the business of supplying for sale, municipal or public telephone exchange services, sewer, culinary or secondary water, electricity, or natural gas utility service, an annual franchise tax equal to four and one-half percent (4.5%) of the gross revenue attributable to the sale and use of the services by such entity delivered within the corporate limits of Lindon City, the tax being in addition to any franchise fee.

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2. Remittance date. Within thirty (30) days after the end of each month in a calendar year, any public or municipal utility taxed hereunder shall file with the Lindon City Treasurer, a report its gross revenue derived from the sale and use of public or municipal utility service in Lindon City together with the computation of the tax levied hereunder against the utility. Coincidental with the filing of such report, the utility shall pay to the Lindon City Treasurer the amount of the tax due for the month which is the subject of the report. (Ord. no. 2003-12, amended, 7/15/2003; Ord.no. 2000-16, amended, 12/18/2000; Ord. no. 10-95, replace ord. no. 2-93.)

Section 3.10.020 Businesses in competition with municipal or public utilities.

1. There is hereby levied upon the business of every person or company engaged in the business of supplying local exchange telephone services, electricity, culinary or secondary water, sewer, or natural gas service in Lindon City, in competition with the municipal or public utilities, an annual franchise tax equal to four and one-half percent (4.5%) of the gross revenue attributable to the sale and use of such competitive services sold, used, or delivered within the corporate limits of Lindon City, the fee being in addition to any franchise fee.
2. Within thirty (30) days after the end of each month in a calendar year, any business taxed hereunder shall file with the city treasurer a report of its gross revenue attributable to the sale and use of services specified hereunder rendered in competition with public utilities in Lindon City, together with a computation of the tax levied hereunder against such business. Coincidental with the filing of such report, the business shall pay to the Lindon City Treasurer the amount of the tax due for the calendar month which is the subject of the report. (Ord. no. 2003-12, Amended 7/15/2003; Ord. no. 2000-16, Amended, 12/18/2000; Ord. No. 10-95, replacing Ord. No. 2-93.)

Section 3.10.030 Definitions.

1. The term "gross revenue", as used herein, shall mean revenue derived from the sale or use of public utility services within Lindon City provided that "gross revenue" as applied to the local exchange telephone services shall be construed to mean basic local exchange service revenues received from subscribers located within the Lindon City.
2. The terms "local exchange telephone service revenues" shall mean revenues received from the furnishing of Telecommunications within Lindon City and from access to the local telecommunications exchange network, whether on a flat rate or measured basis by means of an access line. Local exchange telephone service revenues shall not include revenues obtained by the telephone public utility company from the provision of terminal or mobile telephone equipment services (such as basic telephone sets, private branch exchanges and key telephone systems), or from other telephone equipment which is obtainable from either the telephone company or other suppliers.
3. The term "in competition with public or municipal utilities" shall mean to trade in products or services within the same market as a public or municipal utility as taxed by 3.10.010 and 3.10.020 respectively.
4. The term "public utility" as used herein shall mean any person or business who sells, delivers, or otherwise furnishes natural gas, electricity, local exchange telephone service, sewer service, culinary or secondary water, as a commodity or service to the public for domestic, commercial, or industrial use by means or through the use of any public street or way.

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5. The term "municipal utility" as used herein shall mean Lindon City and the departments thereof. (Ord. no. 2000-16, Amended, 12/18/2000; Ord. No. 10-95, replacing Ord. No. 2-93.)

Section 3.10.040 Yearly review.

The percent of the gross revenue paid as a franchise tax under this chapter shall be subject to yearly review by the Lindon City Council, and may be increased or decreased by duly enacted ordinance and thirty (30) days' notice to such utilities. (Ord. no. 2000-16, Amended, 12/18/2000; Ord. No. 10-95, replacing Ord. No. 2-93.)

Section 3.10.050 Constitutionality.

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The council hereby declares that it would have passed this ordinance, and each section, subsection, sentence, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases had been declared invalid or unconstitutional.

(Ord. no. 2000-16, Amended, 12/16/2000; Ord. No. 10-95, replacing Ord. No. 2-93.)

Section 3.10.060 Attorney fees and cost of collection.

Every person or company obligated to pay the tax imposed by this chapter shall be required to pay all costs of collection of the tax imposed herein, including reasonable attorney's fees, court costs, and all other costs incident to the collection of the tax as are incurred by Lindon City in enforcing any of the provisions of this chapter. (Ord. no. 2000-16, Amended, 12/18/2000; Ord. No. 10-95, replacing Ord. No. 2-93.)

Section 3.10.070 Penalty and interest.

1. A penalty of 10% of the unpaid tax shall be imposed on every person, entity, or company obligated to pay the tax imposed by this Chapter. Additionally, interest in the amount of 18% per annum on the amount of the unpaid tax from the date due until paid, both before and after judgment, shall be imposed on every person, entity, or company obligated to pay the tax imposed by this Chapter.
2. Any person violating any of the provisions of this Chapter shall be deemed guilty of a Class B Misdemeanor.
3. Each day a violation of this Chapter continues shall constitute a separate offense.

(Ord. 2010-6, amended 9/22/10 (Ord. 2000-16, Amended, 12/18/2000; Ord. No. 10-95, replacing Ord. No. 2-93.)

Chapter 3.11

(Repealed and Replaced by Section 3.12)

(Ord. no. 2005-3, 01/04/2005)(Ord. no. 2004-6, 06/15/2004)(Ord. no. 2003-11, Adopted, 07/15/2003)

Chapter 3.12

TELECOMMUNICATION LICENSE TAX

Sections:

- | | |
|----------|---|
| 3.12.010 | Definitions |
| 3.12.020 | Levy of tax |
| 3.12.030 | Rate |
| 3.12.040 | Rate limitation and exemption therefrom |

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- 3.12.050 Effective date of tax levy.
- 3.12.060 Changes in Rate or Repeal of the Tax.
- 3.12.070 Interlocal Agreement for collection of the Tax.
- 3.12.080 Repeal of inconsistent taxes and fees.
- 3.12.090 Penalties and interest
- 3.12.100 Attorney fees and cost of collection

Section 3.12.010 Definitions.

As used in this ordinance:

- 1) Commission means the State Tax Commission.
- 2) (a) Subject to Subsections (2)(b) and (c), customer means the person who is obligated under a contract with a telecommunications provider to pay for telecommunications service received under the contract.
(b) For purposes of this ordinance, Customer means:
 - (i) the person who is obligated under a contract with a telecommunications provider to pay for telecommunications service received under the contract; or
 - (ii) if the end user is not the person described in Subsection (2)(b)(i), the end user of telecommunications service.
- (c) Customer does not include a reseller:
 - (i) of telecommunications service; or (ii) for mobile telecommunications service, of a serving carrier under an agreement to serve the customer outside the telecommunications provider-s licensed service area.
- 3) (a) End user means the person who uses a telecommunications service.
(b) For purposes of telecommunications service provided to a person who is not an individual, end user means the individual who uses the telecommunications service on behalf of the person who is provided the telecommunications service.
- 4) Gross Receipts attributed to the municipality means those gross receipts from a transaction for telecommunications services that is located within the municipality for the purposes of sales and use taxes under Utah Code Title 59, Chapter 12, Sales and Use Tax Act and determined in accordance with Utah Code Section 59-12-207.
- 5) Gross receipts from telecommunications service means the revenue that a telecommunications provider receives for telecommunications service rendered except for amounts collected or paid as:
 - (a) a tax, fee, or charge:
 - (i) imposed by a governmental entity;
 - (ii) separately identified as a tax, fee, or charge in the transaction with the customer for the telecommunications service; and
 - iii) imposed only on a telecommunications provider;
 - (b) sales and use taxes collected by the telecommunications provider from a customer under Title 59, Chapter 12, Sales and Use Tax Act; or
 - (c) interest, a fee, or a charge that is charged by a telecommunications provider on a customer for failure to pay for telecommunications service when payment is due.
- 6) “Mobile telecommunications service” is as defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.
- 7) Municipality means Lindon City.
- 8) “Place of primary use”:
 - (a) for telecommunications service other than mobile telecommunications service, means the street address representative of where the customer-s use of the telecommunications service primarily occurs, which shall be:
 - (i) the residential street address of the customer; or

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- (ii) the primary business street address of the customer; or
 - (b) for mobile telecommunications as defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec 124.
- 9) Notwithstanding where a call is billed or paid, “service address” means:
- (a) if the location described in this Subsection (9)(a) is known, the location of the telecommunications equipment;
 - (i) to which a call is charged; and
 - (ii) from which the call originates or terminates;
 - (b) if the location described in Subsection (9)(a) is not known but the location described in this Subsection (8)(b) is known, the location of the origination point of the signal of the telecommunications service first identified by:
 - (i) the telecommunications system of the telecommunications provider; or
 - (ii) if the system used to transport the signal is not a system of the telecommunications provider, information received by the telecommunications provider from its service provider; or Commission of Utah regulates: (i) that person; or
 - (c) if the locations described in Subsection (9)(a) or (b) are not known, the location of a customer’s place of primary use.
- 10) (a) Subject to Subsections (9)(b) and (9)(c), telecommunications provider means a person that:
- (i) owns, controls, operates, or manages a telecommunications service; or
 - (ii) engages in an activity described in Subsection (9)(a)(i) for the shared use with or resale to any person of the telecommunications service.
- (b) A person described in Subsection (9)(a) is a telecommunications provider whether or not the Public Service Commission of Utah regulates:
- (i) that person; or
 - (ii) the telecommunications service that the person owns, controls, operates, or manages.
- (c) “Telecommunications provider” does not include an aggregator as defined in Utah Code Section 54-8b-2.
- 11) Telecommunications service means:
- (a) telephone service, as defined in Utah Code Section 59-12-102, other than mobile telecommunications service, that originates and terminates within the boundaries of this state; and
 - (b) mobile telecommunications service, as defined in Utah Code Section 59-12-102;
 - (i) that originates and terminates within the boundaries of one state; and
 - (ii) only to the extent permitted by the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.

Section 3.12.020 Levy of tax.

There is hereby levied a municipal telecommunications license tax on the gross receipts from telecommunications service attributed to Lindon City.

Section 3.12.030 Rate.

The rate of the tax levy shall be 4% of the telecommunication provider-s gross receipts from telecommunications service that are attributed to Lindon City subject to the following:

If the location of a transaction is determined to be other than Lindon City, then the rate imposed on the gross receipts for telecommunications services shall be the lower of (1)

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the rate imposed by the taxing jurisdiction in which the transaction is located or (2) the rate for non-mobile telecommunications services shall be the rate imposed by the municipality in which the customer's service address is located; or for mobile telecommunications service, the rate imposed by the municipality of the customer's primary place of use.

Section 3.12.040 Rate limitation and exemption therefrom.

The rate of this levy shall not exceed 4% of the telecommunication provider's gross receipts from telecommunication service attributed to Lindon City unless a higher rate is approved by a majority vote of the voters in Lindon City that vote in:

- (a) a municipal general election;
- (b) a regular general election; or
- (c) a local special election.

Section 3.12.050 Effective date of tax levy.

This tax shall be levied beginning the earlier of July 1, 2004 or the first day of any calendar quarter after a 75 day period beginning on the date the Commission received notice pursuant to Utah Code Section 10-1-403 that Lindon City has enacted this ordinance.

Section 3.12.060 Changes in Rate or Repeal of the Tax.

This ordinance is subject to the requirements of Utah Code Section 10-1-403. If the tax rate is changed or the tax is repealed, then the appropriate notice shall be given provided in Utah Code Section 10-1- 403.

Section 3.12.070 Interlocal Agreement for collection of the tax.

On or before the effective date of the ordinance, Lindon City shall enter into the uniform interlocal agreement with the Commission as described in Utah Code Section 10-1-405 for the collection, enforcement, and administration of this municipal telecommunications license tax.

Section 3.12.080 Repeal of inconsistent taxes and fees.

Any tax or fee previously enacted by Lindon City under authority of Utah Code Section 10-1-203 or Utah Code Title 11, Chapter 26, Local Taxation of Utilities Limitation is hereby repealed. Nothing in this ordinance shall be interpreted to repeal any municipal ordinance or fee which provides that the municipality may recover from a telecommunications provider the management costs of the municipality caused by the activities of the telecommunications provider in the rights-of-way of the municipality, if the fee is imposed in accordance with Utah Code Section 72-7-102 and is not related to the municipality's loss of use of a highway as a result of the activities of the telecommunications provider in a right of way, or increased deterioration of a highway as a result of the activities of the telecommunications provider in a right-of-way nor does this ordinance limit the municipality's right to charge fees or taxes on persons that are not subject to the municipal telecommunications license tax under this ordinance and locate telecommunications facilities, as defined in Utah Code Section 72- 7-108, in this municipality. (Ord. No. 2004-6, Adopted 06/15/2004)

Section 3.12.090 Penalties and interest.

1. Penalties and interest equal to those authorized by U.C.A. Sections 59-1-401 and 59-1-402 shall be imposed on any person who:

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- a. is required to pay the tax under this part; and
 - b. does not remit the tax to the collecting agent within the time prescribed by law.
2. Any person violating any of the provisions of this Chapter shall be deemed guilty of a Class B Misdemeanor.
 3. Each day a violation of this Chapter continues shall constitute a separate offense. (Ord. 99-15, Add, 10/04/2000)

Section 3.12.100 Attorneys fees and cost of collection.

Unless otherwise altered or limited by state law, every person, entity. Or company obligated to pay the tax imposed by this Chapter shall be required to apply all costs of collection of the tax imposed herein, including reasonable attorney's fees, court costs, and all other costs incident to the collection of the tax as are incurred by Lindon City in enforcing any of the provisions of this Chapter.

(Ord. no. 2010-6, amended 9/24/10)