

TITLE THREE - FINANCE AND TAXATION

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CHAPTER 1 - UNIFORM LOCAL SALES AND USE TAX

3-1-010. Name.

This chapter shall be known as the "Uniform Local Sales and Use Tax Ordinance of Salem City."

3-1-020. Purpose.

The 48th session of the Utah Legislature of Utah has authorized the counties and municipalities of the State of Utah to enact sales and use tax ordinances imposing a one percent (1%) tax.

It is the purpose of this ordinance to conform the sales and use tax of the municipality to the requirements of the Sales and Utah Tax Act, as set forth in the Utah code.

3-1-030. Effective Date.

This ordinance shall become effective as of 12:01 a.m. on the 1st day of January, 1990.

3-1-040. Sales and Use Tax.

- A. 1. From and after the effective date of this ordinance, 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 this municipality at the rate of one percent (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 this ordinance at the rate of one percent (1%) of the sale price of the property.
3. For the purpose of this ordinance, all retail sales shall be presumed to have been consummated at the place of business delivered by the retailer or his or her agent to an out of state destination or to a common carrier for delivery to an out of state destination. In the event that a retailer has no permanent 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 Utah State Tax Commission. Public utilities as defined by Title 54 of Utah Code Annotated, shall not be obligated to determine the place or places within any county or municipality where public utility 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.
- B. 1. Except as hereinafter provided, and except insofar as they are inconsistent with the provisions of the Sales and Use Tax Act, all the provisions of Title

59, Chapter 12, Utah Code Annotated, in force and effect on the effective date of this ordinance, insofar as they relate to sales taxes, excepting Sections 59-12-101 and 59-12-119 thereof, are hereby adopted and made a part of the ordinances as though fully set forth herein.

2. Wherever, and to the extent that in Title 59, Chapter 12, Utah Code Annotated, 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 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 that 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.
3. If an annual license has been issued to a retailer under Utah Code Annotated § 59-12-106, an additional license shall not be required by reason of this section.
4. There shall be excluded from the purchase price paid or charged by which the taxes measure:
 - a. The amount of any sale 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 sales 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.

3-1-050. Mayor Authorized to Execute Documents.

The mayor is authorized to execute whatever documents are necessary to distribute sales and use tax revenues on the combination of point of sale and population factors as set forth in Utah Code Annotated § 11-9-5.

3-1-060. Contract with State.

Heretofore, this municipality has entered into an agreement with the State Tax Commission to perform all functions instant to the administration or operation of the sales and uses 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 re-enacted by this chapter.

CHAPTER 2 - COLLECTION OF SPECIAL IMPROVEMENT TAXES

3-2-010. Purpose.

It is the purpose of this chapter to provide for the summary sale of property assessed under Utah law after delinquency shall have occurred in the payment of any assessment or any part or installment of it, pursuant to Utah Code Annotated § 10-16-23.

3-2-020. Delinquency - Acceleration of Unpaid Balance.

- A. When an assessment is made pursuant to the Utah Municipal Improvement District Act, which assessment is payable in installments, and a default occurs in the payment of any installment when due, the city council, by resolution, may declare the amount to be delinquent, immediately due, and subject to collection as provided in this chapter. In addition, the resolution may accelerate payment of the total unpaid balance of the assessment and declare the whole of the unpaid principal and the interest then due to be immediately due and payable. Interest shall continue to accrue at the specified rate plus two percent (2%) per annum. Costs of collection as approved by the city council or required by law shall be charged and paid on all amounts declared to be delinquent or accelerated and shall be immediately due and payable.
- B. Notwithstanding the provisions of subparagraph (A) of this section, if prior to the final date that payment may be legally made under final sale or foreclosure of the property to collect delinquent assessment installments, the owner pays the amount of all unpaid installments which are past due and delinquent, with interest at the rate determined by the city council to the date of payment, plus all approved or required costs, the owner shall then be restored to the right to pay installment in the same manner as if default had not occurred.

3-2-030. Sale of Property.

Following acceleration of the balance due on the special improvement levy or upon resolution of the city improvement obligations, the lien of the city upon real property to guarantee the payments of special improvement bond assessments shall be foreclosed in the same manner as a deed of trust as set forth in Utah Code Annotated § 57-1-19 et seq. The city attorney is hereby designated trustee and shall be authorized to file a notice of default with Utah County Recorder and proceed in accordance with the provisions of Utah law.

3-2-040. Minimum Sale Price.

In no case shall lands advertised for sale for delinquent or special taxes be sold for less than the amount of such special taxes, interest, the costs of advertising, and expenses of sale.

3-2-050. Sale to Municipality.

Where no bid at least equal to the amount of the tax, interest, costs of advertising, and expenses of sale on each separate parcel is received as each separate parcel is offered for sale, Salem City shall be deemed to have bid for such property and the property shall be sold to the municipality for the amount of the tax, interest, costs of advertising, and expenses of sale. The sale shall have the same effect as if made to an individual. The city recorder or treasurer shall draw a check or warrant on the special improvement guarantee fund for which a special tax was levied in the amount necessary.

3-2-060. General Taxes on Delinquent Property.

- A. Between the 15th day of November and the 15th day of December in each year, the city recorder shall ascertain, by examination of the county records, which, if any, of the property sold to this municipality is delinquent and about to be sold for general taxes, and report the property and the amount of taxes in each instance to the governing body, with a request that the amount thereof be appropriated to the county.
- B. It shall be the duty of the governing body to appropriate the amount recommended by the city recorder. The treasurer shall thereon draw a warrant in favor of the county for the total sum of such delinquent taxes, and the city recorder shall deliver the warrant to the county treasurer, taking duplicate receipts therefore for each separate piece or parcel of property upon which the general taxes are thus paid. The city recorder shall thereon deliver one of each such receipts to the treasurer and file and attach the other to the corresponding certificate of sale in his office.
- C. On receiving such receipt, the city treasurer shall make entry on his tax sale record, opposite the corresponding property, the date and amount of taxes paid. Such taxes shall thereafter draw interest at the rate of ten percent (10%) per annum and shall be included in the amount required to be paid for redemption of such property.

3-2-070. Redemption.

Real estate sold for special taxes may be redeemed by any person interested therein, at any time within three years after the date of the sale thereof, by such person paying to the city treasurer, for the use the purchaser or his legal representative, the amount paid by such a purchaser and all costs and expenses, including the cost of the certificate of sale, together with the sum of \$10.00 for the redemption certificate, and all special taxes that have been accrued thereon and which have been paid by the purchaser after his purchase to the time of redemption, together with interest at the rate of one percent (1%) per month on the whole from the date of payment to the date of redemption, provided that:

- A. In all cases where property has been sold to the municipality, and general taxes thereon have been paid thereafter by the municipality, it shall be necessary for redemption or to pay the amount of such general taxes, so paid as aforesaid, with interest thereon from the date of payment to the date of redemption at the rate of ten percent (10%) per annum; and

- B. When two or more parties are interested in a piece of property which has been sold for taxes, either party may redeem the property in which he is interested, upon payment of that proportion of the taxes, interest, and costs which this property bears to whole property sold, together with the sum \$10.00 for a redemption certificate.

CHAPTER 3 - SPECIAL IMPROVEMENT GUARANTY FUND

3-3-010. Creation.

There is created a special fund to be known as the "Special Improvement Guaranty Fund." Said fund shall be used for the purpose of guaranteeing to the extent of said fund the payment of special improvement bonds or special improvement warrants and interest thereon heretofore or hereafter issued against the local improvement districts for the payment of local improvement therein and for the purchase of property sold to the city at tax sales or under foreclosure for delinquent special improvement taxes.

3-3-020. Maintenance.

The city council shall create and maintain said special improvement guaranty fund by appropriations from the general fund or by the levy of a tax not to exceed one mill in any one year or by the issuance of general obligation bonds whereby appropriation from other sources as maybe determined by the city council to provide the money necessary for that purpose. Said fund shall be held by the city treasurer and shall be kept by him or her separate and apart from all other funds held by him or her. Payments out of said fund shall be made only by checks or warrants drawn by the city recorder.

3-3-030. Interest and Penalties.

All excess charges and penalties collected by the city treasurer for the benefit or credit of any special improvement fund and remaining on hand after all the bonds or warrants, together with interest thereon, drawn against said special improvement fund have been fully paid and canceled, shall be transferred by the city recorder to the said special improvement guaranty fund.

3-3-040. Payment of Bonds or Warrants.

When any bond, warrant, or coupon drawn against any special improvement fund is presented to the city treasurer for payment and there is not a sufficient amount in said special improvement fund against which it is drawn to pay the same, unless otherwise requested by the holder, payment therefore shall be made by warrant drawn upon the city recorder against the special improvement guaranty fund.

3-3-050. Replenishment of Fund.

Whenever there is not a sufficient amount of cash in any special improvement guaranty fund at any time to make any and all purchases of property bid in by the city at sales of property for delinquent special improvement taxes, the city council shall replenish said special improvement guarantee fund by transfer or appropriation from the general fund or other available sources as may be determined by the city council.

3-3-060. Recorder to Issue Warrants.

Warrants drawing interest at a rate not to exceed eight percent (8%) per annum may be issued by the city recorder against said fund to meet any financial liabilities accruing against it; but at the time of making its annual tax levy, the city council shall provide for the levy of a sum sufficient with the other resources of the fund to pay warrants

so issued and outstanding, the tax for this purpose not to exceed one mill in any one year.

3-3-070. Subrogation of City.

Whenever the city has paid under its guarantee any sum on account of principal or interest on the bonds or the warrants or warrants of any district, it shall be subrogated to the rights of the holders of such bonds or warrants or interest coupons so paid, and such bonds or warrants or coupons and the proceeds thereof shall become a part of the guaranty fund.

CHAPTER 4 - PURCHASING

3-4-010. System established.

Pursuant to Utah Code Annotated § 10-6-122, § 10-7-20(2), (3), (4), § 10-8-1, § 10-8-2, and other pertinent provisions of the laws of the state of Utah, there is adopted and established a purchasing system for Salem City Corporation which shall be based on the following principals.

3-4-020. Definitions.

- A. **"Supplies, materials and equipment"** are defined as any and all articles or things which shall be furnished to or used by any city department.
- B. **"Contractual services"** shall mean public works projects and other professional services such as auditing, architecture, engineering, or other consulting services.
- C. **"Bidding"** is a procedure used to solicit quotations on price and delivery from various prospective suppliers of supplies, equipment and contractual services.
- D. **"Responsible bid"** shall mean an offer, submitted by a responsible bidder, to furnish supplies, equipment or contractual services in conformity with the specifications, delivery terms and conditions, and other requirements included in the invitation to bid.
- E. **"Responsible bidder" or "Offeror"** means a person who has the capability in all respects to perform fully the contract requirements and who has the integrity and reliability which will assure good faith performance.
- F. **"Local bidder"** shall mean a firm or individual who regularly maintains a place of business in, or maintains an inventory of merchandise for sale in, or is licensed by or pays business taxes to the city of Salem.
- G. **"Estimates of requirements"** means forecasts of future requirements for supplies, equipment, or contractual services submitted by city departments upon request of the purchasing agent or his designee.
- H. **"Requisitions"** are standard forms used by departments providing detailed information as to quantity, descriptions, estimated price, recommended supplier, and signature authorization of requested purchases.
- I. **"Purchase orders"** shall mean official documents used in committing city funds toward the purchase of supplies, equipment and contractual services.
- J. **"Adequate appropriation balance"** means a sufficient fund balance which must exist in the line item appropriation of the account number against which the purchase order is to be charged.

- K. **"Public property"** is defined as any item of real or personal property owned by the city of Salem.

3-4-030. Administration - Purchasing Agent.

The city council may designate a purchasing agent to act on behalf of the city. If the council takes no such action, the city recorder is to act as the purchasing agent. The purchasing agent or his or her designee shall administer the purchasing system provided in this chapter by the statutes referred to hereinabove and by other applicable laws. He or she is authorized:

- A. To make all requests for prices or services, and to make all purchases for the city of Salem.
- B. To request or give permission to other departments of the city to receive salesmen.
- C. To recommend to the city such new or revised purchasing rules and regulations as are deemed desirable and in conformance with other statutory requirements, and to interpret the provisions of this chapter and applicable statutes.
- D. To negotiate and recommend execution of contracts for the purchase of supplies, equipment and contractual services.
- E. To seek to obtain as full and open completion as possible on all purchases.
- F. To keep informed of current developments in the field of purchasing, i.e., prices, market conditions, new products, etc.
- G. To prescribe and maintain such forms as are reasonably necessary to the operation of this chapter and other rules and regulations.
- H. To supervise the inspection of all supplies and equipment to assure conformance with specifications. This may be delegated to department heads.
- I. To transfer surplus or unused supplies and equipment between departments as needed.
- J. To maintain a bidders' list, vendors' catalog file, and other records needed for the efficient operation of the purchasing system.
- K. To observe and enforce the procedures as outlined in the manual.
- L. To purchase or contract for the purchase of all supplies and contractual services required by the city.

3-4-040. Competitive Bidding.

Except as hereinafter provided, purchases of supplies, equipment and letting of contracts shall follow one of the following procedures:

- A. Formal Contract Procedure. Except as otherwise provided herein, purchases of supplies, equipment or contractual services of an estimated value greater than five thousand dollars (\$5,000.00) shall be by written contract with the lowest responsible bidder, pursuant to the procedure hereinafter prescribed.
 1. Notice Inviting Bids. Invitation for bids shall include a general description of the articles to be purchased, all contractual terms and conditions, locations where bid blanks and specifications may be secured, and the time and place for opening bids.
 - a. Published Notice. Notices inviting bids shall be published at least ten (10) days before the date of the opening of the bids. Notices shall be published at least once in a newspaper of general circulation in the city.
 - b. Published Notice (Improvements Paid For Out of General Fund Over Eight Thousand Dollars). Notices inviting bids for public improvements of estimated costs over eight thousand dollars (\$8,000.00) paid for out of the general fund shall be published at least twice in a newspaper of general circulation in the city.
 - c. Bidders' List. Sealed bids shall be solicited from all known responsible prospective suppliers including those whose names are on the bidders' list or who have made written request that their names be added thereto.
 - d. Bulletin Board. Notices inviting bids shall also be posted on a public bulletin board in the city office at least ten (10) days before the opening of bids.
 2. Bid Opening Procedure. Sealed bids shall be "submitted" as designated in the notice with the statement "Bid for (item)" on the envelope. Bids shall be opened in public at the time and place stated in the public notice. A tabulation of all bids received shall be open for public inspection during regular business hours for a period of not less than thirty (30) days after the bid opening.
 3. Evaluation of Bids. Bids submitted to the city shall be evaluated on the basis of compliance with specifications and other relevant criteria as set forth in the invitation to bid.

4. Correction or Withdrawal of Erroneous Bids. Correction or withdrawal of inadvertently erroneous bids before or after award, or cancellation of awards or contracts based on such bid mistakes shall be permitted in accordance with rules and regulations. After the bid opening, no changes in bid prices or other provisions of bids prejudicial to the interest of the city or fair competition shall be permitted. Except as otherwise provided by rules and regulations, all decisions to permit the correction or withdrawal of bids or to cancel awards or contracts based on bid mistakes shall be supported by a written determination made by the city council or his or her designee.
 5. Rejection of Bids. In its discretion, the city council may reject without cause any and all bids presented, and readvertise for bids pursuant to the procedure hereinabove described.
 6. Award of Contracts. Subject to the criteria and consideration set forth therein, contracts shall be awarded by the city council.
 7. Tie Bids. If two (2) or more bids received are for the same total amount or unit price, quality and service being equal, and if the public interest will not permit the delay of readvertising for bids, the city council shall accept the lowest bid made by and after negotiation with the tie bidders.
 8. Single Bids. In the event a single bid is received, a price or cost analysis may be required. The bidder will be required to furnish a detailed cost proposal for audit and the bid award shall be subject to subsequent negotiations following written determination by the city council or his or her designee that there is only one source for the required supply, service or construction item.
 9. Performance Bonds. Before entering into a construction contract, the city council shall require a performance bond in an amount equal to one hundred percent of the price specified in the contract. The form and amount of said bonds shall be described in the notice inviting bids.
- B. Competitive Sealed Proposal in Lieu of Bids Procedure.
1. Competitive sealed proposals may be used when the city council determines that the use of competitive sealed bidding is either impracticable or not advantageous to the city.
 2. Proposals shall be solicited through a request for proposals. Public notice of the request for proposal shall be given.
 3. Proposals shall be opened so as to avoid disclosure of contents to competing offerors during the process of negotiation. A register of proposals shall be

prepared by the city and shall be open for public inspection after the contract award.

4. The request for proposal shall state the relative importance of price and other evaluating factors.
 5. As provided in the request for proposals, discussions may be conducted with responsible offerors who submit proposals determined to be reasonably susceptible of being selected for award for the purpose of assuring full understanding of, and responsiveness to, the solicitation requirements. Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals, and revision may be permitted after submissions prior to award for the purpose of obtaining best and final offers. In conducting discussions, there shall be no disclosure of any information derived from proposals submitted by competing offerors.
 6. Award shall be made to the responsible offeror whose proposal is determined in writing to be the most advantageous to the city, taking into consideration the price and the evaluation criteria set forth in the request for proposals.
- C. Open Market Procedure. Purchases of supplies, equipment or contractual services of an estimated value in the amount of five thousand dollars (\$5,000.00) or less may be made in the open market pursuant to the procedure hereinafter prescribed, and without observing the procedure described in subparagraph (A) of this section; provided, however, all bidding may be dispensed with for purchases of supplies, equipment or contractual services having a total estimated value of less than five hundred dollars (\$500.00).
1. Minimum Number of Bids. Open market purchases shall, whenever possible, be based on at least three (3) price quotations and shall be awarded to the lowest responsible bidder.
 2. Solicitation of Bids. Price quotations shall be solicited from prospective vendors by written or telephone requests.
- D. Professional Service Contracts procedure. Contracts for professional services shall be awarded at the discretion of the city council to include, but not be limited to, the following services: Auditing, banking, insurance, engineering, architecture, etc.
1. Award of Contracts. Contracts shall be awarded at the discretion of the city council based on the evaluation of professional qualifications, service ability, cost of service, and other criteria deemed applicable by the city council.

3-4-050. Exemptions.

- A. Contracts for supplies, materials or services which may only be purchased from a single source following a written determination of that fact by the purchasing agent or his or her designee, shall not be subject to the competitive bidding requirement of the chapter.

3-4-060. Interlocal Agreements.

The city shall have the power to enter into joint purchase agreements with any or all other public agencies within the state for the purchase of any commodity or service, whenever it is determined by the city council to be in the best interest of the city.

3-4-070. Disposal or Lease of Public Property.

All disposals, leases and/or subleases of public property of the city shall be made, as nearly as possible, under the same conditions and limitations as required by this chapter in the purchase of public property, but the city council may also authorize, at its discretion:

- A. The sale of any such property at public auction if it deems such a sale desirable and in the best interest of the city; or
- B. The lease or sublease of any such property as a properly advertised public hearing under such terms and conditions as it may deem are desirable, fair and appropriate, considering intended land use and equivalent property tax value, and in the best interest of the city.

3-4-080. Prohibited Conduct.

- A. Collusion Among Bidders. Any agreement or collusion among bidders or prospective bidders, in restraint of freedom of competition, by agreement to bid a fixed price, or otherwise, shall render the bids of all such bidders void.
- B. Advance Disclosures. Any disclosure in advance of the opening of bids, whether in response to advertising or an informal request for bids, made or permitted by a member of the city council or a city employee shall render void the advertisement or request for bids.

3-4-090. Personal Purchases.

- A. Purchase of supplies or equivalent for personal use of an official or employee of the city shall be made only when the item or items are required parts of a workers equipment and are necessary to the successful performance of the duties of such city official or employee. Other personal purchases shall not be permitted and will be the cause of disciplinary action.
- B. Acceptance of gifts, other than that of advertising novelties, or other acceptance of elaborate entertainment by city employees is prohibited. Employees must not become obligated to any supplier and shall not conduct any city transaction from which they may personally benefit.

3-4-100. Violation - Penalties.

- A. A violation of this section by a city employee shall be cause for removal or other disciplinary action. A violation of this section by an elected official shall be malfeasance in office.

- B. A violation of this chapter by a vendor or bidder constitutes a class B misdemeanor.

CHAPTER 5 - CLAIMS AGAINST THE CITY

3-5-010.

Every person asserting a claim against the city shall be required to comply in all respects with the provisions of the Utah Governmental Immunity Act, Utah Code Annotated § 63-30-1 et seq. Any such claim received by the city shall be submitted to Utah Risk Management Mutual Association for review and handling. Any claimant shall be required to provide such additional information as may be requested by URMMA. Any claim referred back to the city by URMMA, on the basis that the city lacks coverage for that particular claim, shall be referred to the city council for review and disposal. The city council shall have full authority to settle and/or litigate any such claim.

CHAPTER 6

REPEALED

(Ordinance No. 1-17-01 and Ordinance No. 6-16-04-A)

CHAPTER 7 - MUNICIPAL ENERGY SALES AND USE TAX

3-7-010. Energy Sales and Use Tax

- A. 1. From and after the effective date of this ordinance, there is levied and there shall be collected and paid a tax upon every delivery of taxable energy, as defined by Utah law, which is delivered to a customer within Salem City. The amount of the Municipal Energy Sales and use Tax shall be six percent (6%) of the value of the delivered energy to the customer.
2. For purposes of determining that tax and the value of delivered energy, regulations as promulgated by the Utah State Tax Commission shall be applicable and are adopted herein, by this reference.
- B. 1. The Definitions set forth in U.C.A. §10-1-303 are adopted and made a part of this ordinance as though fully set forth herein.
2. This ordinance does not affect any contractual franchise fee, which shall continue to be collected.
- C. Three shall be excluded from the purchase price paid or charged by which the tax is measured.
1. The sales and use of aviation fuel, motor fuel, or special fuel subject to taxation under the Utah Motor and Special Fuel Tax Act;
2. The sales and use of taxable energy that the municipality is prohibited from taxing under federal law or the Constitution of the United States or the Constitution of the State of Utah;
3. The sales and use of taxable energy purchased or stored in the state for resale;
4. The sales or use of taxable energy to a person if the primary use is for use for compounding or producing taxable energy or fuel subject to taxation under the Utah Motor and Special Fuel Tax Act;
5. The taxable energy brought into the state by a nonresident for the nonresident's own personal use or enjoyment while within the state, except a taxable energy purchased for use in the state by a nonresident living or working in the state at the time of purchase;
6. The sales or use of taxable energy for any purpose other than use as fuel energy; and

7. The sale of taxable energy for use outside of the municipality.
- D. An additional license to collect the tax is not required if one has been issued under U.C.A. §59-12-206.

3-7-020. Mayor Authorized to Execute Documents.

The Mayor is authorized to execute whatever documents are necessary to distribute the energy sales and use tax revenues in compliance with the municipal Energy Sales and Use Tax Act.

3-7-030. Collection of Taxes

- A. In those instances when the energy supplier is a municipality, the municipality shall be obligated to collect the tax from its customers and to pay the same directly to Salem City.
- B. In those instances when the energy supplier estimates that the municipal energy sales and use tax collected annually from its Utah customers equals one million dollars or more, the energy supplier shall collect the tax and remit it directly to Salem City.
- C. In those instances when the energy supplier does not estimate that the municipal energy sales and use tax collected annually from its Utah customers equals one million dollars or more, the energy supplier shall collect the tax and shall remit the same to Utah State Tax commission for disbursement to Salem City, or may disburse directly to Salem City if authorized by the Utah State Tax Commission.
- D. In those instances when the energy supplier is paying the tax to Salem City directly under this part, the energy supplier may retain the percentage of the tax authorized under U.C.A. §59-12-208(3) for its costs of collecting and remitting the tax.

3-7-040. Remittance.

The energy supplier incurring an energy sales or use tax under this chapter shall submit a report to the City within forty-five days after the end of each calendar month. The report shall indicate the gross revenues received from the delivery of taxable energy within Salem City during the applicable month. Together with the report, payment of the six percent (6%) energy sales and use tax shall be remitted to Salem City except those sums authorized to be retained by U.C.A. §59-12-208(3).

3-7-050. Inspection.

Salem City shall have the right, after giving reasonable notice, to inspect the books and records of any energy supplier delivering energy within the City to determine the accuracy of the monthly reports submitted to the City. The inspection shall be limited to books and records pertaining to the customers receiving taxable energy within the City boundaries.

3-7-060. Condition of Service.

Compliance with all the requirements of this chapter is a condition precedent to providing or delivering taxable energy within Salem City.

3-7-070. Effective Date.

The municipal energy sales and use tax, as imposed herein, shall commence as of the 1st day of July, 2003. (Ord. No. 6-4-03)

CHAPTER 8 - ESTABLISHING A TAX RATE ON THE GROSS RECEIPTS OF TELECOMMUNICATIONS SERVICE PROVIDERS

3-8-010. Definitions.

As used in this chapter, the following terms shall be defined as follows:

- (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 chapter, “customer” means:
 - (i) the person who is obligated under a contract with a 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 tax 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 the 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 Salem 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
 - (ii) the primary business street address of the customer; or
 - (b) for mobile telecommunications service, as defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.
- (9) Notwithstanding where a telephone call is billed or paid, “service address” means:
- (a) if the location described in the Subsection (9)(a) is not 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 (9)(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

- (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 (10)(b) and (10)(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 (10)(a)(i) for the shared use with or resale to any person of the telecommunications service.
- (b) a person described in Subsection (10)(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 Ann. §54-8b-2.
- (11) "Telecommunications service" means:
- (a) telephone service, as defined in Utah Code Ann. §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 Ann. §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. §116 et seq.

3-8-020. Levy of Tax.

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

3-8-030. Rate.

The rate of the tax levy shall be three and one-half percent (3.5%) of the telecommunication provider's gross receipts from telecommunications service that are attributed to the municipality. If the location of transaction is determined to be other than Salem City, then the rate imposed on the gross receipts for telecommunications services shall be determined pursuant to the provisions of Utah Code Ann. §10-1-407.

(Ord. No. 11-20-13)

3-8-040. Rate Limitation and Exemption Therefrom.

This rate of this levy shall not exceed four percent (4%) of the telecommunication provider's gross receipts from telecommunication service attributed to the municipality unless a higher rate is approved by a majority vote of the voters in the municipality that vote in:

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

3-8-050. Changes I Rate or Repeal of the Tax.

This ordinance is subject to the requirements of Utah Code Ann. §10-1-403. If the tax rate is changed or the tax is repealed, then the appropriate notice shall be given as provided I said section.

3-8-060. Procedures for Taxes Erroneously Recovered from Customers.

Pursuant to the provisions of Utah Code Ann. §10-1-408, a customer may not bring a cause of action against a telecommunications provider on the basis that the telecommunications provider erroneously recovered from the customer the municipal telecommunication license tax, except as provided in §10-1-408. (Ord. No. 6-16-04A)