

COTTONWOOD HEIGHTS

ORDINANCE NO. 244

AN ORDINANCE LEVYING A MUNICIPAL ENERGY SALES AND USE TAX AND ENACTING NEW CHAPTER 3.12, “MUNICIPAL ENERGY SALES AND USE TAX,” OF THE COTTONWOOD HEIGHTS CODE OF ORDINANCES

WHEREAS, effective 14 January 2005, the city council (the “*Council*”) of the city of Cottonwood Heights (the “*City*”) adopted a code of ordinances (the “*Code*”) for the City; and

WHEREAS, the Code includes Title 3, entitled “Revenue and Finance”; and

WHEREAS, the Council met in regular session on 16 June 2015 to consider, among other things, (a) levying a municipal energy sales and use tax (the “*Municipal Energy Tax*”) pursuant to the Municipal Energy Sales and Use Tax Act, UTAH CODE ANN. §§10-1-301 to -310 (the “*Act*”); and (b) enacting and adopting new Chapter 3.12, entitled “Municipal Energy Sales and Use Tax” (“*Chapter 3.12*”), of the COTTONWOOD HEIGHTS CODE OF ORDINANCES (the “*City Code*”) concerning the Municipal Energy Tax; and

WHEREAS, the Council has reviewed proposed new Chapter 3.12, a copy of which is attached as an exhibit to this ordinance (this “*Ordinance*”) and the terms and provisions of which are incorporated herein by this reference; and

WHEREAS, after careful consideration, the Council has determined that it is in the best interest of the health, safety and welfare of the citizens of the City to (a) so levy the Municipal Energy Tax as authorized by the Act, and (b) enact and adopt new Chapter 3.12 of the Code concerning the Municipal Energy Tax, as proposed;

NOW, THEREFORE, BE IT ORDAINED by the city council of the city of Cottonwood Heights as follows:

Section 1. ***Levy of Municipal Energy Tax.*** There is hereby levied a tax on every sale or use of taxable energy made within the City equaling six percent (6%) of the delivered value of the taxable energy to the consumer. The Municipal Energy Tax shall be calculated on the delivered value of the taxable energy to the consumer; shall be in addition to any local option sales or use tax which is or may hereafter be imposed by the City pursuant to the Local Sales and Use Tax Act, UTAH CODE ANN. Title 59, Chapter 12; and shall be subject to the provisions of Chapter 3.12, as the same may be hereafter amended from time to time.

Section 2. ***Adoption of Chapter 3.12.*** The Council hereby enacts and adopts new Chapter 3.12 of the Code as shown on the attached exhibit.

Section 3. ***Action of Officers.*** All actions of the officers, agents and employees of the City that are in conformity with the purpose and intent of this Ordinance, whether taken before or after the adoption hereof, are hereby ratified, confirmed and approved.

Section 4. ***Severability.*** It is hereby declared that all parts of this Ordinance are severable, and if any section, paragraph, clause or provision of this Ordinance shall, for any reason, be held to be invalid or unenforceable, the invalidity or unenforceability of any such section, paragraph, clause or provision shall not affect the remaining sections, paragraphs, clauses or provisions of this Ordinance.

Section 5. ***Repealer.*** All ordinances or parts thereof in conflict with this Ordinance are, to the extent of such conflict, hereby repealed.

Section 6. ***Effective Date.*** This Ordinance, assigned no. 244, shall take immediate effect as soon as it shall be published or posted as required by law and deposited and recorded in the office of the City's recorder, or such later date as may be required by Utah statute.

PASSED AND APPROVED this 16th day of June 2015.

ATTEST:

COTTONWOOD HEIGHTS CITY COUNCIL

By: _____
Kory Solorio, Recorder

By _____
Kelvyn H. Cullimore, Jr., Mayor

VOTING:

Kelvyn H. Cullimore, Jr.	Yea	___	Nay	___
Michael L. Shelton	Yea	___	Nay	___
J. Scott Bracken	Yea	___	Nay	___
Michael J. Peterson	Yea	___	Nay	___
Tee W. Tyler	Yea	___	Nay	___

DEPOSITED in the Recorder's office this 16th day of June 2015.

POSTED this ___ day of June 2015.

COTTONWOOD HEIGHTS

ORDINANCE NO. 245

AN ORDINANCE ADOPTING AN AMENDED FINAL BUDGET FOR THE PERIOD OF 1 JULY 2014 THROUGH 30 JUNE 2015; ADOPTING A FINAL BUDGET FOR THE PERIOD OF 1 JULY 2015 THROUGH 30 JUNE 2016; MAKING APPROPRIATIONS FOR THE SUPPORT OF THE CITY OF COTTONWOOD HEIGHTS FOR SUCH PERIODS; AND DETERMINING THE RATE OF TAX AND LEVYING TAXES UPON ALL REAL AND PERSONAL PROPERTY WITHIN THE CITY OF COTTONWOOD HEIGHTS

WHEREAS, the Uniform Fiscal Procedures Act for Utah Cities (the “Act”) provides, among other things, that prior to adoption by a city’s governing body of a municipal budget, the city’s mayor or other budget officer shall propose a tentative budget which shall be reviewed, considered and tentatively adopted by the governing body in open meeting, whereupon (a) the governing body shall establish the time and place of a public hearing to consider the adoption of the tentative budget; (b) the tentative budget shall be a public record in the office of the city’s recorder available for public inspection for a period of at least ten days prior to the adoption of a final budget; (c) notice of the public hearing shall be published in a newspaper of general circulation in the city at least seven days prior to the public hearing; and (d) the public hearing shall be held; and

WHEREAS, the Act also provides that certain amendments to a city’s adopted budget require similar procedures for adoption, including approval of the amendment by resolution or ordinance following a public hearing; and

WHEREAS, pursuant to UTAH CODE ANN. §10-6-133(1), before June 22 of each year (or August 17 in the case of certain property tax rate increases), the governing body of a Utah municipality, at a regular or special meeting called for that purpose, shall by ordinance or resolution set the real and personal property tax levy for realty within such city; and

WHEREAS, at a meeting of the city council (the “*Council*”) of the city of Cottonwood Heights (the “*City*”) on 12 May 2015, Steve Fawcett, the City’s budget officer (the “*Budget Officer*”), filed with the Council (a) a proposed amended budget for the City for the period of 1 July 2014 through 30 June 2015, (b) a tentative budget for the City for the period of 1 July 2015 through 30 June 2016, and (c) an accompanying budget message as required by the Act; and

WHEREAS, those budgets (the “*Budgets*”) were reviewed, considered and tentatively adopted by the Council on 12 May 2015 pursuant to its authority under UTAH CODE ANN. §10-6-118; and

WHEREAS, from and after 12 May 2015, copies of the Budgets have been available for public inspection in the office of the City’s recorder; and

WHEREAS, the Council set 7:00 p.m. on 26 May 2015 at 1265 East Fort Union Blvd., Suite 300, Cottonwood Heights, Utah as the time and place of a public hearing regarding adoption of the Budgets; and

WHEREAS, notice of the public hearing concerning the Budgets was timely published in the *Deseret News* and *Salt Lake Tribune* and on the Utah Public Notices Website established under UTAH CODE ANN. §63F-1-701 as required by statute; and

WHEREAS, the public hearing was held beginning at approximately 7:00 p.m. on 26 May 2015 at 1265 East Fort Union Blvd., Suite 300, Cottonwood Heights, Utah to receive public comment on the Budgets as set forth in the published notice; and

WHEREAS, at the public hearing, all interested persons were given an opportunity to be heard; and

WHEREAS, the City has published the necessary notice and held the public hearing required prior to adopting the proposed property tax rate and setting the property tax levy; and

WHEREAS, on 16 June 2015, the Council met in regular session to consider, among other things, approving the Budgets as proposed; and

WHEREAS, it is the intent and desire of the Council to comply with all applicable laws regarding adoption of the Budgets, the adoption of a property tax rate and the levying of property taxes; and

WHEREAS, after careful consideration, the Council finds that it has satisfied all legal requirements to adopt the Budgets, adopt a tax rate and levy property taxes, and that it is in the best interests of the citizens of the City to adopt the Budgets presented at the 26 May 2015 public hearing (as heretofore modified by the Budget Officer under Council direction, including the amendments specified on the exhibits that are attached to this Ordinance) as the final budgets for the City for the periods in question, to determine the rate of property tax and to levy taxes upon all real and personal property within the City;

NOW, THEREFORE, BE IT ORDAINED by the Cottonwood Heights city council as follows:

Section 1. **Adoption of Budgets.**

A. The Budgets presented at the 26 May 2015 public hearing (as heretofore modified by the Budget Officer under Council direction, including any amendments specified on exhibits that are attached to this Ordinance) be, and hereby are, appropriated for the corporate purposes and objects of the City for the fiscal years in question, and hereby are adopted as the City's final budgets for the periods of 1 July 2014 through 30 June 2015 and 1 July 2015 through 30 June 2016, respectively, subject to amendment.

B. Copies of the final Budgets adopted hereby shall be certified and filed with the Utah State Auditor, as appropriate, and shall be available for public inspection during regular business hours at the City's business offices.

C. The City's manager and other officers are hereby directed to take any other necessary actions pertinent to the adoption of the Budgets, including, without limitation, such notification, reporting and publishing as may be required by applicable law.

D. Amounts in excess of the City's cash requirements shall be deposited in the investment fund maintained by the state treasurer under the State Money Management Act, UTAH CODE ANN. §51-7-1 *et seq.*

Section 2. **Property Tax Rate and Levy.**

A. For the purpose of defraying the necessary and proper expenses of the City and for maintaining the government thereof, it is hereby determined that a general property tax shall be levied against the taxable value of all real and personal property within the City. For

the period from 1 July 2015 through 30 June 2016, such general property tax on all real and personal property within the City shall be set at the certified tax rate, being .

B. For the period from 1 July 2015 through 30 June 2016, there is hereby levied upon all taxable real and personal property within the City a general property tax at the same rate as set forth above on the taxable value of said property, to provide revenue for the City's general fund and for general City purposes.

C. The City's manager and other officers are hereby directed to take any other necessary actions pertinent to the setting of the general property tax rate and levy of the property tax, including, without limitation, notification to the Salt Lake County Auditor, the Utah State Tax Commission, and such other notification, reporting and publishing as may be required by applicable law.

Section 3. ***Action of Officers.*** All actions of the officers, agents and employees of the City that are in conformity with the purpose and intent of this Ordinance, whether taken before or after the adoption hereof, are hereby ratified, confirmed and approved.

Section 4. ***Severability.*** All parts of this Ordinance are severable, and if any section, paragraph, clause or provision of this Ordinance shall, for any reason, be held to be invalid or unenforceable, the invalidity or unenforceability of any such section, paragraph, clause or provision shall not affect the remaining sections, paragraphs, clauses or provisions of this Ordinance.

Section 5. ***Repealer.*** All ordinances or parts thereof in conflict with this Ordinance are, to the extent of such conflict, hereby repealed.

Section 6. ***Effective Date.*** This Ordinance, assigned no. 245, shall take immediate effect as soon as it shall be published or posted as required by law and deposited and recorded in the office of the City's Recorder, or such later date as may be required by Utah statute.

PASSED AND APPROVED this 16th day of June 2015.

ATTEST:

COTTONWOOD HEIGHTS CITY COUNCIL

By: _____
Kory Solorio, Recorder

By _____
Kelvyn H. Cullimore, Jr., Mayor

VOTING:

Kelvyn H. Cullimore, Jr.	Yea ___ Nay ___
Michael L. Shelton	Yea ___ Nay ___
J. Scott Bracken	Yea ___ Nay ___
Michael J. Peterson	Yea ___ Nay ___
Tee W. Tyler	Yea ___ Nay ___

DEPOSITED in the Recorder's office this 16th day of June 2015.

POSTED this ___ day of June 2015.

COTTONWOOD HEIGHTS

RESOLUTION No. 2015-39

A RESOLUTION SUPPORTING THE 0.25% LOCAL OPTION GENERAL SALES TAX DEDICATED TO TRANSPORTATION AUTHORIZED BY HB 362 (2015); ENCOURAGING SALT LAKE COUNTY TO SUBMIT THE PROPOSAL TO VOTERS IN NOVEMBER 2015; AND ENCOURAGING VOTERS TO SUPPORT THE PROPOSAL

WHEREAS, a safe and efficient transportation system creates the foundation for economic growth, improved air quality and public health, and enhanced quality of life; and

WHEREAS, the creation and maintenance of transportation infrastructure is a core responsibility of local government; and

WHEREAS, Utah's population is expected to grow by 2 million residents by 2040; and

WHEREAS, residents of the city of Cottonwood Heights (the "*City*") desire new comprehensive transportation options such as bike lanes, multi-use paths, off-road trails, and transit in addition to traditional roads; and

WHEREAS, due to a statewide, drastic shortfall in transportation revenue, the City has used a significant number of dollars from the general fund to supplement the Class B&C road fund revenue in order to try to meet the City's local transportation needs; and

WHEREAS, research from the Utah Department of Transportation indicates that road rehabilitation costs six times as much as road maintenance, and that road reconstruction costs ten times as much as road maintenance, and

WHEREAS, investing in transportation results in economic development for the City and Salt Lake County (the "*County*"), and accessible good-paying jobs for our residents; and

WHEREAS, improving comprehensive transportation in the City and the County will reduce private vehicle usage, which will in turn lead to improved air quality; and

WHEREAS, poor air quality discourages economic development, business recruitment and tourism visits, and contributes to asthma and other health ailments; and

WHEREAS, nearly ten percent of Utah adults suffer from asthma and struggle to breathe during poor air quality days; and

WHEREAS, nearly 57 percent of Utah adults are overweight and nearly 200,000 Utahns have diabetes, with diabetes and obesity-related health care costs in Utah exceed \$700 million annually; and

WHEREAS, investing in safe and connected trails, bike lanes, sidewalks, and multi-use paths will encourage our residents to be more active, enable them to spend more time with their families via active transportation, and result in improved personal and community health; and

WHEREAS, Utah has created a Unified Transportation Plan to address these comprehensive transportation and quality of life issues; and

WHEREAS, the Utah State Legislature recognized the local transportation needs and enacted HB 362 authorizing counties to impose and voters to approve a 0.25% local option general sales tax (the "*Local Option Tax*") dedicated to local transportation; and

WHEREAS, the City will, upon the County's imposition and voter approval, receive 0.10 of the 0.25% Local Option Tax to invest in critical local transportation needs; and

WHEREAS, the Council met on 16 June 2015 to consider, among other things, expressing support for the Local Option Tax and encouraging the County to submit the proposal to voters in the November 2015 general election, and encouraging voters to support the proposal; and

WHEREAS, after careful consideration, the Council has determined that it is in the best interests of the health, safety and welfare of the citizens of the City to so act.

NOW THEREFORE, be it resolved by the city council of the city of Cottonwood Heights as follows:

Section 1. **Support for the 0.25% Local Option Tax.** The Council supports the proposed 0.25% Local Option Tax that the County's governing body may submit to voters in the County in November 2015.

Section 2. **Encouragement to County to Submit Proposal to the Voters.** The Council urges the County's governing body to submit the 0.25% Local Option Tax dedicated to transportation to the voters of the County for the November 2015 election. The Council also hereby publicly supports the County's governing body in so submitting the 0.25% Local Option Tax dedicated to transportation to the electorate of the County.

Section 3. **Encouragement to Voters to Support the Proposal.** The Council encourages voters to carefully consider the proposed 0.25% Local Option Tax and to support its enactment because of the following potential impacts (among others):

(a) **Road and Street Needs.** The City has significant traditional transportation needs that the City's portion of the Local Option Tax could address. Adoption of the Local Option Tax would provide additional funds and enable the City to invest more dollars in the critical road maintenance projects that our residents expect.

(b) **Active and Alternative Transportation Infrastructure Needs.** The City has significant active and alternative transportation needs that the City's portion of the proposed

Local Option Tax could address. For example, our residents are requesting improved sidewalks and pedestrian safety modes, enhanced bike lanes, better connectivity with transit, more traffic calming devices, and other modern transportation infrastructure. Investment in active transportation options will encourage residents to travel via walking, biking and public transit, resulting in a healthier population, reduced emissions, decreased health care costs and improved quality of life. Adoption of the Local Option Tax would provide additional funds and enable the City to invest in the critical projects that our residents desire.

(c) Investment in Public Transit. Public transit can help relieve traffic, promote walkable communities, and improve air quality. The transit system will receive 0.10 of the County imposed and voter approved 0.25% Local Option Tax, which would provide additional funding for public transit systems to expand local bus service, foster local and regional connectivity, and benefit the residents of the City and the County.

Section 4. Distribution of this Resolution. A copy of this resolution shall be sent to the Salt Lake County Council, the Utah League of Cities & Towns, the Utah Association of Counties, the Speaker of the Utah House of Representatives, the President of the Utah State Senate, State Representatives and Senators who represent the City, and the Governor of Utah.

This Resolution, assigned no. 2015-39, shall take effect immediately upon passage.

PASSED AND APPROVED this 16th day of June 2015.

ATTEST:

COTTONWOOD HEIGHTS CITY COUNCIL

By: _____
Kory Solorio, Recorder

By _____
Kelvyn H. Cullimore, Jr., Mayor

VOTING:

Kelvyn H. Cullimore, Jr.	Yea ___ Nay ___
Michael L. Shelton	Yea ___ Nay ___
J. Scott Bracken	Yea ___ Nay ___
Michael J. Peterson	Yea ___ Nay ___
Tee W. Tyler	Yea ___ Nay ___

DEPOSITED in the office of the City Recorder this 16th day of June 2015.

RECORDED this ___ day of June 2015.

COTTONWOOD HEIGHTS

RESOLUTION No. 2015-40

A RESOLUTION APPROVING ENTRY INTO AMENDMENT NO. 3 TO AN INTERLOCAL AGREEMENT WITH SALT LAKE COUNTY FOR PUBLIC WORKS-RELATED MATERIALS AND SERVICES

WHEREAS, the Interlocal Cooperation Act, UTAH CODE ANN. §11-13-101 *et seq.*, provides that any two or more public agencies may enter into agreements with one another for joint or cooperative action following the adoption of an appropriate resolution by the governing body of each participating public agency; and

WHEREAS, on 22 October 2013, pursuant to its Resolution No. 2013-46, the city council (the “*Council*”) of the city of Cottonwood Heights (“*City*”) approved City’s entry into an interlocal agreement (the “*Agreement*”) with Salt Lake County (“*County*”) whereunder County would provide to City certain public works-related materials and services upon City’s request; and

WHEREAS, on 17 December 2013, pursuant to its Resolution No. 2013-54, the Council approved the City’s entry into an amendment to the Agreement which provided, *inter alia*, that County also would provide fabrication and maintenance of street and regulatory signs, and maintenance of school zone signs and lights, at City’s request; and

WHEREAS, the Council met in regular session on 16 June 2015 to consider, among other things, approving City’s entry into a third amendment to the Agreement (“*Amendment No. 3*”) extending the expiration date of the Agreement, as previously amended, to 30 June 2016 and modifying the exhibits to the Agreement; and

WHEREAS, the Council has reviewed the form of Amendment No. 3, a photocopy of which is annexed hereto; and

WHEREAS, City’s city attorney has approved the form of Amendment No. 3 as required by UTAH CODE ANN. §11-13-202.5(3); and

WHEREAS, after careful consideration, the Council has determined that it is in the best interests of the health, safety and welfare of City’s residents to approve City’s entry into Amendment No. 3 as proposed in order to make efficient use of City’s resources;

NOW, THEREFORE, BE IT RESOLVED by the city council of Cottonwood Heights that the attached Amendment No. 3 with County is hereby approved, and that City’s mayor and recorder are authorized and directed to execute and deliver Amendment No. 3 on City’s behalf.

This Resolution, assigned no. 2015-40, shall take effect immediately upon passage.

PASSED AND APPROVED this 16th day of June 2015.

ATTEST:

COTTONWOOD HEIGHTS CITY COUNCIL

By: _____
Kory Solorio, Recorder

By: _____
Kelvyn H. Cullimore, Jr., Mayor

VOTING:

Kelvyn H. Cullimore, Jr.	Yea ___	Nay ___
Michael L. Shelton	Yea ___	Nay ___
J. Scott Bracken	Yea ___	Nay ___
Michael J. Peterson	Yea ___	Nay ___
Tee W. Tyler	Yea ___	Nay ___

DEPOSITED in the office of the City Recorder this 16th day of June 2015.

RECORDED this ___ day of June 2015.

**AMENDMENT NO. 3
TO AGREEMENT FOR
PUBLIC WORKS-RELATED MATERIALS AND SERVICES
BETWEEN
SALT LAKE COUNTY
AND
COTTONWOOD HEIGHTS**

THIS AMENDMENT is made and entered into this ____ day of _____, 2015, and amends an existing interlocal agreement between SALT LAKE COUNTY (the “COUNTY”), a body corporate and politic of the State of Utah; and the COTTONWOOD HEIGHTS (the “CITY”), a municipal corporation of the State of Utah.

R E C I T A L S

- A. The parties entered into an agreement (Salt Lake County Contract No. PH13168C) pursuant to the Utah Interlocal Cooperation Act, under which the COUNTY would provide certain public works-related materials and services to the CITY (the “Agreement”).
- B. On January 10, 2014, the parties amended the Agreement to include additional services.
- C. On September 9, 2014, the parties amended the Agreement again to extend the term for one additional one-year period upon the same terms and conditions.
- D. Pursuant to Sections 2 and 7 of the Agreement, the parties hereby agree to amend and extend that agreement again for the period set forth herein and based on the rates and services set forth in a revised Exhibit “A,” attached hereto.

A M E N D M E N T

NOW THEREFORE, in consideration of the mutual covenants set forth herein, the parties agree to amend the Agreement as follows:

1. The Agreement is hereby amended to extend the term for one additional one-year period. The term of the Agreement shall therefore end on June 30, 2016.

2. The nature of the services provided during the extension period and the charges for the services are set forth in Exhibit "A," which is made a part of and incorporated into this amendment by reference, replacing Exhibits "A," "B" and "D" of the Agreement and Exhibits "1" and "2" of Amendment No. 1.

3. Except as specifically amended, all of the terms and provisions of the Agreement shall remain in full legal force and effect.

4. The parties acknowledge that this amendment is subject to the provisions and procedures contained in the Interlocal Cooperation Act and they agree to process, approve, manage and archive this amendment in accordance with the provisions of that Act.

IN WITNESS WHEREOF, the parties do execute this amendment as of the day and year first above written.

SALT LAKE COUNTY

Approval as to Form:



Adam Miller, Deputy District Attorney
Salt Lake County
Date: 1 June 2015

By _____
Mayor or Designee

COTTONWOOD HEIGHTS

Approval as to Form:

Attorney for Cottonwood Heights City
Date: _____

By _____
Title _____

Attest:

City Recorder

EXHIBIT "A"
CITY OF COTTONWOOD HEIGHTS
PUBLIC WORKS SERVICES
JULY 1, 2015 – JUNE 30, 2016

SCOPE OF SERVICES

SIGNS: **\$25,000**
Includes fabrication, installation and maintenance
Of street markers and regulatory

SCHOOL FLASHERS AND DRIVER FEED BACK SIGNS: **\$25,000**
Includes the maintenance of school zone signs and lights.
Includes the installation and maintenance of driver feedback signs.

The above cost is an estimate. The CITY shall reimburse the COUNTY for
The total actual cost of the work performed, including overhead, labor,
Equipment, materials, and indirect costs, if any.

Chapter 3.12

MUNICIPAL ENERGY SALES AND USE TAX

Sections:

- 3.12.010 Purpose and intent.**
- 3.12.020 Definitions.**
- 3.12.030 Municipal energy tax levied.**
- 3.12.040 Exemptions.**
- 3.12.050 No effect on existing franchises; Credit for franchise fees.**
- 3.12.060 Collection contract with State Tax Commission.**
- 3.12.070 State statutes incorporated.**
- 3.12.080 Reports of delivered value and tax due; No additional licenses or reporting.**
- 3.12.090 Severability.**

3.12.010 Purpose and intent.

It is the intent of the city of Cottonwood Heights to adopt the municipal energy sales and use tax pursuant to, and in conformance with, the Municipal Energy Sales and Use Tax Act, UTAH CODE ANN. §§10-1-301 to -310, as currently enacted or as hereafter amended (the "Act").

3.12.020 Definitions.

The following words and phrases used in this chapter shall have the following meanings:

- A. "City" means the city of Cottonwood Heights, Utah
- B. "Consumer" means a person who acquires taxable energy for any use that is subject to the municipal energy tax imposed by this Chapter.
- C. "Contractual franchise fee" means:
 - 1. A fee:
 - (a) Provided for in a franchise agreement; and
 - (b) That is consideration for the franchise agreement; or
 - 2. A fee similar to Subsection (C)(1) above; or
 - (3) Any combination of Subsections (C)(1) and (C)(2) above.
- D. "Delivered value" means the fair market value of the taxable energy delivered for sale or use in the city and:
 - 1. Includes the value of the energy itself; and
 - 2. Includes 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 city; but
 - 3. Does not include the amount of a tax paid under UTAH CODE ANN. Title 59, Chapter 12, Sales and Use Tax Act, or this Chapter.
- E. "De minimis amount" means an amount of taxable energy that does not exceed the greater of:
 - 1. Five percent (5%) of the energy supplier's estimated total Utah gross receipts from sales of property or services; or
 - 2. \$10,000.00.
- F. "Energy supplier" means a person supplying taxable energy, except for such persons supplying a de minimis amount of taxable energy as may be excluded by rule promulgated by the

State Tax Commission.

G. “*Franchise agreement*” means a franchise or an ordinance, contract, or agreement granting a franchise.

H. “*Franchise tax*” means:

1. A franchise tax;
2. A tax similar to a franchise tax; or
3. Any combination of Subsections (H)(1) and (H)(2) above.

I. “*Municipal energy tax*” means the municipal energy sales and use tax imposed by this Chapter.

J. “*Person*” includes any individual; firm; partnership; joint venture; association; corporation; estate; trust; business trust; receiver; syndicate; the state of Utah; any county, city, municipality, district, or other local governmental entity of the state of Utah; any group or combination acting as a unit; and such other entity as may be identified in UTAH CODE ANN. §59-12-102.

K. “*Sale*” means any transfer of title, exchange, or barter, conditional or otherwise, in any manner, of taxable energy for a consideration, including but not necessarily limited to:

1. Installment and credit sales;
2. Any closed transaction constituting a sale; and
3. 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.

L. “*Storage*” means any keeping or retention of taxable energy, within the geographical boundaries of this city for any purpose except sale in the regular course of business.

M. “*Taxable energy*” means gas and electricity.

N. “*Use*”:

1. Means the exercise of any right or power over taxable energy incident to the ownership or the leasing of the taxable energy;
2. Does not include the sale, display, demonstration, or trial of the taxable energy in the regular course of business and held for resale.

3.12.030 Municipal energy tax levied.

A. Subject to the provisions of this chapter, there is hereby levied a tax on every sale or use of taxable energy made within this city equaling six percent (6%) of the delivered value of the taxable energy to the consumer.

B. Such municipal energy tax shall be calculated on the delivered value of the taxable energy to the consumer.

C. Such municipal energy tax shall be in addition to any local option sales or use tax which is or may hereafter be imposed by the city pursuant to the Local Sales and Use Tax Act, UTAH CODE ANN. Title 59, Chapter 12.

3.12.040 Exemptions.

A. No exemptions are granted from the municipal energy tax except as expressly provided in UTAH CODE ANN. §10-1-305(2)(b), and notwithstanding any exemption granted by UTAH CODE ANN. Title 59, Chapter 12, Part 1, Tax Collections.

B. The following are currently exempt from the municipal energy tax under UTAH CODE ANN. §10-1-305(2)(b):

1. Sales and use of aviation fuel, motor fuel, and special fuels subject to taxation under the

Motor and Special Fuel Tax Act, UTAH CODE ANN. Title 59, Chapter 13;

2. Sales and use of taxable energy that the city is prohibited from taxing under federal law, the United States Constitution or the Utah Constitution;

3. Sales and use of taxable energy purchased or stored for resale;

4. 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 the Motor and Special Fuel Tax Act, UTAH CODE ANN. Title 59, Chapter 13;

5. 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 use in the state by a nonresident living or working in the state at the time of purchase;

6. Sale or use of taxable energy for any purpose other than use as a fuel or energy; and

7. Sale of taxable energy for use outside the geographical boundaries of the city.

C. The sale, storage, use, or other consumption of taxable energy is exempt from the municipal energy tax levied by this Chapter, provided:

1. 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 under an ordinance enacted in accordance with the Act; and

2. The city is paid the difference between the tax paid to the other municipality and the tax that would otherwise be due to the city under this Chapter, if the tax due to the city under this Chapter exceeds the tax paid to the other municipality.

3.12.050 No effect on existing franchises; Credit for franchise fees.

A. This chapter shall not alter any existing franchise agreements unless otherwise terminated or altered by agreement or applicable law.

B. There is a credit against the tax due in the amount of a contractual franchise fee paid if:

1. The energy supplier pays the contractual franchise fee to the municipality pursuant to a franchise agreement in effect on 1 July 1997;

2. The contractual franchise fee is passed through by the energy supplier to a taxpayer as a separately itemized charge; and

3. The energy supplier has accepted the franchise.

3.12.060 Collection contract with State Tax Commission.

A. On or before the effective date hereof, the city shall enter into a contract with the Utah State Tax Commission to have the tax commission perform all functions incident to the administration and collection of the municipal energy tax, to the extent required by, and in accordance with, this Chapter and the provisions of the Act. The city is authorized to enter into such supplemental agreements with the tax commission as may be necessary from time to time to facilitate the continued administration and operation of the municipal energy tax under this Chapter.

B. An energy supplier shall pay the municipal energy tax revenues collected from consumers directly to the city monthly if:

1. The city is the energy supplier; or

2. 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 the energy supplier collects the municipal energy sales and use tax under the Act.

C. An energy supplier paying the municipal energy tax directly to the city may retain the

percentage of the tax authorized under UTAH CODE ANN. §10-1-307(4).

3.12.070 State statutes incorporated.

A. Except as herein provided or to the extent that they are inconsistent with the provisions of this Chapter or the Act, all of the provisions of UTAH CODE ANN. Title 59, Chapter 12, Part 1, Tax Collections, as amended, in force and effect on the effective date hereof—insofar as they relate to sales and use taxes, excepting §§59-12-101 and 59-12-119 thereof, and excepting 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.

B. Wherever, and to the extent that—in UTAH CODE ANN. Title 59, Chapter 12, Part 1, and in the Act—the state of Utah is named or referred to as the “taxing agency,” the name of the city shall be substituted insofar as is necessary to effectuate the intent and purposes of those parts of the state code. Nothing in this Subsection shall be deemed to require the substitution of “the city of Cottonwood Heights” for the word “state” when that word is used as part of the title of the Utah State Tax Commission, or of the Constitution of Utah, nor shall the city's name 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 the city or any agency thereof, rather than by or against the Utah State Tax Commission, in performing the functions incident to the administration or operation of the Act and this Chapter.

C. Any amendments hereafter made to UTAH CODE ANN. Title 59, Chapter 12, which would be applicable to the city for the purposes of carrying out the provisions and intent of this Chapter are hereby incorporated in this Chapter by reference and shall be effective upon the date that they shall become effective as a Utah statute.

3.12.080 Reports of delivered value and tax due; No additional licenses or reporting.

A. Energy suppliers paying the municipal energy tax directly to the city shall—at the time they remit the appropriate tax due to the city under the provisions of this Chapter and of UTAH CODE ANN. §§59-12-107(4) and 59-12-108 (which set forth whether such remittance is to be made on a monthly or quarterly basis)—file with the city treasurer a report specifying the delivered value of the taxable energy sold or used within the city for such period, as well as the appropriate tax due and payable directly to the city less any credits, adjustments or corrections provided under this Chapter or the Act. The records of energy suppliers shall be open for inspection by the city or its duly authorized representatives at all reasonable hours for the purpose of verifying such reports.

B. No additional license to collect or report the municipal energy tax levied by this Chapter is required, provided that the energy supplier collecting the tax has procured and maintained a license issued under UTAH CODE ANN. §59-12-106.

3.12.090 Severability.

All parts of this Chapter are severable. If any portion section, subsection, paragraph, clause or provision of this Chapter shall, for any reason, be held to be invalid or unenforceable, the invalidity or unenforceability of any such section, subsection, paragraph, clause or provision shall not affect the remainder of this Chapter.