TITLE 5

REVENUE AND FINANCE

CHAPTER 5-01: GENERAL PROVISIONS
CHAPTER 5-02: ACCOUNTS AND ACCOUNTING
CHAPTER 5-03: BUDGETS
CHAPTER 5-04: EXPENDITURES
CHAPTER 5-05: PROPERTY TAX
CHAPTER 5-06: SALES AND USE TAX
CHAPTER 5-07: TELECOMMUNICATIONS LICENSE TAX
CHAPTER 5-08: ENERGY SALES AND USE TAX
CHAPTER 5-09: TRANSIENT ROOM TAX
CHAPTER 5-10: RECREATIONAL, ARTS AND PARKS (RAP) TAX

CHAPTER 5-01: GENERAL PROVISIONS

5-01-010. Intent.
5-01-020. Definitions.
5-01-030. Budget Officer.
5-01-040. Finance Director.
5-01-050. City Treasurer.
5-01-060. Unlawful Conduct.

5-01-010. Intent.

It is the purpose of this Title to set forth accounting, budgeting and financial reporting requirements and procedures of the City. It is the intent of the City to comply with all applicable provisions of the Uniform Fiscal Procedures Act for Utah Cities, as set forth in *Utah Code Ann.* §§ 10-6-101, *et seq.*, as amended ("Uniform Fiscal Procedures Act"), and the Uniform Accounting Manual for Utah Cities as prescribed by the State Auditor ("Uniform Accounting Manual").

5-01-020. Definitions.

To the extent used in this Title, the words and phrases defined in *Utah Code Ann.* § 10-6-106, as amended, shall have the meanings set forth therein.

5-01-030. Budget Officer.

The City Manager, as appointed by the Mayor with the approval of the City Council, is the Budget Officer of the City and shall perform all duties required of such position as set forth in the Uniform Fiscal Procedures Act and/or the Uniform Accounting Manual.

5-01-040. Finance Director.

Pursuant to Utah Code Ann. § 10-6-157, as amended, the City has created the position of Finance Director as set forth in Title 3. The Finance Director shall perform the financial duties of the City Recorder as set forth in the Uniform Fiscal Procedures Act and the financial administrative duties of the director of finance as prescribed in the Uniform Accounting Manual. The Finance Director shall not assume the duties of the City Treasurer.

5-01-050. City Treasurer.

The City Treasurer shall perform such duties regarding revenue and finance matters for the City as set forth in Title 3 and as otherwise set forth herein and in the Uniform Fiscal Procedures Act and/or the Uniform Accounting Manual.

5-01-060. Unlawful Conduct.

It shall be unlawful for any person to commingle City funds with his or her own money and whenever it shall appear that the Treasurer or any other officer is making personal profit out of public money or is using the same for any purpose not authorized by law, such officer shall be suspended from office and subject to disciplinary proceedings up to and including termination in accordance with the City's disciplinary procedures, as applicable.

CHAPTER 5-02: ACCOUNTS AND ACCOUNTING

5-02-010. Fiscal Period.
5-02-020. Accounts.
5-02-030. Accounting Records.
5-02-040. Financial Reporting.
5-02-050. Monthly and Quarterly Financial Reports.
5-02-060. Annual Financial Reports.
5-02-070. Independent Audit.

5-02-010. Fiscal Period.

The fiscal period is an annual period of accounting for fiscal operations of the City which shall begin July 1 of each year and end June 30 of the following year.

5-02-020. Accounts.

The City shall maintain, according to its own accounting needs, funds and account groups in its system of accounts as prescribed in the Uniform Accounting Manual.

5-02-030. Accounting Records.

Accounting records of the City shall be established and maintained, and financial statements prepared from those records, in accordance with the Uniform Accounting Manual.

5-02-040. Financial Reporting.

The City shall comply with annual financial reporting and independent auditing requirements as set forth in the Uniform Fiscal Procedures Act and the Uniform Accounting Manual.

5-02-050. Monthly and Quarterly Financial Reports.

The City Finance Director shall prepare and present to the City Council monthly summary financial reports and quarterly detail financial reports prepared in the manner prescribed in the Uniform Accounting Manual.

5-02-060. Annual Financial Reports.

Within 180 days after the close of each fiscal period, the City Finance Director shall present to the City Council an annual financial report prepared in the manner prescribed in the Uniform Accounting Manual. Each annual financial report shall contain the information required by *Utah Code Ann.* § 10-6-150, as amended. The requirement under this Section to present an annual financial report may be satisfied by presentation of the audit report furnished by an independent auditor if the financial statements included are appropriately prepared and reviewed with the City Council. Copies of the annual financial report or audit report furnished by the independent auditor shall be filed with the State Auditor and shall be filed as a public document in the Office of the City Recorder.

5-02-070. Independent Audit.

Independent audits of the City are required to be performed in conformity with Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act, of the *Utah Code Annotated,* as amended. Within ten (10) days following the receipt of the audit report furnished by the independent auditor, the City Recorder shall prepare and publish at least twice in a newspaper of general circulation published within Davis County, and published in accordance with Utah Code Ann. § 45-1-101, as amended, a notice to the public that the audit of the City has been completed. The City Recorder shall make a copy of the notice available for public inspection at the office of the City Recorder and on the City's website.

CHAPTER 5-03: BUDGETS

5-03-010. Budgets.
5-03-020. Tentative Budget.

5-03-030. Budget Officer Estimates.
5-03-040. Budget Message.
5-03-050. Review of Tentative Budget.
5-03-060. Public Inspection.
5-03-070. Notice and Public Hearing.
5-03-08. Continuing Review.
5-03-090. Final Budget.
5-03-100. Filing and Public Inspection.
5-03-110. Amendments to Budgets.
5-03-120. Operating and Capital Budgets.
5-03-130. Tentative Operating and Capital Budget.
5-03-140. Budget Officer Estimates.
5-03-150. Appropriations.
5-03-160. Fund Balances.

5-03-010. Budgets.

The Budget Officer, assisted by the Finance Director, shall prepare for each budget period a budget for all required funds in accordance with applicable provisions of the Uniform Fiscal Procedures Act and the Uniform Accounting Manual.

5-03-020. Tentative Budget.

The Budget Officer, assisted by the Finance Director, shall prepare for the ensuing fiscal period, on forms provided or approved by the State Auditor, and file with the City Council on or before the first regularly scheduled meeting of the City Council in May of each year, a tentative budget for each fund for which a budget is required in accordance with applicable provisions of the Uniform Fiscal Procedures Act and the Uniform Accounting Manual.

5-03-030. Budget Officer Estimates.

(a) Expenditures. The Budget Officer, assisted by the Finance Director, shall estimate, on the basis of demonstrated need, the expenditures for the budget year after a review of the budget requests and estimates of the department heads. Each department head shall be heard by the Budget Officer prior to making the final estimates, but the officer may revise any department's estimates as the officer deems advisable for the purpose of presenting the budget to the City Council.

(b) Revenue. The Budget Officer, assisted by the Finance Director, shall estimate the amount of revenue available to serve the needs of each fund, estimate the portion to be derived from all sources other than general property taxes, and estimate the portion that must be derived from general property taxes.

5-03-040. Budget Message.

Each tentative budget filed by the Budget Officer with the City Council shall be accompanied by a budget message, which shall explain the budget, contain an outline of the proposed financial policies of the City for the budget period, and describe the important features of the budgetary plan. The budget message shall also set forth the reasons for salient changes from the previous year in appropriation and revenue items and shall explain any major changes in financial policy.

5-03-050. Review of Tentative Budget.

The City Council shall review, consider and adopt the tentative budget at any regular or special meeting called for the purpose. The tentative budget may be amended or revised in such manner as is deemed advisable prior to public hearing, provided that no appropriation required for debt retirement and interest, reduction of any existing deficits, or otherwise required by law or ordinance, may be reduced below the minimum required.

5-03-060. Public Inspection.

The tentative budget adopted by the City Council and all supporting schedules and data shall be of public record filed in the office of the City Recorder, available for public inspection during regular business hours for a period of at least ten (10) days prior to the adoption of a final budget.

5-03-070. Notice and Public Hearing.

At the meeting at which the tentative budget is adopted, the City Council shall establish the time and place of a public hearing to consider adoption of the budget and shall order that notice thereof be published at least seven (7) days prior to the hearing in at least one issue of a newspaper of general circulation published in Davis County and on the Utah Public Notice Website created under *Utah Code Ann.* § 63F-1-701, as amended. The City Council shall hold a public hearing on the tentative budget at the time and place advertised at which all interested persons in attendance shall be given an opportunity to be heard, for or against, the estimates of revenue and expenditures or any item in the tentative budget of any fund.

5-03-080. Continuing Review.

After the public hearing on the tentative budget, the City Council may continue to review the tentative budget and may insert new items or increase or decrease items of expenditures that were the proper subject of consideration at the public hearing, provided that no appropriation required for debt retirement and interest, reduction of any existing deficits, or otherwise required by law or ordinance, may be reduced below the minimum required. The City Council shall increase or decrease the total anticipated revenue to equal the net change in proposed expenditures in the budget of each fund.

5-03-090. Final Budget.

The City Council shall, by resolution, adopt a final budget for the ensuing fiscal period for each fund for which a budget is required herein before June 22 of each fiscal period, or August 17 in the case of a property tax increase under Title 59, Chapter 2 of the *Utah Code Annotated*, as amended. Upon final adoption, the budgets shall be in effect for the budget period, subject to amendment.

5-03-100. Filing and Public Inspection.

A copy of the final budget for each fund shall be certified by the Budget Officer and filed with the State Auditor within thirty (30) days after adoption of the same by the City Council. A certified copy of the final budget shall also be filed with the City Recorder and shall be available to the public for inspection during regular business hours.

5-03-110. Amendments to Budgets.

The City Council may, upon the written request of one of its members or upon its own motion setting forth the reasons therefor, at any time during the budget period, review the individual budgets of the funds of the City for the purpose of determining if the total of any of them should be increased. If the City Council decides that the budget total of one or more of such funds should be increased, it shall follow the public hearing procedures set forth in Section 5-03-060. After the public hearing, the City Council, by resolution, may amend the budgets of the funds proposed to be increased to make the proposed increases or portions thereof which were the proper subject of consideration at the hearing. Final amendments in the

current period to the budgets of any funds shall be adopted by the City Council on or before the last day of the fiscal period.

5-03-120. Operating and Capital Budgets.

The City Council shall adopt an "operating and capital budget" for each enterprise fund for the ensuing fiscal period and shall adopt the type of budget for other special funds as required by the Uniform Accounting Manual. For purposes of this Chapter, "operating and capital budget" means a plan of financial operation for an enterprise or other required special fund, that includes estimates of operating resources, expenses, and other outlays for a fiscal period. All operating and capital budgets shall be prepared, adopted, administered, and amended in accordance with applicable procedures of the Uniform Fiscal Procedures Act and the Uniform Accounting Manual, including, but not limited to, *Utah Code Ann.* § 10-6-135, as amended.

5-03-130. Tentative Operating and Capital Budget.

The Budget Officer, with the assistance of the Finance Director, shall prepare a tentative operating and capital budget for each enterprise fund and for other required special funds for the ensuing fiscal period. The Budget Officer shall file such budgets with the City Council on or before the first regularly scheduled meeting of the City Council in May of each year.

5-03-140. Budget Officer Estimates.

The Budget Officer, with the assistance of the Finance Director, shall prepare estimates in cooperation with the appropriate department heads. Each department head shall be heard by the Budget Officer before making final estimates, but the Budget Officer may revise any department's estimates as the officer deems advisable for the purpose of presenting the budget to the City Council. The City Council may require each department head to submit a supplementary estimate of all capital projects which the department head believes should be undertaken within the next three (3) succeeding fiscal years.

5-03-150. Appropriations.

The City shall not make any appropriation in the final budget of any fund in excess of the estimated expendable revenue for the budget period of such fund. All unexpended or unencumbered appropriations except capital projects fund appropriations shall lapse at the end of the budget period in accordance with *Utah Code Ann.* § 10-6-130, as amended.

5-03-160. Fund Balances.

(a) All Funds. The City may accumulate retained earnings or fund balances, as appropriate, in any fund in accordance with applicable provisions of the Uniform Fiscal Procedures Act and the Uniform Accounting Manual.

(b) General Fund. Accumulated fund balances in the General Fund are restricted to purposes permitted by law. Any fund balance in excess of five percent (5%) of the total revenues of the General Fund may be utilized for budget purposes. Except as otherwise provided in the Uniform Fiscal Procedures Act or the Uniform Accounting Manual, any accumulated fund balance in the General Fund may not exceed eighteen percent (18%) of the total estimated revenue of the General Fund. If the fund balance at the close of any fiscal period exceeds the amount permitted herein, the excess shall be appropriated in the manner provided in *Utah Code Ann.* § 10-6-117, as amended.

(c) Capital Improvement Fund. Within a capital improvement fund, the City Council may, in any budget period, appropriate from estimated revenue or fund balance to a reserve for capital improvements for purposes set forth in the Uniform Fiscal Procedures Act and the Uniform Accounting Manual.

CHAPTER 5-04: EXPENDITURES

5-04-010. Expenditures.
5-04-020. Purchasing Procedures.
5-04-030. Filing of Bids.
5-04-040. Emergency Expenditures.
5-04-050. Transfer of Appropriations between Accounts.

5-04-010. Expenditures.

All expenditures by any department must conform with the department budget. No appropriation may be encumbered and no expenditure may be made against any department appropriation unless there is sufficient unencumbered balance in the department's appropriation, except in the cases of emergency as provided in this Chapter or the Uniform Fiscal Procedures Act. City officers or employees shall not make or incur expenditures or encumbrances in excess of total appropriations for any department in the budget as adopted or subsequently amended. Any obligation contracted by any such officer or employee shall not be or become valid or enforceable against the City. No check or warrant to cover any claim against any appropriation shall be drawn until the claim has been processed as provided by the Uniform Fiscal Procedures Act.

5-04-020. Purchasing Procedures.

All purchases or encumbrances shall be made in accordance with the purchasing procedures adopted by the City, including, but not limited to the procurement procedures adopted pursuant to Title 3 of this Code. All encumbrances reported as outstanding as of the fiscal year-end shall be supported by a purchase order or some form of documentation authorizing expenditures issued on or before the last day of the fiscal period and approved by the City.

5-04-030. Filing of Bids.

Whenever the City is required by State law to receive bids for purchases, construction, repairs, or any other purpose requiring the expenditure of funds, the City shall keep on file all bids received, together with proof of advertisement by publication or otherwise, for at least three (3) years following the letting of any contract pursuant to those bids or three (3) years following the first advertisement for the bids, if all bids pursuant to that advertisement are rejected pursuant to *Utah Code Ann.* § 10-6-122, as amended.

5-04-040. Emergency Expenditures.

If the City Council determines that an emergency exists, such as but not limited to widespread damage from fire, wind, flood, or earthquake, and that the emergency necessitates the expenditure of money in excess of the budget of the General Fund, the City Council may by resolution amend the budget and authorize such expenditures and incur such deficits in the fund balance of the General Fund as may be reasonably necessary to meet the emergency. If the City creates a local fund under Title 53, Chapter 2, Disaster Recovery Funding Act, of the *Utah Code Annotated*, the City shall expend monies for applicable emergencies in accordance with the provisions of such Act.

5-04-050. Transfer of Appropriations between Accounts.

Upon written consent of the Budget Officer, the head of any department may transfer any unencumbered or unexpended appropriation balance or any portion thereof from one expenditure account to another within the department during the budget period; provided, the total of all excess expenditures or encumbrances do not exceed total unused appropriations within the department at the close of the budget period. Upon written consent of the Budget Officer, the head of any department may permit an excess expenditure of one or more line items provided the total of all excess expenditures or encumbrances do not exceed total unused appropriations within the department at the close of the budget year.

CHAPTER 5-05: PROPERTY TAX

5-05-010. Property Tax Levy.
5-05-020. Computation of Levy.
5-05-030. Basis for Determining Levy.
5-05-040. Apportionment of Levy.

5-05-010. Property Tax Levy.

The City Council shall by resolution set the real and personal property tax levy for various municipal purposes before June 22 of each year, or August 17 in the case of a property tax rate increase under Title 59 of the *Utah Code Annotated*, as amended; provided, the levy may be set at an appropriate later date with approval of the State Tax Commission. The City Recorder shall certify the resolution setting the levy to the county auditor as required by State law.

5-05-020. Computation of Levy.

In computing the total levy, the City Council shall determine the requirements of each fund for which property taxes are to be levied and shall specify in its resolution adopting the levy the amount apportioned to each fund. The combined levies for all purposes in any year, excluding the retirement of general obligation bonds and the payment of any interest, and taxes expressly authorized by law to be levied in addition, may not exceed .007 per dollar of taxable value of taxable property.

5-05-030. Basis for Determining Levy.

From the effective date of the budget or of any amendment enacted prior to the date on which property taxes are levied, the amount stated therein as the amount of estimated revenue from property taxes shall constitute the basis for determining the property tax levy to be set by the City Council for the corresponding tax year, subject to the applicable limitations imposed by law.

5-05-040. Apportionment of Levy.

The proceeds of the levy apportioned for General Fund purposes shall be credited as revenue in the General Fund. The proceeds of the levy apportioned for special fund purposes shall be credited to the appropriate accounts in the applicable special funds.

CHAPTER 5-06: SALES AND USE TAX

5-06-010. Purpose.
5-06-020. Sales Tax.
5-06-030. Use Tax.
5-06-040. Exemption from Tax.
5-06-050. Tax Paid.
5-06-060. Reserved.
5-06-070. State Tax Collection Provisions.
5-06-080. State Tax Commission Contract.
5-06-090. Distribution of Tax Revenue.
5-06-100. Continuation of Previous Ordinances.

5-06-010. Purpose.

It is the purpose of this Chapter to provide the City with an added source of revenue to thereby assist the City in meeting its financial needs. The provisions of this Chapter are intended and shall be interpreted to be in compliance with the Local Sales and Use Tax Act, set forth at *Utah Code Ann.* §§ 59-12-201, *et seq.*, as amended, and other applicable provisions of State law. This Chapter may be referred to as the Sales and Use Tax Ordinance of the City.

5-06-020. Sales Tax.

There is hereby levied and there shall be collected and paid a tax upon every transaction listed in *Utah Code Ann.* § 59-12-103, as amended, made within the City at the rate of one percent (1%) of the purchase price paid or charged.

5-06-030. Use Tax.

There is hereby levied and there shall be collected and paid an excise tax on the storage, use, or other consumption within the City of tangible personal property or any items listed in *Utah Code Ann.* § 59-12-103, as amended, made within the City at the rate of one percent (1%) of the purchase price paid or charged.

5-06-040. Exemption from Tax.

The City may not impose a tax under this Chapter on sales and uses that are exempt from taxation under *Utah Code Ann.* § 59-12-104, as amended, or *Utah Code Ann.* § 59-12-204, as amended, or any other exempt transactions required by law.

5-06-050. Tax Paid.

The amount of any tax paid under the State Sales and Use Tax Act, set forth at *Utah Code Ann.* §§ 59-12-101, *et seq.*, as amended, shall not be included as a part of the purchase price paid or charged for a taxable item.

5-06-060. Reserved.

5-06-070. State Tax Collection Provisions.

The tax collection provisions set forth in Title 59, Chapter 12, Part 1, Tax Collection, of the *Utah Code Annotated*, as amended, insofar as they relate to sales and use taxes, are hereby adopted and made a part of this Chapter as though fully set forth herein, except the name of the City as the taxing agency shall be substituted for that of the State where necessary for the purposes of the Local Sales and Use Tax, and an additional sales and use tax license is not required if one has been or is issued under *Utah Code Ann.* § 59-12-106, as amended. Any amendments made to Title 59, Chapter 12, Part 1, Tax Collection, of the

Utah Code Annotated, which would be applicable to the City as set forth herein are incorporated herein by this reference and shall be effective upon the date they are effective as a Utah statute.

5-06-080. State Tax Commission Contract.

Pursuant to *Utah Code Ann.* § 59-12-202, as amended, the State Tax Commission has been granted the exclusive authority to administer, operate, and enforce the local sales and use tax. The City has previously entered into an agreement with the State Tax Commission for the Commission to perform all functions incident to the administration, operation and enforcement of the Sales and Use Tax Ordinance of the City without interference from the City, provided that the City may be allowed to intervene in accordance with the provisions and restrictions of *Utah Code Ann.* § 59-12-209, as amended. That agreement is hereby confirmed and the Mayor is hereby authorized to enter into such supplementary agreement(s) with the State Tax Commission which may be necessary for the continued administration, operation and enforcement of the Sales and Use Tax Ordinance of the City.

5-06-090. Distribution of Tax Revenue.

Sales and use tax revenues collected on transactions within the City shall be collected and distributed by the State Tax Commission in accordance with applicable provisions of State law.

5-06-100. Continuation of Previous Ordinances.

The provisions of this Chapter which are not in conflict with the former local sales and use tax ordinances of the City shall be deemed to be a continuation thereof and any rights, duties, and obligations arising thereunder shall not in any way be deemed abrogated or terminated.

CHAPTER 5-07: TELECOMMUNICATIONS LICENSE TAX

5-07-010. Purpose.
5-07-015. Definitions.
5-07-020. Levy of Tax.
5-07-030. Rate.
5-07-040. Rate Limitation and Exemption
5-07-050. Effective Date of Tax Levy.
5-07-060. Interlocal Agreement for Collection of the Tax.
5-07-070. Taxes Erroneously Recovered.
5-07-080. Highway Management Fees.

5-07-010. Purpose.

The Utah legislature adopted the Municipal Telecommunications License Tax Act, as set forth in *Utah Code Ann.* § 10-1-401, *et seq.*, as amended, authorizing municipalities to levy and cause to be collected from a telecommunications provider a municipal telecommunications license tax on the telecommunications provider's gross receipts from telecommunications service that are attributable to the municipality. It is the City's intent to adopt and levy a Telecommunications License Tax pursuant to and in accordance with applicable provisions of the Municipal Telecommunications License Tax Act.

5-07-015. Definitions.

As used in this Chapter, the terms defined in *Utah Code Ann.* § 10-1-402, as amended, shall have the meanings set forth therein.

5-07-020. Levy of Tax.

There is hereby levied on telecommunications providers a municipal telecommunications license tax on the telecommunications provider's gross receipts from telecommunications service attributed to the City.

5-07-030. Rate.

The rate of the municipal telecommunications license tax shall be 3.5% of the telecommunications provider's gross receipts from telecommunications service that are attributed to the City in accordance with and subject to the provisions of *Utah Code Ann.* § 10-1-407, as amended.

5-07-040. Rate Limitation and Exemption.

Pursuant to Section 10-1-404, as amended, of the Utah Telecommunications License Tax Act, the City is exempt from the statutory limitation on the municipal telecommunications license tax rate if the exemption from the limitation on the rate that may be imposed is approved by a majority vote of the voters in the City that vote in:

(a) a municipal general election;

(b) a regular general election; or

(c) a local special election.

5-07-050. Effective Date of Tax Levy.

The telecommunications license tax imposed by this Chapter shall be levied beginning on July 1, 2007.

5-07-060. Interlocal Agreement for Collection of the Tax.

The City has previously entered into an interlocal agreement with the Utah State Tax Commission as described in *Utah Code Ann.* § 10-1-405, as amended, for the collection, enforcement, and administration of the municipal telecommunications license tax.

5-07-070. Taxes Erroneously Recovered.

Pursuant to the provisions of *Utah Code Ann.* § 10-1-408, as amended, 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 telecommunications license taxes authorized by this Chapter unless the customer meets the same requirements that a purchaser is required to meet to bring a cause of action against a seller for a refund or credit as provided in *Utah Code Ann.* § 59-12-110.1, as amended.

5-07-080. Highway Management Fees.

Nothing in this Chapter shall restrict or affect the City's right to recover from a telecommunications provider management costs for the maintenance of public rights-of-way in accordance with the Protection of Highways Act, as set forth in *Utah Code Ann.* §§ 72-7-101, *et seq.,* as amended.

CHAPTER 5-08: ENERGY SALES AND USE TAX

5-08-010. Purpose.
5-08-020. Definitions.
5-08-030. Energy Sales and Use Tax.
5-08-040. Exemptions from the Energy Sales and Use Tax.
5-08-050. Existing Franchise Agreements Not Affected -- Credit for Franchise Fees.
5-08-060. Collection of Taxes by State Tax Commission.
5-08-070. Incorporation of State Code Tax Collection Provisions.
5-08-080. Additional License for Collection of Tax Not Required.

5-08-010. Purpose.

The Utah legislature adopted the Municipal Energy Sales and Use Tax Act, as set forth in *Utah Code Ann.* §§ 10-1-301, et seq., in part to provide a stable revenue source for municipalities and to create a more competitive environment for the energy industry. It is the City's intent to adopt a Municipal Energy Sales and Use Tax pursuant to, and in conformance with, the Municipal Energy Sales and Use Tax Act.

5-08-020. Definitions.

As used in this Chapter, the terms defined in *Utah Code Ann.* § 10-1-303, as amended, shall have the meanings set forth therein.

5-08-030. Energy Sales and Use Tax.

There is hereby levied, subject to the provisions of this Chapter, a municipal energy sales and use tax on the sale or use of taxable energy within Farmington City at the rate of six percent (6%) of the delivered value of the taxable energy to the consumer. This tax shall be known as the Energy Sales and Use Tax.

(a) The tax shall be calculated on the delivered value of the taxable energy to the consumer.

(b) The tax shall be in addition to any sales or use tax on taxable energy imposed by Farmington City or by the State of Utah.

5-08-040. Exemptions from the Energy Sales and Use Tax.

An exemption from the energy sales and use tax is provided for the sale or use of taxable energy that is specifically exempt under *Utah Code Ann.* § 10-1-304 and § 10-1-305, as amended.

5-08-050. Existing Franchise Agreements Not Affected -- Credit for Franchise Fees.

(a) This Chapter shall not alter or affect the validity of any existing or future franchise agreements between the City and energy suppliers. Any such franchise agreements shall be subject to and comply with applicable provisions of *Utah Code Ann.* § 10-1-203, § 10-1-305 and § 10-1-310, as amended.

(b) The City may continue to collect a contractual franchise fee from an energy supplier pursuant to a franchise agreement in effect on July 1, 1997, at the same rate for the remaining term of the franchise agreement; provided, the City shall provide a credit against the Energy Sales and Use Tax in the amount of the contractual franchise fee paid by the energy supplier in accordance with the terms and conditions of *Utah Code Ann.* § 10-1-203, § 10-1-305 and § 10-1-310, as amended.

5-08-060. Collection of Taxes by State Tax Commission.

The City has contracted with the State Tax Commission to perform all functions incident to the administration and collection of the Energy Sales and Use Tax, in accordance with this Chapter. The City may enter into such supplementary agreements with the State Tax Commission as may be necessary and proper for the continued administration and operation of the Energy Sales and Use Tax ordinance enacted by this Chapter.

5-08-070. Incorporation of State Code Tax Collection Provisions.

(a) The State Tax Commission shall collect, enforce and administer the Municipal Energy Sales and Use Tax according to the procedures established in Title 59, Chapter 1, General Taxation Policies and Title 59, Chapter 12, Part 1, Tax Collection (excluding 59-12-107.1 and 59-12-123), of the *Utah Code Annotated,* as amended. Said provisions of Title 59, Chapter 12, Part 1, Tax Collection, and any amendments thereto, are hereby adopted and incorporated by reference as a part of this Title. This adoption and incorporation by reference shall include any amendments to those provisions that relate to the levying or collecting of a Municipal Energy Sales and Use Tax.

(b) The name of Farmington City shall be substituted for all references to the "taxing agency" in Title 59, Chapter 12, Part 1 which are intended to refer to the State of Utah, insofar as it is necessary to carry out the purposes of that Part, as well as provisions of the Municipal Energy Sales and Use Tax Act, as set forth in *Utah Code Ann.* §§ 10-1-301, et seq., as amended. However, nothing in this subsection shall be deemed to require substitution of the name of Farmington 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 Farmington City be substituted for that of the State in any section when the result of such substitution would require action to be taken by or against Farmington 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.

5-08-080. Additional License for Collection of Tax Not Required.

No additional license to collect the Energy Sales and Use Tax levied by this Chapter is required if one has been issued under *Utah Code Ann.* § 59-4-106, as amended.

CHAPTER 5:09: TRANSIENT ROOM TAX

5-09-010. Purpose.
5-09-020. Definitions.
5-09-030. Transient Room Tax Imposed.
5-09-050. Collection of Tax by State Tax Commission.
5-09-060. Effective Date.

5-09-010. Purpose.

The purpose of this Chapter is to enact a municipal transient room tax pursuant to *Utah Code Ann.* §§ 59-12-352, *et seq.*, as amended.

5-09-020. Definitions.

As used in this Chapter, the terms defined in *Utah Code Ann.* § 59-12-102, as amended, shall have the meanings set forth therein.

5-09-030. Transient Room Tax Imposed.

Pursuant to authority set forth in *Utah Code Ann.* § 59-12-352, as amended, there is hereby imposed a transient room tax of one percent (1%) on charges for the accommodations and services described in *Utah Code Ann.* § 59-12-103(1)(*i*), as amended.

5-09-050. Collection of Tax by the State Tax Commission.

Pursuant to *Utah Code Ann.* § 59-12-354, as amended, the State Tax Commission is authorized to administer, collect and enforce the municipal transient room tax in accordance with procedures set forth in Title 59, Chapter 12, Part 1, Tax Collection, or Title 59, Chapter 12, Part 2, Local Sales and Use Tax Act, and Title 59, Chapter 1, General Taxation Policies, as amended. The State Tax Commission shall distribute the revenues collected from the tax to the municipality within which the revenues were collected, subject to an administrative charge authorized pursuant to *Utah Code Ann.* § 59-1-306, as amended.

5-09-060. Effective Date.

This tax shall take effect on the first day of the calendar quarter beginning at least 90 days after the date on which the Tax Commission received notice pursuant to *Utah Code Annotated §* 59-12-355 that the City has enacted this ordinance.

CHAPTER 5-10: RECREATIONAL, ARTS AND PARKS (RAP) TAX

5-10-010. Purpose.
5-10-020. Compliance.
5-10-030. Recreational, Arts and Parks (RAP) Tax.
5-10-040. Collection.
5-10-050. Use of Funds.
5-10-060. Distribution of Funds.
5-10-070. Effective Date.

5-10-010. Purpose.

Farmington City submitted a ballot proposition to the residents of the City at the municipal general election held on November 4, 2014, providing each resident an opportunity to vote on the imposition of a local sales and use tax of one-tenth of one percent (0.10%) on certain qualifying transactions within the City to fund a recreation center and other recreational and cultural facilities and organizations within the community. A majority of the City's registered voters voting on the opinion question voted in favor of imposing the RAP Tax. The purpose of this Chapter is to impose the RAP Tax as approved by Farmington City voters and to provide for the collection and distribution of the revenues generated by the RAP Tax.

5-10-020. Compliance.

It is the intent of the City to comply will all applicable provisions and restrictions set forth in *Utah Code Ann.* §§ 59-12-1401, et seq., as amended, regarding local option sales and use tax to fund recreational and zoological facilities and botanical, cultural and zoological organizations.

5-10-030. Recreation, Arts and Parks (RAP) Tax.

There is hereby levied a local option sales and use tax on qualifying taxable transactions within Farmington City at the rate of one-tenth of one percent (0.10%). This tax shall be known as the Recreation, Arts and Parks (RAP) Tax. The RAP Tax may be levied for a period of ten (10) years and may be reauthorized at the end of the ten-year period in accordance with applicable provisions of Utah Code Ann. § 59-12-1402, as amended.

5-10-040. Collection.

The RAP Tax shall be administered, collected and enforced in accordance with the procedures set forth in Title 59, Chapter 12, Parts 1 and 2, of the *Utah Code Annotated*, as amended, regarding Tax Collection and Local Sales and Use Tax Act (excluding Subsections 59-12-205(2) through (7)), and Title 59, Chapter 1, of the same, as amended, regarding General Taxation Policies.

5-010-050. Use of Funds.

The monies generated from the RAP Tax shall be used for financing recreational and cultural facilities within the City, providing for recreational or cultural facilities; for ongoing operating expenses of cultural organizations within the City and providing for the support of cultural organizations; and for any other eligible facilities or organizations provided by law.

5-10-060. Distribution of Funds.

The City Council has determined that the primary portion of the funds generated by the RAP Tax shall be utilized for the financing of a recreation center and for ongoing operating expenses of such facility and/or organizations providing support for the recreation center. Any funds generated by the RAP Tax and not used for the establishment and ongoing operating expenses of the recreation center may be used for qualifying facilities and organizations approved by the City Council.

5-10-070. Effective Date.

Except as otherwise provided by law for billing cycle transactions and catalogue sales, the enactment and imposition of the RAP Tax shall take effect on the first day of the calendar quarter following a ninety (90) day waiting period beginning on the date the Utah State Tax Commission receives notice from the City regarding its creation of the RAP Tax in accordance with *Utah Code Ann.* § 59-12-1402(5)(b), as amended. Pursuant to such provisions, the Farmington City RAP Tax shall take effect on April 1, 2015.