

Title 3

REVENUE AND FINANCE

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- 3.08 Sales and Use Tax**
- 3.10 Transient Room Tax**
- 3.12 Municipal Energy Sales and Use Tax**
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Chapter 3.08

SALES AND USE TAX

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3.08.010 Title.

This chapter shall be known as the “Cottonwood Heights Sales and Use Tax Ordinance.”

3.08.020 Purpose.

The Utah Legislature has authorized municipalities to adopt an ordinance that imposes a one percent sales and use tax. It is the purpose of this chapter to conform the sales and use tax ordinance of the city to the requirements of the Sales and Use Tax Act, as amended.

3.08.030 Sales and use tax levied.

From and after the effective date of this chapter, there are levied and there shall be collected and paid taxes as follows:

A. A tax at the rate of one percent (1%) is hereby imposed upon every retail sale of items listed in Utah CODE ANN. §59-12-103(1), as amended, made within the city on or after the effective date of this chapter.

B. An excise tax at the rate of one percent (1%) is hereby imposed on the

storage, use, or other consumption in the city of tangible personal property or any items listed in UTAH CODE ANN. §59-12-103(1) on or after the effective date of this chapter.

3.08.040 Incorporation of UTAH CODE ANN. title 59, chapter 12, part 1, including amendments.

A. Except as herein provided, and except insofar as they are inconsistent with the provisions of the Local Sales and Use Tax Act, all of the provisions of UTAH CODE ANN. title 59, chapter 12, part 1, as amended, and in force and effect on the effective date of this chapter, insofar as they relate to sales taxes, excepting sections 59-12-101 and 59-12-119 thereof, and excepting for the amount of the sales tax levied therein, are hereby adopted and made a part of this chapter as though fully set forth herein.

B. Wherever, and to the extent that in part UTAH CODE ANN. title 59, chapter 12, part 1, as amended, the state of Utah is named or referred to as the “taxing agency,” the name of this city shall be substituted therefor. Nothing in this subparagraph (B) shall be deemed to require substitution of the name of the 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 the city 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 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.

C. Any amendments made by the Utah Legislature to UTAH CODE ANN. title 59, chapter 12, part 1, as amended, which would be applicable to the city are hereby incorporated herein by reference and shall

be effective upon the date they are effective as a Utah statute.

3.08.050 Contract with State Tax Commission.

Heretofore, this city has entered into an agreement with the State Tax Commission to perform all functions incident to the administration or operation of the sales and use tax ordinance of the city. That contract is hereby confirmed and the mayor is hereby authorized to enter into such supplementary agreements with the State Tax Commission as may be necessary to the continued administration and operation of the sales and use tax ordinance of the city as enacted by this chapter.

3.08.060 Exemption from tax.

The sale, storage, use, or other consumption of tangible personal property, the gross receipts from the sale of or the cost of which has been subject to sales or use tax under a sales and use tax ordinance enacted in accordance with UTAH CODE ANN. title 59, chapter 12, part 2, as amended, by a county other than Salt Lake County or by any other Utah city or town shall be exempt from the tax.

3.08.070 Tax paid not part of purchase price.

The amount of any tax paid under UTAH CODE ANN. title 59, chapter 12, as amended, shall not be included as a part of the purchase price paid or charged for a taxable item hereunder.

3.08.080 Mayor authorized.

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 set forth in UTAH CODE ANN. § 59-12-205, as amended.

3.08.090 Report of tax collections-Point of sale-Public utilities.

All sales and use taxes collected under this chapter shall be reported to the State Tax Commission on forms which accurately identify the location where the sale or use transaction was consummated. If a retailer has no permanent place of business in the state or has more than one place of business, the place or places at which the retail sales are consummated for the purposes of this chapter shall be determined under rules of the commission. Public utilities as defined by UTAH CODE ANN. title 54, as amended, are not obligated to determine the place or places within the county where public utility services are rendered, and the State Tax Commission shall apportion the revenues arising from such services, on an equitable basis pursuant to an appropriate formula and under rules to be prescribed and adopted by it.

3.08.100 Effective date.

This chapter shall become effective 12:00:01 a.m. on 15 January 2005 or such later date as may be required by Utah statute.

Chapter 3.10

TRANSIENT ROOM TAX

Sections:

3.10.010 Definitions.

3.10.020 Transient room tax.

3.10.030 Transient room tax due quarterly.

3.10.040 Penalties and interest.

3.10.050 Report to State Tax Commission.

3.10.010 Definitions.

A. "Public accommodation" means any place providing temporary sleeping accommodations to the public and includes motels, hotels, motor courts, inns, bed and breakfast establishments, condominiums, and resort homes.

B. "Rents" means the charge for the use or occupancy of the public accommodation, including rents and timeshare fees or dues. "Rent" does not include the following charges:

1. The amount of any sales or use tax imposed by the state of Utah or by any other governmental agency upon the public accommodation;

2. The amount of any transient room tax levied under authority of UTAH CODE ANN. title 17, chapter 31, as amended, or its successor;

3. Receipts from the sale of, or service charge for, any food, beverage, or room service charges in conjunction with the use or occupancy of the public accommodation that is not included in the rent charges; and

4. Charges for supplying telephone service, gas, or electrical energy service not included in the rent charged.

C. "*Transient*" means a person who occupies a public accommodation for 30 consecutive days or less.

3.10.020 Transient room tax.

There is levied upon the business of every person, company, corporation, or other like and similar persons, groups, or organizations providing public accommodations, a tax equal to one percent (1%) of the rent charged for each transient occupying a public accommodation.

3.10.030 Transient room tax due quarterly.

The transient room tax for each calendar quarter shall become due and payable to the city treasurer on the first day of the following calendar quarter. Failure to remit payment of the tax within 30 days after the first day of the calendar quarter shall subject the taxpayer to the penalties and interest provided in section 3.10.040.

3.10.040 Penalties and interest.

The penalty for failure to pay the transient room tax in a timely manner shall be same imposed by UTAH CODE ANN. § 59-1-401, as amended. The city may charge interest for unpaid or underpaid taxes at the rate established by UTAH Code ANN. § 59-1-402, as amended. The city council, by resolution, may waive the penalty and interest charged, provided the taxpayer makes timely payment.

3.10.050 Report to State Tax Commission.

The city treasurer shall report all revenues collected under this chapter to the State Tax Commission, as provided in UTAH CODE ANN. § 59-12-207, as amended.

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.

Chapter 3.16

COMMUNITY DEVELOPMENT FEES

Sections:

- 3.16.010 Community development fee schedule.**
- 3.16.020 Roadway fees.**
- 3.16.030 Other fees.**
- 3.16.040 Waiver, modification and refund of fees.**

3.16.010 Community development fee schedule.

The community development fee schedule is specified in the city's consolidated fee schedule.

3.16.020 Roadway fees.

Roadway fees are specified in the city's consolidated fee schedule.

3.16.030 Other fees.

Fees for other applications, review processes, appeals to the city council or its designee permitted under any provision of this code, and impact are specified in the city's consolidated fee schedule.

3.16.040 Waiver, modification and refund of fees.

A. The city council may, on its own motion or otherwise, waive, modify or refund any fee imposed by this chapter as provided herein. Otherwise, all requests for waiver, modification or refund of any fee imposed by this chapter shall be submitted in writing to the community development director, who shall then forward the request to the manager for determination as provided below.

B. The manager may waive, modify or refund any fee imposed by this chapter upon a determination, in the manager's absolute discretion that:

1. The applicant is engaged in business for solely religious, charitable or other types of strictly non-profit purposes which are tax-exempt in such activities under the laws of the United States or the state of Utah;

2. The applicant is engaged in the business specifically exempted from municipal taxation and fees by the laws of the United States or the state of Utah; or

3. There is a prevailing public interest in waiving, modifying or refunding the fees.

Chapter 3.20

DEVELOPMENT BONDS

Sections:

- 3.20.010 Bond processing.**
- 3.20.020 Form of bond.**
- 3.20.030 Bond review and approval requirements.**
- 3.20.040 Monitoring of construction progress.**
- 3.20.050 Release of bonds.**
- 3.20.060 Bond administration fee.**
- 3.20.070 Inspection fee.**
- 3.20.080 Reinspection fee.**

3.20.010 Bond processing.

The city's community development department shall complete and process all bonds required to be filed with the city by developers or other persons to guarantee proper installation of improvements required under the city's highway, flood control, building inspection, zoning, fire protection, excavation, subdivision or similar ordinances. The community development director may direct staff to complete and process any additional bonds hereafter required by the city.

3.20.020 Form of bond.

Notwithstanding anything in this code to the contrary, any bond required to be filed with the city to assure proper completion of required improvements to real property, whether under this title or any other title of this code, shall be a cash bond, an escrow agreement, or an irrevocable letter of credit, all in such form as the city may require. In no event may a surety bond be used in substitution for a cash bond, escrow agreement or irrevocable letter of credit. The bond shall be in an amount reasonably specified by the city to assure actual construction of the bonded improvements or other work.

3.20.030 Bond review and approval requirements.

The completed bond shall be forwarded to the city attorney for review as to form, sufficiency and manner of execution. The city attorney shall then forward the bond to the community development director or his designee for acceptance. Upon such acceptance, the bond shall be filed with and thereafter monitored by the community development department.

3.20.040 Monitoring of construction progress.

The community development department shall monitor the progress of construction of the bonded improvements to insure compliance with the construction schedule and sequence approved by the city for the completion of such improvements. It shall be the responsibility of the bond applicant or his authorized agent to call for all required inspections. The city may require all work on the bonded project to stop if construction of the bonded improvements deviates in any way from the approved plan. Any deviation from the approved plan must be approved in writing by all of the city's departments, divisions and service providers affected by the deviation.

3.20.050 Release of bonds.

The community development department shall recommend release of the bonded amount upon receiving written notice from all of the affected city departments, divisions and providers certifying that the bonded improvements have been satisfactorily completed in accordance with applicable standards; provided, however, that 25% of the total bonded amount for public improvements such as curb, gutter, sidewalks, roads, flood control systems, fire hydrants and fire

protection lines (among others) shall be retained for a period of one year (or such longer period as may be specified in this code) after completion of such improvements to guarantee against defects.

3.20.060 Bond administration fee.

Any person filing a performance bond with the city to guarantee completion of improvements for a conditional use, a permitted use, a non-regular subdivision where no plat must be recorded, a road dedication, or this code, shall pay a fee as specified in the city's consolidated fee schedule to the community development department for the administration of such bond. Such fee shall be paid in full prior to the city's acceptance of any such bond.

3.20.070 Inspection fee.

Any person requesting the city to inspect bonded improvements for the

purpose of a partial bond release or other reduction in the bonded amount shall pay an inspection fee as specified in the city's consolidated fee schedule to the community development department at the time such inspection is requested. Partial releases of improvement bonds shall be subject to section 3.20.050 and any other applicable policies of the community development department.

3.20.080 Reinspection fee.

If a final inspection is requested and the city's inspector determines that the bonded improvements have not been satisfactorily completed, any person thereafter requesting the city to reinspect the bonded improvements for the purpose of obtaining a full or partial bond release shall pay a fee as specified in the city's consolidated fee schedule for each required reinspection at the time the reinspection is requested.