

## **TITLE 6. FINANCES AND TAXATION.**

### **CHAPTER 6-100. Sales and Use Tax.** (Amended by Ord. 90-1).

6-101. Title. This ordinance shall be known as the "Uniform Local Sales and Use Tax Ordinance" of North Logan City.

6-102. Purpose. The purpose of this chapter is to levy a one percent sales and use tax in compliance with provisions of the Uniform Local Sales and Use Tax Law, Chapter 12 of Title II of the Utah Code Annotated, 1953 as amended, and in compliance with the applicable provisions of Chapter 12 of Title 59, Utah Code Annotated, 1953, as amended. The 48th Session of the Utah Legislature of Utah has authorized the counties and municipalities of the State of Utah to enact sales and use tax ordinances imposing a one percent tax.

#### 6-103. Contract with State of Utah.

- (A) Application of State Sales Tax Provisions. Except as hereinafter provided, and except insofar as otherwise inconsistent with the provisions of the Uniform Local Sales and Use Tax Law of Utah, all of the provisions of Chapter 12, Title 59, Utah Code Annotated, 1953 as amended, and in force and effect on the effective date of this ordinance insofar as related to sales and use taxes, excepting Section 59-12-119, and excepting for the amount of the tax levied therein, are hereby adopted and made a part of this chapter.
- (B) Substitution of Municipality for State. Whenever, and to the extent that Chapter 12 of Title 59, Utah Code Annotated, 1953 as amended, the State of Utah is named or referred to as the taxing agency, the name of this municipality shall be substituted therefor. Nothing in this subsection shall be deemed to require substitution of the name of the municipality for the word "state" when that word is used as part of the title of the state tax commission, or of the Constitution of Utah, nor shall the name of the municipality be substituted for that of the state in any section when the result of that substitution would require action to be taken by or against the municipality or any agency thereof, performing the functions incidental to the administration or operation of this chapter.

#### 6-104. Effective Date.

- (A) This ordinance shall become effective as of 12:01 a.m., Jan. 1, 1990. The provisions of the previously enacted Uniform Local Sales and Use Tax ordinance of the City of North Logan shall continue effective until that time.
- (B) The provisions of this ordinance which are not in conflict with the said existing ordinance shall be deemed to be a continuation thereof and any rights, duties, and obligations arising thereunder shall in no way be deemed abrogated or terminated.

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**6-105. Sales Tax.**

(A)

- (1) From and after the effective date of this ordinance, there is levied and there shall be collected and paid a tax upon every retail sale of tangible personal property, services and meals made within the municipality of the rate of one percent.
- (2) An excise tax is hereby imposed on the storage, use, or other consumption in this municipality of tangible personal property from any retailer on or after the operative date of this ordinance at the rate of one percent of the sales price of the property.
- (3) For the purpose of this ordinance all retail sales shall be presumed to have been consummated at the place of destination or to a common carrier for delivery to an out-of-state destination. In the event a retailer has no permanent place of business, the place or places at which the retail sales are consummated shall be as determined under the rules and regulations prescribed by and adopted by the State Tax Commission. Public utilities as defined by Title 54, Utah Code Annotated, 1953, shall not be obligated to determine the place or places within any county or municipality where public utility services are rendered, but the place of sale or the sales tax revenue arising from such service allocable to the city shall be as determined by the State Tax Commission pursuant to an appropriate formula and other rules and regulations to be prescribed and adopted by it.

(B)

- (1) Except as hereinafter provided, and except insofar as they are inconsistent with the provisions of the Sales and Tax Act, all of the provisions of Chapter 12, Title 59, Utah Code Annotated, 1953, as amended, and in force and effect on the effective date of this ordinance, insofar as they relate to sales taxes, excepting Sections 59-12-101 and 59-12-119 thereof, are hereby adopted and made a part of the ordinance as through fully set forth herein.
- (2) Wherever, and to the extent that in Chapter 12 of Title 59, Utah Code Annotated, 1953, the State of Utah is named or referred to as the taxing agency, the named or referred to as the taxing agency, the name of this municipality shall be substituted therefor. Nothing in subparagraph (b) shall be deemed to require substitution of the name of the municipality for the word "State" when that word is used as part of the title of the State Tax Commission, or of the Constitution of the State of Utah, nor shall the name of the municipality be substituted for that of the State in any section when the result of that substitution would require action to be taken by or against the municipality or any agency thereof, rather than by or against the State Tax Commission in performing the functions incident to the administration or operation of the ordinance.

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

6-106. Execution. 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 Section 11-9-5, Utah Code Annotated, 1953, as amended.

6-107. Contract with State Tax Commission. Heretofore, this municipality has entered into an agreement with the State Tax Commission to perform all functions incident to the administration or operation of the Sales and Use Tax Ordinance of the municipality. That contract is hereby confirmed and the Mayor is hereby authorized to enter into such supplementary agreement with the State Tax Commission as may be necessary to the continued administration and operation of the Local Sales and Use Tax Ordinance of the municipality as reenacted by this ordinance.

6-108. Penalties. Any person violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punishable by a fine in an amount less than \$300.00 or imprisonment for a period of not more than six months, or by both such fine and imprisonment.

6-109. Severability. If any section, subsection, sentence, clause, phrase or portion of this ordinance, including but not limited to any exemption is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

It is the intention of the City Council that each separate provision of this ordinance shall be deemed independent of all other provisions herein.

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### **CHAPTER 6-200. Special Improvement Guaranty Fund.**

#### **6-201. Fund Established.**

- (A) There is hereby created a special fund to be known as the "Special Improvement Guaranty Fund" which shall be a reserve for capital improvement; for the purpose of financing future specific capital improvements pursuant to a formal long range capital plan adopted by the governing body of the city; and for the purpose of guaranteeing the payment of special improvement bonds or warrants and interest thereon issued for the payment of special improvements to the extent of said fund.
- (B) The city may appropriate from estimated revenue or fund balance to this reserve, i.e. Special Improvement Guaranty Fund, and such reserve shall be allowed to accumulate from year to year until the accumulated total thereof is sufficient to permit economical expenditure for the specified purposes.
- (C) Disbursements from such reserve shall be made only by transfer to a revenue or transfer account within the capital improvements fund, pursuant to a budget appropriation thereof in a budget for the fund duly adopted in the manner provided for the adoption of budgets in the laws of the State of Utah for municipalities.
- (D) Expenditures from the above appropriation budget accounts shall conform to all requirements of the Uniform Fiscal Procedures Act of the State of Utah relating to execution and control of budgets.

**6-202. Special Improvements Appropriations.** The following sums have been appropriated by ordinance from the Special Improvements Guaranty Fund of the City of North Logan for the purpose of an authorization given by the enabling ordinances for the expenditure of the authorized sums towards the matter designated:

- (A) Ordinance No. 82-2 adopted April 1, 1982, for one used John Deere Patrol, Model ##0570 with accessories, Serial #000742U, for \$24,500.00.
- (B) Ordinance No. 82-3 adopted May 6, 1982, for one police patrol car for \$5,800.00.
- (C) Ordinance No. 83-10 adopted August 18., 1983, for one used 1969 Ford 7-ton dump truck with a diesel engine, Serial #W85JUE10507, and a new Aquatech high velocity sewer cleaner, Model SJ600 with root cutter kit and 6 inch root saw, for \$17,500.00.
- (D) Ordinance No. 84-4 adopted March 22, 1984 for a used front-end loader, 1972 John Deere, Model 544A, Serial No. 160677, for \$9,000.00.

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- (E) Ordinance No. 84-14 adopted December 6, 1984, for the purchase of 1.5 acres of undeveloped land at 1985 North 1200 East for \$10,000.00.

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**CHAPTER 6-300. Surplus Property.**

6-301. Surplus Property Declaration.

- (A) No city property may be disposed of unless and until it has been first declared to be surplus by the City Council.
- (B) The City Council must first find that it is in the public interest that the subject property may be disposed of in order to declare any city property surplus.
- (C) In determining whether any property shall be deemed surplus, the City Council shall take into consideration the following:
  - (1) The city has, or anticipates that it will have, no practical, economical, efficient, or appropriate use for the property currently or in the reasonably foreseeable future.
  - (2) The purpose served by the property can be better accomplished by other alternatives or property.
  - (3) The purpose served by the property or its use either no longer exists or has significantly changed because of the needs and demands of the city or as may be determined by a change of policy evidenced by an ordinance or resolution of the City Council.
  - (4) The property is so damaged, depreciated, or worn that it is inoperable or limited in operation without repairs and the cost of such repairs is unreasonable, excessive, or impractical.

6-302. Procedures.

- (A) Upon the declaration of any city property as surplus property, the City Council may authorize the disposition of such surplus city property, including real or personal property, subject to the provisions of this ordinance.
- (B) Unless provided otherwise by this ordinance, the disposition of city surplus property may be by public sale, private sale, exchange, exchange and sale, option to purchase, lease, lease with an option to purchase, trade-in, public auction, private auction, sale upon public advertisement by sealed bid, or by any other lawful and reasonable means.
- (C) No disposition of surplus city property shall be made for less than a fair market value and consideration unless the City Council determines that it is in the best public interest that disposition of city surplus property may be made for less than a full market value. Consideration and fair market value may be in forms other than cash payment and may

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include the exchange of property or services as may be reasonably determined by the City Council.

- (D) The City Council shall designate that the City Recorder shall maintain records of the manner and date of the disposal of all city surplus property as well as the amount and nature of consideration received for such property.
- (E) No lease or lease with an option to purchase of surplus property shall be entered without the prior consent of the City Council.

### **6-303. Disposal of Personal Property.**

- (A) If an Area Supervisor, Mayor, or Council Member having city personal property under his or her control or supervision which he or she deems unusable or surplus to the use of his or her work area, he or she shall notify the City Council, who shall in turn notify all other Area Supervisors of the availability of such property. If any other Area Supervisor requests the designated surplus property for their respective work area, the City Council may, at their option, transfer the property to the requesting Area Supervisor. If no requests for the surplus personal property are received, or if the City Council deems it reasonable and in the public interest to otherwise dispose of the property, they may then proceed to sell such personal property in accordance as deemed to be in the best interest of the city.
- (B) If surplus personal property is not readily marketable or marketable for a fair market value because of its deterioration or condition, the City Council may determine that such property be sold as scrap and if not salable as such may dispose of such personal property by destruction or other means.

### **6-304. Disposal of Real Property.**

- (A) No real property acquired after July 1, 1983, may be sold on the open market unless the following conditions are met:
  - (1) The real property is not property acquired by condemnation or by the threat of condemnation.
  - (2) The real property has been offered for sale to the person or entity from whom the city acquired the property at the highest offer with first right of refusal; and the person or entity failed to accept the offer within ninety (90) days after notification by registered mail to their last known address.

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- (3) The city has not rezoned the property or been involved in the rezoning of the property or the acquisition of additional property to enhance the value of the real property to be sold.
  
- (B) No real property may be disposed of or leased unless and until a public hearing has been held by the City Council concerning disposition of the realty. Such public hearing shall be held in the manner and with the notices required for public hearings by the City Council.

6-305. City Agencies. The provisions of this ordinance shall apply to all bodies which are within the jurisdiction or under the authority of the city and which own real or personal property in the name of the city.

6-306. Effective Date. This ordinance shall become effective immediately upon adoption and publication in the manner required by law.

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### **CHAPTER 6-400. Municipal Impact Fees.**

6-401. Impact Fees Imposed. Impact fees are hereby imposed as a condition of the issuance of a building permit by the City for any Development Activity which creates additional demand and need for public facilities for the culinary water system, the waste water (sewer) system, parks and recreation and roads, as set forth in Exhibit A which is attached hereto and incorporated herein by this reference.

#### 6.402. Service Areas.

- (A) The entire area of the City and any areas outside the City serviced by such systems are hereby designated and established as one service area with respect to the culinary water system, the waste water (sewer) system, parks/recreation, and roads

6-403. Time of Collection. Unless otherwise provided by the City Council, impact fees shall be paid to the City prior to the issuance of a building permit by the City.

#### 6-404. Adjustment of Impact Fees.

- (A) The City may adjust the impact fees imposed pursuant to this ordinance as necessary in order to:
- (1) Respond to unusual circumstances in specific cases;
  - (2) Ensure that the impact fees are imposed fairly;
  - (3) Permit the adjustment of the amount of the fee based upon studies and data submitted by an applicant or developer, as approved by the City Council; and
  - (4) Allow a credit against impact fees, as approved by the City Council, for dedication of land for, improvement to, or new construction of, any system improvements by the applicant or developer if the facilities are identified in the City's Capital Facilities Plans and are required by the City as a condition of approving the development activity. No credits shall be given for project improvements as defined by the Utah Impact Fees Act.
- (B) The City Administrator shall have the authority to make such adjustments based upon information submitted by an applicant or developer and any recommendations from the City Engineer.
- (C) The City may adopt policies consistent with this ordinance and any resolutions passed by the City Council to assist in the implementation, administration and interpretation of this ordinance related to Municipal Impact Fees.

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- (D) If the applicant, developer, person or entity is not satisfied with the City Administrator's decision, an appeal may be made to the City Council under the procedures set forth in Section 6-406, below.

6-405. Accounting, Expenditure and Refund of Impact Fees. The City shall account for, expend and refund impact fees collected pursuant to this Chapter in accordance with the provisions of the Utah Impact Fees Act.

### 6-406. Administrative Challenges and Appeals Procedure.

- (A) Any person or entity required to pay an impact fee imposed by the City who believes the fee does not meet the requirements of law may file a written request for information with the City as provided by law.
- (B) Within two weeks of the receipt of the request for information, the City shall provide the person or entity with the written analysis required by the Act and with any other relevant information relating to the impact fee.
- (C) Within 30 days after paying an impact fee, any person or entity who has paid the fee and wishes to challenge the fee shall:
  - (1) File a written appeal with the North Logan City Administrator setting forth in detail all factual and legal grounds in support of the appeal and challenge to the impact fee, and which is relied upon by the appealing party with respect to the fees challenged. Upon receipt of the written appeal, the City Administrator shall forward the appeal, together with a recommendation, to the City Council and shall schedule a public hearing before the City Council on the appeal for the purpose of receiving input from all interested persons. The City Council shall thereafter render its decision on the appeal no later than 30 days after the date the appeal was filed with the City Administrator. Any person or entity who has failed to comply with the administrative remedies established by this section, may not file or join an action challenging the validity of any impact fee.
- (D) Any person or entity who was a party to an appeal under this section who is adversely affected by the decision of the City Council may petition the District Court for a review of the decision within 90 days of a decision upholding an impact fee by the City Council or within 120 days after the date the challenge to the impact fee was filed, whichever is earlier. The petition for review of the decision shall be filed in the First District Court for Cache County.

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- (E) In the event a petition is filed with the District Court, the City shall transmit to the reviewing Court the record of its proceedings including its minutes, findings, orders and, if available, a true and correct transcript of its proceedings.
- (F) If the proceeding was tape recorded, a transcript of that tape recording is a true and correct transcript for the purposes of subsection E above.
- (G) If there is a record:
  - (1) the District Court's review is limited to the record provided by the City; and
  - (2) the District Court may not accept or consider any evidence outside the City's record unless that evidence was offered to the City and the Court determines that it was improperly excluded by the City.
- (H) If there is an inadequate record, the Court may call witnesses and take evidence.
- (I) The District Court shall affirm the decision of the City if the decision is supported by substantial evidence in the record.
- (J) The judge may award reasonable attorney's fees and costs to the prevailing party in an action brought under this section.

(Ord. 97-07)

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Exhibit A, North Logan Impact Fees, listing the impact fees described in Chapter 6-400. Municipal Impact Fees to the Code of Revised Ordinances of the City of North Logan, are as follows:

	<i>Parks and Recreation</i>	<i>Roads</i>	<i>Water System</i>	<i>Wastewater Collection</i>
<u>Residential</u>	<u>Per Housing Unit</u>			
Single family Detached	\$1,384	\$629		
All Other Housing Types	\$1,069	\$472		
<u>Nonresidential</u>	<u>Per 1,000 Square Feet</u>			
Com/Shop Ctr < 75,000 Sq Ft		\$585		
Com/Shop Ctr 75,000 - 150,000 Sq Ft		\$471		
Com/Shop Ctr > 150,000 Sq Ft		\$242		
Office / Inst < 17,500 Sq Ft		\$1,494		
Office / Inst 17,500 - 37,500 Sq Ft		\$1,197		
Office / Inst > 37,500 Sq Ft		\$1,007		
Business Park		\$872		
Light Industrial		\$423		
Warehousing		\$296		
Manufacturing		\$233		
<u>All Development</u>	<u>Meter Size (inches)*</u>		<u>Per Water Meter</u>	
	5/8 X 3/4 to 1.00		\$3,319	\$1,047
	1.50		\$6,638	\$2,095
	2.00		\$10,621	\$3,352
	3.00		*	*
	4.00		*	*

- The standard water meter is a one inch meter. Smaller meters may be provided for more accuracy if allowed by the Standard Plumbing code. Meters larger than two inches are allowed only when approved by the City Council. In cases where facilities need additional flow which can only be provided by meters larger than 1.5 inches, compound meters will be installed to improve accuracy and to protect the city water system in case of line failure. In cases where larger meters are approved, fees for meters larger than 2 inches will be established using the relative capacity ratio of the meter as compared to the capacity of the standard one-inch meter (similar to the method used to determine the fees for the 1.5 and 2 inch meters); or the fees may be determined in accordance with Section 6-404, Adjustment of Impact Fees, Paragraph A. 3.

(Ord. 97-10, Ord. 04-12, Ord. 04-13, Ord. 06-17)

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## **TITLE 6. FINANCES AND TAXATION.**

### **Chapter 6-500. FINANCIAL ADMINISTRATION**

**6-501. FINANCIAL OFFICER.** The City hereby establishes the positions of Financial Officer and City Auditor for North Logan City to perform the duties authorized by this Chapter 6-500 and Section 10-6-158, Utah Code Annotated, 1953 as amended, and any provisions of the Utah Code subsequently adopted which may supplement, amend or replace the referenced Section 10-6-158. Unless otherwise appointed by resolution of the City Council, the City Administrator is appointed as the Financial Officer.

**6-502. APPROVAL OF EXPENDITURES BY FINANCIAL OFFICER.** The authorization contained in this Chapter is intended to include all city expenditures referenced in the budget document and approved by an appropriation resolution adopted for the current fiscal year. The Financial Official is authorized to approve all expenditures of funds by the city provided all such expenditures are authorized and/or obligated in accordance with the city's procurement procedures (see paragraph 6-504). The following items are considered approved by the City Council when they approve the appropriation budget. The Financial Officer is authorized to obligate, encumber and expend funds for these items provided they are within the scope of each department's approved budget. No purchase order is required for approval of these items.

- (A) Employee Compensation Expenditures such as payroll checks for employees with previously approved and established salaries or hourly wages, other payments related to payroll including, but not limited to, payments for the deposit of federal and state social security and income tax withholdings, payments to the Utah State Retirement Systems for retirement contributions and disability insurance, payments on health insurance and other approved employee benefits, any checks for deposit to employees' savings when withdrawn from their pay, and any employee selected supplemental insurance.
- (B) Routine Expenditures such as utility bills, bank credit cards payments (individual expenditures on credit cards must comply with the city's procurement policies), payments on existing bonded indebtedness, payments for services received from other governmental agencies such as, but, not limited to payments for sewer services, for trash collection services, payments for emergency dispatch services, and required payments to the State of Utah for court fines and inspection fees.
- (C) Capital Expenditures when such payments are made for previously authorized expenditures including payments for supplies, materials, equipment, infrastructure improvements and maintenance, and other capital expenditures on approved contracts.
- (D) Other Miscellaneous Expenditures including, but not limited to: payments to contract employees approved by the City Council; all insurance payments including city risk management insurance, Workmen's Compensation Insurance and State Unemployment Insurance benefits; payments for the lease of vehicles and other equipment when such leases have been previously approved by the City Council; payments, advances and

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reimbursements for authorized travel and training expenses of city officers and employees when authorized by the City Administrator or the City Council.

6-503. REPORTS OF FINANCIAL OFFICER. The Financial Officer shall provide periodic reports to the Mayor and City Council regarding expenditures approved and payments made by the Financial Officer. The reports shall be at such times and in the form designated by the Mayor and City Council.

6-504. PROCUREMENT PROCEDURES.

(A) General

- (1) The underlying purposes of the procurement procedures are:
  - (a) To ensure fair and equitable treatment of all persons who wish to, or do, conduct business with North Logan City.
  - (b) To provide for the greatest possible economy in North Logan procurement activities.
  - (c) To foster effective, broad-based competition within the free enterprise system to ensure that North Logan City will receive the best possible service or product at the lowest possible price.
- (2) Compliance with / Exemption from this policy.
  - (a) This policy shall not prevent North Logan City from complying with the terms and conditions of any grant, gift, or bequest that is otherwise consistent with law.
  - (b) When procurement involves the expenditure of federal assistance funds, North Logan City shall, as required, comply with applicable federal law regulations.
- (3) Definitions.
  - (a) "Business" means any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture, or any other private legal entity.
  - (b) "Change order" means a written order signed by the Financial Officer, directing the contractor to suspend work or make changes, which the appropriate clauses of the contract authorize the Financial Officer to order,

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without the consent of the contractor or any written alteration in specifications, delivery point, rate of delivery, period of performance, price, quantity, or other provisions of any contract accomplished by mutual action of the parties to the contract.

- (c) "City" shall mean North Logan City.
- (d) "Contract" means any City agreement for the procurement or disposal of supplies, services, real estate, or construction.
- (e) "Invitation for bids" means all documents, whether attached or incorporated by reference, used for soliciting bids.
- (f) "Person" means any business, individual, union, committee, club, other organization, or group of individuals.
- (g) "Procurement" means buying, purchasing, renting, leasing, leasing with an option to purchase, or otherwise acquiring any supplies, services, real estate, or construction.
- (h) "Financial Officer" means the person duly authorized by the governing body of the City to enter into and administer contracts, make written determinations with respect thereto, and to perform the other duties stated in this chapter 6-500.
- (i) "Purchase description" means the words used in a solicitation to describe the supplies, services, real estate, or construction to be purchased, and includes specifications or other appropriate descriptions attached to or made a part of the solicitation or agreement.
- (j) "City Auditor" means the person duly authorized by the governing body to maintain the general books and subsidiary records for each fund of the city, to pre-audit all claims, and to prepare checks in payment of those claims.

### **(B) Source Selection and Contract Formation**

- (1) No appropriation may be encumbered and no expenditure may be made against any work area appropriation unless there is a sufficient unencumbered balance in the department's appropriation, except in cases of emergency as provided by this ordinance.

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- (2) All encumbrances designated as outstanding as of the end of the fiscal year shall be evidenced by a purchase order issued on or before the last day of the fiscal year and approved by the Mayor and City Council.
- (3) All purchases or encumbrances of such purchases by the City shall be made or incurred according to the purchasing procedures established by this ordinance and applicable state law.
- (4) No expenditures or encumbrances shall be made in excess of the total appropriations for any work area in the budget as adopted or subsequently amended.
- (5) Purchases less than \$5,000.00.
  - (a) For purchases of less than \$1,000.00, authorized city personnel desiring to make purchases within the department's budget, do not need to obtain bids and may purchase the items and submit a sales receipt or invoice therefor to the City Auditor without any formal approval procedure.
  - (b) For purchases of more than \$1,000.00 but less than \$5,000.00, the Department Head, before making the purchase, shall submit a purchase order to the City Auditor for determination that the purchase would be within the department's budget. Upon the approval of the purchase order by the City Auditor, the purchase order and the City Auditor's statement of approval shall be submitted to the Financial Officer who may then approve or disapprove the purchase.
- (6) Purchases of \$5,000.00 or more shall require a purchase order and bids prior to obligation of funds except as provided in paragraph (D) of this chapter.
  - (a) At least three bids shall be required for purchases of \$5,000.00 or more.
  - (b) Purchases in response to bids for \$25,000.00 or less may be authorized and obligated when approved by the Department Head and the Financial Officer. Bids for purchases of less than \$25,000 need not be sealed/written bids.
  - (c) Sealed bids shall be required for all purchases in excess of \$25,000.00. Purchases from bids of more than \$25,000.00 must be authorized by the City Council

(Ord. 06-02)

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### (C) Bidding Procedures

#### (1) General

- (a) Bids or proposals shall be submitted sealed unless specified otherwise.
- (b) A purchase may be awarded without competition or bidding when the Work Area Supervisor and Financial Officer, with the approval of the City Council, determine in writing that there is only one source for the required service or item and the use of the sole source is allowed under applicable law. In that event, bids will not be necessary but all other procedures, as set forth in this ordinance, shall be followed. (Reference Sec.63-56-23, U.C.A.1953 as amended.)
- (c) An invitation for bids shall be issued when a contract is to be awarded by competitive sealed bidding or sealed proposals. The invitation shall include a purchase description and all contractual terms and conditions applicable to the procurement. Public notice of the invitation for bids shall be given at least 14 days prior to the date set forth therein for the opening of bids. The notice may include publication in a newspaper of general circulation and shall be so published when and as required by law.
- (d) When the Mayor and the City Council determine that the use of competitive sealed bidding is either not practicable, or is not advantageous to the City nor required by law or otherwise, a contract may be entered into by competitive sealed proposals in the manner as set forth in Section 63-56-21, Utah Code Annotated, 1953 as amended, as modified by the City Council in its discretion.

#### (2) Bid Procedure. Bids shall be prepared in the following manner whenever purchases for equipment, supplies, or services are to be made by the city, unless specified otherwise in this ordinance. City personnel such as the Department Head, etc. shall:

- (a) Determine the specifications of the items or services needed and prepare a written statement setting forth those specifications.
- (b) Prepare a written request or notice for bids/ proposals.
- (c) Submit the specifications and request or notice for bids/proposals, for City Council approval. Bids/proposals as hereinafter specified, received directly by a Department Head, together with proposed agreements or other documents relating to the purchase shall be submitted to the approving authority for confirmation and award of bid as required by this ordinance.

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- (d) In all instances, the request for bids/proposals shall be issued to at least three separate vendor/sources, if reasonable and possible.
- (e) Each request for notice of, or advertisement regarding, bids/proposals shall set forth specifications for the item or service to be purchased. A copy of such request, notice, or advertisement shall be maintained in the office of the City Auditor as well as with the Department Head.
- (f) Sealed bids/proposals shall be received and held by the City Auditor who shall indicate on the bids the date and the time of the receipt of such bids. Sealed bids/proposals shall be opened at the time and place as specified in the bid notice request and shall be opened in the presence of at least two of the following city officials - the City Auditor, Mayor, Department Head, City Treasurer, or the Financial Officer. The amount of each bid and any other relevant information, together with the name of each bidder shall be recorded. The record and each bid shall be open to public inspection.
- (g) All sealed bids for contracts shall be made in compliance with this ordinance.
- (h) All notices of or requests for bidding on construction contracts shall specify requirements for a performance bond and payment bond in compliance with the provisions of Sections 14-1-18, 14-1-19, 63-56-38 and 63-56-39, Utah Code Annotated, 1953 as amended.
- (i) A bid security in an amount equal to at least 5% of the amount bid shall be required for all sealed bidding for construction contracts and shall be in the form of a bond provided by a surety company authorized to do business in the State of Utah, the equivalent in cash, or any other form satisfactory to the City.
- (j) If a bidder fails to comply with the requirement for bid security, the bid may be rejected, unless it is determined that the failure to comply with the security requirement is non-substantial.
- (k) After all bids are open, such bids shall be irrevocable for the period specified in the invitation or request for bids. However, if the bidder is permitted to withdraw a bid before the award, no action shall be taken against the bidder or the bid security.
- (l) “*Cost-plus-a-percentage-of-cost*” contracts are prohibited. Subject to the limitations of this section, any type of contract that will promote the best interests of the City may be used, provided that the use of a

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cost-plus-a-percentage-of-cost contract is prohibited. A cost-reimbursement contract may be used only when a determination is made that such a contract is likely to be less costly to the City than any other type or that it is impracticable to obtain the supplies, services, or construction required except under such a contract.

- (m) Required contract clauses:
    - (i) The unilateral right of the City to order, in writing, changes in the work within the scope of the contract and changes in the time of performance of the contract that do not alter the scope of the contract work.
    - (ii) How the contract resolves variations occurring between estimated quantities of work in a contract and actual quantities.
    - (iii) How suspension of work can be ordered by the City.
  - (n) All bids/proposals received, together with proof of advertisement by publication or otherwise, shall be maintained by the City Auditor for a period of at least three years following the award of any contract pursuant to such bids/proposals and for three years following the date of first advertisement or publication of the notice for such bids/proposals in the event that all bids/proposals pursuant to that notice as advertised are rejected.
  - (o) All bids/proposals shall be recorded as to the name of the bidder, the amount of the bid, compliance with the bid notice and request, and such record shall be submitted to the approving authority for confirmation and award of bid as required by this ordinance.
  - (p) The City shall at all times and in all bidding circumstances reserve the right to reject any and all bids/proposals with or without cause.
- (D) Exemptions From Bidding Procedure. All purchases which are exempt from bidding procedures may be authorized and funds obligated by the approving authority provided the expenditures are within the budget appropriation. The Financial Officer may approve individual purchases greater than \$8,000.00 under these exempt-from-bidding provisions only when the purchase was approved as a specific line item in the budget, otherwise, authorization shall be obtained as required by this ordinance. The following purchases shall be exempt from bidding requirements:

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- (1) Purchases from any federal or state agency including, but not limited to, Utah State Central stores, surplus sources, or state approved contract lists.
  - (2) Salaries and benefits for city employees.
  - (3) Utilities including gas, electric, water, sewer, solid waste, and telephone.
  - (4) Ongoing contracts which have been provided for in the city's budget such as, but not limited to, lease purchase agreements, land purchase agreements, and otherwise.
  - (5) Seminars, training and conferences for city employees, officers, or authorized representatives.
  - (6) Reimbursement for travel costs, and expenses incurred by city employees, officers, and authorized representatives.
  - (7) Fuel purchases, which may be bid on an annual basis rather than on a purchase-by-purchase basis.
  - (8) Items to be acquired from a sole source providing that there is written documentation that there is only one source for the required items.
  - (9) Inter-local agreements.
  - (10) Professional services such as legal, auditing, accounting, engineering, consulting, and other similar services, provided however, that sealed proposals may be requested each three (3) years, or as conditions may warrant, on such services at the discretion of the City Council.
- (E) Financial Officer's Duties in the Procurement Process.
- (1) The Financial Officer is appointed by the City to control and expedite city purchasing. His/her duties and powers are set forth in this chapter.
  - (2) The Financial Officer shall provide any assistance requested by city personnel desiring to make purchases with respect to bid preparation, actual purchases, delivery, installation, and monitoring the performance of any purchase related agreements. The Financial Officer shall involve city personnel as may be reasonably necessary in the purchase process.

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- (3) The Financial Officer, upon receipt of the general specifications prepared by city personnel and the request for bid, together with other related information, will typically:
  - (a) Review the documents as submitted.
  - (b) Make comparisons to other sources for the same items or services.
  - (c) Prepare the bid document.
  - (d) Contact potential bidders for bids.
  - (e) Determine if purchases could be made jointly with other work areas in order to obtain better prices and terms.
  - (f) Receive bids and confirm adherence to the specifications of the bid request and clarify any questions concerning the bid.
  - (g) Submit any proposed agreements or leases to an attorney for a legal opinion.
  - (h) Make recommendations to the Department Head, the Mayor, and to the City Council.
  - (i) Unless instructed otherwise by the City Council, the Financial Officer upon receipt and approval of all documents and examination of bids, shall submit a purchase order to the City Auditor together with the bid and other documents, including any legal opinion from the City Attorney, together with the Financial Officer's statement of approval. The City Auditor shall then approve the purchase if within the budget for that department and submit the purchase materials together with his indication of approval to the appropriate city official responsible for the purchase (Financial Officer, Department Head, or City Council) who shall then either approve or disapprove of the same.
- (F) Agreements. No agreement, lease purchase, or lease may be made or entered into without the approval of the City Council.
- (G) Emergency Purchases. Under emergency conditions, where there exists a threat to public health, welfare, safety, or property; the Financial Officer, or in his/her absence the Mayor or member of the City Council, or in the inability to contact any of those individuals, the Department Head in charge of the affected area, may make or authorize an emergency procurement, beyond his/her authority, with or without bids. However, any emergency procurement shall be made with as much competition as practical under the circumstances.

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A written determination of the basis for the emergency and for the selection of the particular vendor/contractor for the purchase shall be submitted thereafter by the individual authorizing procurement, to the Mayor and City Council to be reviewed and the emergency confirmed.

### **(H) Appeals.**

(1) Any actual or prospective bidder or contractor who is aggrieved in connection with the solicitation or award of a contract may appeal to the Financial Officer. An appeal shall be submitted in writing within five (5) working days after the contract to which the grievance relates is awarded. No appeal may be taken in connection with purchases involving less than \$3,000, nor in the event all bids are rejected by the City.

(2) The Financial Officer shall promptly issue a written decision regarding any appeal, if it is not settled by a mutual agreement. The decision shall state the reasons for the action taken and inform the protestor, contractor, or prospective contractor of the right to appeal to the governing body, in writing, within five (5) working dates from the date the decision is issued.

(3) The City Council's decision shall be final.

### **(I) Ethics in Public Contracting.**

(1) No person shall make procurement decisions that will create a substantial conflict between their private interests and their public duties. Compliance shall be in accordance with Sections 10-3-1301 through 10-3-1312, Utah Code Annotated, 1953 as amended, as it currently exists or as it hereafter may be modified.

(2) No person involved in making procurement decisions for the city shall ask, receive, or offer to receive any emolument, gratuity, contribution, cash, gift, property, service, loan, or reward of any kind, or any promise thereof, either for the person's own use or the use or benefit of any other person or organization, from any person or organization interested in or attempting to sell property or services to or otherwise do business with the City. Any violation of this section shall be prosecuted under and punished as provided by the Utah Code.

(Ord. 98-01)

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### **6-600. MUNICIPAL ENERGY SALES AND USE TAX**

**6-601. Purpose.** It is the intent of North Logan City to adopt the municipal energy sales and use tax, pursuant to, and in conformance with, Utah Code Ann. § 10-1-301 *et seq.*, "The Municipal Energy Sales and Use Tax Act."

#### **6-602. Definitions.**

- (1) "Consumer" means a person who acquires taxable energy for any use that is subject to the Municipal Energy Sales and Use Tax.
- (2) "Contractual Franchise Fee" means: a fee; provided for in a franchise agreement; and that is consideration for the franchise agreement.
- (3) "Delivered Value" means the fair market value of the taxable energy delivered for sale or use in the municipality and includes: the value of the energy itself; and any transportation freight, customer demand charges, service charges, or other costs typically incurred in providing taxable energy in usable form to each class of customer in the municipality. "Delivered Value" does not include the amount of a tax paid under Part I or Part 2 of Chapter 12, Title 59 of the Utah Code Annotated.
- (4) "Energy Supplier" means a person supplying taxable energy, except for persons supplying a de minimus amount of taxable energy, if such persons are excluded by rule promulgated by the State Tax Commission.
- (5) "Franchise Agreement" means a franchise or an ordinance, contract, or agreement granting a franchise.
- (6) "Franchise Tax" means: a franchise tax, a tax similar to a franchise tax; or any combination of subsections 1 or 2.
- (7) "Person" includes any individual, firm, partnership, joint venture, association, corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city, municipality, district, or other local governmental entity of the state, or any group or combination acting as a unit.
- (8) "Sale" means any transfer of title, exchange, or barter, conditional or otherwise, in any manner, of taxable energy for a consideration. It includes: installment and credit sales; any closed transaction constituting a sale; 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.

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- (9) "Storage" means any keeping or retention of taxable energy in this City for any purpose except sale in the regular course of business.
- (10) "Use" means the exercise of any right or power over taxable energy incident to the ownership or the leasing of the taxable energy. "Use" does not include the sale, display, demonstration, or trial of the taxable energy in the regular course of business and held for resale.
- (11) "Taxable Energy" means gas and electricity.

### **6-603. Municipal Energy Sales and Use Tax.**

- (1) There is hereby levied, subject to the provisions of this chapter, a tax on every sale or use of taxable energy made within North Logan City equaling three percent (3%) of the delivered value of the taxable energy to the consumer. This tax shall be known as the Municipal Energy Sales and Use Tax. (Ord. 06-09, Ord. 08-11)
- (2) The tax shall be calculated on the delivered value of the taxable energy to the consumer,
- (3) The tax shall be in addition to any sales or use tax on taxable energy imposed by North Logan City authorized by Title 59, Chapter 12, Part 2 of the Utah Code Annotated, The Local Sales and Use Tax Act.

### **6-604. Exemptions from the Municipal Energy Sales and Use Tax.**

- (1) No exemptions are granted from the Municipal Energy Sales and Use Tax except as expressly provided in Utah Code Ann. § 10-1-305(2)(b); notwithstanding an exemption granted by § 59-1-104 of the Utah Code.
- (2) The following are exempt from the Municipal Energy Sales and Use Tax, pursuant to Utah Code Ann. § 10-1-305(2)(b):
  - (a) Sales and use of aviation fuel, motor fuel, and special fuels subject to taxation under Title 59, Chapter 13 of the Utah Code Annotated;
  - (b) Sales and use of taxable energy that is exempt from taxation under federal law, the United States Constitution, or the Utah Constitution;
  - (c) Sales and use of taxable energy purchased or stored for resale;
  - (d) Sales or use of taxable energy to a person, if the primary use of the taxable energy is for use in compounding or producing taxable energy or a fuel subject to taxation under Title 59, Chapter 13 of the Utah Code Annotated;

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- (e) Taxable energy brought into the state by a nonresident for the nonresident's own personal use or enjoyment while within the state, except taxable energy purchased for use in the state by a nonresident living or working in the state at the time of purchase,
  - (f) The sale or use of taxable energy for any purpose other than as a fuel or energy; and
  - (g) The sale of taxable energy for use outside the boundaries of North Logan City.
- (3) The sale, storage, use, or other consumption of taxable energy is exempt from the Municipal Energy Sales and Use Tax levied by this Chapter, provided:
- (a) The delivered value of the taxable energy has been subject to a municipal energy sales or use tax levied by another municipality within the state authorized by Title 59, Chapter 12, Part 3 of the Utah Code Annotated; and
  - (b) North Logan City is paid the difference between the tax paid to the other municipality and the tax that would otherwise be due under this Chapter, if the tax due under this Chapter exceeds the tax paid to the other municipality.

**6-605. No Effect Upon Existing Franchises - Credit for Franchise Fees.**

- (1) This Chapter shall not alter any existing franchise agreements between North Logan City and energy suppliers.
- (2) There is a credit against the tax due from any consumer in the amount of a contractual franchise fee paid if:
  - (a) the energy supplier pays the contractual franchise fee to North Logan City pursuant to a franchise agreement in effect on July 1, 2001;
  - (b) the contractual franchise fee is passed through by the energy supplier to a consumer as a separately itemized charge; and
  - (c) the energy supplier has accepted the franchise.

**6-606. Tax Collection Contract with the State Tax Commission.**

- (1) On or before the effective date of this Chapter, North Logan City shall contract with the State Tax Commission to perform all functions incident to the administration and collection of the Municipal Energy Sales and Use Tax, in accordance with this Chapter.

## **TITLE 6. FINANCES AND TAXATION.**

The Mayor, with the approval of the City Attorney, is hereby authorized to enter into agreements with the State Tax Commission that may be necessary to the continued administration and operation of the Municipal Energy Sales and Use Tax Ordinance enacted by this Chapter.

- (2) An energy supplier shall pay the Municipal Energy Sales and Use Tax revenues collected from consumers directly to North Logan City monthly if; the North Logan City is the energy supplier; or 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.
- (3) An energy supplier paying the Municipal Energy Sales and Use Tax directly to North Logan City may deduct any contractual franchise fees collected by the energy supplier qualifying as a credit and remit the net tax less any amount the energy supplier retains as authorized by § 10-1-307(4), Utah Code Annotated.

### **6-607. Incorporation of Part 1, Chapter 12, Title 59, Utah Code, including Amendments.**

- (1) Except as herein provided, and except insofar as they are inconsistent with the provisions of Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act, as well as this Chapter, all of the provisions of Part I, Chapter 12, Title 59 of the Utah Code Annotated 1953, as amended, and in force and effect on the effective date of this Chapter, insofar as they relate to sales and use taxes, excepting Sections 59-12-101 and 59-12-119 thereof, and excepting for the amount of the sales and use taxes levied therein, are hereby adopted and made a part of this Chapter as if fully set forth herein.
- (2) Wherever, and to the extent that in Part 1, Chapter 12, Title 59, Utah Code Annotated 1953, as amended, the State of Utah is named or referred to as the "taxing agency," the name of North Logan City shall be substituted, insofar as is necessary for the purposes of that part, as well as Part 3, Chapter 1, Title 10, Utah Code Annotated 1953, as amended. Nothing in this subparagraph 2 shall be deemed to require substitution of the name North Logan 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 North Logan City be substituted for that of the State in any section when the result of such a substitution would require action to be taken by or against North Logan City or any agency thereof rather than by or against the State Tax Commission in performing the functions incident to the administration or operation of this Chapter.
- (3) Any amendments made to Part I, Chapter 12, Title 59, Utah Code Annotated 1953, as amended, which would be applicable to North Logan City for the purposes of carrying out this Chapter are hereby incorporated herein by reference and shall be effective upon the date that they are effective as a Utah statute.

**TITLE 6. FINANCES AND TAXATION.**

**6-608. No Additional License to Collect the Municipal Energy Sales and Use Tax Required -  
No Additional License or Reporting Requirements.**

- (1) No additional license to collect or report the Municipal Energy Sales and Use Tax levied by this Chapter is required, provided the energy supplier collecting the tax has a license issued under Section 59-12-106) Utah Code Annotated.

(Ord 01-05)

## **TITLE 6. FINANCES AND TAXATION.**

### **6-700. MUNICIPAL TRANSIENT ROOM TAX**

6-701. Purpose. It is the intent of North Logan City to adopt the municipal transient room tax, pursuant to, and in conformance with, Utah Code Ann. § 59-12-352.

#### 6-702. Municipal Transient Room Tax.

- (1) There is hereby levied, subject to the provisions of the Utah Code, a tax equaling one percent (1%) of charges to the customer for the accommodations and services described in Subsection 59-12-103 (1) (i) Utah Code Ann. This tax shall be known as the Municipal Transient Room Tax.
- (2) The tax shall be in addition to any sales or use tax imposed by North Logan City on charges for the accommodations and services as authorized by Title 59, Chapter 12, Part 2 of the Utah Code Annotated, The Local Sales and Use Tax Act.

#### 6-703. Tax Collection Contract with the State Tax Commission.

- (1) On or before the effective date of this Ordinance, North Logan City shall contract with the State Tax Commission to perform all functions incident to the administration and collection of the Municipal Transient Room Tax, in accordance with the Utah Code.
- (2) This tax shall be effective October 1<sup>st</sup> 2005 .

(Ord. 05-07)