

TITLE III

BUDGET AND TAXES

CHAPTER 1

BUDGET AND FISCAL PROCEDURE

3-1-1: Procedures to Conform to State Law

3-1-2: Fiscal Year

3-1-3: Preparation of Budget

3-1-4: Available for Public Inspection

3-1-5: Notice of Public Hearing on Adoption of Budget

3-1-6: Public Hearing on Budget

3-1-7: Adoption of Budget

3-1-1: PROCEDURES TO CONFORM TO STATE LAW. The "Uniform Municipal Fiscal Procedures Act" relating to the fiscal procedures of cities of the State of Utah shall be followed in the City of Syracuse. (1971)

3-1-2: FISCAL YEAR. The fiscal year shall begin July 1st and end June 30th of each year.

3-1-3: PREPARATION OF BUDGET. On or before the 1st day of May of every year, the budget officer shall prepare for the ensuing year and file with the City Council a tentative budget for each fund for which a budget may be required by law, a tentative cash budget for each utility fund, and a tentative cash budget for such other special funds as the City Council may require. (1971)

3-1-4: AVAILABLE FOR PUBLIC INSPECTION. The tentative budget, as amended by the City Council, and all supporting schedules and data shall be a public record in the office of the City Recorder, available for public inspection for a period of at least ten days prior to the adoption of a final budget. (1971)

3-1-5: NOTICE OF PUBLIC HEARING ON ADOPTION OF BUDGET. At a meeting of the City Council at which the tentative budget is adopted the City Council shall determine the time and place of a public hearing to consider the adoption of the budget and shall order that notice thereof be published at least seven days prior thereto by publication in at least one issue of a newspaper published in the City. (1971)

3-1-6: PUBLIC HEARING ON BUDGET. At the time and place so advertised, or any time and place to which such public hearing may be adjourned, the City Council shall hold a public hearing on the budget as submitted, at which all interested persons shall be given an opportunity to be heard, for or against the estimates of revenue and expenditures or any item thereof in any fund. (1971)

3-1-7:

ADOPTION OF BUDGET. After the conclusion of the public hearing, the City Council may continue its review of the tentative budget and may insert such new items or may increase or decrease such items of expenditure as were the proper subject of consideration at said public hearing, except as restricted by law.

On or before June 30 of each fiscal year, the City Council shall by resolution adopt a budget for the ensuing fiscal year. A copy of the final budget shall be certified and filed with the State Auditor.(1971)

CHAPTER 2

ANNUAL PROPERTY TAX LEVY

3-2-1: Council to Levy Tax

3-2-2: Basis for Determining Tax

3-2-3: Apportionment of Proceeds

3-2-4: Limit on Total Levy

3-2-1: COUNCIL TO LEVY TAX. Not later than June 22 of each year, or August 17 in the case of a property tax increase under Sections 59-2-919 through 59-2-923, the council at a regular meeting or special meeting called for that purpose, shall by ordinance or resolution set the real and personal property tax levy for town purposes, but the levy may be set at an appropriate later date with the approval of the State Tax Commission. (1997)

3-2-2: BASIS FOR DETERMINING TAX. 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 council for the corresponding tax year, subject to the applicable limitations imposed by law. (1997)

3-2-3: APPORTIONMENT OF PROCEEDS. The proceeds of said levy apportioned for general fund purposes shall be received as revenue in the general fund. The proceeds of said levy apportioned for utility and other special fund purposes shall be credited to the appropriate accounts in the utility or other special funds. (1974)

3-2-4: LIMIT ON TOTAL LEVY. The combined levies for each town, 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. (1997)

CHAPTER 3
SALES AND USE TAX

3-3-1: Purpose

3-3-2: Contract with State

3-3-3: Sales and Use Tax

3-3-4: Penalties

3-3-5: Severability

3-3-1: PURPOSE. The purpose of this Chapter is to levy a sales and use tax in compliance with the provision of the Uniform Local Sales and Use Tax Law, Chapter 9, of Title 11, of the Utah Code Annotated, 1953, as amended, and in compliance with the applicable provisions of Chapters 15 and 16 of Title 59 of the Utah Code Annotated, 1953, as amended. The provisions of this Chapter shall be interpreted to accomplish this purpose. (1971)

3-3-2 CONTRACT WITH STATE. The existing contract between the City and the State Tax Commission which provides that said Commission will perform all functions incidental to the administration and operation of the Sales and Use Tax Ordinance of this City is hereby declared to be in full force and effect. (1971)

3-3-3: SALES AND USE TAX.

(A) Levy of Tax

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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 City at the rate of one percent.

2. An excise tax is hereby imposed on the storage, use or other consumption in this City 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 business delivered by the retailer or his agent to an out-of-state destination or to a common carrier for delivery to an out-of-state place 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 the City where public utilities services are rendered, by the place of sale or the sales tax revenue arising from such service allocable to the City and other rules and regulations to be prescribed and adopted by it.

(B) Application of State Sales and Use Tax Provisions.

1. Except as hereinafter provided, and except insofar as they are inconsistent with the provisions of the Sales and Use 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 though 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 name "Syracuse City" shall be substituted therefor. Nothing in subparagraph (b) shall be deemed to require substitution of the name of Syracuse 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 the State of Utah, nor shall the name Syracuse 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 the ordinance.

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 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. (1990)

3-3-4: 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. (1990)

3-3-5: SEVERABILITY. If any section, subsection, sentence, clause, phrase or portion of the 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. (1990)

CHAPTER 4
SPECIAL TAXES

- 3-4-1: Right to Make Improvements**
- 3-4-2: Abutting Property to Bear Expense**
- 3-4-3: Procedure for Making Improvements**

3-4-1: RIGHT TO MAKE IMPROVEMENTS. The City Council may establish grades and lay out, establish, open, extend and widen any street or alley, and improve, repair, light, grade, pave, curb and gutter, sewer, drain, park and beautify the same; may construct bridges, sidewalks, crosswalks, and driveways from curb to property line, culverts, lighting equipment, sewers and drains; waterworks, canals, and ditches; covering, fencing and safeguarding canals and water courses; may construct, extend and repair parking lots and other facilities for the parking of vehicles off streets; may extend and repair recreational facilities; may plant or cause to be planted, set out, cultivated and maintained lawns and shade trees in parking spaces; and may maintain, replace or renew any of such improvements. (1971)

3-4-2: ABUTTING PROPERTY TO BEAR EXPENSE. To defray the cost and expense of such improvements or any of them, the City Council may levy and collect special taxes and assessments upon the blocks, lots or parts thereof and pieces of ground fronting or abutting upon or adjacent to the street or alley thus in whole or in part opened, widened or improved, or which may be affected by or specially benefited by any of such improvements, either to the full depth of such blocks, lots or parts thereof or pieces of ground, or to such depth as may be determined by the City Council, and for the purpose of providing for such improvements or any of them it shall have power to create improvement districts, and to contract, except for opening, widening or extending streets or alleys, to be let to the lowest responsible bidder for the kind of material or service chosen; provided, that the above provisions shall not apply to the ordinary repairs of pavement, sewer, drains, curb and gutter or sidewalks; and provided further, one-half of the cost of bringing streets or alleys to the established grade shall be paid by the City.

3-4-3: PROCEDURE FOR MAKING IMPROVEMENTS. The procedure stated in Chapter 7 of Title 10 of the Utah Code Annotated, 1953, as amended, shall be followed in making local improvements, and all regulations therein shall be complied with. Such procedures and regulations shall be deemed to include, in addition to all others, those regulating or providing for the following: the notice of intention, protests and the hearing of protests, the notice to contractors, the letting of the contract, the Board of Equalization and Review, the levy and payment of special taxes, special improvement bonds, the sale of property for delinquent taxes, the redemption of property sold for delinquent taxes, the Special Improvement Guarantee Fund, and the payment of bonds and warrants.

CHAPTER 5
CLAIMS FOR DAMAGES

- 3-5-1: Claimant May Petition City**
- 3-5-2: Time for Filing Notice of Claims**
- 3-5-3: Approval or Denial of Claim**
- 3-5-4: Payment of Claim or Judgement Against the City**
- 3-5-5: Reserve Funds for Payment of Claims or Purchase of Insurance**
- 3-5-6: Tax Levy for Payment of Claims or Insurance**
- 3-5-7: City May Purchase Liability Insurance**
- 3-5-8: City May Insure Employees Against Liability for Injury**

3-5-1: CLAIMANT MAY PETITION CITY. Any person having a claim for injury to person or property against the City may petition the City Council for any appropriate relief including the award of money damages. (1971)

3-5-2: TIME FOR FILING NOTICE OF CLAIMS. A claim against the City shall be forever barred unless notice thereof is filed within 90 days after the cause of action arises; provided, however, that any claim filed against the City for any injury caused by a defective, unsafe, or dangerous condition of any highway, road, street, alley, crosswalk, sidewalk, culvert, tunnel, bridge, viaduct or other structure located thereon shall be presented to the City Council in the form required by law within 30 days after the happening of such injury or damage. (1971)

3-5-3: APPROVAL OR DENIAL OF CLAIM. Within 90 days of the filing of a claim the City Council or the City's insurance carrier shall act thereon and notify the claimant in writing of its approval or denial. A claim shall be deemed to have been denied if at the end of the 90 day period the City Council or insurance carrier has failed to approve or deny the claim.(1971)

3-5-4: PAYMENT OF CLAIM OR JUDGMENT AGAINST THE CITY. Any claim approved by the City or any final judgment obtained against the City shall be submitted to the City Council to be paid forthwith from the general funds of the City unless said funds are appropriated to some other use or restricted by law or contract for other purposes.

If the City is unable to pay the claim or award during the current fiscal year, it may pay the claim or award in not more than ten ensuing annual installments of equal size or in such other installments as are agreeable to the claimant. (1971)

3-5-5: RESERVE FUNDS FOR PAYMENT OF CLAIMS OR PURCHASE OF INSURANCE. The City may create and maintain a reserve fund or may jointly with one or more other political subdivisions of the State of Utah make contributions to a joint reserve fund, for the purpose of making payment of claims against the

cooperating subdivisions when they become payable pursuant to the provisions of the Governmental Immunity Act of the State of Utah, or for the purpose of purchasing liability insurance to protect the cooperating subdivisions from any or all risks created by said Governmental Immunity Act. (1971)

- 3-5-6: TAX LEVY FOR PAYMENT OF CLAIMS OR INSURANCE PREMIUMS.** The City shall have the authority, notwithstanding any provision of law to the contrary, to levy an annual property tax in the amount necessary to pay any claims, settlements or judgments secured pursuant to the provisions of the Governmental Immunity Act, or to pay the costs to defend against the same, or for the purpose of establishing and maintaining a reserve fund for the payment of such claims, settlements or judgments as may be reasonably anticipated, or to pay the premium for such insurance as herein authorized even though as a result of such levy the maximum levy as otherwise restricted by law is exceeded thereby; provided, that in no event shall such levy exceed one-half mill nor shall the revenues derived therefrom be used for any other purpose than those stipulated herein. (1971)
- 3-5-7: CITY MAY PURCHASE LIABILITY INSURANCE.** The City may purchase insurance against any risk which may arise as a result of the application of the Governmental Immunity Act; however, no contract or policy of insurance may be purchased or renewed for such purpose except upon public bid to be let to the lowest and best bidder. (1971)
- 3-5-8: CITY MAY INSURE EMPLOYEES AGAINST LIABILITY FOR INJURY.** The City may insure any or all of its employees against all or any part of his liability for injury or damage resulting from a negligent act or omission in the scope of his employment, and any expenditure for such insurance is herewith declared to be for a public purpose. 1971)

CHAPTER 6

CONTRACTS FOR PUBLIC IMPROVEMENTS

3-6-1: Contracts for Public Improvements

3-6-2: Contracts for Construction of Class C Roads

3-6-3: Class C Roads - Construction and Maintenance

3-6-4: Performances and Payment Bonds Required of Contractors

3-6-1: CONTRACTS FOR PUBLIC IMPROVEMENTS. Whenever the City Council shall contemplate making any new improvement to be paid for out of the general funds of the City, the City Council shall cause plans and specifications for and an estimate of the cost of the improvement to be made. If the estimated cost of such improvement shall be less than \$4,000, the City may make such improvement without calling for bids for making the same. If the estimated cost of such proposed improvement shall exceed \$4,000, the City shall, if it shall determine to make such improvement, do so by contract let to the lowest responsible bidder after publication of notice for at least five days in a newspaper of general circulation printed and published in the City; provided, that when the cost of a contemplated improvement shall exceed the cost of \$4,000, the same shall not be so divided as to permit the making of such improvement in several parts, except by contract; provided further, that the City Council shall have the right to reject any or all bids presented, and all notices calling for bids shall so state. If all bids are rejected and the City Council decides to make the improvement, it shall advertise anew in the same manner as before. If after twice advertising as herein provided no bid shall be received that is satisfactory, the City Council may proceed under its own direction to make the improvement.

Nothing in this Section shall be construed to require bids to be called for or contracts let for the conduct or management of any of the departments, businesses or property of the City, or for lowering or repairing water mains or sewers, or making connections with water mains or sewers, or for grading, repairing or maintaining streets, sidewalks, bridges, culverts or conduits in the City. (1971)

3-6-2: CONTRACTS FOR CONSTRUCTION OF CLASS C ROADS. The City Council with respect to Class C roads shall cause to be made plans, specifications and estimates preparatory to the construction of any project on a Class C road, the estimated cost of which for any one project exceeds \$25,000 for labor and materials. All such projects in excess of \$25,000 shall be performed under contract to be let to the lowest responsible bidder. Whenever the estimated cost of the construction shall exceed the sum of \$25,000 for labor and materials, the same shall not be so divided as to permit the construction in several parts, except by contract. The advertisement on bids for such work shall be published in a newspaper of general circulation in the county in which such work is to be performed at least once a week for three consecutive weeks, or if there is no such newspaper, then five public places in the county. Sealed bids shall be received by the City Council and opened at the time and place designated in the advertisement, and the contract awarded; provided, that the City Council shall have the right to reject any and all bids; provided further, that the person, firm or corporation to whom any such contract is awarded shall be subject to all the provisions of Section

3-6-4 of these Revised Ordinances and to Sections 14-1-5 to 14-1-9 inclusive, of the Utah Code Annotated, 1953.(1971)

3-6-3: CLASS C ROADS - CONSTRUCTION AND MAINTENANCE. Construction is defined as that work which would apply to (1) any new roadbed either by addition to existing systems or relocation or change of grade of existing road; (2) resurfacing of existing roadways with more than a two-inch blanket; (3) new structures or replacement of existing structures except the replacement of drainage pipe; or (4) any single project of improvement to an existing bridge or roadway, the estimated cost of which exceeds \$25,000 for labor or materials.

Maintenance is defined as (1) the reworking of an existing surface by the application of up to and including two-inch blanket; (2) the installation or replacement of signs, signals, safety devices, guard rails, seal coats and culverts. In general terms, maintenance shall mean the keeping of a road facility in a safe and usable condition to which it has previously been constructed or improved.

Where the estimates of a qualified engineer referred to in the next preceding section are substantially lower than any responsible bid received or in the event no bids are received, the City may perform the work by force account. (1971)

3-6-4: PERFORMANCE AND PAYMENT BONDS REQUIRED OF CONTRACTORS. Before any contract for the construction, alteration, or repair of any public building or public work or improvement of the City or of any officer, board, commission, institution, or agency of the City is awarded to any person, he shall furnish to the City, or to such officer, board, commission, institution, or agency thereof, bonds which shall become binding upon the award of the contract to such person, who is hereinafter designated as "contractor":

- (A) A performance bond in any amount to be fixed by the contracting body, but in no event less than 50 percent of the contract amount conditioned upon the faithful performance of the contract in accordance with the plans, specifications and conditions thereof. Said bond shall be solely for the protection of the public body awarding the contract.
- (B) A payment bond in an amount to be fixed by the contracting body but in no event less than 50 percent of the contract amount, solely for the protection of persons supplying labor or materials to the contractor or his subcontractors in the prosecution of the work provided for in such contract.

Each bond shall be executed by a surety company or companies duly authorized to do business in the State of Utah. In the case of all contracts subject to this Chapter, the bonds shall be payable to the City and said bonds shall be filed with the City.

Nothing in this Section shall be construed to limit the authority of the City to require a performance bond or other security in addition to these, or in cases other than the cases specified in this Chapter.

It shall be illegal for the invitation for bids, or any person acting or purporting to act, on behalf of the City to require that such bonds be furnished by a particular surety company, or through a particular agent or broker. (1971)

CHAPTER 7

BONDS

3-7-1: Bonds

3-7-1: BONDS. The City of Syracuse may, in the manner and subject to the limitations and restrictions contained in the "Utah Municipal Bond Act", Title 11, Chapter 14, Utah Code Annotated, 1953, issue its negotiable bonds for the purpose of paying all or part of the cost of acquiring, improving or extending, any one or more improvements, facilities, or property which the City is authorized by law to acquire, and may also issue such bonds for the acquisition of an interest in or the improvement or extension of jointly-owned facilities or property which by law may be owned jointly by two or more municipalities.

CHAPTER 8

PURCHASING PROCEDURES

3-8-1: Definitions

3-8-2: Administration

3-8-3: Competitive Bidding Requirements

3-8-4: Exemptions To Competitive Bidding Requirements

3-8-5: Interlocal Agreements In Letting Of Contracts For Commodities Or Services

3-8-6: Disposal Or Lease Of Public Property

3-8-7: Approval Of Claims And Signing Of Checks

3-8-8: City Administrator Designated City Financial Officer

3-8-9: Penalties

3-8-1: DEFINITIONS. Unless the context requires otherwise, the terms as used in this chapter shall have the following meanings:

BIDDING: Procedure used to solicit quotations on price and delivery from various prospective suppliers of supplies, equipment, and contractual services.

CAPITAL ASSET: Land, buildings, improvements or equipment that has a useful life of more than one year and has a dollar value equal to or greater than the asset classification below:

Land	\$ 1.00
Buildings	\$ 50,000.00
Improvements other than buildings and land	
Infrastructure	\$100,000.00
Other	\$ 50,000.00
Equipment	

Vehicles	\$ 10,000.00
Other	\$ 5,000.00 (Ord. 05-27)

CONTRACTUAL SERVICES: Professional such as architectural, auditing, banking, engineering, insurance, legal, or other consulting services.

PUBLIC PROPERTY: Any item of real or personal property owned by the City.

RESPONSIBLE BID: An offer submitted by a responsible bidder to furnish supplies, equipment, or contractual services in conformity with the specification, delivery terms and conditions, and other requirements included in the invitation for bids.

RESPONSIBLE BIDDER: A bidder who has furnished, when required, information and data to prove that his financial resources, production or service facilities, service reputation, and experience are adequate to make satisfactory delivery of the supplies, equipment, or contractual services on which he bids; and who has not violated or attempted to violate any provisions of this chapter .

SUPPLIES, MATERIALS, AND EQUIPMENT: Any and all articles or things which shall be furnished to or used by any City Department. (1986)

SURPLUS: Any asset not used by the City within one year, or made surplus by the purchase of a similar model, or an asset that no longer meets the needs of the City. (Ord. 05-27)

3-8-2: ADMINISTRATION. The City Administrator shall be the purchasing agent for the City and shall administer the purchasing system provided by this Chapter. He shall perform the duties and have powers concerning purchasing matters as follows:

- (A) Administer and maintain the purchasing system and other rules and regulations established by this Chapter and its authority. No purchases, including petty cash purchases, are to be made without the prior knowledge and consent of the City Administrator or his designee. All purchases and petty cash withdrawals are to be documented on the appropriate forms and to be properly receipted for at the point of transaction. The penalty for failure to comply with this section could be liability for the expenses incurred, as determined by the City Council.
- (B) Recommend to the City Council such new or revised purchasing rules and regulations as are deemed desirable and in conformance with other statutory requirements, and to interpret day to day the provisions of this Chapter and applicable statutes.
- (C) Negotiate and recommend execution of contracts for the purchase of supplies, equipment and contractual services.
- (D) Seek to obtain as full and open competition as possible on all purchases.
- (E) Keep informed of current developments in the field of purchasing, i.e, prices, market conditions, new products, etc.
- (F) Prescribe and maintain such forms as are reasonably necessary to the operation of this Chapter and other rules and regulations.

- (G) Supervise the inspection of all supplies and equipment to assure conformance with specifications.
- (H) Transfer surplus or unused supplies and equipment between departments as needed.
- (I) Maintain a bidder's list, vendors' catalog file, and other records needed for the efficient operation of the purchasing system. (1991)

3-8-3:

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

- (A) **FORMAL CONTRACT PROCEDURE.** Except as otherwise provided herein, purchases of supplies equipment, and letting of contractual services of an estimated value greater than ten thousand dollars (\$10,000.00) shall be by written contract with the lowest responsible bidder, pursuant to the procedure hereinafter prescribed. (1996)
 - (1) Approval of Specifications. Prior to seeking bids for equipment or contractual services having a unit cost in excess of ten thousand dollars (\$10,000.00), action of the City shall be required to approve specifications and to authorize advertising for bids. (1996)
 - (2) Notices Inviting Bids. Notices inviting bids shall include a general description of the articles to be purchased, shall state where bid blanks and specifications may be secured, and the time and place for opening bids.
 - (a) Publishing Notice. Notices inviting bids shall be published at least ten (10) days before the date of opening of the bids. Notices shall be published at least once in a newspaper of general circulation in the City.
 - (b) Bidder's List. Sealed bids shall be solicited from all responsible prospective suppliers whose names are on the bidder's list or who have made written request that their names be added thereto.
 - (c) Bulletin Board. Notices advertising pending purchases shall also be posted on a public bulletin board in the City Hall.
 - (3) Bid Opening Procedure. Sealed bids shall be submitted as designated in the notice with the statement "Bid for (item)" on the envelope. Bids shall be opened in public at the time and place stated in the public notice. A tabulation of all bids received shall be open for public inspection during regular business hours for a period of not less than thirty (30) days after the bid opening.
 - (4) Rejection of Bids. At its discretion, the City Council may reject without cause any and all bids presented, and re-advertise for bids pursuant to the procedure herein above prescribed. If an acceptable bid is not received after two attempts, the City Council may proceed as it sees fit.

(5) Award of Contracts. Except as otherwise provided herein, contracts shall be awarded by the City Council to the lowest responsible bidder.

(6) Tie Bids. If two (2) or more bids received are the low bids and are for the same total amount or unit price, quality and service being equal, and if the public interest will not permit the delay of re-advertising for bids, the City Council shall determine which bid, if any, to accept after negotiation with the tied bidders at the time of the bid opening.

(B) PUBLIC IMPROVEMENT CONTRACTS. The procedures established by Utah Code Annotated, Section 10-7-20, (1953) shall govern all contracts for public improvements having an estimated cost in excess of twenty-five thousand dollars (\$25,000.00). (1996)

(C) OPEN MARKET PROCEDURE. Purchases of supplies, equipment or contractual services of an estimated value of ten thousand dollars (\$10,000.00) or less may be made in the open market pursuant to the procedure hereinafter prescribed, and without observing the procedure prescribed in subsection (A). All bidding may be dispensed with for purchases having a total estimated value of less than one thousand dollars (\$1,000.00). (1996)

(1) Minimum Number of Bids. Open market purchases shall, whenever possible, be based on at least three (3) bids (price quotations) and shall be awarded to the lowest responsible bidder.

(2) Solicitation of Bids. Bids (price quotations) shall be solicited from prospective vendors by oral, written, or telephone requests.

(D) PROFESSIONAL SERVICE CONTRACTS PROCEDURE. Contracts for professional services shall be awarded at the discretion of the City Council to include, but not limited to, the following services: architectural, auditing, banking, engineering, insurance, and legal. Contracts shall be awarded at the discretion of the City Council based on the evaluation of professional qualifications, service ability, cost of service, and other criteria deemed applicable by the City Council. (1986)

3-8-4:

EXEMPTIONS TO COMPETITIVE BIDDING REQUIREMENTS:

(A) SPECIAL CONTRACTS: Contracts which by their nature are not adapted to being awarded by competitive bidding shall not be subject to the bidding requirements of this Chapter. Some examples of such contracts are: contracts for items which may only be purchased from a single source; contracts for additions to equipment owned by the City which may be more efficiently added to by a certain person or firm; contracts for repairs and maintenance of equipment owned by the City which may be more efficiently repaired or maintained by a certain person for firm; contracts for equipment which is similar to existing City-owned equipment on which City personnel are already trained; and contracts for equipment which is compatible with existing City-owned equipment for which the City maintains an inventory of replacement parts.

(B) AUCTION, CLOSEOUT, BANKRUPTCY SALES: If the City Administrator determines the supplies, materials or equipment can be purchased at any public auction, closeout sale, bankruptcy sale or other similar sale, and if a

majority of the City Council at a regular or special meeting concurs in such determination and makes a finding that a purchase at any such auction or sale will be made at a cost below the market cost in the community, a contract or contracts may be let, or the purchase made without complying with the competitive bidding requirements of this Chapter.

- (C) EXCHANGES: Exchanges of supplies, material or equipment between the City and any other public agency which are not by sale or auction shall be by mutual agreement of the respective public agencies. (1986)

3-8-5: INTERLOCAL AGREEMENT IN LETTING OF CONTRACTS FOR COMMODITIES OR SERVICES. The City shall have the power to enter into joint purchase agreements with any or all other public agencies within the state for the purchase of any commodity or service, wherein it is determined by the City Council to be in the best interest of the City. (1986)

3-8-6: DISPOSAL OR LEASE OF PUBLIC PROPERTY
No property, buildings, improvements, equipment or other assets classified as a capital asset under Section 3-8-1, or supplies with an aggregate value of Three Thousand Dollars (\$3,000.00) or more, shall be transferred, traded, sold, salvaged, discarded or destroyed except as provided in the Section. Building improvements, equipment or other assets not classified as a capital asset under the provisions of this Chapter may be disposed at the direction of the City Council as deemed appropriate without regard to this Section.

Annually Department Heads shall identify surplus capital assets within their departments and report the surplus to the City Administrator. The City Administrator shall review the reports with the Department Heads to determine whether the property is, in fact, surplus. Upon approval of the City Council such property may be disposed of as outlined in this Section.

A. Real Property

- (1) SIGNIFICANT PARCEL AND NOTICE DEFINED. For the purpose of this Section a significant parcel of real property is defined as any parcel of land which has an appraised value of Seventy- Five Thousand Dollars (\$75,000.00) or more. Reasonable notice is defined as publishing one notice in a newspaper of general circulation in the City at least 14 days prior to the action of the council, inviting the public to comment on the proposed disposition.
- (2) DISPOSAL OF REAL PROPERTY. Disposal of any significant parcel of real property shall be accomplished by first publishing a notice in a newspaper of general circulation in the City identifying the property as surplus and inviting the public to comment on the disposition of the property. Following the comment period the city shall then publish notice of intent to sell real property. Notice shall include a date time and place where sealed bids are to be received from persons interested in obtaining said property. The City Council will open and review the bids and may dispose of the property if the City determines the amount bid for the property is reasonably equivalent to the fair market value of the property and such sale is in the best interest of the City.

- B. Capital Assets. Capital assets and supplies with an aggregate value of Three Thousand Dollars (\$3,000.00) or more which have been classified as surplus under the provisions of this Section Shall Be deposited of by any of the following methods:
- (1) Interdepartmental transfer. Transfers between departments/divisions within the same budgetary fund may be made without regard to monetary value exchange. The book value of the asset at the time of transfer will be shifted to the receiving department/ division on the fixed asset schedules. Transfers between departments/divisions within different budgetary funds must exchange a monetary value for the asset in addition to transferring the fixed asset record to the receiving department. The basis for the monetary exchange shall be the book value or ten percent (10%) of the original cost, whichever is greater.
 - (2) Trade-in. Surplus capital assets may be traded for other property or equipment being purchased.
 - (3) Sale. Any sale of surplus capital assets or supplies shall be accomplished by publishing a notice of sale or auction in a newspaper of general circulation in the City at least five (5) days prior to bid opening or the date of the auction.
 - (a) Sale by Bid. Assets or supplies shall be described and/or displayed for public view, giving a reasonable time for interested persons to submit sealed bids to the City. Bids will then be opened and awarded to the highest reasonable bidder.
 - (b) Sale by Auction. Interested persons shall be given reasonable time to view assets or supplies that will be auctioned. The City Treasurer or designee shall conduct the auction pursuant to rules adopted by the City.
 - (4) Salvage, discard or destruction. Capital assets or surplus supplies may be salvaged, discarded, or destroyed, but only upon the express authorization of the City Council.
 - (5) Replacement. Capital assets, excluding land, approved for replacement in the annual budget by the City Council may be disposed by any of the means set forth in this Section without further action of the City Council. Department directors, with approval of the City Administrator, may trade the item for the replacement item without further application of this Section. All other disposal means must comply with the provisions herein.
 - (6) Conveyance for Value. Every transfer, sale or trade of property classified as a capital asset under this Section, or supplies with an original purchase price of Three Thousand Dollars (\$3,000.00) or more shall be based upon the highest and best economic return to the City, except that special consideration may be given to other units of government, other public organizations, quasi-public organizations or nonprofit organizations. If a transfer is made to a qualifying governmental, public, quasi-public or nonprofit entity, the value of the item transferred may be determined by the City Council.

- (a) The highest and best economic return to the City, as referred to in this Section, shall be determined by one or more of the following methods:
 - (i) Sealed competitive bid;
 - (ii) Public auction;
 - (iii) Valuation by qualified and disinterested consultant;
 - (iv) Other professional publications and valuation services; or
 - (v) An information market survey in the case of items possessing readily discernible market value.

- (b) The sale of capital assets shall be directed by the City Administrator and shall be by sealed bid or public auction pursuant to this Chapter. The City Administrator may waive the sealed bid or auction requirement when the value of the property has been determined by an alternate method as specified under this Section, and;
 - (i) The value of the property is considered negligible in relation to the costs of sale by bid or at public auction;
 - (ii) Sale by bidding procedures at public auction are deemed unlikely to produce a competitive offer; or
 - (iii) Circumstances indicate that bidding or sale at public auction will not be in the best interest of the City.

C. DISPOSITION OF PROCEEDS. All revenue derived from sales of capital assets shall be credited to the general fund of the City, except when the property is owned and was purchased by an enterprise fund or an internal service fund, in which case the revenues shall be credited to the enterprise or internal service fund which owned the property.

D. CONVEYANCE DOCUMENTS. The City Administrator will convey any capital asset by signing and executing the appropriate title, bill of sale or other document.

3-8-7: APPROVAL OF CLAIMS AND SIGNING OF CHECKS.

- (A) All claims on the accounts of the City of Syracuse must be within the approved and duly adopted budget or approved by the City Council before they are paid.
- (B) Unless otherwise designated in this Chapter, all checks drawn on the accounts of the City of Syracuse must be signed by the City Treasurer or his deputy and countersigned by either the City Recorder or the Mayor. All checks must be signed by two separate individuals. Prior to signing any check, the City Treasurer or his deputy shall determine that sufficient amount is on deposit in the appropriate bank account of the City to honor the check. (1991)

3-8-8: CITY ADMINISTRATOR DESIGNATED CITY FINANCIAL OFFICER.

- (A) Pursuant to Utah Code Annotated, Section 10-6-122, 139, 158, and 159, (1953), the City Administrator is hereby designated as the City's Financial Officer and is authorized:
 - (1) To approve any payroll checks prepared for an authorized City employee hired in accordance with personnel policies established by City ordinance

or resolution. The amount paid to any such authorized employee shall also be in agreement with a specific salary assigned to such employee pursuant to a salary schedule adopted by the City Council or a salary amount assigned by ordinance or resolution of the City Council.

- (2) To approve claims submitted for the payment of routine expenditures, such as utility bills, payroll, related expenses, supplies and materials, which were purchased according to authorized purchasing procedures established by ordinance or resolution.
 - (3) To approve any submitted claim which is in accordance with an authorized City Contract.
 - (4) To approve claims within the established budget made pursuant to established purchasing procedures, referenced in the budget document and approved by an appropriation resolution adopted for the current fiscal year budget.
- (B) The above claim approval authority delegated to the City Administrator is hereby subject to the following restrictions:
- (1) No claim may be approved by the City Administrator which is not within the duly and legally adopted or adjusted budget.
 - (2) No claim may be approved which was not made in accordance with personnel and purchasing procedures established by ordinance or resolution.
 - (3) No purchase or payment made in excess of \$1,000.00 shall be approved by the City Administrator. Any such claim shall be approved by the Mayor prior to payment.
- (C) City Council will be provided a listing of approved claims for review at the next regular scheduled meeting.
- (D) The City Recorder shall pre-audit all claims pursuant to state statute requirements and shall not disburse any payments without appropriate approval. Procedures shall be established whereby documents approval is obtained as authorized by this Title. Monthly detail expenditure reports shall also be prepared and made available to the Council.
- (E) Specific budgetary and administrative procedures consistent with this Chapter may be established by resolution. (1991)

3-8-9:

PENALTIES:

- (A) **CONFLICTS OF INTEREST.** No member of the City Council or City employee may have a direct or indirect interest in any contract entered into by the City. A violation of this provision shall be cause for removal or other disciplinary action.
- (B) **COLLUSION AMONG BIDDERS.** Any agreement or collusion among bidders or prospective bidders, in restraint of freedom of competition, by agreement to bid a fixed price, or otherwise, shall render the bids of such bidder void.

- (C) ADVANCE DISCLOSURES. Any disclosure about the bids in advance of their opening made or permitted by a member of the City Council or a City employee shall render the Bids void. This applies whether the bids were solicited by advertisement or by request.
- (D) GRATUITIES. The acceptance of any gratuity in the form of cash, merchandise, or any other thing of value by an official or employee of the City from any vendor or contractor or prospective vendor or contractor, shall be deemed to be a violation of this Chapter and shall be cause for removal or other disciplinary action.
- (E) PERSONAL PURCHASES. Purchases of supplies or equipment for the personal use of an official or employee of the City shall be made only when the item or items are required parts of his or her equipment and are necessary to the successful performance of the duties of such City official or employee. Other personal purchases shall not be permitted and will be the cause for disciplinary action. (1986)

CHAPTER NINE

TELECOMMUNICATIONS TAX

- 3-9-1 **Definitions**
- 3-9-2 **Levy of Tax**
- 3-9-3 **Rate**
- 3-9-4 **Rate Limitation and Exemption Therefrom**
- 3-9-5 **Effective Date of Tax Levy**
- 3-9-6 **Interlocal Agreement for Collection of the Tax**
- 3-9-7 **Repeal of inconsistent taxes and fees**

3-9-1 **Definitions:** As used in this ordinance:

- A. COMMISSION means the State Tax Commission
- B. CUSTOMER means the person who is obligated under a contract with a telecommunications provider to pay for telecommunications service received under the contract or the end user of telecommunications service. "Customer" does not include a reseller of telecommunications service or, for mobile telecommunications service, of a serving carrier under an agreement to serve the customer outside the telecommunications provider's licensed service area.
- C. END USER means the person who uses a telecommunications service or, if for purposes of telecommunications service provided to a person who is not an individual, the individual who uses the telecommunications service on behalf of the person who is provided the telecommunications service.
- D. GROSS RECEIPTS ATTRIBUTED TO THE MUNICIPALITY means those gross receipts from a transaction for telecommunications services that is located within the municipality for the purposes of sales and use taxes under Utah Code Title 59, Chapter 12, Sales and Use Tax Act, and determined in accordance with Utah Code Section 59-12-207.
- E. GROSS RECEIPTS FROM TELECOMMUNICATIONS SERVICE means the revenue that a telecommunications provider receives for telecommunications service rendered except for amounts collected or paid as:
 - (1) A tax, fee, or charge imposed by a governmental entity, separately identified as a tax, fee, or charge in the transaction with the customer for the telecommunications service, and imposed only on a telecommunications provider.
 - (2) Sales and use taxes collected by the telecommunications provider from a customer under Title 59, Chapter 12, Sales and Use Tax Act.
 - (3) Interest, a fee, or a charge that is charged by a telecommunications provider on a customer for failure to pay for telecommunications service when payment is due.

- F. MOBILE TELECOMMUNICATIONS SERVICE is as defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.
- G. MUNICIPALITY means Syracuse City Corporation.
- H. PLACE OF PRIMARY USE for telecommunications service other than mobile telecommunications service, means the street address representative of where the customer's use of the telecommunications service primarily occurs, which shall be the residential street address of the customer or the primary business street address of the customer; or for mobile telecommunications service, is as defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C., Sec. 124.
- I. SERVICE ADDRESS, notwithstanding where a call is billed or paid, means:
- (1) The location of the telecommunications equipment to which a call is charged and from which the call originates or terminates; or
 - (2) The location of the origination point of the signal of the telecommunications service first identified by the telecommunications system of the telecommunications provider; or if the system used to transport the signal is not a system of the telecommunications provider, information received by the telecommunications provider from its service provider; or
 - (3) The location of a customer's place of primary use.
- J. TELECOMMUNICATIONS PROVIDER means a person that owns, controls, operates, or manages a telecommunications service or engages in an activity for the shared use with or resale to any person of the telecommunications service.
- (1) A person described above is a telecommunications provider whether or not the Public Service Commission of Utah regulates that person or the telecommunications service that the person owns, controls, operates, or manages.
 - (2) Telecommunications Provider does not include an aggregator as defined in Utah Code Section 54-8b-2.
- K. TELECOMMUNICATIONS SERVICE means:
- (1) Telephone service as defined in Utah Code Section 59-12-102, other than mobile telecommunications service, that originates and terminates within the boundaries of this state; and
 - (2) Mobile telecommunications service, as defined in Utah Code Section 59-12-102 that originates and terminates within the boundaries of one state and only to the extent permitted by the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.

3-9-2 Levy of Tax. There is hereby levied a municipal telecommunications license tax on the gross receipts from telecommunications service attributed to Syracuse City.

3-9-3 Rate. The rate of the tax levy shall be four percent (4%) of the telecommunication provider's gross receipts from telecommunications service that are attributed to

Syracuse City. If the location of a transaction is determined to be other than Syracuse city, then the rate imposed on the gross receipts for telecommunications services shall be determined pursuant to the provisions of Utah Code Section 10-1-407.

3-9-4 Rate Limitation and Exemption Therefrom. The rate of this levy shall not exceed four percent (4%) of the telecommunication provider's gross receipts from telecommunication service attributed to Syracuse City unless a higher rate is approved by a majority vote of the voters of this municipality that vote in a municipal general election, a regular general election, or a local special election.

3-9-5 Effective Date of Tax Levy. This tax shall be levied beginning July 1, 2004.

3-9-6 Changes in Rate or Repeal of the Tax. This ordinance is subject to the requirements of Utah Code Section 10-1-403. If the tax rate is changed or the tax is repealed, then the appropriate notice shall be given as provided in Utah Code Section 10-1-403.

3-9-7 Interlocal Agreement for Collection of the Tax. On or before the effective date of this ordinance, Syracuse City shall enter into a uniform Interlocal agreement with the Commission as described in Utah Code Section 10-1-405 for the collection, enforcement, and administration of this municipal telecommunications license tax.

3-9-8 Procedures for Taxes Erroneously Recovered from Customers. Pursuant to the provisions of Utah Code Section 10-1-408, a customer may not bring a cause of action against a telecommunications provider on the basis that the telecommunications provider erroneously recovered from the customer the municipal telecommunication license tax except as provided in Utah Code Section 10-1-408.

3-9-8 Repeal of Inconsistent Taxes and Fees. Any tax or fee previously enacted by Syracuse city under authority of Utah Code 10-1-203 or Utah Code Title 11, Chapter 26, Local Taxation of Utilities Limitation is hereby repealed.

Nothing in this ordinance shall be interpreted to repeal any municipal ordinance or fee which provides that the municipality may recover from a telecommunications provider the management costs of the City caused by the activities of the telecommunications provider in the rights-of-way of the City, if the fee is imposed in accordance with Utah Code Section 72-7-102 and is not related to the City's loss of use of a highway as a result of the activities of the telecommunications provider in a right-of-way, nor does this ordinance limit the City's right to charge fees or taxes on persons that are not subject to the municipal telecommunications license tax under this ordinance and who locate telecommunications facilities, as defined in Utah Code Section 72-7-108, in this municipality.

Chapter 10

MUNICIPAL ENERGY SALES AND USE TAX

- 3-10-1: **Purpose**
- 3-10-2: **Definitions**
- 3-10-3: **Municipal Energy Sale and Use Tax**
- 3-10-4: **Exemption from the Municipal Energy Sale and Use Tax**
- 3-10-5: **No Effect upon Existing Franchise/Agreements Credit for Franchise Fees**
- 3-10-6: **Tax Collection Contract with State Tax Commission**
- 3-10-7: **Incorporation of Part 1, Chapter 2, Title 59, Utah Code, Including Amendments**
- 3-10-8: **No Additional License to Collect the Municipal Energy Sales and Use Tax Required-No Additional License or Reporting Requirements**
- 3-10-9: **Effective Date**
- 3-10-1: **PURPOSE.** It is the intent of Syracuse City to repeal its franchise tax levied on gas and electricity and 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." (1997)
- 3-10-2: **DEFINITIONS.**

- A. **CONSUMER** means a person who acquires taxable energy for any use that is subject to the Municipal Energy Sales and Use Tax.
- B. **CONTRACTUAL FRANCHISE FEE**
 - (1) a fee
 - (a) provided for in a franchise agreement; and
 - (b) that is consideration for the franchise agreement; or
 - (2) (a) a fee similar to subsection B(a); or
 - (b) any combination of subsections B(a) or B(b).
- C. **DELIVERED VALUE** means the fair market value of the taxable energy delivered for sale or use in the municipality and includes:
 - (1) the value of the energy itself; and
 - (2) 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 1 or Part 2 of Chapter 12, Title 59 of the Utah Code Annotated.

- D. **FRANCHISE AGREEMENT** means a franchise or an ordinance, contract, or agreement granting a franchise.

- E. FRANCHISE TAX means a franchise tax, a tax similar to a franchise tax; or any combination of those taxes.
- F. PERSON includes any individual, firm, partnership, joint venture, association, corporation, estate, 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.
- G. 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.
- H. STORAGE means any keeping or retention of taxable energy in this City for any purpose except sale in the regular course of business.
- I. 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.
- J. TAXABLE ENERGY means gas and electricity. (1997)

3-10-3

MUNICIPAL ENERGY SALES AND USE TAX. As authorized by State Statute 10-1-304, there is hereby levied subject to the provisions of this chapter, a tax on every sale or use of taxable energy made within Syracuse City equaling six percent (6%) of the delivered value of the taxable energy to the consumer. This tax shall be known as the Municipal Energy Sales and Use Tax. The tax shall be calculated on the delivered value of the taxable energy to the consumer, and the tax shall be in addition to any sales or use tax on taxable energy imposed by Syracuse City authorized by Title 59, Chapter 12, Part 2 of the Utah Code Annotated, The Local Sales and Use Tax Act. (Ord. 03-03)

3-10-4:

EXEMPTIONS FROM THE MUNICIPAL ENERGY SALES AND USE TAX.

- A. 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.
- B. The following are exempt from the Municipal Energy Sales and Use Tax pursuant to Utah Code Ann. §10-1-305(2)(b):
 - (1) Sales and use of aviation fuel, motor fuel, and special fuels subject to taxation under Title 59, Chapter 13 of the Utah Code Annotated;
 - (2) Sales and use of taxable energy that is exempt from taxation 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 Title 59, Chapter 13 of the Utah Code Annotated;
 - (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) The sale or use of taxable energy for any purpose other than as a fuel or energy; and
 - (7) The sale of taxable energy for use outside the boundaries of Syracuse City.
- C. 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:
- (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 authorized by Title 59, Chapter 12, Part 3 of the Utah Code Annotated; and
 - (2) Syracuse 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. (1997)

3-10-5: NO EFFECT UPON EXISTING FRANCHISES/AGREEMENTS -- CREDIT FOR FRANCHISE FEES

- A. This Chapter shall not alter any existing franchise agreements between Syracuse City and energy suppliers.
- B. There is a credit against the tax due from any consumer in the amount of a contractual franchise fee paid if:
 - (1) The energy supplier pays the contractual franchise fee to Syracuse City pursuant to a franchise agreement in effect on July 1, 1997;
 - (2) The contractual franchise fee is passed through by the energy supplier to the consumer as a separately itemized charge; and
 - (3) The energy supplier has accepted the franchise. (1997)

3-10-6: TAX COLLECTION CONTRACT WITH STATE TAX COMMISSION

- A. On or before the effective date of this Chapter, Syracuse 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. This Contract may be a supplement to the existing contract with the Commission to administer and collect the Local Sales and Use Tax as provided in Chapter 3-3 of Syracuse City Ordinances. The Mayor, with the approval of the City Council, 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.

- B. An energy supplier shall pay the Municipal energy Sales and Use Tax revenues collected from consumers directly to Syracuse City monthly if Syracuse 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.
- C. An energy supplier paying the Municipal Energy Sales and Use Tax directly to Syracuse 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 §10-11-307(4), Utah Code Annotated. (1997)

3-10-7: INCORPORATION OF PART 1, CHAPTER 12, TITLE 59, UTAH CODE, INCLUDING AMENDMENTS.

- A. 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 provision of Part 1, 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.
- B. 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 Syracuse 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 paragraph shall be deemed to require substitution of the name Syracuse 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 Syracuse 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 Syracuse 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 to Part 1, Chapter 12, Title 59, Utah Code Annotated 1953, as amended, which would be applicable to Syracuse 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. (1997)

3-10-8: NO ADDITIONAL LICENSE TO COLLECT THE MUNICIPAL ENERGY SALES AND USE TAX REQUIRED -- NO ADDITIONAL LICENSE OR REPORTING REQUIREMENTS. 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. (1997)

3-10-9: **EFFECTIVE DATE.** This Chapter is effective June 30, 1997. The Municipal Energy Sales and Use Tax shall be levied beginning 12:01 a.m. July 1, 1997. (1997)

CHAPTER 11

IMPACT FEES

- 3-11-1: Purpose
- 3-11-2: Applicability
- 3-11-3: Service Areas
- 3-11-4: Calculation of Impact Fees
- 3-11-5: Exemptions
- 3-11-6: Offsets to Impact Fees
- 3-11-7: Developer Agreements for Impact Fees
- 3-11-8: Challenges and Appeals
- 3-11-9: Collection of Impact Fees
- 3-11-10: Fund Accounting for Impact Fees
- 3-11-11: Refunds
- 3-11-12: Use of Funds
- 3-11-13: Impact Fee as Supplemental Regulation to Other Financing
- 3-11-14: Adjustments
- 3-11-15: Independent Impact Fee Calculations
- 3-11-16: Penalty

3-11-1: **PURPOSE.** Growth and development activity in Syracuse City has created an additional demand and need for roadway facilities, publicly owned parks, open space and recreational facilities, and police and fire facilities. Persons responsible for growth and development activity should pay a proportionate share of the cost of such planned facilities needed to serve the growth and development activity. Impact fees are necessary to achieve an equitable allocation to the costs borne in the past and to be borne in the future, in comparison to the benefits already received and yet to be received. Pursuant to Utah Code, Title 11, Chapter 36, this Chapter regulates impact fees for planned facilities. The provisions of this Chapter shall be liberally construed in order to carry out the purposes of the impact fee program. (Ord. 02-01)

3-11-2: **APPLICABILITY.** The collection of impact fees shall apply to all new development activity in the City unless otherwise provided herein. Until any impact fee required by this ordinance has been paid in full, no building permit for any development activity shall be issued. A stop work order shall be issued on any development activity for which the applicable impact fee has not been paid in full.

- A. All new secondary water connections shall be considered new development.
- B. Park Property Acquisition Impact Fees shall apply only to new residential subdivision development.
- C. Park Construction Impact Fees shall apply only to new residential dwelling unit construction activity.

D. The movement of a structure onto a lot shall be considered development activity and shall be subject to the impact fee provisions. (Ord. 03-04)

3-11-3: SERVICE AREAS. The service area for all impact fees shall be all of the incorporated area of the City, including future annexed area.

The City Council, as part of the impact fee revision process shall review the appropriateness of the boundary designation of the service area periodically. Following such review and a public hearing, the service area may be amended. (Ord. 02-01)

3-11-4 CALCULATION OF IMPACT FEES. Calculation of Impact fees shall be established by each individual impact fee enactment included herein as an appendix to this chapter as follows:

Appendix A: Secondary Water Impact Fee

Appendix B: Storm Water Impact Fee

Appendix C: Transportation Impact Fee

Appendix D: Park Property Acquisition Impact Fee

Appendix E: Park Construction Impact Fee (Ord. 02-01)

Appendix F: Public Safety Impact Fee (Ord 05-03)

3-11-5 EXEMPTIONS. The following shall be exempted from the payment of all impact fees:

- A. Replacement of a structure with a new structure of the same size and use at the same site or lot when a building permit for such replacement is obtained within twelve (12) months after the demolition or destruction of the prior structure and the replacement is completed within twenty-four (24) months after the granting of the building permit.
- B Alterations, expansion, enlargement, remodeling, rehabilitation, or conversion of an existing unit where no additional units are created and the use is not materially changed.
- C Construction of accessory structures that will not create significant impacts on the planned facilities.
- D Miscellaneous accessory improvements to use, including but not limited to fences, walls, swimming pools, and signs.
- E. Demolition or moving of a structure.
- F. Placing on a lot in the City a temporary construction trailer or office, but only for the life of the building permit issued for the construction served by the trailer or office. (Ord. 02-01)

3-11-6

OFFSETS TO IMPACT FEES. Offsets against the impact fee that would otherwise be due for a development activity may be approved in accordance with the following provisions.

- A. An offset shall be granted for qualifying improvements that are required to be made by a developer as a condition of development approval.
- B. Offsets shall be allowable and payable only to offset impact fees otherwise due for the same category of improvements. Unless otherwise expressly agreed to in writing by the City Council, offsets shall not result in reimbursement from the City or constitute a credit against future fees, and shall not constitute a liability of the City for any deficiency in the offset.
- C. Offsets shall be given only for the value of any construction of improvements or contribution or dedication of land or money by a developer or his predecessor in title or interest for qualifying improvements of the same category for which an impact fee was imposed.
- D. The person applying for an offset shall be responsible for providing and paying for appraisals of land and improvements, construction cost figures, and documentation of all contributions and dedications necessary to the computation of the offset claimed. The City Council shall not grant offsets to any person who cannot provide such documentation in such form as the City may reasonably require.
- E. The value of land dedicated or donated shall be based on the appraised land value of the parent parcel on the date of transfer of ownership to the City, as determined by an MAI-certified appraiser who was selected from a list of City-approved appraisers provided by the City and paid for by the applicant, who used generally accepted appraisal techniques.
- F. Offsets provided for qualifying improvements meeting the requirements of this section shall be valid from the date of approval until ten (10) years after the date of approval or until the last date of construction of the project, whichever occurs first.
- G. The right to claim offsets shall run with the land and may be claimed only by owners of property within the development area for which the qualifying improvement was required.
- H. Any claim for offsets must be made in writing, not later than the time of submittal of a building permit application or an application for another permit subsequent to development approval that is subject to impact fees. Any claim not so made shall be deemed waived. (Ord. 02-01)

3-11-7:

DEVELOPER AGREEMENTS FOR IMPACT FEES. Where a development activity includes or requires a qualifying improvement, the City Council and the developer may agree in writing to have the developer participate in the financing or construction of part or all of the qualifying improvements. Such agreement may provide for cash reimbursements, offsets, or other appropriate compensation to the developer for the developer's participation in the financing or construction of the qualifying improvements.

The agreement shall include:

- A. The estimated cost of the qualifying improvements, using the lowest responsive bid by a qualified bidder; or, if no bid is available, the estimated cost certified by a licensed Utah engineer;
- B. A schedule for initiation and completion of the qualifying improvement;
- C. A requirement that the qualifying improvement be designed and completed in compliance with any applicable City or State laws or regulations; and
- D. Such other terms and conditions as deemed necessary by the City Council.
(Ord. 02-01)

3-11-8

CHALLENGES AND APPEALS. Within the time periods set forth in U.C.A. 11-36-401(4)(b) any person or entity who has paid an impact fee and wishes to challenge the fee shall:

- A. File a written appeal with the City Council by delivering a copy of such appeal to the City Recorder setting forth in detail each of the following:
 - (1) the grounds for the appeal, including any unusual circumstances justifying a deduction in the standard impact fee;
 - (2) the facts relied upon by the appealing party with respect to the fees appealed;
 - (3) all studies and data relied upon by the appealing party;
 - (4) the amount of the impact fee the appealing party claims should be paid and the reasons supporting that claim; and
 - (5) any errors made by the City in calculating, assessing, or collecting the impact fee.
- B. Upon receipt of the appeal, the City Council shall thereafter schedule a hearing on the appeal at which time the appealing party will be given an opportunity to present evidence supporting their position and be heard. The City Council shall thereafter render its decision on the appeal no later than thirty (30) days after the challenge to the impact fee is filed.
- C. Within ninety (90) days of a decision regarding an impact fee by the City Council, any party to the appeal that is adversely affected by the City Council's decision may petition the District Court for review of the decision. (Ord. 02-01)

3-11-9:

COLLECTION OF IMPACT FEES. With the exception of the Park Property Acquisition Impact fee, impact fees for all new development activity shall be collected in conjunction with the application for a building permit.

The Park Property Acquisition Impact Fee shall be paid by the residential subdivision developer prior to the time the subdivision or any phase thereof is recorded. (Ord. 02-01)

3-11-10:

FUND ACCOUNTING FOR IMPACT FEES.

- A. The City Council shall establish a separate interest bearing accounting fund for each type of planned facility for which an impact fee is collected. The City shall invest such fees and the yield on such fees, at the actual rate of return to the City, shall be credited to such accounting fund periodically in accordance with the accounting policies of the City, subject to a deduction by the City of a

reasonable cash management fee. Such funds need not be segregated from other City monies for banking purposes. Inter-fund loans may be made between such accounting funds.

- B. Any yield on such accounting fund into which the fees are deposited shall accrue to that fund and shall be used for the purposes specified for such fund.
- C. The City shall maintain and keep financial records for each such accounting fund, showing the source and amount of all monies collected, earned and received by the fund, and each expenditure from such fund, in accordance with normal City accounting practices, and at the end of each fiscal year shall prepare a report on each such fund showing such information. The records of such fund shall be open to public inspection in the same manner as other financial records of the City.
- D. Impact fees shall be expended or encumbered within six (6) years after their receipt, unless the Council identifies, in writing, an extraordinary and compelling reason to hold the impact fees longer than six (6) years. Under such circumstances, the Council shall establish an absolute date by which the impact fees shall be expended. (Ord. 02-01)

3-11-11: REFUNDS

- A. If the City fails to expend or encumber the impact fees as required by Section 3-11-10D, all current owners of the property on which impact fees have been paid shall receive a pro rata refund of such impact fees. In determining whether impact fees have been expended or encumbered, impact fees shall be considered expended or encumbered on a first in, first out basis.
- B. The City shall notify the owner or owners of property for which such a refund may be made, by first class mail deposited with the United States Postal Service, at the last known address of such property owners.
- C. In order to receive such a refund, the owner or owners of the subject property must, within twelve (12) months after the mailing of such notice by the City, make a written request for a refund to the City Council, including a certification that such person is a record owner of the property and that he or she is entitled to the refund. The City Council may rely on such certification, in the absence of a written certification by another person asserting that the proposed payee is not the proper payee. If in doubt as to whom to pay such funds, the City may deposit the funds with an appropriate court for disposition as the court may determine. In that event, the City may deduct from the funds deposited an amount equal to the reasonable costs, including attorney's fees, of causing the funds to be deposited with the court.
- D. Any impact fees for which no application for a refund has been made within such one-year period shall be retained by the City and expended on appropriate planned facilities.
- E. Refunds of impact fees under this section shall include any interest earned.
- F. When the City Council seeks to terminate any or all components of the impact fee program, all unexpended or unencumbered impact fees from any terminated component or components, including interest earned, shall be refunded pursuant to this section. The City Council shall publish notice of such

termination and the availability of refunds in a newspaper of general circulation at least two times and shall notify all owners of property for which a refund may be made by first class mail at the last known address of such property owners. All funds available for refund shall be retained for a period of twelve (12) months following the second publication. At the end of that period, any remaining funds shall be retained by the City, but must be expended for appropriate planned facilities. This notice requirement shall not apply if there are no unexpended or unencumbered balances within the impact fee account(s) being terminated.

- G. The City shall refund to a developer any impact fees paid by that developer, plus interest earned on the impact fees, if: (a) the developer does not proceed with the development activity for which the impact fees were imposed; (b) the developer files with the City Council a written request for the refund not later than thirty (30) calendar days after the expiration of the building permit (or any extension thereof) in connection with which the impact fees were assessed; and (c) the City Council determines that no impact has resulted from the contemplated development activity.
- H. The City shall charge an administrative fee for verifying and computing the refund equal to the lesser of three percent (3%) of the amount of the refund or the City's actual cost of such verification and computing. (Ord. 02-01)

3-11-12: USE OF FUNDS

- A. Impact fees shall be used solely for the purposes for which they were received.
- B. Impact fees shall not be imposed to make up for deficiencies in existing facilities serving existing developments.
- C. Impact fees shall not be used for maintenance or operation.
- D. Impact fees may be spent for planned facilities, including but not limited to planning, land acquisition, construction, engineering, architectural, permitting, financing, and administrative expenses, mitigation costs, capital equipment pertaining to planned facilities, and any other similar expenses that can be capitalized pursuant to generally accepted accounting principles.
- E. Impact fees may also be used to recoup improvement costs previously incurred by the City to the extent that new growth and development activity will be served by the previously constructed improvements or incurred costs.
- F. Impact fees may be used to recoup the cost of studying, analyzing, and preparing the impact fees.
- G. Impact fees may be used to pay debt service on bonds or similar debt instruments issued to finance planned facilities to the extent such planned facilities serve the development activity for which the impact fees were imposed. (Ord. 02-01)

3-11-13: IMPACT FEE AS SUPPLEMENTAL REGULATION TO OTHER FINANCING METHODS. Except as otherwise provided herein, impact fees are in addition to any other requirements, taxes, fees, or assessments imposed by the City on development activity or the issuance of building permits or certificates of occupancy. Impact fees are intended to be consistent with the City's General Plan, Capital Facilities Plan, land development ordinances, and other City policies,

ordinances and resolutions by which the City seeks to ensure the provision of capital facilities in conjunction with development activity.

In addition to the use of impact fees, the City may finance qualifying capital improvements through the issuance of bonds, the formation of assessment districts, or any other authorized mechanism, in such manner and subject to such limitations as may be provided by law. (Ord. 02-01)

3-11-14 **ADJUSTMENTS.** The City Council is authorized, upon a proper showing, to adjust the standard impact fee at the time the fee is charged:

- A. to respond to unusual circumstances in specific cases, where, if no adjustments were made, an inequitable collection of impact fees would result;
- B. to ensure that the impact fee is imposed fairly and in such a manner that people in similar situations paid a substantially similar impact fee;
- C. based upon studies and data submitted by the developer that justify re-calculating the amount of the impact fee on a particular lot or development; or
- D. to allow credits as approved by the City Council for dedication of land for, improvement to, or new construction of, system improvements provided by the developer, if the facilities are identified in the capital facilities plan and are required by the City as a condition of approving the development activity.

As used herein, "system improvements" means (i) existing public facilities that are designed to provide services to service areas within the community at large; and (ii) future public facilities identified in a capital facilities plan that are intended to provide service to service areas within the community at large. (Ord. 02-01)

3-11-15: **INDEPENDENT IMPACT FEE CALCULATIONS.**

- A. If a fee payer desires not to have an impact fee determined according to an impact fee enactment set forth in Appendixes to this ordinance, then the fee payer shall prepare and submit to the City Council an independent impact fee calculation for the development activity. The documentation submitted shall show the basis upon which the independent impact fee calculation was made. The appropriate Department staff persons shall review the independent impact fee calculation and provide an analysis to the City Council concerning whether the independent impact fee calculation should be accepted, rejected, or accepted in part. The City Council may adopt, reject, or adopt in part the independent impact fee calculation based on the Department's analysis and based on the specific characteristics of the development activity. The impact fee or alternative impact fee and the calculations shall be set forth in writing and shall be mailed to the fee payer.
- B. Any fee payer submitting an independent impact fee calculation must pay to the City a fee to cover the cost of reviewing the independent impact fee calculation. The fee shall an amount equal to the actual review costs incurred by the City, including the cost of any consultant services deemed necessary by the City Council. The City shall require the fee payer to post a cash deposit of \$150.00 prior to initiating the review, subject to refunding to the fee payer any portion of such deposit that exceeds actual costs of review.
- C. The City Council shall consider the documentation submitted by the fee payer and the analysis prepared by the appropriate Department staff persons, but is not required to accept such documentation or analysis. The City Council may

require the fee payer to submit additional or different documentation for consideration. The City Council may adjust the impact fees on a case-by-case basis based on the independent impact fee calculation and the specific characteristics of the development activity. The impact fees or alternative impact fees and the calculations shall be set forth in writing and shall be mailed to the fee payer. (Ord. 02-01)

3-11-16: **PENALTY.** A violation of this Ordinance is a Class B misdemeanor. Upon conviction, the violator shall be punishable according to law; however, in addition to or in lieu of any criminal prosecution, the City Council shall have the power to sue in civil court to enforce the provisions of this Chapter. (Ord. 02-01)