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#### **Section 6-100 Sales and Use Tax**

TITLE - This ordinance shall be known as the "Uniform Local Sales and Use Tax Ordinance" of Kanab City.

#### **Section 6-101 Purpose**

The 45<sup>TH</sup> session of the Utah Legislature authorized municipalities of the State of Utah to enact Sales and Use Tax Ordinances imposing a seven-eighths of one percent tax.

It is the purpose of this ordinance to levy and impose a seven-eighths percent local option sales and use tax, to authorize and designate the Utah State Tax Commission as agent for the municipality to collect the tax and to conform with the requirements of the Uniform Local Sales and Use Tax law of Utah, Chapter 9, Title 11, Utah Code Annotated, 1953.

#### **Section 6-102a Contract with State of Utah**

The existing contract between the municipality and the state tax commission, which provides that the commission will perform all functions incident to the administration and operation of the sales and use tax ordinance of this municipality, is hereby declared to be in full force and effect.

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#### Section 6-102b Effective Date

This ordinance shall become effective as of 12:01 o'clock a.m., July 1, 1983. The provisions of the previously enacted Uniform Local Sales and Use Tax ordinance of the municipality which is repealed hereby and which are in conflict herewith shall continue effective until 12:00 o'clock midnight, June 30, 1983. The provisions of this ordinance which are not in conflict with said former ordinance shall be deemed to be a continuation thereof and any rights, duties and obligations arising thereunder shall not in any way be deemed abrogated or terminated.

#### Section 6-103 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 on every retail sale of tangible personal property, services and meals made within the municipality at the rate of seven-eighths percent.

(2) For the purpose of this ordinance, all retail sales shall be presumed to have been consummated at the place of business of the retailer unless the tangible personal property sold is 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 destination. If 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 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 utilities services are rendered, but the place of sale or the sales tax revenues arising from such service allocable to the municipality 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 Uniform Local Sales and Use Tax law of Utah, all of the provisions of Chapter 15, Title 59, Utah Code Annotated, 1953, as amended, and in force and effect on the effective

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date of this ordinance, insofar as they relate to sales taxes, excepting sections 59-15-1 and 59-15-21 thereof, and excepting for the amount of the sales tax levied therein, are hereby adopted and made a part of this ordinance as though fully set forth herein.

(2) Wherever, and to the extent that in Chapter 15 Title 59, Utah Code Annotated, 1953, 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 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 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 this ordinance.

(3) If an annual license has been issued to a retailer under section 59-15-3, 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 on a retailer or consumer;

(b) Receipts from the sale of tangible personal property on which a sales or use tax has become due by reason of the same transaction to any other municipality and any county in the State of Utah, under a Sales or Use Tax Ordinance enacted by that county or municipality in accordance with the Uniform Local Sales and Use Tax law of Utah.

#### **Section 6-103a Resort Tax**

A. FINDING OF ELIGIBILITY. The enabling legislation supporting this option general sales tax provides that the tax may be imposed only in

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those cities where the transient room capacity is greater than or equal to 66% of permanent census population. Based on information provided by the State of Utah, Planning & Budget and the 1990 United States Census, the Council finds that the official permanent census population of Kanab City is 3,289. The Council further finds that there are in excess of 665 housing units within the City that are used for transient lodging purposes and that these units contain, in many cases, accommodations for large groups. The total estimated transient room capacity of Kanab City is in excess of 2,660 people. The Council finds that Kanab City is eligible to impose that local option tax.

B. TAX IMPOSED. 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 within Kanab City of tangible personal property, services, meals, lodging, admission to places of recreation, entertainment or amusements, utility service and all other personal property taxed under Title 59, Chapter 12 of the Utah Code Annotated, within Kanab City at the rate of 1% of the retail selling price.

C. PLACE OF SALE. For the purpose of this Ordinance all retail sales shall be presumed to have been consummated at the place of business of the retailer unless the tangible personal property is sold and delivered by the retailer or his agent to an out-of-state destination or sold or delivered to a common carrier, including the United States Postal Service, for delivery to an out-of-state destination. In the event the 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 and adopted by the State Tax Commission of Utah for the administration of the local sales tax under Title 59, Chapter 12 of the Utah Code. Public utilities, as defined by Title 54, Utah Code Annotated, 1953, shall not be obligated to determine the place or places within any municipality where public utility services are rendered, but the place of sale or the sales tax revenues 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 prescribed and adopted by the Commission for the application of the general sales tax.

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D. COLLECTION AND PAYMENT OF TAX. The tax imposed by this Ordinance is in addition to and not in lieu of the general sales tax imposed under the provisions of the Uniform Local Sales and Use Tax Ordinance adopted by Kanab City under Title 59, Chapter 12, and the state sales tax under Title 59, and payment of this tax shall be identical to the procedure prescribed by Title 59, Chapter 12, of the Utah Code and the State Tax Commission Regulation adopted under these sections. Prior to the effective date, the city shall contract with the State Tax Commission for collection and all other functions incident to the administration and operation of this tax for so long as the tax is imposed.

E. STATE STATUTES APPLICABLE.

1. Except as hereinafter provided, and except as they are inconsistent with the provision of the Uniform Local Sales Tax law of Utah, Title 59, Chapter 12, of the Utah Code, all of the provisions of Title 59, Chapter 12, pertaining to sales tax as in force at the effective date of this Ordinance are hereby adopted in full and made a part of this Ordinance as though fully set forth herein, except for the provisions stating the rate of the tax applied, and Sections 59-12-101 and 59-12-119.

2. Wherever, and to the extent that in Chapter 12, Title 59, Utah Code Annotated, 1953, the State of Utah is named or referred to as the taxing agency, the name of Kanab City shall be substituted therefor. Nothing in this paragraph shall be deemed to require substitution of the name of the municipality for the word "state" when the 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 the substitution would require action to be taken by or against the State Tax Commission in performing the functions incident to the administration or operation of this ordinance.

3. If an annual license has been issued to a retailer under Section 59-12-106, Utah Code Annotated, 1953, an additional license shall not be required by reason of this section.

F. DEFINITIONS. For purposes of this Ordinance, all terms used shall have the same meaning and definition as applied to those terms by the

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provisions of Title 59, Chapter 12, of the Utah Code and the State Tax Commission regulation adopted under those sections, unless superseded by the definitions provided below:

1. Purchase Price. The purchase price for a retail sale of tangible personal property subject to the tax shall be the gross selling price, before any trade-in adjustments or allowances, exclusive of the State general sales tax imposed by the State of Utah by Title 59, Chapter 12, and exclusive of the local option sales tax imposed by the city under the Uniform Local Sales and Use Tax law, Title 59, Chapter 12, of the Utah Code and the local ordinance adopting that tax, so that each of these sales taxes is imposed independently on the retail sales price, and does not result in the application of this tax on the amount of other sales taxes on the same sale.

2. Wholesale Sales.

a. The term wholesale sale shall mean a sale of tangible personal property by any person to a retailer, merchant, jobber, dealer, or commission agent or another wholesaler for purposes of resale within a retail business, and,

b. For purposes of this Ordinance, and not for the general sales taxes imposed by Title 59, Chapter 12, of the Utah Code, wholesale sales shall also include the sale of building materials to a licensed contractor as defined in Title 58, Chapter 55 of the Utah Code. For purposes of this section, the term building materials includes any item which is intended to become an integral part of a structure, including personal property affixed to the structure.

G. EXCLUSIONS. This local option sales tax shall not apply to the following sales or kinds of sales:

1. Sales of a single item for a total consideration, before adjustment for trade-in allowances, of \$2,500 or more, are exempt from this tax.

2. Wholesale sales as defined in this Ordinance are exempt from the tax.

3. Those items which have been exempted from the general sales tax under the provisions of Title 59, Chapter 12 are exempt from the tax.

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4. Tax collected on contracts for sales which were executed prior to the effective date of this Ordinance but which have not been fully performed shall be refunded upon application to the State Tax Commission under its regulations.

H. SEVERABILITY. In the event that any provisions, section, or clause of this ordinance is found to be unlawful, in excess of the enabling legislation, or unconstitutional, only the particular section, provision, or clause shall be stricken, and the remainder of the Ordinance shall stand and not be affected thereby. Should any exclusion or exemption granted in this Ordinance be found unlawful or unconstitutional, that exemption shall be stricken, and the tax shall apply to the item formerly excepted. The tax hereby imposed is separate and distinct from the tax imposed by Ordinance No. 1-1-90, or its successor provisions.

I. PENALTIES. Any person violating any of the provisions of this Ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine in an amount of not more than \$299 in fines or imprisonment for a period of not more than six months, or both. This penalty shall be in addition to any penalties that may apply for violation of state statutes pertaining to the collection, payment, and accounting for sales and use taxes.

#### **Section 6-104 Use Tax**

**A.** An excise tax is hereby imposed on the storage, use, or other consumption in this municipality of tangible personal property from any retailer owner after the operative date of this ordinance for storage use or other consumption in the municipality at the rate of seven-eighths percent of the sales price of the property.

**B.** (1) Except as hereinafter provided, and except insofar as they are inconsistent with the provisions of the Uniform Local Sales and Use Tax law of Utah, all of the provisions of Chapter 16, Title 59, Utah Code Annotated, 1953, as amended and in force and effect on the effective date of this ordinance, applicable to use taxes, excepting the provisions of sections 59-16-1 and 59-16-25 thereof, and excepting for the amount of

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the tax levied therein, are hereby adopted and made a part of this section as though fully set forth herein.

(2) Wherever and to the extent that in Chapter 16 of Title 59, Utah Code Annotated, 1953, the State of Utah is named or referred to as the taxing agency, the name of Kanab City shall be substituted therefor. Nothing in this subparagraph B shall be deemed to require the substitution of the name of this municipality for the word "State" when that word is used as part of the title of the State Tax Commission, or of the municipality be substituted for that of the State in any section when the results of that or against the State Tax Commission in performing the functions incident to the administration or operation of this ordinance.

(3) There shall be exempt from the tax due under this section:

(a) The amount of any sales or use tax imposed by the State of Utah upon a retailer or consumer;

(b) The storage, use or other consumption for tangible personal property, the gross receipts from the sales of or the cost of which has been subject to sales or use tax under a sales or use tax ordinance enacted in accordance with the Uniform Local Sales and Use Tax law of Utah by any other municipality and any county of the State.

#### **Section 6-200 Special Improvements**

#### **Section 6-210 Collection of Special Improvement Taxes**

#### **Section 6-211 Purpose**

It is the purpose of this chapter or supplement and provide details necessary to implement the powers and procedures whereby the municipality may levy, assess and collect special taxes for special improvements under the provisions of the Utah Municipal Improvement District Act, U.C.A. 10-61-1 et seq.

#### **Section 6-212 Delinquency - Notice of Sale**

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After the date of delinquency, as fixed in the levy and notice of tax adopted by the governing body in connection with the creation of a special improvement district and the levy of taxes necessary to pay for the project, the treasurer shall proceed to make up a list of all property upon which the special tax remains due and unpaid and cause the same to be published at least once in some newspaper having general circulation in the municipality at least ten days prior to the date of sale. The delinquency list shall contain a description of the property delinquent according to lots, block, or parcels, together with the owner's name or names, if known, and if not known, in lieu thereof, the words "unknown owner" with the amount of taxes due on each separate parcel exclusive of costs, and shall be accompanied by a notice of sale substantially in the following form:

#### NOTICE OF SALE FOR SPECIAL TAXES

Notice is hereby given that special taxes for (here insert briefly the purpose of the tax) are due and unpaid in amounts and upon the lands set forth and described in the delinquent list hereto attached. Unless the taxes, including interest, together with the cost of publication, are paid on or before the \_\_\_\_\_ day of \_\_\_\_\_ (here fix a day at least 12 days from the date of first publication), the real property upon which such taxes are a lien will, on that day, be sold for the taxes, interest costs of advertising, and expenses of sale, at the front door of the \_\_\_\_\_ (here insert name of building and address) beginning at the hour of 12:00 o'clock noon, and continuing until all of the property shall have been sold.

#### Section 6-213 Costs

The treasurer shall tax against each parcel of land advertised as delinquent the sum of \$10.00 for the cost of advertising the delinquency and shall, after the first publication, in all instances of payment, collect such amount in addition to the tax.

#### Section 6-214 Expense of Sale

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In case of a sale of any land for special taxes, the treasurer shall add to the amount of tax and costs of advertising the further sum of \$10.00 as the expense of sale and shall, in all instances of sale or redemption, collect such sum.

#### Section 6-215 Minimum Sale Price

In no case shall lands advertised for sale for delinquent special taxes be sold for less than the amount of such special taxes, interest, the cost of advertising, and expense of sale.

#### Section 6-216 Sale

On the day fixed for the sale, the treasurer, in person or by deputy, shall appear at the hour and place named in the notice of sale and at public auction, and there offer to the highest responsible bidder sufficient of the delinquent real estate for a sum sufficient to pay the taxes, interest and costs. The offer of sale shall be substantially in the following language:

"There is delinquent upon \_\_\_\_\_ (here describe the piece of property as in the notice) special taxes amounting to \_\_\_\_\_ dollars with interest, costs, and expenses of \_\_\_\_\_ dollars.

What is the smallest portion of this property which you will take and pay the taxes, interest, costs, and expenses?"

If the sale is not concluded by 4:00 p.m. of the day advertised it may be, by the treasurer, continued until noon of the next succeeding business day and thereafter in the same manner proceeded with and continued until completed.

#### Section 6-217 Fees

The treasurer shall collect a fee of \$10.00 for each certificate issued, which fee shall be paid into the treasury.

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#### Section 6-218 Interest

Interest at the rate of ten percent per year shall be charged on the special tax due from the date of delinquency until date of sale and interest at the rate of ten percent per year shall be charged on the full amount for which the property was sold from the date of sale.

#### Section 6-219 Tax Sale Record

**A.** The treasurer shall make a record of all sales of real property in a book to be kept by him for that purpose. The record shall be kept substantially in the same order as that for which the property was advertised for sale, but shall list, as applicable, in separate columns, a description of the property, the amount of the tax, interest, costs, expenses, how much of what part of each tract was sold, by whom purchased, the date of sale, and the date of redemption.

**B.** At the end of each calendar year, the book shall be endorsed "\_\_\_\_\_ Treasurer, Special Tax Sale Record for the Year 19\_\_\_\_," and it shall then be filed in his office. Whenever thereafter any portion of property so sold shall be redeemed, the fact of redemption shall be entered by the treasurer opposite the description of the property in the tax sale record. At the expiration of three years from the date of filing in his office, the treasurer shall file each yearly tax sale record in the office of the recorder/clerk.

#### Section 6-220 Certificate of Sale

When real estate is sold for special taxes, the treasurer shall make out, sign, acknowledge, and deliver a certificate of sale which shall recite the facts of sale as in the tax sale record, and what payment has been made therefor, and which certificate shall be substantially in the following form:

**KANAB CITY**  
TREASURER'S OFFICE  
CERTIFICATE OF SALE FOR SPECIAL TAX

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THIS CERTIFIES, That on the \_\_\_\_\_ day of \_\_\_\_\_, as treasurer and collector of special taxes for \_\_\_\_\_, Utah, sold to \_\_\_\_\_, subject to redemption, as provided by law, the following property in (name of municipality) for delinquent special taxes assessed against the property in the name of (delinquent taxpayer) to-wit:

DESCRIPTION

\_\_\_\_\_ EXT. NO. \_\_\_\_\_

PAGE \_\_\_\_\_

Frontage abutting the improvement to the full depth back there from (or other depth)

\_\_\_\_\_ Feet \_\_\_\_\_ of Lot \_\_\_\_\_

Block \_\_\_\_\_ Plat \_\_\_\_\_

TAX AND COSTS

Amount of tax \$ \_\_\_\_\_

Interest to date of sale \$ \_\_\_\_\_

Advertising \$ \_\_\_\_\_

Expenses of sale \$ \_\_\_\_\_

Certificate of sale \$ \_\_\_\_\_

Total tax and costs at date

of sale \$ \_\_\_\_\_

\_\_\_\_\_  
Treasurer and collector of special taxes

DATED, \_\_\_\_\_ (name of municipality),

\_\_\_\_\_  
(Acknowledgment in statutory form.)

#### Section 6-221 Certificate of Sale to Municipality

When property is sold to the municipality for special taxes, the treasurer shall make out, sign, acknowledge and deliver the certificate of sale above described to the recorder/clerk, whose duty it shall be to see that such certificate is properly recorded in the office of the county recorder, and it shall thereafter be kept as a part of the records of the recorder/clerk's office.

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#### Section 6-222 Sale to Municipality

Where no bid at least equal to the amount of the tax, interest, cost of advertising and expenses of sale on each separate parcel is received as each separate parcel is offered for sale, the municipality shall be deemed to have bid for such property, and the property shall be sold by the treasurer to the municipality for the amount of the tax, interest, cost of advertising and expenses of sale. The sale shall have the same effect as if made to an individual. The recorder/clerk shall draw a check or warrant on the special improvement guarantee fund for which the special tax was levied in the amount necessary.

#### Section 6-223 General Taxes on Delinquent Property

**A.** Between the 15th day of November and the 15th day of December in each year, the recorder/clerk shall ascertain, by examination of the county records, which, if any, of the property sold to this municipality is delinquent and about to be sold for general taxes, and report the property and the amount of taxes in each instance to the governing body, with the request that the amount thereof be appropriated to the county.

**B.** It shall be the duty of the governing body to appropriate the amount recommended by the recorder/clerk. The treasurer shall thereon draw a warrant in favor of the county for the total sum of such delinquent taxes, and the recorder/clerk shall deliver the warrant to the county treasurer, taking duplicate receipts therefore for each separate piece or parcel of property upon which the general taxes are thus paid. The recorder/clerk shall thereon deliver one of each such receipts to the treasurer and file and attach the other to the corresponding certificate of sale in his office.

**C.** On receiving such receipt, the treasurer shall make entry on his tax sale record, opposite the corresponding property, of the date and amount of taxes paid. Such taxes shall thereafter draw interest at the rate of ten percent per annum, and shall be included in the amount required to be paid for redemption of such property.

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#### Section 6-224 Redemption

Real estate sold for special taxes may be redeemed by any person interested herein, at any time within three years after the date of the sale thereof, by such person paying to the treasurer, for the use of the purchaser and all costs representative, the amount paid by such purchaser and all costs and expense, including the cost of the certificate of sale, together with the sum of \$10.00 for the redemption certificate, and all special taxes that have been accrued thereon and which have been paid by the purchaser after his purchase to the time of redemption, together with interest at the rate of one percent per month on the whole from the date of payment to the date of redemption provided, that:

**A.** In all cases where property has been sold to this municipality, and general taxes thereon have been thereafter paid by this municipality, it shall be necessary for a redemptioner to pay the amount of such general taxes, so paid as aforesaid, with interest thereon from the date of payment to the date of redemption, at the rate of ten percent per annum; and,

**B.** When two or more parties are interested in a piece of property which has been sold for taxes, either party may redeem the property in which he is interested, upon payment of that proportion of the taxes, interest and costs which his property bears to the whole property sold, together with the sum of \$ 10.00 for a redemption certificate.

#### Section 6-225 Installment Redemption

**A.** Any property sold to this municipality, on which tax sale certificates have been issued but for which no tax deed has issued to the municipality, may be redeemed by any person having an interest in such property on the payment in installments of the unpaid principle, interest and all costs and charges, provided that the installments shall be paid within such time and in such amounts as will discharge the indebtedness within the period in which the right to redeem from such tax sale shall expire.

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- B.** Credit shall be given for each installment as paid, and the interest shall be reduced proportionately.
- C.** Interest shall be paid at the rate of ten percent per annum on the unpaid balance due under this section.
- D.** There is hereby imposed the sum of \$1.00 per installment payment to cover the additional bookkeeping expense incurred by any person taking advantage of this section, and such charge shall not be credited against the delinquent assessment.
- E.** Every person who takes advantage of this section shall enter into an agreement with the municipality which shall be substantially in the following form:

#### AGREEMENT OF INSTALLMENT REDEMPTION

The undersigned hereby:

1. Acknowledges that he is delinquent in the payment of the special improvement taxes levied against the property described below in the amount of \$\_\_\_\_\_ which amount is the total of the unpaid tax, principal and interest, costs of advertising and expense of sale.
2. Agrees and promises to pay the above-stated amount in \_\_\_\_\_ equal installments of \$\_\_\_\_\_, which payment will be made on or before the \_\_\_\_\_ day of each month from the period beginning \_\_\_\_\_, 19\_\_\_\_ to and including \_\_\_\_\_, 19\_\_\_\_\_.
3. Acknowledges having received and read a copy of section 6-225 of the "Revised Ordinances of \_\_\_\_\_, and understands the same.
4. Agrees that should he fail to make payment of the installments when due, the right of the municipality to receive a tax deed for the property below described shall not be impaired thereby and amount paid hereunder.

The property covered by the provisions of this agreement is described as follows:

\_\_\_\_\_  
DATED this \_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_  
Mayor

ATTEST:

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Recorder/Clerk

#### Section 6-226 Certificate of Redemption

The treasurer shall, when any property is fully redeemed, make the proper entry in the tax sale record file in his office, and issue a certificate of redemption, which certificate shall be by him acknowledged, and which entry or certificate shall be *prima facie* evidence of such redemption.

#### Section 6-227 Notice of Redemption

In all cases where property sold to this municipality is fully redeemed, the treasurer shall issue a formal notice of such redemption in writing and file the same with the recorder/clerk, whose duty it shall be to attach such notice to the corresponding certificate of sale on file in his office, and endorse on the filing face of such certificate in red ink the word "REDEEMED" and the date of redemption.

#### Section 6-228 Tax Deed

A. If any property sold as aforesaid is not fully redeemed within the time and in the manner in this chapter provided, on the deposit of the tax sale record for the year in which the property was sold by the treasurer with the recorder/clerk, the recorder/clerk shall, on presentation of the treasurer's certificate of sale, make and acknowledge a deed conveying the property therein described to the purchaser, his heirs, or assigns, as the case may be. If any person shall be entitled to receive deeds for more than one parcel of property, he may have the whole included in one deed, but each parcel shall be separately described. In January of each year, or as soon thereafter as the business of the office will permit, the recorder/clerk shall make and acknowledge a deed, conveying to this municipality at special tax sale not theretofore redeemed, as in this chapter provided, shall see that such deeds are properly recorded in the

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office of the county recorder, and shall keep such deeds on file in his office for the benefit of the special improvement guarantee fund.

B. Deeds issued by the recorder/clerk in pursuance of the provisions of this chapter shall recite in substance the amount of tax for which the property was sold, the particular purpose of the tax levied, the year in which the levy was made, the day and year of sale, the amount for which the real estate was sold, a description of the property sold, in accordance with the certificate of sale, the name of the purchaser or the purchaser's assignee, and shall be executed by the recorder/clerk on behalf of the municipality, and by him acknowledged so as to be entitled to record.

#### **Section 6-229 Tax Deed Record**

The recorder/clerk shall keep on file in his office a record of all tax deeds issued by him, which shall be a photocopy of the deeds so issued by him, and which shall be indexed in the name of the party whose property was sold for taxes, and also in the name of the individual to whom the tax deed was issued.

#### **Section 6-230 Recorder's Fee**

The recorder/clerk shall collect \$5.00 for each deed issued, for the first description of property contained in such deed, and for each additional description of property in such deed, and shall pay such fees monthly into the treasury. However, in cases where this municipality is the tax sale purchaser, no fee shall be collected.

#### **Section 6-231 Sale After Deed**

Whenever property sold for special taxes and purchased by this municipality shall not have been redeemed within the time specified, but shall have been conveyed to the municipality by recorder's deed, and which shall not have been sold by the municipality, such property may thereafter be purchased by the prior owner, his heirs, personal

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representative or assigns, or any other person, upon petition the governing body may determine. The proceeds of such purchase shall be paid into the special improvement guaranty fund, provided, however, that nothing contained in this section shall prevent this municipality from selling any property conveyed to it by recorder's deed to any person at any time after such conveyance is made.

#### **Section 6-300 Special Improvement Guaranty Fund**

#### **Section 6-301 Special Improvement Guaranty Fund**

There is hereby created a special fund to be known as the "Special Improvement Guaranty Fund," which fund shall be used for the purpose of guaranteeing to the extent of the fund the payment of special improvement bonds or special improvement warrants and interest thereon theretofore or hereafter issued against the local improvement districts for the payment of local improvements therein and for the purchase of property sold to the municipality at tax sales or under foreclosure for delinquent special improvement taxes.

#### **Section 6-302 Maintenance of Fund**

The governing body shall create and maintain the special improvements guaranty fund by appropriations from the general fund, by the levy of a tax not to exceed one mill in any one year, by the issuance of general obligation bonds, or by appropriation from such other sources as may be determined by the governing body to provide the money necessary for that purpose. The fund shall be held by the treasurer and shall be kept by him separate and part from all other funds held by him. Payments out of the fund shall be made only by checks drawn by the recorder/clerk.

#### **Section 6-303 Interest And Penalties**

All excess charges and penalties collected by the treasurer for the benefit or credit of any special improvement fund and remaining on hand after all

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the bonds or warrants, together with interest thereon, drawn against the special improvement fund shall have been fully paid and canceled, shall be transferred by the recorder/clerk to the special improvement guaranty fund.

#### **Section 6-304 Payment of Bonds or Warrants**

When any bond, warrant, or coupon drawn against any special improvement fund is presented to the treasurer for payment and there is not a sufficient amount in the special improvement fund against which it is drawn, payment therefor shall be made by warrant drawn by the recorder/clerk against the special improvement guaranty fund (unless otherwise requested by the holder).

#### **Section 6-305 Replenishment of Fund**

Whenever there is not a sufficient amount of cash in the special improvement guaranty fund at any time to make any and all purchases of property bid in by the municipality at sales of property for delinquent special improvement taxes, the governing body shall replenish the special improvement guaranty fund by transfer or appropriation from the general fund or other available sources as may be determine by the governing body.

#### **Section 6-306 Recorder to Issue Warrants**

Warrants drawing interest at a rate not to exceed eight percent per annum may be issued by the recorder/clerk against the fund to meet any financial liabilities accruing against it. At the time of making it's annual tax levy, the governing body shall provide for the levy of a sum sufficient with the other resources of the fund to pay warrants so issued and outstanding, the tax for this purpose not to exceed one mill in any one year.

#### **Section 6-307 Subrogation of Municipality**

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Whenever the municipality shall have paid under its guaranty any sum on account of principal or interest on the bonds or warrants of any district, it shall be subrogated to the rights of the holders of such warrants or coupons, and the proceeds thereof, shall become a part of the guaranty fund.

#### **Section 6-400 Mobile Telephone Service Revenue Tax**

**A.** Definitions. For purposes of this ordinance, the following terms are defined as follows:

1. CUSTOMER means:

a. The person or entity, having a place of primary use within the City, that contracts with the home service provider for mobile telecommunications services; or

b. If the end user of mobile telecommunications services is not the contracting party, the end user of the mobile telecommunications services; but this clause applies only for the purpose of determining the place of primary use.

c. CUSTOMER does not include:

(1) A reseller of mobile telecommunications service; or

(2) A serving carrier under an arrangement to serve the customer outside the home service provider's licensed service area.

2. DESIGNATED DATABASE PROVIDER means a corporation, association, or other entity representing all the political subdivisions of a state that is:

a. Responsible for providing an electronic database prescribed in subsection 119(a) of chapter 4, title 4 of the United States Code if the state has not provided such electronic database; and

b. Approved by municipal and county associations or leagues of the state whose responsibility it would otherwise be to provide such database prescribed by sections 116 through 126 of chapter 4, title 4 of the United States Code.

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3. ENHANCED ZIP CODE means a United States postal zip code of nine or more digits.

4. HOME SERVICE PROVIDER means the facilities-based carrier or reseller with which the customer contracts for the provision of mobile telecommunications services.

5. LICENSED SERVICE AREA means the geographic area in which the home service provider is authorized by law or contract to provide commercial mobile radio service to the customer.

6. MOBILE TELECOMMUNICATIONS SERVICE means commercial mobile radio service, as defined in section 20.3 of title 47 of the Code of Federal Regulations as in effect on June 1, 1999. For purposes of this ordinance, mobile telecommunications services shall not include:

- a. Pager services using mobile devices that do not allow for two-way voice communication;
- b. Narrowband personal communications services; and
- c. Short message services (SMS).

7. PLACE OF PRIMARY USE means the street address representative of where the customer's use of the mobile telecommunications service primarily occurs, which must be:

- a. The residential street address or the primary business street address of the customer; and
- b. Within the licensed service area of the home service provider.

8. PREPAID TELEPHONE CALLING SERVICES means the right to purchase exclusively telecommunications services that must be paid for in advance, that enables the origination of calls using an access number, authorization code, or both, whether manually or electronically dialed, if the remaining amount of units of service that have been prepaid is known by the provider of the prepaid service on a continuous basis.

9. RESELLER:

- a. Means a provider who purchases telecommunications services from another telecommunications service provider and then resells, uses as a

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component part of, or integrates the purchased services into a mobile telecommunications service; and

b. Does not include a serving carrier with which a home service provider arranges for the service to its customers outside the home service provider's licensed service area.

10. **SERVING CARRIER** means a facilities-based carrier providing mobile telecommunications service to a customer outside a home service provider's or reseller's licensed service area.

**B. Monthly Tax Levied.** There is levied upon every home service provider a tax of one dollar (\$1) per month for each telephone number assigned to any customer whose place of primary use is within the City. The home service provider may or may not pass this tax on to its customers. If the home service provider passes the tax on to the customer, and the tax is reflected on the customer's bill, the tax shall be shown on the bill as a flat rate municipal tax charge.

**C. Remittance Date.**

1. Within thirty (30) days after the end of each calendar month, the home service provider taxed hereunder shall file, with the City Treasurer, a report computing the tax. Coincidental with the filing of such report, the business shall pay, to the City Treasurer, the amount of the tax due for the calendar month subject to the report. If the 30th day after the end of each calendar month falls on a Saturday, Sunday, or state or federal holiday, the deadline for filing the monthly report and remitting payment for that month is extended to the next subsequent business day.

2. Delinquent Payment. Any payment not paid when due shall be subject to a delinquency penalty charge of ten percent (10%) of the unpaid amount. Failure to make full payment and penalty charges within sixty (60) days of the applicable payment date shall constitute a violation of this ordinance. All overdue amounts, including penalty charges, shall bear interest until paid at the rate of an additional ten percent (10%) per annum.

3. Reconciliation. Within three (3) years after the filing of any report or the making of any payment, the City Treasurer may examine such report

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or payment, determine the accuracy thereof, and, if the City Treasurer finds any errors, report such errors to the home service provider for correction. If any tax, as paid, shall be found deficient, the home service provider shall within sixty (60) days remit the difference, and if the tax as paid be found excessive, the City shall within sixty (60) days refund the difference plus interest at the same rate as if such amount was deficient. In the event of a disagreement, the home services provider shall file under protest pending the resolution of the dispute between the parties of through the courts.

4. Record Inspection. The records of the home service provider pertaining to the reports and payment of the tax, including, but not limited to, any records deemed necessary by the City to calculate or confirm proper payment by the home service provider, shall be open for inspection by the City and its duly authorized representatives upon reasonable notice at all reasonable business hours of the home services provider within the statute of limitations period defined in the "Reconciliation" subsection above.

5. Home Service Provider Duty to Cooperate on Record Inspection.

a. In order to facilitate any record inspection, the home service provider shall, upon thirty (30) days prior written request:

(1) Grant the City or its duly authorized representatives reasonable access to those portions of the books and records of the home service provider necessary to calculate and confirm proper payment of the tax; or

(2) Provide the City or its duly authorized representatives with reports containing or based on information necessary to calculate and confirm proper payment of the tax.

b. Any requests for such books, records, reports, or portions thereof shall specify in writing the purpose for such request. Any books, records, reports, or portions thereof provided by the home service provider to the City under a claim that such documents are confidential business records are hereby designated as "protected records" and shall not be copied or disclosed by the City to third parties without the written permission of the

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home service provider, unless such documents are determined by a court of law to constitute "public records" within the meaning of the Utah Government Records Access and Management Act.

**D.** Requirement to Maintain Electronic Database or Enhanced Zip Code Listing.

1. Electronic Database.

a. Provision of Database: The State may provide an electronic database to a home service provider; or, if the State does not provide such an electronic database, the designated database provider may choose to provide an electronic database to a home service provider.

b. Format:

(1) Such electronic database, whether provided by the State or the designated database provider, shall be provided in a format approved by the American National Standards Institute's Accredited Standards Committee X12, which, allowing for *de minimis* deviations, designates for each street address in the City, including , to the extent practicable, any multiple postal street addresses applicable to one street location, the appropriate taxing jurisdictions, and the appropriate code identified by one nationwide standard numeric code.

(2) Such electronic database shall also provide the appropriate code for each street address with respect to political subdivisions that are not taxing jurisdictions when reasonably needed to determine the proper taxing jurisdiction.

(3) The nationwide standard numeric codes shall contain the same number of numeric digits, with each digit or combination of digits referring to the same level of taxing jurisdiction throughout the United States, using a format similar to FIPS 55-3 or other appropriate standard approved by the Federation of Tax Administrators and the Multistate Tax Commission or their successors. Each address shall be provided in standard postal format. 2. Notice; Updates. The State or designated database provider that provides or maintains an electronic database described above shall provide notice of the availability of the then-current electronic database and any subsequent revisions thereof, by publications

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in the manner normally employed for the publication of informational tax, charge, or fee notices to taxpayers in such State.

3. User Held Harmless. A home service provider using the data contained in an electronic database described above shall be held harmless from any tax, charge, or fee liability that otherwise would be due solely as a result of any error or omission in such database provided by the City or designated database provider. The home service provider shall reflect changes made to such database during a calendar quarter, not later than thirty (30) days after the end of such calendar quarter the State has issued notice of the availability of an electronic database reflecting such changes under the "Notice; Updates" subsection above.

4. Procedure If No Electronic Database Provided.

a. Safe Harbor: If neither the State nor the designated database provider provides an electronic database, a home service provider shall be held harmless from any tax, charge, or fee liability in the City that otherwise would be due solely as a result of an assignment of a street address to an incorrect taxing jurisdiction, if the home service provider employs an enhanced zip code to assign each street address to a specific taxing jurisdiction and exercises due diligence to ensure that each such street address is assigned to the correct taxing jurisdiction. If an enhanced zip code overlaps boundaries of taxing jurisdiction of the same level, the home service provider must designate one specific jurisdiction within such enhanced zip code for use in taxing the activity for such enhanced zip code. Any enhanced zip code assignment changed is deemed to be in compliance with this section. For purposes of this section, there is a rebuttable presumption that a home service provider has exercised due diligence if the home service provider demonstrates that it has:

(1) Expended reasonable resources to implement and maintain an appropriately detailed electronic database of street address assignments to taxing jurisdictions;

(2) Implemented and maintained reasonable internal controls to promptly correct misassignments of street addresses to taxing jurisdictions; and

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(3) Used all reasonably obtainable and usable data pertaining to municipal annexations, incorporations, reorganizations, and any other changes in jurisdictional boundaries that materially affect the accuracy of such database.

b. Termination of Safe Harbor: The "Safe Harbor" subsection above applies to a home service provider that is in compliance with the requirements of the "Safe Harbor" subsection with respect to a state for which an electronic database is not provided, until the later of:

(1) Eighteen (18) months after the nationwide standard numeric code has been approved by the Federation of Tax Administrators and the Multistate Tax Commission; or

(2) Six (6) months after the State or a designated database provider in the State provides such database.

#### **E. Place of Primary Use.**

1. A home service provider is responsible for obtaining and maintaining the customer's place of primary use. Subject to the "Requirement to Maintain Electronic Database or Enhanced Zip Code Listing" section above, and if the home service provider's reliance on information by its customer is in good faith, a home service provider:

a. May rely upon the applicable residential or business street address supplied by the home service provider's customer.

b. Is not liable for any additional taxes, charges, or fees based on a different determination of the place of primary use for taxes, charges, or fees that are customarily passed on to the customer as a separate address under existing agreements.

2. A home service provider may treat the address used by the home service provider for tax purposes for any customer under a service contract or agreement in effect two (2) years after the date of this amendment to this ordinance as that customer's place of primary use for the remaining term of such service contract or agreement, excluding any extension or renewal of such service contract or agreement, for purposes

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of determining the taxing jurisdiction to which taxes, charges, or fees on charges for mobile telecommunication services are remitted.

**F. Tax Against Customer.** Each customer shall accurately report the customer's place of primary use. The customer shall be liable for any taxes not paid by the home service provider as a result of the customer's failure to accurately report the customer's place of primary use.

**G. Nonapplication.** This ordinance does not apply to the determination of the taxing situs of:

1. Prepaid telephone calling service; or
2. Air-ground radiotelephone service, as defined in section 22.99 of title 47 of the Code of Federal Regulations as in effect on June 1, 1999.

**H. Implementation Date.** If this ordinance is adopted before January 1, 2001, a home service provider shall have a minimum of thirty (30) days' notice before being obligated to collect the tax described in the ordinance. After January 1, 2001, a home service provider shall have a minimum of sixty (60) days' notice before being obligated to collect the tax described in this ordinance. After January 1, 2001, a home service provider shall receive a minimum of sixty (60) days' notice regarding any change in this ordinance.