

**Enterprise Municipal Code
Title 3 – Revenue and Finance
Chapters 3-04 to 3-28**

**Title 3
REVENUE AND FINANCE**

Chapters:

- 3-04 Fiscal procedures Generally
- 3-08 Claims and Warrants
- 3-12 Property Tax
- 3-16 Municipal Energy Sales and Use Tax
- 3-20 Public Improvement Contracts (Repealed)
- 3-24 Gas Tax
- 3-28 Hazardous Materials Emergency Expense Recovery

**Chapter 3-04
FISCAL PROCEDURES GENERALLY**

Sections:

- 3-04-010 Fiscal year.
- 3-04-020 City Council duties--Audit--Report.
- 3-04-030 Tentative budget.
- 3-04-040 Budget adoption.
- 3-04-050 Property tax levy--Determination.

3-04-010 FISCAL YEAR. The fiscal year of all cities shall begin July 1st of each year and shall end June 30th of the following year. (Ord. 88-8-9, 1988: prior code §97)

3-04-020 CITY COUNCIL DUTIES--AUDIT--REPORT.

- A. It shall be the duty of the City Council to have made an audit of management.
- B. Such audit, for any calendar year, shall be completed not later than six (6) months after the close of such year and shall be prepared in compliance with GAP.
- C. Copies of all audit reports made in conformity with the provisions of GAP shall be filed with the City and a copy thereof filed with the State Auditor's office. (Ord. 88-7-7 (part), 1988: prior code §77)

3-04-030 TENTATIVE BUDGET.

On the regularly scheduled meeting prior to May 15th of each year, the mayor with the assistance of the City Recorder shall prepare and file with the City Council a tentative budget which shall set forth in detail the revenues and expenditures of the preceding fiscal year, the estimated revenues and expenditures for the current fiscal year, an estimate of the revenues for the next succeeding fiscal year based upon the lowest rate of tax levy which in his opinion will raise the required amount of revenue using the current year's assessed valuation, and a detailed estimate of the essential expenditures of the City for the next succeeding fiscal year. There shall accompany this tentative budget a statement showing the financial condition of the City by funds as of April 30th of the current year and also of the estimated financial condition by funds at the close of the current

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fiscal year. This tentative budget shall be made immediately available for public inspection and shall remain so available for a period of at least ten days prior to the adoption of the budget. (Ord. 88-7-7 (part), 1988: prior code §78)

3-04-040 BUDGET ADOPTION.

On or before June 15th of each year the City Council shall adopt a budget for the next fiscal year and shall pass an appropriation ordinance to govern expenditures of the said following year; provided, that notice of the meeting for the adoption of the budget shall have been published in a newspaper of general circulation in the City, if there is one, otherwise shall have been posted in three conspicuous places in the City at least one week in advance of the holding of such meeting and that public hearing shall have been allowed on the budget prior to its adoption. It shall be unlawful for said City Council to make any appropriation in excess of the estimated expendable revenue for the ensuing year. All unexpended balances of appropriation shall at the end of the year revert to the funds from which they were appropriated and any existing deficits arising through excessive expenditures of former years shall to the extent of five percent of the revenue of the previous year, then and in such event, the entire amount of such deficit shall be deducted. Any budget appropriation may be reduced by action of the City Council at any regular meeting; provided, that notice of the proposed action shall have been given to all members of the Council at least one week in advance of such action. This section shall not apply in cases of emergency where the loss of life or great loss of property is involved. (Ord. 88-7-7 (part), 1988: prior code §79)

3-04-050 PROPERTY TAX LEVY--DETERMINATION.

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 governing body for the corresponding tax year, subject to the applicable limitations imposed by law. (Ord. 88-7-7 (part), 1988: prior code §80)

3-04-060 CAPITOL PROJECTS FUND:

Enterprise City in its desire to be fiscally responsible and to replace specific needed equipment as it becomes necessary; a Capitol Projects Fund shall be established. At the close of each fiscal year, all excess general funds, based on reasonable estimation, over and about the eighteen percent (18%) allowable accumulations shall be transferred to said established Capitol Equipment fund. (Ord. 2001-03 6/01)

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**Chapter 3-08
CLAIMS AND WARRANTS**

Sections:

- 3-08-010 Claims--Examination by City Council.
- 3-08-020 Claims--Conditions for hearing.
- 3-08-030 Claims--For material furnished.
- 3-08-040 Claims--Against political subdivision or its employee--Time for filing notice.
- 3-08-050 Claims--Barred if not presented according to Section 3.08.040.
- 3-08-060 Claims--Rejection--Allowance--Reconsideration.
- 3-08-070 Claims--Rejection--Action.
- 3-08-080 Claims--Officers not to advocate.
- 3-08-090 Warrants--Registration--Payment.
- 3-08-100 Warrants--Bonds--City certification.
- 3-08-110 Warrants--Limits on drawing.

3-08-010 CLAIMS--EXAMINATION BY CITY COUNCIL.

It shall be the duty of the City Council to carefully examine all claims presented against the City, when properly verified, and such of them as are found to be valid obligations of the City shall be approved and ordered paid. (Prior code §71)

3-08-020 CLAIMS--CONDITIONS FOR HEARING.

The City Council shall not hear or consider any claim of any person against the City nor shall the Council credit or allow any claim against the City unless the same be itemized, giving names, dates and particular service rendered, nor until it has been passed upon by the City Recorder. (Ord. 88-7-18 (part), 1988: prior code §136)

3-08-030 CLAIMS--FOR MATERIAL FURNISHED.

If the claim is for material furnished it shall state to whom it is delivered, by whom ordered, quantity and price agreed upon. Every such claim against the City must be presented to the Recorder within one year from the last item of the account or claim accrued. In all cases claims shall be duly verified as to their correctness and as to the fact that they are justly due, by the claimant or his authorized agent. If the Council shall refuse to hear or consider a claim because it is not properly made out, it shall cause notice of the fact to be given to the claimant or his attorney, and shall allow sufficient time for the same to be properly itemized and verified. (Ord. 88-7-18 (part), 1988: prior code §137)

3-08-040 CLAIMS--AGAINST POLITICAL SUBDIVISION OR ITS EMPLOYEE--TIME FOR FILING NOTICE.

A claim against a political subdivision, or against its employee for an act or omission occurring during the performance of his duties, within the scope of employment, or under color of authority, is barred unless notice of claim is filed with the governing body of the political subdivision within one year after the claim arises, or before the expiration of any extension of time granted under UCA Section 63-30-11, regardless of whether or not the function giving rise to the claim is characterized as governmental. (Ord. 88-7-18-A (part), 1988: Ord. 88-7-18 (part), 1988: prior code §138)

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3-08-050 CLAIMS--BARRED IF NOT PRESENTED ACCORDING TO SECTION 3-08-040.

It shall be a sufficient bar and answer to any action or proceeding against a City in any court, for the collection of any claim mentioned in Section 3.08.040, that such claims had not been presented to the City Council of such City in the manner and within the time in Section 3.08.040 specified; provided, that in case an account or claim, other than a claim made for damages on account of the unsafe, defective, dangerous or obstructed condition of any street, alley, cross-walk, way, sidewalk, culvert or bridge, is required by the Council to be made more specific as to itemization or description, or to be properly verified, sufficient time shall be allowed the claimant to comply with such requirement. (Ord. 88-7-18-A (part), 1988: Ord. 88-7-18 (part), 1988: prior code §139)

3-08-060 CLAIMS--REJECTION--ALLOWANCE--RECONSIDERATION.

When the Council finds that any claim presented is not payable by the City or is not a proper City charge, it must be rejected. If it is found to be a proper City charge, but greater in amount than is justly due, the Council may allow the claim in part and may order a warrant drawn for the portion allowed. If the claimant is unwilling to receive such amount in full payment, the claim may be again considered by the Council. (Ord. 88-7-18-A (part), 1988: Ord. 88-7-18 (part), 1988: prior code §140)

3-08-070 CLAIMS--REJECTION--ACTION.

A claimant dissatisfied with the rejection of his claim or demand, or with the amount allowed him on his account, may sue the City therefore at any time within one year after the first rejection thereof by the Council, but not afterward; and if in such action judgment is recovered for more than the Council allowed, on presentation of a certified copy of the judgment, the Council must allow and pay the same, together with the costs adjudged. (Ord. 88-7-18-A (part), 1988: Ord. 88-7-18 (part), 1988: prior code §141)

3-08-080 CLAIMS--OFFICERS NOT TO ADVOCATE.

No City officer shall, except for his own services, present any claim, account or demand for allowance, against the City, nor in any way advocate the relief asked in the claim or demand made by any other. Any person may appear before the Council and oppose the allowance of any claim or demand made against the City. (Ord. 88-7-18-A (part), 1988: Ord. 88-7-18 (part), 1988: prior code §142)

3-08-090 WARRANTS--REGISTRATION--PAYMENT.

Warrants drawn by the order of the City Council on the treasury of the City for current expenses during each year must specify the liability for which they are drawn and must be paid in the order of presentation to the treasurer. If the fund is insufficient to pay any warrant, it must be registered, and thereafter paid in the order of registration. (Ord. 88-7-18-A (part), 1988: Ord. 88-7-18 (part), 1988: prior code §143)

3-08-100 WARRANTS--BONDS--CITY CERTIFICATION.

The City Recorder shall endorse a certificate upon every bond, warrant or other evidence of debt, issued according to law or ordinance by him that the same is within the lawful debt limit of the City, and is lawfully issued. He shall sign such certificate in his official character. (Ord. 88-7-18-A (part), 1988: Ord. 88-7-18 (part), 1988: prior code §144)

3-08-110 WARRANTS--LIMITS ON DRAWING.

The City Recorder shall not draw warrants on City funds except in accordance with and within the limits of an appropriation ordinance duly passed by the City Council for the current year. (Ord. 88-7-18-A (part), 1988: Ord. 88-7-18 (part), 1988: prior code §145)

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**Chapter 3-12
PROPERTY TAX**

Sections:

- 3-12-010 Property tax levy--Time for setting.
- 3-12-020 Computation of total levy
- 3-12-030 Levy--Apportionment of proceeds.
- 3-12-040 Levy--Maximum combined amount.

3-12-010 PROPERTY TAX LEVY--TIME FOR SETTING.

Before June 22nd of each year, the governing body of each City, including charter cities, 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 various municipal purposes, but the levy may be set at an appropriate later date with the approval of the State Tax Commission. (Ord. 88-7-31 (part), 1988)

3-12-020 COMPUTATION OF TOTAL LEVY.

In its computation of the total levy, the governing body shall determine the requirements of each fund for which property taxes are to be levied and shall specify in its ordinance or resolution adopting the levy the amount apportioned to each fund. (Ord. 88-7-31 (part), 1988)

3-12-030 LEVY--APPORTIONMENT OF PROCEEDS.

- A. The proceeds of the levy apportioned for general fund purposes shall be credited as revenue in the general fund.
- B. The proceeds of the levy apportioned for special fund purposes shall be credited to the appropriate accounts in the applicable special funds. (Ord. 88-7-31 (part), 1988)

3-12-040 LEVY--MAXIMUM COMBINED AMOUNT.

The combined levies for each City, including charter cities, for all purposes in any year, excluding the retirement of general obligations 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. (Ord. 88-7-31 (part), 1988)

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**Chapter 3-16
MUNICIPAL ENERGY SALES AND USE TAX**

Sections:

- 3-16-010 Purpose.
- 3-16-020 Definitions.
- 3-16-030 Municipal energy sales and use tax.
- 3-16-040 Exemptions from the municipal energy sales and use tax.
- 3-16-050 Effect upon existing franchises--Credit for franchise fees.
- 3-16-060 Tax collection contract with State Tax Commission.
- 3-16-070 Incorporation of Part 1, Chapter 12, Title 59, Utah Code, includes amendments.
- 3-16-080 Collection and reporting of the municipal energy sales and use tax--No additional license required.

3-16-010 PURPOSE.

It is the intent of the City of Enterprise to adopt the municipal energy sales and use tax, pursuant to, and in conformance with, Utah Code Ann. §10-1-301 et seq, "The Municipal Energy Sales and Use Tax Act." (Ord. 97-05-05 (part))

3-16-020 DEFINITIONS.

As used in this chapter:

"Consumer" means a person who acquires taxable energy for any use that is subject to the municipal energy sales and use tax.

"Contractual franchise fee" means:

1. A fee:
 - a. Provided for in a franchise agreement, and
 - b. That is consideration for the franchise agreement; or
2.
 - a. A fee similar to subdivision (1) of this subsection; or
 - b. Any combination of subdivision (1) or (2) of this subsection.

"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.

"Energy supplier" means a person supplying taxable energy, except for persons supplying a de minimus amount of taxable energy, if such persons are excluded by rule promulgated by the State Tax Commission.

"Franchise agreement" means a franchise or an ordinance, contract or agreement granting a franchise.

"Franchise tax" means:

1. A franchise tax;
2. A tax similar to a franchise tax; or
3. Any combination of subdivision (1) or (2) of this subsection.

"Person" includes any individual, firm, partnership, joint venture association, corporation, estate, trust, business trust, receiver, syndicate, this state, any county, City, municipality, district, or other local governmental entity of the state, or any group or combination acting as a unit.

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"Sale" means any transfer of title, exchange, or barter, conditional or otherwise, in any manner, of taxable energy for a consideration. It includes:

1. Installment and credit sales;
2. Any closed transaction constituting a sale;
3. Any transaction under which right to acquire, use or consume taxable energy is granted under a lease or contract and the transfer would be taxable if an outright sale were made.

"Storage" means any keeping or retention of taxable energy in this City for any purpose except sale in the regular course of business.

"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.

"Taxable energy" means gas and electricity. (Ord. 97-05-05 (part))

3-16-030 MUNICIPAL ENERGY SALES AND USE TAX.

There is levied, subject to the provisions of this chapter (a tax on every sale or use of taxable energy made within the City of Enterprise equaling six percent of the delivered value of the taxable energy to the consumer. This tax shall be known as the municipal energy sales and use tax.

- A. The tax shall be calculated on the delivered value of the taxable energy to the consumer.
- B. The tax shall be in addition to any sales or use tax on taxable energy imposed by the City of Enterprise authorized by Title 59, Chapter 12, Part 2 of the Utah Code Annotated, the Local Sales and Use Tax Act. (Ord. 97-05-05 (part))

3-16-040 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 Ann. Section 10-1-305(2) (b); notwithstanding an exemption granted by section 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. Section 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 purchases 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 the City of Enterprise.
- 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

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2. The City of Enterprise 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. (Ord. 97-05-05 (part))

3-16-050 EFFECT UPON EXISTING FRANCHISES--CREDIT FOR FRANCHISE FEES.

- A. This chapter shall not alter any existing franchise agreements between the City of Enterprise 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 the City of Enterprise pursuant to a franchise agreement in effect on July 1, 1997;
 2. The contractual franchise fee is passed through by the energy supplier to a consumer as a separately itemized charge; and
 3. The energy supplier has accepted the franchise. (Ord. 97-05-05 (part))

3-16-060 TAX COLLECTION CONTRACT WITH STATE TAX COMMISSION.

- A. On or before the effective date of this chapter, the 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 the ordinances of the City code, as applicable.) The mayor, (with the approval of the City manager and City attorney, as applicable) is authorized to enter 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 the City monthly if:
 1. The City of Enterprise is the energy supplier; or
 2. a. The energy supplier estimates that the municipal energy sales and use tax collected annually from its Utah consumers equals one million dollars or more, and
b. 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 the 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 Section 10-1-307(4), Utah Code Annotated. (Ord. 97-05-05 (part))

3-16-070 INCORPORATION OF PART 1, CHAPTER 12, TITLE 59, UTAH CODE, INCLUDING AMENDMENTS

- A. Except as herein provided, and except as insofar as they are inconsistent with the provisions of Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act, as well as this chapter, all of the provisions of Part 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, exception Sections 59-12-101 and 59-12-119 thereof, and excepting for the amount of the sales and use taxes levied therein, are 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 the 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 subsection shall be deemed to require substitution of the name of the City for the word "State" when that word is used as a part of the title of

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the State Tax Commission, or of the Constitution of Utah, nor shall the name of the City be substituted for that of the state in any section when the result of such a 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 if 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 the City for the purposes of carrying out this chapter are incorporated herein by reference and shall be effective upon the date that they are effective as a Utah statute. (Ord. 97-05-05 (part))

3-16-080 COLLECTION AND REPORTING OF THE MUNICIPAL ENERGY SALES AND USE TAX--NO ADDITIONAL LICENSE REQUIRED.

No additional license to collect or report the municipal energy sales and use tax levied by this chapter is required, provided the energy supplier collecting the tax has a license issued under Section 59-12-106, Utah Code Annotated. (Ord. 97-05-05 (part))

**Chapter 3-20
PUBLIC IMPROVEMENT CONTRACTS (REPEALED)
(Ord. 2008-09, 2008)**

**Chapter 3-24
GAS TAX**

Sections:

- 3-24-010 Levy of utility revenue tax.
- 3-24-020 Definitions.
- 3-24-030 Remittance date.
- 3-24-040 City-owned services exempt from taxation.
- 3-24-050 Violation--Penalty.

3-24-010 LEVY OF UTILITY REVENUE TAX.

There is levied upon the business of every person or company engaged in the business in the City of Enterprise, Utah, of supplying gas energy service as a public utility, or in competition with public utilities, a utility revenue tax equal in amount to six percent of the gross revenues derived from the sale and use of the services of such utilities, delivered within the City limits from and after July 15, 1993. (Ord. 3.16.03.93 §1, 1993)

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3-24-020 DEFINITIONS.

As used in this chapter:

"gross revenues" means all revenues derived from the sale or other distribution of gas energy service within the City.

"public utility service" means the sale or other distribution of any gas energy service or product.

"in competition with public utilities" means to trade in products or services within the same market within the boundaries of the City of Enterprise as a business doing business as a public utility, upon which a tax is imposed as set forth in this chapter. (Ord. 3.16.03.93 §2, 1993)

3-24-030 REMITTANCE DATE.

Within thirty (30) days after the end of each calendar month during which the licensee conducts business within this City, the gas energy supplier shall file with the City office a report of its gross revenue derived from the sale and other disposition of the public utility service or product as defined in this chapter, together with a computation of the tax levied hereunder and imposed upon the said supplier. Coincidental with the filing of such report, the supplier shall pay to the City Treasurer the amount of the tax due for that calendar month as stated in the report for that month. (Ord. 3.16.03.93 §3, 1993)

3-24-040 CITY-OWNED SERVICES EXEMPT FROM TAXATION.

The utility revenue tax imposed by this chapter shall not apply to those services provided by the City of Enterprise, including electric energy, water, wastewater, irrigation water, solid waste services, and other similar utilities. (Ord. 3.16.03.93 §4, 1993)

3-24-050 VIOLATION--PENALTY.

It is unlawful for any supplier of gas energy services to conduct business within the City of Enterprise without complying with the terms of this chapter. Upon violation, the offense shall constitute a Class B misdemeanor, punishable as provided in Section 1-16-010 of the Enterprise Municipal Code. (Ord. 3.16.03.93 §6, 1993)

**Chapter 3-28
HAZARDOUS MATERIALS EMERGENCY EXPENSE RECOVERY**

Sections:

- 3-28-010 Definitions
- 3-28-020 Recovery of Expenses
- 3-28-030 Cost Recovery Procedure
- 3-28-040 Action to Recover Costs
- 3-28-050 Expenses of Other Responding Entities

3-28-010 DEFINITIONS.

For the purpose of this Ordinance, the following terms phrases and words shall have the following meaning:

"Hazardous materials emergency" means a sudden and unexpected release of any substance that, because of its quantity, concentration or physical, chemical, or infectious characteristics, presents a direct and immediate threat to public safety of the environment, and requires immediate action to mitigate the threat.

"Expenses" means all costs incurred for the response, containment, and/or removal and disposal of hazardous materials on initial remedial action. It includes, but is not necessarily limited to, the actual labor

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costs of government and other personnel including workers compensation benefits, fringe benefits, administrative overhead, and any costs of equipment, equipment operation, materials disposal and any contract labor or materials.

3-28-020 RECOVERY OF EXPENSES.

- A. Those persons or entities whose negligent or intentional actions cause or create, in whole or in part, a hazardous materials emergency within the boundaries of the City of Enterprise is liable to the City of Enterprise for all costs and expenses incurred in or arising from response to such hazardous materials emergency by the City of Enterprise and any other political subdivision, agency or cooperative entity. The City of Enterprise shall recover all such costs and expenses, including reasonable attorney's fees, litigation expenses, and court costs incurred in related to or arising out of, all recovery efforts and enforcement of the terms of this Ordinance.
- B. All costs expenses shall be billed at the current rate established and approved by resolution of the Executive Committee of the Inter-local Agreement for Cooperative Hazardous Materials Protection and Services. (Ord. 2003-04 §3, 2003)

3-28-030 COST RECOVERY PROCEDURE.

- A. The City of Enterprise shall investigate and determine the person or entity responsible for causing or creating the hazardous materials emergency and shall notify the responsible party in writing of said determination of responsibility and the amount of costs and expenses incurred by the City of Enterprise in responding to the hazardous materials emergency.
- B. The notice required by subsection 3-1 shall specify that the party determined to be responsible for causing or creating the hazardous materials emergency has the right to appeal the decision determining responsibility to the governing body of the City of Enterprise and shall specify a deadline for filing the notice of appeal and the person or office in which it must be filed. The deadline for filing the notice of appeal shall not be less than fifteen (15) days from the date of the notice.
- C. In the event a notice of appeal is filed, the hearing before the governing body shall be an informal public hearing, and the parties shall not be required to adhere to the Utah Rules of Civil Procedure or evidence. The appealing party and the City of Enterprise shall each be entitled to present evidence and argument in support of their respective positions, in accordance with procedures established at the hearing by the governing body.
- D. The decision of the governing body shall be final. (Ord. 2003-04 §3, 2003)

3-28-040 ACTION TO RECOVER COSTS.

- A. In the event the responsible party fails or refuses to pay all the costs and expenses determined by the City of Enterprise related to or arising out of the City of Enterprise's response to the hazardous materials emergency within thirty (30) days after assessment or after the governing body's decision on an appeal, the City of Enterprise may initiate a legal action to recover such costs, including reasonable attorney's fees and costs. (Ord. 2003-04, 2003)

3-28-050 EXPENSES OF OTHER RESPONDING ENTITIES.

- A. In the event that personnel and equipment from other political subdivisions, agencies or cooperative entities shall respond to assist with the hazardous materials emergency, then the City of Enterprise shall recover costs and expenses incurred by such other political subdivisions, agencies or cooperative entities as part of the City of Enterprise's cost recovery efforts.

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- B. Upon recovery of costs and expenses from the responsible party, the City of Enterprise is authorized to reimburse such other political subdivisions, agencies, or cooperative entities for their actual costs incurred in responding to the hazardous materials emergency. (Ord. 2003-04, 2003)

**Chapter 3-30
TELECOMMUNICATIONS TAX**

Sections:

- 3-30-010 Definitions.
- 3-30-020 Levy of tax.
- 3-30-030 Rate.
- 3-30-040 Rate limitation and exemption from.
- 3-30-050 Effective date of tax levy.
- 3-30-060 Inter-local Agreement for collection of the tax.

3-30-010 DEFINITIONS.

As used in this ordinance:

- A. **“Commission”** means the State Tax Commission.
- B. 1. Subject to Subsections (B)(2) and (3), **“customer”** means the person who is obligated under a contract with a telecommunications provider to pay for telecommunications service received under the contract.
2. For purposes of this ordinance, **“customer”** means:
 - a. the person who is obligated under a contract with a telecommunications provider to pay for telecommunications service received under the contract; or
 - b. if the end user is not the person described in Subsection (B)(2)(a), the end user of telecommunications service.
- 3. **“Customer”** does not include a reseller:
 - a. of telecommunications service; or
 - b. for mobile telecommunications service, of a serving carrier under an agreement to serve the customer outside the telecommunications provider’s licensed service area.
- C. 1. **“End user”** means the person who uses a telecommunications service.
2. For purposes of telecommunications service provided to a person who is not an individual, **“end user”** means 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:
 - a. imposed by a governmental entity;
 - b. separately identified as a tax, fee, or charge in the transaction with the customer for the telecommunications service; and

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- c. 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; or
 - 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 the City of Enterprise.
 - H. **“Place of primary use”**:
 - 1. 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:
 - a. the residential street address of the customer; or
 - b. the primary business street address of the customer; or
 - 2. for mobile telecommunications service, is as defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.
 - I. Notwithstanding where a call is billed or paid, **“service address”** means:
 - 1. if the location described in this Subsection (I)(1) is known, the location of the telecommunications equipment:
 - a. to which a call is charged; and
 - b. from which the call originates or terminates;
 - 2. if the location described in Subsection (I)(1) is not known but the location described in this Subsection (H)(2) is known, the location of the origination point of the signal of the telecommunications service first identified by:
 - a. the telecommunications system of the telecommunications provider; or
 - b. 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. if the locations described in Subsection (I)(1) or (2) are not known, the location of a customer’s place of primary use.
 - J. 1. Subject to Subsections (I)(2) and (I)(3), **“telecommunications provider”** means a person that:
 - a. owns, controls, operates, or manages a telecommunications service; or
 - b. engages in an activity described in Subsection (I)(1)(a) for the shared use with or resale to any person of the telecommunications service.
 - 2. A person described in Subsection (I)(1) is a telecommunications provider whether or not the Public Service Commission of Utah regulates:
 - a. that person; or
 - b. the telecommunications service that the person owns, controls, operates, or manages.
 - 3. **“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

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2. mobile telecommunications service, as defined in Utah Code Section 59-12-102:
 - a. that originates and terminates within the boundaries of one state; and (b) only to the extent permitted by the Mobile Telecommunications Sourcing Act, 4 Utah State Code Sec. 116 et seq.

3-30-020 LEVY OF TAX.

There is hereby levied a municipal telecommunications license tax on the gross receipts from telecommunications service attributed to this municipality. (Ord. 2004-02, 2004)

3-30-030 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 the municipality subject to the following:

If the location of a transaction is determined to be other than this municipality then the rate imposed on the gross receipts for telecommunications services shall be the lower of (1) the rate imposed by the taxing jurisdiction in which the transaction is located or (2) the rate for non- mobile telecommunication services shall be the rate imposed by the municipality in which the customers service address is located; or for mobile telecommunications service, the rate imposed by the municipality of the customer's primary place of use. (Ord. 2004-02, 2004)

3-30-040 RATE LIMITATION AND EXEMPTION FROM.

This rate of this levy shall not exceed four (4)% of the telecommunication providers' gross receipts from telecommunication service attributed to the municipality unless a higher rate is approved by a majority vote of the voters in this municipality that vote in:

- A. a municipal general election;
- B. a regular general election; or
- C. a local special election.

3-30-050 EFFECTIVE DATE OF TAX LEVY.

This tax shall be levied beginning the earlier of July 1, 2004 or the first day of any calendar quarter after a 75 day period beginning on the date the Commission received notice pursuant to Utah Code 10-1-403 that this municipality has enacted this ordinance. (Ord. 2004-02, 2004)

3-30-060 INTER-LOCAL AGREEMENT FOR COLLECTION OF THE TAX.

On or before the effective date of the ordinance, the municipality shall enter into the uniform inter-local 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;
Repeal of inconsistent taxes and fees. (Ord. 2004-02, 2004)