

**ORDINANCE NO. 2012-07**

**AN ORDINANCE ENACTING AND CODIFYING TITLE 5A OF THE FRUIT HEIGHTS MUNICIPAL CODE REGARDING REVENUE AND FINANCE, INCLUDING PROVISIONS RELATED TO ACCOUNTS AND ACCOUNTING, BUDGETS, EXPENDITURES, PROPERTY TAX, AND SALES AND USE TAX**

**WHEREAS**, the City Council has previously consented to and directed Staff to evaluate, review and revise the Fruit heights City Municipal Code to provide necessary updates and revisions to City Ordinances in accordance with State legislative amendments and changes to policies, practices and procedures; and

**WHEREAS**, Staff has evaluated, reviewed and prepared suggested provisions for the City Code regarding Revenue and Finance to be enacted and codified in Title 5A of the Fruit Heights City Municipal Code and recommends adoption of the revisions as more particularly set forth herein; and

**WHEREAS**, the City Council desires to adopt the revised and updated provisions of the Fruit Heights Municipal Code regarding Revenue and Finance to be enacted and codified as Title 5A as more particularly set forth herein; and

**WHEREAS**, the City Council finds that the proposed enactment and codification of Title 5A regarding Revenue and Finance are in the best interest of the public to ensure that the City's ordinances are up to date; and

**WHEREAS**, the City Council is authorized to enact and codify the provisions of Title 5A in compliance with applicable provisions of State law pursuant to and in accordance with *Utah Code Ann. §§ 10-3-701, et seq.*;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF FRUIT HEIGHTS CITY, STATE OF UTAH:**

**Section 1.** **Enactment and Codification.** Title 5A of the Fruit heights City Municipal Code regarding Revenue and Finance is hereby adopted and recodified to read in its entirety as set forth in **Exhibit "A,"** attached hereto and incorporated herein by this reference.

**Section 2.** **Repealer.** Title 3, Chapter 3A, of the Fruit Heights Municipal Code regarding Sales and Use Tax is hereby repealed and replaced with the provisions of the new Title 5A as adopted herein.

**Section 3.** **General Repealer.** The adoption and codification of Title 5A shall be a repeal of all ordinances in conflict with the adopted and codified Ordinances, provided however, all ordinances in force prior to the adoption and codification shall continue in force after the

**Section 4. Severability Clause.** If any section, part or provision of this Ordinance is held invalid or unenforceable, such invalidity or unenforceability shall not affect any other portion of this Ordinance, and all provisions, clauses and words of this Ordinance shall be severable. This Section shall become effective without codification.

**Section 5. Effective Date.** This Ordinance shall become effective upon publication or posting, or twenty (20) days after adoption, whichever occurs first.

**PASSED AND ADOPTED BY THE CITY COUNCIL OF FRUIT HEIGHTS, STATE OF UTAH, ON THIS 10<sup>th</sup> DAY OF ~~MAY~~, 2012.**

July,

**FRUIT HEIGHTS CITY**

By: T. Stevenson  
Mayor Todd Stevenson

**ATTEST:**

Brandon Green  
Brandon Green, City Recorder

Voting by the City Council:

	“AYE”	“NAY”
Councilmember Anderson	<u>X</u>	_____
Councilmember Carroll	<u>X</u>	_____
Councilmember Hill	<u>X</u>	_____
Councilmember Hubrich	<u>X</u>	_____
Councilmember Moss	<u>X</u>	_____

**EXHIBIT "A"**

**TITLE 5A REVENUE AND FINANCE**

## TITLE 5A

### REVENUE AND FINANCE

CHAPTER 5A-01:	GENERAL PROVISIONS
CHAPTER 5A-02:	ACCOUNTS AND ACCOUNTING
CHAPTER 5A-03:	BUDGETS
CHAPTER 5A-04:	EXPENDITURES
CHAPTER 5A-05:	PROPERTY TAX
CHAPTER 5A-06:	LOCAL SALES AND USE TAX

#### CHAPTER 5A-01: GENERAL PROVISIONS

5A-01-010.	Intent.
5A-01-020.	Definitions.
5A-01-030.	Budget Officer.
5A-01-040.	City Recorder.
5A-01-050.	City Treasurer.
5A-01-060.	Financial Administration.
5A-01-070.	Unlawful Conduct.

#### 5A-01-010. Intent.

It is the purpose of this Chapter to set forth accounting, budgeting and financial reporting requirements and procedures of the City. It is the intent of the City to comply with all applicable provisions of the Uniform Fiscal Procedures Act for Utah Cities, as set forth in *Utah Code Ann.* §§ 10-6-101, *et seq.*, as amended ("Uniform Fiscal Procedures Act"), and the Uniform Accounting Manual for Utah Cities as prescribed by the State Auditor ("Uniform Accounting Manual").

#### 5A-01-020. Definitions.

To the extent used in this Title, the words and phrases defined in *Utah Code Ann.* § 10-6-106, as amended, shall have the meanings set forth therein.

#### 5A-01-030. Budget Officer.

The City Manager, as appointed by the Mayor with the approval of the City Council, is the Budget Officer of the City and shall perform all duties required of such position as set forth in the Uniform Fiscal Procedures Act and/or the Uniform Accounting Manual.

#### 5A-01-040. City Recorder.

The City Recorder shall perform such duties regarding revenue and finance matters for the City as set forth in Title 3 and as otherwise set forth herein and in the Uniform Fiscal Procedures Act and/or the Uniform Accounting Manual.

#### 5A-01-050. City Treasurer.

The City Treasurer shall perform such duties regarding revenue and finance matters for the City as set forth in Title 3 and as otherwise set forth herein and in the Uniform Fiscal Procedures Act and/or the Uniform Accounting Manual.

**5A-01-060. Financial Administration.**

Pursuant to and in accordance with *Utah Code Ann.* § 10-6-158, as amended, the City Council may adopt a financial administration ordinance, with appropriate budgetary controls, to authorize the Mayor, or other official approved by the City Council, to act as the financial officer for purposes of approving payroll checks, if approved in accordance with adopted salary schedule, and routine expenditures, such as utility bills, payroll-related expenses, supplies, and materials.

**5A-01-070. Unlawful Conduct.**

It shall be unlawful for any person to commingle City funds with his or her own money and whenever it shall appear that the Treasurer or any other officer is making profit out of public money or is using the same for any purpose not authorized by law, such officer shall be suspended from office and subject to disciplinary proceedings up to and including termination in accordance with the City's disciplinary procedures, as applicable.

**CHAPTER 5A-02: ACCOUNTS AND ACCOUNTING**

- 5A-02-010. Fiscal Period.**
- 5A-02-020. Accounts.**
- 5A-02-030. Accounting Records.**
- 5A-02-040. Financial Reporting.**
- 5A-02-050. Monthly and Quarterly Financial Reports.**
- 5A-02-060. Annual Financial Reports.**
- 5A-02-070. Independent Audit.**

**5A-02-010. Fiscal Period.**

The fiscal period is an annual period of accounting for fiscal operations of the City which shall begin July 1 of each year and end June 30 of the following year.

**5A-02-020. Accounts.**

The City shall maintain, according to its own accounting needs, funds and account groups in its system of accounts as prescribed in the Uniform Accounting Manual.

**5A-02-030. Accounting Records.**

Accounting records of the City shall be established and maintained, and financial statements prepared from those records, in accordance with the Uniform Accounting Manual.

**5A-02-040. Financial Reporting.**

The City shall comply with annual financial reporting and independent auditing requirements as set forth in the Uniform Fiscal Procedures Act and the Uniform Accounting Manual.

**5A-02-050. Monthly and Quarterly Financial Reports.**

The City Recorder shall prepare and present to the City Council monthly summary financial reports and quarterly detail financial reports prepared in the manner prescribed in the Uniform Accounting Manual.

**5A-02-060. Annual Financial Reports.**

Within 180 days after the close of each fiscal period, the City Recorder or other delegated person shall present to the City Council an annual financial report prepared in the manner prescribed in the Uniform Accounting Manual. Each annual financial report shall contain the information required by *Utah Code Ann.* § 10-6-150, as amended. The requirement under this Section to present an annual financial report may be satisfied by presentation of the audit report furnished by the independent auditor, if the financial statements included are appropriately prepared and reviewed with the governing body. Copies of the annual financial report or the audit report furnished by the independent auditor shall be filed with the State Auditor and shall be filed as a public document in the Office of the City Recorder.

**5A-02-070. Independent Audit.**

Independent audits of the City are required to be performed in conformity with Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act, of the *Utah Code Annotated*, as amended. Within ten (10) days following the receipt of the audit report furnished by the independent auditor, the City Recorder shall prepare and publish at least twice in a newspaper of general circulation published within Davis County, a notice to the public that the audit of the City has been completed and a copy thereof may be inspected at the office of the City Recorder.

**CHAPTER 5A-03: BUDGETS**

- 5A-03-010. Budgets.**
- 5A-03-020. Tentative Budget.**
- 5A-03-030. Budget Message.**
- 5A-03-040. Review of Tentative Budget.**
- 5A-03-050. Public Inspection.**
- 5A-03-060. Notice and Public Hearing.**
- 5A-03-070. Continuing Review.**
- 5A-03-080. Final Budget.**
- 5A-03-090. Filing and Public Inspection.**
- 5A-03-100. Amendments to Budgets.**
- 5A-03-110. Operating and Capital Budgets.**
- 5A-03-120. Appropriations.**
- 5A-03-130. Fund Balances.**

**5A-03-010. Budgets.**

The Budget Officer shall prepare for each budget period a budget for all required funds in accordance with applicable provisions of the Uniform Fiscal Procedures Act and the Uniform Accounting Manual.

**5A-03-020. Tentative Budget.**

The Budget Officer shall prepare for the ensuing fiscal period, on forms provided or approved by the State Auditor, and file with the City Council on or before the first regularly scheduled meeting of the City Council in May of each year, a tentative budget for each fund for which a budget is required in accordance with applicable provisions of the Uniform Fiscal Procedures Act and the Uniform Accounting Manual.

**5A-03-030. Budget Message.**

Each tentative budget filed by the Budget Officer with the City Council shall be accompanied by a budget message, which shall explain the budget, contain an outline of the proposed financial policies of the City for the budget year, and describe the important features of the budgetary plan. The budget message shall also set forth the reasons for salient changes from the previous year in appropriation and revenue items and shall explain any major changes in financial policy.

**5A-03-040. Review of Tentative Budget.**

The City Council shall review, consider and adopt the tentative budget at any regular or special meeting called for the purpose. The tentative budget may be amended or revised in such manner as is deemed advisable prior to public hearing, provided that no appropriation required for debt retirement and interest, reduction of any existing deficits, or otherwise required by law or ordinance, may be reduced below the minimum required.

**5A-03-050. Public Inspection.**

The tentative budget adopted by the City Council and all supporting schedules and data shall be of public record filed in the office of the City Recorder, available for public inspection during regular business hours for a period of at least ten (10) days prior to the adoption of a final budget.

**5A-03-060. Notice and Public Hearing.**

At the meeting at which the tentative budget is adopted, the City Council shall establish the time and place of a public hearing to consider adoption of the budget and shall order that notice thereof be published at least seven (7) days prior to the hearing in at least one issue of a newspaper of general circulation published in Davis County. The City Council shall hold a public hearing on the tentative budget

at the time and place advertised at which all interested persons in attendance shall be given an opportunity to be heard, for or against, the estimates of revenue and expenditures or any item in the tentative budget of any fund.

**5A-03-070. Continuing Review.**

After the public hearing on the tentative budget, the City Council may continue to review the tentative budget and may insert new items or increase or decrease items of expenditures that were the proper subject of consideration at the public hearing, provided that no appropriation required for debt retirement and interest, reduction of any existing deficits, or otherwise required by law or ordinance, may be reduced below the minimum required. The City Council shall increase or decrease the total anticipated revenue to equal the net change in proposed expenditures in the budget of each fund.

**5A-03-080. Final Budget.**

The City Council shall, by resolution or ordinance, adopt a final budget for the ensuing fiscal period for each fund for which a budget is required herein before June 22 of each fiscal period, or August 17 in the case of a property tax increase under Title 59, Chapter 2 of the *Utah Code Annotated*, as amended. Upon final adoption, the budgets shall be in effect for the budget year, subject to amendment.

**5A-03-090. Filing and Public Inspection.**

A copy of the final budget for each fund shall be certified by the Budget Officer and filed with the State Auditor within thirty (30) days after adoption of the same by the City Council. A certified copy of the final budget shall also be filed with the City Recorder and shall be available to the public for inspection during regular business hours.

**5A-03-100. Amendments to Budgets.**

The City Council may, upon the written request of one of its members or upon its own motion setting forth the reasons therefor, at any time during the budget period, review the individual budgets of the funds of the City for the purpose of determining if the total of any of them should be increased. If the City Council decides that the budget total of one or more of such funds should be increased, it shall follow the public hearing procedures set forth in Section 5A-03-060. After the public hearing, the City Council, by resolution or ordinance, may amend the budgets of the funds proposed to be increased to make the proposed increases or portions thereof which were the proper subject of consideration at the hearing. Final amendments in the current year to the budgets of any funds shall be adopted by the City Council on or before the last day of the fiscal period.

**5A-03-110. Operating and Capital Budgets.**

The City Council shall adopt an "operating and capital budget" for each enterprise fund for the ensuing fiscal period and shall adopt the type of budget for other special funds as required by the Uniform Accounting Manual. For purposes of this Chapter, "operating and capital budget" means a plan of financial operation for an enterprise or other required special fund that includes estimates of operating resources, expenses, and other outlays for a fiscal period. All operating and capital budgets shall be prepared, adopted, administered, and amended in accordance with applicable procedures of the Uniform Fiscal Procedures Act and the Uniform Accounting Manual.

**5A-03-120. Appropriations.**

The City shall not make any appropriation in the final budget of any fund in excess of the estimated expendable revenue for the budget period of such fund. All unexpended or unencumbered appropriations except capital projects fund appropriations shall lapse at the end of the budget period in accordance with *Utah Code Ann.* § 10-6-130, as amended.

**5A-03-130. Fund Balances.**

(a) All Funds. The City may accumulate retained earnings or fund balances, as appropriate, in any fund in accordance with applicable provisions of the Uniform Fiscal Procedures Act and the Uniform Accounting Manual.

(b) General Fund. Accumulated fund balances in the General Fund are restricted to purposes permitted by law. Any fund balance in excess of five percent (5%) of the total revenues of the General Fund may be utilized for budget purposes. Except as otherwise provided in the Uniform Fiscal Procedures Act or the Uniform Accounting Manual, any accumulated fund balance in the General Fund may not exceed eighteen percent (18%) of the total estimated revenue of the General Fund. If the fund balance at the close of any fiscal period exceeds the amount permitted by law, the excess shall be appropriated in the manner provided in *Utah Code Ann.* § 10-6-117, as amended.

(c) Capital Improvement Fund. Within a capital improvement fund, the City Council may, in any budget year, appropriate from estimated revenue or fund balance to a reserve for capital improvements for purposes set forth in the Uniform Fiscal Procedures Act and the Uniform Accounting Manual.

## **CHAPTER 5A-04: EXPENDITURES**

- 5A-04-010. Expenditures.**
- 5A-04-020. Purchasing Procedures.**
- 5A-04-030. Filing of Bids.**
- 5A-04-040. Emergency Expenditures.**

### **5A-04-010. Expenditures.**

All expenditures by any department must conform with the department budget. No appropriation may be encumbered and no expenditure may be made against any department appropriation unless there is sufficient unencumbered balance in the department's appropriation, except in the cases of emergency as provided in this Chapter or the Uniform Fiscal Procedures Act. City officers or employees may not make or incur expenditures or encumbrances in excess of total appropriations for any department in the budget as adopted or subsequently amended. Any obligation contracted by any such officer or employee may not be or become valid or enforceable against the City. No check or warrant to cover any claim against any appropriation shall be drawn until the claim has been processed as provided by the Uniform Fiscal Procedures Act.

### **5A-04-020. Purchasing Procedures.**

All purchases or encumbrances shall be made in accordance with the purchasing procedures adopted by the City, including, but not limited to the procurement procedures adopted pursuant to Title 3 of this Code. All encumbrances reported as outstanding as of the fiscal period end shall be supported by a purchase order or some form of documentation authorizing expenditures issued on or before the last day of the fiscal period and approved by the City.

### **5A-04-030. Filing of Bids.**

Whenever the City is required by State law to receive bids for purchases, construction, repairs, or any other purpose requiring the expenditure of funds, the City shall keep on file all bids received, together with proof of advertisement by publication or otherwise, for at least three (3) years following the letting of any contract pursuant to those bids or three (3) years following the first advertisement for the bids, if all bids pursuant to that advertisement are rejected pursuant to *Utah Code Ann.* § 10-6-122, as amended.

### **5A-04-040. Emergency Expenditures.**

If the City Council determines that an emergency exists and that the emergency necessitates the expenditure of money in excess of the budget of the General Fund, the City Council may by resolution or ordinance amend the budget and authorize such expenditures and incur such deficits in the fund balance of the General Fund as may be reasonably necessary to meet the emergency. If the City creates a local fund under Title 53, Chapter 2, Disaster Recovery Funding Act, of the *Utah Code Annotated*, the City shall expend monies for applicable emergencies in accordance with the provisions of such Act.

**CHAPTER 5A-05:      PROPERTY TAX**

- 5A-05A-010.    Property Tax Levy.**
- 5A-05A-020.    Computation of Levy.**
- 5A-05A-030.    Basis for Determining Levy.**
- 5A-05A-040.    Apportionment of Levy.**

**5A-05A-010.    Property Tax Levy.**

The City Council shall by resolution or ordinance set the real and personal property tax levy for various municipal purposes before June 22 of each year, or August 17 in the case of a property tax rate increase under Title 59 of the *Utah Code Annotated*, as amended; provided, the levy may be set at an appropriate later date with the approval of the State Tax Commission. The City Recorder shall certify the ordinance or resolution setting the levy to the county auditor as required by State law.

**5A-05A-020.    Computation of Levy.**

In computing the total levy, the City Council 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. The combined levies 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.

**5A-05A-030.    Basis for Determining Levy.**

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 City Council for the corresponding tax year, subject to the applicable limitations imposed by law.

**5A-05A-040.    Apportionment of Levy.**

The proceeds of the levy apportioned for General Fund purposes shall be credited as revenue in the General Fund. The proceeds of the levy apportioned for special fund purposes shall be credited to the appropriate accounts in the applicable special funds.

**CHAPTER 5A-06: LOCAL SALES AND USE TAX**

- 5A-06-010. Purpose.**
- 5A-06-020. Local Sales and Use Tax.**
- 5A-06-030. Exemption from Tax.**
- 5A-06-040. Tax Paid.**
- 5A-06-050. State Tax Collection Provisions.**
- 5A-06-060. State Tax Commission Contract.**
- 5A-06-070. Distribution of Tax Revenue.**
- 5A-06-080. Continuation of Previous Ordinances.**

**5A-06-010. Purpose.**

It is the purpose of this Chapter to provide the City with an added source of revenue to thereby assist the City in meeting its growing financial needs. The provisions of this Chapter are intended and shall be interpreted to be in compliance with the Local Sales and Use Tax Act, set forth at *Utah Code Ann.* ' 59-12-201, *et seq.*, as amended, and other applicable provisions of State law. This Chapter may be referred to as the Local Sales and Use Tax Ordinance of the City.

**5A-06-020. Local Sales and Use Tax.**

Pursuant to authority set forth in *Utah Code Ann.* ' 59-12-203, as amended, there is hereby levied and there shall be collected and paid a sales and use tax upon every transaction listed in *Utah Code Ann.* ' 59-12-103, as amended, made within the City at the rate of one percent (1%) of the purchase price paid or charged.

**5A-06-030. Exemption from Tax.**

The City may not impose a tax under this Chapter on sales and uses that are exempt from taxation under *Utah Code Ann.* § 59-12-104, as amended, or *Utah Code Ann.* § 59-12-204, as amended, or any other exempt transactions required by law.

**5A-06-040. Tax Paid.**

The amount of any tax paid under the State Sales and Use Tax Act, set forth at *Utah Code Ann.* ' 59-12-101, *et seq.*, as amended, shall not be included as a part of the purchase price paid or charged for a taxable item.

**5A-06-050. State Tax Collection Provisions.**

The tax collection provisions set forth in Title 59, Chapter 12, Part 1, Tax Collection, of the *Utah Code Annotated*, as amended, insofar as they relate to sales and use taxes, are hereby adopted and made a part of this Chapter as though fully set forth herein, except that the name of the City as the taxing agency shall be substituted for that of the State where necessary for the purposes of the Local Sales and Use Tax, and an additional sales and use tax license is not required if one has been or is issued under *Utah Code Ann.* § 59-12-106, as amended. Any amendments made to Title 59, Chapter 12, Part 1, Tax Collection, of the *Utah Code Annotated*, which would be applicable to the City as set forth herein are incorporated herein by this reference and shall be effective upon the date they are effective as a Utah statute.

**5A-06-060. State Tax Commission Contract.**

Pursuant to *Utah Code Ann.* § 59-12-202, as amended, the State Tax Commission has been granted the exclusive authority to administer, operate, and enforce the local sales and use tax. The City has previously entered into an agreement with the State Tax Commission for the Commission to perform all functions incident to the administration, operation and enforcement of the Local Sales and Use Tax Ordinance of the City without interference from the City, provided that the City may be allowed to intervene in accordance with the provisions and restrictions of *Utah Code Ann.* ' 59-12-209, as amended. That

agreement is hereby confirmed and the Mayor is hereby authorized to enter into such supplementary agreement(s) with the State Tax Commission which may be necessary for the continued administration, operation and enforcement of the Local Sales and Use Tax Ordinance of the City.

**5A-06-070. Distribution of Tax Revenue.**

Local sales and use tax revenues collected on transactions within the City shall be collected and distributed by the State Tax Commission in accordance with applicable provisions of State law.

**5A-06-080. Continuation of Previous Ordinances.**

The provisions of this Chapter which are not in conflict with the former local sales and use tax ordinances of the City 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.