

City of Orem
Policies and Procedures for City Option Funding
of Recreational and Cultural Facilities and Cultural Organizations,
known as the CARE Program

Background:

On November 8, 2005, a majority of City of Orem voters approved a 1/10th of 1% increase in the local sales and use tax as a means of enhancing funding for recreational and cultural facilities and cultural organizations within the City of Orem. The Orem City Council enacted the tax by ordinance on November 22, 2005 and the tax went into effect April 1, 2006. Known as the Cultural Arts and Recreation Enrichment tax, hereafter, CARE, funds are to be used for eligible facilities and organizations consistent with Utah Code Ann. 59-12-1401 and as defined in Utah Code Ann. 59-12-702, with the exception of zoological facilities and organizations and botanical organizations. The tax is currently authorized for a period of eight years.

To carry out the provisions of the act, the City has enacted Article 18-5 of the City of Orem Municipal Code.

Program Purpose:

The CARE Program exists to enhance financial support for Orem's qualifying recreational and cultural facilities and cultural organizations through the imposition, collection, and distribution of a 1/10th of 1% city sales and use tax. The CARE Program is committed to fair and equitable access to CARE funding.

1.0 Policy

The Orem City Council shall distribute the entire amount of revenues and interest collected as a result of the imposition of the sales and use tax known as the CARE tax in a manner consistent with Utah Code Ann. 59-12-1403, which allows for:

- 1.1 granting to one or more organizations or facilities as defined in Utah Code Ann. 59-12-702;
- 1.2 interlocal agreement as provided in Utah Code Ann. 59-12-704; and,
- 1.3 retaining a portion of the tax collected, not to exceed 1.5%, for the cost of administering the CARE program.

2.0 Definitions

The following definitions shall be used when referenced hereafter:

- 2.1 Application Form – the documents specified by the CARE Program of the City of Orem for use by entities and organizations which request funds pursuant to this Policy, including any required attachments and supporting documents.
- 2.2 Compilation Report – financial statement of an organization, prepared by a Utah licensed Certified Public Accountant.

- 2.3 Nonprofit – an organization or corporation that is not organized, created, operated or maintained to generate a profit or distribute income to its members, directors, officers, or corporation. Certification by the Internal Revenue Service as an organization qualifying under 501(c)(3) of the Internal Revenue Code is required for any private nonprofit organization to qualify for funds hereunder.
- 2.4 Notice to an Applicant – Notice to an applicant required or provided for under this Policy will be complete when Notice is forwarded by regular mail to the name and address provided by the Applicant in the application for CARE funds.
- 2.5 Publicly Owned – owned by a governmental agency.
- 2.6 Primary Purpose – the main goal, the fundamental intent, the core purpose or mission of an organization.
- 2.7 Qualifying Operating Expenses – this definition applies to cultural organizations. An organization’s total expenditures for ongoing operations for an identifiable fiscal year as documented by certified financial records (as allowed by Generally Accepted Accounting Principles, GAAP) less the following non-qualifying expenditures:
 - 2.7.1 Capital construction expenses, including capital acquisition, improvements to real property or depreciation of real property;
 - 2.7.2 Payments into an Endowment Corpus;
 - 2.7.3 Expenditures for programs conducted outside of the City of Orem;
 - 2.7.4 Activities not available to the general public;
 - 2.7.5 Fundraising expenses related to capital or endowment campaigns;
 - 2.7.6 Repayments of loans and/or interest thereon;
 - 2.7.7 Expenditures for direct political lobbying on all levels;
 - 2.7.8 Grants – the distribution of funds to outside groups, institutions, organizations or other units;
 - 2.7.9 Bad Debt Expense;
 - 2.7.10 Depreciation and amortization of any asset;
 - 2.7.11 Non-deductible Tax penalties;
 - 2.7.12 Unrelated Business Income Tax – any operating expenses that are utilized in calculating federal unrelated business income tax; and,
 - 2.7.13 Other expenses not related to the organization’s primary cultural purpose.
- 2.8 Qualifying Organization – a cultural organization as defined in Utah Code Ann. 59-12-701 that:
 - 2.8.1 maintains nonprofit status and meets the purpose of the statute; and,
 - 2.8.2 has a primary purpose that corresponds with the definitions for a cultural organization as described in the statute.
- 2.9 Qualifying Facilities Expenses – capital development and ongoing operating expenses of recreational and cultural facilities as defined in Utah Code Ann. 59-12-702.
- 2.10 Review – inquiry and analytical procedures applied to the financial statements of an organization, performed by a Utah licensed Certified Public Accountant.
- 2.11 Definitions from Utah Code Ann. 59-12-702, referenced hereafter:

- 2.11.1 Administrative Unit – a division of a private nonprofit organization or institution that would, if it were a separate entity, be a cultural organization; and consistently maintains books and records separate from those of its parent organization.
- 2.11.2 Cultural Facility – any publicly owned or operated museum, theater, art center, music hall, or other cultural or arts facility.
- 2.11.3 Cultural Organization – a private nonprofit organization or institution having as its primary purpose the advancement and preservation of art, dance, history, music, natural history, or theater; and an administrative unit. Cultural organization does not include any agency of the state; any political subdivision of the state; any educational institution whose annual revenues are directly derived more than 50% from state funds; or any radio or television broadcasting network or station, cable communications system, newspaper, or magazine.
- 2.11.4 Institution – institutions listed in Utah Code Ann. subsections 53B-1-102(1)(b) through (l), including Utah Valley State College and other public post-high school educational institutions designated by the State Legislature as a part of the State’s system of higher education.
- 2.11.5 Recreational Facility – any publicly owned or operated park, campground, marina, dock, golf course, playground, athletic field, gymnasium, swimming pool, trail system, cultural facility, or other facility used for recreational purposes.

3.0 General Guidelines

- 3.1 Funding for this program comes from sales tax revenues that are collected by the State of Utah and distributed to the City of Orem. All funding shall be based on actual sales and use tax receipts as received, recorded and reconciled by the City.
- 3.2 CARE funds *are not an entitlement* and the filing of an application for funds, no matter how complete or comprehensive, is not a guarantee that any funds will be awarded. As such, it should be clearly understood that the award of CARE funds is in the nature of a competitive grant and is awarded on the basis of merit and availability of funds of which from year to year there is no guarantee. Grants are awarded as much as possible on objective factors.
- 3.3 The City Council may choose to allocate a percentage of the funding to various classes of applications. This may be modified annually based on revenues available and the number of organizations that apply.
- 3.4 Grants shall be made available in three categories: Recreational and Cultural Facilities; Cultural Arts Major Grants of \$5,000 or more; and Cultural Arts Mini Grants of up to \$4,999.
- 3.5 Applicants may apply in one or more categories and they may apply in collaboration with other qualifying entities.
- 3.6 One granting round shall be made available each year.

- 3.7 Multiple year grants may be awarded provided they are within the CARE tax authorization period of eight years. Multiple year grants will still be subject to annual appropriation by the Orem City Council.
- 3.8 The fact that a project was previously qualified for funding does not guarantee that it is qualified for subsequent funding unless so authorized in the original grant.
- 3.9 The Orem City Council may use unallocated or unexpended funds from one fiscal year in another fiscal year.

4.0 Recreational and Cultural Facilities Grants

- 4.1 Grants shall be made available for publicly owned or operated recreational and cultural facilities as defined in Utah Code Ann. 59-12-702.
- 4.2 Qualifying facilities expenses include capital development and the ongoing operating expenses of recreational and cultural facilities as defined in Utah Code Ann. 59-12-702.
- 4.3 All funded facilities must be located in the City of Orem or within the boundaries of an inter-local agreement with the City of Orem.
- 4.4 Applying entities and organizations must provide for perpetual maintenance and be responsible for operational and financial accountability for all facilities for which funding is requested.

5.0 Cultural Arts Major and Mini Grants

- 5.1 Grants to qualifying organizations should be utilized to build organizational capacity, to create stability and to enhance the City of Orem's cultural arts offerings and community.
- 5.2 Private nonprofit cultural organizations requesting Major Grants must be 501(c)(3) nonprofit entities at the time of the application deadline. Private nonprofit cultural organizations requesting Mini Grants must be 501(c)(3) nonprofit entities or registered with the State of Utah as nonprofit corporations with an active status at the time of the application deadline.
- 5.3 Qualifying organizations must come from one of the following eligible disciplines:
Architecture: Historical Preservation, Service & Education;
Arts Education: Performances for Children/Students, Classroom or After-School Instruction, Teacher and Artist Training, Service/Information and Referrals;
Dance: Ballet, Dance Service Organization, Dance Training, Historical/Traditional, Interdisciplinary, Jazz, World (ethnic), Modern, and Tap;
Folk Arts: Folk arts are defined as the homegrown traditional artistic activities of groups that share the same ethnic heritage, language, occupation, religion or geographic area. They are also community and/or family-based arts that have endured through several generations that carry with them a sense of community aesthetic, and that demonstrate the highest degree of artistic excellence. Folk Arts include: Crafts, Stories/Oral History, and Traditional Performing Arts;
History: History is broadly defined as the study of the past, designed to record or explain past events. This includes the following kinds of organizations and

activities: Heritage Preservation, Historical Museums, Historical Research, Historical Site and Living History Programs;

Humanities: Humanities are defined as promoting, and public education of, the branches of learning or study embraced by philosophy, literature, languages, and art criticism, but excluding theology, natural and social sciences. Humanities includes: Lecture Series and Symposium/Conference;

Interdisciplinary/Performance Art: An artistic hybrid, combining two or more disciplines within a single artwork or performance piece;

Literature: Press, prose, poetry or nonfiction, Literary Service Organization. (*Magazines and newspapers are ineligible.*);

Media Arts: Animation, Digital Media, Graphic Design, Independent Film, Multidisciplinary (within media arts). (*Video, Radio and TV broadcast and cable are ineligible.*);

Multi-Disciplinary: Organizations whose activities encompass two or more distinct disciplines, e.g. music and visual arts;

Music: Blues, Classical, Contemporary/New Music, Historical/Traditional, Jazz, Opera, World Music, Other;

Natural History: Natural history is defined as the study and research, and fostering the appreciation, of the material universe, including various types of plant and animal life, dinosaurs and other fossil life, rare gems, minerals and meteorites, human evolution, human cultures, and the origin of life. This also includes exhibitions related to human beings, the earth and its environment, but excludes aeronautics, space exploration, and science and technology. Natural history organizations should be primarily focused on public programs, as opposed to academic research;

Presenting Organizations: Organizations that curate programs and arrange public performances to help expand public appreciation of diverse art forms and reflect the community's interests. Presenting organizations typically assume all or part of the financial risk of the performances, and handle some or all of the production, marketing box office venue house management tasks associated with the performances. Presenters also sometimes commission new work, supporting artists to develop and perform this work;

Theatre: Classical/Revival, Contemporary/New Work, Musical Theater; or,

Visual Arts: Ceramics, Digital, Gallery/Exhibition Space, Mixed Media, Museum, Painting/Drawing, Photography, Printmaking, Sculpture/Three-Dimensional, Other.

- 5.4 Qualifying organizations must have as their primary purpose the advancement and preservation of art, dance, history, music, natural history, or theater, as well as a preponderance of activities that are within their eligible disciplines, and not just have some element of cultural activities.
- 5.5 CARE funds should not be the sole or major source of funding received by applicant organizations. Priority will be given to organizations that can solicit and receive matching funds. Priority will be given to organizations that can demonstrate a strong connection to the community, have a substantial track record and show a stable history.

- 5.6 Organizations applying for Major Grants of \$5,000 or more may be awarded up to 35% of their total qualifying operating expenses as defined in these policies and procedures.
 - 5.6.1 Organizations will not qualify to receive Major Grants of \$5,000 or more unless they have a significant presence, and manage and present, in the City of Orem.
- 5.7 Organizations applying for Mini Grants may be awarded up to \$4,999 for qualifying operating expenses as defined in these policies and procedures.
 - 5.7.1 Preference will be given to Mini Grant applicants that have a significant presence, and manage and present, in the City of Orem.
 - 5.7.2 Organizations headquartered outside of Orem may qualify for Mini Grants to present in the City of Orem, based on their intent to establish a more significant ongoing presence in the City of Orem.
 - 5.7.3 Any applicant receiving \$5,000 or more in CARE grants, even if the \$5,000 threshold is reached through multiple Mini Grants, shall be treated as a Major Grant recipient and must comply with all rules and regulations related to Major Grants.
- 5.8 New cultural organizations may only receive a minimal amount, established by the City Council, until the organization can provide financial and evaluation reports to justify more substantial funding.
- 5.9 Qualifying organizations must have a stable financial history. Weak or negligent financial management could be grounds for exclusion.
- 5.10 Qualifying organizations requesting amounts of \$10,000 or more shall be required to provide financial reports for their organizations prepared by a Utah licensed certified public accountant/firm according to the following schedule (subject to annual adjustment/indexing by the Orem City Council):
 - 5.10.1 \$10,000 to \$99,999 – a compilation report for the most recently completed fiscal year;
 - 5.10.2 \$100,000 to \$499,999 – a review of the most recently completed fiscal year plus a compilation report for the previous two fiscal years;
 - 5.10.3 \$500,000 or more – a review for the most recently completed fiscal year and the two previous fiscal years.

6.0 Application Process

- 6.1 Applications for funding under Utah Code Ann. 59-12-1403, Article 18-5 of the Municipal Code of the City of Orem and these policies and procedures shall be provided by the CARE Program.
- 6.2 The CARE Program shall issue public notice detailing the date, time, and place of availability of application forms, deadline for filing completed applications for CARE funding and all City Council meeting dates for CARE grant consideration.
- 6.3 All requests for funds must be submitted on an official application provided by the City of Orem CARE Program.
- 6.4 An application must be accurate, complete and all supplemental information included. It is not the responsibility of CARE Program staff to contact the

applicants regarding information missing from their application. In the interest of the program, staff may notify applicants of deficiencies. If this occurs all applicants shall be treated equitably and notified of similar deficiencies.

- 6.5 Applications, including all required attachments, must be submitted prior to the deadline identified within the body of the application. Applications received after the deadline will not be accepted.
- 6.6 Fiscal information both within the application and required as attachments shall be reviewed for accuracy, consistency and compliance with fiscal requirements of the CARE Program by the City's accounting staff prior to the City Council's consideration of qualifying organizations.
- 6.7 The City Council will review the application and accompanying material and shall identify and approve qualifying applicants per Utah Code Ann. 59-12-701, Article 18-5 of the Municipal Code of the City of Orem, and these policies and procedures.
- 6.8 All qualifying applicants may be required to make a brief presentation and discuss the merits of their proposals with the Orem City Council at a public meeting. No additional materials will be accepted at these presentations.
- 6.9 The City Council shall make final determination as to the amount of program funds to be distributed to each organization based upon Article 18-5 of the Municipal Code of the City of Orem, these policies and procedures and the application and accompanying information. The names of organizations and the amount of funds each is to receive shall be presented by the Orem City Council at a public meeting.
- 6.10 The CARE Program shall provide notice to applicants regarding the Orem City Council's decisions as soon as reasonably possible, including the amount each qualifying group shall receive based on verified expenditures; and which, if any, groups were disqualified or denied funding.

7.0 Distribution of Funds

- 7.1 Qualifying organizations will be required to enter into a contractual agreement with the City of Orem prior to receiving funds. Said contracts shall include:
 - 7.1.1 the organization's detailed planned use schedule of expenditures;
 - 7.1.2 a beginning and ending date for the project;
 - 7.1.3 dates for required reporting, including interim reports as needed;
 - 7.1.4 a clause that allows the City of Orem to verify application, evaluation report and use of funds information if requested; and
 - 7.1.5 consequences of the failure to use CARE funds as required.
- 7.2 Said contracts must be executed by the qualifying organization and returned to the City of Orem CARE Program within a reasonable period of time as set by the program. If any organization fails to return the contract, executed as required hereunder, within said time, it will not receive payments and may lose its qualification for funding in that cycle.
- 7.2 No checks will be distributed until contracts are fully executed.
- 7.3 Funds disbursed to qualifying organizations shall be accounted for in a special revenue fund and disbursed through accounts within the City of Orem's CARE Program.

- 7.4 Funds under this program shall be disbursed based upon the City's fiscal year which runs July 1 through June 30 of the following calendar year.

8.0 Credit to the CARE Program

- 8.1 Each recipient organization shall use their best efforts to ensure that all brochures, news releases, programs, publications and other printed material bear the CARE logo, identifying an organization's use of CARE funding where projects, performances or other activities are funded in full or in part by the City of Orem CARE Program.
- 8.2 The CARE logo should not be reproduced smaller than 1 inch by 1.25 inches in size.
- 8.2 Recipients of CARE funding that provide waived or discounted admission must publicly announce (in some manner) that the event or activity has been sponsored by the City of Orem CARE Program.

9.0 Reporting Requirements

- 9.1 Each recipient organization shall be required to submit an evaluation report detailing how it expended the funds it received pursuant to these policies and procedures.
- 9.2 Interim reports may also be required for projects spanning a year or more.
- 9.3 Deadlines for submission of all reports shall be specified in the contract with the City of Orem, with evaluation reports generally required within 60 days after the completion of the project or the period in which funds were expended.
- 9.4 Future CARE funding may be withheld due to inadequate, incomplete, or non-submitted reports.

Addendum

Utah State Code 59-12-1401. Purpose statement -- Definitions -- Scope of part.

(1) The purpose of the tax imposed by this part is the same for cities and towns as is stated in Section **59-12-701** for counties.

(2) The definitions of Section **59-12-702** are incorporated into this part.

(3) This part applies only to a city or town that is located within a county of the second, third, fourth, fifth, or sixth class as designated in Section **17-50-501**.

59-12-1402 (Superseded 01/01/09). Opinion question election -- Base -- Rate -- Imposition of tax -- Uses of tax monies -- Enactment or repeal of tax -- Effective date -- Notice requirements.

(1) (a) (i) Subject to Subsection (6), beginning on January 1, 2003, a city or town legislative body subject to this part may submit an opinion question to the residents of that city or town, by majority vote of all members of the legislative body, so that each resident of the city or town has an opportunity to express the resident's opinion on the imposition of a local sales and use tax of .1% on the transactions described in Subsection 59-12-103(1) located within the city or town, to fund recreational and zoological facilities and botanical, cultural, and zoological organizations in that city or town.

(ii) Notwithstanding Subsection (1)(a)(i), a city or town legislative body may not impose a tax under this section:

(A) if the county in which the city or town is located imposes a tax under Part 7, County Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities;

(B) on the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104;

(C) on amounts paid or charged by a seller that collects a tax under Subsection 59-12-107(1)(b); and

(D) except as provided in Subsection (1)(c), on amounts paid or charged for food and food ingredients.

(b) For purposes of this Subsection (1), the location of a transaction shall be determined in accordance with Section 59-12-207.

(c) A city or town legislative body imposing a tax under this section shall impose the tax on amounts paid or charged for food and food ingredients if:

(i) the food and food ingredients are sold as part of a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients; and

(ii) the seller collecting the tax is a seller other than a seller that collects a tax in accordance with Subsection 59-12-107(1)(b).

(d) The election shall be held at a regular general election or a municipal general election, as those terms are defined in Section 20A-1-102, and shall follow the procedures outlined in Title 11, Chapter 14, Local Government Bonding Act, except as provided in Subsection (6).

(2) If the city or town legislative body determines that a majority of the city's or town's registered voters voting on the imposition of the tax have voted in favor of the imposition of the

tax as prescribed in Subsection (1)(a), the city or town legislative body may impose the tax by a majority vote of all members of the legislative body.

(3) The monies generated from any tax imposed under Subsection (2) shall be used for financing:

(a) recreational and zoological facilities within the city or town or within the geographic area of entities that are parties to an interlocal agreement, to which the city or town is a party, providing for recreational or zoological facilities; and

(b) ongoing operating expenses of botanical, cultural, and zoological organizations within the city or town or within the geographic area of entities that are parties to an interlocal agreement, to which the city or town is a party, providing for the support of botanical, cultural, or zoological organizations.

(4) (a) A tax authorized under this part shall be:

(i) except as provided in Subsection (4)(b), administered, collected, and enforced in accordance with:

(A) the same procedures used to administer, collect, and enforce the tax under:

(I) Part 1, Tax Collection; or

(II) Part 2, Local Sales and Use Tax Act; and

(B) Chapter 1, General Taxation Policies; and

(ii) (A) levied for a period of eight years; and

(B) may be reauthorized at the end of the eight-year period in accordance with this section.

(b) Notwithstanding Subsection (4)(a)(i), a tax under this section is not subject to Subsections 59-12-205(2) through (7).

(5) (a) For purposes of this Subsection (5):

(i) "Annexation" means an annexation to a city or town under Title 10, Chapter 2, Part 4, Annexation.

(ii) "Annexing area" means an area that is annexed into a city or town.

(b) (i) Except as provided in Subsection (5)(c) or (d), if, on or after July 1, 2004, a city or town enacts or repeals a tax under this part, the enactment or repeal shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (5)(b)(ii) from the city or town.

(ii) The notice described in Subsection (5)(b)(i)(B) shall state:

(A) that the city or town will enact or repeal a tax under this part;

(B) the statutory authority for the tax described in Subsection (5)(b)(ii)(A);

(C) the effective date of the tax described in Subsection (5)(b)(ii)(A); and

(D) if the city or town enacts the tax described in Subsection (5)(b)(ii)(A), the rate of the tax.

(c) (i) Notwithstanding Subsection (5)(b)(i), for a transaction described in Subsection (5)(c)(iii), the enactment of a tax shall take effect on the first day of the first billing period:

(A) that begins after the effective date of the enactment of the tax; and

(B) if the billing period for the transaction begins before the effective date of the enactment of the tax under this section.

(ii) Notwithstanding Subsection (5)(b)(i), for a transaction described in Subsection (5)(c)(iii), the repeal of a tax shall take effect on the first day of the last billing period:

- (A) that began before the effective date of the repeal of the tax; and
- (B) if the billing period for the transaction begins before the effective date of the repeal of the tax imposed under this section.

(iii) Subsections (5)(c)(i) and (ii) apply to transactions subject to a tax under:

- (A) Subsection 59-12-103(1)(b);
- (B) Subsection 59-12-103(1)(c);
- (C) Subsection 59-12-103(1)(d);
- (D) Subsection 59-12-103(1)(e);
- (E) Subsection 59-12-103(1)(f);
- (F) Subsection 59-12-103(1)(g);
- (G) Subsection 59-12-103(1)(h);
- (H) Subsection 59-12-103(1)(i);
- (I) Subsection 59-12-103(1)(j); or
- (J) Subsection 59-12-103(1)(k).

(d) (i) Notwithstanding Subsection (5)(b)(i), if a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in Subsection (5)(b)(i) takes effect:

- (A) on the first day of a calendar quarter; and
- (B) beginning 60 days after the effective date of the enactment or repeal under Subsection (5)(b)(i).

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(e) (i) Except as provided in Subsection (5)(f) or (g), if, for an annexation that occurs on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this part for an annexing area, the enactment or repeal shall take effect:

- (A) on the first day of a calendar quarter; and
- (B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (5)(e)(ii) from the city or town that annexes the annexing area.

(ii) The notice described in Subsection (5)(e)(i)(B) shall state:

- (A) that the annexation described in Subsection (5)(e)(i) will result in an enactment or repeal a tax under this part for the annexing area;
- (B) the statutory authority for the tax described in Subsection (5)(e)(ii)(A);
- (C) the effective date of the tax described in Subsection (5)(e)(ii)(A); and
- (D) the rate of the tax described in Subsection (5)(e)(ii)(A).

(f) (i) Notwithstanding Subsection (5)(e)(i), for a transaction described in Subsection (5)(f)(iii), the enactment of a tax shall take effect on the first day of the first billing period:

- (A) that begins after the effective date of the enactment of the tax; and
- (B) if the billing period for the transaction begins before the effective date of the enactment of the tax under this section.

(ii) Notwithstanding Subsection (5)(e)(i), for a transaction described in Subsection (5)(f)(iii), the repeal of a tax shall take effect on the first day of the last billing period:

- (A) that began before the effective date of the repeal of the tax; and

(B) if the billing period for the transaction begins before the effective date of the repeal of the tax imposed under this section.

(iii) Subsections (5)(f)(i) and (ii) apply to transactions subject to a tax under:

- (A) Subsection 59-12-103(1)(b);
- (B) Subsection 59-12-103(1)(c);
- (C) Subsection 59-12-103(1)(d);
- (D) Subsection 59-12-103(1)(e);
- (E) Subsection 59-12-103(1)(f);
- (F) Subsection 59-12-103(1)(g);
- (G) Subsection 59-12-103(1)(h);
- (H) Subsection 59-12-103(1)(i);
- (I) Subsection 59-12-103(1)(j); or
- (J) Subsection 59-12-103(1)(k).

(g) (i) Notwithstanding Subsection (5)(e)(i), if a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in Subsection (5)(e)(i) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment or repeal under Subsection (5)(e)(i).

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(6) (a) Before a city or town legislative body submits an opinion question to the residents of the city or town under Subsection (1)(a)(i), the city or town legislative body shall:

(i) submit to the county legislative body in which the city or town is located a written notice of the intent to submit the opinion question to the residents of the city or town; and

(ii) receive from the county legislative body:

(A) a written resolution passed by the county legislative body stating that the county legislative body is not seeking to impose a tax under Part 7, County Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities; or

(B) a written statement that in accordance with Subsection (6)(b) the results of a county opinion question submitted to the residents of the county under Part 7, County Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, permit the city or town legislative body to submit the opinion question to the residents of the city or town in accordance with this part.

(b) (i) Within 60 days after the day the county legislative body receives from a city or town legislative body described in Subsection (6)(a) the notice of the intent to submit an opinion question to the residents of the city or town, the county legislative body shall provide the city or town legislative body:

(A) the written resolution described in Subsection (6)(a)(ii)(A); or

(B) written notice that the county legislative body will submit an opinion question to the residents of the county under Part 7, County Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, for the county to impose a tax under that part.

(ii) If the county legislative body provides the city or town legislative body the written notice that the county legislative body will submit an opinion question as provided in Subsection (6)(b)(i)(B), the county legislative body shall submit the opinion question by no later than, from the date the county legislative body sends the written notice, the later of:

- (A) a 12-month period;
- (B) the next regular primary election; or
- (C) the next regular general election.

(iii) Within 30 days of the date of the canvass of the election at which the opinion question under Subsection (6)(b)(ii) is voted on, the county legislative body shall provide the city or town legislative body described in Subsection (6)(a) written results of the opinion question submitted by the county legislative body under Part 7, County Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, indicating that:

(A) (I) the city or town legislative body may not impose a tax under this part because a majority of the county's registered voters voted in favor of the county imposing the tax and the county legislative body by a majority vote approved the imposition of the tax; or

(II) for at least 12 months from the date the written results are submitted to the city or town legislative body, the city or town legislative body may not submit to the county legislative body a written notice of the intent to submit an opinion question under this part because a majority of the county's registered voters voted against the county imposing the tax and the majority of the registered voters who are residents of the city or town described in Subsection (6)(a) voted against the imposition of the county tax; or

(B) the city or town legislative body may submit the opinion question to the residents of the city or town in accordance with this part because although a majority of the county's registered voters voted against the county imposing the tax, the majority of the registered voters who are residents of the city or town voted for the imposition of the county tax.

(c) Notwithstanding Subsection (6)(b), at any time a county legislative body may provide a city or town legislative body described in Subsection (6)(a) a written resolution passed by the county legislative body stating that the county legislative body is not seeking to impose a tax under Part 7, County Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, which permits the city or town legislative body to submit under Subsection (1)(a)(i) an opinion question to the city's or town's residents.

59-12-1403. Distribution of revenues -- Administrative costs.

(1) (a) The city or town legislative body shall by ordinance provide for the distribution of the entire amount of the revenues generated by the tax imposed by this part in accordance with this section.

(b) A city or town may participate in an interlocal agreement provided for under Section **59-12-704** and distribute the revenues generated by the tax imposed by this part to participants in the interlocal agreement.

(c) The revenues generated by the tax shall be used for one or more organizations or facilities defined in Section **59-12-702**.

(2) The commission may retain an amount not to exceed 1-1/2% of the tax collected under this part for the cost of administering this part.

59-12-701. Purpose statement.

The Utah Legislature finds and declares that:

(1) Recreational and zoological facilities and the botanical, cultural, and zoological organizations of the state of Utah enhance the quality of life of Utah's citizens, as well as the continuing growth of Utah's tourist, convention, and recreational industries.

(2) Utah was the first state in this nation to create and financially support a state arts agency, now the Utah Arts Council, which is committed to the nurturing and growth of cultural pursuits.

(3) Utah has provided, and intends to continue, the financial support of recreational and zoological facilities and the botanical, cultural, and zoological organizations of this state.

(4) The state's support of its recreational and zoological facilities and its botanical, cultural, and zoological organizations has not been sufficient to assure the continuing existence and growth of these facilities and organizations, and the Legislature believes that local government may wish to play a greater role in the support of these organizations.

(5) Without jeopardizing the state's ongoing support of its recreational and zoological facilities and its botanical, cultural, and zoological organizations, the Legislature intends to permit the counties of the state of Utah to enhance public financial support of Utah's publicly owned or operated recreational and zoological facilities, and botanical, cultural, and zoological organizations owned or operated by institutions or private nonprofit organizations, through the imposition of a county sales and use tax.

(6) In a county of the first class, it is necessary and appropriate to allocate a tax imposed under this part in a manner that provides adequate predictable support to a fixed number of botanical and cultural organizations and that gives the county legislative body discretion to allocate the tax revenues to other botanical and cultural organizations.

59-12-702. Definitions.

As used in this part:

(1) "Administrative unit" means a division of a private nonprofit organization or institution that:

(a) would, if it were a separate entity, be a botanical organization or cultural organization; and

(b) consistently maintains books and records separate from those of its parent organization.

(2) "Botanical organization" means:

(a) a private nonprofit organization or institution having as its primary purpose the advancement and preservation of plant science through horticultural display, botanical research, and community education; or

(b) an administrative unit.

(3) "Cultural facility" is as defined in Section **59-12-602**.

(4) (a) "Cultural organization":

(i) means:

(A) a private nonprofit organization or institution having as its primary purpose the advancement and preservation of:

(I) natural history;

(II) art;

(III) music;

(IV) theater; or

(V) dance; and

(B) an administrative unit; and

(ii) includes, for purposes of Subsections **59-12-704**(1)(d) and (6) only:

(A) a private nonprofit organization or institution having as its primary purpose the advancement and preservation of history;

(B) a municipal or county cultural council having as its primary purpose the advancement and preservation of:

(I) history;

(II) natural history;

(III) art;

(IV) music;

(V) theater; or

(VI) dance.

(b) "Cultural organization" does not include:

(i) any agency of the state;

(ii) except as provided in Subsection (4)(a)(ii)(B), any political subdivision of the state;

(iii) any educational institution whose annual revenues are directly derived more than 50% from state funds; or

(iv) in a county of the first or second class, any radio or television broadcasting network or station, cable communications system, newspaper, or magazine.

(5) "Institution" means any of the institutions listed in Subsections **53B-1-102**(1)(b) through (l).

(6) "Recreational facility" means any publicly owned or operated park, campground, marina, dock, golf course, playground, athletic field, gymnasium, swimming pool, trail system, cultural facility, or other facility used for recreational purposes.

(7) "Rural radio station" means a nonprofit radio station based in a county of the third, fourth, fifth, or sixth class.

(8) In a county of the first class, "zoological facilities" means any public, public-private partnership, or private nonprofit buildings, exhibits, utilities and infrastructure, walkways, pathways, roadways, offices, administration facilities, public service facilities, educational facilities, enclosures, public viewing areas, animal barriers, animal housing, animal care facilities, and veterinary and hospital facilities related to the advancement, exhibition, or preservation of mammals, birds, reptiles, or amphibians.

(9) (a) (i) Except as provided in Subsection (9)(a)(ii), "zoological organization" means a public, public-private partnership, or private nonprofit organization having as its primary purpose the advancement and preservation of zoology.

(ii) In a county of the first class, "zoological organization" means a nonprofit organization having as its primary purpose the advancement and exhibition of mammals, birds, reptiles, or amphibians to an audience of 75,000 or more persons annually.

(b) "Zoological organization" does not include any agency of the state, educational institution, radio or television broadcasting network or station, cable communications system, newspaper, or magazine.

59-12-602. Definitions.

As used in this part:

(1) "Convention facility" means any publicly owned or operated convention center, sports arena, or other facility at which conventions, conferences, and other gatherings are held and whose primary business or function is to host such conventions, conferences, and other gatherings.

(2) "Cultural facility" means any publicly owned or operated museum, theater, art center, music hall, or other cultural or arts facility.

(3) "Recreation facility" or "tourist facility" means any publicly owned or operated park, campground, marina, dock, golf course, water park, historic park, monument, planetarium, zoo, bicycle trails, and other recreation or tourism-related facility.

(4) (a) "Restaurant" includes any coffee shop, cafeteria, luncheonette, soda fountain, or fast-food service where food is prepared for immediate consumption.

(b) "Restaurant" does not include:

(i) any retail establishment whose primary business or function is the sale of fuel or food items for off-premise, but not immediate, consumption; and

(ii) a theater that sells food items, but not a dinner theater.