

**CHAPTER 18. TAXATION**

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**18-1-1. Purpose.**

The Utah Legislature has authorized municipalities of the State of Utah to enact sales and use tax ordinances imposing one percent (1%) tax. It is the purpose of this ordinance to levy and impose a local option sales and use tax and to authorize and designate the Utah State Tax Commission as agent for the City to collect the tax, and to conform with the requirements of the Local Sales and Use Tax Act, Chapter 12, Title 59, Utah Code Annotated (1953 as amended). The provisions of the previously enacted sales and use tax ordinance of the City which are not in conflict herewith shall continue in effect, and all rights, duties, and obligations arising under the former ordinances shall not in any way be deemed abrogated or terminated.

(Ord. No. 661, Revised, 04/10/90; Ord. No. O-2014-0037, Amended 10/28/2014)

**18-1-2. Sales tax.**

A. There is levied and there shall be collected and paid a tax upon every retail sale as defined by § 59-12-103 of the Utah Code Annotated (1953, as amended) within the municipality at the rate of one percent (1%).

(Ord. No. 661, Revised, 04/10/90; Ord. No. O-2014-0037, Amended 10/28/2014)

B. There is levied and there shall be collected and paid an additional tax of one-fourth of one percent (1/4 of 1%) upon every retail sale as defined by § 59-12-103 of the Utah Code Annotated within the municipality. Such additional tax shall be for the purpose of funding a public transportation system provided by Utah Transit Authority.

(Ord. No. 661, Revised, 04/10/90; Ord. No. O-2014-0037, Amended 10/28/2014)

C. For the purpose of this article, all retail sales shall be collected in accordance with § 59-12-107 of the

Utah Code Annotated (1953 as amended). Public utilities as defined by Title 54, Utah Code Annotated (1953 as, amended), shall not be obligated to determine the place or places within any county or municipality where public utilities services are rendered, but the place of sale or the sales tax revenues arising from such service allocable to the City shall be as determined by the State Tax Commission pursuant to an appropriate formula and other rules and regulations to be prescribed and adopted by it.

(Ord. No. 661, Revised, 04/10/90; Ord. No. O-2014-0037, Amended 10/28/2014)

D. For the purpose of this Article, all retail sales shall be presumed to have been consummated at the place of business of the retailer, unless the tangible personal property sold is delivered by the retailer or his agent to an out of state destination. If a retailer has no permanent place of business in the state, or has more than one place of business, the place or places at which the retail sales are consummated shall be as determined under the rules and regulations prescribed and adopted by the State Tax Commission.

(Ord. No. 661, Revised, 04/10/90; Ord. No. O-2014-0037, Amended 10/28/2014)

E. Except as hereinafter provided and except insofar as they are inconsistent with the provisions of the Local Sales and Use Tax Act, all of the provisions of Chapter 12, Title 59, Utah Code Annotated (1953, as amended), and in force and effect on the effective date of this ordinance, insofar as they relate to sales taxes, are hereby adopted and made a part of this ordinance as though fully set forth herein.

(Ord. No. 661, Revised, 04/10/90; Ord. No. O-2014-0037, Amended 10/28/2014)

F. Wherever and to the extent that in Chapter 12 of Title 59, Utah Code Annotated (1953, as amended) the State of Utah is named or referred to as the taxing agency, the name of this City shall be substituted therefor. Nothing in this subparagraph (F) shall be deemed to require substitution of the name of the municipality for the word "State" when that word is used as part of the title of the State Tax Commission, or of the Constitution of the State of Utah, nor shall the name of the City be substituted for that of the State in any section when the result of that substitution would require action to be taken by or against the State Tax Commission in performing the functions incident to the administration or operation of this ordinance.

(Ord. No. 661, Revised, 04/10/90; Ord. No. O-2014-0037, Amended 10/28/2014)

G. If an annual license has been issued to a retailer under § 59-12-106 of the Utah Code Annotated

(1953, as amended), an additional license shall not be required by reason of this section.

(Ord. No. 661, Revised, 04/10/90; Ord. No. O-2014-0037, Amended 10/28/2014)

H. Sales as defined in § 59-12-104 of the Utah Code Annotated, 1953 are exempted from the tax imposed by the ordinance.

Ord. No. O-2014-0037, Enacted 10/28/2014)

I. The sale, storage, use, or other consumption of tangible personal property, the purchase price or the cost of which has been subject to sales or use tax under a sales and use tax ordinance enacted in accordance with the Local Sales and Use Tax Act, by any county or city or town in this State, shall be exempt from the tax due under this Article.

Ord. No. O-2014-0037, Enacted 10/28/2014)

**18-1-3. Use Tax.**

A. An excise tax is hereby imposed in this municipality on the storage, use or other consumption as defined in § 59-12-103 Utah Code Annotated (1953, as amended) of tangible personal property from any retailer at the rate of one percent (1%).

(Ord. No. 661, Revised, 04/10/90; Ord. No. O-2014-0037, Amended 10/28/2014)

B. There is imposed on the storage, use, or other consumption in this municipality of tangible personal property from any retailer as defined in Title 59 Chapter 12 of the Utah Code Annotated, 1953 an additional use tax at the rate of one-fourth of one percent (1/4 of 1%). This tax shall be for the purpose of funding a public transportation system provided by Utah Transit Authority.

(Ord. No. 661, Revised, 04/10/90)

C. Except as hereinafter provided and except insofar as they are inconsistent with the provisions of the Local Sales and Use Tax Act, all of the provisions of Chapter 12, Title 59, Utah Code Annotated (1953, as amended) in so far as they relate to use taxes, are hereby adopted and made a part of this Article as though fully set forth herein

(Ord. No. 661, Revised, 04/10/90; Ord. No. O-2014-0037, Amended 10/28/2014)

D. Wherever and to the extent that in said Chapter 12 of Title 59, Utah Code Annotated (1953, as amended) the State of Utah is named or referred to as the taxing agency, the name of this City shall be substituted therefore. Nothing in this subparagraph (D) shall be deemed to require the substitution of the name of the municipality for the word "State" when that word is used as part of the title of the State Tax Commission, or of the Constitution of the State of Utah, nor shall the name of the City be substituted for that of the State in

any section when the results of that substitution would require action to be taken by or against the municipality or any agency thereof, rather than by or against the State Tax Commission in performing the functions incident to the administration or operation of this ordinance

(Ord. No. 661, Revised, 04/10/90; Ord. No. O-2014-0037, Amended 10/28/2014)

E. Use Taxes as defined in § 59-12-104 of the Utah Code Annotated (1953, as amended) are exempted from the tax imposed by this Article

(Ord. No. 661, Revised, 04/10/90; Ord. No. O-2014-0037, Amended 10/28/2014)

F. The sale, storage, use, or other consumption of tangible personal property, the purchase price or the cost of which has been subject to sales or use tax under a sales and use tax ordinance enacted in accordance with the Local Sales and Use Tax Act, by any county or city or town in this State, shall be exempt from tax due under this Article.

(Ord. No. O-2014-0037, Enacted 10/28/2014)

**18-1-4. Contract with State Tax Commission.**

Heretofore, this municipality has entered into an agreement with the State Tax Commission to perform all functions incident to the administration or operation of the sales and use tax ordinance of the municipality. That contract is hereby confirmed and the Chief Executive Officer is hereby authorized to enter into such supplementary agreement with the State Tax Commission as may be necessary to the continued administration and operation of the local sales and use tax ordinance of the municipality as re-enacted by this article.

(Ord. No. 661, Revised, 04/10/90)

**18-1-5. Penalties.**

Any person violating any of the provisions of this article shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punishable by a fine of not more than \$1,000.00 or imprisonment for a period of not more than six months, or by both such fine and imprisonment.

(Ord. No. 661, Revised, 04/10/90)

**18-1-6. Severability.**

If any section, subsection, sentence, clause, phrase, or portion of this ordinance, including but not limited to any exemption is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

(Ord. No. 661, Revised, 04/10/90)

## Article 18-2. Municipal Energy Sales and Use Tax

- 18-2-1. Purpose.
- 18-2-2. Definitions.
- 18-2-3. Municipal Energy Sales and Use Tax.
- 18-2-4. Exemptions from the Municipal Energy Sales and Use Tax.
- 18-2-5. No effect upon existing franchises - credit for franchise fees.
- 18-2-6. Tax collection contract with State Tax Commission.
- 18-2-7. Incorporation of Part 1, Chapter 12, Title 59, Utah Code Annotated, including amendments.
- 18-2-8. No additional license to collect the Municipal Energy Sales and Use Tax required - No additional license or reporting requirements.
- 18-2-9. Effective date.

### 18-2-1. Purpose.

The purpose of this Article is to adopt the Municipal Energy Sales and Use Tax, pursuant to, and in conformance with, Utah Code Annotated section 10-1-301 *et seq.*, "The Municipal Energy Sales and Use Tax Act."

(Ord. No. O-97-0029, Enacted, 06/07/1997; Ord. No. O-2014-0037, Amended 10/28/2014)

### 18-2-2. Definitions.

A. **Consumer** means a person who acquires taxable energy for any use that is subject to the Municipal Energy Sales and Use Tax.

(Ord. No. O-97-0029, Enacted, 06/07/1997)

#### B. 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 subsection (B)(1); or
  - b. any combination of subsections (B)(1) or (B)(2).

(Ord. No. O-97-0029, Enacted, 06/07/1997)

C. **Delivered Value** means the fair market value of the taxable energy delivered for sale or use in the City 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.

(Ord. No. O-97-0029, Enacted, 06/07/1997)

D. **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.

(Ord. No. O-97-0029, Enacted, 06/07/1997)

E. **Franchise Agreement** means a franchise or an ordinance, contract, or agreement granting a franchise.

(Ord. No. O-97-0029, Enacted, 06/07/1997)

#### F. Franchise Tax means:

1. a franchise tax;
2. a tax similar to a franchise tax; or
3. any combination of subsections 1 and 2.

(Ord. No. O-97-0029, Enacted, 06/07/1997)

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

(Ord. No. O-97-0029, Enacted, 06/07/1997)

H. **Sale** means any transfer of title, exchange, or barter, conditional or otherwise, in any manner, of taxable energy for a consideration. It includes without limitation:

1. installment and credit sales;
2. any closed transaction constituting a sale;
3. any transaction under which the 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.

(Ord. No. O-97-0029, Enacted, 06/07/1997)

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

(Ord. No. O-97-0029, Enacted, 06/07/1997)

#### J. Taxable Energy means gas and electricity.

(Ord. No. O-97-0029, Enacted, 06/07/1997; Ord. No. O-2014-0037, Amended 10/28/2014)

K. **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.

(Ord. No. O-97-0029, Enacted, 06/07/1997; Ord. No. O-2014-0037, Amended 10/28/2014)

**18-2-3. Municipal Energy Sales and Use Tax.**

A. There is hereby levied, subject to the provisions of this Article, a tax on every sale or use of taxable energy made within the City. The amount of the tax shall be 6% of the delivered value of the taxable energy to the consumer. This tax shall be known as the Municipal Energy Sales and Use Tax. It shall become effective on October 1, 2000.

(Ord. No. O-97-0029, Enacted, 06/07/1997; Ord. No. O-00-0038, Amended, 08/22/2000)

B. The tax shall be calculated on the delivered value of the taxable energy to the consumer.

(Ord. No. O-97-0029, Enacted, 06/07/1997; Ord. No. O-00-0038, Amended, 08/22/2000)

C. The tax shall be in addition to any sales or use tax on taxable energy imposed by Orem City Code Section 18-1-1 et seq., as authorized by Title 59, Chapter 12, Part 2 of the Utah Code Annotated, "The Local Sales and Use Tax Act."

(Ord. No. O-97-0029, Enacted, 06/07/1997; Ord. No. O-00-0038, Amended, 08/22/2000)

**18-2-4. Exemptions from the Municipal Energy Sales and Use Tax.**

A. No exemptions are granted from the Municipal Energy Sales and Use Tax except as expressly provided in subsections (B) and (C) below.

(Ord. No. O-97-0029, Enacted, 06/07/1997)

B. No exemption is allowed from a tax imposed under this Article for the sale or use of taxable energy that is exempt from the State Sales and Use Tax under Title 59, Chapter 12, Part 1 of the Utah Code Annotated, except that the following are exempt from the Municipal Energy Sales and Use Tax:

1. Sales and use of aviation fuel, motor fuel, and special fuels subject to taxation under Title 59, Chapter 13 of the Utah Code Annotated;

2. Sales and use of taxable energy that is exempt from taxation under federal law, the United States Constitution or the Utah Constitution;

3. Sales and use of taxable energy purchased or stored in the state 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. Sales or use of taxable energy for any purpose other than use as a fuel or energy; and

7. Sales of taxable energy for use outside the boundaries of the City.

(Ord. No. O-97-0029, Enacted, 06/07/1997)

C. The sale, storage, use, or other consumption of taxable energy is exempt from the Municipal Energy Sales and Use Tax levied by this Article, provided:

1. The delivered value of the taxable energy has been subject to a municipal energy sales or use tax levied by another municipality within the state authorized by Title 59, Chapter 12, Part 3 of the Utah Code Annotated; and

2. The City is paid the difference between the tax paid to the other municipality and the tax that would otherwise be due under this Article, if the tax due under this Article exceeds the tax paid to the other municipality.

(Ord. No. O-97-0029, Enacted, 06/07/1997)

**18-2-5. No effect upon existing franchises - credit for franchise fees.**

A. This Article shall not alter any existing franchise agreements between the City and energy suppliers.

(Ord. No. O-97-0029, Enacted, 06/07/1997)

B. There is a credit against the tax due in the amount of a contractual franchise fee paid if:

1. the energy supplier pays the contractual franchise fee to the City pursuant to a franchise agreement in effect on July 1, 1997;

2. the contractual franchise fee is passed through by the energy supplier to a consumer as a separately itemized charge; and

3. the energy supplier has accepted the franchise.

(Ord. No. O-97-0029, Enacted, 06/07/1997)

**18-2-6. Tax collection contract with State Tax Commission.**

A. On or before the effective date of this Article, 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 Article. This contract may be a supplement to the existing contract with the State Tax Commission to administer and collect the Local

Sales and Use Tax, as provided in Orem City Code section 18-1-1 et seq. The City Manager is hereby authorized to execute 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 Article.

(Ord. No. O-97-0029, Enacted, 06/07/1997)

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 is the energy supplier; or
2. the energy supplier estimates that the Municipal Energy Sales and Use Tax collected annually from its Utah consumers equals One Million Dollars (\$1,000,000.00) or more, and the energy supplier collects the Municipal Energy Sales and Use Tax.

(Ord. No. O-97-0029, Enacted, 06/07/1997)

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 Utah Code Annotated section 10-1-307(4).

(Ord. No. O-97-0029, Enacted, 06/07/1997)

**18-2-7. Incorporation of Part 1, Chapter 12, Title 59, Utah Code Annotated, including amendments.**

A. Except as herein provided, and except insofar as they are inconsistent with the provisions of Title 10, Chapter 1, Part 3 of the Utah Code Annotated, "Municipal Energy Sales and Use Tax Act," as well as this Article, 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 Article, insofar as they relate to sales and use taxes, excepting Sections 59-12-101 and 59-12-119 thereof, and excepting the amount of the sales and use taxes levied therein, are hereby adopted and made a part of this Article as if fully set forth herein.

(Ord. No. O-97-0029, Enacted, 06/07/1997)

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 subparagraph 2 shall be deemed to require substitution of the name of the City for the word "State" when that

word is used as part of the title of the State Tax Commission, or of the Constitution of Utah, nor shall the name of 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 in performing the functions incident to the administration or operation of this Article.

(Ord. No. O-97-0029, Enacted, 06/07/1997)

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 Article are hereby incorporated herein by reference and shall be effective upon the date that they are effective as a Utah statute.

(Ord. No. O-97-0029, Enacted, 06/07/1997)

**18-2-8. No additional license to collect the Municipal Energy Sales and Use Tax required - No additional license or reporting requirements.**

No additional license to collect or report the Municipal Energy Sales and Use Tax levied by this Article is required, provided the energy supplier collecting the tax has a license issued under Utah Code Annotated section 59-12-106.

(Ord. No. O-97-0029, Enacted, 06/07/1997)

**18-2-9. Effective date.**

This Article is effective June 30, 1997. The Municipal Energy Sales and Use Tax shall be levied beginning July 1, 1997.

(Ord. No. O-97-0029, Enacted, 06/07/1997)

**Article 18-3. Transient Room Tax**

**18-3-1. Purpose.**

**18-3-2. Definitions.**

**18-3-3. Transient Room Tax.**

**18-3-1. Purpose.**

The purpose of this Article is to enact a municipal transient room tax.

(Ord. No. O-98-0038, Enacted, 08/25/1998; Ord. No. O-2014-0037, Amended 10/28/2014)

**18-3-2. Definitions.**

For purposes of this Article, the following terms, phrases, words and their derivatives shall have the meanings set forth in this Section, unless the context clearly indicates that another meaning is intended:

A. **Public accommodation** means a place providing temporary sleeping accommodations to the public and includes:

- 1. a motel;
- 2. a hotel;
- 3. a motor court;
- 4. an inn;
- 5. a bed and breakfast establishment;
- 6. a condominium; and
- 7. a resort home.

(Ord. No. O-98-0038, Enacted, 08/25/1998)

B. **Rents** include:

- 1. rents; and
- 2. timeshare fees or dues.

(Ord. No. O-98-0038, Enacted, 08/25/1998)

C. **Transient** means a person who occupies a public accommodation for 30 consecutive days or less.

(Ord. No. O-98-0038, Enacted, 08/25/1998)

**18-3-3. Transient Room Tax.**

A. **Levy.** The City hereby levies and imposes a transient room tax on the rents charged to transients occupying public accommodations.

(Ord. No. O-98-0038, Enacted, 08/25/1998)

B. **Amount.** The initial amount of the transient room tax, which shall be in effect until modified by the City Council, shall be one percent (1%) of the rents charged to transients occupying public accommodations.

(Ord. No. O-98-0038, Enacted, 08/25/1998)

C. **Effective Date.** The transient room tax shall become effective on October 1, 1998.

(Ord. No. O-98-0038, Enacted, 08/25/1998)

D. **Collection.** The City shall contract with the State Tax Commission to collect the transient room tax.  
(Ord. No. O-98-0038, Enacted, 08/25/1998)

E. **Use.** Revenues generated by the transient room tax shall be deposited in the City's general fund and may be used for any general fund purpose.

(Ord. No. O-98-0038, Enacted, 08/25/1998)

## Article 18-4. Telecommunications License Tax

- 18-4-1. Purpose.**
- 18-4-2. Definitions.**
- 18-4-3. Levy of Tax.**
- 18-4-4. Rate.**
- 18-4-5. Effective Date of Tax Levy.**
- 18-4-6. Interlocal Agreement for Collection of the Tax.**
- 18-4-7. Rate Limitation and Exemption Therefrom.**
- 18-4-8. Procedures for Taxes Erroneously Recovered from Customers.**
- 18-4-9. Changes in Tax Rate, Repeal of the Tax, and Annexations of Property.**
- 18-4-10. Repeal of Inconsistent Taxes and Fees.**

### 18-4-1. Purpose.

The purpose of this Article is to establish a telecommunications license tax in accordance with the provisions of the "Municipal Telecommunications License Tax Act" (U.C.A. 10-1-401, et seq., as amended).

(Ord. No. O-03-0017, Enacted, 07/01/2003; Ord. No. O-04-0022, Rep&ReEn, 6/8/2004; Ord. No. O-2014-0037, Amended 10/28/2014)

### 18-4-2. Definitions.

The Municipal Telecommunications License Tax Act defines many of the words and phrases that are used in this ordinance. This ordinance adopts and incorporates the definitions found in the Municipal Telecommunications License Tax Act.

(Ord. No. O-04-0022, Enacted, 6/8/2004)

### 18-4-3. Levy of tax

The City of Orem hereby levies a municipal telecommunications license tax on the gross receipts from telecommunications service attributed to the City of Orem in accordance with U.C.A. §10-1-407, as amended.

(Ord. No. O-04-0022, Enacted, 6/8/2004)

### 18-4-4. Rate.

The rate of the telecommunications license tax levy shall be 3.5% of the telecommunications provider's gross receipts from telecommunications service that are attributed to the City of Orem in accordance with U.C.A. §10-1-407, as amended.

(Ord. No. O-04-0022, Enacted, 6/8/2004; Ord. No. O-2014-0037, Amended 10/28/2014)

### 18-4-5. Effective Date of Tax Levy.

The telecommunications license tax shall be levied beginning July 1, 2004, and shall be subject to the

requirements of U.C.A. §10-1-403, as amended. Beginning July 1, 2007, the tax levy shall be 3.5%.

(Ord. No. O-04-0022, Enacted, 6/8/2004; Ord. No. 2014-0037, Amended 10/28/2014)

### 18-4-6. Interlocal Agreement for Collection of the Tax.

On or before the effective date of this ordinance, the City of Orem shall enter into the uniform interlocal agreement with the Utah State Commission as described in U.C.A. §10-1-405, under which the Commission collects, enforces, and administers the municipal telecommunications license tax.

(Ord. No. O-04-0022, Enacted, 6/8/2004)

### 18-4-7. Rate Limitation and Exemption Therefrom.

The telecommunications license tax shall not exceed the maximum rate established by state law (3.5%) unless a higher rate is approved by a majority vote of the voters in the City of Orem that vote in:

A. a municipal general election;

(Ord. No. O-04-0022, Enacted, 6/8/2004; Ord. No. O-2014-0037, Amended 10/28/2014)

B. a regular general election; or

C. (Ord. No. O-04-0022, Enacted, 6/8/2004; Ord. No. O-2014-0037, Amended 10/28/2014)

D. a local special election.

E. (Ord. No. O-04-0022, Enacted, 6/8/2004; Ord. No. O-2014-0037, Amended 10/28/2014)

### 18-4-8. Procedures for Taxes Erroneously Recovered from Customers.

Pursuant to the provisions of U.C.A. § 10-1-408, a customer may not bring a cause of action against a telecommunications provider on the basis that the telecommunications provider erroneously recovered from the customer municipal telecommunications license taxes, except as provided in U.C.A. § 10-1-408. This ordinance hereby incorporates the provisions of U.C.A. § 10-1-408.

(Ord. No. O-04-0022, Enacted, 6/8/2004)

### 18-4-9. Changes in Tax Rate, Repeal of the Tax, and Annexations of Property.

This ordinance is subject to the requirements of U.C.A. § 10-1-403. If the tax rate is changed, or the tax is repealed, or property is annexed to Orem, then the appropriate notice shall be given as provided in U.C.A. § 10-1-403.

(Ord. No. O-04-0022, Enacted, 6/8/2004)

### 18-4-10. Repeal of Inconsistent Taxes and Fees.

Any tax or fee previously enacted by the City of Orem under authority of Utah Code Section 10-1-203

or Utah Code Title 11, Chapter 26, Local Taxation of Utilities Limitation, that applies to telecommunications providers and the provision of telecommunications services, is hereby repealed as of the effective date of this ordinance.

Nothing in this ordinance shall be interpreted to repeal any municipal ordinance or fee which provides that the municipality may recover from a telecommunications provider the management costs of the municipality caused by the activities of the telecommunications provider in the rights-of-way of the municipality, if the fee is imposed in accordance with U.C.A. §72-7-102 and U.C.A. §10-1-406, as amended. (Ord. No. O-04-0022, Enacted, 6/8/2004)

## **Article 18-5. Cultural Arts and Recreation Enrichment Tax**

### **18-5-1. Purpose.**

The purpose of this Article is to establish, enact, impose, and levy a Cultural Arts and Recreation Enrichment Tax (sometimes referred to as a “CARE”, “RAP” or “ZAP” tax) in accordance with U.C.A. §59-12-1401, *et seq.* (City or Town Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities).

(Ord. No. O-05-0038, Enacted, 11/22/2005; Ord. No. O-2013-0035, Amended 12/11/2013; Ord. No. O-2014-0037, Amended 10/28/2014)

### **18-5-2. Cultural Arts and Recreation Enrichment Tax.**

The City of Orem hereby establishes, enacts, imposes, levies and reauthorizes a local sales and use tax of 1/10 of 1% (the “Cultural Arts and Recreation Enrichment Tax”, or “CARE Tax”) on transactions described in U.C.A §59-12-103(1), as amended, that are located within the City of Orem, except as such transactions are exempt from sales and use taxes pursuant to U.C.A. §§59-12-104 and 59-12-1402, as amended. CARE Tax revenues earned until March 31, 2014 shall be used to fund any eligible facilities and organizations described in U.C.A. §59-12-1401, *et seq.*, with the exception of zoological facilities and organizations and botanical organizations. CARE Tax revenues earned beginning April 1, 2014 shall be used to fund City-owned recreational and cultural facilities, the ongoing operating expenses of City-owned recreational facilities, and the ongoing operating expenses of private non-profit cultural organizations, as such terms are defined in State law. The CARE Tax supplements, but does not replace, the sales and use tax established in Article 18-1 of the Orem City Code.

(Ord. No. O-05-0038, Enacted, 11/22/2005; Ord. No. O-2013-0035, Amended 12/11/2013; Ord. No. O-2014-0037, Amended 10/28/2014)

### **18-5-3. Effective Date.**

The effective date of the initial Cultural Arts and Recreation Enrichment Tax was April 1, 2006. The effective date of the reauthorized Cultural Arts and Recreation Enrichment Tax is April 1, 2014, with the intent that no time will lapse between the expiration of the initial enactment and the beginning of the reauthorized enactment. Effective dates for billing periods and catalogue sales shall be computed as set forth in State law. The initial Cultural Arts and Recreation Enrichment Tax was levied for a period of eight (8) years (through March 31, 2014). The reauthorized Cultural Arts and Recreation Enrichment

Tax shall be levied for a period of ten (10) years (through March 31, 2024)

(Ord. No. O-05-0038, Enacted, 11/22/2005; Ord. No. O-2013-0035, Amended 12/11/2013)