

**PAROWAN CITY
ORDINANCE NO. 2024-1**

**AN ORDINANCE IMPOSING A LOCAL SALES AND USE TAX OF ONE-TENTH (1/10)
OF ONE PERCENT (0.1%) TO FUND RECREATIONAL, ARTS, AND PARKS
FACILITIES AND PROGRAMS IN THE CITY OF PAROWAN,
PROVIDING SEVERABILITY AND AN EFFECTIVE DATE FOR THE ORDINANCE.**

WHEREAS, the City of Parowan placed a question on the 2023 general ballot to seek approval from its residents to adopt a local sales and use tax of 0.1 percent within the City on authorized transactions to fund recreation, arts, and parks facilities and programs in the City (commonly referred to as the “RAP” Tax), pursuant to Utah Code Annotated §59-12-1401 et seq.; and

WHEREAS, the ballot proposition passed by a margin of 63.37% to 39.63% and a recreation, arts, and parks sales and use tax was approved by the voters of the City; and

WHEREAS, pursuant to Utah Code Annotated §59-12-1402, the Governing Body Parowan City imposed the “RAP Tax” by majority vote on December 14, 2023; and

WHEREAS, the Council find that Title 4 General Revenues, Chapter 03 of the Parowan City Code entitled “Recreation, Arts and Parks Tax” should be enacted to govern the imposition, administration, and distribution of the cultural arts and recreation sales tax;

NOW THEREFORE, BE IT ORDAINED AND ENACTED BY THE PAROWAN CITY COUNCIL AS FOLLOWS:

Section 1. City Code

Parowan City Municipal Code (PCMC), Title 4, Chapter 03, “Recreation, Arts, and Parks Tax” is hereby enacted as follows:

Chapter 4.03 Recreation, Arts and Parks Tax

- 4.03.010 Title
- 4.03.020 Purpose
- 4.03.030 Definitions
- 4.03.040 Tax
- 4.03.050 RAP Tax Committee
- 4.03.060 Use of Funds, Restrictions
- 4.03.070 Application
- 4.03.080 Agreements and Disbursement of Funds
- 4.03.090 Effective Date

4.03.010 Title

This chapter shall be known as the “Recreation, Arts and Parks Tax” of Parowan City, or alternatively, as the RAP Tax Chapter of the Municipal Code.

4.03.020 Purpose

It is the purpose of this Chapter to establish, impose, and levy a RAP tax in accordance with Utah Code §59-12-1401 et seq., as such code may be amended from time to time.

4.03.030 Definitions

As used in this article, the following terms shall have the following definitions:

- A. **Administrative Unit** means a division of a private or nonprofit organization or institution that:
 - 1. would, if it were a separate entity, be a botanical organization or cultural organization; and
 - 2. consistently maintains books and records separate from those of its parent organization.
- B. **Application Form** means the official document, with noted attachments and supporting documentation to request funds collected pursuant to the RAP tax.
- C. **Arts** means botanical organizations, cultural facilities, cultural organizations, and zoological organizations.
- D. **Botanical Organization** means:
 - 1. 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
 - 2. an administrative unit.
- E. **Cultural Facility** means any publicly owned or operated museum, theater, art center, music hall, or other cultural or arts facility.
- F. **Cultural Organization** means:
 - 1. a private nonprofit organization or institution having as its primary purpose the advancement and preservation of:
 - a. natural history;
 - b. art;
 - c. music;
 - d. theater;
 - e. dance; or
 - f. cultural arts, including literature, a motion picture, or storytelling; and
 - 2. an administrative unit.
- G. **Cultural organization** does not include:
 - 1. any agency of the state;
 - 2. any political subdivision of the State of Utah; or
 - 3. any educational institution whose annual revenues are directly derived more than 50% from state funds.
- H. **Institution** means any of the following:
 - 1. the University of Utah;
 - 2. Utah State University;
 - 3. Weber State University;

4. Southern Utah University;
 5. Snow College;
 6. Dixie State University;
 7. Utah Valley University;
 8. Salt Lake Community College;
 9. the Utah College of Applied Technology; and
 10. other public post-high school educational institutions as the Legislature may designate.
- I. **Non-Profit** means an organization or corporation that is not organized, created, operated or maintained to generate a profit or distribute income to its members, directors, or officers, or corporation. An organization automatically qualifies as a non-profit organization if it is operating under section 501 (C)(3) of the internal revenue service code.
 - J. **Organization** means an association, corporation, government, governmental subdivision, agency, or partnership formally established to coordinate and carry out unified activities and goals.
 - K. **Preservation and Replacement Fund** shall mean a fund established with RAP tax revenue that may be allowed to accumulate over time and shall only be spent on the preservation or replacement of Parowan City-owned cultural facilities or Parowan City-owned recreational facilities that would otherwise qualify for the use of RAP tax funding. All expenditures from the preservation and replacement fund shall be made only after recommendations by the RAP tax committee and approval of the Parowan City Council.
 - L. **Primary Purpose** means the main goal, the fundamental intent, or the mission of an organization.
 - M. **Qualifying Expenses** means (A) yearly operating expenses of qualifying botanical organization or cultural organization; (B) yearly operating expenses or costs to construct facilities for qualifying recreational facility, zoological facility, or cultural facility, or (C) expenditures meeting the definition of the preservation and replacement fund.
 - N. **Recipient Organization or Recipient** means an otherwise qualified organization or individual that has been approved by the City Council to receive a specific amount of RAP tax money for qualifying expenses.
 - O. **Recreational Facility** means any publicly owned or operated park, campground, golf course, playground, athletic field, gymnasium, swimming pool, trail system, or other facility used for recreational purposes.
 - P. **Unallocated Funds** means any RAP tax funds that have accumulated due to earned interest, are not spent on the approved projects, or otherwise accumulate in the RAP tax funds.
 - Q. **Zoological Organization** means a public, public-private partnership, or private nonprofit organization having as its primary purpose the advancement and preservation of zoology.

4.03.040 RAP Tax

- A. There is hereby imposed and levied, and there shall be collected, a local sales and use tax of 1/10 of 1% (0.1) of the sales price upon all retail sales transactions, including personal property, services, and meals, made within the City of Parowan, except for the exempt transactions listed in Utah Code Annotated §59-12-104.

- B. For purposes of the Chapter, all retail sales shall be presumed to have been consummated at the place of business delivered by the retailer or their agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination. In the event a retailer has no permanent place of business, the place at which the retail sales are consummated shall be as determined under the rules and regulations adopted by the Utah State Tax Commission.
- C. The tax revenues earned by the RAP tax shall be used to fund City or non-profit projects with the City for recreational, arts, and parks facilities, including, but not limited to: capital projects, programs, and ongoing operation expenses of recreational and cultural facilities as such terms are defined in Utah Code Annotated §59-12-1401 et seq.

4.03.050 RAP Tax Committee

- A. The Parowan City Council hereby creates an advisory committee to be known as the RAP Tax Committee. The purpose of the committee is to receive applications that would qualify to receive RAP tax funds; review the applications; and recommend allocation of RAP Tax funds to the City Council.
- B. The advisory committee shall be comprised of five (5) people to be appointed by the Mayor with the advice and consent of the City Council, who are residents of the City of Parowan. The Mayor shall appoint one (1) member of the City Council to serve on the committee with advice and consent of the City Council. The term of office for the City Council representative shall correspond to the tenure as a City Councilperson. The term of office for the other four (4) members of the committee shall be for four (4) years. The advisory committee shall nominate and elect one of its members to serve as the chairperson. The chairperson shall conduct all meetings of the committee, but shall not vote unless there is a tie. In order to conduct business, there must be a quorum of three members present. The City Council may remove any member of the committee for cause and after a public hearing, if such hearing is requested. If a member of the committee should resign, the Mayor shall appoint a replacement to serve out the remainder of the resigning person's term.
 - 1. The initial terms of the four non-City Council appointees shall be staggered. The Mayor shall designate three (2) members of the committee to serve four (4) year terms and two (2) members to serve two (2) year terms. All appointments after the initial formation of the committee shall serve a complete four (4) year term.
- C. The advisory committee shall meet once per year to consider applications, and make recommendations to the City Council, this shall be the annual meeting. The yearly meeting of the committee shall be as soon as reasonably possible after the Parowan City Council approves its next fiscal year's budget. Depending on the amount of revenue collected, the Mayor may suspend the committee meetings in 2024. The committee may conduct additional meetings as necessary with the consent of the majority of the committee members.
- D. All meetings of the advisory committee shall be open to the public and in compliance with the Utah Open and Public Meetings Act, UCA §52-4-1 through 52-4-10.

4.03.060 Use of Funds, Restrictions

- A. The funds generated by the RAP tax shall be used for qualifying expenses as defined in this chapter, and defined by Utah Code Annotated Title 59, Chapter 12, Sections 1401 through 1404. It shall be the duty of the advisory committee and City staff to evaluate each application to ensure that the proposed use of the funds complies with the qualifying expenses as defined in this chapter.
- B. In addition to the requirements of State Law adopted above, the following standards shall apply to the use of and application for RAP tax funding:
 - 1. In order to assure the fair distribution of the limited pool of RAP tax funds available and to discourage double dipping no organization, cultural facility, cultural organization, botanical organization, institution, recreational facility, zoological organization, or administrative unit thereof shall be allowed to receive funding for more than one application per year. Applications may contain requests for multiple purposes, but only one application will be allowed.
 - 2. The deadline for returning the applications shall be specified in the application form. Applications received after the application deadline shall be rejected by staff and may not be considered by either the advisory committee or City Council. It is the responsibility of the individual organizations to make sure their applications are turned in prior to the deadline.
- C. Of the entire amount of RAP tax collected in each year, 10% shall be allocated to accrue in a preservation and replacement fund, or to be budgeted to be spent on maintenance of previously funded RAP tax projects.

4.03.070 Application

All applications for RAP tax funds shall contain the following information:

- A. Name;
- B. Mailing address;
- C. Physical address;
- D. Phone number;
- E. Email address;
- F. Number of paid employees;
- G. Number of volunteers;
- H. For an Arts applicant, the number of fiscal year performances/events/activities;
- I. For an Arts applicant, the approximate number of attendees and participants that attended performances/events/activities identified in response to question 9;
- J. Proof of applicant's non-profit status;
- K. An attachment showing the applicant's detailed financial statement for the last year, including:
 - 1. Sources of income;
 - 2. Amounts of income;
 - 3. Types of expenses; and
 - 4. Amounts of expenses;
- L. Proposed qualifying expenses to be paid with the RAP tax money;
- M. The amount of RAP tax revenue the applicant is requesting;

- N. Percentage of the Applicant's revenue that the requested RAP tax represents;
- O. A detailed statement describing what the RAP tax money will be used to pay for, including, if applicable, bids for proposed improvements;
- P. If the applicant has received RAP tax money within the past three (3) years, an accounting showing how the prior RAP tax appropriations have been spent, and
- Q. Any other information that is reasonably related to determining where the RAP tax money should be spent and is requested by the committee.

4.03.080 Agreements and Disbursement of Funds

- A. RAP Tax Funding Agreements: Organizations receiving RAP tax allocations shall enter into an agreement with Parowan City prior to receiving any RAP tax funds.
- B. City as Recipient Organization: When the City is the recipient organization it is not required to enter an agreement. The City is required to abide by the provisions of the minimum contract provisions as stated above.
- C. General Procedure for the Disbursement of RAP Tax Funds: After the recipient organization has entered an agreement with Parowan City, RAP tax funds shall be disbursed using the following procedures:
 - 1. Unless otherwise provided for herein, one half of the RAP tax funding shall be disbursed to the recipient organization once the organization signs the agreement with the City. If the recipient organization is awarded an amount equal to or less than \$5,000.00 it shall receive 80% of the award when it signs the agreement with the City.
 - 2. Prior to receiving the second half, or the remaining 20% in the case of an award equal to or less than \$5,000.00, of the funding the recipient organization shall provide to the City a detailed income and expenditure report showing the amount of RAP tax that was received with the first half of the disbursement and how it was spent. Also, on the same report the recipient organization shall show the amount of RAP tax that is to be received with the second disbursement and the manner in which it is projected to be spent. It is not intended that the report detail all funding and expenditures by the recipient organization, the report is only concerned with RAP tax income and expenditures.
 - 3. In addition to the above report, the recipient organization shall be required to submit a final report once the second half of the RAP tax funding has been received and spent. The final report shall be submitted prior to the recipient organization being eligible for any future RAP tax funding.
- D. Procedure for a Lump Sum RAP Tax Disbursement: From time-to-time RAP tax funds are appropriated for purposes that require a one-time disbursement of funds. Examples of this type of funding include, but are not limited to, a single purchase of equipment or a single purchase of multiple pieces of equipment. This procedure may be used as an exception to the above general and preferred disbursement method.
 - 1. The recipient organization will be required to show that it has received three written price quotes for the proposed item(s) to be purchased. As an alternative to the three price quotes the recipient organization may follow the City's adopted purchasing policy.
 - 2. Once the recipient organization has provided the information required above, the RAP tax funds will be disbursed to the recipient organization pursuant to the


City's accounts payable process. If mutually agreed, the City may issue payment directly to the vendor designated by the recipient organization.

- E. Failure to Supply Income and Expenditure Report: If a recipient organization fails to provide the required income and expenditure report, the recipient organization will be in breach of its agreement with City. Failure to supply a required income and expenditure report may lead to an audit into how the recipient organization has spent public funds. In addition to the remedies available for the breach of the agreement, a possible audit, and the criminal penalties provided for misuse of public funds, the recipient organization shall not receive further RAP tax allocations and/or disbursements until the required income and expenditure reports are provided.


4.03.090 Effective Date

The effective date of Parowan City RAP Tax shall be April 1, 2024, and shall be levied for a ten-year period.

ADOPTED AND PASSED BY THE CITY COUNCIL OF THE CITY OF PAROWAN, UTAH, THIS 22 DAY OF FEBRUARY, 2024.


 By Mollie Halterman
 Mayor

ATTEST:


 Callie Bassett, CMC
 City Recorder



CITY COUNCIL VOTE:

	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>
Councilmember David Burton	✓	_____	_____
Councilmember John Dean	✓	_____	_____
Councilmember Sharon Downey	_____	_____	_____ ABSENT
Councilmember David Harris	✓	_____	_____
Councilmember Rochell Topham	✓	_____	_____

