

!TITLE! 2

FINANCE AND TAXATION

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CHAPTER 1

FINANCIAL PROVISIONS

SECTION:

2-1-1: Recovery Of Expenses For Hazardous Materials Emergency !2R!

2-1-1: RECOVERY OF EXPENSES FOR HAZARDOUS MATERIALS EMERGENCY:

A. Definitions: As used in this section:

!DEF! EXPENSES: Actual labor costs of government and volunteer personnel, including workers' compensation benefits, fringe benefits, administrative overhead, cost of equipment, cost of equipment operations, cost of materials, and cost of any contract labor and materials.

HAZARDOUS MATERIALS EMERGENCY: A sudden and unexpected release of any substance that because of its quantity, concentration or physical, chemical or infectious characteristics presents a direct and immediate threat to public safety or the environment, and requires immediate action to mitigate the threat. !DEFEND!

B. Recovery Of Expenses:

1. Authorized: Upon certification of cost by the county sheriff to the county commission, the county commission may authorize the county clerk to recover from those person whose operations of actions caused the hazardous materials emergency expenses incurred by the county that are directly associated with a response to a hazardous materials emergency.

2. The payment of expenses under this subsection does not constitute an admission of liability or negligence in any legal action for damages.

3. The county clerk may request assistance from the county attorney's office to assist in recovering expenses. Expenses may include reasonable attorney fees and litigation cost. (Ord. 95-12, 12-20-1996)

CHAPTER 2

TAXES

ARTICLE A. SALES AND USE TAX

SECTION:

- 2-2A-1: Title
- 2-2A-2: Purpose
- 2-2A-3: Effective Date
- 2-2A-4: Sales And Use Tax
- 2-2A-5: Penalty !2R!

2-2A-1: TITLE:

This article shall be known as the *SALES AND USE TAX ORDINANCE OF THE COUNTY OF DAGGETT*. (Ord. 90-1, 2-6-1990)

2-2A-2: PURPOSE:

A. The 48th session of the Utah legislature has authorized the counties and municipalities of the state of Utah to enact sales and use tax ordinances imposing a one percent (1%) tax.

B. It is the purpose of this article to conform the sales and use tax of the municipality to the requirements of the sales and use tax act, Utah Code Annotated title 59, chapter 12, as currently amended. (Ord. 90-1, 2-6-1990)

2-2A-3: EFFECTIVE DATE:

This article shall become effective as of one minute after twelve o'clock (12:01) A.M., January 1, 1990. (Ord. 90-1, 2-6-1990)

2-2A-4: SALES AND USE TAX:

A. Sales Tax: From and after the effective date hereof, there is levied and there shall be collected and paid a tax upon every retail sale of tangible personal property, services and meals made within the municipality at the rate of one percent (1%).

B. Excise Tax: An excise tax is hereby imposed on the storage, use or other consumption in this municipality of tangible personal

property from any retailer on or after the operative date hereof at the rate of one percent (1%) of the sales price of the property.

C. Determine Place Of Business: For the purpose of this article, all retail sales shall be presumed to have been consummated at the place of business delivered by the retailer or his 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 or places at which the retail sales are consummated shall be as determined under the rules and regulations prescribed by and adopted by the state tax commission. Public utilities, as defined by Utah Code Annotated title 54, 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 revenue 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. 90-1, 2-6-1990)

D. Statute Adopted: Except as hereinafter provided, and except insofar as they are inconsistent with the provisions of the sales and use tax act, all of the provisions of Utah Code Annotated title 59, chapter 12, as amended, in force and effect on the effective date hereof, insofar as they relate to sales taxes, are hereby adopted and made a part of this article as though fully set forth herein. (Ord. 90-1, 2-6-1990; amd. 2017 Code)

E. Substitution Of Terms In Statute: Wherever, and to the extent that in Utah Code Annotated title 59, chapter 12, the state of Utah is named or referred to as the taxing agency, the name of this municipality shall be substituted therefor. Nothing in this subsection 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 municipality 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 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 article.

F. Additional License Not Required: If an annual license has been issued to a retailer under Utah Code Annotated section 59-12-106, an additional license shall not be required by reason of this section.

G. Exclusions: There shall be excluded from the purchase price paid or charged by which the tax is measured:

1. The amount of any sales or use tax imposed by the state of Utah upon a retailer of consumer;
2. The gross receipts from the sale of or the cost of storage, use or other consumption of tangible personal property upon which a sales or use tax has become due by reason of the sale transaction to any other municipality and any county in the state of Utah, under the sales or use tax ordinance enacted by that county or municipality in accordance with the sales and use tax act. (Ord. 90-1, 2-6-1990)

2-2A-5: PENALTY:

Any person violating any of the provisions of this article shall be deemed guilty of a class B misdemeanor and, upon conviction thereof, shall be subject to penalty as provided in section 1-4-1 of this code. (Ord. 90-1, 2-6-1990; amd. 2017 Code)

CHAPTER 2

TAXES

ARTICLE B. OPTIONAL COUNTY SALES AND USE TAX

SECTION:

- 2-2B-1: Title
- 2-2B-2: Statutory Authority
- 2-2B-3: Purpose
- 2-2B-4: Imposition; Amount
- 2-2B-5: Incorporation Of State Law
- 2-2B-6: Administration, Collection, Distribution
- 2-2B-7: Exemptions
- 2-2B-8: Effective Date !2R!

2-2B-1: TITLE:

This article shall be known as the *OPTIONAL COUNTY SALES AND USE TAX*.
(Ord. 97-7, 7-25-1997, eff. 7-25-1997)

2-2B-2: STATUTORY AUTHORITY:

The authority for imposing this tax is derived from Utah Code Annotated section 59-12-1101 et seq. (Ord. 97-7, 7-25-1997, eff. 7-25-1997; amd. 2017 Code)

2-2B-3: PURPOSE:

This article is enacted to provide the county with a source of revenue to allow the county to more effectively carry out its role as a political and legal subdivision of the state of Utah. The board of county commissioners hereby directs that the provisions hereof be interpreted and construed to accomplish this stated purpose. (Ord. 97-7, 7-25-1997, eff. 7-25-1997)

2-2B-4: IMPOSITION; AMOUNT:

In addition to all other taxes imposed, the county does hereby impose and levy for collection a sales and use tax of one-fourth ($\frac{1}{4}$) of one percent (1%) upon the sales and uses described in Utah Code Annotated section 59-12-103(1), subject to the exemptions provided for in Utah Code Annotated section 59-12-104. This tax is imposed

upon all sales and uses made in the county, including sales and uses made within the corporate limits of the cities and towns of the county. Provisions of this article shall be subject to the provisions of the sales and use tax laws of Utah to which reference is hereinafter made in this article and which are hereby enacted and made a part of this article as though fully set forth herein. (Ord. 97-7, 7-25-1997, eff. 7-25-1997)

2-2B-5: INCORPORATION OF STATE LAW:

A. Adopted: Except as hereinafter provided and except insofar as they are inconsistent with provisions of the county optional sales and use tax act, all the provisions of Utah Code Annotated title 59, chapter 12, part 1, as amended, in force and effect on the effective date hereof, insofar as they relate to the tax imposed by this article, are adopted and made a part of this article as though fully set forth herein. (Ord. 97-7, 7-25-1997, eff. 7-25-1997; amd. 2017 Code)

B. Substitution Of Terms In Statute: Wherever and to the extent that in Utah Code Annotated title 59, chapter 12, part 1, the state of Utah is named or referred to as the taxing agency, the name of this county shall be substituted therefor. Nothing in this subsection shall be deemed to require substitution of the name of the county for the word "state" when that word is used as part of the title of the state tax commission, or the constitution of the state of Utah, nor shall the name of the county 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 county 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. 97-7, 7-25-1997, eff. 7-25-1997)

2-2B-6: ADMINISTRATION, COLLECTION, DISTRIBUTION:

A. Taxes imposed pursuant to this article shall be levied at the same time and collected in the same manner as provided for in Utah Code Annotated section 59-12-201 et seq., as amended, except that the revenue derived from the tax is not subject to the collection and distribution procedures established pursuant to the provisions of Utah Code Annotated section 59-12-205(2), as amended. Revenues collected pursuant to this article shall be distributed in accordance with Utah Code Annotated section 59-12-1102(3) and the rules adopted by the Utah state tax commission pursuant to Utah Code Annotated section 59-12-1102(3)(d). All revenues so collected shall be revenues of either the county or of any other county entitled to

distribution of the same pursuant to the statute. (Ord. 97-7, 7-25-1997, eff. 7-25-1997; amd. 2017 Code)

B. Any records, tax returns or other information of any person, corporation, company, or other group or organization subject to the taxes imposed by this article which relate to the calculation, collection or remittance to the state tax commission of such taxes shall be subject to review, inspection and auditing by the county. (Ord. 97-7, 7-25-1997, eff. 7-25-1997)

C. The fee charged the county by the state tax commission under Utah Code Annotated section 59-12-206, as amended, shall be based on the distribution amount resulting after all the applicable distribution calculations under Utah Code Annotated section 59-12-1102(3) have been made. (Ord. 97-7, 7-25-1997, eff. 7-25-1997; amd. 2017 Code)

2-2B-7: EXEMPTIONS:

The sale, storage, use or other consumption of tangible personal property which is exempt from sales or use taxation pursuant to Utah Code Annotated section 59-12-104 is exempt from the application of the optional county sales and use tax. (Ord. 97-7, 7-25-1997, eff. 7-25-1997)

2-2B-8: EFFECTIVE DATE:

The tax imposed by this article shall take effect January 1, 1998. (Ord. 97-7, 7-25-1997, eff. 7-25-1997)

CHAPTER 2

TAXES

ARTICLE C. RESIDENTIAL PROPERTY TAX EXEMPTIONS

SECTION:

- 2-2C-1: Procedure
- 2-2C-2: Criteria
- 2-2C-3: Grandfather Provision
- 2-2C-4: Conflict
- 2-2C-5: Statutes Incorporated !2R!

2-2C-1: PROCEDURE:

A. Form Submittal: No later than sixty (60) days after either a change in ownership or a change in use of the residence, all owners of residential property, as defined in Utah Code Annotated section 59-2-102, as amended, shall sign and submit a form supplied by the county, to the board of equalization in care of the county assessor, stating the current use of the property as primary or secondary. The application shall include the following information:

1. The owner of record of the property;
2. Property parcel number;
3. Location of the property (address);
4. Name of the applicant;
5. Basis of the applicant's knowledge of the use of the property;
6. Description of the use of the property;
7. Evidence of domicile of the inhabitants of the property; and
8. Signature of all owners of the property and a certification that the property is residential property.

B. Use; Minimum Term: In order to be considered for a primary residential exemption for the current tax year, the property must be used in the current calendar year as a primary residence for at least one hundred eighty three (183) consecutive days and the application must be submitted by August 31. (Ord. 15-12, 6-2-2015)

C. Administrative Fee: Applicants seeking the exemption for the current tax year and filed after May 1 must pay an administrative fee as established by the board of county commissioners to the office of the county assessor. (Ord. 15-12, 6-2-2015; amd. 2017 Code)

D. Application May Be Required: Except for those properties receiving a residential exemption which are required to file an application each year, the county board of equalization may require an owner of the residential property to file the application described in subsection A of this section only if:

1. That residential property was ineligible for the primary residence tax exemption during the calendar year immediately preceding the calendar year for which the owner is seeking to claim the exemption; or
2. The ownership interest in that residential property changes; or
3. The county board of equalization or the county assessor determines that there is reason to believe that the property no longer qualifies for the residential exemption in accordance with Utah Code Annotated section 59-2-103.

E. Request, Collect Information: The county board of equalization or the county assessor may request or collect information sufficient to verify the primary residence status of the property to determine if the property is entitled to the residential exemption, pursuant to the criteria set forth in the rules promulgated by the Utah state tax commission.

F. Burden Of Proof: If an applicant requests a property be designated as a primary residence, the residential exemption shall not be granted without clear and convincing evidence that the property serves as the primary residence. The burden of proof shall remain at all times with the applicant.

G. Determination: After review of the applicant's application, the county assessor shall make a preliminary determination of whether the requirements for a residential residence exemption, outlined in Utah Code Annotated title 59, chapter 2, have been met, and whether the factors or objective evidence determinative of domicile, which are defined and outlined in section 2-2C-2 of this article, are sufficient to approve the applicant's request. The county assessor shall then make a recommendation to the board of equalization for approval or denial of the applicant's request. The board of equalization shall allow an owner a residential exemption for the residential property described in the application, upon making a determination that the requirements outlined in Utah Code Annotated

title 59, chapter 2, have been met, and that the factors or objective evidence supplied by the applicant are sufficient to make a determination of domicile. (Ord. 15-12, 6-2-2015)

2-2C-2: CRITERIA:

A. Definitions:

!DEF! BOARD OF EQUALIZATION: The Daggett County board of equalization. If no formal Daggett County board of equalization exists, the Daggett County commission shall be considered the acting board of equalization.

DOMICILE: The place where an individual has a true, fixed, permanent home and principal establishment, and to which place the person has (whenever the person is absent) the intention of returning. It is the place in which a person has voluntarily fixed the habitation of the person and the person's family, not for a mere special or temporary purpose, but with the present intention of making a permanent home.

1. After domicile has been established, two (2) things are necessary to create a new domicile: first, an abandonment of the old domicile; and second, the intention and establishment of a new domicile.

2. The mere intention to abandon a domicile once established is not of itself sufficient to create a new domicile; for before a person can be said to have changed a person's domicile, a new domicile must be shown.

3. The assessor and the board of equalization may refer to the administrative rules of the Utah state tax commission for guidance in reviewing the factors and evidence determinative of domicile.

PRIMARY RESIDENCE: The location where domicile has been established. **!DEFEND!**

B. Residential Exemption: To qualify for the residential exemption, a property need not be owner occupied. Apartments and other rental housing used as a primary residence of the occupants qualify for the residential exemption in accordance with section 2-2C-1 of this article. A primary residence does not include property used for transient residential use, or condominiums used in rental pools. Only the primary residence, which is occupied more than six (6) months

out of the year, qualifies for the residential exemption. The residential exemption is limited to up to one acre of land per residential dwelling unit on a single property description.

C. Partial Exemption For Mixed Commercial And Residential: A partial exemption may be applied against the property taxes of mixed commercial and residential property but it is presumed that the entire property is commercial. This presumption may be rebutted by the filing of the application referred to in subsection 2-2C-1A of this article every year, which includes evidence of domicile of each qualifying resident. The county assessor may require additional information as necessary to make a determination of the percentage of the property qualifying for the residential exemption. (Ord. 15-12, 6-2-2015)

2-2C-3: GRANDFATHER PROVISION:

As of the effective date hereof, owner occupied residential property, apartments and other rental property being used as the primary residence of the occupants, where the property is currently listed by the county assessor as having a residential exemption, shall not be required to file an application to continue its status. Owner occupied residential property, apartments and other rental property being used as the primary residence of the occupants, where the property is subsequently listed by the county assessor as having a residential exemption and was constructed after the effective date hereof, shall be required to file the application required by section 2-2C-1 of this article. However, should the use change from primary residence, the property shall no longer be considered exempt and an application under the provisions of this article shall be required. (Ord. 15-12, 6-2-2015)

2-2C-4: CONFLICT:

In the event of any conflict between this article and state or federal law, the provisions of the latter shall be controlling. (Ord. 15-12, 6-2-2015)

2-2C-5: STATUTES INCORPORATED:

This article shall incorporate the provisions of the administrative rules promulgated by the Utah state tax commission, and the criteria for determining primary residence set forth in Utah Code Annotated sections 59-2-102 and 59-2-103, as amended, and property tax standard 2.13, primary residential exemption. (Ord. 15-12, 6-2-2015)

CHAPTER 2

TAXES

ARTICLE D. TOURISM, RECREATION, CULTURAL AND CONVENTION FACILITIES TAX

SECTION:

- 2-2D-1: Title
- 2-2D-2: Statutory Authority
- 2-2D-3: Purpose
- 2-2D-4: Definitions
- 2-2D-5: Imposition, Amount Of Tax
- 2-2D-6: Use Of Revenues
- 2-2D-7: Collection
- 2-2D-8: Licensure !2R!

2-2D-1: TITLE:

This article shall be known as the *TOURISM, RECREATION, CULTURAL AND CONVENTION FACILITIES TAX OF THE COUNTY OF DAGGETT*. (Ord. 09-11, 6-2-2009, eff. 6-2-2009)

2-2D-2: STATUTORY AUTHORITY:

The authority for imposing this tax is derived from Utah Code Annotated section 59-12-601 et seq., as amended. (Ord. 09-11, 6-2-2009, eff. 6-2-2009)

2-2D-3: PURPOSE:

This article is enacted to provide the county with a source of revenue specifically for the purposes of financing in whole or in part the development, operation and maintenance of tourist, recreation, cultural and convention facilities, and the board of county commissioners hereby directs that the provisions hereof be interpreted and construed to accomplish the stated purpose. (Ord. 09-11, 6-2-2009, eff. 6-2-2009)

2-2D-4: DEFINITIONS:

As used in this article:

!DEF! CONVENTION FACILITY: Any publicly owned or operated convention center, sports arena, or other facility at which conventions, conferences, and other gatherings are held and which the primary business or function is to host such conventions, conferences, and other gatherings.

CULTURAL FACILITY: Any publicly owned or operated museum, theater, art center, music hall, or other cultural or arts facility.

RECREATION FACILITY OR TOURIST FACILITY: Any publicly owned or operated park, campground, marina, dock, golf course, water park, historic park, museum, theater, monument, planetarium, bicycle trails, and other recreation or tourism related facility. **!DEFEND!**

RESTAURANT: A. Includes any coffee shop, cafeteria, restaurant, luncheonette, soda fountain, or fast food service where food is prepared for immediate consumption.

B. "Restaurant" does not include any retail establishment whose primary business or function is the sale of fuel or food items for off premises, but not immediate, consumption. (Ord. 09-11, 6-2-2009, eff. 6-2-2009)

2-2D-5: IMPOSITION, AMOUNT OF TAX:

A. Levied: There is hereby levied a tourism, recreation, cultural and convention tax on all restaurants, as defined in section 2-2D-4 of this article, in the county at the rate of one percent (1%) of all sales of prepared food and beverages that are sold by restaurants. (Ord. 09-11, 6-2-2009, eff. 6-2-2009)

B. Incorporation Of State Law:

1. Except as hereinafter provided, and excepted insofar as they are inconsistent with the provisions of the tourism, recreation, cultural and convention facilities tax act, all of the provisions of Utah Code Annotated section 59-12-101 et seq., as amended, and in force and effect on the effective date hereof, insofar as they relate to the tax imposed by this article, are hereby adopted and made a part of this article as though fully set forth herein. (Ord. 09-11, 6-2-2009, eff. 6-2-2009; amd. 2017 Code)

2. Where, and to the extent that in Utah Code Annotated section 59-12-101 et seq., the state of Utah is named or referred to as the taxing agency, the name of this county shall be substituted therefor. Nothing in this subsection shall be deemed to require substitution

of the name of the county 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 county 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 county or any agency thereof, rather than by or against the state tax commission in performing the functions incident to the administration or operation of the article. (Ord. 09-11, 6-2-2009, eff. 6-2-2009)

2-2D-6: USE OF REVENUES:

The revenues received from the tourism, recreation, cultural and convention taxes levied pursuant to section 2-2D-4 of this article shall be used solely for the purposes of financing, in whole or in part, tourism promotion, and the development, operation, and maintenance of tourist, recreation, cultural, and convention facilities, as defined herein. The board of county commissioners may issue bonds under the provisions of the Utah municipal bond act to pay any costs incurred for the purposes set forth above and may pledge the entire proceeds of the tax provided for this article to the payment of principal, interest, premiums and necessary reserves for any such bonds. (Ord. 09-11, 6-2-2009, eff. 6-2-2009)

2-2D-7: COLLECTION:

Taxes imposed under this article shall be levied at the same time and collected in the same manner as provided for in Utah Code Annotated section 59-12-201 et seq., as amended, except that the revenue derived from the tax is not subject to the collection and distribution procedures established pursuant to the provisions of Utah Code Annotated section 59-12-205(2), as amended. All revenues so collected shall be the revenues of the county. Any records, tax returns, or other information of any person, corporation, company, or other group or organization subject to the taxes imposed by this article which relate to the calculation, collection or remittance to the state tax commission of said taxes shall be subject to review, inspection, and auditing by the county. (Ord. 09-11, 6-2-2009, eff. 6-2-2009)

2-2D-8: LICENSURE:

All persons, companies, corporations or other similar persons, groups, or organizations doing business as restaurants shall obtain from the state tax commission, a tourism, recreation, cultural or

convention tax license. No such additional license shall be required if the person, company, corporation, or group or organization, has obtained a license pursuant to Utah Code Annotated section 59-12-106, as amended. (Ord. 09-11, 6-2-2009, eff. 6-2-2009)