

**Salt Lake County Countywide Policy 1031**

SALT LAKE COUNTY  
COUNTY-WIDE POLICY No. 1031

ON

**COUNTY OPTION FUNDING FOR ZOOLOGICAL, CULTURAL AND BOTANICAL ORGANIZATIONS KNOWN AS THE ZOO, ARTS & PARKS PROGRAM**

**Background:**

In November 1996, Salt Lake County voters approved a 1/10th of 1% increase in the local sales and use tax as a means of enhancing funding for local zoological, cultural and botanical organizations and recreational facilities within Salt Lake County. Funds are to be distributed as consistent with Title 59, Chapter 12, Part 7, Utah Code Annotated (Utah Code Ann. §§ 59-12-701 *et seq.*) (the "Act").

In 2004 this initiative was approved with 71% of the vote and in 2014 voters again overwhelmingly approved this initiative with 77% of the vote.

To carry out the provisions of the act, the County has enacted Chapter 3.07, Salt Lake County Code of Ordinances.

**Program Purpose:**

The Zoo, Arts and Parks (ZAP) program educates, supports and engages partner organizations to enhance the quality of life for Salt Lake County communities and visitors through artistic, cultural, botanical and recreational experiences. By imposing, collecting, and distributing a 1/10<sup>th</sup> of 1% county sales and use tax, the program provides adequate and predictable financial support to Zoological and Tier I organizations while enhancing financial support for Tier II programs and organizations. The Zoo, Arts and Parks program is committed to fair and equitable access to funding and educational resources. It will also work to increase the public awareness of the value of the ZAP Program.

**1.0 Policy**

Under the ZAP Program the County Council shall distribute the revenues collected annually as a result of the imposition of a sales and use tax designed to help defer costs for the County's qualifying zoological, cultural and botanical organizations consistent with Utah Code Ann. §§ 59-12-701, *et seq.*, and Chapter 3.07, Salt Lake County Code of Ordinances.

This policy is not intended to apply to the recreational and parks portion of the ZAP sales and use tax.

The distribution of ZAP revenues, as outlined in the Act, are as follows:

- 1.5% may be used by the County for the administration of the program

Once administrative revenues are subtracted, the remaining ZAP revenues shall be distributed as follows:

- 16% to fund up to three qualified zoological facilities and organizations
- 45% to fund up to twenty-two (22) qualified Tier I organizations
- 9% to fund qualified Tier II organizations

# Salt Lake County Countywide Policy 1031

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30% to fund qualified recreational facilities and operations

Interest collected on the ZAP revenues will be distributed according to the same formula as specified above.

## 2.0 Definitions

If not defined in this Section, terms in this Policy shall have the meaning set forth in the Act. For the purposes of this Policy, the following definitions shall apply:

- 2.1 “Act” means Title 59, Chapter 12, Part 7, Utah Code Annotated (Utah Code Ann. § 59-12-701 *et seq.*), as may be amended from time to time.
- 2.2 “Administrative unit” means the same as that term is defined in the Act.
- 2.3 “Advisory Board” means the appointed volunteer board(s) that reviews applications and makes recommendations to the County Council.
- 2.4 “Application Form” means the online grantor management system or document(s) specified by the ZAP Program of Salt Lake County for use by organizations which request funds pursuant to this Policy & Procedure, including any required attachments and supporting documents.
- 2.5 “Aquarium” means the same as that term is defined in the Act.
- 2.6 “Aviary” means the same as that term is defined in the Act.
- 2.7 “Certified Audit” means an opinion from a Utah licensed certified public accounting firm that the overall financial statements of an organization fairly represent the financial position of the entity in conformity with GAAP (Generally Accepted Accounting Principles). All disclosures required by GAAP must be included.
- 2.8 “Certified Review” means a limited assurance from a Utah licensed certified public accounting firm that there are no material modifications that must be made to the financial statements for them to be in conformity with GAAP. All disclosures required by GAAP must be included.
- 2.9 “Local arts agency” or “local arts council” means an arts or cultural agency of a county, municipality, metro township, or unincorporated community council.
- 2.10 “Nonprofit” means 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 shareholders and that is exempt from federal tax under Section 501(c)(3) of the Internal Revenue Code.
- 2.11 “Primary Purpose” means the main goal, the fundamental intent, the core purpose or mission of an organization.

## Salt Lake County Countywide Policy 1031

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- 2.12 “Related Party Transactions” means a business deal or arrangement between two parties that are joined by a special relationship prior to the deal. For example, a business transaction between a board member and the corporation, such as a contract for the board member’s company to perform services for the corporation, would be deemed a related-party transaction.
- 2.13 “Salary” means all compensation, bonuses and monies paid to employees for services provided to the organization.
- 2.14 “Qualifying Operating Expenses” means an organization’s total expenditures for ongoing operations for an identifiable fiscal year as documented by official certified audit records (as allowed by Generally Accepted Accounting Principles GAAP) less the following non-qualifying expenditures:
- 2.14.1 Capital construction expenses, including capital acquisition, improvements to real property or depreciation of real property.
  - 2.14.2 Payments into an endowment corpus.
  - 2.14.3 Expenditures for programs conducted outside of Salt Lake County.
  - 2.14.4 Fundraising expenses related to capital or endowment campaign.
  - 2.14.5 Repayments of loans and/or interest thereon.
  - 2.14.6 Tier I and Zoological rent payments in excess of 6% of total operating expenses
  - 2.14.7 All non-cash expenditures including in-kind services and products, all trades, exchange transactions and other similar non-cash consideration.
  - 2.14.8 Expenditures for direct political lobbying on all levels.
  - 2.14.9 Salary expenditures, for the purpose of qualified expenses, are capped at \$95,000 per individual for all functions, including bonuses and any other compensation for services rendered. This amount does not include retirement, health, social security or Medicare benefits. This amount may be indexed annually by the Advisory Boards.
  - 2.14.10 Grants/Fiscal Sponsorships – the distribution of funds to outside groups, institutions, organizations or other units.
  - 2.14.11 Gift shop and concession expenses: Inventory and related expenses classified as “cost of goods” are capped at 10% of total qualifying operating expenses and are only a qualified operating expense when and as sold.
  - 2.14.12 Bad debt expense.

## Salt Lake County Countywide Policy 1031

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- 2.14.13 Depreciation and amortization of any asset.
- 2.14.14 Non-deductible tax penalties. Tax penalties include, but are not limited to, federal and state employment tax penalties (i.e., payroll tax penalties). The Advisory Board may allow up to \$500 of tax penalties as a qualifying expenditure if accompanied by a satisfactory justification.
- 2.14.15 Expenses related to unrelated business income activities: Operating expenses that are related to unrelated business income activities or that are utilized in calculating federal unrelated business income tax. However, all property taxes paid to Salt Lake County are qualifying expenditures.
- 2.14.16 Previous ZAP funding - ZAP funding allocated in the prior year, whether or not such funds were expended in the prior years.
- 2.14.17 Related Party Transactions: related party transactions are transactions with any board member, staff member, or his or her affiliates or family members. Any related party transactions exceeding \$5,000 in the aggregate may be disallowed. The Advisory Board has the discretion to consider the following factors when deciding to allow or disallow a related party transaction: (1) whether the organization certifies that it has adopted the Utah Nonprofit Association Standard of Ethics and satisfies Part III (B) of the Standards, (2) whether the organization complied with the standards in approving the transaction, and (3) the content of the minutes from the organization board meeting where the disclosure was made and the details of the transaction and accompanying analysis as set forth in the disclosure to the organization's board. If the organization has adopted the standards then it must monitor related party transactions and reject ones that are not fair to the organization. In the event of any sale, lease or other transaction with a board member, staff member, or affiliate of either, the costs and expenses incurred by the board member, staff member, or affiliate shall be fully disclosed. If a board member holds a staff position in the organization, the salary of that staff position is a qualifying expenditure. Moreover, if there are related party transactions, the organization should include a copy of its conflicts of interest policies with any explanations submitted in it application.
- 2.14.18 Qualifying Royalty and Commission Expenditures: If a play's gross proceeds exceed \$150,000, qualifying royalty expenditures may not exceed 20% of the gross proceeds of the run. Qualifying commission expenditures may not exceed \$30,000 for one play (whether written by a single playwright or team of authors). This definition of Qualifying Expenditures does not apply to Tier II organizations.
- 2.14.19 Other expenses not related to organization's primary purpose.
- 2.15 "Qualifying organization" means a "zoological organization," "botanical organization," "cultural organization," or "zoological facility" as those terms are defined in the Act

## Salt Lake County Countywide Policy 1031

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- 2.16 “Zoological facility” means the same as that term is defined in the Act.
- 2.17 “Zoological organization” means the same as that term is defined in the Act.
- 2.18 “Zoological park” means the same as that term is defined in the Act.

### 3.0 General Guidelines

- 3.1 Funding for this program comes from sales and use tax revenues that are collected by the State of Utah and distributed to Salt Lake County under the Act. To ensure more funds are not disbursed than received for the year, total actual fiscal year revenues cannot be disbursed until received by the County Treasurer, recorded by the County Auditor and reconciled by the County Mayor. At year-end, this process may require three to four months after the County’s fiscal year ends.
- 3.2 An applicant must be a qualifying organization to apply for and qualify for ZAP funding. A nonprofit applicant must be exempt from federal tax under Section 501(c)(3) of the Internal Revenue Code to qualify for ZAP funding.
- 3.3 An applicant that is applying for ZAP funding as an administrative unit shall submit adequate documentation to ZAP staff to verify that it meets the definition of an “administrative unit” under the Act. Specifically, an applicant applying as an administrative unit, must demonstrate, to the satisfaction of the applicable Advisory Board and a CPA hired by the ZAP Program, that: (1) it would, if it were a separate entity, be considered a botanical or cultural organization under the Act, and (2) it consistently maintains books and records separate from those of its parent organization.
- 3.4 All qualifying organizations may apply once per year. However, if an organization applies for Tier I funding in a given year and is not selected to receive Tier I funding, the organization may still apply for Tier II funding in that same year.
- 3.5 The ZAP Program encourages applicants to provide free tickets and/or invitations to the County, in accordance with established department guidelines, at least once per year so that members of the applicable Advisory Board and ZAP staff may evaluate the applicant and the merits of its programs and activities. Advisory Board members and ZAP staff are encouraged to attend free events whenever possible.
- 3.6 Tier II applicants applying for \$15,000 to \$29,999.99 in ZAP funding will be required to provide a certified review of operating expenses for the most recent completed fiscal year.
- 3.7 Tier II applicants applying for \$30,000 to \$59,999.99 in ZAP funding will be required to provide a certified audit of operating expenses for the most recent completed fiscal year.
- 3.8 Tier II applicants applying for \$60,000 or more in ZAP funding will be required to provide a certified audit of operating expenses for the three fiscal years prior to the application date.

## Salt Lake County Countywide Policy 1031

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- 3.9 Tier II local arts agency applicants that are agencies of a municipality may provide a copy of their municipal “comprehensive annual financial report” to satisfy the applicable certified review or certified audit requirement.
- 3.10 Zoological and Tier I applicants must provide and calculate average annual qualifying operating expenses based upon certified audited financials for the three fiscal years prior to the application date.
- 3.11 Each year, the ZAP Program shall issue public notice indicating: (1) how to apply for ZAP funding online and the availability of application forms online, (2) the deadline for filing completed applications for ZAP funding, and (3) the date, time, and place of all meetings of the Advisory Boards.
- 3.12 All applications, including any required supplemental material, must be submitted to the ZAP Program prior to the deadline. Late submissions will not be accepted or considered. Following submission of a completed application, ZAP staff may contact applicants to request clarification regarding any portion of the applicant’s application. An applicant must respond to the County’s request for clarification within 10 business days otherwise the applicant’s application may not be considered further.
- 3.13 Each funded organization must submit an annual evaluation report detailing how it expended the funds it received from the ZAP Program. The purpose of the evaluation report is to account for the funds distributed to each funded organization. The report must be submitted after the project’s completion and prior to future ZAP funding. ZAP funding may be withheld due to inadequate, incomplete, or non-submitted evaluation forms.
- 3.14 Salt Lake County agencies (departments, offices or divisions) are not eligible for ZAP arts and cultural funding. The ZAP Program encourages County agencies and other ineligible organizations to collaborate with ZAP funded organizations in supporting their mission.
- 3.15 ZAP funds may not be used for the following expenditures:
  - 3.15.1 University and college programs organized primarily for the student body populations;
  - 3.15.2 Activities not available to the general public;
  - 3.15.3 Activities outside Salt Lake County; and
  - 3.15.4 Expenses not related to zoological, cultural or botanical activities; including, but not limited to parades, pageants, fireworks, rodeos, sister-city programs, farmers markets, scholarships, social service activities, religious proselytizing and non-cultural celebratory activities.
  - 3.15.5 Sub-grants, fiscal sponsorships, fellowships and the like.

- 3.16 All Tier I and Tier II applicants must have as their primary purpose one of the following disciplines to be eligible for ZAP funding:

Architecture: Historical preservation, service and education;

Arts and Cultural Festivals: festivals with a primary focus of curated arts and cultural disciplines and activities. This does not include state, local or community fairs, or farmers markets;

Arts Education: Performances for children/students, classroom or after-school instruction, teacher and artist training, service/information and referrals;

Botanical: Botany is defined as the study and research and fostering the appreciation, of plant life including gardens, flowers, ornamental shrubs, trees and horticulture. The ZAP statute specifically requires that botanical organizations do all three of the following activities: Horticultural display, botanical research and community education;

Dance: Ballet, dance service organization, dance training, historical/traditional, interdisciplinary, jazz, world (ethnic), modern, contemporary, hip hop, 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;

Humanities: Humanities are defined as the promotion and public education of the branches of learning or study embraced by philosophy, literature, languages and art criticism, but excludes theology, natural and social sciences. Humanities includes: lecture series, symposiums, conferences, etc.;

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

Literature: Press, prose, poetry, fiction, nonfiction or literary service organization. *Magazines and newspapers are ineligible;*

Local Arts Agency: A municipal designated agency or nonprofit corporation responsible for supporting local arts and cultural activities within their community including presenting, grant making, planning, placemaking activities, community development, through arts and culture, marketing and public relations, exhibitions and other programs associated with artists and arts organizations in a community;

Media Arts: Animation, digital media, graphic design, independent film, multidisciplinary (within media arts). *Radio, television broadcasting networks or stations, and cable communication systems are ineligible;*

Multidisciplinary: 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, choral, and 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 zoological, 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 and box office venue house management tasks associated with the performances. Presenters also sometimes commission new work, supporting artists to develop and perform this work. Farmers markets, local, regional or state fairs and other community celebrations are not presenting organizations under the ZAP Program;

Theatre: Classical/revival, contemporary/new work, and or musical theatre;

Visual Arts: Ceramics, digital, gallery/exhibition space, mixed media, museum, painting/drawing, photography, printmaking, sculpture/three-dimensional.

For Tier II Only (History disciplines are not eligible for Tier I funding)

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.

- 3.17 The ZAP Program encourages all applicants to abide by professional and ethical nonprofit standards. The Utah Nonprofit Association (UNA) provides assistance to nonprofit organizations to achieve these standards. The ZAP Program is supportive of other professional associations that encourage best practices and ethical standards. Organizations not a member of UNA, may be required to include a copy of their professional and ethical standards with their ZAP application.

#### **4.0 Requests for Zoological, Tier I and Tier II Funds**

- 4.1 Each year the ZAP Program will post information regarding the ZAP Program, such as application deadlines and instructions, on social media and the County's website. Notices will also be sent to all zoological, cultural and botanical organizations that are in the ZAP database.
- 4.2 All requests for funds must be submitted on an official application or website provided by the County's ZAP Program. Applications must be submitted prior to the deadline identified within the body of the application. Applications received after the deadline will not be considered.
- 4.3 Applicants may be asked to submit a basic pre-application in order to determine general eligibility under this Policy and the Act. Based on the content of the pre-application, the ZAP Program Director may either direct the applicant to submit a full application or disqualify the applicant prior to submitting a full application.
- 4.4 The applicable Advisory Board shall review all eligible applications and accompanying material. After careful review and deliberation, and based upon the submitted application and accompanying information, the Advisory Board shall submit a written recommendation to the County Council identifying the organizations selected by the Advisory Board to receive ZAP funding and the recommended amount or percentage of ZAP funds to be distributed to each.



## Salt Lake County Countywide Policy 1031

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- 4.5 The ZAP Program shall provide notice to applicants regarding the Advisory Board's recommendations soon after the Advisory Board's final decision meeting.
- 4.6 Obtaining ZAP funding is a competitive process; generally not all applicants will receive funding. Applicants may appeal the Advisory Board's final recommendation in accordance with Section 8 and 9 of this Policy. However, dissatisfaction with the amount of a grant award is not a basis for appeal. Funding recommendations are based on many factors including but not limited to the availability of funds. Further, denial of ZAP Funds is not a sufficient reason for appeal.
- 4.7 Following submission of the Advisory Board's recommendation to the County Council, the County Council shall, as soon thereafter as is convenient, select and approve the organizations that will receive ZAP funding and the amount or percentage of ZAP funds to be distributed to each.

### 5.0 Tier I Funding

- 5.1 Tier I Advisory Board: As required by the Act, the Tier I Advisory board shall consist of seven members appointed by the Salt Lake County Council, two of which must be appointed by the Utah Arts Council. To the extent practicable, Tier I Advisory Board members shall be evenly distributed by council district. No paid employee of a Tier I or Zoological applicant may serve on the Tier I Advisory Board, except that an employee of a university or college may serve on the Tier I Advisory Board so long as the employee does not perform work for an administrative unit that is applying for Tier I funding. The purpose of the Tier I Advisory Board is to advise the County Council on the disbursement of ZAP funds for the Zoological and Tier I categories.
- 5.2 Tier I Purpose: Tier I funding should be utilized to build organizational capacity, to create stability, and to provide adequate predicable support.
- 5.3 Competitive Process: Organizations that apply and qualify as a Tier I organization are not guaranteed funding. According to the Act, 45% of Zoo, Arts and Parks revenues will be distributed to no more than twenty-two (22) qualified Tier I organizations. Applicants not recommended as one of the twenty-two (22) organizations are encouraged to apply for Tier II funding.
- 5.4 Priority: When all else is equal, priority for Tier I funding will be considered for those organizations that provide:
  - 5.4.1 geographic, ethnic and other diversity on their governing and advisory boards; and
  - 5.4.2 exemplary community services through outreach and free or highly discounted programming.
- 5.5 Indexing qualifying expenditures: Consistent with the Act, the Tier I Advisory Board may, by July 1 of each year, recommend to the County Council whether to index the

## Salt Lake County Countywide Policy 1031

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threshold amount of qualifying operating expenses for Tier I organizations upward and by what amount.

### 5.6 Tier I Criteria:

- 5.6.1 The Act sets the minimum threshold for Tier I qualifying operating expenses at \$250,000, which has been periodically indexed based primarily on inflation. As such, grants awarded to Tier I organizations for the 2017 application cycle, will only be made to organizations having at least \$335,700 or more in average annual qualifying operating expenses, averaged over the preceding three-year period.
- 5.6.2 Organizations must pass the ZAP Program's minimum financial health criteria on a regular basis. Weak or negligent financial management could be grounds for exclusion.
- 5.6.3 Stability of the 22 organizations is an important factor in Tier I funding.
- 5.6.4 These 22 organizations must have a preponderance of activities that are within their eligible disciplines and not just have some element of cultural, or botanical activities.
- 5.6.5 An organization will not qualify to receive Tier I funding unless it has its headquarters or a significant presence in Salt Lake County and manages and presents activities within Salt Lake County.
- 5.6.6 Tier I organizations must abide by accepted nonprofit ethical and professional standards. This includes adopting and implementing standards issued by the Utah Nonprofits Association or similar ethical standards.

### 5.7 Tier I Application Process

- 5.7.1 The Advisory Board will review applications and accompanying materials. Based upon the applications and accompanying information, the Advisory Board shall make recommendations to the County Council as to which 22 applicants should receive Tier I funds.
- 5.7.2 All applicants submitting applications for Tier I funds will be required to provide three years of certified audited financial statements. Tier I applicants may be required to provide a narrative describing their expenditures.
- 5.7.3 Fiscal information will be reviewed by an independent certified public accountant (CPA) hired by the ZAP Program prior to the Advisory Board's meeting at which applicants will be considered for Zoological funding. The CPA shall review all application materials for accuracy, consistency, and compliance with fiscal requirements under the ZAP Program.

## Salt Lake County Countywide Policy 1031

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- 5.7.4 The Tier I Advisory Board's recommendation to the County Council shall include:
- 5.7.4.1 The percentage each qualifying organization should receive based on certified expenditures;
  - 5.7.4.2 Which, if any, organizations were disqualified or denied funding and why the disqualification or denial occurred; and
  - 5.7.4.3 What reconsideration requests or appeals have been received and the Advisory Board's subsequent actions with regard to each request or appeal.
- 5.7.5 An organization which has previously requested reconsideration or appealed to the Tier I Advisory Board may appeal the Advisory Board's final recommendation by submitting a written statement to the County Council in accordance with Section 8 of this Policy.
- 5.7.5.1 An organization may request reconsideration of the Advisory Board's funding allocation if the applicant considers the Advisory Board to have erred in calculating the award percentages by submitting a written request in accordance with the procedures outlined in Section 8 of this Policy.
  - 5.7.5.2 An organization may appeal a recommendation to the Tier I Advisory Board based on the grounds outlined in Section 8.4 by submitting a written statement to the Tier I Advisory Board in accordance with the procedures outlined in Section 8 of this policy.
- 5.8 Upon receipt of the Tier I Advisory Board's recommendations, the County Council shall select and approve the organizations that are to receive ZAP Tier I funding and the percentage of ZAP funds to be distributed to each. A list of the organizations that have been selected to receive ZAP Tier I funding and the percentage of funds each is to receive shall be approved by the County Council at a public meeting.
- 5.9 An organization may not qualify for ZAP Tier I funding in excess of 35% of its total qualifying operating expenses, as defined in the application and these policies and procedures.
- 5.10 The County Council encourages, to the extent practicable, that the board members of all qualifying Tier I organizations be geographically balanced such that the organization's board members reside in as many County Council districts as possible.

### 6.0 Tier II Funding

- 6.1 Tier II Advisory Board: As indicated in Chapter 3.07, Salt Lake County Ordinances, the Tier II Advisory Board consists of a group of nine individuals composed of appointees

## Salt Lake County Countywide Policy 1031

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by the County Council including: at least one current member of Salt Lake County Center for the Arts Advisory Board, two mayors of cities within Salt Lake County and six members-at-large. To the extent practicable, the members shall be evenly distributed by County Council district. No paid employee of a Tier II applicant may serve on the Tier II Advisory Board, except that a city mayor may serve on the Tier II Advisory Board even if his/her city is a Tier II applicant. The purpose of the Tier II Advisory Board is to advise the County Council on disbursement of ZAP funds to Tier II organizations.

- 6.2 Tier II Funding Purpose: Tier II funding should be utilized to build organizational capacity, and enhance the County's cultural offerings and community. It also strives to encourage county municipalities, metro townships, and unincorporated community councils to increase their funding of their respective local arts councils and cultural organizations within their communities.
- 6.3 Competitive Process: Organizations that apply and qualify as a Tier II organization are not guaranteed funding. The Tier II ZAP process is a competitive grant process. Funding is based on the organization's clear cultural or botanical purpose, community/public engagement, organizational stability, financial accountability, and community served.
- 6.4 Priority: Tier II funding should not be the sole or major source of funding for Tier II applicants. Priority will be given to those organizations that can demonstrate a strong connection to the community and that have a substantial track record of success and a stable history.
- 6.5 Allocations: The Tier II Advisory Board may choose to allocate a percentage of the funding to various classes of applications, such as groups that fail to obtain Tier I funding, local arts councils, groups with certified audits, groups without certified audits, etc. This may be modified annually based on revenues available and the number of organizations that apply. No Tier II applicant may receive more than 7% of the total amount of funding allocated annually to the Tier II process. The Advisory Board may choose to recommend that new organizations receive a minimal amount, established by the Advisory Board, until the organization can provide evaluation reports or certified reviews or audits to justify more substantial funding.
- 6.6 An organization will not qualify to receive Tier II funding unless it has its headquarters or a significant presence in Salt Lake County and manages and presents activities within Salt Lake County
- 6.7 Tier II Application Process:
  - 6.7.1 The Advisory Board will review applications and accompanying materials. Based upon the applications and accompanying information, the Advisory Board shall make recommendations to the County Council as to the percentage or amount of Tier II funds to be distributed to each applicant.

- 6.7.2 All Tier II applicants desiring and eligible for amounts over \$15,000 to \$29,999.99 will be required to provide a certified review of its financial statements for the most recently completed fiscal year. Tier II applicants desiring and eligible for \$30,000 to \$59,999.99 must submit a certified audit of its financial statements for its most recently completed fiscal year. Tier II applicants desiring and eligible for \$60,000 or more must submit three years of certified audited financial statements, including a certified audit of its financial statement for its most recently completed fiscal year. Tier II applicants with three years of certified audited financial statements desiring and eligible for \$60,000 or more will be held to the Tier I 35% rule (based on the prior year's fiscal audit or review) in Section 5.9.
- 6.7.3 Tier II applicants may apply and qualify for over \$15,000 only after the organization has received ZAP funding (either in Tier I or Tier II) for three (3) consecutive years.
- 6.7.4 Salt Lake County's ZAP Program will provide notice to Tier II applicants regarding the Tier II Advisory Board's recommendations as soon as reasonably practicable following the Tier II Advisory Board's final recommendation meeting.
- 6.7.5 The Tier II Advisory Board shall present its recommendations to the County Council in written and electronic form and shall include the following information:
- 6.7.5.1 The amount or percentage each recommended organization will receive and
  - 6.7.5.2 Which, if any, organizations were disqualified or denied funding and why the disqualification or denial occurred.
- 6.7.6 An applicant may appeal the Tier II Advisory Board's final recommendation by submitting a written statement to the County Council in accordance with Section 9 of this Policy.
- 6.7.7 Upon receipt of the Tier II Advisory Board's recommendations, the County Council shall select and approve the organizations that are to receive ZAP Tier II funding and the amount or percentage of ZAP funds to be distributed to each. A list of the organizations that have been selected to receive ZAP Tier II funding and the amount or percentage of funds each is to receive shall be approved by the County Council at a public meeting.
- 6.7.8 The Tier II Advisory Board may recommend using unexpended funds from one fiscal year in another fiscal year.

### 7.0 Zoological Funding

## Salt Lake County Countywide Policy 1031

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- 7.1 Advisory Board: The Tier I Advisory Board will oversee the zoological application process.
- 7.2 Zoological Purpose: Zoological funding should be utilized to build organizational capacity, fund zoological facilities, to create stability and to provide adequate predictable support.
- 7.3 In order to qualify for ZAP funding as a zoological facility or organization, applicants must have as their primary purpose the operation of: (1) a zoological park (or a zoological facility that is part of or integrated with a zoological park), (2) an aquarium (or a zoological facility that is part of or integrated with an aquarium); or (3) an aviary (or a zoological facility that is part of or integrated with an aviary). Additionally, for the five-year period commencing on January 1, 2017 and ending on December 31, 2021, in order to qualify for ZAP funding as a zoological facility or organization, an applicant must either have AZA accreditation or be in the process of applying for AZA accreditation. However, after December 31, 2021, all applicants must have AZA accreditation in order to qualify for ZAP funding as a zoological facility or organization.
- 7.4 Applicants that qualify as zoological organizations or facilities must be funded through the zoological category. They are not eligible for Tier I or Tier II funding.
- 7.5 Competitive Process: Applicants that apply and qualify as a zoological facility or organization are not guaranteed funding. According to the Act, 16% of ZAP tax revenue collected by the County shall be distributed by the County Council to support no more than three zoological organizations or facilities located within the county. Of the 16% that is required to be distributed to zoological facilities and organizations, 63.5% of that revenue must be distributed to a zoological organization having as its primary purpose the operation of a zoological park (or a zoological facility that is part of or integrated with a zoological park), 28.25% to a zoological organization having as its primary purpose the operation of an aquarium (or a zoological facility that is part of or integrated with an aquarium), and 8.25% to a zoological organization having as its primary purpose is the operation of an aviary (or a zoological facility that is part of or integrated with an aviary).
- 7.6 Priority: When all else is equal, priority for zoological funding will be considered for those organizations that provide:
- 7.6.1 geographic, ethnic and other diversity on their governing and advisory boards; and
  - 7.6.2 exemplary community services through outreach and free or highly discounted programming.
- 7.7 Zoological Funding Criteria:
- 7.7.1 An applicant will not qualify to receive ZAP zoological funds unless it has a significant presence in Salt Lake County and serves an audience of 75,000 or more persons annually.

## Salt Lake County Countywide Policy 1031

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- 7.7.2 An applicant will not qualify to receive ZAP zoological funds unless it passes the ZAP Program's minimum financial health criteria on a regular basis. Weak or negligent financial management could be grounds for exclusion.
- 7.7.3 An applicant for ZAP zoological funds must abide by accepted nonprofit ethical and professional standards. This includes adopting and implementing standards issued by the Utah Nonprofits Association, Association of Zoos and Aquariums, or similar ethical standards.
- 7.8 Zoological Application Process:
  - 7.8.1 The Tier I Advisory Board will review applications and accompanying materials. Based upon the applications and accompanying information, the Advisory Board shall make recommendations to the County Council as to which three applicants should receive Zoological funding.
  - 7.8.2 All applicants submitting applications for Zoological funding will be required to provide three years of certified audited financial statements. Zoological applicants may be required to provide a narrative describing their expenditures.
  - 7.8.3 Fiscal information will be reviewed by an independent certified public accountant (CPA) hired by the ZAP Program prior to the Advisory Board's meeting at which applicants will be considered for Zoological funding. The CPA shall review all application materials for accuracy, consistency, and compliance with fiscal requirements under the ZAP Program.
  - 7.8.4 The Tier I Advisory Board's recommendation to the County Council shall include:
    - 7.8.4.1 The percentage of Zoological funding allocated to each qualifying organization;
    - 7.8.4.2 Which, if any, organizations were disqualified or denied funding and why the disqualification or denial occurred; and
    - 7.8.4.3 What reconsideration requests or appeals have been received and the Advisory Board's subsequent actions with regard to each request or appeal.
- 7.9 Upon receipt of the Tier I Advisory Board's recommendations, the County Council shall select and approve the organizations that are to receive ZAP Zoological funding. A list of the organizations that have been selected to receive ZAP Zoological funding and the percentage of funds each is to receive shall be approved by the County Council at a public meeting.

- 7.10 Zoological Accreditation: As stated in Salt Lake County Ordinance, Chapter 3.07, for the five-year period commencing on January 1, 2017 and ending on December 31, 2021, to be eligible to receive a portion of the ZAP revenue as a zoological facility or organization, such facility or organization must be accredited by or be in the process of obtaining accreditation from the Association of Zoos and Aquariums (AZA). If any zoological facility or organization that has been accredited by the AZA loses the accreditation, said facility or organization shall provide, with its application, an explanation for the loss of accreditation and written identification of curative measures taken by the facility or organization to address the reasons for the loss of accreditation. The Tier I Advisory Board may consider the explanation and identification of curative measures in awarding ZAP funds to said zoological facility or organization. However, if a zoological facility or organization fails to receive its initial accreditation from the AZA on or before December 31, 2021, then, after December 31, 2021, the zoological facility or organization will not be eligible to receive a portion of the ZAP revenue as a zoological facility or organization under Section 59-12-704(1)(b) until the zoological facility or organization obtains accreditation from the AZA.
- 7.11 The County Council encourages, to the extent practicable, that the board members of all qualifying zoological organizations be geographically balanced such that the organization's board members reside in as many County Council districts as possible.

### 8.0 Tier I & Zoological Reconsideration and Appeal Process

- 8.1 A Tier I organization that believes the ZAP Program's policies and procedures were not followed, thereby resulting in an error in the organization's funding allocation, may submit a request for reconsideration from the Tier I Advisory Board.
- 8.2 A request for reconsideration shall be submitted to the Tier I Advisory Board in writing within ten (10) business days of receiving funding level notice.
- 8.3 An applicant not recommended for funding who believes that the Tier I Advisory Board violated the ZAP Program's policies and procedures as outlined in Section 8.4 must first appeal to the Tier I Advisory Board by submitting a written statement outlining the grounds for appeal and any supporting evidence to ZAP staff within ten (10) business days of receiving the funding level notice.
- 8.4 The grounds for an appeal are limited to evidence of the following:
- 8.4.1 A conflict of interest was not disclosed and it prejudiced the discussion of the organization's application;
  - 8.4.2 Misrepresentation by staff or board members despite the presence of correct information submitted as part of the original application (*in this case, the appeal only has merit if material in the application file supports the organization's position*); or
  - 8.4.3 Violation of ZAP policy and procedures, County ordinances, or State or Federal statutes.



- 8.5 The following are not appropriate grounds for reconsideration or appeal: (1) dissatisfaction with the selection of the three zoological organizations or the 22 Tier I organizations or (2) dissatisfaction with funding allocations among the 22 Tier I organizations.
- 8.6 In cases where a reconsideration request or appeal has been received by the Tier I Advisory Board, the Board shall convene within forty-five (45) days to consider and vote on the reconsideration request or appeal. Following the meeting, the Advisory Board shall submit its final recommendation to the County Council.
- 8.7 Following the Tier I Advisory Board's consideration of a reconsideration request or appeal, the Zoological or Tier I organization that filed the reconsideration request or appeal may appeal the final recommendation of the Advisory Board (if based on the grounds outlined in Section 8.4 above) by submitting a written statement directly to the County Council no later than ten (10) business days after notification of the Advisory Board's decision. The written statement shall specify the grounds for appeal and be accompanied by evidence supporting the grounds for appeal.
- 8.8 The County Council will review and make a decision on all appeals filed. Appeals not supported by evidence or not based upon a proper ground for an appeal will be summarily dismissed.
- 8.9 Appellants may not present to the County Council and the County Council may not consider information that was not previously submitted to the Tier I Advisory Board. However, an appellant may submit additional information and evidence to the County Council to establish the appellant's grounds for the appeal.

### **9.0 Tier II Appeal Process**

- 9.1 Tier II funds are not an entitlement, and the filing of an application for Tier II funds, no matter how complete or comprehensive, is not a guarantee that funds will be awarded. Tier II funds are awarded as competitive grants, based on merit and the availability of funds, which may vary from year to year.
- 9.2 Denial of funding or funding at a lower level than anticipated or desired is not a justification for an appeal, nor should it be construed as a judgment on the particular merits of a specific organization or applicant. Applicants are encouraged to consult ZAP staff if they have questions about completing the application or the application procedure.
- 9.3 The recommendation of the Tier II Advisory Board is not subject to appeal or reconsideration by the Tier II Advisory Board.
- 9.4 Tier II organizations may appeal the Tier II Advisory Board recommendation to the County Council by submitting a written statement directly to the County Council no later than ten (10) business days after notification of the Tier II Advisory Board's decision.

## Salt Lake County Countywide Policy 1031

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The written statement shall specify the grounds for appeal and be accompanied by evidence supporting the grounds for appeal.

- 9.5 The grounds for an appeal are limited to evidence of the following:
- 9.5.1 A conflict of interest was not disclosed and it prejudiced the discussion of the organization's application;
  - 9.5.2 Misrepresentation of information by staff or board members despite the presence of correct information submitted as part of the original application. (*in this case, the appeal only has strength if material in the application file supports the organization's position*); or
  - 9.5.3 Violation of the ZAP policy and procedures, County ordinances, or State or Federal statutes.
- 9.6 The County Council will review and make a decision on all appeals filed. Appeals not supported by evidence or not based upon a proper ground for appeal will be summarily dismissed.
- 9.7 Appellants may not present to the County Council and the County Council may not consider information that was not previously submitted to the Tier II Advisory Board. However, an appellant may submit additional information and evidence to the County Council to establish the appellant's grounds for the appeal.

### 10.0 Distribution of Funds

- 10.1 Approved organizations will be required to enter into a grant agreement with Salt Lake County prior to receiving funds. Said agreements must be executed by the approved organization within a reasonable period of time as determined by the ZAP Program. If an organization fails to return the grant agreement, executed as required hereunder, within the time specified, the organization will not receive payments and may lose its qualification for funding during that application cycle. These grant agreements shall include a clause that allows the County to verify application and evaluation information and the use of ZAP funds, if requested.
- 10.2 Grant agreements may be executed through the online grantor management system.
- 10.3 No funding will be distributed until the applicable grant agreement is fully executed.
- 10.4 Funds under this program will be disbursed based upon the County's fiscal year. All ZAP funding will be based on actual sales and use tax receipts as received by the County Treasurer, recorded by the County Auditor, and reconciled by the County Mayor.
- 10.5 The County Council shall make the final determination as to the distribution of revenue among qualifying organizations in accordance with Utah Code Ann. §59-12-701, *et seq.*, Chapter 3.07, Salt Lake County Code of Ordinances, and these policies and procedures.

- 10.6 Funds disbursed to qualifying organizations will be accounted for in a Special Revenue Fund and disbursed through accounts within the County's ZAP Program.
- 10.7 Documented past due balances, over 60 days, owed to a County facility or agency may first be deducted before any distribution of ZAP funding is made to a qualifying organization.
- 10.8 If a Tier II organization requests funding for a specific program or general operations and the ZAP award is less than requested, the ZAP Program assumes that the organization will only need to make minor alterations to their programming to accommodate the amount awarded. If organizations find they must change their application scope more drastically (such as moving an event to a different time period than originally applied for) due to less funding or other challenges, the organization may be permitted to modify its application if it promptly informs the ZAP Program of its difficulties via written correspondence explaining how the organization proposes to deal with the challenges. The ZAP Program will review the request and notify the recipient in a timely manner.

### 11.0 Advisory Board

- 11.1 The Tier I and Tier II Advisory Boards are aware that one of its most important duties is to consistently review the disbursement of public monies in support of zoological, cultural and botanical organizations.
- 11.2 ZAP volunteer Advisory Board members must abide by two significant statutes in Utah law which prohibit, or require disclosure of, certain actual or potential conflicts of interest between their public duties and private business interests. Advisory Board members shall complete all required County documentation on an annual basis.
- 11.3 Tier I and Tier II Advisory Boards should be mindful of possible conflicts of interest, or situations that may be perceived as conflicts by the public. Advisory board members with a conflict may not score nor vote on the application in which they have a conflict.
- 11.4 Serving on a ZAP applicant's board or committee, as a volunteer, is a conflict (even though the individual may not receive any monetary compensation). This conflict will not disqualify a person from serving on a ZAP Advisory Board.
- 11.5 Advisory Board members should be alert to avoid any action which could possibly be interpreted as a use of Advisory Board membership to further their own interests or those of an organization with which they are affiliated. Accordingly, Advisory Board members shall adhere to the standards of conduct for County officers, employees, and volunteers set forth in Salt Lake County Countywide Policy No. 1430 entitled "Professional Ethics and Conflict of Interest".

11.5.1 Advisory Board members must disclose their affiliation with any organization under discussion. All board members must disclose affiliation and conflict of interest prior to discussion and funding recommendations and must utilize the grantor management system's disclosure option.

11.5.2 Advisory Board members that do not have a conflict of interest may discuss, advocate for or against, and score each application using the current scoring criteria.

11.5.3 Advisory Board members having a non-restricted conflict of interest may take part in the discussion as suppliers of information but may not advocate a point of view, may not score, and may not vote on the organization or issue in which they have a conflict. Those having a restricted conflict of interest may not take part in the discussion, advocate a point of view, score, or vote on the organization or issue in which they have a conflict. See Salt Lake County Countywide Policy No. 1430, Professional Ethics and Conflict of Interest for the definition of “non-restricted” and “restricted” conflict of interest.

- 11.6 The grantor management system enables Advisory Board members to keep private draft notes regarding each application. These private notes are for the purposes of assisting a board member in the review process.
- 11.7 The grantor management system has a discussion tool to assist with the review process. This discussion tool is considered a public record. These comments should reflect a professional and respectful dialogue.

### 12.0 Credit to County

- 12.1 Each organization that receives ZAP funding is expected to use the Salt Lake County ZAP logo. Each organization must use their best efforts to ensure that brochures, programs, publications, electronic media bear the ZAP logo in order to identify the organization’s use of ZAP funding where projects, performances, or other activities are funded in full or in part by the County’s ZAP Program. To assist organizations with this request, the ZAP Program has created a logo usage and acknowledgement guide (available online).
- 12.2 The ZAP logo, whenever used, should be easily perceptible and produced in a manner that can be easily read.
- 12.3 Each organization that receives ZAP funding and that periodically offers a waived or discounted admission fee shall make such waived or discounted admission available to all residents of the state. Recipients of ZAP funding that provide waived or discounted admissions must publicly announce (in some manner) that this has been sponsored by the Salt Lake County Zoo, Arts and Parks Program (see logo/acknowledgement guide).

**Salt Lake County Countywide Policy 1031**

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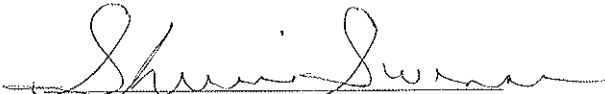
APPROVED and PASSED this 20 day of September 2016.

SALT LAKE COUNTY COUNCIL

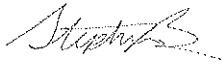


Max Burdick, Chair

ATTEST:

  
Sherrie Swensen, County Clerk

APPROVED AS TO FORM:



Digitally signed by  
Stephen Barnes  
Date: 2016.09.15  
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District Attorney's Office