Title 2

GOVERNANCE AND ADMINISTRATION

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Chapter 2.10

GENERAL PROVISIONS

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2.10.010 Short title.

This title is known as the "Cottonwood Heights Administrative Code." This title is also known as "Title 2, Cottonwood Heights Code." It may be cited and plead under either designation.

2.10.020 Form of government.

The city has adopted the council-manager form of government pursuant to UTAH CODE ANN. §10-3-1201, *et seq*. The legislative branch of the city government is vested in a five person city council, composed of four council members and the mayor. The executive branch of the city government is vested in a city manager appointed by the city council, and consists of the city manager and the subordinate officers and employees of the city.

2.10.030 City organization.

A. The city is organized into administrative offices, departments and divisions as set forth in this title. In addition, as provided in chapter 2.40 below, the city manager may create other offices as are deemed necessary.

B. The administrative offices, departments and divisions are supervised by the department heads and supervisors indicated herein. All administrative offices, departments and divisions, and any other offices created by the city manager, are supervised by the city manager.

2.10.040 Oaths of office.

A. Each of the following officers and employees is required to take an oath of office before entering upon the discharge of the officer's or employee's duties, which oath shall be subscribed by the person taking it and filed and preserved in the office of the city recorder:

1. The mayor, members of the city council, city manager, deputy city manager, city recorder, city treasurer, director of finance, city attorney, members of the planning commission, and members of the board of adjustment.

2. Any other commission members, board members, employees, or persons that the city manager may deem appropriate or necessary.

B. Once an oath is administered, it need not be re-administered.

C. The form of oath shall be as authorized by state law.

D. Failure to take an oath of office shall not disqualify the officer, employee or member from performing the duties of the position, nor invalidate any action taken by the officer, employee or member.

2.10.050 Bonds.

A. The mayor and each member of the city council, prior to assuming office, shall file with the city recorder a bond, with corporate sureties, conditioned upon the faithful performance of the duties of his office and the payment of all moneys received by the mayor according to law and the ordinances of the city. The bond shall be payable to the city in the penal sum of

$1,000.00. The premium charged by a corporate surety for the bond shall be paid by the city.

B. The bond of the mayor shall be approved by the city council, and the individual bonds of the members of the city council shall be approved by the mayor, at the first meeting of the city council in January following a municipal election.

C. Certain other city officials, as required by law or as determined by the city manager, shall obtain bonding from a good and sufficient surety before entering upon the duties of their respective offices. The bonds, which may be in the form of a "blanket" bond, shall be payable to the city, duly approved by the city attorney, and conditioned upon the faithful performance and discharge of the officials' respective duties. For proper application and payment of all money or property coming into the officials' hands by virtue of their offices, the bonds shall be in the amount of $25,000 each, except for the city treasurer, who shall obtain bonding in the amounts prescribed by state law. The city shall pay all premiums for the above-required bonds.

2.10.060 Compensation schedule.

The city's elective and statutory officers shall receive such compensation for their services as the city council may fix by ordinance adopting a compensation schedule enacted after public hearing.

2.10.070 Emergency management succession of offices.

A. The following definitions shall apply in this section:

1. "*Absent*" means not physically present or not able to be communicated with for 48 hours, or, during an emergency, a shorter period of time as determined by the city manager on a case-by-case basis. "Absent" does not include a person who can be communicated with via telephone, radio, or telecommunications.

2. "*Emergency interim successor*" means a person designated to exercise the powers and discharge the duties of an office when the person legally exercising the powers and duties of the office is unavailable.

3. "*Emergency management coordinator*" means the emergency management coordinator for the city appointed by the city manager with advice and consent of the city council or, if none, then the city manager.

4. For purposes of this section only, "*officer*" means the mayor, members of the city council, the city manager, the deputy city manager, the city recorder, the city treasurer, the director of finance, and other department heads.

5. "*Unavailable*" means absent from the place of governance during a disaster that seriously disrupts normal governmental operations, whether or not that absence or inability would give rise to a vacancy under existing constitutional or statutory provisions.

6. All other definitions found in UTAH CODE ANN. §63K-1-102, or any successor provision, are incorporated herein as may be applicable.

B. Each officer, as defined in this section, shall provide to the city manager a written list designating three emergency interim successors and their order of succession. Each officer shall submit a new list when the officer or any of the successors changes or when requested by the city's emergency management coordinator.

C. The emergency interim successors of the city's elective officers shall be legally qualified to act as such. The emergency interim successors of the city's appointed officers and employees, and their order of succession, shall be subject to approval by the city manager. Subject to the foregoing, the lists shall be given to the emergency

management coordinator, who shall compile a master list for the city and submit it to the Division of Comprehensive Emergency Management for the state of Utah.

D. If the officer is unavailable once a disaster has occurred, the designated emergency interim successor shall exercise the powers and duties of the office according to the order of succession. The emergency interim successor shall exercise the powers and duties of the office only until the vacancy is filled in accordance with applicable law, or until the officer or an emergency interim successor earlier in the order of succession becomes available to exercise the powers and duties of the office.

E. The emergency interim successor shall not be required to take an oath of office, unless specifically provided by law.

F. All emergency interim successors of the city's appointed officers and employees serve at the pleasure of the city manager, and may be removed and replaced at any time, with or without cause.

G. The city manager, with advice and consent of the city council, upon a determination that Cottonwood Heights City Hall is not capable of functioning as the seat of government for the city, may designate another location, outside of the city if necessary, to serve as the seat of government during an emergency.

2.10.080 City seal.

A. The city council may from time to time adopt by resolution or by ordinance an official seal of the city.

B. The city recorder shall be the custodian of the official seal.

C. The city recorder shall use the official seal in attesting to all ordinances and resolutions, countersigning all contracts, and in any other manner as required by state statute or by City ordinance or resolution.

2.10.090 City logo.

The city council may from time to time adopt by resolution or by ordinance a logo or other identifying mark for use by the city on, among other things, its official correspondence and other communications. Use of the city's logo shall be jointly controlled by the city manager and the city council, and the city's executive branch and its legislative branch each shall have the right to use the city's logo in connection with the official business of such branch.

A. In no event shall the city's logo be used:

1. By any person that is not an officer, authorized employee or authorized contract provider of the city;
2. For political campaign purposes;
3. For any private business purpose; or
4. For any other purpose that is not official city business, as determined by the city manager or the city council.

B. Notwithstanding anything in this section to the contrary, however:

1. The city may produce, or license the production of, wearing apparel and other branded merchandise displaying the city's logo for sale to the public for the purposes of evidencing or invoking civic pride, but such branded items may not be worn or used for the purpose of implying city approval, recommendation or sponsorship of any such wearer or user.

2. The city manager, with advice and consent of the city council, may authorize the city's logo to be displayed by athletic teams or other groups which are officially sponsored by the city. Any such authorization shall be for a specified period of time not exceeding two years, whereupon authorization for such use shall be deemed terminated absent re-sponsorship of such group by the city manager with advice and consent of the city council.

3. The city manager, with advice and consent of the city council, may authorize

the city's logo to be displayed by athletic teams or other groups which are not officially sponsored by the city but which participate in an activity that the city determines to be beneficial to the health, safety and welfare of the city or otherwise promotes goals or purposes of the city. Any such authorization shall be for a specified period of time not exceeding two years, whereupon authorization for such use shall be deemed terminated absent re-authorization by the city manager with advice and consent of the city council.

C. The city manager may order immediate cessation of any improper display of the city's logo.

2.10.100 City flag.

The city council may from time to time adopt by resolution or by ordinance an official flag of the city, to be displayed at the city's offices and at city-sponsored and city-authorized events. The city's flag may be displayed for the primary purposes of evidencing or invoking civic pride, but may not be displayed for the purpose of implying city approval, recommendation or sponsorship of any political candidate or private business endeavor. The city manager may order immediate cessation of any improper display of the city's flag under this ordinance.

2.10.110 Inspection authority.

A. When necessary to make an inspection to enforce any of the provisions of this code, or when the city has reasonable cause to believe that there exists upon any property or on or in any facility located thereon any condition which violates this code, the city's officers, employees or authorized service providers (collectively, "*public officers*") are authorized to enter such property or facility during normal business hours (in the case of a business or commercial use), or during daylight hours (in the case of a residential property or facility), to inspect the same or to perform any duty authorized by this code; provided, however, that :

1. If such property or facility is occupied, the public officer shall first present credentials and request entry; and

2 If such property or facility is unoccupied, the public officer shall first make a reasonable effort to locate the owner or other persons having charge or control of the property or facility and request entry.

B. If entry is denied, the city shall have recourse to every remedy provided by law to obtain entry, including, without limitation, the right to obtain an administrative search warrant from a court of competent jurisdiction to obtain entry.

C. Owners, occupants or any other persons having the charge, care or control of property or facilities shall, after proper request is made as provided herein, promptly admit the public officer for the purpose of inspection pursuant to this section. The failure to so admit the public officer shall, among other penalties and sanctions provided by this code or other applicable law, constitute grounds for rejection of any underlying application for a city-issued license or permit, or for revocation of any prior-issued city license or permit that was the basis for the proposed inspection.

2.10.120 Policy for approval of minutes.

A. <u>*Definitions*</u>: The following definitions shall apply to this section so long as they are consistent with the definitions of the same terms found in the Utah Open and Public Meetings Act, UTAH CODE ANN. §52-4-101 *et seq.* (the "*Act*"). If a term is defined differently in the Act, the definition in the Act shall control.

1. "*Convening*" means the calling of a meeting of a public body by a person authorized to do so for the express purpose

of discussing or acting upon a subject over which that public body has jurisdiction or advisory power.

2. "*Meeting*" means the convening of a public body, with a quorum present, including a workshop or an executive session whether the meeting is held in person or by means of electronic communications, for the purpose of discussing, receiving comments from the public about, or acting upon a matter over which the public body has jurisdiction or advisory power. "*Meeting*" does not mean:

(a) a chance meeting;

(b) a social meeting; or

(c) the convening of a public body that has both legislative and executive responsibilities where no public funds are appropriated for expenditure during the time the public body is convened and:

(i) the public body is convened solely for the discussion or implementation of administrative or operational matters for which no formal action by the public body is required; or

(ii) the public body is convened solely for the discussion or implementation of discussion or action.

3. "*Meeting clerk*" shall mean the city recorder of the city or another person assigned by a public body to record and to take the written minutes of a meeting of a public body of the city.

4. "*Minutes*" of a meeting is a written record of the meeting that shall include:

(a) the date, time, and place of the meeting;

(b) the names of members present and absent

(c) the substance of all matters proposed, discussed, or decided by the public body which may include a summary of comments made by members of the public body;

(d) a record, by individual member, of each vote taken by the public body;

(e) the name of each person who:

(i) is not a member of the public body; and

(ii) after being recognized by the presiding member of the public body, provided testimony or comments to the public body;

(f) the substance, in brief, of the testimony or comments provided by the public under subsection (4)(e); and

(g) any other information that is a record of the proceedings of the meeting that any member requests be entered in the minutes or recording.

5. "*Proposed minutes*" shall mean the written minutes prepared by the meeting clerk that have been given to the members of a public body for their review and approval.

6. "*Public body*" means any administrative, advisory, executive, or legislative body of the city that:

(a) is created by the Utah Constitution, statute, rule, ordinance, or resolution;

(b) consists of two or more persons;

(c) expends, disburses, or is supported in whole or in part by tax revenue; and

(d) is vested with the authority to make decisions regarding the public's business.

B. *Policy for approval of minutes*. The following shall be the policy and procedure for the approval of minutes for the city.

1. Written minutes shall be taken for all public meetings of any public body of the city. The minutes of all public meetings of any public body of the city shall be recorded and taken down by the meeting clerk during the course of each such public meeting.

2. Within ten working days after the end of the meeting, the meeting clerk shall prepare proposed written minutes for the meeting and give a copy of the proposed minutes to each member of the public body for his or her review and comments.

3. Once the proposed minutes have been given to the members of the public body, the meeting clerk shall immediately

make available to the public the proposed written minutes, which shall be clearly identified as "awaiting formal approval" or "unapproved" or with some other appropriate notice that the proposed minutes are subject to change until formally approved. Such proposed written minutes shall become a public document available to any member of the public who requests to read or copy the proposed minutes.

4. The public body shall consider the proposed minutes for approval at the first meeting of the public body where votes are taken and business transacted (i.e.--excluding so-called "work meetings" or "executive sessions") that follows by at least three business days the meeting clerk giving the proposed minutes to the members of the public body. The members of the public body shall either approve the proposed written minutes as presented, or vote to correct and amend the proposed written minutes, and then approve the corrected and amended written minutes at that meeting.

5. If the public body fails to consider the proposed minutes, or does not take any action to approve the proposed minutes at the first meeting of the public body where votes are taken and business transacted that follows by at least three business days the public body's receipt of the proposed minutes from the meeting clerk, the proposed minutes shall be deemed to have been approved by the public body and will stand as proposed.

6. Once the proposed minutes have either been approved by the public body, or have been deemed to have been approved by the inaction of the public body, they shall become the official record of the proceedings of the public body and shall be signed by the meeting clerk, and thereafter shall be retained in the official records of the city as a public document available for the inspection and copying by members of the public as appropriate under Utah law.

Chapter 2.20

ELECTED OFFICERS

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2.20.010 Elected officers.

The city's elected officers consist of the mayor and four city council members, who together comprise the city council. The city council is the city's legislative branch and its governing body.

2.20.020 Qualifications.

A. Any person who is a registered voter may be a candidate and hold elective office in the city if the person has resided within the city for a period of 12 consecutive months immediately preceding the date of election. In case of an annexation, any person who has resided within the territory annexed for the prescribed 12-month period is deemed to meet the residence requirement for candidacy in the city and district to which the territory was annexed.

B. A candidate for a non-mayoral seat on the city council must be a resident of the district he is seeking to represent when filing for office and (except as otherwise provided by Utah state law) continuously thereafter.

C. A person appointed to fill a vacancy on the city council must have been a resident of the city for a period of 12 consecutive months immediately preceding such appointment and, in addition, must meet all applicable residence requirements for the district he is appointed to represent.

2.20.030 Mayor.

The mayor shall be elected at large for a four-year term of office, except that the term of office of the city's first mayor following the city's incorporation shall be the term necessary to cause future mayoral elections to occur on the cycle required by Utah state law.

A. The mayor shall be the chairman of the city council, and shall preside at all its meetings.

B. The mayor shall have a vote in all council proceedings.

C. The mayor shall execute all bonds, notes, contracts, and written obligations of the municipality or, in his absence, such documents shall be executed by the mayor pro tempore.

D. The mayor shall be recognized as the chief ceremonial officer of the city and shall

represent the city in all of its external relationships.

E. The mayor shall represent the will of the city council. When the mayor acts as spokesperson for the city council, he should speak for the majority of the city council; when speaking for himself in his capacity as an individual member of the city council, the mayor should clearly identify that limited capacity.

2.20.040 Mayor pro tempore.

A. At the first regularly scheduled meeting of the city council in January of even-numbered years, or as soon thereafter as is reasonably practical, the city council, by secret ballot, shall select one of its members to act as the mayor pro tempore during the period of the mayor's inability or refusal to act. Consideration shall be given to rotate this designation through members of the city council. The designation shall be effective until the first regularly scheduled meeting of the city council in January of the next even-numbered year and until a successor mayor pro tempore is selected and approved by the city council.

B. The duties of the mayor pro tempore shall be limited to presiding over meetings of the city council and to signing official documents and other writings acted upon within that meeting over which he presided, or such writings as are presented to him for signature during the period he is so acting.

C. The mayor pro tempore shall act only in case of the mayor’s absence or his inability or refusal to act. Any determination as to the mayor’s inability or refusal to act shall be made by vote of the city council.

D. The mayor may request any member of the city council or the city manager to represent the city in one or more of its external relationships. When no designee is so appointed by the mayor, the mayor pro tempore shall represent the city.

2.20.050 City council.

The city council shall be the city’s legislative and governing body, and shall adopt such ordinances and resolutions, and take such other actions, as it shall deem proper. The city council shall legislate by passing broad general policy directives and general task assignments of a goal-oriented nature. The city council may review the city manager's performance of the city council's directives, and take such actions as are appropriate to assure the city’s council’s policies established in its ordinances and resolutions are being accomplished.

2.20.060 Council districts.

The four non-mayoral members of the city council shall be elected to represent the following council districts:

A. *District 1*: One council member shall be elected to represent district 1, shown on Chart 2.220. The representative of this district shall, when filing as a candidate for office and at the time of election and while in office, be a resident of district 1.

B. *District 2*: One council member shall be elected to represent district 2, shown on Chart 2.220. The representative of this district shall, when filing as a candidate for office and at the time of election and while in office, be a resident of district 2.

C. *District 3*: One council member shall be elected to represent district 3, shown on Chart 2.220. The representative of this district shall, when filing as a candidate for office and at the time of election and while in office, be a resident of district 3.

D. *District 4*: One council member shall be elected to represent district 4, shown on Chart 2.220. The representative of this district shall, when filing as a candidate for office and at the time of election and while in office, be a resident of district 4.

2.20.070 City council--Terms of office.

The terms of office for non-mayoral city council members shall be four (4) years. Notwithstanding the foregoing, however, due to (a) the city's incorporation on 14 January 2005; and (b) the requirements of UTAH CODE ANN. §10-2-114(c) to stagger the terms of the council members, elections for the council members representing District 1 and District 2 shall occur in 2007 and every four (4) years thereafter, and elections for the council members representing District 3 and District 4 shall occur in 2009 and every four (4) years thereafter.

2.20.080 Elected officers' responsibility to city manager.

A. The city's elected officers shall support and assist the city manager in accomplishing his appointed duties, including, without limitation, appropriating adequate funds, psychological support, allocating planning meeting time, and regularly providing clear expressions of the city's council's general policies and goals.

B. The city's elected officers shall fully support the city manager's development and use of his own style and/or techniques of administration to fulfill the will of the city council. No elected officer of the city shall attempt to influence, direct or otherwise interfere with the city manager as to the methods he, in his administrative discretion, chooses to accomplish the task assigned to him. Nothing in this section shall, however, prevent the city manager from seeking the advice of any elected officer as to how best to accomplish the tasks assigned to him.

2.20.090 Interference in administration.

A. No elected officer shall interfere in any way with the performance by the city manager or his subordinates of their duties. No elected officer shall give orders to any subordinate of the city manager, either publicly or privately, but may make suggestions and recommendations to the city manager.

B. Nothing in this section shall prevent the city council from appointing committees of its own members or of citizens to conduct investigations into the conduct of any officer, department or agency of the city government, or any matter relating to the welfare of the city, and delegating to these committees such powers of inquiry as the city council may deem necessary.

2.20.100 Utah municipal election laws adopted.

The city's elections shall be governed by the Utah state law governing municipal elections then in effect, subject to any legally-permissible modifications thereof contained in this code or in any subsequently-adopted ordinance of the city. Without in any way limiting the generality of the foregoing, ballots used in the city's municipal elections shall conform to the standards and procedures specified in UTAH CODE ANN. §20A-6-401 through -402. State law shall control in the event of any conflict between state law and this chapter.

2.20.110 Vacancies in elected offices.

An elected official shall continue to hold his office until his successor is duly qualified. An elective office shall become vacant whenever any officer is removed from office pursuant to UTAH CODE ANN. §10-3-1310, becomes incapacitated, resigns, ceases to be a resident of the city or is convicted of a felony. Any mid-term vacancy in elective office in the city shall be filled as provided in UTAH CODE ANN. §20A-1-510.

2.20.120 Campaign financial disclosure.

A. The following definitions shall apply in this section:

1. "*Candidate*" means any person who files a declaration of candidacy for an elective office of the city; or who is nominated by a committee or party; or who receives contributions or makes expenditures or consents to another person's receiving contributions or making expenditures with a view to bring about such person's nomination or election to such office; or who causes, in his behalf, any written material or advertisement to be printed, published, broadcast, distributed, or disseminated that indicates an intention to seek office.

2. "*Contribution*" means a gift of cash or non-monetary items, such as in-kind contributions and contributions of tangible items, but shall not include personal services provided without compensation by individuals volunteering time in behalf of a candidate.

3. "*Day*" means a calendar day, provided that if the day of an event falls on a Saturday, Sunday or legal holiday, the due date shall be moved to the next business day.

4. "*Election*" means primary, general, and final elections.

5. "*Expenditure*" means a purchase, payment, distribution, loan, advance, deposit, gift of money, or anything of value made for the purpose of influencing the nomination or election of any candidate.

6. "*Reporting date*" means:

(a) ten days before a municipal general election, for a campaign finance statement required to be filed no later than seven days before a municipal general election; and

(b) the day of filing, for a campaign finance statement required to be filed no later than 30 days after a municipal primary or general election.

B. Each candidate for elective office in the city shall file with the city recorder a signed, dated, and sworn campaign financial statement that complies with the provisions of this section.

C. *Time for filing disclosure statements*:

1. The statements required by this section shall be filed no later than seven days prior to any election and within 30 days following any final election.

2. Candidates for elective office who are eliminated at a primary election shall file a signed campaign financial statement within 30 days following the primary election.

3. A campaign finance statement required under this section shall be considered filed if it is received in the recorder's office by 5 p.m. on the date that it is due.

D. *Contents of disclosure statements.* Subject to subsection E of this section,

1. Statements shall include:

(a) All the candidate's itemized and total campaign contributions (including in-kind and other non-monetary contributions) received before the close of the reporting date;

(b) Campaign expenditures made through the close of the reporting date;

(c) A list of each contribution of more than $50 received by the candidate, and the name of the donor;

(d) An aggregate total of all contributions of $50 or less received by the candidate; and

(e) A list of each expenditure for political purposes made during the campaign period, and the recipient of each expenditure.

E. If the candidate receives $500 or less in campaign contributions and spends $500 or less on the candidate's campaign, then, in lieu of the information under subsection D of this section, the disclosure statement shall report the total amount of all campaign contributions and expenditures.

F. The statements required by this section shall be public records, available for public inspection and copying during regular

city business hours, within one business day after the statement is filed.

G. Any person who fails to comply with this section is guilty of an infraction, in addition to the following:

1. If a candidate fails to file a campaign finance statement before the municipal general election by the deadline specified above, the recorder shall inform the appropriate election official who:

(a) shall:

(i) if practicable, remove the can-candidate's name from the ballot by blacking out the candidate's name before the ballots are delivered to voters; or

(ii) if removing the candidate's name from the ballot is not practicable, inform the voters by any practicable method that the candidate has been disqualified and that votes cast for the candidate will not be counted; and

(b) may not count any votes for that candidate.

2. Notwithstanding the foregoing, a candidate who files a campaign finance statement seven days before a municipal general election is not disqualified from the election if:

(a) the statement details accurately and completely the required information, except for inadvertent omissions or insignificant errors or inaccuracies; and

(b) the omissions, errors, or inaccuracies are corrected in an amended report or in the next scheduled report.

2.20.130 Duties of city recorder--Campaign financial disclosures.

A. At the time the candidate for municipal office files a declaration of candidacy, and again 14 days before each municipal general election, the city recorder shall notify the candidate in writing of the:

1. Provisions of the city code governing the disclosure of campaign contributions and expenditures;

2. Dates when the candidate's campaign finance statement must be filed; and

3. Penalties that apply for failure to file a timely campaign finance statement.

B. The recorder shall also:

1. Make each campaign finance statement filed by a candidate available for public inspection no later than one business day after the statement is filed; and

2. Make the campaign finance statement available for public inspection by:

(a) Posting an electronic copy on the city's website no later than seven business days after the statement is filed; and

(b) Verifying that the address of the city's website has been provided to the lieutenant governor in order to meet the requirements of UTAH CODE ANN. §20A-11-103(5); or

(c) Submitting a copy of the statement to the lieutenant governor for posting on the website established by the lieutenant governor no later than two business days after the statement is filed.

2.20.140 Declaration of candidacy; Nominations; Time for filing: Fee.

A. Each person seeking to become a candidate for a municipal office shall:

1. File (in person) a "declaration of candidacy" substantially in the form set forth in section 2.20.150 with the city recorder during regular office hours, but not later than 5:00 p.m., mountain time, between July 1 and July 15 of any odd numbered year; and

2. Pay a fee at the time of filing the declaration as specified in the consolidated fee schedule.

B. Any resident of the city may nominate a candidate for a municipal office by:

1. Filing a nomination petition substantially in the form set forth in subsection D of this section during regular office hours, but not later than 5:00 p.m., mountain time, between July 1 and July 15 of any odd numbered year; and

2. Paying a fee at the time of filing the nomination as specified in the consolidated fee schedule.

C. When July 15 falls on a Saturday or Sunday, the filing time shall be extended until 5:00 p.m., mountain time, on the following Monday.

2.20.150 Declaration of candidacy--Form.

The declaration of candidacy shall substantially comply with the following form:

I (print name), being first sworn, say that I reside at (print street address), city of Cottonwood Heights, county of Salt Lake, state of Utah, (print zip code), (print telephone number, if any); that I have resided within the city for twelve (12) consecutive months immediately prior to the date hereof or I have resided in a territory which was annexed into the city of Cottonwood Heights for twelve (12) consecutive months immediately prior to the date of the election; that I am a registered voter; and that I am a candidate for the office of (state office and term). I will file all campaign financial disclosure reports as required by law and I understand that failure to do so will result in my disqualification as a candidate for this office and removal of my name from the ballot. I request that my name be printed upon the applicable official ballots.

(Signed)

Subscribed and sworn to (or affirmed) before me by _____ _____ on this __ day of , 20__ .

(Signed) (City Recorder or Notary Public)

2.20.160 Nomination petition; Form.

The nomination petition shall be substantially as follows:

NOMINATION PETITION

The undersigned residents of Cottonwood Heights, being 18 years old or older, nominate (name of nominee) to the office of (state office) for the four year term.

The remainder of the petition shall contain lines and columns for the signatures of persons signing the petition and their addresses and telephone numbers.

2.20.170 Duties of the city recorder – Petition acceptance; Publication.

A. Before the city recorder may accept any declaration of candidacy or nomination petition, the city recorder shall:

1. Read to the prospective candidate or person filing the petition the constitutional and statutory qualification requirements for the city office that the candidate is seeking; and

2. Require the candidate or person filing the petition to state whether or not the candidate meets those requirements.

B. If the prospective candidate does not meet the qualification requirements for the city office, the city recorder may not accept the declaration of candidacy or nomination petition.

C. If it appears that the prospective candidate meets the requirements of candidacy, the city recorder shall accept the declaration of candidacy or nomination petition and:

1. Inform the candidate that the candidate's name will appear on the ballot as it is written on the declaration of candidacy;

2. Provide the candidate with a copy of the current campaign financial disclosure

laws for the office the candidate is seeking and inform the candidate that failure to comply will result in disqualification as a candidate and removal of the candidate's name from the ballot;

3. Provide the candidate with a copy of UTAH CODE ANN. §20A-7-801 regarding the Statewide Electronic Voter Information Website Program and inform the candidate of the submission deadline under UTAH CODE ANN. §20A-7-801(4)(a);

4. Provide the candidate with a copy of the pledge of fair campaign practices described in UTAH CODE ANN. §20A-9-206 and inform the candidate that:

(a) Signing the pledge is voluntary; and

(b) Signed pledges shall be filed with the filing officer; and

(c) If the candidate elects to sign the pledge of fair campaign practices, the recorder shall accept the candidates pledge and, if the candidate has filed for a partisan office, provide a certified copy of the candidate's pledge to the chair of the county or state political party of which the candidate is a member.

D. After accepting a declaration of candidacy or nomination petition, the city recorder shall verify with the Salt Lake County clerk that each candidate is a registered voter. Any candidate who is not registered to vote is disqualified and the city recorder may not print the candidate's name on the ballot.

E. If the declaration of candidacy or nomination petition fails to state whether the nomination is for the two or four-year term, the recorder shall consider the nomination to be for the four-year term.

F. As soon as possible after expiration of the period for filing a declaration of candidacy, the city recorder shall:

1. Cause the names of the candidates as they will appear on the ballot to be published in at least two successive publications of a newspaper with general circulation in the city; and

2. Notify the lieutenant governor of the names of the candidates as they will appear on the ballot.

2.20.180 Amendments.

A declaration of candidacy filed under this chapter may not be amended after the expiration of the period for filing a declaration of candidacy.

2.20.190 Objections.

A declaration of candidacy filed under this section is valid unless a written objection is filed with the city recorder within five days after the last day for filing.

A. If an objection is made, the city recorder shall:

1. Immediately mail or personally deliver notice of the objection to the affected candidate; and

2. Decide any objection within 48 hours (excluding weekends and legal holidays) after such objection is filed.

B. If the city recorder sustains the objection, the candidate may correct the problem by amending the declaration or nomination within three days after the objection is sustained or by filing a new declaration or nomination within three days after the objection is sustained.

C. The city recorder's decision upon objections to form is final.

1. The city recorder's decision upon substantive matters is subject to review by a district court if application is made to the district court within 20 days of the city recorder's decision.

2. The decision of the district court is final unless the Supreme Court, in the exercise of its discretion, agrees to review the lower court's decision.

2.20.200 Write-in candidates

Each person wishing to become a valid write in candidate shall file a declaration of candidacy with the city recorder not later than 30 days before the municipal general election in which the person intends to be a write in candidate.

2.20.210 Inducements not to become candidates.

A. It is unlawful for any person to pay or reward, or promise to pay or reward, another in any manner or form for the purpose of inducing that other person to be, or to refrain from or cease from being, a candidate for city office.

B. It is unlawful for any person to solicit any payment, promise, or reward from another for the purpose of inducing that other person to be, or to refrain from or cease from being, a candidate for city office.

C. Any person who violates this section is guilty of a class B misdemeanor.

Chapter 2.30

CITY COUNCIL PROCEDURES

2.30.010 Regular meetings.
2.30.020 Special meetings.
2.30.030 Emergency meetings:
2.30.040 Quorum; Adjournment of meetings.
2.30.050 Open meetings.
2.30.060 Closed meetings.
2.30.070 Public notice of meetings.
2.30.080 Agendas.
2.30.090 Minutes.
2.30.100 Method of acting.
2.30.110 Action by ordinance required.
2.30.120 Form of ordinance.
2.30.130 Order of business.
2.30.140 Rules of order.
2.30.150 Voting.
2.30.160 Addressing the council.
2.30.170 Disturbing meetings.
2.30.180 Legislative advisory committees.
2.30.190 Council Policies

2.30.010 Regular meetings.

A. Regular business meetings of the city council shall be held on the second and fourth Tuesdays of each month, beginning at 7:00 p.m., unless otherwise changed by the city council as the need arises.

B. Regular study sessions/work meetings of the city council shall be held beginning at 6:00 p.m. (1) before each regular business meeting and following completion of such business meeting, as required to address the work session agenda items; and (2) on the first and third Tuesdays of each month, unless otherwise changed by the city council as the need arises.

C. All such meetings shall occur in the city council's chambers at 1265 East Fort Union Boulevard, Suite 250, Cottonwood Heights, Utah, unless otherwise changed by the city council as the need arises.

2.30.020 Special meetings.

Special meetings may be held as circumstances require. Special meetings shall be called by the city recorder upon the written request of the mayor, of the city manager or of any two members of the city council. Notice of special meetings shall be given as required by Utah state law.

2.30.030 Emergency meetings.

Emergency meetings of the city council may be called due to unforeseen circumstances to consider matters of emergency or urgent nature. Notice of the emergency meeting shall be given using the best notice practicable. No emergency meeting of the city council shall be held unless an attempt has been made to notify all members of the city council, and a quorum of the city council consents to hold the meeting.

2.30.040 Quorum; Adjournment of meetings.

A majority of the members of the city council in office at the time shall be a quorum for the transaction of business at all council meetings, but in the absence of a quorum a lesser number may adjourn any meeting to a later time or date, and in the absence of all members, the city recorder may adjourn any meeting for not longer than one (1) week.

2.30.050 Open meetings.

All meetings of the city council shall be held in compliance with the Utah Open and Public Meetings Act, UTAH CODE ANN. §52-4-101 *et seq*. (the "*Open Meetings Act*"), and citizens shall have a reasonable opportunity to be heard under such rules and regulations as the council may prescribe.

2.30.060 Closed meetings.

A closed meeting may be held upon the affirmative vote of two-thirds of the members of the city counsel at an open meeting. A meeting may be closed only to the extent that the matters discussed in such meeting are exempted from open public discussion under the Open Meetings Act. A record shall be kept of closed meetings as required by the Open Meetings Act.

2.30.070 Public notice of meetings.

As provided by the Open Meetings Act, the city council shall give (a) public notice at least once each year of its annual meeting schedule, and (b) not less than 24 hours' public notice of the agenda, date, time and place of each of its non-emergency meetings, and (c) the best public notice that is practical in the case of emergency meetings.

2.30.080 Agendas.

A written agenda for each meeting of the city council shall be prepared under the direction of the mayor or mayor pro tempore, with the opportunity for input by the city manager. If any member of the city council desires to add any item(s) to any prepared agenda, then consent must be obtained from at least two city council members. If such a request is made at least six hours before the statutory noticing deadline for the meeting, the city recorder shall add the requested item(s) to the agenda and re-notice the same, as required.

2.30.090 Minutes.

Written minutes shall be kept of all meetings of the city council as required by the Open Meetings Act, and shall be presented to the city council for review, correction and approval. In addition, city council meetings shall be recorded as required by the Open Meetings Act; provided, however, that only the written minutes shall be evidence of the official actions taken at such meeting.

2.30.100 Method of acting.

The city council shall act by ordinance, resolution or motion. All legislative enactments shall be in the form of ordinances; all other actions, except as herein provided, may be in the form of resolutions or motions. Each ordinance and resolution shall be given an identifying number. Adoption and publication of ordinances and resolutions shall be authenticated by the signature of the mayor (or mayor pro tempore) and the city recorder and by the certificate of publication, if publication is required. and a true copy of every resolution and ordinance adopted by the city council shall be permanently recorded in the city's official records

2.30.110 Action by ordinance required.

In addition to such acts of the city council as are required by Utah state law to be by ordinance, every act making an appropriation, creating an indebtedness, authorizing borrowing of money, levying a tax, establishing any rule or regulation for the violation of which a penalty is imposed, or placing any burden upon or limiting the use of private property shall be by ordinance.

2.30.120 Form of ordinance.

Every ordinance shall be introduced in written or printed form and shall comply with the requirements of UTAH CODE ANN. §10-3-704 or any successor statute. The enacting clause of all ordinances shall be substantially as follows: "**Be it ordained by the city council of the city of Cottonwood Heights**."

2.30.130 Order of business.

A quorum being present, the city council shall proceed to transact its affairs in its

business meetings in the following manner, unless such order of business is temporarily suspended by unanimous consent:

1. Call to order.
2. Pledge of allegiance.
3. Ceremonies and proclamations.
4. Public hearings.
5. Public comment period.
6. Reports.
7. Resolutions.
8. Ordinances.
9. Unfinished business.
10. New business.
11. Consideration of minutes of preceding meeting(s) and correction and approval of same, unless by consent dispensed with.
12. Adjournment.

2.30.140 Rules of order.

Robert's Rules of Order shall govern the proceedings of the city council where applicable, when not in conflict with statutes or ordinances or otherwise modified by the city council.

2.30.150 Voting.

A. A roll call vote, by “yes” and “no” or comparable, of each member of the city council shall be taken and recorded for all ordinances, resolutions and any other action which would create a liability against the city.

B. Except as otherwise provided in this code or applicable law, at least three affirmative votes shall be required to pass any measure.

C. When there is a vacancy on the city council, subsection B of this section shall not apply, and any vacant position shall not count towards determining the number needed to constitute a quorum.

D. For purposes of determining the number of members of the city council needed to constitute a quorum in order to fill any vacancy pursuant to UTAH CODE ANN. §20A-1-510, neither vacant positions nor members who are disqualified from participating in the process by UTAH CODE ANN. §20A-1-510(3) shall be counted.

2.30.160 Addressing the council.

A. No person shall address or attempt to address any regular, study, or special meeting of the city council without first having been recognized by the presiding officer.

B. During each regular city council meeting (specifically excluding work sessions), there will be a period not to exceed sixty minutes for citizen comment. The purpose of the citizen comment time is to allow citizen speakers to have direct input to the council.

C. Before the citizen comment period, the chairman of the meeting shall instruct the audience and all potential speakers as follows:

1. Any person wishing to comment during the citizen comment period shall request recognition by the chairman;
2. Upon recognition, the citizen shall approach the microphone and address the council;
3. All citizen comment shall be directed to the council, and not to the audience;
4. No person speaking during the citizen comment period shall allow his or her comments to exceed 3 minutes unless specifically otherwise authorized by the chairman;
5. No person addressing the city council during the citizen comment period shall be allowed to comment more than once per meeting;
6. Citizen speakers should not expect any debate or dialog with the mayor, city council or city staff;
7. If a speaker or member of the audience violates the provisions of this section, the city may require removal of that

person from the meeting and the remainder of the meeting.

8. If the foregoing requirements are printed on the meeting agenda, the chairman may simply reference such requirements rather than providing detailed verbal instruction concerning them.

D. In addition to the above listed requirements, if a public hearing is scheduled for a meeting which has not occurred before the citizen comment time, the chairman may request, but not require, the citizens to use the public hearing time rather than the citizen comment time to express their views concerning the subject matter of the public hearing.

2.30.170 Disturbing meetings.

A. The city council may fine or expel any of its members for disorderly conduct upon a two-thirds vote of the members of the city council.

B. The city council may also, upon a two-thirds vote, expel any person who is disorderly during any meeting of the city council.

2.30.180 Legislative advisory committees.

In addition to the advisory committees and councils established pursuant to chapter 2.140 of this title, the city council may appoint such legislative advisory committees as the city council feels are necessary or advisable for the proper consideration of legislative issues. Committee members shall be appointed and subject to removal by majority vote of the city council. Any such committees shall meet at the city council's request and shall make such recommendations on matters referred to them as they shall find to be in the city's best interests.

2.30.190 Council policies.

The council may from time to time, by resolution, adopt written policies concerning such matters as the council deems advisable to structure or facilitate the Council's internal administration and operation.

Chapter 2.40

CITY MANAGER

2.40.010 Powers vested in city manager.
2.40.020 Appointment.
2.40.030 General powers and duties.
2.40.040 Supplemental powers and duties.
2.40.050 Additional administrative duties.
2.40.060 Working time.
2.40.070 Administrative advisory committees.
2.40.080 Removal of city manager.
2.40.090 Emergency interim successors to city manager.

2.40.010 Powers vested in city manager

The city manager is the chief executive officer of the city in accordance with UTAH CODE ANN. §10-3-1223, *et seq*. The administrative powers of the city government are vested in and exercised by the city manager and his subordinates.

2.40.020 Appointment.

The city council, by a two-thirds vote of its full membership, shall appoint the city manager. The city manager shall be appointed solely on the basis of his ability, integrity and prior experience relating to the duties of the office, including, without limitation, his abilities of public administration and executive leadership. The city manager shall possess managerial capabilities that, in the opinion of the city council, enable him to provide professional direction to the executive department of the city.

2.40.030 General powers and duties.

The city manager shall:

A. Faithfully execute and enforce all applicable laws, ordinances, rules and regulations, and see that all franchises, leases, permits, contracts, licenses and privileges granted by the city are observed.

B. Carry out the policies and programs established by the city council.

C. Organize and direct the management of the executive affairs of the city in a manner consistent with state law and city ordinances.

D. Appoint, with the advice and consent of the city council, a qualified person to each of the offices of budget officer, recorder, treasurer, director of finance, engineer and attorney.

E. Create any other office as may be deemed necessary for the good government of the city.

F. Regulate and prescribe the powers and duties of all other officers of the city except as provided by law or by ordinance.

G. Examine and inspect the books, records and official papers of any office, department, agency, board or commission of the city and make investigations and require reports from personnel.

H. Appoint, subject to the provisions of state law and title and, with the advice and consent of the council, suspend and remove statutory officers and heads of city offices, departments, internal agencies and all appointive officers of city boards and commissions, except those boards and commissions which are established by and/or are advisory to the city council.

I. Establish standards, qualifications, criteria and procedures to govern the appointments, by heads of offices, departments and agencies or by other authorized officers, of divisional officers, assistants, deputies and employees within their respective organizational units, subject to any applicable provisions of the personnel rules and regulations and this title.

J. Submit to the city council plans and programs relating to the development and needs of the city, and annual and special reports concerning the financial,

administrative and operational activities of city offices, departments, agencies, boards and commissions, together with his evaluation and recommendations relating to them.

K. Attend all meetings of the city council and take part in its discussions and deliberations, but without the right to vote.

L. Appoint, with approval by majority vote of the full membership of the city council, an acting city manager to serve in his absence or temporary incapacity, to perform the powers and duties provided for in this part.

M. Recommend to the city council the adoption of such measures as he deems necessary or expedient.

N. Notify the city council of any emergency existing in any department.

O. Coordinate all city departments in the event of manmade or natural emergencies.

P. Discharge any other duties specified by statute or ordinance or otherwise imposed by the city council.

2.40.040 Supplemental powers and duties.

In addition to the powers and duties enumerated in section 2.40.030 above, the city manager may:

A. Appoint a deputy or assistant city manager and assign and delegate specified rights and responsibilities to him, subject to the city manager's ultimate responsibility to the city council assure proper performance of all of the city's manager's duties hereunder.

B. Authorize a department head or officer responsible to him to appoint and remove subordinates serving under that department head or officer.

C. Designate himself or some officer or employee to perform the duties of any office or position under his control which is vacant or which lacks administration due to the absence or disability of the incumbent.

D. Assign any employee of the city to any department or branch requiring services appropriate to the personnel system classification of the employees so assigned.

E. Prescribe such rules and regulations by executive order as the city manager shall deem necessary or expedient for the conduct of all departments, divisions and offices, subject to his authority, and revoke, suspend or amend any rule or regulation issued by him or any subordinate.

F. Personally or by delegation investigate and examine or inquire into the affairs or operations of any department, division or office; and when so authorized by the council, the city manager shall have power to employ consultants and professional counsel to aid in such investigations, examinations or inquiries.

G. Examine all proposed contracts to which the city may be party. When a purchase, obligation or other contract may be properly entered into without specific city council approval, the city manager may sign the document on behalf of the city, provided that the mayor's facsimile signature also is used on the document, and the document is countersigned by the city recorder.

H. Approve pay increases, bonuses and other compensation for city personnel, when appropriate and in compliance with established policies.

I. Set aside any action taken by a subordinate, including the right to supersede any subordinate in the functions of his office.

J. Direct any department, division or office to perform the work for any other department, division or office.

K. Set the dates of all public hearings, in consultation with the city council, and inform the city council of such hearing dates.

L. Accept, reduce, extend and release performance bonds and delay agreements in favor of the city relating to, *inter alia*, improvements to the public way.

M. In addition to established policies and procedures for filling open employment positions, when the city manager determines that it is in the best interests of the city, the city manager may authorize alternative employment methods, including the recruitment of specific individuals.

2.40.050 Additional administrative duties.

In addition to all other duties and responsibilities of the city manager, the city manager's office is responsible for all matters relating to administrative services, the city recorder, public affairs, administration of justice court services, all advisory organizations, support services to the city council, and such other programs as may be specified by the city council.

2.40.060 Working time.

The city manager shall maintain an office in city hall and shall spend such time in the performance of his duties as is necessary to properly accomplish them.

2.40.070 Administrative advisory committees.

In addition to the advisory committees and councils established pursuant to chapter 2.140 of this title, the city manager may appoint such administrative advisory committees as the city manager feels are necessary or advisable for the proper consideration of administrative issues. Committee members shall be appointed and subject to removal by the city manager. Any such committees shall meet at the city manager's request and shall make such recommendations on matters referred to them as they shall find to be in the city's best interests.

2.40.080 Removal of city manager.

The city manager serves at the pleasure of the city council. The city council may, by majority vote, remove the city manager, with or without cause. Except in the case of removal for proven malfeasance in office, the city manager, upon his removal, shall be paid the unpaid balance of his salary due to the date of removal, together with his salary at the same rate for the next six calendar months following the date of his removal.

2.40.090 Emergency interim successors to city manager.

A. In the event of a natural or human-caused disaster or emergency situation, in which the city manager is unable to carry out the duties imposed by this part, the duties and authorities of the city manager shall be exercised by one of the following municipal officials, in the order indicated, until the city manager or a person higher on the priority list becomes capable of exercising such duties:

1. Deputy city manager.
2. The officials designated on a listing of at least two municipal officials filed from time to time by the city manager with the city recorder, to act in the priority designated on that list.

B. The exercise of emergency interim successor duties pursuant to this section shall be promptly reported to the members of the city council as soon as practical by the person assuming those duties.

Chapter 2.50

APPOINTED OFFICERS AND EMPLOYEES

2.50.010 Structure of executive branch
2.50.020 Creation of city offices and departments.
2.50.030 Statutory officers.
2.50.040 General duties of directors of offices and departments.
2.50.050 Personnel policies and procedures generally.
2.50.060 Personnel director.
2.50.070 Equal opportunity employer.
2.50.080 Rules of conduct.
2.50.090 Personnel file.
2.50.100 Compensation.
2.50.110 Benefits.
2.50.120 Sexual harassment.
2.50.130 Discipline.
2.50.140 Term of office
2.50.150 Separation from service.
2.50.160 Internal grievance procedure.
2.50.170 Nepotism

2.50.010 Structure of executive branch.

A. The executive branch of city government is headed by the city manager, and consists of the various departments, offices, officers, boards and commissions designated in this title and other applicable ordinances.

B. The executive branch is structured into the following departments and offices, each of which is headed by a department director or other officer designated in this title, and all of which are subordinate to the city manager:

1. Community development department;
2. Public works department;
3. Finance department;
4. Treasury department;
5. Administrative services department;
6. Office of the city attorney;
7. Fire department; and
8. Police department.

2.50.020 Creation of city offices and departments.

A. The city manager, with the advice and consent of the city council, may create any office or department deemed necessary for the city's executive branch to accomplish its administrative functions. With advice and consent of the city council, the city manager shall appoint or delegate the power to appoint such personnel as are necessary or advisable to fulfill the duties and obligations of any office or department created under this title.

B. The services of certain of the city's statutory officers, departments or divisions, or heads or staff thereof, as determined by the city manager with advice and consent of the city council, may be provided by third-party providers pursuant to written agreements approved by the city council.

2.50.030 Statutory officers.

The city's statutory officers consist of the city recorder, the city treasurer, the city director of finance, the city budget officer, the city attorney and the city engineer. All of the city's statutory officers shall be appointed and removed from office by the city manager with advice and consent of the city council. Except as otherwise specified in this title, all of the city's statutory officers report directly to the city manager and are subject to the city manager's supervision and control, notwithstanding that certain of the city's statutory officers may be grouped, for organizational purposes, in a city department led by another statutory officer or department head.

2.50.040 General duties of directors of offices and departments.

A. Each director of a city office or department shall perform all duties required of his office by state law, by this code and

other ordinances of the city, and such other duties as may be properly required by the city manager.

B. Subject to the direction and control of the city manager, each director shall:

1. Be immediately responsible to the city manager for the effective administration of his office or department and all activities assigned to such office or department.

2. With the approval of the city manager, develop and maintain an up-to-date departmental policies and procedures manual containing policies, procedures and instructions for carrying out departmental operations in conformity with law and other city policies and in an efficient and effective manner. Such rules and regulations shall be subject to review and modification by the city manager.

3. Keep informed as to the latest practices in his particular field and inaugurate, with the approval of the city manager, such new practices as appear to be of benefit to the city's administrative services and to the public.

4. Regularly report to the city manager concerning the activities of his office or department.

5. Establish and maintain a system of filing and indexing records and reports in sufficient detail to furnish all information necessary for proper control of departmental activities and to form a basis for the periodic reports to the city manager.

6. Have power, when authorized by the city manager, to appoint and remove, subject to personnel rules and regulations, all subordinates under him.

7. Exercise authority over all subordinates, including documentation of any personnel actions, goals or conduct.

8. Be responsible for the proper maintenance, care and inventory of all city property and equipment used in his office or department.

9. Designate, with the city manager's approval, an assistant director or acting director to perform such duties as are assigned during his absence or inability to act.

10. Assign and reassign subordinates to such offices, duties and responsibilities as are necessary to accomplish the director's duties and other assignments of the city manager.

11. Provide for the education and training of subordinates.

12. Prepare and submit to the city manager a tentative departmental budget.

13. Be responsible to keep expenditures of the department within the budget approved by the city council.

14. Deliver all records, documents and property of every description, belonging to the office or to the city, to his successor in office.

15. Implementation of departmental emergency procedures as provided in the city's emergency management plan.

C. Each director shall have such authority as is necessary to enable him to carry out the duties and responsibilities assigned to him by this section or by direction of the city manager. The designation of a duty or responsibility shall constitute such authority as is necessary to effect the duty or responsibility so imposed.

D. Each department shall furnish, upon the direction of the city manager, any other department such available service, labor and materials as may be requisitioned by the head of such department. Any such items shall be furnished through the same procedure and subject to the same audit and control as other expenditures are incurred.

E. All departments within the city shall:

1. Be open during regular business hours as defined by the city manager.

2. Regularly deposit with the city treasurer any public monies as specified by

the city treasurer in accordance with applicable law.

3. Pay out city monies only in the manner prescribed by law, ordinance and city policy.

2.50.050 Personnel policies and procedures generally.

The city may establish and adopt personnel policies and procedures consistent with all applicable ordinances, laws and regulations for the efficient administration, organization, operation, and conduct of its personnel.

2.50.060 Personnel director.

The city manager is hereby designated as the city's personnel director to insure just and equitable employment conditions and to promote positive and efficient working morale for all city personnel. As personnel director, the city manager shall implement and maintain the provisions of this chapter and perform other duties as required by ordinance, resolution or policy of the city council. The city manager may delegate performance of his responsibilities under this section to a human resources director, personnel director, or other appropriate officer, employee or agent of the city.

2.50.070 Equal opportunity employer.

The city is an "equal opportunity employer" and, as such, shall not improperly discriminate in the hiring, employment or promotion of its employees on the basis of race, sex, color, national origin, age, religion, disability or status as a veteran in accordance with applicable state and federal laws.

2.50.080 Rules of conduct.

All employees of the city shall conduct themselves in an appropriate manner in accordance with the personnel policies and procedures adopted by the city. City employees also shall be subject to and shall comply with provisions of the Municipal Officers' and Employees' Ethics Act, UTAH CODE ANN. §10-3-1301, *et seq*., and any similar provisions set forth in this title.

2.50.090 Personnel file.

A personnel file shall be kept for each city employee, excluding elected officials, volunteers and contractors. The file shall contain a copy of all records relating to employment of the employee including, without limitation, records regarding hiring, compensation, leave, personal time off, awards, grievances, disciplinary actions, education, training programs, and any other relevant records. All personnel records shall be maintained, classified and accessed in accordance with the Government Records Access and Management Act and applicable city ordinances.

2.50.100 Compensation.

City employees shall be compensated in accordance with a schedule of salary rates or ranges for each job classification as set forth by the city manager and approved by the city council. In arriving at the salary rates or ranges, the city manager and city council may consider the prevailing rates of pay and working conditions for comparable work in other public agencies and private employment, current costs of living, suggestions of department heads, city financial condition, policies, procedures and other relevant considerations.

2.50.110 Benefits.

City employees may receive such benefits as may be provided in the city's approved personnel policies and procedures or as required by law.

2.50.120 Sexual harassment.

Sexual harassment in any form is prohibited and shall be addressed as

specified in the city's adopted personnel policies and procedures.

2.50.130 Discipline.

Employees may be disciplined for good cause through informal or formal disciplinary action in accordance with the personnel policies and procedures adopted by the city.

2.50.140 Duration of employment.

A. City employees shall hold employment without limitation of time, being subject to discharge, suspension of over two days without pay, or involuntary transfer to a position with less remuneration, only as provided in UTAH CODE ANN. §10-3-1106 or any successor statute. This section does not apply to any police chief or deputy police chief, fire chief or deputy/assistant, the head or deputy head of any municipal department, a probationary employee, a part-time employee, a seasonal employee, or any other person covered by UTAH CODE ANN. §10-3-1105(2) or any successor statute.

B. No city employee covered by this section shall be discharged, suspended for over two days without pay, or involuntarily transferred to a position with less remuneration because of the employee's politics or religious belief, or incident to, or through changes, either in the elective officers, governing body, or heads of departments. In the event of such an improper discharge, suspension or transfer, the affected employee shall have the right to appeal such action to the city's employee appeal board under chapter 2.180 of this title.

C. Notwithstanding anything to the contrary in any city policies, procedures, resolutions, practice, or customs, no city officer or employee shall have any property right in any expectation of continued employment by the city unless expressed in a writing authorized by resolution of the city council.

2.50.150 Separation from service.

Employees may be separated from service with the city in the following manner:

A. *Resignation*. An employee desiring to discontinue his or her employment with the city shall file a written resignation with the department head stating the effective date of resignation and the reasons for resignation at least two (2) weeks prior to the effective date of resignation.

B. *Reduction in force (RIF)*. An employee may be laid off by the city due to change in the organization of city personnel, material change in the duties of the employee's position, shortage in the work requirements of the city, shortage in the funding of the city, or when otherwise necessary in the best interest of the city.

C. *Dismissal*. An employee may be dismissed by the city for any reason permitted by law; provided however, that any such dismissal shall be accomplished in accordance with the city's personnel policies and procedures and all applicable law.

2.50.160 Internal grievance procedure.

A. Subject to any contrary requirements of law, an employee with a job-related grievance shall exhaust the procedure set forth in this section before seeking resolution of such matter through the city's employee appeal board under chapter 2.180 of this code (if available for the grievance in question) or the courts.

B. Any misunderstanding, conflict or problem must first be discussed with the employee's immediate supervisor to allow that supervisor the opportunity to resolve the misunderstanding, conflict or problem, except in situations where such approach would be patently unreasonable (such as a

sexual harassment problem with such supervisor).

C. If the misunderstanding, conflict or problem is not resolved after discussion with the employee's immediate supervisor, the employee may request a meeting with the city manager. Typically, the city's human resource director also should attend such meeting. The city manager will consider the facts, conduct an investigation, and may also review the matter with the human resource director and/or the city attorney. The city manager will respond to the employee within ten (10) working days of the meeting with the employee.

D. If the employee is not satisfied with the city manager's decision or the city manager does not respond within ten (10) working days after the meeting with the employee and the employee wishes to continue the appeal, then the employee may pursue such appeal to the employee appeal board (if available for the grievance in question) or the courts.

2.50.170 Nepotism.

It is the policy of the City to comply with the provisions of Utah's anti-nepotism act, UTAH CODE ANN. §52-3-1 *et seq*., or any successor provision of state law. Further:

A. No person may work in a department of the City's administration wherein a member of the person's immediate family is employed as the department head; or wherein a member of the person's immediate family would have direct or indirect supervision or control over that person.

B. No person in the immediate family of any elected officer of the City, of the City's manager, or of any City employee who is assigned to perform human resources services for the City, may be employed by the City in any capacity.

C. No person in the immediate family of any elected officer of the city may serve on the City's planning commission or board of adjustment.

D. "*Immediate family*," as used in this section, means father, mother, husband, wife, son, daughter, sister, brother, uncle, aunt, nephew, niece, stepchildren, stepparents, grandchildren, grandparents, mother-in-law, father-in-law, brother-in-law, sister-in-law, daughter-in-law, or son-in-law.

E. This section is applicable to all paid positions in the City's administration, as well as to all positions, whether or not paid, in the City's police department.

Chapter 2.60

COMMUNITY DEVELOPMENT DEPARTMENT

2.60.010 Duties of community development director.
2.60.020 Organization of community development department.
2.60.030 Planning and zoning division.
2.60.040 Building inspection division.
2.60.050 Ordinance enforcement division.

2.60.010 Duties of community development director.

In all cases where the duty is not expressly charged to any other department or office, it is the duty of the director of the city's community development department to:

A. Plan, promote, and coordinate all activities affecting community development;

B. Speak on behalf of the department concerning the public issues in the community over which the department has jurisdiction or advisory responsibility;

C. Establish overall work priorities and allocate work among the staff and divisions within the department;

D. Review the work of all divisions and make the final decisions for the department;

E. Coordinate departmental activities with other departments; and

F. Perform all such related duties and such others as may be imposed by statute, by ordinance, or by the city manager.

G. With the advice and consent of the city manager, appoint one of the department's division directors to act as the deputy director of community development.

2.60.020 Organization of community development department.

The community development department is divided into the planning division, the building inspection division, and the ordinance enforcement division.

2.60.030 Planning division.

The planning division is supervised by the planning director, and shall consist of the planning director and such deputies, assistants and staff as may be required or advisable. The planning division is responsible for the following functions:

A. Long-range planning, including land use, housing, economics, policies, the major street plan, the general plan, and assisting in the development of the capital facilities plan and the adoption of any related impact fees.

B. Current planning, including reviewing all new development, handling land use problems and applications on a day-to-day basis, providing technical staff assistance and liaison to board of adjustment and the planning commission, providing technical assistance for the ordinance enforcement division, and the development of short-range land use plans.

C. Performing such other duties and functions as may be assigned by the community development director or the city manager.

2.60.040 Building inspection division.

The building inspection division is supervised by the chief building official, and consists of that official and such assistants and staff as may be required or advisable. The building inspection division shall:

A. Inspect or supervise the inspection of all work done under the provisions of the uniform codes adopted by the city.

B. Inspect or supervise the inspection of all premises, including structures and appurtenances thereon, for safety.

C. Perform such zoning ordinance compliance as directed by the community development director.

D. Examine or supervise the examination of all construction plans to assure their compliance with the building codes and other appropriate laws and ordinances.

E. Issue building permits when plans comply with the building codes and all other appropriate laws and ordinances.

F. Assist and advise the public with respect to construction and code requirements.

G. Investigate complaints or information regarding the probability of the presence of hazardous or illegal conditions or uses in premises.

H. Perform, when requested or directed, inspections for compliance with the requirements of the community development department, the public works department, and the fire department pursuant to the city's subdivision ordinance.

I. Perform business license inspections.

J. Perform any other inspections or services directed by the city manager or the director of the community development department.

K. Perform such other duties and functions as may be assigned by the community development director or the city manager.

2.60.050 Ordinance enforcement division.

The ordinance enforcement division is supervised by the ordinance enforcement supervisor, and shall consist of the supervisor and such assistants and staff as may be required or advisable. The ordinance enforcement division is responsible for:

A. Enforcing or assisting in the enforcement of city zoning, business licensing, health and other ordinances, including coordination of all ordinance enforcement within the city.

B. Abating nuisances and other unsightly or noxious objects or sounds.

C. Enforcing animal control ordinances and providing animal control pickup service.

D. Administering the city's animal licensing program.

E. Promulgating rules and regulations in conformity with state law and city ordinances dealing with animal licensing and regulation, tags, and collars; running at large and impounding; notice to owners and redemption; disposition of unclaimed or infected animals; confinement of certain animals and muzzling; rabies control and notices vaccinations, and enforcing the same; and other pertinent matters.

F. Managing the impound, care, redemption, sale, and euthanasia of animals.

G. Conducting publicity programs to acquaint the public with the laws and regulations dealing with animal ownership and control.

H. Performing such other duties and functions as may be assigned by the community development director or the city manager.

Chapter 2.70

PUBLIC WORKS DEPARTMENT

Sections:

2.70.010 Duties of the public works director.
2.70.020 Organization of the public works department.
2.70.030 Engineering division.
2.70.040 Street maintenance division.
2.70.050 Storm drain maintenance division.
2.70.060 Fleet management.
2.70.070 Public facilities maintenance division.

2.70.010 Duties of the public works director.

The public works director is responsible for all matters relating to engineering review, construction, management, maintenance, and operation of the physical properties of the city.

2.70.020 Organization of the public works department.

The public works department is divided into the engineering division, the street maintenance division, the storm drain maintenance division, and the public facilities maintenance division.

2.70.030 Engineering division.

The engineering division is supervised by the city engineer. The city engineer is a statutory officer of the city who shall be appointed and removed by the city manager with advice and consent of the city council. The engineering division shall:

A. Perform and/or supervise the performance of all engineering services for the public works department and for such other departments of the city as may from time to time require such services.

B. Inspect or supervise the inspection of work involving the construction of streets, sidewalks, curbs, gutters, rights-of-way, drainage facilities, traffic control devices, and all other public improvements.

C. Serve as the office of records for all maps, plans, plats, profiles, drawings, final estimates, specifications, and copies of contracts which in any way relate to the public improvements and engineering affairs of the city and be custodian of all of the above-mentioned drawings and documents.

D. Provide for planning and engineering of flood control facilities, including channels, ditches, open drains, and storm drains which are included in the flood control system or designated by the public works director or the city manager as having a public interest.

E. Perform such other duties and functions as may be assigned by the public works director or the city manager.

2.70.040 Street maintenance division.

The street maintenance division is supervised by the street superintendent and shall:

A. Maintain all city streets, sidewalks and city rights of way in a safe and attractive condition and provide for their repair and maintenance.

B. Maintain all necessary traffic control signals and signs.

C. Provide for the removal of snow and other hazards from city streets.

D. Perform such other duties and functions as may be assigned by the public works director or the city manager.

2.70.050 Storm drain maintenance division.

The storm drain maintenance division is supervised by the storm drain supervisor and shall:

A. Maintain all public watercourses and floodways in a safe and attractive condition

and provide for their repair and maintenance.

B. Provide for an ongoing maintenance program and direct the cleaning and maintenance of natural channels, ditches, open drains, and storm drains which are included in the storm drainage and flood control system.

C. Perform such other duties and functions as may be assigned by the public works director or the city manager.

2.70.060 Fleet management.

The public works director may appoint a fleet manager to develop, implement and administer a fleet management policy for the city. The fleet manager shall do the following:

A. Be responsible for the management of all city vehicles and equipment, including maintenance, replacement, disposal, licensing, and issuing fuel cards.

B. In cooperation with each city department, determine the most appropriate vehicle for each approved use and prepare and maintain a list of approved vehicles for each use.

C. Perform such other duties and functions as may be assigned by the public works director or the city manager.

2.70.070 Public facilities maintenance division.

The public facilities maintenance division is supervised by the public facilities maintenance manager and shall be responsible for the management, maintenance, and operation of all municipal buildings, properties and public facilities. Such division also shall perform such other duties and functions as may be assigned by the public works director or the city manager, such as placing and removing publicity banners for city events.

Chapter 2.80

FINANCE DEPARTMENT

Sections:

2.80.010 Finance department.
2.80.020 Duties of finance director.

2.80.010 Finance department.

In all cases where the duty is not expressly charged to any other department or office, it is the duty of the finance department to act to promote, secure, and preserve the financial and property interests of the city; to supervise financial activities; to advise the city manager on fiscal policy; and to make interim and annual financial reports as requested by the city manager.

2.80.020 Duties of finance director.

A. The finance director is a statutory officer of the city who shall be appointed and removed by the city manager with advice and consent of the city council. The finance department is supervised by the finance director and shall consist of the finance director and such deputies, assistants and staff as may be appointed by the city manager.

B. The finance director shall:

1. Exercise general supervision over all officers of the city, other than the city treasurer and his staff, regarding the proper management of the fiscal concerns of their respective offices.

2. Examine the financial books of each department from time to time, and see that the books are kept in proper form.

3. See that officers and employees receiving money pay the same to the treasury department, when required; that all necessary financial reports are made by officers and employees; and that all delinquencies in such payments or reports are reported to the city manager.

4. Report the default in any payment by any city officer or employee to the city manager, who shall direct the city attorney to take immediate legal measures for the recovery of the amount which may be in default.

5. Organize and maintain records of duplicate receipts, summary reports or other evidences of payment received from the city treasurer.

6. Assist the city's budget office in complying with the requirements of the Uniform Fiscal Procedures Act for Utah Cities, UTAH CODE ANN. §10-6-101, *et seq.*

7. Perform the following accounting functions for the city:

(a) Examine and conduct special audits of the accounts of all officers and departments of the city, subject to the approval of the city manager.

(b) Prescribe the form of accounts and reports to be rendered to the finance department.

(c) Maintain the general books for each fund of the city and all subsidiary records relating thereto, including a list of the outstanding bonds, their purpose, amount, terms, date and place payable, and the accounts of all receiving and disbursing officers of the city.

(d) Prepare, at least monthly, statements of cash on hand and of classified unencumbered appropriation balances for the city as a whole, and such other financial statements as from time to time may be required or advisable.

(e) Keep all departments, boards, agencies, commissions, or institutions currently informed of its classified unencumbered appropriation balances.

(f) Prepare payroll and administer the city's accounts payable in accordance with state law and city policy.

(g) Prepare and present to the city manager and city council appropriate monthly, quarterly and annual financial

reports in conformity with generally accepted accounting principles, as prescribed in the Uniform Accounting Manual for Utah Cities.

(h) Keep general accounting records and maintain or supervise city accounts, including accounts payable, special assessments, other service charges, utilities and others.

8. Perform the following purchasing functions for the city:

(a) Have such powers and duties as may be prescribed by state law or city ordinance, including, without limitation, chapter 2.160 of this title.

(b) Purchase or contract for all supplies and contractual services needed by any city board, commission, or department, or by any using agency which derives its support wholly or in part from the city, in accordance with purchasing procedures as prescribed by law or ordinance and such rules and regulations as the finance director or city manager shall adopt for the internal management and operation of the city's purchasing functions.

(c) Act to procure for the city the highest quality in goods and contractual services at the least expense to the city.

(d) Encourage uniform bidding and endeavor to obtain as full and open competition as possible on all purchases and sales.

(e) Keep informed of current developments in the field of purchasing, prices, market conditions, and new products, and secure for the city the benefits of research done in the field of purchasing by other governmental jurisdictions, national technical societies, trade associations having national recognition, and by private businesses and organizations.

(f) Prescribe and maintain such forms as may be reasonably necessary to accomplish its duties.

(g) Prepare and adopt a standard purchasing nomenclature for using departments and suppliers.

(h) Prepare, adopt, and maintain a vendors' catalog file, which shall be filed according to materials and shall contain descriptions of vendors' commodities, prices, and discounts.

(i) Explore the possibilities of buying "in bulk," so as to take full advantage of discounts.

(j) Act so as to procure for the city all federal and state tax exemptions to which it is entitled.

(k) Have the authority to declare vendors who default on their quotations as irresponsible bidders and to disqualify them from receiving any business from the city for a stated period of time.

(l) Establish and amend, when necessary, such rules and regulations as may be necessary and proper for carrying into execution the foregoing powers.

(m) Keep and maintain all city asset records except as otherwise provided in this code.

(n) Establish procedures for disposal of city-owned obsolete or surplus property.

9. Perform such other duties and functions as may be prescribed by law, ordinance, resolution or directive of the city manager.

Chapter 2.90

TREASURY DEPARTMENT

Sections:

2.90.010 Organization.
2.90.020 Duties and powers.

2.90.010 Organization.

The treasury department is supervised by the city treasurer. The city treasurer is a statutory officer of the city that reports directly to the city manager and who shall be appointed and removed by the city manager with advice and consent of the city council. The treasury department consists of the city treasurer and such deputies, assistants and staff as may be appointed by the city manager.

2.90.020 Duties and powers.

The city treasurer shall:

A. Establish in the city's accounting system a full and accurate account of all the monies, bonds, or other securities received and disbursed by the city treasurer in behalf of the city, specifying the time of receipt and disbursement, from whom received and to whom disbursed, on what account received and disbursed, and how paid.

B. Cancel all warrants and other evidences of debt against the city whenever paid by the city treasurer, by writing or stamping across the face thereof the words, "Paid by the City Treasurer" or comparable, with the date of payment written or stamped thereon.

C. Give to every person paying money to the city a receipt or other evidence of payment therefor, specifying, as appropriate, the date of payment and upon which account paid, and shall file the duplicate of the receipt, a summary report, or other evidence of payment with the finance director.

D. Receive and have custody of all monies paid to the city and disburse city monies upon the warrant of the finance director. The city treasurer or his authorized deputy shall sign all checks prepared by the finance director. Prior to affixing his signature, the city treasurer shall determine that a sufficient amount is on deposit in the appropriate bank account of the city to honor the check. The city manager may also designate a person in addition to the city treasurer to countersign checks.

E. Pay city employees, upon presentation of the properly certified payroll.

F. Demand and receive all monies and fees owing to the city whenever any person is indebted to the city in any manner and the means of collection of such debt is not otherwise provided for by law. When any claim is not collectible by other methods, the city treasurer shall report the same to the city attorney for possible legal action.

G. Receive all money payable to the city within three business days after collection, including all taxes, licenses, fines, and intergovernmental revenue, and keep an accurate detailed account thereof in the manner provided by state law, ordinance, or resolution.

H. Promptly deposit all city funds in the appropriate bank accounts of the city.

I. Collect all special taxes and assessments, as provided by law and ordinance. All money received by the city treasurer on any special assessment shall be applied to the payment of the improvement for which the assessment was made. The money shall be used for the payment of interest and principal on bonds or other indebtedness issued in settlement thereof, and shall be used for no other purpose whatever, except as otherwise provided in UTAH CODE ANN. §10-6-131.

J. If the city is without sufficient funds on deposit in one of its appropriate bank accounts, the finance director shall draw and sign a warrant upon the city treasurer of the payee named thereon. The city treasurer

shall pay all warrants in the order in which presented and as money becomes available for payment thereof in the appropriate funds of the city. The city treasurer shall note upon the back of each warrant presented the date of presentation and the date of payment.

K. Determine the cash requirements of the city and provide for the investment of all city monies pursuant to the procedures and requirements of the State Money Management Act, UTAH CODE ANN. §51-7-1, *et seq.*

L. At least once each month, balance accounts with the finance director. In connection therewith, the city treasurer shall inform the finance director of the settlement of any warrants issued by the finance director and shall provide all cancelled warrants to the finance director.

N. Fully cooperate with the finance director's responsibility to prepare and present to the city manager and city council appropriate monthly, quarterly and annual financial reports in conformity with generally accepted accounting principles, as prescribed in the Uniform Accounting Manual for Utah Cities.

O. Perform such other duties and functions as may be assigned by the city manager.

Chapter 2.100

ADMINISTRATIVE SERVICES DEPARTMENT

Sections:

2.100.010 Organization.
2.100.020 City recorder office.
2.100.030 Business licensing division.
2.100.040 Human resources division.
2.100.050 Customer and community service division.

2.100.010 Organization.

The administrative services department is supervised by a director appointed by the manager. The administrative services department is divided into the city recorder office, the business licensing division, the human resources division, and the customer and community service division.

2.100.020 City recorder office

The city recorder is a statutory officer of the city who reports directly to the city manager and who is appointed and removed by the city manager with advice and consent of the city council. The city recorder office is supervised by the city recorder and shall consist of the city recorder and such deputies as may be appointed by the city manager, who shall serve under the supervision of the city recorder and shall have authority to act in the absence of the city recorder. The city recorder office may also include additional employees and contract providers appointed by the city recorder with approval of the city manager. The city recorder shall:

A. Serve as clerk of the city council, attending its meetings, keeping the record of its proceedings, and performing such other duties of a like nature as may be required by the city council, by city ordinance, or by state or federal law.

B. Be responsible for the recording, filing, indexing, making available for public inspection, and safekeeping of all proceedings of the city council and other records of the city.

C. Record all ordinances in full, uniformly and permanently, and authenticate the same. The recorder shall record, in a book used exclusively for that purpose, all ordinances passed by the city council, and shall assign each ordinance an identifying number, if the city council has not already done so. Immediately following the adoption of each ordinance or codification of ordinances, the city recorder shall make or cause to be made a certificate stating the date of passage and of the date of publication or posting, as required. The record and memorandum, or a certified copy thereof, shall be prima facie evidence of the contents, passage, and publication or posting of the ordinance or codification.

D. Post or publish, as required by law, ordinances and resolutions adopted by the city council, and all legal notices.

E. Supervise all municipal elections in accordance with state law and city ordinances, and keep and maintain all election records and have custody of all property used in connection therewith, according to law.

F. Countersign all contracts made on behalf of the city and maintain a properly indexed record of all contracts, agreements, deeds, rights-of-way, and other legal documents to which the city is a party.

G. Prepare, attest, and report on the vital statistics of the city, as requested by the city manager or the city council.

H. Notify the appointing authority of the impending expiration of the term of office of a member of any board or commission, such notice to be given at least 30 days before such expiration.

I. Be the custodian of the official seal of the city.

J. Act as the city records officer to oversee and coordinate records access and management and city archives activities as required by local, state, and federal law.

K. Be responsible for city compliance with the "Government Records Access Management Act" ("*GRAMA*"), UTAH CODE ANN. §63G-2-101, *et seq*., including proper response to requests for information and copies of records thereunder.

L. Be present at the opening of all sealed bides under chapter 2.150.

M. Serve as clerk of the city's planning commission, board of adjustment, and other public bodies, attending meetings, keeping the record of proceedings, and performing such other duties of a like nature as may be required by the city council, by the city manager, by city ordinance, or by state or federal law.

N. Perform such other duties as may be required by applicable law or by direction of the city manager.

2.100.030 Business licensing division.

The business licensing division is supervised by the city's administrative services director with the assistance of the business licensing clerk and shall:

A. Collect all license fees and issue all licenses in the name of the city to all qualified persons.

B. Promulgate, enforce, and supervise the enforcement of all reasonable rules and regulations necessary to the operation of the business licensing division.

C. Adopt all forms and prescribe the information to be given therein as to character and other relevant matters.

D. Require applicants to submit any affidavits necessary and proper in the licensing process.

E. Organize and maintain accurate and complete files on applications and licenses.

F. Perform such other duties and functions as may be assigned by the city recorder or the city manager.

2.100.040 Human resources division.

The human resources division is supervised by the city's human resources director, and shall consist of such deputies, employees and contract providers as may be appointed with the city manager's prior consent.

A. The human resources division shall be responsible for the administration of all personnel functions of the city, including, without limitation, the functions of employee recruiting and certification, employee classification and evaluation, administration of benefits, wage and compensation plans, labor relations, training, employee safety and health, equal opportunity employment, affirmative action and maintenance of all city personnel records.

B. *Equal Employment Opportunity (EEO) Officer*. The function of the equal employment opportunity officer is assigned to the human resource director, who may delegate the functions but not the responsibility therefor. The EEO officer shall be responsible for developing and monitoring equal employment opportunity and employee affirmative action programs throughout the city in accordance with applicable federal, state and city laws and guidelines.

C. *Occupational Safety and Health (OSHO) Officer*. The function of the occupational safety and health officer is assigned to the human resource director, who may delegate functions but not the responsibility therefore. The OSHO officer shall be responsible for surveying and assessing hazardous or unhealthful working conditions for city employees and for developing and monitoring safety and health programs throughout the city.

D. *Civil Service Commission*. If the city empanels a civil service commission, then

the human resources division shall provide staff and clerical support to aid such commission in fulfilling its duties under state law and this code.

E. *Employee Appeals Board*. The division shall arrange for the selection of members of the board and provide staff support as it deems necessary to aid the board in the performance of its functions.

2.100.050 Customer and community service division.

The customer and community service division is supervised by the city's customer and community service director, and shall consist of such deputies, employees and contract providers as may be appointed with the city manager's prior consent. The customer and community service division shall be responsible for the performance of all customer and community services of the city not otherwise assigned and delegated by this title or by direction of the city manager, including, without limitation, the following:

A. Receiving (in person or via telephone, facsimile, e-mail or other means) customer communications and directing such to the appropriate city departments for response.

B. Cashiering and receiving\receipting miscellaneous payments to the city.

C. Acting as webmaster of the city's official website and keeping such website updated and properly functioning.

D. Coordinating, overseeing and serving as a resource for city's internal and external events as directed by the department director or the city manager.

Chapter 2.110

OFFICE OF THE CITY ATTORNEY

Sections:

2.110.010 Organization.
2.110.020 Duties and powers.
2.110.030 Correction of technical errors to city code.

2.110.010 Organization.

A. The city attorney is a statutory officer of the city who shall be appointed and removed by the city manager with advice and consent of the city council. The city attorney shall be an attorney at law and must, throughout his tenure, be duly admitted to practice law in Utah.

B. The city attorney's office is supervised by the city attorney and consists of the city attorney and such assistants and other staff members as may be appointed by the city manager. The city manager may provide the city attorney such assistance as may be deemed necessary or advisable and may, upon his own motion or upon request of the city attorney in special cases, employ special counsel to serve under the direction of the city attorney.

2.110.020 Duties and powers.

A. The city attorney shall be the city's chief legal officer and representative, and shall:

1. Advise the city council, the city manager and other city officers and employees, including members of boards and commissions, on matters of law affecting the city or their actions.

2. Prosecute violations of city ordinances; provided, however, that the city may obtain such criminal prosecution services under contract with an independent contract provider, in which event such prosecutor shall be supervised by the city manager with assistance from the city attorney.

3. Prepare and review contracts, ordinances, resolutions and other legal documents concerning the city.

4. Approve as to form all contracts, legal instruments and bonds affecting the city.

5. Represent the city in litigation in which the city is a party and/or cooperate with outside counsel hired for such litigation.

6. Defend all city officials and employees in any civil action when authorized to do so by state law, city ordinance, or resolution of the city council.

7. Handle and participate in, including the filing of friend of the court pleadings, litigation which directly affects an identifiable class of city residents and which is authorized by the city council; provided such litigation does not create a conflict of interest for the city or for the city attorney in the performance of his professional responsibilities.

8. Advise the city concerning risk management issues, insurance coverage and the like.

9. Have the power to adjust, settle, compromise, or submit to arbitration or mediation any action, cause of action, account, debt, claim, demand, dispute or other matters in favor of or against the city or in which the city is concerned as a party, now existing or which may hereafter arise, when it is not covered by any city insurance policy and upon approval of the city manager.

10. Advise the city manager concerning legal issues involved in employee hirings, firings and discipline, as requested by the city manager, and handle other personnel matters as directed by the city manager, including city representation before any board, commission or body with oversight over such matters.

11. Report status and outcome to the city manager and the city council of any litigation in which the city has an interest.

12. Administer the office of the city attorney and supervise the employees assigned to that office.

13. Perform such other duties as are imposed by city ordinance or by direction of the city manager.

14. As provided by state law, the city attorney may grant to witnesses immunity from prosecution for violation of city ordinances.

B. The enumeration of the foregoing duties and responsibilities shall not be deemed to prevent or limit the city manager from prescribing additional duties or responsibilities for the city attorney or assigning the designated duties and responsibilities to another director, as the city manager shall deem appropriate. Further, although the activities of the city attorney are subject to the general supervision and direction of the city manager, nothing expressed in this section shall be deemed to be a limitation upon the professional opinion or judgment of the city attorney on matters of law affecting the city.

2.110.030 Correction of technical errors to city code.

The city attorney is authorized to correct technical errors and make other minor changes to the COTTONWOOD HEIGHTS CODE OF ORDINANCES, including:

A. Adopting a uniform system of punctuation;

B. Eliminating duplication and the repeal of laws directly or by implication, including renumbering when necessary;

C. Correcting defective or inconsistent section and paragraph structure arrangement of the subject matter of existing statutes;

D. Eliminating all obsolete and redundant words;

E. Correcting obvious errors and inconsistencies, including those involving punctuation, capitalization, cross-references, numbering, and wording;

F. Changing the boldface or italics to more accurately reflect the substance of each section, part, chapter, or title; and

G. Merging or determining priority of any amendments, enactments, or repealers to the same code provisions that are passed by the city council.

Chapter 2.120

FIRE DEPARTMENT

Sections:

2.120.010 Organization.

2.120.010 Organization.

Fire and emergency protection services in the city currently are performed by the Unified Fire Authority (the "*UFA*"), under the direction of the city manager, pursuant to interlocal agreement between the city and the various other governmental entities that are participants in the UFA. Notwithstanding the city's current method of obtaining fire and emergency protection services, the city may in the future elect to withdraw from the UFA and (a) change its fire and emergency protection services provider to another provider, (b) join as a participant in some other interlocal entity providing fire and emergency protection services to its participants, or (c) create its own fire department to provide fire and emergency protection in the city. At such time, if any, as the city elects to organize its own fire department, this chapter will be modified to provide the necessary organizational framework, designation of responsibilities and other guideline for such department.

Chapter 2.130

POLICE DEPARTMENT

Sections:

2.130.010 Organization.
2.130.020 Role and mission.
2.130.030 Functions.
2.130.040 Powers and duties.

2.130.010 Organization.

There is established the Cottonwood Heights Police Department, and the position of chief of police, who shall serve as the department head, be the appointing power and be responsible for the administration of the department. The chief of police shall have command over all of the officers, members and employees of the police department. The chief of police shall report to and be subject to supervision by the city manager.

2.130.020 Role and mission.

The role and mission of the police department is to foster professional law enforcement services that provide crime prevention programs, successful patrol techniques and effective traffic enforcement to ensure safe travel upon city streets, and secure businesses, industries and homes in which citizens and residents can safely work and live.

2.130.030 Functions.

The police department and its chief, by and through its sworn officers, shall be responsible for the following:

A. Preserving the public peace.

B. Preventing crime, emphasizing adoption of programs for crime prevention.

C. Detecting and arresting criminal offenders.

D. Protecting the rights of persons and property.

E. Regulating and controlling motorized, bicycle, and pedestrian traffic, emphasizing adoption of programs to prevent traffic accidents.

F. Training of sworn personnel.

G. Providing and maintaining police records and communication systems.

H. Supervising all related functions.

2.130.040 Powers and duties.

It shall be the duty of the chief of police, subject to the approval of the manager, to make and adopt rules and procedures for the operation and administration of the police department. The chief of police, acting by himself or the sworn officers of the police department, shall have the following powers and duties:

A. Execute and return all writs and process as directed by a court of competent jurisdiction. In criminal cases, quasi-criminal cases, or cases charging a violation of city ordinances, he may serve the same as authorized by law.

B. Suppress all riots, disturbances, and breaches of the peace.

C. Apprehend all disorderly persons in the city.

D. Pursue and arrest any persons fleeing from justice in any part of the state.

E. Apprehend any person in the act of committing any offense against the laws of the state or ordinances of the city and bring such person before a court of competent jurisdiction for examination and trial consistent with law.

F. Have like powers and be subject to like responsibilities as a sheriff or constable in similar cases.

G. Be responsible for prevention of accidents, crimes and other incidents prohibited by statute or ordinance.

H. Be responsible for the protection of life and property, all pursuant to and as provided by statute and ordinance.

I. Adopt a written policy regarding high speed chases, use of deadly force,

racial profiling, and use of nondeadly force (for example, tasers and clubs).

Chapter 2.140

STANDING ADVISORY COMMITTEES; VOLUNTEERS

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PART 1--GENERAL

2.140.101 Purpose.

The intent of this chapter is to encourage citizen involvement and obtain citizen advice and input through the formation of the various advisory committees described in this chapter and providing for volunteerism in the city. The committees and councils authorized by this chapter are in addition to the legislative advisory committees and the administrative advisory committees authorized in sections 2.30.180 and 2.40.070, respectively, of this title.

2.140.102 Application.

All of the advisory bodies referenced in this chapter shall be governed by this part 1 of this chapter.

2.140.103 Authority.

The committees, councils and other bodies authorized in this chapter and under sections 2.30.180 and 2.40.070 of this title are not vested with the authority to make decisions regarding the public's business. Instead, the sole purpose of such committees, councils and other bodies is to give non-binding advice to the city council and the city manager, as applicable, who will then make the necessary decisions concerning the public's business.

2.140.104 Appointment.

A. Membership on a body authorized by this chapter shall be limited to the city residents or qualified individuals who have a

vested interest in promoting the welfare of the city.

B. Members shall be appointed to the committee by the city manager, with advice and consent of the city council.

C. Unless otherwise specified in this chapter, each committee, board or the like shall consist of up to 11 members.

D. The appointment to the committee shall be for a three-year term or the length of the special purpose committee, whichever is less. A member may not serve more than two consecutive terms. If a member is appointed to complete an unexpired term, that member may be reappointed for two additional consecutive full terms. Terms of the initial membership of the committee, board or the like shall be staggered as necessary so that the terms of office of approximately one-third of the members shall expire each year, and (notwithstanding anything herein to the contrary) those members with initial terms of less than three years may be appointed to three consecutive terms. Notwithstanding the foregoing, however, a member may be re-appointed to additional successive terms beyond the foregoing limits if the city manager, with advice and consent of the city council, determines that such member serves a vital function on the committee that cannot otherwise be met without difficulty; that such member has attended at least 75% of the committee's meetings throughout the member's tenure and otherwise has provided meritorious service to the committee; and that re-appointment of such member to the successive term is in the best interests of both the committee and the city.

E. No member shall be compensated for service on an advisory body.

2.140.105 Meetings.

A. All advisory bodies shall meet at least once per calendar quarter. A schedule of regular meeting shall be set during the first meeting of the board and shall be provided to the city manager and the city recorder.

B. If a board determines that additional meetings are necessary, the schedule of additional meetings shall be timely provided to the city manager and the city recorder.

C. Written minutes of all meetings shall be kept, which shall include the date, time and place of the meeting; the names of the members present and absent; the substance of all matters discussed; a record of all votes taken; and any other information a member requests be entered into the minutes.

D. If requested by the city manager, the city recorder or the city attorney, meetings also shall be recorded, provided that the city shall provide the necessary equipment.

E. All meetings otherwise shall conform to the requirements of state law and city ordinance.

2.140.106 Quorum; Voting.

A. A majority of members of the committee shall constitute a quorum, and actions of the committee can be made by a majority of a quorum. Each member shall have one vote of equal weight. All voting shall be by voice vote, provided, however, that the chairman may call for a roll-call vote.

2.140.107 Officers.

A. A chairman and vice chairman shall be appointed and removed by the city manager. The chairman and vice chairman shall serve a one-year term, and shall not serve more than two consecutive terms. Unless otherwise specified by the city manager, the terms of the chairman and vice chairman shall begin March 1 and end on the last day of February of the following year.

B. The chairman shall preside at all meetings of the board and shall perform such duties as may be required by the city

manager or designee.

C. The vice chairman shall perform all duties of the chairman in his absence and shall attend to any other duties specified by the city manager or designee.

D. The chairman shall appoint a person to act as secretary of the board for the purpose of keeping minutes, etc. of the meeting. In the regular secretary's absence, the chairman shall appoint a substitute secretary to act pending the regular secretary's return.

2.140.108 Liaison; Support.

The city manager, with advice and consent of the city council, shall appoint a liaison from the city's executive or legislative branches to each committee. The city manager also may assign personnel, as deemed necessary, to assist each board, etc. in accomplishing its authorized functions and objectives

2.140.109 Removal or resignation.

Any member or officer of any board, committee or the like hereunder may be removed at any time by the city manager, with or without cause, with advice and consent of the city council. Resignation of any member shall be in writing delivered to the city manager.

2.140.110 Conflicts of interest.

Members of any board or the like hereunder shall be subject to conflict of interest provisions under the Municipal Officers' and Employees' Ethics Act and this title.

PART 2 — VOLUNTEERS

2.140.201 Definitions.

A. "*Volunteer*" means any person who donates approved services without pay or other compensation except expenses actually and reasonably incurred as approved by the city. "*Volunteer*" does not include community service workers.

B. "*Community service worker*" means any person who has been convicted of a criminal offense, any youth who has been adjudged delinquent, or any person or youth who has been diverted from the criminal or juvenile justice system, or other disciplinary system, and who performs a public service for an agency as a condition of the person's or youth's sentence, diversion, probation, or parole.

2.140.202 Status of volunteers.

A volunteer, authorized by the city manager, is considered an employee of the city only for the purposes of:

A. Receiving workers' compensation medical benefits, which shall be the exclusive remedy for all injuries and occupational diseases as provided under Chapters 1 and 2 of Title 35, UTAH CODE ANN.;

B. The operation of motor vehicles or equipment, if the volunteer is properly licensed to do so; and

C. Liability protection and indemnification normally afforded paid city employees.

2.140.203 Status of community service workers.

A community service worker is considered a government employee for purposes of receiving workers' compensation benefits, which shall be the exclusive remedy for all injuries and occupational diseases as provided under Chapters 1 and 2 of Title 35, UTAH CODE ANN.

2.140.204 Expenses.

Approved expenses for which volunteers may receive reimbursement include transportation, meals, travel expenses, lodging, uniforms, and/or supplies. Such

reimbursement in entirely dependent, however, upon the decision and resources of the individual city departments, with the appropriate financial approvals pursuant to city ordinances and policies.

PART 3 — YOUTH CITY COUNCIL.

2.140.301 Youth city council.

A. There is hereby created the "Cottonwood Heights Youth City Council."

B. The youth city council shall consist of a youth mayor, a youth city recorder, a youth treasurer, a youth public relations officer, a youth social officer, and youth service officer, and a youth educational officer, all of whom who shall be appointed by the city manager with the advice and consent of the city council.

C. The youth city council may have additional unlimited numbers of members serving as youth department heads, committee chairpersons and committee members, appointed by the city manager.

D. The youth city council may create subcommittees and use volunteers who are not on the youth city council to accomplish its purposes.

E. Youths who reside in the city or attend grades 9-12 in a school in the city shall be eligible to apply for participation in the youth city council.

2.140.302 Purpose.

The youth city council is created as an advisory body to the city to promote and provide an opportunity for the city's youths to acquire a greater knowledge of and appreciation for the political system of local government through active participation; and to obtain information and assistance from the youths regarding planning and implementation of social, educational, cultural and recreational activities for youths.

2.140.303 Length of terms.

A. The term of appointment for a member is one year.

B. Should a vacancy occur in any of the positions designated in section 2.140.301(B), nominees may be solicited and recommended to the city manager as soon as possible after notification of the vacancy.

2.140.304 Officers.

A. The youth mayor shall be the chair of the youth city council, and shall be appointed annually by the city manager with the advice and consent of the city council.

B. The youth city recorder shall be the secretary of the youth city council, shall be appointed annually by the city manager, and shall record all proceedings of the youth city council meetings.

C. The city manager, with advice and consent of the city council, shall appoint one or more representatives to the youth city council to be known as the youth city council advisor(s). The youth city council advisor(s) shall attend all meetings of the youth city council and provide leadership and support to the program.

D. Election and/or appointment of other officers may be held as provided in the bylaws.

2.140.305 Bylaws.

A. The youth city council shall prepare bylaws and submit them to the city council for approval. The bylaws shall include times of and procedures for meetings, quorum and voting requirements, purposes of the program, requirements for membership in the program, methods for conducting business and meeting notice requirements.

B. The youth city council, upon its own initiative, may propose amendments to the bylaws. Such amendments shall be submitted to the city manager for approval

and submission to the city council for final approval.

2.140.306 Operations.

A. As allowed by this chapter, the bylaws and other applicable law, and with the prior approval of the city manager, the youth city council may:

1. Assist the city council and city departments in solving problems and accomplishing goals in the community;

2. Take opportunities to acquire a greater knowledge of and appreciation for the political system of local government through active participation in local government;

3. Inform city government officials regarding planning and implementing of social, educational, cultural and recreational activities for youths;

4. Promote community pride by the development of activities, events and programs.

B. Any collection and expenditure of funds by the youth city council shall be under the direction of the city manager and the city council pursuant to budgeting and accounting procedures currently established by city ordinance and related policies, state law and other applicable regulations. The youth treasurer, with assistance from the youth city council advisor(s), may represent the youth city council's interests in budget discussions with the city manager and the city council.

PART 4 — ARTS COUNCIL.

2.140.401 Arts council.

The city hereby creates the "Cottonwood Heights Arts Council."

2.140.402 Purpose.

The arts council is created as an advisory body to the city to promote the arts and cultural events for the betterment of the city and its residents and to enhance the quality of life in the city. The arts council shall be under the primary supervision of the city manager.

2.140.403 Governance; Membership.

A. The arts council shall be governed and shall operate pursuant to the regulations set forth in this chapter.

B. The arts council shall consist of up to 13 members. The membership should be representative of the broad spectrum of the arts including literature, visual arts (such as sculpture, painting, and photography) and performing arts (such as music, drama, and dance). To the extent deemed appropriate by the city manager and city council, the members of the arts council may be from geographically diverse parts of the city, and may be selected to assure adequate representation of each of the various disciplines.

2.140.404 Operations.

The arts council shall:

A. Promote events and activities which encourage community residents to enjoy a broad spectrum of literary, visual and performing arts and dance;

B. Provide opportunities for residents to develop and display their talents by participating in literature, visual art exhibits and performing arts events; and

C. Promote other activities to expand and enhance the interests of residents in artistic and cultural events.

D. In furtherance of those purposes, the arts council may:

1. Organize performance of plays, music and other theatrical events;

2. Organize art exhibits and displays;

3. With prior city manager and city council approval, solicit gifts, grants and sponsors and conduct fund-raising events to advance the arts within the city and to accomplish its other authorized purposes;

4. Promote an inclusive and diverse programming and broad-based community involvement through the creation and support of sub-committees of the arts council, which may include separate sub-committees for: Literary Arts, Community Theatre; Youth Theatre; Visual Arts; and Instrumental Arts.

5. Advocate the arts as a significant element of school curriculum.

6. Promote resources including staffing, facilities, and funding which support the implementation of year-round cultural arts activities focused for the benefit of city residents.

7. Encourage and support other community-based art organizations which provide cultural art opportunities for city residents.

8. With prior city manager and city council approval, conduct other activities in furtherance of the city's goals.

E. Any collection and expenditure of funds by the arts council shall be under the direction of the city manager and the city council pursuant to budgeting and accounting procedures currently established by city ordinance and related policies, state law and other applicable regulations.

2.140.405 Sub-committees.

A. Each sub-committee established by the arts council shall be accomplished by:

1. Adopting a written motion, which is thereafter submitted to the city manager and the city council for approval; and

2. Staffing each sub-committee with at least one duly-appointed and currently serving member of the arts council. Other sub-committee members (who need not be members of the arts council) may be appointed to serve at the will of the arts council, provided that appointments and tenure shall be limited as necessary to provide meaningful opportunities for sub-committee service to a variety of qualified city residents.

B. Each proposed sub-committee member appointment by the arts council must be approved by the city manager. Each sub-committee serves only in an advisory capacity to the arts council, and shall be managed by, accountable to, and controlled by the arts council. Except for those arts council members who also are sub-committee members as provided in section (A)(2) above, sub-committee members are not arts council members and have no vote on the arts council.

PART 5 — *AD HOC* EVENTS COMMITTEES.

2.140.501 *Ad hoc* events committees.

A. The city may from time to time form additional committees or advisory bodies on an *ad hoc* basis to act as a resource to the city to assist in the formulation, planning and staging of community events in the city, including, without limitation, annual events such as the celebration of the city's incorporation in January, the Easter egg hunt for children and youth in April, the "Bark in the Park" event for city pet owners, the "Butlerville Days" event in July, and the "Light the Night" holiday lighting contest in December, all for the betterment of the city and its residents and to enhance the quality of life in the city.

B. Such *ad hoc* committees shall act to facilitate this purpose as directed by, or subject to the approval of, the city manager in consultation with the city council.

C. Membership on, and leadership of, such committees shall be at the invitation of the city manager with advice and consent of the city council, for such terms of service as the city manager, with advice and consent of the city council, may determine.

D. *Ad hoc* events committees formed under this part shall not generally be subject

to the requirements of sections 2.140.104, 2.140.106 or 2.140.107 of this chapter, except to the extent necessary to comply with applicable law.

PART 6 — HISTORIC COMMITTEE.

2.140.601 Intent.

The city recognizes that its historical heritage is among its most unique, irreplaceable and important assets. It is therefore the city's intent to identify, preserve, protect and enhance historic buildings, structures, sites, objects, and districts lying within the city limits.

2.140.602 Creation of committee.

A committee, to be called the "Cottonwood Heights Historic Committee," is hereby established by the city as follows:

A. The committee shall consist of a minimum of five members and a maximum of 11 members who are city residents with a demonstrated interest, competence, or knowledge in history or historic preservation, appointed for staggered three-year terms. A member may not serve more than two consecutive terms, except that if the member's initial term is less than three years, that member may be reappointed for two additional consecutive terms. Notwithstanding the foregoing, however, a member may be re-appointed to additional successive terms beyond the foregoing limits if the city manager, with advice and consent of the city council, determines that such member serves a vital function on the committee that cannot otherwise be met without difficulty; that such member has attended at least 75% of the committee's meetings throughout the member's tenure and otherwise has provided meritorious service to the committee; and that re-appointment of such member to the successive term is in the best interests of both the committee and the city.

B. To the extent available, two committee members shall be professionals, as defined by National Park Service regulations, from the disciplines of history, archaeology, planning, architecture or architectural history.

C. The committee shall meet at least once each calendar quarter and conduct business in accordance with the applicable open public meeting laws.

D. Written minutes of each committee meeting shall be prepared and made available for public inspection.

2.140.603 Commission duties.

The committee shall have the following duties:

A. Survey and inventory the city's historic resources. The committee shall conduct or cause to be conducted a survey of the historic, architectural, and archaeological resources within the city. The survey shall be compatible with the Utah Inventory of Historic and Archaeological Sites. Survey and inventory documents shall be maintained and shall be open to the public. The survey shall be updated at least every ten years.

B. Review proposed nominations to the National Register of Historic Places. The committee shall review and comment to the Utah State Historic Preservation Officer on all proposed National Register nominations for properties within the city. When the committee considers a National Register nomination which is normally evaluated by professionals in a specific discipline and that discipline is not represented on the committee, the committee shall seek expertise in that area before rendering its decision.

C. Provide advice and information.

1. The committee shall act in an advisory role to other officials and government departments regarding the identification and protection of local historic

and archaeological resources.

2. The committee shall work toward the continuing education of citizens regarding historic preservation and community history.

D. Advise and assist in the maintenance and rehabilitation of city-owned historic buildings and sites.

E. Under supervision of the city manager, apply for and administer grants and other financial aid for historic preservation projects in the city.

F. Cooperate in the enforcement of state historic preservation laws. The committee shall support the enforcement of all state laws relating to historic preservation, including, without limitation, UTAH CODE ANN. §§ 17A-3-1301 through 1306 ("*The Historic District Act*"); §§ 9-8-305, 307, and 308 (regarding the protection of Utah antiquities); and § 9-8-404 (regarding notification of the Utah State Historic Preservation Office of any known proposed action which will destroy or affect a site, building or object owned by the State of Utah and included on or eligible for the state or national registers).

G. Otherwise act to preserve the city's history by organizing historically related performances or other events; by organizing historical displays and exhibits; by collecting and preserving oral and written histories concerning the city, photographs, artifacts and the like, and by undertaking other actions within the scope of the historic committee's authorized purposes.

2.140.604 Historic site register.

The committee may designate historic properties in the city to the "Cottonwood Heights Historic Site Register" as a means of providing recognition to and encouraging the preservation of historic properties in the city.

A. Criteria for designating properties to the city's historic site register. Any district, building, structure, object or site may be designated to the city's historic site register if it meets all the criteria outlined below:

1. It is located within the city.
2. It is at least 50 years old.
3. Historic integrity:

(a) It retains its historic integrity, in that there are no major alterations or additions that have obscured or destroyed the significant historic features. Major alterations that would destroy the historic integrity include, but are not limited to, changes in pitch of the main roof, enlargement or enclosure of windows on the principal facades, addition of upper stories or the removal of original upper stories, covering the exterior walls with non-historic materials, moving the resource from its original location to one that is dissimilar to the original, additions which significantly detract from or obscure the original form and appearance of the structure when viewed from the public way.

(b) If the structure does not meet the integrity requirements outlined in subsection 3(a) of this section, it may still qualify for designation if it meets one of the following requirements for exceptional significance:

(1) It is directly associated with events of historic significance in the community.

(2) It is closely associated with the lives of persons who were of historic importance to the community.

(3) It exhibits significant methods of construction or materials that were used within the historic period.

B. Designation procedures. Any person, group, or government agency may nominate a property for listing in the city's historic site register. The nomination and listing procedures are as follows:

1. Completed intensive level survey documentation for each nominated property must be submitted to the committee.

2. The committee will review and consider properly submitted nominations at its next scheduled meeting. The committee

will notify the nominating party, either orally or in writing, one week prior to the meeting that the nomination will be considered and will place that item on the agenda posted for the meeting. The one-week notification may be waived at the nominating party's option in order to accommodate "last-minute" submittals.

3. The committee will review the documentation for completeness, accuracy and compliance with the criteria for designating historic properties to the city's historic site register and will make its decision accordingly.

C. Results of designation to the historic site register.

1. Owners of officially designated historic sites may obtain a historic site certificate from the committee containing the historic name of the property, the date of designation, and signatures of the mayor and the committee chairperson.

2. Proposed exterior work on historic site register structures requiring a building permit, sign permit or demolition permit is subject to the committee's prior review in order to ensure the preservation of such structures to the greatest degree possible.

3. If a historic site is to be demolished or extensively altered, the committee shall endeavor to document its physical appearance before that action takes place.

(a) The city will delay issuing a building permit, sign permit or demolition permit for a maximum of 30 days and will notify a member of the committee, which will take responsibility for the documentation.

(b) Documentation will include, at minimum, exterior photographs (both black-and-white and color slides) of all elevations of the structure. When possible, both exterior and interior measurements of the structure will be made in order to provide an accurate floor-plan drawing of the structure.

(c) The demolition permit will be issued after 30 days of the initial application whether or not the committee has documented the building. The permit may be issued earlier if the committee completes its documentation before the 30-day deadline.

(d) The documentation will be kept in the committee's historic site register files, which shall be open to the public.

D. Removal of properties from the historic site register. Properties which, in the committee's opinion, no longer meet the criteria for eligibility may be removed from the historic site register after review and consideration by the committee.

E. Amendment to historic site register. The city council may amend the historic site register adopted by the committee from time to time, including deleting existing sites or adding additional sites.

2.140.605 Historic landmark register.

Significant historic properties in the city may be designated to the "Cottonwood Heights Historic Landmark Register" for the purposes of recognizing their significance and providing protections, incentives and guidelines for their preservation. The structures on the city's historic landmark register from time to time shall be listed in chapter 19.86 of this code.

A. *Criteria for designating properties to the city's historic landmark register*. Any district, building, structure, object or site may be designated to the city's historic landmark register if it meets all the criteria outlined below:

1. It is located within the city.
2. It is at least 50 years old.
3.

(a) It is currently listed in the National Register of Historic Places and a copy of the approved National Register form has been placed in the local historic preservation files.

(b) A property not yet listed in the National Register must:

(i) Retain its historic integrity as defined

in section 2.40.040(A)(3)(a), and

(ii) Meet at least one of the following National Register criteria:

(1) Be associated with events that have made a significant contribution to the broad patterns of the community's history; or

(2) Be associated with the lives of persons significant in the community's past; or

(3) Embody the distinctive characteristics of a type, period, or method of construction or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or

(4) Have yielded, or may be likely to yield, information important in prehistory or history (archeological sites, for example).

4. Owner approval

(a) Individual properties. Except for properties already designated in chapter 19.86 of this code, the owner of the property must approve the action to designate his property to the city's historic landmark register by submitting to the committee a written statement to that effect. Once designated, however, the property shall remain on the register until its removal by action of the committee or city council.

(b) Historic districts. A majority of the property owners in a proposed historic district must be unopposed to creation of such historic district. Written objections from over 50% of the property owners in the proposed district will constitute lack of approval and will halt the designation process.

B. *Designation procedures*.

1. Submittal to the committee of complete intensive level survey or National Register of Historic Places documentation shall initiate the review process.

2. The committee shall place properly submitted nominations on the agenda for its next scheduled meeting and shall notify the nominating party and the property owner, either orally or in writing, 14 days prior to the meeting that the nomination will be considered. The 14-day notification period may be waived at the property owner's option. In the case of historic districts, notification of proposed nominations may be made by public notice placed in the local newspaper or posted in a public building.

3. The committee shall review the documentation for completeness, accuracy, and compliance with the criteria for designating properties to the city's historic landmark register and may, by passage of an appropriate resolution, designate properties to the city's historic landmark register.

C. *Notification and recording of designation*. Following designation by the committee, a notice of such shall be mailed to the owners of record together with a copy of this ordinance. In the case of historic district designation, notice of such may be placed in the local newspaper or in a public building rather than mailed to each owner of property in the district. If legally permissible, the committee shall record such historic landmark register status designation with the Salt Lake County Recorder's office.

D. *Results of designation to historic landmark register*.

1. Owners of properties designated to the city's historic landmark register may obtain a plaque to be placed on an outside wall of the structure and receive a historic landmark certificate from the committee containing the historic name of the property, date of construction, the date of designation and the signatures of the mayor and the committee chairperson.

2. Properties designated to the city's historic landmark register may receive special consideration in the granting of zoning variances or conditional use permits in order to encourage their preservation.

3. In the event of rehabilitation of the property, local building officials will

consider waiving certain code requirements in accordance with any provisions of the city's building code then in effect which deals with historic buildings, and the Uniform Code for Building Conservation, a special code for existing buildings.

4. Owners of structures on the city's historic landmark register may seek assistance from the committee in applying for grants or tax credits for rehabilitating their properties.

5. In addition to other protections provided to landmark structures in chapter 19.86 of this code, proposed modifications to any structure on the city's historic landmark register requiring a building permit, sign permit or demolition permit requires the prior review of the committee and the prior approval of the city's planning committee in order to ensure the preservation of the city's historic landmarks to the greatest degree possible. This review applies to individually designated historic landmark properties or any property, contributing or non-contributing, located in a historic landmark-designated historic district.

(a) Applications for building, demolition, or sign permits pertaining to historic landmark register structures shall be forwarded by the city's community development department to the committee prior to their issuance.

(b) A permit applicant, in order to obtain such a permit from the community development department, shall file a request for a certificate of appropriateness with the committee on a form furnished by the committee; provided, however, that the committee's issuance of such a certificate of appropriateness shall not in any way require the city's planning committee or its community development department to issue the requested permit.

(c) At its next scheduled meeting, the committee shall review the application and the proposed work for compliance with any standards for rehabilitation and design guidelines adopted by the committee and the city council.

(i) Applicants whose proposed projects comply with the provisions of this chapter and chapter 19.86 of this code shall be issued a certificate of historic appropriateness within ten days after the committee's meeting, which authorizes (but does not require or otherwise mandate) the issuance of the appropriate permit, subject to planning committee approval.

(ii) Applicants whose proposed projects are found to be in non-compliance with this chapter and/or chapter 19.86 of this code shall be offered a negotiating period of 60 days, during which time the committee and applicant shall explore all options for an acceptable solution. These may include the feasibility of modifying the plans, using the historic landmark for alternative purposes, and reselling the property to another party. The committee may extend the negotiating period an additional 60 days for the purposes described above if deemed necessary to accommodate a potential solution.

(iii) If no solution has been agreed upon at the conclusion of either the initial 60-day period or the full 120-day period, the certificate of historic appropriateness will be denied and the permit will not be issued.

(d) Claims of economic hardship. The committee may approve issuance of a certificate of appropriateness for rehabilitation or demolition of a landmark property if the owner has presented compelling, substantial evidence demonstrating that unreasonable economic hardship will result from denial of the certificate of appropriateness.

(i) Economic hardship criteria. In order to sustain a claim of unreasonable economic hardship, the committee may require the owner to provide evidence from a qualified

third party regarding whether the property is capable of producing a reasonable economic return for the owner.

(ii) Demonstration of economic hardship by the owner shall not be based on conditions resulting from willful or negligent acts by the owner, purchasing the property for substantially more than market value at the time of purchase, failure to perform normal maintenance and repairs, failure to diligently solicit and retain tenants, or failure to provide normal tenant improvements.

(e) An applicant who has been denied any permit by the city's community development department or planning committee, based on the committee's refusal to issue a certificate of historic appropriateness, may appeal that decision to the city council at any time within 30 days after the historic committee's decision.

E. *Removal of properties from the historic landmark register*. Properties which, in the opinion of the committee, no longer meet the criteria for eligibility may be removed from the city's historic landmark register after review and consideration by the committee and affirmative vote of the city council.

F. *Amendment to historic landmark register*. The city council may amend the city's historic landmark register from time to time, including deleting sites or adding additional sites.

G. *Enforcement*. The provisions of this section are subject to the enforcement provisions established in the city's building code and any other pertinent provisions of this code.

2.140.606 Standards for rehabilitation and design guidelines.

The committee may adopt standards and guidelines to be used by the committee in determining the historic appropriateness of any application pertaining to historic landmark register properties. Such standards and guidelines shall be subject to approval by the city council.

2.140.607 Severability.

The provisions of this part 6 of this chapter 2.140 are severable.

2.140.608 Conflicts.

In the event of any conflict between the provisions of this part 6 of this chapter 2.140 and the provisions of chapter 19.86 of this code, the provisions of chapter 19.86 shall control.

Chapter 2.150

BUDGET AND FISCAL PROCEDURES

2.150.010 Budget officer.
2.150.020 Preparation of tentative budget.
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2.150.090 Adoption of consolidated fee structure.
2.150.100 Payments made from bond proceeds.

2.150.010 Budget officer.

The city manager shall serve as the city's budget officer unless, with advice and consent of the city council, the city manager appoints another qualified person as the budget officer for the city. The budget officer's duties shall be as provided in the Utah Uniform Fiscal Procedures Act for Utah Cities, UTAH CODE ANN. §10-6-101, *et seq*. The budget officer shall be a subordinate of the city manager, and shall work under the city manager's supervision and direction.

2.150.020 Preparation of tentative budget.

A. During February of each year, the city manager and the budget officer shall meet with the city council and review the city's strategic plan, budget goals and policies.

B. The following policies shall be in effect in preparing the city's tentative and final budgets for each fiscal year:

1. The burden of financing city government should, with reasonable deviations, be financed in accordance with the basic principle of benefits received.

2. As a general principle, the broad group of basic services rendered to the general public, such as police and fire protection, streets and parks, should be financed from revenues imposed on the broad general public (such as through property taxes, sales taxes, franchise taxes or other broad-based taxes). The cost of increased demand on these services due to new development should be financed through the collection of development impact fees.

3. Special services rendered to special groups of citizens (whether individual or business groups) should be financed by special fees or assessments. Examples are:

(a) Special improvements to private property, paid for by abutting property owners;

(b) Regulatory license fees and permits imposed on individual businesses;

(c) Planning and permit fees imposed for planning and zoning services rendered for the benefit of real estate developers and individual home builders.

4. The city should seek to maintain stable tax rates for taxes imposed on the broad general public. As a general rule, growth or decline in population and new businesses should produce revenue increases or decreases approximately equal to the changing cost of existing services. As a guiding principle, therefore, the rate of property taxes or sales or franchise taxes should not be increased or decreased unless inflation or deflation has clearly changed operating costs faster than the natural changes in the tax base or changed levels of services are commenced.

5. The city will estimate its annual revenues in all budgeted funds by an

objective, analytical process; conservative estimates will be utilized.

6. The city will maintain a forward-moving projection of revenues for a three-year period in its principal operating funds. Each existing and potential revenue source will be reexamined annually and may be adjusted based on current experience concurrent with mid-year budget adjustments.

7. The city will utilize one-time or special-purpose revenues (such as program grants) for capital expenditures or for specific expenditures required by the terms of the grant, and not to subsidize recurring personnel and operation and maintenance cost, except where application of these added capital projects would result in increased operating costs.

8. Special fees, assessments, or user-type charges imposed to assist in financing activities in the city's general fund, which benefit special segments of the broad general public, shall be established at a level closely related to the cost of providing the relevant services.

9. Periodically, the city shall recalculate the full costs of activities supported by special fees or charges to identify the impact of inflation/deflation and other cost modifiers; such fees or charges will be adjusted to compensate for related cost changes.

10. The city shall actively seek all available grant and supplementary funding for operating or capital purposes in any fund.

11. A minimum 5% fund balance for restricted use, as required by law, with a desired target minimum of 6%, and a maximum of 18%, shall be permitted to accumulate in the city's general fund for the following purposes:

(a) To provide sufficient working capital;

(b) As a reserve for emergency situations, such as fire, flood or earthquake; or

(c) To cover any unanticipated deficit resulting from a shortfall in actual revenues in a given budget year. Emergency spending shall comply with ordinances and policies adopted by the city council.

12. Each department expenditure budget shall be prepared on the basis of true economic need and without regard for providing contingency within each department. Estimating budget expenditures shall be conservative.

13. Unless otherwise directed by the council in the February planning meeting, the budget officer’s proposed budget shall be prepared to continue providing the same level of service as was provided in the previous budget year.

14. The priorities of the city council’s budget goals or other strategic plans shall be provided for, as far as resources will allow.

15. Any proposals for increasing the city’s full-time staff will be specified in both the proposed department budgets and in the budget message.

16. The budget officer’s proposed budget shall comply with the present pay policy of the city, and the budget officer shall submit to the city council the amounts of funding which will be allocated for market adjustments, reclassifications, and cost of living adjustments.

17. Proposals for capital projects shall comply with any capital projects plan adopted by the city council. Funds allocated for capital projects which are not disbursed during a fiscal year because the capital project is incomplete shall be reserved for the same capital project in the budget of the following fiscal year.

18. Class C road moneys shall be budgeted exclusively for major maintenance, overlays, new construction of roads and items directly related to the same.

19. The fee rates of any enterprise funds shall be examined each year to ensure that revenues reasonably relate to necessary expenditures.

C. On or before the first regularly scheduled meeting of the city council in May of each year, the budget officer shall prepare for the ensuing year, on forms acceptable to the state auditor, and file with the city council, the proposed budget for each fund for which a budget is required. The proposed budget of each fund shall set forth in tabular form:

1. Actual revenues and expenditures in the last completed fiscal year.

2. Budget amounts for the current fiscal year.

3. Actual revenues and expenditures to date for the current fiscal year.

4. Estimated total revenue and expenditures to complete the current fiscal year.

5. The estimates of revenues and expenditure for the next upcoming year, computed in the following manner:

(a) The budget officer shall estimate, on the basis of demonstrated need, the expenditures for the budget year after a review of the budget requests and estimates of the department heads. Each department head shall be heard by the budget officer prior to making of his final estimates, but thereafter he may revise any department's estimate as he deems advisable for the purpose of presenting the budget to the city council.

(b) The budget officer shall estimate the amount of revenue available to serve the needs of each fund, and estimate the portion to be derived from each revenue source. Should such total revenue show a surplus to the projected expenditures, the budget officer shall provide recommendations to deal with that excess, including options for reduction of property and franchise tax and potential impact of each recommendation.

D. Each proposed budget, when filed with the city council, shall contain the estimates of expenditures submitted by department heads, together with specific work programs and such other supporting data as state statute or the city council may request. The budget officer may submit a supplementary estimate of all capital projects which each department head believes should be undertaken within the next three succeeding years.

E. Each proposed budget submitted to the city council shall be accompanied by a budget message, which shall explain the budget, contain an outline of the proposed financial policies of the city for the budget year, and shall describe in connection therewith the important features of the budgetary plan. It shall set forth the reasons for salient changes from the previous year in appropriation and revenue items and shall explain any major changes in financial policy.

F. The budget officer shall require all expenditures by any department to conform with the departmental budget.

G. To implement the system of budget control, including use of the encumbrance system, the budget officer shall keep separate accounts for the items of appropriation contained in the budget of each applicable fund, each of which shall show the amount of the appropriation, the recorded expenditures, the unexpended balance, the recorded encumbrances, and the unencumbered; and no expenditure shall be made against any departmental appropriation unless there is sufficient unencumbered balance in the department's appropriation, except in cases of emergency as provided in this chapter.

2.150.030 Adoption of tentative budget, preparation and adoption of final budget.

A. After a proposed budget has been submitted by the budget officer to the city council, it shall be reviewed, considered or amended, and adopted as the city council's tentative budget. Such adoption may take place in any regular meeting or special meeting called for that purpose. Prior to its adoption, it may be amended or revised in such manner as is deemed advisable by the city council.

B. No appropriation required for debt retirement and interest or otherwise required by law or ordinance may be reduced below the minimum so required.

C. At the meeting at which each tentative budget is adopted, the city council shall establish the time and place of a public hearing to consider its adoption as a final budget and shall order that notice be published at least seven days prior to the hearing in at least one issue of a newspaper of general circulation published in Salt Lake County. If there is no such newspaper, the notice required by this section may be posted in three public places within the city.

D. Each tentative budget adopted by the city council and all supporting schedules and data shall be a public record in the office of the city recorder and shall be available for public inspection at least 10 days prior to the adoption of a final budget.

E. At the time and place advertised, or at any time and place to which the public hearing may be adjourned, the city council shall hold a public hearing on the budget tentatively adopted. All interested persons in attendance shall be given an opportunity to be heard, for or against, the estimates of revenue and expenditures or any item thereof in the tentative budget of any fund.

2.150.040 Financial reports.

A. The city’s director of finance shall prepare and present to the city council monthly detailed financial reports prepared in the manner consistent with the Uniform Accounting Manual for Utah Cities.

B. Within 180 days after the close of each fiscal year, the finance director shall present to the city council an annual financial report prepared in conformity with generally accepted accounting principles, as prescribed in the Uniform Accounting Manual for Utah Cities.

1. This requirement may be satisfied by presentation of the audit report furnished by the independent auditor, if the financial statements included in the report are appropriately prepared and reviewed with the city council.

2. Notwithstanding the acceptability of the audit report furnished by the independent auditor in substitution for financial statements prepared by an office of the city, the city council has the responsibility of those financial statements. The independent auditor has the responsibility of reporting whether the city financial statements are prepared in conformity with generally accepted accounting principles.

3. Copies of the annual financial report or the audit report furnished by the independent auditor shall be filed with the state auditor and shall be filed as a public document in the office of the city recorder.

C. Within ten days following the receipt of the audit report furnished by the independent auditor, the finance director and the city recorder shall prepare and publish at least twice in a newspaper of general circulation published within the county a notice to the public that the audit of the city has been completed and that a copy may be inspected at the office of the city recorder.

2.150.050 Service fee for returned checks.

The city may assess and collect a returned check service fee from the maker or issuer of any check payable to the city when payment is dishonored upon first presentment by the bank upon which is drawn. The amount of the service fee is specified in the city's consolidated fee schedule. The assessment and collection of this fee shall not preclude the initiation of appropriate civil or criminal proceedings against the issuer or maker of the dishonored check.

2.150.060 Surplus property.

A. No city-owned property, except property that is consumed in normal operations, shall be disposed of or released to ownership by anyone other than the city unless such property has been declared surplus by the city council.

B. Whenever city property is surplus, unused, obsolete, unsuitable or otherwise no longer needed, the department head or designee having control of such property shall promptly so notify the finance director. The finance director then shall notify the city manager and other city departments of the availability of such property, and shall supervise the transfer of such property to the department requesting the property. If no use can be made or can be expected to be made within the reasonably foreseeable future, the property shall be disposed of in accordance with this section.

C. The finance director shall prepare and present a listing to the city council of all city-owned property which he feels is no longer needed by the city and which can be declared surplus. The city council may declare the property surplus and shall either establish a minimum bid for the sale of such property or declare that the property is of nominal value. If the city council has declared the items to be surplus and established a minimum bid, then the finance director shall proceed to sell such surplus property based on the highest and best economic return to the city. If the city council has declared the items to be surplus and declared that the property is of nominal value, then the finance director shall proceed to dispose of such surplus property as determined by the finance director.

D. The highest and best economic return to the city, as referred to herein, shall be determined by one or more of the following methods: (1) competitive bid; (2) evaluation by a qualified and disinterested appraiser; (3) other professional publication and valuation service; or (4) an informal market survey by the or designee in the case of items of personal property possessing readily discernable market value.

E. If the reasonable value of the property declared surplus by the city council exceeds $5,000, then the method to determine the highest and best economic return to the city shall be approved by the city council at the time the minimum bid is established. If the reasonable value of the property declared surplus by the city council is $5,000 or less, then the finance director shall disclose the method to determine the highest and best economic return to the city council before the sale occurs. After satisfying the requirements provided for in this section, the finance director may sell the surplus property based on its highest and best economic return to the city provided the sales price for the surplus property is equal or exceeds the minimum bid established by the city council.

F. Monetary proceeds from the sale or other disposition of such property pursuant to this section shall be credited to the general fund.

G. The city council may, by resolution, withdraw any surplus property from the surplus property list.

H. Notwithstanding anything in this code to the contrary:

1. A canine used for city law enforcement purposes may, upon its retirement from active service, be conveyed by the city to its handler (or other person determined by the city to be willing and able to provide affection and good care to the canine for the balance of its natural life) for the sum of $1 or such other amount as the city shall determine. Any such conveyance is subject to approval by resolution of the city council following recommendation by the city's chief of police, and may be conditioned on the buyer's agreement, in such form as the city may require, to release and indemnify the city (and its officers, employees and agents) of and from all liability arising from or related to such canine following its conveyance by the city to such buyer.

2. Upon an officer's retirement from the city's police department, the city council may, by resolution following recommendation by the city's chief of police:

(a) Award that retiree his badge as a memento of his service to the city; and/or

(b) Allow that retiree to purchase his pistol or other sidearm from the city for such consideration as the city council may deem appropriate, which may be less than the then fair-market value of such firearm.

3. Conveyances of police canines or equipment under this subsection 2.150.060(H) may occur without compliance with the surplusing and sale procedures applicable to other types of city property under subsections 2.150.060(A)-(G), above.

2.150.070 Disposal of significant parcels of real property.

A. If the property that is declared surplus pursuant to section 2.150.060 is a significant parcel of real property as defined in this section, then the finance director shall provide reasonable notice, as defined below, of the proposed disposition, at least 14 days before the proposed disposition, to provide the public an opportunity for comment on the proposed disposition.

B. If the finance director receives public comment on the proposed disposition, the finance director shall forward copies of such public comment to the city council. Thereafter, the city council may rescind its declaration of surplus property, direct the finance director to proceed with the sale, or impose such additional terms and conditions as the city council may adopt.

C. If the finance director does not receive public comment on the proposed disposition, the finance director may proceed with the sale after satisfying all of the other terms and conditions applicable to the disposition.

D. For purposes of this section, "*disposition*" shall mean to transfer control of city owned property to another by any means including, but not limited to, sale, lease or other type of conveyance of such property.

E. For purposes of this section, "*reasonable notice*" shall mean posting notice of the proposed disposition in at least three public places within the city and publishing notice of the proposed disposition in a newspaper of general circulation in the city.

F. For purposes of this section, "*significant parcel of real property*" shall mean a parcel of real property owned by the city with a reasonable value equal to or greater than $250,000 or reasonable yearly rental value equal to or greater than $50,000.

2.150.080 Cost recovery—Fee structure.

A. It is the intent of the city council to require the ascertainment and recovery of reasonable costs from fees, charges and regulatory license fees levied by the city in providing regulation, products or services.

B. The fee and service charge revenue/cost comparison system set forth in this section is intended to assure that fees adopted by the city for services rendered do not exceed the reasonable cost to the city to provide such services.

C. In this section, "*reasonable cost*" means and consists of the following elements:

(1) All applicable direct costs including, without limitation, salaries, wages, overtime, employee fringe benefits, services and supplies, maintenance and operation expenses, contracted services, special supplies, and any other direct expense incurred.

(2) All applicable indirect costs including, without limitation, building maintenance and operations, equipment maintenance and operations, communications expenses, computer costs, printing and reproduction, vehicle expenses, insurance, debt service, and like expenses when distributed by a documented proration system of accounting.

(3) Fixed asset recovery expenses, consisting of depreciation of fixed assets, and additional fixed asset expense recovery charges calculated on the current estimated cost of replacement, divided by the approximate life expectancy of the fixed asset. A further additional charge to make up the difference between book value depreciation not previously recovered and reserved in cash and the full cost of replacement also shall be calculated and considered a cost so as to recover such unrecovered costs between book value and cost of replacement over the remaining life of the asset.

(4) General overhead, expressed as a percentage, distributing and charging the expenses of the city council, city attorney, city manager, city recorder, finance department, personnel office, and all other staff and support services provided to the entire city organization, which costs are not otherwise directly distributed to service centers. Overhead shall be prorated between tax-financed services and fee-financed services on the basis of such percentage so that each of taxes and fees and charges shall proportionately defray such overhead costs.

(5) Departmental overhead, expressed as a percentage, distributing and charging the cost of each department head and his supporting expenses as enumerated in subsections C(1), C(2), C(3) and C(6) of this section.

(6) Debt service costs, consisting of repayment of principal, payment of interest, and trustee fees and administrative expenses for all applicable bond, certificate or securities issues or loans of whatever nature or kind. Any required coverage factors or required or established reserves beyond basic debt service costs also shall be considered a cost if required by covenant within any securities ordinance, resolution, indenture or general law applicable to the city.

D. The city council may adopt, by resolution or by ordinance, fees and charges for city services designed to assure the city's recovery of its reasonable costs of providing such services. Without limiting the foregoing, the city council may from time to time adopt a consolidated fee schedule describing such part, or all, of the city's fee structure as the city council may elect.

E. The city manager, with assistance of the city's director of finance, other administrative staff, and such experts as may be retained by the city, shall assist the city council to implement the policy expressed in this section.

F. Annually, as part of the budget adoption process, the city manager, finance director and each city department head, under the direction of the city manager, shall review the fees and service charges adopted pursuant to resolution or ordinance of the

city council, determine whether adjustment of such fee schedule is warranted to assure compliance with the policy expressed above, and provide, as necessary, an adjusted fee schedule to the city council for its consideration.

1. The schedule of frequency of rate adjustments may be varied by the city manager to adjust revenues sufficient to meet debt service coverage requirements of any bond, certificate or ordinance, resolution, indenture, contract or action under which securities have been issued by the city which contain any coverage factor requirement.

2. The city manager also may vary the review schedule listed in this subsection if, in the judgment of the city manager and a directly affected and requesting department head, a gross inequity would be perpetrated by not revising the rate schedule.

G. The city council may hold a public hearing before adopting any increases to any consolidated fee schedule then in effect.

H. Any person who is required to pay a fee adopted by the city council, and who feels that the fee in question is unreasonable under the standards set forth in this section, may appeal in writing to the city council within 15 calendar days after imposition and payment of the fee. At the city council's discretion, such appeal may be placed on the agenda of a city council meeting within 60 days of receipt of such appeal and heard at such city council meeting. If the city council determines that such fee or charge is excessive under the standards set forth in this section, the city shall refund the excessive portion of the fee within 30 days following such determination.

2.150.090 Adoption of consolidated fee structure.

From time to time the city council may by ordinance adopt, amend or revoke a consolidated fee schedule for the city in lieu of listing the amounts of specific fees in this code. References in this code to the "*city's consolidated fee schedule*," the "*consolidated fee schedule*," the "*fee schedule*" or the like shall constitute references to the then-current consolidated fee schedule of the city and the fees described therein.

2.150.100 Payments made from bond proceeds.

Payments made from proceeds of any bond shall only be used for the purposes contemplated by the bond.

Chapter 2.160

PURCHASING GOODS AND SERVICES

Sections:

2.160.010 Purpose.
2.160.020 Application.
2.160.030 Definitions.
2.160.040 Purchasing agents.
2.160.050 Authority to use pre-approved forms; Authority of manager to sign some items.
2.160.060 Bid evaluation
2.160.070 Responsibility of bidders and offerors.
2.160.080 Right to inspect facilities and audit records.
2.160.090 Reporting of anti-competitive practices.
2.160.100 Pre-qualification.
2.160.110 Competitive sealed bidding.
2.160.120 Competitive sealed proposals (RFP).
2.160.130 Minimal purchases.
2.160.140 Small purchases.
2.160.150 State contract purchasing.
2.160.160 Recent purchases by another government agency.
2.160.170 Contracting for designated professional services.
2.160.180 Contracts with other governmental entities.
2.160.190 Sole source procurement.
2.160.200 Emergencies, public threats and unforeseen conditions.
2.160.210 Procurement protests.
2.160.220 Sanctions
2.160.230 Remedies for solicitations or awards in violation of law.
2.160.240 Petty cash accounts.
2.160.250 Blanket purchase order.
2.160.260 Routine expenditures.
2.160.270 Payroll obligations.
2.160.280 Providing information and records.
2.160.290 Administrative regulations and policies.

2.160.010 Purpose

The purpose of this chapter is to set forth procedures governing purchasing that benefit the city and its citizens, provide for the economical and efficient purchase of goods and services, and maximize the purchasing power of public funds.

2.160.020 Application.

This chapter applies to all expenditures by the city for public purchasing, irrespective of the source of the funds. When the procurement involves the expenditure of state or federal assistance or grant funds, the procurement shall be conducted in accordance with any mandatory applicable state or federal law and regulation and this chapter. Nothing in this chapter shall prevent the city from complying with the terms and conditions of any grant, gift or bequest that is otherwise consistent with law.

2.160.030 Definitions.

A. "*Business*" means any corporation, limited liability company, partnership, individual, sole proprietorship, joint stock company, joint venture, or any other private legal entity.

B. "*Business day*" means any day when the city administration offices are open for public business.

C. "*Construction*" means the process of building, altering, repairing, improving, or demolishing any public structure or building, or other public improvements of any kind to any public real property. It does not include the routine repair or routine maintenance of existing structures, buildings, or real property.

D. "*Contractor*" means any person having an agreement with the city.

E. "*Department*" means any city department, commission, committee, board, or agency requiring the procurement of supplies, services, or construction pursuant to this chapter.

F. "*Director of finance*" means the city's appointed director of finance.

G. "*Employee*" means an individual drawing a salary or wages from the city, whether elected or not; any non-compensated individual performing personal services for the city or any department, agency, commission, council, board, or any other entity established by the executive or legislative branch of the city; and any individual serving as an elected official of the city.

H. "*Invitation for bids*" means all documents, whether attached or incorporated by reference, utilized for soliciting sealed bids.

I. "*Manager*" means the city's appointed manager.

J. "*Person*" means any business, individual, union, committee, club, other organization, or group of individuals.

K. "*Procurement*" means the buying, purchasing, renting, leasing, or otherwise acquiring of any supplies, services, or construction, including description of requirements, selection, and solicitation of sources, preparation and award of agreement, and all phases of agreement administration.

L. "*Professional services*" means those services that are provided by a person skilled in the practice of a learned or technical discipline. Providers of professional services often require prolonged and specialized intellectual training, and profess attainments in special knowledge as distinguished from mere skills. Disciplines may include, but are not limited to, accounting, auditing, court reporting, experts in a specialized field, finance, law, materials testing, medicine, and others.

M. "*Public agency*" means a public entity subject to or created by the city.

N. "*Purchasing agent*" means the director of finance or other persons designated in this chapter to procure supplies, services, or construction on behalf of the city.

O. "*Request for proposals"* or "*RFP*" means all documents, whether attached or incorporated by reference, utilized for soliciting proposals.

P. "*Responsible bidder or offeror*" means a person who has the capability in all respects to perform fully the agreement requirements, and the experience, integrity, reliability, capacity, facilities, equipment, and credit which will assure good faith performance.

Q. "*Responsive bidder*" means a person who has submitted a bid which conforms in all material respects to the requirements set forth in the invitation for bids.

R. "*Services*" means the furnishing of labor, time, or effort by any person, including professional services.

S. "*Supplies*" means all property, including, without limitation, equipment, materials, printing, insurance, and leases of real property, but excluding land or a permanent interest in land.

2.160.040 Purchasing agents.

A. The director of finance shall be the supervisor of the city's purchasing procedures. The director of finance or designee shall act as purchasing agent. The manager may also act as the city's purchasing agent at any time. With the manager's prior approval, the director of finance may delegate authority to purchase certain supplies, services, or construction items to other city officials, if such delegation is deemed appropriate for the effective procurement of those items.

B. Except as otherwise provided herein, the purchasing agent shall be responsible for the procurement of all supplies and services in accordance with this chapter.

C. In accordance with this chapter, and subject to the director of finance's supervision and the manager's oversight, the purchasing agent shall:

1. Procure or supervise the procurement of all supplies, and services needed by the city;

2. Sell, trade, or otherwise dispose of surplus supplies belonging to the city; and

3. In cooperation with the city department using the supplies and services, establish and maintain programs for bid specifications, specification development, inspection, review and acceptance.

2.160.050 Authority to use pre-approved forms; Authority of manager to sign some items.

The city council may authorize the manager to sign any agreement, purchase order, obligation, form, or other document that has been approved as to form by the city council. In addition, the manager has authority to sign all documents necessary to allow the city to make minimal purchases and small purchases, as defined in this chapter. Any contract or written obligations signed by the manager pursuant to this section must also be countersigned by a facsimile signature of the mayor and attested by the city recorder.

2.160.060 Bid evaluation.

A. *Generally*. Bids, proposals, and related matters shall be evaluated using the criteria in this section.

B. *City's evaluation process*. When evaluating matters, the city shall consider the following:

1. Solicitation criteria. The city shall consider the evaluation criteria stated in a bid or proposal package or other solicitation document.

2. Policy criteria. As further described in this section, the city shall consider whether a bid, proposal or other offer or submission is responsive to the city's request; whether the bidder or offeror is responsible; and whether any element conflicts with the other criteria of this chapter.

(a) Due diligence. The city may take steps as it deems appropriate to verify and determine any matter. The city shall determine in its sole discretion what steps may be appropriate in light of the matters being considered and the resources of the city. The failure to discover any matter shall not preclude any subsequent evaluation or action.

(b) Records. In the manner it shall determine, the purchasing agent shall retain in the procurement file records relevant to a solicitation or award; provided, however, that if the award contract is approved by resolution of the city council, the city recorder shall keep the procurement file records.

(c) Evaluating responsiveness. To be responsive, a bid, proposal or other offer or submission must conform in all material respects to the terms of the city's solicitation documents. Such terms may include, without limitation, using bid forms, mandatory submittals, required securities, and appropriate substantive responses. Ministerial errors and other matters in a bid, proposal or other offer or submission will not necessarily render it non-responsive, and the purchasing agent shall review such matters and determine whether the submission is responsive. The purchasing agent may evaluate responsiveness based on any additional reasonable criteria.

(d) Evaluating responsibility. To be responsible, a bidder or offeror must have

the capability in all respects to fully perform the agreement requirements, and the integrity, capacity and reliability which will assure timely, proper performance.

(e) Factors. The city may consider any relevant factors when evaluating responsibility, including, without limitation, the following:

(i) The bidder's capacity to perform the contractual requirements, including whether the bidder has available appropriate financial, material, equipment, facility and personnel resources and expertise, or the ability to obtain them. Without limitation, capacity may also include legal capacity to enter agreements, the ability to perform within required times, or the ability to perform any necessary future service and maintenance.

(ii) The bidder's ability, skill and quality of performance.

(iii)The bidder's character, integrity, reputation, judgment, experience and efficiency.

(iv)The bidder's ability to work cooperatively with the city, including, without limitation, whether the bidder has previously failed to comply with city agreements or other requirements; non-payment of sums due to the city; poor working relationships with or adversarial actions against the city; prior suspension or other proceedings by the city against the bidder; or failure to assist the city in determining responsibility.

(f) Making a determination. The submission of any bid, proposal or other offer or submission constitutes an agreement by the bidder or offeror to reasonably assist the city with its determination of responsibility.

(g) Effect of determination. The city's determination of responsibility relates solely to a bidder's overall ability to perform for a specific procurement, and is not a general assessment of a bidder's capabilities.

(h) Evaluating specific matters. For any bid, proposal, other offer, or submission:

(i) Tie bids. Tie bids occur when identical prices are submitted from responsive and responsible bidders and that price is the low bid. The purchasing agent shall make an award in a manner that is beneficial to the city, and may make an award in manner that will discourage tie bids. Such may include:

(1) Award to the person closest to the point of delivery.

(2) Award to the person who previously held the agreement.

(3) Award to the person with the earliest delivery date.

(ii) Only one bid received. If the city receives only one responsive bid, proposal or other offer or submission, the city may make an award to that bidder or offeror if the purchasing agent determines that the bid, proposal or other offer or submission is fair and reasonable and conforms to all applicable requirements, and that other prospective bidders or offerors had reasonable opportunity to respond or that there is not adequate time for a re-solicitation. The written determination and basis for decision by the purchasing agent shall be placed in the procurement file. Alternatively, the city may reject the sole bid, proposal or other offer or submission.

(i) Inspections and tests. The city may perform inspections, tests and other evaluations in any manner conducive to the city's interest, including, without limitation, the use of third parties. All prospective and actual recipients of a bid or agreement shall provide all reasonable assistance and information required by the city to perform any such inspection, test or other evaluation.

(j) Modifying submissions. After the time for submission, a bid, proposal or other offer or submission may be modified as follows:

(i) Confirmation. When it appears a mistake has been made, or when the city desires an assurance of any matter, the city may request a bidder or offeror to confirm in writing such bid, proposal or other offer or submission.

(ii) Notification of Error. A bidder or offeror shall notify the purchasing agent of any error contained in a bid, proposal or other offer or submission within two business days after bid opening or the time for submitting proposals unless the purchasing agent waives this requirement. The purchasing agent shall have sole discretion to determine whether to permit any such modification or withdrawal.

(iii)Modifications by agree-ment. The purchasing agent may agree with a bidder or offeror to any modifications so long as they do not prejudice fair competition or the city's interests. Modifications may include such matters as the following:

(1) Time for accepting. The purchasing agent and bidder or offeror may agree that a bid, proposal or other offer or submission will remain effective for a longer period of time than that stated in the bid, proposal or other offer or submission.

(2) Subcontractor or supplier changes. Any proposed change in subcontractors or suppliers must be submitted to the purchasing agent, and the purchasing agent may reject any such proposed change. The bidder or offeror will receive no additional compensation as a result of a change to any subcontractors or suppliers, and must continue to meet the requirements of any federally-mandated program and other contractual and legal requirements.

(3) Change in specifications. The pur-chasing agent and bidder or offeror may agree to a change in specifications when such change is in the city's interest, is reasonably related to the work originally solicited, and would not be prejudicial to fair competition.

(4) City's correction of ministerial mistakes. The purchasing agent may at any time correct mistakes in a bid or proposal that are of a ministerial or minor nature. Ministerial or minor informalities are clerical errors and matters of form rather than substance that are evident from the document, or insignificant mistakes or informalities that can be waived or corrected without prejudice to other bidders or offerors. They generally do not have a substantial effect on price. Examples include a failure to:

a. Sign the bid, proposal, or other submissions requiring signature, but only where they are accompanied by other materials indicating intent to be bound.

b. Acknowledge receipt of an addendum, but only if the materials demonstrate the bidder or offeror received the addendum and intended to be bound by it, or the addendum has a negligible effect on the bid, proposal or other offer or submission.

(5) City's correction of mistakes where the intent is evident. If the intent of the bid, proposal or other offer or submission is clearly evident on the face of the document, the purchasing agent shall correct it as intended and it may not be withdrawn. Examples include:

a. Typographical errors.
b. Errors in extending unit prices.
c. Transposition errors.
d. Arithmetical errors.
e. Differences in written and numerical prices (written shall control).

(6) No withdrawal for mistakes where intent is not evident. If the bidder or offeror's intent is not clearly evident on the face of the document, the bid, proposal or other offer or submission may not be withdrawn except as agreed by the purchasing agent.

(7) Correcting errors in judgment. Errors in judgment may not be corrected, and the

bid, proposal or other offer or submission may not be withdrawn, except as agreed by the purchasing agent. The purchasing agent may allow correction of an error in judgment if it can be done without prejudice to other bidders or offerors. The purchasing agent may allow withdrawal if it is in the city's interest.

2.160.070 Responsibility of bidders and offerors.

Bid and performance bonds or other security as specified on the city's bid form are required on all construction contracts in excess of **$5,000** (or such lesser threshold as may be required from time to time by state law) and may be requested for supply agreements or service agreements as the purchasing agent deems advisable to protect the city's interests. Any such bonding requirements shall be set forth in the solicitation. Bid or performance bonds shall not be used as a substitute for a determination of a bidder or offeror's responsibility.

2.160.080 Right to inspect facilities and audit records.

The city may, at reasonable times:

A. Inspect the part of the plant, place of business, or worksite of a contractor or subcontractor which the city determines is pertinent to the performance of any agreement awarded or to be awarded by the city; and

B. Audit the books, accounting and any applicable records of any contractor or subcontractor.

2.160.090 Reporting of anti-competitive practices.

When for any reason collusion or other anticompetitive practices are suspected among any bidders or offerors, a notice of the relevant facts shall be transmitted to the city attorney.

2.160.100 Pre-qualification.

Where deemed appropriate by the city, bidders, proponents and/or suppliers may be pre-qualified for particular types of supplies, services and construction to determine the responsibility of such persons.

A. *Standard of responsibility*. Factors to be considered in determining whether the standard of responsibility has been met by a bidder or supplier in connection with a pre-qualification include:

1. Availability of the appropriate financial, material, equipment, facility and personnel resources and expertise, or the ability to obtain them, necessary to indicate the capability of the bidder or supplier to meet all contractual requirements;

2. A satisfactory record of performance;

3. A satisfactory record of integrity;

4. Legal qualifications to contract with the city; and

5. Whether all necessary information has been supplied in connection with the inquiry concerning responsibility.

B. *Information pertaining to responsibility*. In connection with a proposed pre-qualification, the bidder, proponent or supplier shall supply information requested by the city concerning the responsibility of such person. If such information is not supplied, the city shall base its determination of responsibility upon any available information or may find the bidder or supplier non-responsible if such failure is unreasonable, as determined by the city.

2.160.110 Competitive sealed bidding.

A. *Conditions for use*. All city purchases shall be awarded and obtained by competitive sealed bidding except as otherwise provided in this chapter.

B. *Invitation for bids*. Each competitive sealed bid proceeding shall be commenced by the purchasing agent or designee issuing

an invitation for bids, which shall include specifications and all contractual terms and conditions applicable to the procurement, and otherwise shall be in compliance with this chapter. All specifications shall be drafted so as to promote overall economy for the purposes intended and to encourage competition in satisfying the city's needs, and shall not be unduly restrictive. The policy set forth in this section applies to all specifications including, without limitation, those prepared for the city by architects, engineers, designers, and draftsmen.

C. *Public notice*. All noticing shall be processed through the city recorder or designee. Adequate public notice of the invitation for bids shall be given for a reasonable time, and not less than five working days prior to the date set forth therein for the opening of bids. Such notice may include publication in a newspaper of general circulation a reasonable time prior to bid opening. The public notice shall state the place, date, and time of bid opening.

D. *Bid opening*. All bids shall be accepted and opened by the city recorder or designee. Bids shall be opened publicly in the presence of one or more witnesses at the time and place designated in the invitation for bids. The amount of each bid, the name of each bidder, and such other relevant information as the purchasing agent deems appropriate, shall be recorded; the record and each bid shall be open to public inspection.

E. *Bid acceptance and evaluation*. Bids shall be unconditionally accepted without alteration or correction, except as authorized in this chapter. Bids shall be evaluated based on the requirements set forth in the invitation for bids, which may include, without limitation, criteria to determine acceptability such as inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose. The invitation for bids shall set forth the evaluation criteria to be used. No criteria may be used in bid evaluation that are not set forth in the invitation for bids. Those criteria that will affect the bid price and be considered in evaluation for award (such as discounts, transportation costs, and total or life cycle costs) shall be objectively measurable.

F. *Correction or withdrawal of bids; cancellation of awards*. Correction or withdrawal of inadvertently erroneous bids before or after bid opening, or cancellation of awards or agreements based on such bid mistakes, may be permitted by the purchasing agent where appropriate. Mistakes discovered before bid opening may be modified or withdrawn by written, telegraphic or facsimile notice received in the office designated in the invitation for bids prior to the time set for bid opening. After bid opening, corrections in bids shall be permitted only to the extent that the bidder can show by clear and convincing evidence that a mistake of a nonjudgmental character was made, the nature of the mistake, and the bid price actually intended. After the bid opening, no changes in bid prices or other provisions of bids prejudicial to the interest of the city or fair competition shall be permitted. In lieu of bid correction, a low bidder alleging a material mistake of fact may be permitted to withdraw its bid if:

1. The mistake is clearly evident on the face of the bid document but the intended correct bid is not similarly evident; or

2. The bidder submits evidence which clearly and convincingly demonstrates that a mistake was made. All decisions to permit the correction or withdrawal of bids, or to cancel awards or agreements based on bid mistakes, shall be supported by a written determination made by the purchasing agent.

G. *Award*. Award shall be made with reasonable promptness by written notice to the lowest responsible and responsive bidder

whose bid meets the requirements and criteria set forth in the invitation for bids, unless otherwise provided for in this chapter. Such notice shall be sent by mail, facsimile transmission, electronic mail and/or by posting on the city's web site.

H. *Multi-step sealed bidding*. When it is considered impractical to prepare an initial purchase description to support an award based on price, an invitation for bids may be issued requesting the submission of unpriced offers to be followed by an invitation for bids limited to those bidders whose offers have been determined to be technically acceptable under the criteria set forth in the first solicitation.

I. *Cancellation of invitation for bids*. An invitation for bids or other solicitation may be canceled, or any or all bids or proposals may be rejected in whole or in part, as may be specified in the solicitation, when it is in the city's interest. Each solicitation issued by the city shall state that the solicitation may be canceled and that any bid or proposal may be rejected in whole or in part when in the best interests of the city. Notice of cancellation shall be sent to all persons responding to the solicitation, which notice shall identify the solicitation, explain the reason for cancellation and, where appropriate, explain that an opportunity will be given to compete on any re-solicitation or any future procurement of similar items.

2.160.120 Competitive sealed proposals (RFP).

A. *Conditions for use*. When the purchasing agent determines in writing that the use of competitive sealed bidding is either not practicable or not advantageous to the city, a purchase may be made by use of the competitive sealed proposals method described in this section.

B. *Request for proposals*. Competitive sealed proposals shall be solicited through a request for proposals ("*RFP*").

C. *Public notice*. Adequate public notice of the RFP shall be given in the same manner as provided in subsection 2.160.110(C).

D. *Receipt of proposals*. No proposal's contents, except for the names of the offerors, shall be disclosed to competing offerors during the process of negotiation. A register of proposals shall be prepared containing the name of each offeror, the number of modifications received, if any, and a description sufficient to identify the item offered. The register of proposals shall be open for public inspection only after award.

E. *Evaluation factors*. The RFP shall state the relative importance of price and other evaluation factors, including the quantitative basis for evaluation. No criteria may be used in an RFP response evaluation that is not set forth in the RFP.

F. *Discussion with responsible offerors and revisions to proposals*. As provided in the RFP, discussions may be conducted with responsible offerors who submit proposals determined to have a reasonable chance of being selected in order to clarify and assure full understanding of, and conformance to, the solicitation requirements. Offerors shall be accorded fair and equal treatment to discuss and revise proposals in writing and such written revisions may be permitted after submissions and prior to award to obtain best and final offers. In conducting such discussions, there shall be no disclosure of any information derived from proposals submitted by competing offerors, except for the names of the offerors.

G. *Award*. Award shall be made to the responsible offeror whose proposal is determined in writing to be the most advantageous to the city, taking into consideration price and the evaluation factors set forth in the RFP. No other factors or criteria shall be used in the

evaluation. The file shall contain the basis on which the award is made.

H. *Cancellation of an RFP*. An RFP or other solicitation may be canceled, or any or all bids or proposals may be rejected in whole or in part, as may be specified in the solicitation, when it is in the best interests of the city. Each solicitation issued by the city shall state that the solicitation may be canceled and that any bid or proposal may be rejected in whole or in part when in the city's interest. Notice of cancellation shall be sent to all persons responding to the solicitation

2.160.130 Minimal purchases.

A. *Applicability*. This section applies to the purchase of goods, supplies, materials, equipment or services having a total value of not more than **$3,000**. So long as funds used for such purchases are part of the approved annual budget for the department making the purchase, a purchase order may be issued upon approval of the department head.

B. *Authorized parties*. Only the purchasing agent, department heads and employees designated by department heads may make minimal purchases under this section.

C. *Procedure*. Minimal purchases may be made by any reasonable means. Documentation shall be retained by the purchaser and archived in the individual department's purchase records to demonstrate reasonableness.

D. *Manipulation prohibited*. Purchases shall not be artificially divided into smaller amounts to fall within this section. Such prohibition includes, without limitation, awarding numerous purchases to a single person for substantially similar performances, or by dividing the work required for a single project solely for purposes of making use of this section.

2.160.140 Small purchases.

A. *Applicability*. This section applies to the purchase of goods, supplies, materials, equipment or services, having a total value of not more than $**25,000**, when such purchase is approved in writing in advance by the head of the department making the purchase and the manager. So long as funds being used are available under the approved budget, no other approval is required.

B. *Authorized parties*. Only the purchasing agent, department heads and employees designated by department heads shall make small purchases as defined in this section. In making small purchases, the following procedures shall be used in lieu of a bid or proposal process:

1. Solicitation and award. Purchases shall be made by soliciting quotes from no fewer than three vendors. Such solicitation may be completed in any reasonable manner including, without limitation, telephone inquiry, internet search or other price comparison. Award shall be made to the vendor offering the lowest responsible quotation.

2. Records. Any department making a small purchase shall retain a record of the names of the prospective vendors contacted, those offering quotations, and the date and amount of each quotation, and shall document all quotes received.

C. *Manipulation prohibited*. Purchases shall not be artificially divided to fall within this section. Such prohibition includes, without limitation, awarding numerous purchases to a single person for substantially similar performances, or by dividing the work required for a single project solely for purposes of making use of this section.

D. *Small purchase modifications and renewals*. Any agreement solicited under this section shall not be modified in excess of the maximum dollar limit specified above, or renewed on a successive basis with the same party, without written

approval of the purchasing agent or the manager.

2.160.150 State contract purchasing.

Because an appropriate bid procedure has already been completed by the state of Utah, any item that is a state contract item may be purchased without following any otherwise applicable bid requirements, provided that the purchasing agent or department head making the purchase shall document the state contract number used and record that information in the purchase file.

2.160.160 Recent purchases by another government agency.

When purchasing supplies, material or equipment from a vendor who has been awarded a bid for the same items from another governmental entity within the preceding 90 days, the price paid by the other governmental entity shall be deemed to be the lowest price available for such items and the city need not follow any other bidding requirements, provided that the purchasing agent or department head making the purchase shall maintain in the purchase file appropriate documentation demonstrating compliance with the requirements of this section.

2.160.170 Contracting for designated professional services.

The city may procure the services of financial and legal advisors, architects, engineers, accountants, physicians, dentists, veterinarians, and construction managers as defined by the laws of the state of Utah, and similar professional services, as negotiated based on demonstrated competence and qualification and at fair and reasonable prices.

2.160.180 Contracts with other governmental entities.

Whenever the city agrees to make purchases together with another governmental entity, and the agreement is entered in compliance with the solicitation procedures of that other entity, the city shall be deemed to have complied with the city's solicitation requirements. Contracted services from other governmental entities are exempt from any requirements to obtain bids or quotes. Unless not legally required, all contracts with other governmental entities shall comply with the Interlocal Cooperation Act (UTAH CODE ANN. § 11-13-101 *et seq.*) and shall be approved by resolution of the city council.

2.160.190 Sole source procurement.

A. *Definition*. Without limitation, sole source procurement may arise when:

1. The city needs a supply or service of a unique or specialized nature, and only one known supplier is reasonably available to meet the need.

2. Specific parts, accessories, equipment, materials, services, proprietary items or other items are necessary to meet the city's needs, and there are no comparable items reasonably available.

3. Items are procured for resale.

B. *Procedure*. To use sole source procurement, the purchasing agent shall place a written determination in the procurement file after conducting a good faith review of available sources, stating why no other sources are reasonably available, or why competition would not be likely to produce other acceptable offers. Sole source procurement shall not be used only to accommodate a desire for a particular proprietary item unless the city has a very specific need for such item which can be justified in writing. The city shall be deemed to have a very specific need when there is a need to procure matching or

compatible supplies and services and when other similar supplies and services would not be reasonably beneficial to the city's needs. The purchasing agent or designee shall negotiate and use appropriate means to obtain the best price available for any item procured under this section.

2.160.200 Emergencies, public threats and unforeseen conditions.

A. *Generally*. Notwithstanding any other provisions of this chapter, and conditioned on prior appropriation of necessary funds by the city council, the purchasing agent may make, or authorize others to make, emergency procurement of supplies, services, or construction items when there exists a threat to public health, welfare, or safety; provided that procurement in response to such emergencies, public threats or unforeseen conditions shall be made with such competition as is practicable under the circumstances. Procurement made on this basis shall occur as set forth in this section, subject, however, any contrary requirements of, or procedures under, Utah state law or any emergency management plan for the city from time to time in effect.

B. *Definitions*. The conditions specified in this section are defined as follows:

1. An "*emergency condition*" creates an immediate and serious need for supplies or services that cannot adequately be addressed using normal procurement methods. Such a need may arise by reason of a natural disaster, epidemic, riot, equipment failure or other reason.

2. "*Public threats*" are circumstances that appear likely to adversely impact the public's health, welfare, convenience or safety. They may arise when circumstances appear to create a risk of environmental contamination, traffic congestion or hazards, disruption of utility or other public services, or other matters.

3. An "*unforeseen condition*" creates a need to procure supplies or services within time frames that could not reasonably be anticipated or accommodated under normal procurement methods.

C. *Procedure*. The purchasing agent shall examine the circumstances and determine whether they constitute a condition set forth above. If so, the purchasing agent may take any action required by such condition. The purchasing agent shall place in the procurement file a written determination and explanation of the condition. Procurement should be as competitive as possible under the circumstances, but priority shall be given to meeting the needs of the emergency or combating the public threat. Only those supplies and services impacted by the condition in question may be acquired under this section.

2.160.210 Procurement protests.

Any actual or prospective bidder or offeror who is aggrieved in connection with the solicitation or award of a contract for procurement may protest the procurement by filing a written protest with the purchasing agent. The protest shall contain the following information:

A. The protesting party's name, mailing address and daytime telephone number, the signature of the protesting party or the attorney for the protesting party, and the date the protest is signed; and

B. The relief sought, a statement of facts and a recitation of the reasons and legal authority in support of the protest sufficient to permit review.

C. Protests shall be submitted prior to the closing date for receiving bids or proposals unless the protestor did not know and could not reasonably have known of the facts giving rise to the protest prior to such time, but in any event, all protests shall be

submitted within five business days after the closing date for receiving bids or proposals.

D. The city may proceed with the procurement despite the protest, except that the purchasing agent may suspend the procurement process for so long as he determines is appropriate.

E. The purchasing agent may designate another individual to assist in reviewing the matter, which assistance may include finding facts, analyzing the protest, and making recommendations to the purchasing agent.

F. The purchasing agent or designee may request additional information from the protesting party or from other persons to make a determination. The protesting party shall provide all information requested by the purchasing agent reasonably needed to decide the protest except information which is protected from disclosure by law, or which could reasonably be expected to result in unfair competitive injury to the protestor.

G. The purchasing agent shall review and decide protests, and shall issue a written determination to the protesting party within 15 business days of receipt of the protest.

H. The protesting party may appeal the written decision of the purchasing agent by filing a written appeal with the manager within five business days of the purchasing agent's written determination. The notice of appeal shall contain the following information:

1. The appellant's name, mailing address and daytime telephone number, the signature of the appellant or of the attorney for the appellant, and the date; and

2. The relief sought, a statement of facts and a recitation of the reasons and legal authority in support of the protest sufficient to permit review.

I. The manager shall review and hear the appeal. No later than five business days after receiving a notice of appeal, the manager shall schedule a hearing on the appeal. Unless otherwise agreed to by the city and the appellant, the hearing shall be held no sooner than five business days and no later than 30 business days after the date that the appeal is filed.

J. At the hearing before the manager, the appellant and the city's representative shall be allowed to testify, present evidence, and comment on the issues. The manager also may allow other interested persons to testify, comment or provide evidence on the issues.

K. No later than 15 business days after the hearing, the manager shall issue a signed order either granting the appeal in whole or in part, or upholding the determination of the purchasing agent in whole or in part. The order of the manager shall include:

1. The decision, and any reasons for the decision the manager may wish to provide; and

2. A statement that any party to the appeal may appeal the decision to the District Court.

L. If the manager fails to issue a decision within 15 business days after the hearing, said failure shall be considered the equivalent of an order denying the appeal.

M. The manager may appoint a person other than the purchasing agent to fulfill the manager's responsibilities under this section.

2.160.220 Sanctions.

A. It is unlawful:

1. For any bidder or prospective bidder, or city employee or city officer, in restraint of freedom of competition or otherwise, by agreement with any other person, bidder, or prospective bidder, to bid a fixed price, or to "rotate" bidding practices among competitors;

2. For any person to offer or to give to any employee of the city or any member of his immediate family, any gain, whether in the form of money, services, loan, travel,

entertainment, hospitality, promise, or other form, under circumstances in which it could reasonably be intended to influence him or could reasonably be expected to influence him in his duties concerning the award of any contract or order of purchase, or for any city employee to directly or indirectly solicit or directly or indirectly accept any such gift for such purpose;

3. For any city employee or city officer to disclose, in advance of the opening of the bids, the content of any bid invited through the formal competitive bidding procedure;

4. For any city employee or city officer to actively participate in the awarding of a contract from which he will directly benefit; and

5. For any city employee or city officer or other person to appropriate for personal or private use any item of public property.

B. Any city employee or city officer committing any of the foregoing acts may be discharged or suspended from employment, and the city may seek additional appropriate legal redress.

C. At the discretion of the city council, the following contracts are voidable:

1. Contracts which result from a conflict of interest under this chapter or other applicable law;

2. Contracts awarded to a person or firm that tried to influence the award of such contract by offering something of value to any city officer or city employee; and

3. Contracts awarded by a city officer or city employee circumventing the requirement of this chapter or other applicable statute.

D. The city council hereby declares its intent that the contracts described in subsection C(1)-C(3) above would not have been entered into on behalf of the city if such misconduct had been discovered prior to the execution of the contract. In this regard, the council further states that no city officer or city employee has authority, either actual, apparent or implied, to negotiate or execute any such contract and that such contract shall, at the discretion of the city council, be voidable, unless the action of the city officers or city employees in executing the contract is ratified by affirmative action of the city council after the misconduct was discovered and made known to the city council.

E. All persons or firms responsible for any misconduct prohibited by this section shall be liable to the city for any losses incurred by the city resulting from any contract awarded due to such misconduct.

2.160.230 Remedies for solicitations or awards in violation of law.

A. *Prior to bid opening or closing date for receipt of proposals*. If, prior to the bid opening or the closing date for receipt of proposals, the purchasing agent, after consultation with the city attorney, determines that a solicitation is in violation of applicable law, then the solicitation or proposed award shall be canceled or revised to comply with applicable law.

B. *Prior to award*. If, after a bid opening or the closing date for receipt of proposals, the purchasing agent, after consultation with the city attorney, determines that a solicitation or a proposed award of an agreement is in violation of applicable law, then the solicitation or proposed award shall be canceled.

C. *After award*. If, after an award, the purchasing agent, after consultation with the city attorney, determines that a solicitation or award of an agreement was in violation of applicable law, then:

1. If the person awarded the agreement has not acted fraudulently or in bad faith:

(a) The agreement may be ratified and affirmed, provided it is determined that doing so is in the city's best interests; or

(b) The agreement may be terminated and the person awarded the agreement shall

be compensated for the actual costs reasonably incurred under the agreement, plus a reasonable profit, prior to the termination; or

2. If the person awarded the agreement has acted fraudulently or in bad faith, the agreement may be declared null and void or voidable, if such action is in the city's best interests.

2.160.240 Petty cash accounts.

A. Petty cash accounts may be established in such amounts as are determined by the manager. The city's petty cash accounts shall be administered by the city recorder. Department heads or designees may authorize using such petty cash funds to purchase supplies, materials and equipment when the cost thereof does not exceed $100 and when documentation of the purchase is maintained. Supplies, materials and equipment regularly purchased and available through the city's regular purchasing channels shall not be purchased using said petty cash funds.

B. Petty cash shall be reconciled at least quarterly.

2.160.250 Blanket purchase order.

Notwithstanding anything in this chapter to the contrary, the manager, purchasing agent or designee may arrange with suppliers blanket purchase orders which shall authorize continuing charges against the city. Such purchase orders shall be reviewed and renewed at least once each fiscal year. The manager, purchasing agent or designee shall, in advance of any transaction negotiated upon such blanket purchase order, notify the merchant or supplier of the specific city employee authorized to take delivery and sign the purchase order. No billing against the city shall be valid as applied against the purchase order unless the person taking delivery was authorized to do so and the supplier can provide the city with a signature and printed name of that person.

2.160.260 Routine expenditures.

A. Notwithstanding anything in this chapter to the contrary, but subject to statutory compliance by the city's director of finance and treasurer, the manager or designee may approve for payment routine expenditures such as utility bills, leases and payroll-related expenses, provided that such expenditures are referenced in the then approved budget, that the funds are available for such expenditures, and that sufficient documentation is provided concerning such expenditures.

B. The manager or designee also similarly may approve payments for supplies, non-professional and professional services and payments on city-approved contracts, provided that such expenditures are referenced in the then approved budget, that the funds are available for such expenditures, and that sufficient documentation is provided concerning such expenditures.

2.160.270 Payroll obligations.

Notwithstanding anything in this chapter to the contrary, but subject to statutory compliance by the city's director of finance and treasurer, the manager or designee may approve payroll checks prepared in accordance with a salary schedule approved by the city council.

2.160.280 Providing information and records.

A. Information and copies of records under this chapter may be requested from the city recorder pursuant to the Government Records Access and Management Act, UTAH CODE ANN. § 63G-2-101 *et seq.* ("*GRAMA*").

B. Quotations shall remain confidential until all quotations have been received, after

which they shall be available for public inspection if provided by GRAMA.

C. Sealed bids shall remain confidential until the bids are opened, after which they shall be available for public inspection if provided by GRAMA, except for information or data that the bidder designates as proprietary or confidential.

D. Sealed proposals shall remain confidential until an award is made. After award of a contract, the successful proposal shall be available for public inspection if provided by GRAMA, except for information or data that the bidder designates as proprietary or confidential.

2.160.290 Administrative regulations and policies.

The manager may prescribe administrative regulations and procedures which are consistent with the provisions of this chapter and other written financial procedures approved by the city council.

Chapter 2.170

CLAIMS AND RISK MANAGEMENT

2.170.010 Utah Local Governments Trust.
2.170.020 Procedure for filing and processing claims.
2.170.030 Indemnification of employees.

2.170.010 Utah Local Governments Trust.

The city participates in the Utah Local Governments Trust, a nonprofit association operating under the Interlocal Cooperation Act, UTAH CODE ANN. §11-13-1, *et seq.*, for the purpose of providing the city with risk management services. The city makes contributions to a joint reserve fund, for the purpose of making payments of claims against the cooperating governmental entities when they become payable pursuant to the provisions of the Governmental Immunity Act of Utah, UTAH CODE ANN. §63G-7-101, *et seq.*, and for the purpose of purchasing liability insurance to protect the cooperating governmental entities from any or all risks created by the Governmental Immunity Act of Utah. The participation by the city in the Utah Local Governments Trust is governed by the joint protection agreement under the Interlocal Cooperation Act. The participation by the city in the Utah Local Governments Trust shall not be deemed to constitute a waiver of any of the city's rights or immunities under the Governmental Immunity Act of Utah or the Constitution of Utah.

2.170.020 Procedure for filing and processing claims.

A. A claim against the city, or against one of its employees for an act or omission occurring during the performance of the employee's duties, within the scope of employment or under color of authority, is barred unless notice of claim is filed according to the requirements of UTAH CODE ANN. §63G-7-401 to -403, inclusive, within one year after the claim arises, regardless of whether or not the function giving rise to the claim is characterized as governmental.

B. The notice of claim shall be in writing, signed by the claimant or by a person authorized by the claimant. The city manager may prescribe the use of forms and promulgate administrative procedures to expedite the claims processing procedures of the city.

C. The city manager, after conferring with the city attorney, may compromise and settle any claim as to the damages or other relief sought, if the payment in compromise is less than the deductible specified under the city's liability insurance or other joint protection agreement though the Utah Local Governments Trust.

D. The settlement and compromise of claims in an amount exceeding the deductible specified for the city under the deductible under the city's liability insurance or other joint protection agreement with the Utah Local Governments Trust requires city council approval, except when the funds for payment of the compromise and settlement come from the Utah Local Governments Trust.

E. Within 60 days of the filing of the claim, the city manager or his designee shall act on the claim and notify the claimant in writing of the approval or denial of the claim. A claim shall be deemed to have been denied unless the claim is approved within 60 days after the claim is filed.

F. The city manager shall, on a timely basis, advise the city council concerning the claims which have been filed against the city and for which settlement is pending.

2.170.030 Indemnification of employees.

A. Except for injuries resulting from the fraud or malice of the employee, the city shall defend, hold harmless and indemnify all city officers and employees, including members of boards, commissions, and committees established pursuant to this code, for all claims brought against them for acts arising out of their city duties or within the scope and course of their employment with the city.

B. Before the city will defend an employee against a claim, the employee must make a written request to the city council to defend him. Such request must be filed with the city manager within ten days after service of process upon the employee or within such longer period as would not prejudice the city in maintaining a defense on his behalf, or otherwise conflict with notice requirements imposed on the city in connection with the city's participation in the Utah Local Governments Trust.

C. If the employee fails to make a request or fails to reasonably cooperate in the defense, the city is not required to defend or continue to defend the employee, nor pay any judgment, compromise or settlement against the employee in respect to the claim.

D. The city may decline to defend as provided in UTAH CODE ANN. §63G-7-902 or any other pertinent law.

E. If the city conducts the defense of an employee, the city shall pay any judgment based upon or any compromise or settlement of the claim except as provided in this section. The city may conduct the defense of an employee under an agreement with the employee that the city reserves the right not to pay the judgment, compromise or settlement unless it is established that the claim arose out of an act or omission occurring during the performance of his duties, within the scope of his employment, or under color of authority.

F. Subject to subsection G below, if an employee pays a judgment entered against him, or any portion of it, which the city is required to pay under UTAH CODE ANN. §63G-7-902, the employee is entitled to recover from the city the amount of such payment and the reasonable costs incurred in the employee's defense.

G. If the city does not conduct the defense of an employee against a claim, or conducts the defense under a reservation of rights as provided in UTAH CODE ANN. §63G-7-902(6), the employee may recover from the city if the employee can prove that the act or omission upon which the judgment is based occurred during the performance of his duties, within the scope of his employment, or under color of authority, that he conducted the defense in good faith, and that none of the conditions under UTAH CODE ANN. §63G-7-202(3)(c) applied.

Chapter 2.180

EMPLOYEE APPEAL BOARD

Sections:

2.180.010 Creation.
2.180.020 Board composition.
2.180.030 Operation.
2.180.040 Standard of review.
2.180.050 Rights of appellant.
2.180.060 Discovery.

2.180.010 Creation.

Pursuant to UTAH CODE ANN. §10-3-1106, an employee appeal board is hereby created for the city.

2.180.020 Board composition.

A. The employee appeal board shall consist of one individual selected by the city manager, with advice and consent of the city council, for purposes of a specific appeal. The manager may maintain a roster of individuals who are qualified and may be available for appointment as the employee appeal board for any specific appeal.

B. The board member shall be a member of the Utah State Bar in good standing or another qualified individual who has expertise or experience in municipal employment matters.

C. Subject to subsection (D) below, the board member shall serve for the term of office specified in the council resolution approving the appointment, which shall not exceed four years. If the resolution does not specify a term of office, then the term of office shall be for duration of the employee appeal specified in the approving resolution.

D. The board member is subject to removal by the city manager, with advice and consent of the city council, at any time, with or without cause. Without limiting the generality of the foregoing, the board member may be removed if the manager determines that any condition or relationship exists which may prevent the board member from performing its duties under this chapter with appropriate expertise and impartiality.

E. If a member of the appeals board declines or otherwise is disqualified from participating in a hearing, then the member shall be replaced, either for the purpose of that hearing or permanently, by another member appointed by the city manager with advice and consent of the city council.

2.180.030 Operation.

A. The appeal board is authorized only to hear appeals of city employees under UTAH CODE ANN. §10-3-1106, which is limited to those certain employees described in UTAH CODE ANN. §10-3-1105, as amended.

B. Appeals to the appeal board shall be subject to, and shall comply with, the requirements of UTAH CODE ANN. §10-3-1106.

C. Hearings shall be conducted in accordance with:

1. UTAH CODE ANN. §10-3-1106; and
2. Any additional procedures promulgated by the city's human resources director in consultation with the city attorney, subject to approval by the city manager.

D. The ruling of the appeal board shall be final, subject to any appeal right to the Court of Appeals under UTAH CODE ANN. §10-3-1106(6).

2.180.040 Standard of review.

The employee appeal board shall review a decision using the following standard of review:

A. *Step 1:* Do the facts support the need for discipline or other remedial action as set forth in the decision under appeal? In other words, was the action warranted? If the city's account of the evidence is plausible in light of the record viewed in its entirety, the

decision should be upheld, even though the board may have weighed the evidence differently had it been in the decision maker's position. In order to overturn a disciplinary action, the board must have a definite and firm conviction that the underlying decision was erroneous.

B. In an appeal where the employee was discharged, not for disciplinary reasons but because the employee was no longer able or qualified to do the job, the board's analysis shall end with step 1 of the analysis set forth in subsection (A), above. However, in an appeal of any other disciplinary action, the board shall proceed to step 2 of the analysis, set forth in subsection (C), below.

C. *Step 2*: In a disciplinary action, if the facts support the need for action to be taken, is the action taken proportionate to the charges? Discipline imposed for employee misconduct is within the discretion of his supervisor, department head and city manager as provided elsewhere in this title. Unless the board finds the penalty so harsh as to constitute an abuse, rather than an exercise of the department head's discretion, the decision of the department head should be upheld.

2.180.050 Rights of appellant.

An appellant may present relevant information in mitigation, including the presentation of witnesses and other evidence. Such evidence must relate to:

A. The cause for the action taken as set forth in the disciplinary decision, and

B. Any issues raised at the prior internal proceeding(s) before the supervisor, department head, city manager, or designee.

2.180.060 Discovery.

Discovery shall be limited to that which is relevant and not privileged, and for which each party has a substantial, demonstrable need for supporting their respective claims or defenses.

Chapter 2.190

CONFLICT OF INTEREST

2.190.010 Scope.
2.190.020 Purpose.
2.190.030 Definitions.
2.190.040 Use of office for personal benefit prohibited.
2.190.050 Participation in governmental action.
2.190.060 Compensation for assistance in city contracts; Required disclosure.
2.190.070 Interest in business regulated by city; Required disclosure.
2.190.080 Interest in business doing business with city; Required disclosure.
2.190.090 Investment creating conflict of interest; Required disclosure.
2.190.100 Inducement to violate prohibited.
2.190.110 Complaint charging violation; Hearing procedure.
2.190.120 Appeals from city manager's decision.
2.190.130 Penalties.
2.190.140 Rescission of prohibited transaction.

2.190.010 Scope.

This chapter shall apply to all of the city's elected and appointed officers, members of city boards and commissions, full time, part time and seasonal city employees including appointed department directors, members of city task forces and city volunteers (sometimes collectively referred to as "*city personnel*"). This chapter shall not apply to the city's municipal judge when the judge is acting in a judicial capacity.

2.190.020 Purpose.

This chapter is intended to promote the public interest and preserve the confidence the public has in the integrity of city government. It is not intended to deny city personnel of the opportunities to pursue private economic or other personal interests so long as such interests do not interfere with the discharge of their public duties and responsibilities.

2.190.030 Definitions.

As used in this chapter:

A. "*Assist*" means to act, or offer or agree to act, in such a way as to help, represent, aid, advise, furnish information to, or otherwise provide assistance to a person or business entity, believing that such action is of help, aid, advice, or assistance to such person or business entity and with the intent to so assist such person or business entity.

B. "*Business entity*" means a sole proprietorship, partnership, association, joint venture, corporation, firm, trust, foundation, or other organization or entity used in carrying on a business.

C. "*City personnel*" means all of the city's elected and appointed officers, full time, part time and seasonal city employees including appointed department directors, members of city boards and commissions, members of city task forces, and city volunteers.

D. "*Compensation*" means anything of value, however designated, which is paid, loaned, granted, given, donated or transferred to any person or business entity for or in consideration of personal services, materials, property, or any other interest whatsoever.

E. "*Governmental action*" means any action on the part of the city, including, but not limited to:

1. Any decisions, determination, finding, ruling, or order; and

2. Any grant, payment, award, license, contract, subcontract, transaction, decision, sanction, or approval, or the denial thereof, or the failure to act in respect thereto.

F. "*Improper disclosure*" means the disclosure of private, controlled, or protected information to any person who does not have both the right and the need to receive the information.

G. "*Public body*" means the Cottonwood Heights municipal council and any board, commission, or other public group body organized and empowered to make public policy decisions for the city.

H. "*Private, controlled, or protected information*" means information classified as private, controlled, or protected under the "Government Records Access and Management Act," UTAH CODE ANN. §63G-2-101, *et seq.* ("*GRAMA*") or other applicable law.

I. "*Substantial interest*" means the ownership, either legally or equitably, by individuals, their spouse, and their minor children, of a ten percent (10%) or greater interest in any other business entity.

2.190.040 Use of office for personal benefit prohibited.

No city personnel shall:

A. Disclose or improperly use private, controlled, or protected information or other confidential information acquired by reason of their official positions or in the course of their official duties in order to further their personal economic interests or to secure special privileges or exemptions for themselves or others;

B. Use or attempt to use their official positions to further their personal economic interests or secure special privileges or exemptions for themselves or others; or

C.

1. Knowingly receive, accept, take, seek or solicit, directly or indirectly, for themselves or others, a gift or an economic benefit tantamount to a gift that would tend improperly to influence a reasonable person in the person's position to depart from the faithful and impartial discharge of the person's public duties or the person knows or that a reasonable person in that position should know under the circumstances is primarily for the purpose of rewarding the person for official action taken. An "economic benefit tantamount to a gift" includes a loan at an interest rate that is substantially lower than the commercial rate currently prevalent for similar loans and compensation received for private services rendered at a rate substantially exceeding the fair market value of the services.

2. Subsection C(1) of this section shall not apply to the following:

(a) Unsolicited gifts not to exceed fifty dollars ($50.00) in value, such as greeting cards, pens and pencils, t-shirts, or baseball caps;

(b) An award publicly presented in recognition of public services;

(c) Any bona fide loan made in the ordinary course of business;

(d) Political campaign contributions actually used in a political campaign;

(e) Food or a beverage or meal given at a reception or meeting away from the recipient's place of work by an organization before whom the recipient appears to make a speech or answer questions as part of a program;

(f) Receiving food or refreshments, not to exceed fifty dollars ($50.00) in value, catered or consumed on premises where it was purchased;

(g) Informational material of nominal value;

(h) Tokens to express condolences, congratulations, or sympathy for ill health, such as flowers, plants, or balloons;

(i) Meals, beverages, and free admission at any event sponsored by, or for the benefit of, a bona fide educational, academic, or

charitable organization, and commemorative gifts from such organizations;

(j) Food, beverages, and free admission provided by a governmental agency or provided to the public at large, for ceremonial functions commemorating the groundbreaking, opening, or naming of a governmental facility;

(k) Training, including food and refreshments, furnished to attendees as an integral part of the training, if the training is in the interest of the city; or

(l) Holiday gifts not to exceed fifty dollars ($50.00) in value.

D. Use city property and resources for non-city or personal use. This includes, but is not limited to, computers and other office equipment; tools and building materials; city services; city rooms and buildings; and any other facility, property, or resource having a value. Under no circumstances may city personnel conduct any form or part of a private business in city facilities or using city resources. Incidental and *de minimus* personal use of telephones, computers and other office equipment, where such use does not interfere with city activities, is permitted.

2.190.050 Participation in governmental action.

A. No city personnel shall participate in any governmental action which may result in a private benefit. The private benefit may be direct or indirect, create a material personal gain or provide an advantage to family or friends or groups and associations which hold some share of the person's loyalty. However, mere membership itself in a group or organization shall not be considered a conflict of interest as to governmental action concerning such group or association unless a reasonable person would conclude that such membership would prevent an objective consideration of the matter.

B. Prior to any vote on a governmental action, city personnel experiencing, in their opinion, a conflict of interest, should declare their interests publicly and provide a written statement, for the record, preferably before the vote on the governmental action (or, if impractical, as soon as reasonably practical after the vote), specifying the nature of the conflict of interest.

1. If the city personnel determines, in their opinion, that because of a conflict of interest they cannot be objective in their consideration and vote on the governmental action, they shall abstain from considering, debating or voting on the governmental action and they should not discuss the merits of the matter privately with any other city personnel involved in the same governmental action.

2. City personnel who have questions as to whether a conflict of interest exists should raise the matter with the other city personnel involved in the same governmental action and the city attorney.

2.190.060 Compensation for assistance in city contracts; Required disclosure.

A. City personnel who are members of a public body shall not receive or agree to receive compensation for assisting any person or business entity in any transaction involving the city in which they are officers or employees unless they file with the mayor a sworn statement giving the information required by subsection D of this section, and disclose in open meeting to the members of the public body of which they are members immediately prior to the discussion the information required by subsection D of this section.

B. City personnel who are not members of a public body shall not receive or agree to receive compensation for assisting any person or business entity in any transaction involving the city unless they file with the

mayor a sworn statement giving the information required by subsection D of this section and disclose the information required by subsection D of this section to their immediate supervisor and any other city personnel who may rely upon the representations in evaluating or approving the transaction.

C. The statement required to be filed by subsection D of this section shall be filed 10 days prior to the date of any agreement between the city personnel and the person or business entity being assisted or 10 days prior to the receipt of compensation by the business entity, whichever is earlier. The statement is public information and shall be available for examination by the public.

D. The statement and disclosure shall contain the following information:

1. The name and address of the city personnel;

2. The name and address of the person or business entity being or to be assisted or in which the city personnel has a substantial interest; and

3. A brief description of the transaction as to which service is rendered or is to be rendered and the nature of the service performed or to be performed.

2.190.070 Interest in business regulated by city; Required disclosure.

City personnel who are elected or appointed to a public body and are officers, directors, agents or employees, or the owners of a substantial interest, in any business entity which is subject to the regulation of the city shall disclose the position held and the nature and value of their interests upon first becoming elected or appointed and again during January of each year if their position in the business entity has changed or if the value of their interest in the entity has increased since the last disclosure. The disclosure shall be made in a sworn statement filed with the mayor. The mayor shall report the substance of all such disclosure statements to the city council, or may provide to the city council copies of the disclosure statement within 30 days after the statement is received by the mayor. This section does not apply to instances where the value of the interest does not exceed two thousand dollars ($2,000.00). Life insurance policies and annuities shall not be considered in determining the value of any such interest.

2.190.080 Interest in business doing business with city; Required disclosure.

City personnel who are officers, directors, agents or employees, or owners of a substantial interest, in any business entity which does or anticipates doing business with the city and are members of any public body, shall publicly disclose to the members of the public body of which they are members, immediately prior to any discussion by such public body of matters relating to such business entity, the nature of their interest in that business entity. The disclosure statement shall be entered in the minutes of the meeting of the public body.

2.190.090 Investment creating conflict of interest; Required disclosure.

Any personal interest or investment by any city personnel who are members of a public body which creates a conflict between their personal interests and their public duties shall be disclosed in open meetings to the members of the public body in the manner required by section 2.190.080 of this chapter.

2.190.100 Inducement to violate prohibited.

No person shall induce or seek to induce any city personnel to violate any of the provisions of this chapter.

2.190.110 Complaint charging violation; Hearing procedure.

A. Complaints charging violations of this chapter

1. By a member of the city's administrative staff (other than the city manager) shall be received, investigated and heard by the city manager;

2. By the city manager or by a member of the city's governing body (other than the mayor) shall be received, investigated and heard by the mayor; and

3. By the mayor shall be received, investigated and heard by the mayor pro tempore (or, if none, by another member of the city's governing body (other than the mayor) appointed by majority vote.

B. If the facts contained in the complaint and those discovered during the investigation are sufficient to conclude that a city personnel has violated this chapter, the city manager, mayor or mayor pro tempore, as appropriate, shall convene a hearing and provide notice of such hearing to the city personnel in question.

C. Following the hearing, and within a reasonable time, the city manager, mayor or mayor pro tempore, as appropriate, shall issue written findings of fact and shall formally announce that:

1. Based upon the facts presented, the city personnel under investigation has violated no provisions of this chapter; or

2. Based upon the facts presented, the city personnel under investigation has violated this chapter and is subject to disciplinary action including termination from employment or removal from the applicable public body subject to processes and procedures provided in city policy.

D. The written findings of fact and recommendations of the city manager, mayor or mayor pro tempore, as appropriate, shall be filed with the city's governing body, which, upon finding a violation of this chapter, may dismiss, suspend or take other appropriate action with respect to the violator. Any such action by the city's governing body against a city employee shall not be subject to appeal to the city's employee appeal board.

E. Imposition of criminal sactions, and dismissal or suspension from office of any elected officer, based on a violation of this chapter, may be effected only by a court of competent jurisdiction.

2.190.120 Appeals from decision.

Any city personnel terminated or removed pursuant to section 2.190.110 of this chapter in accordance with city processes and procedures are entitled to a plenary hearing before a court of competent jurisdiction filed within 30 days after written issuance of the city manager's decision.

2.190.130 Penalities.

In addition to any penalty contained in any other provision of law, any person who knowingly and intentionally violates this chapter shall be dismissed from employment or removed from office and, except for violations of sections 2.190.070 through 2.190.100, inclusive, is guilty of:

A. A felony in the second degree, if the total amount at issue exceeds $1,000;

B. A felony in the third degree, if:

1. The officer or employee has been twice before convicted of violating the Utah Municipal Officers' and Employees' Ethics Act, UTAH CODE ANN. §10-3-1301, *et seq.*, or

2. The amount at issue exceeds $250 but does not exceed $1,000;

C. A class A misdemeanor if the amount at issue exceeds $100 but does not exceed $250; or

D. A class B misdemeanor if the amount at issue was $100 or less.

2.190.140 Rescission of prohibited transaction.

If any transaction is entered into in connection with a violation of the provisions of this chapter, the city may rescind or void any contract or subcontract entered into pursuant to that transaction without returning any part of the consideration received by the city.

Chapter 2.200

GOVERNMENT RECORDS ACCESS AND MANAGEMENT

2.200.010 Purpose.
2.200.020 Definitions.
2.200.030 Right to inspect and receive copies of public records.
2.200.040 Subpoenas—Discovery.
2.200.050 Access requests.
2.200.060 Response to requests.
2.200.070 Fees.
2.200.080 Classification of records.
2.200.090 Private records.
2.200.100 Controlled records.
2.200.110 Protected records.
2.200.120 Disclosure of private or controlled records for research purposes.
2.200.130 Sharing records with governmental entities.
2.200.140 Other permitted disclosures.
2.200.150 Segregation of records.
2.200.160 Business confidentiality claims.
2.200.170 Records management.
2.200.180 Limitation on disposal of records.
2.200.190 Records, ownership, possession and transfer—Right of replevin.
2.200.200 Records format—Right of access.
2.200.210 Intellectual property.
2.200.220 Rights of individuals on whom data is maintained—Disclosure.
2.200.230 Amendments and changes to records.
2.200.240 Denials.
2.200.250 Appeals.
2.200.260 Confidential treatment of records for which no exemption applies.
2.200.270 Criminal penalties—Liability for damages.

2.200.010 Purpose.

A. This chapter establish policies, guidelines and procedures for retention, maintenance, and access for the records of the city in accordance with the "Government Records Access and Management Act" ("*GRAMA*"), UTAH CODE ANN. §63G-2-101, *et seq*. All city entities and personnel shall comply with the provisions of GRAMA and this ordinance, and shall also comply with other federal and state statutory and regulatory record-keeping requirements.

B. In enacting this chapter, the city council recognizes two fundamental constitutional rights: the right of privacy in relation to personal data gathered by the city; and the public's right of access to information concerning the conduct of the public's business.

C. The city council also recognizes a public policy interest in allowing the city government to restrict access to certain records, as specified in this chapter, for the public good.

D. It is the intent of the city council:

1. That all records of the city, which are defined by applicable Utah statutory and case law as public records, shall be made available to citizens within a reasonable time after request and at a reasonable cost as set forth in this chapter;

2. To establish and maintain an active, continuing program for the economical and efficient management of the city's records as provided in this chapter;

3. To provide guidelines for both disclosure and restrictions on access to government records, which are based on the equitable weighing of the pertinent interests and which are consistent with nationwide standards of information practices; and

4. Favor public access when, in the application of this chapter, countervailing interests are of equal weight.

E. UTAH CODE ANN. §§63G-2-201; 63G-2-202; 63G-2-205; 63G-2-206; 63G-2-

601; 63G-2-602; 63G-2-905; and 63G-2-907 are hereby adopted by reference and are made part of this chapter as if fully set forth herein.

2.200.020 Definitions.

In general, the definitions used in GRAMA may apply in the interpretation and application of the chapter, except as they may be modified herein to provide further definition and understanding in the application of this chapter. As used in this ordinance, the following definitions shall be applicable.

A. "*GRAMA*" shall refer to the Government Records Access and Management Act, UTAH CODE ANN. §63G-2-101, *et seq*.

B. "*Department head*" shall refer to the official responsible for the management and supervision of any office or department of the city having custody of the record requested.

C. "*Computer software program*" means the series of instructions or statements that permit the functioning of a computer system in a manner designed to provide storage, retrieval, and manipulation of data from the computer system, and any associated documentation, manuals, or other source material explaining how to operate the software program. "*Software*" does not include the original data or record which is manipulated by the software.

D. "*Controlled*" records shall be those defined and classified as controlled under the provisions of this ordinance and in accordance with the provisions of GRAMA.

E. "*Dispose*" means to destroy, or render irretrievable or illegal, a record or the information contained in it by any physical, electronic, or other means, including unauthorized deletion or erasure of electronically recorded audio, visual, non-written formats, data processing, or other records.

F. "*Non-public*" records shall refer to those records defined and classified as private, controlled, or protected under the provisions of this ordinance and of GRAMA.

G. "*Private*" records shall refer to those records classified as private under the provisions of this ordinance and of GRAMA.

H. "*Protected*" records shall refer to those records classified as protected under the provisions of this ordinance and GRAMA.

I. "*Public*" records shall refer to those records which have not been classified as non-public in accordance with the provisions of this ordinance and GRAMA.

J.

1. "*Record*" means all books, letters, documents, papers, maps, plans, photographs, films, cards, tapes, recordings, or other documentary materials and electronic data regardless of physical form or characteristics, prepared, owned, used, received, or retained by the city where all the information in the original is reproducible by some mechanical, electronic, photographic, or other means.

2. "*Record*" does not mean:

(a) Temporary drafts or similar materials prepared for the originator's personal use or prepared by the originator for the personal use of a person for whom they are working;

(b) Materials that are legally owned by an individual in their private capacity;

(c) Materials to which access is limited by the laws of copyright or patent;

(d) Junk mail or commercial publications received by the city or by an officer or employee of the city;

(e) Personal notes or daily calendars prepared by any city employee for personal use or the personal use of a supervisor or such notes, calendars, or internal memoranda prepared for the use of an officer or agency acting in a quasi-judicial

or deliberative process or pursuant to matters discussed in a meeting closed pursuant to the Utah Open Meetings Act; or

(f) Proprietary computer software programs as defined in subsection C above that are developed or purchased by or for the city for its own use.

2.200.030 Right to inspect and receive copies of public records.

A. Every person has the right to see, review, examine and take a copy of all public records of the city during normal working hours upon payment of the lawful fees and pursuant to the provisions of this chapter. All records of the city are public unless otherwise expressly provided by GRAMA. "*Public record*" does not include:

1. Records classified as "private," "controlled," or "protected" in accordance with GRAMA and the policies and procedures established in this chapter; and

2. Records with restricted access pursuant to court rule, state statute, federal statute, or federal regulation, including records that access is governed or restricted as a condition of participation in a state or federal program or for receiving state or federal funds.

B. The city has no obligation to create a record or record series in response to a request from a member of the public, if the record requested is not otherwise regularly maintained or kept.

C. When a record is temporarily held by a custodial city agency, pursuant to that custodial agency's statutory or ordinance functions, such as investigation, litigation or audit, the record shall not be considered a record of the custodial agency for the purposes of this chapter. The record shall be considered a record of the agency or agencies that usually keeps or maintains that record and any requests for access to such records shall be directed to that agency or agencies, rather than the custodial agency.

D. Reasonable accommodations regarding access to city records shall be provided to persons with disabilities in accordance with city policy and applicable law.

2.200.040 Subpoenas—Discovery requests.

Subpoenas and other methods of discovery under the state or federal statutes or rules of civil, criminal, administrative or legislative procedure are not written requests under this chapter. Compliance with civil, criminal, administrative and legislative discovery shall be governed by the applicable statutes and rules of procedure, not by this chapter.

2.200.050 Access requests.

All record requests shall be directed to the city recorder's office. Under circumstances in which the city does not or is not able to immediately respond to a records request, the requester shall complete and present to the city recorder's office a written request on forms provided by the city. The request shall include the requester's name and signature, mailing address, daytime telephone number, the date of the request, and a description of the record requested. The department or office shall record the date and time that it receives the request on the written request form, and all time frames proved under this chapter shall commence from that time and date. Requesters of non-public information shall adequately identify themselves and their status prior to receiving access to non-public records.

2.200.060 Response to request.

A. The city may respond to a request for a record by approving the request and providing the records, denying the request, or such other appropriate response as may be established by policies and procedures.

B. The city shall respond to a written

request for a public record within ten business days after receiving a written request, or five business days after receiving a written request if the requester demonstrates that an expedited response to the record request benefits the public rather than the person, by:

1. Approving the request and providing the record;

2. Denying the request;

3. Notifying the requester that it does not maintain the record and providing, if known, the name and address of the governmental entity that does maintain the record; or

4. Notifying the requester that because of extraordinary circumstances it cannot immediately approve or deny the request

C. Extraordinary circumstances shall justify the city's failure to respond to a written request for a public record within ten business days and shall extend the time for response thereto that time reasonably necessary to respond to the request, as determined by the city. Extraordinary circumstances shall include, but not limited to the following:

1. The city, another agency, or some other governmental entity is currently and actively using the record requested;

2. The record requested is for either a voluminous quantity of records or requires the city to review a large number of records or perform extensive research to locate the materials requested;

3. The city is currently processing either a large number of records requests or is subject to extraordinary seasonal work loads in the processing of other work;

4. The request involves an analysis of legal issues to determine the proper responses to the request;

5. The request involves extensive editing to separate public data in a record from that which is not public; or

6. Providing the information request requires computer programming or other format manipulation.

D. When a record request cannot be responded to within the time frame provided herein, the city shall give the requester an estimate of the time required to respond to the request.

E. The failure or inability of the city to respond to a request for a record within the time frames set forth herein, or the agency's denial of such a request, shall give the requester the right to appeal as provided in section 2.200.250.

2.200.070 Fees.

A. City offices and departments releasing copies of public records in accordance with this chapter, shall charge a reasonable fee to cover the city's actual cost of duplicating a record, compiling a record in a form other than that maintained by the city, postage, the cost of providing a certified copy of a record, or any other fee reasonably related to the city's cost of fulfilling the request for the record consistent with this chapter.

B. A record may be provided without payment of the costs of duplication, if the duplication cost will not exceed $15 and the city determines that:

1. The individual requesting the record is a member of the media and releasing the record primarily benefits the public rather than a person;

2. The individual requesting the record is the subject of the record or is a person authorized under section 2.200.100(B) to have access to the subject's record; or

3. The record is to be released to another governmental entity for a public purpose.

C. The city may require payment of past fees and future estimated fees before beginning to process a request if fees are expected to exceed $50, or if the requester has not paid fees from previous requests.

D. Standard fees to be charged under this section are specified in the city's consolidated fee schedule.

E. Records provided by the city to members of the public for purposes of information, education or the solicitation of public opinion shall not be subject to the fees authorized in this section.

2.200.080 Classification of records.

A. All city records and record series, of any format, shall be evaluated, designated, classified and scheduled for retention according to the provisions of this chapter. All designations of record series shall be reported to the state archives.

B. The city may classify a particular record, record series, or information within a record at any time, but is not required to classify a particular record, record series, or information until access to the record is requested. The city may redesignate a record series or reclassify a record or record series, or information within a record at any time.

C. If more than one provision of GRAMA and this chapter could govern the classification of a record, the city shall classify the record by considering the nature of the interests intended to be protected and the specificity of the competing provisions.

D. No provision of this chapter shall require the city to classify a record or record series as private, controlled or protected.

2.200.090 Private records.

A. Private records shall be those city records classified as "private" pursuant to GRAMA, and as classified and defined in rules and regulations established pursuant to this chapter.

B. Private records shall be made available to the following persons:

1. The subject of the record;

2. The parent or legal guardian of a minor who is the subject of a record;

3. The legal guardian of an incapacitated individual who is the subject of a record;

4. Any other individual who has a power of attorney from the subject of the record, or submits a notarized release from the subject of the record or his legal representative dated no more than 90 days before the date the request is made; or

5. Any person possessed of and serving a legislative subpoena or a court order issued by a court of competent jurisdiction.

2.200.100 Controlled records.

A. Controlled records shall be those city records classified as "controlled" pursuant to GRAMA, and as classified and defined in rules and regulations established pursuant to this chapter.

B. Controlled records shall be made available to:

1. A physician, psychologist, certified social worker, insurance provider or agent, or a government public health agency who submits a notarized release from the subject of the record that is dated no more than 90 days prior to the date the request is made and a signed acknowledgment of the terms of disclosure;

2. Or any person presenting a legislative subpoena or a court order signed by a judge of competent jurisdiction.

C. A person who receives a record from the city in accordance with subsection (B)(1) above may not disclose controlled information from that record to any person, including the subject of the record.

2.200.110 Protected records.

A. Protected records shall be those city records classified as "protected" pursuant to GRAMA, and as classified and defined in the rules and regulations established pursuant to this chapter.

B. Protected records shall be made available to:

1. The person who submitted the record

to the city;

2. A person who has power of attorney from all persons, governmental entities, or political subdivisions whose interest were sought to be protected by the classification of the record;

3. A person who submits a notarized release from all persons, governmental entities, or political subdivisions whose interests were sought to be protected by the classification of the record or from their legal representatives dated no more than 90 days prior to the date the request is made; and

4. Any person presenting a legislative subpoena or a court order regarding the release of the information and signed by a judge of competent jurisdiction.

2.200.120 Disclosure of private or controlled records for research purposes.

The city may disclose or authorize disclosure of private or controlled records for research purposes in accordance with UTAH CODE ANN. §63G-2-202(8).

2.200.130 Sharing records with governmental entities.

The city may disclose a private, controlled, or protected record to another governmental entity, political subdivision, another state, the United States or a foreign government only as provided by UTAH CODE ANN. §63G-2-206.

2.200.140 Other permitted disclosure.

The city otherwise may at its discretion disclose records that are private only to the extent that GRAMA authorizes such disclosure.

2.200.150 Segregation of records.

A. Notwithstanding any other provision in this ordinance, if the city receives a request for access to a record that contains both information that the requester is entitled to inspect and information that the requester is not entitled to inspect in this chapter, and, if the information the requester is entitled to inspects is intelligible, the city:

1. Shall allow access to information in the record that the requester is entitled to inspect under this chapter; and

2. May deny access to information in the record if the information is exempt from disclosure to the requester, issuing a notice of denial as provided in this chapter.

B. Multiple subjects. If there is more than one subject of a private, controlled, protected or non-public record, the portion of the record that pertains to another subject shall be segregated from the portion that the requester is entitled to inspect.

2.200.160 Business confidentiality claims.

A. Any person who provides to the city a record that the person believes should be protected under UTAH CODE ANN. §63G-2-305(1) or (2) shall provide with the record a written claim of business confidentiality and a concise statement of reasons supporting the claim of business confidentiality.

B. The claimant shall be notified by the city if a record subject to a claim under subsection (A) above is classified public or if the city determines that the record should be released under section 2.200.140.

C. Except as otherwise provided by court order or applicable law, the city may not disclose records claimed to be protected under subsection (A) above until the period in which to bring an appeal expires or the end of the appeals process, including judicial appeal unless the claimant, after notice, has waived the claim by not appealing or intervening before the appeals body.

2.200.170 Records management.

A. For those records not covered under the Utah Municipal General Records

Retention Schedule developed by the Utah State Archives, the city's records committee shall develop a retention schedule as approved by the state records committee.

B. There is hereby created the city's records committee, hereinafter referred to as the "*committee*," to be chaired by the city recorder. Members of the committee shall include the records officer of each city department or office and a representative from the city council. The records committee shall meet periodically as needed, as determined by the city recorder. The city attorney shall provide assistance to the committee as needed. The minutes and other records of the records committee shall be maintained and staff provided by the city recorder's office.

C. The records committee may:

1. Develop standards for the management and retention of the records of the city;

2. Develop policies and procedures for the classification and designation of the records of the city as public, private, controlled, or protected in accordance with this chapter and GRAMA;

3. Develop access policies and procedures to govern and implement the provisions of GRAMA and this chapter; and

4. Approve classifications or designations applied to record series maintained by the city and provide a statement explaining the purposes for which a record series designated private or controlled are collected and used by the city.

D. Records maintenance procedures shall be developed to ensure that due care is taken to maintain and preserve city records safely and accurately over the long term. The committee shall be responsible for monitoring the application and use of technical processes in the creation, duplication, and disposal of city records. The committee shall monitor compliance with required standards of quality, permanence, and admissibility pertaining to the creation, use, and maintenance of records. Policies and regulations regarding types and formats of papers, inks, electronic media, and other records and information storage media, materials, equipment, procedures and techniques shall be developed.

E. The policies and procedures developed by the committee shall be promulgated into written rules and regulations to be issued and approved by the mayor. The internal rules or policies of any department or agency of the city regarding records management and access shall be consistent with the rules and regulations adopted by the mayor. Copies of any rule or policy promulgated under this chapter shall be forwarded by the city recorder to the Utah State Divisions of Archives within 30 days after its effective date.

F. The city recorder shall provide to the state archives, all retention schedules, and all designations and classifications applied to record series maintained by the city, including a statement explaining the purposes for which record series designated private or controlled are collected and used by the city.

2.200.180 Limitation on disposal of records.

A. Any city record which has been requested in accordance with this ordinance and GRAMA, that is disposable by approved retention schedule, may not be disposed of until the request is granted and fulfilled, or 60 after the request is denied if no appeals are filed, or sixty days (60) after all appeals are completed, pursuant to section 2.200.250.

B. No city record, disposable by approved retention schedule, which is subject to pending litigation or audit shall be disposed of until the litigation or audit has been completed or resolved.

2.200.190 Records ownership, possession and transfer—Right of replevin.

A. All records of the city shall remain the property of the city unless federal or state legal authority provides otherwise. Property rights to city records may not be permanently transferred from the city to any private individual or entity, including those legally disposable obsolete city records.

B. Custodians of any city records shall, at the expiration of their terms of office, appointment or employment, deliver custody and control of all records kept or received by them to their successors, supervisors, or to the city recorder.

C. All records which are in the possession of any city agency shall, upon termination of activities of such agency, be transferred to any successor agency or to the city recorder, provided that such transfer is consistent with the formal provisions of such termination.

D. The city attorney or a person authorized by the city attorney or the mayor may replevin any city records that are not adequately safeguarded.

2.200.200 Records format—Right of access.

A. The city retains and reserves to itself the right to use any type of non-verbal or non-written formats for the storage, retention and retrieval of city records, including but not limited to audio tapes, video tapes, micro-forms, and any type of computer, data processing, imaging, or electronic information storage or processing equipment or systems, which are not prohibited by state statute.

B. Members of the public shall have the right to have access to records, in accordance with GRAMA and this chapter, contained in non-written formats or data processing systems. The method of access to such public records shall be as determined appropriate by the head of the department or office maintaining the records, considering all of the circumstances. Access may include but not limited to the following:

1. By using a computer terminal or other viewing or listening device to retrieve data directly from the terminal screen or device; provided, however, that due regard shall be exercised to ensure that any non-public records will not be accessed, retrieved or displayed on the device and that records are not erased or damaged; or

2. By providing paper or “hard” copies of records printouts or by providing magnetic tapes, disks, or other means of electronic storage containing the non-written format or data processing system records.

2.200.210 Intellectual property.

A. Intellectual property or computer software programs are not considered a record. Such property and programs shall not be subject to disclosure under this chapter, including copyrighted software and other copyrighted materials which have been purchased by or licensed to the city, and software and other materials or property which have been copyrighted by the city.

B. Nothing in this chapter shall be construed to limit or impair the rights or protection granted to the city under federal copyrighted or patent law as a result of its ownership of an intellectual property right.

2.200.220 Rights of individuals on whom data is maintained—Disclosure of context.

A. The city shall file with the state archivist a statement explaining the purposes for which record series designated private or controlled are collected and used by the city. That statement is a public record.

B. Upon request, the city shall explain to an individual:

1. The reasons the individual is asked

to furnish to the governmental entity information that could be classified private or controlled;

2. The intended uses of the information; and

3. The consequences for refusing to provide the information.

C. The city may not use private or controlled records for purposes other than those given in the statement filed with the state archivist or for purposes other than those for which another governmental entity could use the record under UTAH CODE ANN. §63G-2-206.

D. When providing private records under section 2.200.080, the city shall, upon request, disclose the context in which the record is used.

2.200.230 Amendments and changes to records.

A. Records of the city may be amended or corrected as needed. Requests for amendments, corrections, or other changes shall be made in writing to the head of the department or office having custody of the records and setting forth, with specificity, the amendment or correction requested. When an amendment or correction of a government record is made, both the original record and the amended or corrected record shall be retained, unless provided otherwise by policies and procedures adopted under the provisions of this chapter. A refusal to amend a record may be appealed in the same manner as provided in section 2.200.250.

B. This section does not apply to records relating to title to real or personal property, medical records, judicial case files or any other record that the city determines must be maintained in its original form to protect the public interest and to preserve the integrity of the record system.

2.200.240 Denials.

A. If the city denies a records request, in whole or in part, it shall provide a notice of denial to the requester either in person or by sending the notice to the requester's address as provided.

B. The notice of denial shall contain the following information:

1. A description of the record or portions of the record to which access was denied, provided that the description does not disclose private, controlled, or protected information or information exempt from disclosure.

2. Citations to the provision of this chapter, court rule or order, GRAMA, or another state statute, federal statute, or federal regulation that exempts the record or portions of the record from disclosure, provided that the citations do not disclose private, controlled, or protected information or information exempt from disclosure.

3. A statement that the requester has the right to appeal the denial;

4. The time limits for filing an appeal, and the address where an appeal is filed.

2.200.250 Appeals.

Persons aggrieved by the city's classification or designation of a record, or of an access decision or by a response to a record request may appeal the determination to the city manager as provided in UTAH CODE ANN. §63G-2-401. The city manager shall be the city's chief administrative officer for purposes of such an appeal.

2.200.260 Confidential treatment of records for which no exemption applies.

Notwithstanding the provisions regarding classifications and right of access contained in this chapter, the city reserves the right to request a court to restrict access to a record under UTAH CODE ANN. §63G-2-405.

2.200.270 Criminal penalties—Liability for damages.

A. A city employee or other person who has lawful access to any private, controlled, or protected record under this chapter, and who intentionally discloses or provides a copy of a private, controlled or protected record to any person knowing that such disclosure is prohibited, is guilty of a class B misdemeanor. It is a defense under this subsection that:

1. The person released the information in the reasonable belief that the disclosure of the information was necessary to expose a violation of law involving government corruption, abuse of office, or misappropriation of public funds or property; or

2. The record could have lawfully been released to the recipient if it had been properly classified.

B. A person who by false pretenses, bribery, or theft, gains access to or obtains a copy of any private, controlled, or protected record to which they are not legally entitled is guilty of a class B misdemeanor. No person shall be guilty under this subsection who receives the record, information, or copy after the fact and without prior knowledge of or participation in the false pretenses, bribery, or theft.

C. In accordance with GRAMA, neither the city nor any of its agencies, officers, or employees shall be liable for damages resulting from the release of a record where the requester presented evidence of authority to obtain the record, even if it may be subsequently determined that the requester had no such authority.

D. A city employee who intentionally refuses to release a record the disclosure of which the employee knows is required by law or by final unappealed order of the city or a court is guilty of a class B misdemeanor.

Chart 2.210

ORGANIZATIONAL CHART

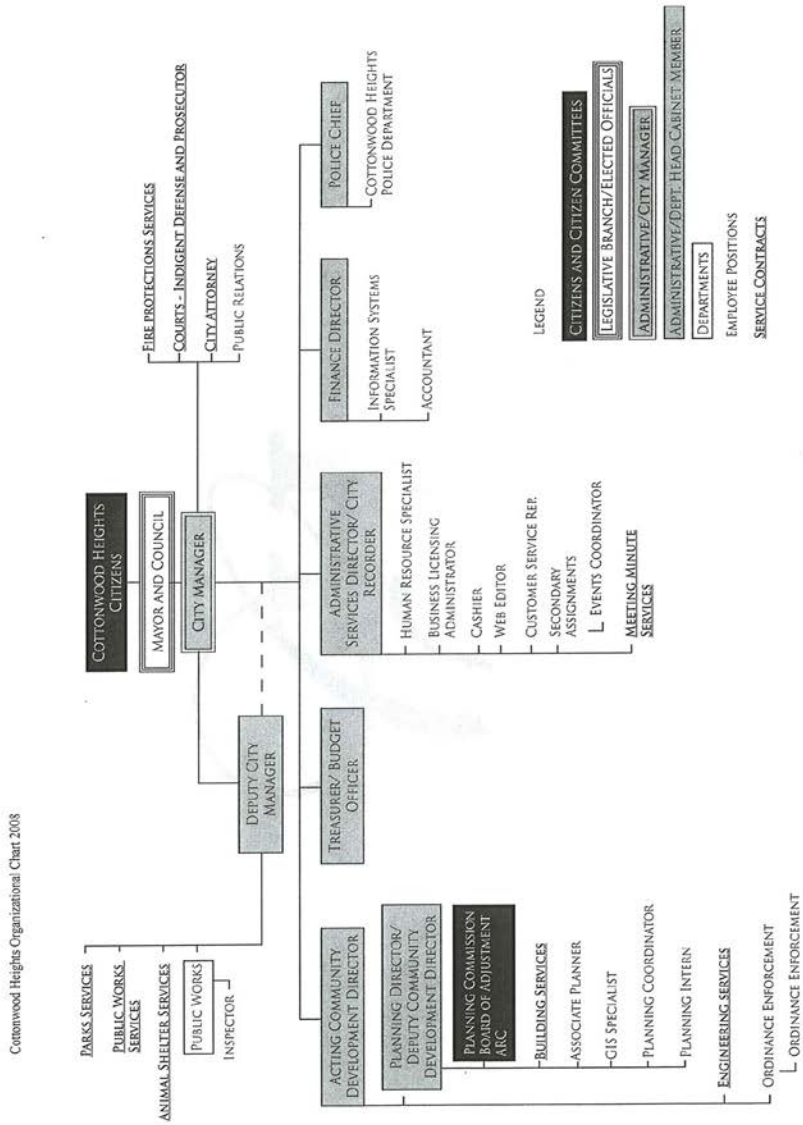
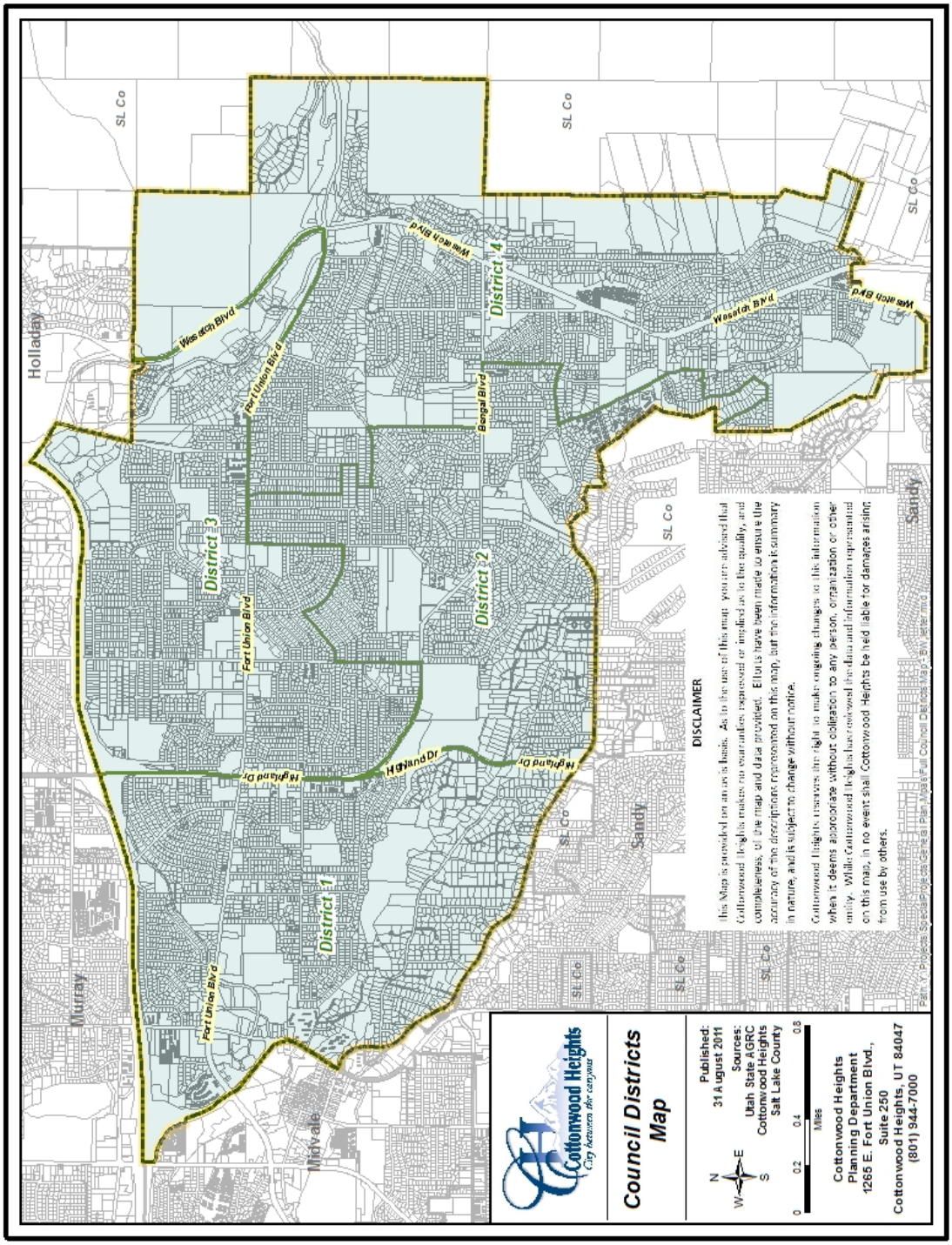


Chart 2.220

COUNCIL DISTRICTS