

TITLE 2. ADMINISTRATION

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Chapter 1. General

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2-1-1. Legislation. Except as otherwise specifically provided, the city council shall exercise its legislative powers through ordinances.

History: 9/84

2-1-2. Ordinances--Enacting Clause. The enacting clause of all ordinances of the city shall be in the following form: "Be it ordained by the City Council of Clinton City." No enacting clause shall be used in any section of any ordinance except the first section.

Cross-reference: UCA §10-3-704

History: 9/84

2-1-3. Ordinances--Numbering. (1) The recorder shall, insofar as possible, assign all ordinances of a general nature adopted after these revised ordinances a number. The first number of such an ordinance shall be the last two (2) digits of the year the ordinance is adopted, followed by a dash which is followed by a

number which shall be a sequential, ascending number indicating the order in which such ordinance was adopted during the year.

(2) All ordinances of a local, private or temporary nature, including franchises, grants, dedications, bond issues and tax levies may be maintained in a separate book of "Special Ordinances," properly indexed and organized according to date adopted. These ordinances shall be numbered in the manner indicated in the preceding paragraph.

(3) Failure to comply with this section shall not affect or render invalid any ordinance of this municipality.

Cross-reference: UCA §10-3-713

History: 8/36, 9/84

2-1-4. Purpose of Resolutions. Unless otherwise required by law, the city council may exercise all administrative powers by resolution including, but not limited to: (1) establishing water and sewer rates; (2) charges for garbage collection and fees charged for municipal services; (3) establishing the personnel policies and guidelines; and (4) regulating the use and operation of municipal property. Punishment, fines or forfeitures may not be imposed by resolution.

Cross-reference: UCA §10-3-717

History: 9/84

2-1-5. Form of Resolution. Any resolution passed by the city council shall be in a form and contain sections substantially similar to that prescribed for ordinances.

Cross-reference: UCA §10-3-718 History: 9/84

2-1-6. Resolutions Need no Publication Effective Date. Resolutions may become effective without publication or posting and may take effect on passage or at a later date as the city council may determine, but resolutions may not become effective more than three (3) months from the date of passage.

Cross-reference: UCA §10-3-719

History: 9/84

Chapter 2. Municipal Government

- 2-2-1. Council-Manager Form.
 2-2-2. Functions of the Council.
 2-2-3. Council Members--Qualifications--Terms of Office.
 2-2-4. Eligibility and Qualifications.
 2-2-5. Vacancy in Office of Mayor or Council Member.

2-2-1. Council-Manager Form. The city form of

government shall be known as the council-manager form, vesting the government of the municipality in the city council which shall be deemed the governing body of the municipality and a manager appointed by the council. The governing body of the city shall be a council composed of six (6) members, one of whom shall be the mayor and the remaining five (5) shall be council members.

Cross-reference: UCA §10-3-924 & 10-3-105

History: 9/84

2-2-2. Functions of the Council. The city council shall pass ordinances, appropriate funds, review municipal administration, and perform all duties that may be required of it by law.

Cross-reference: UCA §10-3-701 & 10-3-702

History: 9/84

2-2-3. Council Members--Qualifications--Terms of Office. Council members shall be residents of the city and serve terms of office of four (4) years each, or until a successor is qualified. Council members shall have no other compensated employment with the municipality.

Cross-reference: UCA §10-3-31

History: 9/84

2-2-4. Eligibility and Qualifications. (1) All elective officers of the city shall be chosen by the registered voters.

(2) Any person elected to a city office must be a registered voter in the city.

(3) If any elected official shall at any time during his or her term of office live outside the boundaries of the city for a continuous period of more than 60 days or establish residence outside the city during his or her term of office, the office shall thereby become automatically vacant.

(4) The governing body of the city may fine or expel any member for disorderly conduct on a two-thirds (2/3) vote of the members of the city council.

Cross-reference: UCA §10-3-816

History: 8/36, 9/84

2-2-5. Vacancy in Office of Mayor or Council Member. If any vacancy occurs in the office of mayor or council member of the city, the council shall appoint a registered voter in the municipality to fill the unexpired term of office vacated until the next municipal election, unless the vacancy occurs at least

four (4) days prior to the last day of filing in the municipality, in which case the appointment shall be for the remainder of the term. If a vacancy occurs prior to the Thursday prior to the last day for filing in the municipality, then (1) the council shall fill the vacancy within 30 days and the person appointed to fill the vacancy shall hold office until the Monday following the date the election results are certified; and (2) the position shall be filled at the next municipal election in the manner provided by law. If, for any reason, the council does not fill the vacancy within 30 days after the vacancy occurs, the two (2) persons having the highest number of votes of the council shall come before the council, and if there is no majority to fill the vacancy, the vacancy shall be filled by lot in the presence of the council. The final two years of the unexpired term shall be filled by public election in accordance with the provisions of Title 20, Chapter 5, Utah Code Annotated.

Cross-reference: UCA §10-3-302

History: 8/36, 9/84

Chapter 3. Mayor

- 2-3-1. Mayor as Presiding Officer--Mayor Pro Tempore.
- 2-3-2. No Vote Except in Case of a Tie.
- 2-3-3. No Veto.
- 2-3-4. Duties and Powers of Mayor.
- 2-3-5. Change of Duties.

2-3-1. Mayor as Presiding Officer--Mayor Pro Tempore. (1) The mayor shall be the chairman and preside at the meetings of the city council. In the absence of the mayor or because of his inability or refusal to act, the governing body may elect a member of the governing body to preside over the meeting as mayor pro tempore, who shall have all of the powers and duties of the mayor during his absence or disability. The election of a mayor pro tempore shall be entered in the minutes of the meeting.

(2) He shall be chief ceremonial officer of the municipality and shall represent the municipality in all of its external relationships.

Cross-reference: UCA §10-3-403

History: 8/36, 9/84

2-3-2. No Vote Except in Case of a Tie. The mayor shall not vote, except in case of a tie vote of the council.

Cross-reference: UCA §10-3-402

History: 9/84

2-3-3. No Veto. The mayor shall have no power to

veto any act of the governing body unless otherwise specifically authorized by ordinance or state statute.

Cross-reference: UCA §10-3-402 & 10-3-404

History: 9/84

2-3-4. Duties and Powers of Mayor. The mayor:

(1) shall have ultimate responsibility to keep the peace and enforce the laws of the city or town;

(2) shall have authority to commute any sentences for violation of any municipal order;

(3) shall have administrative responsibility for the justice of the peace;

(4) shall perform all duties prescribed by law, resolution or ordinance;

(5) shall insure that all laws and ordinances and resolutions are faithfully executed and observed;

(6) may at any reasonable time examine and inspect the books, papers, records or documents of the city or any officer, employee or agent of the city;

(7) shall report to the council the condition of the city and recommend for council consideration any measures as deemed to be in the best interests of the city;

(8) shall, when necessary, call on the residents of the city or town over the age of 21 to assist in enforcing the laws of the state and ordinances of the city; and

(9) shall appoint, with the advice and consent of the council, members to fill vacancies on commissions or committees of the city.

Cross-reference: UCA §10-3-809

History: 8/36, 9/84

2-3-5. Change of Duties. The mayor may, with the concurrence of the majority of the city council, change the assignment of any member of the governing body who is serving in any commissions, boards, or committees.

History: 8/36, 9/84

Chapter 4. Meetings--Voting

2-4-1. Meetings Generally.

2-4-2. Special Meetings.

2-4-3. Quorum.

2-4-4. Adoption of Procedural Rules;

Expulsion of Member.

2-4-5. Quorum Necessary to do Business.

2-4-6. Quorum Defined.

2-4-7. Attendance.

2-4-8. How the Vote is Taken.

2-4-9. Minimum Vote Required.

2-4-10. Reconsideration.

2-4-1. Meetings Generally. The city council shall by resolution prescribe the frequency, time and place of the meetings of the city council; however, at least one (1) meeting shall be held each month. In the absence of other provisions prescribed by resolution, if a meeting day falls on a legal holiday, the regular meeting shall be held on the next business day following, and adjourned meetings shall be held from time to time as circumstances may require.

Cross-reference: UCA §10-3-502

History: 10/37, 9/84

2-4-2. Special Meetings. (1) If at any time the business of the city requires a special meeting of the city council, such meeting may be ordered by the mayor or any two (2) members of the council. The order shall be entered in the minutes of the city council. The order shall provide at least three (3) hours' notice of the special meeting and notice thereof shall be served by the recorder or clerk upon each member who did not sign the order by delivering the notice personally or by leaving it at the member's usual place of abode. The personal appearance by a member of the council at any specially called meeting constitutes a waiver of the notice required in this section.

(2) The mayor, or two (2) council members, may call a special meeting by issuing a written notice to each member thereof, served personally or left at his usual place of residence. No business shall be transacted in any special meeting except that stated in the call thereof, unless all council members are present and unanimously consent thereto. No vote of the city council shall be considered or rescinded at a special meeting, unless at such special meeting there is present as large a number of members as were present when such vote was taken.

Cross-reference: UCA §10-3-502

History: 10/37, 9/84

2-4-3. Quorum. The majority of the city council elected shall constitute a quorum to do business, but a smaller number may adjourn from time to time and are hereby empowered to compel the attendance of absent members and may, when necessary, direct the chief of police to bring in such member or members under

arrest. Should any member of the council, when notified by the chief of police or other proper officer, that his presence is necessary to form a quorum (unless he shall present an excuse satisfactory to the council at its next regular meeting), or should any member leave the council when in session without the consent of the council, when such leaving would break the quorum, he shall be fined in any sum not exceeding \$50.00.

Cross-reference: UCA §10-3-503

History: 10/37, 9/84

2-4-4. Adoption of Procedural Rules; Expulsion of Member. The city council may, from time to time, make such rules for the government of its proceeding as it may deem necessary and proper; and it may punish its members for dishonorable conduct, and with the concurrence of two-thirds (2/3) of the members of the council expel a member for cause, but no member shall be removed for cause unless furnished with a copy of the charges against him and afforded an opportunity to be heard in his own defense.

Cross-reference: UCA §10-3-505

History: 9/84

2-4-5. Quorum Necessary to do Business. No action of the city council shall be official or any effect except when a quorum of the members is present. Fewer than a quorum may adjourn from time to time.

Cross-reference: UCA §10-3-503

History: 9/84

2-4-6. Quorum Defined. The number of members of the city council necessary to constitute a quorum is three (3) or more.

Cross-reference: UCA §10-3-503 & 10-3-504

History: 9/84

2-4-7. Attendance. The governing body shall have the power to compel the attendance of its own members and provide such penalties as it deems necessary for the failure to comply therewith.

Cross-reference: UCA §10-3-505

History: 9/84

2-4-8. How the Vote is Taken. A roll call shall be taken and recorded for all ordinances, resolutions, and any action which would create a liability against municipality and any other case at the request of any member of the city council by a "yes" or a "no" vote and shall be recorded. Every resolution or ordinance shall be in writing before the vote is taken.

Cross-reference: UCA §10-3-506

History: 9/84

2-4-9. Minimum Vote Required. (1) The minimum number of yes votes required to pass any ordinance, resolution or to take any action by the council, unless otherwise prescribed by law, shall be a majority of the members of the quorum, but shall not be less than three (3).

(2) Any ordinance, resolution or motion of the city council having fewer favorable votes than required herein shall be deemed defeated and invalid, except a meeting may be adjourned to a specific time by a majority vote of the governing body even though such majority vote is less than that required herein.

(3) A majority of the members of the city council, regardless of number, may fill any vacancy in the governing body.

Cross-reference: UCA §10-3-507

History: 9/84

2-4-10. Reconsideration. Any action taken by the governing body shall not be reconsidered or rescinded at any special meeting unless the number of members of the governing body present at the special meeting is equal to or greater than the number of members present at the meeting when the action was approved.

Cross-reference: UCA §10-3-508

History: 9/84

Chapter 5. Public Meetings, Executive Sessions, Records and Publication Procedure

- 2-5-1. Business of the Governing Body Conducted Only in Open Meeting.
- 2-5-2. Public Records.
- 2-5-3. Penalty for Disorderly Conduct in Public Meetings.
- 2-5-4. Required Attendance of Witnesses, Production of Evidence.
- 2-5-5. Authorization, Contents, and Manner of Service.

2-5-1. Business of the Governing Body Conducted Only in Open Meeting. All meetings of the governing body of the city shall be held in compliance with the provisions of Chapter 4 of Title 52 of the Utah Code Annotated, relating to open and public meetings.

Cross-reference: UCA §10-3-601

History: 9/84

2-5-2. Public Records. The city council shall keep a journal of its proceedings. The books, records, accounts and documents of the city shall be kept at the office of the recorder and approved copies shall be open and available to the public during regular business hours for examination and copying. The council may by resolution establish reasonable charges for providing copies of its public records to individuals, except when by law the municipality must provide the records without cost to the public.

Cross-reference: UCA §10-3-602

History: 9/84

2-5-3. Penalty for Disorderly Conduct in Public Meetings. (1) The governing body of each municipality may fine or expel any member for disorderly conduct on a two-thirds (2/3) vote of the members of the governing body.

(2) The governing body on a two-thirds (2/3) vote may expel any person who is disorderly during the meeting of the governing body. This section or any action taken by the governing body pursuant hereto, shall not preclude prosecution under any other provision of law.

Cross-reference: UCA §10-3-607 & 10-3-608

History: 9/84

2-5-4. Authority to Issue Administrative Subpoenas. Pursuant to authority granted by Section 10-3-610, Utah Code, as amended, or its successor, the City Council may issue administrative subpoenas to compel the attendance, before the City Council, of witnesses and the production of books, records, and other papers and documents and may cause to be examined under oath any person whose testimony is necessary or useful for the good governance of the City. Failure by any person, without adequate excuse, to obey an authorized subpoena served upon him shall be unlawful and punishable as a Class C misdemeanor.

Cross-reference: UCA §10-3-610

History: 9/84, 3/06

2-5-5. Authorization, Contents, and Manner of Service.

(1) The City Council shall authorize by majority vote the serving an administrative subpoena requiring the attendance of any person to give testimony or produce records, documents or things for inspection, copying, or examination, which would come before the City Council.

(2) Every administrative subpoena shall:

(a) be drafted by the City Attorney;

(b) issue in the name of the City and shall state on its face that it is an administrative subpoena;

(c) set forth the possible penalties for failure to respond;

(d) command each person to whom it is directed to attend and give testimony at a time and place therein specified which date and time shall not be less than three (3) days from the date of service of the administrative subpoena; and,

(e) be signed by the Mayor.

(3) An administrative subpoena may also command the person to whom it is directed to produce the books, papers, documents or tangible things designated therein;

(4) An administrative subpoena may be served by any peace officer or constable, or by any other person 18 years of age or older at the time of service. Service of an administrative subpoena upon a person named therein shall be made by delivering a copy thereof to such person.

(5) A certificate with a statement as to the date, place and manner of service shall be filed with the City Manager's Office by the person serving the subpoena within five (5) days of the date of service; however, failure to file this proof of service shall not affect the validity of the service.

History: 03/06

Chapter 6. Office of City Manager

- 2-6-1. Office of City Manager Created.
- 2-6-2. Term of Office.
- 2-6-3. General Duties.
- 2-6-4. Supervision Over Employees.
- 2-6-5. Relationship to Officers and Departments.
- 2-6-6. Contracts.
- 2-6-7. Purchases.
- 2-6-8. Budget Officer.
- 2-6-9. Accounts.
- 2-6-10. Inventories--Property.
- 2-6-11. Reports and Publications.
- 2-6-12. Elections.
- 2-6-13. Collector and Comptroller.
- 2-6-14. Maps--Plats.
- 2-6-15. Offices.
- 2-6-16. Absence from City.
- 2-6-17. Qualifications.
- 2-6-18. Personnel.
- 2-6-19. Removal from Office.
- 2-6-20. Legislative Powers and Official Position.

2-6-1. Office of City Manager Created. The office of city manager is hereby created as provided in Utah Code Annotated §103-924 (1953).

History: 5/75, 9/84

2-6-2. Term of Office. The manager shall serve at the pleasure of the city council except that the council may appoint the manager for a term not to exceed three (3) years. The term of employment may be renewed at any time. Any person serving as manger of the city under this section may be removed with or without cause by a majority vote of the governing body.

Cross-reference: UCA §10-3-924

History: 5/75, 9/84

2-6-3. General Duties. The manager shall: (1) Have and exercise all powers and duties assigned to him from time to time by the city council.

(2) Be charged with the enforcement of all laws and ordinances within the municipality insofar as their enforcement is within the powers of the city.

(3) Attend all meetings of the city council, keep the council informed as to the affairs of the city, and recommend to the council such action as may be necessary or expedient for the welfare of the city.

(4) Have and exercise general control and supervision over all activities of the city, including but not limited to construction, maintenance, improvement, repair and replacement of all city properties, ditches, culverts, streams, and water courses, gutters and curbing, all public buildings, boulevards, parks, playgrounds, squares, other grounds belonging to or under the jurisdiction of the city, cemeteries, golf courses, airport, ball parks, records, and supplies.

Cross-reference: UCA §10-3-926

History: 5/75, 9/84

2-6-4. Supervision Over Employees. The city manager shall have and exercise all powers which are now or may hereafter be conferred by law upon the city in respect to the employment and removal of employees and shall hire and discharge such employees and shall have and exercise general supervision over all of the employees of the city.

History: 5/75, 9/84

2-6-5. Relationship to Officers and Departments.

(1) The manger shall have authority to fill all appointed offices of the city and to remove persons occupying

said offices, except department heads, which require approval of the council.

(2) Every administrative department of the city shall be under the supervision and control of the city manager, who shall have the power to appoint or remove any officer in said departments in accordance with the procedure set forth in this section.

History: 5/75, 9/84

2-6-6. Contracts. The city manager shall examine all proposed contracts to which the city may be a party, and shall, with the recorder, sign on behalf of the city excepting where the city council directs that some other officer or officers shall do so. It shall be the duty of the city manager to see to it that all terms of any contract to which the city is a party are fully performed by all parties thereof.

History: 5/75, 9/84

2-6-7. Purchases. The city manager shall be general purchasing agent of the city, and except where specific provision to the contrary is made by law or by the council, he shall make all purchases of supplies, materials, and equipment authorized by the council and in the manner prescribed by and subject to the limitations imposed by law and the city council. No expense shall be incurred for a purpose requiring a prior appropriation unless the amount of such purchase is covered by an unexpended appropriation for the purpose.

Cross-reference: Clinton City Code Title 21

History: 5/75, 9/84

2-6-8. Budget Officer. The city manager is hereby designated the budget officer for the city and shall perform or cause to be performed all of the duties of such office as set forth in the Uniform Municipal Fiscal Procedures Act, together with such other duties as the council may from time to time, by resolution, designate.

History: 5/75, 9/84

2-6-9. Accounts. It shall be the duty of the city manager to keep current accounts showing at all times the fiscal condition of the city, including the current and anticipated expenses, appropriations, cash on hand, and anticipated revenues of all municipal funds and accounts, and see to the collection of all money due the municipality.

History: 5/75, 9/84

2-6-10. Inventories--Property. The city manager

shall keep a current inventory showing all real and personal property of the city and its location and shall be responsible for the care and custody of all such property, including equipment, buildings, parks, and all other city property, which are not by law assigned to some other officer or body for care and control.

History: 5/75, 9/84

2-6-11. Reports and Publications. The city manager shall publish, or cause to be published, all notices, ordinances or other documents required by law to be published and to prepare or cause to be prepared all reports which the city or any of the officials thereof are required to prepare.

History: 5/75, 9/84

2-6-12. Elections. The city manager shall cause to be prepared all notices, ballots, and election supplies necessary in connection with municipal elections. The city council shall keep a journal of its proceedings. The books, records, accounts and documents of the city shall be kept at the office of the recorder and approved copies shall be open and available to the public during regular business hours for examination and copying. The council may by resolution establish reasonable charges for providing copies of its public records to individuals, except when by law the municipality must provide the records without cost to the public.

History: 5/75, 9/84

2-6-13. Collector and Comptroller. The city manager shall be ex-officio city collector and city comptroller, unless such offices, or either of them, are duly filled by appointment; and he shall perform the duties of each such office in the absence of such appointment to either of them.

History: 5/75, 9/84

2-6-14. Maps--Plats. Unless otherwise provided by ordinance the city manager shall cause to be kept a complete set of maps and plats showing the location of all city utilities, other municipal properties, all streets, other public places, and all lots or parcels of land subdivided according to law.

History: 5/75, 9/84

2-6-15. Offices. The city manager shall maintain an office in the city hall and shall spend such time in the performance of his duties as may be required from time to time by resolution of the council.

History: 5/75, 9/84

2-6-16. Absence from City. In the event that the city manager shall be absent from the city or incapacitated from performing the duties of his position, an officer or other person designated by the mayor may be authorized to act as manager during such absence or incapacity, provided, however, that if such absence or incapacity shall extend for a period of ten (10) or more consecutive days, such designation shall be subject to the approval of the city council.

History: 9/84

2-6-17. Qualifications. The powers, duties, and functions of the office of city manager shall be carried out by the city manager, who shall be a qualified person, who need not be an elector, appointed by the city council at a salary to be fixed by resolution of the said council, and to serve at the pleasure of the city council, subject to removal by it at any time without cause by a majority vote thereof. Before taking office, the city manager shall furnish a fidelity bond in an amount to be determined by resolution of the city council, conditioned upon the faithful performance of his duties, with a corporation licensed to do business in the State of Utah as surety. Such bond shall be filed with the city recorder after being approved by the City Council and the premium for such bond shall be paid by the city.

History: 9/84

2-6-18. Personnel. Additional personnel may from time to time be employed within the office of city manager by action of the city council.

History: 5/75, 9/84

2-6-19. Removal from Office. The city council may at its pleasure, by majority vote, remove the manager. Except in the case of removal for proven malfeasance in office, the council shall cause the manager, upon his removal, to be paid any unpaid balance of his salary due to the date of his removal together with the same rate for the next six (6) calendar months following the date of his removal.

History: 9/84

2-6-20. Legislative Powers and Official Position. The legislative and judicial powers of the mayor, his position as chairman of the governing body, and any ex officio position the mayor shall hold shall not be delegated to the manager.

Cross-reference: UCA §10-3-927

History: 9/84

Chapter 7. City Officers Generally

- 2-7-1. Requirement of Oath and Bond.
- 2-7-2. Approval of Official Bonds.
- 2-7-3. Amount of Official Bond.
- 2-7-4. Form of Oath of Office.
- 2-7-5. Oath--Given--Filed.
- 2-7-6. Acts of Officials Not Voided.
- 2-7-7. Compensation of Officers and Employees.
- 2-7-8. City Attorney.
- 2-7-9. City Engineer.
- 2-7-10. City Recorder.
- 2-7-11. Recorder's Duties in Relation to Finance Generally.
- 2-7-12. Recorder—Furnishing of Financial Statements.
- 2-7-13. Quarterly Financial Reports.
- 2-7-14. Paying Over Money to City Treasurer; Delivering Records, etc., to Successor in Office.
- 2-7-15. City Treasurer; Duty to Receive all of City's Money; Settlements with City Recorder.
- 2-7-16. Receipts for Payments to City.
- 2-7-17. Public Money to be Kept Separate; Unlawful Use of Public Money.

2-7-1. Requirement of Oath and Bond. All elective and appointed officers of the city shall before assuming the duties of office, file with the city recorder an official bond with corporate sureties and a constitutional oath of office, except the bond of the recorder, which shall be filed with the treasurer.

History: 9/84

2-7-2. Approval of Official Bonds. Before any officer of the city, except the mayor, shall be entitled to assume the duties of his office, his bond and sureties thereupon must be approved by the mayor. The bond of the mayor must be approved by the city council.

History: 9/84

2-7-3. Amount of Official Bond. The amount for which the respective officer shall give bond shall be fixed by resolution from time to time by the city council, and the city council may, at any time, require further additional bond of any officer elected or appointed as it may deem proper.

History: 9/84

2-7-4. Form of Oath of Office. Before any officer of the city shall be entitled to assume the days of his

office, he shall take and subscribe to the following oath: "I do solemnly swear (or affirm) that I will support, obey and defend the Constitution of the United States and the Constitution of this state; that I will discharge the duties of my office with fidelity."

History: 9/84

2-7-5. Oath--Given--Filed. The oath of office required in the previous section shall be administered by any judge, justice of the peace, notary public, or by the recorder of the municipality. Elected officials shall take their oath of office at 12 o'clock noon on the first Monday in January following their election or as soon thereafter as is practicable. Appointed officers shall take their oath at any time before entering upon their duties. All oaths of office shall be filed with the recorder.

Cross-reference: UCA §10-3-828

History: 9/84

2-7-6. Acts of Officials Not Voided. No official act by any municipal officer shall be invalid for the reason that he failed to take the oath of office.

Cross-reference: UCA §10-3-829

History: 9/84

2-7-7. Compensation of Officers and Employees. The salary or compensation of all officers and employees shall be established from time to time by resolution of the city council.

Cross-reference: UCA §10-3-901

History: 9/84

2-7-8. City Attorney. The mayor, with the advice and consent of the city council, may appoint a city attorney. The city attorney shall be a regularly licensed attorney and shall perform the duties required of him by the general laws and by the ordinances of the city and such other duties as council may by ordinance or resolution require. The city attorney may, with the consent and approval of the council, appoint a deputy to advise the city officers in all legal matters and to prosecute criminal cases or perform other duties ordinarily performed by the city attorney.

Cross-reference: UCA §10-3-928

History: 9/84

2-7-9. City Engineer. The mayor, with the advice and consent of the city council, may appoint the city engineer. The city engineer shall perform the duties required of him by the general laws and by the

ordinances of the city and such other duties as council may by ordinance or resolution require. Instead of appointing a city engineer, the mayor may, upon the advice and consent of the city council, employ an engineer to perform such duties as may be prescribed.

History: 9/84

2-7-10. City Recorder. The city recorder shall keep his office at the place of the meeting of the city council or at such other place convenient thereto as the city council may direct. He shall keep the corporate seal and all papers and records of the city, and shall keep the record of the proceedings of the city council, whose meetings it shall be his duty to attend. Copies of all papers filed in his office, and transcripts from all records of the city council, certified by him under the corporate seal, shall be evidence in all courts as if the original were produced. He shall cause a certified copy of all ordinances passed by the city council to be posted in three (3) public places in the city within one (1) week after the passage of such ordinance by the city council.

History: 9/84

2-7-11. Recorder's Duties in Relation to Finance Generally. The city recorder shall draw and countersign all orders upon the treasurer in pursuance of any order or resolution of the city council, and keep a full and accurate account thereof in books provided for that purpose. He shall make to the city council, from time to time upon the order of the council, reports of the financial condition of the city; make and keep a list of outstanding bonds, to whom issued, for what purpose, when and where payable and the rate of interest they respectively bear, and recommend such action to the city council as shall secure the payment of the principal and interest of such bonds; report annually on or before June 1 to the city council an estimate of the expenses of the city and the revenue necessary to be raised for the current year; and as provided relating to city budget shall keep regular books of account in which he shall enter all indebtedness of the city, and which shall at all times show the financial condition of the city, the amount of bonds, orders, certificates or other evidences of indebtedness which have been redeemed, and the amount of each outstanding; shall keep accounts with all receiving and disbursing officers of the city, showing the amount they have received from the different sources of revenue and the amount which they have disbursed under the direction of the city council; shall examine reports, books, papers, vouchers and accounts of the city treasurer; shall audit all claims and demands against the city before they are allowed by the city council; and shall keep a record of all claims presented and the action of the council thereon; shall keep a book

properly indexed in which he shall enter all contracts, which book shall be open to the inspection of all persons interested; and shall perform such other duties as the city council may provide by ordinance.

History: 9/84

2-7-12. Recorder--Furnishing of Financial Statements. The city recorder shall prepare and publish on or before the second Tuesday in August of each year a detailed statement of the financial condition of the city and of all receipts and expenditures for the previous year ending June 30; and on expiration of the term shall furnish to his successor such statement as required by law.

History: 9/84

2-7-13. Quarterly Financial Reports. The city recorder shall make a report to the city council at the first regular meeting of the city council in October, January, April, and July in each year setting forth a statement of the amount of the city revenue, specifying in such statement from whence derived, and for what disbursed, with the amount on hand, together with a complete report of the financial condition of the city. These reports shall be forthwith audited by the city council.

History: 9/84

2-7-14. Paying Over Money to City Treasurer; Delivering Records, etc., to Successor in Office. The city recorder shall pay into the city treasury all money belonging to the city coming into his hands by virtue of his office. He shall deliver to his successor in office the corporate seal, together with all books, papers, records and other property in his possession belonging to the city.

History: 9/84

2-7-15. City Treasurer; Duty to Receive all of City's Money; Settlements with City Recorder. (1) The city treasurer shall receive all money belonging to the city, including all taxes, licenses and fines and keep an accurate and detailed account thereof, and he shall collect special taxes and assessments as provided by law and the code of the city. He shall make a settlement with the recorder, as the council may direct at the end of every month, and turn over all warrants, interest coupons, bonds or other evidence of the indebtedness of the city which may have been redeemed by him during the month, taking the receipts of the recorder therefor, and all such warrants, orders or other evidence of indebtedness shall be cancelled by him and have written

or stamped thereon the date of their payment or redemption.

(2) The treasurer shall have such additional duties as the city council shall from time to time direct.

History: 8/36, 9/84

2-7-16. Receipts for Payments to City. The treasurer shall give every person paying money to the city treasurer a receipt therefor, specifying the date of payment and upon what account paid; he shall file the duplicate of such receipt with the recorder at the date of his monthly report.

History: 8/36, 9/84

2-7-17. Public Money to be Kept Separate; Unlawful Use of Public Money. The city treasurer shall keep all money belonging to the city separate and distinct from his own money. Whenever it shall appear to the mayor that the treasurer is making profit out of public money or is using the same for any purpose not authorized by law, he shall suspend him from office and upon his conviction for such offense his office shall become vacant.

History: 8/36, 9/84

Chapter 8. Planning Commission

- 2-8-1. Purpose and Intent.
- 2-8-2. Planning Commission.
- 2-8-3. Duties and Powers.
- 2-8-4. Appeal Process.

2-8-1. Purpose and Intent. The purpose and intent of this ordinance is to establish a city planning commission to represent the concerns of a diverse citizenry and the broad interests of the community as a whole, whose activities should be conducted with convenience and accessibility to the general public of the City of Clinton.

History: 11/83

2-8-2. Planning Commission. (1) Creation--Appointment. (a) There is hereby created a planning commission for Clinton City, consisting of eight (8) total members, seven (7) of whom are to be appointed by the mayor with the advice and consent of the city council, and the eighth shall be a member of the city council, designated by the mayor to serve on the commission as a city council representative. The council member of the commission shall serve as an ex-officio member of the commission and shall not be a

voting member. Otherwise, the council member shall have the same powers and duties as the other appointed members of the commission.

(b) Members of the commission shall be selected from the qualified electors of the city, based on a variety of backgrounds and locations within the city. Moreover, no more than two (2) members shall share the same professional background or area of expertise.

(2) Terms of Office. Terms of office of the seven (7) citizen members of the commission shall be staggered at intervals to provide uniformity and continuity of policy. Such appointed citizen members shall serve for a period of three (3) years and at staggered intervals, but in any event, each member of the planning commission shall serve until the expiration of the term for which he is appointed and until a successor is appointed and qualified. The city council representative to the commission shall serve only while serving on the city council.

(3) Oath of Office. Members of the planning commission shall qualify by taking, subscribing, and filing with the city recorder an oath of office required by the state constitution.

(4) Removal and Vacancies. Members of the planning commission may be removed for cause by the mayor, with the advice and consent of the city council. "Cause" may include, but shall not be limited to: violations of the state's Public Officers and Employee Ethics Act, conflicts of interest, and failure to attend a minimum of 80% of meetings. Any vacancy occurring on the commission by reason of death, resignation, or removal shall be filled by the mayor with the advice and consent of the city council for the unexpired term of such member.

(5) Compensation. Planning commission members shall serve without compensation, except for reasonable expense per meeting attended.

(6) Staff Expenditure. The planning commission may request appointment of such employees and staff as it may deem necessary; however, any expenditures of the commission shall be first approved by the city council as being within the amount budgeted by the city for such purposes for that year.

(7) Procedure. The planning commission shall, during its first meeting in January of each year, elect from its membership a chairman. The city council representative shall not be eligible for the position of chairman. The chairman shall serve for a term of one (1) year, and shall not succeed in said office. The commission shall also elect other such officers as it may

deem necessary and adopt and later change or alter rules and regulations of organization and procedure consistent with the city code and state laws.

(8) **Quorum.** Four (4) voting members of the planning commission shall constitute a quorum. Requests presented to the planning commission shall be passed by a majority of the quorum.

(9) **Meetings.** The planning commission shall meet at least once each month as designated by the commission in their bylaws. Public hearings of the planning commission may be held at such meetings; however, all public hearings shall be held after the regular working hours of the city, upon proper notice to consider any matters within the scope of the commission's duties as provided by the code or state statute. All meetings and public hearings of the planning commission shall be held in a public place designated by the commission and shall be of sufficient size to insure public access to the operations of the commission.

(10) **Records of Proceedings.** The commission shall keep records of its proceedings, which shall be open at all times to public inspection. The commission shall in January of each year file an annual report with the mayor and city council, setting forth its transactions and recommendations.

History: 11/83, 9/84, 2/93, 1/97

2-8-3. Duties and Powers. (1) **Master Plan.** It shall be the function and duty of the planning commission, after holding public hearings, to recommend to the city council a master plan for the physical development of Clinton, as required by the Municipal Planning Enabling Act, Utah Code Annotated §10-9-19, et seq. (1953), and to maintain such plan as needed to reflect current city conditions and needs.

(2) **Zoning.** It shall be the function and duty of the planning commission to recommend to the city council a zoning plan, including text and map, representing the views of the planning commission for city zoning. This zoning plan recommendation shall be made in accordance with the master plan. After adoption by the city council, said zoning plan shall be maintained and adhered to as reflected in recommendations from the commission pertaining to zoning.

(3) **Reports.** The planning commission may make reports and recommendations relating to the plan and development of the city to public officials and agencies, public utility companies, civic, educational, professional, and other organizations and citizens. The planning commission, its members and employees in the performance of its functions, may enter upon any

land at reasonable times to make examination, survey, place and maintain necessary monuments and marks thereon. In general, the planning commission shall have such powers as may be necessary to enable it to perform its functions and promote city planning and zoning.

(4) **Land Subdivision or Re-subdivision.** Following the adoption of an official plan in the manner prescribed in this act, no map or plat of any subdivision presented for record, affecting land within the corporate limits of the city or in continuous territory outside of and distant not more than one and one-half (1-½) miles from such limits and not included in any other municipality, shall be entitled to be recorded or shall be valid unless the subdivision thereon shall provide for streets, alleys, and public grounds in conformity with any requirements applicable thereto of such official plan.

History: 11/83, 9/84

2-8-4. Appeal Process. Any person aggrieved by any decision of the planning commission shall have the right to make appeals to the city council, as provided by the city code.

History: 11/83

Chapter 9. Justice of the Peace

- 2-9-1. Creation of Office.
- 2-9-2. Appointment.
- 2-9-3. Removal from Office.
- 2-9-4. Vacancies and Disqualification.
- 2-9-5. Compensation.
- 2-9-6. Annual Training.
- 2-9-7. Eligibility for Office of Justice.
- 2-9-8. Mandatory Retirement.

2-9-1. Creation of Office. There is hereby created the office of justice of the peace.

History: 12/37, 9/84

2-9-2. Appointment. The justice of the peace shall be appointed in the same manner as other officers of the city and shall be appointed to terms of four (4) years, commencing the first Monday in February, 1980.

Cross-reference: UCA §10-3-923

History: 9/84

2-9-3. Removal from Office. The justice of the peace may be removed from office by the judicial proceedings provided in Utah Code Annotated §77-6-1, et seq.

Cross-reference: UCA §17-16-6

History: 9/84

2-9-4. Vacancies and Disqualification. If a vacancy shall occur in the office of the justice of the peace, the mayor, by and with the consent of the city council, shall forthwith fill such vacancy by appointment for the unexpired term. The person appointed shall qualify in the same manner as a municipal justice, and shall have and exercise all of the powers conferred by law upon such city justice. In case the city justice shall for any reason be unable or disqualified to perform the duties of his office, or shall be absent, the mayor shall appoint some other justice of the peace residing within the county to act as the city justice of the peace pro tempore, and he shall have and discharge the duties of the city justice of the peace, but during the existence of such disability or absence only.

Cross-reference: UCA §78-7-1

History: 9/84

2-9-5. Compensation. (1) The justice of the peace shall be paid a fixed compensation determined by the council based on the recommendations of the office of the state court administrator.

(2) The compensation shall be comprised of a monthly salary and shall be computed upon the number of hours, days, or other periods of time that the justice of the peace shall be available to perform all judicial functions.

(3) The council shall review annually and may adjust the compensation paid the justice. A copy of the resolution, or other document affixing the salary of the justice, and any adjustments to it, shall be furnished to the state court administrator by the council.

(4) The salary fixed for a justice of the peace shall not be diminished during the term for which the justice has been appointed.

Cross-reference: UCA §78-5-29

History: 12/37, 9/84

2-9-6. Annual Training. The justice of the peace shall attend at least one (1) qualifying seminar or training court supervised by the judicial counsel in each calendar year. If the justice does not attend the required seminars or courses for two (2) consecutive years, he may be removed from office for cause under the provisions of Utah Code Annotated §78-7-27.

Cross-reference: UCA §78-5-27

History: 9/84

2-9-7. Eligibility for Office of Justice. A person shall not be eligible for justice of the peace if he or she is not a citizen of the United States, 25 years of age, a resident of the State of Utah for three (3) years immediately preceding election or assumption of office, whichever is earlier, a resident of the municipality from which chosen for at least six (6) months immediately preceding election or assumption of office, whichever is earlier except as otherwise provided by law.

Cross-reference: UCA §78-5-41

History: 9/84

2-9-8. Mandatory Retirement. Justice of the peace shall retire upon retaining the age of 70 years, and the office held by that justice shall, upon that justice's retirement, become vacant.

Cross-reference: UCA §78-5-41

History: 9/84

Chapter 10. Claims Against Municipality

2-10-1. Records Open to Inspection.

2-10-2. Claim for Injury-Notice-Contents Service Legal Disability.

2-10-3. Time for Filing Notice of Claim.

2-10-4. Denial of Claim for Injury.

2-10-1. Records Open to Inspection. The city council shall keep a journal of its proceedings. The books, records, accounts, and documents of the city shall be kept at the office of the recorder and approved copies shall be open and available to the public during regular business hours for examination and copying. Except when required by law to provide records without cost to the public, a reasonable charge for providing copies to the public shall be fixed by resolution of the city council.

Cross-reference: UCA §10-3-603

History: 9/84

2-10-2. Claim for Injury--Notice--Contents--Service-Legal Disability. (1) A claim is deemed to arise when the statute of limitations that would apply if the claim were against a private person commences to run.

(2) Any person having a claim for injury against the city or against its employee for an act or omission occurring during the performance of his duties, within the scope of employment, or under color of authority shall, before maintaining an action, file a written notice of claim with the city.

(3) The notice of claim shall set forth a brief statement of the facts, the nature of the claim asserted, and the damages incurred by the claimant so far as he shall know, shall be signed by the person making the claim or such person's agent, attorney, parent or legal guardian, and shall be directed and delivered to the city manager within the time prescribed in section 2-10-3.

(4) If, at the time the claim arises, the claimant is under the age of majority, or mentally incompetent or without a legal guardian, or imprisoned, upon application by the claimant and after hearing and notice to the city, a court of competent jurisdiction, in its discretion, may extend the time for service of notice of claim; but in no event shall it grant an extension which exceeds the applicable statute of limitations. In determining whether to grant an extension, the court shall consider whether the delay in serving the notice of claim would substantially prejudice the city in maintaining its defense on the merits.

Cross-reference: UCA §63-30-11 & 78-12-30

History: 9/84

2-10-3. Time for Filing Notice of Claim. A claim against the city or against its employee for an act or omission occurring in the performance of its duties, within the scope of employment, or under color of authority, is barred unless notice of claim is filed with the city council of the city within one (1) year after the claim arises, or before the expiration of any extension of time granted under section 2-10-2.

Cross-reference: UCA §63-30-13

History: 9/84

2-10-4. Denial of Claim for Injury. If the claim is denied, a claimant may institute an action in the district court against the city pursuant to the requirements of applicable state law.

History: 9/84

Chapter 11. Records Access and Management

- 2-11-1. Short Title.
- 2-11-2. Purpose and Intent.
- 2-11-3. Definitions.
- 2-11-4. Right of Public Access.
- 2-11-5. Access to Non Public Records.
- 2-11-6. Fees.
- 2-11-7. Procedures for Access.
- 2-11-8. Denials.
- 2-11-9. Records That Must Be Disclosed.
- 2-11-10. Private Records.

- 2-11-11. Controlled Records.
- 2-11-12. Protected Records.
- 2-11-13. Records Classification and Designation.
- 2-11-14. Records Retention.
- 2-11-15. Segregation of Records.
- 2-11-16. Appeals.
- 2-11-17. Judicial Review.
- 2-11-18. Confidential Treatment of Records for Which No Exemption Applies.
- 2-11-19. Request to Amend a Record.
- 2-11-20. Rights of Individuals on Whom Data Maintained.
- 2-11-21. Criminal Penalties.

2-11-1. Short Title. This chapter shall be known as the "Clinton Government Records Access and Management Act".

History: 7/92

2-11-2. Purpose and Intent. (1) In enacting this act, the city recognizes two fundamental constitutional rights:

- (a) the right of privacy in relation to personal data gathered by the city; and
- (b) the public's right of access to information concerning the conduct of the public's business.

(2) It is the intent of the city to:

(a) establish fair information practices to prevent abuse of personal information by the city while protecting the public's right of easy and reasonable access to unrestricted public records; and

(b) provide guidelines of openness to government information and privacy of personal information consistent with nationwide standards.

(c) Establish and maintain an active, continuing program of the economical and efficient management of the city's records as provided in this chapter.

History: 7/92

2-11-3. Definitions. As used in this chapter:

(1) **Audit** means: (a) a systematic examination of financial, management, program, and related records for the purpose of determining the fair presentation of financial statements, adequacy of internal controls, or compliance with laws and regulations; or

(b) a systematic examination of program procedures and operations for the purpose of determining their

effectiveness, economy, efficiency, and compliance with statutes and regulations.

(2) **Chronological logs** means the regular and customary summary records of law enforcement agencies and other public safety agencies that show the time and general nature of police, fire, and paramedic calls made to the agency and any arrests or jail bookings made by the agency.

(3) **Classification, classify**, and their derivative forms mean determining whether a record series, record, or information within a record is public, private, controlled, or protected, or exempt from disclosure under Utah Code, Section 63-2-201(3)(b).

(4) (a) **Computer program** means a 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 and source material that explain how to operate the computer program.

(b) **Computer program** does not mean:

(i) the original data, including numbers, text, voice, graphics, and images;

(ii) analysis, compilation, and other manipulated forms of the original data produced by use of the program; or

(iii) the mathematical or statistical formulas (excluding the underlying mathematical algorithms contained in the program) that could be used if the manipulated forms of the original data were to be produced manually.

(5) **Controlled record** means a record containing data on individuals that is controlled as provided by Section 11.

(6) (a) **Contractor** means:

(i) any person who contracts with the city to provide goods or services directly to the city: or

(ii) any private, nonprofit organization that receives funds from the city.

(b) **Contractor** does not mean a private provider.

(7) **Gross compensation** means every form of remuneration payable for a given period to an individual for services provided including salaries, commissions, vacation pay, severance pay, bonuses, and any board, rent, housing, lodging, payments in

kind, and any similar benefit received from the individual's employer.

(8) **Designation, in designate**, and their derivative forms mean indicating, based on the city's familiarity with a record series or based on the city's review of a reasonable sample of a record series, the primary classification that a majority of records in a record series would be given if classified and the classification that other records typically present in the record series would be given if classified.

(9) (a) **Initial contact report** means an initial written or recorded report, however titled, prepared by peace officers engaged in public patrol or response duties describing official actions initially taken in response to either a public complaint about or the discovery of an apparent violation of law, which report may describe:

(i) the date, time, location, and nature of the complaint, the incident, or offense;

(ii) names of victims;

(iii) the nature or general scope of the agency's initial actions taken in response to the incident;

(iv) the general nature of any injuries or estimate of damages sustained in the incident;

(v) the name, address, and other identifying information about any person arrested or charged in connection with the incident;

(vi) the identity of the public safety personnel (except undercover personnel) or prosecuting attorney involved in responding to the initial incident.

(b) **Initial contact reports** do not include follow-up or investigative reports prepared after the initial contact report. However, if the information specified in Subsection (a) appears in follow-up or investigative reports, it may only be treated confidentially if it is private, controlled, protected, or exempt from disclosure under Section 63-2-201(3)(b) of the Utah Code.

(10) **Individual** means a human being.

(11) **Person** means any individual, nonprofit or profit corporation, partnership, sole proprietorship, or other type of business organization.

(12) **Private record** means a record containing data on individuals that is classified private as provided by Section 10.

(13) **Private provider** means any person who contracts with the city to provide services directly to the public.

(14) **Protected record** means a record that is classified protected as provided by Section 12.

(15) **Public record** means a record that has not been appropriately classified private, controlled, or protected as provided in Sections 10, 11, and 12 of this chapter.

(16) (a) **Record** means all books, letters, documents, papers, maps, plans, photographs, films, cards, tapes, recording, or other documentary materials, and electronic data regardless of physical form or characteristics, prepared, owned, used, received, or retained by the city;

(b) **Record** does not mean:

(i) temporary drafts or similar materials prepared for the originator's personal use or prepared by the originator for the personal use of an individual for whom he is working;

(ii) materials that are legally owned by an individual in his private capacity;

(iii) materials to which access is limited by the laws of copyright or patent unless the copyright or patent is owned by the city;

(iv) proprietary software; junk mail or commercial Publications received by the city or an official or employee of the city;

(v) books and other materials that are cataloged, indexed, or inventoried and contained in the collections of libraries open to the public, regardless of physical form or characteristics of the material;

(vi) daily calendars and other personal notes prepared by the originator for the originator's personal use or for the personal use of an individual for whom he is working; or

(vii) computer programs as defined that are developed or purchased by or for the city for its own use.

(viii) notes or internal memoranda prepared as part of the deliberative process by a member of the judiciary, an administrative law judge, a member of the Board of Pardons, or a member of any other body charged by law with performing a quasi-judicial function.

(17) **Record series** means a group of records that may be treated as a unit for purposes of designation, description, management, or disposition.

(18) **Records officer** means the city recorder and other individuals as appointed by the Mayor to work in the care, maintenance, scheduling, designation, classification, disposal, and preservation of records.

(19) **Summary data** means statistical records and compilations that contain data derived from private, controlled, or protected information but that do not disclose private, controlled, or protected information.

History: 7/92

2-11-3. Right of Public Access. (1) Every person has the right to inspect a public record free of charge and the right to take a copy of a public record during normal working hours, subject to the payment of costs and fees pursuant to Section 6 of this chapter.

(2) All records are public unless otherwise expressly provided by this chapter or State or Federal law or regulation.

(3) The following records are not public:

(a) records that are appropriately classified private, controlled, or protected as allowed by Sections 10, 11, and 12 of this chapter; and

(b) records to which access is restricted pursuant to court rule, another state statute, federal statute, or federal regulation, including records for which access is governed or restricted as a condition of participation in a state or federal program or for receiving state or federal funds.

(4) only those records specified in Section 10, 11 or 12 may be classified private, controlled, or protected.

(5) (a) The city may not disclose a record that is private, controlled, or protected to any person except as provided in Subsection (5)(b) or Section 5.

(b) The city may, at its discretion, disclose records that are private under Subsection 10.2 or protected under Section 12 to persons other than those specified in Section 5 if the city council, or a designee, determines that there is no interest in restricting access to the record, or that the interests favoring access outweigh the interest favoring restriction of access.

(6) (a) The disclosure of records to which access is governed or limited pursuant to court rule, another state

statute, federal statute, or federal regulation, including records for which access is governed or limited as a condition of participation in a state or federal program or for receiving state or federal funds, is governed by the specific provisions of that statute, rule or regulation.

(b) This chapter applies to records described in Subsection (a) insofar as this chapter is not inconsistent with the statute, rule, or regulation.

(7) The city shall provide a person with a certified copy of a record if:

(a) The person requesting the record has a right to inspect it;

(b) Identifies the record with reasonable specificity; and

(c) Pays the lawful fees.

(8) (a) The city is not required to create a record in response to a request.

(b) Nothing in this chapter requires the city to fulfill a person's records request if the request unreasonably duplicates prior records requests from that person.

(9) If a person requests copies of more than 50 pages of records, and if the records are contained in files that do not contain records that are exempt from disclosure, the city may:

(a) Provide the requester with the facilities for copying the requested records and require that the requester make the copies himself; or

(b) allow the requester to provide his own copying facilities and personnel to make the copies at the city offices, and waive the fees for copying the records.

(10) (a) If the city owns an intellectual property right and offers the intellectual property right for sale, or license, the city may control by ordinance or policy the duplication, and distribution of the material based on terms the city considers to be in the public interest.

(b) Nothing in this chapter shall be construed to limit or impair the rights or protections granted to the city under federal copyright or patent law as a result of its ownership of the intellectual property right.

(11) The city may not use the physical form, electronic or otherwise, in which a record is stored to deny, or unreasonably hinder the rights of persons to inspect and receive copies of a record under this chapter.

History: 7/92

2-11-5. Access To Non Public Records. (1) Upon request the city shall disclose a private record to:

(a) the subject of the record;

(b) the parent or legal guardian of an un-emancipated minor who is the subject of the record;

(c) the legal guardian of a legally incapacitated individual who is the subject of the record;

(d) any other individual who:

(i) has a power of attorney from the subject of the record; or

(ii) submits a notarized release from the subject of the record or his legal representative dated no later than 90 days before the date the request is made; or

(e) any person to whom the record must be provided pursuant to court order.

(2) (a) Upon request, the city shall disclose a controlled record to:

(i) a physician, psychologist, or certified social worker upon submission of 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 of controlled information as provided by Subsection b; and

(ii) any person to whom a record must be disclosed pursuant to Court Order.

(b) A person who receives a record from the city in accordance with Subsection 2-11-5.2.a.(i) may not disclose controlled information from that record to any person, including the subject of the record.

(3) If there is more than one subject of a private or controlled record, the portion of the record that pertains to another subject shall be segregated from the portion that the requester is entitled to inspect.

(4) Upon request the city shall disclose a protected record to:

(a) the person who submitted the information in the record;

(b) any other individual who:

(i) has a power of attorney from all persons, governmental entities, or political subdivisions whose interests were sought to be protected by the protected classification; or

(ii) submits a notarized release from their legal representatives dated no more than 90 days prior to the date the request is made; or

(c) any person to whom a record must be provided pursuant to a court order.

(5) The city may disclose a record classified private, controlled, or protected to another governmental entity, city, another state, the United States, or a foreign government only as provided by Utah Code annotated 63-2-206.

(6) Before releasing a private, controlled, or protected record, the city shall obtain evidence of the requester's identity.

(7) The city shall disclose a record pursuant to the terms of a court order signed by a judge from a court of competent jurisdiction, provided that:

(a) the record deals with a matter in controversy over which the court has jurisdiction.

(b) the court has considered the merits of the request for access to the record; and

(c) the court has considered and, where appropriate, limited the requester's use and further disclosure of the record in order to protect privacy interests in the case of private or controlled records, business confidentiality interests in the case of records protected under Subsections 63-2-304(1) and (2), and privacy interests or the public interest in the case of other protected records;

(d) to the extent the record is properly classified private, controlled, or protected, the interests favoring access, considering limitations thereon, outweigh the interests favoring restriction of access; and

(e) where access is restricted by a rule, statute, or regulation referred to in Subsection 2-11-4.3(b), the court has authority independent of this chapter to order disclosure.

(8)(a) The city may disclose or authorize disclosure of private or controlled records for research purposes if the city:

(i) determines that the research purpose cannot reasonably be accomplished without use of disclosure of the information to the researcher in individually identifiable form;

(ii) determines that the proposed research is bona fide, and that the value of the research outweighs the infringement upon personal privacy;

(iii) requires the researcher to assure the integrity, confidentiality, and security of the records and requires the removal or destruction of the individual identifiers associated with the records as soon as the purpose of the research project has been accomplished;

(iv) prohibits the researcher from disclosing the record in individually identifiable form except as provided in Subsection (b), or from using the record for purposes other than the research approved by the city; and

(v) secures from the researcher a written statement of his understanding of and agreement to the conditions of this Subsection and his understanding that violation of the terms of this Subsection may subject him to criminal prosecution under Section 63-2-801 of the Utah Code.

(b) A researcher may disclose a record in individually identifiable form if the record is disclosed for the purpose of auditing or evaluating the research program and no subsequent use or disclosure of the record in individually identifiable form will be made by the auditor or evaluator except as provided by this section.

(c) The city may require indemnification as a condition of permitting research under this subsection.

(9) (a) Under Subsections 2-11-4.5(b) and Section 2-11-16.4 the city may disclose records that are private under Section 2-11-10, or protected under Section 2-11-12 to persons other than those specified in this section.

(b) Under Section 2-11-16 the city council may require the disclosure of records that are private under Section 2-11-10, controlled under Section 2-11-11, or protected under Section 2-11-12 to persons other than those specified in this section.

(c) Under Subsection 63-2-404(8) of the Utah Code, the court may require the disclosure of records that are private under section 2-11-10, controlled under Section 2-11-11, or protected under Section 2-11-13 to persons other than those specified in this section.

2-11-6. Fees. (1) The city may charge a reasonable fee to cover the city's actual cost of duplicating a record or compiling a record in a form other than that maintained by the city. The fees may be set by

resolution. The initial fee, until changed by resolution, is as set forth in exhibit "A" hereto.

(a) A city may fulfill a record request without charge when it determined that:

(i) releasing the record primarily benefits the public rather than a person;

(ii) the individual requesting the record is the subject of the record; or

(iii) the requester's legal rights are directly implicated by the information in the record, and the requester is impecunious.

(b) A city may not charge a fee for:

(i) reviewing a record to determine whether it is subject to disclosure; or

(ii) inspecting a record.

2-11-7. Procedures for Access. (1) A person making a request for a record shall furnish the city with a written request containing his name, mailing address, daytime telephone number if available, and a description of the records requested that identifies the record with reasonable specificity.

(2) As soon as reasonably possible, but no later than ten business days after receiving a written request, or five business days after receiving a written request if the requester demonstrates that expedited response to the record request benefits the public rather than the person, the city shall respond to the request by:

(i) approving the request and providing the record;

(ii) denying the request;

(iii) notifying the requester that it does not maintain the record and providing, if known, the name and address of where the record can be found; or

(iv) notifying the requester that because of one of the extraordinary circumstances listed in subsection 2-11-4, it cannot immediately approve or deny the request. The notice shall describe the circumstances relied upon and specify the earliest time and date when the records will be available.

(3) Any person who requests a record to obtain information for a story or report for publication or broadcast to the general public is presumed to be acting to benefit the public rather than a person.

(4) The following circumstances constitute "extraordinary circumstances" that allow the city to delay approval or denial by an additional period of time as specified in Subsection 2-11-7.5 if the city determines that due to the extraordinary circumstances it cannot respond within the time limits provided in Subsection 2-11-7.2:

(a) another governmental entity is using the record, in which case the city shall promptly request that the governmental entity currently in possession return the record;

(b) another governmental entity is using the record as part of an audit and returning the record before the completion of the audit would impair the conduct of the audit;

(c) the request is for a voluminous quantity of records;

(d) the city is currently processing a large number of records requests;

(e) the request requires the city to review a large number of records to locate the records requested;

(f) the decision to release a record involves legal issues that require the city to seek legal counsel for the analysis of statutes, rules, ordinances, regulations, or case law;

(g) segregating information that the requester is entitled to inspect requires extensive editing; or

(h) segregating information that the requester is entitled to inspect from information that the requester is not entitled to inspect requires computer programming.

(5) If one of the extraordinary circumstances listed in Subsection 2-11-4. precludes approval or denial within the time specified in Subsection 2-11-2., the following time limits apply to the extraordinary circumstances:

(a) for claims under Subsection 2-11-4.a., the governmental entity currently in possession of the record shall return the record to the originating entity within five business days of the request for the return unless returning the record would impair the holder's work.

(b) for claims under Subsection 2-11-4.b., the originating city shall notify the requester when the record is available for inspection and copying;

(c) for claims under Subsection 2-11-7.4.c., 2-11-7.4.d., and 2-11-7.4.e., the city shall:

(i) disclose the records that it has located which the requester is entitled to inspect;

(ii) provide the requester with an estimate of the amount of time it will take to finish the work required to respond to the request; and

(iii) complete the work and disclose those records that requester is entitled to inspect as soon as reasonably possible;

(d) for delays under Subsection 2-11-7.4.f., the city shall either approve or deny the request within five business days after the response time specified for the original request has expired;

(e) for delays under Subsection 2-11-7.4.g., the city shall fulfill the request within 15 business days from the date of the original request; or

(f) for delays under Subsection 2-11-7.4.h., the city shall complete its programming and disclose the requested records as soon as reasonably possible.

(7) If the city fails to provide the requested records or issue a denial within the specified time period, that failure is considered the equivalent of a determination denying access to the records.

History: 7/92

2-11-8. Denials. (1) If the city denies the request in whole or part, it shall provide a notice of denial to the requester either in person or by sending the notice to requester's address.

(2) The notice of denial shall contain the following information:

(a) 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 records to which access is restricted pursuant to court rule, another state statute, federal statute, or federal regulation, including records for which access is governed or restricted as a condition of participation in a state or federal program or for receiving state or federal funds.

(b) citations to the provisions of this chapter, another state statute, federal statute, court rule or order or federal regulation that exempt the record or portions of the record from disclosure, provided that the citations

do not disclose private, controlled, or protected information;

(c) statement that the requester has the right to appeal the denial to the city council; and

(d) a brief summary of the appeals process, and the time limits for filing an appeal.

3) Unless otherwise required by a court or agency of competent jurisdiction, the city may not destroy or give up custody of any record to which access was denied until the period for an appeal has expired or the end of the appeals process, including judicial appeal.

History: 7/92

2-11-9. Records That Must Be Disclosed. (1) The following records are public.

(a) laws and ordinances;

(b) names, gender, gross compensation, job titles, job descriptions, business addresses, business telephone numbers, number of hours worked per pay period, dates of employment, and relevant education, previous employment, and similar job qualification of the city's former and present employees and officers excluding undercover law enforcement personnel or investigative personnel if disclosure could reasonably be expected to impair the effectiveness of investigations or endanger any individual's safety;

(c) final opinions, including concurring and dissenting opinions, and orders that are made by the city in an administrative, adjudicative, or judicial proceeding except that if the proceedings were properly closed to the public, the opinion and order may be withheld to the extent that they obtain information that is private, protected, or controlled;

(d) final interpretation of statutes or rules by the city unless classified as protected as provided in Subsections 2-11-12(15), (16) and (17).

(e) information contained in or compiled from a transcript, minutes, or report of the open portion of a meeting of the city including the records of all votes of each member of the city council;

(f) judicial records unless a court orders the records to be restricted under the rules of civil or criminal procedure or unless the records are private under this chapter;

(g) records filed with or maintained by county recorders, clerks, treasurers, surveyors, zoning commissions, the Division of State Lands and Forestry, the Division of Oil, Gas and Mining, the Division of Water Rights, or other governmental entities that give public notice of:

- (i) titles or encumbrances to real property;
 - (ii) restrictions on the use of real property;
 - (iii) the capacity of persons to take or convey title to real property; or
 - (iv) tax status for real and personal property;
- (h) records of the Department of Commerce that evidence incorporations, mergers, name changes, and uniform commercial code filings;
- (i) data on individuals that would otherwise be private under this chapter if the individual who is the subject of the record has given the city written permission to make the records available to the public;
- (j) documentation of the compensation that the city pays to a contractor or private provider; and
- (k) summary data.

(2) The following records are normally public, but to the extent that a record is expressly exempt from disclosure, access may be restricted under Subsection 2-11-4.3(b) or Sections 2-11-10, 2-11-11 or 2-11-12:

- (a) administrative staff manuals, instructions to staff, and statements of policy;
- (b) records documenting a contractor's or private provider's compliance with the terms of a contract with the city;
- (c) records documenting the services provided by a contractor or a private provider to the extent the records would be public if prepared by the city;
- (d) contracts entered into by the city;
- (e) any account, voucher, or contract that deals with the receipt or expenditure of funds by the city;
- (f) records relating to governmental assistance or incentives publicly disclosed, contracted for, or given by the city, encouraging a person to expand or relocate a business in Utah, except as provided in Subsection 63-2-304(34) of the Utah Code.

- (g) chronological logs and initial contact reports;
- (h) correspondence by and with the city in which the city determines or states an opinion upon the rights of the state, a political subdivision, the public, or any person;
- (i) empirical data contained in drafts if:
 - (i) the empirical data is not reasonably available to, the requester elsewhere in similar form; and
 - (ii) the city is given a reasonable opportunity to correct any errors or make non-substantive changes before release;
- (j) drafts that are circulated to anyone other than the city, state or to anyone other than a federal agency if the city, state or federal agency are jointly responsible for implementation of a program or project that has been legislatively approved; and
- (k) drafts that have never been finalized but were relied upon by the city in carrying out action or policy;
- (l) original data in a computer program if the city chooses not to disclose the program;
- (m) arrest warrants after issuance, except that, for good cause, a court may order restricted access to arrest warrants prior to service;
- (n) search warrants after execution and filing of the return, except that a court, for good cause, may order restricted access to search warrants prior to trial;
- (o) records that would disclose information relating to formal charges or disciplinary actions against a past or present city employee if:
 - (i) the disciplinary action has been completed and all time periods for administrative appeal have expired; and
 - (ii) the formal charges were sustained;
- (p) records maintained by the Division of State Lands and Forestry or the Division of Oil, Gas and Mining that evidence mineral production on government lands;
- (q) final audit reports;
- (r) occupational and professional licenses;
- (s) business licenses; and

(t) a notice of violation, a notice of agency action under Section 63-46b-3 of the Utah Code, or similar records used to initiate proceedings for discipline or sanctions against persons regulated by the city, but not including records that initiate employee discipline.

(3) The list of public records in this section is not exhaustive and should not be used to limit accesses to records.

History: 7/92

2-11-10. Private Records. (1) The following records are private:

(a) records concerning an individual's eligibility for unemployment insurance benefits, social services, welfare benefits, or the determination of benefit levels;

(b) records containing data on individuals describing medical history, diagnosis, condition, treatment, evaluation, or similar medical data;

(c) records of publicly funded libraries that when examined alone or with other records identify a patron;

(d) records received or generated in a Senate or House ethics committee concerning any alleged violation of the rules on legislative ethics if the ethics committee meeting was closed to the public;

(e) records concerning a current or former employee of, or applicant for employment with the city that would disclose that individual's home address, home telephone number, social security number, insurance coverage, marital status, or payroll deductions.

(2) The following records are private if properly classified by the city:

(a) records concerning a current or former employee of, or applicant for employment with the city, including performance evaluations and personal status information such as race, religion, or disabilities, but not including records that are public under Subsections 2-11-9.(b)., 2-11-9.2(o) or private under Subsection 2-11-10.1(e).

(b) records describing an individual's finances, except that the following are public:

(i) records described in Subsection 2-11-9.1;

(ii) information provided to the city for the purpose of complying with a financial assurance requirement; or

(iii) records that must be disclosed in accordance with another statute;

(c) records of independent state agencies if the disclosure of those records would conflict with the fiduciary obligations of the agency;

(d) other records containing data on individuals the disclosure of which constitutes a clearly unwarranted invasion of personal privacy.

(e) records provided by the United States or by a governmental entity outside the state that are given with the requirement that the records be managed as private records, if the providing entity states in writing that the record would not be subject to public disclosure if retained by it.

History: 7/92

2-11-11. Controlled Records. A record is controlled only if:

(1) the record contains medical, psychiatric, or psychological data about an individual;

(2) the city reasonably believes that:

(a) releasing the information in the record to the subject of the record would be detrimental to the subject's mental health or to the safety of any individual; or

(b) releasing the information would constitute a violation of normal professional practice and medical ethics; and

(c) the city has properly classified the record.

History: 7/92

2-11-12. Protected Records. The following records are protected if properly classified by the city:

(1) trade secrets as defined in Section 13-24-2 of Utah Code Annotated if the person submitting the trade secret has provided the city with the information specified in section 63-2-308 of Utah Code Annotated.

(2) commercial information or non-individual financial information obtained from a person if:

(a) disclosure of the information could reasonably be expected to result in unfair competitive injury to the person submitting the information or would impair the

ability of the city to obtain necessary information in the future;

(b) the person submitting the information has a greater interest in prohibiting access than the public in obtaining access; and

(c) the person submitting the information has provided the city with the information specified in Section 63-2-308 of Utah Code Annotated.

(3) commercial or financial information acquired or prepared by the city to the extent that a disclosure would lead to financial speculations in currencies, securities, or commodities that will interfere with a planned transaction by the city or cause substantial financial injury to the city or cause substantial financial injury to the city or state economy;

(4) test questions and answers to be used in future license, certification, registration, employment, or academic examinations;

(5) records the disclosure of which would impair governmental procurement or give an unfair advantage to any person proposing to enter into a contract or agreement with the city, except that this subsection does not restrict the right of a person to see bids submitted to or by the city after bidding has closed;

(6) records that would identify real property or the appraisal or estimated value of real or personal property, including intellectual property, under consideration for public acquisition before any rights to the property are acquired unless:

(a) public interest in obtaining access to the information outweighs the city's need to acquire the property on the best terms possible;

(b) the information has already been disclosed to persons not employed by or under a duty of confidentiality to the entity;

(c) in the case of records that would identify property, potential sellers of the property described have already learned of the city's plans to acquire the property;

(d) in the case of records that would identify the appraisal or estimated value of property, the potential sellers have already learned of the city's estimated value of the property;

(7) records prepared in contemplation of sale, exchange, lease, rental, or other compensated transaction of real or personal property including

intellectual property, which, if disclosed prior to completion of the transaction, would reveal the appraisal or estimated value of the subject property, unless:

(a) the public interest in access outweighs the interests in restricting access, including the city's interest in maximizing the financial benefit of the transaction; or

(b) when prepared by or on behalf of the city, appraisals or estimates of the value of the subject property have already been disclosed to persons not employed by or under a duty of confidentiality to the city.

(8) records created or maintained for civil, criminal, or administrative enforcement purposes or audit purposes, or for discipline, licensing, certification, or registration purposes if release of the records:

(a) reasonably could be expected to interfere with investigations undertaken for enforcement, discipline, licensing, certification, or registration purposes;

(b) reasonably could be expected to interfere with audits, disciplinary, or enforcement proceedings;

(c) would create a danger of depriving a person of a right to a fair trial or impartial hearing;

(d) reasonably could be expected to disclose the identity of a source who is not generally known outside of government and, in the case of a record compiled in the course of an investigation, disclose information furnished by a source not generally known outside of government if disclosure would compromise the source; or

(e) reasonably could be expected to disclose investigative or audit techniques, procedure, policies, or orders not generally known outside of government if disclosures would interfere with enforcement or audit efforts;

(9) records the disclosure of which would jeopardize the life or safety of an individual;

(10) records the disclosure of which would jeopardize the security of governmental property, governmental programs, or governmental record keeping systems from damage, theft, or other appropriation or use contrary to law or public policy;

(11) records that, if disclosed, would jeopardize the security or safety of a correctional facility, or records relating to incarceration, treatment, probation, or

parole, that would interfere with the control and supervision of an offender's incarceration, treatment, probation or parole;

(12) records that if disclosed, would reveal recommendations made to the Board of Pardons by an employee of or contractor for the Department of Corrections, the Board of Pardons, or the Department of Human Services that are based on the employee's or contractor's supervision, diagnosis, or treatment of any person within the board's jurisdiction;

(13) records and audit work papers that identify audit, collection, and operational procedures and methods used by the Utah State Tax Commission if disclosure would interfere with audits or collections;

(14) records of a governmental audit agency relating to an ongoing or planned audit until the final audit is released;

(15) records prepared by or on behalf of the city solely in anticipation of litigation that are not available under the rules of discovery;

(16) records disclosing an attorney's work product, including the mental impressions or legal theories of an attorney or other representative of the city concerning litigation;

(17) records of communications between the city and an attorney representing, retained or employed by the city if the communications would be privileged as provided in section 78-24-8 of Utah Code Annotated.

(18) drafts, unless otherwise classified as public;

(19) records concerning the city's strategy about collective bargaining or pending litigation;

(20) records of investigations of loss occurrences and analyses of loss occurrences.

(21) records, other than personnel evaluations, that contain a personal recommendation concerning an individual if disclosure would constitute a clearly unwarranted invasion of personal privacy, or disclosure is not in the public interest

(22) records that reveal the location of historic, prehistoric, paleontological, or biological resources that if known would jeopardize the security of those resources or of valuable historic, scientific, educational, or cultural information;

(23) records of independent state agencies if the disclosure of the records would conflict with the fiduciary obligations of the agency;

(24) records provided by the United States or by a government entity outside the state that are given to the city with a requirement that they be managed as protected records if the providing entity certifies that the record would not be subject to public disclosure if retained by it;

(25) transcripts, minutes, or reports of the closed portion of a meeting of a public body except as provided in Section 52-4-7 of the Open and Public Meeting Act;

(26) records that would reveal the contents of settlement negotiations but not including final settlements or empirical data to the extent that they are not otherwise exempt from disclosure;

(27) memoranda prepared by staff and used in the decision-making process by an administrative law judge, a member of the Board of Pardons, or a member of any other body charged by law with performing a quasi-judicial function;

(28) records that would reveal negotiations regarding assistance or incentives offered by or requested from the city for the purpose of encouraging a person to expand or locate a business in Utah, but only if disclosure would result in actual economic harm to the person or place the city at a competitive disadvantage, but this section may not be used to restrict access to a record evidencing a final contract; and

(29) materials to which access must be limited for purposes of securing or maintaining the city's proprietary protection of intellectual property rights including patents, copyrights, and trade secrets.

History: 7/92

2-11-13. Records Classification and Designation.

(1) The city shall:

(a) evaluate all record series that it uses or creates;

(b) designate those record series as provided by this chapter;

(c) report the designation of its record services to the state archives.

(2) 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.

(3) The city may redesignate a record series or reclassify a record or record series, or information within a record at any time.

History: 7/92

2-11-14. Records Retention. The city shall by resolution establish a retention schedule for each record series. The initial retention schedule shall be as set forth in Exhibit "B" hereto.

History: 7/92

2-11-15. Segregation of Records. Notwithstanding any other provision in this chapter, 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 under this chapter, and, if the information the requester is entitled to inspect 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.

History: 7/92

2-11-16. Appeals. (1) (a) Any person aggrieved by the city's access determination under this chapter, including person not a party to the city's proceeding, may appeal the determination to the mayor and city council by filing a notice of appeal.

(b) if the city claims extraordinary circumstances and specifies the date when the records will be available and, if the requester believes the extraordinary circumstances do not exist or that the time specified is unreasonable, the requester may appeal the city's claim of extraordinary circumstances or date for compliance within 30 days after notification of a claim of extraordinary circumstances by the city, despite the lack of a "determination" of its equivalent.

(2) (a) If the appeal involves a record that is the subject of a business confidentiality claim under Section 63-2-308 of the Utah Code, the city recorder shall:

(i) send notice of the requester's appeal to the business confidentiality claimant within three business days after receiving notice, except that if notice under this section

must be given to more than 35 persons, it shall be given as soon as reasonably possible;

(ii) send notice of the business confidentiality claim and the schedule for the city recorder's determination to the requester within three business days after receiving notice of the requester's appeal.

(b) The claimant shall have seven business days after notice is sent by the city recorder to submit further support, for the claim of business confidentiality.

(3) (a) The mayor shall make a determination on any appeal within the following period of time:

(i) within five business days after the mayor's receipt of the notice of appeal; or

(ii) within twelve business days after the city sends the requester's notice of appeal to a person who submitted a claim of business confidentiality.

(b) If the mayor fails to make a determination within the time specified in Subsection 2-11-16(3)(a), the failure shall be considered the equivalent of an order denying the appeal.

(c) The provisions of this section notwithstanding, the parties participating in the proceeding may, by agreement, extend the time period specified in this section.

(4) The mayor may, upon consideration and weighing of the various interests and public policies pertinent the classification and disclosure or nondisclosure, order the disclosure of information properly classified as private under Section 2-11-10.2 or protected under Section 2-11-12 if the interests favoring access outweigh the interest favoring restriction of access.

(5) The city shall send written notice of the determination of the mayor to all participants. If the mayor affirms the denial in whole or in part, the denial shall include a statement that the requester has the right to appeal the denial to the City Council, and the time limits for filing an appeal.

(6) The duties of the mayor under this section may be delegated.

(7) The notice of appeal to the city council must be filed with the city recorder no later than 30 days after the mayor has denied the appeal or fails to make a determination within the time specified in Subsection 2-11-16.3(a).

(8) The notice of appeal shall contain the following information:

- (a) the petitioner's name, mailing address, and daytime telephone number; and
- (b) the relief sought.

(9) The petitioner may file a short statement of facts, reasons, and legal authority in support of the appeal.

(10) No later than three days after receiving a notice of appeal, the recorder shall:

(a) schedule a hearing for the city council to discuss the appeal which shall be held no sooner than 15 days and

(i) a statement of reasons for the decision, including citations to this chapter or federal regulation that governs disclosure of the record, provided that the citations do not disclose private, controlled, or protected information;

(ii) a description of the record or portions of the record to which access was ordered or denied, provided that the description does not disclose private, controlled, or protected information;

(iii) a statement that any party to the appeal may appeal the city's decision to district court; and

(iv) a brief summary of the appeal, and a notice that in order to protect its rights on appeal, the party may wish to seek advise from an attorney.

(11) A person aggrieved by the city's classification or designation determination under this chapter, but who is not requesting access to the records, may appeal that determination using the procedures provided in this section. If a non-requester is the only appellant, the procedures provided in this section shall apply, except that the determination on the appeal shall be made within 30 days after receiving the notice of appeal.

History: 7/92

2-11-17. Judicial Review. (1) Any party to a proceeding before the city council may petition for judicial review by the district court of the city council's order. The petition shall be filed no later than 30 days after the date of the city council's order.

History: 7/92

no later than 30 days from the date of the filing of the appeal;

(b) At the hearing, the city council shall allow the parties to testify, present evidence, and comment on the issues. The city council may allow other interested persons to comment on the issues.

(c) No later than three business days after the hearing, the city council shall issue a signed order either granting the petition in whole or in part or upholding the determination of the city in whole or in part.

(d) The order of the city shall include:

2-11-18. Confidential Treatment of Records for Which No Exemption Applies. (1) A court may, on appeal or in a declaratory or other action, order the confidential treatment of records for which no exemption from disclosure applies if:

(a) there are compelling interests favoring restriction of access to the record; and

(b) the interests favoring restriction of access clearly outweigh the interests favoring access.

(2) If the city requests a court to restrict access to a record under this section, the court shall require the city to pay the reasonable attorneys' fees incurred by the lead party in opposing the city's request, if:

(a) the court finds that no statutory or constitutional exemption from disclosure could reasonably apply to the record in question; and

(b) the court denies confidential treatment under this section.

(3) This section does not apply to records that are specifically required to be public under Section 2-11-9 of this chapter or Section 63-2-301 of the Utah Code, except as provided in Subsection 4.

(4) (a) Access to drafts and empirical data in drafts may be limited under this section, but the court may consider, in its evaluation of interests favoring restriction of access, only those interests that relate to the underlying information, and not to the deliberative nature of the record.

(b) Access to original data in a computer program may be limited under this section, but the court may consider, in its evaluation of interest favoring restriction of access, only those interests that relate to the

underlying information, and not to the status of that data as part of a computer program.

History: 7/92

2-11-19. Request to Amend a Record. (1)(a) Subject to Subsection 7, an individual may contest the accuracy or completeness of any public, or private, or protected record concerning him by requesting the city to amend the record. However, this section does not affect the right of access to private or protected records.

(b) The request shall contain the following information:

(i) The requester's name, mailing address, and daytime telephone number; and

(ii) a brief statement explaining why the city should amend the record.

(2) The city shall issue an order either approving or denying the request to amend no later than 30 days after receipt of the request.

(3) If the city approves the request, it shall correct all of its records that contain the same incorrect information as soon as practical. A city may not disclose the record until it has amended it.

(4) If the city denies the request, it shall:

(a) inform the requester in writing; and

(b) provide a brief statement giving its reasons for denying the request.

(5) (a) If the city denies a request to amend a record, the requester may submit a written statement contesting the information in the record.

(b) The city shall:

(i) file the requester's statement with the disputed record if the record is in a form such that the statement can accompany the record or make the statement accessible if the record is not in a form such that the statement can accompany the record; and

(ii) disclose the requester's statement along with the information in the record whenever the city discloses the disputed information.

(6) The requester may appeal the denial of the request to amend a record pursuant to Section 2-11-16 of this chapter.

(7) This section does not apply to records relating to title to real or personal property, medical records, judicial case files, or any other records that the city determines must be maintained in their original form to protect the public interest and to preserve the integrity of the record system.

History: 7/92

2-11-20. Rights of Individual on Whom Data is Maintained. (1)(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 that city.

(b) That statement is a public record.

(2) Upon request, the city shall explain to an individual:

(a) the reasons the individual is asked to furnish to the city information that could be classified private or controlled;

(b) the intended uses of the information; and

(c) the consequences for refusing to provide the information.

(3) The city may not use private or controlled records for purposes other than those given in the statement filed with the state archivist under Subsection (1) or for purposes other than those for which another governmental entity could use the record under Section 63-2-206.

History: 7/92

2-11-21. Criminal Penalties. (1)(a) A public 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.

(b) It is a defense to prosecution under Subsection(1)(a) that the actor released private, controlled or protected 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.

(c) It is a defense to prosecution under Subsection

(1) (a) that the record could have lawfully been released

to the recipient if it had been properly classified.

(2) (a) 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 he is not legally entitled is guilty of a class B misdemeanor.

(b) No person shall be guilty under Subsection (2)(a) who received the record, information, or copy after the fact and without prior knowledge of or participation in the false pretenses, bribery, or theft.

(3) (a) A public employee who intentionally refuses to release a record the disclosure which the employee knows is required by law or by final unappealed order from a city, the records committee, or a court, is guilty of a class B misdemeanor.

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