

# Chapter 7

## ADMINISTRATIVE CODE

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### **1-7-1: SHORT TITLE:**

This chapter shall be known as the *BRIAN HEAD TOWN ADMINISTRATIVE CODE*.

### **1-7-2: DEFINITIONS:**

As used in this code, unless the context otherwise requires:

**MAYOR:** The chairperson of the Town Council and recognized "head" of the town for ceremonial and legal purposes.

**TOWN:** Brian Head Town, Utah.

**TOWN COUNCIL OR COUNCIL:** The Town Council of Brian Head Town, Utah.

**TOWN MANAGER:** The chief executive and administrative officer of the town of Brian Head Town, Utah.

### **1-7-3 INVALIDITY OR UNCONSTITUTIONALITY.**

Should any portion of the Town Administrative Code for Brian Head Town be found to be invalid or unconstitutional by a court of competent jurisdiction, all remaining portions not found to be invalid or unconstitutional shall remain in full force and effect.

### **1-7-4 INTERPRETATION.**

Nothing in this Chapter shall be interpreted to conflict with applicable State or Federal laws. No elected official, appointee, officer, or employee of the town shall be held personally liable for actions made in good faith pursuant to this Chapter, or policies or regulations developed pursuant to this Chapter, even if such actions, policies, or regulations are later found to be in conflict with Federal, State or other requirements.

### **1-7-5 GOVERNMENT VESTED IN THE TOWN COUNCIL AND MANAGER**

Town government is vested in a Town Council, which shall be the governing body of the town, and a Town Manager appointed by the Town Council.

### **1-7-6 GOVERNMENTAL RESPONSIBILITIES**

- A. The Town Council shall, except as otherwise required by state law or this Chapter, conduct the legislative affairs of town government.
- B. The Town Manager and supporting staff shall, except as otherwise required by State law or this Chapter, conduct the administrative and executive affairs of town government.

### **1-7-7 RELATIONSHIP BETWEEN COUNCIL AND MANAGER**

- A. The Town Council and Town Manager have separate and distinct duties and responsibilities. Each shall allow the other to perform their duties and responsibilities without improper interference.
- B. The Town Manager, in supervising the administrative and executive activities of the town, shall attempt to carry out the will of the Town Council. The Town Council shall express its will through ordinances, resolutions, motions, proclamations, budget approvals and general

policy directives. The will of the Town Council shall be expressed by vote of the Council. No statement or act of any individual member of the Council shall be viewed as the will of the Council.

- C. The Town Manager shall support and assist the Town Council in accomplishing its duties and responsibilities by identifying policy areas that require Council attention, by recommending the adoption of specific ordinances, resolutions or other measures, by preparing and proposing an annual budget and advising the Council of the financial condition and needs of the Town, and by keeping the Council abreast of events happening in the town and matters that affect the town.
- D. The Town Council shall support and assist the Town Manager in accomplishing his or her duties and responsibilities by providing specific policy directives, and by providing the resources necessary to accomplish those directives.
- E. No member of the Town Council shall direct or request, excepting in writing, the appointment of any person to, or removal from office. No member of the Town Council shall interfere in any way with appointed officers in the performance of their duties. No member of the Council shall give an order to any subordinate of the Town Manager, either publically or privately, but may make suggestions and recommendations to the Town Manager.
- F. The Town Manager shall have sole authority for appointment or removal of town staff with the advice and consent of the Town Council for specific positions as provided for in this title.
- G. Nothing in paragraph E, above, shall prevent the Town Council from appointing committees of its own members or of citizens to conduct investigations into the conduct of any officer, department or agency of the town government, or any matter relating to the welfare of the town, and delegating to these committees such powers of inquiry as the Town Council may deem necessary. Any committee appointed to investigate the conduct of any officer of the town shall be authorized to review that officer's personnel records.

#### **1-7.8 TOWN MANAGER POSITION ESTABLISHED:**

The position of Town Manager is hereby established.

#### **1-7-9 APPOINTMENT OF TOWN MANAGER.**

- A. The Town Manager shall be appointed by two-thirds vote of the full membership of the Town Council.
- B. The Town Manager shall be appointed solely on the basis of his or her abilities, integrity, and prior experience relating to the duties of the office, including but not limited to, abilities in public administration and executive leadership, and shall possess such leadership and managerial capabilities as in the opinion of the Council befit him or her to provide professional direction to the executive affairs of the Town.

## **1-7-10 REMOVAL OF TOWN MANAGER.**

- A. The Town Council may remove the Town Manager by majority vote.
- B. Except in the case of removal for proven malfeasance in office, the Council shall cause the manager, upon his or her removal, to be paid any unpaid balance of his or her salary due to the date of removal, together with his or her salary at the same rate for the next six calendar months following the date of removal.

## **1-7-11 TOWN OPERATIONS**

### **A. Town Administration.**

The administration of the Town shall be conducted by and through the Town Manager and the operating departments as identified in [1-7-13](#).

The Town Manager shall be the chief executive and administrative officer of the town government, and shall:

1. Faithfully execute and enforce all applicable laws, ordinances, rules and regulations, and see that all franchises, leases, permits, contracts, licenses, and privileges granted by the Town are observed
2. Carry out the policies and programs established by the Town Council;
3. Organize and direct the management of the executive affairs of the town in a manner consistent with the council-manager form of government<sup>1</sup> and with town ordinances;
4. Appoint a budget officer, or be the budget officer in the absence of such appointment, for the purpose of complying with the requirements of the uniform municipal fiscal procedures act.
5. Appoint, with the advice and consent of the Town Council, a qualified person to each of the offices of Public Safety Director and Public Works Director, Clerk, Treasurer, boards and commissions; create any other offices as may be deemed necessary for the good government of the town; and regulate and prescribe the powers and duties of all other officers of the town, except as provided by law or by ordinance.
6. Appoint, with the advice and consent of the Town Council, a qualified person to the position of Town Attorney and Town Engineer. These offices will be identified by resolution.
7. Examine and inspect the books, records and official papers of any office, department, agency, board, or commission of the town, and make investigations and require reports from personnel.
8. Subject to the provisions of the council-manager form of government<sup>1</sup> and the town administrative code, and with the advice and consent of the Town Council, have the

ability to suspend, remove or terminate department heads, statutory officers, boards, commissions, Town Attorney and Town Engineer.

9. Establish standards, qualifications, criteria, and procedures to govern the appointments, by heads of offices, departments, and agencies or by other authorized officers, of divisional officers, assistants, deputies, and employees within their respective organizational units, subject to any applicable provisions of the merit system and Administrative Code.
10. Submit to the Town Council plans and programs relating to the development and needs of the town, monthly financial statements, annual and special reports concerning the financial, administrative and operational activities of the town offices, departments, agencies, boards, and commissions, together with his or her evaluation and recommendations relating to them.
11. Attend all meetings of the Town Council and take part in its discussions and deliberations, but without the right to vote.
12. Appoint, with approval by majority vote of the full membership of the Town Council, an acting town manager to serve in his or her absence or temporary incapacity to perform the powers and duties of the Town Manager. This shall be set by resolution.
13. Discharge any other duties specified by statute or imposed by the Town Council.

## **B. Supplemental Powers of Town Manager**

In addition to the powers and duties enumerated in Section [1-7-11.A](#), the Town Manager may:

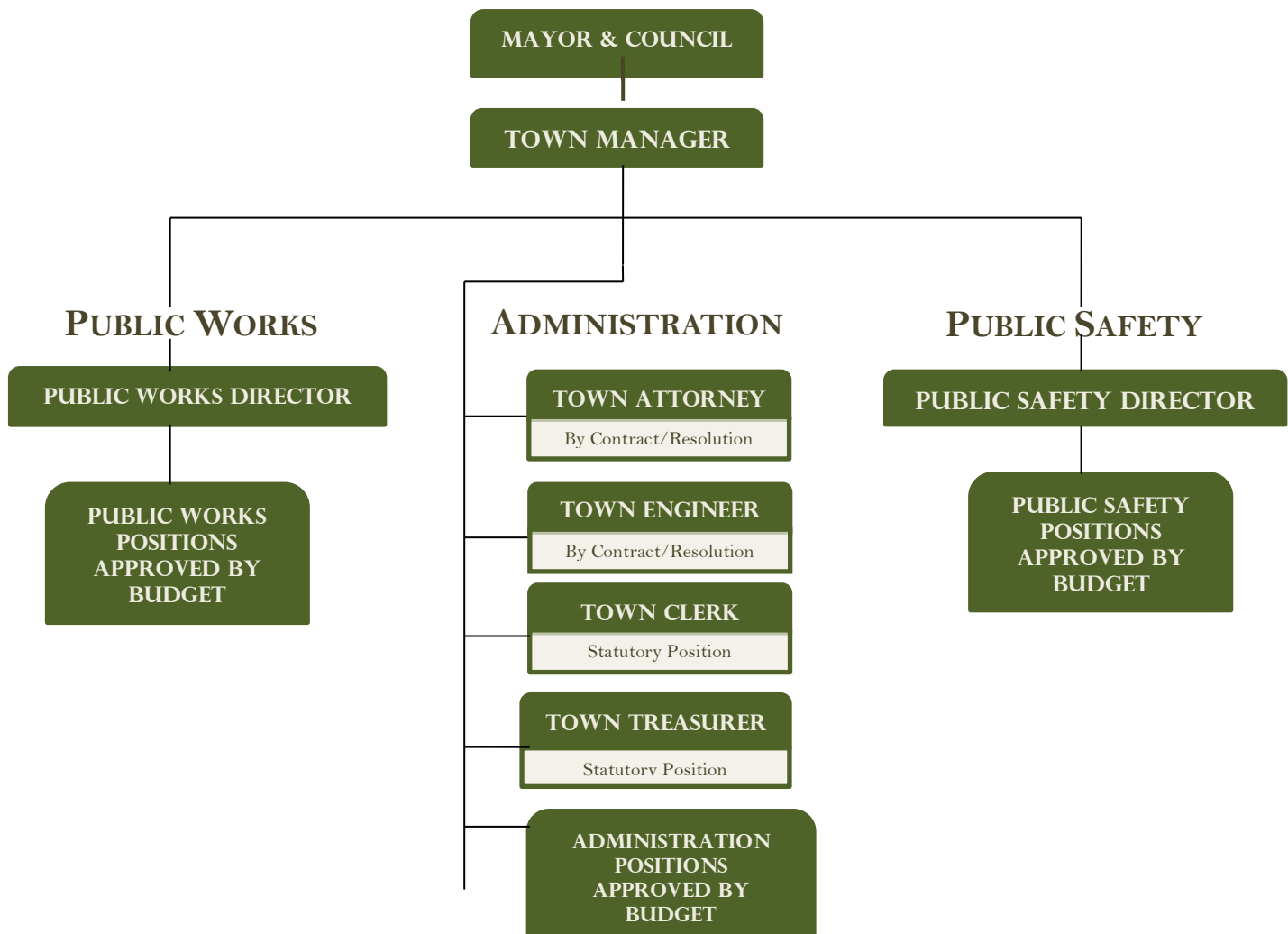
1. Authorize a department head or officer responsible to him to appoint and remove subordinates serving under that department head or officer;
2. Designate himself/herself, unless the office legally requires a particular designation or certification, or some other officer or employee to perform the duties of any office or position under his control which is vacant or which lacks administration due to the absence or disability of the incumbent.
3. Assign any employee of the town to any department or branch thereof requiring services appropriate to the personnel system classification of the employee so assigned.
4. Assign any department, division or office to perform the work for any other department, division or office, except where legally prohibited.
5. Prescribe policies, rules and regulations, not inconsistent with the law to ensure efficiency and effectiveness in the operation of town government.
6. Execute administrative agreements which carry out the directives of the Town Council
7. Have the power, either by himself/herself or by any officer or person designated for the purposes to him/her, to investigate and examine or inquire into the affairs or operation of any department, division or office; and when so authorized by the Town Council, he/she

shall have the power to employ consultants and professional counsel to aid in such investigations, examinations or inquires.

8. Approve pay increases and bonuses for town employees when appropriate within approved budget levels.
9. Set aside any action taken by a department head and may supersede them in the functions of their office.
10. Negotiate and settle all claims presented against the town where payment in settlement does not exceed the amount of any deductible in any town insurance policy, so long as the sum does not exceed twenty five thousand dollars (\$25,000).
11. Power to designate committees as he/she shall find necessary for the proper consideration of issues affecting the town. Such committees shall meet at the request of the Town Manager and shall make such recommendation on matters referred to them as they shall find necessary for the best interest of the town.
12. Unilaterally declare any property valued at one thousand dollars (\$1,000) or less, as estimated by him/her, to be surplus to the needs of the town and dispose of said property, if possible, by sale for the best price.
13. Accept, reduce, extend and release performance bonds, payment bonds, and delay agreements required or established under this code. The Town Manager shall notify the Town Council of such acceptances, reductions, extension and releases by a periodic report to the Town Council.
14. Perform any other activity, not inconsistent with law that is necessary to effectively administer the operations of the Town or to fulfill the will of the Town Council.

#### **1-7-12 TOWN ORGANIZATION:**

- A. The town organization shall be divided into such offices and the following departments as the Town Manager may require:



B. The Mayor may appoint members of the Town Council to act as a council liaison with each department. Such liaisons shall be for the sole purposes of obtaining information for use by the Town Council in carrying out its functions and providing for a means of communication by the department with the Town Council. Council members serving as liaisons are subject to, and shall strictly comply with, the provisions of this chapter regarding interference with town administration.

**1-7-13 ADMINISTRATIVE POLICY AND PROCEDURES:**

A. Each officer of the town shall perform all duties required of their office by state law, this code and other ordinances of the town, and such other duties not in conflict therewith as may be assigned by the Town Manager.

B. The heads of departments shall:

1. Be immediately responsible to the Town Manager for the effective administration of their respective departments and all activities assigned thereto.
2. Develop and maintain such up to date departmental policies and procedures as they deem necessary for carrying out departmental operations in conformity with law and other town policies and in the most efficient and effective manner possible.
3. Keep informed as to the latest practices in their particular field and inaugurate, with the approval of the town manager, such new practices as appear to be of benefit to the town and to the public.
4. Submit regular reports of the activities of the department to the Town Council.
5. Establish and maintain a system of filing and indexing records and reports in sufficient detail to furnish all information necessary for proper control of departmental activities and to form a basis for the periodic reports to the town manager.
6. Have power, when authorized by the Town Manager, to appoint and remove, subject to town personnel policies and procedures, all subordinates
7. Exercise authority of all subordinates unless such subordinate has certification or licensing not possessed by the department head. The fact that a subordinate possesses a license or certificate not possessed by the department head shall not authorize said subordinate to overrule the department head on matters of departmental policy.
8. Be responsible for the proper maintenance of all town property and equipment used in his department.

C. Each department shall cooperate with other departments and furnish, upon the direction of the Town Manager, any other department such service, labor and materials as may be requisitioned by the head of such department and as its own facilities permit, through the same procedures and subject to the same audit and control as other expenditures are incurred.

D. All departments and units thereof shall:

1. Be open during regular business hours as defined by the Town Manager.
2. Make a regular deposit, as required by state law, with the Town Treasurer of any public monies.
3. Pay out monies belonging to the town only in the manner prescribed by law, ordinance and town policy.
4. Deliver all records, documents and property of every description, belonging to the office or to the town, to the successor in office.



5. Stay within the approved budget for the department.

#### **1-7-14 OATH OF OFFICE:**

- A. All elected officials, Town Manager, department heads, Clerk, Treasurer and appointed commissions shall take the constitutional oath of office before assuming the duties of their respective offices. Once an oath is administered, the oath need not be re-administered unless job assignment or description changes.
- B. The form of oath shall be as authorized by the laws of the state.
- C. Appointed officers shall take their oath at any time before assuming their duties.
- D. No official act of any person required to take the constitutional oath of office shall be invalid for the reason that he or she failed to take the oath of office.
- E. The Town Manager may require any other officer or employee to take the oath of office.
- F. All oaths of office shall be filed with the Town Clerk.

#### **1-7-15 CONFLICT OF INTEREST AND USE OF OFFICE FOR PERSONAL BENEFIT PROHIBITED.**

- A. Each public servant shall comply with the provisions of the Utah Municipal Officers and Employees Ethics Act, [Sections 10-3-1301](#) et seq. U.C.A. (1953, as amended) and among other things but not by way of limitation the conduct themselves consistent with the following Utah statutes: the Utah Public Officers' and Employee's Ethics Act ([U.C.A. § 67-16-1](#), et seq., as amended); Utah law prohibiting employment of relatives ([U.C.A. § 52-3-1](#), et seq., as amended), U.C.A. § 10-6-146; and U.C.A. §§ 76-8-105, 201, 202, 203 and 402.
- B. Whenever the performance of a public servant's official duty requires governmental action on any matter involving that person's or a relative of that person's direct financial or personal interest and it is reasonably foreseeable that the decision will have an individualized material effect on such interest, distinguishable from its effect on the public generally, the public servant shall disclose the conflict and disqualify herself or himself from deliberating, deciding and voting upon the matter. Disclosure shall be made to the public body of which the public servant is a member, or in the case of an employee of the town, to the employee's supervisor.
- C. Subsection B shall not apply to (1) decisions regarding the payment of salaries, benefits, or other compensation made by the town in exchange for the performance of the public servant's official duties, (2) decisions regarding the attendance at official functions or training where the public servant is sent by or representing the town as part of his or her official duties, or (3) similar decisions which are part of the public servant's official duties and are approved through normal town channels or procedures.

- D. For purposes of this section “public servant” shall be defined as any elected or appointed official of the town, any member of a board, commission or committee of the town, or any employee of the town. “Relative” shall be defined as the immediate family of a public servant.

#### **1-7-16 CLAIMS AGAINST TOWN.**

All claims against the Town shall be filed according to State law, including the Utah Governmental Immunity Act, and handled according to any policies or procedures adopted by the Town Manager.

#### **1-7-17 HEARING OFFICER:**

- A. Hearing Officer: There is hereby created a Hearing Officer to hear employee appeals of a final decision under Utah Code Annotated § [10-3-1106](#). (Ord. 15-010, 6-23-2015)
- B. Selection and Appointment of Hearing Officer. The Hearing Officer shall be appointed by the Town Council after a recommendation from the Town Manager. The Town Manager shall identify a qualified candidate who can competently fill the position. The candidate shall have knowledge of public human resource law and appeals procedures. The candidate shall be impartial and not have any conflicts with the town. (ord. 15-010, 6-23-2015)
- C. Right to Appeal. All full-time employees of the town, other than those employees identified in UCA § [10-3-1105\(2\)](#), shall have the right to appeal any discharge, suspension of more than two days, or involuntary transfer for less remuneration to the Hearing Officer. (ord. 15-010, 6-23-2015)
- D. Appeals Procedure: The Hearing Office and town employees shall comply with the appeal procedures set forth in UCA § [10-3-1106](#) as well as the town’s current personnel policy and procedure manual. (ord. 15-010, 6-23-2015).

#### **1.7.18 PERFORMANCE BONDS AND DELAY AGREEMENTS PREAPPROVED BY TOWN COUNCIL, SUBJECT TO COUNTERSIGNING BY TOWN MANAGER:**

- A. Performance bonds and delay agreements, as approved by the town attorney and required by the subdivision ordinance, zoning ordinance and other town ordinances, are hereby approved and adopted by the Town Council for each development that receives the proper approvals and permits as required by said ordinances. A copy of the bond and delay agreement forms shall be filed with the Town Council by the Town Manager each time it is amended.
- B. The manual or facsimile signature of the Mayor is hereby authorized on said bonds and delay agreements without the necessity of each one being brought to the Town Council,

except that no such bond or delay agreement shall be valid until it has been countersigned manually by the Town Manager and attested to by the Town Clerk.

- C. The time for completion of the improvements under said bonds may be extended by the Town Manager, as provided in the applicable provisions governing said bonding.

#### **1-7-19 BONDS:**

Such town officials, as determined by the Town Manager, shall, before entering upon the duties of their respective offices, shall be bonded with good and sufficient sureties, payable to the town, duly approved by the Town Attorney, and conditioned upon the faithful performance and discharge of their respective duties, and for proper application and payment of all money or property coming into their hands by virtue of their offices, in the amount of twenty five thousand dollars (\$25,000.00) each, except for the Town Treasurer, who shall give bond in the amount as prescribed by state law for town treasurers. The town shall pay all premiums for the above required bonds.

#### **1-7-20 EMERGENCY MANAGEMENT SUCCESSION OF OFFICE:**

##### A. Definitions:

**ABSENT:** Not physically present or not able to be communicated with for forty eight (48) hours, or, during an emergency, a shorter period of time as determined by the town manager on a case by case basis. "Absent" does not include a person who can be communicated with via telephone, radio, telecommunications or electronic means.

**EMERGENCY INTERIM SUCCESSOR:** A person designated to exercise the powers and discharge the duties of an office when the person legally exercising the powers and duties of the office is unavailable. For purposes of this section only, "officer" means the Town Manager, Department Heads, Town Clerk, Town Treasurer, and Emergency Management Coordinator.

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

All other definitions found in Utah Code Annotated [Section 53-2a-102](#) (emergency management act- UCA) as amended, are incorporated herein as may be applicable.

- B. Each "officer", as defined in this section, shall provide to the Town Manager, a written list designating three (3) emergency interim successors and their order of succession. Thereafter, each officer shall submit a new list only when the officer or any of the successors changes.

- C. After the Town Manager approves the emergency interim successors and their order of succession, the Town Manager shall compile a master list for the town and submit it to the division of comprehensive emergency management for the state.
- D. If the officer is unavailable once a disaster has occurred, the designated emergency interim successor shall exercise the powers and duties of the office according to the order of succession. The emergency interim successor shall exercise the powers and duties of the office only until the vacancy is filled in accordance with the constitution or statutes, or until the officer, his deputy or an emergency interim successor earlier in the order of succession becomes available to exercise the powers and duties of the office.
- E. The emergency interim successor shall not be required to take an oath of office, unless specifically provided by law.
- F. All emergency interim successors serve at the pleasure of the Town Manager, and may be removed and replaced at any time, with or without cause.
- G. The Town Manager, upon a determination that the town hall is not capable of functioning as the seat of government for the town, may designate another location, outside of the town if necessary, to serve as a seat of government during the emergency.

#### **1-7-21 PENALTIES:**

Any employee violating the provisions of this chapter may be reprimanded, suspended or removed from office by the Town Manager, as provided by law or the town personnel policies and procedures. The provisions of this chapter however, are directory and to promote the orderly functioning of the town only, and are not intended to hold the town or its personnel to a higher duty than otherwise required by law or subject the town or its personnel to criminal sanctions or civil liability. (amd Ord. 14-008, 10-28-2014)

<sup>1</sup> Former Council-manager form of government is provided for in Laws of Utah 1977, Chapter 48. This form of government is no longer available as of May 2008. Those cities operating under council-manager form will continue to do so until an election to change the form of government.