

## TITLE TWO - MUNICIPAL GOVERNMENT

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## **CHAPTER 1 - GENERAL**

### **2-1-010. Officers Generally.**

The municipal government of the city is vested in a mayor and city council. The council shall be composed of five members, elected at large.

### **2-1-020. Legislative and Governing Body.**

The mayor and city council are and shall be the legislative and governing body of the city and as such, shall have, exercise, and discharge all of the rights, powers, privileges, and authority conferred by law upon the city and shall perform all duties required of them by law or ordinance and shall perform such other acts and take such other measures not inconsistent with the law as may be necessary for the efficient government of the city.

### **2-1-030. Officers - Eligibility.**

All elective officers shall be chosen by qualified voters of the city. No person shall be eligible for any elective office who is not a qualified voter of the city. Any elective officer who moves their domicile outside the city during their term of office, shall forfeit the office.

### **2-1-040. Oaths and Bonds.**

All officers, whether elected or appointed, shall, before they enter upon the duties of their respective office, take, subscribe and file the constitutional oath of office, and every such officer shall, before entering upon the duties of his or her office, execute a bond with good and sufficient sureties, payable to the city, in such penal sum as made by resolution or ordinance be directed, and conditioned for the faithful performance of the duties of his or her office and the payment of all monies received by such officer according to law and the ordinances or resolutions of the city; provided, that the treasurer's bond shall be fixed at a sum of not less than the minimum amount set by the State Money Management Council. The bonds of the council members shall be approved by the mayor and the bonds of all officers shall be approved by the city council. The premium charge by corporate surety for any official bond shall be paid by the city.

### **2-1-050. Compensation of Officers.**

- A. The elective and statutory officers shall receive such compensation for their services as the city council may fix.
- B. The compensation schedules for all elected, statutory, and appointed offices shall be submitted as part of the budget each year and approved as part of the budgeting process after a public hearing.
- C. The council shall comply with Utah Code Annotated §10-3-818 in setting compensation for elected and statutory officers.

### **2-1-060. Terms.**

Except as otherwise provided by law or ordinance, the term of office of all appointive officers shall be until their successor is appointed and qualified. (ordinance 92017)

**2-1-070. Conflict of Interest.**

No officer or employee of the city shall be directly or indirectly interested in any contract, work, project, business, or in the sale of any item involving the city without first disclosing this interest to the mayor and council. All officers and employees of the city shall comply with and be bound by the "Municipal Officers and Employees Ethics Act" [Utah Code Annotated §10-3-1301 et seq.] and the "Utah Public Officers and Employees Ethics Act" [Utah Code Annotated §67-16-1 et seq.].

**2-1-080. Nepotism.**

All officers and employees of the city with the responsibility for making appointments or hiring must comply with and be bound by state law prohibiting the employment of relatives as set forth in Utah Code Annotated §52-3-1 et seq.

**2-1-090. Successor in Office.**

If any person having been an officer, employee, or other official of the city shall not, within five days after notification and request, deliver to his or her successor in office all property, papers, and effects of every description in his or her actual or constructive possession belonging to the city or appertaining to the office or position he or she held, such person shall be guilty of a Class B Misdemeanor.

## CHAPTER 2 - CITY COUNCIL

### **2-2-010. Powers and Duties.**

The city council shall perform all duties as are or may be prescribed by the statutes of this state or by the city ordinances and shall perform such other acts and take such other measures not inconsistent with the law as may be necessary for the efficient government of the city.

### **2-2-020. Regulation of Offices and Departments.**

The City Council shall have power to formulate and adopt, by ordinance or resolution, all necessary rules and regulations prescribing the duties and conduct of the other officers of the City, including the management and administration of the respective offices, not in conflict with this code or with the laws of the State of Utah. (ordinance 92017)

### **2-2-030. Council Meetings.**

The City Council shall conduct two regular meetings per month, except December, which meeting shall be held on the 1st and 3rd Wednesdays at 7:00 p.m., which meeting shall be located at the Salem City Offices, 30 West 100 South, Salem, Utah. In December, one monthly meeting shall be held on the second Wednesday at the same location and time.

Any regular meeting may be preceded by a work session. If the meeting date is on a legal holiday, then the meeting may be held at the place described in this section at a date and a time established by the Council. The Council may also cancel such a meeting. The Council shall conform to the state open meeting law in rescheduling any meeting in conflict with a legal holiday. The Council may also change the starting time of any meeting by complying with the open meeting law. (Ord. No. 12-9-97-B) (Ord. No. 3-01-06)

### **2-2-035 Telecommunications Meetings**

#### **A. Definitions**

As used herein, the following terms shall have the following meanings:

“**Anchor Location**” means the Salem City offices, or such other place where a public meeting is held, as established by law;

“**City**” means Salem City;

“**Council**” means the Salem City Council;

“**Member**” means an individual who serves either as Mayor, on the Council or as staff of City;

“**Real Time**” means instantaneous communications such as speaking face to face, without undue delays, hearing and/or seeing what is being said or done;

“**Remote Location**” means any place other than the anchor location, where a Member is at who participates in a telecommunications meeting;

“**Telecommunications Meeting**” means a formal meeting of the Cit where one or more Members participates from a remote location via telephone, internet, television, or other means now known or yet to be developed.

#### **B. Telecommunications Meetings Authorized**

- (i) Members may participate in meetings via telecommunications media.

- (ii) Any form or telecommunication may be used, as long as it allows for real time interaction in the way of discussions, questions and answers, and voting.
- (iii) Members who desire to participate in a meeting of the City via telecommunications should notify the City of their intent in advance of the meeting, as set forth in paragraph E(iii), so that appropriate arrangements can be made to conduct the meeting via telecommunications. The notice may be waived by the City in the event of emergency conditions which preclude the ability to give notice.
- (iv) Any member(s) participating from remote locations shall make contact with the City prior to the start of the meeting to ensure the equipment to be used is in proper working order.

**C. Notices**

- (i) Notices of meetings are to be given in the manner and within the time frame set forth by law.
- (ii) Public notices, to the extent applicable, are to be given according to law, listing the anchor location as the site of the meeting.

**D. Quorum**

- (i) Members participating via telecommunications are to be considered present for purposes of establishing a quorum, as defined by law.
- (ii) In the event of failure of equipment, or other factor, which causes a lack of communication with a member(s) lack of a quorum, no additional business may be conducted until the quorum can be reconstituted. Continuances may be granted as set forth by law. Business already conducted remains valid and binding.

**E. Location**

- (i) Whenever a meeting is to be held with a member(s) via telecommunications, the anchor location, identified in all notices, shall be the City offices, 30 W. 100 S. Salem, Utah or such other location as determined by the Council in accordance with law.
- (ii) Public participation is limited to the anchor location.
- (iii) Members who desire to participate in a meeting of the City via telecommunications should notify the City of their intent far enough in advance of the meeting so that appropriate arrangements can be made to conduct the meeting via telecommunication. Notice shall be given to the Mayor, who shall determine what is adequate notice.

**F. Method**

- (i) Any telecommunications method now known or hereafter developed may be used to conduct a telecommunications meeting, so long as the criteria set forth herein can be met.
- (ii) All persons at the anchor location shall be required to have real time video and/or audio contact with member(s) participating from remote locations, so as to know the entire discussion and deliberations of the Council.

- (iii) Members participating from remote locations shall have the obligation to use appropriate equipment or take other precautions to eliminate static or other disturbances to the orderly conduct of the meeting.
- (iv) If available, and not cost prohibitive, an audio and video feed is the preferred method of conducting a telecommunications meeting.

**G. Costs**

- (i) The City may elect to pay the costs of a telecommunications meeting.
- (ii) If the City is paying the costs, it may make the arrangements and initiate the contact in order to conduct the meeting. (Ordinance #62012)

**2-2-040. Voting.**

The yea's and nay's shall be taken upon the passage of all ordinances and all propositions to create any liability against the city and in all other cases at the request of any member of the city council, which shall be entered upon the journal of its proceedings. Concurrence of a majority of the members present shall be necessary to the passage of any such ordinances or proposition.

**2-2-050. Special Meetings.**

The mayor, or any two members of the council, may call a special meeting of the city council by giving notice of it to each of the members of the council, served personally, or left at their usual place of abode. No vote of the city council shall be reconsidered 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.

**2-2-060. Quorum.**

Three members of the city council constitute a quorum to do business, but a smaller number may adjourn from time to time and are in power to compel the attendance of an absent member and may, when necessary, direct the chief of police or any police officer of the city to bring in such member or members under arrest. Should any member of the council be absent when notified by the chief of police or the proper authority that his or her presence is necessary to form a quorum, unless he or she presents 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 said leaving would break the quorum, he or she may be fined a sum not exceeding \$50.00.

**2-2-070. Rules - Expulsion.**

The city council shall determine its own rules of proceedings, may punish its members for disorderly conduct and with a concurrence of the members, may expel a member for cause. Cause shall include, but not necessarily be limited to, conviction of a felony, or conviction of any crime involving moral turpitude.

**2-2-080. Members - Appointments to other Offices.**

No member of the city council shall hold or be appointed to any office which shall have been created during the term for which he or she was elected.

**2-2-090. Audits - Report.**

The city council shall require an annual audit of the accounts of all officers of the city having the care, management, collection, or disbursement of money belonging to the city or appropriated by law or otherwise for the use and benefit of the city. The annual audit shall be performed by or under the direction of a competent public accountant, not an officer of the city, and shall be prepared within 180 days following the close of the fiscal year. Copies of all audit reports made pursuant to this section shall be filed in the office of the city recorder and with the state auditor's office, and may be used in addition to or in lieu of the annual report of the city recorder as may be required by the city council.

**2-2-100. Vacancies.**

If a vacancy occurs in the office of a council member, the vacancy shall be filled for the unexpired term in accordance with the laws of the State of Utah. (ordinance 92017)

**2-2-110. Budget.**

The city shall prepare a budget for each fiscal year in conformance with the "Utah Municipal Fiscal Procedures Act".

**2-2-120. Fiscal Year.**

The fiscal year shall begin July 1 and end June 30 of the following year.

**2-2-130. Claims Approval.**

All liability claims properly presented to the City shall be referred to Utah Local Governments Trust for review. Any claims referred back to the city by ULGT shall be reviewed pursuant to the liability policy of the city. (Ord. No. 2-2-05)

**2-2-140. Election Judges - Voting Places.**

In all municipal elections, the city council shall appoint judges of election and designate the places of voting. All elections must be conducted according to the general laws of this state, and all notices and lists of names required to be posted by registry agents prior to any general election shall also be posted by the registry agents prior to any municipal election, the necessary changes being made as to time of posting the same.

**2-2-150. Canvas of Election Results.**

The City Council must convene and publicly canvas the result of a municipal election within the time frame established by the laws of the State of Utah and issue certificates of election to each person elected by a plurality of votes. When two or more persons have received an equal and highest number of votes for any one of the offices voted for, the tie shall be decided by law in the presence of the Mayor and City Recorder upon a day designated by the City Council. (ordinance 92017)

**CHAPTER 3 - MAYOR**

**2-3-010. Powers and Duties.**

- A. The mayor shall preside at all meetings of the city council, but shall not vote except in case of a tie, when he or she shall cast the deciding vote.
- B. The mayor shall have such powers and duties as granted by state law or local ordinance and shall perform all duties prescribed by law, ordinance, or resolution.
- C. The mayor shall faithfully execute and enforce all applicable laws, ordinances, rules and regulations of the city, and see that all franchises, leases, permits, contracts, licenses, and privileges granted by the city are observed.
- D. The mayor shall exercise authority, supervision, and direction over all heads of departments and direct officers and employees of the city through the designated department heads. The mayor may delegate responsibility over departments to members of the city council.
- E. The mayor shall appoint, remove, promote, and demote any and all officers and employees of the city, subject to all applicable personnel ordinances, rules and regulations, except for those offices whose appointment and/or removal is governed by state law or existing city ordinances.
- F. The mayor shall establish and administer standards, rules, and procedures for the city personnel system.
- G. The mayor shall prepare, or have prepared, the annual budget, and be responsible for the administration of the budget upon adoption.
- H. The mayor shall submit plans and programs related to the development and needs of the city, and annual and special reports concerning the financial, administrative, and operational activities of the city office and city departments, together with his or her evaluation and recommendation relating to them.
- I. The mayor has a vote, with the City Council, to appoint or remove a City Manager.
- J. The mayor has the authority to appoint and remove a city recorder and city treasurer, which appointments or removals must be approved with the advice and consent of a majority of the City Council.
- K. The mayor is responsible to schedule the evaluation of the City Manager with the City Council. The Mayor and Council shall perform the evaluation.
- L. The mayor shall appoint, with the consent of a majority of the City Council, members of the commissions, boards, and committees of the City, unless otherwise established by ordinance. (Ordinance 92017, x-2021) (Ordinance#42121D)



**2-3-020. Mayor Pro tempore.**

Every two years, the mayor may recommend a mayor pro tempore to act in the absence or disability of the mayor. Such a recommendation must be approved by the council. In the event the mayor has failed to recommend a mayor pro tempore, or when both the mayor and the mayor pro tempore are absent or disabled, the council may elect a member from the council to preside over the meeting as mayor pro tempore, who shall have all of the powers and duties of the mayor during the mayor's absence or disability. The election of a mayor pro tempore shall be entered in the minutes of the meeting.

**2-3-030. No Veto.**

The mayor of the city shall have no power to veto any act of the governing body unless otherwise specifically authorized by state statute.

**2-3-040. Vacancy.**

Whenever a vacancy in the office of the mayor occurs, the vacancy shall be filled for the unexpired term in accordance with the laws of the State of Utah (ordinance 92017)

## **CHAPTER 3a – CITY MANAGER**

(ordinance 92017)

### **2-3a-010 Creation of Office and Appointment of City Manager**

The City Council hereby creates the office of City Manager pursuant to Utah Code Ann. §10-3b-303(1)(b)(iii). The manager is appointed by the governing body in accordance with Utah Code Ann. §§10-3b-302 and 303.

### **2-3a-020 Term of Office**

The City Manager shall serve at the pleasure of the governing body. The term of employment may be renewed at any time. The City Manager will serve until a successor is appointed and qualified. The City Manager may be removed with or without cause by a majority vote of the City Council, with the concurrence of the Mayor. Such vote to remove the City Manager shall be made in a regularly scheduled City Council meeting.

### **2-3a-030 Employment Agreement**

Nothing in this Chapter shall be constructed as a limitation on the power or authority of the City to enter into any supplemental agreement with the City Manager delineating additional terms and conditions of employment not inconsistent with any provisions of this Chapter or of State law.

### **2-3a-040 Powers and Duties**

A. The powers, duties, and obligations of the City Manager are as designated and assigned by the Mayor and may include the following:

1. Create and administer policies, rules, and regulations unless otherwise reserved to the City Council, and see that all franchises, leases, permits, contracts, licenses, and privileges granted by the City are observed, having been delegated all administrative powers belonging to the Mayor and City Council;
2. Exercise supervision and direction over all departments, employees, and officers of the City, directing the employees through the respective department directors;
3. Recommend to the Mayor and City Council the appointment, removal, promotion, and demotion of any and all officers and employees of the City, subject to all applicable personnel ordinances, rules, and regulations, except for the City Recorder and the City Treasurer.
4. Carry out the policies and programs established by the Mayor and City Council;
5. Create all necessary departments, divisions, sections, and offices necessary for the government of the City following approval by the Mayor and City Council;
6. Prepare recommendations for the governing body regarding the addition, deletion, or reduction in municipal services;
7. Cause to be prepared an annual budget with the mayor and present it to the governing body and be responsible for the administration of the budget upon adoption;
8. Submit to the governing body plans and programs relating to the development and needs of the City, including annual and special reports concerning the financial, administrative, and operational activities of the City, together with his or her evaluation and recommendations relating to them;
9. Utilize the buildings, equipment, and other physical holdings of the City as he/she

- sees fit to maximize the productivity of City officials and employees and to ensure the health and safety of the City;
10. Notify the Mayor and City Council of any emergency existing in the City
  11. Attend all meetings of the City Council, with the right to participate in the discussion, but without the right to vote;
  12. Discharge any other duties specified or imposed by the Mayor and City Council.
- B. Nothing in this chapter shall be construed to delegate to the Manager the legislative powers belonging to the City Council, nor the Mayor's position as chief administrative officer, chair of the governing body, or any *ex officio* position which the Mayor holds. (Ordinance 42121D)

## **CHAPTER 4 - FINANCE DIRECTOR - RECORDER**

### **2-4-010. Appointment.**

The Mayor shall appoint, with the advice and consent of at least three members of the City Council, a City Finance Director/Recorder, who shall perform the duties required of him or her by law, the ordinances of the City and State of Utah, and such other duties as the City Council may require. The City Finance Director/Recorder shall serve until his/her successor is appointed, qualified, and sworn in. The City Finance Director/Recorder is required to be a resident of Salem City. (Ord. No. 5-17-17)

### **2-4-020. Record Keeping.**

The finance director/recorder shall keep a record of the proceedings of the city council, whose meetings it shall be his or her duty to attend. He or she shall accurately record all ordinances and resolutions passed by the city council in a book kept for that purpose. He or she shall certify to the posting of all ordinances and make affidavits of posting in three public places. He or she shall attest all papers signed by the mayor officially. He or she shall also keep, in a book provided for that purpose, the names of the persons elected or appointed to any office, commission, board, or committee within the city, together with the dates on which they entered upon the duties of their respective offices or positions and the date of their termination, resignation, or removal therefrom.

### **2-4-030. Countersigning Contracts.**

The city finance director/recorder shall countersign all contracts made on behalf of the city. Every contract made on behalf of the city or to which the city is a party shall be void unless signed by the finance director/recorder. He or she shall maintain a record of all contracts, properly indexed, which record shall be open to the inspection of all interested persons.

### **2-4-040. Accounts and Payments of Claims.**

A. The city recorder shall maintain or cause to be maintained the general books for each fund of the city and all subsidiary and detailed records relating thereto, including a list of the outstanding bonds, for what purpose, when and where payable, and the rate of interest they respectively bear, together with the amount outstanding.

B. He or she shall keep accounts with all receiving and disbursing officers of the city, shall audit all claims and demands against the city before they are allowed by the city council, and shall prepare checks and payment thereof to be drawn on the appropriate bank accounts of the city. He or she shall certify on the voucher copy of said check or other supporting record that he or she has audited said claim and found it to be true and correct, and that said claim has been approved by the city council and he or she shall state the date of such approval.

### **2-4-050. Payment of Monies.**

The city recorder shall pay into the city treasury all money belonging to the city coming into his or her hands by virtue of his or her office, and shall take a receipt for the same, which receipt shall be filed with other papers in the recorder's office. He or she shall

keep a list of all property coming into his or her possession from his or her predecessor and office and by purchasing during his or her term and deliver said list, together with the property, to his or her successor in office.

**2-4-060. Ex officio Auditor.**

The city recorder shall be the ex officio auditor of the city and shall perform the duties of such office without extra compensation.

**2-4-070. Financial Statements.**

The city recorder or other delegated person shall prepare and present to the city council the following financial statements:

- A. As of the end of each month, a summary of cash receipts and disbursements by funds or appropriate groups of funds, showing in total the beginning cash and invested balances, the receipts and a disbursement separately for the period and cash and invested balances in each fund or groups of funds at the end of the period;
- B. As of the end of such periods as the city council may direct, but not less often than once each quarter, a statement of revenues and expenditures in comparison with the budget of the general funds;
- C. The statement of income and expense of each utility fund, reflecting operation to the date in the current year and a comparison thereof with the budget for each utility fund;
- D. As of the end of such periods as the city council may require, a condensed statement of receipts and of disbursements and comparison with the cash budget of each utility fund;
- E. Such statements of operations and other special funds or reports on financial condition at such times as the city council may require.

**2-4-080. Annual Report.**

Within 180 days after the close of each fiscal year, the city recorder or other delegated person shall prepare, in accordance with the system of uniform accounting, statements of revenues and expenditures and comparisons with budgets for those funds for which budgets are required, statements of revenues and expenditures or of income and expense, as the case may be, of all other operating funds; a balance sheet of each fund and combined balance sheet of all funds as of the close of the fiscal year, together with such other financial and statistical data as the city council may require; provided, that this requirement may be satisfied by the report of the independent auditor on the results of operation for the year and financial condition at the close of the year, if the same is currently prepared and presented to the city council. Copies of the annual report shall be filed as a public document in the office of the city recorder.

**2-4-090. Publication of Annual Statement of Financial Condition.**

The city recorder shall prepare and publish twice within 180 days after the close of the fiscal year, in a newspaper having general circulation in the city, a summary statement of the financial condition of all operating funds of the city and of all the revenues and expenditures in said funds of the previous fiscal year.

**2-4-100. Fiscal Procedures.**

The city recorder shall act in conformance with and comply with the Uniform Fiscal Procedures Act for Utah cities.

**2-4-110. General.**

The city recorder shall perform such other duties as may be required by city ordinance or state law.

## **CHAPTER 5 - TREASURER**

### **2-5-010. Appointment.**

The Mayor shall appoint, with the advice and consent of at least three members of the City Council, a City Treasurer, who shall perform the duties of him or her by law, the ordinances of the City, and State of Utah, and such other duties as the City Council may require. The City Treasurer shall serve until his/her successor is appointed, qualified, and sworn in. The City Treasurer is required to be a resident of Salem City. (Ord. No. 5-17-17)

### **2-5-020. Duties.**

The treasurer shall perform the following duties:

- A. Be the custodian of all money, bonds, or other securities of the city;
- B. Determine the cash requirements of the city and provide for the investments of all idle cash;
- C. Receive all public funds and monies payable to the city, including all taxes, licenses, finance, and/or governmental revenue, and keep an accurate detailed account thereof in the manner provided in the Uniform Fiscal Procedures Act for Utah cities, and as the city council may by ordinance or resolution, from time to time direct.
- D. Collect all special taxes and assessments as provided by law and ordinance.

### **2-5-030. Fiscal Procedures.**

The city treasurer shall act in conformance with and comply with the procedures set forth in the Uniform Fiscal Procedures Act for Utah cities.

## **CHAPTER 6 - CHIEF OF POLICE / PUBLIC SAFETY DIRECTOR**

### **2-6-010. Appointment.**

There shall be appointed by the Mayor, with the advice and consent of a majority of the City Council, a Chief of Police, who shall also act as the public safety director, who shall perform the duties required of him or her by law, enforce the ordinances of the City, and the laws of the State of Utah, and perform such other duties as the City Council may require. The Chief of Police/Public Safety Director shall serve until a successor is appointed and qualified. (Ordinance 42121D)

### **2-6-020. Duties.**

The chief of police shall attend City Council meetings, preserve the peace and good order of the city, quell riots, make arrests or issue citations to enforce those ordinances of the City or of the State, take such measures and shall secure the peace and good order of all public meetings and of the City generally, Shall implement safety policies or programs of the City; shall oversee the police, fire, ambulance, and emergency planning departments; shall see that all employees and volunteers within the public safety department are properly trained and qualified; and shall inspect equipment and inventory for adequate supplies of both quantity and quality and to insure they are in proper working order; shall oversee the budgets of each department under his/her supervision; shall oversee all equipment, inventory, and storage in the public safety building, maintain said building in a neat and orderly manner for the safety and efficiency of the personnel; shall report to the City Council concerning the departments within the public safety department, and shall perform such other responsibilities as may be assigned by the governing body or City Manager.

### **2-6-030. Unclaimed Property.**

All unclaimed property coming into the possession of the chief of police or Salem City Police Department, shall be administered and disposed of pursuant to Utah Code Annotated §77-24a-1 et seq.

### **2-6-040. Emergency Management Committee.**

There is hereby created an Emergency Management Committee, consisting of the Mayor, who shall act as chair of the committee, a City Council member, appointed by the Mayor, who shall be chair in the Mayor's absence, the Public Safety Director, the Fire Chief, and the ambulance Captain. Additional community representatives may be appointed as necessary. The Emergency Management Committee shall be an advisory body to the City Council and shall make recommendations concerning City policies or programs to the City Council. (ordinance 92017)



(Ord. No. 1-9-96)

## **CHAPTER 6A - PUBLIC SAFETY DIRECTOR**

**Repealed 9-20-17**

## **CHAPTER 7 - FIRE CHIEF**

### **2-7-010. Appointment.**

There shall be appointed by the Public Safety Director, a City Fire Chief who shall perform the duties required of him or her by law, and shall perform such other duties as assigned by the Public Safety Director. The City Fire Chief shall serve until a successor is appointed and qualified. (ordinance 92017)

### **2-7-020. Duties.**

The duty of extinguishing fires and of protecting life and property within the city is entrusted to the chief of the fire department. He or she may make suitable regulations under which the officers and the members of the department shall be required to wear an appropriate uniform or badge by which, in case of fire and at other times, their authority and position in the fire department may be known. The chief shall have sole and entire command over all officers and members of the department at fires. He or she shall have full charge at all times of all apparatus and appurtenances belonging to the department, and he or she shall adopt such measures as deemed expedient for the extinguishment of fire, protection of property, observance of the laws of the state, and duties required of him or her by law and the ordinances of the city. It shall be the duty of the chief of the department to examine the condition of all buildings and to inspect engines, hoses, and hoods, and ladder equipment of the city fire department. It shall further be the duty of the fire chief to see that at all times the provisions of the ordinances relating to the protection and regulation of the property are strictly enforced, and to enforce all ordinances concerning the prevention and protection against fires.

## **CHAPTER 8 - AMBULANCE CAPTAIN**

### **2-8-010. Appointment.**

There shall be appointed by the Public Safety Director a City Ambulance Captain, who shall perform the duties required of him or her by law and shall perform such other duties as assigned by the Public Safety Director. The City Ambulance Captain shall serve until a successor is appointed and qualified. (ordinance 92017)

### **2-8-020. Duties.**

The duty of providing ambulance service with trained paramedics, EMT's, or other appropriate medical personnel within the city is entrusted to the ambulance captain. It shall be the further duty of the ambulance captain to examine the condition of all ambulances and equipment used therein, including medical supplies; to provide adequate training for personnel operating the ambulances, and to ensure that all state laws are adhered to in order to obtain quality emergency medical services.

## CHAPTER 9 - ENGINEER

### **2-9-010. Appointment.**

There shall be appointed by the City Manager a City Engineer who shall perform the duties required of him or her by law, and perform such other duties as the City Council may require. The City Engineer shall serve until a successor is appointed and qualified. (ordinance 92017)

### **2-9-020. Duties.**

It shall be the duty of the city engineer to locate the lines and grades of all streets and sidewalks, alleys, avenues or other public ways, and to determine the position, size, and construction of all sewers, water works, irrigation or drainage canals, reservoirs, culverts, aqueducts, bridges, viaducts, or other public works or appurtenances, and to prepare plans, maps, or profiles of the same, and to make estimates and furnish specifications for any of the said work, whenever required to do so by the city council, and have general charge, supervision, and inspection of all public improvements and public work undertaken by or on behalf of the city by contract or otherwise, and shall see that the same are performed in a workmanlike manner, and in accordance with the authorized plans and with the terms and specifications of the contract.

### **2-9-030. Records.**

A. The city engineer shall keep in his or her office, certified copies of all the field notes, maps, or profiles which relate to city surveys, waterworks, sewers, irrigation systems, streets or sidewalks, and all other engineering works; and he or she shall arrange and index them in such a manner as will enable a ready reference thereto, and all shall be the property of the city.

B. The engineer's office shall be an office of record for all maps, plans, plats, profiles, drawings, final estimates, specifications and contracts, which in any way relate to public improvements and engineering affairs of the city. The city engineer shall be custodian of and must keep all drawings and documents mentioned in this subsection on file and of record.

C. The city engineer shall record and file all drawings and documents pertaining to public lands and improvements of the city. Those made in his or her office shall be placed on record as soon as completed and shall be open for public inspection, and any person copying the same or taking notes therefrom may do so in pencil only. He or she shall keep the records and files in good condition and turn the same over to his or her successor in office. He or she shall allow no alteration, mutilation, or changes to be made in any manner of record, and shall be held strictly accountable for the same.

### **2-9-040. Seal.**

The city engineer shall be provided with a seal by the city for his or her use containing the words; "Salem City, Utah. Engineering Department." Such seal shall be

affixed to every certification which has been approved.

**2-9-050. Fees.**

The city engineer shall not record any drawings or instruments, or file any papers or notices, or furnish any copies, or render any service connected with his or her office until the fees for the same are paid or are tendered as prescribed by law or ordinance.

**2-9-060. Further Regulations.**

The city council may, by resolution, make further rules and regulations relative to the duties of the city engineer, and, where fees are to be charged for certain services, shall make and adopt fee schedules.

**2-9-070. Private Work.**

A part-time city engineer is expressly prohibited from doing any private engineering services on properties located within the corporate limits of this city, where he/she would later be required to review such work on behalf of the city. Nothing contained herein shall be construed to prohibit the engineer from maintaining a separate engineering business except as may be specifically prohibited herein. A full-time city engineer is prohibited from doing any private engineering work within the city.

## **CHAPTER 10 - ATTORNEY**

### **2-10-010. Appointment.**

There may be appointed by the City Manager a City Attorney who shall perform the duties required of him or her by law and such other duties that the City Council may require. The City Attorney shall serve until a successor is appointed and qualified. In lieu of a full time City Attorney, the City Manager may negotiate a contract with another City or with a private attorney for legal services. Such a contract must be approved by the City Council. (ordinance 92017)

### **2-10-020. Duties.**

The city attorney shall prosecute violations of the city ordinances with the same powers as are exercised by the county attorney in respect to violations of state law, including, but not limited to, granting immunity to witnesses for violations of city ordinances for misdemeanor violations occurring within the city. The city attorney shall, when required, attend meetings of the city council and provide such advice as may be requested. He or she shall review all contracts to be entered into by the city, shall direct or assist in defending or prosecuting actions against or on behalf of the city, and shall be the legal advisor for the city. Nothing contained herein shall be construed to prohibit the attorney from maintaining a separate law practice.

## CHAPTER 11 - ELECTIONS

### **2-11-010. When Held - Terms of Office.**

Municipal elections shall be held on the Tuesday following the first Monday in November in odd numbered years. The municipal offices to be elected are a mayor and five council members. These offices shall be elected in groups consisting of groups consisting of a mayor and two council members and in alternating elections, three council members. Elected officials of the city shall serve four-year terms.

The officer so elected shall enter upon their duties on the first Monday in January, following their election, or as soon thereafter as practically possible (ordinance #60717)

### **2-11-020. Nominations.**

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

B. To become a candidate for elective office at a November election of the City, a declaration of candidacy or nomination petition shall be filed with the City Recorder between dates set forth in Utah Annotated Section 20a-9-203, as it may be amended from time to time. In the event the closing day for filing for candidacy falls on a weekend or a holiday, the deadline shall be extended to the next business day. The declaration of candidacies shall comply with the form set forth in Utah Code Ann. §20-A-9-203(3)(1953 as amended). (Ord. No.7-18-07 B)

C. Any registered voter may also be nominated for a municipal office by a petition signed by twenty-five (25) residents of the city who are eighteen (18) years of age or older. Such a petition shall substantially conform with the form set forth in Utah Code Annotated §20A-9-203(4).

D. Immediately after expiration of the period for filing a declaration of candidacy, the city recorder shall cause the names of the candidates as they will appear on the ballot to be published in at least two (2) successive publications of a newspaper with general circulation in the city.

### **2-11-030. Certificate of Nomination - Preservation.**

The city recorder shall cause to be preserved in his or her office for one (1) year all certificates of nomination filed therein under the provisions of this chapter. All such certificates shall be open to public inspection under proper regulations to be made by the officers with whom the same are filed.

### **2-11-040. Objections to Declaration of Candidacy.**

A Declaration of Candidacy filed in conformity with §2-11-020(B) is valid unless written objection thereto is made within three (3) days after the declaration is filed. If an objection is made, notice of the objection shall be mailed or personally delivered to the

affected candidate immediately. All objections shall be decided within forty-eight (48) hours after they are filed with the city recorder. If the objection is sustained by the city recorder, it may be cured by an amendment whereby filing a new declaration within three (3) days after the objection is sustained but in no event later than eighteen (18) days before the day of the election. The city recorder's decision upon objections to form is final. The city recorder's decision upon substantive matters is reviewable by a District Court if prompt application is made to the court pursuant to state law.

**2-11-050. Withdrawal of Candidacy.**

Any person who has filed a declaration of candidacy or who has been otherwise nominated, may at any time up to twenty-three (23) days before the election withdraw the nomination by written affidavit filed with the city recorder.

**2-11-060. Primary Election.**

A primary election shall be held on the date as designated in Utah Code Annotated Sections 20a-1-201.5(2) and 20a-9-404(1)(1953 as amended) to determine the candidates for elective office at the municipal election. If the number of candidates for a particular office, however, does not exceed twice the number of offices to be filled at the election, no primary election for that office shall be held and the candidate is deemed nominated for the final election. (Ordinance 7-18-07-B)

**2-11-070. Posting of Notice of Election.**

A. The city recorder, at least five days before the municipal election, shall give written or printed notice of the date of the election, the hours during which polls will be open, the polling places in each district, and the qualifications for persons to vote in the election. A copy of the notice and a sample ballot shall be posted in each voting district in at least five places by the registration agent. One such notice may be posted in a well-used public location in a nearby or adjacent district.

B. The city recorder, in lieu of, or in addition to posting, may immediately before the election publish the notice and sample ballot in one or more newspapers with general circulation in the city.

**2-11-080. Form of Ballots.**

The city recorder shall provide ballots to the various voting districts and in so doing shall comply with the provisions of Utah Code Annotated §20A-6-401 and 402.

**2-11-090. Duties of Election Officer.**

In preparing for all municipal elections, the city recorder shall be responsible to see that the city complies with the provisions of Utah Code Annotated §20A-5-401 et seq.

**2-11-100. Conduct of Elections.**

The city, conducting its elections, shall comply in all respects with the provisions of Utah Code Annotated, Title 20A, chapter 3.



**2-11-110. Election Returns and Contests.**

In canvassing the results of the election, the city shall comply in all respects with the provisions of Utah Code Annotated, Title 20A, chapter 4.

**2-11-120. Election Offenses.**

Violation by any person of any of the provisions of this chapter, or any person who violates the provisions of Utah Code Annotated Title 20A shall be punished as set forth by state law.

## **CHAPTER 12 - OTHER OFFICES**

### **2-12-010. Appointment.**

The City Manager may appoint such other officers as may be necessary for the order and well-being of the city as provided for by law, ordinance, or resolution. The City Manager may define their duties, fix their compensation, and require them to give a bond, as required by resolution or ordinance. (ordinance 92017)

## **CHAPTER 13 - GOVERNMENT RECORDS AND ACCESS MANAGEMENT ACT**

### **2-13-010. Short Title.**

The Ordinance is known as the "Salem City Government Records Access and Management Act".

### **2-13-020. 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;
  - 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 for the economical and efficient management of the city's records as provided in this ordinance.

### **2-13-030. Definitions.**

1. **"Audit"** means:
  - a. a systematic examination of financial, management, program, and related records for the purpose of 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 Annotated §63-

2-201(3)(b).

4. **"Computer Program"** means:

- a. 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 would 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 §110.

6. **"Contractor"** means:

- a. (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", "Designate"** and their derivative forms means 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. **"Initial Contact Report"** means:

- a. 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 name, address, and other identifying information about any person arrested or charged in connection with the incident; and (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 Utah Code Annotated §63-2-201(3)(b).

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 §100.

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 §120.

15. **"Protected Record"** means a record that has not been appropriately classified private, controlled, or protected as provided in §§100, 110, and 120 of this ordinance.

16. **"Record"** means:

- a. 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; (ii) 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; (v) junk mail or commercial publications received by the city or an official or employee of the city; (vi) books and other materials that are catalogued, indexed, or inventoried and contained in the collections of libraries open to the public, regardless of physical form or characteristics of the material; (vii) 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 (viii) computer programs as defined that are developed or purchased by or for the city for its own use; (ix) notes or internal memoranda prepared as part of the deliberative process by a member of the judiciary, an administrative law judge, 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 unless another individual is appointed by the City Manager 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.

20. **"UCA"** means Utah Code Annotated.

**2-13-040. 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 §060 of this ordinance.

2. All records are public unless otherwise expressly provided by this ordinance 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 §§100, 110, and 120 of this ordinance; 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 §§100, 110, and 120 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 §050.

- b. The city may, at its discretion, disclose records that are private under Subsection 100.2 or protected under §120 to persons other than those specified in §050 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 applied 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 certificated copy of a record if:
  - a. the person requesting the record has a right to inspect it;
  - b. has identified 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 ordinance 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 copied of more than 50 (fifty) 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 him/herself; or
  - b. allow the requester to provide his/her 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 ordinance shall be construed to limit or repair 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 ordinance.

**2-13-050. 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 unemancipated 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 of his/her legal representative dated no later than 90 ninety (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. Upon request, the city shall disclose a controlled record to:

- a.
    - (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 ninety (90) days prior to the date the request is made and a signed acknowledgement 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 050.2.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 ninety (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 Utah Code Ann. 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 2.13.040(3)(b) the court has authority independent of this ordinance to order disclosure.

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

- a.
  - (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 conditions of this subsection and his understanding that violation of the terms of this subsection may subject him to criminal prosecution under Utah Code Annotated §63-2-801.
- 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. Under Subsections 2.13.040(5)(b) and 2.13.160(4) the city may disclose records that are private under §100, or protected under §120 to persons other than those specified in this section.

- a. Under §160 the city council may require the disclosure of records that are private under §100, controlled under §110, or protected under §120 to persons other than those specified in this section.

- b. Under Utah Code Annotated §63-2-404(8) the court may require the disclosure of records that are private under §100, controlled under §110, or protected under §120 to persons other than those specified in this section.

**2-13-060. Fees.**

1. The city may charge a reasonable fee to cover the city's 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 determines 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; and (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.

**2-13-070. Procedures for Access.**

1. A person making a request for a record shall furnish the city with a written request containing his/her name, mailing address, daytime telephone number if available, and a description of the records requested that identifies the record with reasonable specificity.

2. A 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 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 a 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 5 if the city determines that due to the extraordinary circumstances it cannot respond within the time limits provided in subsection 2:

- a. another governmental entity is using the record, in which case the city shall promptly request that the governmental entity currently in possession to 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 record 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 from information that the requester is not entitled to inspect requires computer programming.

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

- a. for claims under Subsection 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 4(b), the originating city shall notify the requester when the record is available for inspection and copying;
- c. for claims under Subsection 4(c), 4(d), and 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 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 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 4(h), the city shall complete its programming and disclose the requested records as soon as reasonably possible.
6. 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.

**2-13-080. 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 the 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 ordinance, 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. a 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.

**2-13-090. Public Records.**

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 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 §§120 (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;
  - 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 ordinance;
  - g. data on individuals that would otherwise be private under this ordinance if the individuals that would otherwise be private under this ordinance if the individual who is the subject of the record has given the city written permission to make the records available to the public;
  - h. documentation of the compensation that the city pays to a contractor or private provider; and,
  - i. 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 3(b) or §100, 110 or 120:
  - 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 §63-2-304(34);
- 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 nonsubstantive 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. final audit reports;
- q. occupational and professional licenses;
- r. business licenses; and,
- s. a notice of violation, a notice of agency action under Utah Code Annotated § 63-46b-3, 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 access to records.

**2-13-100. 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 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 §2.13.090(b),(2)(0) or private under §2.13.100(1)(d);
- b. records describing an individual's finances, except that the following are public:
  - (i) records described in 2.13.090(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.

**2-13-110. Controlled Records.**

A record is controlled 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.

**2-13-120. Protected Records.**

The following records are protected:

1. Trade secrets as defined in Utah Code Annotated § 13-24-2, if the person submitting the trade secret has provided the city with the information specified in § 63-2-308.
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 that 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 Utah Code Annotated § 63-2-308.
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 state economy.
4. Test questions and answers to be used in future license, certifications, 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. on 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. on 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 for discipline, licensing, certification, or registration purposes if release of the records:
  - a. reasonably could be expected to interfere with investigations undertaken or 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, procedures, policies, or orders not generally known outside of government if disclosure 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 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.
12. Records that, if disclosed, would reveal recommendations made to the Board of Pardons.
13. Records of a governmental audit agency relating to an ongoing or planned audit until the final audit is released.
14. Records prepared by or on behalf of the city solely in anticipation of litigation that are not available under the rules of discovery.
15. 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.
16. 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 UCA §78-24-8.
17. Drafts, unless otherwise classified as public.
18. Records concerning the city's strategy about collective bargaining or pending litigation.
19. Records of investigations of loss occurrences and analyses of loss occurrences.
20. 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.
21. 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.
22. 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.

23. Transcripts, minutes, or reports of the closed portion of a meeting of a public body except as provided in UCA §52-4-7.
24. 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.
25. Memoranda prepared by staff and used in the decision-making process by an administrative law judge, or a member of any other body charged by law with performing quasi-judicial function.
26. 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.
27. 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.

**2-13-130. Records Classification.**

1. The city shall:
  - a. evaluate all record series that it uses or creates;
  - b. designate those record series as provided by this Ordinance;
  - c. report the designation of its record services to the state archives.
2. The city may classify a particular record, record or 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.

**2-13-140. Records Retention.**

The city shall use the retention schedule as established by state archives.

**2-13-150. Segregation of Records.**

Notwithstanding any other provision in this Ordinance, if the city receives a request for access to a record that contains both information that the requester is entitled to inspect and information that the requester is not entitled to inspect under this Ordinance, 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 Ordinance; 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.

**2-13-160. Appeals.**

1.
  - a. Any person aggrieved by the city's access determination under this Ordinance, may appeal the determination as set forth herein.
  - 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 "determination" or its equivalent.
2.
  - a. If the appeal involves a record that is the subject of a business confidentiality claim under UCA §63-2-308, 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. The City may, upon consideration and weighing of the various interests and public policies pertinent to the classification and disclosure or nondisclosure, order the disclosure of information properly classified as private under §100.2 or protected under §120 if the interests favoring access outweigh the interest favoring restriction of access.

4. The notice of appeal to the Appeals Board must be filed with the City Recorder no later than 30 days after the City's denial.
5. The notice of appeal shall contain the following information:
  - a. the petitioner's name, mailing address, and daytime telephone number;
  - b. the relief sought.
6. The petitioner may file a short statement of facts, reasons, and legal authority in support of the appeal.
7. No later than three days after receiving a notice of appeal, the recorder shall:
  - a. Schedule a hearing for the Appeals Board to discuss the appeal which shall be held no sooner than 15 days and no later than 60 days from the date of the filing of the appeal. The Appeals Board shall be an ad hoc board, activated in the case of an appeal. It shall consist of one City employee and two residents, one of whom shall have professional experience with requesting or managing records, and neither of whom can work for a government entity. The Appeals Board shall be appointed by the Mayor upon a notice of appeal being received by the City Recorder;
  - b. At the hearing, the Appeals Board shall allow the parties to testify, present evidence, and comment on the issues. The Appeals Board may allow other interested persons to comment on the issues.
  - c. No later than five business days after the hearing, the Appeals Board shall issue a signed order either granting the petition in whole or in part or upholding the initial determination in whole or in part.
  - d. The order shall include:
    - (i) a statement of reasons for the decision, including citations to this Ordinance 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

decision to the district court of Utah County; 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 advice from an attorney.

- 8. A person aggrieved by the city's classification or designation determination under this chapter, may appeal that determination using the procedures provided in this section. (ordinance #91819C)

**2-13-170. Judicial Review.**

- 1. Any party to proceeding before the Appeals Board may petition for judicial review by the district court of Utah County of the order. The petition shall be filed no later than 30 days after the date of the order. (ordinance #91819C)

**2-13-180. 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 outweigh the interests favoring access.
- 2. This section does not apply to records that are specifically required to be public under 2.13.090 of this Ordinance or UCA §63-2-301 of the Utah Code, except as provided in Subsection 3.
- 3.
  - a. Access to drafts may be limited under this section, but the court may consider, in its evaluation of interests favoring restriction of access, only those interest 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 interests 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.

**2-13-190. Request to Amend a Record.**

- 1.
  - a. Subject to Subsection 7, an individual may contest the accuracy or completeness of any public, 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 requestor 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 recorder make the statement accessible if the record is no 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 §2.13.160.
- 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.

**2-13-200. 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 receives the record, information, or copy after the fact and without prior knowledge of or participation in the false pretenses, bribery, or theft.
3. A public employee who intentionally refuses to release a record the disclosure of which the employee knows is required by law or by final unappealed order from a city, or a court, is guilty of a class B misdemeanor.

**EXHIBIT "A"**

**SCHEDULE A  
FEES**

COPIES PER PAGE	<u>\$.50</u>
CERTIFIED COPIES PER PAGE	<u>\$2.00</u>
COMPILATION TIME PER HOUR	<u>\$17.00</u>

**SCHEDULE B**  
**RETENTION SCHEDULE**

The retention schedule of this municipality is the schedule promulgated by the Utah Division of Archives and Record Service for local governments with the following amendments:

None

## **CHAPTER 14 - PROCEDURE FOR THE REVIEW OF ACTIONS BY SALEM CITY THAT MAY HAVE CONSTITUTIONAL TAKING ISSUES**

### **2-14-010. Policy Considerations.**

There is an underlying policy in Salem City strongly favoring the careful consideration of matters involving constitutional taking claims, in fairness to the owner of private property bringing the claim and in view of the uncertainty and expense involved in defending law suits alleging such issues. At the same time, the legitimate role of government in lawfully regulating real property must be preserved and the public's right to require the dedication or exaction of property consistent with the constitution. Consistent with this policy, it is desired that a procedure be established for the review of actions that may involve the issue of a constitutional taking. These provisions are to assist governments in considering decisions that may involve constitutional takings. It is intended that a procedure for such a review be provided, as well as guidelines for such considerations. This ordinance is further intended and shall be construed to objectively and fairly review claims by citizens that a specific government action should require payment of just compensation, yet preserve the ability of Salem City to lawfully regulate real property and fulfill its other duties and functions.

### **2-14-020. Definitions.**

- A. "Constitutional Taking" means actions by Salem City involving the physical taking or exaction of private real property that might require compensation to private real property owners because of:
1. The Fifth or Fourteenth Amendment to the Constitution of the United States;
  2. Article I, Section 22, of the Utah Constitution;
  3. Any court ruling governing the physical taking or exaction of private real property by a government entity;
- B. Actions by Salem City involving the physical taking or exaction of private real property is not a constitutional taking if the physical taking or exaction:
1. Bears an essential nexus to legitimate governmental interests; and
  2. Is roughly proportionate and reasonably related, on an individualized property basis, both in nature and extent, to the impact of the proposed development on the legitimate government interest.

### **2-14-030. Guidelines Advisory.**

The guidelines adopted and decisions rendered pursuant to the provisions of this section are advisory, and shall not be construed to expand or limit the scope of the City's liability for a constitutional taking. The reviewing body or person, shall not be required to make any determination under this ordinance except pursuant to Section 2-14-040.

### **2-14-040. Review of Decision.**

Any owner of private real property who claims there has been a constitutional taking of their private real property shall request a review of the final decision of any officer, employee, board, commission, or council. The following are specific procedures established for such a review:

- A. The person requesting a review must have obtained a final and authoritative determination, internally, within the City, relative to the decision from which they are requesting review.
- B. Within thirty (30) days from the date of the final decision that gives rise to the concern that a constitutional taking has occurred, the person requesting the review shall file in writing, in the office of the City Recorder a request for review of that decision.
- C. The City Council, or such individual or body designated by the City Council, shall immediately set a time to review the decision that gave rise to the constitutional taking claim.
- D. In addition to the written request for review, the applicant must submit, prior to the date of the review, the following:
  - 1. The name of the applicant requesting review.
  - 2. The name and business address or current owner of the property, form of ownership, whether sole proprietorship, corporation, not-for-profit corporation, partnership, joint venture or other, and if owned by a corporation, partnership, or joint venture, the name and address of all principal shareholders or partners.
  - 3. A detailed description of the grounds for the claim that there has been a constitutional taking.
  - 4. A detailed description of the property taken.
  - 5. Evidence and documentation as to the value of the property taken, including the date and cost at the date the property was acquired. This should include any evidence of the value of that same property before and after the alleged constitutional taking, the name of the party from whom purchased, including the relationship, if any, between the person requesting a review and the part from whom the property was acquired.
  - 6. The nature of the protectable interest claimed to be affected, such as, but not limited to, fee simple ownership, leasehold interest, etc..
  - 7. The terms (including sale price) of any previous purchase or sale of a full or partial interest in the property in the three years prior to the date of application.

8. All appraisals of the property prepared for any purpose, including financing, offering for sale, or ad valorem taxation, within the three years prior to the date of application.
  9. The assessed value of and ad valorem taxes on the property for the previous three years.
  10. All information concerning current mortgages or other loans secured by the property, including name of the mortgagee or lender, current interest rate, remaining loan balance and term of the loan and other significant provisions, including but not limited to, the right of purchasers to assume the loan.
  11. All listings of the property for sale or rent, the price asked therefore, any offers received, all within the previous three years.
  12. All studies commissioned by the petitioner or agents of the petitioner within the previous three years concerning the feasibility of development or utilization of the property.
  13. For income producing property, itemized income and expense statements from the property for the previous three years.
  14. Information from a title policy or other source showing all recorded liens or encumbrances affecting the property.
  15. Such other information as may be requested by the City Council which is reasonably necessary, in its opinion, to arrive at a conclusion concerning whether there has been a constitutional taking.
- E. An application shall not be deemed to be "complete" or "submitted" until the reviewing body or official certifies to the applicant, that all the materials and information required have been received by the City. The reviewing body or official shall promptly notify the applicant of any incomplete application.
- F. The City Council or individual or body designated by them, shall hear all the evidence related to and submitted by the applicant, the City, or any other interested party.
- G. A final decision on the review shall be rendered within fourteen (14) days from the date the complete application for review has been received by the City Recorder. The decision of the City Council, or its designee, regarding the results of the review shall be given in writing to the applicant and the officer, employee, board, commission or council that rendered the final decision that gave rise to the constitutional takings claim.
- H. If the City Council fails to hear and decide the review within fourteen (14) days, the decision appealed from shall be presumed to be approved.

**2-14-050. Reviewing Guidelines.**

The City Council shall review the facts and information presented by the applicant to determine whether or not the action by the City constitutes a constitutional taking as defined in this chapter. In doing so, they shall consider:

- A. Whether the physical taking or exaction of the private real property bears an essential nexus to a legitimate governmental interest.
- B. Whether a legitimate governmental interest exists for the action taken by the City.
- C. Is the property and exaction taken, roughly proportionate and reasonably related, on an individual property basis, both in nature and extent, to the impact caused by the activities that are the subject of the decision being reviewed.

**2-14-060. Results of Review.**

After completing the review, the reviewing body or person shall make a determination regarding the above issues and where determined to be necessary and appropriate, shall make a recommendation to the City Council, which recommendation is not binding on the Council, nor admissible in court, as to whether or not there has been a constitutional taking.

Ordinance No. 1-10-95 B



## **CHAPTER 15 – DEVELOPMENT REVIEW COMMITTEE**

### **2-15-010. Creation.** (Ordinance#22124A)

There is hereby created a Development Review Committee which will have the following functions:

A. To review, propose and make recommendations to the Planning and Zoning Commission and City Council concerning the adoption of Salem City Ordinances, laws, regulations, and standards.

B. To act as the Land Use Authority to review and approve or deny preliminary and final plats for single family, two-family and town-home developments based on compliance with City Ordinances, laws, regulations, and Salem City Construction and Development Standards.

C. To review and approve site plans and final plans.

D. To review conceptual plans and give recommendations to the developer or property owner for the preparation of preliminary plats or site plans.

E. To review zone change and annexation petitions and to make recommendations to the Planning and Zoning Commission.

F. To perform such other functions as may be assigned by the City Council.

### **2-15-020. Membership.** (Ordinance#22124A)

The Development Review Committee shall consist of the City Public Works Director, the City Engineer, the Building Official, the Electric Department Supervisor, the Public Safety Director, the City Attorney, the City Manager, and the City Fiber Director. The Mayor and any member of the City Council may attend the DRC meetings and take part in discussions, but may not be a voting member of DRC. If the officer designated cannot be present, he/she may send another person from the department to act in his/her stead.

### **2-15-030. Quorum.**

A. A quorum of the Development Review Committee necessary before any business can be transacted shall consist of four voting members.

B. A majority vote of a quorum of the Development Review Committee shall be necessary in order to approve any item or to recommend approval of any item to the Planning and Zoning commission or City Council.

### **2-15-040. Chairperson.**

The Chairperson of the Development Review Committee shall be the City Manager or the designee of the City Manager, who shall retain the right to cast a vote while acting as Chairperson. (Ordinance 62222)

## CHAPTER 16 – CAMPAIGN FINANCE DISCLOSURE

### **2-16-010. General.**

All candidates for elective municipal office shall comply with the campaign finance disclosure requirements set forth in this chapter.

### **2-16-020. Definitions.**

The following definitions shall be applicable to this chapter:

“**Candidate**” shall mean any person who files a declaration of candidacy for an elective office of the City or is nominated by a committee, party, or petition; or received contributions or made expenditures or consents to another person receiving contributions or making expenditures with a view to bringing about such person’s nomination or election to such office; or causes on his/her behalf, any written material or advertisement to be printed, published, broadcast, distributed or disseminated which indicated an intention to seek such office.

“**Contribution**” shall mean monetary and non-monetary contributions such as in-kind contributions and contributions of tangible things but shall not include personal services provided without compensation by individuals volunteering their time on behalf of a candidate.

“**Election**” shall mean both primary and final elections.

“**Expenditure**” shall mean a purchase, payment distribution, loan, advance, deposit or gift of money or anything of value made for the purpose of influencing the nomination or election of any candidate.

### **2-16-030. Filing of Campaign Finance disclosure Statements.**

Each candidate for elective office who either receives more than \$500.00 in campaign contributions or spends more than \$500.00 in campaign expenses shall file with the City Recorder a dated and signed financial disclosure statement which complies with this chapter. Forms shall be made available by the City. Other forms in substantially the same format are also acceptable. (Ord. No. 8-3-05)

### **2-16-040. At Time of Filing.**

The reports required by this Chapter shall be filed at least 7 days before both the municipal primary and general elections and again no later than 30 days after the municipal general election. A candidate eliminated in a primary election shall file the required report within 30 days after the date of the primary election. (Ord. No. 6-07-17)

### **2-16-050. Contents of Statement.**

A. Except as set forth in subparagraph (B), the campaign finance statements required herein shall include:

- (1) A list of each contribution, by amount and donor, made up to five days prior to the due date of the campaign finance statement, excluding a contribution previously reported;
  - (2) A list of each expenditure made up to five days prior to the due date of the campaign finance statement, excluding an expenditure previously reported.
- B. The campaign finance statement shall report, in aggregate, the total amount of all contributions and expenditures if the total of all contributions and all expenditures is less than \$500.00. If, between a prior report and the next report due, total contributions or expenditures have exceeded \$500.00, all contributions and and expenditures shall be accounted for as set forth in subparagraph (A).
- C. All contributions and expenditures related to the candidate's candidacy should be accounted for between the pre-election and post-election statements. (ordinance #60717)

**2-16-060. Public Information.**

The statements required by this chapter shall be public documents and shall be available for public inspection and copying during regular business hours. Appropriate costs may be assessed pursuant to the provisions of Government Records Access and Management Act.

**2-16-070. Penalty for Noncompliance.**

Any candidate who fails to comply with the provisions of this chapter is guilty of an infraction.

Ordinance No 5-17-00-A