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CHAPTER 2-01. CITY COUNCIL

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2-01-010. Governing Body.

The governing body of Farmington City shall be a six-member council form of government consisting of six (6) members, one of whom shall be the Mayor and five (5) of whom shall be Council Members, which council is hereinafter referred to as the "City Council."

2-01-020. Powers and Duties.

The City Council is the legislative body of the City and shall exercise the legislative powers and perform the legislative duties and functions of the City and may perform such other functions as may be specifically provided or necessarily implied by law. The City Council may also exercise any executive or administrative power and perform or supervise the performance of any executive or administrative duty or function that has not been given to the Mayor in accordance with and subject to the provisions set forth in *Utah Code Ann. § 10-3b-303*, as amended.

2-01-030. Meetings.

(a) **Regular Meetings.** The City Council shall hold regular meetings to conduct the business of the City at least once each month and shall prescribe by ordinance the time and place for holding its regular meetings. In general, regular meetings of the City Council shall be held on the first and third Tuesdays of each month at the offices of Farmington City, 160 South Main Street, Farmington, Utah. The City Council shall prepare and provide notice of its annual meeting schedule in accordance with Section 2-01-050.

(b) **Special Meetings.** If at any time the business of the City requires a special meeting of the City Council, such a special meeting may be ordered by the Mayor or any two Council Members. Notice of the special meeting shall be provided in accordance with the provisions of the Utah Open and Public Meetings Act and *Utah Code Ann.* § 10-3-502, as amended. The order of the special meeting shall be entered into the minutes of the City Council.

(c) **Closed Meetings.** The affirmative vote of at least two-thirds of the City Council present at an open meeting for which notice is given and a quorum is present may call a closed meeting to discuss certain items as provided under *Utah Code Ann.* § 52-4-205, as amended. The reason or reasons for holding a closed meeting and the vote, by name, of each member of the City Council, either for or against the motion to hold the closed meeting, shall be entered on the minutes of the meeting. No ordinance, resolution, rule, regulation, contract, or appointment shall be approved at a closed meeting.

(d) **Electronic Meetings.** The City Council may convene and conduct an electronic meeting in accordance with the provisions of *Utah Code Ann.* § 52-4-207, as amended. The City Council shall establish and adopt written rules and procedures governing such electronic meetings.

2-01-040. Open Meetings Law.

All meetings of the City Council shall be open to the public, except closed meetings, and shall be conducted in accordance with the Open and Public Meetings Act as set forth in *Utah Code Ann.* §§ 52-4-101, *et seq.*, as amended.

2-01-050. Notice of Meetings.

The City shall give public notice at least once each year of its annual meeting schedule and shall give not less than twenty-four (24) hours' public notice of the agenda, date, time and place of each of its meetings, other than emergency meetings, in accordance with *Utah Code Ann.* § 52-4-202, as amended, and *Utah Code Ann.* § 63F-1-701, as amended, regarding postings on the Utah Public Notice Website.

2-01-060. Agenda.

A written agenda for each regular meeting shall be prepared by the City Manager or his or her designee and approved by the Mayor or Mayor pro tempore in the Mayor's absence. Any member of the City Council may request that one or more items be placed on the agenda; provided, the request is received by the agenda cutoff dates established by the City at the start of each year to insure adequate preparation time for researching items and preparing staff reports. Each agenda shall provide reasonable specificity to notify the public as to the topics to be considered at the public meeting and topics discussed at the meeting shall comply with applicable provisions of *Utah Code Ann.* § 52-4-202, as amended.

2-01-070. Minutes and Recordings.

Except as otherwise provided by law, written minutes and a recording shall be kept of all meetings of the City Council in accordance with the provisions set forth in *Utah Code Ann.* §§ 52-4-203 and -206, as amended, and shall be presented to the City Council for review, correction and approval. The City Council shall establish and implement procedures for approval of written minutes of its meetings.

2-01-080. Mayor Presides.

The Mayor shall be the chairperson and preside at the meetings of the City Council. In the absence of the Mayor or because of his or her inability or refusal to act, the City Council may elect a member of the City Council to preside over the meeting as Mayor pro tempore in accordance with the procedures set forth in Chapter 2 of this Title.

2-01-090. Quorum.

No action of the City Council shall be official or of any effect except when a quorum of the Council Members are present, provided, that fewer than a quorum may adjourn a meeting. The number of Council Members necessary to constitute a quorum is three (3), excluding the Mayor.

2-01-100. Voting.

(a) How Taken. A roll call vote shall be taken and recorded for all ordinances, resolutions, and any action which would create a liability against the City and in any other case at the request of any member of the City Council by a "yes" or a "no" vote. Every resolution or ordinance shall be in writing before the vote is taken.

(b) Number Required. The minimum number of "yes" votes required to pass any ordinance, resolution, or to take any action by the City Council, unless otherwise prescribed by law, shall be a majority of the voting members of the City Council without considering any vacancy in the City Council. Any ordinance, resolution, or motion of the City Council having fewer favorable votes than required herein shall be deemed defeated and invalid. Notwithstanding the foregoing, a council meeting may be adjourned by a majority vote of the Council even though the majority is less than required herein, and a majority of the Council Members, regardless of number, may fill any vacancy in the Council as provided in *Utah Code Ann.* § 20A-1-510, as amended.

(c) Mayor Voting. Except as provided herein, the Mayor is a nonvoting member of the City Council. The Mayor may vote as a voting member of the Council on each matter for which there is a tie vote of the other Council Members, when the City Council is voting on whether to appoint or dismiss the City Manager, or as otherwise provided by law, as more particularly discussed in Chapter 2 of this Title.

2-01-110. Reconsideration.

Any action taken by the City Council shall not be reconsidered or rescinded at any special meeting unless the number of members of the City Council present at the special meeting is equal to or greater than the number of members present at the meeting when the action was approved.

2-01-120. Summary Action.

When two (2) or more agenda items for a City Council meeting are determined by the City Manager to be of a routine nature, such items may be placed upon a Summary Action Calendar on the agenda. The Summary Action Calendar may be voted upon by the Council as one matter and shall have the same effect as if a separate vote on each Summary Action Calendar item was taken. Prior to a final vote on the Summary Action Calendar, any member of the City Council may request to take any or all items on the Summary Action Calendar off the Summary Action Calendar for discussion, debate or question. Any question, debate or discussion regarding an item on the Summary Action Calendar, except in the nature of clarification or brief explanation of the content of an item, shall require a request to remove the item from the Summary Action Calendar. No items requiring a public hearing shall be placed on the Summary Action Calendar.

2-01-130. Rules of Order and Procedure.

Pursuant to *Utah Code Ann.* § 10-3-606, as amended, the City Council hereby adopts the following rules of order and procedure governing public meetings of the City Council ("Rules of Order and Procedure"). All public meetings of the City Council shall be conducted in accordance with the Rules of Order and Procedure. The Rules of Order and Procedure shall be made available to the public at each public meeting of the City Council and on the City's website.

(a) **Parliamentary Order and Procedure.** The City Council's meetings shall be conducted in general accordance with *Robert's Rules of Order*. The City Council may adopt by resolution additional rules of order and procedure for the proper conduct of its meetings.

(b) **Ethical Behavior.** Members of the City Council are elected officers within the meaning of the Utah Municipal Officers' and Employees' Ethics Act, as set forth in *Utah Code Ann. §§ 10-3-1301, et seq.*, as amended. City Council members shall comply with the provisions of the Ethics Act in all matters pertaining to the City and in public meetings of the City Council.

(c) **Civil Discourse.** Remarks and comments made in public meetings of the City Council should be relevant to the matters before the City Council. Speakers should speak in an audible and clear tone and refrain from attacking City Council members or others or their motives. City Council meetings should be conducted in a courteous manner to promote an atmosphere in which all points of view may be expressed and heard. Council members should not interrupt other members during discussion and debate. Remarks should be addressed through the Mayor who shall allow reasonable opportunity for all points of view to be expressed.

2-01-140. Attendance.

The City Council shall have the power to compel the attendance of its own members at its meetings and to provide penalties it considers necessary for the failure to comply with an exercise of authority to compel attendance.

2-01-150. Disorderly Conduct.

The City Council on a two-thirds vote of its members may expel any person who is disorderly and/or disruptive during the meeting of the City Council. The City Council may also on a two-thirds vote of its members expel or fine any Council Member for disorderly and/or disruptive conduct. This Section or any action taken by the governing body pursuant hereto shall not preclude prosecution under any other provision of law.

2-01-160. Required Attendance of Witnesses and Production of Evidence.

The City Council may require the attendance of any person to give testimony or produce records, documents or things for inspection, copying or examination necessary or useful for the governance of the City. The City Council may issue subpoenas in its own name in the manner provided in the Utah Rules of Civil Procedure or may by ordinance establish its own procedure for issuing subpoenas under this Section.

2-01-170. Council Committees.

(a) **Generally.** The City Council may from time to time delegate portions of its authority by resolution to committees composed of at least two members of the City Council.

(b) **Authority.** Committees of the City Council shall be limited in authority to the specific assignment of the City Council and shall exercise their authority subject to a standard specified by the Council in making the delegation.

(c) **As a Whole.** The authority delegated to any committee of the Council must be exercised by vote of the committee as a whole and no individual committee member may exercise the delegated authority independently.

(d) Administrative Directives Limited. A committee of the Council may not issue instructions or recommendations to the City Manager or other City employees other than for routine support services without express delegation of authority to do so by the City Council.

(e) Reporting. The committee may return any recommendation or suggestions to the City Council which may at any time extend, restrict, or otherwise alter the delegation of authority to the committee.

(f) Designation of Chair. The assignment of a Committee Chair shall be made by the City Council when delegating any portion of its authority to a committee of the Council.

2-01-180. Utah Retirement System.

For purposes of determining eligibility under the Utah Retirement System and provisions of the Utah State Retirement and Insurance Benefit Act, as set forth in Title 49 of the *Utah Code*, the City hereby certifies that all elected official positions of the City are part-time. Unless otherwise provided by law, any elected official taking office for the first time on or after July 1, 2011, shall not be eligible for participation in the Utah Retirement System.

CHAPTER 2-02. MAYOR

- 2-02-010. General Powers.**
- 2-02-020. Administrative Powers.**
- 2-02-030. Presiding Officer.**
- 2-02-040. Voting Authority.**
- 2-02-050. Veto Authority.**
- 2-02-060. Mayor Pro Tem.**
- 2-02-070. Restrictions.**

2-02-010. General Powers.

The Mayor shall have such duties as set forth in *Utah Code Ann.* § 10-3b-104, as amended, and such additional duties, powers and responsibilities as the City Council may, by ordinance, resolution or directive, prescribe to the extent permitted by law. Any changes in the powers and duties of the Mayor shall comply with applicable provisions of *Utah Code Ann.* § 10-3b-303, as amended.

2-02-020. Administrative Powers.

The ceremonial functions and administrative powers, authority, and duties of Farmington City are vested in and/or delegated to the Mayor, except as otherwise delegated to the City Manager. The Mayor is the chief executive officer of the City to whom the City Manager reports. All other employees shall report to the City Manager.

2-02-030. Presiding Officer.

The Mayor shall be the chair of the Council and preside at the meetings of the City Council.

2-02-040. Voting Authority.

Except as otherwise provided herein, the Mayor is a nonvoting member of the Council. The Mayor shall vote as a voting member of the Council: (1) on each matter for which there is a tie vote of the other Council members present at the meeting; (2) when the Council is voting on whether to appoint or dismiss the City Manager; (3) when the Council is voting on an ordinance that enlarges or restricts the Mayor's power, duties or function; and (4) as otherwise provided by law.

2-02-050. Veto Authority.

The Mayor shall have no power to veto any ordinance, tax levy, appropriation, or act of the City Council.

2-02-060. Mayor Pro Tem.

In the absence of the Mayor or because of his or her inability or refusal to act, the City Council may elect a member of the City Council to preside over the meeting as Mayor pro tempore. The election of a Mayor pro tempore shall be entered in the minutes of the City Council meeting at which he or she is elected. The Mayor pro tempore shall preside at the Council meeting and perform, during the Mayor's absence, disability, or refusal to act, the duties and functions of the Mayor. Any member of the City Council elected as Mayor pro tempore shall still retain his or her power and authority as a member of the Council and shall be entitled to vote as a member of the City Council on all matters.

2-02-070. Restrictions.

The Mayor may not serve as the City Recorder or the City Treasurer.

CHAPTER 2-03. ELECTION AND QUALIFICATION

- 2-03-010. Elections.**
- 2-03-020. Declaration of Candidacy.**
- 2-03-030. Nomination Petition.**
- 2-03-040. Residency and Registered Voter Requirements.**
- 2-03-050. Term of Office.**
- 2-03-060. Vacancies.**
- 2-03-070. Oath of Office.**
- 2-03-080. Bond.**
- 2-03-090. Salaries.**
- 2-03-100. Transfer of Records.**
- 2-03-110. Campaign Finance Statement.**
- 2-03-120. Ethics Act.**
- 2-03-130. Political Activities.**

2-03-010. Elections.

Consistent with the provisions of *Utah Code Ann.* § 20A-1-202, as amended, the offices of Mayor and Council Member shall be filled by election of the registered voters of Farmington City in an at-large municipal election held on the Tuesday after the first Monday in November in odd-numbered years. Municipal elections for the offices of Mayor or Council Member shall be conducted in the manner provided in the Utah Election Code, set forth in Title 20A of the *Utah Code Annotated*, and applicable provisions of *Utah Code Ann.* §§ 10-3-201, *et seq.*, as amended.

2-03-020. Declaration of Candidacy.

Any eligible and qualified person desiring to run for the elected municipal offices of Mayor or Council Member shall file a declaration of candidacy with the City Recorder in accordance with the filing requirements set forth in Title 20A, Chapter 9 of the *Utah Code Annotated*.

2-03-030. Nomination Petition.

Any resident of the City may nominate a candidate for elected municipal office by filing a nomination petition with the City Recorder in accordance with the filing requirements set forth in Title 20A, Chapter 9 of the *Utah Code Annotated*.

2-03-040. Residency and Registered Voter Requirements.

Persons eligible to file a declaration of candidacy or to be nominated for the elected office of Mayor or Council Member shall be a registered voter of Farmington City, shall have resided in Farmington City for the 12 consecutive months immediately before the date of the election, and shall meet the residency and filing requirements of *Utah Code Ann.* § 20A-9-203, as amended. Pursuant to *Utah Code Ann.* § 10-3-301, as amended, each person elected to the office of Mayor or Council Member shall maintain residency within the boundaries of the City during his or her term of office. If a person elected to the office of Mayor or Council Member establishes his or her principal place of residence outside the municipality during his or her term of office, the office is automatically vacant. If a person elected to the office of Mayor or Council Member is absent from the City anytime during his or her term of office for a continuous period of more than sixty (60) days without the consent of the City Council, that person's elected office is automatically vacant.

2-03-050. Term of Office.

Persons elected to the office of Mayor or Council Member shall begin their term of office at 12 o'clock noon on the first Monday in January following their election, and shall continue in office for four (4)

years thereafter and until their respective successors are chosen and qualified, except in case of death, resignation, removal, or disqualification from office.

2-03-060. Vacancies.

Vacancies in the offices of Mayor or Council Member shall be filled in accordance with the provisions of *Utah Code Ann.* § 20A-1-510, as amended.

2-03-070. Oath of Office.

(a) Required. All elected officials shall take, subscribe and file the Constitutional oath of office before entering upon the duties of their respective offices. Elected officials shall take their oath of office at 12:00 noon on the first Monday in January following their election or as soon thereafter as is practical.

(b) Administered. The oath of office shall be administered by the City Recorder, any judge, or any notary public.

(c) Filed. All oaths of office shall be filed with the City Recorder.

(d) Failure to Comply. No official act of any officer shall be invalid for the reason that he or she failed to take the oath of office.

2-03-080. Bond.

(a) Required. Elected officers of the City before taking office shall execute a bond with good and sufficient sureties payable to the City or shall be included within public employee blanket bonds, in the amount of not less than \$10,000, conditioned for the faithful performance of the duties of the respective officers and the payment of all monies received by such officer according to the law and the ordinances of Farmington City.

(b) Approval. The bonds of Council Members shall be approved by the Mayor, and the bond of the Mayor shall be approved by the City Council, at the first meeting of the City Council in January following a municipal election. All bonds of elected officers shall be filed with the City Recorder.

(c) Premium Charge. The premium charge by a corporate surety for any official bond shall be paid by Farmington City.

(d) Additional Bonds. The City Council may at any time require further and additional bonds of any elected officers of the City.

2-03-090. Salaries.

Elected officers shall receive such compensation for their services as the City Council may fix or amend by ordinance in accordance with the notice and hearing requirements set forth in *Utah Code Ann.* § 10-3-818, as amended. The compensation of elected officers shall be paid at least monthly. City staff, as part of the regular budget process, may review the appropriateness of the compensation received by the Mayor and City Council members and recommend adjustments thereto as deemed appropriate, taking into consideration the impact of inflation, consumer price index, and the compensation of elected officials in nearby cities of similar size.

2-03-100. Transfer of Records.

Every officer of the City upon expiration of his or her term for any cause whatsoever shall deliver to the City Recorder all books and records which may be the property of the City.

2-03-110. Campaign Finance Statement.

(a) **Statement Required.** Each candidate for municipal office shall file with the City Recorder a Campaign Finance Statement disclosing his or her itemized and total campaign contributions and expenditures in accordance with the procedures and requirements set forth herein and in *Utah Code Ann.* § 10-3-208, as amended.

(b) **Time for Filing.** Each candidate for municipal office who is eliminated at a municipal primary election shall file with the City Recorder a Campaign Finance Statement no later than thirty (30) days after the date of the municipal primary election. Each candidate for municipal office who is not eliminated at a municipal primary election shall file with the City Recorder a Campaign Finance Statement no later than seven (7) days before the date of the municipal general election and another Campaign Finance Statement no later than thirty (30) days after the date of the municipal general election. A Campaign Finance Statement required under this Section is considered filed if it is received in the City Recorder's Office by 5:00 p.m. on the date that it is due.

(c) **Definitions.** For purposes of this Section, the following words shall have the meanings set forth.

(1) **Contribution.** "Contribution" means all monies, in-kind contributions, and contributions of tangible things given to the candidate or to the organization(s) representing the candidate, for the purpose of enhancing the candidate's campaign.

(2) **Expenditure.** "Expenditure" means the monetary, in-kind payment, or payment of tangible things to any person or entity, by the candidate's campaign.

(3) **Reporting Date.** "Reporting date" means ten (10) days before a municipal general election (for a Campaign Finance Statement required to be filed no later than seven (7) days before a municipal general election) and the day of filing (for a Campaign Finance Statement required to be filed no later than thirty (30) days after a municipal primary or general election).

(4) **Reporting Limit.** "Reporting limit" means any contribution or expenditure in an amount equal to \$50 or more.

(d) **Campaign Finance Statement.** Except as provided in Subsection (e), each Campaign Finance Statement shall:

(1) Report all of the candidate's itemized and total campaign contributions, including in-kind and other nonmonetary contributions received before the close of the reporting date, and for each contribution that exceeds the reporting limit, identify the name and address of the donor, the date the contribution was received, and the amount of the contribution or the estimated value and type of the in-kind contribution;

(2) Report all of the candidate's itemized and total campaign expenditures made through the close of the reporting date, and for each expenditure that exceeds the reporting limit, identify the name of the recipient of the expenditure, and the date, purpose, and amount of the expenditure; and

(3) Report the aggregate summary of the total campaign contributions and expenditures received or made to date; i.e. totals from previous reports and the current report.

(e) **Alternative Statement.** If the candidate receives \$500 or less in campaign contributions and spends \$500 or less on the candidate's campaign, the candidate shall be required to merely report the total amount of all campaign contributions and expenditures.

(f) Notice to Candidates. The City Recorder shall, at the time a candidate for municipal office files a declaration of candidacy with the City, and again fourteen (14) days before each municipal general election, notify the candidate in writing of:

(1) The provisions of State statutes and City ordinances governing the disclosure of campaign contributions and expenditures;

(2) The dates when the candidate's Campaign Finance Statement is required to be filed; and

(3) The penalties that apply for failure to file a timely Campaign Finance Statement, including the statutory provisions that require removal of the candidate's name from the ballot for failure to file the required Campaign Finance Statement when required.

(g) Failure to File. Except as provided in Subsection (h), if a candidate fails to file a Campaign Finance Statement in accordance with the provisions of this Section and applicable provisions of State law, the City Recorder shall inform the appropriate election official who shall, if practical, remove the candidate's name from the ballot by blacking out the candidate's name before the ballots are delivered to voters; or if removing the candidate's name from the ballot is not practicable, inform the voters by any practicable method that the candidate has been disqualified and that the votes cast for the candidate will not be counted.

(h) Inadvertent Omissions. Notwithstanding Subsection (g), a candidate who timely files a Campaign Finance Statement seven (7) days before a municipal general election is not disqualified if: (1) the statement details accurately and completely the information required herein, except for inadvertent omissions or insignificant errors or inaccuracies; and (2) the omissions, errors, or inaccuracies are corrected in an amended report or in the next scheduled report.

(i) Public Records. Financial disclosure reports filed pursuant to this Section are considered public documents open to inspection in accordance with *Utah Code Ann.* § 10-3-208, as amended, and the Utah Government Records Access and Management Act, as amended. The City Recorder shall make each Campaign Finance Statement filed by a candidate available for public inspection and copying and post an electronic copy of the same in accordance with applicable provisions of *Utah Code Ann.* § 10-3-208(5), as amended.

2-03-120. Ethics Act.

All elected officers shall comply with the provisions, conditions and requirements of the Utah Municipal Officers' and Employees' Ethics Act as set forth in *Utah Code Ann.* §§ 10-3-1301, *et seq.*, as amended.

2-03-130. Political Activities.

(a) Officers. Municipal officers shall comply with and be subject to the political activities provisions of *Utah Code Ann.* § 10-3-1108, as amended.

(b) City. The City shall comply with the terms and conditions of the political activities provisions of *Utah Code Ann.* § 10-3-1108, as amended. Pursuant to the Political Activities of Public Entities Act, as set forth in *Utah Code Ann.* § 20A-11-1201, *et seq.*, as amended, unless specifically required by law, the City may not make expenditures from public funds for political purposes or to influence a ballot proposition.

CHAPTER 2-04. LEGISLATION

- 2-04-010. Ordinances.**
- 2-04-020. Resolutions.**
- 2-04-030. Public Records.**

2-04-010. Ordinances.

(a) Legislative Power. Except as otherwise specifically provided, the City Council shall exercise its legislative powers through ordinances.

(b) Extent of Power. The City Council may pass any ordinance to regulate, require, prohibit, govern, control or supervise any activity, business, conduct or condition authorized by law.

(c) Form. Any ordinance passed by the City Council shall contain and be in substantially the order and form as set forth in *Utah Code Ann.* § 10-3-704, as amended. No ordinance shall be void or unlawful by reason of its failure to conform to certain provisions of said law.

(d) Effective Date. Unless otherwise provided in the ordinance, ordinances shall become effective twenty (20) days after publication or posting, or thirty (30) days after final passage by the City Council, whichever is sooner. Ordinances may become effective at an earlier or later date after publication or posting if so provided in the ordinance.

(e) Signed. Ordinances passed or enacted by the City Council, before taking effect, shall be signed by the Mayor, or if the Mayor is absent, by the Mayor pro tempore or by a quorum of the Council Members as required by law.

(f) Publication. Except as otherwise provided by law, all ordinances, before taking effect, shall be posted and/or published in accordance with applicable provisions of *Utah Code Ann.* § 10-3-711, as amended.

(g) Recording. The City Recorder shall record, in a book used exclusively for that purpose, all ordinances passed by the City Council. The City Recorder shall give each ordinance a number, if the City Council has not already done so. The City Recorder shall make or cause to be made a certificate stating the date of passage and the date of publication or posting of the ordinance, as required. All ordinances shall be recorded as provided herein before taking effect.

(h) Prima Facie Evidence. The record and certificate prepared by the City Recorder, or a certified copy thereof, shall be prima facie evidence of the contents, passage, and publication or posting of the ordinance or codification. In addition, the ordinances printed and published by the authority of the City Council, shall be prima facie evidence of the contents, passage, and legal publication of such ordinances, as of the dates mentioned in the publication in all courts and administrative proceedings.

(i) Proved Under Seal. The contents of all Farmington City ordinances, the dates of passage, and the dates of publication or posting, may be proved by the certification of the City Recorder under the seal of Farmington City.

2-04-020. Resolutions.

(a) Administrative Powers. Unless otherwise required by law, the City Council may exercise all administrative powers by resolution.

(b) Form. Any resolution passed by the City Council shall be in a form and contain sections substantially similar to that prescribed for ordinances.

(c) **Effective Date.** Resolutions may take effect on passage or at a later date as the City Council may determine, but resolutions may not become effective more than three (3) months from the date of passage.

(d) **Publication.** Resolutions may become effective without publication or posting.

(e) **Limitation.** No punishment, fine, or forfeiture may be imposed by resolution.

2-04-030. Public Records.

The ordinances, resolutions, and any other books, records, accounts or documents of the City shall be kept at the office of the City Recorder. Approved copies shall be open and available to the public during regular business hours for examination and copying in accordance with the Utah Government Records Access and Management Act.

CHAPTER 2-05. CONSTITUTIONAL TAKING ISSUES

- 2-05-010. Purpose and Intent.**
- 2-05-020. Constitutional Taking.**
- 2-05-030. Guidelines and Procedures for Review.**
- 2-05-040. Limitations.**

2-05-010. Purpose and Intent.

The purpose of this Chapter is to provide advisory guidelines to assist the City in identifying and reviewing actions of the City which may involve the physical taking or exaction of private real property that may involve Constitutional taking issues in accordance with the advisory provisions of *Utah Code Ann. §§ 63L-4-101, et seq.*, as amended. This Chapter does not apply when the City formally exercises its power of eminent domain.

2-05-020. Constitutional Taking.

(a) As used herein "Constitutional taking issues" means actions involving the physical taking or exaction of private real property by the City that might require compensation to a private real property owner because of:

- (1) the Fifth or Fourteenth Amendment of the Constitution of the United States;
- (2) Article I, Section 22 of the Utah Constitution; or
- (3) any recent court rulings governing the physical taking or exaction of private real property by a governmental entity.

(b) Actions by the 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 a legitimate governmental interest; 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.

2-05-030. Guidelines and Procedures for Review.

Any owner of private real property who claims there has been a Constitutional taking of the owner's private real property by the City shall request a review of the final decision of any official, employee, board, commission or council of the City implicating such Constitutional taking. The following guidelines and procedures shall be followed in the event such review is requested.

(a) **Final Decision.** 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) **Time for Filing.** The person requesting a review shall file his or her request in writing to the office of City Recorder within thirty (30) days from the date of the final decision that gave rise to the concern that a Constitutional taking has occurred.

(c) **Date for Review.** The City Council or its designee shall immediately set a time to review the decision that gave rise to the Constitutional taking claim.

(d) Additional Information. In addition to the written request for review, the applicant shall submit prior to the date of review the following information. An application shall not be deemed "complete" or "submitted" until the reviewing body certifies to the applicant that all the materials and information required herein has been received. The reviewing body shall promptly notify the applicant of an incomplete application.

- (1) name of the applicant requesting review;
- (2) name and business address of current owner of the property, form of ownership, and name and address of all principal shareholders or partners if a business entity is involved;
- (3) a detailed description of the grounds for the claim that there has been a Constitutional taking;
- (4) a detailed description of the property alleged to have been taken;
- (5) evidence and documentation as to the value of the property alleged to have been taken, including any evidence of the value of the property before and after the alleged taking, the name of the party from whom the property was purchased and the relationship if any between the person requesting review and the party 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, etc.;
- (7) terms (including sale price) of any previous purchase or sale of a full or partial interest in the property in the three (3) 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 (3) years prior to the date of application;
- (9) the assessed value of and the ad valorem taxes on the property for the previous three (3) 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 loan and other significant provisions, including but not limited to, right of purchasers to assume the loan;
- (11) all listings of the property for sale or rent, price asked and offers received, if any, within the previous three (3) years;
- (12) all studies commissioned by the applicant within the previous three (3) years concerning feasibility of development or utilization of the property;
- (13) itemized income and expense statements from the property for the previous three (3) years for income producing property;
- (14) information from a title policy or other source showing all recorded liens or encumbrances affecting the property; and
- (15) any other additional information requested by the City which is reasonably necessary in its opinion to arrive at a conclusion concerning whether there has been a Constitutional taking.

(d) Review. The City Council or its designee shall hear all the evidence related to and submitted in connection with the request for review to determine whether or not the action by the City constitutes a Constitutional taking as defined herein, including consideration of the following:

(1) whether the physical taking or exaction of the private real property bears an essential nexus to a legitimate governmental interest;

(2) whether a legitimate governmental interest exists for the action taken by the City;
and

(3) whether the taking or exaction is 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.

(e) Decision. The City Council or its designee shall render a final decision on the review within fourteen (14) days from the date the complete application for review was submitted to 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 official, employee, board, commission or council that rendered the final decision that gave rise to the Constitutional taking claim. When determined to be necessary and appropriate, the reviewing body shall make a recommendation to the official, employee, board, commission or council that made the decision that gave rise to the Constitutional taking claim.

(f) Failure to Render Decision. If the City fails to hear and decide the appeal within fourteen (14) days, the acting body's decision or action is presumed to be approved.

2-05-040. Limitations.

The guidelines set forth herein and any decision rendered pursuant to the provisions of this Chapter are advisory only and shall not be construed to expand or limit the scope of the City's liability for a Constitutional taking. The City shall have no legal liability to any person, firm or entity of any nature whatsoever and a court may not impose liability upon the City for failure to comply with the provisions of this Chapter.